UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *100th* CONGRESS
SECOND SESSION

VOLUME 134—PART 6

APRIL 20, 1988 TO APRIL 26, 1988
(PAGES 7537 TO 8872)

GENERAL SERVICES ADMINISTRATION
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1988

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Congressional Record

United States of America

PROCEEDINGS AND DEBATES OF THE 100th CONGRESS, SECOND SESSION

SENATE—*Wednesday, April 20, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I know all of us are thankful for the resolution of the Kuwaiti Airline situation, and, Father, we thank You for the release of the hostages.

"As cold waters to a thirsty soul, so is good news from a far country"—Proverbs 25:25.

Eternal God, perfect in truth, infinite in justice, this morning I pray for the members of the press and the media—the men and women who devote their lives to keeping the world informed—generally with little or no appreciation by the public. It is so easy to criticize the press, forgetting that we ourselves are sinners and, probably more than they, handle the truth carelessly. Thank You, Father, for their commitment to getting the news wherever, whenever it breaks, often at great risk. Whenever allowed, they go where the action is: demonstrations, conflict, catastrophy, terrorism, war—whatever the danger. In their business, they are vulnerable as few other professionals are. Help us to realize, Lord, what it would be like in a world without a free press and help us to appreciate these dedicated people and their mission. Bless all of them, their loved ones, their friends, their institutions. We pray this in the name of Him who brings good news to all who will hear. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 20, 1988.

To the Senate:

Under the provisions of rule I, Section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the acting majority leader is recognized.

RESERVATION OF LEADERSHIP TIME

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time of the majority and minority leaders be reserved for their use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE CHAPLAIN'S PRAYER

Mr. PROXMIRE. Mr. President, I congratulate the Chaplain for his prayer for the press. This is the first time I have heard anybody pray for the press. I have heard remarks about the press and criticism of the press, but it is a superlative prayer because there is a very healthy tension, sometimes a healthy hostility, between the press and elected representatives. That is the way it should be. There is no question they do a remarkable job under very difficult circumstances.

A CHALLENGE TO CONGRESS TO TAKE CHARGE

Mr. PROXMIRE. Mr. President, one of the most hopeful signs for this country is the big sale of Prof. Paul Kennedy's book "The Rise and Fall of the Great Powers." For several months now the Kennedy book has been at or near the top of the country's best selling books. This Yale professor of history has been giving the Nation exactly the lesson we need in what happens to countries that live beyond their means. I earnestly wish every Member of the Congress could read this expert historian's account of what has persistently happened to great nations—often world dominating nations—that plunged deeply into debt, while saving less and less. Kennedy tells the story of what has happened to nations that consumed more than they produced, that put leisure and recreation above education and hard work.

Professor Kennedy does not argue that the decline of the great power, the United States, is inevitable. Far from it. It is anything but inevitable. Our future is in our hands. It is especially in the hands of Members of the Congress. Certainly the one prime reason for serving in the Congress is to be one of those who, as an elected representative, directly determines our country's future. We in the Congress are among the few who can make a real difference. We Members of the Congress can together determine whether our country continues as the leading country of the free world or whether it fails.

If we keep a frightened eye on the next election and ignore our country's long-term future, then we continue to increase funding popular spending programs and continue to refuse to raise the taxes to pay for those programs. That is a very effective short-term program to win reelection, but it is a devastatingly shortsighted program for the future of our country.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Dr. Kennedy takes us through the past 500 years of enormous military spending by world dominating nations that sank their economies under the military burden. From the Spanish Armanda to the great British Navy, the absorption by the military of limited economic resources has crippled great nations and eventually hammered them to their knees. In our time, the strategic defense initiative [SDI] may become our Spanish Armada. Former Secretaries of Defense have warned us that the ultimate cost of SDI could exceed a trillion dollars. And once completed the annual cost of operating, maintaining, and modernizing SDI could increase military spending by 50 percent. And our ablest scientists—the National Academy of Science—have told us that with all that huge cost, like the Spanish Armada, SDI will not work. Of course, our ablest scientists may be wrong. What effect then would this colossal increase in military spending for a successful SDI have on our economy? Kennedy's brilliant review of history tells us it could be devastating. This is particularly true if the Congress fails to raise taxes by a trillion dollars or more to pay for it.

Mr. President, the cost of paying interest on this soaring Federal debt will take more and more of our revenues. That annual interest burden is the most rapidly rising cost of Government and it is already costing us $150 billion in net interest per year. Every year we fail to cut spending or raise taxes enough to balance the budget the interest cost goes higher.

What can the Congress do about the indebtedness of the American household sector and the business sector of our economy? American households now owe more than $3 trillion. American nonfinancial business owes a mammoth $3.6 trillion. Both of these figures are at all time highs. Both, of course, require mammoth interest payments every year that constitute a drain on income that should go into research, education, improved manufacturing and commercial facilities and other productive investments.

In an article in the April 17 New York Times Paul Kennedy concludes a remarkable article with the following challenge:

> Previous great powers lost their productive vitality not because their decline was economically "determined" but because cultural and ideological prejudices, an unwillingness to adapt to new methods, a propensity to spend on the present (consumption and defense) rather than on the future (investment) all combined to prevent a renewal of the nation's productive base. Are we ready to follow that historical pattern, or do we want to learn from history?

Mr. President, in the hope that my colleagues in the Congress will read this brief challenging article by Professor Kennedy and ponder it, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

A GUIDE TO MISINTERPRETERS

(By Paul Kennedy)

NEW HAVEN.—One of the mixed blessings of having written a best seller, "The Rise and Fall of the Great Powers," is the array of interpretations and misinterpretations of what it is saying.

My book has been variously described as "supremely well timed" and a "surprise," though it can hardly be both. From Aryan supremacists to flat-earth believers, groups across the country have written to say that it reinforces their message. Liberal economists have expressed doubts about its militarist and mercantilist tendencies. On the other hand, the Reaganite right has denounced it as "liberal defeatism." It is all rather odd.

Perhaps the greatest misinterpretation has been the conservatives' attack for its "economic determinism," and for (in their view) its postulating the "inevitable" decline of the United States on economic grounds. Yet a more careful reading and somewhat more thought on their part ought to have suggested that the historical causation that the book analyzes points to a quite different interpretation of what "determines" national decline.

The real distinction they have missed is that between the impact of economic trends and the causes of those trends.

If a nation becomes so indebted that it loses its credit-worthiness; if its manufacturing base shrinks so much that it cannot produce goods (for example, microchips) needed for its own industry and its defense forces; if its currency has less and less value on international exchanges; if it devotes too much of its national resources to consumption and defense spending, at the cost of long-term investment; if it produces fewer and fewer engineers and more and more lawyers and dentists and stock jobbers, then sooner or later all that is going to have serious impacts upon the wealth and strength of the nation. If that is "economic determinism," so be it. It sounds more like common sense to me.

But nothing in my argument says that the causes of such trends are irreversible and inevitable. Like Spain in the 1660's and Britain in the 1890's, the United States today has certain options open to it in order to reinvigorate its productive base and meet the challenge posed by faster-growing economies of other countries.

America could close the awful Federal deficit (by higher taxes, if necessary). It could redirect national resources from consumption into savings (by altering the tax structure). It could encourage a lot more investment in commercial research and development (if need be, even at the cost of military research and development). It could make serious efforts to increase the number of native American engineers, and massively to boost the scientific and mathematical skills of our 17 year olds (though that again would cost money). It could increase the school year from the present 185 days to something closer to the Japanese standard: about 240 days.

All of these things could be done—if the American people and their political representatives wanted it. But when I suggest this package of policies to audiences across the country, I meet with murmurings of disbelief and disagreement. "That can't happen here." That will never get through Congress." "I'm against a longer school year." And to all such objections, I have a simple response: "Who is being the 'inevitabilist,' you or me?" Just who is being defeatist here?"

Previous great powers lost their productive vitality not because their decline was economically "determined" but because cultural and ideological prejudices, an unwillingness to adapt to new methods, a propensity to spend on the present (consumption and defense) rather than on the future (investment) all combined to prevent a renewal of the nation's productive base.

Are we ready to follow that historical pattern, or do we want to learn from history?

DOUGLAS WALLER ON THE NUCLEAR FREEZE

Mr. PROXMIRE. Mr. President, one of the most important arms control developments in recent years was the nuclear freeze. Here was a mass movement that enlisted millions of Americans in the cause of arms control. The freeze movement succeeded in placing before the American people in State after State referenda that won smashing support for an end to the nuclear arms race. In the House of Representatives, the nuclear freeze won a startling 278 to 149 victory against the opposition of an enormously popular President, at the peak of his popularity. Douglas Waller was right in on the ground floor in this arms control struggle. He was a staff assistant to Congressman EDWARD MARKEY, of Massachusetts, who was a principal freeze advocate in the House. Waller has written a superb book on this critical arms control fight entitled "Congress and the Nuclear Freeze: An Inside Look at the Politics of a Mass Movement." Sanford Gottlieb, the highly respected expert and producer of the television program, "America's Defense Monitor," has written a stirring review of the Waller book for the March issue of Arms Control Today.

I ask unanimous consent that the review by Sanford Gottlieb be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INSIDE THE FREEZE

(Sanford Gottlieb)

The nuclear freeze campaign of 1981–83 was unique. In the history of arms control, it was the only time a proposal originating within the peace movement became a joint, high priority legislative goal of a nationwide grassroots campaign and of important members of Congress; was endorsed in a series of state and city referenda; received active lobbying support from a broad array of mainstream organizations; was adopted by the House of Representatives; garnered worldwide media attention; and shook up a deeply hostile president.

Douglas Waller tells the legislative story of the campaign in rich detail. He provides keen insights into the process and the players. Waller was a key insider as an aide to Congressman Edward Markey. The Massachusetts Democrat was one of the chief organizers of the effort in the House, where a much-amended nuclear freeze resolution received a resounding vote of 278-149 in 1983.

Congress and the Nuclear Freeze makes impressively clear how much hard work went into the outcome, both in Washington and around the country. Yet, after the House vote, as Waller reports, the movement lost momentum. The Senate refused to adopt a freeze resolution. Neither House was yet ready for a cutoff of funds for the new weapons systems. Meanwhile, President Reagan had launched his quest for Star Wars, and the Soviets had quit the Geneva arms talks as the U.S. intermediate-range missiles were deployed in Europe. By late 1983 the freeze campaign was overtaken by events, entrenched anti-Sovietism, and the political clout of Ronald Reagan.

The President's inflammatory rhetoric and behavior in 1981 had done much to create the movement. The administration's early emphasis on "winnable" and "survivable" nuclear war at a time of deteriorating U.S.-Soviet relations helped spawn the Nuclear Weapons Freeze Campaign and other new organizations, and revived older, flagging arms control groups. In 1981-83, the American peace movement reached a breadth of support and intensity of participation never before seen.

Waller describes how the movement rallied behind a simple, powerful idea: stop the arms race in its tracks by halting the testing, production, and deployment of new nuclear weapons. Randall Forsberg, founder of the Institute for Defense and Disarmament Studies, wrote the first call for a mutual U.S.-Soviet nuclear weapon freeze. In 1980 she vigorously lobbied the peace groups, winning the support at first only of a narrowly based handful. That handful created the Freeze Campaign, and from there it took off.

Forsberg not only had a good idea, she had a practical strategy. "No major disarmament effort," she said, "can succeed without the support of the majority of middle class, middle-of-the-road citizens." Thanks to that open attitude, the moderate, bilateral character of the freeze approach to arms control, and a ripe political climate, middle class citizens flocked to the Freeze Campaign.

At the same time, physicians, lawyers, scientists, and psychologists joined specialized arms control groups in their professions. The new movement rapidly achieved solid credibility.

The experts were slower to move. Some of them endorsed the freeze and became outstanding spokesmen. Others sniped at the freeze idea and movement. Their opposition seems to have been based either on a desire to manage a continuing arms race rather than to stop it, or an elitist view that ordinary citizens shouldn't clutter up the arms control landscape.

Despite its loss of steam, the movement as a whole—and the Catholic Bishops' Pastoral Letter on War and Peace—pressured Reagan into softening his rhetoric and getting serious about negotiations. In time, Reagan adopted bold arms reduction goals. He even succeeded in concluding the treaty on intermediate-range missiles. This would not have happened without the pressure from the movement, and Mikhail Gorbachev.

In reading the subtitle of *Congress and the Nuclear Freeze,* one might be led to assume that the book deals with the grassroots dynamics of the movement. That subtitle, "An Inside Look at the Politics of a Mass Movement," is misleading. Waller has given us the authoritative book on the *congressional politics* of the freeze. He did not attempt, however, to cover the politics of a mass movement. He does report on the Freeze Campaign's vibrant annual meetings, where grassroots purists contended with pragmatists. And he does describe the close links between the movement and Capitol Hill strategists. But a lot more was happening in the mass movement than could possibly be squeezed into this splendid book.

Waller takes a broad-gauged view of congressional politics. He reports vividly on the conflicting interests that are part of the democratic process. He is sensitive to the fact that popular upsurges on behalf of arms control usually lead to the signing of treaties. The Limited Test Ban and the ABM Treaties are cases in point.

What, then, happened after the biggest upsurge of all? As noted above, a dramatic change in Ronald Reagan and the INF Treaty. And the answer is still being written.

If pressure from the movement also persuaded Reagan, as some believe, to seek an antidote in Star Wars, then that is poor judgment by the chief executive and not a fault of the movement.

Two other things happened as a result of the freeze movement. Congress developed more backbone in contesting arms policy with the president. Today, Congress struggles to impose its mark on SALT II limits, the ABM Treaty, and antisatellite and nuclear-weapons testing. The long hours spent discussing the nuclear freeze resolution paved the way. Finally, in 1984 the peace movement moved into electoral politics in a serious way. While there was no impact on the presidential race, there were some victories in Congress. A mature movement needs not only to win debates but also to change the decision-makers.

In *Congress and the Nuclear Freeze,* Douglas Waller has given us a better understanding of arms control and American politics. In his new job at *Newsweek* as defense and foreign policy correspondent, he'll have the opportunity to bring his insights to a broader public. We look forward to reading him regularly.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

THE ANTI-DRUG ABUSE ACT OF 1988

Mr. DECONCINI. Mr. President, on March 23, 1988, Senator D'AMATO and I introduced the Anti-Drug Abuse Act of 1988. This comprehensive piece of legislation attacks the national drug abuse and drug trafficking problem on multiple fronts, including: drug education, drug treatment and rehabilitation, drug interdiction, increased funding for Federal, State, and local law enforcement agencies, and new and innovative international narcotics control programs.

Mr. President, illegal drugs and the criminals who sell these poisons, have turned our cities into war zones. The American people are asking for more than just tough talk, they want action. My colleagues understand the need for Congress to take the lead in mounting a war on drugs and they have overwhelmingly supported S. 2205. Already 68 Senators have joined Senator D'AMATO and me on this major new initiative.

Last week during action on the budget resolution the Senate took the first step in adopting tough new anti-drug legislation for fiscal year 1989. In a vote of 93 to 0, the Senate adopted an amendment sponsored by Senators D'AMATO, DOMENICI, CHILES, DOLE, the Senator presiding in the chair right now, Senator GRAHAM, and me that provides a mechanism for accommodating the necessary budget authority and outlays to cover the full, first year cost of new drug legislation at the tune of $2.6 billion in new budget authority and $1.4 billion in outlays.

Today I want to speak on one provision of S. 2205 that I believe would finally provide our law enforcement agencies with the necessary means to wage a more effective effort against those who produce these deadly poisons—the Chemical Diversion and Trafficking Act of 1988. This piece of legislation was crafted by the Drug Enforcement Administration at the direction of Congress in the 1986 Anti-Drug Abuse Act.

The problem in question stems from the fact that legitimately produced chemicals, widely available in commercial channels, are regularly being diverted to the manufacture of such illegal drugs as cocaine, heroin, PCP, and LSD. In fact, virtually all synthetic drugs consumed in the United States are manufactured within our borders in clandestine labs using precursor and essential chemicals obtained commercially in the United States. If this were not enough to stimulate action on our part, South American drug traffickers are increasingly moving their cocaine laboratories to the United States in order to take advantage of the ease with which they can acquire the essential chemicals necessary to produce cocaine.

The Drug Enforcement Administration has maintained an active voluntary program with the U.S. chemical industry. Despite the voluntary program that DEA has operated and its work with foreign law enforcement agencies, the extent of diversion and trafficking in these chemicals continues to grow. According to an article that appeared in the Washington Post April 17, DEA seized 647 illegal labs in 1987, a dramatic increase over the 197 labs seized in 1982. Already this year, lab seizures by DEA are up nearly 100 percent over 1987 figures.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CALIFORNIA'S NEW ROLE: LEADING PCP SUPPLIER—KEY DISTRIBUTORS ARE L.A. GANGS WORKING OUT OF MAKESHIFT LABS

(By Matt Lait)

Los Angles.—Although California has led the nation in the seizure of clandestine drug laboratories for the last three years, it is quickly earning a reputation as the nation's leading supplier of methamphetamines and phencyclidine (PCP), one of the Washington area's most abused illegal drugs.

The ease of obtaining and mixing the highly volatile chemicals has created a new age of drug entrepreneurs and amateur chemists who have found manufacturing and distributing these drugs dangerous but simple and profitable.

Los Angeles gang members have been identified as the main distributors of PCP, according to Drug Enforcement Administration (DEA) officials. Using bathrooms, garages, apartments, mobile homes and even boats as makeshift laboratories, they mix the ingredients by the gallon. The Los Angeles Police Department estimates the street value of one gallon of PCP at $153,600, or $1,200 an ounce.

Of the 647 labs seized last year, most were manufacturing methamphetamine, and 489 were based in California. DEA statistics for the first five months of fiscal year 1988 show a nearly 100 percent increase in the number of lab seizures nationwide than the same period in 1987. There were 308 lab seizures in the first five months of fiscal 1988 compared with 156 in the same period in 1987.

"Los Angeles is to PCP what Santa Cruz, Bolivia, is to cocaine," DEA spokesman Mario Perez said in Washington. "Most of the PCP we find here can be traced back to California.

"PCP is the No. 1 illegal drug of choice in [the Washington area], with 'crack' cocaine and heroin right up there," he said.

A National Institute of Drug Abuse survey of 27 metropolitan cities found that Washington led the nation in 1986 in PCP emergency room hospitalizations, with 2,114 patients. The District also reported 65 deaths related to PCP, second only to Los Angeles with 119. Hospitalization figures for last year have not yet been compiled, but DEA officials say PCP resulted in 61 deaths in the District last year.

The survey said 80 percent of the users in the District are black males, usually in their mid-20s.

The large population of gangs in Los Angeles has made PCP manufacturing more prominent here, and the availability of the required chemicals and the ease in mixing them has led to an increase of clandestine labs over the years. "All you really need to mix PCP are two garbage cans and a broomstick," said Roger Guevara, DEA spokesman in Los Angeles.

"It's easier than baking a cake. In fact, [the drug manufacturers] call themselves 'cookers' and the formulas are called 'recipes,' " he said.

Cigarettes dipped in liquid PCP are sold as "Sherms." The liquid form is highly combustible and often explodes as the drug is being made or transported.

"The consequences are potentially hellacious," said Guevara, "and these [people] are carrying this stuff around in the trunks of their cars. The innocent-third party risk is quite significant. We just had one incident when [PCP] was transported in an airplane."

Five gallons of liquid PCP explodes with the force of a stick of dynamite, drug officials said.

In the back alley of West 59th Street, deep in Los Angeles's gang territory, stand the charred remains of a PCP lab that blew up late last month.

Alberta Russell, 59, who lives two doors down from the green, wood frame house, was watching television when the laboratory in the garage exploded and burned to the ground. "I heard a big boom and people screaming.

"I knew they was selling dope in there," Russell said. "They got what they deserved." Two people are still hospitalized with serious burns, including the operator of the lab, who spent two years in jail for manufacturing PCP less than three years ago.

Russell and other residents in the neighborhood stay indoors at night because of the gang activities. Walls, sidewalks and lightposts are littered with graffiti identifying the area as the turf of the 59th Street Bloods, one of the city's two dominant street gangs.

Used as an anesthetic before its side effects caused its discontinuation, PCP is now legally administered by veterinarians as a large-animal tranquilizer. In the early 1960s, the drug found its way into the illicit market as a hallucinogen. Because of its violent, mind-altering effects, PCP is one of the most feared drugs among drug-enforcement officials.

"We frequently hear stories of patrol officers shooting somebody 14 or so times and the guy keeps going at him. . . . They can literally get their arms torn off, and they don't feel a . . . thing. It's really scary," Guevara said.

The majority of the seized labs produced methamphetamines rather than PCP. Methamphetamines, also known as meth, crank or crystal, have not been as common as other drugs in the Washington area, but experts say they may soon become popular.

"It's an up-and-comer in the East Coast," said Ronald Dulisse, DEA spokesman in San Diego, where most of the nation's methamphetamine labs have been seized.

Conservative estimates put the production of methamphetamines in San Diego County at more than 20,000 pounds last year. "That's enough methamphetamine to keep every man, woman and child in this county [of 2.3 million] under the influence for six months," Dulisse said. "So we know it's being exported."

Methamphetamines made in San Diego County have been distributed to Oregon, Washington, Texas, Tennessee, Florida and New Jersey, according to the DEA.

Several years ago, the chemicals used to make methamphetamines were unregulated and could be freely bought for private use. The drug has become such a problem in the county that three members of Congress from the San Diego County area have submitted separate bills to regulate the sale of chemicals used to make the drug. Drug manufacturers smuggled the chemicals in from other states with ease, circumventing Califorina laws.

Methamphetamines have traditionally been produced and distributed by motorcycle gangs. But since the discovery of safer chemicals and new mixing procedures, "Everyone and anyone can do it," Dulisse said. "We were dealing with the motorcycle gangs . . . but now we find it's amateur hour, with people who don't belong in the business cooking methamphetamine."

Part of the blame for the increase of clandestine labs, according to drug officials, is the lack of uniform sentencing. "It's almost like crime without punishment," Dulisse said.

"Congress has mandated sentences for drugs such as cocaine, heroin, and marijuana, which are primarily imported drugs. But for all the other drugs that are manufactured in the United States—LSD, PCP, methamphetamines—there is no mandatory sentencing. It's almost as though we are more interested in the balance of payments than we are the drug problem. It's kind of a statement, 'Buy American,' " he said.

Because cocaine has become less expensive, the demand for PCP and methamphetamines has slightly declined. "Even if we were to stop the flow of narcotics from the exterior tomorrow, we would still have a drug problem because of the clandestine situation," Guevara said. "This is strictly an American phenomenon. We can't blame anyone else."

Mr. DECONCINI. According to DEA, black gangs in Los Angeles are the main producers and distributors of PCP and are shipping the deadly drug all over the United States. According to the Washington Post article the LA Police Department estimates the street value of 1 gallon of PCP at over $150,000.

The major source of income for most of the outlaw motorcycle gangs throughout the United States and Canada is from the manufacture and distribution of methamphetamine.

Organized crime elements in the Northeast control the distribution of the primary precursor chemical for this drug's production.

This operation has beome the major source of income for several traditional organized crime families.

Up to now, law enforcement agencies have lacked the tools necessary to go after those involved in the manufacture of illicit drugs.

The Chemical Diversion and Trafficking Act would give law enforcement those tools.

This act establishes a system of recordkeeping and identification requirements.

It requires the manufacturers, distributors, importers, and exporters to maintain records concerning types and quantities of chemicals sold and to whom they were sold.

These records would have to be kept for at least 2 years and would be subject to inspection by DEA.

Additionally, the purchaser of a chemical listed in the proposed legislation would be required to provide identification and sign a certification of lawful use to the chemical supplier.

The act establishes penalties for trafficking in listed precursor and essential chemicals as well as penalties for violations of the recordkeeping and reporting requirements. The bill also establishes criminal penalties for knowing and intentional trafficking in drug manufacturing equipment.

Mr. President, we face the dilemma of curtailing the availability of essential and precursor chemicals for illegal purposes, while at the same time ensuring their availability for legitimate use and not harming the ability of the U.S. chemical industry to compete with foreign competition. I believe the Anti-Drug Abuse Act of 1988, which contains the Chemical, Diversion and Trafficking Act, will enable us to accomplish this goal.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TONGASS NATIONAL FOREST

Mr. STEVENS. Mr. President, the way in which southeast Alaska's 16.7 million acre Tongass National Forest is managed by the Forest Service has generated some controversy during the last few years. The argument centers on land use decisions made in 1980, after nearly a decade of congressional consideration. In that year the Alaska National Interest Lands Conservation Act created 5.4 million acres of wilderness in the Tongass, and to offset those withdrawals established a program of intensive timber management.

As I have said on many occasions, understanding today's conflict in the Tongass requires a good grasp of the history of that forest and of the Alaska lands debate which carved up southeast Alaska. Each time I have spoken to this issue during the last 2 years it has been to provide the necessary history. As a participant in the debate over ANILCA I have tried to counter the misinterpretations of that history. I have testified before both House and Senate Committees and written article and letters to editors in an effort to keep the record straight.

The issue that drove the debate in 1980 was wilderness. National environmental groups virtually dictated the wilderness recommendations for the Tongass. These groups wanted large blocks of wilderness, and they got them—essentially all of the areas they proposed.

While the national environmentalists got what they wanted, Alaskans did not. I understand from SEACC, the local environmental coalition in the Tongass, that they believe they were sold out in 1980. SEACC feels the 5.4 million acres of wilderness designations protect some of the wrong areas, leaving places they consider important open to development.

Also taken was the timber industry. All they wanted was enough of a working forest for their industry to maintain its historic size. When the national environmental groups wanted more wilderness, intensive management was offered to make up for the withdrawals from the timber base, so the harvest could extend into marginal stands and more timber could be produced from less land. "A small price to pay," they said, "for more wilderness."

Today, the issue has become economics. Gone are the cries for wilderness at any price. Now the national environmental groups are focusing on the cost of harvesting timber from the Tongass.

I will put aside the hyprocrisy of this position. To be fair to these critics, my own concerns about how the Forest Service was spending funds for the Tongass Timber Supply Fund, established by ANILCA, prompted me to join Senator PROXMIRE in requesting a General Accounting Office audit of this program in 1986.

Mr. President, Scoop Jackson, the former Senator from Washington, our departed colleague and my good friend, was deeply involved in the compromise worked out for the Tongass. When ANILCA was brought to the floor of the Senate, Scoop had this to say about the arrangement:

> The entire underpinning of our approach is to designate wilderness without job loss. We have designated wilderness. Now we have to carefully monitor the timber supply situation in the Tongass in order to protect jobs.

Those who are focusing in now on economics are ignoring the intent of the Tongass timber program: maintaining a timber supply capable of meeting the historic level of demand of the timber industry. During the 3-year period prior to 1979, the average harvest from the Tongass was 450 million board feet a year. This was actually somewhat lower than the average for the decade, which was 520 million board feet.

If the program of intensive management had not been established, wilderness withdrawals would have reduced the supply of raw material for this industry. After closing off areas to timber harvesting, the remaining commercial timber base could sustain a harvest of no more than 338 million board feet a year. Intensive management of marginally economic timber stands and the normal timber base allow the Tongass to produce a sustained harvest averaging 450 million board feet a year, or 4.5 billion board feet per decade.

The program of intensive management was established in ANILCA because the alternative—reducing the timber supply—would have cost hundreds of jobs in an otherwise healthy timber industry. GAO's audit was intended to see how well the program established by ANILCA has achieved this goal.

For the last year and a half, GAO has been examining the Tongass. I have been encouraging others to wait until this audit was completed before reaching any conclusions about the program. Now, GAO is prepared to release its report. While some of this work will be useful, I do question the value of some parts of the report.

GAO examined a 6-year period. In 1980, the timber industry was near a peak nationwide. The market was strong, and we shaped ANILCA anticipating a steady demand for timber from the Tongass. As it turned out, timber prices plummeted by 1982, and did not begin to recover until the last few years.

By 1986, the end of GAO's study period, the market had turned around. Employment had begun to increase, and the demand for Tongass timber was up. What is not reflected in GAO's work is the continued improvement in the market in 1987 and, so far, in 1988.

I have to say, Mr. President, that GAO missed the point when it looked at industry employment. Intensive management of the Tongass was not intended to maintain constant employment, regardless of market conditions, as GAO assumed. No wonder they found that maintaining timber supply alone does not guarantee steady employment. In fact, they had it backward. The program was intended to allow the market, rather than the supply of timber, to control the size of Alaska's timber industry.

When ANILCA was passed, we expected timber supply to be a ceiling on growth of Alaska's timber industry. Instead, depressed markets have prevented the industry from reaching that ceiling. During the early years of this decade, timber was offered for sale at that ceiling level, irregardless of demand levels. That was intended in Forest Service management, not a flaw in the intensive management scheme. The Forest Service was directed to have ready to offer for sale at least the amount required.

GAO reaches some conclusions about the Tongass timber program which should provide guidance to the Forest Service. They must be weighed carefully, however. Their's is a judgment on how the program of intensive timber management has been run, and not on the need for such a program. It was established to meet a need which still exists. As the timber market improves, we can expect to see the industry bumping against the ceiling on timber supply created by ANILCA, ready to purchase all of the timber made available.

If intensive management were abandoned, the industry would be forced to restructure—to shrink. The difference between 338 million board feet and 450 million board feet is the difference between a healthy industry and a struggling one.

This is exactly the evil Congress wanted to avoid in establishing the Tongass Timber Supply Fund. The Forest Service could change their approach and respond to the timber market. When demand is down, they could offer less timber for sale. But they must maintain the ability to respond to an increase in demand.

Alaska did not seek out this intensive management approach in 1980. All that we wanted was a stable timber supply. Those who propose abandoning intensive management are asking Alaska to give up the timber supply it was promised in 1980. This would shift the entire cost of the 1980 wilderness withdrawals to Alaska's timber industry. The current scheme may not be the best solution possible to the conflict between wilderness and timber base. Until a workable alternative is proposed, however, it must remain.

ABM

Mr. LEVIN. Mr. President, as we proceed to mark up of the fiscal year 1989 Defense authorization bill, I would like to draw the Senate's attention to former President Nixon's remarks to the American Society of Newspaper Editors on April 15 on the subject of ABM Treaty reinterpretation.

In response to a question about the interpretation of the ABM Treaty, President Nixon stated:

> As far as what was presented to the Senate was concerned, it was what we call the narrow interpretation. There is no question about that. And so Senator Nunn is absolutely correct on that point.
>
> On the other hand, there are those who say . . . that what a treaty really means is how was it negotiated with the adversary, in this case the Soviet Union. And that in the negotiating with the Soviet Union, the broad interpretation was possible . . .
>
> . . . I don't go along with those that say that what we should do is to go forward with SDI, and just say that we accept the counsel from the State Department's interpretation. Because if you do that, you're going to find that the Senate, particularly with Nunn, a very powerful senator there, . . . will then block the funds for it. So that isn't going to work.

President Nixon was President during the negotiation of the ABM Treaty so he speaks with authority in terms of how the ABM Treaty was presented to the Senate at the time and what was negotiated with the Soviets.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

WARTIME RELOCATION OF CIVILIANS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 1009, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1009) to accept the fundings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The Senate resumed consideration of the bill.

QUORUM CALL

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 17]

Byrd
Chiles
Cranston
Exon
Garn
Graham
Heinz
Levin
Pressler
Stevens
Trible

The ACTING PRESIDENT pro tempore. A quorum is not present.

Mr. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia to instruct the Sergeant at Arms to request the attendance of absent Senators.

On this question, the yeas and nays have previously been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Tennessee [Mr. GORE], and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Minnesota [Mr. BOSCHWITZ] is necessarily absent.

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 73, nays 22, as follows:

[Rollcall Vote No. 101 Leg.]

YEAS—73

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Glenn
Graham
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McClure
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Stafford
Stennis
Stevens
Thurmond
Trible
Warner
Wirth

NAYS—22

Armstrong
Bond
Chafee
Cohen
D'Amato
Evans
Gramm
Hecht
Helms
Humphrey
Karnes
Kasten
McCain
McConnell
Murkowski
Nickles
Quayle
Specter
Symms
Wallop
Weicker
Wilson

NOT VOTING—5

Biden
Boschwitz
Bumpers
Gore
Kennedy

So, the motion was agreed to.

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The majority leader.

Mr. BYRD. Mr. President, I hope Senators will offer amendments. Is there a Senator who has an amendment ready?

Very well. Mr. President, Mr. HECHT has indicated that he will offer an amendment within about 2 minutes. If any Senator wishes to speak in morning business for 2 minutes, this would be a good opportunity.

I ask unanimous consent that Mr. HECHT be recognized upon the calling off of the quorum call so he may offer his amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HECHT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

AMENDMENT NO. 1919

(Purpose: To remove the authorization of appropriations and other funding, disbursement, and expenditure provisions)

Mr. HECHT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. HECHT] proposes an amendment numbered 1919.

Mr. HECHT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 35, line 2, add "and" after the semicolon.

On page 35, line 6, strike out the semicolon and insert in lieu thereof a period.

On page 35, beginning with line 7, strike out all through line 3 on page 36.

On page 37, line 22, strike out all through line 3 on page 38.

On page 38, line 4, strike out "(4)" and insert in lieu thereof "(2)".

On page 38, line 7, strike out "(5)" and insert in lieu thereof "(3)".

On page 39, beginning with line 21, strike out all through the end of the bill.

Mr. HECHT. Mr. President, the amendment I am offering to S. 1009, is simple in intent and in structure, even though the issue we discuss here today clearly is not. In plain language, S. 1009 would accept the findings and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians. My amendment does not affect those findings; it does eliminate the recommendation of payment to individuals as compensation for their internment during the early 1940's.

There is no question, that December 7, 1941, and the days and weeks immediately after were, indeed, terrifying and confusing for all Americans. The attack on Pearl Harbor was a surprise to a nation that never thought it might be vulnerable to such an ordeal. With that came extraordinary events. I will not digress into an oratory on actions taken by the Government following Pearl Harbor or precautions taken for the public welfare. But I think it is safe to characterize this period as one of extreme unknowing. Rumor became fact and whether true or not, fear of the unknown moved nervous Americans, including President Roosevelt, to act to protect themselves.

The internment of Japanese-Americans, while unfortunate, happened, and it happened at a time frought with fear and trepidation of an enemy from without and one thought to be within. How was anyone to know different? How were Americans to know if, in fact, an attack was not imminent somewhere on the west coast? Well, Mr. President, the benefit of 20-20 hindsight has shown these fears and concerns to be without foundation.

The events of 1942 and following years are well known, and this bill seeks to make amends. Yet, I question whether or not the United States has already made restitution for its actions in 1942. We all know that in 1948, Congress agreed to the American-Japanese Evacuation Claims Act. Compensation was provided for those impacted by the internment and 26,568 claims were settled; $37 million was paid out.

Under S. 1009, the United States would once again be required to pay reparations to individuals who were interned. I want to assure my colleagues that I in no way wish to act in a prejudicial manner, or one in which may be construed to be anti-Japanese or anti-Aleut.

What I do wish to do is bring to this body a sense of what this legislation, if enacted, would cost the American taxpayer. The price tag as now envisioned is in the realm of $1.3 billion. That is approximately $20,000 for every person addressed in this legislation. And if enacted, the administrative cost to the Department of Justice to find and process persons entitled to payment could not be paid out of the trust fund created by this bill.

Just last week the Senate passed its version of the fiscal year 1989 budget and we applauded the fact that the deficit would only be $136 billion. The House budget is similar. Both cut significantly from our most important programs, including defense. So I ask, with this huge Federal deficit, how can we in good conscience now approve a bill with a price tag of $1.3 billion—$1.3 billion in new money—money that this Nation just does not have to spend? I do not think we can, which is why I have proposed this amendment.

Mr. President, this is a simple amendment and one I believe to be in the best interest of America's fiscal household. I urge its adoption, and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. INOUYE addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. INOUYE. Mr. President, I am pleased to join my distinguished colleague, Senator MATSUNAGA, in urging the passage of S. 1009, a bill to accept the findings and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

Before proceeding, Mr. President, I wish to commend my colleague from Hawaii for this extraordinary feat. I believe that this is the first time any measure has reached this stage with 73 cosponsors. We have considered before us measures of great popularity, noncontroversial, but they have never had 73 cosponsors.

The measure before us is the source of much anguish and much controversy. Because of the commitment and dedication of Senator MATSUNAGA, he has been able to convince 72 of his colleagues to join him in this endeavor.

Many fellow Americans, including my colleague from Nevada, have asked: "Why should Japanese-Americans be compensated?" During times of war, especially in times of fear, all people suffer. That is a very common argument made against this measure.

Mr. President, while it is true that all people of this Nation suffer during wartime, the Japanese-American internment experience is unprecedented in the history of American civil rights deprivation. I think we should recall, even if painful, that Americans of Japanese ancestry were determined by our Government to be security risks without any formal allegations or charges of disloyalty or espionage. They were arbitrarily branded disloyal solely on the grounds of racial ancestry.

No similar mass internment was deemed necessary for Americans of German or Italian ancestries, and I think we should recall and remind ourselves that in World War II, the Japanese were not our only enemies.

These Japanese-Americans who were interned could not confront their accusers or bring their case before a court. These are basic rights of all Americans. They were incarcerated, forced to live in public communities with no privacy, and stripped of their freedom to move about as others could.

Japanese-Americans wishing to fight for this country were initially declared ineligible. However, once allowed to volunteer, they volunteered in great numbers. In fact, proportionately and percentagewise, more Japanese-Americans put on the uniform of this country during World War II, more were wounded and more were killed, even if they were restricted to serving in ethnically-restricted military units.

The individual payments acknowledge the unjust deprivation of liberty, the infliction of mental and physical suffering, and the stigma of being branded disloyal, losses not compensable under the Japanese Evacuation Claims Act of 1948.

Several years ago when this matter was being debated, I was asked by one of my colleagues whether $20,000 was too much. My response to him was, "If I were interned, I would consider $20,000 as being too little. How do you compensate a child who had just lost his mother, who committed suicide because of depression and anguish? How do you compensate those families who lost their fathers and husbands, who stood up and voiced objection and were shot down by the troops in the camps? They were not violating any of the laws of the United States. They were just exercising their first amendment rights to speak up, petition the Government. They were not armed. It was a peaceful demonstration. How do you compensate the families of those men? How do you compensate a fellow American for the stigma of being branded disloyal?" $20,000, Mr. President, is just token.

Rights guaranteed by the Constitution were sacrificed under the cloak of national security. This has been a common occurrence in the United States, and I think the time has come when we should put a stop to this. In the name of national security it has been fashionable to deny other Americans their constitutional rights, and in this case the Congress supported the President's policy of removal and detention by making the violation of orders issued pursuant to this Executive Order 9066 a criminal offense. And, sadly, the U.S. Supreme Court also upheld exclusion in the context of war.

But as we know, Mr. President, the Supreme Court has not always been correct. There was a time when the Supreme Court upheld slavery, and that was the law of the land. The Supreme Court in this case upheld internment, and that was the law of the land at that moment.

The Presidentially appointed Commission on Wartime Relocation and Internment of Civilians found no documented acts of espionage, sabotage, or fifth column activity by any, Mr. President, by any identifiable American citizen of Japanese ancestry or resident Japanese aliens on the west coast.

This was supposed to have been the rationale for this mass evacuation and mass incarceration, that these Americans were not to be trusted, that these Americans were agents of an enemy country, that these Americans would spy and carry out espionage, and this Presidentially appointed Commission, which incidentally was made up of leading citizens throughout this land—and only one member of that Commission was of Japanese ancestry—declared that there were no acts of espionage whatsoever. And sadly, the Commission in its 1983 report concluded that internment was motivated by racial prejudice, war hysteria, and a failure of political leadership.

The Commission further found that "widespread ignorance about Americans of Japanese descent contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan." The Government and society at large refused to recognize the distinction between the Japanese who bombed Pearl Harbor and Japanese-Americans and resident aliens of Japanese ancestry.

I know that this sounds facetious and trite, but to many Americans just because we look alike we must be alike. Mr. President, as we all know, that is not so. But the signs of the times, those times, were reflected by Gen. John Dewitt's famous sentiment that "a Jap is a Jap."

If, Mr. President, we as a nation fail to learn from this tragic experience, history may repeat itself, hiding behind the cloak of national security and persecuting Americans of a particular race or ethnic group or religious group for the actions committed by people of their ancestoral homeland. For example, it is not inconceivable that a possible future conflict with countries south of the border could rouse hostile feelings against millions of Hispanic Americans in this country. I hope that this would never occur.

Mr. President, the goal of S. 1009 is to benefit all citizens of our Nation by educating our citizens to preclude this event from occurring again to any other ethnic or religious group or any person suspected of being less than a loyal citizen. This bill reinforces the strength of our Constitution by reaffirming our commitment to upholding the constitutional rights of all our citizens. So, respectfully, I strongly urge its passage and in so doing once again commend and congratulate my distinguished colleague from Hawaii.

Mr. MATSUNAGA. Will the distinguished senior Senator from Hawaii yield?

Mr. INOUYE. I will be very pleased to yield to the Senator.

Mr. MATSUNAGA. I congratulate the senior Senator from Hawaii for his excellent statement. Coming from one who served in the 442d Regimental Combat Team, the most highly decorated military unit in the entire history of the United States, and having been highly decorated with the second highest award, the Distinguished Service Cross, and having sacrificed an arm in that war, I believe what the senior Senator from Hawaii has to say should be taken most seriously. I do hope that our colleagues will take him in all seriousness and defeat the Hecht amendment. I once more congratulate my senior colleague from Hawaii.

Mr. INOUYE. I thank the Senator for his generous comments.

Mr. STEVENS. Mr. President, while I understand the amendment of the Senator from Nevada, I hope that the Senate will disapprove it. The recommendations of the Commission on Wartime Relocation and Internment of Civilians were clear. They found that there had not been compensation for the damages and losses suffered by the Japanese-Americans and Aleut people.

I recounted yesterday what happened when the United States military removed 900 American citizens—Aleuts, who lived on the Aleutian chain and the Pribilof Islands—from their homes and took them to abandoned canneries and gold mining camps in southeastern Alaska.

Not many people understand the distances in our State. Attu and Kiska, which the Japanese invaded, are the most western islands in the Aleutian chain. The military saw fit to remove all Aleuts from all of the islands. Alaskans believed they did that because they wanted to occupy the islands and just did not want any local people in their way.

The Pribilof Islands were over 1,000 miles from the two islands the Japanese had taken. The Japanese never attempted to move further up along the Aleutian chain. They made an invasion of those two islands and fortified them. But there was really no necessity to remove these people.

I agree with what the Senator from Nevada said, having lived through that period, that there was a lot of rumor and fear. I remember as a young boy in California at that time going out of the house at night when the antiaircraft guns were shooting at the Moon, literally, in Los Angeles. There was no Japanese attack being made upon Los Angeles, but somone had reported there was. Antiaircraft batteries from all over Los Angeles lit up the sky for 2 or 3 hours that night until they found out there were no Japanese planes in the vicinity and no enemy to shoot at at all. It was a period of really intense hysteria. There is no question about that.

But let us put this in perspective. Let us assume that the Japanese came to Baltimore. The action of the United States military removing the Aleuts would be like going to Chicago and then going west from Chicago about 1,000 miles and taking everyone between Chicago and Denver and moving them out of harm's way.

The record is clear that in terms of this internment—and it was an internment—was for the convenience of the Government. And these people, because they were of native descent, were taken and interned. They were kept for 2 to 3 years in those camps. In those days, Alaska was a territory, under wartime conditions, and it was not possible to travel.

I related yesterday how one of my friends, Flore Lekanoff, was taken from one of those camps in southeastern Alaska back to the Pribilof Islands to hunt for seals for the military. He was never paid for that. He was never recognized as being in the service of the Government. None of these people were treated as though they were in the service of the Government. They were literally just shoved aside.

I also knew a great many people, I knew them personally, who were sent to Santa Anita, another of these Japanese-American relocation camps.

This bill provides compensation that the Commission on Wartime Relocation and Internment of Civilians found was warranted. When I was chairman of our subcommittee I held hearings in Los Angeles. They lasted for several days. We have conducted hearings on this subject now for a series of Congresses, and the strange thing is, Mr. President, that the circle of those who suffered narrows. And because of deaths the number of people affected by this legislation is much different than it would have been even 3 years ago when I held those hearings. In fact, several Aleuts have died just in the last few months as we've been working to get this bill to the floor.

I believe that the Senator's amendment is clear. It says that, as a nation, let us apologize, but let us ignore all of the losses, all of our failures, to compensate the victims.

As our committee report points out, in August 1944, President Roosevelt allocated $200,000 from Federal funds for rehabilitation of the Aleutian and Pribilof Islands. Some 900 people had spent 2 to 3 years confined, many of them working without any compensation at all from the Federal Government, their homes destroyed, their churches destroyed, and the Federal Government in its kindness allocated $200,000 to rehabilitate the Aleutian and Pribilof Islands. That included only $25,000 for all damages suffered by the Aleuts.

The Commission reports to us that there was substantial damage, and it still exists. As I remarked yesterday, the only place where the U.S. flag flew in World War II that has not been cleared of World War II debris is in the Aleutian Islands. Congress in its wisdom has made a great portion of that area a wildlife refuge. It is a bird sanctuary. But it is unique in that it is the only bird sanctuary in the world that no one can go to because it is still contaminated with World War II ammunition, mines, and other devices that were brought to the Aleutian Islands, not by the Japanese but by the United States.

I find the amendment of the Senator from Nevada one that I strenuously oppose because it removes the mechanism to settle this issue now. Most of these people that are going to be benefited by this bill are past 60. They have waited a long, long time. Most of them never recovered financially, particularly the people I represent in the Aleutian chain. Many are still destitute. This settlement is the final act to close this chapter of history and to try to make restitution for that period of hysteria.

The people who made those decisions were good Americans. They were defending the country. They made mistakes. President Ford was the first President to make the finding that mistakes were made in World War II with regard to Japanese-Americans and Aleuts. I think it was important that President Ford made that finding.

We now know from the Commission's record that the Attorney General warned the President that what was to be done was not constitutional. The former Director of the FBI, J. Edgar Hoover, notified the President that the order was not necessary from the point of view of intelligence or any type of activity, and that it was contrary to the best interests of the Government at that time.

The Secretary of War expressed his belief that the program was "ill advised, unnecessary, and unnecessarily cruel," and Milton Eisenhower, the former President's brother, who was Director of Wartime Relocation, described the evacuation and detention as "an inhuman mistake."

The late Chief Justice of the Supreme Court, Earl Warren, who was then Attorney General of California, stated that, "I have since deeply regretted the removal order and my own testimony advocating it because it was not in keeping with our American concept of freedom and the rights of citizens."

I think the record is clear that there ought not to be any dispute that our country made a serious mistake. While I support the apology that is contained in the bill, that is not sufficient. If the Senator's amendment passes, who is going to restore those public buildings that were destroyed and have never yet been replaced? Who is going to compensate these people who spent time living in the abandoned canneries and gold mines in southeastern Alaska—whole families?

I think the amendment should be defeated because again, with great affection for my friend from Nevada, the Hecht amendment will gut this bill. The provisions which the amendment would delete are the provisions we fought over. We had hearings on it throughout the country. Everyone has had a chance to review it.

Strangely, the amendment would retain the findings of the bill that these people suffered enormous damages and losses and have not been compensated adequately, but would remove the compensation.

I hope the Senate will reject the amendment of the Senator from Nevada.

Mr. WILSON. Mr. President, I rise in support of the Matsunaga legislation and in opposition to the Hecht amendment.

I think it is difficult to add to the eloquent arguments made by my friend from Alaska and my friend from Hawaii as they have stated, clearly and succinctly, that this is a good Nation, one with a proud history, but by no means perfect, because we are, as human institutions, subject to all the fallibilities of human beings, particularly those of fear, as were all of us at the time of the attack on Pearl Harbor.

What ensued was a terrible failure of judgment. At the time, it seemed entirely reasonable, when we had been taken unaware and suffered a catastrophic blow, to be suspicious of all those who, in the fear of the moment, might in some way be suspect as contributing to further espionage against the United States.

As we have heard from the Senator from Alaska, those in charge of our security, those charged with the responsibility for collecting domestic intelligence, found that we had very quickly overreacted, perhaps reasonably so in the panic of the moment, or, if not reasonably, at least understandably. But, Mr. President, having made that mistake, we persisted in it for 4 long years and perpetrated on a group of loyal Americans one of the great travesties in our history. We kept behind barbed wire the fathers, the mothers, the uncles, the aunts, the younger brothers and sisters of the most celebrated and highly decorated combat units in American history. We kept them behind barbed wire, living at Santa Anita and other places.

We now acknowledge the tragic error of judgment that required, in that moment of panic, that we take protective action, rounding up Aleuts and Americans of Japanese ancestry who posed no threat, and who, to the contrary, gave us their sons as volunteers.

Mr. President, the question before us is whether or not, in order to make the adequate apology that is contained in this legislation, we are required to make adequate compensation. The answer is that we do.

A moment ago the Senator from Hawaii said, "How do you compensate for the psychic suffering, for the pain, the anguish, the incalculable anguish, suffered by those interned in those camps?" It is a rhetorical question; because it is difficult, if not impossible, to make whole by compensation those who suffered the losses he described. However, as the Senator from Alaska has pointed out, there were losses that involved property.

I can tell you that they were commonplace in California. The generation that had migrated to the United States from Japan and founded small businesses, groceries, and little shops, those small farmers who came to this country and who then raised the next generation of Americans who gave their lives gallantly in combat in Italy, suffered terrible depredations. They lost those businesses, in many cases. They never were able to return to those family farms.

Mr. President, I do not know how one can generalize a prescription and do perfect equity in every case. And that is what this bill attempts to do. But I can only say that I think the $20,000 it seeks as the reward for the suffering and the property lost involved is in no way an exaggeration of what actually was lost and suffered. Indeed, I would guess that in most cases where property loss occurred, $20,000 is a small fraction of the actual loss in the value of that property, compounded over the years.

As the Senator from Alaska has said, those who will be the recipients of these awards, in almost every case, are now 60 years or more of age. It is a declining population, declining in number.

The Senator from Nevada quite correctly points out that we are called upon to set and keep priorities in a time of deficit reduction. I say to him, with the greatest respect—and to others who make the same argument—that the first call upon a nation is that it honor its just obligations. This is a just obligation, an effort on the part of the United States, belatedly, to make an apology to loyal Americans and to right an injustice which, in a moment of panic, was visited upon them. In that view, it must be seen as a priority, a high priority, one that we are late in recognizing, and one that we should, without further delay, not just acknowledge but bring to fruition, so that this debt can be paid. We cannot close this chapter, because we should not forget.

There are certain lessons in human history that the next generation and the next and the next should be reminded of. These were not evil people among our leadership who were guilty of this error in judgment. They were decent Americans, moved by what they thought to be reasonable fears to take what they thought to be legitimate protective measures. But they were wrong. Afterwards perhaps, it should have been clear to them that they were wrong, that injustice continued.

As we must never forget the Holocaust and what the indifference and the timidity of good and decent people permitted to occur in Europe throughout the duration of World War II, so we must recognize that good and decent people had a lapse of judgment and, very candidly, a lapse of the mind, of spiritual courage that is necessary to right these wrongs in this country where we prize justice, in this country where we have welcomed succeeding waves of immigrants, recognizing that in each came the richest resource of this Nation, adding to our strength by adding to our diversity, even as these new generations of immigrants sought to be assimilated and take advantage of the opportunity that has been the fundamental meaning of this land for one wave of immigrants after another.

So, Mr. President, we should pay this debt. We should acknowledge this injustice. We should right this wrong. And in order to make this apology adequately, this measure of compensation, it seems to me, is entirely warranted. I hope my colleagues will view it as in fact we should, as an urgent priority, a call upon our own national honor.

Mr. MATSUNAGA. Mr. President, will the Senator from California yield?

Mr. WILSON. With pleasure.

Mr. MATSUNAGA. I wish to thank the distinguished junior Senator from California for being one of the early cosponsors of S. 1009 and for his most persuasive statement just made not only for the provisions of the bill but against the Hecht amendment.

I wish to thank him once again, and I do hope that what he has said will influence those who are not cosponsors of this measure and vote against the Hecht amendment.

Mr. WILSON. Mr. President, I thank my friend from Hawaii. He has been most generous in his comment. I think I should thank him for the great tenacity of purpose on his part that has brought this legislation to the floor with the number of cosponsors that have been added to it, but perhaps most significantly I should point out that he and his colleague from Hawaii represent I think the very kind of courage, physical and moral, that was demonstrated not only years ago on the field of battle on behalf of the United States, but the kind of courage and moral stamina on the floor of the Senate that they have both so often demonstrated.

It is, I think, perhaps the clearest vindication of my statement just made about the good fortune of the United States in being able to welcome to our shores the sons and daughters of immigrants who perhaps understand better than many of us who are native born the meaning of this country.

Mr. MATSUNAGA. I thank the Senator from California.

Mr. President, I rise in opposition to the amendment offered by the Senator from Nevada [Mr. HECHT].

The Hecht amendment would delete from the bill funds provided to compensate each of about 60,000 surviving former internees and would also delete funds provided for the establishment of a "civil liberties education fund." Further, the Hecht amendment would delete title III of the bill, pertaining to compensation for Aleuts, in its entirety.

Those who contend that monetary compensation is an inappropriate way to redress this longstanding injustice overlook the fact that monetary compensatory remedies are an integral part of our system of jurisprudence. It has long been regarded as proper for the courts to award monetary damages to individuals who have been unjustifiably injured. The amounts of damages vary widely, of course, ranging from several hundred dollars to well over $100,000, and the vast majority of such awards are for wrongful detentions of only a few days. To cite only a few examples, in the case of *Bucher* v. *Krause* (200 F. 2d 576, 7th Cir., 1952), a man wrongfully arrested following a barroom scuffle and held in jail for just 1 day was awarded $50,000 in compensatory damages; in *Globe Shopping* v. *Williams* (Tex. Civ. App. 1976), a shopper falsely arrested and imprisoned for only 6 hours was awarded $35,000 in compensatory damages; and in *Skillern* v. *Stewart* (379 S.W. 2d 687, Tex. Civ. App. 1964), a woman who was falsely charged with shoplifting by her employer, detained for several hours, and assaulted, was awarded $10,000 in compensatory damages plus $10,000 in punitive damages. In Dellums versus Powell, the case stemming from the arrest and detention of demonstrators during the anti-war demonstration in Washington, DC on May 1, 1972, compensatory damages in amounts ranging from $120 to $1,800 were awarded to those detained for a few hours up to 3 days.

In addition to these actions by the courts, Congress has acted to redress the claims of civilians and military personnel held captive by the enemy in World War II, the Korean conflict, and the war in Vietnam. Civilian Federal employees who were held hostage in Iran for less than 18 months were awarded compensation in the amount of $22,000 per person by act of Congress.

Mr. President, the American citizens of Japanese ancestry who were the victims of the Federal Government's wartime policy were imprisoned for 3 years or more not by an enemy, but by their own government, the United States of America. It seems to me that it is equally important, if not more important, that we provide monetary compensation as was done in cases I just cited. To do any less would demean the serious injustice which they suffered; $20,000, equal to $3,000 in 1945 dollars, is truly not too much for individuals who were falsely incarcerated for 3 years or longer.

During hearings of the Commission on Wartime Relocation and Internment of Civilians, which came out with that excellent report which all members have in their offices, former internees, many telling their stories for the first time, told of infants, young mothers, and elderly persons who died for lack of adequate medical care and facilities; of families who were separated, with elderly parents or in-laws going to one camp while their married childern were sent to another; of large families forced to live together in one small room; of the constant, nagging uncertainty about the future, both near and long term; of the strains which this placed on their families and on the close-knit Japanese American community as a whole; and, most dramatically, of internees who were shot and killed by camp guards because they inadvertently wandered too close to the camp barbed wire fences. In one such incident, an elderly man and his grandson were playing pitch-catch ball near the fence late one afternoon. Under the camp rules, one was never to be seen between the two barbed wire fences after 6 p.m. Although it was after 6 o'clock, on this day it was a bright summer day and it was still broad daylight. The grandfather having missed the ball chased after it and when he got in between the two fences the guard up on the watchtower yelled, "Get back," and the elderly gentleman said, "Oh, I am only going for the ball," and continued his chase; whereupon, the guard up on the watchtower fired the machinegun killing the elderly man instantly. His grandson and members of his family still bear the scars of that incident.

And I, myself, become overly emotional when I think about it even to this day.

It is also reported, Mr. President, that an elderly American veteran of World War I committed suicide because he was so ashamed of being branded as "disloyal" to the United States. Indeed, the stigma of disloyalty has haunted Japanese-Americans for the past 45 years and it is one of the principal reasons that they are seeking congressional action to remove that cloud over their heads.

Mr. STEVENS. Will the Senator yield.

Mr. MATSUNAGA. I am happy to yield.

Mr. STEVENS. Mr. President, I thank the Senator for yielding because I think it is important for the Senate to realize that there are 10 of us from the west coast and the two offshore States. All of us but one were alive and lived through this period. All 10 of us have joined together in this bill. None of us that lived through this period have any question about the statement that the Senator from Hawaii has just made. We know of our own knowledge what we saw in those days as young men.

The thing that is appalling to me is that it has been so long, Mr. President, since so many people have admitted the mistake, and so many people now know that the distinguished leaders of the time urged the military not to do this—the Attorney General, the Secretary of State, the FBI director.

The comments that the Senator has just made have been related to me by Japanese friends of mine that I have known since I was a child—people that went to school with us, as I said yesterday, people that we have worked with. And each one of them has said to me the same thing that the distinguished junior Senator has just said: "How can we explain to our children what they were doing living in stables, living in camps on the desert or, in the case of my Aleut constitutents, living in places, which were built to be used for 2 or 3 months in the summertime, for 2 to 3 years, when they had done no wrong at all?"

It is not just the generations that were in the camps that have been scarred; it has been the children of those people. It is important now for us not to just say we are sorry, but, as a government, to recognize the compensatory system of our system of justice, as the Senator has said.

I do not think we can—and I know others are going to speak about this—I do not think we can really get down to the point of being jurors and saying how much this compensation should be.

But we hired exports. The Commission hired experts to determine what these people would have earned while they were in the camps; how much they would have been able to save from earnings in those times—and wartime earnings were pretty good.

Now, there is a question here about the compensation side which to me is a difficult thing to grasp. I just want the Senator from Hawaii to understand that I do not understand people who are willing to say we made a mistake, we were wrong, but are not going to do anything about it. If you were in court—and incidentally there is still one case pending, maybe two—in court, the jurors would have the duty of determining what the compensation should be not only in terms of actual compensatory damages, but in terms of punitive damages, too.

We are not going to just hand out money. Those people who apply, who believe that they are entitled to this money and need this money, will be able to get this money.

I do not know how many of our Aleut people will apply, and I do not know how many Japanese-Americans will apply. But the concept is that they can apply for these damages.

I sort of interrupted my friend, but he was choking up, as I want to do in this debate once in a while, and I wanted him to know I share his emotions. I think everybody who lived through that period of time, who had personal friends that literally disappeared, and then came back after the war, can only be appalled.

I think the Senate should know that while this is not a regional consideration, there is not a Senator on this floor who is from the area involved who lived through it that is not an original cosponsor of this legislation, along with the two Senators from Hawaii.

Mr. MATSUNAGA. I thank the Senator from Alaska for coming to my relief and for his major role in bringing about the passage of the bill. The way the bill has been reported out of the Government Relations Committee is one in which the senior Senator from Alaska has played a major role. I thank him for that. I join him in the statements he makes.

Mr. President, the sponsors of the bill do not pretend that history can be erased, but the measure would provide for the first time an official acknowledgement of the grave injustice which was done, and it would provide token monetary compensation to those who suffered irreparable losses. Without such compensation the bill would be meaningless.

Mr. President, perhaps of greater significance, as I stated yesterday, is that S. 1009 would remove forever a longstanding blot on that great Constitution of the United States, and its passage, as reported by the committee, will prove that our beloved country is great enough to acknowledge and correct its past mistakes.

Mr. President, I urge the defeat of the Hecht amendment.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. WIRTH). The Senator from Virginia.

Mr. WARNER. Mr. President, I rise in support of the amendment.

I understand my distinguished colleague from Alaska is preparing to leave the floor. He touched on some of the concerns that I have. I have a twofold concern about the pending proposed legislation: First, the dollars which are addressed in the amendment; and, second, the language in the bill which I find has a judgmental tone about it. And I quote the bill, "a failure of political leadership" at the time.

So really, in effect, what we are doing is trying to judge the actions of our predecessors who stood on this very floor in that period of time and made the decisions which we are reviewing here in hindsight so many years thereafter.

Congress was involved in this decision, as well as the President. And as I understand it, the Supreme Court was involved in a review process.

That is all three branches of the Government: executive branch, legislative branch, and the judicial branch.

Somehow, instead of saying that we cast a blanket indictment on the judgment of those men and women, honorable and exercising their best judgment in light of the facts of the time, it seems to me that we should move with some caution here today.

While I did not live on the west coast, I was a young man right here in the Nation's Capital in northern Virginia. I remember the period very well. Before I entered the Navy in World War II, I can recall our home right here in the Nation's Capital was, like every other home, equipped with curtains that we drew down at night such that the modest amount of electricity that was used in our home could not go through the cracks of the windows. This city lived in a blackout in the aftermath of Pearl Harbor. That I remember ever so vividly, the Nation's Capital in blackout.

So I am wondering if we should, with some reflection, go slowly as we pronounce judgment on the leaders of the three branches of our Government at that time.

I have heard the statements made by our distinguished colleagues from Hawaii, and indeed joined in by the distinguished Senator from Alaska in reciting the facts and the hardship and the suffering for which we all have compassion today as, indeed, I am sure Americans did at that time. And we should bring out those cases today, most poignantly, as our distinguished colleague from Hawaii has done. That is a very important part of the debate that we have here today and I respect him for it and I respect the survivors. But I am wondering whether or not we should not reflect a little more caution, a little more understanding on those who sat in this Chamber.

The President at that time was a very courageous man. Indeed, Members of the Supreme Court, and of the Congress all of whom rendered a measure of judgment on this situation—Does my colleague wish to respond?

Mr. STEVENS. Mr. President, I appreciate the opportunity to respond to that. I do have to go to a committee meeting; I was just called there. I am happy to stay to make sure we have a good dialog with my friend.

Congress' role was to pass a law to authorize the Federal Government to enforce compliance with directives issued by Executive order. It did not approve this order. It approved a general concept of Executive orders and gave the authority to enforce them.

The Supreme Court refused to uphold a challenge to the legality of the orders that were issued under that general authority that Congress had passed. The Supreme Court has not ruled, to my knowledge, yet, on whether or not the Japanese-Americans or the Aleuts are entitled to compensation for the wrongs that were committed.

Let us look at the question whether we are taking some action now which would cast a challenge upon the decisions that were made then. In 1976, President Ford rescinded the Executive order. Mind you, it had been in effect since 1942 to 1976. He rescinded the Executive order and he stated that the wartime measures under the order were a setback to the fundamental principles on which this Government was founded and they involved national mistakes.

The role of the Commission was to provide us with a record of what happened at that time. Although the President signed the Executive order giving the Secretary of War and the commanders of the military the power to exclude any and all persons from designated areas in order to provide security against sabotage and espionage, the Attorney General at that time argued that the total exclusion of the Japanese from the west coast was unnecessary.

The Director of the FBI notified the President's people that ethnic Japanese—Japanese-Americans—presented no threat to the national security.

In terms of our Aleut people, a local commander took it upon himself to move 900 people who were almost 1,000 miles from the invasion area on Attu and Kiska 2,000 miles away to southeastern Alaska and dump them off at abandoned canneries and gold mine sites.

To my knowledge, we have already acknowledged we made mistakes. All the way through these hearings I conducted, I cannot remember one person, even our former colleague Mr. Goodell, who disagrees with these actions.

Mr. WARNER. For the record, that should be known.

Mr. STEVENS. He was a former Senator from California. But he did not say there were no mistakes made.

Mr. WARNER. I am not arguing there were no mistakes made. I question this blanket indictment proposed to be cast by this proposed action on the Members of the Senate and the House and the Federal judiciary and indeed the executive branch. You point out there was a division of opinion in the executive branch, as there is on most major subjects.

Mr. STEVENS. I do not think it is a difference of opinion, Mr. President, when the Secretary of State says the forced evacuation of citizens was an injustice; the Attorney General at the time said the program was "ill-advised, unnecessary, and unnecessarily cruel;" the Director of Relocation said it was an "inhumane mistake;" the then-attorney general of California has indicated when he became Chief Justice that he "deeply regretted" the order because he thought it was in violation of our duty to our citizens.

I do not think we are attacking anybody. I am not part of an attack of anybody or the Government itself. I served under President Roosevelt and I was proud to do so. I think he was a fantastic wartime Commander. The problem is not whether he was a fantastic Commander. The question is whether the Government, acting under his order, made a mistake.

Mr. WARNER. Mr. President, he made the decision. The President of the United States of America made the decision after receiving the best advice from his advisers. So the buck stops there.

Mr. STEVENS. No; he made the decision to issue the order, as I indicated, that people who were in areas designated under the order as being areas—and the west coast was totally designated—could be removed by military commanders if they were presenting a problem as far as security is concerned. He was particularly concerned with sabotage and espionage. There is not one single thing in the record that indicates either the Japanese-Americans in California or the Aleuts in Alaska were charged with any breach of internal security, any sabotage, or took any action that would warrant their being included under that order.

I think the Senate ought to understand. We are not challenging the order that was made to arrest those who were a risk in terms of internal security. We are challenging the decisions that were made by the military commanders, basically on a local level, to intern people. As I said, I remember the time when they took the people from my high school and put them in Santa Anita. They moved the horses out and put the families in.

Mr. WARNER. Mr. President, I concede that it was an error in judgment by the President of the United States. He should have listened to those advisers who cautioned him against it.

Mr. STEVENS. It was not the President of the United States.

Mr. WARNER. He signed the Executive order.

Mr. STEVENS. He signed a valid Executive order. It was upheld by the Supreme Court. It was valid in this Senator's judgment. It said arrest those people who are a threat to the internal security of the United States, who pose a threat of commiting acts of sabotage or espionage.

But what I am saying is there is no record that there was any justification in taking the Japanese-Americans or the Aleuts under that order. That was not a mistake of the President of the United States. It was a mistake of the arresting officers. It has since been acknowledged as a mistake by a subsequent President of the United States, President Ford, in revoking that order. He said there were serious mistakes—grievous mistakes made under that order—and I would hope my friend would accept the distinction, Mr. President.

We are not challenging history. We are not challenging the concept that a country has a right to protect itself against sabotage and espionage. That is not the case.

But show me one shred of evidence that these people, the Japanese-Americans or the Aleuts, were charged with either espionage or a threat to internal security and I will withdraw my name from this act.

Mr. HECHT. Will the Senator from Alaska yield?

Mr. STEVENS. Yes.

Mr. HECHT. We are not questioning that all in my amendment. What we are talking about is compensation for these people. Now, after all of these years, are we saying: "We have harmed you? We have done things we should not have done, but here is $20,000 tax free, and we will forget everything"? Is that what you are trying to say?

We agree in hindsight that it was wrong. I am from a small town in Missouri—Cape Girardeau, MO. I remember very well Pearl Harbor Day. There was not one American woman who did not have tears in her eyes because they either had children in the service or were soon going to be there.

In this particular little city of Cape Girardeau, there was one Japanese couple who lived on the outskirts. Luckily, the police were able to grab them and move them away because there was a lynch mob that would have reached their house within 2 hours.

I do not think America has ever had a day where the turmoil, the confusion in their minds was so violent. People were in a hysteria. We had been attacked. Let us not sit here in the tranquility of the U.S. Senate 45 years later and think what America was like on December 7, 1941. The President had to make a decision. He did.

The Senator mentioned compensation. Then in a court of law, there must be compensation. This is not a court of law. This is the U.S. Senate.

I have been elected by the people of Nevada, by the people who are taxpayers from Nevada. What I am saying is under our deficit today, the restrictions, and what we are doing, we cannot afford this type of a $1.3 billion or $1.5 billion, whatever it might amount to. I cannot in good conscience go back to my State of Nevada and tell the survivors of Bataan, Iwo Jima—all of those battles in the South Pacific, in Asia—and tell them we have forgotten you, but what we are doing is compensating the people who we moved into camps; their houses were ruined.

We cannot forget the American veterans. We are apologizing, but what we are saying is, let us take the monetary part out of it. Many of these people are multimillionaires today. Are they going to——

Mr. STEVENS. Mr President, I yielded. Let me disabuse that myth. I know of no multimillionaires on the islands of the Aleutians, and I know of very few in the Japanese-American group that we are talking about. There may be some newcomers into the ranks of millionaires among the younger ones, but I do not know of any of these multimillionaires.

Mr. President, let me also disabuse my friend of our mistreatment of the people who are survivors of Bataan and who are veterans. I am a veteran. I have not abandoned my cause to support the veteran on this floor. Show one veteran we have abandoned. We have laws here to protect and assist the veterans. We provide hospitals. We have attempted to live up to our obligation to our veterans. That is not a subject that ought to come into consideration here.

I have no problem facing my veterans and telling them that I have tried to help right a wrong that was committed when we were fighting that war. Did you know that the people who were taken from the Aleutian Islands to Japan and incarcerated by the Japanese were compensated by the American Government? Did you know that?

Mr. President, I cannot understand why we are arguing about compensation for the survivors. This is not going to dependents. It is only going to those people who still survive. It is not anywhere near the amount that the Commission found would be necessary to fully compensate these people, but it is there for those who feel they need help now to make an application and get this amount from their Government.

Imagine the people from the Aleutians who were taken and put into forced labor for the period of time that they were kept on those islands. They received no compensation at all. When they got back, for all of their islands, which stretch 2,400 miles into the Pacific Ocean—the Government, in its wisdom, set aside $200,000 to repair and replace the homes that were destroyed by the military and the churches that were destroyed, and included $25,000 for compensation for 900 people for 2 to 3 years. We are talking about common sense in terms of compensation.

I went over this. I will be glad to go over it with the Senator if he would like to know how the Commission went through the process of determining how much money should be included here. The Aleuts and the Japanese-Americans are not being fully compensated under this bill. I tried to make the point that this is not what a jury would award. If you want to send these claims to the courts and let the court award those damages, you better believe you are talking about hundreds of billions of dollars now by the time that money would be brought forward and indexed from the time of the forties.

Mr. WARNER. Did the Senator say hundreds of billions?

Mr. STEVENS. Hundreds of billions.

Mr. HECHT. Hundreds of billions?

Mr. STEVENS. If it was properly indexed in terms of actual compensatory and punitive losses for what a jury should have awarded in the forties.

Mr. WARNER. I know the Senator has to leave. My major concern again is reflecting on the history. The Senator from Alaska has taken issue with the Senator from Virginia that the action which is pending before the Senate today is a blanket indictment of our political leadership at that time.

I would like the Senator to turn to page 33 of the bill, if he would. In "Findings and Purpose," section 1, part 4:

> The internment of the individual of Japanese ancestry was caused by racial prejudice, war hysteria, and a failure of political leadership.

Are we to sit here 45 to 47 years later and make that blanket assertion on the entire Government of the United States, the three branches that had some measure of involvement in this case?

Mr. STEVENS. Mr. President, if that is directed to me, I will point out that that portion of the bill is not affected by the Hecht amendment.

Mr. WARNER. I understand that, but the Senator is about to leave the floor, and he kindly said we could engage in a colloquy.

Mr. STEVENS. I believe that is correct. I believe at the time there was wartime hysteria. I just described before the Senator came out that I remember as a young man coming out of the house at night because all the antiaircraft guns in Los Angeles—which were near at that time and were shooting at planes that were supposed to be there, and there never were planes there. You talk about hysteria; there was hysteria on the west coast.

Second, there was racial prejudice. It is manifest in this action that was taken at the time by taking these people, rounding them up, turning out the racehorses and putting them in stables and keeping them there for years at a time.

Mr. WARNER. I concede those wrongs, but is the Senator willing to have this Chamber go on record today that that was a "failure of political leadership"?

Mr. STEVENS. I am because I believe the Government was set up as a Government of laws under men who can make mistakes, and mistakes were made.

We already indicated no one argued with the statement of President Ford that there were mistakes made, and when he rejected that Executive order in 1976, he specifically made that finding. He made a finding that there were national mistakes.

National mistakes only come about because of a failure of political leadership. I believe that that statement is correct.

Beyond that, Mr. President, it seems to me—and I will close, if I may, with my friend unless he has some other questions—it seems to me that the purpose of the bill is to try and find a way to implement the recognition of a Commission on Wartime Relocation and Internment of Civilians. We passed a law to authorize this Commission to go into this in depth.

It was a bipartisan Commission of distinguished Americans. They made those findings. The Senator from Virginia asked me if we are supposed to approve this statement. We are approving the statement made in the Commission's report. As a matter of fact, the Commission's report goes a little further, if you really want to know. I would urge Senators to read that report. That Commission made these findings and this bill is a bill to accept those findings and to implement their recommendations. I believe the House has gone on record accepting those findings. To fail to do so now on the floor of the Senate I think would similarly be a problem as far as political leadership is concerned.

Mr. MATSUNAGA addressed the Chair.

Mr. STEVENS. I would not want to be part of a group that did not accept the findings of this distinguished Commission, a Commission that was authorized to make these findings and did make them.

Mr. MATSUNAGA addressed the Chair.%

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, in response to the question raised by the Senator from Virginia, who seemed to indicate that we ought to take a little more time in studying this matter before we take any action in the Congress, let me point out that Congress waited 38 years and finally in 1980, because there were those among us here who believed that a study of the entire issue ought to be made, created the Commission on Wartime Relocation and Internment of Civilians. So the findings of that Commission are what the Congress was seeking, and this bill, S. 1009, is merely to implement the recommendations of that Commission.

The Commission found, I will point out to the Senator from Virginia, by uncovering secret documents in the Archives in 1982, that naval intelligence and the FBI had recommended to the President of the United States that no action be taken with reference to the recommendation of General Dewitt, who was in command of the west coast, who recommended the evacuation and internment of Japanese-Americans and their resident alien parents, because there was no military necessity or any danger to national security. The FBI as well as naval intelligence came out with a report, as was pointed out by the Senator from Alaska, that there was not a single case of sabotage, espionage, fifth column activity before, during or after the attack on Pearl Harbor, and it was a finding of the Commission that it was due to war hysteria, racial prejudice, and failure on the part of our political leaders that the mass evacuation and internment took place.

So I appeal to the Senator from Virginia, who incidentally was an original cosponsor of the measure, to read this comprehensive report, which he has in his office, I am sure, titled "Personal Justice Denied," which is the report of the Commission on Wartime Relocation and Internment of Civilians, and a smaller edition which sets forth the recommendations of that Commission. As the Senator from Virginia well knows, the Commission consisted of a distinguished panel of judges, a former member of the Supreme Court, a former Senator, and a former Congressman.

So that I think the suggestion that action be further delayed until such time as we make further study is not at all warranted.

Mr. WARNER addressed the Chair.

Mr. MATSUNAGA. I yield to the Senator.

Mr. WARNER. Mr. President, the remarks of the Senator from Virginia were in no way intended to be dilatory or to prolong judgment on these questions. I think it is most appropriate that we are now at this juncture. This Commission has done a very credible job. I do not dispute the facts. I am not prepared to be in any way dilatory today, not to allow this measure to go forward, to be voted upon.

It is just that somehow I feel obligated to rise and in some respects defend the Members of this Chamber, members of the executive branch, and to a certain extent the members of the judicial branch who at that time, in light of the facts, felt they were rendering the best judgment they could on behalf of this Nation. The way these findings are drawn strikes this Senator as a rather severe indictment given the unusual nature of that period, unlike any in the history of this Nation. Therefore, I say Senators should pause to reflect just for a moment on that particular part of the bill that troubles me when that blanket indictment is cast to the political leadership of the United States of America. At that time they perhaps did not have as much opportunity or time to assess all the evidence with respect to these poor people, for whom I have compassion, for whom I join the Senator in saying we should rectify the wrong.

But given the circumstances of our fleet resting on the bottom at Pearl Harbor, Bataan, and other events that preceded some of these judgments, I can see how their time was fully occupied with the more pressing issues of that period.

Mr. President, I have located a copy of the statements made by President Ford on February 19, 1976, together with Proclamation No. 4417, which he issued at that time. I think it would be helpful if I took a few minutes to read them.

REMARKS UPON SIGNING A PROCLAMATION CONCERNING JAPANESE-AMERICAN INTERNMENT DURING WORLD WAR II, FEBRUARY 19, 1976

February 19 is the anniversary of a very, very sad day in American history. It was on that date in 1942 that Executive Order 9066 was issued resulting in the uprooting of many, many loyal Americans. Over 100,000 persons of Japanese ancestry were removed from their homes, detained in special camps, and eventually relocated.

We now know what we should have known then—not only was that evacuation wrong but Japanese-Americans were and are loyal Americans. On the battlefield and at home the names of Japanese-Americans have been and continue to be written in America's history for the sacrifices and the contributions they have made to the well-being and to the security of this, our common Nation.

Executive Order 9066 ceased to be effective at the end of World War II. Because there was no formal statement of its termination, there remains some concern among Japanese-Americans that there yet may be some life in that obsolete document. The proclamation [4417] that I am signing here today should remove all doubt on that matter.

I call upon the American people to affirm with me that unhyphenated American promise that we have learned from the tragedy of that long ago experience—forever to treasure liberty and justice for each individual American and resolve that this kind of error shall never be made again.

Mr. President, I certainly agree with every statement made by President Ford in his opening remarks. I likewise agree with every statement made in proclamation, which I shall now read:

THE PRESIDENT: PROCLAMATION 4417, AN AMERICAN PROMISE BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

In this Bicentennial Year, we are commemorating the anniversary dates of many of the great events in American history. An honest reckoning, however, must include a recognition of our national mistakes as well as our national achievements. Learning from our mistakes is not pleasant, but as a great philosopher once admonished, we must do so if we want to avoid repeating them.

February 19th is the anniversary of a sad day in American history. It was on that date in 1942, in the midst of the response to the hostilities that began on December 7, 1941, that Executive Order No. 9066 was issued, subsequently enforced by the criminal penalties of a statute enacted March 21, 1942, resulting in the uprooting of loyal Americans. Over one hundred thousand persons of Japanese ancestry were removed from their homes, detained in special camps, and eventually relocated.

The tremendous effort by the War Relocation Authority and concerned Americans for the welfare of these Japanese-Americans may add perspective to that story, but it does not erase the setback to fundamental American principles. Fortunately, the Japanese-American community in Hawaii was

> spared the indignities suffered by those on our mainland.
>
> We now know what we should have known then—not only was that evacuation wrong, but Japanese-Americans were and are loyal Americans. On the battlefield and at home, Japanese-Americans—names like Hamada, Mitsumori, Marimoto, Noguchi, Yamasaki, Kido, Munemori and Miyamura—have been and continue to be written in our history for the sacrifices and the contributions they have made to the well-being and security of this, our common Nation.

We have added here today to that list the name of our distinguished colleague, the Senator from Hawaii [Mr. INOUYE].

I continue:

> The Executive order that was issued on February 19, 1942, was for the sole purpose of prosecuting the war with the Axis Powers, and ceased to be effective with the end of those hostilities. Because there was no formal statement of its termination, however, there is concern among many Japanese-Americans that there may yet be some life in that obsolete document. I think it appropriate, in this our Bicentennial Year, to remove all doubt on that matter, and to make clear our commitment in the future.
>
> Now, therefore, I, Gerald R. Ford, President of the United States of America, do hereby proclaim that all the authority conferred by Executive Order No. 9066 terminated upon the issuance of Proclamation No. 2714, which formally proclaimed the cessation of the hostilities of World War II on Decmeber 31, 1946.
>
> I call upon the American people to affirm with me this American Promise—that we have learned from the tragedy of that long-ago experience forever to treasure liberty and justice for each individual American, and resolve that this kind of action shall never again be repeated.
>
> In witness whereof, I have hereunto set my hand this nineteenth day of February in the year of our Lord nineteen hundred seventy-six, and of the Independence of the United States of America the two hundredth.
>
> GERALD R. FORD

Mr. President, I agree, as I said, whole-heartedly with every statement that was made in those two documents.

President Ford accurately and fairly set the record straight about this unfortunate period in American history. Nowhere in President Ford's remarks is there any basis for casting a blanket indictment upon the American political leadership of World War II. The documents which I have just read into the record simply do not support that charge. President Ford addressed this problem properly, and he did it in a balanced way.

I say to my distinguished colleague that I respectfully disagree with portions of the bill as written, which state that there was a failure of judgment. Those judgments were made in one of the darkest hours of the history of this country, at a time when the Nation's Capital itself, was darkened by a blackout, for fear of attack.

I think that as we consider this bill today, we should reflect on the judgments of well-intentioned men and women in this Chamber and the Chamber of the House; the President of the United States, Franklin D. Roosevelt; members of the Supreme Court, and other judicial officers who had to review those decisions.

Mr. HECHT. Will the Senator yield?

Mr. MATSUNAGA. I have the floor.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. MATSUNAGA. Mr. President, in response to the Senator from Virginia, who seems to indicate that this may be an indictment of the executive as well as the legislative branch—that is, the Congress—the Senator from Alaska has pointed out that President Ford, in repealing Executive Order 9066, which authorized the evacuation, made a statement that there was a grave national error made. He acknowledged the error on the part of the Executive

Mr. WARNER. I acknowledge the error, Mr. President.

Mr. MATSUNAGA. Here we have 73 cosponsors of the Senate. The House has already passed the measure, H.R. 442, given the number of the regimental combat team. So it is a recognition on the part of the House of Representatives that a grave wrong was imposed upon not only the Japanese-Americans but upon the Aleuts, and it is high time some restitution be made.

Mr. WARNER. Mr. President, I agree a great wrong was done. I join the Senator in that. I have made my point and I think I have perhaps said enough.

Mr. REID and Mr. HECHT addressed the floor.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. MATSUNAGA. I am happy to yield to the Senator from Nevada.

Mr. HECHT. I thank the Senator. I want to address the crux of my amendment, because we are losing sight of it. What we are doing is debating the wrongs that were committed in 1941, late 1941, 1942, 1943, and 1944.

We are not disputing that in any way. What we are saying is we have a terrible budget deficit. We are scrambling for funds. We are trying to avoid increasing taxes. So far as the Commission, a blue ribbon panel, recommending certain findings, since I have been in the U.S. Senate, now in my sixth year, I have had one panel after another recommending what we should do. We are the elected representatives of our States. We have to look out for the taxpayers of America.

All I am saying is we did commit a wrong. We are apologizing. But after 45 years, it is not necessary to blanket $20,000 tax free to every individual involved.

That is the crux of my amendment. I yield the floor to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. REID. Mr. President, does the Senator from Hawaii still have the floor?

The PRESIDING OFFICER. The Senator from Hawaii has the floor. Does the Senator from Hawaii yield the floor?

Mr. MATSUNAGA. I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I rise in opposition to this amendment and in support of the bill. I would like preliminarily to commend a man who has been a prime mover of S. 1009.

This man has been working diligently for many, many years to right what all of us believe is a wrong perpetrated on Japanese-Americans. He is a man who has personally felt the hand of racism and discrimination and really has overcome it, by evidence of his being a Member of this body. He has shown true patriotism and love for this country and what it stands for through his action, not only on the Senate floor but on the battlefield. I am speaking, of course, of Senator SPARK MATSUNAGA.

Senator MATSUNAGA, along with Senator INOUYE, was a member of the highly decorated and honored 442d Regimental Combat Team. Senator MATSUNAGA, then a first lieutenant and platoon leader, served in combat in North Africa and Europe and was twice wounded in battle.

Among other medals, he received the Bronze Star, the Purple Heart with Oak Leaf Cluster, and the European-African-Middle-Eastern Campaign Medal with four battle stars.

Senator INOUYE likewise showed great courage and heroism in combat in defense of this country. In a terrible firefight, in which his arm was literally torn from his body, he refused to be evacuated and continued to direct his men for the final assault on the objective they were given that day. DANIEL INOUYE received the Distinguished Service Cross, our Nation's second highest award for valor.

This unit, composed of Japanese-Americans, fought valiantly throughout the war, while family and friends were being locked away in internment camps. This internment is a scourge on American history that we would like to put behind us. However, there are many living Americans who cannot forget so easily the burning visions of those internment camps. And no one should forget them. They should stand as an example, at least to this Senator, of how government can get out of hand. They should remind each and every American that our revered Constitution is only a piece of paper without our commitment to uphold its precepts.

I have previously mentioned to my colleagues the case of a fellow Nevadan and friend of mine, Wilson Makabe. He also fought in the 442d and knew firsthand the racism and violation of our basic civil rights during World War II. His case illustrates the personal and constitutional crisis engendered in the internment camps.

Mr. President, from time to time there arise issues which test not only the conscience of a man but that of mankind. They deal, almost always, those great questions, with the rights of an unpopular minority.

The response to that test is the true measure of any nation which has pretentions to civilization. When the roar of the mob provokes a government into curtailing individual rights, then that government has failed in its basic duty.

The Declaration of Independence, as usual, says it best. It is to secure basic rights. The magnificent document tells us that "* * * governments are instituted among men."

Our Nation has not, of course, always been successful in securing those rights. Lynch mobs have on occasion prevailed, and for long periods State, local, or Federal governments denied basic rights to segments of our population.

And yet, Mr. President, in the darkest of times, and at the most hysterical of moments, there was always a calm bulwark for our liberties. That rampart was the U.S. Constitution as of course represented by our Supreme Court. Aberrations occurred in our history. There were times when the Supreme Court did not do perhaps what was right.

There was the infamous Dred Scott decision declaring blacks to be noncitizens, and Plessy versus Ferguson which upheld the segregation doctrine. But by and large, the Court could be relied upon to protect the innocent individual or group against the tyranny of the majority.

It could be relied upon; that is, until December 7, 1941. When the air and naval forces of the Japanese empire struck suddenly and without warning at Pearl Harbor, our Nation was shocked, outraged, and furious. And rightfully so.

Cries for revenge immediately rang out. Demands were made that Japan be punished for her attack. And rightfully so.

What was not right, what could not be justified, was the wellspring of ugly racism which burst to the surface in the Western United States, and especially in the Western United States. Over 100,000 American citizens of Japanese origin were dragged from their homes by the forces of the Government and interned in concentration camps.

No examination was made of their loyalty; no distinction was invoked between legitimate enemy aliens and innocent citizens. That the action taken was blatantly racist is demonstrated by the fact that the same actions were applied neither to Americans of German origin nor to those whose families came from Itlay.

One wonders if anyone in Government considered the incongruity of applying to citizens of Japanese origin the same tests of parentage and grandparentage that Hitler was applying in his despicable war of extermination against European Jewery.

There stood between those citizens and their oppressors in and out of government only that one bulwark of our liberties: the Supreme court. The Court failed the test miserably. It permitted the forced relocation and internment of American citizens on a purely racial basis over the dissent of only one Justice. That one Justice, Robert Jackson, a man whose name we have probably all forgotten, Robert Jackson, who was later to prosecute war criminals at Nuremberg, demonstrated the importance of one judge as the conscience of a nation.

One of the citizens forced from his home is a friend of mine, Wilson Makabe, who lives in Reno, NV. Wilson's response to that degradation and humiliation was magnificent. He enlisted in the U.S. Army. He enlisted from his new home, which was a concentration camp.

When he went home on leave from his military post, he had to visit his family also not at his home of years gone by, but in a concentration camp. Before that, before Wilson, an American soldier could go home to visit his fathers and sisters in their barracks, he was subjected to searches by fellow GI's who were their guards. Wilson fought along with Senator MATSUNAGA and Senator INOUYE. He fought in Italy. His service on the battlefield was very short lived, less than 30 days before he was so badly shot they literally had to ship him home in a cast. They took his leg off, and eventually sent him home.

He got off the boat and called one of his brothers. That is when he learned he had a welcome home present. The neighbors had set fire to his family's home in California and burned it to the ground.

Mr. President, we, as a Congress, are today considering a piece of legislation to not only apologize but to offer reparations to survivors of this dark chapter in the history of this country. Apologies and reparations, of course, are not enough. They will never be enough, but they are all at this time that we as a civilized nation can do.

I will vote against this amendment. I will vote for this legislation, as I hope the majority of my colleagues will. Before we vote on this legislation, though, I want to say something to my friend Wilson. I want to say, "Thank you, Wilson, and I am sorry."

Mr. President, this legislation acknowledges the fundamental injustice of the evacuation, relocation, and internment of American citizens and permanent resident aliens of Japanese ancestry.

It makes restitution to these internees and the the Aleut residents whose personal property was taken or destroyed. These people were denied due process of law, being arrested and held without trial, appeal, or legal counsel. They were subject to unlawful searches and seizure, losing their property and jobs, as well as their freedom. They were denied equal protection under the law, being incarcerated strictly on the basis of their race.

This bill would also establish a civil liberties public education fund to sponsor research and educational activities so that the events surrounding the relocation and internment will be remembered, and the causes and circumstances of this event may be understood. The fund will also support comparative studies of similar civil liberties abuses and the effect of racial prejudice embodied by Government action in times of national stress.

It is fitting, when we are celebrating the bicentennial of our Constitution, that we reflect on those times when rights have been violated. Carl Schurz has said, "Our country, right or wrong. When right, to be kept right; when wrong, to be put right." This is a case where we can put right an old wrong, and I wholeheartedly support this legislation.

Again, I commend my colleague from the State of Hawaii for his tireless, unceasing efforts to have justice restored.

Mr. MATSUNAGA. Mr. President, will the Senator from Nevada yield?

Mr. REID. I yield.

Mr. MATSUNAGA. Mr. President, I commend the Senator for his excellent statement and thank him for cosponsorship of the measure, as one of the early cosponsors of the measure.

Mr. HELMS. Mr. President, if I were to make my judgment, when I vote, on the basis of personal affection for the sponsor of any bill, resolution, or amendment, I would be standing foursquare with the Senator from Hawaii, because there is no Member of the Senate for whom I have greater affection, and he knows that. He has been my friend and I have been his since he came to the Senate.

It gives me a great amount of pain to disagree with him on this issue, because I know it is important to him. It is an emotional issue with him. But I am old enough to remember those days immediately preceding Pearl Harbor, and I remember the emotion of that time, too, when the news came on December 7 about the destruction at Pearl Harbor.

I might add that the emotion ran from coast to coast. As a matter of fact, the only time the Rose Bowl football game has not been played in Pasadena, CA, was in January 1942, when it was played in Durham, NC, because the intelligence community of this Government had reported to President Franklin D. Roosevelt that there were serious risks.

So, like the distinguished Senator from Virginia [Mr. WARNER], I regret that part of the legislative proposal before us reflects upon the leaders of our Government at that time.

We all have 20-20 vision on Monday morning. If we had to go over it again, knowing what we know now, there may not have been any internment. I am not sure about that, because a lot of things have been left unsaid by the Commission to which various Senators have alluded that made its findings, which were incorporated into the legislation before us.

There is, for example, a distinguished resident of Hawaii named David Lowman, a former official of the National Security Agency and an acknowledged expert on declassified World War II intelligence material. Mr. Lowman has testified before the House and the Senate on the intelligence background related to the issue now before us. Mr. Lowman also has served as a consultant to the Department of Justice and has testified for that Department in Federal court as an acknowledged expert witness on this issue.

In his statement regarding the relocation, Mr. Lowman stresses that there was a stream of intelligence information being forwarded to President Roosevelt throughout 1941 and 1942. This intelligence warned over and over that Japanese residents on the west coast had been recruited into subversive nets designed to operate in a wartime environment. Mr. Lowman states that "widespread espionage by Japanese residents was reported along with the high possibility of sabotage and fifth column activity."

Let me give an example of some of the intelligence that was in addition to the MAGIC cables during this time—M-A-G-I-C being the initials of the intelligence effort.

An Office of Naval Intelligence [ONI] December 4, 1941, summary of Japanese intelligence in the United States during 1941 concluded that an "intelligence machine geared for war" had been put into operation utilizing both alien and second-generation Japanese.

Before we begin the process of implicitly or explicitly jumping on a former President of the United States who is no longer here to defend himself, Franklin Roosevelt, let us ask ourselves what we would have done if we had been President and received that intelligence information from our own intelligence community.

So I cannot buy this business of kicking our Government around at a time when horrible destruction had occurred at Pearl Harbor, unprovoked, on a day of infamy, as Roosevelt called it before the Congress of the United States. What would we have done? It is all very well on Monday morning to replay the game of Saturday. But the President of the United States in December 1941 and January 1942, and thereafter, had a responsibility to protect this country as best he could based on the information available to him.

This Office of Naval Intelligence report of December 24, Christmas Eve, 1941, stated: "Although handicapped by the detention of many of its key individuals"—and they were referring to the FBI sweep of suspects immediately after Pearl Harbor—"the Japanese Intelligence Network in this hemisphere continues in operation."

What was the President of the United States supposed to do in the face of intelligence information like this? I think he did exactly what any of us would have done had we been sitting at the time in the Oval Office.

Then on February 7, 1942, the Office of Naval Intelligence concluded that the continued presence of Japanese residents on Terminal Island, in the Los Angeles harbor, was a hazard to U.S. security because of continuing espionage and that sabotage was a distinct possibility.

Then there is an ONI investigation conducted on and about January 26, 1942. The investigation concerning actual events on the small Hawaiian Island of Niihau during the Pearl Harbor attack led ONI to report to the President of the United States that Japanese residents previously thought loyal might aid Japan if the opportunity arose.

I do not like that kind of suggestion. But bear in mind Pearl Harbor had happened. Our Navy was in disarray. Countless hundreds of American young men lay dead and the President of the United States was convinced that it was his responsibility to protect this country.

Would we have reacted differently?

A G-2 Army report of January 3, 1942, revealed that:

> A widespread decentralized system of Japanese "clubs," labor organizations, and legitimate business groups has been converted into an important unit of the central Japanese Intelligence Network. There can be no doubt that most of the leaders have been and continue to function as key operatives for the Japanese Government along the West Coast.

And John J. McCloy, a name that is familiar to all of us, was Assistant Secretary of War under Franklin Roosevelt, and as far as I know, he is the only man alive today from the President's inner circle on the evacuation. I presume that nobody will attack John J. McCloy's character or integrity or his truthfulness. Mr. McCloy testified that these intelligence reports were the reason Roosevelt signed the evacuation order.

Mr. Lowman, of whom I referred at the outset of my remarks, a former official of the National Security Agency, has pointed out that the FBI had built cases against Japanese-Americans but the Attorney General ordered them not to proceed against citizens. So it was not a willy-nilly thing. It was done with as much consideration as possible but a judgment was made that is regretted today and certainly, a lot of people had their liberties deprived in the process.

The effort to apprehend, indict, and prosecute what appeared to be hundreds of these cases in the midst of wartime without revealing intelligence sources—at the same time trying to defend the west coast against attack in the face of what was perceived to be ongoing espionage—was beyond reason. It could not be done. It would not be done today under similar circumstances. And it was in this context that the President of the United States ordered the evacuation as the only effective solution available to him under the circumstances.

Now, I hope that we can proceed and I shall discuss various aspects of this later on in consideration of this measure, but I hope we can proceed with a little more care in terms of outright statements, and I will say to the distinguished Senator from Virginia that I appreciate his comments that I heard earlier.

For example, there was one Senator on this floor this morning, and he is a Senator whom I respect, who said that the program allows individuals to apply for reparations if they think they are entitled to them.

On the contrary. As I read the bill, it places an affirmative duty on the Attorney General of the United States to locate all of these people and make payments to them. Now they can turn them down if they want to.

Then, let us not get carried away, Mr. President, about who is supporting this measure and who is not.

Another distinguished Senator, also my friend, said on this floor yesterday that the Veterans of Foreign Wars and the American Legion both support the Japanese-American internment bill, the Civil Liberties Act of 1988.

I called the two groups and what do you know? They say they do not have any position on this bill. The VFW spokesman, Kenneth Stedman, who is the director of national security and foreign affairs for the Veterans of Foreign Wars, said "Senator"—blank—"must have mispoke. The VFW has no position on this bill."

And the American Legion spokesman, Phil Riggin, who is the National legislative director, said that the American Legion has no position on this bill and never has.

So I hope that we can proceed on the merits of the legislation or lack thereof and not make any inadvertent claims of support that really are not there.

Now, as I said, Mr. President, I am on my feet simply to make these few comments. Later on, in consideration of the legislation, I will proceed further, and I thank the Chair for recognizing me.

Mr. WARNER. Mr. President, unfortunately, this Senator has to fulfill a longstanding engagement in the central part of Virginia and must depart.

I say to my good friends from Hawaii, both distinguished Senators from Hawaii, that I commend them for bringing this matter to the attention of the Senate. Indeed, in the early stages, I felt that I could join them. But on closer reflection, as to certain portions of the bill and the expenditure of the money, I find points which I cannot accept.

I will not be here for the remainder of the day, as I would have liked to have been, to express my views in support of certain sections of the bill and opposition to others.

I thank the Chair.

Mr. MATSUNAGA. Mr. President, Senator STEVENS was to be here at this hour. While we are waiting for him, I might say, in response to the statement made by the Senator from North Carolina, that we have a list of veterans' organizations, including those of the American Legion and Veterans of Foreign Wars, which we distributed yesterday.

I would like to read the list of veterans' groups which have endorsed by resolution the bill now pending. They are: the 34th Infantry Division Association of Chicago; 34th Infantry Division Association of Minneapolis—and, or course, the 100th Infantry Battalion, 442d Regimental Combat Team, was part of the 34th Infantry Division—503 Parachute RCT Assocation; American Legion, Chicago Nisei Post 1183; American Legion, 6th District Council, Department of Illinois; American Legion, 66th National Convention.

Now, if the Senator from North Carolina will take note, this American Legion, 66th National Convention, adopted a resolution endorsing the bill now pending.

The Jewish War Veterans of the USA: Veterans of Foreign Wars; Veterans of Foreign Wars, American Committee, Department of California, 64th Annual Convention; Veterans of Foreign Wars, Department of California; Veterans of Foreign Wars, USA, 85th National Convention; and Veterans of Foreign Wars, Department of North Dakota.

These veterans' organizations have actually adopted resolutions endorsing the bill now pending, so I would like to keep the RECORD straight in that regard.

Mr. President, does the Senator from Nevada seek the floor?

Mr. HECHT. Yes. In consideration of our fellow Senators who are on a time schedule and have to leave, I would be happy to wrap up within 1 minute or 2 minutes and vote on this.

Mr. MATSUNAGA. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. HECHT. Mr. President, it has been brought out that many acts of racism were part of the relocation. I can only say that every answer to an act of racism is not to award money, whether it is true or not.

But let us bring us to the crux of my amendment. Let us get everything back into perspective. We apologize. Hindsight has proven us wrong. Forty-five years later we accept the recommendations of the Commission, but we will not pay the $1.3 billion or whatever that figure might be.

We are talking about money, the American taxpayers' money. I do not believe $1.3 billion 45 years later is justified.

That, my fellow colleagues, plain and simple, is my amendment.

I say to the distinguished Senator from Hawaii that I am prepared to vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. MATSUNAGA. Mr. President, I will suggest the absence of a quorum.

Mr. WARNER. Mr. President, could I address a question to the Senator from Hawaii? Is my understanding that the purpose for which the Senator from Alaska was to come over was to make a motion to table the pending amendment? Is that correct?

Mr. MATSUNAGA. That is correct.

Mr. WARNER. To expedite the matter, is it not possible that someone else could make that motion?

Mr. MATSUNAGA. We expect him in just a few minutes. In the meantime, we will have a quorum call.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SIMON). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I am prepared now to make a motion to table the amendment of the Senator from Nevada, unless there is someone else who would like to speak before that motion is made.

The PRESIDING OFFICER. That motion is in order.

Mr. STEVENS. I just wanted to make sure. I thought there was one other Senator that indicated he wanted to speak.

If there is no other Senator who wishes to speak on the Hecht amendment, Mr. President, I move to table the amendment of the Senator from Nevada and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to speak for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, this will be a 15-minute rollcall vote. I urge that Senators make preparations to come to the floor and vote. I am going to suggest the absence of a quorum. Its only purpose will be to give the Cloakrooms another brief 2 or 3 minutes and Senators' staffs listening in their offices time to alert Senators to come to the floor and vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll to ascertain the presence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no further debate, the question is on agreeing to the motion of the Senator from Alaska to table the amendment of the Senator from Nevada. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 67, nays 30, as follows:

[Rollcall Vote No. 102 Leg.]

YEAS—67

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad

Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Fowler
Glenn
Graham
Harkin
Hatch
Hatfield
Heinz
Inouye
Johnston
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Proxmire
Pryor
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stafford
Stevens
Weicker
Wilson
Wirth

NAYS—30

Bond
Breaux
Chafee
Danforth
Ford
Garn
Gramm
Grassley
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
Kassebaum
McCain
McClure
McConnell
Nickles
Nunn
Pressler
Quayle
Roth
Simpson
Stennis
Symms
Thurmond
Trible
Wallop
Warner

NOT VOTING—3

Biden
Gore
Pell

So the motion to lay on the table amendment No. 1919 was agreed to.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I fully support the underlying goals of this legislation. As I see them, the bill's goals are to acknowledge the grave mistake and injustice that took place when 120,000 individuals of Japanese ancestry were relocated and interned during World War II.

The further objective is to heal for good the wounds resulting from that policy.

I do not support, however, the bill's method of achieving its goals. In my view, the proper way for the U.S. Government to respond to the indignities suffered by the Japanese-Americans who were relocated and interned is to acknowledge the mistake and make an unequivocal, official apology. Payment of the arbitrary sum of $20,000 to every surviving internee, over four decades after the fact, seems to me an inappropriate and imprudent answer to the problem.

Let me explain why I have reached this conclusion.

There is no denying that the relocation and internment of Americans of Japanese descent was a ghastly error. It was a mistaken decision resulting from the suspicion and hysteria of wartime. Thousands of loyal American citizens were uprooted from their homes, jobs, schools and businesses, and placed in the internment camps without good reason. They spent the war years behind barbed wire, forced to endure the bleakness of the camps and the ignominy of official suspicion.

Although it is hard today to comprehend fully the wartime mentality that made the internment program possible, it is easy now to see what a mistake it was. The wartime relocation and internment of Japanese-American civilians is a sad chapter in the history of civil rights in the United States. I wholeheartedly believe that the victims—and they certainly were victims—deserve a sincere apology from the U.S. Government.

If a payment were to be made, what is the proper payment? If perfect records were kept, we could go back and determine exactly what each individual who was interned lost in terms of property and income. Undoubtedly, we would learn that some of those sent to the camps sacrificed homes, cars and businesses worth $20,000 and more. I am fully certain we would learn that many of the children interned lost less than $20,000, yet under this legislation everyone receives exactly the same amount.

Unfortunately, such an accounting is not possible. There are no such perfect or reliable records of who lost what. The relocations and internments took place many years ago, and they were carried out quickly. There is no clear documentation of who lost what, no evidence that the $20,000 per person authorized in this bill is even close to accurate.

The logical question, then, is: How did those who wrote this legislation arrive at the figure of $20,000 per person? This is an important question because it is clear from the language of this legislation, and from the accompanying committee report, that the authorized funds are intended as compensation for economic loss. The payment of $20,000 per person is not presented as a symbol but, rather, as economic redress. In this connection, it is significant to note that the 1948 Japanese American Evacuation Claims Act awarded $38 million in claims. The supporters of this bill believe that those awards were inadequate. In any event, if the payment of money were merely symbolic, a second round of payments would not be necessary at this point.

So it is not the symbolism apparently that is being sought, it is redress, economic redress.

How was the $20,000 figure calculated? To answer that question, I would like to discuss testimony given by an individual from the firm that was responsible for the calculations used by the Commission on Wartime Relocation and Internment of Civilians when the figure of $20,000 per person was arrived at. Michael C. Barth of a company called ICF, Inc., testified on April 28, 1986, before the Subcommittee on Administrative Law and Governmental Relations of the House Committee on the Judiciary.

A story in the March 30, 1988, Washington Post reports that ICF Consulting is a Washington company that had $3 million in revenue last year and has 25 employees. The story continues, "It is a subsidiary of American Capital and Research Corp., a holding company based in Fairfax County that also owns firms involved in health care consulting, energy and environmental issues, venture capital, computer services, and defense contracting."

In its 1983 report estimating the economic losses suffered by internees, the Commission on Wartime Relocation and Internment of Civilians stated that estimates were "performed between February and May 1983 by ICF Inc." Thus, the $20,000 payments authorized in this bill are based on a 4-month study by ICF.

What qualifies this relatively small company to determine, on the basis of a 4-month study, the figure that has resulted in this $1.3 billion authorization? Mr. President, I do not know. I have no information indicating that the special congressional commission on wartime relocation, the GAO, any other accounting or consulting firm, the relevant committees, or anyone else has checked the calculations of ICF to determine their validity. These calculations have been accepted wholesale, even though they are far from precise.

To illustrate my point, I refer to Mr. Barth's testimony. In it, he explains what was the basis for the $20,000 figure contained in this bill. He states that "income losses were defined to be the amount of income that might have been earned by excludees had they not been in the detention camps." He goes on to say that after ICF arrived at a range for lost income and adjusted for inflation, it "further adjusted that for illustrative purposes because it's possible that had this money been available to the detainees they might have been able to invest it as other citizens might have."

Listen to all the "mights" in the statement—"might the internees been able to invest it as other citizens might have."

He continues that property losses were determined and included in the total based on "various analyses of the amounts of claims that might have been claimed had people not been ignorant or unaware or otherwise unable to make claims for which they could not provide adequate justification."

This is a mysterious procedure.

As the qualified language of these excerpts indicates, there were many mathematical assumptions made, and a great deal of vagueness, in the process that brought this large $1.3 billion appropriation to the Senate floor. Is this the proper way to make a legislative decision of such magnitude?

Now let us look for a moment at the nature of the legislative decision we are making. If we pass S. 1009, the Senate will be saying, in effect: The way to right this wrong is to pay large sums of money to the victims. We are buying an apology at the price of

$20,000 per person. Is there a precedent for such an extraordinary action by this Government? If not, what kind of precedent will we set by passing this bill? While the relocation and internment of Japanese-Americans was a terrible error by the U.S. Government—no one disputes that now—it is not the only error the Government has made. Japanese-Americans are not the only group that has been unjustly wronged.

For example, what will passage of this measure say to the American Indians whose ancestors were brutally removed from their lands? Surely argument can be made that the reservations on which so many Indians were placed, and continue to live today, and the Federal programs in place to assist American Indians, have not sufficiently redressed the wrongs committed against them. Should we calculate a rough monetary figure for the value of the property American Indians might own today if they had not been displaced, and add to it the income they might have earned over the years if they had been able to work that land?

And what about the value of the land that they were forced from? Would they be able to keep that land under the redress that we have made pursuant to this legislation and the precedent it sets?6

We discussed the situation about the American Indians. What are we going to redress and who do we redress about the unfairness that has occurred with them? How are we ever going to calculate that, and should they not receive $20,000 apiece? What about black Americans? Think of those, how about those, their families, their predecessors who were in slavery in this Nation, not temporarily but permanently in slavery? How are we going to make a redress to them and their descendants? It is not just those of many years gone by of the black population of this country. They suffered the most outrageous discrimination in this Nation right up to the midsixties when some of the civil rights laws were passed. Are we going to make some kind of a redress to them?

It seems to me if we are, we are going to have to consider the implications on the Federal deficit and the Federal expenditures if that is going to occur. But is not their case a legitimate one?

My point here is that the Federal Government has indeed acted unfairly, unfairly in many instances. And the proper way to make redress is not monetarily, not just to ship out indiscriminately $20,000 checks, but to recognize it and try to cure the indignities, the unfairness, and to offer an official apology, which we are prepared to do and which we should do.

I would urge Senators to consider more generally the question of priorities. There is no doubt that any program to repay former internees for lost property and income will involve a large sum of money. Whether it is $1.3 billion or $1.5 billion, who knows? But certainly the sum is large.

Even to those of us who deal with budgets here constantly in large figures, the sum of over $1 billion is significant, significant to our taxpayers, significant to our Nation, signficiant to our national debt.

The question is, should the United States Government pay such a sum to internees now in 1988, 40 years after the event, with all the other needs that this Nation has and with the Federal budget in such deplorable shape?

I believe it is wrong to take this step which is why I will vote against this bill. My intention in doing so is not just to cut the funding for the redress bill but also to make a point about our national priorities.

Compare this spending, this huge sum of redress of a 40-year-old wrong, to spending the same sum on maternal and child health care, an area where $1.3 billion will make this a better country, not just today, but for the future. For that matter, consider the numerous other needs to which this money could be applied. The war on drugs which we continue to lose could certainly use a monetary injection of this size. How about the rehabilitation of those poor souls who have been hooked on drugs and who we are trying to come back?

I believe that most Americans if given the choice would choose to earmark this $1.3 billion for increased enforcement of drug laws or treatment of drug addicts and those who seek rehabiliation. It is pathetic the number of drug addicts who seek to be cured, but there is nothing there for them.

As another example, with this money we could also choose to make a new attack on homelessness, which continues in our cities at an alarming rate, despite all the publicity and the good intentions of city, State, and Federal programs.

Assuming that we all agree that it would be a good idea to pay former internees of Japanese descent—and I do not agree—the question remains: Do we have the money for such a program? I think that, in light of our other priorities, we do not. If we are to spend such a huge sum of money, I think it should be to address a real need in this country. It all comes down to a question of priorities, and I do not believe that this is the priority that demands the expenditure of $1.3 billion.

I urge Senators, as they consider S. 1009, to ask themselves what is the best way to right the grievous wrong that was done. We acknowledge that.

I was a young man at the time. I can remember when that took place, although I did not live on the west coast. I lived on the east coast. It was wrong. Imagine: Seizing these people, loyal Japanese-Americans, from the west coast, transporting them inland because of fear that there would be some communication with Japanese vessels, at the same time when there was a far larger Japanese-American population, recognizing that they posed no threat at all to the United States. Hawaii was 2,000 miles closer to Japan. There was no such internment program, and there should not have been.

So, Mr. President, I believe that a sincere, unequivocal apology by the U.S. Government will not only say what must be said but also will say it properly. Therefore, I do hope that this legislation will not be approved.

ELEMENTARY AND SECONDARY EDUCATION IMPROVEMENT ACT

Mr. BYRD. Mr. President, the distinguished Republican leader is on the floor and we do want to move forward with the conference report.

Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the amendment of the Senate to the bill (H.R. 5) to improve elementary and secondary education, and for other purposes.

(The amendment of the House is printed in the RECORD of April 19, 1988, beginning at page 7355.

Mr. PELL. Mr. President, I am very pleased that we are considering H.R. 5, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

It is fitting tribute that this legislation is named after both AUGUSTUS F. HAWKINS, the chairman of the House Education and Labor Committee, and Senator STAFFORD, the former chairman and current ranking minority member of the Senate Subcommittee on Education. It is proof that the Federal investment in elementary and secondary education enjoys solid bipartisan support.

In addition, I am extremely pleased that as part of this legislation we have renamed the GSL Program the Robert T. Stafford Student Loan Program. When we passed the elementary and secondary reauthorization bill on the Senate floor in December, I lamented the fact that our good friend of education would be retiring at the end of this Congress, thus ending the education firm of Pell-Stafford. By naming the principle student loan program after Senator STAFFORD, we have guaranteed that the firm of Stafford and Pell will live on long after we have both retired from this Chamber through both the Pell Grant Program and the Stafford Student Loan Program.

The legislation before us represents strong consensus on both sides of the Capitol, as well as both sides of the aisle. In reaching that consensus, there has been give—and take—on both sides. The final result is a strong bill supporting our twin commitments to equality and quality through Federal financial assistance. We have a solid reauthorization of the critically important chapter 1 program, and a new concentration grant formula that I hope will ensure that, for the first time since 1981, needed funds will be flowing to areas with high concentrations of chapter 1 children. In addition, we have restructured the chapter 2 block grant so that it can more effectively contribute to educational innovation and reform at the local level.

We have agreed to the Senate's restructuring of the Impact Aid Program, and to major elements of the Senate's changes in the Bilingual Education Act. We have more than doubled the authorization for the Magnet School Program which provides assistance to school districts under a desegregation plan, and have created a new program which will provide grants to racially isolated schools to improve curriculum quality.

We have an important new program to aid the gifted and talented, as well as an expanded Adult Education Act. We continue the Dropout Prevention Program that was authorized last year, and we begin a new and extremely important program of basic skills for secondary school students.

On a more personal note, we have preserved provisions on which I have worked for many years. These include a 10-percent setaside for corrections education under the Adult Education Act, and creation of an optional test for academic excellence.

These are but a few of the more important changes that we have accomplished in fashioning this omnibus legislation. It is legislation of which we can all be proud, and which should most certainly be sent to the President for his signature.

I would like to emphasize that the statement of managers that was part of the conference report would continue to apply to H.R. 5 as part of the legislative history. I would therefore ask that the full text of the statement of managers on the conference report on H.R. 5, as it applies to the education provisions, be inserted in the RECORD with the clear understanding that it would serve as legislative background.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5) to improve elementary and secondary education, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

STATEMENT OF THE MANAGERS

TITLE I

CHAPTER 1

1. The House bill titles the act the "School Improvement Act of 1987" while the Senate amendment titles it the "Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987".

The House recedes with an amendment naming the Act "The Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988", and renaming the guaranteed student loan program the "Robert T. Stafford Student Loan Program".

2. The House bill declares it to be the policy to increase the amount appropriated for Chapter 1 by $500,000,000 a year over the next six years while the Senate amendment proposes increasing the percentage of children served over the next five years until all eligible children are served.

The Senate recedes with an amendment revising this provision to read: "expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993."

3. The Senate amendment, but not the House bill, provides that AFDC children above the poverty line shall be counted for purposes of distribution of funds for fiscal years 1989, 1990, and 1991 only.

The Senate recedes.

4. The Senate amendment, but not the House bill, limits determination of children to be counted under AFDC above the poverty line to fiscal years 1989, 1990, and 1991, similar to item 3.

The Senate recedes.

5. The House bill, but not the Senate amendment, states the criteria of poverty and the form of criteria to be used in counting AFDC children, and neglected and delinquent children.

The Senate recedes.

6. The Senate amendment, but not the House bill, inserts the phrase "or operated with Federal assistance," regarding schools for Indian children.

The House recedes with an amendment to read as follows: "secondary schools for Indian children operated with Federal assistance or operated by the Department of Interior."

7. The Senate amendment, but not the House bill, designates certain tribal organizations as local educational agencies and the Secretary of the Interior as a State educational agency for purposes of this chapter, and requires the Secretary to comply with certain U.S. codes if he issues regulations.

The House recedes.

8. The House bill, but not the Senate amendment, provides for a small state minimum of ¼ of 1 percent from Chapter 1 basic grant funds once appropriations exceed a certain level, and limits the amount of increase any state may receive under this provision to 150% of the amount received for the preceding fiscal year.

The Senate recedes with an amendment that no State may receive more than 150% of the national average per pupil allocation or more than 150% of the amount it received under this part in the previous fiscal year, whichever is less, due to this provision and that the small State minimum may take effect when appropriations for Part A exceed by at least $700,000,000 the amount appropriated in fiscal year 1988.

9. The House bill reauthorizes the program beginning October 1, 1987, while the Senate amendment reauthorizes it beginning October 1, 1988.

The House recedes.

10. Concentration Grants:

a. The Senate amendment, but not the House bill, distributes one half of the amount available for concentration grants based on each county's number of Chapter 1 children in excess of 5,000 or 20%, except that each State receives at least one-quarter of one percent of $250,000 whichever is greater (see note (c), page 20, for second half of the distribution under the Senate amendment).

The Senate recedes.

b. The House bill distributes all its concentration grant funds using one formula: children counted under section 1005(c) in counties in excess of 6500 and all such children in counties in excess of 15%. The House bill also includes a State minimum of one-quarter of one percent.

The Senate recedes with an amendment that each State shall receive 150% of the national average per pupil allocation under this section or a minimum of $250,000.

c. The Senate amendment, but not the House bill, distributes the second half of funds available under concentration grants on the basis of the regular Chapter 1 formula, and provides for a second small state minimum of ¼ of one percent or $250,000 whichever is greater, from the second half of funds available under concentration grants.

The Senate recedes.

d. The House bill states that the Secretary shall determine the number of children to be counted for any county while the Senate amendment designates the SEA to perform that function.

The House recedes with an amendment giving the Secretary the responsibility to allocate to the county level and giving the State educational agency the responsibility to allocate within counties.

e. The House bill sets special rules for distribution of concentration funds to States which receive the minimum grant while the Senate amendment sets such rules for States receiving less than 1 percent of the total available for concentration grants.

The Senate recedes.

f. The Senate amendment, but not the House bill, requires that in distributing concentration funds, LEAs under the first two rankings must have received an amount per eligible child equal to that distributed under the regular Chapter 1 formula before funds may be distributed to LEAs in rank order.

The Senate recedes.

g. The Senate amendment, but not the House bill, restricts the number of LEAs which can receive concentration grants under the rank ordering method to no more than the number who would be eligible under the county-wide poverty average distribution methods.

The Senate recedes.

h. The House bill, but not the Senate amendment, allows the States to reserve 2 percent of the concentration moneys to distribute to LEAs which meet the 6500 or 15% requirement but are otherwise ineligible for concentration funds.

The Senate recedes.

i. The House bill reserves the first $400 million above the 1987 appropriations level for concentration grants while the Senate amendment reserves the first $400,000,000 above a $4.3 billion appropriations level for such purposes and provides that when amounts appropriated for Chapter 1 exceed $4.7 billion, 10 percent of such amount shall be reserved for concentration grants.

j. The Senate amendment, but not the House bill, exempts funds for Senate part B (Secondary Schools programs) from calculations of the $4.3 and $4.7 billion appropriations levels.

The House recedes with an amendment reserving $400 million for such grants whenever the appropriation for Part A exceeds $3.9 billion and further reserving 10% of appropriations for Part A for this purpose when such appropriations exceed $4.3 billion, except that no State may receive less than it received in the previous fiscal year for the basic grant.

k. The Senate amendment, but not the House bill, provides that if amounts are not available to fully fund concentration grants, such grants shall be ratably reduced, and ratably increased if additional amounts are made available in such a year.

The House recedes.

11. The Senate amendment, but not the House bill, specifies "State and local" educational agencies.

The House recedes.

12. The House bill, but not the Senate amendment, requires a local education agency to match the 5% of Chapter 1 money it may use for innovation.

The House recedes.

13. The House bill, but not the Senate amendment, provides for a waiver of the 50 percent matching requirement for innovation projects under certain circumstances.

The House recedes.

14. Local Applications.

The House recedes with an amendment requiring a description of the assessment procedure in the local educational agency application. The conferees intend that the term "describe" shall not be interpreted to mean the submission of extended narrative prose resulting in unnecessary and burdensome paperwork for local educational agencies and State educational agencies. State educational agencies are encouraged to work with representatives of their local educational agencies to develop standard application forms which will reflect the information required in the most concise form possible.

a. The Senate amendment, but not the House bill, modifies "more advanced skills" with the phrase "that all children should master".

The House recedes with an amendment requiring programs to offer instruction so that children will learn advanced skills all children are expected to master.

The conferees intend that the phrase "advanced skills that all children are expected to master" shall mean academic expectations not substantially different from those expected for other students of the same age or at the same grade level.

b. The Senate amendment, but not the House bill, references "consultation with teachers and parents" in development of the application.

The House recedes.

c. The Senate amendment, but not the House bill, includes an assurance regarding coordination of services to students served by more than one special program.

The House recedes.

d. The Senate amendment, but not the House bill, requires that the application contain a description of services including procedures for needs assessment, evaluation, and identifying and modifying programs for schools and students.

The Senate recedes with an amendment deleting repetitive language pertaining to evaluation and moving procedural language to other sections of the chapter.

The conferees intend that local educational agencies may use current Chapter 1 assessment procedures for children who, with or without bilingual assistance in the testing process, can be identified, using testing written in the English language, as educationally deprived children in greatest need of assistance. For children whose lack of English language proficiency precludes valid assessment using such testing, local procedures to screen and select educationally deprived LEP children may be used, e.g. teacher evaluation, language dominance testing, weighting factors, or other indicators of educational deprivation which discriminate on a basis other than just language deficiency.

15. The Senate amendment, but not the House bill, adds the phrase "for compensatory educational services".

The Senate recedes.

16. The House bill, but not the Senate amendment, requires the plan to reference implementation of the effective schools program.

The Senate recedes with an amendment requiring this coordination, if appropriate.

17. The House bill contains a referencing error, incorrectly referencing section (d) rather than section (e) on accountability.

The House recedes.

18. The House bill, but not the Senate amendment, states that funds for schoolwide projects may be used to plan and implement effective schools programs.

The Senate recedes.

19. The Senate amendment, but not the House bill, adds paragraphs regarding parental opportunities to participate in the design, operation and evaluation of the Chapter 1 program with special emphasis on parents who lack literacy or English-speaking skills.

The House recedes.

20. The House bill authorizes $30,000,000 for fiscal year 1988 for capital expenses to help school districts ensure that eligible children enrolled in private schools have equal access to Chapter 1 programs while the Senate amendment authorizes $50,000,000 for fiscal year 1989 for such purpose. Both bills authorize "such sums" for later years.

The House recedes with an amendment authorizing $30 million for fiscal year 1988 and $40 million for fiscal 1989 and "such sums" through 1993.

21. The House bill, but not the Senate amendment, specifies what may be considered personal property in this new program.

The Senate recedes.

22. The Senate amendment, but not the House bill, uses the term "regular" with regard to non-federal funds in the non-supplanting prohibition.

The Senate recedes.

23. The Senate amendment, but not the House bill, contains a section requiring local educational agencies to use special State or local program funds in the aggregate in Chapter 1 eligible schools to the extent they would have without Chapter 1 funds being available prior to using Chapter 1 funds in such schools. (See note 24, page 60, for special implementation time table.)

The Senate recedes.

24. The Senate amendment, but not the House bill, delays the applicability of the special supplement—not supplant provision described in note 23 for 2 years in states which currently have special programs which operate under current ECIA supplement—not supplant provisions.

The Senate recedes.

25. The House bill, but not the Senate amendment, requires the State to withhold funds from LEAs which are not in compliance with comparability requirements, but only to the extent they are out of compliance.

The Senate recedes.

26. The House bill applies the exclusion of special state and local funds to both comparability and supplement/supplant requirements while the Senate amendment makes it applicable only to comparability.

The Senate recedes.

27. The House bill, but not the Senate amendment, mentions "children with specific learning disabilities" in addition to handicapped children.

The House recedes.

28. The Senate amendment, but not the House bill, adds "and related services" to special education as excludable costs for supplement, not supplant, purposes.

The Senate recedes.

Section 1019. Evaluations. The conferees intend that national evaluation standards shall be implemented as quickly as possible by State and local educational agencies, and that such agencies which are already using the Title I evaluation and reporting system as their formal evaluation tool or a system which allows national aggregation of data according to such standards shall consider the 1988-1989 school year as the first year of implementation of evaluation requirements pursuant to this section.

The conferees further intend that States which are currently conducting State evaluations on a three-year cycle where one-third of the local educational agencies report each year may continue to use that evaluation procedure.

In addition, conferees intend that local educational agencies may use a sampling procedure or carefully designed study to meet the sustained gains requirement rather than trying to track all children served at all grade levels in all subject areas for a period of three years. The conferees recognize that sampling and study procedures are cost and time efficient while still providing the local educational agency with necessary and valuable information about the effectiveness of their programs.

29. The Senate amendment, but not the House bill, requires LEAs to evaluate annu-

ally the effectiveness of parental involvement.

The House recedes with amendment changing "evaluate" to "assess".

The House recedes with an amendment regarding data collection. "(3) collect data on the number of children with handicapping conditions, the race, age, and gender of children . . .". The conferees intend that the report shall simply state the total number of children with handicapping conditions who are served in the Chapter 1 program, not the number broken out by grade level, race, age, gender, and subject area or by handicapping condition in each of those categories.

30. State Application. The Senate amendment, but not the House bill, requires States to submit an application to the Secretary of Education in order to receive funds under this chapter.

The Senate recedes with an amendment requiring the State to develop, in consultation with a committee of practitioners, a program improvement plan which shall be disseminated to school districts and available at the State level for inspection.

a. The Senate amendment, but not the House bill, requires that the State application describe the criteria and procedures the State will use to assess educational effectiveness of local and State programs.

The Senate recedes.

b. The Senate amendment, but not the House bill, requires that the State application describe the criteria, policy and procedures it will use to take corrective measures to improve LEAs with inadequate educational achievement.

The Senate recedes.

c. The Senate amendment, but not the House bill, requires that the State demonstrates that the measures it proposes to use are valid and reliable.

The Senate recedes.

d. The Senate amendment, but not the House bill, allows the Secretary to require specific data collection and uniform evaluation procedures to allow information to be aggregated and compared among states.

The Senate recedes.

e. The Senate amendment, but not the House bill, requires the State to explain in its application any differences in the criteria used by the State and by any local education agency for assessing program effectiveness.

The Senate recedes.

31. The House bill uses the term "no" improvement while the Senate amendment uses the term "inadequate" improvement to decribe the condition which activates LEA program improvement efforts.

The House recedes with amendments tying the measurement of program effectiveness to the desired outcomes stated in the local educational agency's application and adding "lack of substantial progress" toward meeting outcomes as a trigger for program improvement plans.

The conferees intend that the concept of "improvement" shall mean improvement beyond what a student of a particular age or grade level who is receiving services funded under this part would be expected to make during the period being measured if the child received no additional help. This interpretation embodies the congressional purpose that providing Chapter 1 services, in addition to regular education services provided by the local educational agency, to children served by programs under this part who are achieving below the level that is appropriate for children of their age, should result in such students' progression at a faster rate than students who receive no extra help. Use of the term "improvement" rather than "achievement" is a purposeful substitution to indicate congressional intent that measures and standards used to demonstrate progress toward desired outcomes maybe something other than nationally normed standardized test scores.

32. The Senate amendment, but not the House bill, states that a school improvement plan must include a description of educational strategies and resources.

The House recedes.

The conferees intend that State and local educational agencies shall have adequate time to plan carefully and thoughtfully for program improvement, that a "time certain" by which program improvement plans must be in place will be established through the review/modified negotiated rulemaking process, and that State and local educational agencies may set parameters within that time frame. The conferees further intend that State and local educational agencies shall have no more than, but at least, one full school year during which the plan is in effect before judging its effectiveness in raising aggregate student performance.

33. The Senate amendment, but not the House bill, requires that the SEA take appropriate corrective action against LEAs which fail to carry out program requirements, including failure to provide effective compensatory education services.

The House recedes with an amendment changing the title of the section to "Further Action", outlining the joint steps that State and local educational agencies shall take to ensure that program improvement efforts are successful, and adding a new section (f) requiring mutual approval of program improvement plans prior to their implementation.

The conferees intend that there shall be continued State oversight until the school building Chapter 1 program improves. The conferees emphasize that they intend the State role to be one of facilitating local efforts in whatever manner is cooperatively agreed will be most effective in implementing effective local services to eligible children. Such facilitation may be through direct assistance by State staff or through helping local educational agencies obtain technical assistance from other sources.

The conferees further intend that a school building which is implementing a program improvement plan shall, each year until performance improves, use the same measurement instrument and standards to determine whether performance has improved that it used to measure performance in the year that lack of substantial progress, no improvement or a decline in performance was first demonstrated pursuant to the requirements of this chapter. An exception to this procedure would be made if the measurement instrument or process itself was found to be the problem.

34. a. The Senate amendment, but not the House bill, contains a section requiring the SEA to have and implement an educational improvement plan in any year it receives additional state administrative money under section 1404(b) for such purposes.

The House recedes with an amendment moving the State plan requirement to section 1020 and removing the requirement that it be submitted to the Secretary.

b. The Senate amendment, but not the House bill, requires the State to develop an educational improvement plan, in consultation with LEAs, which plan includes objective measures and assessment standards or procedures for developing them.

The House recedes with an amendment moving the requirement to section 1020.

c. The Senate amendment, but not the House bill, requires the improvement plan to describe the way in which the States will determine which schools are most in need of improvement and how it will assist them.

The House recedes with an amendment removing the reference to schools in greatest need of assistance and adding a requirement that timelines for implementation of program improvement plans be decided by the State and local educational agencies.

d. The Senate amendment, but not the House bill, requires the State to describe the technical assistance it will offer to schools in need of improvement.

The Senate recedes.

e. The Senate amendment, but not the House bill, requires the State to describe how it will develop joint plans with LEAs for schools in need of improvement.

The House recedes with an amendment removing the reference to schools in greatest need of assistance and moving the requirement to section 1020.

f. The Senate amendment, but not the House bill, requires the State to provide program improvement assistance to LEAs with schools in greatest need of improvement in the second fiscal year and thereafter that the SEA receives additional state administrative money under section 1404(b).

The House recedes with an amendment removing the reference to schools in greatest need of assistance and moving the requirement to section 1020.

EVEN START

35. The House bill, but not the Senate amendment, contains the Even Start program as part B of Chapter 1. The Senate amendment contains Even Start in part A of Title II.

The Senate recedes.

a. The House bill establishes Even Start as a State grant program with a small State minimum of ¾ of 1 percent and a maximum of 5% of the first $50,000,000 while the Senate amendment establishes it as a discretionary grant program under the Department of Education with grants made directly to local education agencies.

The Senate recedes with an amendment stating that (a) whenever appropriations for this part are less than $50 million, then the Secretary is authorized in accordance with the requirements of this part to make grants to LEA's or consortia of such agencies to carry out Even Start programs; (b) whenever appropriations equal or exceed $50,000,000 then grants shall be made to each State in the same proportion as grants allocated under section 1005; and (c) under subsection (b) no State shall receive less than $250,000 or one half of one percent, whichever is greater, except that no State shall receive an allocation equalling more than 150 percent of the national average per pupil allocation from funds authorized under this part and further no State allocation under subsection (b) shall increase by more than 50 percent over the preceding fiscal year; however, $250,000 shall be the absolute minimum.

b. The House bill, but not the Senate amendment, has a reservation of 3% of such money for migrant programs to be conducted through the Office of Migrant Education.

The Senate recedes.

c. The Senate amendment, but not the House bill, requires collaboration with other agencies and organizations.

The House recedes with an amendment requiring that such coordination shall be performed where appropriate.

d. The Senate amendment, but not the House bill, specifies that such funds shall be used to pay the Federal share of the cost of the program under this part.

The House recedes.

e. The Senate amendment, but not the House bill, permits payment for child care only for the period the parents are involved in the Even Start program.

The House recedes.

f. The Senate amendment, but not the House bill, permits payment for transportation only for the purpose of allowing the parent or child to participate in the Even Start program.

The House recedes.

g. The Senate amendment, but not the House bill, adds Chapter 2 of this Act and the Education of the Handicapped Act as programs with which Even Start shall be coordinated.

The House recedes with an amendment limiting coordination to any relevant programs under the Chapter 2 program.

h. The House bill provides that funds under this part may be used to pay 80, then 60, then 40, then 20 percent of the cost of Even Start programs in the first, second, third, fourth and subsequent years while the Senate amendment specifies such shares as 90, 80, 70, and 60 percent for those years.

The House recedes.

i. The House bill, but not the Senate amendment, prohibits using such funds for indirect costs of the program.

The Senate recedes.

j. The House bill provides that matching funds may come from Federal, State or local sources while the Senate amendment requires that they be from a non-Federal source.

The House recedes with an amendment requiring the remaining cost to be obtained from any source other than funds made available for programs under this title.

k. The House bill limits eligible parent participants to persons eligible under the Adult Education Act while the Senate amendment makes such provisions permissive.

The Senate recedes.

l. The House bill requires that the application for funds be submitted to the State education agency while the Senate amendment requires submission to the Secretary of Education.

The Senate recedes with an amendment that applications will be submitted to the Secretary under Section 1052(a) and to the SEA under Section 1052(b).

m. The Senate amendment, but not the House bill, requires that the application for funds include a description of collaborative efforts with other agencies or organizations.

The House recedes with an amendment requiring such coordination to be done, if appropriate.

n. The Senate amendment, but not the House bill, includes Chapter 2 of this act as a program with which Even Start programs will be coordinated.

The House recedes with an amendment requiring such coordination to be done where appropriate.

o. The House bill requires appointment of a review panel by the State education agency to select applications which will be funded while the Senate amendment gives the Secretary the responsibility of selecting programs.

The Senate recedes with an amendment reflecting the national or State-administered nature of the program and specifying that the review panels at both national and State levels will recommend programs.

p. The House bill lists seven criteria for application approval which include greater need for such services, submission of reasonable budgets, and representation of urban and rural areas of the State (not in the Senate amendment) while the Senate amendment has five criteria including serving the greatest percentage of eligible children and parents.

The Senate recedes with an amendment specifying that proposals which will serve the greatest percentage of eligible children and parents shall receive special consideration.

q. The House bill, but not the Senate amendment, specifies the required composition of the review panel.

The Senate recedes with an amendment making the review panel operative for both the national demonstration and State grants programs and specifying required panel members.

r. The Senate amendment, but not the House bill, requires the Secretary to assure equitable distribution of grants between States and among urban and rural areas of the United States.

The House recedes with an amendment combining Senate provisions for national grants with House provisions for State grants.

s. The Senate amendment, but not the House bill, allows the Secretary to discontinue funding to projects that do not make sufficient progress toward meeting their objectives.

The House recedes with an amendment regarding State grant programs and ensuring transition of funding for grants from the Secretary when it becomes a State grant program. The House recedes with an amendment regarding funding based on progress toward objectives to apply to both national and State grant programs.

(s)(1) The House recedes.

t. The House bill, but not the Senate amendment, specifies that program evaluations shall not be done by persons involved in the administration of the program and shall include control groups where possible.

The Senate recedes.

u. The House bill requires an annual evaluation while the Senate amendment requires an evaluation to be submitted to Congress in 1992.

The Senate recedes with an amendment requiring *one* report for Congress in 1993, removing the requirement for submission to the National Diffusion Network "in the form required", and moving the requirement to Title VI of the Act.

v. The House bill authorizes $50,000,000 for this part for 1988 and such sums thereafter, while the Senate amendment authorizes $25,000,000 for 1989 and increases of 1 million, then 1.5 million for each succeeding year.

The Senate recedes with an amendment authorizing $50 million for fiscal year 1989 and such sums thereafter.

SECONDARY SCHOOL PROGRAMS

36. Secondary School Programs—The House bill authorizes in Chapter 1 both a 3-year discretionary grant program for school dropout prevention and basic skills improvement and a State grant program beginning in 1991, while the Senate amendment authorizes only a State grant program in Chapter 1 beginning in 1990, and includes the demonstration program in Title VII of the Senate amendment. The Senate amendment separates the drop-out and basic skills demonstration programs making line-by-line comparisons with the House bill very difficult. Appropriate portions of Title VIII, however, have been moved to this section for comparison purposes and are labeled. The entire text of Title VIII has then been included, following the House bill, as Part B on dropout prevention and basic skills improvement.

The House recedes, leaving the demonstration dropout prevention and secondary schools basic skills improvement programs outside Chapter 1 and agreeing to the Senate form of program requirements, etc. divided under the national demonstration and State grant program, with an amendment authorizing the national demonstration program for two years.

a. The House bill authorizes $100 million for fiscal year 1988 for both dropout prevention and basic skills demonstration programs and such sums thereafter while the Senate amendment authorizes $50,000,000 for FY 1988 and 89 for dropout programs and $200,000,000 for basic skills improvement programs, and then $400 million for FY 1990 and adds $50 million for each Fiscal Year thereafter for the State program.

The House recedes to a $50 million level for the dropout portion and $200 million funding for basic skills portion for 1988 and 1989, and for the combined State grant program $400 million for FY 1990, $450 million for FY 1991, $500 million for FY 1992, and $550 million FY 1993.

b. The House bill, but not the Senate amendment, provides a $3 million reservation for migrant programs from national demonstration funds.

The House recedes regarding the national demonstration program and the Senate recedes regarding the State program reservation of funds for migrant programs.

c. The House bill, but not the Senate amendment, reserves 50 percent of the funds for national demonstration programs for dropout prevention programs and 50 percent for basic skills improvement.

The House recedes to the 50/50 spending split between dropout funds and basic skills funds in State grant programs.

d. The House bill, but not the Senate amendment, allows for adjustment of percentages at the Secretary's discretion.

The House recedes.

e. The House bill provides that categories for allocating demonstration program funds shall be: 250,000 or more students—20%, 50,000 to 250,000 students—25%, 20,000 to 50,000 students—25%, and less than 20,000 students—30% of the funds; while the Senate amendment categories are 50,000 and more students—45%, 20,000 to 50,000 students—15%, and less than 20,000 students—35% of the amount appropriated.

The House recedes with an amendment regarding categories for demonstration programs: 1st tier enrollment, 100,000+, 225 percent; 2nd tier enrollment, 20,000 to 100,000, 40 percent; 3rd tier enrollment, 0 to 20,000, 30 percent; Community-based organizations, 5 percent.

f. The Senate amendment, but not the House bill, contains a 5% setaside for community-based organizations.

The House recedes.

g. The Senate amendment, but not the House bill, provides that 25% of the funds available for each category shall be alloted to educational partnership. (See note 36 FF, re authorized activities.)

The House recedes with an amendment consolidating two paragraphs.

h. The Senate amendment, but not the House bill, requires use of a peer review process if the Secretary intends to transfer funds among categories.

The House recedes.

i. The Senate amendment, but not the House bill, requires use of a peer review process if the Secretary intends to make funds not needed for educational partnership available to LEAs in the same categories.

The House recedes.

j. The House bill, but not Senate amendment, requires that the Secretary give first priority in each category to applicants with very high numbers or percentages of school dropouts.

The Senate recedes with an amendment providing that the Secretary shall give priority to applications which both reflect high numbers or percentages of school dropouts and show replication of successful programs.

The conferees intend—contrary to the Secretary's notice inviting new applications published March 14, 1988, in the Federal Register—that the Secretary shall give priority to applications that have both (1) high numbers or percentages of dropouts and (2) replicate or expand successful programs, not one or the other. Conferees further expect the Secretary will revise the published priorities to reflect this congressional intent.

k. The House bill, but not the Senate amendment, provides that grant awards shall be proportionate to the extent of the severity of the dropout problem.

The Senate recedes.

l. The House bill provides that LEAs fund 25% of the second year grant and 40% of all following years from other Federal, State, or local sources, while the Senate amendment provides that 30% of the cost for the second and ensuing years shall be funded from other sources, but not more than 10% from other Federal monies.

The House recedes with an amendment reducing the Federal share gradually from 90% to 75%.

m. The House bill, but not the Senate amendment, requires the Secretary to consider quality of the applicant's proposal and provide for equitable distribution of grants on the basis of urban and rural areas, size of districts, and student characteristics.

The House recedes.

n. The House bill, but not the Senate amendment, provides that the Secretary may fund additional projects in the second or third year of the demonstration program if additional funds become available.

The House recedes.

o. The House bill, but not the Senate amendment, requires the Secretary to conduct an evaluation of programs under this part.

The Senate recedes with an amendment requiring the Secretary to take into account data collected from the national school dropout study and moving the requirement to Title VI of the Act.

p. The Senate amendment, but not the House bill, provides for a small State minimum of one-half of one percent of the amount appropriated under the state grant program which begins under the Senate amendment in 1990.

The House recedes with an amendment that there will be a small State minimum of $250,000 or 0.25%, whichever is greater, with provisions that no State shall receive an amount which is greater than 150% of the national average amount per child allocated from funds authorized under this subpart, soley as a result of implementation of this provision but $250,000 remains the floor.

q. The House bill, but not the Senate amendment, requires that grants to LEAs under the State grant program be made to those LEAs having the greatest financial need for funds.

The House recedes with an amendment referencing priority.

r. The Senate amendment, but not the House bill, provides that grants shall be awarded to programs offering innovative approaches or having promise or replication and dissemination.

The House recedes.

s. The House bill, but not the Senate amendment, states that duration of grants shall not exceed three years.

The House recedes with an amendment providing a one-year grant period.

t. The Senate amendment, but not the House bill, includes an extensive section on local and State evaluation and program improvement.

The Senate recedes.

u. The House bill, but not the Senate amendment, requires that the application contain procedures for annually evaluating the project and determining its cost effectiveness.

The Senate recedes with an amendment applying requirements for evaluation and program improvement to this program.

v. The House bill, but not the Senate amendment, requires that applications from LEAs for dropout prevention programs under the State grant program be developed in consultation with community-based organizations.

The Senate recedes with an amendment making cooperation with CBOs permissive.

w. The House bill, but not the Senate amendment, requires that dropout prevention program applications address the specific needs of Indians, migrants, and other high risk populations.

The House recedes.

x. The House bill, but not the Senate amendment, requires that LEAs establish advisory councils for dropout programs.

The House recedes.

y. The House bill, but not the Senate amendment, lists thirteen authorized activities under the State grant program.

The House recedes with an amendment combining Senate/House fund uses.

z. The Senate amendment, but not the House bill, contains two provisions for coordinating dropout activities among agencies and under various acts.

The House recedes with an amendment combining Senate/House fund uses.

AA. The Senate amendment, but not the House bill, under basic skills improvement allows funds to be used for innovative community-based programs and for eligible students outside the school.

The House recedes.

BB. The Senate amendment, but not the House bill, requires that under the State grant program no more than 50 percent of the funds may be used for dropout prevention and re-entry activities.

The House recedes.

CC. The House bill, but not the Senate amendment, limits to 10 percent of a grant the amount that may be used for local administrative costs.

The Senate recedes with an amendment limiting administrative cost to 5 percent.

DD. The House bill, but not the Senate amendment, requires LEAs receiving grants under this part to cooperate with the NDN.

The Senate recedes.

EE. The House bill, but not the Senate amendment, requires the Secretary to consult with State and local agencies and the GAO in developing application and evaluation requirements for this part.

The House recedes.

FF. The Senate amendment, but not the House bill, describes particular activities for educational partnerships.

The House recedes.

GG. The Senate amendment, but not the House bill, requires that not less than 30 percent of national demonstration dropout be used for dropout prevention and another 30 percent be used for re-entry activities.

The House recedes.

HH. The Senate amendment, but not the House bill, authorizes $500,000 for a national school dropout study and specifies 10 components of the study.

The Senate recedes.

II. The Senate amendment, but not the House bill, requires that the Secretary establish a standard definition of "school dropout" within 60 days of enactment of this Act.

The House recedes with an amendment that requires the Secretary, in consultation with particular groups, to issue a definition of a school dropout within 60 days of enactment of this Act.

The conferees intend that a definition of school dropout shall in no way interfere with the right of parents to educate their children at home pursuant to each State's regulation of home schooling nor shall such definition interfere with each State's minimum age attendance requirements.

In developing the definition of "school dropout", the Secretary shall consult with State educational agencies, local educational agencies, teacher organizations, boards of education, administrator's organization, and any other pertinent groups or organizations.

MIGRANT PROGRAM

37. The Senate amendment, but not the House bill, specifies that migratory agricultural dairy workers are a migrant category.

The House recedes.

38. The Senate amendment, but not the House bill, adds EHA to the list of Acts with which migrant programs must be coordinated.

The House recedes.

39. The Senate amendment, but not the House bill, authorizes the Secretary to enter into contracts with SEAs for activities to improve coordination.

The House recedes.

39(a) The Senate recedes with an amendment inserting "approved under P.L. 94-142" after "programs".

40. The House bill, but not the Senate amendment, includes a requirement that the Secretary award the migrant students' records contract to the SEA which had it the previous year, unless a majority of the States object in writing.

The Senate recedes with an amendment stating that the current recipient of the contract for the Migrant Student Records Transfer System shall continue to receive the contract until 1992, barring complaints from a majority of states, but as of July 1, 1992, and every four years thereafter, the Secretary shall conduct a competition to award the contract.

HANDICAPPED PROGRAM

The conferees agree that infants and toddlers with handicaps shall receive early intervention services consistent with the requirements and conditions of Part H of the EHA, and therefore, the phrase "who by reason of their handicapping condition require special education and related services" in the definition of handicapped children does not apply to infants and toddlers with handicaps.

41. The Senate amendment, but not the House bill, adds the phrase "for programs for handicapped children."

The House recedes with an amendment which clarifies for which programs and children these funds can be expended.

42. The Senate amendment, but not the House bill, includes a definition of "children" and of "handicapped children" in the State program for the handicapped.

The House recedes with an amendment which would clarify which "infants and toddlers" are covered (e.g. as defined in Part H of the EHA) and would add to the definition of handicapped children—"who by reason of their handicap require special education and related services".

43. The House bill and the Senate amendment include assurances regarding compliance with EHA and monitoring such compliance in the State handicapped program, but the House bill states such requirements in assurances (1) and (2) in less detail than the Senate amendment which states such requirements as assurances (2) and (3).

The House recedes.

44. The Senate amendment throughout this part makes reference to handicapped children, infants, and toddlers while the House bill refers to handicapped children or infants.

The House recedes.

45. The Senate amendment contains language in lines 1-4 of assurance (3) that appear in the House bill as the second sentence of Section 1222(a).

The House recedes.

46. The Senate amendment, but not the House bill, contains an assurance providing that payments received by SEAs under this part shall be used for projects for handicapped children. However, identical language appears in the House bill as Section 1222, Program Requirements.

The Senate recedes.

47. The House bill states that the Secretary "shall" report annually while the Senate amendment uses the term "will."

The Senate recedes.

48. The Senate amendment, but not the House bill, requires that States include the place of residence for participating children in their annual report to the Secretary.

The Senate recedes.

The conferees direct the General Accounting Office, as part of the Study of State Operated Programs, to collect information from a sample of States on the types of residences in which participating children are found. Suggested categories for classifying types of residences include, but need not be limited to: children living in a family home attending educational programs housed in a residential facility; children living in a residential facility (not a single family home) attending an educational program in a regular school administered by an LEA; children living in a residential facility and attending an educational program in that facility and children living in a family home attending an educational program in a regular school administered by an LEA. Using the same sample, the conferees also direct GAO to collect information on where children, participating in Chapter 1 programs for children with handicaps, reside. Such information shall include the following: the number of children living in their own home; the number of children living in foster homes; the number of children living in public facilities housing: (a) 1 to 5 children, (b) 6 to 15 children, and (c) 16 or more children; the number of children living in private facilities housing: (a) 1 to 5 children, (b) 6 to 15 children, (c) 16 or more children.

The sample (pertaining to (a) type of residence and educational placement and (b) type of residence and number of occupants in a residence) drawn from each sample State should be of sufficient size to infer what proportion of the total participating population within a State various categorizations represent.

49. The House bill, but not the Senate amendment, requires the SEA to establish policies and procedures for transferring children from State operated programs to LEA programs.

The House recedes.

The conferees anticipate that in the future Chapter 1 handicapped program funds will be used to an increasing degree to foster new and expanded opportunities for children with handicaps to participate with their nonhandicapped peers in a wide variety of educational settings and experiences, thus reinforcing the least restrictive environment provision in Part B of the Education of the Handicapped Act.

50. The Senate amendment, but not the House bill, specifies that in determining grant amounts, handicapped children aged from birth through 21 must be used in the computation.

The House recedes.

51. The Senate amendment, but not the House bill, includes the phrase "directly responsible for providing free public education for handicapped children" and "is directly responsible for providing" early intervention services to designate appropriate State agencies.

The House recedes with an amendment clarifying that State programs include those under contract or other arrangement with such State agency.

The conferees intend that the phrase "directly responsible under contract or other arrangement" not be interpreted as limited to direct service personnel employed by the State. The conferees also intend that this phrase would allow funds appropriated by a State specifically to provide service to these children to be a reflection of direct responsibility. Moreover, the conferees intend that nothing in this provision be construed as altering the eligibility status of any agency or program now participating in the Chapter 1 Handicapped Program.

52. The Senate amendment, but not the House bill, refers to the "commonwealth of Puerto Rico." In determining funds to be received by Puerto Rico under this part, the Senate amendment, but not the House bill, requires compliance with section 619 of the EHA in order to count children aged 3-5 inclusive, after 1991.

The House recedes.

53. The Senate amendment, but not the House bill, states that for purposes of counting children transferring from a State to a local program, the child must continue to receive a free and appropriate public education. The House bill requires an appropriately designed educational program.

The House recedes.

54. The Senate amendment, but not the House bill, restricts the SEA to counting handicapped children aged three to five inclusive beginning in 1991 only if a State is eligible for a grant under Section 619 of EHA.

The House recedes.

55. The Senate amendment contains this language as assurance (1) and part of assurance (3) under section 1221(b).

The Senate recedes.

56. The House bill, but not the Senate amendment, has a provision requiring funds under this subpart to supplement the provision of special education services, and prohibits such funds from being used for services funded by State or local funds during the previous fiscal year.

The House recedes.

The conferees wish to emphasize that these funds shall not be used to supplant State and local funds as delineated in section 1018(b) and that each State shall maintain a level of fiscal effort consistent with the requirements in section 1018(a).

57. The House bill, but not the Senate amendment, requires recipients of funds under this subpart, to demonstrate that children receive a benefit from their use.

The Senate recedes.

58. The House bill, but not the Senate amendment, allows a letter of request in lieu of application if the LEA intends to use such moneys received under this subpart for a single purpose or to serve fewer than five children. The Senate amendment allows such a letter only if the agency intends to serve fewer than five children with the funds received.

The Senate recedes.

The conferees intend that a local or State educational agency applying to use funds for a single purpose shall include with the letter of application an assurance that the funds shall be used to benefit only children eligible under this subpart.

59. The Senate amendment, but not the House bill, delineates uses of funds in section 1223 under the heading GENERAL RULE and includes "services" as well as programs and projects in this descriptive section.

The Senate recedes with an amendment which would number the House "uses of funds" provision.

60. The Senate amendment, but not the House bill, specifies that funds may be used for other specialized equipment, as well as assistive devices.

The House recedes.

61. The Senate amendment, but not the House bill, includes assessment of children as an allowable use of funds, and further specifies that evaluation of and dissemination of information about programs funded under this part be included in this same list.

The Senate recedes on "assessment of children". The House recedes and accepts the Senate provision which allows funds to be used for planning, evaluation and dissemination of information.

62. The Senate amendment, specifically prohibits use of these funds for construction of facilities while the House bill in the parenthetical in section 122(a) eliminates the reference to construction of school facilities contained in current law.

The House recedes.

63. The Senate amendment uses the heading Services and Program Application for section 1222 while the House bill uses the heading Application. The Senate amendment inserts the word "each" before "such application" in this subsection.

The House recedes.

64. The Senate amendment, but not the House bill references the written description of programs required in the application for funds.

The House recedes.

The sentence—"Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsection (b) and (c)."—is included to clarify the situation when an SEA must "write" an application to itself for these funds.

65. The Senate amendment uses the heading Application Assurances while the House bill uses the heading Assurances.

The House recedes.

66. The Senate amendment specifies that all handicapped children served under this part receive a free, appropriate public education, and that their parents have all the rights and procedural safeguards provided under EHA while the House bill references compliance with EHA more generally.

The House recedes.

67. The Senate amendment, but not the House bill, specifies that in order to receive funds under this subpart an agency must maintain fiscal effort.

The House recedes.

68. The Senate amendment, but not the House bill, provides that parents of children to be served shall have an opportunity to participate in developing the project application.

The House recedes.

69. The House bill provides that applications specify ages and handicapped conditions of children to be served, while the Senate amendment specifies that all applications must include number of children for each disability and age category described in EHA.

The House recedes.

70. The Senate amendment uses the term "directly responsible" while the House bill uses the term "legally" responsible in reference to the provision of special education.

The House recedes with an amendment which would insert "under contract or other arrangement with the State educational agency" after "directly responsible" (note: This is related to #51).

71. The Senate amendment, but not the House bill, includes the phrase "early intervention services".

The House recedes.

72. The Senate amendment, but not the House bill, includes the parenthetical phrase "(including schools and programs operated under contract or other arrangement with a State agency.)".

The House recedes.

73. The Senate amendment, but not the House bill, requires that programs authorized by this subpart shall be monitored by the Secretary whenever EHA is monitored.

The House recedes.

74. The House bill requires that a GAO study examine the relationship of programs operated under this subpart to programs under Part B and Part H of EHA generally while the Senate amendment under section 1463(b)(5) specifies particular relationships and comparisons.

The House recedes.

75. The House bill, but not the Senate amendment, limits the GAO study to an examination of the relationship between state operated programs for handicapped children under Chapter 1 and parts B and H of the EHA.

The House recedes with an amendment changing January 30, 1989 to February 28, 1989, and moving the requirement to Title VI of the Act.

76. The Senate amendment, but not the House bill, defines children as including infants and toddlers for purposes of this section.

The House recedes.

77. The Senate amendment, but not the House bill, outlines six components to be included in the GAO study.

The House recedes.

The conferees intend that GAO, for each State included in its study, collect and describe any policies, procedures, and/or descriptions of State practice related to transferring children, who are participating in the Chapter 1 program for children with handicaps, into LEAs (pertains to children described in section 1224(1)(B)(ii)).

The Senate amendment, but not the House bill, requires the Comptroller General to include in the study report a State by State analysis, including recommendations for legislation, if appropriate.

The House recedes.

NEGLECTED AND DELINQUENT

79. The Senate amendment, but not the House bill, directs the State to evaluate the ability of neglected or delinquent students to transfer to special education programs, where appropriate.

The House recedes.

The conferees intend that the phrase "a State which is responsible for providing free public education for children in institutions for neglected and delinquent children" shall be interpreted in the same manner as section 1224(1)(A) with regard to institutions for handicapped children. Funds appropriated by the State specifically to provide education for children in institutions for neglected and delinquent children shall be considered adequate proof of the State's responsibility for the free public education of such children even though the actual provision of services may be by another agency which receives the State funds from the State educational agency.

80. The Senate amendment, but not the House bill, includes a reference to Chapter 1 of ECIA of 1981.

The House recedes.

81. The House bill references section 1052 or 1131, while the Senate amendment references section 110 in regard to the amounts an LEA is eligible to receive.

The Senate recedes.

82. The House bill provides a minimum of $300,000 for state administration, while the Senate amendment provides a $325,000 minimum state administration grant.

The House recedes.

83. The Senate amendment, but not the House bill, provides that when appropriations for this chapter equal or exceed $4.8 billion, each state may receive an additional .5 percent of the amount allocated to that State for education improvement program costs. The third fiscal year such amount is 1%.

The House recedes with an amendment creating a new subsection 1405 which provides to each State educational agency an amount equal to 0.25 percent of the amount allocated to each State under Parts A and D for 1989, 1990, and 1991 and 0.50 percent of such amount for 1992 and 1993 to be used for program improvement activities.

The managers intend that direct educational services includes technical assistance as agreed to jointly by the LEA and SEA under section 1405(b)(3) and may include purchase of additional institutional materials and resources.

84. The Senate amendment, but not the House bill, provides $160,000 or $25,000 to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for educational improvement. The third fiscal year amounts increase to $325,000 or $50,000.

The House recedes with an amendment making $90,000 for small States and $15,000 for the island territories available for 1989, 1990, and 1991; and $180,000 or $30,000 available for 1992 and 1993 for program improvement activities.

85. The House bill requires that the Secretary shall consult with a review panel in promulgating regulations for this chapter, while the Senate amendment requires the Secretary to use negotiated rule making to promulgate regulations.

The House recedes with an amendment combining the regional review and negotiated rule-making processes.

The conferees intend that the development of Federal regulations for Chapter 1 should be a three-step process. The Department of Education will hold, first, a series of regional meetings to identify regulatory issues of concern to school administrators, teachers, parents, scholars and Chapter 1 advocates; second, a modified negotiated rulemaking demonstrate on several key issues; and third, the normal Federal regulatory review and comment process. The goal of steps one and two is to help the regulation writers understand how new activities are likely to impact persons at the implementation level and to help Chapter 1 administrators, teachers, parents and advocates understand how the Department of Education interprets the law.

The modified negotiated rulemaking process is meant to be a demonstration, and thus to be more flexible than the process as operated by other Federal agencies. Specifically, the provisions of the Federal Advisory Committee Act are waived to shorten the time and procedures necessary to begin the demonstration. The conferees will look with interest at the regulatory process to see if discussions of program regulations among educators, parents, advocates and Department of Education staff will produce regulations that are more clearly understood and widely supported by practioners than some prior regulations.

The conferees stress, however, that this demonstration is not meant to lengthen the time for issuance of regulations. Final regulations for this program should be issued within 240 days after enactment.

86. The House bill limits carry-over funds to 25% of the amount appropriated for FY 88 and 15% for FY 89 and each subsequent year, while the Senate amendment makes such limits applicable first in FY 89 and then FY 90.

The House recedes.

87. The House bill, but not the Senate amendment, requires the Secretary to contact with the organization or agency conducting NAEP to carry out the national Longitudinal Study.

The House recedes with an amendment deleting pregnancy rates, completion of postsecondary education, and incidence of suicide as factors which might be influenced by participation in Chapter 1 programs.

88. The House bill, but not the Senate amendment requires the Secretary to respond within 90 days to written requests from States or LEAs regarding questions under this chapter.

The Senate recedes with an amendment regarding return receipt.

Conferees intend that the term "written guidance" shall have the same meaning in this section as it has under Section 453 of the General Education Provisions Act as amended. Written requests which conform to the requirements of Section 453(b)(2)(B) and (b)(4) of such Act shall qualify as a mitigating circumstance in an enforcement action initiated under Part E, Sec. 453 of such Act.

The conferees further intend that this provision shall encourage, not inhibit, the provision of guidance from the Department of Education to State and local educational agencies.

89. The House bill, but not the Senate amendment, includes a section on Federal research and innovation which requires the Secretary to give priority to research on tutoring programs for children eligible under this chapter to be carried out by States in institutions of higher education and to do research on problems of rural school districts. The Senate amendment contains a separate rural education initiative under Title III of its amendment.

The Senate recedes with an amendment to include the study as part of the Chapter 1 longitudinal study.

90. The House bill authorizes $12 million for technical assistance and the National Longitudinal Study for FY 88 and such sums thereafter, while the Senate amendment authorizes $8 million for evaluation and technical assistance for FY 89 and an additional $400,000 for each fiscal year thereafter.

The House recedes with an amendment authorizing $4 for technical assistance and evaluation and $4 million for the national longitudinal study.

91. The Senate amendment, but not the House bill, requests the Secretary to revise regulations relating to State complaint procedures for programs authorized by this chapter.

The Senate recedes. The Secretary is directed to issue amended regulations making 34 CFR 76.780-783 applicable to Chapter 1.

92. The House bill, but not the Senate amendment provides for the establishment of a National Commission on Migrant Education which is directed to conduct a study covering 12 specified issues and submit a report to the President and appropriate committees of Congress.

The Senate recedes with an amendment which calls for a more detailed study of the function and the effectiveness of the Migrant Student Records Transfer System, and a report to Congress and the Secretary of Education on such system within two years of the first meeting of the Commission.

93. The House bill, but not the Senate amendment, authorizes $2 million for the Migrant Commission.

The Senate recedes.

94. The House bill, but not the Senate amendment, directs the Comptroller General to conduct a study of the *Aguilar* v. *Felton* decision on participation of children enrolled in private schools in programs funded under this chapter.

The House recedes with the understanding that ranking members of the House and Senate committees will request a one-time study by GAO of the impact of *Aguilar* v. *Felton*.

94(a). The House recedes to "materials" in the Senate provision.

95. The Senate amendment, but not the House bill, requires the Secretary to conduct a study of possible fund distribution methods for various elementary and secondary education programs administered by the Department of Education and to submit a final report by June 30, 1991.

The Senate recedes with an amendment placing the study under Chapter 2.

96. The Senate amendment, but not the House bill, directs the Comptroller General to conduct a study on use of the AFDC count in the Chapter 1 formula and to submit results of the study no later than June 1, 1989.

The Senate recedes.

97. The Senate amendment, but not the House bill, authorizes $4 million for FY 89 and increases amounts for following years for carrying out the national longitudinal study and the study of fund distribution.

The Senate recedes.

98. The House bill, but not * * *.

The House recedes.

99. The House bill, but not the Senate amendment, includes a definition of the term "effective schools programs."

The Senate recedes. The conferees intend that all elements noted as elements of an effective school must be present for a program to qualify as an effective schools program.

100. The House bill sets the transition period as October 1, 1987 not June 30, 1988, while the Senate bill begins the transition period on October 1, 1988, ending June 30, 1989.

The House recedes with an amendment changing the beginning of the transition period to July 1, 1988.

CHAPTER 2

1. The House bill, but not the Senate amendment contains congressional findings for the Chapter 2 Program.

The Senate recedes.

2. a. The House bill, but not the Senate amendment, includes as stated purposes of the Chapter 2 Program: (a) provides initial funding to enable States and LEAs to implement programs; (b) provides a continuing source of innovation, educational improvement, and support for library and instructional materials; and (c) enhances the quality of teaching and learning through initiating and expanding effective schools programs. The Senate amendment includes the "minimum of paperwork" and "the responsibility for the design and implementation of programs" provisions (the same provisions are in the stated purposes of the House bill) under a section entitled, "State and Local Responsibility", which appears on the next page.

The Senate recedes requiring: (a) initial funding to enable States and LEAs to implement programs; (b) providing a continuing source of innovation, educational improvement, and support for library and instructional materials; and (c) enhancing the quality of teaching and learning through initiating and expanding effective schools programs. The House recedes to require that the minimum of paperwork and the responsibility for the design and implementation of programs provisions be included under the section entitled, "State and Local Responsibility".

b. The Senate amendment, but not the House bill, rewrites the purpose of the Chapter 2 Program to focus on six priorities: (1) at risk youth; (2) basic skills for secondary students; (3) gifted and talented education; (4) library resources; (5) school reform—innovation and personnel training; and (6) personal excellence.

The Senate recedes with a general description of the new uses of funds.

3. The Senate amendment, but not the House bill, describes State and local responsibility under a new paragraph (b), while the House bill incorporates these purposes in paragraphs (3) and (4) of section 1501.

The House recedes.

4. The House bill contains a definition of "at risk and high cost children" while the Senate amendment describes at risk children in the General Statement of Purpose beginning on page 215.

The House recedes.

5. The House bill authorizes appropriations for the Chapter 2 Program at $580 million for FY 1988 and such sums through 1993. The Senate amendment authorizes appropriations at $580 million for FY 1989, $610 million for FY 1990, $640 million for FY 1991, $672 million for FY 1992, and $706 million for FY 1993.

The House recedes.

6. The House bill begins the period of assistance on October 1, 1987, while the Senate amendment begins assistance on October 1, 1989.

The House recedes.

7. The Senate amendment uses the phrase *shall reserve an additional amount not to exceed 6 percentum*, while the House bill uses the phrase *shall reserve not more than 6 percentum*.

The House recedes.

8. The Senate amendment uses the word *includes*, where the House bill uses the word *means*.

The House recedes.

9. The Senate amendment requires that the State distribute not less than 80% to the LEA, while the House bill requires the State to reserve not more than 20 percentum.

The House recedes.

10. The House bill, but not the Senate amendment, uses the phrase *adjusted relative enrollments*. The House bill uses the phrase *school attendance areas served by such agencies*, while the Senate amendment uses the phrase *school districts of such agencies*.

The House recedes.

11. Regarding the distribution of funds to local educational agencies:

a. The Senate amendment, but not the House bill, also includes "children living in economically depressed urban and rural areas" when referring to children whose education imposes a higher than average cost per child.

The House recedes with an amendment modifying the Senate's second criterion to "areas of high concentrations of low-income families".

b. The House bill, but not the Senate amendment, makes clear that these provisions shall not diminish the responsibility of the LEA's to maintain contact with private schools for advisory purposes.

The Senate recedes.

12. The House bill, but not the Senate amendment, modifies current law to require the Secretary to review criteria. Both bills require the Secretary to approve such criteria.

The Senate recedes.

13. The House bill, but not the Senate amendment, amends the high cost provision to require that funds are distributed in proportion to need, i.e., high cost students receive the higher allocations.

The Senate recedes with an amendment making the alternative allocation method permissive with the local educational agency.

The conferees intend that this section or the Chapter 2 program have no effect whatsoever on the distribution of funds among school districts within the States. Rather, that distribution will continue to be guided by other provisions of this chapter. The intent of this section is to provide school districts with an alternative method of allocating funds generated by "high cost children" among schools within the school district. Again, the conferees have no intention of limiting school districts from allocating funds generated by "high cost children" in the same manner as is currently the practice, that is, by averaging the total allocation over all participating public and private schools. This section merely provides an alternative, at school district discretion, to current practice which continues to be allowed under this chapter.

The alternative described in subsection (2)(A) would allow districts, at their discretion, to distribute that portion of their Chapter 2 funds generated by "high cost children" to public and private schools in the district in proportion to the number of "high cost children" in each participating school. Subsection (2)(B) clarifies that regardless of which method of distribution a district chooses for its funds generated by "high cost children", the district must apply that method consistently across all public and private schools for that year of funding.

Finally, subsection (2)(C) makes clear that it is the intention of the conferees that nothing in this section should be construed so as to limit how a school chooses to use its funds within those allowable uses of funds established by this chapter between schools.

14. The House bill uses the phrase "shall submit", while the Senate amendment uses the phrase "shall file".

The Senate recedes.

15. The House bill uses the phrase intermediate *educational* units while the Senate amendment uses the phrase intermediate *regional* units.

The Senate recedes with an amendent referring to intermediate "or regional" educational units.

16. The Senate amendment, but not the House bill, modifies librarians with the phrase *elementary and secondary*.

The House recedes.

17. The House bill, but not the Senate amendment, includes school counselors and other pupil services personnel.

The Senate recedes.

18. The Senate amendment, but not the House bill, indicates that the amount reserved at the State level for targeted programs shall not exceed 20% of the total State allotment.

The House recedes with an amendment clarifying other authorized uses of funds.

19. The Senate amendment, but not the House bill, specifies that programs, projects, and activities must be included in the State plan. The House bill, but not the Senate amendment, requires the State to describe its use of funds for effective schools.

The House recedes in regard to the State uses of funds but with an amendment to describe the other uses of State funds.

The Senate recedes requiring the State to describe its use of funds for effective schools.

20. The House bill provides for an annual evaluation of the effectiveness of the Chapter 2 program. The Senate amendment provides for an evaluation of the effectiveness of Chapter 2 programs in FY 1992.

The House recedes with an amendment to require annual submission of data on use of funds, types of services provided, and students served.

It is highly desirable that at the State and national levels, the State educational agencies and the U.S. Department of Education cooperatively develop guidelines for reporting Chapter 2 programs' effectiveness on an annual basis in order to provide more uniform accountability to Congress in the use of, and the results of, Chapter 2 expenditures. Some of the information in the report will include: (1) expenditures in each area of targeting funding; (2) results from high cost factor distribution; and (3) effective schools implementation, results and progress.

21. The House bill, but not the Senate amendment, requires the State to describe how it adjusts its formula for high cost children. The Senate amendment, but not the House bill, requires the State to describe how it will serve private school children.

The Senate recedes requiring the State to describe how it adjusts its formula for high cost children.

The House recedes requiring the State to describe how it will serve private school children.

22. The Senate amendment uses the word *period* in the heading for this section while the House bill uses the word *duration*.

The House recedes.

23. The House bill, but not the Senate amendment, deletes the provision in current law with respect to audits of LEAs which receive less than $5,000.

The House recedes.

24. The House bill, but not the Senate amendment, contains provisions for State uses of Funds; (1) State administration will include: (a) supervision of the allocation of funds to LEAs, (b) planning, supervision, and processing of State funds, (c) monitoring and evaluation of programs and activities, (d) operations of the State advisory council; (2) technical assistance and direct grants to LEAs and statewide activities which assist LEAs in accomplishing the purposes of this Chapter; and (3) assistance to LEAs and statewide activities to carry out effective schools programs.

The Senate recedes with an amendment which describes State uses of funds as technical assistance which results in direct services to LEAs for targeted assistance as described in Section 1532 and direct grants to local educational agencies.

25. The House bill, but not the Senate amendment, specifies that: (a) not more than 25% of funds available for State programs under this part may be used for State administration, and (b) that not less than 25% of funds available for State programs may be used for effective schools. The Senate amendment creates a separate authorization for appropriations for effective schools in its title II. (See item no. 46.)

25a. The Senate recedes.

b. The Senate recedes with an amendment requiring that 20% of a State's reserved funds must be used for effective schools and permits a waiver from this requirement if the SEA is already spending twice the amount specified for effective schools.

26. The House bill uses the phrase *"is submitted"*, while the Senate amendment uses the phrase *has been certified*.

The Senate recedes.

27. The House bill uses the phrase *authorized programs*, while the Senate amendment uses the phrase *targeted assistance programs*, and requires the local education agency to provide reasons for the selection.

The House recedes.

28. The House bill uses the phrase *relating to such programs*, while the Senate amendment uses the phrase *relating to the assistance furnished under this chapter*.

The House recedes.

29. The House bill uses the phrase *funds for programs authorized*, while the Senate amendment uses the phrase *funds for assistance authorized*. The Senate amendment uses the phrase as *may be deemed appropriate by the LEA*, while the House bill uses the phrase *other groups involved* and includes examples.

The House recedes requiring the allocation of funds for assistance authorized.

The Senate recedes requiring that other groups be included in the local application process in terms of implementation.

30. The Senate amendment, but not the House bill, specifies that the local plan will include a description of how this chapter will contribute to improving student achievement and the quality of education for students.

The House recedes.

31. The House bill places a caveat subject to the limitations of the Chapter, while the Senate amendment uses the phrase *provisions*. The Senate amendment includes the phrase *how funds the agency receives* while the House bill uses the phrase *funds under this subpart*.

The House recedes.

32. The House bill uses the phrase *authorized purposes*, while the Senate amendment uses the phrase *targeted assistance*.

The House recedes.

33a. The House bill requires the LEA to ensure, while the Senate amendment indicates it shall be the responsibility of the LEA.

The Senate recedes.

33b. The House bill uses the phrase *subpart*, while the Senate amendment uses the phrase *chapter*.

The House recedes.

34. The House bill describes its use of funds consistent with the purposes stated previously while the Senate amendment describes use of funds consistent with targeted-assistance described.

The House recedes with an amendment which describes the new uses of funds.

35. The Senate amendment, but not the House bill, limits the use of funds to programs or projects which provide for the following: at risk youth, basic skills instruction for secondary students; gifted and talented; school enrichment of secondary school curricula; library resources; reform innovation and personnel training; and programs for personal excellence.

The House recedes with an amendment which describes the new uses of funds.

State and local school districts may choose one, several, or all of the identified areas for expenditure of their funds in the identified programs except for 20% of the funds required for effective school at the State level.

36. The House bill, but not the Senate amendment, specifies that local funds may be used for effective schools programs and activities. The Senate amendment, but not the House bill includes in its Title II, a separate "effective schools program."

The Senate recedes.

37. The House bill, but not the Senate amendment, specifies that funds may be used to support innovative instructional programs, curricula, library books, and reference and other instructional materials and equipment which show promise for improving student achievement in basic skills (including reading, writing, and computational skills (and other critical subject areas, such as science and mathematics.)

The Senate recedes with an amendment which describes the new uses of funds.

38. The House bill, but not the Senate amendment, specifies that improvement activities may include the development of model curricula; the provision of grants to schools or teachers for innovative instructional approaches, the purchase of library books, reference materials, and instructional aids; and testing programs which lead to better academic achievement.

The Senate recedes with an amendment which describes the new uses of funds.

39. The House bill, but not the Senate amendment, also includes the improvement of recruitment and training of individuals working with preschool children in education programs, in terms of personnel enhancement.

The Senate recedes with an amendment which describes the new uses of funds.

New uses of funds are as follows:

Programs to meet the educational needs of students at risk of school failure and dropping out and students for whom providing an education entails higher than average costs; programs for the acquisition and use of instructional and educational materials, including—library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction; innovative programs designed to carry out schoolwide improvements, including effective schools program; programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, school board members, and administrators; programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects; and other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, early childhood education programs, community education and programs for youth suicide prevention.

In adding "personal excellence" as an allowable use of Chapter 2 funds, the Congress recognizes that the whole child must be addressed in terms of his/her education, health, and motivation. Personal excellence programs are based on partnerships or coalitions of public and private organizations who commit to pool their expertise and resources. The goal of these programs is to create an integrated school curriculum including basic education, health and physical fitness, and motivation through community service.

It is hoped that through this community supported effort to influence at-risk youth through a variety of activities that meaningful changes will occur in their lives. That the expectations of the community for these young people will be raised and, as a result, their own goals will be raised and more likely to be achieved.

40. The Senate amendment, but not the House bill, contains administrative authority which specifies that in order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and enter into contracts with LEAs, institutions of higher education, libraries, museums, and other public and private agencies, organizations, and institutions.

The House recedes with an amendment limiting private agencies to only those which are nonprofit.

41. The House bill, but not the Senate amendment, provides for youth suicide prevention, technology education, community education, and career education programs under special projects.

The Senate recedes.

42. The Senate amendment, but not the House bill, includes programs for technology education and youth suicide under the Secretary's fund for innovation in Title II of this bill.

The House recedes with an amendment to delete youth suicide programs under the Secretary's fund for innovation.

43. The House bill, but not the Senate amendment, defines the terms "gifted and talented", and "technology education".

The Senate recedes with an amendment deleting the definition of technology education.

44. The House bill specifies that funds for effective school programs will be used to revise those programs. The Senate amendment specifies that funds for effective schools will be used to strengthen those programs.

The Senate recedes with an amendment incorporating the word "strengthening" in the first paragraph of the House language regarding "effective schools".

45. The House bill requires each SEA to use 25% of the funds it retains at the State level for effective schools programs. The Senate amendment specifies a separate program authorization and application requirements for the "Effective Schools" program in Title II of the Senate amendment.

The Senate recedes with an amendment to reserve 20% of funds for effective schools and to enable the Secretary to waive the requirement if States are spending the equivalent of 40% of State money already for this purpose.

46. The Senate amendment, but not the House bill, creates a separate effective schools program under their Title II with a separate authorization of appropriations at $25 million for FY 1989, $26.5 for FY 1990 $27.5 for FY 1991, $29 million for FY 1992, and $30.5 million for FY 1993. (See Item No. 25.)

The Senate recedes.

47. The House bill requires that the Secretary submit an annual evaluation report to the Congress. The Senate amendment requires that the Secretary submit an evaluation report not later than October 1992.

The House recedes with an amendment to require the Secretary to submit data annually on the types of service, students served, and uses of funds.

48. The House bill, but not the Senate amendment, enables the Secretary to provide technical assistance for effective schools programs.

The Senate recedes. The conference agreement also incorporates a provisions clarifying the applicability to Chapter 2 of the General Education Provisions Act.

49. a. Both the House bill and the Senate amendment reserve 6% of the funds for the Secretary. The House bill requires that 34% of these funds be used for National Diffusion Network activities. The Senate amendment makes available not less than $11,200,000 for the National Diffusion Network activities.

The House recedes.

b. From these same secretarial funds, the House bill makes available at least the amount of funds necessary to sustain the activities for the inexpensive book distribution program for reading motivation, the arts in education program, and the law-related education program. The Senate amendment provides for not less than $8,200,000 for the inexpensive book distribution program; not less than $3,500,000 for the arts in education program; and not less than $3,200,000 for the law-related education program.

The House recedes.

50. The House bill uses the phrase *shall be directed toward*, while the Senate amendment uses the phrase *shall be designed to.*

The House recedes. The conferees intend that the National Diffusion Network shall be designed to improve the quality of education.

51. The Senate amendment, but not the House bill, provides a limitation which indicates that no funds appropriated may used to support the development or implementation of a Program Significance Panel or any other similar entity whose purpose is to judge the suitability or appropriateness of projects for dissemination through the NDN by a process of reviewing, screening, selecting, or assisting the substantive content of projects.

The Senate recedes with an amendment which permits the Secretary to conduct a single external review by a program effectiveness panel to determine the effectiveness of a program which is to be disseminated through the National Diffusion Network (NDN). The conferees further intend that the NDN facilitators be State-based as opposed to regionally-based facilitators. However, the conferees believe that a national private school facilitator would provide significant assistance to the State-based facilitators in identifying and assisting NDN programs in private schools. The conferees therefore envision that a national private school facilitator should be established under the NDN program.

52. The House bill reserves funds available under the arts in education program for arts for individuals with handicaps through arrangements with the National Committee, Arts for the Handicapped. The Senate amendment reserves these funds through arrangements with the organization, Very Special Arts.

The House recedes.

53. The Senate amendment, but not the House bill, authorizes a "Blue Ribbon Schools Program".

The House recedes.

54. The Senate amendment, but not the House bill, sets aside not less than $1.5 billion from the Secretary's funds for a "Blue Ribbon Schools Program."

The House recedes with an amendment requiring that no more than $1.5 million be used for this program.

55. The House bill, but not the Senate amendment, requires that the Secretary shall design and implement a study to determine the impact of effective schools programs including relevant measures of the impact including student achievement, attitudes, and graduation rates.

The Senate recedes with an amendment changing the first sentence to read "From the funds available for the purposes of this part the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under this chapter"; and moving the requirement to Title VI of the Act.

56. (a) The House bill uses the phrase *which further the purposes specified*, while

the Senate amendment uses the phrase *which contribute to carrying out* the purposes. The House bill and the Senate amendment indicate that these programs may be carried out through grants or contracts. The House bill describes this in section 1567 while the Senate amendment creates a new subsection B for this purpose.

The House recedes.

b. The Senate amendment, but not the House bill, through a separate section (b) authorizes the Secretary to carry out programs and projects under this section directly, or through grants to or contracts with SEAs, LEAs, institutions or higher education, and other public and private agencies, organizations, and institutions. The House bill also includes this provision although not in a separate section.

The House recedes with an amendment limiting private organizations to those which are non-profit.

57. The House bill begins the transition period on October 1, 1987, and ends on June 30, 1988. The Senate amendment begins the transition period on October 1, 1988 and ends on June 30, 1989.

The House recedes with an amendment changing the beginning effective date to July 1, 1988.

58. The House bill, but not the Senate amendment, requires that the Secretary of Education conduct a study of school reform efforts in order to evaluate the impact of recent State and local elementary and secondary educational reforms. The House bill further delineates specific area to be included in the study. The House bill, but not the Senate amendment, authorizes appropriations of $1 million to carry out the school reform study.

The Senate recedes with an amendment placing the study under the National Center for Education Statistics (NCES) and requiring that the NCES shall conduct a study on the effects of higher standards resulting from school reform on enrollment and persistence in schooling. The study shall emphasize achievement and graduation rates of low income, handicapped, limited English proficient, and educationally disadvantaged students.

59. The House bill, but not the Senate amendment, authorizes the establishment of an Office of Comprehensive School Health Education.

The House recedes with an amendment moving the program to the Secretary's fund for innovation.

60. The Senate amendment makes provision for an office under Title II, Secretary's funds for innovation.

The Senate recedes.

61. The House bill, but not the Senate amendment, provides for a study of fund-distribution which will include among other areas a consideration of whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The House bill further requires that the Secretary shall submit an interim report of the study on June 30, 1988, and submit the final report not later than June 30, 1989. The Senate amendment includes this study under Chapter 1.

The House recedes with an amendment changing the dates of the reports to June 30, 1990 and June 30, 1991.

TITLE II—CRITICAL SKILLS

PART A—MATHEMATICS AND SCIENCE EDUCATION

1. *Critical Skills Improvement.* The House bill repeals Title II of the Education for Economic Security Act and incorporates the substance into the new School Improvement Act as Title II, the "Critical Skills Act." The Senate amendment reauthorizes Title II of the Education for Economic Security Act.

The Senate recedes with an amendment: Title II will be entitled "Critical Skills", part A of which will be the "Dwight D. Eisenhower Mathematics and Science Education Act".

2. Both bills contain statements of purpose, but the Senate amendment specifically mentions that funds can be used for computer learning, and continues to list it in addition to mathematics and science throughout this part.

The Senate recedes with an amendment adding "through assistance to State educational agencies, local educational agencies, and institutions of higher education" and removing computer learning from the permissible use of funds.

3. The House bill authorizes $400 million for fiscal year 1988 and such sums for the succeeding five fiscal years. The Senate amendment authorizes $280 million for fiscal year 1989, $295 million for fiscal year 1990, $315 million for fiscal year 1991, $335 million for fiscal year 1992, and $355 million for fiscal year 1993.

The House recedes with an amendment authorizing $250,000,000 for fiscal year 1989, and such sums thereafter.

4. The House bill reserves 5% for the Secretary's discretionary grants whereas the Senate amendment reserves 4%. The House bill reserves ½ of 1% for Indian programs and not more than ½ of 1% for the territories whereas the Senate amendment reserves a minimum of ½ of 1% for Indian programs and the remaining amount for the territories.

The Senate recedes, with an amendment clarifying that students "served by schools funded by the Secretary of Interior" are covered by the program and reducing from "5 percent" to "4 percent" the amount reserved for the Secretary.

5. The House bill allocates funding to the States: one-half on school-age population and one-half on the Chapter 1 distribution, with a hold-harmless for each State's fiscal 1987 allocation. The Senate amendment allocates all the funds according to school-age population with no hold-harmless provision.

The Senate recedes.

6. The Senate amendment, but not the House bill, authorizes the Secretary to prescribe whatever he determines best for the programs for Indian students.

The House recedes.

7. The House bill permits a State department of education to reserve up to 20% of the funds for its programs, of which one-half must be available to the State agency for higher education. The Senate amendment reserves 25% for higher education programs and 75% for elementary and secondary education programs.

The House recedes with an amendment requiring 90% of the amount received by the State educational agency to be distributed to local educational agencies.

8. The House bill requires half of the elementary and secondary education funds to be distributed to local school districts using the count of AFDC and census-determined poor children whereas the Senate amendment limits such distribution to the count of census-determined children.

The Senate recedes.

9. The House bill, but not the Senate amendment, requires with some exceptions the creation of consortia of local educational agencies receiving grants of less than $3,000 a year.

The Senate recedes with an amendment permitting the use of a consortium arrangement when an LEA applies for funds.

10. Both bills require an application from the State for the receipt of funds, but the House bill provides that the application shall cover a period of three years and specifies three parts of the application—assurances, assessment data, and description—with content requirements for each part while the Senate amendment State Application section does not specify a three year application period and mixes descriptive, assessment, procedure, and assurance requirements in a single subsection.

The House bill, but not the Senate amendment, requires that the State application be developed in consultation with the State agency for higher education and describe how that agency and the SEA have coordinated use of funds under this part.

The Senate recedes with an amendment clarifying the application procedure and the contents of the applications.

11. The House bill, but the Senate amendment, requires a local application. However, both bills require a local assessment of need for assistance before an LEA can receive a grant. The House bill provides for a more detailed assessment as part of its application requirements and requires that programs be evaluated.

The Senate recedes with an amendment simplifying the requirements for the contents of the local applications.

12. Both bills require the SEA to renew assistance to an LEA showing this progress; however, the Senate amendment more precisely defines this standard as showing the involvement of a substantial number of teachers and several grade levels of instruction.

The Senate recedes.

13. The House bill provides a list of uses for the 20% of funds reserved for State use. This includes a 5% cap on administration for each State agency (SEA and SAHE) while the Senate amendment provides 10% of the 75% reserved for LEA programs to be administered by the SEA.

The House recedes with an amendment removing computer learning from the authorized uses of funds.

14. The House bill permits States to reserve up to 20% of the State's grant for direct grants, State-wide programs, technical assistance, and State administration of which no more than 5% can be used for administration (allocated 1% for the State agency for higher education and 4% for the State educational agency). The Senate amendment permits a reservation of 90% of the 75% of a State grant which must be used for elementary and secondary education programs and the remaining 10% to be used as follows: not less than 5% for SEA demonstration and exemplary programs and not more than 5% for SEA technical assistance and administration.

15. The House bill contains a comprehensive listing of activities which may be funded by LEAs and limits funding of local administration to 5% of an LEA's grant. The Senate amendment authorizes funding only of training activities and, if such needs are met, the acquisition of materials and equipment.

On items 14 and 15, the House recedes with an amendment clarifying various uses of funds at the local level.

16. The House bill, but not the Senate amendment, delineates the types of activities which SEA and LEA can fund with regard to teacher training.

The House recedes with an amendment that teacher training activities will be referenced generally in the section on higher education and local uses of funds.

17. The Senate amendment, but not the House bill, delineates the activities which State higher education agencies can fund with the 25% of the States' grant reserved for their uses. Up to five percent may be used for State assessment and administration and not less than 95% must be used for grants to institutions of higher education for training programs conducted in conjunction with LEAs.

The House recedes with an amendment which clarifies the uses of funds by institutions of higher education.

18. The House bill, but not the Senate amendment, provides for a "bypass" for private school participation if an institution of higher education is prohibited by law for serving children and teachers in such schools.

The Senate recedes.

19. The House bill, but not the Senate amendment, imposes certain duties on the Secretary regarding technical assistance, evaluations, and reporting standards.

The Senate recedes with an amendment which requires the Secretary to consult with State and local agencies and organizations to develop reporting standards and to submit a report to Congress every two years.

20. Both bills describe the activities which the Secretary may fund from sums reserved to him. The House bill, unlike the Senate amendment, permits grants to professional foreign language associations, reserves 25% of each year's funds for critical foreign language grants, and requires the Secretary to disseminate widely the information concerning the grants. The Senate amendment, unlike the House bill, authorizes cooperative agreements, gives special consideration for grants involving methods and scientific inquiry and giving preference to grants disseminating programs throughout a region.

The Senate recedes with an amendment which clarifies the national uses of funds.

21. The Senate amendment, unlike the House bill, requires the Secretary to reserve annually not to exceed $3 million for the Office of Educational Research and Improvement for conducting evaluation and research activities.

22. The Senate amendment, unlike the House bill, includes a section regarding payments, including a requirement for prompt payment of grants.

On items 21 and 22, the Senate recedes.

23. Both bills authorize presidential awards for foreign language teachers. The House bill, unlike the Senate amendment, requires consultation with representatives of a professional foreign language teacher association. The Senate amendment, unlike the House bill, increases the presidential awards for math and science teachers from 100 to 104 a year. The House bill authorizes $1 million for fiscal year 1988 and such sums for the five succeeding years whereas the Senate amendment contains a payment authorization of $1 million a year for this purpose.

The House recedes with an amendment raising the authorization level to $2 million and requiring consultation with representatives of professional foreign language teacher associations.

24. The House bill extends the Partnership in Education Program by authorizing $10 million for fiscal year 1988 and such sums for the five succeeding years. The Senate amendment authorizes $20 million for fiscal year 1988 and such sums for the five succeeding years for this purpose.

The Senate recedes with an amendment authorizing $15 million for FY 1989 and such sums in fiscal years 1980 through 1993.

25. The Senate amendment, unlike the House bill, contains a definition of "junior or community college".

The Senate recedes. The conference agreement also adds foreign language assistance and presidential awards in math, science and foreign language as parts B and C of this title.

The Star Schools Program and the Foreign Language Assistance Program are also increased in this title with perfecting amendments.

It has been brought to the attention of the conferees that the Young Astronaut Program, as national program of educational significance in mathematics, science, and technology, is beginning to expand in large urban school district and is having an impact in terms of bringing mathematics, science, computer learning, and related technology to historically underrepresented populations.

TITLE III—MAGNET SCHOOLS PROGRAM

1. *Magnet Schools.* The House bill authorizes appropriations at $115 million for FY 1988 and at such sums through 1993.

The Senate amendment authorizes appropriations at $115 million for FY 1989, $121 million for FY 1990, $127 million for FY 1991, $133 million for FY 1992, and $140 million for FY 1993.

The House recedes with an amendment authorizing appropriations in the amount of $165 million for fiscal year 1989 and such sums through 1993.

2. The Senate amendment, but not the House bill, specifies that in making awards from amounts appropriated above $75 million, priority should be given to LEAs which meet the requirements of Section 3002, and have not received a Magnet Schools grant in the previous year.

The House recedes.

In regard to Section 3001(b), availability of funds for grants to agencies not previously assisted, the conferees intend that this provision will not affect prior obligations made under a two-year grant cycle.

Further, the conferees are very concerned about the large number of local educational agencies that have applied for magnet school assistance and have not received funding. In 1987, for example, the Department received 126 applications and awarded 38 grants; over two-thirds of the districts applying were rejected. The conferees recognize that many of these unfunded local educational agencies, including such cities as Cleveland, Boston, Los Angeles, and Detroit, have a real need for magnet school funds. The conference agreement, therefore, requires that out of new money appropriated for the program, the Secretary shall give special consideration to applications which were not funded during the previous grant cycle. This provision applies only to funds appropriated above the fiscal year 1987 level of $75 million. The conference agreement makes clear that the Secretary shall not use previous funding as a factor in awarding the first $75 million.

3. The House bill, but not the Senate amendment, retains the current law provision that an LEA is eligible to receive assistance under this Act if it received $1 million less in the first FY after the repeal of the Emergency School Aid Act.

The House recedes.

4. The Senate amendment, but not the House bill, includes in its application assurances that the agency will not engage in handicapped or sexual discrimination.

The House recedes.

5. The Senate amendment, but not the House bill, also includes as application requirements the following: (a) a description of how assistance made available will be used to promote desegregation; (b) a provision of assurances that the agency will carry out a high quality education program that will encourage greater parental choice and involvement; and (c) a description of the number in which the LEA will continue the magnet schools program after assistance is no longer available under this part.

The House recedes with an amendment rephrasing the provision of assurances that the agency will carry out a high quality education program in order to assure that greater parental decision-making and involvement will be encouraged.

6. The House bill indicates that the Secretary shall not make a determination about the award of funds solely on the basis of whether an applicant received an award in a prior funding cycle. The Senate amendment specifies that in awarding grants with the first $75 million, the Secretary shall not take into account whether an LEA has received an award in the prior funding cycle.

The House recedes with an amendment stating the provision as applying in "any prior funding cycle."

7. The Senate amendment, but not the House bill, allows the Secretary to give special consideration to the degree to which the program involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate SEA, or any other private organization.

The House recedes.

8. The House bill, but not the Senate amendment, retains the current law provision which indicates that the Secretary may waive the prohibition against the reduction of Chapter 2 assistance received and permit such a reduction if the State demonstrates that the assistance under Chapter 2 is not necessary to the particular LEA.

The House recedes.

9. The House bill, but not the Senate amendment, requires that notwithstanding section 412 of GEPA, not more than 15% of funds available for each FY for the purpose of this title may remain available for obligation and expenditure during the succeeding FY.

The Senate recedes.

10. The House bill, but not the Senate amendment, specifies that the provisions of this subsection shall not apply if grants are not awarded in a timely manner.

The Senate recedes.

11. The House bill, but not the Senate amendment, specifies that the Secretary may not reduce any payment under this title for any FY by any amount on the basis of the availability of funds pursuant to sections 412 (b) and (c) of GEPA. The Senate amendment, but not the House bill, requires that payments for a FY shall remain available for obligation and expenditure by the recipient until the end of the succeeding

FY, except that no such agency shall receive more than $4 million in any one FY.

The Senate recedes requiring that the Secretary may not reduce any payment under this title for any fiscal year on the basis of the availability of funds pursuant to GEPA. The House recedes on the provision that payments for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year except that no agency shall receive more than $4 million in any one fiscal year.

12. The Senate amendment, but not the House bill, requires that to the extent practicable, for any fiscal year, the Secretary shall award grants to LEAs under this title no later than July 1 of the applicable fiscal year.

The House recedes with an amendment changing "July 1, 1987" to "June 30, 1988".

13. The Senate amendment, but not the House bill, authorizes a new Part B, Magnet Schools for Educational Improvement at an authorization level beginning in FY 1989 at $35 million and triggered by an appropriation for Part A of $100 million.

The House recedes with an amendment moving these provisions, as amended, to the Secretary's fund for innovation and changing the name of the program to Alternative Curriculum Schools. The Alternative Curriculum Schools program will not receive any funds until the current magnet schools program is funded at $165 million.

TITLE IV—SPECIAL PROGRAMS AND TITLE V—DRUG EDUCATION

GIFTED AND TALENTED

1. *Gifted and Talented.* The Senate * * *.

The House recedes.

2. The House bill uses the language "gifted and talented children and youth" throughout the bill.

The Senate amendment uses the language "gifted and talented students".

The House recedes.

3. The House bill, but not the Senate amendment, includes a definition for "Secretary." The Senate amendment uses the definition under chapter I.

The House recedes.

4. The House bill, but not the Senate amendment, requires that there be consultation with the advisory committee in the establishment of programs.

The House recedes with an amendment striking the reference to the proposed National Advisory Council and inserting instead "after consultation with experts in the field of the education of gifted and talented students".

5. The House bill, but not the Senate amendment, requires that the Director of the National Center shall consult with the advisory committee appointed by the Secretary

The House recedes with an amendment striking the reference to the proposed National Advisory Council and inserting instead "after consultation with experts in the field of the education of gifted and talented students".

6. The House bill, but not the Senate amendment, requires that both the advisory committee and the Secretary establish the highest program priorities.

The House recedes with an amendment to eliminate the advisory council in this provision.

7. The House bill includes language which states, "including the participation of teachers and other personnel serving such children in preservice and inservice training programs".

The Senate amendment states "including the participation of teachers and other personnel in preservice and inservice training programs for serving such children".

The House recedes.

8. The House bill, but not the Senate amendment, provides for the establishment of a Secretary's gifted and talented advisory committee.

The House recedes.

9. Although the House bill and the Senate amendment contain the same language, they use different formats. The House bill contains the language in one paragraph. The Senate amendment numbers the requirements 1, 2, and 3.

The House recedes.

10. The House bill uses the language "gifted and talented children and youth".

The Senate amendment uses the language "gifted and talented students".

The House recedes.

11. The House bill authorizes appropriations in the amount of $25 million for FY 1988 and such sums as may be necessary through 1993.

The Senate amendment authorizes appropriations in the amount of $15 million for FY 1989, $15.8 million for FY 1990, $16.6 million for FY 1991, $17.4 million for FY 1992, and $18.3 million for FY 1993.

The Senate recedes with an amendment authorizing $20 million in 1989 and such sums through 1993.

12. The Senate amendment, but not the House bill, includes an application requirement as a separate provision.

The House recedes.

13. The Senate amendment, but not the House bill, includes a priority for approval of applications; that at least one-half of the approved applications provide service to gifted and talented economically disadvantaged students.

The House recedes.

DRUG EDUCATION

1. *Drug Education.* The House bill, but not the Senate amendment, reauthorizes the Drug Free Schools and Communities Act of 1986 through 1993 at an authorization level of $250 million for FY 1988 and "such sums as necessary" for FY 1989, 1990, 1991, 1992, and 1993.

The Senate recedes with an amendment authorizing $250 million in 1989 and such sums through 1993.

2. The House bill, but not the Senate amendment, contains a provision which indicates that grants and contracts will include a youth suicide prevention program.

The Senate recedes to the provision which includes an amendment to current law requiring that grants and contracts will include a youth suicide prevention program.

3. The House bill, but not the Senate amendment, requires that applications submitted by States will also include a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations, in addition to all of the other requirements of this part.

The Senate recedes to the provision which includes a requirement that applications submitted by States will also include a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations, in addition to all of the other requirements of this part.

4. The House bill, but not the Senate * * *.

The Senate recedes with a technical amendment changing language in current law from the relative numbers of children in the school-age population to their relative enrollments in public and private nonprofit schools in terms of the State educational agency distribution of funds for use among areas served by local or intermediate educational agencies or consortia.

5. The House bill, but not the Senate amendment, inserts new language in Section 5126: "(D) describe the extent of the current drug and alcohol problem in the schools of the applicant."

The Senate recedes to the provision which requires that the local applications include a "description of the extent of the current drug and alcohol problem in the schools of the applicant".

6. The House bill, but not the Senate amendment, specifies that an applicant shall submit to the State educational agency a progress report on the first two fiscal years of implementation of its plan. The progress report shall include: (A) the applicant's significant accomplishments under the plan during the preceding two years; and (B) the extent to which the original objectives of the plan are being achieved. The House bill also adds language as indicated: (2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary".

The Senate recedes to the provision which requires that an applicant shall submit to the State educational agency a progress report on the first two fiscal years of implementation of its plan. The progress report shall include: (a) the applicant's significant accomplishments under the plan during the preceding two years; and (b) the extent to which the original objectives of the plan are being achieved. The House bill also adds the following language: "If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary."

7. The House bill, but not the Senate amendment adds a new Section 5127 as follows: "STATE REPORTS—Each State shall submit to the Secretary an annual report that contains information on the State or local programs the State conducts under this Act."

The Senate recedes with an amendment requiring a 2-year report as opposed to an annual report.

8. The House bill, but not the Senate amendment, adds language "directly or through grants, cooperative agreements, or contracts" after the word "shall".

The Senate recedes to the provision which allows the Secretary to administer this program through grants, cooperative agreements, or contracts.

9. The House bill, but not the Senate amendment, requires that the Secretary of Education in conjunction with the Secretary of Health and Human Services will also include "a study of the relationship between drug and alcohol abuse and youth suicide," in the report to be submitted to the Presi-

dent and the appropriate committees of the Congress.

The Senate recedes to the provision which requires that the Secretary of Education in conjunction with the Secretary of Health and Human Services will include "a study of the relationship between drug and alcohol abuse and youth suicide," in a report to be submitted to the President and the appropriate committees of the Congress.

10. The House bill, but not the Senate amendment, inserts the word "funded" and deletes the word, "operated".

The Senate recedes to the provision changing the word "operated" to the word "funded" when making reference to Indian children and the Department of the Interior.

11. The House bill, but not the Senate amendment, adds new language which states, "make grants to or enter into cooperative agreements or contracts".

The Senate recedes to the provision which allows the Secretary to administer this program through grants, cooperative agreements, or contracts in the Hawaiian Natives section.

12. The House bill, but not the Senate amendment, adds new language as follows: "through grants, cooperative agreements, or contracts".

The Senate recedes to the provision which allows the Secretary to administer this program through grants, cooperative agreements, or contracts in the Regional Centers section.

13. The House bill, but not the Senate amendment, contains a provision which changes language in current law from "State, State educational agency, or State agency for higher education" to "State, agency, or consortium."

The Senate recedes to the provision which changes language in current law from "State, State educational agency, or State agency for higher education" to "State, agency, or consortium."

WOMEN'S EDUCATIONAL EQUITY ACT (WEEA)

1. *WEEA.* The House bill, but not the Senate amendment, contains a definition for the term "Council".

The House recedes.

2. The Senate amendment, but not the House bill, contains a stipulation regarding the development of materials by indicating "where such materials are commercially unavailable".

The House recedes.

3. The House bill provides that $6 million shall be used to support activities described in paragraph (1)—(demonstration, development, and dissemination activities of national, statewide, or general significance, etc.); and that any funds in excess of this amount may be used to support new activities.

The Senate amendment provides that $3 million shall be used to support activities described in paragraph (1), and that any funds in excess of this amount may be used to support new activities.

The Senate recedes with an amendment authorizing $4.5 million for demonstration, development, and dissemination activities.

4. The Senate amendment, but not the House bill, includes the language, "where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period."

The House recedes.

5. The House bill provides that for challenge grant recipients, the Secretary is authorized to make grants to public and private nonprofit agencies and to individuals.

The Senate amendment authorizes the Secretary to make challenge grant awards to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

The House recedes.

6. The House bill retains the "National Advisory Council on Women's Educational Programs" within the Department of Education.

The Senate amendment abolishes the Council.

The House recedes. The conferees want to stress that the abolition of the National Advisory Council should, in no way, be interpreted as an abandonment of or lack of commitment to women's educational equity. Quite the contrary, it is the conferees' hope that the funds used to support the Council would go instead to the support of program activities on behalf of women's educational equity, which is an important and valuable program that deserves the increased funding provided in the conference agreement. The conferees also want to stress the need within the Federal Government for a national council that will deal with the general concerns of the women of this nation. The conferees, therefore, would urge that serious consideration be given to the re-establishment of a council similar to the National Advisory Council for Women formerly administered within the Department of Labor.

7. The House bill, but not the Senate amendment, contains language which addresses the distribution of the evaluation report and the Council's role in the evaluation process.

The House recedes.

8. The House bill indicates that the Office of Educational Research and Improvement shall evaluate and disseminate (at low cost) all materials and programs developed under this part.

The Senate amendment indicates that the Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate materials and programs developed under this part.

The House recedes with an amendment to include a requirement that dissemination of materials be "(at low cost)".

9. The House bill authorizes appropriations in the amount of $10 million for 1985, $12 million for 1986, $14 million for FY 1987, $20 million for FY 1988, and such sums through 1993.

The Senate amendment authorizes appropriations in the amount of $5.3 million for FY 1989, $5.6 million for FY 1990, $5.9 million for FY 1991, $6.2 million for FY 1992, and $6.5 million for FY 1993.

The Senate recedes with an amendment authorizing $9 million for 1989, and such sums through 1993.

10. The Senate amendment, but not the House bill, includes a special rule in respect to approving applications regarding special consideration and geographic distribution.

The House recedes.

ELLENDER FELLOWSHIPS

1. *Ellender Fellowships.* The House bill, but not the Senate amendment, contains a provision that would allow up to 5% of the funds appropriated to be used for the development of additional programs and learning activities for educators and the elderly at the local and state level.

The House recedes.

2. The Senate amendment, but not the House bill, includes the following groups: gifted and talented students and students of migrant parents.

The House recedes.

3. The House bill, but not the Senate amendment, requires the application from Close-up to fully describe the use of funds for the new programs for educators and the elderly.

The House recedes.

4. The House bill authorizes $2.5 million for FY 1988 and such sums as may be necessary for the five subsequent years. The Senate amendment authorizes $3 million for FY 1989, $4.5 million for FY 1990, $4 million for FY 1991, $4.5 million for FY 1992, and $5 million for FY 1993.

Both the House and the Senate recede to authorize for Part 1, $3 million for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

5. The Senate amendment, but not the House bill, authorizes a new program for Close-up to assist educationally disadvantaged older Americans and recent immigrants to a greater understanding of the Federal government. There are authorized $3 million for fiscal year 1989, $3.5 million for fiscal year 1990, $4 million for fiscal year 1991, $4.5 million for fiscal year 1992 and $5 million for fiscal year 1993: however no funds may be appropriated for the new program unless funds are appropriated in the amount authorized for the regular Close-up program.

The House recedes with an amendment to authorize a new program for Close Up to assist economically disadvantaged older Americans and recent immigrants. The program is authorized at $2 million for fiscal year 1989, and such sums as may be necessary through 1993. This new program may only be funded if the current Close Up program receives at least enough funding to maintain current services.

IMMIGRANT EDUCATION

1. *Immigrant Education.* The House bill, but not the Senate amendment, reauthorizes the Emergency Immigrant Education Act at an authorization level of $40 million for FY 1989 and at "such sums as may be necessary" for each of the fiscal years 1990, 1991, 1992, and 1993.

The Senate recedes.

2. The House bill, but not the Senate amendment, requires that the Secretary receive an annual report from each State educational agency receiving funds. The report may include such information as services provided, number of students served, nationality of students served, and any other such information which may lead to more improved reporting as may be required by the Secretary.

The Senate recedes with an amendment requiring a 2-year report as opposed to an annual report.

3. The House bill, but not the Senate amendment, requires that the Secretary submit an annual report to the House Committee on Education and Labor, Senate Committee on Labor and Human Resources including services provided to this population, number of students served, nationality of students served and any other such information which may lead to more improved reporting.

The Senate recedes with an amendment requiring a 2-year report as opposed to an annual report.

4. The House bill, but not the Senate amendment, requires the Comptroller General of the United States to conduct a national assessment of programs under this Part by March 15, 1989, and every third

year thereafter to be submitted to the House Committee on Education and Labor and Senate Committee on Labor and Human Resources.

The Senate recedes with amendments stating that the Comptroller General of the United States shall review and assess programs conducted under this part and submit the findings to the appropriate committees of Congress by March 15, 1991. The study is included in Title VI of this Act.

TERRITORIAL ASSISTANCE

1. *Territorial Assistance.* The House bill authorizes $5 million for FY 1988 for general education assistance to the Virgin Islands and for each of the five succeeding years. The Senate amendment authorizes $5 million for FY 1989, $5.5 million for FY 1990, $6 million for FY 1991, $6.5 million for FY 1992, and $7 million for FY 1993.

The House recedes with an amendment authorizing $5 million for 1989 and such sums through 1993.

2. The House bill authorizes $2 million for fiscal year 1988 for territorial teacher training assistance and for the five succeeding years while the Senate amendment authorizes $2 million for FY 1989, $2.1 million for FY 1990, $2.2 million for FY 1991, $2.4 million for FY 1992 and $2.6 million for FY 1993.

The House recedes with an amendment authorizing $2 million for 1989 and such sums through 1993.

EXCELLENCE IN EDUCATION

1. *Excellence in Education.* The House bill, but not the Senate amendment, reauthorizes the Excellence in Education Act.

The Senate amendment, but not the House bill, repeals the Excellence in Education Act.

The House recedes.

TITLE VII—BILINGUAL EDUCATION

1. The House bill, but not the Senate amendment, contains language in its statement of policy that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition.

The Senate recedes.

2. The Senate amendment, but not the House bill, in its statement of policy contains language as follows: (1) reliance on student evaluation procedures which are inappropriate for limited English proficient students (LEP) has resulted in the disproportionate representation of LEP students in special education, gifted and talented, and other special programs; and (2) many schools fail to meet the full instructional needs of LEP students who also may be handicapped or gifted and talented.

The House recedes. The conferees' substitute sets forth the finding that limited English proficient students are disproportionately represented (both over- and under-represented) in special instructional programs, including special education and programs for gifted and talented students because of reliance on linguistically inappropriate student evaluation procedures which fail to correctly measure the needs and abilities of limited English proficient students.

3. The House bill, but not the Senate amendment, includes a phrase which indicates that bilingual education programs help promote our international competitiveness.

The Senate recedes.

4. The House bill, but not the Senate amendment, provides that there is a serious shortage of teachers and education personnel who are professionally trained and qualified to serve LEP children.

The Senate recedes.

5. The House bill, but not the Senate amendment, includes in its declaration of policy that programs for LEP students shall also be designed to meet school grade-promotion and graduation requirements.

The Senate recedes.

6. The House bill extends this Act for fiscal year 1988 through 1993 at such sum as may be necessary.

The Senate amendment also extends the Act through 1993 beginning in FY 1989, but authorizes appropriations in the amount of $168 million for FY 1989, $176.5 for FY 1990, $185.3 for FY 1991, $194.5 for FY 1992, and $200.4 for FY 1993.

The Senate recedes authorizing $200 million for FY 1989 and such sums through 1993.

7. The House bill, but not the Senate amendment, indicates that no amount in excess of $246 million is authorized to be appropriated for FY 1988.

The Senate amendment, but not the House bill, specifies that no amount in excess of $176 million is authorized to be appropriated for FY 1989.

The Senate recedes authorizing $200 million for FY 1989.

8. The Senate amendment, but not the House bill, requires that the reservation required for the Special Alternative Instructional Program shall not result in changing the terms, conditions, and negotiated levels of any grant awarded in FY 1987.

The House recedes.

9. Both the House bill and the Senate amendment require that at least 60 percent of appropriations be reserved for grants for the following (Part A) programs: (1) transitional bilingual education; (2) programs of developmental bilingual education; (3) special alternative instructional programs; (4) programs of academic excellence; (5) family English literacy programs; and (6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted in this Act.

The Senate amendment also includes a program to develop instructional materials in this 60%.

The Senate recedes.

10. The Senate amendment, but not the House bill, specifies that at least 75 percent of the 60 percent appropriated for Part A must be reserved for transitional bilingual education which may include programs of developmental bilingual education, academic excellence, family English literacy, and bilingual preschool, special education, and gifted and talented.

The House recedes.

11. The House bill, but not the Senate amendment, specifies that not less than 20 percent of the appropriations be reserved for training and technical assistance.

The Senate amendment, but not the House bill, specifies that at least 25 percent of the appropriations be reserved for training and technical assistance.

The House recedes.

12. The House bill, but not the Senate amendment, requires that training and technical assistance receive as much funding in any fiscal year as was appropriated in FY 1987.

The House recedes.

13. The House bill, but not the Senate amendment, requires that the transitional and developmental bilingual education programs as well as the special alternative instructional programs receive at least as much funding in any fiscal year as was appropriated for each of them in FY 1987.

The House recedes.

14. The House bill, but not the Senate amendment, requires that in any fiscal year, programs of academic excellence, family English literacy, and bilingual preschool, special education, and gifted and talented, receive as much in the aggregate as they did in FY 1987.

The House recedes.

15. The House bill, but not the Senate amendment, requires that for any amount above FY 1987 funding, the Secretary must first increase each amount reserved for bilingual education programs to cover the cost of inflation as measured by the consumer price index.

The House recedes.

16. The House bill, but not the Senate amendment, requires that not less than 70 percent and not more than 75 percent of new funds remaining after providing cost-of-living increases must go to alternative instructional programs.

The House recedes.

17. The Senate amendment, but not the House bill, permits the Secretary to reserve up to 25 percent of the 60 percent of reserved funds for instructional programs and may also include developmental bilingual Family English literacy, and bilingual preschool, and gifted and talented programs.

The House recedes.

18. The House bill, but not the Senate amendment, specifies that 25 percent of the new funds remaining after cost-of-living increases must be reserved for transitional bilingual education and developmental bilingual education. Of this amount, $1 million will be reserved for developmental bilingual education programs in FY 1988 (to increase by $150,000 each year), and any remaining amount will be reserved for transitional bilingual education programs.

The House recedes.

19. The Senate amendment, but not the House bill, includes language throughout the section on "definition; regulations" which indicates "as further defined or determined by the Secretary by regulation".

The Senate recedes. The Department of Education's 1986 regulations narrowed the definition of "limited English proficiency", especially as it applies to American Indian and Alaskan Natives "who come from environments where a language other than English has had a significant impact on their level of English language proficiency". At least one Title VII project serving American Indian students has been terminated because of the overly-restrictive regulations.

20. The Senate amendment, but not the House bill, includes difficulty to speak, read, write, or understand English as part of the definition of all limited proficiency, whereas the House bill only applies this clarification to American Indian and Alaska Natives.

The Senate recedes with an amendment (correcting printing error) starting with line 9 "and who" is not indented, through line 15.

21. The Senate amendment refers to section 1005(c)(2)(A) while the House bill refers to section 1005(c)(2).

The Senate recedes.

22. The House bill, but not the Senate amendment, contains language which indicates that family English literacy programs may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to

achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States.

The Senate recedes.

23. The House bill, but not the Senate amendment, includes in its definition of "programs of academic excellence" a specification that such programs be used as models for effective schools "for LEP students" to facilitate the dissemination and use of effective teaching practices for LEP students.

The House recedes with an amendment to combine both Senate and House language.

24. The Senate amendment, but not the House bill, includes in its definition of programs of academic excellence a specification that such programs be designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual education practices.

The House recedes.

25. The House bill refers to Section 306(a)(11) of the Adult Education Act whereas the Senate amendment refers to section 306(b)(11).

The House recedes.

26. The House bill, but not the Senate amendment, expands the current prohibition against the redefinition through regulation of certain terms defined in the Act to cover all the terms defined in the Act.

The Senate recedes.

27. The Senate amendment, but not the House bill, prohibits further definition only of terms defined in paragraphs (4), (5), (6), (7), and (8) of subsection (a).

The Senate recedes.

28. The Senate amendment, but not the House bill, in its special information rule section includes the phrase "to the extent practicable", the information provided to parents shall be in a language and form the parents understand.

The House recedes with an amendment deleting "to the extent practicable" and inserting "Every effort shall be made to provide", striking "provided" and "shall be".

29. The House bill, but not the Senate amendment, includes with its bilingual education programs, language which indicates that programs may use available funds to provide technology-based instruction to students in order to enhance the program.

The Senate recedes.

30. The Senate amendment, but not the House bill, includes among its bilingual education programs, programs to develop instructional materials in languages for which such materials are commercially unavailable.

The Senate recedes.

31. The Senate amendment, but not the House bill, requires that grant applications for programs of transitional bilingual education, developmental bilingual education, special alternative instructional programs or programs of academic excellence include participation by a LEA.

The Senate recedes.

32. The House bill, but not the Senate amendment, permits grant applications for programs of academic excellence, family English literacy, and bilingual preschool, special education, and gifted and talented to be submitted separately or jointly by eligible recipients.

The Senate recedes.

33. The House bill, but not the Senate amendment, extends applicant eligibility for programs of academic excellence grants to those entities eligible for family English literacy, bilingual preschool, special education, and gifted and talented programs.

The Senate recedes.

34. The House bill uses the word "considers" and labels the title of the subparagraph as "Content of Application".

The Senate amendment, uses the word "deems" and labels the subparagraph as "Manner of Filing and Contents of Application".

The Senate recedes.

35. The House bill, but not the Senate amendment, in its application requirements includes language which specifies "rates of referral to or placement in special education programs".

The House recedes.

36. The House bill, but not the Senate amendment, specifies that applications must contain information on how training of educational personnel and parents would be undertaken.

The Senate recedes.

37. The House bill, but not the Senate amendment, permits applicants who desire to obtain priority in the awarding of grants to include in the application information which shows: (a) the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language; (b) the unavailability of personnel qualified to provide bilingual instructional services; (c) the applicant's current or past efforts to establish a bilingual education program.

The Senate recedes with an amendment which requires that priority in the awarding of grants for special alternative instructional programs be given to applications which show: (a) the administrative impracticality of establishing a bilingual education program due to the presence of a small number of students of a particular native language; (b) the unavailability of personnel qualified to provide bilingual instructional services; or (c) the presence of a small number of students in the schools and the applicant's inability to obtain native language teachers because of isolation or regional location.

38. The Senate amendment, but not the House bill, indicates that an application will receive priority if it is made on behalf of: (a) a local educational agency having schools in which many languages are represented; (b) a local educational agency that does not have personnel qualified to provide bilingual instructional services; and (c) a local educational agency having a small number of students in the schools that because of isolation or regional location is unable to obtain native language teachers.

The House recedes with an amendment which requires that priority in the awarding of grants for special alternative instructional programs be given to applications which show: (a) the administrative impracticality of establishing a bilingual education program due to the presence of a small number of students of a particular native language; (b) the unavailability of personnel qualified to provide bilingual instructional services; or (c) the presence of a small number of students in the schools and the applicant's inability to obtain native language teachers because of isolation or regional location.

39. The House bill, but not the Senate amendment, contains language which specifies that applications for programs of academic excellence contain information regarding "rates of referral to or placement in special education programs."

The House recedes.

40. The House bill contains language which specifies that during the first 12 months of the grant an applicant may engage exclusively in pre-service activities.

The Senate amendment requires that during the first six months of a grant an applicant shall engage exclusively in pre-service activities.

The Senate recedes.

41. The House bill has as its subtitle, "Grant Limitations". The Senate amendment has as its subtitle, "Duration of Grants".

The Senate recedes.

42. The Senate amendment, but not the House bill, indicates that preservice activities may include materials development only where such materials are commercially unavailable.

The Senate recedes.

43. The Senate amendment, but not the House bill, also specifies that pre-service activities may be waived by the Secretary upon a determination that an applicant is prepared to operate successfully the proposed instructional programs.

The Senate recedes.

44. The Senate amendment, but not the House bill, includes a phrase that information be provided to parents in a language and form the parents understand "to extent practicable".

The House recedes with an amendment eliminating the phrase "To the extent practicable" and inserting "every effort shall be made to provide" and striking "provided" and "shall be".

45. The Senate amendment, but not the House bill, specifies that grants may be made for a period of one to three years for bilingual pre-school, special education, gifted and talented, and programs to develop instructional materials.

The Senate recedes.

46. The House bill, but not the Senate amendment, changes the duration of grants for bilingual preschool, special education, and gifted and talented programs from one-three years to a fixed three-year period.

The Senate recedes.

47. The Senate amendment, but not the House bill, provides that students may not participate in a Federal bilingual education program for more than three years if a separate state or local program exists. If no such program exists, an individual student may continue in a Federal program for an additional year if school personnel determine that the individual's failure to master English is impeding his or her academic progress or ability to meet grade promotion or graduation standards, and if handicapped, his or her IEP objective. After a fourth year, a student must be reevaluated in order to remain in a Federal program for a fifth year. In addition, when the student is to be retained for the additional year or years in the program, the evaluation must include plans for concentrating on the goal of enhancing the student's competency in English. No student may continue in a Federal program for more than five years.

The House recedes with an amendment striking "only Federal funds are available for bilingual education, and"; striking "failure to master English" and inserting "lack of English proficiency"; striking "bilingual"; striking "bilingual education"; striking "failure to master English"; and inserting "English language development"; striking "a bilingual program" striking "failure to master English"; and inserting "the".

48. The Senate amendment, but not the House bill, provides that instruction may be intensified through expanding the educational calendar year, lowering per pupil ratios and applying technology.

The House recedes with an amendment clarifying that this provision applies to both regular and supplementary programs by inserting following "throughout the" the words "regular and any supplementary".

49. The House bill entitles subparagraph "Application Requirements" and denotes subsections "(a) (1), (2), and (3)".

The Senate amendment entitles subparagraph "Consultation Required" and denotes subsections "(a)(1), (a)(2), and (a)(3)".

The Senate recedes.

50. The House bill, but not the Senate amendment, includes a provision which ensures applicant support for additional advisory council activities, if support is requested by the advisory council.

The Senate recedes with an amendment to include subparagraph (4) of the Senate amendment.

51. The House bill, but not the Senate amendment, specifies that the personnel training provided will assist personnel in meeting State and local certification requirements.

The Senate recedes.

52. The Senate amendment, but not the House bill, limits the requirements that LEAs prove ability to provide services and activities within the State to transitional, developmental and alternative programs.

The Senate recedes.

53. The Senate amendment, but not the House bill, specifies that applications contain a provision which indicates that student evaluation and assessment procedures in the program are appropriate for LEP students and that LEP students are handicapped and are identified and served in accordance with the requirements of the Education of the Handicapped Act.

The House recedes.

54. The House bill uses the subtitle, "Priority Consideration of Grants".

The Senate amendment uses the subtitle, "General Priority Rule".

The Senate recedes.

55. The House bill uses the subtitle, "Priority for Programs Serving Underserved Children".

The Senate amendment uses the subtitle, "Special Priority Rules".

The Senate recedes.

56. The Senate amendment, but not the House bill, contains a provision which indicates that no action taken may involve the assignment of students to any federally-assisted education program merely on the basis of the surname of such students.

The House recedes with an amendment that assignment to or exclusion from any federally-assisted education program should not be made on the basis of surname.

57. The House bill uses the subtitle, "Bypass Provision".

The Senate amendment uses the subtitle, "Nonprofit Private School Rule".

The Senate recedes.

58. The Senate amendment, but not the House bill, contains a U.S.C. cite for the Johnson-O'Malley Act: (25 U.S.C. 452 et seq.).

The House recedes.

59. The House bill indicates that the amount paid by the Secretary to any State educational agency for the proper and efficient conduct of the State program for any fiscal year shall not be less than $75,000 nor greater than 5% of the aggregate of the amounts paid in the preceding fiscal year under Section 7021.

The Senate recedes.

60. The Senate bill specifies that the amount paid by the Secretary to any State educational agency shall not be less than $50,000 nor greater than 5% of the aggregate of the amounts paid in the preceding fiscal year under Section 7021.

The Senate recedes.

61. The House bill, but not the Senate amendment, includes a provision which specifies that regulations will be developed by the director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in Section 7034 and individuals and organizations with expertise in testing and evaluation of educational programs for LEP children.

The Senate recedes.

62. The House bill, but not the Senate amendment, includes, "referral to or placement in special education classes" in its program evaluation requirements.

The House recedes.

63. The Senate amendment, but not the House bill, includes a provision which indicates that regulations providing for information and data collection include specific activities undertaken to improve pre-referral, evaluation procedures, and instructional programs for LEP children who may be handicapped or gifted and talented.

The House recedes.

64. The Senate amendment, but not the House bill, includes language which specifies that in carrying out the provisions of this section, regulations which are promulgated prior to the date of enactment of this act may be reissued if the regulations substantially comply with the provisions of this section.

The Senate recedes.

65. The House bill, but not the Senate amendment, includes language which indicates that longitudinal studies on the impact of bilingual education programs on LEP students shall use a nationally representative sample of the programs funded under this title and provide information including data on grade retention, academic performance, and dropout rates.

The Senate recedes.

66. The House bill, but not the Senate amendment, includes in its research activities, language which indicates that the clearinghouse should coordinate its activities with the National Diffusion Network (NDN).

The Senate recedes.

67. The Senate amendment, but not the House bill, includes in its research activities: (1) studies to determine effective and reliable techniques for providing bilingual education to handicapped students; and (2) studies to determine effective and reliable methods of identifying gifted and talented students who have language proficiencies other than English.

The House recedes.

68. The House bill, but not the Senate amendment, provides that the Secretary shall also consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives.

The Senate recedes.

69. The House bill, but not the Senate amendment, provides that nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

The Senate recedes.

70. The House bill, but not the Senate amendment, specifies that the Assistant Secretary for Educational Research and Improvement shall also consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken complement and do not duplicate the appropriate activities as specified in GEPA.

The Senate recedes.

71. The Senate amendment, but not the House bill uses the term "available" in the title of subsection (b).

The House bill, but not the Senate amendment, uses the word "National" in the second line of subsection (b).

The Senate recedes.

72. The House bill, but not the Senate amendment, instructs the Center for Education Statistics to utilize data collected on limited English proficient persons by other Federal education agencies.

The Senate recedes.

73. The Senate amendment, but not the House bill, provides that funds may be used for training programs which emphasize opportunties for career development, advancement, and lateral mobility, and may include training for parents.

The House recedes.

74. The Senate amendment, but not the House bill, provides that a grant or contract may be made for the provision of in-service training and technical assistance upon application of: (a) institutions of higher education (including junior colleges and community colleges), (b) private-for-profit or nonprofit organizations, or (c) a State educational agency.

The House recedes.

75. The House bill, but not the Senate amendment, provides that grants or contracts for pre-service or in-service training activities shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region for operating programs of bilingual education or special alternative instruction for LEP students.

The Senate recedes.

76. The Senate amendment, but not the House bill, specifies that an application for a grant or a contract for pre-service or in-service training activities shall be considered an application for a program of bilingual education for the purposes of the consultation requirements section: (1) consultation with an advisory council of which a majority shall be parents and other representatives of the children to be served in the program, (2) be accompanied by documentation of the consultation and by the comments which the council makes on the application, (3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consulation with, and participation by, the committee of parents, teachers, and other interested individuals * * *, and (4) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations to the applicant and to the Secretary.

The Senate recedes.

77. The House bill, but not the Senate amendment, contains a provision which indicates that pre-service or in-service training programs shall assist education personnel in meeting State and local certification requirements, and whenever possible, should award college or university credit.

The Senate recedes.

78. The House bill, but not the Senate amendment, contains language which indicates that for fiscal year 1988, and each of

the five subsequent fiscal years, not less than 500 fellowships shall be awarded. * * *

The Senate amendment, but not the House bill, indicates that for the fiscal year ending September 30, 1989, not less than 500 fellowships shall be awarded. . . .

The Senate recedes with an amendment changing "1988" to "1989".

79. The House bill, but not the Senate amendment, clarifies that fellowships leading to a graduate degree means fellowships leading to a masters or doctorate degree.

The Senate recedes.

80. The House bill, but not the Senate amendment, contains language which indicates that the director shall prepare, and not later than February 1 of each year, submit to Congress and the President a report on the grants and contracts made in the preceding fiscal year and the number of individuals benefiting from the programs assisted under this title.

The Senate recedes.

81. The House bill, but not the Senate amendment indicates that a report by the Secretary shall be submitted to the Congress and the President no later than February 1, 1988, 1990, 1992, and 1994.

The Senate recedes.

82. The Senate amendment, but not the House bill, indicates that the Secretary shall submit a report to Congress not later than February 1, 1992.

The House recedes.

83. The House bill, but not the Senate amendment, contains language which indicates that a plan including cost estimates should be carried out during the five-year period beginning on such date for extending programs of bilingual education, bilingual vocational and adult education programs to all such pre-school and elementary school-children of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purposes.

The Senate recedes.

84. The House bill, but not the Senate amendment, contains language which specifies that a report should be submitted on an evaluation of the activities carried out *during the preceding two fiscal years.*

The Senate recedes with an amendment to include this information in the Director's report.

85. The House bill, but not the Senate amendment, includes a provision which indicates that a report on the research activities should be carried out during the preceding two fiscal years and include the major findings of research studies.

The Senate recedes with an amendment to fold this information into the Director's report.

86. The House bill, but not the Senate amendment, includes language which indicates that for the purposes of reading and scoring applications for competitive grants authorized under Parts A and C, the Secretary shall use persons who are not employed by the Federal government and who are experienced and involved in the educational programs similar to those assisted under Parts A and C. Further, the Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for Parts A and C to pay for the applicant's reading and scoring services.

The Senate recedes.

87. The House bill, but not the Senate amendment, provides that the Secretary shall not impose restrictions on the availability of uses of funds authorized other than those set out in this title or other applicable Federal statutes and regulations.

The Senate recedes.

88. The House bill, but not the Senate amendment, repeals Title VII of the Elementary and Secondary Education Act of 1965.

The Senate recedes.

89. The House bill, but not the Senate amendment, specifies that this title shall not apply to grants and contracts entered into under the Bilingual Education Act before the effective date of this title.

The Senate recedes.

90. The Senate amendment, but not the House bill, provides a sense of the Senate that any State which requires a written authorization from parents of students wishing to enroll in bilingual programs should provide a specific opportunity on any form prepared for this purpose for the parent to express either approval or disapproval of such enrollment.

The Senate recedes.

TITLE II OTHER PROGRAMS—IMPACT AID

1. The Senate amendment, but not the House bill updates definitions to reflect the reaction of the Department of Education and the Name of the Committee on Labor and Human resources.

The House recedes with an amendment striking "1987" and inserting "1988".

2. The Senate amendment, but not the House bill, requires secretarial decisions on applications within 90 days of filing.

The House recedes.

3. Both the House bill and the Senate amendment reauthorizes the program through 1993. However, the House bill replaces "1988" with "1993" in Section 3(d)(2)(E)(ii), whereas the Senate amendment establishes new entitlement levels for "b" payments at 25% of the local contribution rate (LCR).

The House recedes.

4. The House bill authorizes a ceiling of $735 million for P.L. 81-874 for FY 1988.

The Senate amendment authorizes $821 million for FY 1989, $865 million for FY 1990, $905 million for FY 1991, $950 million for FY 1992, and $995 million for FY 1993.

The House recedes with an amendment authorizing $735 million for FY 1989, $785 million for FY 1990, $835 million for FY 1991, $885 million for 1992, and $935 million for 1993.

5. The Senate amendment, but not the House bill clarifies that when determining Section 2 payments the Secretary must apply the current levied real property tax rate to the current annually determined aggregate assessed value.

The House recedes.

6. The Senate amendment, but not the House bill, establishes entitlement levels at 100% of the Local Contribution Rate times the number of 3(a) children in that district and 25% of the Local Contribution Rate times the number of 3(b) children in that district.

The House recedes.

7. The Senate amendment, but not the House bill, specifies that to be considered an eligible district under 3(d)(2)(B), a district must be unable to provide a level of education equivalent to the state average or that of three or more comparable districts.

The House recedes.

8. (a) The Senate amendment, but not the House bill, specifies that the amount of the supplement for such districts shall be adequate to provide the district with a level of education equivalent to the greater of either the state average or that of comparable districts in the state.

The House recedes with an amendment clarifying that the choice between comparable school districts or State average must parallel the choice made under the previous paragraph.

(b) The Senate amendment, but not the House bill, further specifies that the Secretary shall insure that these special districts make a "reasonable tax effort" and that these districts' tax rates are no lower than 80% of the state average. Coterminous military districts will be determined to have met this requirement.

The House recedes with a technical amendment.

(c) The Senate amendment, but not the House bill, further requires that when determining the amounts of money such a district has available, the Secretary shall not take into consideration any cash balances from the previous year allowable under state law, or if no such law exists, ineligibility must only be established where cash balance is greater than 30%.

The House recedes.

9. (a) The Senate amendment, but not the House bill, amends Section 3(d)3(B)(ii)—Districts with unusual Geographic Factors—to require the Secretary to make payments to any LEA which qualifies under the terms of such section. Previously, the Secretary was only authorized to take such action.

The House recedes.

(b) The Senate amendment further clarifies that the supplement for such districts is meant for the portion of federally connected children in that district rather than for all children in the district.

The House recedes.

10. The Senate amendment, but not the House bill, provides that the Local Contribution Rate (LCR) for coterminous agencies shall not be less than 70% of the average per pupil expenditure in all states.

The Senate recedes with an amendment which specifies that the Local Contribution Rate (LCR) for coterminous agencies shall be the lesser of 70% of the average per pupil expenditure in all States or the amount necessary to raise that agency to its State average. This provision does not apply to any coterminous agency within a State whose equalization laws would prevent the district from receiving the additional funding provided by this measure or who would reduce their State aid in proportion to the increase in Federal dollars.

11. The Senate amendment, but not the House bill, allows for payments to be rounded to the nearest whole dollar. It further provides for the Secretary to return to the United States Treasury any funds recovered from LEAs because of overpayments or unallowable expenses that were made at least 5 years earlier. Under current law, the Secretary must continue to redistribute such funds for the appropriate award year no matter how long ago that may have been.

The House recedes.

12. (a) The Senate amendment, but not the House bill, provides for a preliminary payment based on the preceding fiscal year of 75% for "A" children.

The House recedes.

(b) The Senate amendment further specifies that all other preliminary payments for eligible LEAs be at 50% of the amount received for the preceding fiscal year.

The House recedes.

13. The Senate amendments, but not the House bill, states that when making payments, the Secretary must first pay to each

LEA serving handicapped children full entitlement for such children as well as 100% of the entitlement for Section 2 districts. Next, Section 3(d)(2)(B) districts are to receive 100% of their 3(a) and 3(b) entitlements. Of the funds remaining, 80% is to be reserved for "A" children and 20% for "B" children. Coterminous districts are then to be paid 100% of their entitlement.

The House recedes with an amendment to require that the preliminary payment for handicapped children applies only to the special supplement and not the entire entitlement

14. The Senate amendment, but not the House bill, distributes funds according to the following formulas:

	Percentage of entitlement		
	Step 1	Step 2	Step 3
Percentage of "A" children in district:			
20–100 percent (Super As)	80	20	0
15–19.9 percent (Sub-Super As)	60	15	25
0–14.9 percent (Regular As)	40	10	50

If there is not enough money available to fully fund any of the above steps, Super As are to receive 72% of available funds for that step, Sub-Super As 3%, and Regular As 25%.

	Percentage of entitlement		
	Step 1	Step 2	Step 3
Percentage of "B" children in district:			
20–100 percent (Super Bs)	20	30	50
0–19.9 percent (Regular As)	10	5	85

If there is not enough money available to fully fund any of the above steps, Super Bs are to receive 75% of available funds for that step, and regular Bs 25% of available funds.

The House recedes with an amendment clarifying that payments are to be pro rata reduced for any step that is not fully funded.

15. The Senate amendment, but not the House bill, prohibits equalization states from considering the special supplement for handicapped or Indian children, or the 3(d)(2)(B) and 3(d)(2)(C) supplements in their equalization formulas.

The House recedes with a technical amendment.

Some concerns have been raised that the conferees' action with respect to limiting the State authority to equalize the additional funds provided on behalf of Indian and handicapped students might be misinterpreted. The conferees wish to make clear that the amendment does not, in any way, make these funds categorical nor does it limit the local education agency's authority to put these funds in a general fund and expend them for basic support. This amendment relates to treatment of these funds within the context of a State aid system and does not affect the basic nature of impact aid.

16. The Senate amendment, but not the House bill, holds harmless all districts receiving 3(a) and Super B payments at their 1987 per pupil expenditure classifications. If sums are insufficient to pay this amount in full, then this amount shall be ratably reduced.

The House recedes with an amendment clarifying that the total hold harmless payment for a district shall not exceed those received in 1987.

17. The Senate amendment, but not the House bill, permits the DOD to use its Sec. 6 funds to provide additional payments to schools receiving Section 3 funds.

The House recedes.

18. The Senate amendment, but not the House bill, puts into law, current practice by updating the thresholds of eligibility for disaster assistance. Current law allows Disaster Assistance funds to be provided in cases in which damage is at least $1,000 or one-half of 1% of an agency's current operating expenses. This section would update those figures to $10,000 or 5 per centum. The amendment also provides that funds available under this section will be available for Section 16 (School Construction in Cases of Certain Disasters) of P.L. 81-815.

The House recedes.

19. The Senate amendment, but not the House bill, permits districts to receive payments for fiscal years prior to FY 1989, for any student residing in Section 8 Housing provided the District previously received payments for that student and such student.

The Senate amendment further specifies that payments made prior to FY 1989 for Section 8 housing students shall stand.

The House recedes.

20. The Senate amendment, but not the House bill, provides for a 90-day comment period prior to the publication of new regulations and specifies that these regulations may only take effect in the fiscal year following final publication. The Senate amendment also prohibits regulations from having a retroactive effect which results in the recovery of money.

The House recedes with an amendment.

The conferees intend that the provisions of this title will take effect on the effective date of this act even if the Secretary's regulations are delayed.

21. The Senate amendment, but not the House bill, includes a technical amendment to update reference to the Robert T. Stafford Elementary and Secondary Education Improvement Act of 1987.

The House recedes with a technical amendment clarifying the section reference.

22. The Senate amendment, but not the House bill, prohibits districts from having to repay monies received under Section 2(a)(1)(C) because of an incorrect determination.

The Senate recedes with the following provision from the House of Representatives:

It is the expressed intent of the conferees that the language of P.L. 100-202 contained in title III—Department of Education appropriations regarding limitations on recoupment of incorrect payments under section 2(a)(1)(C) of the Impact Aid law be interpreted to include any Impact Aid overpayments to the Valle Lindo School District of South El Monte, California which were due to computational errors made by the Department in determining the amount of that district's Section 2 entitlements.

23. The House bill, but not the Senate amendment, corrects a provision in current law where non-Indian parents who reside on nontaxable land are being forced to pay tuition and to send their children to schools where they are employed or schools that exist within the community.

The House bill provides for the payment of tuition for non-Indian students who attend these schools and live on nontaxable land.

The Senate recedes.

24. The House bill, but not the Senate amendment, authorizes a ceiling of $24 million for FY 1988 for P.L. 81-815.

The Senate amendment authorizes $25 million for FY 1989, $26 million for FY 1990, $27 million for FY 1991, $28 million for FY 1992, and $29 million for FY 1993.

The House recedes.

25. The Senate amendment, but not the House bill, updates definitions to reflect the creation of the Department of Education.

The House recedes.

26. The Senate amendment, but not the House bill, permits the Secretary to use funds to maintain and repair facilities whenever the Secretary holds title to school facilities that continue to be used by the Federal Government, or by another Federal entity by permit from the Federal Government, for the provision of free public education.

The Senate recedes.

27. The House bill, but not the Senate amendment, requires that secretarial decisions be made regarding applications within 90 days of filing such application.

The House recedes.

28. The Senate amendment, but not the House bill, puts into law two provisions which are current practice. First, it restricts use of disaster funds under this Act to those areas declared by the President to be national disaster areas. Second, it limits these funds to cases in which damage is at least $10,000 or 5 per centum of an agency's current operating expenses.

The House recedes.

29. The Senate amendment, but not the House bill, authorizes the Comptroller General to study the effectiveness of the system used to award funds under P.L. 81-815.

The House recedes.

30. The House bill, but not the Senate amendment, extends the section on "Definitions" in regard to the "base year" by striking 1988-1989.

The Senate recedes.

TITLE II—ADULT AND VOCATIONAL EDUCATION

1. *Adult/Vocational Education.* The House bill, but not the Senate amendment, rewrites the purpose of the Adult Education Act to clarify that adults to be served are those who lack sufficient literacy skills requisite to effective citizenship and productive employment. In addition, the House bill, but not the Senate amendment, adds a definition of an "educationally disadvantaged adult".

The Senate recedes.

2. a. The House bill, but not the Senate amendment, expands the definition of an adult who is eligible to receive services.

The Senate recedes.

b. The House bill amends the definition of adult education to include individuals who lack mastery of basic skills or who have not graduated from secondary school.

The Senate recedes.

c. The Senate amendment amends the definition of adult education to include individuals who are not enrolled in secondary school.

The House recedes.

3. The House bill, but not the Senate amendment, changes the definition of an "institution of higher education" to be defined the same as the definition for "institution of higher education" in section 120(a) of the Higher Education Act of 1965.

The House recedes.

4. The House bill reauthorizes the Adult Education Act at $200 million for FY 1988

and such sums as may be necessary for each fiscal year 1989 through 1993, whereas the Senate amendment provides for a reauthorization of $200 million for FY 1989, $210 million for FY 1990, $225 million for FY 1991, $235 million for FY 1992, and $245 million for FY 1993.

The Senate recedes with an amendment authorizing $200 million for FY 1989 and such sums through 1993.

5. The House bill, but not the Senate amendment, amends the formula for distribution by limiting allotments to the Outlying Areas to $100,000 each, and distributing the remainder of the funds among the States, including the District of Columbia and Puerto Rico which receives $250,000.

The Senate recedes.

6. The House bill, but not the Senate amendment, amends the current formula to distribute funds among the States according to the number of adults who are not currently enrolled or are not required to be enrolled in school.

The House recedes.

7. The House bill, but not the Senate amendment, amends the current formula to hold States harmless to the amounts the State received for fiscal year 1987.

The House recedes.

8. The House bill lowers the trigger for national programs from $112 million to $108 million, and reduces the setaside from 5 percent to 3 percent. The Senate amendment authorizes $2 million in each fiscal year for national programs.

The Senate recedes with an amendment requiring that the reservation for national programs cannot exceed $3 million in any one fiscal year.

9. The House bill, but not the Senate amendment, amends current law to require that for-profit entities are eligible to participate only as a member of a consortium, provided that they could make a significant contribution to adult education activities. In addition, the House bill, but not the Senate amendment, adds additional information requirements for the local applications, and gives priority among local applications to programs that serve educationally disadvantaged adults.

The Senate recedes with an amendment that the preference in funding for those local applications for programs that serve educationally disadvantaged adults only applies to funding in excess of the fiscal 1988 appropriations.

10. The Senate amendment, but not the House bill, amends the current setaside for the institutionalized by requiring that not less than 10 percent of each State grant must be used for corrections education and education for institutionalized individuals. In addition, the Senate amendment, but not the House bill, defines the programs, eligible population and services that may be provided as part of corrections education.

The House recedes.

11. The Senate bill authorizes an additional program for workplace literacy partnership grants with a $50 million trigger, at an authorization level of $30 million for FY 1988, $31.5 million for FY 1989, and such sums as may be necessary for fiscal years, 1990 through 1993.

The House recedes.

12. The House bill permits States to use up to 10% of their State grant for literacy programs for current employees.

The House recedes with an amendment to make mandatory that once appropriations for workplace literacy reach $50 million, the Federal share of the cost of workplace literacy programs which teach literacy skills needed in the workplace would be provided to States.

13. The House bill, but not the Senate amendment, places a cap of 5% on local administrative costs.

The Senate recedes.

14. The House bill, but not the Senate amendment, reorganizes the responsibilities of the State in administering the Adult Education program.

The Senate recedes.

15. The House bill, but not the Senate amendment, adds language to require the State to identify any State rule or policy regarding administration of an Adult Education program as a State-imposed requirement.

The Senate recedes.

16. The House bill places a $50,000 or 5% cap on State administrative costs effective at the date of enactment.

The Senate amendment places a cap of the same amount/percent after September 30, 1990.

The House recedes.

17. The House bill, but not the Senate amendment, requires the State to have a State Advisory Council with membership representative of specific types of persons and outlines certification procedures, terms of appointment and duties.

The Senate recedes with an amendment making the creation of the State advisory council permissive and fiscally supported out of State administrative funds.

18. The House bill, but not the State amendment, amends current law to require the State to submit an application and a State plan every four years, expands the information which shall be included in the State plan and mandates the process by which the State plan shall be developed.

The Senate recedes with an amendment changing "1988" to "1989".

19. The Senate amendment, but not the House bill, clarifies State plan requirements regarding adult education programs for persons with limited English proficiency, and specifically permits such programs to be conducted in the native language if necessary.

The House recedes.

20. The House bill, but not the Senate amendment, provides procedures for amending State plans.

The Senate recedes.

21. The Senate amendment, but not the House bill, provides procedures for amending State plans approved between July 1, 1985, and June 30, 1988.

The House recedes.

22. The House bill, but not the Senate amendment, requires each State to evaluate the program of its local grant recipients, and outlines procedures for evaluations.

The Senate recedes with an amendment:

(a) to require an annual submission of data from local applicants;

(b) to require the evaluation of one-third of the applicants within the four years of the State plan;

(c) these evaluations should consider certain factors listed in the House provisions.

23. The House bill, but not the Senate amendment, amends current law to specify application information for experimental projects and teacher training.

The Senate recedes.

24. The House bill amends current law to permit 90% in FY 1988, 87% in FY 1989, 83% in FY 1990, and 80% in FY 1991 through FY 1993 for the Federal share of expenditures to carry out a State plan.

The Senate amendment reduces the Federal share to 75% for each fiscal year beginning in 1989.

The House recedes with an amendment on Federal matching: 90% in 1989, 85% in 1990, 80% in 1991, and 75% in 1992.

25. The House bill amends current law to add an additional requirement that Federal funds must supplement non-Federal funds, and cannot be used to supplant State and local funds, whereas the Senate bill amends the maintenance of effort provisions to require that states maintain not less than 90% of current fiscal effort per student.

The Senate recedes with an amendment measuring maintenance of effort in the second preceding fiscal year. The Senate also recedes in terms of requiring a 100 percent maintenance of effort.

26. The House bill, but not the Senate amendment, requires the Secretary to make grants out of funds for national programs to support activities which meet the special needs of migrant farmworkers and immigrants.

The Senate recedes with an amendment to include migrant programs as the first priority in funding.

27. The House bill, but not the Senate amendment, requires the Secretary, out of funds available for national programs, to assist states in evaluating adult education programs.

The Senate recedes with an amendment making a technical change and making evaluation and research a third priority in funding.

28. The House bill, but not the Senate amendment, requires the Secretary, out of funds available for national programs, to determine the criteria for defining illiteracy within 2 years, to report on the status of adult illiteracy every 4 years, and submit a report every 3 years on results of program evaluations.

The Senate recedes.

29. The House bill, but not the Senate amendment, requires the Secretary to make grants for adult literacy volunteer training programs.

The Senate recedes with an amendment making a technical change and making programs for adult volunteers a second priority in funding.

30. The House bill, but not the Senate amendment, requires the Secretary to conduct a study of Federal funding sources for and services for adult education programs, including literacy services, in conjunction with the Departments of Labor and HHS.

The House recedes with an amendment to include the joint study of Federal adult education services in the studies section (Title VI, Part C).

31. The House bill, but not the Senate amendment, requires the Secretary to establish a national clearinghouse of literacy services for adults, and to carry out research programs on the special needs of individuals in need of adult education, including those with learning disabilities.

The Senate recedes with an amendment requiring the national clearinghouse to be funded by the Office of Educational Research and Improvement (OERI).

32. The House bill, but not the Senate amendments, amends the authorization for adult education for Indians to $8 million for FY 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993.

The House recedes.

33. The House bill extends the National Advisory Council on Adult Education; the Senate amendment abolishes the Council.

The House recedes.

34. The Senate amendment, but not the House bill, deletes language in the state plan with respect to bilingual education to conform with the reauthorization of bilingual education under Title VII of this Act.

The House recedes.

35. The Senate amendment, but not the House bill, authorizes an additional program to provide English Literacy Program Grants to provide literacy instruction for limited English proficient adults. The authorization is $25 million for fiscal year 1988, $26.3 million for FY 1989, $27.6 million for FY 1990, $29 million for FY 1991, $30.5 million for FY 1992, and $32 million for FY 1993.

The House recedes with an amendment permitting 5% of the grant to be used for state administration, technical assistance, and training.

36. a. The Senate amendment, but not the House bill, amends the distribution formula in the Stewart B. McKinney Homeless Assistance Act to require states to estimate the number and the percent of homeless adults.

b. The Senate amendment further permits the Secretary to make discretionary grants to states for literacy instruction for the homeless.

36. (a) The House recedes.

(b) The House recedes.

37. The Senate amendment, but not the House bill, amends the Carl D. Perkins Vocational Education Act to clarify that single pregnant women including teenagers are eligible for services under the displaced homemaker setaside.

The House recedes with an amendment clarifying that single pregnant women are eligible for participation in vocational education programs.

38. The Senate amendment, but not the House bill, directs the Secretary to cease action regarding the grant procurement process for the National Center for Research in Vocational Education until the GAO has completed a review of this procedure.

The House recedes with an amendment authorizing $2 million for the Ohio State University and $2 million for the University of California at Berkeley to support ongoing activities through December 31, 1988, and providing that such amount shall be deducted from the total award made for a National Center for the 1988 grant award year. This provision is to take effect immediately upon enactment.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

1. The Senate amendment, but not the House bill, amends and expands the scope of the National Assessment for Educational Progress to: report every two years on reading and mathematics, every four years on writing and science, and every six years on history, geography, and civics. In addition, the Senate amendment expands NAEP to provide reports on a national, regional and state basis, and enables the States to participate in the NAEP assessment on a voluntary basis. The authorization is $12.5 million for FY 1989, $18.54 for FY 1990, $17.9 for FY 1991, and $19.6 for each of fiscal years 1992 and 1993.

The House recedes with an amendment limiting the expansion of the National Assessment of Educational Progress (NAEP), both in terms of subject areas and State representative sampling; placing the NAEP in the National Center for Educational Statistics, reporting to the Commissioner of Educational Statistics; requiring a comprehensive study by an independent group of the 1990 and 1992 State representative demonstration assessments; and strengthening the independence of the National Assessment Governing Board.

The Commissioner is authorized to carry out the National Assessment by grants, contracts, or cooperative agreements with qualified organizations or consortia thereof. By this language, the conferees intend that the Commissioner, with the advice of the National Assessment Governing Board, may have either a single grant, contract, or cooperative agreement or any combination of grants, contracts or cooperative agreements.

The expanded National Assessment shall assess the performance of students in reading, mathematics, science, writing, history/geography and other areas selected by the Board. The conferees strongly urge that other areas considered by the Board will include civics and economics.

The expansion of the National Assessment to collect state representative data, on a voluntary basis, is an outgrowth of current NAEP practice which lets states obtain such data if they pay the costs of collecting it. The provisions in the Hawkins-Stafford Education Amendments will build on this practice to determine whether an expanded collection of state representative NAEP data is feasible and desirable. The collection of such information will allow participating states to compare themselves to each other and to national NAEP averages. In addition, the data will let state officials monitor their state's progress on NAEP assessments over time.

The conferees wish to emphasize that the purpose of the expansion of NAEP is to provide policy makers with more and better state level information about the educational performance of their school children so that participating states might better measure the educational performance of their children. The goal is not to provide a scorecard by which to rank state educational systems. Data from this assessment is not to be used to compare, rank or evaluate local schools or school districts.

The independent evaluation of the state representative data demonstrations is an important part of the changes authorized here.

If results are adjusted to take contextual factors into account, the effects of alternative adjustments should be tested. If unadjusted results are presented for groups of States classified in terms of contextual factors, alternative classifications should be assessed.

The evaluation should also explore the extent to which results are affected by decisions about the test itself. For example, how are the rankings of States altered if the weight given to various skills is changed and what skills should be given priority? Are the rankings of some States affected by the number of high-achieving students whose scores are constrained by ceiling effects?

If possible, the evaluation should also assess the extent to which results are shaped by differences in the closeness of the match between the content of the test and the curricula of the States.

The conferees intend the independent evaluation of State representative State demonstration assessments will, at a minimum, assess the extent to which differences among States in scores are meaningful and reliable, how well the States participating in the State representative sample do, in fact, constitute a representative sample of the States adequate to assess opportunities and risks in a nation-wide NAEP with state-by-state comparisions. To do so, the evaluation must assess the extent to which results are affected by a variety of extraneous factors. This shall include consideration of the representativeness of participating States in terms of regional representation, ethnic and racial composition, per capita income, curricula, and other variables that influence aggregate indicators of educational achievement, such as which students are excluded from testing (for example, handicapped students or students with limited proficiency in English).

If results are adjusted to take contextual factors into account, the effects of alternative adjustments should be tested. If unadjusted results are presented for groups of States classified in terms of contextual factors, alternative classifications should be assessed.

The report shall also assess National Assessment presentations including their effectiveness in providing educators, policy makers, and the general public with useable information and in providing readily understandable information to interpret the strengths and weaknesses of National Assessment findings. The evaluator shall analyze whether National Assessment presentations adequately present data in the context of factors which affect educational achievement including per capita income, per pupil expenditures, ethnic and racial composition and level of urbanization.

The NAEP contractor shall provide the evaluator, in a timely fashion, with the data needed for carrying out the evaluation. For example, data on the characteristics of non-participation will also be provided to the evaluator. The contractor shall also provide the evaluator with information on secure test items needed for analysis. The evaluator, however, will not release secure items to the public, in print or on tape.

(a) The Senate amendment, but not the Hosue bill, changes the name, the membership, and the responsibilities of the current Assessment Policy Committee.

The House recedes with an amendment changing the membership of the National Assessment Governing Board to be more representative of professional educators and testing experts.

Each State choosing to participate in assessments made on a State basis shall cover the cost of coordinating such assessments within the State, in addition to the cost of administering assessments at the school level. Such coordination will include technical assistance to local schools selected for the State sample, securing cooperation of schools, and scheduling tests at times convenient for sample schools, as well as monitoring the sample selection following the design and standards established for State tests.

FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

2. The Senate amendment, but not the House bill, authorizes a new Fund for the Improvement and Reform of Schools and Teaching. This authorization gives the Secretary authority to make grants to SEAs, LEAs, IHEs, and nonprofit organizations to improve the performance of students and teachers. Grants may not be less than $5,000 nor more than $125,000. The Senate amendment further mandates the establishment of a Board to set priorities for awarding grants and to review and evaluate these grants. The authorization is $18 million for

FY 1989, $18.9 million for FY 1990, $19.9 million for FY 1991, $21 million for FY 1992, and $22 million for FY 1993.

The House recedes with an amendment to include Pride in Schools as an activity authorized under this part and to add Family-School Partnerships under this part with one-third of the total authorization for this part reserved for this function.

OPTIONAL TESTS FOR ACADEMIC EXCELLENCE

3. The Senate amendment, but not the House bill, reserves $2 million out of funds made available for the National Assessment of Educational Progress in each fiscal year for the Optional Test for Academic Excellence. The Senate amendment authorizes the Secretary to approve or prepare comprehensive tests of academic excellence to identify outstanding students in the 11th grade. Such tests shall be voluntary.

The House recedes with an amendment authorizing this activity under the Secretary's fund for innovation and removing the reservation of $2 million from the National Assessment of Educational Progress for such purpose.

COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

1. The Senate amendment, but not the House bill, amends the Head Start Act to add an additional authorization for Comprehensive Child Development Centers. The Secretary of the Department of Health and Human Services is authorized to make grants to eligible agencies to support projects which encourage comprehensive services for infants and young children from low-income families. The authorization is $25 million for each of the fiscal years 1989 through 1993.

The House recedes with an amendment which makes technical changes, strengthens the evaluation provision, and requires for two years a 4% increase in appropriations for Head Start over the previous year's appropriations before this new program can be funded.

The underlying premise of this section is to demonstrate that educational failure of extremely poor children can be prevented by providing intensive supportive services to the children and their families on an early, continuous and comprehensive basis.

Therefore, it is the intent of the conferees that projects funded in the first year be given priority for funding in subsequent years with an expected project life being five years.

SPECIAL GRANT FOR EDUCATION AND TRAINING FOR INDIVIDUALS WITH DISABILITIES

1. The Senate amendment, but not the House bill, authorizes a $4 million grant for fiscal year 1988 to the State of Utah for the education and training of the disabled.

The House recedes with an amendment broadening and clarifying the purpose of the grant and removing a specific reference to the State of Utah.

TITLE III—AUDIT, NATIONAL CENTER, AND OTHER PROGRAMS

ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT

1. The House bill, but not the Senate amendment, contains changes to the enforcement section of the General Education Provisions Act.

The Senate recedes.

2. The House bill creates an Office of Administrative Law Judges (ALJs) and would formalize along the lines of the Administrative Procedures Act the procedures to be used in the conduct of hearings. Judges shall be chosen pursuant to the Administrative Procedure Act with special emphasis placed on the candidates' experience in State and local educational agencies and federal education laws.

The Senate recedes with a clarifying amendment.

3. The House bill provides that the Equal Access to Justice Act shall apply to the fees and costs of the parties.

The Senate recedes.

The conferees intend that the provisions of the Equal Access to Justice Act regarding the awarding of attorney fees only to all Department proceedings, not just those before the Office of Administrative Law Judges.

4. The House bill allows the judge to order a party to produce information leading to admissible evidence through the use of deposition, interrogatories, and documents.

The Senate recedes with an amendment stipulating that the period for discovery should be 90 days, unless the judge extends the period.

5. The House bill grants judges the power to issue subpoenas.

The Senate recedes.

6. The House bill requires the Secretary to establish a process for voluntary mediation of disputes.

The Senate recedes with an amendment giving the Secretary in a mediated dispute the right to use the same criteria used by an administrative law judge to determine measure of recovery, e.g., proportionate harm to an identifiable Federal interest; consideration of mitigating circumstances; and the possibility of total "forgiveness" based on such factors.

Furthermore, the amendment adds a provision referencing Rule 408 of the Federal Rules of Evidence to be used during the proceedings. The provision bars as inadmissible offers, conduct, and statements made in compromise negotiations in the settlement or potential settlement of disputes. Finally, the amendment requires that, when mediation takes place before the Office of Administrative Law Judges, it be limited to 120 days, with extensions being granted at the mediator's discretion.

7. The House bill requires that the Department's preliminary departmental decision (PDD) establishes a prima facie case. Failure by the recipient to maintain adequate records constitutes a prima facie case. The recipient has 30 days from receipt of written notice of the PDD to file a review with the Office of Administrative Law Judges. State recipients in State-administered programs would be required to transmit a copy of the PDD to any affected subrecipient within 10 days and to consult with these subrecipients regarding the application for ALJ review. The burden of proof in proceedings before the ALJs would continue to be on the recipient. The Secretary would review the facts found by the judges on the basis of the substantial evidence test. The Department would be barred from taking a collection action pending the completion of judicial review.

The Senate recedes with an amendment placing a 90-day limit on the period between the preliminary departmental decision and a hearing (when requested), with the possibility of an extension by the ALJ for "good cause" and requiring appeals from the Office of the Administrative Law Judges be filed with the Secretary within 30 days of notice of the judge's decision.

The confereees intend that the judge shall readily grant an extension for good cause including granting extensions to facilitate mediation and as justice would warrant.

Finally, the amendment requires the Office of Administrative Law Judges to determine as "expeditiously as possible" whether to accept a case for review as meeting a prima facie case; requires that discovery be limited to 90 days, but that the judge may extend the discovery period at the judge's discretion; and requires that a petition for review of the decision of the Office of Administrative Law Judges be filed with the Secretary within 30 days of notice of the decision by the judge.

8. The House bill requires that a decision of the ALJs becomes final agency action, and ripe for judicial review under section 458 of the Act, sixty days after the recipient receives written notice of the ALJ's decision, unless the Secretary either modifies or sets aside the decision (in which case the decision becomes the final agency action when the recipient receives written notice of the Secretary's action), or remands it to the ALJs for further consideration. The Secretary would be required to publish final agency decisions in the Federal Register or another appropriate publication.

The Senate recedes.

9. The House bill raises from $50,000 to $200,000 the limit on the Secretary's authority to compromise a claim.

The Senate recedes with an amendment that no interest arising from a claim shall be charged during the administrative review of the preliminary departmental decision.

10. The House bill requires that the Department recover funds in an amount that is proportionate to the extent of the harm a violation caused to an identifiable Federal interest. This section would identify a number of such Federal interests. In addition, this section would identify certain mitigating cricumstances which, if present, would bar the recovery of funds. These mitigating circumstances exist (1) if the violation occurred as a result of reasonable reliance on incorrect Department guidance, (2) if the violation occurred as a result of the Department's failure to reply within 90 days to a written SEA or LEA guidance request certified as lawful by the chief legal officer of the SEA, or (3) if the recipient actually and reasonably relied on a judicial decree issued to the receipient. In addition, the Secretary would be required to disseminate responses to SEA guidance requests and periodically review written requests for guidance to determine the need for new or supplementary regulations.

The Senate recedes with an amendment making mitigating circumstances a factor to be considered by the ALJ in determining the measure of recovery rather than a complete bar to recovery, but allowing the ALJ to determine that no Federal recovery is justified because of the presence of mitigating circumstances; with an amendment requiring that in order for the 90 day response time to apply, the requesting entity must send the written request by certified letter, return confirmation of receipt requested; with a clarifying amendment stating that proportionality of harm and mitigating circumstances shall be the standard for determining the amount of recovery by all levels of review within the Department, not just the Office of Administrative Law Judges and the Office of the Secretary; and with a technical amendment.

"Written guidance" is intended to mean written guidance issued at the Office of Director level or above, addressing a specific request from a local or State educational agency regarding a policy, interpretation, or question pursuant to a Federal law, implementing regulations, or non-binding guidance issued by the Secretary. It is not intended to encompass telephone conversations, informal discussions at conferences, informational handouts provided at meetings with Department of Education staff, or written communication below the Office of Director level, unless such communication meets the requirements of section 453 (b)(2)(B).

11. The House bill provides that whenever the Secretary has reason to believe that a recipient of a grant or cooperative agreement is failing to comply substantially with any applicable requirement of law, the Secretary has the option to withhold further payments under that program, seek a cease and desist order, enter into a compliance agreement, to take any other action authorized by law.

The Senate recedes.

12. The House bill authorizes the Secretary to withhold funds from a recipient that is failing to comply substantially with an applicable requirement of law, and also establishes the procedures, including an opportunity for a hearing before the Office of Administrative Law Judges, the Secretary must follow to withhold funds. The proposed section is substantially similar to current law.

The Senate recedes.

13. The House bill authorizes the Secretary to issue a complaint against a recipient that is failing to comply substantially with an applicable requirement of law, and also establishes the procedures, including an opportunity for a hearing before the Administrative Law Judges, the Secretary must follow to withhold funds. The proposed section 455 is substantially similar to the current section 453 of the Act.

The Senate recedes.

14. The House bill allows the Secretary to suspend a withholding action pursuant to a compliance agreement entered into by the State or local educational agency with the Federal government. The compliance agreement is in effect for a specified period unless the State or local fails to comply with the agreement.

The Senate recedes.

15. The House bill provides for judicial review in the appropriate United States Court of Appeals of final agency action regarding recoveries under section 452, withholding under proposed section 455, and cease and desist orders under section 456. The proposed section 458 is substantially similar to the current section 455 of the Act.

The Senate recedes.

16. The House bill authorizes the Secretary, whenever the Department recovers funds from a recipient because of a misuse of funds, to return up to 75 percent of the recovered funds to the recipient. The proposed section 459 is substantially similar to the current section 456 of the Act.

The Senate recedes.

17. The House bill defines the terms "recipient" and "applicable program."

The Senate recedes with a technical amendment.

18. The House bill makes these amendments effective 180 days after enactment.

The Senate recedes.

SINGLE STATE APPLICATION

19. *Single State Application; Family Impact.*

The House bill, but not the Senate amendment, adds to section 435 of the General Education Provisions Act a requirement that the SEA consider the impact on the family of programs contained in the single State application.

The House recedes.

NATIONAL CENTER FOR EDUCATION STATISTICS

20. The House bill, but not the Senate amendment, amends Section 406 of the General Education Provisions Act in several significant respects making technical changes and reauthorizing the National Center for Educational Statistics.

The Senate recedes.

21. The House bill requires that the National Center for Education Statistics be headed by a Commissioner appointed by the President, by and with the advice and consent of the Senate.

The Senate recedes with an amendment stating that the director of the Center for Education Statistics on the effective date of this Act may be the Acting Commissioner until June 21, 1991.

The conferees intend that the director for the Center shall be the Acting Commissioner until June 21, 1991, unless removed for cause.

The Senate also recedes with an amendment establishing an Associate Commissioner for Date Collection and Dissemination. The conferees intend that the Associate Commissioners will be members of the Senior Executive Service (SES) and will be selected for their expertise in the relevant areas

The conferees are especially concerned that the Associate Commissioner for Data Collection and Dissemination be an individual knowledgeable about all levels of American Education and be able to link educators at the state, local and institutional level, the professional associations and groups representing these individuals, and the National Center for Education Statistics (NCES). The conferees also intend that this associate commissioner will take steps to increase and improve U.S. participation in international educational research and statistical activities.

The conferees have highlighted a $9,500,000 separate authorization for the National Assessment for Educational Progress (NAEP) for fiscal year 1989 and a $2,000,000 authorization for the State co-operative program for fiscal year 1989. The conferees intend that for the subsequent years, any increases in NAEP funding will not be at the expense of other programs and services within the Center's purview.

22. The House bill appoints the Commissioner of Education Statistics rather than the Assistant Secretary of Education as non-voting president of the Advisory Council on Education Statistics.

The Senate recedes.

23. The House bill empowers the Commissioners of Education Statistics to enter into contracts or other financial arrangements to carry out activities authorized under Section 406.

The Senate recedes.

24. The House bill requires that the Center conduct an annual national survey of dropout and retention rates as an education indicator and report such information annually to Congress.

The Senate recedes.

25. The House bill requires a national study of financial aid pursuant to the Higher Education Act; a decennial analysis of the social and economic status of children in local school districts; and a national longitudinal study of elementary and secondary students' educational progress, intellectual development and economic prosperity.

The Senate recedes with an amendment ensuring postsecondary participation in the study; keying the study into the longitudinal study already underway; and adding a provision for the voluntary collection of public library data.

26. The House bill requires that date gathered for such studies shall be confidential and shall not be individually identifiable as used in reports required by this section.

The Senate recedes.

27. The House bill establishes a National Education Statistics System for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform educational information and data useful for policy-making at Federal, State, and local levels.

The Senate recedes.

28. *School Improvement Act of 1987 Data.* The House bill, but not the Senate amendment, provides that the study shall include data on the performance of Chapter 1-served students.

The Senate recedes.

FAMILY SCHOOL PARTNERSHIP

1. The Senate amendment, but not the House bill, authorizes a new Secretary's discretionary grant program, entitled the Family-School Partnership Act, to provide grants to LEAs for innovative family-school partnership activities. The authorization is $10 million for FY 1989, $10.5 million for FY 1990, $11 million for FY 1991, $12.5 million for FY 1992, and $14 million for FY 1993.

The House recedes with an amendment to incorporate this program into the Fund for the Improvement and Reform of Schools and Teaching which is authorized at $30 million for fiscal year 1989 and at such sums through 1993. The Family School Partnership Program is to receive one-third of the $30 million authorization level for fiscal year 1989 and one-third of such sums through 1993.

PARENTAL CHOICE

1. The Senate amendment, but not the House bill, authorizes a new Secretary's discretionary grant program, entitled the Parental Choice Open Enrollment Demonstration Program in Public Schools, to provide demonstration grants to LEAs to develop and implement an open enrollment program among public schools in the district. The authorization is $15 million for FY 1989, $16 million for FY 1990, $17 million for FY 1991, $18 million for FY 1992, and $19 million for FY 1993.

The Senate recedes.

RURAL EDUCATIONAL OPPORTUNITIES

1. The Senate amendment, but not the House bill, authorizes a new Secretary's grant program, entitled the Rural Educational Opportunities Program, to establish and operate 10 regional rural educational assistance centers. The authorization is $10 million for FY 1989, $10.5 for FY 1990, $11 million for FY 1991, $12 million for FY 1992, and $13 million for FY 1993.

The House recedes with an amendment authorizing a minimum of 10 rural education programs to be established by grant or contract to institutions of higher education, private non-profit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1437(d), public agencies, State education agencies, or combinations of such agencies or institutions with a charge to pay particular attention to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs.

The agreement will allow for combined applications including one or more eligible entities, thus allowing for the participation of consortia of institutions of higher education and other combinations of agencies and organizations.

SECRETARY'S FUND FOR INNOVATION IN EDUCATION

1. The Senate amendment, but not the House bill, establishes the Secretary's Fund for Innovation in Education. The authorization for this fund is $20 million for FY 1989, $21 million for FY 1990, $22 million for FY 1991, $23 million for FY 1992, and $25 million for FY 1993. This Fund gives the Secretary authority to provide grants to LEAs, SEAs, IHES and other public agencies and private nonprofit organizations under six new programs established under this Fund.

(a) *Materials for Use in Educational Television and Radio Programs.*—Grants for the development and operation of educational television and radio materials, and teacher and other school personnel training in the use of such programming.

The House recedes with an amendment to consolidate two provisions into a single program called Technology Education and to add an additional section for the optional test for academic excellence, and to remove the reservation of $2 million for optional tests; and move part (B), Alternative Curriculum Schools of Title III of "Title I" to this part.

Alternative Curriculum Schools would strengthen the quality of education offered throughout the local school district as a means of providing improving achievement and attracting majority school children to the public schools. The new program would have an authorization of $35 million, but no funding for this new program would be provided until the Magnet Schools program appropriation reaches $165 million in any fiscal year. The Alternative Curriculum Schools Program would: (1) require that only high school districts with minority enrollments of 65% or higher are eligible to apply; (2) require that any participating school receiving assistance must have a minority enrollment of at least 50% (3) require the school district or consortia of local school districts to demonstrate in its application the extent to which the federal funds will contribute to reducing racial isolation and achieving desegregation within the local educational agency or consortia thereof; (4) include statutory language indicating that the award of these funds may not be used as evidence in any litigation or administrative proceeding questioning whether or not the school district(s) is desegregated.

As illustrated by the requirement that the application indicate how establishment of an Alternative Curriculum School will promote integration throughout the district, the conferees intend that the minority composition of the other public schools in the local educational agency where the alternative curriculum school is established shall not increase as a result of the establishment of the "alternative curriculum school."

(b) *Programs for Computer-Based Instruction.*—Grants for the acquisition and leasing of computer software and hardware as well as teacher training programs in computer education.

The House recedes with an amendment of $20 million for FY 1989 and such sums.

(c) *Programs for the Improvement of Comprehensive School Health Education.*—The House bill enables the Secretary to establish an Office of Comprehensive School Health. The Senate amendment authorizes the Secretary to fund projects which improve elementary and secondary school health education, and requires that the Secretary fund these projects through an Office of Comprehensive School Health Education established within the Department of Education.

(d) *Telecommunication and Video Instruction Program.*—Grants for programs which use telecommunications and video resources for school instruction.

The House recedes with the amendment described in (a).

(e) *Youth Suicide Prevention Programs.*—The Secretary is authorized to make grants to LEAs and private nonprofit organizations to establish and operate youth suicide prevention programs.

The Senate recedes.

(f) *Pride in Schools.*—The Secretary is authorized to make grants to schools to establish and operate programs which involve students in the care of and responsibility for the school.

The House recedes with an amendment moving Pride in Schools to FIRST as a permissible use of funds.

TITLE V

INDIAN EDUCATION

1. The House bill, but not the Senate amendment, specifically recognizes and authorizes all B.I.A. funded schools in existence or planned as of Jan. 1, 1987.

The House recedes.

2. The House bill prohibits any designated action at any Bureau funded school, except upon formal request of the tribal council of a single tribe school or the tribal councils representing an aggregate of 90% or more of the students in a multi-tribal school.

The Senate amendment prohibits the transfer of the operation or facilities of any Bureau funded school (or school program) which is operated on April 1, 1987, unless approved by the tribal governing body. This is defined as the tribal governing body or bodies representing at least 90% of the students.

The House recedes with an amendment which incorporates the other negative actions in the list of actions prohibited by the Senate language.

3. The Senate amendment, but not the House bill, says that if the Secretary makes a request to Congress for legislation to override the requirement for tribal approval, the Secretary must comply with the study and notice requirement in the statute before making such request.

The Senate recedes. The Conferees have determined that the language in the current statute, coupled with the amendment, makes clear that the Secretary may take no unilateral action, and that any recommendation to Congress for subsequent legislation permitting a prohibited action would need to be accompanied with the proper study.

4. The Senate amendment, but not the House bill, states that no action may be taken to close, consolidate, or substantially curtail a Bureau funded boarding school for failure to meet the dormitory criteria in any fiscal year for which the Secretary has not submitted the Bureau wide facilities report and recommendations, as required by current law. (Note—see note 10 on House provision)

The Senate recedes. See note 10.

5. Technical Difference.

The House recedes.

6. The House bill allows the Secretary to close, consolidate or substantially curtail a program in a school when required by facilities conditions which constitute an immediate hazard to health and safety without regard to the statutory study and consultation provisions. However, no action could be taken until a reasonable period had been allowed for the conduct of a health and safety inspection by an outside entity. The entity would either be one chosen by the tribe(s) involved or, if notice of the inspection is provided to the tribe when the request is made, by the Secretary. No action could be taken if no threat was found by the outside inspector. The section is a limitation on the current statutory provision.

The Senate amendment states that when the Secretary decides to close, consolidate or substantially curtail a school or program (as authorized by current law) and the closure is to be, in the Secretary's estimate, for longer than 1 year, the Secretary must send to Congress, no less than 6 months after the action taken, a report on the reasons for the action and the remedial actions taken or planned.

The House recedes with an amendment that stipulates that only health and safety officers shall make these determinations, according to current guidelines which shall be in effect until regulations are developed. Regulations should be developed by June 30, 1989, provided that if they are not published by this time, closures, consolidations or curtailments would have to be followed by outside evaluations, conducted pursuant to the House bill.

7. The Senate amendment, but not the House bill, changes the term "Indian controlled contract schools" to "contract schools"—no substantive effect, but see Title II, Part B.

The House recedes.

8. The House bill directs the Assistant Secretary to develop regulations for new schools and program expansions in Bureau operated schools and schools contracted under P.L. 93-638, the Indian Self-Determination Act (Note—see note 65—this provision would not apply to schools with the grants proposed). The Secretary, through regulations, could not base a decision primarily on geographical proximity to public education, and would have to give equal weight to a number of factors.

The Senate bill is, with a few technical differences, similar to the House bill, except for five provisions—the Senate directs the Secretary to prescribe the regulations; the regulations on expansions would apply to all Bureau funded schools (including those which use the proposed grants authority); this provision is made applicable specifically to program expansions which increase the amount of Bureau money received; the factors to be considered are not required to be given equal weight; and the success or failure of the applicants (not just the Bureau program) is to be considered.

The House recedes with an amendment stating that all expansions or new school starts would be evaluated and approved under the same set of regulations, and setting out the factors to be included in those regulations and the standards and policies to be applied. With respect to the factor relating to the geographic and demographic circumstances of the programs being considered, the Conferees especially direct the Bureau to interpret this provision so as to fulfill its trust responsibility to its Indian student constituents. An example of a geographic circumstance warranting special consideration are climatic conditions or terrain which render a group of students' places of residence inaccessible for periods of the year.

Failure of current education programs to make adequate provision for this would merit special Bureau review and consideration of the necessity to provide an educational alternative close to home. Similarly, past Bureau attempts to define geographic proximity of public or alternative education in terms of time traveled or distance traveled are specifically rejected by the Conferees. Any consideration of the geographic proximity must take into account the age of the children, and distances and times as measured at all times of the year and in all types of weather.

Finally, the Conferees wish to explain that submission by the applicant of information on the factors to be considered relative to the program for which the application is filed shall constitute a sufficient application. These are the factors which are within the control or cognizance of the applicant. It would be patently unfair to rule an application as insufficient due to an omission of information which may be unattainable by the applicant. The Bureau shall be chiefly responsible for obtaining the relevant information concerning existing programs, though the Conferees intend that the applicant and all parties having knowledge pertinent to the application will cooperate with the Secretary in this regard. Failure to do so would certainly be a factor in the Secretary's deliberations.

9. The Senate amendment, but not the House bill, stipulates the date for implementation of the expansions.

The House recedes.

10. The House bill, but not the Senate amendment, stipulates that no negative action may be taken against a school in existence on January 1, 1987, for failure to meet the dormitory criteria, and that before February 1, 1988, the Secretary should provide the required report to Congress on compliance (similar to Senate provision—see note #4).

The Senate recedes with an amendment that changes the date.

11. The House bill incorporates most of the current regulations dealing with Bureau education programs (except for personnel regulations) into the statute by reference and restricts the Secretary's and Assistant Secretary's authority to amend them.

The Senate amendment creates a process for review of regulatory proposals by regional review panels which the Secretary would have to follow before any regulatory action. Certain members of the review panels, which should not be subject to the Federal Advisory Committee Act, are stipulated. The Secretary may take emergency or temporary action without review, provided that as soon as practicable, input is sought. The provisions of the Senate amendment would not apply to any regulations or amendments which were drafted and under formal review prior to October 1, 1987.

The Senate recedes with an amendment limiting the length of incorporation on all of the regulations other than those dealing with policy to June 30, 1989. The policy regulations would be incorporated permanently. The Conferees intend that future regulatory actions comport with the new provisions regarding consultation. See note 37.

12. The Senate amendment, but not the House bill, requires a 90 day comment period for the Bureau Indian education regulations and states that no regulation may become effective until 90 days after its preliminary publication. This provision shall not apply to regulations published before October 1, 1987. Also, applicability of any Federal law restricting or limiting employee communications is specifically waived, insofar as the communication relates to regulatory action involving Indian education.

The House recedes with an amendment which requires that all regulations be published for a 90 day comment period, and published in final form before becoming effective. The amendment defines the term "regulation".

13. The House bill and the Senate amendment are similar, except for the following: an additional weight for handicapped students; an additional weight for full-time and part-time gifted and talented students; the statement that the supervisor and school board of a school shall determine when a less than 9 month program is needed; and a requirement for additional funding when needed to allow a school to comply with State standards which are in addition to minimum standards needed for accreditation.

The House recedes with an amendment that changes the effective date of these changes, deletes the provision regarding part-time gifted and talented programs, makes the full-time gifted and talented provision subject to a definition to be developed by a tribally controlled postsecondary institution or group under another provision of this Act and the availability of funds, further defines the factor regarding State standards and limits this factor to two years, and required a General Accounting Office study of the needs relative to a preschool handicapped factor. In conducting this study, the Conferees direct the General Accounting Office to work with, and consult with, tribes and tribal organizations, as well as the Bureau of Indian Affairs and the Indian Health Service, to determine the needs and the populations to be served, as stipulated in the statute.

The Conferees intend that these factors be the factors used for these students in lieu of the factors ordinarily used for the computation of academic weights. Other weights, relating to boarding or special needs or programs, would be cumulative.

14. The House bill amends the Indian Student Equalization Formula to make the administrative cost factor a part of the formula.

The Senate bill creates a new grant authority for administrative cost payments, which would be in lieu of any payments to which contractors might otherwise be entitled. The Senate also spells out specific uses and purposes for the money.

The House recedes.

15. The Senate amendent, but not the House bill, stipulates the sums received under this provision will be in addition to and shall not reduce other funds received for the school program.

The House recedes.

16. The Senate amendent, but not the House bill, stipulates that the cost rate shall be used for all direct programs which share common administrative cost functions, and will be made applicable to all others, at the tribe's option. (See Note 19.)

The House recedes with an amendment.

17. The House bill sets the administrative cost percentage for each school as 12% of the total direct program funds of each contractor (for education and shared/administrative cost activities) times 50% of the average total direct program funds for all contractors divided by the sum of such direct program funds of the contractor plus the average of such direct programs funds for all Bureau contractors. This figure would be adjusted for the special cost factors for isolation, multiple programs or multiple cost accounting (see Note 27—the Senate has similar provisions). The product (as expressed to two decimal places) is then used in the Indian Student Equalization Formula computations. Computations would be made on preceding year's data (see Note 23) and the formula would be implemented in FY 1989.

The Senate amendment makes the administrative cost percentage for each school the percentage determined by dividing the direct cost base for a tribe or tribal organization (see Note 23) by the minimum base rate (see Note 25—initially 12%) plus [the amount equal to the standard direct cost base (see Note 26—initially $600,000) multiplied by the maximum base rate (see Note 24—initially 50%)] by the sum of the direct cost base of the tribe or tribal organization for the FY, plus the standard direct cost base. This amount would be adjusted for an isolation and a multiple program factor. This amount (to the second decimal) would be multiplied by the contractor's direct cost base to give a separate grant amount.

The House recedes with an amendment correcting an omission.

18. The Senate amendment, but not the House bill, states that the funds received pursuant to this section shall not be considered for over- or under-recovery computations.

The House recedes.

19. The House bill, but not the Senate amendment, requires the Bureau, as lead agency, to pay administrative costs based upon the formula for all flow-through Education Department programs contracted, regardless of other provisions governing specific programs, provided that the Bureau shall reduce the amount received by administrative cost payments actually received under other programs and shall take such actions as may be be necessary to recoup the funds from the other sources. The administrative rate under this section shall be applied to all Bureau programs contracted (see Note 16 for similar Senate provision).

The Senate recedes with an amendment deleting the provision making this percentage applicable to any other tribal program (other than those specified in this Act).

The Conferees intend that the Bureau interpret this provision in the following manner: the Secretary shall calculate the amount of flow-through funds for each contractor and grantee and pay to each, as part of this administrative cost grant, an amount equal to the percentage determined under this provision multiplied by the flow-through amount, regardless of any limitation on administrative costs contained in another status. This amount shall be reduced, or "offset", by the amount actually received by a contractor or grantee from the flow-through program for administrative costs. The Secretary shall then seek to recoup, from the Federal agency having primary jurisdiction over the flow-through program, the difference between the amount paid under this provision to support the flow-through program and the amount of administrative costs actually received under the program.

20. The Senate amendment, but not the House bill, defines administrative cost. The

provisions are similar to the House provisions. (See Note 34.)

The House recedes.

21. Both House bill and Senate amendment define the Bureau elementary and secondary education functions, with only technical differences.

The House recedes.

22. The Senate amendment, but not the House bill, defines the term "tribal elementary and secondary education programs".

The House recedes.

23. The Senate amendment, but not the House bill, defines the direct cost base of a tribe or tribal organization. The figure would be based upon data from the second preceding fiscal year or on a projection.

The House recedes with an amendment making technical corrections.

24. The Senate amendment, but not the House bill, defines the maximum base rate allowable as either 50% or a figure to be obtained by a study done by the Secretary (see Note 28). The rate is to be published in the Federal Register.

The House recedes with an amendment setting the maximum base rate and removing the Secretary's discretion to alter it.

25. The Senate amendment, but not the House bill, defines the minimum base rate allowable as either 12% or a figure to be determined by a study done by the Secretary (see Note 28). The rate is to be published in the Federal Register.

The House recedes with an amendment setting the minimum base rate and removing the Secretary's discretion to alter it.

26. The Senate amendment, but not the House bill, defines "standard direct cost base" as $600,000 or an amount set by the Secretary based upon studies (see Note 28). This is to be published in the Federal Register.

The House recedes with an amendment setting the standard direct cost base and removing the Secretary's discretion to alter it.

27. Both the House and the Senate bill define isolation and multiple program adjustment factors. The definitions are similar except that the Senate allows the Secretary to modify the initial rate based upon studies and publication in the Federal Register and the Senate establishes the agency and area offices as sites from which to measure mileage.

The House recedes/The Senate recedes.

28. The Senate amendment, but not the House bill, directs the Secretary to conduct certain studies to establish the elements of the administrative cost formula, and establishes certain requirements for these studies. It states that determinations in the study are to be based on what is "pragmatically possible" and "prudent". The studies are to be done and submitted to Congress no later than October 1, 1988.

The House recedes with an amendment specifying the terms to be covered by the study(ies) conducted and defining the terms. For the guidance of those who conduct this study, the Conferees cite the fact that original drafts of the legislation included the isolation factor and multiple program adjustment. However, concerns about definition, need and administration led to their deletion. Some of the problems which plagued the Conference may become apparent if the persons who undertake this portion of the study study these provisions.

29. Both provisions require an annual budget submission on the impact of the formula—Technical Differences.

The House recedes.

30. The Senate amendment, but not the House bill, authorizes such sums as may be necessary for the administrative grants.

The House recedes with an amendment authorizing pro-rata reduction if funds are insufficient for full funding of these grants at the mandated amounts.

31. The Senate amendment, but not the House bill, has a provision stating that the grants for administrative costs are in lieu of any other payment. It also states that changes in funds received by schools due to implementation of the formula shall be phased in over a three year period and that a tribe may elect not to be covered by this provision for those three years.

The House recedes with an amendment deleting the tribal option not to have this section apply and making the dates of phase-in consistent with the proposed date of enactment.

32. The House bill, but not the Senate amendment, reserves .133% of the funds appropriated for the Indian Student Equalization Formula for national school board training, to be conducted as it was done in 1986. The agenda would be set by the school boards through their regional or national organizations. The House bill also contains a reservation of funds for each school for local school board training.

The Senate recedes.

33. The House bill, but not the Senate amendment, authorizes each Bureau operated school to carry forward, at the election of the local school authority (with school board approval), up to 15% of the funds for each fiscal year beginning October 1, 1987 and after.

The Senate recedes.

34. Technical Difference—see note 20.

The House recedes.

35. Both the House bill and Senate amendment contain similar provisions relating to local procurement. The Senate amendment requires that school board approval be in advance and the House bill requires that purchases be from funds under sec. 1128 and states that the provision would be applicable for FY 1988 and after.

The House recedes with an amendment clarifying the limit of this authority and deleting the requirement that school board approval must be in advance. The Conferees intend that each school board determine the best method for reviewing the proposals and using the authority under this paragraph.

36. The House bill, but not the Senate amendment, authorizes coordinated programs between local public schools and Bureau operated programs. Agreements would be negotiated between the tribe(s) and the public school and would have to be implemented by the Bureau (to the extent funds under the Indian Student Equalization Fund are available). Certain activities are specifically authorized.

The Senate recedes with an amendment which adds the Bureau school board as a party to any agreement and requires that any agreement entered into provide a benefit for the Bureau school commensurate with the burden assumed by the school, though this should not be strictly equated in terms of equal expenditures or the exchange of similar services.

37. The House bill requires that all actions under this Act be done in consultation with tribes and defines consultation as periodic and systematic meetings with tribes and organizations, with Federal Register notice of meetings being required. A list of topics would be required in the notice and information on all upcoming administrative matters would have to be provided (including the Budget). Other issues of interest could be raised, including issues in other Departments. Only those issues discussed in public meeting would meet the consultation requirement of this section. Bureau officials would also meet on request.

The Senate amendment requires that the Secretary consult with Indian tribes and tribal organizations on the "development of policy" under the Act. The Secretary or a representative shall conduct semi-annual meetings with tribes and organizations on matters relating to Indian education, with Federal Register notice being required for the meetings. At the meetings, information on all matters relating to Indian education which are being considered for change in the succeeding 6-months are to be discussed. Other issues could be raised, including issues involving other Departments. The Senate amendment also requires meetings with individual tribes on education issues affecting them and requires that the Secretary "invite active participation" in decisions affecting the schools. Planning for such meetings shall be cooperative and consultative in nature. The Senate amendment also includes a provision relating to consultation on the local level as to actions involving local schools, to be taken in conjunction with the notice required in section 1121(g) of the statute (studies).

The Senate recedes with an amendment setting out consultation as a process, to involve a total and open exchange of views, concerns and ideas, and to be conducted as between equals. The Secretary is required to give effect to the views of interested parties, unless a contrary decision is based upon information actually brought forward during the discussions, that there is a substantial reason for a contrary course of action. The Conferees intend that the requirement that the decision be based upon public information will be implemented strictly. It is included to foster an open and public discussion, the basis for any true consultation. This would have to be reduced to writing, upon receipt of a request from a Congressional Office.

38. The Senate amendment, but not the House bill, allows waiver of Indian preference for both the "applicant or employe".

The House recedes.

39. The Senate amendment, but not the House bill, amends the Bureau education personnel provisions to make the contract system applicable to employees currently covered by Civil Service wage grade classification. This provision would apply only to current employees if they so elect.

The House recedes.

40. The House and Senate have similar provisions requiring a study of personnel costs. The Senate amendment stipulates that public schools used for comparison shall be comparable in four respects and that the final report contain comparisons of certification and length of work year and work day, in addition to the other, common requirements.

The House recedes with an amendment setting the date for submission of the study.

41. The Senate amendment, but not the House bill, stipulates that the costs for the study (other than personnel expenses) shall come from the General Administrative account. The Senate amendment also authorizes the Secretary to conduct such other personnel compensation and recruitment studies as are desirable.

The House recedes.

42. The House bill defines the term "educational personnel". The Senate amendment defines the terms "Secretary" and "Bureau".

The House recedes.

43. The Senate amendment, but not the House bill, amends the rate provision of the Bureau's education personnel section to require that the salaries paid shall be comparable to teachers of similar professional training and experience serving comparable students in comparable public schools, with certain adjustments.

The House recedes with an amendment which requires the Secretary to either 1) use the overseas pay schedules used by the Department of Defense, or 2) negotiate with the exclusive collective bargaining agent of the employes. Unless the Secretary chooses to negotiate within the allotted time, the Department of Defense pay schedules (with the given caveats) would be automatically effective. Changes would be distributed equally over a three-year "phase-in" period and there are other administrative provisions relating to election by current employes and furloughs. The Conferees intend that all decisions on furloughs be made locally, not dictated by any division or office at a higher level.

The Conferees wish to make it clear that this provision applies to setting wage rates. The Bureau is to retain its administrative practices which relate to promotions, the setting of initial wages, and other issues, using merit, education, experience and length of services. The Conferees specifically intend that dormitory counselors, also referred to as home-living specialists, come under this provision.

44. The House bill mandates that in those instances where the Assistant Secretary determines there is a disparity in compensation which affects the recruitment and retention capability of a school to an extent where services are impaired, the Assistant Secretary shall (subject to school board approval) give the supervisor authority to use the 25% differential currently found in statute. Any time there is a 5% disparity in compensation (as determined by the studies—see Note 40), the authority for the differential would be automatically given to the local school supervisor. Each year, the Assistant Secretary shall submit, as part of the Budget submission, a report on all requests for this authority and the determinations on such requests, and all positions contracted under such provisions.

The Senate amendment amends section 1131 of the Act and states that upon the request of the local school board, the Secretary shall grant the supervisor the authority to provide one or more post differentials, (allowed under current law) unless the Secretary determines for "clear and convincing reasons" (in writing) that the requested differential is not needed. A school board request shall be viewed as approved, unless denied in 60 days. The Secretary or school supervisor is authorized to discontinue or reduce the differential at the beginning of a school year either at the request of the school board or if (subject to the same limitations) a finding is made that it is no longer necessary. A report similar to the House bill provision is required by February 1 of each year.

The House recedes.

45. The Senate amendment, but not the House bill, authorizes $15 million for 1989 and each succeeding fiscal year for grants for programs of early childhood education to serve children under 6, and their parents. Grants would be made for a range of stipulated activities and distributed to tribes of more than 500 members based upon a formula based on a tribal percentage of the national eligible Indian population under age six. Grantees are to provide instruction in tribal language, art and culture and grants are to be coordinated with other programs and to have periodic assessments. Amounts for administrative costs are to be provided from the funds authorized and appropriated under this section.

The House recedes with an amendment clarifying that the funds for these grants are to be used to coordinate resources provided under other programs or to "fill in the gaps" in services provided or eligible populations served by the other programs. Such services would not be subject to the same limits on eligibility of the child or family, or on services to be offered, found in other programs. The specific activities would be spelled out during the application process. The amendment also clarifies that a consortium to tribes, which has an aggregate of more than 500 eligible members, may qualify. This will allow participation in the program of tribes with fewer members.

46. The Senate amendment, but not the House bill, includes definitions for "Bureau funded school", "Bureau school" and "contract school", which would be applicable to all provisions of Title XI of P.L. 95-561.

The House recedes.

47. The Senate amendment, but not the House bill, provides that in any fiscal year in which a sequestration order (under the Gramm-Rudman provisions) reduces the funds under section 1128 of the statute (Indian Student Equalization Formula) by more than 5%, the Secretary would be authorized to waive the provisions of section 1121 pertaining to notice and study prior to closure and consolidation and would be authorized to use the funds otherwise used in such closed or consolidated programs in other Bureau funded schools.

The House recedes with an amendment raising the trigger to a 7% sequestration and clarifying that the reduction must be based upon a 7% reduction in the previous year's funding level. This means that this provision may not go into effect if the current Fiscal Year amount being reduced shows a substantial increase from the previous year's funding level.

48. The Senate amendment, but not the House bill, authorizes such sums as may be necessary for grants to establish tribal departments of education, which shall, among other duties, coordinate all education programs (Federal and other), and develop education codes, standards and policies. No terms other than those stipulated in the statute could be placed on the grants.

The House recedes with an amendment setting out a priority to be given to applications containing certain factors. The Conferees intend that the provision relating to the administration of education contracts by the Tribal department of education not be interpreted as requiring a single contract for elementary and secondary education programs (funded under Title XI of P.L. 95-561) or the administration of a tribally controlled community college by the department of education. As is currently the case, this decision remains one totally within the discretion of the tribal governing body. Specifically, the Conferees intended this provision to apply to Johnson-O'Malley and Higher Education grants, where the tribe contracts these programs, and other education grants for which tribe may be eligible.

49. The Senate amendment, but not the House bill, directs the Secretary of Interior to make a study of the distribution of funds under the Johnson-O'Malley Act and report to Congress on legislation which would guarantee its most "effective and equitable distribution".

The Senate recedes.

50. The Senate amendment, but not the House bill, amends the current statutory provisions on attendance areas to state that when there are two or more Bureau funded schools on a reservation, the relevant school boards, at the direction of the tribal governing body, may establish the attendance areas for the schools involved.

The House recedes.

PART B—TRIBAL SCHOOLS GRANT AUTHORITY

51. Technical Difference—The House and Senate have different titles.

The House recedes.

52. The Senate amendment, but not the House bill, contains a statement on the use of funds and the need to submit an application.

The House recedes.

53. Technical differences—drafting differences between the House and Senate version.

The House recedes.

54. The House bill combines operation and maintenance funds into the single grant where the school has requested and receives them. The Senate amendment does not contain the limitation.

The Senate recedes.

55. The Senate amendment, but not the House bill, stipulates that no more than one grant under this program may be made with respect to any Indian tribe for each fiscal year.

The House recedes with an amendment clarifying that grants are not limited to one per tribe. The Conferees intend that the decision to have a single grant for all school programs, separate grants for "stand-alone" schools or a combination of these arrangements be made in Tribal Council Chambers, not on Capitol Hill.

56. The House bill says that a multisite grantee shall spend no less than 90% of the funds generated by each site, or $400,000 (whichever is least) at the site which generates the funds. The Senate requires that not less than 90% of the funds generated by a site be spent on-site.

The Senate recedes with a clarifying amendment.

57. Technical differences—see Note 62 and 70.

The House recedes.

58. Similar provisions, but the Senate bill does not include the requirement that if the Secretary takes a retrocession of a program which has had a grant, the Bureau shall provide services at no less than the level planned for by the grantee. (See note 70.)

The House recedes/The Senate recedes.

59. The Senate amendment, but not the House bill, includes a provision for the Secretary to transfer to a tribe a school, if the Secretary determines that the school is eligible for assistance under this part.

The House recedes.

60. Technical differences.

The House recedes/The Senate recedes.

61. The House bill, but not the Senate amendment, provides an option to an applicant on which regulations and guidelines shall be used to review an application for expansion which was submitted prior to the date of enactment.

The Senate recedes with an amendment incorporating the House provision relating to the review of applications for expansion within section 5104, see note 8.

62. Technical Differences—see note 57

The House recedes/The Senate recedes.

63. Technical Differences (see notes 72 and 73)—The Senate amendment, but not the House bill, also provides for the transfer of a school where requested.

The House recedes/The Senate recedes.

64. Technical Differences (see notes 72 and 73).

The House recedes/The Senate recedes. The Conferees wish to make plain that submission of the information within the control of the applicant constitutes a sufficient application, see comment under note 8.

65. The House and Senate have similar provisions (see note 71). The Senate amendment states that expansions of more than two grades must wait a statutory period of time. (See also note 8 on Senate provisions relating to new school regulations.)

The House recedes/The Senate recedes.

66. Technical Difference—see notes 72 and 73.

The House recedes.

67. The House bill, but not the Senate amendment, requires that all applications be filed at the Agency Office, Area Office, or Office of the Director of Indian Education Programs, at that officer's discretion and that statutory timelines shall run from date of receipt at the designated office.

The Senate recedes with an amendment stipulating the officers to receive the applications, amendments to applications or required reports.

68. Technical differences.

The House recedes/The Senate recedes.

69. The House and Senate have similar provisions, except: the Senate provision uses the term "ensuring the credits received by students", while the House uses the term "showing the credits received by students"; the Senate conditions tribal accreditation upon that accreditation "being accepted by a generally recognized regional or State accreditation agency"; The Senate uses the term "impartial evaluator", while the House uses the term "outside evaluator"; and the Senate uses the term "tribal governing body", while the House uses the term "tribal authority".

The House recedes/The Senate recedes, making technical clarifications, requiring that tribal standards be accepted by a generally recognized regional or State accreditation agency, and requiring that the applicable tribe(s) receive the required reports and notice of any audit exceptions.

The Conferees wish to emphasize that the statute is worded to require the grantee to submit the reports and the Secretary to register the receipt of the required reports. There is no authority for the Secretary to review or approve the reports. It has been just this process of review which has been the most intrusive method used by the Bureau for retaining effective control or veto power over locally controlled schools.

70. The House bill, but not the Senate amendment, states that the grants under this Act may not be terminated, modified, suspended or reduced for the convenience of the administering agency. (Also see note 58.)

The Senate recedes. The theory of "administrative convenience", as a grounds for termination, was first used by the Bureau in 1984 with respect to two contracts with the Navajo Community College. The terminations were challenged in the Interior Board of Contract Appeals, which reversed the Bureau's terminations (IBCA Opinion Number 1834). The Bureau, however, has never specifically stipulated that it has reversed its position that "administrative convenience" is a proper ground for termination or modification. The Conferees specifically have prohibited its use, at least insofar as these grants are concerned, and do not intend that their actions signal any acceptance of the theory with respect to any other grant, contract or agreement.

71. Technical differences—See note 65.

The Senate recedes.

72. Technical differences—see note 63.

The House recedes/The Senate recedes. The Conferees intend that the requirement for tribal governing body approval apply to all applications received, including those submitted by any tribal organization.

73. Technical difference—see note 63.

The House recedes.

74. The House and Senate have similar provisions, with these exceptions: The House specifically references transportation as in the grant. The Senate contains language relieving schools with grants from all statutory requirements pertaining to Chapter I and Handicapped flow-through moneys, while the House relieves schools with grants from extra-legal requirements imposed by the Bureau, and specifically requires that the programs required by the basic legislation be carried out.

The Senate recedes with an amendment stipulating that while monies received from the Bureau pursuant to setasides under other Federal authorities are to be included in the simple grant under this provision, an amount no less than the amount received under each separate authority must be spent on programs specifically authorized under that authority and specified in the application(s) submitted by the school for participation in each program.

75. Technical difference—see note 77.

The House recedes.

76. Technical difference

The House recedes.

77. Technical difference—see note 75.

The House recedes.

78. The House provisions puts no time limit on a current contractor's right to elect to have a grant, but states that it shall not start until 60 days after the election or October 1 of the FY following the FY in which the election was made, whichever is later. The Senate provision requires a contractor to elect to be covered within 120 days of date of enactment and to make the election in such manner and at such time as the Secretary shall prescribe.

The Senate recedes.

79. The Senate amendment, but not the House bill, provides that no funds provided under the Indian Self-Determination and Education Assistance Act shall be spent for activities for which funds have been received under this Act.

The House recedes.

80. The House bill, but not the Senate amendment, states that regulations prescribed under this Act shall not have the standing of a Federal statute for the purposes of judicial review.

The Senate recedes.

81. The House and the Senate have similar provisions, except that the Senate includes a definition of "Bureau".

The House recedes.

PART C—INDIAN EDUCATION ACT

82. The Senate amendment, but not the House bill, recodifies the parts of the Indian Education Act, currently found in four statutes. With the noted exceptions below, the provisions are substantively the same as are found in current law.

The House recedes.

83. The Senate amendment, but not the House bill, includes a new definition—"eligible Indian children".

The House recedes.

84. The Senate amendment, but not the House bill, changes "by such State" to "of such State".

The House recedes with an amendment changing "of" to "by", thus retaining current law.

85. The Senate amendment, but not the House bill, changes "average daily enrollment" to "average daily attendance".

The House recedes.

86. The Senate amendment, but not the House bill, changes "planning for and taking other steps leading to the development of" to "planning and development".

The House recedes.

87. The Senate amendment, but not the House bill, deletes the term "special" from the phrase "special regulations".

The House recedes.

88. The Senate amendment, but not the House bill, deletes the phrase "specially designed to meet the special educational or culturally related academic needs, or both", as it pertains to equipment.

The House recedes.

89. The Senate amendment, but not the House bill, changes "schools eligible for funding under" to "schools receiving funds under".

The House recedes with an amendment retaining current law.

90. The Senate amendment, but not the House bill, deletes the phrase "(including persons acting in loco parentis other than school administrators or officials)". See definitions, note 119.

The House recedes.

91. The Senate amendment, but not the House bill, deletes the same phrase as in note 90. See note 119.

The House recedes.

92. The Senate amendment, but not the House bill, requires that each application include a form establishing the eligibility for each Indian student counted.

The House recedes.

93. The Senate amendment sets out specific information to be requested on the form establishing eligibility. The provisions are the same as current law, except that the Senate uses the term "child" instead of "applicant" and, with relation to tribal enrollment numbers, "if applicable" instead of "where applicable".

The House bill changes the current language to state that the forms shall be used only for collecting statistical information, not for establishing eligibility.

The House recedes. The Conferees specifically reference the comment at note 95. The term "if applicable" has been changed to "if readily available". Other proofs or evidence would be equally acceptable for these students.

94. The Senate amendment changes the phrase "construed as changing or restricting the applicable eligibility definition" to "construed as affecting the definition".

The House bill adds the statement that failure to provide any information relating to the form shall have no bearing on eligibility.

The House recedes.

95. The Senate amendment states that the criteria for establishing eligibility for the program shall be the same as those used in the 1985-1986 academic year.

The House bill states that the determination of eligibility shall vest solely with the local educational agency and the parent committee. They shall establish local written guidelines for proof and determinations shall be based upon a parent committee review of such evidence as the parent may submit. A positive determination could be reviewed by the local education agency and overruled. The Secretary would not review.

The House recedes with an amendment which accepts the Senate's provision on prohibiting change, by regulation or practice, in the proof of eligibility forms and standards. These forms and standards are to remain as they were in the 1985-1986 academic year. Specifically, the Conferees intend that this language preclude 1) Departmental efforts to restrict or catalogue the proofs of eligibility which may be accepted, and 2) efforts to require a tribal enrollment number or other numerical identifier in the instances where a tribe has such rolls. Specific language to this effect has been included. The House amendment also specifies that all audits are to based upon the policies and practices established by, or pursuant to instructions received from, the Office of Indian Education programs. The Conferees intend to preclude separate policy or statutory interpretations being made by the Office of the Inspector General or any other Division. As a remedy to one such instance, the amendment includes language "forgiving" recent audit exceptions based upon the submission of applications for Indian Education Act, Part A, funds of counts based on projected, tentative or incomplete Form 506 eligibility forms. Such a count, on a February submission, has a sound basis in practice and practicability. Finally, the amendment specifically sets into legislation the practice of a "good-faith" effort to comply with the eligibility proof requirement. Such an effort, predicated upon a showing that a good faith effort has been made to otbain the required information, which is in the control of others, is sufficient to qualify the student. It should be noted that no time limit or requirement for periodic renewal is included or within the intent of this provision.

96. The Senate amendment, but not the House bill, changes the maintenance of effort provision to require 90% m.o.e., with the provision for ratable reduction for any year in which m.o.e. falls below 90% and a Secretarial waiver for "precipitous and unforeseen decline in the agency's financial resources".

The House recedes with an amendment duplicating the maintenance of effort provision in Chapter I of the Education Consolidation and Improvement Act.

97. The Senate amendment, but not the House bill, deletes the term "and stimulate them" after assist.

The House recedes.

98. The House bill, but not the Senate amendment, adds a provision for a tribal division of education grants—to receive a 10% setaside of funds under this section (see note 104)

The House recedes.

99. The House bill, but not the Senate amendment, adds a provision for grants to consortia of tribes, local educational agencies and institutions of higher education to institute programs to encourage Indian students to go on to higher education and to prevent drop-outs.

The Senate recedes.

100. The Senate amendment, but not the House bill, changes "or" to "and".

The House recedes.

101. The Senate amendment, but not the House bill, adds the term "adults" to "Indian children".

The House recedes. The Conferees, by adding the term "adult", do not intend to alter the current activities drastically. Evaluations of programs providing services to elementary and secondary programs and children are still to receive priority consideration.

102. Technical Difference

The House recedes.

103. The Senate amendment, but not the House bill, changes "make adequate provision for" to "provide for".

The House recedes.

104. The Senate amendment deletes current specific authorization for the regional assistance centers and the limit that no more than 15% of the funds for such centers could go to state educational agencies.

The House reserves 10% of the funds for activities under subsection (c) to be spent under (c)(3).

The House recedes with an amendment retaining the current authorization for the regional resource centers.

105. The Senate amendment extends the current authorization of $2,000,000 per FY through FY 1993.

The House authorizes such sums as may be necessary for the same period.

The Senate recedes.

106. The Senate amendment, but not the House bill, adds the phrase "to be necessary" to the Secretary's determination of the amount to be paid to an institution.

The House recedes. The Conferees direct the Secretary to review current practices with respect to determining eligibility for Fellowships. The Department has, through its application process, restricted the access of non-reservation based and non-Federally recognized Indians to this program. The definition for this activity is the same as for the rest of the Act, and is inclusive, not exclusive. Indian students, particularly those who have been adopted, must not be placed under impossible requirements or at a disadvantage.

107. The Senate amendment, but not the House bill, adds a requirement that the Secretary provide notice no less than 45 days before the commencement of an academic term of the assistance to be provided.

The House recedes.

108. The Senate amendment, but not the House bill, adds a new program for the establishment of two centers for gifted and talented students at Sinte Gleska College and Navajo Community College. Grants would be made to these entities and the American Indian Higher Education Consortium for the design of demonstration projects for a number of purposes. Subgrants could be made with the Children's Television Workshop. Grantees would be encouraged to work cooperatively as a national network. $3,000,000 per FY is authorized through 1993.

The House recedes with an amendment deleting the specifically named schools and substituting as eligible to compete all fully accredited tribally controlled community colleges which are eligible to receive funds under P.L. 95-471. Two such grants are to be made.

The amendment also contains provisions from Part D of Title VIII of the House passed bill H.R. 5, the Model Schools Act. Drafted and sponsored by Mr. Richardson of New Mexico, these provisions direct the Secretary, in consultation with the Secretary of the Interior, to designate 5 schools nationwide for the development of programs for gifted and talented students and curricula and teacher training materials. Specific activities are set forth, as are requirements for coordination with the tribally controlled community colleges designated by these sections. The Conferees intend that the colleges supply research and technical assistance to the field in general and the model schools in particular, that the model schools, in cooperation with the colleges, define needs and develop program, and that the colleges evaluate the programs and aid in their dissemination.

Finally the amendment stipulates that the first activity to be funded under this provision should be the development of the definition to be used in implementing the new Indian Student Equalization Formula factor for gifted and talented students included in section 5107 this Act. The report on this grant is to be directly submitted to the Secretaries of Education and Interior and to the Congress.

109. Technical difference.

The House recedes.

110. The Senate amendment, but not the House bill, deletes general statement of activities allowed.

The House recedes.

111. The Senate amendment, but not the House bill, changes the term "promulgated" to "prescribed", with reference to regulations.

The House recedes.

112. The Senate amendment authorizes such sums as may be necessary for 1989 and the 4 succeeding Fiscal Years.

The House bill authorizes $8 million for FY 1988 and such sums as may be necessary through FY 1993.

The House recedes.

113. The Senate amendment, but not the House bill, establishes an Office of Indian Education reporting directly to the Secretary of Education.

The House recedes with an amendment stipulating that the Director is to report directly to the Assistant Secretary for Elementary and Secondary Education giving new authorities and responsibilities to the Director for the Office of Indian Education, placing him at the forefront of the Department's efforts for Indian education. The Conferees are disturbed with reports of employes being given duties and tasks unrelated to their functions within the Office, with the refusal of needed overtime for work on Indian Education matters (particularly when overtime is abundantly available for other matters) and with reports leading to a general opinion that the Department has not shown proper interest in, or for, this program. More drastic action was contemplated, but rejected, for now. However, the Conferees are committed to monitoring this situation closely.

The amendment also retains current law relating to the role of the National Advisory Council on Indian Education in choosing the Director.

114. The Senate amendment, but not the House bill, establishes Indian preference in the Office of Indian Education.

The House recedes with an amendment stipulating that all professional staff within the Office of Indian Education must have experience in Indian education programs. The definition of "Indian" to be used for this provision is the same as the one for all other purposes of this Act, found at section 5351(4). The amendment also creates an Indian preference for all personnel actions within the Office, to be administered in the same fashion as "veterans' preference" laws are administered. The Conferees also direct the Secretary to develop career goals and training opportunities for these and other qualified Indian employes.

As a first step to foster Indian preference, the amendment also includes a provision to give current non-Indian employes of the Office a one-time preference in moving to other positions within the Department for which they are qualified. Such a move must be voluntary. The Conferees intend that this provision be administered in concert and at the same time as the other provisions in this section.

115. The Senate amendment, but not the House bill, deletes "Alaskan Natives" from specific eligibility to sit on the N.A.C.I.E. The Conferees note that the definition of Indian for the program includes Alaskan Natives.

The House recedes. The Conferees do not intend that this be interpreted as a change from current policy or practice.

116. The Senate amendment, but not the House bill, includes an authorization for the administrative provisions.

The House recedes.

117. The Senate amendment, but not the House bill, includes a number of new definitions for the program, including:

(1) adult—similar to that in the Adult Education Act—sec. 303;

(2) adult education—similar to that in the Adult Education Act, however, adds caveat that program is for adults "who are not enrolled in secondary school";

(3) free public education—similar to the provision for the E.S.E.A. and the E.C.I.A., but deletes the phrase "except that such term does not include any education provided beyond grade 12";

(4) local educational agency; and

(5) Secretary.

The House recedes.

117(a). The Senate amendment, but not the House bill, amends the definition of Indian to delete the phrase "which regulations shall further define the term 'Indian' from the Secretary's rulemaking authority.

The House recedes.

118. The Senate amendment, but not the House bill, includes in the term local educational agency schools operated by the Bureau of Indian Affairs.

The House recedes with an amendment stipulating that existing programs receiving Title IV grants will be held harmless at the Fiscal Year 1988 per student formula grant amount plus an inflation factor of 2%. All other monies appropriated above that amount will be used to bring the Bureau of Indian Affairs schools into the formula program. Once appropriations are sufficient to bring all programs to the same level, this hold harmless will no longer apply and all eligible grantees will be treated the same. The Conferees are in full agreement on the equity of including B.I.A. operated schools in the Title IV program and agree to work with their respective Appropriations Committees to see that the necessary funding is made available in Fiscal Year 1989. The Conferees emphasize that students attending BIA schools should receive the same services that are now available to Indian students in public and contract schools and that this hold harmless was deemed necessary only because the program has received significant reductions in the last decade. A further reduction in program dollars of 8 or 9 percent would likely cause some programs to cease operating.

119. The Senate amendment, but not the House bill, includes a caveat that the term "parent" includes those acting in loco parentis (see notes 90 and 91).

The House recedes.

120. The Senate amendment, but not the House bill, repeals the current provisions of the Indian Education Act of 1972.

The House recedes.

PART D—NATIVE AMERICAN SCHOOLS

121. The House bill, but not the Senate amendment, establishes a Native American School Act.

The House recedes. The essence of this provision, authored by Mr. Richardson of New Mexico, has been moved under the Indian Education Act.

122. The House bill, but not the Senate amendment, includes definitions for the Act.

The House recedes.

123. The House bill but not the Senate amendment, authorizes the Secretary of the Interior to consult with Indian tribes concerning the establishment or recognition of five Native American Indian schools. Tribes may petition for the creation of such schools and schools currently funded by the Bureau of Indian Affairs may be recognized. Each school so recognized will be established as a separate Federal corporation and organized according to the requirements of this Act.

The House recedes.

124. The House bill, but not the Senate amendment, requires that each Native American Indian School have a Board of Directors composed according to the Act. The Act also contains provisions governing the appointment of the Board, terms, compensation, officers, meetings, and other administrative matters. The Board is to formulate the policy and direct the management of the school.

The House recedes.

125. The House bill but not the Senate amendment, sets out the general powers of the Board.

The House recedes.

126. The House bill, but not the Senate amendment, establishes the position of Superintendent of the School, who shall carry out the policies and functions of the School and have authority over personnel and activities. Compensation is set at that of a GS-15.

The House recedes.

127. The House bill, but not the Senate amendment, sets out that staff of the school would be exempt from Civil Service and sets out rules for establishment of a personnel system including compensation, leave, resolution of disputes and disciplinary issues and changeover to the new system.

The House recedes.

128. The House bill, but not the Senate amendment, sets out the functions of the school which include: basic instruction, programs for gifted and talented and students with special needs, college preparation and programs which culminate in the completion of the program of studies for elementary and secondary schools.

The House recedes.

129. The House bill, but not the Senate amendment, establishes Indian preference in hiring, employment, and contracts, grants and fellowships.

The House recedes.

130. The House bill, but not the Senate amendment, sets forth the nonprofit and nonpolitical status of such a school.

The House recedes.

131. The House bill, but not the Senate amendment, enumerates statutes which shall have specific applicability to the activities of the school and states that all Federal criminal laws on larceny, embezzlement and conversion of property shall apply.

The House recedes.

132. The House bill, but not the Senate amendment, sets out requirements for the establishment of an endowment program for a school under this Act.

The House recedes.

133. The House bill, but not the Senate amendment, authorizes the Secretary to provide funds for these schools in accordance with current applicable statute and other Federal programs, states that such schools are eligible for funding under the Indian Education Act and authorizes the Secretary to expend such sums as may be necessary to ensure the "orderly establishment" of such schools.

The House recedes.

PART E—NATIVE HAWAIIAN PROGRAMS

134. The House and Senate bill have similar provisions. However, the House includes specific mention of "learning disabled, educably retarded . . . and other such students" (in addition to the term "handicapped").

The Senate recedes.

135. Technical difference—the Senate throughout refers to "Act", the House refers to "title"—difference in drafting.

The Senate recedes.

136. The Senate amendment, but not the House bill, adds "implementation of faculty development programs for the improvement and matriculation of Native Hawaiian Students" to the activities authorized under the demonstration grant program.

The House recedes.

137. The Senate amendment directs the Secretary of Education to establish a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, specifically references the University of Hawaii at Hilo and the Kamehameha Schools/Bernice Pauahi Bishop Estate as an eligible contractor for demonstration program contracts and states that contractors may subcontract with the Children's Television Workshop. It also includes the needs of the families of gifted and talented as to be addressed.

The House bill directs the Secretary to make contracts with the State of Hawaii, including its junior or community colleges, for such activities.

The House recedes with an amendment stating that the initial grant or contract shall, subject to appropriations and satisfactory performance, be for a term of three years and shall be made to the University of Hawaii at Hilo, with subsequent grants or contracts being to a four year, fully accredited public institution of higher education.

138. The Senate amendment directs demonstration projects be made "with attention to the emotional and psychosocial needs" of gifted and talented students and their families.

The House bill gives a priority to early identification of such students.

The House recedes with a clarifying amendment. The Conferees wish to explain the use of the term "psychosocial". Gifted and talented children may respond to environmental situations in a way that is different from other children, which can create psychological problems on the part of the gifted and talented child. Problems of this nature can prevent a child from reaching his or her potential if they are not recognized and treated.

139. The Senate amendment, but not the House bill, adds "psychosocial and developmental activities" to authorized activities, and specifically mentions "including, but not limited to" demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural conditions".

The House recedes. See note 138.

140. The Senate amendment, but not the House bill, authorizes leadership programs to replicate successful programs to "other Native American peoples".

The House recedes.

141. The Senate amendment, but not the House bill, includes families.

The House recedes with an amendment. See note 138.

142. The Senate amendment, but not the House bill, directs the Secretary to facilitate the establishment of a national network of Native Hawaiian Gifted and Talented Centers, whose information will be readily available for the educational community at large.

The House recedes.

143. The House bill, but not the Senate amendment, limits administrative costs to not more than 10% of the funds appropriated.

The Senate recedes with an amendment deleting the term "10 percent" and substituting in lieu thereof "7 percent".

144. Similar provisions—different language for handicaps.

The Senate recedes.

145. Similar provisions. The Senate amendment requires that activities be consistent with Part B of the Education of the Handicapped Act and that activities "hold reasonable promise of improving the provision of special education and related services", while the House bill uses the phrases "hold reasonable promise of making substantial progress toward meeting the educational needs". Different definitions for handicapped.

The House recedes.

TRIBAL COLLEGES AND MISCELLANEOUS PROVISIONS

146. The Senate amendment, but not the House bill, amends the Navajo Community College Act to specifically list the expenses to be included in the annual computation by the Secretary of the amount authorized to be paid by the Federal government to the Navajo Community College for programs.

The House recedes.

147. The Senate amendment, but not the House bill, amends the Tribally Controlled Community Colleges Act of 1978 and the Navajo Community College Act to require the Secretary to use the method of fund disbursement used in FY 1987 in making payments to those schools, and states that interest earned on such funds shall be the property of the College and shall not be earned on such funds shall be the property of the College and shall not be taken into account when determining any Federal payments of eligibility.

The House recedes with an amendment prohibiting the accumulation of the funds so obtained.

148. The Senate amendment, but not the House bill, specifically amends the Navajo Community College Act to provide authority for funding operations and maintenance costs, costs for major capital improvements and for other purposes. Also exempts any interest earned on any Federal payments from any computations of eligibility or amount to which the school is entitled under any Federal program. Funds must be invested in Federal bonds.

This note is repetitious and a mistake.

149. The Senate amendment, but not the House bill, amends the Navajo Community College Act and the Tribally Controlled Community Colleges Act to allow funds paid to a school under these Acts to be used as matching funds for other Federal programs.

The House recedes.

150. The Senate amendment, but not the House bill, limits the ability of the Secretary to remove from the general assistance rolls any student at a tribally controlled community college or other institution of higher education. Limits the funds which can be considered in computation of general assistance. The provision does not amend any requirement of general assistance.

The House recedes with an amendment allowing Adult Vocational Education funds to be used for matching purposes, in the same manner and to the same extent, as funds under the Tribally Controlled Community Colleges Act.

151. The Senate amendment, but not the House bill, authorizes the Secretary to permit the use of Federal facilities, land and equipment by tribal, student and other non-Federal organizations, to the extent it does not interfere with their purpose. User fees may be charged and credited to the appropriations or fund from which any expenses incurred were paid. This authority is in addition to any other authority.

The House recedes with an amendment.

152. The Senate amendment, but not the House bill, includes Congressional findings supporting a White House Conference on Indian Education.

The House recedes.

153. The Senate amendment, but not the House bill, directs the President to call a Conference no earlier than Sept. 1, 1989 and no later than Sept. 30, 1991. The purpose of the Conference is to consider the feasibility of establishing an independent Board of Indian Education and to make other recommendations for the improvement of Indian education programs.

The House recedes.

154. The Senate amendment, but not the House bill, sets out the composition of representatives for the Conference, including tribal, B.I.A., education, and other representatives with special expertise. The President, the Speaker and the President pro-tem shall each choose ⅓ of the participants. ¼ shall be currently active educators from Indian reservations, ¼ educators from urban areas with large Indian populations, ¼ Federal and tribal officials, and ¼ Indians (including non-recognized Tribes).

The House recedes.

155. The Senate amendment, but not the House bill, includes administrative provisions for the Conference, including the assignment of personnel, establishment of a Task Force to coordinate the Conference, choice of a Task Force Director and the provision of Federal cooperation and coordination for support. The activities of the Task Force are listed, including the provision of grants to States and tribes to allow them to prepare for, and provide for the preparation of, such materials as may be necessary.

The House recedes with an amendment clarifying that the appointees must have experience in Indian education programs, not just issues, and stipulating that at least one person appointed by the Secretary of the Interior must be experienced in dealing with the Congress and tribes and outside organizations. This is to facilitate exchanges between all parties interested in this Conference and recognizes the specialized knowledge needed for this task. It is also strongly recommended that the Secretaries choose people who have worked with personnel and programs within the other Department.

156. The Senate amendment, but not the House bill, contains provisions on the report and the recommendations of the Conference, to be submitted to the President, and then transmitted, along with Presidential comment, to Congress.

The House recedes.

157. The Senate amendment, but not the House bill, establishes an Advisory Board to assist and advise the Task Force on the conference. The makeup of the Advisory Board is set, with the input of the Indian community and the control of the President, the Speaker and the President pro-tem. Other administrative provisions relating to compensation are set out.

The House recedes.

158. The Senate amendment, but not the House bill, authorizes the Task Force to accept gifts for immediate disbursement in support of the conference.

The House recedes.

159. The Senate amendment, but not the House bill, authorizes such sums as may be necessary for the conference for FYs 1988, 1989 and 1990.

The House recedes.

TITLE VI—GENERAL PROVISIONS STUDIES

The conferees have agreed to create a separate section in the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988 which highlights the numerous research and evaluation studies requested by Congress. The intent is to clearly signal to the professional research and evaluation community that Congress considers the contribution of research as critical not only during the reauthorization proceedings but also throughout the period during which the legislation is in effect.

Policy decisions by the Congress depend upon the latest scientifically derived data together with a thorough understanding of research and evaluation findings. The conferees want to emphasize that they intend to take a more active oversight role and to work with the Department of Education in monitoring these research and evaluation studies.

Federal requirements for research, studies and reports are generally included; requirements for similar activities at the State and local level, except when they are to result in a Federal report, have been excluded. Requirements for pilot or demonstration projects, evaluations, and development or dissemination activities have been excluded, except when they are to result in a Federal report. The National Assessment of Educational Progress requirement for the assessment of student performance in specific subject areas, as revised by the Senate, has been excluded because the program intent appears to be similar to current law; other House and Senate provisions for the National Assessment have been included.

Effective Schools Study: The conferees have agreed that the data collection for this study should include, but not be limited to the following guidelines:

I. Characteristics of students in effective schools programs:

(1) Sex.

(2) Race/ethnicity.

(3) Age.

(4) Limited English speaking.

(5) Receiving services for limited English speaking.

(6) Public assistance, as measured by receipt of a free or reduced lunch program.

(7) Enrollment in Chapter 1 program.

(8) Receiving special education services for the handicapped (P.L. 94-142).

Most of these data elements are customarily collected by the schools and therefore should not represent an appreciable burden.

II. School characteristics:

(1) Staff numbers (professional/support).

(2) Teacher characteristics:

(a) Sex.

(b) Race/ethnicity.

(c) Years of teaching experience.

(d) Education (degree).

(e) Salaries.

(f) Teacher turnover.

(3) Expenditures on staff development.

(4) Student/Teacher ratio.

(5) Student turnover (average enrollment length).

(6) Expenditures per pupil.

(7) Existence of school improvement programs in addition to effective schools programs, e.g., State mandated curriculum changes, mentor teacher programs, remedial programs.

(8) Existence of gifted and talented programs.

Schools generally have such data, although some may not have analyzed them. All the items are desirable, but if a few are too costly or difficult to obtain they should not be required by the Secretary of Education.

III. Program description:

(1) Program objectives.

(2) Amount of funding.

(3) Activities.

(4) Major problems encountered.

(5) Length of program period.

(6) Evaluation measures.

IV. Program outcomes:

(1) Intermediate outcomes (school climate measures):

(a) Hours of instruction.

(b) Tardiness.

(c) Student absenteeism/attendance.

(d) Teacher absenteeism/attendance.

(e) Number of suspensions.

(f) Parent satisfaction.

(g) Staff satisfaction.

(h) Student satisfaction.

(2) Student achievement outcomes.

(a) Test scores on at least reading and mathematics at given grade levels and for individual students over time (i.e., cross-sectional and longitudinal information). Such scores should be provided by race/ethnicity, socioeconomic status, and special program status (e.g., Chapter 1):

(i) Standardized norm-referenced tests (tests which allow comparison of local school achievement scores to the national norm at various grade levels). Students should be traced for a minimum of two years.

(ii) Standardized criterion-referenced tests (tests which all the youth are expected to pass).

(b) College entrance examinations results, such as for the Scholastic Aptitude Test and American College Testing.

(c) Student promotion/retention.

(d) Percent of youth going to college:

(i) 4-year schools.

(ii) 2-year schools.

(e) School completion rates.

(f) School dropout rates at various grades.

(g) Return rates of dropouts.

Items (b) through (g) should be separately reported by race/ethnicity.

GENERAL PROVISIONS

1. The House bill differs from the Senate amendment in that it indicates *of chapter 1 of this Act.*

The Senate amendment indicates *of chapter 1 of title I* of this Act.

The House recedes.

2. The House bill differs from the Senate amendment in that it indicates *only to the extent OR in such amounts as are provided in appropriation Acts.*

The Senate amendment indicates *only to the extent AND in such amounts as are provided in appropriation Acts.*

The Senate recedes.

3. The House bill indicates that this Act shall take effect October 1, 1987.

The Senate amendment indicates that this Act shall take effect October 1, 1988. The Senate amendment, but not the House bill, includes a "special rules" provision.

The House recedes with an amendment making the effective date July 1, 1988.

Mr. STAFFORD. Mr. President, as I mentioned on the floor during consideration of S. 373 by the full Senate, the adoption of the amendment to the Communications Act of 1934 offered by Senator HELMS is obviously severable from the other provisions of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 should court actions be brought concerning the Helms amendment.

Furthermore, we included language in the original Senate committee report that if any provisions of S. 373 or application thereof to any person or circumstance is held invalid, the remainder of the legislation and the application of such provision to other persons or circumstances shall not be affected thereby. This language would most certainly hold for H.R. 5.

To my mind, our Federal investment in elementary and secondary education is a critical investment in the future well-being of our economy and our society. I would urge my colleagues to swiftly approve this legislation so that we may continue to lay the groundwork for the future.

Mr. KENNEDY. Mr. President, I rise to underscore my strong support for the legislation before us today.

I am especially pleased that this legislation has been named in part after my long-time friend and colleague Senator STAFFORD. Senator STAFFORD's public service career is long and distinguished: deputy attorney general and attorney general of Vermont, Lieutenant Governor and Governor of Vermont and a Member of the House of Representatives. For the last 18 years, however, he has been a Member of this body. Like all of us who have served with him, I value Senator STAFFORD's wisdom and counsel on the full range of issues that come before the Senate. It is, however, his work on education and environmental issues that will be his greatest legacy. The Washington Post praised Senator STAFFORD's contribution when the Senate approved S. 373, and I would like to have that editorial included as part of my remarks. I wish Senator STAFFORD a happy and fulfilling retirement, but I am sorry to see him leave the Senate.

Mr. President, one of Senator STAFFORD's legacies is that there is no dispute that a solid education system is essential for this country's economic growth and social progress. While most investment in education comes from the State and local levels, the Federal Government has an important leadership role to play. This role includes ensuring that the door to a quality education is open to everyone, and guaranteeing that educationally and economically disadvantaged children get the extra help they need. The Federal role also includes sponsoring efforts to measure the Nation's progress, so that we know how we are doing and where we need to improve. And it encompasses encouraging innovation of promising new ideas, and dissemination of proven programs.

The legislation we are considering today fulfills each of these roles. It contains the reauthorization of over a dozen major Federal education programs affecting elementary and secondary school students. It also authorizes some new creative and important education programs for the first time.

I would like to comment on a few of the programs in particular.

THE FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

This bill includes my proposal to create a fund for the improvement and reform of schools and teaching [FIRST]. We know that some of the best ideas for educational reform come from the teachers and school building administrators who deal with success and failure on a daily basis. The Federal Government has an innovative grant-making organization in postsecondary education—the fund for the improvement of postsecondary education [FIPSE]. With this bill, we will establish a companion fund to sponsor innovative and reform-oriented projects to improve elementary and secondary education.

This fund will make small, action-oriented grants to States, local school districts and individual schools to provide the risk capital needed to launch locally designed projects that meet local education needs. In making awards, priority is to be given to projects that benefit schools with below-average performance and that use incentives to accomplish specific goals—such as decreasing the dropout rate or improving test scores. The Senate Labor and Human Resources Committee heard testimony on October 5, 1987, about the use of incentives in education. The use of incentives and rewards has been tested by some school districts with promising results.

This proposal will provide funds to try these programs more widely.

BILINGUAL EDUCATION

H.R. 5 combines the best provisions of the House and Senate bills regarding bilingual education. The legislation incorporates numerous technical changes contained in the House bill. These changes are designed to overcome problems—some inherent in the statute, others associated with the Department of Education's administration of the program—which detract from the program's effectiveness.

Inclusion of the Senate bill's new funding reservations in H.R. 5 accommodates the Education Department's quest for greater funding flexibility without mandating increased spending for monolingual instructional programs. This enhanced funding flexibility should be exercised in a responsible fashion, and I urge both the Department of Education and my colleagues on the Senate and House Appropriations Committees to allocate nonreserved funds to those part A programs which, on the basis of objective program evaluation and research data, are shown to be most effective in helping limited-English-proficient students achieve academic success. In this regard, I am troubled by the fact that the Department of Education currently provides only two grants, amounting to less than one-quarter of 1 percent of all part A grant funds, for two-way developmental bilingual education programs. Locally funded two-way bilingual education programs have proven effective in meeting the second-language learning needs of both limited-English-proficient students and monolingual-English students in a positive, integrated educational environment. These include several two-way bilingual programs in my own State at the Mackey Mosaic School in Boston, the Amigos Program in Cambridge, La Escuelita Agueybana Day Care Center in Boston, and Creciendo Juntos in Lawrence. Programs like these deserve additional Federal support, support made possible under the bill's new funding reservations. The legislation does not disturb the existing reservation of one-quarter of all Bilingual Education Act funds for training programs and activities. The lack of professionally trained teachers and school personnel remains the greatest obstacle to providing effective instruction to limited-English-proficient students. This is an obstacle the Federal Government can and must help remove.

Finally, the legislation incorporates provisions from the Senate bill requiring a comprehensive academic evaluation of students who are retained in transitional bilingual education and special alternative instructional programs for more than 3 years. I believe that the student evaluation requirement represents sound educational practice and does not infringe on the prerogatives of local school districts. The legislation does not prescribe a specific period of enrollment for students in programs assisted under the Bilingual Education Act. Local school personnel and parents are best able to determine when students should be enrolled in or exited from any instructional programs.

COMPREHENSIVE CHILD DEVELOPMENT CENTERS ACT

I am particularly pleased that the legislation includes the Comprehensive Child Development Centers Act [CCDC]. CCDC allows the establishment of between 10 and 25 centers to provide early, continuous, and comprehensive supportive services for economically disadvantaged children, beginning with prenatal care and continuing until they enter school. Studies have shown that early intervention in the lives of at-risk children yields impressive results, enhancing their physical, social, emotional, and intellectual development. Families benefit as well from the support provided by such programs.

I want to emphasize that it is critical that services be continuous. A 5-year commitment is necessary so that children who become involved in the program as infants can continue their positive growth by receiving appropriate development services until they enter public school. Fuel funding in each year's appropriation process is essential to achieve the full benefits that CCDC promises. Lack of stable funding and inconsistent political support can bring about the quick and sure demise of this demonstration effort. It is our strong conviction that no project should be undertaken without a 5-year commitment.

NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

To help get better information about the quality of American education, this bill authorizes an expansion of the National Assessment of Educational Progress [NAEP]. NAEP is a federally funded testing program that provides evidence about the academic performance of 9-, 13-, and 17-year-old schoolchildren. For 20 years, NAEP has provided nationally and regionally representative data on how well our students are doing in math, reading and writing.

The expansion of NAEP authorized by this bill will increase the number of subject areas that are assessed, increase the frequency of the testing, and make possible the collection of State representative data. More specifically, this bill will provide for the assessment of reading and mathematics every 2 years, writing and science every 4 years and history/geography every 6 years. In addition, the bill will allow States to gather the data necessary to compare themselves to other States and the Nation as a whole. I believe that these provisions will help States decide where their schools need improvements.

I wish to emphasize that this provision is not merely intended to provide a score card so that the States may be ranked on a basis of standardized test scores. What is authorized in this bill is a demonstration so that we may see how this idea works. At the conclusion of the 1990 and 1992 assessments the Commissioner of Education Statistics is to conduct an independent study to test the viability and feasibility of this approach. I also wish to emphasize that under no circumstances is this proposal intended to allow States to rank, evaluate, or compare local schools or school districts.

IMPACT AID

The impact aid reauthorization includes a small provision that is very important to many districts in Massachusetts and around the country. This provision prevents the Department of Education from eliminating payments for children residing in section 8 housing, or asking for repayment of impact aid funds paid out for such children in previous years. Many districts were told by Department field representatives that section 8 housing was eligible property regardless of who owned the housing. Indeed, in some States, districts were encouraged by Department officials to be sure that all section 8 children were counted. Now the Department has changed its mind and wants the money back. The Department's efforts to stop payments for these children is contrary to past policy, congressional intent, and good public policy. For many districts, being forced to repay, in some cases, millions of dollars already spent, would pose tremendous hardship. The provision we have included in the reauthorization will restore payments to these districts at a level consistent with previous impact aid assistance. This is particularly important for districts such as Boston, Worcester, Holyoke, Chelsea, and Chicopee that would otherwise lose their "super B" status.

Finally, I share the strong concern of my Senate colleagues that we must do everything within our power to limit the availability of obscene messages over the telephone. However, I am concerned, as are others, about the constitutionality of the dial-a-porn provision reinserted by the House in lieu of the language agreed to by the conferees. This is a complex constitutional issue which the courts must now decide.

This omnibus package has been put together with very strong bipartisan and bicameral support and cooperation. The members of the Education Committees in both Houses deserve congratulations and commendation for this strong package. I wish to especially acknowledge the work of Senators

Pell and Stafford, the chair and ranking minority members of the Education Subcommittee. I also wish to recognize several staff members who have worked tirelessly to put this legislation together: David Evans, Ann Young, and Sarah Flanagan of Senator Pell's staff; Ellin Nolan, Barbara Fox, and Becky Rogers of Senator Stafford's office; Bobbie Dunn from Senator Hatch's office; Buddy Blakey from Senator Simon's office; and Amanda Broun, Shirley Sagawa, Rusty Barbour, and Terry Hartle from my own staff.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Dec. 4, 1987]

Solid Senator

Those who lament the decline of the Senate will soon have further cause. Robert Stafford of Vermont is retiring. The Senate will be both a louder and a lesser place for his departure.

Sen. Stafford, now 74, has spent his entire adult life in public service and not lost sight of what that term means. His career has been the old-fashioned, orderly kind, proof of the virtues of unhurried apprenticeship. He was prosecutor, state attorney general, lieutenant governor, governor, then spent 10 years in the House before his 15 in the Senate.

Too often the modern senator seems to be a telegenic wonder with an attention span measured in nanoseconds—all hare, no tortoise. Sen. Stafford is by contrast substantive, unassuming, patient and effective. He is not an ink hound. He has actually been known to pass a bill before its deadline.

His areas of greatest interest have been the environment and education. In the six years from 1981 to 1986 when the Republicans controlled the Senate, he was chairman of both the environment committee and the education subcommittee. He remains the ranking Republican on each.

Environment and education were two of the areas in which the early Reagan administration exhibited its greatest revolutionary zeal. You remember James Watt. You may also remember the president's proposals, some of which sadly continue to be made, to slash federal aid to higher education more or less in two.

Sen. Stafford quietly helped to stave off the craziness. Administration efforts to hollow out the major environmental statutes in the name of deregulation were turned aside. For a while, environmental policy was a nasty draw. More recently, some of the protective statutes have actually been refreshed and strengthened. The senator from the Green Mountain State played an important part in this turnaround. He did the same in education. Last year, his last as chairman, Congress reauthorized and secured the basic forms of aid to higher education. This year it is doing so at the elementary and secondary levels. The elementary and secondary bill passed the other day, 97 to 1. The vote is a tribute to a climate that Sen. Stafford helped produce. The Senate named the bill after him.

Sen. Stafford helped to save something else in the Reagan years. By virtue of the efforts he and others made, there continues to be room in his party for its moderates. When quiet men like Robert Stafford go, they are missed.

Mr. STAFFORD. Mr. President, I rise today in support of H.R. 5, "the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988." I am honored to share the name of this bill with my good friend and colleague from the House, Congressman Augustus F. Hawkins. Mr. Hawkins has served in the House of Representatives for 26 years. During that time, he has distinguished himself as a statesman and as a leader known for his dedication to providing high quality education to all our citizens. For more than 3 years, he has served as the chairman of the House Education and Labor Committee and as the chairman of the Elementary, Secondary, and Vocational Education Subcommittee. He has worked tirelessly to craft sound legislation and generations of Americans are better off today because of his efforts.

At a time when our Nation's attention is on the need to compete in a world market of increasing technical complexity, this landmark legislation reauthorizes our Nation's most vital education programs. In order for our Nation to flourish, all our citizens must be educated, literate, productive members of society. We cannot afford to lose the talents of one American. All children must leave school with the skills they need to be full participants in our democracy. H.R. 5 addresses these pressing concerns.

H.R. 5 is a national investment in education. Investing in quality education is a wise and profitable use of Federal funds because it is an investment in our future. I believe the strength of our Nation lies ultimately in our children, for they are our most precious resource. No Federal education program has done more for disadvantaged children than the Chapter 1 Program which is reauthorized in this bill. Chapter 1 provides compensatory education in reading, mathematics, and language arts for the neediest children.

Children who qualify for chapter 1 are at greatest risk of failing in school, becoming dropouts, and eventually joining the legion of the hard-core unemployed. Over the last 22 years, chapter 1 has provided supplementary instructional services to millions of disadvantaged youngsters. In the 1985-86 school year, 4.5 million children were served by this program. And we know chapter 1 is successful. Children who receive instruction through this program score better on standardized tests than eligible children who have not participated in chapter 1. The reauthorization of chapter 1 strengthens this vital program and puts into place the means for assuring high quality instruction to all eligible children.

Also included in H.R. 5 is a provision to improve the achievement of low-income, low-achieving high school students. Secondary school programs under title I serve students who have the greatest likelihood of becoming school dropouts. Keeping children in school and making it possible for those who have already dropped out to reenter high school is a wise use of Federal resources.

We must not settle for mere school attendance. All children, particularly disadvantaged children living in rural areas, must have access to high quality instruction. Our Nation's rural schools face a unique challenge. Transportation, program coordination, and resource allocation are particularly crucial in sparsely populated areas where children live great distances from their school. The rural education opportunities provision under title 1 establishes 10 rural assistance centers whose mission is to help States and local school districts improve the quality of education in rural schools.

Another program which has done much to improve the quality of education in our country is chapter 2 under title 1. Chapter 2 is unique because it gives local school districts the flexibility to make decisions about the kind of improvement most needed in their schools. As a consequence, chapter 2 has been highly successful encouraging innovation and program improvement. In keeping with the aim of educational excellence, chapter 2 also includes programs which reach out into the education community in creative ways. Distributing inexpensive books as a reading motivator, encouraging arts in education and recognizing exemplary schools are examples of broad-based, innovative programs. Such programs make a major contribution to our Nation's education system and it is disadvantaged children who stand to benefit the most.

As you know, I will not seek reelection to another term in the U.S. Senate. In light of this, many friends and colleagues ask me what I have found most rewarding about being a Senator from the State of Vermont. My work on the Education, Arts, and Humanities Subcommittee and on the Environment and Public Works Committee have been among the most rewarding challenges of my congressional career. My service on these committees has allowed me the opportunity to establish Federal policy and Federal programs which contribute to an improved quality of life in America.

No greater challenge is before the Congress and the Nation than developing the talents of our citizens. Each generation must take up this task anew, for the question of maximizing human potential is basic to the fabric of democracy. To the mind of this Senator, H.R. 5 takes up this challenge and does so to the benefit of all. It provides a means whereby the Federal Government joins hands with State and local education agencies. H.R. 5 defines an effective Federal role and as such serves the best interests of the children and adults of our Nation. A vote for H.R. 5 is a vote for better educated, better prepared, more productive citizens in tomorrow's workplace.

Let it be said that on our watch the children of our Nation, particularly the neediest children, were well served. I urge my colleagues assembled here today to join me in support of this important legislation.

Mr. WILSON. Mr. President, during Senate consideration of the Omnibus Elementary and Secondary Education Act last year, an amendment was offered and accepted by unanimous consent which had I been afforded the opportunity to address its content prior to passage would have resulted in a spirited debate between the Senator from Ohio and myself.

Specifically, the amendment in question required the Secretary of Education to postpone a final determination in the grants process to select the award recipient of the National Center for Research in Vocational Education Award, pending a General Accounting Office [GAO] review of the department's selection process. I am pleased that the conferees on H.R. 5 have chosen not to take this type of action. For the benefit of my colleagues who have not been directly involved in this matter, I would like to provide some background information.

In 1984, Congress passed the Carl D. Perkins Vocational Education Act. Under this act, the National Center for Research in Vocational Education was reauthorized to design and conduct research and developmental projects in the area of vocational education. As a result of problems experienced in a previous competitive process for this particular grant, Congress included specific requirements within the law to offer guidance to the Secretary in selecting future award recipients.

Utilizing these guidelines, the department began a painstaking process to select the recipient of the center grant, including the careful selection of a panel to review all applications. After the formal announcement of the grant process in November 1986, applications were submitted by the University of California at Berkeley, Northern Arizona University, and Ohio State University. These applications were reviewed, site visits were conducted, and on January 4, 1988, it was formally announced that Berkeley had been selected as the clear winner of the competition.

Last year, it became known that Berkeley had been tentatively selected prior to the official announcement and coincidentally, before Senate consideration of the elementary and secondary education reauthorization measure. Hence, an amendment was offered to H.R. 5 under the guise of fraud to prevent a final award to Berkeley.

For those of my colleagues with more than a passing imterest in this matter, I would recommend the GAO's report on the department's grants process (Report No. 88-56). Since the department was barred from including remarks within the GAO's written report, I ask unanimous consent that a copy of the Education Department's response be included at this point in the Record. After reviewing both documents, I am convinced that the Department adhered to congressional guidelines.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Department of Education,
Jan. 26, 1988.

Fred Yohey,
Group Director, Elementary and Secondary Education, General Accounting Office, Washington, DC.

Dear Mr. Yohey: On January 4, 1988, you and two members of your staff, Debra Eisenberg and Saundra Baxter, provided Department of Education officials with a briefing on the outcome of GAO's review of the Department's decision-making process in awarding a grant for the National Center for Research in Vocationial Education.

At the briefing, you indicated that the grant award process had not violated any statutes or regulations and you did not recommend that the competition be reopened. Furthermore, you stated that your staff had found "nothing arbitrary or capricious" about the process the Department used in making the award. Nonetheless, you identified five areas of general concern. We did not respond to the stated areas of concern during that briefing as it was our understanding that in the normal GAO audit process, the Department would have an opportunity to respond to a written draft report. But since you are providing only a final report, and not allowing us to respond in writing to a draft, we are providing you with a summary of the Department's analysis and response to the concerns mentioned in the January 4 briefing.

It is important to note that the grant award process for the National Center for Research in Vocational Education was conducted in strict compliance with an Application Review Plan for recompetition which described every major step of the process and which was available for your review. Procedures were developed for screening ineligible applicants, conducting a panel review of the technical merit of each application, ranking of applications using standardized scores, and conducting site visits of the top three applicants. This plan was prepared by the Office of Vocational and Adult Education (OVAE) and approved by the Department's Grants and Contracts Service (GCS) on July 1, 1987, prior to the submission of applications. Approval of an Application Review Plan is part of the normal Departmental review process. Departmental policy requires that a plan be approved for every discretionary grant program.

Furthermore, while GAO did express a general concern about some aspects of the competition process, as discussed below, we believe it is clear that the competition was not only in accordance with all legal requirements and internal Department procedures, but that it was also a process that was fair and neutral with respect to all applicants. In particular, we also believe that the concerns you have raised did not prejudice any particular applicant during this competition.

Let me first identify each area of concern that you cited, briefly summarize your findings, and then provide you with a summary of the Department's analysis.

READER QUALIFICATIONS

The Carl D. Perkins Vocational Education Act requires that, in making the grant award for the National Center for Research in Vocational Education, the Secretary shall act with the advice of a panel composed of individuals appointed by the Secretary who are not Federal employees and "who are recognized nationally as experts in vocational education administration and research." (Sec. 404(a)(2)).

The Department utilized a long-standing administrative procedure for selecting nonfederal reviewers. OVAE staff, who are themselves nationally recognized in the field of vocational education, identified experts to serve on the panel. The staff submitted a list of potential panel members to the Acting Assistant Secretary. The Acting Assistant Secretary requested that the list include the panel members who had previously served on the panels that reviewed the Fourth Year Continuation Application for the National Center and the Planning Grant Applications for the National Center. Reviewers were selected from this list and from the personal professional knowledge of the Acting Assistant Secretary. The Acting Assistant Secretary, of course, was in an excellent position to judge whether individuals are national experts in this field and, as the Federal official primarily responsible for administering this program, his judgment should be given great deference. Furthermore, if you review the resumes of the reviewers, you will find that each has impressive vocational education credentials.

In your review of whether or not the panelists could be considered national experts, your method of assessment of national expertise placed sole emphasis on name recognition. You quickly polled representatives of five national organizations and drew conclusions from a very small group in a large field. In a field as broad as vocational education, there are many nationally recognized experts who might not be known to certain parts of the vocational education community. Therefore, the Department believes that the GAO's method of assessing reader qualifications is highly questionable. We believe the panelists who served as reviewers in this competition are recognized nationally as experts in vocational education administration and research.

SITE VISITS

You indicated that the three site visits by the panel were not totally comparable inasmuch as tours of the facilities were conducted at Ohio State University and Northern Arizona University, but not at the University of California at Berkeley, thereby allegedly allowing more time for the question and answer session at Berkeley.

The site visits were conducted in accordance with the aforementioned approved Application Review Plan and therefore the treatment of each applicant was eminently fair. Each site visit was to be one day in length consisting of a briefing by the project director and/or his staff followed by a period during which panel members could ask questions of the project director and his staff. Each project director was sent an identical letter which indicated that it would be appropriate for him to expand, supplement or summarize any salient points raised in the application during the one to two hour briefing. While project directors were also advised that taking panel members on the tour of their facilities would be appropriate, it was also suggested that they might wish to show panel members slides, photographs and/or blueprints of additional off-site facilities. Therefore, it was left to the discretion of each applicant to choose how he would organize this allotted time. The fact that the University of California at Berkeley chose to show panel members a slide presentation during the briefing session rather than conduct a facilities tour does not deviate from the approved Application Review Plan or from the instructions sent to the Project Directors.

SUBSTANTIAL FINANCIAL CONTRIBUTION

The Carl D. Perkins Vocational Education Act requires that every applicant present evidence that it will make a substantial financial contribution towards the operation of the National Center. In that the law does not define what constitutes substantial financial contribution, Department officials relied upon their professional judgment and experience for assessing the applicant's contribution.

The assessment of financial contribution was reviewed as an eligibility requirement. (See 34 C.F.R. 417.2). All three applications were found to be eligible and subsequently forwarded to the panel. Points were not assigned in the evaluation process based on the amount of the financial contribution, because the published selection criteria in the program regulations do not contain this as a criterion.

In its application, the University of California at Berkeley indicated an annual contribution of approximately 10 percent of the annual $6 million award from the Department. The Department maintains that an annual contribution by the grantee of over 10 percent is clearly substantial.

SCORES

In the briefing, you stated that panelists knew the scores and rank order of each of the applications prior to the site visits. If this is true, a panelist, not OVAE, ranked the scores independently, not in the supervised group process, and did so based on raw scores, not standardized scores. Nevertheless, we have no knowledge that this indeed took place.

The approved Application Review Plan outlined the procedures to be utilized for the panel review for technical merit, procedures for ranking the applications using standardized scores, and procedures for the site visits. These procedures were followed by OVAE staff and panelists. For the panel review conducted August 24-28, 1987, after a morning orientation session on the 24th, panel members began to read and score each criterion of each application independently and without discussion. An OVAE staff member monitored these sessions at all times. When an application was completed by a panel member, the Technical Review form was collected from that member and the scores were checked for accuracy. When the review and scoring were completed on August 28, 1987, on all applications, an OVAE staff member conducted a discussion during which the panel member who had given the highest score on a given criterion and the panel member who had given the lowest score explained their decisions and rationale. This is a long-standing OVAE practice used to ensure that important criteria have not been overlooked and that the review was comprehensive.

It is important to note one application is not scored against another. Each is reviewed independently, criterion by criterion. It is also important to note that no panelist changed a score as a result of the high/low score discussion and August 28, 1987. All materials were then collected by OVAE staff before the panelists left the room. Panelists had no further access to any materials including score sheets until the site visits.

The integrity of the review process was further maintained during the site visits. At the conclusion of each site visit, panelists were given the opportunity to rescore that application. This was in accordance with the procedures set forth in the approved Application Review Plan. Again, each panelist independently scored and reviewed the application, and at the end of each site visit, materials were collected by OVAE staff. Furthermore, no official Department ranking took place until the total process was completed, including all of the site visits, after which the raw scores were converted into standard scores by the Grants and Contracts Service Division and final rankings were computed.[1]

DIRECTOR AND CO-DIRECTOR

As a final point, you indicated in your review that the application of the University of California at Berkeley called for co-directors. The regulations at 34 C.F.R. 417.40 require that the Center have a Director.

Based on advice of counsel, it was determined that this was a minor technical issue which could be addressed during the negotiation process conducted by the Grants and Contracts Service Division. This determination was made in accordance with Departmental practice. Disapproval of Departmental grant applicants on the basis of minor technical issues of this nature might well result in a substantial decrease of qualified applicants and a resulting reduction in educational innovation and grant award competition.

It is also important to note that the issue of a Center Director is not included in the initial eligibility criterion and therefore can be resolved during the course of the negotiations process.

Finally, we appreciate GAO's recommendations on improving the grant competition process in the future. However, we believe that your report should clearly indicate that GAO did not find that the recent competition violated any statutory or regulatory requirements and that GAO does not recommend that the award be recompeted.

Sincerely,

BONNIE GUITON,
Assistant Secretary.

Mr. WILSON. Since no glaring flaws were uncovered by the GAO after reviewing the national center grant selection process, the Secretary of Education awarded the center grant to Berkeley. Subsequently, Ohio State University, the previous grantee, filed suit against the Department in Ohio Federal District Court. Recently, a decision was reached by the Judge which, in my view, illustrates a complete lack of understanding of Federal grant procedures. I ask unanimous consent that a copy of the Ohio Federal District Court's brief, as well as Berkeley's response, be included in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Case No. C2-88-0027]

UNITED STATES DISTRICT COURT—SOUTHERN OHIO DISTRICT

THE BOARD OF TRUSTEES OF THE OHIO STATE UNIVERSITY, PLAINTIFF V. U.S. DEPARTMENT OF EDUCATION, ET AL., DEFENDANTS

OPINION AND ORDER

This matter is now before the Court for final disposition of plaintiff's, the Board of Trustees of The Ohio State University (Ohio State), request for injunctive and declaratory relief against defendants, the U.S. Department of Education, the Secretary of the Department of Education and the United States of America (Secretary). This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1441 and 5 U.S.C. § 702. The question presented is whether the Secretary complied with Section 404 of the Carl D. Perkins Vocational Education Act, 20 U.S.C. § 2404, as enacted by Public Law 98-524, and 34 C.F.R. Parts 75, 400 and 417, when he awarded a five-year, $30 million grant to Berkeley for the operation of the National Center for Research in Vocational Education.

ADMINISTRATIVE PROCEEDINGS

On August 16, 1985, the Secretary announced in the Federal Register the procedures and criteria which would be used in the competition. 50 Fed. Reg. 33,267 (1985) (to be codified at 34 C.F.R. § 417). On September 16, 1986, the Secretary announced the availability of planning grants for the stated purpose of assisting individuals, public or private agencies, organizations or institutions in developing innovative approaches for expanded activities of the National Center, and to increase the quantity and quality of applications for the National Center, 51 Fed. Reg. 32,882. On November 28, 1986, the Secretary solicited applications for the National Center that provided for an August 14, 1987 deadline, 51 Fed. Reg. 43,069 (1986). The solicitation provided that the applications were subject to compliance with the regulations in 34 C.F.R. Part 417 and The Education Department General Administrative Regulations, 34 C.F.R. Parts 74, 75, 77 and 78. On or before August 14, 1987, the Secretary received three applications for the National Center. The applicants were Ohio State, Northern Arizona University and a consortium arrangement under the guise of The University of California at Berkeley (Berkeley).

After the August 14, 1987, closing date for the National Center grant application, the Office of Vocational and Adult Education (OVAE) reviewed each application for eligibility under 34 C.F.R. § 417.20. The OVAE was satisfied that each applicant met eligibility requirements. From August 24 through October 1, 1987, a panel of nationally recognized experts in the field of vocational education administration and research evaluated each application on the basis of the criteria contained in 34 C.F.R. § 417.31. The panel reviewed each application and awarded points based on the following selection criteria: the high quality and effectiveness of the required services and activities; quality of the management plan; quality of the key personnel; institutional experience of the applicant; adequacy of the applicant's resources; adequacy of budget and cost effectiveness; and external relationships with interested and affected entities, 34 C.F.R. §§ 417.30-31. Prior to actual award of the grant, the Secretary engaged in negotiation with the applicant having the highest standardized score (Berkeley) in order to clarify their obligations under the grant. Following the negotiation process Berkeley was designated the National Center on January 4, 1988.

---

[1] The Application Review Plan had contemplated a preliminary ranking prior to the site visits to determine the top three applicants to be visited. However, since there are only three applicants, approval was sought and granted not to rank the applications at that time. Thus, only one official ranking was done after the total process, including the site visits, was completed.

JUDICIAL PROCEEDINGS

On January 8, 1988, Ohio State filed a complaint and a motion for a temporary restraining order and a preliminary injunction alleging that the Secretary's review of the grant applications and award of the grant violated statutory and regulatory requirements. On January 11, 1988, this Court held a hearing and granted Ohio State's motion for the temporary restraining order. On February 10-11, 1988, this Court consolidated the hearing of Ohio State's application for a preliminary injunction with the trial on the merits pursuant to F.R.C.P. 65 (a)(2). The Court recognized that this case is not the proper subject of a trial de novo, *Citizens To Preserve Overton Park* v. *Volpe*, 401 U.S. 402, 415-416 (1970). However, the purpose of the "consolidation" was two-fold: first, testimony was taken to determine whether equitable relief was appropriate; and second, to clarify and amplify the actions taken by the Secretary in order to determine if they were consistent with and followed the statutory mandate regarding the National Center.

JUDICIAL REVIEW

Initially, it is necessary for the Court to determine whether Ohio State is entitled to judicial review of the Secretary's action in awarding the grant for the National Center to Berkeley. The Secretary argues that the portion of the Perkins Act dealing with the National Center does not provide for any judicial review of Department of Education actions in regard to the selection of a grantee or the administration of the grant, in that other sections of the Act specifically provide for judicial review.

Judicial review of the Secretary's decision is governed by the Administrative Procedure Act, 5 U.S.C. § 551 et seq. The APA provides that the action of each authority of the government of the United States is subject to judicial review except to the extent that statutes preclude judicial review or agency action is committed to agency discretion by law. The APA provisions embody a presumption in favor of judicial review. The right to review is not to be denied absent clear and convincing evidence of contrary legislative intent. *Lubrizol Corp.* v. *Train*, 547 F.2d 310 (CA6 1976). The mere fact that 20 U.S.C. § 2404 makes no provision for judicial review while other sections of the Perkins Act specifically provide for judicial review is not clear and convincing evidence that Congress intended to preclude judicial review of the National Center grant process. Furthermore, the Secretary's discretion to authorize funding for the center has been severely restricted by the enabling act, 20 U.S.C. § 2404. For these reasons the Court determines that judicial review of the Secretary's action is entirely appropriate.

ANALYSIS—I

The declaratory and injunctive relief sought by Ohio State is available under 5 U.S.C. § 706, which provides that "the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action." Additionally, "the reviewing court shall . . . hold unlawful and set aside agency action, findings and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). The general rule of APA review is that the Court shall decide all relevant questions of law and interpret statutory provisions. See, *NLRB* v. *Hearst*, 322 U.S. 111 (1944). The Secretary's actions are entitled to a presumption of regularity and this Court is not empowered to substitute its judgment for that of the agency, Overton Park, 415-416 (1970). However, the presumption of regularity does not shield the Secretary's actions from a thorough, probing and indepth review, *Id.*

In order to properly review the Secretary's actions, the Court is first required to determine whether the Secretary acted within the scope of his authority. *Id.*, at 415, quoting *Schilling* v. *Rogers*, 363 U.S. 666, 676-677 (1960). Thus, the Court must consider whether the Secretary properly exercised his authority to designate Berkeley as the National Center. The Secretary's authority to designate an entity as the National Center is derived in part from 20 U.S.C. § 2404.

The Perkins Act authorizes the Secretary to designate and fund a National Center for Research in Vocational Education after grant applications have been reviewed in compliance with 20 U.S.C. 2404, as enacted by Public Law 98-524. The Act provides for the establishment of a National Center which shall have as its primary purpose "the design and conduct of research and developmental projects and programs" in vocational education. 20 U.S.C. § 2404(b). The statute states in relevant part that:

(2) The Secretary shall provide support for the National Center through an annual grant for its operation. The National Center shall be a nonprofit entity associated with a public or private nonprofit university which is prepared to make a substantial financial contribution toward its establishment. The Secretary shall, on the basis of solicited applications, designate the entity to be the National Center once every five years, acting with the advice of a panel composed of individuals appointed by the Secretary who are not federal employees and who are recognized nationally as experts in vocational education administration and research.

(3) The National Center shall have a Director, appointed by the University with which it is associated . . .

20 U.S.C. § 2404(a) (2)-(3). The statute simply requires the Secretary, acting with the advice of national experts in vocational education administration and research, to fund a single National Center. The organization chosen as the National Center is required to be nonprofit, associated with a university that is prepared to make a substantial financial contribution towards its establishment and have a single Director.

A

Under 34 C.F.R. § 417.20, an applicant is eligible to be designated the National Center if: (1) the application is from a nonprofit entity associated with a university and (2) is prepared to make a substantial financial contribution towards the establishment of the National Center. The eligibility criteria did not address whether an application needed to provide for a single director as required by 20 U.S.C. § 2404(A)(3). The Secretary dismissed the statutory criterion as a "minor technical issue" that would be resolved in the negotiation process.

The Secretary's attempt to explain away the unambiguous statutory requirement is woefully inadequate. An issue is deemed substantial when it is addressed in the context of a statute—there is nothing minor when an issue concerns the intent of Congress as expressed in a statute. The articulated purpose of the negotiation process is to clarify the provisional awardee's obligations under the grant. Congress, clearly set out the minimum eligibility requirements in section (a) of the statute. The statutory language is clear, Congress specified that the National Center have "a Director." The Secretary was responsible for implementation of 20 U.S.C. § 2404 and should have required that the applications provide for a Director. The Secretary's failure to make initial eligibility contingent upon statutory compliance is not in accordance with 20 U.S.C. § 2404(a).

B

Actually, the Berkeley application describes the Director position in terms of co-directors (Drs. Benson and Swanson) or co-principle investigators who, at the apex of the management heirarchy, are ultimately responsible for the entire Center. P. Ex. 14 at 40. Such an arrangement does not comply with 20 U.S.C. § 2404(a).

As the Court noted previously, the statute clearly requires a single Director. Such a construction does not allow for a co-directorship or any other similar arrangement. Apparently concerned with statutory compliance, the Secretary, during the negotiation process, asked Berkeley whether its National Center would have "one director." P. Ex. 15 at Management Q.1(a). In response, Berkeley stated that Dr. Benson would be the Director and Dr. Swanson would be an Associate Director. P. Ex. 16 at Management Q.1(a). The Secretary was satisfied with Berkeley's change of titles although it "did not change the substance at all." Tr. at 284. Dr. Benson testified that the change of title did not change his role in the National Center organization described in the application. Tr. 259. Dr. Swanson testified likewise. Tr. 310. This suggests to the Court that the change was merely to give the appearance of compliance when, in fact, there is in substance, two directors or co-directors of the project.

II

The Berkeley application was submitted pursuant to 34 C.F.R. 75.128. That regulation generally permits a group or consortium of eligible parties to apply for a Department of Education grant by designating one member of the group as applicant and including the consortium agreement with its application. The Berkeley application stated that it was a proposal from The University of California at Berkeley, The University of Illinois, The University of Minnesota, The Rand Corporation, Teachers College of Columbia University, and Virginia Polytechnic Institute and State University.

After thorough examination, the Court notes that the multi-volume Berkeley application does not include any contracts between institutions. When the Secretary requested copies of the subcontracts, during the negotiation process, Berkeley declined to provide subcontracts on the grounds that it had a policy not to draw up subcontracts prior to an award. P. Ex. 16 at Management Q.6(a). However, Berkeley did provide a "model of a subcontractual agreement which typifies the format utilized by the University of California at Berkeley" during the negotiation process. *Id.* The Secretary's actions were not in accordance with 34 C.F.R. 75 12B(G).

A.

Ohio State argues that the consortium arrangement contemplated by Berkeley is inconsistent with the 20 U.S.C. § 2404(a), in that the statute requires "the" National Center . . . to be associated with "a" . . . university. The plaintiffs contend that the Berkeley award violates that requirement by funding a group of six regional centers. The Secretary claims that the Berkeley application misused the term "consortium" because in reality the relationship between Berkeley and the five other institutions described by the substance of the application was a prime contractor-subcontractor relationship which is permitted by 20 U.S.C. § 2404(b).

Plaintiffs attribute to Congress an intent to limit the Secretary's discretion to only fund one National Center which has one location as opposed to a National Center which is in fact a series of regional centers. The National Center was originally created in 1976 by 20 U.S.C. § 2401, as enacted by Public Law 94-482. The reasons for the action and the meaning of the exact text of the statute were explained when the statute was enacted:

> The term "center" implies centrality and concentration of resources. Inherent in the concept is the *critical mass* of resources and interdependent functions to cost effectively and adequately serve the impact on vocational education. Problems of planning, coordination, and essential functions such as dissemination and information services are confounded if divided among several "national" centers.
>
> During the House . . . hearings on the vocational education bill, testimony was presented and discussed relating to the single versus multiple centers concept. This same issue of center versus centers was raised and debated and not brought to a vote because of the strong support in the subcommittee and committee. Considering all the testimony presented, as well as related information collected directly by the House subcommittee, it was clearly substantiated that a single national center should be established which is selected on a competitive basis with the ability to directly, or through contracts with other public agencies, work on the solving of vocational problems of national significance. Each time the matter was discussed, the important need for providing a "critical mass" of resources in one center to provide national center functions as specified in the vocational education bill, was clearly established. Based on first, this highly stressed need, second, the fact that the federal government has not been capable of adequately supporting even one national center since 1965, and third, the extensive support from the practitioners and leaders in the field of vocational education for the single national center concept, the Education and Labor Committee derived the language stated in the House Bill.

122 CONG. REC. 11, 13379-80 (May 11, 1976) (Remarks of Rep. Mottl) (Emphasis supplied).

The 1976 statute specifically permitted the Commissioner of Education to award the National Center to an agency with multiple "locations, including contracts with one or more regional research centers." 20 U.S.C. 2401. That language was included to allow for regional research centers and other public agencies to be funded through the National Center. The Commissioner then used his discretion to fund a National Center in one location with no regional centers.

In 1984, the question of one National Center in one location rather than multiple locations was raised again. Congress resolved this question in favor of one National Center in one location. It deleted the provision for multiple locations and regional centers and presently permits a prime contractor-subcontractor relationship. Congress rejected Senate amendments to the Perkins Act that would have required that funding for vocational education research be divided among institutions, with no single institution receiving more than 20 percent of the available funding. H.R. Conf. Rep. 1120, 98th Cong., reprinted in 1984 U.S. Code Cong. and Admin. News 4154. Congress Committee observed that:

> The Committee wishes to call attention to the fact that this bill continues the mandate for *a national center* for research in vocational education, which under the current legislative authority has provided a significant improvement to the vocational education field.

H.R. No. 612, 98th Cong., reprinted in 1984 U.S. Code Cong. and Admin. News 4112 (Emphasis supplied).

The intention is clear from the legislative history of the statute—Congress unequivocally mandated that one National Center in one location must be funded. However, Berkeley's application described what the terms of the consortium relationship would be and stressed the novelty of the "new organizational structure for the National Center." The application stated:

> The conventional approach to a research center has been to locate all principal researchers in one place, creating a *critical mass* of individuals concentrating on a common set of topics, often around one intellectual leader. For the proposed National Center, *however, this model is unworkable.* We will replace the conception of the Center as a single institution, with personnel in one location, with a contractual relationship among six institutions . . . (P. Ex., at 37) (Emphasis supplied).
>
> It is conventional wisdom that the management of several institutions may be more complex than the management of a Center located at a single institution. We recognize this potential difficulty, but we also believe that ease of management ought to be subordinate to fulfilling the mission of the National Center. Once this mission has been defined, and *the necessity for a consortium of institutions established,* then the task remaining is to devise a management structure that will enable that mission to be fulfilled effectively as possible . . . (Id., at 171) (Emphasis supplied).

Nevertheless, Berkeley insisted that the above described consortium arrangement was contractual in nature. Their application stated:

> We are using the term "consortium" generically to describe our multi-institutional contractual arrangements. Berkeley is and will remain the central location for the Center and will have full and final responsibility for administering the Center's grant. (P. Ex. 14 at 170).

The Court disagrees. Berkeley's organizational model is clearly at odds with its disclaimer and with Congressional intent. In 1976 Congress determined that the efficiency and efficacy of the National Center required a "critical mass of resources" in one center. For the National Center, individuals comprise the prime resource for the purposes of vocational education research. Furthermore, in 1984, Congress rejected the idea that the mission of the National Center necessitated a consortium of institutions. Berkeley's application does not adhere to the clear intent of Congress. However, during the negotiation process, the Secretary instructed Berkeley to "delete all references to a consortium in order to reflect the fact that the grant will be supporting a national center and the five institutions with which it subcontracts." P. Ex. 15, at Management Q.5 (b). Berkeley agreed to do so. P. Ex. 16 at Management Q.5 (b). The Secretary's request is an admission which supports plaintiff's assertion that the Berkeley application was ineligible.

B.

Ohio State argues that Berkeley's financial contribution towards the establishment of the National Center is not substantial. The various contributions and concessions from each institution listed in the Berkeley application total $685,597. P. Ex. 14 at App. Vol. C, p. 17. Berkeley alone would contribute $93,241. *Id.*

20 U.S.C. § 2404 mandates that the university associated with the National Center is to provide a substantial financial contribution towards its establishment. An application must describe the financial contribution the university will make towards the establishment of the National Center. 34 C.F.R. 417.20. Neither the statute nor the regulations define what constitutes a substantial financial contribution. The Secretary viewed the assessment of financial contribution as an eligibility requirement. Dec. Bonnie Guiton, at Attachment A, p. 4.

The Secretary concluded during the negotiation process that a larger proportion of the Berkeley contribution had to come directly from Berkeley rather than simply flow through Berkeley from the other institutions. Tr. 281. As a result, Berkeley agreed to pledge a direct annual contribution in excess of $600,000. Tr. 237. These actions are admissions by the Secretary and Berkeley and support the conclusion that the Berkeley application was ineligible at the very threshold of this process.

C.

Ohio State contends that the Secretary's selection of the review panel violated 20 U.S.C. § 2404 in two respects. First, that the panel was not wholly comprised of individuals "recognized nationally as experts in vocational education administration and research." The plaintiff has pointed to nothing in the express language or legislative history of the Perkins Act which could provide the Court with parameters or guidance by which the Court could determine whether the appointment of the panelists violated the statutory provision that they be "recognized nationally as experts in vocational education administration and research."

The determination of who qualifies as "recognized nationally as experts in vocational education administration and research" is a classic example of a determination committed to the discretion of an agency that has special expertise necessary to make a qualified judgment. Such a determination is beyond the competence of this Court and is not subject to judicial review. This Court will not substitute its judgment for that of the Secretary.

Second, Ohio State argues that the Secretary violated minimal standards of fairness to the applicants when he allowed two persons to be selected as panelists that had previous contact with the existing National Center. 20 U.S.C. § 2404 requires a panel composed of individuals appointed by the Secretary who are not federal employees and who are recognized nationally as experts in vocational education administration and research. The panelists also had to be unbiased and not have any affiliations with the grant applicants. Dec. John Pucciano.

The Secretary conducted a regular, annual review of the performance of the National Center, in 1986. This was prior to funding the Center for 1987. The review was conducted by a panel of five persons which included Donald Roberts. Also in 1986, the Secretary announced the availability of planning grants to assist potential participants in preparation for the 1987 National Center competition. The Secretary appointed a panel of five persons to review the applications which included Phillip Atkinson. In 1987, these same individuals, Donald Roberts and Phillip Atkinson, along with three others, were appointed by the Secretary to review the applications for the National Center Competition.

It is obvious that the Secretary did not follow informal guidelines when he selected Drs. Roberts and Atkinson. It is equally apparent that the doctors must * * * their previous contacts with the existing National Center. The previous contact that the Doctors had with the applicants raises serious questions concerning their objectivity and openmindedness and gives, at the very least, an appearance of impropriety. Such action by the Secretary is an abuse of discretion.

D.

Finally, Ohio State claims that the Secretary failed to have the panel review the amended Berkeley application. The Secretary contends that the action was harmless because none of the changes were significant under the seven criteria panelists applied. The Secretary's counsel clearly expressed the Secretary's view:

> [i]t was none of the site reviewer's business, quite frankly, your Honor, whether or not there was a substantial contribution, whether or not there were co-directors, whether or not there was one national center.

20 U.S.C. § 2404(a) mandates that the award of the National Center is to be based on application and requires the Secretary to act with the advice of a panel of nationally recognized experts in vocational education administration and research. It is obvious that the Secretary denied the panel an effective opportunity to review applications by permitting Berkeley to amend its application after panel review. Furthermore, the Secretary's position cannot withstand even cursory review of the criteria by which the panelists were to evaluate the applications. One of the most important criteria as "management", which accounted for 20% of the total score. In evaluating "management," the panelists were to examine:

> (i) The applicant's philosophy of management for the National Center.
>
> (ii) How the applicant will implement * * * the National Center, particularly with regard to the public or private nonprofit university with which it is associated;
>
> (iii) The applicant's plan for managing the National Center's activities and personnel, including quality control procedures for its activities and products and procedures for monitoring compliance with timeliness.

34 C.F.R. § 417.31(b).

Clearly, changes from a co-directorship to a single director and the governmental arrangements of a consortium versus that of a prime contractor-subcontractor relationship would have great significance under the management criterion. Moreover, it was under the management criterion that the scores varied most dramatically between the written applications and site reviews.

If the changes effected in Berkeley's amendment to its application during the negotiation process, did not change the substance of the application, then the statutory defects were never cured. If the changes were substantial enough to cure the defects, their effect on management and organization was so great as to require review by the panel.

CONCLUSION

The Court notes that "[t]he interpretation of a statute by an agency charged with its enforcement is a substantial factor to be considered in construing the statute." *Youakim* v. *Miller,* 425 U.S. 231 atk 235-236 (1976), citing *New York Department of Social Services* v. *Dublino,* 413 U.S. 405, 421 (1973). However, in this case it appears that the Secretary substantially ignored applicable statutory and regulatory requirements. The Secretary's departure from the requirements is evident in relation to the negotiation process. The negotiation process permitted the Secretary to engage in result orientation, while paying lip service to statutory and regulatory guidelines. In light of the legislative history of the Act and the plain language of the statute, an "apply now-conform later" scheme is clearly not what Congress intended.

Such a scheme is not permitted under the applicable regulations. 34 C.F.R. § 75.109(b) allows an applicant to make changes to its application on or before the deadline date for submitting applications under the program. Under 34 C.F.R. § 75.216(a)(2)(3), the Secretary is supposed to return an application to an applicant if the applicant does not comply with all of the procedural rules that govern the submission of the application or if the application does not contain the information required under the program. The undisputed facts show that Berkeley did not amend its application on or before the deadline of August 14, 1987, in regard to the necessity for: (A) copies of sub-contracts; (B) a single Director; (C) a substantial financial contribution; and (D) a single National Center. The facts also show that the Secretary did not return Berkeley's non-conforming application. This defect was not cured by the negotiation process—applicants may not apply now and conform to statutory or regulatory requirements after the deadline date. The Secretary's failure to return Berkeley's application is contrary to the provisions of 35 C.F.R. 75.216.

The factors to be considered in determining whether a motion for preliminary injunction should be granted are well established. They are: (1) whether the plaintiff has shown a strong or substantial likelihood or probability of success on the merits; (2) whether the plaintiff has shown irreparable injury; (3) whether the issuance of a preliminary injunction would cause substantial harm to others; and, (4) whether the public interest would be served by issuing a preliminary injunction. *Mason County Medical Association* v. *Knebel,* 563 F.2d 256, 261 (CA6 1977).

After reviewing all of the relevant documents and listening to testimony, the Court is satisfied as indicated by the above discussion that the plaintiff's case is clearly meritorious. The plaintiff also showed that it would suffer irreparable harm if the Secretary is permitted to award the grant to Berkeley. The loss of a 30 million dollar grant is certainly substantial and irreparably harmful. The Court is satisfied that the potential harm caused to others by issuing an injunction is far outweighed by the public need for a National Vocational Education Center established and operated in accordance with the law as specifically intended by Congress. In light of the public interest in seeing government officials comply with the law and the intent of Congress in the establishment of the National Vocational Center, the Court finds that the public interest will be served if the Secretary is enjoined from awarding the grant to Berkeley.

Therefore, it is ordered, adjudged and decreed:

1. That the Secretary vacate the designation of the University of California at Berkeley as the National Center for Research in Vocational Education.
2. That the Secretary return the application submitted by the University of California at Berkeley as ineligible.
3. That the Secretary begin anew the award process in strict compliance with 20 U.S.C. § 2404 and applicable regulations.
4. That the new award process shall be consistent with this opinion.

GEORGE C. SMITH,
United States District Judge.

UNIVERSITY OF CALIFORNIA,
Berkeley, CA, March 18, 1988.

To: Charles Benson
From: Staff
Re: Arguments for reversal of the Court's decision

On March 15, 1988, the United States District Court in the Eastern Division of the Southern Ohio District ordered the Secretary of Education to vacate the designation of the University of California at Berkeley as the National Center for Research in Vocational Education. The Court did so because it judged that the application submitted by Berkeley was ineligible for consideration by the Department of Education.

With all due respect, the Court has grossly misread the proposal submitted by Berkeley, misinterprted key sections of the law and regulations governing the award of grants and contracts, displayed little knowledge of standard negotiating practices in the award process, and ignored the findings of a review of this particular award process through an independent audit conducted by the General Accounting Office. If this decision is allowed to stand, it will establish an astonishing new precedent that will invite every loser in government competitions to seek judicial on the slightest technicality. It will seriously undermine the government's ability to make awards that best serve the national interest. It threatens the very heart of the competitive process that helps to ensure that the government supports activities of the highest quality for the best price.

LISTING OF ARGUMENTS

1. Three of Judge Smith's four reasons for ruling Berkeley's application was ineligible were based on provisions of the Perkins Act describing the National Center. However, the regulations governing the application procedure described who was eligible to apply to become the Center, and Berkeley's application did meet those requirements. The Judge's ruling on our compliance with the Perkins Act is therefore irrelevant (see Argument 1 below). The fourth reason was a conflict with EDGAR's requirement that copies of subcontracts be included with proposals (see item 6 below).

2. Even if the Perkins Act itself were taken to determine who was eligible to apply, the substantive issues on which the Judge ruled Berkeley's application did not conform are all matters of interpretation. By substituting his own judgment for the Secretary's on these three matters, the Judge failed to honor the usual presumption that the executive is correct in discretionary matters within its authority. Judges should overrule the executive only if the executive is flagrantly wrong. If Judge Smith's decision were allowed to become precedent, all losing bidders in federal procurement competitions would be invited to file suit in hopes that judges would see some substantive reason to overturn the decision of the executive. (This has to be written by a lawyer.)

3. Even if the Judge had authority to substitute his judgment for the Secretary's, his interpretation of the facts was not correct. The first substantive issue is whether or not Berkeley proposed a single National Center. Even in our original proposal, submitted prior to August 14, we did propose a single Center with subcontractors, not regional centers as implied in Judge Smith's decision. (See Argument 3, below.)

4. The second substantive conflict Judge Smith saw between the Berkeley proposal and the Perkins Act was whether we proposed a single director. We did. (See Argument 4, below.)

5. The third conflict Judge Smith saw between our proposal and the Perkins Act was whether the University of California was prepared to make a "substantial financial contribution" toward establishing the National Center. It was. (See Argument 5, below).

6. The Court notes that Berkeley's proposal contained no subcontracts with each of the other five institutions with whom Berkeley intended to work. 34 C.F.R. 75 128 does not require submission of subcontracts, it does require the submission of a written agreement. Berkeley's application fully complies with 34 C.F.R. 75.128. (See Argument 6, below).

7. This decision, which is wrong for the reasons stated above, should be overturned quickly, and Ohio State should be enjoined from any further legal action that will impede the operation of the National Center at Berkeley. Expedited procedures are warranted because the Perkins Act requires that there shall be a National Center and until this lawsuit is settled the operation of the Center is stalled. Neither the Center at Berkeley nor the former Center at Ohio State is able to function effectively, especially with regard to performing the service functions specified in the Perkins Act. Furthermore, the public interest demands that the National Center provide information to Congress and other interested parties as the Perkins Act enters its period of review for re-authorization Congressional hearings on re-authorization of the Perkins Act are expected to begin in early 1989—possibly sooner. As is usually the case in reauthorization of major Federal legislation, provider and client groups review the existing Act and establish their positions well in advance of hearings to be of use in the process of re-authorization, the National Center must proceed immediately to analyze existing large national data sets in an intensive fashion. Berkeley has already begun that analysis; it is also providing other kinds of information and leadership in the process of reviewing the Perkins Act. It should be allowed to continue to do so. (See Argument 7, below)

ARGUMENT 1 APPLICANT/GRANTEE

There is a clear distinction between applicants and grantees in the statutes and regulations governing the designation of the National Center for Research in Vocational Education by the Secretary of Education. It appears that the court at several points in its decision failed to recognize that distinction. On page 7, Paragraph A, the court cites 34 CFR 417.20: "an applicant is eligible to be designated the National Center if: (1) the application is from a nonprofit entity associated with a university and (2) is prepared to make a substantial financial contribution towards the establishment of the National Center." The operative word in this sentence is not "applicant" as the court presumes but "designated." The question then is not if the cited requirements of the statute are met by the *applicant* but if the requirements of the statute are met by the *designee.* Under this line of reasoning, therefore, the judge's finding in the last sentence of page 8, ("The Secretary's failure to make initial eligibility contingent upon statutory compliance is not in accordance with 20 U.S.C. 2404(a)") is incorrect.

The same argument holds with the judge's finding that Berkeley was a consortium and not a contractor-subcontractor relationship. The only statutes and regulations on this issue do not in any part mention the word "applicant" only "Center" or "Grantee." Leaving the other issues related to this issue aside, the relevant question is whether Berkeley, when it was *designated* as the National Center complied with the statute. Again, the court erred in not distinguishing between an applicant and a grantee.

The same argument holds when the court finds that a director (and not co-directors) is required. (for further explanation see Argument 4)

The court goes even further afield on its treatment of the question of substantial contribution. The requirement there is not that "the university associated with the National Center is to provide a substantial financial contribution toward its establishment" (see page 15 of the court's decision, last paragraph) but that the University *be prepared* to make a substantial financial contribution. Clearly, the facts indisputably show that Berkeley was quite prepared and did make the necessary commitment of a substantial annual contribution, exceeding $600,000. Again, the court confuses requirements applicable to applicants and those applied to grantees.

Finally, it is important to note that none of the pertinent regulations which govern applicants and/or applications would disqualify Berkeley's application (see Federal Register, Vol. 50 No. 159, Friday, August 16, 1985, Rules and Regulations: Sections 417.2, 417.20, 417.30, 417.31). The distinction is quite clear in the regulations, some are for applicants (see above) and some are for the National Center (see Sections 417.40 et. seq.).

In sum, the court has badly confused the issue *eligibility* of the application with compliance of the Center. To be eligible for consideration, the application had to meet a few simple criteria. It had to come from a non-profit entity associated with a university prepared to make a substantial financial contribution. It had to address the major topics outlined by the Secretary in the regulations governing the competition. It had to be submitted on time. Berkeley satisfied all of these criteria. Before a grant is awarded, it is the responsibility of the government to ensure that the final award is in compliance with all relevant laws and regulations. The government not only has the right, it has the obligation to request changes that will ensure that the final award is in compliance. This is precisely what the government has done in this instance. It insisted on one director rather than a co-director. It insisted that there be no ambiguity that the center would operate as a single center. It insisted that Berkeley assume sole responsibility for making a substantial financial contribution rather than count the combined contributions of Berkeley and its subcontractors. It insisted on reviewing the language that would be used in the subcontractual agreements. Surely these are all proper, appropriate actions for the government to take.

The court, however, seems to think that 34 C.F.R. 75.109(b) prevents such changes from occurring once the deadline for submission of the application deadline for proposal submission has passed. 34 C.F.R. 75.109(b) reads:

An applicant may make changes to its application on or before the deadline date for submitting applications under the program.

Anyone familiar with the government procurement process knows that this section refers to changes *initiated by the applicant.* Prior to the deadline, an applicant may make any changes it wishes; after the deadline it may not initiate any changes on its own. It may, however, accede to requests by the government for changes. To rule that 75.109(b) prohibits any changes requested by the government completely destroys the power of the government to negotiate and ensure that the government obtains the best product for the best price in strict compliance with the law. To so rule effectively declares invalid every government contract and grant in place!

ARGUMENT 2 PRESUMPTION OF AGENCY REGULARITY (TO BE ADDRESSED BY AN ATTORNEY)

ARGUMENT 3 THE ISSUE OF A SINGLE CENTER

The Court accepts the plaintiff's contention that Berkeley proposed "to fund six regional centers" and that the proposal failed to comply with Congressional intent to establish a single national center with a critical mass of resources. This conclusion is a complete misreading of Berkeley's proposal. Berkeley proposed to marshal the resources of six of the country's leading research institutions into a single national center with a unified vision of the future of vocational education and a carefully crafted and well integrated agenda for research and service. What Congress has sought to avoid is the proliferation of independent centers that might duplicate efforts or work at cross purposes. The law is quite clear that it intended that the Center enter into subcontracts to accomplish the aims of the Center, and nowhere in law or regulation is there even the slightest suggestion that subcontractors must all be located in one single location. Rather it is the singleness of purpose, unity with respect to planning and coordination, and the avoidance of duplication that Congress has sought.

Berkeley's proposal unquestionably achieves these Congressional aims. The fact the review panel and the Department of Education judged Berkeley's proposal superior to that of Ohio State, despite Ohio State's years of experience in operating a center, is testimony to the power of Berkeley's proposal. Berkeley has not proposed, as the Court maintains, "to fund six regional centers." Nowhere has Berkeley proposed to mindlessly decentralize and replicate all the functions of the Center at branches throughout the country. On the contrary, Berkeley has proposed a unified national agenda for research and service and seeks to carry out that agenda by strategically locating special functions at those places that are among the best qualified in the nation to perform these tasks. Thus, primary responsibility for in-service training belongs to Virginia Polytechnic Institute, with one of the largest and most respected vocational education faculties in the country. Leadership development is housed at the University of Minnesota, which has a long history of experience with distinguished leadership institutes. Technical assistance for special populations is the primary responsibility of the University of Illinois, which leads the country in research on students with special needs. The research efforts take advantage of the unparalleled expertise of the Rand Corporation with survey research and quantitative methods, the pioneering work of Teachers College in the relationships between education and work, and the landmark efforts of the University of California in economic development, writing, and mathematics.

In short, Berkeley proposed a *national* center in the truest meaning of the word. It proposed a center that sought out the finest minds in the country and set them to work in a well coordinated, unified way on the major problems confronting vocational education. This is precisely what Congress sought; it wanted these resources amassed in a single center but not necessarily a single location. Indeed to insist on a single location is to ensure that Congress must settle for second best. It is simply not possible in a project of this scope and magnitude to assemble all the best talent in one geographic place. Surely Berkeley's strategy achieves the aims of Congress. The panel of experts reviewing the applications thought so, as did the Office of Vocational and Adult Education, the Secretary of Education, and the General Accounting Office. On what basis can the court reasonably rule otherwise?

ARGUMENT 4 THE ISSUE OF THE SINGLE DIRECTOR

Berkeley's proposal named Professors Charles Benson and Gordon Swanson as "Co-Principal Investigators". However, the proposal explicitly stated that "Professor *Charles Benson is* fiscally accountable to the U.S. Department of Education, the provider of funds and client, and this responsibility cannot be delegated or abridged." (Volume I, p. 178; emphasis supplied) It is plain that ultimate responsibility and authority were intended to rest with Professor Benson alone, and therefore all other employees of the National Center would be accountable to Professor Benson. The designation of others as co-principal investigators is traditional in universities, as a way to share credit for ideas which emerge from the interaction of many kinds. Designating Professor Swanson as co-principal investigator acknowledged his importance in the intellectual leadership of the National Center, but Professor Benson was clearly designated at the sole person at the top.

This was all in Berkeley's original proposal, submitted before the August 14 deadline. Subsequently, in the negotiation process, the Department asked Berkeley to change the titles given to Professors Benson and Swanson in order to make Professor Benson's sole leadership explicit in his title. Judge Smith cited testimony that this change of titles "did not change the substance at all". That is correct because Berkeley's original proposal had clearly named Professor Benson as the sole person responsible to the funding agency, with all other employees of the National Center, including Professor Swanson, to be accountable to him.

ARGUMENT 5 THE ISSUE OF A SUBSTANTAL FINANCIAL CONTRIBUTION

The Perkins Act states that the National Center shall be "a nonprofit entity associated with a public or private nonprofit university which is prepared to make a substantial financial contribution towards its establishment." This language is repeated in the language of the regulations describing who was eligible to apply. Judge Smith noted that neither the statute nor the regulations defined "substantial". However, he concluded that Berkeley's application was ineligible because, in negotiations after the August 14 deadline, the Secretary asked for a restructuring of Berkeley's contribution. In the restructuring, certain direct costs which were to have been paid by the subcontracting institutions would now be paid by Berkeley, so that the foregone overhead on these costs would be contributed by Berkeley instead of its subcontractors. The amount of contribution was not an issue, only the manner of accounting for it. This kind of technical adjustment happens routinely in negotiations over grants and contracts. It is erroneous to conclude that Berkeley's initial proposal was not eligible, since Berkeley clearly was prepared to make a substantial financial contribution one way or the other.

ARGUMENT 6 THE ISSUE OF THE FAILURE TO INCLUDE SUBCONTRACTS

The Court notes that Berkeley's proposal contained no subcontracts with each of the other five institutions with whom Berkeley intended to work. The Court maintains that the failure to include subcontracts violates 34 C.F.R. 75 128 (c). However, 34 C.F.R. 75 128 does not require submission of *Subcontracts.* 34 C.F.R. 75 128 reads as follows:

(a) If a group of eligible parties applies for a grant, the members of the group shall either—

(1) Designate one member of the group to apply for the grant; or

(2) Establish a separate, eligible legal entity to apply for the grant.

(b) The members of the group shall enter into an agreement that—

(1) Details the activities that each member of the group plans to perform; and

(2) Binds each member of the group to every statement and assurance made by the applicant in the application.

(c) The applicant shall submit the agreement with its application.

Berkeley complied fully with 34 C.F.R. 75.128. Berkeley was clearly identified as the prime contractor applying for the grant. The proposal clearly defined the activities to be performed by Berkeley and each of its subcontractors. It described the governance structure by which Berkeley and its subcontractors had agreed to work. It included letters from each of its subcontractors committing them to perform the work as outlined in the proposal for the amounts indicated in the budget. It also, in response to the Government's request for additional information provided a model subcontract pursuant to 34 C.F.R. 75.231. This is standard operating procedure for the government's procurement process. The applicant and its potential subcontractors commit themselves to perform the work as proposed. All parties are free to reconsider if during the process of negotiations the government requests changes. Formal subcontracts are then drawn up when the negotiation process has concluded. It is impossible, therefore, to include subcontracts with the initial application. The application must simply contain commitments to conduct the work as proposed. Berkeley's application contained committal letters from all of its subcontractors. It, therefore, was in full compliance with 34 C.F.R. 75.128.

ARGUMENT 7 THE ISSUE OF THE IMPORTANCE OF SPEEDY RESOLUTION

Any delay in the decision to award the grant for the National Center for Research in Vocational Education to the University of California at Berkeley will have serious and long-lasting consequences for the field of vocational education, for several reasons:

1. The Carl Perkins Act, which authorizes federal spending for vocational education and which has embodied federal policy on vocational education, expires in 1989. The reauthorization of the Perkins Act is a lengthy process involving serious discussions about the direction of federal policy. This process had already begun, and will continue into 1989. As part of its legislative mandate to "develop and provide information to facilitate national planning and policy development in vocational education", the National Center should participate in the discussions around reauthorization by providing its expertise and research capabilities to Congress and the Department of Education. In particular, the Center at this very moment should be responding to requests for data analysis from Congressional staff, the American Vocational Association, the Council of Chief State School Officers, and many other related organizations. However, if the award of the Center grant to Berkeley is delayed, these kinds of participation cannot take place—by either a National Center at Berkeley or a National Center at any other location—and policymakers will be denied access to important information that the Perkins Act specifically requires of the National Center. Furthermore, this acitivity cannot be carried out later, after a delayed start for the National Center, because the process of reauthorizing the Perkins Act has already begun and will not wait for a lengthy process of starting and completing a new competition of the National Center.

2. The elections of 1988 will bring substantial changes in political leadership, both in the executive branch as a new president takes office and in Congress. During 1988 and 1989, candidates and newly-elected politicans will be formulating positions on educational issues, since education has emerged as among the most important challenges facing our nation. As part of its general charge to provide research and information,

as well as "information to facilitate national planning and policy development in vocational education", the National Center should legitimately provide information and research to newly-elected policy-makers as they begin to define their positions on educational matters. This process cannot take place if the start of the National Center is delayed. Like the participation of the National Center in the reauthorization of the Perkins Act, this kind of activity cannot readily be performed later, since the process of defining issues and positions is now actively underway.

3. The field of vocational education is ripe for change. The "excellence" movement of the past several years has thrown vocational education into disarray; but on the other hand the recognition has grown recently of how high dropout rates are and how inappropriate for many students the conventional academic curriculum is. The field of education is ready for new approaches to both academic and vocational education, and is now looking for leadership in this area. Any delay in beginning the National Center will interrupt the momentum that has been building for serious reform in the nation's system of vocational and academic education.

4. Any large and complex organization is subject to deterioration if it is not maintained. The University of California at Berkeley has assembled a team of nationally-prominent researchers and analysts to carry out the various missions of the National Center. If there is significant delay, the members of this team will drift off to other research, teaching, administrative, and policy positions, and the laborious process of assembling a Center will have to start again. This will further delay the ability of the National Center to engage in the research and dissemination activities which Congress has required under the Perkins Act.

5. If the grant to Berkeley for the National Center is vacated, the delay in beginning a National Center will be enormous. The judge's order to "begin anew the award process in strict compliance with 20 U.S.C. § 2404 and applicable regulations" refers to the Perkins Act, which requires the Department of Education to select a Center from "solicited applications". While this might mean that the Department should choose from applications already solicited, it certainly allows the Department to choose from among applications solicited anew. Beginning the process of awarding a grant from the beginning would require publishing notice in the Federal Register of the intended process; allowing a period for public comment; announcing planning grants; receiving applications for planning grants; awarding planning grants; allowing a period of time for planning grants; accepting final grants; going through a review procedure to choose among final applicants; and finally awarding a grant. The process of reviewing final applications could be expected to be much more thorough and therefore time-consuming this time around than the process just completed has been, as a way of avoiding still another lawsuit. This entire process consumed 18 months in the existing round of applications for a National Center; it could easily take this long or even longer if the Department of Education must "begin anew the award process". Thus the decision to vacate the designation of Berkeley as the National Center generates the prospect that there will not be a National Center until sometime in 1990.

It is important to note that such a delay will not only damage the institution that Berkeley has created to carry out the work of the National Center; it will also destroy the organization assembled at Ohio State University, where many people have already left and more will continue to do so. Thus delay demolishes any chance that an existing institution can speedily start the work of the National Center.

Mr. WILSON. The department is in the process of appealing this decision and oral arguments will be made in early June. I am confident that the court of appeals will overturn the Ohio District Court decision.

Mr. President, language has been included within H.R. 5, which although I believe sets a dangerous precedent, has become necessary in the face of a lengthy judicial proceeding. Until a final court decision is reached, Berkeley will be unable to negotiate contracts essential to the successful operation of the national center without taking a substantial financial risk.

Specifically, H.R. 5 includes provisions to allocate $2 million to Ohio State University and $2 million to Berkeley to operate separate vocational education research centers. This funding will relieve Berkeley of any financial liability incurred, and more importantly, much-needed vocational education research can continue.

I thank the Chair and the distinguished floor managers for allowing me the opportunity to address my colleagues on this matter and yield the floor.

Mr. HATCH. Mr. President, today is an important day for our country. We shall take final action on an omnibus bill, H.R. 5, the Hawkins-Stafford Elementary and Secondary School Improvement Amendments of 1988. This bill, for 5 years reauthorizes many established Federal education programs and authorizes, for the first time, several new initiatives to meet current national education problems.

Education is not only the key to the future of our Nation's young people. Increasingly, it is also the key, in a technologically more complex and changing economy, to retaining opportunity for full participation in our society by older citizens as well.

I am most pleased that such an important bill as the School Improvement Amendments of 1988 is named for my good friend, ROBERT T. STAFFORD, the distinguished Senator from Vermont, who is retiring at the end of this session. His commitment to finding solutions for a broad range of national education needs over his many years of service in the Congress is properly recognized by the fact that we have named this bill after him. All of us who believe that a quality education is a fundamental component of our national well-being and security will miss him.

The children of our country should have a brighter tomorrow, a better future, as a result of many of the programs in this bill. Although the Federal taxpayer's dollar contributes only about six cents of every education dollar spent in this country, those six pennies are very important for serving groups or meeting national problems which, otherwise, would remain unserved or unaddressed. A good share of those six pennies will go to fund the programs authorized by this legislation.

Such programs, together with the care and dedication of parents and educators in implementing them, are very important for my own State of Utah. We are a small State, with a long tradition of a significant self-taxing effort to fund good educational programs. But we are hampered by the fact that the Federal Government owns nearly 70 percent of the land in our State. This drastically reduces our tax base. With one of the highest birthrates in the country, and many federally connected children residing within our borders, Utah has so many children in its schools that, despite our higher-than-average tax effort, Utah has the second lowest average per pupil expenditure in the United States. Federal programs—many old, some new—authorized by H.R. 5, the school improvement amendments, are an important supplement to Utah's own efforts. I wish to thank the many parents and educators and others in Utah who have taken the time to give me their advice on how to make these programs better serve the needs of Utah children and of children across this country.

Let me highlight for a few moments some of the important provisions of this omnibus bill. The chapter 1 program of remedial education for educationally and economically disadvantaged children must succeed. It served over 23,000 children in Utah last year. In today's world, it is critically important that our children develop the elementary skills of reading and writing if they are to have available to them the full range of opportunities which our Nation has to offer. Thus, I am pleased that this bill also contains a new basic skills remedial program targeted on secondary schools as well as some additional programs to help ensure that our students will stay in school and make the most of their education.

Another excellent education program which fosters high quality academic instruction has been expanded in these school improvement amendments. We have significantly increased the authorization of the magnet schools program to promote desegregation. We have also authorized a new alternative curriculum schools program to encourage integration and improve quality education throughout districts which have high concentrations of minority children. I hope that the original magnet schools program is sufficiently funded so that its worthy purposes may be more fully implemented. Also, if magnet schools are fully funded, we can begin funding the new alternative curriculum schools program. I believe this, too, is important. For, if we increase the quality of education offered throughout districts with high minority populations, we will not only be serving better those deserving children. We then may also be able to bring back into the public school system nonminority children currently attending private schools. This could be the key to across-the-board improvement in such localities. Thus, we must continue the old desegregation efforts under the original magnet schools program. But we should also recognize that there are further problems, to be solved in the years ahead, to make intregration a reality throughout this country. Our new alternative curriculum schools program can play an imporant part in that effort.

H.R. 5 also wisely increases the range of bilingual education programs which can recieve Federal funding. The greater flexibility for parents and educators to select instructional methods suited to local needs and circumstances can improve the education for one group which deserves special attention from the Federal Government, our limited-English-proficient children. I think it is most imporant to allow these children a greater chance to learn our common language. To be able to utilize the full range of opportunities of our common national life, these children need to learn English even while maintaining their own native language and cluture. We have learned in the last few years that school districts are eager to have this increased instructional flexibility. There have been far more applications than available Federal funds for alternative bilingual instruction programs—for special alternative programs—under the current law. For example, in 1985-86, there were three applications from Utah for funding a "special alternative language instruction program" under the Federal Bilingual Education Act. However, due, I believe, to the shortage of available funds under the existing 4-percent cap, not one of those proposals received Federal funding. This is regrettable. The change contained in these school improvement amendments will help remedy this inflexibility—an inflexibility, I might add, which only hurts these children who truly need this special assistance from the Federal Government.

Also reauthorized in these school improvement amendments is the Federal impact aid program, a program critically important to Utah because of the large numbers of federally connected children residing in our State. This bill reauthorizes both programs, for payments in lieu of taxes and for construction assistance. The testimony offered at the Education Subcommittee's field hearing in Farmington, UT, last August was most helpful in their reauthorization. Funding for "B" category students has been reaffirmed. And we have included another important new provision—up-front payment of the full handicapped portion of the entitlement for handicapped students. It is only fair that the Federal Government should bear a reasonable cost of educating federally connected children residing in our States, and that, with limited funds available, more assistance be provided to help defray the costs of the most expensive education.

I also believe that the prohibition on dial-a-porn now contained in this bill is critically important to the welfare of the children of this Nation. It seems only right and proper to me that at the same time we approve a range of positive programs to assist the children of this Nation we also face up to a problem which considerable evidence has shown is detrimental to their physical, intellectual, and moral well-being. If a so-called technological solution to the access of our children to dial-a-porn had been available, I, of course, would have supported it. However, I feared that the technological solution proposed after much long and careful work by many in both the House and the Senate had too many loopholes to make much of a dent in this problem. There are those who believe that the particular prohibition of telephone dial-a-porn, originally in the Senate bill and reinserted yesterday by the House of Representatives, is unconstitutional. If it is so held by the courts of this land, I shall work to enact one which meets constitutional muster. I bow to no one in my respect for the rights guaranteed by the first amendment. I also believe, however, that dial-a-porn has not been an exercise of rights in fact granted by that constitutional provision as well as being a force detrimental to the well-being of this Nation's young people.

To repeat, Mr. President, I belive there is much for us all to be proud of in these School Improvement Amendments of 1988. I would also like to thank my colleagues Senators PELL and STAFFORD, who have so ably guided this omnibus bill to its completion, and all my other colleagues on the Education Subcommittee and the Labor and Human Resources Committee who have worked so diligently on this bill. I look forward to continuing efforts with them, and with my other colleagues in the Senate and the House of Representatives, to serve the deserving children of our country with efficient and productive Federal education programs.

Mr. COCHRAN. Mr. President, I join my colleagues today in expressing my support for H.R. 5, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

This bill not only renews the Federal commitment to elementary and secondary education, but it also strengthens that role. New programs such as star schools, even start, and teacher training initiatives will provide students with opportunities never presented to them before.

The chapter 1 program is of vital importance to students in Mississippi. The renewal of this program will continue to benefit thousands who deserve a quality education. I have seen the work and the success of many chapter 1 programs in my State. Recently, Secretary Bennett recognized 123 school districts across the country which have been exemplary in the chapter 1 field. Two of my constituents, Bertrand Antoine of the Greenwood, MS, public schools and Robert McDaniel, of the Hazlehurst, MS public schools were both selected to receive this honor. They are examples of those coordinators who do make chapter 1 a successful program. I congratulate them and the many other coordinators across my State.

I congratulate my colleagues in both bodies who have so diligently worked on this bill, and I thank those members of the Senate Labor and Human Resources Committee, with whom I had the pleasure of working on this effort.

Mr. HELMS. Mr. President, I am pleased that the House of Representatives has included language in this bill to ban interstate dial-a-porn. It has been a long- and hard-fought battle, but the American people have been heard: We, as a society, cannot and will not tolerate this smut on our telephone lines.

Mr. President, this result would never had occurred had it not been for the hard work of a number of people in the House of Representatives. Congressmen BILL DANNEMEYER and THOMAS BLILEY, in particular, have done yeomen's work on this issue and they deserve a lot of credit. Without their efforts, the ban on a dial-a-porn would never had come to fruition.

Mr. President, just as I suspected, some House Members tried to duck the real issue of dial-a-porn by claiming that banning dial-a-porn is unconstitutional. With all due respect to these gentlemen, I believe they are wrong.

I am not a lawyer, Mr. President, but it does not take a great deal of wisdom to see that lawyers and Federal judges have made a shambles of the traditional laws in our country banning obscene and indecent material. These laws were reasonable and had a long and honorable history. They kept at bay certain vile and base instincts of our fallen human nature for the good of individuals and society alike. Through these laws, decency and modesty and sound family life were promoted.

These laws, however, have been undercut by a patchwork quilt of confused and confusing Federal court rulings. It is an understatement to say that the precedents of the Supreme Court and other Federal courts on the subject of obscenity are more properly labeled constitutional chaos than constitutional law. The fact is that the first amendment and antiobscenity laws existed side by side, without serious conflict, for all of American history until the second half of this century.

Then, still having the same old Constitution but imbrued with a new liberal ideology, the Supreme Court started hacking away at traditional laws against smut. In short, the libertines of the ACLU combined with usurpers on the Federal bench set out to repeal decency in this country—all under the guise of constitutional law.

For the first time in the history of the Constitution antiporn laws had to pass elaborate and technical constitutional tests before they could be enforced. Not surprisingly, few laws could pass this new extra-constitutional muster. The philosopher/kings had finally arrived in America, and they sat in black robes on Federal court benches armed with new, radical ideas about the Constitution.

The results in 1988, Mr. President, are plain to see. The United States of America is now a society satiated with obscene, indecent, and pornographic materials. Not only are they available everywhere in the public domain, but thanks to the dial-a-porn industry, they are even available over the telephone of every home in America.

Mr. President, the patriots of the American Revolution and the framers of the Constitution did not sacrifice their lives, their fortunes, and their sacred honor so that a coterie of dial-a-porn operators and the phone companies could become millionaires in the 20th century. Our forefathers had higher ideals in mind. The great principles of freedom they put in the Constitution were meant to serve the common good, not the prurient interest.

Mr. President, I wish each and every Senator could have been with me the other day and could have seen what I saw. I attended a press conference with two parents whose families had been destroyed by dial-a-porn. One father, holding a picture of his precious 4-year-old daughter, told the story of how his daughter was coerced into engaging in sexual acts by a day-care provider's son after the son had listened to some 75 dial-a-porn messages. A mother told a similar story about how friends of her son raped her 10-year-old daughter after listening to 2½ hours of dial-a-porn.

Their pain is real, Mr. President. I am told that hundreds, if not thousands, of parents have experienced the same pain. Their children's innocence has been stolen by the porn kings and some phone companies for the sake of a buck.

In this Senator's opinion, the Constitution does not force Congress to sanction a dial-a-porn industry which corrupts the morals of children and pollutes the minds of adults. The Constitution is not a death wish reduced to writing. It does not require us to commit cultural suicide by tolerating vice and the cultivation of vice for profit.

Some Senators may state that protection for the porn kings may not be what our Founding Fathers wanted but the courts have tied their hands.

Nonsense, Mr. President. Citizens for Decency Through Law, Inc., has prepared a legal memorandum supporting the constitutionality of S. 212 which is identical to the dial-a-porn language currently contained in H.R. 5. I placed this memorandum in the Record on December 1 of last year and I am placing it in the Record again.

I will not take the Senate's time to read this lengthy brief. I emphasize, however, that the Supreme Court has never, I repeat, never said that it is unconstitutional to ban obscene and indecent dial-a-porn and I don't believe they will in the future.

The question here today, Mr. President, is not whether my amendment is unconstitutional—it clearly violates no provision of the Constitution—but whether we in Congress have the courage to stand up against the porn kings and smut peddlers and stand up for the American people and public morality.

I am happy to see that the House agrees with the Senate that interstate dial-a-porn should be banned. I urge swift adoption of H.R. 5.

I ask unanimous consent that the memorandum I mentioned earlier which was prepared by the legal staff of Citizens for Decency Through Law, Inc., appear in the Record.

I also ask unanimous consent that a letter from the Knights of Columbus supporting swift approval of H.R. 5, also be included in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Citizens for Decency Through Law—Memorandum of Law In Support of S. 212

This legislation proposes to amend Section 223 of the Communications Act of 1934 (47 U.S.C. § 223), and as amended will prohibit obscene and indecent communications by means of telephone to any person, regardless of age. It is the purpose of this memorandum of law to demonstrate the need for this legislation, and to provide supporting legal authority for its enactment.

I. THIS HISTORY OF DIAL-A-PORN AND THE FAILURE OF PREVIOUS LEGISLATIVE EFFORTS

Today, any child in America can hear hardcore sexually explicit messages on the country's telephone system. These recorded and live so-called "dial-a-porn" messages contain graphic descriptions of ultimate sex acts, both heterosexual and homosexual, sado-masochism, of incest, bondage, and sex with animals. Attorneys representing this industry are admitting that dial-a-porn is openly available to children, but according to them: The exposure of this material to children is the price we must pay for a free society. *Carlin Communications, Inc. et al.,* v. *The Mountain States Telephone & Telegraph Company, et al.,* CIV. 85-1420 (D. Ariz. 1985) (transcript of proceedings). In every major city across this country, dial-a-porn telephone services became readily accessible to children by mid-1985, with federal and state law enforcement agencies apparently unable or unwilling to stop it.

This dial-a-porn "industry" is still in its infancy, dating back to March of 1983. Yet, in less than four years, it has grown from only one service operating nationally from its New York headquarters, to many services operating in every major city. The messages continue to become more sexually explicit and deviant in their content.

When dial-a-porn first became available in March 1983, it should have been prosecuted under already existing federal law. 47 U.S.C. Section 223 of the Federal Code then provided: "(a) Whoever—(1) in the District of Columbia or in interstate or foreign communication by means of telephone—(A) makes any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent . . . shall be fined not more than $500 or imprisoned not more than six months or both." Section 223, by its plain meaning, should have been used by the FCC and the Department of Justice (DOJ) to control dial-a-porn services. However, throughout 1983, the FCC and DOJ issued letters to one another and to the general public creating every possible excuse as to why Section 223 could not be enforced.

The FCC went on record as ruling: "Section 223(1)(A) applies only to persons who utter obscene or indecent words during calls *they place.*" "Second Report and Order," Gen. Docket No. 83-989 (Oct. 16, 1985) (emphasis added). According to the FCC, since dial-a-porn dealers did not "place" the calls, Section 223 did not apply to them. This restrictive and erroneous interpretation given Section 223 by the FCC resulted in a lack of legal action taken against dial-a-porn during its first year of operation. The FCC refused to take administrative action, and the DOJ refused to take criminal or civil court action. Such lack of prosecution allowed the services to flourish. Meanwhile, the content of the messages became far more sexually explicit, moving from merely "indecent" suggestive language, to language which clearly fell within the restrictions of both state and federal obscenity legislation.

Congress became frustrated at the lack of legal action taken against dial-a-porn and, in late 1983, amended Section 223, making it a crime to make "any obscene or indecent communication for commercial purposes to any person *under 18 years of age* or to any other person without that person's *consent.*" 47 U.S.C. Section 223(b)(1)(A) (emphasis added). In so amending Section 223, Congress "legalized" dial-a-porn. For the first time in the history of this country, obscene material was de-criminalized for "consenting adults." This legalization of obscene dial-a-porn messages for consenting adults directly violated legal precedent as established by the Supreme Court in cases such as *Paris Adult Theatre I* v. *Slaton,* 413 U.S. 49 (1973), which rejected the "consenting adults" defense.

In amending 223, Congress further provided that the FCC was to issue regulations which would deny access to dial-a-porn services to persons under 18 years of age. Compliance with these regulations would be a complete defense to liability under Section 223. In other words, even if a minor breaks through the restrictions and calls dial-a-porn, the dealer, having complied with FCC regulations, cannot be prosecuted.

Attempts by the FCC to issue regulations pursuant to § 223(b)(2) have been totally unsuccessful, and it is now clear that no regulations from the FCC will adequately protect children from these dial-a-porn services. The first set of FCC regulations, issued in 1984, was struck down as unconstitutional by the Second Circuit Court of Appeals. *Carlin Communications, Inc.* v. *FCC,* 749 F.2d 113 (2nd Cir. 1984). A second set of FCC regulations, issued on October 16, 1985, was also set aside by the Second Circuit Court. *Carlin Communications, Inc.* v. FCC, 787 F.2d 846 (2nd Cir. 1986).

The above described history reveals two major flaws in the 1983 amendments to Section 223 which have resulted in the failure to control dial-a-porn. First, legalizing dial-a-porn for "consenting adults" was contrary to the decisions of the U.S. Supreme Court and placed Section 223 in conflict with all other federal obsecenity statutes. Consequently, the legalization of dial-a-porn assured that it would always be accessible to children. The second major flaw in the 1983 legislation was to give the FCC the power to issue defenses to liability under § 223(b)(2)—the FCC has demonstrated its inability to issue workable regulations that will protect children.

Finally, as a result of the 1983 legislation and of the indecision by the FCC on this matter, the courts and the law enforcement community are in a state of confusion concerning the control and/or prosecution of dial-a-porn distributors. At the present time, federal prosecutors will not prosecute the distributors of obscene dial-a-porn messages, even where they have been made blatantly available to children. The reason for this lack of federal enforcement is the belief that dial-a-porn distributors can only be prosecuted under § 223(b) and under none of the other federal obscenity laws.[1] State law enforcement authorities will not prosecute because of the confusion in the federal arena, fear of legal action by the dial-a-porn industry against state officials, and a mistaken belief that the FCC has preempted this field of law. At the writing of this memorandum, there are no federal or state criminal cases pending against dial-a-porn distributors—they are operating freely, sensing a complete immunity from prosecution.

II. THE PROPOSED AMENDMENT TO 47 U.S.C. § 223 DOES NOT VIOLATE A DIAL-A-PORN RECIPIENT'S RIGHT TO PRIVACY OR RIGHT TO ACCESS

The first objection that may be leveled at this legislation is that it violates a customer's right to receive dial-a-porn messages. As will be shown, this criticism is without merit. It is well settled that obscenity, in whatever form, is not protected by the First Amendment. *Miller* v *California,* 413 U.S. 15 (1973); *Kaplan* v *California,* 413 U.S. 115 (1973). Hence, the states and federal government may lawfully prohibit its commercial distribution, whether telephonically or through other media. *Id.* The Supreme Court has made clear that the "mere private possession of obscene material" in the home cannot be made a crime. *Stanley* v *Georgia,* 394 U.S. 557 (1967). However, there is no correlative right to purchase obscenity in the public marketplace or to have it distributed to your house through channels of public commerce. In *United States* v *12 200-ft Reels,* 413 U.S. 123 (1973), the Court held that the "right to possess obscene material in the privacy of one's home does not give rise to a correlative right to have someone sell or give it to others." 413 U.S. at 128. In so holding, the Court ruled that *Stanley* is to be viewed as "explicitly narrow and precisely delineated." 413 U.S. at 127. "We are not disposed to extend the precise, carefully limited holding of *Stanley*. . . ." 413 U.S. at 128. Indeed, the Court has squarely held that there is no right to "*receive it*" in "the privacy of the home." *United States* v *Orito,* 413 U.S. 139, 141 (1973) (emphasis added). In *Orito,* the Court further held that there is no right to use "common carriers in interstate commerce" (such as the telephone company) for delivery of obscene material to the home. 413 U.S. at 142. *See also, United States* v *Reidel,* 402 U.S. 351, 353-54 (1971) (there is *no* right to deliver obscene material for use in the home.)

Furthermore, the Supreme Court in *FCC* v *Pacifica Foundation,* 438 U.S. 726 (1978), held, *inter alia,* that radio and television do not have the right to "broadcast" "indecent" material into the home. The Court rejected the contention that an individual has a right of access in the privacy of his home to "indecent" radio or television broadcasts. The Court reasoned that such broadcasts are "uniquely accessible to children" and "that the governments interest in the 'well-being of its youth' justified the regulation of otherwise protected speech." 438 U.S. at 749. This government interest in the "well-being of its youth" and the "accessibil[ity] to children" are similarly present, and are triggered, upon the transmission of "indecent" or "obscene" dial-a-porn into the home. As the Court stated: "[T]he ease with which children may obtain access . . . , coupled with the concerns [for children] recognized in *Ginsberg,* amply justify special treatment of indecent" material. 438 U.S. at 250.

Assuming *arguendo* that exposure of dial-a-porn to children can be prevented, the Supreme Court has rejected the contention that the distribution or transmission of obscene materials between consenting adults is constitutionally sanctioned. In *Paris Adult Theatre I* v. *Slaton,* 413 U.S. 49 (1973), the Court held that notwithstanding lack of exposure to children, the distribution of obscene material between consenting adults could be regulated: We categorically disapprove the theory . . . that obscene, pornographic films acquire constitutional immunity from state regulation simply because they are exhibited for consenting adults only . . . [W]e hold that there are legitimate state interests at stake in stemming the tide of commercialized obscenity, even assuming it is feasible to enforce effective safeguards against exposure to juveniles and to passerby. Rights and interests other than those of the advocates are involved. 413 U.S. at 57. This holding squarely does away with any contention that "consenting adults" have a right to transmit or receive obscene dial-a-porn. It should again be stressed, however, that many dial-a-porn distributors have openly made their "product" available to children and have refused to acknowledge any responsibility for excluding children's access.

The products of the dial-a-porn industry are clearly not protected by a constitutional right of privacy. These messages are being publicly distributed and have become openly available to children through channels of public commerce. Because of the complete public and commercial nature of this dial-a-porn industry, regulation under Section 223 is clearly permissible.

III. THE FEDERAL GOVERNMENT MAY LAWFULLY PROHIBIT THE TRANSMISSION OF OBSCENE AND INDECENT DIAL-A-PORN.

A. Obscene Dial-A-Porn

Without question, obscene speech is not protected by the First Amendment. *Brockett* v. *Spokane Arcades, Inc.,* 472 U.S. , 86 L.Ed.2d 394, 105 S.Ct. (1985); *Miller* v. *California,* 413 U.S. 15 (1973). Hence, the government may lawfully prohibit its distribution, whether telephonically or through other media. *Kaplan* v. *California,* 413 U.S. 115 (1973). *See also, United States* v. *Lampley,* 573 F.2d 783, 50 A.L.R. Fed. 525 (3rd Cir. 1978) (upholding constitutionality of 47 U.S.C. § 223). This issue is so well settled that there has been no serious claim to date that the Congress may not constitutionally prohibit "obscene" dial-a-porn.

B. Indecent Dial-A-Porn

The more frequently repeated assertion is that Congress may not legislate against "indecent" dial-a-porn. This assertion is erroneous and ignores sound legal precedents permitting the use of the "indecency" standard for the telephone medium. These precedents and authority are set forth herein.

In its landmark case of *F.C.C.* v. *Pacifica Foundation,* 438 U.S. 726 (1978), the Supreme Court defined the word "indecent" as "nonconformance with accepted standards of morality." It is a "shorthand term for patent offensiveness." *Id.,* at 470 n. 15. This definition obviously does not coincide with the three-part definition of "obscenity" found in *Miller* v. *California.* Yet, the Supreme Court has never limited government restrictions on speech to the obscenity standard.[2] For example, the Court has upheld restrictions on all of the following types of speech: false advertising, speaking a prayer in a public school, libel, slander, speaking words which amount to a conspiracy or an obstruction of justice, sedition, yelling fire in a crowded theatre, using words which constitute offering a bribe, words that threaten social harm because they advocate illegal acts, words (from a loudspeaker) at 3:00 a.m. in a residential neighborhood, speaking in contempt of court, committing perjury under oath, television cigarette advertisements, saying words which have been classified (e.g., secret) by the government, copyright violations, pretrial publicity which might interfere with a defendant's opportunity to secure a fair trial, U.S. government employees engaging in political speech (Hatch Act), sexually explicit material which is harmful to minors, non-obscene sexually explicit movies shown in violation of a zoning ordinance, child pornography, and finally, "indecent" speech.[3] Thus, the broad contention that government restrictions on expression are limited to the obscenity standard are quite incorrect. Regulation of sexually-oriented expression has by no means been limited to that standard, although the degree of permissible regulation has varied with the circumstances.

---

[1] Federal criminal charges were dismissed in 1985 in Utah, where numerous children had been exposed to the dial-a-porn services. Because § 223(b) is in a state of confusion, the U.S. Attorney attempted to prosecute Carlin Communications and others for violations of other federal obscenity laws. However, the Judge dismissed the indictments, ruling that violations could only be prosecuted under § 223(b). *U.S.* v. *Carlin Communications, Inc., et al.,* No. CR-85-00086G (D. Utah 1985).

[2] In its unamended pre-1983 form, § 223 prohibited the use of the telephone to make "any comment, request, suggestion or proposal which is obscene, lewd, lascivious, filthy, or *indecent* . . ." 47 U.S.C. § 223 (a)(1))A). This precise language was upheld as constitutional in *United States* v. *Lampley,* 573 F. 2d 783, (3rd Cir. 1978). Hence, the prohibitions on "indecent" telephone language in § 223 has already passed constitutional muster.

The application of the "indecency" standard to dial-a-porn is supported by the Supreme Court's analysis of the First Amendment, which accords some varieties of speech (i.g., "indecent" speech) less protection than others.[4] The Supreme Court's rulings that certain types of expression are entitled to little or no protection under the First Amendment find their modern beginnings with *Chaplinski* v. *New Hampshire,* 315 U.S. 568 (1942), where the Court upheld a "fighting words" statute under which Chaplinski had been convicted for calling a policeman "a God damned racketeer" and a "damned fascist." *Id.* at 569. Justice Murphy's rationale for upholding the statute against a First Amendment attack is set forth in the following excerpt from the opinion:

There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality. *Id.* at 571-72. The Supreme Court has embraced the position that differing degrees of protection are afforded different classes of speech. Speech protected in some contexts may in others be so harmful, or of so little value, that it can be regulated because the harm to society outweighs the expressive interests. Thus, First Amendment protection "often depends on the content of the speech." *Young* v. *American Mini Theatres, Inc.,* 427 U.S. 50, 66 (1976). Furthermore, as Justice Stevens has stated, "the First Amendment affords some forms of speech more protection from governmental regulation than other forms of speech," *New York* v. *Ferber,* 102 S.Ct. 3348, 3367 (1982) (Stevens, J. concurring), and the *context* of speech may determine whether or not it is protected. *F.C.C.* v. *Pacifica Foundation, supra,* at 747-48 (1978). The Court has allowed government regulation of non-obscene speech, based upon subject matter and context in numerous cases. *See, Rowan* v. *Post Office Department,* 397 U.S. 728 (1970) (banning erotic material from the mails at recipient request); *C.B.S.* v. *Democratic National Committee,* 412 U.S. 94 (1973) (upholding network refusal to accept commercial advertising); *Lehman* v. *Shaker Heights,* 418 U.S. 298 (1974) (upholding policy of accepting commercial advertising but refusing political advertisements on city-owned bus line); *Greer* v. *Spock,* 424 U.S. 828 (1976) (barring political speakers from a military base); *Jones* v. *North Carolina Prisoners Union,* 433 U.S. 119 (1977) banning in-prison solicitation of membership in a prisoners union); *Young* v. *American Mini Theatres, supra,* and *Renton* v. *Playtime Theatres, Inc.,* U.S. , 89 L.Ed.2d 29, 106 S.Ct. (1986) (placing zoning restrictions on the location of adult theatres); *F.C.C.* v. *Pacifica, supra,* (prohibiting radio broadcast of *indecent* programming); *Board of Education* v. *Pico,* 457 U.S. 853 (1982) (certain books may be removed from a high school library because of their vulgarity); *New York* v. *Ferber, supra,* (banning non-obscene sexually explicit depictions of minors); *Ginsberg* v. *New York,* 390 U.S. 629 (1968) (banning distribution to minors of non-obscene material which is "harmful to minors"); *Bethel School District No. 403* v. *Fraser,* 478 U.S. , 92 L.Ed.2d 549, 106 S.Ct. (1986) (upheld restriction on indecent sexually suggestive language in a political speech by high school student); *City of Newport* v. *Iacobucci,* 479 U.S. , 93 L.Ed.2d 334, 107 S.Ct. (1986) (upheld city ordinance banning non-obscene nude or nearly nude dancing in bars).

It is important to recognize that laws restricting "indecent" or "obscene" speech are not directed at a particular viewpoint. They proscribe only the mode or *form* of expression, not any ideas the "indecent" language or pictures may purport to convey. If the speaker is concerned with ideas, he can escape the penalty by expressing them in some other form. The Court has recognized that content is separable from form and that other modes of expression are virtually always available. Restrictions on "indecent" or "obscene" speech do not preclude advocacy of any ideas such speech might otherwise convey. For example, prohibitions on "indecent" telephone recordings may be compared with a lawyer who, in open court, addresses the judge in "indecent" terms. Rules against that sort of speech will undoubtedly be enforced by the judge (holding lawyer in contempt). The Court recognizes that other more acceptable means of objecting to the judge are available and the lawyer must use them. As the Court stated in *Pacifica:* A requirement that indecent language be avoided will have its primary effect on the form, rather than the content, of serious communications. There are few, if any, thoughts that cannot be expressed by the use of less offensive language. . . . At most . . . [i]t will deter only . . . patently offensive references to excretory and sexual organs and activities. . . . [T]hey surely lie at the periphery of First Amendment concerns. 438 U.S. at 473 n.18.

Since March of 1983, when dial-a-porn was first commercially marketed, countless children have been exposed to it. It constitutes an attractive nuisance in every home in America where children are present. There is no completely effective way to prevent children from being exposed to "indecent" or "obscene" dial-a-porn so long as it is lawfully and commercially marketed. Make no mistake, dial-a-porn providers care little whether a caller is a child of 9 or an adult of 19—their motive is profit. Children are being injured every day through "indecent" dial-a-porn.

The Supreme Court has repeatedly held that where the interests of children are at stake the government is fully justified in regulating non-obscene material. This significant governmental interest in the protection of minors has been identified in a number of cases. *See, Prince* v. *Massachusetts,* 321 U.S. 158, 168 (1944)("[a] democratic society rests, for its continuance, upon the healthy, well-rounded growth of young people into full maturity as citizens"); *New York* v. *Ferber, supra,* 756-57 ("a states interest in 'safeguarding the physical and psychological well-being of a minor'" is "compelling" and justifies banning non-obscene sexually explicit depictions of minors); *F.C.C.* v. *Pacifica, supra,* 749 (government interest in the "well-being of its youth" sufficient to ban all *indecent* broadcasting to children, *as well as adults*).

In *Ginsberg* v. *New York, supra,* the Supreme Court upheld a ban on the distribution of non-obscene sexually explicit material to children. The prohibition on distribution of such "indecent"[5] material to children is supported by the exact same interest present when "indecent" dial-a-porn is exposed to children. The "governments interest in the 'well-being of its youth' and in supporting 'parents' claim to authority in their own household justified the regulation of otherwise protected expression." *Pacifica, supra,* at 749; *Ginsberg, supra,* at 639-40. The Court in Ginsberg elaborated on these compelling interests. There were two governmental interests which justified limitations on the availability of sexually explicit ("indecent") material to children. First, the Court noted that "constitutional interpretation has consistently recognized that the parents claim to authority in their household to direct the rearing of their children is basic in the structure of our society," and that parents and others responsible for children's well-being "are entitled to the support of laws designed to aid discharge of that responsibility." *Id.,* at 639. Second, the Court stated that "government has an independent interest in the well-being of its youth." *Id.,* at 640. The Court declared that:

While the supervision of children's reading may best be left to their parents, the knowledge that parental control or guidance cannot always be provided and society's transcendent interest in protecting the welfare of children justify reasonable regulation of the sale of material to them. It is, therefore, altogether fitting and proper for a state to include in a statute designed to regulate the sale of pornography to children special standards, broader than those embodied in legislation aimed at controlling dissemination of such material to adults. *Id.* Indeed, Justice Stewart, in his concurring opinion in *Ginsberg,* at 649-50, provided an additional theoretical justification for stricter regulation of dissemination of sexually explicit "indecent" material to minors:

---

[3] *See, "Where Do You Draw the Line?",* ed. Victor B. Cline (Brigham Young University Press, 1974).

[4] *See,* L. Tribe, *American Constitutional Law,* § 12-18 (1978); Krattenmaker & Powe, "Televised Violence: First Amendment Principles and Social Science Theory," 64 *Va. L. Rev.* 1123, 1207-1212 (1978); Stone, "Restrictions of Speech Because of its Content: The Peculiar Case of Subject Matter Restrictions," 46 *U. of Chi. L. Rev.* 81 (1978); Note, "*Young* v. *American Mini Theatres, Inc.*: Creating Levels of Protected Speech," 4 *Hastings Const. L. Quarterly* 321, 344-54 (1977); "The Supreme Court, 1975 Term," 90 *Harv. L. Rev.* 58, 200-205 (1976).

[5] "Bookstores and motion picture theatres, for example, may be prohibited from making *indecent* material available to children." *F.C.C.* v. *Pacifica Foundation, supra,* at 749 (explaining *Ginsberg*).

I think a State may possibly determine that, at least in some precisely delineated areas, a child—like someone in a captive audience—is not possessed of that full capacity for individual choice which is the presupposition of First Amendment guarantees. As the Court more recently stated, the government's interest in "safeguarding the physical and psychological well-being of a minor" is "*compelling.*" *New York* v. *Ferber, supra,* at 756-57 (emphasis supplied).

Today, children are suffering injury through exposure to sexually explicit "indecent" dial-a-porn. Thus, "society's right to adopt more stringent controls on communicative materials available to youths than on those [only] available to adults" is well established. *Pacifica, supra,* at 757 (Powell, J. concurring) (quoting *Erznoznik* v. *Jacksonville,* 422 U.S. 205, 212 (1975)); *See also, Miller* v. *California, supra,* at 36 n. 17; *Interstate Circuit, Inc.* v. *Dallas,* 390 U.S. 676, 690 (1968); *Jacobellis* v. *Ohio,* 378 U.S. 184, 195 (1964). No member of the present Court has dissented from this principle. Indeed, in the recent case, *Bethel School District No. 403* v. *Fraser,* 478 U.S. , 92 L.Ed.2d 549, 106 S.Ct. (1986), the Court made emphatic the government's ability to ban sexually indecent speech to children even in the context of a political speech. The Court emphasized that bans on indecent speech have been upheld repeatedly where the welfare of children was at issue. Citing Thomas Jefferson, the Court stated:

> The Manual of Parliamentary Practice, drafted by Thomas Jefferson and adopted by the House of Representatives to govern proceedings in that body, prohibits the use of 'impertinent' speech during debate and likewise provides that '[n]o persons is to use *indecent* language against the proceedings of the House. Jefferson's Manual of Parliamentary Practice, §§ 359, 360, reprinted in Manual and Rules of the House of Representatives, HR Doc. No. 97-271, pp. 158-159 (1982). 92 L.Ed.2d at 557 (emphasis added).

In banning "indecent" speech in the schools, the Court thus noted that Congress itself bans "indecent" speech during congressional proceedings.

The governmental right to restrict access to non-obscene but "indecent" material even to adults, when it is sufficiently harmful to children, is a key part of the Court's rationale in the landmark *F.C.C.* v. *Pacifica Foundation* case.[6] Radio and television broadcasting, like the telephone, is "uniquely accessible to children." *Id.,* at 749.

The Court's willingness to deny access to non-obscene material to adults when children would otherwise be harmed was demonstrated in *Board of Education* v. *Pico,* 457 U.S. 853 (1982). In *Pico,* the Court remanded with instructions for the lower court to determine whether improper motivations had tainted the Board's removal of certain books from a high school library. The First Amendment would be offended if the court found the books had been removed with intent "to deny respondents access to ideas with which petitioners disagreed." *Id.,* at 872. On the other hand, "an unconstitutional motivation would not be demonstrated if it were shown that petitioners had decided to remove the books at issue because those books were pervasively *vulgar.*" *Id.,* at 871 (emphasis supplied). *Pico* identifies another context in which government may restrict dissemination of indecent materials to children, as well as adults.

Probably the most frequently cited case in opposition to the use of an "indecency" standard is *Butler* v. *Michigan,* 352 U.S. 30 (1957), with its oft-quoted assertion that the government may not "reduce the adult population . . . to reading only what is fit for children." *Id.,* at 383. In a brief opinion the Court struck down a criminal conviction under a manifestly overbroad Michigan statute that forbade the publication, sale or other distribution of *any* publication, writing, picture: or other thing, including any recordings, containing obscene, immoral, lewd or lascivious prints, pictures, figures or descriptions, tending to incite minors to violent or depraved or immoral acts, manifestly tending to the corruption of the morals of youth . . . *Id.,* at 381. The Court correctly ruled that the law was overbroad and "not reasonably restricted to the evil with which it is said to deal." *Id.,* at 383. It is significant to note that Michigan had another statute specifically proscribing the distribution of erotic materials to minors, but that statute was not before the Court. *Id.*

The more recent *Pacifica* Court limited the *Butler* case by distinguishing it. In a real sense, of course, *Pacifica* bans the broadcast of "indecent" material to adults as well as children. However, the Court ruled that unlike *Butler,* the *F.C.C.* order did not "reduce adults to hearing only what is fit for children" because adults "may purchase tapes and records to go to theatres and nightclubs to hear these words." *Pacifica, supra,* at 750 n. 28; and *See,* Powell, J. (concurring) at 760 ("the Commissions holding does not prevent willing adults from purchasing Carlins ["indecent"] records, from attending his performances, or, indeed, from reading the transcript reprinted as an appendix to the Courts opinion"). Clearly, this analysis is squarely applicable to "indecent" recordings heard over the telephone. They are easily available to adults from other sources and their removal from the telephone (where they are exposed to children) would not "reduce adults to hearing only what is fit for children." Indeed, the Court itself analogized "indecent" broadcasting with "indecent" telephone language, stating that neither is given "constitutional immunity" to "avoid a harm that has . . . taken place." *Id.,* at 749. The Court cited as justification for its holding the need for newly enacted Congressional legislation against "obscene or profane" telephone language. *Id.,* at n. 27.

One must remember that the *Butler* statute prohibited the distribution of *all* material "unsuitable" for minors no matter what the source or media. It made it *impossible* for adults to obtain the material anywhere. As in *Pacifica,* the dial-a-porn prohibition would deal only with *one* medium which is uniquely hurtful to children. As Justice Powell stated in his *Pacifica* concurrence:

> In most instances, the dissemination of this kind of degrading speech to children may be limited without also limiting willing adults access to it. Sellers of printed and *recorded* matter and exhibitors of motion pictures and live performances may be required to shut their doors to children, but such a requirement has no effect on adults access . . . The difficulty is that such a physical separation of the audience cannot be accomplished in the broadcast [or telephone] media. . . . [B]oth adults and unsupervised children are likely to be in the broadcast or [dial-a-porn] audience, and the broadcaster [or provider] cannot reach willing adults without also reaching children. *Id.,* at 758-59 (Powell, J. concurring). Justice Powell went on to state that "[t]his, as the Court emphasizes, is one of the distinctions between" such media and others "justifying a different treatment . . . for First Amendment purposes." *Id.*

As in *Pacifica,* the prohibition of "indecent" dial-a-porn involves a limited form of regulation of a single medium whose adult and youth audiences cannot be physically separated. *Butler,* on the other hand, applied to *all* media and embraced a wide-ranging (and vaguely defined) subject matter. Moreover in *Butler,* dissemination of the materials to children could generally be controlled at the point of distribution without denying access to willing adults. This is impossible with broadcast radio (as in *Pacifica*) and dial-a-porn.

Indeed, the very facts present in *Butler* limit it to the situation wherein the distributor of "indecent" material can differentiate between adults and children. This obviously cannot be done when the child telephones a tape-recorded message. Clearly, the ruling that better applies to dial-a-porn is *Pacifica.* Telephones are precisely like radio and television because of their easy accessibility to children and the virtual impossibility for parents to monitor their use.[7]

The Court in *Pacifica* also reasoned that "broadcast media" has a pervasive presence in the lives of all Americans. "Patently offensive, indecent material presented over" such a pervasive media "confronts the citizens . . . in the privacy of the home, where the individuals right to be left alone plainly outweighs the First Amendment rights of an intruder." *Id.,* at 748 (citing *Rowan* v. *Post Office Dept., supra,* banning erotic material from the mails at recipients request). This analysis is squarely applicable to dial-a-porn. It is of the utmost importance to be cognizant that dial-a-porn is presently in the home whether the homeowner wants it or not. Today one cannot have telephone service in the privacy of one's family environment without being required to have dial-a-porn with it. Families with children must give up telephone service to be "left alone" from exposure of their children to this "intruder." Is there really a medium more "pervasive" than the telephone? We know that children (especially teens) spend countless hours on the telephone. At present, no family can be left alone in their own homes without the harmful nuisance of indecent or obscene dial-a-porn.[8]

---

[6] The Court also rested its holding on the "pervasiveness" of the medium which carries the "indecent" material to children, discussed *infra.* 438 U.S. at 748.

[7] Also, one cannot discount the fact that *Pacifica* in 1978 is the most recent expression of the Supreme Court's will. No member of the 1957 *Butler* Court remains on the Supreme Court bench. Indeed, Justice Stewart, who dissented in *Pacifica,* is no longer a member of the Court.

[8] Recently the Supreme Court affirmed the case *Jones* v. *Wilkinson,* 800 F.2d 989 (10th Cir. 1986), aff'd. U.S. (March 23, 1987). There the 10th Circuit held that the federal Cable Communications Policy Act of 1984, 47 U.S.C. § 521-559, had *preempted* the states from regulating "indecent" cable programming. 800 F.2d at 990-91. Contrary to many published media accounts of this case, the issue here was "preemption" by the federal government, not the constitutionality of the "indecency" standard. Still, it is pertinent to point out that a family can have non-cable broadcast television in their home if they choose. They *cannot* have a telephone in their home without dial-a-porn. Unlike television, the telephone choice is either *no* telephone or dial-a-porn. Indeed, since deregulation of cable, many companies are competing for the same customers. The telephone subscriber has only one

Further, an argument can be made that because the telephone system is a regulated and protected system serving such a vital public function, it should be held to a higher standard of conduct than, say, a newspaper. In essence, the telephone system carries out the government function of providing telephone communication to all citizens who choose to have it at a rate set by governmental regulatory bodies. They are given de facto monopoly protection by the government and often use publicly owned property to carry out their business. In return for such privileged status, the telephone system has a public trust. The trust is breached when the telephone system enters the pornography business by exposing "indecent" dial-a-porn to virtually every child in America. *Cf., United Church of Christ* v. *F.C.C.,* 359 F.2d 994, 1003 (D.C. Cir. 1966) (opinion authored by Chief Justice Burger, then a member of the District of Columbia Court of Appeals).

IV. UNDER 47 U.S.C. § 223(B)(5), THE ATTORNEY GENERAL MAY LAWFULLY ENJOIN TRANSMISSION OF DIAL-A-PORN WHICH VIOLATES § 223(B)(1)(A) OR (1)(B)

Without question, the government may lawfully restrain a party's violation of an obscenity statute through the use of a civil injunction proceeding, as permitted by 47 U.S.C. § 223(b)(5). Such a procedure, whereby the government files a civil action petitioning the court to issue an injunction against the future distribution of specifically named or identified materials has been categorically approved by the Supreme Court. *Paris Adult Theatre I* v. *Slaton,* 413 U.S. 49, 50-55 (1973); *Kingsley Books* v. *Brown,* 354 U.S. 436, 441 (1956). The holdings of *Paris Adult Theatre* and *Kingsley Books* are clearly applicable to § 223(b)(5) and permit the Attorney General to proceed against violations of this statute by injunction.

The Supreme Court has set forth the guidelines for such an injunction proceeding in several cases. Specifically, the Court has held such a proceeding is constitutionally permissible when, as here, the burden of proof and of initiating the judicial review is the governments, and the dial-a-porn provider is allowed to transmit pending a full adversary judicial proceeding, with a prompt final judicial review available. *Paris Adult Theatre,* 413 U.S. at 55; and see *Blount* v. *Rizzi,* 400 U.S. 410 (1971); *Freedman* v. *Maryland,* 380 U.S. 51 (1965). Subsection 223(b)(5) is fully supported by authority of the Supreme Court.

V. CONCLUSION

It has been demonstrated that the open availability of dial-a-porn is a serious problem for adults, as well as children. It has further been demonstrated that attempts to regulate dial-a-porn have been a complete failure since the start of this "industry" in 1983. This present situation can *only* be corrected if the present legislation is enacted by Congress. The legislation will obviously receive vigorous opposition from the dial-a-porn businesses themselves—this is to be expected since they stand to lose millions of dollars if an enforceable § 223 is enacted. However, this memorandum of law has clearly shown that § 223 as amended is firmly supported by legal precedent, and by a tradition for the protection of children from this type of harm. In conclusion, there is no legal obstacle to the passage of this legislation by Congress, and its enactment will finally allow for the regulation of this dial-a-porn industry and its often "illegal" product.

Respectfully submitted,

BENJAMIN W. BULL,
Legal Counsel.
PAUL C. MCCOMMON III,
Legal Counsel.

KNIGHTS OF COLUMBUS,
Washington, DC, April 20, 1988.
Hon. JESSE HELMS,
403 Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR HELMS: The 1.4 million members of the Knights of Columbus and their families strongly support your efforts and those of our colleagues to enact into law the Dial-A-Porn amendment to H.R. 5. In our view the overwhelming vote in the House last night as well as the earlier unanimous vote in the Senate reflects not only the broad bi-partisan support in Congress for this measure, but its widespread support among the American people. We urge the Senate to approve this measure without delay.

We just as strongly oppose any parliamentary maneuver which would create the illusion of progress on this needed reform while in reality resigning it to inaction for the remainder of this Congress.

As you know, the Knights of Columbus remain steadfastly committed to the welfare of America's families, especially when the moral health of or nation's children is endangered. As the Supreme Knight, Virgil Dechant, recently stated, "The cynical entrepreneures responsible for the rise of pornography-for-profit have already done grave injury to countless individuals and to the fabric of society itself."

Again thank you for your efforts in this matter.

With kindest regards,

CARL A. ANDERSON,
Vice President for
Public Policy.

Mr. HARKIN. Mr. President, I rise in support of the conference report regarding the Augustus F. Hawkins-Robert R. Stafford Elementary and Secondary School Improvement Amendments of 1988. This bill, which has been worked out by the House/Senate conferees, will enhance the Federal effort to aid preschool, elementary, secondary, and adult education programs.

The bill is a prudent investment in the future of our Nation. It reaffirms the important role the Federal Government plays in supporting efforts by teachers, principals, administrators, and members of school boards to educate our children to become the future workers, artists, and leaders of our country. It also recognizes the central role parents play in educating their children.

I am particularly pleased that this bill contains numerous substantive provisions that address the unique needs of children residing in rural America. For example, the bill includes the provisions of S. 1778, the Rural Education Opportunities Act, which I introduced on October 8, 1987. This bill authorizes the Department of Education to establish technical assistance centers that will focus exclusively on the needs of rural school districts. These centers will provide evaluation assistance, consultation, and training aimed at helping local school districts improve the quality of the education provided to educationally deprived children participating in chapter 1 programs who reside in rural areas or attend small school.

Although I am pleased with the substantive provisions concerning rural areas included in the bill, I am, quite frankly, extremely distressed and disappointed that the Senate receded to the House on the chapter 1 concentration formula. The concentration formula included in the Senate bill was developed after many hours of work. It reflected the proper balance among regional urban/rural and State interests. As the Senate report states:

> The committee believes that such a balance has been struck with this compromise approach.

During the conference, it was recognized by virtually all Senators and Congressmen that the Senate version provided more funds than the House version to those school districts in greatest need of extra assistance, which after all is the purpose of this provision. For example, under the Senate version, Chicago would receive $19.7 million; in contrast, under the House version Chicago would only receive $15.8 million. Similarly, under the Senate version the entire State of Iowa would receive $2.3 million; in contrast under the House version the State would only receive $1.1 million.

Notwithstanding my disappointment with the concentration formula, I do support this bill. I am especially proud of my committee's resolve to reaffirm our commitment to assist school districts meet the special needs of our educationally disadvantaged children residing in poor areas; to strengthen our resolve to address the problems of illiteracy and dropouts; and to expand our resolve to address the needs of our preschool population.

As chairman of the Subcommittee on the Handicapped, I am also pleased with the numerous provisions included in the bill providing special focus on the needs of children and youth with handicaps. For example, the Jacob K. Javits Gifted and Talented Students Education Act of 1988 specifies that in the administration of the program the Secretary must give the highest priority for, among other things, the identification of gifted and talented students who may not be identified through traditional assessment methods such as individuals with handicaps and to conduct programs for such children.

In addition, the amendments to chapter 2, the Education Block Grant, provide a greater degree of targeting

---

choice—a local telephone company which imposes dial-a-porn on its subscribers.

on at-risk students and students for whom providing an education entails higher than average costs, which include among others, handicapped students. Additional FOCI of chapter 2 are programs of acquisition and use of instructional and educational materials—for example, library books—and other innovative projects that would enhance the educational programs of the school—for example technology. Captioning for the hearing impaired certainly qualifies as a technology that may be used in innovative ways to enhance literacy.

Furthermore, the fund for the Improvement and Reform of Schools and Teaching Act authorizes the Secretary of Education to make grants and enter into contracts designed to improve educational opportunities for and the performance of elementary and secondary school students and teachers by, among other things, helping at risk children meet higher educational standards and providing incentives for improved performance. The term "at risk" children certainly includes handicapped children.

The need to look beyond access for handicapped children to high quality instruction designed to maximize a handicapped child's potential was one of the major recommendations of a recent congressionally mandated report entitled "Toward Equality—Education of the Deaf" prepared by the Commission on Education of the Deaf. The recommendations of the Commission should be given serious consideration and be made applicable to all handicapped children.

The amendments to the State-operated program for the handicapped, also known as Public Law 89-313, which I developed with Senator STAFFORD, will go a long way toward ensuring that handicapped children in a State participating in Public Law 89-313 programs receive a free appropriate public education in accordance with all of the applicable provisions in part B of the Education of the Handicapped Act. It also reaffirms the appropriateness of using Public Law 89-313 funds to provide early intervention services for handicapped infants and toddlers, consistent with the provisions of part H.

In closing, I believe that the bill will enhance our children's educational opportunities and our Nation's future prosperity.

Mr. METZENBAUM. Mr. President, I rise in support of the conference report on H.R. 5, aptly named the Augustus F. Hawkins and Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. This omnibus legislation extends and improves a range of important Federal programs which support elementary and secondary education. It also includes several new initiatives to address such vital areas of national concern as high school dropouts and adult illiteracy. This important measure represents the kind of Federal commitment we need to promote excellence in our schools and to ensure that all our Nation's students have access to a quality education.

Chapter I is the largest program of Federal aid to elementary and secondary education. This legislation will improve chapter I in several important ways. The bill encourages additional appropriations each year so that all eligible children can be served by 1993, and concentrates additional funding on the neediest school districts. It also includes a new program for preschool children and provisions which will help schools to provide basic skills training for secondary students and to prevent students from dropping out.

I am particularly pleased that the conference report includes my amendments to encourage parental involvement in the chapter I program. These amendments, along with the other strong parental involvement provisions in the bill, will provide parents with a whole range of opportunities to learn about and participate in the program, so that parents and educators can work together to ensure that children in the program will succeed in school.

The legislation will also continue support for other important education programs, including the chapter II block grant, impact aid, magnet schools, science and math programs, and the Adult Education Act. In addition, the conference report provides for several new initiatives that address some very critical areas. New programs will focus on preventing high school dropouts, improving the basic skills of at-risk secondary students, providing help for illiterate adults, and enhancing programs for the education of gifted and talented children.

I am also appreciative that the other conferees agreed to include my proposal providing $2 million to support the National Center for Research in Vocational Education at the Ohio State University through the end of the year. These funds will allow the center to continue operating until a new grant competition can be held to determine the final recipient of the 5-year grant award. This will save jobs and permit the center to continue providing important services to vocational educators nationwide.

Mr. President, this legislation will help our schools to provide the best possible education for all our children. It represents a wise investment in the future of our Nation, and I urge my colleagues to support the conference report.

Mr. SIMON. Mr. President, I want to join my distinguished colleagues, the senior Senator from Rhode Island, who chairs the Subcommittee on Education, Arts and Humanities, and the senior Senator from Vermont who serves as our ranking Republican member. Both have served the cause of education well over the years and 1987-88 is no exception. And 1988 is a year in which many who have been strangers to the sanctuary of education have come to pledge their commitment and offer sacrifices on the educational altar in an election year. Not true with Senators PELL and STAFFORD. Steadfast in their support and consciencious in their commitment to the cause of academic excellence, educational equity, and equal opportunity, they are not new converts now that it has become fashionable to support education in our Nation.

I especially want to acknowledge the outstanding work on this bill and on many other pieces of education legislation of my friend BOB STAFFORD, who will be retiring from this body at the end of the 100th Congress. In fact, many of us would not even have most of the existing Federal education program if it were not for BOB STAFFORD and the work he did in 1981 to preserve many of these vital programs from the budget ax of the Reagan administration. Although they have recently "found religion"—recommending a total education department budget of $21.2 billion or $851 million above the fiscal year 1988 appropriations level. We will lose a real trooper, an accomplished public servant, and an acknowledged leader in the field of education.

Mr. President, I want to say only a few words about H.R. 5, the Hawkins-Stafford School Improvement Act.

EFFECTIVE SCHOOLS

On September 20, 1987, Senator STANFORD and I introduced S. 1815, the Effective Schools Development in Education Act. A body of research had validated that some schools, including those in poor areas and with disadvantaged students, have been successful in improving student achievement. The "effective schools" research has discovered that certain characteristics—strong leadership, emphasis on the acquisition of basic skills, and a safe and orderly school environment, among others—are shared by these effective schools and can be replicated in other schools. The effective schools section of H.R. 5 attempts to build upon this research by targeting grant funds—under chapter 2 of the Education Consolidation and Improvement Act—to be used to plan, implement, support, and otherwise encourage effective schools programs within that State.

STRENGTHENING CHAPTER 2

On the same day, we also introduced S. 1699, the Elementary and Secondary Reform Amendments of 1987. Its basic purpose was to more effectively target limited Federal education funds on a fixed set of high priority Federal programs. I am pleased that S. 373, as it passed the Senate included that necessary tightening of the chapter 2 program by establishing a series of priority programs for spending chapter 2 funds. The conference report reflects those priorities.

PROGRAM IMPROVEMENT

One of the most difficult issues to resolve was the whole question of providing for appropriate accountability, among teachers and school administrators, for student progress in the chapter 1 program. While there was much rhetoric about "State takeovers" of local school district programs—this was blown way out of proportion—the conferees did reach agreement on a critical section coauthored by Senator QUAYLE and myself, which will ensure that student progress is effectively monitored and, when needed, additional resources are brought to bear to assure that poor children who benefit from the chapter 1 program succeed like all other schoolchildren.

We are requiring program improvement plans to be developed for schools experiencing difficulty in achieving stated program goals. Each local educational agency [LEA] must develop a plan if any of the following conditions occurs for one year: One, a school does not show substantial progress toward meeting the desired outcomes described in the LEA's application in terms of acquiring the basic and more advanced skills that all children are expected to master; or two, the school shows no improvement; or three, the school shows a decline in aggregate performance. The joint statement of managers makes clear the meaning of the second option "no improvement." I would like to be sure the record is clear about the "substantial progress" phrase in terms of meeting the desired outcomes. That term means enough annual progress in each of the 3 years of the program to achieve those outcomes by the end of the 3-year cycle contemplated under program improvement. Obviously, some situations may take longer and the statute recognizes that possibility. Thus, children would be closing the gap between their current skill levels and those expected for all children of their age or grade level at a pace of one-third each year.

Mr. President, I am especially indebted to the leadership of the Council of Chief State School Officers, the State Boards of Education, the National PTA, the National Urban League, the Children's Defense Fund, the National Urban Coalition, and especially the Harvard Center for Law and Education for their work on the school improvement section of this bill. We need more people who care about students and less about paperwork and their own prerogatives in the school policymaking process.

RACIALLY ISOLATED SCHOOLS

I was also concerned about the growing tendency for large numbers of minority, poor children to be concentrated in large, urban school districts with the least amount of resources to pay for the cost of their education. Many of these school districts receive insufficient or no chapter 1 funds to help them. Some qualify for the Magnet Schools Program, but many do not because they do not have a current court order, nor an administrative decree from the Education Department. Ironically, the District of Columbia—ordered to desegregate its schools in 1954—Bolling versus Sharpe—does not qualify for magnet schools funding. I strongly supported creation of a new part B in the Magnet Schools Program to serve racially isolated schools. Improving the academic program at all schools in a school district may be the only way to attract whites back to the public schools. It works in Chicago; it is working at Banneker School here in the District; but Benjamin Banneker in Washington, DC, and Whitney Young in Chicago should be the norm, not the exception. Every child ought to have the same chance to learn and their educational future ought not be determined simply by where they live. The conferees accepted a modified version of the part B, magnet schools concept, which I hope will begin to address the problem.

Mr. President, I want to thank Senators HATCH, KENNEDY, and WEICKER for their leadership on this issue.

Finally, Mr. President, I want to commend the staff members of all Senators on the Labor and Human Resources Committee. Many of them have worked for more than a year on this important bill. I especially want to commend David Evans, Ann Young, and Sarah Flanagan of Senator PELL's staff and Ellin Nolan and Becky Rogers of Senator STAFFORD's staff, as well as Bud Blakey, Judy White, and Pat Fahy of my own staff.

Mr. DODD. Mr. President, America cannot afford to lose even one human mind to ignorance, poverty or neglect. It is vital, for the economic security of our Nation, to focus our legislative energies on services that will benefit the development of today's children. An educated, trained work force is the foundation upon which we must build, to assure future economic success and stability and international competitiveness. Today, we can bolster America's foundations by supporting the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary Education Improvement Amendments of 1988, H.R. 5.

H.R. 5 encompasses many vital education programs that will extend the historic commitment to eliminate poverty, promote educational equity and improve access for disadvantaged children. To help this Nation cope with future demographic and technological changes, several new programs for early intervention, basic skills and literacy, and math and science education are included in the package. I am proud to have had a hand in authoring the initiatives on dropout prevention, workplace literacy and model foreign language to help students prepare to work in our transitional economy.

Today, we are confronted with a national dropout rate of 30 percent, and up to 60 percent in some inner cities. One out of four children are living in poverty. And 35 percent of children entering school this year are forecasted to end up on welfare by the age of 18.

We cannot afford to let the children living in poverty, the children of illiterate parents or the children of immigrants who speak little English slip through the cracks of our education system. These children deserve an education that will prepare them for the demands of the workplace and offer many of them an avenue out of poverty. Programs that offer literacy skills, basic skills development, special language, math and science instruction and incentives for youth to stay in school, are the most important means of preventing the creation of a permanent underclass of Americans and building a strong, dynamic, literate, trained work force.

By the year 2000, we will need these youth to run our country. There will be fewer Americans entering the work force in the year 2000. Our Nation's economic strength and competitiveness will depend on the participation of groups that traditionally have the highest rates of unemployment and poverty, the greatest family obligations and the lowest levels of education and job experience. The economic challenges that America will face in the future will demand an unprecedented level of workplace skills and productivity from all Americans.

While this bill is a major step in the right direction, it is only one of many steps necessary to make investments in our future. With one out of four children living in poverty, we must examine our education and welfare systems, our Nation's job market and the availability and affordability of child care for unemployed and low income parents. Our ability to solve the Nation's education problems and develop a work force equipped to face the challenges of the future, depends on much more than the educational opportunities available to children.

Before concluding my remarks, I would like to thank Senators PELL and STAFFORD for their leadership on this bill. While my colleague from Rhode Island, CLAIBORNE PELL, will be around next year to lead the crusade for education policy, I must pay tribute to my Republican colleague from Vermont, ROBERT STAFFORD. Senator STAFFORD, over the last 20 years, has made invaluable contributions to this Nation through education policy. His commitment and leadership will be missed.

Mr. QUAYLE. Mr. President, I rise in support of H.R. 5, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, as amended by the House. This version of H.R. 5 represents the agreements of the conference committee on the education portions of the bill and includes the legislative language passed by the Senate regarding the dial-a-porn issue, which would prohibit obscene or indecent communications by telephone.

I am in full support of this dial-a-porn prohibition, which was originally offered by Senator HELMS, and am very pleased that the House of Representatives voted 379 to 22 to add the Helms language to the conference committee agreements on the education bill.

Dial-a-porn phone messages are one of the most invidious inventions of our times and it is repugnant that children and teenagers have had access to them. I am hopeful that the Helms language is successful in eliminating these messages from our telephone system.

H.R. 5, as rewritten by the conference committee, is a good bill and deserves the full support of the Senate. Throughout the long negotiations on this bill, Senators PELL and STAFFORD worked closely with other members of the Committee on Labor and Human Resources and protected the Senate position with the House.

I am particularly pleased by the provisions in the bill to strengthen program improvement of the chapter 1 program. If students are not showing improvement in their academic skills, the local school will be helped by the school district and the State so that student achievement occurs. We must ensure that the money being spent on this important program is resulting in increased achievement for the disadvantaged students participating. Otherwise, chapter 1 fails its mission and fails the students it is designed to help.

H.R. 5 includes many program improvements for chapter 1 and chapter 2, as well as the Bilingual Education Program, the Magnet Schools Program, and the Adult Education Act. This bill continues the Federal commitment to providing education to disadvantaged children and those with special needs with increased authorization levels. This bill will help many thousands of students to improve their academic skills and become productive and contributing members of our society.

H.R. 5 is titled the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988," a tribute to two legislators who have spent most of their careers working to benefit the American educational system and our children. I am very pleased that these two individuals have been recognized, especially Senator STAFFORD, who will leave this body at the end of this session. My friend from Vermont has been a tireless supporter of education, and we will miss his guidance and dedication in this area.

I would also like to commend Senators PELL, KENNEDY, and HATCH for their hard work on this bill. They have all made this a better bill by being open to the concerns of other Senators and have worked in a bipartisan fashion, resulting in a consensus bill.

Again, Mr. President, I rise in support of H.R. 5 and urge its adoption by my colleagues.

Mr. KERRY. Mr. President, the conference report on H.R. 5, approved today by the Senate, is the culmination of an extraordinary, successful bipartisan effort. This historic 5 year authorization is a forward-looking bill which seeks to deal with the immediate problems of elementary and secondary education. It also provides special assistance to help us with the complex, long-term problems facing us today and into tomorrow.

Chapter 1, the backbone of the Federal effort to enhance the educational opportunities for the children of low-income families, is greatly improved in H.R. 5. The institutionalization of poverty we have witnessed during this administration has hit our young students particularly hard. There is increasing evidence that the poor and disadvantaged children of this Nation are tragically left behind by an education system which is failing us. We can neither afford nor tolerate this waste of human potential. This Nation needs the resources of all of our young people and disadvantaged students deserve the dignity and opportunity of an education which will lead to jobs and equity in our society. The flexibility and initiatives built into chapter 1 will provide much-needed assistance to our schools.

Chapter 2 has been similiarly strengthened in H.R. 5. The block grants for State and local education agencies are important to meeting special needs in areas from at-risk students to gifted and talented students, from teacher training to materials purchasing. The bill contains flexibility here while maintaining the formula split of 20 percent to the State agencies and 80 percent to the local agencies.

A number of other programs authorized here will help us deal with some of the most pressing problems in our schools today. The math and science teacher training will move us forward in providing the kind of faculty support necessary for strengthening national performance in math and science. The Star Schools Program, an initiative of the senior Senator from Massachusetts provides an opportunity for bringing the best of new technology to teachers and classrooms.

The reauthorization through 1993 of the Drug Free Schools and Communities Act of 1986 is key to providing our communities with the resources for educating students and parents on the risks of drug and alcohol abuse. No single issue threatens the future of America's youth more than drugs. I am especially pleased that H.R. 5 requires the Secretaries of Education and Health and Human Services to develop and coordinate a national education program of drug education. Similarly the assistance to State and local organizations on drug education and the maintainance of five regional centers on the issue are important. The record shows that drug education works and while budgetary limits constrain what can be done here, these programs are important for many schools and communities.

Other provisions included in the bill have been amply discussed in passage of the Senate bill, Mr. President. Let me briefly call attention to the conference work in impact aid, bilingual education, Indian education, vocational education. Difficult issues have been addressed and resolved in a manner which will allow workable solutions for most problems.

Other important programs included in this comprehensive bill are noteworthy. Magnet schools, women's educational equity, immigrant education, the child development program and the disability demonstration project are all examples of efforts to respond to the unique needs of students. Each and every one of these programs has demonstrated success in meeting those needs and keeping students in school and learning.

In summary, Mr. President, I commend the conferees for a job well done. It is especially appropriate to thank Senators PELL and STAFFORD who have labored nearly 2 years to accomplish today's passage. Their leadership has been exemplarly and we are all in their debt.

Mr. DASCHLE. Mr. President, it is with great pleasure that I rise today to voice my strong support for the conference agreement on H.R. 5, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988. I truly believe that this agreement reflects the best combination of Senate and House bills.

Never before in our history has education been more critical to our nation's economic well-being. In order to compete in today's highly technological world, it is essential that we have a well-educated and well-qualified populace. Widespread access to education is the Nation's best hope for economic growth and social progress. The Federal Government has no greater role than assuring access to a quality education.

In reauthorizing nearly all Federal elementary and secondary programs, H.R. 5 reaffirms the Government's commitment to providing a quality education for all Americans. This bill makes a number of changes that will improve the basic educational services that are provided to students, especially at-risk students, throughout the country.

The centerpiece of this legislation is the Chapter 1 Program for educationally disadvantaged children. Nearly 90 percent of the Nation's schools receive basic grants, which are distributed to school districts where at least 10 children come from families with incomes below the poverty level. Separate concentration grants are targeted to districts with a high number or percentage of low income students. The formula for distributing concentration grants is particularly beneficial to rural schools.

The conference agreement wisely retains the block grant approach to the Chapter 2 Program. This program gives States and local school districts the flexibility to design services to meet their specific needs. Local education agencies may use these funds to improve education in several broad areas including programs for at-risk students, gifted and talented, teacher training, and suicide prevention.

After a 6-year decline in impact aid funds, I am pleased to report that the trend is finally reversing. The bill creates a new formula for the Part A Program of grants and authorizes significant increases in funding each year. The Part B Program of payments for the construction of facilities in federally impacted districts is extended and the budget authority is increased yearly. The gains we have made in impact aid policy this year are significant, and it is my hope that they will be expanded upon in future years.

Mr. President, I am particularly pleased with the Indian education provisions included in the conference agreement. Last summer I held a hearing on education at Pine Ridge Reservation in South Dakota. This hearing was held on S. 1645, a bill I cosponsored and the bill which ultimately became the Indian Title of H.R. 5.

By way of background, the Pine Ridge Indian Reservation has the unenviable distinction of being the poorest county in the State of South Dakota and the United States. Unemployment is at 85 percent, and all the social ills that go along with high unemployment are also prevalent—astronomically high rates of alcoholism, infant mortality, suicides, violent crimes, et cetera.

Further, 9 of the 25 poorest counties in the Nation are now in South Dakota, and 8 of these are on or near Indian reservations. All but 3 of the 25 counties saw per capita income fall between 1981 and 1986, an indication that the Nation's poorest are getting poorer.

But amidst all this poverty with all its unmet needs are some real signs of hope and progress—primarily in the area of education.

Because the Indian community has been making great strides in this area, I was particularly pleased to be associated with the Select Committee on Indian Affairs' efforts to develop the Indian title of H.R. 5 and to have able to conduct a hearing in my own State on its largest reservation.

Since the 1970's, South Dakota has seen five tribally controlled community colleges flourish—providing further education in a supportive environment close to the reservation. The South Dakota Sioux are acknowledged nationally for their leadership in this area. Cheyenne River, Standing Rock, Sisseton Wahpeton Community Colleges and, of course, Sinte Glaska and Oglala Lakota offer real hope to those Indian communities they serve.

One of the items contained in the Indian title of this bill, is a program creating a gifted and talented program for Indian children. The program would establish resource centers in two tribal colleges that would provide assistance to Indian schools in developing educational programs for gifted and talented children. One of these resource centers would be located at Sinte Gleska on Rosebud Reservation in South Dakota.

Clearly, quality education is one of the highest priorities of my Indian constituents, if not the highest—despite many unmet needs. The following are some of the provisions in the Indian title which will enable Native Americans to reach some of their goals in education.

First, the bill would permit the establishment of a tribal department of education to oversee schools run by the BIA and by tribes. This provision will enable the Oglala Sioux at Pine Ridge to actively plan and better coordinate all of its educational programs. It would further the concept of self-determination by insuring the maximum participation of the Oglala in determining their future educationally.

Second, the bill will prohibit the Interior Secretary from closing any BIA-funded schools without tribal or congressional approval and bar changes in BIA education regulations over the next 14 months.

Third, the bill will strengthen provisions in existing law that require BIA to consult with tribes before making any changes that would affect schools for Indian children. This was in response to an attempt by the BIA to transfer control of BIA-run schools to local educational agencies or other organizations.

Fourth, the bill would authorize $70 million for grants for projects to meet the supplementary educational and cultural needs of Indian school children. The bill also reauthorizes demonstration programs for such things as curriculum development and dropout prevention; fellowship grants for Indian students; and adult education programs.

Fifth, the bill would create a program for early childhood development, requiring BIA to coordinate existing educational and social programs for very young children. The bill authorizes $15 million a year for the program.

Sixth, the bill would provide authority for a White House Conference on Indian Education to occur between September 1989 and September 1991.

Seventh, the bill would require the Office of Indian Programs within the Department of Education to give priority to Indians when hiring.

If America is to regain lost ground in world markets and maintain economic security, we must continue the Federal commitment of dollars to education. A sound education is perhaps the most fundamental tool America can offer its citizens. The enactment of this conference agreement will go a long way toward making this country stronger and better because it will provide the children of our Nation with the opportunity to receive the quality education to which they are entitled.

Mr. PELL. Mr. President, I move that the Senate concur in the House amendment to H.R. 5, the elementary and secondary bill.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. PELL. I move to reconsider the vote by which the motion was agreed to.

Mr. STAFFORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BILL INDEFINITELY POSTPONED—H.R. 4401

Mr. PELL. I ask unanimous consent that Calendar No. 615 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. The bill deals with dial-a-porn, which is contained in H.R. 5 just acted on.

I thank the Chair.

WARTIME RELOCATION OF CIVILIANS

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER (Mr. ADAMS). The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening with great interest to my friend and colleague from Virginia, and I thank him for his well-said remarks. They were particularly on point.

I would just like to urge my colleagues to move forward on the bill that I am a cosponsor of that has been spearheaded by my friend and colleague, Senator MATSUNAGA, from Hawaii.

Since I have had a little personal experience in this particular area, that I will recite briefly, and while I do not think that we Americans should take pride in condemning ourselves, sometimes confessing a sin and being sorry for what you once did is good for the soul, and this might be a time that this is also good for the Nation.

As a young man growing up in South Dakota, when the rattle of World War II was on its path, and followed by the sneak attack by the Japanese Government on our important naval and military facilities in Hawaii, I remember well when the news came out that the Japanese were being rounded up, especially on the Pacific Coast, in the national security interests of the United States, and I remember well at that time that my father and my grandfather that I was very close to sitting there and discussing with me, a young lad that they expected would be involved in the military conflict in the years to come. They were rationalizing and discussing whether or not it was proper for the United States to round up Japanese who lived especially on the West Coast and intern them—I believe that was the term that was used at that particular time—and I thought my grandfather and my father had lost all reason.

We obviously were at war with the Japanese and to my young mind it only made sense that since we were at war with the Japanese we were at war with the Japanese on the Japanese mainland and also with the Japanese who lived in America, because you see in Lake Andes, SD, we did not have any Japanese. In my young mind I thought that was the proper thing to do.

Oh, I rationalized that some of them, a few of them probably were good Americans, but from my logic it only made sense that most of them were agents of the Japanese Government, and while I thought that there may be a few Japanese-Americans who were good, not very many of them could have been good and if we abused a few that was a part of the situation that we found ourselves in at that time and, of course, everybody at that time detested the Government of Japan.

My father and my grandfather, who had a lot more wisdom than I did, said this reminded them of World War I. While we did not have any Japanese in Lake Andes, SD, my hometown, we had an awful lot of Germans because the German stock were the ones that came over and homesteaded in my particular home area and were some of the outstanding citizens, of course, in South Dakota at that time and have been ever since.

But they told me about World War I and how anyone with a German name back in World War I regardless of whether they were good Americans or not were suspect and if anyone ever spoke German during that time they were convinced that they were certainly, if not an agent of the German Government, they had to be sympathetic to them or they would not speak German.

How idiotic can we be? How idiotic it was looking back on it that we did what we did as a Nation to Japanese-Americans who were just as good Americans as anyone else, and we have ample testimony of that right here in the U.S. Senate in both Senator MATSUNAGA and his colleague, Senator INOUYE, both wounded, decorated, veterans on the side of the United States, like so many Japanese-Americans were in World War II.

I only say this, Mr. President, because shame on us for assuming just because we did not have German names in 1917, shame on us as Americans just because we did not have Japanese names in 1941 that we took it upon ourselves to decide what was right and what was wrong regardless of the rights of the individual.

I am proud of the fact that this Senator from Nebraska is supporting the measure before us. Oh, it is going to cost some money. That is right. But certainly it is not going to cost very much money compared to what we did and the shame of what we did to the Japanese-Americans at the beginning of World War II.

I remember another personal factor that I do not think my friend and colleague, Senator MATSUNAGA, knows about. But a few months after that talk I had with my father and grandfather that I related to you, that vibrant American boy named JIM EXON, with the right color eyes and the right color skin, found himself in the service of the United States and before I served overseas 2 years fighting the Japanese, I ended up in the Signal Corps camp in California. It was Camp Pinedale, and when we got there it was the sorriest looking camp I had ever seen or ever imagined. It was nothing more than a group of tar-paper covered shacks. Some improvements were made while I took my basic training at that particular Signal Corps camp.

But, nevertheless, one of the reasons we did not like it was the fact that this was a Japanese internment camp where a sizable number of the Japanese who were originally gathered up were dumped into this dump of an internment camp.

As I understand it, the reason that they made way and put the Signal Corps people in there was the fact that they were not sure that it was safe to have those Japanese-Americans even in California; they wanted to move them farther inland where they would not be as much of a menace to the war efforts of the United States of America.

I only cite that personal history of mine and I hope you will forgive me, Mr. President, for getting personal in these things. I am not sure that that helps. I only cite it for the fact that I have personal insight into what we did to great Japanese-Americans at that time and anyone who would quibble about the amount of money that we are giving to try in a small way make up for that great injustice and take that position in my view does not understand, does not appreciate, and has not learned the histories of doing the wrong thing, of making judgment about others that all of us have done from time to time throughout our history going way, way back.

Therefore, Mr. President, I hope that we will not have any other votes. I hope that no further killer amendments, like the one that was just defeated substantially, will be offered.

I salute the leadership of Senator MATSUNAGA in bringing this to the attention of America. As Americans, we should be saluting the initiative of the Senator from Hawaii and maybe at least we can cleanse our souls for the sin that the Government of the United States committed against American citizens of Japanese origin that were just as good, if not better, Americans, as many of them proved in World War II.

Mr. President, I yield the floor.

Mr. MATSUNAGA. Will the Senator from Nebraska yield before he yields the floor?

Mr. EXON. I would be happy to yield.

Mr. MATSUNAGA. Mr. President, I wish to thank the Senator from Nebraska for his early cosponsorship of the measure and for the great support that he has given the measure. The statement which he just made in which he cited his own experience with Japanese-Americans and his recitation of what happened in World War II I think sheds considerable light upon what can happen to any group of Americans. This is what S. 1009 is intended to prevent. In World War II, while we were engaged in war against Germany and Italy, neither Italian-Americans nor German-Americans were evacuated from the west coast, only the Japanese-Americans were evacuated and interned.

So I thank the Senator from Nebraska for bringing that point to the attention of the Senate.

Mr. EXON. I thank my friend from Hawaii. I do this, as he knows, with all sincerity and freedom of heart. I guess that when I vote for this bill, I feel that in some way I will have made amends for the feeling that I admitted that I had at one time. We all learn and become wiser as we go along.

I would simply say to the Senator from Hawaii that the reason that we did not intern German-Americans in World War II, you see we learned our lesson with them in World War I. But, as we do so often, in times of hysteria, in terms of fear—and I do remember also that there was a greater fear in America at the time that there was an imminent Japanese invasion that was likely to follow within 2 weeks of the attack on Pearl Harbor.

So I guess that we can forgive America for over reacting. But with what we did to German-Americans, which was a disgrace, in World War I and what we did to Japanese-Americans, which was a compounding of the disgrace, in World War II, the bill offered by the Senator from Hawaii may set the record straight that if we have made mistakes in the past we learned from them and will not let it happen in the future.

I thank the Senator from Hawaii for his kind remarks.

I yield the floor, Mr. President.

Mr. EVANS. Mr. President, I am encouraged that this legislation has been presented for consideration before the full Senate. It is an important issue; one that would address our tragic mistakes of the past. With S. 1009, we are addressing the Japanese relocation efforts during World War II and acknowledging the gross aberration of Japanese-Americans' civil rights. And we should offer them redress.

As a Senator from the State of Washington, I have a special interest in this legislation. The first group of Japanese citizens to be removed from their homes under President Roosevelt's Executive order were from Bainbridge Island, WA. They were the first of nearly 13,000 Japanese-Americans from the State of Washington to be funneled into assembly centers and eventually into relocation facilities.

Victims of Executive Order 9066 were given very short notice that they would be sent to relocation facilities. Most were granted just a few days to abandon their homes and belongings. As a result they were forced to sell or lease their property and businesses at prices reflecting only a fraction of their worth. Substantial economic losses were incurred. Once they arrived at the relocation centers they found a quality of life which was atrocious. They were overcrowded and families suffered from an acute lack of privacy with no borders or walls to separate them from others.

Opponents of this legislation choose to ignore raw, racial prejudice woven in what was supposed to be legitimate national security justification for internment. The evacuees, however, were guilty of no crime other than the apparent crime of being of Japanese ancestry. Japanese-Americans left their homes in an atmosphere of racial prejudice and returned to the same.

What is perhaps most alarming about the Japanese internment is that it took place in the United States of America. This is the same country which has prided itself on freedom, justice, and the preservation and protection of individual rights.

Thirty-four years after the last citizens were released from captivity, Congress established the Commission on the Wartime Relocation and Internment of Japanese-American Citizens to assess the decision to intern and relocate Japanese-Americans. Two years after its inception, the Commission issued certain factual findings and subsequent recommendations. I have cosponsored legislation to implement these recommendations throughout my tenure in the U.S. Senate.

The $20,000 compensation that would be allotted to each victim, and the educational fund established by this legislation are a modest attempt to redress wrongs against loyal Americans. Although we cannot restore completely what already has been lost, the legislation would serve as a symbol to all that the United States can come to terms with its own tragic mistake.

Our legal tradition provides us with a system of damage compensation to promote accountability in government's actions. For example, false imprisonments from the May Day demonstrations in 1972 resulted in a Federal court decision to award money damages to the demonstrators for the hours they spent in detention. Additionally, special compensation was rightfully granted to the 52 Iran hostages under the Hostage Relief Act and Anti-Terrorism Act. These examples offer precedential evidence that victims justifiably have received individual compensation for a loss of bodily freedom. Furthermore, Federal law affords both equitable relief and money damages under section 1983, against any State or Federal official who violates a person's constitutional rights.

Today, we have the opportunity to use our hindsight. And with the 20-20 vision it provides, we not only can recognize this flagrant injustice from history, but we can learn from it. By offering redress to the Japanese-Americans we will invest in a deterrent from future atrocities.

Mr. President, similar legislation in 98th and 99th Congresses never was granted a complete hearing. Congress must no longer delay consideration of this issue. It is time that we accept the Commission's recommendations and endorse its remedy for reparation. I urge my colleagues to cast a vote in favor of its passage.

Mr. MATSUNAGA. Mr. President, I believe Senator HELMS is prepared to offer an amendment. Until such time as he arrives on the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1968

(Purpose: to provide that no funds may be appropriated in any year in which there will be a budget deficit)

Mr. HELMS. Mr. President, I send an amendment to the desk and ask for its immediate consideration. Mr. President, in this case I ask the clerk to read the entire amendment.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1968.

At the end of the bill, add the following:

TITLE IV—REQUIREMENT FOR A BALANCED BUDGET

SEC. 401. (a) PROHIBITION ON APPROPRIATIONS.—No funds may be appropriated under this Act for any fiscal year if

(1) it is determined, under the Balanced Budget and Emergency Deficit Control Act of 1985, that there will be a deficit in such fiscal year; or

(2) if the Concurrent Resolution on the Budget, adopted pursuant to Section 301 of the Congressional Budget and Impoundment Control Act of 1974, sets for a deficit for such fiscal year.

Mr. HELMS. Mr. President, I thank the Chair and I thank the distinguished clerk.

I found the vote on the amendment offered by the Senator from Nevada [Mr. HECHT], to be quite interesting and enlightening because it disclosed that money is an important aspect to this bill. That prompts me to suggest that it is time for the Senate to make a realistic judgment about whether the taxpayers of this country can afford to have Congress appropriate $1.3 billion for this purpose.

Bear in mind, Mr. President, that a very small percentage, relatively, of the American people alive today were even born when Pearl Harbor was virtually destroyed and our fleet was lying on the bottom. I do not know what that percentage is, but I think the percentage is zero of American people alive today who had anything whatsoever to do with the decisions on the relocation of Japanese-Americans.

So, what we are talking about is adding to the burden of the working taxpayers today, another $1.3 billion for something they had nothing to do with. Since so many of them were not even born, I wonder about the fairness of doing that.

I have three children. As of yesterday, I have six grandchildren. Amelia Jane Helms was born in Winston-Salem, NC, yesterday afternoon. I had to get that in, Mr. President.

The PRESIDING OFFEICER. The Chair understands the pride of the Senator from North Carolina, and it is appreciated by all Members.

Mr. HELMS. Bragging ain't bragging if you can prove it, Mr. President.

The PRESIDING OFFICER. That is right.

Mr. HELMS. I thank the Chair.

But I think it is about time that we think about fairness for them, too. Nobody is, in retrospect, proud of the relocation of the Japanese-Americans during World War II, but as I said earlier, we lived in a time of terror in this country immediately after the attack on Pearl Harbor. Nobody knew what was coming next, and even though I do not now belong to the party of Franklin Roosevelt, I reject the implicit condemnation of the judgments that he made based on intelligence reports made to him by this Government.

Mistakes are made constantly by any government in times of stress, and certainly that was a stressful, emotional time. Nobody knew what to expect.

The Senator from Virginia [Mr. WARNER], recalled that this Capital City was in darkness. Nobody knew whether there was going to be an attack on Washington, DC, in addition to that, our forces lacked weaponry. I recall that soldiers were stationed on the roof of the House Office Building, and they did not even have rifles. They had wooden imitations of guns.

I went to the recruiting station in Raleigh, NC, on the afternoon of December 7, 1941, and volunteered but was turned down because of ear difficulty. It was 3 months later before I was sworn in, I had to get a waiver from the Navy.

It was a stressful time, and nobody knew what was going to happen next.

I have not heard mentioned on this floor during this debate anything about what the U.S. Government has done in the interim since World War II in a good faith attempt to compensate the victims of relocation for their losses.

I say again that the decisions on which this legislation is based were taken against a backdrop of fear for the survival of America. We had just been attacked by a totalitarian regime which had enjoyed a virtually unbroken string of military successes, both before and immediately after the Government of Japan attacked the United States of America.

I was a much younger man on that day when Franklin D. Roosevelt went to the House of Representatives and talked about a day of infamy.

But I think it is self-evident that all of us, prior to the offering of this legislation, had put that behind us.

I have great affection for a number of Japanese leaders. I consult with them frequently. Just yesterday I was in a very pleasant conversation with the Japanese Ambassador to the United States I might add. He is a delightful man.

I have dealt with Mr. Nakasone on numerous occasions and found him to be a reliable friend. So that is behind us.

I have heard from a lot of survivors of American fighting men who were killed in Pearl Harbor on December 7, 1941, and they say: "How about us?"

I take nothing away; as a matter of fact, I praise men like Senator MATSUNAGA and DANNY INOUYE who fought for this country, and they know of my admiration and respect for them.

But, on the other hand, I think it is only fair to look back to that time, and recall the fact that our intelligence community told the then President of the United States, Franklin Delano Roosevelt, that there was great risk. Now we can see that it was a mistake.

I have no vision problem with respect to that. We will have 20-20 vision by hindsight, and I am perfectly willing for this Senate and this Congress to declare that this kind of thing must never happen again.

But the Senate has just voted to give the priority emphasis to money, $1.3 billion. So I think we ought to look at our priorities. That is the purpose of this amendment.

We have had another Japanese-American citizen in this Senate in the recent past, himself a delightful man, Sam Hayakawa from California, who served one term. On December 7, 1982, Senator Hayakawa, a splendid Japanese-American, had this to say:

> It is difficult for people who did not live through that dreadful time to reconstruct the terror and the anxiety felt by people along the entire west coast. Disaster followed upon disaster after the attack on Pearl Harbor. * * * Japanese forces landed on the Malay Peninsula and began their drive toward Singapore. Guam fell on December 10, Wake on December 23. On December 8 Japanese planes destroyed half the aircraft on the airfields near Manila. As enemy troops closed in, General MacArthur withdrew his forces from the Philippines and retired to Australia. On Christmas Day the British surrendered Hong Kong.
>
> The Western World was scared stiff. The west coast of the United States, rich with naval bases, shipyards, oil fields, and aircraft factories, seemed especially vulnerable to attack.
>
> There was talk of evacuating not just the Japanese from the west coast but everybody. Who knew what was going to happen next?

And I recall those days, Mr. President.

> How frightening were the nightly blackouts during that bleak winter of defeat. Would Japanese carriers come to bomb the cities—San Diego, San Francisco, Los Angeles? Would submarines sneak through the Golden Gate to shell San Francisco? Would they actually mount an invasion? Who could tell?
>
> Of course the relocation was unjust.

I might say, Mr. President, parenthetically, there is no disagreement by 20-20 hindsight on that point. I will sign an affidavit to it.

> But under the stress of wartime anxieties and hysteria and in the light of the long history of antioriental agitation in California and the West, I find it difficult to imagine what else could have occurred that would not have been many times worse. If things had continued to go badly for American forces in the Pacific—and they did—what would Americans on the west coast have done to their Japanese and Japanese-American neighbors as they learned of more American ships sunk, more American planes shot down, more American servicemen killed, including your husbands, your boyfriend, your brothers? What would they have done? Would they have beaten their Japanese neighbors in the streets? Would they have ostracized and persecuted Japanese-American children? Would mobs have descended on Little Tokyo in Los Angeles and Japan town in San Francisco to burn down shops and homes?
>
> Again the popular hue and cry was backed up by reputable intellectuals. Walter Lippmann, the dean of American social commentators then and for decades thereafter, joined in the demand for mass evacuation. The idea was also supported at the time by such liberal intellectual journals as the Nation, the New Republic, and the extra-liberal but short-lived New York newspaper, PM.

Now, then, Mr. President, the U.S. Government, contrary to suggestions otherwise, has not ignored the suffering that occurred as a result of the relocation and internment during the war. The Government has officially recognized that much unjustified personal hardship was, in fact, caused. Previous Congresses, Presidents and Attorneys General have taken steps to acknowledge and compensate Japanese-Americans for the injuries they suffered.

For example, in 1948, Congress enacted the American Japanese Claims Act, which authorized compensation for "any claim" for damages to or loss of real or personal property "as a reasonable consequence of the evacuation or exclusion of" persons of Japanese ancestry as a result of governmental action during World War II.

I might add that this act of 1948 was subsequently amended to liberalize its compensation provisions.

Under the amended act, the Justice Department received claims seeking approximately $147 million. Ultimately, 26,568 settlements were achieved, many of which involved claims presented by family groups rather than individual claimants. So I think it is safe to conclude that of the 120,000 evacuees, most of them submitted claims under the American Japanese Claims Act and received compensation from the American taxpayers. A total of more than $37 million was paid in compensation pursuant to this act alone.

True enough, the American Japanese Claims Act did not include every item of damage that was or could have been suggested. It did, however, address the hardships visited upon persons of Japanese ancestry in a comprehensive, considered manner taking into account individual needs and losses, and this effort to correct injustice to individuals was in keeping with our Nation's best tradition of individual rather than collective response, and it was far more contemporaneous with the injuries to the claimants than would be any payments at this late date. But let me move along.

Mr. President, in 1956, Congress considered legislation that challenged the adequacy of the claims settlements provided pursuant to the 1948 act. That bill would have liberalized the relief provision of the act by granting expanded compensation for certain losses, and Congress specifically rejected the proposal because, in the words of Congress, "It would substantially reopen the entire project."

If you want a reference on that, it is House Report No. 1809, 84th Congress, 2d session, 9 (1956).

In 1972, Congress amended the Social Security Act so that Japanese-Americans over the age of 18 would be deemed to have earned and contributed to the Social Security System during their detention. The Federal civil service retirement provisions were amended in 1978 to allow Japanese-Americans credit for the time spent in detention after the age of 18.

Mr. President, one of the reasons I oppose this effort to pay additional reparations to individuals is because Congress has already enacted a comprehensive statutory scheme providing a reasonable, balanced contemporaneous remedy to affected individuals. By enacting the 1948 American Japanese Claims Act, Congress recognized long ago that many loyal Americans of Japanese descent were injured by the wartime relocation and internment program. Although the Commission's report challenges the amount of compensation chosen by Congress as inadequate, Congress has spoken after considerable debate, and there is no good reason to question that settlement some three and one-half decades later.

Mr. President, nothing has occurred since that time to warrant a supplemental payment to the internees. The results of the settlement process under the act, long since completed, deserve to be accepted as a fair resolution of the claims involved. If it was inadequate, those inadequacies can and should be determined and resolved by the courts—not in a political carnival in an election year by the Congress.

Oh, it is so easy, Mr. President, to spend somebody else's money. That is the problem with the Nation's finances right now. Year after year, decade after decade, Congress has come in here willy-nilly, Senate and House, and said, "Wouldn't it be nice, wouldn't it be politically appealing if we appropriated a few billion dollars for that." It did not matter where the money came from, just appropriate it, spend somebody else's money. And I daresay that the young working men and women of this country will probably resent being used as pawns in this matter. They had nothing to do with any judgment made in the early 1940's. As a matter of fact, as I said earlier, I do not believe anybody is alive today who participated in the decision. Certainly, Franklin Roosevelt is not alive. He is not here to defend himself. And while it may be a bit odd for a Senator on this side of the aisle to defend Franklin Roosevelt, I defend him because he acted on the best information available to him in a time of stress and terror and turmoil in the United States of America.

But here we are going to dump this load on top of other loads we have dumped on the young working men and women of this country. It is another $1.3 billion to be added to the debt—so here we go again.

The pending amendment at the desk, Mr. President, is so clear and so simple that any schoolboy could understand it. It simply states that "no appropriations will be in order under this bill if the budget projection by the Congressional Budget Office, pursuant to the Budget Act projects a deficit for the following year or if the budget resolution for the next fiscal year sets forth a deficit."

In other words, I am saying we cannot afford to spend $1.3 billion for this purpose now. Day after day, week after week, and month after month we come to this Chamber and say: "Oh, I'm for fiscal responsibility." Those words roll off the lips of Senators, and then they turn right around and add $1.3 billion here and $5 billion here and $6 billion there.

I went out there and looked at the trees on the Capitol lawn one day, Mr. President. I walked all around when the Senate was in recess and, you know, I did not find a single tree with money on it, not one. The money we spend comes from the hide of the working taxpayers of America.

Now, we can be regretful. We can be apologetic. I am willing to be both. Any American in his right mind would testify under oath that we should never engage in this kind of internment and relocation again, but in the same breath I have to say that I recall those days of terror and horror and frightful expectation.

I do not think the present occupant of the chair was in the Chamber when I earlier mentioned that only one time in history has the Rose Bowl football game been played in any place other than Pasadena, CA. It was played in Durham, NC, in January 1942 simply because intelligence furnished Franklin Delano Roosevelt warned that there was a distinct possibility that Japanese planes would bomb that stadium if it were filled with people for the Rose Bowl game in January 1942. So it was moved all the way across the country to Durham, NC, 21 miles from my home, the only time the game has been moved.

The anomaly of all of this emphasis on money, Mr. President, is that the Senate has just passed a budget resolution setting forth a deficit of approximately $140 billion. Already, at best, we are going to go further in the red next fiscal year by $140 billion. Here we come with another $1.3 billion. I suppose there will be some who will say it is just $1.3 billion. But where I come from, a billion bucks is something you cannot even see in your mind's eye—$1.3 billion.

We have heard a lot of rhetoric about budget problems and a willingness to get rough and make tough decisions. I do not think that the vote on the amendment offered by Senator HECHT of Nevada justifies all of that bravado, macho, rhetoric by Senators. The plain truth is that we do not intend to balance the budget. If we did, if we had been, we would have cut spending around this place a long time ago. Those of us who voted against this add-on or this excess are regarded as reactionary. The most reactionary thing I can think of is to continue to pile billions upon billions of dollars of debt upon the working people of this country.

I have not taken a pool on this question. But I dare say that if the American people understand what is involved in this bill and could be polled on it, I think we would get a very clear message that they would oppose it.

Mr. President, I am going to have further remarks about this bill. I will have further amendments in time. But I think I have said enough for the time being.

Before I yield the floor, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair. I yield the floor.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. I rise in opposition to the amendment offered by the Senator from North Carolina. The bill as reported by the committee already has a provision, section 207, entitled "Compliance with Budget Act," which provides as follows:

> No authority under this title to enter into contracts or to make payments shall be effective except to the extent or in such amounts as are provided in advance in appropriations Acts.

The bill before us merely authorizes appropriations.

So if the budgetary situation is such that the Appropriations Committee determines that there can be no appropriations made because of the huge budgetary deficit, then the Appropriations Committee will not make the appropriations. There already is that safeguard. And the safeguard provision was put in upon the suggestion of the distinguished chairman of the Budget Committee, Mr. Chiles.

So, Mr. Chairman, there is no need whatsoever for the amendment being offered by the Senator from North Carolina, and I urge its defeat.

Mr. President, I move to table that amendment.

Mr. HELMS. Would the Senator withhold just 1 second?

Mr. MATSUNAGA. I yield to the Senator from North Carolina.

The PRESIDING OFFICER. Is the Senator yielding for a question?

Mr. MATSUNAGA. I yield to the Senator from North Carolina for a question.

Mr. HELMS. It is more than a question. But let me state it. The Senator referred to this in effect as an authorization bill, which of course, it is. That is the process around this place. You first have to authorize funds, and then the issue goes to the Appropriations Committee; but the Appropriations Committee, under our rule, is not supposed to make an appropriation until there is an authorization bill. So what the Senator is saying, I assume, is that we are following the usual procedure of an authorization bill for $1.3 billion. And then it would go to the Appropriations Committee, assuming that this bill is passed.

The PRESIDING OFFICER. The Senator from Hawaii has the floor.

Mr. MATSUNAGA. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs upon the motion of the Senator from Hawaii to lay on the table the amendment of the Senator from North Carolina. The yeas and nays have been ordered.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on the motion of the Senator from Hawaii to table the amendment of the Senator from North Carolina.

Mr. BYRD. Mr. President, I ask for 10 seconds.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that it be a 15-minute rollcall and that the call for the regular order occur at the expiration of the 15 minutes automatically.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Massachusetts [Mr. Kennedy] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. Warner] is necessarily absent.

The PRESIDING OFFICER (Mr. Shelby). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 61, nays 35, as follows:

[Rollcall Vote No. 103 Leg.]

YEAS—61

Adams
Baucus
Bingaman
Boren
Boschwitz
Bradley
Bumpers
Burdick
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Fowler
Glenn
Graham
Harkin
Hatfield
Heinz
Hollings
Inouye
Johnston
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Packwood
Pell
Proxmire
Pryor
Reid
Riegle
Rudman
Sanford
Sarbanes
Simon
Stafford
Stevens
Weicker
Wilson
Wirth

NAYS—35

Armstrong
Bentsen
Bond
Breaux
Byrd
Chafee
Danforth
Ford
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Helms
Humphrey
Karnes
Kassebaum
McCain
McClure
McConnell
Nickles
Pressler
Quayle
Rockefeller
Roth
Sasser
Shelby
Simpson
Specter
Stennis
Symms
Thurmond
Trible
Wallop

NOT VOTING—4

Biden
Gore
Kennedy
Warner

So the motion to lay on the table amendment No. 1968 was agreed to.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, does the Senator from North Carolina wish to offer further amendments?

Mr. HELMS. I think I have to have the floor in my own right to suggest the absence of a quorum.

Mr. MATSUNAGA. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, it has been a very interesting debate for me. I have been paying attention to it on the monitor. It has made me recall some most interesting and memorable parts of my own life because I was a young boy in Cody, Wyoming, in 1941 when the war started. I was 10 then.

Two years later, at the age of 12, somewhere between the years of 12 and 13, the third largest community in Wyoming was constructed between the communities of Powell and Cody, Wyoming, a city of 15,000 people which really literally went up overnight. And the name of it, of course, was Heart Mountain War Relocation Center, known to the people of the area simply as the "Jap Camp," a term which may be hard for us to believe now but that is what it was referred to then; swiftly built by those who had not been drafted into the war, or older men in their 40's who were not able to be taken into the war effort.

And so came into being Heart Mountain, Wyoming, War Relocation Center. There was barbed wire around it. There were guard towers at the edges of it. It was a very imposing area.

I guess the thing that you remember as a kid growing up, you suddenly were aware that here was this city of 15,000 people and we wondered what would happen if they all were to receive arms or weapons. Would they then come into the towns of Cody and Powell and capture the community? Silly things to think about, unless you are 12 or 13 and charting the course of the war in your bedroom, as to where the Allies were and Hitler and Tojo and Mussolini. Those were things that were very real to those of us of this vintage.

I remember one night very distinctly when the scoutmaster—I was a Boy Scout, a rather nominal one, but I enjoyed the activities of the group. And he said, "We are going to go out to the War Relocation Center and have a scout meeting." I said, "Well, I mean, are there any of them out there?", No. 1. He said, "Yes, yes, these are American citizens, you see." And that put a new twist on it because we thought of them as something else—as aliens; we thought of them as spies; we thought of them as people who were behind wire because they were trying to do in our country.

So I shall not forget going to the Boy Scout meeting and meeting Boy Scouts from California, most of them, I recall, same merit badges, same scout sashes, same clothing.

And why not? Some of them were second- or third-generation American citizens? We talked about all the things 13-year-old boys talk about in a complete spectrum of activity from merit badges to different kinds of books, what literature that you read at that tender age. We smoked a little cornsilk and did some other things that boys still do. Maybe—but they do not smoke that anymore. [Laughter.]

So it was there, at that particular scout gathering I met a young scout named NORM MINETA, who is now the Congressman from the area of San Jose, I believe it is his district, in California. I remember a very animated discussion with him, seeing how lively, bright and curious about things he was. He still is, here, as he performs his remarkable service as a very respected legislator. When he got elected mayor of San Jose, I wrote him a letter and said: Do you remember that fat kid from Cody who visited with you when we were at Heart Mountain? Then, of course, since both of us are here in Congress, we have renewed and refreshed that friendship many times.

Heart Mountain rises up strong and majestic from the floor of the lush, irrigated farm valleys in the Big Horn Basin, between Cody and Powell. Its rugged vertical thrust makes it a remarkable subject for many an artist's canvas. When I was a kid growing up in Cody, my friends and I envisioned it as our very own Mount Everest, challenging its eastern peak, and some of us prevailing only after a solid day's efforts. It was then—and still may be—true ritual to carve your initials in the rocks at the very top in order to "serve notice" that certain intrepid youth had conquered the lofty peak!

Today, on a return trip, it is impossible to distinguish one's own initials from the many others that also had "laid claim" to the land. However, there are some other very distinct markings that grace the same area and present themselves ever so clearly. They are Japanese letters and writings engraved in the rocks by the Japanese-American citizens who were interned in the Heart Mount relocation camp during World War II. It is a moving—and sobering—site to find high upon a Wyoming mountainside.

So, I also remember those other nights we would go into the compound—which it was in every sense, with searchlights and with wire—visiting with some of the older people. There were very few young men there from the ages of 17 through 28, because many of them were in the armed services of the United States. But I do remember visiting with the older people and there were many of them there.

The younger and the older were there. Those were the principal inhabitants. I remember a woman, a very old woman to me at that age, said "Do you have grandparents?"

I said, "Yes, I do."

She said, "Where do they live?"

I said, "In Cody, down the road there."

She said, "Well, what kind of a house do they have?"

I thought, well, that is interesting to ask. I described it.

"What do they do?"

And then I remember she showed me pictures of her family.

She said, "This is my son. He is in Italy now fighting for this country, the United States of America."

Then we would go downtown in Cody, WY, and there would be a sign on the restaurant that said, "No Japs allowed here." And then you would go down to another place of business, it might be a sign that said, "My son was killed at Iwo Jima. How do you think I feel?"

And the trustee's would come into town. They were remarkable people. Usually the best and the brightest. Maybe those who had been involved in agriculture and whose lands had been taken from them—confiscated.

So I really had a lot of trouble sorting that all out at the age of 13. I maybe have some of the same kind of trouble sorting it all out at the age of 56. But let me just say that I preserve it as a very formative part of my life. Yet I also observed that there were several within that compound who were very questionable as to their loyalties to the United States. Just like in any population of human beings. Of course, they had been pretty well interrogated before they came to Heart Mountain, or Colorado, or the main camps where they went. But in my mind you had to see it, you had to have it etched on the back of the rim of your eye, to understand that these people were put in an extraordinary situation where they lost their constitutional rights in the United States of America. They were not, as I say, aliens. They were U.S. citizens.

You have to also realize that it was a self-contained unit even with a mortuary in it. Of course many of the old people died in a rather harsh Wyoming winter, in what were then what we would call tarpaper shacks on the sagebrush plain.

The war ended. Many of them went back to their communities. Their land had been confiscated or sold. But then the land was opened to the veterans, the returning veterans of the armed services. And, ironically, and extraordinarily enough, some of the veterans that came and filed on the land were Japanese-Americans. They had been told that it was a pretty productive, though semiarid area, so here we saw this remaining, fascinating cycle closed with Japanese-American veterans filing on the lands of the war relocation center as they turned it over to the returning veterans of the United States. Some are still there. They are businessmen and women of Park County, WY. They raised sugar beets or bought lumber companies and did all the things American citizens do.

So I just had a desire to share that, as we have watched this debate. I am a cosponsor of the legislation. But yet there is a very troubling part of it to me and that has been reflected in two votes on this point.

There is no question about it being that gravest of injustices. And it may be hardly a repayable one. How do you ever really repay these people for the wages, the property, the opportunity, the education, the part of their lives lost during this period? And this taxpayer expenditure is a troubling part of the bill for me.

I have trouble with the money. An apology may be long overdue and may be so appropriate. But, coupled with money, it takes away some of the sincerity of the apology, somehow. If you did that with a friend, a lovely friend, and you said: I am sorry for what I did. I know that was very harmful to you and hurtful. But I am sorry and I apologize and I want to give you some money.

I think that that somehow is unbecoming. It may not be to some. It is a troubling aspect of it to me.

Our country has aggrieved many in its time. Sometimes intentionally and sometimes unintentionally. The Native Americans of my State suffered greatly, too. Should they be compensated with money? I have heard that in this debate. It is a troubling concept. Where does that end? How much will that cost? And yet the great majority of these people were and are loyal citizens of our land.

So, as I say I wish I could put all that into better blend of mind and heart. I do not think I can except to say that it remains puzzling.

What remains a bit more puzzling to me is the fact that we bring up an ancient grievance, and it is ancient in terms of the way we live in this place when the bottom line is what happens 3 months from now in corporate boardrooms or in this place, and say that here is it presented to us again through different sets of eyes. Then remember that at the time it happened that at least two of the greatest civil libertarians of our times, Franklin Delano Roosevelt and Earl Warren, thought it was the thing to do, as did the U.S. Supreme Court.

It is very interesting because it was a different time. It was a time when we were totally unprepared for what happened at Pearl Harbor. That was evident in the act and the essence of the attack. We were totally unprepared for what was occurring in California with regard to the blinking of lights in the interior, on the shore, communicating with vessels in the ocean off of California and people then who were apprehended as aliens who had explosives, devices, and weapons, some citizens, some aliens, some people waiting for the call to do what it was their country had decided to do, which was to invade and conquer the United States of America. That was a different time.

It is difficult to look on that now and understand that the people of the United States were at war with this nation. But the other part of it is too, that we did not do that to the German-American population, although certainly those who were of German descent in the United States were sometimes suspiciously eyed.

In that same area of my growing up was a little location, a rural area called Germania Bench, which then during the war was changed to Emblem Bench. They felt it very important to correct that. But we did not intern German-American citizens; we interned Japanese-American citizens. We did not intern Italian-American citizens, only Japanese-American citizens.

In any event, when it was done, it seemed like the very right thing to do, and I know that must stun and appall people in this country today, but at that time in most every structure of our citizenry, or Government and our bureaucracy, it seemed the very right thing to do.

So I guess I still have the same feelings of conflict. The conflict of the acutal money appropriation is overcome in the final analysis by the humanity of what happened.

I will be supporting the final product, but somehow I think there is something that does not ring right when you say to all of those that they be financially compensated regardless of their treatment, and some were treated much better than others, I might add. Some became remarkable teachers; some were great journalists; some went on to Government service, some did not. They were just like the regular population of human beings anywhere gathered. But somehow it seems to me we say to each of you who were there that you will receive $20,000 and then to each of the Aleut population of Alaska who were involved, you will receive $12,000. I do not know. That leaves a strange feeling in my craw. I share that knowing full well that in this issue, there will be those who will indeed criticize whatever position one would take.

It is an emotional and extraordinarily charged issue which has been conducted beautifully by our friend from Hawaii, my friend, Senator SPARK MATSUNAGA. Without the respect and affection we hold for him, this debate would have ranged into other fields, and he kept it from that. I give him my congratulations and my admiration.

So we will conclude this, and I think probably we will revisit this issue again, not with this situation but in other populations of our country, and we best know indeed, that will likely take place.

There is not one of us here today with what we have been through with our civil rights activities in 1964 and Selma that probably thinks: "How could this have ever occurred?" And yet at the time it occurred, it seemed at that time of our lives to be the most important step that could be taken.

That decision was made by people with much greater wisdom than I had at the age of 13 in Cody, WY.

Hopefully, we will conclude this debate shortly and move on to other issues of the day because this is an old and sad and very painful thing that we have reopened here in this debate. The sooner we close that wound and suture it with love and understanding and affection, we will be better off. And suturing it with money does not seem like the best way to conclude the issue.

I thank the Chair.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it really gives me no pleasure to appear in opposition to a bill of a respected friend. We have worked together on a number of things in the Finance Committee, and on energy matters. It just happens that on an issue of this dimension we are on opposite sides of a philosophical spectrum.

There is no doubt in my mind that this bill, which bears the cosponsorship of 75 Senators, will pass and that Senators supporting this measure will plead the case for a compassionate apology which will, at long last, right the wrong committed against internees some 45 years ago.

They will undoubtedly decry what they will call the unjustifiable actions of wartime leaders that today seems totally inconsistent with our form of Government. But, Mr. President, what seems incomprehensible today was the frightening reality of national security at the height of World War II.

Anyone who questions this is welcome to read any of several letters I have received from constituents detailing incidents such as a serviceman who, in the course of watching a Japanese prisoner of war in the Philippines during World War II, discovered that the man spoke English and had graduated from UCLA. And the prisoner, an officer in the Japanese Army, volunteered that of course there had been some Japanese-Americans who had been sending intelligence to Japan by radio, and that when in college he had made a number of friends precisely for that purpose. It is not to say that everyone was.

Yes, we are strong allies with Japan today. This astonishing Nation, above any nation in the world, forgives enemies, forgives acts of war and tries to live in civilized harmony more than any nation in the history of mankind.

So inasmuch as we are now allies with Japan, the events of World War II seem ever so much more distant and the hysteria ever so much more absurd. It is hard to imagine what was taking place. But to superimpose the peacetime mentality of today on the past and to judge our predecessors on that account is, as Jim Kilpatrick noted in a recent column, "The hindsight wisdom of a Monday morning quarterback."

Mr. President, I ask unanimous consent that the Kilpatrick column be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. WALLOP. The bottom line is that if we are set on judging our ancestors, better we put ourselves in their place rather than placing them in ours. To do so yields a different set of conclusions than those drawn by the Commission on Wartime Relocation and set forth in this bill.

Those who will join me in opposing this bill will point out that the Congress back in 1948 authorized monetary compensation to internees and that some $37 million in claims were paid. Others will note the fact that President Ford officially recognized that the internment was a mistake and repealed the excutive order that authorized it. Those are undeniable facts.

But what troubles me most about this legislation is that we are subscribing to what strikes me as a repugnant and an offensive idea—that a clear conscience is to be had for a mere $20,000 a head. Why settle on that figure? Had we paid $1,000 or even $19,000, would we still be a nation with a conscience troubling us? Or had we offered $25,000, would the recipients count it as too much and return the $5,000? To me, Mr. President, this act demeans the Congress, demeans the United States and demeans the recipients. It is an act of astonishing materialism if this Nation, troubled by the events of the past, can purchase its honor, and that we can write a check and get back its honor.

Mr. President, honor does not come with a dollar sign attached to it.

That a great nation will apologize is something not unheard of in history, but you do not buy it back. It is not a dollar figure that will do anything about this wrong, if so wrong it was and so bad were our ancestors, that they, fearing for the survival of their country, did something which at the time they thought was correct. There was not a dishonorable act. Hindsight might well prove that there were other options, but that was the option of a nation on the first days of war. It was the option of a nation which had lost numbers and numbers of its own soldiers and sailors who were attacked, not by Americans of Japanese descent or Japanese living in America, but by the nation of Japan. And our Nation was responding to what it thought was a threat to its survival as a democracy.

The Nation did not simply think it was a threat. In fact we flat knew that we were going to the wall as a matter of survival.

Theory that proponents of this legislation would have us accept that it is possible to assign a dollar value to a concept like freedom. I would say tell that to the Jews who suffered at Hitler's hands. Tell that to a Sakharov, or Orloff or Shcharansky. Tell it to Armondo Valladares, a great Cuban who suffered in Castro's jail. Moreover, if reparations are due one set of Americans who suffered thus, what of the rest of the Americans who suffered during the Second World War and who lost loved ones overseas, or who were held in captivity by the Japanese in the Philippines, or the Germans in Germany, or indeed the Russians in the Soviet Union.

If we are determined to atone for the sins of our parents and grandparents in this manner, perhaps we owe some monetary apology to the descendents of slaves, to the Cherokee Indians who endured the Trail of Tears, or to the Chinese-Americans who were pressed into virtual servitude building the transcontinental railroad and suffered a major massacre in a town in my State.

To me it is sad that this Congress thinks that the remedy for inequity, and justice, and the loss of personal freedom is dollars. One has but to denominate it and our national guilt is assuaged.

As former Member of Congress, Dan Lungren, a member of the Commission on Wartime Relocation, noted,

> Do we really believe that nothing can be genuine unless it involves the coin of the realm?

Mr. President, the bill not only sets a bad precedent but in the eloquent words of my constitutents, "only puts further disgrace upon this whole disgraceful episode in American history."

Mr. President, it had been my intention to offer an amendment which I will discuss and will not offer. In considering the bill to pay restitution to a people who were denied their lives and their livelihoods during a time of national crisis, we ought to consider the rest of what is implied here.

It seems to me that if this Congress feels that we owe a monetary apology for the actions of past generations, and can ease our collective conscience by so doing, then maybe we ought to consider cleaning the slate for other Government policies that today seem unjustified and incomprehensible.

Perhaps if this is the day of atonement for the U.S. Congress and if assuaging our national guilt is the goal, we should amend this bill to provide monetary compensation for other groups who have suffered under Government policies.

We should, I think, address the descendants of the Cherokees forced to walk the Trail of Tears. I have drafted an amendment to do just that. Maybe we have no historical memory but some of us remember of Trail of Tears from our history classes and some of us remember that from the fact that we grew up with Indian peoples.

Considering the issue we have before us here today, it is instructive to repeat that particular history lesson.

The Cherokees, under court order, had to adhere to the terms of the 1835 Treaty of New Echota which required them to surrender their land and move west of the Mississippi. The Indians were literally forced off their lands by local whites who ran off livestock and burned their homes. Troops under the command of Gen. Winfield Scott rounded up these Indians and drove them into concentration camps where they were held until they were sent in detachments of 1,000 people each on the fateful journey. In all some 15,000 Cherokees, under military force, walked from Georgia to Oklahoma. Winter approached, many fell ill and died along the way. Supplies ran short. The military escort refused to allow the Indians to even care for their sick or bury their dead. Some 4,000 Native Americans died.

Mr. President, this is also a tragic chapter in American history. If it is not, I do not know what is. The same thing happened to the Cheyenne people, forced out of their lands in Wyoming and Colorado into an area in Oklahoma called The Nations, from which they later escaped. They ran all the way north back up through Wyoming, and ended up in Montana, their great leader killed, and their nation confined to the northern part of the State. The southern Cheyenne still live in Oklahoma.

These people were deprived of their way of life as were the Cherokees who were forced into concentration camps, and forced on a thousand mile-plus march which killed more than a quarter of them, all due to the policies of our ancestors.

If we are compelled to offer redress to Japanese-Americans, should we not also offer some monetary atonement for the sins of our forefathers, for those on the Trail of Tears, for those forced back to The Nations?

Mr. President, I will not offer my proposed amendment, which is simple enough. It simply says:

> No funds shall be appropriated under this title until the U.S. Government has also fairly compensated the descendants of the victims of the Trail of Tears.

The reason I will not offer it is that I do not think you can buy that back, either.

This Nation suffers from what it did to those people. They suffer yet from what was done and remains done to them. But America's honor is not for sale and it is not for purchase, in either direction. Monetary policy does not buy it, nor can it be sold.

That is what we are being asked to do. I think that in many respects we are not being asked to do that by the people the sponsors seek to compensate. I think this is genuinely a product of something else, although I am not exactly sure what, and I am not accusing anybody of anything. I am stating that my philosophical difference with the bill's sponsors is that I do not think you can buy, or sell, or barter honor. Nor can you, buy or sell or barter conscience.

I guess the only thing I am asking that Senators do is to reflect on what kind of precedent we are settling into today, whether we are prepared to do that in the future, and whether materialism is the measure by which America's reputation henceforth is to be judged.

EXHIBIT NO. 1

$1.2 BILLION WORTH OF HINDSIGHT

(By James J. Kilpatrick)

Now pending on the Senate's calendar, subject to floor debate at any time, is a bad bill that comes to us laden which good intentions. At a cost of $1.2 billion, the bill would pay $20,000 each to those surviving Americans of Japanese ancestry who were interned on the West Coast in World War II. The measure ought to be quietly retired.

It is not easy—it is probably futile—to oppose the Senate bill. It heads for the floor bearing the names of 75 sponsors. A companion measure passed the House last September by a vote of 243-141. Only a heart of stone, it is said, could fail to be moved by the injustice visited upon loyal American citizens 46 years ago. It is time to apologize, we are told; it is time to make amends.

The trouble with that compassionate plea is that it comes to us through a rear-view mirror. It embodies the hind-sight wisdom of the Monday morning quarterback. The bill carries a finding that "there was no military or security reason for the internment," but that is the conclusion now. It assuredly was not the conclusion then.

Two generations have grown up since the Japanese launched their attack on Pearl Harbor. Today we count the Japanese as friends and allies. In the winter of 1941-42 they were enemies. Today it seems absurd to imagine that the Japanese might have invaded California. This seemed not at all absurd at the time. In 1988 we scarcely can imagine risks of sabotage and espionage. Reasonable men vividly perceived them then.

Acting upon these fears, Congress authorized President Roosevelt to issue what become Executive Order 9066. Pursuant to that order, the commanding general of West Coast forces proclaimed Civilian Exclusion Order No. 34. After May 9, 1942, more than 110,000 U.S. citizens of Japanese descent were to be uprooted from their homes. They were taken by train to internment camps. There they remained until the war's end in 1945. An estimated 60,000 survive.

As the Supreme Court noted in the case of *Korematsu* v. *United States*, most of the internees were loyal Americans. But some were not. More than 5,000 of them refused to swear allegiance to the United States and to renounce allegiance to the emperor. Several thousand evacuees requested repatriation to Japan. It is all very well to say today that these citizens should have received fair hearings, but in the spring of 1942 we were involved in a desperate war for national survival. Due process had to yield to the exigencies of the day.

The exclusion order came before the high court in 1944. By a vote of 6-3 the court upheld the order. Justice Hugo Black, one of the great civil libertarians of all time, wrote the opinion. Felix Frankfurter and William O. Douglas agreed. Listen to what Black said:

"We are not unmindful of the hardships imposed by the exclusion order upon a large group of American citizens. But hardships are part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure . . . . Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency, is inconsistent with our basic governmental institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger."

In looking back on those days, we ought to take guidance from Lord Macaulay. This was the precept of that great historian: "As we would have our descendants judge us, so we ought to judge our fathers. In order to form a correct estimate of their merits, we ought to place ourselves in their situation, to put out of our minds, for a time, all that knowledge which they could not have and we could not help having . . . . It is too much that the benefactors of mankind, after having been reviled by the dunces of their generation for going too far, should be reviled by the dunces of the next generation for not going far enough."

Rep. Bill Frenzel of Minnesota made the same point in House debate: "What a funny way to ask us to rub ashes on our heads! The bill asks us to purge ourselves of someone's else's guilt with another generation's money." No penance, no payments and no apology are required. The past is past. Let it stay that way.

Mr. WALLOP. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. MIKULSKI). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1969

(Purpose: To insure that the Act is not construed as a weakening of the resolve of the United States not to relinquish any further national territory and to require the President to seek compensation for the descendents of the Aleut Indians removed from Wrangel Island)

Mr. HELMS. Madam President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 1969.

At the end of the committee substitute add the following new section:

"Sec. . Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall it be construed as providing any basis for compensation in connection with any such claim; provided, further, that the President shall seek appropriate compensation from the Union of Soviet Socialist Republics for the descendents of the Aleut Indians forcibly removed in 1924 from Wrangel Island by the Soviet Gunboat "Red October" and thereafter illegally interned in the Soviet Union where many died in conditions of deplorable hardship.".

Mr. HELMS. Madam President, it may be that the distinguished managers of the bill want to accept this amendment, because it does no harm to their purposes and, indeed, it seeks to preclude the pending underlying legislation from being used as a precedent to give standing to any person or future claim on the part of any country.

In Mexico City today, there stands a large museum of intervention. At its entrance is a large figure of Uncle Sam, meant to represent the United States, holding an ax, chopping off a huge chunk of what the museum, which is owned and operated by the Mexican Government, says is Mexico.

Let us look at that and think about it. The territory that this museum and the Government of Mexico are talking about includes all of the State of Texas, New Mexico, Arizona, California, Nevada, and Utah, and large parts of Colorado, Wyoming, and Kansas.

Now, Madam President, I am informed, but frankly I have not yet been able to get the CRS to verify it, that various Mexican citizens have filed suit in the American courts to seek return of all this territory to Mexico.

We say, well, that is not going to happen; we do not have any idea that the courts will do this.

But we better be safe about it. Therefore, I am offering the amendment which is intended to preclude, as I say, this legislation from being used as a precedent in the courts or elsewhere to give standing to any precedent or future claims on the part of Mexico or Mexicans or any other citizen or group claiming to have been dealt an injustice by the American Government at some time in the past.

This is an insurance policy. That is all this amendment is.

Of course, the claims for Texas, New Mexico, Arizona, California, Nevada, Utah, and large parts of Colorado, Wyoming, and Kansas, are probably going nowhere.

But in 1945, the very same thing would have been said about the Panamanian claims to the United States territory and property in the Panama Canal Zone. So you never know.

You are using a little bit of paper and a little bit of ink to write in this safeguard in this bill to prevent this bill from being considered by anybody as a precedent for such action.

The other part of the amendment, Madam President, directs the President to seek compensation for the Aleut Indians who were forcibly removed from Wrangel Island by the Soviet warship *Red October* whose crew landed on Wrangel Island and made prisoners of its American inhabitants by seizing the territory and incarcerating Americans citizens in hard-labor camps on the Soviet mainland where many, including Charles Wells from Seattle, WA, the leader of that settlement, died in captivity.

The descendants of the Aleuts who settled on Wrangel Island and who were written off by our Government probably because of their race certainly should be compensated for this injustice.

But be that as it may, I think we ought to write in this safeguard so that this legislation cannot in the future be used as a precedent for any foolishness like that.

So I hope that our distinguished colleague from Alaska will give particular support to the amendment, and I hope that the managers of the bill would consider accepting it. Otherwise, I will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE STEALTH BOMBER

Mr. BYRD. Madam President, the Air Force has announced some actions today, and released information about the progress and plans for the demonstration of the Stealth bomber. Funding figures have now been released regarding this program, the classified details of which have been well protected over the last decade. In addition, the general design of the revolutionary plane, in the form of a flying wing, is exciting, and is clearly on the cutting edge of aircraft design in the world. I am pleased, as well, that the level of confidence on the development of the technology has led the Air Force to project a flight test this year.

This has been a model program from all respects. It has been a textbook example of cooperation between the two parties, having been given the green light during the Carter administration, with the strong leadership of a DOD team led by Secretary Harold Brown and Under Secretary Bill Perry. It is also a model of executive-congressional relations at their best with the full active participation of the Senate Armed Services Committee at every step of the way. The leadership of that committee, retired Senators John Tower of Texas and Barry Goldwater of Arizona, helped guide the program during the early 1980's, and Senators SAM NUNN and JOHN WARNER steered the effort during the last several years.

I am a strong supporter of the Stealth Program and, during some especially difficult days for the program, during the years 1981-83, I authored a series of floor amendments with the close support and cooperation of Senators NUNN and WARNER and others. Those amendments protected the program and highlighted its importance by preventing the funds from being reprogrammed into other accounts, and avoiding competition between the B-1B and the much more advanced technology represented in the Stealth bomber.

I commend the leadership of the Armed Services Committee for taking a strong stand in the annual DOD conference committees with the other body and keeping the funding for the program at a level which would not degrade the development and timetables of the technologies associated with this system. It is to the credit of the Senate committee that the annual conference compromise kept the program at acceptable levels.

Madam President, technology is the cutting edge of our advantage over the Soviets. This program will force the Soviets to either revamp their air defense system, at the cost of many, many billions of dollars, or leave the Soviet heartland vulnerable to this system. Even with the revamping, Soviet vulnerability will remain high well into the next century. The allocation of Soviet resources to defend against this aircraft diverts resources away from Soviet offensive systems, an outcome which is highly desirable for United States defense planning.

I look forward to the further development and operational deployment of the Stealth bomber. I am hopeful that the test scheduled for this fall will go forward successfully and on schedule, and I will continue to support progress on this important defense system.

SCHEDULE

Mr. BYRD. Madam President, I hope that the Senate will be able to make continuing progress on the pending matter before the Senate. I understand that there are not many more amendments, perhaps one or two or three, and if we complete action on this bill we can go out very soon and return to the constitutional amendment. The Senate has adopted the conference report on the Elementary and Secondary Education Act today. Perhaps we can be ready for the trade conference when it comes to the Senate from the House, and I have been discussing with Senator CHILES today the budget conference. I hope to be discussing that at some point with the Speaker of the House.

So, we are making progress. We have a little time left today. I do not want to be in longer than 5:30 or 6 or 6:30 or 7 or 7:30 today. But we can easily make the 5:30 recess if Senators will come to the floor.

I yield to the distinguished Republican leader.

Mr. DOLE. As I understand it, there may only be two or three additional amendments, and I hope that we can complete action on this bill. But I would then propound a question. Is it probable we might take up the trade conference report on Friday? Is that a possibility?

Mr. BYRD. If we can get it from the House and get consent. I have not talked with Senator BENTSEN about it—about Friday. I talked with him today about my hopes that we can go to it Monday.

I would like to go to it Friday if we can move the pending measure and the constitutional amendment, move it tomorrow. I would certainly put the trade conference report, I think, ahead of the AIDS legislation except we have AIDS locked in. But it is locked in and it would not be a difficult matter, with consent, to go to the trade legislation and we could delay the AIDS legislation until after the Senate acts on the trade conference report. This should not create any adverse reaction on either side in this Chamber because the AIDS legislation is locked in already by unanimous consent.

The sooner the Senate can proceed to consideration of the trade conference report the sooner it can be finalized and sent to the White House for the President's signature, I hope. The sooner we could complete action on the trade conference the sooner the Senate will go out for the Memorial Day break. That break is to begin next Friday at the close of business, but if we can complete the action on the trade conference report and if the budget conference report is ready, if that conference report can be completed and the AIDS legislation and the constitutional amendment, the pending measure, why, I think we can go home with our heads held high and feeling that we have advanced the interests of the people.

I would have to have some assurance that the President would not veto that trade legislation at a time when, because the Senate was out of session, it would prevent its return. The most important thing is that the House not be out of session because this particular legislation will go to the House first. It originated there. And that will be a matter I will discuss with the Speaker and then I will discuss that with the distinguished Republican leader.

But whatever the President does with the bill, I hope he will sign it or let it become law without his signature. That can happen under the Constitution unless the Congress, by virtue of its being in recess, prevents the return of the message. But we could schedule that, I think, in such a way with the House.

I hope that Senators will read the RECORD and listen to what I have said because this would give Senators an opportunity to get back to their constituents and be with them for a little longer period during the Memorial Day break.

Mr. DOLE. I think the amendments are all on this side, so I would urge any Senator on this side who has an amendment—I know Senator HELMS is here and prepared to proceed on his amendments. I think we are awaiting the Senator from Alaska, Senator STEVENS, to take a look at that amendment, and perhaps Senator GRASSLEY, I am advised, may have an amendment, and Senator HELMS may have an additional amendment.

As far as I know those are the only amendments. I hope we can arrange to dispose of the constitutional amendment without much additional debate.

Mr. BYRD. Right. It has been called to my attention that I referred to this next break as the Memorial Day recess. It is not the Memorial Day recess. It is the beginning of May. It happens to be one of the breaks that, in my experimental approach to Senate business and in my quality-of-work syndrome, I have a week break coming up. In view of the fact that it is an experimental break, it will be a memorial day break.

So in all seriousness, it seems to me that this is a good schedule. We have already accomplished a good deal since the last break, and if we could accomplish this, it seems to me we would be ahead of the curve. And we have the INF Treaty at some point, once the problem concerning futuristic technology is clarified. That is on the calendar.

Welfare reform, I believe, has been reported out of the Finance Committee.

Once the budget conference report has been agreed to, appropriations bills will be coming over from the House, and we can begin acting on appropriations bills separately and individually, and they can go down to the President.

Then prior to that time, depending upon the President's reaction to the trade bill, at some point, we will take up the United States-Canadian trade agreement.

So it is not too large an agenda. It is a rather simple agenda, but it has some important measures in it. Finding the cooperation that has been demonstrated by the Republican leadership, it seems to me we might be successful in disposing of this agenda and not have to be in when the snow is falling and the leaves are even falling.

Mr. DOLE. I understand the distinguished Senator from Utah wishes to speak. Will the majority leader yield?

Mr. BYRD. I yield, and I thank the Senators.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, and upon the recommendation of the minority leader of the Senate, pursuant to Public Law 100-203, appoints the following individuals to the National Economic Council: Senator PETE DOMENICI and Mr. Dean Kleckner.

WARTIME RELOCATION OF CIVILIANS—S. 1009

The Senate continued with the consideration of the bill.

Mr. HATCH. Mr. President, I ask unanimous consent, with the permission of the Senator from North Carolina, that his amendment, which is pending, be temporarily set aside so I can present an amendment which I believe the majority floor manager will accept.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1970

(Purpose: To strike the language limiting appointment to some of the positions on the Board of Directors on the basis of national origin)

Mr. HATCH. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Utah [Mr. HATCH] proposes an amendment numbered 1970.

Mr. HATCH. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 16, beginning with "At", strike through line 17.

Mr. HATCH. Madam President, I rise today as a cosponsor of S. 1009. As I have publicly stated, I believe that an appropriate form of restitution is in order for the obvious civil rights abuses that were suffered by interned American citizens in 1942. During the period of internment, many U.S. citizens were separated from their families, and some lost all of their property and material possessions. Despite various court rulings since that time, it is clear that these citizens were denied their constitutional right to due process.

The bill that we are acting upon today is truly an important step in correcting that denial of due process, and I intend to support its final passage. However, I do have a concern with one portion of the bill which may in itself result in another violation of due process.

Section 206 of the bill creates a nine member board of directors that is charged with the responsibility of making various disbursements from a trust fund. One of the requirements of this section is that five members of the board be of Japanese ancestry. While I have no problem with the concept of the board of directors making disbursements from the trust fund, I am very concerned with the requirement that some of the appointments to the board be made on the basis of national origin.

Under the Supreme Court's interpretation of equal protection as provided by the fifth amendment due process clause, Congress may not, absent some compelling governmental interest, make a distinction based on national origin. When called on to review such a law, the Supreme Court applies strict scrutiny; that is, its highest standard of review in discrimination cases.

On its face, there appears to be nothing in this legislation that would indicate some over-riding governmental interest that makes it imperative to set aside five of the nine positions. The functions that will be performed by the board, can be performed regardless of ancestry.

It is also possible that this language violates the Presidental appointments clause in the Constitution by dictating to the President which persons he can appoint. To include this provision would be an invitation for a judicial challenge on constitutional grounds and could lead to a veto.

To the best of my determinaton, this issue has not been raised during consideration of the bill in the Senate or the House of Representatives. It would be unfortunate if we overwhelmingly enact this measure only to have someone challenge this provision, invalidating the board of directors and thereby removing the entity we have charged with making awards under the bill.

The amendment that I am introducing today simply removes the clause requiring specific national origin in appointing persons to the five positions. The board remains intact, and we avoid at least one constitutional challenge which would surely be made.

I encourage all of my colleagues to support this amendment, and I will go on further to say that I think with this correction, if the distinguished managers of the bill will accept this amendment, my encouragement would be to the White House and to those who actually make these appointments that they take into consideration our natural desires to have people of Japanese ancestry on this board. I even believe there will be no objection to basically doing what the bill mandates being done, but doing it on a voluntary basis under circumstances that would be more constitutional than if we leave the bill as it is.

So I ask whether or not my distinguished collegue from Hawaii is willing to accept this amendment and, if he is, I would be very pleased.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Madam President, I thank the Senator from Utah for calling this provision to my attention. As I read it and as others with legal training may read it, it might be deemed unconstitutional, and may provide the Chief Executive with a reason for vetoing the measure.

So I join with the Senator from Utah who has been a cosponsor of the measure from the very beginning. Incidentally, I might say to the Senator from Utah that I used the fact that if a conservative Senator such as Senator HATCH could cosponsor this measure, other Senators should see their way clear to cosponsor.

Mr. HATCH. I know you used my name in such a fashion and was very happy that you did.

Mr. MATSUNAGA. So I, as manager of this side, am more than willing to accept the amendment.

Mr. HATCH. I thank the Senator, and I think it does correct a noticeable constitutional defect in the bill. Like I say, although there is nothing binding upon those who make the appointments, I certainly think there will be a good-faith effort to do so. At least, I hope so. So I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 1970) was agreed to.

Mr. HATCH. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank my colleague.

Mr. HELMS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. RIEGLE). Without objection, it is so ordered.

AMENDMENT NO. 1969, AS MODIFIED

Mr. HELMS. Mr. President, I send a modification of my amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. The amendment is so modified.

The amendment (No. 1969), as modified, is as follows:

> At the end of the committee substitute add the following new section:
>
> "SEC. —. Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall it be construed as providing any basis for compensation in connection with any such claim."

Mr. HELMS. As modified, I inquire of our distinguished managers of the bill if they are willing to accept it?

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I have advised the distinguished majority manager of the bill that in my judgment, as modified, the amendment states that:

> Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall it be construed as providing any basis for compensation in connection with any such claim.

I have no objection to that.

I do not believe such is the case, but I see nothing wrong with stating it as an affirmative fact that there is no other claim being presented in this act other than that of the Japanese-Americans and of the Aleut-Alaskan-Americans.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. MATSUNAGA. Mr. President, I have no objection at all so long as the Senator from Alaska is willing to accept it. I will go along and accept it. I have no objection to it.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I thank both Senators. In case anybody has any modicum of interest as to the modification of the amendment because of a difference of understanding about the historical aspects of Alaska, I certainly will not debate with the Senator from Alaska on that. But I can handle that aspect on previous legislation. I suggest we vote on the modified amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Carolina [Mr. HELMS].

The amendment (No. 1969), as modified, was agreed to.

Mr. HELMS. I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HELMS. I suggest the absence of a quorum.

Mr. STEVENS. Would the Senator withhold?

Mr. HELMS. Certainly.

Mr. STEVENS. Let me thank the distinguished Senator from North Carolina for his consideration. I look forward at some time to exploring further the historical aspects of the Wrangell Islands with my good friend and other Members of the Senate. We have talked about them a great deal.

They are islands that are westward of the line of demarkation of the treaty purchase by which the United States acquired Alaska in 1867 from Russia, from the czar of Russia. These islands, and there are a whole series in that area, have had a history in regard to Alaskan citizens and some of it is very colorful.

As a matter of fact, I will tell the Presiding Officer that he might be very interested in the fact that it was in 1924 that a crew of a Soviet vessel arrived at Wrangell Island, hoisted the Soviet flag and transferred part of the occupants then of Wrangell Island to Siberia. As a matter of fact, there is some dispute about where they actually went. But the name of that vessel, for the trivia in history lesson of the day, was *Red October.*

The PRESIDING OFFICER. I see.

Mr. STEVENS. I thank the Senator from North Carolina.

Mr. MATSUNAGA. Will the Senator from North Carolina yield?

Mr. HELMS. Yes.

Mr. MATSUNAGA. It is my understanding the Senator has one more amendment. Am I correct?

Mr. HELMS. I shall make the Senator happy. That is correct.

Mr. MATSUNAGA. Then we can go to final passage.

Mr. HELMS. Yes, unless there is some other Senator who comes with an amendment that I do not know of.

Mr. MATSUNAGA. I thank the Senator.

Mr. HELMS. I will say to the Senator from Alaska that I am grateful to him for his input. I guess I was thrown off by my understanding that the Alaska Legislature perhaps in a resolution claimed these islands. Is that not so?

Mr. STEVENS. Mr. President, it is my understanding the Alaska Legislature explored this subject. One house of the legislature passed a resolution concerning the status of Wrangell Islands. To my knowledge we have never claimed Wrangell Islands as being part of the State of Alaska.

Mr. HELMS. Further compounding my confusion was that I believed the story that I read in the Washington Post, and that is always a dangerous thing to do. But in any case, I thank the Senator.

AMENDMENT NO. 1971

(Purpose: To require the Government of Japan to compensate the families of the men and women killed as a result of the Japanese bombing of Pearl Harbor on December 7, 1941, before any awards are paid out under the Act)

Mr. HELMS. Mr. President, here is the last one. I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] proposes an amendment numbered 1971.

On page 46, between lines 15 and 16, insert the following new section:

JAPANESE PAYMENT OF COMPENSATION TO FAMILIES OF MEN AND WOMEN KILLED AT PEARL HARBOR

SEC. 208. No funds shall be appropriated under this title until the Government of Japan has fairly compensated the families of the men and women who were killed as a result of the Japanese bombing of Pearl Harbor on December 7, 1941.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Chair.

As I said at the beginning of this debate, I know of no one in retrospect by 20-20 hindsight looking back 45 or 46 years who is proud of the internment or relocation of the Japanese-American citizens during World War II. I would reiterate just for the purpose of emphasis that there is no Member of this body for whom I have greater respect, admiration, and affection than the two Senators from Hawaii, Mr. MATSUNAGA and Mr. INOUYE. But I offer this amendment for two purposes: One is as a way of emphasizing the horror, the terror, the grave apprehension that motivated the then President of the United States operating on intelligence information provided to him, which had been verified, notwithstanding some of the claims of the Commission.

I think that if we go pell-mell into this thing without realizing the responsibility of the President of the United States at that time, indeed the responsibility of the President of the United States at any time, then we are doing injustice to him particularly since he is not here to defend himself.

I have already discussed the series of efforts made by the U.S. Government to compensate those who were harmed as a result of relocation. I guess it is a subjective judgment as to whether this Government did enough. But the underlying thought in my mind at this point is that we are going to punish millions of Americans who were not even born at that time who are now workers, taxpayers, and will be required to shoulder this $1.3 billion in addition to the $2 trillion national debt and the enormous deficits that we are still running around this place. This $1.3 billion will be paid by people who did not have a thing in the world to do with that decision, any more than they had to do with other injustices that have been perpetrated by various countries in times of stress.

However, I want to focus on the point that this was not a happenstance judgment by the President of the United States, Franklin D. Roosevelt. It was a situation in which, as he saw it at that time—he did not have the benefit of retroactively looking at it—but as he saw the situation at that time, based on the intelligence reports, it seemed to him to be the thing to do. I think that in fairness to him, that ought to be taken into consideration in our judgment on this piece of legislation.

If Congress passes this bill—and I have no doubt that it will; the House has already done so—as Congress deals with these individual payments, it certainly makes a mockery of our budget priorities. I suspect that there are thousands of families, survivors of gallant American Navy personnel who were killed or injured during the attack on Pearl Harbor.

So, I think fair is fair. Therefore, the amendment would provide that no funds shall be appropriated under this title until the Government of Japan has fairly compensated the families of the men and women who were killed as a result of the Japanese bombing of Pearl Harbor on December 7, 1941.

I am old enough to remember President Roosevelt addressing a joint session of Congress in the House Chamber, and I hear on the radio, even today, a replay of his remarks about a day of infamy.

True enough, these Japanese-Americans—certainly not SPARK MATSUNAGA or DAN INOUYE—had anything to do with it because they were fighting in the U.S. uniform and under the U.S. flag. Indeed, Senator INOUYE lost one of his arms. So I think I owe this to the families of our military personnel at Pearl Harbor who were either killed or injured.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, I had hoped that I might ask the Senator from North Carolina to withdraw this amendment, but I respect his right to have a vote on it.

This amendment raises a very interesting question, and that is the complete failure of the United States to ask for any reparations from Japan following World War II. It does so by, however, putting a barrier against the provisions of this bill until the United States would do so, and I find that unacceptable.

This subject is very interesting, because there is no question that today we spend over $2 billion a year protecting the Japanese with our defense capability. We have assumed the defense of the Pacific.

Yet, this amendment would deny the benefits of this act to those whom the Commission has recommended to Congress that we provide assistance to and compensation to, until Congress and the United States change the policy which was established immediately subsequent to World War II, that we would not seek reparations from that country.

I say to the Senator from North Carolina that on another day, at another time, I might join him in a discussion of whether we should now seek reparations from Japan, in view of the actions of its nationals in Hawaii and on the west coast of the United States, in using the leverage of the yen to buy practically the residential areas of Hawaii and to acquire the mechanisms of our financial system on the west coast.

This raises in my mind some interesting rabbit trails, I say to my friend from North Carolina.

Mr. HELMS. Mr. President, if the Senator will yield, as the airline advertisement says, I am ready whenever you are.

Mr. STEVENS. I think I am ready for that, and I have been making some statements on the floor. I have made statements concerning the high cost of our defense of the Pacific and the very low contribution of the people of Japan to the defense of the free world. I am going to continue to raise questions concerning the role of the Japanese in defense of the free world and the lack of understanding by the leaders of that country of the position they should assume in terms of the dynamics of their society, following the generosity of our Nation in the late 1940's and the period subsequent to World War II.

I do not want to belabor this, Mr. President. This is an unacceptable condition to those of us who have worked on this legislation for years. In my judgment, it is not proper to put such a condition on the bill; and unless my good friend from Hawaii or the Senator from North Carolina wishes to debate it any further, I am prepared to offer a motion to table this amendment. With due respect to the Senator from North Carolina, I do not believe that this is an acceptable condition on a bill of this type.

Mr. MATSUNAGA. Mr. President, will the Senator from Alaska yield?

Mr. STEVENS. I am happy to yield.

Mr. MATSUNAGA. Mr. President, this amendment is totally unacceptable as an amendment to S. 1009.

According to the distinguished Senator's amendment, funds appropriated under the provisions of the bill shall not be appropriated until the Government of Japan has fairly compensated the families of the men and women who were killed as a result of the Japanese bombing of Pearl Harbor on December 7, 1941.

The amendment presumes that we Americans of Japanese ancestry had something to do with the bombing of Pearl Harbor. That is absolutely false, as the Senator from North Carolina will readily concede. Japanese-Americans had nothing to do with that act.

In this bill we are trying to distinguish between Japanese-Americans and Japanese. The amendment of the Senator from North Carolina would obscure this distinction by denying compensation to Americans for what the Japanese Government did at Pearl Harbor.

Mr. HELMS. Mr. President, if the Senator will yield, I made that distinction with specific reference to Senator MATSUNAGA and Senator INOUYE. I want to say that with respect to the overwhelmingly vast majority of Japanese-Americans, I made that distinction. I will be glad to make it again, of course.

Mr. MATSUNAGA. If the Senator from North Carolina wishes to preserve that distinction I respectfully suggest that he should withdraw this amendment. Of course, if he does not, the Senator from Alaska will make a motion to table.

Mr. HELMS. Very well.

Mr. STEVENS. Mr. President, I move to table the amendment of the Senator from North Carolina that is pending and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the motion of the Senator from Alaska to lay on the table the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from New York [Mr. MOYNIHAN] are necessary absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 104 Leg.]

YEAS—91

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Heflin
Heinz
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Thurmond
Trible
Wallop
Weicker
Wilson
Wirth

NAYS—4

Hecht
Helms
McClure
Symms

NOT VOTING—5

Biden
Gore
Kennedy
Moynihan
Warner

So the motion to lay on the table amendment No. 1971 was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

Mr. LEVIN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I want to state to the manager of the bill, my good friend from Hawaii, there are no further amendments on this side to my knowledge. I have inquired and there will be no further amendments on this side.

Mr. MATSUNAGA. I thank the Senate from Alaska. We have no further amendments on this side.

Mr. STEVENS. Third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. DOMENICI. Mr. President, history is not ours to rewrite. History is ours to clarify, to understand, and to build upon.

One of the most difficult and unpleasant events in America's recent past was the internment of American citizens and resident aliens of Japanese ancestry during World War II. Beginning in February 1942, shortly after the attack on Pearl Harbor, all persons of Japanese ancestry on the west coast were forced to evacuate.

Given as few as 72 hours to prepare, 120,000 individuals of Japanese ancestry were forced to leave their homes, their personal and business property, and their livelihoods.

They were taken to camps throughout the interior of the United States, including one in Santa Fe, NM, and held for about 4 years.

This national policy continued until December 1944. The last camp was closed in January 1946.

This sad period in our history has been examined with care by the Commission on the Wartime Relocation and Internment of Civilians, established by Congress. The Commission issued its report, "Personal Justice Denied," in 1982.

In January 1986, the U.S. District Court of Appeals for the District of Columbia ruled, in a class action suit, that individuals of Japanese descent who lost property because of their relocation from the west coast during World War II have a cause of action against the United States for those losses.

Thus, both the Commission and the court of appeals reached the same basic conclusion, the evacuation of persons of Japanese ancestry, in the words of the Commission, "was not justified by military necessity, and the decisions which followed from it . . . were not driven by an analysis of military conditions."

The Commission concluded that "the broad historical causes which shaped these decisions were race prejudice, war hysteria and a failure of political leadership."

Computed in 1983 dollars, the estimated losses of income and property are between $810 million and $2 billion.

Mr. President, those are the historical facts. Those are the reasons that I am a cosponsor of S. 1009, Accepting the Findings and Implementing the Recommendations of the Commission on Wartime Relocation and Internment of Civilians.

This bill has been reported by the Committee on Governmental Affairs. I think it is useful to relate what that Committee said.

The committee "concluded that to uphold the deeply held American belief in equality and liberty for all persons, regardless of race, sex, color or national origin, it is appropriate to adopt the Commission's recommendation for remedies in several forms as an act of national apology."

The committee goes on to find that "restitution payments signal our Nation's clear commitment to acknowledging the harm that can result when national passion is directed at primarily American-born citizens with certain racial characteristics. The ultimate goal of this legislation is to prevent the occurrence of another similar event."

I believe, Mr. President, that if we, as a nation, are to build successfully upon the lessons of this unfortunate policy, we must first compensate the surviving victims—about 60,000 Americans of Japanese descent.

This bill authorizes a tax-free restitution payment of $20,000 to each person of Japanese descent who was relocated, interned, or otherwise deprived of liberty during World War II. The estimated total cost is $1.3 billion, a total that includes payments of $12,000 each to about 500 Aleuts of Alaska for the destruction of personal property caused by the U.S. military occupation of Aleut villages during World War II.

Mr. President, the passage of this bill is an important event in the history of our Nation. Our future strength as a nation depends greatly on our commitment to the founding principles of the United States, and our willingness to make restitution when we have departed from these principles.

The Japanese citizens and resident aliens who were relocated from the west coast during World War II are a test of our national commitment to equality and freedom for all persons.

I urge my colleagues to vote in favor of this legislation, offering a national apology and restitution for the great injustice done to United States citizens and resident aliens of Japanese ancestry during World War II.

Mr. GRASSLEY. Mr. President, I rise to explain my vote against S. 1009, the Japanese-Americans reparations bill.

I do so with regret because what happened to a great many loyal, Japanese-Americans after the bombing of Pearl Harbor caused them unjustified personal hardships and deprivations.

Yes, these citizens should have received fair hearings and due process. But in the spring of 1942, we were in a desperate war for national survival.

One of the great civil libertarians of our time, Justice Hugo Black, wrote the Supreme Court opinon upholding the relocation of over 110,000 U.S. citizens of Japanese descent from the Western United States. Justice Black stated:

> Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direct emergency, is inconsistent with our basic governmental institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger.

Justice Black continued:

> * * * because the properly constituted military authorities feared an invasion of our west coast and felt constrained to take proper security measures * * * the military authorities considered that the need for action was great, and time was short. We cannot—by availing ourselves of the calm perspective of hindsight—now say that at the time these actions were unjustified.

Justice Black's opinion was joined by Justice William O. Douglas, perhaps the greatest civil libertarian of our time.

It may be hard to understand these sentiments now—over 46 years after the fact. Today, we have the benefit of hindsight; we can easily renounce what was done. But maybe we need to place ourselves in the minds of those who made this decision at the time; without the luxury of all the knowledge that we now possess.

However unjust and inequitable the relocations were, there is something about monetary reparations to assuage our guilt that does not sit well with me. I do not believe that we atone for past transgressions by holding today's taxpayer accountable for the actions of the Government of over 46 years ago—by paying out over $1.3 billion in a time of record Federal budget deficits.

Even the Relocation Commission stated that "no amount of money can fully compensate (these) people for their losses and sufferings."

In 1983, I chaired a Judiciary subcommittee hearing on similar legislation. During the hearing, Representative LUNGREN, a member of the Commission, pointed out to the subcommittee that over $37 million has been paid by the U.S. Government to those internees who had provable real and personal property losses. I don't understand how giving $20,000 to each survivor of the internment camps will help to restore their honor or that of the United States.

During the debate of similar legislation in the other body, Representative FRENZEL said "what a funny way to ask us to rub ashes on our heads. The bill asks us to purge ourselves of someone else's guilt with another generation's money."

What happened to these Americans was wrong. And as difficult as it is for individuals to admit when they are wrong, governments seem to find it even more so. However, it was wrong and we should be mature enough to say so.

Anything beyond this will not make anyone, the Government or the individual internee, whole.

A LONG OVERDUE APOLOGY

Mr. DOLE. Mr. President, I am proud to join the distinguished Senator from Hawaii, Senator MATSUNAGA, as one of the original cosponsors of this legislation.

I fought for this Nation in World War II. Many others in the Congress also fought in that war, or in Korea or Vietnam. All of us were fighting for a common purpose: to preserve America, and all it stands for.

It is a tragic irony that, at the very moment I and millions of others were fighting for America's ideals, America itself—our country—was engaging in one of the most terrible acts of injustice in our entire history.

Thousands of Japanese-Americans were interned, for no crime other than being born in Japan, or being descendants of Japanese or Japanese-American parents. They were interned under procedures which had a veneer of law, but which—at their heart—were inimical to the fundamental principles of law and justice embodied in our Constitution and characterizing almost all of our history.

We owe these people—these loyal Americans—a profound apology. For what they suffered. We owe them, and ourselves, the kind of educational effort envisioned by this bill, so that this kind of communal injustice can never happen again in this country.

This bill is a major first step in paying back to these Americans—and to the memory of their families and friends who have already passed on—what this country owes them.

I offer my heartfelt congratulations to SPARKY MATSUNAGA, and DAN INOUYE who has turned this idea into legislation.

This bill is an authorization bill. Like other authorization bills in the age of 12-digit budget deficits, it will undergo careful scrutiny in the appropriations process. It is one extremely worthy effort, but it must be evaluated along with other projects worthy in their own right. There is much we have an obligation to do, but we can't do it all, now.

But, certainly and at a minimum, we can do this: we can go on record acknowledging this terrible wrong that was done. We can go on record offering this deserved national apology to thousands of Americans whose honor and reputations have long been unfairly stained.

Mr. PACKWOOD. Mr. President, I rise today as a cosponsor of the Japanese-American redress bill. Nearly 50 years ago, America was at war. We won the war, but in facing our enemy, we perpetrated a terrible wrong on a group of our own citizens here at home. Over 100,000 Japanese-Americans, 70 percent of whom were American citizens, were uprooted from their homes and businesses along the coasts of California, Washington and my own State of Oregon and forced to spend the balance of World War II in relocation camps, behind barbed wire fences. These citizens, men, women and children, were treated like traitors by their own Government for no other reason than their heritage. We took away their homes and their livelihoods. We stripped them of their civil liberties. That is our shame and dishonor.

America's reaction to the Japanese attack on Pearl Harbor during World War II is an example of how our country's collective passion obscrued our judgment. We rounded up the Americans of Japanese ancestry and placed them in our version of concentration camps. For those of us on the Pacific coast it was a chilling experience, because we have a long history of Asian settlement. Over 4,000 Japanese-Americans were uprooted from the western portion of Oregon for relocation during the war. It is peculiar that this internment took place when naval intelligence and other sources, now available under the Freedom of Information Act, indicate the intelligence assessment was that these Americans were not a danger. We knew they were not a danger, but we were so frightened that we uprooted them and punished them for their heritage and their physical resemblance to our enemy at that time.

The internment of Japanese-Americans in relocation camps and the uprooting of the Aleuts from the Aleutian and Pribilof Islands in the Pacific during World War II are not the only examples of reacting to unfounded fear and not reason. American history reveals several sorry examples of how Congress or the President can violate our civil liberties. It was Woodrow Wilson's Attorney General who lent his name to the infamous "Palmer red raids" in which efforts were made to round up alleged "red" sympathizers in 1920. It was President Franklin Roosevelt, with the immediate concurrence of Congress, who authorized the internment of native born American citizens of Japanese ancestry in World War II. It was a Congress that abused our liberties during the McCarthy era of the 1950's. It was the President who abused our liberties during the Watergate era.

These examples should serve as reminders that governing officials, in democracies as well as dictatorships, may find it convenient to bend to transitory, popular prejudices that would trammel, or even extinguish, our individual liberties for the alleged common good. We must remain ever diligent to protect individual liberty and freedom.

I am glad that the U.S. Senate is taking this opportunity to correct the mistake the Government committed in interning Japanese-Americans over 40 years ago. Today we have the chance not only to apologize to our citizens and their families but also to show we learn from our mistakes as a nation. Although the reparations contained in this bill will never be able to provide full restitution to those who suffered the stigma of being perceived as disloyal to their Government, we have an obligation to redress the wrongs against Japanese-Americans and acknowledge our error. Congress must pass this legislation and pray we as a nation never have a reason to pass such a measure again.

Mr. DECONCINI. Mr. President, I rise today in support of S. 1009, legislation introduced by my friend and colleague, Senator SPARK MATSUNAGA, to redress a grievous wrong. On rare occasions has this Nation flagrantly denied the civil rights and liberties of its citizens in the interests of national security. It occurred once during the Civil War when President Lincoln suspended the writ of habeas corpus. And it also occurred during World War II, when President Franklin Roosevelt signed Executive Order 9066.

This Executive order, and the subsequent implementing legislation (Pub. L. 77-503), resulted in the roundup and internment of approximately 120,000 individuals of Japanese ancestry living on the west coast. Of these individuals, 77,000 were American citizens; the rest were legal and illegal resident aliens. This action was taken with virtually no notice or hearing. The individuals covered by the Executive order were forced to leave their homes and all belongings, except those that they could carry and were confined to detention camps for periods of up to 4 years. Most of them sold their homes and business holdings at extremely low prices and nearly all incurred substantial economic losses due to the evacuation. The loss of income and property to the interned individuals in 1983 has been estimated at between $810 million and $2 billion. Individuals of Japanese ancestry living outside of the west coast were never subject to the relocation.

Similarly, 900 Aleuts living on the Aleutian Islands were also relocated after the Japanese attacked the two westernmost islands of the Aleutian chain. They were housed in abandoned mines and canneries and many lacked adequate medical attention resulting in extensive disease and death. The military took over their homes and needlessly desecrated churches and other buildings.

Subsequent investigation has proven that there was no military or national security necessity for these actions. The internment occurred more out of fear and racial prejudice in the hysteria of the times. This longstanding blot on the civil liberties history of this country can perhaps be partially erased through some form of restitution. While monetary compensation cannot ease the pain and loss suffered by the individuals and families whose country turned its back on them, it will at least mark official U.S. recognition of this shortsighted Government action.

This bill makes an official apology to the U.S. citizens and resident aliens of Japanese ancestry who were interned. It authorizes $1.3 billion to be paid into a fund administered by the Treasury Department to make payments of $20,000 to the survivors of the internment. In return, those survivors who accept the restitution will waive any further claim against the Federal Government for their internment. It similarly makes a payment of $12,000 in compensation for the loss of property and liberty of the Aleuts.

It has been argued that this legislation is unnecessary or that it goes too far. The Justice Department claims that the 1948 Japanese-American Evacuation Claims Act provided sufficient compensation for the injured parties. In actuality, that act only provided compensation for 75 percent or the total value of approved real and personal property losses or $2,500—whichever was less. The act did not allow for loss of liberty, income or pain and suffering. It even placed an elaborate proof on loss on the injured parties.

Others have stated that this is too much money for the Government to be giving away in these times of budgetary restraint. I agree that times are tight and that we must do all that we can to reign in Government spending. I also believe, however, that we cannot put a price on the civil rights and liberties guaranteed by the Constitution whose bicentennial we have been celebrating for the past year. Also, the chairman of the Governmental Affairs Committee, Senator GLENN, has offered technical amendments to strengthen this legislation and make it fiscally responsible. His amendments provide that this does not create a new entitlement program, but makes the ability to pay subject to appropriations. His amendments achieve other wise spending goals which are detailed elsewhere in the debate on this bill. I support his efforts as strongly as I do the underlying legislation.

Mr. President, this bill is based on the recommendations of the Commission on Wartime Relocation and Internment of Civilians. This Commission was established by Congress to study the issue and its recommendtions have broad bipartisan support.

I am a strong believer in the democratic principles upon which this country was founded. Just as we have spoken out strongly against the racially inspired policy of apartheid in South Africa and religious and civil repression in the Soviet Union and other Eastern bloc nations, so should we speak out against injustices that have occurred in this country. In the case of those citizens whose civil rights were denied by interment during the war, this Congress must do all that it can to ensure that such sweeping violations of civil liberties do not occur in the future.

In conclusion, Mr. President, I would like to pay tribute to my friend and colleague, SPARK MATSUNAGA. The fact that this legislation has more than 70 cosponsors is testimony to his diligent and dogged efforts to protect the civil rights of all Americans. He is a tenacious advocate of the rights of the individual who served this country valiantly during World War II; just as did his colleague from Hawaii, Senator INOUYE. The fact that we will soon be taking action on this legislation speaks loudly for his steadfast efforts to keep this issue on the Senate's agenda. I urge all my colleagues to support this bill.

Mr. WIRTH. Mr. President, I strongly support the legislation we are considering today, the Wartime Relocation and Internment of Civilians Act, sponsored by the distinguished Senator from Hawaii, Senator MATSUNAGA.

I am a cosponsor of this bill, and have supported similar legislation while serving in the House of Representatives, because I believe that the Congress and the President have an obligation to correct an intolerable injustice perpetrated against Americans of Japanese descent nearly 47 years ago.

The internment of Japanese-Americans during World War II is a sad episode in the history of the United States. Some 120,000 people of Japanese ancestry—80 percent of whom were native-born U.S. citizens—were taken from their homes, without having been accused of a crime, to live in bleak prison camps for the years during the war. According to one estimate, the interned Japanese-Americans lost between $149 million and $370 million in income and property for which no compensation was ever made—losses which, in 1983 dollars, would total between $810 million and $2 billion.

Since the end of the war, the Federal Government has maintained that the exclusion and internment were actions justified by military necessity. Thus, until recently, the detaineees have had no basic recourse in the courts or the Government for these injustices.

To remedy this situation, in 1980, the Congress formed the Commission on Wartime Relocation and Internment of Civilians. The conclusions of the Commission revealed an abusive and prejudicial policy initiated and perpetuated by the Federal Government against a specific ethnic group. Government intelligence reports, discovered by the Commission, showed racial and ethnic suspicion as the basis for the program rather than military necessity. After careful consideration, the Commission declared the program a mistake resulting from racial prejudice and war hysteria, and recommended a series of actions by the United State Government to serve as an apology to Japanese-Americans deprived of their liberty during the World War II.

S. 1009, the bill we are considering today, would implement the Commission's recommendations by mandating a formal apology by Congress and establishing a trust fund out of which $20,000 would be paid to all Americans of Japanese ancestry who were deprived of their liberty and property under the internment program. The legislation also calls on the President to pardon anyone of Japanese ancestry who was convicted of violating the relocation orders but did not otherwise commit a crime. Lastly, the bill would establish similar restitution to residents of the Aleutian and Pribilof Islands also forcibly relocated during the war.

It is my hope that this legislation will serve as some compensation to those American citizens whose basic rights were taken from them by their Government without explanation. I commend the Senator from Hawaii for introducing this legislation and hope that my colleagues will join me in giving it their full support.

Mr. THURMOND. Mr. President, in 1980, Congress established the Commission on Wartime Relocation and Internment of Civilians to review the circumstances surrounding the internment of Japanese-Americans directed by Executive Order 9066 during World War II, and to make recommendations on appropriate remedies by the United States. The Commission has issued their report, and this legislation would implement their findings. I have concerns with this legislation which I would like to address.

However, before I comment on these concerns, it is appropriate to acknowledge the contributions of Americans of Japanese descent during World War II. Like most Americans, thousands of Japanese-American fought in the armed services to defend our country. There is no finer example of the sacrifice of Japanese-Americans than my colleagues from the great State of Hawaii who both served in World War II.

As a veteran of World War II, I am aware of the many injustices of war—the death of young soldiers on the battlefield, the destruction of property, and particularly the suffering of the civilian population. During wartime, civilians are faced with the loss of loved ones, and often are subjects of unjust action. These are the tragedies of war, and that is why we strive so hard to maintain and preserve peace.

Mr. President, this legislation consist of three titles. Title I contain an official apology to those citizens and resident aliens of Japanese ancestry who were evacuated, relocated, and interned during World War II. Title II establishes the Civil Liberties Education Fund and provides for restitution payments of $20,000 to eligible individuals. The final title authorizes compensation to the Aleutian Islands.

Mr. President, no one can dispute the fact that Japanese-Americans suffered undue hardships as a result of Executive Order 9066. The United States has acknowledged this error and has already taken compensatory action. The 1948 Japanese-American Evacuation Act awarded compensation for property losses that occurred as a result of exclusion or evacuation. This was the equitable way to address this matter in that it settled claims on an individual basis according to the losses suffered. I question the wisdom of the proposed blanket $20,000 restitution payment when many claims have been settled. In addition, there were different degrees of suffering in the Japanese-American community. Can we justify awarding the same monetary compensation to an individual who spent a week in internment as one who spent a more extended period?

In 1976, President Ford formally recognized that evacuation and internment of Japanese-Americans was a mistake, and he repealed Executive Order 9066. I believe that these actions by our Government have resolved this matter, and I think it would be unwise to allow the additional compensation and findings that this legislation would provide.

Mr. President, the Department of Justice has expressed reservations regarding this bill. I ask unanimous consent that the testimony before the Subcommittee on Federal Services, Post Office, and Civil Service of Mr. Richard Willard, Assistant Attorney General of the Criminal Division at the Justice Department, be printed in the RECORD after my remarks. Mr. Willard's testimony states legitimate reasons why the Justice Department would recommend a Presidential veto of this legislation.

I would like to particularly note the Department's objections to title II of S. 1009. One of the provisions of this section would require the Attorney General to review all convictions under laws enacted during World War II to detain or restrict Japanese-Americans and to make recommendations for pardons to the President. The Justice Department simply does not have the staff to carry out this provision. Moreover, the Attorney General acts solely as a confidential advisor to the President for pardons. The Justice Department does not believe the Attorney General has the statutory authority to conduct the kind of proceedings called for in this legislation.

Mr. President, I ask unanimous consent that an article by Mr. James Kilpatrick entitled "$1.2 Billion Worth of Hindsight" be included in the RECORD following my remarks. I believe Mr. Kilpatrick makes many good points why passage of this bill would not be good policy.

Mr. President, we are operating in tight fiscal times. Difficult choices must be made and priorities must be set. This body recently debated and passed a concurrent resolution on the budget. The budget bill recommends spending reductions for many worthy programs because we must bring spending under control. Yet, we are considering this legislation which is estimated to cost $1.2 billion over a 4-year period. It is inconceivable to me that the Senate would pass this costly bill when our country has a debt of over $2 trillion. This generation of taxpayers should not be held accountable for actions taken by the U.S. Government years ago.

Mr. President, the report of S. 1009 of the Senate Committee on Governmental Affairs states that, "The ultimate goal of this legislation is to prevent the occurrence on another similar event." The paying of restitutions and the passage of this legislation will not help prevent this action from happening again as much as will the lessons we learned from it. Executive Order 9066 was an injustice to loyal Japanese-Americans. As commendable as the objectives of this legislation are, this bill is unnecessary and too costly, and I would urge my colleagues to vote against passage.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

$1.2 BILLION WORTH OF HINDSIGHT

(By James J. Kilpatrick)

Now pending on the Senate's calendar, subject to floor debate at any time, is a bad bill that comes to us laden with good intentions. At a cost of $1.2 billion, the bill would pay $20,000 each to those surviving Americans of Japanese ancestry who were interned on the West Coast in World War II. The measure ought to be quietly retired.

It is not easy—it is probably futile—to oppose the Senate bill. It heads for the floor bearing the names of 75 sponsors. A companion measure passed the House last September by a vote of 243-141. Only a heart of stone, it is said, could fail to be moved by the injustice visited upon loyal American citizens 46 years ago. It is time to apologize, we are told; it is time to make amends.

The trouble with that compassionate plea is that it comes to us through a rear-view mirror. It embodies the hindsight wisdom of the Monday morning quarterback. The bill carries a finding that "there was no military or security reason for the internment," but that is the conclusion now. It assuredly was not the conclusion then.

Two generations have grown up since the Japanese launched their attack on Pearl Harbor. Today we count the Japanese as friends and allies. In the winter of 1941-42 they were enemies. Today it seems absurd to imagine that the Japanese might have invaded California. This seemed not at all absurd at the time. In 1988 we scarcely can imagine risks of sabotage and espionage. Reasonable men vividly perceived them then.

Acting upon these fears, Congress authorized President Roosevelt to issue what became Executive Order 9066. Pursuant to that order, the commanding general of West Coast forces proclaimed Civilian Exclusion Order No. 34. After May 9, 1942, more than 110,000 U.S. citizens of Japanese descent were to be uprooted from their homes. They were taken by train to internment camps. There they remained until the war's end in 1945. An estimated 60,000 survive.

As the Supreme Court noted in the case of *Korematsu* v. *United States*, most of the internees were loyal Americans. But some were not. More than 5,000 of them refused to swear allegiance to the United States and to renounce allegiance to the emperor. Several thousand evacuees requested repatriation to Japan. It is all very well to say today that these citizens should have received fair hearings, but in the spring of 1942 we were involved in a desperate war for national survival. Due process had to yield to the exigencies of the day.

The exclusion order came before the high court in 1944. By a vote of 6-3 the court upheld the order. Justice Hugo Black, one of the great civil libertarians of all time, wrote the opinion. Felix Frankfurter and William O. Douglas agreed. Listen to what Black said:

"We are not unmindful of the hardships imposed by the exclusion order upon a large group of American citizens. But hardships are part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure. . . . Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direct emergency, is inconsistent with our basic governmental institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger."

In looking back on those days, we ought to take guidance from Lord Macaulay. This was the precept of that great historian: "As we would have our descendants judge us, so we ought to judge our fathers. In order to form a correct estimate of their merits, we ought to place ourselves in their situation, to put out of our minds, for a time, all that knowledge which they could not have and we could not help having. . . . It is too much that the benefactors of mankind, after having been reviled by the dunces of their generation for going too far, should be reviled by the dunces of the next generation for not going far enough."

Rep. Bill Frenzel of Minnesota made the same point in House debate: "What a funny way to ask us to rub ashes on our heads! The bill asks us to purge ourselves of someone else's guilt with another generation's money." No penance, no payments and no apology are required. The past is past. Let it stay that way.

STATEMENT OF RICHARD K. WILLARD, ASSISTANT ATTORNEY GENERAL, CIVIL DIVISION, UNITED STATES DEPARTMENT OF JUSTICE

I appreciate this opportunity to present the views of the Department of Justice on S. 1009, a bill "[T]o implement the recommendations of the Commission on the Wartime Relocation and Internment of Civilians." For the reasons set out below, the Administration recommends against enactment of this legislation.

BACKGROUND

The wartime relocation and internment of Japanese-Americans were undertaken pursuant to decisions made at the highest level of our government during World War II as part of our nation's defense effort. These decisions were made at a time when the very survival of the Republic was threatened. With the passage of time, these decisions have been examined and questioned. In our view, the Commission's extensive effort to study the wartime relocation and internment program, despite its apparent thoroughness, proves the futility of endeavoring accurately and completely to comprehend the perception of our national leaders under the extreme wartime conditions of the period. These issues will continue to be a matter of historical and scholarly debate.

The United States government has officially recognized that much unjustified personal hardship came about as a result of the internment program. The internees were among the millions of innocent victims of World War II, confined in the wake of the unprovoked attack on Pearl Harbor and very real fear of a Japanese invasion of the West Coast. Regardless of one's opinion as to the bona fides of the government officials who approved and implemented the relocation and internment program, we all can agree that Japanese-Americans suffered much deprivation and hardship. They were expected to make personal, professional, and social sacrifices of a nature not expected of other United States citizens. As it is impossible to bring back to life the many Americans who died in the American war effort, including those heroic Americans of Japanese descent who fought in the U.S. Armed Forces, so it is impossible to restore to all those Americans the freedom that was taken as a result of war. However, previous Congresses, Presidents and the Attorney General have taken steps to acknowledge and compensate for the injuries suffered by Japanese-Americans during this period.

After the conclusion of World War II, Congress acted to authorize a program of compensation for the financial losses entailed by evacuations from the West Coast. The American-Japanese Claims Act, enacted in 1948, authorized compensation for "any claim" for damages to our loss of real or personal property as "a reasonable natural consequence of the evacuation or exclusion of" persons of Japanese ancestry as a result of governmental action during World War II. 50 U.S.C. App. § 1981-1987. This Act was amended by subsequent Congresses to liberalize its provisions for compensation. Under the Act as amended, the Justice Department received claims seeking approximately $147 million. Ultimately, 26,568 settlements were achieved, many of which settled claims presented by family groups rather than individual claimants. Thus, it is safe to conclude that of the 120,000 evacuees, most submitted claims under the American-Japanese Claims Act and received compensation. A total of over $37 million was paid in compensation pursuant to this Act.

In early 1976, President Ford formally revoked Executive Order 9066, issued by President Roosevelt in 1942 to permit exclusions from the Western Coast. Also in 1976, Congress repealed Public Law 77-503, which was enacted in 1942 to ratify Executive Order 9066. In repealing the Executive Order, President Ford stated that with the benefit of what we know now, the wartime exclusions were a mistake. Most Japanese-Americans demonstrated exceptional fidelity to our nation's ideals and loyalty to the United States despite the hardships visited upon them. There can be no doubt that Executive Order 9066 visited injustices upon loyal Americans of Japanese ancestry.

RECENT LITIGTION

This issue has been the subject of extensive litigation in recent years. In 1983, three separate *coram nobis* petitions were filed seeking to have wartime misdemeanor convictions set aside on the ground that the government knowingly suppressed evidence and misrepresented facts in submissions to the Supreme Court during the 1940's. In response to one of these *coram nobis* petitions filed by Fred Korematsu in the United States District Court for the Northern District of California, Attorney General Smith determined that "it is time to put behind us this controversy . . . and instead reaffirm the inherent right of each person to be treated as an individual." Accordingly, the Attorney General decided that "it is singularly appropriate to vacate [Korematsu's] conviction for nonviolent civil disobedience," as well as to do the same for other similarly situated individuals who request it. Thus, in each of these cases, the United States, while disputing petitioner's allegations, moved to vacate the conviction and dismiss the underlying indictment or information, thus moving effectively to afford petitioners the very relief they sought.

In *Yasui* v. *United States,* (D. Ore., Jan. 26, 1984), the court granted the government's motion, vacated the conviction and dismissed the petition as moot. Petitioner nonetheless appealed to the Ninth Circuit. Because of Mr. Yasui's recent death, however, the Ninth Circuit, on March 23, 1987, dismissed the appeal as moot, and the district court's decision vacating petitioner's conviction stands.

In *Korematsu* v. *United States* (N.D. Cal., April 19, 1984) the court denied the government's motion, granted the *coram nobis* petition, but made no findings of fact. Consequently, the United States chose not to appeal.

Finally, in *Hirabayashi* v. *United States,* (W.D. Wash., Feb. 10, 1986), the court granted the petition to set aside the conviction for failure to report for internment, but refused to set aside the conviction for violating a curfew order. Petitioner appealed from this denial of his *coram nobis* petition as to his curfew violation conviction and the government cross appealed from the grant of *coram nobis* as to the evacuation conviction. The appeals were argued on March 2, 1987, and are under submission before the Ninth Circuit.

Hohri v. *United States,* No. 84-5460, (D.C. Cir., Jan. 21, 1986), is a suit filed on behalf of 120,000 persons of Japanese ancestry and their heirs seeking personal injury and property loss damages claimed to arise out of the evacuation and internment program. The government has prevailed in the district court on limitations and other jurisdictional grounds. In a 2-1 decision, the court of appeals reversed and remanded for trial a portion of plaintiffs' claims.

The court of appeals affirmed dismissal of all personal injury claims and the contract and breach of fiduciary duty claims alleged in the complaint on jurisdictional grounds, but decided that plaintiffs' property damage claims under the Fifth Amendment Takings Clause could not be resolved on preliminary jurisdictional grounds and therefore reached the limitations issue. The majority opinion held that because the Supreme Court has established a presumption in favor of deferring to the military judgment on the necessity for the evacuation program, limitations did not commence to run until Congress created the Commission on Wartime Relocation and Internment of Civilians in 1980. According to the court, the statute creating the Commission thereby "finally removed the presumption of deference to the judgment of the political branches." The court also concluded that the American-Japanese Claims Act did not provide an exclusive remedy because the Act did not provide relief that encompassed all damages required to make whole persons who suffered a "taking."

Chief Judge Markey of the Federal Circuit, sitting by designation, dissented. In his view, the appeal should have been transferred to the Federal Circuit for disposition and, in any event, the statute of limitations barred this suit.

The United States filed a petition for rehearing and suggestion for rehearing *en banc*; the suggestion was denied by a split *en banc* court (6-5). Thereafter, both plaintiffs and the United States filed petition for writs for certiorari with the Supreme Court.

After granting our petition and hearing oral argument, the Supreme Court, on June 1, 1987, decided, in accordance with the position we urged before the Supreme Court, that plaintiffs should have taken their appeal to the Federal Circuit rather than the D.C. Circuit. Thus, the District Court's judgment dismissing the action stands subject to plaintiffs' right to seek reversal of the judgment after their appeal is transferred to the Federal Circuit pursuant to the Supreme Court's recent decision.

S. 1009

I would like to now address some of the Department's concerns with the specific provisions of S. 1009.

FINDINGS

Section 1(a) provides congressional findings: (1) that the findings of the Commission on Wartime Relocation and Internment of Civilians accurately and completely describe the circumstances of the exclusion, relocation and internment of citizens and aliens of Japanese and Aleut ancestry; (2) that the internment of those persons of Japanese ancestry on the West Coast "was carried out without any documented acts of espionage or sabotage, or other acts of disloyalty" by them; (3 and 4) that there was no adequate military or security reason for the internment and that it was caused instead, by racial prejudice, war hysteria, and a failure of political leadership; (5) that the excluded persons of Japanese ancestry suffered enormous material, intangible, educational and job training losses; and (6) that the "basic civil liberties and constitutional rights" of those persons of Japanese ancestry were fundamentally violated by that evacuation and internment. Section 1(b) similarly states the purposes of the legislation. Section 101 apologizes on behalf of the nation for the wartime relocation and internment program.

We have reviewed the Commission's report. It does call attention to the hardships suffered by Americans of Japanese ancestry. However, it must be recognized that conclusions and subjective determinations which necessarily are an integral part of the report are subject to debate. Indeed, in June 1983, the Commission released an addendum to its report discussing a multi-volume Department of Defense publication entitled "The 'magic' Background of Pearl Harbor" because it had not discussed this important source of wartime intelligence in its report.

We question the wisdom and, indeed, the propriety, of accusing leaders of the United States government during World War II, both civilian and military, of dishonorable behavior. The wartime decisions which form the predicate for this legislation were taken against a backdrop of fears for the survival of our nation; we recently had been attacked by a totalitarian regime which had enjoyed a virtually unbroken string of military successes, both before and immediatley after it commenced war upon us. The decision made by our wartime leaders should be considered in that context.

It may be that the Commission is correct in concluding that the assumptions on which the exclusion and evacuation and detention programs were based were erroneous. It is a long unsubstantiated further step, however, to brand those actions as a product of "racial prejudice, or war hysteria, and a failure of political leadership." In most instances, the persons so accused are not alive to defend themselves today. Moreover, some of the Commission's conclusions and its selection of evidence marshaled in support of its conclusions are suspect. These matters are best left to historical and scholarly analysis rather than debated by Congress.

We do not believe that this bill should be the vehicle for promulgation of an "official" version of these historical events. The Department opposes enactment of the findings in section 1.

PARDON RECOMMENDATIONS

The Department opposes sections 202(a) and 202(b), which request the Attorney General to review certain criminal convictions with a view toward pardon and to submit pardon recommendations to the President in certain cases.

The pardon provision of the bill is completely unnecessary. As noted above, the government has offered to vacate the conviction of all Japanese-Americans who were convicted of violating wartime restrictions imposed by Executive Order 9066 and has done so in the three *coram nobis* proceedings filed to date. It appears that only about 39 Japanese Americans were convicted of misdemeanor violations of Executive Order 9066, many of whom may no longer be living. Vacating the convictions and dismissing the underlying indictments or informations of Japanese-Americans affords these individuals the full and meaningful relief to which a pardon would entitle them, and completely obviates the pardon review process provided in § 202.

Moreover, while we note that section 202(b) of this bill attempts to correct the constitutional flaws presented by the pardon provision of this legislation in the 99th Congress, we remain dubious of the constitutional validity of this provision when Article II, Section 2, Clause 1 of the Constitution grants virtually absolute pardon authority in the President. As we noted in our bill report on the 99th Congress, the granting of a pardon is an act of grace by the President, and the Constitution does not invest the legislature with any authority in the pardon process. The Supreme Court has confirmed that the President's authority to grant pardons may not be limited by legislative restriction. *Schick* v. *Reed,* 419 U.S. 256 (1974).

The Attorney General's advisory function (now the Associate Attorney General by assignment, 28 CFR 0.36,) in connection with the consideration of all forms of Executive clemency, including pardon, commutation (reduction) of sentence, remission of fine and reprieve, and the President's ultimate decision to grant or deny Executive clemency, is wholly discretionary. Department of Justice officials involved in discharging this function act solely as confidential advisors to the President in the exercise of the pardon power, and not in fulfillment of any statutory mandate to conduct the kind of proceedings contemplated in Section 202.

Additionally, the language of § 202 is ambiguous in at least two respects. Section 202(a) directs the review of "all cases in which United States citizens and permanent resident aliens of Japanese ancestry were convicted of violations of laws of the United

States," including convictions for violations of military directives respecting the exclusion, relocation or detention of individuals solely on the basis of Japanese ancestry. First, the class of individuals whose cases are to be reviewed is vaguely defined. The present wording of Section 202(a) could be interpreted to request the review of not only the cases of those living but also the cases of those who are deceased. It has been a long established practice not to grant posthumous pardons. The legal basis of the practice is in large part the concept that a pardon, like a deed, must be accepted by the person to whom it is directed. Acceptance, of course, is impossible when the recipient is deceased. *See, United States* v. *Wilson*, 7 Pet. 160 (1833); *Burdick* v. *United States*, 236 U.S. 79 (1915); *Meldrim* v. *United States*, 7 Ct. Cl. 595 (1871); *Sierra* v. *United States*, 9 Ct. Cl. 224 (1873); 11 Op. A.G. 35 (1864).

Second, provision for the review of "all cases" involving violations of "any laws of the United States, including convictions for violations of military orders," is too broad. This language may be interpreted to require the review of both felony and misdemeanor offenses, as well as require the review of *any* crime committed during the evacuation, relocation and internment period, such as murder, extortion, kidnapping, theft, counterfeiting and other offenses which may have been committed on a government reservation by members of the class.

AGENCY REVIEW OF APPLICATIONS

Section 203 would require agencies to review with liberality applications for restitution of positions, status or entitlements, giving full consideration "to the historical findings" of the Commission and the findings in the Act. We see no need for this provision, are uncertain as to how it could fairly be applied in practice at this late date, and suggest that it could lead to extreme difficulties in administration with resultant litigation.

THE RESTITUTION FUND

Section 204 would establish a Civil Liberties Public Education Fund in the amount of $1.3 billion to be available for disbursement pursuant to sections 205 and 206.

Section 205 provides for the tax free award of $20,000 to every living person of Japanese ancestry who was deprived of liberty or property as the result of the wartime programs. Nonresidents apparently would be entitled to the benefits of this section. Since, according to the recommendations of the Commission, approximately 60,000 persons would benefit from those awards, about $1.2 billion would be expended on this program.

Section 206 would establish a Board of Directors of the fund provided for in section 205. The board would disburse the remaining $100 million or more of the Fund for the purposes enumerated in subsection (b) of section 206, including projects "for the general welfare of the ethnic Japanese community in the United States."

The Department opposes these provisions for paying additional reparations to individuals where Congress has already enacted a comprehensive statutory scheme which provided a reasonable and balanced contemporaneous remedy to affected individuals. By enacting the 1948 American-Japanese Claims Act, Congress recognized long ago that many loyal Americans of Japanese descent were injured by the wartime relocation and internment program. Although the Commission's report challenges the amount of compensation chosen by Congress as inadequate, Congress has spoken after considerable debate, and there is no good reason to question that settlement now three-and-one-half decades later.

The American-Japanese Claims Act did not include every item of damages that was or could have been suggested. It did, however, address the hardships visited upon persons of Japanese ancestry in a comprehensive, considered manner, taking into account individual needs and losses. This effort to correct injustice to individuals was in keeping with our nation's best tradition of individual rather than collective response and was more contemporaneous with the injuries to the claimants than would be any payments at this late date.

Moreover, in 1956, Congress considered legislation that directly called into question the adequacy of the claims settlements provided in the 1948 Act. The bill as introduced would have liberalized the relief provisions of the Act by granting expanded compensation for certain losses. Congress rejected this proposal because it "would substantially reopen the entire project." H.R. Rep. 1809, 84th Cong., 2d Sess., 9 (1956). Thus, with the hardships and deprivations of the internees still relatively contemporaneous, a later Congress adjudged the American-Japanese Claims Act to be fundamentally sound. Nothing has occurred since Congress last considered the matter to warrant a supplemental payment to internees. The results of the settlement process under the Act, long since completed, deserve to be accepted as a fair resolution of the claims involved.

The bill's restitution provisions would also impose heavy administrative burdens on the Attorney General. The bill would confer on the Attorney General responsibility for investigating, finding and paying eligible recipients under severe time constraints. The Attorney General is specifically prohibited even from requiring eligible persons to make application for these payments. This duty could require the Department to commit a considerable amount of manpower and resources to the search for eligible recipients. Yet, the bill would provide no funding for the location or identification of eligible recipients and would expressly prohibit the Attorney General from recovering expenses incurred in carrying out this responsibility from the Trust Fund set up to pay eligible recipients.

We also oppose the concept of a special fund incorporated in section 206. As noted earlier, we do not believe it is the proper function of our government to adopt an "official" version of these historical events. Similarly, we oppose spending one hundred million dollars to "educate" the American people to accept this official interpretation of our history.

DEFINITION OF ELIGIBLE INDIVIDUALS

We also oppose the breadth of the definitions of eligible individuals set forth at section 201 of the bill.

First, the term "living" is imprecise. It is unclear whether the term is intended to refer to the time of the enactment of the legislation, the time when application for the benefit is made, or to the time when payment of a benefit is made.

Second, the definition would cover "any living individual" who had been subject to the exclusion, relocation, or detention, without any express exclusion of persons residing outside the United States. *See,* § 201(1). The all inclusiveness of the term "eligible individual" overlooks the important factor that at lest several hundred of the detainees were fanatical pro-Japanese, had terrorized their fellow detainees loyal to the United States, and voluntarily sought repatriation to Japan after the end of the war. *See, Acheson* v. *Murakami*, 176 F. 2d 953, 958 (9th Cir. 1949); *McGrath* v. *Abo*, 186 F. 2d 766, 771-72 (9th Cir.), *cert. denied*, 342 U.S. 832 (1951); and in particular Findings of the Fact 18, 20, 22, 25, 27, 29, 35, 39, 40, 45, 46 of the United States District Court for the Southern District of California in *Murakami* v. *Acheson*, attached to and made part of the court of appeals' decision in that case. It would be unfair to the United States and to the loyal persons of Japanese descent if the benefits of this legislation were made available to persons who were disloyal to the United States.

TITLE III OF S. 1009

The Department is also opposed to Title III of S. 1009, entitled "Aleutian and Pribilof Islands Restitution." In this connection the Commission observed that "[t]he Aleut evacuation and the removal of persons of Japanese ancestry from the West Coast during the same period were separate events—neither caused nor influenced the other . . . The evacuation of the Aleuts was a reasonable precaution taken to ensure their safety." *Personal Justice Denied*, at 318. The focus of the Commission's report was upon its conclusion that "the evacuation of the Aleuts was not planned in a timely or thoughtful manner," leading to hardships upon the persons exposed to the conditions flowing from their evacuation from the war zone.

We analyze below the specific provisions which S. 1009 would enact to benefit Aleuts. Fundamentally, however, we do not believe that wartime hardships of property removed from a war zone provide any factual predicate for consideration of especial, favorable treatment for this group as opposed to other individuals whose lives were disrupted and who suffered hardship or death during World War II. Many activities undertaken by our government during World War II could be criticized, with hindsight, as untimely or poorly planned. We do not believe that such criticism can appropriately form the basis for special compensation.

Turning to the specific provisions of Title III of the bill, we have these comments.

THE ADMINISTRATOR AS AN OFFICER OF THE UNITED STATES

Section 305 would provide for an "Administrator" (defined in section 302(1)) who would administer certain expenditures made by the Secretary of the Treasury from the Aleutian and Pribilof Islands Restitution Fund established by section 303. Section 305(a) would designate as "Administrator" the "Association," defined in section 302(4) as "the Aleutian/Pribilof Islands Association, a non-profit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska." (We do not know whether the Aleutian/Pribilof Islands Association would have to be incorporated, or whether it is already in existence; we are likewise not informed whether it is or would be a non-for-profit regional organization under the laws of Alaska Native Claims Settlement Act of 1971, 85 Stat. 691, *as amended*, 43 U.S.C. § 1606(d).)

The designation in a statute of a person or corporation to perform statutory functions necessarily raises the question whether the designee is charged with functions which may be performed only by an officer of the United States. If that is the case, the person or the governing body of the corporation must be appointed in the manner provided for in the Appointments Clause of the Constitution, *i.e.*, by the President by and with the advice and consent of the Senate, or, where authorized, by heads of departments. Art. II, § 2, cl. 2. Congress cannot appoint officers of the United States.

Whether a person is an officer of the United States in a constitutional sense depends upon his statutory duties. A person who performs merely advisory functions, and who possesses no enforcement authority or power to bind the government, is generally not considered to be an officer within the meaning of the constitutional provisions cited above. 24 Op. A.G. 12 (1902); 26 Op. A.G. 247 (1907); H.R. Rep. No. 2205, 55th Cong. 3d Sess. 48-54 (1899). However, a person who performs significant governmental duties pursuant to the laws of the United States is an officer in the constitutional sense, and therefore must be appointed pursuant to Article II, § 2, cl. 2 of the Constitution. *Buckley* v. *Valeo*, 424 U.S. 1, 126, 141 (1976).

We have examined the statutory duties of the Administrator under section 306 of the bill in order to determine whether his functions will be merely advisory or whether the Administrator will be involved in the actual administration of the Act. According to § 306(a), the Administrator would make restitution as provided in that section for certain Aleutian losses sustained in World War II, and take such other action as required by Title III of the bill. These duties would benefit the establishment of a trust of $5 million for the benefit of the affected Aleutian communities and the appointment of not more than seven trustees to maintain and operate that trust (§ 306(b)(1)); the regulation of the manner in which the trust to be administered (§ 306(b)(3)); the rebuilding, restoration, or replacement of damaged or destroyed churches and church property (§ 306(c)); and assistance to the Secretary of the Treasury in identifying and locating Aleuts entitled to receive payments under § 307 (§ 307(a)(3)). The Administrator, thus, would not be a mere conduit of funds but would be charged with the performance of a significant amount of administrative responsibilities under a federal statute. The Constitution therefore requires either that the Administrator be appointed in accordance with Article II, § 2, cl. 2, or that the bill be amended so as to relieve the position of any duties directly imposed upon by a federal statute.

RESTORATION OF CHURCH PROPERTY

Section 306(c), dealing with the restoration of church property, also raises some constitutional concern. This subsection would authorize the Administrator "to rebuild, restore or replace churches and church property damaged or destroyed in affected Aleut villages during World War II." The Administrator would receive $100,000 from the Secretary of the Treasury to make an inventory and assessment of all churches and church property damaged or destroyed in the affected Aleut villages during World War II. Within one year after the enactment of this legislation the Administrator would be required to submit the inventory and assessment "together with specific recommendations and detailed plans for reconstruction, restoration and replacement work to be performed" to a review panel comprised of the Secretary of Housing and Urban Development, the Chairman of the National Endowment for the Arts, and the Administrator of GSA. If the Administrator's plans and recommendations are not disapproved by the review panel within sixty days, the Administrator would implement them as soon as possible. If the differences between the Administrator and the review panel should be irreconcilable, the Secretary of the Treasury would submit the matter to Congress for approval or disapproval by joint resolution. Section 306(c)(4) would authorize the appropriation of $1,399,000 to carry out the purposes of the church restoration program.

Under this approach, the compensation for the destroyed or damaged churches would not be turned over directly to the affected Aleut villages, but to the Administrator. The Administrator would be charged with the statutory duties of making an inventory and assessment "together with specific recommendations and detailed plans for reconstruction, restoration and replacement work to be performed"; of submitting the inventory, assessment, and recommendation to a review panel consisting of three federal officers; and of trying to reconcile any differences between himself and the review panel, irreconcilable differences between the Administrator and the review panel to be resolved by Congress. The effect of this procedure would be that the details of restoring or rebuilding the churches would be determined by the Administrator (who, as the result of his statutory functions would have to be an officer of the United States), and reviewed by the Secretary of Housing and Urban Development, the Chairman of the National Endowment for the Arts, the Administrator of GSA, and possibly Congress. This government involvement in the manner in which the funds allocated for church repair or reconstruction are to be spent would raise First Amendment concerns. *Meek* v. *Pittenger*, 421 U.S. 349, 370 (1975); *Committee for Public Education* v. *Regan*, 444 U.S. 646, 659-60 (1980).

I understand the Department of the Interior has additional concerns regarding Title III.

For all the foregoing reasons, the Department of Justice would recommend that the President veto S. 1009.

Mr. SYMMS. Mr. President, I believe this country owes an apology to many loyal Americans of Japanese descent who were wrongly incarcerated during the Second World War. But, Mr. President, I am very much opposed to attaching price tags to personal freedoms in an attempt to atone ourselves for the internment of the Japanese-Americans.

Have we reached the point where an apology—even the formal apology of a nation—does not mean anything without monetary proof of our sincerity? I don't think $1.2 billion of contrition means we are any sorrier than an earnest, formal apology. In fact, placing a price of $20,000 per person on our democratic rights trivializes the 200 some years we have spent trying to protect them. Can we estimate the worth of the many Americans that have died to protect our rights?

What is the formula for deciding how much a government must pay citizens whose constitutional rights have been curtailed or otherwise denied, regardless of their race? Is the folly behind this price-fixing not apparent? Soon our courts could be littered with $20,000 claims based on loss of liberty. The attorneys of this body can testify to the dangerousness of the precedent this bill would set.

Mr. President, I hope this body will see fit to extend an entire nation's apology to the victims of the internment hysteria, without trying to affix a price to the personal freedoms and liberties that this country was founded upon.

Mr. President, for these reasons I must vote against this bill.

Mrs. KASSEBAUM. Mr. President, I want to take this opportunity to make some brief comments about the wartime reparations legislation now before us.

I feel that the civil liberties of the Japanese-Americans detained in camps on the west coast during World War II were violated. Without doubt, the presence of the camps on American soil is a dark chapter in our history. The Senator from Hawaii, Mr. MATSUNAGA, has made this case eloquently. His accounts of the shame and suffering of interned Japanese-Americans are profoundly moving.

At the very time patriotism of Japanese-Americans was being called into question, thousands of their young sons were carrying the American flag into battle. Both Senators from Hawaii—Mr. INOUYE and Mr. MATSUNAGA—volunteered for the military and offered distinguished service to our country.

We must not forget the past but, instead, learn from the mistakes of those who preceded us. A formal apology to those U.S. citizens detained in the wartime internment camps is long overdue and most certainly in order. This is a feature of the measure before us that I wholeheartedly endorse.

I have long been concerned, however, about the provisions in the legislation providing a tax-free payment of $20,000 to each detainee. The total cost of these payments will exceed $1.2 billion, which is a lot of money. It is a particularly large sum, considering this is a time when we are forced to cut corners on any number of priority programs due to huge budget deficits.

Although the sheer amount of money involved is of concern, an even more troubling question is whether an arbitrary monetary payment is necessary to ensure the sincerity of a formal apology for actions occurring 45 years ago. After so many years, monetary reparations can't do much to correct past losses. Certainly, the wartime internment of Japanese-Americans was a mistake. Unfortunately, it is not the only mistake we as a nation have made. Our treatment of American Indians, our acceptance of slavery, and our insensitivity to the rights of many minority groups are terrible moral failings. I just do not believe that money can buy atonement.

It is for these reasons that I strongly supported the efforts of Senator HECHT to remove the compensation provisions from the bill. I am disappointed that the majority of my colleagues did not support his amendment. Enactment of this amendment would have given us a bill which offers a strong and heartfelt apology to those Japanese-Americans who were detained without due process. That is the real heart of the matter.

So, it is with mixed emotions that I will cast my vote in favor of final passage of this legislation. On balance, my belief that we should apologize for the suffering we have caused to many patriotic Americans outweighs my concern that no amount of money can offer any true redress. The overwhelming majority of my colleagues in the House and in the Senate have made it clear that this legislation is the only means available to put behind us this sad chapter of our history.

Mr. LEVIN. Mr. President, today the Senate is afforded the opportunity to correct a shameful episodes in our Nation's history. Over 45 years ago, in the name of wartime security, the United States Government summarily denied some 120,000 American citizens and resident aliens of Japanese ancestry the rights promised under our Constitution. These Japanese-Americans were taken from their homes, were forced to abandon their businesses and professions, and were relocated to crowded interment camps with often deplorable conditions.

Congress has been aware for some time of the failings of our Government during this time period. In 1980, we established the Commission on Wartime Relocation and Internment of Civilians to examine the facts surrounding the relocation of these Japanese-Americans. The Commission found that there was no "military necessity" for the actions taken against these people. In addition, according to the Commission, "not a single documented act of espionage, sabotage, or fifth column activity was committed by an American citizen of Japanese ancestry or by a resident Japanese alien on the west coast" during this period. This fact not only dramatizes the lack of any justification for our Government's actions, but also is an impressive tribute to the loyalty of Japanese-American citizens toward the United States.

The legislation before the Senate now would implement the recommendations of the Commission. This bill would acknowledge the fundamental injustice of, and apologize on behalf of the people of the United States for, the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry. This bill would also provide some restitution to each surviving Japanese-American who was interned. The bill also addresses the harsh manner in which the relocation of the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands was conducted.

It is certainly true that we are blessed with 20-20 hindsight on this matter. I am sure it was often difficult during World War II to separate legitimate national security concerns from specious ones. Nevertheless, hindsight enables us to review—without the cloud of wartime fear—our Government's actions and come to the clear and unmistakable conclusion that we were quite simply wrong. And having recognized this wrong, this Government can act to try to provide some remedy for this tragedy.

I am hopeful we can lift this particular cloud from our Nation's conscience, and I also hope it will do more than that. It should also serve as a reminder to this proud Nation that we should always have the strength to resist the racial hysteria and prejudice that plagued us during these particular years of World War II and caused us to strip so many American citizens of their constitutional rights.

Finally, I would like to express my congratulations to my good friend, Senator MATSUNAGA, and to the other Members of the Senate and the House who have been active in successfully navigating this bill through the legislative waters. Only, their persistence and hard work have made this day possible.

Mr. HELMS. Mr. President, in this country we have a statute of limitations for virtually every crime except murder. We have a statute of limitations for virtually every tort action. Why? Not because we do not think that a wrong was created, not that we do not think that someone was harmed, but because we believe there is a concern for finality, that at some point in time we cannot say to one generation, go back and try to make monetary amends for the previous generation. We do that consistently in our law on the criminal side as well as on the civil side.

Mr. President, establishment of the Japanese-American Claims Act was not the last of the Federal Government's efforts regarding the relocation of Japanese-Americans. In 1975, Congress repealed Public Law 77-503, which was enacted in 1942 to ratify Executive Order 9066.

In early 1976, President Ford formally revoked Executive Order 9066. In repealing the Executive order, President Ford stated that with the benefit of what we know now, the wartime exclusions were a mistake. Most Japanese-Americans demonstrated exceptional fidelity to our Nation's ideals and loyalty to the United States despite the hardships visited upon them. There can be no doubt that Executive Order 9066 visited injustice upon loyal Americans of Japanese ancestry.

In 1980, the Congress established the Commission on Wartime Relocation and Internment of Civilians to review the events surrounding and leading up to the issuance of Executive Order 9066. In 1982, the Commission released its report, titled "Personal Justice Denied."

It was clear in creating the Commission that there was no understanding that the main or chief purpose was to provide monetary redress. In fact, many of the proponents of the legislation which gave rise to the Commission went to great lengths to assure us that this was not the case.

Congressman DANIEL LUNGREN, the only Member of Congress who sat on the Commission, stated during debate on H.R. 442 in the House that,

> Prime sponsors of the legislation in the Senate to establish the Commission said they would not support the establishment of the Commission if monetary reparations were the outcome of that legislation.

Certainly this body has a right to make an independent judgment on this matter. But in my estimation it is an expensive distraction from the seriousness of this episode in our Nation's history.

The Commission's extensive efforts to study the wartime relocation and internment program, despite its apparent thoroughness, proves the futility of endeavoring accurately and completely to comprehend the perception of our national leaders under the extreme wartime conditions of the period.

As Congressman LUNGREN pointed out,

> "[o]ne of the things I think we have to recognize is that we are judging a previous generation with the ability of 20-20 hindsight. I think the one major shortcoming of the Commission was that we ignored what was known as the MAGIC cables. Those were the coded cables of the Japanese Government during World War II, which they continued to send not knowing that we had broken their code. The information that was made available to Franklin Delano Roosevelt at the time he made this decision gave quite a different view of things than what we found subsequently.

Mr. President, Dr. Ken Masugi is a Japanese-American with a Ph.D. in political science. He currently writes and teaches in the D.C. area. His parents were relocated during the war; yet, like Senator Hayakawa, Dr. Masugi opposes the provisions to pay reparations. He has written extensively about the relocation, the Commission, and this legislation.

I ask unanimous consent that an article by Dr. Masugi be printed in the RECORD. In this article, titled "For Japanese-Americans, Cash Can't Bring Honor," Dr. Masugi also questions the accuracy and objectivity of the results of the Commission.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOR JAPANESE-AMERICANS, CASH CAN'T BRING HONOR

(By Ken Masugi)

"As we look back, we seem to have lost everything dear in our life. Our family life was disrupted; our business and our professions were gone; our savings and securities were lost; our rights and privileges were denied. . . . We wonder if any other group would have taken such a beating as gracefully as we did—with little complaints and without deviating from loyalty to our country."

One might think these reflections come from "Personal Justice Denied," the recent report of the Commission on Wartime Relocation and Internment of Civilians that reexamined the internment of Japanese-Americans in World War II. In fact, they are from the forward to the 1943 yearbook of the Hunt (Ida.) Relocation Center.

Although the 467-page report of the commission cost $1.3 million to prepare, its findings are scarcely anything new. Moreover, press stories and commentaries about it actually increase misunderstanding about that sad episode by failing to mention the 1948 Evacuation Claims Act (which allowed some compensation for private-property losses caused by internment) and the fact that internees could leave the centers if they had employment or a place in college.

These misunderstandings follow from the commission's fundamental failure. Proceeding with the confidence of hindsight, it downplays the harsh fact that, just as Lincoln took despotic actions in the war that put an end to slavery, so arbitrary and unfair acts necessarily accompanied U.S. policies in the world war to save America from Japanese and German imperialism. While it would be preposterous to assert that everything that a nation does in wartime is justified, it would be equally unreasonable to accept at face value criticism of 40-year-old American wartime policy.

One massive error is the report's failure to take proper account of the pressures of war. Thus, it does not fully consider the nation's circumstances on the afternoon of Dec. 7, 1941. To its credit, the commission does note the widespread acceptance of racial segregation in government and civil life. Also it suggests a comparison between the situation of Japanese-Americans and other ethnic groups with ties to their lands of origin.

However, the wartime hatred and fear of ethnic Japanese cannot be ascribed to racism alone; shared nationality with a brutal enemy was a crucial element. To demand that a nation question its natural responses when attacked is to question whether survival itself is good.

In time of war reasonable men expect that the normal procedure of justice are subject to violent alteration. Hence, the report's title is remarkably inapt. I reflect on my immigrant uncle who returned to Japan before the Pearl Harbor attack: He feared the worst in a coming war. Even many Japanese-Americans accepted the need for their removal.

The report's great virtue is that it enables a reader to see how evacuation and internment policies could easily be modified to the internee's advantage. It also notes that the extraordinary measures were taken with misgivings and hesitation at the higher levels of the federal government.

Perhaps the crucial turn of events in the development of an internment policy was the vociferous objection of inland Western state officials to the admission of Japanese-Americans who were to relocate "voluntarily" for temporary resettlement. A series of bad decisions had to be made for the incarceration of 120,000 persons who had committed no crime. But it is a travesty of history to maintain that racist war profiteers created the myth of treacherous Japanese-Americans in order to appropriate their lands and goods and dupe the government into establishing "concentration camps."

The commission's report closes thus: "('Camp') is the mournful reference point from which (Japanese-Americans) describe changes in their communities, their personal lives, their aspirations. It is the central experience which has shaped the way they see themselves, how they see America, and how they have raised their children."

There is much truth to this, but it must come with a deeper understanding of the Japanese-American condition. Any American's understanding of his ethnic roots should make him marvel at the ideals of equality and liberty that enables descendants of any nation to become Americans. Alas, the report will not do this by itself. Some passages lapse into social-science gibberish, such as a ham-handed attempt to interpret Japanese-American characteristics (for example, the desire to obtain a good education) as "scars of wartime incarceration." Worst of all, it sets the stage for the misguided notion that latter-day payoffs—euphemistically known as "redress"—can somehow assuage the proper indignation at having patriotism questioned and losing liberty and property.

The honor that some seek cannot be obtained through lawsuits, but it can surely be lost by pursuing it as though it could be. The true lessons of the internment have yet to be fully articulated.

Mr. HELMS. Mr. President let me read from a letter from the Honorable John J. McCloy, former Assistant Secretary of War:

I was in the War Department on the "Day of Infamy" on December 7, 1941 and I believe I was the highest senior civilian official there at the time of the attack. I have testified before the commission which was appointed by President Carter to look into the circumstances surrounding the steps which were taken by our government following the attack to offset the consequences of the loss of almost our entire Pacific Battle Fleet and its installations on that day.

Only as this commission was about to close its hearings, was I called upon to appear before it in regard to the relocation program which had been ordered by President Roosevelt. By that time, a great head of steam had been built up by news accounts of the hearings largely inspired by the lobbyists. From my personal experience, at the hearings of the commission, I believe its conduct was an horrendous affront to our tradition for fair and objective hearings. It constituted a serious affront to that tradition. Whenever I sought in the slightest degree to justify the action of the United States which was ordered by President Roosevelt, my testimony was met with hisses and boos such as I have never, over an experience extending back to World War I, been heretofore subjected to. Others had similar experiences. I do not have the means or the resources to call witnesses or produce evidence in support of the action taken by the President of the United States and his advisors but I was there at the time and it became clear from the outset of my testimony that the commission was not at all disposed to conduct an objective investigation of the circumstances which induced the President of the United States to issue the order which he did and as to the significance and purpose of which he was fully aware. The commission was, in effect, one erected to build up a case against the propriety of such an order and the manner in which it had been carried out. No current officials of the government, so far as I have heard, were ever called on to produce evidence in support of the action which the President and his advisors took in their good judgment as to what the consequences of the attack demanded.

Mr. President, these issues will and should continue to be a matter of historical and scholarly debate. It is totally inappropriate for the Government to adopt an "official" version of these historical events. It is even more appalling that Congress would spend $100 million to "educate" the American people to accept an official interpretation of history.

Mr. President, the Japanese-Americans who were relocated have, and are continuing to pursue redress in the courts. In 1983, three petitions were filed seeking to have wartime misdemeanor convictions set aside on the ground that the Government knowingly suppressed evidence and misrepresented facts in submissions to the Supreme Court during the 1940's. In response to the petition, Attorney General William French Smith stated that:

> It is time to put behind us this controversy * * * and instead reaffirm the inherent right of each person to be treated as an individual.

The Attorney General decided that "it is singularly appropriate to vacate [Korematsu's] conviction for nonviolent civil disobedience," as well as to do the same for other similarly situated individuals who request it. Thus, in each case, the United States moved to vacate the conviction and dismiss the underlying indictment, thus affording to the petitioners the relief they sought.

Mr. President, Gordon Kyoshi Hirabayashi was one of three U.S. residents to be prosecuted for refusing to be relocated. He spent 2 years in jail. In February 1986, a Federal district court judge overturned his conviction. According to an article that appeared in the Washington Post, Mr. Hirabayashi stated that:

> The decision vindicates the American system of government. * * * I think it's really a great victory, not only for me personally but for all Japanese-Americans, and finally for America and our system of justice. It shows people can make the system work for them, even if it takes 40 years.

Mr. President, Japanese-American internees and their heirs are currently pursuing their relief in court. The case of Hohri versus United States was filed on behalf of the 120,000 persons of Japanese ancestry and their heirs seeking personal injury and property loss damages arising out of the relocation and internment program. The case has reached the Supreme Court once on jurisdictional issues and has been remanded to the Court of Appeals for the Federal Circuit.

Mr. President, the point is that—as the case of Mr. Hirabayashi illustrates—the judicial system works, and we should allow it to work. If injuries are sustained as a result of a violation of constitutional rights, the courts are the appropriate arena for redressing those injuries. This bill attempts to intrude on the jurisdiction of the judiciary branch by awarding $20,000 to each Japanese-American who was interned or relocated.

It is not the proper role of Congress to attempt to adjudicate the private claims for a specific class of citizens for what, in retrospect, we may consider constitutional violations. But even if you do think it is the appropriate function of Congress to attempt to settle judicial claims in this manner, it is inappropriate to do so before the courts have had an opportunity to decide the issue.

Mr. President, I must also question the wisdom and the propriety of accusing leaders of the U.S. Government during World War II, both civilian and military, of dishonorable behavior, especially when they are not around to defend their decisions. The relocation decision was one made by President Roosevelt with the advice of his counselors and based on the various pieces of information he had before him. Let me read a few of the previously mentioned MAGIC cables that were before the President. One cable from the Seattle Japanese Consulate to Tokyo stated:

> We are using foreign company employees as well as employees in our own companies here for the collection of intelligence having to do with economics along the lines of the construction of ships, the number of airplanes produced and the various types, the production of copper, zinc and aluminum, the yield of tin for cans and lumber. For the future we have made arrangements to collect intelligence from second generation Japanese draftees on matters dealing with troops as well as troop speech and behavior.

Another cable, from the Los Angeles Council to the Government of Japan in Tokyo: "We are doing everything in our power to establish inside contact in connection with our efforts to gather intelligence materials." Further on it continues, "We plan to establish very close relationships with various organizations and in strict secrecy have them keep these military establishments under close surveillance. Through these means we hope to obtain accurate and detailed intelligence reports. We have already established contact with absolutely reliable Japanese in the San Pedro and San Diego area," both of those areas in southern California along the coast, "who will keep a close watch on all shipments of airplanes and on other war materials and report the amounts and destinations of such shipments. The same steps have been taken with regard to traffic across the United States-Mexico border. We shall maintain connection with our second generation who at present are in the U.S. Army, to keep us informed of various developments in the Army. We also have connections with our second generation working in airplane plants for intelligence purposes. With regard to the Navy we are cooperating with our naval attache's office and submitting reports as accurately and as speedily as possible." Then there are a number of other cables in the same regard.

Mr. President, I also want to dispel some of the misconceptions that have been fostered about the conditions that existed in the relocation centers. The governing body of the relocation centers, the War Relocation Authority, was headed by Mr. Dillon Myer. I quote again from the Honorable Senator Hayakawa:

> Mr. Myer did everything possible to make life tolerable for the internees. He encouraged camp self-government, hired teachers from outside to continue the education of the children, sent WRA staff around the East and Middle West to seek college admittance for Nisei who had graduated from the camp high schools. One result was that many Nisei students who, without enforced evacuation from the west coast, might have stopped with a high school education to work in their father's shops or farms, instead went on to college, including prestigious and private institutions such as Antioch, Oberlin, and Mount Holyoke, as well as to such great public institutions as Minnesota, Michigan, Wisconsin, and Purdue.
>
> A large number of young people—middle-aged people by this time—from very modest families got a college education which they otherwise would never have if they had not been sent to relocation camp.
>
> The officials of the staff of the WRA with a few exceptions were deeply concerned about the injustice of the relocation program, eager to restore the Japanese Americans, especially Nisei, to normal American lives. They fanned out over the United States east of the Rockies to seek employment for them. You must understand that the Japanese Americans that were put into camps were only those who lived west of the Rockies. If you lived east of the Rockies—Salt Lake City, Denver, Chicago—they left you alone, because you were not considered to be a military danger. I was living in Chicago thank goodness.
>
> * * * * *
>
> Everywhere the Japanese Americans went, they impressed their employers by their industry and loyalty, so that more were summoned from the camps—scientists, teachers, mechanics, food processors, agricultural workers. By the time the order excluding Japanese from the west coast was rescinded on January 2, 1945, half the internees had found new jobs and homes in mid-America and the East.
>
> I emphasize this last point because the relocation centers were not "concentration camps." The younger generation of Japanese Americans love to call them concentration camps. Unlike the Nazis, who made the term "concentration camp" a symbol of the ultimate in man's inhumanity to man, the WRA officials worked hard to release their internees not to be sent to gas chambers but to freedom, to useful jobs on the outside world and to get their B.A. at Oberlin College.
>
> * * * * *
>
> I point out these facts to emphasize the point that to call relocation centers concentration camps, as is all too commonly done, is semantic inflation of the most dishonest kind, an attempt to equate the actions of the U.S. Government with the genocidal actions of the Nazis against the Jews during the Hitler regime. As an American I protest this calamity against the Nation I am proud to have served as an educator and even prouder to serve as a legislator.
>
> Now, the relocation center at Tule Lake, Calif., was different from the others. It was there that those who resisted the evacuation and internment, including a Japanese veteran of the U.S. Army in World War I, a Nisei who renounced American citizenship in protest against the relocation, and other angry people were sent to isolate them from those who patiently accepted their internment. There were frequent disturbances at Tule Lake.

Mr. President, I ask unanimous consent that there be included in the RECORD at this point a copy of the testimony that Mr. Myer gave before the Commission in 1981.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

TESTIMONY OF DILLON S. MYER

My name is Dillon S. Myer, and I was appointed by President Franklin Delano Roosevelt, June 1942, to head the War Relocation Authority, which had been established under Executive Order 9102, March 18th, 1942.

Executive Order 9102 was a completely separate and distinct order under the Presidential wartime powers, and was a civilian agency. Unlike Executive Order 9066, February 19th, 1942, which gave the Western Command extraordinary powers to wage war successfully by specifying that "any and all persons" may be removed from military designated areas, Executive Order 9102 established an agency of the government responsible for establishing centers into which persons of Japanese ancestry could reside or relocate away from the red zones of the military designated areas on the west coast.

The first director of the War Relocation Authority, Milton Eisenhower, consulted with me regarding the name of the centers, and it was agreed that the best name was "relocation centers", in view of their function.

The function of the War Relocation Authority was one of arranging relocation into normal communities for all evacuees in our centers. These communities were located throughout the United States away from the sensitive west coast.

To carry out the business of the War Relocation Authority, we established regional relocation offices for the purpose of finding employment for the evacuees, to help educate the public as to their status, and to urge evacuees to move out of the centers.

We took very seriously our responsibility to get as many evacuees out of the centers into other communities, and several thousand did. There were still several thousand in the relocation centers at the end of

World War II. Many of these were Issei, who were fearful of public reactions because they were Japanese nationals.

We in the War Relocation Authority tried to do the most constructive job possible in the placement of evacuees into communities and to provide temporary living conditions for those who chose to remain at the centers.

Because of my nearly three decades of progressive activity in the agricultural field, I was considered ably qualified for the arduous and trying times in administering the relocation centers which in many instances would have had to be self-productive with regard to feeding such vast populations which were so dependent on our government for even the most basic needs.

These needs were furnished by way of medical/dental care, housing, food, clothing, recreational diversion, and foremost the proper educational facilities for the thousands of young Americans of Japanese ancestry who naturally were brought with the adults, who made the final decision to either relocate to the interior, or use the relocation centers as wayside shelters for several months, or who chose to remain for the duration.

One fourth of all American-born of Japanese ancestry in the War Relocation Centers were only 15 years of age, and many more were much younger. In keeping with the Japanese tradition, the War Relocation Authority worked very hard to keep families together. In many instances, Americans of Japanese ancestry left families to continue their education in colleges and universities, and many other patriotic Americans participated in the war effort by fighting for their country.

Those who did this left older brothers and grandparents or younger brothers and sisters at the relocation centers, fully confident that I and my staff would see to their needs.

I have been greatly concerned about the misuse of terms and misstatements by some regarding the real objectives of the War Relocation Authority and the relocation centers. There has been a practice in some areas to refer to the relocation centers as "concentration camps", even though the United States Supreme Court spelled out the difference between concentration camps and relocation centers in the October 1944 term, landmark decision, *Fred Korematsu v. United States*, in which our highest tribunal stated, "we deem it unjustifiable to call them concentration camps with all the ugly connotations that term implies."

As early as August 29th, 1973, I heard about the use of this offensive terminology and thought it was popular just among some of the younger Japanese Americans to use this terminology, probably due in part to the fact that two different books have been published with the same title, Concentration Camps, USA.

I found it useless to protest at the time and believed that any public protest from me would only set the argument more deeply. I felt the people who were using the term loved controversy, and anything I said in public would only add to the fire of controversy.

As you might expect, I did not and do not like the idea of the term "concentration camps" instead of relocation centers for the reasons set forth in my book, Uprooted Americans. I especially do not like the adopted term, because I do not want to go down in history as a director of "concentration camps". It's offensive to me and to those dedicated members of my staff.

When the War Relocation Authority was preparing to close the final chapter in this most misunderstood period of American history, the Japanese American Citizens League, representing their members and the vast majority of all persons of Japanese ancestry in the United States, held a testimonial banquet May 22nd, 1946, at the Roosevelt Hotel in New York City.

At this testimonial banquet, I was presented with a citation and many testimonials which, I was told, represented the affection and esteem in which I and members of my staff were held by the evacuees whose lives and ours were so intermingled, dependent one upon another during this great wartime tragedy.

But as the Supreme Court stated, and I must confirm that war brings tragedy to all, that "Citizenship carries its responsibilities as well as its privileges, and in time of war the burden is always heavier."

More than 20 years later, another tribute was given me by these same evacuees lauding the WRA, the War Relocation Authority as "a living tribute to the correctness and vision of war relocation policies and practices".

Leading these tributes was Washington representative of the Japanese American Citizens League, Mr. Mike M. Masaoka, who today has joined with those who have demeaned me and my staff of dedicated individuals, most of whom are no longer here to defend themselves and their honorable wartime actions.

When I learned the names of those who are now using the term "concentration camp" and are asking for redress and reparations, I was moved to tears and could not help recalling that it was these very men who had kissed my hand in gratitude.

Mr. Masaoka wrote a complementary Foreword to my book UPROOTED AMERICANS, and in it he stated that he was one who "has probably lived closer to the experience of those of Japanese ancestry in the United States from just before December 7th, 1941, than almost anyone else, first as the National Secretary of the Japanese American Citizens League on the west coast prior to and during the evacuation", and that he had personal knowledge of what Dillion S. Myer "has meant and means to those of Japanese ancestry in the United States".

Why has this man and those who paid tribute now forsaken me and my country? Why do they dishonor both?

Some who were not even born or were too young to remember, have told stories such as "a child being shot by a sentry". My memory is not so good anymore, but this is not the kind of incident that I would forget. Another criticism aimed at me is my advancing age and state of health. Then why can Mike Masaoka's testimony be accepted with more credence than mine? He is also 40 years older.

There have been stories advanced about people being shot trying to escape the relocation centers or segregation center of Tule Lake. I know of no such instance where people were shot while trying to escape. If anyone was shot, I would have known about it. I have no memory nor is there such a record of anyone being shot while trying to escape. Shootings due to riots and uprisings, yes. But the trouble was not between the United States military forces, but rather between the pro-Japan and pro-American forces within the centers themselves.

Because Manzanar relocation center and Tule Lake segregation center were located in California, which was a military designated zone, evacuees could not come and go as freely because they were in the evacuated areas. But many by the thousands were relocated as the War Relocation Authority was successful in finding jobs and did its very best to get people to leave the centers once jobs were available. And of course, many thousands did leave and became a part of the overall war effort.

The War Relocation Authority was established only after evacuees who moved out on their own ran into trouble from the local population in certain areas where wartime hysteria and the climate of war made it difficult to distinguish between Japanese and Americans of Japanese ancestry.

Many of the older aliens refused to leave the centers because they felt more secure and remained in peace with their families.

It is inaccurate to refer to persons who have been evacuated from the west coast as "Japanese". The Japanese are people who live in Japan. Although there were many alien adults among the evacuees, not in all cases were these "Japanese". Even in the case of aliens, they had come to the United States because they wanted to live here and earn a living, and two-thirds of their children were born here and were thus United States citizens.

Likewise the term "camp", when used to refer to a relocation center, is likewise objectionable. It leads people to confuse the relocation centers administered by the War Relocation Authority with the detention camps and internment camps administered by other agencies.

The evacuees were not "internees". They had not been "interned". Internees are people who were individually suspected of being dangerous to the internal security of the United States, who had been given a hearing on charges to that effect, and were then ordered confined in an internment camp administered by the army.

It is true there were armed guards at each center. These guards, in addition to other problems, helped protect the people in the centers from misguided attacks from local citizens. These guards were the minimum of external security, and in the event of riots, were not sufficient to quell the uprising, so that military aid had to be called in during the trouble with pro-Japan forces within the centers.

I received a copy of a letter from Dr. Harold S. Jacoby, who was my internal security officer at Tule Lake relocation center before it was turned over to the military as a segregation center for the disloyals.

Dr. Jacoby wrote that "most of the talk about 'armed guards', 'barbed wire fences' and 'machine guns' come from persons who were not in the camps or who were too young to know much about them. This is the part of the rhetoric that has grown up in recent years, and bears very little relationship to facts. Yes, there were camp perimeters, and these were perfunctorily controlled by MP's in Jeeps. And they carried side arms. But the perimeters were quite a distance away from the main camp areas, which made them 'out of sight and out of mind' most of the time".

The War Relocation Centers were not only self-governing, but the evacuees were their own police force within the block areas. As Dr. Jacoby stated in his recent letter, February 1981, this redress and reparations "isn't a Japanese American issue, it's a JACL issue, motivated by a desire to be militant".

I am not very happy with my efforts with writing the introductory remarks for Lillian

Baker's book, *The Concentration Camp Conspiracy: A Second Pearl Harbor*, but I hope her book will be published and widely purchased.

It is with my whole-hearted consent and appreciation that I have allowed her to read my testimony before this Commission and ask that this testimony be made part of the record of this Commission and part of the historical accuracy of this widely propagandized and misunderstood action of World War II, the evacuation and relocation of persons of Japanese ancestry on the west coast of the United States.

Mr. HELMS. Mr. President, Congress consistently spends much more than it takes in. We have already placed an unfair fiscal burden on the next generation because of the failure of Congress to control spending. It strikes me as the height of fiscal irresponsibility for our generation to further burden the next generation for what we perceive as the mistakes of a past generation.

Where is this $1.3 billion going to come from? I've heard no one worry about that. Are we simply to pile it on to the huge Federal debt that we add to year after year and let the next generation worry about it?

Our distinguished colleague in the House, Congressman **Bill Frenzel**, captured the essence of these monetary payments when he said: "The Committee is asking us to purge ourselves of somebody else's guilt with another generation's money." [17 Sep 87; H7583]

Mr. President, furthermore, I find the rationale for reparations set forth in the Governmental Affairs Committee report to be incredible. The report states that "[t]he ultimate goal of this legislation is to prevent the occurrence of another similar event."

Does any Member of this body seriously believe that any future administration will be deterred from taking similar action because we have required compensation 45 years after the fact—when most, if not all, of the people responsible for the decision have long since left Government service. In fact most are probably no longer alive.

Such an attenuated relationship between the commission of an act that, in retrospect, is perceived to be wrong, and the sanctions related thereto have nothing to do with deterrence. It represents only the misguided notion that the dollar sign is the only genuine symbol of contrition.

In fact, Mr. President, the rationale stated in the Commission report itself eloquently undermines the recommendation for reparations in these words:

> Two and one half years behind the barbed wire of a relocation camp, branded potentially disloyal because of one's ethnicity alone, these injustices cannot be translated into dollars and cents. Some find such an attempt in itself a means of minimizing the enormity of these events in a constitutional republic. History cannot be undone. Anything we do now must inevitably be an expression of regret and an affirmation of our better values as a nation, not an accounting which balances or erases the events of the war that is beyond anyone's power.

Mr. President, I further oppose the manner in which these individual payments would be distributed. The bill would unfairly impose heavy administrative burdens on the Attorney General to investigate, find and pay each eligible recipient.

The Attorney General is specifically prohibited even from requiring eligible persons to make application for these payments. This duty would require the Department to commit a considerable amount of manpower and resources to the search for eligible recipients.

Mr. President, let me speak briefly about title III of the bill, entitled "Aleutian and Pribilof Islands Restitution." The Commission observed that "[t]he Aleut evacuation and the removal of persons of Japanese ancestry from the west coast during the same period were separate events—neither caused nor influenced the other * * *. The evacuation of the Aleuts was a reasonable precaution taken to ensure their safety." (*"Personal Justice Denied,"* at 318.) The focus of the Commission's report was upon its conclusion that "the evacuation of the Aleuts was not planned in a timely or thoughtful manner," leading to hardships upon the persons exposed to the condition flowing from their evacuation from the war zone.

Mr. President, many activities undertaken by the Government during World War II could be criticized, in restrospect, as untimely or poorly planned. However, I don't believe that hardships of persons properly removed from a war zone provide any justification for special treatment for that group as opposed to other individuals whose lives were disrupted and who suffered hardship or death during the war.

Grave injustices are often the product of war. Whether we are talking about the loss of limb or life or the loss of property, the result is often agony and human suffering. From "The Longest Day" on the beaches of Normandy to "A Bridge Too Far" in Arnheim, war turns both logic and life upside down. The survival instinct does not always produce well-conceived decisions when scrutinized with the benefit of 20/20 hindsight. The result is that lives are shattered and families permanently scarred.

What do we say to the families of our men who died in Sicily not because they were killed by enemy fire but because our bombers mistakenly identified them as the enemy?

Mr. President, I fear the potentially grave consequences of extending the principle of restitution contained in this bill. Attempting to put a price tag on misbegotton policies of the past poses the spectacle of unwieldy precedent. It can be argued that the denial of civil rights can just as easily derive from Government inaction as from Government action. It is not too difficult to think of arguments concerning the need for restitution for the period before the 1954 decision in Brown versus the Board of Education.

There is not one here I think that would suggest that $20,000 is the value of having been denied one's liberties for a period of time. I have never heard that argument. There is no one that suggests that $20,000 makes things right. There is no one that suggests that $20,000 is adequate compensation for the time one spent away from home and in a relocation center. So what is it? It is argued that it is an indication of the significance, of the symbol, of the sincerity of our action.

Mr. President, have we reached such a state in our society that unless money is exchanged, the sincerity of our expression is brought into question? The logic of materialistic reductinism in my judgment not only has the potential of demeaning the gravity of the experience at issue but of subsuming our overcoming the more important task of ensuring that future generations are taught the lessons to be learned from this unfortunate episode in our Nation's history.

There are many cases of legal wrongs in America where we do not respond with money damages. I do not know anyone yet anyway who is advocating that we go back and pay $20,000 to each of the black schoolchildren of this country who may have been victimized by the separate but equal education policies that prevailed before the Supreme Court decision in 1954 declaring that to be unconstitutional.

The fourth amendment to the Constitution says that we shall not permit unlawful searches and seizures. Pursuant to that, we developed the Miranda warning. Are we going to now go and say that those who were incarcerated after convictions that did not entail the reading of Miranda rights should be paid by $20,000 by Congress because that civil right was violated?

The eighth amendment to the Constitution, says that we shall not allow cruel and unusual punishment, and yet we know that there were prisoners detained at Alcatraz who were kept in dungeons and chained. Shall we go back and award them $20,000 because their civil liberties were violated?

Mr. President, recently another unfortunate event occurred which suggests that a significant amount of the support for this legislation is based on nothing more than the money.

Last fall, our distinguished colleague in the House, Congressman **Daniel Lungren**, was picked to fill the vacant seat of California State Treasurer. At the time, no one predicted that he would have any problem being confirmed in his home State of California. Congressman Lungren had fully supported the establishment of the Commission; he had been the only Member of Congress to serve as a member of the Commission; and he supported the principle that a national, public apology and a massive, national educational effort is warranted.

Mr. President, no one can question the genuine concern and regret of Conressman Lungren over the relocation of Japanese-Americans. I ask unanimous consent that a copy of Congressman Lungren's testimony before the House Judiciary Subcommittee on Administrative Law and Governmental Relations be printed in the Record at this point.

There being no objection, the Congressman's testimony was ordered to be printed in the Record, as follows:

Statement of Hon. Dan Lungren, a Representative in Congress From the State of California

Mr. Lungren. Thank you, Mr. Chairman.

First I want to thank you for the opportunity to testify before this subcomittee. I had testified previously when the subcommittee was under previous leadership.

As we all know, the bill before us is the legislative byproduct of the recommendations of the Commission on Wartime Relocation and Internment of Civilians. Nearly 6 years ago Congress created this Federal Commission to review the facts and circumstances surrounding Executive Order 9066 signed by President Roosevelt which resulted in the exclusion and internment of 120,000 Japanese-Americans and resident aliens on the west coast.

In June 1983, the Commission, by an 8–1 vote, recommended that the United States pay $1.5 billion to provide a one-time per capita compensatory payment of $20,000 to each of the surviving persons excluded from their places of residence.

As the vice chairman of the Commission and the only sitting Member of Congress to serve on that Commission, I was the sole dissenter on the issue of individual reparations. I want it clearly understood that I signed off on and supported the major recommendations and findings of the Commission but did dissent on this matter.

I got involved in this Commission because I come from a part of the country where this was very much a part of real life following Pearl Harbor, and yet as I was growing up I had no knowledge of it. I had no idea that Japanese-Americans or Japanese nationals who had shown no hint of disloyalty to the United States were removed from that area of the country and even my own area. I was astounded to learn from the testimony of a doctor the very hospital that I was operated on when I was 4 years old, that he was removed from that staff shortly after Pearl Harbor because he was considered a risk.

It was unknown to me that there were large areas of Terminal Island, which presently houses the Long Beach Naval Station and the Long Beach Naval Shipyard—that there was a large population of Japanese who had been there for years and that they were removed, never to return again.

I thought it important that we learn about that and if I didn't know anything about it, being from that area, having lived my whole life in that area, most other Americans of my generation and generations after would not know, and that we ought to set the record straight.

It seems to me that we ought to recognize that although H.R. 442 was introduced in January 1985, the concept of making reparations for redressing grievances of these American citizens of Japanese dissent has already been before the Congress. As my colleague, Mr. Lowry, has pointed out, he had a similar bill in 1979.

It was during that time that I cosponsored H.R. 5499 which, instead, established the Commission on Wartime Relocation and Internment of Civilians. The subcommittee, under the direction of former Congressman George Danielson, rejected the idea at that time of going ahead with a comprehensive claims program granting monetary redress to the injured parties.

In reviewing Congressman Moorhead's floor statement in the July 21, 1980, Congressional Record, it becomes readily apparent that the committee was concerned at that time about the tremendous cost of such a program, and after having reviewed the legislative history of the Commission, it appears that H.R. 442 or other legislative vehicles carrying provisions for reparations may have never received a legislative review had it not been for the compromise made between Members of Congress supporting the concept of the Commission, such as myself, and those supporting a reparations type bill.

In fact, in scanning the Senate testimony during the 96th Congress which considered that legislation and passed it out, one witness quoted a Senator as saying, "The only condition that I made the other four Members of Congress to agree to was no monetary reparations would ever be asked. If they had not agreed, I would not have endorsed that bill."

At the very least, I think it is clear that monetary reparations were never the sine qua non of future governmental actions, and I must say that, because I recall talking with other Members at the time I supported this legislation—talking with other Members of the House about whether I should serve on that Commission. There were a lot of other Members who could have asked for that assignment. No others, that I'm aware of, asked for it. I asked for it because of my strong feelings on the subject.

But at that time it was never said to me, it was never stated, that unless the commission comes out with recommendations of reparations and unless the Congress follows through with reparations, anything you do is meaningless, and I find it rather discomforting to have it suggested now that, unless reparations are a part of what I think would be a proper apology, that it means nothing.

Once the recommendations of the Commission were released, it has become difficult to restrain the cry for redress and reparation. As the sole dissenter on the issue of individual reparations, some might conclude that I find fault with the basic conclusions. I do not. The history of the period leaves little room for doubt that a grave injustice was committed, that Executive Order 9066 compelled the internment of nearly 120,000 Japanese-Americans and resident aliens living on the west coast.

Parenthetically, I might remark that it was interesting to me to find out that Japanese-Americans were not removed from Hawaii; they were removed from the west coast. They were not removed from the area where the attack from Japan took place, and the reason was, when the recommendation first went to the military commanders in Hawaii, the military commanders in Hawaii demurred, saying that if you removed the Japanese Americans and Japanese nationals from Hawaii, we wouldn't have the work force we needed to do the things that were necessary to have the support for our defense on Hawaii. So there are some rather interesting factors that come into consideration when you analyze the whole area.

I did fully concur with the findings of the Commission that the implementation of the Executive order was largely a result of race prejudice, hysteria, and a failure of political leadership. But I happen to be able to say that from the point of hindsight, and they say hindsight is 20/20.

As one who was born after World War II, had my father been killed instead of just being wounded in the Normandy invasion, I wouldn't have the privilege of serving here; I was conceived and born after World War II. I doubt that my generation has a full appreciation for the difficult plight that the United States was in during the onset of World War II.

In one of the Commission's hearings, we had a military historian from the Department of Defense devote a large portion of the meeting describing the terrible fix that the United States was in. In his book, "Born Free and Equal" published in 1944, Ansel Adams, a vocal opponent of the internment process until his death, refers to these difficult circumstances of the war in these words:

"The spectacular victories of Japan, the crippling of our fleet at Pearl Harbor, the possibility of invasion of our west coast, all were facts of tragic import and at the time were considered more than ample justification of the mass exodus."

In addition, there was the threat of public retaliation against the Japanese American population.

"We may feel that racial antagonisms fanned the flame of decision, but the fact remains that we were in the most potentially precarious moment of our history, stunned, seriously hurt, unorganized for actual war."

These were his words. Please don't misunderstand. I believe the internment and relocation experience of our fellow Americans and resident aliens was wrong. However, when a Nation is at war, fighting for its very survival, it should come as no surprise that wrong-headed decisions can be made.

Another area I believe that has not received the kind of treatment it deserved were the Magic cables. As a commissioner, I know we did not thoroughly explore this avenue. I know that it came to our attention late, and let me take it one step further: Had I not insisted that an addendum be included on the Magic cables, it would not have been done by the Commission.

Again, this does not in any way give credence to the decision for the internment. However, it does shed a great deal of light on the circumstances of why President Roosevelt may have made the decision to relocate and intern. Now just picture messages such as these being sent by the Japanese Embassy in Washington coming across President Roosevelt's desk.

I want to make sure that when I state these, this does not mean this was the fact, this does not mean the Japanese Americans or resident aliens were in fact disloyal, but this is what the Japanese—that is, the Japanese who were here serving the Japanese Imperial forces, the Japanese Government, not Japanese Americans, but these are the cables they were sending back to their people in Japan which we intercepted and we decoded:

"Utilization of our second generation and our resident nationals. In view of the fact that if there is any slip in this phase, our people in the United States will be subjected to considerable persecution. The utmost caution must be exercised. We shall maintain connection with our second generations who are present in the U.S. Army. We also have connections with our second generations working in airplane plants for intelligence purposes."

Now that's what President Roosevelt had before him. He didn't know the hindsight we were going to be given that not one Japanese American was disloyal, and that's the crux of the problem we have here; we're judging today; and I think it is absolutely necessary for us to say an apology is in order and enact an apology to make sure people know Japanese Americans were not disloyal. However, I think it is another thing to say in retrospect that President Roosevelt was really acting out of race prejudice, because I don't think that's the case.

We do know now that not one Japanese American or national was accused or convicted of one act of espionage. However, the events surrounding the internment were highly charged. Men of great stature, such as Earl Warren, were personally lobbying President Roosevelt to favor relocation of Japanese Americans. Furthermore, the Congress, the White House, and the U.S. Supreme Court sanctioned these actions. Even well-respected papers at that time like the Los Angeles Times supported the relocating of Japanese Americans. Again, in retrospect, they were wrong, but I think we have to focus on what President Roosevelt had in front of him.

As a Member of Congress from the Republican Party, the party around whose neck has been hung the visage of Herbert Hoover and the Depression for years and years and years, it might be easy to say that the most famous Democratic President, Franklin Delano Roosevelt, signed the Executive order for political reasons. However, I have to think, after reviewing the record, that it was for a much higher reason. He as well as his Cabinet, I believe, had our Nation's best interest at heart.

It is far more difficult to analyze the decision in this context, in the context of all the surrounding circumstances, but I believe we do a disservice to history, we do a disservice to future generations, if we simply say this was race prejudice.

What do we need a commission for? What does that teach us? We know there are elements of race prejudice in every country, including our own, but the question is, how do you avoid having that complication in other legitimate interests, and how do you avoid making the mistakes we made in the past? I don't have the answers to that.

I don't think the historical record we created by the Commission is complete. That's why I, for instance, support a fund for historical scholarship, so that by analyzing this chapter in history we can avoid these things in the future. Indeed, I think we'll only learn from the mistakes of this historical episode and avoid the repetition if we recognize that there was more to this than simple racism.

Let me express my concerns as to why I believe monetary redress and/or reparations would not be appropriate.

Although the work recently completed by the commission comes over 40 years after the event, the U.S. Government has been making an honest effort to correct this American tragedy. We ought to review the actions.

In 1948 Congress passed the Japanese Americans Evacuation Claims Act. This gave persons of Japanese ancestry the right to claim from the Government real and personal property losses that occurred as a consequence of the exclusion. Although it was below actual economic losses $37 million was paid in claims.

In 1972, the Social Security Act was amended so that Japanese Americans who were over the age of 18 at the time of their internment would be deemed to have earned and contributed to the Social Security System during that period and therefore receive benefits as a result.

In 1978 the Federal civil service retirement provisions were amended to allow the Japanese Americans civil service retirement credit for time spent in detention after the age of 18.

On February 19, 1976, President Ford issued the Proclamation Order No. 4418 which rescinded and apologized for Executive Order 9066 exactly 34 years after the event.

The U.S. Government has also sought to redress this rather dark moment in history through the establishment of the commission and its detailed and comprehensive analysis of the event. We have made the recommendations public through the report "Personal Justice Denied."

I'm also encouraged that the Smithsonian Institution plans in the fall of 1987 to present an exhibition entitled "With Liberty and Justice for All: The Japanese American Experience in the U.S. Constitution" detailing this scene in American history. The purpose of the exhibit is to enhance our Nation's awareness of this particular aspect of World War II.

It's vitally important that we make these types of public acknowledgments. We simply cannot forget. I would suggest that we carry the public exposure further by making possible similar exhibitions.

Furthermore, throughout the country, high school, university, and history classes should stress the human cost of war by discussing such important human events as the internment of Japanese Americans and resident aliens. Such acknowledgments would only serve to educate Americans of this and future generations to the sometimes tragic occurrences that are part of our Nation's history and, I might say, give us clues as to how we avoid some of those most tragic occurrences.

An official apology by way of legislation and the establishment of the fund, that I mentioned before, for historical scholarship would certainly be appropriate.

It's impossible to say whether these actions will ever provide total recompense to the entire Japanese American population. Nonetheless, I believe our Government has taken several genuine efforts in an effort to adequately express our sense of concern over executive actions taken nearly a half century ago.

Perhaps the question we must ask ourselves is whether the expenditure of nearly $2 billion is the only way to show proper remorse. Do we truly believe that nothing can be genuine unless it involves coin of the realm? Have we reached such a state in our society that unless money is attached to it nothing can be a sincere expression of concern or action?

Today we all know we have an insurance liability crisis upon us. In the midst of this crisis, television ads for law firms tell us that the coin of the realm argument is alive and well in some quarters of our society. However, I think most Americans are beginning to see the adverse social implications of such a position.

Finally, we must pose this question: If Japanese Americans and the resident aliens that were interned are allowed to seek redress, does that mean all military decisions can and will be reviewed by a generation later?

What do we say to the families of our men who died in Sicily, Italy, because our bombers—our bombers, U.S. bombers—mistakenly identified them as the enemy? Can they petition the Congress and then the courts? What do we do to the military and our own national security if we set a precedent that informs them every decision made will be reviewed at a given time in the future? What do you say to my father who was injured in France, or what do you say to my mother who was denied the presence of my father for 2½ years while he fought through the wars of the European Theater? Moreover, in light of the current fiscal environment, the passage of any sizable reparations bill by the Congress appears very unlikely.

When this request for individual funds is placed against those of Social Security recipients, food stamps, and nutrition programs, senior citizen housing, and the national defense needs within the context of an already hemorrhaging Federal deficit, I have to ask the question, Does it stand up?

I'm fearful that should such a principle of restitution be carried further to its logical extension, such a principle of restitution, in fact, could have untold consequences. Should the Chinese be paid back for their underpaid role in helping the railroads open the American West? Should people of German ancestry be compensated for being denied rights in World War I?

Or, as the August 15, 1983, issue of the New Republic stated:

"If we compensate Japanese Americans for their losses, are we not then morally bound to hand the country back over to the Indians or bankrupt the Treasury paying for what our ancestors stole, and are we to calculate the present-day value of slave labor and start mailing out checks?"

Finally, do we as a nation want to set a precedent and place a price tag of $20,000 apiece on the loss of individual freedom? Quoting from the New Republic again:

"It is fine for one generation to judge another by its own elevated standards, but putting a price tag on mistakes of the past establishes an unwieldy precedent."

The conclusions of the Commission, I believe, are sound. Race prejudice, lack of political leadership, and war hysteria can and did lead this Nation to make a gross and tragic mistake of the internment. I might say, there were gross and tragic mistakes made by our military officers at the highest levels during World War II that resulted in the loss of life, maiming, permanent disablement to men who were in the military.

In conclusion, I would stress the imperative of not getting caught up in an acrimonious debate on monetary redress. I think it's far more important for us not to lose sight of the lessons to be learned from this episode in our Nation's history. This Nation enjoys a rich history of respecting the rights of its citizens. Perhaps the proper response now should be a reassertion of the words of President Ford through legislation of Congress as he confidently stated that we have learned from the tragedy of that long ago experience forever to treasure liberty and justice for each individual American.

Thank you, Mr. Chairman.

Mr. HELMS. But Congressman LUNGREN made one mistake: as one can see from his testimony, he opposed the individual reparations provision. In fact, when H.R. 442 legislation was considered in the House, Congressman LUNGREN offered an amendment to strike the reparations from the bill.

And what the result of Congressman LUNGREN's individual payments? Let me read to you from an article that appeared in the February 25, 1988, edition of the Washington Post:

> Lungren, a conservative from Long Beach, is in a pitched battle for the job, almost solely because of the efforts of [Donald] Tamaki, [Henry] Der, [John] Ota, [Hoyt] Zia, and dozens of other Asian-American political activists. . . .
>
> Wealthy Asian Americans, distressed by Lungren's outspoken opposition to reparations for Japanese Americans interned during World War II, have lobbied against his confirmation, a rare move for persons who usually ask little more than a favorable attitude toward business among politicians they generously support with contributions.

Mr. President, I believe that the unfortunate situation in which Congressman LUNGREN finds himself demonstrates what he, Senator Hayakawa, Dr. Masugi, and so many others feared: the focus on individual monetary payments obfuscates the true issue involved in this debate and demeans what should be an important lesson of history.

Mr. President, before we move to a final vote on this bill, I ask unanimous consent that several items be printed in the RECORD at the conclusion of my remarks. First, is a very thoughtful article by Mr. Robert K. Gordon that appeared in The New Republic magazine; second, is a letter to the editor by Dr. Masugi that appeared in the New York Times; finally, there is an excellent article by the syndicated columnist James Kilpatrick.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. President, as I stand here and argue against this bill, I'm sure many proponents of the bill will simply say that I can't empathize with the plight of the Japanese-Americans who were relocated or that I have no sympathy for the ordeal they suffered. So let me conclude with the words of Senator Hayakawa, whose sincerity and credentials no one can question:

> The Nisei, with their courage, and their parents, by their industry, have won for Japanese Americans the admiration and respect of all Americans. Japanese Americans have an average level of education higher than any other ethnic group, including whites. They have a higher representation in the learned professions—medicine, law, engineering, computer science—than other ethnic groups—and in this respect they are doing as well as another group famous for their respect for learning—namely, the Jews. The per capita income of Japanese-Americans is $500 a year above the national average. And they have, with a population of less than half a million, three representatives in the U.S. Senate, while the blacks, with a population approaching 23 million, have none. What more can Japanese-Americans want? We are living today at a time when Japanese-Americans are almost a privileged class, with their notorious scholastic aptitude, their industriousness, and their team spirit in whatever occupation they find themselves.
>
> Mr. President, I am proud to be a Japanese-American. But when a small but vocal group of Japanese-Americans calling themselves a redress committee demand a cash indemnity of $25,000 for all those who went to relocation camps during World War II, including those who were infants at the time and those who are now dead, a total of some two and three-quarters of a billion dollars—we have been seeing this in a series of articles being published in the Washington Post—my flesh crawls with shame and embarrassment.
>
> Let me remind the Japanese American Redress Committee that we also live in a time when American industry is seriously threatened by Japanese competition—in automobiles, steel, cameras, television, and radio sets, tape recorders, and watches. I warn the Japanese Americans who demand about $3 billion of financial redress for events of 41 years ago from which nobody is suffering today, that their efforts can only result in a backlash against both Japanese Americans and Japan. And to make such a demand at a time of the budget stringencies of the Reagan administration is unwise enough, but to make this demand against the background of their own record as America's most successful minority is simply to invite ridicule.
>
> Let me remind the Japanese Americans that we are, as we say repeatedly in our Pledge of Allegiance, "one nation," striving to achieve "liberty and justice for all."
>
> This means—and I say this to black Americans and Mexican Americans and all other ethnic political groups—let us stop playing ethnic politics to gain something for our own group at the expense of all others. Let us continue to think of America as "one" nation, under God, indivisible" and let us act accordingly.

EXHIBIT 1

[A very thoughtful commentary in the New Republic]

CASUALTIES OF HISTORY

(Robert K. Gordon)

War is seldom a congenial time for civil liberties. When the siege mentality sets in, nations and leaders behave in ways that would be unthinkable in calmer times. During the Civil War President Lincoln summarily suspended the writ of habeas corpus and ignored Chief Justice Taney's ruling that the suspension was unconstitutional. During World War I, Justice Oliver Wendell Homes brushed aside the First Amendment claims of several antidraft pamphleteers who had been branded as criminals for expressing their views. And during World War II the Supreme Court, in a ruling it later had the good sense to reverse, made the extraordinary assertion that compelling children in public schools to salute the flag—even against the dictates of their religion—did not offend their rights of conscience.

But the ugliest product of wartime hysteria in this century may have been the forced evacuation of one hundred twenty thousand American citizens and resident aliens of Japanese origin from the West Coast in 1942 and their confinement in internment camps. That ordeal is the subject of *Personal Justice Denied*, the lengthy report recently issued by a congressionally chartered panel. The Commission on Wartime Relocation and Internment of Civilians, whose members include former Supreme Court Justice Arthur J. Goldberg, and former chairman of the Commission on Civil Rights Arthur S. Flemming, branded the episode a "grave injustice" which was unwarranted by anything remotely resembling military necessity. "The broad historical causes which shaped these decisions," the commission found, "were race prejudice, war hysteria and a failure of political leadership."

All three branches of the federal government came away from the affair with sullied hands. Ten weeks after the bombing of Pearl Harbor, President Franklin D. Roosevelt signed an executive order authorizing the military to exclude from designated areas whomever they thought necessary, to guard against "fifth column activity." The ethnic Japanese were soon ordered to leave the West Coast, first "voluntarily," and then, when they failed to leave on their own, under Army escort. Evacuees were assembled temporarily at racetracks and fairgrounds, and then shipped off to "relocation centers" in barren areas of the West, where most of them remained for two-and-a-half years. Congress put its stamp of approval on the exclusion by enacting criminal penalties for violating rules issued under President Roosevelt's executive order, and the Supreme Court got into the act by declaring the evacuation constitutionally permissible.

Among the main instigators of the government's policy were West Coast politicans who yielded to the public clamor and took up the cry against the "yellow peril." Agitating for the exclusion of the ethnic Japanese from the region was a way of scoring easy points with a public that had been hostile to the Japanese for more than forty years before Pearl Harbor. It entailed virtually no cost, because the U.S.-born citizen generation of Japanese was just approaching voting age in 1940. Supporters of evacuation in California included the governor, Culbert Olsen, the mayor of Los Angeles, Fletcher Bowron, and the state attorney general, Earl Warren. Later, as Chief Justice of the Supreme Court, Warren said: "I have since deeply regretted the removal order and my own testimony advocating it, because it was not in keeping with our American concept of freedom and the rights of citizens."

A few voices of reason in the government, notably Attorney General Francis Biddle and others in the Justice Department, did protest the War Department's plan. "A great many of the West Coast people distrust the Japanese, various special interests would welcome their removal from good farm land and the elimination of their competition . . . ," Biddle wrote in a memorandum sent to President Roosevelt on February 17, 1942. "My last advice from the War Department is that there is no evidence of imminent attack and from the F.B.I. that there is no evidence of planned sabotage." F.B.I. Director J. Edgar Hoover, hardly known as a civil libertarian, told Biddle, "The necessity for mass evacuation is based primarily upon public and political pressure rather than on factual data." But in the end even Biddle was unwilling to approach the President and argue that the planned evacuation of the Japanese-Americans was unconstitutional, as long as the War Department deemed it a military necessity.

Even today a stubborn few persist in seeing no evil. John J. McCloy, then assistant secretary of war and one of the architects of the roundup, and now a New York lawyer, remarked not long ago that the mere suggestion that we ought to apologize to the Japanese-Americans sends him "up the wall." But the historical record is what should really send him up the wall. To this day, there is not a single documented case of sabotage or espionage by an ethnic Japanese in the United States. The simple fact is that the Nisei (the first generation of ethnic Japanese born in the United States) and the Issei (the immigrant generation) were presumed guilty by reason of racial affiliation.

Clearly, this country's treatment of Japanese-Americans during World War II was a moral outrage. But the issue raises a more troubling question: what, if anything should be done now to make amends for an offense committed by the United States government forty-two years ago? The commission's principal response, released as a recommendation to Congress earlier this summer has stirred up powerful emotions on all sides of the issue. The panel suggested that the government seek out every living evacuee—there are about sixty thousand—and pay each one $20,000 for loss of property and income. The total cost of the panel's recommendations would come to $1.5 billion. Congress has followed the commission's lead, and there are now bills to this effect in both Houses. The House version, introduced by Representative Mike Lowry, Democrat of Washington, would cost an additional $1 billion, because for every deceased or missing evacuee, $20,000 would go into a special fund. The Senate version, introduced by Senator Alan Cranston, has a similar provision but leaves the amount of the redress to "the appropriate congressional committees."

Individual financial redress has a certain commonsense appeal. Families in some areas were given no more than a few days' notice of the evacuation, and were forced to sell off farms, businesses, homes, and cars at distress-sale prices. As laborers in the internment camps, evacuees were paid a mere fraction of what they could have earned on the open market. It seems quite simple, then: since the government's unjust policies resulted in some very measurable costs to the Japanese, the victimizers—not the victims—ought to be the ones to pay. Unfortunately, the proposal for individual compensation is so weighed by complications that it cannot survive scrutiny.

From a purely administrative standpoint, the redress proposal is crudely fashioned. Although $20,000 may accurately represent the average economic loss of an evacuee, it is unfair to bestow this amount across the board. If the payment is intended as financial compensation rather than for "pain and suffering," as the commission contends, is it reasonable to "compensate" equally a farmer who was ruined and an infant whose losses were entirely of the unqualified kind? Also, because $37 million—an admittedly inadequately amount—was paid out under the Japanese-American Evacuation Claims Act of 1948 to those who could prove their losses, some evacuees would be doubly compensated. Finally, the commission's restriction of payments to the living deprives some internees' progeny of what arguably is rightfully theirs.

But the more fundamental difficulties involve what might be called "the equity issue." Fairness requires not merely a satisfying outcome in an isolated case, but consistent treatment for groups or individuals who have been wronged in similar ways. Two groups should immediately come to mind: American Indians and blacks. If we compensate the Japanese-Americans for their losses, are we not then morally bound to hand the country back over to the Indians or bankruptcy the treasury paying for what our ancestors stole? And are we to calculate the present day value of slave labor and start mailing out checks? The case of the Japanese Americans may seem distinguishable from the others because the payments would be "manageable," but it is a strange principle that compensates small injustices and lets immense ones go unremedied. Would anyone argue that temporal proximity gives the Japanese internment priority? Some would reply that settling older scores should come first.

These extreme examples are introduced not to muddle the issue, not to shrug off recent injustices by pointing to ancient ones, but to demonstrate the folly of viewing history as a big debit-credit sheet. The legalistic language of injury and compensation is a second tongue to most Americans. Thus it is not surprising that four decades after the fact, many still view the wrongs done to the Japanese as one hundred twenty thousand separate tort actions. It is fine for one generation to judge another by its own elevated standards, but putting a price tag on mistakes of the past establishes an unwiely precedent. No amount of money can reverse the loss of liberty, the prolonged disruption of family life, or the personal stigma of suspected disloyalty, all of which continue to exact a psychological price from those who were interned. But as the commission noted, lasting economic scars were minimal; "Entrance and acceptance into the mainstream of American society through the conventional modes of success have been largely accomplished." One might also argue—and some Japanese Americans have—that cash payments would trivalize the suffering of the evacuees and give the false impression that the score had been evened.

The commission had the right answers all along, but they were overshadowed by the proposal for individual compensation. To start with, the panel suggested that Congress pass a point resolution, to be signed by the President," which recognizes that a grave injustice was done and offers the apologies of the nation." The commission was also right to advise Congress to establish a special foundation to sponsor research on civil liberties issues, and to disseminate the commission's findings to textbook publishers, libraries, and educators. After all, ignorance and racism are what made it so easy for demagogues to play on popular fears about the Japanese-Americans in the first place. Distributing large sums of money would do nothing to eradicate these evils, but public education would.

[From the New York Times, Oct. 26, 1987]

FEW JAPANESE-AMERICANS WERE ACTUALLY INTERNED

To the Editor:

"America's Debt to Japanese-Americans" (editorial, Oct. 4) makes confusions typical of the partisans of proposed redress legislation, which calls for $20,000 payments to ethnic Japanese relocated in World War II, for an "education and research" fund and for a national apology.

You continually refer to the "internment" of Japanese-Americans, where even the partisan national commission report on the relocation, "Personal Justice Denied," is careful to distinguish between the relocation of more than 100,000 ethnic Japanese and the internment or imprisonment that was suffered by a few thousand aliens or others whose actions made them suspect.

This is an important point, for those who were relocated could readily secure permission to leave and re-enter the relocation centers, as my parents did, to seek seasonal employment or go to college. Government-offered jobs in the areas outside the restricted West Coast went begging. Contrary to the impression made by your words (and photograph!), those relocated could have property sent for, own cars and order from Sears catalogues. But these and numerous other historical misunderstandings made by critics of the relocation do not address the main problem with redress proposals.

First, critics of the policy do not understand the political situation of that time, thus preventing redress legislation from having any relevance to a future crisis. You blame racism and xenophobia for the decision to relocate. Xenophobia literally understood seems entirely appropriate toward a Japan that had just attacked and which itself issued fervent racial, nationalistic appeals. To appreciate this is not to justify racist practices that prevailed throughout the country in the 1940's.

Second, and more important, $20,000 redress payments made more than a generation after the fact do not address latter-day wrongs. They will doubtless make a rapidly assimilating minority more discrete than ever. Congressmen parceling out such windfalls from the earnings of the current generation are scarcely indulging in an educational exercise. Moreover, any money spent for "education and research on the internment" is likely merely to reaffirm the historical errors that scholars have noted in the redress literature. Hence it would be a "grievous wrong" for President Reagan not to veto such an inappropriate measure.

KEN MASUGI,
Washington, Oct. 15, 1987.

The writer is adjunct fellow of the Claremont Institute.

[From Human Events, Mar. 19, 1988]

JAPANESE-AMERICAN COMPENSATION: A BAD BILL

(By James J. Kilpatrick)

Now pending on the Senate's calendar, subject to floor debate at any time, is a bad bill that comes to us laden with good intentions.

At a cost of $1.2 billion, the bill would pay $20,000 each to those surviving Americans of Japanese ancestry who were interned on the West Coast in World War II. The measure ought to be quietly retired.

It is not easy—it is probably futile—to oppose the Senate bill. It heads for the floor bearing the names of 75 sponsors. A companion measure passed the House last September by a vote of 243 to 141.

Only a heart of stone, it is said, could fail to be moved by the injustice visited upon loyal American citizens 46 years ago. It is time to apologize, we are told; it is time to make amends.

The trouble with that compassionate plea is that it comes to us through a rearview mirror. It embodies the hindsight wisdom of the Monday morning quarterback. The bill carries a finding that "there was no military or security reason for the internment," but that is the conclusion now. It assuredly was not the conclusion then.

Two generations have grown up since the Japanese launched their attack on Pearl Harbor. Today we count the Japanese as friends and allies. In the winter of 1941-42 they were enemies.

Today it seems absurd to imagine that the Japanese might have invaded California. This seemed not at all absurd at the time. In 1988 we scarcely can imagine risks of sabotage and espionage. Reasonable men vividly perceived them.

Acting upon these fears, Congress authorized President Roosevelt to issue what became Executive Order 9066. Pursuant to that order, the commanding general of West Coast forces proclaimed Civilian Exclusion Order No. 34.

After May 9, 1942, more than 110,000 U.S. citizens of Japanese descent were to be uprooted from their homes. They were taken by train to internment camps. There they remained until the war's end in 1945. An estimated 60,000 survive.

As the Supreme Court noted in the case of *Korematsu* v. *United States*, most of the internees were loyal Americans. But some were not. More than 5,000 of them refused to swear allegiance to the United States and to renounce allegiance to the emporer. Several thousand evacuees requested repatriation to Japan.

It is all very well to say today that these citizens should have received fair hearings, but in the spring of 1942 we were involved in a desperate war for national survival. Due process had to yield to the exigencies of the day.

The exclusion order came before the High Court in 1944. By a vote of 6 to 3 the court upheld the order. Justice Hugo Black, one of the great civil libertarians of all time, wrote the opinion. Felix Frankfurter and William O. Douglas agreed. Listen to what Black said:

"We are not unmindful of the hardships imposed by the exclusion order upon a large group of American citizens. But hardships are part of war, and war is an aggregation of hardships. All citizens alike, both in and out of uniform, feel the impact of war in greater or lesser measure. . . ."

"Compulsory exclusion of large groups of citizens from their homes, except under circumstances of direst emergency, is inconsistent with our basic governmental institutions. But when under conditions of modern warfare our shores are threatened by hostile forces, the power to protect must be commensurate with the threatened danger."

The Senate bill describes the "significant human suffering" imposed upon the interned families. Granted. But others suffered hardship also: 292,000 died in battle, 615,000 suffered wounds. Total casualties exceeded one million.

In looking back on those days, we ought to take guidance from Lord Macaulay. This was the precept of that great historian: "As we would have our descendants judge us, so we ought to judge our fathers. In order to form a correct estimate of their merits, we ought to place ourselves in their situation, to put out of our minds, for a time, all that knowledge which they could not have and we could not help having. . . .

"It is too much that the benefactors of mankind, after having been reviled by the dunces of their generation for going too far, should be reviled by the dunces of the next generation for not going far enough."

Representative Bill Frenzel of Minnesota made the same point in House debate: "What a funny way to ask us to rub ashes on our heads! The bill asks us to purge ourselves of someone else's guilt with another generation's money." No penance, no payments and no apology are required. The past is past. Let it stay that way.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 442, Calendar Order No. 323, the House companion measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 442) to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. MATSUNAGA. Mr. President, I move to strike all after the enacting clause of H.R. 442, and to substitute therefore the text of S. 1009, as reported and as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. MATSUNAGA. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is, Shall the bill pass? The yeas and nays have been ordered. The clerk will call the roll.

Mr. BYRD. Mr. President, this will be the last rollcall vote today. I am sure there are some Senators who have probably left the floor and may not realize that the final passage is about to occur. I know of one Senator who is trying hard to get to the Senate floor who missed the last vote. This will be the last rollcall vote of the day. I ask unanimous consent that the time on this vote be 20 minutes and that the call for the regular order then be automatic.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Massachusetts [Mr. KENNEDY] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] would vote "yea."

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 105 Leg.]

YEAS—69

Adams
Armstrong
Baucus
Bentsen
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Glenn
Graham
Harkin
Hatch
Hatfield
Heinz
Inouye
Johnston
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Packwood
Pell
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Rudman
Sanford
Sarbanes
Sasser
Simon
Simpson
Specter
Stafford
Stevens
Weicker
Wilson
Wirth

NAYS—27

Bond
Chafee
Danforth
Ford
Fowler
Garn
Gramm
Grassley
Hecht
Heflin
Helms
Hollings
Humphrey
Karnes
McCain
McClure
McConnell
Nickles
Nunn
Pressler
Roth
Shelby
Stennis
Symms
Thurmond
Trible
Wallop

NOT VOTING—4

Biden
Gore
Kennedy
Warner

So the bill (H.R. 442) as amended, was passed, as follows:

H.R. 442

Resolved, That the bill from the House of Representatives (H.R. 442) entitled "An Act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians", do pass with the following amendment:

Strike out all after the enacting clause and insert:

FINDINGS AND PURPOSE

SECTION 1. (a) FINDINGS.—The Congress finds that—

(1) the findings of the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Ci-

vilians Act, accurately and completely describe the circumstances of the exclusion, relocation, and internment of in excess of one hundred and ten thousand United States citizens and permanent resident aliens of Japanese ancestry and the treatment of the individuals of Aleut ancestry who were removed from the Aleutian and the Pribilof Islands;

(2) the internment of individuals of Japanese ancestry was carried out without any documented acts of espionage or sabotage, or other acts of disloyalty by any citizens or permanent resident aliens of Japanese ancestry on the west coast;

(3) there was no military or security reason for the internment;

(4) the internment of the individuals of Japanese ancestry was caused by racial prejudice, war hysteria, and a failure of political leadership;

(5) the excluded individuals of Japanese ancestry suffered enormous damages and losses, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering;

(6) the basic civil liberties and constitutional rights of those individuals of Japanese ancestry interned were fundamentally violated by that evacuation and internment;

(7) as documented in the Commission's reports, the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island were relocated during World War II to temporary camps in isolated regions of southeast Alaska where they remained, under United States control and in the care of the United States, until long after any potential danger to their home villages had passed;

(8) the United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps; and the United States further failed to protect Aleut personal and community property while such property was in its possession or under its control;

(9) the United States has not compensated the Aleuts adequately for the conversion or destruction of personal property caused by the United States military occupation of Aleut villages during World War II; and

(10) there is no remedy for injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States.

(b) PURPOSES.—The purposes of this Act are to—

(1) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry;

(2) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of the citizens and permanent resident aliens of Japanese ancestry;

(3) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the reoccurrence of any similar event;

(4) make restitution to those individuals of Japanese ancestry who were interned; and

(5) make restitution to Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island, in settlement of United States obligations in equity and at law, for—

(A) injustices suffered and unreasonable hardships endured while under United States control during World War II;

(B) personal property taken or destroyed by United States forces during World War II;

(C) community property, including community church property, taken or destroyed by United States forces during World War II; and

(D) traditional village lands on Attu Island not rehabilitated after World War II for Aleut occupation or other productive use.

TITLE I—RECOGNITION OF INJUSTICE AND APOLOGY ON BEHALF OF THE NATION

SEC. 101. The Congress accepts the findings of the Commission on Wartime Relocation and Internment of Civilians and recognizes that a grave injustice was done to both citizens and resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. On behalf of the Nation, the Congress apologizes.

TITLE II—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

DEFINITIONS

SEC. 201. For the purposes of this title—

(1) the term "eligible individual" means any living individual of Japanese ancestry who—

(A) is a United States citizen or permanent resident alien on the date of enactment of this Act; and

(B)(i) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone; or

(ii) was confined, held in custody, or otherwise deprived of liberty or property during the period as a result of—

(I) Executive Order Numbered 9066 (February 19, 1942; 7 Fed. Reg. 1407);

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones" and approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action made by or on behalf of the United States or its agents, representatives, officers, or employees respecting the exclusion, relocation, or detention of individuals on the basis of race;

(2) the term "Fund" means the Civil Liberties Public Education Fund established in section 204;

(3) the term "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 206;

(4) the term "evacuation, relocation, and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946; and

(5) the term "Commission" means the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act.

CRIMINAL CONVICTIONS

SEC. 202. (a) REVIEW.—The Attorney General is requested to review any case in which a United States citizen or permanent resident alien of Japanese ancestry living on the date of the enactment of this Act was convicted of a violation of the laws of the United States, including convictions for violations of military orders, where such a conviction resulted from charges filed against such individuals during the evacuation, relocation, and internment period.

(b) RECOMMENDATIONS.—Based upon the review required by subsection (a), the Attorney General is requested to recommend to the President for pardon consideration those convictions which the Attorney General finds were based on a refusal by such individuals to accept treatment that discriminated against them on the basis of race or ethnicity.

(c) PARDONS.—In consideration of the findings contained in this Act, the President is requested to offer pardons to those individuals recommended by the Attorney General pursuant to subsection (b).

CONSIDERATION OF COMMISSION FINDINGS

SEC. 203. (a) FEDERAL CONSIDERATION AND REVIEW.—Departments and agencies of the United States Government to which eligible individuals may apply for the restitution of positions, status, or entitlements lost in whole or in part because of discriminatory acts of the United States Government against such individuals based upon their race or ethnicity and which occurred during the evacuation, relocation, and internment period shall review such applications for restitution of positions, status, or entitlements with liberality, giving full consideration to the historical findings of the Commission and the findings contained in this Act.

(b) NO NEW AUTHORITY CREATED.—Subsection (a) shall not be construed to create new authority to grant restitution described in that subsection, or establish new eligibility to apply for such restitution.

TRUST FUND

SEC. 204. (a) ESTABLISHMENT.—There is hereby established in the Treasury of the United States the Civil Liberties Public Education Fund, to be administered by the Secretary of the Treasury. Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and shall only be available for disbursement by the Attorney General under section 205, and by the Board of Directors of the Fund under section 206.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Fund $500,000,000 in fiscal 1989, $400,000,000 in fiscal 1990, $200,000,000 in fiscal 1991, $100,000,000 in fiscal 1992 and $100,000,000 in fiscal 1993.

RESTITUTION

SEC. 205. (a) LOCATION AND PAYMENT OF ELIGIBLE INDIVIDUALS.—(1) The Attorney General, with the assistance of the Board, shall, subject to the availability of monies appropriated for such purpose, locate, using records already in the possession of the United States Government, each eligible individual and shall pay, subject to the availability of monies appropriated to the Fund for such payments, out of the Fund to each such individual the sum of $20,000. The Attorney General shall, subject to the availability of monies appropriated for such purpose, encourage each eligible individual to submit his or her current address to the Department of Justice through a public awareness campaign.

(2) If an eligible individual refuses to accept any payment under this section, such amount shall remain in the Fund and no payment shall be made under this section to such individual at any future date.

(b) PREFERENCE TO OLDEST.—The Attorney General shall endeavor to make payment to eligible individuals who are living in the

order of date of birth (with the oldest receiving full payment first), until all eligible individuals who are living have received payment in full.

(c) Nonresidents.—In attempting to locate any eligible individual who resides outside the United States, the Attorney General may use any available facility or resources of any public or nonprofit organization.

(d) No Set Off for Administrative Costs.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

(e) Extinguishment of Claims.—The claims of an eligible individual against the United States shall be extinguished—

(A) on a date which is ten years after the date of enactment of this Act; or

(B) on the date by which the individual has received the total amount of payments under this Act,

whichever date first occurs.

(f) Clarification of Treatment of Payments Under Other Laws.—Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the Internal Revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

BOARD OF DIRECTORS

Sec. 206. (a) Establishment.—There is hereby established the Civil Liberties Public Education Fund Board of Directors which shall be responsible for making disbursements from the Fund in the manner provided in this section.

(b) Disbursements From Fund.—The Board of Directors may make disbursements from the Fund only—

(1) to sponsor research and public educational activities so that the events surrounding the relocation and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood;

(2) to fund comparative studies of similar civil liberties abuses, or to fund comparative studies of the effect upon particular groups of racial prejudice embodied by Government action in times of national stress;

(3) to prepare and distribute the hearings and findings of the Commission to textbook publishers, educators, and libraries;

(4) for the general welfare of the ethnic Japanese community in the United States, taking into consideration the effect of the exclusion and detention on the descendants of those individuals who were detained during the evacuation, relocation, and internment period (individual payments in compensation for loss or damages shall not be made under this paragraph); and

(5) for reasonable administrative expenses, including expenses incurred under subsections (c)(3), (d), and (e).

(c) Membership and Terms of Office.—(1) The Board shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate, from persons who are not officers or employees of the United States Government.

(2)(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) five shall be appointed for terms of 3 years; and

(ii) four shall be appointed for terms of 2 years; as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office. No individual may be appointed to more than two consecutive terms.

(3) Members of the Board shall serve without pay, except members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board, in the same manner as persons employed intermittently in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(4) Five members of the Board shall constitute a quorum but a lesser number may hold hearings.

(5) The Chair of the Board shall be elected by the members of the Board.

(d)(1) The Board shall have a Director who shall be appointed by the Board and who shall be paid at a rate not to exceed the minimum rate of basic pay payable for GS-18 of the General Schedule under section 5332(a) of title 5, United States Code.

(2) The Board may appoint and fix the pay of such additional staff personnel as it may require.

(3) The Director and the additional staff personnel of the Board may be appointed without regard to section 5311(B) of title 5, United States Code, and may be appointed without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the rate payable under GS-18 of the General Schedule under section 5332(a) of such title.

(e) Support Services.—The Administrator of General Services shall provide to the Board of Directors on a reimbursable basis such administrative support services as the Board may request.

(f) Donations.—The Board may accept, use, and dispose of gifts or donations or services or property for purposes authorized under subsection (b).

(g) Annual Report.—Not later than twelve months after the first meeting of the Board and every twelve months thereafter, the Board shall transmit a report describing the activities of the Board to the President and to each House of the Congress.

(h) Sunset for Board.—The Board shall terminate not later than the earlier of ninety days after the date on which an amount has been obligated to be expended from the Fund which is equal to the amount authorized to be appropriated to the Fund or ten years after the date of enactment of this title. Investments shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury of the United States.

COMPLIANCE WITH BUDGET ACT

Sec. 207. No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as provided in advance in appropriation Acts. In any fiscal year, the Administrator of the Fund shall limit the total benefits conferred by this program to an amount not in excess of the appropriation for such fiscal year, and if the requirements of this program exceed the limitations set in this section, the benefits shall be limited, consistent with the provisions of section 205(b), to the extent necessary to comply with the provisions of this section.

TITLE III—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

SHORT TITLE

Sec. 301. This title may be cited as the "Aleutian and Pribilof Islands Restitution Act".

DEFINITIONS

Sec. 302. As used in this title—

(1) the term "Administrator" means the person designated by the Secretary to advise and inform the Secretary concerning expenditures from the Aleutian and Pribilof Islands Restitution Fund;

(2) the term "affected Aleut villages" means those Aleut villages in Alaska whose residents were evacuated by United States forces during World War II, including Akutan, Atka, Nikolski, Saint George, Saint Paul, Unalaska, and the Aleut village of Attu, Alaska, which was not rehabilitated by the United States for Aleut residence or other use after World War II;

(3) the term "Association" means the Aleutian/Pribilof Islands Association, Inc., a nonprofit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska;

(4) the term "Corporation" means the Aleut Corporation, a for-profit regional corporation for the Aleut region organized under the laws of the State of Alaska and established pursuant to section 7 of the Alaska Native Claims Settlement Act (Public Law 92-203);

(5) the term "eligible Aleut" means any Aleut living on the date of enactment of this title—

(A) who, as a civilian, was relocated by the authority of the United States from his home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location, during World War II; or

(B) who was born while his or her natural mother was subject to such relocation during World War II; and

(6) the term "Secretary" means the Secretary of the Interior.

ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND

Sec. 303. (a) Establishment.—The Secretary shall establish as an account in the Treasury of the United States the Aleutian and Pribilof Islands Restitution Fund (hereafter in this title referred to as the "Fund"), to be administered by the Secretary. The Fund shall consist of amounts appropriated to it, as authorized by sections 305 (duties of Administrator) and 306 of this title.

(b) Report.—It shall be the duty of the Secretary to hold the Fund and to report to the Congress each year on the financial condition and the results of operations of such Fund during the preceding fiscal year and on its expected condition and operations during the next fiscal year.

(c) Investment.—The Secretary shall invest such portion of the Fund as is not, in the Secretary's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of

the United States. Such obligations may be acquired—

(1) on original issue at the issue price; or

(2) by purchase of outstanding obligations at the market price.

(d) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary at the market price.

(e) CREDITS TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(f) TERMINATION.—The Secretary shall terminate the Fund 3 years after the date of enactment of this title, or 1 year following disbursement of all payments from such Fund, as authorized by this title, whichever occurs later. On the date the Fund is terminated, all investments shall be liquidated by the Secretary and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

DESIGNATION OF ADMINISTRATOR

SEC. 304. As soon as practicable after the date of enactment of this title, the Secretary shall offer to undertake negotiations with the Association, leading to the execution of an agreement with the Association to serve as Administrator under the terms of this title. The Secretary may appoint the Association as Administrator if such agreement is reached within 90 days after the date of enactment of this title. If no agreement is reached within such period, the Secretary shall appoint another person as Administrator under this title, after consultation with affected Aleut village leaders and the Corporation.

COMPENSATION FOR COMMUNITY LOSSES

SEC. 305. (a) IN GENERAL.—Subject to the availability of monies appropriated to the Fund, the Secretary shall make restitution, as provided by this section, for certain Aleut losses sustained in World War II.

(b) TRUST ESTABLISHED.—(1) The Secretary shall, subject to the availability of monies appropriated for this purpose, establish a trust of $5,000,000 for the benefit of affected Aleut communities, and for other purposes. Such trust shall be established pursuant to the laws of the State of Alaska, and shall be maintained and operated by not more than seven trustees, as designated by the Secretary. Each affected Aleut village may submit to the Administrator a list of three prospective trustees. The Secretary, after consultation with the Administrator, affected Aleut villages, and the Corporation, shall designate not more than seven trustees from such lists as submitted.

(2) The trustees shall maintain and operate the trust as eight independent and separate accounts, including—

(A) one account for the independent benefit of the wartime Aleut residents of Attu and their descendants;

(B) six accounts, each one of which shall be for the independent benefit of one of the six surviving affected Aleut villages of Atka, Akutan, Nikolski, Saint George, Saint Paul, and Unalaska; and

(C) one account for the independent benefit of those Aleuts who, as determined by the Secretary, upon the advice of the trustees, are deserving but will not benefit directly from the accounts established pursuant to subparagraphs (A) and (B).

The trustees shall credit to the account described in subparagraph (C) an amount equal to 5 per centum of the principal amount credited by the Secretary to the trust. The remaining principal amount shall be divided among the accounts described in subparagraphs (A) and (B), in proportion to the June 1, 1942 Aleut civilian population of the village for which each such account is established, as compared to the total civilian Aleut population on such date of all affected Aleut villages.

(3) The trust established by this subsection shall be administered in a manner that is consistent with the laws of the State of Alaska, and as prescribed by the Secretary, after consultation with representative eligible Aleuts, the residents of affected Aleut villages, and the Administrator. The trustees may use the principal, accrued interest, and other earnings of the trust for—

(A) the benefit of elderly, disabled, or seriously ill persons on the basis of special need;

(B) the benefit of students in need of scholarship assistance;

(C) the preservation of Aleut cultural heritage and historical records;

(D) the improvement of community centers in affected Aleut villages; and

(E) other purposes to improve the condition of Aleut life, as determined by the trustees.

(4) There are authorized to be appropriated $5,000,000 to the Fund to carry out the purposes of this subsection.

(c) COMPENSATION FOR DAMAGED OR DESTROYED CHURCH PROPERTY.—(1) The Administrator shall make an inventory and assessment of church property damaged or destroyed in affected Aleut villages during World War II. In making such inventory and assessment, the Administrator shall consult with the trustees of the trust established by subsection (b), elders of affected villages, congregation leaders, and the clergy. Within 1 year after the date of enactment of this title, the Administrator shall submit such inventory and assessment, together with an estimate of the present replacement value of lost or destroyed furnishings and artifacts, to the Secretary.

(2) The Secretary shall review the inventory and assessment provided pursuant to paragraph (1), and shall make payment to the trust established pursuant to subsection (b) in an amount reasonably calculated by the Secretary to compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II.

(3) The trustees shall make distribution of the compensation provided pursuant to this subsection in a manner consistent with the purposes of this title.

(4) There are authorized to be appropriated to the Fund $1,400,000 to carry out the purposes of this subsection.

(d) ADMINISTRATIVE AND LEGAL EXPENSES.—(1) The Secretary shall reimburse the Administrator, not less often than annually, for reasonable and necessary administrative and legal expenses in carrying out its responsibilities under this title.

(2) There are authorized to be appropriated to the Fund such sums as are necessary to carry out the purposes of this subsection.

INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS

SEC. 306. (a) PAYMENTS TO ELIGIBLE ALEUTS.—(1) In accordance with the provisions of this section, the Secretary shall make per capita payments out of the Fund to eligible Aleuts for uncompensated personal property losses, and for other purposes. The Secretary shall pay, subject to the availability of monies appropriated to the Fund for such payments, to each eligible Aleut the sum of $12,000.

(2) The Secretary may request, and upon such request, the Attorney General shall provide, reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages. In providing such assistance, the Attorney General may use available facilities and resources of the International Committee of the Red Cross and other organizations.

(3) The Secretary may request the assistance of the Administrator in identifying and locating eligible Aleuts pursuant to this section.

(4) Any payment made under this subsection—

(A) shall be treated for purposes of the Internal Revenue laws of the United States as damages for human suffering; and

(B) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(b) AUTHORIZATION.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out the purposes of this section.

ATTU ISLAND RESTITUTION PROGRAM

SEC. 307. (a) WILDERNESS DESIGNATION.—In accordance with subsection (3)(c) of the Wilderness Act (78 Stat. 892), the public lands on Attu Island, Alaska, within the National Wildlife Refuge System are designated as wilderness by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417). In order to make restitution for the loss of traditional Aleut lands and village properties on Attu Island lands, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people in lieu of Attu Island conveyance shall be provided in accordance with this section.

(b) ACREAGE DETERMINATION.—Not later than 90 days after the date of enactment of this title, the Secretary shall determine the total acreage of land on Attu Island, Alaska, that was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. In making such acreage determination, the Secretary shall establish a base acreage of not less than 35,000 acres within that part of eastern Attu Island traditionally used by the Aleut people, and shall further, from the best available information, including information that may be submitted by representatives of the Aleut people, identify any such additional acreage on Attu Island that was subject to such use. The combination of base acreage and such additional acreage shall constitute the aggregate acreage determination, and shall be the basis for compensation to the Corporation pursuant to this section. The Secretary shall promptly notify the Corporation of the results of the aggregate acreage determination made pursuant to this subsection.

(c) VALUATION.—(1) Not later than 120 days after the date of enactment of this title, the Secretary shall determine the value of the aggregate Attu Island acreage determination, made pursuant to subsection (b), except that—

(A) no tract of acreage within such determination shall be valued at less than $350 per acre nor more than $500 per acre; and

(B) the total valuation of all acreage within such determination shall not exceed $15,000,000.

(2) In making the valuation pursuant to paragraph (1), the Secretary shall take into consideration such factors as the Secretary considers appropriate, including—

(A) fair market value;

(B) environmental and public interest value; and

(C) established precedents for valuation of comparable wilderness lands in the State of Alaska.

(3) The Secretary shall promptly notify the Corporation of the valuation made pursuant to this subsection, and such valuation shall constitute a final determination of compensation unless appealed within 30 days by the Corporation. If such appeal is made, the Secretary shall within 30 days review the valuation in light of the appeal, and issue immediately thereafter a final determination of the total value of that acreage determined to be subject to traditional use pursuant to subsection (b). Such final determination shall constitute the amount payable as compensation to the Corporation for the Aleuts' loss of ownership of Attu Island.

(d) IN LIEU COMPENSATION PAYMENT.—The Secretary shall pay, subject to the availability of monies appropriated for this purpose, the full amount of compensation, as determined pursuant to subsection (c), to the Corporation in lieu of any conveyance of Attu Island as recommended by the Commission on Wartime Relocation and Internment of Civilians.

(e) VILLAGE SITE CONVEYANCE.—The Secretary of the Interior may convey to the Corporation all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island, Alaska (consisting of approximately 10 acres) and to the surface estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made pursuant to the authority provided by section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)), except that following the date of enactment of this section, no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land, shall be conveyed to the Corporation pursuant to such section 14(h)(1).

(f) AUTHORIZATION.—There are authorized to be appropriated $15,000,000 to the Secretary for purposes of carrying out the provisions of this section.

COMPLIANCE WITH BUDGET ACT

SEC. 308. (a) No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as provided in advance in appropriation Acts.

(b) In any fiscal year—

(1) the Secretary, with respect to the Fund set forth pursuant to section 303; and

(2) the Secretary with respect to the trust set forth pursuant to section 305, and with respect to the provisions of sections 306 and 307,

shall limit the total benefits conferred to an amount not in excess of the appropriations for such fiscal year, and if the requirements exceed the limitations set in this section, the benefits shall be reduced to the extent necessary to comply with the provisions of this section.

SEPARABILITY OF PROVISIONS

SEC. 309. If any provision of this title, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of this title or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE IV—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

SEC. 401. Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall it be construed as providing any basis for compensation in connection with any such claim.

Mr. INOUYE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

Mr. BYRD. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Gramm Amendment No. 1954, in the nature of a substitute.

(2) Hollings Amendment No. 1955 (to Amendment No. 1954), of a perfecting nature.

(3) Hollings Amendment No. 1956 (to Amendment No. 1955), of a perfecting nature.

(4) Gramm Motion to recommit the joint resolution to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment in the nature of a substitute.

(5) Hollings Amendment No. 1957 (to the motion to recommit), of a perfecting nature.

(6) Byrd Amendment No. 1958 (to Amendment No. 1957), of a perfecting nature.

CLOTURE MOTION

Mr. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Hollings amendment, No. 1957, to the Gramm motion to recommit with instructions S.J. Res. 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential contributions.

Senators Ernest F. Hollings, Terry Sanford, Dennis DeConcini, Brock Adams, Spark Matsunaga, Bob Graham, Lawton, Chiles, J.J. Exon, Paul Simon, Wyche Fowler, Jr., Barbara A. Mikulski, Tom Daschle, Claiborne Pell, David L. Boren, Jay Rockefeller, Dale Bumpers, Don Riegle, Alan Cranston, John Melcher, and Robert C. Byrd.

The PRESIDING OFFICER (Mr. FORD). Who seeks recognition?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Mr. President, I thank the distinguished majority leader for his assistance and guidance in this particular respect. I think, however, that even without an order we can make an agreement tomorrow. I will leave that to the two leaders. Suffice it to say, we are ready to continue the debate on S. 282, to emphasize the fact that this constitutional amendment will in no way inhibit the first amendment rights of freedom of speech. On the contrary, our thrust here is to expand and bolster and enhance the freedom of speech which has been eroded by the Buckley decision, which erroneously equated speech with money, thereby effectively depriving cash-poor candidates of true freedom of speech in campaigns.

Crassly put, if I have $1 million and my opponent has $10,000, I can run attack ads in the media—negative ads—and my opponent will not be able to afford the expense of responding in ads of his own. He will veritably have his freedom of speech removed. I am trying to repair this injustice, to return to a more level playing field for wealthy and nonwealthy candidates alike.

Basically, limits on campaign financing affect only the amplification of an individual's message. Everyone has the same, equal freedom of speech today. No one is going to take it away from anyone, not in this country, not under the first amendment.

I would cite our distinguished colleague from Wisconsin, Senator PROXMIRE, who without the benefit of amplification, relying strictly on his diligence, spends less than $1,000. Yet he has been elected and reelected to the Senate many times.

I think the basic mistake of the Court in the Buckley decision was just this, that it equated free speech with money. Its further mistake was to say that those who contribute can have their freedom of speech controlled but those who receive contributions cannot have their freedom of speech controlled.

Others are waiting to take the floor. I just want to thank the distinguished majority leader, and I will eagerly await tomorrow's debate.

Mr. BYRD. Yes. Mr. President, may I inquire of the distinguished Senator from South Carolina, Mr. HOLLINGS, as to what time he would like to resume consideration of this resolution on tomorrow?

Mr. HOLLINGS. Early in the day. I think for the convenience of all, whatever is the pleasure of the majority leader.

Mr. BYRD. Very well. I thank the Senator.

RURAL LETTER CARRIERS AUTOMOBILE EXPENSE ACT

Mr. SANFORD. Mr. President, today I would like to call the attention of the Senate to the people who literally carry the burden of keeping the United States united.

I am referring to our rural letter carriers—the men and women who carry news of the world down isolated country roads, and who do us a daily service by keeping us connected with our most remote constituents.

Although we may take it for granted that we can send a letter to relatives in places such as Snow Hill, NC, and find a response in our mail boxes a few days later, it is too easy to forget that those letters were carried over hundreds of miles by many hard-working postal workers.

It is a disservice to these rural mail carriers that, under the current tax code, they are in effect paying out of their own pockets to deliver our mail. One of my constituents from South Mills, NC, is a case in point.

As a rural mail carrier, he is reimbursed only 20 cents per mile for vehicle operating costs, while it actually costs him 30 cents per mile to use his specially equipped, right-sided driver car to deliver the mail. Twenty cents per mile might cover the costs of driving a car on the highway, but these rural letter carriers must stop and start every several hundred yards or so, resulting in lower miles per gallon and higher wear and tear on the automobile.

I am proud to be a cosponsor of S. 1340, the Rural Letter Carriers Automobile Expense Act. This bill would give rural letter carriers a just tax deduction which equalizes the amount rural mail carriers pay out and are reimbursed for mileage. Through this bill, we can let our postal workers know how much America depends on their service, and that we recognize their vital role in keeping the 50 States together.

NATIONAL ECONOMIC COMMISSION

Mr. DOLE. Mr. President, I want to confirm that pursuant to Public Law 100-203, I have appointed the honorable PETE DOMENICI, (R., N.M.) and Mr. Dean Kleckner, to be members of the National Economic Commission.

BICENTENNIAL MINUTE

APRIL 8, 1913: WOODROW WILSON BREAKS A TRADITION

Mr. DOLE. Mr. President, these days Members of Congress expect as a matter of course that the President of the United States will travel to Capitol Hill near the beginning of each session to deliver this State of the Union Message. After all, the Constitution mandates such regular reporting from the chief executive. But in fact, for more than half of our history, Presidents did not appear in person. It was just 75 years ago this month, on April 8, 1913, that President Woodrow Wilson broke the 113-year-old tradition of written messages.

Presidents George Washington and John Adams did deliver their annual messages in person. But Thomas Jefferson discontinued the practice. Most likely, Jefferson acted out of both philosophical and personal considerations. As a staunch Republican, he disliked all trappings of monarchy, and for him, the annual appearance of the President in Congress too closely resembled the King's annual message to Parliament. Nor did Jefferson, who lisped slightly, and spoke softly, particularly enjoy making public addresses. He preferred to send his messages to Congress and have them read by a clerk. Each of Jefferson's successors throughout the 19th century followed his precedent.

Both Woodrow Wilson was a different breed. Although philosophically an admirer of Jefferson, Wilson nevertheless believed that Presidents should take an active role in promoting their legislative proposals in Congress. In his many writings on American history and politics, he envisioned a role for the President closer to that of the British Prime Minister, and his election to the presidency gave him the opportunity to put his theories into practice. So on April 8, 1913, Wilson stunned Congress by appearing in person at a joint session to deliver his message—as has each of Wilson's successors.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

AGREEMENT BETWEEN THE UNITED STATES AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT—PM 132

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Finance:

To the Congress of the United States:

Pursuant to Section 233(e)(1) of the Social Security Act, as amended by the Social Security Amendments of 1977 (P.L. 95-216, 42 U.S.C. 433(e)(1)), I transmit herewith the Agreement between the United States of America and the Kingdom of the Netherlands on Social Security that consists of two separate instruments: A principal agreement and an administrative arrangement. The Agreement was signed at The Hague on December 8, 1987.

The U.S.-Netherlands Agreement is similar in objective to the social security agreements already in force with Belgium, Canada, the Federal Republic of Germany, Italy, Norway, Spain, Sweden, Switzerland, and the United Kingdom. Such bilateral agreements provide for limited coordination between the United States and foreign social security systems to overcome the problems of gaps in protection and of dual coverage and taxation for workers who move from one country to the other.

I also transmit for the information of the Congress a comprehensive report prepared by the Department of Health and Human Services, which explains the provisions of the Agreement and provides data on the number of persons affected by the Agreement and the effect on social security financing as required by the same provision of the Social Security Act.

The Department of State and the Department of Health and Human Services join with me in commending the U.S.-Netherlands Social Security Agreement and related documents.

RONALD REAGAN.

THE WHITE HOUSE, *April 20, 1988.*

MESSAGES FROM THE HOUSE

At 9:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House had rejected the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5) to improve elementary and secondary education, and for other purposes; it recedes from its disagreement to the amendment of the Senate to the bill, and agrees thereto, with an amendment, in which it requests the concurrence of the Senate.

At 12:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House had passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1385. An act for the relief of Travis D. Jackson;

H.R. 3347. An act for the relief of Bibianne Cyr;

H.R. 3388. An act for the relief of Benjamin H. Fonorow;

H.R. 3439. An act for the relief of Marisela, Felix, and William Marrero;

H.R. 3606. An act for the relief of Brenda W. Gay;

H.R. 3625. An act for the relief of Joanne Salyards;

H.R. 3869. An act to amend the act providing for the establishment of the Tuskegee University National Historic Site, Alabama, and to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes;

H.R. 3941. An act for the relief of Samuel R. Newman; and

H.R. 4099. An act for the relief of Melissa Johnson.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 4:17 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

S. 1609. An act for the relief of James P. Purvis; and

S.J. Res. 235. Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

The enrolled bill and joint resolution were subsequently signed by the President pro tempore [Mr. STENNIS].

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 1385. An act for the relief of Travis D. Jackson; to the Committee on the Judiciary.

H.R. 3347. An act for the relief of Bibianne Cyr; to the Committee on the Judiciary.

H.R. 3388. An act for the relief of Benjamin H. Fonorow; to the Committee on the Judiciary.

H.R. 3625. An act for the relief of Joanne Salyards; to the Committee on Governmental Affairs.

H.R. 3869. An act to amend the act providing for the establishment of the Tuskegee University National Historic Site, Alabama, and to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3941. An act for the relief of Samuel R. Newman; to the Committee on the Judiciary.

H.R. 4099. An act for the relief of Melissa Johnson; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following joint resolution; which was placed on the calendar:

S.J. Res. 287. Joint resolution designating May 1988 as "Older Americans Month."

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 3606. An act for the relief of Brenda W. Gay.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2998. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law the Commission's annual report for calendar year ending December 31, 1987; to the Committee on the Judiciary.

EC-2999. A communication from the Director of the Bureau of Justice Statistics, Department of Justice, transmitting, pursuant to law, a report on the Bureau's activities during fiscal year 1987; to the Committee on the Judiciary.

EC-3000. A communication from the Acting President of the Inter-American Foundation, transmitting, pursuant to law, the Foundation's freedom of information report for activities in calendar year 1987; to the Committee on the Judiciary.

EC-3001. A communication from the Attorney General, transmitting, pursuant to law, a report concerning orders and extensions of orders approving electronic surveillance during the calendar year 1987; to the Committee on the Judiciary.

EC-3002. A communication from the Secretary of Education, transmitting, pursuant to law, a report concerning final funding priorities; to the Committee on Labor and Human Resources.

EC-3003. A communication from the Secretary of Education, transmitting, pursuant to law, a report concerning Final Regulations—Foreign Language and Area Studies Fellowships Programs; to the Committee on Labor and Human Resources.

EC-3004. A communication from the Secretary of Education, transmitting a draft of proposed legislation entitled, "Challenge Grants for Education Act of 1988"; to the Committee on Labor and Human Resources.

EC-3005. A communication from the Secretary of Education transmitting a draft of proposed legislation entitled "Emergency Immigrant Education Amendments of 1988"; to the Committee on Labor and Human Resources.

EC-3006. A communicaiton from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation "To modify eligibility standards for the plot allowance; authorize a headstone allowance for prepurchased grave markers; extend authorization for the State cemetery grants program, and for other purposes"; to the Committee on Veterans' Affairs.

EC-3007. A communication from the Administrator of Veterans' Affairs, transmitting, a draft of proposed legislation to provide automatic increases in the rates of disability compensation to veterans and dependency and indemnity compensation [DIC] to surviving spouses and children, and for other purposes; to the Committee on Veterans' Affairs.

EC-3008. A communication from the chairman, vice chairman, and members of the National Commission on Dairy Policy, transmitting, pursuant to law, the report and recommendations of the commission; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3009. A communication from the Acting Secretary of Agriculture, transmitting, pursuant to law, the 1987 update of the "Assessment of Impact of Current USDA Foreign Assistance Activities on United States Agricultural Exports"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3010. A communication from the Secretary of the Army and the Secretary of Agriculture, transmitting jointly, pursuant to law, notice of the intention of the Departments to interchange jurisdiction of civil works and Forest Service acquired lands at the Corps of Engineers project at Lucky Peak Lake, ID; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3011. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a report on the total number of applications for condition registration under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3012. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report on the President's third special impoundment message for fiscal year 1988; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Foreign Relations, the Committee on Armed Services, and the Committee on Energy and Natural Resources.

EC-3013. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals; pursuant to the order of January 30, 1975, as amended by the order of April 11, 1986, referred jointly to the Committee on Appropriations and the Committe on the Budget.

EC-3014. A communication from the Deputy Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on the reapportionment of an appropriation of the Veterans' Administration on a basis indicating the necessity for a supplemental estimate of appropriations; to the Committee on Appropriations.

EC-3015. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, notification of the funding sources prior to transfer of funds in support of the Nicaraguan Democratic Resistence; to the Committee on Appropriations.

EC-3016. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on NATO Conventional Defense; to the Committee on Armed Services.

EC-3017. A communication from the Assistant Secretary of Defense (Comptroller), transmitting, pursuant to law, a supplemental contract award report for the period May 1 to June 30, 1988; to the Committee on Armed Services.

EC-3018. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, notice of a foreign military sale; to the Committee on Armed Services.

EC-3019. A communication from the Secretary of Defense, transmitting, pursuant to law, a U.S. expenditures on support of NATO; to the Committee on Armed Services.

EC-3020. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on converting the technical training equipment maintenance function at Lowry Air Force Base, CO, to performance under contract; to the Committee on Armed Services.

EC-3021. A communication from the Assistant Secretary of Defense (Force Management and Personnel), transmitting, pursuant to law, a report on the adequancy of pay and allowances of the Armed Forces; to the Committee on Armed Services.

EC-3022. A communication from the Deputy Secretary of Defense, transmitting, pursuant to law, a report on the Montgomery GI Bill Education Benefits Program; to the Committee on Armed Services.

EC-3023. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend certain laws and to enact certain new legislation for the purpose of facilitating and simplifying the Acquisition Programs of the Department of Defense; to the Committee on Armed Services.

EC-3024. A communication from the President of the United States, transmitting pursuant to law, a determination that the authority available for the Export-Import Bank for fiscal year 1988 is sufficient for loans but may be more than sufficient to meet the current estimate of the guarantee needs of the Bank; to the Committee on Banking, Housing, and Urban Affairs.

EC-3025. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting a change to the previously submitted NASA Authorization bill; to the Committee on Commerce, Science, and Transportation.

EC-3026. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting a change to the previously submitted NASA Authorization bill; to the Committee on Commerce, Science, and Transportation.

EC-3027. A communication from the Secretary of Defense and the Secretary of Energy, transmitting jointly, pursuant to law, a report entitled "Contingency Plans to Deal with Disruptions in Persian Gulf Crude Oil Supply"; to the Committee on Energy and Natural Resources.

EC-3028. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain overpayments of certain oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3029. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Annual Energy Outlook, 1987"; to the Committee on Energy and Natural Resources.

EC-3030. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayments of certain oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3031. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayments of certain oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3032. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayment of certain oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3033. A communication from the Secretary of the Interior, transmitting, pursuant to law, a report on research and demonstration projects in alternative coal mining technologies; to the Committee on Energy and Natural Resources.

EC-3034. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, a copy of a proposed lease prospectus; to the Committee on Environment and Public Works.

EC-3035. A communication from the Acting Administrator of General Services, transmitting, pursuant to law, copies of certain proposed prospectuses; to the Committee on Environment and Public Works.

EC-3036. A communication from the President of the United States, transmitting, pursuant to law, notification that he has exercised his statutory authority to declare a national emergency with respect to Panama; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 2037. A bill to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President (Rept. No. 100-317).

By Mr. BYRD (for Mr. BIDEN), from the Committee on the Judiciary, without amendment:

S. 1378. A bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TRIBLE (for himself, Mr. D'AMATO, and Mr. DECONCINI):

S. 2297. A bill to amend the Foreign Assistance Act of 1961 and the Trade Act of 1974 to prohibit assistance and deny preferential trade treatment to countries which fail to prevent and punish drug-related corruption; to the Committee on Foreign Relations.

By Mr. GLENN:

S. 2298. A bill to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and for other purposes; to the Committee on Governmental Affairs.

By Mr. LEAHY:

S. 2299. A bill to eliminate the exemption for Congress from the application of certain provisions of Federal law relating to employment, and for other purposes; to the Committee on Governmental Affairs.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 2300. A bill to issue a fisheries license for the operation of the vessel MV *Ocean Cyclone;* to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TRIBLE (for himself, Mr. D'AMATO, and Mr. DECONCINI):

S. 2297. A bill amend the Foreign Assistance Act of 1961 and the Trade Act of 1974 to prohibit assistance and deny preferential trade treatment to countries which fail to prevent and punish drug-related corruption; referred to the Committee on Foreign Relations.

FOREIGN ANTI-DRUG CORRUPTION ACT

Mr. TRIBLE. Mr. President, I am introducing legislation today aimed at wiping out one of the crucial building blocks of the international drug trade—the corruption of public officials in foreign lands.

Today, international drug lords reign over a ruthless empire, built on the pillars of bribery, greed, and corruption. All too often, free-flowing cash ensures that foreign law enforcement officials ignore the illicit production and distribution of drugs, and the laundering of drug-related profits. All too often, law enforcement officials become paid accomplices of drug runners. In Colombia last year, for example, one of that country's biggest drug kingpins simply bought his way out of prison.

This cannot continue. We cannot win the war on drugs when the very people who should be enforcing anti-drug laws are being bribed to ignore them.

Mr. President, my bill attacks this problem by prohibiting foreign assistance to those nations who refuse to prevent and punish acts of bribery or other forms of corruption that are drug-related.

Drug-related corruption must be stopped. It must be punished. But too many nation's aren't willing to do so. And unfortunately, our own government is too willing to certify those countries as "cooperating fully," despite their refusal to vigorously punish corrupt officials. Indeed, the administration this year certified two governments—Mexico and the Bahamas—which it admits have done little or nothing to combat drug-related corruption.

The State Department's Narcotics Control Strategy Report notes:

> Documented violations by Mexican law enforcement officials are becoming more prevalent.

It states further that:

> Official protection of narcotics activities ranges from simply looking the other way to facilitating safe passage of drugs through customs or military/police checkpoints.

Mexico failed to combat this corruption. Still, the President certified Mexico as cooperating fully.

In the Bahamas, a similar situation prevails. The story of the Bahamas during 1987 was one of drug laws unenforced and corruption unpunished. A few of those "on the take" have been fired or forced to retire. But they are not charged. They are not tried. They are not convicted and punished for their wrongdoing.

Again, the State Department reports:

> Narcotics-related corruption continued to be a serious concern in 1987, with few investigations or prosecutions of corrupt officials taking place.

The Bahamas failed to combat this corruption. Still, the President certified the Bahamas as cooperating fully.

Mr. President, perhaps the worst example lies in Panama, and the corruption-ridden regime of General Noriega.

One year ago, the President certified that the Government of Panama had cooperated fully in the war on drugs during the preceding year. He did so despite ample evidence that Panama was the money laundering capital of this hemisphere. He did so despite the fact that Panama was a major point for transshipment of drugs and precursor chemicals. And he did so despite evidence that the Panamanian leader, Noriega, was an accomplice in these crimes.

Less than 1 year later, Noriega was indicted by a Federal grand jury in Florida on charges of drug trafficking and drug money laundering.

One more, the President in 1987 had certified as "cooperating fully" a government that failed to punish drug-related corruption.

This cycle must end. The drug lords have opened a new front in the narcotics war. Not content with buying and selling drugs, they have increasingly sought to buy and sell those who should be enforcing drug laws.

Thankfully, most resist. In every drug source country, brave men and women fight the drug war every day; brave men and women resist the bribes and other temptations the drug lords offer.

But when a public official succumbs, when he takes a bribe from a drug trafficker, then we have a right to expect that he will be punished. And, if not, then the United States should suspend foreign aid to any government that fails to prevent and punish drug-related corruption.

Mr. President, no government which tolerates corruption can effectively wage war on drugs. One cannot lock the jail cell of a drug lord with one hand, while accepting bribes from him with the other.

To win the war on drugs, we must fight drug-related corruption. This bill will help us do that, and I urge my colleagues to join me as a cosponsor.

Mr. DECONCINI. Mr. President, I want to first pay my thanks to the Senator from Virginia for not only this bill but his leadership in this area. He has worked with many Members here and has taken a real leadership role in trying to educate people about the problems of drugs. He has worked on a totally bipartisan basis because there is no politics in drug enforcement. And the bill that he has offered has stiffer sanctions and stiff notice. I think it is a tremendous movement in the right direction. I compliment my good friend from Virginia.

By Mr. GLENN:

S. 2298. A bill to require the Administrator of the General Services Administration to encourage the development and use of plastics derived from certain commodities, and to include such products in the General Services Administration inventory for supply to Federal agencies, and for other purposes; to the Committee on Government Affairs.

AGRICULTURAL COMMODITY-BASED PLASTICS DEVELOPMENT ACT

● Mr. GLENN. Mr. President, it is with great pleasure that I come before the Senate today to introduce the Agricultural Commodity-Based Plastics Development Act of 1988. This measure is an important step toward developing markets for new, nonfood, uses of our Nation's agricultural commodities.

Mr. President, before I proceed I would like to take a few moments to recognize and compliment several of my colleagues who have also been in the forefront of efforts to create new nonfood uses for farm products. Specifically Senator LUGAR, who joined me in introducing legislation to promote research into new nonfood uses, and Senator HARKIN who has introduced legislation to promote research into the modification of plants to develop new nonfood products. Senators CONRAD and LEAHY have also been very active in this important issue for American agriculture.

Mr. President, the legislation that I am introducing today addresses two important issues. Namely, the return to health and prosperity of our Nation's agriculture, and the serious environmental problem we face regarding the disposal of plastic waste.

Farm prosperity occurs when demand for commodities is in balance with the available supply. This was true during the 1970's, when an expanding export market readily consumed the increasing supply of commodities produced by American agriculture.

During the 1980's, increased competition abroad has led to zero growth in U.S. agriculture. Foreign competitors have increased their agricultural production resulting in an erosion of our international agricultural market share, and excess capacity in U.S. crop production. Unfortunately, there are many indications that these trends will continue.

Clearly Mr. President, a key step in restoring prosperity to American agriculture is through the development of new nonfood uses for agricultural commodities. It is unlikely that our export market will grow as in the 1970's and consume our excess capacity. Rather, we must harness our own inventiveness to create new opportunities for American agriculture both here and aboard.

The technology exists today to produce agriculture commodity based plastic products which degrade when disposed of in the environment. These are made by combining starch with conventional plastic resins. The starch used in this process is made from a natural resource that is in great abundance in this country, corn and other grains. A wide variety of items can be produced using these techniques, including plastic packaging, plastic bags, agricultural mulch, milk jugs, dairy tubs, meat trays, diaper liners, fast food containers, industrial containers, and pharmaceutical packaging. Using durable injection molding techniques, such diverse products as children's toys, office supplies, and automobile components are also feasible. When disposed of in an ecologically active environment, such as a landfill, microbes consume the starch, permiting the item to degrade. It has been estimated that corn starch-based plastics could replace 30 to 45 percent of the low-density polyethylene plastics used each year, producing an additional market for approximately 112 million bushels of corn per year.

Mr. President, the widespread introduction of this technology would benefit the American farmer, whose agricultural commodities are used to produce it. Agricultural commodity-based degradable plastics also address another problem which faces our Nation, that of solid waste disposal.

More than one-half of the cities in the United States will exhaust their current landfill capacity by 1990. The management of this growing volume of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials. Plastics comprise 7 percent of the 150 million tons of solid waste produced in this country each year. By the year 2000, this is expected to rise to 10 percent. Clearly, there is no single answer to the problems of our rapidly filling landfills. Indeed, a solution must involve a number of initiatives, including recycling, new incineration technologies, and modifying our use and disposal of solid waste. An important component of this will be the increased use of degradable plastic products.

Mr. President, this legislation will provide incentives for further private sector market development of this technology through the preferential procurement of degradable plastics products by the Federal Government. Special emphasis will be placed on agricultural commodity-based technologies. It directs the General Services Administration to identify, and make available to it's Government customers, degradable plastics products; $20 million is authorized for each of 3 years to cover the additional cost of procuring these items. It also establishes an interagency working group to develop and coordinate the implementation of the act.

New nonfood uses for our agricultural commodities are not futuristic fantasies requiring years to develop. Today corn starch is used in the manufacture of paper products, building materials, textiles, and adhesives. Three to five billion pounds of U.S. produced fats and oils are used in nonfood products each year. But this is not enough. We must continue to aggressively pursue new markets and to develop new uses for our farm products. For this reason, this bill will direct the Secretary of Agriculture to annually report to Congress the progress made in research into nonfood uses of agricultural commodities.

I want to emphasize that the problems facing American agriculture and the disposal of municipal waste are complex. They will not be solved quickly, rather they require a forward-looking strategy to help return our agricultural communities to prosperity and to address this very serious environmental concern facing our Nation's cities. I believe that the legislation that I am proposing today is a part of that solution.

Mr. President, as I mentioned earlier, some of my colleagues are also concerned with these problems and have introduced similar initiatives which recognize the benefits of developing new nonfood uses for agricultural commodities. I look forward to their support and urge my colleagues to cosponsor this legislation.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Commodity-Based Plastics Development Act of 1988".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the achievement of long-term health for the agriculture sector of the United States is essential to the vitality of the national economy, the well-being of our citizens and rural communities, and the maintenance of national security;

(2) the development of new non-food uses for agricultural commodities will reduce crop surpluses, raise farm income, and lower the cost of agricultural subsidies provided by the Federal government;

(3) the economic security of the United States requires that the Federal government should promote the development and use of products derived from agricultural commodities through the preferential procurement of such products to reach a threshold level of commercial application at which such products can successfully compete;

(4) more than ½ of the cities in the United States will exhaust their current landfill capacity by 1990, and the management of this growing volume of solid waste is one of the most urgent and fundamental environmental problems facing Federal, State, and local officials;

(5) plastic products comprise a significant amount of the 150,000,000 tons of solid waste produced in the United States and the use of degradable plastics products made from agricultural commodities can provide a positive impact in solving the problem of solid waste disposal;

(6) the technology exists to develop and market degradable agricultural commodity-based plastics for use in packaging, agricultural mulching, and in other applications;

(7) the widespread introduction of the technology referred to in paragraph (6) into the commercial marketplace will provide a new outlet for United States agricultural products;

(8) the use of domestically produced agricultural commodity-based degradable plastics products will reduce the reliance of the United States on imported oil and result in an improved trade balance for the United States and increased employment opportunities for our citizens; and

(9) the Federal government should assist in bringing agricultural commodity-based degradable plastics to a level of commercial application comparable to other alternative products and should provide incentives for the development and adoption of such products.

(b) PURPOSE.—It is the purpose of this Act to provide—

(1) that the Federal Government shall—

(A) promote the continued development of degradable plastics technology by increasing the purchases of degradable plastics products, with special emphasis on agricultural commodity-based products;

(B) assist State and local entities in purchasing degradable plastics products;

(C) provide incentives for further technology development through the preferential procurement of degradable plastics products, with special emphasis on agricultural commodity-based technologies;

(D) promote the manufacture and purchase of degradable plastics products by assisting producers in demonstrating the capability of this technology;

(E) increase the commercial availability of agricultural commodity-based degradable plastics products;

(F) support existing Federal, State, local, and privately sponsored degradable plastics programs; and

(G) be provided with advice concerning the status of research in new non-food uses for agricultural commodities; and

(2) for the establishment of an interagency working group to develop and coordinate the implementation of this Act.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) AGRICULTURAL COMMODITY-BASED PLASTICS.—The term "agricultural commodity-based plastics" means plastic products that use agricultural commodity products as a constituent component.

(2) DEGRADABLE.—The term "degradable" means the biologically or light induced loss of utilitarian or physical characteristics of a plastic or hybrid material containing plastics as a major component.

(3) GOVERNMENT PURCHASING CATALOGUE.—The term "government purchasing catalogue" means any approved list of items supplied by the General Services Administration to agencies of the Federal government.

(4) NON-FOOD USES FOR AGRICULTURAL COMMODITIES.—The term "non-food uses for agricultural commodities" means uses for agricultural commodities that do not involve the consumption of the commodities as food.

(5) PREFERENTIAL PROCUREMENT.—The term "preferential procurement" means any procurement practice employed by the Federal government that gives preference to the selection of an item or service based on any criteria in addition to cost and performance.

(6) SLIDING SCALE RATING METHOD.—The term "sliding scale rating method" means an evaluation method used in Federal procurement procedures that reduces the cost bid for an item according to an established criteria for purposes of determining the effective low bid.

(7) SOLID WASTE.—The term "solid waste" means non-sewage waste which must be disposed of by Federal, State, or local officials through landfills, incineration, or other approved methods.

SEC. 4. ENCOURAGEMENT OF DEVELOPMENT AND USE OF COMMODITY-BASED PLASTICS.

(a) GENERAL SERVICES ADMINISTRATION.—The Administrator of the General Services Administration (hereinafter referred to in this Act as the "Administrator") shall—

(1) identify products in the General Services Administration government purchasing catalogue or in the inventory of the General Services Administration that can be made from degradable plastics technology, and that are environmentally safe, with particular emphasis on agricultural commodity-based products; and

(2) make available in the standard General Services Administration government purchasing catalogue the products identified above through competitive bidding process as prescribed in subsection (c).

(b) REQUESTS.—On the request of the head of any agency of the Federal government, the Administrator shall ensure that such

Federal agency be provided with products acquired under this section to the maximum extent practicable.

(c) Competitive Bidding.—

(1) Sliding scale.—In awarding competitive bids for the provision of products, the Administrator shall develop and implement a sliding scale rating method for awarding contracts based on such competitive bids for the acquisition of products under subsection (a).

(2) Factors.—The sliding scale developed under paragraph (1) shall consider, in addition to price and performance of the offered products, other factors that make the use of degradable plastics technology advantageous, including—

(A) the increased market for agricultural products;

(B) the benefits to the environment; and

(C) the benefits to the long-term energy independence of the United States.

(d) Cost of Product.—

(1) In general.—Funds appropriated under this section for the acquisition by Federal agencies of products under subsection (a) shall be applicable only to that portion of the cost of the product acquired under such subsection that exceeds the cost of comparable conventional products.

(2) Cost to agency.—The Administrator shall ensure that the cost to any Federal agency receiving products under this section shall not exceed the cost to such agency of a comparable conventional product.

(e) Ineligibility.—Federal agencies are ineligible to receive funds under this section for reimbursement of costs to buy products that such agency is required by law to purchase.

(f) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section, $20,000,000 for each of fiscal years 1989 through 1991 to pay for the difference in costs between conventional products and degradable plastic products.

SEC. 5. INTERAGENCY WORKING GROUP.

(a) Establishment.—The Administrator shall establish an interagency working group to coordinate activities under this Act and to encourage the use and development of agricultural commodity-based plastics.

(b) Members.—The group established under subsection (a) shall include—

(1) the Administrator of the General Services Administration;

(2) the Secretary of Agriculture;

(3) the Secretary of the Navy;

(4) the Secretary of Defense;

(5) the Administrator of the Environmental Protection Agency;

(6) the Secretary of Health and Human Services;

(7) the Administrator of the Food and Drug Administration;

(8) the Administrator of the Veterans' Administration;

(9) the Director of the Fish and Wildlife Service;

(10) the Commandant of the Coast Guard; and

(11) the heads of all other Federal departments and agencies engaged in research, investigation, or studies involved with plastics pollution and the need to develop biodegradable plastics.

(c) Personnel.—The detailing of personnel from any Federal agency to the interagency group shall be permitted.

(d) Meetings.—The interagency group shall meet within 90 days of the date of enactment of this Act, and shall meet a minimum of one time a year.

(e) Report.—

(1) In general.—Not later than 120 days after the date of enactment of this Act, and annually each year thereafter, the interagency group shall prepare and submit, to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate, a report that contains the information required in paragraph (2).

(2) Contents.—The reports submitted under paragraph (1) shall contain—

(A) requests by the Administrator for appropriations and staff resources dedicated to implementing this Act;

(B) products identified in section 3 for inclusion in the inventory of the General Services Administration;

(C) numbers and types of products provided to government agencies under this Act; and

(D) statistics on the level of commercial involvement and development of such reports.

SEC. 6. REPORT ON NEW NON-FOOD USES FOR AGRICULTURAL COMMODITIES.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the progress and status of the implementation of section 1436(b) of the Food Security Act of 1985 (7 U.S.C. 1632), concerning research into new non-food uses for agricultural commodities.

(b) Contents.—The report prepared under subsection (a) shall include information concerning—

(1) executive department requests for appropriations used to carry out such section;

(2) staff resources dedicated to implementing the section referred to in subsection (a);

(3) grants awarded under such section; and

(4) other related activities by the Secretary concerning research into new non-food uses for agricultural commodities.●

By Mr. LEAHY:

S. 2299. A bill to eliminate the exemption for Congress from the application of certain provisions of Federal law relating to employment, and for other purposes; to the Committee on Governmental Affairs.

FAIR EMPLOYMENT IN CONGRESS ACT

Mr. LEAHY. Mr. President, yesterday the Senate approved the Integrity in Post Employment Act, a bill that amends the Ethics in Government Act by prohibiting former Members of Congress and some former high ranking officials from lobbying immediately after they leave office.

One issue that was not in dispute during the debate on the bill is that Congress needs to close the loopholes that allow "influence peddling" by former government officials, impugn governmental integrity, and erode public trust.

When the people of this country believe that good government has given way to greed, our democracy shakes at its foundation. Congress must have the courage to "clean house" if we are to regain the American people's confidence.

After studying this legislation in the Judiciary Committee over the last two Congresses, I concluded that this bill provides a constitutional way to prevent abuse of the public trust, and I supported its passage.

The debate on this legislation reminded me of another step that Congress should take to instill confidence in our own branch of government. For decades, Congress has exempted itself from important civil rights and labor laws, including the Civil Service Reform Act, the Age Discrimination in Employment Act, the Equal Pay Act, and the Occupational Safety and Health Act.

These laws apply to employers in this country—except Congress. Taken together, they spell out civil, social, physical and economic working rights and standards for American workers—except if they work for Congress. It is a sad reality that the men and women who serve us every day here on Capitol Hill do not enjoy the rights and protections of other workers.

This double standard is a plain injustice to those who make our work possible. It is an embarrassment to us all.

Some of my colleagues may remember that in four previous Congresses I introduced the Fair Employment in Congress Act. The purpose of the legislation is simple—to end this injustice by removing the congressional exemption from each of these laws.

The legislation was not met with great enthusiasm. I recall when I first introduced the bill 10 years ago, I gave what I thought was a stirring speech on this floor. When I finished explaining exactly what the legislation would do, a senior Member came up to me and asked me where I was going. I said I was hurrying to catch a plane to Vermont, and he said, "Good, stay there."

That remark, however intimidating, did not stop me. I came back and I introduced the bill three more times. Hearings were held in the Governmental Affairs Subcommittee on Oversight of Government Management in the 96th Congress. The legislation was redrafted and improved.

Although the Senate never took action on this legislation, I have not lost sight of its rightness and the need for it. As we all know in the Senate, timing is crucial in the legislative process. It can take years to see a bill become law. I believe that now is the time to reintroduce the Fair Employment in Congress Act.

The bill the Senate passed yesterday provides a good opportunity to raise this issue. And it was less than a month ago that the House and Senate voted to override the President's veto of the Civil Rights Restoration Act, bringing to a close the long and often rancorous fight to restore Federal protection against discrimination in the wake of the Supreme Court's Grove City decision.

I hope that my colleagues—so many in number—who joined in overriding the veto of the Civil Rights Restoration Act will agree to work with me to right the injustice of the congressional double standard.

Removing the congressional exemption from the Civil Rights Act of 1964 and the Equal Employment Opportunity Act of 1972, would make Congress subject to the same restrictions in employment discrimination that apply to the rest of the country.

The Civil Service Reform Act was a historic step forward for Federal workers who can now organize, bargain with management, complain about unfair labor practices, and seek fair settlement of grievances. But that is not the case on Capitol Hill where recent news stories uncovered the "Dickensian" working conditions of employees in the House folding room. This intolerable situation prompted quick action by two House committees, but I do not think we should wait until something like this happens before we act. Congressional workers deserve better protections.

They deserve a safe and health work environment. The Occupational Safety and Health Act is an example of the kind of laws that should apply to all working Americans. There is no reason why we should not live by the same safety standards we set for the rest of the country.

Subjecting Congress to the provisions of the Fair Labor Standards Act and the Equal Pay Act would ensure that the House folding room workers receive deserved overtime pay for 70-hour weeks, and give legal standing to women who still do not receive equal pay for equal work.

The Age Discrimination in Employment Act speaks to a bias that has no place in a nation where young and old need each other in the workplace, where innovation and experience are both needed for productivity. Why not apply this formula to all of Congress?

The bill I introduce today focuses solely on the pressing need to bring congressional workers under the protections of employment laws. After addressing the civil, physical, and economic working rights of our workers, we can get to work on other issues that need our attention including the Privacy Act and the Freedom of Information Act.

Over the years that I have advocated passage of the Fair Employment in Congress Act, Senators have stressed the special nature of the legislative process and the independence of our branch of government. The concern raised is that Senators and Congressmen require an unrestricted choice of staff because of the absolutely confidential relationship between a Member and his or her advisers. To impose a set of outside standards on that right of choice would limit the exercise of conscience that is the first duty of any Member.

I understand the need to protect the confidentiality that we all rely on in carrying out our legislative duties. But I cannot see why folding room workers should not be able to organize like other Federal workers, just because it might not be appropriate for legislative assistants to do so.

On the other hand, neither folding room workers nor legislative assistants should work in unhealthy or unsafe conditions.

Congress should not enjoy a blanket exemption from the laws we have applied to others in this Nation. I believe most Americans agree with that principle—the fundamental principle behind this bill. It is time for us to discuss and debate this issue, and to consider the concerns of those who believe that Congress would be weakened if we applied to it these employment discrimination laws. But we cannot let the congressional exemption go unchallenged.

Examination of the special nature and requirements of the legislative process in relation to the need to grant protections to congressional employees may lead to revision of this legislation. It may be that our discussion and debate will lead us to a proposal that at least gets us on the road to protecting some Capitol Hill workers. I know that the minimum wage bill reported earlier this year by the House Committee on Education and Labor brings many Federal legislative branch workers under the protection of the Fair Labor Standards Act. The bill also provides that enforcement of the law be carried out by the House and Senate through internal rules and procedures.

This effort adds a constructive element to the discussion on eliminating the congressional double standard. I am hopeful that the discussion will continue and that we can hold hearings on my bill.

Consideration of the reforms set out in the Fair Employment in Congress Act is long overdue.

To do nothing, to allow this injustice and embarrassment to stand without exploring ways to right it is not befitting the Congress of the United States.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 2300. A bill to issue a fisheries license for the operation of the vessel MV *Ocean Cyclone*; to the Committee on Commerce, Science, and Transportation.

FISHERIES LICENSE FOR VESSEL MV "OCEAN CYCLONE"

● Mr. EVANS. Mr. President, I rise today to introduce a piece of legislation that would grant a waiver for the operation of the vessel MV *Ocean Cyclone*. I am pleased to be joined by my colleague from Washington State, Senator ADAMS, in this effort which will benefit the fishing industry, and could aid in reducing the foreign trade deficit.

Charles E. Yates, of Crystal Fisheries, Inc., has asked for assistance in obtaining a legislative waiver of a restriction on a vessel so that it can participate in some aspects of the U.S. fisheries. The waiver would allow this vessel to acquire, purchase, process, and transport fish products. It would not allow this vessel to actually catch fish and there is no desire to use the vessel for that purpose.

Crystal Fisheries, Inc., is a company that manages U.S. trawlers operating in the Bering Sea and Eastern Pacific in a "joint venture" with foreign processing motherships. These joint ventures are being phased out as U.S. processing capacity increases. The joint venture fishery is rapidly being replaced by U.S. catcher/processor vessels. In order for members of the joint venture fleet to survive, it is imperative that processing ships be available to accept the product that those vessels are capable of catching. Such motherships must be U.S.-built under the Commercial Fishing Industry Vessel Anti-Reflagging Act of 1987.

In order to create a "mothership processor" it is necessary to have a U.S.-built hull of sufficient size to hold the equipment necessary to process large volumes of fish and to house the large number of people required for the handling of these fish. A number of vessels have been sold from the United States surplus fleet that meet the size requirement for these motherships. Mr. Yates has identified one of these vessels, the M.V. *Ocean Cyclone* [ex *Coastal Spartan*], as being suitable for this purpose, and he has entered into a contract for the purchase of this U.S.-built vessel with the intention of converting it into a processing ship.

However, when such vessels were sold out of the U.S. surplus fleet a contractual restriction was placed upon their use—prohibiting their being used or operated "as a means of transportation of passengers or cargo for hire, or as a means of transportation of proprietary cargo. * * *"

The Department of Transportation has interpreted this contractual restriction to preclude the utilization of these vessels in the U.S. fisheries in the manner which is now being proposed for their use. Because of this interpretation, Congress in 1980 adopted an act which provided a 2-year window for all of the owners of the surplus vessels to apply for permission to utilize these vessels in the U.S. fisheries. However, the owners of the vessel Mr. Yates has targeted failed to apply for this permission. For this reason, Mr.

Yates is now seeking assistance in correcting this oversight. In addition, Mr. Yates intends to receive fish from catcher vessels that are currently operating as joint venture catcher vessels within the 3-mile limit. The transport of those fish to a U.S. port would be "coastwise trade." The former ownership by a foreign company renders the vessel ineligible for such "coastwise trade" under the Jones Act. The proposed legislation therefore waives the application of the Jones Act for this purpose.

Once the vessel is acquired, and the proper authorization has been obtained, Crystal Fisheries will undertake its conversion in the United States at an estimated cost of between $8, and $11 million. When the conversion is completed, the ship will employ between 100 to 150 people full time. Additionally, the vessel will utilize between four and eight U.S. trawlers to provide it with the raw fish products necessary for the operation of the processing plant.

I understand that the joint venture "American High Seas Fisheries Association" has endorsed this proposal. They feel that in order for their members to survive in future fisheries off Alaska, it is imperative that U.S. processing ships be developed to accept the product which their vessels are capable of catching.

Mr. President, I ask unanimous consent that a text outlining the history of the vessel MV *Ocean Cyclone* be printed in the RECORD.

There being no objection, the text was ordered to be printed in the RECORD, as follows:

HISTORY OF THE VESSEL MV "OCEAN CYCLONE"

The vessel M/V *Ocean Cyclone* (ex *Coastal Spartan*) is a Knot Class vessel built in the United States during World War II for the United States. Following the war she was mothballed until sold in June 1965 to Boston Metals Co. pursuant to Maritime Administration (MARAD) Contract M.A. 3915 (IFB PD-X-697). At the time of her sale she was contractually prohibited from being used as a means of transportation for passengers or cargo for hire, or as means of transportation of proprietary cargo.

After acquisition by Boston Metals Co. the vessel was then transferred to Storm Drilling Co. in February 1969 by Amendment No. to the MARAD contract.

In 1971, the vessel was converted into a Drill Ship by Bethlehem Steel in its Beaumont, TX, shipyard (Project No. 2811). At the time of conversion 10 ft. sponsons were added to each side and a midbody insert of approximately 40 ft. was added.

The vessel apparently served as a drilling platform off the southern coast of the United States until approximately May 1975 when ownership of the vessel was transferred to Japan Odeco S.A., a Panamanian corporation, pursuant to Amendment No. 2 of the MARAD contract. The vessel was then utilized as a drilling platform off the coast of Brazil until approximately 1985 when it was again mothballed.

In December 1987, Seafood Wholesales Inc., a California corporation, purchased the vessel from Japan Odeco. In February, 1988, Crystal Products Inc. (CPI) obtained a 120 day option to purchase the vessel from Seafood Wholesalers Inc.

CPI, if it obtains congressional permission, intends to utilize the vessel as a U.S. flag mothership processor in the Bering Sea and Eastern Pacific. The vessel will employ an estimated 150 people annually and will utilize between four and eight U.S. trawlers to provide it with the raw fish product necessary for the operation of the processing plant.

This mother ship will displace one or more foreign processors presently operating in the U.S. fishing zone. In addition to the employment of U.S. personnel, it is anticipated that this vessel may reduce the U.S. foreign trade deficit by a minimum of $25-35 million annually either through the displacement of foreign fish brought into the United States or through the sale of its product on the foreign market.

The vessel will require annual shipyard maintenance which will generally be spent in Seattle shipyards in an amount estimated at $500,000 to $750,000.

Wages and salaries of employees are estimated to total in excess of $5,000,000 a year. The value to the trawlers servicing the mothership is estimated to be in excess of $7,000,000.●

ADDITIONAL COSPONSORS

S. 473

At the request of Mrs. KASSEBAUM, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of S. 473, a bill to regulate interstate commerce by providing for uniform standards of liability for harm arising out of general aviation accidents.

S. 533

At the request of Mr. THURMOND, the name of the Senator from Georgia [Mr. NUNN] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 1009

At the request of Mr. BOND, his name was withdrawn as a cosponsor of S. 1009, a bill to accept the findings and to implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians.

S. 1220

At the request of Mr. KENNEDY, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Maine [Mr. MITCHELL], the Senator from Georgia [Mr. FOWLER], the Senator from Indiana [Mr. QUAYLE] and the Senator from Florida [Mr. GRAHAM] were added as cosponsors of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1426

At the request of Mr. PRYOR, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Montana [Mr. BAUCUS] were added as cosponsors of S. 1426, a bill to amend the Internal Revenue Code of 1986 to encourage small businesses to extend retirement and fringe benefits to all employees, and for other purposes.

S. 1600

At the request of Mr. FORD, the names of the Senator from Michigan [Mr. RIEGLE], the Senator from Oklahoma [Mr. BOREN], the Senator from Maine [Mr. MITCHELL], and the Senator from Hawaii [Mr. MATSUNAGA] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1727

At the request of Mr. HARKIN, the names of the Senator from Hawaii [Mr. MATSUNAGA] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1727, a bill to amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

S. 1830

At the request of Mr. SANFORD, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 1830, a bill to amend title II of the Social Security Act to provide for a more gradual period of transition, and a new alternative formula with respect to such transition, to the changes in benefit computation rules enacted in the Social Security amendments of 1977 as they apply to workers born in years after 1916 and before 1930, and related beneficiaries, and to provide for increases on their benefits accordingly, and for other purposes.

S. 1839

At the request of Mr. MELCHER, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of S. 1839, a bill to amend title XVIII of the Social Security Act to provide for coverage of adult day health care under the Medicare Program, and for other purposes.

S. 2042

At the request of Mr. DURENBERGER, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 2042, a bill to authorize the Vietnam Women's Memorial Project, Inc., to construct a statue at the Vietnam Veterans Memorial in honor and recognition of the women of the United States who served in the Vietnam conflict.

S. 2123

At the request of Mr. KENNEDY, the names of the Senator from Ohio [Mr. METZENBAUM] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2156

At the request of Mr. Lugar, the names of the Senator from Arizona [Mr. DeConcini], the Senator from Utah [Mr. Hatch], and the Senator from Nebraska [Mr. Exon], were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2205

At the request of Mr. DeConcini, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of S. 2205, a bill to enact the Omnibus Antidrug Abuse Act of 1988, and for other purposes.

S. 2206

At the request of Mr. D'Amato, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

S. 2240

At the request of Mr. Johnston, the names of the Senator from North Dakota [Mr. Burdick] and the Senator from North Dakota [Mr. Conrad] were added as cosponsors of S. 2240, a bill to amend the act to reauthorize the State Mining and Mineral Resources Research Institute Program, and for other purposes.

SENATE JOINT RESOLUTION 259

At the request of Ms. Mikulski, the name of the Senator from New York [Mr. D'Amato] was added as a cosponsor of Senate Joint Resolution 259, joint resolution designating the week of April 24, 1988, through April 30, 1988, as "National Eating Disorders Awareness Week."

SENATE JOINT RESOLUTION 266

At the request of Mr. Symms, the names of the Senator from Kansas [Mrs. Kassebaum] and the Senator from California [Mr. Cranston] were added as cosponsors of Senate Joint Resolution 266, joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 278

At the request of Mr. Glenn, the names of the Senator from Hawaii [Mr. Matsunaga], the Senator from Illinois [Mr. Simon], and the Senator from Alabama [Mr. Heflin] were added as cosponsors of Senate Joint Resolution 278, joint resolution designating November 20-26, 1988, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 289

At the request of Mr. Bentsen, the names of the Senator from California [Mr. Wilson], the Senator from North Dakota [Mr. Conrad], the Senator from Alabama [Mr. Heflin], the Senator from Massachusetts [Mr. Kerry], the Senator from Indiana [Mr. Lugar], and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of Senate Joint Resolution 289, joint resolution to designate the month of November 1988 as "National Hospice Month."

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DeConcini, the name of the Senator from Oklahoma [Mr. Boren] was added as a cosponsor of Senate Concurrent Resolution 103, concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

AMENDMENTS SUBMITTED

OMNIBUS ANTI-DRUG ABUSE ACT OF 1988

TRIBLE AMENDMENT NO. 1967

Mr. TRIBLE (for himself, Mr. D'Amato, and Mr. DeConcini) submitted an amendment intended to be proposed by him to the bill (S. 2205) to enact the Omnibus Anti-Drug Abuse Act of 1988, and for other purposes; which was referred to the Committee on the Judiciary:

At the end of the bill, add the following new title:

TITLE XI—FOREIGN ANTI-DRUG CORRUPTION ACT

SEC. 1101. SHORT TITLE.

This title may be cited as the "Foreign Anti-Drug Corruption Act".

SEC. 1102. INTERNATIONAL NARCOTICS CONTROL AMENDMENTS.

Section 481 of the Foreign Assistant Act of 1961 (22 U.S.C. 2291) is amended—

(1) in subsection (e)(6)—

(A) by striking out "and" at the end of clause (A),

(B) by redesignating clause (B) as clause (C), and

(C) by inserting after clause (A) the following new clause:

"(B) the direct or indirect involvement of such government (or any official thereof) in bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, and";

(2) in subsection (h)(2)(A)(i)(I), by inserting after "drug-related monies" the following: ", and in preventing the punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts";

(3) in subsection (h)(3)—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new clause:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct.".

(4) in subsection (i)(5)—

(A) by striking out "or" at the end of clause (B);

(B) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new clause:

"(D) in which bribery and other forms of public corrupton which facilitate the production, processing, or shipment or narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, are a significant problem.".

SEC. 1103. AMENDMENTS TO TRADE ACT OF 1971.

(a) Tariff Treatment of Products.—Section 802 of the Trade Act of 1974 (19 U.S.C. 2492) is amended—

(1) in subsection (b)(1), by inserting after "drug-related monies" the following: ", and in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts"; and

(2) by amending clause (C) of subsection (b)(2) to read as follows:

"(C) has taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct.".

(b) Definition.—Section 805(3) of the Trade Act of 1974 (19 U.S.C. 2495(3)) is amended—

(1) by striking out "or" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new clause:

"(D) in which bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, are a significant problem.".

In the table of contents, add the following new items:

"TITLE XI—FOREIGN ANTI-DRUG CORRUPTION ACT

"Sec. 1101. Short title.
"Sec. 1102. International narcotics control amendments.
"Sec. 1103. Amendments to Trade Act of 1974.".

IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMISSION ON WARTIME RELOCATION AND INTERNMENT OF CIVILIANS

HELMS AMENDMENT NO. 1968

Mr. HELMS proposed an amendment to the bill (S. 1009) to accept the finding and implement the recommendations of the Commission on Wartime Relocation and Internment of Civilians; as follows:

At the end of the bill, add the following:

TITLE IV—REQUIREMENT FOR A BALANCED BUDGET

SEC. 401. (a) PROHIBITION ON APPROPRIATIONS.—No funds may be appropriated under this Act for any fiscal year if

(1) it is determined, under the Balanced Budget and Emergency Deficit Control Act of 1985, that there will be a deficit in such fiscal year; or

(2) if the Concurrent Resolution on the Budget, adopted pursuant to Section 301 of the Congessional Budget and Impoundment Control Act of 1974, sets forth a deficit for such fiscal year.

HELMS AMENDMENT NO. 1969

Mr. HELMS proposed an amendment, which was subsequently modified, to the bill S. 1009, supra; as follows:

At the end of the committee substitute add the following new section:

"SEC. . Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall it be construed as providing any basis for compensation in connection with any such claim.

HATCH AMENDMENT NO. 1970

Mr. HATCH proposed an amendment to the bill S. 1009, supra; as follows:

On page 43, line 16, beginning with "At", strike through line 17.

HELMS AMENDMENT NO. 1971

Mr. HELMS proposed an amendment to the bill S. 1009, supra; as follows:

On page 46, between lines 15 and 16, insert the following new section:

JAPANESE PAYMENT OF COMPENSATION TO FAMILIES OF MEN AND WOMEN KILLED AT PEARL HARBOR

SEC. 208. No funds shall be appropriated under this title until the Government of Japan has fairly compensated the families of the men and women who were killed as a result of the Japanese bombing of Pearl Harbor on December 7, 1941.

INDIAN DEVELOPMENT FINANCE CORPORATION ACT

INOUYE AMENDMENT NO. 1972

Mr. BYRD (for Mr. INOUYE) proposed an amendment to the bill (S. 721) to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economics; as follows:

On page 60, on line 1, after the word "shall", add a comma (,) and insert the following phrase: "subject to availability of appropriations made in advance for this purpose,".

On page 61, line 22, after the word "authorized", add a comma (,) and insert the following phrase: "subject, in any fiscal year, to appropriations made in advance,".

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JOHNSTON. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources.

The hearing will take place May 12, 1988 at 2 p.m. in room SD-366 of the Senate Dirksen Office Building in Washington, DC.

The purpose of the hearing is to take testimony on S. 2203, a bill to extend the expiration date of title II of the Energy Policy and Conservation Act. Witnesses from the Department of Energy and the Department of State and have been invited to testify.

Anyone wishing to testify, or seeking further information, should contact Betsy Moler, senior counsel to the committee, at (202) 224-0612, or Jim Bruce, senior counsel to the committee, at (202) 224-5052.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, to conduct a hearing on "Oversight of the Occupational Safety and Health Administration."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 20, 1988, to continue markup of S. 1511, a bill to reform the Nation's welfare system.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, to mark up S. 1516, Federal Insecticide, Fungicide, and Rodenticide Act reform of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, April 20, 1988, to conduct oversight hearings on market manipulation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Aviation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 20, 1988, to hold a hearing on the findings and recommendations of the Aviation Safety Commission and the Congressional Office of Technology Assessment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONVENTIONAL FORCES AND ALLIANCE DEFENSE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Conventional Forces and Alliance Defense be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, in closed session to conduct a markup of the amended fiscal year 1989 defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, to conduct a hearing on the environmental conditions and trends in marine and near-coastal waters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs, be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, to hold a hearing on S. 1987, the Indian Housing Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS, AND INTERNATIONAL OPERATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, to hold a hearing on treaties relating to mutual legal assistance in criminal matters [MLATS].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS, SUSTAINABILITY AND SUPPORT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Readiness, Sustainability and Support be authorized to meet during the session of the Senate on Wednesday, April 20, 1988, in closed session to conduct a markup of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ALEX KORFF

THE 1988 JOHN F. KENNEDY VOLUNTEER OF THE YEAR FOR NORTH AFRICA, NEAR EAST, ASIA, AND PACIFIC REGIONS

● Mr. MOYNIHAN. Mr. President, it is a rare occasion when one can pay tribute to another and show respect for dedication and service to those whose fortune has been characterized by suffering. I have that opportunity today.

Allow me to draw the Senate's attention to the efforts of one of my constituents whose selfless dedication to community service—especially when it concerns children—has been a lifelong commitment. Alex Korff, of New York City, was recently awarded the Peace Corps' most distinguished award, the 1988 John F. Kennedy Volunteer of the Year for North Africa, Near East, Asia, and Pacific Regions. His efforts to alleviate the malnutrition and deprivation of Iloilo City in the southwest portion of the Philippines' Panay Island have served children who represent 25 percent of the victims of second and third stage malnutrition.

As a rural health community development worker his work has benefited the children directly by bringing to fruition programs which rehabilitate these suffering children. It has been his responsibility to administer the Greg Lumogda Fund initiated by Peace Corps volunteers to address the special needs of children: malnourishment, TB, pneumonia, acute anemia, cholera, menengitis, and cancer.

Alex has developed and implemented a hospice for children unable to return to their homes due to financial and personal hardships. He involved himself, as is the want to do of a volunteer, with the day-to-day care of children ill with complicated disorders—children otherwise helpless.

Most impressive have been his efforts to establish a center for children with special needs as well as to integrate an income project for the mothers of these children in order to maintain their dignity and that of the facility.

Mr. Korff is not a 20- or 25-year-old volunteer but rather a man in his mid-50's, a former Salvatorian priest, a religious order dedicated to education, an educator and an activist. He joined the Peace Corps in 1985 and has been one of its crown's jewels. He reminds us of our common duty to those whose lives are not as filled with opportunity and to the ideal which President Kennedy embodied in the Corps' mandate in his 1961 inaugural address. His words were directed to us all:

> To those peoples in the huts and villages of half the globe struggling to break the bonds of mass misery, we pledge our best efforts to help them help themselves, for whatever period is required—not because the communists may be doing it, not because we seek their votes, but because it is right. If a free society cannot help the many who are poor, it cannot save the few who are rich.

Many have been made richer for Alex Korff's work and his dedication is, for all of us, a reflection of an American tradition; a tradition of volunteerism, which is itself celebrated this week.

I salute you, Mr. Korff, and call upon my colleagues in the Congress to join me in recognizing your humanitarian commitment to the children in pain and poverty in the barrios of Iloilo City, the Philippines.●

NORTHERN IRELAND: A CRISIS IN PUBLIC CONFIDENCE

● Mr. DECONCINI. Mr. President, the Anglo-Irish Agreement of November 15, 1985, raised new hope for reduced tensions in Northern Ireland. Article 8 of the accord specifically addressed the importance of public confidence in the administration of justice. This was a particularly critical provision for the Catholic minority, who have been struggling to express their hope for a fair and peaceful settlement. Catholic hope and confidence has been dismal in the past.

Now, after more than 2 years under the 1985 accord, the environment is more desperate and discouraging. As stated in the Washington Post on March 26, "there is widespread consensus among politicians, churchmen, academics, and military officials that the Northern Ireland problem has rarely seemed more hopeless." This observation is supported by a recent poll in Fortnight, a respected Belfast political journal, which found that 81 percent of the Catholics polled believe that the Catholic community has not benefited from the accord.

The fear and distrust of the Catholic minority is reflected in their attitude toward the local police force, the Royal Ulster Constabulary [RUC]. This force is 90 percent Protestant, and has historic ties, the Catholics believe, with the Province's Protestant majority, including Protestant paramilitary forces such as the Ulster Defense Association [UDA]. To make matters worse, the UDA, as noted by the Chicago Tribune on February 15, "is believed to be responsible for more than 300 Catholic murders and has recently been caught smuggling guns into Northern Ireland." Just as the IRA should be condemned for violence and highly questionable tactics, so should the UDA. Just as the IRA is blamed for prolonging the civil unrest, so should the UDA. Catholics see an obvious and unfair double standard being applied.

The intent of article 8 of the accord was commendable. Unfortunately, it does not seem to be any longer. Instead of gaining confidence in the administration of justice, the Catholic minority has been shocked and shaken by recent actions of the British judiciary. These actions, as reported by the Christian Science Monitor on February 10, seem "almost calculated to destroy whatever confidence they—the Catholics—may have in British justice." British justice is a term that does not apply to Northern Ireland.

There have been a litany of decisions which destroy British credibility. The first decision was to refuse to prosecute RUC police officers for obstructing an investigation into the killing of six unarmed Catholics, even though the British attorney general admitted that there was sufficient evidence for prosecution. The second decision, which came only 2 days later, was to uphold convictions against the so-called Birmingham Six. These six individuals were accused of planting bombs in English pubs in 1974. The convictions were upheld in spite of significant questions that had been raised concerning previous evidence and testimony.

The implications of these two actions, particularly the suggestion that the RUC could act with impunity and without judicial oversight, has eroded public trust. The apparent dual standard seen in the two decisions has deeply undermined British and Irish efforts to convince the Catholics in Northern Ireland that they will receive fair and equal treatment before the law. There is no reason for Catholics to believe that things are changing in Northern Ireland.

The acts of terrorism and violence in Northern Ireland continue to dominate the news coverage. Both sides must strongly and resolutely condemn these acts. The violence in Gibraltar, the massacre in the cemetery in Milltown, the killing of two undercover police in the midst of a funeral procession, all demonstrate that the violence erupts from every corner. All of these incidents are tragic and contribute to a deteriorating situation in Northern Ireland.

In the midst of these terrible times, there are voices appealing for calm. Gerry Adams, a leader of the Sinn Fein, said that he did not believe in reprisals, and appealed for calm during the Milltown Cemetery attack. After the murder of the two British soldiers at the funeral procession on March 19, Rev. Tom Toner, a Catholic priest, appealed to Catholics "to pray for the souls of the dead soldiers and themselves."

Mr. President, the Anglo-Irish Accord of 1985 raised the hopes of many people in Ireland. These hopes have been shattered by the recent decisions by the British courts. The new expectations have been dimmed by bloodshed and terror. I would hope that Prime Minister Thatcher and Prime Minister Haughey could join these voices with a hopeful message reaffirming the principles of the 1985 accord. They should emphasize the provisions of article 8 that speak to the importance of public confidence in the administration of law. Right now the police and the courts, these bodies responsible for the administration of justice, are distrusted by the Catholics.

The danger now is that London and Dublin will grow further apart over Northern Ireland. The danger now is that violence will replace reason and dialog. The danger now is that despair will replace hope. This must be avoided. Only 2 months ago the United Kingdom's Foreign and Commonwealth Office issued a briefing paper which lauded the Anglo-Irish Agreement as an "important milestone which benefits both communities in Northern Ireland and poses no threat to either of them." The United Kingdom went on to say that both governments remain firmly committed to "enhance the climate for political development and intercommunal reconciliation." Action must support words.

There are many complex, longstanding and deep-seated reasons for the turmoil and strife in Northern Ireland. There has been a lack of consistency and fairness by the courts. There is a separate way of treatment the IRA and UDA. There is a huge disparity between Catholic and Protestant representation in the RUC. A renewed commitment by both London and Dublin to "the importance of public confidence in the administration of justice," as noted in article 8, is a small first step toward building renewed hope. If the Catholics continue to believe that the police and the courts are not part of a system of justice but instead represent corruption and oppression, there is little promise for peace. We need to focus more attention on this tragic situation in Northern Ireland.●

IMPLEMENTING THE GENOCIDE CONVENTION

● Mr. WILSON. Mr. President, last Thursday the Senate Judiciary Committee gave its overwhelming approval to S. 1851, a bill that would make genocide a crime under U.S. law.

I applaud the committee for taking this action and I am hopeful that the Senate will move quickly to approve this bill in the next several weeks.

Congressional approval of legislation that would implement the provisions of the International Convention on the Prevention and Punishment of Genocide is long overdue. In 1986, the Senate gave its advice and consent to the President to ratify the Genocide Convention. But 2 years have passed and the United States has still not become a formal signatory to the convention. The unfinished business that is hindering this final action is passage of S. 1851, the Genocide Convention Implementation Act.

This legislation enjoys wide support from groups including the American Jewish Committee, the Armenian Assembly of America, the National Spiritual Assembly of the Baha'is, the Cambodians, Amnesty International, B'nai B'rith International, the Anti-Defamation League of B'nai B'rith International, and the American Bar Association. The Justice Department and the Senate Department have also testified in support of the bill. With such overwhelming support, the burden is now with the Senate to take action.

In a few months, President Reagan and the Soviet General Secretary Mikhail Gorbachev will meet to discuss the INF Treaty and other issues, including human rights. Our failure to become a signatory to the Genocide Convention has allowed the Soviets to distort America's human rights record and undermine our negotiating power through propaganda campaigns conducted in advance of important bilateral meetings. In recent testimony before the Senate Judiciary Committee, Ambassador Richard Schifter, Assistant Secretary of State for Human Rights and Humanitarian Affairs, said that the "human rights violators have persistently levied unfair charges of hypocrisy or insincerity against the United States" for its failure to sign the Genocide Convention. "For our adversaries, and those that believe human rights are merely hollow words, S. 1851 will eliminate a criticism that is now used to deflect attention from legitimate concerns over their own human rights abuses," Schifter said.

Senate approval of S. 1851 would permanently take that topic off the Soviet agenda and would strengthen the human rights stance of the United States in its upcoming talks with the Soviets.

It is my hope that the Senate leadership will schedule early floor consideration of this bill. April is a significant month for two of the most prominent targets of genocide in this century—the Jews and the Armenians. April 14 is Yom HaShoah, Holocaust Remembrance Day, and April 24 is Armenian Martyrs' Day. Senate passage of S. 1851 before the close of the month would serve as a special tribute to the memory of the victims of those two tragic events in human history.

Although the Genocide Convention and this implementing legislation cannot correct the wrongs of the past, it can serve as a powerful tool to prevent the repetition of genocide in the future and to punish those who would attempt to commit such acts.

I urge my colleagues to join me in cosponsoring this important legislation and in working for its speedy approval by the Senate and the House of Representatives.●

A SALUTE TO JOHN CAMPBELL

● Mr. LUGAR. Mr. President, I would like for you and my colleagues to join with me in saluting an outstanding coach.

John Campbell, track coach at Gary Roosevelt High School in Gary, IN, has guided his outstanding teams to a record 10 State championships.

On April 30, 1988, Gary Roosevelt High School will host their 15th Gary Roosevelt Track Invitational, which brings together the best teams in Indiana, and for the past few years, the East St. Louis Lincoln High School team that has won several Illinois State championships. John will use the invitational as a testing ground for a shot at his 11th State championship.

John Campbell, a native of South Carolina, has taught and coached at Gary Roosevelt High School for 30 years. He is married to Earline Campbell, and has three children: Troy, who still holds several track records at the Naval Academy; Renee, who graduated from Howard University; and Eric, who is a State champion hurdler, football and track star that will graduate this month from the University of Michigan.

Coach Campbell instills the desire for excellence and pride in all of his athletes. We need to package his formula for success and export it to every school in the Nation. He represents all that is good and right about our State's educational system.

He has allowed me to present an award to the outstanding athlete each year at the Gary Roosevelt Invitational. Past winners include: Jeff Patrick; Dan Young; John Story; and Albert Turner of Gary Roosevelt High School, and Michael Smith of South Bend La Salle High School.

I look forward enthusiastically to my annual participation at this great athletic drama.

I would like for my colleagues to join me in saluting this outstanding Hoosier and to recognize his major contributions to our Nation's future.●

COMBATING THE PROBLEMS OF THE AMERICAN TEEN

● Mr. PELL. Mr. President, it is a tragic fact of which we are all well aware that our Nation is plagued by an ever growing culture of drug and alcohol abuse. Each day young children leave their homes to go to school, yet find themselves in a world of difficult decisions and intimidating peer pressure concerning drugs and alcohol. It is for this reason that I would like to call special attention to two exemplary programs that seek to address these urgent issues.

The first program is Project STAR—Student Taught Awareness and Resistance. This is a statewide drug and alcohol prevention program founded by Mr. and Mrs. Ewing M. Kauffman in conjunction with Marion Laboratories, Inc. The core component of the program is the social skills curriculum designed to teach young people to anticipate and to resist the pervasive influence to begin using alcohol and other drugs. The curriculum, which has been ongoing in the State of Missouri and has just been implemented in the State of Kansas, is enacted in the schools by trained classroom teachers. The program is aimed at middle school and junior high school levels.

The second program, also founded by the Ewing M. Kauffman Foundation, is Project Choice. Project Choice focuses on improving the quality of education for high school students. The Kauffman Foundation is offering full college scholarships to those students in the 1988-89 freshman class of Westport High School in Kansas City, MO, who successfully graduate from high school, avoid drugs and alcohol, abstain from parenthood, and actively participate in tutoring programs.

Both Project STAR and Project Choice are fine examples of the progress that can be made in this great nation by its concerned citizenry to assist in combating the spread of drug and alcohol abuse, as well as the epidemic of teen pregnancy. I, therefore, appreciate this opportunity to recognize and commend the efforts of the Kauffman Foundation, Marion Laboratories, Inc., and the school districts participating in these programs.●

TITLE III OF THE HIGHER EDUCATION ACT

● Mr. HEINZ. Mr. President, I recently received a letter from a distinguished educator in my home State, Geneva College president Joe McFarland. His letter outlines a serious problem which is affecting our 4-year private colleges. The only type of institutional assistance available to them is the title III A funding under the Higher Education Act. But, Congress has changed the rules on private, 4-year institutions. In 1986, the formula by which title III A funds are spent was altered, and subsequently appropriations declined to the point where there are now absolutely no funds available to 4-year institutions. To illustrate the type of frustration being felt on the institutional level, I ask that President McFarland's letter be printed in the RECORD at this point. Thank you, Mr. President.

The letter follows:

GENEVA COLLEGE,
March 31, 1988.

Senator J. JOHN HEINZ III,
Russell Senate Building, Washington, DC.

DEAR SENATOR JOHN HEINZ: I am writing to inform you of some of the frustrating circumstances which have become associated with the funding of Title III A program grants and some of the hostility within private 4-year colleges which is resulting from (1) a short-fall in the funding of the program and (2) the untimely manner in which the U.S. Office of Education has conveyed this information to 4-year private colleges.

The problem stems from the fact that historically there has been a percentage of the Title III A monies set-aside for 2-year institutions. In the 1986 Higher Education Amendments, this set-aside was converted from a percentage to a dollar amount ($51,400,000). Because appropations for Title III A were reduced by $15 million to $60 million in FY '88, there is now, apparently, not enough money in the program to either fully fund existing 4-year institution grants or consider any new grant proposals from 4-year institutions.

In a letter from the U.S. Office of Education dated February 29, 1988, we were notified that Geneva College had been designated eligible to compete for a new fiscal year 1988 Strengthening Institutions Program grant, provided the proposal was submitted by a deadline of April 11, 1988 . . . only five weeks later. Because of that calendar, we proceeded to hire a consultant and to engage our own staff, literally, on weekends and evenings to work on the preparation of our proposal. I made a trip to Washington, D.C. a few weeks ago to visit with Mrs. Pat Gore in the Title III office to obtain procedural information. Our Academic Vice President was in Washington, D.C. earlier this week working with our consultant on the proposal when a letter dated March 24 from Dr. Caroline Gillin of the U.S. Office of Education arrived on my desk stating it had now been determined that no money would be available to support proposals from 4-year institutions. I find this type of mismanagement unconscionable, both from the standpoint of the several thousand dollars of wasted monetary resources, which we were forced to invest in order to meet the deadline, as well as the wasted manpower resources which were badly abused as a result of this fiasco.

In the long run and of more critical importance, however, is the necessity of changing the appropriation language. I solicit your support in remedying the circumstances which apparently, by law, leaves the crumbs for struggling private institutions, if there is any money left over. Having worked for most of my life in state supported institutions, I find it paradoxical that 2-year branch campuses of graduate state universities continue to qualify for assistance when private institutions do not. These are institutions which already benefit from both state appropriations and local mill levies, avenues of assistance not available for private 4-year colleges.

I hope this knowledge will bring to your attention the need for some changes in the language, as well as in the level of support, in further Title III A appropriations. I urge your attention to this matter and your support for changes which would provide access to Title III A funding for private 4-year institutions.

JOE MCFARLAND,
President.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $900 million in budget authority, and by $2.9 billion in outlays. Current level is under the revenue floor by $10.6 billion.

The current estimate of the deficit for purposes of calculating the maximum deficit amount under section 311(a) of the Budget Act is $154.1 billion, $1.2 billion below the maximum deficit amount for 1988 of $155.3 billion.

The document follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 18, 1988.

Hon. LAWTON CHILES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of congressional action on the budget for fiscal year 1988 and is current through April 15, 1988. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, House Concurrent

Resolution 93. This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32.

No changes have occurred since my last report.

Sincerely,

JAMES L. BLUM,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONGRESS, 2D SESSION, AS OF APR. 15, 1988

[Fiscal year 1988—in billions of dollars]

	Current level [1]	Budget resolution (H. Con. Res. 93) [2]	Current level (+/− resolution)
Budget authority	1,145.1	1,146.0	−0.9
Outlays	1,031.8	1,034.7	−2.9
Revenues	922.2	932.8	−10.6
Debt subject to limit	2,493.1	[3] 2,565.1	−72.0
Direct loan obligations	34.4	34.6	−.2
Guaranteed loan commitments	155.1	156.7	−1.6

[1] The current level represents the estimated revenue and direct spending effects, budget authority and outlays, of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other mandatory programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[2] In accordance with section 5(a)(1)(b) the budget authority and outlays include an adjustment that reflects the amount reserved for subsequent allocation under section 302(a) of the Congressional Budget Act.

[3] The permanent statutory debt limit is $2,800.0 billion.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS APR. 15, 1988

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			911,050
Permanent appropriations and trust funds	792,035	674,291	
Other appropriations	569,646	574,400	
Offsetting receipts	−202,566	−202,566	
Total enacted in previous sessions	1,159,115	1,046,125	911,050
II. Enacted this session:			
Rescission of Jewish education centers abroad (Public Law 100–251)	−8	−5	
Veterans Home Loan Program emergency amendments (Public Law 100–253)		1	
Assistance and support for Central America (Public Law 100–276)		43	
Total enacted this session	−8	39	
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Disaster relief	142	85	
Special milk	5	1	
Special benefits	83	83	
Special benefits for disabled coal miners	7		
Medicaid	51	51	
Social services block grants	50	48	
Veterans readjustment benefits	16		
Veterans compensation	282		
Payment to air carriers	8	2	
Coast Guard retired pay	6	6	
National wildlife refuge fund	1	1	
Total entitlement authority	650	276	
VI. Adjustment for economic and technical reestimates	−14,650	−14,650	11,200
Total current level as of Apr. 15, 1988	1,145,107	1,031,789	922,250

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL, FISCAL YEAR 1988 AS OF CLOSE OF BUSINESS APR. 15, 1988—Continued

[In millions of dollars]

	Budget authority	Outlays	Revenues
1988 budget resolution (H. Con. Res. 93)	1,146,000	1,034,700	932,800
Amount remaining:			
Over budget resolution			
Under budget resolution	893	2,911	10,550

Note.—Numbers may not add due to rounding.●

G.D. SEARLE & CO.—A CORPORATION DOING GOOD

● **Mr. ARMSTRONG.** Mr. President, victory is often achieved taking one step at a time. Last week Colorado witnessed a small step taken in the fight to improve health care for the poor, and another step to discourage drunk driving among teenagers.

Last week, G.D. Searle announced it would give $100,000 to Colorado hospitals to pay for cardiovascular drugs needed by low income people who could not otherwise afford them. At least one health expert in Colorado commended this contribution as an important step in improving health care.

Another company, Mr. Tux, announced it would offer $5 discounts on formal wear rented by teenagers who sign a pledge not to drive and drink on prom night.

These creative contributions to improving our quality of life deserve praise. As the Denver Post editorialized, these are examples of corporations "doing business, doing good."

I ask that two articles about these contributions be inserted in the CONGRESSIONAL RECORD.

The articles follow:

[From the Rocky Mountain News, Apr. 7, 1988]

SEARLE OFFERS HEART DRUGS FREE TO POOR

(By Kris Newcomer)

Free heart and blood-pressure drugs from a major pharmaceutical company will help narrow the health-care gap between Colorado's middle class and its poor, doctors said yesterday.

Premature deaths from heart disease and strokes have dropped 40% and 50% respectively, since the early 1960s, said Dr. Thomas Vernon, state health director. But the poor haven't benefited equally with more well-to-do groups.

"We don't have a universal-access health care system in this country," Vernon said. The free drug program from G.D. Searle & Co. is "an important contribution" to closing the gap, he said.

Vernon spoke at a news conference at which Randy Ade, a spokesman for the Skokie, Ill.-based pharmaceutical giant, handed over coupons worth $100,000 to doctors at Denver General Hospital, Mercy Medical Center and Rocky Mountain Hospital.

Searle's cardiovascular drugs will be available to patients through doctors, who will send in coupons certifying their patient's low-income status.

Annual income guidelines are $8,000 for two-member households, or $11,000 for households of up to four, but Searle is leaving the determination up to physicians.

Searle's Patients in Need program sprang from a pilot project, which last year funneled $10 million worth of the hypertension drug Calan to about 20,000 people nationwide.

Patients in need, which started with simultaneous announcements in 10 cities yesterday, now covers the company's complete line of cardiovascular medications—seven drugs that each cost patients between $12 and $35 per month.

More than 12,000 doctors in Colorado have received letters about the program. Any licensed doctor is eligible to participate on behalf of low-income clients.

The $100,000 is only a start. The company has no cap on how much of the drugs will be available free.

[From the Denver Post, Apr. 9, 1988]

DOING BUSINESS, DOING GOOD

When the next list of commendable capitalists is drawn up, G. D. Searle and Mr. Tux will have to be placed near the top.

The two firms—one a corporate giant, the other a dwarf by comparison—both deserve bouquets for helping to improve the lives of Coloradans this spring.

Searle, the Illinois-based pharmaceutical house, has offered to provide at least $100,000 in free medications to financially needy heart-disease patients in the Denver area. Doctors at Denver General Hospital and two other health centers are being given vouchers that can be exchanged for any of the company's seven most widely used cardiac drugs.

Mr. Tux, a formal-wear rental outfit with two stores in Lakewood and Thornton, is offering $5 discounts to high schoolers who sign a pledge not to drink and drive on prom night. The deal is an expansion of a program the firm launched experimentally last year.

These investments in the health of their customers obviously will pay off in the long term, not only for the companies involved, but also for the community at large. Such socially responsible acts are as fresh and welcome as the first blossoms of the new season.●

THIRTIETH ANNIVERSARY OF THE U.S. COMMITTEE FOR REFUGEES

● **Mr. PELL.** Mr. President, I would like to honor the 30th anniversary of the U.S. Committee for Refugees, the private organization that has long been in the lead in providing timely advocacy and important information and insights about refugees throughout the world.

Refugees, almost by definition, are voiceless; for they are dispossessed and disenfranchised. Fearing persecution from their home countries, they lack the rights of citizenship and throw themselves on the mercy of "host" countries. The U.S. Committee for Refugees, in its vigorous efforts on behalf of refugees over the past 30 years, refuses to let us forget that refugees still have the basic rights universally recognized for all human beings, regardless of their citizenship.

This year's World Refugee Survey, published annually by the U.S. Committee for Refugees, once again sets a high standard of accuracy and objectivity in its reporting on refugee protection worldwide. Mr. President, I ask unanimous consent that the Year in Review statement by the committee's distinguished and energetic director, Roger Winter, be entered into the RECORD following my remarks; and I commend it to my colleagues.

The editorial follows:

THE YEAR IN REVIEW

(Rober P. Winter)

Refugees do not occur in a vacuum. They are victims, produced by human actions and inactions. As refugee advocates, we can and do criticize the office of the United Nations High Commissioner for Refugees for not being effective enough, or countries of asylum for not being generous enough or for failing to live up to "internationally accepted standards" of refugee protection. But the ultimate culprits in the refugee drama are those governments who mistreat their citizens and other governments who serve as direct or indirect accomplices in that mistreatment.

The world has no effective mechanism for selectively intervening in the internal affairs of a nation whose government abuses the fundamental human rights of its own people so as to produce refugees or their often worse off internally displaced counterparts. Thus, the international community is condemned to assisting refugees after much of the damage has been done; and internally displaced people most often do not come to the attention of, let alone receive assistance from, the international community. Some assert that the notion of such a system of intervening is politically naive, unworkable, and the like. Such assertions mask a lack of sufficiently creative, humanitarian leadership and commitment.

Often governments that create refugees, or those who assist such governments, act within an East-West, geopolitical context. Most often that is all they focus on; the displaced civilians are less than a sideshow. One result is that most major refugee upheavals have become long-term affairs. Almost every major refugee-producing conflict has been extant since 1979 or earlier. We are approaching the age of the permanent refugee, where the situations of other displaced populations begin to parallel that of the Palestinian refugees, symbols of the failure of good sense in the international community.

Still there are times when the interests of great powers and other pertinent parties coincide, and meaningful progress for resolving the plight of refugees seems at least possible. This is the hope for 1988. The Central American peace initiative, Soviet withdrawal from Afghanistan, Vietnamese withdrawal from Cambodia, an end to civil war in Sri Lanka. Soviet relaxation of emigration restrictions—all these represent possibilities that, if they mature, can produce truly significant progress on the refugee front.

For 1987, however, the worldwide refugee picture has been mixed. Serious concerns have arisen about UNHCR's internal situation and, in particular, its performance of its most fundamental role, that of protecting refugees in the fullest sense of the mandate. Ultimately, however, UNHCR is a creation of governments, and governments are the key to resolving concerns about UNHCR.

The situation of refugees and displaced people throughout southern Africa continued to deteriorate during the year. Refugees from Mozambique fled that devasted land in droves. Thousands continued to enter South Africa, where UNHCR is not present, and many were expelled. In Malawi, numbers increased from 70,000 at the end of 1986 to nearly 400,000 at the end of 1987. When thousands of Mozambican refugees in Zimbabwe were forcibly returned to Mozambique in an unfortunate breach of refugee protection standards, UNHCR was unprepared to exercise its protection role. The pace of violence in Angola accelerated. The number of displaced Angolans climbed dramatically as food production was disrupted by the civil war. Angolan refugees in Zaire and Zambia continued to increase in number, and impending famine conditions promised more. Inside Mozambique, however, cooperation between the government, the international community including active participation by the United States, and many nongovernmental agencies resulted in the implementation of a major relief effort.

Elsewhere in Africa, Sudan, Somalia, and Djibouti continued to host reluctantly major refugee populations, and a major famine emergency again loomed in Ethiopia as the year ended; repatriation to Uganda continued from Sudan and was completed from Zaire.

In Southeast Asia, Thailand, faced with refugees on every border, thankfully continued to offer asylum to many thousands—but not without tragic incidents. In March and November, particularly egregious forced repatriations of Hmong refugees from Laos occurred, with refugee lives unnecessarily lost. Thai authorities did move to improve handling of Hmong asylum seekers late in the year, however. Fighting inside Burma caused an increase of Karen refugees in Thailand, which does not permit UNHCR to function on their behalf. Forced repatriations of Karen were common. Since technically closing Khao I Dang camp in December 1986, Thailand has not yet actually moved many Cambodians to the volatile Thai/Cambodian border. On that border, 270,000 Cambodians continued to languish in unacceptable circumstances. USCR and nongovernmental organizations internationally have insisted that the UN system must do better by this population.

While the percentage of pirate attacks against Vietnamese boat people continued to decline, the number of boat people surged, causing a reaction in countries of first asylum. Indonesia, in an unfortunate reversal of practice, has increasingly deterred Vietnamese boat people from seeking asylum, a dangerous practice that bodes ill for Vietnamese refugees throughout the region. In Vietnam, hundreds of people held in reeducation for years were released, leading to hopes for the remaining 7,000. In nearby Papua New Guinea, UNHCR and local authorities have made some progress in pursuing durable solutions for refugees from the Indonesian province of Irian Jaya.

Pakistan's welcome for Afghan refugees—the world's most massive refugee phenomenon—showed the strains of the last eight years. While the government's official welcome has not changed, scapegoating of refugees has increased. Most of the world continues to hope for the restoration of peace in Sri Lanka, with a resultant possible return of many internally displaced people and refugees, including many now sheltered in south India. The violence surrounding Palestinian refugees continues at disheartening levels—in Lebanon, Israel's occupied territories, and elsewhere. "Palestinization" stands as the world's prime object lesson in what a refugee emergency can lead to if not handled responsibly by the international community and the governments most directly involved. Iran's internal situation, including targeted persecution of Bahai's, and the Iran/Iraq war continued to spawn significant numbers of new refugee victims, though Iran continued to provide asylum to massive numbers of refugees from Afghanistan. In Central America, a successful repatriation of 4,314 Salvadoran refugees from the Mesa Grande camp in Honduras gave a glimpse of what could result if that region's peace process continues. Violence in Suriname caused refugees, primarily ethnic Maroons, to flee in increasing numbers to neighboring French Guiana. In Haiti, the hopes for human rights improvement with resulting benefit in the refugee sphere failed to materialize as violence reasserted its still central role in that society.

In the developed world, Western Europe and North America continually reinforce each other's worst instincts in dealing with asylum seekers, damaging individual asylum seekers, immediately, and the international refugee protection system, ultimately. Canada, having heretofore taken a commendable high road, joined the ranks of the backsiders.

As Swedish colleague Peter Nobel put it—speaking of Europe, but also applying to North America—"Many are therefore dead today who otherwise would have been alive if given the chance to go to Europe and enjoy asylum there. Some died quickly, others in horrible ways. We do not cut throats, but we are busily cutting lifelines."

One wishes for humanitarian consistency from the U.S. government in approaching refugee protection matters, but it is not to be found. U.S. actions are in many cases the most generous in the world; in others, they are indefensible. Take for example this contrast. It is a truly joyous development that Soviet citizens are at last being allowed to emigrate in increased numbers to asylum in the West, in large part because the U.S. government has properly continued to include this issue on its agenda for superpower negotiation. How does one, then, adequately explain the mindset in that same U.S. government towards Haitian asylum seekers?

Since October 1981, the U.S. government has had a program of interdicting Haitian asylum seekers on the high seas. It has been effective as an immigration enforcement technique, but a tragedy on human rights and humanitarian grounds. Since 1981, more than 12,000 interdicted Haitians have been forced back to the caldron that is Haiti. Only two in all that time have been found worthy of asylum in America; they had the bullet holes to show their fear of persecution in Haiti was well-founded. We do not argue that all Haitians meet the test of being refugees, but some clearly do. But how does our government make the moral leap from promoting refugee emigration from the Soviet Union to the United States, to enforcing a prohibition on such emigration from Haiti? The average American—while knowing little of the details of Haitain life and history—knows enough to be aware that fundamental American fairness has been violently breached in the case of Haitian asylum seekers.

Refugee protection, including the provision of asylum, is subject to the changing winds of political bias. Rejecting German Jews seeking admission to the U.S. in 1939—as the United States did—may have been technically correct immigration enforcement. But, looking back, we are all shamed by our inability to see then the larger human rights and humanitarian issues involved. Today, a similarly narrow vision on the part of our government results in long-term imprisonment of some asylum seekers, deportation of others who have reason to fear being forced to return to violent homelands, and political bias in the administration of the asylum system. Those policies result from a misconception within the Administration about what asylum is really all about. Refugee protection, including the provision of asylum, was born in a human rights context. In this country, however, it has become entombed in restrictive immigration enforcement.

In 1988, we can all hope for progress in the conflicts that have spawned the world's 13 million refugees. And in America, we need to work to assure that our own government rethinks the context in which it approaches refugee protection—back to the human rights fundamentals that are the soul of refugee protection.●

RETIRED SENIOR VOLUNTEER PROGRAM

● Mr. ADAMS. Mr. President, I rise today to express my support for the Retired Senior Volunteer Program, also known as RSVP.

RSVP is a national program with 751 projects throughout the United States and over 400,000 volunteers. Across the Nation RSVP volunteers serve in schools, hospitals, libraries, museums, nursing homes, day-care centers, food banks, senior centers, and many other organizations. They range in age from 60 to 103 years and they come from all walks of life: from people with no formal education to Ph.D.'s, housewives and executives, indeed the list is as varied as America itself.

Volunteers make a tremendous contribution to our society. It has been estimated that American volunteers provide over $65 billion in services to people in both the United States and in foreign countries. Seniors are especially valuable volunteers because of the wide range of skills and life experiences they often bring to their volunteer work. By sharing this knowledge and expertise with others, seniors enrich the lives of those they aid and make our society as a whole a better place.

Today at 2 p.m., balloons will be released across the country to honor the contributions RSVP seniors have made. As part of the great RSVP balloon launch, balloons will be released right here at the Capitol, as well as in my home State of Washington, and in every State across the Nation. I hope my other colleagues in the Senate will have the opportunity to see these balloons floating over the Capitol and will take the time to reflect on the contributions that senior volunteers have made to each of their communities.●

NATIONAL EATING DISORDERS AWARENESS WEEK

● Mr. D'AMATO. Mr. President, I rise today in strong support of a resolution introduced by my distinguished colleague, Senator MIKULSKI, to designate the week of April 24 to 30, 1988, as "National Eating Disorders Awareness Week." I commend Senator MIKULSKI for taking the lead in this effort to focus public attention on these often hidden disorders.

The two most common eating disorders are anorexia and bulimia. Anorexia—also known as "starvation sickness"—involves a pattern of excessive dieting over a period of months or even years. Bulimia is a related disorder of compulsive binging and purging. Both are serious emotional disorders that can lead to physical illness and death.

While eating disorders can affect men and women of all ages, they are most prevalent among younger women. A recent Gallup poll projected that roughly 2 million American women between the ages of 19 and 39 are affected by symptoms of bulimia or anorexia. An additional 1 million teenagers also suffer from these disorders.

The causes of anorexia and bulimia remain uncertain. Many studies suggest that social and psychological factors are involved, while research at the National Institutes of Health has shown that biological factors may play a role as well. What is certain is that early treatment is essential to recovery. Without early intervention, eating disorders become more and more entrenched, increasing the chances of serious physical injury.

The hidden nature of eating disorders is the most serious impediment to their early diagnosis and treatment. For this reason it is imperative that we greatly increase the public's awareness of this problem. I am pleased that Senator MIKULSKI is seeking to do just this through the establishment of an "Eating Disorders Awareness Week." I hope this effort will help put an end to the pain and suffering that eating disorders have caused in the lives of so many Americans.

I encourage my colleagues to join me in supporting this joint resolution and I urge its immediate passage.●

S. 1009 INDEFINITELY POSTPONED

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that S. 1009 be indefinitely postponed.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDERS FOR TOMORROW

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate when it completes its business today it stand in recess until the hour of 9:30 tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized under the standing order there be a period for morning business not to extend beyond 10 a.m. and that Senators may speak for not to exceed 5 minutes each during the period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUMPTION OF CONSIDERATION OF THE CONSTITUTIONAL AMENDMENT RESOLUTION

Mr. BYRD. Mr. President, I ask unanimous consent that at 10 o'clock tomorrow morning the Senate resume consideration of the constitutional amendment resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME FOR DEBATE

Mr. BYRD. Mr. President, I ask unanimous consent that there be 1 hour of debate on that joint resolution on tomorrow, to be equally divided and controlled by Mr. HOLLINGS and the Republican leader or his designee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR VOTES TOMORROW

Mr. BYRD. Mr. President, there is a great likelihood—as a matter of fact, almost a certainty—that a motion to table the Gramm amendment will be made at 11 o'clock tomorrow morning. Senators should be prepared for a rollcall vote at that hour.

I ask unanimous consent that such a vote, if it occurs, be a 15-minute rollcall vote and that the regular order be automatic at the conclusion of 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, following that tabling motion on tomorrow, other votes are expected in relation to the constitutional amendment, and it is conceivable that the amendment will be disposed of one way or the other.

I ask unanimous consent that it be in order for a cloture vote to occur on tomorrow—if the two leaders agree that a cloture vote may occur on tomorrow—following the tabling vote or at any point tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. That cloture vote would occur on the Hollings amendment to the motion to commit with instructions.

So that cloture vote, if the two leaders agree, during tomorrow, will occur.

Whether or not there will be other votes in relation to the amendment remains to be seen. But it is conceivable that, one way or the other, final action could be taken on tomorrow, in which case, then, the Senate would go to the AIDS bill—A-I-D-S bill. That is S. 1220.

If that scenario becomes an actuality, this would mean, then, the Senate would probably be on the AIDS bill tomorrow and probably Friday. Hopefully, action could be completed on that bill before the week is out.

The stage then would be set—again, hopefully—for the trade conference report beginning Monday.

Does the distinguished Republican leader have any comments or statements?

Mr. DOLE. If the majority leader will yield, my view is that we should be able to dispose of the constitutional amendment, hopefully, shortly after noon and, as the majority leader has indicated, go to the AIDS legislation.

There are about 18 amendments pending. I am not certain how many will be offered. Most of them will come from this side.

But we should be able to dispose of that legislation as the majority leader suggests on Friday, and I assume it will be his desire to do that; in other words, we complete action.

Mr. BYRD. Yes.

Mr. DOLE. Or be here on Friday until we completed action.

Mr. BYRD. Yes, I would hope that the Senate could complete action on Friday on that measure.

Mr. DOLE. Then that would leave outstanding a trade conference report and hopefully a budget conference report, which I assume we could take up then next week.

Mr. BYRD. I would hope that the budget conference report could be disposed of before the Senate goes out for the May break.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I understand that the distinguished Republican leader has a measure that he would like to process through rule XIV.

Mr. DOLE. Yes.

I thank the distinguished majority leader.

RELIEF OF BRENDA W. GAY

MEASURE READ THE FIRST TIME

Mr. DOLE. Mr. President, I understand the Senate has received from the House H.R. 3606. On behalf of Senator HELMS I ask that the bill be read the first time.

The PRESIDING OFFICER. The clerk will read the bill.

The legislative clerk read as follows:

A bill (H.R. 3606) for the relief of Brenda W. Gay.

Mr. DOLE. Mr. President, now I ask for its second reading.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Yes, I object.

The PRESIDING OFFICER. Objection is heard.

The bill will remain on the desk pending the second reading on the next legislative day.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished Republican leader have anything else at the moment?

Mr. DOLE. No.

We have cleared some things.

Mr. BYRD. Very well.

RELIEF OF MARISELA, FELIX, AND WILLIAM MARRERO

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 3439 just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3439), for the relief of Marisela, Felix, and William Marrero.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 3439) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INDIAN DEVELOPMENT FINANCE CORPORATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Order No. 596, S. 721, the Indian economic development bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (S. 721) to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian-owned business enterprises and to stimulate the development of the private sector of Indian tribal economics.

The Senate proceeded to consider the bill which had been reported from the Select Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Indian Development Finance Corporation Act".

CONGRESSIONAL FINDINGS AND PURPOSE

SEC. 2. (a) The Congress finds that—

(1) a special relationship has existed between the United States and the Indian tribes which is recognized in clause 3, section 8, article I of the United States Constitution,

(2) Congress, through statutes, treaties and the exercise of administrative authorities, has implemented the Federal Government's responsibility for the protection and preservation of Indian tribes and their resources,

(3) despite the availability of abundant, natural resources on Indian lands and a rich, cultural legacy which places great value on self-determination, self-reliance and independence, American Indians and Alaskan Natives experience poverty and unemployment along with the associated incidences of social pathology, to an extent unequaled by any other group in America,

(4) the reasons for such unparalleled poverty and unemployment have been widely studied and documented by the Congress, the General Accounting Office, the United States Department of the Interior, private academic institutions and the Indian tribes themselves and that such studies have consistently identified as fundamental obstacles to balanced economic growth and progress—

(A) the very limited availability of long term development capital and sources of financial credit necessary to support the development of a private sector economy in Indian country comprised of Indian owned business enterprises,

(B) the lack of effective control by the Indians over their own lands and resources, and

(C) the scarcity of experienced Indian managers and technicians,

(5) previous efforts of the Federal Government directed at stimulating Indian economic development through the provision of grants, direct loans, loan guarantees, and interest subsidies have fallen far short of their objectives due to—

(A) inadequate funds,

(B) lack of coordination,

(C) arbitrary project selection criteria,

(D) politicization of the delivery system, and

(E) other inefficiencies characteristic of a system of publicly administered financial intermediation, and

(6) the experience acquired by multilateral lending institutions among the so-called lesser developed countries has demonstrated the value and necessity of development fi-

nancing institutions in achieving economic growth in underdeveloped economies and societies which are strikingly similar to Indian and Alaskan Native communities in relation to such matters as control over natural resource management and the absence of experienced, indigenous managers and technicians, as well as the availability of long term development capital and private sources of financial credit.

(b) It is hereby declared to be the policy of Congress that, in fulfillment of its special and longstanding responsibility to the Indian tribes, the Federal Government should provide assistance to the Indian people in their efforts to break free from the devastating effects of extreme poverty and unemployment and achieve lasting economic self-sufficiency through the development of the private sector of tribal economies by establishing a federally chartered, mixed ownership development financing institution which shall provide a broad range of financial intermediary services including working capital, direct loans, loan guarantees and project development assistance utilizing the proven efficiencies of the private market mode of operation.

DEFINITIONS

SEC. 3. (a) For purposes of this Act—

(1) The term "Indian" means any person who is a member of any Indian tribe.

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, which is recognized by the United States as eligible for the special programs and services provided by the United States to Indians because of their status as Indians including any Alaska Native village or regional or village corporation as defined in, or established under, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(3) The term "reservation" means any Indian reservation, public domain Indian allotment, former Indian reservation in Oklahoma, or land held by any Alaska Native village or regional or village corporation (as defined in, or established under, the provisions of the Alaska Native Claims Settlement Act).

(4) The term "tribal organization" means the governing body of any Indian tribe or any entity established, controlled, or owned by such governing body.

(5) The term "Indian business enterprise" means any commercial, industrial or business entity—

(A) at least 51 percent of which is owned by one or more Indian tribe, and

(B) which produces or furnishes goods, services, or facilities, which is operated, or organized on a for-profit basis, and

(C) which is chartered, or controlled by any Indian tribe or tribal organization which is a shareholder of the Corporation, and

(D) whose—

(i) principal place of business is located within, or adjacent to, the boundaries of an Indian reservation, or

(ii) principal business activities in addition to the production of a stream of income are determined by the Corporation to be directly beneficial to an Indian tribe and contribute to the economy of such Indian tribe. Such term includes any subsidiary entity which is owned and controlled by any commercial, industrial or business activity described in the preceding sentence.

(6) The term "Corporation" means the Indian Development Finance Corporation established under section 101(a).

(7) The term "Secretary" means the Secretary of the Interior.

(b) References to Alaska Native villages or to regional or village corporations in this Act shall not grant or defer any status or powers other than those expressly enumerated in this Act. Nothing in this Act shall validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

TITLE I—ESTABLISHMENT OF CORPORATION

CREATION

SEC. 101. (a) There is hereby established the Indian Development Finance Corporation.

(b) The Corporation shall have succession until dissolved by Act of Congress. Only the Congress shall have the authority to revise or amend the charter of the Corporation.

FUNCTIONS

SEC. 102. (a) It shall be the duty of the Corporation to—

(1) provide development capital through the financial services that the Corporation is authorized to provide under subsections (b), (c), and (d);

(2) encourage the development of new and existing Indian business enterprises eligible for its assistance by providing and coordinating the availability of—

(A) long term capital and working capital,

(B) loans, loan guarantees and other forms of specialized credit, and

(C) technical and managerial assistance and training;

(3) maintain broad based control of the Corporation in its voting stockholders;

(4) encourage active participation in the Corporation by Indian Tribes by ownership of its equity securities; and

(5) assist in strengthening Indian tribal economies through the development of Indian business enterprises whose activities are directed at contributing to such economies.

(b)(1) The Corporation may—

(A) make loans or commitments for loans to any Indian business enterprise, or

(B) purchase, insure or discount any obligations of an Indian business enterprise, if such enterprise meets the requirements of paragraph (2).

(2) An Indian business enterprise meets the requirements of this paragraph if the Corporation makes an independent determination that—

(A) such enterprise has or will have—

(i) a sound organizational and financial structure,

(ii) income in excess of its operating costs,

(iii) assets in excess of its obligations, and

(iv) a reasonable expectation of a continuing demand for—

(I) its production, goods, commodities, or services, or

(II) its facilities, and

(B) the loan or obligation of such enterprise will be fully repayable in accordance with the terms and conditions of such loan or obligation.

(3)(A) In setting the terms, rates, and charges for loans made under this subsection the objective of the Corporation shall be to provide the type of credit needed by Indian business enterprises at the lowest reasonable cost and on a sound business basis, taking into account—

(i) the cost of money to the Corporation,

(ii) the necessary reserve and expenses of the Corporation, and

(iii) the technical and other assistance attributable to loans made available by the Corporation under this subsection.

(B) The terms of any loan made under this subsection may provide for interest rates which vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Corporation for new loans at such times.

(4) The proceeds of a loan made under this subsection may be advanced or reloaned by the borrower to its members or stockholders for the development of individually owned businesses on or adjacent reservations under circumstances permitted under the bylaws or rules of the Corporation.

(c)(1) The Corporation may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any Indian business enterprise if—

(A) such loan is to an Indian business enterprise that meets the requirements of subsection (b)(2), and

(B) such loan was made on terms and conditions (including the rate of interest) which would be permissible terms and conditions if such loan were a direct loan made by the Corporation.

(2) The Corporation may impose a charge for any loan guarantee made under this subsection.

(3) No loan may be guaranteed by the Corporation under this subsection if the income from such to the lender is excludable from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1986.

(4) Any loan guarantee made under this subsection shall be assignable to the extent provided in the contract of guarantee entered into by the Corporation.

(5) Any guarantee made under this subsection shall be uncontestable, except in the case of fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan.

(6) The Corporation, in lieu of requiring the original lender to service a loan guaranteed under this subsection until final maturity or liquidation, may purchase such guaranteed loan for an amount equal to the balance of the principal and the amount of interest accrued thereon without penalty if the Corporation determines that the purchase would not be detrimental to the interests of the Corporation and—

(A) the liquidation of such guaranteed loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation,

(B) such guaranteed loan will be repayable with revision of the loan rates, terms, payment periods, or other conditions consistent with loans made by the Corporation under subsection (b), and

(C) the lender or other holder of such guaranteed loan is unwilling to make such revision.

(d)(1) For purposes of providing long-term capital and working capital to Indian business enterprises, the Corporation is authorized to purchase, or make commitments to purchase, all, or any portion of, the equity or ownership interest in any Indian business enterprise if the Corporation determines, after a full and complete appraisal of all project and business plans associated with the investment taking into account the criteria set forth in subsection (b)(2) that such an investment does not expose the Corporation to any unreasonable business risks considering the applicable standards prevailing in the field of development finance as applied to Indian economic development (or, in light of the socio-economic, political and legal conditions unique to Indian reservations).

(2) The Corporation is also authorized to supervise or participate in the management of Indian business enterprises in which an investment has been made under paragraph (1) according to such terms and conditions as are agreed to by the Corporation and the principals of the enterprise, including the assumption of a directorship in the corporate body of such Indian business enterprise by an officer of the Corporation.

GENERAL POWERS

SEC. 103. In carrying out the provisions of this Act, the Corporation shall have the power, consistent with the provisions of this Act—

(1) to adopt and alter a corporate seal, which shall be judicially noticed,

(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contracts without regard to section 3324 of title 31, United States Code, except that the Corporation shall provide financial assistance only in accordance with this Act,

(3) to—

(A) lease, purchase, accept gifts or donations of, or otherwise to acquire,

(B) own, hold, improve, use, or otherwise deal in or with, and

(C) sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of,

any property, real, personal, or mixed, or any interest therein.

(4) to sue and be sued in its corporate name and to complain and defend in any court of competent jurisdiction,

(5) to represent itself, or to contract for representation, in all judicial, legal, and other proceedings,

(6) to make provision for and designate such committees, and the functions thereof, as the Board of Directors may deem necessary or desirable,

(7) with the approval of the agency concerned, to make use of services, facilities, and property of any board, commission, independent establishment, or executive agency or department of the executive branch in carrying out the provisions of this Act and to pay for such use (such payments to be credited to the applicable appropriation that incurred the expense),

(8) to use the United States mails on the same terms and conditions as the executive departments of the United States Government,

(9) to obtain insurance or make other provisions against losses,

(10) to participate with one or more other financial institutions, agencies, instrumentalities, trusts, or foundations in loans or guarantees made under this Act on terms as may be agreed upon,

(11) to accept guarantees from other agencies for which loans made by the Corporation may be eligible,

(12) to establish, as soon as practicable, regional offices in order to more efficiently serve the widely disbursed Indian population,

(13) to buy and sell—

(A) obligations of, or instruments insured by, the United States or any agency or instrumentalities thereof, or

(B) securities backed by the full faith and credit of any such agency or instrumentality,

(14) to make such investments as may be authorized by the Board of Directors of the Corporation,

(15) to establish such offices within the Corporation as may be necessary including offices for—

(A) Project Development,

(B) Project Evaluation and Auditing,

(C) Fiscal Management,

(D) Research and Development, and

(E) any other offices as may from time to time be authorized by the Board of Directors, and

(16) to exercise all other lawful powers necessarily or reasonably related to the establishment of the Corporation in order to carry out the provisions of this Act and the exercise of its powers, purposes, functions, duties, and authorized activities.

BOARD OF DIRECTORS

SEC. 104. (a) The powers of the Corporation shall be vested in the Board of Directors.

(b)(1) The Board of Directors shall consist of the following 21 members:

(A) 1 officer of the United States Government designated by the Secretary of the Interior;

(B) 19 individuals who represent the shareholders in the Corporation, and

(C) the President of the Corporation.

(2)(A) The initial members of the Board of Directors described in paragraph (1)(B) shall be appointed by the President by and with the advice and consent of the Senate and shall serve at the discretion of the President.

(B) In making appointments under subparagraph (b)(1)(A) and paragraph (4)(B), the President shall take into account the experience of the individual in private business enterprises and in development or commercial finance and shall consult with, and receive recommendations from Indian tribes.

(3) The term of office for the initial members of the Board of Directors described in paragraph (2)(A) shall expire at the commencement of the first annual meeting of the shareholders of the Corporation held as soon as is reasonably possible after the date on which subscriptions have been paid for at least 10 percent of the common stock initially offered for sale to Indian tribes.

(4)(A) Any vacancy on the Board of Directors created by the resignation or removal of a member described in paragraph (b)(1)(B) shall be filled by the Board in accordance with the By-laws of the Corporation except that such appointment shall only be made for a term extending to the next annual shareholders meeting of the Corporation.

(B) If a vacancy occurs on the Board of Directors prior to the expiration of the term of office to which a member described in paragraph (2)(A) was appointed, the President shall appoint an individual, by and with the consent of the Senate, to fill such vacancy until the expiration of such term of office.

(5) A member of the Board of Directors may be removed from office by the Board only for neglect of duty of malfeasance in office.

(c)(1) The Board of Directors shall establish the policies of the Corporation and shall supervise the management of the Corporation.

(2) A majority of the Board of Directors shall constitute a quorum and except as provided in subsection (d)(2), any action of the Board of Directors shall be effected by majority vote of all members of the Board of Directors.

(3) The Board of Directors shall annually elect from among the members described in subsection (b)(1)(B) a Chairman and Vice Chairman.

(4) The Board of Directors shall adopt, and may amend, such bylaws as are necessary for the proper management and functioning of the Corporation.

(5)(A) The Board of Directors shall meet at any time pursuant to the call of the Chairman and as may be provided by the bylaws of the Corporation, but not less than quarterly.

(B) Subject to such rules adopted by the Board of Directors as are necessary for the orderly conduct of business, all meetings of the Board of Directors shall be open to representatives of Indian tribes, Indian business enterprises, and Indian organizations and any individual who has an identifiable interest in the affairs of the Corporation. The Board of Directors may meet in private executive session if the matter under discussion in such session involves any matter which may impinge on the right of privacy of any individual.

(d) The member described in paragraph (1)(A) shall:

(1) have 20 percent of the share of votes cast at annual shareholders meetings,

(2) be overruled only by a two-thirds majority vote at regular board meetings in matters involving:

(A) calling of callable capital;

(B) borrowing by the Corporation of amounts in excess of $10 million;

(C) loans or investments made by the Corporation in excess of $1,000,000; or

(D) the adoption of changes to investment and credit policies.

(e) Each member of the Board of Directors not otherwise employed by the Federal Government or a State government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveling time, he or she is engaged in the actual performance of his or her duties as a member of the Board of Directors. A member of the Board of Directors who is an officer or employee of the United States Government or of a State government shall serve without additional compensation. All members of the Board of Directors shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

OFFICERS; EMPLOYEES

SEC. 105. (a) The Board of Directors shall appoint a President of the Corporation. The President of the Corporation may be removed from office by the Board of Directors in accordance with the bylaws of the Corporation.

(b) The President of the Corporation shall serve as the chief executive officer of the Corporation. Subject to the direction of the Board of Directors and the general supervision of the Chairman, the President of the Corporation shall have the responsibility for carrying out the policies and functions of the Corporation, and shall have authority over all personnel and activities of the Corporation.

(c) The President of the Corporation, with the approval of the Board of Directors, shall have the authority to appoint and fix the compensation and duties of such officers and employees as may be necessary for the efficient administration of the Corporation. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

CONFLICTS OF INTEREST AND FINANCIAL DISCLOSURE

SEC. 106. (a) The financial disclosure provisions of the Ethics in Government Act of 1978 (92 Stat. 1824; Public Law 95-521) applicable to individuals occupying positions compensated under the Executive Schedule shall apply to the members of the Board of Directors, the officers of the Corporation and to employees of the Corporation whose position is compensated at a rate equivalent to that payable for grade GS-16 or above of the General Schedule established by chapter 53 of title 5, United States Code. The financial disclosure provisions of the Ethics in Government Act of 1978 shall apply to the Corporation as if it were a Federal agency.

(b)(1) Except as permitted by paragraph (3), no member of the Board of Directors shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Corporation, in which, to his knowledge—

(A) such member,

(B) his spouse, child, or partner,

(C) an organization (other than the Corporation) in which he is serving as officer, director, trustee, partner, or employee, or

(D) any person or organization with whom he is negotiating, or has any arrangement concerning, prospective employment,

has a financial interest.

(2) Action by any member of the Board of Directors contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member pursuant to section 104(b)(6), but shall not impair or otherwise affect the validity of any otherwise lawful action by the Corporation in which such member participated.

(3) The prohibition contained in paragraph (1) shall not apply if the member first advises the Board of Directors of the nature of the particular matter in which he or she proposes to participate and makes full disclosure of such financial interest, and the Board of Directors determines by majority vote that the financial interest is too remote or too inconsequential to affect the integrity of such member's services for the Corporation in that matter. The member involved shall not participate in such determination.

(c) Subsection (a) of section 207 of title 18, United States Code (and subsections (f), (h), and (j) of such section to the extent they relate to subsection (a)) shall apply to former members of the Board of Directors, officers, and employees of the Corporation as if they were former officers or employees of the executive branch of the United States Government. Such section shall apply to the Corporation as if it were an agency of the executive branch of the United States Government.

ANNUAL MEETINGS

SEC. 107. (a) The Corporation shall hold an annual meeting of its shareholders which shall be open to the public. At such meeting, the Corporation shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to shareholders and Indian business enterprises eligible for services from the Corporation.

(b) Shareholders and representatives of Indian business enterprises may present motions or resolutions at the annual meeting of shareholders relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda of such meeting.

(c) At least 30 days notice of the time and place of the annual meeting required under subsection (a) shall be given to all shareholders.

(d) Each member tribe shall be entitled to vote their common stock on all matters before the annual shareholders meeting and on all matters pertaining to election of the Board of Directors. Shareholders may cumulate their votes based on the number of director positions which are standing for election.

REPORTS TO CONGRESS

SEC. 108. (a) The Board of Directors of the Corporation shall report annually to the appropriate committees of the Congress on the Corporation's capital, operations, and financial condition. Such report shall include recommendations for legislation needed to improve the services of the Corporation.

(b) At the close of the first Calendar year beginning after enactment of this Act, the Corporation shall submit to the Congress a comprehensive, five (5) year organizational development plan which includes:

(1) financial projections,

(2) a description of a corporate structure and locations, and

(3) operational guidelines, particularly the coordinating relationship the Corporation has, or will have, with Federal domestic assistance programs which allocate financial resources and services to Indian tribes and reservations for economic and business development purposes.

ADVISORY COUNCIL

SEC. 109. (a) There is hereby established the Advisory Council to the Indian Development Finance Corporation (hereafter in this section referred to as the "Council"), which shall provide advice on the policies and operations of the Corporation.

(b) The Council shall consist of—

(1) the Comptroller of the Currency,

(2) the Secretary of Interior, and

(3) the Chairman of the Board of Governors of the Federal Reserve System.

(c) The Council shall—

(1) recommend to the Board of Directors of the Corporation general policy directives,

(2) be available to provide financial and technical assistance upon request of the Board of Directors,

(3) transmit to the Board of Directors and the Congress an annual report with respect to the policies of the Corporation that contains data on the operations and policies of the Corporation, recommendations concerning the Corporation, and such other data and material as the Council may deem appropriate, and

(4) make reports and recommendations to the Board of Directors as it may from time to time request or as the Council may consider necessary to more effectively or efficiently accomplish the purposes of this section or the purposes for which the Council is created.

(d) The Board of Directors of the Corporation shall keep the Council fully informed of its activities and shall provide the Council with such further information or data in its possession as the Council may deem necessary to the appropriate discharge of the responsibilities of the Council under this section.

CONFORMING AMENDMENTS

SEC. 110. (a) Paragraph (2) of section 9101 of title 31, United States Code, is amended by adding at the end thereof the following new subparagraph:

"(K) the Indian Development Finance Corporation."

(b) Paragraph (3) of section 9107(c) of such title is amended by inserting "the Indian Development Finance Corporation," after "the Regional Banks for Cooperatives,".

(c) Paragraph (2) of section 9108(d) of such title is amended by inserting "the Indian Development Finance Corporation," after "the Regional Banks for Cooperatives,".

(d) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"President, Indian Development Finance Corporation.".

TITLE II—CAPITALIZATION

ISSUANCE OF STOCK

SEC. 201. (a)(1) The Corporation is authorized to issue shares of stock in the Corporation in an amount and of such class as may be determined by the Board of Directors subject to the provisions of this section:

(2) Shares of stock in the Corporation may only be issued to and may only be held by Indian tribes and the United States.

(3) The Corporation is authorized to redeem or repurchase any share of stock issued by the Corporation at a price determined by the Board of Directors.

(b)(1) The Corporation shall make an initial offering of a total of 500,000 shares of common stock of the Corporation for sale at $50 per share to Indian tribes.

(2) The number of such shares of stock required to be purchased by each Indian tribe in order to become a member of the Corporation shall be determined on the basis of an equitable formula established by the Board of Directors taking into account indicators of the economic condition of each tribe applying for membership such economic indicators to be developed by the Board and thereafter applied on a uniform basis.

(3) Twenty percent of the value of the stock to be purchased by each tribe as a condition of membership shall be paid into the Corporation in the form of cash or cash equivalent securities and 80 percent shall be in the form of a legally binding commitment available for call by the Board to meet the obligations of the Corporation but not for use of the Corporation in lending activities or for administrative expenses.

(c)(1) The Secretary is authorized to subscribe to 2,000,000 shares of capital stock in the Corporation.

(2) The Secretary—

(A) shall pay $20,000,000, representing 20 percent of the value of the shares of capital stock in the Corporation subscribed under paragraph (1), to the Corporation within a 2-year period beginning on the date of enactment of this Act, and

(B) beginning in fiscal year 1991, is authorized to agree on behalf of the United States to pay up to $80,000,000, representing 80 percent of the value of the shares of capital stock in the Corporation subscribed under paragraph (1), or any portion thereof, to the Corporation upon call of the Board of Directors of the Corporation. The amount of this request for funds to establish a reserve for loss, will be determined by the Secretary of Interior and the Board of Directors based upon an assessment of need, taking into account a risk analysis of the investment and credit policies and practices of the Corporation. Any commitment to make such contributions shall be made subject to obtaining the necessary appropriations, and shall be made when funds are required to meet obligations of the Corporation for funds borrowed by the Corporation or for loans guaranteed by the Corporation, but not for use of the Corporation in lending activities of the

Corporation or for administrative expenses of the Corporation.

(3) The capital stock subscribed by the Secretary on behalf of the United States under paragraph (1)—

(A) shall be valued at $50 per share,

(B) shall be nonvoting stock,

(C) shall not accrue dividends, and

(D) may not be transferred to any person or entity other than the Corporation.

(d) The board shall establish policies for payment of dividends to the Corporation's shareholders to be based on sound business practices and fiscal management principles and which shall give a priority to providing a return on investment based on each shareholders pro-rata interest in income generated from the capital contribution of common stock shareholders as compared to income attributable to capital contributed by the United States.

(e) The stock or other securities or instruments issued by the Corporation shall, to the same extent as securities which are the direct obligations of the United States, be exempted securities, within the meaning of the laws administered by the Securities and Exchange Commission.

BORROWING AUTHORITY

SEC. 202. (a) The Corporation is authorized to issue bonds, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board of Directors shall determine after consultation with the Secretary of the Treasury.

(b) The aggregate amount of obligations issued under subsection (a) shall not exceed an amount equal to—

(1) the product of ten multiplied by the sum of—

(A) the paid-in capital of the Corporation, plus

(B) retained earnings and profits of the Corporation, and

(2) the book value of callable capital represented by the total commitments of tribal shareholders and the $80 million subscribed to by the United States as provided for in section 201(c)(2)(B) of this Act.

(c) An obligation issued under subsection (a) may be sold through an agent by negotiation, offer, bid, syndicate sale or otherwise and such transaction completed by book entry, wire transfer, or such other means as may be appropriate.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

GENERAL OPERATIONAL EXPENSES

SEC. 301. In addition to amounts authorized to be appropriated under section 302, there are authorized to be appropriated—

(1) $2,000,000 for fiscal year 1989 for the purpose of carrying out the provisions of this Act,

(2) $2,500,000 for each of the fiscal years 1989, 1990, 1991, 1992 and 1993 for the purpose of project development activities, and

(3) such sums as may be necessary to carry out the provisions of this Act for each of the fiscal years 1990 and 1991.

AUTHORIZATIONS FOR PAID-IN CAPITAL STOCK

SEC. 302. There are authorized to be appropriated for each of the fiscal years 1989 and 1990, $10,000,000 for the purpose of carrying out the provisions of section 201(c)(2)(A). Such sums shall remain available until expended. Beginning in fiscal year 1991, such amounts, not to exceed a total of $80,000,000, are authorized to be appropriated for the purpose of carrying out the provisions of section 201(c)(2)(B).

AMENDMENT NO. 1972

(Purpose: Technical amendments)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Mr. INOUYE.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. BYRD), for Mr. INOUYE, proposes an amendment numbered 1972.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 60, on line 1, after the word "shall", add a comma (,) and insert the following phrase: "subject to availability of appropriations made in advance for this purpose,"

On page 61, line 22, after the word "authorized", add a comma (,) and insert the following phrase: "subject, in any fiscal year, to appropriations made in advance,"

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1972) was agreed to.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment, as amended, and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 721) was passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER TO PRINT S. 237

Mr. BYRD. Mr. President, I ask unanimous consent that S. 237, the Integrity in Post-Employment Act, be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE JOINT RESOLUTION PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on the Judiciary be discharged from further consideration of Senate Joint Resolution 287, a joint resolution to designate the month of May 1988 as "Older Americans Month" and that the resolution be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 9:30 tomorrow morning. After the two leaders or their designees have been recognized under the standing order, there will be a period for morning business not to extend beyond 10 a.m. during which Senators will be permitted to speak not to exceed 5 minutes each.

At 10 a.m., the Senate will resume consideration of the joint resolution providing for a constitutional amendment in reference to limitation on expenditures in Presidential and congressional campaigns. There will be 1 hour of debate equally controlled by Mr. HOLLINGS and Mr. DOLE or his designee, and at circa 11 a.m., the motion to table is intended to be made and that will be a rollcall vote in all likelihood. There is no question but that it will be, and it will be a 15-minute rollcall vote and the call for the regular order will be automatic.

Following that vote, there will be other rollcall votes during the day in connection with the constitutional amendment.

If the amendment is disposed of, one way or another, on tomorrow, the Senate will then take up the AIDS legislation. Amendments are expected to that bill and rollcall votes are expected thereon. I hope that the Senate will have a full day of action on those two measures tomorrow. It is conceivable—I am not predicting it—that the Senate will complete action on the AIDS legislation tomorrow, but we still have Friday and we expect a good day's work on Friday.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:30 tomorrow morning.

The motion was agreed to; and, at 5:40 p.m., the Senate recessed until Thursday, April 21, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate April 20, 1988:

DEPARTMENT OF STATE

DANIEL ANTHONY O'DONOHUE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

NATIONAL CONSUMER COOPERATIVE BANK

JOHN K. STEWART, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL CONSUMER COOPERATIVE BANK FOR A TERM OF 3 YEARS, NEW POSITION.

NATIONAL MEDIATION BOARD

SALVATORE R. MARTOCHE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL MEDIATION BOARD FOR THE TERM EXPIRING JULY 1, 1991, VICE HELEN M. WITT, TERM EXPIRING.

HOUSE OF REPRESENTATIVES—*Wednesday, April 20, 1988*

The House met at 2 p.m.

Rabbi Arnold Mark Belzer, Temple Beth Rishon, Wyckoff, NJ, offered the following prayer:

Lord G-d, Creator of all humanity, Cause love, harmony and peace to abide among us. Cause us to know that in a world faced with monumental challenges that there can be no neutrality—"either we are the ministers of the sacred or the slaves of evil."

Lord during recent generations great evil has been revealed to us. Let us through our lives, be witness to the revelation of goodness.

Lord, we know that we will triumph over evil if we shall be as sacrificial, courageous, and steadfast "in our homes, our schools, and offices, and in our Congress as our soldiers have been on the fields of battle."

Give us strength in moments of temptation. Renew our faith, at times of doubt. Give us courage, in moments of weariness. Hallow our lives with loyalty and integrity.

May our prayers be with us as we face the world and may Your presence in our hearts be reflected in the way we live our lives.

Dear G-d, bless the Members of the House of Representatives their staff people and the pages who serve them. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

REMARKS TO WELCOME RABBI ARNOLD MARK BELZER OF FRANKLIN LAKES, NJ

(Mr. ROE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROE. Mr. Speaker, it is with great pride that I rise today to welcome an outstanding religious leader from my Eighth Congressional District of New Jersey, Rabbi Arnold Mark Belzer of Franklin Lakes, who has offered us a most inspirational message in providing the opening prayer to our session today.

Rabbi Belzer is with Temple Beth Rishon of Wyckoff, NJ, which is also known as the Wyckoff-Franklin Lakes Synagogue. Temple Beth Rishon has served as the spiritual home for a great many worshipers from the greater northwest Bergen County, NJ, area for the past 13 years. I might note that when Rabbi Belzer assumed the leadership of Temple Beth Rishon in 1981, the congregation numbered 125 families. Today, through his dynamic and visionary leadership, that number has risen to 360 families and this fine congregation is still growing. And, in addition to his congregational duties, Rabbi Belzer also serves as east coast director of the Sino-Judaic Institute and as vice president of the Mastery Foundation, an ecumenical organization which trains clergy of all denominations.

Mr. Speaker, along with coming to Washington to offer our opening prayer here this morning, Rabbi Belzer has one other important mission here, to visit his son, Nathan Belzer. Nathan, who I am proud to say is my page here in Congress, has not only been elected president of his page class while maintaining a perfect 4.0 average in his studies, but also has been selected as the Speaker's page, accomplishments of which I know his father and mother are justifiably proud.

I want to invite you, Mr. Speaker, and all of our colleagues to join me in welcoming Rabbi Arnold Mark Belzer to the House this afternoon.

TODDLER TAX CREDIT

(Mr. SCHULZE asked and was given permission to address the House for 1 minute.)

Mr. SCHULZE. Mr. Speaker, child care in America is under scrutiny by Congress, the media, and the American public. Some are claiming critical child care shortages exist and would address this with broad legislation providing for Federal funding and regulation of day-care centers. They would spend billions to assist but a small fraction of American children, primarily from affluent families.

Today, I am offering a better legislative alternative. The toddler tax credit provides a $750 tax credit for each child in America under age 6. This tax cut would support all American children and help offset the erosion of the personal exemption and eliminate the antichild bias in our tax system.

Mr. Speaker, effective child care legislation should not discriminate between home care and day care. The toddler tax credit does not discriminate. Let's provide relief to all families with children rather than spend tax dollars funding bureaucrats.

FOREIGN NURSES AND IMMIGRATION

(Mrs. ROUKEMA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ROUKEMA. Mr. Speaker, thousands of foreign professional nurses who are here in this country to help our hospitals and nursing facilities deal with the severe nursing shortage may now be facing an order to leave the country because a callous Immigration and Naturalization Service is refusing to extend the length of the H-1 visas these nurses are holding.

Hospitals in New Jersey, as in other parts of the Nation, are experiencing a shortfall of skilled medical personnel. Nationally, there are approximately 200,000 skilled nurse positions currently vacant. This already intolerable situation will now be further exacerbated by the perverse and even pernicious policies of the INS.

It is ironic to me that today we will be voting on a bill to extend the blanket amnesty afforded illegal aliens who blatantly circumvented immigration laws while these highly skilled and much needed professionals, who played by the rules, are being told to go home.

The INS policy is shortsighted and needs to be reviewed. I have asked INS Commissioner Nelson to make this a priority effort so that our hospitals will not be forced to curtail medical services or to recruit a new group of nurses who must be retrained and oriented to the operations of the facilities who hire them. I would also urge my colleagues on the Judiciary Committee to look into this matter and find a solution.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1049

Mr. MAVROULES. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1049, the Utility Ratepayer Refund Act.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

AMNESTY EXTENSION—THE AMERICAN THING TO DO

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface **indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.**

Mr. RICHARDSON. Mr. Speaker, extending the immigration deadline for 7 months is the right thing to do. It is the American thing to do. It is a matter of simple justice.

This bill is not a bill for Hispanics; it is not a bill for illegal aliens. It is a vote in the tradition of this country that we are doing the right thing.

Millions of human beings wanting to come out of the shadows have not been able to because of a lack of public education efforts. This bill simply says that we are extending the deadline by 7 months. We are not changing the rules, we are not allowing anyone an extra in, and it simply says to those 2 million around this country that probably have not heard about this program, that probably do not have the facilities to make themselves available of acting financially on this program—it says you have 7 more months.

Mr. Speaker, that is the tradition of this country. That is the spirit in which we pass immigration law and the legalization program. We should extend this deadline because it is the American thing to do, and it is a matter of simple justice.

ANTI-TOY GUN THREAT ACT

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and include extraneous matter.)

Mr. DREIER of California. Mr. Speaker, I rise to encourage my colleagues—on both sides of the aisle—to cosponsor a bill which I am introducing today. This bill, the Anti-Toy Gun Threat Act, will impose a mandatory 5-year prison term for anyone using a toy or imitation firearm in the commission of a Federal crime of violence or Federal drug trafficking crime. This legislation is needed to close a gaping loophole concerning these toy weapons in the Federal criminal statutes.

The Anti-Toy Gun Threat Act would simply apply the same punishment to individuals who use a toy gun to commit a Federal crime which exists for those who use a real gun. Unlike other proposals to address the misuse of toy weapons, my legislation will not infringe on consumer choice or force costly regulations on toy manufacturers. Instead, it will impose a punishment for using a nonfunctioning gun for a criminal purpose.

While seemingly harmless, the use of a toy gun has as great a potential for tragic consequences as the same actions committed with a real firearm. Congress should impose a mandatory prison term to deter the future use of toy or imitation firearms in violent crimes.

AMEND THE WAR POWERS RESOLUTION

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DeFAZIO. Mr. Speaker, the President has indicated that recent events in the Persian Gulf do not require him to submit a war powers report to Congress. We must be reading different versions of the United States Code. The War Powers Resolution requires the President to submit a report "in any case in which United States Armed Forces are introduced into hostilities * * *."

Mr. Speaker, when the *Bridgeton* hit a mine last July, that was not considered "hostilities." When U.S. helicopters fired on, and boarded an Iranian minelayer, that was not "hostilities." When U.S. destroyers attacked an Iranian oil platform that apparently wasn't a hostile act, either. But now, even the President's own Secretary of Defense is calling this week's actions in the gulf hostilities.

There can be no doubt that the War Powers Resolution applies here and now. The President is blatantly disregarding his sworn duty to faithfully execute the law and depriving Congress of its legitimate role in the process.

Two months ago, I introduced legislation to amend the War Powers Resolution. We need an effective War Powers Resolution. It's obvious we don't have one. If the President violates the law, our current options are to impeach him or to sit on our hands while he gets the Nation into a war. My bill provides a third avenue. I am asking my colleagues for their support.

PEACE INTO THE 21ST CENTURY

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, this morning at 11 o'clock eastern daylight time, 8 o'clock Pacific daylight time, the beautiful B-2 bomber, or at least an artist's conception of it, was released to the American press, and free world press. I am sure that even this artist's conception of the B-2 Stealth bomber is at this moment being telefaxed to the Soviets in the Kremlin. With bipartisan congressional support the Air Force will develop and procure 132 of these B-2 Stealth bombers. This beautiful aircraft is made by Northrop Aviation of southern California. Many Members have seen the mockup of this aircraft in what was previously a totally top secret program in Air Force plant 42 in Palmdale, southern California.

□ 1415

The Air Force also announced this morning the first flight of the ATB or advanced technology bomber will take place sometime this fall.

I do not know about my colleagues, but I intend to be there at Palmdale when it lifts off, and then lands at Edwards Air Force Base, where flight testing will be conducted. The late Jack Northrop, one of America's aviation geniuses, a terrific man, the designer of the YB-49 "Flying Wing" which was canceled in a scandalous way by a prior administration, is vindicated with this new beautiful flying wing, the B-2 Stealth bomber that will keep the peace and ensure an important capability to penetrate Soviet air defenses well into the 21st century.

IN SUPPORT OF THE CONFERENCE REPORT ON THE TRADE BILL

(Mr. JONTZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONTZ. Mr. Speaker, last Thursday the Commerce Department released the trade deficit figures for February. The United States imported $13.8 billion more than we exported that month. This is the highest trade deficit since last October and should send Congress a strong message about the need to pass the trade bill later this week.

Mr. Speaker, the continuing imbalance between our exports and imports is hurting our Nation and our Nation's working families. By passing the trade bill we can address the causes as well as the consequences of these record trade deficits.

Quite frankly, I think the bill should be stronger. I am disappointed that the Gephardt amendment and the Bryant amendment, in particular, were removed during conference.

But there is still much that is good about H.R. 3, and I urge my colleagues to vote in favor of the conference report on this bill when it comes before the House tomorrow.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 268, BUDGET FOR THE U.S. GOVERNMENT FOR FISCAL YEARS 1989, 1990, AND 1991

Mr. GRAY of Pennsylvania. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991, with Senate amendments thereto, disagree to the amendments and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. THOMAS of California moves that the managers on the part of the House, at the conference on the disagreeing votes of the two Houses on House Concurrent Resolution 268, be instructed to negotiate a funding level in the fiscal year 1989 budget resolution that emphasizes the high priority of fighting the war on drugs but that nevertheless continues to comply with the discretionary spending caps and the revenue level agreed to in the budget summit by the President and joint leadership of Congress on November 20, 1987.

The SPEAKER. The gentleman from California [Mr. THOMAS] is recognized for 1 hour.

Mr. THOMAS of California. Mr. Speaker, for purposes of debate only I yield 30 minutes to the gentleman from Pennsylvania [Mr. GRAY], the chairman of the Committee on the Budget.

Mr. Speaker, I have moved that the House instruct the conferees on the fiscal year 1989 budget resolution to stand by the summit agreement which was reached just last November. The motion also calls on the conferees within the boundary set by that summit agreement to continue to recognize the high priority that must be given to fighting the war on drugs. These two goals are not inconsistent. Of course it would be easier and probably far more dramatic to follow the course of the other body and to continue the old pattern of raising spending and raising taxes and do so without examining any kind of limitation on competing priorities.

But such a course not only violates the letter but of course the spirit of the summit agreement.

There are many of us in this body who felt that the summit agreement was not the best approach to the problems facing this Congress. Lukewarm at best might have been an indication of the feeling. I know on my side of the aisle there were a significant number of absolute noes. But once the summit agreement was reached those of us laboring in the Committee on the Budget on both the majority and minority sides felt that the agreement between the administration, the leadership of the Senate, and the leadership of the House must be honored in our structuring of the framework of the 1989 budget agreement.

It was very, very difficult for the members of the Committee on the Budget to do that. It is always difficult when one has unlimited needs and limited resources. Nevertheless I think the exercise was a very commendable one. I especially want to compliment the gentleman from Pennsylvania [Mr. GRAY] the chairman of the Committee on the Budget, and the ranking member, the gentleman from Ohio [Mr. LATTA] for setting out at the beginning of the process on a single sheet of paper what we as Members on both sides of the aisle felt was the meaning of the summit agreement, it was our guiding literature as we discussed priorities.

The Budget Committee broke into subgroups, we had very, very contested discussions, we came together in caucuses, we continued the contested discussions, we went priority against priority, and we did that which was very difficult. But within the spending and revenue levels prescribed by the summit agreement, we fashioned a 1989 fiscal year budget. We did what we thought was the responsible thing. This is the absolute wrong time to abandon that framework that we structured. The pressure is just beginning to add more taxes and to spend more money. We are not at the conclusion of the process, we have barely begun. There are undoubtedly dozens or even more very, very worthwhile, justifiable and, of course, politically attractive items that folks want to add to the budget especially in an election year.

We knew at the time that we set out the agreement to stay within the summit that that would be the case. All of us on the Committee on the Budget are disappointed with the end product and I think that is what the budget process is supposed to produce. It is accommodation, it is compromise, and it is not satiation. What we had to do in a very difficult climate was to accommodate and compromise. There is no question that fighting the war on drugs deserves a high priority. Few in the Congress would disagree with that premise. Even as we struggle to stay within the summit agreement, we prioritized the war on drugs.

If my colleagues will examine the budget document, we have in function after function, placed an emphasis on the war on drugs.

This motion will instruct our conferees when they negotiate with the Senate to continue to recognize the high priority that must be placed on combating the drug problem but to do so within the limits placed on us by the summit agreement.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman from Pennsylvania [Mr. GRAY] is recognized for 30 minutes.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with regard to the instruction motion, first let me as chairman of the Committee on the Budget commend the gentleman from California [Mr. THOMAS] for his hard efforts in putting together a budget resolution for the House that was bipartisan and that clearly reflected the kinds of priorities that were needed we feel in this Nation. However, there were three things that we had to do: First, we had to meet the budget summit agreement in terms of the spending caps and revenue figures that were agreed on for a 2-year period; second, we had to meet the Gramm-Rudman-Hollings target; and third, we had to avoid sequestration. This was not an easy task to hit all three targets, but as the gentleman from California knows, we did successfully hit all three of those targets.

We had to make difficult decisions with regard to funding levels. We had to choose between what I like to call the essential, and the desirable. Essential spending needs of the Nation, desirable being those things that we would like to have but in a time of growing red ink we could not afford unless there was an agreement to pay for them, and since we were not able to get more than the $25 billion of new revenues over a 2-year period in the budget summit, that made our job very difficult. As we tried to prioritize and choose between what was essential and what was desirable, certainly there were things that we would like to have done differently. All of us had our priorities, all of us recognized the need for investment in certain areas but because of the limitations that we had we had to make choices. So when we looked at the House position, my colleagues will find that there were significant increases of 10, 12, 13 percent, and in other areas we had a freeze at the 1988 level and in some other areas we actually made cuts below the 1988 level, all in the attempt to meet those three targets which we did.

In the area of drugs and fighting the war on the proliferation of drugs that is taking place in this country and the crimes that are related thereto, the committee came forward and supported a significant increase in funds for the fight with regard to the war on drugs. However, I think what the gentleman from California [Mr. THOMAS] is trying to say with regard to the instruction motion is that whatever is done in conference should be done in accordance with the budget summit, meeting the spending and revenue caps, meeting the Gramm-Rudman-Hollings targets and avoiding sequestration. Therefore, as chairman of the committee I certainly do not have any objection to that statement being made while at the same time saying that we want to do all that we can in waging the war against the proliferation of drugs. Therefore, Mr. Speaker, I as chair have no objection to the nonbinding instruction and certainly I know that this will put the House on record with regard to making a very strong statement.

I should also point out that as chairman of the Committee on the Budget, in the budget agreement we did say that if there was a national crisis, if there was an emergency that it would be possible to break that budget summit. However, to break that budget summit we need executive as well as congressional support. It is very clear at this stage that the executive branch of Government, the President and his spokespersons have made it very clear that they are not prepared to declare any national crisis at this time that calls for the breaking of the summit agreement. Therefore, what the gentleman from California is simply saying is that as we go to the conference that we ought to comply with the budget summit, hit the Gramm-Rudman-Hollings target and avoid sequestration, which I do not find objectionable at all.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Kentucky [Mr. Rogers], a member of the Committee on the Budget.

Mr. ROGERS. Mr. Speaker, I thank the gentleman from California for yielding me this time.

Mr. Speaker, I rise in support of the motion with a little bit of hesitancy because I would in fact even though along with a possible situation where if the White House, the Senate, and the House could agree that we would even break the caps to fight the war on drugs because there are new developments in fact in the war on drugs that I think warrant the attention of the Congress and the committee and the Nation in fact that allow us an even enhanced chance to destroy and do away with the tremendous crops being grown particularly in Latin America that the Attorney General has reported to us that he discovered and observed on his recent trip to Latin America.

The language of the motion I think is adequate. It gives the proper emphasis to singling out the war on drugs as an area that we should relook at as we go into conference, and notifies the members of the conference from the other body that we do share the heightened awareness of the problem of the war on drugs and the need, the desperate need in fact of additional funds for the Drug Enforcement Administration and the Federal Bureau of Investigation and the agencies of Justice and the Coast Guard and the other agencies of the Government involved in the fight.

☐ 1430

Those agencies are woefully underfunded as they are, and under the new budget numbers will be even more cramped in their style, not only in the war on drugs but in the war on crime in general.

So I welcome this language and I commend the gentleman from California [Mr. Thomas] for offering the language to instruct the conferees to emphasize the high priority of fighting the war on drugs without breaking the discretionary caps on spending and revenue. The budget summit, my colleagues will recollect, included language which said that the caps would be binding except in, as the language says, a dire emergency. If there is an emergency, even a dire emergency in this country, I think almost everyone would say that that emergency exists in the massive infusion of cocaine into this country particularly from Latin America.

As I said before, there are some opportunities for us as a nation in Latin America in the war on drugs that are opening up to us in the way of eradication that we simply cannot take advantage of with present funding levels. I welcome the language that the gentleman from California has offered to instruct the conferees on the emphasis on the war on drugs. I would even hope at some point in time that all of the parties involved would be able to agree to even break the caps for some additional funds for this particular purpose.

So I rise in strong support of the language. I would take it further even that the gentleman's language is satisfactory.

Mr. THOMAS of California. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Speaker, this is a very interesting motion because it directs us to some of the things about budgeting that have already made a difference around here in the last few months. We need to set some priorities, we need to set priorities within the budgeting structure, and I know that is what was intended when the summit took place. But to me the very essence of that requires us to say there are things like the drug war that need the kind of attention and additional resources that we simply do not get by everyday, routine consideration in the committees that we have around here.

But when it comes to the budgeting process, why do we not take that from somewhere else, reduce spending, make those tough choices? Why do we always get the solution that we see so often down here and we see from the other body in this case to add more money in at the beginning before we even consider exactly where we would spend it?

As the head of the Republican Task Force on Drugs, I have been looking, and our task force has been looking at all kinds of options that we might have in dealing with the war on drugs that we will not be using now. The gentleman from Kentucky [Mr. Rogers] named a couple of areas we might be looking at. We certainly need to revisit some that do not need the expenditure of any money. This body in the past, when we considered the omnibus drug bill in the last Congress, passed a death penalty for major drug traffickers. Unfortunately, that did not make it into the final product. We need to look at that again. There is no reason why this Congress and this country should not have the death penalty in law and carry out the death penalty in the case of major drug traffickers. We need a heavy deterrent, and that requires no money. It simply requires the will of this body and the people to do so.

We also need to look at the demand side in the area of drug users. This body did pass, and it was adopted into law last time around, a Federal provision which actually makes it a crime for the initial use of drugs by anybody in America. But unfortunately, the teeth are not in that law, and the States who are right on the front line have not adopted similar laws and taken steps in order to enforce that kind of deterrent for drug use.

There are some needs that do require money though. We need more jails, we need more prosecutors, we need support for education and rehabilitation on the demand side of this equation, and we definitely need to assist the efforts at interdiction and eradication programs that are being conducted by some of our friends who are attempting to do this abroad, and our Drug Enforcement Administration.

It is best to get this without going through the process though of breaking anybody's budget summit, and I am going to support the effort today in this motion. But like the gentleman from Kentucky [Mr. Rogers] I certainly reserve the right to come back here at some point in the future, and I am sure all of the Members feel this way, and I know the gentleman from Pennsylvania [Mr. Gray] does, and seek additional resources if it turns out after we look at these alternatives that indeed the summit should be broken in some fashion. But not today, not under the circumstances of the consideration of the budget conference.

I urge my colleagues to vote for this motion, and I thank the gentleman for yielding me this time.

Mr. THOMAS of California. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Florida [Mr. Shaw].

Mr. SHAW. Mr. Speaker, I would like to compliment the gentleman from California [Mr. THOMAS] and the gentleman from Pennsylvania [Mr. GRAY]. The gentleman from Pennsylvania [Mr. GRAY] said this is going to be making a strong statement. It does make a strong statement, but it does not make a strong enough statement.

I want to ask all of my colleagues now if they would just reflect for a moment. We have constantly in this Chamber and in committees around Capitol Hill talked about drug containment. We do not hear what witnesses talking about an agenda, about what it is that is going to solve the problem.

Mr. Speaker, we are going to be here in the year 1998 talking about the same problem and again talking about spending more money on this problem. The problem is that we do not in this country have a blueprint for absolute victory, a blueprint that will say by the year 1995 we can be a drug-free society here in the United States.

Why is that? It is because this administration, previous administrations, this Congress, the Senate, everybody follows a policy of drug containment. This will not work. In order to win the war against drugs we have to adopt news, tighter measures. We have to get serious about the violation of the law and punish the drug user. A lot of us are not very comfortable with that, but this has to be done. We have to again, as my colleague from Florida, Mr. McCOLLUM, mentioned, address the question of the death penalty in the most severe circumstances. We are not talking about putting to death a guy who is peddling the stuff on the street. We are talking about the kingpin, the one who may very well be down holed up in Colombia or some other country around this world pulling the strings and killing our youth. We have to talk about that. We have to talk about the death penalty for those who would kill our DEA agents, our drugs agents around the globe. We have to talk about that.

We have to again pass a posse comitatus provision which will get our Armed Forces more involved. We have to pass the necessary legislation to allow our military to be involved in other countries around the globe where they are needed to assist the local police and local military in wiping out this drug threat.

Right now we know that Colombia is an absolute basket case. With all of the desire that they could possibly muster, they cannot take control of their own country because they are so overrun with this cancerous growth.

Mr. Speaker, what I am saying is tomorrow I am going to be filing the toughest drug package that has ever been filed here in the Congress of the United States. I am asking my colleagues to look at this bill, examine it, and see if this does not involve new and more innovative ways of using our present assets to get after the drug problem in this country and to win in this regard.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. SHAW. I am glad to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for seconding the thesis that was propounded by his colleague from Florida, Mr. McCOLLUM, and I want to join with the gentleman to help push through the new product he is going to be producing tomorrow here on the floor.

In the meantime, I want to add some horror stories to what the gentleman has already told about what this drug kingpin is able to do. He has been able in the past to execute a judge, to kill a judge who was about to pass sentence on a drug smuggler in Texas. The drug kingpin, the drug czar ordered successfully the execution of that judge.

More recently in New York a police officer who was guarding the home of a witness who was going to testify in a major drug case was himself executed in cold blood at the direction of a drug kingpin who himself was in prison.

So the gentleman's comments are well taken on the necessity for the imposition of the death penalty for these stop-at-nothing killers.

Mr. SHAW. Reclaiming my time, I would say to the gentleman from Pennsylvania, who I assume will be an original cosponsor of this bill I am going to file tomorrow, that the language of his death penalty that he has been supporting in committee and here trying to get the language to the floor, is contained almost exactly in the bill that we are going to be filing.

What I am saying, Mr. Speaker, is that we must join together as Democrats and Republicans and say that the war on drugs is going to be a real war. We are talking about waging world war III. We have to do it together, we have to do it with our military, we have to do it with the full assets and the full reserve of the Federal Government behind us. Without it, we are simply fighting a war of containment.

Again I want to compliment the gentleman from California [Mr. THOMAS] and the gentleman from Pennsylvania [Mr. GRAY] and thank them for this language. It is certainly a meaningful step, but there is much more to be done. I would hope that we could join together and push a real powerful drug bill that is going to send out all of the right messages.

Mr. THOMAS of California. Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in favor of his motion that would aim our efforts toward the drug effort in this country, but do so within the budget summit agreement.

Let me say I start with the premise that the drug fight is probably one of the most important priorities that we face as a nation. The question is, Can we do it within the amounts of money that are allocated to the Federal Government under the budget summit agreement? I suggest we can.

I suggest the President has recently sent to this Congress a rescission package for $1.5 billion that is pure pork that was passed in the continuing resolution last year, and that those items of pork could in fact be reduced in order to have this priority of fighting drugs addressed.

Let me cite to my colleagues some of the things we might be able to reduce spending on in order to fight an all-out war on drugs. For example, the continuing resolution had in it $10 million for the USDA to purchase surplus sunflower oil. Let me suggest that might be very important to a few people, but $10 million for sunflower oil is not as important a priority as fighting drugs.

That particular bill had $2.6 million earmarked for the development of domestic and international markets for U.S. fishery products. Again, some people may say that is important. The question is whether or not it is more important than fighting drugs in this country.

That particular bill had $43.2 million in it for outlays for 15 Department of Energy construction projects, 12 of which were new starts that had never been submitted by DOE, nor had they ever been submitted to a peer review process. In other words, they are projects that were pure pork added on in the Congress. Once again, people may say those are very important. Are they more important than fighting drugs? I would suggest not.

There was $17.1 million in outlays earmarked for 14 highway demonstration projects. Again, highway demonstration projects are very important, but are they more important than fighting drugs? No.

There was $500,000 authorized to bring foreign politicians to the United States to sit in our gallery and watch Congress at work. I would suggest that that $500,000 might better be spent fighting drugs than having foreign politicians in the gallery.

There was $500,000 for the Seattle Goodwill Games Organizing Committee, a nice project if we had all of the money in the world, but it is far more important to fight drugs than to give money to a televised event.

There was $6.4 million to finance a gondola transportation system somewhere out in Idaho for a ski system out there to attract tourists, $6.4 million. I am sure that area in Idaho would love to have it, but $6.4 million could better be spent fighting drugs in this country.

What I am suggesting is the gentleman from California [Mr. THOMAS] has a very reasonable resolution before us. What he is saying is let us fight drugs, let us put that as a concentration, as what we want to do as a Federal Government, but let us find the money within the Federal budget to do so. By citing a list like this, I am only saying there is plenty of room within the Federal budget to find the money we need in order to conduct an all-out war on drugs.

□ 1445

Mr. THOMAS of California. Mr. Speaker, I yield 3 minutes, for purposes of debate only, to the gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. I thank the gentleman from yielding.

Mr. Speaker, I rise today to speak strongly, in favor of the gentleman's resolution.

On Monday evening I stood in a neighborhood in my own district where the parents of young kids had asked me to come and talk about this very issue—the issue of drugs destroying our children, our families, our neighborhoods and, yes, our very Nation. They were talking about it out of concern and out of despair. They said their neighborhood had been taken over by drug dealers. They said it is now a common occurrence to see drug deals being conducted on street corners and they simply do not know what to do. So they called on their Congressmen, not so much expecting a solution but simply to vent their frustrations.

The very next day I went to the White House to participate in a memorial service for the Drug Enforcement Agency officers and other law enforcement officers who have lost their lives in the line of duty. I mention those two events because when it comes to dealing with the budget it is important to remember that whether you are dealing with a constitutional amendment to require a balanced budget or the Gramm-Rudman-Hollings proposal, all of those have common language that says all the rules of budgeting go out the window in the event you have one of two occurrences: One is a war, the other is a national emergency.

I would suggest that the facts dictate that we are now engaged in both, a national emergency and a war, because truly there are victims to the war that is now ongoing.

Last week in Atlanta a kindergarten-aged child lost, possibly, his right to ever walk again because he was shot down on the streets of a housing project in Atlanta, GA, by drug underworld figures.

According to newspaper reports, he was on his way to a neighbor's home to get a "Freezie."

I am a father of a 3½-year-old and a 1½-year-old and nothing concerns me greater than the battle that is going on right now. The problem is the enemy has limitless resources. It is time for us to prioritize our budgeting in such a way that we begin to at least match our rhetoric with the reality of the national emergency and war that presently exist.

Mr. GILMAN. Mr. Speaker, I wish to express my support for the motion to instruct the conferees on House Concurrent Resolution 268, offered by my good friend, the gentleman from California [Mr. THOMAS]. We must find a way to provide the desperately needed resources to fight the war on drugs while staying within the discretionary spending limits and sticking to the budget summit agreement with the White House.

One of the most important responsibilities as Members of Congress is to choose between competing needs. I can think of no greater need than fighting drugs. The production, trafficking and consumption of illicit narcotics is threatening our neighborhoods just as severely as it is threatening Latin American governments. There have already been too many American casualties in the war against drugs.

Accordingly, I urge my colleagues to support this prudent motion. We must work together, in this time of fiscal restraint, to effectively combat the danger of illegal drugs.

Mr. THOMAS of California. Mr. Speaker, I would urge my colleagues to support this motion. A budget is simply a listing of our priorities. Let us tell our conferees to negotiate a high continuing priority for the war on drugs but to do so within the strictures of the summit agreement.

Mr. Speaker, I yield back the balance of my time.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey [Mr. HUGHES] who has been intimately involved in this whole effort with regard to drugs.

Mr. HUGHES. I thank the gentleman for yielding.

Mr. Speaker, I will try not to take all the time. I know you want to get on with the business at hand.

Mr. Speaker, I do support the motion to instruct conferees. I congratulate my colleagues on offering the motion.

Let me just say we declared war on drugs 2 years ago; and 5 months after that we declared the war on drugs in this country than we gutted much of what we did 5 months earlier by reducing State and local assistance programs, cutting programs such as the Coast Guard.

The Coast Guard now is operating at about 55-percent capacity in their interdiction because we, we, this House and the other body cut the Coast Guard budget by about $105 million. They are still about $60 million short even with this reprogramming. And it is the Coast Guard that is our first line of defense on the high seas in trying to interdict traffickers in this country.

So I say to my colleagues I think it is important that we instruct conferees but it is also important that we remember as we vote upon these issues for our Justice Department and their appropriations, and we vote on our budgets, that we allow sufficient money to fund our law enforcement agencies, to fund education and other demand-reduction programs and we have not done that.

So while it is an election year again and once again everybody is going to jump on the bandwagon and be against drugs, I just say to my colleagues we need to have some degree of consistency.

The roller coaster type of funding that we have seen in this whole drug area is just inexcusable. Unfortunately it has been this body and the other body which have caused much of that problem.

You know, it is easy to jump on the administration and blame the administration for the fact that we do not have resources. But unfortunately we have been less than a good partner with those at the local level, State and local police officials, in trying to derive and develop strategies and resources that would do something about what I consider to be the Nation's No. 1 problem, substance abuse.

Once again I thank the gentleman.

Mr. GRAY of Pennsylvania. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion to instruct offered by the gentleman from California [Mr. THOMAS].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. THOMAS of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 412, nays 0, not voting 19, as follows:

[Roll No. 59]

YEAS—412

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs

Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Dannemeyer
Darden
Daub
Davis (IL)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—19

Bates
Bentley
Biaggi
Boland
Clay
Davis (MI)
Emerson
Kemp
Lent
Mack
McGrath
Molinari
Moody
Parris
Price (IL)
Ray
Roberts
Robinson
Wilson

□ 1513

Mr. TAUKE changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

The SPEAKER pro tempore. The Chair will withhold appointing conferees until the return of the Speaker.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mrs. Emery, one of his secretaries.

CONFERENCE REPORT ON H.R. 3, OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1988

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes:

CONFERENCE REPORT (H. REPT. 100-576)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

Sec. 1001. Findings and purposes.

Subtitle A—United States Trade Agreements

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

Sec. 1101. Overall and principal trade negotiating objectives of the United States.
Sec. 1102. Trade agreement negotiating authority.
Sec. 1103. Implementation of trade agreements.
Sec. 1104. Compensation authority.
Sec. 1105. Termination and reservation authority; reciprocal nondiscriminatory treatment.
Sec. 1106. Accession of State trading regimes to the General Agreement on Tariffs and Trade.
Sec. 1107. Definitions and conforming amendments.

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

Sec. 1111. Hearings and advice.

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

Sec. 1121. Implementation of Nairobi Protocol.
Sec. 1122. Implementation of United States-EC Agreement on citrus and pasta.
Sec. 1123. Extension of International Coffee Agreement Act of 1980.
Sec. 1124. Negotiations on currency exchange rates.
Sec. 1125. Reports on negotiations to eliminate wine trade barriers.

Subtitle B—Implementation of the Harmonized Tariff Schedule

Sec. 1201. Purposes.
Sec. 1202. Definitions.
Sec. 1203. Congressional approval of United States accession to the Convention.
Sec. 1204. Enactment of the Harmonized Tariff Schedule.
Sec. 1205. Commission review of, and recommendations regarding, the Harmonized Tariff Schedule.
Sec. 1206. Presidential action on Commission recommendations.
Sec. 1207. Publication of the Harmonized Tariff Schedule.
Sec. 1208. Import and export statistics.
Sec. 1209. Coordination of trade policy and the Convention.
Sec. 1210. United States participation on the Customs Cooperation Council regarding the Convention.
Sec. 1211. Transition to the Harmonized Tariff Schedule.
Sec. 1212. Reference to the Harmonized Tariff Schedule.
Sec. 1213. Technical amendments.
Sec. 1214. Conforming amendments.
Sec. 1215. Negotiating authority for certain ADP equipment.
Sec. 1216. Commission report on operation of subtitle.
Sec. 1217. Effective dates.

Subtitle C—Response to Unfair International Trade Practices

Part 1—Enforcement of United States Rights Under Trade Agreements and Responses to Foreign Trade Practices

Sec. 1301. Revision of chapter 1 of title III of the Trade Act of 1974.
Sec. 1302. Identification of trade liberalization priorities.
Sec. 1303. Identification of countries that deny adequate and effective protection of intellectual property rights.
Sec. 1304. Amendments to the National Trade Estimates.
Sec. 1305. Investigation of barriers in Japan to certain United States services.
Sec. 1306. Trade and economic relations with Japan.
Sec. 1307. Supercomputer trade dispute.

Part 2—Improvement in the Enforcement of the Antidumping and Countervailing Duty Laws

Sec. 1311. Reference to title VII of the Tariff Act of 1930.
Sec. 1312. Actionable domestic subsidies.
Sec. 1313. Calculation of subsidies on certain processed agricultural products.
Sec. 1314. Revocation of status as a country under the Agreement.
Sec. 1315. Treatment of international consortia.
Sec. 1316. Dumping by nonmarket economy countries.
Sec. 1317. Third-country dumping.
Sec. 1318. Input dumping by related parties.
Sec. 1319. Fictitious markets.
Sec. 1320. Downstream product monitoring.
Sec. 1321. Prevention of circumvention of antidumping and countervailing duty orders.
Sec. 1322. Steel imports.
Sec. 1323. Short life cycle products.
Sec. 1324. Critical circumstances.
Sec. 1325. Expedited review authority.
Sec. 1326. Processed agricultural products.
Sec. 1327. Leases equivalent to sales.
Sec. 1328. Material injury.
Sec. 1329. Threat of material injury.
Sec. 1330. Cumulation.
Sec. 1331. Certification of submissions.
Sec. 1332. Access to information.
Sec. 1333. Correction of ministerial errors.
Sec. 1334. Drawback treatment.
Sec. 1335. Governmental importations.
Sec. 1336. Studies.
Sec. 1337. Effective dates.

Part 3—Protection of Intellectual Property Rights

Sec. 1341. Congressional findings and purposes.
Sec. 1342. Protection under the Tariff Act of 1930.

Part 4—Telecommunications Trade

Sec. 1371. Short title.
Sec. 1372. Findings and purposes.
Sec. 1373. Definitions.
Sec. 1374. Investigation of foreign telecommunications trade barriers.
Sec. 1375. Negotiations in response to investigation.
Sec. 1376. Actions to be taken if no agreement obtained.
Sec. 1377. Review of trade agreement implementation by Trade Representative.
Sec. 1378. Compensation authority.
Sec. 1379. Consultations.
Sec. 1380. Submission of data; action to ensure compliance.
Sec. 1381. Study on telecommunications competitiveness in the United States.
Sec. 1382. International obligations.

Subtitle D—Adjustment to Import Competition

Part 1—Positive Adjustment by Industries Injured by Imports

Sec. 1401. Positive adjustment by industries injured by imports.

Part 2—Market Disruption

Sec. 1411. Market disruption.

Part 3—Trade Adjustment Assistance

Sec. 1421. Eligibility of workers and firms for trade adjustment assistance.
Sec. 1422. Notice to workers of benefits under trade adjustment assistance program.
Sec. 1423. Cash assistance for workers.
Sec. 1424. Job training for workers.
Sec. 1425. Limitation on period in which trade readjustment allowances may be paid.
Sec. 1426. Authorization of trade adjustment assistance program.
Sec. 1427. Trade Adjustment Assistance Trust Fund.
Sec. 1428. Imposition of small uniform fee on all imports.
Sec. 1429. Study of certification methods.
Sec. 1430. Effective dates.

Subtitle E—National Security

Sec. 1501. Imports that threaten national security.

Subtitle F—Trade Agencies; Advice, Consultation, and Reporting Regarding Trade Matters

Part 1—Functions and Organization of Trade Agencies

SUBPART A—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Sec. 1601. Functions.

SUBPART B—UNITED STATES INTERNATIONAL TRADE COMMISSION

Sec. 1611. Service on Commission for purposes of determining eligibility for designation as Chairman.
Sec. 1612. Treatment of Commission under Paperwork Reduction Act.
Sec. 1613. Treatment of confidential information by Commission.
Sec. 1614. Trade Remedy Assistance Office.

SUBPART C—INTERAGENCY TRADE ORGANIZATION

Sec. 1621. Functions and organization.

Part 2—Advice and Consultation Regarding Trade Policy, Negotiations, and Agreements

Sec. 1631. Information and advice from private and public sectors relating to trade policy and agreements.
Sec. 1632. Congressional liaison regarding trade policy and agreements.

Part 3—Annual Reports and National Trade Policy Agenda

Sec. 1641. Reports and agenda.

Subtitle G—Tariff Provisions

Part 1—Amendments to the Tariff Schedules of the United States

Sec. 1701. Reference.

SUBPART A—PERMANENT CHANGES IN TARIFF TREATMENT

Sec. 1711. Broadwoven fabrics of man-made fibers.
Sec. 1712. Naphtha and motor fuel blending stocks.
Sec. 1713. Watches and watch components.
Sec. 1714. Slabs of iron or steel.
Sec. 1715. Certain work gloves.
Sec. 1716. Duty-free importation of hatter's fur.
Sec. 1717. Extracorporeal shock wave lithotripters.
Sec. 1718. Salted and dried plums.
Sec. 1719. Television apparatus and parts.
Sec. 1720. Casein.
Sec. 1721. Tariff treatment of certain types of plywood.
Sec. 1722. Importation of furskins.
Sec. 1723. Grapefruit.
Sec. 1724. Silicone resins and materials.

SUBPART B—TEMPORARY CHANGES IN TARIFF TREATMENT

Sec. 1731. Color couplers and coupler intermediates.
Sec. 1732. Potassium 4-Sulfobenzoate.
Sec. 1733. 2,2'-Oxamidobis[ethyl-3-(3,5-di-tert-butyl-4-hydroxyphenyl)-propionate].
Sec. 1734. 2,4-Dichloro-5-sulfamoylbenzoic acid.
Sec. 1735. Derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide.
Sec. 1736. Certain knitwear fabricated in Guam.
Sec. 1737. 3,5-Dinitro-o-toluamide.
Sec. 1738. Secondary-butyl chloride.
Sec. 1739. Certain nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers.
Sec. 1740. Duty-free entry of personal effects and equipment of participants and officials involved in the 10th Pan American games.
Sec. 1741. Carding and spinning machines.
Sec. 1742. Dicofol and certain mixtures.
Sec. 1743. Silk yarn.
Sec. 1744. Terfenadone.
Sec. 1745. Fluazifop-p-butyl.
Sec. 1746. Parts of indirect process electrostatic copying machines.
Sec. 1747. Extracorporeal shock wave lithotripters imported by nonprofit institutions.
Sec. 1748. Transparent plastic sheeting.
Sec. 1749. Doll wig yarns.
Sec. 1750. 1-(3-Sulfopropyl) pyridinium hydroxide.
Sec. 1751. Polyvinylbenzyltrimethylammonium chloride (cholestyramine resin USP).
Sec. 1752. Methylene blue.
Sec. 1753. 3-Amino-3-methyl-1-butyne.
Sec. 1754. Dicyclohexylbenzothiazylsulfenamide.
Sec. 1755. D-6-methoxy-a-methyl-2-naphthaleneacetic acid and its sodium salt.
Sec. 1756. Suspension of duties on jacquard cards and jacquard heads.
Sec. 1757. 2,2-Bis(4-Cyanatophenyl).
Sec. 1758. Phenylmethylaminopyrazole.
Sec. 1759. Benzethonium chloride.
Sec. 1760. Maneb, zineb, mancozeb, and metiram.
Sec. 1761. Metaldehyde.
Sec. 1762. Paraldehyde.
Sec. 1763. Cyclosporine.
Sec. 1764. Temporary reduction of duties on glass inners.
Sec. 1765. Benzenoid dye intermediates.
Sec. 1766. Tungsten ore.
Sec. 1767. Chlor amino base.
Sec. 1768. Nitro sulfon B.
Sec. 1769. 4-chloro-2-nitro aniline.
Sec. 1770. Amino sulfon br.
Sec. 1771. Acet quinone base.
Sec. 1772. Diamino phenetole sulfate.
Sec. 1773. Certain mixtures of cross-linked sodium polyacrylate polymers.
Sec. 1774. N-ethyl-o-toluenesulfonamide and n-ethyl-p-toluenesulfonamide.

Sec. 1775. Sethoxydim.
Sec. 1776. 3-Ethylamino-p-cresol.
Sec. 1777. Rosachloride lumps.
Sec. 1778. C-amines.
Sec. 1779. Diamino imid sp.
Sec. 1780. Certain stuffed toy figures.
Sec. 1781. Kitchenware of transparent, nonglazed glass ceramics.
Sec. 1782. Hosiery knitting machines and needles.
Sec. 1783. Certain bicycle parts.
Sec. 1784. 1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (difenzoquat methyl sulfate).
Sec. 1785. Triallate.
Sec. 1786. m-Nitro-p-anisidine.
Sec. 1787. Dinocap and mixtures of dinocap and mancozeb.
Sec. 1788. m-Nitro-o-anisidine.
Sec. 1789. p-Nitro-o-toluidine.
Sec. 1790. Phenylcarbethoxypyrazolone.
Sec. 1791. p-Nitro-o-anisidine.
Sec. 1792. Carbodiimides.
Sec. 1793. Triethylene glycol dichloride.
Sec. 1794. Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants.
Sec. 1795. 2-n-Octyl-4-isothiazolin-3-one, and on mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants.
Sec. 1796. Weaving machines for fabrics in excess of 16 feet width.
Sec. 1797. Barbituric acid.
Sec. 1798. 3-Methyl-5-pyrazolone.
Sec. 1799. 3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-tolyl methyl pyrazolone).
Sec. 1800. Certain offset printing presses.
Sec. 1801. Frozen cranberries.
Sec. 1802. m-Hydroxybenzoic acid.
Sec. 1803. Certain benzenoid chemicals.
Sec. 1804. Extension of certain suspension provisions.

SUBPART C—EFFECTIVE DATES

Sec. 1831. Effective dates.

PART 2—MISCELLANEOUS PROVISIONS

Sec. 1841. Certain structures and parts used in the W.M. Keck Observatory project, Mauna Kea, Hawaii.
Sec. 1842. Reliquidation of certain entries and refund of antidumping duties.
Sec. 1843. Reliquidation of certain tubular tin products.
Sec. 1844. Certain extracorporeal schock wave lithotripter imported for use in Hawaii.
Sec. 1845. Extension of the filing period for reliquidation of certain entries.

Subtitle H—Miscellaneous Customs and Trade Provisions

PART 1—CUSTOMS PROVISIONS

Sec. 1901. Enforcement of the restrictions against imported pornography.
Sec. 1902. Tare on crude oil and petroleum products.
Sec. 1903. Eligible articles under the generalized system of preferences.
Sec. 1904. Customs bond cancellation standards.
Sec. 1905. Customs services at Pontiac/Oakland, Michigan, Airport.
Sec. 1906. Sense of Congress requesting the President to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 without delay.
Sec. 1907. Import marking provisions.
Sec. 1908. Duty-free sales enterprises.
Sec. 1909. Caribbean Basin initiative.
Sec. 1910. Ethyl alcohol and mixtures for fuel use.
Sec. 1911. Enforcement of restrictions on imports from Cuba.
Sec. 1912. Customs Forfeiture Fund.

PART 2—MISCELLANEOUS TRADE PROVISIONS

Sec. 1931. Trade statistics.
Sec. 1932. Adjustment of trade statistics for inflation and deflation.
Sec. 1933. Coal exports to Japan.
Sec. 1934. Purchases of United States-made automotive parts by Japan.
Sec. 1935. Effect of imports on crude oil production and refining capacity in the United States.
Sec. 1936. Study of trade barriers established by auto producing countries to auto imports and the impact on the United States market.
Sec. 1937. Lamb meat imports.

PART 3—OTHER PROVISIONS

Sec. 1941. Windfall profit tax repeal.

TITLE II—EXPORT ENHANCEMENT

Sec. 2001. Short title.

Subtitle A—Trade and Foreign Policy

PART I—RELATIONS WITH CERTAIN COUNTRIES

Sec. 2101. United States-Mexico Framework Agreement on Trade and Investment.
Sec. 2102. Relations with countries providing offensive weaponry to belligerent countries in the Persian Gulf region.

PART II—FAIR TRADE IN AUTO PARTS

Sec. 2121. Short title.
Sec. 2122. Definition.
Sec. 2123. Establishment of initiative on auto parts sales to Japan.
Sec. 2124. Establishment of special advisory committee on auto part sales in Japan.
Sec. 2125. Expiration date.

Subtitle B—Export Enhancement

PART I—GENERAL PROVISIONS

Sec. 2201. Commercial personnel at the American Institute of Taiwan.
Sec. 2202. Country reports on economic policy and trade practices.
Sec. 2203. Overseas Private Investment Corporation.
Sec. 2204. Trade and Development Program.
Sec. 2205. Barter and countertrade
Sec. 2206. Protection of United States intellectual property.
Sec. 2207. Report on worker rights.
Sec. 2208. Japanese importation of manufactured goods from less developed countries.
Sec. 2209. Japan and the Arab boycott of Israel.
Sec. 2210. Facilitation of jewelry trade.
Sec. 2211. Loan guarantees.

PART II—ASSISTANCE TO POLAND

Sec. 2221. Short title.
Sec. 2222. Funding for science and technology agreement.
Sec. 2223. Donation of surplus agricultural commodities.
Sec. 2224. Use of Polish currencies.
Sec. 2225. Eligible activities.
Sec. 2226. Joint commission.
Sec. 2227. Provision of medical supplies and hospital equipment to Poland.

Subtitle C—Export Promotion

Sec. 2301. United States and Foreign Commercial Service.
Sec. 2302. Commercial Service officers and multilateral development bank procurement.
Sec. 2303. Market development cooperator program.
Sec. 2304. Trade shows.
Sec. 2305. Authorization of appropriations for export promotion programs.
Sec. 2306. United States and Foreign Commercial Service Pacific Rim initiative.
Sec. 2307. Indian tribes export promotion.
Sec. 2308. Printing at overseas locations.
Sec. 2309. Local currencies under Public Law 480.
Sec. 2310. Office of Export Trade.
Sec. 2311. Report on export trading companies.

Subtitle D—Export Controls

Sec. 2401. Reference to the Export Administration Act of 1979.

PART I—EXPORT CONTROLS GENERALLY

Sec. 2411. Export license fees.
Sec. 2412. Multiple license authority.
Sec. 2413. Domestic sales to commercial entities of controlled countries.
Sec. 2414. Authority for reexports.
Sec. 2415. Exports to countries other than controlled countries.
Sec. 2416. Control list.
Sec. 2417. Trade shows.
Sec. 2418. Foreign availability.
Sec. 2419. Review of technology levels.
Sec. 2420. Functions of technical advisory committees.
Sec. 2421. Negotiations with COCOM.
Sec. 2422. Goods containing microprocessors or certain other parts or components.
Sec. 2423. Foreign policy controls.
Sec. 2424. Exports of domestically produced crude oil.
Sec. 2425. Procedures for license applications.
Sec. 2426. Violations.
Sec. 2427. Enforcement.
Sec. 2428. Administrative procedure and judicial review.
Sec. 2429. Responsibilities of the Under Secretary of Commerce for Export Administration.
Sec. 2430. Authorization of appropriations.
Sec. 2431. Termination date.
Sec. 2432. Monitoring of wood exports.
Sec. 2433. Study on national security export controls.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

Sec. 2441. Short title.
Sec. 2442. Findings.
Sec. 2443. Mandatory sanctions against Toshiba and Kongsberg.
Sec. 2444. Mandatory sanctions for future violations.
Sec. 2445. Annual report of defense impact.
Sec. 2446. Improved multilateral cooperation.
Sec. 2447. Technical and conforming amendments.

Subtitle E—Miscellaneous Provisions

Sec. 2501. Trading with the Enemy Act.
Sec. 2502. Limitation on exercise of emergency authorities.
Sec. 2503. Budget Act.

TITLE III—INTERNATIONAL FINANCIAL POLICY

Subtitle A—Exchange Rates and International Economic Policy Coordination

Sec. 3001. Short title.
Sec. 3002. Findings.
Sec. 3003. Statement of policy.

Sec. 3004. International negotiations on exchange rate and economic policies.
Sec. 3005. Reporting requirements.
Sec. 3006. Definitions.

Subtitle B—International Debt

PART I—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

Sec. 3101. Short title.
Sec. 3102. Findings.
Sec. 3103. Purposes.
Sec. 3104. Statement of policy.

PART II—THE INTERNATIONAL DEBT MANAGEMENT AUTHORITY

Sec. 3111. International initiative.
Sec. 3112. Actions to facilitate creation of the authority.
Sec. 3113. IMF-World Bank review.

PART III—REGULATORY PROVISIONS AFFECTING INTERNATIONAL DEBT

Sec. 3121. Provisions relating to the regulation of depository institutions.
Sec. 3122. Studies relating to the regulation of depository institutions.
Sec. 3123. Limited purpose special drawing rights for the poorest heavily indebted countries.

Subtitle C—Multilateral Development Banks

Sec. 3201. Short title.
Sec. 3202. Multilateral development bank procurement.

Subtitle D—Export-Import Bank and Tied Aid Credit Amendments

Sec. 3301. Short title.
Sec. 3302. Provisions relating to tied aid credit.
Sec. 3303. Report on United States exports to developing countries.
Sec. 3304. Amendments to section 2(e) of the Export-Import Bank Act of 1945.

Subtitle E—Export Trading Company Act Amendments

Sec. 3401. Short title.
Sec. 3402. Export trading company act amendments.

Subtitle F—Primary Dealers

Sec. 3501. Short title.
Sec. 3502. Requirement of national treatment in underwriting government debt instruments.

Subtitle G—Financial Reports

Sec. 3601. Short title.
Sec. 3602. Quadrennial reports on foreign treatment of United States financial institutions.
Sec. 3603. Fair trade in financial services.
Sec. 3604. Banks loan loss reserves.

TITLE IV—AGRICULTURAL TRADE

Sec. 4001. Short title.

Subtitle A—Findings, Policy, and Purpose

Sec. 4101. Findings.
Sec. 4102. Policy.
Sec. 4103. Purpose.

Subtitle B—Agricultural Trade Initiatives

PART 1—GENERAL PROVISIONS

Sec. 4201. Long-term agricultural trade strategy reports.
Sec. 4202. Technical assistance in trade negotiations.
Sec. 4203. Joint development assistance agreements with certain trading partners.
Sec. 4204. Reorganization evaluation.
Sec. 4205. Contracting authority to expand agricultural export markets.
Sec. 4206. Establishment of trade assistance office.

PART 2—FOREIGN AGRICULTURAL SERVICE

Sec. 4211. Personnel of the service.
Sec. 4212. Agricultural attache educational program.
Sec. 4213. Personnel resource time.
Sec. 4214. Cooperator organizations.
Sec. 4215. Authorization of additional appropriations.

Subtitle C—Existing Agricultural Trade Programs

Sec. 4301. Triggered marketing loans and export enhancement.
Sec. 4302. Price support programs for sunflower seeds and cottonseed.
Sec. 4303. Multiyear agreements under the Food for Progress Program.
Sec. 4304. Targeted export assistance.
Sec. 4305. Export Credit Guarantee Program.
Sec. 4306. Agricultural Export Enhancement Program.
Sec. 4307. Agricultural attache reports.
Sec. 4308. Dairy Export Incentive Program.
Sec. 4309. Barter of agricultural commodities.
Sec. 4310. Minimum level of food assistance.
Sec. 4311. Food aid and market development.

Subtitle D—Wood and Wood Products

Sec. 4401. Developing markets for wood and wood products under Public Law 480.
Sec. 4402. Developing markets for wood and wood products under the Short-Term and Intermediate-Term Export Credit Guarantee Programs.
Sec. 4403. Cooperative National Forest Products Marketing Program.
Sec. 4404. Use of Department of Agriculture programs.

Subtitle E—Studies and Reports

Sec. 4501. Study of Canadian wheat import licensing requirements.
Sec. 4502. Import inventory.
Sec. 4503. Study relating to honey.
Sec. 4504. Study of dairy import quotas.
Sec. 4505. Report on intermediate export credit.
Sec. 4506. Imported meat, poultry products, eggs, and egg products.
Sec. 4507. Study of circumvention of agricultural quotas.
Sec. 4508. Study of lamb meat imports.
Sec. 4509. Rose study.

Subtitle F—Miscellaneous Agricultural Provisions

Sec. 4601. Allocation of certain milk.
Sec. 4602. Paid advertising for Florida-grown strawberries under marketing orders.
Sec. 4603. Application of marketing orders to imports.
Sec. 4604. Reciprocal meat inspection requirement.
Sec. 4605. Study of international marketing in land grant colleges and universities.
Sec. 4606. International trade in eggs and egg products.
Sec. 4607. United States access to the Korean beef market.
Sec. 4608. United States access to Japanese agricultural markets.
Sec. 4609. Sense of Congress relating to section 22.
Sec. 4610. Technical corrections to the agricultural aid and trade mission portion of Public Law 100-202.

Subtitle G—Pesticide Monitoring Improvements

Sec. 4701. Short title.
Sec. 4702. Pesticide monitoring and enforcement information.
Sec. 4703. Foreign pesticide information.
Sec. 4704. Pesticide analytical methods.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Act Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Sec. 5001. Short title.
Sec. 5002. Penalties for violations of accounting standards.
Sec. 5003. Foreign Corrupt Practices Act Amendments.

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

Sec. 5021. Authority to review certain mergers, acquisitions, and takeovers.

Subtitle B—Technology

PART I—TECHNOLOGY COMPETITIVENESS

Sec. 5101. Short title.

SUBPART A—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

Sec. 5111. Findings and purposes.
Sec. 5112. Establishment, functions, and activities.
Sec. 5113. Repeal of provisions.
Sec. 5114. Reports to Congress; studies by the National Academies of Engineering and Sciences.
Sec. 5115. Technical amendments.

SUBPART B—TECHNOLOGY EXTENSION ACTIVITIES AND CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES

Sec. 5121. Technology extension activities.
Sec. 5122. Clearinghouse on state and local initiatives.

SUBPART C—ADVANCED TECHNOLOGY PROGRAM

Sec. 5131. Advanced technology.

SUBPART D—TECHNOLOGY REVIEWS

Sec. 5141. Report of President.
Sec. 5142. Semiconductor research and development.
Sec. 5143. Review of research and development priorities in superconductors.

SUBPART E—AUTHORIZATION OF APPROPRIATIONS

Sec. 5151. Authorization of appropriations for technology activities.
Sec. 5152. Stevenson-Wydler Act authorizations.

SUBPART F—MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS

Sec. 5161. Savings provision and user fees.
Sec. 5162. Miscellaneous amendments to the Stevenson-Wydler Act.
Sec. 5163. Miscellaneous technology and commerce provisions.
Sec. 5164. Metric usage.

PART II—SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

Sec. 5171. Symmetrical access to technological research.

PART III—NATIONAL CRITICAL MATERIALS COUNCIL

Sec. 5181. The national Federal program plan for advanced materials research and development.
Sec. 5182. Personnel matters.
Sec. 5183. Authority to accept services and personnel from other Federal agencies.
Sec. 5184. Authorization of appropriations.

Subtitle C—Competitiveness Policy Council Act

Sec. 5201. Short title.
Sec. 5202. Findings and purposes.
Sec. 5203. Council established.
Sec. 5204. Duties of the Council.
Sec. 5205. Membership.
Sec. 5206. Executive Director and staff.
Sec. 5207. Powers of the Council.
Sec. 5208. Annual report.
Sec. 5209. Authorization of appropriations.
Sec. 5210. Definitions.

Subtitle D—Federal Budget Competitiveness Impact Statement

Sec. 5301. President's annual budget submission.
Sec. 5302. Annual concurrent resolution on the budget.
Sec. 5303. Effective date.

Subtitle E—Trade Data, Impact, and Studies

PART I—NATIONAL TRADE DATA BANK

Sec. 5401. Definitions.
Sec. 5402. Interagency Trade Data Advisory Committee.
Sec. 5403. Functions of the Committee.
Sec. 5404. Consultation with the private sector and Government officials.
Sec. 5405. Cooperation among Executive agencies.
Sec. 5406. Establishment of the Data Bank.
Sec. 5407. Operation of the Data Bank.
Sec. 5408. Information on the service sector.
Sec. 5409. Exclusion of information.
Sec. 5410. Nonduplication.
Sec. 5411. Collection of data.
Sec. 5412. Fees and access.
Sec. 5413. Report to Congress.

PART II—IMPACT STATEMENTS AND STUDIES

Sec. 5421. Competitiveness impact statements.
Sec. 5422. Study and report by the Advisory Council on Federal Participation in Sematech.
Sec. 5423. Impact of national defense expenditures on international competitiveness.

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

Sec. 6001. Short title.
Sec. 6002. Findings and purpose.
Sec. 6003. Definitions.
Sec. 6004. General provisions.

Subtitle A—Elementary and Secondary Education

CHAPTER 1—MATHEMATICS AND SCIENCE

Sec. 6005. Mathematics and science education reauthorized.

CHAPTER 2—ADULT LITERACY

Sec. 6011. Workplace literacy partnerships grants.
Sec. 6012. English literacy grants.
Sec. 6013. Literacy coordination.
Sec. 6014. Applicability provision.

CHAPTER 3—FOREIGN LANGUAGES

SUBCHAPTER A—FOREIGN LANGUAGE ASSISTANCE

Sec. 6021. Short title.
Sec. 6022. Findings.
Sec. 6023. Program authorized.
Sec. 6024. Allotment.
Sec. 6025. Definitions.
Sec. 6026. Authorization of appropriations.

SUBCHAPTER B—PRESIDENTIAL AWARD FOR LANGUAGES

Sec. 6027. Presidential awards.
Sec. 6028. Administrative provisions.
Sec. 6029. Authorization of appropriations.

CHAPTER 4—SCIENCE AND MATHEMATICS ELEMENTARY AND SECONDARY BUSINESS PARTNERSHIPS

Sec. 6031. Program authorized.

CHAPTER 5—EDUCATIONAL PARTNERSHIPS

Sec. 6041. Short title.
Sec. 6042. Purpose.
Sec. 6043. Program authorized.
Sec. 6044. Authorized activities.
Sec. 6045. Application.
Sec. 6046. Approval of application.
Sec. 6047. Computation of grant amounts.
Sec. 6048. Evaluation and dissemination.
Sec. 6049. Definitions.

CHAPTER 6—STAR SCHOOLS PROGRAM

Sec. 6051. Program authorized.
Sec. 6052. Applicability provision.

CHAPTER 7—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

SUBCHAPTER A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

Sec. 6061. Short title.
Sec. 6062. Purpose.
Sec. 6063. Authorization of appropriations.
Sec. 6064. Grants to local educational agencies.
Sec. 6065. Application.
Sec. 6066. Authorized activities.
Sec. 6067. Distribution of assistance; limitation on costs.

SUBCHAPTER B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

Sec. 6071. Short title.
Sec. 6072. Purpose.
Sec. 6073. Authorization of appropriations.
Sec. 6074. Grants to local educational agencies.
Sec. 6075. Authorized activities.
Sec. 6076. Application.

SUBCHAPTER C-GENERAL PROVISIONS

Sec. 6081. General provisions.
Sec. 6082. Definitions.

CHAPTER 8—MISCELLANEOUS

Sec. 6091. Drug-free schools program.

Subtitle B—Technology and Training

CHAPTER 1—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

Sec. 6101. Short title.
Sec. 6102. Findings and purpose.
Sec. 6103. Office of Training Technology Transfer.
Sec. 6104. Functions of the Office.
Sec. 6105. Administrative provisions.
Sec. 6106. Coordination with Federal agencies.
Sec. 6107. Authorization of appropriations.
Sec. 6108. Definitions.

CHAPTER 2—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

Sec. 6111. Purpose.
Sec. 6112. Technology education demonstration program.
Sec. 6113. Applications for grants.
Sec. 6114. National dissemination of information.
Sec. 6115. Authorization of appropriations.
Sec. 6116. Definitions.

CHAPTER 3—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

Sec. 6121. Replication models for technical education programs designed to improve the quality of education for America's technically trained workforce.

CHAPTER 4—VOCATIONAL EDUCATION PROGRAMS

Sec. 6131. Adult training, retraining, and employment development.
Sec. 6132. Authorization of additional uses of vocational education funds.
Sec. 6133. Education for employment demonstration program.
Sec. 6134. Industry-education partnership authorization.
Sec. 6135. Demonstration program for technological literacy.

CHAPTER 5—ACCESS DEMONSTRATION PROGRAMS

Sec. 6141. Purpose.
Sec. 6142. Program authorized.
Sec. 6143. Applications.
Sec. 6144. Definitions.

Subtitle C—Higher Education

CHAPTER 1—STUDENT LITERACY CORPS

Sec. 6201. Student literacy corps.

CHAPTER 2—SPECIAL RESEARCH FACILITIES

Sec. 6211. Agriculture, strategic metals, minerals, forestry, and oceans college and university research facilities and instrumentation modernization program.

CHAPTER 3—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT

Sec. 6221. Minority science and engineering improvement.

CHAPTER 4—TECHNOLOGY TRANSFER CENTERS

Sec. 6231. Technology transfer centers.

CHAPTER 5—LIBRARY TECHNOLOGY ENHANCEMENT

Sec. 6241. Library technology enhancement.

CHAPTER 6—INTERNATIONAL BUSINESS EDUCATION PROGRAM

Sec. 6261. Centers for international business education authorized.
Sec. 6262. Authorization of appropriations.
Sec. 6263. Conforming amendment.

CHAPTER 7—ADDITIONAL HIGHER EDUCATION PROVISIONS

Sec. 6271. Ronald E. McNair Post-Baccalaureate Achievement program.
Sec. 6272. United States Institute of Peace.

Subtitle D—Employment and Training for Dislocated Workers

Sec. 6301. Short title.
Sec. 6302. Amendment to Title III of the Job Training Partnership Act.
Sec. 6303. Authorization of appropriations.
Sec. 6304. Conforming amendments.
Sec. 6305. Transition provisions.
Sec. 6306. Studies.
Sec. 6307. Job banks.

Subtitle E—Advance Notification of Plant Closings and Mass Layoffs

Sec. 6401. Short title.
Sec. 6402. Definitions; exclusions from definition of loss of employment.
Sec. 6403. Notice required before plant closings and mass layoffs.
Sec. 6404. Exemptions.
Sec. 6405. Administration and enforcement of requirements.
Sec. 6406. Procedures in addition to other rights of employees.
Sec. 6407. Procedures encouraged where not required.
Sec. 6408. Authority to prescribe regulations.
Sec. 6409. Effect on other laws.
Sec. 6410. Effective date.

Subtitle F—National Science Foundation University Infrastructure

Sec. 6501. Short title.
Sec. 6502. National Science Foundation Academic Research Facilities Modernization Program.
Sec. 6503. National Science Foundation College Science Instrumentation Program.

TITLE VII—BUY AMERICAN ACT OF 1988

Sec. 7001. Short title.
Sec. 7002. Amendments to the Buy American Act.
Sec. 7003. Procedures to prevent Government procurement discrimination.
Sec. 7004. Sunset provision.
Sec. 7005. Conforming amendments.

TITLE VIII—SMALL BUSINESS

Sec. 8001. Short title.
Sec. 8002. Declaration of policy.
Sec. 8003. Changes in existing Small Business Administration International Trade Office.
Sec. 8004. Authorization of appropriations.
Sec. 8005. Export financing provided by the Administration.
Sec. 8006. Small Business Development Centers.
Sec. 8007. Capital formation.
Sec. 8008. Small Business Innovation Research.
Sec. 8009. Globalization of production.
Sec. 8010. Small business trade remedy assistance.
Sec. 8011. National Seminar on Small Business Exports.
Sec. 8012. Trade negotiations.
Sec. 8013. Promulgation of regulations.
Sec. 8014. Effective date.

TITLE IX—PATENTS

Subtitle A—Process Patents

Sec. 9001. Short title.
Sec. 9002. Rights of owners of patented processes.
Sec. 9003. Infringement for importation, use, or sale.
Sec. 9004. Damages for infringement.
Sec. 9005. Presumption in certain infringement actions.
Sec. 9006. Effective date.
Sec. 9007. Reports to Congress.

Subtitle B—Foreign Filing

Sec. 9101. Increased effectiveness of patent law.

Subtitle C—Patent Term Extension

Sec. 9201. Patent term extension.
Sec. 9202. Procedure.

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—Foreign Shipping Practices

Sec. 10001. Short title.
Sec. 10002. Foreign laws and practices.
Sec. 10003. Mobile trade fairs.

Subtitle B—International Air Transportation

Sec. 10011. Maximum period for taking action with respect to complaints.
Sec. 10012. Views of the Department of Commerce and Office of the United States Trade Representative.
Sec. 10013. Reporting on actions taken with respect to complaints.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

SEC. 1001. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) in the last 10 years there has arisen a new global economy in which trade, technological development, investment, and services form an integrated system; and in this system these activities affect each other and the health of the United States economy;

(2) the United States is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt;

(3) such disequilibrium and increase are a result of numerous factors, including—

(A) disparities between the macroeconomic policies of the major trading nations,

(B) the large United States budget deficit,

(C) instabilities and structural defects in the world monetary system,

(D) the growth of debt throughout the developing world,

(E) structural defects in the world trading system and inadequate enforcement of trade agreement obligations,

(F) governmental distortions and barriers,

(G) serious shortcomings in United States trade policy, and

(H) inadequate growth in the productivity and competitiveness of United States firms and industries relative to their overseas competition;

(4) it is essential, and should be the highest priority of the United States Government, to pursue a broad array of domestic and international policies—

(A) to prevent future declines in the United States economy and standards of living,

(B) to ensure future stability in external trade of the United States, and

(C) to guarantee the continued vitality of the technological, industrial, and agricultural base of the United States;

(5) the President should be authorized and encouraged to negotiate trade agreements and related investment, financial, intellectual property, and services agreements that meet the standards set forth in this title; and

(6) while the United States is not in a position to dictate economic policy to the rest of the world, the United States is in a position to lead the world and it is in the national interest for the United States to do so.

(b) PURPOSES.—The purposes of this title are to—

(1) authorize the negotiation of reciprocal trade agreements;

(2) strengthen United States trade laws;

(3) improve the development and management of United States trade strategy; and

(4) through these actions, improve standards of living in the world.

Subtitle A—United States Trade Agreements

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

SEC. 1101. OVERALL AND PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States are to obtain—

(1) more open, equitable, and reciprocal market access;

(2) the reduction or elimination of barriers and other trade-distorting policies and practices; and

(3) a more effective system of international trading disciplines and procedures.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for more effective and expeditious dispute settlement mechanisms and procedures; and

(B) to ensure that such mechanisms within the GATT and GATT agreements provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(2) IMPROVEMENT OF THE GATT AND MULTILATERAL TRADE NEGOTIATION AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of GATT and multilateral trade negotiation agreements are—

(A) to enhance the status of the GATT;

(B) to improve the operation and extend the coverage of the GATT and such agreements and arrangements to products, sectors, and conditions of trade not adequately covered; and

(C) to expand country participation in particular agreements or arrangements, where appropriate.

(3) TRANSPARENCY.—The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by Contracting Parties to the GATT.

(4) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(5) CURRENT ACCOUNT SURPLUSES.—The principal negotiating objective of the United States regarding current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances which threaten the stability of the international trading system, by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

(6) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States regarding trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

(7) AGRICULTURE.—The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices;

(B) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing and market access and eliminating and reducing substantially other specific constraints to fair trade and more open market access, such as tariffs, quotas, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

(D) seeking agreements by which the major agricultural exporting nations agree to pursue policies to reduce excessive produc-

tion of agricultural commodities during periods of oversupply, with due regard for the fact that the United States already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

(8) UNFAIR TRADE PRACTICES.—The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately covered such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, and export targeting practices;

(B) to obtain the application of similar rules to the treatment of primary and nonprimary products in the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (relating to subsidies and countervailing measures); and

(C) to obtain the enforcement of GATT rules against—

(i) state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

(III) other collateral concessions be made,

as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

(9) TRADE IN SERVICES.—

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or to eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) are consistent with the commercial policies of the United States, and

(II) will reduce or eliminate such barriers or distortions, and help ensure fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(10) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding intellectual property are—

(A) to seek the enactment and effective enforcement by foreign countries of laws which—

(i) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

(ii) provide protection against unfair competition,

(B) to establish in the GATT obligations—

(i) to implement adequate substantive standards based on—

(I) the standards in existing international agreements that provide adequate protection, and

(II) the standards in national laws if international agreement standards are inadequate or do not exist,

(ii) to establish effective procedures to enforce, both internally and at the border, the standards implemented under clause (i), and

(iii) to implement effective dispute settlement procedures that improve on existing GATT procedures;

(C) to recognize that the inclusion in the GATT of—

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations; and

(D) to supplement and strengthen standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including their expansion to cover new and emerging technologies and elimination of discrimination or unreasonable exceptions or preconditions to protection.

(11) FOREIGN DIRECT INVESTMENT.—

(A) The principal negotiating objectives of the United States regarding foreign direct investment are—

(i) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) will help ensure a free flow of foreign direct investment, and

(II) will reduce or eliminate the trade distortive effects of certain trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(12) SAFEGUARDS.—The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

(13) SPECIFIC BARRIERS.—The principal negotiating objective of the United States regarding specific barriers is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports to United States markets, including the reduction or elimination of specific tariff and nontariff trade barriers, particularly—

(A) measures identified in the annual report prepared under section 181 of the Trade Act of 1974 (19 U.S.C. 2241); and

(B) foreign tariffs and nontariff barriers on competitive United States exports when like or similar products enter the United States at low rates of duty or are duty-free, and other tariff disparities that impede access to particular export markets.

(14) WORKER RIGHTS.—The principal negotiating objectives of the United States regarding worker rights are—

(A) to promote respect for worker rights;

(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

(C) to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

(15) ACCESS TO HIGH TECHNOLOGY.—

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects;

(ii) denying equitable access by United States persons to government-held patents;

(iii) requiring the approval or agreement of government entities, or imposing other forms of government interventions, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(16) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the GATT with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily for revenue on direct taxes rather than indirect taxes.

SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this title will be promoted thereby, the President—

(A) before June 1, 1993, may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) through (5), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties;

as he determines to be required or appropriate to carry out any such trade agreement.

(2) No proclamation may be made under subsection (a) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applies on such date of enactment.

(3)(A) Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed in paragraph (1) to carry out such agreement with respect to such article.

(B) No staging under subparagraph (A) is required with respect to a rate reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) No reduction in a rate of duty under a trade agreement entered into under subsection (a) on any article may take effect more than 10 years after the effective date of the first reduction under paragraph (1) that is proclaimed to carry out the trade agreement with respect to such article.

(6) A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included within an implementing bill provided for under section 1103 and that bill is enacted into law.

(b) Agreements Regarding Nontariff Barriers.—

(1) Whenever the President determines that any barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect;

and that the purposes, policies, and objectives of this title will be promoted thereby, the President may, before June 1, 1993, enter into a trade agreement with foreign countries providing for—

(i) the reduction or elimination of such barrier or other distortion; or

(ii) the prohibition of, or limitations on the imposition of, such barrier or other distortion.

(2) A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 1101.

(c) Bilateral Agreements Regarding Tariff and Nontariff Barriers.—

(1) Before June 1, 1993, the President may enter into bilateral trade agreements with foreign countries that provide for the elimination or reduction of any duty imposed by the United States. A trade agreement entered into under this paragraph may also provide for the reduction or elimination of barriers to, or other distortions of, the international trade of the foreign country or the United States.

(2) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(3) A trade agreement may be entered into under paragraph (1) with any foreign country only if—

(A) the agreement makes progress in meeting the applicable objectives described in section 1101;

(B) such foreign country requests the negotiation of such an agreement; and

(C) the President, at least 60 days before the date notice is provided under section 1103(a)(1)(A)—

(i) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

(ii) consults with such committees regarding the negotiation of such agreement.

(4) The 60-day period of time described in paragraph (3)(B) shall be computed in accordance with section 1103(f).

(5) In any case in which there is an inconsistency between any provision of this Act and any bilateral free trade area agreement that entered into force and effect with respect to the United States before January 1, 1987, the provision shall not apply with respect to the foreign country that is party to that agreement.

(d) Consultation With Congress Before Agreements Entered Into.—

(1) Before the President enters into any trade agreement under subsection (b) or (c), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 1103.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 1103, the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

SEC. 1103. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) In General.—

(1) Any agreement entered into under section 1102(b) or (c) shall enter into force with respect to the United States if (and only if)—

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a document to the House of Representatives and to the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of this title,

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement, and

(II) the agreement applies to or affects purchases and sales by such enterprises.

(3) To ensure that a foreign country which receives benefits under a trade agreement entered into under section 1102(b) or (c) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) Application of Congressional "Fast Track" Procedures to Implementing Bills.—

(1) Except as provided in subsection (c)—

(A) the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (herein-

after in this section referred to as "fast track procedures") apply to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) before June 1, 1991; and

(B) such fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) after May 31, 1991, and before June 1, 1993, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 1991.

(2) If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1)(B), the President must submit to the Congress, no later than March 1, 1991, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under section 1102 (b) or (c) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of his decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but no later than March 1, 1991, a written report that contains—

(A) its views regarding the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(4) The reports submitted to the Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5)(A) For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the   disapproves the request of the President for the extension, under section 1103(b)(1)(B)(i) of the Omnibus Trade and Competitiveness Act of 1988, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act after May 31, 1991, because sufficient tangible progress has not been made in trade negotiations.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) The provisions of sections 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution that is reported to such House after May 15, 1991.

(c) LIMITATIONS ON USE OF "FAST TRACK" PROCEDURES.—

(1)(A) The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 1102(b) or (c) if both Houses of the Congress separately agree to procedural disapproval resolutions within any 60-day period.

(B) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(D) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(E) For purposes of this subsection, the term "procedural disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Omnibus Trade and Competitiveness Act of 1988, and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 1102(b) or (c) of such Act of 1988, if, during the 60-day period beginning on the date on which this resolution is agreed to by the   , the   agrees to a procedural disapproval resolution (within the meaning of section 1103(c)(1)(E) of such Act of 1988).", with the first blank space being filled with the name of the resolving House of the Congress and the second blank space being filled with the name of the other House of the Congress.

(2) The fast track procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under section 1102(c) with any foreign country if either—

(A) the requirements of section 1102(c)(3) are not met with respect to the negotiation of such agreement; or

(B) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 1102(c)(3)(C)(i) with respect to the negotiation of such agreement.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsections (b) and (c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(e) COMPUTATION OF CERTAIN PERIODS OF TIME.—Each period of time described in subsection (c)(1)(A) and (E) and (2) of this section shall be computed without regard to—

(1) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 1104. COMPENSATION AUTHORITY.

Section 123 of the Trade Act of 1974 (19 U.S.C. 2133) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whenever—

"(1) any action taken under chapter 1 of title II or chapter 1 of title III; or

"(2) any judicial or administrative tariff reclassification that becomes final after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988;

increases or imposes any duty or other import restriction, the President—

"(A) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

"(B) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.";

(2) by amending subsection (b)(2) by—

(A) striking out "section 109" and inserting "section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988", and

(B) striking out "section 101" each place it appears and inserting "such section 1102(a)";

(3) by striking out "section 101" in subsection (d) and inserting "section 1102 of the Omnibus Trade and Competitiveness Act of 1988"; and

(4) by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall apply by reason of action taken under chapter 1 of title III only if the President determines that action authorized under this section is necessary or appropriate to meet the

international obligations of the United States.".

SEC. 1105. TERMINATION AND RESERVATION AUTHORITY; RECIPROCAL NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—For purposes of applying sections 125, 126(a), and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 1102 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 1102 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

(b) RECIPROCAL NONDISCRIMINATORY TREATMENT.—

(1) The President shall determine, before June 1, 1993, whether any major industrial country has failed to make concessions under trade agreements entered into under section 1102 (a) and (b) which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under section 1102 (a) and (b), for the commerce of such country in the United States.

(2) If the President determines under paragraph (1) that a major industrial country has not made concessions under trade agreements entered into under section 1102 (a) and (b) which provide substantially equivalent competitive opportunities for the commerce of the United States, the President shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress—

(A) legislation providing for the termination or denial of the benefits of concessions of trade agreements entered into under section 1102 (a) and (b) that have been made with respect to rates of duty or other import restrictions imposed by the United States, and

(B) legislation providing that any law necessary to carry out any trade agreement under section 1102 (a) or (b) not apply to such country.

(3) For purposes of this subsection, the term "major industrial country" means Canada, the European Communities, the individual member countries of the European Communities, Japan, and any other foreign country designated by the President for purposes of this subsection.

SEC. 1106. ACCESSION OF STATE TRADING REGIMES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE.

(a) IN GENERAL.—Before any major foreign country accedes, after the date of enactment of this Act, to the GATT the President shall determine—

(1) whether state trading enterprises account for a significant share of—

(A) the exports of such major foreign country, or

(B) the goods of such major foreign country that are subject to competition from goods imported into such foreign country; and

(2) whether such state trading enterprises—

(A) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

(B) are likely to result in such a burden, restriction, or effect.

(b) EFFECTS OF AFFIRMATIVE DETERMINATION.—If both of the determinations made under paragraphs (1) and (2) of subsection (a) with respect to a major foreign country are affirmative—

(1) the President shall reserve the right of the United States to withhold extension of the application of the GATT, between the United States and such major foreign country, and

(2) the GATT shall not apply between the United States and such major foreign country until—

(A) such foreign country enters into an agreement with the United States providing that the state trading enterprises of such foreign country—

(i) will—

(I) make purchases which are not for the use of such foreign country, and

(II) make sales in international trade,

in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

(ii) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales; or

(B) a bill submitted under subsection (c) which approves of the extension of the application of the GATT between the United States and such major foreign country is enacted into law.

(c) EXPEDITED CONSIDERATION OF BILL TO APPROVE EXTENSION.—

(1) The President may submit to the Congress any draft of a bill which approves of the extension of the application of the GATT between the United States and a major foreign country.

(2) Any draft of a bill described in paragraph (1) that is submitted by the President to the Congress shall—

(A) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress; and

(B) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 151 of the Trade Act of 1974.

(d) PUBLICATION.—The President shall publish in the Federal Register each determination made under subsection (a).

SEC. 1107. DEFINITIONS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—For purposes of this part:

(1) The term "distortion" includes, but is not limited to, a subsidy.

(2) The term "foreign country" includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term "GATT" means the General Agreement on Tariffs and Trade.

(4) The term "implementing bill" has the meaning given such term in section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)).

(5) The term "international trade" includes, but is not limited to—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(6) The term "state trading enterprise" means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(b) CONFORMING AMENDMENTS.—

(1) Section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended by striking out "section 102" and inserting "section 102 of this Act or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988".

(2) Section 121 of the Trade Act of 1974 (19 U.S.C. 2131) is amended by striking out subsections (a), (b), and (c).

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 1111. HEARINGS AND ADVICE.

(a) ADVICE FROM ITC AND OTHER FEDERAL AGENCIES CONCERNING TRADE POLICY AND NEGOTIATIONS.—Sections 131 through 134, inclusive, of the Trade Act of 1974 (19 U.S.C. 2151-2154) are amended to read as follows:

"SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION.

"(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

"(1) In connection with any proposed trade agreement under section 123 of this Act or section 1102(a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the 'Commission') with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given.

"(2) In connection with any proposed trade agreement under section 1102(b) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

"(b) ADVICE TO PRESIDENT BY COMMISSION.—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and

on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 1102(a)(3)(A).

"(c) Additional Investigations and Reports Requested by the President or the Trade Representative.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

"(d) Commission Steps in Preparing Its Advice to the President.—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

"(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

"(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

"(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

"(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor, consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

"(e) Public Hearing.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

"SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

"Before any trade agreement is entered into under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

"SEC. 133. PUBLIC HEARINGS.

"(a) Opportunity for Presentation of Views.—In connection with any proposed trade agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

"(b) Summary of Hearings.—The organization holding such hearing shall furnish the President with a summary thereof.

"SEC. 134. PREREQUISITES FOR OFFERS.

"(a) In any negotiation seeking an agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day period provided for in that section, as appropriate, whichever first occurs.

"(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

"(1) the Commission;

"(2) any advisory committee established under section 135; or

"(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

SEC. 1121. IMPLEMENTATION OF NAIROBI PROTOCOL.

(a) Purpose and Reference.—

(1) The purpose of this section is—

(A) to provide for the implementation by the United States of the Protocol (S. Treaty Doc. 97-2, 9; hereafter referred to in this section as the "Nairobi Protocol") to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (17 UST (pt. 2) 1835; commonly known as the "Florence Agreement");

(B) to clarify or modify the duty-free treatment accorded under the Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 96 Stat. 2346-2349), the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-65, 80 Stat. 897 et seq.), and Public Law 89-634 (80 Stat. 879); and

(C) to continue the safeguard provisions concerning certain imported articles provided for in the Educational, Scientific, and Cultural Materials Importation Act of 1982.

(2) Whenever an amendment or repeal in this section is expressed in terms of an amendment to, or repeal of, an item, headnote, Appendix, or other provision, the reference shall be considered to be made to an item, headnote, Appendix, or other provision of the Tariff Schedules of the United States.

(b) Repeal of the Educational, Scientific, and Cultural Materials Importation Act of 1982.—The Educational, Scientific, and Cultural Materials Importation Act of 1982 is hereby repealed.

(c) Treatment of Printed Matter and Certain Other Articles.—

(1) Items 270.45 and 270.50 are redesignated as items 270.46 and 270.48, respectively.

(2) Part 5 of schedule 2 is amended—

(A) by inserting in numerical sequence the following new item:

"	*270.90*	*Catalogs of films, recordings, or other visual and auditory material of an educational, scientific, or cultural character*	*Free*		*Free* ",

and

(B) by striking out items 273.45, 273.50, and 273.55 and the superior heading thereto and inserting in lieu thereof the following new item having the same degree of indentation as item 273.35:

"	273.52	*Architectural, engineering, industrial, or commercial drawings and plans, whether originals or reproductions*	*Free*		*Free*	".

(3)(A) The superior heading to items 274.50, 274.60, 274.65, and 274.70 is amended by inserting "(including developed photographic film; photographic slides; transparencies; holograms for laser projection; and microfilm, microfiches and similar articles except those provided for in item 737.52)" after "Photographs".

(B) Part 5 of schedule 2 is amended by inserting in numerical sequence the following new items under the superior heading "Printed not over 20 years at time of importation:", and before, and with the same degree of indentation as, "Lithographs on paper":

"	274.55	*Loose illustrations, reproduction proofs or reproduction films used for the production of books*	*Free*		*Free*	
	274.56	*Articles provided for in items 270.05, 270.10, 270.25, 270.55, 270.63, 270.70, and 273.60 in the form of microfilm, microfiches, and similar film media*	*Free*		*Free*	".

(C) Subpart D of part 5 of schedule 7 is amended by striking out item 735.20 and inserting in lieu thereof the following new items with a superior heading having the same degree of indentation as item 735.18:

"		*Puzzles; game, sport, gymnastic, athletic, or playground equipment; all the foregoing, and parts thereof, not specially provided for:*				
	735.21	*Crossword puzzle books, whether or not in the form of microfilm, microfiches, or similar film media*	*Free*		*Free*	
	735.24	*Other*	*5.52% ad val.*		*40% ad val.*	".

(D) Item 737.52 is amended by inserting "(whether or not in the form of microfilm, microfiches, or similar film media)" after "Toy books".

(E) Item 830.00 is amended by inserting "; official government publications in the form of microfilm, microfiches, or similar film media" after "not developed".

(F) Item 840.00 is amended by inserting ", whether or not in the form of microfilm, microfiches, or similar film media" after "documents".

(d) VISUAL AND AUDITORY MATERIAL.—

(1) Headnote 1 to part 7 of schedule 8 is amended to read as follows:

"1. (a) No article shall be exempted from duty under item 870.30 unless either—

"(i) a Federal agency (or agencies) designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

"(ii) such article—

"(A) is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

"(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

For purposes of subparagraph (i), whenever the President determines that there is, or may be, profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

"(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii) (A) and (B) of this headnote.".

(2) Item 870.30 is amended—

(A) by inserting "(except toy models)" after "models", and

(B) by striking out "headnote 1" and inserting in lieu thereof "headnote 1(a)".

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading at the same degree of indentation as item 870.30:

"		*Articles determined to be visual or auditory materials in accordance with headnote 1 of this part:*				
	870.32	*Holograms for laser projection; microfilm, microfiches, and similar articles*	*Free*		*Free*	
	870.33	*Motion-picture films in any form on which pictures, or sound and pictures, have been recorded, whether or not developed*	*Free*		*Free*	
	870.34	*Sound recordings, combination sound and visual recordings, and magnetic recordings; video discs, video tapes, and similar articles*	*Free*		*Free*	
	870.35	*Patterns and wall charts; globes; mock-ups or visualizations of abstract concepts such as molecular structures or mathematical formulae; materials for programmed instruction; and kits containing printed materials and audio materials and visual materials or any combination of two or more of the foregoing*	*Free*		*Free*	".

(e) TOOLS FOR SCIENTIFIC INSTRUMENTS OR APPARATUS.—Part 4 of schedule 8 is amended by inserting in numerical sequence the following new item having the same degree of indentation as item 852.20:

"	851.67	*Tools specially designed to be used for the maintenance, checking, gauging or repair of scientific instruments or apparatus admitted under item 851.60*	*Free*		*Free*	".

(f) ARTICLES FOR THE BLIND AND FOR OTHER HANDICAPPED PERSONS.—

(1) Subpart D of part 2 of schedule 8 is amended by striking out items 825.00, 826.10, and 826.20.

(2) The headnotes to part 7 of schedule 8 are amended—

(A) by adding at the end thereof the following new headnote:

"4. (a) For purposes of items 870.65, 870.66, and 870.67, the term 'blind or other physically or mentally handicapped persons' includes any person suffering from a permanent or chronic physical or mental impairment which substantially limits one or more major life activities, such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"(b) Items 870.65, 870.66, and 870.67 do not cover—

"(i) articles for acute or transient disability;

"(ii) spectacles, dentures, and cosmetic articles for individuals not substantially disabled;

"(iii) therapeutic and diagnostic articles; or

"(iv) medicine or drugs.".

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading having the same degree of indentation as item 870.45:

"		*Articles specially designed or adapted for the use or benefit of the blind or other physically or mentally handicapped persons:*				
		Articles for the blind:				
	870.65	*Books, music, and pamphlets, in raised print, used exclusively by or for them*	*Free*		*Free*	
	870.66	*Braille tablets, cubarithms, and special apparatus, machines, presses, and types for their use or benefit exclusively*	*Free*		*Free*	
	870.67	*Other*	*Free*		*Free*	".

(g) AUTHORITY TO LIMIT CERTAIN DUTY-FREE TREATMENT.—

(1)(A) The President may proclaim changes in the Tariff Schedules of the United States to narrow the scope of, place conditions upon, or otherwise eliminate the duty-free treatment accorded by reason of the amendments made by subsections (e) or (f) with respect to any type of article the duty-free treatment of which has significant adverse impact on a domestic industry (or portion thereof) manufacturing or producing a like or directly competitive article, if the effect of such change is consistent with the provisions of the relevant annexes of the Florence Agreement or the Nairobi Protocol.

(B) If the President proclaims changes to the Tariff Schedules of the United States under subparagraph (A), the rate of duty thereafter applicable to any article which is—

(i) affected by such action, and

(ii) imported from any source,

shall be the rate determined and proclaimed by the President as the rate which would then be applicable to such article from such source if this section had not been enacted.

(2) If the President determines that any duty-free treatment which is no longer in effect because of action taken under paragraph (1) could be restored, in whole or in part, without a resumption of significant adverse impact on a domestic industry or portion thereof, the President may proclaim changes to the Tariff Schedules of the United States to resume such duty-free treatment.

(3) Before taking any action under paragraph (1) or (2), the President shall afford an opportunity for interested government agencies and private persons to present their views concerning the proposed action.

(4) Any action in effect or any proceeding in progress under section 166 of the Educational, Scientific, and Cultural Materials Importation Act of 1982 on the day that Act is repealed shall be considered as an action or proceeding under this section and shall be continued or resumed under this section.

(h) AUTHORITY TO EXPAND CERTAIN DUTY-FREE TREATMENT ACCORDED BY REASON OF SUBSECTION (d).—

(1) If the President determines such action to be in the interest of the United States, the President may proclaim changes to the Tariff Schedules of the United States in order to remove or modify any condition or restriction imposed under headnote 1 to part 7 of schedule 8 (as amended by subsection (d) of this section) of such Schedules, on the importation of articles provided for in items 870.30 through 870.35, inclusive (except as to articles entered under the terms of headnote 1(a)(i) to part 7 of schedule 8) of such Schedules, in order to implement the provisions of annex C-1 of the Nairobi Protocol.

(2) Any change to the Tariff Schedules of the United States proclaimed under paragraph (1) shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date on which the President proclaims such change.

(i) STATISTICAL INFORMATION.—In order to implement effectively the provisions of subsection (g), the Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which amendments made by subsection (c) apply, in such detail and for such period as the Secretaries consider necessary.

(j) EFFECTIVE DATE.—

(1) The provisions of this section, and the repeal and amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the later of—

(A) October 1, 1988, or

(B) the date that is 15 days after the deposit of the United States ratification of the Nairobi Protocol.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer on or before the date that is 180 days after the later of the dates described in subparagraphs (A) and (B) of paragraph (1), any entry, or withdrawal from warehouse, of any article—

(A) which was made on or after August 12, 1985, and before such later date, and

(B) with respect to which there would have been no duty if the provisions of this section, or any amendments made by this section, applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such entry or withdrawal had been made on or after such later date.

SEC. 1122. IMPLEMENTATION OF UNITED STATES-EC AGREEMENT ON CITRUS AND PASTA.

(a) PURPOSE.—The purpose of this section is to provide for the implementation of tariff reductions agreed to by the United States in the Agreement between the European Communities and the United States, concluded February 24, 1987, with respect to citrus and pasta.

(b) PROCLAMATION AUTHORITY.—

(1) The amendments made by subsection (c) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date occurring after September 30, 1988, that is proclaimed by the President as being appropriate to carry out the Agreement referred to in subsection (a).

(2) The President is authorized at any time to modify or terminate by proclamation any provision of law enacted by the amendments made by subsection (c).

(3) The rates of duty in column numbered 1 of the Tariff Schedules of the United States that are enacted by the amendments made by subsection (c) shall be treated—

(A) as not having the status of statutory provisions enacted by the Congress; but

(B) as having been proclaimed by the President as being required to carry out a foreign trade agreement to which the United States is a party.

(c) AMENDMENTS TO TARIFF SCHEDULES.—

(1) Whenever in this subsection an amendment is expressed in terms of an amendment to a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

(2) Subpart C of part 3 of schedule 1 is amended by striking out item 112.40 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 112.42:

"		*Anchovies:*			
	112.40	*If entered in any calendar year before 3,000 metric tons of anchovies have been entered under this item in such calendar year*	*3% ad val.*	*Free (A,E,I)*	*30% ad val.*

	112.41	*Other*	*6% ad val.*	*Free (A,E,I)*	*30% ad val.*	".

(3)(A) Item 117.65 is amended by striking out "9% ad val." and inserting in lieu thereof "Free".

(B) Item 117.67 is amended by striking out "12% ad val." and inserting in lieu thereof "Free".

(4) Subpart B of part 9 of Schedule 1 is amended by striking out item 147.29 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 147.30:

"		*Mandarin, packed in airtight containers:*				
	147.28	*Satsuma, if entered in any calendar year before 40,000 metric tons of Satsuma oranges have been entered under this item in such calendar year*	*Free*	*Free (A,E,I)*	*1¢ per lb.*	
	147.29	*Other*	*0.2¢ per lb.*	*Free (A,E,I)*	*1¢ per lb.*	".

(5) Subpart B of part 9 of Schedule 1 is amended—

(A) by striking out item 148.44 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 148.42:

"		*Other:*				
	148.43	*In containers each holding not more than 0.3 gallon*	*20¢ per gal.*	*Free (E)*	*20¢ per gal.*	
		In containers each holding more than 0.3 gallon:				
	148.44	*If entered in any calendar year before 4,400 metric tons of olives have been entered under this item in such calendar year*	*10¢ per gal.*	*Free (E)*	*20¢ per gal.*	
	148.45	*Other*	*20¢ per gal.*	*Free (E)*	*20¢ per gal.*	";

(B) by striking out item 148.48 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 148.46:

"		*Other:*				
	148.47	*If entered in any calendar year before 730 metric tons of olives have been entered under this item in such calendar year*	*15¢ per gal.*	*Free (E)*	*30¢ per gal.*	
	148.48	*Other*	*30¢ per gal.*	*Free (E)*	*30¢ per gal.*	";

(C) by striking out "or stuffed" in item 148.50;

(D) by redesignating items 148.52, 148.54, and 148.56 as items 148.55, 148.56, and 148.57, respectively;

(E) by inserting after item 148.50 the following new items with a superior heading having the same degree of indentation as the article description in item 148.50:

"		*Stuffed:*			
		In containers each holding not more than 0.3 gallon:			
		Place Packed:			
	148.51	*If entered in any calendar year before 2,700 metric tons of olives have been entered under this item in such calendar year*	*15¢ per gal.*	*Free (E)*	*30¢ per gal.*
	148.52	*Other*	*30¢ per gal.*	*Free (E)*	*30¢ per gal.*
	148.53	*Other*	*30¢ per gal.*	*Free (E)*	*30¢ per gal.*
	148.54	*In containers each holding more than 0.3 gallon*	*30¢ per gal.*	*Free (E)*	*30¢ per gal.* ";

(F) by striking out "5¢ per lb." in item 148.55, as redesignated by paragraph (4), and inserting in lieu thereof "2.5¢ per lb."; and

(G) by striking out item 148.57, as redesignated by paragraph (4), and inserting in lieu thereof the following new items with the superior heading having the same degree of indentation as the article description in item 148.40:

"		*Otherwise prepared or preserved:*			
	148.57	*If entered in any calendar year before 550 metric tons of olives have been entered under this item in such calendar year*	*2.5¢ per lb.*	*Free (E)*	*5¢ per lb.*
	148.58	*Other*	*5¢ per lb.*	*Free (E)*	*5¢ per lb.* ".

(6) Items 161.06 and 161.08 are each amended by striking out "16% ad val." and inserting in lieu thereof "8% ad val.".

(7) Item 161.71 is amended by striking out "2¢ per lb." and inserting in lieu thereof "1.35¢ per lb.".

(8) Item 167.15 is amended by striking out "3¢ per gal." and inserting in lieu thereof "1.5¢ per gal.".

(9)(A) Item 176.29 is amended by striking out "3.8¢ per lb. on contents and container" and inserting in lieu thereof "2.28¢ per lb. on contents and container.".

(B) Item 176.30 is amended by striking out "2.6¢ per lb." and inserting in lieu thereof "1.56¢ per lb.".

(d) REPORT.—The Trade Representative shall include in the semiannual report submitted under section 309(3) of the Trade Act of 1974 an assessment of whether the European Communities are in compliance with the agreement referred to in subsection (a).

SEC. 1123. EXTENSION OF INTERNATIONAL COFFEE AGREEMENT ACT OF 1980.

(a) EXTENSION.—Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1986" and inserting "October 1, 1989".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect January 1, 1987.

SEC. 1124. NEGOTIATIONS ON CURRENCY EXCHANGE RATES.

(a) FINDINGS.—The Congress finds that—

(1) the benefit of trade concessions can be adversely affected by misalignments in currency, and

(2) misalignments in currency caused by government policies intended to maintain an unfair trade advantage tend to nullify and impair trade concessions.

(b) NEGOTIATIONS.—Whenever, in the course of negotiating a trade agreement under this subtitle, the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations satisfies the criteria for initiating bilateral currency negotiations listed in section 3004(b) of this Act, the Secretary of the Treasury shall take action to initiate bilateral currency negotiations on an expedited basis with such foreign country.

SEC. 1125. REPORTS ON NEGOTIATIONS TO ELIMINATE WINE TRADE BARRIERS.

Before the close of the 13-month period beginning on the date of the enactment of this Act, the President shall update each report that the President submitted to the Committee on Ways and Means and the Committee on Finance under section 905(b) of the Wine Equity and Export Expansion Act of 1984 (19 U.S.C. 2804) and submit the updated report to both of such committees. Each updated report shall contain, with respect to the major wine trading country concerned—

(1) a description of each tariff or nontariff barrier to (or other distortion of) trade in United States wine of that country with respect to which the United States Trade Representative has carried out consultations since the report required under such section 905(b) was submitted;

(2) the status of the consultations described under paragraph (1); and

(3) information, explanations, and recommendations of the kind referred to in paragraph (1) (C), (D), and (E) of such section 905(b) that are based on developments (including the taking of relevant actions, if any, of a kind not contemplated at the time of the enactment of such 1984 Act) since the submission of the report required under such section.

Subtitle B—Implementation of the Harmonized Tariff Schedule

SEC. 1201. PURPOSES.

The purposes of this subtitle are—

(1) to approve the International Convention on the Harmonized Commodity Description and Coding System;

(2) to implement in United States law the nomenclature established internationally by the Convention; and

(3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

SEC. 1202. DEFINITIONS.

As used in this subtitle:

(1) The term "Commission" means the United States International Trade Commission.

(2) The term "Convention" means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term "Federal agency" means any establishment in the executive branch of the United States Government.

(5) The term "old Schedules" means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term "technical rectifications" means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

(A) errors in spelling, numbering, or punctuation;

(B) errors in indentation;

(C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and

(D) other clerical or typographical errors.

SEC. 1203. CONGRESSIONAL APPROVAL OF UNITED STATES ACCESSION TO THE CONVENTION.

(a) Congressional Approval.—The Congress approves the accession by the United States of America to the Convention.

(b) Acceptance of the Final Legal Text of the Convention by the President.—The President may accept for the United States the final legal instruments embodying the Convention. The President shall submit a copy of each final instrument to the Congress on the date it becomes available.

(c) Unspecified Private Remedies Not Created.—Neither the entry into force with respect to the United States of the Convention nor the enactment of this subtitle may be construed as creating any private right of action or remedy for which provision is not explicitly made under this subtitle or under other laws of the United States.

(d) Termination.—The provisions of section 125(a) of the Trade Act of 1974 (19 U.S.C. 2135(a)) do not apply to the Convention.

SEC. 1204. ENACTMENT OF THE HARMONIZED TARIFF SCHEDULE.

(a) In General.—The Tariff Act of 1930 is amended by striking out title I and inserting a new title I entitled "Title I—Harmonized Tariff Schedule of the United States" (hereinafter in this subtitle referred to as the "Harmonized Tariff Schedule") which—

(1) consists of—

(A) the General Notes;

(B) the General Rules of Interpretation;

(C) the Additional U.S. Rules of Interpretation;

(D) sections I to XXII, inclusive (encompassing chapters 1 to 99, and including all section and chapter notes, article provisions, and tariff and other treatment accorded thereto); and

(E) the Chemical Appendix to the Harmonized Tariff Schedule;

all conforming to the nomenclature of the Convention and as set forth in Publication No. 2030 of the Commission entitled "Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes" and Supplement No. 1 thereto; but

(2) does not include the statistical annotations, notes, annexes, suffixes, check digits, units of quantity, and other matters formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), nor the table of contents, footnotes, index, and other matters inserted for ease of reference, that are included in such Publication No. 2030 or Supplement No. 1 thereto.

(b) Modifications to the Harmonized Tariff Schedule.—At the earliest practicable date after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, the President shall—

(1) proclaim such modifications to the Harmonized Tariff Schedule as are consistent with the standards applied in converting the old Schedules into the format of the Convention, as reflected in such Publication No. 2030 and Supplement No. 1 thereto, and as are necessary or appropriate to implement—

(A) the future outstanding staged rate reductions authorized by the Congress in—

(i) the Trade Act of 1974 (19 U.S.C. 2101 et seq.) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) to reflect the tariff reductions that resulted from the Tokyo Round of multilateral trade negotiations, and

(ii) the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 1202 note) to reflect the tariff reduction resulting from the United States-Israel Free Trade Area Agreement,

(B) the applicable provisions of—

(i) statutes enacted,

(ii) executive actions taken, and

(iii) final judicial decisions rendered,

after January 1, 1988, and before the effective date of the Harmonized Tariff Schedule, and

(C) such technical rectifications as the President considers necessary; and

(2) take such action as the President considers necessary to bring trade agreements to which the United States is a party into conformity with the Harmonized Tariff Schedule.

(c) Status of the Harmonized Tariff Schedule.—

(1) The following shall be considered to be statutory provisions of law for all purposes:

(A) The provisions of the Harmonized Tariff Schedule as enacted by this subtitle.

(B) Each statutory amendment to the Harmonized Tariff Schedule.

(C) Each modification or change made to the Harmonized Tariff Schedule by the President under authority of law (including section 604 of the Trade Act of 1974).

(2) Neither the enactment of this subtitle nor the subsequent enactment of any amendment to the Harmonized Tariff Schedule, unless such subsequent enactment otherwise provides, may be construed as limiting the authority of the President—

(A) to effect the import treatment necessary or appropriate to carry out, modify, withdraw, suspend, or terminate, in whole or in part, trade agreements; or

(B) to take such other actions through the modification, continuance, or imposition of any rate of duty or other import restriction as may be necessary or appropriate under the authority of the President.

(3) If a rate of duty established in column 1 by the President by proclamation or Executive order is higher than the existing rate of duty in column 2, the President may by proclamation or Executive order increase such existing rate to the higher rate.

(4) If a rate of duty is suspended or terminated by the President by proclamation or Executive order and the proclamation or Executive order does not specify the rate that is to apply in lieu of the suspended or terminated rate, the last rate of duty that applied prior to the suspended or terminated rate shall be the effective rate of duty.

(d) Interim Informational Use of Harmonized Tariff Schedule Classifications.—Each—

(1) proclamation issued by the President;

(2) public notice issued by the Commission or other Federal agency; and

(3) finding, determination, order, recommendation, or other decision made by the Commission or other Federal agency;

during the period between the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 and the effective date of the Harmonized Tariff Schedule shall, if the proclamation, notice, or decision contains a reference to the tariff classification of any article, include, for informational purposes, a reference to the classification of that article under the Harmonized Tariff Schedule.

SEC. 1205. COMMISSION REVIEW OF, AND RECOMMENDATIONS REGARDING, THE HARMONIZED TARIFF SCHEDULE.

(a) In General.—The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

(1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;

(2) to promote the uniform application of the Convention and particularly the Annex thereto;

(3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;

(4) to alleviate unnecessary administrative burdens; and

(5) to make technical rectifications.

(b) Agency and Public Views Regarding Recommendations.—In formulating recommendations under subsection (a), the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

(1) shall give notice of the proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing; and

(2) may provide for a public hearing.

(c) Submission of Recommendations.—The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

(d) Requirements Regarding Recommendations.—The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

(1) The modification must—

(A) be consistent with the Convention or any amendment thereto recommended for adoption;

(B) be consistent with sound nomenclature principles; and

(C) ensure substantial rate neutrality.

(2) Any change to a rate of duty must be consequent to, or necessitated by, nomencla-

ture modifications that are recommended under this section.

(3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

SEC. 1206. PRESIDENTIAL ACTION ON COMMISSION RECOMMENDATIONS.

(a) IN GENERAL.—The President may proclaim modifications, based on the recommendations by the Commission under section 1205, to the Harmonized Tariff Schedule if the President determines that the modifications—

(1) are in conformity with United States obligations under the Convention; and

(2) do not run counter to the national economic interest of the United States.

(b) LAY-OVER PERIOD.—

(1) The President may proclaim a modification under subsection (a) only after the expiration of the 60-day period beginning on the date on which the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modification and the reasons therefor.

(2) The 60-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(c) EFFECTIVE DATE OF MODIFICATIONS.—Modifications proclaimed by the President under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 1207. PUBLICATION OF THE HARMONIZED TARIFF SCHEDULE.

(a) IN GENERAL.—The Commission shall compile and publish, at appropriate intervals, and keep up to date the Harmonized Tariff Schedule and related information in the form of printed copy; and, if, in its judgment, such format would serve the public interest and convenience—

(1) in the form of microfilm images; or

(2) in the form of electronic media.

(b) CONTENT.—Publications under subsection (a), in whatever format, shall contain—

(1) the then current Harmonized Tariff Schedule;

(2) statistical annotations and related statistical information formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)); and

(3) such other matters as the Commission considers to be necessary or appropriate to carry out the purposes enumerated in the Preamble to the Convention.

SEC. 1208. IMPORT AND EXPORT STATISTICS.

The Secretary of Commerce shall compile, and make publicly available, the import and export trade statistics of the United States. Such statistics shall be conformed to the nomenclature of the Convention.

SEC. 1209. COORDINATION OF TRADE POLICY AND THE CONVENTION.

The United States Trade Representative is responsible for coordination of United States trade policy in relation to the Convention. Before formulating any United States position with respect to the Convention, including any proposed amendments thereto, the United States Trade Representative shall seek, and consider, information and advice from interested parties in the private sector (including a functional advisory committee) and from interested Federal agencies.

SEC. 1210. UNITED STATES PARTICIPATION ON THE CUSTOMS COOPERATION COUNCIL REGARDING THE CONVENTION.

(a) PRINCIPAL UNITED STATES AGENCIES.—

(1) Subject to the policy direction of the Office of the United States Trade Representative under section 1209, the Department of the Treasury, the Department of Commerce, and the Commission shall, with respect to the activities of the Customs Cooperation Council relating to the Convention—

(A) be primarily responsible for formulating United States Government positions on technical and procedural issues; and

(B) represent the United States Government.

(2) The Department of Agriculture and other interested Federal agencies shall provide to the Department of the Treasury, the Department of Commerce, and the Commission technical advice and assistance relating to the functions referred to in paragraph (1).

(b) DEVELOPMENT OF TECHNICAL PROPOSALS.—

(1) In connection with responsibilities arising from the implementation of the Convention and under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) regarding United States programs for the development of adequate and comparable statistical information on merchandise trade, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall prepare technical proposals that are appropriate or required to assure that the United States contribution to the development of the Convention recognizes the needs of the United States business community for a Convention which reflects sound principles of commodity identification, modern producing methods, and current trading patterns and practices.

(2) In carrying out this subsection, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall—

(A) solicit and consider the views of interested parties in the private sector (including a functional advisory committee) and of interested Federal agencies;

(B) establish procedures for reviewing, and developing appropriate responses to, inquiries and complaints from interested parties concerning articles produced in and exported from the United States; and

(C) where appropriate, establish procedures for—

(i) ensuring that the dispute settlement provisions and other relevant procedures available under the Convention are utilized to promote United States export interests, and

(ii) submitting classification questions to the Harmonized System Committee of the Customs Cooperation Council.

(c) AVAILABILITY OF CUSTOMS COOPERATION COUNCIL PUBLICATIONS.—As soon as practicable after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, and periodically thereafter as appropriate, the Commission shall see to the publication of—

(1) summary records of the Harmonized System Committee of the Customs Cooperation Council; and

(2) subject to applicable copyright laws, the Explanatory Notes, Classification Opinions, and other instruments of the Customs Cooperation Council relating to the Convention.

SEC. 1211. TRANSITION TO THE HARMONIZED TARIFF SCHEDULE.

(a) EXISTING EXECUTIVE ACTIONS.—

(1) The appropriate officers of the United States Government shall take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule all proclamations, regulations, rulings, notices, findings, determinations, orders, recommendations, and other written actions that—

(A) are in effect on the day before the effective date of the Harmonized Tariff Schedule; and

(B) contain references to the tariff classification of articles under the old Schedules.

(2) Neither the repeal of the old Schedules, nor the failure of any officer of the United States Government to make the conforming changes required under paragraph (1), shall affect to any extent the validity or effect of the proclamation, regulation, ruling, notice, finding, determination, order, recommendation, or other action referred to in paragraph (1).

(b) GENERALIZED SYSTEM OF PREFERENCES CONVERSION.—

(1) The review of the proposed conversion of the Generalized System of Preferences program to the Convention tariff nomenclature, initiated by the Office of the United States Trade Representative by notice published in the Federal Register on December 8, 1986 (at page 44,163 of volume 51 thereof), shall be treated as satisfying the requirements of sections 503(a) and 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2463(a), 2464(c)(3)).

(2) In applying section 504(c)(1) of the Trade Act of 1974 (19 U.S.C. 2464(c)(1)) for calendar year 1989, the reference in such section to July 1 shall be treated as a reference to September 1.

(c) IMPORT RESTRICTIONS UNDER THE AGRICULTURAL ADJUSTMENT ACT.—

(1) Whenever the President determines that the conversion of an import restriction proclaimed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) from part 3 of the Appendix to the old Schedules to subchapter IV of chapter 99 of the Harmonized Tariff Schedule results in—

(A) an article that was previously subject to the restriction being excluded from the restriction; or

(B) an article not previously subject to the restriction being included within the restriction;

the President may proclaim changes in subchapter IV of chapter 99 of the Harmonized Tariff Schedule to conform that subchapter to the fullest extent possible to part 3 of the Appendix to the old Schedules.

(2) Whenever the President determines that the conversion from headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules to Additional U.S. Note 2, chapter 17, of the Harmonized Tariff Schedule results in—

(A) an article that was previously covered by such headnote being excluded from coverage; or

(B) an article not previously covered by such headnote being included in coverage;

the President may proclaim changes in Additional U.S. Note 2, chapter 17 of the Harmonized Tariff Schedule to conform that note to the fullest extent possible to headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules.

(3) No change to the Harmonized Tariff Schedule may be proclaimed under paragraph (1) or (2) after June 30, 1990.

(d) CERTAIN PROTESTS AND PETITIONS UNDER THE CUSTOMS LAW.—

(1)(A) This subtitle may not be considered to divest the courts of jurisdiction over—

(i) any protest filed under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514); or

(ii) any petition by an American manufacturer, producer, or wholesaler under section 516 of such Act (19 U.S.C. 1516);

covering articles entered before the effective date of the Harmonized Tariff Schedule.

(B) Nothing in this subtitle shall affect the jurisdiction of the courts with respect to articles entered after the effective date of the Harmonized Tariff Schedule.

(2)(A) If any protest or petition referred to in paragraph (1)(A) is sustained in whole or in part by a final judicial decision, the entries subject to that protest or petition and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with such final judicial decision under the old Schedules.

(B) At the earliest practicable date after the effective date of the Harmonized Tariff Schedule, the Commission shall initiate an investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) of those final judicial decisions referred to in subparagraph (A) that—

(i) are published during the 2-year period beginning on February 1, 1988; and

(ii) would have affected tariff treatment if they had been published during the period of the conversion of the old Schedules into the format of the Convention.

No later than September 1, 1990, the Commission shall report the results of the investigation to the President, the Committee on Ways and Means, and the Committee on Finance, and shall recommend those changes to the Harmonized Tariff Schedule that the Commission would have recommended if the final decisions concerned had been made before the conversion into the format of the Convention occurred.

(3) The President shall review all changes recommended by the Commission under paragraph (2)(B) and shall, as soon as practicable, proclaim such of those changes, if any, which he decides are necessary or appropriate to conform such Schedule to the final judicial decisions. Any such change shall be effective with respect to—

(A) entries made on or after the date of such proclamation; and

(B) entries made on or after the effective date of the Harmonized Tariff Schedule if, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), application for liquidation or reliquidation thereof is made by the importer to the customs officer concerned within 180 days after the effective date of such proclamation.

(4) If any protest or petition referred to in paragraph (1)(A) is not sustained in whole or in part by a final judicial decision, the entries subject to that petition or protest and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with the final judicial decision under the old Schedules.

SEC. 1212. REFERENCE TO THE HARMONIZED TARIFF SCHEDULE.

Any reference in any law to the "Tariff Schedules of the United States", "the Tariff Schedules", "such Schedules", and any other general reference that clearly refers to the old Schedules shall be treated as a reference to the Harmonized Tariff Schedule.

SEC. 1213. TECHNICAL AMENDMENTS.

(a) Trade Act of 1974.—Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) is amended by striking out "including modification," and inserting "including removal, modification,".

(b) Tariff Classification Act of 1962.—Section 201 of the Tariff Classification Act of 1962 (76 Stat. 72, 74) is repealed.

(c) Tariff Act of 1930.—Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by adding at the end thereof the following: "This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.".

SEC. 1214. CONFORMING AMENDMENTS.

(a) Codified Titles.—

(1) Section 374(a)(3) of title 10 of the United States Code is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 301 of title 13 of the United States Code is amended—

(A) by striking out "Tariff Schedules of the United States Annotated and general statistical headnote 1 thereof," in subsection (b) and inserting "Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes and general statistical note 1 thereof,";

(B) by striking out "item in the Tariff Schedules of the United States Annotated" in subsection (e) and inserting "heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes"; and

(C) by amending subsection (f)—

(i) by striking out "item of the Tariff Schedules of the United States Annotated" and inserting "heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes", and

(ii) by striking out "under that item" each place it appears and inserting "under that heading or subheading".

(3) Section 1295(a)(7) of title 28 of the United States Code is amended by striking out "headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(b) Tobacco Adjustment Act of 1983.—Section 213(a)(2) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(a)(2)) is amended by striking out "Schedule 1, Part 13, Tariff Schedules of the United States" and inserting "chapter 24 of the Harmonized Tariff Schedule of the United States".

(c) Federal Hazardous Substances Act.—Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (b) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States"; and

(2) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (c)(2) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(d) Consumer Product Safety Act.—Section 15(d) and section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2064(d) and 2066(a)) are each amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(e) Toxic Substances Control Act.—

(1) Section 3(7) of the Toxic Substances Control Act (15 U.S.C. 2602(7)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 13(a)(1) of such Act (15 U.S.C. 2612(a)(1)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(f) Emergency Wetlands Resources Act of 1986.—Section 203 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3912) is amended by striking out "subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "chapter 93 of the Harmonized Tariff Schedule of the United States".

(g) COBRA of 1985.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) by striking out "schedule 8 of the Tariff Schedules of the United States" in subsection (a)(9)(A) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States";

(2) by striking out "General Headnote 3(e)(vi) or (vii)" in subsection (a)(9)(C) and inserting "general note 3(c)(v)"; and

(3) by striking out "headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States" in subsection (c)(3) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(h) Tariff Act of 1930.—The Tariff Act of 1930 is amended as follows:

(1) Section 312(f) (19 U.S.C. 1312(f)) is amended—

(A) by amending paragraph (1)—

(i) by striking out "schedule 6, part 1, of the Tariff Schedules of the United States," and inserting "chapter 26 of the Harmonized Tariff Schedule of the United States,";

(ii) by striking out "schedule 6, part 2, of such schedules," and inserting "chapters 71 through 83 of the Harmonized Tariff Schedule of the United States,"; and

(iii) by striking out the quotation marks surrounding "metal waste and scrap" and "unwrought metal";

(B) by amending paragraph (2)(A)—

(i) by striking out "part 2 of schedule 6" and inserting "chapters 71 through 83 of the Harmonized Tariff Schedule of the United States";

(ii) by striking out "part 1 of schedule 6" and inserting "chapter 26 of the Harmonized Tariff Schedule of the United States", and

(iii) by striking out the quotation marks surrounding "unwrought metal"; and

(C) by amending paragraph (3) by striking out "as defined in part 1 of schedule 6" and inserting "of chapter 26 of the Harmonized Tariff Schedule of the United States".

(2) Section 321(a)(2)(B) (19 U.S.C. 1321(a)(2)(B)) is amended by striking out "item 812.25 or 813.31" and inserting "subheading 9804.00.30 or 9804.00.70".

(3) Section 337(j) (19 U.S.C. 1337(j)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(4) Section 466(f) (19 U.S.C. 1466(f)) is amended by striking out "headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States" and inserting "general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States".

(5) Section 498(a)(1) (19 U.S.C. 1498(a)(1)) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting the following:

"(A) chapters 50 through 63;

"(B) chapters 39 through 43, 61 through 65, 67 and 95; and

"(C) subchapters III and IV of chapter 99;"; and

(B) by striking out "of the Tariff Schedules of the United States," and inserting "of the Harmonized Tariff Schedule of the United States,".

(i) AUTOMOTIVE PRODUCTS TRADE ACT OF 1965.—Section 201(a) and (b) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2011(a) and (b)) are each amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(j) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(1) Section 128(b) (19 U.S.C. 2138(b)) is amended to read as follows:

"(b) The President shall exercise his authority under subsection (a) of this section only with respect to the following subheadings listed in the Harmonized Tariff Schedule of the United States—

"(1) transistors (provided for in subheadings 8541.21.00, 8541.29.00, and 8541.40.70);

"(2) diodes and rectifiers (provided for in subheadings 8541.10.00, 8541.30.00, and 8541.40.60);

"(3) monolithic integrated circuits (provided for in subheadings 8542.11.00 and 8542.19.00);

"(4) other integrated circuits (provided for in subheading 8542.20.00);

"(5) other components (provided for in subheading 8541.50.00);

"(6) parts of semiconductors (provided for in subheadings 8541.90.00 and 8542.90.00); and

"(7) units of automatic data processing machines (provided for in subheadings 8471.92.20, 8471.92.30, 8471.92.70, 8471.92.80, 8471.93.10, 8471.93.15, 8471.93.30, 8471.93.50, 8471.99.15, and 8471.99.60) and parts (provided for in subheading 8473.30.40), all the foregoing not incorporating a cathode ray tube.".

(2) Section 203(f) (19 U.S.C. 2253(f)) is amended—

(A) by striking out "item 806.30 or 807.00 of the Tariff Schedules of the United States" in paragraph (1) and inserting "subheadings 9802.00.60 or 9802.00.80 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item 806.30 or item 807.00" in paragraph (3) and inserting "subheading 9802.00.60 or subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States".

(3) Section 404(c) (19 U.S.C. 2434(c)) is amended by striking out "Tariff Schedules for the United States" and inserting "Harmonized Tariff Schedule of the United States".

(4) Section 407(c)(3) and section 604 (19 U.S.C. 2437(c)(3) and 2483) are each amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(5) Section 601(7) (19 U.S.C. 2481(7)) is amended by striking out "schedules 1 through 7 of the Tariff Schedules of the United States" and inserting "chapters 1 through 97 of the Harmonized Tariff Schedule of the United States".

(k) TRADE AGREEMENTS ACT OF 1979.—Section 1102(b)(3) of the Trade Agreements Act of 1979 (19 U.S.C. 2581(b)(3)) is amended by striking out "headnotes of the Tariff Schedules of the United States" and inserting "notes of the Harmonized Tariff Schedule of the United States".

(l) ACT OF MARCH 2, 1897.—Section 1 of the Act of March 2, 1897 (29 Stat. 604) (21 U.S.C. 41) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(m) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1001(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 951(a)(2)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(n) COMPREHENSIVE ANTI-APARTHEID ACT OF 1986.—Section 309(b) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5059(b)) is amended by striking out "item 812.10 or 813.10 of the Tariff Schedules of the United States" and inserting "subheading 9804.00.20 or 9804.00.45 of the Harmonized Tariff Schedule of the United States".

(o) STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT.—Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended by striking out "general headnote 3(d) of the Tariff Schedules of the United States" and inserting "general note 3(b) of the Harmonized Tariff Schedule of the United States".

(p) INTERNAL REVENUE CODE OF 1986.—

(1) Section 7652(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 7652(e)(3)) is amended by striking out "item 169.13 or 169.14 of the Tariff Schedules of the United States" and inserting "subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States".

(2) Section 9504(b)(1)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(1)(B)) is amended—

(A) by striking out "subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "heading 9507 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "subpart D of part 6 of schedule 6 of such Schedules" and inserting "chapter 89 of the Harmonized Tariff Schedule of the United States".

(q) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—The Caribbean Basin Economic Recovery Act is amended as follows:

(1) Section 212(a)(1)(C) (19 U.S.C. 2702(a)(1)(C)) is amended by striking out "'TSUS' means Tariff Schedules of the United States" and inserting "'HTS' means Harmonized Tariff Schedule of the United States".

(2) Section 213 (19 U.S.C. 2703) is amended as follows:

(A) Subsection (b) is amended—

(i) by striking out "part 10 of schedule 4 of the TSUS" in paragraph (4) and inserting "headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "TSUS" in paragraph (5) and inserting "HTS".

(B) Subsection (c) is amended—

(i) by striking out "items 155.20 and 155.30 of the TSUS" in paragraph (1)(A)(i) and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "subpart B of part 2 of schedule 1 of the TSUS" in paragraph (1)(A)(ii) and inserting "chapters 2 and 16 of the Harmonized Tariff Schedule of the United States".

(C) Subsection (d) is amended by striking out "items 155.20 and 155.30 of the TSUS" and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States".

(D) Subsection (f)(5) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;";

(ii) by striking out "items 135.10 through 138.46 of the TSUS" in subparagraph (B) and inserting "headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS";

(iii) by striking out subparagraph (C);

(iv) by redesignating subparagraph (D) as subparagraph (C) and by striking out "items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS" in such redesignated subparagraph and inserting "subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS";

(v) by striking out subparagraph (E); and

(vi) by redesignating subparagraph (F) as subparagraph (E) and by striking out "items 165.25 and 165.35 of the TSUS" in such redesignated subparagraph and inserting "subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS".

(r) ACT RELATING TO REFORESTATION TRUST FUND.—Section 303(b)(1) of the Act of October 14, 1980 (16 U.S.C. 1606a(b)(1)) is amended to read as follows:

"(b)(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.".

(s) TRADE AND TARIFF ACT OF 1984.—The Trade and Tariff Act of 1984 (Public Law 98-573) is amended as follows:

(1) Section 231(a)(1) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(2) Section 239 is amended by striking out "headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(3) Section 240 is amended—

(A) by striking out "headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States" in subsection (a)(1)(A) and inserting "U.S. note 6(a) to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "headnote 1 of part 4 of schedule 8" in subsection (e) and inserting "U.S. note 1 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(4) Section 404(e) is amended—

(A) by amending paragraphs (1) and (2) to read as follows:

"(1) live plants and fresh cut flowers provided for in chapter 6 of the Harmonized Tariff Schedule of the United States (19

U.S.C. 1202, hereinafter referred to as the 'HTS');

"(2) vegetables, edible nuts or fruit provided for in chapters 7 and 8, heading 1105, subheadings 1106.10.00 and 1106.30, heading 1202, subheadings 1214.90.00 and 1704.90.60, headings 2001 through 2008 (excluding subheadings 2001.90.20 and 2004.90.10) and subheading 2103.20.40 of the HTS;";

(B) by striking out paragraphs (3), (4), and (5); and

(C) by striking out paragraph (6) and inserting the following:

"(3) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.".

(t) TRADE AGREEMENTS ACT OF 1979.—The Trade Agreements Act of 1979 (Public Law 96-39) is amended as follows:

(1) Section 701(c)(1) is amended to read as follows:

"(1) QUOTA CHEESE.—The term 'quota cheese' means the articles provided for in the following subheadings of the Harmonized Tariff Schedule of the United States:

"(A) 0406.10.00 (except whey cheese, curd, and cheese, cheese substitutes for cheese mixtures containing: Roquefort, Stilton produced in the United Kingdom, Bryndza, Gjetost, Goya in original loaves, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(B) 0406.20.20 (except Stilton produced in the United Kingdom);

"(C) 0406.20.30;

"(D) 0406.20.35;

"(E) 0406.20.40;

"(F) 0406.20.50;

"(G) 0406.20.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(H) 0406.30.10 (except Stilton produced in the United Kingdom);

"(I) 0406.30.20;

"(J) 0406.30.30;

"(K) 0406.30.40;

"(L) 0406.30.50;

"(M) 0406.30.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(N) 0406.40.60 (except Stilton produced in the United Kingdom);

"(O) 0406.40.80 (except Stilton produced in the United Kingdom);

"(P) 0406.90.10;

"(Q) 0406.90.15;

"(R) 0406.90.30 (except Goya in original loaves);

"(S) 0406.90.35;

"(T) 0406.90.40;

"(U) 0406.90.45 (except Gammelost and Nokkelost);

"(V) 0406.90.65;

"(W) 0406.90.70; and

"(X) 0406.90.80 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost, and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses).".

(2) Section 703 is amended—

(A) by striking out "item 950.15 of the Tariff Schedules of the United States" and inserting "subheading 9904.10.63 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item 950.16 of the Tariff Schedules of the United States" and inserting "subheading 9904.10.66 of the Harmonized Tariff Schedule of the United States".

(3) Section 855 is amended—

(A) by striking out "item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States" in subsection (a) and inserting "article provided for in subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States" in subsection (b) and inserting "article as set forth in rate of duty column numbered 1 of subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States".

(u) MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 1202 note) is amended—

(1) by amending subsection (b)(2)—

(A) by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States",

(B) by striking out "item 106.10" in subparagraph (A) and inserting "subheadings 0201.10.00, 0201.20.60, 0201.30.60, 0202.10.00, 0202.20.60 and 0202.30.60",

(C) by striking out "cattle" in subparagraph (A) and inserting "bovine",

(D) by striking out "items 106.22 and 106.25" in subparagraph (B) and inserting "subheadings 0204.50.00, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, and 0204.43.40", and

(E) by amending subparagraph (C) to read as follows:

"(C) subheadings 0201.20.40, 0201.30.40, 0202.20.40, and 0202.30.40 (relating to processed meat of beef or veal other than high quality beef cuts).";

(2) by striking out "items 100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules" in the sentence following subsection (c)(2) and inserting "subheadings 0102.90.20 and 0102.90.40 of the Harmonized Tariff Schedule of the United States"; and

(3) by striking out "item 107.61 of the Tariff Schedules of the United States" in subsection (f)(1) and inserting "subheadings 0201.20.20, 0201.30.20, 0202.20.20, and 0202.30.20 of the Harmonized Tariff Schedule of the United States".

(v) NATIONAL WOOL ACT OF 1954.—Sections 704 and 705 of the National Wool Act of 1954 (7 U.S.C. 1783 and 1784) are each amended by striking out "all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended" and inserting "wool or fine animal hair, and articles thereof, as provided for in the Harmonized Tariff Schedule of the United States".

(w) AGRICULTURAL ACT OF 1949.—Section 103(f)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444(f)(3)) is amended by striking out "items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States" and inserting "subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States".

SEC. 1215. NEGOTIATING AUTHORITY FOR CERTAIN ADP EQUIPMENT.

Section 128(b) of the Trade Act of 1974 (19 U.S.C. 2138(b)), as amended by section 1212(j)(1) of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out "tube." and inserting "tube; and" in paragraph (7); and

(3) by adding at the end thereof the following new paragraph:

"(8) Digital processing units for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20 (provided for in subheading 8471.91).".

SEC. 1216. COMMISSION REPORT ON OPERATION OF SUBTITLE.

The Commission, in consultation with other appropriate Federal agencies, shall prepare, and submit to the Congress and to the President, a report regarding the operation of this subtitle during the 12-month period commencing on the effective date of the Harmonized Tariff Schedule. The report shall be submitted to the Congress and to the President before the close of the 6-month period beginning on the day after the last day of such 12-month period.

SEC. 1217. EFFECTIVE DATES.

(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988.

(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. On such date—

(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 take effect and apply with respect to articles entered on or after such date; and

(2) sections 1204(c), 1211, and 1212 take effect.

Subtitle C—Response to Unfair International Trade Practices

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

SEC. 1301. REVISION OF CHAPTER 1 OF TITLE III OF THE TRADE ACT OF 1974.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411. et seq.) is amended to read as follows:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

"SEC. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) MANDATORY ACTION.—

"(1) If the United States Trade Representative determines under section 304(a)(1) that—

"(A) the rights of the United States under any trade agreement are being denied; or

"(B) an act, policy, or practice of a foreign country—

"(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable and burdens or restricts United States commerce;

the Trade Representative shall take action authorized in subsection (c), subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights *or to obtain the elimination of such act, policy, or practice.*

"(2) The Trade Representative is not required to take action under paragraph (1) in any case in which—

"(A) the Contracting Parties to the General Agreement on Tariffs and Trade have determined, a panel of experts has reported to the Contracting Parties, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that—

"(i) the rights of the United States under a trade agreement are not being denied, or

"(ii) the act, policy, or practice—

"(I) is not a violation of, or inconsistent with, the rights of the United States, or

"(II) does not deny, nullify, or impair benefits to the United States under any trade agreement; or

"(B) the Trade Representative finds that—

"(i) the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement,

"(ii) the foreign country has—

"(I) agreed to eliminate or phase out the act, policy, or practice, or

"(II) agreed to an imminent solution to the burden or restriction on United States commerce that is satisfactory to the Trade Representative,

"(iii) it is impossible for the foreign country to achieve the results described in clause (i) or (ii), as appropriate, but the foreign country agrees to provide to the United States compensatory trade benefits that are satisfactory to the Trade Representative,

"(iv) in extraordinary cases, where the taking of action under this subsection would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this chapter, or

"(v) the taking of action under this subsection would cause serious harm to the national security of the United States.

"(3) Any action taken under paragraph (1) to eliminate an act, policy, or practice shall be devised so as to affect goods or services of the foreign country in an amount that is equivalent in value to the burden or restriction being imposed by that country on United States commerce.

"(b) DISCRETIONARY ACTION.—If the Trade Representative determines under section 304(a)(1) that—

"(1) an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, and

"(2) action by the United States is appropriate,

the Trade Representative shall take all appropriate and feasible action authorized under subsection (c), subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice.

"(c) SCOPE OF AUTHORITY.—

"(1) For purposes of carrying out the provisions of subsection (a) or (b), the Trade Representative is authorized to—

"(A) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with the foreign country referred to in such subsection;

"(B) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time as the Trade Representative determines appropriate; or

"(C) enter into binding agreements with such foreign country that commit such foreign country to—

"(i) eliminate, or phase out, the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b),

"(ii) eliminate any burden or restriction on United States commerce resulting from such act, policy, or practice, or

"(iii) provide the United States with compensatory trade benefits that—

"(I) are satisfactory to the Trade Representative, and

"(II) meet the requirements of paragraph (4).

"(2)(A) Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in paragraph (1), the Trade Representative may, for purposes of carrying out the provisions of subsection (a) or (b)—

"(i) restrict, in the manner and to the extent the Trade Representative determines appropriate, the terms and conditions of any such authorization, or

"(ii) deny the issuance of any such authorization.

"(B) Actions described in subparagraph (A) may only be taken under this section with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

"(i) a petition is filed under section 302(a), or

"(ii) a determination to initiate an investigation is made by the Trade Representative under 302(b).

"(C) Before the Trade Representative takes any action under this section involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.

"(3) The actions the Trade Representative is authorized to take under subsection (a) or (b) may be taken against any goods or economic sector—

"(A) on a nondiscriminatory basis or solely against the foreign country described in such subsection, and

"(B) without regard to whether or not such goods or economic sector were involved in the act, policy, or practice that is the subject of such action.

"(4) Any trade agreement described in paragraph (1)(C)(iii) shall provide compensatory trade benefits that benefit the economic sector which includes the domestic industry that would benefit from the elimination of the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b), or benefit the economic sector as closely related as possible to such economic sector, unless—

"(A) the provision of such trade benefits is not feasible, or

"(B) trade benefits that benefit any other economic sector would be more satisfactory than such trade benefits.

"(5) In taking actions under subsection (a) or (b), the Trade Representative shall—

"(A) give preference to the imposition of duties over the imposition of other import restrictions, and

"(B) if an import restriction other than a duty is imposed, consider substituting, on an incremental basis, an equivalent duty for such other import restriction.

"(6) Any action taken by the Trade Representative under this section with respect to export targeting shall, to the extent possible, reflect the full benefit level of the export targeting to the beneficiary over the period during which the action taken has an effect.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

"(1) The term "commerce" includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.

"(2) An act, policy, or practice of a foreign country that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States.

"(3)(A) An act, policy, or practice is unreasonable if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

"(B) Acts, policies, and practices that are unreasonable include, but are not limited to, any act, policy, or practice, or any combination of acts, policies, or practices, which—

"(i) denies fair and equitable—

"(I) opportunities for the establishment of an enterprise,

"(II) provision of adequate and effective protection of intellectual property rights, or

"(III) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by private firms or among private firms in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods to purchasing by such firms,

"(ii) constitutes export targeting, or

"(iii) constitutes a persistent pattern of conduct that—

"(I) denies workers the right of association,

"(II) denies workers the right to organize and bargain collectively,

"(III) permits any form of forced or compulsory labor,

"(IV) fails to provide a minimum age for the employment of children, or

"(V) fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers.

"(C)(i) Acts, policies, and practices of a foreign country described in subparagraph (B)(iii) shall not be treated as being unreasonable if the Trade Representative determines that—

"(I) the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing throughout the foreign country (including any designated zone within the foreign country) the rights and other standards described in the subclauses of subparagraph (B)(iii), or

"(II) such acts, policies, and practices are not inconsistent with the level of economic development of the foreign country.

"(ii) The Trade Representative shall publish in the Federal Register any determination made under clause (i), together with a

description of the facts on which such determination is based.".

"(D) For purposes of determining whether any act, policy, or practice is unreasonable, reciprocal opportunities in the United States for foreign nationals and firms shall be taken into account, to the extent appropriate.

"(E) The term 'export targeting' means any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise.

"(4)(A) An act, policy, or practice is unjustifiable if the act, policy, or practice is in violation of, or inconsistent with, the international legal rights of the United States.

"(B) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment or the right of establishment or protection of intellectual property rights.

"(5) Acts, policies, and practices that are discriminatory include, when appropriate, any act, policy, and practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

"(6) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.

"(7) The term 'foreign country' includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

"(8) The term 'Trade Representative' means the United States Trade Representative.

"(9) The term 'interested persons', only for purposes of sections 302(a)(4)(B), 304(b)(1)(A), 306(c)(2), and 307(a)(2), includes, but is not limited to, domestic firms and workers, representatives of consumer interests, United States product exporters, and any industrial user of any goods or services that may be affected by actions taken under subsection (a) or (b).

"SEC. 302. INITIATION OF INVESTIGATIONS.

"(a) Petitions.—

"(1) Any interested person may file a petition with the Trade Representative requesting that action be taken under section 301 and setting forth the allegations in support of the request.

"(2) The Trade Representative shall review the allegations in any petition filed under paragraph (1) and, not later than 45 days after the date on which the Trade Representative received the petition, shall determine whether to initiate an investigation.

"(3) If the Trade Representative determines not to initiate an investigation with respect to a petition, the Trade Representative shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register.

"(4) If the Trade Representative makes an affirmative determination under paragraph (2) with respect to a petition, the Trade Representative shall initiate an investigation regarding the issues raised in the petition. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing—

"(A) within the 30-day period beginning on the date of the affirmative determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition, or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(b) Initiation of Investigation by Means Other Than Petition.—

"(1)(A) If the Trade Representative determines that an investigation should be initiated under this chapter with respect to any matter in order to determine whether the matter is actionable under section 301, the Trade Representative shall publish such determination in the Federal Register and shall initiate such investigation.

"(B) The Trade Representative shall, before making any determination under subparagraph (A), consult with appropriate committees established pursuant to section 135.

"(2)(A) By no later than the date that is 30 days after the date on which a country is identified under section 182(a)(2), the Trade Representative shall initiate an investigation under this chapter with respect to any act, policy, or practice of that country that—

"(i) was the basis for such identification, and

"(ii) is not at that time the subject of any other investigation or action under this chapter.

"(B) The Trade Representative is not required under subparagraph (A) to initiate an investigation under this chapter with respect to any act, policy, or practice of a foreign country if the Trade Representative determines that the initiation of the investigation would be detrimental to United States economic interests.

"(C) If the Trade Representative makes a determination under subparagraph (B) not to initiate an investigation, the Trade Representative shall submit to the Congress a written report setting forth, in detail—

"(i) the reasons for the determination, and

"(ii) the United States economic interests that would be adversely affected by the investigation.

"(D) The Trade Representative shall, from time to time, consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate officers of the Federal Government, during any investigation initiated under this chapter by reason of subparagraph (A).".

"(c) Discretion.—In determining whether to initiate an investigation under subsection (a) or (b) of any act, policy, or practice that is enumerated in any provision of section 301(d), the Trade Representative shall have discretion to determine whether action under section 301 would be effective in addressing such act, policy, or practice.

"SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

"(a) In General.—

"(1) On the date on which an investigation is initiated under section 302, the Trade Representative, on behalf of the United States, shall request consultations with the foreign country concerned regarding the issues involved in such investigation.

"(2) If the investigation initiated under section 302 involves a trade agreement and a mutually acceptable resolution is not reached before the earlier of—

"(A) the close of the consultation period, if any, specified in the trade agreement, or

"(B) the 150th day after the day on which consultation was commenced,

the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement.

"(3) The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate committees established pursuant to section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

"(b) Delay of Request for Consultations.—

"(1) Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may, after consulting with the petitioner (if any), delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) The Trade Representative shall—

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

"(B) report to Congress on the reasons for such delay in the report required under section 309(a)(3).

"SEC. 304. DETERMINATIONS BY THE TRADE REPRESENTATIVE.

"(a) In General.—

"(1) On the basis of the investigation initiated under section 302 and the consultations (and the proceedings, if applicable) under section 303, the Trade Representative shall—

"(A) determine whether—

"(i) the rights to which the United States is entitled under any trade agreement are being denied, or

"(ii) any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301 exists, and

"(B) if the determination made under subparagraph (A) is affirmative, determine what action, if any, the Trade Representative should take under subsection (a) or (b) of section 301.

"(2) The Trade Representative shall make the determinations required under paragraph (1) on or before—

"(A) in the case of an investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the earlier of—

"(i) the date that is 30 days after the date on which the dispute settlement procedure is concluded, or

"(ii) the date that is 18 months after the date on which the investigation is initiated, or

"(B) in all cases not described in subparagraph (A) or paragraph (3), the date that is 12 months after the date on which the investigation is initiated.

"(3)(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and the Trade Representative does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation *by no later than the date that is 6 months after the date on which such investigation is initiated.*

"(B) If the Trade Representative determines with respect to any investigation initiated by reason of section 302(b)(2) that—

"(i) complex or complicated issues are involved in the investigation that require additional time,

"(ii) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will provide adequate and effective protection of intellectual property rights, or

"(iii) such foreign country is undertaking enforcement measures to provide adequate and effective protection of intellectual property rights,

the Trade Representative shall publish in the Federal Register notice of such determination and shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 9 months after the date on which such investigation is initiated.

"(4) In any case in which a dispute is not resolved before the close of the minimum dispute settlement period provided for in a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the Trade Representative, within 15 days after the close of such dispute settlement period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum dispute settlement period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement at any stage.

"(b) Consultation Before Determinations.—

"(1) Before making the determinations required under subsection (a)(1), the Trade Representative, unless expeditious action is required—

"(A) shall provide an opportunity (after giving not less than 30 days' notice thereof) for the presentation of views by interested persons, including a public hearing if requested by any interested person,

"(B) shall obtain advice from the appropriate committees established pursuant to section 135, and

"(C) may request the views of the United States International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to any goods or service.

"(2) If the Trade Representative does not comply with the requirements of subparagraphs (A) and (B) of paragraph (1) because expeditious action is required, the Trade Representative shall, after making the determinations under subsection (a)(1), comply with such subparagraphs.

"(c) Publication.—The Trade Representative shall publish in the Federal Register any determination made under subsection (a)(1), together with a description of the facts on which such determination is based.

"SEC. 305. IMPLEMENTATION OF ACTIONS.

"(a) Actions To Be Taken Under Section 301.—

"(1) Except as provided in paragraph (2), the Trade Representative shall implement the action the Trade Representative determines under section 304(a)(1)(B) to take under section 301, subject to the specific direction, if any, of the President regarding any such action, by no later than the date that is 30 days after the date on which such determination is made.

"(2)(A) Except as otherwise provided in this paragraph, the Trade Representative may delay, by not more than 180 days, the implementation of any action that is to be taken under section 301—

"(i) if—

"(I) in the case of an investigation initiated under section 302(a), the petitioner requests a delay, or

"(II) in the case of an investigation initiated under section 302(b)(1) or to which section 304(a)(3)(B) applies, a delay is requested by a majority of the representatives of the domestic industry that would benefit from the action, or

"(ii) if the Trade Representative determines that substantial progress is being made, or that a delay is necessary or desirable, to obtain United States rights or a satisfactory solution with respect to the acts, policies, or practices that are the subject of the action.

"(B) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(A) applies.

"(C) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(B) applies by more than 90 days.

"(b) Alternative Actions in Certain Cases of Export Targeting.—

"(1) If the Trade Representative makes an affirmative determination under section 304(a)(1)(A) involving export targeting by a foreign country and determines to take no action under section 301 with respect to such affirmation determination, the Trade Representative—

"(A) shall establish an advisory panel to recommend measures which will promote the competitiveness of the domestic industry affected by the export targeting,

"(B) on the basis of the report of such panel submitted under paragraph (2)(B) and subject to the specific direction, if any, of the President, may take any administrative actions authorized under any other provision of law, and, if necessary, propose legislation to implement any other actions, that would restore or improve the international competitiveness of the domestic industry affected by the export targeting, and

"(C) shall, by no later than the date that is 30 days after the date on which the report of such panel is submitted under paragraph (2)(B), submit a report to the Congress on the administrative actions taken, and legislative proposals made, under subparagraph (B) with respect to the domestic industry affected by the export targeting.

"(2)(A) The advisory panels established under paragraph (1)(A) shall consist of individuals appointed by the Trade Representative who—

"(i) earn their livelihood in the private sector of the economy, including individuals who represent management and labor in the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A), and

"(ii) by education or experience, are qualified to serve on the advisory panel.

"(B) By no later than the date that is 6 months after the date on which an advisory panel is established under paragraph (1)(A), the advisory panel shall submit to the Trade Representative and to the Congress a report on measures that the advisory panel recommends be taken by the United States to promote the competitiveness of the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A).".

"SEC. 306. MONITORING OF FOREIGN COMPLIANCE.

"(a) In General.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 301(a)(2)(B) that is entered into under subsection (a) or (b) of section 301, by a foreign country—

"(1) to enforce the rights of the United States under any trade agreement, or

"(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301.

"(b) Further Action.—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1).

"(c) Consultations.—Before making any determination under subsection (b), the Trade Representative shall—

"(1) consult with the petitioner, if any, involved in the initial investigation under this chapter and with representatives of the domestic industry concerned; and

"(2) provide an opportunity for the presentation of views by interested persons.".

"SEC. 307. MODIFICATION AND TERMINATION OF ACTIONS.

"(a) In General.—

"(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 301 if—

"(A) any of the conditions described in section 301(a)(2) exist,

"(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

"(C) such action is being taken under section 301(b) and is no longer appropriate.

"(2) Before taking any action under paragraph (1) to modify or terminate any action taken under section 301, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

"(b) Notice; Report to Congress.—The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 301 and the reasons therefor.

"(c) Review of Necessity.—

"(1) If—

"(A) a particular action has been taken under section 301 during any 4-year period, and

"(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

"(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

"(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 301, the Trade Representative shall conduct a review of—

"(A) the effectiveness in achieving the objectives of section 301 of—

"(i) such action, and

"(ii) other actions that could be taken (including actions against other products or services), and

"(B) the effects of such actions on the United States economy, including consumers.

"SEC. 308. REQUEST FOR INFORMATION.

"(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

"(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies;

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by a person under subsection (a) is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or

"(2) decline to request the information and inform the person in writing of the reasons for refusal.

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.—

"(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

"SEC. 309. ADMINISTRATION.

"The Trade Representative shall—

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this subchapter,

"(2) keep the petitioner regularly informed of all determinations and developments regarding the investigation conducted with respect to the petition under this chapter, including the reasons for any undue delays, and

"(3) submit a report to the House of Representatives and the Senate semiannually describing—

"(A) the petitions filed and the determinations made (and reasons therefor) under section 302,

"(B) developments in, and the current status of, each investigation or proceeding under this chapter,

"(C) the actions taken, or the reasons for no action, by the Trade Representative under section 301 with respect to investigations conducted under this chapter,

"(D) the commercial effects of actions taken under section 301.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the items relating to chapter 1 of title III and inserting in lieu thereof the following:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO FOREIGN TRADE PRACTICES

"Sec. 301. Actions by United States Trade Representative.
"Sec. 302. Initiation of investigations.
"Sec. 303. Consultation upon initiation of investigation.
"Sec. 304. Determinations by the Trade Representative.
"Sec. 305. Implementation of actions.
"Sec. 306. Monitoring of foreign compliance.
"Sec. 307. Modification and termination of actions.
"Sec. 308. Request for information.
"Sec. 309. Administration.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) petitions filed, and investigations initiated, under section 302 of the Trade Act of 1974 on or after the date of the enactment of this Act; and

(2) petitions filed, and investigations initiated, before the date of enactment of this Act, if by that date no decision had been made under section 304 regarding the petition or investigation.

SEC. 1302. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974, as amended by section 1301, is further amended by adding at the end thereof the following new section:

"SEC. 310. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

"(a) IDENTIFICATION.—

"(1) By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees, the Trade Representative shall identify United States trade liberalization priorities, including—

"(A) priority practices, including major barriers and trade distorting practices, the elimination of which are likely to have the most significant potential to increase United States exports, either directly or through the establishment of a beneficial precedent;

"(B) priority foreign countries that, on the basis of such report, satisfy the criteria in paragraph (2);

"(C) estimate the total amount by which United States exports of goods and services to each foreign country identified under subparagraph (B) would have increased during the preceding calendar year if the priority practices of such country identified under subparagraph (A) did not exist; and

"(D) submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and publish in the Federal Register, a report which lists—

"(i) the priority foreign countries identified under subparagraph (B),

"(ii) the priority practices identified under subparagraph (A) with respect to each of such priority foreign countries, and

"(iii) the amount estimated under subparagraph (C) with respect to each of such priority foreign countries.

"(2) In identifying priority foreign countries under paragraph (1)(B), the Trade Representative shall take into account—

"(A) the number and pervasiveness of the acts, policies, and practices described in section 181(a)(1)(A), and

"(B) the level of United States exports of goods and services that would be reasonably expected from full implementation of existing trade agreements to which that foreign country is a party, based on the international competitive position and export potential of such products and services.

"(3) In identifying priority practices under paragraph (1)(A), the Trade Representative shall take into account—

"(A) the international competitive position and export potential of United States products and services,

"(B) circumstances in which the sale of a small quantity of a product or service may be more significant than its value, and

"(C) the measurable medium-term and long-term implications of government procurement commitments to United States exporters.

"(b) INITIATION OF INVESTIGATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate Congressional committees under subsection (a)(1)(D), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of those priority practices identified in such report by reason of subsection (a)(1)(D) for each of the priority foreign countries. The Trade Representative may initiate investigations under section 302(b)(1) with respect to all other priority practices identified under subsection (a)(1)(A).

"(c) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—

"(1) In the consultations with a priority foreign country identified under subsection (a)(1) that the Trade Representative is re-

quired to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement which provides for—

"(A) the elimination of, or compensation for, the priority practices identified under subsection (a)(1)(A) by no later than the close of the 3-year period beginning on the date on which such investigation is initiated, and

"(B) the reduction of such practices over a 3-year period with the expectation that United States exports to the foreign country will, as a result, increase incrementally during each year within such 3-year period.

"(2) Any investigation initiated under this chapter by reason of subsection (b) shall be suspended if an agreement described in subparagraphs (A) and (B) of paragraph (1) is entered into with the foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented.

"(3) If an agreement described in paragraph (1) is entered into with a foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented and the Trade Representative determines that the foreign country is not in compliance with such agreement, the Trade Representative shall continue the investigation that was suspended by reason of such agreement as though such investigation had not been suspended.

"(d) Annual Reports.—

"(1) On the date on which the report the Trade Representative is required to submit under subsection (a)(1)(D) in calendar year 1990, and on the anniversary of such date in the succeeding calendar years, the Trade Representative shall submit a report which includes—

"(A) revised estimates of the total amount determined under subsection (a)(1)(C) for each priority foreign country that has been identified under subsection (a)(1)(B),

"(B) evidence that demonstrates, in the form of increased United States exports to each of such priority foreign countries during the previous calendar year—

"(i) in the case of a priority foreign country that has entered into an agreement described in subsection (c)(1), substantial progress during each year within the 3-year period described in subsection (c)(1)(A) toward the goal of eliminating the priority practices identified under subsection (a)(1)(A) by the close of such 3-year period, and

"(ii) in the case of a country which has not entered into (or has not complied with) an agreement described in subsection (c)(1), the elimination of such practices,

"(C) to the extent that the evidence described in subparagraph (B) cannot be provided, any actions that have been taken by the Trade Representative under section 301 with respect to such priority practices of each of such foreign countries.

"(2) The Trade Representative may exclude from the requirements of paragraph (1) in any calendar year beginning after 1993 any foreign country that has been identified under subsection (a)(1)(A) if the evidence submitted under paragraph (1)(B) in the 2 previous reports demonstrated that all the priority practices identified under subsection (a)(1)(A) with respect to such foreign country have been eliminated.".

(b) Conforming Amendment.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 309 the following new item:

"Sec. 310. Identification of trade liberalization priorities.".

SEC. 1303. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

(a) Findings and Purpose.—

(1) The Congress finds that—

(A) international protection of intellectual property rights is vital to the international competitiveness of United States persons that rely on protection of intellectual property rights; and

(B) the absence of adequate and effective protection of United States intellectual property rights, and the denial of fair and equitable market access, seriously impede the ability of the United States persons that rely on protection of intellectual property rights to export and operate overseas, thereby harming the economic interests of the United States.

(2) The purpose of this section is to provide for the development of an overall strategy to ensure adequate and effective protection of intellectual property rights and fair and equitable market access for United States persons that rely on protection of intellectual property rights.

(b) In General.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 182. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE PROTECTION, OR MARKET ACCESS, FOR INTELLECTUAL PROPERTY RIGHTS.

"(a) In General.—By no later than the date that is 30 days after the date on which the annual report is submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

"(1) those foreign countries that—

"(A) deny adequate and effective protection of intellectual property rights, or

"(B) deny fair and equitable market access to United States persons that rely upon intellectual property protection, and

"(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

"(b) Special Rules for Identifications.—

"(1) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

"(A) that have the most onerous or egregious acts, policies, or practices that—

"(i) deny adequate and effective intellectual property rights, or

"(ii) deny fair and equitable market access to United States persons that rely upon intellectual property protection,

"(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

"(C) that are not—

"(i) entering into good faith negotiations, or

"(ii) making significant progress in bilateral or multilateral negotiations,

to provide adequate and effective protection of intellectual property rights.

"(2) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

"(A) consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officers of the Federal Government, and

"(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

"(3) The Trade Representative may identify a foreign country under subsection (a)(1)(B) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

"(c) Revocations and Additional Identifications.—

"(1) The Trade Representative may at any time—

"(A) revoke the identification of any foreign country as a priority foreign country under this section, or

"(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

"(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

"(d) Definitions.—For purposes of this section—

"(1) The term 'persons that rely upon intellectual property protection' means persons involved in—

"(A) the creation, production or licensing of works of authorship (within the meaning of sections 102 and 103 of title 17, United States Code) that are copyrighted, or

"(B) the manufacture of products that are patented or for which there are process patents.

"(2) A foreign country denies adequate and effective protection of intellectual property rights if the foreign country denies adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such foreign country to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights and mask works.

"(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright, patent, or process patent through the use of laws, procedures, practices, or regulations which—

"(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

"(B) constitute discriminatory nontariff trade barriers.

"(e) Publication.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of action under subsection (c).".

(c) Conforming Amendments.—

(1) The heading for chapter 8 of title I of the Trade Act of 1974 is amended to read as follows:

"CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE ACTIONS".

(2) The table of contents for the Trade Act of 1974 is amended—

(A) by striking out the item relating to chapter 8 of title I and inserting in lieu thereof the following:

"CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE PRACTICES",

and

(B) by inserting after the item relating to section 181 the following new item:

"Sec. 182. Identification of countries that deny adequate protection, or market access, for intellectual property rights.".

SEC. 1304. AMENDMENTS TO THE NATIONAL TRADE ESTIMATES.

(a) IN GENERAL.—Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) by striking out "Not later than the date on which the initial report is required under subsection (b)(1)," in subsection (a)(1) and inserting in lieu thereof "For calendar year 1988, and for each succeeding calendar year,",

(2) by inserting "of each foreign country" after "or practices" in subsection (a)(1)(A),

(3) by striking out "and" at the end of subsection (a)(1)(A)(ii),

(4) by striking out the period at the end of subsection (a)(1)(B) and inserting in lieu thereof "; and",

(5) by adding at the end of subsection (a)(1) the following new subparagraph:

"(C) make an estimate, if feasible, of—

"(i) the value of additional goods and services of the United States, and

"(ii) the value of additional foreign direct investment by United States persons,

that would have been exported to, or invested in, each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.",

(6) by striking out "and" at the end of subsection (a)(2)(C),

(7) by striking out the period at the end of subsection (a)(2)(D) and inserting in lieu thereof "; and",

(8) by adding at the end of subsection (a)(2) the following new subparagraph:

"(E) the actual increase in—

"(i) the value of goods and services of the United States exported to, and

"(ii) the value of foreign direct investment made in,

the foreign country during the calendar year for which the estimate under paragraph (1)(C) is made.",

(9) by inserting "and with the assistance of the interagency advisory committee established under section 141(d)(2)," after "Trade Expansion Act of 1962," in subsection (a)(1), and

(10) by striking out "ACTIONS CONCERNING" in the section heading and inserting in lieu thereof "ESTIMATES OF".

(b) SUBMISSION OF REPORT.—Paragraph (1) of section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended to read as follows:

"(1) On or before April 30, 1989, and on or before March 31 of each succeeding calendar year, the Trade Representative shall submit a report on the analysis and estimates made under subsection (a) for the calendar year preceding such calendar year (which shall be known as the 'National Trade Estimate') to the President, the Committee on Finance of the Senate, and appropriate committees of the House of Representatives.".

SEC. 1305. INVESTIGATION OF BARRIERS IN JAPAN TO CERTAIN UNITED STATES SERVICES.

The United States Trade Representative shall, within 90 days after the date of enactment of this Act, initiate an investigation under section 302 of the Trade Act of 1974 regarding those acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance by United States persons of architectural, engineering, construction, and consulting services in Japan.

SEC. 1306. TRADE AND ECONOMIC RELATIONS WITH JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States is at a critical juncture in bilateral relations with Japan;

(2) the balance of trade between the United States and Japan has deteriorated steadily from an already large United States deficit of $10,400,000,000 in 1980 to an unprecedented United States deficit of $57,700,000,000 in 1987, a magnitude that is simply untenable;

(3) approximately 90 percent of the increase in total trade between the United States and Japan since 1980 has been in Japanese exports to the United States;

(4) United States exports to Japan have not significantly benefited from appreciation of the yen;

(5) the United States deficit in the balance of trade in manufactured goods is growing: in 1987 Japan exported $82,500,000,000 of manufactured goods to the United States, while the United States exported $14,600,000,000 in manufactured goods;

(6) Japan accounts for 49 percent of the worldwide deficit of the United States in the balance of trade in manufactured goods, calculated on a customs basis;

(7) our trade and economic relations with Japan are complex and cannot be effectively resolved through narrow sector-by-sector negotiations;

(8) a major problem between the United States and Japan is the absence of a political will in Japan to import; and

(9) meaningful negotiations must take place at the highest level, at a special summit of political leaders from both countries.

(b) SENSE OF THE CONGRESS.—

(1) It is the sense of the Congress that the President should propose to the Japanese Prime Minister that a special summit be held between the leaders of the United States and Japan for the purpose of—

(A) addressing trade and economic issues, and

(B) establishing—

(i) an agreement that provides objectives for improvement in trade and economic relations, and

(ii) targets for achieving these objectives.

(2) The delegation of the United States to the summit meeting described in subsection (a) should include—

(A) Members of Congress from both political parties, and

(B) appropriate officers of the Executive Branch of the United States Government.

(3) The delegation of Japan to the summit meeting described in subsection (a) should include—

(A) representatives of all political parties in Japan, and

(B) appropriate officers of the Government of Japan.

SEC. 1307. SUPERCOMPUTER TRADE DISPUTE.

(a) FINDINGS.—The Congress finds that—

(1) United States manufacturers of supercomputers have encountered significant obstacles in selling supercomputers in Japan, particularly to government agencies and universities;

(2) Japanese government procurement policies and pricing practices have denied United States manufacturers access to the Japanese supercomputer market;

(3) it has been reported that officials of the Ministry of International Trade and Industry of Japan have told United States Government officials that Japanese government agencies and universities do not intend to purchase supercomputers from United States manufacturers, or take steps to improve access for United States manufacturers;

(4) the United States Government in August 1987 signed an agreement with the Government of Japan establishing procedures for the procurement of United States supercomputers by the Government of Japan;

(5) concern remains as to implementation of the procurement agreement by the Government of Japan;

(6) there have been allegations that Japanese manufacturers of supercomputers have been offering supercomputers at drastically discounted prices in the markets of the United States, Japan, and other countries;

(7) deep price discounting raises the concern that Japan's large-scale vertically integrated manufacturers of supercomputers have targeted the supercomputer industry with the objective of eventual domination of the global computer market; and

(8) the supercomputer industry plays a central role in the technological competitiveness and national security of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States Trade Representative and other appropriate officials of the United States Government should—

(1) give the highest priority to concluding and enforcing agreements with the Government of Japan which achieve improved market access for United States manufacturers of supercomputers and end any predatory pricing activities of Japanese companies in the United States, Japan, and other countries; and

(2) continue to monitor the efforts of United States manufacturers of supercomputers to gain access to the Japanese market, recognizing that the Government of Japan may continue to manipulate the government procurement process to maintain the market dominance of Japanese manufacturers.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 1311. REFERENCE TO TITLE VII OF THE TARIFF ACT OF 1930.

Unless otherwise provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a subtitle, section, subsection, or other provision, the reference shall be considered to be made to a subtitle, section, subsection, or other provision of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 1312. ACTIONABLE DOMESTIC SUBSIDIES.

Paragraph (5) of section 771 (19 U.S.C. 1677(5)) is amended to read as follows:

"(5) SUBSIDY.—

"(A) IN GENERAL.—The term 'subsidy' has the same meaning as the term 'bounty or grant' as that term is used in section 303, and includes, but is not limited to, the following:

"(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

"(ii) The following domestic subsidies, if provided or required by government action *to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:*

"(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

"(II) The provision of goods or services at preferential rates.

"(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

"(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

"(B) SPECIAL RULE.—In applying subparagraph (A), the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program, or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been, in fact provided to a specific enterprise or industry, or group thereof.".

SEC. 1313. CALCULATION OF SUBSIDIES ON CERTAIN PROCESSED AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 is amended by inserting after section 771A (19 U.S.C. 1677-1) the following new section:

"SEC. 771B. In the case of an agricultural product processed from a raw agricultural product in which (1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and (2) the processing operation adds only limited value to the raw commodity, subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771A the following:

"Sec. 771B. Calculation of subsidies on certain processed agricultural products.".

SEC. 1314. REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.

Section 701 (19 U.S.C. 1671) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.—The United States Trade Representative may revoke the status of a foreign country as a country under the Agreement for purposes of this subtitle if such foreign country—

"(1) announces that such foreign country does not intend, or is not able, to honor the obligations it has assumed with respect to the United States or the Agreement for purposes of this subtitle, or

"(2) does not in fact honor such obligations.".

SEC. 1315. TREATMENT OF INTERNATIONAL CONSORTIA.

Section 701 (19 U.S.C. 1671) (as amended by section 1314) is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) TREATMENT OF INTERNATIONAL CONSORTIA.—

For purposes of this subtitle, if the members (or other participating entities) of an international consortium that is engaged in the production of a class or kind of merchandise subject to a countervailing duty investigation receive subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.".

SEC. 1316. DUMPING BY NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Subsection (c) of section 773 (19 U.S.C. 1677b) is amended to read as follows:

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the merchandise under investigation is exported from a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a),

the administering authority shall determine the foreign market value of the merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses, as required by subsection (e). Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the foreign market value of merchandise under paragraph (1), the administering authority shall determine the foreign market value on the basis of the price at which merchandise that is—

"(A) comparable to the merchandise under investigation, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,

"(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.—The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable merchandise.".

(b) NONMARKET ECONOMY COUNTRY DEFINED.—Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) NONMARKET ECONOMY COUNTRY.—

"(A) IN GENERAL.—The term 'nonmarket economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.

"(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

"(i) the extent to which the currency of the foreign country is convertible into the currency of other countries;

"(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

"(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

"(iv) the extent of government ownership or control of the means of production,

"(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

"(vi) such other factors as the administering authority considers appropriate.

"(C) DETERMINATION IN EFFECT.—

"(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

"(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

"(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle B.

"(E) COLLECTION OF INFORMATION.—Upon request by the administering authority, the Commissioner of Customs shall provide the administering authority a copy of all public and proprietary information submitted to, or obtained by, the Commissioner of Customs that the administering authority considers relevant to proceedings involving merchandise from nonmarket economy countries. The administering authority shall protect proprietary information obtained under this section from public disclosure in accordance with section 777.".

(c) SUSPENSION OF NONMARKET ECONOMY COUNTRY INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end thereof the following new subsection:

"(l) SPECIAL RULE FOR NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a nonmarket economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that—

"(A) such agreement satisfies the requirements of subsection (d), and

"(B) will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

"(2) FAILURE OF AGREEMENTS.—If the administering authority determines that an agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (i) shall apply.".

SEC. 1317. THIRD-COUNTRY DUMPING.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(2) The term "Agreement country" means a foreign country that has accepted the Agreement.

(3) The term "Trade Representative" means the United States Trade Representative.

(b) PETITION BY DOMESTIC INDUSTRY.—

(1) A domestic industry that produces a product that is like or directly competitive with merchandise produced by a foreign country (whether or not an Agreement country) may, if it has reason to believe that—

(A) such merchandise is being dumped in an Agreement country; and

(B) such domestic industry is being materially injured, or threatened with material injury, by reason of such dumping;

submit a petition to the Trade Representative that alleges the elements referred to in subparagraphs (A) and (B) and requests the Trade Representative to take action under subsection (c) on behalf of the domestic industry.

(2) A petition submitted under paragraph (1) shall contain such detailed information as the Trade Representative may require in support of the allegations in the petition.

(c) APPLICATION FOR ANTIDUMPING ACTION ON BEHALF OF THE DOMESTIC INDUSTRY.—

(1) If the Trade Representative, on the basis of the information contained in a petition submitted under paragraph (1), determines that there is a reasonable basis for the allegations in the petition, the Trade Representative shall submit to the appropriate authority of the Agreement country where the alleged dumping is occurring an application pursuant to Article 12 of the Agreement which requests that appropriate antidumping action under the law of that country be taken, on behalf of the United States, with respect to imports into that country of the merchandise concerned.

(2) At the request of the Trade Representative, the appropriate officers of the Department of Commerce and the United States International Trade Commission shall assist the Trade Representative in preparing the application under paragraph (1).

(d) CONSULTATION AFTER SUBMISSION OF APPLICATION.—After submitting an application under subsection (c)(1), the Trade Representative shall seek consultations with the appropriate authority of the Agreement country regarding the request for antidumping action.

(e) ACTION UPON REFUSAL OF AGREEMENT COUNTRY TO ACT.—If the appropriate authority of an Agreement country refuses to undertake antidumping measures in response to a request made therefor by the Trade Representative under subsection (c), the Trade Representative shall promptly consult with the domestic industry on whether action under any other law of the United States is appropriate.

SEC. 1318. INPUT DUMPING BY RELATED PARTIES.

Subsection (e) of section 773 (19 U.S.C. 1677b(e)) is amended—

(1) by striking out "(3)" each place it appears in paragraph (2) and inserting "(4)",

(2) by redesignating paragraph (3) as paragraph (4),

(3) by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE.—If, regarding any transaction between persons specified in any one of the subparagraphs of paragraph (4) involving the production by one of such persons of a major input to the merchandise under consideration, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the costs of production of such input, then the administering authority may determine the value of the major input on the best evidence available regarding such costs of production, if such costs are greater than the amount that would be determined for such input under paragraph (2).", and

(4) by striking out "paragraph (2)" in paragraph (4) (as redesignated by paragraph (2)) and inserting "paragraphs (2) and (3)".

SEC. 1319. FICTITIOUS MARKETS.

Subsection (a) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(a)) is amended by adding at the end thereof the following new paragraph:

"(5) FICTITIOUS MARKETS.—The occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold (or, in the absence of sales, offered for sale) after the issuance of such order in the principal markets of the foreign country from which the merchandise is exported may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise.".

SEC. 1320. DOWNSTREAM PRODUCT MONITORING.

(a) IN GENERAL.—Subtitle D (19 U.S.C. 1677 et seq.) is amended by adding at the end thereof the following:

"SEC. 780. DOWNSTREAM PRODUCT MONITORING.

"(a) PETITION REQUESTING MONITORING.—

"(1) IN GENERAL.—A domestic producer of an article that is like a component part or a downstream product may petition the administering authority to designate a downstream product for monitoring under subsection (b). The petition shall specify—

"(A) the downstream product,

"(B) the component product incorporated into such downstream product, and

"(C) the reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of such downstream product.

"(2) DETERMINATION REGARDING PETITION.—Within 14 days after receiving a petition submitted under paragraph (1), the administering authority shall determine—

"(A) whether there is a reasonable likelihood that imports into the United States of the downstream product will increase as an indirect result of any diversion with respect to the component part, and

"(B) whether—

"(i) the component part is already subject to monitoring to aid in the enforcement of a bilateral arrangement (within the meaning of section 804 of the Trade and Tariff Act of 1984),

"(ii) merchandise related to the component part and manufactured in the same foreign country in which the component part is manufactured has been the subject of a significant number of investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303, or

"(iii) merchandise manufactured or exported by the manufacturer or exporter of the component part that is similar in description and use to the component part has been the subject of at least 2 investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303.

"(3) FACTORS TO TAKE INTO ACCOUNT.—In making a determination under paragraph (2)(A), the administering authority may, if appropriate, take into account such factors as—

"(A) the value of the component part in relation to the value of the downstream product,

"(B) the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product, and

"(C) the relationship between the producers of component parts and producers of downstream products.

"(4) PUBLICATION OF DETERMINATION.—The administering authority shall publish in the Federal Register notice of each determination made under paragraph (2) and, if the determination made under paragraph (2)(A) and a determination made under any subparagraph of paragraph (2)(B) are affirmative, shall transmit a copy of such determinations and the petition to the Commission.

"(5) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any determination made by the administering authority under paragraph (2) shall not be subject to judicial review.

"(b) MONITORING BY THE COMMISSION.—

"(1) IN GENERAL.—If the determination made under subsection (a)(2)(A) and a determination made under any clause of subsection (a)(2)(B) with respect to a petition are affirmative, the Commission shall immediately commence monitoring of trade in the downstream product that is the subject of the determination made under subsection (a)(2)(A). If the Commission finds that imports of a downstream product being monitored increased during any calendar quarter by 5 percent or more over the preceding quarter, the Commission shall analyze that increase in the context of overall economic conditions in the product sector.

"(2) REPORTS.—The Commission shall make quarterly reports to the administering authority regarding the monitoring and analyses conducted under paragraph (1). The Commission shall make the reports available to the public.

"(c) ACTION ON BASIS OF MONITORING REPORTS.—The administering authority shall review the information in the reports submitted by the Commission under subsection (b)(2) and shall—

"(1) consider the information in determining whether to initiate an investigation under section 702(a), 732(a), or 303 regarding any downstream product, and

"(2) request the Commission to cease monitoring any downstream product if the information indicates that imports into the United States are not increasing and there is no reasonable likelihood of diversion with respect to component parts.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'component part' means any imported article that—

"(A) during the 5-year period ending on the date on which the petition is filed under subsection (a), has been subject to—

"(i) a countervailing or antidumping duty order issued under this title or section 303 that requires the deposit of estimated countervailing or antidumping duties imposed at a rate of at least 15 percent ad valorem, or

"(ii) an agreement entered into under section 704, 734, or 303 after a preliminary affirmative determination under section 703(b), 733(b)(1), or 303 was made by the administering authority which included a determination that the estimated net subsidy was at least 15 percent ad valorem or that the estimated average amount by which the foreign market value exceeded the United States price was at least 15 percent ad valorem, and

"(B) because of its inherent characteristics, is routinely used as a major part, component, assembly, subassembly, or material in a downstream product.

"(2) The term 'downstream product' means any manufactured article—

"(A) which is imported into the United States, and

"(B) into which is incorporated any component part.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 779 the following:

"Sec. 780. Downstream product monitoring.".

SEC. 1321. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Subtitle D (19 U.S.C. 1677 et seq.) (as amended by section 1320) is further amended by adding at the end thereof the following:

"SEC. 781. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies, and

"(C) the difference between the value of such merchandise sold in the United States and the value of the imported parts and components referred to in subparagraph (B) is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

"(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

"(i) is subject to such order or finding, or

"(ii) is produced in the foreign country with respect to which such order or finding applies,

"(C) the difference between the value of such imported merchandise and the value of the merchandise described in subparagraph (B) is small, and

"(D) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

"(2) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is related to the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the issuance of such order or finding.

"(c) MINOR ALTERATIONS OF MERCHANDISE.—

"(1) IN GENERAL.—The class or kind of merchandise subject to—

"(A) an investigation under this title,

"(B) an antidumping duty order issued under section 736,

"(C) a finding issued under the Antidumping Act, 1921, or

"(D) a countervailing duty order issued under section 706 or section 303,

shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

"(d) LATER-DEVELOPED MERCHANDISE.—

"(1) IN GENERAL.—For purposes of determining whether merchandise developed after an investigation is initiated under this title or section 303 (hereafter in this paragraph referred to as the 'later-developed merchandise') is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether—

"(A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the 'earlier product'),

"(B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,

"(C) the ultimate use of the earlier product and the later-developed merchandise are the same,

"(D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and

"(E) the later-developed merchandise is advertised and displayed in a manner similar to the earlier product.

The administering authority shall take into account any advice provided by the Commission under subsection (e) before making a determination under this subparagraph.

"(2) EXCLUSION FROM ORDERS.—The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise—

"(A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or

"(B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

"(e) COMMISSION ADVICE.—

"(1) NOTIFICATION TO COMMISSION OF PROPOSED ACTION.—Before making a determination—

"(A) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

"(B) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

"(C) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order or finding as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise is within a category for which notice is required under this paragraph is not subject to judicial review.

"(2) REQUEST FOR CONSULTATION.—After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

"(3) COMMISSION ADVICE.—If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 780 the following:

"Sec. 781. Prevention of Circumvention of Antidumping and Countervailing Duty Orders.".

SEC. 1322. STEEL IMPORTS.

Section 805 of the Trade and Tariff Act of 1984 (19 U.S.C. 2253, note) is amended by adding at the end thereof the following new subsection:

"(d)(1) Any steel product that is manufactured in a country that is not party to a bilateral arrangement from steel which was melted and poured in a country that is party to a bilateral arrangement (hereafter in this subsection referred to as an 'arrangement country') may be treated for purposes of the quantitative restrictions and related terms under that arrangement as if it were a product of the arrangement country.

"(2) The President may implement such procedures as may be necessary or appropriate to carry out the purpose of paragraph (1).

"(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called 'third country equity provision' of an arrangement entered into under the President's Steel Policy, take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.".

SEC. 1323. SHORT LIFE CYCLE PRODUCTS.

(a) ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.—Subtitle B is amended by adding at the end thereof the following new section:

"SEC. 739. ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.

"(a) ESTABLISHMENT OF PRODUCT CATEGORIES.—

"(1) PETITIONS.—

"(A) IN GENERAL.—An eligible domestic entity may file a petition with the Commission requesting that a product category be established with respect to short life cycle merchandise at any time after the merchandise becomes the subject of 2 or more affirmative dumping determinations.

"(B) CONTENTS.—A petition filed under subparagraph (A) shall—

"(i) identify the short life cycle merchandise that is the subject of the affirmative dumping determinations,

"(ii) specify the short life cycle merchandise that the petitioner seeks to have included in the same product category as the merchandise that is subject to the affirmative dumping determinations,

"(iii) specify any short life cycle merchandise the petitioner particularly seeks to have excluded from the product category,

"(iv) provide reasons for the inclusions and exclusions specified under clauses (ii) and (iii), and

"(v) identify such merchandise in terms of the designations used in the Tariff Schedules of the United States.

"(2) DETERMINATIONS ON SUFFICIENCY OF PETITION.—Upon receiving a petition under paragraph (1), the Commission shall—

"(A) request the administering authority to confirm promptly the affirmative determinations on which the petition is based, and

"(B) upon receipt of such confirmation, determine whether the merchandise covered by the confirmed affirmative determinations is short life cycle merchandise and whether the petitioner is an eligible domestic entity.

"(3) NOTICE; HEARINGS.—If the determinations under paragraph (2)(B) are affirmative, the Commission shall—

"(A) publish notice in the Federal Register that the petition has been received, and

"(B) provide opportunity for the presentation of views regarding the establishment of the requested product category, including a public hearing if requested by any interested person.

"(4) DETERMINATIONS.—

"(A) IN GENERAL.—By no later than the date that is 90 days after the date on which a petition is filed under paragraph (1), the Commission shall determine the scope of the product category into which the short life cycle merchandise that is the subject of the affirmative dumping determinations identified in such petition shall be classified for purposes of this section.

"(B) MODIFICATIONS NOT REQUESTED BY PETITION.—

"(i) IN GENERAL.—The Commission may, on its own initiative, make a determination modifying the scope of any product category established under subparagraph (A) at any time.

"(ii) NOTICE AND HEARING.—Determinations may be made under clause (i) only after the Commission has—

"(I) published in the Federal Register notice of the proposed modification, and

"(II) provided interested parties an opportunity for a hearing, and a period for the submission of written comments, on the classification of merchandise into the product categories to be affected by such determination

"(C) BASIS OF DETERMINATIONS.—In making determinations under subparagraph (A) or (B), the Commission shall ensure that each product category consists of similar short life cycle merchandise which is produced by similar processes under similar circumstances and has similar uses.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE DOMESTIC ENTITY.—The term 'eligible domestic entity' means a manufacturer or producer in the United States, or a certified union or recognized union or group of workers which is representative of an industry in the United States, that manufactures or produces short life cycle merchandise that is—

"(A) like or directly competitive with other merchandise that is the subject of 2 or more affirmative dumping determinations, or

"(B) is similar enough to such other merchandise as to be considered for inclusion with such merchandise in a product monitoring category established under this section.

"(2) AFFIRMATIVE DUMPING DETERMINATION.—The term 'affirmative dumping determination' means—

"(A) any affirmative final determination made by the administering authority under section 735(a) during the 8-year period preceding the filing of the petition under this section that results in the issuance of an antidumping duty order under section 736 which requires the deposit of estimated antidumping duties at a rate of not less than 15 percent ad valorem, or

"(B) any affirmative preliminary determination that—

"(i) is made by the administering authority under section 733(b) during the 8-year period preceding the filing of the petition under this section in the course of an investigation for which no final determination is made under section 735 by reason of a suspension of the investigation under section 734, and

"(ii) includes a determination that the estimated average amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is not less than 15 percent ad valorem.

"(3) SUBJECT OF AFFIRMATIVE DUMPING DETERMINATION.—

"(A) IN GENERAL.—Short life cycle merchandise of a manufacturer shall be treated as being the subject of an affirmative dumping determination only if the administering authority—

"(i) makes a separate determination of the amount by which the foreign market value of such merchandise of the manufacturer exceeds the United States price of such merchandise of the manufacturer, and

"(ii) specifically identifies the manufacturer by name with such amount in the affirmative dumping determination or in an antidumping duty order issued as a result of the affirmative dumping determination.

"(B) EXCLUSION.—Short life cycle merchandise of a manufacturer shall not be treated as being the subject of an affirmative dumping determination if—

"(i) such merchandise of the manufacturer is part of a group of merchandise to which the administering authority assigns (in lieu of making separate determinations described in subparagraph (A)(i)(I)) an amount determined to be the amount by which the foreign market value of the merchandise in such group exceeds the United States price of the merchandise in such group, and

"(ii) the merchandise and the manufacturer are not specified by name in the affirmative dumping determination or in any antidumping duty order issued as a result of such affirmative dumping determination.

"(4) SHORT LIFE CYCLE MERCHANDISE.—The term 'short life cycle merchandise' means any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available. For purposes of this paragraph, the term

'outmoded' refers to a kind or style that is no longer state-of-the-art.

"(c) TRANSITIONAL RULES.—

"(1) For purposes of this section and section 733 (b)(1)(B) and (C), all affirmative dumping determinations described in subsection (b)(2)(A) that were made after December 31, 1980, and before the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, and all affirmative dumping determinations described in subsection (b)(2)(B) that were made after December 31, 1984, and before the date of enactment of such Act, with respect to each category of short life cycle merchandise of the same manufacturer shall be treated as one affirmative dumping determination with respect to that category for that manufacturer which was made on the date on which the latest of such determinations was made.

"(2) No affirmative dumping determination that—

"(A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or

"(B) is described in subsection (b)(2)(B) and was made before January 1, 1985,

may be taken into account under this section or section 733(b)(1)(B) and (C).".

(b) EXPEDITED DUMPING INVESTIGATIONS.—Section 733 (19 U.S.C. 1673) is amended as follows:

(1) Paragraph (1) of subsection (b)(1) is amended to read as follows:

"(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

"(B) IF CERTAIN SHORT LIFE CYCLE MERCHANDISE INVOLVED.—If a petition filed under section 732(b), or an investigation commenced under section 732(a), concerns short life cycle merchandise that is included in a product category established under section 739(a), subparagraph (A) shall be applied—

"(i) by substituting "120 days" for "160 days" if manufacturers that are second offenders account for a significant proportion of the merchandise under investigation, and

"(ii) by substituting "100 days" for "160 days" if manufacturers that are multiple offenders account for a significant proportion of the merchandise under investigation.

"(C) DEFINITIONS OF OFFENDERS.—For purposes of subparagraph (B)—

"(i) The term 'second offender' means a manufacturer that is specified in 2 affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

"(I) specified in both such determinations, and

"(II) within the scope of the product category referred to in subparagraph (B).

"(ii) The term 'multiple offender' means a manufacturer that is specified in 3 or more affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

"(I) specified in each of such determinations, and

"(II) within the scope of the product category referred to in subparagraph (B).".

(2) Paragraph (1) of subsection (c) is amended by inserting at the end thereof the following sentence: "No extension of a determination date may be made under this paragraph for any investigation in which a determination date provided for in subsection (b)(1)(B) applies unless the petitioner submits written notice to the administering authority of its consent to the extension.".

(3) Subsection (e)(1) is amended by adding at the end thereof the following flush sentence:

"The administering authority shall be treated as having made an affirmative determination under subparagraph (A) in any investigation to which subsection (b)(1)(B) is applied.".

(c) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 739 the following:

"Sec. 739. Establishment of product categories for short life cycle merchandise.".

SEC. 1324. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) Section 702 (19 U.S.C. 1671a) is amended by adding at the end thereof the following new subsection:

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that the alleged subsidy is inconsistent with the Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 705(a), the investigation is terminated, or the administering authority withdraws the request.".

(2) Paragraph (1) of section 703(e) (19 U.S.C. 1671b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 705(b)(4) (19 U.S.C. 1671d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of a countervailing duty on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time and will be difficult to repair.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the countervailing duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of countervailing duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the countervailing duty order under this subtitle.".

(b) ANTIDUMPING DUTY INVESTIGATIONS.—

(1) Section 732 (19 U.S.C. 1673a) is amended by adding at the end thereof the following new subsection:

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that—

"(1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

"(2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value,

the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 735(a), the investigation is terminated, or the administering authority withdraws the request.".

(2) Paragraph (1) of section 733(e) (19 U.S.C. 1673b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 735(b)(4) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the

Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this subtitle.".

SEC. 1325. EXPEDITED REVIEW AUTHORITY.

(a) In General.—Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)(1)) is amended to read as follows:

"(1) Conditions for waiver of deposit of estimated duties.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the investigation has not been designated as extraordinarily complicated by reason of—

"(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(ii) the novelty of the issues presented, or

"(iii) the number of firms whose activities must be investigated,

"(B) the final determination in the investigation has not been postponed under section 735(a)(2)(A);

"(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a), of the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(D) the party described in subparagraph (C) provides credible evidence that the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(E) the data concerning the foreign market value and the United States price apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.".

(b) Business Proprietary Information.—Subsection (c) of section 736 (19 U.S.C. 1673e(c)) is amended by adding at the end thereof the following new paragraph:

"(4) Provision of business proprietary information; written comments.—Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

"(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 777(c) to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 771(9), and

"(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.".

SEC. 1326. PROCESSED AGRICULTURAL PRODUCTS.

(a) Definition of Industry Producing Processed Agricultural Products.—Paragraph (4) of section 771 (19 U.S.C. 1677(4)) is amended by adding at the end thereof the following new subparagraph:

"(E) Industry producing processed agricultural products.—

"(i) In general.—Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if—

"(I) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and

"(II) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include price, added market value, or other economic interrelationships (regardless of whether such coincidence of economic interest is based upon any legal relationship).

"(ii) Processing.—For purposes of this subparagraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if—

"(I) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

"(II) the processed agricultural product is produced substantially or completely from the raw product.

"(iii) Relevant economic factors.—For purposes of clause (i)(II), in addition to such other factors it considers relevant to the question of coincidence of economic interest, the Commission shall—

"(I) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

"(II) if added market value is taken into account, consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

"(iv) Raw agricultural product.—For purposes of this subparagraph, the term 'raw agricultural product' means any farm or fishery product.

"(v) Termination of this subparagraph.—This subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.".

(b) Threat of Material Injury.—Section 771(7)(F) (19 U.S.C. 1677(7)(F)) is amended—

(1) by striking out "and" at the end of subclause (VII);

(2) by striking out the period at the end of subclause (VIII) and inserting ", and"; and

(3) by adding at the end thereof the following:

"(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both).".

(c) Interested Parties.—Section 771(9) (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) in any investigation under this title involving an industry engaged in producing a processed agricultural product, as defined in paragraph (4)(E), a coalition or trade association which is representative of either—

"(i) processors,

"(ii) processors and producers, or

"(iii) processors and growers,

but this subpararaph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.".

(d) Conforming Amendments.—

(1) Title VII of the Tariff Act of 1930 is amended by striking out "subparagraph (C), (D), (E), or (F) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), (F), or (G) of section 771(9)".

(2) Title VII of the Tariff Act of 1930 is amended by striking out "subparagraph (C), (D), (E), and (F) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), (F), or (G) of section 771(9)".

(3) Subsection (a) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Any producer of a raw agricultural product who is considered under section 771(4)(E) to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.".

SEC. 1327. LEASES EQUIVALENT TO SALES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(19) Equivalency of leases to sales.—In determining whether a lease is equivalent to a sale for purposes of this title, the administering authority shall consider—

"(A) the terms of the lease,

"(B) commercial practice within the industry,

"(C) the circumstances of the transaction,

"(D) whether the product subject to the lease is integrated into the operations of the lessee or importer,

"(E) whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time, and

"(F) other relevant factors, including whether the lease transaction would permit avoidance of antidumping or countervailing duties.".

SEC. 1328. MATERIAL INJURY.

Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) VOLUME AND CONSEQUENT IMPACT.—In making determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission, in each case—

"(i) shall consider—

"(I) the volume of imports of the merchandise which is the subject of the investigation,

"(II) the effect of imports of that merchandise on prices in the United States for like products, and

"(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

"(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

In the notification required under section 705(d) or 735(d), as the case may be, the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination."; and

(2) by amending subparagraph (C)—

(A) by amending the heading to read as follows:

"(C) EVALUATION OF RELEVANT FACTORS.—",

(B) by striking out "price undercutting" in clause (ii) and inserting "price underselling", and

(C) by amending clause (iii) to read as follows:

"(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

"(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(II) factors affecting domestic prices,

"(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

"(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.".

SEC. 1329. THREAT OF MATERIAL INJURY.

Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1326) is further amended—

(1) by striking out "and" at the end of clause (i)(VIII),

(2) by striking out the period at the end of clause (i)(IX),

(3) by adding at the end of clause (i) the following new subclause:

"(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.", and

(4) by adding at the end thereof the following:

"(iii) EFFECT OF DUMPING IN THIRD-COUNTRY MARKETS.—

"(I) IN GENERAL.—In investigations under subtitle B, the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign manufacturer, exporter, or United States importer concerning this issue.

"(II) GATT MEMBER MARKET.—For purposes of this clause, the term 'GATT member market' means the market of any country which is a signatory to The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

"(III) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities shall be treated as a foreign country.".

SEC. 1330. CUMULATION.

(a) THREAT OF INJURY.—Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1329) is further amended by adding at the end thereof the following new clause:

"(iv) CUMULATION.—To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i) (III) and (IV) the Commission may cumulatively assess the volume and price effects of imports from two or more countries if such imports—

"(I) compete with each other, and with like products of the domestic industry, in the United States market, and

"(II) are subject to any investigation under section 303, 701, or 731.".

(b) TREATMENT OF NEGLIGIBLE IMPORTS.—Subparagraph (C) of section 771(7) (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(v) TREATMENT OF NEGLIGIBLE IMPORTS.—The Commission is not required to apply clause (iv) or subparagraph (F)(iv) in any case in which the Commission determines that imports of the merchandise subject to investigation are negligible and have no discernable adverse impact on the domestic industry. For purposes of making such determination, the Commission shall evaluate all relevant economic factors regarding the imports, including, but not limited to, whether—

"(I) the volume and market share of the imports are negligible,

"(II) sales transactions involving the imports are isolated and sporadic, and

"(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

For purposes of this clause, the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.".

SEC. 1331. CERTIFICATION OF SUBMISSIONS.

Section 776 (19 U.S.C. 1677e) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively,

(2) by amending the heading to subsection (b) (as so redesignated) to read as follows: "(b) VERIFICATION.—", and

(3) by inserting before such subsection (b) the following:

"(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.".

SEC. 1332. ACCESS TO INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)(1)(B)(ii) to read as follows:

"(ii) a statement to the administering authority or the Commission that the business proprietary information is of a type that should not be released under administrative protective order.";

(2) by amending subsection (c)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during a proceeding."; and

(B) by adding at the end thereof the following new subparagraphs:

"(C) TIME LIMITATION ON DETERMINATIONS.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

"(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted, or

"(ii) if—

"(I) the person that submitted the information raises objection to its release, or

"(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted.

"(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

"(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date; and

"(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

"(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.";

(3) by striking out "or the Commission denies a request for proprietary information submitted by the petitioner or an interested party in support of the petitioner concerning the domestic price or cost of production of the like product," in subsection (c)(2); and

(4) by adding at the end thereof the following new subsections:

"(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order; however, a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

"(e) TIMELY SUBMISSIONS.—Information shall be submitted to the administering authority or the Commission during the course of a proceeding on a timely basis and shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. If information is submitted without an adequate opportunity for other parties to comment thereon, the administering authority or the Commission may return the information to the party submitting it and not consider it.".

SEC. 1333. CORRECTION OF MINISTERIAL ERRORS.

(a) FINAL DETERMINATIONS.—Sections 705 and 735 (19 U.S.C. 1671d and 1673d) are each amended by adding at the end thereof the following new subsection:

"(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

(b) ADMINISTRATIVE REVIEW.—Section 751 (19 U.S.C. 1675) is amended by adding at the end thereof the following new subsection:

"(f) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

SEC. 1334. DRAWBACK TREATMENT.

(a) IN GENERAL.—Section 779 (19 U.S.C. 1677h) is amended by striking out "shall be treated as any other customs duties." and inserting "shall not be treated as being regular customs duties.".

(b) CONFORMING AMENDMENTS—

(1) The section heading for such section 779 is amended by striking out "DRAWBACKS" and inserting "DRAWBACK TREATMENT".

(2) The table of contents for title VII of the Tariff Act of 1930 is amended by striking out "Drawbacks." in the entry for section 779 and inserting "Drawback treatment.".

SEC. 1335. GOVERNMENTAL IMPORTATIONS.

Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) (as amended by section 1316(b)) is amended by adding at the end thereof the following new paragraph:

"(19) APPLICATION TO GOVERNMENTAL IMPORTATIONS.—

"(A) IN GENERAL.—Except as otherwise provided by this paragraph, merchandise imported by, or for the use of, a department or agency of the United States Government (including merchandise provided for under schedule 8 of the Tariff Schedules of the United States) is subject to the imposition of countervailing duties or antidumping duties under this title or section 303.

"(B) EXCEPTIONS.—Merchandise imported by, or for the use of, the Department of Defense shall not be subject to the imposition of countervailing or antidumping duties under this title if—

"(i) the merchandise is acquired by, or for use of, such Department—

"(I) from a country with which such Department had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superceding agreements, and

"(II) in accordance with terms of the Memorandum of Understanding in effect at the time of importation, or

"(ii) the merchandise has no substantial nonmilitary use.".

SEC. 1336. STUDIES.

(a) STUDY OF MARKET ORIENTATION OF CHINA.—The Secretary of Commerce, in consultation with the heads of other appropriate Federal agencies, shall undertake a study regarding the new market orientation of the People's Republic of China. The study shall address, but not be limited to—

(1) the effect of the new orientation on Chinese market policies and price structure, and the relationship between domestic Chinese prices and world prices;

(2) the extent to which United States trade law practices can accommodate the increased market orientation of the Chinese economy; and

(3) the possible need for changes in United States antidumping laws as they apply to foreign countries, such as China, which are in transition to a more market-oriented economy.

The Secretary of Commerce shall submit to the Congress within 1 year after the date of the enactment of this Act a report on the study required under this subsection.

(b) SUBSIDIES CODE COMMITMENTS.—Within 90 days after the date of the enactment of this Act, the United States Trade Representative shall initiate a review of all bilateral subsidy commitments that have been entered into by foreign governments with the United States. The review shall include—

(1) an evaluation of the extent to which the commitments have been complied with;

(2) with respect to those commitments found under paragraph (1) not to have been complied with, an estimate regarding when compliance is likely; and

(3) recommendations regarding how compliance can be improved.

The United States Trade Representative shall complete the review required under this subsection and submit a report thereon to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 180 days after the date of the enactment of this Act.

SEC. 1337. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) INVESTIGATIONS AND REVIEWS AFTER ENACTMENT.—The amendments made by sections 1312, 1315, 1316, 1318, 1325, 1326, 1327, 1328, 1329, 1331, and 1332 shall only apply with respect to—

(1) investigations initiated after the date of enactment of this Act, and

(2) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act.

(c) INVESTIGATIONS AFTER ENACTMENT.—The amendments made by sections 1324 and 1330 shall only apply with respect to investigations initiated after the date of enactment of this Act.

(d) PREVENTION OF CIRCUMVENTION OF DUTIES; DRAWBACK.—The provisions of section 781 of the Tariff Act of 1930, as added by section 1321(a), and the amendments made by section 1334 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

(e) GOVERNMENTAL IMPORTATIONS; STEEL.—The amendments made by sections 1321(b) and 1335 shall apply with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after the date of enactment of this Act.

(f) FICTITIOUS MARKETS.—The amendment made by section 1319 shall only apply with respect to—

(1) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act, and

(2) reviews initiated under such sections—

(A) which are pending on the date of enactment of this Act, and

(B) in which a request for revocation is pending on the date of enactment of this Act.

PART 3—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

SEC. 1341. CONGRESSIONAL FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) United States persons that rely on protection of intellectual property rights are among the most advanced and competitive in the world; and

(2) the existing protection under section 337 of the Tariff Act of 1930 against unfair

trade practices is cumbersome and costly and has not provided United States owners of intellectual property rights with adequate protection against foreign companies violating such rights.

(b) PURPOSE.—The purpose of this part is to amend section 337 of the Tariff Act of 1930 to make it a more effective remedy for the protection of United States intellectual property rights.

SEC. 1342. PROTECTION UNDER THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

"(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), and (D)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

"(i) to destroy or substantially injure an industry in the United States;

"(ii) to prevent the establishment of such an industry; or

"(iii) to restrain or monopolize trade and commerce in the United States.

"(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

"(i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17, United States Code; or

"(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

"(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946.

"(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

"(2) Subparagraphs (B), (C), and (D) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, or mask work concerned, exists or is in the process of being established.

"(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, or mask work concerned—

"(A) significant investment in plant and equipment;

"(B) significant employment of labor or capital; or

"(C) substantial investment in its exploitation, including engineering, research and development, or licensing.

"(4) For the purposes of this section, the phrase 'owner, importer, or consignee' includes any agent of the owner, importer, or consignee.".

(2) Subsection (c) is amended by inserting before the period in the first sentence the following: ", except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination".

(3) Subsection (e) is amended—

(A) by striking out "If" in the first sentence and inserting "(1) If"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection.

"(3) The Commission may grant preliminary relief under this subsection or subsection (f) to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.".

(4) Subsection (f) is amended—

(A) by striking out "In lieu of" in paragraph (1) and inserting "In addition to, or in lieu of,"; and

(B) by striking out "$10,000 or" in paragraph (2) and inserting "$100,000 or twice".

(5) Such section is further amended—

(A) by redesignating subsections (g), (h), (i), and (j) as subsections (j), (k), (l), and (m), respectively; and

(B) by inserting after subsection (f) the following new subsections:

"(g)(1) If—

"(A) a complaint is filed against a person under this section;

"(B) the complaint and a notice of investigation are served on the person;

"(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

"(D) the person fails to show good cause why the person should not be found in default; and

"(E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

"(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

"(A) no person appears to contest an investigation concerning a violation of the provisions of this section, and

"(B) such a violation is established by substantial, reliable, and probative evidence.

"(h) The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

"(i) FORFEITURE.—

"(1) In addition to taking action under subsection (d), the Commission may issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

"(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

"(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d); and

"(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

"(i) such order, and

"(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

"(2) The Commission shall notify the Secretary of the Treasury of any order issued under this subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

"(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

"(4) The Secretary of the Treasury shall provide—

"(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d); and

"(B) a copy of such written notice to the Commission.".

(6) Subsection (k) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by inserting "(1)" before the first sentence; and

(B) by adding at the end the following:

"(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i)—

"(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

"(B) relief may be granted by the Commission with respect to such petition—

"(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

"(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.".

(7) Subsection (l) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by striking out "claims of United States letters patent" in the first sentence and inserting "a proceeding involving a patent, copyright, or mask work under subsection (a)(1)"; and

(B) by striking out "a patent owner" in the second sentence and inserting "an owner of the patent, copyright, or mask work".

(8) Such section is further amended by adding at the end the following:

"(n)(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it.

"(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

"(A) an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted,

"(B) an officer or employee of the United States Government who is directly involved in the review under subsection (h), or

"(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.".

(b) Technical Amendments.—Section 337 (as amended by subsection (a)) is further amended—

(1) by amending subsection (b)—

(A) by striking out "Department of Health, Education, and Welfare" in paragraph (2) and inserting "Department of Health and Human Services; and

(B) by striking out "Secretary of the Treasury" in paragraph (3) and inserting "Secretary of Commerce".

(2) by amending subsection (c)—

(A) by striking out "or (f)" and inserting "(f), or (g)", and

(B) by striking out "and (f)" and inserting "(f), and (g)";

(3) by striking out "or (f)" each place it appears in subsection (j) and inserting "(f), (g), or (i)";

(4) by striking out "(g)" in subsection (k) and inserting "(j)"; and

(5) by striking out "or (f)" in subsection (l) and inserting "(f), (g), or (i)".

(c) Conforming Amendment.—The Act entitled "An Act to limit the importation of products made, produced, processed, or mined under process covered by unexpired valid United States patents, and for other purposes", approved July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a), is repealed.

(d) Effective Date.—

(1)(A) Subject to subparagraph (B), the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) The United States International Trade Commission is not required to apply the provision in section 337(e)(2) of the Tariff Act of 1930 (as amended by subsection (a)(3) of this section) relating to the posting of bonds until the earlier of—

(i) the 90th day after such date of enactment; or

(ii) the day on which the Commission issues interim regulations setting forth the procedures relating to such posting.

(2) Notwithstanding any provision of section 337 of the Tariff Act of 1930, the United States International Trade Commission may extend, by not more than 90 days, the period within which the Commission is required to make a determination in an investigation conducted under such section 337 if—

(A) the Commission would, but for this paragraph, be required to make such determination before the 180th day after the date of enactment of this Act; and

(B) the Commission finds that the investigation is complicated.

PART 4—TELECOMMUNICATIONS TRADE

SEC. 1371. SHORT TITLE.

This part may be cited as the "Telecommunications Trade Act of 1988".

SEC. 1372. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds that—

(1) rapid growth in the world market for telecommunications products and services is likely to continue for several decades;

(2) the United States can improve prospects for—

(A) the growth of—

(i) United States exports of telecommunications products and services, and

(ii) export-related employment and consumer services in the United States, and

(B) the continuance of the technological leadership of the United States,

by undertaking a program to achieve an open world market for trade in telecommunications products, services, and investment;

(3) most foreign markets for telecommunications products, services, and investment are characterized by extensive government intervention (including restrictive import practices and discriminatory procurement practices) which adversely affect United States exports of telecommunications products and services and United States investment in telecommunications;

(4) the open nature of the United States telecommunications market, accruing from the liberalization and restructuring of such market, has contributed, and will continue to contribute, to an increase in imports of telecommunications products and a growing imbalance in competitive opportunities for trade in telecommunications;

(5) unless this imbalance is corrected through the achievement of mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries, the United States should avoid granting continued open access to the telecommunications products and services of such foreign countries in the United States market; and

(6) the unique business conditions in the worldwide market for telecommunications products and services caused by the combination of deregulation and divestiture in the United States, which represents a unilateral liberalization of United States trade with the rest of the world, and continuing government intervention in the domestic industries of many other countries create a need to make an exception in the case of telecommunications products and services that should not necessarily be a precedent for legislating specific sectoral priorities in combating the closed markets or unfair foreign trade practices of other countries.

(b) Purposes.—The purposes of this part are—

(1) to foster the economic and technological growth of, and employment in, the United States telecommunications industry;

(2) to secure a high quality telecommunications network for the benefit of the people of the United States;

(3) to develop an international consensus in favor of open trade and competition in telecommunications products and services;

(4) to ensure that countries which have made commitments to open telecommunications trade fully abide by those commitments; and

(5) to achieve a more open world trading system for telecommunications products and services through negotiation and provision of mutually advantageous market opportunities for United States telecommunications exporters and their subsidiaries in those markets in which barriers exist to free international trade.

SEC. 1373. DEFINITIONS.

For purposes of this part—

(1) The term "Trade Representative" means the United States Trade Representative.

(2) The term "telecommunications product" means—

(A) any paging devices provided for under item 685.65 of such Schedules, and

(B) any article classified under any of the following item numbers of such Schedules:

684.57
684.58
684.59
684.65
684.66
684.67
684.80
685.16
685.24
685.25
685.28
685.30
685.31
685.33
685.34
685.39
685.48
688.17
688.41
707.90

SEC. 1374. INVESTIGATION OF FOREIGN TELECOMMUNICATIONS TRADE BARRIERS.

(a) In General.—The Trade Representative shall conduct an investigation to identify priority foreign countries. Such investigation shall be concluded by no later than the date that is 5 months after the date of enactment of this Act.

(b) Factors To Be Taken Into Account.—In identifying priority foreign countries under subsection (a), the Trade Representative shall take into account, among other relevant factors—

(1) the nature and significance of the acts, policies, and practices that deny mutually advantageous market opportunities to telecommunications products and services of United States firms;

(2) the economic benefits (actual and potential) accruing to foreign firms from open access to the United States market;

(3) the potential size of the market of a foreign country for telecommunications products and services of United States firms;

(4) the potential to increase United States exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and

(5) measurable progress being made to eliminate the objectionable acts, policies, or practices.

(c) Revocations and Additional Identifications.—

(1) The Trade Representative may at any time, after taking into account the factors described in subsection (b)—

(A) revoke the identification of any priority foreign country that was made under this section, or

(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) of the Trade Act of 1974 a detailed explanation of the reasons for the revocation under paragraph (1)

of this subsection of any identification of any foreign country as a priority foreign country.

(d) REPORT TO CONGRESS.—By no later than the date that is 30 days after the date on which the investigation conducted under subsection (a) is completed, the United States Trade Representative shall submit a report on the investigation to the President and to appropriate committees of the Congress.

SEC. 1375. NEGOTIATIONS IN RESPONSE TO INVESTIGATION.

(a) IN GENERAL.—Upon—

(1) the date that is 30 days after the date on which any foreign country is identified in the investigation conducted under section 1374(a) as a priority foreign country, and

(2) the date on which any foreign country is identified under section 1374(c)(1)(B) as a priority foreign country,

the President shall enter into negotiations with such priority foreign country for the purpose of entering into a bilateral or multilateral trade agreement under part 1 of subtitle A which meets the specific negotiating objectives established by the President under subsection (b) for such priority foreign country.

(b) ESTABLISHMENT OF SPECIFIC NEGOTIATING OBJECTIVES FOR EACH FOREIGN PRIORITY COUNTRY.—

(1) The President shall establish such relevant specific negotiating objectives on a country-by-country basis as are necessary to meet the general negotiating objectives of the United States under this section.

(2)(A) The President may refine or modify specific negotiating objectives for particular negotiations in order to respond to circumstances arising during the negotiating period, including—

(i) changed practices by the priority foreign country,

(ii) tangible substantive developments in multilateral negotiations,

(iii) changes in competitive positions, technological developments, or

(iv) other relevant factors.

(B) By no later than the date that is 30 days after the date on which the President makes any modifications or refinements to specific negotiating objectives under subparagraph (A), the President shall submit to appropriate committees of the Congress a statement describing such modifications or refinements and the reasons for such modifications or refinements.

(c) GENERAL NEGOTIATING OBJECTIVES.—The general negotiating objectives of the United States under this section are—

(1) to obtain multilateral or bilateral agreements (or the modification of existing agreements) that provide mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries;

(2) to correct the imbalances in market opportunities accruing from reductions in barriers to the access of telecommunications products and services of foreign firms to the United States market; and

(3) to facilitate the increase in United States exports of telecommunications products and services to a level of exports that reflects the competitiveness of the United States telecommunications industry.

(d) SPECIFIC NEGOTIATING OBJECTIVES.—The specific negotiating objectives of the United States under this section regarding telecommunications products and services are to obtain—

(1) national treatment for telecommunications products and services that are provided by United States firms;

(2) most-favored-nation treatment for such products and services;

(3) nondiscriminatory procurement policies with respect to such products and services and the inclusion under the Agreement on Government Procurement of the procurement (by sale or lease by government-owned or controlled entities) of all telecommunications products and services;

(4) the reduction or elimination of customs duties on telecommunications products;

(5) the elimination of subsidies, violations of intellectual property rights, and other unfair trade practices that distort international trade in telecommunications products and services;

(6) the elimination of investment barriers that restrict the establishment of foreign-owned business entities which market such products and services;

(7) assurances that any requirement for the registration of telecommunications products, which are to be located on customer premises, for the purposes of—

(A) attachment to a telecommunications network in a foreign country, and

(B) the marketing of the products in a foreign country,

be limited to the certification by the manufacturer that the products meet the standards established by the foreign country for preventing harm to the network or network personnel;

(8) transparency of, and open participation in, the standards-setting processes used in foreign countries with respect to telecommunications products;

(9) the ability to have telecommunications products, which are to be located on customer premises, approved and registered by type, and, if appropriate, the establishment of procedures between the United States and foreign countries for the mutual recognition of type approvals;

(10) access to the basic telecommunications network in foreign countries on reasonable and nondiscriminatory terms and conditions (including nondiscriminatory prices) for the provision of value-added services by United States suppliers;

(11) the nondiscriminatory procurement of telecommunications products and services by foreign entities that provide local exchange telecommunications services which are owned, controlled, or, if appropriate, regulated by foreign governments; and

(12) monitoring and effective dispute settlement mechanisms to facilitate compliance with matters referred to in the preceding paragraphs of this subsection.

SEC. 1376. ACTIONS TO BE TAKEN IF NO AGREEMENT OBTAINED.

(a) IN GENERAL.—

(1) If the President is unable, before the close of the negotiating period, to enter into an agreement under subtitle A with any priority foreign country identified under section 1374 which achieves the general negotiating objectives described in section 1375(b) as defined by the specific objectives established by the President for that country, the President shall take whatever actions authorized under subsection (b) that are appropriate and most likely to achieve such general negotiating objectives.

(2) In taking actions under paragraph (1), the President shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the President determines that actions against other economic sectors would be more effective in achieving the general negotiating objectives referred to in paragraph (1).

(b) ACTIONS AUTHORIZED.—

(1) The President is authorized to take any of the following actions under subsection (a) with respect to any priority foreign country:

(A) termination, withdrawal, or suspension of any portion of any trade agreement entered into with such country under—

(i) the Trade Act of 1974,

(ii) section 201 of the Trade Expansion Act of 1962, or

(iii) section 350 of the Tariff Act of 1930,

with respect to any duty or import restriction imposed by the United States on any telecommunications product;

(B) actions described in section 301 of the Trade Act of 1974;

(C) prohibition of purchases by the Federal Government of telecommunications products of such country;

(D) increases in domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) for purchases by the Federal Government of telecommunications products of such country;

(E) suspension of any waiver of domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) which may have been extended to such country pursuant to the Trade Agreements Act of 1979 with respect to telecommunications products or any other products;

(F) issuance of orders to appropriate officers and employees of the Federal Government to deny Federal funds or Federal credits for purchases of the telecommunications products of such country; and

(G) suspension, in whole or in part, of benefits accorded articles of such country under title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.).

(2) Notwithstanding section 125 of the Trade Act of 1974 and any other provision of law, if any portion of a trade agreement described in paragraph (1)(A) is terminated, withdrawn, or suspended under paragraph (1) with respect to any duty imposed by the United States on the products of a foreign country, the rate of such duty that shall apply to such products entered, or withdrawn from warehouse for consumption, after the date on which such termination, withdrawal, or suspension takes effect shall be a rate determined by the President.

(c) NEGOTIATING PERIOD.—

(1) For purposes of this section, the term "negotiating period" means—

(A) with respect to a priority foreign country identified in the investigation conducted under section 1374(a), the 18-month period beginning on the date of the enactment of this Act, and

(B) with respect to any foreign country identified as a priority foreign country after the conclusion of such investigation, the 1-year period beginning on the date on which such identification is made.

(2)(A) The negotiating period with respect to a priority foreign country may be extended for not more than two 1-year periods.

(B) By no later than the date that is 15 days after the date on which the President extends the negotiating period with respect to any priority foreign country, the President shall submit to appropriate committees of the Congress a report on the status of negotiations with such country that includes—

(i) a finding by the President that substantial progress is being made in negotiations with such country, and

(ii) a statement detailing the reasons why an extension of such negotiating period is necessary.

(d) MODIFICATION AND TERMINATION AUTHORITY.—The President may modify or terminate any action taken under subsection (a) if, after taking into consideration the factors described in section 1374(b), the President determines that changed circumstances warrant such modification or termination.

(e) REPORT.—The President shall promptly inform the appropriate committees of the Congress of any action taken under subsection (a) or of the modification or termination of any such action under subsection (d).

SEC. 1377. REVIEW OF TRADE AGREEMENT IMPLEMENTATION BY TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) In conducting the annual analysis under section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241), the Trade Representative shall review the operation and effectiveness of—

(A) each trade agreement negotiated by reason of this part that is in force with respect to the United States; and

(B) every other trade agreement regarding telecommunications products or services that is in force with respect to the United States.

(2) In each review conducted under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that has entered into the agreement described in paragraph (1)—

(A) is not in compliance with the terms of such agreement, or

(B) otherwise denies, within the context of the terms of such agreement, to telecommunications products and services of United States firms mutually advantageous market opportunities in that foreign country.

(b) Review Factors.—

(1) In conducting reviews under subsection (a), the Trade Representative shall consider any evidence of actual patterns of trade (including United States exports to a foreign country of telecommunications products and services, including sales and services related to those products) that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of such products and services.

(2) The Trade Representative shall consult with the United States International Trade Commission with regard to the actual patterns of trade described in paragraph (1).

(c) ACTION IN RESPONSE TO AFFIRMATIVE DETERMINATION.—

(1) Any affirmative determination made by the Trade Representative under subsection (a)(2) with respect to any act, policy, or practice of a foreign country shall, for purposes of chapter 1 of title III of the Trade Act of 1974, be treated as an affirmative determination under section 304(a)(1)(A) of such Act that such act, policy, or practice violates a trade agreement.

(2) In taking actions under section 301 by reason of paragraph (1), the Trade Representative shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the Trade Representative determines that actions against other economic sectors would be more effective in achieving compliance by the foreign country with the trade agreement that is the subject of the affirmative determination made under subsection (a)(2).

SEC. 1378. COMPENSATION AUTHORITY.

If—

(1) the President has taken action under section 1376(a) with respect to any foreign country, and

(2) such action is found to be inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade,

the President may enter into trade agreements with such foreign country for the purpose of granting new concessions as compensation for such action in order to maintain the general level of reciprocal and mutually advantageous concessions.

SEC. 1379. CONSULTATIONS.

(a) ADVICE FROM DEPARTMENTS AND AGENCIES.—Prior to taking any action under this part, the President shall seek information and advice from the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872).

(b) ADVICE FROM THE PRIVATE SECTOR.—Before—

(1) the Trade Representative concludes the investigation conducted under section 1374(a) or takes action under section 1374(c),

(2) the President establishes specific negotiating objectives under section 1375(b) with respect to any foreign country, or

(3) the President takes action under section 1376,

the Trade Representative shall provide an opportunity for the presentation of views by any interested party with respect to such investigation, objectives, or action, including appropriate committees established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(c) CONSULTATIONS WITH CONGRESS AND OFFICIAL ADVISORS.—For purposes of conducting negotiations under section 1375(a), the Trade Representative shall keep appropriate committees of the Congress, as well as appropriate committees established pursuant to section 135 of the Trade Act of 1974, currently informed with respect to—

(1) the negotiating priorities and objectives for each priority foreign country;

(2) the assessment of negotiating prospects, both bilateral and multilateral; and

(3) any United States concessions which might be included in negotiations to achieve the objectives described in subsections (c) and (d) of section 1375.

(d) MODIFICATION OF SPECIFIC NEGOTIATING OBJECTIVES.—Before the President takes any action under section 1375(b)(2)(A) to refine or modify specific negotiating objectives, the President shall consult with the Congress and with members of the industry, and representatives of labor, affected by the proposed refinement or modification.

SEC. 1380. SUBMISSION OF DATA; ACTION TO ENSURE COMPLIANCE.

(a) SUBMISSION OF DATA.—The Federal Communications Commission (hereafter in this section referred to as the "Commission") shall periodically submit to appropriate committees of the House of Representatives and of the Senate any data collected and otherwise made public under Report No. DC-1105, "Information Reporting Requirements Established for Common Carriers", adopted February 25, 1988, relating to FCC Docket No. 86-494, adopted December 23, 1987.

(b) ACTION TO ENSURE COMPLIANCE.—

(1)(A) Any product of a foreign country that is subject to registration or approval by the Commission may be entered only if—

(i) such product conforms with all applicable rules and regulations of the Commission, and

(ii) the information which is required on Federal Communications Commission Form 740 on the date of enactment of this Act is provided to the appropriate customs officer at the time of such entry in such form and manner as the Secretary of the Treasury may prescribe.

(B) For purposes of this paragraph, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The Commission, the Secretary of Commerce, and the Trade Representative shall provide such assistance in the enforcement of paragraph (1) as the Secretary of the Treasury may request.

(3) The Secretary of the Treasury shall compile the information collected under paragraph (1)(A)(ii) into a summary and shall annually submit such summary to the Congress until the authority to negotiate trade agreements under part 1 of subtitle A expires. Such information shall also be made available to the public.

SEC. 1381. STUDY ON TELECOMMUNICATIONS COMPETITIVENESS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Federal Communications Commission and the United States Trade Representative, shall conduct a study of the competitiveness of the United States telecommunications industry and the effects of foreign telecommunications policies and practices on such industry in order to assist the Congress and the President in determining what actions might be necessary to preserve the competitiveness of the United States telecommunications industry.

(b) PUBLIC COMMENT.—The Secretary of Commerce may, as appropriate, provide notice and reasonable opportunity for public comment as part of the study conducted under subsection (a).

(c) REPORT.—The Secretary of Commerce shall, by no later than the date that is 1 year after the date of enactment of this Act, submit to the Congress and the President a report on the findings and recommendations reached by the Secretary of Commerce as a result of the study conducted under subsection (a). Such report shall be referred to the appropriate committees of the House of Representatives and of the Senate.

SEC. 1382. INTERNATIONAL OBLIGATIONS.

Nothing in this part may be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

Subtitle D—Adjustment to Import Competition

PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

SEC. 1401. POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS.

(a) IN GENERAL.—Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251-2253) is amended to read as follows:

"CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

"SEC. 201. ACTION TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION.

"(a) Presidential Action.—If the United States International Trade Commission (hereinafter referred to in this chapter as the 'Commission') determines under section 202(b) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this chapter, shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

"(b) Positive Adjustment to Import Competition.—

"(1) For purposes of this chapter, a positive adjustment to import competition occurs when—

"(A) the domestic industry—

"(i) is able to compete successfully with imports after actions taken under section 204 terminate, or

"(ii) the domestic industry experiences an orderly transfer of resources to other productive pursuits; and

"(B) dislocated workers in the industry experience an orderly transition to productive pursuits.

"(2) The domestic industry may be considered to have made a positive adjustment to import competition even though the industry is not of the same size and composition as the industry at the time the petition was filed under subsection (a).

"SEC. 202. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION.

"(a) Petitions and Adjustment Plans.—

"(1) A petition requesting action under this chapter for the purpose of facilitating positive adjustment to import competition may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

"(2) A petition under paragraph (1)—

"(A) shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition; and

"(B) may—

"(i) subject to subsection (d)(1)(C)(i), request provisional relief under subsection (d)(1); or

"(ii) request, or at any time before the 150th day after the date of filing be amended to request, provisional relief under subsection (d)(2).

"(3) Whenever a petition is filed under paragraph (1), the Commission shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

"(4) A petitioner under paragraph (1) may submit to the Commission and the United States Trade Representative (hereafter in this chapter referred to as the 'Trade Representative'), either with the petition, or at any time within 120 days after the date of filing of the petition, a plan to facilitate positive adjustment to import competition.

"(5)(A) Before submitting an adjustment plan under paragraph (4), the petitioner and other entities referred to in paragraph (1) that wish to participate may consult with the Trade Representative, the officers and employees of any Federal agency that is considered appropriate by the Trade Representative, for purposes of evaluating the adequacy of the proposals being considered for inclusion in the plan in relation to specific actions that may be taken under this chapter.

"(B) A request for any consultation under subparagraph (A) must be made to the Trade Representative. Upon receiving such a request, the Trade Representative shall confer with the petitioner and provide such assistance, including publication of appropriate notice in the Federal Register, as may be practicable in obtaining other participants in the consultation. No consultation may occur under subparagraph (A) unless the Trade Representative, or his delegate, is in attendance.

"(6)(A) In the course of any investigation under subsection (b), the Commission shall seek information (on a confidential basis, to the extent appropriate) on actions being taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

"(B) Regardless whether an adjustment plan is submitted under paragraph (4) by the petitioner, if the Commission makes an affirmative determination under subsection (b), any—

"(i) firm in the domestic industry;

"(ii) certified or recognized union or group of workers in the domestic industry;

"(iii) local community;

"(iv) trade association representing the domestic industry; or

"(v) any other person or group of persons, may, individually, submit to the Commission commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition.

"(7) Nothing in paragraphs (5) and (6) may be construed to provide immunity under the antitrust laws.

"(b) Investigations and Determinations by Commission.—

"(1)(A) Upon the filing of a petition under subsection (b), the request of the President or the Trade Representative, the resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, or on its own motion, the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

"(B) For purposes of this section, the term 'substantial cause' means a cause which is important and not less than any other cause.

"(2)(A) Except as provided in subparagraph (B), the Commission shall make the determination under paragraph (1) within 120 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

"(B) If before the 100th day after a petition is filed under subsection (a)(1) the Commission determines that the investigation is extraordinarily complicated, the Commission shall make the determination under paragraph (1) within 150 days after the date referred to in subparagraph (A).

"(3)(A) If the Commission makes an affirmative determination under paragraph (1) and the petitioner alleges the existence of critical circumstances, the Commission shall make a determination regarding such allegation—

"(i) on or before the 120th day after the day on which the petition was filed, if such allegation was included in the petition on or before the 90th day after such filing date; or

"(ii) on or before the date the report required under subsection (f) regarding the determination is submitted to the President, if such allegation was included in the petition after the 90th day, and on or before the 150th day, after such filing date.

"(B) For purposes of this paragraph and subsection (d)(2), critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

"(4) In the course of any proceeding under this subsection, the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), and to be heard at such hearings.

"(c) Factors Applied in Making Determinations.—

"(1) In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

"(A) with respect to serious injury—

"(i) the significant idling of productive facilities in the domestic industry,

"(ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

"(iii) significant unemployment or underemployment within the domestic industry;

"(B) with respect to threat of serious injury—

"(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,

"(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

"(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

"(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

"(2) In making determinations under subsection (b), the Commission shall—

"(A) consider the condition of the domestic industry over the course of the relevant business cycle, but may not aggregate the causes of declining demand associated with a recession or economic downturn in the

United States economy into a single cause of serious injury or threat of injury; and

"(B) examine factors other than imports which may be a cause of serious injury, or threat of serious injury, to the domestic industry.

The Commission shall include the results of its examination under subparagraph (B) in the report submitted by the Commission to the President under subsection (e).

"(3) The presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) of paragraph (1) is not necessarily dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.

"(4) For purposes of subsection (b), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

"(A) to the extent information is available, shall, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production;

"(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article; and

"(C) may, in the case of one or more domestic producers which produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as such domestic industry only that segment of the production located in such area.

"(5) In the course of any proceeding under this subsection, the Commission shall investigate any factor which in its judgment may be contributing to increased imports of the article under investigation. Whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

"(6) For purposes of this subsection:

"(A) The term 'domestic industry' includes producers located in the United States insular possession.

"(B) The term 'significant idling of productive facilities' includes the closing of plants or the underutilization of production capacity.

"(d) PROVISIONAL RELIEF.—

"(1)(A) An entity representing a domestic industry that produces a perishable agricultural product that is like or directly competitive with an imported perishable agricultural product may file a request with the Trade Representative for the monitoring of imports of that product under subparagraph (B). Within 21 days after receiving the request, the Trade Representative shall determine if—

"(i) the imported product is a perishable agricultural product; and

"(ii) there is a reasonable indication that such product is being imported into the United States in such increased quantities as to be, or likely to be, a substantial cause of serious injury, or the threat thereof, to such domestic industry.

"(B) If the determinations under subparagraph (A)(i) and (ii) are affirmative, the Trade Representative shall request, under section 332(g) of the Tariff Act of 1930, the Commission to monitor and investigate the imports concerned for a period not to exceed 2 years. The monitoring and investigation may include the collection and analysis of information that would expedite an investigation under subsection (b).

"(C) If a petition filed under subsection (a)—

"(i) alleges injury from imports of a perishable agricultural product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under paragraph (2) for not less than 90 days; and

"(ii) requests that provisional relief be provided under this subsection with respect to such imports;

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination, on the basis of available information, whether increased imports (either actual or relative to domestic production) of the perishable agricultural product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable product, and whether either—

"(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

"(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

"(D) At the request of the Commission, the Secretary of Agriculture shall promptly provide to the Commission any relevant information that the Department of Agriculture may have for purposes of making determinations and findings under this subsection.

"(E) Whenever the Commission makes an affirmative preliminary determination under subparagraph (C), the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury or threat thereof. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury or threat thereof.

"(F) The Commission shall immediately report to the President its determination under subparagraph (C) and, if the determination is affirmative, the finding under subparagraph (E).

"(G) Within 7 days after receiving a report from the Commission under subparagraph (F) containing an affirmative determination, the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (E), shall proclaim such provisional relief that the President considers necessary to prevent or remedy the serious injury or threat thereof.

"(2)(A) The Commission shall, at the same time it makes an affirmative determination under subsection (b)(3)(A) regarding the existence of critical circumstances, find the amount or extent of provisional relief that is appropriate to address such critical circumstances. The Commission shall immediately report to the President each such affirmative determination and finding.

"(B) After receiving a report from the Commission under subparagraph (A), the President shall, within 7 days after the day on which the report is received and after taking into account the finding of the Commission under subparagraph (A), proclaim such provisional relief, if any, that the President considers appropriate to address the critical circumstances.

"(3) If provisional relief is proclaimed under paragraph (1)(G) or (2)(B) in the form of an increase, or the imposition of, a duty, the President shall order the suspension of liquidation of all imported articles subject to the affirmative determination under paragraph (1)(C) or subsection (b)(1), as the case may be, that are entered, or withdrawn from warehouse for consumption, on or after the date of the determination.

"(4)(A) Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

"(i) if such relief was proclaimed under paragraph (1)(G), the Commission makes a negative determination under section 203(a) regarding injury or the threat thereof by imports of such article;

"(ii) action described in section 203(a)(3)(A) or (C) takes effect under section 203 with respect to such article;

"(iii) a decision by the President not to take any action under section 203(a) with respect to such article becomes final; or

"(iv) whenever the President determines that, because of changed circumstances, such relief is no longer warranted.

"(B) Any suspension of liquidation ordered under paragraph (3) with respect to an imported article shall terminate on the day on which provisional relief is terminated under subparagraph (A) with respect to the article.

"(C) If an increase in, or the imposition of, a duty that is proclaimed under section 203 on an imported article is different from a duty increase or imposition that was proclaimed for such an article under this section, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

"(D) If provisional relief in the form of an increase in, or the imposition of, a duty is proclaimed under this section with respect to an imported article and neither a duty increase nor a duty imposition is proclaimed under section 203 regarding such article, the entry of any such article for which liquidation was suspended under paragraph (3) may be liquidated at the rate of duty that applied before provisional relief was provided.

"(5) For purposes of this subsection:

"(A) A perishable agricultural product is any agricultural article, including livestock, regarding which the Trade Representative considers action under this section to be appropriate after taking into account—

"(i) whether the article has—

"(I) a short shelf life,

"(II) a short growing season, or

"(III) a short marketing period,

"(ii) whether the article is treated as a perishable product under any other Federal law or regulation; and

"(iii) any other factor considered appropriate by the Trade Representative.

The presence or absence of any factor which the Trade Representative is required to take into account under clauses (i), (ii), or (iii) is not necessarily dispositive of whether an article is a perishable agricultural product.

"(B) The term 'provisional relief' means—

"(i) any increase in, or imposition of, any duty;

"(ii) any modification or imposition of any quantitative restriction on the importation of an article into the United States; or

"(iii) any combination of actions under clauses (i) and (ii).

"(e) Commission Recommendations.—

"(1) If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall also recommend the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

"(2) The Commission is authorized to recommend under paragraph (1)—

"(A) an increase in, or the imposition of, any duty on the imported article;

"(B) a tariff-rate quota on the article;

"(C) a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2; or

"(E) any combination of the actions described in subparagraphs (A) through (D).

"(3) The Commission shall specify the type, amount, and duration of the action recommended by it under paragraph (1). The limitations set forth in section 203(e) are applicable to the action recommended by the Commission.

"(4) In addition to the recommendation made under paragraph (1), the Commission may also recommend that the President—

"(A) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat; or

"(B) implement any other action authorized under law that is likely to facilitate positive adjustment to import competition.

"(5) For purposes of making its recommendation under this subsection, the Commission shall—

"(A) after reasonable notice, hold a public hearing at which all interested parties shall be provided an opportunity to present testimony and evidence; and

"(B) take into account—

"(i) the form and amount of action described in paragraph (2) (A), (B), and (C) that would prevent or remedy the injury or threat thereof,

"(ii) the objectives and actions specified in the adjustment plan, if any, submitted under subsection (a)(4),

"(iii) any individual commitment that was submitted to the Commission under subsection (a)(6),

"(iv) any information available to the Commission concerning the conditions of competition in domestic and world markets, and likely developments affecting such conditions during the period for which action is being requested, and

"(v) whether international negotiations may be constructive to address the injury or threat thereof or to facilitate adjustment.

"(6) Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the recommendation required to be made under paragraph (1) or that may be made under paragraph (3). Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (f), separate views regarding what action, if any, should be taken under section 203.

"(f) Report by Commission.—

"(1) The Commission shall submit to the President a report on each investigation undertaken under subsection (b). The report shall be submitted at the earliest practicable time, but not later than 180 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

"(2) The Commission shall include in the report required under paragraph (1) the following:

"(A) The determination made under subsection (b) and an explanation of the basis for the determination.

"(B) If the determination under subsection (b) is affirmative, the recommendations for action made under subsection (e) and an explanation of the basis for each recommendation.

"(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

"(D) The findings required to be included in the report under subsection (c)(2).

"(E) A copy of the adjustment plan, if any, submitted under section 201(b)(4).

"(F) Commitments submitted, and information obtained, by the Commission regarding steps that firms and workers in the domestic industry are taking, or plan to take, to facilitate positive adjustment to import competition.

"(G) A description of—

"(i) the short- and long-term effects that implementation of the action recommended under subsection (e) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers, and

"(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry is located, and on other domestic industries.

"(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (with the exception of the confidential information obtained under section 202(a)(6)(B) and any other information which the Commission determines to be confidential) and cause a summary thereof to be published in the Federal Register.

"(g) Expedited Consideration of Adjustment Assistance Petitions.—If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination. After receiving such notification—

"(1) the Secretary of Labor shall give expedited consideration to petitions by workers in the domestic industry for certification for eligibility to apply for adjustment assistance under chapter 2; and

"(2) the Secretary of Commerce shall give expedited consideration to petitions by firms in the domestic industry for certification of eligibility to apply for adjustment assistance under chapter 3.

"(h) Limitations on Investigations.—

"(1) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this chapter, unless 1 year has elapsed since the Commission made its report to the President of the results of such previous investigation.

"(2) If an article was the subject of an investigation under this section that resulted in any action described in section 203(a)(3) (A), (B), (C), or (G) being taken under section 203, no other investigation under this chapter may be initiated with respect to such article while such action is in effect or during the period beginning on the date on which such action terminates that is equal in duration to the period during which such action was in effect.

"SEC. 203. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

"(a) In General.—

"(1)(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the President shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

"(B) The action taken by the President under subparagraph (A) shall be to such extent, and for such duration, subject to subsection (e)(1), that the President determines to be appropriate and feasible under such subparagraph.

"(C) The interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 shall, with respect to each affirmative determination reported under section 202(f), make a recommendation to the President as to what action the President should take under subparagraph (A).

"(2) In determining what action to take under paragraph (1), the President shall take into account—

"(A) the recommendation and report of the Commission;

"(B) the extent to which workers and firms in the domestic industry are—

"(i) benefitting from adjustment assistance and other manpower programs, and

"(ii) engaged in worker retraining efforts;

"(C) the efforts being made, or to be implemented, by the domestic industry (including the efforts included in any adjustment plan or commitment submitted to the Commission under section 201(b)) to make a positive adjustment to import competition;

"(D) the probable effectiveness of the actions authorized under paragraph (3) to facilitate positive adjustment to import competition;

"(E) the short- and long-term economic and social costs of the actions authorized under paragraph (3) relative to their short- and long-term economic and social benefits and other considerations relative to the position of the domestic industry in the United States economy;

"(F) other factors related to the national economic interest of the United States, including, but not limited to—

"(i) the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided under this chapter,

"(ii) the effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles, and

"(iii) the impact on United States industries and firms as a result of international obligations regarding compensation;

"(G) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints;

"(H) the potential for circumvention of any action taken under this section;

"(I) the national security interests of the United States; and

"(J) the factors required to be considered by the Commission under section 202(e)(5).

"(3) The President may, for purposes of taking action under paragraph (1)—

"(A) proclaim an increase in, or the imposition of, any duty on the imported article;

"(B) proclaim a tariff-rate quota on the article;

"(C) proclaim a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) implement one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2;

"(E) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such article;

"(F) proclaim procedures necessary to allocate among importers by the auction of import licenses quantities of the article that are permitted to be imported into the United States;

"(G) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat thereof;

"(H) submit to Congress legislative proposals to facilitate the efforts of the domestic industry to make a positive adjustment to import competition;

"(I) take any other action which may be taken by the President under the authority of law and which the President considers appropriate and feasible for purposes of paragraph (1); and

"(J) take any combination of actions listed in subparagraphs (A) through (I).

"(4) The President shall take action under paragraph (1) within 60 days after receiving a report from the Commission containing an affirmative determination under section 202(b)(1) (or a determination under such section which he considers to be an affirmative determination by reason of section 330(d) of the Tariff Act of 1930); except that if a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received.

"(5) The President may, within 15 days after the date on which he receives a report from the Commission containing an affirmative determination under section 202(b)(1), request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to the industry in a supplemental report.

"(b) REPORTS TO CONGRESS.—

"(1) On the day the President takes action under subsection (a)(1), the President shall transmit to Congress a document describing the action and the reasons for taking the action. If the action taken by the President differs from the action required to be recommended by the Commission under section 202(e)(1), the President shall state in detail the reasons for the difference.

"(2) On the day on which the President decides that there is no appropriate and feasible action to take under subsection (a)(1) with respect to a domestic industry, the President shall transmit to Congress a document that sets forth in detail the reasons for the decision.

"(3) On the day on which the President takes any action under subsection (a)(1) that is not reported under paragraph (1), the President shall transmit to Congress a document setting forth the action being taken and the reasons therefor.

"(c) IMPLEMENTATION OF ACTION RECOMMENDED BY COMMISSION.—If the President reports under subsection (b) (1) or (2) that—

"(1) the action taken under subsection (a)(1) differs from the action recommended by the Commission under section 202(e)(1); or

"(2) no action will be taken under subsection (a)(1) with respect to the domestic industry;

the action recommended by the Commission shall take effect (as provided in subsection (c)(2)) upon the enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b)(1) or (2) is transmitted to the Congress.

"(d) TIME FOR TAKING EFFECT OF CERTAIN RELIEF.—

"(1) Except as provided in paragraph (2), any action described in subsection (a)(3) (A), (B), or (C), that is taken under subsection (a)(1) shall take effect within 15 days after the day on which the President proclaims the action, unless the President announces, on the date he decides to take such action, his intention to negotiate one or more orderly marketing agreements in which case the action under subsection (a)(3) (A), (B), or (C) shall be proclaimed and take effect within 90 days after the date of such decision.

"(2) If the contingency set forth in subsection (c) occurs, the President shall, within 30 days after the date of the enactment of the joint resolution referred to in such subsection, proclaim the action recommended by the Commission under section 202(e)(1).

"(e) LIMITATIONS ON ACTIONS.—

"(1) (A) The duration of the period in which action taken under this section may be in effect shall not exceed 8 years.

"(B) If the initial effective period for action taken under this section is less than 8 years, the President may extend the effective period once, but the aggregate of the initial period and the extension may not exceed 8 years.

"(2) Action may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B) only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury or threat thereof.

"(3) No action may be taken under this section which would increase a rate of duty to (or impose a rate) which is more than 50 percent ad valorem above the rate (if any) existing at the time the action is taken.

"(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article.

"(5) To the extent feasible, an effective period of more than 3 years for an action described in subsection (a)(3) (A), (B), or (C) shall be phased down during the period in which the action is taken, with the first reduction taking effect no later than the close of the day which is 3 years after the day on which such action first takes effect.

"(6)(A) The suspension, pursuant to any action taken under this section, of—

"(i) item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article; and

"(ii) the designation of any article as an eligible article for purposes of title V;

shall be treated as an increase in duty.

"(B) No proclamation providing for a suspension referred to in subparagraph (A) with respect to any article may be made by the President, nor may any such suspension be recommended by the Commission under section 203(c), unless the Commission, in addition to making an affirmative determination under section 202(b)(1), determines in the course of its investigation under section 203(a) that the serious injury, or threat thereof, substantially caused by imports to the domestic industry producing a like or directly competitive article results from, as the case may be—

"(A) the application of item 806.30 or item 807.00; or

"(B) the designation of the article as an eligible article for the purposes of title V.

"(f) ORDERLY MARKETING AND OTHER AGREEMENTS.—

"(1) If the President takes action under this section other than the implementation of orderly marketing agreements, the President may, after such action takes effect, negotiate orderly marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, any action previously taken.

"(2) If an orderly marketing agreement implemented under subsection (a) is not effective, the President may, consistent with the limitations contained in subsection (e), take additional action under subsection (a).

"(g) REGULATIONS.—

"(1) The President shall by regulation provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under this chapter.

"(2) In order to carry out an orderly marketing or other international agreement concluded under this chapter, the President may prescribe regulations governing the entry or withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any orderly marketing agreement concluded under this chapter with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President may issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

"(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

"SEC. 204. MONITORING, MODIFICATION, AND TERMINATION OF ACTION.

"(a) MONITORING.—

"(1) So long as any action taken under section 203 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

"(2) The Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than—

"(A) the 2nd-anniversary of the day on which the action under section 203 first took effect; and

"(B) the last day of each 2-year period occurring after the 2-year period referred to in subparagraph (A).

"(3) In the course of preparing each report under paragraph (2), the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

"(4) Upon request of the President, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any extension, reduction, modification, or termination of the action taken under section 203 which is under consideration.

"(b) REDUCTION, MODIFICATION, AND TERMINATION OF ACTION.—

"(1) Action taken under section 203 may be reduced, modified, or terminated by the President (but not before the President receives the report required under subsection (a)(2)(A)) if the President—

"(A) after taking into account any report or advice submitted by the Commission under subsection (a) and after seeking the advice of the Secretary of Commerce and the Secretary of Labor, determines, on the basis that either—

"(i) the domestic industry has not made adequate efforts to make a positive adjustment to import competition, or

"(ii) the effectiveness of the action taken under section 203 has been impaired by changed economic circumstances,

that changed circumstances warrant such reduction, or termination; or

"(B) determines, after a majority of the representatives of the domestic industry submits to the President a petition requesting such reduction, modification, or termination on such basis, that the domestic industry has made a positive adjustment to import competition.

"(2) Notwithstanding paragraph (1), the President is authorized to take such additional action under section 203 as may be necessary to eliminate any circumvention of any action previously taken under such section.

"(d) EVALUATION OF EFFECTIVENESS OF ACTION.—

"(1) After any action taken under section 203 has terminated, the Commission shall evaluate the effectiveness of the actions in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b).

"(2) During the course of the evaluation conducted under paragraph (1), the Commission shall, after reasonable public notice, hold a hearing on the effectiveness of the action. All interested persons shall have the opportunity to attend such hearing and to present evidence or testimony at such hearing.

"(3) A report on the evaluation made under paragraph (1) and the hearings held under paragraph (2) shall be submitted by the Commission to the President and to the Congress by no later than the 180th day after the day on which the actions taken under section 203 terminated.

"(e) OTHER PROVISIONS.—

"(1) Action by the President under this chapter may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

"(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 202(c)(4)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in taking any action authorized under paragraph (1)."

(b) CONFORMING AMENDMENTS.—

(1) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(A) section 123(b)(4) is amended by striking out "import relief under section 203(h)." and inserting "action under sections 203(e) and 204.".

(B) Sections 224 and 264 (19 U.S.C. 2274 and 2354) are each amended—

(i) by striking out "201" in subsection (a) and inserting "202";

(ii) by striking out "201" in subsection (b) and inserting "202(f)"; and

such section 264 is amended by striking out "201(b)" in subsection (c) and inserting "202(b)".

(2) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(A) by striking out "proclaimed pursuant to section 203" in subsection (e)(1) and inserting "provided under chapter 1 of title II";

(B) by striking out "201(d)(1)" in subsection (e)(2) and inserting "202(f)";

(C) by striking out "(a) and (c) of section 203" in subsection (e)(3) and inserting "section 203";

(D) by amending subsection (e)(4)—

(i) by striking out "made under subsections (a) and (c) of section 203" and inserting "taken under section 203"; and

(ii) by striking out "201(b)" the first place it appears and inserting "202(b)"; and

(iii) by striking out "section 201(b) of such Act" and inserting "such section";

(E) by amending subsection (e)(5)—

(i) by striking out "proclamation issued pursuant to section 203" in subparagraph (A) and inserting "action taken under section 203"; and

(ii) by amending subparagraph (B)—

(I) by striking out "to import relief" and inserting "to any such action",

(II) by striking out "such import relief" and inserting "such action", and

(III) by striking out "subsections (h) and (i) of section 203" and inserting "section 203";

(F) by amending subsection (f)(4)—

(i) by amending subparagraph (A) by striking out "proclamation of import relief pursuant to section 202(a)(1)" and inserting "taking of action under section 203", and

(ii) by amending subparagraph (B) to read as follows:

"(B) on the day a determination by the President not to take action under section 203 of such Act not to take action becomes final,".

(3) TRADE AND TARIFF ACT OF 1984.—

(A) Title IV of the Tariff and Trade Act of 1984 is amended—

(i) by amending section 403—

(I) by striking out "section 201(d)(1)" in subsection (b) and inserting "section 202(f)",

(II) by striking out "subsections (a) and (c) of" in subsections (c) and (d),

(III) by striking out "201(b)" in subsection (d) and inserting "202(b)", and

(IV) by striking out "subsections (h) and (i) of section 203" in subsection (e)(2) and inserting "sections 203 and 204"; and

(ii) by amending section 404—

(I) by striking out "section 201" in subsection (a) and inserting "section 202(a)";

(II) by striking out "proclamation of import relief under section 202(a)(1)" in subsection (d)(1) and inserting "taking of action under section 203", and

(III) by amending subsection (d)(2) to read as follows:

"(2) on the day a determination of the President under section 203 of such Act not to take action becomes final;".

(4) TARIFF ACT OF 1930.—Section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) is amended—

(A) by amending paragraph (1) by striking out "201" and inserting "202";

(B) by amending paragraph (2)—

(i) by striking out "201" the first place it appears and inserting "202(b)",

(iii) by striking out "201(d)(1)" and inserting "202(e)(1)",

(iv) by striking out "sections 202 and 203" each place it appears and inserting "section 203", and

(v) by striking out "203(b)" in subparagraph (B) and inserting "204(a)"; and

(C) by striking out "203(c)(1)" in paragraph (4) and inserting "203(a)".

(5) TABLE OF CONTENTS.—The entry for such chapter 1 in the table of contents to the Trade Act of 1974 is amended to read as follows:

"CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

"Sec. 201. Action to facilitate positive adjustment to import competition.
"Sec. 202. Investigations, determinations, and recommendations by Commission.
"Sec. 203. Action by President after determination of import injury.
"Sec. 204. Monitoring, modification, and termination of action.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to investigations initiated under chapter 1 of title II of the Trade Act of 1974 on or after that date. Any petition filed under section 201 of such chapter before such date of enactment, and with respect to which the United States International Trade Commission did not make a finding before such date with respect to serious injury or the threat thereof, may be withdrawn and refiled, without prejudice, by the petitioner under section 202(a) of such chapter (as amended by this section).

PART 2—MARKET DISRUPTION

SEC. 1411. MARKET DISRUPTION.

(a) IN GENERAL.—Section 406 of the Trade Act of 1974 (19 U.S.C. 2436) is amended as follows—

(1) Subsection (b) is amended to read as follows:

"(b) With respect to any affirmative determination of the Commission under subsection (a)—

"(1) such determination shall be treated as an affirmative determination made under section 201(b) of this Act (as in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988); and

"(2) sections 202 and 203 of this Act (as in effect on the day before the date of the enactment of such Act of 1988), rather than the provisions of chapter 1 of title II of this Act as amended by section 1401 of such Act of 1988, shall apply with respect to the taking of subsequent action, if any, by the President in response to such affirmative determination;

except that—

"(A) the President may take action under such sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made; and

"(B) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.".

(2) Subsection (c) is amended by inserting "referred to in subsection (b)" after "sections 202 and 203".

(3) Subsection (e)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by inserting at the end thereof the following new subparagraphs:

"(B) For purposes of subparagraph (A):

"(i) Imports of an article shall be considered to be increasing rapidly if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time.

"(ii) The term 'significant cause' refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

"(C) The Commission, in determining whether market disruption exists, shall consider, among other factors—

"(i) the volume of imports of the merchandise which is the subject of the investigation;

"(ii) the effect of imports of the merchandise on prices in the United States for like or directly competitive articles;

"(iii) the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and

"(iv) evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns.".

(b) CONFORMING AMENDMENTS REQUIRED BY AMENDMENT OF CHAPTER 1 OF TITLE II OF THE TRADE ACT OF 1974.—Such section 406 is further amended—

(1) by striking out "201(a)(1)" in subsection (a)(1) and subsection (d) and inserting "202(a)"; and

(2) by striking out "subsections (a)(2), (b)(3), and (c) of section 201" in subsection (a)(2) and inserting "subsections (a)(3), (b)(4), and (c)(4) of section 202".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations initiated under section 406(a) of the Trade Act of 1974 on or after the date of the enactment of this Act.

PART 3—TRADE ADJUSTMENT ASSISTANCE

SEC. 1421. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

(a) OIL AND NATURAL GAS INDUSTRY.—

(1)(A) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(i) by striking out "For purposes of paragraph (3), the term 'contributed importantly' means a cause which is important, but not necessarily more important than any other cause.",

(ii) by striking out "The Secretary" and inserting in lieu thereof "(a) The Secretary", and

(iii) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

"(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

(B) Notwithstanding section 223(b) of the Trade Act of 1974, or any other provision of law, any certification made under subchapter A of chapter 2 of title II of such Act which—

(i) is made with respect to a petition filed before the date that is 90 days after the date of enactment of this Act, and

(ii) would not have been made if the amendments made by subparagraph (A) had not been enacted into law,

shall apply to any worker whose most recent total or partial separation from the firm, or appropriate subdivision of the firm, described in section 222(a) of such Act occurs after September 30, 1985.

(2) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) that—

"(i) sales or production, or both, of such firm have decreased absolutely, or

"(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

"(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

(b) APPLICATION TO ALL INDUSTRIES.—

(1) Paragraph (3) of section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)(3)) is amended to read as follows:

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) for which such workers' firm, or appropriate subdivision thereof, provides essential goods or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.".

(2) Subparagraph (C) of section 251(c)(1) of the Trade Act of 1974 (19 U.S.C. 2341(c)(1)(C)) is amended to read as follows:

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) for which such firm provides essential goods or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.".

SEC. 1422. NOTICE TO WORKERS OF BENEFITS UNDER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 225 of the Trade Act of 1974 (19 U.S.C. 2275) is amended—

(1) by striking out "The Secretary" in the first sentence and inserting in lieu thereof "(a) The Secretary", and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A of this chapter—

"(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

"(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

"(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under subchapter A in newspapers of general circulation in the areas in which such workers reside.".

SEC. 1423. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN TRAINING PROGRAM REQUIRED.—

(1) Paragraph (5) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)) is amended to read as follows:

"(5) Such worker—

"(A) is enrolled in a training program approved by the Secretary under section 236(a),

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

"(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).".

(2) Subsection (b) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(b)) is amended to read as follows:

"(b)(1) If—

"(A) the Secretary determines that—

"(i) the adversely affected worker—

"(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

"(II) has ceased to participate in such training program before completing such training program, and

"(ii) there is no justifiable cause for such failure or cessation, or

"(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),

no trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

"(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

"(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

"(B) before the first week following the week in which such certification is made under subchapter (A).".

(3) Subsection (c) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

"(c)(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

"(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall—

"(i) submit to such worker a written statement certifying such finding, and

"(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

"(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that it is feasible or appropriate to approve a training program for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

"(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that it is feasible or appropriate to approve a training program for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

"(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.".

(4) Paragraph (3) of section 239(a) of the Trade Act of 1974 (19 U.S.C. 2311(a)(3)) is amended to read as follows:

"(3) will make any certifications required under section 231(c)(2), and".

(b) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out ", including on-the-job training," in subsection (b), and

(2) by striking out "under section 231(c) or 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(b)".

(c) LIMITATIONS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) by striking out "is approved" in subsection (a)(3)(B) and inserting in lieu thereof "begins",

(2) by striking out "engaged in such training and has not been determined under section 236(c) to be failing to make satisfactory progress in the training" in subsection (a)(3) and inserting in lieu thereof "participating in such training", and

(3) by adding at the end thereof the following new subsection:

"(f) For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

"(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

"(2) the break is provided under such training program.".

(d) SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.—

(1) Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 245 the following new section:

"SEC. 246. SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.

"(a) The Secretary shall establish and carry out one or more demonstration projects during fiscal years 1989 and 1990 for the purpose of—

"(1) determining the attractiveness of a supplemental wage allowance to various categories of workers eligible for assistance under this chapter, based on the amount and duration of the supplement;

"(2) determining the effectiveness of a supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers; and

"(3) determining whether a supplemental wage allowance should be made an option under the Trade Adjustment Assistance program for all fiscal years.

"(b)(1) For purposes of this section, the term 'supplemental wage allowance' means a payment that is made to an adversely affected worker who—

"(A) accepts full-time employment at an average weekly wage that is less than the average weekly wage of the worker in the adversely affected employment,

"(B) prior to such acceptance, is eligible for trade readjustment allowances under part I of subchapter B, and

"(C) voluntarily elects to receive such payment in lieu of any trade readjustment allowances that the worker would otherwise be eligible to receive with respect to the period covered by the certification made under subchapter A that applies to such worker.

"(2) A supplemental wage allowance shall be provided under any demonstration project established under subsection (a) to a worker described in paragraph (1) for each week during which the worker performs services in the full-time employment referred to in paragraph (1)(A) in an amount that does not exceed the lesser of—

"(A) the amount of the trade readjustment allowance that the worker would have been eligible to receive for any week under part 1 of subchapter B if the worker had not accepted the full-time employment and had not made the election described in paragraph (1)(C), or

"(B) the excess of—

"(i) an amount equal to 80 percent of the average weekly wage of the worker in the adversely affected employment, over

"(ii) the average weekly wage in the full-time employment.

"(3)(A) Supplemental wage allowances shall not be provided under any demonstration project established under subsection (a) for more than 52 weeks.

"(B) The total amount of supplemental wage allowances that may be paid to any worker under any demonstration project established under subsection (a) with respect to the period covered by the certification applicable to such worker shall not exceed an amount that is equal to the excess of—

"(i) the amount of the limitation imposed under section 233(a)(1) with respect to such worker for such period, over

"(ii) the amount of the trade readjustment allowances paid under part I of subchapter B to such worker for such period.

"(c) The Secretary shall provide for an evaluation of demonstration projects conducted under this section to determine at least the following:

"(1) the extent to which different age groups of eligible recipients utilize the supplemental wage allowance;

"(2) the effect of the amount and duration of the supplemental wage allowance on the utilization of the allowance;

"(3) the extent to which the supplemental wage allowance affects the demand for training and the appropriateness thereof;

"(4) the extent to which the supplemental wage allowance facilitates the readjustment of workers who would not otherwise utilize benefits provided under this chapter;

"(5) the extent to which the allowance affects the cost of carrying out the provisions of this chapter; and

"(6) the effectiveness of the supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers.

"(d) By no later than the date that is 3 years after the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, the Secretary shall transmit to the Congress a report that includes—

"(1) an evaluation of the projects authorized under this section that is conducted in accordance with subsection (c), and

"(2) a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an option for some or all workers eligible for assistance under this chapter.".

(2) For purposes of funding the demonstration projects established under section 246(a) of the Trade Act of 1974, as added by paragraph (1) of this subsection—

(A) the supplemental wage allowances payable under such projects shall be considered to be trade readjustment allowances payable under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and

(B) the costs of administering such projects by the States shall be considered to be costs of administering such part I.

(3) The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 245 the following new item:

"Sec. 246. Supplemental wage allowance demonstration projects.".

SEC. 1424. JOB TRAINING FOR WORKERS.

(a) IN GENERAL.—Subsection (a) of section 236 of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

(1) by striking out "is available" in paragraph (1)(D) and inserting in lieu thereof "is reasonably available",

(2) by striking out ", and" at the end of subparagraph (D) of paragraph (1),

(3) by adding "and" at the end of subparagraph (E) of paragraph (1),

(4) by inserting after subparagraph (E) of paragraph (1) the following new subparagraph:

"(F) such training is suitable for the worker and available at a reasonable cost,",

(5) by striking out "(to the extent appropriated funds are available)" in the first sentence of paragraph (1),

(6) by inserting "(subject to the limitations imposed by this section)" after "costs of such training" in the second sentence of paragraph (1),

(7) by inserting "directly or through a voucher system" after "by the Secretary" in the second sentence of paragraph (1),

(8) by striking out "and" at the end of subparagraph (C) of paragraph (4),

(9) by redesignating subparagraph (D) of paragraph (4) as subparagraph (F) of paragraph (4), and

(10) by inserting after subparagraph (C) of paragraph (4) the following new subparagraphs:

"(D) any program of remedial education,

"(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

"(i) under any Federal or State program other than this chapter, or

"(ii) from any source other than this section, and",

(11) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively,

(12) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed $80,000,000.

"(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of such fiscal year.

(13) by adding at the end of subsection (a) the following new paragraphs:

"(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

"(i) under any Federal or State program other than this chapter, or

"(ii) from any source other than this section.

"(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in subparagraph (A) or (B) of paragraph (1).

"(7) The Secretary shall not approve a training program if—

"(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

"(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

"(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

"(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A at any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

"(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).".

(b) DELAYED INCREASE IN LIMITATION.—Paragraph (2) of section 236(a) of the Trade Act of 1974, as added by subsection (a)(12) of this section, is amended by striking out "$80,000,000" in subparagraph (A) and inserting in lieu thereof "$120,000,000".

(c) ON-THE-JOB TRAINING.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out that portion of subsection (d) that precedes paragraph (1) and inserting in lieu thereof the following:

"(d) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—",

(2) by striking out subsection (c), and

(3) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(d) AGREEMENTS WITH THE STATES.—

(1)(A) Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by striking out "cooperating State agencies" and inserting in lieu thereof "the States".

(B) Subsection (e) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended to read as follows:

"(e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.".

(2) Subsection (f) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(f)) is amended to read as follows:

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

"(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

"(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and

"(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

SEC. 1425. LIMITATION ON PERIOD IN WHICH TRADE READJUSTMENT ALLOWANCES MAY BE PAID.

(a) IN GENERAL.— Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended to read as follows:

"(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

"(A) within the period which is described in section 231(a)(1), and

"(B) with respect to which the worker meets the requirements of section 231(a)(2).".

(b) WAIVER OF CERTAIN TIME LIMITATIONS.—

(1) The provisions of subsections (a)(2) and (b) of section 233 of the Trade Act of 1974 shall not apply with respect to any worker who became totally separated from adversely affected employment (within the meaning of section 247 of such Act) during the period that began on August 13, 1981, and ended on April 7, 1986.

(2)(A) Any worker who is otherwise eligible for payment of a trade readjustment allowance under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 by reason of paragraph (1) of this subsection may receive payments of such allowance only if such worker—

(i) is enrolled in a training program approved by the Secretary under section 236(a) of such Act, and

(ii) has been unemployed continuously since the date on which the worker became totally separated from the adversely affected employment, not taking into account seasonal employment, odd jobs, or part-time, temporary employment.

(B) If the Secretary of Labor determines that—

(i) a worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subparagraph (A), or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justificable cause for such failure or cessation,

no trade readjustment allowance may be paid to the worker under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 for the week in which such failure or cessation occurred, or any succeeding week, until the worker begins or resumes participation in a training program approved under section 236(a) of such Act.

SEC. 1426. AUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION OF SUNSET.—Subsection (b) of section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended to read as follows:

"(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 287, after September 30, 1993.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1986, 1987, 1988, 1989, 1990, and 1991" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993".

(2) Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking out "1986, 1987, 1988, 1989, 1990, and 1991" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993".

(c) SPECIAL RULE.—In addition to amounts appropriated for payments under sections 236, 237, and 238 of the Trade Act of 1974 (19 U.S.C. 2296) for fiscal year 1988, such

amounts as may be necessary for payments under such sections—

(1) after the date of enactment of this Act, and

(2) before October 1, 1988,

are hereby appropriated and shall be charged to the appropriation for payments under such sections for fiscal year 1989.

SEC. 1427. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

(a) IN GENERAL.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.) is amended by inserting after section 285 the following new section:

"SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

"(a) There is hereby established within the Treasury of the United States a trust fund to be known as the Trade Adjustment Assistance Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or appropriated to the Trust Fund under subsection (e).

"(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

"(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

"(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

"(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d)(1) Amounts in the Trust Fund shall be available—

"(A) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any other provision of Federal law,

"(B) as provided in appropriation Acts—

"(i) for expenditures that are required to carry out the provisions of chapters 2 and 3, including administrative costs, and

"(ii) for payments required under subsection (e)(2).

"(2) None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.

"(3)(A) If the total amount of funds expended in any fiscal year to carry out chapters 2 and 3 (including administrative costs) exceeds an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed by section 287 during the preceding 1-year period, the Secretary of Labor and the Secretary of Commerce (in consultation with the Secretary of the Treasury) shall, notwithstanding any provision of chapter 2 or 3, make a pro rata reduction in—

"(i) the amounts of the trade readjustment allowances that are paid under part I of subchapter B of chapter 2, and

"(ii) the assistance provided under chapter 3,

to ensure (based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during the remainder of such fiscal year and for the fiscal year succeeding such fiscal year) that all workers and firms eligible for assistance under chapter 2 or 3 receive some assistance under chapter 2 or 3 and that the expenditures made in providing such assistance during the remainder of such fiscal year and the fiscal year succeeding such fiscal year do not exceed the amount of funds available in the Trust Fund to pay for such expenditures.

"(B) No reduction may be made under this paragraph in the amount of any trade readjustment allowance payable under part I of subchapter B of chapter 2 to any worker who received such trade readjustment allowance under such part for the week preceding the first week for which such reduction is otherwise being made under this paragraph.

"(C) If a pro rata reduction made under subparagraph (A) is in effect at the close of a fiscal year, the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, may adjust or modify such reduction at the beginning of the fiscal year succeeding such fiscal year, based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during that succeeding fiscal year.

"(D) Any pro rata reduction made under subparagraph (A), and any pro rata reduction adjusted or modified under subparagraph (C), shall cease to apply after the week in which—

"(i) a 1-year period ends during which the total amount of funds that would have been expended to carry out chapters 2 and 3, including administrative costs, if such reduction were not in effect did not exceed an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed during such 1-year period, or

"(ii) the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, determine that the amount of funds available in the Trust Fund are sufficient to carry out chapters 2 and 3 without such reduction.

"(e)(1)(A) There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d)(1)(B).

"(B) Any advance appropriated to the Trust Fund under the authority of subparagraph (A) may be paid to the Trust Fund only to the extent that the total amount of advances paid during the fiscal year to the Trust Fund from any appropriation authorized under subparagraph (A) that are outstanding after such advance is paid to the Trust Fund does not exceed the lesser of—

"(i) the excess of—

"(I) the total amount of funds that the Secretary of the Treasury (in consultation with the Secretary of Labor and the Secretary of Commerce) estimates will be necessary for the payments and expenditures described in subparagraphs (A) and (B) of subsection (d)(1) for such fiscal year, over

"(II) the total amount of funds that the Secretary of the Treasury estimates will be available in the Trust Fund during the fiscal year (determined without regard to any advances made under this subsection during such fiscal year), or

"(ii) the excess of—

"(I) an amount equal to 0.15 percent of the total value of all articles upon which the Secretary of the Treasury estimates a duty will be imposed by section 287 during such fiscal year, over

"(II) the amount described in clause (i)(II).

"(2) Advances made to the Trust Fund from appropriations authorized under paragraph (1)(A) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury of the United States when the Secretary of the Treasury determines that sufficient funds are available in the Trust Fund for such purposes.

"(3) Interest on advances made from appropriations authorized under paragraph (1)(A) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting, after the item relating to section 285, the following new items:

"Sec. 286. Trade Adjustment Trust Fund.
"Sec. 287. Imposition of additional fee.".

SEC. 1428. IMPOSITION OF SMALL UNIFORM FEE ON ALL IMPORTS.

(a) NEGOTIATIONS.—

(1) The President shall—

(A) undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform fee of not more than 0.15 percent on all imports to such country for the purpose of using the revenue from such fee to fund programs which directly assist adjustment to import competition, and

(B) undertake negotiations with any foreign country that has entered into a free trade agreement with the United States under subtitle A or under section 102 of the Trade Act of 1974 to obtain the consent of such country to the imposition of such a fee by the United States.

(2) In the report that is submitted under section 163 of the Trade Act of 1974 for 1989 and 1990, the President shall include a state-

ment on the progress of negotiations conducted under paragraph (1).

(3)(A) On the first day after the date of enactment of this Act on which the General Agreement on Tariffs and Trade allows any country to impose a fee described in paragraph (1), the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such allowance.

(B) On the first day after the date of enactment of this Act on which any foreign country described in paragraph (1)(B) consents to the imposition of such a fee by the United States, the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such consent.

(4) If—

(A) the President does not submit to the Congress the written statement described in paragraph (3)(A) before the date that is 2 years after the date of enactment of this Act, and

(B) the President determines on such date that the fee imposed by the amendment made by subsection (b) is not in the national economic interest,

the President shall submit to the Congress, and publish in the Federal Register, written notice of such determination on such date.

(5)(A) Any disapproval resolution that is introduced in the Senate or House of Representatives within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act shall, for purposes of section 152 of the Trade Act of 1974 (19 U.S.C. 2192), be treated as a joint resolution described in section 152(a)(1)(A) of such Act.

(B) For purposes of this part, the term "disapproval resolution" means a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves of the determination made by the President under section 1428(a)(4)(A) of the Omnibus Trade and Competitiveness Act of 1988.".

(b) IMPOSITION OF FEE.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.), as amended by the preceding section of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 287. IMPOSITION OF ADDITIONAL FEE.

"(a) In addition to any other fee imposed by law, there is hereby imposed a fee on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States during any fiscal year.

"(b)(1) The rate of the fee imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President that is equal to the lesser of—

"(A) 0.15 percent, or

"(B) the percentage that is sufficient to provide the funding necessary to—

"(i) carry out the provisions of chapters 2 and 3, and

"(ii) repay any advances made under section 286(e).

"(2) The President shall issue a proclamation setting forth the rate of the fee imposed by subsection (a) by no later than the date that is 15 days before the first date on which a fee is imposed under subsection (a).

"(3)(A) For each fiscal year succeeding the first fiscal year in which a fee is imposed under subsection (a), the President shall issue a proclamation adjusting the rate of the fee imposed by subsection (a) during such fiscal year to the ad valorem rate that meets the requirements of paragraph (1) for such fiscal year.

"(B) Any proclamation issued under subparagraph (A) for a fiscal year shall be issued at least 30 days before the beginning of such fiscal year.

"(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of a fee with respect to such article by subsection (a).

"(2) No fee shall be imposed by subsection (a) with respect to—

"(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of the United States) that is treated as duty-free under schedule 8 of the Tariff Schedules of the United States, or

"(B) any article which has a value of less than $1,000.".

SEC. 1429. STUDY OF CERTIFICATION METHODS.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Commerce, shall conduct a study of the methods (including, but not limited to, industry-wide certification) that could be used to expedite the certification of workers under subchapter A of chapter 2 of title II of the Trade Act of 1974.

(b) REPORT.—By no later than the date that is 6 months after the date of enactment of this Act, the Secretary of Labor shall submit to the Congress a report on the study conducted under subsection (a). The report shall include the recommendations of the Secretary of Labor regarding the methods that are the subject of the study conducted under subsection (a).

SEC. 1430. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided by this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) ADDITIONAL FEE.—

(1) Except as otherwise provided in this subsection, the amendment made by section 1428(b) shall apply (if at all) to any article entered, or withdrawn from warehouse for consumption, after the date that is 30 days after the earlier of—

(A) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(A),

(B) the date that is 2 years after the date of enactment of this Act, or

(C) the date of the enactment of a disapproval resolution that passes both Houses of the Congress within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act.

(2) If the President determines on the date that is 2 years after the date of enactment of this Act that the fee imposed by the amendment made by section 1428(b) is not in the national economic interest, subparagraph (B) of paragraph (1) shall not be taken into account in applying the provisions of paragraph (1).

(3) The amendment made by section 1428(b) shall apply (if at all) to the products of any foreign country described in section 1428(a)(1)(B) that are entered, or withdrawn from warehouse for consumption, after the later of—

(A) the first date on which the fee imposed by such amendment applies with respect to products of foreign countries that are not described in section 1428(a)(1)(B), or

(B) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(B) certifying the consent of such foreign country to the imposition of the fee.

(c) TRUST FUND.—The amendments made by section 1427 shall take effect on the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(d) ELIGIBILITY OF WORKERS AND FIRMS.—The amendments made by sections 1421(b) and 1424(b) shall take effect on the date that is 1 year after the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(e) NOTIFICATION REQUIREMENTS.—The amendments made by section 1422 shall take effect on the date that is 30 days after the date of enactment of this Act.

(f) TRAINING REQUIREMENT.—The amendments made by subsections (a), (b)(2), and (c)(2) of section 1423 and by paragraphs (2) and (3) of section 1424(c) shall take effect on the date that is 90 days after the date of enactment of this Act.

(g) LIMITATION ON PERIOD FOR WHICH TRADE READJUSTMENT ALLOWANCES MAY BE MADE.—The amendment made by section 1425(a) shall not apply to with respect to any total separation of a worker from adversely affected employment (within the meaning of section 247 of such Act) that occurs before the date of enactment of this Act if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974.

Subtitle E—National Security

SEC. 1501. IMPORTS THAT THREATEN NATIONAL SECURITY.

(a) IN GENERAL.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended—

(1) by striking out "subsection (b)" each place it appears in subsection (e) and inserting in lieu thereof "subsection (c)",

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(3) by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1)(A) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall immediately initiate an appropriate investigation to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion.

"(B) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this section.

"(2)(A) In the course of any investigation conducted under this subsection, the Secretary shall—

"(i) consult with the Secretary of Defense regarding the methodological and policy questions raised in any investigation initiated under paragraph (1),

"(ii) seek information and advice from, and consult with, appropriate officers of the United States, and

"(iii) if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.

"(B) Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary an assessment of the defense requirements of any article that is the subject of an investigation conducted under this section.

"(3)(A) By no later than the date that is 270 days after the date on which an investigation is initiated under paragraph (1) with respect to any article, the Secretary shall submit to the President a report on the findings of such investigation with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, the recommendations of the Secretary for action or inaction under this section. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in such report.

"(B) Any portion of the report submitted by the Secretary under subparagraph (A) which does not contain classified information or proprietary information shall be published in the Federal Register.

"(4) The Secretary shall prescribe such procedural regulations as may be necessary to carry out the provisions of this subsection.

"(c)(1)(A) Within 90 days after receiving a report submitted under subsection (b)(3)(A) in which the Secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the President shall—

"(i) determine whether the President concurs with the finding of the Secretary, and

"(ii) if the President concurs, determine the nature and duration of the action that, in the judgment of the President, must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.

"(B) If the President determines under subparagraph (A) to take action to adjust imports of an article and its derivatives, the President shall implement that action by no later than the date that is 15 days after the day on which the President determines to take action under subparagraph (A).

"(2) By no later than the date that is 30 days after the date on which the President makes any determinations under paragraph (1), the President shall submit to the Congress a written statement of the reasons why the President has decided to take action, or refused to take action, under paragraph (1). Such statement shall be included in the report published under subsection (e).

"(3)(A) If—

"(i) the action taken by the President under paragraph (1) is the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security, and

"(ii) either—

"(I) no such agreement is entered into before the date that is 180 days after the date on which the President makes the determination under paragraph (1)(A) to take such action, or

"(II) such an agreement that has been entered into is not being carried out or is ineffective in eliminating the threat to the national security posed by imports of such article,

the President shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security. The President shall publish in the Federal Register notice of any additional actions being taken under this section by reason of this subparagraph.

"(B) If—

"(i) clauses (i) and (ii) of subparagraph (A) apply, and

"(ii) the President determines not to take any additional actions under this subsection,

the President shall publish in the Federal Register such determination and the reasons on which such determination is based.".

(b) REPORTS.—

(1) Subsection (e) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as redesignated by subsection (a)(2), is amended to read as follows:

"(d)(1) Upon the disposition of each request, application, or motion under subsection (b), the Secretary shall submit to the Congress, and publish in the Federal Register, a report on such disposition.

"(2) The President shall submit to the Congress an annual report on the operation of the provisions of this section.".

(2) Section 127 (c) of the Trade Act of 1974 (19 U.S.C. 1863) is repealed.

(c) ENFORCEMENT OF MACHINE TOOL IMPORT ARRANGEMENTS.—

(1) The Secretary of Commerce is authorized to request the Secretary of the Treasury to carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of the machine tool decision of the President on May 20, 1986, and to enforce any quantitative limitation, restriction, or other terms contained in related bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of assembled and unassembled machine tool products.

(2) For purposes of this subsection, the term "related bilateral arrangement" means any arrangement, agreement, or understanding entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of assembled and unassembled machine tool products as may be necessary to implement such machine tool decision of May 20, 1986.

(d) APPLICATION OF AMENDMENTS.—

(1) Except as otherwise provided under this subsection, the amendments made by this section shall apply with respect to investigations initiated under section 232(b) of the Trade Expansion Act of 1962 on or after the date of enactment of this Act.

(2) The provisions of subsection (c) of section 232 of the Trade Expansion Act of 1962, as amended by this section, shall apply with respect to any report submitted by the Secretary of Commerce to the President under section 232(b) of such Act after the date of enactment of this Act.

(3) By no later than the date that is 90 days after the date of enactment of this Act, the President shall make the determinations described in section 232(c)(1)(A) of the Trade Expansion Act of 1962, as amended by this section, with respect to any report—

(A) which was submitted by the Secretary of Commerce to the President under section 232(b) of such Act before the date of enactment of this Act, and

(B) with respect to which no action has been taken by the President before the date of enactment of this Act.

Subtitle F—Trade Agencies; Advice, Consultation, and Reporting Regarding Trade Matters

PART I—FUNCTIONS AND ORGANIZATION OF TRADE AGENCIES

Subpart A—Office of the United States Trade Representative

SEC. 1601. FUNCTIONS.

(a) IN GENERAL.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(c)(1) The United States Trade Representative shall—

"(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

"(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

"(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including commodity and direct investment negotiations, in which the United States participates;

"(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

"(E) act as the principal spokesman of the President on international trade;

"(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

"(G) advise the President and Congress with respect to nontariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

"(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

"(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

"(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) It is the sense of Congress that the United States Trade Representative should—

"(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

"(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.".

(b) UNFAIR TRADE PRACTICES.—Such section 141 is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

"(A) coordinate the application of interagency resources to specific unfair trade practice cases;

"(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

"(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

"(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

"(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

"(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

"(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

"(A) The Bureau of Economics and Business Affairs of the Department of State.

"(B) The United States and Foreign Commercial Services of the Department of Commerce.

"(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

"(D) The Foreign Agricultural Service of the Department of Agriculture.

The United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

"(3) For purposes of this subsection, the term 'unfair trade practice' means any act, policy, or practice that—

"(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

"(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

"(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

"(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974.".

Subpart B—United States International Trade Commission

SEC. 1611. SERVICE ON COMMISSION FOR PURPOSES OF DETERMINING ELIGIBILITY FOR DESIGNATION AS CHAIRMAN.

Section 330(c)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1330(c)(A)(i)) is amended by striking out "most recently appointed to" and inserting "with the shortest period of service on".

SEC. 1612. TREATMENT OF COMMISSION UNDER PAPERWORK REDUCTION ACT.

Section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended by adding at the end thereof the following new subsection:

"(f) The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44, United States Code.".

SEC. 1613. TREATMENT OF CONFIDENTIAL INFORMATION BY COMMISSION.

The first sentence of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended by striking out ", and shall report to Congress" and inserting ". However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress.".

SEC. 1614. TRADE REMEDY ASSISTANCE OFFICE.

Section 339 of the Tariff Act of 1930 (19 U.S.C. 1339) is amended—

(1) by amending subsection (a)—

(A) by striking out "a Trade" and inserting "a separate office to be known as the Trade", and

(B) by striking out ", upon request, concerning—" and inserting "upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—"; and

(2) by amending subsection (b) to read as follows:

"(b) The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

"(1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and

"(2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.".

Subpart C—Interagency Trade Organization

SEC. 1621. FUNCTIONS AND ORGANIZATION.

(a) IN GENERAL.—Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) The President shall establish an interagency organization.

"(2) The functions of the organization are—

"(A) to assist, and make recommendations to, the President in carrying out the functions vested in him by the trade laws and to advise the United States Trade Representative (hereinafter in this section referred to as the 'Trade Representative') in carrying out the functions set forth in section 141 of the Trade Act of 1974;

"(B) to assist the President, and advise the Trade Representative, with respect to the development and implementation of the international trade policy objectives of the United States; and

"(C) to advise the President and the Trade Representative with respect to the relationship between the international trade policy objectives of the United States and other major policy areas which may significantly affect the overall international trade policy and trade competitiveness of the United States.

"(3) The interagency organization shall be composed of the following:

"(A) The Trade Representative, who shall be chairperson.

"(B) The Secretary of Commerce.

"(C) The Secretary of State.

"(D) The Secretary of the Treasury.

"(E) The Secretary of Agriculture.

"(F) The Secretary of Labor.

The Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.".

(2) Subsection (b) is amended by adding at the end thereof the following:

"In carrying out its functions under this subsection, the organization shall take into account the advice of the congressional advisers and private sector advisory committees, as well as that of any committee or other body established to advise the department, agency, or office which a member of the organization heads.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that the interagency organization established under subsection (a) should be the principal interagency forum within the executive branch on international trade policy matters.

PART 2—ADVICE AND CONSULTATION REGARDING TRADE POLICY, NEGOTIATIONS, AND AGREEMENTS

SEC. 1631. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS RELATING TO TRADE POLICY AND AGREEMENTS.

Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended to read as follows:

"SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

"(a) IN GENERAL.—

"(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

"(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or section 1102 of the Omnibus Trade and Competitiveness Act of 1988;

"(B) the operation of any trade agreement once entered into; and

"(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

"(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the

United States. The consultations shall include, but are not limited to, the following elements of such policy:

"(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

"(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

"(D) Important developments in other areas of trade for which there must be developed a proper policy response.

"(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

"(b) Advisory Committee for Trade Policy and Negotiations.—

"(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 2 years. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

"(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

"(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

"(c) General Policy, Sectoral, or Functional Advisory Committees.—

"(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

"(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall—

"(A) consult with interested private organizations; and

"(B) take into account such factors as—

"(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

"(ii) the character of the nontariff barriers and other distortions affecting such competition,

"(iii) the necessity for reasonable limits on the number of such advisory committees,

"(iv) the necessity that each committee be reasonably limited in size, and

"(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

"(3) The President—

"(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

"(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

"(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

"(d) Policy, Technical, and Other Advice and Information.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

"(e) Meeting of Advisory Committees at Conclusion of Negotiations.—

"(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988 shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement.

"(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal negotiating objectives set forth in section 1101 of the Omnibus Trade and Competitiveness Act of 1988, as appropriate.

"(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

"(f) Application of Federal Advisory Committee Act.—The provisions of the Federal Advisory Committee Act apply—

"(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

"(2) to all other advisory committees which may be established under subsection (c); except that the meetings of advisory committees established under subsections (b) and (c) shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to matters referred to in subsection (a), and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c).

"(g) Trade Secrets and Confidential Information.—

"(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

"(A) officers and employees of the United States designated by the United States Trade Representative;

"(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

"(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

"(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under

subsection (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

"(A) the individuals described in paragraph (1); and

"(B) the appropriate advisory committee established under this section.

"(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

"(h) ADVISORY COMMITTEE SUPPORT.—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (c) as such committees may reasonably require to carry out their activities.

"(i) CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

"(1) significant issues and developments; and

"(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

"(j) PRIVATE ORGANIZATIONS OR GROUPS.—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

"(k) SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

"(l) ADVISORY COMMITTEES ESTABLISHED BY DEPARTMENT OF AGRICULTURE.—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

"(m) NON-FEDERAL GOVERNMENT DEFINED.—As used in this section, the term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

"(2) any agency or instrumentality of any entity described in paragraph (1).".

SEC. 1632. CONGRESSIONAL LIAISON REGARDING TRADE POLICY AND AGREEMENTS.

Section 161 of the Trade Act of 1974 (19 U.S.C. 2211) is amended to read as follows:

"SEC. 161. CONGRESSIONAL ADVISERS FOR TRADE POLICY AND NEGOTIATIONS.

"(a) SELECTION.—

"(1) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

"(2)(A) In addition to the advisers designated under paragraph (1) from the Committee on Ways and Means and the Committee on Finance—

"(i) the Speaker of the House may select additional members of the House, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the House or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations; and

"(ii) the President pro tempore of the Senate may select additional members of the Senate, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the Senate or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations.

Members of the House and Senate selected as congressional advisers under this subparagraph shall be accredited by the United States Trade Representative.

"(B) Before designating any member under subparagraph (A), the Speaker or the President pro tempore shall consult with—

"(i) the chairman and ranking member of the Committee on Ways and Means or the Committee on Finance, as appropriate; and

"(ii) the chairman and ranking minority member of the committee from which the member will be selected.

"(C) Not more than 3 members (not more than 2 of whom are members of the same political party) may be selected under this paragraph as advisers from any committee of Congress.

"(b) BRIEFING.—

"(1) The United States Trade Representative shall keep each official adviser designated under subsection (a)(1) currently informed on matters affecting the trade policy of the United States and, with respect to possible agreements, negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

"(2) The United States Trade Representative shall keep each official adviser designated under subsection (a)(2) currently informed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

"(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

"(B) The Chairman of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

"(c) COMMITTEE CONSULTATION.—The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

"(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

"(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

"(4) The important developments and issues in other areas of trade for which there must be developed proper policy response.

When necessary, meetings shall be held with each Committee in executive session to review matters under negotiation.".

PART 3—ANNUAL REPORTS AND NATIONAL TRADE POLICY AGENDA

SEC. 1641. REPORTS AND AGENDA.

Section 163 of the Trade Act of 1974 (19 U.S.C. 2213) is amended to read as follows:

"SEC. 163. REPORTS.

"(a) ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM AND NATIONAL TRADE POLICY AGENDA.—

"(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on—

"(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this Act during the preceding calendar year; and

"(B) the national trade policy agenda for the year in which the report is submitted.

"(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

"(A) new trade negotiations;

"(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

"(C) reciprocal concessions obtained;

"(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

"(E) the extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of foreign countries;

"(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

"(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

"(H) the measures being taken to seek the removal of other significant foreign import restrictions;

"(I) each of the referrals made under section 141(d)(1)(B) and any action taken with respect to such referral;

"(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

"(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

"(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

"(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

"(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

"(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

"(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

"(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

"(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 135 and shall consult with the appropriate committees of the Congress.

"(D) The United States Trade Representative (hereafter referred to in this section as the 'Trade Representative') and other appropriate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

"(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

"(ii) any development which may require, or result in, changes to any of such objectives or priorities.

"(b) ANNUAL TRADE PROJECTION REPORT.—

"(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the 'Committees') on or before March 1 of each year a report which consists of—

"(A) a review and analysis of—

"(i) the merchandise balance of trade,

"(ii) the goods and services balance of trade,

"(iii) the balance on the current account,

"(iv) the external debt position,

"(v) the exchange rates,

"(vi) the economic growth rates,

"(vii) the deficit or surplus in the fiscal budget, and

"(viii) the impact on United States trade of market barriers and other unfair practices,

of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

"(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

"(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

"(2) To the extent that subjects referred to in paragraph (1)(A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) or in other reports required by this Act or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

"(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

"(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the Trade Representative and the Secretary consider confidentiality appropriate.

"(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

"(c) ITC REPORTS.—The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.".

Subtitle G—Tariff Provisions

PART 1—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 1701. REFERENCE.

Whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

Subpart A—Permanent Changes in Tariff Treatment

SEC. 1711. BROADWOVEN FABRICS OF MAN-MADE FIBERS.

(a) IN GENERAL.—Subpart E of part 3 of schedule 3 is amended by striking out item 338.50 and inserting the following new items with the article description for item 338.60 having the same degree of indentation as the article description for item 338.40:

"	*338.60*	*Containing 85% or more by weight of continuous man-made fibers ....*	*17% ad val.*	*8.5% ad val. (I)*	*81% ad val.*
		Other:			
	338.70	*Weighing not more than 5 oz. per square yard ....*	*17% ad val.*	*8.5% ad val. (I)*	*81% ad val.*
	338.80	*Other........*	*17% ad val.*	*8.5% ad val. (I)*	*81% ad val. ".*

(b) Staged Rate Reduction.—Any staged rate reduction of a rate of duty set forth in item 338.50 of the Tariff Schedules of the United States (as in effect before the date of enactment of this Act) that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 338.60, 338.70, and 338.80 of such Schedules.

SEC. 1712. NAPHTHA AND MOTOR FUEL BLENDING STOCKS.

Part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "motor fuel blending stocks," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stock' (item 475.27) means any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, to be used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item with an article description having the same degree of indentation as the article description for item 475.30:

"	475.27	Motor fuel blending stocks	1.25¢ per gal.		2.5¢ per gal.	",

(4) by amending 475.30 by striking out "fuel)" and inserting "fuel or motor fuel blending stocks)", and

(5) by amending 475.35 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stocks)".

SEC. 1713. WATCHES AND WATCH COMPONENTS.

Headnote 4 of subpart E of part 2 of schedule 7 is amended to read as follows:

"4. Special Marking Requirements: Any movement or case provided for in this subpart, whether imported separately or attached to any article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting, die-sinking, engraving, stamping, or mold-marking (either indented or raised), as specified below:

"(a) Watch movements shall be marked on one or more of the bridges or top plates to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

"(b) Clock movements shall be marked on the most visible part of the front or back plate to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) the number of jewels, if any.

"(c) Watch cases shall be marked on the inside or outside of the back case to show—

"(i) the name of the country of manufacture; and

"(ii) the name of the manufacturer or purchaser.

"(d) Clock cases provided for in this subpart shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture."

SEC. 1714. SLABS OF IRON OR STEEL.

Headnote 3(c) to subpart B of part 2 of schedule 6 is amended by striking out "and not over 6 inches".

SEC. 1715. CERTAIN WORK GLOVES.

(a) Headnote 5(a) to schedule 3 is amended by striking out "(except subpart A)" and inserting in lieu thereof "(except subparts A and C)".

(b) Headnote 1 to subpart C of part 1 of schedule 7 of the Tariff Schedules of the United States is amended—

(1) by striking out "and" at the end of subdivision (b),

(2) by striking out the period at the end of subdivision (c) and inserting in lieu thereof "; and", and

(3) by adding after subdivision (c) the following new subdivision:

"(d) gloves which are—

"(i) other than gloves with fourchettes, and

"(ii) constructed of a textile fabric coated, filled, impregnated, or laminated, in whole or in part, with rubber or plastics and cut-and-sewn,

shall be regarded as gloves of textile materials.".

SEC. 1716. DUTY-FREE IMPORTATION OF HATTER'S FUR.

(a) In General.—Subpart D of part 15 of schedule 1 is amended—

(1) by striking out "use, and carroted furskins" in item 186.20 and inserting in lieu thereof "use",

(2) by striking out "15% ad val." in item 186.20 and inserting in lieu thereof "Free",

(3) by striking out "Free (A,E) 4.8% ad val. (I)" in item 186.20, and

(4) by inserting after item 186.20 the following new item with the article description having the same degree of indentation as the article description in item 186.20:

"	186.22	Carroted furskins	15% ad. val.	Free (A,E) 4.8% ad val. (I)	35% ad val.	".

(b) Staged Rate Reduction.—Any staged rate reduction of a rate of duty set forth in item 186.20 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rate of duty set forth in item 186.22 of such Schedules.

SEC. 1717. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS.

Item 709.15 is amended by inserting "other than extracorporeal shock wave lithotripters," before "and".

SEC. 1718. SALTED AND DRIED PLUMS.

(a) In General.—Subpart B of part 9 of schedule 1 is amended by striking out item 149.28 and inserting in lieu thereof the following items with the article descriptions having the same degree of indentation as the article description in item 149.26:

"	149.27	Soaked in brine and dried	2¢ per lb.	Free (E,I)	2¢ per lb.	
	149.29	Otherwise prepared or preserved	17.5% ad val.	Free (E) 5.6% ad val. (I)	35% ad val.	".

(b) Staged Rate Reduction.—Any staged rate reduction of a rate of duty set forth in item 149.28 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 149.27 and 149.29 of such Schedules.

SEC. 1719. TELEVISION APPARATUS AND PARTS.

(a) Permanent Treatment.—The headnotes to part 5 of schedule 6 are amended—

(1) by striking out "assembled," in subparagraph (a) of headnote 3 and inserting in lieu thereof "assembled in its cabinet,";

(2) by redesignating headnotes 4, 5, and 6 as headnotes 5, 6, and 7, respectively; and

(3) by inserting after headnote 3 the following new headnote:

"4. Picture tubes imported in combination with, or incorporated into, other articles are to be classified in items 687.35 through 687.44, inclusive, unless they are—

"(i) incorporated into complete television receivers, as defined in headnote 3;

"(ii) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;

"(iii) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in headnote 3; or

"(iv) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.".

(b) Temporary Treatment.—

(1) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.16	Television picture tubes, color, having a video display diagonal of less than 12 inches (provided for in item 687.35, part 5, schedule 6)	Free		No change	On or before 12/31/90 ".

(2) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.19	Television picture tubes, color, having a video display diagonal of 30 inches and over (provided for in item 687.35, part 5, schedule 6)	Free		No change	On or before 9/30/88 ".

SEC. 1720. CASEIN.

(a) Human Food and Animal Feed Use.—Subpart D of part 4 of schedule 1 is amended by adding at the end thereof the following new items with the superior heading having the same degree of indentation as the article description in item 118.45:

"		Casein, caseinates, and dried milk:			
	118.50	Casein	Free		Free
	118.55	Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported	1.3¢ per lb.	Free (A,E,I)	5.5¢ per lb.
	118.60	Other	0.2¢ per lb.	Free (A,E,I)	5.5¢ per lb. ".

(b) Industrial Use.—Subpart B of part 13 of schedule 4 is amended by striking out items 493.12, 493.14, and 493.17 and the superior heading thereto.

SEC. 1721. TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by inserting before "chiefly" the following: "other than plywood, wood-veneer panels, or cellular panels,".

SEC. 1722. IMPORTATION OF FURSKINS.

Headnote 4 to subpart B of part 5 of schedule 1 is repealed.

SEC. 1723. GRAPEFRUIT.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.29 the following new items with a superior heading having the same degree of indentation as item 165.25:

"		Grapefruit:			
	165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal.	Free (E)	70¢ per gal.
	165.34	Other	35¢ per gal.	Free (E)	70¢ per gal. ";

and

(2) by redesignating items 165.32 and 165.36 as items 165.37 and 165.38, respectively.

SEC. 1724. SILICONE RESINS AND MATERIALS.

Part 4 of schedule 4 is amended—

(1) by amending subpart A—

(A) by striking out "provided for in part 1C" in headnote 1 and inserting ", other than silicones, provided for in part 1", and

(B) by amending headnote 2 to read as follows:

"2. (a) For purposes of this subpart, the term 'synthetic plastics materials'—

"(i) embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which an antioxidant, color, dispersing agent, emulsifier, extender, filler, pesticide, plasticizer, or stabilizer may have been added; and

"(ii) includes silicones (including fluids, resins, elastomers, and copolymers) whether or not such materials are solid in the finished articles.

"(b) The products referred to in subdivision (a) contain as an essential ingredient an organic substance of high molecular weight; and, except as provided in subdivision (a)(ii), are capable, at some stage during processing into finished articles, of being molded or shaped by flow and are solid in the finished article. The term includes, but is not limited to, such products derived from esters of acrylic or methacrylic acid; vinyl acetate, vinyl chloride resins, polyvinyl alcohol, acetals, butyral, formal resins, polyvinyl ether and ester resins, and polyvinylidene chloride resins; urea and amino resins; polyethylene, polypropylene, and other polyalkene resins; siloxanes, silicones, and other organo-silicon resins; alkyd, acrylonitrile, allyl, and formaldehyde resins, and cellulosic plastics materials. These synthetic plastics materials may be in solid, semi-solid, or liquid condition such as flakes, powders, pellets, granules, solutions, emulsions, and other basic crude forms not further processed.",

(C) by inserting after item 445.54 the following new item with the article description having the same degree of indentation as the article description for item 445.54:

"	445.55	Silicone resins and materials	3% ad val.	Free (A, E, I)	25% ad val. ",

and

(D) by redesignating item 445.56 as item 445.60; and

(2) by amending headnote 2 to subpart B by adding at the end thereof the following:

"(c) For purposes of the Tariff Schedules, the term 'rubber' does not include silicones.".

Subpart B—Temporary Changes in Tariff Treatment

SEC. 1731. COLOR COUPLERS AND COUPLER INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting ", but excluding 6,7-dihydroxy-2- naphthalene sulfonic acid sodium salt provided for in item 403.57," after "schedule 4" and before the parenthesis in item 907.10; and

(2) by striking out "9/30/85" in each of items 907.10 and 907.12 and inserting in lieu thereof "12/31/90".

SEC. 1732. POTASSIUM 4-SULFOBENZOATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.26	*p-Sulfobenzoic acid, potassium salt (provided for in item 404.28, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1733. 2,2'-OXAMIDOBIS[ETHYL-3-(3,5-DI-TERT-BUTYL-4-HYDROXYPHENYL)PROPIONATE].

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.09	*2,2'-Oxamidobis-[ethyl-3-(3,5-di-tert-butyl-4-hydroxyphenyl)propionate] (provided for in item 405.34, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1734. 2,4-DICHLORO-5-SULFAMOYLBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.48	*2,4-Dichloro-5-sulfamoylbenzoic acid (provided for in item 406.56, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1735. DERIVATIVES OF N-[4-(2-HYDROXY-3-PHENOXYPROPOXY)PHENYL]ACETAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.11	*Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypro-poxy)phenyl] acetamide (provided for in item 407.19, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1736. CERTAIN KNITWEAR FABRICATED IN GUAM.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.45	*Sweaters that—* *(i) do not contain foreign materials in excess of the percentage of total value limitation contained in general headnote 3(a), and* *(ii) are assembled in Guam, exclusively by United States citizens, nationals, or resident aliens, by joining together (by completely sewing, looping, linking, or other means of attaching) at least 5 otherwise completed major knit-to-shape component parts of foreign origin, if entered before the aggregate quantity of such sweaters that is entered during any 12-month period after October 31, 1985, exceeds the duty-free quantity for that period*	*Free*			*On or before 10/31/92* ".

(b) DUTY-FREE QUANTITY.—The headnotes to subpart B of part 1 of the Appendix are amended by adding at the end thereof the following new headnote:

"3. For purposes of item 905.45, the term 'duty-free quantity' means—

"(a) for the 12-month period ending October 31, 1986, 161,600 dozen; and

"(b) for any 12-month period thereafter, an amount equal to 101 percent of the duty-free quantity for the preceding 12-month period.".

SEC. 1737. 3,5-DINITRO-O-TOLUAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.42	*3,5-Dinitro-o-toluamide (provided for in item 411.95, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1738. SECONDARY-BUTYL CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.55	*Secondary-butyl chloride (provided for in item 429.47, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1739. CERTAIN NONBENZENOID VINYL ACETATE-VINYL CHLORIDE-ETHYLENE TERPOLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.83	*Nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate (provided for in item 445.48, part 4A, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ".

SEC. 1740. DUTY-FREE ENTRY OF PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 10TH PAN AMERICAN GAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*915.20*	*Personal effects of aliens who are participants in or officials of the Tenth Pan American Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury..........................*	*Free*		*Free*	*On or before 9/30/87*	".

SEC. 1741. CARDING AND SPINNING MACHINES.

(a) In General.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*912.03*	*Carding and spinning machines specially designed for wool, other than machines specially designed for the manufacture of combed wool (worsted) yarns (provided for in item 670.04, part 4E, schedule 6).......................*	*Free*		*No change*	*On or before 12/31/90*	".

(b) Parts.—The headnote to subpart E of part 4 of schedule 6 is amended by striking out "item 912.04" each place it appears and inserting in lieu thereof "item 912.03 or 912.04".

SEC. 1742. DICOFOL AND CERTAIN MIXTURES.

(a) Dicofol.—Item 907.15 of the Appendix is amended to read as follows:

"	*907.15*	*1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) (provided for in item 408.28, part 1C, schedule 4)...........*	*Free*		*No change*	*On or before 12/31/90*	".

(b) Mixtures of Dicofol and Application Adjuvants.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	*907.27*	*Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) and application adjuvants (provided for in item 408.36, part 1C, schedule 4)............................*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1743. SILK YARN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*905.25*	*Yarns of silk (provided for in item 308.51, part 1D, schedule 3)...*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1744. TERFENADONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*907.48*	*1-(4-(1,1-Dimethylethyl)-phenyl-4-(hydroxydiphenylmethyl-1-piperidinyl)-1-butanone (provided for in item 406.42, part 1B, schedule 4).......................................*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1745. FLUAZIFOP-P-BUTYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*907.49*	*Butyl 2-[4-(5-trifluoromethyl-2-pryidinyloxy)-phenoxy] propanoate (provided for in item 408.23, part 1C, schedule 4)..*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1746. PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*912.18*	*Parts, not including photoreceptors or assemblies containing photoreceptors, of indirect process electrostatic copying machines, which machines reproduce the original image onto the copy material by electrostatic transference to and from an intermediate (provided for in item 676.56, part 4G, schedule 6)...........................*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1747. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS IMPORTED BY NONPROFIT INSTITUTIONS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*912.24*	*Extracorporeal shock wave lithotripters imported by nonprofit hospitals and research or educational institutions (provided for in item 709.17, part 2B, schedule 7)...*	*Free*		*No change*	*On or before 12/31/87*	".

SEC. 1748. TRANSPARENT PLASTIC SHEETING.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	915.10	*Transparent plastic sheeting containing 30% or more of lead, by weight (provided for in item 774.58, part 12D, schedule 7)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1749. DOLL WIG YARNS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	905.30	*Grouped filaments and yarns, not textured, in continuous form, colored, of nylon or modacrylic, whether or not curled of not less than 20 denier per filament, to be used in the manufacture of wigs for dolls (provided for in item 309.32 and 309.33, part 1E, schedule 3, or item 389.62, part 7B, schedule 3)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1750. 1-(3-SULFOPROPYL) PYRIDINIUM HYDROXIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

“	907.97	*1-(3-Sulfopropyl)-pyridiniumhydroxide (provided for in item 406.42, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1751. POLYVINYLBENZYLTRIMETHYLAMMONIUM CHLORIDE (CHOLESTYRAMINE RESIN USP).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.30	*Cross-linked polyvinyl-benzyltrimethylam-monium chloride (cholestyramine resin USP) (provided for in item 412.71, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1752. METHYLENE BLUE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.81	*3,7-Bis-(dimethylamino)-phenazathionium chloride (methylene blue) (provided for in item 409.74, part 1C, schedule 4*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1753. 3-AMINO-3-METHYL-1-BUTYNE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.53	*3-Amino-3-methyl-1-butyne (provided for in item 425.52, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1754. DICYCLOHEXYLBENZOTHIAZYLSULFENAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	906.45	*Dicyclohexylbenzothiazylsulfenamide (provided for in item 406.39, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1755. D-6-METHOXY-α-METHYL-2-NAPHTHALENEACETIC ACID AND ITS SODIUM SALT.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.39	*d-6-Methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt (provided for in item 412.22, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1756. SUSPENSION OF DUTIES ON JACQUARD CARDS AND JACQUARD HEADS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	912.46	*Jacquard cards and jacquard heads for power-driven weaving machines, and parts thereof (provided for in items 670.56 and 670.74, respectively, part 4E, schedule 6).*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1757. 2,2-BIS(4-CYANATOPHENYL).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“	907.44	*2,2-Bis(4-cyanatophenyl) (provided for in item 405.76, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	”.

SEC. 1758. PHENYLMETHYLAMINOPYRAZOLE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.47	*Aminomethylphenylpyrazole (Phenylmethylaminopyrazole) (provided for in item 406.36, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1759. BENZETHONIUM CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.52	*Benzethonium chloride (provided for in item 408.32, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1760. MANEB, ZINEB, MANCOZEB, AND METIRAM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.60	*Maneb, zineb, mancozeb, and metiram (provided for in item 432.15, part 2E, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1761. METALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.56	*Metaldehyde (provided for in item 427.58, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1762. PARALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.57	*Paraldehyde, USP grade (provided for in item 439.50, part 3C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1763. CYCLOSPORINE.

Subpart B of part 1 of the Appendix is amended by inserting the following item:

"	907.78	*Cyclosporine (provided for in item 439.30, part 3C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1764. TEMPORARY REDUCTION OF DUTIES ON GLASS INNERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	909.35	*Glass inners designed for vacuum flasks or for other vacuum vessels (provided for in items 545.31, 545.34, 545.35, and 545.37, part 3C, schedule 5)*	*9% ad val.*	*3.6% ad val. (I)* *Free (A,E)*	*55% ad val.*	*On or before 12/31/90*	".

SEC. 1765. BENZENOID DYE INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following items:

"	907.84	*p-Toluenesulfonyl chloride (provided for in item 403.05, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
	907.85	*6-Hydroxy-2-naphthalenesulfonic acid; 6-Hydroxy-2-naphthalenesulfonic acid, sodium salt; 6-Hydroxy-2-napthalenesulfonic acid, potassium salt; and 6-Hydroxy-2-napthalenesulfonic acid, ammonium salt (provided for in item 403.57, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
	907.86	*2,6-Dichloro-benzaldehyde (provided for in item 403.81 part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
	907.87	*8-Amino-1-naphthalenesulfonic acid and its salts (provided for in item 404.52, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
	907.88	*5-Amino-2-(p-amino-anilino) benzene-sulfonic acid (provided for in item 404.84, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
	907.89	*1-Amino-2,4-dibromo-anthraquinone; and α,α,α-Trifluoro-o-toluidine (provided for in item 404.88, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*

907.90	*1-Amino-8-hydroxy-3, 6-naphthalene-disulfonic acid; 4-Amino-5-hydroxy-2,7-naphthalene-disulfonic acid, monosodium salt (H acid, monosodium salt); and 2-Amino-5-nitrophenol (provided for in item 404.92, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
907.91	*1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid); 1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid), sodium salt; 6-Amino-4-hydroxy-2-naphthalene-sulfonic acid (Gamma acid); 3,3'-Dimethoxy-benzidine (o-Dianisidine); 3,3'-Dimethoxy-benzidinedihydrochloride (o-Dianisidine dihydrochloride); and4-Methoxyaniline-2-sulfonic acid (provided for in item 405.07, part1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
907.92	*N-(7-Hydroxy-1-naphthyl)acetamide (provided for in item 405.28, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
907.93	*N,N-Bis(2-cyanoethyl)aniline (provided for in item 405.60, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
907.94	*6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalene-disulfonic acid (Amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-Methyl-1-phenyl-5-pyrazolone (Methyl-phenyl-pyrazolone) (provided for in item 406.36, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*
907.95	*2-Amino-N-ethyl-benzenesulfonanilide (provided for in item 406.49, part 1B, schedule 4)*..	*Free*		*No change*	*On or before 12/31/90*
907.96	*m-Sulfamino-pyrazolone-m-Sulfamido-phenylmethyl-pyrazolone) (provided for in item 406.56, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1766. TUNGSTEN ORE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“ *911.96*	*Tungsten ore (provided for in item 601.54, part 1, schedule 6)*..	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1767. CHLOR AMINO BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“ *907.07*	*4-Chloro-2,5-dimethoxy aniline (CAS No. 6358-64-1) (provided for in item 405.01, part 1B, schedule 4)*...........	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1768. NITRO SULFON B.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“ *908.01*	*2-[(3-Nitrophenyl)-sulfonyl]-ethanol (CAS No. 41687-30-3) (provided for in item 406.00, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1769. 4-CHLORO-2-NITRO ANILINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

“ *908.02*	*4-Chloro-2-nitro aniline (CAS No. 89-63-4) (provided for in item 404.88, part 1B, schedule 4)*...........................	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1770. AMINO SULFON BR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“ *908.03*	*3-(4'-aminobenz-amido) phenyl-beta-hydroxy-ethyl sulfone (CAS No. 20241-68-3) (provided for in item 406.00, part 1B, schedule 4)*..	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1771. ACET QUINONE BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

“ *908.04*	*2,5-Dimethoxy-acetanilide (CAS No. 3467-59-2) (provided for in item 405.34, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90* ”.

SEC. 1772. DIAMINO PHENETOLE SULFATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.05	3,4-Diamino phenetole dihydrogen sulfate (CAS No. 85137-09-3) (provided for in item 405.09, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1773. CERTAIN MIXTURES OF CROSS-LINKED SODIUM POLYACRYLATE POLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.72	Mixtures of two or more organic compounds containing one or more cross-linked sodium polyacrylate polymers (provided for in item 430.20, part 2D, schedule 4)	Free		No change	On or before 10/31/87	".

SEC. 1774. N-ETHYL-O-TOLUENESULFONAMIDE AND N-ETHYL-P-TOLUENESULFONAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.07	N-Ethyl-o-toluene-sulfonamide, and N-Ethyl-p-toluene-sulfonamide (provided for in item 409.34, part 1C, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1775. SETHOXYDIM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.36	Mixtures of 2-[1-(ethoxyimino)-butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy- 2-cyclohexen-1-one (sethoxydim) and application adjuvants (provided for in item 407.19, part 1B, or item 430.20, part 2D of schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1776. 3-ETHYLAMINO-P-CRESOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.34	3-Ethylamino-p-cresol (provided for in item 404.96, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1777. ROSACHLORIDE LUMPS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.11	1-Amino-2-chloro-4-hydroxyanthraquinone (provided for in item 405.07, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1778. C-AMINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.59	2-Amino-5-chloro-4-methylbenzenesulfonic acid; and 2-amino-5-chloro-4-ethylbenzenesulfonic acid (provided for in item 404.88 and 404.90, respectively, part 1B, schedule 4)	Free		No change	On or before 12/31/90	".

SEC. 1779. DIAMINO IMID SP.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.60	4,11-Diamino-1H-naphth[2,3-f]isoindole-1,3,5,10(2H)-tetrone (CAS No. 128–81–4) (provided for in item 406.42, part 1B, schedlule 4)	Free		No change	On or before 12/31/90	".

SEC. 1780. CERTAIN STUFFED TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.32	Stuffed or filled toy figures of animate objects (except dolls), not having a spring mechanism and not exceeding 25 inches in either length, width, or height (provided for in items 737.30 and 737.40, part 5E, schedule 7)	Free		No change	On or before 12/31/90	".

SEC. 1781. KITCHENWARE OF TRANSPARENT, NONGLAZED GLASS CERAMICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	909.15	Kitchenware of glass-ceramics, nonglazed, greater than 75 percent by volume crystalline, containing lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10×10^{-7} per Kelvin within a temperature range of $0^\circ C$ to $300^\circ C$, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3 mm in thickness, and containing beta-quartz solid solution as the predominant crystal phase (provided for in item 534.97, part 2C, schedule 5)	Free		No change	On or before 12/31/90	".

SEC. 1782. HOSIERY KNITTING MACHINES AND NEEDLES.

(a) In General.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	912.28	*Needles for knitting machines (provided for in items 670.58 and 670.62, part 4E, schedule 6)*	*Free*		*No change*	*On or before 12/31/90*	
"	912.29	*Hosiery knitting machines, single cylinder fine gauge and all double cylinder (provided for in items 670.16 and 670.18, part 4E, schedule 6)*	*Free*		*No change*	*On or before 12/31/90*	".

(b) Repeal.—Items 912.08 and 912.09 are repealed.

SEC. 1783. CERTAIN BICYCLE PARTS.

(a) Bicycle Tires and Tubes.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.01	*Bicycle tires and tubes and rim strips, the foregoing of rubber or plastics (provided for in item 732.42, part 5C, schedule 7, and items 772.48 and 772.57, part 12C, schedule 7)*	*Free*		*No change*	*On or before 12/31/90*	".

(b) Generator Lighting Sets.—Item 912.05 of the Appendix is amended by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(c) Bicycle Chains.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.06	*Bicycle chains (provided for in items 652.13 and 652.15, part 3F, schedule 6)*	*Free*		*No change*	*On or before 12/31/90*	".

(d) Other Bicycle Parts.—Item 912.10 of the Appendix is amended—

(1) by inserting "front and rear derailleurs, shift levers, cables and casings for derailleurs," immediately after "drum brakes,",

(2) by striking out "multiple free wheel sprockets" and inserting in lieu thereof "free wheel sprockets",

(3) by inserting "and" after "frame lugs,",

(4) by striking out ", including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle", and

(5) by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(e) Caliper Brake Cable or Inner Wire and Casing.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.12	*Cable or inner wire for caliper brakes and casing therefor, whether or not cut to length (provided for in items 642.08, 642.11, 642.14, 642.16, 642.18, 642.19, 642.23, and 657.25, parts 3B and 3G, schedule 6, and items 771.55 and 772.65, parts 12B and 12C, schedule 7)*	*Free*		*No change*	*On or before 12/31/90*	".

(f) Exception to Customs Exemption Applicable to Foreign Trade Zones.—Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "June 30, 1986" and inserting in lieu thereof "January 1, 1991".

SEC. 1784. 1,2-DIMETHYL-3,5-DIPHENYLPYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.24	*1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (difenzoquat methyl sulfate) (provided for in item 408.19, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1785. TRIALLATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.64	*S-(2, 3, 3'-trichlorallyl)-diisopropyl-thiocarbamate (provided for in item 425.36, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1786. m-NITRO-p-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.56	*m-Nitro-p-anisidine (provided for in item 405.09, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1787. DINOCAP AND MIXTURES OF DINOCAP AND MANCOZEB.

(a) Dinocap and Application Adjuvants.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	907.98	*Dinocap (provided for in item 408.16, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*

	907.99	*Mixtures of dinocap and application adjuvants (provided for in item 408.38, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

(b) MIXTURES OF DINOCAP AND MANCOZEB.—*Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:*

"	907.28	*Mixtures of mancozeb and dinocap (provided for in item 408.38, part 1C, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

*SEC 1788. μ-*NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.35	*m-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

*SEC. 1789. π-*NITRO-O-TOLUIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.37	*p-Nitro-o-toluidine (provided for in item 404.88, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1790. PHENYLCARBETHOXYPYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.31	*Phenylcarbethoxy- pyrazolone (provided for in item 406.39, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

*SEC. 1791. p-*NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.14	*p-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1792. CARBODIIMIDES.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.70	*Bis(o-tolyl) carbodiimide; 2,2',6,6'-Tetraisopropyldiphenyl carbodiimide; Poly[nitrilo-methanete-traryl-nitrilo [2,4,6-tris(1,-methylethyl)-1,3 phenylene]], 2,6-bis(1-methylethyl) phenyl]-omega-[[[[2,6-bis(1-methylethyl) phenyl]amino] methylene]amino]; and Benezene, 2,4-diisocyanato-1,3,5-tris(1-methylethyl)-homopolymer (provided for in item 405.53, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1793. TRIETHYLENE GLYCOL DICHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.73	*Triethylene glycol dichloride (provided for in item 428.47, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1794. MIXTURES OF 5-CHLORO-2-METHYL-4-ISOTHIAZOLIN-3-ONE, 2-METHYL-4-ISOTHIAZOLIN-3-ONE, MAGNESIUM CHLORIDE, STABILIZERS AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.16	*Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants (provided for in item 432.28, part 2E, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1795. 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE, AND ON MIXTURES OF 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.17	*2-n-Octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants (provided in items 425.52 and 430.20, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1796. WEAVING MACHINES FOR FABRICS IN EXCESS OF 16 FEET WIDTH.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*912.48*	*Power-driven weaving machines for weaving fabrics more than sixteen feet in width, and parts thereof (provided for in item 670.14 and 670.74, part 4E, schedule 6)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1797. BARBITURIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*907.50*	*Barbituric acid (provided for in item 437.36, part 3B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1798. 3-METHYL-5-PYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*907.46*	*3-Methyl-5-pyrazolone (provided for in item 425.52, part 2D, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1799. 3-METHYL-1-(P-TOLYL)-2-PYRAZOLIN-5-ONE (P-TOLYL METHYL PYRAZOLONE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*908.15*	*3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolyl methyl pyrazolone) (provided for in item 406.36, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1800. CERTAIN OFFSET PRINTING PRESSES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*911.93*	*Offset printing presses of the sheet-fed type weighing 3,500 pounds or more (provided for in item 668.21, part 4D, schedule 6)*	*No change*		*10% ad val.*	*On or before 12/31/90*	".

SEC. 1801. FROZEN CRANBERRIES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"	*903.63*	*Cranberries, frozen (provided for in item 146.71, part 9B, schedule 1)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1802. μ-HYDROXYBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	*908.18*	*m-Hydroxybenzoic acid (provided for in item 404.40, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/31/90*	".

SEC. 1803. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting in numerical sequence the following new item:

"	*908.32*	*N1,N4,N4-Tris(2-hydroxyethyl)-2-nitro-1,4-phenylenediamine;* *N1,N4-Dimethyl-N1-(2-hydroxyethyl)-3-nitro-1,4-phenylenediamine;* *N1,N4-Dimethyl-N1-(2,3-dihydroxypropyl)-3-nitro-1,4-phenylenediamine; and* *N1-(2-Hydroxyethyl)-3-nitro-1,4-phenylenediamine (provided for in item 405.09, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/1/90*	",

(2) by inserting in numerical sequence the following new item:

"	*908.33*	*N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylenediamine (provided for in item 405.07, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/1/90*	",

and

(3) by inserting in numerical sequence the following new item:

"	*908.34*	*2-Nitro-5-[(2,3-dihydroxy)propoxy]-N-methylaniline;* *2-Nitro-5-(2-hydroxyethoxy)-N-methylaniline;* *4-[(2-Hydroxyethyl)amino]-3-nitrophenol;* *4-(2-Hydroxyethoxy)-1,3-phenylenediamine dihydrochloride; and* *3-Methoxy-4-[(2-hydroxyethyl)-amino] nitrobenzene (provided for in item 405.09, part 1B, schedule 4)*	*Free*		*No change*	*On or before 12/1/90*	".

SEC. 1804. EXTENSION OF CERTAIN SUSPENSION PROVISIONS.

(a) Provisions That Expired Before 1987.—Each of the following items are amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

(1) Item 903.65 (relating to cantaloupes).

(2) Items 905.10 and 905.11 (relating to certain wools).

(3) Items 906.10 and 906.12 (relating to needlecraft display models).

(4) Item 907.01 (relating to triphenyl phosphate).

(5) Item 907.14 (relating to isomeric mixtures of ethylbiphenyl).

(6) Item 907.17 (relating to sulfapyridine).

(7) Item 911.25 (relating to synthetic rutile).

(8) Item 911.95 (relating to certain clock radios).

(9) Item 912.07 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).

(10) Item 912.20 (relating to certain small toys).

(11) Items 912.30, 912.34, and 912.36 (relating to stuffed dolls, certain toy figures, and skins thereof).

(12) Item 912.45 (relating to umbrella frames).

(13) Item 903.60 (relating to mixtures of mashed or macerated hot red peppers and salt).

(b) Provisions Expiring In 1987 or Later.—Each of the following items is amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

(1) Items 903.70 and 903.80 (relating to crude feathers and down).

(2) Item 905.50 (relating to surgical gowns).

(3) Item 906.50 (relating to diphenylguanidine and di-ortho-tolylguanidine).

(4) Item 906.57 (relating to m-toluic acid).

(5) Item 907.13 (relating to menthol feedstocks).

(6) Item 907.19 (relating to sulfathiazole).

(7) Item 907.21 (relating to flecainide acetate).

(8) Item 907.23 (relating to o-Benzyl-p-chlorophenol).

(9) Item 907.31 (relating to B-Naphthol).

(10) Item 907.32 (relating to 3,3'-Diaminobenzidine).

(11) Item 907.33 (relating to acetylsulfaguanidine).

(12) Item 907.34 (relating to 6-Amino-1-naphthol-3-sulfonic acid).

(13) Item 907.35 (relating to 2-(4-Aminophenyl)-6-methylbenzo-thiazole-7-sulfonic acid).

(14) Item 907.36 (relating to sulfamethazine).

(15) Item 907.37 (relating to sulfaguanidine).

(16) Item 907.38 (relating to sulfaquinoxaline and sulfanilamide).

(17) Item 907.63 (relating to nicotine resins).

(18) Item 907.79 (relating to iron-dextran complex).

(19) Item 909.01 (relating to natural graphite).

(20) Item 912.04 (relating to certain narrow weaving machines).

(21) Item 912.11 (relating to certain lace-braiding machines).

(22) Item 905.40 (relating to certain hovercraft skirts).

(23) Item 906.52 (relating to 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate).

(c) Technical Amendments.—

(1) Item 906.10 is amended—

(A) by striking out "365.78" and inserting in lieu thereof "365.66",

(B) by striking out "365.86" and inserting in lieu thereof "365.89",

(C) by striking out "367.34" and inserting in lieu thereof "367.32",

(D) by striking out "367.60" and inserting in lieu thereof "367.63",

(E) by striking out "386.13" and inserting in lieu thereof "386.12", and

(F) by striking out "386.50" and inserting in lieu thereof "386.53".

(2) Item 906.12 is amended by striking out "383.03, 383.08, 383.20, and 383.50" and inserting in lieu thereof "384.04, 384.09, 384.22, and 384.52".

(3) Item 907.14 is amended by striking out "407.16" and inserting in lieu thereof "407.19".

(4) Item 912.45 is amended by striking out "751.20" and inserting in lieu thereof "751.21".

(5) Item 907.21 is amended by striking out "412.12" and inserting in lieu thereof "412.11".

Subpart C—Effective Dates

SEC. 1831. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this section, the amendments made by this part shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after September 30, 1988.

(b) Retroactive Application for Certain Liquidations and Reliquidations.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, any entry—

(A) which was made after the applicable date and before October 1, 1988, and

(B) with respect to which there would have been no duty or a lesser duty if any amendment made by—

(i) section 1716, 1717, 1719(b)(2), 1731, 1736, 1740, 1742(a), 1747, or 1773,

(ii) subsection (a), (b), (d), or (e) of section 1783, or

(iii) section 1804 (other than section 1804(a)(7) and paragraphs (2) and (10) of section 1804(b)),

applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this section—

(A) The term "applicable date" means—

(i) if the amendment described in paragraph (1)(B) is made by section 1717 or 1747, December 31, 1982,

(ii) if such amendment is made by section 1804(a)(1), May 15, 1985,

(iii) if such amendment is made by paragraph (2), (3), (5), or (13) of section 1804(a), June 30, 1985,

(iv) if such amendment is made by section 1773, July 1, 1985,

(v) if such amendment is made by section 1731, 1742(a), or 1804(a)(4), September 30, 1985,

(vi) if such amendment is made by section 1736, October 31, 1985,

(vii) if such amendment is made by section 1716 or by paragraph (6), (9), or (11) of section 1804(a), December 31, 1985,

(viii) if such amendment is made by section 1740, May 31, 1986,

(ix) if such amendment is made by subsection (b), (d), or (e) of section 1783, June 30, 1986,

(x) if such amendment is made by paragraph (8), (10), or (12) of section 1804(a), December 31, 1986,

(xi) if such amendment is made by section 1783(a) or 1804(b) (other than by paragraph (2) or (10) of section 1804(b)), December 31, 1987, or

(xii) if such amendment is made by section 1719(b)(2), the date that is 15 days after the date of enactment of this Act.

(B) The term "entry" includes any withdrawal from warehouse.

(c) Hosiery Knitting Machines and Needles.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989—

(1) any entry of an article described in item 912.08 of the Tariff Schedules of the United States (as in effect on September 30, 1985) that was made—

(A) after September 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on September 30, 1985; and

(2) any entry of an article described in item 912.09 of such Schedules (as in effect on June 30, 1985) that was made—

(A) after June 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on June 30, 1985.

PART II—MISCELLANEOUS PROVISIONS

SEC. 1841. CERTAIN STRUCTURES AND PARTS USED IN THE W.M. KECK OBSERVATORY PROJECT, MAUNA KEA, HAWAII.

The Secretary of the Treasury is authorized and directed to admit free of duty after September 30, 1988, the following articles for the use of the California Association for Research in Astronomy in the construction of the optical telescope for the W.M. Keck Observatory Project, Mauna Kea, Hawaii:

(1) The telescope structure.

(2) The observatory domes, produced by Brittain Steel, Ltd., of Vancouver, British Columbia, Canada.

(3) The primary mirror blanks, produced by the Schott Glassworks, Frankfurt, Federal Republic of Germany.

If the liquidation of the entry of any such article has become final before October 1, 1988, the entry shall, notwithstanding any other provision of law, be reliquidated on October 1, 1988, in accordance with the provisions of this section and the appropriate refund of duty made at the time of such reliquidation.

SEC. 1842. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTIDUMPING DUTIES.

(a) In General.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in subsection (b) shall be reliquidated on October 1, 1988, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made on October 1, 1988.

(b) Specific Entries.—The entries referred to in subsection (a) are as follows:

Entry Number:	Date of Entry:
144549	March 26, 1976
150297	April 27, 1976
152729	May 11, 1976
156068	May 26, 1976
161653	June 23, 1976

Entry Number:	*Date of Entry:*
168759	*July 30, 1976*
173393	*August 25, 1976*
175173	*September 3, 1976*
178811	*September 23, 1976*
108842	*November 18, 1976*
113000	*December 9, 1976*
115229	*December 21, 1976*
120070	*January 17, 1977*
120908	*January 20, 1977*
121403	*January 24, 1977*
130005	*March 10, 1977.*

SEC. 1843. RELIQUIDATION OF CERTAIN TUBULAR TIN PRODUCTS.

Notwithstanding any provision of the Tariff Act of 1930 or any other provision of the law to the contrary, the Secretary of the Treasury shall reliquidate on or after October 1, 1988, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the United States, as in effect at the time of entry, the entries numbered 00329493 (dated March 16, 1979), 00329494 (dated March 13, 1979), 00329495 (dated March 28, 1979), and 00330003 (dated March 21, 1979), made at New York, and covering tubular tin products, if a certificate of actual use (remelt certificate) for the articles covered by the four entries is submitted to the United States Customs Service at the port of entry after September 30, 1988, and before April 1, 1989.

SEC. 1844. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII.

Nothwithstanding any other provision of law—

(1) the entry, or withdrawal from warehouse, for consumption in October 1986 of any extracorporeal shock wave lithotripter exclusively for use in the State of Hawaii shall be free of duty and, upon a request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, shall be reliquidated in accordance with the provisions of this section, and

(2) the appropriate refund of any duties paid on such entry or withdrawal shall be made after September 30, 1988.

SEC. 1845. EXTENSION OF THE FILING PERIOD FOR RELIQUIDATION OF CERTAIN ENTRIES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned after September 30, 1988, and before April 1, 1989, the entry of any article described in item 687.70 of the Tariff Schedules of the United States which was made on or after March 1, 1985, and before November 6, 1986, shall be liquidated or reliquidated as though such entry had been made on November 6, 1986.

Subtitle H—Miscellaneous Customs, Trade, and Other Provisions

PART I—CUSTOMS PROVISIONS

SEC. 1901. ENFORCEMENT OF THE RESTRICTIONS AGAINST IMPORTED PORNOGRAPHY.

(a) In General.—Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended as follows:

(1) The second paragraph of subsection (a) is designated as subsection (b) and the following side heading, appropriately indented, is inserted before "Upon" at the beginning of the paragraph: "(b) Enforcement Procedures.—".

(2) The second sentence of subsection (b) (as redesignated by paragraph (1)) is amended to read as follows: "Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

"(1) the office at which such seizure took place; or

"(2) the place to which such book or matter is addressed;

and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.".

(3) The following new subsections are added at the end thereof:

"(c) Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

"(d) Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.".

(b) Effective Date.—The amendments made by subsection (a) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 1902. TARE ON CRUDE OIL AND PETROLEUM PRODUCTS.

(a) In General.—Section 507 of the Tariff Act of 1930 (19 U.S.C. 1507) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) In General.—The Secretary",

(2) by striking out "in no case shall there be" and inserting in lieu thereof "(except as otherwise provided in this section) there shall not be", and

(3) by adding at the end thereof the following new subsection:

"(b) Crude Oil and Petroleum Products.—In ascertaining tare on imports of crude oil, and on imports of petroleum products, allowance shall be made for all detectable moisture and impurities present in, or upon, the imported crude oil or petroleum products.".

(b) Effective Date.—The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1987.

SEC. 1903. ELIGIBLE ARTICLES UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

Section 503(c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(B)) is amended to read as follows:

"(B) watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions,".

SEC. 1904. CUSTOMS BOND CANCELLATION STANDARDS.

Section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)) is amended by adding at the end thereof the following new sentence: "In order to assure uniform, reasonable, and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.".

SEC. 1905. CUSTOMS SERVICES AT PONTIAC/OAKLAND, MICHIGAN, AIRPORT.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 586) is amended—

(1) by striking out "and" at the end of subsection (a)(1);

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3); and

(3) by inserting after paragraph (1) of subsection (a) the following new paragraph:

"(2) the airport located at Pontiac/Oakland, Michigan, and"; and

(4) by striking out "20" in subsection (c).

SEC. 1906. SENSE OF CONGRESS REQUESTING THE PRESIDENT TO INSTRUCT THE SECRETARY OF THE TREASURY TO ENFORCE SECTION 307 OF THE TARIFF ACT OF 1930 WITHOUT DELAY.

(a) Congressional Findings.—The Congress finds that—

(1) its February 1983 report to the Congress on forced labor in the Union of Soviet Socialist Republics, the Department of State confirmed that Soviet forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets", and that such labor is used as an integral part of Soviet national economy;

(2) the Central Intelligence Agency has compiled a list of over three dozen products made by Soviet forced labor and imported by the United States, and that items on the September 27, 1983 list include chemicals, gold, uranium, aluminum, wood products and glassware;

(3) the International Commission on Human Rights has concluded that the Soviet Union "continues the deplorable practice of forced labor in manufacturing and construction projects" and that prisoners "are forced to work under conditions of extreme hardship including malnutrition, inadequate shelter and clothing, and severe discipline";

(4) the Congress is on record as opposing forced labor, having enacted a prohibition (in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)) on the importation of goods made with such labor and having passed in the Ninety-eighth Congress by unanimous vote a resolution calling such practices morally reprehensible and calling upon the President to express to the Soviet Union the opposition of the United States to such policies;

(5) the prohibition enacted by the Congress declares that "goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited";

(6) there is ample knowledge of the Soviet forced labor system to require enforcement of the prohibition contained in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

(7) the delay in enforcing the law brings into question the commitment of the United States to protest the inhumane treatment of prisoners in the Soviet Gulag, an estimated ten thousand of whom are political and religious prisoners according to the Department of State.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should express to the Soviet Union in the firmest possible terms the strong moral opposition of the United States to the slave labor policies of the Soviet Union by every means possible, including refusing to permit the importation into the United States of any products made in whole or in part by such labor.

(c) PRESIDENTIAL ACTION.—The President is hereby requested to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) without delay.

SEC. 1907. IMPORT MARKING PROVISIONS.

(a) INCREASE IN PENALTY FOR VIOLATIONS OF COUNTRY-OF-ORIGIN MARKING REQUIREMENTS.—

(1) Section 304(h) of the Tariff Act of 1930 (19 U.S.C. 1304(h)) is amended to read as follows:

"(h) PENALTIES.—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this Act shall—

"(1) upon conviction for the first violation of this subsection, be fined not more than $100,000, or imprisoned for not more than 1 year, or both; and

"(2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than $250,000, or imprisoned for not more than 1 year, or both.".

(2)(A) The amendment made by paragraph (1) applies with respect to acts committed on or after the date of the enactment of this Act.

(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 for an act committed before the date of the enactment of this Act shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection.

(b) MARKING OF CONTAINERS OF IMPORTED MUSHROOMS.—Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.

(c) NATIVE-AMERICAN STYLE JEWELRY AND NATIVE-AMERICAN STYLE ARTS AND CRAFTS.—By no later than the date that is 1 year after the date of enactment of this Act, the Secretary of the Treasury shall prescribe and implement regulations under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) which require, to the greatest extent possible, that all Native-American style jewelry and Native-American style arts and crafts that are imported into the United States have the English name of the country of origin of such jewelry or arts and crafts indelibly marked in a conspicuous place on such jewelry or arts and crafts by a permanent method of marking.

SEC. 1908. DUTY-FREE SALES ENTERPRISES.

(a) FINDINGS.—The Congress finds that—

(1) duty-free sales enterprises play a significant role in attracting international passengers to the United States and thereby their operations favorably affect our balance of payments;

(2) concession fees derived from the operations of authorized duty-free sales enterprises constitute an important source of revenue for the State, local and other governmental authorities that collect such fees;

(3) there is inadequate statutory and regulatory recognition of, and guidelines for the operation of, duty-free sales enterprises; and

(4) there is a need to encourage uniformity and consistency of regulation of duty-free sales enterprises.

(b) IN GENERAL.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended to read as follows:

"(b) DUTY-FREE SALES ENTERPRISES.—

"(1) Duty-free sales enterprises may sell and deliver for export from the customs territory duty-free merchandise in accordance with this subsection and such regulations as the Secretary may prescribe to carry out this subsection.

"(2) A duty-free sales enterprise may be located anywhere within—

"(A) the same port of entry, as established under section 1 of the Act of August 24, 1912 (37 Stat. 434), from which a purchaser of duty-free merchandise departs the customs territory; or

"(B) 25 statute miles from the exit point through which the purchaser of duty-free merchandise will depart the customs territory.

"(3) Each duty-free sales enterprise—

"(A) shall establish procedures to provide reasonable assurance that duty-free merchandise sold by the enterprise will be exported from the customs territory;

"(B) if the duty-free sales enterprise is an airport store, shall establish and enforce, in accordance with such regulations as the Secretary may prescribe, restrictions on the sale of duty-free merchandise to any one individual to personal use quantities;

"(C) shall display in prominent places within its place of business notices which state clearly that any duty-free merchandise purchased from the enterprise—

"(i) has not been subject to any Federal duty or tax,

"(ii) if brought back into the customs territory, must be declared and is subject to Federal duty and tax; and

"(iii) is subject to the customs laws and regulation of any foreign country to which it is taken,

"(D) shall not be required to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate that the items were sold by a duty-free sales enterprise, unless the Secretary finds a pattern in which such items are being brought back into the customs territory without declaration;

"(E) may unpack merchandise into saleable units after it has been entered for warehouse and placed in a duty-free sales enterprise, without requirement of further permits; and

"(F) shall deliver duty-free merchandise—

"(i) in the case of a duty-free sales enterprise that is an airport store—

"(I) to the purchaser (or a family member or companion traveling with the purchaser) in an area that is within the airport and to which access to passengers is restricted to those departing from the customs territory,

"(II) to the purchaser (or a family member or companion traveling with the purchaser) at the exit point of a specific departing flight;

"(III) by placing the merchandise within the aircraft on which the purchaser will depart for carriage as passenger baggage; or

"(IV) if the duty-free sales enterprise has made a good faith effort to effect delivery for exportation through one of the methods described in subclause (I), (II), or (III) but is unable to do so, by any other reasonable method to effect delivery; or

"(ii) in the case of a duty-free sales enterprise that is a border store—

"(I) at a merchandise storage location at or beyond the exit point; or

"(II) at any location approved by the Secretary before the date of enactment of the Omnibus Trade Act of 1987.

"(4) If a State or local or other governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to or through such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary that the concession or approval required for the enterprise has been obtained.

"(5) This subsection does not prohibit a duty-free sales enterprise from offering for sale and delivering to, or on behalf of, individuals departing from the customs territory merchandise other than duty-free merchandise, except that such other merchandise may not be stored in a bonded warehouse facility other than a bonded facility used for retail sales.

"(6) Merchandise that is purchased in a duty-free sales enterprise is not eligible for exemption from duty under subpart A of part 2 of schedule 8 of the Tariff Schedules of the United States if such merchandise is brought back to the customs territory.

"(7) The Secretary shall by regulation establish a separate class of bonded warehouses for duty-free sales enterprises. Regulations issued to carry out this paragraph shall take into account the unique characteristics of the different types of duty-free sales enterprises.

"(8) For purposes of this subsection—

"(A) The term 'airport store' means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory from an international airport located within the customs territory.

"(B) The term 'border store' means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory through a land or water border by a means of conveyance other than an aircraft.

"(C) The term 'customs territory' means the customs territory of the United States and foreign trade zones.

"(D) The term 'duty-free sales enterprise' means a person that sells, for use outside the customs territory, duty-free merchandise that is delivered from a bonded warehouse to an airport or other exit point for exportation by, or on behalf of, individuals departing from the customs territory.

"(E) The term 'duty-free merchandise' means merchandise sold by a duty-free sales enterprise on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory.

"(F) The term 'exit point' means the area in close proximity to an actual exit for departing from the customs territory, including the gate holding area in the case of an airport, but only if there is reasonable assurance that duty-free merchandise delivered in the gate holding area will be exported from the customs territory.

"(G) The term 'personal use quantities' means quantities that are only suitable for uses other than resale, and includes reasona-

ble quantities for household or family consumption as well as for gifts to others.".

(c) Effective Date.—The amendment made by this section shall take effect on the date that is 15 days after the date of enactment of this Act.

SEC. 1909. CARIBBEAN BASIN INITIATIVE.

(a) Findings.—The Congress finds that—

(1) Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

(2) promoting economic and political stability in the Caribbean and Central America is in the national security interests of the United States;

(3) the economic and political stability of the nations of the Caribbean and Central America can be strengthened significantly by the attraction of foreign and domestic investment specifically devoted to employment generation; and

(4) the diversification of the economies and expansion of exports, particularly those of a non-traditional nature, of the nations of the Caribbean and Central America is linked directly to fair access to the markets of the United States.

(b) Intent of the Congress.—The Congress hereby expresses its intention to ensure that—

(1) the trade elements of the Caribbean Basin Initiative be strengthened in a manner consistent with the promotion of economic and political stability in the Caribbean and Central America;

(2) to the extent that Congress imposes changes that are intended to improve the competitive environment for United States industry and workers, such changes do not unduly affect the unilateral duty-free trade system available to the beneficiary countries designated under the Caribbean Basin Economic Recovery Act; and

(3) generic changes in the trade laws of the United States do not discriminate against imports from designated beneficiary countries in relation to imports from other United States trading partners.

(c) Withdrawal or Suspension of Duty-Free Treatment to Specific Articles.—Subsection (e) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended to read as follows:

"(e)(1) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

"(A) withdraw or suspend the designation of any country as a beneficiary country, or

"(B) withdraw, suspend, or limit the application of duty-free treatment under this subtitle to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

"(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

"(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

"(i) accept written comments from the public regarding such proposed action,

"(ii) hold a public hearing on such proposed action, and

"(iii) publish in the Federal Register—

"(I) notice of the time and place of such hearing prior to the hearing, and

"(II) the time and place at which such written comments will be accepted.".

SEC. 1910. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE.

(a) In General.—Subsection (b) of section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703, note) is amended—

(1) by striking out "and 1988" in paragraphs (1) and (2) and inserting in lieu thereof ", 1988, and 1989",

(2) by striking out "an insular possession of the United States or" in paragraph (1)(A),

(3) by striking out "January 1, 1986, or" in paragraph (1)(A) and inserting in lieu thereof "July 1, 1987,",

(4) by inserting "or an insular possession of the United States" after "beneficiary country" in paragraph (1)(B)(ii)(II),

(5) by striking out the period at the end of paragraph (1)(B) and inserting in lieu thereof ", or",

(6) by inserting the following new subparagraph after subparagraph (B) of paragraph (1):

"(C) a distillation facility operated by a corporation which, before the date of enactment of the Omnibus Trade Act of 1987—

"(i) has completed engineering and design of a full-scale fermentation facility in the United States Virgin Islands, and

"(ii) has obtained authorization from authorities of the United States Virgin Islands to operate a full-scale fermentation facility.", and

(7) by striking out "or (B)" in paragraph (2) and inserting in lieu thereof ", (B), or (C)".

(b) Studies.—

(1) The United States International Trade Commission and the Comptroller General of the United States shall each immediately undertake a study regarding whether the definition of indigenous ethyl alcohol or mixtures thereof used in applying section 423 of the Tax Reform Act of 1986 is consistent with, and will contribute to the achievement of, the stated policy of Congress to encourage the economic development of the beneficiary countries under the Caribbean Basin Economic Recovery Act and the insular possessions of the United States through the maximum utilization of the natural resources of those countries and possessions. Each study shall specifically include—

(A) an assessment regarding whether the indigenous product percentage requirements set forth in subsection (c)(2)(B) of such section 423 are economically feasible for ethyl alcohol producers; and

(B) if the assessment under subparagraph (A) is negative, recommended modifications to the indigenous product percentage requirements that—

(i) will ensure meaningful production and employment in the region,

(ii) will discourage pass-through operations, and

(iii) will not result in harm to producers of ethyl alcohol, or mixtures thereof, in the United States; and

(C) an assessment of the effects of imports of ethyl alcohol, and mixtures thereof, from such beneficiary countries and possessions on producers of ethyl alcohol, and mixtures thereof, in the United States.

(2) The United States International Trade Commission and the Comptroller General of the United States shall each submit a report containing the findings and conclusions of the study carried out under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before the 180th day after the date of the enactment of this Act.

SEC. 1911. ENFORCEMENT OF RESTRICTIONS ON IMPORTS FROM CUBA.

The United States Trade Representative shall request that all relevant agencies prepare appropriate recommendations for improving the enforcement of restrictions on the importation of articles from Cuba. Such recommendations should include, but not be limited to, appropriate measures to prevent indirect shipments or other means of circumvention. The United States Trade Representative shall, after considering such recommendations, report to the Congress, within 90 days after the date of enactment of this Act, on any administrative measures or proposed legislation which the United States Trade Representative considers necessary and appropriate to enforce restrictions on imports from Cuba.

SEC. 1912. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by striking out "beginning on the date of the enactment of this section, and ending on September 30, 1987," in subsection (c) and inserting in lieu thereof "described in subsection (a) for which the fund is available to the United States Customs Service,", and

(2) by striking out "private citizens" in subsection (a)(iii) and inserting in lieu thereof "private persons".

PART 2—MISCELLANEOUS TRADE PROVISIONS

SEC. 1931. TRADE STATISTICS.

(a) Reporting of Import Statistics.—Subsection (e) of section 301 of title 13, United States Code, is amended by striking out the last sentence thereof.

(b) Volumetric Index.—

(1) The Director of the Census, in consultation with the Director of the Bureau of Economic Analysis and the Commissioner of Labor Statistics, shall conduct a study to determine the feasibility of developing, and of publishing, an index that measures the real volume of merchandise trade on a monthly basis, which would be reported simultaneously with the balance of merchandise trade for the United States.

(2) The Director of the Census shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under paragraph (1) by no later than the date that is one year after the date of enactment of this Act.

SEC. 1932. ADJUSTMENT OF TRADE STATISTICS FOR INFLATION AND DEFLATION.

Subsection (e) of section 301 of title 13, United States Code, is amended by adding at the end thereof the following new sentence: "The information required to be reported under this subsection shall be reported in a form that is adjusted for economic inflation or deflation (on a constant dollar basis consistent with the reporting of the National Income and Product Accounts), and in a form that is not so adjusted.".

SEC. 1933. COAL EXPORTS TO JAPAN.

It is the sense of the Congress that—

(1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, as it relates to United States exports of coal to Japan, have not been achieved;

(2) the President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steam coal;

(3) the President should direct the United States Trade Representative, in negotiating

a Steel Trade Arrangement with Japan, to take into consideration, consistent with the President's steel program, the amount of coal that Japan purchases from the United States in determining the level of steel, semi-finished steel and fabricated structured steel products that can be imported into the United States;

(4) the President should report to the Congress by November 1, 1988 regarding the results of the outcome of any negotiation undertaken in response to this section.

SEC. 1934. PURCHASES OF UNITED STATES-MADE AUTOMOTIVE PARTS BY JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States merchandise trade deficit reached the unprecedented level of $170,000,000,000 in 1986;

(2) the United States trade deficit with Japan, which reached $59,000,000,000 in 1986, accounted for approximately one-third of the total deficit;

(3) approximately one-half of the United States trade deficit with Japan was in motor vehicles and equipment;

(4) while Japanese automobile firms based in Japan produced 7,800,000 passenger cars in 1986 and exported 2,300,000 cars to the United States, United States exports of auto parts to Japan were only about $300,000,000 in 1986;

(5) United States automotive parts producers meet increasingly rigorous requirements for quality, just-in-time supply, and competitive pricing in the United States market; and

(6) the market-oriented sector specific (MOSS) talks on auto parts are aimed at overcoming substantial market access barriers and increasing the access of United States auto parts producers to the original and replacement parts market represented by Japanese automobiles produced in Japan, the United States, and third countries.

(b) SENSE OF CONGRESS.—The Congress—

(1) strongly supports efforts being made by United States negotiators to expand significantly the opportunities for United States automotive parts producers to supply original and replacement parts for Japanese automobiles, wherever those automobiles may be produced; and

(2) determines that success of the MOSS talks will be measured by a significant increase in sales by United States auto parts companies to Japanese vehicle companies and the initiation of long-term sourcing relationships between such companies.

(c) REPORT ON OUTCOME.—The United States Trade Representative and the Secretary of Commerce shall report to Congress at the conclusion of the MOSS talks on the outcome of the talks and on any agreements reached with Japan with respect to purchases by Japanese firms of United States automotive parts.

SEC. 1935. EFFECT OF IMPORTS ON CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE UNITED STATES.

The Secretary of Energy shall send to the Secretary of Commerce the results of the study conducted under section 3102 of the Omnibus Budget Reconciliation Act of 1986. Within 180 days of the receipt of the results of such study, the Secretary of Commerce shall report to the President and the Congress recommendations for actions which may be appropriate to address any impact of imports of crude oil and petroleum products on domestic crude oil exploration and production and the domestic petroleum refining capacity.

SEC. 1936. STUDY OF TRADE BARRIERS ESTABLISHED BY AUTO PRODUCING COUNTRIES TO AUTO IMPORTS AND THE IMPACT ON THE UNITED STATES MARKET.

(a) STUDY.—The United States Trade Representative shall conduct a study of formal and informal barriers which auto producing countries have established toward automobile imports and the impact of such barriers on diverting automobile imports into the United States. The study shall consider the impact of such barriers on automobile imports into the United States in the presence of, and in the absence of, voluntary restraint agreements between the United States and Japan.

(b) REPORT.—The United States Trade Representative shall include the findings of the study conducted under subsection (a) in the first report that is submitted under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241) after the date of enactment of this Act.

SEC. 1937. LAMB MEAT IMPORTS.

Within 15 days after the date of the enactment of this Act, the United States International Trade Commission, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), shall monitor and investigate for a period of 2 years the importation into the United States of articles provided for in item 106.30 of the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to fresh, chilled, and frozen lamb meet). For purposes of any request made under subsection (d) of section 202 of the Trade Act of 1974 (as amended by section 1401 of this Act) within such 2-year period for provisional relief with respect to imports of such articles, the monitoring and investigation required under this section shall be treated as having been requested by the United States Trade Representative under paragraph (1)(B) of such subsection.

PART 3—OTHER PROVISIONS

SEC. 1941. WINDFALL PROFIT TAX REPEAL.

(a) IN GENERAL.—Chapter 45 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Sections 6050C, 6076, 6232, 6429, 6430, and 7241 of the Internal Revenue Code of 1986 are repealed.

(2)(A) Subsection (a) of section 164 of such Code is amended by striking paragraph (4) and redesignating the subsequent paragraphs as paragraphs (4) and (5), respectively.

(B) The following provisions of such Code are each amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),

(ii) section 6211(b)(2),

(iii) section 6212(a),

(iv) section 6213(a),

(v) section 6213(g),

(vi) section 6214(c),

(vii) section 6214(d),

(viii) section 6161(b)(1),

(ix) section 6344(a)(1), and

(x) section 7422(e).

(C) Subsection (a) of section 6211 of such Code is amended by striking "44, and 45" and inserting "and 44".

(D) Subsection (b) of section 6211 of such Code is amended by striking paragraphs (5) and (6).

(E) Paragraph (1) of section 6212(b) of such Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44", and

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter".

(F) Paragraph (1) of section 6212(c) of such Code is amended—

(i) by striking "of chapter 42 tax" and inserting "or of chapter 42 tax", and

(ii) by striking ", or of chapter 45 tax for the same taxable period".

(G) Subsection (e) of section 6302 of such Code is amended—

(i) by striking "(1) For" and inserting "For", and

(ii) by striking paragraph (2).

(H) Section 6501 of such Code is amended by striking the subsection relating to special rules for windfall profit tax.

(I) Section 6511 of such Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(J) Subsection (a) of section 6512 of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(K) Paragraph (1) of section 6512(b) of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(L) Section 6611 of such Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(M) Subsection (d) of section 6724 of such Code is amended—

(i) by striking clause (i) in paragraph (1)(B) and redesignating clauses (ii) through (x) as clauses (i) through (ix), respectively, and

(ii) by striking subparagraphs (A) and (K) of paragraph (2) and redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), and (R), respectively.

(N) Subsection (a) of section 6862 of such Code is amended by striking "44, and 45" and inserting "and 44".

(O) Section 7512 of such Code is amended—

(i) by striking ", by chapter 33, or by section 4986" in subsections (a) and (b) and inserting "or chapter 33", and

(ii) by striking ", chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33".

(3)(A) The table of contents of subtitle D of such Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of such subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 of such Code is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 of such Code is amended by striking the items relating to sections 6429 and 6430.

(F) The table of contents of part II of subchapter A of chapter 75 of such Code is amended by striking the item relating to section 7241.

(4)(A) Section 280D of such Code is repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 280D.

(5) Paragraph (4) of section 291(b) of such Code is amended to read as follows:

"(4) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d)."

(6)(A) Paragraph (3) of section 6654(f) of such Code is amended to read as follows:

"(3) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(B) Subparagraph (B) of section 6655(g)(1) of such Code is amended to read as follows:

"(B) the credits against tax provided by part IV of subchapter A of chapter 1."

(7) Subparagraph (A) of section 193(b)(3) of such Code is amended by striking "section 4996(b)(8)(C)" and inserting "section 4996(b)(8)(C) as in effect before its repeal".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to crude oil removed from the premises on or after the date of the enactment of this Act.

TITLE II—EXPORT ENHANCEMENT

SEC. 2001. SHORT TITLE.

This title may be referred to as the "Export Enhancement Act of 1988".

Subtitle A—TRADE AND FOREIGN POLICY

PART I—RELATIONS WITH CERTAIN COUNTRIES

SEC. 2101. UNITED STATES-MEXICO FRAMEWORK AGREEMENT ON TRADE AND INVESTMENT.

(a) FINDINGS.—The Congress finds that the Bilateral Framework Agreement on Trade and Investment, entered into by the United States and Mexico on November 6, 1987—

(1) provides a useful vehicle for the management of bilateral trade and investment relations, based on shared principles and objectives;

(2) establishes procedures for consultation by the two countries on matters of bilateral trade and investment, and should facilitate resolution of disputes on these matters; and

(3) has led to negotiations between the two countries on important issues, and should continue to facilitate such negotiations.

(b) FURTHER IMPLEMENTATION OF THE AGREEMENT.—Within the context of the Bilateral Framework Agreement on Trade and Investment, the President is urged to continue to pursue consultations with representatives of the Government of Mexico for the purposes of implementing the Agreement and achieving an expansion of mutually beneficial trade and investment.

SEC. 2102. RELATIONS WITH COUNTRIES PROVIDING OFFENSIVE WEAPONRY TO BELLIGERENT COUNTRIES IN THE PERSIAN GULF REGION.

It is the sense of the Congress that the President should use all available appropriate leverage to persuade all countries to desist from any further transfers of offensive weaponry, such as Silkworm missiles, to any belligerent country in the Persian Gulf region.

PART II—FAIR TRADE IN AUTO PARTS

SEC. 2121. SHORT TITLE.

This part may be referred to as the "Fair Trade in Auto Parts Act of 1988".

SEC. 2122. DEFINITION.

For purposes of this part, the term "Japanese markets" refers to markets, including those in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

SEC. 2123. ESTABLISHMENT OF INITIATIVE ON AUTO PARTS SALES TO JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall establish an initiative to increase the sale of United States-made auto parts and accessories to Japanese markets.

(b) FUNCTIONS.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States-made auto parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States auto parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States auto parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies, or practices, whether public or private, that result in barriers to increased commerce between United States auto parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made auto parts in Japanese markets; and

(7) submit annual written reports or otherwise report annually to the Congress on the sale of United States-made auto parts in Japanese markets, including the extent to which long-term, commercial relationships exist between United States auto parts manufacturers and Japanese automobile manufacturers.

SEC. 2124. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTO PARTS SALES IN JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this part.

(b) ESTABLISHMENT OF COMMITTEE.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this part.

(c) FUNCTIONS.—The Special Advisory Committee established under subsection (b) shall—

(1) report to the Secretary of Commerce on barriers to sales of United States-made auto parts and accessories in Japanese markets;

(2) review and consider data collected on sales of United States-made auto parts and accessories in Japanese markets;

(3) advise the Secretary of Commerce during consultations with the Government of Japan on issues concerning sales of United States-made auto parts in Japanese markets;

(4) assist in establishing priorities for the initiative established under section 2123, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting, or otherwise report to the Congress as requested, on the progress of sales of United States-made auto parts in Japanese markets.

(d) AUTHORITY.—The Secretary of Commerce shall draw on existing budget authority in carrying out this part.

SEC. 2125. EXPIRATION DATE.

The authorities under this part shall expire on December 31, 1993.

Subtitle B—Export Enhancement

PART I—GENERAL PROVISIONS

SEC. 2201. COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN.

The American Institute of Taiwan shall employ personnel to perform duties similar to those performed by personnel of the United States and Foreign Commercial Service. The number of individuals employed shall be commensurate with the number of United States personnel of the Commercial Service who are permanently assigned to the United States diplomatic mission to South Korea.

SEC. 2202. COUNTRY REPORTS ON ECONOMIC POLICY AND TRADE PRACTICES.

The Secretary of State shall, not later than January 31 of each year, prepare and transmit to the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives, to the Committee on Foreign Relations and the Committee on Finance of the Senate, and to other appropriate committees of the Congress, a detailed report regarding the economic policy and trade practices of each country with which the United States has an economic or trade relationship. The Secretary may direct the appropriate officers of the Department of State who are serving overseas, in consultation with appropriate officers or employees of other departments and agencies of the United States, including the Department of Agriculture and the Department of Commerce, to coordinate the preparation of such information in a country as is necessary to prepare the report under this section. The report shall identify and describe, with respect to each country—

(1) the macroeconomic policies of the country and their impact on the overall growth in demand for United States exports;

(2) the impact of macroeconomic and other policies on the exchange rate of the country and the resulting impact on price competitiveness of United States exports;

(3) any change in structural policies (including tax incentives, regulations governing financial institutions, production standards, and patterns of industrial ownership) that may affect the country's growth rate and its demand for United States exports;

(4) the management of the country's external debt and its implications for trade with the United States;

(5) acts, policies, and practices that constitute significant barriers to United States exports or foreign direct investment in that country by United States persons, as identified under section 181(a)(1) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1));

(6) acts, policies, and practices that provide direct or indirect government support for exports from that country, including exports by small businesses;

(7) the extent to which the country's laws and enforcement of those laws afford adequate protection to United States intellectual property, including patents, trademarks, copyrights, and mask works; and

(8) the country's laws, enforcement of those laws, and practices with respect to internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974), the conditions of worker rights in any sector which produces goods in which United States capital is invested, and the extent of such investment.

SEC. 2203. OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) REAFFIRMATION OF SUPPORT FOR OPIC.—The Congress reaffirms its support for the Overseas Private Investment Corporation as a United States Government agency serving important development assistance goals. In order to enhance the Corporation's ability to meet these goals, the Overseas Private Investment Corporation should increase its loan guaranty and direct investment programs.

(b) INCREASE IN GUARANTIES AND DIRECT INVESTMENTS.—

(1) LOAN GUARANTIES.—Section 235(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)) is amended—

(A) in paragraph (2) by striking "$750,000,000" and inserting "$1,000,000,000";

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 234(b) having an aggregate contingent liability with respect to principal of not less than $200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guaranties.".

(2) DIRECT INVESTMENT.—Section 235(b) of the Foreign Assistance Act of 1961 is amended—

(A) by striking the comma after "Act of 1981" and inserting a period; and

(B) by striking "and the Corporation shall use" and all that follows through "funding" and inserting the following:

"The Corporation shall make loans under section 234(c) in an aggregate amount of not less than $25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans".

(c) OPERATIONS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION IN THE PEOPLE'S REPUBLIC OF CHINA.—Section 231A(a) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraph:

"(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 502(a)(4) of the Trade Act of 1974.".

SEC. 2204. TRADE AND DEVELOPMENT PROGRAM.

(a) REAFFIRMATION OF SUPPORT FOR TRADE AND DEVELOPMENT PROGRAM.—The Congress reaffirms its support for the Trade and Development Program, and believes that the Program's ability to support high priority development projects in developing countries would be enhanced by an increase in the funds authorized for the Program as well as by a clarification of the Program's status as a separate component of the International Development Cooperation Agency.

(b) AUTHORIZATION AND USES OF FUNDS; ESTABLISHMENT AS SEPARATE AGENCY.—

(1) ADDITIONAL USES OF FUNDS.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(a)) is amended by inserting after the first sentence the following: "Funds under this section may be used to provide support for project planning, development, management, and procurement for both bilateral and multilateral projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States exports in such projects.".

(2) ESTABLISHMENT AS A SEPARATE AGENCY.—Section 661 of that Act is amended—

(A) by redesignating subsection (b) as subsection (d); and

(B) by inserting after subsection (a) the following:

"(b)(1) The purposes of this section shall be carried out by the Trade and Development Program, which shall be a separate component agency of the International Development Cooperation Agency. The Trade and Development Program shall not be an agency within the Agency for International Development or any other component agency of the International Development Cooperation Agency.

"(2) There shall be at the head of the Trade and Development Program a Director. Any individual appointed as the Director on or after January 1, 1989, shall be appointed by the President, by and with the advice and consent of the Senate.

"(3) The Trade and Development Program should serve as the primary Federal agency to provide information to persons in the private sector concerning trade development and export promotion related to bilateral development projects. The Trade and Development Program shall cooperate with the Office of International Major Projects of the Department of Commerce in providing information to persons in the private sector concerning trade development and export promotion related to multilateral development projects. Other Federal departments and agencies shall cooperate with the Trade and Development Program in order for the Program to more effectively provide informational services in accordance with this paragraph.

"(4) The Director of the Trade and Development Program shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Program in the preceding fiscal year.

"(c) The Director of the Trade and Development Program shall, by regulation, establish an advisory board which shall include representatives of the private sector. The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Program.".

(3) FUNDING LEVELS.—In addition to funds otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961—

(A) not less than $5,000,000 and not more than $10,000,000 for fiscal year 1988 shall be made available for such purposes, half of which shall be derived from amounts available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year; and

(B) not less than $5,000,000 and not more than $10,000,000 for fiscal year 1989 shall be made available for such purposes, half of which shall be derived from amounts available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year.

(4) ADDITIONAL FUNDING.—(A) In addition to the amounts otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961 (including amounts available under paragraph (3) of this subsection) for fiscal years 1988 and 1989, there are authorized to be appropriated $10,000,000 for each such fiscal year for education and training programs undertaken in connection with projects under section 661 of that Act, including the operating expenses incurred in implementing such programs. Particular emphasis shall be placed on including in such programs nationals from the People's Republic of China and the Republic of China (Taiwan). Assistance may be provided for education and training under this paragraph only if there is a reasonable expectation that such education and training will result in increased exports from the United States and will not have a negative impact on employment in the United States.

(B) Of the funds made available to carry out subparagraph (A), 50 percent of such funds shall be available only for education and training programs administered in the United States by small business concerns as defined under section 3 of the Small Business Act (15 U.S.C. 632).

(c) AUTHORITIES UNDER THE TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—

(1) TRANSFER OF FUNCTIONS FROM AID TO TDP.—(A) Section 644 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q) is amended—

(i) in subsection (a)(2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(ii) in subsection (a)(3)(A)—

(I) by striking "offered by the Agency for International Development" and inserting "made available under section 645(d) of this Act"; and

(II) by striking "Agency for International Development" and inserting "Trade and Development Program"; and

(iii) in subsection (d)—

(I) by striking "offered by the Agency for International Development" and inserting "made available under section 645(d) of this Act"; and

(II) by striking "subsections (c) and (d) of section 645" and inserting "section 645(c)".

(B) Section 645 of that Act (12 U.S.C. 635r) is amended—

(i) in the section heading by striking "IN THE AGENCY FOR INTERNATIONAL DEVELOPMENT" and inserting "ADMINISTERED BY THE TRADE AND DEVELOPMENT PROGRAM";

(ii) in subsection (a)—

(I) by striking "Administrator of the Agency for International Development shall establish within the Agency" and inserting "Director of the Trade and Development Program shall carry out";

(II) in paragraph (1) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)";

(III) in paragraph (1) by striking "Agency for International Development" and inserting "Trade and Development Program";

(IV) in paragraph (2) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)"; and

(V) in paragraph (2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(iii) in subsection (c)—

(I) in paragraph (1) by striking "of the Agency for International Development"; and

(II) in paragraph (2) by striking "Administrator of the Agency for International Development" and inserting "Director of the Trade and Development Program"; and

(iv) by amending subsection (d) to read as follows:

"(d) Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 may be used by the Director of the Trade and Development Program, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961), for the purposes for which funds made available under this subsection are authorized to be used in section 644 and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this Act.".

(2) FUNCTIONS OF NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES.—Section 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635s) is amended by adding at the end the following:

"(b) The Trade and Development Program shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Program at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters.".

(d) ADMINISTRATIVE PROVISIONS.—

(1) PAY OF DIRECTOR OF TDP.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director, Trade and Development Program.".

(2) TRANSITION PROVISIONS.—(A) The Administrator of the Agency for International Development shall transfer to the Director of the Trade and Development Program all records, contracts, applications, and any other documents or information in connection with the functions transferred by virtue of the amendments made by subsection (c)(1).

(B) All determinations, regulations, and contracts—

(i) which have been issued, made, granted, or allowed to become effective by the President, the Agency for International Development, or by a court of competent jurisdiction, in the performance of the functions transferred by virtue of the amendments made by subsection (c)(1), and

(ii) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Director of the Trade and Development Program, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(C)(i) The amendments made by subsection (c)(1) shall not affect any proceedings, including notices of proposed rulemaking, or any application for any financial assistance, which is pending on the effective date of this section before the Agency for International Development in the exercise of functions transferred by virtue of the amendments made by subsection (c)(1). Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(ii) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Trade and Development Program or other authorized official, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Director of the Trade and Development Program is authorized to issue regulations providing for the orderly transfer to the Trade and Development Program of proceedings continued under this subparagraph.

(D) With respect to any function transferred by virtue of the amendments made by subsection (c)(1) and exercised on or after the effective date of this section, reference in any other Federal law to the Agency for International Development or any officer shall be deemed to refer to the Trade and Development Program or other official to which such function is so transferred.

SEC. 2205. BARTER AND COUNTERTRADE.

(a) INTERAGENCY GROUP.—

(1) ESTABLISHMENT.—The President shall establish an interagency group on countertrade, to be composed of representatives of such departments and agencies of the United States as the President considers appropriate. The Secretary of Commerce shall be the chairman of the interagency group.

(2) FUNCTIONS.—It shall be the function of the interagency group to—

(A) review and evaluate—

(i) United States policy on countertrade and offsets, in light of current trends in international countertrade and offsets and the impact of those trends on the United States economy;

(ii) the use of countertrade and offsets in United States exports and bilateral United States foreign economic assistance programs; and

(iii) the need for and the feasibility of negotiating with other countries, through the Organization for Economic Cooperation and Development and other appropriate international organizations, to reach agreements on the use of countertrade and offsets; and

(B) make recommendations to the President and the Congress on the basis of the review and evaluation referred to in subparagraph (A).

(3) SHARING OF INFORMATION.—Other departments and agencies of the United States shall provide to the interagency group such information available to such departments and agencies as the interagency group may request, except that the requirements, including penalties for violation thereof, for preserving the confidentiality of such information which are applicable to the officials, employees, experts, or consultants of such departments and agencies shall apply in the same manner to each member of the interagency group and to any other person performing any function under this subsection.

(b) OFFICE OF BARTER.—

(1) ESTABLISHMENT—There is established, within the International Trade Administration of the Department of Commerce, the Office of Barter (hereafter in this section referred to as the "Office").

(2) DIRECTOR.—There shall be at the head of the Office a Director, who shall be appointed by the Secretary of Commerce.

(3) STAFF.—The Secretary of Commerce shall transfer such staff to the Office as the Secretary determines is necessary to enable the Office to carry out its functions under this section.

(4) FUNCTIONS.—It shall be the function of the Office to—

(A) monitor information relating to trends in international barter;

(B) organize and disseminate information relating to international barter in a manner useful to business firms, educational institutions, export-related Federal, State, and local government agencies, and other interested persons, including publishing periodic lists of known commercial opportunities for barter transactions beneficial to United States enterprises;

(C) notify Federal agencies with operations abroad of instances where it would be beneficial to the United States for the Federal Government to barter Government-owned surplus commodities for goods and services purchased abroad by the Federal Government; and

(D) provide assistance to enterprises seeking barter and countertrade opportunities.

SEC. 2206. PROTECTION OF UNITED STATES INTELLECTUAL PROPERTY.

It is the sense of the Congress that—

(1) the Secretary of State should urge international technical organizations, such as the World Intellectual Property Organization, to provide expertise and cooperate fully in developing effective standards, in the General Agreement on Tariffs and Trade, for the international protection of intellectual property rights; and

(2) development assistance programs administered by the Agency for International Development, especially the reimbursable development program, should, in cooperation with the Copyright Office and the Patent and Trademark Office, include technical training for officials responsible for the protection of patents, copyrights, trademarks, and mask works in those countries that receive such development assistance.

SEC. 2207. REPORT ON WORKER RIGHTS.

The Secretary of State shall conduct an in-depth study with a view to improving the breadth, content, and utility of the annual reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 regarding the status of internationally recognized worker rights in foreign countries. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include in the report recommendations for upgrading the capacity of the United States Government to monitor and report on other countries' respect for such rights.

SEC. 2208. JAPANESE IMPORTATION OF MANUFACTURED GOODS FROM LESS DEVELOPED COUNTRIES.

(a) FINDINGS.—The Congress finds that—

(1) Japan's merchandise trade surplus rose from $62,000,000,000 in fiscal year 1985 to $101,000,000,000 in fiscal year 1986;

(2) these surpluses pose a grave threat to the free trade system;

(3) Japan's most important contribution to the international trading system would be to commit itself as a nation to import with vigor, just as it has exported with vigor in recent decades;

(4) Japan should particularly increase its imports of manufactured goods; and

(5) Japan's share of the exports of less developed countries has declined from 10.6 percent in 1979 to below 8 percent in 1985.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) by taking its proportionate share of the manufactured exports of developing countries, Japan will promote not only its economic development but the economic conditions conducive to democracy;

(2) expanding markets for the manufactured exports of less developed countries will directly benefit the United States, and, if less developed countries are able to increase exports to Japan, these countries will be able to earn more of the hard currency needed to service their foreign debt obligations and make the investments necessary to chart a course of solid economic growth; and

(3) if less developed countries are able to export manufactured goods to Japan, they will be under less pressure to divert exports to the United States market.

SEC. 2209. JAPAN AND THE ARAB BOYCOTT OF ISRAEL.

It is the sense of the Congress that the United States should encourage the Government of Japan in its efforts to expand trade relations with Israel and to end compliance by Japanese commercial enterprises with the Arab economic boycott of Israel.

SEC. 2210. FACILITATION OF JEWELRY TRADE.

It is the sense of the Congress that the United States should become a party to the Convention on the Control and Marking of Articles of Precious Metals in order to facilitate the efforts of the United States jewelry industry in penetrating foreign markets.

SEC. 2211. LOAN GUARANTEES.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended by adding at the end the following:

"(i)(1) To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

"(2) Loans guaranteed under this subsection shall be on such terms and conditions as the agency may prescribe, except for the following:

"(A) The agency shall issue guarantees only when it is necessary to alleviate a credit market imperfection.

"(B) Loans guaranteed shall provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

"(C) No loan guaranteed to any one borrower may exceed 50 percent of the cost of the activity to be financed, or $3,000,000, whichever is less, as determined by the agency.

"(D) No loan may be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

"(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the revolving fund account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the revolving fund account placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees shall be reviewed every twelve months to ensure that the fees assessed on new loan guarantees are at the required level.

"(F) Any guarantee shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying loan as contracted qualifies for such guarantee. Except for fraud or material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

"(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

"(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations Acts.

"(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

"(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

"(5) The agency shall segregate in the revolving fund account and hold as a reserve an amount estimated to be sufficient to cover the agency's expected net liabilities on the loan guarantees outstanding under this subsection; except that the amount held in reserve shall not be less than 25 percent of the principal amount of the agency's outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the revolving fund account and next out of other funds made available for this purpose.".

PART II—ASSISTANCE TO POLAND

SEC. 2221. SHORT TITLE.

This part may be cited as the "American Aid to Poland Act of 1988".

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) FUNDING.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

SEC. 2225. ELIGIBLE ACTIVITIES.

Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 is amended by adding at the end the following: "In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include—

"(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children;

"(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

"(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.".

SEC. 2226. JOINT COMMISSION.

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

Subtitle C—Export Promotion

SEC. 2301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Commerce shall establish, within the International Trade Administration, the United States and Foreign Commercial Service. The Secretary shall, to the greatest extent practicable, transfer to the Commercial Service the functions and personnel of the United States and Foreign Commercial Services.

(2) ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL; OTHER PERSONNEL.—The head of the Commercial Service shall be the Assistant Secretary of Commerce and Director General of the Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce and Director General of the Commercial Service may appoint Commercial Service Officers and such other personnel as may be necessary to carry out the activities of the Commercial Service.

(3) COORDINATION WITH FOREIGN POLICY OBJECTIVES.—The Secretary shall take the necessary steps to ensure that the activities of the Commercial Service are carried out in a manner consistent with United States foreign policy objectives, and the Secretary shall consult regularly with the Secretary of State in order to comply with this paragraph.

(4) AUTHORITY OF CHIEF OF MISSION.—All activities of the Commercial Service shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) STATEMENT OF PURPOSE.—The Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad by carrying out activities such as—

(1) identifying United States businesses with the potential to export goods and services and providing such businesses with advice and information on establishing export businesses;

(2) providing United States exporters with information on economic conditions, market opportunities, the status of the intellectual property system in such country, and the legal and regulatory environment within foreign countries;

(3) providing United States exporters with information and advice on the necessary adaptation of product design and marketing strategy to meet the differing cultural and technical requirements of foreign countries;

(4) providing United States exporters with actual leads and an introduction to contacts within foreign countries;

(5) assisting United States exporters in locating reliable sources of business services in foreign countries;

(6) assisting United States exporters in their dealings with foreign governments and enterprises owned by foreign governments; and

(7) assisting the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad so as to maximize their effectiveness and minimize the duplication of efforts.

(c) OFFICES.—

(1) IN GENERAL.—The Commercial Service shall conduct its activities at a headquarters office, district offices located in major United States cities, and foreign offices located in major foreign cities.

(2) HEADQUARTERS.—The headquarters of the Commercial Service shall provide such managerial, administrative, research, and other services as the Secretary considers necessary to carry out the purposes of the Commercial Service.

(3) DISTRICT OFFICES.—The Secretary shall establish district offices of the Commercial Service in any United States city in a region in which the Secretary determines that there is a need for Federal Government export assistance.

(4) FOREIGN OFFICES.—(A) The Secretary may, after consultation with the Secretary of State, establish foreign offices of the Commercial Service. These offices shall be located in foreign cities in regions in which the Secretary determines there are significant business opportunities for United States exporters.

(B) The Secretary may, in consultation with the Secretary of State, assign to the foreign offices Commercial Service Officers and such other personnel as the Secretary considers necessary. In employing Commercial Service Officers and such other personnel, the Secretary shall use the Foreign Service personnel system in accordance with the Foreign Service Act of 1980. The Secretary shall designate a Commercial Officer as head of each foreign office.

(C) Upon the request of the Secretary, the Secretary of State shall attach the Commercial Service Officers and other employees of each foreign office to the diplomatic mission of the United States in the country in which that foreign office is located, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(D) For purposes of official representation, the senior Commercial Service Officer in each country shall be considered to be the senior commercial representative of the United States in that country, and the United States chief of mission in that country shall accord that officer all privileges and responsibilities appropriate to the position of senior commercial representative of other countries.

(E) The Secretary of State is authorized, upon the request of the Secretary, to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the operation of the foreign offices. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services.

(F) The authority of the Secretary under this paragraph shall be subject to section 103 of the Diplomatic Security Act (22 U.S.C. 4802).

(d) RANK OF COMMERCIAL SERVICE OFFICERS IN FOREIGN MISSIONS.—

(1) MINISTER-COUNSELOR.—Notwithstanding any other provision of law, the Secretary is authorized to designate up to 8 United States missions abroad at which the senior Commercial Service Officer will be able to use the diplomatic title of Minister-Counselor. The Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Service Officer assigned to a United States mission so designated.

(2) CONSUL GENERAL.—In any United States consulate in which a vacancy occurs in the position of Consul General, the Secretary of State, in consultation with the Secretary, shall consider filling that vacancy with a Commercial Service Officer if the primary functions of the consulate are of a commercial nature and if there are significant business opportunities for United States exporters in the region in which the consulate is located.

(e) INFORMATION DISSEMINATION.—In order to carry out subsection (b)(7), to lessen the cost of distribution of information produced by the Commercial Service, and to make that information more readily available, the Secretary should establish a system for distributing that information in those areas where no district offices of the Commercial Service are located. Distributors of the information should be State export promotion agencies or private export and trade promotion associations. The distribution system should be consistent with cost recovery objectives of the Department of Commerce.

(f) AUDITS.—The Inspector General of the Department of Commerce shall perform periodic audits of the operations of the Commercial Service, but at least once every 3 years. The Inspector General shall report to the Congress the results of each such audit. In addition to an overview of the activities and effectiveness of Commercial Service operations, the audit shall include—

(1) an evaluation of the current placement of domestic personnel and recommendations for transferring personnel among district offices;

(2) an evaluation of the current placement of foreign-based personnel and recommendations for transferring such personnel in response to newly emerging business opportunities for United States exporters; and

(3) an evaluation of the personnel system and its management, including the recruitment, assignment, promotion, and performance appraisal of personnel, the use of limited appointees, and the "time-in-class" system.

(g) REPORT BY THE SECRETARY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export *promotion operations within the International Trade Administration of the Department of Commerce.*

(h) Pay of Assistant Secretary and Director General.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.".

(i) Definitions.—For purposes of this section—

(1) the term "Secretary" means the Secretary of Commerce;

(2) the term "Commercial Service" means the United States and Foreign Commercial Service;

(3) the term "United States exporter" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State; or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(4) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632);

(5) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(6) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 2302. COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANK PROCUREMENT.

(a) Appointment of Commercial Service Officers To Serve with Executive Directors.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint a procurement officer, who is a representative of the International Trade Administration or a Commercial Service Officer of the United States and Foreign Commercial Service, to serve, on a full-time or part-time basis, with each of the Executive Directors of the multilateral development banks in which the United States participates.

(b) Functions of Officers.—Each procurement officer appointed under subsection (a) shall assist the United States Executive Director with respect to whom such officer is appointed in promoting opportunities for exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and the multilateral development bank involved, whether or not the bank has offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relating to projects which are being proposed by the multilateral development bank, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(c) Definition.—As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

SEC. 2303. MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) Authority of Secretary of Commerce.—In order to promote further the exportation of goods and services from the United States, the Secretary of Commerce is authorized to establish, in the International Trade Administration of the Department of Commerce, a Market Development Cooperator Program. The purpose of the program is to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.

(b) Implementation of the Program.—The Secretary of Commerce shall carry out the Market Development Cooperator Program by entering into contracts with—

(1) nonprofit industry organizations,

(2) trade associations,

(3) State departments of trade and their regional associations, including centers for international trade development, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

(in this section referred to as "cooperators") to engage in activities in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a). The costs of activities under such a contract shall be shared equitably among the Department of Commerce, the cooperator involved, and, whenever appropriate, foreign businesses. The Department of Commerce shall undertake to support direct costs of activities under such a contract, and the cooperator shall undertake to support indirect costs of such activities. Activities under such a contract shall be carried out by the cooperator with the approval and assistance of the Secretary.

(c) Cooperator Partnership Program.—

(1) In general.—(A) As part of the Market Development Cooperator Program established under subsection (a), the Secretary of Commerce shall establish a partnership program with cooperators under which a cooperator may detail individuals, subject to the approval of the Secretary, to the United States and Foreign Commercial Service for a period of not less than 1 year or more than 2 years to supplement the Commercial Service.

(B) Any individual detailed to the United States and Foreign Commercial Service under this subsection shall be responsible for such duties as the Secretary may prescribe in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a).

(C) Individuals detailed to the United States and Foreign Commercial Service under this subsection shall not be considered to be employees of the United States for the purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary of State concerning the detail of such individuals abroad.

(2) Qualifications of participants.—In order to qualify for the program established under this subsection, individuals shall have demonstrated expertise in the international business arena in at least 2 of the following areas: marketing, market research, and computer data bases.

(3) Expenses of the program.—(A) The cooperator who details an individual to the United States and Foreign Commercial Service under this subsection shall be responsible for that individual's salary and related expenses, including health care, life insurance, and other noncash benefits, if any, normally paid by such cooperator.

(B) The Secretary of Commerce shall pay transportation and housing costs for each individual participating in the program established under this subsection.

(d) Budget Act.—Contracts may be entered into under this section in a fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 2304. TRADE SHOWS.

(a) Authority of the Secretary of Commerce.—In order to facilitate exporting by United States businesses, the Secretary of Commerce shall provide assistance for trade shows in the United States which bring together representatives of United States businesses seeking to export goods or services produced in the United States and representatives of foreign companies or governments seeking to buy such goods or services from these United States businesses.

(b) Recipients of Assistance.—Assistance under subsection (a) may be provided to—

(1) nonprofit industry organizations,

(2) trade associations,

(3) foreign trade zones, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

to provide the services necessary to operate trade shows described in subsection (a).

(c) Assistance to Small Businesses.—In providing assistance under this section, the Secretary of Commerce shall, in consultation with the Administrator of the Small Business Administration, make special efforts to facilitate participation by small businesses and companies new to export.

(d) Uses of Assistance.—Funds appropriated to carry out this section shall be used to—

(1) identify potential participants for trade show organizers,

(2) provide information on trade shows to potential participants,

(3) supply language services for participants, and

(4) provide information on trade shows to small businesses and companies new to export.

(e) Definitions.—As used in this section—

(1) the term "United States business" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State (including the District of Columbia or any commonwealth,

territory, or possession of the United States); or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B); and

(2) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS FOR EXPORT PROMOTION PROGRAMS.

(a) DEFINITION OF EXPORT PROMOTION PROGRAM.—Section 201(d) of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051(d)) is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988, and assistance for trade shows provided under section 2304 of that Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs $123,922,000 for the fiscal year 1988, and $146,400,000 for each of the fiscal years 1989 and 1990.".

(2) In addition to funds otherwise available, there are authorized to be appropriated to the Department of Commerce to carry out sections 2303 and 2304 of this Act $6,000,000 for each of the fiscal years 1988, 1989, and 1990.

SEC. 2306. UNITED STATES AND FOREIGN COMMERCIAL SERVICE PACIFIC RIM INITIATIVE.

(a) IN GENERAL.—In order to encourage the export of United States goods and services to Japan, South Korea, and Taiwan, the United States and Foreign Commercial Service shall make a special effort to—

(1) identify United States goods and services which are not being exported to the markets of Japan, South Korea, and Taiwan but which could be exported to these markets under competitive market conditions;

(2) identify and notify United States persons who sell or provide such goods or services of potential opportunities identified under paragraph (1);

(3) present, periodically, a list of the goods and services identified under paragraph (1), together with a list of any impediments to the export of such goods and services, to appropriate authorities in Japan, South Korea, and Taiwan, with a view toward liberalizing markets to such goods and services;

(4) facilitate the entrance into such markets by United States persons identified and notified under paragraph (2); and

(5) monitor and evaluate the results of efforts to increase the sale of goods and services in such markets.

(b) REPORTS TO THE CONGRESS.—The Secretary of Commerce shall report periodically to the Congress on activities carried out under subsection (a).

(c) DEFINITION.—As used in this section, the term "United States person" means—

(1) a United States citizen; or

(2) a corporation, partnership, or other association created under the laws of the United States or any State (including the District of Columbia or any commonwealth, territory, or possession of the United States).

SEC. 2307. INDIAN TRIBES EXPORT PROMOTION.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce is authorized to provide assistance to eligible entities for the development of foreign markets for authentic American Indian arts and crafts. Eligible entities under this section include Indian tribes, tribal organizations, tribal enterprises, craft guilds, marketing cooperatives, and individual Indian-owned businesses.

(b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Activities eligible for assistance under this section include, but are not limited to, conduct of market surveys, development of promotional materials, financing of trade missions, participation in international trade fairs, direct marketing, and other market development activities.

(c) ADMINISTRATION OF ASSISTANCE.—Assistance under this section shall be administered by the Secretary of Commerce under guidelines developed by the Secretary. Priority shall be given to projects which support the establishment of long term, stable international markets for American Indian arts and crafts and which are designed to provide the greatest economic benefit to American Indian artisans.

(d) TECHNICAL AND OTHER ASSISTANCE.—The Secretary of Commerce shall provide technical assistance and support services to applicants eligible for and entities receiving assistance under this section for the purpose of helping them in identifying and entering appropriate foreign markets, complying with foreign and domestic legal and banking requirements regarding the export and import of arts and crafts, and utilizing import and export financial arrangements, and shall provide such other assistance as may be necessary to support the development of export markets for American Indian arts and crafts.

(e) LIMITATION ON ASSISTANCE.—No assistance shall be provided under this section in support of any activity which includes the sale or marketing of any craft items other than authentic arts and crafts hand made or hand crafted by American Indian artisans.

SEC. 2308. PRINTING AT OVERSEAS LOCATIONS.

(a) PRINTING IN CONJUNCTION WITH EXPORT PROMOTION PROGRAMS.—Section 201 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051) is amended by adding at the end the following:

"(e) PRINTING OUTSIDE THE UNITED STATES.—(1) Notwithstanding the provisions of section 501 of title 44, United States Code, and consistent with other applicable law, the Secretary of Commerce, in carrying out any export promotion program, may authorize—

"(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and if such documents will be distributed primarily and sold exclusively outside the United States; and

"(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

"(2) Any fees received by the Secretary pursuant to paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities.".

SEC. 2309. LOCAL CURRENCIES UNDER PUBLIC LAW 480.

Section 108(i) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1708(i)) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) the terms 'private sector development activity' and 'private enterprise investment' include the construction of low- and medium-income housing and shelter.".

SEC. 2310. OFFICE OF EXPORT TRADE.

Section 104 of the Export Trading Company Act of 1982 (15 U.S.C. 4003) is amended by adding at the end the following: "The office shall establish a program to encourage and assist the operation of other export intermediaries, including existing and newly formed export management companies.".

SEC. 2311. REPORT ON EXPORT TRADING COMPANIES.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance, and Urban Affairs, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives, on the activities of the Department of Commerce to promote and encourage the formation of new and the operation of existing and new export promotion intermediaries, including export management companies, export trade associations, bank export trading companies, and export trading companies. The report shall include a survey of the activities of export management companies, export trade associations, and those bank export trading companies and export trading companies established pursuant to the amendments made by title II of the Export Trading Company Act of 1982, and pursuant to title III of that Act. The report shall not contain any information subject to the protections from disclosure provided in that Act.

Subtitle D—Export Controls

SEC. 2401. REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.

For purposes of this subtitle, the Export Administration Act of 1979 shall be referred to as "the Act".

PART I—EXPORT CONTROLS GENERALLY

SEC. 2411. EXPORT LICENSE FEES.

Section 4 of the Act (50 U.S.C. App. 2403) is amended by adding at the end the following:

"(g) FEES.—No fee may be charged in connection with the submission or processing of an export license application.".

SEC. 2412. MULTIPLE LICENSE AUTHORITY.

Section 4(a)(2) of the Act (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A) by striking the period at the end of the first sentence and inserting ", except that the Secretary may establish a type of distribution license appropriate for consignees in the People's Republic of China."; and

(2) in subparagraph (B) in the first sentence by inserting "(except the People's Republic of China)" after "controlled countries".

SEC. 2413. DOMESTIC SALES TO COMMERCIAL ENTITIES OF CONTROLLED COUNTRIES.

Section 5(a)(1) of the Act (50 U.S.C. App. 2404(a)(1)) is amended by inserting after the second sentence the following: "For purposes of the preceding sentence, the term 'affili-

ates' includes both governmental entities and commercial entities that are controlled in fact by controlled countries.".

SEC. 2414. AUTHORITY FOR REEXPORTS.

Section 5(a) of the Act (50 U.S.C. App. 2404(a)) is amended by adding at the end the following:

"(4)(A) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, or pursuant to an agreement described in subsection (k) of this section. The Secretary may require any person reexporting any goods or technology under this subparagraph to notify the Secretary of such reexports.

"(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to reexport the following:

"(i) supercomputers;

"(ii) goods or technology for sensitive nuclear uses (as defined by the Secretary);

"(iii) devices for surreptitious interception of wire or oral communications; and

"(iv) goods or technology intended for such end users as the Secretary may specify by regulation.

"(5)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States from any country when the goods or technology to be reexported are incorporated in another good and—

"(i) the value of the controlled United States content of that other good is 25 percent or less of the total value of the good; or

"(ii) the export of the goods or technology to a controlled country would require only notification of the participating governments of the Coordinating Committee.

For purposes of this paragraph, the 'controlled United States content' of a good means those goods or technology subject to the jurisdiction of the United States which are incorporated in the good, if the export of those goods or technology from the United States to a country, at the time that the good is exported to that country, would require a validated license.

"(B) The Secretary may by regulation provide that subparagraph (A) does not apply to the reexport of a supercomputer which contains goods or technology subject to the jurisdiction of the United States.

"(6) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall issue regulations to carry out paragraphs (4) and (5). Such regulations shall define the term 'supercomputer' for purposes of those paragraphs.".

SEC. 2415. EXPORTS TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.

(a) COCOM COUNTRIES.—Section 5(b)(2) of the Act (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to export goods or technology to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section, if the export of such goods or technology to the People's Republic of China or a controlled country on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee.

"(B)(i) The Secretary may require a license for the export of goods or technology described in subparagraph (A) to such end users as the Secretary may specify by regulation.

"(ii) The Secretary may require any person exporting goods or technology under this paragraph to notify the Secretary of those exports.

"(C) The Secretary shall, within 3 months after the date of the enactment of the Export Enhancement Act of 1988, determine which countries referred to in subparagraph (A) are implementing an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

"(i) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

"(ii) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(iii) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

"(iv) a system of export control documentation to verify the movement of goods and technology; and

"(v) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

The Secretary shall, at least once each year, review the determinations made under the preceding sentence with respect to all countries referred to in subparagraph (A). The Secretary may, as appropriate, add countries to, or remove countries from, the list of countries that are implementing an effective export control system in accordance with this subparagraph. No authority or permission to export may be required for the export of goods or technology to a country on such list.".

(b) COUNTRIES OTHER THAN COCOM COUNTRIES.—Section 5(b) of the Act (50 U.S.C. App. 2404(b)) is amended by adding at the end the following:

"(3)(A) No authority or permission may be required under this section to export to any country, other than a controlled country, any goods or technology if the export of the goods or technology to controlled countries would require only notification of the participating governments of the Coordinating Committee.

"(B) The Secretary may require any person exporting any goods or technology under subparagraph (A) to notify the Secretary of those exports.".

SEC. 2416. CONTROL LIST.

(a) RESOLUTION OF DISPUTES.—Section 5(c)(2) of the Act (50 U.S.C. App. 2404(c)(2)) is amended by striking the last sentence and inserting the following: "If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of any such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list.".

(b) CONDUCT OF LIST REVIEWS.—

(1) CONTROL LIST.—Section 5(c)(3) of the Act is amended to read as follows:

"(3) The Secretary shall conduct partial reviews of the list established pursuant to this subsection at least once each calendar quarter in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each quarterly review, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall use the data developed from each review in formulating United States proposals relating to multilateral export controls in the group known as the Coordinating Committee. The Secretary shall further assess, as part of each review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section. All goods and technology on the list shall be reviewed at least once each year. The provisions of this paragraph apply to revisions of the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.".

(2) LIST OF MILITARILY CRITICAL TECHNOLOGIES.—Section 5(d)(5) of the Act (50 U.S.C. App. 2404(d)(5)) is amended in the first sentence by striking "at least annually" and inserting "on an ongoing basis".

(3) TECHNICAL ADVISORY COMMITTEES.—(A) Section 5(c) of the Act is amended by adding at the end the following:

"(4) The appropriate technical advisory committee appointed under subsection (h) of this section shall be consulted by the Secretary with respect to changes, pursuant to paragraph (2) or (3), in the list established pursuant to this subsection, and such technical advisory committee may submit recommendations to the Secretary with respect to such changes. The Secretary shall consider the recommendations of the technical advisory committee and shall inform the committee of the disposition of its recommendations.".

(c) CONTROL LIST REDUCTION.—

(1) IN GENERAL.—Section 5(c) of the Act (50 U.S.C. App. 2404(c)) (as amended by subsection (b)(3) of this section) is further amended by adding at the end the following:

"(5)(A) Not later than 6 months after the date of the enactment of this paragraph, the following shall no longer be subject to export controls under this section:

"(i) All goods or technology the export of which to controlled countries on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee, except for those goods or technology on which the Coordinating Committee agrees to maintain such notification requirement.

"(ii) All medical instruments and equipment, subject to the provisions of subsection (m) of this section.

"(B) The Secretary shall submit to the Congress annually a report setting forth the goods and technology from which export controls have been removed under this paragraph.".

(2) ELIMINATION OF UNILATERAL CONTROLS.—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraph (1) of this subsection) is further amended by adding at the end the following:

"(6)(A) Notwithstanding subsection (f) or (h)(6) of this section, any export control imposed under this section which is maintained unilaterally by the United States shall expire 6 months after the date of the enactment of this paragraph, or 6 months after the export control is imposed, whichever date is later, except that—

"(i) any such export controls on those goods or technology for which a determination of the Secretary that there is no foreign availability has been made under subsection (f) or (h)(6) of this section before the end of the applicable 6-month period and is in effect may be renewed for periods of not more than 6 months each, and

"(ii) any such export controls on those goods or technology with respect to which the President, by the end of the applicable 6-month period, is actively pursuing negotiations with other countries to achieve multilateral export controls on those goods or technology may be renewed for 2 periods of not more than 6 months each.

"(B) Export controls on goods or technology described in clause (i) or (ii) of subparagraph (A) may be renewed only if, before each renewal, the President submits to the Congress a report setting forth all the controls being renewed and stating the specific reasons for such renewal.".

(3) REVIEW OF CERTAIN LOW TECHNOLOGY ITEMS.—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraphs (1) and (2) of this subsection) is further amended by adding at the end the following:

"(7) Notwithstanding any other provision of this subsection, after 1 year has elapsed since the last review in the Federal Register on any item within a category on the control list the export of which to the People's Republic of China would require only notification of the members of the group known as the Coordinating Committee, an export license applicant may file an allegation with the Secretary that such item has not been so reviewed within such 1-year period. Within 90 days after receipt of such allegation, the Secretary—

"(A) shall determine the truth of the allegation;

"(B) shall, if the allegation is confirmed, commence and complete the review of the item; and

"(C) shall, pursuant to such review, submit a finding for publication in the Federal Register.

In such finding, the Secretary shall identify those goods or technology which shall remain on the control list and those goods or technology which shall be removed from the control list. If such review and submission for publication are not completed within that 90-day period, the goods or technology encompassed by such item shall immediately be removed from the control list.".

SEC. 2417. TRADE SHOWS.

Section 5(e) of the Act (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

"(6) Any application for a license for the export to the People's Republic of China of any good on which export controls are in effect under this section, without regard to the technical specifications of the good, for the purpose of demonstration or exhibition at a trade show shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good during the entire period in which the good is in the People's Republic of China; and

"(B) the exporter removes the good from the People's Republic of China no later than at the conclusion of the trade show.".

SEC. 2418. FOREIGN AVAILABILITY.—

(a) IN GENERAL.—Section 5(f) of the Act (50 U.S.C. App. 2404(f)) is amended to read as follows:

"(f) FOREIGN AVAILABILITY.—

"(1) FOREIGN AVAILABILITY TO CONTROLLED COUNTRIES.—(A) The Secretary, in consultation with the Secretary of Defense and other appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability to controlled countries, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to controlled countries from such sources in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

"(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a controlled country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

"(2) FOREIGN AVAILABILITY TO OTHER THAN CONTROLLED COUNTRIES.—(A) The Secretary shall review, on a continuing basis, the availability to countries other than controlled countries, from sources outside the United States, of any goods or technology the export of which requires a validated license under this section. If the Secretary determines, in accordance with procedures which the Secretary shall establish, that any goods or technology in sufficient quantity and of comparable quality are available in fact from sources outside the United States (other than availability under license from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section), the Secretary may not, after the determination is made and during the period of such foreign availability, require a validated license for the export of such goods or technology to any country (other than a controlled country) to which the country from which the goods or technology is available does not place controls on the export of such goods or technology. The requirement with respect to a validated license in the preceding sentence shall not apply if the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

"(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a country (other than a controlled country) and which meets all other requirements for such an application, if the Secretary determines that such goods or technology are available from foreign sources to that country under the criteria established in subparagraph (A), unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

"(3) PROCEDURES FOR MAKING DETERMINATIONS.—(A) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted

by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this subparagraph, 'evidence' may include such items as foreign manufacturers' catalogues, brochures, or operations or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.

"(B) In a case in which an allegation is received from an export license applicant, the Secretary shall, upon receipt of the allegation, submit for publication in the Federal Register notice of such receipt. Within 4 months after receipt of the allegation, the Secretary shall determine whether the foreign availability exists, and shall so notify the applicant. If the Secretary has determined that the foreign availability exists, the Secretary shall, upon making such determination, submit the determination for review to other departments and agencies as the Secretary considers appropriate. The Secretary's determination of foreign availability does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted. Not later than 1 month after the Secretary makes the determination, the Secretary shall respond in writing to the applicant and submit for publication in the Federal Register, that—

"(i) the foreign availability does exist and—

"(I) the requirement of a validated license has been removed,

"(II) the President has determined that export controls under this section must be maintained notwithstanding the foreign availability and the applicable steps are being taken under paragraph (4), or

"(III) in the case of a foreign availability determination under paragraph (1), the foreign availability determination will be submitted to a multilateral review process in accordance with the agreement of the Coordinating Committee for a period of not more than 4 months beginning on the date of the publication; or

"(ii) the foreign availability does not exist.

In any case in which the submission for publication is not made within the time period specified in the preceding sentence, the Secretary may not thereafter require a license for the export of the goods or technology with respect to which the foreign availability allegation was made. In the case of a foreign availability determination under paragraph (1) to which clause (i)(III) applies, no license for such export may be required after the end of the 9-month period beginning on the date on which the allegation is received.

"(4) NEGOTIATIONS TO ELIMINATE FOREIGN AVAILABILITY.—(A) In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. No later than the commencement of such negotiations, the President shall notify in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that he has begun such negotiations and why he believes it is important to national security that export controls on the goods or technology involved be maintained.

"(B) If, within 6 months after the President's determination that export controls be maintained, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export controls involved would prove detrimental to the national security of the United States. Whenever the President has reason to believe that goods or technology subject to export controls for national security purposes by the United States may become available from other countries to controlled countries and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability.

"(C) After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate or prevent foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.

"(5) EXPEDITED LICENSES FOR ITEMS AVAILABLE TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.—(A) In any case in which the Secretary finds that any goods or technology from foreign sources is of similar quality to goods or technology the export of which requires a validated license under this section and is available to a country other than a controlled country without effective restrictions, the Secretary shall designate such goods or technology as eligible for export to such country under this paragraph.

"(B) In the case of goods or technology designated under subparagraph (A), then 20 working days after the date of formal filing with the Secretary of an individual validated license application for the export of those goods or technology to an eligible country, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless the license has been denied by the Secretary on account of an inappropriate end user. The Secretary may extend the 20-day period provided in the preceding sentence for an additional period of 15 days if the Secretary requires additional time to consider the application and so notifies the applicant.

"(C) The Secretary may make a foreign availability determination under subparagraph (A) on the Secretary's own initiative, upon receipt of an allegation from an export license applicant that such availability exists, or upon the submission of a certification by a technical advisory committee of appropriate jurisdiction that such availability exists. Upon receipt of such an allegation or certification, the Secretary shall publish notice of such allegation or certification in the Federal Register and shall make the foreign availability determination within 30 days after such receipt and publish the determination in the Federal Register. In the case of the failure of the Secretary to make and publish such determination within that 30-day period, the goods or technology involved shall be deemed to be designated as eligible for export to the country or countries involved, for purposes of subparagraph (B).

"(D) The provisions of paragraphs (1), (2), (3), and (4) do not apply with respect to determinations of foreign availability under this paragraph.

"(6) OFFICE OF FOREIGN AVAILABILITY.—The Secretary shall establish in the Department of Commerce an Office of Foreign Availability, which shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year, information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Commercial Service Officers of the United States and Foreign Commercial Service. Such information shall also include a description of representative determinations made under this Act during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.

"(7) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, upon the request of the Secretary and consistent with the protection of intelligence sources and methods, furnish information to the Office of Foreign Availability concerning foreign availability of goods and technology subject to export controls under this Act. Each such department or agency shall allow the Office of Foreign Availability access to any information from a laboratory or other facility within such department or agency.

"(8) REMOVAL OF CONTROLS ON LESS SOPHISTICATED GOODS OR TECHNOLOGY.—In any case in which Secretary may not, pursuant to paragraph (1), (2), (3), or (4) of this subsection or paragraph (6) of subsection (h) of this section, require a validated license for the export of goods or technology, then the Secretary may not require a validated license for the export of any similar goods or technology whose function, technological approach, performance thresholds, and other attributes that form the basis for export controls under this section do not exceed the technical parameters of the goods or technology from which the validated license requirement is removed under the applicable paragraph.

"(9) NOTICE OF ALL FOREIGN AVAILABILITY ASSESSMENTS.—Whenever the Secretary undertakes a foreign availability assessment under this subsection or subsection (h)(6), the Secretary shall publish notice of such assessment in the Federal Register.

"(10) AVAILABILITY DEFINED.—For purposes of this subsection and subsections (f) and (h), the term 'available in fact to controlled

countries' includes production or availability of any goods or technology in any country—

"(A) from which the goods or technology is not restricted for export to any controlled country; or

"(B) in which such export restrictions are determined by the Secretary to be ineffective.

For purposes of subparagraph (B), the mere inclusion of goods or technology on a list of goods or technology subject to bilateral or multilateral national security export controls shall not alone constitute credible evidence that a country provides an effective means of controlling the export of such goods or technology to controlled countries.".

(b) TECHNICAL ADVISORY COMMITTEE DETERMINATIONS.—Section 5(h)(6) of the Act (50 U.S.C. App. 2404(h)(6)) is amended by adding at the end the following: "After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.".

(c) TECHNICAL AMENDMENT.—Section 14(a)(8) of the Act (50 U.S.C. 2413(a)(8)) is amended by striking "5(f)(5)" and inserting "5(f)(6)".

SEC. 2419. REVIEW OF TECHNOLOGY LEVELS.

Section 5(g) of the Act (50 U.S.C. 2404(g)) is amended—

(1) by inserting "(1)" immediately before the first sentence; and

(2) by adding at the end the following:

"(2)(A) In carrying out this subsection, the Secretary shall conduct annual reviews of the performance levels of goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and

"(iii) below which no authority or permission to export may be required under subsection (b)(2) or (b)(3) of this section.

The Secretary shall make appropriate adjustments to such performance levels based on these reviews.

"(B) In any case in which the Secretary receives a request which—

"(i) is to revise the qualification requirements or minimum thresholds of any goods eligible for export under a distribution license, and

"(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

the Secretary, after consulting with other appropriate Government agencies and technical advisory committees established under subsection (h) of this section, shall determine whether to make such revision, or some other appropriate revision, in such qualification requirements or minimum thresholds. In making this determination, the Secretary shall take into account the availability of the goods from sources outside the United States. The Secretary shall make a determination on a request made under this subparagraph within 90 days after the date on which the request is filed. If the Secretary's determination pursuant to such a request is to make a revision, such revision shall be implemented within 120 days after the date on which the request is filed and shall be published in the Federal Register.".

SEC. 2420. FUNCTIONS OF TECHNICAL ADVISORY COMMITTEES.

(a) CONSULTATION ON REVISIONS OF CONTROL LIST AND ON REGULATIONS.—Section 5(h)(2) of the Act (50 U.S.C. 2404(h)(2)) is amended—

(1) by redesignating clause (E) as clause (F); and

(2) by striking clause (D) and inserting the following: "(D) revisions of the control list (as provided in subsection (c)(4)), including proposed revisions of multilateral controls in which the United States participates, (E) the issuance of regulations, and".

(b) REVIEW OF REGULATIONS.—Section 15(b) of the Act (50 U.S.C. App. 2414(b)) is amended in the third sentence—

(1) by striking "and such other" and inserting "such other"; and

(2) by inserting after "appropriate" the following: ", and the appropriate technical advisory committee".

SEC. 2421. NEGOTIATIONS WITH COCOM.

(a) NEGOTIATING OBJECTIVES.—Section 5(i) of the Act (50 U.S.C. App. 2404(i)) is amended by striking "The President" and inserting "Recognizing the ineffectiveness of unilateral controls and the importance of uniform enforcement measures to the effectiveness of multilateral controls, the President".

(b) INDUSTRY REPRESENTATIVE TO COCOM.—Section 5(i) of the Act is amended by adding at the end the following:

"For purposes of reviews of the International Control List, the President may include as advisors to the United States delegation to the Committee representatives of industry who are knowledgeable with respect to the items being reviewed.".

SEC. 2422. GOODS CONTAINING MICROPROCESSORS OR CERTAIN OTHER PARTS OR COMPONENTS.

Section 5(m) of the Act (50 U.S.C. 2404(m)) is amended to read as follows:

"(m) GOODS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Export controls may not be imposed under this section, or under any other provision of law, on a good solely on the basis that the good contains parts or components subject to export controls under this section if such parts or components—

"(1) are essential to the functioning of the good,

"(2) are customarily included in sales of the good in countries other than controlled countries, and

"(3) comprise 25 percent or less of the total value of the good,

unless the good itself, if exported, would by virtue of the functional characteristics of the good as a whole make a significant contribution to the military potential of a controlled country which would prove detrimental to the national security of the United States.".

SEC. 2423. FOREIGN POLICY CONTROLS.

(a) DIPLOMATIC ALTERNATIVES.—Section 6(a) of the Act (50 U.S.C. 2405(a)) is amended by adding at the end the following:

"(6) Before imposing, expanding, or extending export controls under this section on exports to a country which can use goods, technology, or information available from foreign sources and so incur little or no economic costs as a result of the controls, the President should, through diplomatic means, employ alternatives to export controls which offer opportunities of distinguishing the United States from, and expressing the displeasure of the United States with, the specific actions of that country in response to which the controls are proposed. Such alternatives include private discussions with foreign leaders, public statements in situations where private diplomacy is unavailable or not effective, withdrawal of ambassadors, and reduction of the size of the diplomatic staff that the country involved is permitted to have in the United States.".

(b) SPARE PARTS.—Section 6 of the Act (50 U.S.C. App. 2405) is amended by adding at the end the following:

"(p) SPARE PARTS.—(1) At the same time as the President imposes or expands export controls under this section, the President shall determine whether such export controls will apply to replacement parts for parts in goods subject to such export controls.

"(2) With respect to export controls imposed under this section before the date of the enactment of this subsection, an individual validated export license shall not be required for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that was lawfully exported from the United States, unless the President determines that such a license should be required for such parts.".

SEC. 2424. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL.

(a) RESTRICTIONS ON EXPORT REFINERIES.—Section 7(d) of the Act (50 U.S.C. App. 2406(d)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) Subject to subparagraph (B), the provisions of paragraphs (1) through (3) of this subsection shall apply to the export of refined petroleum products, and partially refined petroleum products (from Alaska or from the rest of the United States in an untransformed or uncommingled state), which are produced, from crude oil subject to the prohibition contained in paragraph (1), by an oil refinery which is located in the State of Alaska and which commences commercial operations on or after the date of the enactment of the Export Enhancement Act of 1988, to the same extent as the provisions of paragraphs (1) through (3) of this subsection apply to the export of domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act.

"(B)(i) Without regard to the provisions of paragraphs (1) through (3) of this subsection, but subject to clause (ii), up to 50 percent of all refined petroleum products, and partially refined petroleum products, which are produced, from crude oil subject to the prohibition contained in paragraph (1), by an oil refinery described in subparagraph (A) during the 1-year period beginning on the date on which the refinery commences commercial operations, and during each 1-year period occurring successively thereafter, may be exported. For purposes of determining, under this clause, the percentage of refined petroleum products and partially refined petroleum products of a refinery that are exported, there shall be excluded sales of refined petroleum products or partially refined petroleum products to any military department of the United States or to any air carrier as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301), and such sales shall not be subject to subparagraph (A) except to the extent provided in clause (ii).

"(ii) Notwithstanding clause (i), exports in excess of an average of 70,000 barrels per day, in the 1-year period beginning on the date of the enactment of the Export Enhancement Act of 1988, and in each 1-year period occurring successively thereafter, of all refined petroleum products, and partial-

ly refined petroleum products, which are produced, from crude oil subject to the prohibition contained in paragraph (1), by all oil refineries described in subparagraph (A), shall be subject to paragraphs (1) through (3) of this subsection.

"(C) For purposes of this paragraph—

"(i) the term 'refined petroleum product' means gasoline, kerosene, distillates, ethane, propane, butane, diesel fuel, and residual fuel oil; and

"(ii) the term 'partially refined petroleum product' means a mixture of hydrocarbons which existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities, and which has been processed through a crude oil distillation tower, including topped crude oil and other unfinished oils, but not including any refined petroleum product.

"(D) Within 180 days after the date of the enactment of this paragraph, the Secretary shall issue such regulations as may be necessary to carry out this paragraph and paragraph (5).

"(5) The provisions of paragraphs (1) through (4) of this subsection shall not apply to the export of ethane, propane, or butane separated from crude oil that is subject to the prohibition contained in paragraph (1) and that has passed through a separation facility, except that the crude oil remaining after such separation shall not be considered to be a refined petroleum product or partially refined petroleum product and shall continue to be subject to the provisions of paragraph (1) through (3) of this subsection.

"(6) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185(u)), during any period when the United States-Canada Free-Trade Agreement, signed on January 2, 1988, is in force and effect, up to a maximum volume of 50,000 barrels per day, on an annual average basis, of crude oil subject to the prohibition contained in paragraph (1) may be exported to Canada, subject to the condition that such crude oil be transported to Canada from a suitable location within the lower 48 States.".

(b) CRUDE OIL STUDY.—

(1) REVIEW OF EXPORT RESTRICTIONS ON CRUDE OIL.—The Secretary of Commerce, in consultation with the Secretary of Energy, shall undertake a comprehensive review to assess whether existing statutory restrictions on the export of crude oil produced in the contiguous United States are adequate to protect the energy and national security interests of the United States and American consumers. Taking into account exports licensed since 1983 and potential exports of heavy crude oil produced in California, the review shall assess the effect of increased exports of crude oil produced in the contiguous United States on—

(A) the adequacy of domestic supplies of crude oil and refined petroleum products in meeting United States energy and national security needs;

(B) the quantity, quality, and retail price of petroleum products available to consumers in the United States generally and on the West Coast in particular;

(C) the overall trade deficit of the United States;

(D) acquisition costs of crude oil by domestic petroleum refiners;

(E) the financial viability of sectors of the domestic petroleum industry (including independent refiners, distributors, marketers, and pipeline carriers); and

(F) the United States tanker fleet (and the industries that support it), with particular emphasis on the availability of militarily useful tankers to meet anticipated national defense requirements.

(2) PUBLIC HEARING AND COMMENT.—The Secretary of Commerce shall provide notice and a reasonable opportunity for public hearing and comment on the review conducted pursuant to this subsection.

(3) CONSULTATIONS WITH OTHER AGENCIES.—The Secretary of Commerce shall consult with the Secretary of Defense, the Secretary of the Interior, and the Secretary of Transportation, in addition to the Secretary of Energy, in undertaking the review pursuant to this subsection.

(4) FINDINGS, OPTIONS, AND RECOMMENDATIONS.—After taking public comment and consulting with appropriate State and Federal officials, the Secretary of Commerce, in consultation with the Secretary of Energy, shall develop findings, options, and recommendations regarding the adequacy of existing statutory restrictions on the export of crude oil produced in the contiguous United States in protecting the energy and national security interests of the United States and American consumers.

(5) CONSULTATIONS AND REPORT.—In carrying out this subsection, the Secretary of Commerce shall consult with the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources of the Senate. Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to each of those committees a report which contains the results of the review undertaken pursuant to this subsection and the findings, options, and recommendations developed under paragraph (4).

SEC. 2425. PROCEDURES FOR LICENSE APPLICATIONS.

(a) REVIEW OF LICENSE APPLICATIONS BY THE SECRETARY OF DEFENSE.—Section 10(g) of the Act (50 U.S.C. App. 2409(g)) is amended—

(1) in paragraph (2)(A) by inserting "and the Secretary" after "to the President";

(2) by inserting before the last sentence of paragraph (2) the following:

"Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense.";

(3) by adding at the end of paragraph (2) the following: "If the Secretary of Defense fails to make a recommendation or notification under this paragraph within the 20-day period specified in the third sentence, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary that he approves or disapproves the export, the Secretary shall approve or deny the request for a license or other authority to export without such recommendation or notification."; and

(4) by striking paragraph (4).

(b) REPORT BY SECRETARIES OF COMMERCE AND DEFENSE.—The Secretary of Commerce and the Secretary of Defense shall each evaluate and, not later than 4 months after the date of the enactment of this Act, shall jointly prepare and submit a report to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the review by the Department of Defense, for national security purposes as provided in the Export Administration Act of 1979, of export license applications for exports to countries other than controlled countries under section 5(b)(1) of that Act.

(c) REPORT ON SMALL BUSINESSES.—Section 10(m) of the Act (50 U.S.C. App. 2409(m)) is amended by adding at the end the following: "The Secretary shall, not later than 120 days after the date of the enactment of the Export Enhancement Act of 1988, report to the Congress on steps taken to implement the plan developed under this subsection to assist small businesses in the export licensing application process.".

SEC. 2426. VIOLATIONS.

Section 11(h) of the Act (50 U.S.C. App. 2410(h)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "No"; and

(B) by inserting after "violation of" the following: "this Act (or any regulation, license, or order issued under this Act), any regulation, license, or order issued under the International Emergency Economic Powers Act,"; and

(2) by adding at the end the following:

"(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in section 13(c) of this Act.".

SEC. 2427. ENFORCEMENT.

Section 12(a)(2)(B) of the Act (50 U.S.C. App. 2411(a)(2)(B)) is amended by adding at the end the following: "The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.".

SEC. 2428. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW.

(a) JUDICIAL REVIEW.—(1) Section 13(c) of the Act (50 U.S.C. App. 2412(c)) is amended—

(A) in the last sentence of paragraph (1) by inserting before the period ", except as provided in paragraph (3)";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The order of the Secretary under paragraph (1) shall be final, except that the charged party may, within 15 days after the order is issued, appeal the order in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may, while the appeal is pending, stay the order of the Secretary. The court may review only those issues necessary to determine liability for the civil penalty or other sanction involved. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence on the record and any

conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(2) Section 13(d) of the Act (50 U.S.C. App. 2412(d)) is amended—

(A) in the fifth sentence of paragraph (2) by inserting before the period ", except as provided in paragraph (3)"; and

(B) by adding at the end of paragraph (2) the following:

"All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the standard for issuing the temporary denial order has been met. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(b) ISSUANCE OF TEMPORARY DENIAL ORDERS.—Section 13(d)(1) of the Act (50 U.S.C. App. 2412(d)(1)) is amended in the second sentence by striking "60" each place it appears and inserting "180".

SEC. 2429. RESPONSIBILITIES OF THE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

Section 15(a) of the Act (50 U.S.C. App. 2414(a)) is amended by inserting "and such other statutes that relate to national security" after "functions of the Secretary under this Act".

SEC. 2430. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) of the Act (50 U.S.C. App. 2417(b)) is amended—

(1) in paragraph (1)—

(A) by striking "each of the fiscal years 1987 and 1988" and inserting "the fiscal year 1988";

(B) by striking "for each such year" each place it appears; and

(C) by striking "and" after the semicolon; and

(2) by striking paragraph (2) and inserting the following:

"(2) $46,913,000 for the fiscal year 1989, of which $15,000,000 shall be available only for enforcement, $5,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, $4,000,000 shall be available only for regional export control assistance centers, and $22,913,000 shall be available for all other activities under this Act; and

"(3) such additional amounts for each of the fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 2431. TERMINATION DATE.

Section 20 of the Act (50 U.S.C. 2419) is amended by striking "1989" and inserting "1990".

SEC. 2432. MONITORING OF WOOD EXPORTS.

The Secretary of Commerce shall, for a period of 2 years beginning on the date of the enactment of this Act, monitor exports of processed and unprocessed wood to all countries of the Pacific Rim. The Secretary shall include the results of such monitoring in monthly reports setting forth, with respect to each item monitored, actual exports, the destination by country, and the domestic and worldwide price, supply, and demand. The Secretary shall transmit such reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 2433. STUDY ON NATIONAL SECURITY EXPORT CONTROLS.

(a) ARRANGEMENTS FOR AND CONTENTS OF STUDY.—

(1) ARRANGEMENTS FOR CONDUCTING STUDY.—The Secretary of Commerce and the Secretary of Defense, not later than 60 days after the date of the enactment of this Act, shall enter into appropriate arrangements with the National Academy of Sciences and the National Academy of Engineering (hereafter in this section referred to as the "Academies") to conduct a comprehensive study of the adequacy of the current export administration system in safeguarding United States national security while maintaining United States international competitiveness and Western technological preeminence.

(2) REQUIREMENTS OF STUDY.—Recognizing the need to minimize the disruption of United States trading interests while preventing Western technology from enhancing the development of the military capabilities of controlled countries, the study shall—

(A) identify those goods and technologies which are likely to make crucial differences in the military capabilities of controlled countries, and identify which of those goods and technologies controlled countries already possess or are available to controlled countries from other sources;

(B) develop implementable criteria by which to define those goods and technologies;

(C) demonstrate how such criteria would be applied to the control list by the relevant agencies to revise the list, eliminate ineffective controls, and strengthen controls;

(D) develop proposals to improve United States and multilateral assessments of foreign availability of goods and technology subject to export controls; and

(E) develop proposals to improve the administration of the export control program, including procedures to ensure timely, predictable, and effective decision-making.

(b) ADVISORY PANEL.—In conducting the study under subsection (a), the Academies shall appoint an Advisory Panel of not more than 24 members who shall be selected from among individuals in private life who, by virtue of their experience and expertise, are knowledgeable in relevant scientific, business, legal, or administrative matters. No individual may be selected as a member who, at the time of his or her appointment, is an elected or appointed official or employee in the executive, legislative, or judicial branch of the Government. In selecting members of the Advisory Panel, the Academies shall seek suggestions from the President, the Congress, and representatives of industry and the academic community.

(c) EXECUTIVE BRANCH COOPERATION.—The Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Director of the Central Intelligence Agency, and the head of any department or agency that exercises authority in export administration—

(1) shall furnish to the Academies, upon request and under appropriate safeguards, classified or unclassified information which the Academies determine to be necessary for the purposes of conducting the study required by this section; and

(2) shall work with the Academies on such problems related to the study as the Academies consider necessary.

(d) REPORT.—Under the direction of the Advisory Panel, the Academies shall prepare and submit to the President and the Congress, not later than 18 months after entering into the arrangements referred to in subsection (a), a report which contains a detailed statement of the findings and conclusions of the Academies pursuant to the study conducted under subsection (a), together with their recommendations for such legislative or regulatory reforms as they consider appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $900,000 to carry out this section.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

SEC. 2441. SHORT TITLE.

This part may be cited as the "Multilateral Export Control Enhancement Amendments Act".

SEC. 2442. FINDINGS.

The Congress makes the following findings:

(1) The diversion of advanced milling machinery to the Soviet Union by the Toshiba Machine Company and Kongsberg Trading Company has had a serious impact on United States and Western security interests.

(2) United States and Western security is undermined without the cooperation of the governments and nationals of all countries participating in the group known as the Coordinating Committee (hereafter in this part referred to as "COCOM") in enforcing the COCOM agreement.

(3) It is the responsibility of all governments participating in COCOM to place in effect strong national security export control laws, to license strategic exports carefully, and to enforce those export control laws strictly, since the COCOM system is only as strong as the national laws and enforcement on which it is based.

(4) It is also important for corporations to implement effective internal control systems to ensure compliance with export control laws.

(5) In order to protect United States national security, the United States must take steps to ensure the compliance of foreign companies with COCOM controls, including, where necessary conditions have been met, the imposition of sanctions against violators of controls commensurate with the severity of the violation.

SEC. 2443. MANDATORY SANCTIONS AGAINST TOSHIBA AND KONGSBERG.

(a) SANCTIONS AGAINST TOSHIBA MACHINE COMPANY, KONGSBERG TRADING COMPANY, AND CERTAIN OTHER FOREIGN PERSONS.—(1) The President shall impose, for a period of 3 years—

(1) a prohibition on contracting with, and procurement of products and services from—

(A) Toshiba Machine Company and Kongsberg Trading Company, and

(B) any other foreign person whom the President finds to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union,

by any department, agency, or instrumentality of the United States Government; and

(2) a prohibition on the importation into the United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any foreign person described in paragraph (1)(B).

(b) SANCTIONS AGAINST TOSHIBA CORPORATION AND KONGSBERG VAAPENFABRIKK.—The President shall impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Vaapenfabrikk, by any department, agency, or instrumentality of the United States Government.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

(A) under existing contracts or subcontracts, including exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the company or foreign person to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before June 30, 1987;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "component part" means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term "finished product" means any article which is usable for its intended functions without being imbedded in or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term "sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed under subsection (a) or (b).

SEC. 2444. MANDATORY SANCTIONS FOR FUTURE VIOLATIONS.

The Act is amended by inserting after section 11 the following new section:

"MULTILATERAL EXPORT CONTROL VIOLATIONS

"SEC. 11A. (a) DETERMINATION BY THE PRESIDENT.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

"(1) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, and

"(2) such violation has resulted in substantial enhancement of Soviet and East bloc capabilities in submarine or antisubmarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, communications and intelligence, or other critical technologies as determined by the President, on the advice of the National Security Council, to represent a serious adverse impact on the strategic balance of forces.

The President shall notify the Congress of each action taken under this section. This section, except subsections (h) and (j), applies only to violations that occur after the date of the enactment of the Export Enhancement Act of 1988.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

"(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government, and

"(2) a prohibition on importation into the United States of all products produced by a sanctioned person.

"(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

"(2) to—

"(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies the Congress of the intention to impose the sanctions;

"(B) spare parts;

"(C) component parts, but not finished products, essential to United States products or production;

"(D) routine servicing and maintenance of products; or

"(E) information and technology.

"(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

"(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person, and

"(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

"(A) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations;

"(B) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(C) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports;

"(D) a system of export control documentation to verify the movement of goods and technology; and

"(E) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'component part' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

"(2) the term 'finished product' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

"(3) the term 'sanctioned person' means a foreign person, and any parent, affiliate, subsidiary, or successor entity of the foreign person, upon whom sanctions have been imposed under this section.

"(f) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Congress, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed if the President determines that—

"(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of available evidence, itself violated the export control regulation involved, either directly or through a course of conduct;

"(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in subsection (d)(2);

"(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the export control regime implemented under paragraph (2); and

"(4) the impact of the sanctions imposed on the parent, affiliate, subsidiary, or successor entity is proportionate to the increased defense expenditures imposed on the United States.

Notwithstanding the preceding sentence, the President may not limit the scope of the sanction referred to in subsection (b)(1) with respect to the parent of the foreign person determined to have committed the violation, until that sanction has been in effect for at least 2 years.

"(g) REPORTS TO CONGRESS.—The President shall include in the annual report submitted under section 14, a report on the status of any sanctions imposed under this section, including any exceptions, exclusions, or modifications of sanctions that have been applied under subsection (c), (d), or (f).

"(h) DISCRETIONARY IMPOSITION OF SANCTIONS.—If the President determines that a foreign person has violated a regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, but in a case in which subsection (a)(2) may not apply, the President may apply the sanctions referred to in subsection (b) against that foreign person for a period of not more than 5 years.

"(i) COMPENSATION FOR DIVERSION OF MILITARILY CRITICAL TECHNOLOGIES TO CONTROLLED COUNTRIES.—(1) In cases in which sanctions have been applied against a foreign person under subsection (a), the President shall initiate discussions with the foreign person and the government with jurisdiction over that foreign person regarding compensation on the part of the foreign person in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and the allies of the United States to counteract the effect of the technological advance achieved by the Soviet Union as a result of the violation by that foreign person.

"(2) The President shall, at the time that discussions are initiated under paragraph (1), report to the Congress that such discussions are being undertaken, and shall report to the Congress the outcome of those discussions.

"(j) OTHER ACTIONS BY THE PRESIDENT.—Upon making a determination under subsection (a) or (h), the President shall—

"(1) initiate consultations with the foreign government with jurisdiction over the foreign person who committed the violation involved, in order to seek prompt remedial action by that government;

"(2) initiate discussions with the governments participating in the Coordinating Committee regarding the violation and means to ensure that similar violations do not occur; and

"(3) consult with and report to the Congress on the nature of the violation and the actions the President proposes to take, or has taken, to rectify the situation.

"(k) DAMAGES FOR CERTAIN VIOLATIONS.—(1) In any case in which the President makes a determination under subsection (a), the Secretary of Defense shall determine the costs of restoring the military preparedness of the United States on account of the violation involved. The Secretary of Defense shall notify the Attorney General of his determination, and the Attorney General may bring an action for damages, in any appropriate district court of the United States, to recover such costs against the person who committed the violation, any person that is owned or controlled by the person who committed the violation, and any person who owns and controls the person who committed the violation.

"(3) The total amount awarded in any case brought under paragraph (2) shall be determined by the court in light of the facts and circumstances, but shall not exceed the amount of the net loss to the national security of the United States. An action under this subsection shall be commenced not later than 3 years after the violation occurs, or one year after the violation is discovered, whichever is later.

"(l) DEFINITION.—For purposes of this section, the term 'foreign person' means any person other than a United States person.".

SEC. 2445. ANNUAL REPORT OF DEFENSE IMPACT.

Section 14 of the Act (50 U.S.C. App. 2413) is amended by adding at the end the following new subsection:

"(f) ANNUAL REPORT OF THE PRESIDENT.—The President shall submit an annual report to the Congress estimating the additional defense expenditures of the United States arising from illegal technology transfers, focusing on estimated defense costs arising from illegal technology transfers that resulted in a serious adverse impact on the strategic balance of forces. These estimates shall be based on assessment by the intelligence community of any technology transfers that resulted in such serious adverse impact. This report may have a classified annex covering any information of a sensitive nature.".

SEC. 2446. IMPROVED MULTILATERAL COOPERATION.

Section 5(i) of the Act (50 U.S.C. App. 2404) (relating to multilateral export controls), as amended by section 2421 of this Act, is further amended by striking paragraphs (1) through (9) and inserting the following:

"(1) Enhanced public understanding of the Committee's purpose and procedures, including publication of the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

"(2) Periodic meetings of high-level representatives of participating governments for the purpose of coordinating export control policies and issuing policy guidance to the Committee.

"(3) Strengthened legal basis for each government's export control system, including, as appropriate, increased penalties and statutes of limitations.

"(4) Harmonization of export control documentation by the participating governments to verify the movement of goods and technology subject to controls by the Committee.

"(5) Improved procedures for coordination and exchange of information concerning violations of the agreement of the Committee.

"(6) Procedures for effective implementation of the agreement through uniform and consistent interpretations of export controls agreed to by the governments participating in the Committee.

"(7) Coordination of national licensing and enforcement efforts by governments participating in the Committee, including sufficient technical expertise to assess the licensing status of exports and to ensure end-use verification.

"(8) More effective procedures for enforcing export controls, including adequate training, resources, and authority for enforcement officers to investigate and prevent illegal exports.

"(9) Agreement to provide adequate resources to enhance the functioning of individual national export control systems and of the Committee.

"(10) Improved enforcement and compliance with the agreement through elimination of unnecessary export controls and maintenance of an effective control list.

"(11) Agreement to enhance cooperation among members of the Committee in obtaining the agreement of governments outside the Committee to restrict the export of goods and technology on the International Control List, to establish an ongoing mechanism in the Committee to coordinate planning and implementation of export control measures related to such agreements, and to remove items from the International Control List if such items continue to be available to controlled countries or if the control of the items no longer serves the common strategic objectives of the members of the Committee.".

SEC. 2447. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TRADE EXPANSION ACT OF 1962.—Section 233 of the Trade Expansion Act of 1962 (19 U.S.C 1864) is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

(b) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988.—Sections 8124 and 8129 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(d) of Public Law 100-202) are repealed.

Subtitle E—Miscellaneous Provisions

SEC. 2501. TRADING WITH THE ENEMY ACT.

(a) TERMINATION OF OFFICE OF ALIEN PROPERTY.—(1) The Trading with the Enemy Act is amended by striking subsections (b) through (e) of section 39 (50 U.S.C. App. 39) and inserting the following new subsection:

"(b) The Attorney General shall cover into the Treasury, to the credit of miscellaneous receipts, all sums from property vested in or transferred to the Attorney General under this Act—

"(1) which the Attorney General receives after the date of the enactment of the Export Enhancement Act of 1988, or

"(2) which the Attorney General received before that date and which, as of that date, the Attorney General had not covered into the Treasury for deposit in the War Claims Fund, other than any such sums which the Attorney General determines in his or her discretion are the subject matter of any judicial action or proceeding.".

(2) Subsection (f) of such section is amended—

(A) by striking "(f)" and inserting "(c)"; and

(B) by striking "through (d)" and inserting "and (b)".

(b) REMOVAL OF REPORTING REQUIREMENT.—Section 6 of such Act (50 U.S.C. App. 6) is amended in the next to the last sentence by striking ": Provided further," and all that follows through the end of the section and inserting a period.

SEC. 2502. LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES.

(a) TRADING WITH THE ENEMY ACT.—(1) Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(4) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited.

(b) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended—

(A) in paragraph (1) by striking "or" after the semicolon;

(B) in paragraph (2) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

(2) The amendments made by paragraph (1) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.

SEC. 2503. BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

TITLE III—INTERNATIONAL FINANCIAL POLICY

Subtitle A—Exchange Rates and International Economic Policy Coordination

SEC. 3001. SHORT TITLE.

This subtitle may be cited as the "Exchange Rates and International Economic Policy Coordination Act of 1988".

SEC. 3002. FINDINGS.

The Congress finds that—

(1) the macroeconomic policies, including the exchange rate policies, of the leading industrialized nations require improved coordination and are not consistent with long-term economic growth and financial stability;

(2) currency values have a major role in determining the patterns of production and trade in the world economy;

(3) the rise in the value of the dollar in the early 1980's contributed substantially to our current trade deficit;

(4) exchange rates among major trading nations have become increasingly volatile and a pattern of exchange rates has at times developed which contribute to substantial and persistent imbalances in the flow of goods and services between nations, imposing serious strains on the world trading system and frustrating both business and government planning;

(5) capital flows between nations have become very large compared to trade flows, respond at times quickly and dramatically to policy and economic changes, and, for these reasons, contribute significantly to uncertainty in financial markets, the volatility of exchange rates, and the development of exchange rates which produce imbalances in the flow of goods and services between nations;

(6) policy initiatives by some major trading nations that manipulate the value of their currencies in relation to the United States dollar to gain competitive advantage continue to create serious competitive problems for United States industries;

(7) a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the United States current account should be a major focus of national economic policy;

(8) procedures for improving the coordination of macroeconomic policy need to be strengthened considerably; and

(9) under appropriate circumstances, intervention by the United States in foreign exchange markets as part of a coordinated international strategic intervention effort could produce more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assist adjustment toward a more appropriate and sustainable balance in current accounts.

SEC. 3003. STATEMENT OF POLICY.

It is the policy of the United States that—

(1) the United States and the other major industrialized countries should take steps to continue the process of coordinating monetary, fiscal, and structural policies initiated in the Plaza Agreement of September 1985;

(2) the goal of the United States in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows and to foster price stability in conjunction with economic growth;

(3) the United States, in close coordination with the other major industrialized countries should, where appropriate, participate in international currency markets with the objective of producing more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assisting adjustment toward a more appropriate and sustainable balance in current accounts; and

(4) the accountability of the President for the impact of economic policies and exchange rates on trade competitiveness should be increased.

SEC. 3004. INTERNATIONAL NEGOTIATIONS ON EXCHANGE RATE AND ECONOMIC POLICIES.

(a) MULTILATERAL NEGOTIATIONS.—The President shall seek to confer and negotiate with other countries—

(1) to achieve—

(A) better coordination of macroeconomic policies of the major industrialized nations; and

(B) more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and

(2) to develop a program for improving existing mechanisms for coordination and improving the functioning of the exchange rate system to provide for long-term exchange rate stability consistent with more appropriate and sustainable current account balances.

(b) BILATERAL NEGOTIATIONS.—The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage. The Secretary shall not be required to initiate negotiations in cases where such negotiations would have a serious detrimental impact on vital national economic and security interests; in such cases, the Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of his determination.

SEC. 3005. REPORTING REQUIREMENTS.

(a) REPORTS REQUIRED.—In furtherance of the purpose of this title, the Secretary, after consultation with the Chairman of the Board, shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on or before October 15 of each year, a written report on international economic policy, including exchange rate policy. The Secretary shall provide a written update of developments six months after the initial report. In addition, the Secretary shall appear, if requested, before both committees to provide testimony on these reports.

(b) CONTENTS OF REPORT.—Each report submitted under subsection (a) shall contain—

(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of our major trade competitors;

(2) an evaluation of the factors in the United States and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows;

(3) a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar;

(4) an assessment of the impact of the exchange rate of the United States dollar on—

(A) the ability of the United States to maintain a more appropriate and sustainable balance in its current account and merchandise trade account;

(B) production, employment, and noninflationary growth in the United States;

(C) the international competitive performance of United States industries and the external indebtedness of the United States;

(5) recommendations for any changes necessary in United States economic policy to attain a more appropriate and sustainable balance in the current account;

(6) the results of negotiations conducted pursuant to section 3004;

(7) key issues in United States policies arising from the most recent consultation requested by the International Monetary Fund under article IV of the Fund's Articles of Agreement; and

(8) a report on the size and composition of international capital flows, and the factors contributing to such flows, including, where possible, an assessment of the impact of such flows on exchange rates and trade flows.

(c) REPORT BY BOARD OF GOVERNORS.—Section 2A(1) of the Federal Reserve Act (12 U.S.C. 225a(1)) is amended by inserting after "the Nation" the following: ", includ-

ing an analysis of the impact of the exchange rate of the dollar on those trends".

SEC. 3006. DEFINITIONS.

As used in this subtitle:

(1) Secretary.—The term "Secretary" means the Secretary of the Treasury.

(2) Board.—The term "Board" means the Board of Governors of the Federal Reserve System.

Subtitle B—International Debt

PART I—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "International Debt Management Act of 1988".

SEC. 3102. FINDINGS.

The Congress finds that—

(1) the international debt problem threatens the safety and soundness of the international financial system, the stability of the international trading system, and the economic development of the debtor countries;

(2) orderly reduction of international trade imbalances requires very substantial growth in all parts of the world economy, particularly in the developing countries;

(3) growth in developing countries with substantial external debts has been significantly constrained over the last several years by a combination of high debt service obligations and insufficient new flows of financial resources to these countries;

(4) substantial interest payment outflows from debtor countries, combined with inadequate net new capital inflows, have produced a significant net transfer of financial resources from debtor to creditor countries;

(5) negative resource transfers at present levels severely depress both investment and growth in the debtor countries, and force debtor countries to reduce imports and expand exports in order to meet their debt service obligations;

(6) current adjustment policies in debtor countries, which depress domestic demand and increase production for export, help to depress world commodity prices and limit the growth of export markets for United States industries;

(7) the United States has borne a disproportionate share of the burden of absorbing increased exports from debtor countries, while other industrialized countries have increased their imports from developing countries only slightly;

(8) current approaches to the debt problem should not rely solely on new lending as a solution to the debt problem, and should focus on other financing alternatives including a reduction in current debt service obligations;

(9) new international mechanisms to improve the management of the debt problem and to expand the range of financing options available to developing countries should be explored; and

(10) industrial countries with strong current account surpluses have a disproportionate share of the world's capital resources, and bear an additional responsibility for contributing to a viable long-term solution to the debt problem.

SEC. 3103. PURPOSES.

The purposes of this subtitle are—

(1) to expand the world trading system and raise the level of exports from the United States to the developing countries in order to reduce the United States trade deficit and foster economic expansion and an increase in the standard of living throughout the world;

(2) to alleviate the current international debt problem in order to make the debt situation of developing countries more manageable and permit the resumption of sustained growth in those countries; and

(3) to increase the stability of the world financial system and ensure the safety and soundness of United States depository institutions.

SEC. 3104. STATEMENT OF POLICY.

It is the policy of the United States that—

(1) increasing growth in the developing world is a major goal of international economic policy;

(2) it is necessary to broaden the range of options in dealing with the debt problem to include improved mechanisms to restructure existing debt;

(3) active consideration of a new multilateral authority to improve the management of the debt problem and to share the burdens of adjustment more equitably must be undertaken; and

(4) countries with strong current account surpluses bear a major responsibility for providing the financial resources needed for growth in the developing world.

PART II—THE INTERNATIONAL DEBT MANAGEMENT AUTHORITY

SEC. 3111. INTERNATIONAL INITIATIVE.

(a) Directive.—

(1) Study.—The Secretary of the Treasury shall study the feasibility and advisability of establishing the International Debt Management Authority described in this section.

(2) Explanation of determinations.—If the Secretary of the Treasury determines that initiation of international discussions with regard to such authority would (A) result in material increase in the discount at which sovereign debt is sold, (B) materially increase the probability of default on such debt, or (C) materially enhance the likelihood of debt service failure or disruption, the Secretary shall include in his interim reports to the Congress an explanation in detail of the reasons for such determination.

(3) Initiation of discussions.—Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of the International Debt Management Authority, which would undertake to—

(A) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

(B) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

(i) ease the current debt service burden on the debtor countries; and

(ii) provide additional opportunities for economic growth in both debtor and industrialized countries; and

(C) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

(b) Objectives.—In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations.

(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development and the various regional development banks.

(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and to function subject to the prohibitions contained in the first sentence of section 3112(a).

(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this timeframe.

(c) Interim Reports.—At the end of the 6-month period beginning on the date of enactment of this Act and at the end of the 12-month period beginning on such date of enactment, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, and shall consult with such committees after submitting each such report.

(d) Final Report.—On the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may determine to be necessary or appropriate for the establishment of the International Debt Management Authority.

SEC. 3112. ACTIONS TO FACILITATE CREATION OF THE AUTHORITY.

(a) In General.—No funds, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation, or support of the International Debt Management Authority specified in section 3111, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such authority, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority. In the course of this review, the Secretary shall direct—

(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority specified in section 3111; and

(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid

assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority specified in section 3111.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 3111(c).

(b) CONSTRUCTION OF SECTION.—Subsection (a) shall not be construed to affect any provision of the Articles of Agreement of the International Monetary Fund or of the International Bank for Reconstruction and Development or any agreement entered into under either of such Agreements.

SEC. 3113. IMF-WORLD BANK REVIEW.

(a) IMF REVIEW.—The United States Executive Director of the International Monetary Fund shall request the management of the International Monetary Fund to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

(b) WORLD BANK REVIEW.—The United States Executive Director to the International Bank for Reconstruction and Development shall request the management of the International Bank for Reconstruction and Development to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

PART III—REGULATORY PROVISIONS AFFECTING INTERNATIONAL DEBT

SEC. 3121. PROVISIONS RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) REGULATORY OBJECTIVES.—It is the sense of the Congress that regulations prescribed by Federal banking regulatory agencies which affect the international assets of United States commercial banks should grant the widest possible latitude to the banks for negotiating principal and interest reductions with respect to obligations of heavily indebted sovereign borrowers.

(b) FLEXIBILITY IN DEBT RESTRUCTURING.—It is the intent of the Congress that, in applying generally accepted accounting standards, Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) apply to such institutions maximum flexibility in determining the asset value of restructured loans to heavily indebted sovereign borrowers and in accounting for the effects of such restructuring prospectively.

(c) RECAPITALIZATION.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should require depository institutions with substantial amounts of loans to heavily indebted sovereign borrowers to seek, as appropriate, expanded recapitalization through equity financing to ensure that prudent institutional capital-to-total asset ratios are established and maintained.

(d) RESERVES FOR LOAN LOSSES.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should seek to ensure that appropriate levels of reserves be established by depository institutions engaged in substantial lending to heavily indebted sovereign borrowers in accordance with both the credit and country risks associated with such lending.

(e) DATA ON BANKS FOREIGN LOAN RISKS.—Section 913 of the International Lending Supervision Act of 1983 is amended by adding at the end thereof the following new subsection:

"(d) To ensure that Congress is fully informed of the risks to our banking system posed by troubled foreign loans, the Federal banking agencies, before March 31, 1989, and on April 30 of each succeeding year, shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall include the following:

"(1) The level of loan exposure of those banking institutions under the jurisdiction of each agency which is rated 'value-impaired', 'substandard', 'other transfer risk problems', or in any other troubled debt category as may be established by the banking agencies. This tabulation shall clearly identify aggregate loan exposures of the 9 largest United States banks under the agencies' jurisdiction, the aggregate loan exposures of the next 13 largest banks, and the aggregate exposure of all other such banks which have significant country risk exposures. This tabulation shall include a separate section identifying, to the extent feasible, new bank loans to countries with debt service problems which were made within the past year preceding the date on which the report required under this subsection is due, and shall include the amount of sovereign loans written off or sold by such banks during the preceding year.

"(2) Progress that has been achieved by the appropriate Federal banking agencies and by banking institutions in reducing the risk to the economy of the United States posed by the exposure of banking institutions to troubled international loans through appropriate voluntary or regulatory policies, including increases in capital and reserves of banking institutions.

"(3) The relationship between lending activity by the United States banks and foreign banks in countries experiencing debt service difficulties and exports from the United States and other lending countries to these markets, and the extent to which United States banking institutions can be encouraged to continue to make credit available to finance necessary growth in international trade, and particularly to finance United States exports.

"(4) The response of regulatory agencies in other countries to the international debt problems, including measures which encourage the building of capital and reserves by foreign banking institutions, tax treatment of reserves, encouragement of new lending to promote international trade, and measures which may place United States banking institutions at a competitive disadvantage when compared with foreign banking institutions.

"(5) Steps that have been taken during the previous year by countries experiencing debt service difficulties to enhance conditions for private direct investment (including investment by United States persons) and to eliminate production subsidies, attain price stability, and undertake such other steps as will remove the causes of their debt service difficulties.

Each appropriate Federal banking agency may provide data in the aggregate to the extent necessary to preserve the integrity and confidentiality of the regulatory and examination process.".

SEC. 3122. STUDIES RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) REGULATORY STUDY REQUIRED.—The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall conduct a study to determine the extent of any regulatory obstacle to negotiated reductions in the debt service obligations associated with foreign debt.

(b) SPECIFIC FACTORS TO BE STUDIED.—The study required by subsection (a) shall include an analysis of regulatory and accounting obstacles to various forms of debt restructuring, including negotiated interest reduction, the amortization of loan losses, securitization and debt conversion techniques, and discounted debt repurchases, as well as an analysis of the profitability of commercial bank lending to developing countries during the 10-year period ending on December 31, 1986. The analysis should include an assessment of the impact of the various forms of debt restructuring on the development of a secondary market in developing country debt and on the safety and soundness of the United States banking system.

(c) REPORT REQUIRED.—Within 6 months after the date of the enactment of this Act, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing the findings and conclusions of such agencies with respect to the study required under subsection (a), together with any recommendations concerning legislation which such agencies determine to be necessary or appropriate to remove regulatory obstacles to negotiated reductions in the debt service obligations associated with sovereign debt.

SEC. 3123. LIMITED PURPOSE SPECIAL DRAWING RIGHTS FOR THE POOREST HEAVILY INDEBTED COUNTRIES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the directors and staff of the International Monetary Fund and such other interested parties as the Secretary may determine to be appropriate, shall conduct a study of the feasibility and the efficacy of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the International Monetary Fund of limited purpose Special Drawing Rights to such countries in accordance with a plan which provides that—

(A) the allocation be made without regard to the quota established for any such country under the Articles of Agreement of the Fund;

(B) limited purpose Special Drawing Rights be used only to repay official debt of any such country;

(C) the allocation of limited purpose Special Drawing Rights to any such country not be treated as an allocation on which such country must pay interest to the Fund; and

(D) the use of limited purpose Special Drawing Rights by any such country to repay official debt shall be treated as an allocation of regular Special Drawing Rights to the creditor.

(2) ADDITIONAL FACTORS TO BE STUDIED.—The study required under paragraph (1) shall include the following:

(A) To the extent the creation and allocation of the limited purpose Special Drawing Rights described in paragraph (1) would require an amendment of the Articles of Agreement of the International Monetary Fund, an assessment of the period of time within which such amendment could be ratified by the member nations, based on discussions with the major members of the Fund.

(B) An assessment of other means for achieving the objectives of principal and interest reduction on official debt of the poorest heavily indebted countries through the use of Special Drawing Rights.

(C) A comparative evaluation of proposals of other members of the International Monetary Fund, the directors and staff of the Fund, and other interested parties.

(D) An analysis of the effect the implementation of the provisions in paragraph (1) would have on bilateral and multilateral lenders, the international monetary system, and such other provisions of this Act as may be appropriate.

(E) A comparative analysis of the available alternatives identified under subparagraph (B) or (C).

(b) Report Required.—Within 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate containing the findings and conclusions of the Secretary pursuant to the study required under subsection (a), together with—

(1) the recommendation of the Secretary as to which, of all the alternatives for providing relief for the poorest of the heavily indebted countries which were assessed in connection with such study, represents the best available option; and

(2) recommendations for such legislation and administrative action as the Secretary determines to be necessary and appropriate to implement such option.

Subtitle C—Multilateral Development Banks

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Multilateral Development Banks Procurement Act of 1988".

SEC. 3202. MULTILATERAL DEVELOPMENT BANK PROCUREMENT.

(a) Executive Directors.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to attach a high priority to promoting opportunities for exports for goods and services from the United States and, in carrying out this function, to investigate thoroughly any complaints from United States bidders about the awarding of procurement contracts by the multilateral development banks to ensure that all contract procedures and rules of the banks are observed and that United States firms are treated fairly.

(b) Officer of Procurement.—

(1) Establishment.—The Secretary of the Treasury shall designate, within the Office of International Affairs in the Department of the Treasury, an officer of multilateral development bank procurement.

(2) Function.—The officer shall act as the liaison between the Department of the Treasury, the Department of Commerce, and the United States Executive Directors' offices in the multilateral development banks, in carrying out this section. The officer shall cooperate with the Department of Commerce in efforts to improve opportunities for multilateral development bank procurement by United States companies.

(b) Multilateral Development Bank Defined.—As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

Subtitle D—Export-Import Bank and Tied Aid Credit Amendments

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the "Export-Import Bank and Tied Aid Credit Amendments of 1988".

SEC. 3302. PROVISIONS RELATING TO TIED AID CREDIT.

(a) Findings.—The Congress finds that—

(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) of the Export-Import Bank Act of 1945 to discourage the use of such predatory financing practices.

(b) Extension of Tied Aid Credit Fund.—Subsections (c)(2) and (e)(1) of section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3 (c)(2) and (e)(1)) are each amended by striking out "and 1988" and inserting in lieu thereof "1988, and 1989".

(c) Report.—

(1) In general.—On or before December 31, 1988, the President and Chairman of the Export-Import Bank of the United States, in cooperation with other appropriate government agencies, shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a written report identifying and analyzing the tied aid credit practices of other countries and shall make recommendations for dealing with such practices.

(2) Consultation.—In preparing the report described in paragraph (1), the Export-Import Bank shall consult with appropriate international organizations such as the International Bank for Reconstruction and Development, the International Monetary Fund, and the Development Assistance Committee of the Organization for Economic Cooperation and Development, and with the countries which are party to the Arrangement on Guidelines for Officially Supported Export Credits adopted by the Organization for Economic Cooperation and Development in November 1987.

SEC. 3303. REPORT ON UNITED STATES EXPORTS TO DEVELOPING COUNTRIES.

Within 90 days after the date of the enactment of this Act, the President and Chairman of the Export-Import Bank of the United States shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing and Urban Affairs of the Senate a written report which contains—

(1) an assessment of the effectiveness of recent program changes in increasing United States exports to developing countries; and

(2) an identification of additional specific policy and program changes which—

(A) would enable the Bank to increase the financing of United States exports to developing countries; and

(B) would encourage greater private sector participation in such financing efforts.

SEC. 3304. AMENDMENTS TO SECTION 2(e) OF THE EXPORT-IMPORT BANK ACT OF 1945.

(a) Time for Determining Supplies.—Section 2(e)(1)(A)(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(1)(A)(i)) is amended by striking out "productive capacity is expected to become operative" and inserting in lieu thereof "commodity will first be sold".

(b) Making Comparative Injury Determinations.—Section 2(e)(2) of such Act (12 U.S.C. 635(e)(2)) is amended—

(1) by inserting "short- and long-term" before "injury to United States producers"; and

(2) by inserting "and employment" before "of the same, similar, or competing commodity".

(c) Substantial Injury Defined for Export-Import Bank Determinations.—Section 2(e) of such Act (12 U.S.C. 635(e)) is amended by adding at the end the following:

"(3) Definition.—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.".

Subtitle E—Export Trading Company Act Amendments

SEC. 3401. SHORT TITLE.

This subtitle may be cited as the "Export Trading Company Act Amendments of 1988".

SEC. 3402. EXPORT TRADING COMPANY ACT AMENDMENTS.

(a) Standards for Determination of Export Trading Company Status.—Section 4(c)(14) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) DETERMINATION OF STATUS AS EXPORT TRADING COMPANY.—

"(i) Time period requirements.—For purposes of determining whether an export trading company is operated principally for the purposes described in subparagraph (F)(i)—

"(I) the operations of such company during the 2-year period beginning on the date such company commences operations shall not be taken into account in making any such determination; and

"(II) not less than 4 consecutive years of operations of such company (not including any portion of the period referred to in sub-

clause (I)) shall be taken into account in making any such determination.

"(ii) EXPORT REVENUE REQUIREMENTS.—A company shall not be treated as operated principally for the purposes described in subparagraph (F)(i) unless—

"(I) the revenues of such company from the export, or facilitating the export, of goods or services produced in the United States exceed the revenues of such company from the import, or facilitating the import, into the United States of goods or services produced outside the United States; and

"(II) at least ⅓ of such company's total revenues are revenues from the export, or facilitating the export, of goods or services produced in the United States by persons not affiliated with such company.".

(b) LEVERAGE.—Section 4(c)(14)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(A)) is amended by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

"(v) LEVERAGE.—The Board may not disapprove any proposed investment solely on the basis of the anticipated or proposed asset-to-equity ratio of the export trading company with respect to which such investment is proposed, unless the anticipated or proposed annual average asset-to-equity ratio is greater than 20-to-1.".

(c) INVENTORY.—Section 4(c)(14)(A)) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (G) (as added by subsection (a) of this section) the following new subparagraph:

"(H) INVENTORY.—

"(i) NO GENERAL LIMITATION.—The Board may not prescribe by regulation any maximum dollar amount limitation on the value of goods which an export trading company may maintain in inventory at any time.

"(ii) SPECIFIC LIMITATION BY ORDER.—Notwithstanding clause (i), the Board may issue an order establishing a maximum dollar amount limitation on the value of goods which a particular export trading company may maintain in inventory at any time (after such company has been operating for a reasonable period of time) if the Board finds that, under the facts and circumstances, such limitation is necessary to prevent risks that would affect the financial or managerial resources of an investor bank holding company to an extent which would be likely to have a materially adverse effect on the safety and soundness of any subsidiary bank of such bank holding company.".

Subtitle F—Primary Dealers

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the "Primary Dealers Act of 1988".

SEC. 3502. REQUIREMENT OF NATIONAL TREATMENT IN UNDERWRITING GOVERNMENT DEBT INSTRUMENTS.

(a) FINDINGS.—The Congress finds that—

(1) United States companies can successfully compete in foreign markets if they are given fair access to such markets;

(2) a trade surplus in services could offset the deficit in manufactured goods and help lower the overall trade deficit significantly;

(3) in contrast to the barriers faced by United States firms in Japan, Japanese firms generally have enjoyed access to United States financial markets on the same terms as United States firms; and

(4) United States firms seeking to compete in Japan face or have faced a variety of discriminatory barriers effectively precluding such firms from fairly competing for Japanese business, including—

(A) limitations on membership on the Tokyo Stock Exchange;

(B) high fixed commission rates (ranging as high as 80 percent) which must be paid to members of the exchange by nonmembers for executing trades;

(C) unequal opportunities to participate in and act as lead manager for equity and bond underwritings;

(D) restrictions on access to automated teller machines;

(E) arbitrarily applied employment requirements for opening branch offices;

(F) long delays in processing applications and granting approvals for licenses to operate; and

(G) restrictions on foreign institutions' participation in Ministry of Finance policy advisory councils.

(b) DESIGNATION OF CERTAIN PERSONS AS PRIMARY DEALERS PROHIBITED.—

(1) GENERAL RULE.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, any person of a foreign country as a primary dealer in government debt instruments if such foreign country does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country as such country accords to domestic companies of such country.

(2) CERTAIN PRIOR ACQUISITIONS EXCEPTED.—Paragraph (1) shall not apply to the continuation of the prior designation of a company as a primary dealer in government debt instruments if—

(A) such designation occurred before July 31, 1987; and

(B) before July 31, 1987—

(i) control of such company was acquired from a person (other than a person of a foreign country) by a person of a foreign country; or

(ii) in conjunction with a person of a foreign country, such company informed the Federal Reserve Bank of New York of the intention of such person to acquire control of such company.

(c) EXCEPTION FOR COUNTRIES HAVING OR NEGOTIATING BILATERAL AGREEMENTS WITH THE UNITED STATES.—Subsection (b) shall not apply to any person of a foreign country if—

(1) that country, as of January 1, 1987, was negotiating a bilateral agreement with the United States under the authority of section 102(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2112(b)(4)(A)); or

(2) that country has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987.

(d) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this section, a person is a "person of a foreign country" if that person, or any other person which directly or indirectly owns or controls that person, is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(e) EFFECTIVE DATE.—This section shall take effect 12 months after the date of the enactment of this Act.

Subtitle G—Financial Reports

SEC. 3601. SHORT TITLE.

This subtitle may be cited as the "Financial Reports Act of 1988".

SEC. 3602. QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.

Not less frequently than every 4 years, beginning December 1, 1990, the Secretary of the Treasury, in conjunction with the Secretary of State, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Department of Commerce, shall report to the Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms. The report shall also describe the progress of discussions pursuant to section 3603.

SEC. 3603. FAIR TRADE IN FINANCIAL SERVICES.

(a) DISCUSSIONS.—When advantageous the President or his designee shall conduct discussions with the governments of countries that are major financial centers, aimed at:

(1) ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets;

(2) reducing or eliminating barriers to, and other distortions of, international trade in financial services;

(3) achieving reasonable comparability in the types of financial services permissible for financial service companies; and

(4) developing uniform supervisory standards for banking organizations and securities companies, including uniform capital standards.

(b) CONSULTATION BEFORE DISCUSSIONS.—Before entering into those discussions, the President or his designee shall consult with the committees of jurisdiction in the Senate and the House of Representatives.

(c) RECOMMENDATIONS.—After completing those discussions and after consultation with the committees of jurisdiction, the President shall transmit to the Congress any recommendations that have emerged from those discussions. Any recommendations for changes in United States financial laws or practices shall be accompanied by a description of the changes in foreign financial laws or practices that would accompany action by the Congress, and by an explanation of the benefits that would accrue to the United States from adoption of the recommendations.

(d) CONSTRUCTION OF SECTION.—Nothing in this section may be construed as prior approval of any legislation which may be necessary to implement any recommendations resulting from discussions under this section.

SEC. 3604. BANKS LOAN LOSS RESERVES.

The Federal Reserve Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes by March 31, 1989. Such report shall include a review of the treatment of loan loss reserves and the composition of primary capital of banks in other major industrialized countries, and shall include an analysis as to whether loan loss reserves should continue to be counted as primary capital for regulatory purposes.

TITLE IV—AGRICULTURAL TRADE

SEC. 4001. SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

Subtitle A—Findings, Policy, and Purpose

SEC. 4101. FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under the section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

SEC. 4102. POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

SEC. 4103. PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

Subtitle B—Agricultural Trade Initiatives

PART 1—GENERAL PROVISIONS

SEC. 4201. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

(a) CONTENTS.—The Secretary of Agriculture shall prepare annually, and the President shall submit together with the budget for each fiscal year, a Long-Term Agricultural Trade Strategy Report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture, for 1-, 5-, and 10-fiscal year periods. In preparing each such report, the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213). Each such report shall include—

(1) findings with respect to trends in the comparative position of the United States and other countries in the export of agricultural commodities and products, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products;

(2) findings with respect to new developments in research conducted by other countries that may affect the competitiveness of United States agricultural commodities and products;

(3) findings and recommendations with respect to the movement of United States agricultural commodities and products in nonmarket economies;

(4) as appropriate, the agricultural trade goals for each agricultural commodity and value-added product produced in the United States for the period involved, expressed in both physical volume and monetary value;

(5) recommended Federal policy and programs to meet such agricultural trade goals;

(6) recommended levels of Federal spending on international programs and activities of the Department of Agriculture to meet such agricultural trade goals;

(7) recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet such agricultural trade goals; and

(8) recommended long-term strategies for growth in agricultural trade and exports—

(A) taking into account United States competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(B) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

(b) TREATMENT AS ANNUAL BUDGET SUBMISSION.—Provisions of each Long-Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to Congress for such activities for such fiscal year, and shall be submitted along with the budget request for other programs of the Department of Agriculture for such fiscal year.

(c) SUCCEEDING REPORTS.—The Secretary of Agriculture, in each annual Long-Term Agricultural Trade Strategy Report, shall identify any recommendations in such report that might modify the long-term policy contained in any previous report.

(d) RECOMMENDATIONS FOR CHANGES IN LAW.—The President shall include in each annual budget submission recommendations for such changes in law as are required to meet the long-term goals established in the Report.

SEC. 4202. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

SEC. 4203. JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) DEVELOPMENT OF PLAN.—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the

Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) AGREEMENT.—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

SEC. 4204. REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

SEC. 4205. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) IN GENERAL.—The Secretary of Agriculture may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) NOT EMPLOYEES OF THE UNITED STATES.—Such individuals shall not be regarded as officers or employees of the United States.

SEC. 4206. ESTABLISHMENT OF TRADE ASSISTANCE OFFICE.

(a) ESTABLISHMENT WITHIN THE FOREIGN AGRICULTURAL SERVICE.—The Secretary of Agriculture shall establish an office within the Foreign Agricultural Service to carry out the duties described in subsections (b) and (c) under the direction of the Administrator of the Foreign Agricultural Service.

(b) PRIMARY RESPONSIBILITY.—The office established under subsection (a) shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

(c) DUTIES.—The office established under subsection (a) shall—

(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices; and

(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

(d) REPORT.—

(1) DEADLINE FOR SUBMISSION.—Not later than 60 days after the end of each fiscal year, the Administrator of the Foreign Agricultural Service shall submit a report described in paragraphs (2) and (3) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONTENTS OF EACH REPORT.—Each such report shall describe—

(A) the type of information that is currently available through the office established by this section; and

(B) the type of assistance provided to persons during the previous fiscal year.

(3) ADDITIONAL CONTENTS FOR FIRST REPORT.—In the first report submitted under this section, the Administrator shall also—

(A) provide an analysis of the information currently available concerning foreign agricultural trade practices and domestic agricultural trade promotion programs and the methods used to disseminate such information;

(B) provide recommendations with respect to additional information and assistance that should be made available to interested persons; and

(C) provide an analysis of the degree that overlapping information and reports concerning agricultural trade are prepared.

PART 2—FOREIGN AGRICULTURAL SERVICE

SEC. 4211. PERSONNEL OF THE SERVICE.

(a) INCREASED LEVEL.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Foreign Agricultural Service of the Department of Agriculture (hereinafter in this part referred to as the "Service") shall not be less than 900 full-time employees during each of the fiscal years 1989 and 1990.

(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, upon the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad. The number of Service officers holding such diplomatic title at any time may not exceed eight.

SEC. 4212. AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM.

The Administrator of the Service (hereinafter in this part referred to as the "Administrator") shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

SEC. 4213. PERSONNEL RESOURCE TIME.

(a) IN GENERAL.—In planning the overall allocation of personnel resource time of agricultural attaches of the Service, the Administrator shall ensure that the maximum quantity practicable of the overall personnel resource time of agricultural attaches of the Service be devoted to activities designed to increase markets for United States agricultural commodities and products.

(b) REPORTS.—The Administrator shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describe the allocation of personnel resource time of agricultural attaches during the 1988 and 1989 fiscal years. The report for fiscal year 1988 shall be submitted not later than September 30, 1988, or 30 days after the date of the enactment of this Act, whichever is later. The report for fiscal year 1989 shall be submitted not later than September 30, 1989.

SEC. 4214. COOPERATOR ORGANIZATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

(b) COMMODITIES FOR COOPERATOR ORGANIZATIONS.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) RELATION TO FUNDS.—Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) CONFLICTS OF INTEREST.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) EVALUATION.—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

SEC. 4215. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

Subtitle C—Existing Agricultural Trade Programs

SEC. 4301. TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT.

(a) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, if, before January 1, 1990, a law has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements an agreement negotiated under the Uruguay round of multilateral trade negotiations conducted under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT negotiations") concerning agricultural trade, the President, not later than 45 days after such date—

(1) shall submit a report to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate describing the status of the GATT negotiations concerning agricultural trade, the progress that has been made to date in the negotiations, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in domestic farm programs that are likely to be necessary on conclusion of the negotiations; and

(2) shall certify to Congress whether or not significant progress has been made in the negotiations.

(b) MARKETING LOAN.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), if the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days before the beginning of the marketing year for the 1990 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a), 1444e(a), and 1446(i)) for each of the 1990 crops of wheat, feed grains, and soybeans at a level that is the lesser of—

(A) the loan level determined for each such crop; or

(B) the prevailing world market price for each such crop, as determined by the Secretary.

(2) WAIVER.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the marketing loan would harm further negotiations.

(3) DISCONTINUANCE.—If, after the implementation of a marketing loan in accordance with paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the marketing loan program implemented in accordance with paragraph (1) would harm such progress, the President may instruct the Secretary of Agriculture to discontinue the marketing loan program.

(c) EXPORT ENHANCEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (4), if the President exercises the authority to waive or discontinue the marketing loan program provided for in paragraph (2) or (3) of subsection (b), the President shall instruct the Secretary of Agriculture to make agricultural commodities and products acquired by the Commodity Credit Corporation equaling at least $2,000,000,000 in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced agricultural commodities and products for the purpose of making exports of such commodities and products available on the world market at competitive prices.

(2) NONDISPLACEMENT.—Commodities and products made available in accordance with this subsection shall be in addition to, and not in lieu of, other commodities and products made available for the purpose of enhancing the export of United States commodities and products.

(3) USE OF COMMODITY CREDIT CORPORATION.—The Secretary of Agriculture may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

(4) EXCEPTION.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the export enhancement program provided for by this subsection would be a substantial impediment to achieving a successful agreement under the GATT.

(5) DISCONTINUANCE.—If, after the implementation of paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the export enhancement program implemented in accordance with paragraph (1) would harm such progress, the President may, not before 60 days after the consultation required under subsection (d) with respect to such certification, instruct the Secretary of Agriculture to suspend the implementation of such program.

(d) CONSULTATION.—The President may not make a certification to Congress under this section unless the United States Trade Representative—

(1) consults about the certification with—

(A) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate; and

(2) reports to the President the results of such consultation.

SEC. 4302. PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.

(a) SUNFLOWER SEEDS.—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) COTTONSEED.—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) DISCONTINUANCE.—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

SEC. 4303. MULTIYEAR AGREEMENTS UNDER THE FOOD FOR PROGRESS PROGRAM.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

"(k) In carrying out this section, the President shall, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by recipient countries on a multiyear basis if the agreements otherwise meet the requirements of this section.".

SEC. 4304. TARGETED EXPORT ASSISTANCE.

(a) LEVEL OF PROGRAM.—Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "1988" and inserting in lieu thereof "1987"; and

(B) by striking out "and" at the end; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) for the fiscal year 1988, the Secretary shall use under this section not less than $215,000,000 of the funds of, or commodities owned by, the Corporation, except that the Secretary shall use funds or commodities of the Corporation in excess of $110,000,000 only to the extent appropriations to reimburse the Corporation for such additional expenditures of funds or distribution of commodities are made available in advance to carry out this section; and

"(3) for each of the fiscal years 1989 and 1990, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation.".

(b) COUNTERVAILING DUTY ACTION.—Section 1124(b) of such Act is amended—

(1) in paragraph (1), by striking out "Funds" and inserting in lieu thereof "Except as provided in paragraph (3), funds"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) Funds or commodities made available for use under this section may be used by the Secretary to assist organizations consisting of producers or processors of United States agricultural commodities in amounts necessary to compensate the organizations for reasonable expenses incurred in defending countervailing duty actions instituted after January 1, 1986, in foreign countries to offset the benefits of the agricultural programs provided for under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.). In no event may such assistance exceed $500,000 for the defense of any one countervailing duty action.

"(B) If the Secretary declines to make funds or commodities available under this paragraph, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the reasons for declining to make the funds or commodities available.".

SEC. 4305. EXPORT CREDIT GUARANTEE PROGRAM.

It is the sense of Congress that, to the extent that the Commodity Credit Corporation makes a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation should be made on a country-only basis and not on a commodity basis or a commodity and country basis.

SEC. 4306. AGRICULTURAL EXPORT ENHANCEMENT PROGRAM.

(a) PRIORITIES.—Section 1127(b) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) may consider for participation all interested United States exporters, processors, and users and interested foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products;".

(b) LEVEL OF FUNDING.—Section 1127(i) of such Act is amended—

(1) by striking out "1988" and inserting in lieu thereof "1990"; and

(2) by striking out "$1,500,000,000" and inserting in lieu thereof "$2,500,000,000".

SEC. 4307. AGRICULTURAL ATTACHE REPORTS.

Subsection (b) of section 1132 of the Food Security Act of 1985 (7 U.S.C. 1736x(b)) is amended to read as follows:

"(b) The Secretary shall—

"(1) annually compile the information contained in such reports;

"(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

"(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

"(4) make the compilation available to Congress, the trade assistance office created under section 4602 of the Agricultural Competitiveness and Trade Act of 1988, the agricultural policy advisory committee, and other interested parties.".

SEC. 4308. DAIRY EXPORT INCENTIVE PROGRAM.

Paragraphs (2) through (3) of section 153(d) of the Food Security Act of 1985 (15 U.S.C. 713a-14(d)) are amended to read as follows:

"(2) If payments in commodities are authorized, such payments shall be made through the issuance of generic certificates redeemable in commodities.

"(3) If generic certificates issued in accordance with the program provided for by this section are exchanged for dairy products owned by the Commodity Credit Corporation, the regulations issued by the Secretary shall ensure that—

"(A) such dairy products, or an equal quantity of other dairy products, will be sold for export by the entity; and

"(B) any such export sales by the entity—

"(i) will be in addition to, and not in place of, export sales of dairy products that the entity would otherwise make under the program or in the absence of the program; and

"(ii) to the extent practicable, will not displace commercial export sales of United States dairy products by other exporters.".

SEC. 4309. BARTER OF AGRICULTURAL COMMODITIES.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310. MINIMUM LEVEL OF FOOD ASSISTANCE.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, or any other multilateral development bank.

SEC. 4311. FOOD AID AND MARKET DEVELOPMENT.

(a) POLICY STATEMENT.—It is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products.

(b) REQUIREMENT.—The President (or, as appropriate, the Secretary of Agriculture) shall encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases.

Subtitle D—Wood and Wood Products

SEC. 4401. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER PUBLIC LAW 480.

Section 104(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)(1)) is amended by inserting "(including wood and processed wood products of the United States)" after "agricultural commodities" the first place it appears.

SEC. 4402. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER THE SHORT-TERM AND INTERMEDIATE-TERM EXPORT CREDIT GUARANTEE PROGRAMS.

(a) SHORT-TERM EXPORT CREDIT GUARANTEES.—Section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) is amended—

(1) in subsection (b), by inserting ", including wood and processed wood products" after "agricultural commodities and the products thereof"; and

(2) by adding at the end thereof the following:

"(d) For the purpose of this section, the term 'wood and processed wood products' includes but is not limited to logs, lumber (boards, timber, millwork, molding, flooring, and siding), veneer, panel products (plywood, particle board, and fiberboard), utility and telephone poles, other poles and posts, railroad ties, wood pulp, and wood chips.".

(b) INTERMEDIATE-TERM EXPORT CREDIT.—Section 4(b)(1) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(1)) is amended by adding at the end thereof the following: "For the purpose of this paragraph, the term 'agricultural commodities' includes wood and processed wood products, as defined in section 1125(d) of the Food Security Act of 1985 (7 U.S.C. 1736t(d)).".

SEC. 4403. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end thereof the following:

"SEC. 15. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

"(a) FINDINGS AND PURPOSES.—

"(1) FINDINGS.—Congress finds that—

"(A) the health and vitality of the domestic forest products industry is important to the well-being of the economy of the United States;

"(B) the domestic forest products industry has a significant potential for expansion in both domestic and foreign markets;

"(C) many small-sized to medium-sized forest products firms lack the tools that would enable them to meet the increasing challenge of foreign competition in domestic and foreign markets; and

"(D) a new cooperative forest products marketing program will improve the competitiveness of the United States forest products industry.

"(2) PURPOSES.—The purposes of this section are to—

"(A) provide direct technical assistance to the United States forest products industry to improve marketing activities;

"(B) provide cost-share grants to States to support State and regional forest products marketing programs; and

"(C) target assistance to small-sized and medium-sized producers of solid wood and processed wood products, including pulp.

"(b) PROGRAM AUTHORITY.—

"(1) IN GENERAL.—The Secretary shall establish a cooperative national forest products marketing program under this Act that provides—

"(A) technical assistance to States, landowners, and small-sized to medium-sized forest products firms on ways to improve domestic and foreign markets for forest products; and

"(B) grants of financial assistance with matching requirements to the States to assist in State and regional forest products marketing efforts targeted to aid small-sized to medium-sized forest products firms and private, nonindustrial forest landowners.

"(2) INTERSTATE COOPERATIVE AGREEMENTS.—Grant agreements shall encourage the establishment of interstate cooperative agreements by the States for the purpose of promoting the development of domestic and foreign markets for forest products.

"(c) LIMITATIONS.—

"(1) COOPERATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary shall cooperate with Federal departments and agencies to avoid the duplication of efforts and to increase program efficiency.

"(2) DOMESTIC PROGRAM.—The program authorized under this section shall be carried out within the United States and not be extended to Department of Agriculture activities in foreign countries.

"(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1991, to carry out this section.

"(e) PROGRAM REPORT.—The Secretary shall report to Congress annually on the activities taken under the marketing program established under this section. A final report including recommendations for program changes and the need and desirability of the reauthorization of this authority, and re-

quired levels of funding, shall be submitted to Congress not later than September 30, 1990.".

SEC. 4404. USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

Subtitle E—Studies and Reports

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) FINDINGS.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502. IMPORT INVENTORY.

(a) COMPILATION AND REPORT ON IMPORTS.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) COMPILATION AND REPORT ON CONSUMPTION.—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products.

(c) ISSUING OF DATA.—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) REPORT.—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

SEC. 4506. IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002—2—hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

(b) REVISION.—Not later than November 15, 1989, the Secretary of Agriculture shall revise, as necessary, the report prepared under subsection (a) and submit the revision to Congress.

(c) DEFINITION.—As used in this section, the term "covered products" means meat, poultry products, eggs, and egg products.

SEC. 4507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the

Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

(b) REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations;

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

(c) REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) STUDY.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) REPORT.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) REVIEW.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

Subtitle F—Miscellaneous Agricultural Provisions

SEC. 4601. ALLOCATION OF CERTAIN MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(K)(i) Notwithstanding any other provision of law, milk produced by dairies—

"(I) owned or controlled by foreign persons; and

"(II) financed by or with the use of bonds the interest on which is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1986;

shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this Act. For the purposes of this subparagraph, the term 'foreign person' has the meaning given such term under section 9(3) of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3508(3)).

"(ii) The Secretary of Agriculture shall prescribe regulations to carry out this subparagraph.

"(iii) This subparagraph shall not apply with respect to any dairy that began operation before May 6, 1986.".

SEC. 4602. PAID ADVERTISING FOR FLORIDA-GROWN STRAWBERRIES UNDER MARKETING ORDERS.

The first proviso of section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out "or tomatoes" and inserting in lieu thereof "tomatoes, or Florida-grown strawberries,".

SEC. 4603. APPLICATION OF MARKETING ORDERS TO IMPORTS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e-1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(a)" at the beginning of the first sentence; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

"(A) to effectuate the purposes of this Act; and

"(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

"(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

"(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary);

"(B) if the importation into the United States of such commodity did, or was likely to, circumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

"(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

"(3) An additional period established by the Secretary in accordance with this subsection shall be—

"(A) announced not later than 30 days before the date such additional period is to be in effect; and

"(B) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

"(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.".

SEC. 4604. RECIPROCAL MEAT INSPECTION REQUIREMENT.

(a) IN GENERAL.—Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection:

"(A) The term 'meat articles' means carcasses, meat and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, that are capable of use as human food.

"(B) The term 'standards' means inspection, building construction, sanitary, quality, species verification, residue, and other standards that are applicable to meat articles.

"(2) On request of the Committee on Agriculture or the Committee on Ways and Means of the House of Representatives or the Committee on Agriculture, Nutrition and Forestry or the Committee on Finance of the Senate, or at the initiative of the Secretary, the Secretary shall, as soon as practi-

cable, determine whether a particular foreign country applies standards for the importation of meat articles from the United States that are not related to public health concerns about end-product quality that can be substantiated by reliable analytical methods.

"(3) If the Secretary determines that a foreign country applies standards described in paragraph (2)—

"(A) the Secretary shall consult with the United States Trade Representative; and

"(B) within 30 days after the determination of the Secretary under paragraph (2), the Secretary and the United States Trade Representative shall recommend to the President whether action should be taken under paragraph (4).

"(4) Within 30 days after receiving a recommendation for action under paragraph (3), the President shall, if and for such time as the President considers appropriate, prohibit imports into the United States of any meat articles produced in such foreign country unless it is determined that the meat articles produced in that country meet the standards applicable to meat articles in commerce within the United States.

"(5) The action authorized under paragraph (4) may be used instead of, or in addition to, any other action taken under any other law.".

(b) REPORTS.—Section 20(e) of such Act is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the name of each foreign country that applies standards for the importation of meat articles from the United States that are described in subsection (h)(2).".

SEC. 4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

It is the sense of Congress that—

(1) land grant colleges and universities (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) because marketing complements production, international agricultural marketing specialists are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities and products will help relieve stress in the rural economy.

SEC. 4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

(a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European Community has severely restricted the export of United States eggs and egg products to European Community member countries;

(2) export subsidies of the European Community have caused displacement of United States egg exports in international markets; and

(3) the Secretary of Agriculture is in the process of certifying the Netherland's inspection procedures for egg products for the purpose of importation into the United States of egg products of the Netherlands.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning—

(1) duties, tariffs, and other means used by the European Community to limit the access of United States eggs and egg products to European Community markets; and

(2) European Community export subsidies that have had the effect of excluding United States eggs and egg products from other world markets.

SEC. 4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

(a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was $7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing profit opportunities for the United States beef industry while benefiting Korean consumers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Japan should immediately take actions to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609. SENSE OF CONGRESS RELATING TO SECTION 22.

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 and 1445-2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

SEC. 4610. TECHNICAL CORRECTIONS TO THE AGRICULTURAL AID AND TRADE MISSION PORTION OF PUBLIC LAW 100-202.

(a) SHORT TITLE FOR AGRICULTURAL AID AND TRADE MISSIONS ACT.—That portion of the joint resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes" approved December 22, 1987, under the heading "Agricultural Aid and Trade Missions Act" is amended by adding at the end the following:

"SEC. 16. SHORT TITLE.

"Section 1 through this section under the heading 'Agricultural Aid and Trade Missions Act' may be cited as the 'Agricultural Aid and Trade Missions Act'.".

(b) CORRECTION OF INTERNAL REFERENCES.—Sections 1 through 7 of that portion of such joint resolution are each amended by striking out "chapter" each place it appears and inserting "Act" in lieu thereof.

(c) ELIMINATION OF SUPERFLUOUS CATCHLINE.—That portion of such joint resolution is amended by striking out "Subtitle E—Public Law 480 and Related Provisions".

(d) CORRECTION OF CROSS REFERENCE.—Section 13 of that portion of such joint resolution is amended by striking out "section 655 of this Act" and inserting "section 12" in lieu thereof.

Subtitle G—Pesticide Monitoring Improvements

SEC. 4701. SHORT TITLE.

This subtitle may be cited as the "Pesticide Monitoring Improvements Act of 1988".

SEC. 4702. PESTICIDE MONITORING AND ENFORCEMENT INFORMATION.

(a) DATA MANAGEMENT SYSTEMS.—

(1) Not later than 480 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall place in effect computerized data management sys-

tems for the Food and Drug Administration under which the Administration will—

(A) record, summarize, and evaluate the results of its program for monitoring food products for pesticide residues,

(B) identify gaps in its pesticide monitoring program in the monitoring of (i) pesticides, (ii) food products, and (iii) food from specific countries and from domestic sources,

(C) detect trends in the presence of pesticide residues in food products and identify public health problems emerging from the occurrence of pesticide residues in food products,

(D) focus its testing resources for monitoring pesticide residues in food on detecting those residues which pose a public health concern,

(E) prepare summaries of the information listed in subsection (b), and

(F) provide information to assist the Environmental Protection Agency in carrying out its responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act.

(2) As soon as practicable, the Secretary of Health and Human Services shall develop a means to enable the computerized data management systems placed into effect under paragraph (1) to make the summary described in subsection (c).

(3)(A) Paragraph (1) does not limit the authority of the Food and Drug Administration to—

(i) use the computerized data management systems placed in effect under paragraph (1), or

(ii) develop additional data management systems, to facilitate the regulation of any substance or product covered under the requirements of the Federal Food, Drug, and Cosmetic Act.

(B) In placing into effect the computerized data management systems under paragraph (1) and in carrying out paragraph (2), the Secretary shall comply with applicable regulations governing computer system design and procurement.

(b) INFORMATION.—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to prepare a summary of—

(1) information on—

(A) the types of imported and domestically produced food products analyzed for compliance with the requirements of the Federal Food, Drug, and Cosmetic Act regarding the presence of pesticide residues,

(B) the number of samples of each such food product analyzed for such compliance by country of origin,

(C) the pesticide residues which may be detected using the testing methods employed,

(D) the pesticide residues in such food detected and the levels detected,

(E) the compliance status of each sample of such food tested and the violation rate for each country-product combination, and

(F) the action taken with respect to each sample of such food found to be in violation of the Federal Food, Drug, and Cosmetic Act and its ultimate disposition, and

(2) information on—

(A) the country of origin of each imported food product referred to in paragraph (1)(A), and

(B) the United States district of entry for each such imported food product.

(c) VOLUME DATA.—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to summarize the volume of each type of food product subject to the requirements of the Federal Food, Drug, and Cosmetic Act which is imported into the United States and which has an entry value which exceeds an amount established by the Secretary of Health and Human Services. The summary shall be made by country of origin and district of entry. Information with respect to volumes of food products to be included in the summary shall, to the extent feasible, be obtained from data bases of other Federal agencies.

(d) COMPILATION.—Not later than 90 days after the expiration of 1 year after the data management systems are placed into effect under subsection (a) and annually thereafter, the Secretary of Health and Human Services shall compile a summary of the information described in subsection (b) with respect to the previous year. When the Food and Drug Administration is able to make summaries under subsection (c), the Secretary shall include in the compilation under the preceding sentence a compilation of the information described in subsection (c). Compilations under this subsection shall be made available to Federal and State agencies and other interested persons.

SEC. 4703. FOREIGN PESTICIDE INFORMATION.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) INFORMATION ACTIVITIES.—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insufficient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration which are engaged in the monitoring of imported food for pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) COORDINATION WITH OTHER AGENCIES.—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

SEC. 4704. PESTICIDE ANALYTICAL METHODS.

The Secretary of Health and Human Services shall, in consultation with the Administrator of the Environmental Protection Agency—

(1) develop a detailed long-range plan and timetable for research that is necessary for the development of and validation of—

(A) new and improved analytical methods capable of detecting at one time the presence of multiple pesticide residues in food, and

(B) rapid pesticide analytical methods, and

(2) conduct a review to determine whether the use of rapid pesticide analytical methods by the Secretary would enable the Secretary to improve the cost-effectiveness of monitoring and enforcement activities under the Federal Food, Drug, and Cosmetic Act, including increasing the number of pesticide residues which can be detected and the number of tests for pesticide residues which can be conducted in a cost-effective manner.

The Secretary shall report the plan developed under paragraph (1), the resources necessary to carry out the research described in such paragraph, recommendations for the implementation of such research, and the result of the review conducted under paragraph (2) not later than the expiration of 240 days after the date of the enactment of this Act to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Act Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

SEC. 5001. SHORT TITLE.

This part may be cited as the "Foreign Corrupt Practices Act Amendments of 1988".

SEC. 5002. PENALTIES FOR VIOLATIONS OF ACCOUNTING STANDARDS.

Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by adding at the end thereof the following:

"(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

"(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

"(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

"(7) For the purpose of paragraph (2) of this subsection, the terms 'reasonable assurances' and 'reasonable detail' mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.".

SEC. 5003. FOREIGN CORRUPT PRACTICES ACT AMENDMENTS.

(a) PROHIBITED TRADE PRACTICES BY ISSUERS.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY ISSUERS

"SEC. 30A. (a) PROHIBITION.—It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than one year after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which issuers may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(e) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by issuers concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by an issuer and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by an issuer under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the issuer, be made publicly available, regardless of whether the Attorney General responds to such a request or the issuer withdraws such request before receiving a response.

"(3) Any issuer who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with re-

spect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(f) Definitions.—For purposes of this section:

"(1) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(2)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(3)(A) The term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.".

(b) Violations.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended to read as follows:

"(c)(1)(A) Any issuer that violates section 30A(a) shall be fined not more than $2,000,000.

"(B) Any issuer that violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(2)(A) Any officer or director of an issuer, or stockholder acting on behalf of such issuer, who willfully violates section 30A(a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of an issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such issuer), and who willfully violates section 30A(a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of an issuer, such fine may not be paid, directly or indirectly, by such issuer.".

(c) Prohibited Trade Practices by Domestic Concerns.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY DOMESTIC CONCERNS

"Sec. 104. (a) Prohibition.—It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) Exception for Routine Governmental Action.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) Affirmative Defenses.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) Injunctive Relief.—(1) When it appears to the Attorney General that any domestic concern to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond.

"(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under

investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(e) Guidelines by the Attorney General.—Not later than 6 months after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Securities and Exchange Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which domestic concerns may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(f) Opinions of the Attorney General.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by domestic concerns concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by a domestic concern and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by a domestic concern under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the domestic concern, be made publicly available, regardless of whether the Attorney General responds to such a request or the domestic concern withdraws such request before receiving a response.

"(3) Any domestic concern who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(g) Penalties.—(1)(A) Any domestic concern that violates subsection (a) shall be fined not more than $2,000,000.

"(B) Any domestic concern that violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(2)(A) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of a domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully violates subsection (a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a domestic concern, such fine may not be paid, directly or indirectly, by such domestic concern.

"(h) Definitions.—For purposes of this section:

"(1) The term 'domestic concern' means—

"(A) any individual who is a citizen, national, or resident of the United States; and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

"(2) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(3)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(4)(A) For purposes of paragraph (1), the term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

"(5) The term 'interstate commerce' means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

"(A) a telephone or other interstate means of communication, or

"(B) any other interstate instrumentality.".

(d) International Agreement.—

(1) Negotiations.—It is the sense of the Congress that the President should pursue the negotiation of an international agreement, among the members of the Organization of Economic Cooperation and Develop-

ment, to govern persons from those countries concerning acts prohibited with respect to issuers and domestic concerns by the amendments made by this section. Such international agreement should include a process by which problems and conflicts associated with such acts could be resolved.

(2) REPORT TO CONGRESS.—(A) Within 1 year after the date of the enactment of this Act, the President shall submit to the Congress a report on—

(i) the progress of the negotiations referred to in paragraph (1),

(ii) those steps which the executive branch and the Congress should consider taking in the event that these negotiations do not successfully eliminate any competitive disadvantage of United States businesses that results when persons from other countries commit the acts described in paragraph (1); and

(iii) possible actions that could be taken to promote cooperation by other countries in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

(B) The President shall include in the report submitted under subparagraph (A)—

(i) any legislative recommendations necessary to give the President the authority to take appropriate action to carry out clauses (ii) and (iii) of subparagraph (A);

(ii) an analysis of the potential effect on the interests of the United States, including United States national security, when persons from other countries commit the acts described in paragraph (1); and

(iii) an assessment of the current and future role of private initiatives in curtailing such acts.

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 5021. AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2158 et seq.) is amended by adding at the end thereof the following:

"AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

"SEC. 721. (a) INVESTIGATIONS.—The President or the President's designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover as prescribed by regulations promulgated pursuant to this section. Such investigation shall be completed no later than 45 days after such determination.

"(b) CONFIDENTIALITY OF INFORMATION.—Any information or documentary material filed with the President or the President's designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

"(c) ACTION BY THE PRESIDENT.—Subject to subsection (d), the President may take such action for such time as the President considers appropriate to suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in the United States proposed or pending on or after the date of enactment of this section by or with foreign persons so that such control will not threaten to impair the national security. The President shall announce the decision to take action pursuant to this subsection not later than 15 days after the investigation described in subsection (a) is completed. The President may direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce this section.

"(d) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by subsection (c) only if the President finds that—

"(1) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

"(2) provisions of law, other than this section and the International Emergency Economic Powers Act (50 U.S.C. 1701—1706), do not in the President's judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

The provisions of subsection (d) of this section shall not be subject to judicial review.

"(e) FACTORS TO BE CONSIDERED.—For purposes of this section, the President or the President's designee may, taking into account the requirements of national security, consider among other factors—

"(1) domestic production needed for projected national defense requirements,

"(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services, and

"(3) the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

"(f) REPORT TO THE CONGRESS.—If the President determines to take action under subsection (c), the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the action which the President intends to take, including a detailed explanation of the findings made under subsection (d).

"(g) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.

"(h) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.".

Subtitle B—Technology

PART I—TECHNOLOGY COMPETITIVENESS

SEC. 5101. SHORT TITLE.

This part may be cited as the "Technology Competitiveness Act".

Subpart A—National Institute of Standards and Technology

SEC. 5111. FINDINGS AND PURPOSES.

Section 1 of the Act of March 3, 1901 (15 U.S.C. 271) is amended to read as follows:

"FINDINGS AND PURPOSES

"SECTION 1. (a) The Congress finds and declares the following:

"(1) The future well-being of the United States economy depends on a strong manufacturing base and requires continual improvements in manufacturing technology, quality control, and techniques for ensuring product reliability and cost-effectiveness.

"(2) Precise measurements, calibrations, and standards help United States industry and manufacturing concerns compete strongly in world markets.

"(3) Improvements in manufacturing and product technology depend on fundamental scientific and engineering research to develop (A) the precise and accurate measurement methods and measurement standards needed to improve quality and reliability, and (B) new technological processes by which such improved methods may be used in practice to improve manufacturing and to assist industry to transfer important laboratory discoveries into commercial products.

"(4) Scientific progress, public safety, and product compatibility and standardization also depend on the development of precise measurement methods, standards, and related basic technologies.

"(5) The National Bureau of Standards since its establishment has served as the Federal focal point in developing basic measurement standards and related technologies, has taken a lead role in stimulating cooperative work among private industrial organizations in efforts to surmount technological hurdles, and otherwise has been responsible for assisting in the improvement of industrial technology.

"(6) The Federal Government should maintain a national science, engineering, and technology laboratory which provides measurement methods, standards, and associated technologies and which aids United States companies in using new technologies to improve products and manufacturing processes.

"(7) Such national laboratory also should serve industry, trade associations, State technology programs, labor organizations, professional societies, and educational institutions by disseminating information on new basic technologies including automated manufacturing processes.

"(b) It is the purpose of this Act—

"(1) to rename the National Bureau of Standards as the National Institute of Standards and Technology and to modernize and restructure that agency to augment its unique ability to enhance the competitiveness of American industry while maintaining its traditional function as lead national laboratory for providing the measurements, calibrations, and quality assurance techniques which underpin United States commerce, technological progress, improved product reliability and manufacturing processes, and public safety;

"(2) to assist private sector initiatives to capitalize on advanced technology;

"(3) to advance, through cooperative efforts among industries, universities, and government laboratories, promising research and development projects, which can be optimized by the private sector for commercial and industrial applications; and

"(4) to promote shared risks, accelerated development, and pooling of skills which will be necessary to strengthen America's manufacturing industries.".

SEC. 5112. ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES.

(a) ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES OF THE INSTITUTE.—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272) is amended to read as follows:

"ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

"SEC. 2. (a) There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology (hereafter in this Act referred to as the 'Institute'.)

"(b) The Secretary of Commerce (hereafter in this Act referred to as the 'Secretary') acting through the Director of the Institute (hereafter in this Act referred to as the 'Director') and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions of the Institute—

"(1) to assist industry in the development of technology and procedures needed to improve quality, to modernize manufacturing processes, to ensure product reliability, manufacturability, functionality, and cost-effectiveness, and to facilitate the more rapid commercialization, especially by small- and medium-sized companies throughout the United States, of products based on new scientific discoveries in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies;

"(2) to develop, maintain, and retain custody of the national standards of measurement, and provide the means and methods for making measurements consistent with those standards, including comparing standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government;

"(3) to enter into contracts, including cooperative research and development arrangements, in furtherance of the purposes of this Act;

"(4) to provide United States industry, Government, and educational institutions with a national clearinghouse of current information, techniques, and advice for the achievement of higher quality and productivity based on current domestic and international scientific and technical development;

"(5) to assist industry in the development of measurements, measurement methods, and basic measurement technology;

"(6) to determine, compile, evaluate, and disseminate physical constants and the properties and performance of conventional and advanced materials when they are important to science, engineering, manufacturing, education, commerce, and industry and are not available with sufficient accuracy elsewhere;

"(7) to develop a fundamental basis and methods for testing materials, mechanisms, structures, equipment, and systems, including those used by the Federal Government;

"(8) to assure the compatibility of United States national measurement standards with those of other nations;

"(9) to cooperate with other departments and agencies of the Federal Government, with industry, with State and local governments, with the governments of other nations and international organizations, and with private organizations in establishing standard practices, codes, specifications, and voluntary consensus standards;

"(10) to advise government and industry on scientific and technical problems; and

"(11) to invent, develop, and (when appropriate) promote transfer to the private sector of measurement devices to serve special national needs.

"(c) In carrying out the functions specified in subsection (b), the Secretary, acting through the Director and, if appropriate, through other appropriate officials, may, among other things—

"(1) construct physical standards;

"(2) test, calibrate, and certify standards and standard measuring apparatus;

"(3) study and improve instruments, measurement methods, and industrial process control and quality assurance techniques;

"(4) cooperate with the States in securing uniformity in weights and measures laws and methods of inspection;

"(5) cooperate with foreign scientific and technical institutions to understand technological developments in other countries better;

"(6) prepare, certify, and sell standard reference materials for use in ensuring the accuracy of chemical analyses and measurements of physical and other properties of materials;

"(7) in furtherance of the purposes of this Act, accept research associates, cash donations, and donated equipment from industry, and also engage with industry in research to develop new basic and generic technologies for traditional and new products and for improved production and manufacturing;

"(8) study and develop fundamental scientific understanding and improved measurement, analysis, synthesis, processing, and fabrication methods for chemical substances and compounds, ferrous and nonferrous metals, and all traditional and advanced materials, including processes of degradation;

"(9) investigate ionizing and nonionizing radiation and radioactive substances, their uses, and ways to protect people, structures, and equipment from their harmful effects;

"(10) determine the atomic and molecular structure of matter, through analysis of spectra and other methods, to provide a basis for predicting chemical and physical structures and reactions and for designing new materials and chemical substances, including biologically active macromolecules;

"(11) perform research on electromagnetic waves, including optical waves, and on properties and performance of electrical, electronic, and electromagnetic devices and systems and their essential materials, develop and maintain related standards, and disseminate standard signals through broadcast and other means;

"(12) develop and test standard interfaces, communication protocols, and data structures for computer and related telecommunications systems;

"(13) study computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes;

"(14) perform research to develop standards and test methods to advance the effective use of computers and related systems and to protect the information stored, processed, and transmitted by such systems and to provide advice in support of policies affecting Federal computer and related telecommunications systems;

"(15) determine properties of building materials and structural elements, and encourage their standardization and most effective use, including investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and the standardization of types of appliances for fire prevention;

"(16) undertake such research in engineering, pure and applied mathematics, statistics, computer science, materials science, and the physical sciences as may be necessary to carry out and support the functions specified in this section;

"(17) compile, evaluate, publish, and otherwise disseminate general specific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere;

"(18) collect, create, analyze, and maintain specimens of scientific value;

"(19) operate national user facilities;

"(20) evaluate promising inventions and other novel technical concepts submitted by inventors and small companies and work with other Federal agencies, States, and localities to provide appropriate technical assistance and support for those inventions which are found in the evaluation process to have commercial promise;

"(21) demonstrate the results of the Institute's activities by exhibits or other methods of technology transfer, including the use of scientific or technical personnel of the Institute for part-time or intermittent teaching and training activities at educational institutions of higher learning as part of and incidental to their official duties; and

"(22) undertake such other activities similar to those specified in this subsection as the Director determines appropriate.".

(b) OTHER FUNCTIONS OF SECRETARY.—The Secretary of Commerce is authorized to—

(1) conduct research on all of the telecommunications sciences, including wave propagation and reception, the conditions which affect electromagnetic wave propagation and reception, electromagnetic noise and interference, radio system characteristics, operating techniques affecting the use of the electromagnetic spectrum, and methods for improving the use of the electromagnetic spectrum for telecommunications purposes;

(2) prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in such conditions;

(3) investigate conditions which affect the transmission of radio waves from their source to a receiver and the compilation and distribution of information on such transmission of radio waves as a basis for choice of frequencies to be used in radio operations;

(4) conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(5) investigate nonionizing electromagnetic radiation and its uses, as well as methods and procedures for measuring and assessing electromagnetic environments, for the purpose of developing and coordinating policies and procedures affecting Federal Government use of the electromagnetic spectrum for telecommunications purposes;

(6) compile, evaluate, publish, and otherwise disseminate general scientific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere; and

(7) undertake such other activities similar to those specified in this subsection as the

Secretary of Commerce determines appropriate.

(c) Director of Institute.—(1) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274) is amended to read as follows:

"Sec. 5. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have the general supervision of the Institute, its equipment, and the exercise of its functions. The Director shall make an annual report to the Secretary of Commerce. The Director may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or facilitate the exercise of the functions of the Institute. The Director shall be compensated at the rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. Until such time as the Director assumes office under this section, the most recent Director of the National Bureau of Standards shall serve as Director.".

(2) Section 5315 of title 5, United States Code, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

(d) Organization Plan.—(1) At least 60 days before its effective date and within 120 days after the date of the enactment of this Act, an initial organization plan for the National Institute of Standards and Technology (hereafter in this part referred to as the "Institute") shall be submitted by the Director of the Institute (hereafter in this part referred to as the "Director") after consultation with the Visiting Committee on Advanced Technology, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such plan shall—

(A) establish the major operating units of the Institute;

(B) assign each of the activities listed in section 2(c) of the Act of March 3, 1901, and all other functions and activities of the Institute, to at least one of the major operating units established under subparagraph (A);

(C) provide details of a 2-year program for the Institute, including the Advanced Technology Program;

(D) provide details regarding how the Institute will expand and fund the Inventions program in accordance with section 27 of the Act of March 3, 1901; and

(E) make no changes in the Center for Building Technology or the Center for Fire Research.

(2) The Director may revise the organization plan. Any revision of the organization plan submitted under paragraph (1) shall be submitted to the appropriate committees of the House of Representatives and the Senate at least 60 days before the effective date of such revision.

(3) Until the effective date of the organization plan, the major operating units of the Institute shall be the major operating units of the National Bureau of Standards that were in existence on the date of the enactment of this Act and the Advanced Technology Program.

SEC. 5113. REPEAL OF PROVISIONS.

The second paragraph of the material relating to the Bureau of Standards in the first section of the Act of July 16, 1914 (15 U.S.C. 280), the last paragraph of the material relating to Contingent and Miscellaneous Expenses in the first section of the Act of March 4, 1913 (15 U.S.C. 281), and the first section of the Act of May 14, 1930 (15 U.S.C. 282) are repealed.

SEC. 5114. REPORTS TO CONGRESS; STUDIES BY THE NATIONAL ACADEMIES OF ENGINEERING AND SCIENCES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating section 23 as section 31; and

(2) by adding after section 22 the following new sections:

"REPORTS TO CONGRESS

"Sec. 23. (a) The Director shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all of the activities of the Institute.

"(b) The Director shall justify in writing all changes in policies regarding fees for standard reference materials and calibration services occurring after June 30, 1987, including a description of the anticipated impact of any proposed changes on demand for and anticipated revenues from the materials and services. Changes in policy and fees shall not be effective unless and until the Director has submitted the proposed schedule and justification to the Congress and 30 days on which both Houses of Congress are in session have elapsed since such submission, except that the requirement of this sentence shall not apply with respect to adjustments which are based solely on changes in the costs of raw materials or of producing and delivering standard reference materials or calibration services.

"STUDIES BY THE NATIONAL RESEARCH COUNCIL

"Sec. 24. The Director may periodically contract with the National Research Council for advice and studies to assist the Institute to serve United States industry and science. The subjects of such advice and studies may include—

"(1) the competitive position of the United States in key areas of manufacturing and emerging technologies and research activities which would enhance that competitiveness;

"(2) potential activities of the Institute, in cooperation with industry and the States, to assist in the transfer and dissemination of new technologies for manufacturing and quality assurance; and

"(3) identification and assessment of likely barriers to widespread use of advanced manufacturing technology by the United States workforce, including training and other initiatives which could lead to a higher percentage of manufacturing jobs of United States companies being located within the borders of our country.".

SEC. 5115. TECHNICAL AMENDMENTS.

(a) Amendments to Organic Act.—(1) Except as provided in paragraph (2), the Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended by striking "National Bureau of Standards", "Bureau" and "bureau" wherever they appear and inserting in lieu thereof "Institute".

(2) Section 31 of such Act, as so redesignated by section 5114(1) of this part, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

(b) Amendments to Stevenson-Wydler Technology Innovation Act of 1980.—(1) Section 8(b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122 of this part, is amended by striking "Director" and inserting in lieu thereof "Assistant Secretary".

(2) Sections 11(e) and 17(d) and (e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, are amended—

(A) by striking "National Bureau of Standards" wherever it appears and inserting in lieu thereof "National Institute of Standards and Technology"; and

(B) by striking "Bureau" wherever it appears and inserting in lieu thereof "Institute".

(c) Amendments to Other Laws.—References in any other Federal law to the National Bureau of Standards shall be deemed to refer to the National Institute of Standards and Technology.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

SEC. 5121. TECHNOLOGY EXTENSION ACTIVITIES.

(a) Technology Centers and Technical Assistance.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 24 the following new sections:

"REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

"Sec. 25. (a) The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manufacturing Technology (hereafter in this Act referred to as the 'Centers'). Such centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2). Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

"(1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

"(2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;

"(3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

"(4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and

"(5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

"(b) The activities of the Centers shall include—

"(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

"(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

"(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

"(c)(1) The Secretary may provide financial support to any Center created under subsection (a) for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

"(2) The Secretary shall publish in the Federal Register, within 90 days after the date of the enactment of this section, a draft description of a program for establishing Centers, including—

"(A) a description of the program;

"(B) procedures to be followed by applicants;

"(C) criteria for determining qualified applicants;

"(D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and

"(E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

"(3) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on the date of the enactment of this section, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2). In order to receive assistance under this section, an applicant shall provide adequate assurances that it will contribute 50 percent or more of the proposed Center's capital and annual operating and maintenance costs for the first three years and an increasing share for each of the last three years. Each applicant shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

"(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

"(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.

"(6) The provisions of chapter 18 of title 35, United States Code, shall (to the extent not inconsistent with this section) apply to the promotion of technology from research by Centers under this section.

"(d) There are authorized to be appropriated for the purposes of carrying out this section, a combined total of not to exceed $40,000,000 for fiscal years 1989 and 1990. Such sums shall remain available until expended.

"ASSISTANCE TO STATE TECHNOLOGY PROGRAMS

"SEC. 26. (a) In addition to the Centers program created under section 25, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology.

"(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

"(1) technical information and advice from Institute personnel;

"(2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and

"(3) entering into cooperative agreements when authorized to do so under this or any other Act.".

(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;

(B) a description of any anticipated expansion of each State program and its associated costs;

(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

(D) an assessment of the degree to which State services make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

(E) a survey of what additional Federal information and technical assistance the services could utilize; and

(F) an assessment of how the services could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

The Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the time of submission of the organization plan for the Institute under section 5112(d)(1), the results of the study and an initial implementation plan for the programs under section 26 of the Act of March 3, 1901, and under this section. The implementation plan shall include methods of providing technical assistance to States and criteria for awarding financial assistance under this section. The Secretary may make use of contractors and experts for any or all of the studies and findings called for in this section.

(2)(A) The Institute shall enter into cooperative agreements with State technology extension services to—

(i) demonstrate methods by which the States can, in cooperation with Federal agencies, increase the use of Federal technology by businesses within their States to improve industrial competitiveness; or

(ii) help businesses in their States take advantage of the services and information offered by the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901.

(B) Any State, for itself or for a consortium of States, may submit to the Secretary an application for a cooperative agreement under this subsection, in accordance with procedures established by the Secretary. To qualify for a cooperative agreement under this subsection, a State shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of Federal assistance.

(C) In evaluating each application, the Secretary shall consider—

(i) the number and types of additional businesses that will be assisted under the cooperative agreement;

(ii) the extent to which the State extension service will demonstrate new methods to increase the use of Federal technology;

(iii) geographic diversity; and

(iv) the ability of the State to maintain the extension service after the cooperative agreement has expired.

(D) States which are party to cooperative agreements under this subsection may provide services directly or may arrange for the provision of any or all of such services by institutions of higher education or other non-profit institutions or organizations.

(3) In carrying out section 26 of the Act of March 3, 1901, and this subsection, the Secretary shall coordinate the activities with the Federal Laboratory Consortium; the National Technical Information Service; the National Science Foundation; the Office of Productivity, Technology, and Innovation; the Small Business Administration; and other appropriate Federal agencies.

(4) There are authorized to be appropriated for the purposes of this subsection $2,000,000 for each of the fiscal years 1989, 1990, and 1991.

(5) Cooperative agreements entered into under paragraph (2) shall terminate no later than September 30, 1991.

(c) FEDERAL TECHNOLOGY TRANSFER ACT OF 1986.—Nothing in sections 25 or 26 of the Act of March 3, 1901, or in subsection (b) of this section shall be construed as limiting the authorities contained in the Federal Technology Transfer Act of 1986 (Public Law 99-502).

(d) NON-ENERGY INVENTIONS PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 26 the following new section:

"NON-ENERGY INVENTIONS PROGRAM

"SEC. 27. In conjunction with the initial organization of the Institute, the Director shall establish a program for the evaluation of inventions that are not energy-related to complement but not replace the Energy-Related Inventions Program established under section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974

(Public Law 93-577). The Director shall submit an initial implementation plan for this program to accompany the organization plan for the Institute. The implementation plan shall include specific cost estimates, implementation schedules, and mechanisms to help finance the development of technologies the program has determined to have potential. In the preparation of the plan, the Director shall consult with appropriate Federal agencies, including the Small Business Administration and the Department of Energy, State and local government organizations, university officials, and private sector organizations in order to obtain advice on how those agencies and organizations might cooperate with the expansion of this program of the Institute.".

SEC. 5122. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

(a) CLEARINGHOUSE.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

(1) by redesignating sections 6 through 19 as sections 7 through 20, respectively; and

(2) by inserting after section 5 the following new section:

"SEC. 6. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

"(a) ESTABLISHMENT.—There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

"(b) RESPONSIBILITIES.—The Clearinghouse may—

"(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

"(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

"(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

"(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

"(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

"(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

"(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of American business through the stimulation of productivity, technology, and innovation; and

"(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

"(c) CONTRACTS.—In carrying out subsection (b), the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

"(d) TRIENNIAL REPORT.—The Secretary shall prepare and transmit to the Congress once each 3 years a report on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation. The report shall include recommendations to the President, the Congress, and to Federal agencies on the appropriate Federal role in stimulating State and local efforts in this area. The first of these reports shall be transmitted to the Congress before January 1, 1989.".

(b) DEFINITION.—Section 4 of such Act is amended by adding at the end thereof the following new paragraph:

"(13) 'Clearinghouse' means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 6.".

(c) CONFORMING AMENDMENT.—Section 10(d) of such Act, as so redesignated by section 5122(a)(1) of this part, is amended by striking "6, 8, 10, 14, 16, or 17" and inserting in lieu thereof "7, 9, 11, 15, 17, or 18".

Subpart C—Advanced Technology Program

SEC. 5131. ADVANCED TECHNOLOGY.

(a) ADVANCED TECHNOLOGY PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 27 the following new section:

"ADVANCED TECHNOLOGY PROGRAM

"SEC. 28. (a) There is established in the Institute an Advanced Technology Program (hereafter in this Act referred to as the 'Program') for the purpose of assisting United States businesses in creating and applying the generic technology and research results necessary to—

"(1) commercialize significant new scientific discoveries and technologies rapidly; and

"(2) refine manufacturing technologies.

The Secretary, acting through the Director, shall assure that the Program focuses on improving the competitive position of the United States and its businesses, gives preference to discoveries and to technologies that have great economic potential, and avoids providing undue advantage to specific companies.

"(b) Under the Program established in subsection (a), and consistent with the mission and policies of the Institute, the Secretary, acting through the Director, and subject to subsections (c) and (d), may—

"(1) aid United States joint research and development ventures (hereafter in this section referred to as 'joint ventures') (which may also include universities and independent research organizations), including those involving collaborative technology demonstration projects which develop and test prototype equipment and processes, through—

"(A) provision of organizational and technical advice; and

"(B) participation in such joint ventures, if the Secretary, acting through the Director, determines participation to be appropriate, which may include (i) partial start-up funding, (ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii) making available equipment, facilities, and personnel,

provided that emphasis is placed on areas where the Institute has scientific or technological expertise, on solving generic problems of specific industries, and on making those industries more competitive in world markets;

"(2) enter into contracts and cooperative agreements with United States businesses, especially small businesses, and with independent research organizations, provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;

"(3) involve the Federal laboratories in the Program, where appropriate, using among other authorities the cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980; and

"(4) carry out, in a manner consistent with the provisions of this section, such other cooperative research activities with joint ventures as may be authorized by law or assigned to the Program by the Secretary.

"(c) The Secretary, acting through the Director, is authorized to take all actions necessary and appropriate to establish and operate the Program, including—

"(1) publishing in the Federal Register draft criteria and, no later than six months after the date of the enactment of this section, following a public comment period, final criteria, for the selection of recipients of assistance under subsection (b)(1) and (2);

"(2) monitoring how technologies developed in its research program are used, and reporting annually to the Congress on the extent of any overseas transfer of these technologies;

"(3) establishing procedures regarding financial reporting and auditing to ensure that contracts and awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted in the same time period in the absence of financial assistance under the Program.

"(4) assuring that the advice of the Committee established under section 10 is considered routinely in carrying out the responsibilities of the Institute; and

"(5) providing for appropriate dissemination of Program research results.

"(d) When entering into contracts or making awards under subsection (b), the following shall apply:

"(1) No contract or award may be made until the research project in question has been subject to a merit review, and has, in the opinion of the reviewers appointed by the Director and the Secretary, acting through the Director, been shown to have scientific and technical merit.

"(2) In the case of joint ventures, the Program shall not make an award unless, in the judgment of the Secretary, acting through the Director, Federal aid is needed if the industry in question is to form a joint venture quickly.

"(3) No Federal contract or cooperative agreement under subsection (b)(2) shall exceed $2,000,000 over 3 years, or be for more than 3 years unless a full and complete explanation of such proposed award, including reasons for exceeding these limits, is submitted in writing by the Secretary to the

Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The proposed contract or cooperative agreement may be executed only after 30 calendar days on which both Houses of Congress are in session have elapsed since such submission. Federal funds made available under subsection (b)(2) shall be used only for direct costs and not for indirect costs, profits, or management fees of the contractor.

"(4) In determining whether to make an award to a particular joint venture, the Program shall consider whether the members of the joint venture have made provisions for the appropriate participation of small United States businesses in such joint venture.

"(5) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of any business or any joint venture receiving funding under the Program—

"(A) information on the business operation of any member of the business or joint venture; and

"(B) trade secrets possessed by any business or any member of the joint venture.

"(6) Intellectual property owned and developed by any business or joint venture receiving funding or by any member of such a joint venture may not be disclosed by any officer or employee of the Federal Government except in accordance with a written agreement between the owner or developer and the Program.

"(7) The Federal Government shall be entitled to a share of the licensing fees and royalty payments made to and retained by any business or joint venture to which it contributes under this section in an amount proportional to the Federal share of the costs incurred by the business or joint venture as determined by independent audit.

"(8) If a business or joint venture fails before the completion of the period for which a contract or award has been made, after all allowable costs have been paid and appropriate audits conducted, the unspent balance of the Federal funds shall be returned by the recipient to the Program.

"(9) Upon dissolution of any joint venture or at the time otherwise agreed upon, the Federal Government shall be entitled to a share of the residual assets of the joint venture proportional to the Federal share of the costs of the joint venture as determined by independent audit.

"(e) As used in this section, the term 'joint research and development venture' has the meaning given to such term in section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)).".

(b) Visiting Committee on Advanced Technology.—Section 10 of the Act of March 3, 1901, is amended to read as follows:

"VISITING COMMITTEE ON ADVANCED TECHNOLOGY

"Sec. 10. (a) There is established within the Institute a Visiting Committee on Advanced Technology (hereafter in this Act referred to as the 'Committee'). The Committee shall consist of nine members appointed by the Director, at least five of whom shall be from United States industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this Act, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

"(b) The persons appointed as members of the Committee—

"(1) shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations;

"(2) shall be selected solely on the basis of established records of distinguished service;

"(3) shall not be employees of the Federal Government; and

"(4) shall be so selected as to provide representation of a cross-section of the traditional and emerging United States industries.

The Director is requested, in making appointments of persons as members of the Committee, to give due consideration to any recommendations which may be submitted to the Director by the National Academies, professional societies, business associations, labor associations, and other appropriate organizations.

"(c)(1) The term of office of each member of the Committee, other than the original members, shall be 3 years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person who has completed two consecutive full terms of service on the Committee shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

"(2) The original members of the Committee shall be elected to three classes of three members each; one class shall have a term of one year, one a term of two years, and the other a term of three years.

"(d) The Committee shall meet at least quarterly at the call of the Chairman or whenever one-third of the members so request in writing. A majority of the members of the Committee not having a conflict of interest in the matter being considered by the Committee shall constitute a quorum. Each member shall be given appropriate notice, whenever possible, not less than 15 days prior to any meeting, of the call of such meeting.

"(e) The Committee shall have an executive committee, and may delegate to it or to the Secretary such of the powers and functions granted to the Committee by this Act as it deems appropriate. The Committee is authorized to appoint from among its members such other committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Committee deems appropriate to assist it in exercising its powers and functions under this Act.

"(f) The election of the Chairman and Vice Chairman of the Committee shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Committee shall elect a member to fill such vacancy.

"(g) The Committee may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the Chairman of the Committee, and assigned at the direction of the Committee. The professional members of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 of title 5 of such Code relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332 of title 5 of such Code, as may be necessary to provide for the performance of such duties as may be prescribed by the Committee in connection with the exercise of its powers and functions under this Act.

"(h)(1) The Committee shall render an annual report to the Secretary for submission to the Congress on or before January 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, including the Program established under section 28, or with which the Committee in its official role as the private sector policy advisor of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, in which the Institute possesses special competence, which could be used to assist United States enterprises and United States industrial joint research and development ventures.

"(2) The Committee shall render to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.".

(c) National Academies of Sciences and Engineering Study of Government-Industry Cooperation in Civilian Technology.—(1) Within 90 days after the date of enactment of this Act, the Secretary of Commerce shall enter into contracts with the National Academies of Sciences and Engineering for a thorough review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology transfer, including activities to create or apply generic, nonproprietary technologies. The purpose of the review is to provide the Secretary and Congress with objective information regarding the uses, strengths, and limitations of the various types of cooperative technology arrangements that have been used in the United States. The review is to provide both an analysis of the ways in which these arrangements can help improve the technological performance and international competitiveness of United States industry, and also to provide the Academies's recommendations regarding ways to improve the effectiveness and efficiency of these types of cooperative arrangements. A special emphasis shall be placed on discussions of these subjects among industry leaders, labor leaders, and officials of the executive branch and Congress. The Secretary is authorized to seek and accept funding for this study from both Federal agencies and private industry.

(2) The members of the review panel shall be drawn from among industry and labor leaders, entrepreneurs, former government officials with great experience in civilian research and technology, and scientific and technical experts, including experts with experience with Federal laboratories.

(3) The review shall analyze the strengths and weaknesses of different types of Federal-industry cooperative arrangements in civil-

ian technology, including but not limited to—

(A) Federal programs which provide technical services and information to United States companies;

(B) cooperation between Federal laboratories and United States companies, including activities under the Technology Share Program created by Executive Order 12591;

(C) Federal research and technology transfer arrangements with selected business sectors;

(D) Federal encouragement of, and assistance to, private joint research and development ventures; and

(E) such other mechanisms of Federal-industry cooperation as may be identified by the Secretary.

(4) A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contracts with the National Academies of Sciences and Engineering.

Subpart D—Technology Reviews

SEC. 5141. REPORT OF PRESIDENT.

The President shall, at the time of submission of the budget request for fiscal year 1990 to Congress, also submit to the Congress a report on—

(1) the President's policies and budget proposals regarding Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(2) the President's policies and budget proposals regarding Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(3) the President's policies and budget proposals, identified by agency, regarding superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry and to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(4) the President's policies and budget proposals, identified by agency, regarding Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and nondurable goods.

SEC. 5142. SEMICONDUCTOR RESEARCH AND DEVELOPMENT.

(a) SHORT TITLE.—This section may be cited as the "National Advisory Committee on Semiconductor Research and Development Act of 1988".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds and declares that—

(A) semiconductor technology is playing an ever-increasing role in United States industrial and commercial products and processes, making secure domestic sources of state-of-the-art semiconductors highly desirable;

(B) modern weapons systems are highly dependent on leading edge semiconductor devices, and it is counter to the national security interest to be heavily dependent upon foreign sources for this technology;

(C) governmental responsibilities related to the semiconductor industry are divided among many Federal departments and agencies; and

(D) joint industry-government consideration of semiconductor industry problems is needed at this time.

(2) The purposes of this section are—

(A) to establish the National Advisory Committee on Semiconductors; and

(B) to assign to such Committee the responsibility for devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology.

(c) CREATION OF COMMITTEE.—There is hereby created in the executive branch of the Government an independent advisory body to be known as the National Advisory Committee on Semiconductors (hereafter in this section referred to as the "Committee").

(d) FUNCTIONS.—(1) The Committee shall—

(A) collect and analyze information on the needs and capabilities of industry, the Federal Government, and the scientific and research communities related to semiconductor technology;

(B) identify the components of a successful national semiconductor strategy in accordance with subsection (b)(2)(B);

(C) analyze options, establish priorities, and recommend roles for participants in the national strategy;

(D) assess the roles for government and national laboratories and other laboratories supported largely for government purposes in contributing to the semiconductor technology base of the Nation, as well as to access the effective use of the resources of United States private industry, United States universities, and private-public research and development efforts; and

(E) provide results and recommendations to agencies of the Federal Government involved in legislative, policymaking, administrative, management, planning, and technology activities that affect or are part of a national semiconductor strategy, and to the industry and other nongovernmental groups or organizations affected by or contributing to that strategy.

(2) In fulfilling this responsibility, the Committee shall—

(A) monitor the competitiveness of the United States semiconductor technology base;

(B) determine technical areas where United States semiconductor technology is deficient relative to international competition;

(C) identify new or emerging semiconductor technologies that will impact the national defense or United States competitiveness or both;

(D) develop research and development strategies, tactics, and plans whose execution will assure United States semiconductor competitiveness; and

(E) recommend appropriate actions that support the national semiconductor strategy.

(e) MEMBERSHIP AND PROCEDURES.—(1)(A) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of the Office of Science and Technology Policy, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

(C) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint, as additional members of the Committee, 4 members from outside the Federal Government who are eminent in the semiconductor industry, and 4 members from outside the Federal Government who are eminent in the fields of technology, defense, and economic development.

(D) One of the members appointed under subparagraph (C), as designated by the President at the time of appointment, shall be chairman of the Committee.

(2) Funding and administrative support for the Committee shall be provided to the Office of Science and Technology Policy through an arrangement with an appropriate agency or organization designated by the Committee, in accordance with a memorandum of understanding entered into between them.

(3) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(4) The Chairman shall call the first meeting of the Committee not later than 90 days after the date of the enactment of this Act.

(5) At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under subsection (b)(2)(B). The first report shall include an analysis of those technical areas, including manufacturing, which are of importance to the United States semiconductor industry, and shall make specific recommendations regarding the appropriate Federal role in correcting any deficiencies identified by the analysis. Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for the fiscal years 1988, 1989, and 1990.

SEC. 5143. REVIEW OF RESEARCH AND DEVELOPMENT PRIORITIES IN SUPERCONDUCTORS.

(a) NATIONAL COMMISSION ON SUPERCONDUCTIVITY.—The President shall appoint a National Commission on Superconductivity to review all major policy issues regarding United States applications of recent research advances in superconductors in order to assist the Congress in devising a national strategy, including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(b) MEMBERSHIP.—The membership of the National Commission on Superconductivity shall include representatives of—

(1) the National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Justice, the Department of Commerce (including the National Institute of Standards and Technology), the Department of Transportation, the Department of the Treasury, and the Department of Defense;

(2) organizations whose membership is comprised of physicists, engineers, chemical scientists, or material scientists; and

(3) industries, universities, and national laboratories engaged in superconductivity research.

(c) CHAIRMAN.—A representative of the private sector shall be designated as chairman of the Commission.

(d) COORDINATION.—The National Critical Materials Council shall be the coordinating body of the National Commission on Superconductivity and shall provide staff support for the Commission.

(e) REPORT.—Within 6 months after the date of the enactment of this Act, the National Commission on Superconductivity shall submit a report to the President and the Congress with recommendations regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications.

(f) SCOPE OF REVIEW.—In preparing the report required by subsection (e), the Commission shall consider addressing, but need not limit, its review to—

(1) the state of United States competitiveness in the development of improved superconductors;

(2) methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(3) methods to improve and coordinate funding of research and development of improved superconductors;

(4) methods to improve and coordinate the development of viable commercial and military applications of improved superconductors;

(5) foreign government activities designed to promote research, development, and commercial application of improved superconductors;

(6) the need to provide increased Federal funding of research and development of improved superconductors;

(7) the impact on the United States national security if the United States must rely on foreign producers of superconductors;

(8) the benefit, if any, of granting private companies partial exemptions from United States antitrust laws to allow them to coordinate research, development, and products containing improved superconductors;

(9) options for providing income tax incentives for encouraging research, development, and production in the United States of products containing improved superconductors; and

(10) methods to strengthen domestic patent and trademark laws to ensure that qualified superconductivity discoveries receive the fullest protection from infringement.

(g) SUNSET.—The Commission shall disband within a year of its establishment. Thereafter the National Critical Materials Council may review and update the report required by subsection (e) and make further recommendations as it deems appropriate.

Subpart E—Authorization of Appropriations

SEC. 5151. AUTHORIZATION OF APPROPRIATIONS FOR TECHNOLOGY ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1988 to the Secretary of Commerce to carry out activities performed by the Institute the sums set forth in the following line items:

(1) Measurement Research and Technology: $41,939,000.

(2) Engineering Measurements and Manufacturing: $40,287,000.

(3) Materials Science and Engineering: $23,521,000.

(4) Computer Science and Technology: $7,941,000.

(5) Research Support Activities: $19,595,000.

(6) Cold Neutron Source Facility: $6,500,000 (for a total authorization of $13,000,000).

(7) Programs established under sections 25, 26, and 27 of the Act of March 3, 1901 and section 5121 of this part: $5,000,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (1) of subsection (a) of this section, $3,550,000 is authorized only for the purpose of research in process and quality control;

(3) of the amount authorized under paragraph (2) of subsection (a) of this section, $3,710,000 is authorized only for the Center for Building Technology, $5,662,000 is authorized only for the Center for Fire Research, and the two Centers shall not be merged;

(4) of the amount authorized under paragraph (3) of subsection (a) of this section, $1,500,000 is authorized only for the purpose of research to improve high-performance composites; and

(5) of the amount authorized under paragraph (5) of subsection (a) of this section, $7,371,000 is authorized only for technical competence fund projects in new areas of high technical importance, and $1,091,000 is authorized only for the Postdoctoral Research Associates Program and related new personnel.

(c) TRANSFER.—(1) Funds may be transferred among the line items listed in subsection (a) of this section so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary of Commerce may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a) of this section, but a full and complete explanation of any such proposed transfer and the reason for such transfer must be transmitted in writing to the President of the Senate, the Speaker of the House of Representatives, and the appropriate authorizing committees of the Senate and House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

(d) COLD NEUTRON SOURCE FACILITY.—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal years 1988, 1989, and 1990 such sums as were authorized but not appropriated for the Cold Neutron Source Facility for fiscal year 1987. Furthermore, the Secretary may accept contributions for funds, to remain available until expended, for the design, construction, and equipment of the Cold Neutron Source Facility, notwithstanding the limitations of section 14 of the Act of March 3, 1901 (15 U.S.C. 278d).

(e) EMPLOYEE BENEFIT ADJUSTMENTS.—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1988 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

(f) AVAILABILITY.—Appropriations made under the authority provided in this section shall remain available for obligation, for expenditure, or for obligations and expenditure for periods specified in the Acts making such appropriations.

SEC. 5152. STEVENSON-WYDLER ACT AUTHORIZATIONS.

Section 19(a) and (b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended to read as follows:

"(a)(1) There is authorized to be appropriated to the Secretary for the purposes of carrying out sections 5, 11(g), and 16 of this Act not to exceed $3,400,000 for the fiscal year ending September 30, 1988.

"(2) Of the amount authorized under paragraph (1) of this subsection, $2,400,000 is authorized only for the Office of Productivity, Technology, and Innovation; $500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act; and $500,000 is authorized only for the patent licensing activities of the National Technical Information Service.

"(b) In addition to the authorization of appropriations provided under subsection (a) of this section, there is authorized to be appropriated to the Secretary for the purposes of carrying out section 6 of this Act not to exceed $500,000 for the fiscal year ending September 30, 1988, $1,000,000 for the fiscal year ending September 30, 1989, and $1,500,000 for the fiscal year ending September 30, 1990.".

Subpart F—Miscellaneous Technology and Commerce Provisions

SEC. 5161. SAVINGS PROVISION AND USER FEES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.), as amended by this part, is further amended by adding after section 28 the following new sections:

"SAVINGS PROVISION

"SEC. 29. All rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to this Act, or under the authority of any other statutes which resulted in the assignment of functions or activities to the Secretary, the Department, the Director, or the Institute, as are in effect immediately before the date of enactment of this section, and not suspended by the Secretary, the Director, the Institute or the courts, shall continue in full force and effect after the date of enactment of this section until modified or rescinded.

"USER FEES

"SEC. 30. The Institute shall not implement a policy of charging fees with respect to the use of Institute research facilities by research associates in the absence of express statutory authority to charge such fees.".

SEC. 5162. MISCELLANEOUS AMENDMENTS TO THE STEVENSON-WYDLER ACT.

(a) INVENTION MANAGEMENT SERVICES.—The first sentence of section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710c) is amended by striking out "shall" and insert-

ing in lieu thereof "may", and by striking out "such invention performed at the request of the other agency or laboratory" and inserting in lieu thereof "any invention of the other agency".

(b) Federal Laboratory Consortium.—Section 11(e)(7)(A) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710) is amended by striking out "0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by" and inserting in lieu thereof "0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of".

SEC. 5163. MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS.

(a) Assessment of Emerging Technologies.—The Board of Assessment of the National Institute of Standards and Technology shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Institute abreast of its mission, including process and quality control, engineering databases, advanced materials, electronics and fiber optics, bioprocess engineering, and advanced computing concepts. Such review shall include estimates of the cost of the required effort, required staffing levels, appropriate interaction with industry, including technology transfer, and the period over which the research will be required.

(b) Small Business Plan.—The Director of the National Institute of Standards and Technology shall prepare a plan detailing the manner in which the Institute will make small businesses more aware of the Institute's activities and research, and the manner in which the Institute will seek to increase the application by small businesses of the Institute's research, particularly in manufacturing. The plan shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(c) National Technical Information Service.—(1) Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended by inserting at the end the following new subsection:

"(h) None of the activities or functions of the National Technical Information Service which are not performed by contractors as of September 30, 1987, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed $250,000.".

(2) The Secretary of Commerce shall report the Secretary's recommendations for improvements in the National Technical Information Service (including methods for automating document distribution and inventory control), and any statutory changes required to make such improvements, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives by January 31, 1989.

(3) Section 11(d) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.".

(d) Fellowship Program.—There is established within the Department of Commerce a Commerce, Science, and Technology Fellowship Program with the stated purpose of providing a select group of employees of the executive branch of the Government with the opportunity of learning how the legislative branch and other parts of the executive branch function through work experiences of up to one year. The Secretary of Commerce shall report to the Congress within six months after the date of enactment of this Act on the Department of Commerce's plans for implementing such Program by March 31, 1989.

SEC. 5164. METRIC USAGE.

(a) Findings.—Section 2 of the Metric Conversion Act of 1975 is amended by adding at the end thereof the following new paragraphs:

"(3) World trade is increasingly geared towards the metric system of measurement.

"(4) Industry in the United States is often at a competitive disadvantage when dealing in international markets because of its nonstandard measurement system, and is sometimes excluded when it is unable to deliver goods which are measured in metric terms.

"(5) The inherent simplicity of the metric system of measurement and standardization of weights and measures has led to major cost savings in certain industries which have converted to that system.

"(6) The Federal Government has a responsibility to develop procedures and techniques to assist industry, especially small business, as it voluntarily converts to the metric system of measurement.

"(7) The metric system of measurement can provide substantial advantages to the Federal Government in its own operations.".

(b) Policy.—Section 3 of the Metric Conversion Act of 1975 is amended to read as follows:

"Sec. 3. It is therefore the declared policy of the United States—

"(1) to designate the metric system of measurement as the preferred system of weights and measures for United States trade and commerce;

"(2) to require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units;

"(3) to seek out ways to increase understanding of the metric system of measurement through educational information and guidance and in Government publications; and

"(4) to permit the continued use of traditional systems of weights and measures in nonbusiness activities.".

(c) Implementation.—The Metric Conversion Act of 1975 is further amended by redesignating section 12 as section 13, and by inserting after section 11 the following new section:

"Sec. 12. (a) As soon as possible after the date of the enactment of this section, each agency of the Federal Government shall establish guidelines to carry out the policy set forth in section 3 (with particular emphasis upon the policy set forth in paragraph (2) of that section), and as part of its annual budget submission for each fiscal year beginning after such date shall report to the Congress on the actions which it has taken during the previous fiscal year, as well as the actions which it plans for the fiscal year involved, to implement fully the metric system of measurement in accordance with that policy. Such reporting shall cease for an agency in the fiscal year after it has fully implemented its efforts under section 3(2). As used in this section, the term 'agency of the Federal Government' means an Executive agency or military department as those terms are defined in chapter 1 of title 5, United States Code.

"(b) At the end of the fiscal year 1992, the Comptroller General shall review the implementation of this Act, and upon completion of such review shall report his findings to the Congress along with any legislative recommendations he may have.".

PART II—SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

SEC. 5171. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH.

(a) Section 502 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656b) is amended by adding at the end the following new paragraph:

"(5) Federally supported international science and technology agreements should be negotiated to ensure that—

"(A) intellectual property rights are properly protected; and

"(B) access to research and development opportunities and facilities, and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.".

(b) Section 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c(b)) is amended—

(1) by striking "Congress" and inserting in lieu thereof "the Speaker of the House of Representatives and the Committees on Foreign Relations and Governmental Affairs of the Senate";

(2) by inserting "information and" before "recommendations";

(3) by striking "and" at the end of paragraph (1);

(4) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(5) by adding at the end the following new paragraph:

"(3) equity of access by United States public and private entities to public (and publicly supported private) research and development opportunities and facilities in each country which is a major trading partner of the United States.".

(c) Section 503 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c) is amended by adding at the end the following new subsection:

"(d)(1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

"(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees as he may consider necessary.".

(d) Section 504(a) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656d(a)) is amended to read as follows:

"(a)(1) In order to implement the policies set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

"(2) In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

"(3) Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

"(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

"(B) national security policies;

"(C) United States trade policies; and

"(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.".

PART III—NATIONAL CRITICAL MATERIALS COUNCIL

SEC. 5181. THE NATIONAL FEDERAL PROGRAM PLAN FOR ADVANCED MATERIALS RESEARCH AND DEVELOPMENT.

The National Critical Materials Council shall prepare the national Federal program plan for advanced materials research and development under section 205(a)(1)(A) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1251) and shall submit such plan to Congress not later than 180 days after the date of the enactment of this Act. The plan shall be submitted to the Committee on Science, Space, and Technology, as well as other appropriate committees, of the House of Representatives, and to the Committee on Governmental Affairs, as well as other appropriate committees, of the Senate.

SEC. 5182. PERSONNEL MATTERS.

(a) REQUIREMENT TO INCREASE STAFF.—Not later than 30 days after the date of the enactment of this Act, the Executive Director of the National Critical Materials Council shall increase the number of employees of the Council by the equivalent of 5 full-time employees over the number of employees of the Council on the date of the enactment of this Act.

(b) QUALIFICATIONS OF STAFF.—Not less than the equivalent of 4 full-time employees appointed pursuant to subsection (a) shall be permanent professional employees who have expertise in technical fields that are relevant to the responsibilities of the National Critical Materials Council, such as materials science and engineering, environmental matters, minerals and natural resources, ceramic or composite engineering, metallurgy, and geology.

SEC. 5183. AUTHORITY TO ACCEPT SERVICES AND PERSONNEL FROM OTHER FEDERAL AGENCIES.

Section 210(4) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "reimbursable" and inserting in lieu thereof "nonreimbursable".

SEC. 5184. AUTHORIZATION OF APPROPRIATIONS.

Section 211 of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "1990" and inserting in lieu thereof "1992".

Subtitle C—Competitiveness Policy Council Act

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Competitiveness Policy Council Act".

SEC. 5202. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) efforts to reverse the decline of United States industry has been hindered by—

(A) a serious erosion in the institutions and policies which foster United States competitiveness including a lack of high quality domestic and international economic and scientific data needed to—

(i) reveal sectoral strengths and weaknesses;

(ii) identify potential new markets and future technological and economic trends; and

(iii) provide necessary information regarding the competitive strategies of foreign competitors;

(B) the lack of a coherent and consistent government competitiveness policy, including policies with respect to—

(i) international trade, finance, and investment,

(ii) research, science, and technology,

(iii) education, labor retraining, and adjustment,

(iv) macroeconomic and budgetary issues,

(v) antitrust and regulation, and

(vi) government procurement;

(2) the United States economy benefits when business, labor, government, academia, and public interest groups work together cooperatively;

(3) the decline of United States economic competitiveness endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(4) the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(5) integrated solutions to such issues as trade and investment research, science, and technology, education, and labor retraining and adjustments help the United States compete more effectively in the world economy;

(6) government, business, labor, academia, and public interest groups shall cooperate to develop and coordinate long-range strategies to help assure the international competitiveness of the United States economy.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to develop recommendations for long-range strategies for promoting the international competitiveness of the United States industries; and

(2) to establish the Competitiveness Policy Council which shall—

(A) analyze information regarding the competitiveness of United States industries and business and trade policy;

(B) create an institutional forum where national leaders with experience and background in business, labor, government, academia, and public interest activities shall—

(i) identify economic problems inhibiting the competitiveness of United States agriculture, business, and industry;

(ii) develop long-term strategies to address such problem; and

(C) make recommendations on issues crucial to the development of coordinated competitiveness strategies;

(D) publish analysis in the form of periodic reports and recommendations concerning the United States business and trade policy.

SEC. 5203. COUNCIL ESTABLISHED.

There is established the Competitiveness Policy Council (hereafter in this subtitle referred to as the "Council"), an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C App.).

SEC. 5204. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(2) provide comments, when appropriate, and through any existing comment procedure, on—

(A) private sector requests for governmental assistance or relief, specifically as to whether the applicant is likely, by receiving the assistance or relief, to become internationally competitive; and

(B) what actions should be taken by the applicant as a condition of such assistance or relief to ensure that the applicant is likely to become internationally competitive;

(3) analyze information concerning current and future United States economic competitiveness useful to decision making in government and industry;

(4) create a forum where national leaders with experience and background in business, labor, academia, public interest activities, and government shall identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(5) evaluate Federal policies, regulations, and unclassified international agreement on trade, science, and technology to which the United States is a party with respect to the impact on United States competitiveness;

(6) provide policy recommendations to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning competitiveness strategies;

(7) monitor the changing nature of research, science, and technology in the United States and the changing nature of the United States economy and its capacity—

(A) to provide marketable, high quality goods and services in domestic and international markets; and

(B) to respond to international competition;

(8) identify—

(A) Federal and private sector resources devoted to increased competitiveness; and

(B) State and local government programs devised to enhance competitiveness, including joint ventures between universities and corporations;

(9) establish, when appropriate, subcouncils of public and private leaders to develop recommendations on long-term strategies for sectors of the economy and for specific competitiveness issues;

(10) review policy recommendations developed by the subcouncils and transmit such recommendations to the Federal agencies responsible for the implementation of such recommendations;

(11) prepare, publish, and distribute reports containing the recommendations of the Council; and

(12) publish their analysis and recommendations in the form of an annual report to the President and the Congress which also comments on the overall competitiveness of the American economy.

SEC. 5205. MEMBERSHIP.

(a) COMPOSITION AND REPRESENTATION.—

(1) The Council shall consist of 12 members, of whom—

(A) four members shall be appointed by the President, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader who has been active in public interest activities; and

(iv) one shall be a head of a Federal department or agency;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker, the minority leader of the House of Representatives, acting jointly, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government.

(2) In addition to the head of a Federal department or agency appointed in accordance with subsection (a)(1)(A)(iv), other Federal officials may participate on an ex-officio basis as requested by the Council.

(3) All members of the Council shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 6 members of the Council shall be members of the same political party.

(b) INITIAL APPOINTMENTS.—The initial members of the Council shall be appointed within 30 days after January 21, 1989.

(c) VACANCIES.—

(1) A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Council occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Council may serve after the expiration of the term of such member until the successor of such member has taken office.

(d) REMOVAL.—Members of the Council may be removed only for malfeasance in office.

(e) CONFLICT OF INTEREST.—

(1) A member of the Council may not serve as an agent for a foreign principal.

(2) Members of the Council shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95-521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(3) Members of the Council shall be deemed to be special Government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(f) COMPENSATION.—

(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day such member is engaged in duties as a member of the Council; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title.

(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(g) QUORUM.—

(1) IN GENERAL.—Seven members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

(2) INITIAL ORGANIZATION.—The Council shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

(h) CHAIRPERSON.—The Council shall elect, by a two-thirds vote of the entire Council, a chairperson from among the nongovernmental members.

(i) MEETINGS.—The Council shall meet at the call of the chairperson or a majority of the members.

(j) POLICY ACTIONS.—Except as provided in subsection (g), no action establishing policy shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

(k) ALTERNATE MEMBERS.—

(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, except for voting.

(l) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(m) DETAILS.—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.

SEC. 5206. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

(b) STAFF.—(1) Within the limitations of appropriations to the Council, the Executive Director may appoint a staff for the Council in accordance with the Federal civil service and classification laws.

(2) The staff of the Council shall be deemed to be special government employees as defined in section 202 of title 18, United States Code, for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18, United States Code.

SEC. 5207. POWERS OF THE COUNCIL.

(a) HEARINGS.—The Council may, for the purpose of carrying out the provisions of this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

(b) INFORMATION.—

(1)(A) Except as provided in subparagraph (B), the Council may secure directly from any Federal agency information necessary to enable the Council to carry out the provisions of this subtitle. Upon request of the chairman of the Council, the head of such agency shall promptly furnish such information to the Council.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(2) In any case in which the Council receives any information from a Federal agency, the Council shall not disclose such information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

(d) CONSULTATION WITH THE PRESIDENT AND THE CONGRESS.—No later than 60 days after the initial members are appointed to the Council, the Council shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Council shall undertake, including the extent to which the Council will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Council.

(e) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(f) USE OF THE MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative and support services as the Council may request.

(h) SUBCOUNCILS.—

(1) The Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitive issues.

(2) Any such subcouncil shall include representatives of business, labor, government, and other individuals or representatives of groups whose participation is considered by the Council to be important to developing a full understanding of the subject with which the subcouncil is concerned.

(3) Any such subcouncil shall include a representative of the Federal Government.

(4) Any such subcouncil shall assess the actual or potential competitiveness problems facing the industry or the specific policy issues with which the subcouncil is concerned and shall formulate specific recommendations for responses by business, government, and labor—

(A) to encourage adjustment and modernization of the industry involved;

(B) to monitor and facilitate industry responsiveness to opportunities identified under section 5208(b)(1)(B);

(C) to encourage the ability of the industry involved to compete in markets identified under section 5208(b)(1)(C); or

(D) to alleviate the problems in a specific policy area facing more than one industry.

(5) Any discussion held by any subcouncil shall not be considered to violate any Federal or State antitrust law.

(6) Any discussion held by any subcouncil shall not be subject to the provisions of the Federal Advisory Committee Act, except that a Federal representative shall attend all subcouncil meetings.

(7) Any subcouncil shall terminate 30 days after making recommendations, unless the Council specifically requests that the subcouncil continue in operation.

(i) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The provisions of subsections (e) and (f) of section 10, of the Federal Advisory Committee Act shall not apply to the Council.

SEC. 5208. ANNUAL REPORT.

(a) SUBMISSION OF REPORT.—The Council shall annually prepare and submit to the President, the Senate Governmental Affairs Committee, and the appropriate Committees of the House of Representatives and the Senate a report setting forth—

(1) the goals to achieve a more competitive United States economy;

(2) the policies needed to meet such goals;

(3) a summary of existing policies of the Federal Government or State and local governments significantly affecting the competitiveness of the United States economy; and

(4) a summary of significant economic and technological developments, in the United States and abroad, affecting the competitive position of United States industries.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall—

(1) identify and describe actual or foreseeable developments, in the United States and abroad, which—

(A) create a significant likelihood of a competitive challenge to, or of substantial dislocation in, an established United States industry;

(B) present significant opportunities for United States industries to compete in new geographical markets or product markets, or to expand the position of such industries in established markets; or

(C) create a significant risk that United States industries shall be unable to compete successfully in significant markets;

(2) specify the industry sectors affected by the developments described in the report under paragraph (1); and

(3) contain a statement of the findings and recommendations of the Council during the previous fiscal year, including any recommendations of the Council for (a) such legislative or administrative actions as the Council considers appropriate, and (B) including the elimination, consolidation, reorganization of government agencies especially such agencies that specifically deal with research, science, technology, and international trade.

(c) REPORT BY CONGRESSIONAL COMMITTEES.—The Council shall consult with each committee to which a report is submitted under this section and after such consultation, each such committee shall submit to its respective House a report setting forth the views and recommendations of such committee with respect to the report of the Council.

SEC. 5209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the fiscal years 1989 and 1990 such sums as may be necessary not to exceed $5,000,000 to carry out the provisions of this subtitle.

SEC. 5210. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Council" means the Competitiveness Policy Council established under section 5203;

(2) the term "member" means a member of the Competitiveness Policy Council;

(3) the term "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(4) the term "agent of a foreign principal" is defined as such term is defined under subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611) subject to the provisions of section 3 of such Act (22 U.S.C. 613).

Subtitle D—Federal Budget Competitiveness Impact Statement

SEC. 5301. PRESIDENT'S ANNUAL BUDGET SUBMISSION.

Subsection (a) of section 1105 of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(26) an analysis, prepared by the Office of Management and Budget after consultation with the chairman of the Council of Economic Advisers, of the budget's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year for which the budget is submitted—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5302. ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.

Subsection (e) of section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by "and" at the end of paragraph (8), by striking out the period and by inserting "; and" at the end of paragraph (9), and by inserting at the end thereof the following new paragraph:

"(10) an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the concurrent resolution's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year covered by the concurrent resolution—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5303. EFFECTIVE DATE.

The amendment made by section 5301 shall be effective for fiscal years 1989, 1990, 1991, and 1992, and shall be fully reflected in the budgets submitted by the President as required by section 1105(a) of title 31, United States Code, for each such fiscal year, and the amendment made by section 5302 shall be effective for fiscal years 1989, 1990, 1991, and 1992.

Subtitle E—Trade Data and Studies

PART I—NATIONAL TRADE DATA BANK

SEC. 5401. DEFINITIONS.

For purposes of this subtitle—

(1) the term "Committee" means the Interagency Trade Data Advisory Committee;

(2) the term "Data Bank" means the National Trade Data Bank;

(3) the term "Executive agency" has the same meaning as in section 105 of title 5, United States Code;

(4) the term "export promotion data system" means the data system known as the Commercial Information Management System which is maintained and operated by the United States and Foreign Commercial Service and is established as part of the Data Bank under section 3816:

(5) the term "international economic data system" means the data system established as part of the Data Bank under section 5406 which contains data useful to policymakers and analysis concerned with international economics; and

(6) the term "Secretary" means the Secretary of Commerce.

SEC. 5402. INTERAGENCY TRADE DATA ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established the Interagency Trade Data Advisory Committee.

(b) MEMBERSHIP.—The Committee shall consist of—

(1) the United States Trade Representative;

(2) the Secretary of Agriculture;

(3) the Secretary of Defense;

(4) the Secretary of Commerce;

(5) the Secretary of Labor;

(6) the Secretary of the Treasury;

(7) the Secretary of State;

(8) the Director of the Office of Management and Budget;

(9) the Director of Central Intelligence;

(10) the Chairman of the Federal Reserve Board;

(11) the Chairman of the International Trade Commission;

(12) the President of the Export-Import Bank;

(13) the President of the Overseas Private Investment Corporation; and

(14) such other members as may be appointed by the President from full-time officers or employees of the Federal Government.

(c) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Committee.

(d) DESIGNEES.—Any member of the Committee may appoint a designee to serve in place of such member on the Committee.

SEC. 5403. FUNCTIONS OF THE COMMITTEE.

The Committee shall advise the Secretary of Commerce, as appropriate, on the establishment, structure, contents, and operation of a National Trade Data Bank in accordance with section 5406 in order to assure the timely collection of accurate data and to provide the private sector and government officials efficient access to economic and trade data collected by the Federal Government for purposes of policymaking and export promotion.

SEC. 5404. CONSULTATION WITH THE PRIVATE SECTOR AND GOVERNMENT OFFICIALS.

The Secretary shall regularly consult with representatives of the private sector and officials of State and local governments to assess the adequacy of United States trade information. The Secretary shall seek recommendations on how trade information can be made more accessible, understandable, and relevant. The Secretary shall seek recommendations as to what data should be included in the export promotion data system in the Data Bank.

SEC. 5405. COOPERATION AMONG EXECUTIVE AGENCIES.

Each executive agency shall furnish to the Secretary such information for inclusion in the National Trade Data Bank as the Secretary, in consultation with the Advisory Committee, considers necessary to the operation of the Data Bank.

SEC. 5406. ESTABLISHMENT OF THE DATA BANK.

(a) ESTABLISHMENT.—Within 2 years after the date of the enactment of this Act, the Secretary of Commerce shall establish the Data Bank. The Secretary shall manage the Data Bank. The Data Bank shall consist of two data systems, to be designated the International Economic Data System, as described in subsection (b) and the Export Promotion Data System, as described in subsection (c).

(b) INTERNATIONAL ECONOMIC DATA SYSTEM.—The International Economic Data System shall include current and historical information determined by the Secretary to be useful (after the consultation required by section 5404) to policymakers and analysts concerned with international economics and trade and which shall include data compiled or obtained by appropriate executive agencies. Such information shall not identify parties to transactions. Such information may include data for the United States and countries with which the United States has important economic relations including—

(1) data on imports and exports, including—

(A) aggregate import and export data for the United States and for each foreign country;

(B) industry-specific import and export data for each foreign country;

(C) product and service specific import and export data for the United States;

(D) market penetration information; and

(E) foreign destinations for exports of the United States;

(2) data on international service transactions;

(3) information on international capital markets, including—

(A) interest rates; and

(B) average exchange rates;

(4) information on foreign direct investment in the United States economy;

(5) international labor market information, including—

(A) wage rates for major industries;

(B) international unemployment rates; and

(C) trends in international labor productivity;

(6) information on foreign government policies affecting trade, including—

(A) trade barriers; and

(B) export financing policies;

(7) import and export data for the United States on a State-by-State basis aggregated at the product level including—

(A) data concerning the country shipping the import, the State of first destination, and the original port of entry for imports of goods and, to the extent possible, services; and

(B) data concerning the State of the exporter, the port of departure, and the country of first destination for export of goods and, to the extent possible, services; and

(8) any other economic and trade data collected by the Federal Government that the Secretary determines to be useful in carrying out the purposes of this subtitle.

(c) EXPORT PROMOTION DATA SYSTEM.—The export promotion data system shall include data and information collected by the Federal Government on the industrial sectors and markets of foreign countries which are determined by the Secretary (after consultation required by section 5404) to be of the greatest interest to United States business firms that are engaged in export-related activities and to Federal and State agencies that promote exports, while providing for the confidentiality of proprietary business information, and shall be designed to use the most effective means of disseminating data and information electronically through the Department, or Department-designated offices, or through other available data bases in an accurate and timely manner. Such data system shall monitor, organize, and disseminate selected information on—

(1) specific business opportunities in foreign countries;

(2) specific industrial sectors within foreign countries with high export potential such as—

(A) size of the market;

(B) distribution of products;

(C) competition;

(D) significant applicable laws, regulations, specifications, and standards;

(E) appropriate government officials; and

(F) trade associations and other contact points; and

(3) foreign countries generally, such as—

(A) the general economic conditions;

(B) common business practices;

(C) significant tariff and trade barriers; and

(D) other significant laws and regulations regarding imports, licensing, and the protection of intellectual property;

(4) export financing information, including the availability, through public sources of funds for United States exporters and foreign competitors;

(5) transactions involving barter and countertrade; and

(6) any other similar information, that the Secretary determines to be useful in carrying out the purposes of this subtitle.

SEC. 5407. OPERATION OF THE DATA BANK.

The Secretary shall manage the Data Bank to provide the most appropriate data retrieval system or systems possible. Such system or systems shall—

(1) be designed to utilize data processing and retrieval technology in monitoring, organizing, analyzing, and disseminating the data and information contained in the Data Bank;

(2) use the most effective and meaningful means of organizing and making such information available to—

(A) United States Government policymakers;

(B) United States business firms;

(C) United States workers;

(D) United States industry associations;

(E) United States agricultural interests;

(F) State and local economic development agencies; and

(G) other interested United States persons who could benefit from such information; and

(3) be of such quality and timeliness and in such form as to assist coordinated trade strategies for the United States; and

(4) facilitate dissemination of information through nonprofit organizations with significant outreach programs which complement the regional outreach programs of the United States and Foreign Commercial Service.

SEC. 5408. INFORMATION ON THE SERVICE SECTOR.

(a) SERVICE SECTOR INFORMATION.—The Secretary shall ensure that, to the extent possible, there is included in the Data Bank information on service sector economic activity that is as complete and timely as information on economic activity in the merchandise sector.

(b) SURVEY.—The Secretary shall undertake a new benchmark survey of service transactions, including transactions with respect to—

(1) banking services;

(2) information services, including computer software services;

(3) brokerage services;

(4) transportation services;

(5) travel services;

(6) engineering services;

(7) construction services; and

(8) health services.

(c) GENERAL INFORMATION AND INDEX OF LEADING INDICATORS.—The Secretary shall provide—

(1) not less than once a year, comprehensive information on the service sector of the economy; and

(2) an index of leading indicators which includes the measurement of service sector activity in direct proportion to the contribution of the service sector to the gross national product of the United States.

SEC. 5409. EXCLUSION OF INFORMATION.

The Data Bank shall not include any information—

(1) the disclosure of which to the public is prohibited under any other provision of law or otherwise authorized to be withheld under other provision of law; or

(2) that is specifically authorized under criteria established by statute or an Executive order not to be disclosed in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

SEC. 5410. NONDUPLICATION.

The Secretary shall ensure that information systems created or developed pursuant to this subtitle do not unnecessarily duplicate information systems available from other Federal agencies or from the private sector.

SEC. 5411. COLLECTION OF DATA.

Except as provided in section 5408, nothing in this subtitle shall be considered to grant independent authority to the Federal Government to collect any data or information from individuals or entities outside of the Federal Government.

SEC. 5412. FEES AND ACCESS.

The Secretary shall provide reasonable public services and access (including electronic access) to any information maintained as part of the Data Bank and may charge reasonable fees consistent with section 552 of title 5, United States Code.

SEC. 5413. REPORT TO CONGRESS.

(a) Interim Report.—Not more than 1 year after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives describing actions taken pursuant to this subtitle, particularly—

(1) actions taken to provide the information on services described in section 5408; and

(2) actions taken to provide State-by-State information as described in section 5406(b)(7).

(b) Final Report.—Not more than 3 years after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives—

(1) assessing the current quality and comprehensiveness of, and the ability of the public and of private entities to obtain access to trade data;

(2) describing all other actions taken and planned to be taken pursuant to this subtitle;

(3) including comments by the private sector and by State agencies that promote exports on the implementation of the Data Bank;

(4) describing the extent to which the systems within the Data Bank are being used and any recommendations with regard to the operation of the system; and

(5) describing the extent to which United States citizens and firms have access to the data banks of foreign countries that is similar to the access provided to foreign citizens and firms.

PART II—STUDIES

SEC. 5421. COMPETITIVENESS IMPACT STATEMENTS.

(a) The President or the head of the appropriate department or agency of the Federal Government shall include in every recommendation or report made to the Congress on legislation which may affect the ability of United States firms to compete in domestic and international commerce a statement of the impact of such legislation on—

(1) the international trade and public interest of the United States, and

(2) the ability of United States' firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets.

(b) This section provides no private right of action as to the need for or adequacy of the statement required by subsection (a).

(c) This section shall cease to be effective six years from the date of enactment.

SEC. 5422. STUDY AND REPORT BY THE ADVISORY COUNCIL ON FEDERAL PARTICIPATION IN SEMATECH.

(a) Study and Report.—Not later than February 1, 1989, and annually thereafter for each fiscal year in which appropriated funds are expended for Sematech the Advisory Council on Federal Participation in Sematech established under section 273(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (15 U.S.C. 4603(a); Public Law 100-180) shall conduct a study and submit a report to the Governmental Affairs Committee and the Armed Services Committee of the Senate and to appropriate committees of the House of Representatives concerning Federal participation in Sematech. The study and report shall be conducted under the direction of the Under Secretary of Commerce for Economic Affairs.

(b) Council Recommendations and Report.—The Council shall include in the report submitted under subsection (a) the following:

(1) identification of potential sources of Federal funding from department and agency budgets for Sematech and recommendations concerning methods and terms of Federal financial participation in Sematech, including grants, loans, loan guarantees, and contributions in kind. The feasibility of methods of Federal recoupment shall also be considered;

(2) definition and assessment of continued Federal participation in Sematech including, but not limited to, issues of technology research and development, civilian and defense industrial base objectives and initiatives, and commercialization. The report shall include a summary of the most recent plans, milestones, and cost estimates for Sematech, including any changes and alterations, and shall comment on Sematech's accomplishments and shortfalls in the preceding fiscal year;

(3) coordination of inter-agency participation, including all matters pertaining to Federal funding and decisionmaking, and other issues regarding Federal participation in Sematech; and

(4) any other issues and questions the Council deems appropriate shall be considered.

SEC. 5423. IMPACT OF NATIONAL DEFENSE EXPENDITURES ON INTERNATIONAL COMPETITIVENESS.

(a) Findings.—The Congress finds that the ability of United States industries to compete in world markets may be adversely affected by the following factors:

(1) The allocation of intellectual resources between the private and public sectors.

(2) The distribution of innovative research and development between commercial and noncommercial applications.

(3) The number of scientific advances which are ultimately commercialized.

(4) The cost of capital which is affected by many factors including the budget deficit and defense spending.

(b) Sense of Congress.—It is the sense of Congress that the President should evaluate the impact on United States competitiveness of—

(1) the defense spending by foreign countries, particularly Japan's expenditure of 1 percent of its gross national product for defense compared to the expenditure of the United States of 6 percent of its gross national product, and

(2) the other factors listed in subsection (a).

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Education and Training for a Competitive America Act of 1988".

SEC. 6002. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds that—

(1) the relationship between a strong and vibrant educational system and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by increased foreign competition;

(2) our Nation's once undisputed pre-eminence in international commerce is facing unprecedented challenges from competitor nations who have given priority to the relationship between education and economic growth in areas such as high technology industries;

(3) our standing in the international marketplace is being further eroded by the presence in the workforce of millions of Americans who are functionally or technologically illiterate or who lack the mathematics, science, foreign language, or vocational skills needed to adapt to the structural changes occurring in the global economy;

(4) our competitive position is also being eroded by declines in the number of students taking advanced courses in mathematics, science, and foreign languages and by the lack of modern technical and laboratory equipment in our educational institutions;

(5) restoring our competitiveness and enhancing our productivity will require that all workers possess basic educational skills and that many others possess highly specific skills in mathematics, science, foreign languages, and vocational areas; and

(6) our Nation must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) Purpose.—It is therefore the purpose of this title to establish programs designed—

(1) to enhance ongoing efforts in elementary and secondary education;

(2) to improve our productivity and competitive position by investing in human capital;

(3) to assist out-of-school youth and adults who are functionally illiterate in obtaining the basic skills needed for them to become productive workers in a competitive economy;

(4) to help educational institutions prepare those engaged in work relating to mathematics, science, and foreign languages by improving and expanding instruction in those areas and by modernizing laboratory and technical equipment;

(5) to enhance the skills of workers affected, or about to be affected, by economic change, in order to prevent dislocation within existing industries and to strengthen emerging domestic industries; and

(6) to accomplish such purposes without impairing the availability of funds to carry out existing programs that address the needs of dislocated workers, such as previously authorized education programs.

SEC. 6003. DEFINITIONS.

As used in this title—

(1) The term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(2) The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(3) The terms "local educational agency" and "State educational agency" have the same meaning given such terms under section 198 of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

SEC. 6004. GENERAL PROVISIONS.

(a) GRANT REQUIREMENTS.—The Secretary shall ensure, with respect to grants provided under subtitles A and B, that—

(1) services assisted by funds received under such grants shall be made available to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited English proficiency, and migrant students;

(2) the terms "training" and "instruction" are interpreted to include training and instruction through telecommunications technologies, including the full range of current and new technologies that can be used for educational purposes, such as television broadcasts, closed circuit television systems, cable television, satellite transmissions, computers, VHS, laser discs, and audio by discs, tapes, or broadcast, and such other video and telecommunications technologies that alone or in combination can assist in teaching and learning; and

(3) where appropriate, programs funded under subtitles A and B shall be coordinated with other federally funded education and training programs.

(b) ADDITIONAL ELIGIBLE INSTITUTIONS.—For purposes of any program authorized by subtitle A or B, institutions eligible to participate shall include any accredited proprietary institution providing a program of less than six months duration that is otherwise eligible to participate in any program under subtitle A or B.

(c) BUDGET LIMITATION.—The Secretary may not make grants or enter into contracts under subtitles A, B, or C except to such extent, or in such amounts, as may be provided in appropriation Acts.

Subtitle A—Elementary and Secondary Education

CHAPTER 1—MATHEMATICS AND SCIENCE

SEC. 6005. MATHEMATICS AND SCIENCE EDUCATION REAUTHORIZED.

Section 203(b) of the Education for Economic Security Act is amended to read as follows:

"(b) There are authorized to be appropriated $175,000,000 for the fiscal year 1988 to carry out the provisions of this title.".

CHAPTER 2—ADULT LITERACY

SEC. 6011. WORKPLACE LITERACY PARTNERSHIPS GRANTS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Adult Education Act is amended by inserting after section 315 the following new section:

"BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY

"SEC. 316. (a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary may make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 306 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under subsection (e) if it—

"(A) includes in a State plan submitted to the Secretary under section 306 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3), shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) Amounts appropriated under this subsection shall remain available until expended.".

(b) DEFINITIONS.—Section 303 of the Adult Education Act is amended by adding at the end the following new subsections:

"(k) The term 'community-based organization' has the meaning given such term in section 4(5) of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).

"(l) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).".

SEC. 6012. ENGLISH LITERACY GRANTS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Adult Education Act is amended by inserting after section 316 (as added by section 6011) the following new section:

"ENGLISH LITERACY PROGRAM GRANTS

"SEC. 317. (a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 306 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 306 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program—

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applicable Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with manpower training and other education programs.

"(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section shall be used to carry out the purposes of subsection (d).".

(b) DEFINITIONS.—Section 303 of the Adult Education Act (20 U.S.C. 1201 et seq.) (as amended by section 6011) is amended by adding at the end the following new subsections:

"(m) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(1) whose native language is a language other than English; or

"(2) who lives in a family or community environment where a language other than English is the dominant language.

"(n) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(o) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(p) The term 'community-based organization' means a private organization which is representative of a community or significant segments of a community and which provides education, vocational education, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.".

SEC. 6013. LITERACY COORDINATION.

(a) FEDERAL LITERACY OFFICE.—The Adult Education Act is amended by inserting after section 317 (as added by section 6012) the following new section:

"COORDINATION OF LITERACY PROGRAMS

"SEC. 318. (a) FEDERAL LITERACY COORDINATION OFFICE.—The Adult Education Division shall serve as the Federal literacy coordination office.

"(b) DUTIES.—The Secretary, through the Division, shall—

"(1) coordinate Federal literacy programs, including grant programs administered under this chapter and other grant programs funded under the Adult Education Act (20 U.S.C. 1201 et seq.); and

"(2) provide information and guidance to States with respect to the establishment of State and local volunteer programs relating to literacy.

"(c) STATE LITERACY COORDINATION.—To the extent practicable, each State agency designated under section 306(b)(2) that receives funds under section 316 or section 317 shall—

(1) designate area offices for coordination of literacy programs, distributed throughout the State so that persons in all areas of the State have access to literacy programs;

"(2) train personnel who will operate the area offices;

"(3) determine curricula and materials for literacy programs;

"(4) oversee area offices;

"(5) provide assistance to area offices;

"(6) conduct programs to recruit volunteers and participants;

"(7) coordinate the programs described in paragraph (6) with existing literacy programs; and

"(8) allocate funds to area offices."

SEC. 6014. APPLICABILITY PROVISION.

The amendments made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 3—FOREIGN LANGUAGES

Subchapter A—Foreign Language Assistance

SEC. 6021. SHORT TITLE.

This subchapter may be cited as the "Foreign Language Assistance Act of 1988".

SEC. 6022. FINDINGS.

The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this subchapter.

SEC. 6023. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

(b) APPLICATION.—Any State educational agency desiring to receive a grant under this subchapter shall submit an application therefor to the Secretary at such time, in such form, and containing such information *and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—*

(1) contains a description of model programs which—

(A) are designed by local educational agencies and are available without regard to whether students attend the schools operated by such agency and if the local educational agency determines to do so, are available to residents of the community,

(B) represents a variety of alternative and innovative approaches to foreign language instruction, and

(C) are selected on a competitive basis by the State educational agency;

(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

(c) FEDERAL SHARE.—(1) The Federal share for each fiscal year shall be 50 percent.

(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

(d) PARTICIPATION OF PRIVATE SCHOOLS.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

SEC. 6024. ALLOTMENT.

(a) GENERAL RULE.—(1) From the sums appropriated to carry out this subchapter in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

(b) AVAILABILITY OF FUNDS.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

SEC. 6025. DEFINITIONS.

(a) GENERAL RULE.—For the purpose of this subchapter, the term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(b) SPECIAL RULE.—For the purpose of section 6024—

(1) the term "school age population" means the population aged 5 through 17; and

(2) the term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 6026. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for the fiscal year 1988 to carry out this subchapter.

Subchapter B—Presidential Award For Languages

SEC. 6027. PRESIDENTIAL AWARDS.

(a) GENERAL AUTHORITY.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

(b) SELECTION PROCEDURES.—The President is authorized to make 104 awards under subsection (a) of this section. In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 6028. ADMINISTRATIVE PROVISIONS.

The President shall carry out the provisions of section 6027, including the establishment of the selection procedures, after consultation with the Secretary of Education, other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

SEC. 6029. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated $1,000,000 for fiscal year 1988 to carry out the provisions of this subchapter.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under section 6027, for administrative expenses, for necessary travel by teachers selected under section 6027, and for special activities related to carrying out the provisions of this subchapter.

CHAPTER 4—SCIENCE AND MATHEMATICS ELEMENTARY AND SECONDARY BUSINESS PARTNERSHIPS

SEC. 6031. PROGRAM AUTHORIZED.

(a) ESTABLISHMENT OF PROGRAM.—Title III of the Education for Economic Security Act (20 U.S.C. 3981 et seq.) is amended—

(1) by inserting after the title heading the following:

"PART A—HIGHER EDUCATION PARTNERSHIPS"; and

(2) by adding at the end the following new part:

"PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS

"PURPOSE

"SEC. 321. It is the purpose of this part to supplement State and local resources to—

"(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

"(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

"(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

"PROGRAMS AUTHORIZED

"SEC. 322. (a) GRANTS.—The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 324.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this chapter $20,000,000 for fiscal year 1988.

"AMENDMENT TO STATE APPLICATION

"SEC. 323. (a) APPLICATION.—A State shall be eligible to receive a grant under this part if—

"(1) the State submits to the Secretary as part of its application under section 209 such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

"(2) the Secretary approves such application.

"(b) APPLICATION REQUIREMENTS.—The Secretary shall require each application to include—

"(1) a description of the State's procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

"(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses;

"(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

"ELIGIBLE PROGRAMS

"SEC. 324. (a) IN GENERAL.—A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

"(b) USE OF FUNDS.—Funds from grants received under this part may be used for the following:

"(1) IMPROVEMENT OF ELEMENTARY AND SECONDARY RESOURCES.—Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

"(A) improve instruction in mathematics and science education at the elementary and secondary level;

"(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

"(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

"(2) ADVANCED PLACEMENT PROGRAMS.—(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

"(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

"(i) the number of students participating in the program; and

"(ii) the instruction time such students receive under the program.

"LOCAL APPLICATIONS

"SEC. 325. (a) ELIGIBILITY.—An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State may require. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210, if appropriate.

"(b) REQUIREMENTS FOR APPLICATION.—The State shall require each application to include—

"(1) a description of the activities for which assistance under this part is sought;

"(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

"(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1)—

"(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

"(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

"(C) assurances that—

"(i) except as provided in subsection (c), a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

"(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

"(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

"(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

"(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2), a commitment as to the percentage of funds received from the State on a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

"(c) WAIVER.—The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) if the State determines that—

"(1) substantial need exists in the area served by the applicant for a grant under this part; and

"(2) the required amount of matching funds cannot be made available.

"(d) JOINT APPLICATIONS.—A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a).

"SUBMISSION OF APPLICATIONS

"SEC. 326. An applicant within a State that desires to receive a grant under this chapter shall submit an application prepared in accordance with section 325 to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 324(b)(1) shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

"APPROVAL OF APPLICATIONS

"SEC. 327. (a) CRITERIA.—The State shall establish criteria for approval of applications under this section. Such criteria shall include—

"(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

"(2) the number and nature of elementary and secondary students who will benefit from the planned program;

"(3) the expressed level of financial and in-kind commitment from other parties to the program.

"(b) APPROVAL PROCEDURES.—The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

"(1) rural, urban, and suburban areas; and

"(2) small, medium, and large local educational agencies.

"COMPUTATION OF GRANT AMOUNTS

"SEC. 328. (a) PAYMENTS TO GRANTEES.—

"(1) PAYMENT BY STATE.—The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 327, the Federal share of the cost of the program described in the application.

"(2) AMOUNT.—(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

"(B) In the case of an applicant that receives a waiver under section 325(c), the Federal share for each fiscal year may be as much as 100 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(b) PAYMENTS TO STATES.—Except as provided in subsection (c), each State shall receive under this part the greater of—

"(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

"(2) $225,000.

"(c) REDUCTION FOR INSUFFICIENT FUNDING.—If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b), the amount of such grants shall be ratably reduced.".

(b) CONFORMING AMENDMENTS.—

(1) TITLE HEADING.—The title heading of such title is amended to read as follows:

"TITLE III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING".

(2) REFERENCES.—Part A of such title (as redesignated by subsection (a)) is amended by striking out "title" each place such term appears and inserting in lieu thereof "part".

CHAPTER 5—EDUCATIONAL PARTNERSHIPS

SEC. 6041. SHORT TITLE.

This chapter may be cited as the "Educational Partnerships Act of 1988".

SEC. 6042. PURPOSE.

It is the purpose of this chapter to encourage the creation of alliances between public elementary and secondary schools or institutions of higher education and the private sector in order to—

(1) apply the resources of the private and nonprofit sectors of the community to the needs of the elementary and secondary schools or institutions of higher education, as the case may be, in that community designed to encourage excellence in education;

(2) encourage business to work with educationally disadvantaged students and with gifted students;

(3) apply the resources of communities for the improvement of elementary and secondary education or higher education, as the case may be; and

(4) enrich the career awareness of secondary or postsecondary school students to exposures to the private sector and their work.

SEC. 6043. PROGRAM AUTHORIZED.

(a) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary may make grants to eligible partnerships to pay the Federal share of the costs of the activities described in section 6144.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6044. AUTHORIZED ACTIVITIES.

An eligible partnership may use payments received under this chapter in any fiscal year for—

(1) model cooperative programs designed to apply the resources of the private and nonprofit sectors of the community to the elementary and secondary schools of the local educational agency or institutions of higher education in that community;

(2) projects designed to encourage business concerns and other participants in the eligible partnership, to work with educationally disadvantaged students and with gifted students in the elementary and secondary schools of local educational agencies or institutions of higher education;

(3) projects designed to apply the resources of the community to the elementary and secondary schools of the local educational agency or institutions of higher education in that community to improve the education of students in such schools;

(4) projects which are designed to address the special educational needs of gifted and talented children in the elementary and secondary schools of such agencies which are

conducted with the support of the private sector;

(5) projects designed to enrich the career awareness of secondary or postsecondary school students through exposure to officers and employees of business concerns and other agencies and organizations participating in the eligible partnership for education;

(6) projects for statewide activities designed to carry out the purpose of this chapter, including the development of model State statutes for the support of cooperative arrangements between the private sector and the elementary and secondary schools or institutions of higher education within the State;

(7) special training projects for staff designed to develop skills necessary to facilitate cooperative arrangements between the private and nonprofit sectors and the elementary and secondary schools of local educational agencies or institutions of higher education;

(8) academic internship programs, including where possible academic credit, involving activities designed to carry out the purpose of this chapter; and

(9) projects encouraging tutorial and volunteer work in the elementary and secondary schools of local education agencies or institutions of higher education by personnel assigned from business concerns and other participants in the eligible partnership.

SEC. 6045. APPLICATION.

(a) In General.—An eligible partnership which desires to receive a grant under this chapter shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this chapter is sought;

(2) provide assurances that the eligible partnership will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources;

(3) provide assurances that the eligible partnership will take such steps as may be available to it to continue the activities for which the eligible partnership is making application after the period for which assistance is sought;

(4) provide assurances—

(A) that the educational partnership will disseminate information on the model program for which assistance is sought; and

(B) that not more than 1 percent of the grant in any fiscal year may be expended for the purpose described in subparagraph (A); and

(5) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this chapter.

(b) Joint Application.—A consortium of eligible alliances may file a joint application under the provisions of subsection (a) of this section.

SEC. 6046. APPROVAL OF APPLICATION.

(a) In General.—The Secretary shall approve applications in accordance with uniform criteria established by the Secretary.

(b) Restriction.—The Secretary may not approve an application if the State educational agency for the State in which the institution is located, or, in the case of a consortium of institutions, in which any institution in the consortium is located, notifies the Secretary that the application is inconsistent with State plans for elementary and secondary education in the State.

SEC. 6047. COMPUTATION OF GRANT AMOUNTS.

(a) Computation.—

(1) In General.—The Secretary shall pay to each eligible partnership having an application approved under section 6046 the Federal share of the cost of the activities described in the application.

(2) Federal Share.—The Federal share shall be—

(A) 90 percent for the first year for which an eligible partnership receives assistance under this chapter;

(B) 75 percent for the second such year;

(C) 50 percent for the third such year; and

(D) 33⅓ percent for the fourth such year.

(3) Non-Federal Share.—The non-Federal share of payments under this chapter may be in cash or in kind fairly evaluated, including planned equipment or services.

(b) Restriction.—The total amount of funds paid under this chapter during any fiscal year to eligible partnerships in any single State may not be greater than the greater of—

(1) an amount equal to 15 percent of the funds appropriated under this chapter for that fiscal year; or

(2) $1,000,000.

SEC. 6048. EVALUATION AND DISSEMINATION.

(a) Annual Evaluation.—The Secretary shall conduct an annual evaluation of grants made under this chapter to determine—

(1) the type of activities assisted under this chapter;

(2) the impact upon the educational characteristics of the elementary and secondary schools and institutions of higher education from activities assisted under this chapter;

(3) the extent to which activities assisted under this chapter have improved or expanded the nature of support for elementary and secondary education in the community or in the State; and

(4) a list of specific activities assisted under this chapter which show promise as model programs to carry out the purpose of this chapter.

(b) Dissemination of Information.—The Secretary shall disseminate to State and local educational agencies and other participants in the eligible alliance program information relating to the activities assisted under this chapter.

SEC. 6049. DEFINITIONS.

As used in this chapter—

(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term "eligible partnership" means—

(A) a local educational agency or an institution of higher education, or both,

(B) business concerns, community-based organizations, nonprofit private organizations, museums, libraries, educational television and radio stations, and if the State agrees to participate, appropriate State agencies.

(3) The term "institution of higher education" has the same meaning given that term by section 481(a)(1) of the Higher Education Act of 1965.

(4) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

CHAPTER 6—STAR SCHOOLS PROGRAM

SEC. 6051. PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"Sec. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

"Sec. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

"Sec. 903. (a) General Authority.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of telecommunications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) Authorization of Appropriations.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $37,500,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) Limitations.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this Act shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of this Act.

"(d) Federal Share.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"Sec. 904. (a) General Rule.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that

any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of this Act; or

"(2) a partnership which includes 3 or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of this Act or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of this Act,

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,

"(D) a teacher training center which—

"(i) provides teacher preservice and inservice training, and

"(ii) receives Federal financial assistance or has been approved by a State agency, or

"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

"(ii) a private organization with such experience, or

"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of this Act in using the facilities and equipment for which assistance is sought; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of this Act;

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this Act;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of this Act, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this Act shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 6052. APPLICABILITY PROVISION.

The amendment made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 7—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

Subchapter A—Assistance to Address School Dropout Problems

SEC. 6061. SHORT TITLE.

This subchapter may be cited as the "School Dropout Demonstration Assistance Act of 1988".

SEC. 6062. PURPOSE.

The purpose of this subchapter is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

(1) effective programs to identify potential student dropouts and prevent them from dropping out;

(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

SEC. 6063. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $50,000,000 for the fiscal year 1988.

SEC. 6064. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6063 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

(2) Educational partnerships under this subsection shall include—

(A) a local educational agency; and

(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6065 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this subchapter.

(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(f) FEDERAL SHARE.—(1) The Federal share of a grant under this subchapter may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subchapter, and

(B) 75 percent of such cost for the second such year.

(2) The remaining cost of a project that receives assistance under this subchapter may be paid from any source other than funds made available under this subchapter, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this subchapter.

(3) The share of payments from sources other than funds made available under this subchapter may be in cash or in kind fairly evaluated, including plant, equipment or services.

SEC. 6065. APPLICATION.

(a) IN GENERAL.—(1) A grant under this subchapter may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

(2) Applications shall be for a 1-year period.

(b) CONTENTS OF APPLICATION.—Each such application shall—

(1) provide documentation of—

(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 4141(b)(5) of the Drug-Free Schools and Communities of 1986; and

(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

(4) include a plan for the development and implementation of a project including activities designed to carry out the purpose of this subchapter, such as—

(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

(B) addressing the special needs of school-age parents;

(C) disseminating information to students, parents, and the community related to the dropout problem;

(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

(G) establishing annual procedures for—

(i) evaluating the effectiveness of the project; and

(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6064(a).

(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

(2) provisions for significant parental involvement.

SEC. 6066. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Grants under this subchapter shall be used to carry out plans set forth in applications approved under section 6065. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

(3) the establishment or expansion of work-study, apprentice, or internship programs;

(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population;

(5) the evaluation and revision of program placement of students at risk;

(6) the evaluation of program effectiveness of dropout programs;

(7) the development and implementation of programs for traditionally underserved groups of students;

(8) the implementation of activities which will improve student motivation and the school learning environment;

(9) the provision of training for school staff on strategies and techniques designed to—

(A) identify children at risk of dropping out;

(B) intervene in the instructional program with support and remedial services;

(C) develop realistic expectations for student performance; and

(D) improve student-staff interactions;

(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

(11) the study of the relationship between handicapping conditions and student dropouts;

(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and

(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this subchapter.

(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this subchapter may be used by educational partnerships for—

(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

(2) internship, work study, or apprenticeship programs;

(3) summer employment programs;

(4) occupational training programs;

(5) career opportunity and skills counseling;

(6) job placement services;

(7) the development of skill employment competency testing programs;

(8) special school staff training projects; and

(9) any other activity described in subsection (a).

SEC. 6067. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this subchapter—

(1) grants are equitably distributed on a geographic basis within each category set forth in section 6064(a);

(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this subchapter may be used for administrative costs.

Subchapter B—Assistance to Provide Basic Skills Improvement

SEC. 6071. SHORT TITLE.

This subchapter may be cited as the "Secondary Schools Basic Skills Demonstration Assistance Act of 1988".

SEC. 6072. PURPOSE.

It is the purpose of this subchapter to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

SEC. 6073. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $200,000,000 for fiscal year 1988.

SEC. 6074. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) GENERAL AUTHORITY.—From the amount appropriated under section 6073 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this subchapter.

(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6075 in cooperation with community-based organizations.

(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this subchapter.

SEC. 6075. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Funds made available under this subchapter may be used—

(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

(2) to develop innovative approaches—

(A) for surmounting barriers that make secondary school programs under this subchapter difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

(5) to use the resources of the community to assist in providing services to the target population;

(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subchapter and under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this subchapter may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

SEC. 6076. APPLICATION.

(a) IN GENERAL.—(1) A grant under this subchapter may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

(2) Applications shall be for a 1-year period.

(b) CONTENTS OF APPLICATION.—Each such application shall include—

(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this subchapter);

(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this subchapter;

(6) a statement of the methods which will be used—

(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this subchapter; and

(B) an assurance that services will be provided under this subchapter to special populations, such as individuals with limited English proficiency and individuals with handicaps;

(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

(8) a description of the manner in which the agency will provide for equitable participation of private school students under provisions applicable to chapter 1 of title I of the Elementary and Secondary Education Act of 1965, relating to participation of children enrolled in private schools;

(9) a description of the methods by which the applicant will coordinate programs under this subchapter with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

(A) demonstrate the greatest need for services assisted under this subchapter on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant under this subchapter may be used for administrative costs.

Subchapter C—General Provisions

SEC. 6081. GENERAL PROVISIONS.

(a) DEFINITION OF SCHOOL DROPOUT.—The Secretary shall, not later than 60 days after the date of the enactment of this chapter, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups.

(b) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies and educational partnerships under this subchapter not later than June 30 preceding such fiscal year.

(c) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency receiving Federal funds under this chapter shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this chapter for activities described in subchapter A or subchapter B of this chapter, as the case may be.

(d) EVALUATION.—The Secretary shall evaluate programs operated with funds received under this chapter, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991.

(e) COORDINATION AND DISSEMINATION.—The Secretary shall require local educational agencies receiving grants under this chapter to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

(f) AUDIT.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this chapter that are pertinent to the sums received and disbursed under this chapter.

(g) WITHHOLDING PAYMENTS.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6075 or section 6076, the Secretary shall withhold payments under this chapter in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

SEC. 6082. DEFINITIONS.

(a) As used in this title—

(1) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

(2) The term "basic skills" includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

CHAPTER 8—MISCELLANEOUS

SEC. 6091. DRUG-FREE SCHOOLS PROGRAM.

(a) WITHIN STATE ALLOCATIONS.—The second sentence of section 4124 of the Drug-Free Schools and Communities Act of 1986 is amended to read as follows: "From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private, nonprofit schools within such areas.".

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) of the Act shall take effect October 27, 1986.

(2) Notwithstanding paragraph (1), a State educational agency may allot fiscal year 1987 funds to local and intermediate educational agencies and consortia under section 4124(a) of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-aged population.

Subtitle B—Technology and Training

CHAPTER 1—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

SEC. 6101. SHORT TITLE.

This chapter may be cited as the "Training Technology Transfer Act of 1988".

SEC. 6102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) Federal agencies, particularly the Department of Defense, have made extensive investments of public funds in the development of education and training software;

(2) much knowledge and education and training software, especially computer programs and videodisc systems, is directly transferable to the private sector or could be transferable to the private sector after conversion;

(3) the transfer of education and training software to the public and private sector could properly augment existing Federal programs for the training of new industrial workers or the retraining of workers whose jobs have been disrupted because of technological developments, foreign trade, and changes in consumer requirements; and

(4) the transfer of education and training software to the public and private sector would be especially beneficial to small business concerns which lack the resources to develop such software independently.

(b) PURPOSE.—Therefore, it is the purpose of this chapter to facilitate the transfer of education and training software from Federal agencies to the public and private sector and to State and local governments and agencies thereof, including educational systems and educational institutions, in order to support the education, training, and retraining of industrial workers, especially workers in small business concerns.

SEC. 6103. OFFICE OF TRAINING TECHNOLOGY TRANSFER.

(a) OFFICE ESTABLISHED.—There is established in the Office of Educational Research and Improvement of the Department of Education an Office of Training Technology Transfer. The Office shall be headed by a Director, who shall be appointed by the Secretary of Education. The Director shall be compensated at the rate provided for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(b) PERSONNEL.—To carry out this chapter, the Director may appoint personnel in accordance with the civil service laws, and may compensate such personnel in accordance with the General Schedule under section 5332 of title 5, United States Code.

SEC. 6104. FUNCTIONS OF THE OFFICE.

(a) CLEARINGHOUSE REQUIRED.—(1) The Director shall compile and maintain a current and comprehensive clearinghouse of all knowledge and education and training software developed or scheduled for development by or under the supervision of Federal agencies. The clearinghouse shall include, with respect to each item of education and

training software listed in the clearinghouse—

(A) a complete description of such software, including the purpose, content, intended academic level or competency level, date of development, imbedded learning and instructional strategies, and mode of presentation of such software;

(B) a description of each type of computer hardware which is compatible with such software and of any other equipment required to use such software;

(C) a specification of any patent, copyright, or proprietary interest affecting the copying, conversion, or transfer of such software; and

(D) information with respect to any conversion or transfer of such software pursuant to this chapter.

(2) In compiling the clearinghouse required by this subsection, the Director shall—

(A) consult with and utilize fully the resources of all Federal agencies engaged in the collection and dissemination of information concerning education and training software; and

(B) request the participation and cooperation of entities in the legislative and judicial branches of Government.

(b) Dissemination Required.—(1) The Director shall disseminate widely and on a regular basis the clearinghouse required by subsection (a) and any revisions thereof in order to enable all potential commercial users and public interest users of education and training software to receive ample notice that Federal agencies have developed such software, or have scheduled such software for development. In carrying out the preceding sentence, the Director shall—

(A) utilize all interagency and intergovernmental communication mechanisms, including the National Center for Research in Vocational Education, the National Occupational Information Committee, State educational agencies, State occupational information coordinating committees, State job training coordinating councils, private industry councils, State economic development agencies, regional educational laboratories, and the Small Business Administration; and

(B) encourage the participation of independent private sector organizations, including organizations representing State and local educational agencies, educational institutions, technical and professional organizations, and trade associations.

(2) The Director shall develop and distribute, in conjunction with the dissemination of the clearinghouse required under subsection (a), detailed instructions and procedures for securing copies, including such rights thereto as may be required, of education and training software listed in such clearinghouse and guidelines for cooperative agreements between commercial users and public interest users under subsection (d).

(c) Consultation; Public Interest User.—(1) The Director shall advise, consult with, and may provide grants to any prospective public interest user of a education and training software listed in the clearinghouse required under subsection (a) and shall assist such user in securing the transfer of such software from the Federal agency which developed such software at a cost to the public interest user based upon the ability of such user to pay for such transfer. In providing such assistance, the Director shall encourage such public interest user to obtain such software by working with the Training Technology Transfer Officer of such agency. If an agency has not established procedures for the transfer of education and training software, the Director shall negotiate the transfer of such software upon application by such user.

(2) The Director, to such extent and in such amounts as provided in advance by appropriation Acts, may enter into contracts with any qualified agency having expertise in the field of education and qualified private sector business concerns for the conversion of education and training software in order to adapt such software to the requirements of a public interest user.

(d) Consultation; commercial user.—(1) The Director shall advise and consult with any prospective commercial user of an education and training software listed in the clearinghouse required under subsection (a)(1). The Director may sell or lease such training software, including exclusive or nonexclusive rights in copyrights or patents pertaining thereto, to a commercial user for a price or fee which reflects a reasonable return to the Government.

(2) The Director may waive purchase prices or lease fees for a commercial user of training software, may negotiate reduced purchase prices or lease fees for such commercial user, or may negotiate exclusive sale or lease agreements or other terms favorable to such commercial user if such commercial user agrees to enter into a cooperative agreement with a public interest user or a group of public interest users in accordance with this section. Under the preceding sentence, the Director may not waive such prices or fees, negotiate reduced prices or fees, or negotiate exclusive agreements or favorable terms for a commercial user unless such cooperative agreement—

(A) provides for the conversion of the education and training software by the commercial user in order to meet the specific needs of the public interest user or group of public interest users;

(B) provides that such conversion will be performed without charge to the public interest user or group of users; and

(C) is acceptable to the Director.

(3) In negotiating terms for the sale or lease of education and training software pursuant to subsection (b), the Director shall give preferential consideration to cooperative agreements which—

(A) will result in enhancing the employment potential and potential earnings of the maximum number of individuals;

(B) encourage and promote multiple uses of education and training software converted pursuant to this section by users with similar education needs; and

(C) provide beneficial uses of education and training software for businesses.

(4) Any education and training software converted pursuant to subsection (b) shall be listed in the clearinghouse required by subsection (a)(1) and shall be available for transfer to any other public interest user.

(e) Study Required.—(1) The Director shall study the effectiveness of transfers and conversions of education and training software pursuant to this chapter, and shall analyze national needs for methods to convert education and training software which are in addition to the method provided in subsection (d)(2).

(2) The Director shall submit to the Congress a report that—

(A) describes the study and analysis conducted as required by paragraph (1); and

(B) contains recommendations of the Director concerning whether the public interest is served through the program of grants and contracts to public interest users to support conversion of education and training software.

(3) The Director shall submit the report required by subparagraph (A) before the expiration of the two-year period beginning on the date of enactment of this Act.

SEC. 6105. ADMINISTRATIVE PROVISIONS.

(a) In General.—In carrying out this chapter, the Director is authorized—

(1) to promulgate such rules, regulations, procedures, and forms as may be necessary to carry out the functions of the Office, and delegate authority for the performance of any function to any officer or employee of the Office under the direction and supervision of the Director;

(2) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(3) to enter into agreements with other Federal agencies as may be appropriate;

(4) to accept voluntary and uncompensated services, without regard to the provisions of section 1342 of title 31, United States Code;

(5) to request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced consistent with other law; and

(6) to use the facilities of the Office of Educational Research and Improvement.

(b) Specific Delegation of Clearinghouse and Dissemination Functions.—The Director shall enter into interagency agreements with the National Technical Information Service of the Department of Commerce to perform on a reimbursable basis the functions specified in sections 6104(a) and 6104(b) of this Act.

SEC. 6106. COORDINATION WITH FEDERAL AGENCIES.

(a) Use of Federal Programs.—In carrying out this chapter, the Director shall utilize, to the fullest possible extent, all existing Federal programs to promote the identification, conversion, and transfer of knowledge and education and training software in accordance with this chapter.

(b) Education and Training Software Transfer Officer.—The head of each Federal agency which develops knowledge for or uses education and training software shall designate, from the officers and employees of the agency, an education and training software transfer officer. The education and training software transfer officer of an agency shall—

(1) supply information to the Office of Education Software Transfer for inclusion in the clearinghouse;

(2) receive and process inquiries and requests from prospective users of knowledge and education and training software employed by such agency;

(3) promote direct contact between prospective users of knowledge and education and training software and personnel of the agency;

(4) facilitate the prompt transfer for knowledge and education and training software to public interest users; and

(5) refer requests for education and training software from commercial users to the Office of Training Software Transfer for the negotiation of the purchase or lease of such software.

(c) Cooperation of Federal Agencies.—

(1) IN GENERAL.—All Federal agencies shall cooperate with the Director in the implementation of this chapter. If the head of a Federal agency finds that such agency is unable to cooperate with the Director for reasons of national security, or for any other reason, such agency head shall report such finding to the Secretary. The Secretary shall report to the Congress by July 1 of each year all such findings received by the Secretary during the preceding 12-month period.

(2) COOPERATION WITH EXCHANGE CENTER.—The Director shall cooperate with the Federal Software Exchange Center of the National Technical Information Service to facilitate the transfer of education and training software between Federal agencies.

(3) AVAILABILITY OF FEDERAL SERVICES, EQUIPMENT, PERSONNEL, AND FACILITIES.—Upon request of the Director, the head of each Federal agency shall promptly make the services, equipment, personnel, facilities, and information of the agency (including suggestions, estimates, and statistics) available to the Office to the greatest extent practicable.

(d) EQUITY RULE.—In carrying out the purposes of this chapter, the Director shall consider special equity concerns, including psychological, physiological, sociological, and socioeconomic factors, which could prevent some persons from benefiting from new technological developments, and shall, to the extent possible, ensure that such persons benefit from software transfer activities under this chapter.

SEC. 6107. DEFINITIONS.

For the purpose of this chapter—

(1) the term "commercial user" means any individual, corporation, partnership, or other legal entity which operates for profit and which uses or intends to use the education and training software of a Federal agency;

(2) the term "community-based organizations" has the same meaning as in section 2704(5) of the Job Training Partnership Act;

(3) the term "conversion" means the process whereby education and training software is modified and revised to meet the needs of a commercial user or a public interest user;

(4) the term "Director" means the Director of the Office of Training Technology Transfer established pursuant to section 6103;

(5) the term "Federal agency" has the meaning given to the term "agency" in section 551(1) of title 5, United States Code;

(6) the term "National Occupational Information Coordinating Committee" means the National Occupational Information Coordinating Committee established under section 422(a) of the Carl D. Perkins Vocational Education Act;

(7) the term "Office" means the Office of Training Technology Transfer established pursuant to section 6103;

(8) the term "private industry council" means a private industry council established under section 102 of the Job Training Partnership Act;

(9) the term "public interest user" means—

(A) any nonprofit entity which—

(i) provides job training, vocational education or other educational services, including public school systems, vocational schools, private preparatory schools, colleges, universities, community colleges, private industry councils, community-based organizations, and State and local governments and agencies thereof; and

(ii) which uses or intends to use the education and training software of a Federal agency; or

(B) any Federal agency which uses or intends to use the education and training software of another Federal agency;

(10) the term "small business concern" has the same meaning as in section 3 of the Small Business Act;

(11) the term "State job training coordinating council" means a State job training coordinating council established under section 122 of the Job Training Partnership Act;

(12) the term "State occupational information coordinating committee" means a State occupational information coordinating committee established under section 422(b) of the Carl D. Perkins Vocational Education Act;

(13) the term "education and training software" means computer software which is developed by a Federal agency to educate and train employees of the agency and which may be transferred to or converted for use by a public interest user or a commercial user and includes software for computer based instructional systems, interactive video disc systems, microcomputer education devices, audiovisual devices, and programmed learning kits, and associated manuals and devices if such manuals and devices are integrally related to a software program;

(14) the term "transfer" means the process whereby education and training software is made available to a commercial user or a public interest user for the training of the employees of such user, with or without the conversion of such software.

CHAPTER 2—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

SEC. 6111. PURPOSE.

It is the purpose of this chapter to assist educational agencies and institutions in developing a technologically literate population through instructional programs in technology education.

SEC. 6112. TECHNOLOGY EDUCATION DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—Subject to the availability of funds for purposes of this chapter, the Secretary of Education shall establish a program of grants to local educational agencies, State educational agencies, consortia of public and private agencies, organizations and institutions, and institutions of higher education to establish not more than 10 demonstration programs in technology education for secondary schools, vocational educational centers and community colleges.

(b) USES OF GRANT FUNDS.—(1)(A) Funds made available under this chapter may be used to develop a model demonstration program for technology education which, to the extent practicable, address the components described in paragraphs (2) through (12).

(B) To the extent feasible, the Secretary shall give priority under subparagraph (A) to model demonstration programs which address the largest number of components described in paragraphs (2) through (12).

(2) Educational course content based on—

(A) an organized set of concepts, processes, and systems that is uniquely technological and relevant to the changing needs of the workplace; and

(B) fundamental knowledge about the development of technology and its effect on people, the environment, and culture.

(3) Instructional content drawn from introduction to technology education courses in 1 or more of the following areas—

(A) communication—efficiently using resources to transfer information to extend human potential;

(B) construction—efficiently using resources to build structures on a site;

(C) manufacturing—efficiently using resources to extract and convert raw or recycled materials into industrial and consumer goods; and

(D) transportation—efficiently using resources to obtain time and place utility and to attain and maintain direct physical contact and exchange among individuals and societal units through the movement of materials, goods, and people.

(4) Assisting students in developing insight, understanding, and application of technological concepts, processes, and systems.

(5) Educating students in the safe and efficient use of tools, materials, machines, processes, and technical concepts.

(6) Developing student skills, creative abilities, confidence, and individual potential in using technology.

(7) Developing student problem solving and decisionmaking abilities involving technological systems.

(8) Preparing students for lifelong learning in a technological society.

(9) Activity oriented laboratory instruction which reinforces abstract concepts with concrete experiences.

(10) An institute for the purpose of developing teacher capability in the area of technology education.

(11) Research and development of curriculum materials for use in technology education programs.

(12) Multidisciplinary teacher workshops for the interfacing of mathematics, science, and technology education.

(13) Optional employment of a curriculum specialist to provide technical assistance for the program.

(14) Stressing basic remedial skills in conjunction with training and automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology.

(15) A combined emphasis on "know-how" and "ability-to-do" in carrying out technological work.

(c) LIMITATION ON FEDERAL ASSISTANCE.—Federal assistance to any program or project under this chapter shall not exceed 65 percent of the cost of such program in any fiscal year. Not less than 10 percent of the cost of such program shall be in the form of private sector contributions. Non-Federal contributions may be in cash or in kind, fairly evaluated, including facilities, overhead, personnel, and equipment.

SEC. 6113. APPLICATIONS FOR GRANTS.

(a) IN GENERAL.—A local educational agency, a State educational agency, a consortium of public and private agencies, organizations, and institutions, or an institution of higher education which desires to receive a grant under this chapter shall submit an application to the Secretary. Applications shall be submitted at such time, in such form, and containing such information as the Secretary shall prescribe.

(b) CONTENTS OF APPLICATION.—An application shall include—

(1) a description of a demonstration program designed to carry out the purpose described in section 6111;

(2) an estimate of the cost for the establishment and operation of the program;

(3) a description of policies and procedures for the program that will ensure adequate evaluation of the activities intended to be carried out under the application;

(4) assurances that Federal funds made available under this chapter will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would be in the absence of such Federal funds be made available for the uses specified in this chapter, and in no case supplant such State or local funds;

(5) a provision for making such reports, in such form and containing such information, as the Secretary may require; and

(6) a description of the manner in which programs under this chapter will be coordinated, to the extent practicable, with programs under the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, and other Acts related to the purposes of this chapter.

(c) GEOGRAPHIC DISTRIBUTION.—In making grants under this chapter, the Secretary shall consider the equitable geographic distribution of such grants.

SEC. 6114. NATIONAL DISSEMINATION OF INFORMATION.

The Secretary shall disseminate the results of the programs and projects assisted under this chapter in a manner designed to improve the training of teachers, other instructional personnel, counselors, and administrators.

SEC. 6115. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $2,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6116. DEFINITIONS.

As used in this chapter, the term "technology education" means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

CHAPTER 3—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

SEC. 6121. REPLICATION MODELS FOR TECHNICAL EDUCATION PROGRAMS DESIGNED TO IMPROVE THE QUALITY OF EDUCATION FOR AMERICA'S TECHNICALLY TRAINED WORKFORCE.

(a) IN GENERAL.—The Secretary, through the National Diffusion Network established under section 583(c) of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3851), in addition to its duties under such Act—

(1) shall gather, organize, and disseminate information on innovative programs at institutions of postsecondary education and secondary schools designed to—

(A) enhance the development of technical skills needed to improve the competitiveness of American industry;

(B) encourage the development of higher skills among individuals facing or likely to face job dislocation;

(C) encourage the acquisition of basic literacy skills among youth as well as adults; or

(D) involve the business community in the planning and offering of employment opportunities to the trained workforce;

(2) shall gather, organize, and disseminate information on consultative and collaborative efforts by elementary education, secondary education, postsecondary education, business, labor, local, State and Federal governments designed to—

(A) improve the efficiency, productivity, and competitiveness of American business; or

(B) enhance the international competitiveness of American business (such as international trade education and foreign language training for business);

(3) in carrying out the activities described in paragraphs (1) and (2), shall produce a catalog of exemplary consultative and collaborative efforts which have the highest probability of being replicated; and

(4) may provide technical assistance to any institution or entity to facilitate the gathering of information for replication models.

(b) CONFORMING RULE.—Any program of replication shall conform to the provisions of subsection (a) if such program—

(1) is being conducted by the National Diffusion Network on the date of the enactment of this chapter; and

(2) has the same purpose as the programs described in such subsection.

CHAPTER 4—VOCATIONAL EDUCATION PROGRAMS

SEC. 6131. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

(a) IN GENERAL.—Part C of title III of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2371 et seq.) is amended—

(1) by inserting after the part heading the following:

"Subpart 1—Basic Program";

(2) by striking out "this part" each place such term appears in sections 321 through 324 and inserting in lieu thereof "this subpart"; and

(3) by adding at the end the following new subpart:

"Subpart 2—Special Program

"FINDINGS AND PURPOSE

"SEC. 326. (a) FINDINGS.—The Congress finds that—

"(1) technological change, international competition, and the demographics of the Nation's workforce have resulted in increases in the numbers of experienced adult workers who are unemployed, who have been dislocated, or who require training, retraining, or upgrading of skills,

"(2) the individuals who are entering and reentering the labor market are less educated, trained, or skilled and are disproportionately employed in low-wage occupations and require additional training, and

"(3) these needs can be met by education and training programs, especially vocational programs, that are responsive to the needs of individuals and the demands of the labor market.

"(b) PURPOSE.—It is the purpose of this part to (1) provide financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who have completed or left high school and are preparing to enter or have entered the labor market, including workers who are 55 years of age and older, in order to equip adults with the competencies and skills required for productive employment, and (2) to ensure that programs are available which are relevant to the labor market needs and accessible to all segments of the population.

"AUTHORIZATION OF GRANTS AND USES OF FUNDS

"SEC. 327. (a) GRANTS TO STATES.—The Secretary shall make grants in proportion to the amount received under section 101 to States for programs, services, and activities authorized by this part.

"(b) STATE ADMINISTRATION.—(1) Grants to States under this part shall be made to the board established under section 111 to serve as the grant recipient and catalyst to public-private training partnerships.

"(2)(A) Such board shall make awards on the basis of application from educational institutions (e.g. community colleges, vocational schools, service providers under the Job Training Partnership Act (29 U.S.C. 49 et seq.), four-year colleges, universities, and community based organizations) which link up with one or more private companies in order to train people for jobs in high growth fields.

"(B) The board shall establish criteria for application, application content and criteria, and procedures for the awarding of grants under this section.

"(3) Business must be actively involved in the planning, designing, operating, and monitoring of the education and training programs so that they will meet their needs.

"(4) Training can include entry level training, employee upgrading, retraining, and customized training.

"(5) Grants shall not be awarded for more than 50 percent of the costs. The remainder must come from the private sector in either cash or related equipment and services which would be at least equivalent to the Federal grant portion.

"(c) ELIGIBLE PROGRAMS.—Programs eligible for funding by the State, and designed cooperatively between education institutions and one or more businesses, may include—

"(1) institutional and worksite programs tailored to meet the needs of an industry or group of industries for skilled workers, technicians or managers, or to assist their existing workforce to adjust to changes in technology or work requirements;

"(2) quick-start, customized training for workers in new and expanding industries, or for workers for placement in jobs that are difficult to fill because of a shortage of workers with the requisite skills;

"(3) shared programs between educational institutions and businesses, where a work experience is provided by the business subsequent to the classroom training to reinforce the classroom or workshop training;

"(4) cooperative education programs with public and private sector employers and economic development agencies, including seminars in institutional or worksite settings, designed to improve management and increase productivity;

"(5) entrepreneurship training programs which assist individuals in the establishment, management, and operation of small business enterprises;

"(6) recruitment, job search assistance, counseling, remedial services, and information and outreach programs designed to encourage and assist males and females to take advantage of vocational education programs and services, with particular attention to reaching women, older workers, individuals with limited English proficiency, the handicapped, and the disadvantaged; and

"(7) related instruction for apprentices in apprenticeship training programs.

"(d) REQUIREMENTS.—In making grants under this part, the Secretary shall require each State, in its State plan (or an amendment to such plan), to assure that programs—

"(1) are designed with the active participation of the State council established pursuant to section 112;

"(2) make maximum effective use of existing institutions, are planned to avoid duplication of programs or institutional capabilities, and to the fullest extent practicable are designed to strengthen institutional ca-

pacity to meet the education and training needs addressed by this part;

"(3) assure the active participation by public and private sector employers and public and private agencies working with programs of employment and training and economic development; and

"(4) where appropriate, involve coordination with programs under the Rehabilitation Act of 1973 and the Education of the Handicapped Act.

"COORDINATION WITH THE JOB TRAINING PARTNERSHIP ACT

"Sec. 328. (a) Requirements for Inclusion in State Plan.—Each State receiving grants under this part shall include in the State plan methods and procedures for coordinating vocational education programs, services, and activities funded under this part to provide programs of assistance for dislocated workers funded under title III of the Job Training Partnership Act.

"(b) Consultation With State Job Training Coordinating Council.—(1) The State board shall consult with the State job training coordinating council (established under section 122 of the Job Training Partnership Act) in order that programs assisted under this part may be taken into account by such council in formulating recommendations to the Governor for the Governor's coordination and special services plan required by section 121 of such Act.

"(2) The State board shall also adopt such procedures as it considers necessary to encourage coordination between eligible recipients receiving funds under this part and the appropriate administrative entity established under the Job Training Partnership Act in the conduct of their respective programs, in order to achieve the most effective use of all Federal funds through programs that complement and supplement each other, and, to the extent feasible, provide an ongoing and integrated program of training and services for workers in need of such assistance.".

(2) The table of contents at the beginning of such Act is amended—

(1) by inserting after the item relating to part C the following:

"Subpart 1—Basic Program"; and

(2) by inserting after the item relating to section 323 the following:

"Subpart 2—Special Program

"Sec. 326. Findings and purpose.
"Sec. 327. Authorization of grants and uses of funds.
"Sec. 328. Coordination with the Job Training Partnership Act.".

(b) Authorization of Appropriations.—(1) Subparagraph (A) of section 3(b)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows:

"(3)(A)(i) There are authorized to be appropriated $35,000 for the fiscal year 1985, such sums as may be necessary for each of the fiscal years 1986 and 1987, and $25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 1 of part C of title III, relating to the basic program for adult training, retraining, and employment development.

"(ii) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 2 of such part, relating to the special program for adult training, retraining, and employment development.".

(2) Subparagraph (B) of such section is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A)(i)".

SEC. 6132. AUTHORIZATION OF ADDITIONAL USES OF VOCATIONAL EDUCATION FUNDS.

Section 251(a) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341) is amended—

(1) by striking out "and" at the end of paragraph (23);

(2) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(25) pre-employment skills training; and

"(26) school-to-work transition programs.".

SEC. 6133. EDUCATION FOR EMPLOYMENT DEMONSTRATION PROGRAM.

From the sums available to the Secretary for national programs under the Carl D. Perkins Vocational Education Act, the Secretary shall conduct a demonstration program with secondary school students designed to provide participating students with the skills needed for employment or further education by forming partnerships with business and industry for purpose of incorporating into school curriculums—

(1) practical applications of academic subjects;

(2) career exploration;

(3) instruction relating to job seeking skills, career choices, and use of information relating to the labor market; and

(4) a school monitored work experience program, designed to equip each high school graduate with a resume as well as a diploma.

SEC. 6134. INDUSTRY-EDUCATION PARTNERSHIP AUTHORIZATION.

(a) Program Authorized.—Section 343 of the Carl D. Perkins Vocational Education Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Funds made available pursuant to section 3(b)(5)(B) of this Act may be used, in accordance with this part, to provide vocational education to individuals in order to assist their entry into, or advancement in, high technology occupations or to meet the technological needs of other industries or businesses.

"(2) Special consideration shall be given to individuals described in paragraph (1) who have attained 55 years of age.".

(b) Authorization of Appropriations.—Section 3(b)(5) of such Act is amended—

(1) by inserting "(A)" after the paragraph designation; and

(2) by adding at the end thereof the following new subparagraph:

"(B) There are authorized to be appropriated an additional $10,000,000 for each of the fiscal years 1988 and 1989 to carry out part E of title III, for workers described in section 343(d).

SEC. 6135. DEMONSTRATION PROGRAM FOR TECHNOLOGICAL LITERACY.

(a) Establishment.—The Secretary shall establish demonstration programs in vocational training centers and community colleges for purposes of providing modular training in basic skills with the objective of rendering participants technologically literate. Such programs shall—

(1) stress techniques and methods that offer basic remedial skills in conjunction with training in automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology; and

(2) be designed to foster flexibility and assist workers in meeting the challenge of a changing workplace.

(b) Authorization of Appropriations.—There are authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

CHAPTER 5—ACCESS DEMONSTRATION PROGRAMS

SEC. 6141. PURPOSE.

It is the purpose of this chapter to support training programs for secondary school personnel, including guidance counselors, in order to increase the opportunities of secondary school students in rural sections of the Nation for continued education.

SEC. 6142. PROGRAM AUTHORIZED.

(a) Grants to Eligible Entities.—The Secretary may make grants to institutions of higher education, private nonprofit agencies and organizations, including regional educational laboratories, public agencies, State educational agencies, or combinations thereof within particular regions of the United States to support the development of training programs for secondary school personnel, including guidance counselors. The Secretary may not make a grant under the preceding sentence to any nonpublic agency unless such agency has extensive experience in providing educational assistance to State and local educational agencies.

(b) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for fiscal year 1988 for purposes of carrying out this chapter.

SEC. 6143. APPLICATIONS.

(a) Submission of Applications.—An eligible entity which desires to develop and operate a program described in section 6142(a) shall submit an application to the Secretary.

(b) Review of Applications.—Each application submitted under subsection (a) shall be reviewed by peers, including educators and researchers, to determine the quality of the proposed program and its relationship to the demonstrated needs of the region to be served.

(c) Solicitation of Alternative Proposals.—If, based upon a review under subsection (b), the Secretary determines that a proposed program would not best serve the needs of the students of the region to be served, the Secretary may solicit proposals from other eligible entities located in the region.

(d) Content of Applications.—Each application for assistance under this section shall—

(1) contain assurances that—

(A) the eligible entity shall provide technical assistance to appropriate educational agencies; and

(B) information developed as a result of the applicant's research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

(C) all rural students in all States within the region will have access to and information about the access program;

(2) contain a description of—

(A) the rural secondary school population within the region served by the eligible entity, including estimates of the number of high school graduates who—

(i) attend institutions of higher education, including an estimate of the number who attend out-of-state institutions;

(ii) attend trade schools;

(iii) enter military service;

(B) services available within each of the States in the region that exist to provide secondary school students with information

and training relating to higher education and self-employment; and

(C) activities provided—

(i) to train designated school personnel to advise and establish community partnership programs; and

(ii) to provide technical assistance; and

(3) demonstrate that—

(A) the eligible entity has engaged in sufficient study and analysis to ensure that the services to be offered by the proposed program will increase the number of secondary school students entering institutions of higher education and increase their awareness of and opportunities for financial assistance;

(B) In the case of an eligible entity other than a State educational agency or local educational agency, State and local educational agencies were involved in planning the proposed programs and that services available from such agencies are incorporated into the proposed program; and

(C) the program will probably be funded by State or other sources after the expiration of funding under this chapter.

(e) REPORT.—

(1) PROGRAM EFFECT.—The Office of Educational Research and Improvement shall submit a report to the Congress on the effect of programs funded under this chapter, including recommendations of the eligible entities.

(2) The report required by paragraph (1) shall be submitted not later than November 30, 1989.

SEC. 6144. DEFINITIONS.

As used in this chapter:

(1) The term "regional educational laboratory" means a regional educational laboratory supported by the Secretary under section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i)).

(2) The term "eligible entity" means any entity or combination of entities described in section 6142(a).

Subtitle C—Higher Education

CHAPTER 1—STUDENT LITERACY CORPS

SEC. 6201. STUDENT LITERACY CORPS.

Title I of the Higher Education Act of 1965 is amended by adding the following new part at the end thereof:

"PART D—STUDENT LITERACY CORPS

"SEC. 141. PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 142. LITERACY CORPS PROGRAM.

"From the amount appropriated pursuant to section 146 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this part, to make grants to institutions of higher education for not to exceed 2 years to carry out literacy corps programs.

"SEC. 143. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this part may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 145.

"(b) LIMITATIONS.—(1) No grant under this part to an institution of higher education may exceed $50,000.

"(2) No institution of higher education may expend more than $25,000 of a grant made under this part in the first year in which the institution receives such a grant.

"SEC. 144. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this part shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) contain assurances that the institution will use the grant in accordance with section 143;

"(2) contain adequate assurances that—

"(A) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors,

"(B) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 6 hours of voluntary, uncompensated service each week of the academic term in a public community agency as a tutor in such agency's educational or literacy program;

"(C) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

"(D) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals; and

"(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subtitle, in community service activities, including—

"(A) the use of a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for work study for community service learning under section 443(b)(2)(A); or

"(B) the conduct of a cooperative education program; and

"(4) contain such other assurances as the Secretary may reasonably require.

"(c) WAIVER.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of clause (3) of subsection (b), grant a waiver of the requirement under such clause if the institution of higher education provides assurances that—

"(1)(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

"(B) its failure to engage in community service related programs or activities prior to making application under this part will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this part; and

"(2) the institution will use a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for community service learning programs pursuant to section 443(b)(2)(A) of that Act if the institution receives an allotment under such part C.

An institution of higher education may apply for a waiver as part of the application described in subsection (b).

"SEC. 145. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

"To the extent that funds are available therefor pursuant to section 146, the Secretary may, directly or by way of grant, contract, or other arrangement—

"(1) provide technical assistance to grant recipients under this part;

"(2) collect and disseminate information with respect to programs assisted under this part; and

"(3) evaluate such programs and issue reports on the results of such evaluations.

"SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this part $10,000,000 for fiscal year 1988, and $10,000,000 for each succeeding fiscal year thereafter ending prior to October 1, 1991, except that no funds are authorized to be appropriated for this part for more than 2 fiscal years.

"SEC. 147. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'public community agency' means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving the handicapped, including disabled veterans;

"(2) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

"(3) the term 'Secretary' means the Secretary of Education.".

CHAPTER 2—SPECIAL RESEARCH FACILITIES

SEC. 6211. AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY, AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM.

Title VII of the Higher Education Act of 1965 is amended by adding new part J:

"PART J—AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY, AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM

"PROGRAM AUTHORITY

"SEC. 795. (a) PURPOSE.—It is the purpose of this section to help revitalize college and university academic research programs that specialize in agricultural, strategic metals and minerals, energy, forestry and wood products, and oceanic research by assisting colleges and universities in repair and renovation of their research laboratories and other research facilities and upgrading or replacing outmoded research equipment and instrumentation currently in use at such facilities for agricultural, strategic metals, minerals, energy, forestry, and oceans research.

"(b) FINANCIAL ASSISTANCE AUTHORIZED.—The Secretary shall, from the sums available to carry out this section in any fiscal year, establish and carry out a new College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceanic research that will provide assistance for the replacement, repair, or renovation of such institutions' obsolete laboratories, other research facilities, and outmoded equipment and instrumentation. No funds made available under this section may be used for the construction of new facilities.

"(c) PROGRAM REQUIREMENTS.—The College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceans shall be carried out through projects which involve the replacement, repair, or renovation of specific research facilities and research equipment or instrumentation at colleges and universities. Funds shall be awarded competitively, on the basis of specific proposals submitted by colleges and universities, in accordance with regulations prescribed by the Secretary. The Secretary shall consult with the Secretaries of Agriculture, Interior, Energy, and Commerce and shall obtain their recommendations regarding final proposal funding should they wish to provide such. In no case should this language be construed as granting these Secretaries final authority over funding or the right to hold up funding of acceptable projects.

"(d) MATCHING REQUIREMENTS.—Any participating college or university must provide an amount not exceeding 50 percent of the costs involved from other non-Federal public or private sources.

"(e) SELECTION CRITERIA.—The criteria for making an award to any college or university under this part, shall include—

"(1) the quality of the research and training to be carried out in the facility or facilities involved;

"(2) the congruence of the institution's research activities to be supported with funds awarded under this part with the future research needs of the Nation, especially as they relate to improving the Nation's trade and competitiveness position;

"(3) the contribution which the project will make toward meeting national, regional, and State research and related training needs, especially as those needs are related to improving the Nation's trade and competitiveness position; and

"(4) an analysis of the age and condition of existing research facilities and equipment.

"(f) SET-ASIDE.—At least 20 percent of the amount available under this section in any fiscal year shall be available only for awards to colleges and universities that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the university research laboratory modernization program) in each of the two preceding fiscal years.

"(g) CONSULTATIONS FOR RULEMAKING.—In prescribing regulations and conducting the program under this section, the Secretary shall consult with other agencies of the Federal Government concerned with research, including the Departments of Energy, Agriculture, Interior, and Commerce.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to carry out this section.".

CHAPTER 3—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT

SEC. 6221. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT.

Section 1047 of title X of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(c) ADDITIONAL AUTHORIZATION.—In addition, there are authorized to be appropriated $7,500,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years for the purpose of funding new activities, consistent with the purposes of sections 1021 and 1031, which are specifically aimed at increasing the participation of minority students in scientific and engineering research careers.".

CHAPTER 4—TECHNOLOGY TRANSFER CENTERS

SEC. 6231. TECHNOLOGY TRANSFER CENTERS.

Title XII of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"TECHNOLOGY TRANSFER CENTERS

"SEC. 1211. (a)(1)(A) Except as provided in subparagraph (B), there are authorized to be appropriated $15,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to develop, construct, and operate regional technology transfer centers. The Secretary shall establish such regional centers—

"(i) to promote the study and development of programs and depositories necessary to further the transfer of technology relevant to a respective region's economy;

"(ii) to assist in developing incubator facilities to encourage new economic initiatives;

"(iii) to provide technical assistance linking university expertise and private sector resources to solve technical, marketing, and manufacturing problems associated with technology-transfer and start-up businesses; and

"(iv) to ensure consideration of the economic development needs of rural as well as urban areas within the region.

"(B) The Secretary shall reserve not less than $3,000,000 of amounts appropriated pursuant to subparagraph (A) for the purpose of carrying out the Training Technology Transfer Act of 1988.

"(2) In carrying out the requirements of this section, regional technology-transfer centers are authorized—

"(A) to build on or, where needed, develop telecommunications systems to link the centers and their affiliates with industrial users;

"(B) to build on or develop necessary computer networks and data bases; and

"(C) to utilize or help develop regional and national libraries.

"(b) Financial assistance to each center shall be awarded competitively. Such financial assistance shall be awarded for the establishment or operation of such centers.

"(c) Each regional center established shall be operated by an appropriately qualified college or university within the region, a consortium of such schools within the region, or a university-related research park or center, and such regional center shall, where deemed necessary, establish one or more affiliate centers at colleges and universities based in other States within the region.

"(d) In establishing such centers, the institutions applying shall show in their application—

"(1) how the center will facilitate the economy of the region;

"(2) that the center's mission is compatible with the economic development plans of States in the region; and

"(3) that appropriate consultation with the relevant State agencies concerned with economic development has taken place.

"(e)(1) Such center also may be operated by a consortium composed of an entity or entities described in subsection (c), and an existing campus-based research entity, or other State and local agencies, nonprofit agencies, interstate higher education organizations, or, where appropriate, for-profit agencies. The Secretary, through regulation, shall determine a mechanism for assessing the percentage of operating costs paid by other members of a technology transfer consortium arrangements.

"(2) For the purpose of paragraph (1), the term 'existing campus-based research facilities includes agricultural research facilities, mining and minerals research facilities; forestry and wood-products research facilities, solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

"(f) Each such center shall establish a Board to advise the center on policy. Such board shall be—

"(1) representative of the States involved in the region; and

"(2) consist of representatives for urban areas, rural areas, ethnic concerns, business, labor, and education.

"(g)(1) Grants for each center shall be awarded for a 5-year period. Before the end of such period, the Secretary shall conduct a competition for the award of grants for the succeeding 5-year period.

"(2) For the fourth and fifth year of each such 5-year period, and during any renewal of the grant for succeeding 5-year periods, 50 percent of the cost of the activities for which assistance is awarded shall be provided from non-Federal sources.

"(h) Funding for affiliate centers authorized in subsection (c) shall be provided by the regional center and the college or university operating the affiliate center, with funding levels to be reached by the 2 entities in a scope-of-work agreement negotiated between the 2 entities. Should the affiliate center wish, its operations and funding support can be a consortia, as specified in subsection (e).

"(i)(1) The Secretary, after consultation with the Departments of Agriculture, Energy, Commerce, and Interior shall publish, for public comment, a proposed list of priorities for the establishment of regional technology transfer centers and shall propose the regional composition of such centers, keeping in mind that satellite and telecommunications technology enables regions to contain noncontiguous States.

"(2) The Secretary shall publish the final list of regions and priorities along with the public's comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.".

CHAPTER 5—LIBRARY TECHNOLOGY ENHANCEMENT

SEC. 6241. LIBRARY TECHNOLOGY ENHANCEMENT.

Section 201(b) of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(5) There are authorized to be appropriated to carry out the purposes of part D an additional $2,500,000 for fiscal year 1988 and such additional sums as may be necessary for each of the 3 succeeding fiscal years. Activities supported by funds appropriated pursuant to this paragraph shall be activities that will enable libraries to participate more fully in the initiative funded under the Education and Training for American Competitiveness Act of 1987.".

CHAPTER 6—INTERNATIONAL BUSINESS EDUCATION PROGRAM

SEC. 6261. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION AUTHORIZED.

Title VI of the Higher Education Act of 1965 is further amended—

(1) by redesignating sections 612 and 613 as sections 613 and 614, respectively; and

(2) by inserting after section 611 the following new section:

"CENTERS FOR INTERNATIONAL BUSINESS EDUCATION

"SEC. 612. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

"(1) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted,

"(2) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners, and

"(3) will provide research and training in the international aspects of trade, commerce, and other fields of study.

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses.

"(b) Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

"(1) faculty and staff travel in foreign areas, regions, or countries,

"(2) teaching and research materials,

"(3) curriculum planning and development,

"(4) bringing visiting scholars and faculty to the center to teach or to conduct research, and

"(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(c)(1) Programs and activities to be conducted by centers assisted under this section shall include—

"(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

"(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

"(C) evening or summer programs, including, but not limited to, intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

"(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

"(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

"(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

"(2) Programs and activities to be conducted by centers assisted under this section may include—

"(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program; and

"(B) other eligible activities prescribed by the Secretary.

"(d)(1) In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

"(2) The Center Advisory Council shall include—

"(A) one representative of an administrative department or office of the institution of higher education;

"(B) one faculty representative of the business or management school or department of such institution;

"(C) one faculty representative of the international studies or foreign language school or department of such institution;

"(D) one faculty representative of another professional school or department of such institution, as appropriate;

"(E) one or more representative of local or regional businesses or firms;

"(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

"(G) such other individuals as the institution of higher education deems appropriate.

"(3) In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

"(e)(1) The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

"(2) The Federal share of the cost of planning, establishing and operating centers under this section shall be—

"(A) not more than 90 per centum for the first year in which Federal funds are furnished,

"(B) not more than 70 per centum for the second such year, and

"(C) not more than 50 per centum for the third such year and for each such year thereafter.

"(3) The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind assistance.

"(f)(1) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

"(A) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

"(B) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies and other professional schools or departments, as appropriate;

"(C) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

"(D) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).".

SEC. 6262. AUTHORIZATION OF APPROPRIATIONS.

Section 614 of the Act (as redesignated by section 6261 of this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 614. (a) There are authorized to be appropriated $5,000,000 for the fiscal year 1988 and for each of the 3 succeeding fiscal years to carry out the provisions of section 612.

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 613.".

SEC. 6263. CONFORMING AMENDMENT.

Section 613 of the Act (as redesignated by section 6261 of this Act) is amended by striking out "part" each time it appears and inserting in lieu thereof "section".

CHAPTER 7—ADDITIONAL HIGHER EDUCATION PROVISIONS

SEC. 6271. RONALD E. McNAIR POST-BACCALAUREATE ACHIEVEMENT PROGRAM.

Section 417D(d)(6) of the Act is amended by striking out "in no case" and all that follows through the period and inserting in lieu thereof the following: "if—

"(A) the funds so allocated equal or exceed $168,800,000 but are less than $215,000,000 funds allocated to projects authorized under this subsection may not exceed—

"(i) $1,000,000 in the fiscal year 1988,

"(ii) $2,000,000 in the fiscal year 1989,

"(iii) $3,000,000 in the fiscal year 1990, and

"(iv) $4,000,000 in the fiscal year 1991, and

"(B) the funds so allocated equal or exceed $215,000,000 funds allocated to projects authorized under this subsection may not exceed $5,000,000.".

SEC. 6272. UNITED STATES INSTITUTE OF PEACE.

Section 25 of the Higher Education Technical Amendments Act of 1987 is amended by striking out "Section 1703" and inserting in lieu thereof "Section 1705(b)(3)".

Subtitle D—Employment and Training for Dislocated Workers

SEC. 6301. SHORT TITLE.

This title may be cited as the "Economic Dislocation and Worker Adjustment Assistance Act".

SEC. 6302. AMENDMENT TO TITLE III OF THE JOB TRAINING PARTNERSHIP ACT.

(a) IN GENERAL.—Title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) is amended to read as follows:

“TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

“DEFINITIONS

“Sec. 301. (a) Dislocated Workers.—(1) For purposes of this title, the term ‘eligible dislocated workers’ means individuals who—

“(A) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

“(B) have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise;

“(C) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age; or

“(D) were self-employed (including farmers and ranchers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters, subject to regulations prescribed by the Secretary.

“(2) For purposes of this title, the term ‘additional dislocated worker’ means a displaced homemaker as that term is defined in section 4(29) of this Act.

“(3) The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which paragraph (1)(D) applies.

“(b) Additional Definitions.—For the purposes of this title—

“(1) The term ‘labor-management committees’ means committees voluntarily established to respond to actual or prospective worker dislocation, which ordinarily include (but are not limited to) the following—

“(A) shared and equal participation by workers and management;

“(B) shared financial participation between the company and the State, using funds provided under this title, in paying for the operating expenses of the committee;

“(C) a chairperson, to oversee and guide the activities of the committee, (i) who shall be jointly selected by the labor and management members of the committee, (ii) who is not employed by or under contract with labor or management at the site, and (iii) who shall provide advice and leadership to the committee and prepare a report on its activities;

“(D) the ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

“(E) a formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

“(F) local job identification activities by the chairman and members of the committee on behalf of the affected workers.

“(2) The term ‘local elected official’ means the chief elected executive officer of a unit of general local government in a substate area.

“(3) The term ‘service provider’ means a public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, or employment services.

“(4) The term ‘substate area’ means that geographic area in a State established pursuant to section 312(a).

“(5) The term ‘substate grantee’ means that agency or organization selected to administer programs pursuant to section 312(b).

“(6) The term ‘State’ means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“ALLOTMENT

“Sec. 302. (a) Allotment of Funds.—From the funds appropriated pursuant to section 3(c) for any fiscal year, the Secretary shall—

“(1) allot 80 percent of such funds in accordance with the provisions of subsection (b); and

“(2) reserve 20 percent for use under part B of this title, subject to the reservation required by subsection (e) of this section.

“(b) Allotment Among States.—(1) Subject to the provisions of paragraph (2), the Secretary shall allot the amount available in each fiscal year under subsection (a)(1) on the basis of the following factors:

“(A) One-third of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

“(B) One-third of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term ‘excess number’ means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

“(C) One-third of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 15 weeks or more and who reside in each State as compared to the total number of such individuals in all the States.

“(2) As soon as satisfactory data are available under section 462(e) of this Act, the Secretary shall allot amounts appropriated to carry out part B and this part for any fiscal year to each State so that—

“(A) 25 percent of such amount shall be allotted on the basis of each of the factors described in subparagraphs (A), (B), and (C) of paragraph (1), respectively, for a total of 75 percent of the amount allotted; and

“(B) 25 percent of such amount shall be allotted among the States on the basis of the relative number of dislocated workers in such State in the most recent period for which satisfactory data are available under section 462(e) and, when available, under section 462(f) of this Act.

“(c) Reservations for State Activities and for Substate Grantees in Need.—(1) The Governor may reserve not more than 40 percent of the amount allotted to the State under section 302(a)(1) for—

“(A) State administration, technical assistance, and coordination of the programs authorized under this title;

“(B) statewide, regional, or industrywide projects;

“(C) rapid response activities as described in section 314(b);

“(D) establishment of coordination between the unemployment compensation system and the worker adjustment program system; and

“(E) discretionary allocation for basic readjustment and retraining services to provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expended in accordance with the substate plan or modification thereof.

“(2) In addition, the Governor may reserve not more than 10 percent of the amount allotted to the State under section 302(a)(1) for allocation among substate grantees. The amount so reserved shall be allocated on the basis of need and distributed to such grantees not later than 9 months after the beginning of the program year for which the allotment was made.

“(d) Within State Distribution.—The Governor shall allocate the remainder of the amount allotted to the State under this part to substate areas for services authorized in this part, based on an allocation formula prescribed by the Governor. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State’s worker readjustment assistance needs. Such information shall include (but is not limited to)—

“(1) insured unemployment data;

“(2) unemployment concentrations;

“(3) plant closing and mass layoff data;

“(4) declining industries data;

“(5) farmer-rancher economic hardship data; and

“(6) long-term unemployment data.

“(e) Reservation for the Territories.—Not more than 0.3 percent of the amounts appropriated pursuant to section 3(c) and available under subsection (a)(2) of this section for any fiscal year shall be allocated among the Commonwealth of the Northern Mariana Islands and the other territories and possessions of the United States.

“RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS

“Sec. 303. (a) General Reallotment Authority.—For program years beginning July 1, 1989, and thereafter, the Secretary shall, in accordance with the requirements of this section, reallot to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallotment.

“(b) Amount Available for Reallotment.—The amount available for reallotment is equal to—

“(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

“(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

“(c) Method of Reallotment.—(1) The Secretary shall determine the amount that would be allotted to each eligible State by using the factors described in section 302(b) to allocate among eligible States the amount available pursuant to subsection (b) of this section.

“(2) The Secretary shall allot to each eligible high unemployment State the amount determined for that State under the procedure in paragraph (1) of this subsection.

“(3) The Secretary shall, by using the factors described in section 302(b), allot to eligible States the amount available that remains after the allotment required by paragraph (2) of this subsection.

“(d) State Procedures With Respect to Reallotment.—The Governor of each State

shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallotment under subsection (b). The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallotment under such subsection.

"(e) DEFINITIONS.—(1) For the purpose of this section, an eligible State means a State which has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

"(2) For the purpose of this section, an eligible high unemployment State means a State—

"(A) which meets the requirement in subsection (c)(1), and

"(B) which is among the States which has an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

"(3) For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallotments described in this section.

"PART A—STATE DELIVERY OF SERVICES

"STATE PLAN

"SEC. 311. (a) STATE PLAN REQUIRED.—In order to receive an allotment of funds under section 302(b), the Governor of a State shall submit to the Secretary, on a biennial basis, a State plan describing in detail the programs and activities that will be assisted with funds provided under this title. The State plan shall be submitted on or before the first day of May immediately preceding the program year for which funds are first to be made available under this title. Such plan shall include incentives to provide training of greater duration for those who require it, consistent with section 106(g).

(b) CONTENTS OF PLAN.—Each State plan shall contain provisions demonstrating to the satisfaction of the Secretary that the State will comply with the requirements of this title and that—

"(1) services under this title—

"(A) will, except as provided in paragraph (4), only be provided to eligible dislocated workers;

"(B) will not be denied to an eligible dislocated worker displaced by a permanent closure or substantial layoff within the State, regardless of the State of residence of such worker; and

"(C) may be provided to other eligible dislocated workers regardless of the State of residence of such worker;

"(2) the State will designate or create an identifiable State dislocated worker unit or office with the capability to respond rapidly, on site, to permanent closures and substantial layoffs throughout the State in order to assess the need for, and initially to provide for, appropriate basic readjustment services;

"(3) the State unit will—

"(A) make appropriate retraining and basic readjustment services available to eligible dislocated workers through the use of rapid response teams, substate grantees, and other appropriate organizations;

"(B) work with employers and labor organizations in promoting labor-management cooperation to achieve the goals of this title;

"(C) operate a monitoring, reporting, and management system which provides an adequate information base for effective program management, review, and evaluation; and

"(D) provide technical assistance and advice to substate grantees;

"(4) the State will provide to additional dislocated workers (as defined in section 301(a)(2)) the services available under this title to eligible dislocated workers only if the Governor of such State determines that such services may be provided to additional dislocated workers without adversely affecting the delivery of such services to eligible dislocated workers;

"(5) the State unit will exchange information and coordinate programs with—

"(A) the appropriate economic development agency, for the purpose of developing strategies to avert plant closings or mass layoffs and to accelerate the reemployment of affected individuals;

"(B) State education, training, and social services programs; and

"(C) all other programs available to assist dislocated workers (including the Job Service and the unemployment insurance system);

"(6) the State unit will disseminate throughout the State information on the availability of services and activities under this title;

"(7) any program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization;

"(8) the State will not prescribe any standard for the operation of programs under this part that is inconsistent with section 106(g);

"(9) the State job training coordinating council has reviewed and commented in writing on the plan; and

"(10) the delivery of services with funds made available under this title will be integrated or coordinated with services or payments made available under chapter 2 of title II of the Trade Act of 1974 and provided by any State or local agencies designated under section 239 of the Trade Act of 1974.

"(c) REVIEW AND APPROVAL OF STATE PLANS.—The Secretary shall review any plan submitted under subsection (a), and any comments thereon submitted by the State job training coordinating council pursuant to subsection (b)(9), and shall notify a State as to any deficiencies in such plan within 30 days after submission. Unless a State has been so notified, the Secretary shall approve the plan within 45 days after submission. The Secretary shall not finally disapprove the plan of any State except after notice and opportunity for a hearing.

"(d) MODIFICATIONS—Any plan submitted under subsection (a) may be modified to describe changes in or additions to the programs and activities set forth in the plan, except that no such modification shall be effective unless reviewed and approved in accordance with subsection (c).

"(e) COMPLAINT, INVESTIGATION, PENALTY.—(1) Whenever the Secretary receives a complaint or a report from an aggrieved party or a public official that a State is not complying with the provisions of the State plan required by this section, the Secretary shall investigate such report or complaint.

"(2)(A) Whenever the Secretary determines that there has been such a failure to comply and that other remedies under this Act are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment of the State for the fiscal year in which the determination is made for each such violation.

"(B) No determination may be made under this paragraph until the State affected is afforded adequate notice and opportunity for a hearing.

"(f) SPECIAL RULE.—The provisions of section 102(h) and 105(d), relating to cases in which a service delivery area is a State, shall apply to this title.

"SUBSTATE GRANTEES

"SEC. 312. (a) DESIGNATION OF SUBSTATE AREAS.—(1) The Governor of each State shall, after receiving any recommendations from the State job training coordinating council, designate substate areas for the State.

"(2) Each service delivery area within a State shall be included within a substate area and no service delivery area shall be divided among two or more substate areas.

"(3) In making designations of substate areas, the Governor shall consider—

"(A) the availability of services throughout the State;

"(B) the capability to coordinate the delivery of services with other human services and economic development programs; and

"(C) the geographic boundaries of labor market areas within the State.

"(4) Subject to paragraphs (2) and (3), the Governor—

"(A) shall designate as a substate area any single service delivery area that has a population of 200,000 or more;

"(B) shall designate as a substate area any two or more contiguous service delivery areas—

"(i) that in the aggregate have a population of 200,000 or more; and

"(ii) that request such designation; and

"(C) shall designate as a substate area any concentrated employment program grantee for a rural area described in section 101(a)(4)(A)(iii) of this Act.

"(5) The Governor may deny a request for designation under paragraph (4)(B) if the Governor determines that such designation would not be consistent with the effective delivery of services to eligible dislocated workers in various labor market areas (including urban and rural areas) within the State, or would not otherwise be appropriate to carry out the purposes of this title.

"(6) The designations made under this section may not be revised more than once each two years, in accordance with the requirements of this section.

"(b) DESIGNATION OF SUBSTATE GRANTEES.—A substate grantee shall be designated, on a biennial basis, for each substate area. Such substate grantee shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with the State job training coordinating council), to negotiate such agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

"(c) ELIGIBILITY.—Entities eligible for designation as substate grantees include—

"(1) private industry councils in the substate area;

"(2) service delivery area grant recipients or administrative entities;

"(3) private nonprofit organizations;

"(4) units of general local government in the substate area, or agencies thereof;

"(5) local offices of State agencies; and

"(6) other public agencies, such as community colleges and area vocational schools.

"(d) FUNCTIONS OF SUBSTATE GRANTEES.—The substate grantee shall be responsible for providing, within such substate area, services described in section 314 (c), (d), and (e) pursuant to an agreement with the Governor and in accordance with the State plan under section 311 and the substate plan under section 313. The substate grantee may provide such services directly or through contract, grant, or agreement with service providers.

"(e) APPLICABILITY OF GENERAL ADMINISTRATIVE PROVISIONS TO SUBSTATE GRANTEES.—The requirements of parts C and D of title I of this Act that apply to an administrative entity or a recipient of financial assistance under this Act shall also apply to substate grantees under this title.

"SUBSTATE PLAN

"SEC. 313. (a) GENERAL RULE.—No amounts appropriated for any fiscal year may be provided to a substate grantee unless the Governor (after considering the recommendations of the State job training coordinating council) has approved a substate plan, or modification thereof, submitted by the substate grantee describing the manner in which activities will be conducted within the substate area. Prior to the submission to the Governor, the plan shall be submitted for review and comment to the other parties to the agreement described in section 312(b).

"(b) CONTENTS OF SUBSTATE PLAN.—The substate plan shall contain a statement of—

"(1) the means for delivering services described in section 314 to eligible dislocated workers;

"(2) the means to be used to identify, select, and verify the eligibility of program participants;

"(3) the means for implementing the requirements of section 314(f);

"(4) the means for involving labor organizations in the development and implementation of services;

"(5) the performance goals to be achieved consistent with the performance goals contained in the State plan pursuant to section 311(b)(8);

"(6) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(7) a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance required by section 314(b) is inappropriate, including worker dislocation in sparsely populated areas, which methods may include (but are not limited to)—

(A) development and delivery of widespread outreach mechanisms;

(B) provision of financial evaluation and counseling (where appropriate) to assist in determining eligibility for services and the type of services needed;

(C) initial assessment and referral for further basic adjustment and training services; and

(D) establishment of regional centers for the purpose of providing such outreach, assessment, and early readjustment assistance;)

"(8) a description of the methods by which the other parties to the agreement described in section 312(b) may be involved in activities of the substate grantee;

"(9) a description of training services to be provided, including—

"(A) procedures to assess participants' current education skill levels and occupational abilities;

"(B) procedures to assess participants' needs, including educational, training, employment, and social services;

"(C) methods for allocating resources to provide the services recommended by rapid response teams for eligible dislocated workers within the substate area; and

"(D) a description of services and activities to be provided in the substate area;

"(10) the means whereby coordination with other appropriate programs, services, and systems will be effected, particularly where such coordination is intended to provide access to the services of such other systems for program participants at no cost to the worker readjustment program; and

"(11) a detailed budget, as required by the State.

"(c) PLAN APPROVAL.—The Governor shall approve or disapprove the plan of a substate grantee in the manner required by section 105(b)(1), (2), and (3). If a substate grantee fails to submit a plan, or submits a plan that is not approved by the Governor in accordance with such section, the Governor may direct the expenditure of funds allocated to the substate area until such time as a plan is submitted and approved or a new substate grantee is designated under section 312.

"(d) BY-PASS AUTHORITY.—If a substate grantee fails to expend funds allocated to it in accordance with its plan, the Governor may, subject to appropriate notice and opportunity for comment in the manner required by section 105(b)(1), (2), and (3), direct the expenditure of funds in accordance with the substate plan until—

"(1) the substate grantee corrects the failure,

"(2) the substate grantee submits an acceptable modification to its plan pursuant to subsection (a), or

"(3) a new substate grantee is designated under section 312.

"USE OF FUNDS; SERVICES TO BE PROVIDED

"SEC. 314. (a) IN GENERAL.—Funds allotted under section 302 may be used—

"(1) to provide rapid response assistance in accordance with subsection (b);

"(2) to deliver, coordinate, and integrate basic readjustment services and support services in accordance with subsection (c);

"(3) to provide retraining services in accordance with subsection (d);

"(4) to provide needs-related payments in accordance with subsection (e); and

"(5) to provide for coordination with the unemployment compensation system in accordance with subsection (f).

"(b) RAPID RESPONSE ASSISTANCE.—(1) The dislocated worker unit required by section 311(b)(2) shall include specialists who may use funds available under this title—

"(A) to establish on-site contact with employer and employee representatives within a short period of time (preferably 48 hours or less) after becoming aware of a current or projected permanent closure or substantial layoff in order to—

(i) provide information on and facilitate access to available public programs and services; and

(ii) provide emergency assistance adapted to the particular closure or layoff;

"(B) to promote the formation of labor-management committees, by providing—

"(i) immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee;

"(ii) a list of individuals from which the chairperson of the committee may be selected;

"(iii) technical advice as well as information on sources of assistance, and liaison with other public and private services and programs; and

"(iv) assistance in the selection of worker representatives in the event no union is present;

"(C) to collect information related to—

"(i) economic dislocation (including potential closings or layoffs); and

"(ii) all available resources within the State for displaced workers,

which information shall be made available on a regular basis to the Governor and the State job training coordinating council to assist in providing an adequate information base for effective program management, review, and evaluation;

"(D) to provide or obtain appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert worker dislocations;

"(E) to disseminate information throughout the State on the availability of services and activities carried out by the dislocated worker unit or office; and

"(F) to assist the local community in developing its own coordinated response and in obtaining access to State economic development assistance.

"(2) In a situation involving an impending permanent closure or substantial layoff, a State may provide funds, where other public or private resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

"(c) BASIC READJUSTMENT SERVICES.—Funds allotted under section 302 may be used to provide basic readjustment services to eligible dislocated workers. Subject to limitations set forth in subsection (e) and section 315(a), the services may include (but are not limited to)—

"(1) development of individual readjustment plans for participants in programs under this title;

"(2) outreach and intake;

"(3) early readjustment assistance;

"(4) job or career counseling;

"(5) testing;

"(6) orientation;

"(7) assessment, including evaluation of educational attainment and participant interests and aptitudes;

"(8) determination of occupational skills;

"(9) provision of future world-of-work and occupational information;

"(10) job placement assistance;

"(11) labor market information;

"(12) job clubs;

"(13) job search;

"(14) job development;

"(15) supportive services, including child care, commuting assistance, and financial and personal counseling which shall terminate not later than the 90th day after the participant has completed other services under this part, except that counseling necessary to assist participants to retain employment shall terminate not later than 6 months following the completion of training;

"(16) prelayoff assistance;

"(17) relocation assistance; and

"(18) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

"(d) Retraining Services.—(1) Funds allotted under section 302 may be used to provide training services under this part to eligible dislocated workers. Such services may include (but are not limited to)—

"(A) classroom training;

"(B) occupational skill training;

"(C) on-the-job training;

"(D) out-of-area job search;

"(E) relocation;

"(F) basic and remedial education;

"(G) literacy and English for non-English speakers training;

"(H) entrepreneurial training; and

"(I) other appropriate training activities directly related to appropriate employment opportunities in the substate area.

"(2) No funds under this part may be expended to provide wages for public service employment.

"(e) Needs-Related Payments.—(1) Funds allocated to a substate grantee under section 302(d) may be used pursuant to a substate plan under section 313 to provide needs-related payments to an eligible dislocated worker who does not qualify or has ceased to qualify for unemployment compensation, in order to enable such worker to participate in training or education programs under this title. To be eligible for such payments, an eligible dislocated worker who has ceased to qualify for unemployment compensation must have been enrolled in training by the end of the 13th week of the worker's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an employee is informed that a short-term layoff will in fact exceed 6 months.

"(2) The level of needs-related payments shall be made available at a level not greater than the higher of—

"(A) the applicable level of unemployment compensation; or

"(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(f) Coordination with Unemployment Compensation.—Funds allocated to a State under section 302 may be used for coordination of worker readjustment programs and the unemployment compensation system, consistent with the limitation on administrative expenses in section 315. Each State shall be responsible for coordinating the unemployment compensation system and worker readjustment programs within such State.

"LIMITATIONS ON USES OF FUNDS

"Sec. 315. (a) Use of Funds for Retraining Services.—(1) Not less than 50 percent of the funds expended under this title by any substate grantee shall be expended for retraining services specified under section 314(d).

"(2) A substate grantee may apply to the Governor for a waiver of the requirement in paragraph (1). Such waiver may not permit less than 30 percent of the funds to be spent for such retraining services. The waiver may be granted in whole or in part if the substate grantee demonstrates that the worker readjustment program in the area will be consistent with the principle that dislocated workers be prepared for occupations or industries with long-term potential. The Governor shall prescribe criteria for the demonstration required by the previous sentence.

"(3) An application for such a waiver shall be submitted at such time and in such form as the Governor may prescribe. The Governor shall provide an opportunity for public comment on the application.

"(b) Needs-Related Payments and Supportive Services Limitation.—Not more than 25 percent of the funds expended under this title by any substate grantee or by the Governor may be used to provide needs-related payments and other supportive services.

"(c) Administrative Cost Limitation.—Not more than 15 percent of the funds expended under this title by any substate grantee or by the Governor may be expended to cover the administrative cost of programs under this title. For purposes of this subsection, administrative cost does not include the cost of activities under section 314(b).

"RETRAINING SERVICES AVAILABILITY

"Sec. 316. (a) Alternative Methods of Providing Retraining Services.—A substate grantee may provide retraining services described in section 314(d) to an eligible dislocated worker—

"(1) by beginning such services promptly upon the worker's application for the program under this title;

"(2) by deferring the beginning of such services and providing the worker with a certificate of continuing eligibility in accordance with subsection (b)(1) and (2); or

"(3) by permitting the worker to obtain such services from a service provider using such certificate in accordance with subsection (b)(3).

"(b) Certification of Continuing Eligibility.—(1) A substate grantee may issue to any eligible dislocated worker who has applied for the program authorized in this part a certificate of continuing eligibility. Such a certificate of continuing eligibility may be effective for periods not to exceed 104 weeks. No such certificate shall include any reference to any specific amount of funds. Any such certificate shall state that it is subject to the availability of funds at the time that any such training services are to be provided. Acceptance of such a certificate shall not be deemed to be enrollment in training.

"(2) Any individual to whom a certificate of continuing eligibility has been issued under paragraph (1) of this subsection shall remain eligible for the program authorized under this part for the period specified in the certificate, notwithstanding section 301(a), and may use the certificate in order to receive the retraining services, subject to the limitations contained in the certificate.

"(3) A substate grantee may provide training services through systems that permit eligible dislocated workers to use certificates of continuing eligibility to seek out and arrange their own retraining with service providers approved by that substate grantee. Retraining provided pursuant to the certificate shall be conducted under a grant, contract, or other arrangement between the substate grantee and the service provider.

"FUNCTIONS OF STATE JOB TRAINING COORDINATING COUNCIL

"Sec. 317. For purposes of this title, the State job training coordinating council shall—

"(1) provide advice to the Governor regarding the use of funds under this title, including advice on—

"(A) the designation of substate areas and substate grantees, and the procedures for the selection of representatives within such areas under section 312; and

"(B) the methods for allocation and reallocation of funds, including the method for distribution of funds reserved under section 302(c)(2) and funds subject to reallocation under section 303(d);

"(3) submit comments to the Governor and the Secretary on the basis of review of the State and substate programs under this title;

"(4) review, and submit written comments on, the State plan (and any modification thereof) before its submission under section 311;

"(5) review, and submit written comments on, each substate plan submitted to the Governor under section 313; and

"(6) provide advice to the Governor regarding performance standards.

"PART B—FEDERAL RESPONSIBILITIES

"FEDERAL ADMINISTRATION

"Sec. 321. (a) Standards.—The Secretary shall promulgate standards for the conduct and evaluation of programs under this title.

"(b) By-Pass Authority.—In the event that any State fails to submit a plan that is approved under section 311, the Secretary shall use the amount that would be allotted to that State to provide for the delivery in that State of the programs, activities, and services authorized by this title until the State plan is submitted and approved under that section.

"FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES

"Sec. 322. (a) General Authority.—The Secretary shall, with respect to programs required by this title—

"(1) distribute funds to States in accordance with the requirements of section 302;

"(2) provide funds to exemplary and demonstration programs on plant closings and worker dislocation;

"(3) otherwise allocate discretionary funds to projects serving workers affected by multi-State or industry-wide dislocations and to areas of special need in a manner that efficiently targets resources to areas of most need, encourages a rapid response to economic dislocations, and promotes the effective use of funds;

"(4) monitor performance and expenditures and annually certify compliance with standards prescribed by the Secretary under section 106(g);

"(5) conduct research and serve as a national clearinghouse for gathering and disseminating information on plant closings and worker dislocation; and

"(6) provide technical assistance and staff training services to States, communities, businesses, and unions, as appropriate.

"(b) Administrative Provisions.—The Secretary shall designate or create an identifiable dislocated workers unit or office to coordinate the functions of the Secretary under this title.

"ALLOWABLE ACTIVITIES

"Sec. 323. (a) Circumstances and Activities for Use of Funds.—Amounts reserved for this part under section 302(a)(2) may be used to provide services of the type described in section 314 in the following circumstances:

"(1) mass layoffs, including mass layoffs caused by natural disasters or Federal actions (such as relocations of Federal facilities) when the workers are not expected to return to their previous occupations;

"(2) industrywide projects;

"(3) multistate projects;

"(4) special projects carried out through agreements with Indian tribal entities;

"(5) special projects to address national or regional concerns;

"(6) demonstration projects, including the projects described in section 324;

"(7) to provide additional financial assistance to programs and activities provided by States and substate grantees under part A of this title; and

"(8) to provide additional assistance under proposals for financial assistance that are submitted to the Secretary and approved by the Secretary after consultation with the Governor of the State in which the project is to operate.

"(b) USE OF FUNDS IN EMERGENCIES.—Amounts reserved for this part under section 302(a)(2) may also be used to provide services of the type described in section 314 whenever the Secretary (with agreement of the Governor) determines that an emergency exists with respect to any particular distressed industry or any particularly distressed area to provide emergency financial assistance to dislocated workers. The Secretary may make arrangements for the immediate provision of such emergency financial assistance for the purposes of this section with any necessary supportive documentation to be submitted at a date agreed to by the Governor and the Secretary.

"(c) STAFF TRAINING AND TECHNICAL ASSISTANCE.—(1) Amounts reserved for this part under section 302(a)(2) may be used to provide staff training and technical assistance services to States, communities, businesses and labor organizations, and other entities involved in providing adjustment assistance to workers. Applications for technical assistance funds shall be submitted in accordance with procedures issued by the Secretary.

"(2) Not more than 5 percent of the funds reserved for this part in any fiscal year shall be used for the purpose of this subsection.

"(d) TRAINING OF RAPID RESPONSE STAFFS.—Amounts reserved for this part under section 302(a)(2) shall be used to provide training of staff, including specialists, providing rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees.

"DEMONSTRATION PROGRAMS

"SEC. 324. (a) AUTHORIZED PROGRAMS.—From the amount reserved for this part under section 302(a)(2) for the fiscal years 1989, 1990, and 1991, not less than 10 percent of such amount shall be used for demonstration programs. Such demonstration programs may be up to three years in length, and shall include (but need not be limited to) at least two of the following demonstration programs:

"(1) self-employment opportunity demonstration program;

"(2) public works employment demonstration program;

"(3) dislocated farmer demonstration program; and

"(4) job creation demonstration program.

"(b) EVALUATION AND REPORT.—The Secretary shall conduct or provide for an evaluation of the success of each demonstration program, and shall prepare and submit to the Congress a report of the evaluation not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.".

SEC. 6303. AUTHORIZATION OF APPROPRIATIONS.

Section 3(c) of the Job Training Partnership Act is amended to read as follows:

"(c) There are authorized to be appropriated to carry out title III—

"(1) $980,000,000 for fiscal year 1989; and

"(2) such sums as may be necessary for each succeeding fiscal year.".

SEC. 6304. CONFORMING AMENDMENTS.

(a) PERFORMANCE STANDARDS.—Section 106 of the Job Training Partnership Act is amended—

(1) in subsection (e)—

(A) by inserting "and subsection (g)" after "subsection";

(B) by inserting after "State" the following: "and in substate areas; and

(2) in subsection (g)—

(A) by inserting "(1)" after "(g)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).".

(b) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(a)(3) of the Job Training Partnership Act is amended to read as follows:

"(3) The State job training coordinating council shall be composed as follows:

"(A) Thirty percent of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State.

"(B) Thirty percent of the membership of the State council shall be—

"(i) representatives of the State legislature, and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State; and

"(ii) representatives of the units or consortia of general local government in the State who shall be nominated by the chief elected officials of the units or consortia of units of general local government, and the representatives of local educational agencies who shall be nominated by local educational agencies.

"(C) Thirty percent of the membership of the State council shall be representatives of organized labor and representatives of community-based organizations in the State.

"(D) Ten percent of the membership of the State council shall be appointed from the general public by the Governor of the State.".

(c) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking out the portion pertaining to title III and inserting the following:

"TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

"Sec. 301. Definitions.
"Sec. 302. Allotment.
"Sec. 303. Recapture and reallotment of unexpended funds.

"PART A—STATE DELIVERY OF SERVICES

"Sec. 311. State plan.
"Sec. 312. Substate grantees.
"Sec. 313. Substate plan.
"Sec. 314. Use of funds; services to be provided.
"Sec. 315. Limitations on uses of funds.
"Sec. 316. Retraining services availability.
"Sec. 317. Functions of state job training coordinating council.

"PART B—FEDERAL RESPONSIBILITIES

"Sec. 321. Federal administration.
"Sec. 322. Federal delivery of dislocated worker services.
"Sec. 323. Allowable activities.
"Sec. 324. Demonstration programs.".

SEC. 6305. TRANSITION PROVISIONS.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by sections 6302 and 6304 shall be effective for program years beginning on or after July 1, 1989.

(b) PROGRAM YEAR 1988-1989.—The Secretary of Labor and Governors shall, during the program year beginning July 1, 1988, continue to administer title III of the Job Training Partnership Act in the same manner as such title was administered during prior program years, except to the extent necessary to provide for an orderly transition to and implementation of the amendments made by this subtitle. The Secretary and Governors may, for such purposes, use funds appropriated for fiscal year 1989 or any preceding fiscal year to carry out appropriate transition and implementation activities. Such activities may include—

(1) activities to prevent disruption in the delivery of services to program participants; and

(2) planning for and implementation of such amendments.

(c) STATE JOB TRAINING COORDINATING COUNCIL.—A State job training coordinating council shall comply with the changes in membership required by the amendment made by section 6304(b) not later than January 1, 1989. Upon certification by the Governor to the Secretary that such changes in membership have been accomplished, such council shall begin to perform the functions specified by section 317 of the Job Training Partnership Act (as amended by this subtitle).

(d) SUBSTATE AREAS AND GRANTEES.—The designation of substate areas and substate grantees required by the amendment to title III of such Act shall be completed not later than March 1, 1989.

(e) LIMITATION ON CARRY-OVER OF FUNDS.—The provisions of section 303 of such Act (as amended) shall apply to the program year beginning July 1, 1988, except that, for such program year—

(1) subsection (b)(1) of such section shall be applied by substituting "30 percent" for "20 percent"; and

(2) subsection (e) of such section shall be applied by substituting "70 percent" for "80 percent".

(f) REGULATIONS.—The Secretary of Labor shall prescribe such regulations as may be required to implement the amendments made by this subtitle not later than November 1, 1988.

SEC. 6306. STUDIES.

(a) DATA ON DISPLACED FARMERS AND RANCHERS.—Section 462 of such Act is amended by adding at the end the following new subsection:

"(f)(1) The Secretary shall develop, in coordination with the Secretary of Agriculture, statistical data relating to permanent dislocation of farmers and ranchers due to farm and ranch failures. Among the data to be included are—

"(A) the number of such farm and ranch failures;

"(B) the number of farmers and ranchers displaced;

"(C) the location of the affected farms and ranches;

"(D) the types of farms and ranches involved; and

"(E) the identification of farm family members, including spouses, and farm workers working the equivalent of a full-time job on the farm who are dislocated by such farm and ranch failures.

"(2) The Secretary shall publish a report based upon such data as soon as practicable after the end of each calendar year. Such report shall include a comparison of data contained therein with data currently used by the Bureau of Labor Statistics in determining the Nation's annual employment and unemployment rates and an analysis of whether farmers and ranchers are being adequately counted in such employment statistics. Such report shall also include an analysis of alternative methods for reducing the adverse effects of displacements of farmers and ranchers, not only on the individual farmer or rancher, but on the surrounding community.".

(b) Failure To Provide Internationally Recognized Worker Rights.—(1) The Secretary of Labor shall conduct a study, in consultation with the Secretary of State, to identify the extent to which countries recognize and enforce, and the producers fail to comply with, internationally recognized worker rights. A report on the study conducted under this subsection shall be submitted to Congress biennially.

(2) As used in this Act, the term "internationally recognized worker rights" includes—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) the right to be free from the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, maximum hours of work, and occupational safety and health.

(c) Additional Studies.—The National Commission for Employment Policy shall conduct research related to the provisions of this title. Such research shall include examinations of—

(1) the role of the employment services in implementing programs to enhance services provided under this title, and

(2) alternative techniques for managing production cutbacks without permanently reducing workforces.

A report on the research conducted under this subsection shall be submitted to the Congress not later than 18 months after the date of enactment of this Act.

SEC. 6307. JOB BANKS.

(a) Amendment.—Title V of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

"STATE JOB BANK SYSTEMS

"Sec. 505. (a)(1) The Secretary shall carry out the purposes of this section with sums appropriated pursuant to paragraph (2) for any fiscal year.

"(2) There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year.

"(b) The Secretary shall make such sums available through the United States Employment Service for the development and implementation of job bank systems in each State. Such systems shall be designed to use computerized electronic data processing and telecommunications systems for such purposes as—

"(1) identifying job openings and referring jobseekers to job openings, with continual updating of such information;

"(2) providing information on occupational supply and demand; and

"(3) utilization of such systems by career information delivery systems (including career counseling programs in schools).

"(c) Wherever possible, computerized data systems developed with assistance under this section shall be capable of utilizing software compatible with other systems (including management information systems and unemployment insurance and other income maintenance programs) used in the administration of employment and training programs. In developing such systems, special consideration shall be given to the advice and recommendations of the State occupational information coordinating committees (established under section 422(b) of the Carl D. Perkins Vocational Education Act), and other users of such systems for the various purposes described in subsection (b) of this section.".

(b) Clerical Amendment.—The table of contents of such Act is amended by inserting after the item relating to section 504 the following:

"Sec. 505. State job bank systems.".

Subtitle E—Advance Notification of Plant Closings and Mass Layoffs

SEC. 6401. SHORT TITLE.

This subtitle may be cited as the "Worker Adjustment and Retraining Notification Act".

SEC. 6402. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) Definitions.—As used in this subtitle—

(1) the term "employer" means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime);

(2) the term "plant closing" means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees);

(4) the term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a), 158(f)) or section 2 of the Railway Labor Act (45 U.S.C. 152);

(5) the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

(6) subject to subsection (b), the term "employment loss" means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

(7) the term "unit of local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

(8) the term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(b) Exclusions From Definition of Employment Loss.—Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if—

(1) the closing or layoff is the result of the sale of part or all of an employer's business and—

(A) the purchaser agrees in writing, as part of the purchase agreement, to offer employment to the employee with no more than a 6-month break in employment and the agreement specifies that the employee is a third-party beneficiary; or

(B) the purchaser, within 30 days after the purchase, offers employment to the employee with no more than a 6-month break in employment; or

(2) the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 6403. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS.

(a) Notice to Employees, State Dislocated Worker Units, and Local Governments.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of a proposal to issue such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(b) Reduction of Notification Period.—(1) An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone indefinitely the shutdown and the employer *reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.*

(2) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(c) EXTENSION OF LAYOFF PERIOD.—A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this subtitle unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(d) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 6402(a) (2) or (3) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this subtitle.

SEC. 6404. EXEMPTIONS.

This subtitle shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this subtitle.

SEC. 6405. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS.

(a) CIVIL ACTIONS AGAINST EMPLOYERS.—(1) Any employer who orders a plant closing or mass layoff in violation of section 6403 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of—

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(2) The amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation;

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(3) Any employer who violates the provisions of section 6403 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(4) If an employer which has violated this subtitle proves to the satisfaction of the court that the act or omission that violated this subtitle was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this subtitle the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

(5) A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under paragraph (1) or (3), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business.

(6) In any such suit, the court may, in addition to any judgment awarded the plaintiff or plaintiffs, allow a reasonable attorneys' fee to be paid by the defendant, together with the costs of the action.

(7) For purposes of this subsection, the term, "aggrieved employee" means an employee who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 6403, did not receive timely notice either directly or through his or her representative as required by section 6403.

(b) EXCLUSIVITY OF REMEDIES.—The remedies provided for in this section shall be the exclusive remedies for any violation of this subtitle.

SEC. 6406. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

The rights and remedies provided to employees by this subtitle are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this subtitle shall run concurrently with any period of notification required by contract or by any other statute.

SEC. 6407. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 6403 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

SEC. 6408. AUTHORITY TO PRESCRIBE REGULATIONS.

The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this subtitle. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this subtitle.

SEC. 6409. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this subtitle, if done in good faith compliance with this subtitle, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

SEC. 6410. EFFECTIVE DATE.

This subtitle shall take effect on the date which is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 6408 is effective upon enactment.

Subtitle F—National Science Foundation University Infrastructure

SEC. 6501. SHORT TITLE.

This subtitle may be cited as the "National Science Foundation University Infrastructure Act of 1988".

SEC. 6502. NATIONAL SCIENCE FOUNDATION ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent nonprofit research institutions and research museums through capital investments.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out an Academic Research Facilities Modernization Program, under which awards shall be made to institutions of higher education, independent nonprofit research institutions and research museums, and consortia thereof, for the repair, renovation, or replacement (as appropriate) of such institutions' obsolete laboratories and other research facilities.

(c) PROJECTS AND FUNDING.—(1) The Academic Research Facilities Modernization Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(A) which involve the repair, renovation, or replacement (as appropriate) of specific research facilities at the eligible institutions or consortia thereof involved, and

(B) for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia thereof in accordance with regulations prescribed by the Director of the Foundation, pursuant to subsection (d), with the objective of carrying out the purpose of this section.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any eligible institution or consortia thereof will be in an amount equal to not more than 50 percent of the cost of the repair, renovation, or replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or consor-

tia thereof or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—(1) Annually, or prior to the issuance of a program announcement for solicitation of proposals for the award of funds to any institution or consortia thereof for a project under the National Science Foundation Academic Research Facilities Modernization Program, the National Science Foundation shall publish in the Federal Register interim guidelines for public review and comment for a period of 60 days. Such guidelines shall include (but not be limited to) the following:

(A) specific definitions for the terms: facilities, instrumentation, equipment, repair, renovation, and replacement;

(B) specific selection criteria to be used in evaluating the scientific merit of proposals and, in making awards to an institution or to consortia thereof, including an analysis of the age and condition of existing research facilities; and

(C) specific provisions for matching the Federal grant pursuant to subsection (b).

(2) Final guidelines shall be published in the Federal Register 60 days following the close of the comment period incorporating such appropriate revisions as may arise from comments received during the review period. The guidelines, at a minimum, shall include selection criteria for the following:

(A) the quality of the research and training to be carried out in the facility or facilities involved;

(B) the congruence of the institution's research and training activities with the future research needs of the Nation and the training and research mission of the National Science Foundation;

(C) the contribution which the project will make toward meeting national, regional, and the institution's research and related training needs; and

(D) the need for the proposed repair, renovation, or replacement (as appropriate) based on an analysis of the age and condition of existing research facilities and equipment.

(e) DISTRIBUTION OF FUNDS.—Awards made under the National Science Foundation Academic Research Facilities Modernization Program shall not exceed $5,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or replacement (as appropriate) of academic research facilities.

(f) CONSULTATIONS.—In prescribing criteria and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(g) RESERVATIONS FOR CERTAIN INSTITUTIONS.—(1) At least 15 percent of the amount which is appropriated pursuant to this section in any fiscal year shall be available only for awards to universities, colleges, and research museums that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the activities authorized in this section and section 6503) in each of the two preceding fiscal years.

(2) Of the amounts appropriated under this section in each fiscal year a least 10 percent of the funds shall be reserved for institutions of higher education servicing a substantial percentage of students who are Black Americans, Native Americans, Hispanic Americans, Alaskan Natives (Eskimos or Aleut), Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), Northern Marianian, or Palauan.

(3) Requirements of paragraph (2) may be satisfied by considering the funds awarded under paragraph (1) to the institutions described in paragraph (2).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $85,000,000 for fiscal year 1989 to carry out the National Science Foundation Academic Research Facilities Modernization Program. Such sums shall be available for that Program every year thereafter subject to the authorizations and appropriations of activities for the National Science Foundation.

SEC. 6503. NATIONAL SCIENCE FOUNDATION COLLEGE SCIENCE INSTRUMENTATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in revitalizing the Nation's academic instructional instrumentation at colleges.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out the College Science Instrumentation Program, under which awards are made only to two-year and community colleges and four-year, non-Ph.D degree-granting institutions or consortia thereof for the purchase of instructional instrumentation.

(c) PROJECTS AND FUNDING.—(1) The College Science Instrumentation Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(1) which involve the purchase and replacement (as appropriate) of specific instructional instrumentation at the institutions involved, and

(2) for which funds are awarded in response to specific proposals submitted by such institutions or consortia thereof on a competitive basis in accordance with regulations prescribed by the Director of the Foundation with the objective of carrying out the purposes of this Act.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution or consortia thereof after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any academic institution will be in an amount equal to not more than 50 percent of the cost of the purchase and replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—The National Science Foundation will evaluate proposals on the basis of the following criteria:

(1) PERFORMANCE COMPETENCE.—This criterion relates to the capacity of the investigator or investigators, the technical soundness of the proposed approach, the adequacy of the institutional resources available, and the proposed recent research/science education performance.

(2) INTRINSIC MERIT.—This criterion relates to the quality, currency, and significance of the scientific content and related instructional activity of the project within the context of undergraduate science, mathematics, and engineering education.

(3) UTILITY OR RELEVANCE.—This criterion relates to the impact the project will have at the proposing institution, and the relevance of the project in the local context.

(4) EFFECT ON THE INFRASTRUCTURE OF SCIENCE AND ENGINEERING.—This criterion relates to the potential of the proposed project to contribute to better understanding or improvement of the quality, distribution, effectiveness of the Nation's scientific and engineering research, education, and manpower base.

(e) CONSULTATIONS.—In prescribing regulations and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(f) AUTHORIZATION OF APPROPRIATIONS.—Such sums shall be available for the College Science Instrumentation Program subject every year to the authorizations and appropriations for the National Science Foundation.

TITLE VII—BUY AMERICAN ACT OF 1988

SEC. 7001. SHORT TITLE.

This title may be cited as the "Buy American Act of 1988".

SEC. 7002. AMENDMENTS TO THE BUY AMERICAN ACT.

Title III of the Act of March 3, 1933 (41 U.S.C. 10a-10d), is amended—

(1) by redesignating sections 4 and 5 as sections 5 and 6, respectively; and

(2) by inserting after section 3 the following new section:

"SEC. 4. (a) A Federal agency shall not award any contract—

"(1) for the procurement of an article, material, or supply mined, produced, or manufactured—

"(A) in a signatory country that is considered to be a signatory not in good standing of the Agreement pursuant to section 305(f)(3)(A) of the Trade Agreements Act of 1979; or

"(B) in a foreign country whose government maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of such Act; or

"(2) for the procurement of a service of any contractor or subcontractor that is a citizen or national of a foreign country identified by the President pursuant to section 305(f)(3)(A) or 305(g)(1)(A) of such Act, or is owned or controlled directly or indirectly by citizens or nationals of such a foreign country.

"(b) The prohibition on procurement in subsection (a) is subject to sections 305(h) and 305(j) of such Act and shall not apply—

"(1) with respect to services, articles, materials, or supplies procured and used outside the United States and its territories;

"(2) notwithstanding section 305(g) of such Act, to an eligible product of a country which is a signatory country unless that country is considered to be a signatory not in good standing pursuant to section 305(f)(3)(A) of such Act; or

"(3) notwithstanding section 305(g) of such Act, to a country that is a least developed country (as that term is defined in section 308(6) of that Act).

"(c) Notwithstanding subsection (a) of this section, the President or the head of a Federal agency may authorize the award of a contract or class of contracts if the President or the head of the Federal agency—

"(1) determines that such action is necessary—

"(A) in the public interest;

"(B) to avoid the restriction of competition in a manner which would limit the procurement in question to, or would establish a preference for, the services, articles, mate-

rials, or supplies of a single manufacturer or supplier; or

"(C) because there would be or are an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices; and

"(2) notifies the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, and the appropriate committees of the House of Representatives, of such determination—

"(A) not less than 30 days prior to the date of the award of the contract or the date of authorization of the award of a class of contracts; or

"(B) if the agency's need for the service, article, material, or supply is of such urgency that the United States would be seriously injured by delaying the award or authorization, not more than 90 days after the date of such award or authorization.

"(d) The authority of the head of a Federal agency under subsection (c) shall not apply to contracts subject to memorandums of understanding entered into by the Department of Defense (or any military department) and a representative of a foreign country (or agency or instrumentality thereof). In the case of any such contracts, any determinations and notice required by subsection (c) shall be made by—

"(1) the President, or

"(2) if delegated, by the Secretary of Defense or the Secretary of the Army, Navy, or Air Force, subject to review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)).

"(e) The authority of the head of a Federal agency under subsection (c) or (d) of this section may not be delegated.

"(f) Nothing in this section shall restrict the application of the prohibition under section 302(a)(1) of the Trade Agreements Act of 1979.

"(g)(1) For purposes of this section with respect to construction services, a contractor or subcontractor is owned or controlled directly or indirectly by citizens or nationals of a foreign country if—

"(A) 50 percent or more of the voting stock of the contractor or subcontractor is owned by one or more citizens or nationals of the foreign country;

"(B) the title to 50 percent or more of the stock of the contractor or subcontractor is held subject to trust or fiduciary obligations in favor of one or more citizens or nationals of the foreign country;

"(C) 50 percent or more of the voting stock of the contractor or subcontractor is vested in or exercisable on behalf of one or more citizens or nationals of the foreign country;

"(D) the case of a corporation—

"(i) the number of its directors necessary to constitute a quorum are citizens or nationals of the foreign country; or

"(ii) the corporation is organized under the laws of the foreign country or any subdivision, territory, or possession thereof; or

"(E) in the case of a contractor or subcontractor who is a participant in a joint venture or a member of a partnership, any participant of the joint venture or partner meets any of the criteria in subparagraph (A) through (D) of this paragraph.

"(2)(A) For purposes of this section, except as provided in paragraph (1), a determination of whether a contractor or subcontractor is a citizen or national of a foreign country or is owned or controlled directly or indirectly by citizens or nationals of a foreign country shall be made in accordance with policy guidance prescribed by the Administrator for Federal Procurement Policy after conducting one or more public hearings at which interested parties may present comments. Sections 556 and 557 of title 5, United States Code, shall not apply to the conduct of any such hearing.

"(B) The Administrator shall include in the policy guidance prescribed under subparagraph (A) definitions, procedures, standards, and rules that, to the extent the Administrator considers appropriate and consistent with the applicability of such policy guidance to all services (other than construction services), is the same as or similar to the definitions, procedures, standards, and rules that the Administrator has developed and issued for the administration of section 109 of the Treasury, Postal Service, and General Government Appropriations Act, 1988 (101 Stat. 1329-434).

"(C) The policy guidance required by subparagraph (A) shall be prescribed not later than 180 days after the date of enactment of this subsection.

"(3)(A) The Administrator for Federal Procurement Policy shall conduct an assessment of the current rules under this Act for making determinations of country of origin and alternatives to such rules. Such assessment shall identify and evaluate (i) reasonable alternatives to such rules of origin, including one or more alternative rules that require a determination on the basis of total cost, and (ii) the specific cost factors that should be included in determining total cost.

"(B) In conducting the analysis, the Administrator shall consult and seek comment from representatives of United States labor and business, other interested United States persons, and other Federal agencies. The Administrator shall hold public hearings for the purpose of obtaining such comment, and a transcript of such hearings shall be appended to the report required by subparagraph (C).

"(C) A report on the results of the analysis shall be submitted to the appropriate committees of the House of Representatives and to the Committee on Governmental Affairs and other appropriate committees of the Senate not later than 18 months after the date of enactment of this subsection. Such report shall include proposed policy guidance or any recommended legislative changes on the factors to be used in making determinations of country of origin.

"(h) As used in this section—

"(1) the term 'Agreement' means the Agreement on Government Procurement as defined in section 308(1) of the Trade Agreements Act of 1979;

"(2) the term 'signatory' means a party to the Agreement; and

"(3) the term 'eligible product' has the meaning given such term by section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)).".

SEC. 7003. PROCEDURES TO PREVENT GOVERNMENT PROCUREMENT DISCRIMINATION.

Section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515) is amended by adding at the end thereof the following:

"(d) Annual Report on Foreign Discrimination.—

"(1) Annual report required.—The President shall, no later than April 30, 1990, and annually on April 30 thereafter, submit to the appropriate committees of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, a report on the extent to which foreign countries discriminate against United States products or services in making government procurements.

"(2) Identifications required.—In the annual report, the President shall identify (and continue to identify subject to subsections (f)(5) and (g)(3)) any countries, other than least developed countries, that—

"(A) are signatories to the Agreement and not in compliance with the requirements of the Agreement;

"(B)(i) are signatories to the Agreement; (ii) are in compliance with the Agreement but, in the government procurement of products or services not covered by the Agreement, maintain a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government; or

"(C)(i) are not signatories to the Agreement; (ii) maintain, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government.

"(3) Considerations in making identifications.—In making the identifications required by paragraph (1), the President shall—

"(A) use the requirements of the Agreement, government procurement practices, and the effects of such practices on United States businesses as a basis for evaluating whether the procurement practices of foreign governments do not provide fair market opportunities for United States products or services;

"(B) take into account, among other factors, whether and to what extent countries that are signatories to the Agreement, and other countries described in paragraph (1) of this subsection—

"(i) use sole-sourcing or otherwise noncompetitive procedures for procurements that could have been conducted using competitive procedures;

"(ii) conduct what normally would have been one procurement as two or more procurements, to decrease the anticipated contract values below the Agreement's value threshold or to make the procurements less attractive to United States businesses;

"(iii) announce procurement opportunities with inadequate time intervals for United States businesses to submit bids; and

"(iv) use specifications in such a way as to limit the ability of United States suppliers to participate in procurements; and

"(C) use any other additional criteria deemed appropriate.

"(4) Contents of reports.—The reports required by this subsection shall include, with respect to each country identified under subparagraph (A), (B), or (C) of paragraph (1), the following:

"(A) a description of the specific nature of the discrimination, including (for signatory countries) any provision of the Agreement with which the country is not in compliance;

"(B) an identification of the United States products or services that are affected by the noncompliance or discrimination;

"(C) an analysis of the impact of the noncompliance or discrimination on the commerce of the United States and the ability of

United States companies to compete in foreign government procurement markets; and

“(D) a description of the status, action taken, and disposition of cases of noncompliance or discrimination identified in the preceding annual report with respect to such country.

“(5) INFORMATION AND ADVICE FROM GOVERNMENT AGENCIES AND UNITED STATES BUSINESSES.—In developing the annual reports required by this subsection, the President shall seek information and advice from executive agencies through the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and from United States businesses in the United States and in countries that are signatories to the Agreement and in other foreign countries whose products or services are acquired in significant amounts by the United States Government.

“(6) IMPACT OF NONCOMPLIANCE.—The President shall take into account, in identifying countries in the annual report and in any action required by this section, the relative impact of any noncompliance with the Agreement or of other discrimination on United States commerce and the extent to which such noncompliance or discrimination has impeded the ability of United States suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when seeking to sell goods or services to the United States Government.

“(7) IMPACT ON PROCUREMENT COSTS.—Such report shall also include an analysis of the impact on United States Government procurement costs that may occur as a consequence of any sanctions that may be required by subsection (f) or (g) of this section.

“(e) CONSULTATION.—No later than the date the annual report is submitted under subsection (d)(1), the United States Trade Representative, on behalf of the United States, shall request consultations with any countries identified in the report to obtain their compliance with the Agreement or the elimination of their discriminatory procurement practices unless the country is identified as discriminatory pursuant to section 305(d)(1) in the preceding annual report.

“(f) PROCEDURES WITH RESPECT TO VIOLATIONS OF THE AGREEMENT.—

“(1) INITIATION OF DISPUTE SETTLEMENT PROCEDURES.—If, within 60 days after the annual report is submitted under subsection (d)(1), a signatory country identified pursuant to subsection (d)(1)(A) has not complied with the Agreement, then the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under the Agreement unless such proceedings are already underway pursuant to the identification of the signatory country under section 305(d)(1) as not in compliance in a preceding annual report.

“(2) SETTLEMENT OF DISPUTES.—If, before the end of a year following the initiation of dispute settlement procedures—

“(A) the other participant to the dispute settlement procedures has complied with the Agreement,

“(B) the other participant to the procedures takes the action recommended as a result of the procedures to the satisfaction of the President, or

“(C) the procedures result in a determination requiring no action by the other participant,

the President shall take no action to limit Government procurement from that participant.

“(3) SANCTIONS AFTER FAILURE OF DISPUTE RESOLUTION.—If the dispute settlement procedures initiated pursuant to this subsection with any signatory country to the Agreement are not concluded within one year from their initiation or the country has not met the requirements of paragraph (2)(A) or (2)(B), then—

“(A) from the end of such one year period, such signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country; and

“(B) on the day after the end of such one year period, the President shall revoke the waiver of discriminatory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act.

“(4) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanctions required by subparagraph (A) or (B) of paragraph (3) would harm the public interest of the United States, the President may, to the extent necessary to apply appropriate limitations that are equivalent, in their effect, to the noncompliance with the Agreement by that signatory country—

“(A) withhold the imposition of either (but not both) of such sanctions;

“(B) modify or restrict the application of either or both such sanctions, subject to such terms and conditions as the President considers appropriate; or

“(C) take any combination of the actions permitted by subparagraph (A) or (B) of this paragraph.

“(5) TERMINATION OF SANCTIONS AND REINSTATEMENT OF WAIVERS.—The President may terminate the sanctions imposed under paragraph (3) or (4), reinstate the waiver of discriminatory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act, and remove that country from the report under subsection (d)(1) of this section at such time as the President determines that—

“(A) the signatory country has complied with the Agreement;

“(B) the signatory country has taken corrective action as a result of the dispute settlement procedures to the satisfaction of the President; or

“(C) the dispute settlement procedures result in a determination requiring no action by the other signatory country.

“(g) PROCEDURES WITH RESPECT TO OTHER DISCRIMINATION.—

“(1) IMPOSITION OF SANCTIONS.—If, within 60 days after the annual report is submitted under subsection (d)(1), a country that is identified pursuant to subparagraph (B) or (C) of such subsection has not eliminated their discriminatory procurement practices, then, on the day after the end of such 60-day period—

“(A) the President shall identify such country as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and

“(B) the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country.

“(2) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanction required by paragraph (1) would harm the public interest of the United States, the President may, to the extent necessary to impose appropriate limitations that are equivalent, in their effect, to the discrimination against United States products or services in government procurement by that country, modify or restrict the application of such sanction, subject to such terms and conditions as the President considers appropriate.

“(3) TERMINATION OF SANCTIONS.—The President may terminate the sanctions imposed under paragraph (1) or (2) and remove a country from the report under subsection (d)(1) at such time as the President determines that the country has eliminated the discrimination identified pursuant to subsection (d)(2)(B) or (C).

“(h) LIMITATIONS ON IMPOSING SANCTIONS.—

“(1) AVOIDING ADVERSE IMPACT ON COMPETITION.—The President shall not take any action under subsection (f) or (g) of this section if the President determines that such action—

“(A) would limit the procurement or class of procurements to, or would establish a preference for, the products or services of a single manufacturer or supplier; or

“(B) would, with respect to any procurement or class of procurements, result in an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices.

“(2) ADVICE FROM U.S. AGENCIES AND BUSINESSES.—The President, in taking any action under this subsection to limit government procurements from foreign countries, shall seek the advice of executive agencies through the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 and the advice of United States businesses and other interested parties.

“(i) RENEGOTIATION TO SECURE FULL AND OPEN COMPETITION.—The President shall instruct the United States Trade Representative, in conducting renegotiations of the Agreement, to seek improvements in the Agreement that will secure full and open competition consistent with the requirements imposed by the amendments made by the Competition in Contracting Act (Public Law 98-369; 98 Stat. 1175).

“(j) FEDERAL REGISTER NOTICES OF ACTIONS.—

“(1) NOTICES REQUIRED.—A notice shall be published in the Federal Register on the date of any action under this section, describing—

“(A) the results of dispute settlement proceedings under subsection (f)(2);

“(B) any sanction imposed under subsection (f)(3) or (g)(1);

“(C) any withholding, modification, or restriction of any sanction under subsection (f)(4) or (g)(2); and

“(D) the termination of any sanction under subsection (f)(5) or (g)(3).

“(2) PUBLICATION OF DETERMINATIONS LIFTING SANCTIONS.—A notice describing the termination of any sanction under subsection (f)(5) or (g)(3) shall include a copy of the President’s determination under such subsection.

“(k) GENERAL REPORT ON ACTIONS UNDER THIS SECTION.—

“(1) ADVICE TO THE CONGRESS.—The President shall, as necessary, advise the Congress and, by no later than April 30, 1994, submit to the the appropriate committees of the House of Representatives, and to the Committee on Governmental Affairs and other appropriate committees of the Senate, a general report on actions taken pursuant to this section.

"(2) CONTENTS OF REPORT.—The general report required by this subsection shall include an evaluation of the adequacy and effectiveness of actions taken pursuant to subsections (e), (f), and (g) of this section as a means toward eliminating discriminatory government procurement practices against United States businesses.

"(3) LEGISLATIVE RECOMMENDATIONS.—The general report may also include, if appropriate, legislative recommendations for enhancing the usefulness of this section or for other measures to be used as means for eliminating or responding to discriminatory foreign government procurement practices.".

SEC. 7004. SUNSET PROVISION.

The amendments made by this title shall cease to be effective on April 30, 1996, unless the Congress, after reviewing the report required by section 305(k) of the Trade Agreements Act of 1979, and other relevant information, extends such date. After such date, the President may modify or terminate any or all actions taken pursuant to such amendments.

SEC. 7005. CONFORMING AMENDMENTS.

(a) DEFINITION OF FEDERAL AGENCY.—The first section of the Act of March 3, 1933 (41 U.S.C. 10c), is amended—

(1) by striking out the period at the end of paragraph (b) and inserting a semicolon; and

(2) by adding at the end thereof the following:

"(c) The term 'Federal agency' has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 472), which includes the Departments of the Army, Navy, and Air Force.

(b) AMENDMENTS TO SECTION 2.—Section 2 of such Act (41 U.S.C. 10a) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(c) AMENDMENTS TO SECTION 3.—Section 3 of such Act (41 U.S.C. 10b) is amended—

(1) by striking out "department or independent establishment" in such subsection and inserting "Federal agency"; and

(2) by striking out "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(d) ADDITIONAL CONFORMING AMENDMENTS.—Section 633 of the Act of October 29, 1949 (41 U.S.C. 10d) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(e) SECTION 301 WAIVER AUTHORITY.—Section 301 of the Trade Agreements Act of 1979 is amended by adding at the end thereof the following:

"(d) LIMITATIONS ON WAIVER AUTHORITY NOT EFFECTIVE UNLESS PROVISION AMENDED.—The authority of the President under subsection (a) to waive any laws, regulation, procedure, or practice shall be effective notwithstanding any other provision of law hereafter enacted (excluding the provisions of and amendments made by the Buy American Act of 1988) unless such other provision specifically refers to and amends this section.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment.

TITLE VIII—SMALL BUSINESS

SEC. 8001. SHORT TITLE.

This title may be cited as the "Small Business International Trade and Competitiveness Act".

SEC. 8002. DECLARATION OF POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) through (e) as subsections (c) through (f), respectively, and by inserting after subsection (a) the following:

"(b)(1) It is the declared policy of the Congress that the Federal Government, through the Small Business Administration, acting in cooperation with the Department of Commerce and other relevant State and Federal agencies, should aid and assist small businesses, as defined under this Act, to increase their ability to compete in international markets by—

"(A) enhancing their ability to export;

"(B) facilitating technology transfers;

"(C) enhancing their ability to compete effectively and efficiently against imports;

"(D) increasing the access of small businesses to long-term capital for the purchase of new plant and equipment used in the production of goods and services involved in international trade;

"(E) disseminating information concerning State, Federal, and private programs and initiatives to enhance the ability of small businesses to compete in international markets; and

"(F) ensuring that the interests of small businesses are adequately represented in bilateral and multilateral trade negotiations.

"(2) The Congress recognizes that the Department of Commerce is the principal Federal agency for trade development and export promotion and that the Department of Commerce and the Small Business Administration work together to advance joint interests. It is the purpose of this Act to enhance, not alter, their respective roles.".

SEC. 8003. CHANGES IN EXISTING SMALL BUSINESS ADMINISTRATION INTERNATIONAL TRADE OFFICE.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) The Office, working in close cooperation with the Department of Commerce and other relevant Federal agencies, Small Business Development Centers engaged in export promotion efforts, regional and local Administration offices, the small business community, and relevant state and local export promotion programs, shall—

"(1) assist in developing a distribution network for existing trade promotion, trade finance, trade adjustment, trade remedy assistance and trade data collection programs through use of the Administration's regional and local offices and the Small Business Development Center network;

"(2) assist in the aggressive marketing of these programs and the dissemination of marketing information, including computerized marketing data, to the small business community; and

"(3) give preference in hiring or approving the transfer of any employee into the Office or to a position described in paragraph (8) below to otherwise qualified applicants who are fluent in a language in addition to English. Such employees shall accompany foreign trade missions if designated by the director of the Office and shall be available as needed to translate documents, interpret conversations and facilitate multilingual transactions including providing referral lists for translation services if required.";

(2) in subsection (c), as redesignated, by redesignating paragraphs (1) through (3) as (6) through (8), respectively, and by inserting the following before paragraph (6), as redesignated:

"(1) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for (A) identifying sub-sectors of the small business community with strong export potential; (B) identifying areas of demand in foreign markets; (C) prescreening foreign buyers for commercial and credit purposes; and (D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

"(2) in cooperation with the Department of Commerce, actively assist small businesses in the formation and utilization of export trading companies, export management companies and research and development pools authorized under section 9 of this Act;

"(3) work in conjunction with other Federal agencies, regional and local offices of the Administration, the Small Business Development Center network, and the private sector to identify and publicize existing translation services, including those available through colleges and universities participating in the Small Business Development Center Program;

"(4) work closely with the Department of Commerce and other relevant Federal agencies to—

"(A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of state exports (including the production of Gross State Produce figures) and disseminate that data to the public and to Congress;

"(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the SIC codes to encompass industries currently overlooked and to create SIC codes for export trading companies and export management companies;

"(C) improve the utility and accessibility of existing export promotion programs for small businesses; and

"(D) increase the accessibility of the Export Trading Company contact facilitation service;

"(5) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector."; and

(3) by adding after subsection (c), as redesignated, the following new subsections:

"(d) The Office shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector. To accomplish this goal, the Office shall work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

"(1) aggressively market existing Administration export financing and pre-export financing programs;

"(2) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

"(3) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

"(4) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

"(5) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

"(e) The Office shall—

"(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

"(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

"(f) The Office shall report to the Committees on Small Business of the House of Representatives and the Senate on a annual basis as to its progress in implementing the requirements under this section.

"(g) The Office, in cooperation, where appropriate, with the division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

"(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

"(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

"(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

"(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

"(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.".

SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of fiscal years 1988 and 1989, $3,500,000 to carry out the provisions of section 22 of this Act and section 8011 of the Small Business International Trade and Competitiveness Act, of which $350,000 is authorized to reimburse volunteers in the Service Corps of Retired Executives for their expenses in performing on-site counselling to actual or potential small business exporters, in participating in training sessions for such small businesses, and in preparing materials for use at such training sessions or during counselling.".

SEC. 8005. EXPORT FINANCING PROVIDED BY THE ADMINISTRATION.

Section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

"(14)(A) The Administration under this subsection may provide extensions and revolving lines of credit for export purposes and for pre-export financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.

"(B) When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market.

"(C) The Administration shall aggressively market its export financing program to small businesses.".

SEC. 8006. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) AUTHORIZATION OF APPROPRIATION.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of the fiscal years 1988 and 1989, $5,000,000 to carry out the provisions of section 21(a)(6).".

(b) SBDC INFORMATION DISSEMINATION AND SERVICE DELIVERY.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) in subsection (a)(1), by inserting after "enterprises;" the following: "management and technical assistance regarding small business participation in international markets, export promotion and technology transfer;";

(2) in subsection (a), by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting the following after paragraph (1):

"(2) The Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist—

"(A) with the development and enhancement of exports by small business concerns; and

"(B) in technology transfer,

as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a $15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be $100,000.";

(4) in subsection (c)(3), by striking subparagraph (B) and by inserting the following new subparagraph (B):

"(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

"(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

"(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

"(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;";

(5) in subsection (c)(3), by redesignating subparagraphs (C) through (H) as subparagraphs (H) through (M), respectively, and by inserting the following new subparagraphs after subparagraph (B):

"(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center may work in cooperation with the State to establish a State international trade center for these purposes;

"(D) assisting small businesses in developing and implementing marketing and production strategies that will enable them to better compete within the domestic market;

"(E) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

"(F) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more readily available to small business firms doing business, or attempting to develop business, in foreign markets;

"(G) in providing assistance under this subsection, applicants shall cooperate with *the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;";*

(6) in subsection (c), by adding the following new paragraphs:

"(5) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under paragraph (a)(1) to such center, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

"(6) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the local small business community, and appropriate State and local agencies.

"(7) The Deputy Associate Administrator of the Small Business Development Center program, in consultation with the Small Business Development Centers, shall develop and implement an information sharing system which will—

"(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and

"(B) provide information central to technology transfer."; and

(7) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting the following new subsection after subsection (c):

"(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive plan for enhancing the export potential of small businesses located within the State. This plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performance of small businesses within the State.".

SEC. 8007. CAPITAL FORMATION.

(a) Loan Limitations.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "and" at the end of clause (i) of paragraph (2)(B) and by adding after clause (ii) the following new clauses:

"(iii) not less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and is less than $1,176,470; and

"(iv) less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and exceeds $1,176,470;";

(2) by amending paragraph (3) to read as follows:

"(3) No loan shall be made under this subsection—

"(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed $750,000, except as provided in subparagraph (B);

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,000,000, such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of $250,000; and

"(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed $350,000.";

(3) by adding the following new paragraphs after paragraph (15):

"(16)(A) The Administration may guarantee loans under this paragraph to assist any eligible small business concern in an industry engaged in or adversely affected by international trade in the financing of the acquisition, construction, renovation, modernization, improvement or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade, if the Administration determines that the appropriate upgrading of plant and equipment will allow the concern to improve its competitive position. Each such loan shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan. The lender shall agree to sell the loan in the secondary market as authorized in sections 5(f) and 5(g) of this Act within 180 days of the date of disbursement.

"(B) A small business concern shall be considered to be engaged in or adversely affected by international trade for purposes of this provision if such concern is, as determined by the Administration in accordance with regulations that it shall develop—

"(i) in a position to significantly expand existing export markets or develop new export markets; or

"(ii) adversely affected by import competition in that it is—

"(I) confronting increased direct competition with foreign firms in the relevant market; and

"(II) can demonstrate injury attributable to such competition.

"(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection."; and

(4) by redesignating the existing paragraph (16) as paragraph (18).

(b) Development Company Limits.—Section 502(2) of the Small Business Investment Act of 1985 (15 U.S.C. 636(a)(3)) is amended by striking "$500,000" and by inserting in lieu thereof "$750,000".

(c) Report.—The Administrator of the Small Business Administration shall report to the Committees on Small Business of the House of Representatives and the Senate within 6 months after the date of enactment of this title as to the viability of creating cooperative Federal-State guarantee programs, particularly for purposes of export financing, to encourage States to coinsure Federal loans, thus permitting the Federal Government to reduce its exposure.

SEC. 8008. SMALL BUSINESS INNOVATION RESEARCH.

Section 6 of Public Law 97-219, as amended by Public Law 99-443, is further amended by adding the following at the end of subsection (a): "The report also shall include the Comptroller General's recommendations as to the advisability of amending the Small Business Innovation Research program to—

"(1) increase each agency's share of research and development expenditures devoted to it by 0.25 per centum per year, until it is 3 per centum of the total extramural research and development funds, and targeting a portion of the increment at products with commercialization or export potential;

"(2) make the Small Business Innovation Research program permanent with a formal congressional review every 10 years, beginning in 1993;

"(3) allocate a modest but appropriate share of each agency's Small Business Innovation Research fund for administrative purposes for effective management, quality maintenance, and the elimination of program delays; and

"(4) include within the Small Business Innovation and Research program all agencies expending between $20,000,000 and $100,000,000 in extramural research and development funds annually.".

SEC. 8009. GLOBALIZATION OF PRODUCTION.

Within one year after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit a written report to the Committees on Small Business of the House of Representatives and the Senate, prepared by the Administration in conjunction with the Bureau of Census and in cooperation with other relevant agencies, that would—

(1) analyze to the extent possible the effect of increased outsourcing and other shifts in production arrangements on small firms, particularly manufacturing firms, within the United States subcontractor tier and to the extent that such data is not available determine methods by which such data may be collected;

(2) assess the impact of specific economic policies, including, but not limited to, procurement, tax and trade policies, in facilitating outsourcing and other international production arrangements; and

(3) make recommendations as to changes in government policy that would improve the competitive position of smaller United States subcontractors, including recommendations as to incentives which could be provided to larger corporations to maximize their use of United States subcontractors and assist these subcontractors in changing production and marketing strategies and in obtaining new business in domestic and foreign markets.

SEC. 8010. SMALL BUSINESS TRADE REMEDY ASSISTANCE.

Not later than December 1, 1988, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Governmental Affairs and the Committee on Small Business of the Senate, as well as to other appropriate committees of the Senate, and to the Committee on Small Business and the Committee on Ways and Means of the House of Representatives on the costs incurred by small businesses in pursuing rights and remedies under the trade laws. Such report shall include an analysis of—

(1) the costs incurred by small businesses (and trade associations whose membership is primarily small business) in pursuing investigations under the trade remedy laws, including—

(A) antidumping investigations and proceedings under title VII of the Tariff Act of 1930;

(B) countervailing duty investigations and proceedings under section 303 or title VII of the Tariff Act of 1930;

(C) unfair trade practice investigations under section 337 of the Tariff Act of 1930;

(D) investigations under chapter 1 of title III of the Tariff Act of 1974;

(E) import relief investigations under chapter 1 of title II of the Trade Act of 1974;

(F) market disruption investigations under section 406 of the Trade Act of 1974; and

(G) national security relief investigations under section 232 of the Trade Expansion Act of 1962;

(2) the extent of assistance and information provided by the Trade Remedy Assistance Office of the United States International Trade Commission;

(3) the ability of small businesses to generate the information and resources needed for such investigations; and

(4) the costs and benefits to the Federal Government of either—

(A) providing reimbursement to small businesses for legal expenses incurred in pursuing trade remedies; or

(B) providing direct legal assistance to small businesses.

SEC. 8011. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) SEMINAR.—The Administration shall conduct a National Seminar on Small Business Exports within one year following enactment of this Act in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences.

(b) ASSISTANCE BY EXPERTS.—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) RECOMMENDATIONS CONCERNING UTILITY OF INTERNATIONAL CONFERENCE.—The Seminar shall specifically consider the utility of, and make recommendations regarding, a subsequent International Conference on Small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enable United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT.

SEC. 8012. TRADE NEGOTIATIONS.

It is the sense of the Congress that the interests of the small business community have not been adequately represented in trade policy formulation and in trade negotiations. Therefore, it is the sense of the Congress that the Administrator of the Small Business Administration should be appointed as a member of the Trade Policy Committee and that the United States Trade Representative should consult with the Small Business Administration and its Office of Advocacy in trade policy formulation and in trade negotiations.

Further, it is the sense of the Congress that the United States Trade Representative would better serve the needs of the small business community with full-time staff assistance with responsibilities for small business trade issues.

Further, it is the sense of the Congress that the United States Trade Representative should appoint a special trade assistant for small business.

SEC. 8013. PROMULGATION OF REGULATIONS.

Notwithstanding any law, rule, or regulation, the Small Business Administration shall promulgate final regulations to carry out the provisions of this title within six months after the date of enactment of this title.

SEC. 8014. EFFECTIVE DATE.

This title shall become effective on the date of its enactment.

TITLE IX—PATENTS

Subtitle A—PROCESS PATENTS

SEC. 9001. SHORT TITLE.

This subtitle may be cited as the "Process Patent Amendments Act of 1988".

SEC. 9002. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 of title 35, United States Code, is amended by inserting after "United States" the following: "and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the United States, products made by that process,".

SEC. 9003. INFRINGEMENT FOR IMPORTATION, USE, OR SALE.

Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the noncommercial use or retail sale of a product unless there is no adequate remedy under this title for infringement on account of the importation or other use or sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

"(1) it is materially changed by subsequent processes; or

"(2) it becomes a trivial and nonessential component of another product.".

SEC. 9004. DAMAGES FOR INFRINGEMENT.

(a) LIMITATIONS AND OTHER REMEDIES.—Section 287 of title 35, United States Code, is amended—

(1) in the section heading by striking "Limitation on damages" *and inserting* "Limitation on damages and other remedies"*;*

(2) by inserting "(a)" before "Patentees"; and

(3) by adding at the end the following:

"(b)(1) An infringer under section 271(g) shall be subject to all the provisions of this title relating to damages and injunctions except to the extent those remedies are modified by this subsection or section 9006 of the Process Patent Amendments Act of 1988. The modifications of remedies provided in this subsection shall not be available to any person who—

"(A) practiced the patented process;

"(B) owns or controls, or is owned or controlled by, the person who practiced the patented process; or

"(C) had knowledge before the infringement that a patented process was used to make the product the importation, use, or sale of which constitutes the infringement.

"(2) No remedies for infringement under section 271(g) of this title shall be available with respect to any product in the possession of, or in transit to, the person subject to liability under such section before that person had notice of infringement with respect to that product. The person subject to liability shall bear the burden of proving any such possession or transit.

"(3)(A) In making a determination with respect to the remedy in an action brought for infringement under section 271(g), the court shall consider—

"(i) the good faith demonstrated by the defendant with respect to a request for disclosure,

"(ii) the good faith demonstrated by the plaintiff with respect to a request for disclosure, and

"(iii) the need to restore the exclusive rights secured by the patent.

"(B) For purposes of subparagraph (A), the following are evidence of good faith:

"(i) a request for disclosure made by the defendant;

"(ii) a response within a reasonable time by the person receiving the request for disclosure; and

"(iii) the submission of the response by the defendant to the manufacturer, or if the manufacturer is not known, to the supplier, of the product to be purchased by the defendant, together with a request for a written statement that the process claimed in any patent disclosed in the response is not used to produce such product.

The failure to perform any acts described in the preceding sentence is evidence of absence of good faith unless there are mitigating circumstances. Mitigating circumstances include the case in which, due to the nature of the product, the number of sources for the product, or like commercial circumstances, a request for disclosure is not necessary or practicable to avoid infringement.

"(4)(A) For purposes of this subsection, a 'request for disclosure' means a written request made to a person then engaged in the manufacture of a product to identify all process patents owned by or licensed to that person, as of the time of the request, that the person then reasonably believes could be asserted to be infringed under section 271(g) if that product were imported into, or sold or used in, the United States by an unauthorized person. A request for disclosure is further limited to a request—

"(i) which is made by a person regularly engaged in the United States in the sale of the same type of products as those manufactured by the person to whom the request is directed, or which includes facts showing that the person making the request plans to engage in the sale of such products in the United States;

"(ii) which is made by such person before the person's first importation, use, or sale of units of the product produced by an infringing process and before the person had notice of infringement with respect to the product; and

"(iii) which includes a representation by the person making the request that such person will promptly submit the patents identified pursuant to the request to the manufacturer, or if the manufacturer is not known, to the supplier, of the product to be purchased by the person making the request, and will request from that manufacturer or supplier a written statement that none of the processes claimed in those patents is used in the manufacture of the product.

"(B) In the case of a request for disclosure received by a person to whom a patent is licensed, that person shall either identify the

patent or promptly notify the licensor of the request for disclosure.

"(C) A person who has marked, in the manner prescribed by subsection (a), the number of the process patent on all products made by the patented process which have been sold by that person in the United States before a request for disclosure is received is not required to respond to the request for disclosure. For purposes of the preceding sentence, the term 'all products' does not include products made before the effective date of the Process Patent Amendments Act of 1988.

"(5)(A) For purposes of this subsection, notice of infringement means actual knowledge, or receipt by a person of a written notification, or a combination thereof, of information sufficient to persuade a reasonable person that it is likely that a product was made by a process patented in the United States.

"(B) A written notification from the patent holder charging a person with infringement shall specify the patented process alleged to have been used and the reasons for a good faith belief that such process was used. The patent holder shall include in the notification such information as is reasonably necessary to explain fairly the patent holder's belief, except that the patent holder is not required to disclose any trade secret information.

"(C) A person who receives a written notification described in subparagraph (B) or a written response to a request for disclosure described in paragraph (4) shall be deemed to have notice of infringement with respect to any patent referred to in such written notification or response unless that person, absent mitigating circumstances—

"(i) promptly transmits the written notification or response to the manufacturer or, if the manufacturer is not known, to the supplier, of the product purchased or to be purchased by that person; and

"(ii) receives a written statement from the manufacturer or supplier which on its face sets forth a well grounded factual basis for a belief that the identified patents are not infringed.

"(D) For purposes of this subsection, a person who obtains a product made by a process patented in the United States in a quantity which is abnormally large in relation to the volume of business of such person or an efficient inventory level shall be rebuttably presumed to have actual knowledge that the product was made by such patented process.

"(6) A person who receives a response to a request for disclosure under this subsection shall pay to the person to whom the request was made a reasonable fee to cover actual costs incurred in complying with the request, which may not exceed the cost of a commercially available automated patent search of the matter involved, but in no case more than $500.".

(b) TECHNICAL AMENDMENT.—The item relating to section 287 of title 35, United States Code, in the table of sections for chapter 29 of such title is amended to read as follows:

"287. Limitation on damages and other remedies; marking and notice.".

SEC. 9005. PRESUMPTION IN CERTAIN INFRINGEMENT ACTIONS.

(a) PRESUMPTION THAT PRODUCT MADE BY PATENTED PROCESS.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

"§295. Presumption: Product made by patented process

"In actions alleging infringement of a process patent based on the importation, sale, or use of a product which is made from a process patented in the United States, if the court finds—

"(1) that a substantial likelihood exists that the product was made by the patented process, and

"(2) that the plaintiff has made a reasonable effort to determine the process actually used in the production of the product and was unable so to determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 294 the following:

"295. Presumption: Product made by patented process.".

SEC. 9006. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle take effect 6 months after the date of enactment of this Act and, subject to subsections (b) and (c), shall apply only with respect to products made or imported after the effective date of the amendments made by this subtitle.

(b) EXCEPTIONS.—The amendments made by this subtitle shall not abridge or affect the right of any person or any successor in business of such person to continue to use, sell, or import any specific product already in substantial and continuous sale or use by such person in the United States on January 1, 1988, or for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date. This subsection shall not apply to any person or any successor in business of such person using, selling, or importing a product produced by a patented process that is the subject of a process patent enforcement action commenced before January 1, 1987, before the International Trade Commission, that is pending or in which an order has been entered.

(c) RETENTION OF OTHER REMEDIES.—The amendments made by this subtitle shall not deprive a patent owner of any remedies available under subsections (a) through (f) of section 271 of title 35, United States Code, under section 337 of the Tariff Act of 1930, or under any other provision of law.

SEC. 9007. REPORTS TO CONGRESS.

(a) CONTENTS.—The Secretary of Commerce shall, not later than the end of each 1-year period described in subsection (b), report to the Congress on the effect of the amendments made by this subtitle on those domestic industries that submit complaints to the Department of Commerce, during that 1-year period, alleging that their legitimate sources of supply have been adversely affected by the amendments made by this subtitle.

(b) WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five 1-year periods which occur successively beginning on the effective date of the amendments made by this subtitle and ending five years after that effective date.

Subtitle B—FOREIGN FILING

SEC. 9101. INCREASED EFFECTIVENESS OF PATENT LAW.

(a) SHORT TITLE.—This section may be cited as the "Patent Law Foreign Filing Amendments Act of 1988".

(b) FILING OF APPLICATIONS IN FOREIGN COUNTRIES.—(1) Section 184 of title 35, United States Code, is amended—

(A) in the third sentence by—

(i) striking out "inadvertently"; and

(ii) inserting "through error and without deceptive intent" after "filed abroad"; and

(B) by adding at the end thereof the following new paragraph:

"The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.".

(2) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: ", unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.".

(3) Section 186 of title 35, United States Code, is amended by inserting "willfully" after "whoever", the second place it appears.

(c) REGULATIONS.—The Commissioner of Patents and Trademarks shall prescribe such regulations as may be necessary to implement the amendments made by this section.

(d) EFFECTIVE DATE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the amendments made by this section shall apply to all United States patents granted before, on, or after the date of enactment of this section, to all applications for United States patents pending on or filed after such date of enactment, and to all licenses under section 184 granted before, on, or after the date of enactment of this section.

(2) The amendments made by this section shall not affect any final decision made by a court or the Patent and Trademark Office before the date of enactment of this section with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(3) No United States patent granted before the date of enactment of this section shall abridge or affect the right of any person or his successors in business who made, purchased, or used, prior to such date of enactment, anything protected by the patent, to continue the use of, or to sell to others to be

used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by this section and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this section, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment of this section, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before such date of enactment.

(4) The amendments made by this section shall not affect the right of any party in any case pending in court on the date of enactment of this section to have its rights or liabilities—

(A) under any patent before the court, or

(B) under any patent granted after such date of enactment which is related to the patent before the court by deriving priority rights under section 120 or 121 of title 35, United States Code, from a patent or an application for patent common to both patents,

determined on the basis of the substantive law in effect before the date of enactment of this section.

Subtitle C—PATENT TERM EXTENSION

SEC. 9201. PATENT TERM EXTENSION.

(a) GENERAL RULE.—Except as provided in subsection (b), the term of United States Patent number 3,674,836 issued for the drug Lopid shall be extended in accordance with section 9202 for 3 years and 6 months from the date of its expiration.

(b) CONDITIONS.—

(1) No extension of the term of the patent described in subsection (a) may be made unless there has been submitted for the drug Lopid a supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug.

(2) If the Secretary of Health and Human Services makes a final determination, after the date of the enactment of this Act, disapproving the first supplemental new drug application submitted under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug Lopid—

(A) no extension shall be granted for the term of the patent under subsection (a) if the final determination of disapproval is issued before the date the term of the patent is extended under subsection (a), and

(B) if an extension has been granted under subsection (a) before the final determination of disapproval is issued, the extension shall be terminated as of the date of such disapproval.

The Secretary shall promptly notify the Commissioner of Patents and Trademarks of such a disapproval.

SEC. 9202. PROCEDURE.

(a) NOTICE.—To receive the patent term extension under section 9201(a), the owner of record of the patent shall notify the Commissioner of Patents and Trademarks before January 4, 1989, of the identity of the supplemental new drug application required under section 9201(b)(1).

(b) EXTENSION.—On receipt of the notice under subsection (a), the Commissioner shall, in accordance with section 9201, promptly issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension and indicating that such extension is limited to the subject matter of claim 1 (insofar as claim 1 is needed to cover the compound described in claim 6 and additionally insofar as claim 1 is needed to cover the pharmaceutically acceptable salts of the compound described in claim 6) and claim 6 of the patent. Such certificate shall be recorded in the official file of the patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office. If the extension of the term of the patent is to be terminated under section 9201(b), the Commissioner shall promptly issue a certificate of termination of extension, under seal, stating the fact that the patent term extension is terminated, effective on the date of the final determination that the supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act was disapproved. Such certificate shall be recorded in the official file of the patent and such certificate shall be considered as a part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—FOREIGN SHIPPING PRACTICES

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the "Foreign Shipping Practices Act of 1988".

SEC. 10002. FOREIGN LAWS AND PRACTICES.

(a) DEFINITIONS.—For purposes of this section—

(1) "common carrier", "marine terminal operator", "non-vessel-operating common carrier", "ocean common carrier", "person", "shipper", "shippers' association", and "United States" have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702);

(2) "foreign carrier" means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(3) "maritime services" means port-to-port carriage of cargo by the vessels operated by ocean common carriers;

(4) "maritime-related services" means intermodal operations, terminal operations, cargo solicitation, fowarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

(5) "United States carrier" means an ocean common carrier which operates vessels documented under the laws of the United States; and

(6) "United States oceanborne trade" means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier.

(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that—

(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

(c) INVESTIGATIONS.—(1) Investigations under subsection (b) of this section may be initiated by the Commission on its own motion or on the petition of any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States.

(a) The Commission shall complete any such investigation and render a decision within 120 days after it is initiated, except that the Commission may extend such 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (b) of this section exists. Any notice providing such an extension shall clearly state the reasons for such extension.

(d) INFORMATION REQUESTS.—(1) In order to further the purposes of subsection (b) of this section, the Commission may, by order, require any person (including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate. The Commission may require that the response to any such order shall be made under oath. Such response shall be furnished in the form and within the time prescribed by the Commission.

(2) In an investigation under subsection (b) of this section, the Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence.

(3) Notwithstanding any other provision of law, the Commission may, in its discretion, determine that any information submitted to it in response to a request under this subsection, or otherwise, shall not be disclosed to the public.

(e) ACTION AGAINST FOREIGN CARRIERS.—(1) Whenever, after notice and opportunity for comment or hearing, the Commission determines that the conditions specified in subsection (b) of this section exist, the commission shall take each action as it considers necessary and appropriate against any foreign carrier that is a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions. Such action may include—

(A) limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(B) suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States trades of which it is a member for such period as the Commission specifies;

(C) suspension, in whole or in part, of the right of an ocean common carrier to operate

under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and

(D) a fee, not to exceed $1,000,000 per voyage.

(2) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this subsection.

(3) Before a determination under this subsection becomes effective or a request is made under subsection (f) of this section, the determination shall be submitted immediately to the President who may, within 10 days after receiving such determination, disapprove the determination in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(f) ACTIONS UPON REQUEST OF THE COMMISSION.—Whenever the conditions specified in subsection (b) of this section are found by the Commission to exist, upon the request of the Commission—

(1) the collector of customs at any port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section; and

(2) the Secretary of the department in which the Coast Guard is operating shall deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section to any port or place in the United States or the navigable waters of the United States, or shall detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States.

(g) REPORT.—The Commission shall include in its annual report to Congress—

(1) a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

(2) an analysis of conditions described in subsection (b) of this section being investigated or found to exist in foreign countries;

(3) any actions being taken by the Commission to offset such conditions;

(4) any recommendations for additional legislation to offset such conditions; and

(5) a list of petitions filed under subsection (c) of this section that the Commission rejected, and the reasons for each such rejection.

(h) The actions against foreign carriers authorized in subsections (e) and (f) of this section may be used in the administration and enforcement of section 13(b)(5) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(5)) or section 19(1)(b) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876).

(i) Any rule, regulation or final order of the Commission issued under this section shall be reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28, United States Code.

SEC. 10003. MOBILE TRADE FAIRS.

(a) Section 212(B)(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122b(c)), is amended to read as follows:

"(c) In addition to any amounts appropriated to carry out trade promotion activities, the President may use foreign currencies owned by or owed to the United States to carry out this section.".

(b) For one year after the date of enactment of this Act, a vessel that is undergoing repair or retrofitting for use solely for mobile trade fair purposes is deemed to be out of commission under section 3302(e) of title 46, United States Code, during the repair or retrofitting.

Subtitle B—INTERNATIONAL AIR TRANSPORTATION

SEC. 10011. MAXIMUM PERIOD FOR TAKING ACTION WITH RESPECT TO COMPLAINTS.

Section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)(2)) is amended—

(1) in the third sentence by striking out "but in no event may" and all that follows through "180 days" and inserting in lieu thereof "but the aggregate period for taking action under this subsection may not exceed 90 days"; and

(2) by inserting after the third sentence the following new sentence; "However, if on the last day of such 90-day period, the Secretary finds that—

"(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

"(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

"(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.".

SEC. 10012. VIEWS OF THE DEPARTMENT OF COMMERCE AND OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)) is amended—

(1) by redesignating paragraph (3), and any references thereto, as paragraph (4);

(2) by striking out the last sentence of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) In considering any complaint, or in any proceedings under its own initiative, under this subsection, the Secretary shall—

"(A) solicit the views of the Department of State, the Department of Commerce, and the Office of the United States Trade Representative; and

"(B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and agrument as is consistent with acting on the complaint within the time limits set forth in this subsection."

SEC. 10013. REPORTING ON ACTIONS TAKEN WITH RESPECT TO COMPLAINTS.

Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b) is amended by adding at the end thereof the following new subsection:

"(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to the complaint.".

And the Senate agree to the same.

From the Committee on Ways and Means, for consideration of titles I, II, VIII, and XV and sections 704 and 906 of the House bill, and titles I, II, III (except sections 308 and 310), IV (except sections 412 through 415), V through VIII, IX (except sections 963, 967 through 972, 974, 975, and 977) of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
THOMAS J. DOWNEY,
DON J. PEASE,
MARTY RUSSO,
FRANK GUARINI,
ROBERT T. MATSUI,
JOHN J. DUNCAN,
BILL ARCHER,
GUY VANDER JAGT,

From the Committee on Ways and Means, for consideration of sections 321, 323, 363, 907 through 909 of the House bill, and title XXXVII and sections 308, 310, 412, 977, 2002, and 3871 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
THOMAS J. DOWNEY,
DON J. PEASE,
MARTY RUSSO,
RICHARD T. SCHULZE,

From the Committee on Ways and Means, for consideration of sections 613, 626, 627, 671 through 675, 681, 682, 691, and 692 of the House bill, and sections 974, 975, 2112, 2128, 2171, 2173 through 2175, 2191, 2193, and 2194 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
DON J. PEASE,
MARTY RUSSO,
ROBERT T. MATSUI,
WM. THOMAS,

From the Committee on Ways and Means, for consideration of sections 605 through 607, 611, and 663 of the House bill, and sections 2113, 2114, and 2136 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
ROBERT T. MATSUI,
WM. THOMAS,

From the Committee on Ways and Means, for consideration of title X of the House bill, and section 3911 of the Senate amendment, and modifications committed to conference:

SAM M. GIBBONS,
FRANK GUARINI,

From the Committee on Ways and Means, for consideration of sections 351, 901, and 902 of the House bill, and sections 968 through 972, 1030 through 1033, and 3811 through 3824 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
THOMAS J. DOWNEY,
BILL ARCHER,
RICHARD T. SCHULZE,

From the Committee on Agriculture, for consideration of title VI and sections 318 through 321 of the House bill, and title XXI (except sections 2178 through 2180A and 2185 through 2187) and sections 601, 602, 604, 605, 974, 975, and 4706 of the Senate amendment, and modifications committed to conference:

K. de la Garza,
George E. Brown, Jr.,
Leon E. Panetta,
Dan Glickman,
Charlie Stenholm,
Harold L. Volkmer,
Pat Roberts,
Sid Morrison,
Steve Gunderson,
Fred Grandy,

From the Committee on Agriculture, for consideration of section 308 of the Senate amendment, and modifications committed to conference:

K. de la Garza,
George E. Brown, Jr.,
Dan Glickman,
Pat Roberts,
Sid Morrison,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 126 (insofar as it would add new sections 311(g) (1) and (2) to the Trade Act of 1974), sections 401 through 427, and 431 through 452 of the House bill, and titles XIII and XVII and sections 108, 2008, 2012, and 2178 through 2180A of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Robert Garcia,
John J. LaFalce
Charles E. Schumer,
Bruce A. Morrison,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 322 of the House bill, and section 1106 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
Robert Garica,
Bruce Vento,
Charles E. Schumer,
Bruce A. Morrison
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, from consideration of sections 341 and 344 of the House bill, and modifications committed to conference:

Walter E. Fauntroy,
Mary Rose Oakar,
Robert Garcia,
John J. LaFalce,
Charles E. Schumer,
Bruce A. Morrison
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 428 of the House bill, and section 1506 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
Bruce Vento,
Doug Barnard, Jr.,
Charles E. Schumer,
Bruce A. Morrison,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 461 through 471 of the House bill, and sections 3801 through 3809 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Robert Garcia,
Mary Rose Oakar,
John J. LaFalce,
Bruce F. Vento,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 476 and 477 of the House bill, and sections 1101 through 1103 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Mary Rose Oakar,
Robert Garcia,
John J. LaFalce
Bruce Vento,
Doug Bereuter,
Toby Roth,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 907 of the House bill, modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Mary Rose Oakar,
Robert Garcia,
Bruce Vento,
Charles E. Schumer,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 911 of the House bill, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
John J. LaFalce,
Bruce Vento,
Charles E. Schumer,
Bruce A. Morrison,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 959 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Mary Rose Oakar,
Robert Garcia,
Charles E. Schumer,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1026 and 1027 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
John J. LaFalce,
Bruce Vento,
Charles E. Schumer,
Bruce A. Morrison,
Doug Bereuter,
Toby Roth,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1501 through 1504 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
Bruce Vento,
Doug Barnard, Jr.,
Charles E. Schumer,
Bruce A. Morrison,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1805 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Robert Garcia,
Bruce Vento,
Charles E. Schumer,
Bruce A. Morrison,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title XIX and section 2001 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Robert Garcia,
John J. LaFalce,
Bruce Vento,
Charles E. Schumer,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 313 of the House bill, and sections 1201 and 1203 of the Senate amendment, and modifications committed to conference:

Walter E. Fauntroy,
Robert Garcia,
Bruce A. Morrison,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 326 of the House bill, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
Robert Garcia,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 345 of the House bill, and modifications committed to conference:

Mary Rose Oakar,
John J. LaFalce,
Bruce Vento,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 664 of the House bill, and sections 1801, 3903, and 3906 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Robert Garcia,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 702 of the House bill, and modifications committed to conference:

Fernand J. St Germain,
Walter E. Fauntroy,
Mary Rose Oakar,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 902, 905, and 912 of the House bill, and title XIV and sections 3811 through 3824, 3861 through 3867, and 4501 of the Senate amendment, and modifications committed to conference:

Mary Rose Oakar,
John J. LaFalce,
Bruce Vento,
J. Alex McMillan,
Toby Roth,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1303 of the House bill, and modifications committed to conference:

Mary Rose Oakar,
Walter E. Fauntroy,
Robert Garcia,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1105 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
Robert Garcia,
Doug Bereuter,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1505 of the Senate amendment, and modifications committed to conference:

Fernand J. St Germain,
Mary Rose Oakar,
Bruce F. Vento,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 3854 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
BRUCE F. VENTO,

From the Committee on Foreign Affairs, for consideration of title III (except sections 322, 326, and 351) and sections 451, 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653, 663, 701, 903, 907, and 912 of the House bill, and titles X (except sections 1030 through 1033), XII, XVI, XVIII (except section 1801), XX (except sections 2001 and 2008), and XLVII and sections 311, 413 through 415, 958, 963 through 972, 977, 1104, 1304, 1504, 2111, 2113 through 2127, 2129, 2132 through 2136, 2138, 2139A through 2166, 2180B through 2182, 2184, 2192, 3851, 3871, 4501, and 4901 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
DON BONKER,
DAN MICA,
HOWARD L. BERMAN
(except for section 331 of the House bill, and section 1020 of the Senate amendment),
MEL LEVINE
(except for sections 301 through 321, 323 through 325, 345, 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653, 663, and 912 of the House bill, and sections 311, 958, 968 through 972, 1802 through 1805, 1807 through 1809, 2002 through 2007, 2009 through 2012, 2111, 2113 through 2127, 2129, 2132 through 2136, 2138, 2139A through 2166, 2180B through 2182, 2192, 4501, and 4901, and titles XII and XLVII of the Senate amendment),
JAMES H. BILBRAY
(except for section 331 of the House bill, and section 1020 of the Senate amendment),
TOBY ROTH,
DOUGLAS BEREUTER,
JOHN MILLER
(except for section 331 of the House bill, and section 1020 and title XLVII of the Senate amendment),

From the Committee on Foreign Affairs, for consideration of section 331 of the House bill, and section 1020 of the Senate amendment:

HOWARD WOLPE,

From the Committee on Foreign Affairs, for consideration of section 325 of the House bill, and title XLVII and sections 311, 958, 968 through 972, 2002 through 2007, 2009 through 2012, and 4901 of the Senate amendment:

STEPHEN J. SOLARZ,

From the Committee on Foreign Affairs, for consideration of sections 318 through 321, 345, 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653, 663, and 912 of the House bill, and sections 2111, 2113 through 2127, 2129, 2132 through 2136, 2138, 2139A through 2166, 2180B through 2182, 2192, and 4501 of the Senate amendment:

SAM GEJDENSON,

From the Committee on Foreign Affairs, for consideration of title XLVII of the Senate amendment:

BENJAMIN A. GILMAN,

From the Committee on Foreign Affairs, for consideration of sections 322, 326, 351, 461 through 471, 664, 702, 703, 901, 902, 905, 1303 through 1306, and 1310 of the House bill, and title XIV and sections 308, 412, 1105, 1505, 1801, 3801 through 3824, 3854, 3902 through 3907, 3910, and 3912 of the Senate amendment, and modifications committed to conference:

DON BONKER,
DAN MICA
(except for sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment),
HOWARD L. BERMAN
(except for section 664 of the House bill, and sections 308 and 2178 through 2180A of the Senate amendment),
DOUG BEREUTER
(except for sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment),

From the Committee on Foreign Affairs, for consideration of section 664 of the House bill, and sections 308 and 2178 through 2180A of the Senate amendment:

SAM GEJDENSON,

From the Committee on Foreign Affairs, for consideration of sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment:

JAMES H. BILBRAY,
BILL BROOMFIELD,

From the Committee on Foreign Affairs, for consideration of sections 1030 through 1033 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
DON BONKER,
DAN MICA,
WM. BROOMFIELD,
TOBY ROTH,

From the Committee on Energy and Commerce, for consideration of title II and section 703 of the House bill, and sections 901 through 913 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
MIKE SYNAR,
D.E. ECKART,
JIM SLATTERY,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATT RINALDO,
DON RITTER,

From the Committee on Energy and Commerce, for consideration of sections 104, 181, 183, 324, 701, 903, 904, 906, and 909 of the House bill, and title XVI and sections 1503, 1802, and 3851 through 3853 of the Senate amendment, and modifications committed to conference; for consideration of sections 121 and 124 of the House bill, and sections 306 and 307 of the Senate amendment, and modifications committed to conference, except for those matters relating to suspension, withdrawal, or prevention of trade agreement concessions or to imposition of duties or other import restrictions on goods; and for consideration of section 201 of the Senate amendment (insofar as it would add new sections 204(d)(1)(B)(ii) and 204(d)(2)(B) through (E) to the Trade Act of 1974), and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
JOHN BRYANT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATT RINALDO,

From the Committee on Energy and Commerce, for the consideration of section 198 of the House bill, and sections 2185 through 2188 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
JOHN BRYANT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
DAN COATS,

From the Committee on Energy and Commerce, for the consideration of sections 908, 910, and 911 of the House bill, and section 310 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
JOHN BRYANT,
NORMAN F. LENT,
MATT RINALDO,
DON RITTER,

From the Committee on Energy and Commerce, for consideration of sections 311 through 316, 345, 461 through 471, 901, 902, 905, 907, and 912 of the House bill, and titles XII (except section 1207) and XIV and sections 968 through 972, 1801, 1802, 3801 through 3824, and 4501 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
NORMAN F. LENT,
(except for sections 461–471 of the House bill and sections 3801–3809 of the Senate amendment),

From the Committee on Energy and Commerce, for consideration of section 331 of the House bill, and modifications committed to conference:

John D. Dingell,
James J. Florio,
Norman F. Lent,

From the Committee on Energy and Commerce, for consideration of section 702 of the House bill, and sections 1505 and 3854 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
James J. Florio,
Edward J. Markey,
Norman F. Lent,
Matt Rinaldo,

From the Committee on Energy and Commerce, for consideration of sections 3861 through 3867 of the Senate amendment, and modifications committed to conference:

John D. Dingell,
James J. Florio,
Edward J. Markey,
Norman F. Lent,
Don Ritter,

From the Committee on Education and Labor, for consideration of title V (except subtitle B) of the House bill, and titles XXIII through XXXII of the Senate amendment, and modifications committed to conference:

Augustus F. Hawkins,
William D. Ford,
Dale E. Kildee,
Pat Williams,
Jim Jeffords,
Bill Goodling,
Tom Coleman,

From the Committee on Education and Labor, for consideration of subtitle B of title V of the House bill, and title XXII of the Senate amendment (except the portion of section 2202 that would add new part B to title III of the Job Training Partnership Act), and modifications committed to conference:

Augustus F. Hawkins,
William D. Ford,
Joseph M. Gaydos,
W.L. Clay,
Matthew G. Martinez,
Jim Jeffords,
Marge Roukema,
Steve Gunderson,

From the Committee on Education and Labor, for consideration of section 2202 of the Senate amendment (insofar as it would add new part B to title III of the Job Training Partnership Act), and modifications committed to conference:

Augustus F. Hawkins,
William D. Ford,
Joseph M. Gaydos,
W.L. Clay,
Matthew G. Martinez,
Austin J. Murphy,
Jim Jeffords,

From the Committee on Education and Labor, for consideration of section 904 of the House bill, and modifications committed to conference:

Augustus F. Hawkins,
William D. Ford,
Joseph M. Gaydos,
Jim Jeffords,
Bill Goodling,

From the Committee on the Judiciary, for consideration of title XIV and sections 166, and 171 through 173 of the House bill, and titles XXXIII through XXXVI and sections 201 (insofar as it would add new section 203(f) to the Trade Act of 1974), 401, 415, 416, 1107, 1806, 1908, and 1910 of the Senate amendment, and modifications committed to conference:

Peter W. Rodino, Jr.,
Bob Kastenmeier,
Don Edwards,
William J. Hughes,
Pat Schroeder,
Geo. W. Crockett, Jr.,
Hamilton Fish, Jr.,
Carlos J. Moorhead,
Henry J. Hyde,
Daniel E. Lungren,

From the Committee on the Judiciary, for consideration of sections 872 and 873 of the House bill, and modifications committed to conference:

Peter W. Rodino, Jr.,
Bob Kastenmeier,
Don Edwards,
William J. Hughes,
Pat Schroeder,
Geo. W. Crockett, Jr.,
Bill McCollum,
Daniel E. Lungren,
Hamilton Fish, Jr.,
Carlos J. Moorhead,

From the Committee on the Judiciary, for consideration of sections 326, 905, and 912 of the House bill, and titles XIV and XLVIII, and sections 1105 and 3861 through 3867 of the Senate amendment, and modifications committed to conference:

Peter W. Rodino, Jr.,
Don Edwards,
William J. Hughes,
Hamilton Fish, Jr.,
Carlos J. Moorhead,

From the Committee on the Judiciary, for consideration of section 351 of the House bill, and modifications committed to conference:

Bob Kastenmeier,
Pat Schroeder,
Hamilton Fish, Jr.,
Carlos J. Moorhead,

From the Committee on the Judiciary, for consideration of section 701 of the House bill, and sections 1603 through 1605 of the Senate amendment, and modifications committed to conference:

Peter W. Rodino, Jr.,
William J. Hughes,
Geo. W. Crockett, Jr.,
Bill McCollum,

From the Committee on the Judiciary, for consideration of section 703(h) of the House bill, and modifications committed to conference:

Peter W. Rodino, Jr.,
William J. Hughes,
Geo. W. Crockett, Jr.,
Hamilton Fish, Jr.,
Carlos J. Moorhead,

From the Committee on Government Operations, for consideration of titles X and XVI of the House bill, and title XLVIII of the Senate amendment, and modifications committed to conference:

Jack Brooks,
John Conyers, Jr.,
Steve Neal,
Barry Frank,
Bob Wise,
Frank Horton,
Robert Walker
(except for title XVI of the House bill, title XLVIII of the Senate amendment, and sections 5301 through 5303 of the Conference report,
William F. Clinger
(except for title XVI of the House bill, title XLVIII of the Senate amendment, and section 5301 through 5303 of the conference report),

From the Committee on Government Operations, for consideration of sections 461 through 471 of the House bill, and sections 1030 through 1033 and 3801 through 3809 of the Senate amendment, and modifications committed to conference:

Jack Brooks
(except for the Competitiveness Policy Council provided for in sections 461 through 471 of the House bill, sections 3801 through 3809 of the Senate amendment, and sections 5201 through 5210 of the Conference Report),
John Conyers, Jr.,
Steve Neal,
Frank Horton
(except for the Competitiveness Policy Council provided for in sections 461 through 471 of the House bill, sections, 3801 through 3809 of the Senate amendment, and sections 5201 through 5210 of the conference report),

From the Committee on Merchant Marine and Fisheries, for consideration of title XI of the House bill, and title XLVI and section 2011 of the Senate amendment, and modifications committed to conference:

Walter B. Jones,
Glenn M. Anderson,
Gerry Studds,
Don Bonker,
William J. Hughes,
Bob Davis,
Norman F. Lent,
Don Young,
Norman D. Shumway,

From the Committee on Public Works and Transportation, for consideration of title XII of the House bill, and section 4502 of the Senate amendment, and modifications committed to conference:

Norman Y. Mineta,
James L. Oberstar,
Henry J. Nowak,
Nick Rahall,
Douglas Applegate,
Ron de Lugo,
John Paul Hammerschmidt,
Arlan Stangeland,
Newt Gingrich,
William F. Clinger,

From the Committee on Small Business, for consideration of title XIII and section 186 of the House bill, and titles XXXVII and XXXIX and section 1804 (insofar as it would add new section 661(d)(2)(B) to the Foreign Assistance Act of 1961) of the Senate amendment, and modifications committed to conference:

John J. LaFace,
Neal Smith,

IKE SKELTON,
NICK MAVOROULES,
JAMES H. BILBRAY,
JOSEPH M. MCDADE,
ANDY IRELAND,
SILVIO O. CONTE,

From the Committee on Small Business, for consideration of section 314 of the House bill (insofar as it would add new section 203(c) to the Export Administration Amendments Act of 1985), and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,
IKE SKELTON,
JOSEPH M. MCDADE,
ANDY IRELAND,

From the Committee on Science, Space, and Technology, for consideration of section 911 of the House bill, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
BUDDY MACKAY,
TIM VALENTINE,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MANUEL LUJAN, Jr.,
SHERWOOD BOEHLERT,
DON RITTER,
RON PACKARD,

From the Committee on Science, Space, and Technology, for consideration of sections 3852 and 3853 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
BUDDY MACKAY,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
MANUEL LUJAN, Jr.,
SID MORRISON,
DON RITTER,
CONSTANCE MORELLA,

From the Committee on Science, Space, and Technology, for consideration of section 3871 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
BUDDY MACKAY,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
MANUEL LUJAN, Jr.,
SHERWOOD, BOEHLERT,

From the Committee on Science, Space, and Technology, for consideration of sections 3881 through 3884 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DAVE MCCURDY,
DAN GLICKMAN,
BILL NELSON,
TOM MCMILLEN,
JIMMY HAYES,
MANUEL LUJAN, Jr.,
TOM LEWIS,
DON RITTER,

From the Committee on Science, Space, and Technology, for consideration of titles XL through XLIV, and sections 4503 through 4505 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
DAN GLICKMAN,
MANUEL LUJAN, Jr.,
SHERWOOD BOEHLERT,
CLAUDINE SCHNEIDER,
DON RITTER,

From the Committee on Science, Space, and Technology, for consideration of section 4902 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
DAN GLICKMAN,
MANUEL LUJAN, Jr.,
TOM LEWIS,
RON PACKARD,
JACK BUECHNER,

From the Committee on Science, Space, and Technology, for consideration of sections 461 through 471 and 904 of the House bill, and sections 2305, 3801 through 3809, and 3909 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
GEORGE E. BROWN, Jr.
(Except for sections 461 through 471 of the House bill, and sections 3801 to 3809 of the Senate amendment),
MANUEL LUJAN, Jr.,
SHERWOOD BOCHLERT
(Except for sections 461 to 471 of the House bill and sections 3801 to 3809 of the Senate amendment),

From the Committee on Science, Space, and Technology, for consideration of section 412 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
RALPH M. HALL,
ROBERT TORRICELLI,
MANUEL LUJAN, JR.,

From the Committee on Science, Space, and Technology, for consideration of sections 3861 through 3867 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
TIM VALENTINE,
MANUEL LUJAN, Jr.,
DON RITTER,

From the Committee on Rules, for consideration of title XVI and sections 114 (d) and (e) of the House bill, and sections 104, 107, 110, and 2131 of the Senate amendment, and modifications committed to conference:

CLAUDE PEPPER,
JOE MOAKLEY,
BUTLER DERRICK,
TONY P. HALL,
ALAN WHEAT,
TRENT LOTT,
GENE TAYLOR,

From the Committee on Armed Services, for consideration of sections 1030 through 1034, and 4901 of the Senate amendment, and modifications committed to conference:

LES ASPIN,
SAMUEL S. STRATTON,
NICK MAVROULES,

From the Committee on Armed Services, for consideration of section 1021 of the Senate amendment, and modifications committed to conference:

LES ASPIN,
NICK MAVROULES,
DUNCAN HUNTER,

Managers on the Part of the House.

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
DAVID BOREN,
BOB PACKWOOD,
JOHN CHAFEE,
BILL ROTH,
JOHN DANFORTH,

From the Committee on Banking, Housing, and Urban Affairs:

PAUL SARBANES,
ALAN J. DIXON,
JOHN HEINZ,

From the Committee on Commerce, Science, and Transportation:

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
J.J. EXON,
DAN RIEGLE,
JOHN C. DANFORTH,
BOB PACKWOOD,

From the Committee on Labor and Human Resources:

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
BARBARA MIKULSKI,
BROCK ADAMS,

From the Committee on Small Business:

DALE BUMPERS,
JIM SASSER,
LOWELL P. WEICKER, Jr.,

From the Committee on the Judiciary:

DENNIS DECONCINI,
PATRICK LEAHY,

From the Committee on Foreign Relations:

CLAIBORNE PELL,
PAUL SARBANES,
CHRISTOPHER J. DODD,

From the Committee on Agriculture, Nutrition, and Forestry:

PAT LEAHY,
JOHN MELCHER,
DAVID PRYOR,

From the Committee on Governmental Affairs:

JOHN GLENN,
LAWTON CHILES,
JEFF BINGAMAN,
TED STEVENS
(I object to the anti-Alaskan provisions and several non-trade provisions),

Solely for the consideration of sections 1029 through 1036 of title X:

ALAN CRANSTON,

Solely for the consideration of title XIV:

J.J. EXON,
JOHN C. DANFORTH,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the

Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

Findings and Purposes (sec. 101 of House bill; sec. 101 of Senate amendment; sec. 1001 of conference agreement)

Present law

No provision.

House bill

The House bill sets forth findings, U.S. national policy, and requirements for certain Presidential and Congressional actions:

Findings. Makes general findings about the causes and negative implications of the fundamental disequilibrium in the U.S. trade and current accounts and net external debt, and the importance of pursuing policies to ensure future stability in U.S. external trade and to guarantee the continued vitality of the U.S. technological, industrial, and agricultural base.

National policy. Establishes as U.S. policy—

(1) to reduce substantially U.S. trade and current account deficits;

(2) to seek by 1992 more consistent equilibrium in such accounts; and

(3) to maintain reasonably stable exchange rates through measures to ensure that the dollar remains at a level which maintains the competitiveness of U.S. exports and prevents disruptive import surges.

Presidential action. Requires the President to use all appropriate powers to achieve the national trade policy, including fiscal, monetary, and trade policies and better management of Third World debt.

Congressional action. Requires the Congress, in developing legislation, to give the highest priority to achieving the national policy and to Presidential recommendations for achieving that policy.

Senate amendment

The Senate amendment sets forth the short title, findings, and purposes of titles I through IX of the bill:

Short title. Omnibus Trade Act of 1987.

Findings. Makes general findings about the United States as a debtor nation, the importance but volatility of the global economy, the weakness of the world trading system, the developing country debt burden, and the importance of negotiating trade agreements and related agreements on investment, finance, intellectual property, and services.

Purposes. Establishes as the Act's purposes—

(1) to authorize negotiation of reciprocal trade agreements;

(2) to strengthen U.S. trade laws;

(3) to improve management of U.S. trade strategy; and

(4) through these actions, improve the world's standard of living.

Conference agreement

The House recedes, with an amendment to include the findings from the House bill and to delete the short title.

SUBTITLE A—UNITED STATES TRADE AGREEMENTS

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

Overall and Principal Trade Negotiating Objectives of the United States

a. Overall objectives (sec. 111(a) of House bill; sec. 105(a) of Senate amendment; sec. 1101(a) of conference agreement)

Present law

The overall U.S. trade negotiating objectives are to obtain:

a. More open and equitable market access; and

b. The harmonization, reduction, or elimination of practices that distort trade or commerce.

The harmonization, reduction, or elimination of agricultural barriers shall be undertaken to the maximum extent feasible in conjunction with the harmonization, reduction, or elimination of industrial barriers.

House bill

The overall U.S trade negotiating objectives are to obtain:

a. More open, equitable, and reciprocal market access;

b. The harmonization, reduction, or elimination of policies or measures which impede or distort international commerce; and

c. A more effective system of international trading disciplines and procedures.

Senate amendment

The overall U.S. trade negotiating objectives are to obtain:

a. More open, fair, and equitable market access;

b. The reduction or elimination of barriers and other trade-distorting practices;

c. An appropriate overall balance between benefits and concessions within the agricultural, manufacturing, mining, and services sectors; and

d. Improved management of the new global economy.

Conference agreement

The conference agreement combines the House and Senate provisions.

b. Principal objectives (sec. 111(b) of House bill; secs. 105, 601 of Senate amendment; sec. 1101(b) of conference agreement)

1. Dispute settlement

Present law

United States negotiating objectives on GATT revision include revisions necessary to establish procedures for regular consultations among countries on trade and procedures to adjudicate commercial disputes among such countries, and the revision of GATT decisionmaking procedures to more nearly reflect the balance of economic interests.

House bill

The principal U.S. negotiating objectives on dispute settlement are to provide for more effective and expeditious dispute settlement mechanisms and procedures, and to ensure that such mechanisms in the GATT and GATT agreements provide for more effective and expeditious dispute resolution and enable better enforcement of U.S. rights.

Senate amendment

The principal U.S. negotiating objective on dispute settlement is the revision of GATT decisionmaking procedures to ensure timely and decisive resolution of disputes, including, but not limited to:

—establishing a standing roster of non-governmental GATT experts to participate in GATT dispute settlement panels; and

—establishing a ministerial-level mechanism for ongoing monitoring and consultations about the consistency of GATT members' trade policies with GATT principles.

Conference agreement

The Senate recedes.

2. Improvement of the GATT and multi-lateral trade negotiation agreements

Present law

United States negotiating objectives on GATT revision include extension of GATT Articles to conditions of trade not presently covered in order to move toward more fair trade practices.

House bill

The principal U.S. negotiating objectives on GATT and trade agreement improvement are to improve the operation and expand the coverage of GATT and multilateral trade agreements and to expand participation, where appropriate.

Senate amendment

The principal U.S. negotiating objectives on GATT and trade agreement improvement are extension of GATT Articles and Codes of conduct to products, sectors, and conditions of trade not adequately covered, including services, investment (e.g., performance requirements), intellectual property rights and expansion of entity coverage under the Government Procurement Code in order to move toward more open and fair trade practices.

Conference agreement

The conference agreement combines elements of the House and Senate provisions, and adds an objective to enhance the status of the GATT.

3. Transparency

Present law

No provision.

House bill

No provision.

Senate amendment

The principal U.S. negotiating objective on transparency is any practicable revision of the international trading system to enhance transparency, including:

—substituting or replacing quantitative restrictions with tariffs or auctioned quotas;

—use of tariffs for domestic adjustment; and

—transparency in the trade policy making procedures of the GATT Contracting Parties to clarify the costs and benefits of trade policy actions.

Conference agreement

The House recedes, with an amendment stating that the objective regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by the GATT Contracting Parties.

4. Developing countries

Present law

No provision.

House bill

The principal U.S. negotiating objective on developing countries is to ensure that developing countries, commensurate with their attaining more advanced and competitive levels of economic development, assume a full measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices.

Senate amendment

The principal U.S. negotiating objective on developing countries is the revision of GATT Articles relating to "special and differential" treatment for developing countries to establish procedures for gradually reducing nonreciprocal trade benefits to more advanced developing nations.

Conference agreement

The conference agreement combines elements of the House and Senate provisions.

5. Current account surpluses

Present law

No provision.

House bill

The principal U.S. negotiating objective with respect to current account surpluses is to develop rules that impose greater responsibility on countries with large and persistent current account surpluses to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

Senate amendment

The principal U.S. negotiating objectives with respect to current account surpluses are the revision of GATT Article XII (balance-of-payment rules) to address persistent and excessive current account imbalances of any GATT Contracting Party with the world, including imbalances which threaten the stability of the international trading system, and the accelerated implementation of concessions in any trade agreement by countries with persistent current account surpluses.

Conference agreement

The conference agreement combines the House and Senate provisions.

6. Trade and monetary coordination

Present law

No provision.

House bill

The principal U.S. negotiating objective on trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

Senate amendment

The principal U.S. negotiating objective on trade and monetary coordination is to increase GATT coordination with the International Monetary Fund (IMF) and the World Bank to ensure participation of the GATT Secretariat in IMF stabilization programs and World Bank structural adjustment loans.

Conference agreement

The Senate recedes.

7. Agriculture

Present law

No provision.

House bill

The principal U.S. negotiating objective on agriculture is to achieve on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by:

—developing, strengthening, and clarifying rules to discipline restrictive or trade-distorting import and export practices;

—eliminating and reducing substantially specific constraints to fair trade and more open market access, such as tariffs, quotas, subsidies, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

—seeking agreements by which major agricultural exporting nations agree to pursue policies to reduce "excessive" production of commodities during periods of oversupply, with due regard for the fact that the U.S. already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

Senate amendment

The principal U.S. negotiating objectives on agriculture are the revision of GATT with regard to agricultural trade:

—To increase U.S. agricultural exports by eliminating transparent and non-transparent barriers;

—To clarify GATT rules for agricultural trade, which have been the source of considerable confusion, disagreement, and conflict among nations;

—To make the GATT a useful tool for a free and more open world agricultural trading system by resolving questions pertaining to export subsidies, market pricing, and market access;

—To seek to prevent the harmful external effects of the EC's agricultural policies;

—To seek the elimination of barriers to agricultural trade (including high value-added commodities) in Japan.

The Senate amendment makes Congressional findings on the inadequacy of GATT rules on agriculture and the need for rapid success in the Uruguay Round, and states it is U.S. policy (1) to reduce agriculture price support programs and barriers to trade in an agreed multilateral arrangement, by reducing the level of government protection of the agricultural sector in a manner that ensures a strong domestic agricultural economy, increased exports, and the vitality of the family farm and is consistent with the historical goal of stabilizing farm income and prices in cyclical and unpredictable agricultural markets, and with efforts to reduce the Federal budget deficit; or, if necessary, (2) to maintain agriculture supports at current or increased levels to promote exports and maintain a competitive position in world markets until an acceptable agreement is reached. States U.S. agricultural objectives in the GATT are (1) to increase U.S. exports by eliminating trade barriers and production subsidies; (2) to clarify GATT rules for agricultural trade; and (3) to make GATT a useful tool for a free, more open world agriculture trading system by resolving questions on export subsidies, market pricing, and market access.

Conference agreement

The Senate recedes, with an amendment to include general negotiating objectives from the Senate provision.

8. Unfair trade practices

Present law

United States negotiating objectives on GATT revision include any revisions necessary to define the forms of subsidy to industries producing products for export and to attract foreign investment which are consistent with an open, fair, and nondiscriminatory international trade system.

House bill

The principal U.S. negotiating objectives on unfair trade practices are to improve provisions of the GATT and nontariff measure agreements to deter and to provide greater discipline on unfair trade practices, including forms of subsidy, dumping, and export targeting practices not adequately covered; to improve further provisions applicable to agricultural trade so as to be consistent with those applicable to industrial products; and otherwise to seek greater discipline on, and to discourage persistent use of, unfair trade practices.

Senate amendment

The principal U.S. negotiating objectives on unfair trade practices are:

Revision of GATT Articles necessary to define and discipline adverse trade effects resulting from the use of resource input subsidies, targeting, diversionary dumping, and dumped or subsidized inputs;

Application of similar rules to the treatment of primary and nonprimary products in the GATT Agreement on Subsidies and Countervailing Measures; and

Enforcement of GATT rules against noncommercial state trading practices and unfair trade concessions requirements.

Conference agreement

The House recedes, with an amendment to add revisions to deter and to discourage persistent use of unfair trade practices.

9. Trade in services

Present law

United States negotiating objectives on trade in services are to reduce or eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and to develop internationally agreed rules, including dispute settlement procedures, which are consistent with U.S. policies and will reduce or eliminate such barriers or distortions and help ensure open international trade in services. United States negotiators must take into account legitimate U.S. domestic objectives (e.g., health or safety, etc.).

House bill

The principal U.S. negotiating objective on trade in services is the same as present law, except it refers to helping to ensure "fair, equitable opportunities in foreign markets" rather than "open international trade in services;" it does not include domestic objectives requirement.

Senate amendment

The Senate amendment cross references to present law.

Conference agreement

The Senate recedes, with an amendment to include the requirement under present law to take into account legitimate U.S. domestic objectives.

10. Intellectual property

Present law

No provision.

House bill

The principal U.S. negotiating objectives on intellectual property are to seek enactment and effective enforcement by foreign countries of laws which recognize and adequately protect intellectual property; and to develop and strengthen international rules, dispute settlement provisions, and enforcement procedures against trade-distorting practices arising from inadequate national protection and ineffective enforcement of intellectual property rights, including:

—incorporation in the GATT of adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights as the basis for the dispute settlement provisions and enforcement procedures, which norms and standards are complementary to those of existing international conventions; and

—supplementing and strengthening standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including expansion to cover new and emerging technologies and elimination of discrimination or unreasonable exceptions or preconditions to protection."

Intellectual property" includes copyrights, patents, trademarks, mask works, and trade secrets.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with a substitute amendment.

11. Foreign direct investment

Present law

United States negotiating objectives on foreign direct investment are to reduce or eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and to develop internationally agreed rules, including dispute settlement procedures, which will help ensure a free flow of foreign direct investment and will help reduce or eliminate the trade distortive effects of certain investment related measures. The same domestic objectives apply as for services.

House bill

The principal U.S. negotiating objective on foreign direct investment is the same as present law, except it does not include the domestic objectives requirement.

Senate amendment

The Senate amendment cross references to present law.

Conference agreement

The Senate recedes, with an amendment to include the requirement under present law to take into account legitimate U.S. domestic objectives.

12. Safeguards

Present law

United States negotiating objectives on safeguards are to obtain internationally agreed rules and procedures which permit the use of temporary measures to ease adjustment to changes occurring in competitive conditions in the domestic markets of the parties to an agreement due to the expansion of international trade, and to extend GATT safeguard procedures to all forms of import restraints used in response to injurious competition.

House bill

The principal U.S. negotiating objectives on safeguards are to improve and expand rules and procedures covering safeguard measures; to ensure that such measures are transparent, temporary, degressive, and subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment.

Senate amendment

The principal U.S. negotiating objectives on safeguards are to establish procedures to monitor the use by GATT Contracting Parties of import relief action for their domestic industries; and to ensure that such action does not discriminate between different suppliers, is limited in duration, and is dependent on adjustment efforts by the domestic industries.

Conference agreement

The Senate recedes, with an amendment to include the objective to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

13. Specific barriers

Present law

The U.S. negotiating objective on specific trade barriers is to obtain competitive opportunities for U.S. exports equivalent to the competitive opportunities afforded in U.S. markets with respect to appropriate product sectors of manufacturing and with respect to the agricultural sector.

House bill

The principal U.S. negotiating objectives on specific barriers are:

—To achieve maximum reduction, elimination, or harmonization of specific tariff and nontariff trade barriers, particularly measures identified in the annual foreign trade barriers (National Trade Estimates) report and tariff disparities that impede access to particular export markets; and

—To obtain international agreement regarding the principle that nondiscriminatory (most-favored-nation) treatment and other multilateral trade benefits are not required to be extended by a country to any other country unless such other country permits reciprocal market access opportunities for that country's goods and services.

Senate amendment

The principal U.S. negotiating objectives on specific barriers are to obtain, with respect to manufacturing, mining, agriculture, services, and investment related to trade in such economic sectors, competitive opportunities for U.S. exports in foreign markets equivalent to the competitive opportunities afforded foreign exports to U.S. markets, including the reduction or elimination of foreign tariffs and nontariff barriers on competitive U.S. exports when like or similar products enter the United States at low rates of duty or are duty-free.

Conference agreement

The conference agreement combines elements of the House and Senate provisions.

14. Worker rights

Present law

United States negotiating objectives on GATT revision include the adoption of international fair labor standards and public petition and confrontation procedures in the GATT.

House bill

The principal U.S. negotiating objectives on worker rights are:

—To promote respect for worker rights;

—To secure a review of the relationship of worker rights to GATT Articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

—To adopt as a principle of the GATT that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

Senate amendment

The principal U.S. negotiating objectives on worker rights are the revision of international agreements regarding worker rights, including:

—the promotion of, and respect for, worker rights;

—a review of the relationship of worker rights to GATT Articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers;

—adoption as a principle of the GATT that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

Conference agreement

The Senate recedes.

15. Access to high technology

Present law

The U.S. negotiating objectives on access to high technology are:

—To obtain and preserve the maximum openness with respect to international trade and investment in high technology products and related services;

—To obtain the elimination or reduction of, or compensation for, significantly distorting effects of acts, policies, or practices of foreign governments identified in the annual foreign trade barriers report, with particular consideration to the nature and extent of foreign government intervention affecting U.S. exports of high technology products or investments in high technology industries;

—To obtain commitments that official foreign policies will not discourage government or private procurement of foreign high technology products and related services;

—To obtain the reduction or elimination of all tariffs and other barriers to U.S. high technology exports;

—To obtain commitments to foster national treatment;

—To obtain commitments to foster joint scientific cooperation; and

—To provide minimum safeguards for the acquisition and enforcement of intellectual property rights and the property value of proprietary data.

House bill

The principal U.S. negotiating objective on access to high technology is to obtain the elimination or reduction of foreign barriers to, and foreign government acts, practices, or policies which limit equitable access by U.S. persons to foreign-developed technology, including barriers, acts, policies, or practices that have the effect of:

—restricting U.S. persons' participation in government-supported research and development projects;

—denying equitable access by U.S. persons to government-held patents;

—requiring approval or agreement of government entities, or imposing other forms of government intervention, as a condition for granting licenses to U.S. persons by foreign persons (except for national security purposes); and

—otherwise denying U.S. persons equitable access to foreign-developed technology or contributing to an inequitable flow of technology between the United States and its trading partners.

In pursuing this objective, the United States shall take into account U.S. Government policies in licensing or otherwise making available to foreign persons technology and other information developed by U.S. laboratories.

Senate amendment

The principal U.S. negotiating objective on access to high technology is similar to the House bill, except it does not include the elimination or reduction of foreign government acts, policies, or practices which limit equitable access.

Conference agreement

The Senate recedes.

16. Border taxes

Present law

United States negotiating objectives on GATT revision include the revision of GATT Articles with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct rather than indirect taxes for revenue needs.

House bill

No provision.

Senate amendment

Identical provision in substance as present law.

Conference agreement

The House recedes.

c. Specific agricultural objectives

1. Specific barriers (sec. 111 of House bill)

Present law

No provision.

House bill

The House bill expresses the sense of the Congress that the USTR should immediately enter into negotiations and use all his power and authority to achieve elimination of numerous tariff and nontariff barriers and unfair trade practices (including those listed in the annual foreign trade barriers report) that affect U.S. agricultural products, with particular attention to certain (listed) practices of the EC, Japan, Korea, Taiwan, India, Canada, and Argentina, to eliminate such practices affecting U.S. exports of forest products, and to ensure that any agreement negotiated to reduce or eliminate unfair trade in forest products (including the U.S.-Canada lumber agreement) is fully implemented within the framework contemplated.

Senate amendment

No provision.

Conference agreement

The House recedes.

2. Liquor-filled chocolates (sec. 979 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment expresses the sense of the Congress that the President should negotiate foreign duty reductions on U.S. liquor-filled chocolates to U.S. tariff levels (the European Communities' duty is 12 percent compared to the U.S. duty of 7 percent).

Conference agreement

The Senate recedes.

3. European Communities (EC) soybeans and corn gluten feed (sec. 111 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment expresses the sense of the Senate that the Administration should not enter into any agreement with the EC that would enable the EC to withdraw or modify its obligation to provide duty-free treatment on soybeans, soybean meal, or corn gluten feed.

Conference agreement

The Senate recedes.

4. Wheat gluten (secs. 604, 605 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment sets forth findings and a declaration of Congress that GATT negotiations should achieve a significant reduction in foreign tariffs on wheat gluten, the Secretary of Agriculture should favorably consider industry proposals for use of export enhancement and targeted export assistance programs and promote the use of wheat gluten to enhance wheat flour food aid, and that the President should take all steps to defend the domestic wheat gluten industry (including use of section 301) if GATT negotiations are unsuccessful. The Secretary of Agriculture must submit a report to the House and Senate Committees on Agriculture within 120 days detailing the impact of the current international tariff structure on the U.S. wheat gluten industry.

Conference agreement

The Senate recedes.

The conferees are aware of the fact that on February 8, 1988, the Commission of the European Communities (EC) announced the elimination of export refunds on wheat gluten. If the EC should ever reinstitute the export refund, or provide any other export subsidy for wheat gluten, the conferees expect the United States Government to oppose such actions vigorously.

d. Effects on small business (sec. 976 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Secretary of Commerce is directed to study the effects on U.S. small business of extending the GATT to intellectual property rights, services, agriculture, aquaculture, and agri-business products, and to report the findings to Congress within 6 months.

Conference agreement

The Senate recedes.

Trade Agreement Negotiating Authority

a. Tariff proclamation authority; limits on tariff authority (sec. 112 of House bill; sec. 103 of Senate amendment; sec. 1102(a) of conference agreement)

Present law

Since 1934, Congress has periodically delegated authority to the President to enter into tariff agreements and to proclaim changes in U.S. rates of duty to carry out such agreements, subject to certain limits. Such authority under the Trade Act of 1974 expired in 1980.

Currently, if the President enters into an executive agreement to reduce U.S. rates of duty, he can only implement the change in the U.S. rate through a separate enactment from Congress. Currently, no law or rule of Congress provides any special procedures for Congressional consideration of tariff agreements except for bilateral trade agreements.

Tariff agreement authority in effect from 1975 to 1980 under the Trade Act of 1974 was subject to the following limitations:

No reduction in U.S. duties by more than 60 percent (to 40 percent of the rates in effect on January 1, 1975), except that rates 5 percent ad valorem or below were not subject to the limitation.

No increase in U.S. duties above the higher of 50 percent above the "column 2" (non MFN) rate of duty or 20 percent ad valorem above the rate as of January 1, 1975.

Duties could not be reduced more than 3 percent ad valorem or one-tenth of the total reduction per year, unless the total reduction did not exceed 10 percent; reductions could not be phased in over more than a 10-year period.

Annual reductions could exceed the limits by the lesser of the difference between the limit and the next lower whole number or one-half of one percent ad valorem, in order to simplify the computation.

House bill

The House bill reestablishes separate Presidential authority to enter into multilateral tariff agreements until *January 3, 1993*, and to *proclaim* changes in U.S. rates of duty required or appropriate to carry out such agreements, subject to certain limits.

Tariff agreement authority is subject to the following limitations:

Reductions of existing U.S. duties cannot exceed 60 percent of existing rates if either the U.S. International Trade Commission (ITC) or the USTR finds a greater reduction on a particular article would have a probable significant adverse economic effect on the domestic industry producing that article. Rates of duty on all other articles may be reduced to zero. There is no limit on duty increases.

Reductions on significantly import-sensitive articles may not be phased in faster than over a 10-year period; reductions on other import-sensitive articles must be phased in over a period up to 10 years.

Rounding authority is provided identical to the Trade Act of 1974.

Senate amendment

The Senate amendment provides no separate authority for the President to enter into or to proclaim changes in U.S. rates of duty to implement multilateral tariff agreements. The trade agreement authority, subject to Congressional approval of implementing legislation under the "fast track" procedure, applies to any agreements on tariffs, as well as on nontariff barriers.

Trade agreement authority limits tariff reductions on all articles to a maximum of 50 percent of existing duty rates, except that rates already 5 percent ad valorem or below may be reduced to zero.

The President shall take into account ITC advice identifying sensitive or potentially import-sensitive products, including whether any tariff modification may injure the domestic industry producing like or similar articles.

Conference agreement

The Senate recedes on the provision of tariff proclamation authority.

The House recedes on tariff authority limits that may be *proclaimed* (i.e., maximum 50 percent reduction, unless the existing duty is 5 percent ad valorem or below), with amendments (1) providing staging authority whereby duty reductions on any article cannot exceed 3 percent ad valorem per year, or one-tenth of the total reduction, whichever is greater, except staging is not required if the ITC determines there is no U.S. production of the article; and (2) providing rounding authority identical to the Trade Act of 1974. Any duty reductions that exceed 50 percent of the existing duty or any tariff increases are subject to Congressional approval under the "fast track" implementing procedure.

b. Agreements regarding nontariff barriers; extension of "fast track" implementation procedure (secs. 113, 114 of House bill; secs. 103, 104 of Senate amendment; secs. 1102(b), 1103 of conference agreement)

Present law

The President was authorized to enter into trade agreements under two trade agreement authorities under the Trade Act of 1974 in effect until January 3, 1988, for implementation under the "fast track" Congressional approval procedure:

a. *Barriers to and other distortions of trade (section 102).* Whenever the President determines that any barriers to (or other distortions of) international trade of any foreign country or the United States unduly burden and restrict the foreign trade of the United States or adversely affect the U.S. economy, or that the imposition of such barriers is likely to result in such a burden, restriction, or effect, then he may enter into trade agreements providing for the harmonization, reduction, or elimination of such barriers (or other distortions) or providing for the prohibition of or limitations on the imposition of such barriers.

b. *GATT revision (section 121).* The President shall to the extent feasible enter into agreements with foreign countries to establish GATT reform principles listed in the objectives of the law.

House bill

The House bill authorizes the President to enter into trade agreements with foreign countries providing for the harmonization, reduction, or elimination of nontariff barriers or other distortions, for implementation under the "fast track" approval procedure if the agreement is entered into on or before *January 3, 1991.*

The nontariff "fast track" approval procedure is extended for agreements entered into through *January 3, 1993,* if, by July 15, 1990, (1) USTR consults with, and submits a report to, the House Ways and Means and Senate Finance Committees requesting a 2-year extension, describing the progress that has been made to achieve U.S. objectives that justifies continuation of the negotiations, and stating the reasons an extension is needed to complete the Uruguay Round or other trade negotiations; and (2) neither the House Ways and Means nor the Senate Finance Committee disapproves the extension before January 4, 1991.

Senate amendment

The Senate amendment authorizes the President to enter into multilateral trade agreements with foreign countries providing for a reduction or elimination of any barriers to or distortions of trade (tariff and nontariff) through *January 3, 1994.*

The Senate amendment authorizes trade agreement implementation under the "fast track" approval procedure beginning as soon after January 3, 1988, as the Administration submits a Statement of U.S. Trade Policy, through *January 3, 1992.* The Statement must include, but is not limited to, a description of U.S. policies with respect to domestic industries affected by imports and domestic industries that have a substantial potential for exporting.

The "fast track" approval procedure is continued through *January 3, 1994,* if neither the House nor the Senate passes a resolution of disapproval under the "fast track" procedure (automatic committee discharge does not apply) between January 4–July 1, 1991, introduced by any Member and reported by either the Senate Finance or House Ways and Means Committees before May 15, 1991, because sufficient tangible progress has not been made in trade negotiations. (Separate provisions on consultation and mid-term reporting apply.)

Conference agreement

The House recedes on nontariff agreement authority with an amendment changing the date to *May 31, 1993,* and removing the limitation to multilateral agreements.

The Senate recedes on the statement of trade policy as a condition for original extension of "fast-track" implementation.

The Senate recedes on the original extension of "fast-track" implementation with an amendment changing the date to *May 31, 1991.*

The House recedes on the further extension of "fast-track" implementation with amendments (1) changing the extension date to *May 31, 1993;* (2) providing joint referral of a disapproval resolution introduced in the House to the Committees on Ways and Means and Rules; (3) changing the procedure to passage of a nonamendable disapproval resolution by either the House or the Senate before May 31, 1991, and within 15 legislative days after it is reported by either the Senate Finance or the House Ways and Means and Rules Committees; and (4) melding the bases in the House bill and the Senate amendment for extension (request and progress in negotiations).

c. Bilateral agreements regarding tariff and nontariff barriers

1. Extension of authority (secs. 113, 114 of House bill; secs. 103, 104, 947 of Senate amendment; secs. 1102(c), 1103 of conference agreement)

Present law

Bilateral tariff and nontariff trade agreements could be entered into and implemented under the "fast track" Congressional approval procedure until January 3, 1988, subject to prenegotiation requirements:

—Another country requested the negotiation of a bilateral agreement;

—The President notified the Senate Finance and House Ways and Means Committees of the negotiations and consults with those Committees regarding the negotiation of the agreement; and

—Neither the Senate Finance nor the House Ways and Means Committees disapproved within 60 legislative days prior to the 90-day advance notice required of entry into an agreement.

No trade benefit could be extended to any country by reason of the extension of any trade benefit to another country under a bilateral agreement providing for reduction or elimination of any U.S. duty.

House bill

The House bill extends the authority of the President to negotiate and enter into bilateral tariff and nontariff agreements under the "fast track" implementation procedure and subject to the prenegotiation requirements to *January 3, 1993,* except for negotiations underway as of January 1, 1987 (Canada).

Nontariff, as well as tariff, benefits are included in the ban on extension to third countries.

No provision or amendment made by this Act shall be applied to any country with which the United States has a bilateral free trade area agreement that entered into force before January 1, 1987 (Israel) if there is an inconsistency between such provisions or amendment and the agreement.

Senate amendment

The Senate amendment extends the authority of the President to negotiate and enter into bilateral trade agreements (tariff and nontariff) subject to the pre-negotiation requirements to *January 3, 1994.* The authority would apply to Canada only if the pre-negotiation conditions are met again after enactment.

The Senate amendment authorizes agreement approval under the "fast track" implementation procedure beginning as soon after January 3, 1988, as the Administration submits the Statement of U.S. Trade Policy and subject to the same possible extension disapproval process in 1991 and "reverse fast track" procedure as apply to the multilateral trade agreement authority.

Nontariff, as well as tariff, benefits are included in the ban on extension to third countries.

No provision or amendment made by this Act shall be applied to any country with which the United States has a bilateral free trade area agreement that entered into force before January 1, 1987 (Israel) if there is an inconsistency between such provisions or amendment and the agreement.

Conference agreement

The Senate recedes on the extension of authority, with amendments to apply the same original (*May 31, 1991*) and further extension (*May 31, 1993*) dates for "fast track" implementation as apply to the multilateral trade agreement authority, and subject to the same extension disapproval procedure.

The Senate recedes on the statement of trade policy as a condition for original extension of the "fast track" implementation procedure.

The House recedes on the "reverse fast track," as amended for the multilateral trade agreement authority.

The House recedes on the application to Canada.

2. Review of bilateral trade relationships (sec. 113(b) of House bill)

Present law

No provision.

House bill

The USTR must review, within a year after enactment, U.S. bilateral trade relationships and identify foreign countries that have the best potential for bilateral free trade areas. The USTR must consult with the House Ways and Means and Senate Finance Committees on the review results.

Senate amendment

No provision.

Conference agreement

The House recedes.

d. Mid-term reports (sec. 114(d) of House bill; sec. 103(d) of Senate amendment; sec. 1103(b) of conference agreement)

Present law

No provision.

House bill

As a pre-condition to extension of "fast track" nontariff barrier trade agreement authority beyond January 3, 1991, the USTR must submit a report by *July 15, 1990*, to the House Ways and Means and Senate Finance Committees requesting a 2-year extension, describing the progress made to achieve U.S. negotiating objectives that justifies continuation of negotiations, and stating the reasons extended authority is needed to complete the Uruguay Round or other trade negotiations.

Senate amendment

The Senate amendment requires the President and the Advisory Committee on Trade Negotiations each to submit by *January 3, 1991*, a progress report on multilateral and bilateral negotiations, including (1) a description of all agreements negotiated and the anticipated schedule for submission to Congress; (2) a statement certifying whether sufficient progress has been achieved to warrant continuation of nontariff negotiations; (3) a statement certifying whether progress has been made in tariff negotiations; (4) a description of any progress in achieving the negotiating objectives; and (5) a description of objectives that are not likely to be addressed in agreements and the reasons, any new objectives that should be adopted, and any intended alternative options.

Conference agreement

The Senate recedes with amendments (1) making the reports a precondition to further extension of "fast-track" implementation; (2) changing the latest submission date to *90 calendar days prior* to the expiration on *May 31, 1991*, of the original extension of "fast-track" implementation; and (3) adding the report content from the Senate amendment describing agreements negotiated and the schedule for submission to the Congress.

e. "(Reverse fast track" sec. 104 of Senate amendment; sec. 1103 of conference agreement)

House bill

No provision.

Senate amendment

The "fast track" approval procedure for both tariff and nontariff agreements is terminated if both the Senate Finance and House Ways and Means Committees report, and both the House and Senate separately pass under the "fast track" procedure (automatic committee discharge does not apply), resolutions of disapproval within any 60 legislative day period because the President failed or refused to consult with Congress on trade policy.

Conference agreement

The House recedes, with amendments (1) limiting the basis for disapproval to failure or refusal of the USTR to consult with the Congress on trade negotiations and trade agreements as set forth in the consultation requirements; and (2) providing procedures as follows:

In the House: A resolution of disapproval must be introduced by the Chairman or Ranking Minority Member of the House Ways and Means *or* Rules Committee and reported by the Ways and Means *and* Rules Committees; the resolution would be nonamendable in Committee.

In the Senate: A resolution of disapproval must be an original resolution of the Senate Finance Committee.

In the House and Senate: No Committee automatic discharge applies; the "fast track" procedure applies to floor consideration (resolution nonamendable on the floor). The "fast track" approval procedure for nontariff barrier and bilateral trade agreements is terminated if both the House and Senate separately pass such resolutions within any 60 legislative day period.

f. Multilateral/ bilateral agreements (sec. 111(d) of House bill)

Present law

No provision.

House bill

The House bill states it is U.S. policy to use the Uruguay Round to enter into multilateral agreements that achieve, on a reciprocal and mutually advantageous basis, the purposes and objectives of Title I of H.R. 3, particularly (1) increasing U.S. export market opportunities, (2) achieving fairer terms and conditions of competition, (3) strengthening international dispute settlement, (4) ensuring fuller responsibility by all countries for a fair international trading system, and (5) improving the structure and role of the GATT.

These objectives are to be achieved, to the maximum extent feasible and appropriate, through multilateral trade agreements (negotiated with both developed and developing countries); except that the President is not precluded from (1) negotiating bilateral and other types of agreements if they would be more effective or appropriate, or multilateral agreements are not feasible; or (2) seeking agreements outside or supplemental to the Uruguay Round or the GATT if results are unduly delayed or U.S. objectives can be obtained more effectively.

Senate amendment

No provision.

Conference agreement

The House recedes.

g. Restrictions on entering into trade agreements

1. State trading enterprises (sec. 103(c) of Senate amendment; sec. 1103(a) of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Before entering into a multilateral or bilateral trade agreement, the President must determine whether state trading enterprises (1) account for a significant share of the exports of a foreign country or of its goods that are subject to import competition and (2) whether those enterprises unduly burden and restrict, or adversely affect, the foreign trade of the United States or the U.S. economy or are likely to result in such a burden, restriction, or effect. If both determinations are affirmative, then the President may enter into a trade agreement with such country only if the agreement provides that those enterprises' purchases (which are not for the use of the foreign government) and their sales in international trade will be made in accordance with commercial considerations and those enterprises will afford U.S. firms adequate opportunity to compete for participation in such purchases and sales.

Conference agreement

The House recedes, with a substitute amendment requiring that the President's statement accompanying submission of trade agreements to Congress under the "fast-track" procedure include a description of the extent foreign parties to the agreement maintain noncommercial state trading enterprises that may adversely affect or nullify or impair U.S. benefits under the trade agreement involved, and whether and to what extent the trade agreement deals with or affects purchases or sales of such enterprises.

2. Other requirements (secs. 112, 113 of House bill; sec. 103(c) of Senate amendment; sec. 1102(b), (c) of conference agreement)

Present law

The President is authorized to negotiate trade agreements with foreign countries that provide on the basis of mutuality for harmonization, reduction, or elimination of trade barriers.

House bill

The President may enter into multilateral or bilateral agreements that will promote the purposes, policies, and objectives of Title I of the Act.

Senate amendment

A multilateral or bilateral trade agreement may be entered into only if it meets the following requirements:

—It meets applicable negotiating objectives in section 105 of the Senate amendment;

—It provides for the reciprocal exchange of obligations that are likely to be no less advantageous to the United States than to the other signatories;

—It provides a reasonable likelihood that the United States can enforce the obligations of the agreement notwithstanding differences between the culture, legal system, and commercial practices of the United States and these aspects of any other foreign signatory country; and

—Insofar as is practicable, it complements and reinforces existing agreements with foreign nonsignatory countries and existing U.S. agreements on related economic subjects.

Conference agreement

The Senate recedes, with an amendment to include the requirement that the agreement makes progress in meeting applicable negotiating objectives.

3. Consultations with Congressional committees (sec. 113 of House bill; sec. 103 of Senate amendment; sec. 1102(d) of conference agreement)

Present law

Before entering into any trade agreement, the President must consult with committees of jurisdiction on subject matters that would be affected and all matters relating to implementation.

House bill

The House bill adds a requirement that the consultations also include the nature of the agreement and how and to what extent it achieves U.S. purposes, policies, and negotiating objectives.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

h. Implementation of trade agreements

1. Submission to Congress (sec. 114(b) of House bill; sec. 1103(a) of conference agreement)

Present law

The President must give at least 90 calendar days advance notice to the Congress of his intention to enter into an agreement. After entering into the agreement, the President must submit a copy to the Congress, together with a draft implementing bill, a statement of any administrative actions proposed to implement the agreement, an explanation of how the bill and statement change or affect existing law, and a statement of reasons the agreement serves the interests of U.S. commerce and why the bill and proposed action are required and appropriate.

House bill

The House bill adds a requirement that the President state that the agreement achieves applicable purposes, policies, and negotiating objectives, the reasons as to how and to what extent the agreement achieves them, and why and to what extent the agreement does not achieve other purposes, policies, and objectives.

The House bill also adds a requirement that the President include, in his statement accompanying trade agreements, a description of his efforts to obtain international exchange rate equilibrium and any effect the agreement may have on increased international monetary stability.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with amendments to clarify that the purposes, policies, and objectives refer to those applicable to the particular agreement and that the agreement "makes progress" in achieving them.

2. Conditional MFN (sec. 114(c) of House bill; sec. 104(a) of Senate amendment; sec. 1103(a) of conference agreement)

Present law

In order to ensure that a foreign country which benefits from a section 102 trade agreement is also subject to the obligations, the President may recommend to the Congress in the implementing bill and statement of administrative action that the benefits and obligations apply solely to the parties to the agreement, if such application is consistent with the terms of the agreement.

House bill

The House bill requires the President to recommend that trade agreement benefits and obligations apply solely to parties to the agreement, if such treatment is appropriate and consistent with the terms of the agreement and U.S. international obligations.

Senate amendment

The Senate amendment requires the President to recommend that trade agreement benefits and obligations apply solely to parties to the agreement, if such treatment is consistent with the agreement.

Conference agreement

The House recedes.

3. Reciprocal nondiscriminatory treatment (sec. 106 of Senate amendment; sec. 1105(b) of conference agreement)

Present law

The President was required to determine within 5 years after enactment of the Trade Act of 1974 whether any major industrial country had failed to make concessions under trade agreements entered into under the authority of the 1974 Act that provided competitive opportunities for the commerce of the United States in each of those countries substantially equivalent to the competitive opportunities provided by trade agreement concessions made by the United States. If the President made such a determination, he was required to recommend to Congress, generally or by article, to restore equivalence of opportunities, any legislation implementing the agreement not apply to such country and legislation terminating or denying benefits under such agreements for the country concerned.

Major industrial countries included Canada, the European Communities (EC) and its member countries, Japan, and any other country designated by the President.

House bill

No provision.

Senate amendment

The Senate amendment reestablishes the 1974 Act provision, requiring such a determination by the President before January 3, 1991, with respect to any major industrial country for trade agreements entered into under this Act.

Conference agreement

The House recedes, with an amendment to change the determination date to May 31, 1993.

i. Compensation authority (sec. 116 of House bill; sec. 309 of Senate amendment; sec. 1104 of conference agreement)

Present law

The President may enter into trade agreements and proclaim new concessions as compensation only for import relief actions, in order to maintain the general level of reciprocal and mutually advantageous concessions. No duty reductions may exceed 30 percent of existing levels. The President must consider whether the country concerned has violated commitments of benefit to the United States and the violation has not been adequately offset.

House bill

The House bill adds authority to enter into and proclaim compensation agreements for increases in or imposition of duties or other import restrictions under section 301, by legislation, or by tariff reclassification, if necessary or appropriate to meet U.S. international obligations. Compensation on any article is subject to the same duty reduction limitations as under general tariff agreement authority.

Senate amendment

The Senate amendment adds authority to enter into a compensation agreement for a section 301 action, subject to the duty reduction limits under present law, if the President determines it is necessary to meet U.S. international obligations.

Conference agreement

The Senate recedes, with amendments (1) to delete the compensation authority for legislation and (2) to apply the duty reduction limits under present law after the general tariff agreement authority expires on May 31, 1993.

j. Termination and reservation authority (sec. 115 of House bill; sec. 106 of Senate amendment; sec. 1105(a) of conference agreement)

Present law

The Trade Act of 1974 contains various provisions pertaining to tariff and nontariff trade agreement authorities:

—Section 125 authorizes the termination or withdrawal of trade agreement benefits or obligations under certain conditions.

—Section 126(a) requires nondiscriminatory (MFN) application of import restrictions or duty-free treatment under trade agreements, except as otherwise provided by law.

—Section 127 prohibits the reduction or elimination of import restrictions on any article that would threaten to impair the national security, and requires the reservation of articles from negotiations while they are subject to import relief or national security actions.

House bill

The House bill applies sections 125, 126(a), and 127 to any trade agreement entered into or any proclamation or Executive order issued under the trade agreement authorities of this Act.

Senate amendment

The Senate amendment contains similar cross-reference provisions to the House bill.

Conference agreement

Identical provisions in substance.

k. Accession of state trading regimes to the GATT (sec. 107 of Senate amendment; sec. 1106 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Before any foreign country accedes to any multilateral trade agreement to which the United States is a party, the President shall determine (1) whether state trading enterprises account for a significant share of that country's exports or of the goods of that country that compete with imports, and (2) whether such enterprises unduly burden and restrict or adversely affect U.S. foreign trade or the U.S. economy or are likely to result in such a burden, restriction, or effect.

If both determinations are affirmative, the President must reserve the U.S. right to withhold extension of any multilateral trade agreement to which that country accedes. The trade agreement shall not apply between the United States and that country until—

a. the country enters into an agreement with the United States providing that the state trading enterprises will (1) make purchases which are not for the use of the country and make sales in international trade in accordance with commercial considerations, and (2) afford U.S. firms adequate opportunity in accordance with customary practice to compete for participation in such purchases or sales; or

b. enactment of a bill approving extension of the agreement to the country. The "fast track" procedures shall apply to Congressional consideration of such a bill.

Conference agreement

The House recedes, with amendments to apply the provision only to GATT accession by "major" foreign countries.

l. Definitions (secs. 113, 114 of House bill; sec. 102 of Senate amendment; sec. 1107 of conference agreement)

Present law

The Trade Act of 1974 defines the terms "barrier," "distortion," and "international" trade for purposes of the trade agreement negotiating authority.

House bill

The House bill contains similar definitions for purposes of trade agreement authorities, adds "any denial of adequate and effective protection of intellectual property rights" to the definition of "distortion," and defines "foreign country" to include any foreign instrumentality.

Senate amendment

The Senate amendment contains similar definitions for purposes of trade agreement authorities, treats each foreign instrumentality and each territory or possession of a foreign country administered separately for customs purposes as a separate foreign country, and includes the term "state trading enterprise."

Conference agreement

The conference agreement combines the House and the Senate provisions, except for the addition of international property rights to the definition of "distortion," and the inclusion of the definition of "barrier."

m. Reciprocal duty reductions with Canada (sec. 117 of House bill)

Present law

No provision.

House bill

The House bill authorizes the President to enter into tariff agreements with Canada for 5 years until January 3, 1991, providing for the MFN reduction or elimination of duties on a specific list of certain tariff items and to proclaim such modifications, to the extent that tariff concessions of approximately equivalent value are granted by Canada in exchange.

Senate amendment

No provision.

Conference agreement

The House recedes.

n. North American Trade Expansion Area (secs. 109, 110 of Senate amendment)

Present law

No provision. The general multilateral and bilateral reciprocal trade agreement authorities applied to any country, subject to Congressional "fast track" implementation. Bilateral agreements could be negotiated only upon foreign country request and if neither the House Ways and Means or Senate Finance Committees disapproved the negotiations.

House bill

No provision.

Senate amendment

The Senate amendment requires the President to initiate negotiations to obtain trade agreements with Mexico, Caribbean Basin countries, and Canada to provide for the reduction and eventual elimination of tariffs and nontariff barriers. Agreements may be bilateral or multilateral with all or any group of such countries and must be reciprocal and provide for mutual reduction of barriers. Agreements must be approved by Congress under the "fast track" implementing procedures.

Conference agreement

The Senate recedes.

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

a. Application of Trade Act provisions (sec. 115 of House bill; sec. 106 of Senate amendment; sec. 1111 of conference agreement)

Present law

Sections 131-134 of the Trade Act of 1974 set forth procedural requirements that must be met prior to entering into trade agreements.

House bill

The House bill applies sections 131, 132, 133, and 134 prenegotiation procedures to all trade agreements proposed under this Act.

Senate amendment

The Senate amendment contains similar cross-reference provisions to the House bill.

Conference agreement

Identical provisions in substance.

b. Advice of the U.S. International Trade Commission

Present law

Section 131 of the Trade Act of 1974 requires the U.S. International Trade Commission (ITC) to advise the President as to the probable economic effects of possible modifications of any tariff under a proposed trade agreement on domestic industries producing like or directly competitive articles and on consumers; the ITC must also make investigations and reports requested by the President regarding possible agreements on nontariff barriers.

House bill

The House bill expands the scope of ITC advice to include the probable economic effects of any trade barrier modification on any domestic interest that might be affected, including services, intellectual property, and investment. The House bill also expands the scope of ITC investigations and reports that the President may request to assist him in developing trade policies and priorities, including priorities for actions to improve opportunities in foreign markets, and to determine the impact of possible modifications in U.S. trade barriers on the competitiveness of domestic industries or sectors.

Senate amendment

The Senate amendment requires the ITC in its advice or reports to identify any article that is sensitive or potentially sensitive to imports and to include a statement of whether any duty reduction, elimination, or modification under consideration may injure the domestic industry.

Conference agreement

The Senate recedes.

c. Executive branch agency advice

Present law

Section 132 of the Trade Act of 1974 requires information and advice from Executive branch agencies prior to entry into trade agreements.

House bill

The House bill requires the President to seek the agency advice through the existing interagency structure chaired by the USTR prior to entering into a trade agreement.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

d. Public hearings

Present law

Section 133 of the Trade Act of 1974 requires the President to hold public hearings on any proposed trade agreement.

House bill

The House bill expands the scope of public hearings to any matter relevant to a proposed trade agreement and to trade policy development and priorities, when appropriate.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

e. Prenegotiation summaries

Present law

Section 134 of the Trade Act of 1974 requires that the President receive a summary of the hearings and the ITC advice prior to making any trade negotiating offers to foreign countries on U.S. duties, import restrictions, or other trade barriers.

House bill

The House bill expands the scope of the summary requirement to include information and advice about services, foreign direct investment, and intellectual property.

Senate amendment

The Senate amendment requires the President, in determining whether to make negotiating offers and in determining the nature and scope of offers, to take into account any advice or information or reports by the ITC, any advisory committee, or any public hearings with respect to any article or domestic industry that is sensitive or potentially sensitive to imports.

Conference agreement

The House recedes, with an amendment to include information and advice about services, foreign direct investment, and intellectual property in the summary.

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

Implementation of Nairobi Protocol (secs. 881-894 of House bill; sec. 950 of Senate amendment; sec. 1121 of conference agreement)

Present law

The Trade and Tariff Act of 1982 provided for temporary implementation of the terms of the Nairobi Protocol.

The applicable provisions expired August 11, 1985.

House bill

The House bill repeals the 1982 Act, permits ratification of the Protocol and makes the following other changes:

Amends, repeals, and creates tariff provisions to incorporate the duty-free treatment of certain articles agreed to by the United States.

—Provides duty-free entry for specified printed matter, photographic films, specified visual and auditory material, tools for use with scientific instruments and apparatus, and most imported articles for the blind or for other physically or mentally handicapped persons.

—Empowers the President to terminate oor narrow, or impose conditions on, the duty-free treatment granted to the tools for scientific instruments and articles for the handicapped.

—Permits the President to expand the scope of the duty-free treatment of the visual and auditory material.

—Modifies the procedures to obtain duty-free eligibility for scientific apparatus and provides for collection of statistical information for imports of articles for the handicapped.

The provision is retroactive to August 12, 1985.

Senate amendment

The Senate amendment is substantially the same as the House bill, except there is no section equivalent to section 891 which modifies procedure to obtain duty-free eligibility for scientific apparatus.

Conference agreement

The House recedes.

Implementation of U.S.-European Communities Agreement on Citrus and Pasta (sec. 118 of House bill; sec. 946 of Senate amendment; sec. 1122 of conference agreement)

Present law

No provision.

House bill

The House bill grants the President authority to proclaim specified reductions in rates of duty on a specified list of articles on an appropriate date to implement tariff reductions agreed to by the United States in the agreement with the European Communities (EC) on citrus and pasta concluded February 24, 1987. The President is authorized to modify or terminate by proclamation any of the reductions at any time.

Senate amendment

The Senate amendment enacts specified reductions in duties on a specified list of articles as of 15 days after date of enactment to implement tariff reductions agreed to by the United States in the agreement with the EC on citrus and pasta concluded February 24, 1987. The Senate amendment also enacts new tariffs on imported pasta equal to the value of the EC subsidy (as calculated monthly by USDA) as of July 1, 1987, until USTR certifies to Congress that the EC has agreed to eliminate or fully offset the subsidy.

Conference agreement

The Senate recedes, with an amendment requiring that each semiannual report submitted by the USTR to the Congress under present law on section 301 actions include an assessment of whether the EC is in compliance with the pasta agreement.

No tariff reductions will go into effect until after September 30, 1988.

It is the intent of the conferees that if the USTR determines the EC is not in compliance with the pasta agreement, this will be treated as a trade agreement violation under section 301.

Negotiations on Currency Exchange Rates (sec. 126 of House bill; sec. 108 of Senate amendment; sec. 1124 of conference agreement)

Present law

No provision.

House bill

The House bill contains a separate provision under Enforcement of U.S. Rights under Trade Agreements and Response to Certain Foreign Trade Practices (section 301).

Senate amendment

Whenever during negotiations of trade agreements, the President determines that—

a. a foreign country that is party to the negotiations manipulates currency exchange rates and maintains investment barriers, discourages internal investment, or engages in a pattern of other acts, policies, or practices for the purpose of preventing effective balance of payments adjustments or gaining an unfair competitive advantage in trade;

b. the country's currency is substantially undervalued against the U.S. dollar; and

c. the country has a material global current account surplus;

the President must initiate bilateral currency negotiations with the country on an expedited basis.

Conference agreement

The House recedes, with a substitute amendment that requires that whenever in the course of negotiating a trade agreement the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations manipulates its currency exchange rate, the President shall initiate exchange rate negotiations with that country on an expedited basis.

SUBTITLE B—IMPLEMENTATION OF HARMONIZED TARIFF SCHEDULE (sec. 113 of House bill; sec. 937 of Senate amendment; secs. 1201-1217 of conference agreement)

Present law

No provision. Section 102 of the Trade Act of 1974 authorized nontariff agreements but was not applicable to agreements which involve comprehensive changes in U.S. tariffs.

House bill

The House bill authorizes the use of the renewed nontariff agreement authority under "fast track" Congressional procedures for a subsequent bill to approve and implement the International Convention on the Harmonized Commodity Description and Coding System: 90 calendar day advance notice to Congress prior to entering into the agreement, 45 legislative days for Committee and 15 legislative days for House/Senate consideration of an implementing bill.

Senate amendment

The Senate amendment makes Congressional findings that establishment of a uniform international tariff classification system will be of significant U.S. benefit and implementation of the Harmonized System on January 1, 1988, is highly desirable and should be achieved by early Congressional approval of implementing legislation.

The Senate amendment also provides an expedited "fast track" Congressional implementing procedure for Harmonized System approval than for other trade agreements: The President must notify the Congress within 15 days after enactment of his intent to submit implementing legislation; he must submit the agreement and draft bill within 30 days after the notice and after consulting with the House Ways and Means and Senate Finance Committees; Committee and floor consideration are each limited to 10 legislative days.

Conference agreement

The conferees agreed to include the implementing legislation for the Harmonized System in H.R. 3, rather than "fast track" approval authority for a subsequent separate implementing bill. The effective date for implementation of the Harmonized System Convention (Convention) shall be date of enactment; the effective date of implementation of the Harmonized Tariff Schedules (HTS) shall be January 1, 1989.

Subtitle B provides for Congressional approval of the Convention, the enactment of the HTS to replace the existing Tariff Schedules of the United States (TSUS), and the establishment of an appropriate administrative framework for the implementation of the Convention. The implementation of the Harmonized System culminates a long process begun with the enactment of section 608 of the Trade Act of 1974 (Public Law 93-618). The HTS has undergone intense review by the Congress, the Administration, our trading partners, and the public, including scrutiny by affected private sector groups.

The conferees believe that the HTS fairly reflects existing tariff and quota treatment and that the conversion is essentially revenue-neutral. Enactment of the tariff and quota treatment provided in this subtitle is intended to supersede and replace existing treatment as a matter of domestic law. The conferees find that any changes in the rates of duty are consequential to the process of converting to the new nomenclature, and are necessary to reflect an overall balance of tariff concession commitments between the United States and its trading partners in the GATT. Some of the rate increases in the United States conversion respond to our trading partners' failure to make appropriate commitments in the GATT negotiations on the Harmonized System. Although the U.S. conversion does meet our GATT obligations, some outstanding tariff issues resulting from enactment of the HTS are likely to reemerge. Any outstanding problems resulting from the GATT tariff negotiations may appropriately be resolved in the context of the Uruguay Round.

Status of Column 1

The provisions of section 1204(c) are intended by the conferees solely to ensure a solid legal foundation for the new tariff and to clarify the status of column 1 provisions where, for instance, rates proclaimed by the President have been subsequently modified by legislation. The statutory status given to column 1 provisions is not intended in any way to alter or diminish the authority of the President under existing or future law to modify the provisions of the tariff.

Generalized System of Preferences (GSP)

With reference to section 1211(b) and the implementation of the Generalized System of Preferences after the HTS enters into effect, the conferees intend that the term "article" in sections 504(c) and 504(d) of the Trade Act of 1974 (19 U.S.C. 2464(c) and 2464(d) in general refer to the eight-digit tariff item numbers of the HTS. Exceptions may be made to this rule if necessary to ensure that an article is a coherent product category.

Agency Responsibilities

Sections 1209 and 1210 set out the roles of the United States agencies principally responsible for the Harmonized System. These provisions are meant to ensure a broad base of participation in the work relating to the HTS and to the Convention. The USTR will be responsible for overall trade policy coordination with respect to the Convention, with the advice of the Trade Policy Committee. The Customs Service will be responsible for interpreting and applying the HTS, and will continue to take a lead role in the CCC's Harmonized System Committee, particularly with respect to issues regarding United States interpretation and application of the HTS to particular products. The ITC is also expected to play a lead role in formulating United States positions for, and representing the United States in, the CCC's Harmonized System Committee, particularly with regard to assuring that the Convention recognizes the needs of the U.S. business community for a nomenclature that reflects sound principles of commodity identification, modern producing methods, and current trading patterns and practices. The Commerce Department's Bureau of the Census will be responsible for ensuring that United States positions with respect to the HTS reflect broader interests in consistency and comparability of statistical reporting.

The conferees intend that the views of the private sector on the Convention be sought systematically through direct contacts with appropriate private sector advisory committees, trade organizations or trade groups, and through product experts in U.S. agencies such as the Department of Agriculture and the Department of Commerce.

Status of Explanatory Notes

The Explanatory Notes constitute the Customs Cooperation Council's official interpretation of the Harmonized System. They provide a commentary on the scope of each heading of the Harmonized System and are thus useful in ascertaining the classification of merchandise under the system.

The Explanatory Notes were drafted subsequent to the preparation of the Harmonized System nomenclature itself, and will be modified from time to time by the CCC's Harmonized System Committee. Although generally indicative of proper interpretation of the various provisions of the Convention, the Explanatory Notes, like other similar publications of the Council, are not legally binding on contracting parties to the Convention. Thus, while they should be consulted for guidance, the Explanatory Notes should not be treated as dispositive.

Prior Administrative and Judicial Decisions

In light of the significant number and nature of changes in nomenclature from the TSUS to the HTS, decisions by the Customs Service and the courts interpreting nomenclature under the TSUS are not to be deemed dispositive in interpreting the HTS. Nevertheless, on a case-by-case basis prior decisions should be considered instructive in interpreting the HTS, particularly where the nomenclature previously interpreted in those decisions remains unchanged and no dissimilar interpretation is required by the text of the HTS.

ADP Equipment

The conferees note that section 1215 and the relevant provisions of the HTS suspending the duty on certain automatic data processing equipment are intended to provide a pragmatic approach to an ongoing dispute concerning the proper classification of such equipment in the TSUS. Neither section 1215 nor the duty suspension provisions are intended in any way to express a Congressional view on the ongoing TSUS classification dispute.

Electricity and Electrical Energy

Electricity and electrical energy were considered to be "intangibles" under the existing TSUS and therefor not subject to the entry requirements applicable to imported articles. Although the HTS has a specific heading for "electrical energy," additional U.S. legal note 8(b) in chapter 27 of the HTS provides that electrical energy shall continue to be exempt from statutory entry requirements, but instead "shall be entered on a periodic basis in accordance with regulations to be prescribed by the Secretary of the Treasury." This provision will facilitate the collection of import statistics on electrical energy without otherwise affecting its legal status under U.S. trade laws.

SUBTITLE C—RESPONSE TO UNFAIR INTERNATIONAL TRADE PRACTICES

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES (SECTIONS 301-306 OF THE TRADE ACT OF 1974)

Mandatory Initiation of Section 301 Investigations (sec. 305 of Senate amendment)

Present law

A section 301 investigation may be initiated on petition of an interested person or by motion of the USTR. There is no mandatory initiation requirement.

House bill

No provision.

Senate amendment

The Senate amendment requires the USTR, on the basis of acts, policies, and practices identified in the annual NTE report, to self-initiate a section 301 investigation of cases the pursuit of which is most likely to result in the greatest expansion of U.S. exports, either directly or through establishment of a beneficial precedent, unless the USTR determines, after consulting a majority of the domestic industry affected, that initiation would be detrimental to other efforts to eliminate the acts, policies, or practices.

Conference agreement

The Senate recedes.

The conference agreement provides that with respect to *enumerated* specific causes of action in present law or added by the conference agreement, the USTR would have discretion in the initiation of investigations to determine whether action would be effective in addressing the foreign country's practice or barrier.

Determination of Actionable Foreign Acts, Policies, or Practices; Decisions on Action

a. Transfer of authority to the USTR (secs. 121, 124, 125 of House bill; sec. 306 of Senate amendment; sec. 1301 of conference agreement)

Present law

On the basis of an investigation (by petition or self-initiation) and consultations with the foreign country concerned, the USTR recommends to the President what action, if any, he should take with regard to the matters under investigation. The President determines whether action is appropriate and what action, if any, should be taken. The President is not required specifically to determine whether section 301 criteria are satisfied by the particular foreign act, policy, or practice, unless he takes action under section 301. The President may also take action on his own motion.

House bill

Determination. The House bill transfers to the USTR the authority to determine whether and what section 301 criteria are met by the particular foreign act, policy, or practice, and requires a specific formal determination in all cases of whether the act, policy, or practice is actionable under section 301.

Decision on action and implementation. The House bill also transfers to the USTR the authority to decide and implement any section 301 action, if the USTR determination is affirmative, subject to the specific direction, if any, of the President. The President would not retain separate authority to take action on his own motion, but may direct the USTR to take section 301 action.

Senate amendment

Determination. The Senate amendment transfers to the USTR the authority to determine whether section 301 criteria are met by the particular foreign act, policy, or practice, and requires a specific formal determination of whether the act, policy, or practice is actionable under section 301, which must be submitted to the President and published in the Federal Register.

Decision on action and implementation. The President retains the authority to decide and implement action.

Conference agreement

The Senate recedes.

b. Obtaining information (sec. 122 of House bill)

Present law

The investigatory procedures do not contain any statutory provisions with respect to the obtaining, verification, or use of information obtained by the USTR for making determinations.

House bill

The House bill adds provisions applicable to all investigations which—

a. require the USTR to direct appropriate inquiries to foreign governments to obtain relevant information;

b. authorize the USTR to request the foreign government to provide documentation or permit verification of the information as the USTR deems appropriate; and

c. authorize the USTR to disregard all or part of the foreign country information and use best information available if the foreign information is not timely, complete, or adequate, or is not sufficiently documented or verified.

Senate amendment

No provision.

Conference agreement

The House recedes.

c. Presentation of views (secs. 121, 124 of House bill; sec. 1301 of conference agreement)

1. Determinations and action decisions

Present law

Before recommending that the President take action, the USTR, unless he determines expeditious action is required—

a. shall provide opportunity for the presentation of views, including a hearing if requested by any interested person;

b. shall obtain advice from appropriate private sector advisory committees; and

c. may request the views of the International Trade Commission (ITC) regarding the probable impact on the U.S. economy of taking action.

If expeditious action is required, these requirements apply only after making the recommendation to the President.

House bill

No provision.

Senate amendment

The Senate amendment requires the USTR to provide an opportunity for the presentation of views before making unfair trade practice determinations, as well as before making recommendations, unless expeditious action is required.

Conference agreement

The House recedes, with a conforming amendment to apply the same prior opportunity for views to both the determination on whether an act, policy, or practice is actionable and the determination on action by the USTR.

2. Advance notice

House bill

The USTR must provide a minimum 30-day advance notice for the presentation of views by interested persons.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment to add the phrase, "unless expeditious action is required."

3. Special consultations

House bill

In export targeting cases, the USTR must also consult with representatives of the affected U.S. industry and workers and other interested persons concerning the nature of appropriate remedial action, including possible non-trade measures to enhance the international competitiveness of the industry.

Senate amendment

No provision.

Conference agreement

The House recedes.

4. Interested persons

House bill

The House bill adds a definition of "interested persons" for purposes of presenting views on the issues raised in petitions, on USTR action decisions, and on modification or termination of actions. The term "interested persons" specifically includes, but is not limited to, domestic firms and workers, representatives of consumer interests, and U.S. product exporters that may be affected.

Senate amendment

The Senate amendment specifically includes as an interested person an industrial user of any goods or services involved in the investigation that may be the subject of actions.

Conference agreement

The Senate recedes with an amendment to include the Senate provision in the definition of "interested persons."

d. Consideration of agricultural impact (sec. 121 of House bill)

Present law

No provision. The President determines whether and what section 301 action is appropriate; the private sector has an opportunity to present views before USTR recommends action, unless expeditious action is required.

House bill

The USTR must, before determining to take section 301 action that would restrict imports, take into account the likely impact such action would have on U.S. agricultural exports. The public notice of the USTR's action decision must include a statement regarding the likely impact, if any, of an import restricting action on U.S. agricultural exports.

Senate amendment

No provision.

Conference agreement

The House recedes.

Time Limits

a. Foreign consultations (sec. 123 of House bill; sec. 1301 of conference agreement)

Present law

On the date the USTR decides to initiate a section 301 investigation, he is required to request consultations with the foreign country concerned. If the case involves a trade agreement, and a mutually acceptable resolution is not reached during the consultation period, if any, specified in the trade agreement, the USTR is required to request promptly that formal dispute settlement proceedings be initiated.

The USTR may delay the request for consultations with the foreign government for up to 90 days after an investigation is initiated in order to verify or improve the petition to ensure an adequate basis for consultations.

House bill

The House bill requires the USTR to request dispute settlement proceedings at the earlier of the close of the consultation period specified in the agreement or 5 months after consultations began.

The USTR must consult with the petitioner before deciding to delay consultations with the foreign government.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

b. Unfairness determinations and decisions (sec. 124 of House bill; sec. 306 of Senate amendment; sec. 1301 of conference agreement)

Present law

Under present law, the USTR must make a recommendation to the President on what section 301 action he should take, if any, not later than—

a. 7 months after initiation of the investigation if the petition alleges only an export subsidy covered by the General Agreement on Tariffs and Trade (GATT) subsidies agreement;

b. 8 months after initiation of the investigation if the petition alleges a domestic subsidy or both export and domestic subsidies covered by the GATT subsidies agreement;

c. 30 days after the dispute settlement procedure is concluded if the petition involves a trade agreement other than the subsidies agreement; or

d. 12 months after initiation of the investigation in any other case.

These time limits may be extended by up to 90 days if the request for foreign consultations was delayed.

House bill

The House bill requires the USTR to determine whether section 301 criteria are met, and, if affirmative, to decide what action, if any, he shall take, not later than—

a. 7 months after initiation of the investigation if only an export subsidy is alleged (same as present law);

b. 8 months after initiation of the investigation if a domestic subsidy or both domestic and export subsidies are alleged (same as present law);

c. 30 days after conclusion of dispute settlement proceedings or 18 months after initiation of the investigation, whichever occurs first, if a trade agreement other than the subsidies agreement is involved; or

d. 12 months after initiation of the investigation in any other case (same as present law).

In export targeting cases, the USTR must make a determination within 6 months after initiating an investigation (decision on action within 12 months). A separate provision requires a determination and decision by the USTR on priority intellectual property rights cases within 6 months, or within 12 months in certain exceptional circumstances.

These time limits may be extended by up to 90 days to conform to any period of delay in the request for foreign consultations.

Senate amendment

The Senate amendment requires the USTR to determine whether section 301 criteria are met by no later than 9 months after an investigation is initiated. In export targeting cases the determination must be made no later than 6 months after initiation.

In priority intellectual property rights cases, the determination is required within 6 months, within 9 months in certain exceptional circumstances.

These time limits may be extended by up to 90 days to conform to any period of delay in the request for foreign consultations.

The Senate amendment requires the USTR to make a recommendation to the President on what actions he should take at least 30 days before the President is required to take action.

Conference agreement

The Senate recedes, with an amendment to apply the 12-month limit to cases involving subsidies covered by the GATT subsidies agreement, as well as to any cases not involving a trade agreement, including export targeting cases. There is a separate agreement on priority intellectual property rights cases.

c. Time limit for action (sec. 121 of House bill; sec. 306 of Senate amendment; sec. 1301 of conference agreement)

Present law

Under present law, the President must determine within 21 days after he receives a recommendation from USTR what action, if any, he will take. The President may also decide to take action on his own motion at any time. There are no time limits on retaliatory action or on its implementation.

House bill

The House bill requires the USTR, subject to the specific direction, if any, of the President, to implement any section 301 action within 30 days after making a decision to take action.

USTR may delay implementation of any retaliatory action for up to 180 days if—

a. the petitioner or the domestic industry requests a delay; or

b. the USTR determines that substantial progress is being made or that delay is necessary or desirable to obtain U.S. rights or a satisfactory solution with respect to the act, policy, or practice, or export targeting.

Senate amendment

Trade agreement cases involving formal dispute settlement proceedings. The Senate amendment requires the President to act on the earlier of 6 months after the date on which a preliminary or final dispute settlement ruling is issued consonant with the USTR's affirmative determination, or 19 months after the investigation is initiated. The 19 months deadline may be postponed by the length of any period of delay in formal dispute settlement proceedings requested by the petitioner or a majority of representatives of the domestic industry that would benefit, or a delay for which they are responsible.

Other cases. The Senate amendment requires the President to act within 15 months after initiation of an investigation. Action may be postponed for a 60-day period if the President submits to the Congress a written statement which—

a. certifies that progress is being made—

(1) to enforce the U.S. rights that are the subject of the affirmative USTR determination;

(2) to eliminate or reduce the acts, policies, or practices that are the subject of the affirmative determination; and

b. to fully describe the factual basis on which the certification is made.

No more than two postponements may be made in the same investigation.

The Senate amendment requires the President to act on priority intellectual property rights cases within 30 days after an affirmative determination, or 4 months after an affirmative determination in exceptional circumstances investigations.

Conference agreement

The Senate recedes, with an amendment that authorizes the USTR to postpone implementation of section 301 action for up to 180 days if (1) the petitioner or a majority of the domestic industry that would benefit requests a delay, or (2) the USTR determines that substantial progress is being made or that delay is necessary or desirable to obtain U.S. rights or a satisfactory solution with respect to the act, policy, or practice.

d. Notice and report requirements (sec. 121 of House bill; sec. 1301 of conference agreement)

Present law

Under present law, the President must publish notice of his determination and the reasons therefore in the *Federal Register*.

House bill

The House bill requires the USTR to publish promptly in the *Federal Register* notice of each decision to take action, each delay in implementing action, and the reasons for the decision or delay.

The House bill also adds a requirement that the USTR report promptly in writing to the Congress on each action taken or the reason for taking no action on practices subject to mandatory action or to eliminate export targeting.

Senate amendment

No provision.

Conference agreement

The House recedes, with an amendment to require the USTR to publish a notice in the *Federal Register* of the determination on whether the practice is actionable under section 301 and on action in each case.

Section 301 Action

a. Mandatory/discretionary action (sec. 121 of House bill; sec. 306 of Senate amendment; sec. 1301 of conference agreement)

Present law

If the President determines that action is appropriate:

a. to enforce U.S. rights under any trade agreement; or

b. to respond to any act, policy, or practice of a foreign country that (1) is inconsistent with the provisions of, or otherwise denies U.S. benefits under, any trade agreement, or (2) is unjustifiable, unreasonable, or discriminatory and burdens or restricts U.S. commerce;

then the President—

a. shall take all appropriate and feasible action within his power to enforce such rights, or to obtain the elimination of the act, policy, or practice; and

b. may (1) suspend, withdraw, or prevent the application of trade agreement concessions; and (2) impose duties or other import restrictions on the goods of, and fees or restrictions on the services of, the foreign country for such time as he deems appropriate; and

c. may also restrict the terms and conditions, or deny issuance, of any prospective service sector access authorization (e.g., licenses).

House bill

Mandatory action:

The House bill requires the USTR, subject to the specific direction, if any, of the President, to take retaliatory action and to take all other appropriate and feasible action within the power of the President that he directs the USTR to take to enforce U.S. rights or to obtain the elimination of the act, policy, or practice if the USTR determines that—

a. U.S. rights under a trade agreement are being denied; or

b. an act, policy, or practice of a foreign government either (1) violates or is inconsistent with or otherwise denies U.S. benefits under a trade agreement; or (2) is otherwise *"unjustifiable"* and burdens or restricts U.S. commerce.

The form of retaliatory action is discretionary, but the amount must be equivalent in value to the burden or restriction imposed by the foreign unfair practice on U.S. commerce.

Exceptions:

Retaliation would not be required if—

a. the GATT Contracting Parties determine or a GATT panel reports that U.S. trade agreement rights are not being denied or the act, policy, or practice is not a violation of, or inconsistent with, U.S. rights or does not deny, nullify, or impair trade agreement benefits; or

b. the USTR finds that—

(1) the foreign country is taking satisfactory measures to grant U.S. trade agreement rights;

(2) the foreign government has agreed to eliminate or phase out the act, policy, or practice, or has agreed to an imminent solution to remove the burden or restriction on U.S. commerce that is satisfactory to the USTR;

(3) it is impossible for the foreign country to achieve the results under (1) or (2), but it agrees to provide the United States compensatory trade benefits that are satisfactory to the USTR; or

(4) such action is not in the U.S. national economic interest because it would result in such interests being more adversely affected if action were taken than if not, and the USTR reports the reasons to the Congress.

Discretionary action:

The USTR would have discretionary authority, as under present law, to take all appropriate and feasible action within his power to obtain the elimination of any act, policy, or practice he determines is *"unreasonable"* or *"discriminatory,"* subject to the specific direction, if any, of the President.

Senate amendment

If the USTR makes an affirmative determination in *any case*, the President *is required* to take whatever actions authorized by section 301 are necessary to enforce all rights, and to eliminate or offset all acts, policies, or practices subject to the determination.

Exceptions:

The President is not required to take action if—

a. the GATT Contracting Parties make a determination, or a ruling is issued under the dispute settlement procedures of any trade agreement other than the GATT, that conflicts with the USTR's affirmative determination;

b. an agreement is entered into under which the foreign country involved agrees to eliminate or adequately offset the act, policy, or practice and enforce the rights, and a majority of the representatives of the U.S. industry that would benefit from enforcement of the rights, or elimination of the acts, policies, and practices agree, or the petitioner, if any, agrees;

c. the President certifies to the Congress that taking action would cause serious harm to the U.S. national security;

d. the President certifies to the Congress that the enforcement of the rights and elimination of the acts, policies, and practices is impossible and the foreign country enters into an agreement to provide adequate compensation in the same economic sector as the domestic industry (or the economic sector as closely related as possible); or

e. in cases involving "unreasonable" or "discriminatory" (not "unjustifiable") acts, policies, or practices or in priority intellectual property rights cases, the President certifies to the Congress that the elimination of such acts, policies, and practices is impossible, and retaliation would not be in the national economic interest.

Conference agreement

The Senate recedes, with an amendment that deletes the national economic interest exception to mandatory action cases in the House bill and adds the following two waivers to mandatory action: (1) in extraordinary cases, where action would have an adverse impact on the U.S. economy substantially out of proportion to the benefits of action, taking into account the impact of not acting on the credibility of section 301; and (2) if action would cause serious harm to the U.S. national security. A second amendment adds rulings under dispute settlement procedures of any trade agreement other than the GATT to the first exception to mandatory action. This exception would encompass any bilateral trade agreement under which both the United States and the other party are bound by GATT rules and procedures.

The conferees note that in the exception to mandatory retaliation relating to compensation agreements the standard of "impossibility" is a high one, but is not meant to connote physical impossibility.

In "unreasonable" cases there is a presumption that the USTR would take action on such cases where it has a reasonable indication that such action will be effective in changing the foreign country's practice or barrier.

The conferees note that a number of European countries restrict U.S. producers of steam turbine generating equipment from their markets. The conferees hope that the Administration will consider the use of the provisions of this part to address this and similar trade restrictions.

b. Type of action (sec. 121 of House bill; sec. 1301 of conference agreement)

Present law

The choice of the type of import restrictive retaliatory action is totally discretionary.

House bill

The type of retaliatory action in any case is discretionary, but preference must be given to tariff increases or to removal of tariff preferences over quantitative restrictions; consideration must be given to a possible timetable for transferring any quota retaliation to an equivalent tariff.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

c. Sectoral scope of action (sec. 121 of House bill; sec. 306 of Senate amendment; sec. 1301 of conference agreement)

Present law

Under present law, the President may act with respect to any goods or sector without regard to whether the goods or sector were involved in the act, policy, or practice.

House bill

Requires the USTR to give preference in all cases to action on the same goods or sector and, in any compensation agreement, to seek benefits from the foreign country in the same goods or sector.

Senate amendment

Requires that any compensation agreement provide trade benefits in the economic sector of which the U.S. domestic industry is a part, or in the economic sector as closely related as possible to such economic sector.

Conference agreement

The House recedes, with an amendment that requires compensation agreements to provide trade benefits in the same or a closely related economic sector, unless such benefits are not feasible or benefits would be more satisfactory in another sector.

d. Negotiated settlements (sec. 307 of Senate amendment; sec. 1301 of conference agreement)

Present law

There is no statutory provision under present law, but USTR in practice negotiates agreements with foreign countries to resolve section 301 cases. No statutory authority is provided for agreements to offset or eliminate the burden or restriction on U.S. commerce, rather than to obtain the elimination of foreign unfair acts, policies, or practices.

House bill

No provision.

Senate amendment

The Senate amendment adds specific authority for the President to enter into binding agreements with a foreign country that fully offset or eliminate any burden or restriction on U.S. commerce resulting from the foreign act, policy, or practice.

Conference agreement

The House recedes, with an amendment that authorizes the USTR to enter into binding agreements that commit a foreign country to eliminate or phase out the practice, to eliminate the burden or restriction on U.S. commerce, or to provide satisfactory compensation.

e. Generalized System of Preferences (GSP) withdrawal (sec. 121 of House bill; sec. 307 of Senate amendment)

Present law

Section 301 authorizes the President to take all appropriate and feasible action within his power; he is also authorized to impose duties. Section 504 of the Trade Act of 1974 authorizes the President to withdraw, suspend, or limit GSP duty-free treatment with respect to any article or country.

House bill

The House bill adds specific authority for the USTR to withdraw or not proclaim GSP beneficiary status to a developing country or to deny GSP duty-free treatment to any product of a beneficiary developing country as a form of section 301 action.

Senate amendment

The Senate amendment is identical to the House bill, except the authority to act remains with the President.

Conference agreement

The conferees agreed to strike the House bill and the Senate amendment, since the President has the authority under present law to withdraw or deny GSP duty-free treatment as a section 301 action.

f. Use of Export Enhancement Program (sec. 308 of Senate amendment)

Present law

Section 301 authorizes the President to take all appropriate and feasible action within his power to enforce U.S. rights or to obtain the elimination of a foreign unfair trade practice.

House bill

No provision.

Senate amendment

If the USTR initiates an investigation of any foreign act, policy, or practice he has reason to believe may impair, or threaten to impair, U.S. sales of agricultural commodities or products of agricultural commodities in foreign markets, the USTR shall, after consulting with the Secretary of Agriculture and other appropriate agency heads, determine whether the provision of surplus commodities and the products of surplus commodities under the Export Enhancement Program to U.S. exporters, users, and processors and foreign purchasers would be an appropriate action to offset the foreign act, policy, or practice. The USTR must report to the President and the Congress on any determination and the reasons, including recommendations on the scope and application of any directive the President may issue if the determination is affirmative.

If affirmative, the President shall direct the Commodity Credit Corporation to provide to the extent appropriate surplus agricultural commodities under the program to U.S. exporters, users, processors and foreign purchasers to offset the act, policy, or practice, or submit a written statement to the Congress explaining why he declined to issue a directive.

The President shall revoke a directive if the USTR determines the act, policy, or practice is not actionable under section 301 or if it is eliminated or fully offset.

Conference agreement

The Senate recedes, since the President has the authority under present law to use the Export Enhancement Program as a section 301 action.

g. Service sector access authorization (sec. 911 of Senate amendment)

Present law

In addition to other retaliatory action, the President may restrict the terms and conditions or deny the issuance of any service sector access authorization (e.g., license) that permits a foreign supplier of services access to the U.S. market.

House bill

No provision.

Senate amendment

The Senate amendment expands the definition of "service sector access authorization" to also apply to a foreign supplier of goods related to a service.

Conference agreement

The Senate recedes.

The Senate amendment is unnecessary since the issue was addressed in the Statement of Managers on the Trade and Tariff Act of 1984, which clarified that the existing authority with respect to imported goods should be used for action against foreign goods and that the service sector access authority should be used on goods only to the extent that actions involving services must be taken with respect to goods associated directly with those services.

Subsequent Action

a. Commercial effects report (sec. 127 of House bill; sec. 1301 of conference agreement)

Present law

Under present law, the USTR is required to submit a semiannual report to the Congress describing petitions filed, determinations made, the current status of each proceeding, and the actions taken, or the reasons for no action.

House bill

The House bill adds a requirement that the report describe the commercial effects of actions taken.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

b. Monitoring/enforcement of foreign actions (sec. 125 of House bill; sec. 1301 of conference agreement)

Present law

No provision.

House bill

The USTR must monitor implementation of any measure, or compliance with any settlement agreement, by a foreign country.

If the foreign country is not implementing or complying with the settlement, the USTR shall decide what action he shall take under section 301, to be treated as a violation of a trade agreement subject to mandatory action as if it were a decision on the original investigation (i.e., section 301 authority, time limits, consultation, and reporting requirements apply). Before taking any action, the USTR must consult with the petitioner and the domestic industry and provide an opportunity for public views.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

c. Modification/termination (sec. 125 of House bill; sec. 306 of Senate amendment; sec. 1301 of conference agreement)

Present law

No specific provision.

House bill

The House bill explicitly authorizes the USTR to modify or terminate a section 301 action at any time if—

a. the GATT or a GATT panel finds the action violates or is inconsistent with U.S. international obligations or the foreign act, policy, or practice is not a violation or does not otherwise deny, nullify, or impair U.S. trade agreement benefits; or

b. the USTR determines (1) the foreign act, policy, or practice is being eliminated or phased out satisfactorily; or (2) the action is not effective or its continuation is not in the national economic interest.

The USTR must promptly publish and report to the Congress any modification or termination and the reasons.

The House bill also requires the USTR to conduct a biennial review and assessment of the results and commercial effects of each section 301 action, and to decide whether any modification or termination is appropriate, after consulting with the petitioner and representatives of the domestic industry and providing an opportunity for public views by other interested persons affected.

Senate amendment

The Senate amendment explicitly authorizes the President to modify or terminate an action if—

a. any of the exceptions to the initial section 301 action subsequently apply, or

b. the burden or restriction on the U.S. economy of the denial of rights or of the acts, policies, or practices subject to the affirmative determination has increased or decreased.

The President must publish notice of his determination or action and the reasons in the Federal Register.

The Senate amendment also provides that any action will automatically terminate if it has been in effect during any four-year period and neither the petitioner nor any representative of the benefitting domestic industry submits to the USTR a written request for continuation during the last 60 days of the four-year period. USTR must notify by mail the petitioner and representatives of the domestic industry at least 60 days before the date of termination.

If a request is submitted, USTR shall conduct a formal review of—

a. the effectiveness of the action and of other actions that could be taken (including actions against other goods or services) to achieve the enforcement of all U.S. rights, or the elimination or offsetting of all the foreign acts, policies, and practices that were the subject of the action; and

b. the effects of such actions on the U.S. economy, including consumers.

USTR shall submit a report on the review to the President and the Congress and include in the report any recommended action modifications. Upon receiving the report, the President may modify the actions.

Conference agreement

The Senate recedes, with amendments (1) to substitute the same applicable criteria under the conference agreement for exceptions to cases involving mandatory action and, in other cases, the criteria for discretionary action, or if the burden or restriction on U.S. commerce increases or decreases; and (2) to substitute the termination provisions in the Senate amendment for the biennial review in the House bill.

Actionable Foreign Acts, Policies, or Practices

a. U.S. trade with third countries (sec. 121 of House bill; sec. 307 of Senate amendment)

Present law

Unjustifiable, unreasonable, or discriminatory foreign acts, policies, or practices must also burden or restrict U.S. commerce to be actionable under section 301.

House bill

The House bill makes explicit the present administrative practice that the burden or restriction on U.S. commerce under present law may be an effect on U.S. trade with third countries, as well as on bilateral trade.

Senate amendment

The Senate amendment specifies that acts, policies, or practices of a foreign country which "burden" U.S. commerce include, but are not limited to—

a. those which have an adverse effect on trade between the United States and a third country;

b. the subsidization of exports of such foreign country that results in the displacement of U.S. exports to a third country;

c. the imposition of import restrictions or export performance requirements that result in the diversion of exports of a third country to U.S. markets; and

d. the enforcement of trade restraining agreements that result in the diversion of exports of a third country to U.S. markets.

Conference agreement

The conferees agreed to strike the House bill and the Senate amendment, since the effect on U.S. trade with third countries is included under present law.

b. Threat of burden on U.S. commerce (sec. 306 of Senate amendment)

Present law

Unjustifiable, unreasonable, or discriminatory acts, policies, or practices must be a burden or restriction on U.S. commerce to be actionable.

House bill

No provision, except export targeting is actionable if it threatens to be a significant burden or restriction on U.S. commerce.

Senate amendment

Makes any unfair act, policy, or practice actionable if it "threatens" to burden or restrict U.S. commerce.

Conference agreement

The conferees agreed to strike the House bill and the Senate amendment.

c. Export targeting (sec. 121 of House bill; secs. 306, 307 of Senate amendment; sec. 1301 of conference agreement)

Present law

Section 301 applies to individual export targeting practices to the extent they otherwise meet section 301 criteria.

Present law defines "unreasonable" as foreign acts, policies, or practices not necessarily in violation of, or inconsistent with, U.S. international legal rights, but otherwise deemed to be "unfair and inequitable." The definition specifically includes the denial of fair and equitable market opportunities, opportunities for establishment of an enterprise, and provision of adequate and effective protection of intellectual property rights.

House bill

The House bill makes "export targeting" specifically actionable if the USTR determines that a policy or practice of foreign export targeting exists and is, or threatens to be, a *significant* burden or restriction on U.S. commerce. The USTR may consult with appropriate Federal agencies in making the determination. The USTR must publish notice of the determination in the Federal Register."

"Export targeting" is defined as "any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof the effect of which is to assist such enterprise, industry, or group to become more competitive in the export of any class or kind of merchandise."

The USTR, subject to the specific direction, if any, of the President, is required to take action against export targeting which is a significant burden or restriction on U.S. commerce, unless he finds such action is not in the U.S. national economic interest because it would result in such interests being more adversely affected if action were taken than if not, and the USTR reports the reasons to the Congress.

Action may be—

(1) retaliation against the goods or services of the foreign country; and/or

(2) entry into an agreement providing an imminent solution by the foreign country to the significant burden or restriction on U.S. commerce, or compensatory trade benefits satisfactory to the USTR.

If the national economic interest waiver is exercised, the USTR must convene a private sector panel of experts, including representatives of the domestic industry and labor, to advise on measures to promote the industry's competitiveness. The panel must report to the USTR within 6 months; the USTR must forward the report to the Congress with his recommendations.

In any case, the USTR, subject to the specific direction, if any, of the President, may also take administrative actions and, if necessary, propose legislation to implement any other action to restore or improve the international competitiveness of the domestic industry.

Action is *discretionary* if the export targeting *threatens* to be a significant burden or restriction on U.S. commerce.

Any retaliatory action must affect goods or services of the foreign country in an amount equivalent in value to the burden or restriction on U.S. commerce. Any action shall, to the extent possible, reflect the full benefit level of the targeting to the beneficiary over the period during which it has an effect.

Senate amendment

The Senate amendment specifically includes export targeting in the definition of "*unreasonable*" acts, policies, or practices. The definition of export targeting is identical to the House bill, but also includes a list of illustrative practices—

a. protection of home market;

b. promotion or toleration of cartels;

c. special restrictions on technology transfer imposed for reasons of commercial advantage;

d. discriminatory government procurement or other actions that limit foreign competition in a specific sector or of a specific industry and thereby promote export competitiveness of domestic firms;

e. the use of export performance requirements that limit foreign competition in a specific sector or of a specific industry and thereby promote export competitiveness; or

f. subsidization (as defined in the GATT Subsidies Agreement).

Retaliatory action is mandatory, subject to the same exceptions applicable to other "unreasonable" acts, policies, or practices.

If the President does not take retaliatory action because he certifies to the Congress that elimination of export targeting is impossible and that retaliation would not be in the national economic interest, the USTR must initiate negotiations with the foreign country to eliminate or fully offset the effects of export targeting or provide compensation. The USTR must make periodic reports to the President on the progress of actions taken. If the USTR is unsuccessful in obtaining an agreement in a reasonable time period, the President must establish an advisory panel to report within 6 months to the President and Congress recommended measures to promote the competitiveness of the affected domestic industry. The panel must consist of Presidential appointees from the private sector, including representatives of management and labor in the domestic industry affected who by education and experience are qualified to serve. On the basis of the report, the President may take administrative actions and, if necessary, propose legislation to implement any other actions to restore or improve the international competitiveness of the domestic industry. The President must submit a report to Congress within 30 days after the advisory panel report on administrative actions taken and legislation proposed.

Conference agreement

The House recedes, with amendments (1) to delete the illustrative list of practices; (2) to delete mandatory retaliation or negotiations and apply the same authority for the USTR, subject to the specific direction, if any, of the President, as for other "unreasonable" practices; and (3) to require the USTR, rather than the President, to convene a private sector panel and to submit a report if section 301 action is not taken.

d. Worker rights (sec. 121 of House bill; sec. 307 of Senate amendment; sec. 1301 of conference agreement)

Present law

Present law defines "unreasonable" as foreign acts, policies, or practices not necessarily in violation of, or inconsistent with, U.S. international legal rights, but otherwise deemed to be "unfair and inequitable." The definition specifically includes the denial of fair and equitable market opportunities, opportunities for establishment of an enterprise, and provision of adequate and effective protection of intellectual property rights.

House bill

The House bill includes in the definition of "unreasonable" any foreign act, policy, or practice that, with respect to workers: denies the right of association; denies the right to organize and bargain collectively; permits any form of forced or compulsory labor; fails to provide a minimum age for the employment of children; and, taking into account a country's level of economic development, fails to provide standards for minimum wages, hours of work, and occupational safety and health.

The USTR may determine that the act, policy, or practice is not unreasonable if the foreign country has taken or is taking steps that demonstrate a significant and measurable overall advancement to afford the rights and standards throughout the country, including in any designated zone within such country.

Senate amendment

The Senate amendment includes in the definition of "unreasonable" those foreign acts, policies, or practices which constitute a persistent pattern of conduct that denies workers the right of association, denies workers the right to organize and bargain collectively, permits any form of forced or compulsory labor, fails to provide a minimum age for the employment of children, or fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers.

These acts, policies, and practices shall not be treated as unreasonable if the USTR (at the time he makes a determination under section 304 on whether the practice is actionable) determines that the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing the rights and standards throughout the country (including any designated zone), or such acts, policies, or practices are not inconsistent with the country's level of economic development. The USTR must publish such a determination and a description of the facts on which it is based in the *Federal Register*.

Conference agreement

The House recedes.

e. Market access (sec. 121 of House bill; sec. 307 of Senate amendment; sec. 1301 of conference agreement)

Present law

The definition of "unreasonable" includes any act, policy, or practice which denies fair and equitable market opportunities.

House bill

The House bill specifically includes in the denial of fair and equitable market opportunities the toleration by a foreign government of systematic anticompetitive activities by or among private firms in that country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of U.S. goods to purchasing by those firms.

Senate amendment

The Senate amendment is identical to the House bill, except it also includes activities that restrict access of U.S. services, as well as goods.

Conference agreement

The Senate recedes.

This provision reflects the growing conviction on the part of the conferees that anticompetitive, market-restrictive behavior on the part of private firms, when coupled with the failure of a foreign government to intervene to eliminate such behavior, can act as a barrier to market access which is as great as any formal government act, policy, or practice alone. This has been particularly evident in such sectors as automobile parts, soda ash, and semiconductors. To the extent such behavior acts as a burden or restriction on U.S. commerce, it would be regarded as an unfair practice which is actionable under section 301.

The inclusion of government toleration of certain anti-competitive private activities as an actionable section 301 act, policy, or practice is not intended to apply broadly to any and all purchasing decisions by private firms. It is intended to apply to government toleration of pervasive or egregious activities in a foreign country by or among private firms which result in a persistent pattern of restricted market access by U.S. firms in a particular industry. This would include situations in which purchasing policies or decisions made by a parent firm in a foreign country affect access by U.S. firms to purchasing by the parent's subsidiaries in other countries.

The provision requires that the anti-competitive behavior by or among private firms be systematic, be conducted on a basis that is inconsistent with commercial considerations, and that it be tolerated by the foreign government. This would include, but not be limited to, toleration of cartel-type behavior by or among private firms or toleration of closed purchasing behavior on the part of private firms that precludes or limits U.S. access in a concerted and systematic way. In determining whether foreign private firms engage in closed procurement practices, the USTR should examine actual levels of purchases of U.S. goods by those firms.

The conferees wish to emphasize, however, that their intent is not to regulate the business practices of foreign firms or to enforce upon foreign governments U.S. concepts of antitrust law. This provision is meant to allow the USTR and the President to take a flexible approach to these problems, and to attack trade-restrictive activities by foreign private interests only when the foreign government is in essence at least a silent partner to the restrictive practice. In determining whether the criteria of this provision are met, the USTR may continue to take into account, among other things, whether the anti-competitive foreign private activities are inconsistent with local (not U.S.) law; the flagrancy of the activities; and the degree of the effect on U.S. commerce.

f. Intellectual property licensing (sec. 307 of Senate amendment)

Present law

The same definition of "unreasonable" applies as under e. above.

House bill

No provision.

Senate amendment

The Senate amendment includes in the definition of "unreasonable" the requirement of a foreign country that intellectual property be licensed to that country or any firm of that country or that technical information regarding any product or service be submitted to such country as a condition for importation or marketing or sale of any U.S. product or service in that country.

Conference agreement

The Senate recedes.

g. Subsidized world excess capacity (sec. 307 of Senate amendment)

Present law

The same definition of "unreasonable" applies as under e. above.

House bill

No provision.

Senate amendment

The Senate amendment includes in the definition of "unreasonable" the direct or indirect provision of a subsidy (including funds provided on terms inconsistent with commercial considerations) to increase the capacity to produce a nonagricultural fungible good for which existing world production capacity (or a reasonable expectation of future world capacity) significantly exceeds existing world demand (or a reasonable expectation of future world demand).

Such an act, policy, or practice shall be treated as burdening or restricting U.S. commerce if it threatens to have an adverse impact on U.S. commerce.

The President is not required to take any action but, if the President determines action is appropriate, he shall take all appropriate and feasible action in his power to obtain the elimination of the act, policy, or practice.

Conference agreement

The Senate recedes.

h. Access to foreign technology (sec. 906 of House bill)

Present law

The same definition of "unreasonable" applies as under e. above.

House bill

The House bill includes in the definition of "unreasonable" the denial of access to foreign-government-sponsored technology, research, or development.

Senate amendment

No provision.

Conference agreement

The House recedes.

i. Mercantilist practices (sec. 307 of Senate amendment)

Present law

The term "discriminatory" includes, where appropriate, any act, policy, or practice which denies national or most-favored-nation treatment to U.S. goods, services, or investment.

House bill

No provision.

Senate amendment

The Senate amendment includes in the definition of "discriminatory" any act, policy, or practice—

a. which enables a state trading enterprise to compete in international trade with U.S. firms or make purchases or sales in international trade on any basis that is not dependent on commercial considerations (including price, quality, availability, and transportation);

b. through which a foreign country exercises its authority, influence or power for the purpose of assisting a state trading enterprise in competing in international trade with U.S. firms, or making purchases or sales in international trade, on any basis that is not dependent on commercial considerations; or

c. which fails to afford U.S. firms adequate opportunity, in accordance with customary business practice, to compete for participation in purchases from, or sales to, state trading enterprises.

Whether purchases or sales have been based on "commercial considerations" shall be determined on the basis of similar arm's-length commercial purchases and sales by any person or entity that is not a state trading enterprise."

State trading enterprise" means—

a. any agency, instrumentality, or administrative unit of a foreign country which purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or sells goods or services in international trade; or

b. any business firm which is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit of a foreign country; is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit; and purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods in international trade.

Conference agreement

The Senate recedes.

j. Denial of benefits (sec. 307 of Senate amendment)

Present law

Any act, policy, or practice of a foreign country that is inconsistent with the provisions of, or otherwise denies benefits to the United States under, any trade agreement is actionable under section 301.

House bill

No provision.

Senate amendment

The Senate amendment provides that a foreign act, policy, or practice denies benefits to the United States under a trade agreement if it nullifies, impairs, or impedes attainment of the objectives of the trade agreement, or constitutes an unfair trade concessions requirement with respect to any product or service within the purview of the trade agreement."

Unfair trade concessions requirement" is defined as any act, policy, or practice of a foreign government which, as a practical matter, unreasonably requires that substantial direct investment in the country be made, intellectual property be licensed to the foreign country or any firm of the country, or other collateral concession be made as a condition for importation of any U.S. product or service or as a con dition for carrying on business in the foreign country. Existence of such a requirement may be inferred from existing circumstances if direct evidence of a requirement is not otherwise available.

Conference agreement

The Senate recedes.

k. Foreign instrumentalities and territories (sec. 121 of House bill; sec. 307 of Senate amendment; sec. 1301 of conference agreement)

Present law

Present law applies to the acts, policies, or practices of "a foreign country or instrumentality."

House bill

The House bill applies only to a "foreign country" and defines the term "foreign country" to include any foreign instrumentality.

Senate amendment

The Senate amendment applies only to a foreign "country"; any foreign instrumentality, or any possession or territory of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

Conference agreement

The Senate recedes with an amendment to treat any possession or territory of a foreign country that is administered separately for customs purposes as a separate foreign country.

l. Conclusion of certain pending cases (sec. 128 of House bill)

Present law

No provision.

House bill

The House bill expresses the sense of the Congress that the USTR should conclude, as soon as possible, all pending cases involving unfair foreign agricultural export practices.

Senate amendment

No provision.

Conference agreement

The House recedes.

Identification of Trade Liberalization Priorities (sec. 126 of House bill; secs. 303, 304 of Senate amendment; sec. 1302 of conference agreement)

Present law

There is no provision under present law requiring the identification, mandatory investigation, or action on all the major priority trade barriers of a particular country.

House bill

Determination of excessive trade surplus countries. The U.S. International Trade Commission (ITC) must make an annual determination in each of the years 1986 through 1991 as to whether any "major exporting country" (countries with more than $7 billion in trade with the U.S. in 1985 adjusted annually thereafter) is an "excessive trade surplus" country (i.e., it has a ratio of bilateral nonpetroleum exports over nonpetroleum imports that exceeds 175 percent; a bilateral nonpetroleum trade surplus with the United States in excess of $3 billion for the year; and a current account surplus for the year). No ITC determinations are required if the U.S. merchandise trade deficit is less than 1.5 percent of GNP.

The determination is to be made initially by November 15, 1987, and by April 1 of each successive year.

Determination of trade distorting policies. Within 15 days after the ITC determination, the USTR must determine whether any "excessive trade surplus" country is also an "unwarranted surplus" country—i.e., maintains a pattern of unjustifiable, unreasonable or discriminatory trade policies or practices that have a significant adverse effect on United States commerce and contribute to the excessive trade surplus of that country, based upon section 181 annual report (National Trade Estimate), findings under section 301 or antidumping and countervailing duty laws, adverse GATT determinations, and other relevant information, including but not limited to, the existence of discriminatory government procurement, excessive discriminatory government regulation, governmental tolerance of dumping in foreign markets, export subsidy and targeting policies, excessive tariff barriers, and any other unfair trade barrier.

Designation of a country as an excessive and unwarranted trade surplus country will terminate for any given year if either the ITC or USTR makes a negative determination.

Negotiations and agreements to achieve elimination or reduction of unwarranted practices. The USTR is required to enter into negotiations with each excessive and unwarranted surplus country for the purpose of entering into a bilateral trading arrangement which:

—eliminates such country's "unwarranted" acts, policies, and practices or

—eliminates the significant adverse effects of such acts, policies or practices on U.S. commerce.

Within 90 days after negotiations have begun, the USTR must estimate the commercial value of each country's "unwarranted" practices and submit a report to Congress. Before making such estimates, the USTR must provide opportunity for public comment (including a hearing, if requested); take into account the NTE; and consult with the House Ways and Means and Senate Finance Committees.

In determining whether an arrangement is satisfactory, the USTR must be satisfied that the arrangement will allow U.S. firms to improve their trade with the country involved by an amount equal to the commercial value of the country's unwarranted practices.

Action by USTR if no satisfactory agreement is reached. If, after 6 months the USTR is unable to conclude a satisfactory arrangement, then USTR shall on a timely basis and subject to the specific direction, if any, of the President, take action against all unjustifiable, unreasonable or discriminatory policies or practices found to exist (either during its initial determination of "unwarranted surplus countries" or during negotiations). Any action must be designed to affect the goods and services of the foreign country in an amount equivalent to the burden or restriction caused by these policies or practices. The USTR may take any of the following actions:

1. Suspend, withdraw, or prevent the application of trade agreement concession benefits with that country.

2. Direct customs officers to assess duties or impose other import restrictions on the products of that country for such time, in such an amount, and to such a degree as the President determines appropriate.

3. Take administrative action, and, if necessary, propose legislation.

Surplus reduction requirements. Each excessive and unwarranted surplus country must reduce its bilateral trade surplus by 10 percent per year. If that goal is not met, the USTR must take action to assure that the goal is met.

Waiver authority. The President would be permitted to modify or terminate any action taken or reduce or waive the surplus reduction goal if the President considers that—

—because of balance of payments difficulties (including debt repayments), the country cannot meet the surplus reduction goal without suffering significant economic harm; or

—continuation of enforcement actions or implementation of the surplus reduction requirement would cause substantial harm to the national economic interest of the United States;

and the President develops a plan of action for otherwise achieving the fundamental purposes of this section.

In order for any modification, termination, reduction, or waiver to become effective, the President must submit to the Congress a document stating his intention and containing the plan of action for otherwise achieving the fundamental purposes of this section.

The Congress would have 60 days to disapprove the waiver under the fast-track.

Annual reports and monitoring. The Secretary of the Treasury and the ITC shall undertake such annual monitoring and analysis of U.S. exports to, and imports from, excessive and unwarranted trade surplus countries with regard to which a trade arrangement or an action is in force as may be necessary to evaluate the efficacy of the actions. The results shall be submitted to the President, the USTR, and the House Ways and Means and Senate Finance Committees.

Further authorized action against currency manipulation. The Secretary of the Treasury would be required to determine whether any "excessive and unwarranted surplus country" is maintaining its currency at an artificially low level in a manner that does not reflect the country's underlying competitive strength in world markets. If he finds affirmatively, the Secretary must initiate negotiations with such country to seek a more realistic alignment of its currency. If the country refuses to negotiate, or to negotiate in good faith, he is authorized to impose an "exchange rate equalization tariff."

Senate amendment

Short title. World Markets Opening Initiative.

Determination of trade distorting policies. Within 29 days after submission to Congress of the National Trade Estimate (NTE) report in 1988 and 1989, the USTR must:

1. Identify, on the basis of the NTE, those foreign countries that maintain a consistent pattern of import barriers and market distorting practices. In making this identification, USTR must take into account the acts, policies, or practices included in the NTE and the level of U.S. exports of goods and services that could reasonably be expected if a country fully implemented its trade agreements, based on the international competitive position of such products and services;

2. Identify each country's major barriers and trade distorting practices whose elimination is likely to have the most significant potential to increase U.S. exports. In determining which barriers are "major," USTR must consider:

a. The international competitive position and export potential of U.S. products and services;

b. Circumstances in which the sale of a small quantity of a product or service may be more significant than its value; and

c. The measurable medium-term and long-term implications of government procurement commitments to U.S. exporters; and

3. Estimate the amount by which U.S. exports would have increased during the preceding calendar year if those barriers and practices did not exist.

Report to Congress. A report to Congress by USTR is required on the identification of countries and barriers and on trade estimates described in items b. and c. above.

Initiation of investigations. Within 21 days of filing the report with Congress, USTR must initiate a section 301 investigation with respect to the major trade barriers and market distorting practices identified in the report with regard to each "consistent pattern" country.

Negotiations and agreements to achieve elimination or reduction of unwarranted practices. During the consultations with a foreign country, the USTR must seek to negotiate an agreement which provides for:

1. The elimination of, or compensation for, the major barriers and market distorting practices identified by the USTR, within 3 years of the date on which the investigation was initiated; and

2. The reduction of those barriers and practices over a 3-year period, with the expectation that U.S. exports to that country will, as a result, increase incrementally during each of the 3 years.

Suspension of investigations. An investigation must be suspended if an agreement is reached within the time limits prescribed generally for section 301 investigations.

Action if agreements not complied with. If the President determines that a foreign country is not in compliance with an agreement entered into under this section, the President must direct the USTR to continue the section 301 investigation which was suspended as a result of the agreement, applying the same time limits for investigation that were applicable prior to suspension. General provisions of section 304 and 301 of the Trade Act of 1974, as amended, relating to USTR determinations and Presidential action, apply.

Action by USTR if no satisfactory agreement is reached. All provisions of sections 304 and 301 of the Trade Act of 1974, as amended, relating to USTR recommendations and Presidential action, apply.

Waiver authority. The President is not required to take action when any of the exceptions to action under section 301 generally apply.

Annual reports and monitoring. The USTR must submit a report to Congress annually, beginning in 1989, which includes the following information:

1. Revised estimates of the amount by which U.S. exports to a country would have increased in the absence of its identified major barriers and market distorting practices;

2. In the case of a country that has entered into an agreement, evidence that demonstrates (in the form of increased U.S. exports during the previous year) that substantial progress has been made toward the goal of eliminating the major barriers and market distorting practices;

3. In the case of a country that has not entered into or not complied with an agreement, evidence that demonstrates (in the form of increased U.S. exports) the elimination of the major barriers and market distorting practices;

4. To the extent that evidence under 2. and 3. above cannot be provided, a description of the actions taken by the President under section 301 to eliminate or offset the barriers and market distorting practices.

The USTR may exclude any previously identified foreign country from the report in any calendar year after 1993 if, for the two previous years, the report demonstrated that all of that country's major barriers and market distorting practices have been eliminated.

Petitions by Congressional committees. If the Senate Finance or House Ways and Means Committee determines, through adoption of a resolution, that an investigation should be initiated with respect to the barriers and market distorting practices of any country that the Committee determines maintains a consistent pattern of import barriers or market distorting practices, the Committee is eligible to file a section 301 petition and shall file such a petition.

Further authorized action against currency manipulation. Included under Trade Agreement Negotiating Authority.

Conference agreement

The House recedes, with amendments (1) to base the reports, investigations, and negotiations on identification by the USTR of U.S. trade liberalization priorities, including priority foreign countries and priority practices; (2) to delete the provision for petitions by Congressional committees; (3) to require the identification of priority practices and countries within 30 days after submission of the NTE report in 1989 and 1990; (4) to require the USTR to initiate section 301 investigations of all acts identified under this provision as priority practices for each priority country, and to authorize initiation of investigations for other priority practices; and (5) to conform to the transfer of authority of section 301 action from the President to the USTR.

The change in language to priority practices and priority countries is not intended as a limitation on the scope of the original provision, and is not intended to result in the identification of only token practices and countries. The identification of priority practices is also not limited to those barriers in the NTE report. The USTR is expected to use all information readily available about foreign trade practices.

The annual report to be submitted by the USTR under this provision allows exclusion of any previously identified priority country from the report in any calendar year after 1993 if for the previous two years the report demonstrated that all of that country's priority practices have been eliminated. The conferees recognize that under the literal terms of the provision, the reporting requirement might never terminate because some practices identified are not eliminated. This could occur because the USTR has decided not to take retaliatory action under section 301 (a) or (b), the foreign country has provided satisfactory compensation to the United States, or the foreign country has elected to accept U.S. retaliation rather than to eliminate the practice. However, after 1993, there will not be any remaining priority practices that have not been eliminated or at least been subject to a decision by the USTR; under section 301 and, therefore, the requirement to issue a separate report under this provision will no longer be necessary. Any priority practices that remain in effect at that time should be reflected in the NTE report.

Action to Improve International Intellectual Property Protection

a. Findings, purposes, and sense of Congress (sec. 171 of House bill; sec. 416 of Senate amendment; sec. 1303 of conference agreement)

Present law

No provision.

House bill

The House bill establishes general findings and purposes on the importance of intellectual property rights protection and the need to improve such protection domestically and internationally.

Senate amendment

Under the Senate amendment, a free-standing provision (section 416) makes general findings about inadequate or ineffective protection of intellectual property, unfair methods of competition, and trade barriers; and expresses the sense of the Congress that the President should secure fair market access and protect the intellectual property of U.S. exporters.

Conference agreement

The conferees agreed to merge the House and Senate provisions.

b. Identification of priority foreign countries (sec. 173(a) of House bill; sec. 302(a) of Senate amendment; sec. 1303 of conference agreement)

Present law

No provision.

House bill

Under the House bill, the USTR shall, within 30 days after issuing the annual section 181 report, identify "priority foreign countries" that deny adequate and effective protection of intellectual property rights. The USTR may at any time revoke the identification of priority foreign countries or add countries not previously identified if subsequent information indicates there is a change in circumstances.

For purposes of identifying priority foreign countries, the USTR shall select only those countries—

(1) that have the most egregious acts, policies, or practices that deny adequate and effective protection of intellectual property rights;

(2) whose acts, policies, or practices of denying adequate and effective protection have the greatest adverse impact in their own or other potential markets for the relevant U.S. products; and

(3) are not entering into good faith negotiations or are not making significant progress in bilateral or multilateral negotiations to provide adequate and effective protection of intellectual property rights.

The USTR shall base its identification of foreign priority countries on information in the annual section 181 report; petitions filed under section 301; or other information available or submitted by interested parties to the USTR. The USTR also must consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate U.S. Government officials in making such identifications.

Senate amendment

The Senate amendment is the same as the House bill, except the Senate amendment also applies to countries that deny fair and equitable market access to U.S. persons that rely upon intellectual property protection.

With respect to revocation of an identification, the Senate amendment requires the USTR to submit to the Congress a written report setting forth the reasons.

For purposes of identifying priority foreign countries under the Senate amendment, the USTR shall take into account—

(1) the onerous nature and significance of foreign acts, policies, and practices;

(2) the potential foreign market size; and

(3) the estimated trade-distorting impact on U.S. commerce of the foreign acts, policies, and practices.

Finally, the consultation provision is similar to the House bill, except the USTR is not required to consult with the Register of Copyrights and other U.S. Government officials.

Conference agreement

The House recedes, with amendments incorporating the revocation report into the semiannual report under section 301; and merging, with amendments, the House and Senate factors for identifying priority countries.

The Senate recedes on the consultation requirement.

The purpose of the provisions dealing with market access is to assist in achieving fair and equitable market opportunities for U.S. persons that rely on intellectual property protection. As a complement to U.S. objectives on intellectual property rights protection in the Uruguay Round of trade negotiations, the conferees intend that the President should ensure, where possible, that U.S. intellectual property rights are respected and market access provided in international trade with all our trading partners. The provision shall apply to all foreign countries, unless specifically exempted by the terms of this Act, including any nation with which the United States has entered into a bilateral free trade agreement that has not entered into force upon the date of enactment of this Act.

Examples of foreign barriers to market access for products protected by intellectual property rights which this provision is intended to cover include, but are not limited to—laws, acts, or regulations which require approval of, and/or private sector actions taken with the approval of, a government for the distribution of such products; the establishment of licensing procedures which restrict the free movement of such products; or the denial of an opportunity to open a business office in a foreign country to engage in activities related to the distribution, licensing, or movement of such products. The provision also applies to nontariff barriers such as expropriatory policies of a foreign government which disestablish U.S. investments related to products protected by intellectual property rights through their forced resale to private parties in the foreign country.

The Congress is particularly concerned about those trading partners who erect barriers to trade in products protected by intellectual property rights on the grounds of protecting "cultural sovereignty." Such restrictive practices often have a direct and significant adverse financial impact on U.S. industries. Furthermore, such practices may be imitated by other trading partners around the world on the same pretext, thus having the potential to damage seriously important sectors of the U.S. economy.

In determining appropriate actions in response to the denial of market access for U.S. products protected by intellectual property rights due to a foreign act, policy, or practice, the President should endeavor to fashion a response in such a manner as to discourage the erection of similar nontariff barriers in other countries. The President shall consult closely with the affected industry to ensure that the equivalent commercial effect of such barriers is fully assessed.

c. Definitions (sec. 302(a) of Senate amendment; sec. 1303 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, the term "persons that rely upon intellectual property protection" means individuals, corporations, partnerships, joint ventures, or other business organizations involved in: the creation, production or licensing of literary or artistic works that are copyrighted, or the manufacture of products that are patented or for which there are process patents.

The term "adequate and effective protection of intellectual property" means that a country provides adequate and effective means under its law for foreign persons to secure, to exercise and to enforce rights in all forms of intellectual property, including patents, process patents, trademarks, copyrights, mask works, trade secrets, and proprietary technical data.

Conference agreement

The House recedes, with amendments to the Senate definitions and with the addition of a definition for denial of fair and equitable market access.

d. Section 301 investigations (sec. 173(b) of House bill; sec. 305(a) of Senate amendment; sec. 1301(b) of conference agreement)

1. Self-initiation

Present law

Section 302(b) authorizes the USTR to self-initiate section 301 investigations after consulting with appropriate private sector advisory committees.

House bill

Under the House bill, the USTR shall promptly self-initiate section 301 investigations on each priority foreign country, unless he determines that initiation with respect to a particular country would be detrimental to the U.S. national economic interest.

If the USTR determines not to self-initiate, he must report promptly in writing to the Congress detailed reasons for the determination, including the U.S. national economic interests which would be affected adversely by self-initiation of an investigation.

Senate amendment

The Senate amendment is the same as the House bill, except self-initiation must take place within 30 days of identification of priority countries; and self-initiation also may be waived if the foreign country has entered into good faith negotiations and substantial and timely progress is being made. In addition, the report also must specify, if appropriate, the progress being made in negotiations.

Conference agreement

The Senate recedes, with an amendment providing for self-initiation of investigations within 30 days.

2. Consultations

House bill

The House bill provides that prior to and during section 301 investigations, the USTR shall consult with the Copyright Office, the Office of Patents and Trademarks, and other appropriate agencies. (Other procedures for section 301 investigations also apply.)

Senate amendment

Identical provision.

Conference agreement

The conferees agree to both the House and Senate provisions.

3. Time limits (sec. 173(c) of House bill; sec. 306(a) of Senate amendment; sec. 1301 of conference agreement)

Present law

Section 304(a) requires the USTR to make a recommendation to the President within 12 months after initiating an investigation.

House bill

The House bill requires the USTR to make a determination and decision under section 304 on what action, if any, he should take under section 301 with respect to each priority foreign country within 6 months after the date of initiation.

The USTR may extend the time period for making the determination and recommendation to the President by up to 6 months on any priority foreign country if—

(1) complex or complicated issues are involved that require additional time;

(2) the country is making substantial progress in drafting or implementing legislative or administrative measures to provide adequate and effective protection of intellectual property rights; or

(3) the country is undertaking enforcement measures to provide adequate and effective protection of intellectual property rights.

Senate amendment

The Senate amendment requires the USTR to make a determination under section 304 within 6 months after the date of initiation. Authority to make a decision as to what action, if any, should be taken remains with the President.

The time period for the USTR determination may be extended for the same reasons as in the House bill, but only for an additional 3 months in specified circumstances.

The USTR recommendation to the President on the action, if any, to be taken, is to be made at least 30 days before the President is required to take action.

Conference agreement

The House recedes on time limits. The Senate recedes on the transfer of authority.

e. Section 301 action (sec. 121 of House bill; sec. 306(a) of Senate amendment; sec. 1301 of conference agreement)

Present law

Section 301(e) defines as an "unreasonable" act, policy, or practice the denial of adequate and effective protection of intellectual property rights. The President, if he determines that action by the United States is appropriate, shall take all appropriate and feasible action within his power to obtain the elimination of the act, policy, or practice.

House bill

As in other section 301 cases, the House bill requires the USTR, subject to the specific direction, if any, of the President, to implement section 301 action within 30 days of a decision to take action. (See separate description under section 301 of additional procedural and remedial provisions applicable to all section 301 cases.)

Senate amendment

The Senate amendment requires the President to act within 30 days after an affirmative determination, or 4 months after an affirmative determination in exceptional circumstances investigations. (See separate description under section 301 of additional procedural and remedial provisions applicable to all section 301 cases.)

Conference agreement

The House recedes on time limits. The Senate recedes on the transfer of authority.

Amendments to the National Trade Estimate (Foreign Trade Barriers) Report (sec. 183 of House bill; sec. 301 of Senate amendment; sec. 1304 of conference agreement)

a. Additional estimates

Present law

The report must include an estimate of the trade-distorting impact of the barriers and distortions on U.S. commerce. Certain factors are to be taken into account in making the analysis and estimate required in the annual NTE report, including—

a. the relative impact of the act, policy, or practice on U.S. commerce;

b. the availability of information to document prices, market shares, and other matters necessary to demonstrate the effects of the act, policy, or practice;

c. the extent to which the act, policy, or practice is subject to international agreements to which the United States is a party; and

d. any advice given through appropriate private sector advisory committees.

House bill

No provision.

Senate amendment

The Senate amendment requires the USTR, in the NTE report, to include an estimate, and to take into account in making an analysis and estimate of significant barriers and their trade impact, of the value of additional goods and services of the United States and the value of additional foreign direct investment by U.S. persons, that would have been exported to, or invested in, each foreign country during the calendar year for which the estimate is made if each of the acts, policies, or practices of such foreign country that is identified as a significant barrier to, or distortion of, trade did not exist.

Conference agreement

The House recedes, with an amendment to require estimates "where feasible."

b. Submission of report

Present law

The NTE report is submitted to the House Ways and Means and Senate Finance Committees annually on the day that is the anniversary of the date of enactment of the International Trade and Investment Act (October 30, 1984).

House bill

The report is to be submitted to "appropriate committees" of the House and to the Senate Finance Committee.

Senate amendment

The Senate amendment requires the USTR to submit the NTE report on March 31 of each year, beginning in 1988, to the President in addition to the House Ways and Means and Senate Finance Committees.

Conference agreement

The House recedes, with amendments (1) requiring the next NTE report to be submitted on April 30, 1989 (no report on October 30, 1988) and on March 31 in subsequent years; and (2) for the report to be submitted in the House to "appropriate committees." The identification of barriers and analysis of their impact in calendar year 1988 is for the purpose of preparing the report to be submitted on April 30, 1989.

c. Additional practices

Present law

Section 181 of the Trade Act of 1974 requires the USTR annually to submit to the House Ways and Means and Senate Finance Committees a national trade estimate (NTE) report identifying and analyzing foreign acts, policies, or practices which constitute significant barriers to, or distortions of, trade.

House bill

The House bill requires the USTR to identify and analyze in the NTE report any other significant act, policy, or practice that may constitute an element of export targeting, as defined in section 301.

Senate amendment

No provision.

Conference agreement

The House recedes.

Investigation of Barriers in Japan to Certain U.S. Services (sec. 908 of House bill; sec. 310 of Senate amendment; sec. 1305 of conference agreement)

Present law

No provision.

House bill

The House bill requires the USTR, within 90 days after enactment, to initiate an investigation of the acts, policies, and practices of the Government of Japan and of entities owned, financed, or otherwise controlled by the Government of Japan with respect to Japanese barriers to the offering by U.S. persons of architectural, engineering, construction, and consulting services in Japan.

Senate amendment

The Senate amendment is identical in substance to the House bill, except it includes the "performance," as well as the "offering," by U.S. persons of such services.

Conference agreement

The House recedes.

Trade and Economic Relations with Japan (sec. 311 of Senate amendment; sec. 1306 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment contains various findings and expresses the sense of the Congress that the President should propose a summit between U.S. and Japanese leaders, including Members of Congress and representatives of all Japanese political parties, to address trade and economic issues and establish an agreement laying out objectives for improvements in those areas and targets for meeting these objectives.

Conference agreement

The House recedes, with an amendment updating the findings.

Supercomputer Trade Dispute (sec. 312 of Senate amendment; sec. 1307 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment contains various findings and expresses the sense of the Congress that the USTR and other U.S. Government officials should place the highest priority on concluding and enforcing agreements with Japan on improved market access for U.S. supercomputers and cessation of any Japanese predatory pricing activities. Those officials also should continue to monitor U.S. firms' efforts to gain access to the Japanese market, recognizing that the Japanese government may continue to manipulate its procurement process to maintain market dominance of Japanese producers.

Conference agreement

The House recedes, with an amendment to update the findings.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

1. Actionable domestic subsidies (sec. 153 of House bill; sec. 333 of Senate amendment; sec. 1312 of conference agreement)

Present law

Section 771(5)(B) of the Tariff Act of 1930 sets forth a list of actionable domestic subsidies which, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, fall within the definition of subsidy subject to U.S. countervailing duties. This list includes, but is not limited to:

(1) the provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations;

(2) the provision of goods or services at preferential rates;

(3) the grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry; or

(4) the assumption of any costs or expenses of manufacture, production or distribution.

House bill

(a) The House bill clarifies the application of the countervailing duty law to domestic subsidies by requiring that the Commerce Department base its determination on whether a particular subsidy is in fact bestowed upon a specific industry or group of industries, or instead is bestowed upon industries in general.

(b) The House bill also provides a hierarchy of rates to serve as benchmarks for determining whether goods or services are provided at "preferential rates." The provisions requires that the Commerce Department compare the rate provided to the enterprise or industry to the first of the following rates that can be determined: a freely-available and market-determined rate within the foreign country; an appropriate rate applicable to external transactions; the cost of production plus a reasonable profit.

Senate amendment

(a) The Senate amendment contains a provision similar to that of the House bill, which is effective for investigations and reviews initiated after date of enactment.

(b) No provision.

Conference agreement

The House recedes with an agreement by the conferees to direct the U.S. Trade Representative to ask the U.S. International Trade Commission to conduct a section 332 investigation identifying countries which maintain investment barriers or other restrictions which effectively prevent foreign capital from claiming the benefit of foreign government programs on the same terms as domestic capital. The report should be submitted to the House Ways and Means Committee, the Senate Finance Committee, and the USTR. Based upon the ITC report, the USTR should self-initiate section 301 investigations to address those practices it considers to be the most egregious unreasonable practices within the meaning of section 301 and to have the most adverse impact on U.S. industries.

2. Calculation of subsidies on certain processed agricultural products (sec. 338 of Senate amendment; sec. 1313 of conference agreement)

Present law

In cases involving processed agricultural products, the Commerce Department treats subsidies to growers or producers of the raw agricultural input as being bestowed on the processed product, under certain circumstances.

House bill

No provision.

Senate amendment

The Senate amendment codifies and clarifies Commerce practice by adding a new provision to the Tariff Act of 1930 relating to certain subsidies on processed agricultural products. The provision requires subsidies provided on a raw agricultural product to be deemed as provided on the production or export of an agricultural product processed from such raw product if:

(1) the demand for the raw product is substantially dependent on the demand for the processed product; and

(2) the processing operation adds only limited value to the raw product.

Conference agreement

The House recedes.

3. Revocation of status as a Country under the Agreement (sec. 334 of Senate amendment; sec. 1314 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment clarifies that the U.S. Trade Representative has authority to revoke the injury test for any country that violates a Subsidies Code commitment it has undertaken with respect to the United States. The provision explicitly states that the U.S. Trade Representative may revoke the injury test if a foreign country either announces that it will not, or in fact does not, honor its obligations.

Conference agreement

The House recedes.

4. Treatment of international consortia (sec. 337 of Senate amendment; sec. 1315 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides that, in determining any countervailing duty, the administering authority shall cumulate, in addition to subsidies provided directly to an international consortium, all subsidies to members (or other participating entities) of an international consortium producing merchandise subject to a countervailing duty investigation that assist, permit, or otherwise enable them to participate in such consortium through production operations in their respective home countries.

Conference agreement

The House recedes. This provision would clarify existing law with regard to the application of the countervailing duty law to cases involving an international consortium. Current law does not expressly address the authority of the Commerce Department to investigate subsidies by more than one foreign government to participants in an international consortium, when the product of the international consortium is subject to a countervailing duty investigation.

This amendment would explicitly authorize the Commerce Department to investigate subsidies provided at each stage of the production process by all participating countries in an international consortium, and to cumulate the amounts of subsidies from all such countries in determining the relevant countervailing duty to be applied to the product subject to investigation.

The conferees intend that the Commerce Department administer the provision by collapsing its subsidy analysis so that the consortium members would be treated as one company for purposes of determining the level of multi-country subsidization attributable to the final product manufactured and exported by the consortium and its members.

The conferees are concerned that U.S. manufacturers are increasingly confronting unfair competition from international consortia receiving subsidies from multiple foreign governments. It is the intent of the conferees that the countervailing duty law be explicitly applicable to cases in which foreign governments provide subsidized assistance for participation in international production and marketing ventures both within and beyond traditional customs union frameworks.

The conferees are aware of the fact that bilateral discussions are currently underway between the United States and the European Community on the issue of subsidies provided to Airbus Industrie. In light of the slow progress of these negotiations, however, it is the intent of the conferees to make it perfectly clear that the U.S. countervailing duty law may be applied to remedy subsidies provided by multiple governments to an international consortium which exports its product to the United States.

5. Dumping by Nonmarket Economy Imports (sec. 325 of Senate amendment; sec. 1316 of conference agreement)

a. Standard for determining dumping

Present law

If available information indicates that the economy of the exporting country is state-controlled to an extent that sales in that country's home market or to third country markets do not permit a determination of foreign market value using the normal methodology, then the administering authority must determine the foreign market value of the merchandise on the basis of the normal costs, expenses, and profits as reflected by either:

(1) the prices at which merchandise of a non-state-controlled-economy country is sold either for consumption in the home market of that country, or to other countries, including the U.S.; or,

(2) the constructed value of merchandise in a non-state-controlled-economy country.

House bill

No provision.

Senate amendment

The Senate amendment provides that the foreign market value of imports from nonmarket economy countries shall be based on the trade-weighted average price at which comparable merchandise, produced in the "eligible market economy country" accounting for the largest volume of imports of comparable merchandise, is sold at arm's length in the U.S. during the most recent period for which sufficient information is available.

Conference agreement

The House recedes with a substitute amendment to determine foreign market value using a constructed value methodology based on the factors of production utilized in producing the merchandise subject to investigation. The relevant factors of production would include, but not be limited to, labor, raw materials, energy and other utilities, and representative capital costs, including depreciation. The factors would be valued from the best available evidence in a market economy country (or countries) that is at a comparable level of economic development as the country subject to investigation and is a significant producer of the comparable merchandise. The term "significant producer" includes any country that is a significant net exporter and, if appropriate, Commerce may use a significant net exporting country in valuing factors.

In valuing such factors, Commerce shall avoid using any prices which it has reason to believe or suspect may be dumped or subsidized prices. However, the conferees do not intend for Commerce to conduct a formal investigation to ensure that such prices are not dumped or subsidized, but rather intend that Commerce base its decision on information generally available to it at that time. In addition, Commerce should seek to use, if possible, data based on production of the same general class or kind of merchandise using similar levels of technology and at similar levels of volume as the producers subject to investigation.

b. Nonmarket economy country

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment defines the term "nonmarket economy country" as any foreign country that Commerce determines does not operate on market principles of cost or pricing structures, so that sales in the country do not reflect the fair value of the goods. In making this determination, Commerce shall take into account: currency convertibility; the extent to which wage rates are determined by free bargaining between labor and management; the extent to which joint ventures and foreign investment are permitted; and other factors Commerce considers appropriate.

Commerce may make such a determination at any time. It shall remain in effect until revoked and not be subject to judicial review.

Conference agreement

The House recedes with an amendment to add as additional factors to be considered, (a) the extent of government ownership or control over means of production, and (b) the extent of government control over allocation of resources, price and output decisions of enterprises, and international transactions.

c. Eligible market economy country

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment defines the term "eligible market economy country," as any country that is not a nonmarket economy country, where comparable goods are produced and exported, and which Commerce determines is appropriate, taking into account factors including, but not limited to:

(1) whether comparable goods from that country are subject to an antidumping or countervailing duty order (or agreement suspending any such investigation);

(2) whether any international agreement affecting the price or quantity of imports is in effect; or,

(3) whether the level of imports is *de minimis.*

Conference agreement

The Senate recedes.

d. Exceptions

Present law

No provision.

House bill

No provision.

Senate amendment

If Commerce determines that there is no eligible market economy country, foreign market value would be based on constructed value of comparable merchandise in any country or countries other than a nonmarket economy country.

If Commerce determines that the comparable merchandise from the eligible market economy country is either subject to an antidumping order, or Commerce has reason to believe it is being sold below fair value, then the foreign market value for the imports under investigation shall be a constructed value based on the factors of production incurred in producing the imports (including, but not limited to, labor, raw materials, energy and other utilities, and representative capital costs, including depreciation). The factors would be valued from the best available evidence in the market economy or economies deemed appropriate by Commerce. Commerce shall determine whether there is reason to believe that such comparable merchandise is being sold at less than fair value whenever the petitioner or another interested party alleged such.

Conference agreement

The House recedes with a substitute amendment providing that, if the administering authority determines that there is not adequate information on which to value the factors of production, then Commerce shall determine foreign market value based on the prices at which comparable merchandise from a market economy country (or countries) at a comparable level of economic development is sold for export to other countries, including the United States. In applying this provision, Commerce should not use export prices that are distorted by unusual conditions or terms (for example, tied aid sales). Commerce shall, to the extent possible, ensure that the comparable merchandise be of the same quality as the merchandise subject to the investigation, or shall make appropriate adjustments to compensate for quality differences (if any), as practicable.

e. Suspension agreements

Present law

Section 734 allows for suspension of an antidumping investigation based on:

(1) an agreement to cease exports within 6 months;

(2) an agreement to revise prices to eliminate completely any sales at less than fair value; or,

(3) an agreement to revise prices to eliminate completely the injurious effects of the imports.

It does not allow for suspension of antidumping investigations on the basis of quantitative restriction agreements.

House bill

No provision.

Senate amendment

The Senate amendment provides a special rule under section 734 for suspending antidumping investigations of imports from nonmarket economy countries based on quantitative restraint agreements. Such agreements must satisfy the general requirements for suspension agreements, including public interest criteria, and prevent suppression or undercutting of domestic price levels.

Conference agreement

The House recedes.

f. Collection of information

Present law

No provision.

House bill

No provision.

Senate amendment

The U.S. Customs Service and the ITC would be required, upon request by Commerce, to provide Commerce with all public or proprietary information obtained by them that is relevant to investigations regarding imports from nonmarket economy countries.

Conference agreement

The House recedes, with an amendment to delete the requirement with respect to the ITC.

6. Third-country dumping and input dumping (sec. 156 of House bill; secs. 1317 and 1318 of conference agreement)

Present law

No provision.

House bill

The House bill adds a new section to the Tariff Act of 1930 to account for diversionary input dumping (exportation of a product which incorporates a dumped input product) in determining the foreign market value of a product under investigation.

Diversionary input dumping occurs whenever any foreign material or component which has been found within the past six years to have been dumped in the U.S. market is purchased by a foreign manufacturer at a price less than its fair value.

Commerce shall investigate whether input dumping is occurring whenever:

(1) Commerce has reasonable grounds to believe or suspect that diversionary dumping is occurring;

(2) the input is routinely used as a major material or component in producing the merchandise currently under investigation (such that it has a significant effect on the cost of producing the merchandise); and,

(3) imports of the input have declined, or increased more slowly, while imports of the

merchandise under investigation have increased.

If the Commerce Department determines that diversionary input dumping is occurring, then the foreign market value for the merchandise under investigation (the downstream product) must be based on constructed value, which shall be increased by the difference between the dumped input's purchase price and its fair value.

In determining whether, and to what extent, the foreign input was purchased by a foreign manufacturer at a price "less than its fair value", Commerce shall use the following:

(1) If there is an antidumping duty order currently in effect with respect to the input, then the foreign market value of the input identified in such order shall be used in determining the fair value of the input.

(2) If there is no antidumping duty order currently in effect, because the investigation was terminated or suspended on the basis of a quantitative restriction agreement, then the fair value of the input shall be based on the best available information, including any information gathered in the previous investigation of the input and information contained in the petition.

(3) If Commerce determines that the method for calculating fair value of the input under (1) or (2) does not accurately reflect the benefit bestowed to the manufacturer of the merchandise under investigation, it may make adjustments to reflect a more accurate measurement of the actual benefit bestowed.

If Commerce investigates diversionary input dumping, it may extend deadline for preliminary determination by 30 days. If Commerce commences investigating diversionary input dumping after its preliminary determination, it may extend the deadline for its final determination by 30 days.

Senate amendment

No provision.

Conference agreement

The Senate recedes with a substitute amendment which provides (1) new procedures for domestic industries who are injured by third-country dumping to request antidumping action by foreign governments, and (2) authority for the Commerce Department, when foreign market value is based on constructed value, to base the value of a major input which has been provided by a related party on its costs of production, rather than the price authorized under section 773(e)(2), when certain conditions exist.

Section 1317 of the conference agreement sets forth procedures for domestic industries to petition the U.S. Trade Representative to pursue U.S. rights under Article 12 of the GATT Antidumping Code. A domestic industry that produces a product like or directly competitive with merchandise produced by a foreign country may submit a petition to the U.S. Trade Representative if it has reason to believe that such merchandise is being dumped in a third country market and such dumping is injuring the U.S. industry.

If the U.S. Trade Representative determines there is a reasonable basis for the allegations in the petition, the U.S. Trade Representative shall submit to the appropriate authority of the foreign government an application requesting that antidumping action be taken on behalf of the United States. Article 12 of the GATT Antidumping Code requires that such an application "be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned." (paragraph 2, article 12). Accordingly, at the request of the U.S. Trade Representative, the appropriate officers of the Commerce Department and the ITC shall assist the U.S. Trade Representative in preparing any such application.

After submitting an application to the foreign government, the U.S. Trade Representative shall seek consultations with its representatives regarding the requested action. If the foreign government refuses to take any antidumping action, the U.S. Trade Representative shall consult with the domestic industry on whether action under any other U.S. law is appropriate.

Section 1318 of the conference agreement adds a new paragraph (3) to section 773(e) of the Tariff Act of 1930 to address situations in which "constructed value" is being used as a basis for foreign market value, and the foreign manufacturer has purchased a major input from a related party. The amendment provides that if the Commerce Department has reasonable grounds to believe or suspect that the amount representing the value of a major input which is provided by a related party ("transfer price") is less than the related party's costs of producing such major input, then Commerce may base the value of such input on the best evidence available as to its costs of productin when such costs are greater than the price that would be used as a result of the application of paragraph (2) ("arms-length price").

The conferees expect that, if petitioner makes a bona fide allegation that the transfer price for the major input or the arms-length price is less than the related party's costs of production, then Commerce will investigate such claims and may request cost-of-production information from the related party seller of the input. If the related party seller does not provide reliable data on its costs of production, and Commerce has reasonable grounds to believe or suspect that the transfer price and also the arms-length price would be less than costs of production, then Commerce should use best information to establish a reasonable estimate of the related party's costs of production for such input. The term "costs of production" means all fully allocated costs, including overhead, but not including profit.

In relying on best evidence available, Commerce may use information developed during the course of a previous antidumping investigation of the particular material or component with regard to its "foreign market value". If Commerce uses information from a previous investigation, however, it must consider whether the information is still reliable, taking into account the period of time on which the information is based.

It is not the intent of the conferees that foreign market value be based on constructed value solely for the purpose of using this provision to increase dumping margins. The conferees expect that constructed value shall be used as the basis for foreign market value only when a price comparison using home market prices or third-country sales prices is inappropriate. Inappropriate situations could include the situation in which a component that accounts for a significant proportion of the value of the merchandise subject to investigation is purchased by a related party at a dumped price.

7. Fictitious markets (sec. 336 of Senate amendment; sec. 1319 of conference agreement)

Present law

In investigating whether dumping is occurring, Commerce shall not take into account in determining the foreign market value of the imported goods any sale or offer for sale that is intended to establish a fictitious market.

House bill

No provision.

Senate amendment

The Senate amendment provides that Commerce may consider as evidence of the establishment of a fictitious market the occurrence of different home market price movements for different forms of a product subject to an antidumping duty order if the movements appear to reduce the dumping margin.

Conference agreement

The House recedes.

8. Downstream product monitoring (sec. 164 of House bill; sec. 323(a) of Senate amendment; sec. 1320 of conference agreement)

a. In general

Present law

No provision.

House bill

The House bill establishes new procedures for the monitoring of imports of downstream products in order to identify potential diversionary practices resulting from significant antidumping or countervailing duties on component parts. The provision applies to imports of downstream products which contain a major part, component, assembly, subassembly, or material which has been subject to a dumping finding or subsidy finding of 15 percent or more in the past 5 years.

Senate amendment

The Senate amendment contains a provision similar to the House provision, subject to certain additional conditions.

Conference agreement

The House recedes.

b. Petitions

Present law

No provision.

House bill

Domestic producers of component parts of downstream products may petition the Commerce Department to designate a downstream product for monitoring. Such petition must identify the downstream product to be monitored, the relevant component part, and the reasons for suspecting the likely diversion of foreign exports of the component part into increased exports of the downstream product.

Senate amendment

The Senate amendment contains a similar provision to that in the House bill.

Conference agreement

The House recedes.

c. Designation by Commerce

Present law

No provision.

House bill

Within 14 days of the petition, the Commerce Department must determine whether there is a reasonable likelihood that imports of the downstream product will increase as an indirect result of any diversion with respect to component parts. Commerce may, if appropriate, take into account such factors as:

(1) the value of the component part in relation to the value of the downstream product;

(2) the extent to which substantial transformation has taken place; and,

(3) the relationship between the producers of the component parts and the downstream products.

Commerce determinations shall not be subject to judicial review.

Senate amendment

The Senate amendment contains a similar provision, but adds the requirement that one of the following conditions apply:

(1) the component part is already being monitored under a bilateral agreement to limit steel imports;

(2) there have been a significant number of investigations or orders issued against products related to, and from the same foreign country as, the component part; or

(3) there have been two or more investigations or orders issued against products similar in description and use to the component part that were manufactured or exported by the manufacturer or exporter of the component part.

Conference agreement

The House recedes. In considering the value of the component part in relation to the value of the downstream product, the conferees intend that Commerce consider whether such part or component represents a significant portion of the costs of producing the downstream product.

d. Monitoring by ITC

Present law

No provision.

House bill

Upon designation by Commerce of a downstream product, the ITC shall immediately commence monitoring the volume of trade in such downstream product, and publish quarterly reports thereon. If the ITC finds that imports increased by 5 percent or more during any quarter, then the ITC must analyze such increase in the context of overall economic conditions in that product sector.

Senate amendment

The Senate amendment contains a similar provision, but requires monitoring of trade, rather than volume of trade.

Conference agreement

The House recedes.

e. Subsequent action by Commerce

Present law

No provision.

House bill

Commerce must consider the ITC monitoring reports in determining whether to initiate an antidumping or countervailing duty investigation with respect to a downstream product.

Commerce is authorized to request the ITC to stop monitoring a downstream product if the ITC reports indicate that imports are not increasing and Commerce determines that there is no longer a reasonable likelihood of diversion.

Senate amendment

The Senate amendment contains the same provisions as in the House bill.

Conference agreement

The House recedes.

10. Prevention of circumvention of antidumping and countervailing duty orders (sec. 155 of House bill; sec. 323(b) of Senate amendment; sec. 1321 of conference agreement)

a. Assembly or finishing operations in the United States

Present law

No specific provision. Under certain circumstances, Commerce will include within the scope of an antidumping or countervailing duty order or finding imported parts and components that are assembled in the United States if the assembled product is of the same class or kind of merchandise as that covered by the order.

House bill

The House bill addresses two types of circumvention of antidumping findings or orders and countervailing duty orders ("orders"):

(1) the importation of parts or components to be assembled in the U.S. into the class or kind of merchandise covered by the order; and

(2) the importation of an incomplete or unfinished article to be completed in the U.S. (by means other than assembly) into the class or kind of merchandise covered by the order.

In both situations the order which covers the completed article from a particular country or countries shall apply to the imported parts or components, provided that:"

(a) substantially all of the parts or components are imported from the country subject to the finding;

(b) the value added in the U.S. is small; and,

(c) the parts or components were produced by a company related to the company performing the U.S. operations.

The Senate amendment contains a provision similar to the House bill, except the authority is discretionary (e.g., Commerce may apply the order to the imported parts or components but is not required to do so), and provisos (a) and (c) in the House bill are dropped. In determining whether to apply the order to the imported parts or components, Commerce shall take into account the pattern of trade, whether the foreign and U.S. companies are related, and whether imports of the parts or components increased after issuance of the order on the final product.

Conference agreement

The House recedes.

b. Assembly or finishing operations in a third country

Present law

No specific provision. Under certain circumstances, Commerce considers merchandise completed or assembled in a third country to be subject to an antidumping or countervailing duty order or finding.

House bill

The House bill permits Commerce to prevent evasion of an order by shipment of merchandise to the U.S. through a third country, when certain conditions are met. When Commerce finds such action appropriate to prevent significant evasion of an antidumping or countervailing duty order, Commerce may include in such order imports of merchandise of the same class or kind subject to the order that was completed or assembled in a third country, provided that:

(1) substantially all of the parts or components are imported from the country subject to the order;

(2) the value added in the U.S. is small; and

(3) the parts or components were produced by a company related to the company performing the U.S. operations.

Senate amendment

The Senate amendment contains a provision similar to the House bill, except that the provision applies when Commerce finds such action appropriate to prevent evasion, rather than significant evasion; provisos (1) and (3) in the House bill are dropped; and it is made explicit that the provision applies both in cases where the order is on the merchandise shipped to the third country for completion or assembly (diversion) and where the order is on a final product, parts and components of which are sent from the country subject to the order to the third country for assembly or completion (circumvention). In determining whether to apply the order to the imported merchandise from the third country, Commerce shall take into acccount whether the foreign manufacturers are related, the pattern of trade, and whether imports of the merchandise from the third country increased after issuance of the order.

Conference agreement

The House recedes.

c. Minor alterations

Present law

No specific provision. Under current practice, Commerce includes within the scope of an antidumping or countervailing duty order or finding merchandise which has been altered in minor respects from the merchandise originally investigated.

House bill

The House bill addresses the practice whereby a foreign producer alters the merchandise in minor respects in form or appearance to circumvent an outstanding order. An order on an article presumptively includes articles altered in minor respects in form or appearance (including raw agricultural products that have undergone minor processing), whether or not they remain in the same tariff classification, unless Commerce determines it unnecessary to do so.

Senate amendment

The Senate amendment contains a similar provision, except that it does not include the reference to agricultural products.

Conference agreement

The House recedes with an amendment to include the parenthetical reference to agricultural products.

d. Later developed products

Present law

No specific provision.

House bill

No provision.

Senate amendment

The Senate amendment addresses the application of outstanding antidumping and countervailing duty orders to merchandise that is essentially the same as merchandise subject to an order but was developed after the original investigation was initiated.

The provision requires Commerce, in determining whether the later-developed product is within the scope of the existing order, to consider whether the original and later-developed products are the same or similar with respect to general physical characteristics, the expectations of the ultimate purchasers, their ultimate use, channels of trade, and advertisement and display. The provision prohibits Commerce from excluding a later-developed product from the order merely because it is classified under a different item of the tariff schedules or adds functions, unless the additional functions constitute the primary use of the product and are more than a significant proportion of the production cost.

Conference agreement

The House recedes. This provision is intended to clarify and codify current Commerce Department authority, which has been recognized by the courts. It is not intended, nor are any of the provisions in this section intended, to call into question past authority of the Commerce Department to make scope decisions.

e. ITC advice

Present law

No provision.

House bill

The House bill authorizes the Commerce Department to take action to prevent circumvention of antidumping and countervailing duty orders, as described above in items (a) through (d).

Senate bill

The Senate amendment also authorizes the Commerce Department to take action to prevent circumvention of antidumping and countervailing duty orders, as described above in items (a) through (d).

Conference agreement

The conferees agreed to amend the authority to take anti-circumvention action to establish procedures under which the ITC would be provided an opportunity to consult with the Commerce Department regarding relevant injury issues. The provision requires the Commerce Department to notify the ITC before making a scope determination,

(a) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

(b) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

(c) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product.

This notification requirement applies only if the antidumping or countervailing duty order or finding was based on an affirmative injury determination by the ITC (and thus would not apply, for example, to imports from countries which do not get the benefit of an injury test). The decision by the Commerce Department as to whether the proposed inclusion of certain merchandise in the scope of an order or finding fits in one of the three categories which requires notification shall not be subject to judicial review.

After receiving notice of a proposed inclusion, the ITC may consult with the Commerce Department regarding the proposed inclusion. Any such consultation shall be completed within 15 days. If the ITC believes, after consulting with the Commerce Department, that the proposed inclusion presents a significant injury issue, the ITC may provide written advice as to whether the inclusion would be inconsistent with the affirmative injury determination on which the order or finding was based. If the ITC decides to provide such advice, it shall promptly notify the Commerce Department of its intention to do so, and must provide the written advice within 60 days of the date on which Commerce notified it of the proposed inclusion.

Before making any determination regarding a proposed inclusion with respect to which the ITC has indicated its intention to provide written advice, the Commerce Department shall take into account such written advice.

The purpose of this provision authorizing ITC injury advice is to ensure that any anti-circumvention action taken is consistent with U.S. international obligations. The conferees believe that it is appropriate for the Commerce Department to consult with the ITC regarding later-developed products primarily when it believes that inclusion of the merchandise may be inconsistent with U.S. international obligations.

It is the expectation of the conferees that findings by the ITC that the inclusion of the merchandise is inconsistent with the prior injury determination would be relatively unusual, since the anti-circumvention provisions are intended to address efforts to import the same class or kind of merchandise in slightly modified form and should typically fall within the ITC's prior finding of injury.

In particular, the application of the U.S. finishing or assembly provision will not require new injury findings as to each part or component. The anti-circumvention provision is intended to cover efforts to circumvent an order by importing disassembled or unfinished merchandise for assembly in the United States. Hence, the ITC would generally advise as to whether the parts and components "taken as a whole" fall within the injury determination. If more than one part or component is proposed for inclusion, the ITC would not make separate findings as to each part or component but instead would determine whether the imported parts and components can be constructively assembled so as to constitute a like product for purposes of the original order. With respect to finishing in the United States, the ITC would advise whether the ITC examined the semi-finished product in the prior investigation or regards the semi-finished product as a like product.

The ITC would advise as to whether the inclusion of the parts or components, taken as a whole, would be inconsistent with its findings in the prior injury determination. The conferees expect a relatively narrow set of issues to arise: (1) whether the assembly being undertaken would qualify the assembler or finisher as a part of the U.S. industry under the prior industry definition; (2) whether the parts, components, or semi-finished products were treated as a distinct like product by the ITC in the prior injury determination and were therefore expressly or implicitly excluded from the order; and (3) whether the parts, components, or semi-finished products constitute a distinct like product, with distinct characteristics and uses, and therefore were not encompassed by the prior injury determination. While other issues could arise, the conferees expect that the bulk of the ITC's advisory functions will deal with these issues.

The third country assembly situation will typically involve the same class or kind of merchandise, where Commerce has found that the de facto country of origin of merchandise completed or assembled in a third country is the country subject to the antidumping or countervailing duty order. Hence, the focus of ITC advice should be whether the imported class or kind of merchandise is a like product within the meaning of the prior injury determination, or whether imports from the third country were specifically excluded (and if so, whether circumstances have changed since then, by virtue of circumvention).

With respect to later-developed products, a significant injury issue can arise if there is a significant technological development or a significant alteration of the merchandise involving commercially significant changes in the characteristics and uses of the product. In providing such advice, the ITC should not focus narrowly on the product's features at the time the order was issued, but should analyze its general characteristics and uses in light of its prior determination. Thus, a later-developed product incorporating a new technology that provides additional capability, speed, or functions would be covered by the order as long as it has the same basic characteristics and uses.

The conferees expect that written advice would be unnecessary in the vast majority of scope rulings. For this reason, the provision does not apply to situations involving minor completion or minor assembly, or minor alterations. In addition, the conferees expect that in many cases, the relevant consultations can be handled informally, through a telephone call, or a meeting if more formal discussions are necessary. The ITC should only provide formal written advice when it determines that a significant injury issue is presented. Since most issues can be dealt with through consultations, resort to formal written advice will be the exception, not the rule. If ITC provides written advice on which Commerce bases a scope determination, the ITC would be responsible for defending such advice in any relevant judicial proceeding.

11. Steel imports (sec. 195 of House bill; sec. 323(b) of Senate amendment; sec. 1322 of conference agreement)

Present law

Under the Steel Import Stabilization Act (title VIII of the Trade and Tariff Act of 1984), the President is authorized to enforce quantitative restrictions on steel imports, as provided in bilateral arrangements with steel-exporting countries.

House bill

(1) The House bill provides explicit authority to enforce quantitative restrictions on steel imports when the steel product is exported from an arrangement country and transshipped or transformed in a nonarrangement country before entering the U.S. Any steel product that is manufactured in a country that is not party to a bilateral arrangement (a "nonarrangement country") from steel which is melted and poured in a country that is party to a bilateral arrangement (an "arrangement country") may be treated for purposes of the quantitative restrictions under that arrangement as if it were a product of the arrangement country. The Secretary of Commerce, after consultation with USTR, may direct the Secretary of the Treasury to implement procedures to carry out this provision.

(2) No provision.

Senate amendment

(1) The Senate amendment contains a similar provision except that the President, rather than the Secretary of Commerce, may direct the Secretary of the Treasury to implement procedures.

(2) The Senate amendment also authorizes USTR, consistent with the "third country equity provision" of a bilateral arrangement on steel imports, to take such actions

as deemed necessary with respect to steel imports from other countries to ensure the effectiveness of any portion of such arrangement.

Conference agreement

(1) The House recedes with an amendment striking the reference to the Secretary of Treasury. It is the expectation of the conferees that the President will delegate authority under this provision consistent with the existing delegation of authorities and responsibilities for implementation of the steel VRA program. The conferees intend that this provision apply to products from foreign countries as well as to products from U.S. insular possessions or any territory outside the customs territory of the United States. The conferees also intend that imports from the insular possessions shall be treated in no worse a manner than imports from foreign countries under this provision.

(2) The House recedes.

12. Short life cycle products (sec. 165 of House bill; sec. 324 of Senate amendment; sec. 1323 of conference agreement)

a. Establishment of product category

Present law

No provision.

House bill

The House bill provides procedures for monitoring and investigating dumping by foreign companies that have repeatedly been found to be dumping. An eligible domestic entity may petition the Secretary of Commerce requesting that a product category be established.

The petition shall include such information as the Secretary of Commerce considers necessary or appropriate, including, but not limited to, the following: a general category of products (based on the products of the foreign manufacturers subject to the antidumping action); each product (by TSUS number or other classification) within the general category that the petitioner seeks to have included in or excluded from the monitoring category and the reasons for inclusion or exclusion; and, any product outside the general category that the petitioner wishes included in the monitoring category.

Upon receiving a petition, Commerce shall verify the antidumping action on which it is based and determine if the petitioner is an eligible domestic entity. After doing so, Commerce shall submit the petition to the ITC.

Within 90 days, the ITC shall establish a product category, after publishing notice, providing an opportunity for presentation of views (including a hearing if requested by any interested person), and taking into account information received. Such product category shall consist of similar articles that are manufactured or produced by similar processes and that have similar uses.

Upon petition by an interested party, or by its own motion, the ITC may, after providing an opportunity for comment by other interested parties, modify a product category to the extent considered necessary or appropriate.

Senate amendment

The Senate amendment contains a similar provision, except that it requires the ITC, rather than Commerce, to determine whether the petitioner is an eligible domestic entity. The petition requesting establishment of a product category is required to identify the product subject to the affirmative dumping determination, and specify (including TSUS number) the merchandise that petitioner seeks to have included in, and excluded from, the product category that includes the product subject to such antidumping determination, providing reasons for such inclusion or exclusion.

The Senate amendment also requires the ITC to ensure, in determining the scope of the product category, that such category consists of similar merchandise produced by similar processes under similar circumstances and with similar uses.

The Senate amendment does not include a reference to modifications of categories upon petition by interested parties. The ITC may modify the scope of a category at any time on its own initative, after publishing a notice of the proposed modification and providing interested parties an opportunity to submit comments and be heard.

Conference agreement

The conferees agreed to a substitute provision, similar to the Senate amendment, which is limited to short life cycle merchandise. Short life cycle merchandise is defined as "any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available." For purposes of this provision, the term "outmoded" refers to a kind or style no longer state-of-the-art.

The conferees are concerned about the application of the antidumping law with respect to a number of industries, particularly the high-technology sectors, in which product life cycles are relatively short. A product can be displaced as a result of technological advances by a new generation of product with superior cost or performance characteristics very quickly. With the introduction of a new product, sales growth of the earlier product will slow, and demand will begin to decline, although some residual sales of the earlier product may continue to be made for many years. For example, in the case of semiconductors, a life cycle for a particular kind of semiconductor is often 2 to 3 years.

For purposes of this provision, a product's life cycle should not be determined by reference to the entire time period over which a product may be sold, but should be considered to end at the point at which the emergence on the market of a new product with superior cost or performance characteristics begins to affect adversely the sales of the earlier product.

b. Monitoring of imports

Present law

No provision.

House bill

The House bill establishes three types of dumping offenders (first offenders, second offenders, and multiple offenders) according to the number of dumping findings made with respect to the same manufacturer or producer within a given product category.

After a product category is established, any eligible domestic entity may request Commerce to monitor imports of any product within such category that is produced by a first offender. Commerce shall monitor such imports if it determines that there is a reasonable likelihood that dumping may occur.

Commerce is required to monitor all imports within a given product category that are produced by a second offender. With respect to multiple offenders, Commerce is required to monitor all imports produced by the multiple offender within such category, as well as imports that are in any related product category.

Senate amendment

The Senate amendment contains a provision similar to the House provision, expect that the number of dumping offenses required to qualify for monitoring is increased by one. Upon the request of an eligible domestic entity, Commerce shall monitor imports of any product that is produced by a second offender within a given product category, if Commerce determines that there is a reasonable likelihood that dumping may be occurring.

With respect to a multiple offender, Commerce must monitor all imports that are produced by such multiple offender within a product category. Any monitoring of imports under this section shall continue for 3 years following the initiation of such monitoring.

Conference agreement

The conferees agreed to strike the House and Senate provisions.

c. Expedited dumping investigations

Present law

No provision.

House bill

If monitoring of a first offender results in information indicating a reasonable likelihood that a monitored product is being dumped, then Commerce must initiate an antidumping investigation on imports of such product unless a substantial proportion of U.S. manufacturers of the like or directly competitive product request that it not be initiated.

If monitoring of a second offender results in information indicating a reasonable likelihood that any of the monitored products are being dumped, then Commerce must initiate antidumping investigations on imports of such products.

If monitoring of a multiple offender results in evidence that any of the monitored products are being dumped, then Commerce must initiate antidumping investigations on imports of such products.

All investigations initiated under this section shall be expedited to the maximum extent possible. Critical circumstances will be presumed. The ITC will take into account the effect on the domestic industry of previous dumping by the first, second, or multiple offender.

Senate amendment

If the monitoring of any offender provides a reasonable likelihood that the monitored product or products are being dumped, then Commmerce must initiate an antidumping investigation on such imports unless the industry requests that no investigation be initiated.

No extension of the normal time deadlines in an investigation may apply unless all U.S. manufacturers of the like product submit written notice to Commerce of their consent to such extensions.

Conference agreement

The House recedes with a substitute amendment requiring Commerce to conduct expedited antidumping investigations when a significant percentage of the imports under investigation are manufactured or produced by a multiple offender. In cases involving an alleged third offense in the same product category, if the manufacturers that are second offenders account for a significant proportion of the imports under investigation, Commerce shall make its preliminary antidumping determination within 120 days of the filing of the petition. In cases involving an offender that has committed three or more offenses, Commerce shall make its preliminary antidumping determination within 100 days of the filing of the petition.

No extension of the preliminary antidumping determination will be permitted for "extraordinarily complicated cases", except that extension may occur if there is consent of the domestic industry. In the course of these expedited antidumping investigations, Commerce shall automatically make an affirmative finding with respect to the requirements under section 733(e)(1)(A) relating to critical circumstances.

Industries producing short life cycle merchandise are particularly vulnerable, by virtue of the short life cycle of their products, to severe damage as a result of repeated dumping. For this reason, the conferees agreed to provide shorter time deadlines than normally provided for antidumping investigations involving multiple dumping offenders, in order to expedite the relief that would be provided to such injured industries.

d. Definitions

(i) Antidumping offense

Present law

No provision.

House bill

Any foreign manufacturer or producer is a "first offender" under this section if a final dumping margin on a product within a product monitoring category is determined for such manufacturer or producer under any published antidumping duty order or a suspension agreement. A foreign manufacturer or producer is a "second offender" if two such margins are determined for such foreign manufacturer or producer within 10 years. A foreign manufacturer or producer is a "multiple offender" if three or more such margins are determined for such foreign manufacturer or producer within 10 years.

Senate amendment

The Senate amendment is similar to the House bill, except that only dumping margins in excess of 10 percent are counted as "offenses," there is no time limit for counting offenses as in House bill (e.g., 10 years), and a suspension agreement following a preliminary determination of a dumping margin of 10 percent or more is counted as an offense, rather than a suspension agreement where a final dumping margin is determined.

The Senate amendment clarifies that only those companies that are specifically identified by name in the antidumping determination and specifically assigned a dumping margin shall be considered offenders.

Conference agreement

The House recedes with an amendment that only dumping margins in excess of 15 percent within an 8-year period are counted as "offenses." For purposes of assessing and confirming affirmative determinations under the new section 739 (as added by this Act), the conferees intend that Commerce and the ITC focus on the manufacturer or producer, and not on the country in which the product was produced.

(ii) Eligible domestic entity

Present law

No provision.

House bill

An "eligible domestic entity" is a U.S. manufacturer or producer, or certified or recognized union or group of workers which is representative of a U.S. industry, that produces a product like or directly competitive with merchandise subject to an antidumping order or similar enough to such merchandise to be considered for inclusion in the same product monitoring category.

Senate amendment

The Senate amendment contains a similar provision, except that it includes those manufacturers or workers that produce a product that is subject to a suspension agreement as well as an antidumping order.

Conference agreement

The House recedes.

e. Treatment of prior offenses

Present law

No provision.

House bill

Any foreign manufacturer found to be a first offender under this section in the 10 years immediately following enactment of this Act shall be treated as a second offender if a final dumping margin on a product within the same product category had been determined for such manufacturer in an antidumping action between January 1, 1980, and the date of enactment.

Senate amendment

The Senate amendment has a similar provision, except only offenses under antidumping orders since December 31, 1980 and offenses under suspension agreements since December 31, 1984 shall be taken into account. Such offenses shall be considered to have occurred on the date of the latest determination.

Conference agreement

The House recedes with technical amendments.

13. Critical circumstances (sec. 321 of Senate amendment; sec. 1324 of conference agreement)

Present law

If the petitioner alleges critical circumstances at any time more than 20 days before a final antidumping or countervailing duty determination, Commerce shall promptly determine, based on the best information available, whether there is a reasonable basis to believe that:

(1)(a) in a countervailing duty case, the alleged subsidy is inconsistent with the GATT Subsidies Code; or,

(b) in an antidumping case, there is a history of dumping of the merchandise, or the importer knew (or should have known) that the imports were being dumped; and,

(2) there have been massive imports of the product under investigation over a short period of time.

Antidumping or countervailing duties will be applied retroactively to unliquidated imports entered after the date 90 days prior to the preliminary antidumping or countervailing duty determination, if Commerce finds critical circumstances in its final determination and the ITC finds in its final affirmative injury determination that:

(1) in a countervailing duty investigation there is material injury that will be difficult to repair, and the material injury was by reason of the massive imports of the subsidized merchandise over a relatively short period; or,

(2) in an antidumping investigation, the material injury is by reason of such massive imports to an extent that in order to prevent such injury from recurring, it is necessary to impose antidumping duties retroactively.

House bill

No provision.

Senate amendment

The Senate amendment authorizes Commerce, if it has a reasonable basis to suspect that critical circumstances may exist, to request that the Customs Service compile statistics on an expedited basis on the volume and value of the imports subject to investigation and forward such information to Commerce as directed, but at least every 30 days.

The Senate amendment also clarifies that Commerce has the authority to make a preliminary determination of critical circumstances at any time after initiation of an investigation.

The Senate amendment further amends the standard by which ITC determines whether critical circumstances exist. If Commerce finds critical circumstances, ITC would determine whether retroactive imposition of antidumping or countervailing duties appears necessary to prevent recurrence of material injury that was caused by massive imports over a relatively short period of time and, in countervailing duty cases, that will be difficult to repair. In making this determination, the ITC shall consider whether:

(1) massive imports over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping or countervailing duties;

(2) foreign economic conditions led to massive imports;

(3) such foreign economic conditions are likely to persist; and

(4) the impact of the massive imports is likely to continue after issuance of an antidumping or countervailing duty order.

These amendments are effective for investigations initiated after date of enactment.

Conference agreement

The House recedes with clarifying amendments. The conferees believe that an improved critical circumstances procedure will significantly strengthen antidumping and countervailing duty procedures by revitalizing a provision that has up to now been ineffective. To this end, the conferees have adopted and refined the revision contained in the Senate amendment.

The key addition is a clarification of the standards to be used by the ITC in assessing whether the imposition of retroactive duties is necessary to prevent recurrence of injury. The GATT Codes are unclear on this point, which has created serious conceptual difficulties for the ITC. After reviewing the relevant GATT provisions, the conferees believe that the ITC should focus on whether the effectiveness of the antidumping or countervailing duty order or finding would be materially impaired by the failure to impose duties retroactively on the massive imports.

In making this determination, the ITC should examine the injury suffered by the U.S. industry as a result of dumped or subsidized imports. Obviously, the weaker the condition of the U.S. industry, the greater the need to levy a retroactive duty to prevent unfairly priced sales of imports, for example, of imports that remain in inventories, since such sales would represent an additional blow to an already-injured industry. In addition, the ITC would review the likelihood that the import surge occurred as a result of efforts to circumvent the order. There is a need to deter such efforts, particularly when they exacerbate the injury to the industry.

Finally, the ITC shall consider whether foreign economic conditions led to massive dumping. For example, conditions of persistent, structural oversupply in the exporter's home market may lead to the massive dumping. The conferees believe that efforts by exporters to unload massive excess supply on the U.S. market in a period of depressed international prices are in effect a means of transferring economic hardship and may well call for retroactive duties if they materially increase the extent of injury suffered by the U.S. industry.

The conferees recognize that such determinations may be difficult and are not susceptible to precise mathematical calculations.

14. Expedited review authority (sec. 331 of Senate amendment; sec. 1325 of conference agreement)

Present law

In certain circumstances, Commerce is authorized to review an antidumping duty order within 90 days of its issuance, rather than waiting until an annual review. If Commerce is satisfied that, based on information presented to it, it will be able to determine, within 90 days after issuing an order, the final antidumping duties owed on imports that entered prior to an affirmative final determination by the ITC, it may allow an importer to continue posting bond, rather than depositing the estimated antidumping duties, during those 90 days. The results of the expedited review then serve as the basis of the estimated antidumping duties that must be deposited until the next review, if requested.

House bill

No provision.

Senate amendment

The Senate amendment limits the circumstances in which Commerce may institute expedited reviews to cases in which:

(1) the original investigation was not designated as extraordinarily complicated;

(2) the final antidumping duty determination was not postponed because of a request by the exporters;

(3) the foreign manufacturer or exporter provides credible evidence that the dumping margin will decline as a result of the review; and

(4) the review would be based on representative sales that are sufficient for purposes of comparison.

The Senate amendment also requires Commerce to make confidential information supplied to it for the review available under administrative protective order to interested parties and allow them an opportunity to file written comments.

These amendments are effective for investigations and reviews initated after date of enactment.

Conference agreement

The House recedes.

15. Processed agricultural products (sec. 152 of House bill; sec. 326 of Senate amendment; sec. 1326 of conference agreement)

a. Definition of domestic industry

Present law

Section 771(4) defines "industry" as the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product. The term "like product" in turn means a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to investigation.

House bill

In antidumping and countervailing duty investigations involving a processed agricultural product, the ITC may include producers or growers of the raw agricultural product as part of the domestic industry producing the processed product if two conditions exist:

(1) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and,

(2) there is a substantial coincidence of economic interest between the producers of the raw agricultural product and the producers of the processed agricultural product based upon relevant economic factors, which may include price, added market value, or other economic interrelationships (regardless of whether they are based on any legal relationship).

Senate amendment

The Senate amendment contains the same provision as the House bill, effective for investigations and reviews initiated after date of enactment.

Conference agreement

The conferees agreed to retain the provision, with a sunset clause stating that the provision shall cease to have effect if the U.S. Trade Representative notifies the administering authority and the Commission that the application of the provision is inconsistent with the international obligations of the United States. Before any such notification, the U.S. Trade Representative shall consult with the Committee on Ways and Means and the Committee on Finance.

The conferees are confident that the provisions in this amendment are in full conformity with the international obligations of the United States under GATT, the Antidumping Code, and the Subsidies Code. The conferees are aware, however, that there have been several GATT challenges to the application of the "like product" provisions. Accordingly, in order to ensure that the United States adheres completely to its GATT obligations, the conferees have agreed to a provision authorizing the U.S. Trade Representative to advise Commerce and the ITC if the provisions in this amendment should ever be found inconsistent with GATT and such ruling should be accepted by the United States.

Any determination by the U.S. Trade Representative that application of the provision is inconsistent with U.S. international obligations must be based on a final ruling, accepted by the United States, by either the GATT or an international tribunal authorized by the United States to determine issues on U.S. international obligations.

The conferees note that the United States has a policy of not adopting Subsidies Code panel reports, if another signatory is blocking adoption of an adverse ruling (e.g., the EC pasta dispute). The conferees expect this policy to continue, as the GATT dispute settlement process should not be a one-way street. It is the expectation of the conferees that the issues raised in the recent GATT panels reports shall be resolved in the Uruguay Round Subsidies negotiations, rather than through unilateral termination of this amendment.

b. Threat of material injury

Present law

Section 771(7)(F) lists specific factors which the ITC must consider in determining threat of material injury, including the potential for product-shifting.

House bill

The House bill adds as an additional factor to be considered in investigations involving both raw and processed agricultural products, the likelihood of increased imports by reason of product-shifting (due to an order being imposed on one product but not the other).

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conferees agreed to retain the provision.

c. Standing

Present law

The following interested parties have standing to file an antidumping or countervailing duty petition on behalf of an industry:

(1) a manufacturer, producer, or wholesaler in the U.S. of a like product;

(2) a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the U.S. of a like product;

(3) a trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the U.S.; and

(4) an association, a majority of whose members is composed of interested parties described above.

House bill

In investigations involving a processed agricultural product, the definition of interested parties who have standing to file a petition is expanded to include a coalition or trade association which is representative of either (a) processors or (b) processors and producers.

Senate amendment

The Senate amendment contains the same provision as the House bill, effective for investigations and reviews initiated after date of enactment.

Conference agreement

The conferees agreed to retain the provision, with a sunset clause stating that the provision shall cease to have effect if the U.S. Trade Representative notifies the administering authority and the Commission that the application of the provision is inconsistent with the international obligations of the United States. Before any such notification, the U.S. Trade Representative shall consult with the Committee on Ways and Means and the Committee on Finance. This sunset clause, and the reasons for its adoption, are the same as those described above relating to the definition of "domestic industry."

16. Leases equivalent to sales (sec. 335 of Senate amendment; sec. 1327 of conference agreement)

Present law

Both the antidumping and countervailing duty laws apply to any leasing arrangement which is equivalent to the sale of that merchandise (see sections 731 and 701 of the Tariff Act of 1930).

House bill

No provision.

Senate amendment

The Senate amendment amends the countervailing duty law to apply to all leasing arrangements. This change would be effective for investigations and reviews initiated after date of enactment.

Conference agreement

The House recedes with a substitute amendment. The conference agreement amends the Tariff Act of 1930 to identify specific factors which must be considered in determining whether a lease is equivalent to a sale for purposes of the antidumping and countervailing duty laws. These factors include:

(a) the terms of the lease;

(b) commercial practice within the industry;

(c) the circumstances of the transaction;

(d) whether the product subject to the lease is integrated into the operations of the lessee or importer;

(e) whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time; and

(f) other relevant factors, such as whether the lease transaction would permit avoidance of antidumping or countervailing duties.

This provision has been adopted to provide guidance to the Commerce Department and the ITC in determining whether a lease is equivalent to a sale. It clarifies a 1984 amendment that was designed to prevent importers from evading antidumping and countervailing duties by structuring sales transactions as leases.

The lease issue arises frequently in transactions involving capital goods, such as airplanes, heavy electrical equipment, machine tools, construction equipment, and other "big ticket" items. Because leases can take an infinite variety of forms, the amendment sets out general guidelines for making such determinations. In applying the provision, it is intended that Commerce and the ITC focus on commercial realities and the substance of the transaction, rather than its form.

The scope of the term "sale" should be broad enough to cover a wide variety of transactional arrangements. The most straightforward leasing situations involve long-term leases with a definite term and payment schedule. These transactions closely resemble a sale. The conferees recognize, however, that short-term or walk-away leases may also be leases equivalent to a sale.

A renewable short-term lease or an indefinite walk-away lease for an item, such as a large truck, commercial airplane, or heavy electrical equipment, would be equivalent to a sale where, for example, the product has been integrated into the operations of the company or where there is a likelihood that the lease will be continued or renewed for a significant period of time. This includes walk-away or short-term leases of the type used in international leasing of commercial aircraft by companies such Airbus Industrie. On the other hand, a short-term lease for a rental car for vacation or business trip or other consumer products generally should not be deemed equivalent to a sale.

17. Material Injury

(Sec. 154 of House bill; sec. 329 and 330 of Senate amendment; sec. 1328 of conference agreement)

a. Factors to consider

Present law

In determining whether there is material injury by reason of dumped or subsidized imports, the ITC must consider, among other factors:

(1) the volume of imports;

(2) the effect of imports on prices in the United States for like products; and,

(3) the impact of imports on domestic producers of like products.

House bill

The House bill clarifies that the ITC is required, in every case, to consider and explain its analysis of each of the three specified factors. The ITC may consider, on a case-by-case basis, such other economic factors as are relevant to an injury determination. If any other factor is considered, however, it must be identified and its relevance explained.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conferees agreed to retain the provision. In cases in which domestic producers perform minor finishing operations on dumped or subsidized inputs, the ITC may, if appropriate and feasible, take into account that the profits of such producers may reflect incorporation of such inputs.

b. Evaluation of price effects

Present law

In evaluating the effect of imports on prices, the ITC must consider whether there has been significant "price undercutting" by imports.

House bill

The House bill replaces the term "price underdutting" with the term "price underselling" to clarify that this provision does not require evidence of predatory pricing.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conferees agreed to retain the provision.

c. Evaluation of impact on domestic industry

Present law

In examining the impact on the domestic producers, the ITC must consider all relevant economic factors which have a bearing on the state of the industry, including but not limited to:

(1) actual and potential decline in output, sales, market share, profits, productivity, return on investment, and utilization of capacity;

(2) factors affecting domestic prices; and

(3) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

House bill

The House bill specifies that the ITC should consider these factors in the context of the business cycle and conditions of competition that are distinctive to the affected industry.

Senate amendment

The Senate amendment contains the same provisions as the House bill, and adds the cfollowing additional factor for the ITC to consider:

"(4) actual and potential negative effects on existing efforts of the domestic industry to develop and produce a type of product derived or developed from an earlier type of product."

Conference agreement

The House recedes with a technical amendment to change the final factor to read "(4) the actual and potential negative effects on existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the like product."

d. Geographically isolated markets

Present law

No provision.

House bill

The House bill amends section 771(7) of the Tariff Act to authorize the ITC to consider whether imports have historically supplied a substantial proportion of demand in a geographically isolated market, and, in appropriate circumstances, to disregard imports into such a geographically isolated market in making its injury determination.

A geographically isolated market is defined as one in which:

(1) producers located within such market have not supplied demand in that market to any substantial degree in the most recent representative period, and there is no reasonable likelihood that they will do so in the future;

(2) producers have made no significant effort as measured by capital investment in plant and equipment, or in distribution and marketing, within a reasonably recent period, to meet demand in that market, and there is no reasonable likelihood that they will do so in the future; and,

(3) producers located outside the area have historically not met demand within the region at prices reasonably equivalent to prices prevailing elsewhere in the United States because of transportation, insurance, or other costs which would be incurred to ship the product to or market the product in the geographically isolated market.

Senate amendment

No provision.

Conference agreement

The House recedes. It is the view of the conferees that current law already authorizes the ITC to consider, in appropriate circumstances, whether imports enter certain geographical markets where the domestic industry does not compete in determining whether dumped or subsidized imports are causing material injury or threat thereof.

18. Threat of material injury (sec. 154 of House bill; sec. 330 of Senate amendment; sec. 1329 of conference agreement)

Present law

In determining whether there is a threat of material injury, the ITC must consider, among other relevant economic factors:

(1) if a subsidy is involved, the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Subsidy Code);

(2) any increase in production capacity or existing unused capacity in the exporting country likely to result in a significant increase in imports of the merchandise to the United States;

(3) any rapid increase in United States market penetration and the likelihood that the penetration will increase to an injurious level;

(4) the probability that imports of the merchandise will enter the United States at prices that will have a depressing or suppressing effect on domestic prices of the merchandise;

(5) any substantial increase in inventories of the merchandise in the United States;

(6) the presence of underutilized capacity for producing the merchandise in the exporting country;

(7) any other demonstrable adverse trends that indicate the probability that the importation of the merchandise (whether or not

it is actually being imported at the time) will be the cause of actual injury; and

(8) the potential for product-shifting.

House bill

The House bill adds 3 additional factors for ITC to consider:

(9) diversion of foreign products to the U.S. market by reason of restraints on exports of the merchandise to, or on imports of the merchandise into, third country markets;

(10) in an antidumping case, the extent to which the foreign merchandise has been sold at less than fair value in other markets, as evidenced by antidumping orders or findings in other GATT member markets (if the foreign manufacturer, exporter, or U.S. importer does not provide specific and convincing information to establish there is no threat of injury, the ITC may draw adverse inferences);

(11) in investigations involving both raw and processed agricultural products, the likelihood of increased imports by reason of product-shifting (due to an order being imposed on one product but not on the other).

Senate amendment

The Senate amendment contains no counterpart to factor (9) of the House bill. The Senate amendment does contain provisions similar to factors (10) and (11), except for the portion of factor (10) relating to the drawing of adverse inferences.

The Senate amendment also adds an additional factor not in the House bill:

"the actual and potential negative effects on existing efforts of the domestic industry to develop and produce a type of product derived or developed from an earlier type of product."

Conference agreement

The House recedes with a technical amendment to change the last factor to read:

"the actual and potential negative effects on existing development and production efforts of the industry, including efforts to develop a derivative or more advanced version of the like product."

19. Cumulation (sec. 154 of House bill; sec. 1330 of conference agreement)

a. Material injury

Present law

In determining material injury in any antidumping or contervailing duty investigation, the ITC must cumulatively assess the volume and price efforts of imports from two or more countries subject to investigation if such products compete with each other and with like products of the domestic industry.

House bill

The House bill amends section 771(7) of the Tariff Act to mandate explicity cumulation of subsidized imports with dumped imports. In determining material injury, the ITC must cumulatively assess the volume and price effects of imports from two or more countries if such imports are either (a) currently subject to any antidumping or countervailing duty investigation, or (b) within the past 12 months, subject to any antidumping or countervailing duty investigation which resulted in a final order, suspension agreement, or termination based on a quantitative restraint agreement. The provisions retains the requirement under current law that such imports, to be cumulated, must compete with each other and with like products of the domestic industry.

Senate amendment

No provision.

Conference agreement

The House recedes.

b. Threat of material injury

Present law

No provision.

House bill

The House bill amends section 771(7) of the Tariff Act to require the ITC, in determining threat of material injury, to cumulate, to the extent practicable, the volume and price effects of imports from two or more countries if such imports are currently subject to any antidumping or countervailing duty investigation, and such imports compete with each other and with like products of the domestic industry.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment to make the provision discretionary rather than mandatory.

c. Treatment of negligible imports

Present law

No provision.

The House bill provides a limited exception to mandatory cumulation with respect to negligible imports. It authorizes the ITC to exclude imports from a particular country from its cumulative injury assessment if such imports are negligible and have no discernible adverse impact on the domestic industry. In determining whether imports from a particular country are negligible, ITC shall examine all relevant economic factors, including the following:

(1) whether the volume and market share of such imports are negligible;

(2) whether sales transactions involving such imports are isolated and sporadic; and,

(3) whether the U.S. market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment. The conferees intend that the ITC apply the exception narrowly and that it not be used to subvert the purpose and general application of the requirement.

The conferees agreed to an amendment that provides a special rule for investigations involving imports from Israel. The amendment authorizes the ITC to treat as negligible and having no discernible adverse impact on the domestic industry imports from a country with which the United States had entered into a free trade area agreement prior to January 1, 1987, i.e., Israel, if the ITC finds that a domestic industry is not materially injured by reason of such imports.

Before applying this provision, in any investigation involving imports from Israel, the ITC would first determine whether a domestic industry is materially injured by reason of the imports from Israel. If the ITC made an affirmative determination, this provision would not apply. If the ITC made a negative determination, it would be authorized to consider such imports as negligible and having no discernible impact on the domestic industry.

In deciding whether such imports are negligible and having no discernible impact on the domestic industry, the ITC should consider all relevant economic factors regarding the imports, including the level of the imports from Israel, relative to both domestic production and other imports under investigation, their effect on U.S. prices for the like product, and their impact on domestic producers.

20. Certification of submissions (sec. 161 of House bill; sec. 328 of Senate amendment; sec. 1331 of conference agreement)

Present law

No provision.

House bill

The House bill requires any person submitting factual information in an antidumping or countervailing duty proceeding to certify that such information is accurate and complete to the best of that person's knowledge.

Senate amendment

The Senate amendment contains the same provision as the House bill, effective for investigations and reviews initiated after date of enactment.

Conference agreement

The conferees agreed to retain the provision, with the effective date provided in the Senate amendment.

21. Access to information (sec. 158 of House bill; sec. 327 of Senate amendment; sec. 1332 of conference agreement)

Present law

Section 777 sets forth procedures for interested parties to submit, and to obtain access to, confidential information involved in an antidumping or countervailing duty proceeding. Current law permits, but does not require, the Commerce Department or the ITC to release confidential information submitted by a party to the investigation.

House bill

The House bill amends section 777:

(1) to permit release by the Commerce Department or by the ITC of all confidential information under an administrative protective order, except privileged or classified information or information of a type deemed not appropriate for release;

(2) to impose reasonable time limits on decisions by the Commerce Department regarding releasability of information;

(3) to require Commerce to return information submitted by a person who refuses to make it available under protective order;

(4) to require service of information to all parties to a proceeding; and

(5) to require submission of information to the Commerce Department on a timely basis within a reasonable deadline, with a reasonable period for comment by other parties.

Senate amendment

The Senate amendment also amends section 777 with respect to proceedings before the ITC:

(1) to require the ITC to make proprietary information submitted by any person in connection with an investigation available under administrative protective order; and

(2) to allow application to the Court of International Trade for an order directing the ITC to make the information available (removes the limitation restricting such application).

Conference agreement

The conferees agreed to a substitute amendment which essentially merges the House and Senate provisions. The substitute amendment requires both the Commerce Department and the ITC to release, under administrative protective order, to interested parties who are parties to the proceeding, all business proprietary information presented to or obtained by it during an antidumping or countervailing duty proceeding, with a limited exception for (1) privileged information, (2) classified information, and (3) specific information for which there is a clear and compelling need to withhold from disclosure.

Under this standard, the general rule is that business proprietary information shall be subject to disclosure under administrative protective order; the exceptions authorized are intended to be very narrow and limited exceptions. The first two exceptions ("privileged" and "classified" information) are standard exceptions, with a commonly understood meaning. The third exception ("specific information for which there is a clear and compelling need to withhold from disclosure") is expected to be used rarely, in situations in which substantial and irreparable financial or physical harm may result from disclosure.

An example of a specific type of information which may fit this definition is trade secrets, that is, a secret formula or process having a commercial value, not patented, known only to certain individuals who use it in compounding or manufacturing an article of trade.

An expectation on the part of the Commerce Department or the Commission, however, that disclosure of a certain type of information would have a "chilling effect" on its efforts to collect data clearly does not establish a "clear and compelling need to withhold from disclosure."

The parties who may have access to business proprietary information under administrative protective order are limited to authorized representatives of interested parties who are parties to the proceeding. Authorized representatives include outside legal counsel for interested parties, and consultants or other experts if either (a) such individuals are under the control and advice of legal counsel and legal counsel has signed on their behalf or if (b) such individuals regularly appear before Commerce or the ITC (and the agency thus has effective sanctions to be applied against them) or (c) in other instances in which the agency has effective sanctions to be applied against the individuals. In determining whether in-house counsel may properly be given access, Commerce and the ITC should be guided by the factors enumerated in *United States Steel Corp. v. United States*, 730 F.2d 1465 (Fed. Cir. 1984).

The conferees recognize that effective enforcement of limited disclosure under administrative protective order depends in part on the extent to which the private parties have confidence that there are effective sanctions against violations. The ITC is directed to establish procedures and regulations with respect to the application of these amendments, and to report back to the Committee on Ways and Means and the Committee on Finance within one year on the implementation of these provisions, including whether there is a need for further authority to impose sanctions.

The provision requires timely submission of information by the parties, in order to provide other parties a reasonable opportunity to comment on it. The conferees recognize that the ITC often seeks out particular items of information in the final days or hours before its determination; the conferees do not intend for the ITC to be prohibited from continuing to doing so. The requirement for timely submission of information is meant to address the voluntary submissions of information from private parties, and is not meant to restrict the Commission's ability to seek out information which it does not have but views as important to make the best possible determination it can. If the Commission seeks out such information and there remains insufficient time to disclose it and allow for comment on it by parties prior to the Commission's determination, the Commission may nevertheless consider such information but must release it as soon as practicable.

The conferees also recognize the administrative burden that would be imposed if all the day-to-day working papers and notes of agency staff were to be subject to this disclosure requirement, and therefore do not intend that such documents be subject to disclosure. This reflects the understanding of the conferees that the content of such documents will either be reflected in a document that is released (such as the ITC staff report) or they are unlikely to have a bearing or impact on the outcome or the basis for the agency's determination.

It is not the intent of the conferees to alter the current authority of the Commerce Department or the ITC to withhold business proprietary information from release in accordance with the Freedom of Information Act.

22. Correction of Ministerial Errors (sec. 163 of House bill; sec. 1333 of conference agreement)

Present law

No provision.

House bill

The House bill requires Commerce to establish procedures for the correction of ministerial errors (i.e., mathematical or clerical errors or other unintentional errors), within a reasonable time after final determinations, or review of such determinations, and to ensure that interested parties have an opportunity to present their views regarding such errors.

Senate amendment

No provision.

Conference agreement

The Senate recedes. It is the understanding of the conferees that the Commerce Department has recently published draft regulations establishing procedures for correcting errors.

23. Drawback treatment (sec. 159 of House bill; sec. 1334 of conference agreement)

Present law

Duties paid on imported merchandise which is used in the manufacture of goods for export, may be refunded upon the exportation of such goods. To receive benefit of drawback, the completed article must have been exported within five years of the date of importation of the relevant duty-paid merchandise. The amount of refund is equal to 99 percent of the duties attributable to the foreign, duty-paid content of the exported article. Both antidumping and countervailing duties are treated as regular custom duties and thus are eligible for drawback.

House bill

The House bill amends section 779 to prohibit antidumping and countervailing duties paid on imported merchandise from being eligible for refund under drawback provisions.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

24. Governmental importations (sec. 160 of House bill; sec. 332 of Senate amendment; sec. 1335 of conference agreement)

Present law

Under schedule 8 of the Tariff Schedules, U.S. governmental importations are not subject to regular customs duties.

House bill

The House bill amends Title VII to clarify that merchandise imported by, or for the use of, the U.S. Government is not exempt from antidumping and countervailing duties.

Senate amendment

The Senate amendment contains a provision similar to that in the House bill, but provides a limited exemption from the general rule for:

(1) merchandise imported by, or for the use of, the Department of Defense that is subject to any preexisting Department of Defense Memorandum of Understanding; and

(2) governmental importations of merchandise which is normally purchased only by governments (e.g., certain military equipment.)

Conference agreement

The House recedes with an amendment to limit the exemption to merchandise imported by, or for the use of, the Department of Defense (DOD) if—

(1) the merchandise is acquired by, or for the use of, DOD

(a) from a country with which DOD had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superseding agreements, and

(b) in accordance with the terms of the Memorandum of Understanding in effect at the time of importation, or

(2) the merchandise has no substantial non-military use.

This would include, for example, the DOD Memoranda of Understanding with Israel, Egypt, and Australia.

25. Studies (sec. 169 of House bill; sec. 973 of Senate amendment; sec. 1336 of conference agreement)

a. Study of market reforms in China

Present law

No provision.

House bill

The House bill requires the Secretary of Commerce to study and report to Congress within 12 months on the new market orientation of the People's Republic of China. The study shall address the effect of the new orientation on market policies, price structure and the relationship between domestic Chinese prices and world prices, and the application of U.S. trade laws to China, including any possible need for changes in U.S. antidumping law to deal more appropriately with countries in transition to more market-oriented economies.

Senate amendment

The Senate amendment contains the same provision as the House bill.

Conference agreement

The conferees agreed to retain the provision, with an amendment requiring the Secretary of Commerce to consult with the heads of other relevant executive branch agencies.

b. USTR Study of subsidy commitments

Present law

No provision.

House bill

The House bill requires the U.S. Trade Representative to begin, within 90 days of enactment, a review of Subsidies Code commitments undertaken by other countries with respect to the United States, and to report to the Committee on Ways and Means and the Committee on Finance on the results of such review within six months of its commencement. It requires the review to include an evaluation of whether commitments have been met; the time frames for compliance; and any recommendations on how to improve commitments policy.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

26. Effective dates (sec. 341 of the Senate amendment; sec. 1337 of conference agreement)

Present law

Not applicable.

House bill

No provision.

Senate amendment

The Senate amendment provided for the following effective dates with respect to its amendments to the antidumping and countervailing duty laws:

(a) amendments relating to critical circumstances (section 321) and dumping by nonmarket economy countries (section 325) are effective only for investigations initiated after date of enactment;

(b) amendments relating to anti-circumvention actions (section 323(a)), steel imports (section 323(b)) and governmental importations (section 332) apply to entries, and withdrawals from warehouse for consumption, that are liquidated on or after date of enactment;

(c) amendments relating to fictitious markets (section 336) apply with respect to investigations and reviews initiated after date of enactment, and to any reviews pending on date of enactment for which a request for revocation is also pending;

(d) amendments relating to processed agricultural products (section 326), access to information (section 327), certification of submissions (section 328), material injury (section 329), threat of material injury (section 330), expedited review authority (section 331), determination of subsidies (section 333), and leases (section 335) apply with respect to investigations and reviews initiated after date of enactment; and

(e) all other amendments relating to the antidumping and countervailing duty laws take effect on date of enactment.

Conference agreement

The House recedes with amendments as follows:

(a) amendments relating to international consortia (section 1315), dumping by nonmarket economy countries (section 1316), and input dumping by related parties (section 1318) apply with respect to investigations and reviews initiated after date of enactment;

(b) amendments relating to anti-circumvention action (section 1321) and drawback treatment (section 1334) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after date of enactment;

(c) amendments relating to fictitious markets (section 1319) apply only with respect to reviews (not investigations); and

(d) amendments relating to cumulation (section 1330) apply with respect to investigations initiated after date of enactment.

PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

27. Application of countervailing duty law to nonmarket economy countries (sec. 157 of House bill)

Present law

In 1986, the U.S. Court of Appeals for the Federal Circuit held that the countervailing duty law does not apply to nonmarket economy countries. See *Georgetown Steel Corp. v. U.S.*, 801 F.2d 1308 (Fed. Cir. 1986).

House bill

The House bill would amend the Tariff Act of 1930 to state that the countervailing duty law does apply to a nonmarket economy country to the extent that the administering authority can reasonably identify, and determine the amount of, a subsidy provided by that country.

Senate amendment

No provision.

Conference agreement

The House recedes.

28. Calculation of exporter's sales price (sec. 339 of Senate amendment)

Present law

In antidumping cases where U.S. sales are made through an importer that is related to the foreign manufacturer or exporter of the merchandise under investigation, Commerce determines whether dumping is occurring by comparing the foreign market value of the merchandise under investigation to the exporter's sales price. Exporter's sales price is based on the related importer's resale price to the first unrelated U.S. purchaser, subject to certain adjustments.

In calculating the exporter's sales price, Commerce is required under section 772(e)(2) to deduct selling expenses incurred in the United States by the related importer from the importer's resale price. In making adjustments for circumstances of sale, Commerce makes an offsetting deduction from foreign market value for selling expenses incurred in the home market by the foreign manufacturer or exporter. In practice, Commerce deducts the full amount of direct selling expenses from foreign market value, but limits the deduction for indirect selling expenses to no more than the amount of indirect selling expenses deducted from the exporter's sales price. (See 19 CFR 353.15.)

Present law contains no provision concerning the treatment of profits in calculating exporter's sales price.

House bill

No provision.

Senate amendment

The Senate amendment amends the antidumping law for cases involving exporter's sales price comparisons by (1) prohibiting Commerce from deducting any indirect selling expenses from foreign market value; and (2) requiring Commerce, in calculating exporter's sales price, to deduct profits from selling in the United States.

This provision would apply to imports from countries that are signatories to the GATT Antidumping Code.

Conference agreement

The Senate recedes.

29. Sham transactions (sec. 322 of Senate amendment)

Present law

The importer of record is liable for the payment of antidumping duties.

House bill

No provision.

Senate amendment

The Senate amendment requires Commerce to direct Customs to treat the U.S. end purchaser as the importer of record solely liable for the payment of antidumping duties if Commerce finds that goods are being imported by, or for the account of, a manufacturer, producer, seller or exporter for the purpose of absorbing antidumping duties, *i.e.*, a sham transaction.

Factors to be considered in determining whether a transaction is a sham include whether:"

(1) the manufacturer or exporter has actual notice of an antidumping proceeding;

(2) the transaction is an unusual method of importation for the manufacturer or exporter; and,

(3) the size and nature of the exporter's commercial operations with respect to the merchandise in the U.S. is insignificant.

The Senate amendment also provides that this provision is effective with respect to orders issued as a result of investigations initiated after date of enactment.

Conference agreement

The Senate recedes. It is the view of the conferees that the Commerce Department has authority under current law and proposed regulations on the reimbursement of antidumping duties to address the concerns that gave rise to this Senate amendment.

30. Private remedy for persistent dumping (sec. 166 of House bill)

Present law

Section 801 of the Antidumping Act of 1916 provides for criminal and civil penalties to be imposed against any party who commonly and systematically imports articles at a price substantially less than the actual market value or wholesale price, with the intent of destroying or injuring an industry in the U.S. Civil damages may be recovered in the amount of threefold the damages sustained, and the cost of the suit, including a reasonable attorney's fee.

House bill

The House bill contains three amendments with respect to the private cause of action under the Antidumping Act of 1916:

(a) The criminal sanctions under the 1916 Act are repealed.

(b) The term "actual market value" means the same as "foreign market value" under the antidumping law (title VII of the Tariff Act).

(c) In any civil action for damages brought under the Antidumping Act of 1916 against a "multiple offender", the fact that three or more dumping findings were made against the same foreign manufacturer would establish a rebuttable presumption of "intent to injure a U.S. industry." Damages in such a case, however, would be limited to single (not treble) damages. The presumption of intent would only be available when the plaintiff is a U.S. manufacturer of a like product.

Senate amendment

No provision.

Conference agreement

The House recedes.

31. Compensation fund for injured producers (sec. 167 of House bill)

Present law

Antidumping duties are collected and deposited in the general fund of the Treasury.

In antidumping proceedings, the ITC determines whether a domestic industry is being injured by reason of dumped imports. The ITC makes no determination with respect to injury to individual producers.

House bill

A separate account, to be funded by antidumping duties, is established with respect to each antidumping order issued, to provide compensation to domestic producers who have been injured by reason of dumped imports. The Secretary of the Treasury shall be responsible for distributing the proceeds in each separate account to certified injured parties, in accordance with appropriation acts.

ITC shall determine in response to applications from domestic producers whether a particular domestic producer has been injured and by what amount. ITC shall then issue a compensation award stating the amount of money payable to such producer from the appropriate account.

Senate amendment

No provision.

Conference agreement

The House recedes.

32. Explanation of Commerce rulings (sec. 162 of House bill)

Present law

No provision.

House bill

The House bill requires Commerce to include in its notices of final antidumping and countervailing duty determinations, or reviews of such determinations, an explanation of any significant deviation in the determination from established administrative precedent.

Senate amendment

No provision.

Conference agreement

The House recedes. It is the view of the conferees that the public notices of determinations by the Commerce Department and the ITC should provide a full explanation for the rationale of such determinations.

33. Application of countervailing duty and antidumping laws to imports of technical books (sec. 340 of Senate amendment)

Present law

No provision in the antidumping and countervailing duty laws. The Florence Agreement, as implemented in U.S. law by the Educational, Scientific and Cultural Material Importation Act of 1966, grants duty-free treatment to technical books as well as other printed material.

House bill

No provision.

Senate amendment

The Senate amendment provides that technical publications that receive duty-free treatment pursuant to the Florence Agreement and that are primarily commercial rather than educational in nature are not exempt from the provisions of the antidumping and countervailing duty laws.

Conference agreement

The Senate recedes.

34. Injury test for certain duty-free merchandise (sec. 168 of House bill)

Present law

Commerce may impose countervailing duties on duty-free merchandise that is not the product of a country designated under section 701(b) of the Tariff Act of 1930 only if there is an affirmative ITC material injury determination, unless such a determination is not required by U.S. international obligations, i.e., the product is not from a country that has definitively acceded to the GATT.

Present law provides no specific provision on the authority and procedure for the ITC to perform an investigation in cases where the requirement of an injury test arises after a countervailing duty order has been issued or while a countervailing duty case is pending.

House bill

The House bill provides that, whenever Commerce notifies the ITC that an outstanding countervailing duty order or pending investigation applies to duty-free merchandise without an injury test and U.S. international obligations, as determined by the U.S. Trade Representative, require an injury determination, the ITC shall make an injury determination within 180 days. If the ITC finds material injury, the order would remain in effect; if the injury determination is negative, the countervailing duty order would be revoked.

Senate amendment

No provision.

Conference agreement

The House recedes.

PART 3—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

1. Findings and purpose (sec. 171 of House bill; sec. 1341 of conference agreement)

Present law

No provision.

House bill

The House bill establishes general findings and a purpose on the importance of intellectual property rights protection and the need to improve such protection.

Senate amendment

No provision.

Conference agreement

The conferees agreed to the House provision.

2. Injury (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Section 337 of the Tariff Act of 1930 provides for relief against unfair methods of competition and unfair acts in the importation of articles into the United States or in their sale. In order to obtain relief for violations of section 337, a complainant must show, in addition to an unfair act or method of competition, that the tendency or effect of the act is to destroy or substantially injure a U.S. industry; to prevent the establishment of a U.S. industry; or to restrain or monopolize U.S. trade and commerce.

House bill

The House bill removes the requirement to prove injury, but only with regard to certain intellectual property rights cases involving patents, copyrights, registered trademarks, and mask works. In those cases, reference is made to "the importation into the United States, the sale for importation, or the sale within the United States after importation" of specified articles. For all other cases, the House bill retains the requirement to prove injury, but substitutes the word "threat" for "tendency."

Senate amendment

The Senate amendment is the same as the House bill, except that with regard to cases in which the injury requirement is maintained, it adds *impairment* of, as well as the prevention of, the establishment of an industry.

Conference agreement

The Senate recedes on the impairment language.

The substitution of the word "threat" for "tendency" merely is intended to codify current Commission practice with respect to its interpretation of the word "tendency," under which the Commission construes "tendency" as "threat." The wording change is not intended to introduce a new standard for proving injury.

In changing the wording with respect to importation or sale, the conferees do not intend to change the interpretation or implementation of current law as it applies to the importation or sale of articles that infringe certain U.S. intellectual property rights.

3. Industry (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

(a) "Efficiently and economically operated"

Present law

Injury under section 337 must be shown to have occurred to an "industry efficiently and economically operated in the United States."

House bill

The House bill retains the requirement to demonstrate that an industry exists or is in the process of being established in the United States but removes the requirement to demonstrate that it is "efficiently and economically operated."

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The conferees agreed to the House and Senate provisions.

(b) Definition

Present law

There is no specific definition of the term "industry."

House bill

In those intellectual property rights cases involving copyrights, patents, registered trademarks, and mask works, the House bill specifically defines industry to include—

(1) significant investment in plant and equipment;

(2) significant employment of labor or capital; or

(3) substantial investment in exploitation of the intellectual property right, including engineering, research and development, or licensing.

Senate amendment

The Senate amendment is the same as the House bill, except that the industry definition also applies to common-law trademarks and trade secrets.

Conference agreement

The Senate recedes.

4. Termination of investigation by consent order or settlement agreement (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Section 337 does not explicitly provide authority to terminate investigations on the basis of a consent order or settlement agreement, although the Commission follows such procedures in practice.

House bill

The House bill makes explicit the Commission's authority to terminate investigations in whole or part on the basis of a consent order or settlement agreement.

Senate amendment

Identical provision.

Conference agreement

The conferees agreed to the House and Senate provisions.

5. Time limits for temporary exclusion orders (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Under section 337, the Commission is empowered to issue temporary exclusion orders prohibiting the entry of merchandise (except under bond) during the pendency of an investigation. There are no statutory time limits for the issuance of temporary exclusion orders (although ITC rules establish a 7-month deadline).

House bill

The House bill requires determinations by the Commission on petitions for temporary exclusion orders within 90 days after case is initiated (plus 60 additional days in more complicated cases). Additionally, the House provision provides for forfeiture of the bond to the respondent in those cases where the Commission determines that a respondent did not violate section 337. The House provision also requires the ITC to prescribe rules regarding when the bond should be forfeited.

Senate amendment

The Senate amendment is the same as the House bill, except that it does not provide for forfeiture of the bond to the respondent.

Conference agreement

The House recedes.

The conferees note that under this section, preliminary relief may be granted to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure (FRCP). Notwithstanding any other requirements of the FRCP, the conferees expect that the Commission will not grant temporary relief in the form of a temporary exclusion order without conducting an *inter partes* hearing as required by the Administrative Procedures Act.

In addition, the conferees recognize that establishing rules for bonding may require more time than that provided by this section, for which the effective date is the date of enactment. The conferees have provided up to 90 days after the date of enactment for the issuance of interim rules implementing the bonding provision. In allowing additional time, however, the conferees reiterate their strong interest in seeing the bonding provisions implemented in as expeditious a fashion as possible. The conferees expect that, at a minimum, interim rules can be promulgated before the expiration of the additional time period authorized.

Finally, the conferees adopt by reference the colloquy relating to section 337 temporary exclusion orders (TEOs) and the posting of bonds by petitioners which was part of Senate debate on July 21, 1987 (Congressional Record at S10364), with the exception of the sentence that reads, "The ITC should require the complainant to post a bond where it is necessary to prevent harm to the respondent." The conferees note that the purpose of the bonding provision is to prevent the use of TEOs as a form of harassment of respondents or for other unjustified or frivolous purposes. Such a purpose is consistent with the provision allowing forfeiture of the bond to the Treasury, under which a disincentive for abuse of requests for TEOs by a complainant is established but no compensation is awarded to a respondent. In helping to prevent abuse of TEOs by complainants, however, the bonding provision also will help to prevent harm to a respondent.

6. Cease and desist orders (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Section 337(f) provides for the Commission's use of cease and desist orders "in lieu of" the exclusion of articles.

Maximum daily penalties for the violation of such orders are set at the greater of $10,000 or the domestic value of the articles.

House bill

The House bill clarifies that cease and desist orders may be used "*in addition to* or in lieu of" exclusion.

It also increases the maximum daily penalty for violation of such orders to the greater of $10,000 or twice the domestic value of the articles.

Senate amendment

The provision relating to clarification of cease and desist orders is identical to the House bill.

Under the Senate amendment, the maximum civil penalty would be $100,000 or the domestic value of the articles.

Conference agreement

The conferees agreed to merge the House and Senate provisions, clarifying existing authority for cease and desist orders and authorizing a maximum daily penalty of $100,000 or twice the domestic value of the articles.

7. Default provisions (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

There is no default provision in section 337. The Commission requires a complainant to establish a *prima facie* case of violation of section 337 in order to prevail if a respondent fails to appear.

House bill

The House bill provides that, when a respondent fails to appear, the ITC shall presume the facts alleged in the complaint to be true and shall, upon request, issue appropriate relief solely against that person.

If no respondent contests the investigation, and a violation is established by substantial, reliable, and probative evidence, a general exclusion order may be issued.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The conferees agreed to the House and Senate provisions.

8. Abuse of discovery (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Section 337 does not authorize sanctions for abuse of discovery or abuse of process.

House bill

The House bill authorizes the Commission by rule to prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rules 11 and 37 of the Federal Rules of Civil Procedure.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The conferees agreed to the House and Senate provisions.

9. Modification or rescission of section 337 orders (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Section 337 does not provide specifically for modification or rescission of section 337 orders, but it does provide that exclusion orders shall remain in effect until the Commission finds, and so notifies the Treasury, that the conditions which led to the exclusion no longer exist.

House bill

The House bill provides that when a person previously found in violation petitions the Commission for a determination that he is no longer in violation or for a modification or rescission of an order—

(1) the burden of proof is on the petitioner, and

(2) relief may be granted only on the basis of new evidence or evidence that could not have been presented earlier, or on grounds which would permit relief under the Federal Rules of Civil Procedure.

Senate amendment

The Senate amendment is the same as the House bill, except that the provision applies only to a person previously found in violation in a contested case.

Conference agreement

The Senate recedes.

The conferees note that the purpose of this provision is to clarify the burden of proof with respect to the petitioner requesting modification or rescission. The burden of proof with respect to substantive issues in the original proceeding (e.g., proof of infringement) is not altered by this provision.

10. U.S. Government Importation (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

Importations by or for the use of the U.S. Government are exempt from ITC exclusion orders in cases based on patent claims. Patent owners are entitled to compensation.

House bill

The House bill broadens the exemption to include copyrights, registered trademarks, or mask works.

Senate amendment

The Senate amendment broadens the exemption to include copyrights, trademarks, trade secrets, and mask works.

Conference agreement

The conferees agreed to eliminate both bills' reference to trademarks and the Senate amendment's reference to trade secrets, due to Department of Justice concerns about expanding coverage to those items.

11. Confidential information (sec. 172(a) of House bill; sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

There is no provision in section 337 for the treatment of confidential information, but current ITC practice provides that confidential information shall be disclosed only under specified circumstances.

House bill

The House bill provides that information submitted to the Commission and designated confidential shall not be disclosed without the consent of the submitting party except under protective order or to those officers or employees of the Commission, the U.S. Government, or the U.S. Customs Service who are directly involved in the case.

Senate amendment

The Senate amendment is the same as the House bill, except that persons engaged in the Presidential review process are not included in the list of those entitled to disclosure.

Conference agreement

The Senate recedes, with an amendment providing that information which is properly designated as confidential under Commission rules may not be disclosed, except under protective order, without the consent of the person submitting it.

12. Review of ITC determination (sec. 172(a) of House bill; sec. 1342(a) of conference agreement)

Present law

If the ITC determines that there is a violation of section 337, the determination is transmitted to the President for review. Within 60 days of receiving the determination, the President may act to disapprove it.

House bill

Under the House bill, authority to review and disapprove ITC determinations and proposed actions is transferred to the USTR.

Senate amendment

The Senate amendment retains present law.

Conference agreement

The House recedes.

13. Seizure and forfeiture (sec. 401(a) of Senate amendment; sec. 1342(a) of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment authorizes the ITC to order seizure and forfeiture of an article that is subject to an exclusion order when: the owner, importer, or consignee has previously attempted to import the article; it was previously denied entry; and the Secretary of the Treasury provided notice that a further attempt to enter the article would result in seizure and forfeiture.

Conference agreement

The House recedes, with a modification requiring the Secretary of the Treasury to notify the Commission when conditions for seizure and forfeiture have been met.

The intent of the seizure and forfeiture authority is to act as a deterrent to importers who knowingly attempt to circumvent a section 337 exclusion order by "port shopping" or by other repeated attempts to enter goods or like goods subject to the order.

In order to eliminate apparent confusion in the importer community as to the scope of general exclusion orders, the conferees note that such orders prohibit the importation of all infringing articles regardless of whether the importer of the articles was a respondent in the section 337 investigation that resulted in issuance of the order. *Sealed Air Corp. v. U.S. International Trade Commission*, 645 F.2nd 976, 985-986 (C.C.P.A.) (1981).

PART 4—TELECOMMUNICATIONS TRADE

1. Short title (sec. 201 of House bill; sec. 901 of Senate amendment; sec. 1371 of conference agreement)

Present law

There is no statute dealing specifically with international trade in telecommunications products and services. Section 301 of the Trade Act of 1974 authorizes the President to take action against unfair trade practices in all industries, including telecommunications.

House bill

Telecommunications Trade Act of 1987.

Senate amendment

Identical provision.

Conference agreement

The conferees agreed to change the date to 1988.

2. Findings and purposes (sec. 202 of House bill; sec. 902 of Senate amendment; sec. 1372 of conference agreement)

House bill

The House bill contains general findings and purposes regarding trade in telecommunications and the importance of foreign market access.

Senate amendment

The Senate amendment is similar to the House bill, but it contains two findings not found in the House bill:

(1) U.S. deregulation and divestiture of AT&T represent a U.S. unilateral trade concession to the rest of the world.

(2) The unique conditions in the world telecommunications market create a need to make an exception that should not necessarily be a precedent for legislating specific sectoral trade priorities.

Conference agreement

The conferees agreed to merge the House and Senate provisions with amendments, one deletion, and an addition.

3. Standard of foreign market openness

House bill

The House bill establishes a standard of "fully competitive market opportunities" for telecommunications products and services of U.S. firms. The term is not otherwise defined, except that the list of negotiating objectives in the bill establishes the sorts of conditions which characterize "fully competitive market opportunities."

Senate amendment

The Senate amendment establishes a standard of "substantially equivalent competitive opportunities" for telecommunications products and services of U.S. firms. This term is not otherwise defined except as suggested by negotiating objectives.

Conference agreement

The conferees agreed to strike both the House and Senate language and adopt a new standard—"mutually advantageous market opportunities."

The concept "mutually advantageous market opportunities" reflects the overriding objective of United States trade policy in telecommunications, which is the opening of foreign markets to provide an opportunity for U.S. firms to compete on the basis of comparative advantage, just as foreign firms compete in the U.S. market. It is not intended to suggest that foreign telecommunications markets must be a mirror image of the U.S. market.

The bill contains no stated or implied requirement for the denationalization of telecommunications monopolies or for the elimination of vertical integration within foreign telecommunications industries. Rather, the bill assumes that specific negotiating objectives for each country will be established within the context of the existing market structure of that country, with a view to achieving the bill's general negotiating objectives—in brief, trade agreements that provide mutually advantageous market opportunities for trade between the United States and other countries; correction of imbalances in market opportunities due to U.S. liberalization; and facilitation of increased U.S. exports to a level that reflects the competitiveness of the U.S. telecommunications industry. The eventual goal is market liberalization in priority foreign countries that will give U.S. firms competitive opportunities in those countries which are comparable to the opportunities available to foreign firms in the U.S. market.

4. Negotiating objectives (sec. 203 of House bill; sec. 905(a) of Senate amendment; sec. 1375 (c) and (d) of conference agreement)

House bill

This section sets forth six primary and seven secondary negotiating objectives to be referred to by the USTR for the purpose of establishing specific negotiating objectives on a country-by-country basis.

The primary negotiating objectives are:

(1) nondiscriminatory procurement of telecommunications products and services by foreign telecommunications service providers that are owned, regulated or controlled by foreign governments;

(2) assurances that any requirement for registration of telecommunications products be limited to certification by the manufacturer that the products meet local standards for preventing harm to the network or network personnel;

(3) open and transparent standards-setting processes for telecommunications products;

(4) the ability to have telecommunications products approved and registered by type and, if appropriate, establishment of procedures between the U.S. and foreign countries for mutual recognition of type approvals;

(5) reasonable and nondiscriminatory terms and conditions for access by value-added service providers to the telecommunications network; and

(6) monitoring and effective dispute settlement for items (1) through (5).

The secondary negotiating objectives are:

(1) national treatment for U.S. telecommunications products and services;

(2) most-favored-nation treatment for such products and services;

(3) nondiscriminatory procurement policies, and inclusion of telecommunications products and services in the Government Procurement Code;

(4) reduction or elimination of duties on telecommunications products;

(5) elimination of subsidies, dumping, violations of intellectual property rights, and other trade-distorting unfair trade practices;

(6) elimination of investment barriers; and

(7) monitoring and dispute settlement mechanisms to facilitate telecommunications trade agreement and compliance.

Senate amendment

The Senate amendment sets forth four general and eight specific negotiating objectives to be sought by the President in negotiations with foreign countries identified by the USTR as denying substantially equivalent competitive opportunities for U.S. firms.

The general negotiating objectives are:

(1) to obtain multilateral or bilateral agreements providing substantially equivalent competitive opportunities for U.S. firms;

(2) to correct the imbalance in competitive opportunities stemming from uncompensated U.S. market opening;

(3) to facilitate the increase in U.S. exports to a level that reflects the competitiveness of the U.S. telecommunications industry; and

(4) to enhance U.S. employment growth in telecommunications and related industries.

The specific negotiating objectives are identical to the House secondary negotiating objectives, except for the eighth objective, which is similar to one of the House primary objectives—adoption by foreign countries of equipment standards and certification procedures that do not exceed the minimum necessary to prevent harm to the telecommunications network.

Conference agreement

The conferees agreed to merge the House and Senate negotiating objectives and to form an "umbrella" list of mandatory objectives based on the Senate amendment's general negotiating objectives, with one deletion. They also agreed to merge the House primary and secondary negotiating objectives with the Senate's specific objectives to form a single list of specific objectives. The President is to select specific objectives on a country-by-country basis as necessary to meet the general "umbrella" objectives.

As to negotiating objective number 11—relating to nondiscriminatory procurement by foreign entities that provide local exchange telecommunications services which are owned, controlled, or, if appropriate, regulated by foreign governments—it is the intent of the conferees that this objective apply not only to such state-owned telecommunications monopolies as exist in France, Germany, and a number of other European countries, but also to such entities as Nippon Telephone and Telegraph of Japan, British Telecom of the United Kingdom, and Bell Canada of Canada. Those governments maintain de facto control over, or direction of, the policies and practices of these telecommunications providers. Such control may be exercised not only through large stock holdings in these companies but also through regulation. It is further the intent of the conferees that foreign entities which undergo a process of denationalization in the future and for which de facto government control is exercised through regulation or other means be covered by the telecommunications provisions in order to ensure nondiscriminatory procurement practices. The negotiating objective is not intended to cover truly private foreign firms which compete in their domestic markets with such government-controlled entities as those noted above.

5. Investigations and establishment of negotiating objectives

a. Investigations (sec. 204 of House bill; sec. 904 of Senate amendment; sec. 1374 of conference agreement)

House bill

Within 180 days of enactment, the USTR must identify and analyze those foreign acts, policies, and practices that deny fully competitive market opportunities to the telecommunications products and services of U.S. firms.

Senate amendment

Within 4 months of enactment, the USTR must (1) identify and analyze all foreign acts, policies, and practices that deny to telecommunications products and services of U.S. firms any competitive opportunities that are substantially equivalent to competitive opportunities available to foreign firms in the U.S. market, and (2) identify which of those acts, policies or practices denies or impairs benefits to the U.S. under existing trade agreements. In making determinations under (2) above, the USTR must consider any evidence of patterns of trade that do not reflect the patterns that would reasonably be expected to flow from the foreign country's trade agreement concessions or commitments as creating a presumption of an act, policy or practice that denies or impairs U.S. trade agreement benefits. In conducting this analysis, the USTR shall take into account:

(1) the actual or potential economic benefits to foreign firms from open access to the U.S. market, and

(2) the actual patterns of trade, including U.S. exports in relation to the international competitive position and export potential of those exports.

The USTR is required to consult with the ITC with regard to actual patterns of trade.

Conference agreement

The conferees agreed to drop both the House and Senate provisions and adopt a new provision:

(i) Requiring USTR to conclude investigations within five months after date of enactment.

(ii) Requiring USTR to undertake investigations of "priority" foreign countries. In identifying priority foreign countries, USTR shall take into account, among other relevant factors:

(A) The nature and significance of the acts, policies, and practices that deny mutually advantageous market opportunities to telecommunications products and services of U.S. firms;

(B) The economic benefits (actual and potential) accruing to foreign firms from open access to the U.S. market;

(C) The potential size of the market for telecommunications products and services of U.S. firms;

(D) The potential to increase U.S. exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and

(E) Measurable progress being made to eliminate the objectionable acts, policies, or practices.

USTR may, at any subsequent time, identify any new priority country, or drop any designated priority country, taking into account factors (A) through (E).

(iii) Providing that after consulting with industry, labor, and the Congress, the President may refine or modify specific negotiating objectives for particular negotiations in order to respond to circumstances arising during the negotiating period, including changed practices by the country in question, tangible substantive developments in multilateral negotiations, changes in competitive positions, technological developments, or other relevant factors.

Within 30 days of any refinement or modification, the President must submit to appropriate committees of the Congress a statement describing the changes made and any justifications therefor.

b. Establishment of negotiating objectives (sec. 204(a) of House bill; sec. 905(a) of Senate amendment; sec. 1375(b) and (c) of conference agreement)

House bill

Drawing from the primary and secondary objectives, the USTR must establish specific negotiating objectives for each country identified, which should be pursued to obtain fully competitive market opportunities. In establishing the negotiating objectives for a particular country, the USTR is to take into account:

(1) the needs of affected U.S. industries;

(2) the competitiveness of U.S. industries in U.S. and world markets;

(3) the progress being made to expand market opportunities under existing agreements and ongoing negotiations; and

(4) the availability of incentives and remedies.

Senate amendment

The objectives the President must pursue in negotiations must include, but are not limited to, the specific negotiating objectives of the Senate amendment. In pursuing these objectives and the general negotiating objectives, the President must take into account the actual or potential economic benefits to foreign firms from open access to the U.S. market, and the actual patterns of trade, including U.S. exports in relation to the international competitive position and export potential of those exports.

Conference agreement

The conferees agreed to merge the House and Senate provisions by requiring the President to establish specific objectives on a country-by-country basis, drawing from the merged House and Senate negotiating objectives.

The House recedes on the four factors to be taken into account.

6. Consultation (sec. 207 of House bill; secs. 904, 907 of Senate amendment; sec. 1379 of conference agreement)

House bill

The House bill provides that the USTR must consult with the private sector in establishing negotiating objectives.

Senate amendment

The Senate amendment is substantially the same as the House bill.

Conference agreement

The conferees agreed to merge the House and Senate provisions.

7. Petitions by interested parties; self-initiation (sec. 204 of House bill)

House bill

Investigations may be prompted either by petitions from interested parties or self-initiation by the USTR, except that no petition may be filed before the completion of investigations mandated by the bill (maximum of 6 months after enactment). Any investigation and a final determination must be made within 6 months of initiation of the investigation (in the case of self-initiation) or of the date a petition is filed.

Senate amendment

No provision.

Conference agreement

The House recedes.

8. Exclusion of countries with limited market potential (sec. 204(a) of House bill; sec. 904(c) of Senate amendment)

House bill

The USTR may exclude from investigation any country whose potential market for U.S. telecommunications products and services is not substantial.

Senate amendment

The Senate amendment is the same as the House bill, except the USTR must consult with the Committees on Ways and Means and Finance, publish a Federal Register notice, and provide opportunity for written public comment prior to excluding any country.

Conference agreement

The conferees agreed to drop both the House and Senate provisions.

9. Review of countries excluded from investigation (sec. 204(c) of House bill)

House bill

The House bill requires review, at least annually, of the market potential of countries previously excluded from investigation due to small market size. An investigation is required if substantial market potential exists.

Senate amendment

No provision.

Conference agreement

The House recedes.

10. Report to Congress (sec. 204(d) of House bill; sec. 904(d) of Senate amendment; sec. 1374(d) of conference agreement)

House bill

The USTR shall report to Congress on all investigations undertaken under section 204. Each report shall be submitted within 30 days of completion of the investigation.

Senate amendment

The USTR shall report to the Committees on Finance and Commerce in the Senate and the Committees on Ways and Means and Energy and Commerce in the House within 4 months of enactment on the analysis and determinations made on foreign barriers.

Conference agreement

The Senate recedes, with the report to be submitted to appropriate committees of the Congress.

11. Action by President in response to investigations (sec. 205 of House bill; sec. 905 of Senate amendment)

a. Negotiations (sec. 205(a) of House bill; sec. 905(a) of Senate amendment; sec. 1375 of conference agreement)

House bill

The House bill provides that after investigations are completed, the President must enter into negotiations with countries subject to investigation. The purpose of the negotiations is to enter into bilateral or multilateral agreements which achieve the objectives established by the USTR for each country or group of countries.

Senate amendment

The Senate amendment provides that after investigations are completed, the President must enter into negotiations with countries identified by the USTR as denying substantially equivalent competitive opportunities. The purpose of the negotiations is to enter into bilateral or multilateral trade agreements which provide to telecommunications products and services of U.S. firms substantially equivalent competitive opportunities, based on the objectives set forth in this section. In pursuing these objectives, the President must take into account the actual or potential economic benefits to foreign firms from open access to the U.S. market, and the actual patterns of trade, including U.S. exports in relation to the international competitive position and export potential of those exports.

Conference agreement

The conferees agreed to merge the House and Senate provisions, using the new standard of foreign market openness and cross-referencing the merged and revised negotiating objectives.

b. Time limit for negotiations (sec. 205(c) of House bill; sec. 905(b) of Senate amendment; sec. 1376(c) of conference agreement)

House bill

The House bill provides that in the case of negotiations entered into as a result of investigations mandated by the bill, agreements must be reached no later than 18 months after enactment. In the case of investigations entered into as a result of self-initiation or petition, agreements must be entered into within 12 months after the commencement of negotiations.

Senate amendment

The Senate amendment provides that agreements must be reached no later than 18 months after enactment.

Conference agreement

The House recedes, with an amendment providing that for countries subsequently identified and added to the list of priority countries, agreements must be reached no later than 12 months after such identification.

c. Extension of negotiating period (sec. 205(c) of House bill; sec. 1376(c) of conference agreement)

House bill

The House bill provides that the President may request up to 2 one-year extensions of negotiating authority, subject to "fast-track" Congressional approval, by submitting a draft bill at least 90 days prior to the expiration of the negotiating period and a statement that: (1) substantial progress is being made in negotiations; and (2) further negotiations are necessary to achieve the objectives.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment dropping the requirement for fast-track Congressional approval of extensions of the negotiating period but requiring the President to submit a report to appropriate committees of the Congress, indicating that substantial progress is being made in negotiations and outlining the reasons that an extension is necessary.

d. Consultations (sec. 207 of House bill; sec. 907 of Senate amendment; sec. 1379 of conference agreement)

House bill

The House bill provides that the President must keep the Committees on Ways and Means and Finance informed of negotiating priorities and objectives; prospects; and any U.S. concessions which may be required. He also shall consult with the private sector.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conferees agreed to the House and Senate provisions, with an amendment providing that the USTR, not the President, shall keep the committees informed and consult with the private sector.

12. Actions to be taken by President if no agreement (sec. 205(b) of House bill; sec. 905(b) of Senate amendment; sec. 1376 of conference agreement)

a. Mandatory action

House bill

The House bill provides that if the President is unable to enter into an agreement which achieves the primary objectives established by the USTR, he shall take whatever actions authorized in the bill are necessary and appropriate to achieve the purposes of such primary objectives not covered by agreement. Any action the President decides to take under this item shall be treated as an action necessary to implement a trade agreement for the purposes of section 151 and subsections (c), (d), (e), (f), and (g) of section 102 of the Trade Act of 1974.

Senate amendment

The Senate amendment provides that if the President is unable to enter into an agreement which achieves the objectives set forth in this section, he shall submit a draft bill which implements whatever actions authorized in the bill are necessary to fully achieve such objectives, subject to "fast-track" approval.

Conference agreement

The House recedes, with an amendment dropping the requirement for fast-track Congressional approval and substituting a requirement that the President take whatever actions authorized in the bill are appropriate and most likely to achieve the general negotiating objectives, as defined by the specific objectives established by the President for the individual country concerned.

b. Discretionary action

House bill

The House bill provides that if the agreement fails to achieve any secondary objectives established by the USTR, the President may take whatever actions are necessary to achieve those objectives.

Senate amendment

No provision.

Conference agreement

The House recedes.

c. Authorized actions

House bill

Under the House bill, the President is authorized to take the following actions:

(1) Terminate or suspend any portion of a trade agreement with respect to any U.S. duty or trade restriction on a telecommunications product.

(2) Any action described in section 301.

(3) Prohibit the Federal government from purchasing specified telecommunications products.

(4) Increase domestic preferences for Federal purchases.

(5) Suspend any waiver of domestic preferences.

(6) Order the denial of Federal funds or credits for the purchase of specified foreign products.

(7) Suspend GSP benefits.

The actions taken must first be those that most directly affect trade in telecommunications products and services from the country concerned.

Senate amendment

The Senate amendment is substantially identical to the House bill, except that, among other things, it requires the application of tariff rates provided for in column 2 of the Tariff Schedules of the United States.

Conference agreement

The conferees agreed to merge the House and Senate provisions, with amendments, including striking any reference to column 2 tariff rates. Action shall be taken first against telecommunications products and services, unless the President determines that action against other sectors would be a more effective means of meeting the negotiating objectives.

d. Contract sanctity

House bill

Under the House bill, contracts entered into before the date of enactment of the bill are grandfathered.

Senate amendment

Under the Senate amendment, contracts entered into before April 17, 1985, are grandfathered.

Conference agreement

The conferees agreed to delete the provisions of both the House bill and the Senate amendment exempting binding obligations under a written contract from any action taken by the President. The conferees were concerned that such an exemption would be difficult to enforce and that a blanket exemption would hamper the President's discretion in taking appropriate action. The conferees intend that the President be authorized to choose from among a broad range of offsetting measures. Should the imposition of offsetting measures be necessary, the President is expected to use the flexibility provided to impose those restrictions that are likely to have the most profound effect on the specific country involved, to moderate or preclude any cost of compensation, and to minimize the negative impact on domestic purchasers of equipment and services. In this last regard, the Administration is expected to pay serious attention to concerns of such purchasers, taking into account such factors as the ready availability of alternate sources of supply, the price and technological competitiveness of such suppliers, the technological compatibility of their products as they relate to multi-year investment projects, and the existence of outstanding contractual obligations. The President should exercise his flexibility under this Act so as to ensure that the benefits to U.S. telecommunications interests outweigh any harm to such interests. The availability of a range of options, however, does not eliminate the requirement that his actions be of sufficient magnitude to fully achieve the applicable objectives.

e. Consultations (sec. 207 of House bill; sec. 905(b) of Senate amendment; sec. 1379 of conference agreement)

House bill

The House bill provides that the President must consult with the private sector, including labor, and the interagency trade organization in determining which actions to take.

Senate amendment

The Senate amendment provides that at least 90 days before a draft bill of proposed actions is submitted, the President must consult with the Committee on Finance in the Senate and the Committee on Ways and Means in the House on its content, and submit a document explaining the bill.

Conference agreement

The conferees agreed to merge the House and Senate provisions, dropping the reference in the Senate amendment to a draft bill of proposed actions.

13. Modification or termination of actions (sec. 205(d), (e) of House bill; sec. 1376(d) of conference agreement)

House bill

The House bill provides that the President may modify or terminate any action taken against a country only if that country enters into an agreement which achieves the specific objective regarding which such action was taken. He shall promptly inform appropriate Congressional committees of such modification or termination.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment authorizing the President to modify or terminate any action taken if changed circumstances warrant, taking into consideration the five factors originally used for designating a priority country (under item #5 above).

14. Enforcement of trade agreements (sec. 206 of House bill; sec. 906 of Senate amendment; sec. 1377 of conference agreement)

a. Annual reviews (sec. 206(b) of House bill; sec. 906(b) of Senate amendment; sec. 1377(a) of conference agreement)

House bill

The House bill requires the USTR to conduct reviews to determine whether any act, policy, or practice of a country with which a telecommunications trade agreement has been reached:

—is not in compliance with the terms of the agreement, or

—otherwise denies fully competitive market opportunities under the agreement.

If an agreement was entered into under this bill, the first review is to take place within 6 months of the date the agreement enters into force, and annually thereafter. If the agreement was in existence on the date of enactment the first review is to occur within 18 months, and annually thereafter.

Senate amendment

The Senate amendment requires an annual review by USTR to assess the extent to which the objectives are being met by each foreign country whose acts, policies, or practices were identified as denying substantially equivalent competitive opportunities. It also requires an annual report to Congress on such reviews.

Conference agreement

The Senate recedes, with an amendment requiring the annual review to be conducted in the context of the National Trade Estimate Report on Foreign Trade Barriers required in section 181 of the Trade Act of 1974, and other amendments conforming the provision to changes made elsewhere in the Telecommunications Trade Act.

b. Review factors (sec. 206(c) of House bill; sec. 904(b) of Senate amendment; sec. 1377(b) of conference agreement)

House bill

The House bill provides that in making a determination on a foreign country's compliance with a telecommunications trade agreement, the USTR is required to "consider any evidence of actual patterns of trade (including United States exports of telecommunications products to a foreign country and sales and services related to those products) that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of such products and services." The USTR must consult with the ITC with regard to "actual patterns of trade."

Senate amendment

The Senate amendment is nearly identical to the House bill, except that the USTR also must take into account the economic benefits to foreign firms from the open U.S. market.

Conference agreement

The Senate recedes.

c. Action in response to affirmative review determination generally (sec. 206(d) of House bill; sec. 906(b) of Senate amendment; sec. 1377(c) of conference agreement)

House bill

Under the House bill, if the USTR determines that a country's acts, policies, or practices violate a telecommunications trade agreement or deny fully competitive market opportunities under the agreement, he shall take whatever authorized actions are necessary to: (a) fully offset the foreign act, policy, or practice, and (b) restore the balance of concessions between the United States and the foreign country in telecommunications trade.

Senate amendment

The Senate amendment is the same as the House bill, except the standard is "substantially equivalent competitive opportunities," and the USTR's actions must "restore the balance of competitive opportunities" between the United States and the foreign country.

Conference agreement

The conferees agreed to strike both the House and Senate provisions, substituting for them a new provision requiring that if the USTR determines that a country's acts, policies, or practices violate a telecommunications trade agreement or deny mutually advantageous market opportunities under the agreement, it shall be treated as a trade agreement violation under section 301 of the Trade Act of 1974, as amended.

The conferees intend that if, as a result of a review of a trade agreement under the telecommunications provisions, the USTR determines that a country is not in compliance with the terms of the agreement, that determination will be considered as an affirmative determination under section 301, and the USTR will conduct no further investigation of the foreign act, policy, or practice. The provisions of section 301 as they apply to trade agreement violations or other "unjustifiable" practices would apply in such cases.

d. Action against country with prior agreement (sec. 206(d) of House bill; sec. 906(a) of Senate amendment)

House bill

Under the House bill, action may not be taken by the USTR against a country with an agreement in existence on the date of enactment before action has been taken by the President against any other country.

Senate amendment

The Senate amendment permits action against a country with a prior agreement both as a result of the initial investigation as well as after annual reviews. If, as a result of the initial investigation, the USTR determines that an act, policy or practice of a foreign country denies or impairs U.S. benefits under an existing trade agreement, the USTR must take whatever authorized actions are necessary to fully offset the acts, policies or practices and to restore the balance of concessions between the United States and the foreign country. In the case of an affirmative determination made under an annual review, the USTR must take whatever authorized actions are necessary to restore the balance of competitive opportunities between the United States and the foreign country.

Conference agreement

The conferees agreed to drop both the House and Senate provisions. The conferees note that section 301 of the Trade Act of 1974, as amended, is available for action against countries with a prior agreement, as it is for countries with which agreements are negotiated under the Telecommunications Trade Act.

e. Actions authorized (sec. 206(e) of House bill; sec. 906(c) of Senate amendment; sec. 1377(e)(2) of conference agreement)

House bill

Under the House bill, the USTR is authorized to terminate, withdraw, or suspend trade agreements or take any action under section 301 of the Trade Act of 1974, except that action may be taken against products and services outside the telecommunications sector from the country concerned only if the USTR has taken all feasible actions against that country's telecommunications products and services and the applicable negotiating objectives have not been achieved.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conferees agreed to strike both the House and Senate provisions and to adopt an amended version of the provision requiring that action be taken first against telecommunications products and services.

f. "Fast-track" approval (sec. 206(e)(4) of House bill)

House bill

Under the Housee bill, any action the Trade Representative decides to take under item 14(e) shall be treated as necessary to implement a trade agreement for the purposes of section 151 and subsections (c), (d), (e), (f), and (g) of section 102 of the Trade Act of 1974.

Senate amendment

No provision.

Conference agreement

The House recedes.

g. Contract sanctity (sec. 206(f) of House bill; sec. 906(d) of Senate amendment)

House bill

The House bill provides that contracts entered into before the date of enactment of the bill are grandfathered.

Senate amendment

The Senate amendment provides that contracts entered into before April 17, 1985, are grandfathered.

Conference agreement

The conferees agreed to strike both the House and Senate provisions for the reasons outlined under item 12(d).

h. Consultations (sec. 207 of House bill; sec. 907 of Senate amendment) sec. 1379 of conference agreement)

House bill

The House bill provides that the USTR must consult with the Secretary of Commerce, the interagency trade organization and the private sector, including labor, in determining what actions to take.

Senate amendment

The Senate amendment is the same as the House bill, except that it adds a requirement for consultation with the Federal Communications Commission.

Conference agreement

The Senate recedes, with a modification dropping separate reference to the Secretary of Commerce, who is part of the interagency trade organization.

i. Separate 301 action (sec. 906(e) of Senate amendment)

Present law

The President may take action against unfair foreign acts, policies and practices under section 301 of the Trade Act of 1974.

House bill

No provision.

Senate amendment

The Senate amendment specifies that nothing in this section precludes the President from taking separate action, on his own motion or upon petition by an interested party, under section 301 of the Trade Act of 1974.

Conference agreement

The Senate recedes. The conferees note that nothing in the Telecommunications Trade Act precludes the USTR from taking separate action under section 301 of the Trade Act of 1974, either on his own motion or upon petition by an interested party.

j. Modification and termination authority (sec. 206(g), (h) of House bill)

House bill

Under the House bill, the USTR may modify or terminate actions taken against a country only if he determines that the country has taken appropriate remedial action regarding the act, policy, or practice concerned. Appropriate Congressional committees must be informed promptly of any modification or termination.

Senate amendment

No provision.

Conference agreement

The House recedes.

15. Trade agreement authority (sec. 208 of House bill; sec. 908 of Senate amendment; sec. 1102 of conference agreement)

House bill

The House bill provides forty-two-month trade agreement authority. "Fast-track" Congressional approval of trade agreements is required for all agreements except those involving unilateral concessions on the part of a foreign country, which may be implemented by Presidential proclamation.

Senate amendment

The Senate amendment provides three-year trade agreement authority. "Fast-track" Congressional approval of trade agreements is required for all agreements. There is no provision for agreements by Presidential proclamation.

Conference agreement

The Senate recedes with an amendment striking the reference to the President's proclamation authority and referencing the general trade agreement authority of this Act, including the time frame (i.e., until 1993). The general trade agreement authority shall be applicable for implementing any agreement reached either prior to or subsequent to mandated Presidential action.

The conferees note that the period of time authorized for entering into trade agreements exceeds that authorized for negotiating agreements. Additional time for entering into agreements is necessary, because the President may add countries to the list of priority countries at any time; and countries which have been subject to U.S. retaliation due to the failure to reach an agreement may decide subsequently to negotiate an agreement.

The conferees further note that nothing in the Telecommunications Trade Act detracts from the President's authority to proclaim agreements providing for unilateral concessions by a foreign country or to take action when action by the United States already is authorized under other U.S. laws.

a. Non-MFN application of benefits (sec. 208(c) of House bill; sec. 908(c) of Senate amendment)

House bill

The House bill provides that benefits and obligations of trade agreements may apply on a non-MFN basis.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conferees agree to strike the House and Senate provisions, but note that this authority is contained in the general trade agreement authority.

16. Compensation authority (sec. 209 of House bill; sec. 909 of Senate amendment; sec. 1378 of conference agreement)

House bill

Under the House bill, the President is authorized to compensate any country for actions taken by the President or the USTR, if such action is found to be inconsistent with U.S. international obligations. A compensation package is subject to "fast-track" Congressional approval.

Senate amendment

Under the Senate amendment, the President is authorized to compensate any foreign country if—

(1) the President has taken action in response to an investigation and the USTR is not required to take action against the same country (because the foreign acts, policies or practices at issue do not impair or deny U.S. trade agreement benefits); or

(2) the USTR takes action that is subsequently found to be inconsistent with U.S. international legal obligations.

A compensation agreement is subject to "fast-track" Congressional approval. In considering whether to enter into a compensation agreement, the President must take into account the actual or potential economic benefits to foreign firms from open access to the U.S. market, and the actual patterns of trade, including U.S. exports in relation to the international competitive position and export potential of those exports.

Conference agreement

The conferees agreed to merge the House and Senate provisions and to drop the requirement for "fast-track" Congressional approval of the compensation package. The conferees also dropped compensation authority for actions taken by USTR and noted that separate compensation authority for such action exists under section 301 of the Trade Act of 1974, as amended.

The conferees anticipate that any compensation owed in response to Presidential action under the Telecommunications Trade Act—particularly if he conducts negotiations under Article XXVIII of the General Agreement on Tariffs and Trade—should be limited, to the extent that credit is obtained for U.S. divestiture, which represents a unilateral liberalization by the United States of its trade with the rest of the world.

17. Definitions (sec. 210 of House bill; sec. 903 of Senate amendment; sec. 1373 of conference agreement)

House bill

The House bill provides a definition of the term "telecommunications product" in terms of Tariff Schedules of the United States (TSUS) numbers.

Senate amendment

The Senate amendment provides a similar definition of "telecommunications product" in terms of TSUS numbers, but adds three numbers—685.10, 685.12, and 685.39—and deletes two numbers—685.32 and 685.34.

Conference agreement

The conferees agreed to merge the House and Senate provisions, with amendments to the TSUS numbers and four deletions.

In order to make clear the meaning of the term "telecommunications products and services," the conferees note that under the Telecommunications Trade Act, international satellites (including transponders) and related services, and international cable facilities and related services, are encompassed within the term "telecommunications products and services." With respect to these and other telecommunications products and services, pursuant to section 1382 of this Act, nothing in the Act is intended to require action that is inconsistent with U.S. obligations under any international telecommunications agreement.

18. International obligations (sec. 211 of House bill; sec. 913 of Senate amendment; sec. 1382 of conference agreement)

House bill

The House bill provides that nothing in this title may be construed to require the President and the U.S. Congress to violate U.S. legal obligations, including GATT obligations.

Senate amendment

The Senate amendment provides that nothing in the subtitle shall be construed to require the President to act in a manner inconsistent with the international legal obligations of the United States.

Conference agreement

The conferees agreed to merge the House and Senate provisions with amendments, including dropping the reference to the Congress.

19. FCC

a. Clarification of factors FCC must consider (sec. 212(a) of House bill)

Present law

The Communications Act of 1934 requires the Federal Communications Commission (FCC), among other things, to make decisions on the basis of the public interest, convenience, and necessity.

House bill

The House bill specifies that in making decisions on the basis of the public interest, convenience, and necessity, the FCC should, where appropriate, take into account the impact of international trade on the ability of the U.S. telecommunications industry to be competitive in the international marketplace and on the ability of the American public to obtain quality services and equipment.

It requires the FCC to consult with the USTR and other appropriate Executive branch officials in making determinations or taking actions which take into account the impact of international trade.

It further provides that the Commission should avoid taking actions which would conflict with or otherwise interfere with separate trade actions, including negotiations, being taken by the USTR or other trade-related agencies.

Senate amendment

No provision.

Conference agreement

The House recedes.

b. Report to Congress (sec. 212(b) of House bill; sec. 1380(a) of conference agreement)

House bill

The House bill requires the FCC, by November 1, 1987, to report to Congress its findings and conclusions reached on the basis of a specified public inquiry and proposed rulemaking relating to international trade in telecommunications goods and services. It requires the FCC to commence a rulemaking on the matter if considered appropriate on the basis of the public inquiry.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment requiring the FCC to submit to appropriate committees of the Congress certain data collected and otherwise made public relating to the sale of foreign telecommunications equipment in the U.S. market.

The requirement that the FCC submit to various committees of the Congress certain data on the sale of foreign telecommunications equipment in the U.S. market should not be interpreted as suggesting that the FCC has any legal authority to formulate trade policy. The FCC may decide at any time to cease the collection of data referred to in this section or to cease further action under the Notice of Inquiry and Proposed Rulemaking (CC Docket No. 86-494), without regard to the requirement under this section to submit data to the Congress.

c. Compliance with FCC regulations (sec. 910 of Senate amendment; sec. 1380(b) of conference agreement)

Present law

Under authority of the Communications Act of 1934, the FCC requires the submission by manufacturers of certain information for registration and approval of telecommunications equipment in the U.S. market.

House bill

No provision.

Senate amendment

The Senate amendment provides that foreign telecommunications products subject to FCC registration or approval may be entered into the United States only if such products conform to FCC rules and regulations and certain information is submitted to a customs officer at the time of entry. The Secretary of the Treasury shall compile the information and submit a summary to Congress at least twice a year.

Conference agreement

The House recedes.

20. Study on telecommunications competitiveness (sec. 212(c) of House bill; sec. 912 of Senate bill)

House bill

The House bill requires the Secretary of Commerce, acting with the FCC and the National Telecommunications and Information Administration, to conduct a study of the competitiveness of the U.S. telecommunications industry and the impact of foreign policies and practices, to assist the Congress and the President in determining what actions may be necessary to preserve the competitiveness of the U.S. industry. The Secretary must provide notice and opportunity for public comment and submit his findings and recommendations to the Congress and President within 210 days of enactment.

Senate amendment

The Senate amendment provides that within 6 months of enactment and at least every 2 years thereafter, the Secretary of Commerce must submit to Congress a report on the impact of U.S. domestic policies and practices on the growth and international competitiveness of the U.S. telecommunications industry. The report shall include a statement of actions taken or recommended to overcome U.S. policies and practices found to inhibit growth and competitiveness, and a statement of the probable trade impact of failure to take such actions.

Conference agreement

The Senate recedes with an amendment requiring the Secretary of Commerce to conduct the study in consultation with the FCC and the USTR, to submit the report within one year of the date of enactment, and other modifications.

21. Service sector access authorization (sec. 911 of Senate amendment)

Present law

In addition to other retaliatory action, section 301(e)(6) of the Trade Act of 1974 authorizes the President to restrict the terms and conditions or deny the issuance of any service sector access authorization (e.g., license) that permits a foreign supplier of services access to the U.S. market in a service sector concerned.

House bill

No provision.

Senate amendment

The Senate amendment expands the definition of "service sector access authorization" in section 301(e)(6) to apply also to a foreign supplier of goods related to a service. (See separate item under section 301 amendments generally.)

Conference agreement

The Senate recedes.

SUBTITLE D—ADJUSTMENT TO IMPORT COMPETITION

PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

Amendments to Sections 201 through 203 of the Trade Act of 1974

(Sec. 131 of House bill; sec. 201 of Senate amendment; sec. 1401 of conference agreement)

a. Action to facilitate positive adjustment to import competition

Present law

If the ITC determines that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President shall provide the import relief that he determines necessary to prevent or remedy the serious injury and facilitate the orderly adjustment to new competitive conditions, unless he determines that such relief is not in the national economic interest.

House bill

The House bill provides that, if the ITC makes an affirmative injury determination as under present law, the USTR shall provide the import relief that USTR determines necessary to prevent or remedy the serious injury and to enhance competitiveness or otherwise facilitate adjustment, unless such relief would threaten U.S. national security or the economic costs of such relief are so great that they outweigh the economic and social benefits of providing relief.

Senate amendment

The Senate amendment provides that, if the ITC makes an affirmative injury determination as under present law, the President must take the actions that the ITC recommends as likely to assist the domestic industry in making a positive adjustment to import competition, or substantially equivalent actions, unless the President determines that such actions would endanger U.S. national security, cause serious injury to a consuming industry in the United States, result in more jobs lost than jobs preserved or created, or disproportionately burden the poor or U.S. agriculture.

A "positive adjustment" occurs when the domestic industry is able to compete successfully with imports after relief terminates, or the domestic industry experiences an orderly transfer of resources to other productive pursuits.

Conference agreement

The House recedes with a substitute amendment providing that, if the ITC makes an affirmative injury determination as under present law, the President shall take all appropriate and feasible action within his power that he determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and will provide greater economic and social benefits than costs.

A "positive adjustment" occurs when (1) the domestic industry is able to compete successfully with imports after termination of action under this section, or the domestic industry experiences an orderly transfer of resources to other productive pursuits, and (2) dislocated workers experience an orderly transition to productive pursuits.

b. ITC investigation and recommendation

1. Purpose of Petitions

Present law

Petitions for import relief for the purpose of facilitating orderly adjustment to import competition may be filed with the ITC. The petition shall include a statement describing the specific purposes for which import relief is being sought, which may include such objectives as facilitating the orderly transfer of resources to alternative uses and other means of adjustment to new conditions of competition.

House bill

The House bill authorizes petitions to be filed for the purpose of enhancing long-term competitiveness or otherwise facilitating orderly adjustment. It retains present law regarding statement of specific purposes.

Senate amendment

The Senate amendment retains present law regarding general purpose of import relief. It expands the list of specific objectives of import relief to include facilitating the orderly transfer of resources to alternative uses, enhancing competitiveness, or other means of positive adjustment to new conditions of competition.

Conference agreement

The House recedes with a substitute amendment authorizing petitions for action under this section to be filed with the ITC for the purpose of facilitating a positive adjustment to import competition. The petition shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition.

2. Industry Adjustment Measures

(a) Industry adjustment plan

Present law

No provision.

House bill

The House bill provides that the petitioner may submit, either with the petition or at any time within four months of petition, a statement of proposed adjustment measures. Such statement should include, to the extent practicable, the following:

(a) an assessment of current problems affecting the industry's ability to compete with imports;

(b) recommendations as to the types of actions that workers and firms could undertake during a period of import relief to improve the ability of the industry to compete after relief terminates or to facilitate adjustment to increased import competition;

(c) recommendations as to the types of actions that may be taken by Federal agencies or departments to assist the domestic industry's efforts either to enhance its competitiveness or to adjust to import competition;

(d) an explanation of how import relief will assist in achieving these objectives.

Senate amendment

The Senate amendment requires that the petitioner submit, in the petition, a plan to promote positive adjustment to import competition, which shall be made public and available for comment.

Conference agreement

The Senate recedes with a substitute amendment authorizing the petitioner to submit, any time within four months of the petition, a plan to promote positive adjustment to import competition.

While the conferees decided to make the submission of an adjustment plan optional, rather than to require its submission, the conferees encourage petitioners for action under this section to submit adjustment plans. The conferees believe that it is important for firms and workers in the petitioning industry to demonstrate to the ITC and the President what steps they will be taking to make a positive adjustment to import competition.

To the extent practicable, the conferees believe that it is appropriate for plans submitted by petitioners to include the following: (a) an assessment of current problems affecting the industry's ability to compete with imports; (b) recommendations as to the types of actions that workers and firms could undertake during a period of import relief to improve the ability of the industry to compete after relief terminates or to facilitate adjustment to increase import competition; (c) recommendations as to the types of actions that may be taken by Federal agencies or departments to assist the domestic industry's efforts either to enhance its competitiveness or to adjust to import competition; and (d) an explanation of how import relief will assist in achieving these objectives.

The conferees believe that the adjustment plan submitted by the petitioner should be made public and available for comment. The conferees expect the ITC to make the plan publicly available, consistent with its rules and procedures regarding confidential information.

(b) Consultations regarding adjustment measures

Present law

There is no specific provision under present law. However, under section 201(c) any interested party to a proceeding (which includes other members of the domestic industry, importers, foreign exporters, and government agencies) may appear before the ITC at hearings or submit its views on the issues of injury and remedy. In practice, interested parties also submit their views to the USTR on the issue of whether import relief should be provided.

House bill

The House bill provides that, before submitting a statement of proposed adjustment measures, the petitioner may request the USTR for an opportunity to consult with the USTR (and any other government officials which the USTR deems appropriate) along with other members of the domestic industry with respect to recommendations likely to be included in such statement. The purpose of the consultations shall be to consider the adequacy of proposed adjustment measures in the context of any relief which might be provided and thereby enable the petitioner to develop a more effective statement of adjustment measures.

If the petitioner so requests, the USTR must provide such opportunity to consult within a reasonable period of time, prior to the date required for submission of the statement (four months after filing of the petition). The USTR shall provide interested parties with adequate notice of the time and place for such consultations. No such consultation may occur unless the USTR or his delegate is present.

Senate amendment

The Senate amendment has no statutory provision for industry-government consultations. However, the Senate report encourages such ongoing consultations throughout the import relief proceeding and requires the ITC to afford interested parties and consumers an opportunity to comment on any adjustment plan at public hearings.

The Senate amendment states that nothing in this section shall be construed to provide immunity under the antitrust laws for any price-fixing agreement, horizontal restraints of trade or group boycotts which would otherwise be unlawful.

Conference agreement

The Senate recedes with an amendment providing that nothing in this section shall be construed to provide immunity under the antitrust laws.

(c) Individual commitments/submissions

Present law

In order to assist the President with his relief determination, the ITC is required to investigate and report on efforts made by firms and workers to compete more effectively with imports.

House bill

The House bill requires the ITC to seek information, on a confidential basis, from firms and workers in the domestic industry relating to what steps they are taking or plan to take to enhance competitiveness or to adjust to import competition. The ITC shall share such information with the USTR on a confidential basis.

Senate amendment

The Senate amendment provides that, at any time after submission of a petition, any firm, union, community, trade association, person or group of persons may individually submit to the ITC commitments regarding their individual efforts to promote the positive adjustment in the domestic industry to import competition. If the ITC makes an affirmative injury determination, the ITC must seek to obtain, on a confidential basis, commitments from such persons and entities that the ITC considers appropriate, regarding actions such persons and entities intend to take to promote positive adjustment.

Conference agreement

The Senate recedes with a substitute amendment requiring the ITC to seek information, on a confidential basis, from firms and workers in the domestic industry regarding steps they are taking, or plan to take, to make a positive adjustment to import competition. If the ITC makes an affirmative injury determination, any firm, group of workers, community, trade association, or other persons may individually submit to the ITC commitments regarding actions they intend to take to promote a positive adjustment to import competition.

3. ITC Injury Deadline

Present law

Present law has no statutory deadline specifically for the ITC injury determination. The ITC must report both its injury determination and remedy recommendation within six months of petition.

House bill

The House bill requires the ITC to make its injury determination within 120 days of petition.

Senate amendment

The Senate amendment requires the ITC to make its injury determination within 150 days of petition.

Conference agreement

The Senate recedes with an amendment to authorize a 30-day extension in extraordinarily complicated cases. The conferees intend for the ITC not to extend the deadline if such extension would impair the ITC's ability to give sufficient consideration to remedy issues in the investigation. The ITC shall determine no later than 100 days after the filing of a petition that an investigation is extraordinarily complicated.

4. Factors Applied in Determining Injury

(a) Determination of "domestic industry"

Present law

In determining the domestic industry producing an article like or directly competitive with an imported article, the ITC:

(a) may, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production; and

(b) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article.

House bill

The House bill changes the "may" with respect to clauses (a) and (b) to "shall, to the extent such information is available."

Senate amendment

The Senate amendment changes the "may" with respect to clause (a) only to "shall."

Conference agreement

The House recedes with an amendment to add "to the extent such information is available."

(b) Factors to be considered with respect to serious injury

Present law

The ITC must take into account all factors which it considers relevant, including, but not limited to: the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry.

House bill

The House bill changes the second factor listed to: "the inability of a significant number of firms to operate domestic production facilities at a reasonable level of profit."

Senate amendment

The Senate amendment includes the same change to the second factor as the House bill.

Conference agreement

The conferees agreed to the change.

(c) Factors to be considered with respect to "threat of serious injury"

Present law

The ITC must take into account all factors which it considers relevant, including, but not limited to: a decline in sales, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry concerned.

House bill

The House bill adds three additional factors: (1) a decrease in domestic market share; (2) the extent to which foreign exports are being diverted to the U.S. market by reason of trade restraints; and (3) the inability of domestic producers to generate adequate capital to finance modernization of plant and equipment

Senate amendment

The Senate amendment adds five additional factors: (1) a decline in domestic industry's market share; (2) the extent to which foreign exports are being diverted to the U.S. market by reason of trade restraints; (3) foreign export targeting; (4) existing preliminary or final antidumping or countervailing duty determinations; and (5) the extent to which domestic firms are unable to maintain existing levels of research and development expenditures.

Conference agreement

The Senate recedes with an amendment to add a fourth additional factor: (4) the extent to which domestic firms are unable to maintain existing levels of research and development expenditures.

(d) Factors not indicating absence of serious injury, or threat thereof

Present law

No provision.

House bill

No provision.

Senate amendment

Imports by domestic producers shall not be considered a factor indicating the absense of serious injury, or threat thereof.

Conference agreement

The Senate recedes.

(e) Causation standard

Present law

Present law requires that increased imports be a substantial cause of serious injury. "Substantial cause" is defined as a cause which is important and not less important than any other cause.

House bill

The House bill clarifies that the ITC should consider the condition of the industry over the course of the relevant business cycle and shall not aggregate the causes of declining demand associated with a recession or economic downturn into a single cause of serious injury.

Senate amendment

The Senate amendment includes the same provision as the House bill. The Senate amendment also requires the ITC to examine factors other than imports which may be a cause of serious injury, and to include such findings in its report.

Conference agreement

The House recedes.

(f) Seasonal imports

Present law

No provision.

House bill

In cases involving seasonal agricultural imports, the ITC may find serious injury if the increased imports are largely entering during a specific period or season of the year and are largely impacting only domestic producers harvesting or marketing during that period or season.

Senate amendment

No provision.

Conference agreement

The House recedes.

(g) GEOGRAPHICALLY ISOLATED MARKETS

Present law

No provision.

House bill

The House bill allows the ITC to disregard, in making its injury determination, quantities of imports into a "geographically isolated market" defined as a market in which:

(a) producers within the market have not supplied (or made a significant effort to meet) demand in that market to any substantial degree in the most recent representative period, and there is no reasonable likelihood that they will do so, and,

(b) producers outside the market have not historically met demand within the market at prices reasonably equivalent to prices prevailing elsewhere in the United States because of costs incurred to ship or sell in the market.

Senate amendment

No provision.

Conference agreement

The House recedes. The conferees believe that present law already authorizes the ITC to consider, in appropriate circumstances, whether imports enter certain geographical markets where the domestic industry does not compete in determining whether there is a substantial causal relationship between imports and serious injury to a domestic industry.

5. Provisional Relief for Perishable Products

(a) Procedure

Present law

No provision.

House bill

The House bill authorizes the USTR, at industry request, to direct ITC monitoring of imports of a perishable agricultural product for up to two years, if there is a reasonable indication that such industry is vulnerable to serious injury or threat thereof from increased imports. The USTR's determination on monitoring must be made within 21 days of a request.

If a petitioner under this chapter requests emergency relief with respect to a perishable agricultural product that has been monitored for at least 90 days, the ITC would make a preliminary determination regarding serious injury and the difficulty or repairing such injury because of perishability within 21 days of the petition. If the ITC makes an affirmative preliminary injury determination, it shall determine the import duty or restriction necessary to prevent or remedy such injury. In making its remedy recommendation, the ITC shall give preference to tariff increases.

If the ITC makes an affirmative preliminary injury finding, the USTR must grant provisional import relief within seven days unless it is determined to be not in the national economic interest.

Relief could be in any form of import relief or suspension of liquidation of entries and/or posting of bond or security deposit. Relief terminates if the ITC makes a negative final injury determination or the USTR denies any import relief at the end of the investigation, or the USTR decides relief is no longer warranted due to changed circumstances.

Senate amendment

The Senate amendment authorizes the petitioner for import relief regarding a perishable product also to file a petition with the Secretary of Agriculture for emergency relief. Within 14 days the Secretary shall advise the President and recommend emergency action if the Secretary has reason to believe that increased imports are a substantial cause of serious injury or threat thereof and that emergency action is warranted. If the Secretary recommends emergency action, within seven days the President must either proclaim import relief or publish notice of his decision not to take emergency action.

Relief could be tariffs, quotas, and/or tariff-rate quotas. Relief terminates if the ITC finds no serious injury, or the President denies import relief at the end of the investigation, or the President decides relief is no longer warranted due to changed circumstances.

Conference agreement

The Senate recedes with a substitute amendment authorizing the USTR to direct ITC monitoring of imports of perishable agricultural products for up to two years, if there is a reasonable indication that increasing imports are, or are likely to be, a substantial cause of serious injury or threat thereof to the domestic industry. The USTR must decide whether or not to direct monitoring within 21 days of a request by domestic industry.

If a domestic industry files a petition for import relief under section 201, and there has been at least 90 days of import monitoring, then the petitioner may request fast-track provisional relief. The data collected during monitoring would enable an expedited ITC preliminary injury determination and remedy recommendation within 21 days of the request for provisional relief.

Upon the request of the ITC, the USDA would be required to promptly provide the ITC with any relevant information it has which would assist the ITC in making such determination.

If the ITC makes an affirmative preliminary injury determination, it would recommend whatever import relief would prevent or remedy the injury, giving a preference to tariff increases. The ITC preliminary injury determination and provisional remedy recommendation would be submitted to the President, who would have seven days to take action, if warranted.

Provisional relief, if provided, would consist of immediate suspension of liquidation and tariff increases, quotas, or a combination thereof. If import relief in the form of tariffs is ultimately provided by the President, then unliquidated entries during the period of provisional relief shall be liquidated and duties collected at either the provisional level or the final level, whichever is lower. If import relief other than tariffs is ultimately provided, then the President may refund the provisional duties. If the provisional relief or final relief is in the form of a quantitative restriction, all entries during the period of provisional relief would count toward the quantitative restriction. If no import relief is provided by the final decision, then payment of any provisional duties shall be refunded, and entries liquidated. In deciding on provisional relief, the President shall give preference to tariffs over quotas.

Provisional relief shall terminate if (1) the ITC makes a negative final injury determination, (2) the President decides relief is no longer warranted due to changed circumstances, or (3) the President decides either to take action or not to take action after receiving an affirmative determination and report from the ITC.

(b) Definition of perishable product

Present law

No provision.

House bill

The House bill grants the USTR the authority to determine whether a product is a "perishable agricultural product" for purposes of fast-track monitoring and relief. The determination is to be based on the facts and circumstances for each product. Factors to consider include:

(1) short shelf life;

(2) short growing or marketing season;

(3) other legislative or administrative designation as perishable; and

(4) any other factors deemed relevant.

Senate amendment

No provision.

Conference agreement

The Senate recedes. The conferees agreed that perishability should be determined on the basis of the facts and circumstances in each case, taking into account all of the factors set forth under the House bill. One factor is not necessarily dispositive of an agricultural product's perishability. For example, the specific designation of a product, such as frozen concentrated orange juice, as perishable under the Caribbean Basin Initiative or the U.S.-Israel free trade area agreement should not be dispositive. Other factors regarding frozen concentrated orange juice—such as the facts that it can be stored for years without product degradation and is marketed year-round—indicate that it should not be considered a perishable agricultural product for purposes of this provision.

6. Provisional Import Relief if Critical Circumstances Exist

(a) Definition of critical circumstances

Present law

No provision.

House bill

Critical circumstances exist if a substantial increase (absolutely or relatively) in the quantity of an article being imported into the United States over a relatively short period of time has led to circumstances in which a delay in the taking effect of import relief would cause harm that would significantly impair the effectiveness of such import relief.

Senate amendment

Critical circumstances exist if a significant increase in imports (actual or relative to domestic production) over a short period of time has led to circumstances in which a delay in import relief would cause damage to the domestic industry that would be difficult to remedy at the time relief would normally be provided.

Conference agreement

The Senate recedes with an amendment clarifying that critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

In adopting this new provision, the conferees are recognizing that, in critical circumstances, provisional measures may be appropriate to ensure that the effectiveness of whatever actions are eventually taken is not impaired. The conferees recognize that, at the time the ITC is required to make its determination regarding critical circumstances, it will not know what actions will eventually be taken by the President or be able to judge definitively the impact of a delay on their effectiveness. This should not result, however, in the ITC being unable to reach a determination as to whether or not critical circumstances exist. The ITC should seek to determine whether the substantial increase in imports is so disruptive as to undercut any import relief that may be provided and consequently that measures to prevent further damage to the domestic industry pending Presidential action are appropriate.

(b) Procedure

Present law

No provision.

House bill

If the petition alleges critical circumstances, and if the ITC finds serious injury, then the ITC must also determine (at the same time as its injury determination, which is within four months of the petition) whether critical circumstances exist. If the ITC finds critical circumstances, then it shall order immediate suspension of liquidation of all entries of the merchandise under investigation, and may order the posting of a bond or cash deposit. If the USTR finds, within seven days of the ITC determination of critical circumstances, that provisional import relief is not in the national economic interest despite the finding of critical circumstances, the USTR may order the suspension of liquidation to be withdrawn. Any import relief ultimately provided by the USTR must be retroactively applied to the date of initial suspension of liquidation. If the USTR decides not to provide import relief, then the suspension of liquidation shall be withdrawn.

Senate amendment

If, during the course of an investigation, the President finds that critical circumstances exist, the President shall impose provisional measures consisting of any actions otherwsie authorized under the escape clause (tariff increase, tariff-rate quota, quota, OMA, TAA, regulatory relief, multilateral negotiations, or any combination). Provisional relief would remain in effect until revoked by the President, the ITC makes a negative injury determination, or 90 days after an ITC affirmative injury determination.

Conference agreement

The Senate recedes with a substitute amendment authorizing a petitioner for action under section 201 to request, either in the petition or by amendment at any time up to 30 days prior to the date the ITC report is due, provisional import relief due to critical circumstances.

The cumulative impact of any import relief taken shall not exceed the amount necessary to prevent or remedy the serious injury, or threat thereof.

If the request for provisional relief is submitted at least 30 days prior to the ITC injury determination, then the ITC shall make a critical circumstances determination at the same time as its injury determination. If the request is after the date that is 30 days prior to the ITC's injury determination, then the ITC shall make a critical circumstances determination no later than its remedy recommendation.

If the ITC makes an affirmative critical circumstances determination, then it shall recommend whatever import relief is appropriate to address the critical circumstances. Within 7 days of receiving the ITC critical circumstances recommendation, the President must provide whatever action, if any, is appropriate to address the critical circumstances.

Provisional relief, if provided, shall consist of immediate suspension of liquidation, tariff increases, quotas, or a combination thereof. If import relief is provided by the President, then unliquidated entries during the period of provisional relief shall be liquidated and duties collected at either the provisional or the final level, whichever is lower. If import relief other than tariffs is ultimately provided, then the President may refund the provisional duties. If the provisional relief or final relief is in the form of a quantitative restriction, all entries during the period of provisional relief would count toward the quantitative restriction. If no import relief is provided by the final decision, then payment of any provisional duties shall be refunded, and entries liquidated. In deciding on provisional relief, the President shall given preference to tariffs over quotas.

Provisional relief shall terminate when the President takes action after receiving the ITC report.

7. ITC Remedy Recommendation

(a) Standard

Present law

If the ITC makes an affirmative injury determination, it must then find the amount of the increase in, or imposition of, any duty or import restriction on the article investigated which is necessary to prevent or remedy the serious injury found, or, if the ITC determines that trade adjustment assistance can effectively remedy such injury, the ITC recommends the provision of trade adjustment assistance.

House bill

The House bill provides that, if the ITC makes an affirmative injury determination, it shall determine what form and amount of import relief would be the most effective to prevent or remedy the serious injury and facilitate efforts by the domestic industry to enhance its long-term competitiveness or to adjust to import competition.

Senate amendment

The Senate amendment provides that, if the ITC make an affirmative injury determination, it shall recommend those actions (including, but not limited to, import relief), if any, that are likely to assist the domestic industry in making a positive adjustment to import competition, based on the ITC's evaluation of the adequacy of the adjustment plan or commitments.

The cumulative impact of any recommended actions, however, may not exceed the amount necessary to prevent or remedy the serious injury.

Conference agreement

The House recedes with a substitute amendment providing that, if the ITC makes an affirmative injury determination, it shall recommend the action that would address the injury and be the most effective in facilitating efforts by the domestic industry to make a positive adjustment to import competition.

The cumulative impact of any import relief recommended may not exceed the amount necessary to prevent or remedy the serious injury.

(e) Remedy options

Present law

The ITC is to find the amount of increase in, or imposition of, a duty or import restriction which is necessary to prevent the serious injury.

House bill

In determining the form and amount of import relief, the ITC may choose any of the following:

(a) tariff increase;

(b) tariff-rate quota;

(c) quantitative restriction;

(d) negotiation of orderly marketing agreements (OMA's); or

(e) any combination of the above.

Senate amendment

The Senate amendment authorizes the ITC to recommend any of the following:

(a) tariff increase;

(b) tariff-rate quota;

(c) quantitative restriction;

(d) certification of workers and firms as eligible for trade adjustment assistance;

(e) consideration of firms' applications for regulatory modifications;

(f) initiation of multilateral negotiations; or

(g) any combination of the above.

Conference agreement

If the ITC makes an affirmative injury determination, it shall recommend one or more of the following (a) through (d) actions which would address the injury and be the most effective in facilitating efforts by the domestic industry to make a positive adjustment to import competition:

(a) tariff increase;

(b) tariff-rate quota;

(c) quantitative restriction;

(d) adjustment measures, including trade adjustment assistance.

In addition to (a) through (d), the ITC remedy recommendation may include:

(e) international negotiations; or

(f) any other action authorized under current law which is likely to facilitate the positive adjustment of the domestic industry.

The term "adjustment measures" refers to any existing authority to provide adjustment assistance, such as community assistance programs or manpower programs, not only trade adjustment assistance. In this context, the remedy of trade adjustment assistance means benefits other than those to which workers are already entitled under chapter 2 of the Trade Act of 1974, as amended.

(d) Factors to consider

Present law

No provision.

House bill

The House bill provides that, in determining the form and amount of import relief, the ITC shall consider each of the following factors, and report on each of them in its report:

(a) the extent to which import relief in conjunction with actions by the domestic industry (as identified in the statement on proposed adjustment measures and in individual confidential submissions to the ITC) are likely to enhance the long-term competitiveness of the domestic industry or otherwise facilitate adjustment;

(b) the current competitive position of the domestic industry in U.S. and world markets;

(c) the trends in conditions of competition (U.S. and global) that are likely to continue in this sector; and

(d) the role of this particular industry in the national economy, including its importance to U.S. national economic security.

Senate amendment

The Senate amendment requires the ITC to hold a public hearing on remedy recommendations, and to take into account, in making its remedy recommendations:

(a) the objectives and actions, including the nature and extent of import relief, specified in the adjustment plan; and

(b) any confidential commitments obtained by the ITC from any person regarding their individual efforts to promote positive adjustment.

In determining whether to recommend actions other than import relief, the ITC must take into account the likelihood that the objective of the actions can be attained.

Conference agreement

The House recedes with a substitute amendment providing that, after its injury detemination, the ITC must hold a public hearing on the remedy issue. In making its remedy recommendation, the ITC must take into account each of the following factors:

(a) the form and amount of import relief that would prevent or remedy the serious injury;

(b) the objectives and actions, including the action that the petitioner requests be taken by the President, specified in the adjustment plan;

(c) commitments obtained by the ITC from any person regarding their individual efforts to promote positive adjustment;

(d) any information available to the ITC concerning the conditions of competition in domestic and world markets in this industry, and likely developments in the period for which section 201 action is being requested; and

(e) whether international negotiations may be constructive to address the injury or facilitate adjustment.

If the ITC recommends actions other than import relief, it should make a good faith effort to recommend such actions only if there is a realistic prospect that the objective of such actions can be attained.

(b) Participating commissioners

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides that only those members of the ITC who agreed with the majority's affirmative injury determination are allowed to vote on the action that the ITC shall recommend.

Conference agreement

the House recedes with an amendment clarifying that Commissioners who vote negative on injury may submit separate views on the appropriate remedy, but that such views will not be included in determining the majority ITC recommendation.

8. ITC Report

(a) Deadline

Present law

The ITC must report to the President on its finding and determinations at the earliest practicable time, but not later than six months after filing of the petition. There are no separate deadlines for the injury determination and the remedy recommendation.

House bill

The House bill requires the ITC to make a determination on remedy and report to the President within 60 days of its injury determination (within 180 days of petition).

Senate amendment

The Senate amendment requires the ITC to report its injury determination and remedy recommendation to the President within 180 days of filing of a petition.

Conference agreement

The House recedes.

(b) Contents of report

Present law

Within six months of initiation, the ITC must report to the President on its injury determination, the basis therefor, and any separate or dissenting views. If the determination is affirmative, the ITC shall include in the report its findings regarding the import relief necessary to prevent or remedy such injury or, if it determines that TAA can effectively remedy such injury, a recommendation to provide such assistance.

House bill

The House bill requires the ITC to report to the USTR, rather than the President. It also requires the ITC report to include:

(a) its injury and import relief determinations, and any dissenting or separate views regarding both, determinations;

(b) a detailed statement regarding the factors that the ITC must consider in determining the form and amount of relief it recommends;

(c) an estimate of (i) the recommended import relief's effects (costs and/or benefits) on consumers of the imports and of the product generally and on other sectors of the U.S. economy, and (ii) the economic or social costs or benefits to taxpayers, communities, and workers which would likely result if import relief were or were not provided; and

(d) information obtained by the ITC regarding actions or proposed actions by firms or workers to enhance competitiveness or adjust to import competition.

Senate amendment

The Senate amendment requires the ITC to include in its report to the President its injury determination and remedy recommendation and basis therefor, any dissenting or separate views, and a description of the short- and long-term effects the recommended remedy is likely to have on other domestic industries and consumers.

The Senate amendment also authorizes the ITC to submit to the President any findings or conclusions relevant to whether a merger or acquisition by firms in the domestic industry would assist the industry in making a positive adjustment, including: (a) the extent of foreign competition relevant to a determination of a competitive effect of a merger or acquisition; (b) the degree to which a merger or acquisition is likely to assist positive adjustment by reducing costs, promoting efficiency, or increasing sales; and (c) the effect on domestic competition and commerce.

Conference agreement

The House recedes with a substitute amendment providing that the ITC shall include in its report to the President its injury determination, the action it is recommending, the basis for its determination and recommendation, and any separate or dissenting views. The report shall also include a description of:

(1) the short- and long-term effects the recommended action is likely to have on the petitioning industry, on other domestic industries, and on consumers;

(2) the short- and long-term effects of not taking the recommended action on the petitioning industry, its workers and the communities where it is located and on other domestic industries; and

(3) information obtained by the ITC regarding steps that firms and workers are taking or plan to take to make a positive adjustment to import competition, and any plan or commitments submitted to the ITC.

The conferees intend for the ITC to base its analyses of these effects on information generally available to the ITC as well as information submitted to the ITC during the course of the investigation. The conferees do not intend for the ITC to investigate each effect through the dissemination of additional questionnaires.

9. Trade Adjustment Assistance (TAA)

Present law

If the ITC determines that the provision of TAA can effectively remedy the injury and thus recommends TAA instead of import relief, then the President is required to direct the Secretaries of Labor and Commerce to expedite consideration of petitions for TAA.

House bill

The House bill provides that, if the ITC makes an affirmative injury determination, workers and firms within the injured industry would be automatically certified as eligible for benefits under the worker and firm TAA program. (Individual workers and firms would still have to request certification and apply to receive benefits, however.) Automatic eligibility for TAA would last for three years from the date of the ITC's serious injury determination.

Senate amendment

The Senate amendment provides that, if the ITC recommends TAA, the President shall direct the Secretaries of Labor and Commerce, within 30 days, to certify automatically workers and firms within the injured industry as eligible for TAA.

Conference agreement

The House recedes with a substitute amendment providing that, if the ITC makes an affirmative injury determination, the Secretaries of Labor and Commerce shall give expedited consideration to petitions from workers and firms in the injured industry for certification of eligibility for TAA benefits.

10. Subsequent Investigations

Present law

No investigation shall be made with respect to the same subject matter:

(a) for two years from the last day of import relief, concerning a subject for which import relief was provided; or

(b) for one year from the ITC's report to the President in a previous investigation.

House bill

The House bill retains present law.

Senate amendment

The Senate amendment prohibits an investigation with respect to any domestic industry previously investigated if such prior investigation resulted in import relief, for a period of time equal to the period of relief granted. With respect to any other industry previously investigated, the Senate amendment retains present law.

Conference agreement

The House recedes.

c. Administration action on ITC recommendations

1. Transfer of authority from the President to the USTR

Present law

Within 60 days of receiving an affirmative determination from the ITC, the President must decide on import relief.

House bill

The House bill transfers the authority to provide import relief from the President to the USTR.

Senate amendment

The Senate amendment retains present law.

Conference agreement

The House recedes.

2. Standard

Present law

Within 60 days of receiving an affirmative determination from the ITC, the President must provide import relief, unless he determines that relief is not in the national economic interest. If the President determines to provide import relief, he shall provide such relief to the extent that, and for such time as, he determines necessary to prevent or remedy the serious injury and to facilitate the orderly adjustment to new competitive conditions.

House bill

The House bill provides that, within 30 days of receiving an affirmative determination from the ITC (60 days in extraordinarily complicated cases), the USTR must decide either (1) to provide import relief to the extent that, and for such time as, the USTR determines necessary to prevent or remedy the serious injury and to enhance competitiveness or otherwise facilitate adjustment, or (2) not to provide import relief because:

(a) the provision of any import relief would threaten our national security; or

(b) the economic costs of providing any import relief are so great that they outweigh the economic and social benefits of providing import relief.

Senate amendment

The Senate amendment provides that, within 60 days of receiving an affirmative determination from the ITC, the President must take the actions recommended by the ITC, or substantially equivalent actions, unless the President determines that such action:

(a) would endanger U.S. national security;

(b) would disproportionately burden U.S. agriculture with regard to exports, employment, or income;

(c) would result in a loss of jobs greater than the number of jobs preserved or created;

(d) would be a substantial cause of serious injury to any domestic industry that consumes any product of the import-impacted industry; and

(e) would disproportionately burden the poor.

Conference agreement

The conferees agreed to a substitute amendment providing that, within 60 days of receiving an affirmative determination from the ITC, the President shall take all appropriate and feasible action within his power that he determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and will provide greater economic and social benefits than costs.

The conferees believe that in the vast majority of cases there will be some appropriate and feasible action for the President to take. The conferees recognize, however, that there may be certain circumstances in which there is no action that is appropriate and feasible. For example, there may be certain exceptional circumstances when any action that would facilitate adjsutment would result in greater economic and social costs than benefits. If there is such a case, the President should not be forced into taking action. However, the conferees strongly believe that this type of situation will be the exception, not the general rule.

3. Interagency consultation

Present law

Section 242 of the Trade Expansion Act of 1962 requires the interagency organization established thereunder (the Trade Policy Committee (TPC)) to make recommendations to the President regarding his determinations.

House bill

No provision.

Senate amendment

The Senate amendment requires the President to consult with the TPC and to consider its recommendations with regard to his determinations.

Conference agreement

The conferees agreed to retain the requirement under present law.

4. Factors to consider

Present law

In determining whether to provide relief, and what form and amount of relief, the President is required to take the following factors into account:

(a) the extent to which workers are benefitting from adjustment assistance and other manpower programs;

(b) the extent to which firms are benefitting from adjustment assistance;

(c) the probable effectiveness of import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry to adjust to import competition, and other considerations relative to the position of the industry in the U.S. economy;

(d) the effect of import relief on consumers and on competition in the domestic market for such articles;

(e) the effect of import relief on international economic interests of the United States;

(f) the impact on U.S. industries and firms as a result of international obligations regarding compensation;

(g) the geographic concentration of imports;

(h) the extent to which there is diversion of foreign exports to the U.S. market by reason of foreign restraints; and

(i) the economic and social costs which would be incurred by taxpayers, communities, and workers, if relief were or were not provided.

House bill

The House bill requires the USTR to consider the same factors, plus it adds as additional factors:

those factors the ITC is required to consider in making its remedy recommendation, including any statement on proposed adjustment measures and any confidential submissions;

the likely impact of import relief on agricultural exports;

the presence of any geographically isolated markets;

the seasonal nature of imports (if a seasonal agricultural product is involved).

The USTR must give weight to the estimates of economic costs and benefits provided by the ITC in its report.

Senate amendment

The Senate amendment requires the President, in deciding on actions substantially equivalent, or in addition, to the ITC recommendation, to consider existing factors (a), (b), (c), and (d), plus it adds as additional factors:

the adjustment plan and any confidential commitments regarding positive adjustment;

the efforts of firms to provide retraining to workers;

the potential for circumvention of any relief action.

Conference agreement

The Senate recedes with a substitute amendment providing that, in determining what action to take, the President shall take into account:

(a) the recommendations and report of the ITC;

(b) the extent to which workers and firms are benefitting from adjustment assistance and other manpower programs and engaged in worker retraining efforts;

(c) the efforts being made, or to be implemented, by the domestic industry (including any plan or commitments submitted to the ITC) to make a positive adjustment;

(d) the probable effectiveness of import relief and other actions within the authority of the President as means to promote positive adjustment;

(e) the short- and long-term economic and social costs of actions that could be taken relative to the short- and long-term economic and social benefits of such actions and other considerations relative to the position of the domestic industry in the U.S. economy;

(f) other factors related to the national economic interest of the United States, including, but not limited to:

(1) the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided;

(2) the effect of actions on consumers and on competition in domestic markets for such articles; and

(3) the impact on U.S. industries and firms as a result of international obligations regarding compensation;

(g) the extent to which there is diversion of foreign exports to the U.S. market by reason of foreign restraints;

(h) the potential for circumvention of any action taken;

(i) the national security interests of the United States; and

(j) other factors required to be considered by the ITC.

5. Remedy Options

Present law

If the President provides import relief, he may:

(a) proclaim an increase in, or imposition of, a duty;

(b) proclaim a tariff-rate quota;

(c) proclaim a modification of, or an imposition of, a quantitative restriction;

(d) negotiate, conclude, and carry out OMA's; or

(e) take any combination of such actions.

The President may also direct the Secretaries of Labor and Commerce to give expeditious consideration to applications for adjustment assistance by firms and workers. If the ITC recommends adjustment assistance, however, the President must direct such.

House bill

The House bill retains present law and also authorizes USTR to initiate international negotiations to address the underlying cause of the particular import problem.

Senate amendment

The Senate amendment retains present law with regard to import relief options. In addition to the actions recommended by the ITC, the Senate amendment also authorizes the President to take the following actions:

(a) direct the Secretaries of Labor and Commerce to certify workers and firms in the injured industry as eligible for adjustment assistance;

(b) direct the head of any Executive Branch department or agency to review applications from firms in the industry to modify any Federal regulatory requirement;

(c) Initiate multilateral negotiations to address conditions susceptible to multilateral approaches, such as global oversupply, diversion, or imports due to government targeting; or

(d) take any combination of the above actions.

The President may also request the Attorney General or Federal Trade Commission to consider the ITC report, findings, and conclusions with respect to the effects of mergers or acquisitions in promoting positive adjustment, in considering antitrust enforcement actions.

Conference agreement

The Senate recedes with a substitute amendment providing that the actions which the President may take include the following:

(a) tariff increase;

(b) tariff-rate quota;

(c) quantitative restriction;

(d) auctioned quotas;

(e) OMA;

(f) international negotiations to address the underlying cause of the increase in imports or otherwise alleviate the injury;

(g) adjustment measures, including trade adjustment assistance (other than entitlements);

(h) legislative proposals;

(i) any other action within his power;

(j) any combination of the above.

The cumulative impact of any import relief taken shall not exceed the amount necessary to prevent or remedy the serious injury, or threat thereof.

The term "adjustment measures" refers not only to trade adjustment assistance, but to any existing authority to provide adjustment assistance, such as community assistance programs or manpower programs. If the President decides to take action to implement adjustment measures, the conferees intend that such action lead to benefits for workers other than those to which they are already entitled under chapter 2 of the Trade Act of 1974, as amended (including amendments under this Act).

6. Auctioned Quotas

(Sec. 202 of the Senate amendment)

Present law

Section 1102 of the Trade Agreements Act of 1979 authorizes the President to sell import licenses at public auction under such terms and conditions as he deems appropriate. Such authority may be used to administer quantitiative restrictions imposed under specified statutes, including section 203 of the Trade Act of 1974.

House bill

The House bill adds a provision that, if the ITC recommends a quantitative restriction in any import relief proceeding, such recommendation shall be to administer the quantitative restriction by auction of import licenses, unless the ITC determines that such action would have undesirable economic results.

Senate amendment

The Senate amendment adds a provision requiring the Secretary of the Treasury to administer each of the next three quantitative restrictions or OMA's imposed under the escape clause, by means of public auction of import licenses, unless the President determines that: (1) the costs would exceed any revenues from the auction; (2) such auction would result in retaliation against a substantial amount of U.S. exports; or (3) it cannot be administrated without some person obtaining undue market power.

The Senate amendment also requires the Secretary of the Treasury to prescribe regulations within 60 days of enactment providing for the public auction of import licenses.

Conference agreement

The Senate recedes with a substitute amendment to add auctioned quotas to the list of the President's remedy options.

7. Procedure for Regulatory Modifications

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides that, if the President directs consideration of such applications, any firm within the domestic industry may submit an application to modify any Federal regulatory requirement to the head of any designated department or agency. If so directed, the head of the department or agency shall conduct an expedited review of the regulatory requirement, and determines whether the firm is within the injured industry. If so, the head of the department or agency may take any appropriate action within the scope of its authority, and recommend appropriate Presidential or legislative action.

Conference agreement

The Senate recedes.

8. Report to Congress

Present law

On the day the President determines whether to provide import relief, he must transmit to Congress a document setting forth his action and reasons therefor, including the reasons for any difference from the ITC recommendation.

House bill

The House bill imposes requirements similar to present law on the USTR. If USTR's decision on import relief differs in either form or amount from the ITC recommendation, it must submit, along with its decision, a detailed explanation for such difference. Such explanation must account for how any relief provided facilitates efforts by the domestic industry to enhance its long-term competitiveness.

Senate amendment

The Senate amendment requires the President's report to Congress also to include any recommendations for legislation which would assist the domestic industry in making a positive adjustment to imports.

Conference agreement

The conferees agreed to merge the House and Senate provisions.

9. Duration of relief

Present law

The President shall provide import relief for such time (not to exceed five years) as he determines necessary to prevent or remedy serious injury and facilitate the industry's orderly adjustment to new competitive conditions.

Relief may be extended by the President for an additional three years, if, after taking into account advice from the ITC, he determines such extension to be in the national interest.

House bill

The House bill retains present law (transferring authority to the USTR).

Senate amendment

The Senate amendment provides action for the period of time (not to exceed 10 years) that is likely to assist the industry in making a positive adjustment to import competition.

Conference agreement

The House recedes with an amendment to limit action to a maximum of 8 years and authorizing an extension of action if the President's initial action is for less than 8 years, provided that the total period of action not exceed 8 years.

d. Monitoring and modification authority

1. Monitoring and Periodic Review by the ITC

Present law

So long as any import relief remains in effect, the ITC is required to keep under review developments with respect to the industry concerned, including the progress and efforts made by firms in the industry to adjust to import competition. Upon the request of the President, the ITC shall make reports to the President concerning such developments.

Upon request of the President or upon its own motion, the ITC shall advise the President of its judgment regarding the probable economic effect on the domestic industry of any modification of import relief provided.

House bill

The House bill retains present law with an amendment to require the ITC to submit an annual report to USTR and Congress on the review and to monitor progress and efforts by firms to enhance competitiveness as well as to adjust to import competition.

Senate amendment

The Senate amendment requires the ITC to monitor developments with respect to the domestic industry concerned, including the progress and efforts of workers and firms to make a positive adjustment to import competition.

At intervals determined by the President (but no earlier than three years after action is taken and not more than once every three years thereafter), the ITC is required to submit a report to the President on its monitoring of the domestic industry. The ITC shall hold a hearing in the course of preparing each such report.

Conference agreement

The House recedes with an amendment requiring the ITC to report biannually to the President and Congress on its review of developments in the domestic industry and providing that, upon request of the President, the ITC shall advise the President of its judgment regarding the probable economic effect on the domestic industry of any proposed extension, reduction, modification or termination of actions taken.

2. Modification/Termination of Relief

Present law

The President may extend import relief beyond the five-year limit at a level no greater than the level in effect at the time of extension. There can be only one extension of relief, to last for up to three additional years.

The President may reduce or terminate import relief if he determines that such reduction or termination is in the national economic interest.

House bill

The House bill retains present law and adds a new provision which authorizes the ITC, either on its own motion or upon request from an interested party, to recommend modifications in either the form or amount of relief (or both) when appropriate—

(a) to compensate for changes in currency exchange rates;

(b) to prevent or respond to attempts to circumvent the import relief measures;

(c) to ensure the effectiveness of the import relief in providing adequate opportunity for adjustment;

(d) to account for changed circumstances in the domestic economy;

(e) to account for actions taken or not taken by the domestic industry to adjust and become more competitive.

Any recommendation by the ITC to modify import relief would be forwarded to the USTR, and the USTR would have 21 days to determine whether to order such modification.

Senate amendment

The Senate amendment provides that, subsequent to receiving an ITC monitoring report, the President may reduce, modify (but not increase), or terminate any action taken if either (1) the President determines that the domestic industry has not made an adequate effort to make a positive adjustment to import competition, or (2) a majority of representatives of the domestic industry request such reduction, modification, or termination on the basis that the domestic industry has made a positive adjustment to import competition.

Conference agreement

The House recedes with a substitute amendment providing that, subsequent to receiving the first ITC monitoring report (or ITC advice thereafter), the President may reduce, modify or terminate any action taken if either:

(1) the President determines, either by request or on his own motion, that changed circumstances warrant such reduction, modification or termination; or

(2) a majority of representatives of the domestic industry request such reduction, modification or termination on the basis that the domestic industry has made a positive adjustment to import competition.

Changed circumstances may include a finding that the domestic industry has not made adequate efforts to make a positive adjustment, or a determination that the effectiveness of the action taken has been impaired by changed economic circumstances (such as substantial shifts in currency exchange rates or attempts to circumvent the action taken).

3. Enforcement

Present law

Present law requires the President to provide, by regulations, for the efficient and fair administration of any action taken.

House bill

The House bill retains present law (transferring to the USTR).

Senate amendment

The Senate amendment retains present law, plus grants the President the authority to take such additional actions as may be necessary to eliminate any circumvention of actions taken.

Conference agreement

The House recedes.

4. Evaluation of Action After Expiration

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the ITC to evaluate the effectiveness of the action taken under this chapter after its termination, including holding a hearing, and report to the President and the Congress within six months of such termination on the evaluation.

Conference agreement

The House recedes.

e. Effective Date

House bill

Amendments shall apply to all petitions filed on or after date of enactment. Any pending investigation with respect to which the ITC has not made an injury determination on the date of enactment may be withdrawn and refiled without prejudice.

Senate amendment

Amendments apply to any investigation initiated after date of enactment.

Conference agreement

The Senate recedes.

PART 2—MARKET DISRUPTION

MARKET DISRUPTION (AMENDMENTS TO SECTION 406 OF THE TRADE ACT OF 1974)

(Sec. 135 of House bill; Sec. 1411 of Conference Agreement)

1. Transfer of authority

Present law

Section 406 of the Trade Act of 1974 authorizes the President to provide temporary import relief if imports of a particular product from a particular Communist country are causing market disruption.

House bill

The House bill transfers the authority to take action to the U.S. Trade Representative.

Senate amendment

No provision.

Conference agreement

The House recedes.

2. Eligible countries

Present law

Action may be taken under section 406 with respect to imports from a Communist country, defined as "any country dominated or controlled by communism."

House bill"

The House bill replaces the term "Communist country" with the term "non-market economy country," which is defined as "any country in which the government seeks to determine economic activity through central planning rather than reliance on market forces to allocate productive resources."

Senate amendment

No provision.

Conference agreement

The House recedes.

3. Standard for determining market disruption

Present law

Market disruption exists when imports of an article, like or directly competitive with an article produced by a domestic industry, are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to such domestic industry.

House bill

The House bill amends the standard for determining market disruption to "whether an article is being imported into the U.S. in such increased quantities (either absolutely or relatively) as to be an important cause of material injury," thereby deleting the requirement that imports be increasing "rapidly," and lowering the causation test from "significant" cause to "important" cause.

Senate amendment

No provision.

Conference agreement

The Senate recedes with a substitute amendment clarifying the terms "rapidly" and "significant cause" under the current law standard. The amendment provides that imports of an article shall be considered to be increasing rapidly if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time. The amendment also defines "significant cause" as a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

The conferees are concerned that the ITC has taken an unduly restrictive approach to the "rapidly increasing" and "significant cause" requirements under section 406. These amendments therefore clarify current law, in a manner consistent with U.S. obligations under GATT accession protocols and bilateral agreements.

Section 406 is designed to deal with surges in imports from nonmarket economy countries. In applying the term "rapidly", the ITC should examine whether imports have recently surged over historical levels. In conducting this inquiry, the ITC should balance the amount of the increase and the period of time involved. Thus, if the ITC finds that the increase is concentrated in a single year, it should look for a relatively sharp increase. If, on the other hand, the increase has occurred over a 2–3 year period, the longer period will provide a more stable basis for comparison and may show a steady trend toward higher import levels that meets the "rapidly increasing" requirement. Thus, in the latter situation, the increase need not be as sharp or as dramatic as that required over a shorter period. If imports have fluctuated up and down, the fact that imports are on a rapid upswing can satisfy the "rapidly increasing" requirement, even though imports have not reached levels attained in a previous period. If, however, the ITC finds that imports are stable, declining in absolute terms and relative to domestic production, or increasing slowly, the "rapidly increasing" requirement would not be met.

The "significant cause" standard is an interim standard between the "substantial cause" requirement of section 201 and the "contributing cause" standard of the antidumping and countervailing duty laws. Because section 406 focuses on imports from a single country, rather than all imports, it would not be appropriate to require that imports be the substantial or primary cause of injury, since this standard would be very difficult to meet. Consequently, the ITC should examine the various injury factors to determine whether imports from a Communist country have contributed significantly to the injury.

Under this standard, the imports subject to investigation need not be the leading or most important cause of injury or more important than (or even equal to) any other cause, so long as a direct and significant causal link exists. Thus, if the ITC finds that there are several causes of the material injury, it should seek to determine whether the imports subject to investigation are a significant contributing cause of the injury or are such a subordinate, subsidiary or unimportant cause as to eliminate a direct and significant causal relationship. Obviously, this analysis cannot be conducted with mathematical precision, but will require the application of reasoned judgment by the ITC.

4. Factors to be considered in evaluating market disruption

Present law

No provision.

House bill

The House bill requires the ITC to consider, among other factors:

(i) the volume of imports;

(ii) the effect of imports on prices in the U.S. for like products;

(iii) the impact of imports on domestic producers of like products; and

(iv) evidence of disruptive pricing practices or other efforts to unfairly manage trade patterns.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

5. Cumulation

Present law

No provision.

House bill

In determining whether market disruption exists, the ITC shall, where appropriate, cumulate imports from 2 or more nonmarket economy countries subject to investigation under this section.

Senate amendment

No provision.

Conference agreement

The House recedes.

6. Remedy

Present law

Upon a finding of market disruption, the ITC shall recommend such duty increase or other import restriction which is necessary to prevent or remedy the market disruption.

House bill

The House bill also authorizes the ITC to recommend a variable tariff based on the average of (1) average U.S. producer prices and (2) average import prices.

Senate amendment

No provision.

Conference agreement

The House recedes.

7. Discretion of administering authority

Present law

If the ITC finds market disruption, the President must provide import relief unless he determines that such relief is not in the national economic interest.

House bill

If the ITC finds market disruption, the U.S. Trade Representative can deny import relief only if the provision of such relief would have a serious negative impact on the domestic economy.

Senate amendment

No provision.

Conference agreement

The House recedes.

8. Effective date

Present law

No provision.

House bill

The House bill postpones the effective date of these amendments with respect to any country with whom the United States has, on date of enactment, conflicting obligations under an international agreement, until the date on which such agreement is due to expire. With respect to all other countries, the provisions are effective for investigations initiated after date of enactment.

Senate amendment

No provision.

Conference agreement

The Senate recedes with a substitute amendment providing that these provisions shall be effective for investigations initiated after date of enactment.

PART 3—TRADE ADJUSTMENT ASSISTANCE (TAA)

Eligibility of Workers and Firms for Trade Adjustment Assistance (sec. 211 of Senate amendment; sec. 1421 of conference agreement)

Present law

The Secretary of Labor certifies a group of workers (including agricultural workers) as eligible to apply for adjustment assistance if he determines that—

a. a significant number or proportion of the workers in a firm (or subdivision of the firm) have been, or are threatened to be, totally or partially separated;

b. sales and/or production of such firm or subdivision have decreased absolutely; and

c. increases of imports of articles like or directly competitive with articles produced by such workers' firm or subdivision contributed importantly to the separation, or threat thereof, and to the decline in sales and/or production.

The Secretary of Commerce certifies a firm (including any agricultural firm) as eligible to apply for adjustment assistance if he determines that:

a. a significant number or proportion of the workers in such firm have been, or are threatened to be, totally or partially separated;

b. sales and/or production of such firm (or of articles that accounted for at least 25 percent of such firm's sales or production during the 12 months prior to the most recent 12 months) have decreased absolutely; and

c. increases of imports of articles like or directly competitive with articles produced by such firm contributed importantly to the separation, or threat thereof, and to the decline in sales and/or production.

a. Oil and gas workers and firms

House bill

No provision.

Senate amendment

The Senate amendment expands eligibility to all workers and firms in the oil and natural gas industry (exploration to refining) and to workers and firms who supply essential goods or essential services as their principal trade or business to firms in the oil or natural gas industry.

Effective date: Date of enactment; also applies to workers laid off after September 30, 1985, covered by a certified petition filed within 90 days after enactment.

Conference agreement

The House recedes, with a substitute amendment to extend eligibility to workers and firms engaged in exploration and drilling in the oil and gas industry.

The House recedes on the effective date.

The purpose of this amendment is to facilitate the availability of benefits under the trade adjustment assistance program for workers employed by firms engaged in exploration or drilling for crude oil or natural gas. Under present law, workers employed by such firms have been denied program benefits because they are not considered to be employed by firms that produce articles that are like or directly competitive with increased imports. However, under present law, workers engaged in exploration or drilling for firms that also produce crude oil or natural gas are considered as eligible to apply for such benefits.

The conferees intend that workers employed by independent firms engaged in exploration or drilling be eligible to apply for program benefits on the same basis as workers employed by firms that are engaged in the production of crude oil or natural gas as well as exploration or drilling. Thus, a group of workers in a firm engaged in exploration or drilling could be certified as eligible for program benefits if the Secretary of Labor determined that increased imports of crude oil or natural gas contributed importantly to their unemployment and to a decline in sales by such firms (providing that the other requirements under the law for certification were met).

The conferees do not intend that certification of workers from independent firms engaged in exploration or drilling serve as a basis for certifying workers from producing firms to which such exploration or drilling workers provide services if such production workers have not petitioned for such certification.

Because exploration, drilling, and production activities in the crude oil and natural gas industries are inextricably linked, the amendment provides that workers engaged in exploration, drilling, or production of either crude oil or natural gas shall be considered as producing either product. Typically, the imports that have had an adverse impact on these workers in recent years are of crude oil.

For the purposes of this amendment, the conferees consider firms engaged in exploration or drilling to include, for example, independent drillers, pumpers, seismic and geo-physical crews, geological crews, and mud companies.

b. Secondary workers and firms

House bill

No provision.

Senate amendment

The Senate amendment expands eligibility to otherwise qualified workers in firms that supply essential goods (parts, materials, or components) or essential services to directly affected firms for their production of articles like or directly competitive with increased imports, i.e., secondary workers.

The Senate amendment also expands eligibility to otherwise eligible firms that supply essential goods or essential services to directly affected firms for their production of articles like or directly competitive with increased imports.

Effective date: Three years after date of enactment or 1 year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Conference agreement

The House recedes, with an amendment to make the eligibility expansion to secondary workers and firms effective one year after the imposition of an import fee to fund the TAA programs.

The conferees recognize that the amendment will broaden program coverage by making eligible for benefits firms, and workers in firms, providing essential goods or services to firms that produce articles that are like or directly competitive with increased imports. The conferees intend such broadening only to reach to firms directly supplying firms that are impacted by increased imports, i.e., the first tier of firms providing such goods or services, not to suppliers of suppliers, unless they otherwise qualify for eligibility. The particular goods or services should be essential, or integral, to the production of the end product.

The amendment would permit firms, and workers in such firms, providing essential goods or services to be certified for program benefits whether or not the firm producing the directly competitive article had applied for or received such certification. The conferees do not intend that certification of a firm, or workers in a firm, providing such essential goods or services automatically result in certification of firms, or workers in firms, producing the directly competitive product.

Cash Assistance for Workers

a. Training participation requirement (sec. 142 of House bill; sec. 213 of Senate amendment; sec. 1423 of conference agreement)

Present law

Workers must be enrolled in or have completed an approved job search program, if available, to receive up to 52 weeks of basic TRA benefits (less weeks of UI payments).

House bill

The House bill requires a worker to be enrolled in or have completed an approved training program in order to receive basic TRA if there is no reasonable prospect that the worker will be reemployed by the firm that laid him off (plant closing), unless the Secretary of Labor determines it is not feasible or appropriate to approve training. No TRA may be paid if the Secretary determines such worker is not enrolled or has ceased to participate in approved training for no justifiable cause, until the worker enrolls in or resumes such training. Job search requirements under present law apply as a condition for basic TRA if the worker's plant did not close permanently (training is required for the additional 26 weeks of TRA provided under present law).

Senate amendment

The Senate amendment replaces the job search requirement by a requirement that any worker be enrolled in or have completed an approved training program to receive any TRA, unless the Secretary of Labor certifies to the worker that such training is not feasible or appropriate. The Secretary must submit an annual report to the Senate Finance and House Ways and Means Committees on the number of certifications. No TRA may be paid to a worker if the Secretary of Labor determines that such worker has failed to begin, or has ceased to participate in, such training program for no justifiable cause, until the worker begins or resumes approved training.

Effective date: Three years after date of enactment or 1 year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Conference agreement

The House recedes on the training requirement, with an amendment clarifying that this requirement does not apply to TRA benefits for any weeks of unemployment that begin more than 60 days after the petition is filed and prior to the date of certification. The conferees do not intend to penalize workers from receiving the limited number of weeks of TRA benefits that they would otherwise be entitled to receive because of such delays, inability of the Secretary to approve training for such weeks. Such workers would, however, be required to enter training in order to receive TRA benefits for weeks of unemployment occurring after their certification. The conferees intend that, among other criteria, training is not necessarily "appropriate" if there is a reasonable prospect that the particular worker will be reemployed by the firm from which he was separated (e.g., the plant did not close), and training would no longer be "feasible" if expenditures reached the training entitlement "cap" in a particular year.

The Senate recedes on the effective date, with an amendment to be effective 90 days after enactment.

b. Supplemental wage allowance (sec. 141 of House bill; sec. 1423(d) of conference agreement)

Present law

Eligible workers are entitled to a weekly trade readjustment allowance (TRA) cash payment equal to their most recent weekly unemployment insurance (UI) benefit, payable after UI eligibility expires. UI and basic TRA payments combined are limited to a maximum of 52 weeks combined (normally 26 weeks of UI plus 26 weeks of TRA). An additional 26 weeks of TRA may be paid to workers enrolled in an approved training program (weeks 52 to maximum 78).

House bill

The House bill provides a worker qualified for TRA who takes a new full-time job paying less than his previous job the option to collect up to 50 percent of his weekly TRA as a supplemental wage allowance, limited to an amount which raises his new wage up to 80 percent of his previous wage. The supplemental wage may be collected for the first 52 weeks after UI benefits expire or after the worker begins the new job while still eligible for UI, reduced by any amount of TRA already collected.

Effective date: Workers covered by petitions filed on or after date of enactment.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment that requires the Department of Labor to establish one or more demonstration projects in fiscal years 1989 and 1990 to determine the attractiveness and effectiveness of a supplemental wage allowance as an option for workers qualified for TRA who take a new full-time job paying less than their previous job, and two submit a report to the Congress within 3 years evaluating the results and making recommendations.

c. Determination of separation from employment (sec. 215 of Senate amendment; sec. 1425 of conference agreement)

Present law

An eligible worker may receive TRA cash benefits for up to 52 weeks (UI and TRA combined) of unemployment following a layoff occurring on or after the date specified in the certification that layoffs began or were threatened to begin (the "impact date"). Department of Labor regulations interpret the eligibility period as beginning on the date the worker was first separated from employment after the "impact date" and before or within the worker's first UI benefit period. TRA basic benefits may be collected only during the 104-week period following exhaustion of regular UI.

A certification does not apply to any worker whose last lay off before application for benefits occurred more than one year prior to the filing date of the petition.

Benefit payments may be made for layoffs which occur within 2 years after the certification date.

House bill

No provision.

Senate amendment

The Senate amendment specifies that the most recent separation from employment shall be used for determining the beginning of a worker's eligibility period, and waives certain existing time limits for workers otherwise eligible to receive benefits, who were separated from employment between August 13, 1981 (effective date of 1981 Budget Reconciliation Act), and April 7, 1986 (effective date of 1985 Budget Reconciliation Act), if they are enrolled or had participated in approved training or if the Secretary certified such training was not feasible or appropriate.

The Senate amendment also waives the time limit for certain workers at Baxter-Travenol in Hays, Kansas whose layoff occurred more than one year prior to their petition filing date (layoff on or after March 15, 1985, petition filing date April 23, 1986), and extends the 2-year expiration date to cover certain workers under a certification for Babcock and Wilcox in Beaver, Pa.

Conference agreement

The House recedes on the separation of employment amendment, with technical changes consistent with the intent of the provision, and with an amendment to limit the retroactive application to workers who have been continuously unemployed since their original layoff and are enrolled in training.

The Senate recedes on the waiver of time limits and the extension of the expiration date for benefits in the two specific cases.

The purpose of the amendment is to reinstate the "moving eligibility period" that applied prior to the amendments to the program made by the Omnibus Budget Reconciliation Act of 1981. The conferees intend that if a worker is laid off more than one time from adversely affected employment, the most recent total separation date within the period covered by the certification for which the worker meets the statutory qualifying requirements shall be used for purposes of determining that worker's 104-week eligibility period. This amendment does not change the qualifying requirements that must be met by the worker or the maximum and weekly amounts of TRA benefits payable. While the amendment is effective on date of enactment, it shall not be applied so as to shorten the eligibility period of any worker if such period began before date of enactment.

d. Cash benefits (sec. 213 of Senate amendment)

Present law

An additional 26 weeks of TRA may be paid to workers engaged in training (weeks 52 to maximum 78), if the worker applied for training within 210 days after certification or layoff, whichever is later.

House bill

No provision.

Senate amendment

The Senate amendment extends the maximum number of weekly TRA payments from 52 to 78 (less weeks of UI payments), for workers who are enrolled in or have completed training. If the Secretary of Labor has certified that approved training for the worker is not feasible or appropriate, maximum weekly payments would remain at 52.

Effective date: Three years after date of enactment or 1 year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Conference agreement

The Senate recedes, retaining current law.

Job Training for Workers

a. Training cost entitlement (sec. 142 of House bill; sec. 214 of Senate amendment; sec. 1424 of conference agreement)

Present law

To the extent appropriated funds are available, the Secretary of Labor shall approve training for a worker, and the worker shall be entitled to payment of the training costs upon such approval, if the Secretary determines that—

a. there is no suitable employment for the worker;

b. the worker would benefit from appropriate training;

c. there is a reasonable expectation of employment following training;

d. approved training is available; and

e. the worker is qualified to undertake and complete such training.

House bill

The House bill removes the appropriation limitation and requires the Secretary of Labor to approve training for a worker if the five criteria in present law are met; approval entitles the worker to payment of the cost up to $4,000 through a voucher system. Requires the Secretary to prescribe regulations setting forth the criteria under present law that will be used in making determinations on training approval. If the training costs are less than $4,000, then any relocation allowance granted to the worker may be paid, in whole or in part, through the voucher system, up to the aggregate limit of $4,000.

The House bill specifies that remedial education is among the options for approved training, and requires the costs of on-the-job training to be paid in 12 equal monthly installments.

Effective date: Workers covered by petitions filed on or after date of enactment.

Senate amendment

The Senate amendment amends the fourth criteria for training approval to a requirement that approved training is "reasonably" available.

The Senate amendment contains the same training cost entitlement provision in substance as the House bill, except payment may be made directly as well as through a voucher system and there is no specification on the inclusion of remedial education or on the payment of on-the-job training costs.

Effective date: Three years after date of enactment or 1 year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Conference agreement

The House recedes, with amendments (1) to delete the $4,000 per worker limit; (2) to add a sixth criteria for training approval requiring that the training be suitable for the worker and available at a reasonable cost; (3) to limit the training cost entitlement to $80 million per year ($120 million per year if the import fee goes into effect and secondary workers are eligible); (4) to require on-the-job training costs to be paid in equal monthly installments; (5) to include remedial education among the types of training that may be approved; and (6) to make the amendments, including the training entitlement, effective on date of enactment.

The $80 million and $120 million limits cover the costs of training, as well as job search, relocation, and subsistence allowances, and the costs of other related employment services provided under sections 236, 237, and 238 of the Trade Act of 1974 and currently funded under a single level of appropriations. The Secretary is authorized to decide how to apportion available funds among the States if the Secretary estimates that the costs for training will exceed the entitlement "cap" for that fiscal year.

The conferees intend that the payment of approved training be an entitlement, up to the statutory "cap" levels. During such period as funding is from general revenues and after funding is from an import fee, the conferees expect payment of, and appropriations for, these program costs to operate as an appropriated entitlement similar to the Aid to Families with Dependent Children and the Black Lung Disability programs.

The conferees believe it is inappropriate to establish a ceiling on training and related costs for individual workers since such costs may vary significantly from one region of the country to another and from one worker dislocation to another. However, the conferees expect the Secretary of Labor to set forth guidelines for State administering agencies to provide approved training at the lowest reasonable cost for the particular type of training in that region consistent with the objective of assisting import-impacted workers to obtain suitable skills to return to work as quickly as possible.

The conferees would expect that the Secretary of Labor would not approve training that requires excessive transportation and subsistence costs that add substantially to total training costs. The conferees believe that training beyond the worker's normal commuting area should only be approved in situations where appropriate training is not otherwise available. In determining reasonable costs, the conferees intend that total costs of tuition and related training expenses be included.

The conferees intend that training be appropriate to the employment opportunities reasonably available to the worker considering the occupational skills used by the worker in prior employment as well as new skills that might be acquired through a concentrated training program. The conferees are concerned that too often workers displaced by imports are reemployed in jobs that require lower skills. In determining whether training is suitable, the conferees intend training to enable workers to obtain reemployment within a reasonable period of time at a skill level other than they would have been able to obtain absent such training.

b. Commingling of training funds (sec. 214 of Senate amendment; sec. 1424 of conference agreement)

Present law

If the costs of training are paid under TAA, no other payment for such costs may be made under any other provision of Federal law. The Secretary approves training to the extent appropriated funds are available.

House bill

No provision.

Senate amendment

The Senate amendment requires approval of training programs that would otherwise be denied solely because the total cost would exceed an appropriation limitation, if the worker agrees that the excess cost will be paid from another Federal program or from private sources.

Effective date: Date of enactment.

The Senate amendment authorizes approval of training programs that exceed the $4,000 cost limitation, and the use of other Federal or private funds to pay the excess cost.

Effective date: Three years after date of enactment or 1 year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Conference agreement

The House recedes, with a substitute amendment to permit the Secretary to approve training if all or a portion of the costs are paid under any Federal or State program or by private sources, effective on date of enactment, except that training paid by nongovernmental sources shall not be approved if the worker is required to reimburse training costs or wages paid under such a program with TAA funds.

c. Training duration (sec. 214 of Senate amendment; sec. 1424(a) of conference agreement)

Present law

No provision. Regulations impose 104-week limit on duration of training programs that may be approved.

House bill

No provision.

Senate amendment

The Senate amendment prohibits the Secretary of Labor from establishing an absolute limit on the length of training programs for purposes of determining whether to approve training. The Secretary is directed to consider on a program basis whether the training is of suitable duration to achieve the desired skill level within a reasonable period. The Secretary may approve training for any certified worker without regard to whether the worker has exhausted UI or is being paid TRA.

Conference agreement

The Senate recedes, with an amendment to clarify that the Secretary may approve training for certified workers before they have exhausted their UI benefits. The conferees intend that workers be approved for training as early as possible after their layoff even though training is not a requirement until a worker is otherwise eligible for TRA benefits.

d. Breaks in training (sec. 214 of Senate amendment; sec. 1423(c) of conference agreement)

Present law

Additional TRA benefits may be paid only for weeks during which the worker is engaged in approved training.

House bill

No provision.

Senate amendment

The Senate amendment treats workers as participating in approved training and eligible for additional TRA benefits during any training break of less than 2 weeks if the break is provided under such training program or if the worker provides assurances that he will participate in another approved training program after the break.

Conference agreement

The House recedes, with an amendment to limit the TRA eligibility to breaks of less than 2 weeks provided under the same training program, e.g., semester breaks.

e. Financial assistance for training programs (sec. 144 of House bill)

Present law

No provision.

House bill

The House bill authorizes the Secretary of Commerce to provide grants and loans to support training programs for TAA-eligible workers that are administered by educational institutions and firms. The programs must provide training that meets the standards for TAA approval unless the Secretary of Labor considers the program contains innovative training methods that merit testing (no more than 30 percent of total available funds may be used for such innovative programs). Total grants outstanding cannot exceed $1 million; total loans outstanding to one training program cannot exceed $1 million. The program would be financed from a Supplemental Training Fund consisting of appropriations, payments of principal and interest from program loans, and appropriations from repayments and other receipts under the firm TAA program.

Senate amendment

No provision.

Conference agreement

The House recedes.

Program coordination (sec. 214 of Senate amendment; sec. 1424(d) of conference agreement)

Present law

State agencies administer TAA benefits through cooperative agreements with the Secretary of Labor. Training provided under TAA is often administered by a different State agency than training under the Job Training Partnership Act (JTPA).

House bill

No provision.

Senate amendment

The Senate amendment requires agreements with the States to provide for the coordination of the administration of employment services, training, and supplemental assistance under TAA and under the dislocated worker program of JTPA under terms and conditions established by the Secretary in consultation with the States.

Conference agreement

The House recedes.

Benefit information (sec. 143 of House bill; secs. 212, 214 of Senate amendment; secs. 1422, 1424(d) of conference agreement)

Present law

The Secretary of Labor must provide full information to workers about the benefit allowances, training, and other TAA services available and the petition and application procedures. Cooperating State agencies must advise workers to apply for training at the time that they apply for TRA and, within 60 days of the worker's application for such training, interview the worker to determine and review suitable training opportunities.

House bill

The House bill requires State agencies to inform workers of all program benefits and procedural requirements at the time they file for UI, advise the worker to enroll in a job search program or apply for training, as appropriate, and to interview the worker as soon as practicable to determine and review suitable training opportunities. If the State agency has reason to believe a worker may be eligible for TAA, it must facilitate early filing of a petition for certification of eligibility.

Senate amendment

The Senate amendment requires State agencies to advise each worker to apply for training before or at the time the worker applies for TRA and, as soon as practicable, to interview the worker regarding suitable training opportunities.

Effective date: Three years after date of enactment or one year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

The Senate amendment requires the Secretary of Labor to notify certified workers of available benefits through the mail and a notice in general circulation newspapers at the time of certification or layoff, whichever is earlier.

Conference agreement

The conference agreement combines the House and Senate provisions.

The conferees intend for the Secretary of Labor to make the best effort to meet the objective of this provision, which is to provide information to eligible workers about benefits under the TAA program. This objective will be met through the combination of notice through newspapers in general circulation and notice by mail. The conferees recognize that neither the Secretary nor the State agencies that are likely to be administering this provision will necessarily have the names and addresses of all workers covered by a certification and are hopeful that unions and certified firms will cooperate and assist the purpose of this provision by voluntarily providing such information. The conferees do not intend that this provision result in unreasonable costs or undue administrative burdens.

Expedited certification (secs. 131, 145 of House bill; sec. 219 of Senate amendment; sec. 1429 of conference agreement)

Present law

The Secretaries of Labor and Commerce must determine within 60 days whether a petition filed on behalf of an individual group of workers in a particular firm or subdivision or a petition filed by an individual firm in an industry meets the criteria for certification of eligibility to apply for TAA.

House bill

The House bill provides for automatic certification by the Secretaries of petitions filed by workers and firms producing articles like of directly competitive with articles produced by industries found seriously injured, or threatened with serious injury, by increased imports in import relief investigations if the petition is filed within 3 years after the Secretary receives a notification from the ITC of its affirmative determination.

Senate amendment

The Senate amendment requires the Secretary of Labor, in consultation with the Secretary of Commerce, to conduct a study of the methods (including but not limited to industry-wide certification) that could be used to expedite worker certification. The Secretary must submit a report, including recommendations, to Congress within 6 months.

Conference agreement

The House recedes.

TAA Funding

a. Trust Fund (sec. 146 of House bill; sec. 217 of Senate amendment; sec. 1427 of conference agreement)

Present law

TAA is funded from general revenues. TRA benefit costs are an entitlement. Training costs, job search and relocation allowances, and administrative costs are subject to discretionary appropriations.

House bill

Worker and firm TAA would be funded from a newly created Trust Fund financed from (1) transfers quarterly of general revenues equivalent to amounts attributable to import relief or section 301 duties and any auctioning of import licenses; (2) deposits of collections from an import duty imposed as described below; and (3) appropriations. Training as well as TRA benefit costs, including their administrative expenses, would be treated as entitlements payable from the Trust Fund without the need for appropriations. Job search and relocation allowances, firm TAA, other administrative costs, and any assistance programs for communities with substantial TAA certifications, would be paid from the Trust Fund subject to advance appropriations.

Senate amendment

Worker and firm TAA would be funded from a newly created Trust Fund financed from transfers quarterly of general revenues equivalent to amounts attributable to an import fee as described below. TAA expenditures cannot exceed an entitlement "cap" equivalent to a one percent import fee. Necessary amounts would be paid from the Fund for drawbacks and duty refunds allowable under other Federal law, all TAA costs, and repayments of advances from appropriations.

The Secretary of the Treasury must submit an annual report to the House Ways and Means and Senate Finance Committees on the condition and operation of the Fund in the preceding and present years and subsequent 5 years.

The Secretary of the Treasury must invest any surplus amounts in U.S. interest-bearing obligations. If expenditures in a year will exceed a one percent import fee, the Secretaries of Labor and Commerce shall make a pro rate reduction in TAA so all eligible workers and firms receive some assistance and expenditures do not exceed available funds. Authorizes appropriations as repayable advances with interest to cover program costs which are not met by the import fee. (These general fund advances are authorized only to the extent that total program costs do not exceed one percent of imports.)

Effective date: Two years after enactment or 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Conference agreement

The House recedes, with amendments (1) to make amounts in the Trust Fund available for TAA program expenditures and repayable advances, as provided in appropriation Acts; (2) to modify the provisions on pro rata reduction of benefits if expenditures are expected to exceed the total funding ceiling imposed by the level of the import fee; and (3) to limit the fee to a maximum level of 0.15 percent ad valorem.

The conferees intend that continuation of the appropriations process to provide funding for both the TRA and training (and related employment services) components of the worker TAA program once an import fee and Trust Fund go into effect in no way affect or diminish the nature of TRA and training benefits as *entitlements*. The TAA program for firms will continue, as under present law, to be treated as a discretionary program, with only the source of funds transferred from general revenues to the import fee under a Trust Fund.

The amount equivalent to the maximum level of the import fee of 0.15 percent ad valorem constitutes an overall ceiling on total expenditures for the worker and firm TAA programs and also constitutes a "cap" that cannot be exceeded on the total TAA benefit entitlement for workers. Within that overall "cap," a second "cap" of $120 million will apply for worker training costs (including related costs for job search, relocation, and subsistence allowances, other employment services, and administrative expenses).

If, during any fiscal year, the Secretary estimates that expenditures will exceed the training cost entitlement "cap," the Secretary shall exercise the same authority as when such costs were funded from general revenues to apportion remaining funds among the States. If, during any fiscal year, expenditures equal the amount equivalent to a maximum 0.15 percent import fee, either the advances authority will be used (if the maximum import fee has not been imposed for that year) or, if the advances authority is not available, the Secretaries of Commerce and Labor will apply pro rata reductions to the assistance for firms and to *TRA benefits only* under the worker program. The pro rata reductions would be based on estimated expenditures for TRA benefits payable during the remainder of that fiscal year plus the estimated expenditures for the following fiscal year. Such reductions would apply to the TRA benefits otherwise payable to workers not currently receiving TRA benefits; workers already receiving TRA benefits prior to the application of pro rata reductions would not be affected.

The Secretaries, in consultation with the Secretary of the Treasury, may adjust or modify the reduction for the succeeding fiscal year based on estimates for that year. Any pro rata reduction would cease to apply if, in any succeeding year, TAA expenditures fall below the 0.15 percent ad valorem fee, or the Secretaries determine that the amount in the Trust Fund is sufficient to meet expenditures. Pro rata reduction authority would not go into effect again in any subsequent fiscal year unless and until expenditures actually reach the overall ceiling equivalent to the maximum level of the fee.

The conferees intend that the import fee be treated as if it were a duty, for purposes of applying drawback provisions under other Federal law.

b. Import fee (sec. 147 of House bill; sec. 218 of Senate amendment; sec. 1428 of conference agreement)

Present law

No provision.

House bill

The President must seek GATT agreement to permit imposition of a small uniform import duty to fund any program that assists worker adjustment to import competition. If successful, the President must so certify to Congress and in each following fiscal year impose such a duty in an amount not to exceed the costs of the worker TAA program. The duty would apply to all imports (free and dutiable) except most articles imported under special Schedule 8 tariff provisions (e.g., articles exported and returned, personal exemptions, governmental importations) and articles valued at less than $1,000.

Senate amendment

The President must seek GATT agreement to permit imposition of a small uniform import fee to fund any program that assists adjustment to import competition. A fee amounting to the lesser of one percent ad valorem or the percentage necessary to fund the worker and firm TAA programs and to repay any advances from appropriations would be proclaimed on imports 30 days after the President certifies to Congress that he has reached GATT agreement, or two years after enactment, whichever is earlier. The fee would apply to all imports except most articles imported under special Schedule 8 tariff provisions and articles valued at less than $1,000 (same as House bill).

Conference agreement

The House recedes with amendments (1) to require the President to also seek the agreement of parties to bilateral free trade agreements to the imposition of an import fee; (2) to seek international agreement to a maximum import fee of 0.15 percent ad valorem; (3) to incorporate the reporting requirement on the progress of negotiations in the President's annual trade report to the Congress under section 163 of the Trade Act of 1974; and (4) to impose the import fee in the absence of GATT agreement within 2 years unless the President makes a determination that imposition of the fee is not in the national economic interest or if such determination is overridden by Congress by enactment of a joint disapproval resolution passed within 90 days under the "fast track" procedure.

Program Reauthorization (sec. 216 of Senate amendment; sec. 1426 of conference agreement)

Present law

No assistance or payments are to be provided under worker or firm TAA after September 30, 1991.

House bill

No provision.

Senate amendment

The Senate amendment extends the termination date of the TAA worker and firm programs for 2 years until September 30, 1993, and extends the authorization of appropriations for the two programs through fiscal year 1993.

Conference agreement

The House recedes, with an amendment providing that any amounts that may be necessary in addition to available appropriations to meet the $80 million training cost entitlement in fiscal year 1988 are appropriated and shall be charged to the appropriation for payments of such costs in fiscal year 1989. Any such additional amount would not affect the $80 million training cost entitlement for fiscal year 1989.

Effective Dates (sec. 148 of House bill; sec. 221 of Senate amendment; sec. 1430 of conference agreement)

Present law

No provision.

House bill

Under the House bill, amendments are effective upon date of enactment, except the supplemental wage allowance, training requirement, and training entitlement/voucher provisions apply to workers covered by petitions filed on or after date of enactment.

Senate amendment

Under the Senate amendment, the effective dates of amendments are as follows:

Import fee, Trust Fund: Two years after date of enactment or 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Expanded eligibility coverage to essential parts and services, training requirement/cash benefits, training entitlement voucher, and State agency training advice provisions: Three years after date of enactment or 1 year plus 30 days after the President certifies GATT allows an import fee, whichever is earlier.

Other provisions: Date of enactment.

Conference agreement

Under the conference agreement, all amendments are effective upon date of enactment except for the import fee (as provided under section 1428); the Trust Fund (the first date on which the import fee applies); the expanded eligibility to secondary workers and firms (one year after the first date the import fee applies); certain benefit notification provisions (30 days after enactment); the training requirement (90 days after enactment); and the separation from employment program (date of enactment unless it would shorten the eligibility period of workers already eligible under a prior separation).

The 90-day delay on imposition of the training requirement recognizes that workers currently receiving TRA benefits on date of enactment, as well as workers currently certified eligible but still collecting UI benefits, would be unfairly penalized by immediate application of this provision. The conferees expect the Secretary of Labor and the State agencies to make every effort within the 90-day period to administer the training requirement. If training is not feasible by the end of this transition period, because of difficulties in finding appropriate training within this period, the conferees expect the Secretary to revoke such certifications and require training once it is feasible.

SUBTITLE E—NATIONAL SECURITY

Imports that Threaten National Security (sec. 191 of House bill; sec. 501 of Senate amendment; sec. 1501 of conference agreement)

a. Time limits for Secretary of Commerce's report

Present law

Section 232 of the Trade Expansion Act of 1962 requires the Secretary of Commerce to investigate, upon request or own motion, the effects of imports of an article on national security and to report his findings and recommendations to the President within one year of initiating an investigation. If the Secretary finds that an article is being imported in such quantities or under such circumstances as to threaten to impair the national security, he is required to so advise the President. Unless the President makes a contrary finding, he must take such action for such time as he deems necessary to adjust the imports of such article and its derivatives.

House bill

The House bill reduces the period in which the Secretary must report his findings and recommendations to the President to 270 days from initiation of the investigation.

Senate amendment

The Senate amendment reduces the period in which the Secretary must report his findings and recommendations to 180 days from initiation of the investigation.

Conference agreement

The Senate recedes.

b. Defense needs assessment

Present law

No provision. In the course of his investigation, the Secretary of Commerce is required to seek information and advice from, and to consult with, the Secretary of Defense and other appropriate officers of the United States, to determine the effects on the national security of imports of the article.

Both the Secretary of Commerce and the President are required, under current law, to give consideration to domestic production needed for projected national defense requirements, the capacity of domestic industries to meet such requirements, existing and anticipated availabilities of the human resources, products, raw materials, and other supplies and services essential to the national defense, the requirements of growth of such industries and such supplies and services, including the investment, exploration, and development necessary to assure such growth, and the importation of goods in terms of their quantities, availabilities, character, and use as those affect such industries and the capacity of the United States to meet national security requirements.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary of Commerce to immediately notify the Secretary of Defense of the investigation with respect to imports of an article. Upon receiving such notice, the Secretary of Defense is required to conduct a separate defense needs assessment with respect to such article. The assessment is to be completed and submitted to the Secretary of Commerce within three months of the start of the investigation.

The Secretary of Commerce is required to include the defense needs assessment in the Secretary's report to the President. The report must also include a written statement by the Secretary of Defense expressing concurrence or disagreement with the Secretary of Commerce's findings and recommendations, and the reasons therefor.

Conference agreement

The House recedes with a substitute amendment. The conferees agreed to a provision that requires the Secretary of Commerce to immediately notify the Secretary of Defense of any investigation initiated, and to consult with the Secretary of Defense regarding the methodological and policy questions raised by the investigation. Upon request of the Secretary of Commerce, the Secretary of Defense is required to provide defense requirements with respect to such article.

c. Classification of report

Present law

No provision.

House bill

No provision.

Senate amendment

Under the Senate amendment, the Commerce Secretary's report, or any portion of it (including the Defense Secretary's assessment) may be classified only if public disclosure would clearly be detrimental to the security of the United States. Any portion of the report which is not classified and is not proprietary information shall be published in the *Federal Register.*

Conference agreement

The House recedes, with an amendment to clarify that classified information need not be subject to public disclosure, deleting the language of the Senate bill limiting the withholding of such information only to instances when disclosure is clearly detrimental to U.S. security.

d. Time limit for Presidential action

Present law

Present law provides no time limit after the Commerce Secretary's report for the President's decision on the appropriate action to take.

House bill

The House bill requires the President to decide whether to take action within 90 days after receiving the Secretary's report, and to proclaim such action within 15 days.

Senate amendment

The Senate amendment requires the President to decide whether to take action within 90 days after receiving the Secretary's report.

Conference agreement

The Senate recedes.

e. Presidential report to Congress

Present law

Within 60 days after he takes any action, the President is required to report to the Congress the action taken and the reasons therefor.

House bill

No provision.

Senate amendment

The Senate amendment requires that the President make a written statement of the reasons why he has decided to take action. The statement shall be included in the report made and published upon the disposition of the case.

Conference agreement

The House recedes with an amendment requiring the President to submit the written statement to Congress within 30 days of his decision.

f. Authority to negotiate import limitations

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment specifically states that the actions the President may take include, but are not limited to, the negotiation and conclusion of any agreement restricting imports to the United States of the article that threatens to impair the national security.

Conference agreement

The Senate recedes. It is the view of the conferees that the broad scope of current law, which authorizes the President to "take such action, and for such time, as he deems necessary" to adjust imports, already authorizes the negotiation of such agreements, and that the President would use this authority as appropriate.

g. Enforcement of voluntary restraint agreements (VRA's)

Present law

No provision.

House bill

The House bill authorizes the Secretary of Commerce to request the Secretary of the Treasury to carry out whatever actions are necessary or appropriate to attain the objectives of the decision in the section 232 investigation on machine tools and to enforce any restrictions contained in the VRA's negotiated as a result of that case, including requirement that valid export licenses or other foreign government documentation be presented as a condition of entry into the United States.

Senate amendment

The Senate amendment authorizes the President, in language substantially identical to that of the House bill, to enforce *any* agreements entered into under this section, including the machine tool VRA's.

Conference agreement

The Senate recedes.

h. Action if agreement not reached or ineffective

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides that, if the action taken by the President is negotiation of an agreement, and either no agreement is reached within 270 days of the Secretary's report or an agreement is not being carried out or is ineffective in eliminating the threat to the national security, the President shall take such other actions as he deems necessary to adjust the imports so they will not threaten to impair the national security. If he decides not to take additional action, he must publish his reasons in the Federal Register.

Conference agreement

The House recedes with a technical amendment changing the time limit to 180 days of the President's determination to take action.

SUBTITLE F—TRADE AGENCIES; ADVICE, CONSULTATION, AND REPORTING REGARDING TRADE MATTERS

PART 1—FUNCTIONS AND ORGANIZATION OF TRADE AGENCIES

SUBPART A—OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

a. Functions (sec. 181(a) of House bill; sec. 1601(a) of conference agreement)

Present law

The Office of the U.S. Trade Representative (USTR) is established under section 141 of the Trade Act of 1974 in the Executive Office of the President:

—to be the chief U.S. representative for trade negotiations;

—to report directly and be responsible to the President and the Congress on the administration of the trade agreements program;

—to advise the President and the Congress on matters related to the trade agreements program; and

—to chair the interagency trade organization.

House bill

The House bill adds the functions enumerated in the Reorganization Plan of 1979. The USTR shall:

—have primary responsibility for developing and coordinating implementation of U.S. international trade policy;

—serve as the principal advisor to the President on international trade policy and advise the President on the impact of other U.S. Government policies on international trade;

—have lead responsibility for the conduct of, and be chief U.S. representative for, international trade negotiations;

—issue and coordinate trade policy guidance to other agencies on basic issues of policy and interpretation arising in the exercise of international trade questions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

—act as principal international trade spokesman of the President;

—report directly and be responsible to the President and the Congress on the administration of trade agreements programs;

—advise the President and the Congress on nontariff barriers, international commodity agreements, and other matters related to the trade agreements program;

—be responsible for making reports to the Congress on trade negotiations and the trade agreements program;

—be chairman of the interagency trade organization, and consult with and be advised by that organization in performing his functions; and

—in addition to powers and authorities currently delegated, be responsible for such other functions as the President may direct.

The House bill also expresses the sense of the Congress that the USTR should:

—be the senior representative on any body the President may establish to provide him advice on overall economic policies in which international trade matters predominate; and

—be included as a participant in all economic summit and other international meetings at which international trade is a major topic.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

b. Unfair trade practices (sec. 181(b) of House bill; sec. 1601(b) of conference agreement)

Present law

No provision. The Office of General Counsel of the USTR administers USTR section 301 functions, including the coordination of interagency support through a section 301 subcommittee of the interagency trade organization.

House bill

The House bill establishes an Office of Unfair Trade Investigations in the USTR:

—to coordinate the application of interagency resources to specific unfair trade practice cases;

—to prepare the annual foreign trade barriers (National Trade Estimates) report under section 181 of the Trade Act of 1974;

—to identify and refer to the appropriate administering authority for consideration of action (including discretionary self-initiation) of each foreign act, policy, or practice, identified in the annual report or otherwise known to the Office from other available information, that may be an unfair trade practice that either is considered to be inconsistent with a trade agreement and has a significant adverse impact on U.S. commerce, or has a significant adverse impact on domestic firms or industries too small or financially weak to initiate cases under the trade laws. The USTR must submit an annual report to the House Committee on Ways and Means and the Senate Committee on Finance describing each referral and any action taken.

—to identify foreign practices having a significant adverse impact on U.S. commerce that attainment of U.S. negotiating objectives would eliminate; and

—to identify, on a biennial basis, U.S. Government policies and practices that may constitute unfair trade practices under U.S. laws.

In performing these the USTR is assisted by an interagency advisory committee chaired by USTR and consisting of senior representatives from specified sections of the Departments of State, Commerce, and Agriculture."

"Unfair trade practices" include acts, policies, or practices that may be subsidies subject to the countervailing duty law; dumping subject to the antidumping law; unfair methods of competition or acts, subject to section 337; or acts, policies, or practices that may be actionable under section 301.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with amendments (1) to include the unfair trade practice responsibilities as USTR functions but not to establish a separate Office of Unfair Trade Investigations; (2) to include the reporting requirements on referral and action on unfair trade practices in the current annual report of the President on the trade agreements program submitted to the Congress under section 163 of the Trade Act of 1974; and (3) to authorize the USTR to request advice from the ITC, in addition to the agencies on the advisory committee, on unfair trade practices.

The conferees intend that a key official within the Office of the USTR be designated with the lead responsibility for these particular functions.

c. Transfer of GSP authority (sec. 182 of House bill)

Present law

The President is authorized to designate beneficiary developing countries and eligible articles to receive duty-free treatment under the Generalized System of Preferences (GSP) program. All other authorities, determinations, and functions under the GSP program also reside with the President.

House bill

The House bill transfers all authorities, determinations, and other functions under GSP from the President to the USTR.

Senate amendment

No provision.

Conference agreement

The House recedes.

SUBPART B—UNITED STATES INTERNATIONAL TRADE COMMISSION

a. Paperwork Reduction Act (sec. 188 of House bill; secs. 1611, 1612 of conference agreement)

Present law

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501) requires that all Federal agencies collecting information from 10 or more members of the public submit their questionnaires to OMB for approval prior to seeking the information. In the event OMB disapproves the issuance of a questionnaire, the Act authorizes independent regulatory agencies to override OMB disapproval by majority vote. The Act defines the term "independent regulatory agency" to include certain enumerated agencies "and any other similar agency designated by statute as a Federal independent regulatory agency or commission." The Commission is not one of the enumerated agencies and it is unclear whether the Commission is an "independent regulatory agency or commission."

House bill

The House bill amends section 330 of the Tariff Act of 1930 to designate the Commission as an "independent regulatory agency" for purposes of the Paperwork Reduction Act.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment providing that, in determining eligibility for the ITC chairmanship, all of a commissioner's service shall be taken into account, including prior terms of service.

b. Treatment of confidential information by ITC (sec. 187 of House bill; sec. 1613 of conference agreement)

Present law

Section 332(g) currently requires that the Commission "put at the disposal of the President of the United States, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate, whenever requested, all information at its command."

House bill

The House bill amends section 332(g) to prohibit the Commission from releasing information which it considers to be confidential business information, unless that party submitting the confidential business information had notice, at the time of submission of the information that such information would be released by the Commission or the submitting party has subsequently consented to release of the information.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

c. Import monitoring (sec. 185 of House bill)

Present law

No provision.

House bill

The House bill directs the U.S. International Trade Commission to monitor imports into the United States in order to identify, rank, and analyze product sectors for which imports are likely to pose potential significant trade impact problems for U.S. industries. The Commission is directed to take into account such factors as changing net trade balances and evidence of increasing domestic market penetration with respect to such product sectors and to submit a quarterly report containing such analysis to the Committee on Ways and Means and the Committee on Finance.

Senate amendment

No provision.

Conference agreement

The House recedes.

d. Reports on sectoral competitiveness (sec. 185 of House bill)

Present law

Section 332 of the Tariff Act of 1930 authorizes the ITC to investigate and report on numerous subjects concerning tariff and trade relations, including conditions, causes, and effects relating to competition of foreign industries with U.S. industries.

House bill

The House bill requires the ITC to submit to Congress and to the USTR, on an annual basis, studies on the conditions of competition in U.S. and global markets with respect to key sectors of the U.S. economy, and on the implications of such competitive conditions for U.S. national economic security. The purpose of these studies is to analyze competitive conditions in a manner which will be useful to U.S. policymakers in anticipating sectoral trade problems and in formulating appropriate trade policies to address such sectoral problems.

In deciding which sectors should be the subject of these studies, ITC shall consult with USTR, and with the House Committee on Ways and Means and the Senate Committee on Finance, and shall consider the following factors:

(a) the extent to which the sector involves a critical technology;

(b) the extent to which the sector contributes to the industrial base of an economy;

(c) the extent to which the sector contributes to the health or condition of other sectors;

(d) the role of the sector in the domestic economy generally (GNP, employment, etc.);

(e) the potential role of the sector in global markets over the next decade.

USTR would be required to take these studies into account in developing its annual Trade Policy Agenda.

Senate amendment

No provision.

Conference agreement

The House recedes.

e. Reports on impact of trade restraints (sec. 220 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the ITC to submit to Congress on Feb. 15 of each year, a report on the negative economic effects on the United States of significant existing trade import restraint programs, including any impact on income and employment of workers and on the ability of U.S. companies to compete, on price and quality bases, in domestic and international markets.

The provision also requires the ITC to submit to Congress within 60 days of any new or significantly altered trade import restraint program, a supplementary report on the negative economic effects of such program.

Conference agreement

The Senate recedes.

Authorization of Appropriations

a. U.S. International Trade Commission (sec. 701 of Senate amendment)

Present law

The fiscal year 1988 authorization is $35,386,000.

House bill

No provision.

Senate amendment

The Senate amendment provides a fiscal year 1988 authorization of $35,386,000.

Conference agreement

The Senate recedes (authorization included in the Omnibus Budget Reconciliation Act of 1987).

b. U.S. Customs Service (sec. 702 of Senate amendment)

Present law

The fiscal year 1988 authorization is $1,081,501,000.

House bill

No provision.

Senate amendment

The Senate amendment provides a fiscal year 1988 authorization of $1,035,211,000 and requires advance notice to Congress of certain actions.

Conference agreement

The Senate recedes (authorization included in the Omnibus Budget Reconciliation Act of 1987).

c. Office of the U.S. Trade Representative (sec. 703 of Senate amendment)

Present law

The fiscal year 1988 authorization is $15,172,000.

Senate amendment

The Senate amendment provides a fiscal year 1988 authorization of $15,348,000.

Conference agreement

The Senate recedes (authorization included in the Omnibus Budget Reconciliation Act of 1987).

SUBPART C—INTERAGENCY TRADE ORGANIZATION

Functions and Organization (sec. 181(c) of House bill; sec. 1621 of conference agreement)

Present law

The President must establish an interagency trade organization (the Trade Policy Committee structure) consisting of the USTR and heads of other agencies as the President designates, to assist him in carrying out his trade functions. The organization may invite the participation of any agency not represented when matters of its interest are under consideration.

House bill

The House bill specifies that the interagency trade organization will be composed of the USTR as chair, and the Secretaries of Commerce, State, Treasury, Agriculture, and Labor. The USTR may invite other agencies, as appropriate, to attend particular meetings if subjects of specific functional interest to such agencies are under consideration.

The functions of the organization are:

—to assist and make recommendations to the President in carrying out his functions under the trade laws and to advise the USTR in carrying out his functions;

—to assist the President and advise the USTR on the development and implementation of U.S. international trade policy objectives; and

—to advise the President and the USTR on the relationship between U.S. international trade policy objectives and other major policy areas which may significantly affect U.S. overall international trade policy and trade competitiveness.

The organization, in carrying out its functions, is required to take into account the advice of Congressional and private sector advisers.

The House bill also expresses the sense of the Congress that this statutory organization should be the principal interagency forum within the Executive branch on international trade policy matters.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

PART 2—ADVICE AND CONSULTATION REGARDING TRADE POLICY, NEGOTIATIONS, AND AGREEMENTS

Information and Advice from Private and Public Sectors Relating to Trade Policy and Agreements

a. Advisory committee functions (sec. 103 of House bill; sec. 1631 of conference agreement)

Present law

The President must seek information and advice from representatives of the private sector and non-Federal governmental sector on negotiating objectives and bargaining positions before entering into a trade agreement, on the operation of any trade agreement, and on other matters concerning administration of U.S. trade policy.

House bill

The House bill expands the committees' role to include information and advice on the development and implementation of overall U.S. trade policy, and on priorities for actions to implement such policy. Requires that information and advice on negotiating objectives be sought and considered, to the maximum extent feasible, before negotiations begin.

The House bill adds that consultations on U.S. overall current trade policy shall include, but are not limited to, the following elements:

—the principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement;

—the implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes;

—the actions taken under U.S. trade laws and the effectiveness of such actions in achieving trade policy objectives; and

—important developments in other areas of trade.

The President must take such advice into account in determining trade negotiating priorities and positions.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

b. Advisory committee structure (sec. 103 of House bill; sec. 106(c) of Senate amendment; sec. 1631 of conference agreement)

Present law

The committees include a 45-member Advisory Committee for Trade Negotiations (ACTN), appointed by the President to provide overall policy advice. It includes representatives of government, labor, industry, agriculture, small business, service industries, retailers, consumers, and the general public, to meet at the call of USTR.

In addition, there are general policy advisory committees for industry, labor, agriculture, and services; sectoral or functional advisory committees representative of all industry, labor, agricultural, or service interests; and policy advisory committees representing non-Federal governmental interests.

House bill

The House bill renames ACTN the Advisory Committee for Trade Policy and Negotiations, nominated by the USTR and appointed by the President, to represent non-Federal governments, labor, industry, agriculture, small business, services, retailers and consumer interests, and to be broadly representative of key sectors and groups of the economy, particularly those affected by trade. Appointments must reflect a balance between the political parties. The Committee shall meet at least quarterly and at the call of USTR or two-thirds of its members.

The House bill also expands the general policy advisory committees to include investment and defense. Explicitly authorizes the formation of special task forces, plenary meetings of chairmen, or other working groups.

Senate amendment

The Senate amendment requires that a predominant number of the members of any advisory committee, including the ACTN, not belong to the same political party.

Conference agreement

The Senate recedes, with amendments for (1) members to be appointed by the President upon recommendation, rather than nomination, by the USTR; (2) membership selection for the Advisory Committee for Trade Policy and Negotiations and for all other advisory committees to be made without regard to political affiliation; and (3) the Advisory Committee to meet "as needed."

c. Reports (sec. 103 of House bill; sec. 1631 of conference agreement)

Present law

Each committee must meet at the conclusion of each trade agreement negotiation to provide the President, Congress, and the USTR a report, including an advisory opinion as to whether and to what extent the agreement promotes U.S. economic interests and provides for equity and reciprocity within sector or functional areas involved.

House bill

The House bill requires each committee also to report whether and to what extent the trade agreement achieves U.S. overall and principal negotiating objectives.

The House bill also requires each report on a nontariff or bilateral trade agreement to be provided no later than the date the draft implementing bill is submitted to the Congress.

Senate amendment

No provision. (Another provision requires the ACTN to submit to the Congress a midterm report, i.e., by January 3, 1991, on progress being made in multilateral and bilateral negotiations.)

Conference agreement

The Senate recedes, with an amendment requiring the reports to be provided no later than the date Congress receives the 90-day advance notice from the President required under the "fast track" Congressional implementation procedure of his intention to enter into a trade agreement.

d. Treatment of advice (sec. 103 of House bill; sec. 1631 of conference agreement)

Present law

USTR and other appropriate agencies must consult with and obtain information and advice from the committees on a continuing and timely basis, including before and during negotiations. Members may be permitted to participate in international meetings to the extent the head of the U.S. delegation deems appropriate, but may not speak or negotiate for the United States. The USTR is not bound by committee advice or recommendations but must inform the committees of failures to accept it; the President must include in the annual trade report to Congress a report by USTR on consultations and reasons for not accepting advice or recommendations.

House bill

Committee members may also be designated as advisors to a negotiating delegation.

The USTR must inform the committees of significant departures from their advice or recommendations. During the course of consultations with Congress, advisory committee information and advice shall be made available to Congressional advisors.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

e. Confidential information (sec. 103 of House bill; sec. 1631 of conference agreement)

Present law

Trade secrets and confidential information submitted by advisers, or other information and confidential advice submitted by the private sector shall not be disclosed to any person other than to U.S. Government officials designated by the USTR and members and staff of the House Ways and Means and Senate Finance Committees accredited as official advisers or designated by the Committee chairman. Confidential information submitted by government officials to the advisers shall not be disclosed other than in accordance with rules issued by USTR and other appropriate agencies.

House bill

Trade secrets and confidential information submitted by advisers, or other information and confidential advice submitted by the private sector, may be disclosed upon request to U.S. Government officials designated by USTR, members and staff of the House Ways and Means and Senate Finance Committees accredited as official advisers or designated by the Committee chairman, and members and staff of any other House or Senate committee designated as advisers or by the Committee chairman if the information is relevant to trade policy or negotiations within their legislative jurisdiction. Confidential information submitted by government officials to the advisers may be disclosed in accordance with rules issued by the USTR and other appropriate agencies.

Nothing in these provisions or rules shall be construed to affect the ability of the Congress, any Congressional committee, or the Comptroller General to obtain trade secrets and commercial or financial information or any information submitted, in accordance with Federal statutes and the rules of the House and Senate.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with an amendment to include the proviso on the availability of information to the Congress and the Comptroller General in the Statement of Managers rather than in the statute.

The conferees intend that nothing in the provisions or rules contained in section 1631 of the conference agreement shall be construed to affect the ability of the Congress, any Congressional committee, or the Comptroller General to obtain trade secrets and commercial or financial information or any information submitted, in accordance with other Federal statutes and the rules of the House and Senate.

Congressional Liaison Regarding Trade Policy and Agreements (sec. 104 of House bill; secs. 602, 103(d) of Senate amendment; sec. 1632 of conference agreement)

Present law

Section 161 of the Trade Act of 1974 requires the Speaker of the House and the President pro tempore of the Senate, at the beginning of each session of Congress, each to select five official Congressional advisors (not more than three from the same political party) from the House Committee on Ways and Means and from the Senate Committee on Finance to be accredited by the President as official advisers to U.S. delegations to international negotiating sessions on trade agreements.

The USTR must keep each advisor informed of U.S. objectives and the status of negotiations and of any changes which may be recommended in U.S. law or administration to carry out any trade agreement. The chairmen may designate additional members and staff of their committees to have access to the information.

House bill

The House bill authorizes the Speaker and the President pro tempore, after consultations with the Chairmen and Ranking Minority Members of the House Ways and Means and Senate Finance Committees, to designate additional Congressional advisors on specific policy matters or negotiations from any other committee that has jurisdiction over legislation likely to be affected. Not more than three members (not more than two from the same political party) may be selected from any other committee.

All advisors shall be accredited by the USTR on behalf of the President, to provide advice on the development of trade policy and priorities for implementation as well as on trade negotiations. The committee chairmen may designate additional members and staff to have access to information.

The USTR must keep each official adviser currently informed on matters affecting U.S. trade policy, as well as on negotiating objectives, the status of negotiations, and any changes in U.S. laws recommended to carry out trade agreements.

The USTR shall consult with the House Ways and Means and Senate Finance Committees and other appropriate committees of the House and Senate (when necessary in executive session) not less than quarterly on the development, implementation, and administration of overall U.S. trade policy, including, but not limited to:

—the principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement;

—the implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes;

—actions taken, and proposed to be taken, under U.S. laws and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives; and

—important developments and issues in other areas of trade policy.

Senate amendment

The Senate amendment requires the Speaker and President pro tempore each to appoint, in addition to the advisers under present law, two members with expertise in agricultural trade matters, on recommendation of the chairmen of the House and Senate Agriculture Committees, to serve as official advisers to U.S. delegations to international sessions relating to GATT multilateral agricultural trade agreements.

The Senate amendment requires the USTR to keep the additional agricultural trade advisers informed of agricultural trade objectives, the status of negotiations, and any changes in U.S. law or administration to carry out agricultural trade agreements.

The Senate amendment also requires the USTR and the Advisory Committee for Trade Negotiations to consult with the House Ways and Means and Senate Finance Committees and with any other committees of jurisdiction on a continuing basis concerning negotiations, progress or obstacles in achieving objectives, and on all matters concerning U.S. trade policy and priorities.

Conference agreement

The Senate recedes, with an amendment providing for USTR consultations with committees on a continuing rather than quarterly basis.

Transmission of Agreements to Congress (sec. 104 of House bill)

Present law

Section 162 of the Trade Act of 1974 requires the President, if he has not previously done so, to transmit any trade agreement to the Congress with a statement of his reasons for entering into it.

House bill

The House bill expands the statement to include (1) a description of the consultations on the trade agreement between the USTR and the advisory committees and the reasons if any advice or recommendations were not accepted; and (2) an explanation of how the agreement will enhance U.S. international trade competitiveness, expand export opportunities, establish equitable trade patterns, and further overall U.S. trade policy.

Senate amendment

No provision.

Conference agreement

The House recedes.

Trade Competitiveness Impact Statements (sec. 105 of House bill)

Present law

No provision.

House bill

The House bill requires the President, at least 60 days before an executive trade agreement takes effect that may have a significant impact on the ability of domestic industries to compete, to submit to the House Ways and Means and Senate Finance Committees and to other appropriate committees of Congress a statement describing the likely short- and long-term impact on U.S. imports and exports, balance-of-payments, and ability of industries to compete. The President may publish and submit a statement to the committees waiving the requirement if necessary to serve the national interest, to deal with an emergency, to comply with statutory deadlines, or to take action required by law.

Senate amendment

No provision.

Conference agreement

The House recedes.

PART 3—ANNUAL REPORTS AND NATIONAL TRADE POLICY AGENDA

Annual Trade Policy Agenda (sec. 102 of House bill; sec. 1641 of conference agreement)

Present law

No provision.

House bill

The House bill requires the USTR by March 1 of each year to submit a statement to the Congress of:

—U.S. trade policy objectives and priorities for the year and the reasons therefor;

—actions proposed or anticipated during the year to achieve these objectives and priorities, including actions authorized under the trade laws and negotiations with foreign countries;

—any proposed legislation necessary or appropriate to achieve any objectives or priorities; and

—the progress made in achieving trade policy objectives and priorities during the previous year.

The USTR must consult with appropriate private sector advisers and the appropriate Congressional committees before submitting the statement and take into account annual sectoral competitiveness studies prepared by the ITC. The USTR and other appropriate officials must also consult periodically with the appropriate Congressional committees on the status and results of actions undertaken, and on any developments which may require or result in changes in the agenda.

Senate amendment

No provision.

Conference agreement

The Senate recedes, with amendments (1) to include the statement in the current annual report of the President on the trade agreements program submitted to the Congress under section 163 of the Trade Act of 1974, and (2) to require submission of that annual report by March 1 of each year.

Annual Trade Report (sec. 959 of Senate amendment; sec. 1641 of conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the USTR and the Treasury Secretary jointly to prepare and submit annually to the Ways and Means and Finance Committees a comprehensive report on specified trade and economic indicators, trade barriers, and unfair trade practices of the United States and all other countries; with 2 year projections regarding certain trade and economic indicators for certain countries and groups of countries; and conclusions as to whether the projections are satisfactory to the United States, and, if not, the policy changes which will be implemented to improve the outlook. The USTR and the Treasury Secretary are to consult with the Chairman of the Federal Reserve in preparing the report and with the Committees after its submission. Each Committee must publish a report with its views and recommendations on the USTR/Treasury reports.

Conference agreement

The House recedes with amendments incorporating the reporting requirement into the annual trade policy agenda established as part of this bill; dropping specific reference to the countries or groups of countries to be studied; limiting the projections to one year; and other amendments.

The conferees anticipate that on the basis of current trade patterns, the following countries and groups of countries will be covered in the annual trade report: Japan; Canada; the European Communities (EC); all other Western European nations considered as a group; Latin America; Korea, Taiwan, Hong Kong, and Singapore considered as a group; the Arab member countries of the Organization of Petroleum Exporting Countries; and all other countries considered as a group. The conferees recognize, however, that a focus on individual countries within these groupings (e.g., France, Germany, or other countries of the EC) or other groupings may be more appropriate for the purposes of the economic projections required in the report. In addition, if the trade policies of individual countries within these groupings differ significantly, a break-out of these countries may be appropriate for the purposes of this report. Finally, the President may, as necessary, submit portions of the report in confidence to the committees specified.

SUBTITLE G—TARIFF PROVISIONS

PART I—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SUBPART A—PERMANENT CHANGES IN TARIFF TREATMENT

SECTION 1711. BROADWOVEN FABRICS OF MAN-MADE FIBERS (sec. 807 of House bill; sec. 802 of Senate amendment)

Present law

Woven fabrics of man-made fibers, other than those containing over 17 percent of wool by weight, are included in TSUS item 338.50, with a possibility of 99 statistical annotations.

House bill

The House bill renumbers the existing provisions to provide for a possible 297 statistical annotations on woven fabrics of man-made fibers, but does not change rates of duty.

Senate amendment

The Senate amendment is identical to the House bill, except it includes "Special" rate column provisions.

Conference agreement

The House recedes.

SECTION 1712. CLASSIFICATION OF NAPHTHA AND MOTOR FUEL BLENDING STOCKS (sec. 809 of House bill; sec. 803 of Senate amendment)

Present law

Naphtha and motor fuel blending stocks are classified in part 1, part 2, or part 10 of schedule 4, depending on the specific characteristics of the blending stock.

House bill

The House bill creates a single provision applicable to "motor fuel blending stocks," requires verification that they are to be used in manufacturing motor fuels, and provides tariff rates identical to those on imported motor fuel, 1.25 cents per gallon column 1 and 2.5 cents per gallon column 2.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes with a technical amendment clarifying the definition of "naphthas" to not include those used for direct blending in the manufacture of motor fuel.

SECTION 1713. MARKING OF WATCHES AND WATCH COMPONENTS (sec. 814 of House bill; sec. 804 of Senate amendment)

Present law

Present law requires that any imported watch movement, case, or dial be conspicuously and indelibly marked with country of manufacture; name of manufacturer or purchaser; the number of jewels, if any; and the number and classes of adjustments.

House bill

The House bill retains present marking requirements except for 5 changes: eliminates dials from marking requirements; requires "legible" rather than "conspicuous" marking; allows "mold-marking"; deletes the requirement concerning adjustments; and gives the manufacturer the option of marking either the watch case or the bezel.

Senate amendment

The Senate amendment is substantially the same as the House bill, except it retains "conspicuous" marking requirement and contains no option of marking on watch case or bezel.

Conference agreement

The House recedes.

SECTION 1715. CERTAIN WORK GLOVES (sec. 806 of House bill; sec. 806 of Senate amendment)

Present law

Work gloves without fourchettes and produced from plastics or rubber-coated fabric which has been cut into pieces and sewn together are classified in TSUS item 705.86, (column 1 rate of 14 percent ad valorem), as gloves of rubber or plastics.

House bill

The House bill amends headnote 5(a) to schedule 3 and headnote 1 to subpart 7-1-C to designate as textile products all work gloves without fourchettes and having a textile component which are coated, filled, impregnated, or laminated with rubber or plastics, thereby subjecting them to tariff rates based on component man-made or cotton fibers and method of construction.

Senate amendment

The Senate amendment is substantially the same as the House bill.

Conference agreement

The House recedes with a technical amendment to clarify the definition of gloves which is "other than gloves with fourchettes."

SECTION 1716. HATTERS' FUR (sec. 804 of House bill; sec. 807 of Senate amendment)

Present law

Both hatters' fur and carroted furskins (TSUS item 186.20) are dutiable at a column 1 rate of 15 percent ad valorem. Column 1 rate for hatters' fur is suspended through December 31, 1985.

House bill

The House bill makes permanent the duty-free treatment for hatters' fur, retroactive to December 31, 1985.

Carroted furskins and hatters' fur are separated for tariff purposes.

Senate amendment

The Senate amendment is identical to the House bill, except it includes a "Special" rate column provision and provides for staging.

Conference agreement

The House recedes.

SECTION 1717. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS (sec. 812 of House bill; sec. 808 of Senate amendment)

Present law

The Customs Service classifies extracorporeal shock wave lithotripters as "electrosurgical apparatus" under TSUS item 709.15, with a column 1 rate of 7.9 percent ad valorem.

House bill

The House bill amends the article description of TSUS item 709.15 to "electro-surgical apparatus other than extracorporeal shock wave lithotripters", thereby changing the classification of these apparatuses to TSUS item 709.17 ("other electro-medical apparatus, and parts thereof"), with a column 1 rate of 4.2 percent ad valorem retroactive to December 31, 1982.

Senate amendment

The Senate amendment is substantially identical to the House bill.

Conference agreement

The Senate recedes.

SECTION 1718. SALTED AND DRIED PLUMS (sec. 802 of House bill; sec. 809 of Senate amendment)

Present law

Salted and dried plums are classified as "otherwise prepared or preserved" (TSUS item 149.28) at a column 1 duty rate of 17.5 percent ad valorem.

House bill

The House bill creates a new tariff classification for plums, soaked in brine and dried, at the 2 cents per pound duty rate currently applicable to other dried plums. Additionally, it amends the article description for TSUS item 149.26 to read "dried, salted or not salted but not otherwise further prepared or preserved."

Senate amendment

The Senate amendment is substantially the same as the House bill, except it amends the article description for TSUS item 149.26 to exclude the phrase "but not otherwise further prepared or preserved," include the "Special" rate column provision and provide for staging.

Conference agreement

The House recedes with an amendment to create a new tariff classification which allows for a clear distinction between "plums, soaked in brine and dried" and "prunes and prunelles soaked in brine and dried."

SECTION 1719. TELEVISION APPARATUS AND PARTS (sec. 811 of House bill; sec. 811 of Senate amendment)

Present law

Color picture tubes (TSUS item 687.35) are dutiable at a column 1 rate of 15 percent ad valorem and a column 2 rate of 60 percent ad valorem. Color assemblies (TSUS item 684.92) are dutiable at a column 1 rate of 5 percent ad valorem, and a column 2 rate of 35 percent ad valorem.

House bill

The House bill closes a loophole created by a Customs Service ruling that picture tubes shipped in separate containers with an equal number of assemblies are dutiable at 5 percent ad valorem as assemblies rather than at 15 percent as picture tubes.

Additionally, it provides for a duty increase phase-in period on such picture tubes to be dutiable at 11 percent ad valorem through October 31, 1987.

The bill also suspends the duty on color picture tubes less than 12 inches through December 31, 1990, and on color tubes 30 inches and over through September 30, 1988.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes with an amendment to drop the clause addressing the duty increase phase-in period because it expired on October 31, 1987.

SECTION 1722. IMPORTATION OF FURSKINS (sec. 815 of House bill; sec. 899B of Senate amendment)

Present law

Imports of ermine, fox, kolinsky, marten, mink, muskrat, and weasel furskins which are the product of the Union of Soviet Socialist Republics, are prohibited from entry into the United States.

House bill

The House bill ends the prohibition of importation of furskins from Russia.

Senate amendment

The Senate amendment expresses the sense of the Senate that the prohibition on the importation of Soviet furskins should remain in effect.

Conference agreement

The Senate recedes.

SECTION 1723. GRAPEFRUIT (sec. 803 of House bill)

Present law

A tariff rate of 20 cents per gallon for not concentrated grapefruit juice (TSUS item 165.32) applies to both natural (fresh) juice and to juice produced from concentrated juice (reconstituted).

House bill

The House bill revises the current law, applying the lower tariff rate of 20 cents per gallon only to natural unconcentrated juice. Reconstituted juice would be reclassified into the category currently applicable to concentrated juice (TSUS item 165.36) and the duty would be 35 cents per gallon.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

SECTION 1724. SILICONE RESINS AND MATERIALS (sec. 808 of House bill)

Present law

Silicones are classified in one of nine categories with duties ranging from zero to 8.6 percent ad valorem. Silicone resins enter under one of seven categories with column 1 duties ranging from duty-free to 13.5 percent ad valorem.

House bill

The House bill creates a single TSUS item for silicone products and applies a rate of duty of 3.7 percent ad valorem.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment, revising the duty rate to 3.0 percent ad valorem, to make this provision revenue neutral.

SUBPART B—TEMPORARY CHANGES IN TARIFF TREATMENT

SECTION 1736. CERTAIN KNITWEAR FABRICATED IN GUAM (sec. 829 of House bill; sec. 826 of Senate amendment)

Present law

Due to rules of origin for textiles issued by the Customs Service, full-fashioned sweaters joined from preshaped parts are treated as a product of the country of origin of the component part.

House bill

The House bill continues duty-free treatment of this item by suspending the duty on sweaters from Guam assembled from preshaped parts within guidelines of headnote 3(a) and within quota levels through October 31, 1992.

Senate amendment

The Senate amendment is substantially identical to the House bill.

Conference agreement

The House recedes.

SECTION 1745. FLUAZIFOP-P-BUTYL (sec. 854 of House bill; sec. 836 of Senate amendment)

Present law

Imports of fluazifop-p-butyl (or Butyl (R)-2-[4-[[5-(trifluoromethyl)-2-pyridinyl] oxy]phenoxy]propanoate enter under TSUS item 408.23, with a column 1 rate of 13.5 percent ad valorem.

House bill

The House bill suspends the duty on fluazifop-p-butyl through December 31, 1990. There is an error in referencing TSUS item 405.23 instead of TSUS 408.23.

Senate amendment

The Senate amendment is identical to the House bill, except corrects the technical error.

Conference agreement

The House recedes.

SECTION 1746. PARTS OF CERTAIN PHOTOCOPYING MACHINES (sec. 865 of House bill; sec. 837 of Senate amendment)

Present law

Imports of parts for indirect-process electrostatic photocopying machines enter under TSUS item 676.56, with a column 1 duty rate of 3.9 percent ad valorem.

House bill

The House bill suspends the column 1 rates of duty for parts for indirect-process electrostatic photocopiers provided for in TSUS item 676.56 through December 31, 1990.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes with an amendment to exclude photoreceptors or assemblies containing photoreceptors from the coverage of the provision.

SECTION 1747. LITHOTRIPTERS—NON-PROFIT ORGANIZATIONS (sec. 866 of House bill; sec. 838 of Senate amendment)

Present law

Nonprofit organizations import extracorporeal shock wave lithotripters under TSUS item 709.15 with a column 1 rate of 7.9 percent ad valorem.

House bill

The House bill suspends the column 1 duty rates on extracorporeal shock wave lithotripters as provided for in TSUS items 709.15 and 709.17 for non-profit organizations between December 31, 1982, and December 31, 1987.

Senate amendment

The Senate amendment is identical to the House bill, except refers only to TSUS item 709.17.

Conference agreement

The House recedes.

SECTION 1750. 1-(3-SULFOPROPYL)-PYRIDINIUM HYDROXIDE (sec. 839 of House bill; sec. 841 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 406.42) is 13.5 percent ad valorem.

House bill

The House bill suspends the column 1 duty through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill.

Conference agreement

The House recedes.

SECTION 1752. METHYLENE BLUE (sec. 830 of House bill; sec. 843 of Senate amendment)

Present law

The column 1 duty rate for Methylene Blue (TSUS item 409.74) is 20 percent ad valorem.

House bill

The House bill suspends the column 1 duty through December 31, 1990.

Senate amendment

The Senate amendment contains an end use provision which requires the chemical "to be used as a process stabilizer in the manufacture of organic chemicals."

Conference agreement

The Senate recedes.

SECTION 1756. JACQUARD CARDS AND JACQUARD HEADS (sec. 864 of House bill; sec. 848 of Senate amendment)

Present law

Imports of jacquard cards enter under item 670.56, with a column 1 rate of 7 percent ad valorem.

House bill

The House bill suspends the duty on jacquard cards through December 31, 1990.

Senate amendment

The Senate amendment is substantially the same as the House bill, except suspends, in addition, duty on jacquard heads through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1760. MANEB, ZINEB, MANCOZEB, AND METIRAM (sec. 844 of House bill; sec. 852 of Senate amendment)

Present law

The column 1 duty rate for these chemicals (TSUS item 432.15) is 3.7 percent ad valorem but not less than the highest rate applicable to any component material.

House bill

The House bill suspends the column 1 duty through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill, except for technical differences in tariff nomenclature.

Conference agreement

The Senate recedes.

SECTION 1761. METALDEHYDE (sec. 858 of House bill; sec. 853 of Senate amendment)

Present law

The column 1 duty rate for Methaldehyde (TSUS item 427.58) is 5.6 percent ad valorem.

House bill

The House bill suspends the column 1 rate through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill.

Conference agreement

The House recedes.

SECTION 1762. PARALDEHYDE (U.S.P.) (sec. 861 of House bill; sec. 854 of Senate amendment)

Present law

The column 1 duty rate for Paraldehyde (U.S.P.), (TSUS 439.50), is 3.7 percent ad valorem.

House bill

The House bill suspends the column 1 rate through December 31, 1990.

Senate amendment

The Senate amendment is identical to the House bill, except for technical differences in tariff nomenclature.

Conference agreement

The House recedes.

SECTION 1765. BENZENOID DYE INTERMEDIATES (sec. 857 of Senate amendment)

Present law

The column 1 duty rate ranges from 5.8 percent to 20 percent ad valorem on these 12 benzenoid dye intermediates.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1766. TUNGSTEN ORE (sec. 834 of House bill; sec. 858 of Senate amendment)

Present law

The column 1 duty rate for tungsten ore (TSUS item 601.54) is 17 cents per pound on tungsten content.

House bill

The House bill suspends the column 1 duty rate through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill.

Conference agreement

The House recedes.

SECTION 1767. CHLOR AMINO BASE (sec. 849 of House bill; sec. 859 of Senate amendment)

Present law

Imports of chlor amino base (or 4-chloro-2,5-dimethoxy-aniline) enter under TSUS item 405.01, with a column 1 duty rate of 6.1 percent ad valorem.

House bill

The House bill suspends the column 1 duty rate on chlor amino base through December 31, 1990.

Senate amendment

The Senate amendment is identical to the House bill, except retroactive to December 31, 1985.

Conference agreement

The Senate recedes.

SECTION 1768. NITRO SULFON B (sec. 851 of House bill; sec. 860 of Senate amendment)

Present law

Imports of nitro sulfon B (or 3-nitro-phenyl-4-beta-hydroxy-sulfone) enter under TSUS item 406.00, with a column 1 duty rate of 6.7 percent ad valorem.

House bill

The House bill suspends the column 1 duty rate on nitro sulfon B through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill, except retroactive to December 31, 1985.

Conference agreement

The House recedes with an amendment deleting the retroactivity clause.

SECTION 1769. 4-CHLORO-2-NITRO ANILINE (sec. 861 of Senate amendment)

Present law

The column 1 duty rate for 4-chloro-2-nitro aniline (TSUS item 404.88) is 1.1 cents per pound plus 18.8 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990, retroactive to December 31, 1986.

Conference agreement

The House recedes with an amendment deleting the retroactivity clause.

SECTION 1770. AMINO SULFON BR (sec. 862 of Senate amendment)

Present law

The column 1 duty rate for amino sulfon br (TSUS item 406.00) is 6.7 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 duty rate through December 31, 1990, retroactive to December 31, 1986.

Conference agreement

The House recedes with an amendment deleting the retroactivity clause.

SECTION 1771. ACET QUINONE BASE (sec. 863 of Senate amendment)

Present law

The column 1 duty rate for acet quinone base (TSUS item 405.34) is 13.5 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 duty rate through December 31, 1990, retroactive to December 31, 1986.

Conference agreement

The House recedes with an amendment deleting the retroactivity clause.

SECTION 1772. DIAMINO PHENETOLE SULFATE (sec. 864 of Senate amendment)

Present law

The column 1 duty rate for diamino phenetole sulfate (TSUS item 405.09) is 13.5 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 duty rate through December 31, 1990, retroactive to December 31, 1986.

Conference agreement

The House recedes with an amendment deleting the retroactivity clause.

SECTION 1773. CERTAIN MIXTURES OF POLYACRYLATE POLYMERS (sec. 859 of House bill; sec. 865 of Senate amendment)

Present law

Absorbent chemical materials of one or more cross-linked sodium polyacrylate polymers are classifiable under item 430.20, with a column 1 rate of 3.7 percent ad valorem, but not less than the highest rate applicable to any component compound.

House bill

The House bill suspends the duty on this material through Oct. 31, 1987, and provides for duty-free treatment retroactive to July 1, 1985.

Senate amendment

The Senate amendment is substantially the same as the House bill, except it is retroactive to June 30, 1985, and has technical differences in tariff nomenclature.

Conference agreement

The House recedes with an amendment to clarify that the effective period for this provision is July 1, 1985, through October 31, 1987.

SECTION 1774. N-ETHYL-O-TOLUENESULFONAMIDE AND N-ETHYL-P-TOLUENESULFONAMIDE (sec. 867 of Senate amendment)

Present law

The column 1 rate of duty for these chemicals (TSUS item 409.34) is 0.1 cent per pound plus 17.7 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1777. ROSACHLORIDE LUMPS (sec. 873 of Senate amendment)

Present law

The column 1 rate of duty for rosachloride lumps (TSUS item 405.07) is 1.7 cents per pound plus 15.6 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1778. C-AMINES (sec. 874 of Senate amendment)

Present law

The column 1 rate of duty for c-amines (TSUS items 404.88 and 404.90) is 1.1 cents per pound plus 18.8 percent ad valorem, and 13.5 percent ad valorem, respectively.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1779. DIAMINO IMID SP (sec. 875 of Senate amendment)

Present law

The column 1 rate of duty for diamino imid sp (TSUS item 406.42) is 13.5 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1781. KITCHENWARE OF TRANSPARENT, NONGLAZED GLASS CERAMICS (sec. 878 of Senate amendment)

Present law

The column 1 duty rate for these products (TSUS item 534.97) is 6.9 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1989.

Conference agreement

The House recedes with amendments revising the expiration date to December 31, 1990, and revising the article descriptions to conform with the Harmonized System nomenclature as shown below:

"Kitchenware of glass-ceramics, nonglazed, greater than 75 percent by volume crystalline, containing lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10 x 10 -7 per Kelvin within a temperature range of 0 degrees C to 300 degrees C, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3mm in thickness, and containing beta-quartz solid solution as a predominant crystal phase (provided for in item 534.97, part 2C, schedule 5)."

SECTION 1782. HOSIERY KNITTING MACHINES AND NEEDLES (sec. 846 of House bill; secs. 879, 880, 893(a)(11), 893(a)(12) of Senate amendment)

Present law

Single cylinder fine gauge hosiery knitting machines and double cylinder jacquard hosiery knitting machines are dutiable at a column 1 rate of 4.4 percent ad valorem under TSUS item 670.16. Duty is suspended through September 30, 1985, under TSUS item 912.08.

Double cylinder hosiery knitting machines are dutiable under TSUS item 670.16 at a column 1 duty rate of 4.4 percent ad valorem.

Double headed latch needles are dutiable at a column 1 rate of 10 percent ad valorem in TSUS item 670.58. Duty is suspended through June 30, 1985, under TSUS item 912.09.

Latch needles are dutiable at a column 1 rate of 10 percent ad valorem under TSUS item 670.58. All other needles for knitting machines (but not including spring-beard needles under TSUS item 670.60) are dutiable at a column 1 rate of 23 cents per 1,000 and 8.2 percent ad valorem under TSUS item 670.62.

House bill

The House bill provides for duty-free treatment retroactive to September 30, 1985, under new TSUS item 912.29. TSUS item 912.08 is repealed.

It also suspends the column 1 duty rate through December 31, 1990, for all double cylinder hosiery machines provided for in TSUS item 670.16 under new TSUS item 912.29.

Additionally it provides for duty-free treatment retroactive to July 1, 1985, under new item 912.28. TSUS item 912.09 is repealed.

This bill suspends the column 1 duty rate through December 31, 1990, for needles provided for in TSUS items 670.58 and 670.62 under new TSUS item 912.28.

Senate amendment

The Senate amendment is identical in substance to the House bill.

Conference agreement

The Senate recedes.

SECTION 1783. CERTAIN BICYCLE PARTS (sec. 838 of House bill; sec. 881 of Senate amendment)

Present law

The column 1 duty rates range from 6 percent to 7.6 percent ad valorem. The duty on certain bicycle component parts is suspended through June 30, 1986.

Section 3 of the Foreign Trade Zones Act prohibits application of that Act to bicycle component parts through June 30, 1986, unless those parts are re-exported, either as parts or components of finished bicycles.

House bill

The bill modifies the description of certain bicycle component parts and extends the suspension under TSUS item 912.10 through December 31, 1990, on certain bicycle parts, retroactive to June 30, 1986.

It also extends the Foreign Trade Zones Act exception through December 31, 1990, retroactive to June 30, 1986.

Senate amendment

The Senate amendment is substantially the same as the House bill, except it makes technical corrections to appropriate item numbers for "cable or inner wire for caliper brakes and casing."

Conference agreement

The House recedes with a technical amendment which adds TSUS item numbers 771.55 and 772.65 in the reference provided for in "cable or inner wire for caliper brakes and casing."

This provision is not intended to bar the mere storage of imported bicycle parts or completed bicycles in foreign trade zones for later sale, distribution, manufacture, or assembly outside of the zone. Under existing law, customs duties on imported bicycles and bicycle parts may be deferred by storage in customs bonded warehouses, and it is not the intention of this provision to limit foreign trade zones' ability to offer equivalent advantages with respect to bicycles and bicycle parts.

The effective date for the duty suspension on bicycle tires and tubes was made retroactive to January 1, 1988.

SECTION 1785. TRIALLATE (sec. 884 of Senate amendment)

Present law

The column 1 duty rate for triallate (TSUS item 425.36) is 3.7 percent ad valorem and the column 2 duty rate is 25 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1786. M-NITRO-P-ANISIDINE (sec. 885 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 405.09) is 13.5 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes with technical corrections.

SECTION 1787(a). DINOCAP (sec. 841 of House bill; sec. 832(c) of Senate amendment)

Present law

Dinocap is classified in TSUS item 408.16 at a column 1 duty rate of 11.1 percent ad valorem and in TSUS item 408.38 at a column 1 rate of 0.8 cents per pound plus 9.7 percent ad valorem.

House bill

The House bill suspends the column 1 duty through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill, except for technical differences in tariff nomenclature.

Conference agreement

The House recedes with a technical amendment to tariff nomenclature.

SECTION 1787(b). MANCOZEB, DINOCAP, STABILIZER AND APPLICATION ADJUVANTS (sec. 841 of House bill; sec. 869 of Senate amendment)

Present law

These chemicals are subject to a column 1 duty rate of 0.8 cents per pound plus 9.7 percent ad valorem under TSUS item 408.38.

House bill

The House bill suspends the column 1 duty through December 31, 1990.

Senate amendment

The Senate amendment is substantially identical to the House bill, except for technical differences in tariff nomenclature.

Conference agreement

The Senate recedes.

SECTION 1788. M-NITRO-O-ANISIDINE (sec. 887 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 405.07) is 1.7 cents per pound plus 15.6 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1789. P-NITRO-ORTHO-TOLUIDINE (sec. 888 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 404.88) is 1.1 cents per pound plus 18.8 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1790. PHENYLCARBETHOXYPYRAZOLONE (sec. 889 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 406.39) is 1.7 cents per pound plus 16.2 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1791. P-NITRO-O-ANISIDINE (sec. 890 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 405.07) is 1.7 cents per pound plus 15.6 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1792. CARBODIIMIDES (sec. 891 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 405.53) is 15 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1793. TRIETHYLENE GLYCOL DICHLORIDE (sec. 892 of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 428.47) is 12.3 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1794. MIXTURES OF 5-CHLORO-2-METHYL-4-ISOTHIAZOLIN-3-ONE, 2-METHYL-4-ISOTHIAZOLIN-3-ONE, MAGNESIUM CHLORIDE, STABILIZERS AND APPLICATION ADJUVANTS (sec. 892A of Senate amendment)

Present law

The column 1 duty rate for this product (TSUS item 432.28) is 3.7 percent ad valorem but not less than the highest rate applicable to any component material.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1795. 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE, AND MIXTURES OF 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE AND APPLICATION ADJUVANTS (sec. 892B of Senate amendment)

Present law

The column 1 duty rate for this product is 7.9 percent ad valorem under TSUS item 425.52 and 3.7 percent ad valorem, but not less than the highest rate applicable to any component compound under TSUS item 430.20.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1796. WEAVING MACHINES FOR FABRICS IN EXCESS OF 16 FEET WIDTH (sec. 892E of Senate amendment)

Present law

The column 1 duty rate for these machines (TSUS items 670.14 and 670.74) is 4.7 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1797. BARBITURIC ACID (sec. 892F of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 437.36) is 5 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1798. 3-METHYL-5-PYRAZOLONE (sec. 892G of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS 425.52) is 7.9 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1799. 3-METHYL-1-(P-TOLYL)-2-PYRAZOLIN-5-ONE (P-TOLYL METHYL PYRAZOLONE) (sec. 892H of Senate amendment)

Present law

The column 1 duty rate for this chemical (TSUS item 406.36) is 5.8 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1800. CERTAIN OFFSET PRINTING PRESSES OF THE SHEET-FED TYPE WEIGHING 3,500 POUNDS OR MORE (sec. 863 of House bill)

Present law

Imports of the printing presses specified enter under TSUS item 668.21, with a column 2 rate of 25 percent ad valorem. Parts are dutiable at the same rate under TSUS item 668.50.

House bill

The House bill reduces the column 2 rate for TSUS item 668.21 to 10 percent ad valorem through December 31, 1990.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

SECTION 1801. FROZEN CRANBERRIES (sec. 883 of Senate amendment)

Present law

The column 1 duty rate for frozen cranberries (TSUS item 146.71) is 6 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1802. M-HYDROXYBENZOIC ACID (sec. 892C of Senate amendment)

Present law

The column 1 duty rate for this product (TSUS item 404.40) is 5.8 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1803. CERTAIN BENZENOID CHEMICALS (sec. 810 of Senate amendment)

Present law

The subject chemicals are classified under TSUS item 405.09 (column 1 duty rate of 13.5 percent ad valorem and a column 2 duty rate of 7 cents per pound plus 50 percent ad valorem).

House bill

No provision.

Senate amendment

The Senate amendment reclassifies 10 specific chemicals; 5 chemicals under TSUS item 404.84 and 5 under TSUS item 404.92. The column 1 rate is 5.8 percent ad valorem for both and column 2 rates are 7 cents per pound plus 39.5 percent ad valorem and 7 cents per pound plus 39 percent ad valorem, respectively. Also, it removes two chemicals from the existing item classification but does not reclassify them.

Conference agreement

The House recedes, with an amendment to substitute a temporary duty suspension until December 31, 1990, on the products covered in the Senate amendment in lieu of reclassification.

SECTION 1804(a)(5). ETHYLBIPHENYL ISOMER MIXTURE (sec. 869(7) of House bill; sec. 893(a)(6) of Senate amendment)

Present law

Imports of mixtures of 3-ethylbiphenyl and 4-ethylbiphenyl enter under TSUS item 407.19, with a column 1 rate of 1.7 cents/lb. plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. Duty on these mixtures is temporarily suspended through June 30, 1985.

House bill

The House bill reinstates suspension of column 1 duty on these mixtures retroactive to June 30, 1985, through December 31, 1990. There is a typographical error in the word "isomeric."

Senate amendment

The Senate amendment is identical to the House bill, except it corrects the typographical error.

Conference agreement

The House recedes.

SECTION 1804(a)(10). CERTAIN SMALL TOYS AND JEWELRY (sec. 869(12) of House bill; sec. 893(a)(13) of Senate amendment)

Present law

Duties on small toys (except balloons, marbles, dice, and diecast vehicles) provided for in schedule 7, subparts 5D and 5E, valued not over 5 cents per unit; and jewelry (except parts) provided for in schedule 7, subpart 6A, valued not over 1.6 cents per piece, are temporarily suspended TSUS (item 912.20, expires December 31, 1986).

House bill

The House bill reinstates the duty-free treatment of these articles through December 31, 1990, retroactive to December 31, 1986.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes. In adopting this provision, the conferees recognize that the scope of this provision is not limited to toys for bulk vending machines and that the subject articles consist of a variety of small items such as small or miniature playing cards, puzzles, games, etc.

SECTION 1804(b)(1). CRUDE FEATHERS AND DOWN (sec. 869(15) of House bill; sec. 893(b)(1) of Senate amendment)

Present law

The column 1 duty rate of 7.5 percent ad valorem for crude feathers and down (TSUS items 903.70 and 903.80) is suspended through December 31, 1987.

House bill

The House bill reinstates suspension through December 31, 1990.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(2). DISPOSABLE SURGICAL GOWNS (sec. 893(c) of Senate amendment)

Present law

The duty on these products (TSUS item 905.50) is temporarily suspended through December 31, 1988.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1804(b)(3). DIPHENYLGUANIDINE AND DI-ORTHO-TOLYLGUANIDINE (sec. 866 of Senate amendment)

Present law

The duty on these chemicals is temporarily suspended through December 31, 1987, under TSUS item 906.50.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 duty rate under new TSUS item number 908.06 through December 31, 1990.

Conference agreement

The House recedes with an amendment to retain the existing TSUS item number, 906.50, and to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(4). M-TOLUIC ACID (sec. 893(b)(6) of Senate amendment)

Present law

The duty on m-toluic acid (TSUS item 906.57) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(5). MENTHOL FEEDSTOCKS (sec. 869(6) of House bill; sec. 893(b)(2) of Senate amendment)

Present law

The column 1 duty rate on menthol feedstocks (TSUS 407.19–crude mixtures of optical isomers of menthol) is 1.7 cents per pound plus 13.6 percent ad valorem, but not less than the highest rate applicable to any component material. Menthol feedstocks receive temporary duty-free treatment under TSUS item 907.13 through December 31, 1987.

House bill

The House bill continues current duty suspension through December 31, 1990.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(6). SULFATHIAZOLE (sec. 899C of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.19) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(7). FLECAINIDE ACETATE (sec. 893(b)(3) of Senate amendment)

Present law

The duty on flecainide acetate (TSUS item 907.21) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(8). O-BENZYL-P-CHLOROPHENOL (sec. 893(b)(4) of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.23) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(9). B-NAPHTHOL (sec. 870 of Senate amendment)

Present law

The duty for B-Naphthol is temporarily suspended through December 31, 1987, under TSUS item 907.31.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 duty rate under new TSUS item 908.10 through December 31, 1990.

Conference agreement

The House recedes with an amendment to retain the existing TSUS item number (907.31) and to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(10). TETRAAMINOBIPHENYL (sec. 877 of Senate amendment)

Present law

Duty on tetraaminobiphenyl is temporarily suspended through December 31, 1988, under item TSUS 907.32.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990, under new TSUS item 908.13.

Conference agreement

The House recedes with an amendment to retain the existing TSUS item number (907.32).

SECTION 1804(b)(11). ACETYLSULFAGUANIDINE (sec. 899C of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.33) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(12). 6-AMINO-1-NAPHTHOL-3-SULFONIC ACID (sec. 868 of Senate amendment)

Present law

The duty for this chemical is temporarily suspended through December 31, 1987, under TSUS item 907.34.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty under new TSUS item 908.08 through December 31, 1990.

Conference agreement

The House recedes with an amendment to retain the existing TSUS item number 907.34, and to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(13). 2-(4-AMINOPHENYL)-6- METHYLBENZO-THIAZOLE-7-SULFONIC ACID (sec. 893(b)(5) of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.35) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(14). SULFAMETHAZINE (sec. 899C of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.36) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(15). SULFAGUANIDINE (sec. 899C of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.37) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(16). SULFAQUINOXALINE AND SULFANILAMIDE (sec. 899C of Senate amendment)

Present law

The duty on these chemicals (TSUS item 907.38) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(17). NICOTINE RESINS (sec. 845 of House bill; sec. 833 of Senate amendment)

Present law

The duty is temporarily suspended for nicotine resin complex (TSUS item 907.63) in the form of chewing gum through December 31, 1987.

House bill

The House bill clarifies the definition of nicotine resin complex to include measured doses in chewing gum form and extends the suspension of duty through December 31, 1990. This provision would apply retroactively to November 14, 1984.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The Senate recedes with amendments to allow for duty-free treatment retroactive to December 31, 1987, and to drop the change in the article description of the tariff item because this change was already made in the Tax Reform Act of 1986.

SECTION 1804(b)(18). IRON-DEXTRAN COMPLEX (sec. 899C of Senate amendment)

Present law

The duty on this chemical (TSUS item 907.79) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with amendments to allow for duty-free treatment retroactive to December 31, 1987, and to correct a typographical error.

SECTION 1804(b)(19). NATURAL GRAPHITE (sec. 893(b)(7) of Senate amendment)

Present law

The duty on natural graphite (TSUS item 909.01) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(20). CERTAIN NARROW WEAVING MACHINES (sec. 893(b)(8) of Senate amendment)

Present law

The duty on these machines (TSUS item 912.04) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes with anp amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(21). CERTAIN LACE-BRAIDING MACHINES (sec. 893(b)(9) of Senate amendment)

Present law

The duty on these machines (TSUS item 912.11) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes wiqth an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1804(b)(22). CERTAIN HOVERCRAFT SKIRTS (sec. 893(b)(10) of Senate amendment)

Present law

The duty on these products (TSUS item 905.40) is temporarily suspended through December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment extends the duty suspension through December 31, 1990.

Conference agreement

The House recedes.

SECTION 1804(b)(23). 5-CHLORO-2-METHYL-4-ISOTHIAZOLIN-3-ONE, 2-METHYL-4-ISOTHIAZOLIN-3-ONE, MAGNESIUM CHLORIDE AND MAGNESIUM NITRATE (sec. 892D of Senate amendment)

Present law

The column 1 duty rate for this product (TSUS item 906.52) is temporarily suspended until December 31, 1987.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The House recedes with an amendment to allow for duty-free treatment retroactive to December 31, 1987.

SECTION 1831. EFFECTIVE DATES (sec. 816 and 870 of House bill; sec. 894 of Senate amendment)

Present law

No provision.

House bill

The House bill specifies dates for retroactive application of tariff provisions and allows 180 days to file with Customs for duty rebate.

Senate amendment

The Senate amendment is substantially the same as the House bill except it allows a 90-day filing period.

Conference agreement

The Senate recedes, with an amendment to revise the effective date for the tariff-related provisions to October 1, 1988.

All new duty suspensions will become effective on that date, while all provisions with retroactive duty suspensions may be refunded by the Customs Service on or after that date.

The purpose of changing the effective dates is to avoid a revenue loss in fiscal year 1988, which would result in violation of the revenue floor in the Budget Resolution.

SECTION 1844. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII (sec. 899D of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides duty-free treatment to all lithotripters imported in October 1986 for use in Hawaii.

Conference agreement

The House recedes.

SECTION 1845. EXTENSION OF THE FILING PERIOD FOR RELIQUIDATION OF CERTAIN ENTRIES (sec. 896 of Senate amendment)

Present law

Section 308 of the Trade and Tariff Act of 1984 was intended to provide for duty suspension on transistors. A typographical error in the TSUS item number (587.70 instead of 687.70) prevented the intended duty suspension. Legislation was passed on October 22, 1986, to correct the technical error and provide for duty rebate if application was made within 90 days.

House bill

No provision.

Senate amendment

The Senate amendment permits retroactive duty-free treatment on transistors imported between March 1, 1985, and November 6, 1986, to allow importers who missed the filing deadline to receive a rebate of duties paid.

Conference agreement

The House recedes.

DUTY SUSPENSIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

URANIUM HEXAFLUORIDE (UF6) (sec. 813 of House bill)

Present law

Uranium compounds other than oxide enter under TSUS item 422.52 and are duty-free.

House bill

The House bill adds new tariff provisions for uranium hexafluoride (UF_6) that is imported from any country requiring that uranium mined in that country be converted or upgraded into UF_6 before export and provides for a duty of $3 per pound under both column 1 and column 2. Currently, Canada is the only country that meets this criteria.

Senate amendment

No provision.

Conference agreement

The House recedes—Provision is deleted.

CERTAIN PLASTIC WEB SHEETING (sec. 839(b) of Senate amendment)

Present law

The column 1 rate of duty for such web sheeting (TSUS item 355.25) is 12.5 percent ad valorem and the column 2 rate is 74 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 and column 2 rates of duty through December 31, 1990.

Conference agreement

The Senate recedes—Provision is deleted.

MALONONITRILE (sec. 856 of House bill)

Present law

Column 1 imports of malononitrile are duty-free under TSUS item 425.42.

House bill

The House bill suspends the column 1 duty rate through December 31, 1990.

Senate amendment

No provision.

Conference agreement

The House recedes—Provision is deleted.

1,5 NAPHTHALENE DIISOCYANATE (sec. 844 of Senate amendment)

Present law

The column 1 duty rate for 1,5 naphthalene diisocyanate (TSUS item 405.82) is 13.5 percent ad valorem.

House bill

No provision.

Senate amendment

The Senate amendment suspends the column 1 rate of duty through December 31, 1990.

Conference agreement

The Senate recedes—Provision is deleted.

SUGAR DRAWBACK (sec. 875 of House bill; sec. 897 of Senate amendment)

Present law

In order to qualify for drawback (refund) of import duties, articles produced in the United States from imported goods must be processed within 3 years, and exported within 5 years, of importation.

House bill

The House bill allows drawback (refund) of import duties and section 22 fees (sec. 22 of the Agricultural Adjustment Act, as amended) paid on raw sugar imported from November 1, 1977, to March 31, 1985, provided that production and export of the refined sugar or sugar-containing products occurs before October 1, 1991. The export period extends through the current expiration date of the domestic price-support program for sugar.

The Secretary of Agriculture, in conjunction with the Commissioner of Customs, shall study and report back to the Committees on Ways and Means and Finance by June 30, 1988, with respect to circumvention of the United States sugar quota through the importation of refined sugar in the form of blended products. The report shall address the severity of the problem, or lack thereof, and suggest concrete steps, as necessary, to prevent such circumvention.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The conferees agreed to strike the House provision and the Senate amendment, and retain the present law.

ADMINISTRATIVE PROCEDURES FOR NONCONTROVERSIAL TARIFF SUSPENSIONS (secs. 941-944 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

Provides for administrative procedures to temporarily suspend duties on the importation of products and runs parallel to current legislative procedure. The ITC receives petitions, investigates, provides opportunity for public comment, and reports findings. The ITC report is reviewed by the Trade Policy Staff Committee and a recommendation is proposed to the President. The President may only suspend the duties on the article if there is no U.S. person who would be adversely affected by the suspension. The revenue loss from the aggregate of these suspensions may not exceed $100 million annually.

Conference agreement

The Senate recedes—Provision is deleted.

SUBTITLE H—MISCELLANEOUS CUSTOMS, TRADE AND OTHER PROVISIONS

PART I—CUSTOMS PROVISIONS

SECTION 1902. TARE ON CRUDE OIL AND PETROLEUM PRODUCTS (sec. 926 of Senate amendment)

Present law

The U.S. Customs Service regulations (19 CFR 151.46) provide for an allowance for amounts of water and sediment in excess of 0.3 percent of cargo volume for crude oil imports and in excess of up to 0.5 percent water and sediment for petroleum product imports.

House bill

No provision.

Senate amendment

The Senate amendment amends section 507 of the Tariff Act of 1930 (19 U.S.C. 1507) to provide allowance for *all* detectable moisture and impurities in determining tare on importing crude oil and petroleum products.

Conference agreement

The House recedes.

SECTION 1903. GSP TREATMENT OF WATCHES (sec. 192 of House bill; sec. 927 of Senate amendment)

Present law

Watches are listed as articles which may not be designated as eligible for GSP.

House bill

The House bill states that watches would remain ineligible for GSP except those watches which, if given preferential treatment, will not cause material injury to the watch manufacturing and assembly operations in the United States and U.S. insular possessions.

Senate amendment

The Senate amendment is substantially the same as the House bill, except it applies to watches entered after June 30, 1989, and includes, in addition, watch bands, straps, and bracelet manufacturing operations.

Conference agreement

The House recedes.

SECTION 1905. CUSTOMS SERVICES AT PONTIAC/OAKLAND, MICHIGAN, AIRPORT (sec. 878 of House bill; sec. 930 of Senate amendment)

Present law

The Trade and Tariff Act of 1984 provides for certain small airports to have customs services available for a user fee.

House bill

The House bill adds the Pontiac/Oakland, Michigan, airport to the list of airports to receive customs services for a user fee.

It also eliminates the maximum number of airports that can be designated for service on a fully reimbursable basis.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The House recedes.

SECTION 1906. PROHIBITION ON IMPORTATION OF CERTAIN ARTICLES PRODUCED BY CONVICT OR FORCED LABOR IN THE SOVIET UNION (sec. 880 of House bill; sec. 925 of Senate amendment)

Present law

Section 307 of Tariff Act of 1930 provides that goods produced abroad by convict labor, forced labor, or indentured labor under penal sanctions are not entitled to entry at any port of the United States.

House bill

The House bill includes a Sense of the Congress provision requesting the President to instruct the Secretary of the Treasury to enforce section 307.

Senate amendment

The Senate amendment precludes the importation of 7 specific items (gold ore, agriculture machinery, tractor generators, tea, crude petroleum, motor fuel, and kerosene) from the Soviet Union because they have been produced by convict or forced labor.

It states that importation of any of these articles may be allowed after the President certifies to the Congress in writing that (1) information clearly shows the article is not being produced with forced labor, or (2) the prohibition on importation directly affects U.S. national security interests.

Conference agreement

The Senate recedes.

SECTION 1907(a). COUNTRY OF ORIGIN MARKING (sec. 873(a) of House bill)

Present law

Section 304(h) of the Tariff Act (19 U.S.C. 1304) provides for a fine of not more than $5000, or imprisonment of not more than one year upon conviction for any person who "with intent to conceal" alters or removes the country of origin marking required under the statutes.

House bill

The House bill increases the maximum fine for intentional alteration or removal of country of origin markings to $100,000 on the first offense and $250,000 for subsequent offenses.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

SECTION 1907(c). MARKING OF NATIVE AMERICAN STYLE JEWELRY AND ARTS AND CRAFTS (sec. 879 of House bill; sec. 938 of Senate amendment)

Present law

Section 304 of the Tariff Act of 1930 requires that all imported articles be marked legibly and permanently with the name of the country of origin.

House bill

The House bill provides for immediate implementation of the proposed Customs Service rule published in the Federal Register on July 15, 1986, regarding marking of Native American style jewelry.

Senate amendment

The Senate amendment states that Native American style jewelry and arts and crafts may be considered to be in compliance with the requirements of section 304 only if the English name of the country of origin of such jewelry and arts and crafts is indelibly marked in a conspicuous place on such jewelry and arts and crafts by means of cutting, die-sinking, engraving, stamping, raised lettering, or other equally permanent method of marking.

It also provides that, for purposes of implementing this section, the Secretary of the Treasury shall, upon enactment, use the proposed rule on Native American style jewelry published on July 15, 1986, or any similar rule. To implement the section with regard to arts and crafts, the Secretary is directed to use a similar rule published in final form within a year of the date of enactment.

Conference agreement

The Senate recedes, with an amendment adding arts and crafts to the coverage of the provision and requiring the Customs Service to adopt appropriate regulations to the greatest extent feasible. The conferees expect that these rules will be implemented as soon as possible, but no later than one year from the date of enactment of this bill.

SECTION 1908. DUTY-FREE SALES ENTERPRISES (sec. 921 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment amends section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) to provide for statutory and regulatory control of duty-free enterprises, requiring the Customs Service to establish, by regulation, a separate class of bonded warehouses for duty-free enterprises. Specific provisions of the amendment are:

(1) A duty-free shop may be located within the same port of entry from which a purchaser of duty-free merchandise leaves the U.S. customs territory, or within 25 miles from the purchaser's exit point.

(2) Each duty-free shop—

(a) is required to establish procedures to provide reasonable assurance that duty-free goods will be exported;

(b) if located in an airport store, is required to establish and enforce, under Customs Service guidelines, restrictions on the sale of duty-free goods to individuals to personal use quantities;

(c) is required to display in prominent places notices that the merchandise has not been subject to any Federal duty or tax, must be declared and is subject to duty and tax if brought back into U.S. customs territory, and is subject to customs laws and regulations of any foreign country to which it is taken (it is not required, however, that goods be marked as duty-free);

(d) is permitted to unpack merchandise into saleable units after it is entered for warehouse and placed in a duty-free sales enterprise, without further permits;

(e) in the case of a shop located in an airport, is required to deliver the duty-free goods to the purchaser in an area in the airport to which access is restricted to persons leaving the customs territory, at the exit point of a specific departing flight, by placing the goods on the aircraft as baggage, or, if unable in good faith to make delivery by one of the specifically prescribed methods, by any other reasonable method; and

(f) in the case of a border store, required to deliver the goods at a merchandise storage location at or beyond the exit point or at any location approved by Customs before the enactment of this bill.

(3) If State or local regulation requires that a duty-free shop obtain a concession or other form of approval in order to do business in an airport, seaport or other exit facility, the operator must demonstrate to Customs that the approval has been obtained before any merchandise incident to the operation may be withdrawn from a bonded warehouse and transferred to or through the facility.

(4) No duty-free shop is prohibited from also selling non-duty-free goods, as long as those goods are not stored in a bonded warehouse facility other than a facility used for retail sales.

(5) Merchandise sold in a duty-free shop is ineligible for duty exemption under schedule 8 of the Tariff Schedules if it is brought back into the U.S. customs territory.

Conference agreement

The House recedes with the following three amendments:

(1) Amending 19 U.S.C. 1555(b)(3)(B) by deleting the word "guidelines" and inserting the word "regulations" in its stead.

(2) Amending 19 U.S.C. 1555(b)(3)(D) with a statement allowing the addition of a specific marking or identifier where a pattern of reimportation of duty-free merchandise without declarations is found.

This amendment creates a limited exception to the general prohibition on any requirement that duty-free stores mark their merchandise to indicate that it was sold in a duty-free store. It authorizes the Secretary, in particular circumstances, to require a duty-free store to apply an inconspicuous mark or distinguishing identifier on certain of its merchandise. Before imposing such a requirement, the Secretary must find that a pattern or practice exists involving the reimportation of duty-free merchandise without declar ation, occurring over a significant period of time. It is not intended that episodic or occasional instances would constitute a pattern or practice.

It is intended that the Secretary shall solicit the views of the operators who would be affected by any marking requirement in making the required determinations.

(3) Amending 19 U.S.C. 1555(b)(3)(F)(i)(IV) by deleting "delivery" and inserting "delivery for exportation" in its stead.

SECTION 1909. CARIBBEAN BASIN INITIATIVE

a. Sense of Congress/Findings (sec. 193(a) of House bill; sec. 953 of Senate amendment)

Present law

The Caribbean Economic Recovery Act, commonly known as the Caribbean Basin Initiative or CBI, was enacted on August 5, 1983, authorizing certain U.S. unilateral and preferential trade and tax measures for Caribbean Basin countries and territories.

House bill

The House bill sets forth a *Sense of the Congress* that the CBI should be preserved, that changes in U.S. laws should not unduly affect the CBI's unilateral duty-free system or discriminate against imports from CBI beneficiary countries; and that it is in the economic and security interests of the United States to maintain the commitment in the CBI.

Senate amendment

The Senate amendment sets forth findings regarding the economic and political importance of the Caribbean region to the U.S. and expresses concern that trade restrictions are undermining stability in the region. It expresses the *Intent of the Congress* to ensure a strengthening of the trade elements of the CBI and that trade law changes not unduly affect CBI's unilateral duty-free system or discriminate against CBI imports.

Conference agreement

The House recedes with an amendment deleting findings number 5 and number 6 in the Senate amendment.

b. Withdrawal of suspension of benefits (sec. 193(b) of House bill)

Present law

Section 212(e) of the CBI requires the President to withdraw or suspend the designation of any country as a beneficiary country if he determines as a result of changed circumstances such country would be barred from designation pursuant to the requirements in paragraph (b) of section 212.

House bill

The House bill amends section 212(e) to allow the President the option of withdrawing or suspending CBI benefits on individual articles in addition to complete withdrawal of beneficiary status if a country is found not to be fulfilling all of the requirements of section 212(b).

Senate amendment

No provision.

Conference agreement

The Senate recedes.

c. Extension of program (sec. 955 of Senate amendment)

Present law

Duty-free treatment under the CBI program was provided for a 12-year period and is scheduled to expire on September 30, 1995.

House bill

No provision.

Senate amendment

The Senate amendment extends the effective period for duty-free treatment under the CBI program to 12 years after the date of enactment of the "Omnibus Trade Act of 1987."

Conference agreement

The Senate recedes—Provision is deleted.

SECTION 1910. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE (sec. 898 of Senate amendment)

Present law

Under the Tax Reform Act of 1986, specific Caribbean feedstock requirements were established in order for ethyl alcohol to receive duty-free treatment under the CBI program or from U.S. insular possessions. Under a "grandfather clause" several companies were entitled to continue receiving duty-free treatment irrespective of the feedstock requirement for a limited period of time.

House bill

No provision.

Senate amendment

The Senate amendment amends two of the grandfather provisions to (1) allow installation of facilities in a U.S. insular possession as well as a CBI beneficiary country and (2) extend the effective period for one company from one year to two years.

Conference agreement

The House recedes with an amendment adding a grandfather provision for two Caribbean-owned facilities; extending the grandfather period for all 5 eligible companies until December 31, 1989 and limiting the total imports eligible for duty-free treatment under the grandfather provisions to 20 million gallons per facility per calendar year. Further, the U.S. International Trade Commission and the General Accounting Office are directed to conduct comprehensive studies on the economics of ethanol production in the region and its potential impact on United States producers of ethanol, including a recommendation of appropriate and feasible domestic feedstock requirements to insure meaningful production and employment in the region and to discourage "pass-through operations."

In agreeing to temporary volume limitations on the duty-free entry of dehydrated ethanol from the Caribbean, the Conferees do not intend to establish any precedent for the restriction of Virgin Islands products into the United States under General Headnote 3(a) of the Tariff Schedule of the United States. The Conferees recognize that products of the Virgin Islands historically have been accorded unlimited access to the U.S. market under General Headnote 3(a) and reaffirm that, as an unincorporated territory of the United States, the Virgin Islands merits special consideration in the formulation of U.S. trade policy.

SECTION 1911. ENFORCEMENT OF RESTRICTIONS ON IMPORTS FROM CUBA (sec. 199 of House bill)

Present law

Imports from Cuba into the United States are prohibited.

House bill

The House bill requires the U.S. Trade Representative to request all relevant agencies to prepare appropriate recommendations for improving the enforcement of restrictions on Cuban imports.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

CUSTOMS PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

CUSTOMS USER FEES (sec. 924 of Senate amendment)

Present law

The Budget Reconciliation Act of 1986 requires that fees be placed in a dedicated account for expenditures for commercial operations of the Customs Service. Articles entering under TSUS item numbers 806.30 and 807.00 of the Tariff Schedules are not subject to payment of fees.

House bill

No provision.

Senate amendment

The Senate amendment makes the following amendments:

(1) Clarifies the language regarding the customs user fees by legislating that fees are to be treated as receipts offsetting expenditures of salaries and expenses for commercial operations and not as revenues.

(2) Prohibits the charging of fees for customs services provided in connection with the arrival or processing of any merchandise used within the boundaries of the International Peace Garden located between North Dakota and Manitoba, Canada.

(3) Makes subject to the merchandise user fee the portion of the value of any article described in TSUS items 806.30 and 807.00 of the Tariff Schedules that is subject to the imposition of duty.

The effective date of these amendments is October 1, 1988, with the exception of the Peace Garden provision (September 30, 1987).

Conference agreement

The Senate recedes - Provision is deleted.

CUSTOMS FORFEITURE FUND (sec. 874 of House bill)

Present law

In Public Law 98-573 a "Customs Forfeiture Fund" was established into which net proceeds from forfeitures would be deposited to be available to Customs, subject to appropriation, to pay designated expenses associated with seizure and forfeiture. This fund was inadvertently repealed by section 1152(b) of Public Law 99-570.

House bill

The House bill repeals section 1152(b) of Public Law 99-570 to clarify that the Customs Forfeiture Fund still exists.

Senate amendment

No provision.

Conference agreement

The House recedes, since this issue was corrected in the Supplemental Appropriation Act of 1987 (Public Law 100-71). However, the conferees agreed to make a technical correction to Public Law 98-573 to clarify that proceeds of forfeiture could be deposited into the Fund.

CUSTOMS FRAUD PROVISIONS

(a) SCOFFLAW PENALTIES FOR MULTIPLE CUSTOMS LAW OFFENDERS (sec. 872 of House bill)

Present law

The penalties applicable to persons who violate customs laws in importing merchandise are determined without regard to whether the party has previously been found in violation of such laws.

House bill

The House bill directs the Secretary of the Treasury to issue an order prohibiting for a 3-year period, any person, who over a

7-year period has either been convicted of, or assessed a civil penalty for, three separate violations of one or more customs laws finally determined to involve fraud or criminal culpability, from importing or engaging others to import any goods or services into the United States. Anyone who violates or knowingly aids or abets the violation of such an exclusion order shall be fined not more than $250,000 or imprisoned not more than 10 years, or both. The Secretary is required to prescribe rules to carry out this section.

Senate amendment

No provision.

Conference agreement

The House recedes—Provision is deleted.

CUSTOMS FRAUD PROVISIONS

(b) PRIVATE ACTIONS FOR CUSTOMS FRAUD (sec. 939 of Senate amendment)

Present law

Section 592 of the Tariff Act of 1930 sets forth penalties for violations of customs laws. No private right of action exists, however.

House bill

No provision.

Senate amendment

The Senate amendment creates a private right of action in the Court of International Trade for interested parties (manufacturers, producers, wholesalers, or trade or business associations of a like or competitive product) whose business or property is injured by any act of fraud or gross negligence that is prohibited under section 592(a). If successful, that party may recover damages for injuries sustained, including gross margin on his lost sales and impact on the market price from the fraudulent act as well as court costs, including attorney's fees. For fraud cases, the burden of proof is "clear and convincing evidence; for gross negligence cases, "preponderance of the evidence."

Conference agreement

The Senate recedes—Provision is deleted.

PART 2—MISCELLANEOUS TRADE PROVISIONS

SECTION 1931. TRADE STATISTICS (sec. 956 of Senate amendment)

Present law

Title 13 U.S.C. requires monthly reporting of U.S. merchandise trade statistics. Under section 301 of Title 13, the U.S. merchandise trade balance must be reported on the basis of the c.i.f. value of imports and the f.a.s. value of exports. Such balance must be released at least 48 hours before any trade balance based on any other statistics is released.

House bill

No provision.

Senate amendment

The Senate amendment eliminates the 48-hour release requirement for the trade balance based on the c.i.f. value of imports and the f.a.s. value of exports.

It also requires a Census Bureau study on the feasibility of developing and publishing an index to measure and report the real volume of U.S. merchandise trade on a monthly basis. A report on the study must be submitted to the Ways and Means and Finance Committees within one year after enactment.

Conference agreement

The House recedes.

SECTION 1932. ADJUSTMENT OF TRADE STATISTICS (sec. 978 of Senate amendment)

Present law

Title 13 U.S.C. requires monthly reporting of U.S. merchandise trade statistics.

House bill

No provision.

Senate amendment

The Senate amendment requires that the monthly and cumulative reports on the U.S. merchandise trade balance be reported on a constant dollar basis (i.e., adjusted for inflation or deflation), as well as on a current dollar basis.

Conference agreement

The House recedes.

SECTION 1933. COAL EXPORTS TO JAPAN (sec. 196 of House bill; sec. 981 of Senate amendment)

Present law

No provision.

House bill

The House bill expresses the sense of Congress that (1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, with respect to U.S. coal exports to Japan have not been achieved; (2) the President should direct the USTR to negotiate an agreement under which Japan would import U.S. coal on a market share basis equivalent to Japan's market share of steel products exported to the United States; (3) the President should encourage increased Japanese purchases of U.S. steam coal; and (4) the President should report to Congress on the results of negotiations.

Senate amendment

The Senate amendment is similar to the House bill, except it provides that the President should direct that, in negotiating a steel trade arrangement with Japan, the USTR and Secretary of Commerce shall take into account the amount of coal that Japan purchases from the United States in determining the level of steel products that can be imported into the United States.

Conference agreement

The House recedes, with an amendment striking the reference to the Secretary of Commerce.

SECTION 1934. JAPANESE PURCHASES OF U.S. AUTO PARTS—SENSE OF CONGRESS (sec. 198 of House bill; sec. 948 of Senate amendment)

Present law

No provision.

House bill

The House bill expresses the sense of Congress that Congress strongly supports U.S. negotiators' efforts to expand opportunities for U.S. producers to supply auto parts for Japanese autos, wherever produced, and determines that success of the MOSS talks on auto parts will be measured by a significant increase in U.S. auto parts sales and the initiation of long-term relationships between U.S. and Japanese companies. It requires USTR and the Secretary of Commerce to report to Congress at the conclusion of the MOSS talks on the outcome of the talks and on any agreements reached with Japan.

Senate amendment

The Senate amendment is the same as the House bill, except that it refers to MOSS "negotiations," rather than talks.

Conference Agreement

The Senate recedes.

SECTION 1935. EFFECT OF IMPORTS ON CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE U.S. (sec. 909 of House bill)

Present law

No provision.

House bill

The House bill requires the Secretary of Energy to refer a recently completed study on the effects of oil imports on the national security of the United States to the Secretary of Commerce for review. Within 180 days of receipt, the Secretary of Commerce, based on the study, is required to recommend to Congress and the President appropriate actions to address any impacts of petroleum imports on U.S. petroleum exploration, production, and refining capacity.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

SECTION 1936. AUTO TRADE BARRIERS (sec. 961 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the USTR to investigate and report to Congress on auto-producing countries' barriers to auto imports and the impact of such barriers, both in the presence and absence of the U.S.-Japan voluntary restraint agreements, on diverting auto imports into the U.S. market.

Conference agreement

The Senate recedes, with a requirement that a one-time study on auto trade barriers be conducted and included in the annual report on foreign trade barriers submitted to Congress under section 181 of the Trade Act of 1974.

SECTION 1937. LAMB IMPORTS (sec. 951 of Senate amendment)

Present law

No provision. The Meat Import Act of 1979 provides for import quotas on total imports of beef, veal, mutton, and goat in accordance with a specified countercyclical formula.

House bill

No provision.

Senate amendment

The Senate amendment authorizes a new program of import quotas on a calendar year basis on imports of fresh, chilled, or frozen lamb meat.

The annual quota level is established by multiplying the base quantity of 24,540,000 pounds by (1) the average annual domestic commercial production of lamb during the most recent 3 years (including the current year) divided by the average annual domestic commercial production of lamb during the six-year period 1981-86; and then by (2) the average annual per capita domestic production of lamb during the most recent 5 years (including the current year) divided by the average annual per capita production of lamb during the most recent 2 years (including the current year).

The Secretary of Agriculture must estimate and publish, on a quarterly basis, (1) the annual adjusted quota, and (2) the estimated expected supply of lamb imports for that calendar year absent any restriction. If the expected annual supply of imports equals 110 percent or more of the annual adjusted quota, quotas are triggered and the President must, by proclamation, limit imports of lamb for that calendar year to the amount of the annual adjusted quota. At no time, however, may the import quota be set at a level less than 28,500,000 pounds.

The President is authorized, subject to certain limitations, to suspend any proclamation made, or increase the total quantity of imports permitted, if the President determines any of the following:

(1) such action is required by overriding economic or national security interests, giving special weight to the importance of the economic well-being of the domestic lamb industry;

(2) the supply of lamb will be inadequate to meet domestic demand at reasonable prices; or

(3) trade agreements entered into after date of enactment ensure that the policy set forth in this section will be carried out.

Conference agreement

The Senate recedes with a substitute amendment that requires the ITC to monitor imports of lamb meat for 2 years beginning 15 days after date of enactment, and authorizes provisional relief in accordance with section 202 of the Trade Act (as amended by this Act) if a petition for import relief is filed and the ITC has monitored lamb imports for at least 90 days pursuant to this section. For purposes of any request for provisional relief under section 202(d) made during the 2-year period referred to in this section, the conferees intend that lamb meat shall be considered a perishable agricultural product. The ITC must, however, make an affirmative determination under section 202(d)(1)(C) before any provisional relief may be provided.

PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

1. REALLOCATION OF GSP BENEFITS TO DEBTOR NATIONS (sec. 192(b) of House bill)

Present law

The President may waive the "competitive need" dollar and percentage limits on duty-free treatment under the Generalized System of Preferences (GSP) on imports of individual eligible articles from particular beneficiary developing countries, by an amount not to exceed 30 percent of total GSP benefits granted in the preceding year, of which not more than one-half may be waived for more advanced developing countries.

Any waiver must be based on a Presidential national economic interest determination, with great weight given to the extent the country will provide equitable and reasonable market access to U.S. products and adequate protection and enforcement of intellectual property rights. The U.S. International Trade Commission must provide advice on whether any U.S. industry is likely to be adversely affected by a waiver.

House bill

The House bill requires the President to waive "competitive need" limits on any eligible article from any GSP beneficiary country debtor nation that qualifies for waiver under the present law criteria, has difficulty servicing its foreign debt, and has at least 20 percent of its debt held by any combination of U.S. banks, the International Monetary Fund, and World Bank. The aggregate waiver amount for such nations cannot exceed the total value of new competitive need exclusions in the preceding year and would count against the total available waiver "pool" under present law.

In deciding which countries, if any, and articles will receive waiver allocations, great weight must be given to (1) the amount of debt of each country relative to its gross national product, (2) the estimated percentage of export earnings each country would be required to devote to servicing its existing debt, (3) each country's trade surplus with the U.S. relative to its outstanding debt, and (4) the extent each country is undertaking good faith efforts to meet its debt obligations.

Senate amendment

No provision.

Conference agreement

The House recedes.

2. USE OF U.S. VESSELS TO TRANSPORT IMPORTED AUTOS (sec. 197 of House bill; sec. 954 of Senate amendment)

Present law

There is no provision dealing specifically with ocean transportation of automobiles. However, the Merchant Marine Act of 1920 and the Shipping Act of 1984 give the Federal Maritime Commission broad authority to remedy acts by foreign governments or private entities that adversely affect U.S. shipping.

House bill

The House bill requires the President to take appropriate and feasible steps within his power to negotiate trade agreements with each country exporting more than 50,000 autos per year to the United States that will eliminate unfair, restrictive, or discriminatory practices in the marine transportation of such autos. The President must report semiannually to Congress on progress made in negotiations.

Senate amendment

The Senate amendment is identical to the House bill.

Conference agreement

The conferees agreed to strike the House and Senate provisions, due to assurances from the Administration that the Federal Maritime Commission already has adequate authority under section 19 of the Merchant Marine Act of 1920 (46 U.S.C. 876) and section 2 of The Shipping Act of 1984 (46 U.S.C. 802) to eliminate unfair trade practices against U.S. flag vessels operated by U.S. companies.

3. WIRE FENCE PANELS (sec. 945 of Senate amendment)

Present law

The Steel Import Stabilization Act, Title VIII of the Trade and Tariff Act of 1984, grants the President authority to enforce the terms of bilateral arrangement limiting the export of steel products to the United States.

House bill

No provision.

Senate amendment

The Senate amendment requires the USTR to request that the bilateral arrangements on steel exports to the United States include restraints on exports of welded steel wire fence panels, wire fabric, and welded steel wire mesh for concrete reinforcement. The provision removes authority to agree to any request for technical adjustments or modifications of bilateral agreements and, if appropriate, requires entry-by-entry certification of compliance with an agreement if a country covered by an existing agreement refuses to expand the coverage of such agreement to include these items.

Conference agreement

The Senate recedes.

4. U.S. TRADE RESTRICTIONS ON PRODUCTS FROM SUB-SAHARAN AFRICA (sec. 952 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the GAO to conduct a study to determine the restrictions which affect the importation into the U.S. of products of developing countries in sub-Saharan Africa. To the maximum extent possible, the study shall identify principal U.S. imports from sub-Saharan Africa; identify U.S. restrictions on those imports; assess the economic loss to sub-Saharan Africa caused by these restrictions; and survey the impact of actions by European and other countries to reduce trade barriers with sub-Saharan Africa. GAO is to report to the Congress by June 1, 1988, and include such recommendations for administrative or legislative action as appropriate.

Conference agreement

The Senate recedes.

5. DENIAL OF TRADE BENEFITS TO COUNTRIES SUPPORTING ACTS OF TERRORISM (sec. 957 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides that the Secretary of State shall identify each foreign country that repeatedly provides support for acts of international terrorism. The identification is to be published in the *Federal Register*. If the Secretary of State determines that an identified foreign country has ceased to provide support for acts of terrorism, he shall also publish such determination. By no later than February 15, 1988, and the same date in each subsequent year, the Secretary shall submit to the Congress the list of identified countries.

If a foreign country has been identified, the President is required to terminate, withdraw, or suspend any portion of any trade agreement or treaty providing nondiscriminatory most-favored-nation (MFN) status to that country. Each such country will be denied MFN status and will not be entitled to GSP and CBI benefits.

The President may waive any or all of the requirements of this provision if he determines waiver is in the best interest of the United States, and must submit to the Congress written notice of any waiver. A waiver may take effect only after the 30-day period (excluding days either House is not in session and Saturdays and Sundays) beginning on the date the President gives notice to the Congress. The President may revoke a waiver at any time.

Conference agreement

The Senate recedes.

6. TRADE WITH AFGHANISTAN (sec. 958 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment authorizes the President to prohibit the importation of all products of Afghanistan and the exportation of any goods or technology to Afghanistan after the date of enactment. The prohibition applies to articles produced in Afghanistan and exported by the Democratic Republic of Afghanistan (DRA) that is sponsored by the Union of Soviet Socialist Republics or any political party, faction, or regime in Afghanistan sponsored by the USSR, and to exports for the benefit of, or use by, the DRA or any Soviet-sponsored party, faction or regime. It is not intended to authorize the President to prohibit trade with Afghan forces or factions for which the Congress has expressed support.

If the President does not act to prohibit trade with Afghanistan before the 45th day after enactment, he must report to the Congress by that date his reasons for not taking action.

Conference agreement

The Senate recedes.

7. SUSPENSION OF NONDISCRIMINATORY TREATMENT FOR ANGOLAN PRODUCTS (sec. 960 of Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment suspends most-favored-nation (MFN) and GSP treatment for Angola for the 6-month period beginning on the date of enactment. Such treatment may be renewed during any "rights review period" (defined as the initial 6-month period after enactment and each successive 180-day period thereafter), only if the President submits to the Congress, no later than 30 days before the end of the preceding review period, a determination that Angola has met five specified conditions relating, among other things, to human rights observance and the pullout of foreign communist troops. In addition, the provisions of Title IV of the Trade Act of 1974 (the "Jackson-Vanik Amendment") are to be inapplicable to Angola.

Conference agreement

The Senate recedes.

8. CANADIAN IMPORT TRIBUNAL DECISION AFFECTING UNITED STATES CORN EXPORTS TO CANADA (sec. 691 of House bill)

Present law

No comparable provision.

House bill

The House bill contains a Sense of Congress provision which includes several findings concerning U.S.-Canada corn trade and urges the USTR to immediately initiate an investigation under section 302(c) of the Trade Act of 1974 to determine whether the Canadian Import Tribunal determination under the Canadian countervailing duty law with respect to U.S. exports of corn is inconsistent with the obligations of Canada under the GATT. If the USTR determines that the Canadian decision was inconsistent with GATT obligations, the USTR should make recommendations to the President regarding appropriate action.

Senate amendment

No comparable provision.

Conference agreement

The House recedes.

9. FOREIGN IMPORT RESTRICTIONS ON U.S. CITRUS FRUITS AND BEEF PRODUCTS (sec. 692 of House bill)

Present law

No comparable provision.

House bill

The House bill contains a Sense of Congress provision which sets forth findings that certain U.S. trading partners are engaging in practices that tend to unreasonably burden U.S. exports of citrus fruits and beef products. If a country is found to engage in acts or practices that deny access to the market by U.S. citrus and beef exports and such acts are in contravention with the country's GATT obligations, the President is urged to take steps that result in the exclusion of like or other imports from such country until the country eliminates such acts or practices.

Senate amendment

No provision.

Conference agreement

The House recedes.

10. ENTRY PROCESSING FOR TEXTILES AND APPAREL (sec. 704 of House bill)

Present law

No provision.

House bill

The House bill requires the Secretary of Commerce within 90 days of the date of enactment to institute procedures to expedite the interagency process for recommending and approving calls for consultations on textile improvement quotas.

Senate amendment

No provision.

Conference agreement

The House recedes.

PART 3—OTHER PROVISIONS

SECTION 1941. WINDFALL PROFIT TAX REPEAL (sec. 980 of Senate amendment)

Present law

An excise tax is imposed on certain domestic oil. The tax is imposed on the excess of the sales price for the oil over the sum of the base price for that oil plus an adjustment for state severance taxes. The tax is limited to 90 percent of the net income from the well.

The base price for oil produced from any property is based on several factors, including the date commercial production began, the type of oil, the type of producer, and the type of property. The base price is adjusted annually for inflation. The rate of the tax similarly varies based on several factors; the rate ranges from as high as 70 percent for certain oil produced by integrated producers, to 22.5 percent for certain newly discovered oil. Oil produced by independent producers from stripper wells is exempt from the tax.

The windfall profit tax is scheduled to phase out over a 33-month period, beginning after December 31, 1987 if the cumulative revenues raised by the tax reach $227.3 billion, but in any event beginning no later than January 1991. As of September 1986, $79 billion of windfall profit tax had been collected.

House bill

No provision.

Senate amendment

The Senate amendment repeals the excise tax for crude oil removed from the premises beginning on the date of enactment.

Conference agreement

The House recedes.

STUDY OF SOURCE RULES FOR SALES OF INVENTORY (sec. 962 of Senate amendment)

Present law

Section 1211(d) of the Tax Reform Act of 1986 directed the Secretary of the Treasury to conduct a study of the foreign tax credit source rules for sales of inventory property. The study is required to be completed by September 30, 1987.

House bill

No provision.

Senate amendment

The Senate amendment directs the Treasury to conduct the study in consultation with the Commerce Department and the USTR and extends the deadline for submission of the study by one year.

Conference agreement

The Senate recedes.

TITLE II—EXPORT ENHANCEMENT

SUBTITLE A—TRADE AND FOREIGN POLICY

EUROPEAN COMMUNITY: FATS AND OILS TARIFF

(Sec. 321 of the House bill)

Present law

Present law contains no such provision.

House bill

Section 321 of the House bill expresses the sense of the Congress opposing the European Community tariff on imported fats and oils, and supporting retaliation should this tariff be implemented.

Senate amendment

The Senate amendment contained no provision.

Conference agreement

The conference agreement deletes the provision.

RELATIONS WITH MEXICO

(Sec. 363 of the House bill; Sec. 997 of Senate amendment; Sec. 2111 of Conference Agreement)

Present law

Present law contains no such provision.

House bill

Section 363 of the House bill creates a U.S.-Mexico Interagency Commission to serve as a formal mechanism for conducting U.S.-Mexican economic relations, and calls for a summit between the United States and Mexico on economic and trade relations. Section 907 of the House bill requires the Department of Commerce to submit a report to Congress on bilateral trade issues between the U.S. and Mexico.

Senate amendment

Section 977 of the Senate amendment expresses the sense of the Congress that U.S. and Mexico should adopt a trade and investment agreement.

Conference agreement

The conference agreement urges the President to use the recently signed Bilateral Framework Agreement on Trade and Investment to continue to pursue consultations with the Government of Mexico.

MONITORING TECHNOLOGY TRANSFER

(Sec. 412 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Section 412 of the Senate amendment requires the National Trade Estimates (NTE) to include a new annual report, prepared by the United States Trade Representative (USTR) in conjunction with the National Science Foundation (NSF), on the transfer of technology between the United States and foreign countries, and requires the USTR, in conjunction with the NSF, to continually monitor the transfer of technology between the United States and foreign countries.

Conference agreement

The conference agreement deletes the provision.

MONITORING INTELLECTUAL PROPERTY PROTECTION

(Sec. 413 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Section 413 of the Senate amendment directs the Secretary of Commerce to designate a Foreign Commercial Service Officer in a foreign country to monitor and report on the status of the intellectual property system in such country, including the maintenance of files on intellectual property protection afforded on a sector-by-sector basis by country, the filing of an annual report with the Secretary of Commerce on changes to such laws in each sector, and upon request, informing potential U.S. exporters and foreign direct investors of protection afforded intellectual property rights in such country.

Conference agreement

The conference agreement incorporates the provision in Section 2301 relating to the establishment and purpose of the United States and Foreign Commercial Service.

FOREIGN AID FOR INTELLECTUAL PROPERTY PROTECTION

(Sec. 414 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Section 414 of the Senate amendment amends the Foreign Assistance Act to authorize the President, after consultation with the Secretary of Commerce, to furnish assistance for programs to aid less developed countries in developing and implementing adequate intellectual property laws.

Conference agreement

The conference agreement deletes the provision.

UNITED STATES INTELLECTUAL PROPERTY INSTITUTE

(Sec. 415 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Section 415 of the Senate amendment directs the Secretary of Commerce to establish the U.S. Intelligence Property Training Institute, which would be funded exclusively from the private sector and whose purpose is to train individuals from developing countries in management and technical skills regarding the protection of intellectual property.

Conference agreement

The conference agreement deletes the provision.

IRAN SANCTIONS

(Sections 963-966 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Sections 963-966 contain congressional findings concerning the Iran-Iraq War and prohibit imports from and exports to Iran or any other country in the Persian Gulf region if it launches an attack in the Strait of Hormuz using Silkworm missiles or attacks any United States vessels, facilities or persons in the Persian Gulf area.

Conference agreement

The conference agreement deletes the provisions.

SILKWORM MISSILES

(Sec. 967 of the Senate amendment; Sec. 2112 of the Conference Agreement)

Present law

Present law contains no such provision

House bill

The House bill contains no provision.

Senate amendment

Section 967 of the Senate amendment expresses the sense of the Congress that other nations should cease transfers of offensive weapons to belligerents in the Persian Gulf.

Conference agreement

The conference agreement is identical to the Senate provision.

FAIR TRADE IN AUTO PARTS

(Sections 968-972 of the Senate amendment; Sections 2121-25 of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Sections 968-972 of the Senate amendment direct the Secretary of Commerce to establish an auto parts and accessories sales intiative to Japan.

Conference agreement

The conference agreement is identical to the Senate provision.

SUBTITLE B—EXPORT ENHANCEMENT

COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN

(Sec. 316 of the House bill; Sec. 1802 of the Senate amendment; Sec. 2201 of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

Section 316 of the House bill directs the American Institute of Taiwan to employ personnel performing commercial service duties in a number commensurate with those Commercial Service personnel permanently assigned to the U.S. mission in Seoul.

Senate amendment

Section 1802 of the Senate amendment is nearly identical to the House provision.

Conference agreement

The conference agreement is identical to the Senate provision.

COUNTRY REPORTS ON ECONOMIC POLICIES AND TRADE PRACTICES

(Sec. 323 of the House bill; Sec. 2202 of the Conference Agreement)

Present law

Under present law and practice this information is contained in four separate reports.

House bill

Section 323 of the House bill requires the Secretary of State to prepare and submit an annual report on economic policies and trade practices of U.S. trade partners to the appropriate committees of Congress.

Senate amendment

The Senate contains no similar provision.

Conference agreement

The conference agreement is identical to the House provision.

TRADE LIBERALIZATION IN DEVELOPING COUNTRIES

(Sec. 342 of the House bill; Sec. 1803 of the Senate amendment)

Present law

Present law does not contain such a provision.

House bill

Section 342 of the House bill expresses the sense of the Congress that U.S. foreign assistance should support long-term trade liberalization in developing countries.

Senate amendment

Section 1803 of the Senate amendment is identical to the House bill.

Conference agreement

The conference agreement deletes the provision.

OVERSEAS PRIVATE INVESTMENT CORPORATION

(Sec. 343 of the House bill; Sec. 2003 of the Senate amendment; Sec. 2203 of the Conference Agreement)

Present law

Present law sets forth ceilings on OPIC program expenditures, but does not establish any minimum expenditure requirements. The Office of Management and Budget has set lower ceilings on OPIC program expenditures and administratively reduced OPIC budget and staff.

House bill

Section 343 of the House bill increases the Overseas Private Investment Corporation's overall loan guarantee program, its yearly loan guarantee program, and its direct investment program, and sets minimum levels for the budget and staff of OPIC.

Senate amendment

Section 2003 of the Senate amendment requires a detailed justification for worker rights determinations on OPIC projects in the People's Republic of China.

Conference agreement

The conference agreement increases the overall and annual minimum funding for OPIC's loan guaranty program (from $750 million to $1 billion and from $150 million to $200 million, respectively) and for its direct investment program from $15 million to $25 million, and requires a detailed justification for worker rights determinations on OPIC projects in the PRC.

TRADE AND DEVELOPMENT PROGRAM AND MIXED CREDITS

(Sec. 334 of the House bill; Sections 1804-05 of the Senate amendment; Sec. 2004 of the Conference Agreement)

Present law

TDP was established as an independent agency by Executive Order; its FY 1988 appropriation is $25 million. The 1983 Trade and Development Enhancement Act created a tied aid program within the Agency for International Development.

House bill

Section 344 of the House bill codifies the status of the Trade and Development Program (TDP) as an independent agency and authorizes to be appropriated a minimum of $30 million in fiscal year 1988 and $31 million in fiscal year 1989 for TDP. In addition, this section transfers to TDP the authority to administer the tied aid credits program under the Trade and Development Enhancement Act; authorizes the TDP Director, with the concurrence of the Department of State and the Agency for International Development, to use Economic Support Fund assistance for tied aid credits; and substitutes a simple majority vote for the present unanimous consent approval process for National Advisory Council (NAC) decisions on tied aid credit cases.

Senate amendment

Sections 1804-05 of the Senate amendment are similar to the House bill, except that the Senate amendment also creates an advisory board for TDP, to include representatives of the Small Business Service Bureau, the American Consulting Engineers and the International Engineering and Construction Industries Council; authorizes $50 million for TDP for FY 1988, of which $25 million is available only for education and training activities in the People's Republic of China, and specifies that not less than 50% of the additional $25 million for FY 1988 shall be available only for education and training activities administered in the U.S. by small business firms. The Senate amendment substitutes a simple majority vote for unanimous consent in the NAC approval process for tied aid credits not involving the Export-Import Bank.

Conference agreement

The conference agreement combines the House and Senate provisions to codify TDP's status as an independent agency within the International Development Cooperation Agency; authorizes in FY 1988 and 1989, not less than $5 million and not more than $10 million in addition to funds otherwise available to TDP for its activities and provides that one-half of this funding come from the Private Enterprise Revolving Fund set-up under Sec. 108 of the Foreign Assistance Act, and that one-half come from Economic Support Funds; establishes an advisory board for TDP, including representatives from the Small Business Service Bureau, the American Consulting Engineers and the International Engineering and Construction Industries Council; transfers to TDP the authority to administer the foreign assistance portion of the tied aid credits program under the Trade and Development Enhancement Act; authorizes the TDP Director, with the concurrence of the Secretary of State, acting in cooperation with the Administrator of AID to use ESF funds to finance tied aid credit activities; authorizes in addition to other funds available to TDP $10 million in each of fiscal years 1988 and 1989 for education and training programs, with particular emphasis on nationals from the PRC and Taiwan, and directs that 50% of the $10 million be available only for education and training programs administered by small business in the U.S.

In agreeing to delete from the House and Senate provisions the elimination of the requirement of National Advisory Council unanimous consent for tied aid credits, the conferees nevertheless express strong concern over the practice of some participating NAC departments and agencies in withholding consent in important tied aid credit cases. Such positions thwart the intent of the Congress in establishing the tied aid credits program, and undermine United States exporters seeking to compete against increasingly predatory tied aid credits overseas.

COUNTERTRADE AND BARTER

(Sec. 345 and Sec. 912 of the House bill; Sec. 4501 of the Senate amendment; Sec. 2205 of the Conference Agreement)

Present law

Section 309 of the Defense Production Act presently requires an annual report on the impact of defense-related offsets on U.S. exports; an interagency group meets infrequently on offset issues.

House bill

Section 345 of the House bill establishes an interagency group on countertrade, to be chaired by the Secretary of Commerce, to review U.S. policy on countertrade, to monitor foreign countertrade activities, and to make information on countertrade opportunities available to U.S. exporters.

Section 912 of the House bill requires that U.S. exporters report to the Department of Commerce each contract valued at over $2 million for a sale to a foreign person which, pursuant to the authority of the foreign government involved, requires countertrade or offsets as a condition for sale, and sets forth penalties for failure to report such information.

Senate amendment

Section 4501 of the Senate amendment establishes an office within the Department of Commerce to monitor foreign countertrade activities, and to disseminate information on barter and countertrade opportunities.

Conference agreement

The conference agreement establishes an interagency group on countertrade and offsets and establishes within the Commerce Department's International Trade Administration an office of barter.

FOREIGN AID PROCUREMENT

(Sec. 346 of the House bill)

Current law

The Foreign Assistance Act presently restricts Foreign Aid procurement of construction and engineering services from certain countries.

House bill

Section 346 of the House bill prohibits the procurement with foreign assistance funds of any goods and services from OECD nations or newly industrialized countries (NICs), unless U.S. goods and services are not competitive in the markets where such goods and services will be used.

Senate amendment

The Senate amendment contains no such provision.

Conference agreement

The conference agreement deletes the provision.

PROTECTION OF U.S. INTELLECTUAL PROPERTY

(Sec. 351 of the House bill; Sec. 1806 of the Senate amendment; Sec. 2206 of the Conference Agreement)

Present law

No such provision is contained in present law.

House bill

Section 351 of the House bill expresses the sense of the Congress that the Secretary of State, the United States Trade Representative, and U.S. Ambassadors should discuss intellectual property protection with relevant foreign entities; that the U.S. should seek to strengthen protection of U.S. intellectual property overseas; and that the Agency for International Development should provide technical assistance in intellectual property protection.

Senate amendment

Section 1806 of the Senate amendment is similar to the House provision.

Conference agreement

The conference agreement is identical to the House provision.

REGISTRATION FEES FOR MUNITIONS CONTROLS

(Sec. 1807 of the Senate amendment)

Current law

A comparable provision was included in the FY 1988-89 Foreign Relations Authorization Act, which became P.L. 100-204 on December 22, 1987.

House bill

The House bill does not contain such a provision.

Senate amendment

Section 1807 of the Senate amendment amends the Arms Export Control Act to require that $100,000 of munitions licensing fees be credited to a Department of State account in each fiscal year to help automate munitions control licensing.

Conference agreement

The conference agreement deletes the Senate provision.

PROHIBITION ON FUNDING FOR FOREIGN AGRICULTURAL PRODUCTION

(Sec. 1808 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contained no such provision.

Senate amendment

Section 1808 of the Senate amendment prohibits the use of foreign assistance for agricultural projects overseas which produce commodities that might compete with U.S. agricultural exports.

Conference agreement

The conference agreement deletes the provision.

REPORT ON INTERNATIONAL WORKERS RIGHTS

(Sec. 2002 of the Senate amendment; Section 2207 of the Conference Agreement)

Present law

Section 505(c) of the Trade Act of 1974 requires an annual report to Congress on the status of internationally-recognized worker rights in each country receiving GSP benefits. The report is included in the annual State Department Country Report on Human Rights Practices.

House bill

The House bill contained no provision.

Senate amendment

Section 2002 of the Senate amendment requires the Secretary of State to report to Congress within six months of the date of enactment on the results of a study on ways to improve and provide more detailed reporting on workers rights.

Conference agreement

The conference agreement is identical to the Senate provision.

MONITORING REEXPORTS

(Sec. 2004 of the Senate amendment)

Present law

No such provision is contained in present law.

House bill

The House bill contained no provision.

Senate amendment

Section 2004 of the Senate amendment expresses the sense of the Congress that the Secretary of State in cooperation with the Secretaries of Commerce and Defense, should review and report to Congress on the adequacy of current practices and procedures for monitoring and enforcing reexport controls on the use of U.S.-origin military and dual-use technology.

Conference agreement

The conference agreement deletes the provision.

JAPANESE IMPORTS FROM DEVELOPING COUNTRIES

(Sec. 2005 of the Senate amendment; Sec. 2208 of the Conference Agreement)

Present law

Present law does not contain such a provision.

House bill

The House bill contained no provision.

Senate amendment

Section 2005 expresses the sense of the Congress that Japan should import more manufactured goods from developing countries.

Conference agreement

The conference agreement is identical to the Senate provision.

JAPAN AND ARAB BOYCOTT OF ISRAEL

(Sec. 2006 of the Senate amendment; Sec. 2209 of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Section 2006 expresses the sense of the Congress that Japan should expand trade with Israel and that Japanese firms should end compliance with the Arab boycott of Israel.

Conference agreement

The conference agreement is identical to the Senate provision.

NEGOTIATION OF AN INTERNATIONAL AGRICULTURAL RESERVE AGREEMENT

(Sec. 2007 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

The House bill contained no provision.

Senate amendment

Section 2007 expresses the sense of Congress that the President should negotiate the establishment of an international agricultural conservation reserve to reduce world grain surpluses.

Conference agreement

The conference agreement deletes the provision.

FACILITATION OF JEWELRY EXPORTS

(Sec. 2009 of the Senate amendment; Sec. 2210 of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

The House bill contained no provision.

Senate amendment

Section 2009 expresses the sense of the Congress that the United States should join the Convention on the Control and Marking of Precious Metal Articles in order to open foreign markets to U.S. jewelry exports.

Conference agreement

The conference agreement is identical to the Senate provision.

PRIVATE SECTOR RESOLVING FUND LOAN GUARANTEE

(Sec. 2010 of the Senate amendment; Sec. 2211 of the Conference Agreement)

Present law

Section 108 of the Foreign Assistance Act prohibits the Resolving Fund from guaranteeing loans, and sets a $3 million cap on the amount the revolving fund may contribute to any one project.

House bill

The House bill contained no provision.

Senate amendment

Section 2010 of the Senate amendment authorizes AID's Private Enterprise Revolving Fund to guarantee loans up to 50 percent of the project or $5 million, whichever is less.

Conference agreement

The conference agreement is similar to the Senate provision, but it maintains the present statutory ceiling of $3 million on PRE projects.

REFLAGGING KUWAITI VESSELS

(Sec. 2011 of the Senate amendment)

Present law

House Joint Resolution 216, expressing support for a ceasefire in the Iran-Iraq War and a negotiated solution to the conflict, became P.L. 100-96 on August 18, 1987.

House bill

The House bill contained no provision.

Senate amendment

Section 2011 of the Senate amendment expresses the sense of the Senate that the President should pursue alternatives to reflagging Kuwaiti tankers in the Persian Gulf.

Conference agreement

The conference agreement deletes the provision.

ASSISTANCE TO POLAND

(Sections 4701-11 of the Senate amendment; Sections 2221-27 of the Conference Agreement)

Present law

No comparable provision is contained in the present law.

House bill

The House bill contained no provision.

Senate amendment

Sections 4701-11 of the Senate amendment contain congressional findings and policy on U.S. assistance to Poland; authorize to be appropriated $1 million for U.S.-Polish science and technology agreements; and earmark $10 million in Economic Support Fund assistance for agricultural activities in Poland, $2 million for medical supplies, and $1 million for support of Solidarity.

Conference agreement

The conference substitute drops all Congressional findings and statements of U.S. policy contained in the Senate amendment. It retains the Senate provisions for authorizations of funding for the United States-Polish Science and Technology Agreement and the provision of medical supplies and hospital equipment to Poland. The conference substitute drops the Senate provisions concerning agriculture and rural development assistance to Poland and assistance to Solidarity insofar as those provisions have already been enacted into law by the Continuing Resolution (P.L. 100-202) and the FY 88 & 89 Foreign Relations Authorization Act (P.L. 100-204) respectively. The conference substitute earmarks 8,000 metric tons of surplus agricultural commodities for each of the fiscal years 1988 through 1992 to the government of Poland to be sold and the proceeds of that sale to be used by nongovernmental agencies operating in Poland for the activities described in the Senate amendment and any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture. Finally, the conference substitute provides that the joint commission which is to be established to approve projects which use the funds generated by the agricultural commodity sales shall include appropriate representatives of the Polish government, appropriate representatives of nongovernmental agencies operating in Poland, and representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

It is the conferees understanding that provision of 8,000 metric tons of surplus agricultural commodities mandated for Poland by the conference substitute in each of the fiscal years 1988 through 1992 is acceptable in the form of feed grains. It is also the intent of the conferees that the earmark of agricultural commodities may be waived in cases of emergency necessitating the use of some of those commodities for other needs. The executive branch should consult with the House Foreign Affairs Committee, the Senate Foreign Relations Committee, and the House and Senate Agriculture Committees before any action is taken to waive this earmark.

JAPANESE PURCHASE OF NEW FIGHTER AIRCRAFT

(Sec. 4901 of the Senate Amendment)

Present law

Present law contains no such provision.

House bill

The House bill contains no provision.

Senate amendment

Section 4901 of the Senate amendment expresses the sense of the Senate that the Government of Japan should purchase new fighter aircraft from the United States.

Conference agreement

The conference agreement deletes the provision.

SUBTITLE C—EXPORT PROMOTION

House bill—Short title

Section 301 of the House Bill cites the short title as the "Export Enhancement Act of 1987."

Senate amendment

The Senate amendment contains no provision.

Conference agreement

The Conference agreement deletes the provision.

House bill—Finding and purpose

Section 302 of the House bill contains congressional findings concerning the promotion of U.S. exports.

Senate amendment

No provision is contained in the Senate amendment.

Conference agreement

The conference agreement deletes the provision.

UNITED STATES AND FOREIGN COMMERCIAL SERVICE

(Sec. 311 of the House bill; Sec. 1204 of the Senate Amendment; Sec. 2301 of the Conference Agreement)

Present law

The U.S. and Foreign Commercial Service was created by Executive Order in 1980.

House bill

Section 311 of the House bill establishes the United States and Foreign Commercial Service in the Commerce Department's International Trade Administration, and directs the Secretary of State to accord the diplomatic title of Minister-Counselor to the Senior Commercial Service Officer at not more than eight United States Missions overseas. The section also requires reports to Congress evaluating U.S. export services and on integrating the domestic and foreign export services, and directs the Commerce Department Inspector General to audit the U.S. and FCS at least once every three years.

Senate amendment

Section 1204 of the Senate amendment authorizes the Secretary of Commerce to designate eight overseas missions where the senior Foreign Commercial Service officer may use the title Minister-Counselor.

Conference agreement

The conference agreement is similar to the House provision, but deletes the reporting requirement on Department of Commerce export services and requires that FCS officers overseas provide U.S. exporters with information on intellectual property protection in foreign countries.

DIPLOMATIC MISSION

(Sec. 312 of the House bill; Sec. 1201 of the Senate amendment)

Present law

Present law contains no such provision.

House bill

Section 312 of the House bill requires the Secretaries of State and Commerce to assure the adequacy of commercial personnel at U.S. missions overseas, and requires certain U.S. missions to prepare annual export expansion strategies.

Senate amendment

Section 1201 of the Senate amendment is identical to the House provision.

Conference agreement

The conference agreement deletes the provision.

COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANKS

(Sec. 313 of the House bill; Sections 1201, 1203, and 1801 of the Senate amendment; Sec. 2302 of the Conference Agreement)

PRESENT LAW

Under present statutory authority the Commerce department has assigned personnel on a part-time basis to monitor MDB procurement.

House bill

Section 313 of the House bill directs the Secretary of Commerce, in consultation with the Secretary of Treasury, to appoint a Foreign Commercial Service officer to serve with each U.S. Executive Director to a Multilateral Development Bank (MDB) in order to promote U.S. exports in MDB procurement.

Senate amendment

Section 1201(c) of the Senate amendment contains a similar sense of the Congress provision. In addition, section 1203 and section 1801(b) of the Senate amendment requires the Secretary of Commerce to designate an office in the International Trade Administration to serve as a business liaison with Multilateral Development Banks overseas, and to disseminate information on new MDB project procurement. Section 1201 of the Senate amendment directs the Secretary of Treasury to provide similar MDB procurement services to U.S firms.

Conference agreement

The conference agreement combines the House and Senate provisions (Also, see Sec. 3201, Title III).

MARKET DEVELOPMENT COOPERATOR PROGRAM AND TRADE SHOWS

(Sec. 314 of the House bill; Sections 2303-5 of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

Section 314 of the House bill authorizes to be appropriated $6 million in fiscal year 1988 to the Department of Commerce to establish a market development cooperator program and to provide assistance to trade shows in the United States.

Senate amendment

No provision is contained in the Senate amendment.

Conference agreement

The conference agreement is similar to the House provision, but authorizes $6 million in fiscal years 1988, 1989 and 1990 for these programs. In addition, the conference agreement authorizes the Administration's request of $123.9 million for FY 1988, and $146.4 million for FY 1989 and 1990 for Commerce Department export promotion and trade development programs.

PACIFIC RIM INITIATIVE

(Sec. 315 of the House bill: Sec. 2306 of the Conference Agreement)

Present law

No such provision is contained in present law.

House bill

Section 315 of the House bill directs the Secretary of Commerce to create a pilot Foreign Commercial Service program to promote U.S. exports to Japan, Korea, and Taiwan, and to report to Congress semi-annually on progress in the program.

Senate amendment

The Senate amendment contains no provision.

Conference agreement

The conference agreement is similar to the House provision, but deletes the reporting requirement.

INDIAN TRIBES EXPORT PROMOTION

(Sec. 1206 of the Senate amendment; Sec. 2307 of the Conference Agreement)

Present law

The present law contains no provision.

House bill

The House bill contains no provision.

Senate amendment

Section 1206 of the Senate amendment authorizes the Secretary of Commerce to provide grants to entities to develop foreign markets for authentic American Indian arts and crafts.

Conference agreement

The conference agreement is similar to the Senate provision, but authorizes the Commerce Secretary to provide assistance, including grants, for exports of authentic American Indian arts and crafts.

The conferees strongly urge the Secretary of Commerce to promulgate rules and regulations implementing this provision as expeditiously as possible. The conferees also urge the Commerce Department to inform Indian tribes and other entities eligible for assistance under this program of the establishment of the program and the guidelines for its use. The conferees note that there have been problems in the past determining the authenticity of Indian arts and crafts. It is the conferees' intent that export assistance under this program be provided only to those arts and crafts hand made or hand crafted by American Indian artisans, and that only such products be considered authentic American Indian arts and crafts.

PRINTING AT OVERSEAS LOCATIONS

(Sec. 317 of the House bill; Sec. 1207 of the Senate amendment; Sec. 2308 of the Conference Agreement)

Present law

Authorization for such activities is renewed on a year-to-year basis in appropriations law.

House bill

Section 317 of the House bill authorizes the Secretary of Commerce to print, distribute and sell export promotion documents abroad and to accept paid advertisements to support costs involved in the printing and distribution of such materials.

Senate amendment

Section 1207 of the Senate amendment contains a similar provision.

Conference agreement

The conference agreement is similar to the Senate provision.

LOCAL CURRENCIES UNDER P.L. 480

(Sec. 318 of the House bill; Sec. 2309 of the Conference Agreement)

Present law

The 1985 Food Security Act contains an agricultural trade policy statement. P.L. 100-202, making further continuing appropriations for fiscal year 1988, also contains provisions on the use of P.L. 480 funds for private voluntary organization nonemergency programs and on the use of P.L. 480 title II local currency funds.

House bill

Section 318 of the House bill sets forth United States policy on agricultural trade. The section also permits P.L. 480 local currency funds to be used for the construction of low and medium income housing; makes wood and wood products eligible for Commodity Credit Corporation GSM 102 and 103 export credit guarantee programs; authorizes the Secretary of Agriculture to expand the number of agricultural attaches overseas; and authorizes the Secretary of Agriculture to designate up to eight overseas missions at which the senior agriculture officer may use the diplomatic title of Minister-Counselor.

Senate amendment

The Senate amendment contains comparable provisions.

Conference agreement

The conference agreement permits P.L. 480 local currencies to be used for the construction of low and medium income housing and shelter. (Also see Sections 4102 and 4402 Title IV.)

FOOD AID AND MARKET DEVELOPMENT

(Sec. 320 of the House bill; Sec. 4309, Title IV of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

Section 320 of the House bill states that it is United States policy to use food aid to develop markets for American agricultural commodities and products, and directs the President to encourage U.S. food aid recipients to give preference to American food and food products in its commercial food aid purchases.

Senate amendment

No comparable provision is contained in the Senate Amendment.

Conference agreement

The conference agreement is the House provision, and is contained in Section 4309, Title IV.

CATALOG OF U.S. GOVERNMENT RESOURCES

(Sec. 1205 of the Senate Amendment)

Present law

Such information is presently available from the Overseas Private Investment Corporation, the Ex-Im Bank, the US & FCS and other U.S. Government agencies.

House bill

The House bill contains no provision.

Senate amendment

Section 1205 of the Senate amendment directs the Secretary of Commerce, in consultation with other relevant U.S. Government agencies, to prepare a reference manual on exporting and investing abroad for the U.S. business community.

Conference agreement

The conference agreement deletes the provision.

EXPORT PROMOTION DATA SYSTEM

(Sec. 324 of the House bill; Sections 3811-3823 of the Conference Agreement)

Present law

The Commerce Department is presently developing a Commercial Information Management System to provide U.S. exporters with information on export opportunities.

House bill

Section 324 of the House bill establishes an export promotion data system within the Commerce Department to provide information on export opportunities to American businesses. The section requires reports to Congress on the operation of the system.

Senate amendment

Section 1202 of the Senate amendment contains a similar provision.

Conference agreement

The conference agreement incorporates the House and Senate provisions as the export promotion data system into Sections 3811-3823, the National Trade Data Bank.

PRESHIPMENT INSPECTION REQULATION PROGRAM

(Sec. 325 of the House bill)

Present law

There is no specific statutory authority to regulate preshipment inspection companies.

House bill

Section 325 of the House bill establishes within the Department of Commerce a preshipment inspection certifictaion program.

Senate amendment

No provision is contained in the Senate amendment.

Conference agreement

The conference agreement deletes the House provision.

The members of the Conference note the increasing activity of preshipment inspection companies and the concern in the United States, in the business community and in the Congress, regarding the nature of some of their activities. Preshipment inspections are useful tools of international commerce for checking the financial terms, quantity, and quality of shipments. These services can help minimize opportunities for capital flight, fraud, tax evasion, and inappropriate price discrimination by preventing fraudulent and abusive overinvoicing and underinvoicing. However, if abused, preshipment inspection may burden U.S. export trade by imposing inappropriate controls on international prices, increasing the cost of export shipment, delaying shipment, and compromising confidential business information.

The conferees urge the appropriate committees to review the nature and operations of preshipment inspection. Further, the Conferees urge the Executive Branch to continue its review and study of preshipment inspection services and, as appropriate, report to the Congress its findings and recommendations. That review should include consideration of the report of the International Trade Commission entitled "Preshipment Inspections Programs and Their Effects on U.S. Commerce" (report to the President on investigation number TA/332/242, August, 1987). The conferees also urge the Executive Branch to pursue vigorously consideration of multilateral rules for preshipment inspection in the GATT Nontariff Measures Negotiation Group. The Congress also urges the exporters and the preshipment inspection industry to establish rules to insure that preshipment inspection activities comport with free and open commerce.

OFFICE OF EXPORT TRADE

(Sec. 1104 of the Senate amendment; Sec. 2310 of the Conference Agreement)

Present law

Under present law the Office of Export Trade promotes the formation of ETC's and export trade associations; no specific mention is made of export management companies.

House bill

The House bill contains no provision.

Senate amendment

Section 1104 of the Senate amendment amends the Export Trading Company Act to require the Commerce Department Office of Export Trade to establish a program to assist and encourage the operation of export intermediaries, including new and existing export management companies.

Conference agreement

The conference agreement is identical to the Senate provision.

REPORT ON EXPORT TRADING COMPANIES

(Sec. 326 of the House bill; Sec. 1105 of the Senate amendment; Sec. 2311 of the Conference Agreement)

Present law

Present law does not require such reports to Congress.

House bill

Section 326 of the House bill amends the Export Trading Company Act to require the Secretary of Commerce to submit an annual report to Congress on the Department's efforts to encourage the formation of ETC's including a survey of the activities of export management companies and export trade associations.

Senate amendment

Section 1105 of the Senate amendment is similar to the House provision, but requires a one-time report 18 months after enactment.

Conference agreement

The conference agreement is similar to the Senate provision.

INTERNATIONAL NEGOTIATIONS

(Sec. 341 of the House bill; Sec. 1304 of the Senate amendment)

Present law

Present law contains no such provisions.

House bill

Section 341 of the House bill directs the President and the Secretary of the Treasury to continue negotiations on growth-oriented export policies and on coordinating macroeconomic policy.

Senate amendment

Section 1304 of the Senate amendment is a similar provision.

Conference agreement

The conference agreement deletes the provisions.

Subtitle D—Export Controls

PART 1—EXPORT CONTROLS GENERALLY

Export license fee (sec. 333 of House bill; sec. 1003 of Senate amendment; section 2411 of Conference agreement)

Present Law

No provision.

House Bill

The House bill prohibits the charging of fees in connection with the submission or processing of an export license application.

Senate amendment

The Senate amendment is identical to House provision.

Conference agreement

The conference agreement is the House provision.

Multiple license authority (sec. 332(a) of House bill; sec. 1001 of Senate amendment; section 2412 of Conference agreement)

Present Law

Section 4(a) of the Export Administration Act of 1979, as amended, (EAA) prohibits the use of distribution and comprehensive operations licenses for exports to controlled countries, including the People's Republic of China (PRC).

House Bill

The House bill exempts the PRC from the prohibition on the use of distribution and comprehensive operations licenses for controlled countries.

Senate amendment

The Senate amendment exempts the PRC from the prohibition on the use of distribution licenses to controlled countries.

Conference agreement

The conference agreement is the House provision.

General license for Reliable End Users (sec. 1002 of Senate amendment)

Present Law

The EAA provides general authority for Secretary of Commerce to require validated, multiple or general licenses.

House Bill

No provision.

Senate amendment

The Senate amendment establishes a general license for exports to qualified foreign parties certified as reliable end users (including government-owned or controlled entities in COCOM or 5(k) countries) of all items but not necessarily including supercomputers.

Conference agreement

The conference agreement is the House provision.

Domestic Sales to commercial entities of controlled countries (sec. 332(b) of House bill; section 2413 of Conference agreement)

Present Law

Section 5(a) of the EAA provides authority to prohibit the transfer within the U.S. to affiliates of controlled countries.

House Bill

The House bill clarifies current law to define affiliates of controlled countries to include government and commercial entities.

Senate amendment

No provision.

Conference agreement

The conference agreement is the House provision.

Authority for Reexports (sec. 332(c) of House bill; sec. 1006 of Senate amendment; section 2414 of Conference agreement)

(a) Finished products

Present Law

Unilateral licensing requirements apply to the reexport of all U.S.-origin goods or technology and foreign products incorporating U.S. goods or technology.

House Bill

The House bill eliminates licensing requirements for the reexport of U.S.-origin goods or technology to COCOM and 5(k) countries, excluding specified end users and extraordinarily sophisticated goods or technology as specified by regulation.

Senate amendment

The Senate amendment eliminates licensing requirements for the reexport of goods, technology, services to COCOM and 5(k) countries, except for highly critical goods that are unilaterally controlled. Two-day advance notification is required for highly critical goods or technology, and reexport licenses are required for goods or technology at or above PRC green line if DoC determines that the recipient country engages in pattern of noncompliance with the COCOM agreement.

Conference agreement

The conference agreement eliminates licensing requirements for the reexport of goods or technology to COCOM/5(k) countries except for: supercomputers; commodities for sensitive nuclear uses; devices for surreptitious interception of oral and wire communication; and commodities for end users as specified by the Secretary of Commerce. The Secretary may require notification of such reexports. The conferees intend, however, that such notification requirements not be imposed prior to such reexport.

(b) Parts and Components

Present Law

Export Administration regulations provide a *de minimus* standard below which no reexport authorization is required for U.S. parts (10% and $10,000 worldwide; 25% for most Free World countries) incorporated into foreign-made products.

House Bill

The House bill eliminates licensing requirements for U.S. parts incorporated into foreign goods if such parts are less than 25% of the value of goods in which they are incorporated.

Senate amendment

The Senate amendment eliminates licensing requirements if: (1) no license is required for the finished product; (2) value of U.S. content is 20% or less; or (3) parts are normal & usual spares or replacements & do not exceed value of U.S. content. The provision applies only if U.S. content is normal for a product and is not incorporated to evade controls. Reexport authorization may be required for highly critical goods or technology.

Conference agreement

The conference agreement eliminates reexport authorization requirements for U.S.-origin parts and components incorporated into foreign-made products where: (1) the value of controlled U.S. content is 25% or less of the total value of the goods in which they are incorporated; or (2) the goods or technology, if exported to a controlled country, would require only notification of COCOM. The Secretary may exclude foreign-made supercomputers incorporating U.S.-origin parts & components. The provision also provides that the Secretary should implement these provisions within 90 days of enactment.

The conferees note that only the term "supercomputer" should require the adoption of a new regulatory definition, and expect that terms such as "sensitive nuclear uses" will be applied in a manner consistent with current regulatory practice and construed in a limited fashion. The term "controlled U.S. content" is intended to clarify that no authorization is required for the reexport of parts and components if the export of those goods from the United States at the time of reexport to the new destination would not require a validated license. Additionally, where the Secretary has authority to exclude specified end users, the conferees intend such designation will focus on those specific end users which the Secretary believes are likely to divert the goods to be reexported.

Exports to Countries other than Controlled Countries (sec. 332(d) of House bill; sec. 1005 & 1004 of Senate amendment; section 2415 of Conference agreement)

a) COCOM/5(k) Countries

Present Law

Section 5(b)(2) of the EAA prohibits licenses for exports of low technology items (AEN-level—only notification of COCOM required for export to controlled countries) to COCOM/5(k) countries.

House bill

The House bill eliminates licensing requirements for exports to COCOM/5(k) countries except for: (1) specific extraordinarily sophisticated goods or technology; 2) specified end users; 3) countries determined to engage in pattern and practice of noncompliance with the COCOM agreement. The effective date is six months after enactment, and DoC may require notification.

Senate amendment

The Senate amendment provide for shipment under general license of goods requiring only notification of COCOM for export to the People's Republic of China (PRC green line) to COCOM/5(k) except for : 1) specified consignees; 2) countries determined to engage in pattern & practice of noncompliance with COCOM agreement. DoC may require notification. Two day advance notification may be required for highly critical goods or technology.

Conference agreement

(a) The conference agreement eliminates licenses for exports to COCOM/5(k) countries of goods or technology, which if exported to the People's Republic of China (PRC green line) or to a controlled country (AEN level) on the date of enactment of this act would require only notification of the participating governments of COCOM. The Secretary may require notification of such exports and may exclude specified end users. The conferees intend, as noted in the reexport section, that such notification requirements not be prior to export. Also, specification of end users is to be limited to end users the Secretary believes are likely to divert such goods.

In choosing the PRC green line (as of date of enactment) as the threshold for delicensing to COCOM/5(k) countries, the conferees have chosen a benchmark level that is not intended to be a maximum or static threshold. Rather, the conferees expect that if the PRC green line is liberalized, the Secretary will apply the same expansion to COCOM delicensing, unless such action for specific items is inappropriate.

The conferees also intend that implementing regulations should permit the maximum licensing reduction for U.S. exporters, allowing the highest level of goods or technology qualifying for export under this threshold without regard to end use and quantity restrictions. In the event that current regulations provide for greater decontrol than the PRC green line for exporters of particular goods or technologies to COCOM/5(k) countries, the Secretary should ensure, at a minimum, that existing standards continue to apply to these goods.

(b) The conferees also agreed to eliminate all licensing requirements for exports of goods & technology to COCOM/5(k) countries that have effective export control systems. U.S. goods & technology continue to be subject to licensing requirements pursuant to COCOM. The Secretary shall make a determination of those countries with effective systems within 3 months of enactment and, upon such determination, eliminate licenses to those countries. The Secretary shall review and update the list of countries at least once a year. The Secretary may add to or remove countries from the list, as appropriate.

In adopting this provision, the conferees explicitly endorse the goal of an export license-free zone among COCOM countries, and expect the Administration to work diligently to achieve this objective as soon as possible. The conferees also intend that the list of countries determined by the Secretary to have effective systems be the same list of countries that are subject to only limited sanctions for future export control violations as provided in section 2444 of this Act (new section 11A(d) of the EAA). Since the necessary elements of the determination by the President are identical to the findings for the Secretary to accord a COCOM or 5(k) country license-free status, the conferees expect that there will be one list of conferees qualifying for both provisions.

b) Countries other than COCOM Countries

Present Law

Current Export Administration regulations provide for General License-Free World (GFW) for exports of goods or technology at the AEN level to most Free World countries.

House bill

The House bill eliminates licensing requirements for goods or technology at the PRC green line to Free World countries, except to specified end users or countries posing significant risks of diversion. The effective date is six months after enactment, and DoC may require notification.

Senate amendment

The Senate amendment eliminates licensing requirements for goods or technology at the AEN level to Free World countries. DoC may require notification.

Conference agreement

The conference agreement is the Senate provision. In adopting the AEN level as a threshold for delicensing to the Free World, the conferees intend this level to be the minimum for delicensing, and expect it to be increased as the AEN level advances, particularly for industrially-advanced countries that are sources for such widely available, low technology items.

Control List (section 2416 of conference agreement)

(a) Resolution of Disputes (sec. 332(e)(1) of House bill; sec. 1007 of Senate amendment; section 2416 of Conference agreement)

Present Law

Section 5(c) of the EAA requires disputes between the Department of Commerce (DoC) and the Department of Defense (DoD) to be referred to the President.

House bill

The House bill provides a mechanism for the resolution of disagreements between DoC and DoD on additions to control list within specified timeframes.

Senate amendment

The Senate amendment specifies that the President shall resolve control list disputes in a timely manner consistent with the dispute resolution mechanism in sec. 10(g) of EAA.

Conference agreement

The conference agreement is the House provision.

(b) Conduct of List Reviews (sec. 332(e)(1)(2) of House bill; sec. 1008 of Senate amendment; section 2416 of Conference agreement)

Present Law

The Department of Commerce is required to maintain and review the control list at least once a year. Technical Advisory Committees (TACs) are to advise and assist the Executive branch.

House bill

The House bill requires partial review of the control list on a quarterly basis, with a 30-day comment period and publication of list revisions, and specifies that concurrence by other agencies is not required for revisions to the list. The provision also requires that the Militarily Critical Technologies List (MCTL) be reviewed on an ongoing basis. Appropriate TACs are to be consulted on changes to the control list, formally represented in the list review process, and informed of disposition of recommendations.

Senate amendment

The Senate amendment provides that data developed from control list review shall be used by Secretary of Commerce in formulating COCOM proposals.

Conference agreement

The conference agreement combines the House and Senate provisions, with the exception of dropping the mandate that TACs be formally represented in the list review process. The conferees intend, however, that requiring consultation with the appropriate TACs, will promote better government-industry cooperation and result in a more effective and comprehensive export control system.

Responsibilities of Secretary of Commerce (sec. 1008 of Senate amendment; section 2416 of Conference agreement)

Present Law

The EAA provides general authority to the Secretary of Commerce to carry out all functions under the Act, unless specifically delegated to another agency.

House bill

No provision.

Senate amendment

The State amendment reinforces the authority of the Secretary of Commerce to formulate list review proposals; review other COCOM countries' license applications; and determine comparability of third countries' export systems.

Conference agreement

The conference agreement is the House position.

In agreeing to delete the Senate provision, the conferees do so in the belief that such amendments are unnecessary because the Export Administration Act already specifies the Department of Commerce as the primary agency responsible for all functions under the Act except those expressly delegated to another agency.

The Department of State has primary responsibility, pursuant to section 5(k) of the Act, to conduct negotiations with other countries. Section 5(c) of the Act explicitly charges the Secretary of Commerce with responsibility of revisions to the control list, which are the basis for U.S. proposals for the COCOM list review process. Technical expertise regarding revisions of the control list, as well as evaluations of license applications by foreign countries, reside with the Commerce Department. Commerce review of foreign cases submitted to COCOM is important to assure uniformity of licensing decisions and that U.S. exporters are not disadvantaged vis-a-vis their COCOM competitors, since cases often involve foreign products similar to, and in competition with U.S. exports licensed by the Secretary. Furthermore, section 2415 of this bill explicitly invests in the Secretary of Commerce the responsibility for determining which COCOM countries have effective systems.

In reaffirming the primacy of the Department of Commerce in administering the export control system, the conferees expect the Secretary to fulfill all of his responsibilities in accordance with the statute and the intent of Congress.

(c) Control List Reduction

(1) In General (sec. 332(f)(1) of House bill; section 2416 of Conference agreement)

Present law

The Department of Commerce has authority to remove items from the Control list.

House bill

The House bill requires DoC, in consultation with DoD, to identify the list of controlled items that are no longer significant to the military potential of any controlled country, and establishes as a goal a 40% reduction of the control list over 3 years. Within 6 months, decontrol is required of: 1) AEN items (as of 3/1/87) and 2) certain medical equipment. An annual report of decontrol actions is required.

Senate amendment

No provision.

Conference agreement

The conference agreement is the House provision requiring decontrol of AEN items (unless COCOM agrees to maintain notification requirements) and medical equipment, subject to the provisions of the new section 5(m) of the EAA.

While deleting the specific mandate to reduce the control list by 40%, the conferees reaffirm their strong belief in the need for a narrowing of the size and scope of the control list. The finding by the 1987 National Academy of Sciences panel that the current system encompasses too many products and technologies to be administratively feasible and that "U.S. national security controls are not generally perceived as rational, credible, and predictable by many of the nations and commercial interests whose active participation is required for an effective system," is a disturbing assessment in terms of both U.S. military security and America's economic vitality. The conferees believe that higher fences around fewer goods will be more effective in protecting U.S. national security and strengthening America's economic competitiveness. Both credibility and enforcement of controls will be enhanced by a reduction in the scope of controls.

As a step toward achieving this goal, the conferees specifically require the removal from control of low-technology items for which COCOM requires only notification for export to controlled countries (AEN items) and certain medical instruments and equipment. The conferees intend that these actions are only part of what will become a concerted Executive branch effort to rationalize and streamline the control list, thereby enhancing U.S. and Allied enforcement efforts.

(2) Elimination of Unilateral Controls (sec. 332(f)(2) of House bill; sec. 1009 of Senate amendment; section 2416 of Conference agreement)

Present law

Section 5(e)(2) of the EAA states that licenses are required only if goods are controlled pursuant to multilateral agreement, other countries do not possess such capabilities, or the U.S. is seeking multilateral agreement for control.

House bill

The House bill eliminates unilateral controls six months after the enactment date or six months after imposition, except for controls on goods or technology for which there is no foreign availability, or if negotiations are underway for multilateral control (controls may be extended for one additional 6-month period for multilateral negotiations).

Senate amendment

The Senate amendment states that unilateral controls should be eliminated unless there is no foreign availability or negotiations are underway to achieve multilateral control; requires publication in Federal Register and justification of unilateral controls where controls are not eliminated.

Conference agreement

The conference agreement is the House provision with an amendment to extend the time for multilateral negotiations for one additional six month period.

With respect to this provision, the Senate conferees understand that while it sets out a general rule, controls may be extended if necessary to complete successful negotiations. The House conferees understand that the statutory language is clear in providing a maximum of 12 additional months for multilateral negotiations.

(3) Review of Certain Low Technology Items (sec. 1010 of Senate amendment; section 2416 of Conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires items below PRC green line to be reviewed at least once every two years; if such review has not been conducted but is requested by an individual, DoC has 90 days to determine whether controls should be continued, or the item is decontrolled.

Conference agreement

The conference agreement is the Senate provision.

PRC Trade Shows (sec. 332(h) of House bill; sec. 1011 of Senate amendment; section 2417 of Conference agreement)

Present law

No provision.

House bill

The House bill requires the Secretary to approve licenses for the export of U.S. goods or technology to the People's Republic of China for the purpose of demonstration or exhibition at a trade show if the exporter: retains title to and control of the good while in PRC, and removes the good at the conclusion of the trade show.

Senate amendment

The Senate amendment is similar to the House provision but requires that a "presumption of approval" be applied in evaluating license applications for exports of goods or technology to trade shows in the PRC sponsored by a U.S. trade association. The exporter must retain title to the good while in the PRC and remove the good at the conclusion of the trade show.

Conference agreement

The conference agreement is the Senate provision, with an amendment to apply the provision to any trade show in the PRC.

The conferees intend that the Secretary exercise his authority to give the full benefit of the presumption of approval to U.S. exporters. This provision will help encourage U.S. trade associations to organize trade shows in the PRC in order to exhibit technology and equipment which may become available to the PRC as COCOM limits on exports to that country are eased.

Foreign Availability (sec. 332 (i) & (j) of House bill; sec. 1012, 1013, 1017, 1018 of Senate amendment; section 2418 of Conference agreement)

(a) Determinations (sec. 332(i)(1) of House bill; sec. 1012 of Senate amendment; section 2418 of Conference agreement)

Present law

The EAA directs DoC to identify goods or technology available outside the U.S., eliminate sources of availability through negotiations, or if unable to do so, to decontrol available items. No specific timeframes are specified unless TAC-certified.

House bill

The House bill requires DoC to make a foreign availability determination within 120 days after receipt of allegations of foreign availability, notify applicant and publish in Federal Register. A maximum of 8 months is provided to complete the foreign availability decontrol process, including multilateral review, with the exception of situations in which negotiations are underway.

Senate amendment

The Senate amendment requires DoC to make a foreign availability determination within 120 days after receipt of allegation of foreign availability, notify applicant and publish in Federal Register.

Conference agreement

The conference agreement is an amendment rewriting section 5(f) of the EAA to specify the process for foreign availability determinations. Upon receipt of an allegation of foreign availability, the Secretary shall submit for publication in the Federal Register notice of such receipt, and within 4 months determine whether such availability exists and so notify the applicant making the allegation. Within 1 month after that determination, the Secretary shall notify the applicant and submit for publication his further determination that the foreign availability exists and (1) the requirement for a validated license has been removed; (2) the President has decided to maintain controls notwithstanding the foreign availability; or (3) the foreign availability determination has been submitted for mutilateral review for a maximum of 4 months; or that the foreign availability does not exist. No license for export may be required after the end of the 9-month period beginning on the date on which the allegation is received.

(b) DoC Authority (sec. 332(i)(1); sec. 1012 of Senate amendment; section 2418 of Conference agreement)

Present law

The EAA contains authority for Secretary of Commerce to decontrol on basis of foreign availability.

House bill

The House bill clarifies that DoC does not need concurrence of other agencies to make foreign availability assessments.

Senate amendment

The Senate amendment clarifies DoC authority to make foreign availability determinations notwithstanding the approval of any other agency.

Conference agreement

The conference agreement is the House provision.

(c) Notification of Negotiation (sec. 1013 of Senate amendment; section 2418)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires Congressional notification of negotiations to eliminate foreign availability.

Conference agreement

The conference agreement is the Senate amendment.

(d) Availability in Particular Countries (sec. 332(i)(2) of House bill; section 2418 of Conference agreement)

Present law

No provision.

House bill

The House bill eliminates license requirements for exports of specific goods to a country that agrees to control those goods in a manner comparable to the U.S.

Senate amendment

No provision.

Conference agreement

The conference agreement is the House amendment.

(e) Publication of Foreign Availability Assessments (sec. 1012(d) of Senate amendment; section 2418 of Conference agreement)

Present law

No provision.

House bill

The House bill requires publication upon receipt of allegation or in certain instances of TAC certifications.

Senate amendment

The Senate amendment requires DoC to publish all foreign availability assessments in Federal Register.

Conference agreement

The conference agreement is the Senate provision.

(f) West-West Foreign Availability (sec. 332(i)(3) of House bill; sec. 1017 of Senate amendment; section 2418 of Conference agreement)

Present law

The EAA requires decontrol of goods available to controlled countries from sources outside the U.S.

House bill

The House bill provides for fast-track licensing of goods determined to be available in Free World countries.

Senate amendment

The Senate amendment establishes a parallel structure for foreign availability in non-controlled countries that provides for decontrol under conditions similar to proposed foreign availability guidelines, including the same timeframes, requirements for publication, and negotiations to eliminate availability; and also includes provision regarding licensing in cases of foreign availability.

Conference agreement

The conference agreement is a compromise amendment that incorporates the Senate's separate provision for West-West availability determinations, with procedures similar to those for determining foreign availability in controlled countries, along with the expedited licensing provided in the House bill.

(g) Information Sharing (sec. 332(i)(4) of House bill; sec. 1018 of Senate amendment; section 2418 of Conference agreement)

Present law

The EAA contains existing requirements to furnish foreign availability information.

House bill

The House bill clarifies that agencies are to share information in making foreign availability assessments.

Senate amendment

The Senate amendment is similar to the House provision.

Conference agreement

The conference agreement is the House provision with an amendment clarifying DoC access to information from government laboratories.

(h) Goods Affected by Determination (sec. 332(i)(5) of House bill; section 2418 of Conference agreement)

Present law

No provision.

House bill

The House bill eliminates controls on goods less sophisticated than items for which foreign availability has been determined.

Senate amendment

The Senate amendment contains a similar provision for West-West foreign availability.

Conference agreement

The conference agreement is the House provision.

(i) Definition of Foreign Availability (sec. 332(j) of House bill; section 2418 of Conference agreement)

Present law

No provision.

House bill

The House bill clarifies that foreign availability includes availability in any country from which the good is not restricted for export or in which such restrictions are ineffective.

Senate amendment

The Senate amendment contains a similar provision for West-West foreign availability.

Conference agreement

The conference agreement is the House provision.

Review of Technology Levels (sec. 332(g) of House bill; sec. 1014 of Senate amendment; section 2419 of Conference agreement)

Present law

The EAA requires that DoC shall periodically review procedures for multiple export licenses.

House bill

The House bill provides a mechanism for exporters to petition DoC to review goods eligible for export under a distribution license; determination required within 90 days.

Senate amendment

The Senate amendment requires DoC to conduct annual reviews of performance levels (PRC green & COCOM decontrol level) and make appropriate adjustments.

Conference agreement

The conference agreement combines the House and Senate provisions to require the Secretary to conduct annual reviews of performance thresholds and provide a mechanism for exporters to petition DoC to revise such thresholds.

Functions of Technical Advisory Committees (sec. 332(e) of House bill; section 2420 of Conference agreement)

Present law

Section 5(h) of the EAA established Technical Advisory Committees to advise and assist the Executive branch.

House bill

The House bill requires TACs to be consulted on revisions of the control list and the submission of regulations to appropriate TACs.

Senate amendment

No provision.

Conference agreement

The conference agreement is the House provision.

Negotiations With COCOM (sec. 332(l) (1) of House bill; sec. 1015 of Senate amendment; section 2421 of Conference agreement)

(a) Negotiating Objectives

Present law

Section 5(i) provides a list of COCOM negotiating objectives.

House bill

The House bill adds as negotiating objectives enhanced cooperation on restricting controlled exports, coordination of planning and implementation of export control measures, removal of items widely available from the control list, and expansion of categories and levels of goods eligible for export to PRC.

Senate amendment

The Senate amendment contains identical negotiating objectives as House bill with the exception of PRC trade expansion.

Conference agreement

The conference agreement is the Senate provision. (Complete list of COCOM negotiating objectives contained in section 2446 of Conference agreement.)

(b) Industry Representative to COCOM

Present law

No provision.

House bill

The House bill requires the President to include industry advisors on the U.S. delegation for COCOM list review meetings, unless other COCOM members exclude industry representatives from COCOM negotiations.

Senate amendment

No provision.

Conference agreement

The conference agreement provides that the President may include industry advisors on the U.S. delegtion to COCOM for the purpose of list review.

Goods Containing Microprocessors or Certain Other Parts and Components (sec. 332(m) of House bill; sec. 1016 of Senate amendment; section 2422 of Conference agreement)

Present law

Section 5(m) of the EAA specifies that goods containing embedded microprocessors may be controlled on the basis of the function of the good but not solely because the goods contain a microprocessor.

House bill

The House bill expands provision to prohibit controls on goods containing controlled parts and components if the parts are essential to the functioning of the good and are customarily included in sale of the good, unless the functional characteristics of the whole good would make a significant contribution to the military potential of a controlled country.

Senate amendment

The Senate amendment is similar to the House bill with the additional requirement that the parts and components comprise less than 20% of the value of the good.

Conference agreement

The conference agreement is the Senate provision, with an amendment that the parts and components comprise less than 25% of the value of the good. In broadening current law regarding goods containing microprocessors, the conferees recognize that technological advances have caused a shift from the use of proprietary embedded microprocessors to operate products to the use of commercial and proprietary components, such as microprocessors, microcomputers, personal computers, and disc drives to operate systems, often as peripheral and plug-in components. This statutory change broadens the language of section 5(m) to accommodate these advances within the constraint that the components be no more than 25% of total value.

Foreign Policy Controls (sec. 1019 of Senate amendment; section 2423 of Conference agreement)

Present law

Section 6 of the EAA provides authority to impose, expand, or extend foreign policy controls.

House bill

No provision.

Senate amendment

The Senate amendment encourages the President to seek diplomatic alternatives before imposing, expanding, or extending unilateral foreign policy controls for items available from other sources; extends decontrol of replacement parts under sec. 5(e) of EAA to foreign policy-controlled items if not controlled independently.

Conference agreement

The conference agreement is the Senate provision, with the addition of an amendment that requires the President, at the time he or she imposes new controls or expands existing controls, to determine whether such controls apply to replacement parts.

Exports of Domestically Produced Oil (sec. 331 of House bill; section 1020 of Senate amendment; section 2424 of Conference agreement)

Present law

Exports of crude oil from Alaskan North Slope are prohibited in the absence of a Presidential finding and joint Congressional resolution.

House bill

Exports of all domestically produced crude oil are prohibited subject to Presidential finding. Refined petroleum products produced by export refinery are also subject to same restrictions.

Senate amendment

No provision on crude oil. No restrictions may be imposed on refined products of refineries on or before date of enactment except by Presidential determination.

Conference agreement

The conference agreement requires the Secretary of Commerce, in consultation with the Secretary of Energy, to study whether existing restrictions on crude oil exports from the lower contiguous 48 states are adequate to protect U.S. national security and energy interests.

The conferees further agreed to permit, subject to entry into force of the U.S.-Canada Free Trade Agreement, the export of up to 50,000 barrels per day of Alaskan North Slope crude oil to Canada pursuant to such agreement.

The conferees also agreed to restrictions on refined petroleum exports. A refinery commencing operations in Alaska after the date of enactment will be prohibited from exporting more than 50% of its annual output of refined and partially refined petroleum products made from Alaskan North Slope crude oil, excluding sales to the U.S. military and to U.S. flag airlines. In any case, without exclusion of U.S. military and flag airline sales, exports of refined and partially refined products made from Alaskan North Slope crude oil by all Alaskan refineries commencing operations after the date of enactment shall not exceed in aggregate an annual average of 70,000 barrels per day, allocated on a first-come, first-served basis.

The restriction on exports of refined and partially refined products does not apply to ethane, propane and butane that has been passed through a separation facility. This exception was added to ensure that this restriction would not preclude the construction in Alaska of a separation facility as part of a project to recover additional natural gas liquids from the Prudhoe Bay gas produced with the crude oil. This exception was not intended and should not be construed to provide authority for any refinery described in paragraph (4)(A) to export any quantity of ethane, propane or butane in excess of the limitations imposed under paragraph (4).

The amendments made by this Act do not affect current policy regarding the export of refined or partially refined petroleum products produced by refineries located in the rest of the nation. At the same time, the conferees wish to prevent sham "transshipment" transactions which are used to circumvent the restrictions on exports from Alaska established in paragraph (4).

Procedures for License Applications (sec. 332(n) of House bill; sec. 1021 of Senate amendment; section 2425 of Conference agreement)

(a) Review of License Applications by the Secretary of Defense

Present Law

(1) Section 10(g)(1) provides authority for DoD to review exports to any country to which exports are controlled for national security purposes. (2) No mandatory timeframes specified for resolution of interagency disputes. (3) Section 10(g)(4) of EAA requires the President to report to Congress whenever DoD is overruled.

House bill

The House bill: (1) Clarifies that DoD's authority to review licenses is for exports to controlled countries; (2) Specifies timeframe within which parties must act upon licenses; failure to do so results in Secretary of Commerce's authority to approve or deny license; (3) Eliminates Presidential reporting requirement when overruling DoD.

Senate amendment

The Senate amendment: (1) Contains no provision; (2) Specifies that DoC shall approve or deny licenses if DoD does not act within specified timeframe; (3) Also eliminates Presidential notification requirement when overruling DoD.

Conference agreement

(1) The conference agreement deletes the House provision clarifying the authority of the Defense Department to review exports to countries to which exports are controlled for national security purposes. The conferees do so without prejudice to different interpretations of the statutory authority for DoD to review exports to countries other than controlled countries.

The conferees concurred that whenever the Department of Defense reviews any license application, the nature and extent of such review shall be limited to national security, not foreign policy, considerations. Since the 1985 Memorandum of Understanding between DoD and DoC regarding review of Free World license applications, concern has been expressed that DoD's objections have been based on foreign policy grounds, rather than on [whether proposed exports would contribute to the military potential of a controlled country] national security grounds.

(2) To address the continuing problem of timely resolution of disputes, the conferees agreed to place time limits on all parties for decisions on export license applications. The amendment provides that if the Secretary of Defense fails to make a recommendation or notification within the 20 day period specified, or if the President fails to notify the Secretary that he approves or disapproves the export, the Secretary shall then act upon the license application.

(3) The conferees agreed to eliminate the Presidential reporting requirement when overruling DoD. Ensuring a final resolution of disputed issues is an important goal; once the President has reviewed and decided a issue, that decision should be implemented.

(b) Report by the Secretaries of Commerce and Defense

The conferees agreed to require the Secretaries of Commerce and Defense, within 6 months of enactment, to evaluate and jointly report to the Congress on the process for reviewing, for national security reasons, export license applications to destinations other than controlled countries, and the role played by the Department of Defense in such review.

While the EAA clearly states that to the maximum extent possible, the Commerce Department should make licensing decisions without referral to other agencies, there are situations when other departments are included in specific licensing decisions. Under a Memorandum of Understanding between the Departments of Commerce and Defense of January 1985, and subsequent related documents, the Commerce Department refers to DoD applications for certain exports to a list of specified Free World countries. In order to evaluate the effect of such concurrent review from the standpoint of redundancy and effectiveness, the conferees have directed the two agencies, in consultation with the Secretary of State as appropriate, to evaluate and provide a detailed report to the Congress. The conferees intend such report to compel the Administration to review the functioning of such concurrent review, and to provide a factual basis in order to evaluate the effect of such joint review.

(c) Report on Small Business

Present law

Section 10(m) of EAA requires the Secretary of Commerce to report on a plan to assist small businesses with export licensing process.

House bill

No provision.

Senate amendment

Section 3905 of the Senate bill required the Secretary to develop procedures to assist small businesses with the export licensing system.

Conference agreement

The conference agreement is to require the Secretary to report on implementation of the plan developed under section 10(m) to assist small businesses.

Violations (sec. 334 of House bill; sec. 1023 of Senate amendment; section 2426 of Conference agreement)

Present law

The EAA authorizes DoC to bar persons convicted of specified laws (including the Arms Export Control Act) from applying for or using export licenses under EAA.

House bill

The House bill extends DoC authority to EAA and IEEPA violations and clarifies that parties related through affiliation, ownership, or control to any person convicted of violations of the law also be denied export privileges after due process.

Senate amendment

The Senate amendment is identical to the House bill in extending to EAA & IEEPA, but contains a broader definition of parties related through affiliation.

Conference agreement

The conference agreement is to extend to DoC the authority to bar persons convicted of EAA and IEEPA violations from applying for or using export licenses, and to extend such authority to parties related through affiliation, ownership, control, or position of responsibility to any person convicted of violations, upon a showing of such relationship and subject to procedures in section 13(c) of EAA.

Enforcement (sec. 335 of House bill; section 2427 of Conference agreement)

Present law

No provision.

House bill

The House bill prohibits the Customs Service from seizing or detaining for more than 10 days goods or technology that DoC has determined are eligible for export under a general license.

Senate amendment

No provision.

Conference agreement

The conference agreement is to prohibit the Customs Service from detaining for more than 20 days items eligible for export under a general license. In cases where such detention is due to disagreements between the Secretary and other agencies, such disagreements are to be resolved within 20 days, after which the Customs Service shall release the items or seize the goods or technology as authorized by other provisions of law.

Administrative Procedure and Judicial Review (section 2428 of Conference agreement)

(a) Judicial Review (section 1024 of Senate amendment; section 2428 of Conference agreement)

Present law

The EAA is exempt from Administrative Procedures Act.

House bill

No provision.

Senate amendment

The Senate amendment provides limited judicial review for civil penalties & temporary denial orders except for actions taken under specified EAA sections.

Conference agreement

The conference agreement provides limited judicial review for civil penalties and the imposition of temporary denial orders.

(b) Issuance of Temporary Denial Orders (sec. 336 of House bill; sec. 1025 of Senate amendment; section 2428 of Conference agreement)

Present law

Section 13 of the EAA authorizes DoC to issue an order (TDO) denying for 60 days the right to export if necessary to prevent imminent violation of EAA.

House bill

The House bill extends the effective period of TDOs from 60 to 180 days.

Senate amendment

The Senate amendment expands the standard for TDO from "imminent violation" to "facilitate enforcement of this Act".

Conference agreement

The conference agreement is the House provision.

Responsibilities of Under Secretary for Export Administration (sec. 1026 Senate amendment; section 2429 of Conference agreement)

Present law

Section 15 of the EAA required the appointment of an Under Secretary of Commerce for Export Administration by October 1, 1987.

House bill

No provision.

Senate amendment

The Senate amendment clarifies the delegation of authority to the Under Secretary to include functions under other statutes that relate to national security.

Conference agreement

The conference agreement is the Senate provision. It is the intent of the conferees that the Under Secretary for Export Administration shall oversee all national security/export-related programs previously administered by the Assistant Secretary for Trade Administration. Such national security and defense preparedness programs include: investigations to determine the effect of imports on the national security under section 232 of the Trade Expansion Act of 1962, as amended; industrial preparedness programs authorized under the Defense Production Act of 1950, as amended; the Critical Materials and Stock Piling Act of 1979, as amended; and other programs designed to ensure that U.S. industry is able to meet national security requirements.

Authorization of Appropriations (sec. 332 (k) and 337 of House bill; sec. 1027 of Senate amendment; section 2430 of Conference agreement)

Present law

Section 18(b) authorizes annual appropriations to carry out functions under EAA.

House bill

The House bill authorizes an additional $3 million in FY 88 for the sole purpose of foreign availability functions, and also establishes a Western regional office with authority to issue licenses for national security-controlled exports that are not subject to interagency or multilateral review; to provide assistance to U.S. exporters, and to render advisory opinions; activities of office are to be included in annual report.

Senate amendment

The Senate amendment clarifies the Under Secretary for Export Administration's responsibility for short supply controls, and Defense Production Act programs; authorizes $45,248,000 for FY 88 & 89 for export administration, of which $5 million is designated for startup costs of the Under Secretary.

Conference agreement

The conference agreement authorizes $46,913,000 for fiscal year 1989 of which $15,000,000 shall be available only for enforcement; $5,000,000 shall be available only for foreign availability assessments; $4,000,000 shall be available for regional export control assistance centers; and $22,913,000 shall be available for all other activities under the Act.

Termination Date (section 2431 of Conference agreement)

Present law

Current authority expires September 30, 1989.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement extends the authorization of the Export Administration Act by one year to September 30, 1990.

Monitoring of Wood Exports (sec. 338 of House bill; section 2432 of Conference agreement)

Present law

No provision.

House bill

The House bill requires DoC to monitor and report monthly on exports of processed and unprocessed wood to Pacific Rim countries for 2 years.

Senate amendment

No provision.

Conference agreement

The conference agreement is the House provision.

National Academy of Sciences Study on National Security Export Controls (sec. 339 of House bill; section 2433 of Conference agreement)

Present law

No provision.

House bill

The House bill requires the President to appoint within 60 days of enactment an Export Administration Reform Commission to assess current control system and recommend changes.

Senate amendment

No provision.

Conference agreement

The conference agreement directs the Secretaries of Commerce and Defense to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of national security export controls.

The agreement reflects concerns by the conferees that national security, U.S. competitiveness, and Western technological preeminence are not well-served by the current export administration system, which is burdened by ambiguous criteria, overlapping jurisdictions, and a cumbersome decision- and policy-making apparatus.

The conferees recognize that regulating exports of U.S. goods and technology is an exceedingly difficult and costly task. A poorly administered and cumbersome program can undermine America's competitiveness, and can lead to reduced R & D funding and a decline in the rate of technological innovation in key sectors of the economy, thereby endangering U.S. national security. Conversely, serious breaches of the export control program can do severe harm to national security, especially in the near-term. In this regard, the conferees are seeking more than another study on export controls; instead, the conferees seek a detailed roadmap which provides specific and long-term solutions to the dilemmas of administering the export control program.

The conferees note that certain aspects of the study may parallel recent efforts by the CIA in assessing Soviet technology requirements for new weapons systems. This is important since criteria for establishing national security controls on U.S. technology and products should consider their potential contribution to Soviet military capabilities. Once the Academies have an inventory of the technologies that make crucial differences to Soviet military capabilities, a comprehensive set of criteria can aid in evaluating which of these technologies should be controlled and which technologies should no longer be controlled. It is not enough to examine and make judgements on which technologies should be controlled. The conferees also want the Academies to examine the administration of the export control program. Can decision-making be made more timely and efficient? How can the information base of the relevant industries be more effectively integrated into the policy process? What are the appropriate administrative measures to deal with decision-making when questions of competiveness and national security cannot be answered with certainty? The answers to these and other questions should give the Congress and the President the information necessary to structure a vigorous and credible export control program that balances the objectives of both U.S. competitiveness and U.S. national security.

Findings and Policy Statements (sec. 340 of House bill; section 2433 of Conference agreement)

Present law

Sections 3 and 4 of the EAA sets forth statements of findings and policy.

House bill

The House bill makes statements of policy and findings, and amends the EAA concerning national security export controls based on findings of National Academy of Sciences report on export controls.

Senate amendment

No provision.

Conference agreement

The conference agreement is the Senate position.

GAO Report (section 1028 of Senate amendment;)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the GAO to report on the effect of amendments in this bill by March 1, 1989.

Conference agreement

The conference agreement is the House position.

PART 2—MULTILATERAL EXPORT CONTROL ENHANCEMENT

Short title (sec. 1029 of Senate amendment; section 2441 of Conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

"Multilateral Export Control Sanctions Act of 1987."

Conference agreement

"Multilateral Export Control Enhancement Amendments Act."

Findings (sec. 1030 of Senate amendment; section 2442 of Conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment finds that the GATT recognizes actions necessary to protect essential security interests; that Soviet efforts to acquire advanced technology threaten Western security and require effective multilateral controls; that in light of the Toshiba-Kongsberg diversion, U.S. sanctions must be imposed to ensure compliance of foreign companies with multilateral controls; and the U.S. Government must take steps to improve the system of multilateral controls maintained pursuant to CoCom.

Conference agreement

The conference agreement is the Senate provision with an amendment. The findings note the serious adverse impact of the diversion by Toshiba Machine Company and Kongsberg Trading Company on Western security interests; the need for effective CoCom enforcement, including effective national control systems and internal control systems for corporations; and that the United States must take steps to ensure CoCom compliance including, where necessary conditions are met, inposition of sanctions against foreign violators of CoCom controls.

Mandatory sanctions against Toshiba and Kongsberg (sec. 1031 of Senate amendment; section 2443 of Conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment applies sanctions against Toshiba Corporation, Kongsberg Vaapenfabrikk and any other firm or individual found to have violated CoCom regulations between January 1, 1980 and the date of enactment that resulted in a serious adverse impact on the strategic balance of forces. Sanctions include both debarment from contracting with any agency or instrumentality of the U.S. Government and a ban on imports for two to five years. The President may exempt certain transactions from sanctions including essential defense procurement, prior contracts, spare parts, etc. The President may also limit sanctions for any parent, affiliate or subsidiary of a sanctioned party if they have not violated CoCom regulations, the government of jurisdiction improves its export control efforts, the sanctioned party and related parties improve internal export control systems and the impact of sanctions is proportionate to the increased defense expenditures imposed on the United States. A parent company may only be excused from sanctions upon payment of compensation. The President shall report to the Congress on actions under this section every six months.

Conference agreement

The conference agreement is the Senate provision with an amendment specifying sanctions in the Toshiba-Kongsberg case, and eliminating application of the provisions to other cases. After the date of enactment, mandatory sanctions are applied for three years against Toshiba Machine Company, Kongsberg Trading Company, and any other foreign persons whom the President finds knowingly facilitated this diversion. Sanctions include a prohibition on contracting and procurement by any department, agency or instrumentality of the U.S. Government and a prohibition on importation into the United States. In the case of the parent corporations, Toshiba Corporation and Kongsberg Vaapenfabrikk, a three-year prohibition on contracting and procurement by the U.S. Government is imposed.

In specifying sanctions, rather than providing a broad sanctions mandate to the President, the Conferees have limited the original scope of the Senate provision. Sanctions are no longer applied to subsidiaries, affiliates, successor entities, or joint ventures of Toshiba Corporation or Kongsberg Vaapenfabrikk, only to their guilty subsidiaries, Toshiba Machine Company and Kongsberg Trading Company, and the parent corporations themselves. Sanctions are applied to the parent corporations in recognition of their responsibility for the actions and management practices of their subsidiaries.

While a limited number of exceptions to sanctions are provided to protect U.S. security and commercial interests, the Conferees intend that these be tough sanctions that will punish the sanctioned companies for their violation of CoCom regulations. The Conferees view these measures as taken to further U.S. national security interests not as retaliation for trade purposes.

In the case of the prohibition on purchases by the U.S. Government, the Conferees intend that there be no evasion of sanctions by indirect purchase through a U.S. or foreign person, by repackaging or relabeling products of a sanctioned person (except as provided below) for sale by another party, or by creation of successor entities for the sale of banned items. The intent to exclude indirect purchase does not extend to U.S. or foreign products of non-sanctioned persons that include parts or components from a sanctioned party as long as those parts or components have been substantially transformed, within the meaning of Customs regulations, during production of the finished product. It is likewise the intent of Conferees that there be no evasion in the case of a prohibition of importation.

In order to protect U.S. national security interests and minimize the collateral impact of sanctions on U.S. companies, the Conferees provided exceptions for a range of transactions for which the President shall not apply sanctions. The Conferees have made no attempt to specify a system for administering these exceptions but, within the parameters of the sanctions imposed, intend to limit the impact of sanctions on U.S. companies to the extent possible. Therefore, the exceptions mechanisms should be as administratively simple as possible, focusing on reporting of shipments rather than pre-shipment licensing, but with the clear understanding that violations are subject to appropriate criminal penalties.

An exception is provided for procurement of defense articles or services under existing contracts, that are sole source, or essential to national security under coproduction agreements. This exception is intended to permit essential defense procurement to proceed.

Exceptions also apply to products or services provided under contracts or other binding agreements entered into before June 30, 1987; spare parts; component parts, but not finished products, essential to U.S. products or production; routine servicing and maintenance; or information and technology. All of these exceptions are intended to limit unnecessary hardship to U.S. industry and consumers as a result of sanctions, while maintaining a general ban on products of the sanctioned party. It is the intent of the Conferees that the exception for technology could include sole source situations.

The exception for contracts or other binding agreements permits execution of agreements entered into before sanctions were adopted by the Senate last year. Exact definition of covered arrangements is left to subsequent regulation. The Conferees intend that the term binding agreement include an established or continuing relationship that is well docmented. Following this logic, the Conferees intend that established business relationships between a sanctioned party and U.S. original equipment manufacturers or equivalent firms be covered by the exception. Such a situation would exist where: 1) the sanctioned person is providing products designed to the U.S. firm's specifications and marketed under its trademark, brand, or name; 2) the business relationship existed for at least 12 months prior to imposition of sanctions and can be clearly documented; and 3) the U.S. firm is not directly or indirectly owned or controlled by the sanctioned party. This exception would not cover sales of sanctioned products under a franchise arrangement where U.S. technology or specifications are not involved, nor would it cover more casual supply arrangements.

The exception for component parts permits continued use of parts from a sanctioned party in U.S. products or production. This is intended to avoid either a reduction in U.S. production or employment arising from a cutoff of essential parts or denial to a U.S. consumer of a part essential to the effective functioning of a product. The term "component part" is defined in the statute with a two-part test that it is: 1) any article that is not usable for its intended functions without being embedded or integrated into another product; and 2) if the part was used in production of a finished product, it would be substantially transformed, within the meaning of Customs regulations, during production.

The Conferees wish to specify that the component part exemption does not cover finished products, defined as articles usable for their intended functions without being imbedded in or integrated into any other product. In defining "finished product" in statute, the language again emphasizes that a product subject to sanctions would not be an article produced by a person other than the sanctioned party that contains parts or components of the sanctioned party as long as they have been substantially transformed during production of the finished product.

Mandatory Sanctions for Future Violations (sec. 1032, 1033 and 1036 of Senate amendment; section 2444 of Conference agreement)

Present law

The trade Expansion Act of 1962, as amended, provides import sanctions authority to the President. Sanctions may be applied against a foreign person only if the President fails to negotiate remedies with the government of jurisdiction, takes the case to CoCom and proposes sanctions, and only authorizes imposition of sanctions in the absence of an objection from a majority of the other CoCom countries.

House Bill

No provision.

Senate amendment

The Senate amendment amends section 5 of the Export Administration Act of 1979 to require mandatory sanctions for two to five years in any case where credible evidence indicates that a foreign person has violated CoCom regulations and the violation has resulted in a serious adverse impact on the strategic balance of forces. Sanctions include both debarment from contracting with any agency or instrumentality of the U.S. Government and a ban on imports produced by the sanctioned party. The President may exempt certain transactions from sanctions including essential defense procurement, prior contracts, spare parts, etc. The President may also limit sanctions for any parent, affiliate or subsidiary of a sanctioned party if they have not violated CoCom regulations, the government of jurisdiction improves its export control efforts, the sanctioned party and related parties improve internal export control systems and the impact of sanctions is proportionate to the increased defense expenditures imposed on the United States. A parent company may only be excused from sanctions upon payment of compensation. The President shall report to the Congress on actions under this section every six months.

The President is provided discretionary authority to impose a ban on both U.S. Government procurement and all imports for up to five years from a foreign person determined to have violated CoCom rules. This authority applies to diversion not determined to rise to the level of seriousness in the case of mandatory sanctions.

In the case of manadatory sanctions, the President is directed to enter into negotiations for compensation with the sanctioned party and its government of jurisdiction. In any case of an EAA or CoCom violation that reduces U.S. defense preparedness, the Secretary of Defense is directed to assess U.S. defense losses and the Attorney General is directed to seek damages in a U.S. district court in an amount not to exceed U.S. defense losses.

Conference agreement

The conference agreement is the Senate provisions with several amendments. A new section 11A, "Multilateral Export Control Violations," is added to the 1979 Act requiring sanctions for two to five years against any foreign person in any case in which the President determines the person has violated CoCom regulations and the violation has resulted in a serious adverse impact on the strategic balance of forces. This provision applies to all violations occurring after the date of enactment that the President determines rise to the requisite level of seriousness. The President's determination should cover all parties directly involved including persons, such as trading companies or other intermediaries, whom the President finds knowingly facilitate a diversion. The President is to notify the Congress of each action taken under this section.

Sanctions include a prohibition on contracting and procurement by any department, agency or instrumentality of the U.S. Government and a prohibition on importation into the United States. As with the sanctions under section 2443, the Conferees recognize the serious step taken in imposing sanctions. This is not intended to be a casual step triggered without careful consideration by the President. Sanctions would only be applied in cases of sufficient seriousness that the President determines that a sale of critical technology had substantially enhanced the capabilities of controlled countries in critical technologies that would have a serious adverse impact on the strategic balance of forces.

When these circumstances are met, the Conferees intend that tough sanctions be applied that will punish the sanctioned companies for their violations of CoCom regulations. As with the sanctions in section 2443, the Conferees view these measures as essential to presevation of vital national security interests, not as retaliation for trade purposes. The exceptions to sanctions provided to protect U.S. security and commercial interests are intended to be limited and not to be interpreted so as to significantly dilute the impact of sanctions.

The specification of sanctions is as in section 2443(a)(1) for sanctions against Toshiba Machine Company and Kongsberg Trading Company, and the above description of those sanctions applies equally to this section. The Conferees provide a limited number of exceptions to protect U.S. security and commercial interests, but do not intend to substantially dilute the punishment of sanctioned companies for their violation of CoCom regulations. The description of exemptions in section 2443 also applies here except that the date before which contracts and other binding agreements in force are protected is the date on which the President notifies the Congress of the intention to impose sanctions. The Conferees intend that neither the sanctioned party nor the firm's customers be given notice of sanctions prior to their imposition that would enable them to evade sanctions by quickly signing new orders and contracts. As with retroactive sanctions, the exemptions mechanism should be as administratively simple as possible, but with the understanding that violations are subject to appropriate penalties, including those of the Export Administration Act.

In addition to a list of exceptions from sanctions, the provision also provides a limited exclusion from sanctions for countries whose governments have been determined by the President to have had an effective export control system in effect at the time of a violation. The President would have to determine that the government of jurisdiction had strong export control laws, effective licensing including necessary resources to assure thorough technical assessment and reliability of end-users, effective enforcement, thorough export control documentation, and procedures for coordination within CoCom on violations. If such a system were in effect, then sanctions would apply only against the single foreign person who violated CoCom regulations, not to any parent, affiliate, subsidiary or successor company that had not knowingly been involved in the violation.

This limitation is intended to narrow the application of this provision for governments cooperating fully with CoCom export control and enforcement efforts. The necessary elements of the determination by the President are identical to the findings necessary for a CoCom or 5(k) country to be accorded license-free status under section 2415(a) by the Secretary of Commerce. The Conferees intend that there be one list of countries that would qualify for the favorable treatment under sections 2415(a) and 2444("11A(d)"). Therefore, it is the expectation of Conferees that the list of countries found to qualify for narrower application of sanctions by the President under this section will correspond to the list of countries eligible for delicensing under section 2415.

Sanctions may be subsequently modified by the President under certain circumstances. The President may limit sanctions applied to a parent, affiliate, subsidiary or successor entity of the foreign person determined to have violated CoCom rules where that party has not knowingly violated the CoCom rules, the government of jurisdiction has improved its export control system, the foreign person has instituted improved internal controls, and the impact of sanctions imposed is proportionate to increased U.S. defense expenditures. Only after thorough assessment of steps taken pursuant to the criteria in the law should any of the sanctions be lifted.

The President may not modify sanctions in two situations. Full sanctions against the foreign person determined to have violated CoCom rules must be maintained for the minimum two-year sanctions period. In addition, a ban on government purchases from the parent corporation must also be maintained for two years, unless the President had previously made the determination necessary for the exclusion in section 2444 ("11A(d)"). In that case, only the sanctions on the foreign person determined to have violated CoCom rules would either be imposed or maintained.

In addition to the mandatory sanctions described above, section 2444 provides discretionary sanctions authority for cases that may not rise to the level of "serious adverse impact on the strategic balance of forces" in the determination required in section 2444(a). Under this provision, the President may apply an import ban or government procurement ban for up to five years against a foreign person the President determines has violated CoCom rules.

This authority replaces the more limited authority provided in the Trade Expansion Act of 1962, which is deleted. It also subsumes the discretionary government procurement ban adopted by the Senate in section 1022 of its amendment. This authority does not apply only to violations that occur after the date of enactment since it replaces an authority already in force. The President has this authority ready if needed to address any violation that comes to light in the future.

In the event that the President imposes sanctions under this section, the conference agreement provides that an additional series of steps be taken to address the problems created by the sale of technology and loss of U.S. defense preparedness. First, if mandatory sanctions are imposed, the President must initiate discussions with the sactioned party and its government regarding compensation in an amount proportionate to increased Western defense costs and must report to the Congress. Second, in any case in which sanctions are applied, the President must consult with the violator's government of jurisdiction to seek prompt remedial action; with CoCom governments to ensure similar violations are avoided in the future; and with the Congress on actions taken to rectify the situation. Finally, in the case of mandatory sanctions, the Secretary of Defense must determine the costs of restoring U.S. military preparedness and notify the Attorney General. The Attorney General is empowered to bring action for damages in U.S. district court, the amount awarded not to exceed total U.S. defense costs arising from the diversion and the action to commence no later than three years after the violation or one year after its discovery, whichever is later.

Annual Report of Defense Impact (sec. 1034 of Senate amendment; section 2445 of Conference agreement)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires an annual report of the President estimating additional U.S. defense expenditures arising from illegal technology transfers, especially those resulting in mandatory sanctions.

Conference agreement

The conference agreement is the Senate provision.

Improved Multilateral Cooperation (Sec. 1035 of Senate amendment; section 2446 of Conference agreement)

Present law

Section 5(i) of the 1979 Act sets a nine-point negotiating agenda for strengthening CoCom.

House bill

No provision.

Senate amendment

The Senate amendment establishes an action program for negotiations to improve the functioning and standard of cooperation of CoCom.

Conference agreement

The conference agreement is the Senate provision with an amendment further elaborating the goals for agreement in CoCom.

Technical and Conforming Amendments (section 2447 of Conference agreement)

Present law

Discretionary sanctions authority is provided in the Trade Expansion Act of 1962. A ban on Defense procurement from Joshiba Corporation and Kongsberg Vaapenfabrikk is included in the Continuing Resolution for 1988.

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conference agreement strikes the sanctions language in section 233 of the Trade Expansion Act of 1962 and sections 8124 and 8129 of the 1988 Continuing Resolution.

SUBTITLE E—MISCELLANEOUS PROVISIONS

TRADING WITH THE ENEMY ACT

(Sec. 361 of the House bill; Sec. 2501 of the Conference Agreement)

Present law

Section 39 of the Trading with the Enemy Act established an Office of Alien Property to litigate and adjudicate World War II claims. All World War II claims activities have ended.

House bill

Section 361 of the House bill provides for the termination of alien property activities, transfers remaining funds to the Treasury, and repeals various reporting requirements in existing law.

Senate amendment

No provision is contained in the Senate amendment.

Conference agreement

The conference agreement is identical to the House provision.

LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES

(Sec. 362 of the House bill; Sec. 2502 of the Conference Agreement)

Present law

The Passport Act authorizes controls on exports and imports of informational material not otherwise regulated under the Export Administration Act. Presently, regulations exempt controls on the export and import of informational material.

House bill

Section 362 of the House bill clarifies that the Trading with the Enemy Act and the International Emergency Economic Powers Act do not authorize regulations on the export or import of informational material not otherwise controlled under the Export Administration Act.

Senate amendment

The Senate amendment contains no provision.

Conference agreement

The conference agreement is identical to the House provision.

BUDGET ACT

(Sec. 364 of the House bill; Section 2503 of the Conference Agreement)

Present law

Present law contains no such provision.

House bill

Section 364 of the House bill provides that any new spending authorized by this act be subject to appropriations acts.

Senate amendment

The Senate amendment contains no provision.

Conference agreement

The conference agreement is identical to the House provision.

TITLE III—INTERNATIONAL FINANCIAL POLICY

SUBTITLE A—EXCHANGE RATES AND INTERNATIONAL ECONOMIC POLICY COORDINATION

House bill

Section 401-408 of the House bill requires the President to negotiate with other countries to improve the coordination of macroeconomic policies, to improve exchange rate stability, and to achieve exchange rates and macroeconomic policies consistent with an appropriate and substantial level of foreign borrowing, as reflected by the current account balance. The House bill provides that, as appropriate, coordinated intervention in currency markets shall be utilized as a tool to bring the dollar to acceptable levels. The House bill requires the President to initiate bilateral negotiations with countries that tie their currencies to the dollar to obtain arbitrary competitive advantage. These negotiations shall seek to ensure that such countries regularly and promptly adjust their currencies to eliminate the arbitrary advantage. The Secretary of the Treasury is required to submit written reports to Congress twice a year to explain and defend his exchange rate policy and to propose exchange rate and other economic policies consistent with an appropriate and sustainable current account balance. The Secretary is also required to undertake country-by-country analyses of the exchange rate and economic policies of foreign countries.

Senate amendment

Sections 1301-1305 of the Senate amendment provide that the Secretary of the Treasury shall seek to confer and negotiate with other countries to achieve better coordination of macroeconomic policies of the major industrialized countries and sustainable levels of trade and current account balances and stability in the exchange rates of the dollar and other currencies. The Senate amendment also provides that the Secretary shall determine on an annual basis which countries manipulate the rate of exchange between their currencies and the U.S. dollar for purposes of preventing effective balance of payments and adjustments or gaining unfair competitive advantage in international trade. If such countries have material global current account surpluses and significant bilateral trade surpluses with the United States, the President shall take action to initiate negotiations with such countries to ensure that they regularly and promptly adjust the rate of exchange between their currency and the U.S. dollar. The Senate amendment also provides that the Secretary shall submit an annual written report to Congress on international economic policy.

Conference agreement

The Conferees intend for the exchange rate and the level of foreign borrowing to become matters of conscious policy rather than inadvertent side-effects of other polices. The legislation takes an important step in this direction by establishing as an important policy goal the achievement of macroeconomic policies and more stable exchange rates consistent with a more appropriate and sustainable balance in the current account. By establishing a policy goal against which economic policy decisions affecting the exchange rate can be measured, it is the intent of the Congress to increase the accountability of the Secretary of the Treasury for economic policies that affect the nation's level of foreign borrowing and its trade balance.

While the Conference Agreement requires the Secretary of the Treasury to initiate negotiations with countries that manipulate their currencies, the legislation also provides that the Secretary is not required to initiate such negotiations if he determines doing so would have a serious detrimental impact on vital national economic and security interests. In such cases, he must so notify the Congress. While the Conference Agreement requires the Secretary to report on factors in foreign economies which underlie current market developments, it does not require a country-by-country analyses of the exchange rate and other economic policies of foreign countries.

INTERNATIONAL NEGOTIATIONS ON EXCHANGE RATE AND ECONOMIC POLICY

Multilateral Negotiations

The Conference Agreement provides that the President shall pursue international negotiations with other countries to improve the coordination of macroeconomic policies; to achieve macroeconomic policies and more stable exchange rates consistent with a more appropriate and sustainable current account balance; and to improve the functioning of the exchange rate system and existing mechanisms for coordination.

It is the intent of the Conferees that the achievement of exchange rate and macroeconomic policies consistent with a more appropriate and sustainable balance in the U.S. current account become a priority in international economic negotiations. The Conferees note that serious currency misalignments have arisen under the existing exchange rate system and believe that the United States cannot hope to resolve resulting problems unilaterally.

It is the belief of the Congress that greater coordination and harmonization of economic policies among the United States, the Europeans, Japan, Canada and other major industrialized countries are the only practical ways of preserving relative exchange rate stability at levels consistent with a more appropriate and sustainable current account balance. Such coordination will prove impossible without serious international negotiations on this issue. The Conferees are pleased that the G-7 nations (the United States, Japan, Canada, Germany, the United Kingdom, France and Italy) are consulting more actively on this problem.

It is the intention of the Conferees to facilitate and encourage current efforts in this direction, and to ensure that they become part of a broader effort to negotiate necessary changes in exchange rate and other macroeconomic policy at the international level.

It is the expectation of the Conferees that the Secretary will work constructively through the negotiating process to achieve modifications in the exchange rate system and in coordination mechanisms that will help provide for greater long-term exchange rate stability at levels consistent with more appropriate and sustainable balances in trade and capital flows. The Conferees also anticipate that the Secretary will recommend proposals to achieve better coordination of macroeconomic policies among the major industrialized nations and greater stability in trade and current account balances and in the exchange rates of the dollar and other currencies. The Conferees will monitor the Secretary's progress in these negotiations through the semi-annual reports required under the Conference Agreement.

Bilateral Negotiations

More than half of all U.S. trade is with countries whose currencies have not substantially appreciated against the dollar since January 1985. In particular, the exchange rates of some of the Asian Newly Industrializing Countries (NICs) have not reflected their major surpluses with the United States and the world and have actually fallen against other major currencies, placing tremendous competitive pressure on all other manufactured goods producers. To a large degree, continued low exchange rates have meant a competitive advantage for these countries in the U.S. market.

It is the view of the Conferees that some way must be found to ensure that the exchange rates of the currencies of these countries more closely reflect sustainable current account performance. In the interim, the Conferees believe that increased U.S. bilateral pressure appears to be an appropriate, effective, and important tool.

The Conference Agreement, therefore, requires the Secretary of the Treasury to make an assessment on an annual basis as to whether countries are manipulating their currencies to prevent balance of payments adjustments or gain arbitrary competitive advantage. If the Secretary considers that to be the case in regard to countries which have material global current account surpluses and significant bilateral trade surpluses with the United States, the Secretary is required to initiate negotiations with such countries on an expedited basis to ensure that they regularly and promptly adjust the rate of exchange between their currency and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage.

The Secretary shall not be required to initiate negotiations in cases where he determines that such action would have a serious detrimental impact on vital national economic and security interest, but must notify the Congress of such determination.

Reporting Requirement

The Conference Agreement requires the Secretary of the Treasury, after consultation with the Chairman of the Federal Reserve, to report semi-annually to the Congress on progress in achieving exchange rates consistent with more appropriate and sustainable levels in the current account through changes in domestic and international economic policy. In these reports, the Conferees would expect the Secretary to explain and defend his international economic policy, including his exchange rate policy, and to propose economic policies designed to bring the nation's annual foreign borrowing and trade balance to more acceptable levels.

This new semi-annual report by the Secretary of the Treasury on policies affecting exchange rates and foreign borrowing should resemble and complement the current semi-annual report by the Chairman of the Federal Reserve Board on monetary policy. The legislation also requires that the Federal Reserve Board Chairman address exchange rates and foreign borrowing in his own semi-annual report to Congress.

The Conferees note that the Secretary of the Treasury is responsible for policies that most affect exchange rates and foreign borrowing. He negotiates international agreements to coordinate economic policies and to reform international financing markets. He decides when intervention in foreign exchange markets is appropriate. Equally important, he develops national economic policies that affect domestic capital markets and borrowing needs. In each of these three critical areas, the Conferees would expect the Secretary to describe recent progress and the policies he will pursue in the future in his semi-annual reports.

In the early 1980s, exchange rates became severely misaligned, at great cost to many industries and to the nation's indebtedness. At the same time, the Conferees recognize that changing the exchange rate or reducing foreign borrowing may affect interest rates or other aspects of the domestic economy. The conferees believe that the interrelationship between other economic policies and the exchange rate of the dollar must be considered and policy priorities continually reassessed.

It is the intent of the Conferees, through this reporting requirement, to increase the accountability of the Executive Branch regarding the impact of the exchange rate on foreign borrowing and the competitive position of U.S. industries, as reflected in the nation's trade and current account balances. The Conference Agreement requires that the Secretary of the Treasury assess that impact and elaborate upon the choices made in regard to domestic policies that have clear effects on the exchange rate. The Conferees expect the Secretary to delineate for the Congress those changes in exchange rate or macroeconomic policy necessary to achieve more acceptable levels of foreign borrowing and improvement in our trade balance, and justify decisions made to implement or not implement such changes.

The success of this legislation hinges on the process of reporting and consultation by the Secretary of the Treasury with Congress. The Conferees recognize that this process will be modified with experience. However, certain key elements appear to be necessary for a meaningful debate on exchange rate policy.

Under the Conference Agreement, the Secretary must assess the impact of the exchange rate of the United States dollar on: (1) the ability of the United States to maintain a more appropriate and sustainable balance in its current account and merchandise trade account; (2) production, employment, and non-inflationary growth in the United States; and (3) the international competitive performance of United States industries and the external indebtedness of the United States.

If the exchange rate of the dollar is inconsistent with policy goals in these important areas, the Conferees would expect the Secretary to discuss the reasons for the inconsistency, and make policy recommendations regarding any necessary changes. Such a discussion will require analysis of economic factors in the United States and other countries that underlie the exchange rate situation, such as the components of U.S. savings and investment and their trends and developments in bilateral trade and capital flows.

To properly undertake such an analysis, the Secretary must make an assessment regarding the acceptability of the nation's level of foreign borrowing and trade balance, as reflected in the U.S. current account balance. The Secretary must, therefore, consider how much the United States should borrow or lend annually from the rest of the world on a long-term basis. That would require an assessment of how much borrowing/lending was both "appropriate" for purposes of the growth of the U.S. economy and "sustainable" for the foreseeable future.

The Conference Agreement requires the Secretary to recommend changes in economic policy that would permit the United States to attain a more appropriate and sustainable current account balance and assess the costs and benefits of each alternative. The Conferees would expect the Secretary to pursue exchange rate and other economic policies consistent with this goal, or explain his reasons for not doing so. Through this structure of accountability, the Conferees hope to focus attention on the impact of alternative policies.

This requirement is intended to emphasize both the connection between the exchange rate and trade problems on the one hand and the shared responsibility of the Administration and Congress in regard to domestic economic policy choices. Proper emphasis on this interrelationship between exchange rates and other economic policies will help us achieve the needed coordination and harmonization of macroeconomic policies at the international level.

The Conference Agreement states it to be U.S. policy that the United States, in close coordination with the other major industrialized countries should, where appropriate, participate in international currency markets with the objective of producing more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assisting adjustment toward a more appropriate and sustainable balance in current accounts. Without compromising necessary secrecy regarding intervention tactics, the Conferees expect a general report on any intervention undertaken similar to that subsequently issued by the Federal Reserve Bank of New York concerning the intervention conducted after September 22, 1985.

Similarly, without detracting from U.S. negotiating leverage or disclosing information exchanged in confidence in government-to-government deliberations, the Conferees call for a full report on the results of negotiations required under the legislation, including a report on the results of bilateral nogotiations with countries that manipulate their currencies to obtain arbitrary competitive advantage. If no progress is made in the negotiations, the Conferees expect that the Secretary will provide an explanation.

The Secretary is to submit the initial written report on international economic policy, including exchange rate policy, on October 15 of each year. The Secretary shall provide a written update of developments six months after the initial report, on or before April 15 of each year. In addition, the Secretary shall appear, if requested, before the Banking Committees of the House and House and Senate to provide testimony on these reports.

The Conferees would expect that, if circumstances have substantially changed since the initial report in October, the written update required after six months would include a comprehensive treatment of all of the issues required to be addressed in the reports.

As our trade and Federal budget deficits have both grown larger, the United States has attracted increasing inflows of foreign capital which have created a growing repayment burden that is reflected in the current account. While much attention has routinely been focussed on trade flows, the Conferees believe that the independent significance of capital flows and their impact have not been given sufficient attention in policy discussions. Adequate information is a necessary prerequisite to deliberations on these issues. The Conference Agreement, therefore, requires the Secretary, after consultation with the Chairman of the Federal Reserve Board, to submit to the House and Senate Banking committees annual statistical reports on international capital flows and the impact of such flows on exchange rates and trade flows.

SUBTITLE B—INTERNATIONAL DEBT

PART I—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

House bill

Section 412 of the House bill contains a statement of findings. Section 413 contains a statement of purposes. The House bill contained no statement of policy on international debt.

Senate amendment

Section 1701 of the Senate bill contains a statement of findings, Section 1702 contains a statement of purposes, and Section 1703 contains a statement of policy.

Conference Agreement

The House recedes to the Senate on findings, purposes, and statement of policy.

PART II—THE INTERNATIONAL DEBT MANAGEMENT AUTHORITY

International Initiative

House bill

Section 423 of the House bill provides that the Secretary of the Treasury shall initiate negotiations with industrialized and developing countries to propose the establishment of a multilateral financial intermediary described in the section.

Senate amendment

Section 1712 of the Senate amendment provides for the Secretary of the Treasury to study the feasibility and advisability of establishing the multilateral financial authority described in the section. Unless the Secretary makes certain determinations described in the section, the Secretary will initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of the multilateral financial authority described in the section.

Conference Agreement

The House recedes to the Senate with amendments which require the two interim reports by the Treasury Secretary on the progress being made by the Secretary on the study or discussions be submitted to the House and Senate Banking Committees and the Senate Foreign Relations Committee at the end of the six month period beginning on the date of enactment of the Act and at the end of the twelve month period beginning on such date of enactment, and that the Secretary consult with such Committees after submitting each such report. The Conference Agreement also provides that after the interim reports have been submitted the Secretary shall submit a final report to the House and Senate Banking Committees and the Senate Foreign Relations Committee.

Actions to Facilitate Creation of the Authority

House bill

Section 424(a) of the House bill provides that the Secretary of the Treasury shall direct the U.S. Executive Director of the World Bank and the IMF to determine the amount of, and alternative methods by which, liquid assets controlled by the Bank and the gold stock of the Fund could be pledged as collateral to obtain financing for the activities of the authority described in Section 432.

Senate amendment

Section 1713 of the Senate amendment provides that the Treasury Secretary, except as restricted in the section, shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority, including directing the U.S. Executive Directors to the World Bank and the IMF to make the same determinations provided in the House Bill.

Conference Agreement

The House recedes to the Senate with an amendment that the section shall not be construed to affect any provision of the Articles of Agreement of the IMF or the World Bank or any agreement entered into under either of such agreements. The Conferees intend that the restriction in the section applies only to capital contributions or guarantees which the United States Government might provide for the establishment of the International Debt Management Authority, subsequent to the discussions required pursuant to Section 3111. The Conferees further intend that the provision restricting the accrual of expenses refers only to the voluntary nature of financial institution participation in the International Debt Management Authority.

World Bank-IMF Review

The Conferees agreed that the U.S. Executive Directors to the IMF and the World Bank shall request the managements of those institutions each to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchase and the International Debt Management Authority described in Section 3111 no later than 1 year after the date of enactment of this Act.

PART III—REGULATORY PROVISIONS AFFECTING INTERNATIONAL DEBT

House bill

Section 422 of the House bill contains four sense of the Congress resolutions on: regulatory objectives for banks with loans to heavily indebted developing countries; flexibility in debt restructuring; recapitalization by banks with loans to debtor countries; and appropriate levels of reserves for loan losses for banks engaged in lending to heavily indebted developing countries; as well as a study by the Federal banking regulatory agencies to determine the extent of any regulatory obstacles of negotiated reductions in the debt service obligations associated with sovereign debt. The House bill contains no statement of policy and no provision on debt for equity exchanges.

Senate amendment

Section 1721 of the Senate amendment contains a statement of policy, Section 1722 contains a provision on the facilitation of debt for equity exchanges, Section 1723 contains a regulatory study by the Treasury and the Federal banking agencies of possible regulatory steps to encourage a reduction in the indebtedness of heavily indebted international borrowers, and Section 1724 contains an amendment to Section 913 of the International Lending Supervision Act of 1983 requiring an annual report by the Federal banking agencies of the level of loan exposure by U.S. commercial banks to loans placed in troubled debt categories by the banking agencies.

Conference Agreement

The Senate receeds to the House on the statement of policy and the provision on debt for equity exchanges contained in the Senate amendment. The Senate recdes to the House on the four sense of Congress resolutions contained in the House bill. The Senate receedes to the House on the regulatory study with an amendment shortening the study to an analysis of regulatory and accounting obstacles to various forms of debt restructuring, including (but not limited to) negotiated interest reduction, amortization of loan losses, securitization and debt conversion techniques, and discounted debt repurchases as well as an analysis of the profitability of commercial bank lending to developing countries during the 10 year period 1976-1986. The House recedes to the Senate provision amending Section 913 of the International Lending Supervision Act.

Limited Purpose Special Drawing Rights for the Poorest Heavily Indebted Countries

House bill

Section 421 of the House bill contains provisions which provide that the Treasury Secretary, in consultation with the directors and staff of the IMF, shall conduct a study of the feasibility of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the IMF of limited purpose Special Drawing Rights to such countries.

Senate amendment

Section 2008 of the Senate amendment contains similar provisions.

Conference Agreement

The Senate recedes to the House.

Subtitle C—Multilateral Development Banks

House bill

Section 313 requires the Secretary of Commerce in consultation with the Secretary of Treasury to appoint a member of the U.S. and Foreign Commerical Service to each U.S. executive director's office at the multilateral development banks. The purpose is to promote U.S. exports by gaining improved access for U.S. firms to MDB procurement opportunities. Responsibilities would include dissemination of procurement information and better coordination between the Department of Commerce and Treasury.

Section 424 is similar in intent to Section 313 but would give Treasury the lead role in appointing a commercial officer to each MDB (who is not necessarily a member of the U.S. and Foreign Commerical Service). The officer's responsibilities would include dissemination of bidding information, and investigation of complaints lodged by U.S. firms.

Senate amendment

Section 1201(c) expresses the sense of the Congress that a U.S. and Foreign Commercial Service Officer should be assigned to each U.S. executive director's office at the MDBs. The Secertary of Commerce would appoint such officer and it would be the officer's reponsibility to disseminate procurement bidding information.

Section 1203 requires the Secretary of Commerce to designate an International Trade Administration office to serve as a liasion to the MDBs headquartered outside Washington, D.C. Responsibilities would be similar to those described in Section 1201(c).

Section 1801 provides that the Secretary of Commerce in consultation with Treasury shall appoint a Foreign Commercial Service Officer to serve with each of the U.S. executive directors at the MDBs. This section would also establish an Office of Procurement within the Treasury Department to act as a liasion with the commercial officers and provide technical assistance on procurement opportunities to U.S. firms (particularly small and medium sized).

Conference Agreement

The Conference Agreement stipulates that a member of the U.S. and Foreign Commercial Service or representative of the International Trade Administration be appointed by the Secretary of Commerce to serve with each U.S. executive director of the MDBs. It shall be the responsibility of each such officer or representative to disseminate procurement information such as bidding specifications and deadlines and to ensure that relevant information reaches U.S. firms which have a competitive advantage with regard to specific projects.

The Conference Agreement also stipulates that the U.S. executive directors to the MDBs attach a high priority to promoting procurement opportunities for U.S. firms with regard to MDB procurement. The Secretary of the Treasury is also directed to designate an Officer of Procurement within the Office of International Affairs at the Treasury Department. It shall be the responsibility of this officer to coordinate and cooperate with the Department of Commerce in efforts to improve opportunities for MDB procurement by U.S. companies. This second portion of the Conference Agreement is contained in Section 3202.

SUBTITLE D—EXPORT-IMPORT BANK AND TIED AID CREDIT AMENDMENTS

AMENDMENTS TO THE TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983

House bill

The Trade and Development Enhancement Act of 1983 established tied aid programs requiring the Agency for International Development (AID) in conjunction with the Export-Import Bank to provide tied aid financing. Section 451 of the House bill changes the voting procedures of the National Advisory Council on International Monetary and Financial Policies (NAC) from a unanimous consent requirement to a majority consensus for approval of tied aid financing; requires a semiannual report from the President to Congress on activities relating to the tied aid credit program as established by the 1983 Act; allows the President to terminate tied aid program after notifying Congress; and lifts the cap on AID's access to Economic Support Funds for tied aid.

Senate amendment

The Senate amendment contains no similar provisions.

Conference Agreement

The Conference Agreement amends the Export-Import Bank Act of 1945 to provide for a one-year extension of the authority for the Tied Aid Credit Fund, also known as the 'war chest,' which was established within the Export-Import Bank in 1986. The Conference Agreement also requires the Chairman of the Export-Import Bank to work with appropriate international organizations such as the World Bank, the International Monetary Fund, and the Organization for Economic Cooperation and Development (OECD) to prepare a report on tied aid credit practices of other countries.

The Conferees extended the "war chest" authority because the authority is due to expire in September 30, 1988. The Conferees are concerned that the practice of using tied aid credits as predatory financing by foreign countries is increasing despite the fact that there was a consensus reached at the OECD in 1987 to tighten the rules governing tied aid credits. The extension would not require any additional budget authority because the funds will come out of the existing authority for direct loans. That means that if the OECD arrangement proves to be effective, the fund does not have to be used. Finally, the reporting requirement would enable the Congress to remain informed on this issue and make any necessary revisions in policy before the end of the one-year extension.

REPORT ON U.S. EXPORTS TO DEVELOPING COUNTRIES

A. Findings and Purpose

House bill

Section 452(a) of the House bill states that Congress finds the debt problem of developing countries has seriously limited their ability to import and commercial banks have withdrawn from financing U.S. exports. The findings also state that it is important for the U.S. Export-Import Bank to increase its ability to assume a broader range of risks and to encourage the private sector to do the same. Section 452(b) provides that the purpose of the section is to require the Export-Import Bank to identify any policy and financing programs that would facilitate additional financing of U.S. exports to debt burdened developing countries as part of an overall debt management strategy.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The House recedes to the Senate.

B. Report Required

House bill

Section 452(c) of the House bill requires the President of the Export-Import Bank to submit a report to the House and the Senate Banking Committees before the end of the 90 day period beginning on the date of enactment of this Act. The report shall contain an assessment of the effectiveness of recent program changes in increasing U.S. exports to developing countries; an identification of additional policy and program changes that would enable the Export-Import Bank to increase financing of U.S. exports to developing countries and encourage greater private sector participation in this effort; and an assessment of the viability and cost of such programs. The provision also includes specific requirements for the viability assessment including: setting up a separate class of programs through which debt burdened countries or U.S. exports to them would receive preferential treatment; introducing less stringent repayment standards; and expanding Eximbank's guarantee authority to allow it to assume part of the exposure of commercial banks to debtor countries.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The Senate recedes to the House with an amendment. The Conference Agreement does not require that this report contain the viability assessment.

AMENDMENTS TO SECTION 2(E) OF THE EXPORT-IMPORT BANK ACT OF 1945

A. Time for Determining Supplies

House bill

The House bill contains no provision.

Senate amendment

Section 1106(a) of the Senate amendment amends the Export-Import Bank Act of 1945 to provide that the Export-Import Bank shall be concerned about extending loans or loan guarantees for production of certain commodities in foreign countries when the product is first to be sold on the world market rather than when production capacity is expected to become operative.

Conference Agreement

The House recedes to the Senate.

B. Making Comparative Injury Determinations

House bill

The House bill contain no provision.

Senate amendment

Section 1106(b) of the Senate amendment requires the Exports-Import Bank when making a determination of injury to specify both the long and short term injury to U.S. producers and to U.S. employment.

Conference Agreement

The House bill recedes to the Senate.

C. Definition of Substantial Injury for Export-Import Bank Determination

House bill

The House bill contains no provision.

Senate amendment

Section 1106(c) of the Senate amendment provides that the extension of any credit or guarantee by the Export-Import Bank will result in substantial injury if that credit or guarantee is responsible for the establishment or expansion of production equal to or in excess of 1% of U.S. production.

Conference Agreement

The House recedes to the Senate.

SUBTITLE E—EXPORT TRADING COMPANY ACT AMENDMENTS

House bill

Section 477 of the House bill provides that an export trading company would not have to meet the "operating principally" test during its first two years of operation. The House bill prohibits the Federal Reserve from establishing a determination period of less than four years during which an export trading Company would have to comply with the "operating principally" test. The House bill would also provide that the determination period for a specific export trading company would not begin until after the first two years of operation of a bank export trading company's operation.

The House bill would modify the Federal Reserve Board's policy in determining whether income received by an export trading company would be considered as export income for purposes of the "operating principally" test. The Federal Reserve Board would be required to count as export income any fees received by an export trading company from facilitating trade between other nations. However, no more than one-half of an export trading company's export income could consist of fees obtained from facilitating third country trade.

The House bill would prohibit the Federal Reserve from dissapproving a bank holding company's investment in an export trading company soley because the proposed leveraging ratio is greater than 15:1. In addition, the House bill would prohibit the Federal Reserve Board from issuing regulations placing a dollar amount limitation on the inventory of export trading companies. The Federal Reserve Board would continue to be permitted to limit the dollar amount of the inventory of a specific export trading company if the Board found that the inventory level threatened the safety and soundness of a bank.

Senate amendment

Section 1101 of the Senate amendment would replace the existing "operating principally" test with a new two-part test. In order to comply with the new test an export trading company would be required to obtain more of its revenue from exporting U.S. produced goods or services or from facilitating the export of U.S. produced goods or services by providing export trade services than the company obtains from importing goods into the U.S. In addition an export trading company would have to obtain at least one-third of its revenue from exporting U.S. goods or services or from providing export trade services.

The Senate amendment would also require that an export trading company operate principally to export goods or services produced in the United States by the company, its affiliates or unaffiliated persons or to provide one or more export trade services to facilitate the export of goods or services produced in the United States by unaffiliated persons. The Senate amendment would restrict the ability of an export trading company to own shares in a company that engages in securities or insurance activities.

Section 1102 of the Senate amendment prohibits the Federal Reserve Board from dissapproving an investment in an export trading company solely because the leveraging ratio is greater than 20:1. Section 1103 of the Senate amendment contained a provision identical to the House provision restricting the ability of the Federal Reserve Board to regulate the inventory of export trading companies.

Conference Agreement

The Conference Agreement modifies current law to include standards to determine when an export trading company is considered to be operated principally for purposes of exporting. The provision allows a company to meet the standard so long as the company's revenues from exports exceed revenue from exports and at least one-third of the company's business is derived from the export of U.S. goods and services produced by an unaffiliated person or organization. Previously, the Federal Reserve Board implemented the statutory requirement that an export trading company be operated "principally" for purposes of exporting U.S. goods and services by requiring that a majority of the company's revenues be derived from exporting or facilitating the export of U.S. goods and services produced by persons other than the export trading company. The Conferees agreed that the Federal Reserve's regulations governing investments by bank holding companies in export trading companies accurately implemented the intent of the Congress in this regard in enacting the original statute. In light of the experience of bank-affiliated export trading companies since 1982, however, it was determined that such companies might benefit from additional flexibility in their operations.

The effect of the change in the statutory provision is to allow export trading companies to engage in facilitating more trade between countries other than the United States than was previously permitted. In agreeing to this change, the Conferees recognized that engaging in third country trade can be a useful adjunct to a firm's export business, in so far as it can lead to greater involvement in and knowledge of international markets by bank-related export trading companies.

The Conferees also recognized, however, that, in the course of gaining the necessary experience and knowledge in international markets, bank-related export trading companies should not change their focus from the primary goal of promoting U.S. exports. By including the requirement that export revenues exceed import revenues, and that at least one third of the firm's total revenues derive from assisting exporting by U.S. persons unaffiliated with the export trading company, the Conferees emphasize that the purpose of the statute continues to be to permit bank holding companies to invest in companies that offer services that facilitate the export of the goods and services of U.S. entities that would not otherwise have ready access to overseas markets for their products. By retaining the role of bank-affiliated export trading companies in facilitating the export of U.S. products, the Act should help to create an infrastructure in this country that may provide export trade services to all sectors of the U.S. economy.

The Conference Agreement contains the provision of section 477(a) of the House bill regarding the determination period. The Conference Agreement provides that an export trading company does not have to meet the "operating principally" test during the first two years of its operation, that the determination period should be for a period of not less than four years and that the determination period for a specific export trading company shall not commence until two years after the initial operations of the export trading company have begun.

The Conferees agreed to adopt the provision contained in Section 1102 of the Senate amendment which prohibits the Federal Reserve from disapproving an investment in an export trading company solely because the proposed leveraging ratio is greater than 20:1. The Conference Agreement also contains the provisions contained in Section 477(c) of the House bill and Section 1103 of the Senate bill concerning the authority of the Federal Reserve to regulate the inventory of an export trading company.

SUBTITLE F—PRIMARY DEALERS

House bill

Section 428 of the House bill would prohibit the Federal Reserve System from designating, or continuing any prior designation of, any person of a foreign country as a primary dealer in U.S. Government securities if the government of that country does not allow U.S. companies "equal access" in the acquisition of that government's debt instruments. "Equal access" would be defined as permitting U.S. companies both to acquire government debt instruments upon original issue, and to act in a capacity that is substantially equivalent to that in which the United States permits primary dealers to act. Section 428 would become effective six months after enactment.

Senate bill

Section 1502 of the Senate amendment would prohibit the Federal Reserve System from designating, or continuing any prior designation of, any person of a foreign country as a primary dealer unless the government of that country accords U.S. companies national treatment in the underwriting and distribution of its government debt instruments. A foreign government accords national treatment to U.S. companies if it accords them the same competitive opportunities as it accords to domestic companies.

Section 1502 differs from section 428 of the House bill in being based on national treatment rather than equal access; in containing a grandfather provision for previously designated primary dealers acquired by persons of a foreign country before January 1, 1987; in containing exceptions for Canada and Israel; and in taking effect two years, rather than six months, after enactment.

Conference Agreement

The House recedes to the Senate with an amendment (1) making this section effective one year after enactment, and (2) broadening the grandfather provision.

In the United States, a company may be designated as a primary dealer if it meets certain nondiscriminatory standards, such as demonstrating financial and managerial strength and a willingness to bid at Treasury auctions and to make a secondary market in U.S. Government securities. Of the 42 companies currently designated as primary dealers, at least 12 are foreign-controlled, including several Japanese companies. However, in some foreign countries, and particularly in Japan, U.S. companies face discrimination when seeking to underwrite and distribute government debt instruments. This section seeks to assure that U.S. companies engaged in those activities are accorded the same competitive opportunities as foreign governments accord to their domestic companies.

Subsection (a) makes findings relating to the discrimination that U.S. companies face in the underwriting and distribution of Japanese Government debt instruments. Although this section is prompted by concerns about discrimination in Japan, it applies to companies owned or controlled by any person of a foreign country, except as otherwise provided in subsections (b)(2) and (c).

Effective one year after enactment, subsection (b)(1) prohibits the Federal Reserve System from designating any person of a foreign country as a primary dealer, or continuing any prior designation of such a person as a primary dealer, unless the foreign country in question accords U.S. companies national treatment in the underwriting and distribution of government debt instruments issued by that country. The definition of national treatment in subsection (b)(1) is drawn from, and intended to have the same meaning as, the definition in the Treasury Department's *Report to Congress on Foreign Government Treatment of U.S. Commercial Banking Organizations.* In the Conferees' view, a country accords national treatment to U.S. companies only if it accords them the same competitive opportunities as it accords to its domestic companies. National treatment requires a pragmatic, effect-oriented test for assuring that the same competitive opportunities exist.

Subsection (b)(1) does not prohibit the Federal Reserve System from continuing the prior designation of a company as a primary dealer if a two-part test is satisfied. First, the company must have been designated as a primary dealer before July 31, 1987. Second, either of the following must have occurred before July 31, 1987: (A) a person of a foreign country must have acquired control of the company (from a person other than a person of a foreign country); or (B) the company, in conjunction with a person of a foreign country, must have informed the Federal Reserve Bank of New York that that person intended to acquire control of the company.

Four primary dealers that qualify under subsection (b)(2) were brought to the Conferees' attention: Aubrey G. Lanston & Co., Inc.; Greenwich Capital Markets, Inc.; Brophy, Gestal, Knight & Co., L.P.; and the First Boston Corporation.

Apart from the specific prohibitions of subsection (b)(1), this section does not impair the Federal Reserve's current discretion to designate or refuse to designate anyone as a primary dealer, or to continue or rescind anyone's designation as a primary dealer. Accordingly, the Federal Reserve retains the same discretion as it has under existing law to *rescind* a company's designation as a primary dealer, even if the company is grandfathered under subsection (b)(2) or excepted under subsection (c).

"Company", as used in this section, encompasses any business entity.

Government debt instruments are "issued by [a foreign] country" for purposes of subsection (b)(1) if they are issued by the national government of that country.

Primary dealers are currently designated by the Federal Reserve Bank of New York. But because the prohibitions of subsection (b)(1) extend to the Federal Reserve Board, they would apply even if primary dealers were designated by the Board or by some other unit of the Federal Reserve System.

Subsection (c) excepts a person of a foreign country from the prohibitions of subsection (b)(1) if the foreign country in question either (1) was negotiating a bilateral agreement with the United States, as of January 1, 1987, pursuant to section 102(b)(4)(A) of the Trade Act of 1974; or (2) has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987. As of January 1, 1987, the United States was negotiating a bilateral agreement with Canada pursuant to section 102(b)(4)(A) of the Trade Act of 1974. A bilateral free trade area agreement between the United States and Israel entered into force in 1985. Accordingly, subsection (b) does not apply to a company because of that company being under Canadian or Israeli ownership or control.

SUBTITLE G—FINANCIAL REPORTS

QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS

House bill

Section 702 of the House bill requires the Secretary of Commerce and the Secretary of the Treasury, in consultation with the U.S. Trade Representative and the Securities and Exchange Commission, to determine which foreign countries have financial services institutions that are providing financial services in the U.S., and which U.S. institutions can offer the same services in these foreign countries. Commerce and Treasury shall submit separate reports within 120 days of enactment.

Senate amendment

Section 1504 of the Senate amendment provides that the Secretary of the Treasury shall report to Congress the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and on the efforts undertaken by the United States to eliminate such discrimination. The report is to be issued at least every 4 years, beginning on December 1, 1990, and is to be produced in conjunction with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission. Section 3854 of the Senate amendment requires the Federal Reserve to examine the impact of foreign financial and regulatory systems on the ability of U.S. businesses to compete in domestic and foreign markets.

Conference Agreement

The House recedes to the Senate with an amendment to require that the report include a discussion of the foreign countries whose financial institutions are providing services in the United States, and the kinds of financial services that are being offered.

FAIR TRADE IN FINANCIAL SERVICES

House bill

The House bill contain no provision.

Senate amendment

Section 1505 of the Senate amendment requires the President or his designee to conduct discussions with the governments of countries that are major financial centers to assure equity of access to foreign companies. These discussions are to be aimed at reducing or eliminating barriers to international trade in financial services, and to achieving reasonable comparability in the types of financial services which are permissible. any recommendations for changes in United States financial laws or practices which emerge from these discussions are to be reported to the committees of jurisdictions in the Senate and the House of Representatives.

Conference Agreement

The House recedes to the Senate.

FINANCIAL REPORTS—BANKS LOAN LOSS RESERVES

House bill

The House bill contains no provision.

Senate amendment

Section 1506 of the Senate amendment provides that the Federal Reserve Board shall conduct a study and report to Congress, by March 31, 1989, on the issues raised by including loan loss reserves as part of banks' primary capital. The report is to include a review of the treatment of loan loss reserves and composition of primary capital of banks in other major industrialized countries, and address the issue of whether loan loss reserves should continue to be counted as primary capital for regulatory purposes.

Conferees Agreement

The House recedes to Senate.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

Export-Import Bank

House bill

Section 322 of the House bill expresses the sense of Congress on the importance of the availability of adequate and flexible financing provided by the U.S. Export-Import Bank for U.S.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The House recedes to the Senate.

Structural Adjustment Lending

House bill

Section 6127(a) of the House bill directs the United States executive director of the World Bank to work with other executive directors of the Bank for the purpose of developing guidelines which minimize the adverse impact on the poor of structural adjustment loans. Structural adjustment loans (SALs) should incorporate innovative proposals designed to minimize the adverse impact of policy changes advocated through these loans, including provisions which remove barriers to credit for microenterprises and which promote environmentally sound development.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The House recedes to the Senate. Substantially similar language was enacted within the Fiscal Year 1988 Continuing Resolution.

Small-scale Credit

House bill

Section 427(b) of the House bill directs the United States executive directors of the multilateral development banks to seek the establishment of mechanisms for making small-scale credit available to low-income groups in the developing countries which have not had previous access to such credit. In addition, a report is required from Treasury on the efficiency of SALs. The report is to also include data on the impact of SALs on low-income groups using a variety of different measures.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The House recedes to the Senate. Similar statute was enacted within the Fiscal Year 1988 Continuing Resolution.

Mobilization of Private Capital

House bill

Section 432 of the House bill requires the United States executive directors of the MDBs to initiate discussions with other executive directors and propose greater use of cofinancing to encourage more commercial bank lending and steps to be taken to satisfy the credit needs of income generating microenterprises. In addition, the U.S. executive directors of the IMF and World Bank are to seek to increase the role of the Bank and Fund as intermediaries in generating new capital instruments for the benefit of the developing countries.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The House recedes to the Senate. Similar provisions are included in the reporting requirements of Subtitle B, International Debt.

Multilateral Investment Guarantee Agency (MIGA)

House bill

Section 436-445 of the House bill would authorize United States membership to provide political risk insurance and advice on foreign investment regimes to member developing countries. MIGA would be administered as a semi-autonomous agency within the World Bank Group. The U.S. share as negotiated for participation in MIGA would be $44.4 million in paid-in capital.

Senate amendment

Section 1901-1911 of the Senate amendment provides for United States' membership in MIGA to be conditionally authorized. The Senate amendment while containing identical provisions relating to the negotiated U.S. membership in MIGA also adds conditional provisions which would preclude U.S. membership where they are not agreed to by the other MIGA members. These conditions include: no insurance or guarantees could be issued by MIGA if they would reduce the number of employees of the firm receiving the guarantee within the U.S.; no insurance or guarantee could be issued if exports to the U.S. would result and be competitive with similar U.S. production or if the country receiving such guarantees imposes trade distorting performance requirements or if the country in receipt of the insurance or guarantee fails to extend to its citizens internationally recognized workers rights. The Secretary of the Treasury would be precluded from depositing the instruments of ratification until the aforementioned conditions were incorporated into the rules and regulations of MIGA.

Conference Agreement

The Conferees agreed to delete the MIGA authorization from the Conference Agreement. U.S. conditional participation in MIGA was authorized and appropriated in the Fiscal Year 1988 Continuing Resolution.

Inter-American Development Bank

House bill

Section 446 would authorize the merger of the Inter-Regional and Ordinary Capital windows of the Inter-American Development Bank. Sec. 447 would direct the U.S. executive director of the IDB to propose that any country lending ceilings established in a new replenishment agreement could be waived if certain conditions are met.

Senate amendment

The Senate amendment contains no similar provision.

Conference Agreement

The House recedes to the Senate. The merger of capital was authorized in the Fiscal Year 1988 Continuing Resolution. The country lending ceiling provision is no longer necessary and the Conferees agreed to delete the provision.

Multilateral Investment Guarantee Agency Budget Offset

House bill

The House bill contain no provision.

Senate amendment

Section 2001 of the Senate amendment authorizes the appropriation of more than $11.6 million as paid-in capital for capital increases for the World Bank could be appropriated in FY 88.

Conference Agreement

Senate recedes to the House.

Foreign Agriculture Investment Reform (FAIR)

House bill

The House bill contains no similar provision.

Senate amendment

Section 2178-2180(a) of the Senate amendment requires the United States executive directors to the multilateral development banks to vote against loans which lead to the production of commodities in surplus on world markets. If the loan was approved over U.S. objections the U.S. would be precluded from participating in new funding agreements of the MDB in question. In addition, the U.S. would be required to subtract from its contribution to the Bank an amount equal to the amount of the loan multiplied by the percentage shareholding of the U.S. in that Bank. The MDB in question would also be precluded from issuing bonds in the U.S. market or bonds denominated in dollars. The above penalties could be averted if the Secretary of the Treasury certifies: that the commodity or mineral production financed by the loan is not in surplus on world markets; that the MDB in question has taken steps to assure that no such loans will be approved in the future; that assistance from sources other than the MDBs accompanies the assistance provided by the MDBs and in amounts sufficient to demonstrate the economic viability of such production; that the production, marketing or export of such commodities arising from MDB assistance is not subsidized as described within Articles V, XVI, and XXIII of the Geneva GATT agreement of April 12, 1979.

Conference Agreement

The Senate recedes to the House. Requirements for the United States' executive directors to vote against MDB loans which would lead to world surplus production when that production was intended for export was enacted in the Fiscal Year 1988 Continuing Resolution.

AMENDMENTS TO TITLE III OF THE EXPORT TRADING COMPANY ACT OF 1982

Present law

Title III of the Export Trading Company Act of 1982 provides for antitrust certification of certain joint export conduct by the Secretary of Commerce acting with the concurrence of the Attorney General.

House bill

No provision.

Senate bill

Section 1107 of the Senate bill amends the antitrust certification procedure in certain respects.

Conference Agreement

The conference substitute deletes the provision.

TITLE IV—AGRICULTURAL TRADE

SUBTITLE A—FINDINGS, POLICY, AND PURPOSE

(1) Short Title

The *Senate* amendment provides that the tile may be cited as the "Agricultural Competitiveness and Trade Act of 1987". (Sec. 2101)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment that changes the short title of the title to the "Agricultural Competitiveness and Trade Act of 1988". (Sec. 4001)

(2) Findings

The *House* bill contains proposed findings of Congress relating to the need for Agricultural Aid and Trade missions, as follows:

(1) United States agricultural exports have declined by more than 40 percent since 1981, from $43.8 billion in 1981 to $26.3 billion in 1986;

(2) the United States share of the world market for agricultural commodities and products has dropped by 28 percent during the last five years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1 billion in United States agricultural exports causes the loss of 35 thousand agricultural jobs and the loss of 60 thousand nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural United States;

(6) to reverse the decline of agricultural exports and improve prices for United States farmers and ranchers, it is necessary that all agricultural export programs be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480), the Commodity Credit Corporation Charter Act, and section 416 of the Agricultural Act of 1949;

(7) greater use should be made by the Secretary of Agriculture of the authorities established under the Food for Peace Act of 1966, Agricultural Trade Development and Assistance Act of 1954, section 416 of the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(a) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(b) increase live stock production to enhance the demand for United States feed grains;

(8) food aid and export assistance programs stimulate economic activity in developing countries and, as incomes improve, diets improve and the demand for and ability to purchase food increases;

(9) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(10) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(a) provides communities with health care, credit systems, and tools for development; and

(b) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products. (Sec. 631)

The *Senate* amendment sets forth similar findings of the Congress. The *Senate* amendment also sets forth the finding that increasing exports is vital to the financial well-being of the farm sector and to increasing farm income. The amendment also provides that factors causing this loss of United States agricultural exports include changes in world markets such as the addition of new exporting nations, innovations in agricultural technology, increased use of export subsidies, existence of trade barriers, slowdown in growth of world food demand in the 1980's, and the rapid buildup of surplus stocks. (Sec. 2111)

The *Conference* substitute adopts the *House* provision with an amendment adding the two provisions of the *Senate* amendment. The *Conference* substitute also contains more recent trade figures. (Sec. 4101)

(3) Agricultural Trade Policy

The *House* bill provides that it is the policy of the United States to provide agricultural commodities for export at competitive prices; support the principle of free and fair trade in agricultural commodities; to support negotiating objectives set forth at sec. 111(b) of the *House* bill; to utilize fully existing authority to combat unfair trading practices; and to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade. (Sec. 318(a))

The *Senate* amendment provides that it is the policy of the United States to increase the volume of, and revenues from, agricultural exports; to gain a fair share of world agricultural trade based on competitive trade principles; to aggressively support programs designed to make United States exports more competitive abroad, including the agricultural export enhancement program, the export credit guarantee program, and direct credit programs; and to challenge before the appropriate panels of the General Agreement on Tariffs and Trade (the "GATT") barriers to agricultural trade that are illegal under, or inconsistent with, the GATT and to aggressively respond to changes in world market conditions and to increase exports and farm income. (Sec. 2111(b))

The *Conference* substitute adopts the *House* provision with an amendment that provides that it is the policy of the United States to seek the elimination of barriers to agricultural trade. (Sec. 4102)

(4) Purposes of Chapter

The *House* bill provides that is the purpose of chapter 1 of title VI of H.R. 3 (as enacted by the House) to increase the effectiveness of the Department of Agriculture in—

(1) agricultural trade policy formulation and implementation; and

(2) assisting United States agricultural producers to participate in international agricultural trade,

by strengthening the operations of the Department of Agriculture and related entities. (Sec. 601)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the House provision with an amendment making this section applicable to the entire title. The new provision provides that it is the purpose of the title to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and to improve the competitiveness of United States agricultural commodities and products in the world market. (Sec. 4103)

SUBTITLE B—AGRICULTURAL TRADE INITIATIVES

GENERAL PROVISIONS

(5) Long term agricultural trade strategy reports

The *House* bill would require the Secretary of Agriculture to prepare for each fiscal year a long-term agricultural trade strategy report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture, for one-year, five-year, and ten-year periods. The President would be required to submit each annual report along with the budget for the fiscal year involved.

Each report would include the following:

(1) Findings with respect to trends in the comparative position of the United States and other countries in exports of agricultural commodities and products and new developments in research conducted by other countries that may affect the competitiveness of United States agricultural commodities and products.

(2) Findings and recommendations with respect to the movement of United States agricultural commodities and products in non-market economies.

(3) As appropriate, the agricultural trade goals for each agricultural commodity and value-added product produced in the United States (expressed both in physical volume and monetary value).

(4) Recommendations as to Federal policy and programs, and as to levels of Federal spending on international programs and activities of the Department of Agriculture and on programs and activities of other agencies, to meet the agricultural trade goals.

(5) Recommended long-term strategies for growth in agricultural trade and exports—

(a) taking into account United States competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(b) including specific recommendations with respect to export enhancement programs (including credit and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

The provisions of each long-term agricultural trade strategy report that relate to recommended spending levels for Department of Agricultural international activities for the upcoming fiscal year would be treated as the President's annual budget submission to Congress for such programs for such fiscal year, and would be submitted in addition to the budget request for other Department of Agriculture programs for such fiscal year.

Under this provision, the President would be required, in each strategy report, to—

(1) include recommendations for changes in legislation governing Department of Agriculture international programs needed to meet the long-term goals established in the report; and

(2) identify any such recommendations that might modify the long-term policy in any previous report. (Sec. 607)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision (Sec. 4201)

(6) Technical assistance in trade negotiations

The *House* bill would require the Secretary of Agriculture to provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues relating to agricultural trade. (Sec. 611)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 4202)

(7) Agricultural trade with countries with large trade surpluses

The *House* bill would require the Secretary of Agriculture to develop plans for joint development assistance agreements with respect to countries that have substantial positive trade balances with the United States. The Secretary, in consultation with the Secretary of State and (through the Secretary of State) representatives of any such country, would be required to develop an appropriate plan (taking into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors) under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. The Secretary would be required to submit each such plan to the President as soon as it is completed.

The *House* bill also authorizes the President to enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries. (Sec. 319)

The *Senate* amendment provides that it is a primary negotiating objective of the United States to seek the elimination of barriers to agricultural trade by nations that have unusually large overall trade surpluses with the United States. It is the responsibility of those nations to reduce such barriers. (Sec. 2112)

The *Conference* substitute adopts the *House* provision. (Sec. 4203)

(8) Reorganization evaluation

The *House* bill will require the Secretary of Agriculture to evaluate the Department of Agriculture reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals for improvement of current management of international and trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary would appoint a private sector advisory committee of not less than four members. The advisory committee would be appointed from among individuals representing farm and commodity organizations, market development cooperator organizations, and agribusiness.

The Secretary is to report the findings of the study to Congress, together with the views and recommendations of the private sector advisory committee, not later than April 30, 1988. (Sec. 602)

The *Senate* amendment is substantively the same but has some technical differences. (Sec. 2125)

The *Conference* substitute adopts the House provision with an amendment. The *Conference* substitute would provide for the study of the reorganization of the Foreign Agricultural Service to be completed and a report submitted to Congress not later than April 30, 1989. (Sec. 4202)

(9) Contracting Authority

The *House* bill would authorize the Secretary of Agriculture to contract with individuals outside the United States for personal services to be performed outside the United States. Such individuals would not be regarded as employees of the United States Government under any law, including any law administered by the Office of Personnel Management. (Sec. 608)

The *Senate* amendment authorizes the Secretary of Agriculture to contract with individuals for services to be performed outside the United States. The Secretary may use this authority to more effectively carry out programs and activities to maintain, develop or enhance export markets for United States agricultural commodities and products. These individuals would not be considered employees of the United States. (Sec. 2124)

The *Conference* substitute adopts the *Senate* provision. (Sec. 4205)

(10) An office to provide assistance to victims of unfair trade practices

The *House* bill contains a provision that provides for the establishment of an office within the Department of Agriculture, under the direction of the Under Secretary of Agriculture for International Affairs and Commodity Programs, to provide assistance to victims of unfair trade practices.

This office would be responsible for—

(1) providing to United States citizens and organizations damaged by unfair agricultural trade practices and policies such assistance as the Under Secretary determines appropriate in the development of cases before the United States Trade Representative, the International Trade Commission, the United States Department of Commerce, the Court of International Trade, and any other similar agency;

(2) providing and updating information to such persons regarding the incidence and severity of such practices and policies; and

(3) informing such persons of any adverse effect on them caused by such practices and policies of which such persons are not aware.

The office would also be required to provide information relating to such unfair trade practices to the appropriate Federal agencies, together with a recommendation by the Secretary of Agriculture with regard to the need for action, if any, to address such unfair trade practices. The office would coordinate its work with the activities of the Trade Remedy Assistance Office established under section 339 of the Tariff Act of 1930. (Sec. 606)

The *Senate* amendment requires the Secretary of Agriculture to assist United States citizens and organizations that have been damaged by unfair agricultural trade practices and policies. The Secretary is to assist such persons in preparing cases before the United States Trade Representative, the International Trade Commission, the United States Department of Commerce, the Court of International Trade, and any other similar agency. The Secretary is also required to—

(1) provide and update information to such persons regarding the incidence and severity of such practices and policies;

(2) inform such persons of any adverse effect on them caused by such practices and policies of which such persons are not aware;

(3) report information relating to such unfair trade practices and the effects of such practices to the appropriate Federal agencies, together with a recommendation with regard to what actions, if any, should be initiated under the laws of the United States with respect to trade; and

(4) annually notify Congress of any assistance that is provided under this section.

Subsection (b) provides that after the Secretary of Agriculture provides information and recommendations to the appropriate Federal agencies in accordance with subsection (a)(4), such agencies shall consult with the Secretary of Agriculture and inform the Secretary what actions, if any, such agencies will initiate in response to the information provided by the Secretary and the reasons for the chosen response.

Subsection (c) provides that the Secretary implement section 209 not later than 180 days after the date of enactment of this Act. (Sec. 2128)

The *Conference* substitute adopts the *House* provision with amendments. The *Conference* substitute provides that the Secretary of Agriculture shall establish an office within the Foreign Agricultural Service and under the direction of the Administrator of the Foreign Agricultural Service to carry out the duties described below.

The primary responsibility of the office would be to provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

The office shall—

(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices; and

(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the marketing and export of domestically produced commodities, or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

No later than 60 days after the end of each fiscal year, the Administrator of the Foreign Agricultural Service shall submit a report to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives. The report shall describe—

(1) the type of information that is currently available through the office established by this section; and

(2) the type of assistance provided to persons during the previous fiscal year.

In the first report submitted under this section, the Administrator shall also—

(1) provide an analysis of the information currently available concerning foreign agricultural trade practices and domestic agricultural trade promotion programs and the methods used to disseminate such information;

(2) provide recommendations with respect to additional information and assistance that should be made available to interested persons; and

(3) provide an analysis of the degree that overlapping information and reports concerning agricultural trade are prepared. (sec. 4206)

The establishment of the Trade Assistance Office is not intended to burden agency infrastructure or create new levels of bureaucracy, nor it is the purpose of the new office to take over any of the current responsibilities of the Office of the United States Trade Representative or the International Trade Commission. The Conferees intended that there be one office in the Foreign Agricultural Service, either newly created or a combination of existing offices, which would be easily accessible for persons requesting domestic or international agricultural trade information or for those who may request guidance on what remedies are available under current law to assist victims of unfair trade practices. For example, a producer who may seek data on imports of a certain agricultural commodity may request the office to provide information on the trend of such imports over a certain period of time or the producer may request information on the appropriate federal agency to contact to discuss the adverse impact on the producer's industry of imports or foreign trade practices. In the latter instance, the Conferees intend that this office be able to provide an immediate response by referring the requestor to the appropriate official within the Office of the United States Trade Representative or any other appropriate Federal agency.

(11) Office to Monitor Trade Practices

The House bill provides for the establishment of an office within the Department of Agriculture, under the direction of the Under Secretary of Agriculture for International Affairs and Commodity Programs, to continuously monitor and study trade practices carried out by other countries to promote the export of agricultural commodities and products. The office is also responsible for preparing an analysis, every 6 months, by country and commodity or product, on quantitative import restrictions, trade barriers, and other policies and practices of foreign governments affecting exports of United States agricultural commodities and products and on any reductions in such trade practices. The information developed under this section is to be submitted to the Secretary of Agriculture every 6 months.

Within 15 days after receiving the report, the Secretary of Agriculture is to submit it to the following committees, along with information regarding the level of subsidies provided by other countries and the United States to promote the export of agricultural commodities and products:

(1) the Committee on Agriculture, Nutrition, and Forestry, the Committee on Foreign Relations, and the Committee on Finance of the Senate;

(2) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives; and

(3) the United States Trade Representative. (Sec. 605)

The Senate amendment contains no comparable provision.

The Conference substitute deletes the House provision. The Trade Assistance Office will be responsible for compiling international trade information, including information concerning trade practices carried out by other countries.

(12) Export Sales of Government Stocks at Subsidized Prices

The House bill would amend section 1203 of the Agriculture and Food Act of 1981, which currently provides authority for a special standby export subsidy program.

The House bill would strike out subsection (d) of section 1203, redesignate subsection (c) as subsection (d), and insert a new subsection (c). The subsection to be deleted provides that the Secretary cannot implement the special standby export subsidy program for cotton.

The new subsection (c) to be added would establish a new export subsidy program under section 1203, as follows: The Secretary would be required to take all feasible steps to cause the exportation, at competitive world prices, of basic agricultural commodities (corn, cotton, peanuts, rice tobacco, and wheat) produced in the United States. To achieve such goal, the Secretary would be required, if necessary, to subsidize the price of exporting any basic agricultural commodity that the Secretary acquires under any price support loan program. The aggregate value of any subsidy could not exceed the sum of—

(1) the cost to the Government that would result from acquiring (under price support loan activities), but not selling, such commodity, including the costs of transportation, storage, and maintenance of quality incurred in connection with retaining such commodity; and

(2) the increase in tax revenues to the United States arising from the growth in the gross national product that would result from the export sales of such agricultural commodity, as estimated by the Secretary.

The House bill also provides that the new program would be carried out through the Commodity Credit Corporation. (Sec. 625)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

FOREIGN AGRICULTURAL SERVICE

(13) Foreign Agricultural Service personnel

The *House* bill requires that, to ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Foreign Agricultural Service be not less than 900 full-time employees during each of the 1987 through 1990 fiscal years.

The *House* bill provides that it is the sense of Congress that the personnel ceiling described above will permit the Foreign Agricultural Service to effectively carry out its current program and support activities, including programs established under the Agricultural Trade Development and Assistance Act (P.L. 480), section 416 of the Agricultural Act of 1949, and title XI of the Food Security Act of 1985; and provide resources for other activities of the Foreign Agricultural Service authorized in the bill. (Sec. 604)

The *House* bill also would provide that in order to make enhanced trade policy and international economic information more readily available, the Secretary of Agriculture is authorized to expand the number of agricultural counselors, attaches, assistant attaches and other diplomatic representatives of United States Department of Agriculture.

The *Senate* amendment provides that the authorized personnel level for the Foreign Agricultural Service (FAS) shall not be less than 850 full time employees for fiscal years 1987, 1988 and 1989, to help FAS more effectively carry out its responsibilities with respect to the various agricultural export programs of the United States.

The *Senate* amendment further provides that it is the sense of Congress that such increased personnel levels should allow FAS to devote greater resources to developing new markets for United States agricultural commodities and products. (Sec. 2123(a))

The *Conference* substitute adopts the *House* provision with an amendment deleting the sense of Congress language. (Sec. 4211)

The provisions of the Conference substitute that call for the increase in personnel of the Foreign Agricultural Service (FAS) to a level of at least 900 full-time staff, authorize $20 million above the normal appropriations level, and establish a Trade Assistance Office to aggregate trade information and provide assistance to United States agricultural interests on world trade matters and trade remedies indicate the Conferees' strong interest in better coordinated and more efficient operations of FAS.

The Conferees intend that the agency, in undertaking these changes accord first priority to an increase in personnel. The Conferees are cognizant of the many demands made on the agency by the Congress and the industry for trade data and other services of the Department of Agriculture and expect that the personnel level be increased as soon as possible to the 900 full-time staff mandated in this bill. Because of the new directives in the legislation towards more market development by the FAS, the Conferees encourage the agency to recruit personnel who have expertise and experience in such areas as international relations, finance and marketing.

In addition, the Conferees encourage FAS trade personnel and agricultural attachés to meet as often as possible with representatives of cooperator organizations, State agricultural officials and other interested agricultural groups to help orient those interested in exporting United States agricultural products in foreign import practices and market development and export promotion techniques.

The Conferees believe that this increased level of Foreign Agricultural Service employees will enable the agency to more effectively carry out its responsibilities under agricultural export programs.

(14) Attaché Educational Programs

The *Senate* amendment provides for the establishment of a program within the Foreign Agricultural Service whereby agricultural attachés returning from overseas assignments would visit and consult with agricultural producers and exporters throughout the country, to share their knowledge and expertise, in order to increase future exports of United States agricultural commodities and products.

The *Senate* amendment also would require the Administrator, Foreign Agricultural Service, to establish an educational program within the Foreign Agricultural Service which would give agricultural attachés and Service officers an opportunity to provide market development training and facilitate the exchange of information on market development and export promotion, with at least 30 private sector individuals, per session. These individuals would represent cooperator organizations, state agricultural offices, and various other interested parties (such as representatives of small agricultural businesses). This program is to be established within 120 days after enactment of this Act. (Sec. 2123(b))

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* amendment with amendments. The *Conference* substitute provides for States to be included in the educational program established by this section. Under this program, agricultural attachés who are reassigned to the United States would visit and consult with producers and exporters of agricultural commodities throughout the United States. The Conferees do not intend that all returning agricultural attachés be required to participate in the program established by this section (Sec. 4212)

(15) Personnel Resource Time.

The *Senate* amendment provides that the Administrator of the Foreign Agricultural Service, in planning the overall allocation of personnel resource time of agricultural attachés, shall ensure that the maximum percentage practicable of the overall personnel resource time of agricultural attachés be devoted to activities designed to increase markets for United States agricultural commodities and products. The Administrator is required to submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describes the allocation of personnel resource time of agricultural attachés during each of the fiscal years 1988 and 1989. The reports shall be submitted not later than September 30, 1988, and September 30, 1989, respectively. (Sec. 2123(c))

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 4213)

(16) Cooperator organizations.

The *House* bill would express the sense of Congress that the foreign market development cooperator program of the Foreign Agricultural Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to achieve the objective of expanded United States agricultural exports; and that Congress reaffirms its strong support of the program and of the cooperator organizations. The *House* bill further provides that the Administrator of the Foreign Agricultural Service and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

The *House* bill would authorize the Secretary of Agriculture to make available to cooperator organizations, agricultural commodites owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products. Commodities made available to cooperators under this provision would be in addition to, and not in lieu of, funds appropriated for market development activities of the cooperator organizations. (Sec. 609(a) and (b))

The *Senate* amendment authorizes the Secretary of Agriculture to make Commodity Credit Corporation (CCC) commodities available to cooperator organizations. If commodities are made available under this section, the cooperator organizations shall use such commodities to establish demonstration projects intended to expand markets for United States agricultural commodities. (Sec. 2122).

The *Conference* substitute adopts the *House* provision with amendments providing that such a program should be implemented in such a way as to avoid any conflicts of interest; and that the Foreign Agricultural Service should develop a means to evaluate the effectiveness of the cooperator programs. (Sec. 4214)

(17) Authorization of additional appropriations.

The *House* bill authorizes appropriations for the Foreign Agricultural Service of the Department of Agriculture (in addition to any sums otherwise authorized to be appropriated by any other provision of law) $22,500,000 for fiscal year 1987, $27,500,000 for fiscal year 1988, $32,500,000 for fiscal year 1989, and $32,500,000 for fiscal year 1990.

Of the funds authorized to be appropriated in each fiscal year—

(1) $4,500,000 would be for expansion of the agricultural attaché service;

(2) $1,000,000 would be for the expansion of international trade policy activities of the Foreign Agricultural Service;

(3) $2,000,000 would be for the enhancement of the Foreign Agricultural Service worldwide market information system; and

(4) $15,000,000 in fiscal year 1987, $20,000,000 in fiscal year 1988, $25,000,000 in fiscal year 1989, and $25,000,000 in fiscal year 1990 would be for expanded foreign market development. (Sec. 603)

The *Senate* amendment authorizes additional appropriations for the Foreign Agricultural Service equalling $15.2 million in 1987 and 1988, and $17.2 million in 1989 and 1990. This increased amount is allocated to the following uses in each fiscal year:

(1) $3.5 million for program management and support (including the expansion of the agricultural attache service);

(2) $4 million for creation of new markets and for providing adequate staff for developing markets for high value-added products;

(3) $2.7 million in the fiscal years 1987 and 1988 and $4.7 million in the fiscal years 1989 and 1990 for the conduct of trade shows and exhibitions; and

(4) $5 million for general foreign market development activities. (Sec. 2126)

The *Conference* substitute adopts the *House* provision with amendments. The *Conference* substitute would provide for a general overall increase in authorized appropriations for the Foreign Agricultural Service for each of the fiscal years 1988 through 1990 of $20,000,000 for marketing development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Foreign Agricultural Service;

(3) enhancement of the Foreign Agricultural Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Foreign Agricultural Service and upgrading the quality of United States representations at trade shows and exhibitions so that the quality at least equals that of United States competitors;

(5) developing markets for value-added beef, pork, and poultry products. (Sec. 4215)

(18) Trade shows and exhibitions.

The *Senate* amendment requires the Administrator of the Foreign Agricultural Service to use the increased funds for trade shows provided for in the bill to increase the number of trade shows and exhibitions conducted by the Foreign Agricultural Service, improve the quality of the trade shows and exhibitions conducted by the Foreign Agricultural Service so that the quality is on a par with that of other countries' trade shows, provide more variety in the trade shows and exhibitions, and target the additional trade shows at newly developing markets. (Sec. 2127)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. This provision, concerning the improvement in the quality and quantity of trade shows conducted by the Foreign Agricultural Service, is included in the section of appropriations. (Sec. 4215)

(19) Value-added Beef, Pork, and Poultry Products.

The *Senate* amendment provides that the Administrator of the Foreign Agricultural Service, in carrying out the programs of the Foreign Agricultural Service, shall place emphasis on the development of markets for value-added beef, pork, and poultry products. The Administrator shall promote the goal of assuring that the United States' share of the world export market for these meat products is at least as great as the United States' share of the world production market for these products. The Administrator of the Foreign Agricultural Service shall submit an annual report to Congress describing the progress that has been made in achieving this goal. (Sec. 2129)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with an amendment. This provision, calling for emphasis on the development of markets for value-added beef, pork, and poultry products, is included in the section on appropriations. (Sec. 4215)

(20) Private Sector Program.

The *Senate* amendment authorizes the Foreign Agricultural Service to employ, on a short term basis, private sector individuals who are experts in agricultural market development, and also permits Foreign Agricultural Service employees to work in the private sector to develop new market development expertise. The Administrator shall carry out this program in accordance with 18 U.S.C. 208 and all other provisions of law applicable to conflicts of interest.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes this provision.

(21) Stationing of marketing specialists in States.

The *House* bill provides that the Secretary of Agriculture shall assist state departments of agriculture in supporting the export efforts of private companies. Such assistance shall include the stationing of marketing specialists in States or regions as a part of the normal rotation of these specialists between Washington, D.C. and overseas locations.

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(22) Definitions.

The *Senate* amendment sets forth certain definitions for the purposes of Title II of the bill. (Sec. 2121)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

SUBTITLE C—EXISTING AGRICULTURAL TRADE PROGRAMS

(23) Triggered Marketing Loan.

The *Senate* amendment would require the Secretary of Agriculture to implement a marketing loan program for producers of the 1990 crop of wheat, feed grains, and soybeans if, prior to the beginning of the 1990 marketing year for wheat, a bill has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements a trade agreement under the GATT concerning agricultural commodities. Under the marketing loan program required by this section, the Secretary of Agriculture shall permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i)(1) of the Agricultural Act of 1949 for the 1990 crop of wheat, feed grains, and soybeans at a level that is the lesser of the loan level for such crop or the prevailing world market price established for the commodity that is pledged as collateral.

The President may waive the implementation of the mandatory marketing loan program if, during the 60-day period immediately prior to the beginning of the 1990 marketing year for wheat, the President certifies to Congress that (1) significant progress has been made toward reaching a trade agreement that implements the objectives set forth in section 102(c) of the bill, and (2) implementation of the marketing loan program would be harmful to achieving the trade agreement objectives. The President must consult with the Congressional representatives appointed under section 208 of this Act prior to making the certification and must accompany the certification with the opinions of such Congressional representatives concerning the progress of the negotiations and the effect that implementation of the marketing loan program would have on the negotiations.

The *Senate* provision would provide that the President's waiver shall not apply if a joint resolution disapproving the waiver is enacted.

The *Senate* provision would also modify the rules of the Senate and the House of Representatives for the express purpose of providing for expedited consideration of the joint resolution. Such joint resolution would be referred to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Motions to consider or discharge the joint resolution may not be amended and shall be highly privileged. Debate on the joint resolution shall be limited to not more than 10 hours. Motions to postpone consideration of the joint resolution and appeals from decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to the joint resolution shall be decided without debate. (Sec. 2131)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute provides as follows:

If, prior to January 1, 1990, Congress has not enacted a bill implementing an agreement on agricultural trade under the GATT, the President shall, no later than 45 days after such date—

(1) submit a report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate and the Committee on Agriculture, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives describing the status of the negotiations, the progress that has been made to date, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in the domestic farm programs that might be necessary upon conclusion of the negotiations; and

(2) certify to Congress whether or not significant progress toward reaching a GATT agreement on agriculture has been made.

The Conferees are aware of the sensitive nature of negotiations such as those being conducted in the Uruguay Round. The Conferees do not intend to require the President or the United States Trade Representatives to include classified or other information in this report that would jeopardize the successful conclusion of the negotiations.

If the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days prior to the beginning of the marketing year for the 1990 crop of wheat instruct the Secretary of Agriculture to implement a marketing loan for the 1990 crops of wheat, feed grains, and soybeans, *Provided, that* the President, may waive application of this provision by certifying to Congress that implemention of the marketing loan would harm further negotiations.

If, subsequent to implementation of a marketing loan in accordance with the above paragraph, the President certifies to the Senate Committee on Agriculture, Nutiriton, and Forestry, the Senate Committee on Finance, the House Committee on Agriculture, the House Committee on Ways and Means, and the House Committee on Foreign Affairs that substantial progress is being made in the GATT negotiations and that continuation of the marketing loan program would harm such progress, the President may instruct the Secretary of Agriculture to discontinue the marketing loan program.

If the President exercises the waivers provided for with respect to implementation of the marketing loan, then the Secretary shall make commodities acquired by the Commodity Credit Corporation equalling at least $2 billion in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced commodities for the purpose of making exports of such commodities available on the world market at competitive prices.

Commodities made available in accordance with this provision shall be in addition to, and not in lieu of, other commodities already made available for the purpose of enhancing the export of United States commodities. The Secretary of Agriculture may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection. Therefore, up to $4.5 billion could be available to conduct an agricultural export enhancement program to counter unfair trading practices.

The President may waive the implementation of the expanded export enhancement program by certifying to Congress that implementation of the export enhancement program provided for by this subsection would be a substantial impediment to achieving a successful agreement under the GATT. If, subsequent to the implementation of the expanded export enhancement program, the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the export enhancement program would harm such progress, the President may instruct the Secretary of Agriculture to suspend the implementation of such program.

Before the President makes any of the certifications provided for in this provision, the United States Trade Representative must consult with the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate and the Committee on Agriculture, the Committee on Ways and Means, and the Committee on Foreign Affairs of the House of Representatives and report to the President. (Sec. 4301)

In adopting this provision, the Conferees intend that, if triggered, expanded funding for export enhancement program initiatives be applied as equitably as possible, depending on international trade circumstances, to all agricultural commodities to force further progress on an agricultural agreement in the Uruguay Round of multilateral trade negotiations.

The Export Enhancement Program (EEP) has effectively encouraged several governments to pursue the present Uruguay Round of negotiations. However, discriminatory trading practices continue to jeopardize the ability of United States exporters to compete in many markets for all agricultural commodities, and certain value-added products derived from those commodities and distort agricultural trade generally. One of the EEP's fundamental strengths as a negotiating tool is its ability to be applied selectively in specific markets against specific trading policies and selected practioners.

In selecting this option as a further negotiating tool, the Conferees were equally concerned that the Executive branch not misinterpret * * * provision by commodity. In using the additional leverage mandated under this legislation, the Executive branch should refrain from an unwarranted, narrow interpretation and implement this legislation as a sustained, broad-based response to all unfair trading practices affecting the full range of United States commodity exports in all adversely affected markets.

(24) Price Support for Sunflower Seeds and Cottonseed.

The *Senate* amendment amends section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) with respect to price support programs for the 1990 crops of sunflower seeds and cottonseeds.

The *Senate* amendment provides that if a marketing loan program is implemented under section 2131 of the bill with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall implement a price support program for the 1990 crop of sunflowers.

The *Senate* provision also would amend section 201(i) of the Agricultural Act of 1949 to add a new paragraph (7) that provides that if a marketing loan program is instituted for the 1990 crop of soybeans under section 2131 of the bill, the Secretary of Agriculture shall support the price of cotton seeds at such level and in such manner as the Secretary determines will cause cottonseeds to compete on equal terms with soybeans in the market. (Sec. 2172)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* amendment with an amendment requiring the Secretary of Agriculture to discontinue any price support program implemented under this provision if the President has instructed the Secretary to discontinue implementation of the marketing loan program for soybeans because such program will harm further GATT negotiations and other technical amendments. (Sec. 4302)

(25 Multi-year agreements under the Food and Progress program.

The *House* bill provides that, subject to the availability of commodities, the President is encouraged to approve multiyear agreements to make commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of section 1110 of the Food Security Act of 1985. (Sec. 619)

The *Senate* amendment is substantively the same, except the President is required, on request, to approve multiyear agreements. (Sec. 2132)

The *Conference* substitute adopts the *Senate* provision with an amendment. The *Conference* substitute would amend section 1110 of the Food Security Act of 1985 to provide that in carrying out section 1110, subject to the availability of commodities, the President must approve multiyear agreements to make commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of section 1110. (Sec. 4303)

(26) Targeted Export Assistance program.

The *House* bill amends section 1124(b) of the Food Security Act of 1985 to add a new paragraph that provides for a second purpose for which the Targeted Export Assistance (TEA) program commodities or funds are to be used, as follows: Use by the Secretary of Agriculture to assist organizations consisting of producers or processors of United States agricultural commodities, in such amounts as are determined to represent reasonable expenses incurred by them, in defending countervailing duty actions instituted after January 1, 1986, in foreign countries to offset the benefits of the agricultural programs provided for under the Agricultural Act of 1949 or the Food Security Act of 1985. In no event could such assistance exceed $500,000 for the defense of any one countervailing duty action. (Sec. 609(c))

The *Senate* amendment amends subsection (a) of section 1124 of the Food Security Act of 1985 by increasing the amount of funds of, or value of commodities owned by, the Commodity Credit Corporation that shall be used for export activities authorized to be carried out by the Commodity Credit Corporation or the Secretary of Agriculture, to not less than $215 million for fiscal year 1988, and not less than $325 million for fiscal years 1989 and 1990. For fiscal year 1988, the Secretary is required to use the funds of, or commodities owned by, the Commodity Credit Corporation in excess of $110 million only to the extent that appropriations are made available in advance.

The *Senate* amendment also amends subsection (b) of section 1124 of the Food Security Act of 1985 to provide that funds of, or commodities owned by, the Commodity Credit Corporation that are made available under section 1124 may be used by the Secretary of Agriculture to compensate trade organizations representing producers or processors of United States agricultural commodities for reasonable expenses, as determined by the Secretary, incurred by such organizations in helping defend against countervailing duty actions instituted in foreign countries to offset benefits that may be provided to United States producers and processors under the price support programs authorized under the Agricultural Act of 1949.

This authority only applies to countervailing duty actions that have been instituted after January 1, 1986. Compensation provided for by the Secretary under this section may not exceed $500,000 for the defense of any one countervailing duty action. If the Secretary determines not to make funds or commodities available to a trade association after receiving a request for compensation, the Secretary shall inform the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the reasons for the determination. (Sec. 2133)

The *Conference* substitute adopts the *Senate* provision. (Sec. 4304)

The Conferees encourage the Secretary of Agriculture to provide export assistance under section 1124(c) of the Food Security Act of 1985 on a priority basis for the export of domestically grown commodities that have to compete against commodities that are subsidized or dumped in third country markets. An unusually high countervailing or dumping duty imposed on imports of a product into the United States can be a strong indication that subsidizing or dumping is occurring in a third country market. For example, very high countervailing and anti-dumping duties have been levied on imports of pistachios from Iran. If Iran is similarly subsidizing its exports to third country markets, the United States industry faces very difficult hurdles in competing in those markets.

In addition, the Conferees are aware that during the course of bilateral trade disputes other nations may take steps to retaliate against agricultural commodities produced by United States agricultural producers. The Secretary of Agriculture has many available authorities, most notably those available under section 1124, that can be used to aid United States producers who face the harsh economic consequences of retaliatory trade practices. The Secretary of Agriculture should use the Targeted Export Assistance program immediately when a retaliatory trade action adversely affects United States producers of a commodity, particularly those producers that have been injured by such retaliatory action more than once. Use of the Targeted Export Assistance program could help offset the adverse effect of the retaliation.

The Committee believes that when the Secretary considers whether to provide such assistance, the Secretary should consider whether the retaliatory trade action includes the establishment of any tariff or non-tariff trade barriers, or any other trade action which has the effect, if implemented, of influencing market price stability through the reduction of sales, loss of markets, reduction of market prices, or reduction of export sales of the agricultural commodities and products.

(27) Export Credit Guarantee Program.

The *Senate* amendment provides that it is the sense of Congress that Commodity Credit Corporation make short-term credit guarantees available to countries without placing a ceiling on the amount of such credit guaranteees that may be used for exports of a particular commodity to a specific country. The full allocation of credit guarantees for a specific country should be available for use for exports of all eligible commodities to such country. (Sec. 2134)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 4305)

(28) Agricultural Export Enhancement Program.

The *House* bill would amend section 1127 of the Food Security Act of 1985, which established the Export Enhancement Program ("EEP"), as follows:

(1) A new paragraph (3) would be added to subsection (b), and existing paragraphs (3), (4), and (5) would be redesignated as paragraphs (4), (5), and (6), respectively. Paragraph (2) now requires the Secretary, in providing assistance to foreign purchasers of United States-produced agricultural commodities and products under section 1127, to give priority to foreign purchasers who have traditionally purchased United States agricultural commodities and products and are intending to purchase commodities and products in amounts greater than their historical purchase levels.

The new paragraph (3) would provide the Secretary with discretion to give priority to foreign purchasers of United States-produced agricultural commodities and products who have traditionally purchased such United States commodities and products and intend to continue purchasing these commodities and products in amounts at least equal to their historical purchase levels.

(2) A new paragraph would be added to subsection (b) of section 1127 to prohibit the Secretary from including as expenditures or as budget outlays (for purposes of the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985 (commonly kown as the Gramm-Rudman-Hollings Act)) the commodity market effect of the agricultural commodities and products, or the Commodity Credit Corporation generic payment certificates, that are used for programs authorized under section 1127 if the commodities and products, or value of the commodities and products represented by certificates are used to meet the purposes set forth in subsection (a)(3)(A) of section 1127. The exclusion would apply, commencing with fiscal year 1988, if the commodities are used to counter or offset (a) the adverse effects of United States agricultural exports of unfair trade practices by other countries, (b) the adverse effects of United States agricultural price support levels that are temporarily above export prices offered by our competitors in world markets, or (c) fluctuations in the exchange rate of the dollar. The prohibition likewise would apply to the Director of the Office of Management and Budget and the Director of the Congressional Budget Office.

The *House* bill would further amend section 1127 of the Food Security Act of 1985 to extend the mandatory nature of the EEP program two years, through 1990. The bill also increases to $2.5 billion the upper limit on the value of commodities and products used in EEP.

The *House* bill would also add a new subsection (j) to section 1127 which would provide that, for purposes of meeting the minimum levels of expenditures required by the statute, the value of commodities or products distributed under the program would be determined by using the market value of the commodities or products at the time of distribution. (Sec. 622)

The *Senate* amendment would amend section 1127 of the Food Security Act of 1985, which established the Export Enhancement Program (EEP), as follows:

(a) With respect to exports of wheat and feed grains, to the extent that the Secretary is required to make EEP available under subsection (a)(3) of section 1127 (for example, to counter or offset a subsidy or unfair trade practice of a foreign country), the Secretary must make EEP bonus commodities available to all interested United States exporters, users, processors, or foreign purchasers in sufficient quantities to make such commodities competitive and increase the use of much commodities. The Secretary shall give priority to sales to countries that have traditionally imported or purchased the commodities and products and sales to countries that continue or begin to import or purchase such commodities in quantities equal to or greater than the level of imports or purchases in a previous representative period.

(b) Subsection (b)(3) of section 1127 modifies the requirement that the Secretary implement the EEP in such a way as to "avoid market displacement of United States sales. Under the amendment, the Secretary must operate the program in such a way as to "minimize" such market displacement.

(c) Subsection (i) of section 1127 is amended to extend the EEP through the 1990 fiscal year and to increase the level of funding for EEP during the 1989 and 1990 fiscal years. The Secretary is required to use agricultural commodities and products to carry out EEP the equal in value to not less than $500,000,000 during the two year period ending September 30, 1990. Further, the ceiling on total expenditures that the Secretary is authorized to expend under the EEP is raised from $1.5 billion dollars to $2.5 billion dollars over the entire five year period, 1985 through 1990.

(d) Subsection (i) of section 1127 is further amended to provide that the value of commodities used in the program shall be determined on the basis of their market value when they are made available.

(e) A new subsection (j) is added at the end of section 1127. This subsection provides that the producers of any agricultural commodity referred to in subsection (a)(2) of section 1127 may petition the Secretary to request treatment for their commodity similar to that provided for wheat and feed grains. It further states that within 30 days after receipt of such petition, the Secretary shall determine whether to provide such treatment and will publish the determination in the Federal Register. The determination shall be based on the preference of the domestic industry that produces the specific commodity and the trade interests of the United States. (Sec. 2135)

The *Conference* substitute adopts the *House* provision with amendments. The *Conference* substitute provides that in carrying out the export enhancement program, the Secretary may consider for participation all interested United States exporters, processors, users, and foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and the products thereof.

The *Conference* substitute also provides that during the period beginning October 1, 1985, and ending September 30, 1990, the value of agricultural commodities and the products thereof that may be used by the Secretary under section 1127 may not exceed $2,500,000,000. (Sec. 4306)

The Conferees support the continued use of export enhancement type programs when their use does not interrupt commercial sales. The Conferees do not intend, however, that the displacement rule under section 1127(b)(3) of the Food Security Act of 1985 be so broadly construed as to become an absolute bar to the use of export enhancement type programs when the Secretary determines that possible displacement is minimal. It is expected that the Secretary will evaluate the overall benefits of the export enhancement program in helping to increase export sales of United States agricultural commodities in determining whether a minimal possibility of displacement should stop the application of the program.

The Conferees also support the use of export enhancement initiatives for value-added products of basic commodities, in particular for such products as wheat flour for which United States exporters, through the GATT, have sought redress from unfair export subsidies by their competitors. In order to achieve relief from such practices and to enhance United States efforts to achieve a comprehensive GATT agreement on all facets of agricultural trade during the Uruguay Round of multilateral trade negotiations, the Conferees believe that the Secretary should actively use the EEP to counter predatory trade policies. Such action will ensure that the United States maintains a strong response to the unfair trade practices of our competitors. The use of the EEP for wheat flour has been effective in countering unfair trading practices for value-added products. The Conferees support its continuation.

(29) Agricultural Attaché Reports.

The *Senate* amendment amends section 1132(b) of the Food Security Act of 1985 to require the Secretary of Agriculture to take certain actions with respect to the reports prepared by agricultural attachés in accordance with section 1132 as follows:

(1) rank each barrier to trade by commodity group according to the potential percentage increase of dollar sales for each group;

(2) include in the compilation a list of actions undertaken or actions planned to be undertaken to reduce or eliminate such trade barriers; and

(3) make the compilation available to Congress, the agricultural policy advisory committees, and, if nonconfidential, other interested parties. (Sec. 2136)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute provides for the Secretary of Agriculture to take certain actions with respect to the reports prepared by agricultural attaches, including the ranking of trade barriers. The *Conference* substitute further provides that to the extent practicable, the reports called for in this section should be used by the Trade Assistance Office—the new office to be established within the Foreign Agricultural Service. (Sec. 4307)

(30) Dairy Export Incentive Program.

The *Senate* amendment provides that if payments in commodities are authorized under the dairy export incentive program, such payments shall be made in generic commodity certificates redeemable in commodities. If such generic commodity certificates are exchanged for dairy products, the Secretary of Agriculture must ensure that such dairy products are sold for export and that such sales do not displace usual United States export sales of dairy products. (Sec. 2139B)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision. (Sec. 4308)

(31) Barter provisions.

The *House* bill expresses the sense of Congress that the Secretary of Agriculture should expedite the implementation of the following sections of the Food Security Act of 1985 relating to the barter of agricultural commodities:

(1) Section 1129, which added subsection (d) to section 416 of the Agricultural Act of 1949. Subsection (d) requires the Secretary to carry out a pilot program under which foreign strategic materials would be bartered for agricultural commodities made available under section 416.

(2) Section 1167, which amended section 4(h) of the Commodity Credit Corporation Charter Act (to require certain Commodity Credit Corporation barter activity, including barter to acquire petroleum for the Strategic Petroleum Reserve) and contains several other provisions relating to barters.

The *House* bill also states that Congress recognizes the importance of barter programs in expanding agricultural trade, and emphasizes this importance to the Secretary.

The *Senate* amendment provides that is the sense of Congress that the Secretary of Agriculture should implement the pilot barter program established under section 1129 of the Food Security Act of 1985 no later than September 30, 1987. (Sec. 2156)

The *Conference* substitute adopts the *House* provision. (Sec. 4309)

(32) Minimum Level of Food Assistance.

The *House* bill provides that it is the sense of Congress that the United States should maintain its historic level of food assistance constituting ⅓ of all United States foreign economic assistance. Not less than ⅓ of the funds available in each fiscal year for foreign assistance should be used to make food assistance available to foreign countries under the Agricultural Trade and Development Assistance Act of 1954 and sec. 416(b) of the Agricultural Act of 1949. (Sec. 664)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provisions. (Sec. 4310)

(33) Food Aid and Market Development.

The *House* bill would provide that it is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products. The President (or, as appropriate, the Secretary of Agriculture) shall encourage the recipient country under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in its future food purchases. (Sec. 320)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 4311)

(34) Eligibility of Certain Agricultural Commodities for Export Credit Guarantee Programs

The *Senate* amendment provides that export sales of agricultural commodities produced in the United States shall be eligible for short or intermediate term export credit guarantees made available by the Commodity Credit Corporation if at least 75 percent of the cost of the agricultural commodities used to produce the commodity being exported is derived from agricultural commodities produced in the United States. However, any export credit payment guarantee made available with respect to the export of an agricultural commodity is not composed of 100 percent United States product may not cover any portion of the exported commodity that was derived from agricultural commodities produced outside the United States. (sec. 2138)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(35) Export Assistance Programs.

The *House* bill would express the sense of Congress that the Secretary of Agriculture should—

(1) allow more foreign countries to become eligible for the agricultural export enhancement program (EEP) established under section 1127 of the Food Security Act of 1985;

(2) establish a system to reward foreign governments that eliminate trade barriers; and

(3) fully fund—

(a) the EEP;

(b) the export credit guarantee program (GSM.102) under which the Commodity Credit Corporation guarantees the repayment of credit extended on terms of up to 3 years in connection with the export sale of United States agricultural commodities and products;

(c) the program authorized by section 4(b) of the Food for Peace Act of 1966, known as the Intermediate Export Credit Sales Program (GSM-103), under which the Commodity Credit Corporation finances export sales of United States agricultural commodities and products on credit terms of more than 3 years but not more than 10 years; and

(d) the targeted export assistance (TEA) program established under section 1124 of the Food Security Act of 1985.

The *House* bill also expresses the sense of Congress that the President should approve the sale of wheat to the Soviet Union under the EEP. (Sec. 621)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. By deleting this provision, it is not the intent of the Conferees to express disapproval of the sentiments set forth in the *House* bill. Since the original passage of the *House* bill, the Secretary of Agriculture has demonstrated a willingness to continue to fund an export enhancement type program even after the level of funding required in section 1127 of the Food Security Act of 1985 had been expended. The Conferees note the Department's approval of several sales of wheat recently made to the Soviet Union using the export enhancement program. It appears to the Conferees that the President and the Secretary of Agriculture have recognized the central importance of these export assistance programs to the overall competitiveness of United States agricultural exports.

(36) Uniform Treatment of Commodities Under Agricultural Export Programs.

The *Senate* amendment amends section 106A(d)(1)(B) and 106B(d)(2)(A) of the Agricultural Act of 1949 to provide that any loss that is sustained by the association that provides price support to tobacco producers as the result of the export, pursuant to an export promotion program carried out by the Secretary of Agriculture or the Commodity Credit Corporation, of tobacco that has been pledged as collateral for such loans shall not be taken into account in determining assessments and contributions, as the case may be, to be leveled against tobacco producers. (Sec. 2139)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

Subtitle D—Wood and Wood Products

(37) Wood and Wood Products

The *House* bill directs the Secretary of Agriculture to actively use Department of Agriculture commercial and concessional export credit programs to promote the export of wood and processed wood products.

The *House* bill also amends section 105(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 to make wood and processed wood products of the United States eligible for certain P.L. 480 market development activities and section 108 of the same Act ot make certain housing activities eligible for funding under section 108 of that Act.

The *House* bill amends section 1125 of the Food Security Act of 1985 by designating wood and wood products as agricultural commodities, and therefore eligible for short and intermediate term export credit guarantee programs.

The *House* bill requires the Secretary of Agriculture to establish a cooperative national forest products marketing program to improve the competitiveness of the United States forest products industry. The program is to provide technical assistance to the States and to the industry to improve marketing activities and increase competitive opportunities. It is also to provide financial grants to the States, with matching requirements to assist in regional forest products marketing efforts. Special attention is to be given to small and medium sized forest products firms since these firms in particular, lack the tools to meet the challenge of increasing domestic and foreign competition.

The *House* bill authorizes $5 million to be appreciated for each of fiscal years 1988 through 1991. The bill also requires the Secretary of Agriculture to report annually to Congress on the activities under the marketing program. (Sec. 318(c) and 651)

The *Senate* amendment is substantively the same, but has some technical differences. The *Senate* amendment would amend the Cooperative Forestry Assistance Act of 1978 to establish the cooperative national forest products marketing program. (Sec. 2182)

The *Conferees* substitute adopts the *Senate* provisions with technical amendments (Sec. 3309, 4401-04)

Subtitle E—Studies and Reports

(38) Canadian Wheat Import Licensing.

The *House* bill contains findings of Congress with respect to Canadian wheat import licensing requirements. These include findings that——

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat to prove that the wheat to be imported is not readily available in Canada before issuance of an import license;

(3) for all practicable purposes such licenses are not granted;

(4) the licensing requirement results in a non-tariff trade barrier on the importation of United States wheat and wheat products; and

(5) Canada is a member of the General Agreement on Tariffs and Trade and under such agreement, member countries should eliminate import licensing programs that operate as non-tariff trade barriers.

The *House* bill also provides that the Secretary of Agriculture shall conduct a study of this import licensing program to determine—

(1) the nature and extent of the licensing requirements of the program; and

(2) the estimated effect of the program in reducing exports of United States wheat and wheat products to Canada;

The Secretary would be required to report the results of its study to the United States Trade Representative within 90 days after the date of enactment of the bill. No later than 90 days after the results of the study are submitted to the United States Trade Representative, the Secretary of Agriculture and the United States Trade Representative shall consult with the agriculture Committees and the House Committee on Ways and Means and the Senate Committee on Finance on the status of efforts by the United States to negotiate the elimination of such Canadian licensing requirements. (Sec. 613)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 4501)

(39) Import Inventory.

The *House* bill will require the Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and any other appropriate Federal agency, to compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The Secretary is to compile and report to the public data on the total amount of production and consumption of domestically produced raw and processed agricultural products.

The reports are to be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products, and issued on a quarterly basis. (Sec. 672)

The *Senate* amendment requires the Secretary of Agriculture, in consultation with various agencies that compile and report data and statistics on agricultural imports, to issue quarterly reports containing: (a) the total value and quantity of imported raw and processed agricultural products; and (b) the total quantity of production and consumption of domestically produced raw and processed agricultural products. These statistics are to be in a format to enable correlation between the total quantity and value of imported agricultural products and the production and consumption of domestic agricultural products. (Sec. 2174)

The *Conference* substitute adopts the *House* provision with amendments that provide that (1) the commodities to be covered by this study are those with respect to which the United States Department of Agriculture currently compiles statistics and (2) the Secretary is to submit this report on an annual basis. (Sec. 4502)

The Conferees intend that this report be prepared in such a way so that the International Trade Commission does not make public any business proprietary information.

(40) Honey Study.

The *House* bill would require the Secretary of Agriculture to conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

Not later than 60 days after the date of enactment of the bill, the Secretary would have to report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate. (Sec. 673)

The *Senate* amendment requires the Secretary of Agriculture to conduct a study and report to Congress on the effect of imported honey on domestic honey producers, on the adequacy of the honey bee population in the United States for pollination purposes, and on the domestic honey price support program. The report is due within 60 days of enactment of this Act. (Sec. 2193)

The *Conference* substitute adopts the *House* provision with amendments that change the time within which the study must be completed from 60 days to 90 days after the date of enactment of the Act and other technical amendments. (Sec. 4503)

(41) Dairy Import Quota Study.

The *House* bill will require the Secretary of Agriculture to conduct a study to determine how and to what extent the reduction or elimination of quotas on the importation of certain dairy products imposed under section 22 of the Agricultural Adjustment Act of 1933, as a result of negotiations on the General Agreement on Tariffs and Trade or a similar negotiation or agreement, might adversely affect the administration of the Federal dairy price support program and cause injury to the United States dairy industry. (Sec. 675)

The *Senate* amendment requires that a study be conducted within 180 days of enactment of this Act, to determine whether the price support program for milk would be adversely affected by any reduction in, or elimination of, limitations that have been imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act, as a result of upcoming multilateral trade negotiations, including those being conducted under the General Agreement on Tariffs and Trade.

The Secretary is to submit a report on the results of the study, alone with recommendations, to the Committee on Agriculture of the House of Representatives and the Committees on Agriculture, Nutrition and Forestry of the Senate. (Sec. 2191)

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute provides for the Secretary of Agriculture to study how the milk price support program would be affected if dairy import quotas were reduced or eliminated as a result of the GATT negotiations. The Secretary will assess the likelihood that any such reduction or elimination of quotas would occur on a multilateral basis. (Sec. 4504)

The Conferees do not intend that the report prepared by the Secretary be required to contain sensitive negotiating information.

(42) Report on Intermediate Export Credit.

The *House* bill provides that not later than December 31, 1987, the Secretary of Agriculture shall submit a report to the Senate and House Agriculture Committees and the House Foreign Affairs Committee with request to the authorities established under the Food for Peace Act of 1966, the Agricultural Trade Development and Assistance Act of 1954, section 416 of the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act. The report shall focus on the use of such authorities to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries to improve storage and marketing of imported agricultural products, to increase livestock production, and to increase markets for United States livestock and livestock products. (Sec. 612(a))

The *Senate* amendment requires that not later than December 31, 1987, the Secretary of Agriculture report to the Senate and House Agriculture Committees on the use of the intermediate credit program authorized under Section 4(b) of the Food for Peace Act of 1966 to improve storage and marketing of imported agricultural products, to increase livestock production, and to increase markets for United States livestock. This reflects the Committee's concern that this credit not be used solely for sales of agricultural products but also for facilities that will permit countries to import increased amounts of United States agricultural and products in the future. (Sec. 2192)

The *Conference* substitute adopts the *House* provision with an amendment that provides that this report must be submitted within 180 days after the date of enactment of the Act. (Sec. 4505)

(43) Imported Meat & Poultry Products.

The *House* bill would require that, within 90 days after enactment of Act, the Secretary of Agriculture must submit a report to Congress that—

(1) specifies planned distribution in the fiscal years 1987 and 1988 of the resources of the Department of Agriculture for sampling imports of meat, poultry, and egg products to ensure compliance with the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act governing permitted levels of pesticide, drugs, and other residues in such products;

(2) describes current methods used by the Department to enforce the requirements of such Acts respecting the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responds to an Office of Inspector General audit report No. 38002-2-hy;

(4) specifies the number of samples of meat and poultry imports taken during 1986 and 1987 in carrying out such Acts and contains details about violations and the actions taken in response to the violations;

(5) describes any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on meat and poultry products; and

(6) contains any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported meat and poultry products. (Sec. 676)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 4506)

(44) Study of Circumvention of Agricultural Quotas.

The *Senate* amendment provides for a study and a report to be conducted by the Secretary of Agriculture for the purpose of determining whether products containing sugar or dairy products are being imported into the United States in such a manner or in such quantities so as to circumvent or avoid the quotas imposed on imports of sugar, sugar containing products, or dairy products under section 22 of the Agricultural Adjustment Act or under the Tariff Schedules of the United States.

The section also provides that in conducting this study, the Secretary shall evaluate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the quotas;

(2) the change in the composition and volume of imports containing sugar or dairy products subsequent to the imposition of the quantitative limitations;

(3) the effectiveness of section 22 in preventing the circumvention or avoidance of the quantitative limitations;

(4) the effect of imports containing sugar or dairy products on the price support programs for these commodities; and

(5) evaluate the use of United States foreign trade zones to circumvent the quotas.

The report is to be completed no later than 120 days after the date of enactment of this Act. (Sec. 2194)

The House bill has no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute provides as follows:

The Comptroller General shall conduct a study with respect to—

(1) whether products containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act; and

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imported or refined sugar and sugar containing products imported under the Tariff Schedules of the United States.

In conducting this study, the Comptroller General must investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described above;

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations;

(3) the effectiveness of section 22 of the Agricultural Adjustment Act in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

Upon completion of the study, the Comptroller General must, within 180 days after the date of enactment of this Act, report the results to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate and the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives (Sec. 4507)

The Conferees do not intend for the Comptroller General to duplicate any ongoing studies concerning circumvention of these quotas by imports of sugar, sugar containing products, or dairy products. The Conferees do intend, however, that to the extent practicable, the Comptroller General incorporate the concerns set forth in this section in any such study.

(45) Study Pertaining to Lamb Meat Imports.

The *House* bill would require the Secretary of Agriculture to conduct a study of trends with respect to the level of imports of lamb meat and the effect of such imports on domestic production of lamb meat. The Secretary shall submit the results of this study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than June 1, 1988, or 180 days after the date of enactment of the bill. (Sec. 682)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments. The *Conference* substitute provides as follows:

The Secretary of Agriculture is required to conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products and the effects of the imports on the production of lamb meat in the United States.

The Secretary of Agriculture shall, within 180 days after the date of enactment of the bill, submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of the study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat. (Sec. 4508)

The Conferees recognize the great impact that seasonal and other surges of lamb imports have on the prices, production, and employment in the United States lamb industry. Small variations in the quantity or price of lamb imports, if examined only on an annual basis, may mask the significant impact on the domestic industry that occurs whenever imports surge, such as during periods of holiday purchasing. Moreover, domestic lamb producers are particularly affected by these circumstances because of the geographic concentration of United States lamb producers, the decentralized nature of the domestic industry, which is composed of many small producers, and the seasonal patterns of demand that exist in the United States. Any analysis of the impact of imports of either live lambs or lamb meat should examine these factors.

(46) Rose Study, Report and Findings

The *House* bill would require the Secretary of Agriculture, in conjunction with the United States Trade Representative and not later than 120 days after the date of enactment of the bill, to complete a study to determine the—

(1) effects of rose imports into the United States on domestic rose-growing industry;

(2) extent, nature, and estimated value of any foreign subsidies provided to such imports;

(3) extent and estimated level of any possible dumping of roses into the United States; and

(4) effects that the European Community's tariff rate for imported roses has on world trade of roses.

The Secretary would be required to report the results of the study, as soon as the study is complete, to the Committee on Agriculture and the Committee on Ways and Means of the House and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

If the Secretary determines that the domestic rose industry is being adversely affected by unfair trade practices of foreign competitors, the Secretary would be urged to use all available remedies, programs, and policies available to the Department of Agriculture to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses. (Sec. 674)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with amendments. The *Conference* substitute provides that pursuant to section 332 of the Tariff Act of 1930, as amended, the International Trade Commission, not later than 240 days after enactment of this Act, must complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

The International Trade Commission must report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to Congress, the United States Trade Representative, the Secretary of Commerce and the Secretary of Agriculture.

The United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, are urged to use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses, if, after their review of the study and report required by the Act, they detemine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors. (Sec. 4509)

SUBTITLE F—MISCELLANEOUS AGRICULTURAL PROVISIONS

(47) Allocation of Certain Milk

The *House* bill provides that, notwithstanding any other provision of law, milk produced by dairies—

(1) owned or controlled by foreign persons, and

(2) financed by or with the use of industrial revenue bonds, will be treated as other-source milk, and will be allocated as milk received from producers-handlers for the purposes of classifying producer milk, under the milk marketing program under the Agricultural Adjustment Act, as reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

As used in the *House* bill, the term "foreign person" will have the meaning given such term under section 9(3) of the Agricultural Foreign Investment Disclosure Act of 1978. This provision would not apply to any dairy that began operation before May 6, 1986. (Sec. 661)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 4601)

(48) Application of Marketing Orders to Imports.

The *House* bill would amend section 8e of the Agricultural Act to provide that the effective period for the prohibition on imports of certain agricultural commodities could be established in advance of the date when a marketing order is in effect if the Secretary finds that, to effectuate the declared policy of the Act, an earlier effective period is needed to prevent the importation into the United States of commodities that would otherwise fail to meet grade, size, quality, or maturity requirements when the imported commodity is marketed during the period of time that regulations are in effect under the order. (Sec. 671(a))

The *Senate* amendment amends section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e-1) to—

(1) provide that no imported commodity may be sold in the United States during the time that a marketing order is in effect unless the imported commodity has been determined to meet the same requirements imposed by the marketing order on the domestic commodity;

(2) authorize the Secretary of Agriculture to provide for a period of time (not to exceed 30 days) in addition to the period of time covered by the original marketing order during which the marketing order requirements would be in effect, if necessary to prevent the circumvention of a seasonal marketing order by imports of commodities covered by such marketing order. This additional period of time could only be imposed on an annual basis.

Before the Secretary could provide for the additional period of time, the Secretary must find that—

(1) during the previous year, significant quantities of imported commodities that are covered by a marketing order were sold in the United States during the period that such marketing order requirements are in effect and that such quantities of imported commodities did not meet the requirements of the domestic marketing order (or would have been sold if not for the imposition of any additional period established by the Secretary);

(2) the importation into the United States of significant quantities of any commodity covered by a domestic marketing order is likely to substantially circumvent the domestic seasonal marketing order; and

(3) there would be an adequate supply of commodities of the variety covered by the marketing order available to consumers at a reasonable price during any additional period established by the Secretary.

The *Senate* amendment defines the term "adequate supply" to mean the prior year's average number of commodity units sold on a per week basis in the United States during the time period to be covered by the additional period, and the term "reasonable price" to mean the average price per commodity unit of the most recent three years on a weekly basis for the time period to be covered by the additional period.

The *Senate* amendment shall be effective with respect to marketing orders effective in 1989 and subsequent years. (Sec. 2171)

The *Conference* substitute would provide that the Secretary of Agriculture may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity if the Secretary determines that such additional period of time is necessary—

(1) to effectuate the purposes of this Act; and

(2) to prevent the circumvention of the grade, size, quality or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of commodities covered by such marketing order.

In making these determinations, the Secretary, after providing notice and comment, shall consider—

(1) to what extent, during the previous year, imported commodities that did not meet the requirements of an applicable marketing order were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary);

(2) if the importation into the United States of such commodities did, or was likely to, circumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to any such commodity produced in the United States; and

(3) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

The Department of Agriculture would not be required to produce supply and price data other than that available through official marketing reporting activities of the Department of Agriculture and the United States Customs Service.

Any additional period established by the Secretary in accordance with this provision shall be—

(1) announced no later than 30 days prior to the date such additional period is to be in effect; and

(2) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years. The purpose of this review would be to determine whether circumstances or practices have changed so that the additional period is no longer needed to prevent circumvention of the seasonal marketing order by imported commodities.

The *Conference* substitute also authorizes the Secretary to make such reasonable inspections as may be necessary to carry out this provision. (Sec. 4603)

(49) Reciprocal Meat Inspection Requirement.

The *Senate* amendment amends Section 20 of the Federal Meat Inspection Act to require the Secretary of Agriculture, based on his/her own initiative or through a request from the House or Senate Agriculture Committees, to determine if a foreign country is applying standards to United States meat imports that are either unsubstantiated or are more strict than those applied to domestically produced meat in such country. If the Secretary determines that a foreign country applies unsubstantiated or discriminatory standards to United States meat imports and the Secretary determines that other trade measures are not adequately addressing the problem, meat articles slaughtered in a plant in such foreign country will be denied entry into the United States unless the Secretary has issued a certification stating that such meat meets all applicable United States health standards. (Sec. 2173)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute provides that if the Secretary of Agriculture determines that a foreign country applies meat inspection standards that are not related to public health concerns about end-product quality that can be substantiated by reliable analytical methods, the Secretary must consult with the United States Trade Representative and they shall make a recommendation to the President as to what action should be taken. The President may require that a meat article produced in a plant in the foreign country may not be permitted entry into the United States unless the Secretary determines that the meat article has met the standards applicable to meat articles in commerce within the United States. The annual report required under section 20 of the Federal Meat Inspection Act shall include the name of each foreign country that applies standards for the importation of meat articles from the United States that are not based on public health concerns. (Sec. 4604)

The Conferees intend that this authority be used in addition to, or instead of, other authorities, such as those set forth in section 301 of the Trade Act of 1974.

(50) Land Grant Colleges.

The *House* bill expresses the sense of Congress that—

(1) land grant colleges and universities should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) marketing complements production, and international agricultural marketing specialties are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities ultimately will help relieve stress in the rural economy. (Sec. 610)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision. (Sec. 4605)

(51) Egg Imports.

The *Senate* amendment provides that it is the sense of Congress that if egg products from the European Community (EC) are certified for import into the United States, the International Trade Commission (ITC) should monitor such egg imports for a one year period following such certification. The ITC should submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which egg imports are subsidized or sold below fair market value and the impact of the imports on the domestic egg industry.

The United States Trade Representative should enter into negotiations with the EC with respect to trade barriers of the EC that limit the access of United States egg producers to EC markets and any export subsidies on egg exports of the EC.

If the study conducted by the ITC shows that the duties, tariffs, or subsidies used by the EC have had a substantial negative effect on the domestic egg industry, the United States government, no later than 6 months following the submission of the study, should use all available and appropriate means to encourage the EC to liberalize trading practices concerning eggs and egg products produced in the United States. (Sec. 2175)

The *House* bill contains no comparable provision.

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute would strike paragraphs (b) (1) and (3) of the *Senate* amendment. The *Conference* substitute contains a finding that export subsidies of the European Community on egg exports have caused market distortions to the detriment of United States egg producers and that eggs from the Netherlands are about to be certified for import into the United States. It is the sense of Congress that efforts should be made to ensure that the EC liberalizes its trading practices concerning eggs. (Sec. 4606)

Although this provision was modified to delete the provisions relating to the monitoring of egg imports, the conferees urge that the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the President consider requesting an investigation by the International Trade Commission, pursuant to section 332(g) of the Tariff Act of 1930, if imports of eggs or egg products from the European Community become a trade problem.

(52) Korea's Beef Market

The *House* bill contains proposed findings of Congress concerning trade barriers imposed by Korea on beef imports from the United States, including that the beef import ban maintained by Korea is in contravention of Korea's General Agreement on Tariffs and Trade obligations and impairs United States GATT rights, that Korea imposes an unreasonably high 20 percent as valorem tariff on meat products, and that if the Korean import ban were removed, the United States could supply a significant portion of the Korean beef market.

The *House* bill provides that it is the sense of Congress that Korea should take immediate action to fulfill its GATT obligations and permit access to its market by United States beef producers; that the United States Trade Representative should enter into negotiations to gain greater access to the Korean market for United States beef and should address the high tariffs set by Korea and the means by which imported beef is distributed in Korea; that the United States beef industry has not been profitable since 1980; and, that if Korea does not immediately show clear evidence that it is engaging in meaningful liberalization in its market for United States beef, the appropriate officials should use all available and appropriate means, including retaliation, to encourage Korea to open its market to United States beef imports. (Sec. 627)

The *Senate* amendment is substantively similar to the *House* bill except the *Senate* amendment does not contain a provision threatening retaliation and does not contain a provision that the United States beef industry has not been profitable since 1980. (Sec. 974).

The *Conference* substitute adopts the *Senate* provision with amendments. The *Conference* substitute contains certain findings of Congress, including that the 1986

United States trade deficit with Korea was $7.6 billion; that Korea has banned high quality beef imports since May 1985; that such import ban is in contravention of Korea's obligations under the GATT and impairs United States rights under such agreement; that Korea imposes an unreasonably high 20 percent as valorem tariff on meat products; and if the Korean beef market were liberalized, the United States could supply a significant portion of that market for high quality beef.

The *Conference* substitute provides that it is the sense of Congress that—

(1) Korea should take immedite action to fulfill its obligations under the GATT and permit access to its market by United States beef producers;

(2) the United States Trade Representative should aggressively pursue negotiations to gain greater access to the Korean market for United States beef;

(3) such negotiations should also address the high tariffs set by Korea and the means by which imported beef is distributed in Korea; and

(4) if Korea does not show clear evidence that it is engaging in meaningful liberalization in its market for United States beef, the appropriate officials should use all available and appropriate means to encourage Korea to open its market to United States beef imports. (Sec. 4607)

(53) Trade With Japan

The House bill sets forth certain findings of Congress concerning the United States' trade imbalance with Japan and barriers to United States beef imports imposed by Japan. Among other things, the House bill provides that Japanese trade barriers result in a continuous and increasingly unfavorable balance of trade for the United States; Japan maintains unreasonably low quotas on imports of United States beef that are not consistent with Japan's international obligations; and if the import quotas were eliminated, the United States could supply a substantial portion of the Japanese beef market due to the strong comparative advantage of the United States in the production of beef.

The House bill provides that it is the sense of Congress that the United States Trade Representative should enter into negotiations to gain substantially greater access for United States beef to Japanese market; such negotiations should also address high Japanese tariffs, the practices of the Japanese Livestock Industry Promotion Corporation, and the means through which imported beef is distributed in Japan. If there is no meaningful liberalization in its market for United States beef by Japan by March 31, 1988, all appropriate means, including retaliation, should be used to encourage Japan to open its markets to United States beef imports. (Sec. 626)

The Senate amendment contains two provisions concerning trade barriers imposed by Japan. The first sets forth certain findings of Congress concerning United States access to the Japanese beef market, namely that although Japan is the largest potential export market for United States beef, it restricts United States high quality beef imports to a maximum of 58,400 tons per year, sells United States beef to Japanese consumers at an unreasonably high price, and puts excessively high tariffs on imports of United States beef. The Senate amendment also provides that it is the sense of Congress that the United States should press Japan to remove all trade barriers that restrict United States beef exports by March 31, 1988. (Sec. 975)

The second provision sets forth certain findings of Congress concerning trade barriers imposed by Japan, including that the United States' trade imbalance with Japan was over $58 billion in 1986, that Japan maintains unreasonable import restrictions on United States rice, beef and citrus, and that the United States is in a position to supply these products to the Japanese market.

The Senate amendment provides that it is the sense of Congress that Japan should liberalize its trade policies by lowering high tariffs and removing quotas on competitive agricultural exports of the United States in a prompt and timely manner. (Sec. 2114)

The Conference substitute adopts the Senate provisions with amendments. The Conference substitute combines the two provisions. It would set forth certain findings of Congress, namely that the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (GATT) to examine Japanese import restrictions on 12 categories of agricultural products. That panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT. The rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on United States exports, including a virtual ban on imports of United States rice; a very restrictive quota on imports of United States beef; and high tariffs and restrictive quotas on imports of United States citrus.

The Conference substitute provides that it is the sense of Congress that—

(1) The Government of Japan should immediately take actions to comply with the findings of the GATT panel report of November 1987;

(2) The Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on agricultural exports oif the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) The United States should continue efforts to persuade the Government of Japan to remove its trade barriers. (Sec. 4608)

The Conferees are concerned that the Japanese Government continues to evidence a great reluctance to meaningfully liberalize its trade policies. The bilateral agreement concerning beef and citrus between the United States and Japan has expired, yet Japan has blocked the establishment of a panel under the General Agreement on Tariffs and Trade (GATT) concerning the consistency of Japanese quotas with the provisions of the GATT. This unwillingness to liberalize its markets could have serious repercussions on Japan/United States relations.

(54) Amendment to Section 22 of the Agricultural Adjustment Act With Respect to Tobacco.

The *House* bill would amend section 22 of the Agricultural Adjustment Act to provide that, for the purposes of any investigation conducted with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission must take into account, as if they are costs to the Federal Government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 on tobacco producers in determining whether the imported tobacco or articles materially interfere with the tobacco price support program carried out by the Department of Agriculture. (Sec. 681).

The *Senate* amendment contains no comparable provision.

The *Conference* substitute adopts the *House* provision with an amendment. The *Conference* substitute does not amend section 22 of the Agricultural Adjustment Act. The *Conference* substitute provides that it is the sense of Congress that the amount of assessments collected under the no-net cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Department of Agriculture. The amendment also provides that it is the sense of the Congress that, for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 in determining whether such imported tobacco or articles materially interfere with the tobacco price support program carried out by the Department of Agriculture. (Sec. 4609)

(55) Annual Reporting on Certain Programs.

The *House* bill would require the Secretary of Agriculture to report annually to Congress (after consultation with the Administrator of the Agency for International Development) on the following: The extent that food aid and agriculturally-related economic assistance programs of the previous year, other than direct feeding or emergency food aid programs, that are administered by Federal agencies or nongovernmental entities service direct market development objectives for United States agricultural commodities and products. Programs specifically listed as covered by the reporting requirements are—

(1) programs under the Agricultural Trade Development and Assistance Act of 1954 (P.L. 480);

(2) programs under section 416 of the Agricultural Act of 1949 and the Food for Progress Act of 1985; and

(3) technical and economic assistance programs carried out by the Agency for International Development. (Sec. 612(b))

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

(56) Imported Food Labeling Act of 1987.

The *Senate* amendment provides that—

(1) the Commissioner of the Food and Drug Administration shall, within 6 months, issue regulations which will provide to the extent practicable for the labeling of food products which are imported or contain a significant amount of imported ingredients; and

(2) the Secretary of Agriculture shall, within 6 months, issue regulations which will provide for the labeling of food products which are imported or contain a significant amount of imported ingredients.

The labels required by these regulations shall to the extent practicable reflect the country of origin of the imported product or the imported ingredients. Nothing in the

Senate provision shall affect existing laws or regulations which apply to restaurants. (Sec. 2176)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes this provision.

(57) Study Concerning Table Grapes.

The *Senate* amendment requires the Secretary of Agriculture to conduct a study of table grapes subject to marketing orders to determine whether during the years 1988 through 1990, imported table grapes are meeting the applicable grade, size, quality, and maturity standards of marketing orders for table grapes in effect at the time the imported table grapes are offered for sale.

In conducting the study, the Secretary is authorized to—

(1) take into account the industry practice of cold storage and report whether the use of cold storage results in significant amounts of below standard imported or domestic commodities being offered for retail sale during the time a marketing order is in effect with respect to such grapes;

(2) provide notice and public comment with respect to such study; and

(3) submit such study to the Agriculture Committees of the House and the Senate by October 1, 1990. (Sec. 2171A)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes this provision.

(58) Private Sector International Trade Development Centers.

The *Senate* amendment would amend The National Agricultural Research, Extension, and Teaching Policy Act of 1977 to provide for the establishment by the Secretary of Agriculture of a program to make grants to existing private sector international trade development centers in the United States for the operation of the centers to enhance the exportation of United States agricultural commodities and agricultural, industrial, and other products. (Sec. 2139A)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes this provision. A similar provision was enacted in the Joint Resolution Making Continuing Appropriations for Fiscal Year 1988.

(59) Export Tobacco Report

The *House* bill provides that, notwithstanding any other provision of law, before the exportation of any tobacco or tobacco product from the United States (including reexports or transshipments of tobacco and tobacco products and any tobacco or tobacco product entering foreign trade zones in the United States) the exporter must prepare a certified report (as described below) and file a copy of the report with the Secretary of Agriculture.

The certified report must specify, by percent, weight, and type—

(1) the quantity of tobacco, contained in the tobacco or tobacco product, that was grown in the United States; and

(2) the quantity of foreign grown tobacco contained in the tobacco or tobacco product.

The Secretary must use the reports to verify tobacco stock reports; estimates of United States produced or grown tobacco that is exported from the United States, for the purposes of determining tobacco poundage quotas under the Agricultural Adjustment Act of 1938; and compliance with the requirements of the export credit programs of the Department of Agriculture.

The Secretary annually must report to Congress, in the aggregate, the information contained in certified reports along with information disclosed by tobacco importers on the identification of end users of imported tobacco, as required under section 213(f) of the Tobacco Adjustment Act. (Sec. 662)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes this provision.

(60) Use of Commodities in Lieu of Cash.

The *Senate* amendment would amend the Foreign Assistance Act of 1961 to provide that in providing assistance under Chapter 4 of Part II of that Act, the President must provide assistance for commodity import programs rather than through cash transfers when the President determines that the need of the recipient and of the United States would be better met. Wherever practicable, recipients of a cash transfer shall use it to procure goods produced in the United States and services performed by a national of the United States. The Comptroller General is to monitor and audit the expenditures of cash transferred under Chapter 4 of Part II of the Act in each receiving such cash. (Sec. 2180B)

The *House* bill contains no comparable provision.

The *Conference* substitute deletes this provision.

(61) Annual Appropriations to Reimburse the Commodity Credit Corporation for Net Realized Losses.

The *Senate* amendment would authorize appropriations to reimburse the Commodity Credit Corporation for its net realized losses to be made by means of a current, indefinite appropriation. (Sec. 2177)

The *House* bill has no comparable provision.

The *Conference* substitute deletes this provision. A similar provision was enacted in the Omnibus Budget Reconciliation Act of 1987.

(62) International Efforts to Reduce Grain Production.

The *House* bill contains proposed findings of Congress that—

(1) worldwide production of grains has overwhelmed demand, resulting in excessive carryover stock;

(2) individual countries cannot reduce their own production without detriment to their own farmers;

(3) it is to the advantage of the United States and other grain-producing countries to reduce production so stocks can be brought closer to demand levels; and

(4) it is the policy of the United States to keep supply and demand in relative balance in concert with other countries.

The *House* bill would require the Secretary of Agriculture to initiate discussions with other major grain-producing countries (including the members of the European Community, Canada, Australia, and Argentina) leading toward an agreement to reduce grain production multilaterally. The Secretary must report to Congress on the progress of these discussions not later than March 1, 1988. (Sec. 663)

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision. It is the intent of the Conferees that the negotiators representing the United States in the Uruguay Round of multilateral trade negotiations, when negotiating agricultural trade issues, will consider the problems of worldwide overproduction in some commodities and the corresponding detrimental affects on price and the stability of supply.

(63) Alternative Agricultural Products Research.

The *Senate* amendment contains provisions intended to promote research in the modification of plants and plant materials, using biotechnology and associated research. (Sec. 2195-99)

The *Senate* amendment provides that it is the purpose of the Alternative Agricultural Products Research Act to promote research in the modification of plants and plant materials, and associated research, in order to develop and produce new products and new product uses other than food or traditional fiber products, and thereby utilize the productive capacity of American agricultural land in a way which will not displace or compete with current American Agricultural products. To do this, the *Senate* amendment provides for the establishment of a New Products Research Board to advise the Assistant Secretary of Agriculture for Science and Education, regarding the selection criteria for, and scientific feasibility of, prospective research projects.

The *Senate* amendment contains certain definitions of terms used in the bill including the following:

(1) *Biotechnological Research Project.* A Biotechnological Research Project is a project which is directed toward modifying the genetic material of a plant or in some other way modifying the basic nature of a plant. The term "biotechnology" is intended to be interpreted broadly to fully reflect the extent of advances in biology.

(2) *Development.* As used in the bill, the word development means targeted research that is designed to provide the information necessary to bring a product from the present state of knowledge to the point where the product is viable for the marketplace.

(3) *New Product.* The term new product means an item developed through a biotechnological research or a plant product research project that is primarily not food or traditional fiber. Such products could include production of a novel chemical that is not being produced or a chemical that is not novel but has never been produced using plant materials to a substantial degree.

(4) *Nontraditional Food.* Nontraditional food means a food product that has substantial new properties and that is not now derived from agricultural materials.

(5) *Plant Product Research Project.* This term means a project that is directed towards the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through the modification of the product of a plant.

(6) *Project.* A project encompasses all the stages of research activities necessary to develop a product from the present level of knowledge to the point where it is economically viable for the marketplace. It may include a substantial number of diverse research activities, some of which might be regarded as fundamental.

(7) *Traditional Fiber.* The term "traditional fiber" refers to fiber derived from agricultural materials but without substantial new properties. The term "non-traditional fiber" refers to a fiber derived from agricultural materials that would, by virtue of its properties, open new markets for agricultural products. Such new properties could be chemical, physical, or mechanical. An exam-

ple of a non-traditional fiber that could be developed under this definition would be a fiber derived from a plant material that would have the strength or heat resistance of a synthetic fiber.

The *Senate* amendment provides for the establishment of a New Products Research Board which shall advise the Secretary on specific targets of opportunity for development of new marketable industrial and commercial products from plants and agricultural materials; recommend projects for funding; establish expert advisory committees to assist the Board; and report on the progress of the funded projects.

The Board shall be composed of six members, including two members appointed by the Assistant Secretary of Agriculture, and one member appointed by each of the following organizations: National Science Foundation, Department of Energy, Department of Commerce, and the Office of Technology Assessment. The membership of the Board is composed of government employees to avoid conflict-of-interest problems. The Board may appoint necessary personnel, establish expert committees, utilize the services and facilities of the Department of Agriculture, hold hearings, and recommend the establishment of regulations and other procedures.

Appropriate projects shall target development of a new crop or modification of an existing crop or crop material. Projects should be selected on the basis of (1) the prospect of developing viable technologies; (2) the need for a new product of the type contemplated; (3) the potential market size of the new product; (4) the time period needed to develop the new product; (5) the likely impact of the product on reducing Federal crop subsidies; (6) the ability to grow the plant used to produce the new product at a profit; (7) the availability of the expertise and facilities required to conduct the proposed research; and (8) the unavailability of appropriate funding from other sources.

No less than ½ of the appropriated funds shall be allocated to biotechnological research projects. Funding under this bill will be allowed to consortia, unless the Board finds that a project is more appropriate for only a single research entity. The Secretary shall fund not less than 20 projects within the 36-month period beginning on the date of enactment of this bill and subject to appropriations.

The *Senate* amendment would authorize the sum of $75 million to be appropriated for fiscal year 1988 and annually thereafter for a period of 19 years for the purposes of carrying out this research program.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the Senate provision.

AGRICULTURAL AID AND TRADE MISSIONS

(64) Definitions

The *Senate* amendment provides that the term "United States agricultural aid and trade programs" includes the food for progress program established under section 1110 of the Food Security Act of 1985. (Sec. 2141(4).).

The *House* bill makes no specific reference to section 1110 of the Food Security Act.

The *Conference* substitute deletes the Senate provision.[1]

(65) Establishment of missions

The *House* bill provides that the Secretary of Agriculture, the Secretary of State, and the Administrator must jointly establish the agricultural and aid trade missions. (Sec. 633(a).).

The *Senate* amendment provides that, under the direction of the Secretary of Agriculture, the Secretary of State, the Administrator, and the President of the Overseas Private Investment Corporation must establish the agricultural aid and trade missions. (Sec. 2142(a).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(66) Composition of missions

The *Senate* amendment provides that a mission established in an eligible country must include representatives of the Overseas Private Investment Corporation and tax-exempt non-profit agribusiness organizations. (Sec. 2142(b).).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(67) Terms and compensation of members

The *House* bill provides that the terms of members of a mission terminates on the submission of the required report. Mission members who are not United States Government employees must serve without compensation except for travel expenses (Sec. 633(c) and (d).).

The *Senate* amendment is substantively the same. (Sec. 2142(a) and (d).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(68) Time limits for completion of missions, required number of missions, required number of missions, and additional missions

The *House* bill provides that initial missions must be completed in 7 countries within 6 months of enactment of the bill and in 8 additional countries within 1 year of enactment. Additional missions could be established after completion of the first 15. (Sec. 634(a) and (b).).

The *Senate* amendment is the same, except that initial missions are required in 8 eligible countries. 16 missions are required to be established. (Sec. 2143(b) and (c).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(69) Selection of countries: criteria

(a) The *House* bill provides that the Secretary of Agriculture and the Administrator jointly must select foreign countries for missions. (Sec. 634(c).).

The *Senate* amendment provides that the Secretary of Agriculture must select countries to which missions will be established. (Sec. 214(a).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(b) The *House* bill provides that in order for a foreign country to be selected for a mission, it must represent a range of per capita income levels in the low to middle levels. (Sec. 634(c).).

The *Senate* amendment provides that the Secretary must select countries that are in various stages of development and have various income levels. (Sec. 2143(a).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(c) The *Senate* amendment provides that participation must be mutually advantageous to the country and the United States. (Sec. 2143(a).).

The *House* bill contains no comparable provisions.

The *Conference* substitute deletes the *Senate* provision.

The *House* bill provides that a priority must be given to foreign countries for which participation in United States aid and trade programs would be mutually advantageous, taking into account the potentials for economic development for the foreign country, and increased trade opportunities for the United States through the establishment of markets for United States agricultural commodities and products. (Sec. 634(c).).

The *Senate* amendment provides that the Secretary must consider past participation in United States food programs, experience with United States agricultural aid trade programs, and import market potential. (Sec. 2143(a).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(e) The *Senate* amendment provides that notwithstanding any other provision of section 2143, the Secretary may establish a mission in Poland. (Sec. 2143(d).).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(70) Functions of members

The *House* bill provides that members of a mission must meet with representatives of government agencies of the United States and the eligible country, as well as commodity boards, private enterprises, private voluntary organizations, and cooperatives that operate in the eligible country, to assist in planning the extent to which United States agricultural aid and trade programs could be used in a mutually beneficial manner to meet the food and economic needs of the country. (Sec. 635.).).

The *Senate* amendment is the same except that mission members must also meet with representatives of international organizations. (Sec. 2144.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(71) Mission reports

The *House* bill provides that not later than 60 days after the completion of a mission, the mission must submit to the President, the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary of Agriculture, the Secretary of State, and the Administrator a report that contains the findings and recommendations of the mission in carrying out its responsibilities. (Sec. 636.).

The *Senate* amendment is the same except that the report must also be provided to the Committee on Foreign Relations of the Senate, and the President of the Overseas Private Investment Corporation. (Sec. 2145.).

The *Conference* substitute deletes both the *House* and *Senate* Provisions.

(72) Progress reports

The *House* bill provides that the Secretary of Agriculture, the Secretary of State, and the Administrator must jointly submit to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the

---

[1] NOTE.—Public Law 100-202, making further continuing appropriations for the fiscal year ending September 30, 1988, contains provisions that resolve the essential differences between the *House* bill and the *Senate* amendment with regard to the establishment of agricultural aid and trade missions. Therefore, the managers have not included such provisions in the *Conference* Substitute.

Senate, quarterly reports on progress made in implementing the recommendations made by missions. (Sec. 637.).

The *Senate* amendment is the same except that the report must also be submitted to the Committee on Foreign Relations of the Senate. (Sec. 2146.).

The *Conference* substitute deletes both the *House* and *Senate* Provisions.

(73) Use of CCC

The *House* bill provides that the Secretary of Agriculture must use the facilities, services, authorities, and funds of the Commodity Credit Corporation. (Sec. 638.).

The *Senate* amendment provides that within the funds made available to the Commodity Credit Corporation, the Secretary must use the facilities, services, authorities, and funds of the Corporation during a fiscal year. (Sec. 2147.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

AMENDMENTS TO THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954

(74) Requirement for section 108 uses

The *Senate* amendment provides that for each of the fiscal years 1988 through 1990, each agreement entered into under title I must provide for some sale for foreign currencies for use under section 108, except for agreements with a country the President determines is incapable of participating in section 108. (Sec. 2151.).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.[2]

(75) Incentive to use section 108

The *Senate* amendment provides that, in implementing title I, favorable consideration must be provided in the allocation of commodities to countries that promote the private sector through use of section 108. (Sec. 2152.).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(76) Self-help measures

The *Senate* amendment provides that the President, prior to entering into an agreement under title I, must consider the extent to which the recipient country is undertaking measures to promote the conservation and study of biological diversity. (Sec. 2153.).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(77) Use of cooperatives

The *Senate* amendment provides that the President, in providing commodities to developing countries under title II, must utilize, to the maximum extent practicable, non-profit voluntary agencies or cooperatives. (Sec. 2154.).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(78) Non-emergency programs under title II

The *House* bill provides that a written agreement between the United States and the recipient country, regarding the specific uses to which foreign currency generated by sales of commodities, will not be required for nonemergency programs conducted by nonprofit voluntary agencies or cooperatives. (Sec. 318(b).).

The *Senate* amendment is substantively the same. (Sec. 2155.).

The *Conference* substitute deletes both the *House* and *Senate* provision.

(79) Reports on sales, barter, and use of foreign currency proceeds

The *House* bill provides that, not later than February 15, 1988, and annually thereafter, the President must report to Congress on sales and barter, and use of foreign currency proceeds, during the preceding fiscal year. The report must include information on—

(1) the quantity of commodities furnished for sale or barter;

(2) the amount of funds (including dollar equivalents for foreign currencies) and value of services generated from sales and barter in the preceding fiscal year;

(3) how funds and services were used;

(4) the amount of foreign currency proceeds that were used in the preceding fiscal year, and the percentage of the quantity of all commodities and products furnished.

(5) the President's best estimate of the amount of foreign currency proceeds that will be used, in the then current fiscal year and the next following fiscal year (if all requests for such use are agreed to), and the percentage that the estimated use represents of the quantity of all commodities and products that the President estimates will be furnished;

(6) the effectiveness of sales, barter, and use during the preceding fiscal year in facilitating the distribution of commodities and products;

(7) the extent to which sales, barter, or uses—

(a) displace or interfere with commercial sales of United States agricultural commodities and products that otherwise would be made;

(b) affect usual marketings of the United States;

(c) disrupt world prices of agricultural commodities or normal patterns of trade with friendly countries; or

(d) discourage local production and marketing of agricultural commodities in the countries in which commodities and products are distributed; and

(8) the President recommendations, if any, for changes to improve the conduct of sales, barter, or use activities. (Sec. 641.).

The *Senate* amendment is substantively the same. (Sec. 2156.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(80) Uses of foreign currencies under title II

(a) The *House* bill provides that foreign currencies generated from partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative may be used to—

(1) transport, store, or distribute agricultural commodities, to ensure that the commodities reach their final users in usable condition or otherwise enhance the effectiveness of the use of commodities donated; and

(2) implement income generation, community development, health, nutrition, cooperative development, or agricultural programs, or other developmental activities. (Sec. 318(4).).

The *Senate* amendment is substantively the same, except that foreign currencies generated from any partial or full sales or barter of commodities by a nonprofit voluntary agency or cooperative must be used for the same purposes as identified in the *House* bill. No mention is made of using the foreign currencies to store commodities. (Sec. 2157.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(b) The *House* bill increases, from 5 percent to 10 percent, the minimum value of all commodities, for each fiscal year, that may be used to produce foreign currency. (Sec. 318(b)(4).).

The *Senate* amendment is substantively the same. (Sec. 5157.).

The *Conference* substitute deletes the *House* and *Senate* provisions.

(81) Period for review of title II proposals

The *House* bill provides that if a proposal to make agricultural commodities available under title II is submitted by a nonprofit voluntary agency or cooperative with the concurrence of the appropriate U.S. Government field mission or if a proposal to make agricultural commodities available to a nonprofit voluntary agency or cooperative is submitted by the U.S. Government field mission, a response to that proposal must be provided within 45 days following submission of the proposal. The response must detail the reasons for approval or denial of the proposal. If the proposal is denied, the response must specify the conditions that would need to be met for the proposal to be approved. (Sec. 642.).

The *Senate* amendment provides that not later than 45 days after submission to the Agency for International Development office in Washington, Washington, D.C., the President must take final action on a proposal submitted by a nonprofit voluntary agency or cooperative, with the concurrence of the field mission, for the delivery of commodities requested. (Sec. 2158.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(82) Period for review and comment on title II guidelines

The *House* bill provides that not later than 30 days before the issuance of a final guideline issued to carry out title II, the President must—

(1) provide notice of the proposed guideline to nonprofit voluntary agencies and cooperatives that participate in programs under title II, and other interested persons, that the proposed guideline is available for review and comment;

(2) make the proposed guideline available, on request, to the agencies, cooperatives, and others; and

(3) take any comments received into consideration before the issuance of the final guideline. (Sec. 642.).

The *Senate* amendment is substantively the same. (Sec. 2158.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(83) Deadline for submission to CCC of title II commodity orders

The *Senate* amendment provides that not later than 15 days after receipt of a call forward from a field mission for commodities or products that meet the requirements of title II, the order for the purchase or the supply, from inventory, of the commodities or products must be transmitted to the Commodity Credit Corporation. (Sec. 2158.).

---

[2] NOTE.—Public Law 100-202, making further continuing appropriations for the fiscal year ending September 30, 1988, contains provisions that resolve the essential differences between the *House* bill and the *Senate* amendment with regard to amendments to the Agricultural Trade and Development Act of 1954. Therefore, the managers have not included such provisions in the *Conference* substitute.

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

AMENDMENT TO THE FOOD SECURITY ACT OF 1985

(84) Farmer-to-farmer program

The *Senate* amendment extends for 3 years the farmer-to-farmer program. (Sec. 2159.).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.[3]

AMENDMENTS TO SECTION 416 OF THE AGRICULTURAL ACT OF 1949

(85) Eligible commodities

The *House* bill provides that wheat, rice, feed grains, and products of any eligible price support commodity can be used under the section 416 program.

The *Senate* amendment is substantively the same.

The *Conference* substitute deletes both the *House* and Senate provisions.[4]

(86) Availability of commodities

The *House* bill provides that if agricultural cmmodities are made available under section 416(b) to a friendly country, the Secretary of Agriculture would be required to provide an opportunity to nonprofit and voluntary agencies and cooperatives to obtain the commodities for food aid programs in that country. (Sec. 644.).

The *Senate* amendment is substantively the same. (Sec. 2162.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(87) Multiyear agreements

The *House* bill provides that, subject to the availability of commodities each fiscal year, the Secretary is encouraged to approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreement otherwise meets the requirements of section 416(b). (Sec. 645.).

The *Senate* amendment is substantively the same, except that, on request, the Secretary must approve multiyear agreements. (Sec. 2163.).

The *Conference* substitute deletes both the *House* and *Senate* provision.

(88) Foreign currency uses

The *House* bill provides that foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative may be used to—

(1) transport, store, or distribute agricultural commodities, to ensure that such commodities reach their final users in usable condition or otherwise enhance the effectiveness of the use of commodities donated under section 416(b); and

(2) implement income-generation, community development, health, nutrition, cooperative development, or agricultural programs or other development activities. (Sec. 646(a).).

The *Senate* amendment is substantively the same, except that foreign currencies generated from sales or barter must be used for the activities listed in the *House* provision. No mention is made of using the foreign currencies to store commodities. (Sec. 2164(a).).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(89) Floor on monetization

The *House* bill will increase, from 5 percent to 10 percent, the minimum monetization of section 416(b) commodities that must be allowed in a fiscal year. (Sec. 646(b).).

The *Senate* amendment is substantively the same. (Sec. 2164(b).).

The *Conference* substitute deletes both the *House* and *Senate* provision.

(90) Period for review of section 416(b) proposals

The House bill provides that if a proposal to make agricultural commodites available under section 416(b) is submitted by a nonprofit and voluntary agency or cooperative with the concurrence of the appropriate U.S. Government field mission or if a proposal to make such commodites available to a nonprofit and voluntary agency or cooperative is submitted by the U.S. Government field mission, a response to that proposal must be provided within 45 days following submission of the proposal. The response must detail the reasons for approval or denial of the proposal. If the proposal is denied, the response must specify the conditions that would need to be met for the proposal to be approved. (Sec. 647.).

The *Senate* amendment provides that not later than 45 days after submission to the Agency for International Development office in Washington, D.C., the Secretary must take final action on a proposal submitted by a nonprofit and voluntary agency or cooperative, with the concurrence of the field mission, for the delivery of commodities requested. (Sec. 2165.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(91) Period for review and comment on section 416(b) guidelines

The *House* bill provides that not later than 30 days before the issuance of a final guideline issued to carry out section 416(b), the Secretary of Agriculture must—

(1) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under section 416(b), and other interested persons, that the proposed guideline is available for review and comment;

(2) make the proposed guideline available for review and comment;

(3) take any comments received into consideration before the issuance of the final guideline. (Sec. 647.).

The *Senate* amendment is substantively the same. (Sec. 2165.).

The *Conference* substitute deletes both the *House* and *Senate* provisions.

(92) Deadline for submission to CCC of section 416(b) commodity orders

The *Senate* amendment provides that not later than 15 days after receipt of a call forward from a field mission for commodities or products that meet the requirements of section 416, the order for the purchase or the supply, from inventory, of the commodities or products must be transmitted to the Commodity Credit Corporation. (Sec. 2165.).

The *House* bill contains no comparable provision.

The *Conference* substitute deletes the *Senate* provision.

(93) Minimum quantities of eligible commodities

The *House* bill will increase—

(1) the grain and oilseeds specific minimum tonnage figure from 500,000 to 800,000 metric tons; and

(2) the dairy products specific minimum tonnage figure from 150,000 to 200,000 metric tons.

The *House* bill also provides that if the increase in minimum metric tonnage will result in additional budget outlays for a fiscal year, the increased tonnage may not be provided unless the additional outlays are approved in advance in an appropriation Act. (Sec. 648.).

The *Senate* amendment contains no comparable provision.

The *Conference* substitute deletes the *House* provision.

SUBTITLE G—PESTICIDE MONITORING IMPROVEMENTS

House bill

The House bill does not contain a provision.

Senate amendment

The Senate amendment requires the Secretary of Health and Human Services to take various actions relating to the monitoring of imported agricultural commodities for pesticide residues. These actions include the development of an annual sampling plan, the compilation of an annual summary of monitoring results, and the preparation of an annual report to Congress, including a description of research conducted to develop improved pesticide detection methods.

Conference Agreement

The conferees have adopted a substitute provision. Section 4702 requires the Secretary of Health and Human Services to implement computerized data management systems which will generate annual summaries of monitoring results. One of the central requirements of this provision is a mandate to the Secretary to use the computerized data systems "as soon as practicable" to summarize the volume of each type of food product subject to the requirements of the Food, Drug, and Cosmetic Act which is imported into the United States and which has an entry value which exceeds an amount established by the Secretary.

Under this provision, FDA is expected to evaluate carefully the alternative means of gathering volume data on imported food and to select the most cost-effective means of accomplishing this objective. The alternative methods of gathering such data range from the automated conversion of historical Census or Customs data to the use of on-line computer systems, such as the proposed Import Support and Information System (ISIS).

The requirements of subsections 4702 (a)(2) and (c) of the conference agreement mandate the collection of volume data only where the product has an entry value which exceeds an amount established by the Secretary. This provision recognizes that the Secretary is likely to rely on data collected by the U.S. Customs Service in implementing this provision. Since the Customs Service currently does not collect comprehensive information on entries with a value lower than $1,000, this provision allows the Secretary to exclude such entries from the volume compilation.

---

[3] NOTE.—The farmer-to-farmer program was extended through September 30, 1990 by Public Law 100-277.

[4] NOTE.—Public Law 100-277 includes provisions that resolve the essential differences between the *House* and *Senate* amendment regarding amendments to section 416 of the Agricultural Act of 1949. Therefore, the managers have not included such provisions in the *Conference* substitute.

Section 4703 of the conference agreement directs the Secretary of Health and Human Services to enter into cooperative agreements with the governments of the countries which are the major sources of food imports subject to pesticide monitoring by the Food and Drug Administration. It is anticipated that approximately 30 countries will be encompassed by this provision. In implementing this authority, the conferees intend that the Secretary will place priority attention on developing cooperative agreements with those countries which are not covered by existing data sources on commodity-specific pesticide use available to FDA on an ongoing basis, such as the Battelle World Agrochemical Databank.

Although this provision does not mandate the development of cooperative agreements with countries which are not major sources of food imports into the United States, the conferees recognize that imports of certain commodities from such countries may be significant in terms of their volume, dietary significance, or potential pesticide problems. Thus, the conferees expect that the Secretary will aggressively seek to obtain data on pesticide use patterns from smaller sources of food imports where necessary to conduct an effective pesticide monitoring program.

In calling for the provision of current pesticide use information, the conferees intend that the Secretary will seek to obtain information specific to particular production areas of the major food importing countries. Aggregate countrywide data does not reveal important regional and local patterns in pesticide use, and such regional variations may be specifically significant in large geographically diverse countries, such as Brazil or Canada. Knowledge of such variations will assist FDA greatly in targeting specific pesticides for analysis.

However, the conferees recognize that in certain foreign countries "production region" information will not be available from governmental authorities and that only countrywide use data will be available. In such cases, the conferees intend that the Secretary will enter cooperative agreements to obtain any countrywide data which is deemed valuable to the Food and Drug Administration and will seek, to the extent practicable, to obtain the more specific "production region" data from the sources described in paragraph (2).

At the start of each negotiation to develop a cooperative agreement, the FDA must notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State. In addition, the FDA will coordinate, as approriate, with these agencies during the course of the negotiations. The conferees also expect that the FDA will coordinate, as appropriate, with other Federal agencies and international organizations and agencies, such as those sponsored by the United Nations.

In addition, the conferees intend that the Secretary will seek, as appropriate, the assistance of private entities, such as export associations and grower associations, in achieving the objectives of this provision. Such sources can play a particularly significant role in providing pesticide use information.

The conferees expect that the Secretary will assure the active involvement of personnel from both the headquarters and appropriate field offices of the Food and Drug Administration in developing the cooperative agreements mandated under Section 4703 and gathering pesticide use information from the sources described in subsection (b)(2). The involvement of district personnel is especially important when food imports from a particular country are heavily concentrated in such FDA district.

It is clear that the collection of pesticide use information by FDA will result in significant improvements in the agency's monitoring program only if such information is readily available to the agency's field offices. In view of this fact, the conferees expect that the Food and Drug Administration will carefully evaluate the inclusion of pesticide use data in the agency's proposed Import Support and Information System or in a separate computerized data base accessible to the field offices.

In view of the important role of several State agencies in the monitoring of imported food for pesticide residues, this provision requires that the foreign pesticide use information generated under this Section be "made available" to such State agencies. In so doing, the conferees intend that the FDA will alert those State agencies engaged in monitoring imported food for pesticide residues about the availability of foreign pesticide use information and provide such information upon request.

The process of developing cooperative agreements under Section 4703 is expected to further the establishment of active working relationships between the Food and Drug Administration and officials responsible for pesticide programs in the major countries exporting food products to the United States. The conferees anticipate that the establishment of such improved working relationships will lead to a better understanding by such countries of the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act and will facilitate FDA's provision to such countries of current information on violations of the Act involving food products in such countries.

In addition, the conferees expect that as one of the by-products of the negotiating process, FDA will obtain information idenfifying: (1) the individuals and agencies responsible for the registration and monitoring of the use of pesticides in the major food importing countries; (2) the laboratories utilized by the governments of such foreign countries for pesticide residue monitoring; and (3) any manuals or other publications which set out the pesticides approved for use in such countries and their approved application rates and residue levels. It is anticipated that such information will be made available to the FDA field offices engaged in the monitoring of imported food for pesticide residues.

Section 4704 of the conference agreement requries the Secretary to develop a research plan for the development and validation of new and improved methods for the detection of pesticide residues and mandates a review to determine the potential use of rapid pesticide methods. This provision is intended to dovetail with a workshop on pesticide analytical methods conducted by the Office of Technology Assessment on March 14-16, 1988. It is expected that FDA and EPA officials will thoroughly consider the findings of the workshop in developing the long-range plan and review envisioned under this provision and will seek peer review. It also is intended that the agencies will consult fully with the United States Department of Agriculture in this effort.

The conferees intend that the long-range plan developed under Section 4704 will cover a period of approximately five years and that the plan and review will focus priority attention on methods to detect moderate to high health hazard pesticide residues which are not covered by existing multiresidue methods. The Section 4704 plan also should provide resource estimates associated with various alternative policy options.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTIMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Title of the Act—Foreign Corrupt Practices Act Amendments of 1988

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment established the title of the Act as the "Foreign Corrupt Practices Act of 1987."

Conference agreement. The House receded to the Senate, with an amendment substituting "1988" for "1987."

Findings and Conclusions

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment contained three Congressional findings and two conclusions. The findings noted (1) the significant contribution Congress made in enacting the Foreign Corrupt Practices Act (FCPA) in 1977, while citing (2) unnecessary concern among exporters about the scope of the Act and (3) unnecessary and costly paperwork burdens imposed on issuers of securities by unclear and excessive accounting standards. The conclusions stated that (1) the principal objectives of the FCPA should be maintained because they are important to the nation and our trade relationships and (2) exporters should not be subject to conflicting demands by diverse agencies enforcing the FCPA.

Conference agreement. The Senate receded to the House.

Accounting

Penalties for Violations of Accounting Standards

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment amended Section 13(b) of the Securities Exchange Act of 1934 to provide that no criminal liability shall be imposed for failing to comply with the FCPA's books and records or accounting control provisions unless a person knowingly circumvents a system of internal accounting controls or knowingly falsifies books, records, or accounts kept pursuant to Section 13(b)(2) of the Exchange Act.

Conference agreement. The House receded to the Senate. The Conferees intend to codify current Securities and Exchange Commission (SEC) enforcement policy that penalties not be imposed for insignificant or technical infractions or inadvertent conduct. The amendment adopted by the Conferees acomplishes this by providing that criminal penalties shall not be imposed for failing to comply with the FCPA's books and records or accounting control provisions. This provision is meant to ensure that criminal penalties would be imposed where acts of commission or omission in keeping books or records or administering accounting controls have the purpose of falsifying books, records or accounts, or of circumventing the accounting controls set forth in the Act. This would include the deliberate falsification of books and records and other conduct calculated to evade the internal accounting controls requirement.

Accounting Practices of Subsidies

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment added a new paragraph (b)(6) to Section 13(b) of the Exchange Act to define the responsibility of an issuer with respect to the accounting practices of a domestic or foreign subsidiary in which the issuer owns an interest of 50 percent or less. The provision provided that such an issuer's responsibility would be discharged where the issuer makes a good-faith effort to cause the subsidiary to comply with the requirements of Section 13(b)(2).

Conference agreement. The House receded to the Senate. The amendment recognizes that it is unrealistic to expect a minority owner to exert a disproportionate degree of influence over the accounting practices of a subsidiary. The amount of influence which an issuer may exercise necessarily varies from case to case. While the relative degree of ownership is obviously one factor, other factors may also be important in determining whether an issuer has demonstrated good-faith efforts to use its influence.

Cost/benefit Test

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment provided that, for purposes of Section 13(b)(2), the term "reasonable assurances" and "reasonable detail" mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their affairs, having in mind a comparison between benefits to be obtained and costs to be incurred in obtaining such benefits.

Conference agreement. The House receded to the Senate, with an amendment deleting the cost-benefit test. The conference committee adopted the prudent man qualification in order to clarify that the current standard does not connote an unrealistic degree of exactitude or precision. The concept of reasonableness of necessity contemplates the weighing of a number of relevant factors, including the costs of compliance. The Conferees therefore deleted the Senate cost-benefit language as superfluous and in response to concerns that such a statutory provision might be abused and weaken the accounting provisions at a time of increasing concern about audit failures and financial fraud and resultant recommendations by experts for stronger accounting practices and audit standards. *See, e.g.*, "Report of the National Commission on Fraudulent Financial Reporting, October 1987."

Prohibited Corrupt Payments by Issuers

Repeal of Section 30A

House bill. The House bill contained no comparable provision.

Senate amendment. The Senate amendment repealed Section 30A of the Exchange Act and placed in the Justice Department all jurisdiction for enforcing the anti-bribery provisions of the Act. In addition, it required the SEC to transmit to the Justice Department evidence that an issuer had violated the FCPA, and the Department was required to report annually to the appropriate Congressional oversight committees on the disposition of any such referrals.

Conference agreement. The Senate receded to the House, with an amendment making conforming amendments to Section 30A of the Exchange Act to reflect the provisions of the conference substitute for Section 104 of the FCPA (with the exception of granting injunctive authority to the Department of Justice). The conferees intend that the SEC remain responsible for civil enforcement of the FCPA under Section 30A. The Conferees intend such conforming changes to have the same meaning and impact in Section 30A of the Exchange Act as they have in Section 104 of the FCPA, as described below.

Prohibited Corrupt Payments by Domestic Concerns

Anti-bribery Provision—Definition of Payments Prohibited under FCPA: "Official Function" v. *"Legal Duty"*

House bill. The House bill, in keeping with present law, included within prohibited payments those made to foreign officials for the purpose of inducing the official to make a "decision to fail to perform his or its *official functions.*" (emphasis added)

Senate amendment. The Senate amendment changed the approach under present law to one which included within prohibited payments those made to induce a foreign official "to do or omit to do any act in *violation of his legal duty* as a foreign official." (emphasis added)

Conference agreement. The House receded to an amended Senate provision which would prohibit payments to any foreign official for the purpose of "influencing any act or decision of such foreign official in his official capacity, or inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official." This language conforms to the domestic bribery standard found at 18 U.S.C. 201.

Anti-bribery Provision—Definition of Payments Prohibited under FCPA: Legislative or Other Action

House bill. The House bill provided that the prohibition under current law against the use of corrupt payments to foreign officials for the purpose of obtaining or retaining business includes payments for "procurement of legislative, judicial, regulatory, or other action in seeking more favorable treatment by a foreign government."

Senate amendment. The Senate amendment contained no comparable provision.

Conference agreement. The House receded to the Senate. The Conferees wish to make clear that the reference to corrupt payments for "retaining business" in present law is not limited to the renewal of contracts or other business, but also includes a prohibition against corrupt payments related to the execution or performance of contracts or the carrying out of existing business, such as a payment to a foreign official for the purpose of obtaining more favorable tax treatment. *See, e.g.*, the *United Brands* case. The term should not, however, be construed so broadly as to include lobbying or other normal representations to government officials.

Anti-bribery provision—Standard of Liability for Acts of Third Parties (Agents)

House bill. The House bill changed current law, which applies civil and criminal liability to firms and individuals who make payments to third parties "knowing or having reason to know" that the payment would be used by that third party for purposes barred under the statute.

In provisions concerned with the requisite states of mind applicable to offenses known as "third party bribery" (the furnishing of money or any other "thing of value" by an agent for the purpose of bribing foreign officials), the House bill contained state-of-mind requirements (proposed Section 30A(a)(3) and proposed Section 104(a)(3)) of "knowing or recklessly disregarding" that the money in question would be used for bribery.

Under the House bill, criminal liability would have applied for firms and individuals who made payments to third parties while "knowing" that the payment would be used by the third party for purposes barred under the statute. The House bill contained a definiton (proposed Section 30A(f)(2) and proposed Section 104(h)(4)) of the "knowing" state of mind applicable in the case of the foreign corrupt practice of "third party" bribery by securities issuers and domestic concerns. "Knowing" was defined as being "aware or substantially certain" or "consciously disregarding a high probability" that a payment would be made for prohibited purposes. Civil liability would have applied if the payment were made to a third party while "racklessly disregarding" that all or a portion of the payment would be made for purposes barred under the statute. "Reckless disregard" was defined (proposed Section 30A(f)(3) and proposed Section 104(h)(5)) to included "awarness" and disregard of a "substantial risk" that a third party would transmit a prohibited payment.

Senate amendment. The Senate bill addresses the state-of-mind requirement for third-party bribe offenses by making it unlawful "corruptly to direct or authorize, expressly or by a course of conduct" a third party to make such payments. The phrase "course of conduct" was not defnied in the Senate amendment, but the Senate report stated that the standard was meant to preclude a "head-in-the-sand" approach involving willful ignorance of facts and circumstances underlying the subject transaction which would indicate the payment of a bribe.

Conference agreement. The Senate receded to the House with an amendment. The conference substitute retains the "knowing" requirement and deletes the "recklessly disregarding" requirement as those terms were defined in proposed Sections 30A(f) (2) and (3) and 104(h)(4) and (5). The compromise bill adopts a modified version of the House bill regarding these provisions and encompasses the concepts of "conscious disregard" or "willful blindness." *See generally United States* v. *Bright*, 517 F.2d 584 (2d Cir. 1975); H. Rept. No. 96-1396, 96th Cong., 1st Sess., 35 (1980). The Conferees intend that the requisite "state of mind" for this category of offense include a "conscious purpose to avoid learning the truth." *United States* v. *Jacobs*, 475 F.2d 270, 277-88 (2d Cir. 1973). Thus, the "knowing" standard adopted covers both prohibited actions that are taken with "actual knowledge" of intended results as well as other actions that, while falling short of what the law terms "positive knowledge," nevertheless evidence a conscious disregard or deliberate ignorance of known circumstances that should reasonably alert one to the high probability of violations of the Act.

In clarifying the existing foreign antibribery standard of liability under the Act as passed in 1977, the Conferees agreed that "simple negligence" or "mere foolishness" should not be the basis for liability. However, the Conferees also agreed that the so-called "head-in-the-sand" problem—variously described in the pertinent authorities as "conscious disregard," "willful blindness" or "deliberate ignorance"—should be covered so that management officials could not take refuge from the Act's prohibitions by their unwarranted obliviousness to any action (or inaction), language or other "signalling device" that should reasonably alert them of the "high probability" of an FCPA violation.

The "head-in-the-sand" problem is not unique to this area of criminal law and occurs in a variety of contexts, perhaps the most common being the situation where a person acquires property under "suspicious" circumstances and is charged with "knowledge" that it is stolen. Courts and commentators have considered such behavior to be "distinct from, but *equally culpable* as actual knowledge." *See* G. Williams, *Criminal Law: The General Paret,* sec. 57 at 157 (2d. ed. 1961). (emphasis added)

Federal case law has discussed the carefully-drawn elements that comprise the "head-in-the-sand" state of mind in other contexts. The Conferees agree with the reasoning found in such decisions as *United States* v. *Jewell,* 532 F.2d 679 (9th Cir. 1976): *United States* v. *Bright,* 517 F.2d 584 (2d Cir. 1975); *United States* v. *Jacobs,* 470 F.2d 270, 287 n.37 (2d Cir.), *cert. denied sub nom. Lavellle* v. *United States, 414 U.S. 821 (1973). See also* H. Rept. No. 96-1396, 96th Cong., 1st Sess. 35 (1988). The knowledge requirement is not equivalent to "recklessness." It requires an awareness of a high probability of the existence of the circumstance. As the Court stated in the *Jacobs* case:

"Knowledge that the goods have been stolen may be inferred from circumstances that would convince a man of ordinary intelligence that this is the fact. The element of knowledge may be satisfied by proof that a defendant deliberately closed his eyes to what otherwise have been obvious to him.

"Thus, if you find that a defendant acted with reckless disregard of whether the bills were stolen and with a conscious purpose to avoid learning the truth, the requirement of knowledge would be satisfied unless the defendant actually believed they were not stolen.

* * * * *

"* * * You should scrutinize the entire conduct of the defendant at or near the time the offense are [*sic.*] alleged to have been committed." 475 F.2d 287 n.37 (emphasis added)

Accordingly, the Conferees intend that the knowledge requirement reflect existing law, including provision for cases of deliberate ignorance. In such cases, knowledge of a fact may be inferred where the defendant has notice of the high probability of the existence of the fact and has failed to establish an honest, contrary disbelief. The inference cannot be overcome by the defendant's "deliberate avoidance of knowledge," *United States* v. *Manrique Aribizo,* 833 F.2d 244, 249 (10th Cir. 1987), his or her "willful blindness," *United States* v. *Kaplan,* 832 F.2d 676, 682 (1st Cir. 1987), or his or her "conscious disregard," *United States* v. *McAllister,* 747 F.2d 1273, 1275 (9th Cir. 1984), of the existence of the required circumstance or result. As such, it covers any instance where "any reasonable person would have realized" the existence of the circumstances or result and the defendant has "consciously chose[n] not to ask about what he had 'reason to believe' he would discover," *United States* v. *Picciandra,* 788 F.2d 39, 46 (1st Cir. 1986).

Courts should, accordingly, apply the approriate "mix" of subjective and objective standards implied in such a carefully-structured test.

Anti-bribery provision—Exception for "Routine Governmental Action"

House bill. The House bill created a defense for "routine governmental action," which was defined as one "ordinarily and commonly performed" by a foreign official and explicitly including: processing governmental papers, loading and unloading cargoes; scheduling inspections associated with contract performance; and "actions of a similar nature."

Senate amendment. The Senate amendment created an exception for similar action, but included additional explicit categories: obtaining permits, licenses, or "other governmental approvals" to qualify a person to do business in a foreign country; and protecting perishable products or commodities from deterioration. Unlike the House bill, it did not limit actions to those "of a similar nature."

Conference agreement. The House receded to the Senate exception, with an amended definition of "routine governmental action." The conference substitute reflects the intent of the Conferees that the scope of the "routine governmental action" exception apply only to the listed subcategories (i)-(iv) and actions of a similar nature. The Conferees wish to make clear that "ordinarily and commonly performed" actions with respect to permits or licenses would not include those governmental approvals involving an exercise of discretion by a government official where the actions are the functional equivalent of "obtaining or retaining business for or with, or directing business to, any person."

Anti-bribery Provision—Affirmative Defense for "Lawful Payments" v. Defense for Those "Expressly Permitted' in Foreign Country

House bill. The House bill created a defense for payments "expressly permitted under any law or regulation" of the foreign official's country.

Senate amendment. The Senate amendment created an affirmative defense for payments that are "lawful" under the laws and regulations of the foreign official's country.

Conference agreement. The House receded to the Senate, with an amendment to make it an affirmative defense that a payment to a foreign official is "lawful under the *written* laws and regulations of the foreign official's country." (emphasis added) The Conferees wish to make clear that the absence of written laws in a foreign official's country would not by itself be sufficient to satisfy this defense. In interpreting what is "lawful under the written laws and regulations," the Conferees intend that the normal rules of legal construction would apply.

Anti-bribery Provision—Senate Exception for "Reasonable and Bona Fide Expenditures"

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment created new exceptions for "reasonable and bona fide expenditures" incurred by or on behalf of a foreign official. The exceptions included travel and lodging expenses associated with (1) the selling or purchasing or goods or services or with the demonstration or explanation of products; or (2) the performance of a contract with a foreign government or agency.

Conference agreement. The House receded to the Senate, with an amendment making the exception an affirmative defense. The conference substitute makes clear that payment of reasonable and bona fide expenses associated with promotional activities would also be a defense to prosecution, and explicitly includes "execution" of a contract as well as "performance". If a payment or gift is corruptly made, in return for an official act or omission, then it cannot be a bona fide, good-faith payment, and this defense would not be available.

Anti-bribery Provision—Senate Affirmative Defense for "Nominal" Payments

House bill. The House bill contained no comparable provision.

Senate amendment. The Senate amendment created an affirmative defense for any "nominal' payment, gift, offer, or promise of anything of value to a foreign official which constituted a "courtesy, a token of regard or esteem or in return for hospitality" if it is of "reasonable value in the context of the type of transaction involved, local custom, and local business practices."

Conference agreement. The Senate receded to the House.

Anti-bribery Provision—House "Due Diligence" Defense for Vicarious Liability of Firms

House bill. The House bill established a new "safe harbor" defense for civil or criminal liability of issuers and domestic concerns for FCPA violations by their employees or agents. Under current law, under appropriate circumstances, a firm may be held vicariously liable for violations of the FCPA by its employees or agents. Under the House bill, a firm could not be held vicariously liable for such violations if it had established procedures "reasonable expected to prevent and detect" any such violation, and the officer and employee with supervisory responsibility for the offending employee's or agent's conduct used "due diligence" to prevent the violation.

Senate amendment. The Senate amendment contained no provision.

Conference agreement. The House receded to the Senate.

Anti-bribery Provision—Exclusivity of FCPA for Foreign Bribery

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment provided that, except in plea bargain situations, criminal prosecution against any firm or individual for overseas bribery must be pursued exclusively as a violation of the FCPA and not as a violation of the mail or wire fraud laws, where the prosecution is based upon the theory that a foreign official violated a fiduciary duty to or defrauded a foreign government or the citizens of a foreign country. Similarly, no prosecution for conspiracy to violate the mail or wire fraud statute based on that theory would have been permissible.

Conference agreement. The Senate receded to the House.

Anti-bribery Provision—DOJ Civil Injunctive and Subpoena Authority

House bill. The House bill contained no provision.

Senate amendment. The Senate amendment provided civil injunctive and subpoena authority to the Department of Justice with respect to domestic concerns.

Conference agreement. The House receded to the Senate. The Conferees intend that this authority to used by the Department to enhance its ability to enforce the Act.

Anti-bribery Provision—Attorney General Authority to Issue General Guidelines and Advisory Opinions

House bill. The House bill established a procedure under which the Attorney General may issue general guidelines describing examples of activities that would or would not conform with the Justice Department's enforcement policy regarding FCPA violations. In addition, the Department must establish procedures to provide opinions in response to specific inquiries from firms concerning conformance of their conduct with the Department's present enforcement policy. The Department must also, to the extent possible, provide timely guidance to exporters and small businesses who are unable to obtain specialized counsel with respect to compliance with the FCPA.

Senate amendment. The Senate amendment contained no provision.

Conference agreement. The Senate receded to the House. The Conferees intend that the Department provide the SEC and other appropriate departments and agencies with copies of the opinions required under new Sections 30A(e) and 104(f).

Anti-bribery Provision—House Repeal of Eckhardt Amendment

House bill. The House repealed the so-called Eckhardt amendment to the FCPA by deleting the lead-in clause of present law, which reads, "whenever an issuer/domestic concern is found to have violated * * *." The deleted language had the effect of providing that employees or agents could not be prosecuted for FCPA violations unless the domestic concern or issuer, whichever the case may be, had been found to have violated the Act.

Senate amendment. The Senate amendment contained no comparable provision.

Conference agreement. The Senate receded to the House.

Anti-bribery Provision—Raising of Fines

House bill. The House bill amended both the FCPA and Section 32(c) of the Exchange Act to raise the maximum criminal fine for a firm or domestic concern from $1 million under present law to $2 million, and for individuals from $10,000 to $100,000 (maximum potential imprisonment for an individual remains at 5 years). The House bill also created a new civil penalty of $10,000.

Senate amendment. The Senate amendment contained no provision.

Conference agreement. The Senate receded to the House. The Conferees intend that the FCPA penalty provisions not operate to override the relevant provisions of P.L. 100-185, the "Criminal Fine Improvements Act of 1987." See 18 U.S.C. 3571.

Anti-bribery Provision—Negotiation of International Agreement

House bill. The House bill included the sense of Congress that the President should pursue the negotiation of an international agreement, "among the largest possible number of countries," to govern acts now prohibited under FCPA. Within one year of enactment of the trade bill, the President must submit to the Congress a report on the progress of the negotiations and those steps which should be taken in the event that the negotiations fail.

Senate amendment. The Senate amendment contained no provision.

Conference agreement. The Senate receded to the House, with an amendment to change the requirement to pursuing an agreement "with the member countries of the Organization of Economic Cooperation and Development (OECD)."

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS AND TAKEOVERS

Sec. 5021. Authority to Review Certain Mergers, Acquisitions and Takeovers

House bill

Section 905 of the House Bill provides that the Secretary of Commerce shall investigate, if requested to do so by an agency head or on the Secretary's own initiative, to determine the effects on national security, essential commerce, and economic welfare of mergers, acquisitions, joint ventures, licensing and takeovers by or with foreign companies which involve U.S. companies engaged in interstate commerce.

The Secretary has 45 days to make a determination regarding his investigation, and if appropriate, to make recommendations to the President for restricting the foreign effort involving the firm engaged in interstate commerce. If the Secretary determines that the foreign control of firms engaged in interstate and foreign commerce would threaten to impair national security and essential commerce, the President must take action he deems appropriate, unless he determines that there is no threat to national security and essential commerce.

Senate amendment

Title XIV of the Senate Amendment is similar to the House provision except: only Executive Departments, the Attorney General and the USTR can request that the Secretary of Commerce initiate an investigation, and the Secretary has the discretion as to whether to initiate the requested investigation; the criteria which is the subject of review is "national security, or essential commerce which relates to national security;" only pertains to mergers, acquisitions and takeovers (not joint ventures and licensing) commenced on or after June 4, 1987; confidentiality of proprietary information is guaranteed; the President has discretion as to whether to act on the Secretary's recommendation for action; and drafted as an amendment to the Defense Production Act.

Conference agreement

The Conference Agreement would allow the President or his designee to investigate mergers, acquisitions or takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. The President must find that there is credible evidence which leads the President to believe that a foreign interest exercising control of a person engaged in interstate commerce in the United States might take action that threatens to impair the national security. Furthermore, the President must find that provisions of law, other than this section and the International Emergency Economic Powers Act, do not provide adequate and appropriate authority. The provisions of subsection (d) state that the findings of the President are not subject to judicial review. This limitation on judicial review applies to this subsection only. Thus, other matters such as the timeliness of the action taken by the Attorney General would be subject to judicial review. The President is authorized to take such action for such time as the President considers appropriate to suspend or prohibit such acquisition, merger, or takeover.

If it is determined that an investigation should be undertaken it shall commence no later than 30 days after the receipt of notice by the President or his designee. The President shall establish through regulation the form and source of notification sufficient to begin this 30 day period. The President's power under this section vests upon enactment and is not contingent upon issuance of implementing regulations. The Conferees expect that the President shall provide parties to transactions with a clearly delineated beginning and ending point to the time during which a transaction would be subject to review. If no investigation is commenced within 30 days of receipt of notice determined by the President to be adequate, the President may not exercise authority under this section. Once an investigation is initiated this subsection provides that it shall be completed within 45 days.

The Conferees intend the term "foreign person" to include any individual who is not a U.S. citizen or a U.S. national under the laws of the United States. The term also includes an entity organized under the laws of, or having its principal place of business in a country other than the United States, provided such entity is directly or indirectly controlled by a foreign person. It would also include any foreign person who, for example, acquires a domestic corporation for the purpose of acquiring control of another domestic corporation in contravention of the purposes of this section.

The Conferees agree that the U.S. "person" that may be acquired could be any of a variety of forms of ongoing or sustainable business entities, including a corporation, a partnership, a division of a corportion, or an unincorporated entity.

The Conferees in no way intend to impose barriers to foreign investment. The Conferees intend for this section to affect only inward foreign investment, i.e., overseas investment flowing into the United States. This section is not intended to authorize investigations on investments that could not result in foreign control of persons engaged in interstate commerce nor to have any effect on transactions which are outside the realm of national security.

The standard of review in this section is "national security". The Conferees recognize that the term "national security" is not a defined term in the Defense Production Act. The term "national security" is intended to be interpreted broadly without limitation to particular industries. The President is authorized to take action under this section with respect to a merger, acquisition or takeover involving a firm in any industry provided that the facts and circumstances warrant the Presidential findings required under this provision.

The legislation gives guidance to the President or his designee regarding factors which may be considered in conducting an investigation, recommending Presidential action, or taking Presidential action under this section. These factors include but are not limited to domestic production needed for projected national defense requirements; the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services; and the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

The Conferees also recognize the authority of the President under titles I and III of the Defense Production Act has been interpreted broadly in the past. Nothing in this section is meant to imply that past interpretations of the extraordinary breadth of the Defense Production Act or its grant of authority to the President is incorrect. In particular, the authority granted to the President in titles I and III of the Defense Production Act, to require the acceptance and performance of contracts by an entity essential to the defense industrial base (and, as a condition of the contract, to block mergers, acquisitions and takeovers which result in foreign control) is unaffected.

The Conferees also want to clarify that the use of the term "national security" is not meant to imply any limitation on the term "national defense" as used elsewhere in the Defense Production Act. The Conferees note that the term "national defense" has been correctly interpreted in the past to include the provision of a broad range of goods and services, as well as technological innovations and economic stabilization efforts.

The Conferees expect that during the course of an investigation initiated under this section the parties to the transaction and all government agencies with relevant information will cooperate with the investigating authority and that the investigating authority will consult with appropriate officials of the United States government, including the Secretary of Defense.

The President shall announce the decision to take action not later than 15 days after the investigation described in this section is completed. Among the actions available to the President is the ability to suspend a transaction.

The President may also seek appropriate relief in the District Courts of the United States in order to implement and enforce the provisions of this section either in the investigation stage or the Presidential action stage. The term "appropriate relief" is intended as a broad term to give the President the flexibility to deal with any foreign control attempt which the President deems to pose a threat to national security. Such "appropriate relief" includes broad injunctive and equitable relief including, but not limited to divestment relief. The Conferees note that takeover efforts can proceed so quickly that the President needs a broad range of remedies in order to respond appropriately to different facts and circumstances including attempts to subvert the purposes of this section. The term "divestment relief" does not grant the President authority under this section to open transactions concluded prior to the date of enactment of this section. The Conferees intend that the President may seek divestment relief only in those situations where the proposed or pending merger, acquisition or takeover is completed after the President or his designee receives written notification of the transaction and prior to the close of the 15-day period for Presidential action.

This section provides that the regulations implementing this section shall, "to the extent possible, minimize paperwork burdens" and "coordinate reporting requirements under this section with reporting requirements under any other provision of the Federal law." The Conferees intend that duplication and unnecessary cost to both the government and private parties be avoided.

The legislation provides that the powers under this section are in addition to existing law and do not replace, repeal or otherwise prejudice existing law or Presidential power. The Conference do not intend to abrogate existing obligations of the U.S. pursuant to treaties, including Treaties of Friendship, Commerce, and Navigation. The normal rules of statutory construction govern this section.

PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

Registration of Foreign Investment

House bill

Section 703 of the House bill requires registration of significant, controlling and major portfolio investment by foreigners. Signifcant investments are defined as a 5% equity interest in a U.S. business that has assets of $5,000,000 or sales of $10,000,000 or an equity interest in real property with a market value of $10,000,000. A controlling interest is defined as a 25% equity interest in a U.S. business that has assets or sales of $20,000,000. A major portfolio interest means any equity interest with a market value of $50,000,000 in a U.S. business.

All three types of interests must register with the Secretary of Commerce. This registration must include:

(1) the identity, address, legal nature, industry and nationality of the foreign person,

(2) the date on which the foreign person acquired the interest,

(3) the relation of the foreign person to the U.S. property,

(4) the name, location and industry of the U.S. property, and

(5) the size of the interest acquired and the price paid.

If the interest is a controlling interest, additional information is required. The foreign investor must file an English translation of any public financial disclosures filed in the home country. For the U.S. business that is being acquired, the foreign investor must file a balance sheet and income statement, location of all U.S. facilities, the identity and nationality of all directors and executive officers, compensation of executives and any related business transactions of any director, along with a description of any significant civil litigation the business has been involved with the past year.

For significant and controlling interests, registration is required within 30 days. For portfolio interests, registration is required 90 days after the end of the calendar year when the interest was acquired. The additional financial information for controlling interests must be filed within 6 months. There are civil penalties for late filing and criminal penalties for failing to file or filing false information.

Within one year of enactment, the Secretary is required to prepare an inventory of the reports filed by registered interests with indexing by name and nationality of foreign investor and by name of the U.S. business. This inventory is to be made available to the public.

Senate amendment

The Senate amendment has no provision.

Conference Agreement

The House recedes to the Senate.

SUBTITLE B—TECHNOLOGY

PART 1. TECHNOLOGY COMPETITIVENESS

Section 5101. Short Title

Present law

No Provision.

House bill

No provision in H.R. 3. (The House position in part 1 is based on H.R. 2160 as passed by the House and on H.R. 2916 as reported by the Committee on Science, Space, and Technology. The short title of H.R. 2916 is the Technology Competitiveness Act.)

Senate amendment

No provision. (However, S. 907 as reported by the Senate Commerce, Science, and Transportation Subcommittee uses the short title Technology Competitiveness Act; S. 907's provisions as reported are identical to the Title XL through XLV of the Senate version of the Trade bill, the Omnibus Trade and Competitiveness Act of 1987 as introduced.)

Conference agreement

Part 1 may be cited as the Technology Competitiveness Act.

Subpart A—National Institute of Standards and Technology

Section 5111. Findings and Purposes

Present law

Section 1 of the National Bureau of Standards Act of March 3, 1901 (NBS Act) (15 U.S.C. 271) changes the name of the Office of Standards and Weights to the National Bureau of Standards (NBS).

House bill

No provision in H.R. 3. (H.R. 2916 presents findings and purposes for a bill to strengthen the NBS Act and the Stevenson-Wydler Act of 1980. It also renames NBS as the National Institute of Standards and Technology.

Senate amendment

Replaces Section 1 of the NBS Act with findings and purposes.

Conference agreement

The Conferees agreed to amend Section 1 of the NBS Act by substituting findings and purposes for the original text. The proposed compromise text accepts most of the findings of the House and Senate versions. The findings emphasize the importance of a strong manufacturing base to a healthy American economy, and the continued importance of precise measurements, calibrations, and quality assurance standards in retaining that base. The Conferees' compromise on purposes combines both House and Senate versions by adding to the House position those elements of the Senate version which were not already included.

This section renames NBS as the National Institute of Standards and Technology (NIST). The Conferees agreed to this new name to reflect not only the enhanced role and responsibility assigned to NBS but also to stress NBS's traditional function of providing the measurements, calibrations and quality assurance standards which are vital to U.S. commerce and constitute the very fundamentals for a vibrant U.S. industrial base. The new name reflects the ultimate goal of NIST, which is to support and enhance the technological competitiveness of the United States.

Section 5112(a). Establishment, Functions and Activities

Present law

Section 2 of the NBS Act authorizes the Secretary of Commerce to undertake specific activities in the development, maintenance, and dissemination of standards and measurements.

House bill

No provision in H.R. 3. (H.R. 2916, Section 5 establishes the functions and activities for science and technology laboratories under the purview of NIST.)

Senate amendment

Identifies the specific responsibilities of the Secretary of Commerce to improve and

expand the functions of National Institute of Technology (the Institute).

Conference agreement

The Conferees agreed to amend Section 2 of the NBS Act by using the Senate language on the establishment of a science, engineering, measurement, and technology laboratory within the Department of Commerce to be known as the NIST. The Conferees accepted the House language in stating the functions and activities of NIST. There was little difference in the provisions stated in both texts. The Senate format, modified to list the functions of NIST as functions of the "Secretary of Commerce acting through the Director and if appropriate, through other officials", is adopted. This will permit the Secretary of Commerce to have the usual prerogatives of his office, including assigning general authorities contained in this section to more than one component of the Department of Commerce, while making sure all activites of NIST are carried out by it. It permits temporary assignments of employees within the Department of Commerce but is not designed to supersede section 5 of the NBS Act which places the NIST Director in charge of all NIST functions. Therefore, the phrase "through other officials", when used here and elsewhere in this Act, is to be construed narrowly and does not permit transfer from NIST of scientific, technical, or administrative functions.

NIST is specifically required to carry out every function now assigned to NBS, including all of its functions as the Nation's national standards and measurement laboratory. The rewording of the statute significantly expands the role of NIST as the government's lead laboratory in support of U.S. industrial quality and competitiveness while retaining and encouraging growth and modernization of the core metrology mission. Of necessity, NIST general authority has been described in very broad language. This is to avoid artificial limitations in the future of NIST activities which are not foreseeable at this time but which are also in the national interest. NIST, on the other hand, must remember that its mission is the promotion of the competitiveness of U.S. industry through standards work and other means. Certain other federal laboratories have major capabilities in support of U.S. competitiveness and as a general rule are the ones best able to promote and to transfer their own technologies to the U.S. private sector.

NIST is expected to be constantly on guard to make sure that its activities do not duplicate or replace those more properly undertaken by the private sector or other government agencies. For instance, the authorities permitting NIST to work with ionizing and non-ionizing radiation and to determine the atomic and molecular structure of matter are largely a restatement of existing authority and are not to be construed as affecting the jurisdiction of other agencies intimately involved in these areas such as the Department of Energy, the Environmental Protection Agency, the National Institutes of Health, and the National Institute of Occupational Safety and Health. The Conferees continue to support the policy statement of the Federal Technology Transfer Act of 1986 that "technology transfer is a responsibility of every laboratory's scientific and engineering professional", that these professionals where feasible should participate "in state, local, and regional technology efforts", and that each agency and federal laboratory accelerate their technology transfer efforts to achieve full compliance with that legislation.

Section 5112(b). Other Functions of Secretary

Present law

No provision.

House bill

No provision.

Senate amendment

Contains two activities associated with telecommunication sciences that are accomplished under the auspices of the National Telecommunications and Information Administration (NTIA).

Conference agreement

The Conferees agreed to move activities 10 and 11 from the Senate bill to a new subsection since they are primarily activities of the NTIA rather than NIST and to codify certain other NTIA functions. Traditionally, the NBS Act has served as the statutory authority for the Department's telecommunications research, and the conferees wished to ensure that NTIA has permanent and unambiguous legal authority to carry out its mission. The inclusion of the telecommunication language in the new statement of mission for NIST is not to be interpreted as a transfer of the work from NTIA to NIST or vice versa.

Section 5112(c). Director of NIST

Present law

Section 5 of the NBS Act describes the process by which the NBS Director is selected as well as overall responsibilities, requirements and compensation of that office.

House bill

No provision in H.R. 3. (H.R. 2916 modifies Section 5 of the NBS Act to specify the appointment process for the NIST Director, the responsibilities of the NIST Director, and the requirements of that office.)

Senate amendment

No provision.

Conference agreement

The Conferences agreed to accept the House provision amending Section 5 of the NBS Act related to the appointment and duties of the NIST Director after striking archaic language carried forward from the Act. In order to assure a smooth transition, the current NBS Director is designated as the NIST Director until the NIST Director is installed in office. This section makes clear that NIST, like NBS before it, is to be run as a discrete entity with general supervisory powers in the NIST Director. Nothing in this Act is to be construed as giving the Department of Commerce the authority to transfer control of portions of NIST to officers other than the NIST Director. The NIST Director is compensated at ES Level IV.

Section 5112(d). Organization Plan

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 requires the Director to submit an organization plan for NIST not later than 120 days after enactment of this Act, and at least 60 days prior to the effective date of the plan.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to the House provision requiring an organization plan for NIST to be submitted to its Congressional authorizing committees at least 60 days before the plan's effective date and 120 days after enactment of this legislation. The organization plan is to establish the major operating units of NIST and to distribute the activities and functions listed in the new section 2(c) of the NBS Act. The NIST Director may revise the organization plan after a formal 60-day notification of Congress. The Conferees further agreed that the organization of NIST will follow that of NBS until the effective date of the organization plan. The Conferees mandated that the Center for Fire Research and the Center for Building Technology must continue in their current forms under this plan.

Section 5113. Repeal of Provisions

Present law

The first sections of the Acts of July 16, 1914, March 4, 1913, and May 14, 1930.

House bill

No provision in H.R. 3. (H.R. 2916 repeals the first section of the Act of July 16, 1914, the first section of the Act of March 4, 1913, and the first section of Act of May 14, 1930.)

Senate amendment

Same provisions as in H.R. 2916.

Conference agreement

This section was identical in both the House and Senate bills and merely repeals archaic language or provisions of the original NBS Act that no longer apply.

Section 5114. Reports to Congress; Studies by the National Research Council

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2160 amends the NBS Organic Act by adding one new section which requires the NIST Director to inform Congress of all activities, and also requires the NIST Director to justify all changes in fees.)

Senate amendment

Establishes two new sections in the NBS Act which require the Institute's Director to inform Congress of all activities and to justify changes in fee policy, and specifies that the Director has the authority to contract with the National Academy of Engineering and the National Academy of Sciences (Academies).

Conference agreement

The Conferees agreed to accept the Senate language and amend the NBS Act by adding two new sections. The new section 23 requires the NIST Director to keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all activities of NIST and requires the NIST Director to justify to the Congress in advance and in writing all changes in policies regarding fees for NIST services to industry. Section 24, Studies By The National Research Council, makes it clear that this NIST Director has the authority periodically to contract with the Council for advice and studies.

Section 5115. Technical Amendments

Present law

No provison.

House bill

No provision in H.R. 3. (H.R. 2916 specifies that all laws referencing NBS shall now be deemed to refer to NIST.)

Senate amendment

Amenmds the NBS Act by modifying all references to "NBS" and "Bureau", and substituting "NIT" and "Institute".

Conference agreement

This section was rewritten to include the substance of both the House and Senate provisions reflecting the redesignation of NBS as NIST. The technical amendments which make up section 4504 of the Senate bill are moved to this section. The technical amendments make sure that references in any other Federal law to NBS shall be deemed to refer to NIST.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

Section 5121(a). Technical Centers and Technical Assistance

Present law

No provision.

House bill

No provision.

Senate amendment

Provides for establishing Regional Centers for the Transfer of Manufacturing Technology (Regional Centers) beginning with four centers in 1988, four in 1989, and four in 1990. The Commerce Department would provide up to 50 percent of total costs, with all federal contributions ended after six years.

Conference agreement

The Conferees agreed to a modified version of the Senate provision establishing the Regional Centers set forth in a new Section 25. The Senate proposal would have established Regional Centers in each of the fiscal years 1988 through 1990. Regional Centers are to provide outlets for the demonstration of technology developed by NIST to small- and medium-sized firms, beginning with the technology developed at the Automated Manufacturing Research Facility of NIST. By using the term "regional", the Conferees do not mean to preclude larger states, such as Texas or Alaska, from applying as a region coterminous with their state boundaries or to preclude parts of states from being included in more than one Regional Center. Under the Senate proposal the Secretary of Commerce would contribute up to 50 percent of the costs of each Regional center for up to six years. The Conferees agreed to a more modest start for the program, an authorization of $5.0 million which should permit the start of two to three Regional Centers during fiscal year 1988. The authorizations which the Senate recommended for fiscal years 1989 and 1990 of $32 million and $40 million, respectively, are reduced to $40 million total and lumped together in one total since the conferees could not predict how fast the program would expand. Planning grants are not required, but may be awarded on a competitive basis from funds available for the Regional Center program if such grants are needed to guarantee high quality applicants from each of the various regions of the United States.

The Conferees also require the Secretary of Commerce to publish for comment, in the Federal Register, in advance of the establishment of any Regional Centers under this section, a detailed description of plans for administering the Regional Center program. The description is to include criteria and procedures for selecting Regional Center applicants, the role these Regional Centers are to play in promoting the use of improved manufacturing techniques by American small- and medium-sized businesses, projected schedules for reduction of direct financial support of the Regional Centers by the NIST, and preliminary criteria for evaluation of the effectiveness of Regional Centers. Initial publication is to be followed by a 30-day comment period, which recognizes the pressing need for such Regional Centers to be established and functioning in the near future. The Conferees also have limited potential grantees under this section to U.S. based, non-profit institutions, and the companies they assist, and to U.S. based, small- and medium-sized manufacturers who intend to apply the technology at facilities in the United States. Such organizations, including universities, which are already active in the enhancement of manufacturing capabilities of American businesses or which engage in related activities, are encouraged to apply. The Conferees kept the Senate requirement of merit review of applications by qualified individuals outside the Department of Commerce as part of the process in the belief that such review will increase the quality of fairness of the program. The Regional Center program is a new program within the Department of Commerce, which is not designed in any way to limit previously established programs, such as the Engineering Research Centers, of the National Science Foundation (NSF), which have a different purpose, or programs authorized or established by the Stevenson-Wydler Act as amended. Regional Centers may accept gifts and loans of equipment from vendors and others for these purposes. Individual pieces of equipment may be loaned to small firms for up to six months, but equipment essential to the operation of the Regional Centers shall not be loaned. The Conferees feel that a loan program may be the most effective means of technology transfer to small manufacturers who are not close enough geographically to a Regional Center to spend time experimenting with the equipment on exhibit.

Section 5121(b). Technology Extension Services

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 requires the Secretary of Commerce to review current state industrial extension programs and determine an appropriate federal role in encouraging such programs.)

Senate amendment

Establishes an Office of Extension Services within the Institute to serve as a point of contact for state and local governments and to administer the Regional Centers.

Conference agreement

The Conferees accepted a compromise version for establishing a technology extension program. The Conferees retained the House provision requiring the Secretary of Commerce to conduct a nationwide study of existing state technology extension services and their relation to the Federal Government. The Secretary of Commerce must submit the results of this study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee of Science, Space, and Technology of the House or Representatives with the NIST organization plan. The Conferees intend that funding for this study come from the Commerce Secretary's budget. The study can be conducted in-house or can be contracted out and should be coordinated with the Clearinghouse established in Section 5122(a). The NIST Director and the Secretary of Commerce should use the study to help develop the implementation plan also required by this section. The implementation plan should describe how NIST will provide assistance to state technology programs. Such assistance may include, but is not limited to technical information and advice from NIST, workshops and seminars consistent with the intent and authorities provided to NIST under the Federal Technology Transfer Act of 1986. The implementation plan also should include details for the three-year program for cooperative agreements between NIST and state technology extension services. The program is authorized for $2 million in each of fiscal years 1989, 1990 and 1991, as in the Senate bill, with an explicit sunset provision which is effective on September 30, 1991. The cooperative agreements may be for one, two or three years, as NIST deems appropriate, and will be awarded on a competitive basis. States must match the federal contribution with at least an equal increase in their own spending on extension. These agreements may be used to expand the reach of the Regional Centers established under Section 5121(a) to other states.

While the Office of Extension Services was eliminated, the functions of this office are retained as amendments to the NBS Act. This was done to give NIST more discretion in deciding how to organize these functions. The primary function is the provision of technical information and advice to state technology extension services by NIST personnel. The functions or cooperative agreements are to complement and not to limit the authorities provided to federal agencies under the Federal Technology Transfer Act of 1986, which gives technology transfer responsibilites to the federal laboratories, the Federal Laboratory Consortium for Technology Transfer (FLC) and the National Technical Information Service (NTIS). Furthermore, the conferees note that cooperative agreements established under this section are distinct from "cooperative research and development agreements" under the Federal Technology Transfer Act of 1986. The Conferees reiterate that technology transfer and the management and development of ideas typically are carried out on a person-to-person basis at the originating laboratory. As appropriate, NIST may coordinate the activities with these organizations.

The technical assistance NIST provides to state extension services should remain consistent with NIST's program strengths. NIST should coordinate its extension programs with the FLC and other federal agencies and/or labs to avoid duplication and to provide as much information as possible.

Section 5121(c). Federal Technology Transfer Act of 1986

Present law

Federal Technology Transfer Act of 1986.

House bill

No provision.

Senate amendment

No Provision.

Conference agreement

This section mandates that nothing in the provisions establishing the Regional Centers or giving NIST authority to assist state technology program shall be construed as superseding the provisions of the Federal Technology Transfer Act of 1986.

Section 5121(d). Non-Energy Inventions Program

Present law

The Federal Non-Nuclear Energy Research and Development Act of 1974 created an Energy-Related Inventions Program within NBS which has been highly successful in evaluating inventions and enabling those which show merit to obtain financing more readily.

House bill

No provision in H.R. 3. (H.R. 2916 requires the Secretary of Commerce to submit a plan to supplement the existing Energy-Related Inventions Program with the capability to evaluate inventions which are not energy related.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to a modified version of the House provision establishing within the Institute a Non-Energy Inventions Program to complement but not replace the existing Energy-Related Inventions Program. The original House version required a study of the expansion of this program. Under the conference version, the NIST Director is required to submit, along with the initial organization plan for the Institute, an initial implementation plan including specific cost estimates, implementation schedules, and proposed mechanisms to help finance the development of technologies deemed to have potential. The NIST Director is required to consult with appropriate federal agencies including the Small Business Administration and the Department of Energy, State and local governments, universities, and private sector organizations and to set up cooperative arrangements, as appropriate, for various phases of the Inventions Program including both the referral of inventors to the program and aid to those inventors deemed to have concepts with commercial potential. While authorization of appropriations is not increased for fiscal year 1988, the conferees expect NIST and other organizations' shares in the cost of the program, including financial assistance to inventors, to be described in the program plan required by this Act.

Section 5122. Clearinghouse for State and Local Initiatives

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 provides for a clearinghouse within the Office of Productivity, Technology, and Innovation (OPTI) that serves as a central repository of competitiveness initiatives by state and local governments.)

Senate amendment

Provides for a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation (Clearinghouse) within the Office of the Secretary of Commerce.

Conference agreement

The Conferees decided that the Clearinghouse should be limited in scope and concentrate on collection and dissemination of information on federal, state, and local initiatives related to promotion of technological innovation. The Conferees agreed to use the Senate format but to establish the Clearinghouse in the OPTI, as in the House bill. The responsibilities section is discretionary, as in the House bill. The Clearinghouse may collect and disseminate information on state and local initiatives, and is authorized to develop methodologies which state and local governments can use to evaluate their own programs. The Clearinghouse may provide technical assistance and advice to such governments with respect to such initiatives. The contracts section of the Senate version is modified to delete reference to evaluations of state programs. The Conferees modified the House version of the reporting requirement by requiring triennial reports, beginning by January 1, 1989, and including recommendations to the President, the Congress, and to federal agencies on the appropriate federal role in stimulating state and local efforts in this area. Also, the definition of "Clearinghouse" provided in the House version was included.

The Conferees are mindful that certain private sector companies have done extensive work on gathering, analyzing and disseminating information regarding federal, state, and local programs that provide technical assistance to industry. The Clearinghouse, given its limited resources, is not intended to duplicate these efforts or to compete with these companies. The Clearinghouse is encouraged whenever possible to take advantage of the work and capabilities already established in the private sector and to accomplish its mission through contract whenever this is possible and appropriate. The establishment of the Clearinghouse also is not intended to limit the efforts of NIST, NTIS, or other parts of the Department of Commerce. It shall remain the responsibility of the Secretary of Commerce to make sure that the programs of the Clearinghouse are not duplicative of the efforts of other Departmental components and that proper coordination and cooperation takes place among the various Departmental components which are working to enhance United States industrial competitiveness. The federal laboratories referred to in this and other sections of the bill include both government-operated and contractor-operated laboratories as defined in the Federal Technology Transfer Act of 1986.

Subpart C—Advanced Technology Program

Section 5131(a). Advanced Technology Program

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 establishes an Advanced Technology Foundation (ATF), under the NIST Director, to promote development of advanced and innovative manufacturing technologies and to provide assistance aimed at solving generic research problems. It specifies responsibilities of the ATF Director and requires Congressional reporting.)

Senate amendment

Establishes an Advanced Technology Program (ATP) under the Institute Director which shall assist United States industry to create generic technology for commercialization and manufacturing. Provisions of the ATP are explained, along with the policy regarding funding and accounting.

Conference agreement

The Conferees agreed to amend the NBS Act to add a new Section 28 establishing an ATP to serve as a focal point for cooperation between the public and private sectors in the development of industrial technology and to encourage business to use the research, research techniques and know-how developed in the program of NIST. This section was rewritten to include the substance of both the House and Senate provisions setting forth the activities authorized under the ATP. Its main purpose is to aid in solving generic problems of concern to large segments of an industry rather than to promote individual companies. A primary activity of the ATP is to encourage American companies to form joint research and development ventures as defined by the National Cooperative Research Act of 1984, provided that such joint ventures are not under the effective control of a single company. The ATP can help these ventures to form by providing organizational and technical advice; by sponsoring workshops, seminars, and conferences; and by using other means of providing information to businesses interested in forming or joining joint research and development ventures. The ATP is also permitted to contribute limited start-up funding, if appropriate, and a minority share of the ongoing costs of projects of these consortia for a period of up to five years when it is in the national interest to do so and when an appropriate cost-sharing agreement setting forth the rights and responsibilities of all parties including NIST has been developed. The Secretary of Commerce also may delegate to the program any additional responsibilities he has regarding consortia whether he has these responsibilities in his capacity as Secretary or a member of an interagency group. The ATP is to look for ways to tap the enormous talents of the National Laboratories for these purposes.

The Conferees expect the ATP to implement procedures to make sure that its programs are geared to solving problems of significance to the private sector. The Department of Commerce is authorized to take all actions necessary and appropriate to establish and operate the ATP. These include: supervising the programs, revising the program through the annual budget process and making revisions to the NIST Organization Plan, monitoring program results, giving due consideration to the advice of the Visiting Committee on Advanced Technology, assuring the undue advantage is not given to specific companies, and providing for dissemination of the ATP's research results. The Conferees accepted the "Limitations" section of the Senate bill with only minor modifications which, among other things, provides that if an awardee fails, the unspent balance of the federal funds shall be returned to the ATP. Principles and conditions governing the awarding of financial assistance by the ATP shall be set out in the Federal Register, and applications for assistance shall be accepted only after publication of the final Federal Register notice. Awards shall be made only after completion of a merit review of the quality of the successful proposals. Examples of factors to be considered in such reviews are willingness to commit quality personnel and other resources, the reasonableness of cost estimates and project schedules, the prior experience of NIST with the applicant, the extent of small business participation, potential benefits to the company and to the economy, and the likelihood of the applicant aggressively pursuing those benefits.

Section 5131(b). Visiting Committee on Advanced Technology

Present law

Section 10 of the NBS Act authorizes a Visiting Committee of five members and provides a description of the Committee's responsibilities and jurisdiction.

House bill

No provision in H.R. 3. (H.R. 2916 amends section 10 of the NBS Act to create an Advanced Technology Board consisting of nine members, with at least five from United States industry. This provision describes the appointment process of the board, its responsibilities, and its jurisdiction.)

Senate amendment

No provision.

Conference agreement

The Conferees agreed to amend the NBS Act to replace the present NBS Visiting Committee with a Visiting Committee on Advanced Technology (VCAT), with majority representation from U.S. industry, as the statutory advisory committee for NIST. VCAT will consist of nine members appointed by the NIST Director, five of whom shall be from United States industry. Original VCAT members will be divided into three classes serving from one, two or three years. Successor members will serve for terms of three years. The Conferees agreed that the final members of the NBS Visiting Committee shall be among the initial members of VCAT, to the extent they wish to serve. The VCAT is larger than the Visiting Committee in order to widen the breadth of expertise and advice available to NIST. VCAT is not intended to be a policy board which orders the NIST Director to adopt specific policies; rather it is expected to provide the best available advice for the NIST Director to use in making his own decisions. To emphasis this, the Conferees altered the House bill to change the name of this organization from Advanced Technology Board to VCAT and to make its members appointees of the NIST Director rather than the President. The Conferees agreed that majority representation from U.S. industry is important to ensure that the policies of VCAT reflect the best thinking and market sense of the industries that will utilize the technologies and processes that will be made available through the ATP. Even though the VCAT is purely advisory in nature, the Conferees have included a conflict of interest provision because of the financial impacts NIST's decisions can have on an individual's or a company's financial interests. VCAT is directed to submit an annual report to the Secretary of Commerce for submission to the Congress on or before January 31 in each year to cover those matters which affect NIST, including the ATP, and such additional reports on specific policy matters it deems appropriate.

Section 5131(c). National Academies of Science and Engineering Study of Government-Industry Cooperation in Civilian Technology

Present law

No provision.

House bill

No Provision.

Senate amendment

Specifies that the Director may contract periodically with the Academies to receive advice and studies on the nation's significant national needs and opportunities in manufacturing and emerging technologies. The bill specifies the responsibilities of the review panel of the Academies.

Conference agreement

The Conferees agreed to accept the Senate proposal authorizing the Secretary of Commerce to contract with the Academies, including the Institute of Medicine, for a review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology and technology transfer. Panelists are to be drawn from a broad spectrum of backgrounds and the Academies should also draw on the expertise of its Board of Assessments for NIST. The purpose of the review is to provide the Secretary of Commerce and the Congress with objective information regarding the uses of the various types of cooperative technology arrangements currently being applied in the United States, as well as a candid assessment of which of these arrangements work well and what conditions are necessary for them to work. The Conferees note that there have been a sizeable number of programs set up legislatively and administratively over the past decade and feel that there should be enough experience from the initial experiments under these programs for the Academies to reach some conclusions regarding effectiveness and to make recommendations for improvement. The Conferees feel that this study will help guide the government properly to invest in the most promising of these alternatives. The proposal supersedes studies by the Academies under the Semiconductor and Superconductor Research section of the Technology Reviews in Title XLIII of the Senate bill. The Secretary of Commerce is to seek funding for this review from other federal agencies and private industry. A report is to be submitted to the Secretary of Commerce, the President, and the Congress within eighteen months after the contracts are signed with the Academies.

Subpart D—Technology Reviews

Section 5141. Report of President

Present law

No provision.

House bill

No provision.

Senate amendment

Requires the President, when submitting his fiscal year 1990 budget to Congress to also submit a report on administration policy and proposals in semiconductors, semiconductor manufacturing, fiber optics and superconductors.

Conference agreement

The Conferees agreed to accept the Senate language requiring the President to submit a report on policies and budget proposals regarding federal research in semiconductors, superconductors, fiber optics and optical-electronic technologies, and advanced manufacturing technologies at the time of submission of the budget request for fiscal year 1990 to Congress. The Conferees agreed that, since federal research efforts are generally dispersed throughout a wide range of agencies, and budget information is often difficult to obtain, a report accompanying the fiscal year 1990 budget request would be particularly timely.

Section 5142. Semiconductor Research and Development

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 creates the National Advisory Committee on Semiconductors (NACOS) with the responsibility for devicing a national semiconductor strategy to assure continued U.S. leadership in semiconductor technology.)

Senate amendment

Directs the Secretary of Commerce to enter into an agreement with the National Academies of Science and Engineering to review all major policy issues regarding United States Semiconductor Technology.

Conference agreement

The Conferees agreed to accept the House language which established NACOS to minitor the semiconductor industry and recommend a national strategy to ensure U.S. competitiveness in the semiconductor industry. This section creates a thirteen-member independent advisory body in the Executive Branch consisting of the Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, Director of the NSF, or their designees. The President, acting through the Director of the Office of Science and Technology Policy (OSTP), is to appoint four members from outside the Federal Government who are eminent in the semiconductor industry, and four members who are eminent in the fields of technology, defense, and economic development. OSTP is authorized to seek administrative support and funding for NACOS from an appropriate agency or agencies. Accepting funds for this purpose from private sector companies or organizations is also permissible. Annual reports are required to be submitted to the President and the Congress on the NACOS's activities. NACOS shall cooperate with any other committee or commission established by law which has overlapping responsibilities.

Section 5143. Review of Research and Development Priorities in Superconductors

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2916 requires the President to appoint a National Commission on Superconductivity (National Commission) to review major policy issues regarding U.S. applications of recent research advances in superconductors to assist Congress in devising a national strategy in superconductivity technologies. Bill specifies the make-up and responsibilities of National Commission Members.)

Senate amendment

Directs the Secretary of Commerce to enter into an agreement with the Academies to review all major policy issues regarding superconductivity technology.

Conference agreement

The Conferees agreed to accept the House language which requires the President to appoint a National Commission to review major policy issues related to superconductor research. The National Commission is to include representatives from various agencies of the Federal Government, industries, universities, national laboratories, and professional societies. The National Critical Materials Council is to be the coordinating body and provide staff support for the National Commission. A representative of the private sector is to be designated Chairman of the National Commission. A report, including recommendations, is required to be submitted to the President and the Congress within six months after enactment of the bill, regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications. The National Commission is to terminate one year after establishment with all residual functions vesting in the National Critical Materials Council.

Subpart E—Authorization of Appropriations

Section 5151. Authorization of Appropriations for Technological Activities

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2160 authorizes appropriations for fiscal year 1988 of $142,977,000 for NBS. H.R. 2916 authorizes $5 million for the ATF.)

Senate amendment

Authorizes total appropriations of $206.9 million for fiscal year 1988 including $166,000,000 for the Institute's ongoing programs and $15,000,000 for ATP.

Conference agreement

The Conferees established $144,783,000 for fiscal year 1988 as the base authorization level for the traditional activities to be carried out by NIST. These are: Measurement Research and Technology, $41,939,000; Engineering Measurements and Manufacturing, $40,287,000; Materials Science and Engineering, $23,521,000; Computer Science and Technology, $7,941,000; Research Support Activities, $19,595,000; Cold Neutron Source Facility, $6,500,000 (for a total authorization of $13,000,000), and $5,000,000 was authorized for the new programs of the National Institutes. Of these totals $2,000,000 would be only for steel technology; $3,550,000 for process and quality control research; $3,710,000 for the Center for Building Technology; $5,662,000 for the Center for Fire Research (with the stipulation that the two Centers shall not be merged); $1,500,000 for high performance composites research; $7,371,000 for technical competence fund projects; and $1,091,000 for Postdoctoral Research Associates. The authorization levels also assume full funding of the $4 million initiative for characterization and processing of high temperature superconducting materials and $5.0 million for sections 25, 26, and 27 of the NBS Act. The Conferees did not attempt to set authorization levels related to the Computer Security Act or other matters which may be included in supplemental appropriations acts for 1988.

Section 5152. Stevenson-Wydler Act Authorizations

Present law

No provision.

House bill

No provision in H.R. 3. (H.R. 2160 authorizes $2,400,000 for OPTI, $1,000,000 for Japanese Technical Literature Program, and $500,000 for NTIS patent licensing activities. H.R. 2916 authorizes appropriations of $500,000 for fiscal year 1988, $1,000,000 for fiscal year 1989, and $1,500,000 for fiscal year 1990 for the Clearinghouse.)

Senate amendment

Authorizes appropriations of $2,400,000 for OPTI, $2,000,000 for the Japanese Technical Literature Program, and $500,000 for NTIS patent licensing activities. Clearinghouse authorization levels are $1,000,000 for fiscal year 1988, $1,500,000 for fiscal year 1989, and $2,000,000 for fiscal year 1990.

Conference agreement

The Conferees agreed to amend the Stevenson-Wydler Technology Act of 1980 to authorize $2,400,000 for OPTI, and $500,000 for the patent licensing activities of NTIS, and $500,000 for the Japanese Technical Literature Program. They agreed to accept the proposed House figures for the Clearinghouse of $500,000 for fiscal year 1988, $1,000,000 for fiscal year 1989, and $1,500,000 for fiscal year 1990.

Subpart F. Miscellaneous Technology and Commerce Provisions

Section 5161. Savings Provision

Present law

No provision.

House bill

No provision.

Senate amendment

Amends the NBS Act to continue existing NBS rules and regulations following enactment of this bill.

Conference agreement

The Conferees agreed to accept the Senate provision amending the NBS Act to include a new section which continues existing NBS rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, and other actions not suspended by the Secretary of Commerce or others.

Section 5162. Miscellaneous Amendments to the Stevenson-Wydler Act

Present law

Section 13(a)(4) of the Stevenson-Wydler Act permits the NTIS to continue its program of licensing the inventions of interested agencies. Section 10(e)(7)(A) of the Stevenson-Wydler Act provides stable funding for the Federal Laboratory Consortium by setting aside for it .005 percent of the research budget of each federal agency with a significant research budget.

House bill

No provision in H.R. 3. (H.R. 2916 modifies Section 13(a)(4) of the Stevenson-Wydler Act to make clear that royalties acquired from one invention can be applied against other inventions of the same agency. H.R. 2916 also raises the FLC set-aside to provide it a budget of approximately $1,000,000 in 1989, the dollar amount the provision's sponsors originally intended to be available to the FLC.)

Senate amendment

No provision.

Conference agreement

The Conferees accepted two of the House miscellaneous and conforming provisions in Title VII of H.R. 2916. Section 5162(a) rewords Section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, dealing with the licensing of inventions, to enable the patent licensing program of the National Technical Information Service to receive promptly, from the agencies contracting with it, the revenues it needs to continue its traditional program of providing worldwide patent licensing services to other government agencies. Section 5162(b) redrafts Section 11(e)(7)(A) of the 1980 Act concerning the FLC to restate that organization's funding formula to ensure that the $900,000 to $1,000,000 per year the Congress originally intended for the FLC's responsibilities under the 1986 Act is available. The portion of an agency's R&D budget that must go to the FLC is increased from .005 percent to .008 percent. NIST is expected to continue the current practice of estimating each contributing agency's share of FLC funding and the Conferees hope agreement between NIST and the agencies can be reached promptly during the first quarter of the fiscal year. When this does not occur, NIST should bill an agency based on that agency's intramural research and development obligation total from the most recent edition of the National Science Foundation Publication, *Federal Funds for Research and Development* to the extent this figure accurately reflects the obligation. The Committee notes that NSF totals are incomplete for certain agencies such as the Department of Energy because of that agency's use of government-owned contractor-operated facilities for the bulk of that agency's intramural research program. It is expected that FLC's funding will be received by the end of the first quarter of each fiscal year.

Section 5163. Fee Policy

Present law

No statutory provision forbidding NIST from charging fees of research associates; no requirement for the Board of Assessment at NIST to review emerging technologies.

Provisions in the organic charter of the Department of Commerce authorize the NTIS and require its clearinghouse functions to be maintained by the Department of Commerce.

House bill

No provision in H.R. 3. (H.R. 2160 forbids NIST from charging fees from research associates, requires NIST to prepare a plan describing how the Institute will make small businesses aware of its activities and research, and forbids contracting out the activities of NTIS.)

Senate amendment

Almost identical language to the House bill.

Conference agreement

The Conferees accepted the Senate format and language of Section 4505(b) (c) (d) and (e), (sections 13, 14, 15, and 16 of H.R. 2160, the NBS fiscal year 1988 Authorization Bill as passed by the House on June 4, 1987.) The language is almost identical in both the House and Senate versions. As agreed to by the Conferees, the sections include the following. NIST is not to charge fees to research associates in the absence of express statutory authority to do so. NIST's Board of Assessment must include as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology. The Institute must submit a plan to the authorizing Committees in the House and Senate detailing how the institute will make small businesses more aware of NIST activities in order to increase their participation in NIST research; this plan is not meant to be an administrative burden and may be submitted in conjunction with the NIST Organization Plan required by this Act.

The Stevenson-Wydler Act is amended to forbid contracting out of activities or functions of the National Technical Information Service, not performed by contractors on September 30, 1987, without specific statutory authority. The only exception permits NTIS to let small contracts of limited duration not in excess of $250,000 per year to supplement the activities of the NTIS government employees. NTIS is required to maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information since NTIS is often the easiest place to find older federal scientific documents; this requirement merely codifies current NTIS practice and is not to affect NTIS responsibilities, vis-a-vis the National Archives, under 44 U.S.C. 2107.

A Commerce, Science, and Technology Fellowship Program by which Department employees have an opportunity to spend a one-year fellowship working in Congressional offices is reestablished. Although the program traditionally was administered by the NBS, this provision requires the Secretary of Commerce to formally establish a program and to report to the Congress within six months after the enactment date of this Act. One final House provision, which would have required OPTI to analyze the concept of competitiveness impact reviews was omitted because the concept is being incorporated elsewhere in this Act.

Section 5164. Metric Usage

Present law

The Metric Conversion Act of 1975 establishes the U.S. Metric Board and requires it to coordinate the voluntary conversion of the U.S. to the metric system.

House bill

No provision in H.R. 3. (H.R. 2916 amends Section 3 of the Metric Conversion Act of 1975 to require each federal agency to use the metric system in procurements, grants, and other business-related activities by the end of fiscal year 1992 to the maximum extent feasible.)

Senate amendment

Requires the Federal Government to reaffirm the national policy set forth in the Metric Conversion Act of 1975 and to initiate specific programs to speed conversion to metric.

Conference agreement

The Conferees accepted the House version of the amendments to the Metric Conversion Act of 1975. While both the House and Senate provisions endorsed the initiation of specific programs to increase U.S. conversion to the metric system, the conferees chose to accept the greater specificity of the House provision. The International System of Units (SI) version of metric, as established by the General Conference on Weights and Measures in 1960 and as interpreted or modified by the Secretary of Commerce, is designated as the preferred system of weights and measures for United States trade and commerce, and its use by each federal agency is required in procurements, grants, and other business-related activities. Each agency is expected to establish guidelines similar to Department of Defense (DOD) Directive Number 4120.18, dated September 16, 1987 as soon as possible following the date of enactment. This directive states that it is DOD policy to use metric system in all its activities consistent with security, operational, economical, technical, logistical, and safety requirements. It then more specifically spells out when metric is to be used; who is to establish procedures for preparation, coordination and approval of new metric specifications and standards; and the DOD officials who must approve exceptions to use of metric. DOD representatives, furthermore, are directed by the DOD Directive to participate actively in the development of U.S. and international standards using the metric system and in the Federal Interagency Committee on Metric Policy which will have major responsibilities in ensuring the successful implementation of this section. The Conferees expect each of these issues to be addressed in the guidelines to be promulgated by each agency and the Interagency Committee is to be used to achieve as much consistency as possible in the guidelines of the various agencies.

Under the provision adopted by the Conferees, conversion to metric is not required when its use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms. Such exceptions will be more likely to occur in the early years of this program. For instance, the DOD directive states that existing designs dimensioned in inch-pound units need not be converted unless it is necessary or advantageous to do so, that the measurement units in which a system is originally designed are to be retained for the life of the system, and that during the transition, use of hybrid metric and inch-pound designs may be necessary. Also, certain aerospace systems generally use the English system of measurements worldwide. It is not the intent of this legislation to force the U.S. aerospace industry, to its financial detriment, to take the lead in metric conversion for these systems. However, new DOD shop, laboratory, and general purpose laboratory equipment under the DOD directive must be able to operate in metric units; bulk purchases usually are to be made in metric; and components, subassemblies, and semifabricated materials are to be specified in metric units when economcially available and technically adequate. Furthermore, the Conferrees expect agencies to assist domestic federal contractors and subcontractors, including small business, in developing the capability to compete in metric units so that increased use of metric by federal agencies does not become a windfall for companies from foreign countries which have already converted. The ability of federal contractors and suppliers to do business in metric should increase U.S. access to foreign markets and decrease our trade deficit since metric literacy is a prerequisite to competing in most overseas markets.

PART II. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

(No provision in House bill; Sections 411, 412 and 3871 of the Senate Amendment)

Present law

Title V of P.L. 95-426 (The Foreign Relations Authorization Act, Fiscal Year 1979) sets forth the goals of United States international science and technology policy, requires the President to issue an annual report on the conduct of such policy, and establishes the Secretary of State's responsibility for coordinating and overseeing all major international science and technology agreements.

House bill

No provision.

Senate Amendment

Sections 411 and 412 of the Senate Amendment set up a system of continuous monitoring technology transfer between the United States and foreign countries and call for an annual report by the U.S. Trade Representative to be prepared in conjunction with the National Science Foundation.

Section 3871 of the Senate Amendment creates an Interagency Committee on Symmetrical Access to Technological Research, chaired by the Secretary of Commerce, to assess the availability of equally valued technological knowledge across countries and to make such availability a goal in U.S. trade negotiations. The Committee is charged with studying the general concept of symmetrical access and producing annual reports to Congress and setting negotiating objectives for the United States Trade Representative insofar as his negotiations involve international science and technology issues, including recommending administrative and legislative changes in United States policy to improve symmetrical access to technological research.

Conference agreement

United States science and technology policy has traditionally encouraged international access to this nation's public research and development activities and opportunities. The Conference Agreement is an attempt to encourage other countries to follow the United States example.

Current law (the Stevenson-Wydler Technology Innovation Act of 1980) and Executive Order (number 12591, issued in April 1987) set the precedent for this section of the Conference Agreement. Both direct federal laboratories and agencies, in international science and technology negotiations, to consider whether the home countries of foreigners who apply for access to U.S. research and development facilities, offer comparable terms to U.S. nationals.

The Conference Agreement makes several amendments to Title V of P.L. 95-426 (22 U.S.C. 2656) to ensure that science and technology agreement involving the United States open up foreign research and development activities and opportunities for Americans. The amendments build on existing goals of U.S. international science and technology policy, provide for more information on the United States access to foreign research and development activities and opportunities, and establish a process to review proposed U.S. international science and technology agreements.

Section 5171(a) of the Conference Agreement adds to the declaration of policy in Title V. It states that U.S. federally supported international science and technology agreements should be negotiated to assure proper protection of intellectual property rights to the maximum extent possible and reciprocal and equitable access to foreign scientific and technological opportunities, facilities, and information. The conferees recognize that strict reciprocity may not be a proper measure for ensuring the optimal amount of access inasmuch as the structure and organization of the U.S. scientific and technological enterprise may not mirror that of other nations. For this reason, the conferees encourage policy makers to evaluate the equity and reciprocity of the overall science and technology relationship when measuring and ensuring such access.

Sections 5171 (b) and (c) direct the President to include information in the annual report mandated by Title V on American access to public and publicly supported private international research and development activities and opportunities. These sections of the annual report are to be transmitted to the Speaker of the House of Representatives and the Senate Committees on Foreign Relations and Government Affairs.

The conferees expect the report to be as complete as possible. The President should utilize all available federal sources of information in compiling this report. For example, the Department of Commerce collects information for the United States Trade Representative to identify cases in which the researchers of American companies have been denied access to foreign government supported research and development facilities. This information could prove valuable to the report and could be supplemented with pertinent information derived from other federal sources on the access of U.S. federally-supported researchers.

The additional federal sources of information could include responses to Federal Register notices, findings contained in the Foreign Trade Barriers Report (section 303 of the Trade and Tariff Act of 1984), and reports from the National Science Foundation, the Commercial Services Officers of the Department of Commerce, and the Science Attaches of the State Department.

In directing that information on such access be included in the Title V annual report, the conferees intend that such information be readily available to federal agencies and the Congress for use in the implementation and oversight of relevant laws and executive orders governing U.S. access to foreign science and technology facilities and activities.

Section 5171(d) provides criteria for the Secretary of State to consider in negotiating U.S. international science and technology agreements. In addition, it emphasizes the importance of review by affected agencies of proposed international science and technology agreements and requires the Secretary of State to make sure such consultation takes place.

Specifically, the Conference Agreement requires the Secretary of State to provide all interested federal agencies with an opportunity to review proposed U.S. international scientific and technological agreements. These agencies are to include those responsible for (i) federal technology management policies; (ii) national security policies; (iii) United States trade policies; and (iv) relevant executive orders. Examples of agencies with responsibility for such policy areas are the Department of Commerce, the Department of Defense, and the United States Trade Representative.

While the Secretary of State is assigned primary responsibility for coordination and oversight of U.S. international science and technology agreements, he shall ensure that all affected agencies are aware of international science and technology negotiatons which are in their area of policy responsibility but carried out by other agencies. The Secretary of State shall consult with these affected agencies and provide them with an opportunity to use their expertise to ensure that final effective agreements are crafted.

PART III. NATIONAL CRITICAL MATERIALS COUNCIL

Sec. 5181. The National Federal Program Plan for Advanced Materials Research and Development

Present law

Title II of P.L. 98-373 establishes the National Critical Materials Council and, among other mandates, calls for the establishment by the Council of a National Federal program plan for advanced materials research and development.

House bill

No provision.

Senate amendment

The Council is required to submit such plan to Congress not later than 180 days after enactment of this law.

Conference agreement

The conferees agree to accept section 3881 of H.R. 3 as an amendment to the National Critical Materials Act, providing the Senate amendment is modified to designate the appropriate Committees of Congress, which are to receive the required plan.

Sec. 5182. Personnel Matters

Present law

Section 208 of P.L. 98-373 provided for the selection of an Executive Director, who is authorized "to employ such personnel as may be necessary for the Council to carry out its duties and functions under this title, but not to exceed twelve compensated employees."

House bill

No Provision.

Senate amendment

Requires the Executive Director to increase the number of current employees by five full-time employees, of which at least four shall be permanent, professional employees with expertise relevant to the responsibilities of the Council.

Conference agreement

Since the enactment of the Act in 1984, the Council has only hired an Executive Director, one technical consultant, and a secretary. However, the established deadlines and other provisions requiring "coordinating federal materials-related policies", "reviewing and appraising the various programming and activities of the Federal Government", "to prepare a report providing a domestic inventory of critical materials . . . by April 1, 1985", and "to establish a national Federal program plan for advanced materials research and development" have not been met.

To insure that the provisions of P.L. 98-373 are compiled with, the conferees agree to accept Section 3882 of H.R. 3 as an amendment to the National Critical Materials Act. This provision calls for employment of five full-time employees, of which four shall be permanent, professional employees. To insure that the professional employees will have the technical and scientific background necessary to conduct the inventories, analyze budgets and assess the progress, the managers agree that the employees shall qualify for a GS rating of 13 or higher. In specific areas and for certain activities, it may be appropriate to employ scientists with expertise at the GS-9 through -13 level. Nevertheless, the conferees believe that the Council must be staffed with personnel having analytic, technical and/or scientific experience and advanced degrees.

Sec. 5183. Authority to Accept Services and Personnel from other Federal Agencies

Present law

Sec. 210 of P.L. 98-373 gives authority to the Council to use services or personnel of other Federal agencies on a reimbursable basis.

Senate amendment

The Council is authorized to use services or personnel of other Federal agencies on a non-reimbursable basis.

Conference agreement

The conferees agree to accept Section 3883 of H.R. 3 as an amendment to the National Critical Materials Act.

Sec. 5184. Authorization of Appropriations

Present law

Section 211 of P.L. 98-373 authorizes such sums as necessary until September 30, 1990.

House bill

No provision.

Senate amendment

Extends the authorization of appropriations to 1992.

Conference agreement

The conferees agree to accept Section 3884 of H.R. 3 as an amendment to the National Critical Materials Act.

SUBTITLE C—COMPETITIVENESS POLICY COUNCIL ACT

Section 5201—Short Title

Present law

No provision.

House bill

Cites the subtitle as the "Council on Industrial Competitiveness Act".

Senate amendment

No provision.

Conference agreement

The conferees agree to cite the subtitle as the "Competitiveness Policy Council Act".

Section 5202—Findings and Purposes

Present law

No provision.

House bill

Contains general findings on America's economic competitiveness problems and on the purpose of the Council, which is to create an institutional forum where business, government, labor, academia and public interest groups can identify competitive problems, develop long-term strategies and create consensus in support of these strategies.

Senate amendment

No provision.

Conference agreement

The conferees agree to accept a modified version of the House provision setting out general findings on America's economic competitiveness problems and stating the purposes of the Council, which is to create an institutional forum where business, government, labor, academia and public interest groups can analyze information on the competiveness of the U.S., identify competitive problems, develop long-term strategies, make recommendations, and publish their analyses.

Section 5203—Council Established

Present law

No provision.

House bill

The Council on Industrial Competitiveness is established in the Executive Office of the President as an advisory council.

Senate amendment

President shall establish within 90 days of enactment the Council on Economic Competitiveness, an advisory council under the provisions of the Federal Advisory Committee Act, except the council sunsets after 4 years rather than the 2 years called for in the act.

Conference agreement

The conferees agree to establish the Competitiveness Council (CPC) under the provisions of the Federal Advisory Committee Act (FACA).

Section 5204—Duties of the Council

Present law

No provision.

House bill

The duties of the Council are to (a) develop policies to enhance international competitiveness and productivity; (b) review requests for governmental assistance and recommend actions of the private sector to ensure future competitiveness as a condition of such assistance, but only on the request of the President; (c) identify export opportunities and develop strategies for penetrating such markets; (d) collect and analyze data on economic conditions and market trends; (e) publish reports; (f) create forums where leaders of business, government, labor, academia and public interest activities will identify economic problems, develop recommendations and create consensus; (g) report to the President and Congress on the state of economy, the status of major sectors and the effects of existing government policies on agriculture, business and industry; (h) provide policy recommendations regarding specific issues concerning agricultural, business and industrial strategies; and (i) evaluate existing government policies.

Senate amendment

The duties of the Council are to (a) collect, analyze and provide information on current and future economic competitiveness; (b) monitor changes in research, science and technology and the changing nature of the U.S. economy to provide marketable, high-quality goods and to respond to international competition; (c) create a forum where national leaders from business, government, labor, academia and public interest activities will identify economic problems, develop recommendations and create consensus; (d) develop and promote a national vision and specific policies which enhance international competitiveness and productivity; (e) serve as a clearinghouse on Federal and private sector resources devoted to increasing competitiveness and on State and local programs devised to enhance competitiveness; (f) comment upon private sector requests for relief as to the likelihood that such relief will result in enhanced competitiveness of the applicant; (g) establish, when appropriate, subcouncils for specific sectors and economic issues; (h) review and evaluate subcouncil recommendations; (i) prepare reports on recommendations; (j) submit an annual report to the President and the Congress on the ability of the U.S. to be internationally competitive, the status of major sectors, and the effects of existing policies; and (k) evaluate and comment upon existing and future policies and regulations and the Federal budget with respect to their impact on competitiveness.

Conference agreement

The conferees agree to a modified provision concerning the duties of the Council which combines the House and Senate provisions. The Council is intended to be solely an advisory and review body. It is not intended to be a body for making Federal policy, nor does it have any operational function outside of the powers to review and comment.

In that regard, the duty of the Council to comment upon private sector requests for governmental assistance or relief is intended to be a advisory role only. The conferees do not intend that this function create any new administrative process concerning the granting of such assistance or relief. The Council should make its comments known through the normal public comment process where one exists. However, it is the conferees' belief that the purpose of governmental assistance or relief to firms in the private sector should be to facilitate adjustment and should be accompanied by a plan of action which will ensure that the applicant is likely to become internationally competitive in the future. It is the intent of the conferees tha tthe Council will provide a forum where such plans of action can be discussed.

Section 5205—Membership

Present law

No provision.

House bill

The Council shall consist of 16 members appointed by the President after consideration of such recommendations from the Speaker of the House of Representative and the Majority Leader of the Senate. Four members shall be appointed each from business, labor, academia or public interest activities, and Federal government and state and local governments.

Initial appointments shall be made within 60 days of enactment. Vacancies are to be filled in the same manner as original appointment, only for remainder of term or until successor has taken office. Members can be removed by the President only for malfeasance in office. Member's terms of office shall correspond to the President's term, however no member may serve more than two consecutive terms.

Non-governmental members shall be compensated at the daily rate of Executive Schedule Level II for each day engaged in duties of the Council and receive travel expenses and per diem. Federal, state and local government members shall serve without additional compensation but shall receive travel expenses and per diem.

Nine members shall constitute a quorum, except a lesser number may hold hearings with approval of two-thirds vote of entire Council. The Council shall not commence its duties until all members from business, labor, academia, and public interest activities have been appointed. The chair shall be elected from members from business, labor, academia, and public interest activities by two-thirds vote of entire Council. The Council shall meet at the call of the chair or majority of members. However the Council must meet at least 6 times a year. Policy actions of the Council, except for hearings and the calling meetings, requires a two-thirds of entire membership.

An individual is prohibited from being appointed a member of the Council if they had acted as a agent of a foreign government any time for a period one-year before appointment. Members are prohibited from acting as agents of a foreign government and members may not act as an agent of a foreign government for 1 year after the end of their service. The penalty for violation of this provision is a fine of not more than the greater of $250,000 or the amount in compensation received in the prohibited action.

Senate amendment

The Council shall consist of 9 members—3 appointed by the President, 3 by the Majority Leader and the Minority Leader of the Senate acting jointly, and 3 by the Speaker of the House. Members shall be appointed from business, labor, academia, public interest activities, and State and local governments. There are to be no members from the Federal government. No more than 5 members may be from any one political party.

Initial appointments are to be made within 90 days of enactment and vacancies are to be filled in the same manner as described in the House bill. Members may be removed only for malfeasance in office. Members are to be compensated in the same manner as described in the House bill.

Members may not serve as agents of a foreign power as defined in the Foreign Agents Registration Act.

Five members shall constitute a quorum, except that a lesser number may hold hearings on approval of majority of entire council. A chair shall be from the members by majority of entire membership and shall serve on a full time basis.

The Council shall meet at the call of the chair or a majority of the members. There is no required number of meetings. Members may designate an alternate for all purposes, including voting. Policy actions shall require majority vote of entire membership. However, if majority consensus can not be reached on a matter referred to the Council by the President or the Congress, the Council shall explain why a consensus could not be reached and include all relevant information and policy options.

Conference agreement

The Council shall consist of 12 members—4 appointed by the President, one each appointed from business, labor, public interest activities, and the Federal government; 4 by Majority Leader and Minority Leader of the Senate, acting jointly, one each appointed from business, labor, academia, and State or local governments; and 4 by the Speaker of the House of Representatives and the Minority Leader, acting jointly, one each appointed from business, labor, academia, and State or local governments. It is the conferees' intent that the Council consist of one representative from State government and one from local government—the appointment of which is to be determined by Congressional leaders. Other Federal officials may participate on an ex-officio basis as requested by the Council. It is the intent of the conferees that the Council be bipartisan. No more than 6 members of the Council shall be from the same political party. It is also the intent of the conferees that the notion of "balance" in membership embodied in FACA be scrupulously adhered to in the appointment of the Council's members.

The members of the Council should be nationally recognized individuals with broad knowledge of the U.S. and world economies and the competitiveness problems and opportunities facing the United States.

Initial appointments to the Council shall be made within 30 days after January 21, 1989. The conferees intend that appointments be made by the new Administration and the new Congress. Vacancies are to be filled in the same manner as original appointment and only for the remainder of the term. Members may be removed only for malfeasance in office.

Since the Council is subject to the FACA two year sunset provision, member's terms will initially coincide with the life of the Council. Howver, it is the hope of the conferees that members will be re-appointed on a rolling basis if the Council is reauthorized.

Non-governmental members shall be compensated at the daily rate of GS-18 for each day engaged in duties of the Council and receive travel expenses and per diem. Federal, state and local government members shall serve without additional compensation but shall receive travel expenses and per diem.

Seven members shall constitute a quorum, except a lesser number may hold hearings with approval of two-thirds vote of the entire Council. The Council shall not commence duties until all non-governmental members have been appointed. The chair shall be elected from non-governmental members by two-thirds vote of entire Council. The Council shall meet at the call of the chair or majority of members. Policy actions of the Council, except for hearings and the calling of meetings, require a two-thirds vote of the entire membership. Members may designate one alternate to attend meetings, but the designated alternate may not vote.

Members may not serve as agents of a foreign principal and are required to file a financial disclosure report. However, the reports are to be held confidential and exempt from any law requiring their public disclosure. Members are considered special Government employees for purposes of the sections of the U.S. Code concerning bribery of public officials, graft, claims against the United States and acts affecting a personal financial interest. The conferees recognize that members of the Council are, in part, representatives of a particular interest and do not consider the advocacy of those interests a conflict of interest.

The Council may procure services of consultants and may request agencies to detail personnel to the Council on a reimbursable basis.

Section 5206—Executive Director and Staff

Present law

No provision.

House bill

Provides for a full time executive director as principal administrative officer, paid at ES Level V. The executive director may appoint staff within the limitations of the Council's appropriations in accordance with civil service laws. The Council may procure services of consultants and may request agencies to detail personnel to the Council on a reimbursable basis.

Senate amendment

Same as the House bill, except that the Council is required to consult with the President and Congress before appointing the executive director.

Conference agreement

The conferees agree to a modified version of the House provision providing that the executive director be paid at no higher than a GS-18 level. The executive director may appoint staff within limitations of Council's appropriations in accordance with civil service laws. The staff of the Council shall be considered special government employees for the purposes of the sections of the U.S. Code concerning bribery of public officials, graft, claims against the United States, and acts affecting a personal financial interest. The staff is also covered under 18 U.S.C. 207, barring employees from lobbying their former agency for one year after leaving government service.

Section 5207—Powers

Present law

No provision.

House bill

The Council may hold hearings, authorize agents, obtain information from Federal departments and agencies, use U.S. mails, and request administrative support from GSA on a reimbursable basis. No provision on consultation with the President and the Congress.

Senate amendment

Similar to the House bill, except Council may also administer oaths, may accept gifts, and may not obtain classified information. The Council shall consult with the President or Congress at their request on competitiveness issues. The Council shall prepare a plan of work, including description of how Council will coordinate with existing advisory committees, for submission to the President and Congress. The President may, within 30 days of receipt, make recommendations as to modifications. Council shall consider President's recommendations.

Conference agreement

The conferees agree to a modified version of the Senate provision. The Council may hold hearings, administer oaths, accept gifts, use U.S. mails, request administrative support from GSA on a reimbursable basis, and obtain information from Federal departments and agencies but may not obtain classified information. Within 60 days of the initial appointment of members, the Council must submit a report to the President and Congress outlining its plan of work, including the extent to which the Council will coordinate with other advisory committees.

Section 5207(h)—Subcouncils

Present law

No provision.

House bill

No provision.

Senate amendment

The Council may set up subcouncils for each sector identified in the annual report as of national significance because of employment, capital resources, impact on defense, or as supplier to or customer of other U.S. industries, and which would benefit from such a subcouncil. The Council may also set up subcouncils for any other purpose. The subcouncils shall include representatives from business, labor, government and any other persons the Council determines is appropriate. The subcouncils shall assess problems and opportunities for the industry in question and make recommendations. Discussions of the subcouncil are exempt from Federal and State anti-trust laws, and from the Federal Advisory Committee Act. Subcouncils shall terminate 30 days after making their recommendations unless the Council specifically requests the subcouncil continue.

Conference agreement

The conferees agree to a modified version of the Senate provision under which the Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitiveness issues. The subcouncils shall include representatives from business, labor, government and any other persons the Council determines is appropriate and must include a representative of the Federal government. The subcouncils shall assess problems facing the industry or the policy issue in question and make recommendations to encourage adjustment and modernization of an industry, to facilitate an industry's reponse to opportunities and risks, and to alleviate the problems in a particular policy area. Discussions of the subcouncil are exempt from Federal and State anti-trust laws, and from the Federal Advisory Committee Act. Subcouncils shall terminate 30 days after making their recommendations unless the Council specifically requests the subcouncil continues.

It is the intent of the conferees that subcouncils be utilized to analyze specific competitiveness issues, such as research and development needs or education and worker retraining, and to facilitate the adjustment process of specific industries.

It is not the intent of the conferees that subcouncils be created for every industry and for every competitiveness issue, or that the subcouncils be created for an indefinite time. Subcouncils should be created by the Council only for those industries and issues which the Council believes warrants special attention and should be dissolved within a reasonable time.

Section 5207(i)—Applicability of the Federal Advisory Committee Act

Present law

Subsections (e) and (f) of section 10 of the Federal Advisory Committee Act require that an officer or employee of the Federal government chair or attend every meeting, that this officer can adjourn, and that the committee can not meet without the approval of this officer. Section 14 sunsets all advisory committees after two years, unless renewed.

House bill

No provision.

Senate amendment

Exempts the Council from subsection (e) and (f) of section 10 and from section 14, but with a 4-year sunset clause.

Conference agreement

The conferees agree to a modified version of the Senate provision exempting the Council from subsections (e) and (f) of section 10 of the Federal Advisory Committee Act (FACA). The conferees took this action to enhance the independent nature of the Council.

Section 5208—Annual Report

Present law

No provision.

House bill

Within 100 days after initial appointment of members, the Council shall report recommendations for changes in Federal policy to implement trade and competitiveness strategies. The Council shall prepare an annual report to the President and Congress on major agricultural, business and industrial development priorities, policies needed to meet these priorities and a summary of existing policies affecting industry. The report shall contain any findings and conclusions made during the past fiscal year, and recommendations for such legislation and administrative actions as the Council considers appropriate.

Senate amendment

Within 1 year of enactment, the Council shall submit a report to the President and Congress on recommendations for changes in policies, including reorganization. The Council shall prepare an annual report to Congress and the President shall contain goals to achieve a more competitive economy, policies needed to meet such goals, a summary of existing policies affecting competitiveness, and actual or foreseeable economic and technological developments affecting the competitive position of the United States. The report shall identify actual or foreseen developments which create a competitive challenge to or dislocation of U.S. industry, present an opportunity or create a risk that U.S. firms will be unalbe to compete—including an identification of the specific sectors affected. The report also shall contain any findings and conclusions made during the past fiscal year, and recommendations for such legislation and administrative actions as the Council considers appropriate. Each report submitted to Congress shall be referred to the appropriate committee or committees and the Council shall consult with such committees. These committees shall submit to their respective House a report setting forth the views and recommendations of the committee on the Council's report.

Conference agreement

The conferees agree to a modified version of the Senate provision requiring an annual report to the President and the Congress, specifically the Governmental Affairs Committee and other appropriate committees of the Senate, and the appropriate committees of the House of Representatives. The annual report shall contain goals to achieve a more competitive economy, policies needed to meet such goals, a summary of existing policies affecting competitiveness, and a summary of economic and technological developments affecting competitive position of U.S. The report shall identify actual or foreseen developments which create a competitive challenge to or dislocation of U.S. industry, present an opportunity or create a risk that U.S. firms will be unable to compete—including an identification of the specific sectors affected. The report also shall contain any findings and conclusions made during the past fiscal year, and recommendations for such legislation and administrative actions as the Council considers appropriate and any recommendations for the elimination, consolidation or reorganization of government agencies concerned with competitiveness issues, including trade policy and research, science and technology. Each report submitted to Congress shall be referred to the appropriate committee or committees and the Council shall consult with such committees. These committees shall submit to their respective house a report setting forth the views and recommendations of the committee on the Council's report. It is the conferees' intent in this section to ensure that close attention is paid by the Congress and the President to the Council's comments and recommendations.

Section 5209—Authorization of Appropriations

Present law

No provision.

House bill

Authorities $5 million for FY88.

Senate amendment

Authorities up to $5 million for each of FY88 and FY89.

Conference agreement

The conferees agree to a modified version of the Senate provision which authorizes up to $5 million for each of FY89 and FY90.

Section 5210—Definitions

Present law

No provision.

House bill

Defines the term "Council" as the "Council on Industrial Competitiveness, "member" as a member of the Council on Industrial Competitiveness, and "United States" as meaning each of the several states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, Northern Mariana Islands, American Samoa and any other territory or possession of the United States.

Senate amendment

Same as House bill, except uses the title "Council on Economic Competitiveness".

Conference agreement

The conferees agree to a modified version of the House provision, substituting "Competitiveness Policy Council" for "Council on Industrial Competitiveness", and adding a definition of the term "agent of a foreign principal" to have the same meaning as in the Foreign Agents Registration Act.

SUBTITLE D—FEDERAL BUDGET COMPETITIVENESS IMPACT STATEMENT

FEDERAL BUDGET COMPETITIVENESS IMPACT STATEMENT

(Section 1601-1603 of House Bill; no provision in Senate amendment)

Present Law

No provision.

House bill

The House provision requires the Office of Management and Budget (OMB), in the President's annual budget submission, to assess the impact of the federal budget on the U.S. trade balance and other important economic indicators. OMB, in consultation with the Chairman of the Council of Economic Advisors, is to project, for the fiscal year in which the budget is submitted, the amount of Government borrowing in private credit markets, net domestic savings, net private domestic investment, the merchandise trade and current accounts, U.S. foreign indebtedness, and the effect of Government borrowing on interest and exchange rates.

The two Congressional Budget Committees, after consultation with the Director of the Congressional Budget Office, are to include, upon submission of the concurrent budget resolutions, a similar analysis of their impact on U.S. competitiveness.

Conference Agreement

The Senate conferees accept the House provision.

REDUCING THE TRADE DEFICIT BY ELIMINATING THE FEDERAL BUDGET DEFICIT

(No provision in the House bill; Title XLVIII of the Senate amendment)

Present law

No provision.

House bill

No provision.

Senate amendment

The amendment requires Congress to complete action, no later than October 1, 1987, on a constitutional amendment requiring a balanced Federal budget. The amendment also requires the President to submit a balanced budget to Congress no later than September 15, 1987.

Conference agreement

The Senate recedes.

SUBTITLE E—TRADE DATA, IMPACT, AND STUDIES

PART I—NATIONAL TRADE DATA BANK

Section 5401—Definitions

Present law

No provision.

House bill

Defines "Secretary" as the Secretary of Commerce, "Department" as the Department of Commerce and "System" as the export promotion data system.

Senate amendment

Defines "Committee" as the National Trade Data Committee, "Data Bank" as the National Trade Data Bank, and "Executive agency" as having the meaning in 5 U.S.C. 105.

Conference agreement

The conferees agree to use the relevant portions of both definitions, defining "Committee" as the Interagency Trade Data Advisory Committee, "Data Bank" as the National Trade Data Bank, "Executive agency" as having the meaning in 5 U.S.C. 105, "Secretary" as the Secretary of Commerce, "export promotion data system" as the system established in section 3816 and currently known as the Commercial Information Management System, and "international economic data system" as the system established in section 3816 containing policymaking data.

Section 5402—Interagency Trade Data Advisory Committee

Present law

No similar provision.

House bill

No provision.

Senate amendment

A National Trade Data Committee is established, chaired by the Secretary of Commerce, with the Secretaries of Agriculture, Defense, Labor, Treasury and State, the USTR, the Director of OMB, the Director of Central Intelligence, the Chairman of the Federal Reserve Board, and the Chairman of the ITC as members. The President may appoint any other Federal officials as members. Except for the Chairman and other officials appointed by the President, each member may appoint a designee.

Conference agreement

The conferees agree to create an Interagency Trade Data Advisory Committee, to be chaired by the Secretary of Commerce, with the Secretaries of Agriculture, Defense, Labor, Treasury and State, the USTR, the Director of OMB, the Director of Central Intelligence, the Chairman of the Federal Reserve Board, and the Chairman of the ITC, the President of the Export-Import Bank, and the President of the Overseas Private Investment Corporation as members. The President may appoint any other Federal officials as members. Each member may appoint a designee.

Section 5403—Functions of the Committee

Present law

Under the Paperwork Reduction Act (P.L. 96-511), the Office of Information and Regulatory Affairs within OMB is charged with coordinating agency information practices.

House bill

No provision.

Senate amendment

The function of the Committee is the formulation and implementation of a comprehensive economic and trade information policy and to direct the Secretary of Commerce in the establishment and operation of the National Trade Data Bank.

Conference agreement

The conferees agree to create the Committee to advise the Secretary of Commerce on the operation of the National Trade Data Bank. It is the conferees' intent that the Committee, rather than OMB, serve as a focal point for interagency coordination of trade data and for the creation of a coherent trade information policy within the Federal government.

Section 5404—Consultation with private sector and government officials

Present law

No specific provision. Section 135 of the Trade Act of 1974 creates a system of advisory committees to advise USTR and the President on matters of trade negotiations and to provide technical assistance and information.

House bill

With regard to the export promotion data system, the House bill requires the Secretary to consult with representatives of the private sector, including export associations, and with State agencies that promote exports.

With regard to the National Trade Data Bank, the House bill requires the Secretary to consult with the USTR advisory committees, other representatives of the private sector and other Federal departments and agencies.

Senate amendment

With regard to the export promotion data system, the Senate amendment requires the Secretary to consult with representatives of the private sector and State agencies that promote exports. Consultations shall include data covered, cost-sharing arrangements and a forum for regular consultation.

With regard to the National Trade Data Bank, the Senate amendment requires the Committee to consult with representatives of the private sector and officials of Executive agencies and State and local governments. Consultations shall include how to make trade information more accessible, understandable and relevant and what data should be included in the export promotion data bank.

Conference agreement

The conferees agree to accept a modified version of the Senate amendment concerning the National Trade Data Bank which requires the Secretary to consult with representatives of the private sector and officials of Executive agencies and State and local governments. The conferees underscore their intent that the Secretary consult regularly with all interested parties concerning the design and operation of the data bank and concerning the type and amount of data to be included.

Section 5405—Cooperation among executive agencies

Present law

No provision.

House bill

Requires that the Secretary of Commerce determine which agencies generate information that should be included in the export promotion data system and that the President direct those agencies to provide the data bank with access to the information. For electronically stored information, the agencies must provide the necessary interconnection.

With respect to the National Trade Data Bank, the House bill requires each department and agency to cooperate with the Secretary of Commerce by making information available for the data bank and requires the Secretary to make the data contained in the data bank available to appropriate departments and agencies.

Senate amendment

Requires each executive agency to furnish to the Committee, upon request of the Chairman, such information as the Committee considers necessary and that each agency adopt and implement the information policies formulated by the Committee.

Conference agreement

The conferees agree to a modified version of the House provision which requires each department and agency to furnish such information as the Secretary of Commerce, in consultation with the Advisory Committee, considers necessary for the data bank. It is the intent of the conferees that the National Trade Data Bank be a centralized point of access for information on trade and international economics throughout the Federal government. To do so, it is important that the data bank consist of trade data from all appropriate Federal departments and agencies, not just the Commerce Department.

Section 5406—Establishment of the data bank

Present law

No provision. The Department of Commerce currently operates the Commercial Information Management System, known as CIMS, for export promotion purposes.

House bill

The House bill establishes an export promotion data system which includes data on a) U.S. exports by State of origin, port of departure and importing country; b) U.S. imports of goods and services by country of origin; c) specific business opportunities and contacts in foreign countries; d) characteristics of specific sectors with high export potential such as size of market, distribution of products, competition, applicable laws, government officials, and trade associations and other contact points; and e) general information on foreign countries such as economic conditions, common business practices, tariffs and trade barriers, and other significant laws and regulations regarding imports and exports.

The House bill also establishes a National Trade Data Bank which includes a) information on each foreign country on general economic conditions, demographics and common business practices; b) information on specific sectors within each foreign country such as size of market, distribution of products, competition, applicable laws, consultants, government officials, trade associations; c) information on specific business opportunities in each foreign country; d) general import and export data for each foreign country; e) industry specific import and export data for each foreign country; f) product and service specific import and export data for the U.S.; g) market penetration ratios of imports to the U.S. and country of origin; h) rank ordered national destinations for exports of the U.S.; i) exchange rates of all foreign currencies; j) market research for each foreign country; k) information on intellectual property rights; l) general labor market information; m) internationally comparable wage rates; n) foreign and domestic unemployment rates, availability of skilled and professional workers, hiring and firing restrictions and labor productivity trends; o) comparative international tax rates; p) export financing information; q) information on interest rates, and cost and availability of capital; r) national input/output tables for the U.S. and other nations; and s) any other information the Secretary determines to be useful other than the information contained in the annual report on foreign trade barriers.

Senate amendment

The Senate amendment establishes an export promotion data system which includes a) U.S. exports of goods and services by State of exporter, port of departure and country of first destination; b) U.S. imports of goods and services by country shipping the import, original port of entry and State of first destination; c) specific business opportunities; d) specific sectors with high export potential such as size of market, distribution of products, competition, significant laws etc., government officials, trade associations and other contact points; and e) general information on foreign countries such as economic conditions, common business practices, significant tariff and trade barriers, and other significant laws and regulations regarding imports and licensing.

The Senate amendment also establishes a National Trade Data Bank with two data bases; one for policymaking and one for export promotion. The policymaking data base contains a) data on merchandise imports and exports including aggregate import and export data, industry specific data, product and service specific data, market penetration ratios, and rank ordering of foreign destinations of U.S. exports; b) data on international service transactions; c) information on capital markets including interest rates, exchange rates and foreign direct investment in the U.S.; d) international labor market information including internationally comparable wage rates for major industries, unemployment rates, and trends in labor productivity; e) information on government policies including import and export restrictions, export financing polices, tax policies and labor market policies; f) State-by-State import and export data including country shipping import, State of first destination and original port of entry for imports of goods and services, and State of exporter, port of departure and country of first destination for exports of goods and services; and g) any other information the Committee determines to be useful.

The second data bank on export promotion contains a) information of business activities in foreign countries including general economic conditions and demographics, common business practices, tariffs and trade barriers, and other laws and regulation regarding imports and licensing; b) information on specific sectors including size of market, distribution of products, competition, major applicable laws etc., appropriate and other business contacts; c) information on specific business opportunities; d) market research; e) information on intellectual property rights; f) export financing; g) information on trade actions of other governments; and h) other information the Committee determines to be useful to business engaged in exports and Federal and State agencies that promote exports.

Conference agreement

The conferees agree to accept a compromise based on the House bill and Senate amendment. The conferees recognize two distinct purposes for trade data: policymaking and analysis, and export promotion. The conference agreement establishes a National Trade Data Bank consisting of two data bases: the International Economic Data System and the Export Promotion Data System.

The International Economic Data System shall include information useful to policymakers and analysts concerned with international trade and economics, which may include a) data on imports and exports including aggregate import and export data, industry specific data, product and service specific data, market penetration ratios, and foreign destinations of U.S. exports; b) data on international service transactions; c) information on capital markets including interest rates and exchange rates; d) information on foreign direct investment in the U.S.; e) international labor market information including internationally comparable wage rates for major industries, unemployment rates, and trends in labor productivity; f) information on government policies including trade barriers and export financing policies; g) State-by-State import and export data aggregated at the product level including country shipping import, State of first destination and original port of entry for imports of goods and services, and State of exporter, port of departure and country of first destination for exports of goods and services; and h) any other information collected by the Federal government the Secretary determines to be useful.

The International Economic Data System shall not contain information which identifies specific parties to a transaction. This data base is not intended to include data on all countries, but those which maintain an important economic relationship with the United States. However, the conferees do intend that the data base provide a single and complete source of information on trade and international economics compiled or obtained by the Federal government.

The conferees recognize the importance of state trade agencies in promoting exports and their need for information. These agencies need state-by-state export and import data to assess their current efforts in expanding exports, particularly from small and medium size firms. For this reason, this section specifically directs that the International Economic Data System include data on U.S. exports of goods and, where possible, services categorized by the state of the exporter, port of departure, and importing country of first destination. It is also to include data on U.S. imports of goods and, where possible, services by country shipping the import, port of entry, and state of ultimate destination. It is the conferees' intent that, where practical, both the export and import data are to be provided at the 7-digit SIC code product level. Where necessary to avoid revealing parties to transactions, these data may need to be aggregated at a higher SIC code level. It is the purpose of the conferees in requiring this aggregation to ensure that the International Economic Data Systems does not compete with data bases in the private sector which serve clients by identifying specific transactions.

The Export Promotion Data System is intended as a one-stop source of export promotion information. The conferees recognize the importance of easy access by exporters to relevant information. For this reason, the Export Promotion Data System shall be designed to use the most effective means of electronic dissemination through Department or Department-designated offices or through other available data bases. The conferees also intend that only data useful to export promotion be included in this data base. All other data on international trade should be included in the International Economic Data System.

The Export Promotion Data System shall include selected data on a) specific business opportunities in foreign countries; b) specific sectors with high export potential such as size of market, distribution of products, competition, significant laws, government officials, trade associations and other contact points; c) general information on foreign countries such as economic conditions, common business practices, significant tariff and trade barriers, and other significant laws and regulations regarding imports, licensing and the protection of intellectual property; d) export financing information, and e) any other information the Secretary determines to be useful.

It is the conferees' intent that for both data bases the Secretary regularly consult with private sector and government officials to determine what data are to be included. These systems should build on current data systems, and specifically the Export Promotion Data System is expected to be an expansion of the current Commercial Information Management System and include appropriate data from other departments and agencies. While the Commerce Department maintains much of the information on export promotion, other departments, agencies and programs also have valuable export promotion information. It is the conferees' intent that all relevant information be incorporated into the Export Promotion Data System/CIMS.

The conferees express their special concern that trade data are scattered throughout the Federal government. This provision intends to pull together in a single sysem the information available throughout the Federal government on trade and international economics and on export promotion. It is not the conferees' intent that all current data banks be eliminated, but that the public be provided with a coherent point of dissemination of trade data and of export promotion data. The conferees recognize the need for data to be available in many forms and from many sources.

Section 5407—Operation of the data bank

Present law

No provision.

House bill

The House bill requires for the export promotion data system that the Secretary devise a procedure for dissemination that provides useful information to the maximum number of users.

For the National Trade Data Bank, the House bill requires the system to utilize state-of-the-art data processing technology, to be useful to groups involved in export promotion, and to be of such quality and timeliness to be useful for policymaking.

Senate amendment

The Senate amendment requires that the export promotion data system be designed to use the most effective means of electronic dissemination through Department or Department-designated offices or through other available data bases.

With respect to the National Trade Data Bank, the Senate amendment is similar to the House bill, except it requires appropriate technology rather than state-of-the-art and requires the system to facilitate dissemination through non-profit organizations' outreach programs.

Conference agreement

The conferees agree to include a compromise version of the House bill and the Senate amendment. It is the intent of the conferees that the National Trade Data Bank utilize the most appropriate data systems available to ensure easy access, including electronic access, to the data for public and private users.

Section 5408—Information on the service sector

Present law

The International Investment and Trade in Services Survey Act (P.L. 94-472 as amended by section 306 of P.L. 98-573) authorizes a mandatory benchmark survey of services transactions between U.S. and unaffiliated foreign persons. This survey by the Bureau of Economic Analysis, designated BE-20, was first proposed in 1985. OMB approval was not granted until 1987 and the survey was not begun until then.

House bill

The House bill requires that information on the service sector be as complete and as timely as information on the merchandise sector. It requires collection and dissemination of a broad base of monthly information on the service sector, and requires a new benchmark survey of unaffiliated services transactions including banking services, computer software services, brokerage services, transportation services, travel services, engineering services, health services, and construction services. The House bill also requires an index of leading indicators which includes measurement of service sector activities in direct proportion to the contribution of the service sector to the GNP.

Senate amendment

The Senate amendment is similar to the House Bill except it requires service information be as complete and timely as merchandise information to the extent possible and does not require a monthly report on services.

Conference agreement

The conferees agree to the House provision, modified so that service information be as complete and timely as merchandise information to the extent possible, that the benchmark services survey include information services, and that the Secretary provide comprehensive information on services at least once a year. It is the intent of the conferees that the survey called for in this provision be an expansion and continuation of the BE-20 benchmark survey currently being conducted by the Bureau of Economic Analysis, not a replacement for or survey in addition to BE-20. The conferees are, however, deeply concerned that the surveys required under existing laws have not been given adequate priority to meet statutory deadlines. The conferees expect the requirements of this section to be complied with expeditiously.

Section 5409—Exclusion of information

Present law

No provision.

House bill

The House bill excludes information collected in connection with any investigation and any information the disclosure of which to the public is prohibited under any other provision of law.

Senate amendment

The Senate amendment is the same as House bill, but also excludes any information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense or foreign policy and is in fact properly classified pursuant to such Executive order.

Conference agreement

The conferees agree to include a provision excluding any information the disclosure of which is prohibited by law, which is specifically authorized under criteria established by Executive order or statute not to be disclosed in the interest of national defense or foreign policy and is in fact properly classified pursuant to such Executive order or is otherwise authorized to be withheld under law. The conferees did not prohibit the inclusion of information collected in connection with any investigation, such as an investigation under Section 301 of the Trade Act of 1974, because such information may be appropriate for inclusion in the data bank. The conferees expect, however, that the criteria for exclusion of information that is included in the Conference Agreement are adequate to assure the exclusion from the data bank of information that is confidential or otherwise protected.

Section 5410—Nonduplication

Present law

No provision.

House bill

Requires that the export promotion data system minimize competition between the Department and private sector information dissemination services.

For the National Trade Data Bank, the House bill requires that the Secretary ensure that information systems do not unnecessarily duplicate information systems available from other agencies or the private sector.

Senate amendment

The Senate amendment is the same as the House bill regarding the National Trade Data System.

Conference agreement

The conferees agree to a compromise based on the House bill and the Senate amendment. It is the intent of the conferees that the National Trade Data Bank should not be in competition with commercially available data bases. Nor is it the conferees' intent that the Data Bank replace existing specialized data bases. However, as stated earlier, it is the intent of the conferees that the public be provided with a coherent point of dissemination of trade data and of export promotion data.

Section 5411—Collection of data

Present law

No provision.

House bill

No provision.

Senate amendment

Other than provided for earlier concerning data on services, no independent authority is granted for the collection of any additional information.

Conference agreement

The conferees agree to include the Senate provision. The Data Bank is expected to contain that information already available to the Federal Government. However, the conferees encourage the Executive to make recommendations on how to improve the collection of data on trade and international economics.

Section 5412—Fees and Access

Present law

No provision.

House bill

With regard to the export promotion data system, the Secretary shall consider providing direct or indirect on-line access to all or part of the data bank and contracting with the private sector to provide direct or indirect on-line access. The Secretary may establish a schedule of fees consistent with fees charged for similar services in the private sector and which allows the system to recover a reasonable portion of operating costs.

Senate amendment

The Secretary shall provide reasonable public services and access including electronic access and may charge reasonable fees consistent with the Freedom of Information Act.

Conference agreement

The conferees agree to include the Senate provision. By the inclusion of this provision, the conferees intend that the data contained in the data bank be made as widely available as possible to the private sector, Federal, State and local officials, and other interested parties involved in export promotion, trade and international economics.

Section 5413—Report to Congress

Present law

No provision.

House bill

The House bill requires the Secretary to submit a plan concerning the export promotion data system within 180 days and report to the House Foreign Affairs Committee and the Senate Foreign Relations Committee within one year of enactment on implementation of the export promotion data system, including comments from the private sector, export associations and State agencies.

The House bill also requires a report on the National Trade Data Bank by no later than December 31 of each year assessing the current quality, comprehensiveness and public and private accessibility of trade data; describing actions taken particularly actions taken during the 3 months after enactment concerning the new services transactions benchmark survey and first year after enactment concerning other service actions; describing actions planned; recommending executive and legislative actions which would ensure U.S. citizens and firms obtain access to data banks of foreign countries that is similar to access provided foreign citizens and firms to the data bank established; and recommending other legislative actions.

Senate amendment

The Senate amendment requires a report on implementation of the export promotion data bank within 6 months of enactment. The Senate also requires a report on the National Trade Data Bank similar to the House bill with the inclusion of the requirement to include comments on implementation from private sector and State agencies. This report is required only for 4 years after enactment.

Conference agreement

The conferees agree to require an interim report not more than one year after enactment and a final report not more than 3 years after enactment. The interim report shall describe actions taken to provide information on services and on State-by-State trade required by this subtitle. The final report shall assess the quality and comprehensiveness of trade data and the ability of the public to access that data, describe the actions taken to implement this subtitle, include comments from the private sector and State agencies on the implementation of the National Trade Data Bank, describe the extent to which the Data Bank is used and make recommendation to improve its operation, and describe the extent to which U.S. citizens and firms have access to foreign data banks that is similar to the access given foreign citizens and firms. Both reports are to be submitted to the Governmental Affairs Committee and the Banking, Housing and Urban Affairs Committee of the Senate, other appropriate committees of the Senate and to the House of Representatives.

PART II—IMPACT STATEMENT AND STUDIES

Section 5421—Competitiveness Impact Statements

Present law

None.

House bill

Section 901 of the House bill requires the heads of each Federal department and agency to include in reports or comments on proposed legislation a detailed statement of the legislation's impact on the U.S. trade position and the ability of U.S. firms to compete in foreign or domestic markets.

Senate amendment

No similar provision.

Conference agreement

The Conference Agreement is similar to section 901 of the House bill. The Conference Agreement, however, clarifies that agency and department heads need only make statements on proposed legislation which may affect the ability of U.S. firms to compete in domestic and international commerce. The Agreement also requires that statements be made on the impact of such legislation on the international trade *and* the public interest of the United States. This will ensure that the statements take into account trade-offs engenderd by the proposed legislation in which the trade balance improves but at the risk of jeopardizing national security, health and safety, or other non-trade interests.

The Conference Agreement states that this section provides no private right of action on the need for or adequacy of the required impact statement. The conferees also agreed that the provision shall sunset six years from the date of enactment.

SECTION 5422—SEMATECH STUDY AND REPORT

Present law

The National Defense Authorization Act of Fiscal Years 1988 and 1989 (15 U.S.C. 4603(a); P.L. 100-180) authorizes the Semiconductor Manuacturing Technology Initiative known as SEMATECH as a joint government-industry effort to undertake research for the development of manufacturing technology that would meet commercial and defense needs of the United States. P.L. 100-180 authorizes $100,000,000 to be expended for this purpose in FY 1988. under the Continuing Resolution of Fiscal Year 1988, $100,000,000 was appropriated for the consortium for use during fiscal year 1988. The Defense Authorization Act also establishes an Advisory Council on Federal Participation in Sematech and requires it to "conduct an annual review of the activities of Sematech for the purpose of determining the extent of [its] progress in carrying out "the annual operating plan called for under a Memorandum of Understanding.

House bill

Under section 911 of the House passed bill, the House authorizes expenditures of $100,000,000 for each fiscal year 1988 through 1992 to a consortium of persons engaged in the United States in the manufacture of semiconductors. The grants made to the consortium are to be used for research and development of advanced semiconductor manufacturing technology.

Under this section, the Secretary of Commerce is charged with the responsibility of submitting a plan to the Congress delineating which consortium should receive funds and what the function of the consortium should be. Furthermore, the provision states that no grant of funds could be made to a consortium until such a plan is submitted to Congress and another law is enacted authorizing the grants.

Senate amendment

The Senate bill establishes an Interagency Coordinating Committee on Federal Participation in Sematech chaired by the Secretary of Defense and including the Secretaries of Commerce and Energy as well as the Director of the National Science Foundation and the Chairman of the Federal Laboratory Consortium for Technology Transfer. The Committee, in consultation with a civilian advisory council with expertise in the area of semiconductors is charged with the preparation of a report including proposals for the amount of Federal funds to be expended, the type of research to be conducted, forms of Federal assistance, and other issues. The Senate bill authorizes the appropriation of $100,000,000 for each fiscal year 1988 through 1992.

Conference agreement

Competitiveness is one of the main issues necessitating Federal involvement in Sematech. The conferees believe that further attention should be given to assessing the civilian goals of Sematech and to the question of where future sources of federal funds for Sematech, beyond the Department of Defense, can be found.

The Conference Agreement requires the Council (designated in P.L. 100-180), under the direction of the Undersecretary of Commerce for Economic Affairs, to study the progress being made towards achieving the defense and civilian goals of Sematech, as well as developing U.S. applications of Sematech products and technology, and to report annually to Congress on these matters in each year in which Federal funds are expended.

The reports shall include an identification of potential sources of Federal funds, recommendations concerning methods and terms of such support, and an exploration of the feasibility of recoupment of the federal investment should royalties or fees result from the licensing of Sematech technology, or as a result of its dissolution and sale of its assets. In addition, the reports shall enumerate the long and short range civilian technology and commercialization goals of Sematech, describe how the major components of the Sematech program are designed to achieve these goals, and report on the annual progress of each of the components. The reports should include program plans, technical milestones, and cost estimates (including changes in plans made during the year) and explain progress made in meeting the plans, milestones, and cost estimates. The first report, including recommendations, is due by August 1, 1988.

The Conferees intend that such reports be submitted to the Committees on Governmental Affairs and Armed Services of the Senate and the appropriate Committees of the House of Representatives. The Council is encouraged to avoid duplication in preparing the reports required under this section and by P.L. 100-180 by combining efforts to the maximum extent feasible.

Section 5423—Impact of National Defense Expenditures on International Competitiveness

Present law

No provision.

House bill

The House bill expressed the sense of Congress that the President should evaluate the impact on U.S. competitiveness of foreign countries' expenditures on defense. In particular, the President should evaluate the economic impact of Japan's expenditure of 1 percent of its GNP on defense, as compared to the U.S. expenditure of 6 percent of its GNP on defense.

Senate amendment

The Senate bill contained no similar provision.

Conference agreement

The Conferees agreed to include the House provision.

PROVISIONS NOT INCLUDED IN THE CONFERENCE AGREEMENT

Competitiveness Development Program

Present law

No provision.

House bill

Under Section 903 of the House bill, the Secretary of Commerce would be required to establish a Competitiveness Development Program to analyze Federal, State, and Local regulation of foreign and U.S. firms and the impact of such regulation on interstate and foreign commerce. On the basis of the analysis, the Secretary would be required to develop and implement strategies and policies designed to augment the competitiveness of U.S. firms in interstate and foreign commerce.

Senate amendment

The Senate amendment contained no such provision.

Conference agreement

The Conferees have agreed to include no provision.

RELATED INITIATIVES TO SUPPORT THE PROGRAM OF ENHANCED COMPETITIVENESS

Present law

No provision.

House bill

Under Section 904 of the House Bill, the Secretary of Commerce is required to prepare an inventory of research and development relevant to the expansion of U.S. competitiveness, to consult with the Secretaries of Labor and Education regarding actions needed to be taken to upgrade labor skills, and to consult with Federal and State officials regarding the impact of regulatory requirements on the commercialization of goods and services.

Senate amendment

The Senate bill contained no similar provision.

Conference agreement

The Conferees have agreed to include no provision.

STUDY ON UNITED STATES' BARRIERS TO UNITED STATES' EXPORTS

Present law

No provision.

House bill

No provision.

Senate amendment

Section 3851 of the Senate Amendment requires the Department of Commerce to examine U.S. barriers to U.S. exports on an annual basis.

Conference agreement

Include no provision.

STUDY ON UNITED STATES' RESOURCE NEEDS

Present law

No provision.

House bill

No provision.

Senate amendment

Section 3852 of the Senate Amendment authorizes the Department of Commerce to use input-output analysis to determine the resource needs for the entire U.S. economy, critical technologies, and emerging technologies. A report on the subject is due three years following the date of enactment.

Conference agreement

Include no provision.

STUDY ON UNITED STATES' MANUFACTURING BASE

Present law

No provision.

House bill

No provision.

Senate amendment

Under Section 3853 of the Senate Amendment, the Department of Commerce is empowered to undertake a one-year study assessing the dependence of various vital services and high technology industries on the U.S. manufacturing base.

Conference agreement

Include no provision.

STUDY ON THE IMPACT OF FOREIGN FINANCIAL AND REGULATORY SYSTEMS ON U.S. COMPETITIVENESS

Present law

No provision.

House bill

No provision.

Senate amendment

Under Section 3854 of the Senate Amendment, the Federal Reserve System is required to examine annually the impact of foreign financial and regulatory systems on the ability of U.S. businesses to compete in domestic and foreign markets.

Conference agreement

Include no provision.

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

1. The House bill, but not the Senate amendment, entitles the education and training provisions of the trade bill, the "Education and Training for American Competitiveness Act of 1987."

Senate recedes with amendment naming the bill the Education and Training for A Competitive America Act of 1988.

2. The House bill, but not the Senate amendment, contains a separate statement of findings and purposes for the education and training provisions of this bill.

Senate recedes.

Subtitle A—Elementary and Secondary Education

3. Sec. 505 of the House bill and Sec. 205 of the Senate amendment, define terms used in the education and training portions of the bill. In addition to defining "local education agency" and "State education agency", "Secretary", and "State".

A. The House bill, but not the Senate amendment, defines "institution of higher education".

Senate recedes.

B. While the Senate amendment, but not the House bill, defines "foreign language instruction".

House recedes.

4. The House bill, but not the Senate amendment, contains several general requirements applicable to all the education and training programs under this bill, as follows:

A.—Services under these programs shall be made available to historically underrepresented and underserved groups;

Senate recedes.

B.—Training under these programs may include training provided through telecommunications technologies;

Senate recedes.

C.—Where appropriate, these programs shall be coordinated with other Federal education and training programs; and

Senate recedes.

D.—Eligible participants under these programs include accredited proprietary institutions providing programs of less than 6 months duration, if such programs are otherwise eligible to participate.

House recedes with an amendment striking "1201(a)" in the general definition of "institution of higher education" and inserting "481(a)(1)" and in the same definition used in the new Student Literacy Corps striking "1201(a)" and inserting "481(a)(1)" and in the same definition for the program on technology education striking "1201(a)" and inserting "481(a)(1)".

5. In amending the Adult Education Act by adding a new section of Workplace Literacy Partnership Grants, the House bill, but not the Senate amendment, authorizes a State formula grant program to states which have approved state plans while the Senate amendment, but not the House bill, authorizes discretionary demonstration grants to education partnerships.

House recedes with an amendment stating that when the appropriations are $50 million or more, the program becomes State-administered.

6. The House bill allows grants to fund 90 percent of the cost of programs. The Senate amendment allows grants to fund 50 percent of the cost of programs.

House recedes with an amendment setting maximum Federal funding at 70%.

7. The House bill, but not the Senate amendment, specifies that grants may be used by SEAs for evaluation costs as well as for SEA and LEA administrative costs to establish programs.

Senate recedes with an amendment applying this requirement when the program becomes State-administered.

8. The House bill, but not the Senate amendment, requires that a State submit a plan which includes a description of:

A. the State approval of funding;

B. procedures under which applications for such funding may be submitted; and

C. the method utilized to obtain annual third-party evaluation.

Same as Item #7.

9. The Senate amendment, but not the House bill, includes an area vocational school as one possible component of a joint grant application.

House recedes.

10. The Senate amendment, but not the House bill, includes that the program application shall also include the following provisions:

A. a description of the plan for carrying out the requirements;

House recedes.

B. assurances that the applicant will use the funds to supplement and not supplant funds available for this purpose.

House recedes.

11. The House bill contains a provision which will make grants available to other applicants in the State who are qualified to teach literacy skills needed in the workplace if the State is ineligible for the grant. The Senate amendment does not contain a comparable provision.

Same as Item #7.

12. The House bill, but not the Senate amendment, contains an allotment formula.

Senate recedes with an amendment providing for a State minimum of $125,000. (An amendment will be included for a 1-year extension of the State plan currently required in the Adult Education Act).

13. The House bill authorizes appropriations at $50 million for FY 1988, and at such sums as may be necessary for each of fiscal years 1989-1993, i.e., a 5-year program.

The Senate Amendment authorizes appropriations at $4 million for FY 1988 only, i.e., a one-year program.

House recedes with an amendment setting the authorization at $30 million for FY 1988 and with the understanding that this program will be extended for 5 years in the Senate elementary and secondary education bill. House recedes to Senate "trigger" provision.

14. The House Bill, but not the Senate amendment, amends the AEA to establish "English Literacy Program Grants", a new program of demonstration grants, available for not more than three years, for English literacy programs for individuals of limited English proficiency.

Senate recedes with an amendment in the section requiring an audit striking "annually" and inserting "in accordance with Chapter 75, U.S.C. 31" and with an amendment permitting funds to be used for teacher training, and permitting funds from this program to be combined with funds from other programs providing literacy training to persons with limited English proficiency, with a further amendment which designates the ERIC Center for Applied Linguistics as the clearinghouse for this program, and with an amendment striking the provision limiting grants to three years.

15. A. The House Bill authorizes these appropriations at $50 million for FY 1988 and at such sums as may be necessary for each of Fiscal Years 1989 through 1993.

Senate recedes with an amendment authorizing $25 million for FY 1988 and with the understanding that this program will be extended for 5 years in the Senate elementary and secondary education bill.

B. The Bill also stipulates that funds appropriated shall remain available until expanded.

Senate recedes.

C. In addition, not more than 10 percent of funds available shall be used to carry out subsection (d) direct grants to applicants.

The Senate Amendment has no compromise provision.

Senate recedes.

16. The House Bill, but not the Senate amendment requires the Secretary to establish within the Department of Education a Federal Literacy Coordination Office to coordinate programs and provide information and guidance.

Senate recedes with an amendment requiring the Division of Adult Education to serve as the Federal literacy coordination office and includes this requirement as an amendment to the Adult Education Act.

17. The House Bill, but not the Senate amendment, authorizes a discretionary grant program for States for coordination of literacy programs.

Senate recedes with an amendment requiring the State agencies administering the Adult Education Act to carry out where feasible these activities and includes this requirement as an amendment to the Adult Education Act.

18. The House Bill authorizes appropriations at $2 million for FY 1988 and such sums as may be necessary for each of FY 1989 through 1993.

The Senate amendment does not contain a comparable provision.

House recedes,

19. The Senate Amendment, but not the House bill, authorizes a "Literacy Corps Assistance Act of 1987", a program of discretionary grants of not more than two years to institutions of higher education for establishing courses in which a student receives academic credit in exchange for voluntary literacy tutoring.

House recedes with an amendment which (1) places the program in Title I of the Higher Education Act, (2) changes the name to the "Student Literacy Corps", and (3) adds two additional assurances making the tutoring supplementary and locating the tutoring in one or more public community agencies.

20. The Senate amendment authorizes appropriations at $10 million for FY 1988 and $10 million for any fiscal year thereafter except that no funds are authorized to be appropriated for this part for more than two fiscal years.

The House bill does not have a comparable provision.

House recedes with amendment that the program will be authorized for no more than 2 fiscal years and then extended through 1991 under the Higher Education Act. House recedes to the "trigger" provision of the Senate amendment regarding the new workplace literacy program and the new technology education program.

21. The Senate amendment, but not the House bill, reauthorizes Title II (math and science education State grants) of the Education for Economic Security Act.

House recedes.

22. The Senate amendment, but not the House bill, reauthorizes Title II at $330 million for FY 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993.

Senate recedes with an amendment authorizing appropriations at $175 million for FY 1988.

23. The Senate amendment, but not the House bill, reauthorizes Title III of EESA through 1993.

Senate recedes.

24. The Senate amendment, but not the House bill, authorizes appropriations of $20 million for FY 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 of Title III of EESA.

Same as Item #23.

25. The House bill, but not the Senate amendment amends Title III of EESA to authorize a new State grant program to improve instruction in elementary and secondary science and mathematics, furnish additional resources and support and encourage educational partnerships between schools and other public and private non-profit agencies.

Senate recedes with an amendment striking a duplicative provision regarding a limit on State administrative costs.

26. The House bill, but not the Senate amendment authorizes appropriations of $50 million for FY 1988 and such sums as necessary for each fiscal year 1989 through 1993 for the amended Title III of EESA.

Senate recedes with an amendment authorizing $20 million for FY 1988 and with an amendment providing no more than 1% for the outlying areas.

27. Both House and Senate authorize State formula grants for model local programs of foreign language study for elementary and secondary schools, but: The House bill authorizes the Secretary to make grants

to States which in turn make grants to LEAs.

The Senate amendment authorizes the Secretary to make grants to SEAs to pay the Federal share of program operated by LEAs.

House recedes.

28. The Senate amendment, but not the House bill, allows an LEA to offer programs to community residents.

Senate recedes.

29. The Senate amendment, but not the House bill, entitles this part as the "Foreign Language Assistance Act of 1987."

House recedes with an amendment entitling the program the Act of 1988.

30. The Senate amendment, but not the House bill, contains findings by the Congress which indicate that the economic and security interests of this nation require significant improvement in the quantity and quality of foreign language instruction offered in the nation's elementary/secondary schools and Federal funds should be made available to assist the purpose of this part.

House recedes.

31. The House bill authorizes grants in the amount of $50,000 per State and the product of $0.04 and the population of the State as determined in accordance with the most recent decennial census.

The Senate amendment has a different allocation formula for State grants in Sec. 204(a) (1) and (2).

House recedes.

32. The House bill requires that an amount similar to the first year's will be made available to the State for two additional years after the first FY during which the State receives a grant, if the Secretary determines that the State utilized the funding as specified in the approved application.

The Senate amendment has a comparable provision in Sec. 204(b).

House recedes.

33. The House bill contains a provision stating that if sums made available under the State grant program are not sufficient to pay in full the grants, then the amount of such grants will be ratably reduced.

The Senate amendment does not contain the same provision.

House recedes.

34. The House bill requires that any State desiring to receive a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

The Senate bill specifies that it is the SEA which submits that application.

House recedes.

35. In the description of the applications requirements, the House bill, but not the Senate amendment, specifies serving all resident children ages 5 through 17 despite the school attended. (Though see the descriptions in the Senate amendment in Sec. 204(c).)

House recedes.

36. The Senate amendment, but not the House bill, allows the LEA to offer the program to community residents.

Senate recedes.

37. The House bill requires an assurance of "sufficient funds from State and local resources." The Senate amendment requires assurances that "the State will pay the non-Federal share."

House recedes.

38. The House bill requires "standard" evaluations. The Senate amendment requires "reliable and valid" evaluations.

Senate recedes with amendment to combine the House and Senate provisions.

39. The Senate amendment, but not the House bill, specifies that the applicants in the State grant program be selected on a competitive basis by the State educational agency.

House recedes.

40. The Senate amendment, but not the House bill, specifies that the Federal share in the State grant program will be 50 percent for each FY.

House recedes with an amendment requiring a waiver or reduction by the Secretary of the match for school districts without adequate resources to supply matching funds.

41. The House bill, but not the Senate amendment authorizes a program of grants to higher education institutions for intensive summer language training institutes for exceptional secondary students.

House recedes.

42. The House bill, but not the Senate amendment authorizes a program of discretionary grants to States for travel to specified regions of the world for study of foreign languages and culture by advanced secondary foreign language students in their junior or senior year of high school.

House recedes.

43. The House bill, but not the Senate amendment authorizes a program of discretionary grants to states for foreign language advanced placement programs for secondary students operated by LEAs.

House recedes.

44. The House bill states that the Secretary may not make grants or enter into contracts under this Chapter except to such extent, or in such amounts, as may be provided in Appropriations Acts. The Senate amendment does not contain a comparable provision.

Senate recedes with an amendment making this provision applicable to all programs authorized in subtitles A, B, and C.

45. The House bill authorizes appropriations at $50 million for FY 1988 and such sums in 1989 through 1993 for the purpose of carrying out this chapter.

Of the amounts made available:

—86% will be made available only for carrying out section 521 (State grants);

—6% will be made available only for carrying out section 522 (summer language institutes);

—4% will be made available only for carrying out section 523 (study abroad);

—4% will be made available only for carrying out section 524 (advanced placement).

The Senate amendment authorizes appropriations for its state grant program of $35 million for FY 1988 and for each of the succeeding fiscal years ending prior to October 1, 1993.

Senate recedes with an amendment setting authorization at $20 million for FY 1988.

46. The Senate amendment, but not the House bill, outlines the requirements for the participation of private schools in the foreign language program.

House recedes.

47. The Senate amendment provides that from the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve 1% for payments to Guam, American Samoa and the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands to be allotted in accordance with their respective needs.

The Senate amendment authorizes the Secretary to allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State will receive less than one-half of 1% of the remainder.

The House bill has a different allotment formula in Sec. 521(b) on p. 35.

House recedes.

48. The allotment of a State will be made available to the State for two additional years after the first FY during which the State receives this allotment if the Secretary determines that the funds made available during the first year were used as specified in the application.

The House bill has comparable provision in Sec. 521(2).

House recedes.

49. The Senate amendment but not the House bill, contains definitions for the purposes of this section.

House recedes.

50. The Senate amendment, but not the House bill, authorizes Presidential awards for elementary and secondary foreign language teachers.

House recedes with amendment adding foreign language teacher awards to the math and science teacher awards in EESA and providing an additional $1 million authorization to enable such awards to be made.

51. The Senate amendment, but not the House bill, entitles this section the "Educational Partnerships Act of 1987".

House recedes with an amendment entitling the Act of 1988.

52. Throughout this part, the House bill uses "alliances" to describe the partnerships; the Senate amendment uses "educational partnerships."

House recedes.

53. The House bill refers to the "needs . . . of schools"; the Senate amendment refers to the "need . . . to encourage excellence in education".

Combine House and Senate provisions.

53a. The House bill refers to "elementary and secondary schools"; the Senate amendment refers to "educational institutions".

Senate recedes with an amendment to include institutions of higher education in the statement of purpose and in other appropriate sections.

54. In further statements of purpose, the House bill, but not the Senate amendment, lists:

A. that business work with educationally disadvantaged students and with gifted;

Senate recedes.

B. apply the resources of communities for the improvement of elementary/secondary education; and

Senate recedes.

C. enrich the career awareness of secondary school students to exposures to the private sector and their work.

Senate recedes.

D. The House bill authorizes appropriations at $5 million for FY 1988 and at such sums through 1989–1993.

The Senate amendment authorizes appropriations at $20 million for FY 1988 through 1993.

House recedes with an amendment authorizing $10 million for FY 1988 and such sums through 1993.

55. The Senate amendment requires the Secretary to ensure that 25% of the appropriated funds in each FY be used for programs for gifted and talented children.

The House bill does not contain a comparable provision.

Senate recedes.

56. The House bill provides that an eligible alliance may use payments for projects for statewide activities, including development of model State statutes for the support of cooperative arrangements between the private sector and the elementary and secondary schools within the State.

The Senate amendment has no comparable provision.

Senate recedes.

57. The Senate amendment allows spending for projects designed to address special educational needs of gifted and talented children in elementary and secondary schools.

The House bill has no comparable provision.

House recedes.

58. The Senate amendment allows spending for projects for foreign language instruction which involves a cooperative arrangement between the private sector and elementary and secondary schools, possibly including participation of community residents.

The House bill has no comparable provision.

Senate recedes.

59. The House bill provides for the establishment within the Department of Education an Alliance for Education Board and describes its membership and other attributes.

The Senate amendment has no comparable provisions.

House recedes.

60. The House bill also requires in the application assurances that the eligible alliance will take such steps as may be available to it to continue the activities for which the eligible alliance is making application after the period for which assistance is sought.

The Senate amendment does not have a comparable provision.

Senate recedes.

61. The Senate amendment but not the House bill also specifies that the application includes assurances of the dissemination of information on the model program.

House recedes with an amendment limiting to 1% of any partnership grant the use of funds for this purpose.

62. The House bill requires the Secretary to approve applications in accordance with the general policies and guidelines established by the Board.

The Senate amendment requires the Secretary to approve applications in accordance with uniform criteria established by the Secretary.

House recedes.

63. The House bill disallows the Secretary to approve an application if the Secretary is notified that the application is inconsistent with State plans for elementary and secondary education.

The Senate amendment does not contain the same provision.

Senate recedes.

64. The House bill contains the following definitions:

A. "Board" means the alliance for education Board established pursuant to section 528;

House recedes.

B. "eligible alliance" means a local educational agency and business concern, nonprofit private organizations, institutions of higher education, museums, libraries, educational television stations, and appropriate State agencies if the State agrees to participate.

The Senate amendment does not contain comparable definitions.

House recedes.

65. The Senate amendment contains the following definitions:

A. "educational institutions" means a local educational agency or an institution of higher education, or both;

Senate recedes with an amendment changing the defined term to "local educational agency" or an institution of higher education.

B. "educational partnership" means an educational institution, and business concerns, community-based organizations, nonprofit private organizations, museums, libraries, educational television and radio stations, and appropriate State agencies if the State agrees to participate;

House recedes with an amendment adding institutions of higher education, and changing the word "alliance" to "partnerships", and changing the phrase educational institutions to local educational agencies.

C. "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965;

House recedes with an amendment striking "1201(a)" and inserting "481(a)(1)".

D. "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

House recedes.

E. "Secretary" means the Secretary of Education;

House recedes.

F. "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands; and

House recedes.

G. "State Educational Agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

The House bill does not contain the same definitions.

House recedes.

67. Both the House bill and the Senate amendment authorize new programs for telecommunications demonstration activities; the Senate, but not the House, adds its new program to the EESA.

House recedes.

68. The House program is called the "National Educational Telecommunications Demonstration Program." The Senate program is called the "Star Schools Program Assistance Act."

House recedes.

69. The purpose of the House telecommunications demonstration program is to improve instruction in math, science, foreign languages, vocational education, continuing education, and basic and remedial education. The purpose of the Senate program is to improve instruction in math, science and foreign languages.

House recedes with an amendment clarifying that math, science and foreign languages shall be included in the program and that the program may also include other areas such as vocational education.

70. Funds under the House bill are to be used to design, develop and construct (including renovation) 9 model, regional, advanced educational telecommunications network and technology resource centers. The purpose of the Senate amendment is to enable telecommunications partnerships to use grants to develop, construct and acquire telecommunications, audio and visual facilities and equipment, and obtain technical assistance for the use of such facilities.

House recedes.

71. The House bill, but not the Senate amendment, requires equitable geographical distribution to include sparsely populated areas.

House recedes.

72. The House bill, but not the Senate amendment, requires an equal match from state funds and funds from other sources.

Senate recedes with an amendment requiring a 25% match, but permitting the Secretary to reduce or waive this requirement.

73. The Senate amendment authorizes $100 million for the period beginning October 1, 1987 and ending September 30, 1992 for this program. No appropriation in excess of $60 million may be made in any one fiscal year under this authorization. The Senate amendment further restricts a grant to an eligible telecommunications partnership to $20 million.

The House bill authorizes $10 million for FY 1988 and such sums as necessary for the 5 succeeding fiscal years for its program and specifies that funds appropriated under this section shall be made available until expended.

House recedes with an amendment authorizing the Star Schools program for the period beginning October 1, 1987 and ending September 30, 1993; limiting appropriations in any one fiscal year to $37.5 million and adding provision that funds will remain available until expended; limiting a maximum grant to a single grantee to $10 million per year, with a $20 million total maximum.

74. The Senate amendment, but not the House bill, requires not less than one-half the funds available in any fiscal year to be used for facilities, equipment, teacher training, technical assistance, or programming activities for local educational agencies that receive assistance under Chapter 1, ECIA.

House recedes.

75. Eligible grantees under the Senate program are: (1) telecommunications partnerships that include a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, health institutions and industry and containing representatives of elementary and secondary schools participating in Chapter 1 or (2) partnerships including three or more of a list of entities cited in the bill.

The House bill would make grants available to public agencies and non-profit corporations.

House recedes with technical amendments which strike "health institutions, and industry" and insert "and other entities"; strike "contain representation of" and insert "represent"; insert ", at least one of which shall be from subparagraphs (A) or (B),"; following "agency" insert "or state higher education agency"; following "center" insert "which provides teacher preservice or inservice training and receives federal financial assistance or has been approved by a state agency".

76. The Senate amendment, but not the House bill, requires organization of the partnership on a statewide or multistate basis.

House recedes.

77. The Senate amendment, but not the House bill, specifically requires an application and spells out in detail the information

which must be submitted in an application for such a grant, including information on the types of facilities and equipment to be provided, the teacher training policies to be implemented, how schools in LEAs with high percentages of Chapter 1 children and traditionally underserved students will be served and other information.

House recedes with an amendment requiring that funds under this program supplement, and not supplant, other funds.

78. The Senate amendment, but not the House bill, contains several priorities that the Secretary must follow in funding applications.

House recedes with an amendment requiring that 25% of appropriations in any single year be used for programming.

79. The Senate amendment, but not the House bill, spells out certain duties of the Secretary with respect to compiling descriptions of courses and materials for dissemination and specifically requires dissemination to all SEAs.

House recedes.

80. The Senate amendment, but not the House bill, permits the Office of Technology Assessment upon request: to carry out an evaulation of the telecommunications systems supported under this program and prepare and submit a report to Congress.

Senate recedes.

81. The Senate amendment, but not the House bill, also permits an OTA study of an educational satellite and other related activities.

Senate recedes.

82. The Senate amendment, but not the House bill, lists definitions relevant to this program.

House recedes.

83. The House bill, but not the Senate amendment, requires the National Diffusion Network within the Department of Education to gather, arrange and disseminate information on innovative secondary and postsecondary programs; to: gather and disseminate information on collaborative efforts to improve American productivity and efficiency or enhance international competitiveness of American business; to produce a catalogue of exemplary collaborative efforts; and to provide technical assistance to institutions gathering information to replicate these models.

Senate recedes with an amendment that any program now included in the National Diffusion Network (NDN) must meet the existing requirements of the program.

SUBTITLE B—TECHNOLOGY AND TRAINING

84. The Senate amendment, unlike the House bill, has a short title for this section of the legislation, the "Training Technology Transfer Act of 1987."

House recedes with an amendment entitling the Act of 1988.

85. Both the House bill and the Senate amendment authorize a program of technology transfer. The House bill, throughout, refers to the transfer of "knowledge and education and training software." The Senate amendment refers to the transfer of "training technology."

Senate recedes.

86. The Senate amendment, but not the House bill, contains a specific reference to computer programs and videodisc systems.

House recedes.

87. The House bill, throughout, refers to the transfer of software to the "public and private sector." The Senate amendment often refers to transfer to the private sector only.

Senate recedes.

88. The House bill, but not the Senate amendment, notes that this software could help train existing workers, as well as new workers.

Senate recedes.

89. Unlike the House bill, the Senate amendment, in several places, states that this transfer would be especially beneficial to "small" business concerns, not simply to "business concerns."

House recedes.

90. In addition to those recipients of the transferred technology listed in the House bill, the Senate amendment lists State and local governments and agencies thereof, and educational systems.

House recedes.

91. Both bills create an office within the Department of Education for purposes of this program. The House bill establishes an Office of Education Software Transfer. The Senate amendment establishes an Office of Training Technology Transfer.

House recedes.

92. The House bill additionally specifies that this office shall be located within the Office of Educational Research and Improvement.

Senate recedes.

93. The Senate amendment, but not the House bill, requires the Director of this office to be appointed in consultation with the Secretaries of Commerce and Labor.

Senate recedes.

93. The House bill requires the Director to appoint a staff of *not less than* 15 persons. The Senate amendment makes these appointments permissible and limits the staff to *not in excess of* 15 persons.

House recedes on its provision and Senate recedes on its provision.

95. Both bills require the Director to maintain a listing of software or technology.

A. The House bill refers to this listing as a "clearinghouse", while the Senate amendment calls it an "inventory."

Senate recedes.

B. The House bill requires only that the Director "maintain" this listing while the Senate amendment requires the Director to "compile and maintain" it.

House recedes.

96. The House bill, but not the Senate amendment, requires the clearinghouse to include, for each item listed, the "imbedded learning and instructional strategies" therein.

Senate recedes.

97. The House bill, specifically but not the Senate amendment, requires the utilization of the communications mechanisms of State educational agencies, regional educational laboratories, and the National Center for Research in Vocational Education.

B. The Senate amendment requires the use of such mechanisms of the Educational Resources Information Center, the National Occupational Information Committee, the State occupational information coordinating committees, State job training coordinating councils, private industry councils, State economic development agencies, and the Small Business Administration.

Merge House and Senate provisions.

98. The House bill, but not the Senate amendment, would encourage the participation of organizations representing State educational agencies.

Senate recedes.

99. The House bill, but not the Senate amendment, gives the Director the authority to provide grants to public interest users.

Senate recedes.

100. The Senate amendment, but not the House bill, allows the Director to advise and consult with prospective public interest users.

House recedes.

101. The Senate amendment, unlike the House bill, specifies that the transfer of technology shall be made at no cost to the public interest user.

House recedes.

102. The Senate amendment, but not the House bill, gives the Director the authority to enter into contracts with higher education institutions and qualified business concerns for the conversion of training technology for a public interest user.

House recedes with an amendment permitting contracting to be with any qualified education agency.

103. The House bill, but not the Senate amendment, specifically allows the Director not only to sell, but also to lease the training software.

Senate recedes.

104. The House bill, but not the Senate amendment, specifically includes copyright and patent rights to such software.

Senate recedes.

105. The House bill allows sales and leases to be made "for a price or fee which reflects a reasonable return to the Government." The Senate amendment allows such sales to be "on a cost reimbursable basis."

House recedes.

106. The House bill, unlike the Senate amendment, specifically allows the Director to negotiate exclusive sale or lease agreements with commercial users.

Senate recedes.

107. The House bill requires the mandated report to be submitted before the expiration of the two-year period beginning with the date of enactment: the Senate amendment requires the submission within three years after the date of enactment.

Senate recedes with an amendment including education and training software in the definition.

108. The House bill, but not the Senate amendment, studies whether public interest "is served through the program of grants: the Senate, whether the public interest "would be served through establishment of a program of grants."

Senate recedes with an amendment to include "contracting".

109. The Senate amendment, but not the House bill, requires the Director to enter into interagency agreement with the National Technical Information Service to compile and disseminate the inventory mandated by both bills.

House recedes with an amendment permitting the Secretary of Education also to use the OERI system.

110. The House bill requires certain Federal agencies to designate "education and training software transfer officers." The Senate amendment refers to these individuals as "Training Technology Transfer Officers."

House recedes.

111. In addition to the agencies cited in the Senate amendment, the House bill makes this requirement applicable to any Federal agency which develops, not simply uses, knowledge for education and training software.

Senate recedes.

112. The Senate amendment, but not the House bill, requires the Director to cooperate with the Federal Software Exchange Center.

House recedes.

113. The House bill, but not the Senate amendment, requires the Director to consid-

er special equity concerns and to ensure that persons with special needs benefit from these software transfer activities.

Senate recedes.

114. The Senate amendment, but not the House bill, establishes and describes an advisory board to monitor, review, and advise on the technology transfer program.

Senate recedes.

115. The House bill authorizes $1 million for FY 88 and such sums as necessary for the 5 following fiscal years for the technology transfer program. The Senate amendment authorizes $5 million for FY 88 and such sums for each succeeding fiscal year (with no termination date).

House recedes with an amendment authorizing $3 million to be reserved out of funds appropriated for Regional Technology Transfer Centers.

116. The Senate amendment contains several definitions not included in the House bill because such terms are not used in the House bill or are defined in the House general provisions.

House recedes with an amendment deleting the definition of the word "board".

117. Unlike the House definition, the Senate definition of "public interest user" includes any Federal agency which uses the training technology of another Federal agency.

House recedes.

(B) The House definition of this term encompasses "State and local educational agencies", whereas the Senate definition includes "State and local governments thereof."

House recedes.

118. The House definition of "education and training software" and the Senate definition of "training technology" are virtually identical, except that the House definition uses the term "education" as well as "train" in several places where the Senate uses "training."

Senate recedes.

119. The House bill authorizes the establishment of an education demonstration program which provides that the Secretary of Education shall establish a program of grants to local educational agencies. State educational agencies, consortia of public and private agencies, organizations and institutions, and institutions of higher education to establish not more than 10 demonstration programs in technology education for secondary schools.

The Senate amendment contains the same provision except that it also includes vocational educational centers and community colleges.

House recedes.

120. The Senate amendment, but not the House bill, lists components of the program to be addressed to the extent practicable".

House recedes with an amendment which creates a priority for awarding grants to grantees which propose to serve the most components and inserting in the definition "to the extent feasible" after "components".

121. The Senate amendment, but not the House bill, also specifies that the educational course content be based on the need to foster flexibility and assist students in meeting the challenge of a changing workplace.

House recedes with an amendment deleting the paragraph referring to the need to foster flexibility and inserting in the paragraph describing the concepts, processes and technological systems the following: "and relevant to the changing needs of the workplace".

122. The House bill, but not the Senate amendment, includes "human and material resources" and "processes" as subjects for developing students' abilities.

House recedes.

123. The House bill, but not the Senate amendment, specifies that the demonstration program will also include (a) an institute for the purpose of developing teacher capability in the area of technology education; (b) statewide implementation plan for disseminating exemplary materials and practices; and (c) a combined emphasis on "know-how" and "ability-to-do" in carrying out technical work.

Senate recedes with an amendment that the demonstration program will also include teacher training programs in lieu of subsection (a) which creates an institute for the purpose of developing teacher capability in the area of technology education; and keeping (b) and (c).

124. The Senate amendment but not the House bill, includes a provision for "stressing basic remedial skills in conjunction with training and automation literacy, robotics, computer-aided design, and other areas of computer-integrated technology".

House recedes.

125. The Senate amendment contains the following definitions:

(A)—"local educational agency" has the same meaning given such term in section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

House recedes.

(B)—"institution of higher education" has the same meaning given such term in section 1201(a) of the Higher Education Act of 1965.

House recedes with an amendment changing 1201(a) to 481(a)(1).

(C)—"Secretary" means the Secretary of Education.

House recedes.

(D)—"State educational agency" has the same meaning given such term in section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

House recedes.

(E)—"technology education" means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

The House bill does not contain a comparable provision.

House recedes.

126. (A) The House bill, but not the Senate amendment, authorizes "such sums" for fiscal years 1989 through 1993.

Senate recedes.

(B) The Senate amendment authorizes $2 million for fiscal year 1988 only.

Senate recedes.

127. Both the House bill and the Senate amendment revise Title III, Part C of the Carl D. Perkins Vocational Education Act (Adult Training, Retraining, and Employment Development). The House bill is a complete substitute for Part C. The Senate provision is in the form of an amendment to Part C.

(A) The House bill amends the statement of findings in current law to include a reference to "experienced" adult workers.

Senate recedes with an amendment to include experienced workers 55 years of age and older.

(B) The House bill also revises the findings of current law to place greater emphasis on adults who have less education, training, or skills and are disproportionately employed in low-wage occupations.

Senate recedes.

(C) The House bill refers to those persons as "individuals" and does not specify them as "women".

Senate recedes.

(D) The House bill deletes the listing of adults unable to benefit because of their limited English proficiency.

House recedes.

(E) The House bill adds "education and training programs, especially . . ."

The Senate amendment retains current law on these items.

Senate recedes.

128. The House bill, but not the Senate amendment uses "current" rather than "urgent" to describe needs to be met.

Senate recedes.

129. The House bill, but not the Senate amendment, deletes the clause listing populations with special needs.

Senate recedes with an amendment to include workers 55 years and older.

130. The House bill, but not the Senate amendment, adds the requirement of a board established to be the "grant recipient and catalyst to public-private training partnership".

Senate recedes.

131. The House bill adds the following new requirements to current law:

(1) that awards be limited to educational institutions which link up with private companies to train people for jobs in high-growth fields according to criteria developed by the State board of vocational education;

Senate recedes.

(2) that business be involved in the planning and operation of these programs; and

Senate recedes.

(3) that the private sector match 50% of the costs.

Senate recedes.

132. The House bill also specifies that this training may include entry-level training, customized training, retraining, and employee upgrading. The Senate amendment keeps current law.

Senate recedes.

133. The House bill deletes:

(A) the provision in current law listing the types of adults who are eligible to participate in this program and

Senate recedes.

(B) short-term training programs as an authorized activity. The Senate amendment keeps current law on both.

Senate recedes.

134. The House bill deletes an illustrative reference in current law to apprenticeship training programs, while keeping apprenticeship training as an item in the list of authorized activities. The Senate amendment retains current law.

Senate recedes.

135. The House bill deletes one of the authorized activities in current law (and in the Senate amendment)—building linkages between vocational education and the private sector—and replaces it with an authorized activity permitting shared programs between education institutions and businesses involving work experience.

Senate recedes.

136. The House bill, but not the Senate amendment, deletes the following Part C activities authorized in current law: curriculum development, acquisition of equipment, personnel training, use of funds to keep facilities open longer, meeting the costs of serving adults in other programs, and other related services as in (H) and (I).

Senate recedes.

137. The House bill requires the "active participation" of public and private sector

employers; current law (and the Senate amendment) requires the "close cooperation and participation" of such employers and agencies.

Senate recedes.

138. The Senate amendment, but not the House bill, adds a new section to current law: (1) specifically allowing funds to be used for vocational training and retraining in high technology occupations or to meet the technological needs of other industries; and (2) giving special consideration in such training to individuals 55 or older.

Senate recedes.

139. The House bill authorizes $50 million for FY 88 and such sums for the 5 following fiscal years for this program. The Senate amendment authorizes an additional $15 million for FY 88 and for FY 89 for workers described in 322(c).

The Senate recedes with an amendment authorizing $25 million for this new program and authorizing $15 million for the current adult training program, both of which are to expire in 1989 to conform with the Vocational Education Act.

140. The House bill, but not the Senate amendment, amends the authorized activities under the Title II basic grant program of the Perkins Act to add two new activities:

A. pre-employment skills training and

Senate recedes.

B. school-to-work transition programs.

Senate recedes.

141. The House bill, but not the Senate amendment, adds a new provision to require the Secretary to use an unspecified portion of the national program funds under the Perkins Vocational Education Act to conduct a demonstration program for secondary school students, intended to provide those students with career education work experience through partnership arrangements with the private sector.

Senate recedes.

142. The House bill amends Title III, Part E of the Perkins Act (the Industry-Education Partnerships for High Technology Training program) to authorize $50 million for FY 88 and such sums for FY 89. The Senate amendment authorizes an additional $10 million for each of the fiscal years 1988 and 1989 for Part E, for workers described in the new 343(d). (The current law authorizes such sums for both years.)

House recedes.

143. Unlike the House bill, the Senate amendment amends Part E of the Perkins Act to authorize the use of Part E funds for providing vocational education in high technology occupations or to meet the technological needs of other industries.

House recedes with an amendment permitting use of industry-education partnership funds for programs of entry into, retraining in, or advancement in high technology industries, especially for those 55 years of age or older.

144. The Senate amendment, but not the House bill, requires special consideration be given to persons aged 55 or older.

See above.

145. Unlike the Senate amendment, the House bill authorizes new demonstration programs, to be conducted in vocational training centers and community colleges, to provide basic skills to students to make them technologically literate. The authorization for this program is $2 million for FY 88 and such sums for FY 89.

Senate recedes.

146. The House bill, but not the Senate amendment, authorizes $5 million for FY 88 and such sums for fiscal years 1989-91 for "Access Demonstration Programs," a new program of grants in the Department of Education to educational research laboratories, to train secondary school personnel, including guidance counselors. The purpose of this program is to increase the educational opportunities for secondary students in rural areas.

Senate recedes with an amendment authorizing the program through fiscal 1991 and modifying the list of eligible institutions to include: institutions of higher education, private non-profit agencies and organizations (including regional educational laboratories, public agencies, state educational agencies, or combinations of such agencies or institutions within particular regions of the United States, and an amendment to change the reporting date to November 30, 1989.

147. The Senate amendment, but not the House bill, authorizes $400 million for FY 88 for a new program under Chapter 1 of ECIA. This program would provide grants to local educational agencies for secondary school compensatory basic skills improvement activities for disadvantaged students. These programs would be held to certain standards of evaluation and programmatic success.

House recedes with an amendment authorizing two separate national demonstration programs (dropout prevention and secondary basic skills) for fiscal 1988 with an authorization of $50 million for dropout prevention and $200 million for secondary skills.

148. The Senate amendment includes a technical amendment for the drug-free schools program. The amendment authorizes State educational agencies to distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private, non-profit schools.

The House bill does not contain a comparable provision.

House recedes.

149. The Senate amendment provides that this act shall take effect October 27, 1986.

The House bill does not contain a comparable provision.

The Senate amendment authorizes State educational agencies to allot FY 1987 funds to local and intermediate educational agencies and consortia, under section 4124(a) of the Drug Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-aged population.

House recedes.

150. The Senate amendment authorizes $3 million for FY 88 and for research to evaluate, and collect information on the education of gifted and talented children and youth. This center would make grants to or contracts with higher education institutions, State educational agencies or consortia of both. The House bill contains no such provision.

Senate recedes.

2. Section 572 of the bill amends Title VII of the HEA by adding a new part J, the "Agriculture, Strategic Metals, Minerals, and Forestry College and University Research Facilities and Instrumentation Modernization Program" (hereafter referred to as the "Priority program").

The Senate bill has no comparable provision.

Senate recedes with an amendment adding "Oceans" to the title of the program.

(a) It is the purpose of this program to assist institutions that specialize in agriculture, strategic metals and minerals, forestry and wood products research (hereafter referred to as specialized areas) in upgrading, modernizing, and replacing research facilities, equipment, and instrumentation used in the above mentioned areas of specialization.

The Senate bill has no comparable provision.

Senate recedes with an amendment adding "Oceans" and inserting the following sentence after the phrase "forestry research": "None of these funds will be available for the construction of new facilities.".

(b) The Secretary shall establish and carry out a Priority Program from funds available in any fiscal year.

The Senate bill has no comparable provision.

Senate recedes.

(c) The Priority Program shall be carried out through a competitively awarded, grants program to assist institutions in upgrading research facilities, equipment, and instrumentation. The Secretary shall consult with the Secretaries of Agriculture, Interior, and Energy in the development of regulations, award criteria, and final proposal funding.

The Senate bill has no comparable provision.

Senate recedes with an amendment which will include the Department of Commerce. The amendment also deletes the word "modernization" and substitutes the phrase "repair and renovation".

(d) Participating institutions shall provide 50 percent of the costs involved from non-federal or private sources. The Senate bill has no comparable provision.

Senate recedes.

(e) Selection criteria shall include:

(1) the quality of research or training to be carried out in the facility;

Senate recedes.

(2) congruence with the institutions' research activities and the research needs of the nation:

Senate recedes.

(3) contribution towards meeting national, regional, and State research activities; and

Senate recedes.

(4) the age and condition of existing facilities. The Senate bill has no comparable provisions.

Senate recedes.

(f) At least 20 percent of the funds available under this program shall be directed to institutions that receive less than $10,000,000 in Federal research and development activities in each of the previous two years.

The Senate bill has no comparable provision.

Senate recedes.

(g) In developing regulations and conducting this program the Secretary shall consult with other federal agencies concerned with research including the Departments of Agriculture, and Energy, and Interior.

The Senate bill has no comparable provision.

Senate recedes with an amendment which includes the Department of Commerce.

(h) The Priority program is authorized at $20,000,000 for fiscal year 1988 and such sums thereafter.

The Senate bill has no comparable provision.

Senate recedes with an amendment authorizing the program at $10 million for FY 1988 and such sums thereafter.

3. Section 573 of the bill amends Section 971 of title IX of HEA by:

(a) Clarifying the statutory language regarding the funding restrictions on Parts A and D; and

House recedes.

(b) Adding a new subsection to provide additional appropriations to encourage increased participation in graduate research training. The new subsection:

(1) Authorizes an additional $5,000,000 in fiscal year 1988 and such sums for the three succeeding years for Part A, Grants to Institutions to Encourage Minority Participation in Graduate Education.

House recedes.

(2) Authorizes an additional $4,000,000 in fiscal year 1988 and such sums for the three succeeding years for Part B, Patricia Roberta Harris Fellowships.

House recedes.

(3) Authorizes an additional $5,000,000 in fiscal year 1988 and such sums for the three succeeding years for Part D, Graduate Assistance in Areas of National Need.

The Senate bill has no comparable provisions.

House recedes.

4. Section 574 of the bill amends Section 607 of title VI of the HEA by adding a new subsection (e) to include Foreign Technical and Scientific Periodicals. The new subsection:

(1) Authorizes $1,000,000 in fiscal year 1988 and such sums for the succeeding three years to provide assistance in acquiring and providing access to foreign technical and scientific periodicals.

The Senate bill has no comparable provisioni.

House recedes.

(2) Provides that the Secretary shall provide for the acquisition and translation of technical and scientific journals published outside the United States and shall disseminate the translated documents to libraries, businesses, professional societies, and postsecondary institutions.

The Senate bill has no comparable provision.

House recedes.

(3) Provides that the Secretary shall consult with other departments and agencies of the federal government, businesses, and professional societies in determining which documents may be of value to the Federal Government, businesses, and researchers.

The Senate bill has no comparable provision.

House recedes.

5. Section 575 of the bill amends Section 1047 of Title X of the HEA by adding a new subsection authorizing an additional $10,000,000 for FY 1988 and such sums for the three succeeding years to fund new activities which are aimed at increasing the participation of minorities in scientific and engineering research careers.

The Senate bill has no comparable provisions.

Senate recedes with an amendment setting the additional authorization at $7.5 million and deleting the sentence, "In awarding funds appropriated under this subsection the Secretary shall not limit the awards on the basis of any criteria listed in Section 1022(b) of this title."

6. Section 575A of the bill amends title XII of HEA by adding a new section to include Technology Transfer Centers. The new seciton:

(a)(1) Authorizes $25,000,000 for fiscal year 1988 and such sums for each of the three succeeding years to develop, construct, and operate regional technical transfer centers to:

Senate recedes with an amendment authorizing $15 million for FY 1988 and such sums for the three succeeding years, of which the first $3 million appropriated shall be available for the training technology transfer program.

The Conferees intend that the technology transfer centers be encouraged to link through a national network to facilitate the transfer of technology throughout the various centers.

(A) Promote programs that further the transfer of technology relevant to a region's economy;

Senate recedes.

Develop incubator facilities for new economic initiatives;

Senate recedes.

(C) Provide technicial assistance to solve problems associated with technology transfer and start-up business;

Senate recedes.

(D) Consider the rural and urban needs for economic development with a region.

The Senate bill has no comparable provisions.

Senate recedes.

(2) Regional Technology Transfer Centers are authorized to:

(A) Build on or develop links to industrial users;

Senate recedes.

(B) Build on or develop necessary computer networks and databases;

Senate recedes.

(C) Utilize or develop regional or national libraries. The Senate bill has no comparable provisions.

Senate recedes.

(b) Awards shall be made on a competitive basis to new or pre-existing centers.

The Senate bill has no comparable provision.

Senate recedes.

(c) Each center shall be operated by a regional institution or consortium of institutions. Where necessary, Affiliate Centers can be established at institutions in other States.

The Senate bill has no comparable provision.

Senate recedes with an amendment including in subsection (c) university-related research park or center.

(d) Institutional applications must show:

(1) How the center will facilitate the regional economy;

Senate recedes.

(2) How the center's mission is compatible with the economic development plans for the States in the region;

Senate recedes.

(3) That the plan was developed in consultation with appropriate state agencies.

The Senate bill has no comparable provisions.

Senate recedes.

(e) Centers can be operated by institutions in consortia with existing campus facilities, other State and local agencies, non-profit agencies and interstate higher education institutions. The Secretary shall develop methods to assess the percentage of operating costs.

The Senate bill has no comparable provision.

Senate recedes with an amendment including in subsection (e) research park or center and also including solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

(f) Each Center shall establish a policy board. Such board shall be:

(1) representative of the State of the region; and

(2) representative of urban and rural areas, ethnic concerns, business, labor and education.

The Senate bill has no comparable provisions.

Senate recedes.

(g) Each center will be funded for five years with recompetition to occur before the fifth year. For the fourth and fifth years and any years funded thereafter, the Center will match federal funds with non-federal funds on a 50/50 basis.

The Senate bill has no comparable provision.

Senate recedes.

(h) The Affiliate Centers will be funded by the Regional Centers and by the institutions at which they are located, with funding levels to be set by the two entities.

The Senate bill has no comparable provision.

Senate recedes.

(i) After consulting with the Departments of Agriculture, Energy, Commerce, and Interior the Secretary shall propose a list of priorities for the Centers, and shall propose their regional composition.

The Senate bill has no comparable provision.

Senate recedes with an amendment in subsection (i) that a region may also be a State or a portion of a State's geographic area.

7. Section 575B of the bill amends Title V of HEA by adding a new part F, the "National Advisory Council on Instructional Technology" (hereafter referred to as the Council).

The Senate bill has no comparable provision.

House recedes.

(a) It is the purpose of the Council to provide for the future development of instructional technology as a resource for rural and urban schools. Members shall be appointed by the Secretary and shall include:

House recedes.

(1) representatives from leading higher education institutions in the field of instructional technology;

House recedes.

(2) representatives from the nine federal educational laboratories;

House recedes.

(3) representatives from the Centers, especially those with expected telecommunications facilities, rural and urban State officers, members of the hardware and software industries and national organizations of teachers;

House recedes.

(4) others, as determined by the Secretary, who will make a positive contribution to the Council.

The Senate bill has no comparable provisions.

House recedes.

(b) $300,000 is authorized for fiscal year 1988 and such sums as may be necessary for the succeeding three years to provide for the expenses of the Council.

The Senate bill has no comparable provision.

House recedes.

(c) The Council shall establish guidelines and an agenda for the development of educational telecommunications technology software to satellite down-link equipment for rural and urban schools with special care given to avoiding duplication of existing programing. The Council shall also develop a basis for interstate cooperation on accreditation of rural school programming since programming transcends State boundaries.

The Senate bill has no comparable provision.

House recedes.

(d) As established by the Council, the agenda will outline the needs and methods for developing programming for rural and urban schools.

The Senate bill has no Comparable provision.

House recedes.

8. Section 575C of the bill amends section 201(b) of the HEA amended to authorize an additional $5,000,000 for Part D, College Library Technology and Cooperation Grants, for fiscal year 1988 and for such sums in the three succeeding years.

The Senate bill has no comparable provision.

Senate recedes with an amendment setting this additional authorization at 2.5 million for fiscal 1988 and such sums thereafter.

9. Section 576 of the bill creates a new grants program for mid-career teacher training programs. The new program provides that:

(a) The Secretary shall make grants to institutions to establish and operate programs to provide mid-career teacher training to individuals who:

(1) hold a baccalaureate or advanced degree in an education related field, particularly mathematics, science or a foreign language and have job experience in such a field; or

(2) hold a baccalaureate or advanced degree and were formerly employed in an occupation in which they developed expertise in an education-related field, including mathematics, science, or a foreign language.

The Senate bill has no comparable provisions.

House recedes.

(b)(1) The Secretary shall award grants on a competitive basis. Institutions selected as recipients shall be awarded:

(A) an initial planning grant for use during the first two fiscal years after selection;

House recedes.

(B) for those institutions demonstrating success with the planning grant, a renewal grant for use during not more than two additional years following the date of expiration of the planning grant;

House recedes.

(C) for those institutions demonstrating success with planning and renewal grants, a continuation grant for not more than $50,000 per year.

The Senate bill has no comparable provisions.

House recedes.

(2) A continuation grant cannot be awarded unless the institution agrees to provide funding for the program for which the grant is received.

(A) For the first year, 33 and ⅓ percent of the amount of the continuation grant; and

House recedes.

(B) For each succeeding year for which a continuation grant is received, 50 percent of the amount of the continuation grant.

The Senate bill has no comparable provisions.

House recedes.

(c) The Secretary shall appoint a panel of experts in teacher training to review applications.

The Senate bill has no comparable provision.

House recedes.

(d) To the extent that funds are available, the Secretary shall select one applicant from each region served by the Department of Education where there is a qualified applicant.

The Senate bill has no comparable provision.

House recedes.

(e) The Secretary shall evaluate applications on the basis of an applicant's ability to establish and maintain a program of mid-career teacher training. Such a program shall meet the following requirements:

(1) The admissions process will be designed to admit individuals who possess the knowledge base and the characteristics to be good teachers.

House recedes.

(2) A clear set of goals and expectations shall be communicated to the participants.

House recedes.

(3) The program curriculum shall provide applicants with skills and credentials as well as a realistic perspective on the education process.

House recedes.

(4) The program shall be developed in cooperation and with the assistance of the local business community.

House recedes.

The program shall operate cooperatively between the institution and one or more State or local educational agencies.

House recedes.

(6) Active classroom teachers shall participate in the design and operation of the program, which will include in-service training and follow-up assistance.

The Senate bill has no comparable provisions.

House recedes.

10. (a) Section 577 of the bill authorizes an initial planning grant that shall not exceed $100,000 for the two year grant period.

The Senate bill has no comparable provision.

House recedes.

(b) a renewal grant shall not exceed $50,000 for each of the two year award period. The Senate bill has no comparable provision. No comparable provision.

House recedes.

11. (a) Section 578 of the bill requires that institutions who are awarded grants shall submit to the Secretary such reports as deemed necessary by the Secretary.

The Senate bill has no comparable provision.

House recedes.

(b) The Secretary shall disseminate information received regarding awarded programs to other institutions for the purpose of promoting the greater use of mid-career teacher training programs.

The Senate bill has no comparable provision.

House recedes.

12. Section 579 of the bill authorizes $4,000,000 in fiscal year 1988, and such sums as may be necessary in each of the three succeeding years.

The Senate bill has no comparable provision.

House recedes.

13. Section 581 of the bill authorizes the Secretary to make grants to institutions or consortia (hereafter referred to as "institutions") to:

(1) Establish and operate a summer institute or workshop for intensive training in foreign languages and cultures, as provided for under Section 584 of the bill.

House recedes.

(2) Acquire special equipment for undergraduate instruction in mathematics and/or science and to provide workshops for teachers and faculty on using such equipment as provided for under Section 586 of the bill.

House recedes.

(3) Establish and operate educational partnership programs between institutions of higher education and local educational agencies to provide advanced instruction to students in mathematics, science, and computer technology as provided for under Section 585 of the bill.

House recedes.

(4) Perform a combination of activities referred to in paragraphs 1 or 3 above.

The Senate bill has no comparable provisions.

House recedes.

14. Section 582 of the bill provides that:

(a) The Secretary shall make the selection of grant recipients on a competitive basis.

The Senate bill has no comparable provision.

House recedes.

(b) The Secretary shall award grants on a competitive basis, considering the quality of the application submitted under Sec. 583 (Applications) of the bill.

The Senate bill has no comparable provision.

House recedes.

(c) In awarding grants, the Secretary shall ensure that:

(1) 50 percent of the funds shall be used for summer institutes and workshops (Sec. 584) and educational partnerships (Sec. 586). The balance shall be used for the aquisition and use of equipment (Sec. 585);

House recedes.

(2) There will be an equitable geographic distribution of funds; and

House recedes.

(3) Awards shall not be less than $100,000 or greater than $500,000.

The Senate bill has no comparable provisions.

House recedes.

15. Section 583 of the bill provides that applications submitted to the Secretary shall contain:

(1) a description of activities that will be performed in accordance with Sections 584, 585, 586, or any combination;

House recedes.

(2) assurances that 50 percent of the cost of the program will be obtained from non-federal sources unless waived by the Secretary;

House recedes.

(3) a description of resources available to meet the matching requirement; and

House recedes.

(4) such additional information as the Secretary may require. The Senate bill has no comparable provisions.

House recedes.

16. Section 584 of this bill

(a) Authorizes the use of funds for:

(1) summer institutes in intensive foreign language training and cultures. Eligible participants include:

(A) secondary and postsecondary students;

House recedes.

(B) language teachers and faculty;

House recedes.

(C) individuals, to develop a level of proficiency that would allow transaction in international business; and

House recedes.

(D) American international businesspersons, to improve their effectiveness in transacting business abroad.

The Senate bill has no comparable provisions.

House recedes.

(2) intensive workshops for pre in-service teachers to demonstrate recent developments in science, technology, and mathematics.

House recedes.

(3) Provides stipends for secondary and postsecondary students and language teachers and faculty.

The Senate bill has no comparable provision.

House recedes.

(b) Institutions are authorized and encouraged to provide such training activities in a foreign country.

The Senate bill has no comparable provision.

House recedes.

(c) Institutions are authorized and encouraged to involve units of State and local government, labor, business, and industry.

The Senate bill has no comparable provision.

House recedes.

17. Section 585 of the bill provides that funds be made available for:

(1) the purchase of equipment for use in undergraduate mathematics and/or science instruction.

House recedes.

(2) workshops for teachers and faculty on the use of such equipment.

The Senate bill has no comparable provision.

House recedes.

18. Section 586 of this bill provides for:

(a) The use of funds for costs associated with educational partnerships between institutions of higher education and local agencies to provide advanced instruction in mathematics, science, and computer technology.

The Senate bill has no comparable provision.

House recedes.

(b) Specific uses include:

(1) costs of entering into business resource sharing with government, private business, industry, and institutions;

House recedes.

(2) stipends for faculty and staff involved in the program;

House recedes.

(3) development of curriculum to provide superior preparation in mathematics, science and for technology;

House recedes.

(4) acquisition of instructional materials; and

House recedes.

(5) additional student transportation costs.

The Senate bill has no comparable provisions.

House recedes.

(c) Funds awarded under this section cannot be used in connection with general overhead costs of the applicant.

The Senate bill has no comparable provision.

House recedes.

19. Section 587 of this bill authorizes $10,000,000 in fiscal year 1988 and such sums as may be necessary in each of the three succeeding years to carry out the provisions of this chapter.

The Senate bill has no comparable provision.

House recedes.

20. Section 601 of the Senate bill amends Title VI of the HEA to:

(1) redesignate sections 612 and 613 as sections 613 and 614.

The House bill has no comparable provision.

House recedes.

(2) And, adds a new Section 612, Centers for International Business Education (hereafter referred to as the "Centers").

The House bill has no comparable provision.

House recedes.

(A) The Secretary is authorized to make grants to institution(s) for planning, establishing, and operating centers for international business education.

The House bill has no comparable provision.

House recedes.

(1) The Centers will serve as a national resource to improve business education by emphasizing the international context in which business is transacted.

The House bill has no comparable provision.

House recedes.

(2) The Centers will provide intensive instruction in languages and cultures critical to understanding U.S. trading partners.

The House bill has no comparable provision.

House recedes.

(3) The Centers will provide training to students in the international aspects of trade, commerce, and related fields of study. They shall also serve as resources to business by providing programs and research designed to meet the needs of international business.

The House bill has no comparable provision.

House recedes.

(B) Each grant made under this section will pay the Federal cost of planning, establishing, or operating a Center, including:

(1) faculty and staff travel;

(2) teaching and research materials;

(3) curriculum planning and development;

(4) visiting faculty and scholars;

(5) staff training and improvement.

The House bill has no comparable provisions.

House recedes.

(C)(1) Center programs and activities shall include:

(A) interdisciplinary international studies that incorporate business related studies;

House recedes.

(B) interdisciplinary programs that provide business-related studies for international and foreign language faculty and advanced degree candidates;

House recedes.

(C) evening or summer programs, not limited to foreign language, to improve the international business skills of the business community;

House recedes.

(D) collaborative programs involving institutions, educational agencies, professional societies, and businesses to develop international skills and awareness for the members of the business community;

House recedes.

(E) research designed to strengthen and improve the international aspects of business and to promote integrated curricula;

House recedes.

(F) research designed to improve the international competitiveness of the American business community, including those who are not yet involved in international trade.

The House bill has no comparable provisions.

House recedes.

(2) Center programs and activities can include:

House recedes.

(A) establishment of overseas programs for faculty and students;

House recedes.

(B) other activities deemed eligible by the Secretary.

The House bill has no comparable provision.

House recedes.

(d)(1) In order to be eligible for assistance, an institution(s) shall establish an advisory council which will conduct extensive planning (hereafter referred to as "the Council".)

House recedes.

The House bill has no comparable provision.

(2) The Council shall include:

(A) a representative from the institution.

(B) a representative from the business or management faculty.

(C) a representative from the foreign language or international studies faculty.

(D) one representative from another professional school or department at the institution.

(E) one or more representatives from local business.

(F) one representatives appointed by the Governor, whose responsibilities include oversight of State-sponsored trade-related activities.

(G) other representatives as the institution deems appropriate.

The House bill has no comparable provisions.

House recedes.

(3) The Council shall meet at least once each year, to assess and advise the Center on its activities. The House bill has no comparable provision.

House recedes.

(e)(1) The Secretary shall make grants for a minimum of three years. The House bill has no comparable provision.

House recedes.

(2) The Federal share shall be:

(A) not more than 90 percent in the first year;

(B) not more than 70 percent of the second year; and

(C) not more than 50 percent of the third year;

The House bill has no comparable provisions.

House recedes.

(3) The non-Federal share may be provided in cash or in-kind assistance. The House bill no comparable provision.

House recedes.

(f)(1) Grants shall be made on such conditions as the Secretary deems necessary. Such conditions shall include:

House recedes.

(A) evidence that the institution will conduct extensive planning prior to the establishment and in the design of the programs.

House recedes.

(B) assurance of on-going collaboration with the faculties of business, management, foreign language, and international studies, and other appropriate professional schools.

House recedes.

(C) assurances that programs will be open to students in these respective areas.

House recedes.

(D) assurances that the institution will use these funds to supplement and not supplant on-going similiar activities.

The House bill has no comparable provisions.

House recedes.

21. (a) Sec. 602 of the Senate bill authorizes $10,000,000 for fiscal year 1988 and for

each of the three succeeding years to carry out the provisions of section 612 (Centers of International Business).

House recedes.

21. (b) $5,000,000 is authorized for fiscal year 1987 and such sums as may be necessary in each of the four succeeding years to carry out the provisions of section 613.

The House bill has no comparable provision.

Senate recedes.

22. Sec. 603 of the Senate bill amends section 613 of the HEA by striking out "part" each time it appears, and inserting, "section".

The House bill has no comparable provision.

House recedes.

23. (a) Sec. 611 of the Senate bill amends section 417D(d)(C) of the HEA (the Ronald E. McNair Post-Baccalaurate Achievement programs). The amendment raise the amount of funding for projects under this program to $5 million annually if the annual appropriation for the Trio programs equals or exceeds $176 million.

House recedes setting the trigger at $215 million.

24. (a)(1) Sec. 2821 of the Senate bill amends section 428(b)(1)(H) of the HEA (Insurance program agreements) to provide for the collection of a single insurance premium:

Senate recedes.

(i) which shall be applied uniformly to all loans guaranteed; and

Senate recedes.

(ii) is not less than .5 percent nor more than 3 percent. In the case of a multi-state guarantor, the premium may be set for each state for which the guarantor has received advances, with a single rate being set for the balance of activity.

The House has no comparable provisions.

Senate recedes.

(2) Section 428(b)(1) of the HEA is further amended redesignating paragraph U as V and by adding the following new paragraph U that provides guarantors, after a 60 day notice, to cease to guarantee loans for students at otherwise eligible institutions if the cumulative default rate of the loans from such an institution in repayment exceeds 25 percent of the amount insured by the guarantee agency that holds the preponderance of the value of the loans outstanding at such an institution, unless the guarantor is the designated guarantor for the State and serves as the leader of last resort.

The House bill has no comparable provision.

Senate recedes.

(b)(1) The amendments made by subsection (1) (uniform premium) are effective 30 days after enactment of the bill.

The House bill has no comparable provision.

(2) The amendments made by subsection (2) (cease to guarantee loans) are effective 90 days after the enactment of the bill.

The House bill has no comparable provision.

Senate recedes.

25. Sec. 2822 of the Senate bill amends section 25 of the Higher Education Technical Amendments Act of 1987 by: striking out "Section 1703" and inserting "Section 1705(b)(3)."

The House bill has no comparable provision.

House recedes.

The following sections of the Senate bill were not included in the side-by-side, but were considered by the Conferees and agreed to as follows:

Section 2305

Senate recedes.

Sections 2501 and 2502

Technical

Section 2405

House recedes.

Section 3251

House recedes with an amendment excluding the Literacy Corps from this provision.

Section 3252

House recedes.

SUBTITLE D—EMPLOYMENT AND TRAINING FOR DISLOCATED WORKERS

SHORT TITLE (SEC. 301 IN HOUSE BILL; SEC. 2201 OF SENATE AMENDMENT

House bill

Worker Readjustment Act.

Senate amendment

Economic Dislocation and Worker Adjustment Assistance Act.

Conference agreement

The House recedes.

A.—Amendment to Title III of Job Training Partnership Act

Both the House bill and the Senate amendment expand and restructure the existing Title III of the Job Training Partnership Act with a new set of provisions dealing with dislocated workers. However, there are significant differences in the structures of the House and Senate versions. The House bill establishes separate funds for readjustment and retraining services. The Senate amendment distributes a single set of funds to the states, though it contains certain requirements on how states and substate areas must allocate those funds.

The requirement in current law that states match some or all of the funds made available to them under Title III was not included in either the House bill or the Senate amendment, and is not included in the Conference agreement.

1. FINDINGS AND STATEMENT OF PURPOSE (SECS. 302 AND 303 IN THE SENATE AMENDMENT)

Present Law

No special findings or statement of purpose for Title III.

House bill

No provision.

Senate amendment

The Senate amendment states findings of Congress: the ability of the United States economy and U.S. workers to move quickly and effectively to new jobs is a strong competitive asset that should be supported and enhanced; some plant closings and permanent layoffs are inevitable in a healthy, competitive economy; the loss of experienced employees from the workforce weakens overall productivity in the United States; it is in the national interest to foster reemployment of workers who have been permanently displaced; technical assistance must be made available at the local level to help employers resolve their human resource problems and remain economically viable; fully meeting the needs of dislocated workers and impacted communities can only be accomplished in an economy that is providing an adequate number of jobs.

With respect to worker adjustment, the Senate amendment stated further findings: adjustment efforts should begin in advance of a plant closing or mass layoff, thus minimizing disruption in workers' lives; time for research and planning is necessary and, therefore, advance notification is an essential component of a successful adjustment program; adjustment is best accomplished by those directly involved, preferably through publicly supported labor-management committees that engage in private adjustment measures; dislocated workers often do not receive good information about the jobs and wages available in local and neighboring labor markets; dislocated workers need effective assessment, testing, and vocational counseling, which should include an individual readjustment plan as the key to occupational change; and the job search assistance currently provided to dislocated workers is uneven in quality and availability.

The Senate amendment stated that the purpose of this title is to: enhance the international competitiveness of the American economy; facilitate the return of dislocated workers to productive employment; establish the earliest possible readjustment capacity for workers and firms in each state; provide comprehensive coverage to workers regardless of the cause of their dislocation; emphasize training and reemployment rather than income support; provide early referral from the unemployment compensation system to adjustment services; offer broad flexibility at the Federal, state, and local levels to try new approaches, as well as to use approaches that have proven to be effective in helping different types of dislocated workers; and promote management, labor, and community partnerships with government in addressing worker dislocations.

Conference agreement

The Senate recedes. However, the Conferees reaffirm these findings and purposes, with the intent of providing a better understanding of the legislation.

2. CARRYOVER OF FUNDS (SEC. 302(B) IN HOUSE BILL; SEC. 314(C) IN SENATE AMENDMENT)

Present law

Under present law, the Secretary may reallot any amount of any allotment to a state to the extent that the Secretary determines that the state will not be able to obligate such amount within one year of allotment.

House bill

The House bill allows appropriations for a given fiscal year to remain available for obligation during the next fiscal year.

Senate amendment

The Senate amendment allows no more than 20 percent of funds allocated to the the state to remain available for obligation and expenditure during the next fiscal year.

Conference agreement

The House recedes.

3. ALLOCATION OF FUNDS (SEC. 302(C), 332 OF HOUSE BILL; SEC. 313 OF SENATE AMENDMENT)

Present law

The Secretary may reserve up to 25 percent of the amount appropriated to carry out Title III for distribution by the Secretary to the states for services to dislocated workers. The Secretary shall establish criteria for awarding assistance from such reserved funds. The remaining 75% shall be allotted among the states as follows: one third alloted among the states on the basis of the relative number of unemployed individuals who reside in each state; one third on the basis of the relative excess number of unemployed individuals who reside in each state ("excess number" being defined as those in excess of 4.5 percent of the civilian workforce); and one third on the basis of the relative number of individuals who have been unemployed for fifteen weeks or more and who reside in each state.

In order to qualify for assistance under Title III, each state must demonstrate that it will expend funds for dislocated worker activities that have been raised from public or non-Federal private sources and that at least equal the amount made available under the formula allocation. This matching requirement is reduced where a state has a higher than average rate of unemployment.

House bill

The House bill allots appropriations so that 30 percent is available to states for their delivery systems, including rapid response and basic readjustment services; 50 percent is available in a special fund for retraining services; and 20 percent is available for Federal readjustment services.

The House bill retains the formula in present law for alloting funds to the states, for use in alloting the 30 percent for state delivery systems, except that the bill further requires that as soon as satisfactory data are available, the Secretary shall allocate 25 percent of the funds according to data on plant closings and permanent layoffs and farmer and rancher dislocation, and reduce the amount allocated on the basis of the present factors from one-third for each factor to one-fourth for each factor.

The House bill further allows governors to retain no more than 10 percent of the 30 percent share alloted for basic readjustment services for state-level administration, state council staff, technical assistance, coordination, and rapid response activities. Governors may retain an additional 10 percent for discretionary use on any allowable basic readjustment service for readjustment training. Remaining funds must be allocated among substate areas according to a formula prescribed by the governor, but which may not be amended more than once a year.

Senate amendment

The Senate amendment allocates appropriations so that 75 percent is available to the states for rapid response services, retraining, and basic readjustment services; and 25 percent is available for Federal readjustment services. Not more than $2.5 million of the amounts available for federal readjustment services shall be allocated among the Commonwealth of the Northern Mariana Islands and the other territories and possessions of the United States.

The Senate amendment uses the formula in present law for alloting funds among the states. The Senate amendment further directs the Secretary to report to Congress on the advisability of alloting 25 percent of funds according to data on plant closings and permanent lay-offs within thirty days after such data become available.

The Senate amendment further requires governors to allocate at least 50 percent of funds among substate areas after considering all appropriate information pertaining to the state's worker adjustment needs, including but not limited to the factors listed in the House bill. The remainder of a state's allotment shall be retained by the governor for state administration, technical assistance, coordination of the programs authorized under this title; statewide or industry-wide projects; rapid response activities; establishment of linkages between the unemployment compensation system and the worker adjustment system; and discretionary allocation for basic readjustment and retrainings services for areas that experience substantial increases in the number of dislocated workers. These discretionary allocations may be used to supplement the activities of substate grantees where increased or unanticipated dislocation occurs and warrants additional funding from the state. The governor also may provide discretionary funds for substate outreach efforts.

Conference agreement

The Conference agreement allocates 20 percent of the appropriations for Federal readjustment services and 80 percent for state readjustment services. It also provides that not less than 50 percent of the funds allocated to any substate grantee shall be expended for retraining services.

The agreement follows present law with respect to the formula for allotment of funds for state readjustment services among the states. The Conference agreement follows the House bill's provision on changing the allotment formula as soon as satisfactory data are available on plant closings and permanent layoffs, and farmer and rancher dislocation. The Conferees understand that the data on plant closings and permanent layoffs will be available sooner than data on dislocated farmers and ranchers. The Conferees intend that the fourth factor be included in the allotment formula when the closings and layoffs data is available, even if the farmer and rancher data is not yet available at that time.

The Conference agreement specifies that the governor be able to retain no more than 40 percent of a state's allotment for statewide dislocated worker activities. The list of these activities generally follows the Senate amendment. The governor also may withhold an additional 10 percent of a state's allotment at the beginning of the program year, so long as this amount is distributed on the basis of need to substate areas during the first nine months of the program year. The conferees emphasize that, if this additional 10 percent is retained by the governor at the outset of the program year, that amount is to be distributed to the substate areas in a timely fashion to supplement the funds already allocated for substate readjustment activities. The Conference agreement follows, with two exceptions, the House bill with respect to the manner in which the governor must allocate funds among the substate areas. The first exception is that the governor must allocate funds to "substate areas," rather than to "all substate areas." Second, the formula for allocation "shall" (rather than "may") include the factors listed in the House bill.

The remaining 50 percent of the state's allotment must be distributed to the substate grantees by a formula developed by the governor. The Conferees intend that none of the additional 10 percent funds retained at the beginning of the program year be used for state-wide activities, including rapid response or state administrative functions. The Conferees wish to make absolutely clear that this additional 10 percent be distributed to the substate grantees.

The Conferees wish to clarify that the governor must use the six-factors listed in section 302(d) to develop the substate allocation formula. No weighting factors are provided in the law, and the governor may use other factors in the development of the allocation formula.

Governors are encouraged to use the most appropriate data available. The Conferees do not intend, however, that the cost of this data collection become prohibitive. Therefore, if data already exist that reflect the formula needs, new data need not be collected to meet the requirements of this provision.

4. ELIGIBLE DISLOCATED WORKER (SEC. 303(a) IN HOUSE BILL; SEC. 301(1) IN SENATE AMENDMENT)

Present law

Present law defines eligible dislocated workers to include individuals who (1) have been terminated or laid off or have received a notice of termination or layoff and are eligible for or have exhausted unemployment compensation, (2) have been terminated as a result of a permanent closure of a plant, (3) are long-term unemployed with limited opportunities for reemployment in the same occupation, or (4) have been self-employed (including farmers and ranchers) and are unemployed as a result of general economic conditions in the community or because of natural disasters. Present law further specifies that a state may serve any eligible individual without regard to the residence of that individual.

House bill

The House bill generally follows present law, with two exceptions. First, the House definition includes workers terminated as a result of a substantial layoff. Second, the House bill specifies that only eligible individuals are authorized to receive services, which may not be denied on the basis of residence of the individual.

Senate amendment

The Senate amendment generally follows the House bill, with several exceptions: the second category of eligibility does not include termination as a result of a substantial layoff; the long-term unemployment in the third category is specified as being at least fifteen weeks; the fourth category does not specify ranchers as a kind of self-employment and requires the Secretary to establish categories of self-employment and of economic conditions and natural disasters to which the fourth category applies; the amendment adds a fifth category of displaced homemakers; and, finally, there is no provision specifying that only eligible individuals may be served or that they must not be denied services on the basis of residence.

Conference agreement

The Senate recedes. The eligibility of displaced homemakers is dealt with in the requirements for the state plan, discussed later in this report.

5. DEFINITIONS (SEC. 303(b) IN HOUSE BILL; SEC. 301 IN SENATE BILL)

Present law

At present, Title III of JTPA contains no definitions. However, the definitions in section 4 of JTPA, notably including the definition of "State," are applicable to Title III.

House bill

The House bill includes definitions of "basic readjustment services," "dislocation event," "early readjustment assistance," "grant recipient," "local elected official," "recipient," "service provider," "substate area," "substate grantee," and "retraining services." The bill further specifies certain typical features of voluntary joint labor-management committees, including shared and equal participation by workers and management; shared financing between the company and the State; a neutral chairperson jointly selected by labor and management; ability to respond flexibly to worker needs; a formal agreement; and local job identification activities on behalf of affected workers.

Senate amendment

The Senate Amendment follows the House bill in its definitions of "local elected official," "service provider," "substate area," and "substate grantee." It does not include definitions of "basic readjustment services," "retraining services," "dislocation event," "early readjustment assistance," and "grant recipient." The Senate amendment includes definitions of "private industry council," "rapid response," "rapid response capability," "rapid response team," "State," and "state unit." The Senate amendment specifies that labor-management committees are voluntary, consist of employee and employer representatives, assist in the adjustment of dislocated workers, and may have a neutral chairperson.

Conference agreement

The Conference agreement accepts the House bill definitions of "local elected official," "service provider," "substate area," and "substate grantee." The agreement eliminates all other definitions included in the House bill or Senate amendment, except for the definitions of "labor-management committee" and "State." The Conference agreement generally adopts the House bill's definition of "labor-management committee," except that the modifier "joint" has been omitted. The agreement accepts the Senate amendment definition of "State."

The only definition from current section 4 of JTPA that is changed specifically for Title III is the definition of "State," which is defined in the Conference agreement to include any of the several states, the District of Columbia, and the Commonwealth of Puerto Rico. Allotment of funds to the other territories and possessions of the United States included in the section 4 definition of "State" is dealt with separately for purposes of Title III.

6. WORKER READJUSTMENT AGREEMENT (SEC. 311 IN HOUSE BILL)

Present law

No provision.

House bill

The House bill requires each state Governor, as a requirement for receiving funds under this title, to develop a Worker Readjustment Agreement no later than four months before the beginning of the program year. The agreement must provide assurances that all programs will be operated in accordance with law.

Senate amendment

No provision

Conference agreement

The House recedes.

7. STATE COUNCIL (SEC. 312(A) IN HOUSE BILL; SEC. 2202(C) OF SENATE AMENDMENT)

Present law

Section 122 of the Job Training Partnership Act contains a requirement that each state desiring to receive financial assistance under the Act establish a state job training coordinating council, to be appointed by the Governor.

The state council shall be composed of one-third representatives of business and industry in the state; not less than 20 percent representatives of state legislatures and state agencies and organizations; not less than 20 percent representatives of general local government in the state; and not less than 20 percent representatives of the eligible population and the general public, organized labor, community-based organizations, and local education agencies.

House bill

The House bill requires each Governor to establish a State worker readjustment council, composed equally of representatives of labor, management, and public and private nonprofit organizations. Qualified members of existing State job training coordinating councils would receive first priority. Second priority would go to individuals recommended by business, labor, or other appropriate agencies, including representation from urban and rural areas within the State.

Senate amendment

The Senate amendment amends the existing State job training coordinating council under JTPA. The reconstituted council would continue to have duties pertinent to the entire Act. Members would be appointed by the Governor—after consulting labor, business, and other appropriate agencies, including lcoal governments. Membership would be composed of 30% business and industry representatives, 30% State and local government and local education agency representatives, 30% organized labor and community-based organization representatives, and 10% representation from the general public.

The Senate amendment further changes present law to require that the governor appoint the council after consulting with labor organizations, business, and other organizations affected by worker dislocation, including local governments, and that the governor designate one member to be chairperson.

Conference agreement

The Conference agreement follows the Senate amendment with respect to the composition of the council. The Conference agreement changes only the section 122(a)(3) requirements for composition of the council and does not change the provisions of present law concerning appointment to the council. Moreover, there is no requirement that every group enumerated in each membership category be represented on the council. The requirement is only that the membership be drawn from among these groups.

8. FUNCTIONS OF STATE COUNCIL (SEC. 312(b) IN HOUSE BILL; SEC. 316 IN SENATE AMENDMENT)

Present law

Present law does not include a lsit of functions for the council specific to Title III, but does include a list of overall duties under section 122(b) of the Act.

House bill

The House bill requires the state worker readjustment council to advise the Governor on designation of substate areas and substate grantees, develop a State plan for submission to the Governor, advise the Governor on distributing funds for readjustment training, advise the Governor on approval of substate plans, and advise the Governor on performance standards.

Senate amendment

The Senate amendment requires the State job training coordinating council to meet regularly (not less than quarterly), regularly review activities conducted under this title within the State, comment to the Governor and the Secretary on such reviews, review and comment on the State's biennial plan, review and comment on the substate plans, and perform such other advisory functions as the Governor may assign. The Senate amendment also requries the Governor to ensure adequate funds for the State council to perform its functions.

Conference agreement

The Conference agreement includes specific Title III functions for the council: providing advice to the governor regarding the use of funds under this title (including the designation of substate areas and grantees and the method for distribution of funds reserved or subject to reallocation), submission of written comments to the governor and Secretary on state and substate programs, submission of written comments on the state plan (and any modifications), submission of written comments on substate plans, and advising the governor on performance standards.

9. SUBMISSION OF STATE PLAN (SEC. 313(A) IN HOUSE BILL; SEC. 305(A) IN SENATE AMENDMENT)

Present law

Present law requires any state that desires to receive financial assistance under Title III to submit to the Secretary a plan for the use of such assistance.

House bill

The House bill requires state Governors to submit an annual plan to the Secretary in order to receive funds under this title. The bill further requires the state plan to include performance standards which must include incentives to provide longer-term training to workers who require it, consistent with section 106(g).

Senate amendment

The Senate amendment requires state Governors to submit a biennial plan to the Secretary in order to receive funds under this title. The plan must be submitted on or before the first day of May preceding the first program year for which funds are requested. The Senate amendment contains no provision on performance standards.

Conference agreement

The Conference agreement generally follows the Senate amendment. The agreement specifies that the state plan shall include incentives to provide training of greater duration for those who require it, consistent with section 106(g).

10. CONTENTS OF STATE PLAN (SEC. 313(b) IN HOUSE BILL; SEC. 305(A) IN SENATE AMENDMENT)

Present law

The only specifically required contents of the state plan under current law are provisions for coordinating with low income weatherization and other energy conservation programs, and social services.

House bill

The House bill requires the state plan to include assurances that services will be provided only to eligible workers and will not be denied solely on the basis of an individual's residence, that services will be available in all areas of the state, that substate areas and grantees will be designated in accordance with this title, that the state worker readjustment council will perform the functions required by this title, and that funds will be allocated and reallocated among substate areas as required in this title. The House bill further requires the state plan to describe the methods that will be used to provide: planning instructions and guidance, technical assistance; monitoring, assessment and evaluation of the program by the state; substate reporting requirements; advice to substate grantees; promotion of labor-management cooperation; coordination with appropriate state programs, including economic development, education, training and social services; and coordination with vocational education and the Employment Service.

Senate amendment

The Senate amendment requires the state plan to demonstrate the following: services will be available to eligible workers through rapid response teams, substate grantees and other organizations; employees will be served equally regardless of state residency; the Governor has established and will support a state job training coordinating council in accordance with this title; the state council has reviewed and commented on the plan; the state will operate an adequate monitoring and reporting system; programs will be coordinated with other services for dislocated workers, including the Employment Service and unemployment insurance; services will be coordinated with Trade Adjustment Assistance; labor organizations will be consulted when substantial numbers of union members are to be served; individuals will not be disqualified from receiving unemployment insurance; performance standards will not be inconsistent with other sections of this title; the state dislocated workers unit and job training coordinating council will coordinate with the state agency responsible for veterans affairs.

Conference agreement

The Conference agreement requires that each state plan contain provisions demonstrating that the state will comply with the requirements of this title. It also requires provisions demonstrating the following: services will be provided only to eligible dislocated workers; services will not be denied to eligible workers displaced by a permanent closure or substantial layoff in a state, regardless of the state of residence of the workers; services may be provided to other eligible workers regardless of their state of residency; the state will designate or create an identifiable state dislocated worker unit to respond rapidly to permanent closures and substantial layoffs; the state unit will make appropriate retraining and basic adjustment services available, work with employers and labor organizations in promoting labor-management cooperation, operate a monitoring and reporting system to provide adequate information for effective program management, and provide technical assistance and advice to substate grantees; the state will provide additional dislocated workers (as defined elsewhere to include displaced homemakers) with the services available under this title to eligible dislocated workers only if the governor determines that the services may be provided to additional dislocated workers without adversely affecting the delivery of the services to eligible dislocated workers; the state unit will exchange information and coordinate programs with the appropriate economic development agency, state education and training and social services programs, and all other programs available to assist dislocated workers; the state unit will disseminate information on the availability of services throughout the state; labor organizations will be consulted when substantial numbers of their members are to be served; the state will not prescribe any standard for programs under this part that is inconsistent with section 106(g); the state job training coordinating council will review and comment on the plan; and the delivery of services with funds made available under this title will be integrated or coordinated with the Trade Adjustment Assistance programs in the state.

Services provided to additional dislocated workers should be part of ongoing programs and activities authorized under this title and not separate and discrete programs. Furthermore, governors may use their reserved funds to provide additional assistance to substate areas where unanticipated dislocation warrants such assistance.

11. PROCEDURES FOR REVIEW, APPROVAL, AND ENFORCEMENT OF STATE PLANS (SEC. 305(b) IN SENATE AMENDMENT)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment establishes procedures for timely review and approval of the state plan by the Secretary and requires notice and opportunity for a hearing before the Secretary may make a final disapproval of a plan. State plans may be modified at any time, if agreed to by the Governor and the Secretary. The Secretary must investigate any complaints or reports that a state is not complying with its plan. Failure to comply may result in financial penalites, after states have been given notice and opportunity for a hearing.

Conference agreement

The Conference agreement generally follows the Senate amendment. The provision on penalties for noncompliance is retained, but the Conference agreement specifies that the special penalty of withheld funds is to be imposed only where remedies generally available under JTPA are unavailable or inadequate to achieve state compliance with the terms of the state plan.

12. RAPID RESPONSE ASSISTANCE (SEC. 314(a)-(c) IN THE HOUSE BILL; SEC. 305(a) AND 306(b) IN SENATE AMENDMENT)

Present law

No provision

House bill

The House bill requires each state to designate an identifiable state dislocated worker unit or office, with the capability to respond rapidly (preferably within 48 hours), on site, to mass dislocation events throughout the state, in order to assess the need for, and initially provide, early readjustment assistance. Each state shall also ensure the capability to respond to dislocation events in sparsely populated areas where other forms of rapid response are inappropriate. The House bill further provides that the dislocated worker unit include specialists who will establish on-site contact with employer and employee representatives within a short period of time after becoming aware of a dislocation event, and who will promote the formation of labor-management committees, collect information related to economic dislocation, provide or obtain appropriate financial and technical advice and liaison with other organizaions, and disseminate information throughout the state on the availability of services. With respect to labor-management committees, the unit shall have authority to assist immediately in the formation of these committees, including providing immediate financial assistance; providing a list of individuals from which the chairperson may be selected; and serving as resource persons for technical advice, information, and liaison with other services and programs.

The House bill specifies that Governors may delegate rapid response functions to a local entity which has demonstrated its capacity to provide these services prior to enhancement of this program. The House bill further requires each state to ensure the capability to respond to dislocation events where other forms of rapid response are inappropriate, especially in sparsely populated areas. This capability may include widespread outreach mechanisms, financial evaluation and counseling, initial assessment and referral for further services through substate grantees, and assistance to substate grantees in establishing regional centers for outreach, assessment and early readjustment assistance.

Senate amendment

The Senate amendment requires that funds allocated to a state under this title shall be used to establish and maintain a rapid response capability, enabling the state unit to respond immediately to plant closings and mass layoffs by prompt on-site delivery of appropriate information and necessary dislocated worker services. The capability may include emergency assistance centers geared to particular plant closings; development of direct service delivery teams; development of a system for early identification of prospective plant closings and mass layoffs; and ongoing and continued support for labor-management committees. Rapid response personnel may gather information related to economic dislocation and engage in the formation and support of those committees. Such personnel are also authorized to provide to the committee a list of individuals from which an impartial chair may be selected, serve as ex officio members, serve as resource persons to provide technical advice and information, facilitate the selection of worker representatives, collect information on potential closings and layoffs, and assist the local community in developing its own coordinated response and in obtaining access to state economic development assistance. A state may provide funds for exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

Conference agreement

The establishment and maintenance of rapid response capabilities are among the most important tasks that states can perform to facilitate the prompt and satisfactory reemployment of dislocated workers. With respect to a state dislocated worker unit, the conference agreement requires each state to designate or create an indentifiable state dislocated worker unit or office, with the capability to respond rapidly (preferably within 48 hours), on site, to permanent closures and substantial layoffs throughout the state in order to assess the need for, and initially to provide for, basic readjustment services. The Conference agreement contains no requirement in this provision that states ensure the capability to respond to dislocation events where normal rapid response is inappropriate. However, as described elsewhere in this report, each substate area is required to plan for expeditious response to dislocation events where a state rapid response would be inappropriate, such as where only a small number of workers is affected.

The Conference agreement also generally follows the House bill in the list of responsibilities for specialists in the dislocated worker unit, again with a number of modifications: the on-site contact is called for after the unit becomes aware of "a current or projected permanent closure or substantial layoff"; the responsibility of the specialists is to "collect," rather than "obtain," information related to economic dislocation; and the responsibility to assist the local community in developing its own coordinated response, as specified in the Senate amendment, has been included. The Conferees encourage the prompt notification of substate grantees by the rapid response specialists when rapid response activities are conducted within the substate area.

The Conference agreement does not permit a governor to delegate the rapid response responsibility to a local entity.

The Conference agreement contains a modified version of the Senate amendment's authority for the state to provide exploratory funds for a possible purchase of a plant. The Conference agreement specifies that a state may provide funds allocated under this title, where other resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation. The Conferees intend the the use of funds for this purpose be limited and not be the usual practice in closure situations. Other funding will often be available from private or other public sources, and it is not the purpose of this provision to supplant those other resources. The Conferees intend this provision to allow funding of what are commonly known as "prefeasibility studies" and do not intend funds to be spent under this provision for full-scale feasibility studies.

13. RELATIONSHIP TO UNEMPLOYMENT COMPENSATION SYSTEM (SEC. 314(d) IN HOUSE BILL; SEC. 306(f) IN SENATE AMENDMENT)

Present law

No directly comparable provision. However, section 302(d) of the existing Title III provides that acceptance of training opportunities under such title shall be deemed approved training for purposes of qualifying for Federal unemployment benefits.

House bill

The House bill makes each state responsible for coordinating the unemployment compensation system and worker readjustment programs within that state, including criteria for early identification of those having the most difficulty in finding employment; mechanisms for early referral of individuals to readjustment services; procedures for informing unemployment compensation recipients, at the time eligibility is determined, that receipt of future benefits will be based on early enrollment in retraining services; and measures to ensure compliance with the approved training rule.

Senate amendment

The Senate amendment requires states to establish programs to link the unemployment compensation system and the worker readjustment program. Such programs must include criteria for early identification of those having the most difficulty in finding employment; mechanisms for early referral of individuals to readjustment services; methods to prepare the unemployment system for its new responsibilities; and measures taken to ensure compliance with the approved training rule. Such programs may also include financial incentives for employers through amendments to state unemployment compensation laws.

Conference agreement

The Conference agreement provides that funds allocated under this title may be used for coordination of worker readjustment programs and the unemployment compensation system, consistent with the statutory limit on administrative expenses. Each state shall be responsible for coordinating the two systems within that state.

14. DESIGNATION OF SUBSTATE AREAS (SEC. 315 IN HOUSE BILL; SEC. 307(a)-(b) IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill requires the governor of each state participating in the program to designate substate areas for the state, after receiving recommendations from the state council. The bill further provides that the governor must designate as a substate area any service delivery area (SDA) with a population of 200,000 or more and any concentrated employment grantee for a rural area; the governor must also designate any two or more contiguous service delivery areas that in the aggregate have a population of 200,000 or more and that request such designation, unless the governor determines that such a designation would not be consistent with the effective delivery of services or would be otherwise inappropriate. The designations made under this section may not be revised more than once every two years. Each service delivery area within a state shall be included within a substate area and no service delivery area shall be divided among two or more substate areas.

Senate amendment

The Senate amendment provides that the governor of each state shall, after receiving recommendations from the state council, designate substate areas, consisting of one or more service delivery area. The governor must designate as a substate area each service delivery area with a population of 500,000. In smaller areas the governor may designate any service delivery area or combination of two or more contiguous service delivery areas.

Conference agreement

The Senate recedes. The Conferees wish to clarify that the automatic designation of service delivery areas of 200,00 or more does not preclude the governor from designating service delivery areas with smaller populations. Nor does this designation preclude two or more service delivery areas from joining together voluntarily and requesting designation. The governor may deny such a request, but only upon a determination that the request is not consistent with the effective delivery of services to eligible dislocated workers in the relevent labor market, or would otherwise be inappropriate. The Conferees assume that governors will give good faith consideration to all such requests.

15. DESIGNATION OF SUBSTATE GRANTEES (SEC. 316 IN HOUSE BILL; SEC. 308 IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill requires that a substate grantee be designated for each substate area in accordance with an agreement among the governor, local elected official or officials of such area, and the private industry council or councils of such area. The governor shall, after consultation with the state council, establish procedures for designation of representatives of officials and councils where an area includes more than one such official or council. If agreement cannot be reached on the selection of substate grantee, the governor shall make the selection. Entities eligible for designation as substate grantees include private industry councils, SDA grant recipients or entities, private nonprofit organizations, units or agencies of general local government, local offices of state agencies, and other public agencies such as community colleges. The bill further provides that the requirements of parts C and D of Title I of JTPA applicable to an entity or assistance recipient shall apply to substate grantees.

Senate amendment

The Senate amendment is similar to the House bill, except for the following details; the designation of substate areas shall be on a biennial basis; the governor is not required to consult with the state council; the governor is authorized to establish procedures for designation, including a requirement that entities interested in designation submit a proposal for a substate plan; the list of eligible entities includes area vocational schools as an example of a public agency.

Conference agreement

The Conference agreement generally follows the House bill, except that the example of area vocational schools is included.

The conferees wish to clarify that, although the governor is given the authority to select a substate grantee in the absence of agreement with the local elected official and the private industry council, the governor is expected to conduct a good faith negotiation with those parties and to make a good faith effort to reach agreement.

Moreover, the conferees agreed to omit the final sentence of the Senate provision on designating substate grantees only because it was thought unnecessary to include this specific statement in light of the overall administrative authority granted the governor, and because there was no intention to suggest that the governor's authority might be limited to the actions enumerated in the Senate amendment. The conferees intend that the governor have authority to establish procedures for designating substate grantees, including a requirement that entities eligible for and interested in designation submit a draft proposal for the substate plan described in section 313, or some other statement of how the prospective grantee would administer the dislocated worker programs in its area.

16. SUBSTATE PLAN (SEC. 317 IN HOUSE BILL; SEC. 309-311 IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill provides that no funds may be provided to a substate grantee unless the governor, after considering the recommendations of the state council, has approved a substate plan submitted by the grantee, which describes the manner in which activities will be conducted to implement the requirements of this title. Prior to submission to the governor, the plan shall be submitted for review and comment to the other parties to the agreement for selection of a substate grantee.

The bill further provides that the substate plan contain a statement of the following: the means for delivering services to eligible participants; the means to identify and select program participants; the means to coordinate the worker adjustment system with the unemployment compensation system; the means for involving labor organizations; the performance goals to be achieved consistent with goals in the state plan; the criteria for determining and verifying program eligibility; procedures for selecting service providers; a description of any rapid response capability; a description of the methods by which other parties to the agreement selecting the substate grantee shall be involved in a variety of activities; a description of training services to be provided; the means whereby coordination with other programs will be effected; and a detailed budget, as required by the state.

Senate amendment

The Senate amendment follows the House bill in requiring submission by the substate grantee, and approval by the governor, of a substate plan, before any funds may be provided to a substate grantee. The Senate amendment requires many of the same items to be considered in the state plan as does the House bill. The Senate amendment does not, however, require a description of any rapid response capability of the substate grantee or of a description of the methods by which other parties will be involved in the activities of the substate grantee. The Senate amendment contains a separate provision on selection of providers and a separate readjustment training plan. The Senate amendment requires that the substate plan state the means for ensuring that adequate funds are available and used to provide retraining services for eligible participants. The Senate amendment requires that the statement of placement goals to be achieved includes estimates of placements. Finally, the Senate amendment requires that the plan state the means whereby coordination of services with other substate grantees will be effected.

The Senate amendment contains a provision with criteria for the selection of service providers by the substate grantee. The primary considerations shall be the effectiveness of the organization in delivering comparable services based on demonstrated performance, in terms of the likelihood of meeting performance goals, cost, quality of education or training, and characteristics of participants.

The Senate amendment requires a substate training plan to be developed by the substate grantee as part of its substate plan. That retraining plan must include procedures to assess the skills of dislocated workers; procedures to assess their needs; procedures to provide services recommended by rapid response teams; a description of services and activities to be provided in the substate area; and a list of goals for the substate area.

The Senate amendment permits the governor to direct the expenditure of funds allocated to the substate area if the substate grantee fails, within a reasonable time, to submit a plan that is approved. Further, if the substate grantee fails to spend its funds in accordance with its plan, the governor may, after appropriate notice and opportunity for comment, direct expenditure of the funds in accordance with the substate plan.

Conference agreement

The Conference agreement generally adopts the House bill in its requirements for a substate plan, with the following exceptions: First, the requirement for approval was modified to require approval for a modification of a plan, as well as an initial plan. Second, the reference to rapid response capability of a substate grantee was deleted because the Conferees expect the state rapid response unit to deal with all plant closings and layoffs involving a significant number of workers. However, the Conference agreement includes a requirement that the plan include a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance to be provided by the state is inappropriate. This responsibility may be fulfilled, among other ways, through development of outreach mechanisms, provision of evaluation and counseling to assist in determining eligibility for service and the type of services needed, initial assessment and referral for other services, and establishment of regional centers to provide these services. Third, the requirement for a listing of criteria to be applied in determining and verifying program eligibility has been omitted as redundant of the requirement for verifying the eligibility of program participants. Fourth, while the Senate requirement for a separate readjustment training plan has been omitted, the conference agreement includes two requirements in addition to those in the House bill for the substate plan's description of training services—methods for allocating resources to provide services recommended by rapid response teams and a decription of services to be provided in the substate area.

The involvement of the local elected officials and private industry councils can take a variety of forms, such as policy guidance, oversight, program review and comment, promoting labor-management cooperation, and providing support for rapid response activities. The Conferees did not want either to require or preclude any particular form of involvement.

The Conference agreement generally follows the Senate amendment's provisions granting the governor's authority to direct expenditures of funds in the substate area under certain circumstances. The Conference agreement modified those provisions in three respects—first, it added selection of a new substate grantee as an additional circumstances in which the gubernatorial power to direct expenditures of substate funds ends; second, it modified the bypass authority when a substate grantee fails to follow its plan by specifying that bypass authority continues only until the substate grantee properly allocates the funds or submits an acceptable modification of the plan, or a new substate grantee is designated; third, the agreement modified the bypass authority to require that the state follow the procedures in JTPA section 105(b)(1)-(3) whenever it seeks to use this authority.

17. APPROVED TRAINING RULE (SEC. 318 IN HOUSE BILL; SEC. 312 IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill provides that participation by an individual in any of the programs authorized in this title shall be deemed to be acceptance of training with the approval of the state within the meaning of any other provision of federal law relating to unemployment benefits.

Senate amendment

The Senate amendment follows the House bill.

Conference agreement

The Senate recedes.

18. USE OF FUNDS ALLOTED TO A STATE (SEC. 331, 333, 334, 341-344(A)(b), 345 IN HOUSE BILL; SEC. 306(a), (c), (d) IN SENATE AMENDMENT)

Present law

Services that may be provided with Title III assistance include, but are not limited to: job search, job development, training, supportive services, pre-layoff assistance, relocation assistance, and cooperative programs with employers or labor organizations.

House bill

The House bill authorizes governors and substate grantees to spend funds made available specifically for basic readjustment services. Basic readjustment services may include (but are not limited to) early readjustment assistance, outreach and intake, counseling (including financial counseling), testing, orientation, assessment, determination of occupational skills, development of individual readjustment plans, provision of future occupational information, job placement assistance, labor market information, job clubs, local job search, job development, self-directed job search, and retraining services.

The House bill authorizes substate grantees to provide appropriate supportive services to participants where necessary to facilitate participation in basic readjustment programs. Such services may continue for no longer than 180 days after participation in the program. Participants in retraining services, when authorized as basic readjustment services, may receive supportive services and benefit payments.

The House bill further authorizes governors and substate grantees to spend funds made available by the Secretary specifically for worker readjustment training. The Secretary must allot funds for training after establishing an annual availability target for each state, usually equal to one and two thirds of the states's allotment for basic readjustment services in a given fiscal year. The Secretary also must establish semiannual targets, equal to half of the annual target. If states do not spend their full semiannual target in a given six-month period, the annual target will be reduced by the amount not spent, although the subsequent semi-annual target will not be affected. Governors may, after considering recommendations of the state counsel, establish appropriate procedures for making funds available for use in substate areas.

Training services may include, but are not limited to, classroom, training, occupational skill training, one-the-job training, out-of-area job search, relocation, basic and remedial education, literacy training, entrepreneurial training, and other appropriate training activities directly related to appropriate employment opportunities in the substate area. The House bill further prohibits the use of funds for public service employment or work experience and limits support for training programs for individuals to 104 weeks.

Senate amendment

The Senate amendment authorizes a single allotment of funds to states to be used for all of the following services: rapid response assistance, basic readjustment services, retraining services, income support, and linkages with the unemployment compensation system.

The Senate amendment is similar to the House bill in its enumeration of permissible basic readjustment activities. The Senate bill does not include outreach and intake.

Further, the Senate amendment includes several items not included in the House list: prelayoff assistance, relocation, and programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities. The Senate amendment includes supportive services, including child care and other services, which shall in general terminate not later than the 45th day after the participant has completed other services under this part; counseling necessary to assist participants to retain employment may continue for up to six months following the completion of training.

The Senate amendment, like the House bill, enumerates permissible retraining services. The Senate amendment specifies that special emphasis for retraining services should be focused on experienced workers.

Conference agreement

The House recedes to the concept of providing a single allotment of funds to each state for all services.

The Conference agreement generally includes the Senate's enumeration of permissible basic readjustment services, with the following exceptions: "outreach and intake" is included; the two items pertaining to job search ("local job search" and "self-directed job search") are combined into a single item ("job search"); and the permissible duration of most supportive services is extended to 90 days after the participant has completed other services provided under Title III programs. Also, the agreement deletes the specific reference to financial counseling from the list of allowable basic readjustment services and includes it as an item within supportive services.

The Conference agreement adopts the House bill in its enumeration of permissible retraining services. The agreement also retains the House bill provision prohibiting the use of funds under this Part for public service employment, but does not prohibit the use of funds for work experience. The Conference agreement does not include any limit upon the time during which training programs for individuals may be supported.

19. NEEDS-RELATED PAYMENTS (SEC. 344(C) IN HOUSE BILL; SEC. 306(e) IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill provides that participants in retraining services who have exhausted their unemployment insurance benefits may receive a weekly payment while they are in retraining, not to exceed the amount of their average unemployment compensation benefit. Workers permanently laid off must enroll in training by the end of the 10th week of their unemployment compensation eligibility period to receive these payments; other workers will receive priority for payments if they enroll in training by the end of their 15th week of unemployment compensation eligibility. Substate grantees also may provide needs-based payments to workers, especially those not eligible for unemployment compensation, who are not receiving these payments.

Senate amendment

The Senate amendment authorizes benefit payments to retraining participants who are not eligible for unemployment compensation or who have exhausted their unemployment compensation benefits. Those in the latter category must have enrolled in retraining by the end of the thirteenth week of their initial period of eligibility for unemployment compensation. Payments may not exceed the higher of the applicable unemployment compensation level or the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

Conference agreement

The Conference agreement generally adopts the Senate amendment, except in the following respects: the agreement refers to "needs-related payments" rather than "income support"; the provision specifies that payments are "in order to enable" workers to participate in training or education programs"; and the requirement for unemployment compensation recipients to begin training by the end of the 13th week of initial eligibility is modified in the case of workers who have been on a layoff of specified short-term duration who are informed that their layoff will exceed six months, so that they may qualify for needs-related payments if they enroll in training by the end of their 13th week of initial eligibility or the end of the 8th week after they are informed their layoffs will exceed six months, whichever is later.

20. LIMITATIONS ON USE OF FUNDS (SEC. 335, 341, 343 IN HOUSE BILL; SEC. 306(e)(3), 306(g), 314(d) IN SENATE AMENDMENT)

Present law

In general, not more than 30 percent of the Federal funds alloted to a state under Title III may be used for supportive services, wages, allowances, stipends, and costs of administration.

House bill

As discussed above, the House bill creates a separate allocation scheme for retraining funds, and the funds allocated under that scheme could be used only for retraining and related services. In addition, the House bill prohibits substate grantees from spending more than 15 percent of the amounts expended under this part on administrative expenses. The House bill prohibits expenditure of more than 15 percent of the funds expended by a substate grantee on basic readjustment services, and 30 percent of the funds expended on training services, from being expended on supportive services and benefits. Finally, the House bill requires that minimum and maximum cost limitations be applicable to accrued expenditures each program year.

Senate amendment

The Senate amendment requires that at least 30 percent of the funds expended shall be expended for retraining services, except that the governor can waive this requirement if the substate grantee so request and demonstrates the need for and amount of the reduction of expenditures for retraining. The Senate amendment also prohibits any substate grantee or the governor from expending more than 15 percent of the funds expended on administrative costs. The Senate amendment further prohibits either the governor or substate grantees from expending more than 15 percent of the funds expended on income support and other supportive services.

Conference agreement

The Conference agreement requires that at least 50 percent of the funds expended under this title by any substate grantee be expended for retraining services. A substate grantee may apply to the governor for a waiver of this requirement, which may be granted in whole or in part if the substate grantee demonstrates that the worker readjustment program in the area will be consistent with the principle that dislocated workers be prepared for occupations with long-term potential. The governor is required to prescribe criteria for demonstrating this principle. An application for a waiver is to be submitted in the time and form prescribed by the governor, who shall provide an opportunity for public comment on the application. In no event may the substate grantee expend less than 30 percent of the total funds it expends for retraining.

The Conference agreement prohibits the use of more than 25 percent of the funds expended under this title by or any substate grantee for needs-related payments and other supportive services. The Conference agreement places a 15 percent limitation on administrative costs. The Conferees intend that these cost limitations should be applicable to accrued expenditures for each program year.

The Conferees recognize that a new state-level activity of rapid response is required for states to receive funds under this title. Expenditures for rapid response assistance under section 314(b) should not be included as administrative costs. However, the limitation should apply against any amounts expended for administrative activities associated with the state dislocated worker unit.

Finally, the limitation on administrative costs should be calculated only be reference to funds reserved for the governor's use; it would not include any additional funds that are reserved under section 302(c)(2). All such funds must be distributed to substate grantees. The administrative cost limitation on such funds applies at the substate level.

21. METHODS OF PROVIDING RETRAINING SERVICES (SEC. 345(d)-(g) IN HOUSE BILL; SEC. 310(C), (d) IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill provides that eligible retraining participants shall receive either retraining services or a certificate of continuing eligibility. To the maximum extent feasible, training services shall be provided through systems of individual certificates that permit participants to seek out and arrange their own training. Training opportunities identified with approved service providers shall, pursuant to the certificate, be arranged through a grant, contract, or otherwise between the substate grantee and the service provider identified in the certificate.

A certificate of continuing eligibility may be issued for periods of up to one hundred and four weeks. No certificate may refer to specific amounts of funds, and each certificate shall state that it is subject to the availability of funds at the time services are provided. Acceptance of the certificate shall not be deemed to be enrollment in training. Any individual receiving such a certificate will remain eligible for the program under this part for the period specified in the certificate and may use it for retraining services.

Senate amendment

The Senate amendment is generally consistent with the House bill, except for minor differences of phrasing and the omission of a specification that acceptance of a certificate of continuing eligibility shall not be deemed to be enrollment in training.

Conference agreement

The Conference agreement generally adopts the shared features of the House bill and Senate amendment, with the following exceptions: The agreement specifies the alternative methods by which substate grantees may provide retraining services—by beginning such services promptly, by deferring the beginning of such services and providing the worker with a certificate of continuing eligibility, or by permitting the worker to obtain such services from a service provider by using a certificate in accordance with this section. The Conference agreement contains no requirement that individual certificates be used to the maximum extent feasible. The provision that acceptance of such a certificate is not deemed to be enrollment in training is retained. Finally, there are certain minor changes of working in the Conference agreement.

22. RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS (SEC. 336 IN HOUSE BILL; SEC. 315 IN SENATE AMENDMENT)

Present law

The Secretary is authorized to reallot any allotment to a state to the extent that the state will not be able to obligate such amounts within one year of allotment.

House bill

The House bill specifies that any portion of a state's annual allotment for basic readjustment services, against which costs have not been incurred by the end of the program year, in excess of 20 percent of the allotment, may be realloted by the Secretary. The Secretary may reduce current year allotments by the amount subject to reallotment in the prior year. Governors may reallocate funds available for basic readjustment services within their states if the substate grantees agree with the reallocation or if the governor determines that planned minimum expenditure levels will not be met.

Senate amendment

The Senate amendment provides that unexpected funds at the end of the program year in excess of 20 percent of a state's annual allotment, plus any unexpended funds from previous years, may be reallocated to eligible states, defined as those among the top half of all state unemployment rates which have spent at least 90 percent of their allotments. No single state may receive more than one twenty-fifth of the funds available for reallocation in a single year.

The Senate amendment further provides that any state that spends at least 95 percent of its annual allotment, and appropriates its own funds to respond to an unforeseen increase in dislocated workers, may be reimbursed from its next year's federal allocation.

Conference agreement

The Conference agreement is that there shall be recaptured and realloted the amount by which the unexpended state allotment at the end of a program year exceeds 20 percent of that allotment and, in addition, the unexpended balance of the state allotment from any previous program year. Funds recaptured by the Secretary in this way shall be reallotted in two steps, in accordance with the formula in section 302(b). The states eligible to receive reallotted funds are those that have expended at least 80 percent of their allotments from the previous program year. First, the Secretary shall allot to eligible states with average unemployment rates above the national average (calculated over the most recent 12 month period) the amount determined through use of the formula. That is, the Secretary shall calculate the amounts that would be available to each state if the formula was used to allocate the recaptured funds, but only high unemployment states actually shall receive the amounts so calculated. Second, the Secretary shall allot the remaining amount to all eligible states, again using the formula in section 302(b), though this time allocating all of the remaining funds to eligible states. Finally, discretionary funds awarded by the Secretary under sections 322(a)(2) and 322(a)(3) shall not be included in calculating reallotments under this section.

The governor of each state shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the reallotment mechanism. Further, the governor shall prescribe equitable procedures for making funds available from both the state and substate grantees should such reallotment become necessary.

23. FEDERAL RESPONSIBILITIES AND ADMINISTRATION (SECS. 351, 352 IN HOUSE BILL; SECS. 304, 314, 317, 351, 352 IN SENATE AMENDMENT)

Present law

Under present law, the sums reserved for the Secretary shall be used for training, retraining, job search, placement, relocation assistance, and other aid to individuals affected by mass layoffs, natural disasters, Federal government actions, or who reside in areas of high unemployment or designated enterprise zones.

House bill

The House bill authorizes the Secretary to provide services in cases of mass layoffs, including mass layoffs caused by natural disasters or Federal action; industrywide projects (treating agriculture as an industry); multistate projects; special projections with Indian tribes; special projects to address national or regional concerns; and demonstration projects.

The House bill further allows use of the funds reserved to the Secretary when an emergency exists with respect to any particular distressed industry or any particular distressed area. The bill further specifies that no more than 5 percent of funds reserved for Federal readjustment activities may be used by the Secretary for staff training and technical assistance for public and private entities, except that this limitation does not apply to training for staff who provide rapid response services.

The bill further authorizes the Secretary to undertake projects of national or regional concern.

Senate amendment

The Senate amendment contains separate sections on Federal delivery of dislocated worker services. It provides general authority to the Secretary of Labor to administer the program, provide funds to exemplary and demonstration programs, allocate discretionary funds to projects serving workers affected by multistate or industry wide dislocations and to areas of special need, monitor performance and certify compliance with promulgated standards, and provide technical assistance to appropriate public and private entities.

The amendment also requires the Secretary to create or designate an identifiable dislocated workers unit or office. The Secretary is authorized to employ personnel to carry out the functions of this Title, secure necessary information from other federal agencies, and obtain the services of experts. The unit or office created or designated by the Secretary must consult with the Assistant Secretary for Veterans' Employment and Training.

The amendment further requires the Secretary to issue standards for the conduct and evaluation of dislocated worker programs, and prohibits such standards from counting the cost of income support provided as cost of enrollment or placement.

The Senate amendment authorizes the Secretary to use the amount that would have been allocated to a state to provide dislocated worker services in a state that fails to qualify for an allocation.

The amendment requires the Secretary to ensure that each state unit has access to information collected and maintained under part E of Title IV of this Act.

The Senate amendment requires the Secretary to evaluate the dislocated workers program and its success in placing eligible workers in unsubsidized employment and to report annually on the activities of the dislocated workers unit.

The Senate amendment further specifies that funds reserved to the Secretary may be used to provide readjustment services for workers dislocated due to mass layoffs caused by natural disasters (where workers are not expected to return to their previous occupations), other mass layoffs, and for industry-wide and state-wide projects.

The amendment is similar to the House bill in authorizing the Secretary to provide emergency assistance for particularly distressed industries and regions. The Senate amendment authorizes use of funds for staff training and technical assistance to public and private entities.

Conference agreement

The Conference agreement provides that the Secretary may use funds to provide services in the case of mass layoffs (including those caused by natural disasters or Federal action) where employees are not expected to return to their previous jobs, industrywide projects, multistate projects, special projects carried out with Indian tribes, special projects to address national or regional concerns, demonstration projects, provision of additional financial assistance to state and substate dislocated workers programs, and provision of additional assistance under proposals for financial assistance that are submitted to the Secretary and approved after consultation with the governor of the state in which the project is to operate. Amounts reserved to the Secretary may also be used for emergency assistance for particularly distressed industries or areas.

In the requirement for an identifiable dislocated workers unit, the order of the verbs has been reversed to read "designate or create." The Conferees have omitted as unnecessary number of provisions included in the Senate bill: the authorizations to employ personnel, secure information from other Federal agencies, and obtain the services of experts do not require special authorization in this legislation, and the Conferees did not want to imply by including these specific provisions that the Secretary would be disabled from carrying out other administrative functions under Title III.

The Secretary may use up to 5 percent of the funds reserved to the Secretary in any fiscal year to provide technical assistance and staff training to states, communities, businesses and labor organizations. Amounts reserved to the Secretary may also be used to provide training of staff who provide rapid response services in the states.

The Secretary's authority to deliver services to states where those states have not qualified under this Title has been changed to make clear that the failure to qualify is a failure to submit a satisfactory state plan under section 311. Moreover, the Secretary's authority to bypass remains only until such time as the state has qualified under section 311, and has come into compliance with the law.

The Conference agreement does not include the Senate amendment's requirement for continuing evaluation of Title III activities and an annual report to Congress.

24. DEMONSTRATION PROGRAMS (SEC. 352(f)-(h) IN HOUSE BILL; SEC. 356-385 IN SENATE AMENDMENT)

Present law

No provision.

House bill

The House bill authorizes the Secretary to carry out a training loan demonstration program, a public works employment demonstration, and a demonstration for dislocated farmers, farm employees and ranchers. The bill specifies conditions and requirements for any such programs that the Secretary chooses to conduct.

The House bill further authorizes the Secretary to provide services under proposals for financial assistance that are submitted to the Secretary, who is to consult in a timely fashion with the governor of the state in which the project is to be located. Proposals for assistance shall, with certain exceptions, contain evidence of review by the local private indusry council. Any proposal intended to provide services to a substantial number of members of a labor organization shall be submitted after consultation with such labor organization.

Senate amendment

The Senate amendment directs the Secretary to carry out dislocated worker loan demonstration programs; demonstration projects to determine the feasibility and cost effectiveness of offering recipients of unemployment compensation assistance to establish their own businesses; public works employment demonstration projects; demonstration projects for disclocated farmers, farm employees, and ranchers; and grants to nonprofit community development corporations to demonstrate the effectiveness of these organizations in creating employment opportunities for eligible dislocated workers. The amendment specifies conditions and requirements for these programs and projects.

The Senate amendment authorizes the Secretary to provide services under proposals for financial assistance. Proposals for financial assistance are to be submitted to the Secretary, through the governor of the state in which the proposal is to operate.

The Senate amendment specifies the following allocation of funds reserved for federally administered discretionary programs: no more than 30 percent for training loan demonstrations, self-employment opportunity demonstrations, pubic works employment demonstrations, dislocated farmer demonstrations, and job creation demonstrations; and at least 70 percent for the Secretary's discretionary programs. No less than 10 percent, but no more than $20 million, must be used for dislocated farmer demonstrations.

Finally, the Senate amendment requires the Secretary to disseminate information on the effectiveness of programs assisted with demonstration and discretionary funds of the Secretary.

Conference agreement

The Conference agreement requires the Secretary to expend not less than 10 percent of the funds reserved to the Secretary under this Title in fiscal years 1989, 1990, and 1991 to be expended on demonstration programs of up to three years in length, including but not limited to at least two of the following programs: self-employment opportunity demonstration program; public works employment demonstration program; dislocated farmer demonstration program; and job creation demonstration program. The Secretary is to conduct or provide for evaluation of each demonstration program, and report to Congress on those evaluations and any recommendations for legislative action.

The purpose of the demonstration grants is to experiment on a modest scale with novel approaches that subsequently may prove beneficial to larger dislocated worker populations. In this regard, the four listed demonstration programs are efforts to develop new directions for the future. The self-employment opportunity program would offer technical and financial assistance to dislocated workers who are attempting to establish their own business enterprises. The public works employment program would provide jobs as a last resort (for dislocated workers who qualify) to help develop marketable skills for future employment in the private sector. The dislocated farmer program would offer specially tailored outreach, readjustment and retraining assistance to dislocated farmers, farm employees, and ranchers who are otherwise receiving assistance under Title III. Under the job creation program, the Secretary, in consultation with the Secretary of Health and Human Services, would make grants to nonprofit community development corporations, which would make financial and technical assistance available for the creation of employment and entrepreneurial opportunities. Particular targets of these job-creating efforts would be communities adversely affected by worker dislocation, especially low-income families within those areas. In carrying out these demonstration programs, the Secretary shall consult with other appropriate Federal agencies.

The Conferees direct the Secretary to initiate at least two of the four listed programs as multi-year projects. However, the Conferees also intend that the Secretary may exercise discretion to expend some part of the reserved funds on demonstration programs other than the four described above. Finally, the Conferees intend that whatever demonstration programs are operated will be thoroughly researched and evaluated, and that the Secretary will report to Congress with specific recommendations, including recommendations for legislation where appropriate. The Conferees do not expect funding of these projects as demonstration projects to continue beyond fiscal year 1991.

25. EFFECTIVE DATE AND TRANSITION PROVISIONS (SEC. 594 OF HOUSE BILL; SEC. 2202(C), (E) OF SENATE AMENDMENT)

House bill

The House bill provides that the amendments to Title III of JTPA be effective with respect to appropriations for fiscal year 1988 and succeeding fiscal years. The rest of the House provisions shall be effective upon date of enactment.

Senate amendment

The Senate amendment authorizes the Secretary to implement whatever procedures necessary to terminate activities under Title III and to provide for orderly transition to activities authorized by Title III as amended in this legislation. The changes in the composition of the state job training coordinating council shall take effect 60 days after the date of enactment of the legislation.

Conference agreement

In general the amendments made by sections 6202 and 6204 are effective for program years beginning on or after July 1, 1989. During the program year beginning July 1, 1988, the Secretary and governors shall continue to administer Title III as under present law, except to the extent necessary to provide for an orderly transition and implementation of the amendments made in this legislation. The Secretary and governors are authorized to use funds from fiscal year 1989, or any preceding fiscal year, for these transition and implementation purposes.

The changes in the state job training coordinating council membership shall be made not later than January 1, 1989; after these changes are made, the council shall begin to perform the functions specified for Title III in section 317 of this legislation.

The designation of substate areas and grantees required in this legislation shall be completed by March 1, 1989.

The provisions of this legislation on carryover and reallotment of funds shall apply to the program year beginning July 1, 1988, except that the amount to be realloted shall be that portion of a state's funds after 70% of allotment that has not been expended, and the eligible states shall include those that have spent 70% of their prior year allotments.

The Secretary shall, not later than November 1, 1988, prescribe such regulations as may be required to implement the amendments made in this legislation.

B.—Amendments to Other Provisions of Job Training Partnership Act

1. PERFORMANCE STANDARDS (SEC. 2202(d) OF SENATE AMENDMENT)

Present law

Section 106(a) of the Job Training Partnership Act requires the Secretary to prescribe performance standards for programs under Title III based on placement and retention in unsubsidized employment.

House bill

No provision.

Senate amendment

The Senate amendment amends section 106 of the Job Training Partnership Act to allow governors to vary performance standards, including those for dislocated workers, to reflect various factors in substate areas. In addition, the Senate amendment includes a provision specifying that no standard prescribed within Title III or under section 106(g) shall count the cost of income support provided under Title III as a part of the cost of enrollment and placement of participants or shall otherwise penalize the provision of such income support.

Conference agreement

The Conference agreement accepts the Senate amendment with respect to allowing governors to vary performance standards based on differing factors in substate areas. The Conference agreement with respect to the treatment of needs-related payments in performance standards adds a new paragraph to section 106(g), stating that any performance standard shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under Title III.

2. AUTHORIZATION OF APPROPRIATIONS (SEC. 302(a) IN HOUSE BILL; SEC. 2202(b) OF SENATE AMENDMENT)

Present law

Present law authorizes appropriations of such sums as are necessary to carry out Title III.

House bill

The House bill authorizes appropriations to carry out Title III of $980 million for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year.

Senate amendment

The Senate amendment amends section 3(c) of JTPA to authorize for carrying out Title III $980 million for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year.

Conference agreement

The Conference agreement authorizes $980 million for fiscal year 1989, and such sums as may be necessary for each succeeding fiscal year.

3. JOB BANKS SYSTEMS (SEC. 592 OF HOUSE BILL)

Present law

Section 465 of the Job Training Partnership Act authorizes the Secretary to establish and carry out nationwide computerized job bank and matching program.

House bill

The House bill amends Title V of the Job Training Partnership Act to authorize $50 million for fiscal year 1988 and such sums as may be necessary for each succeeding fiscal year for state job banks systems, to be made available by the Secretary through the United States Employment Service for the development and implementation of job bank systems in each state.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment authorizing the $50 million for fiscal 1989, instead of fiscal 1988.

4. DATA ON DISPLACED FARMERS AND RANCHERS (SEC. 593(a) OF HOUSE BILL)

House bill

The House bill amends section 462 of JTPA to require the Secretary, in coordination with the Secretary of Agriculture, to develop certain statistical data relating to farmer and rancher dislocation. This data is necessary for deriving the fourth factor to be added to the formula for allocating Title III funds among the States.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

C.—Miscellaneous Provisions

1. INTERNATIONALLY RECOGNIZED WORKER RIGHTS (SEC. 593(b) OF HOUSE BILL)

Present law

No provision.

House bill

The House bill requires the Secretary, in consultation with the Secretary of State, to study the extent to which other countries recognize and enforce internationally recognized worker rights, defined to include the right to association, the right to organize and bargain collectively, the right to be free from the use of compulsory labor, a minimum age for employment of children, and acceptable conditions of work with respect to minimum wages, maximum hours of work, and occupational safety and health. The House bill further authorizes for appropriation $5 million for fiscal year 1988 and each succeeding fiscal year, which shall be available to the Secretary of Labor for the purpose of entering into contractual or other appropriate agreements with the private sector for the purpose of monitoring activities, studies, and information-gathering which will enable trade unions abroad to provide information and comments to international organizations and other bodies on their respective governments' compliance with internationally recognized worker rights.

Senate amendment

No provision.

Conference agreement

The Senate recedes with an amendment. The Conference agreement adopts the House bill with respect to the required study by the Secretary of Labor. The Conference agreement does not include the appropriation of $5 million for contractual arrangements with private groups.

2. ADDITIONAL STUDIES (SEC. 593(c) OF HOUSE BILL)

Present law

No provision.

House bill

The House bill requires the National Commission for Employment Policy to conduct research related to worker readjustment, including the role of employment services and alternative techniques for managing production cutbacks without permanently reducing workforces, and to report to Congress no later than 18 months after enactment of this title.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

3. EMPLOYEE BENEFITS (SEC. 2203 OF SENATE AMENDMENT)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment gives the sense of the Senate that Senate committees secure objective analysis of, and report on, the impact of new employee benefits on employment, international competitives, and employees when committees report legislation requiring employers to provide new employee benefits.

Conference agreement

The Senate recedes.

4. PENSION PORTABILITY (SEC. 2204 OF SENATE AMENDMENT)

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment requires the Secretary, within six months after enactment of the legislation, to begin a study on pension portability for workers and to report to Congress no later than 24 months after enactment.

Conference agreement

The Senate recedes.

SUBTITLE E—ADVANCE NOTIFICATION OF PLANT CLOSING AND MASS LAYOFFS

Present law

There is no present law for this provision.

House bill

The House bill contains no comparable provision.

1. SHORT TITLE (SEC. 6401 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment has no provision for a short title. The advance notification provisions were identified as Part B of the Economic Dislocation and Worker Adjustment Assistance Act.

Conference agreement

The Conference Agreement separates the advance notification provisions from the worker adjustment provisions of the Economic Dislocation and Worker Adjustment Assistance Act. Section 6401 of the Conference Agreement creates a new subtitle for the advance notification provisions. The short title for this subtitle is the Worker Adjustment and Retraining Notification ("WARN") Act. By separating the advance notification provisions from the worker adjustment provisions, the Conferees intend as an administrative matter for the WARN Act to be an original law, not an amendment to the Job Training Partnership Act. At the same time, the Conferees reaffirm that advance notice is an essential component of a successful worker readjustment program, and they regard the two subtitles as closely interrelated.

2. DEFINITIONS/EXCLUSIONS FROM DEFINITIONS (SECS. 331, 334 (1), (2) OF SENATE AMENDMENT; SEC. 6402 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment defines the terms "employer," "plant closing," "mass layoff," "representative," "affected employees," "employment loss," "unit of local government," "part-time employee," and "seasonal employee."

The Senate Amendment includes exemptions from notification for plant closings or mass layoffs resulting from the sale or relocation of a business. Under the exemption for sales, no notice is required if the plant closing or mass layoff results from the sale of all or part of a business and the purchaser agrees, in writing, to hire substantially all affected employees with no more than a six-month break in employment. Under the relocation exemption, no notice is required if the plant closing or mass layoff results from a relocation of a business within a reasonable commuting distances and the employer offers to transfer substantially all affected employees to the new location with no more than a six-month break in employment.

Conference agreement

The Conference Agreement adopts the definitions in the Senate Amendment with the following modifications:

"Employer". The Conference Agreement retains the Senate Amendment language that the term "employer" means a business enterprise. The Conferees intend that a "business enterprise" be deemed synonymous with the terms company, firm or business, and that it consist of one or more sites of employment under common ownership or control. For exmaple, General Motors has dozens of automobile plants throughout the

country. Each plant would be considered a site of employment, but as provided in the bill, there is only one "employer"—General Motors.

"Plant Closing". The Conference Agreement strikes all references to "place of employment" and replaces them with "single site of employment." This change is intended to clarify that geographically separate operations are not to be combined when determining whether the employment threshold for triggering the notice requirement is met. For example, an automobile assembly plant on the east side of town and an assembly plant on the west side of town ordinarily would be two separate "sites of employment." On the other hand, an assembly plant on the east side of town that happens to extend to both sides of a public street is *not* two distinct "sites."

The Conferees otherwise retain the Senate language, but wish to clarify that a "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations or layoffs exceeding six months, as specified under the definition of "employment loss."

"Mass Layoff". The Conference Agreement modifies the Senate Amendment so that the 33 percent requirement applies only to a mass layoff that involves more than 49 but fewer than 500 employees. Where the employment loss involves 500 or more employees, the 33 percent requirement would not apply, and notice would be required. The Conferees believe that layoffs involving 500 or more people are likely to cause significant economic disruption in local communities, as well as the obvious disruption for the individuals involved. Thus, the rationale for advance notice is strong—the need for individuals and communities to begin planning for dislocation before the dislocation occurs. The justification for a 33 percent requirement for layoffs before notice is required has been the representation by business interests that small layoffs of 50 or 100 or even 200 employees at a single site with a workforce of perhaps a thousand or more employees are such a regular part of business that requiring notice in these circumstances would be unduly burdensome. Because a layoff of 500 employees at a site of employment is a significant and unusual action, even in a large workforce of 2000 or more employees, the requirement of advance notice in these situations should not place an undue burden on employers.

"Employment Loss". The Senate Amendment includes two kinds of layoffs that would trigger the bill's requirements—those of indefinite duration and those of definite duration exceeding 6 months. The Conference Agreement combines these into a single triggering event—a layoff exceeding 6 months. The Senate Amendment includes within its definition of an employment loss a reduction in hours of more than 50 percent during any 6-month period. The Conference Agreement clarifies that this reduction in hours must occur in each of 6 consecutive months to be considered an employment loss. As an example, an employee who works less than half-time for five consecutive months, but who works full-time in the sixth, would not be considered to have experienced an employment loss.

"Part-time employee". The Senate Amendment defines a "part-time employee" as one who is hired to work an average of fewer than 15 hours per week. It also defines a "seasonal employee" as one who is hired for a period not to exceed 3 months per year to do work that is seasonal in nature. The Conference Agreement combines these concepts into a single definition of "part-time" employee, which includes employees who work fewer than 20 hours per week or who have worked fewer than 6 months in the 12-month period prior to the point at which the employer is required to serve notice. The definition of "seasonal employee" is therefore eliminated.

Exclusions from Definition of Employment Loss. The Conference Agreement incorporates the exemptions from notification for sales and relocations of a business in modified form as exclusions from the definition of "employment loss." Thus, a closing or layoff resulting from the sale of part or all of the employer's business does *not* give rise to an employment loss if

(a) the employee is covered at the time of the sale by a written rehire agreement between the buyer and the seller of the business to which the employee is explicitly made a third party beneficiary with rights against the purchaser under applicable state law; or

(b) the employee within 30 days after the sale is offered employment by the buyer.

In addition, a closing or layoff resulting from the relocation or consolidation of part or all of the employer's business does *not* give rise to an employment loss for a particular employee if, prior to the employee's termination or layoff,

(a) the employer offers to transfer that employee within a reasonable commuting distance; or

(b) the employer offers to transfer the employee to any other site of employment regardless of distance, and the employee accepts within 30 days of the offer or of the termination or layoff, whichever is later.

An example to which this may apply would be a situation where an employer owns five grocery stores in a metropolitan area. After deciding that one of the stores is no longer competitive, the employer decides to shut it down and makes a timely offer to transfer its employees to one or more of the remaining stores with no more than a six-month break in employment.

3. NOTICE REQUIREMENTS (SEC. 332(A) OF SENATE AMENDMENT; SEC. 6403(A) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment requires 60 days notice in advance of a plant closing or mass layoff to affected employees (or their representative), to the State dislocated worker unit designated or created under the Economic Dislocation and Worker Adjustment Assistance Act, and to the chief elected official of the unit of local government where the closing or layoff occurs.

Conference agreeement

The Conference Agreement adopts the Senate provision.

4. REDUCTION OF NOTIFICATION PERIOD (SEC. 332(B) OF SENATE AMENDMENT; SEC. 6403(B) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides for a reduction of the notification period in two specific circumstances. Under the "faltering company" exception, an employer actively seeking capital or business which would avoid or postpone indefinitely a shutdown, need not give the full 60 days notice if the employer reasonably and in good faith believes that notice would preclude the employer from obtaining the needed capital or business.

Under the second exception, the notice requirement is reduced if the closing or mass layoff is caused by business circumstances not reasonably foreseeable at the time notice would have been required. Both exceptions require the employer to give as much notice as is practicable and provide a brief statement of the basis for reducing the notice period.

Conference agreement

After some discussion, the Conferees agree to retain both exceptions, but wish to clarify the meaning of the Senate Amendment as follows:

Faltering Company. The provision would permit, under specifically defined circumstances, an employer to shut down one or more sites of employment without providing the full notice required by the bill. The defense is intended as a narrow one applicable only where it was unclear 60 days before the closing whether the closing would occur; the employer was actively pursuing measures that would avoid or indefinitely postpone the closing; and the employer reasonably believed both that it had a realistic opportunity of obtaining the necessary capital or business and that giving notice would prevent the employer's actions from succeeding.

The key phrases are first that the employer was "actively seeking capital or business"; second that, had the employer obtained this capital or business, it "would have enabled the employer" to prevent or forestall the shutdown; and third, that the employer "reasonably and in good faith believed" that giving the notice required would have precluded the employer from obtaining the necessary capital or business that it had a realistic opportunity to obtain. Thus, to avail itself of this defense an employer must prove the specific steps it had taken, at or shortly before the time notice would have been required, to obtain a loan, to issue bonds or stock, or to secure new business. This duty to seek capital or business falls on the employer, not the single site alone, and assumes that the employer lacks the necessary capital or business. Moreover, the employer must show the reasonable basis for its good-faith belief that giving the required notice would have prevented the employer from obtaining the capital or business that the employer had a realistic opportunity to obtain. Finally, the employer also must show that, upon learning that the workplace would be closed, it promptly notified the employees and explained why earlier notice had not been given.

Unforeseeable Business Circumstances. The Conferees recognize that there may be cases in which unforeseeable events necessitate a plant closing or mass layoff and it is not economically feasible to require the employer to give notice and wait until the end of the notice period before effecting the plant closing or mass layoff. For example, a natural disaster may destroy part of a plant; a principal client of the employer may suddenly and unexpectedly terminate or repudiate a major contract; or an employer may experience a sudden, unexpected and dramatic change in business conditions such as price, cost, or declines in customer orders. In these situations, the employer is required to give notice as soon as the closing or mass layoff becomes reasonably foreseeable, but the employer is permitted to implement the proposed closing or layoff without waiting until the end of the full notice period.

5. EXTENSION OF LAYOFF PERIOD (SEC. 332(C) OF SENATE AMENDMENT; SEC. 6403(C) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides that a layoff of definite duration of less than six months that extends beyond six months shall be treated as a layoff of indefinite duration subject to notification unless (1) the extension is caused by business circumstances not reasonably foreseeable at the time of the initial layoff; and (2) notice is provided as soon as it is reasonably foreseeable that the extension is required.

Conference agreement

The Conference Agreement has eliminated the concept of a layoff of indefinite duration as was provided in the Senate Amendment. Therefore, the Conferees have modified the language of section 6403(c) to conform that section to the simplified definition in section 6402(a)(6). Employers operating under this provision lawfully may postpone giving notice until some time after a layoff has commenced *only* if they announced when ordering the layoff that the layoff would be for less than six months and if the employer proves that the layoff has been extended due to unforeseeable business circumstances.

6. DETERMINATION OF EMPLOYMENT LOSS (SEC. 333(C) OF SENATE AMENDMENT; SEC. 6403(D) OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides for the determination of a plant closing or mass layoff based on aggregation of smaller employment losses. Under the Amendment, employment losses at a single site for 2 or more groups of employees, each of which is less than 50 employees, but which in the aggregate total at least 50 employees, that occur within a 90-day period, will be considered a closing or layoff subject to notification, unless the employer demonstrates the employment losses result from separate and distinct actions and causes and are not an attempt to evade the notice requirements.

Conference agreement

Language has been added to conform this subsection to the definition of mass layoff that appears in section 6402(a)(3). The Conferees wish to clarify that the requirement that a mass layoff of 50 to 499 employees must affect 33 percent of the employees at a particular employment site also applies to this section. The "33 percent" requirement was inadvertently omitted from the language approved by the Senate. Thus, for example, an employer employing 300 workers at a single site which laid off 25 employees on each of four separate occasions within a 90 day period would presumptively be deemed to have implemented a mass layoff of more than 50 employees affecting 33 percent of the workforce. On the other hand, no such presumption would arise where the same employer laid off 20 employees on each of 4 occasions over the same 90-day period, because the "33 percent" requirement would not have been met.

7. EXEMPTIONS (SEC. 334 (3), (4) OF SENATE AMENDMENT; SEC. 6404 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment exempts particular plant closings and mass layoffs from the notice requirements. No notice is required if the closing is a shutdown of a temporary facility or the mass layoff results from the completion of a particular project so long as the affected employees were hired with the understanding that the job was limited to the duration of the facility or project.

The Senate Amendment also exempts from the notice requirements those closings or layoffs that constitute a strike or a lockout.

Conference agreement

As discussed earlier in this Report, the Conference Agreement transforms two exemptions in the Senate Amendment—for sale and relocation of a business—into exclusions from the definition of "employment loss." The Conference Agreement retains the remaining two exemptions as exemptions with the following modifications:

Temporary Facility. The Conference Agreement adds language to clarify that this exception applies either to a closing or to a layoff. In addition, the Agreement clarifies that the exemption from the notice requirement is available where the closing or layoff is the result of the completion of a particular "undertaking," as well as a particular "project." Use of the term "project" in the Senate Amendment had been read by some as precluding its application to certain other temporary activities. The Senate floor debate included discussion of this exemption, and the Conferees felt that clarification of the intent of the Senate provision would be advisable.

There are two basic requirements for this exemption to apply. First, the employees in question must have been hired with the understanding that their jobs would last only until an obviously limited activity of the employer was completed. This condition must have been clearly stated to the employees at the time they begin work. Second, the work must in fact be temporary or limited. The Conferees do not intend that employers be able to avoid the notice requirement by a formal process of periodically telling workers that their jobs will last only until completion of a particular project or undertaking, when both employer and employees expect and intend to continue the employment relationship indefinitely.

Thus, floor statements by the sponsors of the bill in the Senate indicated that the exemption could apply to shipbuilding and overhaul projects where employees were hired with the requisite understanding and where the work is in fact only for the duration of a particular project. Although the precise date on which operations will cease sometimes cannot be specified at the beginning of the undertaking, the employees know that when the work is done, their jobs will lapse. Similarly, this exemption also applies where an employer hires employees for a specified and obviously limited term and the employees are informed in writing of the exact date of termination either at the outset or at some other point preceding the 60-day notice period.

Lookout. The Senate bill exempts closings and layoffs from the notice requirement when they constitute a strike or lockout. A lockout occurs when, for tactical reasons relating to collective bargaining, an employer refuses to utilize some or all of its employees for the performance of available work. The Conference Agreement clarifies that only lockouts not undertaken for the purpose of evading the notice requirements qualify for the exemption. An employer may not, for example, shut down an establishment and evade the notice requirement by calling the shutdown a lockout.

8. ADMINISTRATION AND ENFORCEMENT OF NOTICE REQUIREMENTS (SEC. 333(A), (B) OF SENATE AMENDMENT; SEC. 6405, 6408 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment establishes enforcement mechanisms against an employer which fails to meet the notice requirements. An employee who suffers an employment loss and who does not receive timely notice (either directly or through the employee's representative) may bring a civil action against the employer. The employer would be liable for back pay for each day of the violation plus the cost of related fringe benefits for each day of the violation minus any earnings or related fringe benefits received from the employer during the violation period.

If the employer does not provide timely notice to the unit of local government, the employer would be subject to a civil penalty equal to $500 for each day of the violation. If more than one unit of local government has jurisdiction over the area in which the closing or layoff will occur, the employer must notify only the unit of local government to which the employer paid the highest taxes for the year preceding the year when the notice is required.

The Senate Amendment provides that a court may reduce an employer's liability to employees or an employer's penalty to the unit of local government if that employer demonstrates that it acted in good faith and had reasonable grounds for believing it was not violating the notice requirements.

The Senate Amendment includes venue and attorneys' fees provisions. A person seeking to enforce the liability provisions of this part may sue, individually or on behalf of others similarly situated, in any U.S. district court in a district in which the violation occurred or in which the employer transacts business. A court, in addition to any judgment awarded to plaintiffs under this section, may allow a reasonable attorneys' fee.

The remedies provided for in the Senate Amendment are the exclusive remedies available for violation of the notice requirements.

Conference agreement

The Conference agreement adopts the Senate provision with the following modifications:

Each day of violation. The Senate Amendment provides that an employer which violates the notice provisions of section 6403 is liable for back pay and a civil fine for "each day of violation." The Conferees wish to clarify that "each day of violation" is limited to the requisite notice period. Thus, the maximum violation period is 60 days, and it could be less depending upon the amount of notice given by the employer. For example, if the employer provides 20 days notice, then the maximum violation period for purposes of calculating back pay awards or civil fines would be 40 days. ("Violation period" refers to the period of time after a shutdown or layoff in violation of this Act, and extends for the number of days that notice was required but not given.)

Damage payments to employees. The Conference Agreement modifies the Senate Amendment language pertaining to offset. The Conferees wish to clarify that for each day of violation, an employer is liable to each aggrieved employee for the amount paid in wages and benefits to such employee prior to the layoff, as set forth in section 6405)a)(1). The Conferees also intend that an employer may satisfy its liability with respect to benefits by paying the cash value of such benefits for the period of violation, subject to the offset provisions in section 6405(a)(2).

Under 6405(a)(2), the amount owed by the employer may be reduced through certain payments made by the employer for the period of the violation. An offset would occur if the employer's mass layoff involved a reduction in hours of 75 percent for 6 consecutive months, but the employer continued to pay the affected employees 25 percent of their wages. The offset provision also would apply if an employer offers employees a payment (in the absence of any legal obligation), in a voluntary and unconditional effort to ease the burden of termination or simply as a gesture of goodwill. (The Conferees wish to note here that damages are fully satisfied when an employer makes the payment prescribed in section 6405(3)). If the employer continues to make payments to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan), which are attributable to the employee for the violation period, the payments made also would offset the back pay remedy. Finally, with respect to the portion of benefit liability arising from a defined benefit pension plan, an employer could satisfy that portion of its liability by crediting the employee with service for all purposes for the period of the violation.

By contrast, payments owing because of written or oral agreement, and made on account of the employment loss, would not offset the back pay remedy. Such payments may include severance pay, pension benefits or any other kind of benefit that an employee is entitled to receive. These are benefits that are payable as compensation for past services because a layoff or shutdown has occurred, whether or not the terms of the layoff or shutdown actually violate the Act. In addition, they are benefits that an employee would not receive if employment had continued.

Further, the only payments that may offset the back pay remedy are those made by the violating employer. Wages received from another employer, or unemployment compensation payments received from the State, may not be used to offset the remedy.

Damage payments to local governments. The Conferees intend that employers which violate the notice requirements with respect to the affected unit of local government be subject to a civil penalty of up to $500 per day of violation. Thus, the maximum penalty payable to a local government is $30,000. In the event that a violation is found, a court in determining the amount of the penalty may take into account the severity of the violation, the employer's size, and the employer's ability to pay such a penalty. The Conferees further intend to provide an incentive and a mechanism for employers to satisfy their obligation to their employees in the event they fail to provide 60 days advance notice to their employees. An employer will be relieved of the $500-a-dy penalty to the local unit of government if it fully and promptly satisifies any financial liability to its employees under section 6405(a)(1). In order to avoid the payment to the unit of local government, an employer must complete full payment to its employees within 3 weeks from the point at which it orders a shutdown or layoff.

In addition, the Conferees agree that the Secretary of Labor should be authorized to promulgate regulations to ease administration and enforcement of the WARN Act. The Conference Agreement recognizes that interpretive regulations could play a constructive role in the implementation of this legislation.

Although the Department of Labor does not have an enforcement role, the Agreement authorizes the Secretary of Labor to promulgate regulations as he or she deems necessary. At a minimum, these regulations must prescribe standards governing the service of notice to affected employees. The Conferees intend that an employer be diligent in its effort to notify a representative of employees or the employees themselves. At the same time, the Conferees do not expect an employer to go to extraordinary and unreasonable lengths to notify each and every employee. For example, a mailing to the current addresses of employees might suffice, even though a few employees might have moved unbeknownst to the employer.

9. RELATION TO OTHER RIGHTS (SEC. 335 OF SENATE AMENDMENT; SEC 6406 OF CONFERENCE AMENDMENT)

Senate amendment

The Senate Amendment provides that the rights and remedies provided under the advance notification provisions are in addition to any other contractual or federal statutory rights and remedies available to affected employees.

Conference agreement

The Conference Agreement provides that with one exception the rights and remedies provided under the advance notification provisions do no preempt or displace rights and remedies provided under other statutes or under contractual agreements. The Conferees are aware that many legal issues related to plant closings and mass layoffs currently may be addressed under collective bargaining agreements and some of these same issues also may be dealt with under state or other federal law. *See, e.g., Fort Halifax Packing Company* v. *Coyne,* 107 D. Ct. 2211 (1987) (ERISA does not preempt state law prescribing severance pay). The Conferees intend that the effect of these other laws and contracts should not be disturbed by the new federal provision. The only qualification to this rule involves the length of notice before a plant shutdown, the 60-day requirement contained in this bill will run concurrently with the 90-day requirement under state law. Similarly, if a collective bargaining agreement requires that an employer give 120 days notice before closing a plant, the new 60-day requirement will run concurrently with the longer contractual notice period.

10. SENSE OF THE CONGRESS ON NOTICE (SEC. 336 OF SENATE AMENDMENT; SEC. 6407 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment expresses the sense of Congress that an employer not required by this Act to provide advance notice of a plant closing or mass layoff is encouraged to provide advance notice irrespective of its obligations under federal law.

Conference agreement

The Conference Agreement adopts the Senate provision.

11. EFFECT ON OTHER LAWS (SEC. 338 OF SENATE AMENDMENT; SEC. 6409 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides that an employer attempting in good faith to comply with the advance notice provisions of the Act cannot be found in violation of the National Labor Relations Act or the Railway Labor Act.

Conference agreement

The Conference Agreement adopts the Senate provision.

12. EFFECTIVE DATE (SEC. 337 OF SENATE AMENDMENT; SEC. 6410 OF CONFERENCE AGREEMENT)

Senate amendment

The Senate Amendment provides that the advance notice requirements established by the Act shall become effective six months and two days after the date of enactment.

Conference agreement

The Conference Agreement adopts the Senate provision with two minor changes. The effective date of the advance notice provisions is changed to six months after the date of enactment. In addition, the Conference Agreement provides that the authority granted to the Secretary of Labor to prescribe regulations to carry out the advance notice provisions is effective upon the date of enactment.

PART F—NATIONAL SCIENCE FOUNDATION UNIVERSITY INFRASTRUCTURE

1. Section 571 of the bill amends Title VII of the Higher Education Act (HEA) by adding a new Part I, The College and University Research Facilities and Instrumentation Modernization Program (hereafter referred to as the "Program"). The Senate bill has no comparable provision.

House recedes with an amendment creating an academic research facilities modernization program and a college science instrumentation program at the National Science Foundation.

Title I (b)

The conferees mean by the term "independent non-profit research institution" those institutions in that category that have traditionally been eligible for NSF grants, such as research institutes. The conferees expect NSF to specify further which institutions will be eligible for facilities grants as part of the interim guidelines to be published in the Federal Register pursuant to subsection (d).

Title I (c)

The conferees agree that proposals submitted under Title I will be subject to merit review following NSF's current procedures. The merit review panels must include representatives from a mix of institutions reflective of the variety of U.S. institutions eligible for receiving funding under this program. The conferees are particularly concerned that universities that have not traditionally been large recipients of NSF grants be represented on the panels.

In determining the appropriate non-federal share for an institution, NSF should take into account the relative financial strength of the institution. However, under no circumstances may the non-federal share be less than 50 percent. As minority institutions may have difficulty raising funds and may have small endowments, NSF may allow such institutions to provide a portion of their 50 percent match with in-kind services. A minority institution is defined in subsection (f)(2).

Title I (d)

In using the term "mission of the National Science Foundation," the conferees are including the Foundation's obligation to remedy deficiencies in national and regional research needs. The conferees wish to remind NSF of the dual mission in its Organic Act (42 USC 1862) "to strengthen research and education in the sciences and engineering" and "to avoid undue concentration of such research and education."

The conferees have required NSF to define the terms "facilities, instrumentation, equipment, repair, renovation, and replacement" to ensure that there is no confusion over eligibility for funding. The conferees intend that only those items defined as "facilities" be eligible for repair, renovation and replacement projects funded under the Academic Research Facilities Modernization Program. NSF should make clear in the Federal Register notice whether such support systems as heating, ventilation and air conditioning fall into this category.

Title II (b)

The conferees define "non-Ph.D. granting institution" as those institutions that offer a baccalaureate degree, but do not award any doctoral degrees in any fields eligible for NSF funding.

Title II (c)

The conferees agree that proposals submitted under Title II will be subject to merit review following NSF's current procedures. The merit review panels must include representatives from a mix of institutions reflective of the variety of U.S. institutions eligible for receiving funding under this program. The conferees are particularly concerned that two-year and non-Ph.D. granting institutions be represented on the panels.

Title II (g)

As funds have been provided under the continuing resolution for FY88 for CSIP, the conferees have provided no further authorization. However, out-year funding will be subject every year thereafter to the authorizations and appropriations of activities for the National Science Foundation. The conferees strongly support the goals of the CSIP program for the support and enhancement it provides to non-Ph.D. granting institutions.

Reports

Any reports on the programs created by these titles should be made available to the House Committee on Science, Space, and Technology, the House Committee on Education and Labor, the Senate Committee on Labor and Human Resources and the Senate Committee on Commerce, Science, and Transportation.

TITLE VII—BUY AMERICAN ACT OF 1988

SECTION 7001—SHORT TITLE

House bill

Buy American Act of 1987.

Senate amendment

No provision.

Conference agreement

Buy American Act of 1988.

SECTION 7002—AMENDMENTS TO THE BUY AMERICAN ACT

Present law

Title III of the Act of March 3, 1933 (the Buy American Act) requires the Federal Government to buy domestic products unless such purchases are inconsistent with the public interest or their costs are unreasonable.

Regulations implementing this law apply a 6 percent price differential in favor of domestic sources (12 percent if a small business or labor surplus area is involved) and a 50 percent differential for Department of Defense procurements. These price differentials may be waived under section 301(a) of the Trade Agreements Act of 1979 for articles covered by the GATT Government Procurement Agreement (Agreement) from signatory countries. The price differentials do not apply to Defense procurement from allies covered by reciprocal Memoranda of Understanding on procurement.

(1) PROCUREMENT PROHIBITION

House bill

The House bill adds a new section to the 1933 Act which prohibits Federal agencies from procuring goods produced in foreign countries whose governments discriminate against U.S. products or services in awarding contracts. Such countries would be identified in an annual report required by this bill.

The prohibition requirements do not apply to signatory countries in "good standing" to the Government Procurement Agreement and not subject to revocation of waivers as determined by the bill. Firms offering goods from these countries can participate in procurements covered by the Agreement without the Buy American price differentials and in other procurements subject to these price differentials.

Suppliers offering goods produced in other countries that do not discriminate against U.S. goods or services would continue to sell to the Federal Government in accordance with the provisions of Title III of the Act of March 3, 1933 (the Buy American Act) with existing price differentials. These countries would continue to be prohibited from participating in procurements covered by the Agreement pursuant to Title III of the Trade Agreements Act of 1979.

Senate amendment

No provision.

Conference agreement

The conference agreement prohibits U.S. government procurement of products and services from (1) signatories "not in good standing" to the Agreement, (2) signatories that discriminate against U.S. firms in the signatory governments' procurement of products or services not covered by the Agreement, and (3) nonsignatories whose governments discriminate against U.S. products or services in their procurement.

The conference agreement establishes standards to determine whether U.S. procurement prohibitions are to be imposed on products or services of countries that discriminate on procurements not covered by the Agreement. In these cases, prohibitions are to be imposed when a foreign government, in conducting procurements, maintains a significant and persistent pattern or practice of discrimination against United States products or services; moreover, the pattern or practice of discrimination must result in identifiable harm to United States businesses.

(2) Exceptions to the Procurement Prohibitions

House bill

Authorizes Federal agencies, notwithstanding the prohibition requirements of this section, to purchase goods from a least developed country, as the term is defined in Section 308(6) of Title III of the Trade Agreements Act of 1979.

Authorizes the President or head of a Federal agency, notwithstanding the prohibition requirements of this section, to award contracts or classes of contracts to suppliers offering goods from countries whose governments have been identified as discriminating against U.S. goods or services, if he (1) determines that such action is necessary in the public interest or to avoid the creation of a monopoly for a single manufacturer or supplier, and (2) notifies Congress of such determination not less than 30 days prior to awarding the contract or the date of authorization of the award of a class of contracts.

In no case shall Federal agencies deny the award of a contract or class of contracts for products from a discriminatory country when such denial would (1) limit the procurement in question to the products of a single supplier, or (2) establish a preference for the products of a single supplier.

The authority of the heads of Federal agencies to make exceptions to the procurement prohibitions and provide notices to the Congress may not be delegated.

Further, in the case of procurements awarded under authority of Defense Department Memoranda of Understanding with foreign governments, only the President or, if delegated, the United States Trade Representative may make the determinations and provide notices to the Congress necessary to waive the prohibition requirements against countries identified as discriminatory.

Senate amendment

No provision.

Conference agreement

The conference agreement maintains the House bill's exemption from the procurement prohibition for least developed countries. It also exempts products and services procured and used by the Federal government outside the United States and its territories. The conferees believe this exemption is necessary to ensure that the overseas operations of Federal agencies, particularly the Department of Defense, are not unnecessarily disrupted by the imposition of a procurement ban.

As discussed above, the conference agreement requires the President to identify as discriminatory those countries which are signatories in compliance with the Government Procurement Agreement, but which discriminate in their government procurement of products or services not covered by the Agreement. Under these conditions, Federal agencies would be prohibited from procuring only non-Agreement covered products from these countries. To ensure that Agreement-covered procurements are not affected in these situations, the conference agreement includes language which exempts the "eligible products" of such country from the procurement ban unless that country has also been designated as a signatory "not in good standing."

The conferees recognize that the President and the heads of Federal agencies may need to waive the procurement prohibitions to avoid substantial disruption of Federal programs or threats to national security. The conference agreement, therefore, retains the House bill's provisions providing for waivers, on a contract-by-contract or class of contracts basis, when they are in the public interest or to avoid the creation of a monopoly situation.

In addition to these waiver provisions, the conferees have added a third waiver which allows the President or head of a Federal agency to authorize the award of a contract or class of contracts, notwithstanding a prohibition, if insufficient competition exists to assure the procurement of products or services of requisite quality at competitive prices.

The conference agreement requires, under normal circumstances, notification to Congress not less than 30 days before the President or head of a Federal agency waives the prohibition on a contract or class of contracts. In cases in which an agency's need for a service or products is of such urgency that the United States would be seriously injured by delaying the award or authorization, the conference agreement allows for the Congressional notification to be made not more than 90 days after the date of such award or authorization.

Furthermore, in the case of procurements awarded under authority of Department of Defense Memoranda of Understanding (MOUs) with foreign governments, the conference agreement allows the President to delegate the authority to waive sanctions for a contract or class of contracts to the Secretaries of Defense, Army, Navy, or Air Force. If delegated to one of these Secretaries, however, the determinations will be subject to review and policy guidance by the interagency Trade Policy Committee, chaired by the United States Trade Representative.

The conferees understand that MOUs exist principally for reasons of national security. The conferees believe, however, that it is possible to take actions for national security reasons which are consistent with U.S. trade policy goals. The conferees intend that the Secretary of Defense and the United States Trade Representative consult with one another to determine methods for achieving greater cooperation between them for the purpose of promoting increased reciprocity for U.S. suppliers seeking access to the government procurement markets of foreign countries participating in the Department of Defense MOU programs.

(3) Rule of Origin

House bill

Current law defines U.S.-made products as those manufactured in the United States substantially all from articles, materials, or supplies mined, produced, or manufactured, as the case may be, in the United States. Under current regulatory guidelines, "substantially all" has been defined to mean that more than 50 percent of the component costs of a product has been incurred in the United States.

The House bill amends current law in such a way that other costs in addition to component costs are to be considered in determining a product's origin. Essentially, goods would be treated as U.S.-made when (1) they have been assembled or manufactured in the United States and (2) substantially all of the total costs (including components, indirect costs, research, development, and labor) of the product has been incurred in the United States.

Senate amendment

No provision.

Conference agreement

The conference agreement retains current law and current regulatory guidelines for determining whether a product is U.S.-made. However, the conferees recognize that changes may be needed to modify the Buy American Act's rule of origin. The conference agreement, therefore, directs the Administrator of the Office of Federal Procurement Policy (OFPP) to conduct an assessment of all factors that should be considered in making determinations of whether a product originates in the United States.

The Administrator's assessment shall identify and evaluate reasonable alternatives to the current rule of origin, including one or more alternatives that require a determination on the basis of total cost, and the specific cost factors that should be included. In conducting the analysis, the Administrator is directed to (1) consult and seek comment from representatives of the public, business, labor, and other Federal agencies, and (2) hold public hearings, the transcripts of which shall be included in the final report. The Administrator is to submit the final report to Congress not later than 18 months after the date of enactment; the report shall include proposed policy guidance and any recommended legislative changes that may be necessary or appropriate to modify the rule of origin.

Current rule of origin regulations issued under the Buy American Act do not apply to services. Since the procurement prohibitions in the conference agreement cover services, the conference agreement directs the Administrator of OFPP to hold public hearings and, not later than 180 days after enactment, to prescribe policy guidance to be followed by Federal agencies in awarding service contracts except for construction service contracts. With regard to construction service contracts, the conference agreement specifies that a contractor or subcontractor is considered to be owned or controlled directly or indirectly by citizens or nationals of a foreign country if:

(1) 50 percent or more of the voting stock is owned by citizens or nationals of a foreign country,

(2) 50 percent or more of the stock is held by citizens or nationals of a foreign country,

(3) the number of directors necessary to constitute a quorum are citizens or nationals of a foreign country,

(4) the corporation is organized under the laws of a foreign country, or

(5) any participant in a joint venture meets the above criteria.

SECTION 7003—PROCEDURES TO PREVENT GOVERNMENT PROCUREMENT DISCRIMINATION

Present law

Title III of the Trade Agreements Act of 1979 (P.L. 96-39) ("the Act") made changes in U.S. law required to implement the GATT Government Procurement Agreement. The Act (1) permits the President to waive the Buy American Act price differentials for procurements covered by the Agreement, (2) specifies the circumstances in which the President can designate a foreign country as eligible for such a waiver, and (3) for contracts covered by the Agreement, prohibits U.S. government procurement of products from countries without waivers.

1. Annual report on foreign compliance

House bill

The President is required to submit to Congress no later than December 31, 1988, and annually thereafter, a report on the extent to which foreign countries, whose products are acquired by the United States Government, discriminate against U.S. products or services in conducting government procurements. The President must identify in the report (1) the signatory countries to the Government Procurement Agreement that are not in compliance with its requirements and (2) the nonsignatory foreign countries (other than least developed countries) that discriminate against U.S. products or services in awarding government contracts.

Senate amendment

No provision.

Conference agreement

The conference agreement requires the President to submit to the appropriate committees of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, no later than April 30, 1990, and annually thereafter, a report on the extent to which foreign countries discriminate against U.S. products or services in making government procurements. The President must identify in the report the following countries (except if these are least developed countries):

(1) signatories to the Agreement that are not in compliance with its requirements;

(2) signatories to the Agreement whose products and services are acquired in significant amounts by the United States Government, who are in compliance with the Agreement, but who, in the government procurement of products or services not covered by the Agreement, maintain a significant and persistent pattern or practice of discrimination which results in identifiable harm to U.S. businesses; and

(3) nonsignatories whose products or services are acquired in significant amounts by the U.S. Government, and who maintain, in their government procurement, a significant and persistent pattern or practice of discrimination which results in identifiable harm to U.S. businesses.

The first annual report date was changed to April 30, 1990, and the date for subsequent annual reports was changed to April 30th, to ensure that the executive branch has adequate time to obtain evidence of sufficient quantity and quality to identify those countries that are not in compliance with the Agreement or otherwise discriminate against U.S. products and services and to coordinate with reporting requirements associated with the annual *National Trade Estimate Report on Foreign Trade Barriers* required by Section 303 of the Trade and Tariff Act of 1984 (19 U.S.C. 2241), which will be due on March 31st of each year.

The conference agreement limits those countries that can be named in the annual report to Agreement signatories and those countries from which the U.S. government acquires a significant amount of goods or services. The conferees intend that the annual report cover only those countries which discriminate according to the standards established in this act. This is to permit the executive branch to focus its efforts on those countries over which the United States can exercise some leverage in encouraging them to open their government procurement markets to U.S. competition. The conferees expect the President to include in the report an analysis of the procurement policies and practices of each country named and a discussion of the most effective way to use U.S. Government procurement policy leverage to open government procurement in those countries to American competition.

The conference agreement also provides greater guidance on the types of noncompliance with the Agreement or discrimination against U.S. products or services that would warrant a country being identified in the annual report. The conferees expect that, for a country to appear in the annual report due to discrimination outside the Agreement, the discrimination must represent a significant and persistent pattern or practice. Accordingly, the President would not be required to place in the annual report countries that have only committed minor, isolated discrimination.

2. Contents of Annual Report

House bill

In developing the annual report, the President is required to:

(1) use the requirements of the Government Procurement Agreement as guidelines for evaluating whether the procurement practices of foreign countries discriminate against U.S. products and services;

(2) include the evaluation of, among other factors, whether and to what extent countries included in the report use certain specific government procurement practices listed in the bill that would violate the Agreement;

(3) take into account the relative impact of any noncompliance with the Agreement or other discrimination by a nonsignatory on United States commerce and the extent to which such noncompliance or discrimination has impeded the ability of U.S. suppliers to participate in procurements covered by the Agreement;

(4) seek the advice of the U.S. Trade Representative, the Secretary of Commerce, and U.S. businesses in the United States an abroad; and

(5) include an analysis of the impact on Federal procurement costs that may result from any waiver revocations or other procurement prohibitions imposed against countries identified as discriminating against U.S. goods and services.

Senate amendment

No provision.

Conference agreement

The conference agreement requires the President, in identifying countries in the annual report, to take into account:

(1) the requirements of the Agreement, foreign government procurement practices, and the effects of such practices on U.S. businesses as a basis for evaluating whether the procurement practices of a foreign government do not provide fair market opportunities for United States products or services;

(2) whether and to what extent countries included in the report use certain specific discriminatory government procurement practices listed in the bill that either violate the Agreement or otherwise block U.S. firms from participating in government procurements, and use any other additional criteria deemed appropriate;

(3) the information and advice of executive agencies through the Trade Policy Committee, and information from U.S. businesses in the United States and abroad; and

(4) the relative impact of any noncompliance or discrimination on U.S. commerce and the extent to which such noncompliance or discrimination has impeded U.S. suppliers' ability to participate in foreign government procurements on terms comparable to the particular foreign country's firms' ability to participate in U.S. government procurements.

In addition to a description of these decisive factors, the annual report shall include, for each country named:

(1)(a) a description of the specific nature of the discrimination and, for signatories, a description of any provision of the Agreement with which the country is not in compliance, (b) an identification of the U.S. products and services affected, (c) an analysis of the impact of the noncompliance or discrimination on United States commerce and businesses, and (d) a description of status, action taken, and disposition of cases of noncompliance or discrimination identified in the preceding annual report; and

(2) an analysis of the impact on Federal procurement costs that may occur as a consequence of waiver revocations or prohibiting the purchase of products or services from a country identified as discriminating against U.S. goods and services.

In developing the annual report, executive branch officials should, among other things, review publicly available information on foreign government procurements, particularly those covered by the Government Procurement Agreement. To obtain information from businesses, they may (1) seek information from the Private Sector Advisory Committees established in the Trade Act of 1979, (2) place a notice in the *Federal Register* requesting information from U.S. businesses and (3) instruct the commercial staffs at the U.S. embassies to seek information from the in-country American business communities. The Office of the U.S. Trade Representative may draw on resources of the Departments of Commerce and State, particularly at overseas posts, in compiling the information.

3. Consultations after issuance of annual report

House bill

No provision.

Senate amendment

No provision.

Conference agreement

The conferees believe that the executive branch should make a strong effort to resolve any problems identified in the annual report before initiating dispute settlement with signatories to the Government Procurement Agreement or imposing procurement prohibitions on countries that discriminate against U.S. products or services on procurements not covered by the Agreement. The Conference agreement requires that, no later than the date the annual report is submitted, the U.S. Trade Representative shall request consultations with any country identified in the annual report, unless the country was also identified in the preceding annual report.

4. Use of dispute settlement procedures to correct noncompliance with the Government Procurement Agreement

House bill

The President is required, within 60 days after issuance of the annual report, to initiate consultations in accordance with the Government Procurement Agreement's dispute settlement procedures to correct any problems with compliance with the Agreement by signatory countries identified in the annual report. When a dispute settlement procedure initiated under this section is not concluded within one year or has concluded and the other country has not taken action required as a result of the procedures to the satisfaction of the President, the President shall revoke the waiver granted under section 301(a) of the Trade Agreements Act of 1979. The President shall take no action to limit procurement from the other participant to the dispute settlement procedure if, before the end of the year following the initiation of dispute settlement (1) the other participant has eliminated the discriminatory practice to the satisfaction of the President, (2) the other participant has taken action recommended as a result of the procedures, or (3) the procedures result in a determination requiring no action by the other participant.

Senate amendment

No provision.

Conference agreement

The conference agreement requires that, if a signatory country identified as not being in compliance with the Agreement has not complied with the Agreement within 60 days after issuance of the annual report, the U.S. Trade Representative shall request proceedings on the matter in accordance with the Agreement's formal dispute settlement procedures, unless such proceedings are already underway pursuant to an identification in a preceding annual report. When a dispute settlement procedure initiated under this section is not concluded within one year, or has concluded and the other country has not taken action required as a result of the procedures to the satisfaction of the President, the President shall revoke the waiver granted under section 301(a) of the Trade Agreements Act of 1979. The President shall take no action to limit procurement from the other participant to the dispute settlement procedures if, before the end of the year following the initiation of dispute settlement, (1) the other participant has complied with the Agreement, (2) the other participant has taken action recommended as a result of the procedures to the satisfaction of the President, or (3) the procedures result in a determination requiring no action by the other participant.

5. Termination of sanctions and reinstatement of waivers

House bill

The President may reinstate a revoked or modified waiver if (1) the other participant has eliminated the discriminatory practice to the satisfaction of the President, (2) the other participant has taken action recommended as a result of the dispute settlement procedures, or (3) the procedures result in a determination requiring no action by the other participant.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

6. Procurement prohibitions against nonsignatories to the Government Procurement Agreement

House bill

The procurement prohibitions imposed on nonsignatories to the Government Procurement Agreement identified in the annual report as discriminating are effective immediately upon issuance of the report.

Senate amendment

No provision.

Conference agreement

The conference agreement requires that, within 60 days after issuance of the annual report, the President must impose the procurement prohibitions on any country which is identified in the annual report as discriminating on procurements not covered by the Agreement and which has not eliminated its discriminatory procurement practices. The conference agreement also authorizes the President to terminate sanctions and remove a country from the annual report at such time as he determines that the country has eliminated its discrimination.

The 60 day delay instituted in the conference agreement conforms with the consultation period included in the conference agreement requiring the U.S. Trade Representative to initiate consultation with countries identified in the annual report before imposing the sanctions or initiating dispute settlement procedures. The conferees expect that the President will fully utilize the 60 day period to convince foreign governments to remove their discriminatory procurement practices so as to avoid the imposition of sanctions.

7. Limitations on imposing sanctions

House bill

If the President determines that revoking the waiver granted to an Agreement signatory or imposing a prohibition of procurement on a non-signatory country would harm the public interest of the United States, he may withhold waiver revocation or total prohibition but must impose appropriate and equivalent limitations on procurement consistent with the Buy American Act and full and open competition. The President shall not take any action that would limit procurement to, or create a preference for, products or services of a single supplier. In taking any action to limit procurements, the President must seek advice from executive agencies through the Trade Policy Committee and from U.S. businesses and other interested parties.

Senate amendment

No provision.

Conference agreement

The conference agreement gives the President added discretion to modify a waiver revocation or procurement prohibition and clarifies that (1) the President may take such action at any time, and (2) the sanctions imposed should be equivalent in effect to the discrimination against U.S. products or services by the foreign country.

More specifically, the conference agreement provides for the President, if he deems it to be in the public interest, to modify or restrict the prohibition on procurement and impose, instead of a country-wide ban, other limitations considered to be appropriate.

In addition, the conference agreement prohibits the President from taking any action if it would (1) limit U.S. government procurement to, or create a preference for, products or services of a single supplier or (2) create a situation where there could be, or are, an insufficient number of potential or actual bidders to assure U.S. government procurement of goods or services of requisite quality at competitive prices.

The conferees recognize that a waiver revocation or prohibition on procurements from a particular country may not always be in the public interest of the United States. It is also recognized that the President needs the discretion to be able to not invoke a waiver revocation or procurement prohibition either when a prohibition would limit procurement to a single supplier or when it would create a situation where there would be an insufficient number of bidders to ensure procurement of goods or services of requisite quality at competitive prices.

8. Renegotiation to secure full and open competition

House bill

Requires the U.S. Trade Representative, in conducting renegotiation of the Government Procurement Agreement, to seek improvements that would secure full and open competition consistent with the requirements imposed by amendments made by the Competition in Contracting Act of 1984.

Senate amendment

No provision.

Conference agreement

The Senate recedes.

9. General report to the Congress

House bill

The President shall advise the Congress as necessary and submit to Congress December 31, 1993, a general report on actions taken under this section and an evaluation of progress by foreign countries toward eliminating discriminatory government procurement practices.

Senate amendment

No provision.

Conference agreement

The conference agreement requires that the President shall advise the Congress and no later than April 30, 1994, submit to the Congress a general report on actions taken pursuant to this section. This report shall include (1) an evaluation of the adequacy and effectiveness of actions taken pursuant to this section as a means toward eliminating foreign discriminatory government procurement practices against U.S. businesses and, if appropriate, (2) legislative recommendations for enhancing the usefulness of this section or for any other measures to be used as a means for eliminating or responding to discriminatory foreign-government procurement practices.

SECTION 7004—SUNSET PROVISION

House bill

No provision.

Senate bill

No provision.

Conference agreement

The conference agreement requires that the amendments made by this title shall cease to be effective on April 30, 1996 unless extended by Congress before this date.

TITLE VIII—SMALL BUSINESS

1. SHORT TITLE. (SEC. 8001) (TITLE XIII, SEC. 1301 OF HOUSE BILL) (TITLE XXXIX, SEC. 3901 OF SENATE AMENDMENT)

House bill

Small Business Trade, Competitiveness and Innovation Act.

Senate amendment

Small Business International Trade and Competition Enhancement Act.

Conference agreement

Small Business International Trade and Competitiveness Act.

2. DECLARATION OF POLICY. (SEC. 8002) (SEC. 1302 OF HOUSE BILL) (SEC. 3902 OF SENATE AMENDMENT)

Present law

Section 2 of the Small Business Act (15 U.S.C. 631) delineates the policies of Congress that the Small Business Administration (SBA) must implement.

House bill

Establishes that it is the policy of Congress that the Federal Government, through the SBA, should assist small businesses to improve their ability to compete in international markets by: (1) enhancing their ability to export; (2) facilitating technology transfers; (3) enhancing their ability to compete against imports; and (4) increasing their access to long-term capital.

Senate amendment

Similar provision with the addition of: (5) disseminating information on State, Federal, and private programs designed to enhance the ability of small business to compete in international markets; and (6) ensuring that small business interests are represented in international trade negotiations.

Also adds another provision which states that the Congress recognizes that the Department of Commerce is the principal agency for trade development and export promotion, and that SBA and the Department of Commerce are to work together to advance, not alter, their respective roles in trade-related activities.

Conference agreement

Conference agreed to the Senate language.

3. CHANGES IN EXISTING SBA INTERNATIONAL TRADE OFFICE. (SEC. 8003) (SECS. 1303 AND 1304 OF HOUSE BILL) (SECS. 3903 AND 3905 OF SENATE AMENDMENT)

3(A). OFFICE OF INTERNATIONAL TRADE

Present law

Section 22 of the Small Business Act (15 U.S.C. 649) establishes an Office of International Trade in SBA to promote sales opportunities for U.S. small business goods and services in foreign markets.

House bill

(1) The Office of International Trade is required to work with the Department of Commerce and other relevant public and private organizations and the Small Business Development Center (SBDC) network, to:

(a) develop a distribution network for existing trade-related programs, and

(b) aggressively market those programs and provide marketing information.

(2) The Office of International Trade is required to assume additional functions including:

(a) working with the Department of Commerce and other relevant public and private organizations to (I) identify subsectors of the small business community with strong export potential; (II) identify areas of demand in foreign markets; (III) prescreen foreign buyers for commercial and credit purposes; (IV) disseminate information on marketing leads, linking potential buyers and sellers and catalyzing the formation of joint ventures;

(b) work with the Department of Commerce to develop export trading companies, export management companies and research and development pools;

(c) establish a pilot program to: (I) identify translation services; (II) identify multilingual SBA employees; and (III) establish a full-time SBA position with responsibility for translating documents submitted by a small business and accompanying trade missions;

(d) work with the Department of Commerce to: (I) develop a mechanism for the collection and dissemination of information on the small business share of U.S. exports, and the nature of State exports; (II) make recommendations to the Secretary of Commerce on SIC code revisions; (III) improve the utility and access of existing export promotion programs for small businesses; and (IV) increase access to the Export Trading Company facilitating service;

(e) make available information on public and private conferences on small business issues, including international conferences;

(f) work with the Export-Import Bank and other relevant public and private organizations to: (I) aggressively market existing SBA export financing programs; (II) aggressively market various Export-Import Bank programs; (III) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs; (IV) promote greater participation by private financial institutions in export finance; and (V) provide appropriate SBA employees with training in Export-Import Bank programs;

(g) establish a Trade Assistance Division to: (I) assist small businesses to prepare for trade remedy proceedings; (II) assist small business to collect appropriate data for trade remedy proceedings; (III) work with the Department of Commerce, the USTR, and the ITC, to increase and facilitate access to trade remedy proceedings for small businesses; and

(h) report semiannually to Congress on the progress of the International Trade Office in implementing its new mandates.

Senate amendment

(1) Similar provision except replaces the term "Small Business Development Centers" as used in the House version with a new term, "Small Business Export Assistance Centers". Small Business Export Assistance Centers (SBEACs) are newly created entities that could compete with SBDCs for funding to provide trade-related services.

(a) Similar provision.

(b) Similar provision.

(2) Similar provision.

(a) Similar provision. (I) Similar provision. (II) Similar provision. (III) No similar provision. (IV) Similar provision, except deletes the requirements of catalyzing the formation of joint ventures.

(b) Similar provision.

(c) Does not establish a pilot program. (I) Does require the identification of transition services. (II) No similar provision. (III) No similar provision.

(d) Similar provision. (I) Does not require the development of a mechanism for the collection of such information, but requires that such information be disseminated. (II) Similar provision. (III) Similar provision. (IV) Similar provision.

(e) Requires only that information on trade and export conferences be made available. Deletes specific mention that information on both public and private conferences must be disseminated.

(f) Similar provision with the additional requirement that SBA facilitate small businesses access to private sector sources of financing as well as to existing financing programs. (I) Similar provision. (II) Similar provision. (III) Similar provision. (IV) Similar provision. (V) Similar provision.

(g) Does not establish Trade Assistance Division. Does require the Office of International Trade to work with Federal agencies and the private sector to counsel small businesses on initiating and participating in trade remedy proceedings and to work with the Department of Commerce, the USTR, and the ITC to increase access to trade remedy proceedings for small businesses. (I) No similar provision. (II) No similar provision. (III) Limited to increasing access to trade remedy proceedings. Deletes the requirement to facilitate such access.

(h) Annual report required on April 1.

Conference agreement

(1) Conference agreed to House language.

(2) Conference agreed to House language.

(a) Conference agreed to House language. Under the agreed upon language, the SBA Office of International Trade will be required to "prescreen foreign buyers" and to "catalyze joint ventures." While the Committee does not expect the Office to develop the in-house capabilities needed to provide these services, it strongly believes that the Office should be aware of and involved with such trade-related assistance. It is innovative services such as these which can be extremely useful in assisting small businesses to enter international markets.

By "prescreening" the Committee means that SBA should be familiar with credit checking agencies overseas, such as the European Credit System, or domestic agencies that have the ability to run credit checks on foreign buyers, and should assist small business exporters access such services and obtain useful credit information. It is the understanding of the Committee that the Department of Commerce, through its foreign offices, has or can easily obtain such sources of information.

By "catalyzing joint ventures" the Committee means that SBA should maintain a system for matching domestic small businesses and foreign companies that may have mutually beneficial interests. Information about potentially compatible firms may be obtained through the Department of Commerce listings of U.S. exporters and foreign buyers; State international trade agencies; Small Business Development Centers; or direct inquiries made to the SBA. As made clear in the American Business Conference report, *Winning in the World Market,* joint ventures are a major way for smaller companies to gain access to foreign markets.

(b) Language retained.

(c) Conference agreed to Senate language with amendment. The Office of International Trade is required to: (I) give preference to multilingual individuals when filling personnel slots, and (II) allow such individuals to translate documents, interpret conversations, accompany trade missions, and provide referrals to existing translation services.

In addition, the Conference Committee directs SBA to establish a system to reimburse employees of the Office of International Trade for the cost of undertaking the study of a second language. Having proficient multilingual employees in the Office of International Trade could greatly increase its effectiveness and utility, and could help advance the purposes of this title. The Committee expects, therefore, that concrete efforts will be made to increase the number of such employees within the Office.

In carrying out this directive, SBA should rely upon existing foreign language study programs available to Federal employees. It is the Committee's understanding, for example, that the Department of Agriculture provides language classes to such personnel.

(d) Conference agreed to Senate language with amendment. While not required to "develop a mechanism" for the collection of information, SBA is required to collect, analyze, and periodically update information on the share of small business exports and the nature of State exports.

The information requested apparently can be obtained through data presently collected by the Department of Commerce. The Committee has some concerns about potential obstacles SBA may encounter in referencing such data, but expects that the Department of Commerce and SBA will work cooperatively to produce this valuable information.

(e) Conference agreed to Senate language with amendment. Specific mention of both public and private conferences is retained.

(f) Conference agreed to Senate language.

(g) Conference agreed to Senate language.

The Committee recognizes that limited resources and a lack of expertise in trade remedy matters within SBA makes it impractical to require the Administration to provide trade remedy services through the Office of International Trade. The Committee believes, however, that in order for small businesses to obtain the relief that they are entitled to by law it is essential to have an independent Office of Trade Remedy Assistance that will provide small businesses with assistance. Other provisions in the Omnibus Trade Bill (title I, section 1614) create such an Office. The Committee expects SBA to work closely with that Office and to actively assist small businesses access it.

(h) Conference agreed to Senate language.

3(B). SPECIFIED REPORTS

Present law

Current law establishes an Office of Advocacy within SBA to study small business issues (15 U.S.C. 634). Current law also requires the President to report annually to Congress on small business and competition (15 U.S.C. 634).

House bill

Requires the Office of International Trade, in cooperation with other SBA offices and Federal agencies, to undertake the following studies and report to Congress with recommendations within six months from the date of enactment:

(1) the feasibility of developing a competitive export incentive program similar to the Small Business Innovation Research Program;

(2) methods of streamlining trade remedy proceedings for small businesses;

(3) methods for improving the current foreign sales corporation tax incentives for small businesses;

(4) the effects of State tax systems on the international competitiveness and export potential of small businesses;

(5) methods for ensuring greater small business representation at the GATT negotiations and the advisability of a Small Business Advisor within the Office of the USTR;

(6) the amount, dollar value, and type of goods and service imported by U.S. trading partners over the past ten years and methods for identifying potential U.S. export markets, maintaining current foreign market data, and developing an export marketing strategy for small businesses; and

(7) a survey of foreign country policies and efforts designed to encourage the formation and growth of small business.

Senate amendment

Similar requirement for studies within six months from the date of enactment.

(1) Similar provision.

(2) Similar provision.

(3), (4), (5), (6), and (7) deleted.

(8) A report on methods for streamlining export licensing procedures is added.

Conference agreement

The Conference agreed to reports (1), (2), (3), (6), and (7). Report (8) will be included under a different title of the Omnibus Trade Bill.

With regard to report (1), there has been some misunderstanding about the nature of the program to be evaluated. The program contemplated would provide funds to U.S. small businesses selected according to their plans to become involved in international trade. The funds must be matched by the firms. Additional funding would be available to those companies that successfully entered overseas markets and that were willing to share their experiences with other small businesses. The program would be similar to the SBIR program only in terms of its procurement method.

To clarify report (7), it should be noted that the Committee is interested in an evaluation of all policies (i.e., domestic and foreign), of foreign countries which are designed to encourage the formation and growth of small business.

4. AUTHORIZATION OF APPROPRIATIONS. (SEC. 8004) (SEC. 3904 OF SENATE AMENDMENT)

Present law

Section 20 of the Small Business Act (15 U.S.C. 631) authorizes appropriations for SBA programs.

House bill

No similar provision.

Senate amendment

Authorizes $3,500,000 for FY 1988.

Conference agreement

The Conference agreed to Senate language with amendment. Ten percent of the authorization will be set aside for trade-related activities provided by the Service Corps of Retired Executives (SCORE). In addition, authorizations are made for both fiscal years 1988 and 1989.

The Conference Committee expects the authorized funds to be used to expand the Office of International Trade, including increasing the number of personnel, and to implement the other provisions of this title. In addition, reasonable proposals that are cost effective means for advancing the declared goals and objectives of this title should be explored and may receive funding through this authorization, including proposals directed at increasing overseas market access for U.S. small business products.

5. EXPORT FINANCING PROVIDED BY SBA. (SEC. 8005) (SEC. 1305 OF HOUSE BILL) (SEC. 3906 OF SENATE AMENDMENT)

Present law

Section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) enables SBA to provide revolving lines of credit for up to 18 months for export purposes.

House bill

Authorizes SBA to extend credit to small businesses and to small business export trading and export management companies, to develop foreign markets. Extends loan period from 18 months to up to three years. Requires that in the consideration of loan or loan guarantee applications, weight be given to firms that would generate export-related benefits.

Senate amendment

Similar provision except does not increase the credit period past the current 18-month limit.

Conference agreement

The Conference agreed to the Senate language with an amendment. Additional language is added requiring SBA to aggressively market its export financing program.

While SBA currently operates an export credit line program, it has rarely been used. Between 1983 and 1985 only one percent of SBA's loans were used for exporting, and no export loans were made in 1986. In testimony, SBA claimed the program's underutilization was due to a lack of interested firms. Overwhelming evidence suggests that, contrary to SBA's assertion, the lack of export financing available to small businesses is a critical problem and that there is no lack of interest regarding such financing. The program's underutilization appears to stem from a lack of knowledge about the program among small businesses, the banking community, and even within SBA. Recognizing the importance of export financing and SBA's apathetic attitude toward marketing such financing, the Conference Committee has decided to require statutorily that SBA aggressively market and increase the utilization of this program.

6. SMALL BUSINESS DEVELOPMENT CENTERS. (SEC. 8006) (SEC. 1306 OF HOUSE BILL)

SMALL BUSINESS EXPORT ASSISTANCE CENTERS. (SEC. 3907 OF SENATE AMENDMENT)

Present law

Section 21 of the Small Business Act (15 U.S.C. 648) creates the Small Business Development Center Program.

6(A). SERVICE DELIVERY MECHANISM.

House bill

In order to improve the access of the small business community to trade-related services and to technology transfers, additional authorizations are provided to encourage the Small Business Development Center (SBDC) network to carry out specified activities.

Senate amendment

Similar provision except that SBDCs and newly created Small Business Export Assistance Centers (other non-profit entities such as local Chambers of Commerce) would compete for the additional funding to provide specified services. A system is established for receiving, evaluating, and selecting the proposals to be funded. The matching requirements for funds are made less restrictive than under the existing SBDC program.

Conference agreement

The Conference agreed to the House language with amendment. In States where there are no SBDCs or where no application for funding is received from a SBDC within 60 days, SBA may make grants to another non-profit entity within the State to carry out the activities specified under this section. Such other entities are required to meet the same matching requirements that the SBDCs must meet.

6(B). AUTHORIZATION

House bill

Authorizes $5,000,000 for FY 1988.

Senate amendment

Authorizes $5,000,000 for FY 1988, $10,000,000 for FY 1989; and $10,000,000 for FY 1990.

Conference agreement

The Conference agreed to the House language with amendment. Authorizations are made for both fiscal years 1988 and 1989.

6(C). NEW GRANTS

House bill

(1) Allows additional grants to SBDCs to be used solely for export enhancement and technology transfer purposes.

(2) Limits grants to the SBDC's pro rata share of a $15,000,000 program or $100,000, whichever is greater.

Senate amendment

(1) Allows additional SBDC grants to be used solely for new or increased activities which enhance exports, transfer technology, and assist in information dissemination and service delivery.

(2) Limits grants at a ceiling of an applicants pro rata share of a $10,000,000 program and a floor of $50,000.

Conference agreement

(1) The Conference agreed to the House language.

It was decided that SDBCs should not be required to use funds solely for new or increased activities because some SBDCs may currently be saturating their market area with such services. It is likely, however, that the demand for such services will rise, and therefore, the Conference Committee expects the SBDCs and other funded entities to use increasing amounts of their funding for new and increased activities.

(2) The Conference agreed to the House language.

6(D). NEW SPECIFIED ACTIVITIES

House bill

(1) Expands the mandate of the SBDCs to: (a) provide management and technical assistance to small businesses for export promotion and technology transfer, and (b) act as a service delivery mechanism for international trade related programs. Encourages the establishment of a toll-free telephone number for greater access to trade-related assistance.

(2) SBDCs are to assist in technology transfer, and may:

(a) work to increases access of small businesses to automated flexible manufacturing systems;

(b) work to develop small business and academic community partnerships; and

(c) explore the viability of shared production facilities when appropriate.

(3) SBDCs are to work with the Department of Commerce and other relevant agencies to: (a) identify potential export markets; (b) facilitate export transactions; (c) develop linkages between U.S. small businesses and prescreened foreign buyers; (d) assist small businesses participate in international trade shows; and (e) assist small businesses obtain export financing and develop marketing and production strategies.

(4) SBDCs are to assist small businesses develop marketing and production strategies that will enable them to better compete in the domestic market.

(5) SBDCs are to work with the Export-Import Bank and other SBA offices to serve as a distribution network for export financing programs.

(6) No similar provision.

(7) SBDCs are to work with State agencies and other public and private groups to make translation services more readily available to small businesses.

(8) SBDCs are to (a) work closely with other SBA offices, State and local agencies and the local small business community, and (b) establish an information sharing network between each other. The latter is the responsibility of the Deputy Associate Administrator of the SBDC program.

(9) SBDCs, where appropriate, are to work with relevant State agencies to develop comprehensive export strategies within the State and explore cofunding and costaffing opportunities.

Senate amendment

(1) Similar provision but adds that an SBDC shall not establish a separate SBEAC facility if the SBDC can effectively implement the provisions of section 24 of the Small Business Act which is created in the Senate amendment. Those provisions include providing assistance to small businesses interested in international trade with emphasis on encouraging them to participate in international trade; providing technology transfers for increased productivity; and

providing assistance in marketing products abroad. Also, deletes the mention of a toll-free telephone service.

(2) SBEACs are to encourage small businesses to participate in international trade; provide technology transfers; and provide assistance in the foreign marketing of goods.

(a) No similar provision.

(b) No similar provision.

(c) No similar provision.

(3) Similar provision except (c) is deleted.

(4) No similar provision.

(5) Similar provision except the SBEACs are to act as an "information" network rather than a "distribution" network for export financing.

(6) SBEACs are to work with the Department of Commerce to increase access to available export market information systems, including CIMS.

(7) No similar provision.

(8) SBA is required to develop an information sharing system to (a) enable the SBEACs and relevant organizations to exchange information on their programs, and (b) provide information central to technology transfer. SBA must report to Congress on the implemenation of such an information sharing system.

(9) No similar provision.

(1) The Conference agrees to the Senate language with amendment. Reference to SBEACis deleted and new language is added to require SBDCs to provide information on existing trade remedy services.

The Committee believes that a major problem facing small businesses interested in exporting is limited access to federal export promotion and information programs. Consequently, Small Business Development Centers in each state are encouraged to use the funds provided under this section to establish a toll-free telephone number to provide small businesses with access to existing programs and those provided for in this title.

(2) The Conference agreed to the House language.

(3) The Conference agreed to the House language.

(4) The Conference agreed to the House language.

(5) The Conference agreed to the Senate language.

(6) The Conference agreed to the Senate language.

(7) The Conference agreed to the House language.

(8) The Conference agreed to the Senate language with amendment. The report to Congress on the implementation of the information sharing system is deleted and the reference to the Deputy Administrator of the SBDC program is retained.

(9) The Conference agreed to the House language.

The Conference believes that ongoing coordination between State international trade programs and their respective SBDC trade program could increase the effectiveness and efficiency of both efforts, and therefore, the Conference would strongly encourage such cooperation.

The Committee notes that currently SBDC funding proposals must be reviewed by a designated "point of contact" within the state to ensure that it is consistent with the state's programs. Such a requirement is published in the Federal Register along with the other funding information for the SBDC program.

7. CAPITAL FORMATION. (SEC. 8007) (SEC. 1307(A) OF HOUSE (BILL) (SEC. 3908 OF SENATE AMENDMENT)

Present law

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) provides SBA with the authority to provide loans and loan guarantees to small businesses. Section 502(2) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)) establishes the development company loan program.

House bill

(1) Increases the ceiling on loan guarantee amounts under the 7(a) program from $500,000 to $1 million for loans made to small businesses for the purchase of plant and equipment to be used in the production of goods and services involved in international trade. SBA can guarantee such a loan if it is secured by a first lien position and the lender agrees to sell the loan in the secondary market for such loans within 180 days.

(2) SBA is required to authorize lending institutions, other than banks, to make loans to small businesses for the production of export goods.

(3) SBA is required to report to Congress within six months of the date of enactment on the viability of creating cooperative Federal-State guarantee programs.

Senate amendment

(1) Increases the limit of section 7(a) loans from $500,000 to $750,000. Also, increases the limit of section 502 loans from $500,000 to $750,000. Allows loans from both loan programs to be made to a single applicant.

(2) No similar provision.

(3) No similar provision.

Conference agreement

(1) The Conference agreed to retain the House language with amendment. Language has been added to further define what is meant by "firms engaged in international trade," and the $1 million guarantee may be combined with a guarantee of up to $250,000 for working capital under the 7(a) program. The Conference also agreed to retain the Senate language with amendment. Guarantees from the different loan programs cannot be combined.

The Committee would expect SBA to begin implementation of this program by using information already available within the Federal government to develop a list of relevant U.S. export and import-competing industries. Pertinent information may be obtained from the International Trade Commission, the International Trade Administration of the Department of Commerce, as well as other appropriate agencies. In assessing the eligibility of individual firms, the following additional criteria would then be applied:

Import Competition—The firm applying for a loan guarantee would, in effect, have to establish, *first of all*, that increased imports of articles like or directly competitive with those produced by the firm have contributed importantly by a decline in the firm's competitive position as evidenced by a decline in the firm's sales or production or both, an underutilization of capacity, a decrease in profitability, or the separation or threat of separation of a significant portion of its workers. A determination regarding the impact of imports on an applicant's business condition made by the International Trade Commission or a Trade Adjustment Assistance Center can be used to help provide the required information if appropriate. *Secondly*, the applicant would have to establish that an upgrading of plant or equipment will help improve the firm's position vis-a-vis that, or other relevant, foreign competition. The firm must demonstrate, however, that its competitive position is likely to improve sufficiently that it will be able to compete effectively against the imports.

Export Promotion—The Committee would expect that the application process would consist of a review of a detailed business plan submitted by the applicant firm, including a feasibility study, an identification of percentages of sales abroad (except for those totally new to exporting), a listing of foreign contracts, a delineation of ports of entry to be used, a survey of foreign market opportunities and prospective foreign buyers, etc.

Production Modification—Firms that are identified as exporters or as import-impacted companies may use financing under this title for the purpose of adapting existing production methods in order to produce similar or related products for which there are new or increased market opportunities. For example, if a shoe manufacturer concludes that it can never again be competitive in domestic and world markets because of foreign competition but that with modest production modifications it can produce another specialized footwear product that can be effectively marketed, then it should be encouraged to do so.

Application of Standard—The Committee would expect SBA, in implementing this program, to rely heavily on the existing program and statistical information within the Federal government, such as that contained in International Trade Commission (ITC) "economic effect studies" of particular industries and statistical abstracts and industry competitiveness studies published by the Department of Commerce, to develop more detailed regulatory standards to be used in identifying targeted industries and in assessing loan applicants. The Committee would suggest that SBA also review the program standards used by those SBDCs such as Missouri and Alabama which have developed criteria to assess the export or import-competing potential of smaller firms seeking financial assistance to enter new markets or retain old ones.

(2) The Conference agreed to the House language.

(3) The Conference agreed to the House language.

8. SMALL BUSINESS INNOVATION RESEARCH. (SEC. 8008) (SEC. 1308 OF HOUSE BILL) (SEC. 3909 OF SENATE AMENDMENT)

Present law

Section 6 of P.L. 97-219, as amended by P.L. 99-443 which requires GAO to conduct an evaluation of the SBIR Program.

House bill

Requires SBA to report to Congress within six months from the date of enactment on the advisability of amending the Small Business Innovation Research (SBIR) program to:

(a) increase each agency's share of research and development expenditures 0.25 percent per year until 3 percent is reached and targeting some portion of those funds at products with commercialization or export potential;

(b) make the program permanent;

(c) allocate a share of each agency's SBIR fund for administrative purposes;

(d) determine annually agency compliance with the program and ensure that SBIR funding is not accompanied by parallel reductions in other small business programs; and

(e) create pooled solicitations of R&D projects of agencies with R&D budgets of $20,000,000 to $100,000,000 so that they are included under the SBIR program.

Senate amendment

(1) Similar provision.

(a) Similar provision, except uses the term "a goal of" before "3 percent".

(b) Similar provision.

(c) Similar provision.

(d) Similar provision.

(e) Deletes the concept of pooling solicitations and requires an assessment of directly including agencies with R&D budgets between $20,000,000 and $100,000,000 under the SBIR program.

Conference agreement

SBA is no longer required to undertake this study. Instead GAO is required to make recommendations on the following provisions in its report to Congress on the SBIR Program:

(a) The Conference agreed to the House language.

(b) Language retained.

(c) Language retained.

(d) Deleted. This provision was deleted because a study of the implementation of the program has already been conducted by GAO, and because it is not consistent with the other requested recommendations which focus on ways to improve the effectiveness of the program.

(e) The Conference agreed to the Senate language.

GAO is requested to undertake the study rather than SBA because GAO is currently conducting a study of the program and because GAO would be in a position to be more objective in assessing program improvements and expansions.

9. GLOBALIZATION OF PRODUCTION. (SEC. 8009) (SEC. 1309 OF HOUSE BILL)

Present law

None.

House bill

(1) Requires the SBA to submit a written report to Congress within one year from the date of enactment on:

(a) the effect of increased outsourcing and shifts in production strategies on the U.S. subcontractor tier;

(b) the impact of specific economic policies, including procurement, tax, and trade policies, that facilitate outsourcing and shifts in production arrangements; and

(c) recommendations on policy changes that would improve the competitive position of small U.S. subcontractors.

Senate amendment

No similar provisions.

Conference agreement

The Conference agreed to the House language with amendment. New language has been added relating to (a) which states that if necessary data on outsourcing is not available, SBA must report on methods by which such data may be collected.

10. SMALL BUSINESS TRADE REMEDY ASSISTANCE. (SEC. 8010) (SEC. 186 OF HOUSE BILL) (SEC. 3701 OF SENATE AMENDMENT)

Present law

Under section 339 of the Tariff Act of 1930 (19 U.S.C. 1339) as amended, a Trade Remedy Assistance Office is established within the ITC to provide full information to the public, upon request, about remedies and benefits available under any of the trade laws and the petition and application procedures and filling dates for obtaining them. Administering agencies must provide technical assistance to eligible small businesses to enable them to prepare and file the petitions and applications.

House bill

Establishes the Office as a separate office within the ITC. Adds requirements that the Office provide, to the extent feasible, (1) assistance and advice to interested parties upon request concerning remedies, benefits, and procedures under the trade laws; and (2), in coordination with the administering agencies, technical and legal assistance and advice to enable eligible small businesses to prepare and file petitions and to seek remedies and benefits under the trade laws, including any administrative reviews and appeals.

Senate amendment

Establishes an Office of Small Business Trade Remedy Assistance in the Department of Commerce, to be administered by a Director appointed by the President with the advice and consent of the Senate, to carry out the same functions transferred from the ITC Trade Remedy Assistance Office under present law.

The Director shall also establish and maintain a system for paying reasonable expenses incurred by an eligible small business in connection with any administrative proceeding under any trade law if he determines the business is in need of assistance. The Director must prepare a written evaluation of any request of expenses incurred. Payments to a business are limited to one proceeding per fiscal year and may be made only after determinations are final and cannot be appealed. Payments cannot exceed 50 percent of expenses below $200,000, or 25 percent of the amount in excess of $200,000 up to $400,000 plus 50 percent of the amount below $200,000. Authorizes annual appropriations not to exceed $3,000,000 beginning fiscal year 1989. The Director must submit an annual report on the operation of the Office to the Ways and Means and Finance Committees, including any legislative recommendations.

Conference agreement

The Conference agreed to the House language with amendment. Language is added requiring the General Accounting Office to study the costs incurred by small businesses in pursuing rights and remedies under the trade laws, and the costs and benefits to the Federal Government of providing reimbursement to small businesses for legal expenses incurred in pursuing trade remedies, or of providing direct legal assistance to small businesses. Language establishing the Office within the ITC will be included under a different title of the Omnibus Trade Bill (title I, section 1614).

11. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS. (SEC. 8011) (SEC. 1310 OF HOUSE BILL) (SEC. 3910 OF SENATE BILL)

Present law

None.

House bill

(1) Requires SBA to conduct a national conference in 1988 in order to develop recommendations designed to stimulate exports from small companies:

(a) The Speaker of the House (in consultation with the Minority Leader) and the Majority Leader in the Senate (in consultation with the Minority Leader) each appoint 15 percent of the delegates to the conference.

(b) The Conference is to bring together experts in relevant fields.

(c) The Conference is to make recommendations on the utility of an International Summit on Small Business and Trade that would:

(I) help develop a consensus on international and national policy changes that would build an international small business sector capable of long-term growth;

(II) help establish linkages between small business owners from various countries;

(III) enable U.S. small businesses learn how to organize themselves for exporting;

(IV) permit others to learn how U.S. small business operates in the U.S.;

(V) provide participants with an understanding of how international trade policy is developed; and

(VI) foster greater consideration of small business concerns in the GATT.

Senate amendment

(1) Similar provision except the conference is to be held within one year from the date of enactment.

(a) No similar provision.

(b) Similar provision.

(c) Similar provision.

(I) No similar provision.

(II) Similar provision.

(III) Changed to "learn how to identify and take advantage of exporting opportunities".

(IV) No similar provision.

(V) No similar provision.

(VI) No similar provision.

Conference agreement

The Conference agreed to the Senate language with amendment. The word "conference" has been replaced by "seminar" suggesting a smaller, more focused undertaking. In addition, discussion of an international conference is to include an evaluation of its ability to foster greater consideration of small business concerns in the GATT. (House language under objective VI.)

The Committee does not expect there to be a conference of the magnitude, nature, or expense of the White House Conference on Small Business. Currently, SBA is planning a series of regional trade conferences to encourage small businesses to export. The Department of Commerce is running a similar initiative called EXPORT NOW. The Committee expects SBA to hold a seminar that can build on the experiences and feedback of these efforts and that will develop policies and programs that go beyond "marketing" the "idea" of exporting to small businesses. Such a seminar should develop concrete recommendations for policies and programs directed at actively assisting small businesses engage in international trade.

12. TRADE NEGOTIATIONS. (SEC. 8012) (SEC. 3911 OF SENATE AMENDMENT)

Present Law

None.

House bill

No similar provisions.

Senate amendment

(1) Establishes the sense of Congress that small business has not been adequately represented in trade policy formulation and trade negotiations. Suggests that the Administrator of SBA be appointed as a member of the Trade Policy Committee and that the USTR consult with SBA in trade policy formulation and negotiations.

(2) Establishes the sense of Congress that the USTR should appoint a special trade assistant for small business.

Conference agreement

The Conference agreed to the Senate language.

13. PROMULGATION OF REGULATIONS. (SEC. 8013) (SEC. 1311 OF HOUSE BILL) (SEC. 3912 OF SENATE AMENDMENT)

House bill

Within six months from the date of enactment, SBA is required to promulgate final regulations to implement the provisions of this title.

Senate amendment

Similar provision.

Conference agreement

The Conference agreed to retain language.

14. EFFECTIVE DATE. (SEC. 8014)

House bill

October 1, 1987.

Senate amendment

No similar provision.

Conference agreement

The Conference agreed that the effective date would be the date of enactment.

TITE IX—PATENTS

SUBTITLE A—PROCESS PATENTS

1. RIGHTS OF PATENT OWNERS (SEC. 1402 OF HOUSE BILL; SEC. 3301 OF SENATE AMENDMENT)

Present Law

Title 35 grants process patent owners the right to exclude others from practicing the process in the United States.

House bill

Amends Title 35 to provide that issuance of a process patent includes the right to exclude others from using or selling in the U.S., or importing into the U.S. products made by that process.

Senate amendment

Identical provision.

Conference agreement

The conferees agreed to the House and Senate provisions.

2. INFRINGEMENT LIABILITY (SEC. 1403 OF HOUSE BILL; SEC. 3302 OF SENATE AMENDMENT)

Present law

No provision.

House bill

Provides that using, selling or importing a product made in violation of a U.S. process patent is an act of patent infringement. Limits remedies against mere users or retailers by requiring exhaustion of remedies against importers and non-retailer sellers. Libility is further limited by excluding products which have been materially changed by subsequent processes or if the product is a *minor or* nonessential component of another product.

Senate bill

Similar to House bill in that it provides that using, selling or importing a product made in violation of a U.S. process patent is an act of patent infringement. Limits remedies against mere users (for non-commercial use) or retailers by requiring exhaustion of remedies against importers and non-retailer sellers. Libability is further limited by excluding products which have been materially changed by subsequent processes or if the product is a *trivial and* nonessential component of another product.

Conference agreement

House recedes to the Senate on both "non-commercial use" and "trivial and" amendments.

As to the former, the House recession implies that exhaustion of other remedies must occur before recourse is made against a non-commercial user.

It should be noted that many of the "products" produced by patented processes are themselves "used" in the manufacture of another product which is introduced into commerce. Consider a process patent held on a method for preparing a plasmid or other vector. The use of the plasmid or vector to insert a new gene into a living cell, instructing the cell to produce an important human protein (such as insulin or interferon) which will then be separated from the fermentation mash, purified, and packaged into single dosage forms, is a commercial use and is ineligible for the limited protection granted to non-commercial uses. The field of biotechnology is particularly susceptiable to commercial "users" without sales. For example, a patent may cover a process for producing a microorganism using recombinant DNA technology. The microoganism is then used to produce a particular commercial end-product of great value. The bill's provisions limiting remedies against users are not intended to apply to such commercial uses. The Committee believes that without expeditious remedies against use-based infringement, merely stopping non-retail sale of the microorganism after its entry into the country fails to prevent commercial use of the microorganism.

In the biotechnology field it is well known that all living organisms contain within them particular genetic sequences composed of unique structural characteristics. The patented process may be for the process of preparing a DNA molecule comprising a specific genetic sequence. A foreign manufacturer uses the patented process to prepare the DNA molecule which is the product of the patented process. The foreign manufacturer inserts the DNA molecule into a plasmid or other vector and the plasmid or other vector containing the DNA molecule is, in turn, inserted into a host organism; for example, a bacterium. The plasmid-containing host organism still containing the specific genetic sequence expresses that sequence to produce the desired polypeptide. Even if a different organism was created by this biotech procedure, if it would not have been possible or commercially viable to make the different organism and product expressed therefrom but for the patented process, the product will be considered to have been made by the patented process.

As to the latter, since neither the House nor the Senate bills proposed changes to the concept of apportionment of damages, House recession to the Senate does not signify a modification of this important patent law concept.

3. LIMITATION ON DAMAGES (SEC. 1404 ON HOUSE BILL; SEC. 3303 OF SENATE AMENDMENT)

Present law

No provisions.

House bill

Limitations do not apply to those who practice the process or who knew about the infringement before the fact. No remedies against products in possession or in transmit at the time of notice. Court shall consider the good faith of the infringer and the rights of the patent owner. The notice that triggers infringement liability consists of: (1) actual knowledge; or (2) notice of a *substantial likelihood* that the product was made by an infringing process. If a party has an excessive inventory actual notice or knowledge is rebuttably presumed.

Senate amendment

Same limitations as House bill in that limitations do not apply to those who practice the process or who knew about the infringement before the fact. No remedies against products in possession or in transit at the time of notice, except exemption also applies to goods for which a binding commitment to purchase has been made and such goods have been at least partially manufactured at the time of notice. Burden of proof is on the party seeking exemption. Same as House bill in that court shall consider the good faith of the infringer and the rights of the patent owner, except court shall also consider the patent owner's compliance with the request for disclosure procedure. As relates to request for disclosure, patent owners may be asked by importer to identify all process patents owned or licensed by that person which could be reasonably asserted as grounds for infringement. Patent owners must respond within 60 days. The requester for such information must agree to pass it along to the manufacturer or supplier with a request for a written statement that such protected processes are not used. Failure by either party to meet these obligations to be considered as a point in the determination of *good* faith. Notice of infringement is actual knowledge or written notification or combination thereof of information *sufficient to persuade a reasonable person it is likely* that a product was made by an infringing process. Receipt of the written notification absent mitigating circumstances, is deemed notice of infringement if the manufacturer/supplier is not contacted.

Conference agreement

The House and Senate compromised between the two bills.

First, the conferees adopted language that has the effect of deleting from the Senate amendment an exemption for goods for which a "party has made a binding commitment to purchase and which has been partially or wholly manufactured." This agreement resolves the primary objection raised by the Administration, thereby removing any arguments about the existence of a compulsory license. Also deleted is the last sentence of the Senate amendment in section 287(b)(2) relating to allocation of damages. The conferees adopted the formulation in the Senate amendment in section 287(b)(3)(A) and (B) with an amendment. The conferees deleted the 60 day deadline for replying to a request for disclosure and adopted a "reasonable time" limit. It is expected that a reasonable time for response to a request for disclosure shall ordinarily be no more than 60 days. In the event of mitigating circumstances, the burden to show why 60 days is not sufficient lies with the party failing to comply.

Second, the conferees also adopted the Senate amendment with respect to section 287(b)(4) with two amendments. In the event of a request for disclosure that is made to a person with a patent license (exclusive or non-exclusive) the recipient of such a request has the choice of either a direct response or passing the request for disclosure on to the licensor. Further, the conferees provided an exemption from the request for disclosure provisions. A person who has marked the number of the patent covering the process used to make the product that the person sells in the United States is not required to respond to a request for disclosure. The Conferees recognize that products may already be in the stream of commerce or about to be manufactured at the time of enactment. Thus, a transition period is provided to allow for an exhaustion of packaging inventory. The marking requirement is derived from existing section 287 of title 35, United States Code. When referring to the option of marking products to avoid a response to a request for disclosure, the conferees contemplate that the marking appear on the immediate packaging of the product or if marking the package is not feasible on the product itself produced by the process patent.

Third, the government adopted language which requires that a person who has received a response to a request for disclosure shall pay to the party to whom the request is made a reasonable fee to cover the actual costs of complying with the request. The reimbursement of reasonable costs shall occur after the response, thereby not delaying in any way the request for disclosure. These reasonable costs shall be subject to three caps: first, the actual cost of any activity undertaken to comply with the request is the first limit and reasonable costs may not in any event exceed this actual cost; second, the reimbursement may not exceed the cost of a commercially available automated patent search of the matter involved; and third, in no event may reasonable costs exceed $500, a formal patent search not being required. Finally, a request for disclosure for purposes of this provision applies separately to each product. For example, a request for disclosure on two products triggers two separate reimbursements.

Fourth, the House recedes to the Senate on the question of notice with an amendment. Deleted from the Senate amendment is the explicit requirement that, as a part of the notification process, the patent owner set forth such persons actual knowledge of any commercially feasible process other than the patented process which is capable of producing the allegedly infringing product. However, the conferees expect that some patent owners will find it necessary to discuss other processes to meet the requirements of providing "such information . . . as is reasonably necessary to fairly explain [their] belief," that an infringing process was used. The factual basis for the belief that an infringing process has been used can also be shown by an indication that the protected process contains certain impurities that do not exist with respect to other alternative processes. Similarly, gross price disparities between the cost associated with use of the protected process and all others may be sufficient to meet this test.

Last, the House recedes to the Senate with respect to section 287(b)(5)(C) with an amendment and explanatory language. The term "mitigating circumstances" is meant to encompass the death or incapacity of the person who was intended to make the submission or an inability to locate the manufacturer/supplier due to his no longer being in business, or inability of the manufacturer to respond to the submission because such manufacturer has gone out of business. A person who receives a written notification described in subparagraph (B) or a written response to a request for disclosure described in paragraph (4) shall be deemed to have notice of infringement with respect to any patent referred to in such written notification or response unless that person, absent mitigating circumstances: first, promptly transmits the written notification or response to the manufacturer or, if the manufacturer is not known, to the supplier, of the product purchased or to be purchased by that person; and second, receives a written statement from the manufacturer or supplier which on its face sets forth a well grounded factual basis for a belief that the identified patents are not infringed. The term "on its face" refers to the four corners of the written statement received by the person making the request for disclosure.

4. PRESUMPTION OF INFRINGEMENT (SEC. 1405 OF HOUSE BILL; SEC. 3304 OF SENATE AMENDMENT)

Present law

No provisions.

House bill

If the court finds there is a substantial likelihood that the product was made in violation of the process patent *and* the claimant has made a reasonable effort to determine the process used, then there is a rebuttable presumption that the product has been made in violation of the process patent.

Senate amendment

Same, except for minor drafting problems.

Conference agreement

Senate recedes to the House.

5. EFFECTIVE DATE (SEC. 1406 OF HOUSE BILL; SEC. 3305 OF SENATE AMENDMENT)

Present law

No provisions.

House bill

Generally applies only to products made or imported after the date of enactment. *Exception* for persons in business using, selling or importing goods already in production on January 1, 1987. Other remedies not affected.

Senate amendment

Similar to House bill in that it generally applies only to products made or imported after the date of enactment, except for persons in businesses using, selling or importing goods already in production on May 15, 1987, and *exception* does not apply to parties with certain cases brought previously before the International Trade Commission.

Conference agreement

The House basically recedes to the Senate. However, the conferees agreed to insert "January 1, 1988" in lieu of "May 15, 1987". The conferees also agreed that the Act will become effective six months after the date of enactment.

6. REPORTS TO CONGRESS (SEC. 1407 OF HOUSE BILL; SEC. 3306 OF SENATE AMENDMENT)

Present law

No provisions.

House bill

Reports on effect of legislation to be submitted by Secretary of Commerce.

Senate amendment

Identical provision.

Conference agreement

The conferees agreed to the House and Senate provisions, with one minor amendment to clarify the scope of the Secretary's report.

7. INFRINGEMENT OF PATENTS (SEC. 3401 OF SENATE AMENDMENT)

Present law

Patent misuse is a common law doctrine that has its roots in the equitable doctrine of unclean hands. Section 271 of Title 35, U.S. Code, provides that certain narrowly described activities of a patent owner shall not be considered patent misuse. Although some misuses of patents may constitute antitrust violations, others do not.

House bill

No provision.

Senate amendment

Amends Title 35 to provide that a patent owner's licensing practices will not constitute patent misuse unless they violate the antitrust laws.

Conference agreement

The Senate recedes to the House.

8. LICENSEE CHALLENGES (SEC. 3501 OF SENATE AMENDMENT)

Present law

Title 35 does not cover the rights of licensees and licensors in a patent license agreement where the validity of the patent is challenged in litigation. However, in 1969, the U.S. Supreme Court ruled in *Lear* v. *Adkins* that a licensee can challenge the validity of a patent, without giving up the benefits of the license during the challenge.

House bill

No provision.

Senate amendment

Amends Title 35 to provide that a licensee may challenge the validity of the licensed patent irrespective of an agreement between the parties barring such challenge. Also provides that the parties to a licensing contract may define their respective rights regarding the termination of a license and payment of royalties if the validity of the licensed patent is challenged.

Conference agreement

The Senate recedes to the House. The conferees came close to solving the issues and resolve to work positively towards enactment of legislation in the near future.

SUBTITLE B—FOREIGN FILING

9. INCREASED EFFECTIVENESS OF PATENT LAW (SEC. 3602 OF SENATE AMENDMENT)

Present law

Section 184 of title 35, United States Code, provides that one who files for a patent must wait six months before filing for a patent in any foreign country. The waiting period permits the Patent and Trademark office to determine whether the application contains information important to the national security. An inventor may procure a license that permits earlier foreign filing, and may be granted a retroactive license if he "inadvertently" filed and did not compromise national security. Courts have interpreted "inadvertently" narrowly. An implementing regulation was interpreted to mean that no foreign application may contain *any* information that was not in the U.S. application. One needs a license before providing any additional information whatsoever. An inventor can lose U.S. patent protection if he provides additional information without a license or files an untimely application.

House bill

No provisions. In the 98th Congress, the House passed a measure substantially the same as the Senate bill.

Senate amendment

The Senate amendment strikes "inadvertently" to extend a retroactive license if one is untimely "through error and without deceptive intent," a well-established patent principle. One will not receive a retroactive license if he disclosed national security information. The Senate amendment further permits an applicant to file "modifications, amendments and supplements containing additional subject matter," with a foreign patent office without procuring a special license. One could not provide such additional subject matter if it changed the nature of the invention or disclosed national security information.

Conference agreement

The House recedes to the Senate.

SUBTITLE C—PATENT TERM EXTENSION

10. PHARMACEUTICAL PATENT EXTENSION (SEC. 3601 OF SENATE AMENDMENT)

Present law

No provision.

House bill

No provision.

Senate amendment

Amends Title 35 to extend the patent on the pharmaceutical product gemfibrozil ("Lopid") for a period of five years, assuming that certain conditions are met.

Conference agreement

The conferees agreed that the patent for the drug product Lopid (gemfibrozil) should be extended for three and one-half years in the form of a private patent bill assuming that certain statutory conditions are met.

Specifically, section 1, subsection (a) of the agreement extends the patent on gemfibrozil for a period of three and one-half years from its date of expiration according to specific conditions set forth in subsection (b).

This patent extension responds to unique circumstances surrounding the regulatory testing and approval of Lopid.

Section 2 describes the procedure which must be followed by the patent holder and the Commissioner of Patents and Trademarks in executing the extension.

TITLE X—OCEAN AND AIR TRANSPORTATION

SUBTITLE A—FOREIGN SHIPPING PRACTICES

I. SHORT TITLE

The *House* bill (Sec. 1101) does not amend any existing maritime laws. It is free standing.

The *Senate* amendment (Sec. 4601) amends the Shipping Act of 1984 by adding a new section 23.

The *Conference* agreement (Sec. 10001) adopts the Senate title, but leaves the measure free standing.

II. DEFINITIONS

The *House* bill (Sec. 1102) defines "class of goods", "Commission", "conference", "documented vessel", "goods", and to "vessel of a foreign country".

The *Senate* amendment (Sec. 4602(a)) defines "foreign carrier", "maritime services", "maritime-related services", "United States carrier", and United States oceanborne trade".

The *Conference* agreement (Sec. 10002(a)) adopts the Senate definitions with two changes. First, the managers modified the definition of a foreign carrier. The original Senate amendment defined a foreign carrier as one whose vessels are all documented under the laws of a foreign country. The version adopted by the Conference states that only a majority of the vessels need fly a foreign flag for a carrier to be considered a foreign carrier. The purpose of this change is to preclude the possibility of a foreign carrier avoiding coverage under the Act by merely documenting a single vessel under the laws of the United States.

The phrase "whether direct or indirect" is included in the definition of the term "United States oceanborne trade" to make clear that the term includes "maritime-related services."

The House managers, while receding to the Senate on the matter of non-liner coverage under the bill, remain concerned that some practices by foreign governments and persons that involve the utilization of non-liner vessels may have an adverse effect on United States vessels of all types.

III. INVESTIGATIONS

The *House* bill (Sec. 1103) requires an investigation by the FMC on a complaint by an operator or employee of a U.S. vessel, or when at least 25 percent of a class of goods are carried by a foreign carrier between the U.S. and that foreign country. It allows the FMC to initiate an investigation on its own motion, and also provides for a preliminary review, which must proceed to an adjudicatory proceeding if the FMC reasonably believes an unfair practice would be found. An unfair practice shall be found when the acts, policies, or practices of a foreign nation unreasonably impair U.S. vessel access to cargo, taking into account the market share of U.S. vessels, whether restraint of trade or the denial of fair and equitable market opportunities, or the denial of internationallly recognized seafarer's rights exists. A foreign entity must show an unfair practice does not exist in certain cases.

The *Senate* amendment (Sec. 4602(b)-(d)) requires the FMC to investigate whether any foreign laws or practices create conditions for U.S. common carriers in the U.S. oceanborne trade that do not exist for foreign carriers under laws or practices in the United States. Investigations may be initiated on the FMC's own initiative or on the petition of any person. The FMC is given specific authority to require reports or other information. Investigations must be completed in 120 days, plus an additional 90 days if the FMC is unable to obtain sufficient information.

The *Conference* agreement (Sec. 10002(b)-(d) adopts the Senate language with an additional phrase, "adversely affect". The purpose of this addition is to make it clear that the managers intend that no action be taken in cases where U.S. carriers have not been harmed, even if the foreign country has laws, rules, regulations, policies, or practices, or foreign carriers or other persons have practices that differ from those of the United States.

This two-fold requirement is based on the manager's view that U.S. maritime law ensures that on the U.S. side, our liner trades are equally accessible to all vessels wishing to enter them. On the other hand, some of our trading partners do not reciprocate this standard of openness. Where this is the case, the managers believe it reasonable to use U.S. maritime regulatory laws and the practices they guarantee as touchstones to promote free and fair trade for U.S. liner operators. The legislation therefore authorizes the agency where necessary to take steps designed to "level the playing field."

The FMC has broad discretion to dismiss frivolous or harassing complaints. While the FMC has discretion to investigate certain conduct by foreign governments or persons, the managers intend that legitimate petitions alleging facts and arguing law, which if supported, would establish actionable conditions under subsection (b) not be summarily rejected. For this reason, the managers added to the subsection (g) report a requirement that the Commission list all rejected petitions and the reasons for the rejection.

The requirement to render a decision as well as complete an investigation within 120 days (extendable to 210 days) is imposed not only to expedite the process, but also to allow the Commission to conclude action, including a determination, even where a party refuses to provide information requested under subsection (d).

The managers intend that the authority granted to the Commission to withhold information from the public under subsection (d)(3) extends only to information used in the administration of this Act, and do not intend that this authority be available to the Commission for other matters.

IV. NEGOTIATIONS

The *House* bill (Sec. 1104) requires the removal of an unfair practice or a reduction of cargo carriage by the foreign vessel(s) equal to the benefit derived from the unfair practice.

The *Senate* amendment has no similar provision.

The *Conference* agreement contains no provision on negotiations.

V. ACTIONS AGAINST FOREIGN CARRIERS AND PENALTIES

The *House* bill (Sec. 1105) provides a civil penalty or identical limitations on foreign vessel operations if negotiations are not completed.

The *Senate* amendment (Sec. 4602(e), (f)) provides that, upon a finding of the conditions specified, the FMC shall take whatever action it deems appropriate against any foreign carrier that contributes to, or whose government contributes to, those conditions. These actions may include limitation of sailings, and suspension of tariffs or other rights. The FMC may consult with, or make recommendations to, other government agencies prior to taking action. The President may disapprove an FMC order for national defense or foreign policy reasons. Upon request of the FMC, offending foreign vessels shall be denied clearance by the collector of customs or be denied entry to U.S. ports by the Coast Guard.

The *Conference* agreement (Sec. 10002(e), (f)) adds language to the Senate provision. The added language gives the Commission discretion to hold a hearing instead of basing its record on comments. The managers intend that the FMC afford the opportunity for hearing or comment as due process considerations require. While some form of hearing may be an appropriate procedure in some cases, the legislation does not require a hearing on the record.

Language from the House bill authorizing the FMC to levy a monetary amount has been added (subsection (e)(1)(D)). It is intended that "agreements filed with the Commission" include contracts otherwise required to be filed with the FMC (subsection (e)(1)(C)).

The FMC is authorized to act against a carrier or the vessels of a carrier that is owned or controlled by citizens of the contributory government, regardless of whether the carrier's vessels are documented under the laws of the contributory government.

Language from the House bill is added to subsection (e)(3) to require that if the President disapproves an FMC action, the reasons for the disapproval must be set forth in writing.

Language was added in subsection (f)(2) to clarify that it is for the purposes of oceanborne trade that vessels may be denied entry. Entry for repairs and other rights under international law are not affected.

Language was added (Sec. 4602(i)) which provides that final orders of the Commission are, as a general proposition, reviewable by the Court of Appeals, not by the District Court. It is not intended to be used where, in the general conduct of a proceeding, the Commission seeks to enforce a subpoena or obtain enforcement of other discovery or information requests. As is the practice under section 14(c) of the Shipping Act of 1984, these orders would be reviewable in the District Court.

VI. REPORT

The *House* bill does not contain a separate reporting requirement provision.

The *Senate* bill (Sec. 4602(g)) requires the FMC include in its annual report to Congress a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo in bilateral trade with the United States; an analysis of conditions being investigated or existing in foreign countries; actions being taken by the FMC; and recommendations for legislation.

The *Conference* agreement adopts the Senate reporting requirement. A new provision was added, requiring the FMC to include a list of petitions filed under subsection (c) that the FMC rejected, and the reasons for the objections. Further, the FMC must report conditions being investigated or found to exist in foreign countries.

VII. AUTHORIZATION

The *House* bill (Sec. 1106) authorizes $5 million for implementation, offset by penalty receipts.

The *Senate* amendment provides no additional funds for the FMC to implement this system.

The *Conference* agreement provides no authorization.

VIII. MOBILE TRADE FAIRS

The *House* bill (Sec. 1110) reauthorizes sec. 212(B)(c) of the Merchant Marine Act, 1936 at $500,000 per year for six years.

The *Senate* amendment has no similar provision.

The *Conference* agreement (Sec. 10003) adopts language that is intended to reestablish the authority of the Department of Commerce to provide assistance to mobile trade fair projects without requiring a specific or new authorization or appropriation. The managers intend that by simply eliminating the specific authorization language, including the sunset provision, that the Department of Commerce will retain programmatic authority, within current budgetary constraints, to support mobile trade fairs whenever appropriate as an additional tool to encourage and promote U.S. exports. The managers intend that this program include support for the operation of an exhibition ship that is acting as an at sea international management export company representing the manufacturers of American-made products. The managers also intend that no special appropriation is necessary, but that appropriations generally for trade promotion purposes could be used for carrying out this section. The authority is left with the Department of Commerce as the appropriate agency to oversee trade promotion activities within the government. However, the managers recognize that U.S.-flag carriers are the only recipients of support under this provision that may, as appropriate, involve the interest of Department of Transportation agencies. The authority of the President to use foreign currencies is retained for flexibility. This provision has been revised, however, to insure that this is a discretionary authority.

Section 10003(b) is intended to allow refurbishment, including painting, of a vessel intended for use solely for mobile trade fair purposes without the requirement for inspection as a commercial vessel until the vessel is placed in service as a mobile trade fair vessel. This does not exempt the vessel from meeting the requirements of documentation as a vessel of the United States, but is intended as an interim measure to encourage the conversion of U.S.-flag vessels [as quickly as possible] without unnecessary delays. For this reason, this subsection has been limited to a one-year duration to encourage projects to act as promptly as possible. This provision is limited to applications under section 3302(e) only, and the ultimate burden of showing that the vessel is undergoing refurbishment rests with the owner. The managers urge the Department of Transportation and the Coast Guard to cooperate to the maximum extent possible with these projects, consistent with their responsibilities for safety of life and property at sea.

1. Present law

Establishes a deadline of 180 days for the Secretary of Transportation to take action on a complaint by a U.S. air carrier against a foreign government or foreign air carrier that is engaging in discriminatory practices against a U.S. air carrier or imposing unreasonable restrictions on access of a U.S. air carrier to foreign markets.

House bill

Establishes a new deadline of 90 days for the Secretary of Transportation to take action on a complaint.

Senate amendment

Identical to House bill.

Conference agreement

House bill.

2. Present law

Does not provide for an extension of the 180-day deadline for the Secretary of Transportation to take action on a complaint.

House bill

Provides that the 90-day deadline established by the House Bill can be extended up to another 90 days if:

(1) It appears negotiations will produce an imminent, satisfactory resolution;

(2) No U.S. air carrier has been subjected to economic injury, and

(3) The public interest requires additional time before taking action.

Senate amendment

Identical to House bill.

Conference agreement

House bill.

3. Present law

Requires the Secretary of Transportation to solicit the views of the Department of State before taking action on a complaint.

House bill

Requires the Secretary of Transportation to solicit the views of the Department of Commerce and the United States Trade Representative in addition to the Department of State before taking action on a complaint.

Senate amendment

Identical to House bill.

Conference agreement

House bill.

4. Present law

Does not require reports to Congressional Committees on actions taken on a complaint.

House bill

Requires the Secretary of Transportation to report within 30 days of taking action on a complaint to the House Committee on Public Works and Transportation and the Senate Committee on Commerce, Science and Transportation on what actions have been taken.

Senate amendment

Requires the same reports as the House bill, except that the Secretary does not have to report if the complaint is withdrawn before the 30th day.

Conference agreement

House bill.

From the Committee on Ways and Means, for consideration of titles I, II, VIII, and XV and sections 704 and 906 of the House bill, and titles I, II, III (except sections 308 and 310), IV (except sections 412 through 415), V through VIII, IX (except sections 963, 967 through 972, 974, 975, and 977) of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
Thomas J. Downey,
Don J. Pease,
Marty Russo,
Frank Guarini,
Robert T. Matsui,
John J. Duncan,
Bill Archer,
Guy Vander Jagt,

From the Committee on Ways and Means, for consideration of sections 321, 323, 363, 907 through 909 of the House bill, and title XXXVII and sections 308, 310, 412, 977, 2002, and 3871 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
Thomas J. Downey,
Don J. Pease,
Marty Russo,
Richard T. Schulze,

From the Committee on Ways and Means, for consideration of sections 613, 626, 627, 671 through 675, 681, 682, 691, and 692 of the House bill, and sections 974, 975, 2112, 2128, 2171, 2173 through 2175, 2191, 2193, and 2194 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
Don J. Pease,
Marty Russo,
Robert T. Matsui,
Wm. Thomas,

From the Committee on Ways and Means, for consideration of sections 605 through 607, 611, and 663 of the House bill, and sections 2113, 2114, and 2136 of the Senate amendment, and modifications committed to conference:

Dan Rostenkowski,
Sam M. Gibbons,
Robert T. Matsui,
Wm. Thomas,

From the Committee on Ways and Means, for consideration of title X of the House bill, and section 3911 of the Senate amendment, and modifications committed to conference:

Sam M Gibbons,
Frank Guarini,

From the Committee on Ways and Means, for consideration of sections 351, 901, and

902 of the House bill, and sections 968 through 972, 1030 through 1033, and 3811 through 3824 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
THOMAS J. DOWNEY,
BILL ARCHER,
RICHARD T. SCHULZE,

From the Committee on Agriculture, for consideration of title VI and sections 318 through 321 of the House bill, and title XXI (except sections 2178 through 2180A and 2185 through 2187) and sections 601, 602, 604, 605, 974, 975, and 4706 of the Senate amendment, and modifications committed to conference:

K. DE LA GARZA,
GEORGE E. BROWN, Jr.,
LEON E. PANETTA,
DAN GLICKMAN,
CHARLIE STENHOLM,
HAROLD L. VOLKMER,
PAT ROBERTS,
SID MORRISON,
STEVE GUNDERSON,
FRED GRANDY,

From the Committee on Agriculture, for consideration of section 308 of the Senate amendment, and modifications committed to conference:

K. DE LA GARZA,
GEORGE E. BROWN, Jr.,
DAN GLICKMAN,
PAT ROBERTS,
SID MORRISON,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 126 (insofar as it would add new sections 311(g) (1) and (2) to the Trade Act of 1974), sections 401 through 427, and 431 through 452 of the House bill, and titles XIII and XVII and sections 108, 2008, 2012, and 2178 through 2180A of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
ROBERT GARCIA,
JOHN J. LAFALCE
CHARLES E. SCHUMER,
BRUCE A. MORRISON,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 322 of the House bill, and section 1106 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
ROBERT GARICA,
BRUCE VENTO,
CHARLES E. SCHUMER,
BRUCE A. MORRISON
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 341 and 344 of the House bill, and modifications committed to conference:

WALTER E. FAUNTROY,
MARY ROSE OAKAR,
ROBERT GARCIA,
JOHN J. LAFALCE,
CHARLES E. SCHUMER,
BRUCE A. MORRISON
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 428 of the House bill, and section 1506 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
BRUCE VENTO,
DOUG BARNARD, Jr.,
CHARLES E. SCHUMER,
BRUCE A. MORRISON,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 461 through 471 of the House bill, and sections 3801 through 3809 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
ROBERT GARCIA,
MARY ROSE OAKAR,
JOHN J. LAFALCE,
BRUCE F. VENTO,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 476 and 477 of the House bill, and sections 1101 through 1103 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
MARY ROSE OAKAR,
ROBERT GARCIA,
JOHN J. LAFALCE
BRUCE VENTO,
DOUG BEREUTER,
TOBY ROTH,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 907 of the House bill, modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
MARY ROSE OAKAR,
ROBERT GARCIA,
BRUCE VENTO,
CHARLES E. SCHUMER,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 911 of the House bill, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
JOHN J. LAFALCE,
BRUCE VENTO,
CHARLES E. SCHUMER,
BRUCE A. MORRISON,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 959 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
MARY ROSE OAKAR,
ROBERT GARCIA,
CHARLES E. SCHUMER,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1026 and 1027 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
JOHN J. LAFALCE,
BRUCE VENTO,
CHARLES E. SCHUMER,
BRUCE A. MORRISON,
DOUG BEREUTER,
TOBY ROTH,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 1501 through 1504 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
BRUCE VENTO,
DOUG BARNARD, Jr.,
CHARLES E. SCHUMER,
BRUCE A. MORRISON,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1805 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
ROBERT GARCIA,
BRUCE VENTO,
CHARLES E. SCHUMER,
BRUCE A. MORRISON,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of title XIX and section 2001 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
ROBERT GARCIA,
JOHN J. LAFALCE,
BRUCE VENTO,
CHARLES E. SCHUMER,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 313 of the House bill, and sections 1201 and 1203 of the Senate amendment, and modifications committed to conference:

WALTER E. FAUNTROY,
ROBERT GARCIA,
BRUCE A. MORRISON,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 326 of the House bill, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
ROBERT GARCIA,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 345 of the House bill, and modifications committed to conference:

MARY ROSE OAKAR,
JOHN J. LAFALCE,
BRUCE VENTO,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 664 of the House bill, and sections 1801, 3903, and 3906 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
ROBERT GARCIA,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 702 of the House bill, and modifications committed to conference:

FERNAND J. ST GERMAIN,
WALTER E. FAUNTROY,
MARY ROSE OAKAR,

From the Committee on Banking, Finance and Urban Affairs, for consideration of sections 902, 905, and 912 of the House bill, and title XIV and sections 3811 through 3824, 3861 through 3867, and 4501 of the Senate amendment, and modifications committed to conference:

MARY ROSE OAKAR,
JOHN J. LAFALCE,
BRUCE VENTO,
J. ALEX MCMILLAN,
TOBY ROTH,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1303 of the House bill, and modifications committed to conference:

MARY ROSE OAKAR,
WALTER E. FAUNTROY,

ROBERT GARCIA,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1105 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
ROBERT GARCIA,
DOUG BEREUTER,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 1505 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
BRUCE F. VENTO,

From the Committee on Banking, Finance and Urban Affairs, for consideration of section 3854 of the Senate amendment, and modifications committed to conference:

FERNAND J. ST GERMAIN,
MARY ROSE OAKAR,
BRUCE F. VENTO,

From the Committee on Foreign Affairs, for consideration of title III (except sections 322, 326, and 351) and sections 451, 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653, 663, 701, 903, 907, and 912 of the House bill, and titles X (except sections 1030 through 1033), XII, XVI, XVIII (except section 1801), XX (except sections 2001 and 2008), and XLVII and sections 311, 413 through 415, 958, 963 through 972, 977, 1104, 1304, 1504, 2111, 2113 through 2127, 2129, 2132 through 2136, 2138, 2139A through 2166, 2180B through 2182, 2184, 2192, 3851, 3871, 4501, and 4901 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
DON BONKER,
DAN MICA,
HOWARD L. BERMAN
(except for section 331 of the House bill, and section 1020 of the Senate amendment),
MEL LEVINE
(except for sections 301 through 321, 323 through 325, 345, 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653, 663, and 912 of the House bill, and sections 311, 958, 968 through 972, 1802 through 1805, 1807 through 1809, 2002 through 2007, 2009 through 2012, 2111, 2113 through 2127, 2129, 2132 through 2136, 2138, 2139A through 2166, 2180B through 2182, 2192, 4501, and 4901, and titles XII and XLVII of the Senate amendment),
JAMES H. BILBRAY
(except for section 331 of the House bill, and section 1020 of the Senate amendment),
TOBY ROTH,
DOUGLAS BEREUTER,
JOHN MILLER
(except for section 331 of the House bill, and section 1020 and title XLVII of the Senate amendment),

From the Committee on Foreign Affairs, for consideration of section 331 of the House bill, and section 1020 of the Senate amendment:

HOWARD WOLPE,

From the Committee on Foreign Affairs, for consideration of section 325 of the House bill, and title XLVII and sections 311, 958, 968 through 972, 2002 through 2007, 2009 through 2012, and 4901 of the Senate amendment:

STEPHEN J. SOLARZ,

From the Committee on Foreign Affairs, for consideration of sections 318 through 321, 345, 601 through 612, 621 through 623, 625, 631 through 637, 641 through 651, 653, 663, and 912 of the House bill, and sections 2111, 2113 through 2127, 2129, 2132 through 2136, 2138, 2139A through 2166, 2180B through 2182, 2192, and 4501 of the Senate amendment:

SAM GEJDENSON,

From the Committee on Foreign Affairs, for consideration of title XLVII of the Senate amendment:

BENJAMIN A. GILMAN,

From the Committee on Foreign Affairs, for consideration of sections 322, 326, 351, 461 through 471, 664, 702, 703, 901, 902, 905, 1303 through 1306, and 1310 of the House bill, and title XIV and sections 308, 412, 1105, 1505, 1801, 3801 through 3824, 3854, 3902 through 3907, 3910, and 3912 of the Senate amendment, and modifications committed to conference:

DON BONKER,
DAN MICA
(except for sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment),
HOWARD L. BERMAN
(except for section 664 of the House bill, and sections 308 and 2178 through 2180A of the Senate amendment),
DOUG BEREUTER
(except for sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment),

From the Committee on Foreign Affairs, for consideration of section 664 of the House bill, and sections 308 and 2178 through 2180A of the Senate amendment:

SAM GEJDENSON,

From the Committee on Foreign Affairs, for consideration of sections 1303 through 1306 and 1310 of the House bill, and sections 3902 through 3907, 3910, and 3912 of the Senate amendment:

JAMES H. BILBRAY,
BILL BROOMFIELD,

From the Committee on Foreign Affairs, for consideration of sections 1030 through 1033 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
DON BONKER,
DAN MICA,
WM. BROOMFIELD,
TOBY ROTH,

From the Committee on Energy and Commerce, for consideration of title II and section 703 of the House bill, and sections 901 through 913 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
MIKE SYNAR,
D.E. ECKART,
JIM SLATTERY,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATT RINALDO,
DON RITTER,

From the Committee on Energy and Commerce, for consideration of sections 104, 181, 183, 324, 701, 903, 904, 906, and 909 of the House bill, and title XVI and sections 1503, 1802, and 3851 through 3853 of the Senate amendment, and modifications committed to conference; for consideration of sections 121 and 124 of the House bill, and sections 306 and 307 of the Senate amendment, and modifications committed to conference, except for those matters relating to suspension, withdrawal, or prevention of trade agreement concessions or to imposition of duties or other import restrictions on goods; and for consideration of section 201 of the Senate amendment (insofar as it would add new sections 204(d)(1)(B)(ii) and 204(d)(2)(B) through (E) to the Trade Act of 1974), and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
JOHN BRYANT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
MATT RINALDO,

From the Committee on Energy and Commerce, for the consideration of section 198 of the House bill, and sections 2185 through 2188 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
JOHN BRYANT,
NORMAN F. LENT,
CARLOS J. MOORHEAD,
DAN COATS,

From the Committee on Energy and Commerce, for the consideration of sections 908, 910, and 911 of the House bill, and section 310 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
PHILIP R. SHARP,
AL SWIFT,
JOHN BRYANT,
NORMAN F. LENT,
MATT RINALDO,
DON RITTER,

From the Committee on Energy and Commerce, for consideration of sections 311 through 316, 345, 461 through 471, 901, 902, 905, 907, and 912 of the House bill, and titles

XII (except section 1207) and XIV and sections 968 through 972, 1801, 1802, 3801 through 3824, and 4501 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
NORMAN F. LENT,
(except for sections 461-471 of the House bill and sections 3801-3809 of the Senate amendment),

From the Committee on Energy and Commerce, for consideration of section 331 of the House bill, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
NORMAN F. LENT,

From the Committee on Energy and Commerce, for consideration of section 702 of the House bill, and sections 1505 and 3854 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
NORMAN F. LENT,
MATT RINALDO,

From the Committee on Energy and Commerce, for consideration of sections 3861 through 3867 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
JAMES J. FLORIO,
EDWARD J. MARKEY,
NORMAN F. LENT,
DON RITTER,

From the Committee on Education and Labor, for consideration of title V (except subtitle B) of the House bill, and titles XXIII through XXXII of the Senate amendment, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
DALE E. KILDEE,
PAT WILLIAMS,
JIM JEFFORDS,
BILL GOODLING,
TOM COLEMAN,

From the Committee on Education and Labor, for consideration of subtitle B of title V of the House bill, and title XXII of the Senate amendment (except the portion of section 2202 that would add new part B to title III of the Job Training Partnership Act), and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
JOSEPH M. GAYDOS,
W.L. CLAY,
MATTHEW G. MARTINEZ,
JIM JEFFORDS,
MARGE ROUKEMA,
STEVE GUNDERSON,

From the Committee on Education and Labor, for consideration of section 2202 of the Senate amendment (insofar as it would add new part B to title III of the Job Training Partnership Act), and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
JOSEPH M. GAYDOS,
W.L. CLAY,
MATTHEW G. MARTINEZ,
AUSTIN J. MURPHY,
JIM JEFFORDS,

From the Committee on Education and Labor, for consideration of section 904 of the House bill, and modifications committed to conference:

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
JOSEPH M. GAYDOS,
JIM JEFFORDS,
BILL GOODLING,

From the Committee on the Judiciary, for consideration of title XIV and sections 166, and 171 through 173 of the House bill, and titles XXXIII through XXXVI and sections 201 (insofar as it would add new section 203(f) to the Trade Act of 1974), 401, 415, 416, 1107, 1806, 1908, and 1910 of the Senate amendment, and modifications committed to conference:

PETER W. RODINO, JR.,
BOB KASTENMEIER,
DON EDWARDS,
WILLIAM J. HUGHES,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
HAMILTON FISH, JR.,
CARLOS J. MOORHEAD,
HENRY J. HYDE,
DANIEL E. LUNGREN,

From the Committee on the Judiciary, for consideration of sections 872 and 873 of the House bill, and modifications committed to conference:

PETER W. RODINO, JR.,
BOB KASTENMEIER,
DON EDWARDS,
WILLIAM J. HUGHES,
PAT SCHROEDER,
GEO. W. CROCKETT, JR.,
BILL MCCOLLUM,
DANIEL E. LUNGREN,
HAMILTON FISH, JR.,
CARLOS J. MOORHEAD,

From the Committee on the Judiciary, for consideration of sections 326, 905, and 912 of the House bill, and titles XIV and XLVIII, and sections 1105 and 3861 through 3867 of the Senate amendment, and modifications committed to conference:

PETER W. RODINO, JR.,
DON EDWARDS,
WILLIAM J. HUGHES,
HAMILTON FISH, JR.,
CARLOS J. MOORHEAD,

From the Committee on the Judiciary, for consideration of section 351 of the House bill, and modifications committed to conference:

BOB KASTENMEIER,
PAT SCHROEDER,
HAMILTON FISH, JR.,
CARLOS J. MOORHEAD,

From the Committee on the Judiciary, for consideration of section 701 of the House bill, and sections 1603 through 1605 of the Senate amendment, and modifications committed to conference:

PETER W. RODINO, JR.,
WILLIAM J. HUGHES,
GEO. W. CROCKETT, JR.,
BILL MCCOLLUM,

From the Committee on the Judiciary, for consideration of section 703(h) of the House bill, and modifications committed to conference:

PETER W. RODINO, JR.,
WILLIAM J. HUGHES,
GEO. W. CROCKETT, JR.,
HAMILTON FISH, JR.,
CARLOS J. MOORHEAD,

From the Committee on Government Operations, for consideration of titles X and XVI of the House bill, and title XLVIII of the Senate amendment, and modifications committed to conference:

JACK BROOKS,
JOHN CONYERS, JR.,
STEVE NEAL,
BARRY FRANK,
BOB WISE,
FRANK HORTON,
ROBERT WALKER
(except for title XVI of the House bill, title XLVIII of the Senate amendment, and sections 5301 through 5303 of the Conference report),
WILLIAM F. CLINGER
(except for title XVI of the House bill, title XLVIII of the Senate amendment, and section 5301 through 5303 of the conference report),

From the Committee on Government Operations, for consideration of sections 461 through 471 of the House bill, and sections 1030 through 1033 and 3801 through 3809 of the Senate amendment, and modifications committed to conference:

JACK BROOKS
(except for the Competitiveness Policy Council provided for in sections 461 through 471 of the House bill, sections 3801 through 3809 of the Senate amendment, and sections 5201 through 5210 of the Conference Report),
JOHN CONYERS, JR.,
STEVE NEAL,
FRANK HORTON
(except for the Competitiveness Policy Council provided for in sections 461 through 471 of the House bill, sections, 3801 through 3809 of the Senate amendment, and sections 5201 through 5210 of the conference report),

From the Committee on Merchant Marine and Fisheries, for consideration of title XI of the House bill, and title XLVI and section 2011 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
GLENN M. ANDERSON,
GERRY STUDDS,
DON BONKER,
WILLIAM J. HUGHES,
BOB DAVIS,
NORMAN F. LENT,
DON YOUNG,
NORMAN D. SHUMWAY,

From the Committee on Public Works and Transportation, for consideration of title XII of the House bill, and section 4502 of the Senate amendment, and modifications committed to conference:

NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
NICK RAHALL,
DOUGLAS APPLEGATE,
RON DE LUGO,
JOHN PAUL

HAMMERSCHMIDT,
ARLAN STANGELAND,
NEWT GINGRICH,
WILLIAM F. CLINGER,

From the Committee on Small Business, for consideration of title XIII and section 186 of the House bill, and titles XXXVII and XXXIX and section 1804 (insofar as it would add new section 661(d)(2)(B) to the Foreign Assistance Act of 1961) of the Senate amendment, and modifications committed to conference:

JOHN J. LAFACE,
NEAL SMITH,
IKE SKELTON,
NICK MAVOROULES,
JAMES H. BILBRAY,
JOSEPH M. MCDADE,
ANDY IRELAND,
SILVIO O. CONTE,

From the Committee on Small Business, for consideration of section 314 of the House bill (insofar as it would add new section 203(c) to the Export Administration Amendments Act of 1985), and modifications committed to conference:

JOHN J. LAFALCE,
NEAL SMITH,
IKE SKELTON,
JOSEPH M. MCDADE,
ANDY IRELAND,

From the Committee on Science, Space, and Technology, for consideration of section 911 of the House bill, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
BUDDY MACKAY,
TIM VALENTINE,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MANUEL LUJAN, Jr.,
SHERWOOD BOEHLERT,
DON RITTER,
RON PACKARD,

From the Committee on Science, Space, and Technology, for consideration of sections 3852 and 3853 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
BUDDY MACKAY,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
MANUEL LUJAN, Jr.,
SID MORRISON,
DON RITTER,
CONSTANCE MORELLA,

From the Committee on Science, Space, and Technology, for consideration of section 3871 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
BUDDY MACKAY,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
MANUEL LUJAN, Jr.,
SHERWOOD, BOEHLERT,

From the Committee on Science, Space, and Technology, for consideration of sections 3881 through 3884 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DAVE MCCURDY,
DAN GLICKMAN,
BILL NELSON,
TOM MCMILLEN,
JIMMY HAYES,
MANUEL LUJAN, Jr.,
TOM LEWIS,
DON RITTER,

From the Committee on Science, Space, and Technology, for consideration of titles XL through XLIV, and sections 4503 through 4505 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
DAN GLICKMAN,
MANUEL LUJAN, Jr.,
SHERWOOD BOEHLERT,
CLAUDINE SCHNEIDER,
DON RITTER,

From the Committee on Science, Space, and Technology, for consideration of section 4902 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
GEORGE E. BROWN, Jr.,
JIM SCHEUER,
MARILYN LLOYD,
DAN GLICKMAN,
MANUEL LUJAN, Jr.,
TOM LEWIS,
RON PACKARD,
JACK BUECHNER,

From the Committee on Science, Space, and Technology, for consideration of sections 461 through 471 and 904 of the House bill, and sections 2305, 3801 through 3809, and 3909 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
GEORGE E. BROWN, Jr.
(Except for sections 461 through 471 of the House bill, and sections 3801 to 3809 of the Senate amendment),
MANUEL LUJAN, Jr.,
SHERWOOD BOEHLERT
(Except for sections 461 to 471 of the House bill and sections 3801 to 3809 of the Senate amendment),

From the Committee on Science, Space, and Technology, for consideration of section 412 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
RALPH M. HALL,
ROBERT TORRICELLI,
MANUEL LUJAN, Jr.,

From the Committee on Science, Space, and Technology, for consideration of sections 3861 through 3867 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
DOUG WALGREN,
TIM VALENTINE,
MANUEL LUJAN, Jr.,
DON RITTER,

From the Committee on Rules, for consideration of title XVI and sections 114 (d) and (e) of the House bill, and sections 104, 107, 110, and 2131 of the Senate amendment, and modifications committed to conference:

CLAUDE PEPPER,
JOE MOAKLEY,
BUTLER DERRICK,
TONY P. HALL,
ALAN WHEAT,
TRENT LOTT,
GENE TAYLOR,

From the Committee on Armed Services, for consideration of sections 1030 through 1034, and 4901 of the Senate amendment, and modifications committed to conference:

LES ASPIN,
SAMUEL S. STRATTON,
NICK MAVROULES,

From the Committee on Armed Services, for consideration of section 1021 of the Senate amendment, and modifications committed to conference:

LES ASPIN,
NICK MAVROULES,
DUNCAN HUNTER,
Managers on the Part of the House.

From the Committee on Finance:

LLOYD BENTSEN,
DANIEL P. MOYNIHAN,
MAX BAUCUS,
DAVID BOREN,
BOB PACKWOOD,
JOHN CHAFEE,
BILL ROTH,
JOHN DANFORTH,

From the Committee on Banking, Housing, and Urban Affairs:

PAUL SARBANES,
ALAN J. DIXON,
JOHN HEINZ,

From the Committee on Commerce, Science, and Transportation:

ERNEST F. HOLLINGS,
DANIEL K. INOUYE,
J.J. EXON,
DAN RIEGLE,
JOHN C. DANFORTH,
BOB PACKWOOD,

From the Committee on Labor and Human Resources:

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
BARBARA MIKULSKI,
BROCK ADAMS,

From the Committee on Small Business:

DALE BUMPERS,
JIM SASSER,
LOWELL P. WEICKER, Jr.,

From the Committee on the Judiciary:

DENNIS DECONCINI,
PATRICK LEAHY,

From the Committee on Foreign Relations:

CLAIBORNE PELL,
PAUL SARBANES,
CHRISTOPHER J. DODD,

From the Committee on Agriculture, Nutrition, and Forestry:

PAT LEAHY,
JOHN MELCHER,
DAVID PRYOR,

From the Committee on Governmental Affairs:

JOHN GLENN,
LAWTON CHILES,
JEFF BINGAMAN,
TED STEVENS
(I object to the anti-Alaskan provisions and several non-trade provisions),

Solely for the consideration of sections 1029 through 1036 of title X:

ALAN CRANSTON,

Solely for the consideration of title XIV:

J.J. EXON,
JOHN C. DANFORTH,
Managers on the Part of the Senate.

□ 1515

ELECTION OF MEMBER AS CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Mr. GEPHARDT. Mr. Speaker, as chairman of the Democratic Caucus and by direction of the caucus, I call up a privileged resolution (H. Res. 429) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 429

Resolved, That the following Member, be and is hereby elected chairman to the following standing committee of the House of Representatives:

Committee on Public Works and Transportation: Glenn M. Anderson, California.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 10 a.m. tomorrow.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Washington?

There was no objection.

AGREEMENT BETWEEN UNITED STATES AND THE KINGDOM OF THE NETHERLANDS ON SOCIAL SECURITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-186)

The SPEAKER pro tempore (Mr. GRAY of Illinois) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means, and ordered to be printed:

(For message, see Proceedings of the Senate of today, April 20, 1988.)

IMMIGRATION AND NATIONALITY ACT

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 428 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 428

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4222) to amend the Immigration and Nationality Act to extend for six months the application period under the legalization program, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of sections 302(c) and 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and all points of order against said substitute for failure to comply with the provisions of sections 302(c) and 302(f) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), and with clause 5(a) of rule XXI are hereby waived. No amendments to said substitute shall be in order except pro forma amendments offered for purposes of debate and the amendments printed in the report of the Committee on Rules accompanying this resolution. Said amendments shall not be subject to amendment except pro forma amendments. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. MOAKLEY. Mr. Speaker, House Resolution 428 is a modified closed rule providing for the consideration of the bill H.R. 4222, which will amend the Immigration and Nationality Act to extend the application period under the legalization program.

The rule provides for 1 hour of general debate to be equally divided between the chairman and ranking minority member of the Committee on the Judiciary.

Mr. Speaker, the rule waives two sections of the Congressional Budget Act against consideration of the bill. Section 302(c) of the Budget Act prohibits the consideration of any bill that provides new budget authority, new spending authority, or new credit authority until that committee has filed its section 302(b) report. Since this bill would create new budget authority in fiscal year 1988 through the collection of fees from undocumented aliens applying for legalization, and the Committee on the Judiciary has not filed its section 302(b) report, the bill would violate section 302(c) of the Budget Act.

Mr. Speaker, the rule also waives section 302(f) of the Congressional Budget Act. Section 302(f) prohibits consideration of measures that would exceed the subcommittee allocations of new discretionary budget authority made pursuant to section 302(b) of the budget act. Since this bill would create new budget authority and the Committee on the Judiciary received no allocation of budget authority, the bill violates section 302(f) of the Budget Act.

Mr. Speaker, the rule makes in order an amendment in the nature of a substitute now printed in the bill as original text for the purpose of amendment. Section 302(c) and section 302(f) of the Congressional Budget Act are also waived against the consideration of the substitute.

The rule also waives the provisions of clause 5(a) of rule XXI against the substitute. Clause 5(a) of rule XXI prohibits appropriations in a legislative bill. Mr. Speaker, by extending the legalization program deadline the bill also extends the authorization for the Immigration and Naturalization Service to spend the application fees it receives. This authority constitutes an appropriation in a legislative bill and causes the bill to be in violation of clause 5(a) of rule XXI.

Mr. Speaker, the rule further provides that no amendments to the bill are in order except pro forma amendments offered for the purpose of general debate, and the amendments printed in the report accompanying this resolution. Said amendments are not subject to amendments except pro forma amendments.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 4222 would extend through November 30, 1988, the period during which undocumented aliens could apply for legalization under section 201 of the Immigration and Reform Control Act of 1986. Under current law, the legalization period will end on May 4, 1988. The bill would extend the authority previously granted to the Attorney General to carry out the legalization program and authorizes $2 million for the disbursement of information regarding the change in the expiration date.

Mr. Speaker, this program was established under the immigration bill to reach those aliens that were eligible for legalization. To date there are estimated to be hundreds of thousands of eligible individuals that have not yet applied. The extension of the deadline to November 30, 1988, will allow for those illegal aliens that are eligible for legalization to come forward and apply, and reduce the problems of a large illegal alien population.

I urge my colleagues to vote for House Resolution 428 and to pass the bill H.R. 4222.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in 1986 this Congress passed a monumental piece of legislation. The Immigration Reform and Control Act. That law has been working well since its implementation.

Today, we have before us a bill to extend the application period under the legalization program from May 4, 1988, to November 30, 1988. If this bill is adopted it means that the total application period will be approximately 18 months.

We should remember that the original Immigration Reform and Control Act passed in the House some 2 years ago provided for an 18-month legalization program. It was reduced to 12 months after conference with the Senate.

Passage of this bill will put us back to a legalization program of about the same length as contained in the original House-passed bill.

Mr. Speaker, it should be noted that the vote in the Judiciary Committee to report this bill was 22 to 12, and 10 of those Members signed dissenting views which appear in the committee report. In addition, the administration has taken a position strongly opposing the bill.

Mr. Speaker, the rule before us will allow the House to proceed to consider the bill to extend the application deadline for the legalization program. We should adopt the rule so that we can get down to business and complete action on the bill.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise in support of the rule but I will oppose the bill for several reasons. First of all, it will cost us about $124 million over the next 6 years and it will even cost the States more money and once again we pass laws and the States will incur some debt.

Second of all, under the amnesty program enacted last year the majority of illegal aliens eligible to apply have done so. Up to 1.7 million have already applied.

Do not forget here today we are talking about people who have entered the country illegally, 1.7 million of them. If we approve this bill today, what further type of message are we sending out, "If you want to come to America, jump the fence and maybe next year we will take care of you."

□ 1530

My grandparents on both sides were emigrants. They stood in line. They came into our country the right way.

While we let these people in, jumping the fence illegally, there were people standing in line trying to become U.S. citizens that were turned down. I think that is crazy.

Instead of finding new ways to help people who have jumped the fence illegally, we ought to be looking and scrambling for ways to try to help American citizens. They are having a rough time finding work, and taking care of their families and making their mortgage payments.

So, Mr. Speaker, again I feel very sorry for the many people in other parts of the world, especially Central America and Mexico. But I think America must help them to fish so they can feed themselves. We cannot take everybody in, and we certainly cannot send out a message to say that if you want to get American citizenship, all you have to do is jump the fence.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, amnesty is being turned into travesty. What started out as a well-intentioned project on the part of this House to couple amnesty for illegal aliens with sanctions to be placed on employers to try to tighten up our borders is rapidly deteriorating into a meaningless gesture with an attempt at an extension of the amnesty. Amnesty should be something which we hold up as sacrosanct and one which should be honored for what it is. To allow an extension of it in the face of untold rationales for why it would be granted simply weakens and poisons that concept of amnesty.

Mr. Speaker, this rule will permit two amendments to be offered which can ameliorate what I believe is the poisoning of amnesty, and I would hope that we will pay attention, close attention, to the substance of those amendments.

In the meantime, however, because it is not an open rule, I am constrained out of principle to vote against it even though I am the beneficiary of the exceptions granted by the rule for a possible amendment.

I repeat: What we are about here is to extend the period of amnesty without regard to what it ultimately does. It rewards the illegal aliens who for a thousand reasons have refused, or delayed, or procrastinated, or for some other reason failed to apply for amnesty. It makes us a laughing stock for not being able to do something with finality like secure our borders. It makes it silly to know that our taxpayers are not accorded any extension of the deadline past April 15 every single year except with severe penalties, except with certain good cause shown, and here we are in the business of extending the right of amnesty to illegal aliens.

Mr. Speaker, we ought to think twice about this and support the amendment that will come under the 5-minute rule later which will allow the extension of amnesty only upon good cause shown.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Speaker, I would just take this time to say that I support the proposition before us. That is that this rule is a fair rule, the accommodations have been made, and the members of the minority who wish to amend the bill before us will be given that opportunity. I would like to just at this point in time indicate to some Members, particularly on my side of the aisle, to please keep an open mind when this bill is before the membership.

Mr. Speaker, I know there are men and women of good will on both sides of this particular issue. But I would like all to at least take a look at the bill and analyze it in at least one way. Members should focus on the fact that this bill is not an expansion of the Legalization Program. This bill does nothing to increase the number of eligible people to be found within the Legalization Program. On the contrary this maintains the same number of possible eligibles. What it does is say that we ought to have a longer application period.

In some ways, the INS, who have done a magnificant job, I would say, have suggested that we in fact need some leniency. They have indicated that they would take less than full applications before the expiration date and then allow people to follow up thereafter. I think that is one of the things we ought to keep in mind.

If we believe it was right to have a Legalization Program, I think we would want it to work. It has worked well, but it has not worked completely. And that is for reasons beyond the control of the INS, but rather because of the nature of the situation. So I would just say as we go to this rule, and I hope adopt this rule which will allow full debate and consideration of amendments on the bill, that Members look openly at this particular bill. See what it is and see what it is not, and remember that we did vote for legalization some time ago because we thought it was the right thing to do. Today we have the question of the proper means by which we make it work.

People can agree or disagree on the proper position before us, but I hope they would keep in mind we are not talking about expanding the pool of eligibles. We are talking about the application; that is, the means by which we make the program work.

I would argue and argue very strenuously that since we adopted legalization as a proposition we ought to make it work so we will not have to revisit it in a year or 2 years or 3 years when at that point in time the argument might be made that we ought to expand the number of people that would be eligible. This does not do that. This allows us to act at the time when the program is still before us, and I hope Members will keep that in mind as we consider this rule.

Please vote the rule up.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Kentucky [Mr. ROGERS].

Mr. ROGERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am not so much concerned about the rule as I am the bill. I suppose the rule will pass, and I am sure pass rather handily. But this bill should not be on the floor.

The legalization amnesty employer sanction deal that was worked out when the bill was passed last year was a very delicately balanced, finely tuned piece of work that this bill will do violence to. Make no mistake about that, make no mistake, when we extend the deadline that was finely tuned and put into the original bill, this bill does violence to that very intricate part of the arrangement that was delicately worked out and passed this House by only seven votes. So there are strongly held views about every single item in the amnesty bill that passed this body. This bill does violence to that agreement.

I can only surmise that those who are for extension are wanting extension to further broaden the categories of people who can eligibly come into the country and seek amnesty. That is the only reason that anyone could ask for an extension of the deadline, because we have begged people to fill out the papers and seek amnesty and seek legalization, and 1.8 million or so have.

How much longer do my colleagues want to beg people to give them the benefit of American citizenship? They have had all of these months. We have spent millions of dollars advertising and promoting and writing and giving everyone the wonderful chance to be a citizen of this country. Enough is enough. Enough is enough.

It is going to cost us between $25 million and $58 million to extend this deadline we are told by the INS; others say much more. And bear in mind, under the budget resolution we have just sent the conferees out on there is a spending cap on domestic spending, and every penny we spend on something like this is money coming off of the war on drugs, among other things. So money is tight, and this bill, among other things, is expensive.

Mr. SHAW. Mr. Speaker, will the gentleman yield?

Mr. ROGERS. I am happy to yield to the gentleman from Florida.

Mr. SHAW. Mr. Speaker, I would like to compliment the gentleman from Kentucky for his statement. I think that the rule we are operating on is a fair rule. It is making the major amendments that were made in committee acceptable, and for that I would thank the chairman of the full committee as well as the ranking members. But I think what the gentleman is saying is absolutely correct.

I think there is one other thing we have to talk about, and that is the terrible amount of confusion that is already out there with regard to this bill and with regard to this extension. If this extension passes, there is going to be even more confusion out there, because I think the thing is going to be laying in limbo for a while. We do not know whether the President is going to sign it, we do not know what the other body is going to do, and we do not know when the conference is going to come together, and we do not know if we are going to be able to meet those deadlines. So I think the more we mess with this thing, the more muddied the water is going to be, and the less clear it is going to be for those who are out there who were going to benefit.

So I think in trying to help these people we are actually hurting them. But I think the gentleman is quite correct, we do not have to beg these people to become citizens or legals in this country. We have set it out for them, and they have had long enough to comply.

Mr. ROGERS. I thank the gentleman from Florida for his comments. He is correct. We are going to send a very confusing signal south of the border and we are going to send a very confusing signal to the employers in this country who will be saying here you are messing again with the deadline that we have all planned ourselves around and you are going to do violence to the agreement that was reached in this body. You are going to send a signal south of the border that we really did not mean it when we set a deadline.

They are beginning now to have the final crunch of numbers of applicants, and if we say that the deadline is next year sometime, or what have you, then it is going to trickle back down again.

Since this bill was passed, there have been many attempts to liberalize the legalization provisions. The SAW and the EVD amendments already have eased legalization requirements, they have allowed untold hundreds of thousands of aliens to remain in our country. What is going to be next? Who knows.

I am sure that if this extension passes there will be efforts continuing to expand the eligibility requirements of those who are allowed to apply for amnesty and legalization. So I urge my colleagues, whatever they do on the rule, is not important, but it is terribly important what they do on the substance of the bill, and I urge a "no" vote on the bill.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, but I reserve the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Speaker, I rise in support of the rule for the consideration of H.R. 4222, to extend the application period for legalization until November 30, 1988. Although it would have been preferable, to consider this simple deadline extension legislation without any amendments, I appreciate the Rules Committee's efforts to limit amendments.

With only 2 weeks left before the current application deadline passes, we do not have the time or the luxury to tinker and make substantive changes to the Immigration Reform and Control Act of 1986. For this reason I am going to urge my colleagues to oppose both of the amendments that have been made in order during consideration of H.R. 4222.

When Congress passed immigration reform in 1986, we knew that it was imperfect and hopefully we can improve on it. I know that many of my colleagues, if this were the right opportunity, would offer amendments today. For example, I would like to see us clarify the family unity policy. But this is not the right time to do this. What we are considering is simply extending the deadline of a program. Usually this type of legislation is passed under suspension of the rules. It is not unusual for us to change deadlines due to implementation problems or changes in circumstances that often arise.

Just a few weeks ago we passed a bill under the suspension calendar that deferred the deadline for a second time for a program that provides for the health care of certain former military spouses because the Defense Department has not implemented the new program to care for these beneficiaries. Why then are we not considering this deadline extension under the suspension calendar? Because this is an immigration program. Despite that fact, let me make clear that we are not deciding today the merits of legalization. We did that 2 years ago. Today we will be voting on whether the deadline we voted for 2 years ago, still makes sense now that we know the circumstances under which the program has operated.

During the floor debate I will make the case for extending the deadline for the Legalization Program as recommended by several independent studies that have recognized the serious delays that came up due to the difficult task of implementing such a massive program in such a short time.

Mr. Speaker, I urge my colleagues to support this rule and vote for the extension and against all amendments.

□ 1545

Mr. QUILLEN. Mr. Speaker, I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The **SPEAKER** pro tempore (Mr. GRAY of Illinois). The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The **SPEAKER** pro tempore. Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4222.

The Chair designates the gentleman from Massachusetts [Mr. DONNELLY] as Chairman of the Committee of the Whole, and requests the gentleman from Minnesota [Mr. OBERSTAR] to assume the chair temporarily.

□ 1546

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4222) to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program, with Mr. OBERSTAR [Chairman pro tempore] in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN** pro tempore. Pursuant to the rule, the first reading of the bill is dispensed with.

The gentleman from Kentucky [Mr. MAZZOLI] will be recognized for 30 minutes and the gentleman from Georgia [Mr. SWINDALL] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise to express my support for the bill before us, H.R. 4222, to extend the period during which persons may apply for legalization under the Immigration Reform and Control Act of 1986, Public Law 99-603.

It has been now nearly a year and a half since that landmark piece of legislation was passed and signed by the President in 1986. It has worked very well. It has not worked perfectly. But given its landmark and watershed status, it has worked remarkably well.

A few problems have arisen. It is not remarkable when one considers the nature of this piece of legislation. One such problem is being dealt with by the bill H.R. 4222. I introduced this piece of legislation on March 22. It extends the legalization program under the bill by something over 6 months in order to make the program coterminous with the other legalization program in the bill dealing with special agricultural workers.

My bill was adopted by the Subcommittee on Immigration, Refugees and International Law of the Committee on the Judiciary by a vote of 7 to 3 and by the full Judiciary Committee by a vote of 22 to 12. The legalization program, as we remember, is intended to provide equity and justice to those illegal aliens who are otherwise law abiding people who have lived in the United States continuously since 1982 and who have good work records and have established roots in their communities.

The program is operated not as a blanket amnesty for all undocumented aliens, but as a case-by-case adjudication of each individual applicant. Only those who can show they have been in this country since 1982 can qualify.

Legalization, as established by the 1986 act, is altogether consistent with the fair, humane, and generous immigration traditions of the United States. It is a one-time opportunity whose purpose is to treat humanely the shadow population of undocumented aliens living and working in this country.

Mr. Chairman, H.R. 4222 does not alter or modify the legalization program, nor the characteristics which I have just outlined.

The procedure remains exactly as enacted in the 1986 act, except H.R. 4222 would extend by a bit over 6 months the period within which people can make their applications.

Why did we seek this extension? Let us first talk about the numbers. As of last Thursday, fewer than 1.2 million persons had applied for the regular legalization program. Of these, only 729,000 had already received their temporary residency cards which is the first formal step in the process by which aliens can live permanently in this country, and, maybe, earn their citizenship.

It is worth noting that legalization is a two-step process, because after receiving temporary residency status an alien must remain in that status for not less than 18 months after which the individual has 1 year in which to apply for conversion to permanent residency. I might say that move from temporary to permanent is not an automatic move. Among other things, the alien applying for permanent residency must show a working knowledge of or be enrolled in courses to learn the English language, our governmental system, our history.

Those who cannot meet these requirements will revert to their earlier undocumented status and be subject to deportation.

In addition to the 1.2 million people who have applied for legalization under the regular program, another 400,000 have applied for legal status under the special agricultural worker program.

Mr. Chairman, these numbers are sizable but they fall short of the total numbers anticipated when the program opened last May 5. Without that extension there could be a sizable shortfall in the legalization program. This could compromise to some extent the success we have had with employer sanctions in our border enforcement program, all component parts of the IRCA, the immigration reform bill, by leaving in place in our country a large population of the undocmented.

My bill, therefore, is designed to make sure this does not happen and that the original goals of legalization are met.

The original bill in the House 2 years ago called for an 18-month legalization. It was reduced to 12 months in conference. I felt the conference probably suited the purpose then but circumstances have changed which were not foreseen or foreseeable and that requires the bill before us, H.R. 4222.

I might say parenthetically that there are other adjustment programs in this bill. We adjust agricultural workers. They have an 18-month period to apply. We adjust Cuban and Haitians entrants; they have 2 years or 24 months to apply.

The registry program which we have updated is unlimited. It seems a little bit ironic and anomalous to require the most difficult program, this one, legalization, the shortest period of time in which to apply and get all the paperwork together.

There is another reason to support H.R. 4222. Policy changes were adopted by the Immigration Service after the bill began, after the legalization program began last May. Those primarily required or affected continuous residency of the applicant and the family fairness doctrine.

These and other rule changes are generous and sensitive and certainly compassionate and reflect well on the Immigration Service. But they were adopted after the legalization program began.

Some applicants were rejected in the early going and those people now should have the opportunity to apply under the new set of standards. Without an extension they might not be able to so qualify.

Another difficulty has been the advertising and public outreach program. In this era of budget tightening the Immigration Service did not have the requisite money at the top of the program to get out the word to establish this outreach program. As a result, it was not debugged and in working order until 1988. In addition, Mr. Chairman, while INS has handled the bulk of the legalization applications, qualified designated entities, church groups and others are also qualified for that. They got off to a very slow start in part because of deep seated worries and concerns about the bona fides of the program and of the attitude of the INS.

Those have now been laid to rest and with an additional period the QDE's will be able to do the job they say they want to do which is to go out and reach all the people who are yet to be reached.

There are other factors that commend this bill. Mr. Chairman, the program has so far been self-funded and it will be self-funded so that the budgetary impact on the Immigration Service should be bearable.

The structure of the act is that the INS Legalization Office is now numbering some 107, it will be kept open anyway through November 30 in order to handle SAW applications, under the Special Agricultural Worker Program. So that there would not be a particularly heavy burden on the Immigration Service since their offices would remain open in any event.

So in sum, Mr. Chairman, I ask my colleagues to join me and the members of the Committee on the Judiciary in approving H.R. 4222 which provides for 6-plus months for persons to apply for legalization under the Immigration Reform and Control Act. It does not change the program. It neither expands nor contracts the program. It does not provide additional qualifications for people who are unqualified. It simply gives an additional period of time for qualified people to come forward.

The CHAIRMAN. The gentleman has consumed 8 minutes.

Mr. SWINDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 4222 because, if passed, the net effect would be to take a bad idea and make it worse. The bad idea, of course, is the whole notion that we want to reward those individuals who came into this country illegally while at the same time penalizing those individuals who chose to attempt to come into this country legally.

The reason it would penalize those individuals who chose to obey the law is those individuals who came in illegally take valuable space that is highly sought after and is competitively distributed through our immigration quotas.

It also, however, ignores a very delicate political balance that was struck in the 99th Congress to get this bill passed in the first instance. I do not think anyone in this Chamber would deny the fact that the amnesty provision was the most divisive issue contained in the Immigration Reform Act that was passed in this body in the 99th Congress.

The specific part that was highly contested was exactly how long we would allow the window of opportunity to remain open.

The House version was 18 months, and the Senate version was 12 months. For those individuals who would argue this is insignificant, I would remind them the conferees reduced the time to 12 months in order to make certain that that delicate balance between employer sanctions and amnesty, and all of the other various provisions that made up one of the most complex immigration reform bills ever pased in this body could in fact be passed.

Now what we are doing is coming in through the back door and extending the legalization period from 12 to 18 months when in fact that delicate provision of amnesty passed by only seven votes in the last Congress.

The second part of this bill that I think makes it bad legislation is the lack of necessity.

I listened to the Commissioner of Immigration testify before the Subcommittee on Immigration that 96 percent of those individual aliens that are in this country that woud qualify are aware that they have the opportunity and have had the opportunity since last year to step forward and take advantage of this one time offer.

According to testimony before the committee, the entire legalization process takes 30 minutes. What we are really arguing here is that in order to accommodate the procrastinators we are going to pass a bill that will end up costing the American taxpayers millions of dollars. I think it is ludicrous to ask the American taxpayers to pay that type of tab to basically accommodate procrastinators or individuals who simply have not thus far found it convenient to step forward and take advantage of probably the most significant offer ever made.

Given the fact that there is 96 percent awareness among potentially eligible aliens, what we are really saying is that somehow American citizenship is not valuable enough to come forth by May 4.

The next thing that I think we must focus on, particularly in these deficit-ridden times, is the cost.

We know for a fact that it will cost $7.5 million per month during each of the 18 months of this extension period. That is $58 million.

Now in order for that to be offset through the application process it would be necessary for 300,000 additional applicants to pay the fee. According to the INS Commissioner that is highly unlikely. So we are asking the American taxpayers to pick up the difference in order to accommodate those procrastinators who have not as yet taken advantage of this opportunity.

But that is not all of the cost. According to the Congressional Budget Office in a letter dated April 11, 1988, to our committee chairman, and I am quoting here:

Extending the legalization program would increase Federal outlays by $10 million in fiscal year 1988, $46 million in 1989, rising to $90 million in 1991.

It goes on:

The net increase in the deficit would total about $123 million over the 1988-93 period.

But that is not all.

In addition to that we find that States would incur additional costs.

Specifically, according to the same letter, and I am quoting:

The additional 100,000 aliens—

Estimated to come in under this extension—

Would raise costs in States' public assistance, public health, and education programs by an estimated $20 million in 1989, $50 million in 1990, and $55 million in 1991.

□ 1600

I would like, Mr. Chairman, to introduce this letter as part of the RECORD.

CONGRESSIONAL BUDGET OFFICE,
Washington, DC, April 11, 1988.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. The Congressional Budget Office has prepared the attached cost estimate for H.R. 4222, a bill to amend the Immigration and Nationality Act to extend the application period under the legalization program.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JAMES L. BLUM,
Acting Director.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, APRIL 11, 1988

1. Bill number: H.R. 4222.

2. Bill title: A bill to amend the Immigration and Nationality Act to extend the application period under the legalization program.

3. Bill status: As ordered reported by the House Committee on the Judiciary, March 31, 1988.

4. Bill purpose: H.R. 4222 would extend the legalization period created by the Immigration Reform and Control Act (IRCA—Public Law 99-603) until November 30, 1988. Under current law, the legalization period will end on May 4, 1988.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Direct spending:						
Estimated budget authority	13	7	5	4	23	23
Estimated outlays	10	46	85	90	−126	39
Estimated revenues	13	5	2	1		
Net budget impact—estimated increase or decrease (−) in the deficit	−3	41	83	89	−126	39

The costs of this bill fall within budget functions 500, 550, 570, 600 and 750.

Basis of estimate: This estimate assumes that the bill would be enacted around May 1, 1988. All programs affected by extending the application period have direct spending authority. These include the major public assistance programs and the Immigration and Nationalization Service's (INS) legalization operations. As is shown in the table above, extending the legalization program would increase federal outlays by $10 million in fiscal year 1988, $46 million in 1989, rising to $90 million in 1991. In 1992, net outlays would be negative because of reduced spending from funds previously appropriated for Interim Assistance to States. Federal revenues would increase by $13 million in 1988, $5 million in 1989, $2 million in 1990, and $1 million in 1991, because of an increase number of applications for legalization. The net increase in the deficit would total about $123 million over the 1988-1993 period.

Extending the application period for legalization for an additional six and three-quarter months would almost certainly increase the number of unauthorized aliens ultimately granted resident status. How many additional aliens would apply for legalization during the extra period is very uncertain. Based on the number of applications to date and on discussions with INS personnel, CBO has assumed that an additional 100,000 aliens (above CBO's baseline) would apply and be granted resident status during the extra period. This additional number of aliens would be about 8 percent more than the estimated 1.3 million aliens granted resident status during the original 12-month application period ending May 4, 1988.

Entitlement Programs. Legalization raises costs in a number of federal entitlement programs, whose benefits unauthorized aliens either cannot or do not receive. These programs and their associated costs are shown in the table below. Outlays in the Supplemental Security Income, Unemployment Compensation, Disability Insurance, and Medicare programs are estimated to increase by an insignificant amount in 1988 and by $19 million in 1993. Medicaid outlays would also rise, but they would be fully offset in fiscal years 1988 through 1991 by a reduction in spending for Interim Assistance to States for Legalization. Under the Interim Assistance program, certain costs to the federal government—including Medicaid costs—are deducted from the $1 billion appropriated in each year 1988 through 1991 to provide assistance to states. Finally, except for the reduction caused by the added Medicaid costs, outlays for Interim Assistance to States would remain unchanged over the entire six-year period but they would be speeded up. The additional 100,000 aliens would raise costs in states' public assistance, public health, and education programs, by an estimated $20 million in 1989, $50 million in 1990, and $55 million in 1991. Because the amount of Interim Assistance is fixed over the four-year period, these increased outlays would reduce spending in 1992 from previously-appropriated funds by an estimated $165 million.

INS Legalization. Under the provisions of the IRCA, the INS finances the legalization program with fees paid by the applicants. Assuming that around 105,000 additional applications are received, CBO estimates that additional revenues from application fees would total $13 million in 1988, $5 million in 1989, $2 million in 1990, and $1 million in 1991, relative to the CBO baseline. This estimate includes additional revenues from fees charged during the second phase of the legalization program, permanent residency applications.

These receipts would be available for obligation without appropriation. Based on information provided by the INS and the Office of Management and Budget, CBO estimates that the additional revenues from application fees would equal the additional costs of extending the legalization program, as is shown in the table below. Even with the existing deadline, many INS offices would remain open to process existing applications, administer the Special Agricultural Workers program, and to prepare for the permanent residency phase of the legalization program. The increased number of applicants would also increase the outlays for the permanent residency phase of the program. CBO expects that certain INS offices—particularly those in New York, Chicago, and Los Angeles—would need some additional staffing, resulting in increased outlays for the program of $10 million in 1988, $8 million in 1989, $2 million in 1990, and $1 million in 1991.

FEDERAL SPENDING FROM H.R. 4222

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	1993
SSI (Function 600):						
Estimated budget authority	(1)	2	3	3	3	3
Estimated outlays	(1)	2	3	3	3	3
Unemployment compensation (Function 600):						
Estimated budget authority						
Estimated outlays	(1)	5	10	10	10	10
Disability insurance (Function 650):						
Estimated budget authority						
Estimated outlays	(1)	1	5	5	5	5
Medicare (Function 570):						
Estimated budget authority						
Estimated outlays	(1)	(1)	(1)	1	1	1
Medicaid (Function 550):						
Estimated budget authority	(1)	10	15	15	20	20
Estimated outlays	(1)	10	15	15	20	20
Interim assistance to States for legalization (Function 500):						
Estimated budget authority	(1)	−10	−15	−15		
Estimated outlays	(1)	20	50	55	−165	
INS Legalization Program (Function 750):						
Estimated budget authority	13	5	2	1		
Estimated outlays	10	8	2	1		
Total direct spending:						
Estimated budget authority	13	7	5	4	23	23
Estimated outlays	10	46	85	90	−126	39

[1] Less than $500,000.

6. Estimated cost to State and local governments: The additional 100,000 aliens granted resident status would increase state spending in public assistance, public health, and education programs. These additional costs would be covered during the 1988-1991 period under the Interim Assistance program discussed earlier. However, these increased state costs, as well as the increased cost of Medicaid to the federal government, would reduce the previously-appropriated but unspent funds that states could have used to cover any additional spending from legalization in 1992. For this reason, state spending would be increased in 1992 by an estimated one hundred sixty-five million dollars. Moreover, in 1992 and 1993, states' costs in their Medicaid and General Assistance programs are estimated to increase by about $40 million a year as a result of the extension of the application period for legalization.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Michael Sieverts (226-2860), Jan Peskin (226-2820), and Marianne Page (226-2720)

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director for Budget Analysis.

The next point I would like to make is by our considering the bill, that the INS Commissioner has already stated on the record that he will recommend to the President to veto this bill. Assuming that the bill is vetoed and the veto is sustained, we are in effect hurting the very people we say we are trying to help, because the extention rumor that has already started in the eligible community might well cause those individuals to misread what the facts are and thus fail to apply between now and the May 4 deadline.

The worst thing that we can do is add to the confusion by introducing and passing legislation that the President will veto when this body or the other body may well sustain that veto.

But imagine what type of confusing signal it sends to Mexico and the remaining countries in Central America in terms of, "Hey, the Congress of the United States after having last year given us this opportunity to take advantage of Congress' decision to reward people that break the law, have now extended that window of opportunity. What makes us think they will not next year reopen amnesty one more time? So let us go illegally enter the United States now in order that we, too, may be eligible for the next amnesty package."

For those who say this likelihood is not logical, I would suggest that it is totally logical given the illogical nature of our now debating this issue having just debated the same issue in the last Congress when we reached a very delicate balance. To come in today and try to extend amnesty by 18 months and ask the American taxpayers to foot the bill is not only illogical, it is outright unconscionable.

For all of the reasons I've mentioned I would ask my colleagues to vote for the American taxpayer for once. Let us give them a break. Let us not reward procrastinators. Finally, by voting against this bill we are in effect saying that if American citizenship is not worth going down to the INS office today and filling out the application and taking 30 minutes, what in the world is?

Mr. MAZZOLI. Mr. Chairman, I yield such time as he might consume to the gentleman from New Jersey [Mr. RODINO] the distinguished chairman of the committee.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, the bill before us is a very simple, a modest request and notwithstanding the fact that some of the individuals who have preceded me in the well have talked about the amount of money that is going to be involved in expenditures in order to try to fund properly this legalization program, already money had been appropriated, a sufficient amount of money had been appropriated, estimating that perhaps there might be some 2 million or more undocumented aliens who might become eligible for the legalization provision which we had enacted in the Immigration Reform and Control Act.

It is true that the amnesty provision did engender a great deal of debate, but the House did pass, the President was interested enough to continually urge this Member to take this bill up, and always there was an estimate on the part of the Immigration Service and those of us who were interested in the bill that there might be some 2 million or more eligible undocumented aliens who might be able then to take advantage of the legalization provision, come out of the shadows of the society they are now in, and avail themselves of the opportunity to legalize and live as decent citizens.

The whole import of the amnesty provision was to do as much as we possibly could within that period of time, but to provide those individuals who are already apprehensive of what the Immigration Service might do should they come forward, to give them every opportunity to come forward, this notwithstanding the fact that I applaud the Immigration Service for having done the job that it has done up until now, and only recently actually I think doing even more, recognizing the fact that there were a number of people who, apprehensive, afraid of what might occur to them, afraid of the possible separation from families, afraid to come forward at all, the Immigration Service itself finally has conducted an extensive outreach program, knowing that there are maybe 400,000 or 500,000 more who are potentially eligible, who could become those whom the law might then provide with legal status.

It would seem to me to be the humane thing to do to recognize that we who had intended to provide these people with this kind of an opportunity failed to do all that was necessary to do, because this bill was enacted in November of 1986, but it was not until May that the Immigration Service got the wheels turning, began to reach out, began to issue the contracts and began then the process of which we know began to turn rather slowly.

It seems to me we have fallen short of the number that we had estimated might avail themselves of that provision of legalization. The amount of money that is being discussed here, I understand, has already been not only appropriated, but that amount of money and other amounts of money that might be still necessary if we were to extend this program, that amount of money would be funded, because this is a self-funding program. So there would be no extra cost. Whatever there might be, I am sure, would be minimal and would certainly be worth not only this effort but would be in keeping with the fine tradition of this country that has extended itself on occasion to these people who for so long have lived in the shadows of our society.

I think that it is only incumbent on us who for a period of many, many years undertook to write this measure that at this time we say we are not changing the law substantively. What we are doing is merely reaching out once again not to those who are the procrastinators but to those who were afraid, to those who did not understand, to those who have been apprehensive, who were afraid that they might be separated from their families.

I say that this is certainly the kind of effort that is worthy of our Nation. It is in keeping with its fine tradition, and I would hope that we find it within ourselves again to exercise that kind of compassion, that kind of humane spirit which will maybe cost us just a little more but I am sure will give 300,000, 400,000, 500,000 people who now are so-called illegals, working illegally, give them an opportunity to be able to come up out of the shadows and live as decent human beings and continue to be providers in this society.

Mr. Chairman, this bill, H.R. 4222 is a reasonable, practical and, above all, humane proposal to assure that the greatest number of aliens eligible to legalize their status will avail themselves of that opportunity.

I am supporting this extension because I am personally convinced that hundred of thousands of potentially eligible applicants have not applied and may not be able to apply by the current May 4 deadline. This is particularly true in my area of the country, the Northeast, where the number of applications are shockingly low—as of April 14—only 113,500 have filed applications out of a national total of some 1.2 million—less than 10 percent.

The fundamental purpose of the Immigration Reform and Control Act of 1986 was to resolve the undocumented alien problem. It did so by creating a system of sanctions for employers who knowingly hire undocumented aliens and a legalization program for those aliens who have been here since before 1982. Over a 15-year period the undocumented situation was deteriorating to the point where many people were wringing their hands and complaining that our borders were completely out of control. The country was being engulfed by literally millions of aliens entering clandestinely into our country and the labor market. The result, you are all aware of, were burgeoning underground populations suffering mistreatment and abuse by unscrupulous employers and landlords. They were living a life of constant fear of discovery and deportation, and passive acceptance of substandard—and in some cases—inhumane working conditions and slave wages.

To correct these widespread abuses and to bring this underground population "out of the shadows," a one-time generous legalization program was devised. It was considered to be a reasonable and decent thing to do to regularize the status of those aliens who had been residing in the United States since before 1982, who were leading stable, productive lives and who has demonstrated an honest intention of remaining in the United States.

With a companion program of employer sanctions and a reasonably enhanced enforcement system, both in the interior and at the borders, it was hoped that the undocumented alien population, not eligible for legalization would voluntarily return.

As my colleagues know, I have been a strong supporter of extending the legalization program for an additional year. However, as a realist, I believe in compromise. I did not believe that a 1-year extension could be enacted into law. I do, however, believe that a straight 7-month extension is proper and politically achievable. I think such a compromise is fair and is in keeping with the spirit of the 1986 law.

I say this because you will recall that the immigration reform bill that passed the House in October 1986 contained an 18-month legalization program. It was only after the Conference Committee met that the program was reduced to 12 months.

Contrary to some observations by opponents of this bill, there was not a great deal of discussion over the length of the program in conference, instead more emphasis was placed on making sure legalization was a "One-shot" proposition. I thoroughly agree with the one-shot nature of this program, but I believe now as I believed then, that an 18-month application period for the program will enhance full participation in it.

For this extension to succeed, the administration must, in good faith, make a renewed effort to provide an effective outreach and counseling service to convince those who are eligible to apply.

Many opponents to this legislation address the additional cost to the Immigration and Naturalization Service, arguing that if not enough eligible applicants are forthcoming, revenues will not offset the costs of keeping legalization offices open until November 1988.

The fact of the matter is that, notwithstanding this extension, the majority of INS legalization offices will remain open in order to start the second phase of the program—that of accepting permanent residence applications for changes of status. These sites, therefore, would still be open to process additional legalization applications. Certainly, personnel changes to staff these offices can be easily adjusted according to the volume of business.

Mr. Chairman, as I stated at the outset, I am convinced that there are hundreds of thousands of undocumented aliens out there who have not applied, but who are eligible to apply in accordance with the spirit of that law and who came before 1982. Why not give these decent, law-abiding people a chance to come forward?

We must consider for a moment the psychological transformation an undocumented alien must go through to convince himself to apply for legalization. All his life he has feared the Immigration Service—the "Migra" to him—and has done everything possible to remain undetected by these officials who represent arrest, incarceration, deportation, separation of family, et cetera.

Suddenly, the much fear "Migra" is urging him to come forward to legalize his status. There are natural trepidations, concerns, and certainly a great deal of mistrust until he is convinced that the offer is valid. Experience is the best remedy for these misgivings.

Regrettably, this attitude of fear—albeit misplaced—coupled with the inherent delays in starting up the program, has had a adverse impact on the number of applications received.

First, there was a delay in awarding a major public information and outreach contract. Second, throughout the program, INS has made a number of important changes to the eligibility requirements, in many cases rendering eligible many individuals who were earlier told they did not qualify, and third the grassroots outreach that the immigration reform law contemplated was inadequate.

I ask myself, what are the consequences if we terminate this legalization program before we are convinced that all eligible aliens have applied. We will have a residual illegal population we will have to seek out and deport; we will force families with equities, such as U.S. children, to leave or continue to survive in an underground economy—the type of economy we sought to eliminate by the reform act; we will see pressures develop for future legalization programs and we may see a flood of private immigration bills on behalf of aliens who qualify, but who did not apply for the legalization program for one reason or another.

Mr. Chairman, what we are asking for in H.R. 4222 is an insurance policy on a legislative act that took years to develop and pass. We must make sure that the basic objective of the legalization program is achieved. An extension of time to apply will certainly bring us closer to that goal.

Mr. SWINDALL. Mr. Chairman, I yield 3½ minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Chairman, I oppose this bill and a year and a half ago I opposed the 1986 Immigration Reform Act largely because I opposed the blanket amnesty provision which allowed illegal aliens to achieve legal resident status. No matter how much compassion I had for individual cases, I felt it was wrong to reward those who knowingly circumvented American immigration laws and unfair to those who stood in line for years and years to come into this country legally.

For example, I have worked on cases in my district office where prospective immigrants with close relatives already living in the United States have waited 10 years to emigrate from Hong Kong. The situation is even worse for a Romanian man who has waited under harsh political circumstances for 6 years so that he may join his sister in New Jersey. In my opinion, the immigration problem we should be addressing are the laws which make it so difficult for Europeans to come to this country.

That is why I find it incomprehensible that this body would now add insult to injury to those people who have waited faithfully and once again change the rules to favor those who continue to violate our laws.

Now, let's be very clear on the facts: The legislation before us today would extend the legalization period till next November at a cost of $3 to $7 million per month, despite the fact that the U.S. Government has already spent millions of dollars to advertise the program and process the applications, and despite the fact that over 1.4 million illegal aliens have filed for residency.

The Immigration and Naturalization Service has fulfilled its duty and obligation under the terms of the 1986 Immigration Reform Act. To its credit, the INS has in some cases ignored the letter of the law and allowed certain illegal aliens to stay in this country when they did not qualify for amnesty because the INS did not want to split up families. I think the INS should be commended for their humanitarian concern. Additionally, the INS is now permitting amnesty applicants to file simplified legalization forms by the May 4 deadline and then provide all the supporting documentation within 2 months after the deadline. In other words, the INS has already bent over backward to help as many people as possible qualify for amnesty.

As for the argument put forward by supporters of this bill that we need to extend the legalization period because otherwise the sanctions placed on employers for hiring illegal aliens will be impossible to implement. This is a specious argument and one that is totally unsupportable.

But aside from all the logic of the argument against this extension, there is a more fundamental issue—this bill sets a dangerous precedent. If we pass this bill what we would be saying to citizens and foreigners alike is that U.S. immigration laws are not to be taken seriously, but are there to be broken.

I strongly oppose H.R. 4222, and I would urge my colleagues to vote against this legislation.

Mr. MAZZOLI. Mr. Chairman, I yield 4½ minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, this is a good day. We are here on the floor with an important piece of legislation.

I want to thank the chairman of this committee and the chairman of the subcommittee for helping us get here.

Let me address some of the points. First, the delicate balance of the immigration bill. I am a supporter of the immigration bill, and I support with equal intensity the amnesty provision and the sanctions provision. Indeed, there was a delicate balance, a delicate balance that was supposed to recognize that amnesty would be full and flowering, that enforcement would be real and tough.

If you look at the debate on the floor last year, people mentioned there would be 10 million new people who would come forward by amnesty. The INS initially estimated 4 million. Then when the numbers were lower, 2 million; so far only a little more than 1½ million have applied, hardly the bugaboo that was raised on the floor.

□ 1615

The number is low. Why do we come forward with this bill? Not as the gentleman from Georgia [Mr. SWINDALL] has said, to reward procrastinators. That would be a waste of all of our time, but rather because through no fault of the INS and no fault of anybody's, the process by which this bill worked was much slower than we anticipated.

When we debated the amnesty provisions in this Chamber, we knew that it would be difficult to get those who had lived in the shadows to come forward. The INS had been their hunter, their Javier for years and years, and now all of a sudden they were going to have to trust the INS.

Why did we think that they would? Not because of an advertising program, not because the INS said, "Never mind those years of hunting down immigrants," but rather because there would be green cards, temporary green cards out in the streets. When someone saw that their relatives, their friend, their neighbor had gotten one, they would say, "Hey, there is a new INS, I will come forward and apply."

Unfortunately those green cards did not get out there very quickly. As of January 31, the number was much, much smaller than we anticipated. I believe it was somewhere in the nature of between 400,000 and 600,000 that were out there despite the fact that over 1 million people had applied. So people did not get the message until recently and they are getting the message now as we have seen because the numbers have increased.

The real reason is not to reward procrastinators, not to say that people are lazy but to let amnesty work. I would say to my colleagues particularly on the minority side of the aisle, next year we are going to defend sanctions, something that had support. If we can say that we took that extra step, that we erred on the side of humanity and compassion and decency, and let amnesty be full and flowering, then we will be able to get this Congress and this country to support sanctions as well.

Let me talk about costs. It is said that this would raise costs. Hooey. First the gentleman from Georgia [Mr. SWINDALL] estimated 18 months. We have already had 12 months, and the program has been self-funding. It will be self-funding for the next few months as well because people will have to pay as they have in the past to become citizens, as well they should. I agree with the gentleman from Georgia on that point.

What about this $123 million? I say to my colleagues that money was already appropriated. We appropriated $4 billion when we passed the legislation because of the costs to the States.

That money is there, it is not new money, it is appropriated money. So I plead with my colleagues to let us be generous, let us be humane, let us err on the side of compassion as the immigration bill intended so that we can make this noble experiment in both amnesty and in sanctions work. Let us not turn our backs, let us have a generous vision that was envisioned by the authors and pass this minimalist extension.

Mr. SWINDALL. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FISH], the ranking member of the Committee on the Judiciary.

Mr. FISH. Mr. Chairman, I rise in support of H.R. 4222, legislation to extend the legalization period until November 30, 1988, and I urge my colleagues to support this legislation as well.

I was a member of the Select Commission on Immigration and Refugee Policy. Statistics furnished by that Commission during the debate on the Immigration Reform and Control Act indicated that, as of 1978 to 1980, there were 3.5 to 6 million undocumented persons residing in the United States, and that as many as 250,000 to 500,000 were entering the country annually. To date, only about 1.5 million individuals have applied for legalization. Therefore, if the program ends in 3 weeks' time, as is now scheduled, perhaps as many as 1 million or more eligible people will remain undocumented. Perhaps 50 to 75 percent of the eligible population of illegal aliens have not yet applied for legal status. These individuals will remain in the shadows unless H.R. 4222 is enacted. Then who oppose this bill should recognize that the million plus will still be here after May 4.

No one is sure of the exact numbers of eligible undocumented aliens that have not yet applied for legalization, or the exact reasons why they have not applied. Some believe that fear of apprehension and concerns over dealing with the INS and identifying themselves continue to be the reasons for their failure to apply for legalization. In addition, the lack of a consistent and clear policy on how families would be dealt with in the legalization program has been suggested as having a very negative impact on participation rates. Additionally, many undocumented individuals and families who otherwise qualify for legalization may not have applied because of the monetary expense involved.

Mr. Chairman, it has been argued that this legislation should be opposed because of the additional costs that might be incurred due to an extension in the application period. However, additional costs assume that insufficient applicants will come forward to pay for this extension. This will not happen if INS vigorously follows Congressional mandates. In addition, nothing prevents the Immigration Service from reducing overhead and personnel expenses during this extension period, should figures indicate that aliens are not applying as expected.

Mr. Chairman, Congress passed the legalization provision in the 1986 act to give all aliens qualifying for legalization an opportunity to become legal permanent U.S. residents. This extension is needed to encourage the still remaining eligible aliens to come forward and apply for legalization.

During the initial stages, the legalization program experienced a series of logistical delays that effectively curtailed the application period. First, the public education program was slow in getting started in informing the eligible population about this complicated program. Second, the eligibility rules have changed significantly since the beginning of the program, and numerous individuals initially deemed ineligible are now eligible. In addition to the already ongoing publicity campaigns, this extension requires INS to implement local community outreach programs to encourage this remaining population to apply.

In sum, I believe that this extension of time can only help in alleviating the fears and problems that eligible applicants may be facing. It would far outweigh the cost considerations cited by opponents of this legislation. Therefore, I urge my colleagues to vote for passage of H.R. 4222.

Mr. MAZZOLI. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. LUNGREN] provided that he yields me 15 or 30 seconds.

Mr. LUNGREN. Mr. Chairman, first I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, I thank the gentleman from California for yielding me this time.

It is a pleasure to work with the gentleman from California again. I am pleased to remember those efforts we had several years ago.

I would just like to mention quickly that the Immigration and Naturalization Service, no matter what we do today, will not be out any money. The Congressional Budget Office estimate suggests they will recover from their fees all of their costs plus they can handle some of their own overhead. The only costs we are talking about, and then they are somewhat speculative, are those costs involved in social programs, a lot of which have already been appropriated for.

Mr. LUNGREN. Mr. Chairman, I rise in support of this bill and to assure my colleagues on my side of the aisle that this is not an indication that I have joined Jesse Jackson's Rainbow Coalition. I have not become a liberal. I am still a card-carrying conservative and I think a realistic analysis of this situation would suggest that conservatives can very confidently and strongly support this bill.

Second, I would say that I hope we are not rewarding procrastination because if so, the Congress would obviously be part of this bill. I cannot think of another group of people in America, legal or illegal, who procrastinate more than we do in dealing with the budget, in dealing with the world's problems, in dealing with immigration. It took us well over a generation to pass the bill that we passed just a couple of years ago. It seems to me we ought to be proud of what we accomplished. Many Congresses resisted the opportunity, or the challenge of dealing with a tough issue like immigration. Successive Congresses did so during my 10 years here.

Finally, in the last Congress we saw fit to actually do something. I think it is something we ought to be proud of. We ought not get up here on the floor and apologize that we put together a comprehensive complex package that included employer sanctions and legalization. We thought it was the right thing to do. It came after much debate. It came after many different proposals were brought forward. But we felt as a matter of national policy it was important for us to establish a legalization policy in part because it was important for us to take a number of people out from under the shadows of illegality, not only for their good but because of the good for all of society. We thought that was a good and correct thing to do.

The question is, Are we going to achieve our aims? There is admittedly up to 1 million or more illegal aliens who would be eligible for the program who have not come forth to be participants. I cannot tell my colleagues why. I can only tell my colleagues that those are the facts. We do know that the program started slowly. Not because of anything the INS did not do, because they did a magnificent job. If more agencies performed up to the measure that the INS did over the last year and a half, we would have a better Federal Establishment.

Outside organizations have helped mightily but they were very slow to get organized and come out there. People did not have the confidence to come forward for any number of reasons. Included among these were some of the false prophets out there who wanted to show that this program would not work and that Congress was not serious, and that this Nation was not generous. The fact of the matter is there is a large number of people who are eligible who we wanted to be eligible under the terms of our program who have not come forward.

This bill does nothing to increase the pool of eligibles. This bill only says, "Let us expand the application period so that we take care of the situation that we are concerned about." That is all it does. It does not reward law breaking as someone has said. It says the application period shall be extended so that we can gather up those applications in this period of time. No one, not even the INS says that everyone who is eligible has come forward. They will give us some figure, and I do not know how accurate it is because no one knows how accurate it is since we are still dealing in the area of guesstimates. But the fact of the matter is this bill brings us back to the House position. We thought through much debate, much consideration, much compromise in the House that 18 months was the period necessary to work the application period. We only gave up in the conference because we needed to move to final passage of the bill in the conference. It did not mean that we thought that the House position was no longer correct. In fact we are taking us back to the House position that we had before—which was 18 months as a reasonable period to take care of the application process.

This is one of the most complex bills we have ever had to implement. The INS has done a magnificent job but more needs to be done.

I would just ask the Members what they are going to do 2 years from now or 3 years from now when people come forward and say that there are 1 million people or more who were eligible, but who for one reason or another did not apply. How long are we going to let them wait?

I know some who have been against legalization from the beginning who are saying that we are going to vote it down again at that time, and I do not know whether we will do that or not. It seems to me now is the time that we ought to deal with the question, not wait until later on. Remember, it does not add a single person to the eligible pool. All it does is give them a longer period of time, coterminous with the time we give for people in the agricultural worker program.

We voted on that. I suppose in some ways if we said we are just extending this for the agricultural producers of America, we might have an easier time to get it through. I say to my friend the gentleman from Kentucky [Mr. ROGERS] that if this was for the tobacco growers, maybe we could do that. Let us go ahead with this program. It makes good sense. It is not procrastination. It is just good sense. It is a humane approach to a difficult problem.

Mr. MAZZOLI. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker, having resumed the chair, Mr. DONNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4222) to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program, had come to no resolution thereon.

APPOINTMENT OF CONFEREES ON HOUSE CONCURRENT RESOLUTION 268, BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEARS 1989, 1990, AND 1991

The SPEAKER. The Chair appoints the following Members as managers on the part of the House for the conference on House Concurrent Resolution 268 and the Senate amendment thereto:

Messrs. GRAY of Pennsylvania, FOLEY, LOWRY of Washington, WILLIAMS, FROST, SCHUMER, SLATTERY, ATKINS, GUARINI, DURBIN, LATTA, GRADISON, GOODLING, DENNY SMITH, EDWARDS of Oklahoma, THOMAS of California, and ROGERS.

IMMIGRATION AND NATIONALITY ACT

The SPEAKER. Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 4222.

□ 1430

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4222) to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program with Mr. DONNELLY in the chair.

The CHAIRMAN. The gentleman from Georgia [Mr. SWINDALL] has 15 minutes remaining, and the gentleman from Kentucky [Mr. MAZZOLI] has 5½ minutes remaining for general debate.

The Chair recognizes the gentleman from Georgia [Mr. SWINDALL].

Mr. SWINDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Kentucky [Mr. ROGERS], the ranking member of the Commerce, Justice, State, and Judiciary Subcommittee of the full Committee on Appropriations, which has jurisdiction over immigration.

Mr. ROGERS. Mr. Chairman, I thank my colleague for yielding me this time.

I will be brief because my time is short. Our subcommittee is desperate for funds for the war on drugs, for the FBI, the DEA, and all those functions of justice on the war on drugs and crime, and any moneys that you spend needlessly in INS comes out of the war on drugs. I want to emphasize that to everyone, but I come to this issue on a much more broad front.

Mr. Chairman, there are many people who are providing some myths that I think we need to dispel here. For example, there is a myth that there has not been enough time for aliens to file their papers. Mr. Chairman, there has not been a single study that can be quoted that says that the reason people have not applied is because they do not know about the program, or the possibilities, or that they need more time to study it. They have had all of the time in the world. The INS has bent over backward to be liberal in that time period, and no one can say that they are not applying because of a lack of time. There are no studies to that effect, so the lack of time is not the problem. And yet that is the function of this bill, to extend that deadline. No one can point to a study that says that anyone needs more time to study whether or not they need to apply.

The number of people that have applied of course is in dispute, and the number of people is somewhat in dispute, but I think we can say that practically everyone now has made their application that wants to extend the program. Now we will remove the major motivation for applying while at the same time causing the offices to remain open, 100 offices with no applications or few in the process at the time the bill runs at 700 a month. This money comes from the war on drugs, so no one can say they need more time because that is the reason they have not applied. There have been 20 months since the date the bill was passed until the May 4 deadline coming up, and applications are coming in well now because of the deadline approaching. You remove the deadline and the applications will slow or stop.

Myth No. 2: We need more time to publicize the legalization process. My colleagues, this has been on the front pages, as you know, when the bill was passed and debated not only in this country, but in Mexico and the other countries of Latin America. The INS has spent $7 million in multimedia campaign advertising, and they have been successful. Surveys show that 95 percent of the people are aware of the deadline and of the process. More time is not the remedy for procrastination. Otherwise we would extend the April 15 deadline for paying taxes.

Mr. Chairman, motivation is the key at this time. The rumor of an extension of the deadline sends a signal that, if you wait, they may come up with a better rule for the benefits, so hang in there, and do not file the application.

I say to my colleagues, please vote down this bill.

Mr. SWINDALL. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MOORHEAD], a member of the full committee.

Mr. MOORHEAD. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to H.R. 4222, which would extend the legalization application deadline from May 4, 1988 to November 30, 1988.

The bill before us raises questions of fairness and equity. In granting amnesty, Congress gave an opportunity of a lifetime to a particular group of aliens. Such an opportunity was indeed a precious gift especially because this group got a better deal than other aliens who waited patiently in the legal immigration line. The proposed extension adds insult to injury for law-abiding legal immigrants and sends the message that the quickest way to get legal residency is through illegal entry.

In devising the legalization program, Congress intended it to be a one-time-only benefit as part of a carefully orchestrated solution to our country's illegal immigration problems. Many Members, at the time, expressed reservations about the pressures we eventually would face to extend and expand legalization. If Congress had wanted an extended program, it would not have been so specific in mandating timetables and deadlines.

Mr. Chairman, if we pass this legislation we will upset the framework of Public Law 99-603, a hard-won package of compromises and delicately balanced solutions. Passage of H.R. 4222 also will invite other groups with similar requests to make their cases before Congress and undermine the credibility of the Federal Government's resolve to deter and control illegal immigration.

The Immigration Reform and Control Act mandated that the legalization program be self-funding. But passage of this measure will cost the American taxpayers around $53 million. According to INS, total fee receipts from the temporary resident application phase should be sufficient to cover program costs. In fact INS anticipates that, by May 4, approximately 1.35 million I-687 forms will have been received raising an estimated $208 to $240 million. At least 330,000 additional applications and accompanying fees will be needed to pay for the 6-month—actually it is closer to a 7-month—extension. INS doubts this will occur.

In addition, H.R. 4222 is unnecessary because INS has already instituted a simplified filing policy. Under the new rules, all remaining eligible aliens need only to fill out a form, sign it, and pay the fee. They will have up to 60 days after the May 4 deadline to submit the necessary documentation.

Finally, in closing, I must emphasize my particular concern about the effect this bill may have on our enforcement efforts at the border. Without sufficient funds generated from filing fees to carry the legalization program through November of this year, resources will be taken from other vital areas, such as enforcement, to pay for the extension.

INS has been very fair and accommodating in its implementation of the legalization program. H.R. 4222 is costly, unwise, and unnecessary. It undermines existing law and compromises congressional intent. I urge a "no" vote.

Mr. SWINDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS], a member of the full committee.

Mr. GEKAS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, what is an illegal alien? In the best sense of the definition that illegal alien is an individual who would risk life and limb to come into the United States where, no matter what the risks are and what the dangers are of being deported or arrested, it would be much better for an individual to be in the United States as an illegal alien than anywhere else in the world. And that is a compliment to us, and we want to foster that feeling forever, as long as our country remains as it is.

But at the same time, that recognition on the part of people all across the world that the United States is an easy place to invade, to get into, to find loopholes within which they can rush into our country; that also leaves that great big doorway open for those who would do us ill, to spies, to saboteurs, to terrorists, to all those who would do anything they could on behalf of their own allegations to destroy our country.

So, Mr. Chairman, we must as a first order of business for our own national security close off our borders. We are willing to grant amnesty, and we have. We voted to do so for those who yearn to be American citizens and who want to remain here as part of us, our whole fiber, but at the same time we owe it to our citizens to clamp down this door once and for all and not extend for one more day to prevent the deterioration of our borders and the hurt to our security.

That is why an extension is harmful to us not to close off amnesty. We have and we are willing to give amnesty, but to preserve our own national security.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in strong support of H.R. 4222, which will extend the deadline for submission of immigration amnesty applications from May 4, 1988, to November 30, 1988.

While I would have preferred the 1-year extension proposed by Congressman SCHUMER in H.R. 3816, which I have cosponsored, I want to express my thanks to the Judiciary Committee for moving expeditiously on the 7-month extension contained in H.R. 4222. If enacted this bill would make November 30, 1988, the deadline for submission of both amnesty and special agricultural worker applications.

Currently the Immigration and Naturalization Service has received over 1.2 million applications for the amnesty program set up in the Immigration Reform and Control Act of 1986. A final total near 1.4 million is expected by the May 4 deadline. While that is a substantial number there is a general consensus that up to 2 million individuals are eligible for amnesty, meaning that 600,000 aliens will miss the filing deadline. There is also an estimate by the Carnegie Endowment for International Peace that up to 1 million aliens who are otherwise eligible will miss the May 4 deadline.

To carry out the intent of Congress and the President in establishing the Immigration Reform and Control Act and for reasons of basic fairness I believe an extension of the amnesty deadline is justified.

Very frankly, it has taken the Immigration and Naturalization Service most of the 1-year application period to get its amnesty processing apparatus up to speed. Most of the 100 offices were slow to get started after May 4, 1987, and INS personnel had to gain on-the-job experience in administering a complex new law, one calling for difficult judgments on thousands of applications. Also, the new duties of INS employees under the law are quite different from previous responsibilities—basic attitudes about aliens had to be changed among agency personnel. The agency has come a long way in the past 11 months, but longstanding INS views on aliens have worked against an efficient legalization process.

Applications were slow to arrive during the initial months of the program as applicants and those groups assisting them in compiling documentation for the applications waded through the complex new rules for amnesty. In most cases it has been very difficult to gather adequate evidence to support an application. Rent receipts, pay records and other material proving that an alien has been in the United States since before January 1, 1982, had to be obtained and verified before an application was submitted.

And when these applications have finally been transferred to the INS the Service has been slow to process them. The original goal was to process applications in 6 to 8 weeks, but delays of up to 6 months have been reported for some of the first applications filed. Currently the Service has finished processing about 50 percent of the applications received, yet in the beginning months of the 1-year application period the rate of approval or disapproval was much smaller.

There has also been substantial confusion about the amnesty program, a situation aggravated by an inadequate and ineffective public information program. By most accounts the Service has done a poor job of using national and local media to explain the program and to encourage people to apply for amnesty. This has resulted in confusion and misunderstanding about legalization opportunities.

The problem has been compounded by a basic mistrust of the INS by those who should be applying for amnesty. The adversarial relationship between the INS and aliens that stretches back for decades has made it very difficult for applicants to present themselves to agency officers with applications containing extensive personal information.

The slow rate at which the INS has been approving amnesty applications has fed into this problem of mistrust. As applications are approved the word-of-mouth message about the amnesty program becomes more favorable. The delay in applications processed meant that suspicions were not alleviated in the community by those who had successfully applied. With an extra 7 months the increasingly efficient processing being done by the INS and the accompanying positive word-of-mouth reports should result in a substantial number of new applications.

Because of the complexity of the new immigration law, difficulties faced by the INS in setting up their legalization operations, the lack of an adequate public information campaign and a basic mistrust between the INS and those who were to benefit from amnesty, the program did not exactly hit the ground running in May of 1987. Just when the program is running more smoothly an arbitrary deadline is nearing which will leave up to 600,000 people without an opportunity to apply for legalization.

The clear intent of the 1986 immigration reform bill was to legalize those aliens who have resided in the United States for a number of years: those who have made a commitment to this country, who have worked in and contributed to American businesses, who perhaps have raised a family here and whose children are now citizens in their own right. It is unfair to take away an opportunity to eventually become a U.S. citizen simply to meet an arbitrary deadline. No one in the Congress or the executive branch could have foreseen the difficulties presented by the implementation of the amnesty program when it was being drafted. If we had a longer amnesty application period surely would have been provided.

Today we have an opportunity to make a rather simple adjustment which will add a modest amount of time to the application period. Such a move will improve the program and ensure that its original goals are fulfilled.

I strongly urge Members to support this extension of the deadline to preserve the fairness of the program and as a reaffirmation of the principles of the Immigration Reform and Control Act.

☐ 1640

Mr. SWINDALL. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona [Mr. KOLBE].

Mr. KOLBE. Mr. Chairman, I rise in strong opposition to H.R. 4222.

Mr. Chairman, extending the deadline by which illegal aliens may apply for amnesty in the United States is unfair and counterproductive. It makes for bad law and bad public policy.

The most obvious reason is that an extension is unwarranted. Nearly 1.5 million aliens have applied for legalization so far, and the number applying to do so grows greater by the day. In the week ending March 29, there were more than 40,000 applications made—nearly quadrupling the rate of applications since January. I might add that this is exactly what we should expect from past experience with anmesty programs. In Canada, where a similar immigration law was implemented recently, 10 percent of the eligible aliens applied for amnesty on the last day of the program. Surveys show that most eligible aliens who haven't already applied for amnesty in the United States plan to do so before the May 4 deadline. Indeed, a comprehensive report on the amnesty program, released last February by the Carnegie Endowment for International Peace, opposed extending the amnesty deadline for these reasons.

If anything, delaying the deadline for 6 months, as H.R. 4222 would have us do, adds unnecessary and even debilitating confusion to the amnesty process. The success of the amnesty campaign depends on its ability to create a sense of urgency. Millions of dollars and thousands of INS officers, church leaders, and other community volunteers are enlisted in this campaign with the understanding that amnesty will end on May 4. They are bombarding every major U.S. metropolitan area in 48 different languages with a single message: "Don't be left behind." H.R. 4222 directly contravenes this logic by replacing urgency with ambiguity. Stripped of the incentive to apply immediately, would-be applicants are left to wonder whether Congress will simply extend the deadline again this November, just as H.R. 4222 would have us do now. Then again, what if H.R. 4222 is approved, only to be defeated in the other body or vetoed by the President? It would be hard to imagine a more confusing signal we could send to those men and women who might otherwise step forward and be counted.

Which leads me to the second reason to oppose H.R. 4222: compassion. We've heard a great deal about compassion during this debate and, at first glance, passing H.R. 4222 may seem like the compassionate thing to do. But just how compassionate is it?

We've already seen that the vast majority of eligible aliens are aware of the amnesty program and have either been legalized or plan to go through the process, and that confusing them with mixed signals from Congress would be unconscionable. For those who miss the May 4 cutoff, the INS has agreed to a new "simplified filing policy" which allows 60 extra days to file. All they have to do is fill out a form, sign it and pay a fee. In the same spirit, the INS has remained flexible about the documentation it will accept to prove continuous residency.

Most important, the May 4 deadline won't be used to break up families. The INS has already ruled that minor children and spouses of legalized aliens won't be deported. Other nonqualifying immediate family members are being handled on a case-by-case basis.

Having recognized these facts, it's clear that passing H.R. 4222 has nothing to do with whether we have compassion for illegal aliens, for clearly we do. The real question is, what happens to the thousands of other foreign citizens who are not eligible for amnesty but are attempting to obtain permanent U.S. residency or become U.S. citizens by other legal means? These individuals deserve our compassion, too.

There is also the cost-benefit analysis. According to the Congressional Budget Office, extending the amnesty deadline by 6 months would result in no more than 100,000 additional applications. That's barely 8 percent of the total number of men and women who are expected to come forward by May 4. However, the cost of extension would be enormous. CBO estimates that delaying the deadline by only 6 months would add $123 million to Federal budget deficit between now and 1993. That's well over $1,000 of taxpayer money spent for every applicant!

Amazingly, the majority included these statistics in the full committee report, then argued that the cost of a 6-month extension was insignificant. With all due respect, a $123 million price tag for an incremental gain is by no means a defensible position, particularly in light of current budget constraints. This is clearly a case where the law of diminishing returns is starting to take effect. Yet the majority refuses to acknowledge this. Using their logic, Congress should spend $1 billion to extend amnesty until the year 2000 and beyond on the theory that there will always be a relative handful of people who may some day wish to obtain amnesty but just haven't gotten around to it yet. As Congress recognized when it passed the Immigration Reform Act in 1986, there comes a point where the Government and the taxpayers have done their share and the responsibility shifts to the eligible aliens. We must make them aware of the amnesty program, and we have. But in the end, the decision whether to apply is strictly their own.

Finally, H.R. 4222 is a breach of faith that threatens future immigration reform initiatives. The Immigration Reform and Control Act of 1986 was years in the making, as most Members in this and the other body will attest. Previously, major immigration bills were introduced in each successive Congress, only to go down in flames or simply to languish, unheard and unread, in committee.

When the Immigration Act finally materialized in the fall of 1986, it was not without tradeoffs or political bloodletting. More importantly, the bill's passage into law raised public expectations that Congress was finally going to bite the bullet and get on with the business of serious immigration reform.

For that reason, many critics of the 1986 act—and I count myself among them—vowed to support the new law even though it failed to do many things we wanted with respect to employer sanctions, paperwork requirements, and so forth. Thus, it is not to be taken lightly that Congress agreed 2 years ago that the Amnesty Program should last until May 4, 1988, and that, thereafter, it should expire. I particularly object that H.R. 4222 is now being labeled a compromise because it extends the May 4 deadline for 6 months instead of a full year, as the gentleman from New York [Mr. SCHUMER] originally intended. In fact, the only thing H.R. 4222 compromises is the delicate consensus that made immigration reform possible 2 years ago.

Mr. Chairman, H.R. 4222 betrays its intended purpose: to encourage eligible illegal aliens to step forward. Whatever its good intentions, this is seat-of-the-pants policymaking, and it shows. It should be opposed on its merits—or rather, its lack of them.

Mr. SWINDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. MCCOLLUM], a member of the subcommittee.

Mr. McCOLLUM. Mr. Chairman, I was not one who supported amnesty or legalization, as we call it. In fact, I still believe it was the wrong policy. But I have worked very hard to help the Immigration and Naturalization Service to inform the public, to inform those who are out in the field who might be eligible for this program, and I deeply believe that that message has been out there, that the time has passed and that indeed members of the community who are in this status eligible to become legalized have gotten the word. The only question is whether they are still waiting for some reason technically to be able to come forward to do these things.

The Immigration Service the other day extended a helping hand when they made the decision that a person does not have to have all of his paperwork in to prove eligibility, all they have to do is spend about 30 minutes before May 4 and to come to an Immigration Office or through one of the helping hand arms of the Immigration Office and make the formal application, and then they will have time to present the additional information they need. Every possible step has been taken. Everything has been done in order to allow people to know that they are indeed eligible and that they can have amnesty under this program.

It is my belief that a deadline is a deadline. We are going to have a big rush at the end. It is just like income tax day. We need to put an end to it, it is fini, it is May 4 and it ought to stay there. If we do not do that, we are going to have the same effect we have with the general idea of putting aside this whole proposition and granting amnesty in the first place, we will be holding out that arm that we are going to give amnesty again, and we are not going to extend it just one time, but it will be extended many more times. It is a slap in the face to those people who stand in line to come into this country by the thousands legally. But not only that, it is an additional magnet to those who would come over illegally in the hopes that they will still have an opportunity to apply.

It is also an additional problem if we grant this extension and then the President vetoes this bill, which I think he is going to do if we pass it, because there are going to be some people out there holding the bag who think because this legislation is passed by the House that they have the opportunity to have a little longer to think about this, and that is not fair to them. It is not right. The whole process is wrong, and I urge my colleagues to vote now against this extension.

Mr. SWINDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SLAUGHTER], a member of the subcommittee.

Mr. SLAUGHTER of Virginia. Mr. Chairman, I believe an amnesty extension would encourage more illegal immigration by causing people to think that the United States will continue to make exceptions and allow illegals to stay indefinitely. There will be no real fear of deportation. Illegal aliens will continue to procrastinate and take advantage of the inconsistency in our immigration policy.

The United States attracts thousands of illegal immigrants. Extending the deadline for amnesty will increase the uncontrollable flow of illegals into the country. Despite the employer sanctions provisions now in effect, our inconsistent immigration policy will entice illegal aliens to continue to flock to the United States.

An extension will be an affront to the thousands of immigrants waiting in line to become citizens of the United States. Those who have been patiently waiting and following established immigration procedures will simply be pushed aside because of an arbitrary decision to allow those here before 1982 to be come legal. In addition, it would be a reward for those who are not only illegal, but also balked at their opporuntity to utilize the amnesty program by failing to act before the May 4, 1988, expiration of this program.

If we are going to extend the time period for admission of illegal aliens, then when will we stop granting such extensions? If extensions are warranted today, won't there be ample justification for extensions 6 months hence?

I believe that the United States must have a stable and consistent immigration policy. It should stick to its policy and show potential immigrants that the United States has a definite and detailed procedure to follow if a person desires to become a U.S. citizen.

I urge my colleagues in the House to defeat this bill.

Mr. MAZZOLI. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. Richardson].

Mr. RICHARDSON. Mr. Chairman, I just have 2 points to make.

First of all, I urge anybody listening to call the INS Office in Arlington, VA, right now and find out what response they will get. They will either get one of two responses. One, they will get a recording, or they will get a busy signal.

I am not here to trash the INS because many men and women are committed and have worked and worked hard on this program. But there simply are not enough resources or enough public education.

But I invite anybody to try that and they will see why many people coming in the shadows are having problems.

Second, I say to my colleagues we have the INS, the agency being the agent for people to come in. This has been the agency that has busted many of these men and women in the past, and they see the Government embodied by the INS. Take a Salvadoran. Their only thought of their government has been repression.

Given time, this is the right thing to do.

I. NUMBERS OF ALIENS WHO HAVE NOT APPLIED

Original Immigration and Naturalization Service estimates suggested that between 2 and 4 million persons would qualify for legalization under the new amnesty program.

As of March 1, 1988, only 1.2 million persons have applied for amnesty.

Without an extension, a minimum of 500,000 to 2.7 million eligible persons will not apply before the May 4 deadline.

II. REASONS FOR LOW TURNOUT

There is a widespread consensus that INS has failed to provide sufficient education to aliens on specific issues such as family unity and documentation. INS has failed to utilize community networks, immigrant organizations, and ethnic groups to help educate aliens.

There are thousands of aliens who are currently awaiting court decisions that may allow them to qualify for legalization. Most of these decisions will not be resolved until after the May 4 deadline.

Many persons simply cannot afford to pay the application fees, others remained skeptical of the new amnesty program and were extremely slow in applying and my not be able to complete applications, collect required documents, obtain medical exams, and pay fees by May 4.

III. AMNESTY EXTENSION WOULD SOLVE MANY PROBLEMS

The extension provided in H.R. 4222 would allow time for new public education initiatives to penetrate the undocumented alien community.

The extension would allow time for court decisions affecting eligibility to be resolved with sufficient time for those affected to apply.

The extension would allow time for persons to save money and collect all the required documents.

The extension would not expand eligibility beyond the original intent of Congress, it would imply allow time for the remaining 1 to 3 million aliens to apply for legalization.

IV. SUPPORT GROUPS

H.R. 4222 has widespread support from diverse organizations throughout the Nation. The following organizations are just a few that have pledged their support for H.R. 4222:

The U.S. Catholic Conference, American Civil Liberties Union, American Council of Nationalities Service, American Immigration Lawyers' Association, AFL-CIO, National Council of La Raza, Hispanic National Bar Association, Mexican American Legal Defense, and Education Fund.

Mr. SWINDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. Shaw], a member of the full committee.

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time. I will try not to use the full 2 minutes. I think everything has just about been said now that can be said with regard to this particular bill.

I would like, however, the Members to think for just 1 moment, and I am going to be speaking against the bill and in favor of two amendments that are to be forthcoming, about what we are doing here. It has been the law for over a year now that the deadline was May 4. Sure, there were some startup problems, but what the present law says is if someone's application is in by May 4, they are OK.

There is no bill presently moving in the Senate, even though they have had a hearing or so. There is no bill that has been scheduled for floor action over in the Senate.

Also, it is questionable as to whether the President would sign such a bill. The cruelest thing this Congress could possibly do is to create an atmosphere so that those who were prepared to file by May 4 would get the impression in listening to this Congress, and they would definitely have grounds to get this impression, that the deadline was going to be extended. If they do not come forward by the deadline, they are going to then be precluded from filing, and this is what I think we must talk about.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield for just a second?

Mr. SHAW. I yield briefly to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Chairman, I would just want the gentleman to verify what he heard at the full committee, and that is each one of us working with this bill did admonish everyone in the audience and everybody watching that they had better be sure to sign up by May 4 because there were no guarantees that this bill would pass.

Mr. SHAW. I understand what the gentleman is saying and he is absolutely correct.

But what is going to be news is what comes out of the floor action today and what they are going to hear is what action the House of Representatives took today. A lot of these people are confused anyway because of the fact that this is being allowed, and they are suspicious and everything else, and for us to change the rules at this point I think would be extraordinarily cruel and would defeat the purpose the proponents are trying to effect.

Mr. MAZZOLI. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. Garcia].

Mr. GARCIA. Mr. Chairman, I rise obviously in support of H.R. 4222.

Let me just say to my colleagues on the other side of the aisle, after we finish with the amnesty portion of this bill the rest of it is downhill for many people. Employer sanctions will now take over. So if there was anything positive that came out of the Immigration Reform Act, it was this portion.

Let us say every one of my colleagues who has spoken against this amendment is absolutely right, and let us say everything they have said was correct, and then let us say if we going to err, why is it not possible that we as a legislative body, as a God-fearing body, why can we not err on the side of those human beings who are truly looking and fearing and needing the additional time to come forward. Why can we not show that humaneness?

It seems to me that as far as those of my colleagues are concerned, we have debated this bill all over again. I want them to know that there is no question in my mind that the Immigration Service in the last 4 or 5 months has tried to do, and they have done an outstanding job. But the first 6 months were horrendous, and in only the last month or 2 have we seen the poster saying, "Come forward."

The community I represent has a large bilingual population, and I can assure my colleagues that we knew nothing, there was nothing coming into our community. For some of my colleagues who represent rural areas, who have no immigration problems, I can understand them coming forward and saying if they did not do it by such and such a time it is their fault. Trust me, the message never got out.

The interesting thing about all of this is that even if we do not pass this, the INS has said that they are going to give some additional time. I would hope that my colleagues would rethink their position.

Mr. Chairman, I rise in strong support of H.R. 4222 to extend the immigration legalization program for an additional 7 months. Last July, several members of the Congressional Hispanic Caucus and I held a press conference in which we documented the enormous problems that confronted the startup of the legalization program. When Congress passed the Immigration Reform and Control Act in late 1986, it gave an overburdened agency an almost impossible task. The INS has a mere 6 months to develop and implement the massive legislation program.

And the lack of time took its toll. Necessary forms were not received in many Legalization Offices and Qualified Designated Entities until well after the May 5 commencement of the program last year. Complex and stringent application requirements made the process unusually time-consuming and complicated. Moreover, the INS had to overcome years of fear and mistrust on the part of undocumented aliens who have lived for years on the fringes of American society. Yet the massive public information campaign needed to make the legalization program a success did not get underway until after the program was nearly 4 months old.

Since that time however, the INS and in particular some of its regional offices, has made a valiant effort to ensure the success of the legalization program. The INS has made considerable improvements in the public information campaign and some concessions have been made on paperwork requirements. Nearly 1½ million people have applied for legalization. Yet there are many areas where legalization has not been a success and many people who are eligible have not applied. For example, New York City has an estimated eligible alien population of half a million to a million people yet only 85,000 have applied thus far. This extension will allow the INS and local agencies to develop a more effective public education campaign for the vast multiethnic population of the city.

The bill simply reflects reality. It took a long time to implement the legalization program and it was anything but smooth. We cannot penalize eligible aliens for what was obviously the Government's fault. It is only fair to give aliens who, for a variety of reasons, are unable to apply before the May 4 deadline an opportunity to become legalized. I commend the sponsors of this bill, Representative MAZZOLI and Representative SCHUMER, for bringing this bill to the floor so quickly. This is a fair and just measure that deserves approval. Thank you very much.

The CHAIRMAN. The gentleman from Georgia [Mr. SWINDALL] has 30 seconds remaining.

□ 1655

Mr. SWINDALL. Mr. Chairman, I yield myself the balance of my time.

Very briefly, Mr. Chairman, I would like to state that these charts—they say pictures are worth a thousand words. I hope that works in my 30 seconds.

Very briefly, Mr. Chairman, I would like to state that these charts rebut a number of the arguments that have been made. One is the INS estimates have virtually been matched. This chart clearly demonstrates that. Second, it is obvious that we are dealing with procrastination, not lack of knowledge. The Commissioner stated 96 percent awareness. This last chart shows that there is in fact now the influx that one would expect as that timeframe draws near, the May 4 deadline.

Last point, a number of people have said this thing is not going to cost any money. CBO says it will add $123 million to the deficit. The means the money has not been appropriated. It will add it to the deficit.

The CHAIRMAN. The gentleman from Kentucky [Mr. MAZZOLI] has 30 seconds remaining.

Mr. MAZZOLI. I yield myself such time as I might consume of that 30 seconds.

Mr. Chairman, just a couple of brief points.

I think the charts are somewhat misleading because they use a Carnegie Institute figure of 1.5 million prospective applicants. The more recent figure of Carnegie is 1.8 million to 2.5 million.

Furthermore there is a $27 million surplus or benefit in the INS coffers in March from the legalization program which could easily take in some of the additional cost.

Furthermore the CBO estimate that we are using shows if this program were extended there would be no net cost to the Immigration Service because they would pay the cost from the fees received.

Ms. PELOSI. Mr. Chairman, today the House will make a decision which is crucial to millions of undocumented workers in the United States.

In 1986, Congress agreed that immigration reform was urgently needed and passed the Immigration Reform and Control Act. An integral part of this reform was to offer citizenship to the almost 4 million undocumented immigrants who had entered the United States prior to January 1, 1982, and fulfilled certain other criteria.

Unfortunately, a number of factors have hampered the amnesty program. There are several reasons for this poor showing. Confusion about eligibility and the application process has been only partially counteracted by INS education and outreach programs. The cost to the applicants of the legalization process has put the program out of reach for many undocumented immigrants. And fear of the Immigration and Naturalization Service has been widespread, becoming a key reason for the poor turnout of those who are eligible for amnesty.

Only about 1 million people have applied for legalization. Three quarters of the undocumented immigrants in the United States have not taken advantage of the opportunity to apply for legalization. We have begun to solve these problems but more time is needed. Without an extension of the amnesty deadline, the majority of eligible immigrants will miss out on the opportunity to gain legal resident status. This would greatly reduce the intended impact of the Immigration Reform and Control Act of 1986.

I urge my colleagues to vote in favor of the amnesty extension and, in so doing, show their support of the Immigration Reform and Control Act of 1986.

Mr. RANGEL. Mr. Chairman, I rise today in strong support of H.R. 4222, a bill to extend the amnesty program for illegal aliens. Without the extension, a main purpose of the legalization program, promoting the efficacy of our society's legal system will be undermined. Furthermore, without the extension, the implementation of the amnesty program in a manner that comports with fundamental fairness will also be undermined.

One of the main intentions of Congress in enacting the legalization program was resolving the problem of a large group of people residing in the shadows of society to seek help when their rights are violated. Resolution of this problem requires maximization of the number of aliens who are legalized. As of April 8, 1988, only 1.3 million persons of the intended 4 million persons have applied. In New York City, it is estimated that only 20 to 30 percent of eligible applicants will have applied for legalization by the time the 1-year period ends on May 4, 1988. This low turnout rate is certainly unacceptable. In order to protect and uphold the dignity and authority of our legal system, extension of the amnesty program seems a very small price to pay.

In addition, there have been many problems to date with the application procedure that have seriously compromised the fairness of the implementation of the legalization program.

Until the last 2 months, public education and outreach campaigns have been severely delayed. For example, in New York City, radio advertisements explaining the legalization process were broadcast only in English on New York radio stations until August, 6 months after the amnesty year began. While the Immigration and Naturalization Service should be commended for its recent campaigns, they come too late in the application process, and it is unlikely that its messages will reach all potential applicants in time.

Another problem which has undermined the fairness of the application procedure has been the regulatory changes midway through the application that have caused confusion regarding eligibility requirements. Many individuals who previously were informed that they would not qualify for legalization are now eligible. More time, therefore, is necessary to inform and convince all those people are now eligible.

In sum, it is important that we realize that it takes a vast amount of time and effort to penetrate the thousands of alien enclaves. Some, daunted by language, have hung back. Others simply do not understand the new law. Many fear, incorrectly, that if one family is eligible for amnesty, another could be deported based on the information on the application form. There must be more time for accurate information to be disseminated and digested, and for understanding and trust to develop.

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 4222, to extend the amnesty period for illegal aliens until November 30, 1988. This is a modest proposal, which provides a prudent approach to helping ensure the success of the 1986 immigration reform law.

Despite the enormous success of the amnesty program to date, it has become clear that thousands of aliens in the United States will remain unregistered, despite their qualifications for amnesty under the new immigration laws. Delays in implementing the current education and outreach campaign, confusion regarding eligibility, an ingrained fear among illegal aliens toward the Immigration and Naturalization Service [INS], and costs of applying for amnesty have all meant that up to 2.7 million people may miss the filing deadline and fail to acquire legal status—almost double the number of applications to date.

Unless most eligible illegal aliens take advantage of the amnesty program and acquire legal status, the employer sanctions placed under the immigration laws will be impossible to implement. Unfortunately, the INS campaign for the amnesty law has come too late to reach all potential applicants in time.

I have received numerous requests from interested parties in my district concerning this matter. Clearly, the need for an extension is pressing and immediate. In passing the immigration reform law, Congress clearly intended to legalize those aliens eligible for the amnesty program.

Those opposed to extending the amnesty deadline have argued that it would entail increased Government expenditures. The Congressional Budget Office has estimated that the net effect of this measure would be a slight decrease in the deficit in fiscal year 1988, and would reduce Federal outlays in fiscal year 1992 by $126 million. The savings associated with effectively controlling our Nation's illegal immigration problem would, in other words, offset any additional costs resulting from the extension.

Extending the application period will help guarantee that those illegal aliens eligible for legalization will come forward. It will help eliminate the problem of a "shadow" population in our country, one that exists without being recognized, reaps the benefits of American society without paying its fair share, and is increasingly vulnerable to exploitation. I urge my colleagues to support this measure, and to oppose any weakening amendments.

Mr. WEISS. Mr. Chairman, I rise in strong support of H.R. 4222, a bill to extend the deadline for applying for legalization under the Immigration Reform and Control Act of 1986 to November 30, 1988. The extension is a necessary and fair proposal to allow those who are eligible to apply for amnesty to have a reasonable time period in which to do so.

The Immigration Reform and Control Act of 1986 provided that aliens who entered the United States prior to 1982, and who met certain conditions, would be permitted to apply for legal resident status within a year from the beginning of the program. With less than a month remaining in the amnesty period, it is apparent that applications will fall far below the level projected when the Immigration Reform and Control Act was enacted. Of the estimated 3.9 million persons who might be eligible, fewer than 1.2 million persons have applied.

In New York City alone, at least 200,000 undocumented aliens are eligible for amnesty, according to conservative estimates. Yet at the current application rate, only one-quarter of that population will be legalized by May 4, when the current amnesty program is scheduled to end.

The reasons for this disappointingly low turnout are many. Logistical delays hampered the initial stages of the program. Public information and outreach programs did not gain momentum until much of the amnesty period had elapsed. There has been a lot of confusion about who is eligible to apply—confusion which has only increased with recent changes in the eligibility rules.

Beyond all the technical problems, a principal obstacle is the ingrained fear and distrust of the Immigration and Naturalization Service by illegal aliens. Those persons who have hidden from the INS in the past must be persuaded that applying for legal status will not automatically lead to deportation. It will take time and more vigorous public education and outreach programs to overcome that fear.

Extending the amnesty program for 6 months is but a first step. After that period has elapsed, if the number of eligible aliens who have not yet applied for amnesty remains distressingly high, Congress should vote to further extend the application period.

We intended that all aliens eligible apply for legal citizenship under the amnesty program. The bill before us today does not expand legalization, it merely carries out the intent of Congress when it enacted the Immigration Reform and Control Act of 1986.

A failure to extend the legalization period will not only thwart the legislative intent behind that act, it will leave a large residual population of undocumented persons who remain in this country, without access to legal employment, vulnerable to exploitation and poverty. We cannot in good conscience deny those people the freedom to live within the law as full members of this society.

The United States has been a nation of immigrants. Our Nation has made an historic commitment to shelter those fleeing oppression and persecution, those who are seeking a better life for themselves and their families. We must not allow that commitment to be compromised because of bureaucratic inflexibility. Our challenge is to keep the lamp of liberty shining bright, to keep ourselves and our Nation true to America's ideals.

I urge my colleagues to meet that challenge. Vote in favor of this important measure.

Mr. MINETA. Mr. Chairman, I rise in strong support of H.R. 4222, a bill to extend for one additional year the anmesty program approved in the Immigration Reform and Control Act of 1986.

Mr. Chairman, extending the amnesty period is the only sensible thing to do. There are still millions more who qualify for legalization but have not applied—often due to fear, mistrust, or ignorance of the new law. This fear has resulted in a limited response to the amnesty program.

The purpose of this amnesty provision is to give legal status to undocumented aliens who have become part of our society. It is important to grant these undocumented aliens the opportunity to adjust their uncertain status. Let's give this program a chance to work. I urge my colleagues to support this legislation.

Mr. LAGOMARSINO. Mr. Chairman, I rise in operation to House Resolution 4222, the resolution to amend the Immigration and Nationality Act to extend for 6 months the application period under this legalization program. I feel this resolution, if passed, would cause confusion among the potential applicants, raise false hopes that, or course, would be dashed if it doesn't become law, and in addition will cost an estimated $40 million in tax dollars. Due to the slow startup of the legalization portion of the program, I would support a limited extension of 1 to 2 months in length so as to provide additional time in some cases to obtain the necessary documentation and funds needed to submit the legalization applications.

However, H.R. 4222, as written, serves to undermine the intent of Congress, which was to provide a limited "amnesty period" for specific aliens illegally residing in the United States. The bill as written would serve to further confuse these individuals by creating expectations of additional changes or extensions to the legalization program. Finally, the 6 month proposed extension would not increase significantly the number of applications submitted, would significantly increase the cost of the legalization program, and would most likely lead people to believe other extensions might later be given.

Mr. SENSENBRENNER. Unfortunately, we all have lost sight of congressional intent during this debate. We also have lost sight of the premise of the Hesburgh Commission when it recommended granting amnesty as part of an immigration reform package.

Amnesty was to be granted to those, and only those, who had lived in the United States long enough to have built certain equities which would allow forgiveness of their breaking our laws, and to grant legal status to these people. Amnesty was not to be granted with quotas or numerical goals in mind. It wasn't for the first million or 2 million who applied, and it certainly wasn't to be a universal program for everyone who sneaks across our borders.

The rationale for this legislation is that not enough people have applied, so let's extend the time. The INS is accepting "bare bones" applications. All someone has to do is fill out a simple form and they can supply the documentation later. It can't get any easier.

If Congress was ever serious about regaining control of our borders, now is the time to "bite the bullet." Congress passed legislation and the President signed into law a bill which contained deadlines and restrictions. We are morally obligated to live up to them as well. Shifting dates will create more confusion, not less. Are we to be taken at our word, or will some people think, "Well Congress changed its mind once, I'm sure we can get them to do it again?"

Setting aside the obvious arguments against extending the period of time such as cost to the U.S. taxpayer, mixed signals to the illegal aliens or the logistical difficulties created for INS in trying to extend the program, this simply is not right. We knew there were different deadlines for amnesty and agricultural workers. We knew the enormity of the task we were asking INS to do when we set a 1-year deadline. We weren't voting in a vacuum. And with the amount of debate and the length of time immigration reform was before the Congress, we weren't voting out of ignorance.

There is no new information. The facts have not changed. This was intended to be a one time and once in a lifetime opportunity. So, if anyone is serious about participating in the amnesty program, the message this House should be sending to them, and the only message it should be sending to them, is to get an application filed now. This is a once in a lifetime opportunity, don't blow it. And if they do blow it, they have only themselves to blame, not Congress and not the INS. If we are to preserve any credibility with the Nation, we must defeat this extension.

Mr. GREEN. Mr. Chairman, I rise in support of H.R. 4222, to extend the period of legalization for undocumented aliens to November 30.

When the Congress passed the Immigration Reform and Control Act of 1986, we specified that undocumented aliens should have a 1-year period in which to apply for legalization. Unless this legislation is passed this period will expire May 4. While the INS estimated that up to 3.9 million persons might be eligible for legalization and that approximately 2 million would apply, this has not been the case. To date only about 1.2 million persons have applied.

In New York State the statistics are even worse. Of 444,000 undocumented aliens thought to be eligible for legalization, only about 85,000 or 20 percent have applied.

Whether this is due to language barriers, an inadequate public relations campaign or the traditional reputation of the INS among immigrant communities, I do not know. But one thing is sure: that the best publicity campaign is word of mouth and it is only the firsthand experience of successful appplicants which will convince a reluctant immigrant community. That has taken time, and therefore I believe that this extension is necessary to allow the intent of the Congress to be fulfilled.

Mr. BIAGGI. Mr. Chairman, 18 months ago, this House passed a law which was intended to offer legal status to all eligible undocumented persons who had lived in the United States since before January 1982. The Immigration Reform and Control Act of 1986 offered these individuals amnesty and established a 1-year time frame in which applications and supporting documentation could be submitted for adjudication. Although great pains were taken to inform and educate the nearly 2 to 4 million eligible aliens, with only weeks remaining until the deadline of May 4, 1988, we now know that almost half of that population has yet to apply. Thus, this important legislation, which took years to pass, will simply not do what it was intended for; that being to bring a huge number of individuals, who have lived in this country and who have contributed to our society, out from behind closed doors.

I was happy to have been a cosponsor of H.R. 3816, which would have extended this time frame for another year. And I commend my colleague from Kentucky, the Honorable RAMANO L. MAZZOLI, for introducing the legislation now before us, H.R. 4222, because the bottom line is not whether the extension is for 7 or 12 months, but rather that we grant these undocumented aliens additional time in which to submit their applications.

It has taken more time than what was originally expected, to educate our vast alien population as to the requirements necessary for legalization. It has taken additional time to put aside the fears that many illegals had about the possibility that such an application would ultimately lead to deportation. For so long many illegal aliens had been lied to and defrauded by unscrupulous individuals that a great number, particularly those with language barriers, were naturally leary of approaching the Immigration and Naturalization Service or those designated to receive applications. The word is getting out that this program is truly meant to assist undocumented aliens and I believe that we will see a tremendous increase in the number of individuals who seek legalization within the next several months.

I truly believe that we owe it, not only to these individuals, to extend the time frame, but to all those who labored so long and so hard to have the IRCA of 1986 become a reality. A major provision of that landmark legislation was to bring millions out from behind the shadows and into the mainstream of society. H.R. 4222 only assists in that effort, and I ask my colleagues to favorably vote for its passage.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 4222, important legislation that would extend, through November 30, 1988, the period during which eligible undocumented workers might apply for legal resident status under the terms specified by the Immigration Reform and Control Act of 1986. Importantly, this measure would also authorize $2 million to support the provision and dissemination of information and community outreach activities associated with the extension of the legalization program.

I want to commend the distinguished chairman of the Subcommittee on Immigration, Refugees, and International Law, Congressman ROMANO MAZZOLI for crafting this legislation so necessary to ensuring the success of the 1986 immigration reform law. Unfortunately, delays in activating the education and community outreach programs essential to the legalization program have contributed to a low rate of legalization applications. The successful implementation of the legalization program is essential if we are to accomplish the goal of bringing the undocumented population out from the shadows of our society where they can be free of exploitation, fear, and become full contributing members of our Nation. Without this needed extension, as many as 2.7 million people eligible for the legalization program might fail to come under the legalization program. For example, in the District of Columbia it is estimated that 21,000 people are eligible for the legalization program, but I am informed that only 2,600 have applied. The failure of the legalization program to cover as many undocumented workers as possible would further aggravate the enforcement and social difficulties that come with a large population forced to live underground and in the shadows.

I urge my colleagues to vote for H.R. 4222 to extend the legalization program under the Immigration Reform and Control Act of 1986.

Mr. FAUNTROY. Mr. Chairman, I rise in support of H.R. 4222, important legislation that would extend, through November 30, 1988 the period during which eligible undocumented workers might apply for legal resident status under the terms specified by the Immigration Reform and Control Act of 1986. Importantly, this measure would also authorize $2 million to support the provision and dissemination of information and community outreach activities associated with the extension of the legalization program.

I want to commend the distinguished chairman of the Subcomittee on Immigration, Refugees, and International Law, Congressman ROMANO MAZZOLI for crafting this legislation so necessary to ensuring the success of the 1986 immigration reform law. Unfortunately, delays in activating the education and community outreach programs essential to the Legalization Program have contributed to a low rate of legalization applications. The successful implementation of the legalization program is essential if we are to accomplish the goal of bringing the undocumented population out from the shadows of our society where they can be free of exploitation, fear, and become full contributing members of our Nation. Without this needed extension, as many as 2.7 million people eligible for the Legalization Program might fail to come under the Legalization Program. Such an unfortunate result would further aggravate the enforcement and social difficulties that come with a large population forced to live underground and in the shadows.

I urge my colleagues to vote for H.R. 4222 to extend the Legalization Program under the Immigration Reform and Control Act of 1986.

Mr. EDWARDS of California. Mr. Chairman, I rise in support of H.R. 4222.

Applications for legalization under the Immigration Reform and Control Act have come nowhere near the projections made when the bill was passed in 1986.

Much of the shortfall is attributable to the complexity of the legislation and the resulting leadtime that was needed to put the system into place, work out the kinks, and educate the people we intended to benefit about the law, to say nothing about assuaging their fears.

We really should not let this golden opportunity fail. This extension will give the program the time it needs to succeed, something I think we all must want. It will enable us to come closer to achieving one of the central goals of the Immigration Reform and Central Act—to bring people who live in this country out of the shadows and into the mainstream of American life.

Mr. Chairman, this bill is a modest one that will help us achieve our original intent in enacting the 1985 law. I urge our colleagues to cast their votes in favor of H.R. 4222.

Mrs. LLOYD. Mr. Chairman, I rise in strong opposition to the legislation before us today to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization period.

This legalization program was created by the Immigration Reform and Control Act of 1986 which I voted against because I strongly objected to the temporary resident status granted to illegal aliens who entered the United States prior to January 1, 1982. During consideration of this bill I voted for an amendment to strip the amnesty provision from the bill which unfortunately was defeated by a narrow margin.

H.R. 4222 would extend the 1-year legalization period which will expire on May 4, 1988, unless an extension is granted. I believe this is both unwise and unnecessary and that there is no justification for such an action. I believe an extension would unnecessarily cost taxpayers money, and compromise the original intent of Congress to limit the legalization program to a period of 12 months.

The Immigration and Naturalization Service has indicated their concern about the likely cost impact of any extension. At a time when fiscal restraint is a matter of national priority, any extension of the legalization program would not justify the attendant costs. I urge my colleagues to join with me in opposing this legislation.

Mr. LANTOS. Mr. Chairman, the May 4, 1988 deadline for amnesty is rapidly approaching and all indications are that the program may well need additional time for those eligible to apply. Immigration officers, along with the hard-working staff or churches and community groups around the country, have exhibited extraordinary dedication to this program. At the time of enactment of the Immigration Reform and Control Act of 1986, the Immigration and Naturalization Service estimated that up to 3.9 million persons might be eligible for legalization, yet as of mid-March only 1.1 million persons had applied for legalization. There are still many eligible aliens who have not yet come forward for amnesty.

Many reasons can be cited for the low number of amnesty applications. Numerous midprogram changes in eligibility requirements, application backlogs, poor advertisement, and explanation of the program, and unanswered questions about family unity are all factors which have contributed to the low turnout for amnesty.

When Congress passed the immigration reform legislation in 1986, we realized that the task was monumental. One of the primary goals we in the Congress had in mind when we enacted the Immigration Reform Act was to grant amnesty to millions of illegal aliens who had, by their long-term residence in the United States, become a vital yet unprotected part of our society. We must not leave this task half done. The amnesty program needs additional time to realize its objective.

Mr. Chairman, I strongly support legislation to extend, through November 30, 1988 the period during which eligible undocumented aliens may apply for legal resident status under the terms specified by the Immigration Reform and Control Act. I urge my colleagues in the Senate to take quick action to adopt this amnesty extension into law. The successful implementation of the legalization program must be completed if we are to accomplish our goal of bringing the undocumented out from the shadows of our society where they can be free of exploitation and fear, and become full contributing members of our Nation.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill is considered as an original bill for the purpose of amendment.

No amendments are in order except pro forma amendments for the purposes of debate and the amendments printed in House Report 100-571, which are not subject to amendment except pro forma amendments.

The Clerk will read.

The Clerk read as follows:

H.R. 330

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF APPLICATION PERIOD UNDER THE LEGALIZATION PROGRAM.

(a) IN GENERAL.—Section 245A(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255(a)(1)(A)) is amended—

(1) by striking "12-month", and

(2) by inserting "and ending on November 30, 1988" after "Attorney General".

(b) CONFORMING AMENDMENTS.—

(1) Section 245A(a)(1)(B) of such Act is amended—

(A) by striking "during the first 11 months of the 12-month period" and inserting "during (but before the last month of) the application period", and

(B) by striking "18-month" and inserting "application".

(2) Section 201(a) of the Immigration Reform and Control Act of 1986 (Public Law 99-603) is amended—

(A) in paragraph (1), by striking "two years" and inserting "30 months", and

(B) in paragraph (2), by striking "18 months" and inserting "25 months".

(c) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR DISSEMINATION OF INFORMATION.—There are authorized to be appropriated $2,000,000 to provide for dissemination of information (including community outreach activities) respecting the amendments made by this section, and the requirements to obtain benefits under section 245A of the Immigration and Nationality Act, as amended by this section.

Mr. MAZZOLI (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. GEKAS

Mr. GEKAS. Mr. Chairman, pursuant to the rule I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GEKAS: Page 2, amend lines 3 through 8 to read as follows:

(a) IN GENERAL.—Section 245A(a)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1255a(a)(1)(A)) is amended—

(1) by striking "12-month", and

(2) by inserting before the period at the end the following: "and ending 12 months later or ending on November 30, 1988, in the case of an alien who demonstrates to the satisfaction of the Attorney General good cause for failure to apply during such 12 months".

Mr. GEKAS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Chairman, this amendment is offered in the spirit of compromise and to fulfill the object and purposes stated and restated by the chairman of the subcommittee and all the proponents of this particular extension. Namely, that there are thousands of illegal aliens at this moment who have good cause as to why they have not yet applied for amnesty; that they have good and sufficient reasons for not having taken that giant step into the offices available to them for making application for amnesty.

But we who feel that this Government and our people must keep faith with the statute that has been passed so that we can have a nation of laws upon which we can depend and upon which the world can have reliance and to know that we mean what we say, we say that let this normal 12-month period expire when the law says it must expire on May 4, but—and here is where you come in, you who are proponents of the extension who feel that there are many thousands of people out there who have good and sufficient reason to be granted an exception—but extend it, I say, through my amendment for those people who are able to demonstrate good cause.

The chairman, the gentleman from Kentucky, has stated half a dozen reasons in the 30 seconds, in the 2 minutes, in the 4 minutes that he utilized prior, why he feels that people should be accorded the right and the time, the extra time to apply for amnesty.

The gentleman from California has stated privately and publicly, the gentleman from New York who just spoke on the floor, Mr. GARCIA, said that some had not heard about it. I believe that is good cause if that can be demonstrated before the proper reviewer as to whether that individual should be granted the right to make that application.

We have a wonderful opportunity with this amendment to gain the best of both worlds; that is to give the bona fide applicant that extra chance to get amnesty while at the same time remaining good and true and strong and faithful to our own statute which says that national security must be protected as of May 4, the coming deadline for the original 12 months' period of amnesty. That is the gist and the woof and the main and the strength of this amendment. I ask you in all good faith, the one that I want to, and in good cause to adopt this amendment.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I certainly will yield to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. I thank the gentleman for yielding.

Mr. Chairman, I would like to probe a little further in terms of the gentleman's amendment and what it means. I think initially, just to comment, but I am sure the gentleman will agree that within his amendment there is no effort to establish the standards by which an immigration official——

Mr. GEKAS. I am so glad the gentleman brought that up. I have been waiting for that. But I will respond.

Mr. BERMAN. That there are no standards set forth.

Could I ask the gentleman this situation: An application, an eligible alien——

Mr. GEKAS. Is this a hypothetical?

Mr. BERMAN. This is a hypothetical but I am sure it fits in many cases.

An eligible alien, sometime after May 4 and after this bill passes and the gentleman's amendment is adopted, were to be adopted, he comes forth with an application and says "I always was very suspicious of this process, I was fearful of the breach of confidentiality, I was concerned it really did not work, I thought it was an effort to entrap me, I had friends and fellow workers who applied for legalization, and they applied many months ago and they heard nothing, they got no response. Finally last week they started getting their temporary residence cards saying they were approved for temporary residence here. I saw that the system worked and I came forward and I applied at this particular time."

Now is that good cause in the gentleman's understanding of his amendment?

Mr. GEKAS. As the trier of fact who would be presented the hypothetical that the gentleman just outlined, I think that the trier of fact would be hard-pressed not to find that an abject fear of adverse consequences, abject fear of what might happen to him or his family would qualify as good cause.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

(By unanimous consent Mr. GEKAS was allowed to proceed for 5 additional minutes.)

Mr. GEKAS. Does the gentleman have a further hypothetical?

Mr. BERMAN. I have several.

Mr. GEKAS. I will yield for that purpose.

Mr. BERMAN. I would like to summarize what I have heard from the gentleman so far. One is that ignorance of the program constitutes good cause in the gentleman's opinion, assuming that the evidence establishes that the individual was in fact ignorant of the program prior to May 4. Second, that fear that he was going to be entrapped into a deportation proceeding by virtue of applying, whether it came—and for whatever possible basis as long as that fear was sincere and could be demonstrated to the satisfaction of a hearing officer, it would constitute good cause.

I wonder if the gentleman contemplates just what that means. We could deal with a number of other hypotheticals.

Mr. GEKAS. Yes, I have a number in mind.

Mr. BERMAN. As well, every single application will have to go through not just an investigation of whether they met the very specific criteria of the law, whether he applied January 1 of 1982, did they establish continuous residence requirements, were they or were they not public charges within the meaning of the law and the regulations? But an evidentiary proceeding on whether there was a good-faith basis for a determination that the individual had good cause not to apply before May 4. The gentleman is taking a procedure which is so far processed and is in the process with delays, many delays, many applications of well over 1½ million in both programs. The gentleman is now saying we will add a cumbersome, lengthy evidentiary process that will have to involve determinations of sincerity and credibility of testimony to a process that will expand the bureaucracy to an incredible level.

Mr. GEKAS. In seizing back my time I want to assert to the gentleman from California that, No. 1, the process and the mechanisms for what I determine in this process is already in place. We would not add anything because there is already an administrative remedy kind of appeal process embedded into the present law. So that is no problem at all.

I say to you, yes, given all that the gentleman has said I am hoping that 99 percent of the remaining people do apply and do demonstrate good cause. I hope that that is so. But what the benefit is that we get out of it as an American people and as a Congress of the United States is that we will have kept faith with our original mandate and at the same time given that open door to that person who sincerely has good cause for not having met the original deadline. We meet your objectives and we meet mine. And mine are yours and yours are mine. The gentleman cannot stand there and tell me that there is not a good object on my part, a good purpose to have our Government keep faith with what it says it is going to do and to meet its intents and purposes. And its intents and purposes are that this should end on May 4 to give ample time as we did before. And now we say even that we will stretch for a moment for those poor people who for some good reason failed to apply before May 4.

What is so much to ask than that kind of compromise that meets your ideals and mine as well?

Mr. ROGERS. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman.

Mr. ROGERS. I thank the gentleman for yielding.

Mr. Chairman, the gentleman, of course, is aware under the INS ruling that if an eligible alien seeks naturalization, that if he simply files a simple paper by May 4 that the INS will give him another 60 days to complete the process?

So in effect we are extending the deadline already by 2 months. Is the gentleman not aware of that?

Mr. GEKAS. I am aware of that. That blends into the rectitude of my amendment.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Chairman, I would like, if I might, to ask the gentleman a question.

First a question and then to state what I think to be the case.

The question is the gentleman really does not have standards for good cause. He would expect them to be done regionally by the various INS regions?

Mr. GEKAS. I was prepared for this question.

Mr. MAZZOLI. I figured just exactly that.

Mr. GEKAS. Located throughout our Federal statutory law we have countless and countless, I can give you 60 examples, right now, where we use good cause. Nowhere is that defined, when we say "good cause," defined categorically, but left to the discretion of the trier of facts.

Most of them have to do with exactly the same type of problem we have here; an extension, the extension of an injunction.

The CHAIRMAN. The time of the gentleman from Pennsylvania [Mr. GEKAS] has again expired.

(By unanimous consent, Mr. GEKAS was allowed to proceed for 5 additional minutes.)

Mr. GEKAS. And on each occasion it has to do, or at least the first 40 that I found or which were located, involved an extension of time. The judge gives the right to an attorney to file preliminary objections in 15 days or an extension thereof for good cause shown. The judge does not go on, nor does the statute go on to say "this means good cause," "that means good cause"; but in the body of law that has grown up to which the gentleman and I as lawyers are accustomed, that good cause is well settled. All we are doing is transforming it into another portion of the body of law which we now contemplated, which will allow the trier of facts to apply discretion and good judgment to be able to determine what is or what is not good cause in the context of what the intent of the law is.

Mr. MAZZOLI. If the gentleman will yield further, I understand what the gentleman is saying. It does appear to this gentleman that chances are that would be probably so loose and undefined and amorphous that probably the Attorney General would elect to try to write some regulation to sort of nail it down a little bit more. I think that might be time consuming.

One other area I would like to inquire of the gentleman. I am somewhat advised and of the belief that the confidentiality which today protects all of the records and materials which are delivered to the INS office by an applicant would not so protect the permission to file, this separate filing, to show that good cause was evident and therefore the regular filing is permissible.

We, of course, have protected these individuals and have said that those materials would not be shared with the IRS, not be shared with the Social Security; that they would be sacrosanct with the Immigration Service. I am led to believe that in this instance this would not constitute a filing of an application but a separate filing, first of all to show that there was good cause, that that confidentiality could be unintentionally and not intentionally but unintentionally breached and therefore these people might be less willing to come forward in this extended period because those materials might be subject to the ability to be taken or to be acquired by other agencies of Government.

So would the gentleman advise me how he feels on that?

Mr. GEKAS. I think the gentleman has an unfounded fear in that regard, Mr. Chairman.

This amendment does not change one comma, one phrase, one purpose, one iota of the main construction of the extension of the amnesty other than the special circumstance which we have already debated. In my judgment, just as ferociously as the gentleman might argue that it changes the confidentiality portion, then others could point to other things it might change, I say to you no interpreter of this statute would reach that far.

□ 1710

Mr. MAZZOLI. Does the gentleman think his mother would?

Mr. GEKAS. My mother and the gentleman have been in touch.

Mr. MAZZOLI. I think she has. She told me about the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentleman, and I ask for unanimous support for my amendment.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment and against the resolution.

Mr. Chairman, it really amazes me about all the debate on this bill that I have been listening to. The promises that are being made now and when you match them up to the promises that were made when we passed the bill, they do not exactly match. It seems to me that what we are doing here is trying to fix our promises. In supporting that position, some statements had been made that just boggle my mind. One statement was made on this side of the aisle about the message never got out. Well, obviously, you do not know a whole lot about the illegal alien network, because they have a better communications network, quite frankly, than we do here in the House. You know, we say something on the back rail over there and in 30 seconds it is over in the Longworth Building. They know this program is going on. They know it.

What you are trying to do is make excuses for what has yet to be proved a program that has been successful. This whole program has been based not on the real problem of illegal immigration in America. We said that from the very beginning, but we were promised that millions of illegals would come. In the debates last year I can remember some even estimated up to 10 million would come, 3 to 10 million would come forward. It is 1.4 million so far.

We were told that this was going to be a pay-as-you-go, a budget-neutral program. Well, they are asking for even more money to implement this progam of giving illegals more time to get amnesty.

In 1986, this Congress gave a once-in-a-lifetime chance for legalization to hundreds of thousands of illegal aliens living in our country.

Now, illegal is the operative word here. Illegal aliens were given a generous one-time period to apply for amnesty, and only 1.4 million have already done so.

Now, some of my colleagues want to extend this generosity by 6 months. This is a very serious and unnecessary mistake. This extension will be very expensive. Estimates of the additional expense range from $40 to $45 million according to the Houston Amnesty Center for the next 6-month period.

This is obviously contrary to that wonderful promise of congressional intent that the amnesty program was designed to be self-funding, not an unnecessary burden on our taxpayers, and asking our taxpayers to pay for illegal people that are here illegally to become citizens of the United States ultimately. That boggles my mind.

It is unfair to allow an extra time for legalization to illegals residing in this country. What type of message do you think this sends to the millions of people who are waiting for legal admission to the United States, those people around the world who have respected our laws and awaiting their turn?

Now the INS has been fair and effective in this amnesty program that many of us opposed from the very beginning. It has even granted a 60-day grace period to answer the problem of the gentleman from California [Mr. BERMAN], Mr. Chairman, to all aliens who applied for amnesty before the beginning of May, but needed time to gather the necessary documentation.

Also, fear should not be a factor. This is not a situation of people sitting in their homes huddled saying, "Oh, they are going to deport me," because we have proven that we are a country of our word, because not one alien, not one alien that has come forward and applied, not necessarily been granted, but even applied, has been deported, not one. Now, that is a good message. That is an excellent message to those that are fearful of being deported. Not one has been deported.

The Government has gone to extraordinary lengths to publicize the amnesty program and assist aliens, in fact, I think even further than was even intended, because they have a network out there that they talk to each other and they know exactly what is going on on the floor of this House. They know exactly what is going on right now. They are so good, some of them have lived here 20, 30, 40, 50 years without being caught by our own Government and our Government is seeking them out. They are not dumb people out there. But they are illegal.

Now, I have spoken with the Director of the Amnesty Center in Houston, Richard Riaz, about this particular bill.

He informed me that the Immigration Reform Act has been overwhelmingly successful in reaching the illegals in the Houston area. Approximately 50,000 aliens were expected to apply for amnesty. To date, over 75,000 applications have been processed in Houston alone.

I fail to see the need for additional time and expense. As Mr. Riaz so aptly put to me, more time is not the remedy for procrastinators. We all have to live with deadlines. They are going to have to live with deadlines when they become legal.

Let us stick to the one we established in our balanced compromise in 1986. May 4 should be the last day to apply.

The CHAIRMAN. The gentleman's time has expired.

(By unanimous consent, Mr. DeLay was allowed to proceed for 30 additional seconds.)

Mr. DeLay. May 4 should be the last day we apply, except if we can pass the Gekas amendment.

Mr. Chairman, we are telling the taxpayers of America that we are going to allow illegal aliens to become citizens of the United States but not only are we going to allow that, but we are going to spoon feed them to be legals, and we are going to spoon feed them, and the taxpayers, the legitimate citizens of the United States, are going to have to pay for it. I think that is wrong.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the amendment offered by the gentleman from Pennsylvania [Mr. Gekas], my friend, either does nothing or undermines the fundamental structure of the legalization program. If every reason one can think of constitutes good cause except for saying, "I knew it was May 4; I did not want to apply before May 4; I only wanted to apply after May 4, and so I did that in contempt of the program," other than that situation, every hypothetical that is thrown out in committee and now is, according to the interpretation of the author of the amendment, good cause if it is demonstrated by a preponderance of the evidence, ignorance is good cause, fear is good cause, uncertainty about whether one qualifies is good cause, inability to afford the filing fee is good cause, everything is good cause.

The amendment provides nothing except a massive burgeoning and blossoming of the length of time that will be taken to process and litigate every obligation that is filed after May 4, costly, time consuming, totally against the thrust of the gentleman's concerns about any extension at all. This adds to the cost, adds to the time, and it undermines the whole notion of a program where the filing fee constitutes the funding for the program, and undermines the principle of self-funding out of the application fees for the program, and the good cause amendment constitutes an insurmountable obstacle that will undermine the whole purpose of this extension.

What is the purpose? The purpose is recognition that Father Hesberg's Commission's recommendations to the INS, Senator Simpson's estimates of a population that existed in 1978 of perhaps as high as 2 million, but certainly 1 million of the eligible people, people here before January 1, 1982, have not applied.

Why not? All kinds of different reasons; some of it is just inherent in the bureaucratic nature of the legalization process, and with a population that has less access to the mainstream kind of communication that can inform them of how to work their way through that process. Some of it is the problems INS had originally in getting a publicity program started. Anyone who is living in one of the areas where significant numbers of undocumented workers reside knows that the major publicity about this program did not get started until the beginning of this year. Anyone who has looked at the statistics and as the author of the original bill, the gentleman from New York [Mr. Schumer] has pointed out several times, knows that the temporary residence cards, the card that shows that the program works, that it can mean something, that it will not entrap you into a deportation proceeding, was delayed for many, many months.

It is just now starting to come into full swing in terms of letting people know that their friends, their coworkers, are getting legalized.

I would like to take part of this time to just read for the benefit of the membership the report of the administrative conference of the United States headed by an appointee of President Reagan, not part of the INS, not with that fundamental question that every suggestion of an extension constitutes an attack on their veracity and on their good faith willingness to implement this program. There is no one who suggests that this extension is that. But there is a reaction within the agency at the top that seems to look at it as that kind of an attack.

The administrative conference said that the INS has opened the program to a number of additional subpopulations of eligibles through changes in its regulations. These people will not have had a full year long opportunity to apply the year that Congress intended when it passed this law.

Further, a slow start by applicants and by the INS computers has meant that many bona fide applicants have not received their temporary resident alien cards. This has deprived the program of the momentum it might otherwise have. Similarly, a late-blooming public education program has yet to have a chance to add to that momentum.

This is not coming from the gentleman from California or the gentleman from New York or a majority of the committee. This is coming from the President's own administrative conference.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. Berman was allowed to proceed for 2 additional minutes.)

Mr. BERMAN. So the administrative conference concludes that an extension of the deadline for the principal legalization program is recommended. The bill extends that program, not for a year, but simply to the date that the seasonal agricultural worker program extends to a program for which it is easier to qualify, for the only test there is working 90 days in agriculture, a program which has met all the estimates of applications and even exceeded them in its own numbers and still have 7 months to run.

The cost issue: The INS by its own actions has indicated that their offices will remain open to receive documentation for applications filed by May 4 for an additional 60 days. They have indicated that most of their offices will have to remain open because of the seasonal agricultural worker applications. The bureaucracies will all be in place. They have further indicated that for many, many months after this program closes, even as extended and the seasonal agricultural worker program closes, their offices will have to remain open, at least half of them, to process all the applications and finish the work under the legalization program.

There is not going to be some significant change in administrative policies that result from this bill. A number of high level INS officials below the level of the Commissioner have said, "Don't quote me, I'll deny it if you do, but there is nothing whatever to argue against the 7-month extension of this program."

The good cause amendment, again as I said in opening, either is worth nothing to the people who are concerned, because every reason will be good cause, or it is a fundamental obstacle to the congressional intent of the original legalization program.

The CHAIRMAN. The time of the gentleman from Califonria has again expired.

(By unanimous consent, Mr. BERMAN was allowed to proceed for 1 additional minute.)

Mr. BERMAN. We have heard from the other side of the aisle so many times with respect to our legislation, "Don't just pass broad legislative prescriptions which regulatory bodies can have a field day with because there are no standards, there is no basis for letting the public know what constitutes it."

I suggest that this amendment, which is not a provision in a collective bargaining or the ability of a judge to decide on a case-by-case basis whether to give a continuance to a lawyer, but constitutes a significant change in the fundamental legalization program to apply on a nationwide basis without any standards, without any flushing out of intent. It would be a terrible mistake.

Mr. Chairman, I urge rejection of the amendment and passage of the bill.

Mr. SHAW. Mr. Chairman, I move to strike the requisite number of words, and I rise to speak in favor of the amendment.

Mr. Chairman, I shall not take the full 5 minutes. I think this is a very meaningful amendment. What it simply does is say what the proponents of the bill itself have said, that there may be some people out there who do have an excuse for not having come forward within the time allotted and if they simply can come forward and show good cause as to why they did not come in by the original deadline, they would be given an extension.

Mr. Chairman, I still oppose the bill and continue to oppose the bill, as I think any extension is in error, but if we are going to make this extension then I think this amendment makes a very simple statement. It simply says let us just extend if for those who have good cause for not having met the original deadline of May 4 as set forth by the Congress.

□ 1725

Mr. ROYBAL. Mr. Chairman, I rise in opposition to the amendment, and move to strike the requisite number of words.

Mr. Chairman, I would like to associate myself with the remarks made by the gentleman from California [Mr. BERMAN] in opposition to this amendment.

I would like to take the balance of my time to attempt to clarify with the gentleman from Kentucky [Mr. MAZZOLI] his intent with regard to family unity.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. ROYBAL. I am happy to yield to the gentleman from Kentucky.

Mr. MAZZOLI. I thank my colleague Mr. ROYBAL for bringing up this matter. As I stated in the subcommittee's oversight hearing last October, we always intended that the legalization program be administered in a humane and compassionate way. In fact, I have consistently urged that it be administered with common sense and with respect for the integrity of the family unit.

Mr. ROYBAL. Does that mean that if the INS were to break up families with minor children, it would be violating the intent of IRCA and acting contrary to the intent of this extension of legalization?

Mr. MAZZOLI. Derivative legalization for family members was not the intent of IRCA, as the report language indicates.

However, we who worked to craft IRCA have urged and continue to urge the INS, to see that compassion and care control its discretion in situtations where the unity of the family is at stake.

Surely where there are minor children and both parents qualify for legalization, or where one spouse or parent qualifies and the other does not, or where the children qualify but one of the parents does not, these situations call for sensitivity and due respect for the family unit. I would hope that during this period of extension, the INS would act accordingly, in the humane spirit of IRCA.

Mr. ROYBAL. I understand that some INS regional and district directors have implemented the INS Family Fairness policy by using their discretion to refrain from deporting immediate relatives of those eligible for legalization.

However, many people fear a change in this policy, or that it may not protect their own family members. A principal reason for the legislation we are considering is to allow persons to apply who have hesitated thus far out of such fear.

I think we should also alleviate the fears of ineligible family members who seek discretionary relief from INS on a case-by-case basis. Would you agree that confidentiality should be accorded to their requests so that they would not be subjecting themselves to the risk of family separation by doing so?

Mr. MAZZOLI. Yes, I would.

Mr. ROYBAL. Some district directors are offering the opportunity to apply for indefinite voluntary departure and work authorization under the INS's family fairness doctrine. Family members who are not eligible for legalization must show compelling humanitarian factors to qualify for such discretionary relief. Does the chairman support that use of INS's authority in such cases?

Mr. MAZZOLI. Yes, it seems to me that is a wise accommodation of the concerns for family integrity and fairness.

INS has the tools to deal with the problem of potential family separations. I am not aware that INS is being unreasonable in assessing individual cases and in taking appropriate actions.

Mr. ROYBAL. Can I have the assurance of the gentleman that he will continue to monitor the situation to ensure that discretion is exercised properly, and that family integrity is respected?

Mr. MAZZOLI. I can assure you that, as long as I am chairman of the subcommittee, I will continue to do that.

Mr. ROYBAL. I appreciate the remarks of my colleague.

Mr. MAZZOLI. If the gentleman will yield further, I do appreciate very much the efforts of the gentleman from California [Mr. ROYBAL] which range all the way back into the early 1980's in working on making this bill better. I appreciate his efforts in behalf of family fairness and family unity.

Mr. ROYBAL. I thank the gentleman from Kentucky for his comments and for his assurance that he will do everything possible to see to it that family unification is respected.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment of the gentleman from Pennsylvania [Mr. GEKAS] is a good amendment. It is a good amendment to a bad bill but it is a good amendment. It is one that would at least put some parameters on this process of how long we are going to be carrying out and just who will be able to come forward in a 6- or 7-month period on an extended amnesty basis, and it basically says that one cannot willy-nilly come forward, they have to come forward and show there is some good reason why they missed a perfectly obvious May 4 deadline that has been extremely well publicized.

The idea of an extension, just like the idea of amnesty itself, has many pitfalls. It suggests to those who are out there in a status that they should not be in but are, illegally in this country, that we are going to be in a very forgiving mood. It suggests to those who are perhaps across the border somewhere who might like to look into the window of opportunity in this country because of the conditions that exist in many other parts of the world, it suggests to them that not only do we grant amnesty, but the country and the Congress looks like it might do it a few more times and certainly is willing to be very lenient in this subject area.

I would suggest to my colleagues that that is a bad idea on the face of it, but beyond the fact that if one voted against amnesty in the first place in the original bill one certainly should vote against an extension of it here tonight. There is a fundamental flaw in this bill in the simple fact that it is just plain not justified on very objective and unemotional reasons.

First of all, let us look at the numbers of people involved in this process. I do not know how many illegals are here. I remember debating this a couple of years ago and I for one thought we might have upward of 20 million or more people here illegally. The people on the other side who are arguing the case did not think that many. The official estimate was very small by comparison, somewhere around 3, 4, or 5 million at most and almost everyone agreed except for me because I thought more would come forward, so I am a little surprised that more did not come forward, but most everyone argued that the target number for this should be around 1.5 million people that we expect to come forward.

Mr. Chairman, it turns out they are not very far off in that regard. We have had almost that many people come forward to date. The INS is confident that by the time we reach the date of May 4 we will have over 1.4 million, which is the official Congressional Budget Office estimate, and probably closer to 1.5 million will have come forward. At the present time whether that number is actually met or not we already know we have done better than any other country in the world that has ever offered an amnesty program. We have done better than any other country has. There have been 12 other countries that have had some amnesty program and in that process of those 12 other amnesty programs no one has achieved better than a 50-percent response. If one combines all of the illegals in all of those other countries who came forward under their amnesty programs together, the total number is not as great as the numbers who have come forward during the past few months that this program has been in effect here in our country. So it has been a very generous program.

The chart that the gentleman from Georgia [Mr. SWINDALL] had up a few moments ago shows the peaks and valleys, shows that initially a lot of people came forward when this program was first out there. It shows an awful lot of people knew about the program. It shows a little drop around Christmas time when people were not much thinking about this program, and then it shows an acceleration as the awareness of the final May 4 deadline has been approaching. It has been going up steeply in that time and that is as it should be.

The fact of the matter is that people have come forward.

The second fact of the matter is that there are going to be serious consequences as to who pays for this program if it stays open. The best estimate, and who knows how many will come forward, is if we keep it open another 6 or 7 months maybe we will reach another 250,000 to 300,000 people coming out. Certainly not more than that. If that is the case, that will be great in the sense of the cost because that will pay for it. But the Immigration Service does not think that many people are going to come forward and if as anticipated we have just about peaked out on this process and we do not get anywhere near that number to come forward in this extension if it is granted, we are not going to have the funding for this program because we are going to have a problem with the fact that we have a self-funding mechanism that is dependent upon fees of those who apply. If we do not have those fees there, then the only way this program can be paid for is by dipping into the kitty that otherwise would be used for the Border Patrol and for other enforcement and other actions of INS which those of us involved with this know are underfunded anyway. It means it will be slower getting to citizenship and so on. That does not make sense.

One other fact is the fact that the General Accounting Office, who has looked into this, has said that the Immigration Service has done an outstanding job on getting the publicity out and doing the job right out there. There really is no quibbling over that point.

There is a lot of question about whether someone has a fear to come forward. We can debate that issue.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 2 additional minutes.)

Mr. McCOLLUM. Mr. Chairman, we can argue this until the cows come home, as they say, but the fact of the matter is we really do not know. The best logic and most commonsense argument is that this program has done what it is supposed to do.

I was not an advocate of this program and I have been out there in the forefront and have made every effort that I could personally to see to it that the program gained publicity. I appeared with the INS, got a news conference in my district a couple of months ago, and we managed to get all three network affiliates there, the local newspaper, and we got a lot of publicity for it and I do not think there is any way that that has been repeated around the country.

Mr. BRYANT. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am happy to yield to the gentleman from Texas.

Mr. BRYANT. Mr. Chairman, I thank the gentleman from Florida [Mr. MCCOLLUM] for yielding. I just wanted to observe that a moment ago the gentleman from Florida stated that if one voted against amnesty that one certainly wanted to vote against this extension.

I want to make the point that I voted against amnesty and I voted for the amendment of the gentleman from Florida when the bill was considered originally, but I am voting for this bill today and I want to take issue if I may with the gentleman from Florida's characterization on the extension of amnesty. I wonder if the gentleman would not be good enough to agree with me that this bill simply is an extension of the deadline within which those who are already eligible for amnesty can apply rather than an extension of amnesty, because it does not change the date. Those that were here before January 1982 may apply and no one else may apply whether this bill passes or not. Is that not a correct statement?

Mr. McCOLLUM. Mr. Chairman, reclaiming my time, I will respond to the gentleman from Texas that it does not change the date but it leads one to the path of concluding that if one is not an astute observer such as a legislator or technician on this, that since we are being so generous in extending dates around here for filing and qualifying, that we might feel as well to do that again down the road. I do not think it is a good idea. I do not mean to imply that this is an extension of the deadline date, the date way back when the cut day was where one started being eligible in January 1982. That certainly is not extended. I respect the right of the gentleman from Texas to have opposed it to begin with and it is fair now to support it but I disagree respectfully with that conclusion.

Mr. BRYANT. Mr. Chairman, if the gentleman will yield further, I might follow up to say I did not oppose it to begin with and favor it now, I opposed amnesty to begin with but I favor an extension of the deadline within which one may apply for amnesty now, and that is two different things. That is the point I want to make in responding to the comments of the gentleman from Florida [Mr. MCCOLLUM].

Mr. McCOLLUM. I understand the point of the gentleman from Texas [Mr. BRYANT] but I think that is unfortunately an ill-founded conclusion on the part of the gentleman from Texas though I understand it and I respect it.

The CHAIRMAN. The time of the gentleman from Florida [Mr. MCCOLLUM] has again expired.

(By unanimous consent, Mr. MCCOLLUM was allowed to proceed for 1 additional minute.)

Mr. McCOLLUM. What we are dealing with are two things, one is we are dealing with the fact that we have already adopted an amnesty or legalization program that was exceedingly controversial, that many of us opposed to begin with, but we put it on the books, and offered the possibility to come forward. I do not think that was a good idea. Many of us do not think it is a good idea. We are now doing something which will actually add to that even though it is not an extension technically of amnesty, it is certainly an extension of the concept, an extension of the time and the date to file. It is a change in that original bill and it is wrong, in my judgment, to lead people on and encourage others potentially through a magnet process to come over here in hopes that we will continue this generosity.

Second, and the real point that most people are looking at today, is the fact that this amendment, this extension, this change, is not justified on the basis of need to fulfill the commitment that was made in the original legislation to offer legalization. May 4 is the deadline, it is a good deadline, it has been well publicized, and to extend it now would be extremely costly, potentially harmful to immigration programs that we need otherwise to be addressed, and definitely something which is not necessary according to every wise source. We have already been very generous in this country and we have met the target that those in the Congressional Budget Office even suggested we were going to meet when this program was first set up. I cannot imagine us being more generous than we have been, and I submit to my colleagues that the right vote is yes on the amendment, but no on the bill.

Mr. BRYANT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I simply want to point out in my opinion the debate taking place so far has to some extent obscured what is basically a very simple proposition. The Committee on the Judiciary and the Subcommittee on Immigration, Refugees, and International Law recognized that the INS got off to a rather slow start. We do not blame that on anybody, but the fact of the matter is we recognized that as a result of the very rapid and soon expiration date for applying for amnesty we are about to buy ourselves a permanent bushel of problems.

□ 1740

So the Judiciary Committee has brought to the floor today a bill that does one simple thing. It extends the deadline for applying for amnesty another 7 months. It does not change the number of people who can apply. The people still have to have lived here before January 1982, and I will make the point once again that I am one of a number of Members of this House who voted along with Mr. McCOLLUM to oppose it at the beginning. But the fact of the matter is we have it today, and we are about to buy ourselves a bushel of problems, and, in fact, this ought to be the center of the debate today.

Stop to think a moment about how many hundreds of millions are going to come to the Congress and come to the Judiciary Committee and the Immigration Subcommittee asking us to grant citizenship to individuals who barely missed the deadline because they had a special reason or a special circumstance. No doubt most of those requests will sound meritorious, will fall on sympathetic ears, and the Immigration Subcommittee in this House will turn into an immigration court, and that is all we will be spending our time doing.

This is a pragmatic measure. It simply asks the House of Representatives, and the other bodies and the President to go along with a 7-month extension so we do not have a crush here and so we do not turn the Immigration Subcommittee into a court for more private bills, of which we have probably way too many already.

That is what we come forward to ask. I hope that the Members will vote against complicating amendments. These amendments do not add a thing to the bill. They simply muddle up the bill and the good cause raised by Mr. GEKAS' amendment.

But what is good cause, and what is not good cause, and how many of these cases are we going to see clogging up the bureaucracy, clogging up INS and the Justice Department and eventually clogging up the Immigration Subcommittee and this House of Representatives? Let us give them the 7-month extension so that we can get on with this.

Mr. McCOLLUM. Mr. Chairman, it seems to me, even if we extend this for 7 months, there are going to be a lot of bills, and that is inevitable in this process. You are going to have a lot of people missing the deadline just like a lot of people who miss the income tax deadline, and I do not see why it makes a difference.

Mr. BRYANT. Because, if it is 7 months, at least we are not going to have as many of these bill amendments submitted; we would probably have almost none. Let us follow common sense, and extend it 7 months, and get everybody in under the deadline and not waste any more time nitpicking about individual amendments that are clouding the issue. This is simple, and so let us make things easier on the Government and easier on this Congress.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise against the amendment, and I am trying to make the good Republican argument that we ought not to be adding to the bureaucracy involved. Some of those who oppose the base bill have suggested that this is going to cost us more money. Well, if you are afraid that it is going to cost us more money, why would you require a whole new level of consideration by the bureaucracy; that is, to determine whether good cause is or is not there? Let us either vote up or down the bill.

But I am concerned, if you add good cause, no matter whether you are for the bill or against the bill, the complication is, even though I know it is not the gentleman's intent, that you are going to make the bill worse. It is going to add another question that has to be reviewed, another determination that has to be made.

I do not know how the appeal will go through on this, but it is just an additional kind of busy work, so to speak, and the ultimate proposition ought to be whether you want to extend the application period so that we can give, yes, maybe a little bit more time, maybe being very, very generous on an application question to those people who we know are eligible, because this is not going to help a single person who is not eligible under the terms of the bill that we passed eligible. We do not change the eligibility standard at all, and I am afraid the good cause question just adds another level of debate.

Mr. GEKAS. Mr. Chairman, will the genteman yield?

Mr. LUNGREN. Mr. Chairman, I am happy to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Does the gentleman agree that the present bill, the present process, the one already working right now, already has as part of its statutory authorization an administrative level of bureaucracy, the one that you do not want to create?

Mr. LUNGREN. I have an additional one; that is right.

Mr. GEKAS. But it is the same one. The extention that you will favor under the present bill, the one that would extend it 6 months carries with it that same bureaucracy that you now would deny the gentleman from Pennsylvania in establishing the good cause. It is the same, one and the same, bureaucracy. The gentleman wants to extend it under the normal course of the present bill before us. I want to extend it to determine whether or not individuals have reason for establishing——

Mr. LUNGREN. I appreciate what the gentleman is saying, and I would suggest this:

What I support is a bill that will extend the application time, that does require us to maintain some apparatus for a longer period of time than would otherwise be the case. But what I am saying is, if another review element is extended into it; that is, extending the application period only for those who can prove a good cause reason for failing to apply during the original application period, that is going to take somebody's time. That is going to take somebody's clearing responsibilities. That is going to take money to pay those people to look into those things which would not be required otherwise.

And so while I admit that we have to keep in place a certain number of personnel for a certain period of time to review these things, an additional obligation is put in, which I believe would cost money, cost time, perhaps cost additional personnel requirements, and that is all I am saying.

Mr. BUSTAMANTE. Mr. Chairman, I rise in support of extending the application period for legalization and in opposition to the Gekas amendment.

When Congress passed the Immigration Reform and Control Act of 1986, I joined the majority of my colleagues in supporting fair and enforceable immigration reform. Congress considered it essential that to succeed, immigration reform required both employer sanctions and a legalization program. The legalization program recognizes the reality of our past inconsistent immigration policy which has created a large class of undocumented aliens. If we are ever to get control of our borders and focus on border enforcement, it was agreed that we needed to deal with this population within our borders.

Since the law was passed, several studies, including studies by the Carnegie Foundation for International Peace and the Administrative Conference of the United States, have indicated that hundreds of thousands of eligible individuals have not yet applied. According to the lowest estimates used by INS, 2 million aliens are eligible for legalization, that means that with 1.2 million people who have applied, there are conservatively speaking at least 800,000 eligible aliens who have not applied. If the conservative INS estimate is correct, INS will have to contend with a large illegal population inside our border. In that situation Hispanics, and other minorities will unfairly bear the brunt of sanctions and we will still not have a handle on controlling the borders.

The negative consequences of not giving an opportunity to all eligible applicants are in and of themselves sufficient to recommend to my colleagues to vote for this extension. Moreover, we have had the opportunity to recognize that the original deadline for legalization was unrealistic. The public information campaign has just begun to have an impact, regulations and interpretations governing legalization have changed several times since the beginning of the program so that many eligibles have had much less than a full year to apply. These and other start-up problems have not provided a major portion of applicants the benefit of the full application period. Only since November have we seen significant use of the program. The extension will actually provide the eligible population we want to reach the time we originally intended for them to apply for legalization.

The Gekas amendment should be rejected for at least three reasons. First, it goes counter to the original purpose of legalization which is to include as many eligibles in the program as possible. By adding the "good cause" and other restrictions, the Gekas amendment limits the number of eligible applicants and the benefit of extending the application deadline.

Second, it complicates the already complex requirements that applicants must fulfill to qualify for legalization. Third, it complicates INS administration of the legalization program by requiring the Agency to determine on a case-by-case basis whether there is a good reason for each late application. In short, it would be an expensive administrative nightmare.

I urge my colleagues to defeat the Gekas amendment and vote for the bill.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GEKAS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GEKAS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 167, noes 246, not voting 18, as follows:

[Roll No. 60]

AYES—167

Andrews
Applegate
Archer
Armey
Baker
Ballenger
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell
Chapman
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Cooper
Coughlin
Craig
Crane
Dannemeyer
Darden
Davis (IL)
DeLay
Dickinson
Dornan (CA)
Dreier
Duncan
Edwards (OK)
English
Erdreich
Fawell
Fields
Flippo
Gallegly
Gaydos
Gekas
Gingrich
Goodling
Gradison
Grandy
Grant
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Henry
Hiler
Holloway
Hopkins
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jeffords
Jenkins
Johnson (SD)
Kasich
Kolbe
Kyl
Lagomarsino
Latta
Leach (IA)
Leath (TX)
Lightfoot
Livingston
Lowery (CA)
Lujan
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McDade
McEwen
McMillan (NC)
Meyers
Michel
Miller (OH)
Moorhead
Morrison (WA)
Murtha
Nelson
Nichols
Nielson
Packard
Petri
Porter
Quillen
Ravenel
Regula
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (GA)
Saiki
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Staggers
Stallings
Stangeland
Stenholm
Stratton
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Upton
Volkmer
Vucanovich
Walker
Watkins
Weldon
Whittaker
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOES—246

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Badham
Barnard
Bates
Beilenson
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chandler
Clarke
Clement
Coelho
Coleman (TX)
Collins
Conte
Courter
Coyne
Crockett
Daub
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefley
Hefner
Herger
Hertel
Hochbrueckner
Horton
Houghton
Hoyer
Inhofe
Jacobs
Johnson (CT)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
LaFalce
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Lloyd
Lott
Lowry (WA)
Luken, Thomas
Lukens, Donald
Lungren
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Murphy
Myers
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickle
Price (NC)
Pursell
Rahall
Rangel
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Roybal
Russo
Sabo
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schumer
Sharp
Shays
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (NJ)
Snowe
Solarz
St Germain
Stokes
Studds
Stump
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Walgren
Waxman
Weber
Weiss
Wheat
Whitten
Williams
Wilson
Wolpe
Wyden
Yates

NOT VOTING—18

Biaggi
Clay
Conyers
Davis (MI)
Emerson
Kemp
Kostmayer
Lent
Mack
McGrath
Molinari
Moody
Parris
Pickett
Price (IL)
Ray
Stark
Wortley

□ 1805

Messrs. TRAXLER, FOLEY, RANGEL, and HERGER changed their votes from "aye" to "no."

Mr. FLIPPO, Mr. DENNY SMITH, Mrs. MARTIN of Illinois and Messrs. GALLEGLY, KASICH, and BEVILL changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. YOUNG of Florida. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to make this statement during the general debate on the bill, but at my scheduled time I was called away, without notice, because my wife, carrying our 10-month-old son, had been assaulted in a shopping mall, knocked to the ground, and had her wallet and purse stolen before she could even recover.

□ 1810

As you might imagine she was a little upset. So I did not get to make my statement then.

I would appreciate just a few minutes now if I could make a statement on this bill.

Mr. Chairman, I would like to talk about a couple named Henri and Jeanne Rambonnet who came to the United States in 1979 as visitors. They came to St. Petersburg, FL, where they made a lot of friends and decided they would like to live there. They went through all of the applications and paperwork to get their permanent resident status. They did the best they could to become citizens and exhausted every administrative remedy that they had to solve this problem.

The Rambonnets were no burden to the United States. They were financially independent. They were good neighbors and good friends. The community endorsed their desire to become citizens of our city and our great Nation. But they fell within the nonpreference category and could not gain permanent resident status.

The House refused to consider their problem and they were not allowed to stay in the United States. They had to go back home to their own country, The Netherlands. I had introduced private legislation on their behalf but that was denied, incidentally by the same committee that brings this bill out today. This is not an unusual case. A lot of us have the same kinds of situations in our district with friends and neighbors, but there is a little different story with the Rambonnets that I thought you might like to hear about.

As we worked with the Rambonnets on their case I learned more and more about who they were. I learned that Admiral Rambonnet, who was with The Netherlands Armed Services, was not only an outstanding citizen of St. Petersburg, FL but was a hero during World War II. When the Nazis overran Europe, Admiral Rambonnet and many of his friends could have left The Netherlands and could have left Europe and escaped to the security of Great Britain or the United States. But Admiral Rambonnet stayed behind, and he organized a system through which many American and British pilots who were shot down over Germany were safely gotten out of Europe and gotten back to Great Britain and back to the United States.

Admiral Rambonnet was a hero. He saved the lives of many, many American flyers.

General Eisenhower, who was in charge of the Allied forces at that time, was so impressed with the work that Admiral Rambonnet had done that he placed his name in the permanent record at the Supreme Headquarters of the Allied Expeditionary Force.

Admiral Rambonnet was a very unusual man, a real patriot although he was not an American citizen. But when he came here, because of our laws we turned our back on Admiral and Mrs. Rambonnet.

Then when we came to the Congress, the committee that brings this bill today turned their backs on the Rambonnets and refused even to send a bill to the floor for consideration.

This man was an American hero. He saved hundreds and hundreds of American lives.

That man is back in The Netherlands today. He cannot become a citizen of the United States despite the fact that he was a hero, despite the fact that he followed every law that we have on our books on immigration. But today you are asking us to vote, and this is the same committee which denied consideration of this man's application for permanent status for citizenship, to make it possible for another extension of time for people who ignored and violated every immigration law to make them permanent residents and citizens and given them an additional time in which to qualify under this law. We sent Admiral Rambonnet, an American hero, back to the Netherlands. I think that is asking too much. This is not a fair bill. This bill is not fair to the many people who are following the laws every day to get recognition as either permanent status or citizenship in the United States.

I strongly opposed the amnesty provisions of the Immigration Reform and Control Act when the House considered this legislation in October 1986 and I continue to believe that this measure unfairly rewards those people who have bypassed our immigration process while penalizing the thousands of law-abiding individuals who have followed the proper procedures, but have been denied citizenship for one reason or another.

Following U.S. immigration procedures is a lengthy process that requires many years of patience and hard work. When private legislation is introduced, the process becomes even longer. Of the hundreds of private bills introduced by Members each Congress, only a very few ever become law.

Many thousands of people have followed proper procedures in their effort to become U.S. citizens, but have unfortunately been denied this great honor because they do not meet each and every requirement of our immigration laws. Yet in 1986, Congress gave the millions of illegal aliens who have resided illegally in our country since before 1982 the opportunity to come forward and begin the process to become permanent residents and ultimately U.S. citizens. They will not have had to meet any of the stringent requirements which thousands of people who have patiently followed proper procedure, and were denied legal standing, had to meet.

In addition to Admiral Rambonnet, let me cite another example of a family which I tried to help who I believe had an excellent case for becoming American citizens but who were turned down by the Immigration and Naturalization Service and had to leave the country.

Dr. Walter Moser, and his wife Dr. Angrit Moser-Mahncke, were born in West Germany and were honored there as distinguished doctors of medicine. They were public health officers in their homeland and specialized in the area of nervous diseases and mental disorders.

They came to our Nation in December 1979 as retirees who were financially secure. Upon their arrival here, the pastor of a Pinellas County church discussed with them the possibility of working with the church to establish a special counseling program for emotionally disturbed individuals. The Mosers and the church were excited about this opportunity, but the program never got off the ground because the Moser's could not become permanent residents.

Like the Rambonnets, the Mosers fell in the nonpreference category and could not qualify for permanent residency. The Congress failed to enact private legislation I introduced in their behalf and they too had to leave the country.

The Rambonnets and Mosers are fine, honest, and hard working individuals who would have made outstanding American citizens. This war hero and these distinguished doctors followed the letter of the law in their effort to become U.S. citizens but did not meet the law's requirements and have had to leave our country. Had they stayed here illegally, they would now be eligible to sign up for the amnesty program begun last May.

We penalized these people who followed our law while at the same time rewarding millions of others who totally disregarded our law. In most cases, the only qualification for many of the people covered by the amnesty program to become U.S. citizens is the fact that they have lived in the United States illegally for at least 6 years.

Granting amnesty to the millions of illegal aliens is bad policy and extending that amnesty by another 6 months makes that bad policy even worse. This extension would be another slap in the face to the many honest and law-abiding people, such as the Rambonnets and Mosers, who did all they could, but were denied American citizenship by the very laws which have been so blatantly disregarded by the millions of illegal aliens who would benefit by the bill presently before us.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman for yielding.

Let me express my concern about the gentleman's wife and I hope that is resolved as quickly as possible.

With respect to the admiral, I have no recollection of how that case was handled.

I would be very happy to discuss that with the gentleman. Furthermore, I would like also to alert the gentleman and the House and the Congress that at some point there will be other immigration legislation scheduled and discussed and I hope the gentleman might even testify before the committee dealing with legal immigration, changes that might be necessary in the current legal immigration law.

The CHAIRMAN. The time of the gentleman from Florida [Mr. YOUNG] has expired.

(By unanimous consent Mr. YOUNG of Florida was allowed to proceed for 1 additional minute.)

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield further?

Mr. YOUNG of Florida. I yield to the chairman of the subcommittee, the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. I thank the gentleman for yielding further.

Mr. Chairman, I just want to say to the gentleman we think we have achieved a pretty decent toehold and a grip on the question of illegal entry, illegal immigration, to curb it as well as to handle it. Now we are devoting our attention to the thing the gentleman has talked about, for a long period of time, investors, people who are retirees and others perhaps like the admiral.

I would enjoy talking to the gentleman afterwards.

Mr. YOUNG of Florida. I thank the gentleman for his comments.

Mr. Chairman, I will respond that the gentleman's subcommittee gave me a very courteous hearing on Admiral Rambonnet's case before rejecting the bill.

AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. SHAW: Page 2, after line 8, insert the following new Subsection (and redesignate the succeeding subsections accordingly):

(b) PERMITTING USE FOR DEPORTATION PURPOSES OF INFORMATION CONTAINED IN FALSE OR FRAUDULENT APPLICATIONS FILED DURING THE EXTENSION PERIOD.—

(1) Section 245A(c)(5)(A) of such Act is amended—

(A) by inserting "(i)" after "other than",

(B) by striking "or for" and inserting ", (ii) for", and

(C) by adding after the comma at the end the following: "or (iii) with the respect to the identification and deportation of an alien but only if the attorney General establishes, by preponderance of the evidence, that the alien, in an application for adjustment of status filed under subsection (a), has knowingly and willfully falsified, misrepresented, concealed, or covered up a material fact or has made a false, fictitious, or fraudulent statement or representation, or made or used any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".

(2) The amendments made by paragraph (1) shall only apply to applications for adjustment of status filed under section 245A of the Immigration and Nationality Act after the 12-month period described in subsection (a) of such section (as in effect before the date of the enactment of this Act).

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

MODIFIED AMENDMENT OFFERED BY MR. SHAW

Mr. SHAW. Mr. Chairman, I offer a modified amendment.

The Clerk read as follows:

Modified amendment offered by Mr. SHAW: Page 2, after line 8, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(b) PERMITTING USE FOR DEPORTATION PURPOSES OF INFORMATION CONTAINED IN FALSE OR FRAUDULENT APPLICATIONS FILED DURING THE EXTENSION PERIOD.—

(1) Section 245A(c)(5)(A) of such Act is amended—

(A) by inserting "(i)" after "other than",

(B) by striking "or for" and inserting ", (ii) for", and

(C) by adding after the comma at the end the following: "or (iii) with respect to the identification and deportation of an alien but only if the Attorney General establishes, in a proceeding conforming to the procedures for (and subject to the same standard of proof, and subject to the same administrative and judicial review, as in the case of) deportation proceedings under section 242(b) that the alien, in an application for adjustment of status filed under subsection (a), has knowingly and willfully falsified, misrepresented, concealed, or covered up a material fact or has made a false, fictitious, or fraudulent material statement of representation, or made or used any false material writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry".

(2) The amendments made by paragraph (1) shall only apply to applications for adjustment of status filed under section 245A of the Immigration and Nationality Act after the 12-month period described in subsection (a) of such section (as in effect before the date of the enactment of this Act).

Mr. SHAW (during the reading). Mr. Chairman, I ask unanimous consent that the modified amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. SHAW. Mr. Chairman, I would like to ask the Members if they would be patient with us for just a few moments. I think this amendment has worked out and we are well on our way toward final passage.

Mr. Chairman, if I might briefly advise the Members as to what is in this amendment: This would permit the INS to use false or fraudulent documents presented to the INS only during the extension time as evidence in deportation proceedings.

I would advise the Members that the use of these documents is currently a felony under existing Federal law.

I have modified my amendment at the request and with the assistance of the gentleman from California [Mr. BERMAN]. The modification simply clarifies two points. It applies only to material misrepresentations. Due process will be available to the alien before a deportation can proceed against the alien using this information.

Under current law when the INS finds fraudulent documents they hand the case over to the U.S. attorney who then files the case in the criminal court.

□ 1820

We in the Congress obviously felt that this was a serious offense because the act of knowingly using fraudulent documents is a felony.

The problem that we are having is that the courts are throwing these cases out for one reason or another, possibly because the individuals are illegal aliens and therefore are already deportable.

Once a case is closed, the INS cannot go back to the files of the person. Therefore, we are left with illegal aliens who have committed fraud and are out free on the streets.

Instead of closing the case and letting the felon off scot-free, my amendment would simply allow the INS to use the information obtained in the application process.

The opportunity for fraud in the legalization program will increase dramatically if this bill is passed with an extension. We have already been advised by the INS that they are seeing more and more fraud as we are coming down to the end of the legalization program which currently ends on May 4.

This amendment sends a strong message that such fraud will no longer be tolerated by this Government.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding.

I appreciate the gentleman's cooperative attitude in working out an amendment which I think will go far to insure that in an extension period applications filed in this period will not be tainted with fraud and that that kind of action will be deterred by the gentleman's amendment, as modified.

It is my understanding that the amendment, as modified, clarifies two matters. First, it is limited to "material" misrepresentations.

Second, before the information in the legalization application can be used to begin a deportation proceeding, the INS must institute an initial proceeding to establish, by the same "standard of proof" as in deportation proceedings, that is, by clear, convincing and unequivocal evidence, that material fraud was knowingly and willfully committed.

As with deportation proceedings, this initial proceeding would before an immigration judge, and appeal to the Board of Immigration Appeals and to a Federal court of appeals would be available as in deportation proceedings; however, this provision does not, itself, establish a ground of deportation, so this would not constitute a new basis for detaining or threatening to detain the alien.

Again I want to let the gentleman know how much I appreciate this efforts. I think we have made the process during the extension period a good process that both deals with the goal of the legalization program and adds an alternative deterrent to fraud in that process.

Mr. MAZZOLI. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Kentucky, the chairman of the subcommittee.

Mr. MAZZOLI. Mr. Chairman, I appreciate the gentleman yielding. I want to first commend the gentleman and my friend, the gentleman from California, for having worked this out.

Let me just also say that I have some apprehension about this because so far as we can tell from the hearings, there has been less than a 1-percent fraud rate established by the Immigration Service in almost the 12 months of the program.

We might be using that proverbial sledgehammer to kill a gnat in assistance; however, I do not, as I say, intend to object to the effort here.

I would like to ask a couple questions. Does this formulation of the gentleman apply only to cases filed during the extension period, if one is ordered by this body?

Mr. SHAW. The gentleman is absolutely right. I am not attempting to modify the law as it applies up to May 4.

Mr. MAZZOLI. Mr. Chairman, if the gentleman will yield further, then the absolute confidentiality which we have guaranteed and assured applicants over the years, that confidentiality is maintained rigidly and firmly and zealously with all applications filed by May 4; is that correct?

Mr. SHAW. The gentleman is correct.

Mr. Chairman, I thank all the gentlemen from the other side of the aisle for their cooperation in passing this.

The CHAIRMAN. The time of the gentleman from Florida has expired.

(By unanimous consent, Mr. SHAW was allowed to proceed for 1 additional minute.)

Mr. DAUB. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Nebraska.

Mr. DAUB. Mr. Chairman, I am here to voice my opposition to legislation that would extend the deadline for illegal aliens to register themselves under the legalization program of 1986.

This proposal, in the form of H.R. 4222, is misguided, underfunded, unnecessary, and unfair.

When Congress passed the Immigration Reform and Control Act 2 years ago, its intent was clear: Give illegal aliens a specific period of time in which to register, and then close the door. A move to prop open that door for 6 more months would send out the wrong message; namely, that America will again adopt a laissez faire attitude toward aliens in our country.

In addition to the conceptual problem, there is a fiscal one as well. The INS estimates that an extension of the legalization period could cost nearly $50 million, money it doesn't have.

Over a million illegals will have registered themselves by the end of this month as a result of this program. That's proof that the IRCA has worked like we wanted it to. There's no reason to tinker with it now.

Mr. SHAW. Mr. Chairman, I think the language that I am asking to be adopted, I would encourage its passage, but I would also say to the Members that I still think that the bill itself is badly flawed and should be defeated.

The CHAIRMAN. The question is on the modified amendment offered by the gentleman from Florida [Mr. SHAW].

The modified amendment was agreed to.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment is the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. FOLEY] having assumed the chair, Mr. DONNELLY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4222) to amend the Immigration and Nationality Act to extend for 6 months the application period under the legalization program, pursuant to House Resolution 428, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SWINDALL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 213, noes 201, not voting 17, as follows:

[Roll No. 61]

AYES—213

Ackerman
Akaka
Alexander
Anderson
Annunzio
Anthony
Aspin
Atkins
AuCoin
Badham
Bates
Beilenson
Berman
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CA)
Bruce
Bryant
Bustamante
Cardin
Carper
Clarke
Coelho
Coleman (TX)
Collins
Conte
Cooper
Courter
Coyne
Crockett
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dornan (CA)
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Espy
Evans
Fascell

Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Garcia
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hefley
Hefner
Herger
Hertel
Hochbrueckner
Horton
Hoyer
Jacobs
Johnson (CT)
Jones (NC)
Jontz
Kaptur
Kastenmeier
Kemp
Kennedy
Kennelly
Kildee
Kleczka
Konnyu
LaFalce
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Lujan
Luken, Thomas
Lungren
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Pease
Pelosi
Penny
Pepper
Perkins
Pickle
Price (NC)
Rahall
Rangel
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (CT)
Roybal
Sabo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Shays
Sikorski
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
St Germain
Stangeland
Stokes
Stratton
Studds
Swift
Synar
Torres
Torricelli
Towns
Traxler
Udall
Vento
Visclosky
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wolpe
Wortley
Wyden
Yates

NOES—201

Andrews
Applegate
Archer
Armey
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilirakis
Bliley
Boulter
Brooks
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Byron
Callahan
Campbell
Carr
Chandler
Chapman
Chappell
Cheney
Clement
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
DeLay
Dickinson
Dorgan (ND)
Dowdy
Dreier
Duncan
Early
Edwards (OK)
English
Erdreich
Fawell
Fields
Flippo
Gallegly
Gallo
Gaydos
Gekas
Gingrich
Goodling
Gradison
Grandy
Grant
Gregg
Gunderson
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Henry
Hiler
Holloway
Hopkins
Houghton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (SD)
Jones (TN)
Kanjorski
Kasich
Kolbe
Kolter
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lukens, Donald
MacKay
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McDade
McEwen
McMillan (NC)
Meyers
Mica
Michel
Miller (OH)
Moorhead
Murphy
Murtha
Myers
Nelson
Nichols
Nielson
Olin
Oxley
Packard
Patterson
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Roukema
Rowland (GA)
Russo
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Traficant
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Wise
Wolf
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—17

Biaggi
Clay
Conyers
Davis (MI)
Emerson
Hunter
Kostmayer
Lent
Mack
McGrath
Molinari
Moody
Parris
Pickett
Price (IL)
Ray
Stark

☐ 1844

The Clerk announced the following pair:

On this vote:

Mr. Moody for, with Mr. Emerson against.

Mr. KOLTER changed his vote from "aye" to "no."

So the bill was passed.

The title was amended so as to read: "A bill to amend the Immigration and Nationality Act to extend the application period under the legalization program."

A motion to reconsider was laid on the table.

AUTHORIZING CLERK TO MAKE TECHNICAL AND CONFORMING CHANGES IN ENGROSSMENT OF H.R. 4222, IMMIGRATION AND NATIONALITY ACT

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Clerk may be allowed to make technical and conforming changes in the engrossment, including parenthetical United States Code citations, of the bill just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 4222, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

PERSONAL EXPLANATION

Mr. DAUB. Mr. Speaker, I was unavoidably absent and missed the rollcall votes on the intermediate nuclear forces treaty resolution, and the resolution passed in support of the Bliley amendment on dial-a-porn.

Had I been present, I would have voted "yes" in each case.

Mr. DAUB. Mr. Speaker, I strongly support House Resolution 422 which backs the Intermediate Nuclear Force Treaty between the United States and the Soviet Union.

On December 8, 1987, President Reagan and General Secretary Gorbachev signed a treaty to eliminate an entire class of intermediate-range nuclear missiles. This breakthrough was only possible because of the President's steadfast determination to deploy in Europe ground launched cruise and Pershing II missiles. This deployment was in response to the Soviets SS-20 missile threat.

There were many who argued that putting our missiles in place only escalated an arms race. They argued this deployment was counterproductive to arms control. In reality, it was the only reason the Soviets consented to this treaty and removal of the SS-20 arsenal.

However, with this treaty comes new security realities. Most important is the reality of the need for enhancing NATO's conventional forces. It is for this reason that House Resolution 422 calls for Presidential leadership on a combined effort to strengthen conventional NATO forces. It also urges efforts to reach verifiable agreements for conventional force stability including reductions of the areas that the Soviets are superior.

My guess is just as with the INF Treaty where we needed missile deployment for missile destruction, we are going to need sustained efforts at buttressing our conventional forces before the Soviets will seriously consider reducing theirs.

An important part of House Resolution 422 is it's urging that the President not be hesitant about exercising the our right to withdraw from the treaty if he determines there is Soviet cheating.

This is an important resolution and its passage indicates the wide support of the treaty in the House coupled with realistic concerns on conventional force imbalances and potential Soviet INF Treaty violations.

AN END TO DIAL-A-PORN

Mr. Speaker, the parents and families of America await the signature of the President on legislation to ban dial-a-porn. On numerous occasions, the House and Senate have made their intentions clear with respect to the pernicious enterprise of dial-a-porn vendors of sexually explicit and obscene porn talk should not be allowed to pollute the minds of our children and use the telephone lines carte blanche for profit. I rise to support the Bliley amendment.

We are not elected to be constitutional lawyers. Instead, we are elected to speak on the issues that affect the homes and lives of all Americans, especially our children.

The evidence is overwhelmingly clear that dial-a-porn produces behavior that is unacceptable and detrimental to decent people who are fighting for values under attack from the onslaught of a secularism aided by a Congress which appears at times to be unable to determine moral standards.

In choosing to ban dial-a-porn, this Congress has taken a stand and has determined a moral standard for what goes across the telephone wires. Even so, some Members have expressed concern that we are treading on some kind of a sacred free speech protection and they fearfully espouse a "what's next" attitude.

Mr. Speaker, I have taken an oath to uphold the Constitution and obligate myself to follow its dictates, and nowwhere have I found a protection for commercial obscene oral material sold over the telephone wires of America. Nor do I think the Supreme Court will find a protection.

We know that dial-a-porn will not disappear without a fight. Dial-a-porn vendors will have their day in court, and this issue will be ultimately decided by the Supreme Court. I accept that, and I will be watching how it views challenges to this proposed ban which will undoubtedly become law.

In conclusion, I applaud the leadership of my colleague from Virginia for taking this opportunity to rid ourselves of dial-a-porn. I urge our President to sign this legislation.

REPORT ON RESOLUTION WAIVING ALL POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 100-577) on the resolution (H. Res. 430) waiving all points of order against the conference report on the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, and against the consideration of such conference report, which was referred to the House Calendar and ordered to be printed.

PERMISSION TO PRINT REPORT ON FEDERAL ASSET DISPOSITION ASSOCIATION NOTWITHSTANDING COST

Mr. ST GERMAIN. Mr. Speaker, I ask unanimous consent that the report on the Federal Asset Disposition Association known as FADA, and extraneous matters be printed in the RECORD at this point notwithstanding the fact that the cost of printing the FADA report is estimated to be $18,634 as estimated by the Public Printer.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Rhode Island?

Mr. WYLIE. Mr. Speaker, reserving the right to object, and I do not intend to object, but I have some reservations about the request of the gentleman from Rhode Island [Mr. ST GERMAIN], the distinguished chairman of the Committee on Banking, Finance and Urban Affairs.

As the gentleman from Rhode Island has noted, It will cost approximately $18,000 to print this in the RECORD, not much in terms of our trillion-dollar budget but if we followed the regular procedure and submitted the report to the Committee on Banking, Finance and Urban Affairs for its review and official approval the cost would probably be approximately $1,400.

That is the procedure that we have followed for about 21 years since I have been here and so as a matter of practice staff studies have become official documents after they have been made a part of the committee report.

I have been advised by Mr. Steve Ross, general counsel to the Clerk of the House of Representatives, that in view of the Sundquist case, those persons involved in releasing this report might not be protected by traditional congressional immunity absent publication of this report in the CONGRESSIONAL RECORD.

The Supreme Court has been asked to hear that case, and it would be my judgment that it will be reversed by the Supreme Court, but I understand the concern of the chairman for the need of this publication. However, having reviewed the Sundquist decision I believe the court fails to appreciate the role of Congress in informing the American people on matters of public importance. It is a shame that such an unusual procedure as this has to be invoked. I am also concerned that given the delay in producing this report, the Committee on Banking, Finance and Urban Affairs held hearings last October 15 it may be outdated, but I do not want it to be said, Mr. Speaker, that I was trying to keep the news media from whatever benefit the report might have to it.

May I say that I have been contacted by several reporters who already seem to know the contents of the report and I understand it is controversial. I hope there is nothing libelous in it and having said that, I do not want to leave the implication that I am approving the report by not objecting to the unanimous consent request. I have not had the opportunity to read the report. I make no judgment as to its contents. I just saw the report for the first time today.

□ 1850

Mr. Speaker, I would hope that this is not the usual procedure, but I understand it under the circumstances.

Other committee members ought to be involved in the process.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

FEDERAL ASSET DISPOSITION ASSOCIATION: REPORT OF AN INQUIRY INTO ITS OPERATIONS AND PERFORMANCE

(Mr. ST GERMAIN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. ST GERMAIN. Mr. Speaker, I am setting forth here a staff report on the Federal Asset Disposition Association.

FEDERAL ASSET DISPOSITION ASSOCIATION: REPORT OF AN INQUIRY INTO ITS OPERATIONS AND PERFORMANCE

(Staff Report to the Committee on Banking, Finance and Urban Affairs)

HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

Fernand J. St Germain, Rhode Island, *Chairman.*
Henry B. Gonzalez, Texas.
Frank Annunzio, Illinois.
Walter E. Fauntroy, District of Columbia.
Stephen L. Neal, North Carolina.
Carroll Hubbard, Jr., Kentucky.
John J. LaFalce, New York.
Mary Rose Oakar, Ohio.
Bruce F. Vento, Minnesota.
Doug Barnard, Jr., Georgia
Robert Garcia, New York.
Charles E. Schumer, New York.
Barney Frank, Massachusetts.
Buddy Roemer, Louisiana.
Richard H. Lehman, California.
Bruce A. Morrison, Connecticut.
Marcy Kaptur, Ohio.
Ben Erdreich, Alabama.
Thomas R. Carper, Delaware.
Esteban Edward Torres, California.
Gerald D. Kleczka, Wisconsin.
Bill Nelson, Florida.
Paul E. Kanjorski, Pennsylvania.
Thomas J. Manton, New York.
Elizabeth J. Patterson, South Carolina.
Thomas McMillen, Maryland.
Joseph P. Kennedy II, Massachusetts.
Floyd H. Flake, New York.
Kweisi Mfume, Maryland.
David E. Price, North Carolina.
Nancy Pelosi, California.
Chalmers P. Wylie, Ohio.
Jim Leach, Iowa.
Norman D. Shumway, California.
Stan Parris, Virginia.
Bill McCollum, Florida.
George C. Wortley, New York.
Marge Roukema, New Jersey
Doug Bereuter, Nebraska.
David Dreier, California.
John Hiler, Indiana.
Thomas J. Ridge, Pennsylvania.
Steve Bartlett, Texas.
Toby Roth, Wisconsin.
Al McCandless, California.
Alex McMillan, North Carolina.
H. James Saxton, New Jersey.
Patrick L. Swindall, Georgia.
Patricia F. Saiki, Hawaii.
Jim Bunning, Kentucky
Joseph J. DioGuardi, New York.

COMMITTEE ON BANKING, FINANCE
AND URBAN AFFAIRS,
Washington, DC, March 17, 1988.

To Members of the Committee on Banking, Finance and Urban Affairs:

Transmitted herewith for use by the Committee on Banking, Finance and Urban Affairs, and by the Congress, is a staff report on the Federal Asset Disposition Association (FADA).

On July 16, 1987, I instructed staff to conduct a "full-scale, top-to-bottom" inquiry into the operation and structure of FADA, a federally chartered agency subject to mounting criticism. The Committee has been inundated with complaints that FADA, which was established to assist the Federal Savings and Loan Insurance Corporation (FSLIC) dispose of billions of dollars worth of bad loans and real estate acquired from failed and troubled savings and loans, is instead costing FSLIC millions of dollars. Rather than returning monies to the ailing FSLIC insurance fund, FADA is busy running up exorbitant bills—to be paid by the that same fund.

Critics have painted a picture of a runaway agency operating outside of accepted standards of accountability, duplicating FSLIC's functions, establishing a lavish bureaucracy, failing to meet even minimal levels of performance, and holding, rather than selling, properties in order to collect more management fees.

After seven months of probing through thousands of pages of documents, of meeting with developers and subcontractors—often referred to the Committee by other Congressional offices, of interviewing key FADA, FSLIC and Federal Home Loan Bank Board (Bank Board) officials at their headquarters, regional offices or receiverships, and of analyzing data collected by the General Accounting Office, staff investigators have substantiated many of the critics' charges. In the course of the investigation, other abuses were also uncovered. The Committee's findings include:

FADA HAS BECOME ANOTHER BLOATED BUREAUCRACY

Originally envisioned as a group of 50 to 80 "specialized" real estate personnel, FADA's staff mushroomed to almost 400 by December 1987, with salaries paid in excess of $22 million. Former FADA President and Chief Executive Officer Roslyn Payne was paid $250,000 a year and received a $75,000 bonus in 1986. Other officers were awarded $125,000 in bonuses for, in all but one case, less than 6 months of work. FADA is top heavy with senior management with 32 executives paid over $3 million.

FADA MAINTAINS INEFFECTIVE AND COSTLY OPERATIONS

FADA has entered into an irrevocable lease for a computer system which has turned out to be incompatible with FSLIC's system. FADA rents costly office space rather than sharing space in buildings already owned by FSLIC receiverships. FADA retains a private investment firm to manage its $5 million portfolio when it could use the services of the Bank Board which handles a $19 billion portfolio.

FADA IS NEAR INSOLVENCY

In 1986, FADA lost $3.6 million. By the end of 1987, FADA losses totaled $15 million and it continues to lose about $1 million a month. At this rate, FADA will soon be insolvent.

These losses have resulted in FADA exhausting its original $25 million in seed money from FSLIC. By the end of 1987, FADA was forced to draw $10.2 million in advances from the Federal Home Loan Bank of Topeka.

FSLIC IS NOT GETTING ITS MONEY WORTH FROM FADA

FSLIC, which capitalized FADA with $25 million, has yet to see a significant return to the FSLIC insurance fund through the sale of FADA-managed real estate or loans. Instead, FADA has billed FSLIC for millions of dollars. FADA has charged FSLIC receiverships over $20 million in asset management and advisory fees, and another $50 million for subcontractor and reimbursable expenses in 1987 alone.

FADA IS ACCOUNTABLE ONLY TO FADA

Although an arm of FSLIC, FADA's activities are guided and influenced by its 11 member board of directors controlled by the savings and loan industry. FADA has set up a supervisory system which bypasses FSLIC in favor of directly appealing to the Bank Board. Although a federal agency, FADA considers itself a private sector entity and has fought Congressional oversight of its operations and performance.

FADA'S POLICIES PROMPT CONFLICTS OF INTEREST

FADA, which commissioned a private law firm to draft a Business Code of Conduct—rather than using the Code of Ethics used by all other government agencies—has had a number of conflicts of interest. Certain FADA employees continue to maintain financial interests in firms that could benefit from FADA contracts, and contracts have been awarded on a sole-source basis to former business associates.

Not all of the employees' financial interests were made known to FADA. For example, Robert Axley, FADA's former Senior Vice President and General Counsel, failed to officially disclose his involvement with an S&L that was closed by FSLIC until 2 months after the institution was closed and FSLIC officials had uncovered his involvement. Mr. Axley later resigned from FADA during a Justice Department investigation in which his personal financial records were subpoenaed.

FSLIC BEARS THE COST OF FADA'S MISTAKES

FSLIC has assumed the management work on some FADA assets only to be billed by FADA for services which FADA did not perform. FADA's failure to maintain and protect properties and file timely insurance claims has exposed FSLIC receiverships to tax penalties, financial losses and legal liability. FADA boasts of its expertise in loan participations, yet in certain cases, FADA lacked the ability to manage the participation loans and operate in FSLIC's best interest.

FADA'S MARKETING IS INEFFECTIVE

Since its inception, FADA has placed little or no emphasis on the development of a quality marketing program. FADA's original marketing brochure contained only four properties. In early December 1987, FADA released a second version containing 191 properties. However, more the 76 percent of the properties excluded pricing information. Nowhere in the list were maps directing buyers to the properties' location.

FADA SALES RESULTS ARE MISLEADING

Although FADA claimed $774 million in total sales and loan payoffs in its September 30, 1987, Business Plan Update, about $595 million sales and loan payoffs under contract and active negotiation. Of the remaining $179 million, $55 million did not result in a return to the FSLIC receivership.

So, FADA's $774 million in asset sales are in reality, only $124 million.

Because of these findings, I asked Bank Board Chairman M. Danny Wall to address the Committee's concerns about FADA before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance.

On October 15, 1987, Chairman Wall testified that major changes were in the offing for FADA. These were: that Roslyn Payne had been demoted from her position as CEO although she would continue as President at the same salary; that the Bank Board would establish that FADA was accountable to FSLIC; that FADA's fee structure would be changed to eliminate any question about the incentive that FADA has to sell or hold property; that there would be regular meetings between FADA and the Bank Board to clarify their relationship; that there would be a complete review of FADA's compensation schedule with any recommendations and changes implemented on January 1, 1988; that an immediate hiring freeze would be put into effect; and that the Bank Board would develop clearer policy statements regarding FADA's responsibilities.

Chairman Wall made a number of promises, but the test will be whether they can and will be carried out. FADA has been in existence since November 1985—ample time for an agency to "clean up its act." Yet, FADA continues to lose money, something the ailing FSLIC fund can ill afford. As late as January 29, 1988, the Committee was informed that only one structural change had taken place—the removal of Roslyn Payne as FADA CEO. Even the immediate hiring freeze was ignored.

FADA remains an organization that has not met even the most minimal levels of performance. We haven't the time to wait for the Bank Board and FSLIC to rework the unworkable. As of the writing of this report, the Committee understands that the Bank Board is considering two major changes that will affect FADA's operations and financial performance; that is, the selection of Gerald P. Carmen as President and Chief Executive Officer and the adoption of a new management contract between FADA and FSLIC's receiverships. The record of Mr. Carmen as Administrator of the General Services Administration (GSA) and his ability to manage federal assets has been challenged by other Congressional committees and former GSA officials. Mr. Carmen's qualifications apparently fall short of even the selection criteria established by FADA's board of directors.

In an effort to answer FADA's critics, the Bank Board has mandated the adoption of a new asset management contract between FADA and FSLIC. FSLIC's own analysis clearly indicates that the proposed change is in FADA's favor. FADA will be allowed to recoup all of its prior losses and, in the future, FADA will be given the necessary fees to break even. In one receivership alone, FADA's fee under the new contract will increase by $17 million over a 5 year period.

There's an obligation on the part of the Congress and the Bank Board to maximize the return to the FSLIC. It's time for bureaucratic infighting to take a back seat to what is best for the insurance fund. So, rather than preserve a top heavy, inefficient bureaucracy, I will work to see that FSLIC gets the authority it needs to hire and pay the necessary personnel to effectively manage its caseload of $9 billion in troubled assets.

The Committee's investigation has proven conclusively that time has run out for FADA. The time has come to abandon this costly experiment and return to a more traditional, more efficient and rational approach in handling the massive caseload of troubled and failed institutions.

The transition from the jerry-built FADA structure to a more rational approach within FSLIC can be accomplished without great difficulty. FADA employees with specialized skill and abilities and FADA's asset management functions should be incorporated into the existing FSLIC structure. This phaseout of FADA should be accomplished as soon as possible. FSLIC's current regional operations structure should easily accommodate this approach.

Moreover, FSLIC should develop and implement a plan to clearly establish and direct receivership activities as government functions. This may include the adoption of many aspects of the Federal Deposit Insurance Corporation's structure and operational design for asset management and disposition.

I believe the Committee will be receptive to any statutory changes that may be needed to complete this restructuring. Time is of the essence. The Bank Board must act now to implement a more efficient and rational approach in handling the massive caseload of troubled and failed institutions.

Sincerely,

FERNAND J. ST GERMAIN,
Chairman.

ABBREVIATIONS

CEBA—Competitive Equality Banking Act of 1987.

FADA—Federal Asset Disposition Association.

FDIC—Federal Deposit Insurance Corporation.

FHLBB—Federal Home Loan Bank Board.

FSLAC—Federal Savings and Loan Advisory Council.

FSLIC—Federal Savings and Loan Insurance Corporation.

GAAP—Generally Accepted Accounting Principles.

GAO—General Accounting Office.

GSA—General Services Administration.

NHA—National Housing Act of 1934.

OGC—Office of General Counsel.

OLD—Operations and Liquidations Division.

OMB—Office of Management and Budget.

OPM—Office of Personnel Management.

REO—Real Estate Owned.

This inquiry into the Federal Asset Disposition Association was undertaken by the House Committee on Banking, Finance and Urban Affairs pursuant to the legislative, oversight and investigatory authority granted under the Rules of the House of Representatives, in particular Rule X clause 1(d) and 2 (a) and (b) of the Rules of the House of Representatives for the 100th Congress. The jurisdiction of the Committee on Banking, Finance and Urban Affairs extends to and includes all activities and operations of those agencies and departments which regulate, supervise and insure depository institutions.

SUMMARY

In mid-1987, the Committee on Banking, Finance and Urban Affairs was emerging from a lengthy legislative effort to recapitalize the Federal Savings and Loan Insurance Corporation (FSLIC). Confronted with an ever-increasing caseload of troubled and failed savings institutions, FSLIC, by early 1987, had nearly exhausted its financial resources. Unable to address the growing number of thrift insolvencies because of its own cash flow problems, FSLIC had begun to use cost containment strategies which conserved FSLIC's cash position but did little to arrest the mounting losses in the industry. Ending nearly a year of speculation, on March 3, 1987, the U.S. General Accounting Office (GAO) declared FSLIC insolvent.

Later that summer, Congress authorized FSLIC to raise $10.8 billion through the sale of bonds to the public. In addition, Congress resolved the government would stand behind the FSLIC fund and protect insured depositors. The onus now rests on the Congress and this Committee to determine if the monies available to FSLIC are being used efficiently. Spokespersons for the industry have already indicated that the authorized amount will not be enough and that additional funds, possibly taxpayer funds, will be necessary. Therefore, it is critically important to FSLIC's long-term survival that the maximum recovery be achieved from the problem assets acquired by FSLIC.

Scope of inquiry

The Committee's inquiry into the performance of FSLIC in the management and disposition of problem assets has been exhaustive. Spanning over seven months, the Committee has held extensive interviews across the country with all elements of the Federal Home Loan Bank System involved in these functions. Extensive interviews were also held with officials of state regulatory authorities, private asset management organizations, individual savings institutions, and private real estate development entities. As an adjunct to the interviews, the Committee reviewed hundreds of documents and performed extensive performance reviews and cost analyses.

Although the Committee's study was broad, the focus quickly became the Federal Asset Disposition Association (FADA). FSLIC has assigned over $5 billion in assets to FADA from problem institutions and those failed institutions in receivership. FADA, a government agency, had received criticism for its insistence on functioning as a private sector organization, for its conflicts of interest, and for its unresponsive, and at times abusive, attitude toward potential buyers of FSLIC assets. The Committee received several complaints referred through Members' offices. As the inquiry's progress was tracked by the press, the Committee received new complaints and leads weekly from the public, Members' offices, employees of FSLIC, private organizations and FADA officials.

FSLIC searches for an answer

The result of fraud, land flips, and most of all greed, the I-30 corridor between Dallas and Mesquite, Texas served as a visual warning for FSLIC officials. It looked like a ghost town at the end of the California Gold Rush. Courtesy of the speculative adventures of Texas' Empire Savings and Loan, there were approximately 3,000 condominium units in various stages of completion—more units than could reasonably have been sold in a healthy, booming Dallas economy. With the boom times at an end, thousands of uncompleted units were left to rot; many would eventually be bulldozed into the ground. A salvage operation unprecedented in FSLIC's history was on the horizon.

Soon there were other large failed institutions to join Empire Savings and Loan which had assets of $340 million. First, there were the five Tennessee savings and loans that were part of the Jake Butcher empire with assets of $300 million and then there was San Marino Savings and Loan in California with assets of $814 million. The year was 1984 and FSLIC had just taken title to more assets in one year than in the previous 50 years combined. Needless to say, FSLIC was unprepared to deal with this unexpected situation.

As FSLIC officials began to address the problem, more savings and loan examiners were sent into fast growing institutions, especially those in the Southwest. The feedback to FSLIC was that it may only have seen the tip of the iceberg. FSLIC officials began preparing a series of alternative plans of attack.

Recognizing that additional personnel and expertise would be needed, the officials began to react. Staff was increased in FSLIC regional offices although the legality of doing so was unclear. Additional staff, paid for out of other receivership monies, were hidden away in Washington for almost two years until the Bank Boards' Office of General Counsel approved of the arrangement. Most importantly, FSLIC recognized the usefulness of private asset management contractors and negotiated with the Palmieri Company to not only handle the asset management function for San Marino but also to be responsible for many of the receiver's responsibilities, such as handling claims and payments to creditors.

As 1985 rolled by, FSLIC was acquiring additional resources and expertise in handling problem assets through its regional office and receivership operations. Outside contracting had expanded and a number of real estate and workout specialists were under contract at a competitive price. Even though FSLIC officials had made great strides they realized that the problem caseload was increasing and, therefore, presented the Bank Board with several alternatives for a long-term solution. The Committee has identified seven discernably different alternatives. Only one approach is similar in any respect to FADA.

The creation of FADA

The Committee's research indicates that there was both a publicly stated and private reason for FADA's creation. The publicly announced reason for FADA's creation was to assist FSLIC in the management and disposal of problem assets. The unspoken agenda was to give the savings and loan industry, more specifically a small but very powerful subgroup of the industry, a major say in how the thrift industry's problems would be resolved. Because of the desire to make FADA work at any cost, after mid-1986, the Bank Board guaranteed FADA every sizeable contract from every FSLIC receivership. Although supposedly only a contractor for FSLIC, FADA seemingly controlled the terms of the contract. The Bank Board, in turn, encouraged FADA to ignore all normal reporting channels. A separate bureaucracy emerged—accountable to no one but its industry-connected board of directors.

FADA fails to achieve its mission

The Committee found FADA to be an organization out of control. Policies and procedures were ignored. Sole-source contracts were awarded to former business associates. Quality performance was nearly nonexistent. Criticism was muted at both FADA and FSLIC. Employees and contractors who dared to breach this wall of secrecy often felt threatened and intimidated. Meanwhile, FADA officials lived first class and received excessive salaries and bonuses—all at the expense of FSLIC.

In two short years, FADA has had an enormous impact. Currently $15 million in the red, FADA has also authorized another $51 million in subcontracts which the

FSLIC receiverships have had to pay. Several receivership and senior FSLIC officials felt that FADA's expenses were so excessive that FSLIC was exposed to lawsuits by the failed institution's creditors. These officials fought private wars with FADA in the halls of the Bank Board and eventually in the news media. Yet nothing changed. Time and time again, contracts were awarded to FADA at the insistence of the Bank Board and against the counsel of FSLIC staff—awarded without consideration of price or performance.

Rather than maximizing recoveries for FSLIC, FADA has wasted FSLIC funds. Few assets were sold and loan workouts were engineered so that the benefit to FSLIC is unclear, if not nonexistent. Originally designed to function as a "major contractor" with a small oversight staff, FADA has mushroomed into a bloated bureaucracy. Regional offices sprung up; the staff grew to over 380 employees.

The FADA bureaucracy began to challenge FSLIC's authority—first quietly, then openly. The attitude of senior FADA officials was unconscionable and communication with FSLIC was almost nonexistent. FADA officials refused to provide FSLIC receivership managers with even the most basic information on the assets FADA had been contracted with to manage. Things went so far astray that FADA would submit bills to the receiverships for payment and refuse to provide any supporting documentation, even after repeated requests.

Conflicts of interest surfaced that would not have occurred if FADA was subject to government policies and procedures. At a time when reestablishing public confidence in FSLIC should have been paramount, FADA repeatedly was charged with favoritism and cronyism. At the same time FADA "blackballed" several reputable and competent asset managers because they were already FSLIC contractors. The thinking was that FADA was created to be new and provide improvement. Thus, if FADA subcontracted with those organizations already doing similar work for FSLIC receiverships it would have been nearly impossible to defend using FADA at all, let alone on an expensive cost plus contract.

Just how much of FSLIC's money FADA wasted is difficult to determine. We know that FADA billed FSLIC receiverships over $20 million for its services alone and passed on over $51 million more in subcontractor costs. While there may be FSLIC and receivership personnel who disagree, of those interviewed by the Committee, all agreed that FADA was not cost-effective. Moreover, nine Managing Officers of FSLIC receiverships were asked to analyze FADA's cost structure in comparison to the receivership's cost structure, including the use of other private sector asset managers. All responded that utilizing FADA was wasting the receivership's money—money that rightfully belongs to FSLIC and the failed institutions' creditors.

FADA expenses have been uncontrolled

Just how well FADA officials have treated themselves is a great disappointment to the Committee. FADA's operating expenses exceed its (already inflated) revenues from receiverships by about $1 million per month. Since its inception, FADA has lost over $15 million.

It is easy to understand how FADA has lost so much money. Beginning with former FADA President and CEO Roslyn Payne's $250,000 salary (plus $75,000 bonus in 1986), FADA's top 32 senior executives have combined annual salaries in excess of $3 million. Total personnel costs were $19 million last year alone.

Another $1.8 million has been spent to date on travel expenses in excess of the amounts passed on to FSLIC receiverships. A review of the travel expense records submitted by FADA's senior officials gives a clear indication of just how out of control this area was. FADA's travel policies contain no monetary limits on reimburable travel expenses. The Committee noted that senior officials billed FADA for first-class air fares and $200 a night plus rooms at luxury hotels. The Committee learned that Ms. Payne provided her FADA credit card to her husband to purchase an airline ticket. FADA accountants, however, refused to pay the bill. She also billed FADA twice for the same expenses on at least one occasion. Ms. Payne later reimbursed FADA, but only after the Committee found the duplicate vouchers and asked FADA for an explanation. The reimbursement by Ms. Payne was dated—eight months after the vouchers were originally submitted for payment. Robert Axley, FADA's former General Counsel was paid over $1,200 by FADA for room and meal expenses at a fancy San Francisco hotel although he was permanently assigned to the San Francisco administrative office.

Other FADA expense categories also seem grossly out of line. Examples include the $888,000 paid to executive search firms; the $2.6 million in consultant fees; and the $2.2 million spent for leased office space to date. The selection of office locations is particularly interesting. Scores of vacant buildings acquired by FSLIC from failed institutions were passed over. Instead, FADA selected offices in high rent districts.

Why FADA has not achieved its purpose

FADA's dismal performance and its waste of FSLIC's and receivership creditors' money is shocking. One, wonders how things could have strayed this far from the publicly stated purpose for creating FADA. After all, if FADA's purpose was to help FSLIC recover the maximum from disposing of the assets of troubled and failed, thrifts, it is a dismal failure. However, if FADA's purpose was to allow a select few in the thrift industry to further extend their control over FSLIC policy—to allow this powerful group to make the decisions as to how the problems of the industry should be resolved without considering the cost to FSLIC—then a bull's-eye has been scored.

FADA operates on the premise that it is a private organization—affectionately referred to by FADA officers as "the company." This view of itself has fostered an air of being accountable to no one outside the organization. FADA lobbied the Committee and Members' offices to exempt itself from the Government in Sunshine Act and audit by the GAO. FADA employees are not subject to government conflict of interest standards nor do they comply with financial disclosure standards required of government employees. As the Committee's inquiry progressed, it became apparent that FADA did not believe that it was accountable to the Congress. It is evident that FADA never saw itself as being accountable to FSLIC, is sole stockholder.

FADA argues that it is accountable to no one but its own industry-controlled board of directors. And that board clearly sees FADA as a private entity.

Conclusions

The results of the Committee's inquiry are conclusive. FADA has not been effective in facilitating the maximum recovery for FSLIC, nor does it appear that it can do so given its current structure and environment. Maintaining two separate bureaucracies—one under direct government control and the other outside of all prudent checks and balances—is inefficient, wasteful, and unsupportable. Moreover, evidence compiled by the Committee indicates that FSLIC receiverships and private-sector firms can effectively perform FADA's current asset management function at a significant savings to FSLIC.

In addition, the significant resources now being devoted throughout the Bank Board, FSLIC, and obviously FADA, to incremental (but in most cases cosmetic) changes in FADA's structure and operation are wasting precious time and talent which should properly be devoted to the critical functions of asset management and disposition. It is unconscionable that the Bank Board would permit the thrift industry and its controlled "private FSLIC" to prevent the implementation of a cost effective solution to this grave problem.

In Chairman Wall's first public appearance as Chairman of the Bank Board (August 7, 1987, before the National Press Club), he stated that under his leadership the Bank Board would act as the independent regulator it is supposed to be, and not as the pawn of the industry. Chairman Wall stated "It's going to be . . . hard for the agency to continue to be preceived to be too close to the industry it regulates." The Committee has shown faith in Chairman Wall and patience for his efforts to resolve the problems resulting from the creation of FADA. Many months have passed, however, and the difficult, but necessary, decisions related to FADA have not been forthcoming. Instead, efforts such as highly publicized announcements about "changes" have been launched to defuse criticism of FADA without correcting the basic problems.

Aware of the Committee's criticism of FADA's excessive contract and wasteful and extravagant office accommodations, cosmetic public relations efforts are underway in both areas. Information obtained by the Committee, however, indicates that the renegotiated asset management contract and newly developed technical service contracts along with the planned consolidation of FSLIC/FADA offices will result in further dissipation of FSLIC assets.

For example, repricing the portfolio of the receivership for Vernon Savings and Loan under the terms of the new contracts will result in a total fee for FADA of $27.3 million over 5 years, $16.9 million more than it was under the old FADA contract. Even more dramatically, the incremental cost of using FADA over in-house asset management—including all FADA staff now responsible for Vernon compensated at their current salary and benefits level—is nearly $17.4 million over the same time period.

In addition, plans are underway to relocate FADA and FSLIC regional offices so as to reduce the obvious waste of maintaining separate administrative, accounting, and operational structures. In plans to date, however, the emphasis appears to be to save FADA from being inconvenienced and embarrassed. Saving FSLIC money has been ignored.

The great FADA experiment has failed.

CHAPTER I—FSLIC'S NEED FOR ASSISTANCE

Over the past five years a significant portion of the thrift industry has encountered large operating losses and severe capital depletion and the number of troubled institutions placed into FSLIC's caseload that will ultimately require financial assistance has increased dramatically. To date, the troubles of the thrift industry have placed FSLIC in the position of liquidating over $9 billion in assets from 65 failed thrifts, managing over $20 billion in assets from 58 troubled thrifts in the management consignment program, and monitoring the condition of approximately 500 open insolvent thrift institutions.

The funds in the FSLIC insurance fund are inadequate to deal with this situation. Indeed, as late as the second quarter of 1987, FSLIC had a balance of only $600 million in cash and investments. On August 10, 1987, the Congress, acknowledging the gravity of the situation, passed the Competitive Equality Banking Act of 1987 (CEBA) to authorize FSLIC to raise $10.8 billion through the sale of bonds.

In addition to financial resources, FSLIC required an increase in human resource functions to handle the growing caseload of troubled thrifts. To this end, the Bank Board was slow to recognize and prepare for the approaching storm. It appears that several years later, in the midst of the storm, the Bank Board devised several stop-gap measures to simply keep the industry afloat. These measures included (1) the development of FSLIC regional offices to manage and dispose of assets from failed thrifts, (2) the design of a management consignment program to place ailing institutions into a holding pattern to avoid severe and detrimental effects on the insurance fund, and (3) the creation of a separate entity called the Federal Asset Disposition Association to assist FSLIC in managing and selling assets from failed institutions.

The condition of the savings and loan industry

From the time of its creation in 1934 until about 1980, the Federal Home Loan Bank System operated with a simple set of regulations designed for a savings and loan industry that primarily held one kind of asset—home mortgages—and primarily held one kind of liability—passbook deposits. According to the Bank Board, FSLIC Provided assistance to only 124 institutions in the 45 years between 1934 and 1979. Almost all cases were resolved through merger transactions and, during this period, only 13 of the 124 FSLIC-assisted institutions were closed.

During 1980 and 1981, FSLIC assisted 42 cases and closed one institution for liquidation. During the four year period from 1982 to 1986, FSLIC provided assistance to 124 institutions and closed another 48 institutions.

Since 1980, the Bank Board has had to cope with substantial changes which contributed to the increasing number of institutions requiring assistance. These changes were generated by new economic conditions, technological developments, the financial management of savings institutions themselves, and most importantly, deregulation.

The deregulation of interest rates increased competition for deposits and the cost of money (interest paid on deposits) rose rapidly to "Market" levels. In contrast, most thrift industry assets consisted of fixed rate mortgages. The result was a sharp dip in the spread between the rate of return an institution earned on its assets (loans) and its cost of funds.

As a direct result of interest rate spread problems, a large percentage of the thrift industry encountered large operating losses and capital depletion. Some institutions applied to the Bank Board for relief and received financial assistance in the form of capital certificates. Other institutions in this situation sought to overcome their earnings and capital problems by becoming involved in high-risk/high-return investments. Still other institutions, not deeply troubled by interest rate problems, were simply lured by the high return of risky investments, some increasing their total assets by up to four fold each year.

Unfortunately, some institutions that adopted the high-risk/high-return strategy today have a significant portion of their assets classified as non-performing. The combination of negative interest rate spreads and non-performing assets has resulted in FSLIC providing an alarming number of institutions with financial assistance. As of December 31, 1986, FSLIC had over 300 outstanding agreements to financially assist troubled institutions and was in the process of liquidating the assets of 49 closed institutions.

At the present time, FSLIC's caseload consists of over 200 institutions with assets of $60 billion that will require some form of financial assistance in order to be resolved. These cases do not include hundreds of other troubled institutions that the Bank Board's Supervisory Examination force has determined may require financial assistance.

In addition, the U.S. General Accounting Office (GAO) has identified that there are a large number of insolvent institutions as measured under Generally Accepted Accounting Principles (GAAP). The number of institutions with negative GAAP net worth rose from 16 in 1980 to 491 by the second quarter of 1987. More importantly, the amount of negative net worth as a percent of assets significantly worsened during this period from a negative 2.4 percent to a negative 10.14 percent. These operating GAAP-insolvent institutions had assets of over $130 billion by the end of the second quarter fo 1987. While GAAP net worth is not the only measurement of the thrift industry's condition, these statistics clearly illustrate that approximately 500 thrifts are financially very weak and getting weaker.

The condition of FSLIC

Financial strains on FSLIC have grown as the number of troubled and failed thrifts have increased. Current estimates of the funds needed to resolve the thrift industry's problems range from $5 billion to $50 billion. Although the estimates differ as to the amount of resources FSLIC will need in the period ahead, there is no disagreement that new funding sources are necessary to supplement the current deposit insurance base. FSLIC's cash and investment balance has decreased steadily from $6.8 billion in 1983 to $600 million during the second quarter of 1987. A comparison of FSLIC's cash balance and the cost of resolving known problems alone clearly indicates that financial resources other than those FSLIC has traditionally depended on (membership assessments and investment income) will be necessary.

Congress, recognizing the problems facing the Bank Board, FSLIC and the thrift industry, passed the CEBA on August 10, 1987. The Act represents the beginning of what is to be an ongoing process with the overall goal of restoring the thrift industrys trust in its regulator, of maintaining depositor confidence in the deposit insurance system, and of preserving those depository institutions dedicated to home-ownership financing. Specificially, the Act authorizes FSLIC to raise an additional $10.8 billion. Congress envisioned that this funding, coupled with FSLIC's current income stream of approximately $2.5 billion a year from regular insurance premiums, special assessments, interest income on investments, and distributions from assets being liquidated from failed institutions, would provide FSLIC with the resources necessary to seriously begin to solve the thrift industry's problems.

Human resource solutions used and options available to help solve the industry's problems

Although the industry's financial situation is extremely grave, the Bank Board has been able to avoid the mass hysteria of banking institutions and depositors brought on by the 1929 crash by providing stop-gap measures and employing cosmetic solutions. Between 1980 and 1984 FSLIC, under the Bank Board's direction, began assisting troubled institutions by issuing paper notes, such as Income Capital Certificates and Net Worth Certificates, in exchange for an ownership interest in an insolvent institution in an effort to superficially boost the troubled institution's capital.

Thus, severe problems in the industry existed in the beginning of the 1980's and there was a need for an organization with technical asset management skills similar to what FSLIC's Operations and Liquidations Division (OLD) has now evolved into. In 1985, it appears the Bank Board woke up and realized the gravity of the situation and embarked on a series of less than adequate solutions.

In the first four months of 1985 the Bank Board passed a resolution to develop regional offices for FSLIC as receiver to centralize management and the liquidation of assets from failing institutions. At this time, the receiverships' legal authority was questioned by the Bank Board's Office of General Counsel and, to date, the Bank Board's position regarding this authority remains unclear. The receiverships also received little or no direction or guidance from the Bank Board. In an effort to accomplish their mission, receivership personnel began working with contractors.

During this time, the Bank Board apparently withdrew the little support given the receiverships by halting any work with contractors and not providing additional funds and staff, in favor of waiting for the industry to come up with its solution. The industry did not come up with a solution until the third quarter of 1985, when the Bank Board created the Federal Asset Disposition Association for the purpose of assisting FSLIC in accomplishing the same task that the receiverships had been assigned—albeit without sufficient time, funds, staff, contractors, and the Bank Board's guidance or approval.

Meanwhile, in April 1985, the Bank Board, using its authority under the National Housing Act (NHA), provided FSLIC with yet another method of assisting troubled institutions—the management consignment program. This program places ailing institutions into a holding pattern and postpones their closing which, otherwise, could have a detrimental impact on FSLIC's cash position and the deposit insurance fund. Unfortunately, these same institutions are today incurring operational losses of $12 million a day or $4.4 billion a year, and thus, driving up the cost of funds for other insured institutions and exposing FSLIC to a large contingent liability due to the unknown asset quality and potential litigation.

The Committee's concern is that while the number of troubled institutions increases, FSLIC funds and human resources will continue to be limited. FSLIC's future financial condition, and thus the existence of a separate thrift industry, depends on the number of cases to be resolved and the cost of resolving them. To that end, it is imperative that the Bank Board develop a cost-effective program to manage and dispose of problem assets from troubled and failed thrifts. Yet, the trust of depositors—based on the assurance that their deposits are fully insured—should remain the ultimate responsibility of the FSLIC.

FSLIC, as well as the public, cannot afford to waste scarce resources on the creation of entities that do not use the government's money to its fullest advantage. For this reason, any program developed must be able to secure for FSLIC the best obtainable return at the lowest cost. The problem assets in the portfolios of these troubled and failed institutions must be resolved in a reasonable period of time so as to provide FSLIC with as rapid a return of their cash as possible so that it can effectively deal with resolving its future caseload.

This review of FADA reflects the Committee's concern over the safety and soundness of the Federal Home Loan Bank system and more specifically, maintaining the trust of the American public and preserving a system dedicated to serving the financial needs of communities across the nation.

CHAPTER II—INVESTIGATION OBJECTIVES, SCOPE, AND METHODOLOGY

As part of the Committee on Banking, Finance and Urban Affairs' general oversight function, all banking-related activities are continually monitored. However, because of the magnitude of the problems in the thrift industry, the $10.8 billion in recapitalization scheduled to be provided to FSLIC, and the Bank Board's past performance in dealing with industry problems, Chairman St Germain announced that with the passage of CEBA his staff would closely review and evaluate the Federal Home Loan Bank system's performance.

The review and evaluation focused on which programs the Bank Board has developed to deal with the industry's problems, how the recapitalization funds are spent, which insititutions are closed, what type of assistance is provided, and how adequate resources are both in terms of personnel and funding.

In early 1987, House Banking Committee members began receiving telephone calls and correspondence from constituents complaining about FADA's operational practices and performance. The number of calls received by members of the House Banking Committeee from other Congressional members convinced Chairman Fernand J. St Germain to launch a "full-scale, top-to-bottom" investigation of FADA's operational practices and performance on July 16, 1987.

The investigation focused on FADA's asset management and disposition activities as implemented through its asset management agreements with FSLIC receiverships and with institutions in the management consignment program. As Chairman St Germain said in his announcement, "It is absolutely essential that the Congress make certain that this agency is properly structured and that it understands its mission."

The scope and coverage of the Committee investigation has been extensive. The investigation began with committee investigators obtaining general background information on the agency. Committee investigators interviewed key personnel involved with every aspect of FADA. This included several members of FADA's board of directors, three top executives at its San Francisco headquarters (Roslyn Payne, Eric Lindner, and Robert Axley) and sixteen of FADA's senior executives. The Committee also interviewed senior officials at the Federal Home Loan District Banks of San Francisco and Dallas, senior FSLIC and Bank Board officials in Washington, D.C., and several senior receivership officials from the five regional receivership offices who have the overall responsibility for liquidating the portfolio of assets from failed institutions.

The results of these initial interviews led the Committee to expand its efforts into reviewing and evaluating FADA's operational practices and performance. The Committee requested that five staff members from the U.S. General Accounting Office (GAO) be detailed to the Committee to assist it in the investigation. Two senior GAO staff members were permanently stationed in the field to deal with FADA's most complex regions, San Francisco, Los Angeles, and Dallas. Three other experienced auditors were assigned to the Committee in Washington, D.C., to investigate the numerous complaints lodged against FADA and to review and evaluate information obtained from the Bank Board, FSLIC, district banks, FADA, private-sector asset management firms, and receiverships.

In order to evaluate whether FADA's services are cost-effective, the Committee interviewed numerous managing officers from FSLIC's receiverships and private-sector asset management firms. Specifically, the Committee requested cost information from nine of FSLIC's receiverships were FADA has been assigned a significant portion of the assets. The Committee also requested that three well-known and well-established asset management firms provide it with information on the asset management services performed or being performed by their firms for FSLIC.

In an effort to gather specific information and summarize detailed cost analyses related to the asset management contracts FSLIC has with two of the three private-sector asset management firms, the Committee requested assistance from the U.S. General Accounting Office. GAO obtained information on such aspects as the asset management fee billed and the amount and rate of disposition of these two asset management firms as compared to FADA in the same institution or similar size institution with comparable asset portfolio problems.

In addition to reviewing and evaluating FADA's performance at a liquidating receivership, the Committee reviewed FADA's activities under its asset management contract with an "open" institution under the management consignment program, namely, Vernon Savings and Loan Association (Vernon) located in Vernon, Texas. At that time, the institution represented 80 percent of FADA's activity with supervised associations.

The scope of the Committee's investigation included interviewing a FADA board member, senior officials of the Dallas District Bank, two members of Vernon's Board of Directors, several past and present Vernon officials, and senior officials of San Antonio Savings Association, the institution charged with the overall responsibility for managing the troubled institution. The Committee also interviewed the Deputy State Commissioner of Texas, who has responsibility for examining state chartered thrifts, several of FADA's senior Dallas personnel, and outside legal counsel and consultants.

CHAPTER III—FADA'S ORGANIZATIONAL STRUCTURE AND MISSION

As discussed earlier, from 1980 to 1985, the Bank Board delayed establishing any cost-effective plan to deal with the problems in the savings and loan industry, while the few programs it implemented served only as stop-gap measures or cosmetic solutions. In the long run, these programs have proven themselves ineffective. In an effort to rid itself of criticism and attempt to confront the dramatic increase in troubled and failed institutions requiring financial assistance, the Bank Board, on November 5, 1985, granted a 10-year federal savings and loan charter to the Federal Asset Disposition Association (FADA).

The Bank Board's use of section 406

The Bank Board created FADA based on an interpretation of the authority it has under Section 406 of the NHA. According to FADA's charter, "FADA, with the Bank Board's approval, may accept deposits, although it was chartered for the sole purpose of liquidating and disposing of assets of failed savings and loan institutions acquired by FSLIC in its role as Receiver."

In general, Sections 406 (a) (b) and (c) of the NHA provide FSLIC with the ability to aid institutions in need of assistance by expanding the forms of financial assistance that could be provided by the agency and broadening the circumstances under which such assistance could be granted. Specifically, Section 406 (a) of the NHA authorizes FSLIC to provide for the organization of a new federal savings and loan association to accept insured accounts of any insured institution in default. FSLIC as receiver of an insured institution or institutions in default is also authorized pursuant to subsections (b) and (c) of Section 406 to:

"take over the assets of and operate such association;

take such action as may be necessary to put it in a sound solvent condition;

merge it with another insured institution;

organize a new Federal association to take over its assets;

proceed to liquidate its assets in an orderly manner;

or make such other dispositions of the matter as it deems appropriate; which ever it deems to be in the best interest of the association, its savers, and the Corporation."

This cited authority has been used by the Bank Board and FSLIC on numerous occasions to organize a new federal association to take over and carry on the business of a troubled institution.

As stated earlier, in the early 1980's the Bank Board was confronted with a number of large, failing thrift institutions. At that time, there were no buyers for these institutions and their large size made outright liquidation impractical for FSLIC. To cope with the immediate problem, the Bank Board, using the authority under Section 406 of the NHA, arranged for the FSLIC to provide financial assistance to keep them in business, and assumed overall control of their operations. The Board viewed this maneuver strictly as a temporary solution, designed to buy time until the associations regained solvency or until a final disposition could be arranged.

Specifically, this arrangement entailed creating a new institution, designated as a Phoenix institution. Each Phoenix consisted of several insolvent associations merged into a single unit. As many as five failed institutions were merged into a single Phoenix. The Bank Board created the first Phoenix association in September 1981. Altogether the Bank Board created five Phoenix associations in 1981 and 1982.

In November 1984, the Bank Board, again using the authority under Section 406 of the NHA, created a new federal association for the purpose of consolidating the insured accounts of five closed associations. FSLIC established the New Federal Savings and Loan Association of Knoxville by simultaneously transferring insured accounts of five institutions and providing cash and FSLIC notes. The Bank Board stated that this method provided insured depositors access to their accounts with minimal disruption and loss of interest.

In the spring of 1985, FSLIC, again using the authority under Section 406 of the NHA, adopted a new technique, the management consignment program, to provide it with an additional option in handling troubled savings and loan institutions. According to the Bank Board, the program was instituted as a means of early intervention in situations where an institution's assets are being dissipated. The Bank Board initially used this program to close troubled institutions and establish a new federal mutual association replacing old management with new managers hired on loan from other thrift institutions. The objective of the new management team installed by the Bank Board was to evaluate and rehabilitate these institutions to sound financial health wherever possible, and to minimize the resolution costs to the FSLIC in the event that FSLIC would be unable to rehabilitate the institution in the mangement consignment program.

Thus, since 1981, the Bank Board and FSLIC have utilized its authority under Section 406 of the NHA to establish new federal savings and loan institutions as a means to deal with problem institutions and conserve the resources of the deposit insurance fund with the overall intent of protecting depositors' accounts and meeting the financial assistance needs of the community.

In July 1985, the industry, through the Federal Savings and Loan Advisory Council (FSLAC), broadly interpreted Section 406 of the NHA and developed a proposal containing the FADA concept. FSLAC, although not part of the Bank Board, brings the concerns of the regulated to the regulator by raising the concerns of the thrift industry to the Bank Board's attention.

The industry, through FSLAC, conveyed the FADA concept as an advantage to FSLIC, stating that it could utilize FADA to provide interim management and liquidation of assets in FSLIC's troubled institutions with the Bank Board's approval. Thus, through the industry's broad interpretation of Sections 406 (a), (b) and (c) of the NHA of 1934 and its influence over the Bank Board, the Bank Board sanctioned the creation of FADA as a Federal savings and loan association on November 5, 1985.

FADA's creation

The Bank Board, FSLIC, and Congress understood that FADA was going to serve FSLIC in a subordinate role, as its principal contractor, providing FSLIC with specialized expertise in the management and disposition of assets. This Committee's investigation found that the Bank Board and FSLIC allowed FADA to expand almost uncontrollably. Initially, FADA was to serve as a small group of 50 to 80 real estate experts. By year-end 1987, FADA had mushroomed to nearly 400 employees with an annual payroll of $19 million.

With the announcement of FADA's creation, the Bank Board appointed 11 voting directors and three nonvoting directors as Board members of the agency. The three nonvoting members include the director of FSLIC, FADA's president, and one president from the Bank Board system to serve for one year with possible reappointment. While the FSLIC director represents FSLIC on the FADA board, FSLIC maintains no voting power on the FADA Board of Directors even though FSLIC owns 100 percent of FADA's stock!

The Bank Board, in addition to appointing members to FADA's Board of Directors and approving a 10-year charter for the new association, assisted in the capitalization of FADA. To secure the financial base for FADA, FSLIC provided FADA with capital for start-up costs and general operations. By March 1986, FSLIC, through the Bank Board, had purchased 25,000 shares of stock, thus capitalizing FADA at $25 million. In addition, the Bank Board authorized a line of credit for FADA backed by a contract between the FSLIC and Federal Home Loan Bank of Topeka whereby FSLIC has guaranteed repayment of up to $50 million of advances to FADA. The repayment guarantee applies only to advances used for funding receivership operations.

While the Bank Board infused FADA with $25 million in seed money provided by FSLIC plus sanctioned the Topeka Bank's provision of advances, both the Bank Board and FSLIC appear to have been very general in defining FADA's mission and objectives. In addition to the Bank Board's and FSLIC's somewhat lax role in defining FADA's mission and objectives, Congress also passed up an opportunity to spell out the agency's role through legislation. As a result, the freshly laid foundation and, thus, malleable cornerstones of this new entity were left open to interpretation, not only by FADA but also by the Bank Board, FSLIC, and Congress.

The Bank Board endorses McKenna's blueprint of FADA

During an October 17, 1985, hearing before the Financial Institutions Subcommittee of the House Committee on Banking, Finance and Urban Affairs, Bank Board Chairman Edwin J. Gray revealed that the board was considering the idea of establishing a "406 Corporation," referring to Section 406 of the National Housing Act. The "corporation" was viewed "as a possible basis for an innovative approach to addressing some of the problems that FSLIC faces." However, Chairman Gray refused to specify the corporation's structure along with a description of its goals and objectives.

Less than a month later, however, on November 5, 1985, Chairman Gray announced the creation of the Federal Asset Disposition Association before the 93rd annual convention of the U.S. League of Savings Institutions held in Dallas, Texas. The Bank Board designated Mr. William F. McKenna, a California lawyer closely associated with the savings and loan industry who many consider the patriarch of the industry and the "father" of the FADA concept, as Chairman of the Board of the new association. Mr. McKenna's ties to the industry are further emphasized by his law firm which represents several large savings and loans and his position as Chairman of the Federal Home Loan Bank of San Francisco.

In his announcement, Chairman Gray stated that "earlier in the year, Mr. McKenna, in his capacity as Chairman of the Federal Savings and Loan Advisory Council, developed the concept of a "406" association and, on behalf of the entire Savings and Loan Advisory Council, presented the idea to the Bank Board." With respect to the new association's purpose, Chairman Gray stated that "the chartering of the new FADA does not constitute a panacea for the difficulties of the FSLIC. Rather, it is one element in a much larger mosaic of actions . . . to strengthen its [FSLIC's] hand in meeting its obligations, now and in the future."

McKenna presents idea of FADA to Bank Board

The seeds of the FADA concept were planted during July 1985, when McKenna, in his capacity as chairman of FSLIC, wrote a letter to Chairman Gray in which he recommended that the Bank Board study the proposed establishment of a liquidating corporation to manage and liquidate FSLIC's increasing asset portfolio. As Mr. McKenna stated, "the Board has already moved vigorously and imaginatively to handle the problem (the large number of insolvent institutions). Your Management Consignment Program should continue to be the preferred method. An immediate additional initiative to further capitalize on the incentives, skills and flexibility of the private sector and to improve FSLIC's portfolio management and liquidation capabilities is necessary."

The new agency would not qualify as an operating savings and loan institution, but rather, it would serve the needs stated in Sections 407 (a) and (b) of the National Housing Act relating to asset liquidation and interim management. The new association's board of directors would be drawn primarily from the private sector and its working capital would be provided by FSLIC or an advance from the Federal Home Loan Bank guaranteed by FSLIC.

Mr. McKenna's letter proposed a dual incentive plan based on compensation and a shared return upon disposition of assets. The agency would recruit individuals from the private sector and provide private-sector compensation packages. Salaries and benefits would exceed those paid to government employees. The agency would be encouraged to utilize real estate management resources rather than its own regional personnel in assisting FSLIC with its diverse geographic distribution of assets. FSLIC would be required to transfer its assets to the new agency at liquidation value. Upon disposing of the assets, any returns above liquidation value would be shared by FSLIC and the new agency's employees.

The agency would not be a substitute for the management consignment program and its main purpose would be to serve FSLIC effectively. To assist FSLIC and its liquidation function, the agency would have the right to borrow and lend in order to sell properties subject to purchase-money mortgages, whereby a seller receives a mortgage as partial or total compensation for the sale of property, and it would also have the right to borrow against these types of mortgages or its related assets.

Congress relies on the Bank Board's judgement to create FADA

Congress never formally consented to the creation of FADA or acknowledged its purpose or objectives. Instead, it relied on the Bank Board's best judgement in establishing FADA and learned of its mission and objectives as they were conveyed through Chairman Gray's testimony and the news media after the announcement of FADA's creation, although certain Committee staffers had received notice of the Bank Board's plan to establish FADA before it was publicly announced. As Chairman St Germain stated to Bank Board Chairman M. Danny Wall during the October 1987 hearing regarding FADA's operations and performance, "I think it is important that we consider—and that you consider—major changes in FADA and that we not overlook the possibility that the ultimate remedy might be the abolishment of FADA as it is now constituted." Congressman Henry B. Gonzalez (D-Texas) also added that:

"Unlike my colleague, my distinguished colleague from Illinois, Mr. Annunzio, I never have been for the kind of set up that this FADA represents. In the first place, it is an extraneous agency created by fiat by the Home Loan Bank Board, unaccountable to nobody.

"I think it is a gross injustice now to jump on any individual, including this lady [Roslyn Payne], because once the Congress allows the creation of such institutions or agencies, one can expect and should expect corruption. Whenever we give power to any human being, including us, and don't provide for accountability, it is to be expected that we will have corruption and abuse of that power.

"I think the whole set up is so bad it should have never been created that way, and, second, it ought to be abolished instead."

As previously stated, FADA was not created by or pursuant to specific legislation. The Bank Board created FADA based on its interpretation of the authority it has under Section 406 of the National Housing Act. FADA was created as a new Federal savings and loan association for the sole purpose of assisting FSLIC in the management and liquidation of assets of failed and troubled institutions. This was the first, and to date only, use of Section 406 for this purpose.

The legitimacy of creating FADA as a quasi-government entity has not yet been clearly established, thus greatly contributing to FADA's lack of clear direction and accountability. This issue—is FADA fish or fowl—should have been resolved by the Bank Board long ago. FADA is owned by FSLIC and performs government functions. There is no legitimate defense for exempting FADA from the important checks and balances associated with being a government entity.

FADA impedes the enhancement of FSLIC's liquidations functions

Committee investigators understand that FSLIC never received the authority from the Bank Board to hire the significant number of employees necessary to manage the anticipated and potential liquidations work during the early and mid 1980's, respectively. At FSLIC's individual receiverships, where the management, marketing, and disposition of acquired assets takes place, FSLIC was relying on an extremely small group of nongovernmental employees charged with a fiduciary responsibility to the institutions' creditors, with FSLIC being their largest creditor.

The Bank Board's failure to provide FSLIC with additional resources is evident in numerous memos FSLIC sent to the Bank Board. One such memo from a FSLIC official, dated August 1984, noted that "without these Receivership employees, FSLIC could not fulfill its statutory responsibilities as Receiver." FSLIC reminded the Bank Board that the current administration supports a policy of reducing unnecessary federal employment by contracting out for services whenever possible. While FSLIC was not contracting out all of its liquidations functions, it was relying on nongovernmental employees coupled with private-sector contractors to assist it in its liquidations functions.

While FSLIC diligently sought to obtain approval from the Bank Board to intensify its liquidations forces, on December 7, 1984, San Marino Savings and Loan Association in San Marino, California, with assets just over $800 million, failed. With approval from the Bank Board, FSLIC made a decision to contract out the management of San Marino's assets to a private-sector asset management firm rather than managing the assets in-house due to FSLIC's human resource limitations in the area of asset management and liquidations. The contractor chosen for the assignment was the Victor Palmieri Company, a reputable Los Angeles, California asset management and disposition firm.

Soon after the contract was negotiated, however, the Bank Board decided that this was not the appropriate methodology and severely limited FSLIC's future use of major contractors to liquidate a large portfolio of acquired assets. In addition to denying FSLIC the authority to contract out large portfolios of assets to reputable asset management firms to assist it in its increased caseload and denying FSLIC the authority to hire a significant number of employees to expand its liquidations function, the Bank Board ignored the proposals from FSLIC officials who were developing alternatives to assist it in the management, marketing, and disposition of troubled assets acquired from failed institutions.

Alternatives to assist FSLIC's liquidation efforts

During the period 1983 through 1985, FSLIC's directors and acting directors presented the Bank Board with seven alternatives for dealing with the increasing caseload of troubled savings and loan institutions. The Bank Board has consistently denied that documentation of these alternatives exists. Nonetheless, Committee investigators, through discussions with former directors and deputy directors of FSLIC and FSLIC's Operations and Liquidation Division, have learned that FSLIC had presented these alternatives to the Bank Board to improve FSLIC's current liquidation system and to ease its ever-growing asset caseload. Based on documentation reviewed by Committee investigators, FSLIC Directors presented the following alternatives to the Bank Board:

(1) The Bank Board could approve the present system which allows the hiring of nonfederal employees and, thus, decreases the need for hundreds of additional federal employees.

(2) The Bank Board could adopt a liquidations system similar to the Federal Deposit Insurance Corporation's (FDIC), which might require: a) a statutory change given that FSLIC's governing statutes are different from EDIC's, and b) obtaining the approval of the Office of Personnel Management (OPM) and Office of Management and Budget (OMB) in order to bring on career federal employees and liquidation employment staff at a lower grade to perform the liquidation work.

(3) FSLIC could develop special-purpose contracts which would allow FSLIC to selectively contract with individuals to serve as quasi-federal employees or independent contractors for the purpose of engaging their services for common or decentralized services under the supervision of FSLIC liquidation staff.

(4) FSLIC could broaden the use of contracting which would allow FSLIC Receiverships to enter into broader contracts for general management services and specific functional services.

(5) The Bank Board could establish an Office of Liquidations within the Federal Home Loan Bank system with reporting responsibility to the Bank Board through the director of FSLIC. While this office would be associated with FSLIC, it would have enhanced flexibility to hire and compensate employees as necessary. (The Office of Liquidations would be similar to the establishment of the Bank Board's Office of Finance and the Office of Regulatory Policy, Oversight and Supervision. Both offices operate within the bank system, and, since the office directors report directly to the Bank Board, the Bank Board has minimized any added layers of bureaucracy.)

(6) The Bank Board could delegate the Office of Liquidations as a FSLIC agent under the Federal Home Loan Bank system which would allow receivership employees to become Bank System employees funded through their receiverships.

(7) The Bank Board could obtain legislation to form a federal asset management corporation, established in the manner identical to the creation and structure of the Federal Home Loan Mortgage Corporation, which would serve as FSLIC's liquidation agent. The corporation would operate as a profit-making, industry-owned, private corporation with the Bank Board members as its board of directors. FSLIC's Operations and Liquidations Division would then become part of the management corporation, which would manage the liquidation of FSLIC and receivership assets for a management fee and a share of the proceeds.

The table on the following pages outlines the advantages and disadvantages of each alternative presented to the Bank Board. While none of FSLIC's documented options incorporated the creation of FADA, it became evident to the Committee investigators that FSLIC was attempting to solve the problem of a burdensome asset caseload by expanding its own asset management and disposition functions as opposed to duplicating its liquidations functions, which is exactly what FADA has become—a duplicator of FSLIC's liquidations functions albeit with FADA policies and procedures.

TABLE 1.—ADVANTAGES AND DISADVANTAGES OF FSLIC'S ALTERNATIVES

Options available	Advantages	Disadvantages
(1) The Bank Board could adopt FSLIC's current liquidations system supported by a receivership system comprised of non-Federal employees.	This option has proven itself efficient, low-cost and flexible.	Congress, the U.S. General Accounting Office, or the Office of Personnel Management [OPM] and the Office of Management and Budget [OMB] could potentially take exception with the Bank Board's authority, or lack thereof, to use private-sector employees to perform FSLIC receivership functions, which are essentially "governmental".

TABLE 1.—ADVANTAGES AND DISADVANTAGES OF FSLIC'S ALTERNATIVES—Continued

Options available	Advantages	Disadvantages
	Minimizes the need for hiring hundreds of additional Federal employees.	
(2) The Bank Board could adopt a liquidations system similar to FDIC's.	The system would be modeled after FDIC's system which has a proven track record.	FSLIC's statutes might need to be changed to conform to those governing FDIC.
	Eliminates FSLIC's need to pay any of its liquidations staff private-sector salaries.	Such a system would require hiring FSLIC receivership employees as career Federal employees.
	Allows for the delineation of authority from Senior FSLIC and/or Bank Board officials to the liquidations staff, and, as such, makes these individuals accountable to FSLIC and the Bank Board.	In order to hire such employees, FSLIC/Bank Board would have to obtain the necessary approval from OPM and OMB.
	Centralizes liquidations policymaking and operations under one Government agency's control.	
(3) FSLIC could adopt special-purpose contracts and thus selectively contract with individuals to serve as quasi-Federal employees or independent contractors in performing liquidations functions under the supervision of FSLIC liquidations staff.	Eliminates the establishment of a separate bureaucratic structure.	The system might be more expensive to operate as a result of contracting out the majority of the work.
	Allows for the delineation of authority from FSLIC liquidations staff and officials to individuals under contract, and, as such, makes these individuals accountable to FSLIC and the Bank Board.	Contractors may take their role as fiduciary agent for the Bank Board/FSLIC too lightly.
	Allows FSLIC the flexibility to contract work out with individuals who possess specialized or technical expertise to supplement its asset management, marketing, disposition, and other liquidations functions requiring such expertise.	FSLIC could have less influence and authority over independent contractors' performance due to the diversity of knowledge and experience across contractors as well as their varied interpretations of FSLIC's asset management and disposition policies and procedures.
	Eliminates part of the concern that under FSLIC's receivership system non-Federal employees are performing "governmental" functions by contracting with individuals to serve as quasi-Federal employees.	
(4) FSLIC could expand its current contracting function in the areas of general asset management services and specific function services.	Contractors can be very effective in highly specialized or highly technical fields and thus provide FSLIC with unique private-sector asset management, marketing, and disposition techniques.	A contract system is profit motivated, thus, receivership operating costs might increase. FSLIC could have less influence and authority over contractors' performance due to the diversity of knowledge and experience across contractors as well as their varied interpretations of FSLIC's asset management and disposition policies and procedures.
(5) The Bank Board could set up an Office of Liquidations within the Federal Home Loan Bank system with reporting responsibility to the Bank Board through FSLIC's Director.	Removes the Bank Board from OMB and OPM budgetary and human resource constraints, thus allowing FSLIC to attract larger numbers of talented employees by hiring employees at its discretion and paying salaries above the Federal pay scale.	FSLIC would have to restructure its current liquidations system and, thus, incur a minimal expense.
	Allows for the liquidations staff to be directly accountable to the FSLIC Director and the Bank Board.	
	Centralizes liquidations policymaking and operations under one Government agency.	
(6) The Bank Board could obtain congressional approval of FSLIC's current liquidations system.	Eliminates any question regarding the legality of FSLIC's receivership system and its use of non-Federal employees. The use of non-Federal Government employees in key senior receivership positions creates the potential for influence by the savings and loan industry and the private sector.	The use of non-Federal Government employees in key senior receivership positions creates the potential for influence by the savings and loan industry and the private sector.
	Results in Congressional oversight and review of the liquidations system to ensure efficiency and effectiveness.	May not be able to attract the required personnel due to salaries which, although above the Federal pay scale, do not compete with private-sector salaries.
(7) The Bank Board could obtain legislation to form a Federal Asset Management Corporation [FAMC] to perform FSLIC's liquidations functions.	FAMC would be a private-sector corporation offering private-sector expertise.	The potential for conflicts of interest increase two-fold due to the FAMC being industry-owned and operated by the private sector.
	FSLIC's current liquidations system would be folded into FAMC to assist FSLIC in its liquidation of assets.	More costly due to its private-sector status.
		No opportunity to pilot test this system to determine its efficiency and effectiveness before start-up.

In addition to these alternatives, FSLIC recommended that OPM deliver an opinion on whether the work of receivership employees is so "governmental" that it should be performed by federal employees. In light of the various changes in law since 1942 and the change in federal policy which, in recent years, supports contracting out for services when practical, FSLIC assumed OPM's position that the Bank Board could conclusively determine that the receivership work is not intrinsically "governmental".

In an October 1985 memorandum, FSLIC's deputy director, writing to the FSLIC director, summarized previous efforts presented to the Bank Board in seeking approval of increases in staff to support its liquidations work. Specifically, the memo noted that "in the summer of 1985, FSLIC documented to the Bank Board its need for additional staff. The case was made in the Chairman's budget letter to OMB, requesting an increase in two increments, with 94 vacancies requested for FY 1986 and another 74 vacancies in FY 1987." Committee investigators understand that OMB approval was not received by the Bank Board until December 1985, 1 month after FADA was chosen as the preferred alternative. Even with OMB's approval, the Bank Board proposed a hiring freeze, and again FSLIC was denied staff increases.

According to FSLIC officials interviewed by Committee investigators, "an ambivalent commitment on the part of the Bank Board to the receivership system impeded its development. The Bank Board was consistently perceived to be unaware of or uninterested in the receivership system. The Bank Board never addressed questions regarding the legality of the receivership system which were raised by the Office of General Counsel on numerous occasions. The Bank Board's ambivalence towards the receivership system created an atmosphere of uncertainty and a fear of imminent dismantling." FADA, as envisioned in its early stage by FSLIC's senior officials, was to comprise a small group of 50 to 80 real estate experts to provide cost-effective solutions to FSLIC's burgeoning asset caseload. The general mission of this group was to enhance FSLIC's asset management and disposition functions through its real estate expertise.

Even though the Bank Board was presented with seven alternatives to address FSLIC's liquidation needs, including the option to enhance its own functions by expanding in-house resources and the option to establish a new office to support its liquidations efforts, Chairman Gray decided in favor of a privatized group to perform this important government function. The decision came as a complete surprise to many members of the Banking Committee and even some of FSLIC's own officials at the time because FADA, as adopted, was never considered a viable alternative until Chairman Gray endorsed Mr. McKenna's proposal.

The Bank Board either knowingly or unknowingly did not act on suggestions by senior FSLIC staff to begin recruiting the necessary number of technically qualified employees to effectively address the ever increasing number of problem assets to be managed and hopefully sold. If true, this would appear to have been done so as to make a "private sector" solution, such as that proposed by Mr. McKenna, a more desirable approach. This inaction on the part of the Bank Board allowed FSLAC, Mr. McKenna, and the thrift industry ample opportunity to present the FADA proposal. Thus, FSLAC's proposal for the creation of FADA, as adopted by the Bank Board, clearly demonstrates the influence of Mr. McKenna and the savings and loan industry in shaping this new private-sector concept. Interestingly enough, Mr. McKenna now chairs FADA's Board of Directors, a Board comprised of directors who are savings and loan industry leaders.

FADA and its 11-member board have deep ties to the savings and loan industry. (see Attachment 1.1) The current board is comprised of savings and loan executives, present and former United States and State League of Savings Institutions representatives, present and former directors of the Federal Home Loan District Banks, and present and former members from the Federal Reserve Board Thrift Advisory Council and the Federal Savings and Loan Advisory Council. The table on the following pages shows the FADA board members' current and previous business and professional affiliations.

TABLE 2.—PROFESSIONAL AND BUSINESS AFFILIATIONS OF FADA'S BOARD OF DIRECTORS

Board member	Affiliations of FADA board members
Barney R. Beeksma	Chairman of the board and CEO, Interwest Savings Bank, Oak Harbor, WA, 1988—Vice chairman, U.S. League of Savings Institutions, 1988; incoming chairman, U.S. League of Savings Institutions, 1989; president and CEO, Interwest Savings Bank, 1980–87; director, Interwest Savings Bank, 1973; and president, Interwest Savings Bank, 1970–87.
Richard Bertea	Director, Parker-Hannifin Corp., Cleveland, OH.
Edwin R. Biron	Chairman of the board and CEO, Commonwealth Federal Savings Bank, MA; member, Federal Savings and Loan Advisory Council, 1986–89; and director, U.S. League Board of Directors, 1978–80.
Thomas R. Bomar	Chairman of the board and CEO, Amerifirst Bank, FL, May 1986—President, Amerifirst Federal Savings and Loan Association, 1977–1986, renamed Amerifirst Bank, a Federal Savings Bank; chairman, Federal Home Loan Bank Board, 1973–75; member, Federal Savings and Loan Advisory Council, 1984–87; president, Federal Reserve Board Thrift Institutions Advisory Council, 1984; vice president, Federal Reserve Board Thrift Institutions Advisory Council, 1983; member, Federal Reserve Board Thrift Institutions Advisory Council, 1983–85; director, U.S. League Board of Directors, 1980–82; and executive vice president, Federal Home Loan Mortgage Corporation (Freddie Mac), 1970–73.
Gerald J. Levy	President, Guaranty Savings & Loans Association of Milwaukee, WI; ex officio member, Federal Savings and Loan Advisory Council, 1987; chairman, U.S. League of Savings Institutions, 1986; appointed member, Freddie Mac Advisory Committee, 1986; chairman, Wisconsin Savings and Loan League, 1977; and vice chairman, Wisconsin Savings and Loan League, 1976.
W. W. McAllister III	Chairman of the board and CEO, San Antonio Savings Association, Texas—Elected to the Executive Committee of the U.S. League of Savings Institutions, 1984–1987.
William F. McKenna	Chairman of the Board, FADA, 1985—chairman, Corporation Fund for Housing, 1984–85; chairman, Federal Savings and Loan Advisory Council, 1984–85; chaiman of the Board, Federal Home Loan Bank of San Francisco, 1982– ; chairman, The President's Commission on Housing, 1981–82; and partner emeritus, McKenna, Conner and Cuneo, law firm in Los Angeles, CA.
Gene E. Rice	President, First Federal Savings and Loan Association renamed MeraBank, a Federal Savings Bank, Arizona, 1973–87; CEO and chairman of the Board, MeraBank, 1982– ; director, Federal Home Loan Bank of San Francisco, 1981–85; director, Mountain States Telephone and Telegraph Co., 1979–86; president, American Savings and Loan Institute, 1969; and president, Arizona Savings and Loan League, 1967–68.
Donald B. Shackleford	Chairman of the Board and CEO, State Savings Bank, Columbus, OH; director, Federal Home Loan Bank of Cincinnati, 1986–88; chairman, Ohio Savings and Loan League, 1988; first vice chairman, Ohio Savings and Loan League, April 1987 through April 1988; second vice chairman, Ohio Savings and Loan League, April 1986 through April 1987; board of trustee, Ohio Savings and Loan League Board, 1981– ; chairman, Bank One of Cambridge, Ohio, 1972–1977; and president, Mid-Ohio Savings League Association,1976.
John B. Zellars	Acting CEO, FADA, October 15, 1987 to present; chairman of the Board and CEO, Georgia Federal Savings Bank, 1988– ; chairman, U.S. League of Savings Institutions, 1985.

FADA's initial interpretation of its mission

Based on our preliminary interviews with FADA senior officials, they too envisioned that FADA would be a small group of private-sector real estate experts in the areas of asset management and disposition. The group of experts was to enhance FSLIC's operations and liquidations functions in its management of institutions' assets in its role as receiver.

FADA eventually augmented its role by broadly interpreting its own charter. Thus, under the guidance of its charter, FADA expanded and became a separate entity with FSLIC-like functions and no accountability to FSLIC. Specifically, FADA's charter stipulates that FADA is under the direction of its board of directors, whose members are appointed by the Bank Board to serve staggered terms of appointment. As FADA's charter implies, only the industry and not FSLIC shall have any control or authority over FADA's activities.

From FADA's inception, its board of directors were unsure how the association should be structured. In the FADA board of director minutes dated December 3, 1986, FADA's board of directors identified two basic approaches which it believed could be used to structure the association. The board members described the approaches as follows:

"Under the first approach, FADA would be set up as a fully operating company that would actually take title to FSLIC's assets and use an in-house staff to liquidate them. The other approach would be to leave title to the assets where it currently lies and have an expert staff that would oversee contractors who would do the actual work."

FADA's board of directors adopted the latter approach because, as explained by the board members, "it [FADA] would utilize existing private companies and could become operational more quickly." It appears that the FADA board may have sacrificed a more efficient structure for a quick start-up of FADA.

The private sector's view of FADA

Full service asset management contractors who have successfully performed numerous management assignments for FSLIC are concerned that, "FADA should not be viewed as an alternative to private sector resources, but as a way to leverage those resources." However, since FADA's inception, contractors that have provided FSLIC with management services have been cast aside in favor of allowing FADA to become FSLIC's exclusive contractor. FADA, in turn, has "blackballed" these reputable contactors admitting that there is an inherent bias against the selection of firms that have previously done substantial work for the FSLIC. Also according to FADA staff, "FADA was set up to do things 'better' than the FSLIC and it would be difficult for us to explain the use of the same contractors which FSLIC has used."

Thus, it is the view of private sector contractors that FADA excludes experienced and highly qualified firms for political reasons and because it feels threatened. FADA has yet to request a proposal from some of the nation's leading firms and in fact, FADA staff told one firm that (see Attachment 1.2), "if [it] hoped to get work from FADA, [it] should make a point of repeatedly and personally soliciting FADA employees for work 'as many other firms do.' " The same firm also noted that, "there seems to be a considerable amount of favoritism as a result of the decentralized decision making process in the selection of work." Again FADA staff made it clear to private contractors that "it was necessary to develop friendships with the individual asset managers doling out the work."

As noted by one major contractor, "FADA was originally conceived as a master contractor to the FSLIC, composed of a highly skilled senior staff capable of effectively contracting with, managing, and supervising the resources available in the private sector. FADA was not intended to become a new massive quasi-governmental bureaucracy with hundreds of in-house employees attempting, by themselves, to manage the real estate problems of the industry."

FADA evolves as FSLIC's exclusive contractor

The general nature of statements regarding FADA's mission and objectives are evidenced time and time again in Chairman Gray's statements before various audiences, including the Subcommittee on Financial Institutions Supervision, Regulation and Insurance and the Subcommittee on Oversight and Investigations of the House Committee on Banking, Finance and Urban Affairs, in FADA's board of director minutes, and in discussions with FSLIC and FADA senior officials. Specifically, it appears that the Bank Board's and FSLIC's official statements, whether through omission or by intent, lacked precision and clarity in defining FADA's mission and objectives and in establishing the parameters within which FADA was to operate.

On March 12, 1986, Chairman Gray stated before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance that he was going to set the record straight to eliminate speculation and misinformation regarding the Bank Board's plan for FADA. Chairman Gray stated:

"Simply put, the FADA will be a nonexclusive contractor for management and disposition of FSLIC assets. While this function is now hampered by restraints on FSLIC staffing and resource allocation, creating of the FADA should dramatically change this situation. The FADA will be able to rapidly match hired talent to specific asset management problems, thus maximizing and accelerating the return of cost to the FSLIC."

In his statement before the Subcommittee, Chairman Gray portrayed a general mission for FADA without specifying its goals or objectives in assisting FSLIC in its liquidation function or without specifying FADA's accountability to FSLIC, which already maintained a liquidations group and asset management and disposition policies and procedures. Chairman Gray's statement refers to FADA as a nonexclusive contractor, which implies that FSLIC could use FADA's services as well as those of other contractors. What the Committee has seen to date, however, is the Bank Board requiring FSLIC to rely solely on FADA's services, often against the judgement and counsel of FSLIC's line officers.

Based on discussions with receivership personnel, the Committee learned that since FADA's first asset management contract on July 18, 1986, FADA has received every major contract from every FSLIC receivership. In addition, the Committee was informed that other assets that were already successfully being managed by receivership personnel or other subcontractors were reassigned to FADA.

During mid 1986 and early 1987 Roslyn Payne and FADA's board of directors constantly complained to the Bank Board about problems they were having with FSLIC and that receiverships should rely on FADA for asset management and advisory contracts. According to FSLIC's Acting Director, as presented in FADA's August 6, 1986 board of director minutes (see Attachment 1.3), ". . . the [FSLIC] staff had approached the relationship with FADA on the basis that the FSLIC has with all other contractors in the system and that it had taken the Chairman to correct that incorrect approach. Mr. Connell stated that he was optimistic that since the Chairman had made it clear how he wished FADA to be utilized, the problems with the staff would be minimized."

On December 17, 1986, the Bank Board apparently re-emphasized the desire to make FADA work by issuing a directive stating that "For those assets under your jurisdiction in the capacity of Receiver, you are requested to take the following action: 1) Seek the advice of FADA with respect to the management, workout or disposition of each such asset(s), and 2) where appropriate after such consultation, enter into contracts for FADA to manage such troubled assets."

This directive was not received warmly by the FSLIC receiverships, which, at that time, were just beginning to familiarize themselves with FADA and become aware of its capabilities and performance. Before long, FSLIC receiverships' complaints about FADA's operational practices and its performance again filtered up to the office of the Bank Board chairman. The Bank Board was seriously concerned that FSLIC and its receiverships were not working with FADA.

Committee investigators understand that in early 1987 the Bank Board's chief of staff made field visits to several FSLIC receiverships to determine the reason for their lack of compliance with the stated directives. Soon after these visits were made the Bank Board established the FSLIC Restructuring Task Force.

The Bank Board charged FSLIC's Restructuring Task Force with two goals. Namely, "to assure effectiveness and cost-efficiency in the management and disposition of assets that FSLIC, in its corporate and Receivership capacities, acquires" and, more importantly, "to ascertain which functions may be transferred to other entities, including the Federal Asset Disposition Association."

The use of the FSLIC Restructuring Task Force was yet another attempt by the Bank Board to satisfy FADA's board of directors and require FSLIC to rely solely on FADA services. As presented in FADA's March 2, 1987 board minutes ". . . Several members of the [FADA] board expressed the opinion to the Bank Board Members that every effort should be made to carefully analyze all assets assigned to third party contractors to ensure that their performance was satisfactory and if it was not to reassign assets to FADA."

On March 16, 1987, the task force concluded that "FSLIC must continually evaluate contractor performance, and weigh the effectiveness of services provided against the costs associated with obtaining such services." The Task Force did not acknowledge FSLIC's authority over FADA, it acknowledged the importance of FSLIC's responsibility to evaluate the performance of its current subcontractors and if deemed unacceptable the assets under their control should be transferred to FADA.

Not long after the release of FSLIC's Restructuring Task Force report, FSLIC's director on March 26, 1987, issued a new policy directive. The purpose of this directive was an attempt to clarify Chairman Gray's previous directives. According to the FSLIC director, in discussions held with the Bank Board's chief of staff, the Bank Board still required that "FADA should assist FSLIC in every manner possible, and that FADA should be given every opportunity to perform such services until its staffing and resources limitations were reached." In fact, FSLIC staff were required to re-evaluate their portfolios in an effort to assign more assets to FADA.

The Bank Board's actions clearly reflect the influence of the FADA board of directors. In spite of the numerous and serious concerns raised throughout FSLIC and the receiverships, the Bank Board seemed committed to guaranteeing FADA's existence and expansion.

Bank Board Chairman M. Danny Wall has reiterated the general, all encompassing statements regarding FADA's mission and objectives. In testimony during the October 15, 1987, hearing on FADA before the Subcommittee on Financial Institutions, Chairman Wall stated that:

"The sole purpose of FADA is to assist in the strengthening of the financial health of FSLIC by using private sector management and marketing techniques to manage problem assets in the FSLIC at the lowest cost consistent with sound operations and to sell these assets as fast as is consistent with obtaining the best possible return to FSLIC and its Receiverships."

Unfortunately, Chairman Wall's statement neither clarified FADA's mission and objectives nor addressed FADA's structure, FADA's intended operations, or the relationship between FSLIC and FADA in terms of accountability and authority.

Also, he did not address how FADA's techniques were different from FSLIC's well-established asset management and marketing techniques. Furthermore, Chairman Wall was unable to clearly defend the reason for establishing a separate private-sector bureaucratic entity which appears to have minimal ties to FSLIC and the Bank Board.

CHAPTER IV—FADA'S INEFFECTIVENESS IN ITS ASSET MANAGEMENT FUNCTION

As discussed earlier, the Bank Board created FADA, as one of a number of outside contractors, to assist FSLIC in the management and disposition of troubled assets. FADA engages in three types of contracts: (1) an asset management agreement with the FSLIC as receiver, (2) an asset advisory agreement with management consignment program institutions or other financially troubled institutions with FSLIC's approval, and (3) an agreement with FSLIC to provide advisory/consulting services. FADA's objective asserted in its November Business Plan Update is to "obtain the best return to FSLIC on a net present value basis. The hallmark of our efforts has been to devise flexible, creative solutions to problem situations which typically defy traditional, formalistic solutions."

Thus far, FADA—which has insisted on serving as FSLIC's major contractor—has done a less than inspiring job. This group of "private-sector experts" appears incapable of performing even the most ordinary tasks necessary to effectively manage an asset. FADA's business plans are of poor quality and are submitted in an untimely manner. FADA's laxness in its management responsibilities has resulted in financial losses to FSLIC receiverships. FADA's neglecting to protect and maintain receivership properties has resulted in financial losses, potential liability claims, excessive insurance premiums, and tax penalties. FADA has exhibited poor performance, incurred excessive expenses, and has been uncooperative in working with participants.

FADA's business plans are untimely and of poor quality

FSLIC requires its asset managers (including FADA managers) to produce preliminary business plans and asset business plans in order to provide summaries on the background, current management, and future strategies for disposing of an asset. The preliminary business plan provides a "snapshot" look at an asset as of the date of closure and also provides preliminary recommendations on managing and disposing of the asset. The asset business plan, or the "finalized" plan, analyzes the asset and develops and recommends strategies for the management and timely disposition of the asset for the highest return to FSLIC. The preliminary business plan and the asset business plan must be submitted to the appropriate FSLIC receivership within 30 days and 90 days, respectively, from date of assignment. After the plans are submitted, the managing officer of the receivership can approve all plans under $500,000. Plans over $500,000 are approved by a local/regional review committee, while all plans in excess of $5,000,000 are approved at the national review committee meetings. At both the regional and national review committee meetings, receivership and FADA personnel, along with the contractors responsible for producing the plans, are required to present their plans and answer any questions from FSLIC senior management.

Without these plans, the receiver has no effective control and is unable to: (1) Assess its borrowing requirement, (2) accurately project repayment of loans by FSLIC, (3) estimate liquidating dividends for distribution, or (4) ascertain if FADA is effectively managing its assets. FADA, in almost all cases, has contracted out the preparation of preliminary and asset business plans. FADA's reliance on contracting services has resulted in a lack of managerial oversight of subcontractors, untrained subcontractors, and a lack of quality control.

During the Committee's investigation, numerous senior FSLIC officials expressed their concern regarding the preparation and submission of FADA's business plan. In one memo, a FSLIC official noted that (see Attachment 2.1):

"FADA, although they are purported to be industry experts in asset management, are not doing the work themselves. Instead they have hired many layers of subcontractors to perform the management of the asset. I [the FSLIC official] gave a Net Realizable Value seminar to FADA subcontractors at FADA's request. There were approximately 70-100 subcontractors present who had been hired to prepare FINAL business plans for submission in ten days, but these same contractors had not even been provided the names of the assets they were to manage much less the files on those assets. I seriously question the quality of business plans that will be created in 10 days with little or no information at the start of that short time period."

In fact, Committee investigators have learned of numerous problems regarding the quality and timeliness of FADA's business plans. The following examples relate to FADA activities in the Sunrise Savings and Loan receivership. On September 12, 1986, the Bank Board closed Sunrise Savings and Loan in Boynton Beach, Florida. Shortly after FSLIC was appointed receiver, it transferred assets in excess of $600 million to FADA. Three months later, FADA had submitted no plans, preliminary or final. Although FADA may claim that the required time limis may be somewhat unrealistic, the receiver, during the same time period, submitted and obtained approval of approximately 80 preliminary business plans and two asset business plans. It should also be noted that the receiver's responsibilities extend beyond merely managing a portfolio of assets, whereas this is FADA's sole function. Even a year after the assignment of Sunrise assets, FADA had only submitted 38 business plans. To make matters worse, FSLIC required FADA to withdraw 11 out of the 38 asset business plans due to poor quality. As a result, FSLIC staff spent hours correcting deficiencies in FADA's business plans.

The Sunrise portfolio was placed in liquidation on September 12, 1986, and, as of July 1987, FADA had not completed many asset business plans because they had not ordered appraisals. According to a FSLIC official, FADA is responsible for ordering and receiving appraisals in a timely manner. However, FADA did not order a substantial number of appraisals until several months after takeover.

FADA's lack of quality control in the preparation of its business plans is a common occurrence. A typical scenario regarding FADA's deficient business plans is illustrated in the following case.

Villa Venezia apartments located in Delray Beach, Florida

In this case, FADA submitted two versions of an asset business plan, only to have them both rejected by FSLIC's review committee. FADA's plan submitted in May 1987 contained numerous technical errors and an incorrectly calculated net realizable value (NRV) rate, which is the estimated maximum recoverable value of an asset. Additionally, the plan omitted property-related expenses that were incurred on assets transferred to FADA immediately after takeover, contained an inappropriate summary of holding costs, and incorrectly calculated FADA's management fee as $6,200 when it should have been $2,411, along with other technical mistakes. The revised asset business plan addressed these issues and was resubmitted only to be rejected again. According to the receivership's review committee, it rejected FADA's business plan due to FADA's failure to analyze the property from a rental standpoint and because the appraisal FADA submitted did not conform to appraisal regulations.

The Committee's review of several other FADA business plans revealed that FADA frequently overestimated its fees. In three cases, FADA overcharged the receivership a total of $12,000. FADA's response to these inaccuracies in the calculations of its fees is that to correct these calculations is "an imprudent use of time and effort, unrelated to the goal of asset disposition." As evidenced by its response to FSLIC, FADA appears to consider cost savings a low priority, thus displaying its unwillingness to share the FSLIC receiverships' fiduciary responsibility.

To understand the importance and significance of FADA's role in assuming FSLIC's fiduciary responsibility, one must understand that fiduciary responsibility is a very serious facet of the receivers duties to its creditors, those individuals to whom it owes money from liquidating assets of troubled and failed institutions. According to FSLIC, the term fiduciary means "someone who is entrusted with the care of another person's money, property or other items of value." Thus, an abridgement of such responsibility arises due to negligence or malfeasance, and, in FADA's case, it appears to consider such responsibility lightly, if at all.

FADA's laxness in management responsibilities

FADA's laxness in its management responsibilities has resulted in a clear financial loss to the receiverships. Although FADA was responsible for managing assets and billed receiverships its full asset management fees, receivership personnel actually performed many of FADA's asset management responsibilities. Receivership personnel believed it was necessary to assume FADA's responsibilities because FADA had neglected to fulfill its basic management duties. (see Attachment 2.2)

One such case is the *Boynton Trail Shopping Center* in Boynton Beach, Florida. This center was approximately 80 percent complete at the time of takeover on September 12, 1986, with an estimated value of $18 to $20 million. As of February 1987, the center was 100 percent complete with the only remaining improvements being activities relating to completing tenant occupancy. Receivership employees continued to direct and oversee the construction of the office center for five months after the assignment of the asset to FADA. FADA has stated that it saw no point in changing the receivership's management construction team, Sun-Op, since it had been so involved in the project. Thus, FADA had no input into the management of this project while under construction, but still collected its fee.

After the office center was completed, the receivership continued to manage the property and received a firm purchase offer on the center. Since it appeared that FADA was not involved in the managing of the property, and due to the receivership already having the asset under control, the receivership requested that this asset be removed from FADA's control. In defense of its position, FADA argued that:

From a marketing standpoint, FADA intended to include this asset in a package deal;

From a management standpoint, FADA believed that Sun-Op, (the receivership's management company) had been making poor management decisions and that Terranova, a management contractor that FADA deemed as an expert in the field, should take over, and lastly;

From a legal standpoint, Mr. William Frederick, the former owner of several defunct construction loans secured by shopping centers, including Boynton Beach, held repurchase options, and as long as there might be cause for litigation, these assets should remain together.

FADA's responses are somewhat ironic and yet typical of FADA concepts. The fact that a purchase offer existed on the asset does not prevent FADA from wanting its own way. In contrast to proceeding with a speedy recovery process on the asset, FADA wanted to use Boynton Trail as one of its test marketing concepts which, at that point, was not even fully developed. Unfortunately for FSLIC, FADA was provided the opportunity to dispose of the asset under its new concept. To date, this asset has not been sold and FADA continues to collect its management fees.

In addition, FADA seems to be concerned about the management capabilities of Sun-Op, FSLIC's management contractor. However, in response to allegations that the receivership's subcontractors were assuming responsibility for all of FADA's work, FADA not only agreed but went as far as to say that in several asset cases "Sun-Op has done a thorough job." FADA's concern with Sun-Op was that the receivership's management subcontractor performs well yet is inept in fulfilling its duties.

FADA, however, did little to resolve this concern. After attending initial meetings regarding the project, FADA's attendance tapered off quickly, resulting in the receivership assuming the responsibility of completing the construction, negotiating with the general contractor and subcontractors, negotiating new leases and resolving problems with tenants, obtaining certificates of occupancy, paving the parking lot, maintaining security on the premises, and numerous other efforts associated with the opening of a shopping center. According to a FSLIC official, in order to accomplish the tasks mentioned above, the receivership devoted the equivalent of three full-time employees to the ongoing management of the asset.

In addition to the numerous management activities FSLIC engaged in, the project required that a $1.65 million letter of credit be funded in order to preserve its value. FADA assured FSLIC that the funding would be accomplished but, two days before the funding was required, FADA requested that the receivership honor the letter. As a result, the receivership provided funding for the project.

Although FADA believed Sun-Op to be inept in its management, the tenants of the Boynton Trail Shopping Center appeared to have more difficulties with Terranova, the third-party contractor FADA eventually contracted to manage the asset. In one case, the Brent Tree Water Management Association, Inc., adjacent to the Boynton Trail Shopping Center, wrote several letters regarding the erosion and washouts of its canal embankments due to the shopping center's defective drainage system. In a letter dated May 11, 1987, written after several months of discussions, Mr. Armbruster, President of Brent Tree, wrote to FADA's Atlanta office that "recent attempts to resolve this matter through the plaza manager, Terranova, have failed. During past negotiations with Sun-Op and FSLIC officials it appeared that a resolution was in sight." The letter also referred to FADA's unresponsiveness to Mr. Armbruster's previous letters.

In another case, shopping center tenant, Winn Dixie grocery store, wrote about several problems which, if not corrected, would result in the shopping center's delayed opening. Terranova seemed to have difficulty correcting the situation and, as a result, the receivership's personnel ended up negotiating with the general contractor, the subcontractors, the various agencies, and Winn Dixie representatives to resolve the problems. Due to the receivership's responsiveness, Winn Dixie opened on time.

By far, the aforementioned case is not unique. The Committee investigation has revealed that, on a regular basis, the receiverships have taken numerous administrative actions to assist this group of "private-sector experts" by performing their management duties. In some of other cases, receiverships provided office space for FADA's staff located in its Houston office, supplied furniture for FADA's Florida office, installed a Kodak copier at FADA's request, and loaned receivership employees to help FADA market its real estate. In addition, the receivership agreed to a deviation from the asset management agreement by performing property management services on FADA assets for a 120-day period since FADA was not equipped or staffed to perform this duty as called for in the agreement. When this period expired, FADA requested an extension from the receivership.

Another concern raised by FSLIC officials was that fees paid to FADA for the management of raw land could be substantially reduced by the use of inhouse management staff. Over one-third of the total value of FADA's property consists of land. Most of this land is located in Texas, where the market has deteriorated to the point of almost no value being added through the use of asset management contractors and subcontractors. Although the Texas market is in bad shape, FADA appears to want to hold this land and continue to bill the receiverships for management fees and subcontractor fees and, when the economy is better, to sell the land at a higher value and bill the receiverships for a higher disposition fee. FADA has demonstrated its unwillingness to sell its raw land by not responding to inquiries by potential buyers and by not conducting any marketing activities. In some cases, FSLIC has even had to assume responsibility for selling the land because it was afraid that FADA's inactivity would result in the loss of the purchase offer. For example:

"Two hundred acres in Denton County located just north of Dallas

"The FSLIC receivership assumed marketing responsibility for this asset by acting as a broker between FADA and the potential purchasers. Subsequently, FSLIC opened the asset for bids and was successful in selling for cash. FSLIC assumed these responsibilities because FADA was not responding to inquiries. FADA had placed several different asset managers on the project which created confusion on the transactions occurring on the property, and yet, FADA billed the receivership its full management fee and for subcontracting fees."

The bottom line appears to be that the receiverships are not only performing substantially all the work by having to supply FADA with resources to fulfill its asset management and disposition functions, but the receiverships are also forced to pay for third-party subcontractor fees in addition to FADA's management fee. This clearly demonstrates an operational and financial burden to the receiverships.

FADA has also performed activities on assets that are not under FADA's authority, which has resulted in a duplication of effort and unnecessary expenses for the receivership. FADA requested access to the files and records and selected a property manager for an asset assigned to the receiver. In another case, FADA also sought and received bids for a construction assignment on an asset controlled by a receivership. The receivership, however, had already secured a construction contract on the asset. Both of these cases reflect duplicative effort and resulted in the receivership incurring additional expenses due to the bills arising from FADA's unnecessary management activities.

In addition, FADA presented a position paper recommending a $4.6 million sale of an asset consisting of unimproved raw land, while at the same time, FADA's subcontractor, Vector Land Associates, submitted a business plan with a recommendation to sell the land for $3.1 million. Not only does this type of behavior reflect poor communication between FADA and one of its subcontractors, but it also evidences that duplicative efforts can result in gross cost inefficiencies, both representing weaknesses which undermine the need for FADA's private-sector expertise and management.

The aforementioned examples of FADA's difficulties in producing quality and timely business plans along with the delays in performing its asset management activities and the receiverships constantly subsidizing FADA with their staff resources to assist it in its asset management functions had demonstrated to FSLIC that problems exist. To address the various problems, FSLIC personnel suggested that a team of FSLIC/FADA employees be established to review FADA business plans and, thus, provide better oversight on the preparation and presentation of business plans and foster an improved relationship between the two organizations.

Although FADA offered no alternatives, it refused FSLIC's attempt for coordinating the business plan reviews. A senior FADA Vice President commented that the "plans don't really need review and [FSLIC] approval because they have been extensively reviewed within FADA." While FADA claims to extensively review its own business plans, Committee investigators have not seen any documentation supporting FADA's review process.

One FSLIC official stated that, in his opinion, "the greatest problem with FADA today, is that FADA has refused to attend the national review committee meetings with FSLIC and it is impossible to approve the plans without having FADA there to answer questions concerning the plans." He continued to say that the asset business plan review system for FADA is "broken" and needs to be "fixed". The same FSLIC official went on to state that FADA was formed for its real estate and management expertise and that this type of expertise is needed in the review process.

It seems that FADA is willing to contract out the preparation of both preliminary and asset business plans and charge the receiverships a fee for the oversight and management of the plan, but it is unwilling to be held accountable for its business plans. Clearly FADA appears to take the responsibility and importance of business plans lightly. The taxpayers' money is wasted if FADA cannot perform at least on par with FSLIC's receivership personnel or the contractors being used by FSLIC. Some critics have suggested that if FADA does not demonstrate the ability to produce, review, or simply present its business plans at the review committee meetings, then its management fees should be withheld.

FADA's negligence in managing insurance and taxes

FADA not only has exhibited poor management of assets through untimely and poor quality business plans but also has (1) neglected to secure properties which resulted in financial losses and potential liability claims for receiverships, (2) failed to inform FSLIC of insurance claims/incidents until FSLIC made repeated requests, which in several instances resulted in the receiverships carrying assets without insurance coverage, and (3) incurred excessive insurance premiums and taxes to protect assets in which receiverships had potentially no equity. The gravity of the situation is evidenced in one receivership official's consideration whether to continue its contract with FADA due to FADA's failure to adequately manage insurance and tax matters. (See Attachment 2.3)

Based on a review of FADA's performance regarding insurance and taxes, Committee investigators identified numerous instances in which FADA violated receivership procedures and caused receiverships to incur insurance losses or jeopardized the insurance coverage of receiverships' assets. The following examples within the Sunrise Receivership reflect those situations which the Committee considers the most flagrant violations. FADA acquired most of the assets from Sunrise on September 12, 1986, the date the Bank Board declared the institution insolvent and closed its doors. According to the FSLIC risk manager, large dollar losses occurred on various assets due to FADA's negligence in filing insurance claims in a timely fashion, and large dollar losses may result due to potential lawsuits.

After repeated contacts with FADA, in a September 9, 1987 memorandum, the FSLIC risk manager for the Sunrise Receivership notified the managing officer of the receivership that properties and assets assigned to FADA were not being appropriately protected or maintained. The Committee has reviewed some cases where FADA's failure to protect and maintain properties has led to theft, vandalism, structural damage, potential personal injury claims, and a resulting loss of value. As a result of FADA's inaction on these properties, the receiverships incurred losses from $3,000 to over $370,000. In addition to these losses, the receiverships are subject to contingent losses based upon potential lawsuits. According to the FSLIC risk manager, large dollar losses and potential liability claims resulted from FADA's negligence on assets, such as the following examples:

"For at least 5½ months FADA failed to adequately secure and weatherproof *Jogger's Run*, a townhouse development in Greenacres, Florida. In addition, FADA failed to report a theft loss until 3 months after the incident. As a result of FADA's neglect, the property incurred significant water damage and vandalism valued at $372,111. Furthermore, due to the property's exposure to the elements for 5½ months, FSLIC had to devalue the property by a significant amount.

"Although FADA was notified of the potential danger of property under its care, FADA chose to ignore letters requesting that the *Yardarm Restaurant* in Pompano, Florida, be secured from entry. Consequently, an individual gained access to the grounds resulting in a serious accident. Had FADA been more responsive in this matter, the accident may have been prevented."

FADA, in its June 30, 1987, Business Plan Update, also reports that it has initiated numerous insurance programs "to control property insurance costs and ensure adequate protection for receivership assets from property and liability risks." However, as supported by the various aforementioned insurance cases, FADA has mismanaged the insurance coverage on many assets. Regarding a participation loan, FADA charged the receivership excessive insurance premiums for an asset with a potential return value of zero. Only after the receivership pressured FADA to renegotiate the insurance policies did the receivership realize savings of $227,000.

In addition to FSLIC receiverships contesting FADA's management of the insurance coverge on assets, receiverships have had to continually remind FADA of procedures which state that "serious losses should be phoned in immediately with a written report to follow." The receiverships' policy "requires the insured to give immediate written notice of loss and to protect the property from further damage and furnish amount of loss claimed." As documented in the previous insurance cases, it appears that FADA behaved irresponsibly by either not filing insurance claims or filing them late.

In addition to FSLIC receiverships maintaining policies and procedures regarding risk analysis and identification and the filing of insurance claims, FADA has developed and utilized its own set of policies and procedures. According to FADA's Risk Management Department, it is responsible for the overall direction of its insurance management programs and also for serving FSLIC and FSLIC receiverships in an advisory capacity on all assets.

In carrying out its insurance responsibilities, the Committee is aware of FADA working to obtain insurance policies to cover entire asset portfolios and, perhaps, assets throughout the country. In discussions with FSLIC receivership officials Committee investigators learned of FADA's push to use a Texas-based insurance company, Unimark, to insure all the assets at one of FSLIC's receiverships. While it is not unusual for asset management companies to use insurance companies for entire asset portfolios, the problem was that under such arrangements as proposed by FADA, the insurance costs were considerably higher than under the insurance arrangements already under contract.

Although a FSLIC receivership was entertaining a new insurance proposal to cover all of the receivership's assets, including those managed by FADA, and already maintained insurance coverage on its asset portfolio, FADA contracted out with Unimark to provide the same insurance coverage. Committee investigators understand, however, that the Unimark proposal was not better than the Coroon and Black coverage already in place or the new Coroon and Black proposal being entertained by the receivership. According to a memo prepared by a receivership official and forwarded to FSLIC's deputy director, "All parties in attendance were in agreement that the proposals of Coroon and Black were far better than the coverage in place and were superior to any other coverage known available, including the Unimark program."

Nonetheless, Committee investigators were informed that FADA officials awarded Unimark the contract without providing the receivership with any information regarding competitive bidding quotes on insurance coverage. Furthermore, the FADA official working with receivership officials advised them that he was familiar with all coverage provided to FSLIC by Coroon and Black, and none of the existing programs could compare to the Unimark proposal.

In addition to its claims of saving FSLIC money through its insurance programs, FADA also claims that it "saves a significant amount of money" by protesting and revaluing tax assessments based on erroneous property values and, thus, successfully revalues property taxes. Although FADA purports to save FSLIC money, Committee investigators found that many receiverships were incurring additional expenses due to FADA's inattentiveness to tax aspects of property management. For example, in one receivership, FADA paid the taxes late, thus incurring penalties totaling $192,822 for the receivership. Also, FADA engaged a real estate tax service (RETS) company to handle tax appeals at a cost in excess of $50,000 for 150 properties. Of these 150 properties, only 66 represented properties needing tax services because many of the 150 properties represented duplicate cases, were sold prior to contract date, or were not real estate assets. Consequently, the receivership was incurring expenses for properties which did not need tax appeal work.

Officials at the First South Receivership in Arkansas said they experienced attitudes of uncooperativeness and apathy from FADA's professional staff while working with FADA to manage the taxes and insurance on its assets. For example, when the First South Receivership was initially established, FSLIC recommended that FADA and FSLIC work together on tax matters due to FSLIC's significant expertise in the area. For whatever reasons though, FADA rejected the offer. After FADA began handling the tax matters, it showed little or no concern over whether or not receiverships incurred penalties or met deadlines. Additionally, FSLIC encountered difficulties in reaching FADA, and, when it did, FADA often did not answer questions or provide information regarding appraisal information necessary in preparing the tax data. FADA's uncooperativeness caused receiverships to incur penalties which would have resulted in additional and more severe tax penalties had it not been for FSLIC's presistence in making the payments in a timely fashion. This meant that the receivership had to spend a considerable amount of time in monitoring these assets and communicating with taxing authorities on FADA's behalf, yet FADA continued to receive its management fees.

In at least one case, FADA suggested that the receiver pay taxes to protect an asset in which the receiver had no equity. The *Sterling Inn*, an acquisition development and construction loan located in Lake Tahoe, California, holds little or no equity. The equity of the lead lender in this participation loan was eradicated due to the significant liens against the asset, thus there was no need to protect the asset. FADA's asset manager, however, requested that FSLIC pay approximately $45,000 in taxes when no financial resources should have been expended as the asset had no value.

FADA's ineffectiveness in participation loan management

FADA boasts of its expertise in managing participation loans, loans in which a number of financial institutions have a share, in such areas as management, loan workout settlements, and ultimate disposition. Even Chairman Wall, in his opening statement before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance on October 15, 1987, said that he believed it was important "to identify where some of the strengths and some of the bright lights are as far as the function of FADA, and one of the specific areas that is going to come to be understood and recognized throughout the country, whether the country or that sector of the country is in an area of real estate difficulty or not, and that is in the area of participation loans because participation loans and participation in loans in the growth areas of the country, typically the Sun Belt, have been undertaken by institutions all throughout the country."

Committee investigators, however, heard FSLIC officials and FSLIC receivership officials relay experiences quite contrary to FADA's and Chairman Wall's statements. Participants found FADA's participation expertise less than a recognizable strength and, in some cases, that they had no alternative but to release FADA from their participation agreements.

Participation loans by definition are a less than easy concept to understand as variations in participations can be as numerous as the number of participations across the country, given that there is no standard participation agreement. In defining participation loans, FADA's Business Plan Update of June 30, 1987, indicates that the term "participation loan" means any loan wherein the originating lender, otherwise called the "lead lender," sells participation interests in the loan to other lenders, also known as "participants".

Many savings and loans institutions, having found participation loans relatively easy and quick investment instruments with considerable upfront fees, engaged in more participation loans during the 1980's than ever before. Of these institutions, many became insolvent during this time and were closed by FSLIC. Since many of the troubled assets requiring liquidation included participation loans, FSLIC receiverships began developing expertise in this area. Consequently, participation loans are not a new animal to FSLIC receiverships, which established policies and procedures to deal with participants and participation loans early in this decade.

FADA also informed Committee investigators that it maintains a nationwide data base which tracks about 650 participation projects valued at $5.1 billion. However, FADA was not the first to have this idea, rather the district banks and FSLIC receiverships suggested that the FSLIC director establish a Nationwide Problem Participation Loan Task Force to institute policies and procedures regarding participation for the Federal Home Loan Bank system.

Thus, all of FADA's accomplishments have not been due to its own ingenuity, for it was FSLIC which engaged FADA as a consultant to the task force to provide its input in the area of participation loans policies and procedures. In addition, it was a FSLIC receivership director and his staff who provided the data base elements and structure to FADA for its development of the Nationwide Problem Participation data base. Based on the Committee investigators' review, FADA has exhibited poor performance, incurred excessive expenditures, and has been uncooperative in working with participants. Thus, FADA has not acted in the best interest of FSLIC.

The first case of prominent concern to the Committee, Reverchon Plaza in Dallas, Texas, an asset of FSLIC as receiver for Sun Savings and Loan Association (Sun), involved six participants. After Sun's failure on July 18, 1986, the Reverchon Plaza asset continued to be efficiently and effectively managed by the Sweringen Company, a FSLIC contractor. Meanwhile, FSLIC officials during late 1986, and early 1987, with encouragement from the Bank Board to turn assets over to FADA, convinced the Sun Receivership to relinquish its partial interest in the asset to FADA. In October 1986, FADA began managing the asset and delivered a business plan on January 1, 1987.

According to Committee sources, "FADA presented the Board with a three-volume business plan full of information that nobody near Dallas believes." Specifically, the participants had several problems with the business plan. One FSLIC official noted the participants as saying, "the problem was that the business plan was like a thesis and was expensive with no realistic solutions." The Committee understands that the business plan recommended holding the asset for five years and projected its value to be $97 million by 1990. Based on FADA's projection, the asset's current net realizable value of $28 million would have to increase by nearly 300 percent. This seems almost impossible given economic conditions and current efforts to market the property. In a FSLIC official's words, "Through March 1987, nothing had been leased. No progress had been made on the asset." In addition to the unreasonable business plan, FADA has lavishly expended the receivership's financial resources in efforts to market the asset.

FADA accumulated $450,000 in expenses in the early stages of its asset management activities of the Reverchon asset. Approximately $240,000 of this amount went to an image consulting company in an attempt to create Reverchon Plaza as its "showpiece." This effort included spending $26,000 on an extravagant evening to entice brokers to take some interest in the project. On yet another extravagant occasion, FADA hosted the participants to a $750 lunch in Dallas. In addition to being appalled by FADA's extreme expenditures to market the asset, the participants also questioned FADA's use of in-house counsel and outside paid counsel when, only a few months into their engagement, FADA had run up $180,000 in legal fees.

Displeased with FADA's mismanagement and performance, the participants, during March 1987, offered FADA an ultimatum which basically gave FADA the choice of (1) eliminating its contract, or (2) reworking the current agreement to place one of FADA's asset managers in an advisory capacity to the participants at a basic fee of $1,500 per month. According to Committee sources, FADA accepted the latter option in order to avoid bad press and to refrain from harming its relations with FSLIC, the Bank Board, and Sun's FSLIC receivership.

Committee investigators were further informed that not until October 22, 1987, did the participants begin to phase out FADA contract acknowledging that the problems were due to FADA's poor performance and lack of expertise, especially in the area of participation loans. At that time, the participants relied on FADA minimally, as demonstrated through FADA's use of one FADA staff person in an advisory capacity while using the Sweringen Company to manage, market, and dispose of the asset. In the opinions of a receivership official and an attorney who worked on this case, FADA lacked the technical knowledge necessary for understanding participation loans and the interpersonal skills necessary to negotiate with participants and present the option in the participants' best interest.

Another cause of concern to the Committee involves a participation loan in FADA's caseload at Vernon Federal Savings Association. Huntington Savings and Loan of Huntington Beach, California (Huntington) is a participant in the loan. From March to October of 1987, Huntington requested information from FADA on the status of the asset, including the collection of rents, yet it received no response. In fact, when the participants contacted their FADA representative to request that FADA appoint a receiver to collect rents on the asset, they were told to place their request in writing. Even after the participants wrote and the Vernon board approved the appointment of a receiver to collect rents, FADA never appointed a receiver. Committee investigators understand that FADA allowed the borrower to continue managing the asset and collect the rents.

Huntington's Vice President of the Loan Division was concerned that FADA allowed the borrower to collect the rents without any financial accountability. It appeared that the borrower was receiving more than enough rent monies to cover the cost of maintenance and was not applying the balance of the rent collections to the outstanding loan principal. Again, after repeated requests from Huntington for information on the asset's operations, FADA refused to provide the participants with any significant data.

Huntington is entitled to this data as a participant that must also carry this loan on its books. Additionally, status reports on this asset must be provided to the San Francisco District Bank as part of its examination process.

In November 1987, Huntington's Vice President of the Loan Division wrote to FADA, again expressing his displeasure with the way FADA handled this loan. Not only had the participants been given the runaround, but FADA had continuously reassigned managers to this project. FADA, while allowing the borrower to collect rents, attempted to negotiate a deal with the borrower who had numerous complex loans in Vernon. In addition, in late September 1987, FADA hired a consultant to perform a very limited review of the asset's operating account and, although the consultants were not qualified to perform a full audit, they felt an operating agreement was needed in order to establish guidelines under which the borrower would have to operate. Huntington's Vice President noted that:

"The non-performance by FADA is proof that it has no regard for the rights of the participants."

"FADA's inactions have put its participants in jeopardy with no reasonable alternative."

"Although FADA has the impression that it is immune from actions by others, perhaps the publicity of a lawsuit in a situation like this will open some eyes."

It was only after this letter that FADA agreed to send Huntington updated information on the asset's operations, a copy of the contract which FADA was attempting to work out with the borrower, and an updated appraisal if Huntington was willing to purchase a copy of the appraisal for a thousand dollars. As with previous participation loans, FADA's restructuring negotiations were not successful and it posted foreclosure on this asset in late December, 1987.

This case, as with that of Reverchon Plaza, reflects FADA's lack of participation expertise and FADA's poor management of participation loans. FADA's inability to effectively manage this participation loan and to conduct itself in a professional business manner is reflected in this case by not providing the participants, the lender, and the San Francisco District Bank with standard status reports and requested information and by allowing the situation to go unmonitored, thus creating significant difficulties in an already difficult situation.

CHAPTER V—FADA'S INEFFECTIVENESS IN ITS MARKETING FUNCTION

In order to become a successful asset disposition association, FADA needs a quality marketing program; FADA does not appear to share this view. Since its inception in November 1985, FADA has placed little or no emphasis on the development of a quality marketing program. Despite the knowledge that FADA was going to manage a significant amount of assets, the vice president did not concentrate on developing a marketing plan to implement throughout the FADA regional offices.

As a result of criticisms and concerns regarding FADA's performance, in December 1987 FADA restructured its organization and Mark Plumley, the Vice President for Marketing, was reassigned to a position to handle Committee information requests, among other responsibilities. FADA apparently has not deemed the marketing function important so, it eliminated the position of Vice President for Marketing. The significance FADA has placed on the marketing function has resulted in an inadequate marketing program. This program is supported by an inept marketing brochure, a non-standardized marketing policy among the regional offices, and a long list of frustrated potential buyers.

Although FADA was assigned its first assets in July 1986, FADA did not present its marketing program to FSLIC until July 1987. This lack of a developed cohesive marketing program unfortunately has had a significant impact on returns to FSLIC. According to FADA's September 30, 1987, Business Plan Update, FADA has closed sales and paid off loans on only 64 assets at a value of $175 million from a total asset portfolio valued at over $5 billion. FADA's meager contribution towards FSLIC's goal of disposing of assets comes as no surprise upon review of FADA's ineffective marketing performance.

FADA displays mediocre marketing techniques

The first thing a person does when he or she wants to sell something is to advertise. The better the advertising, the better the chance of selling at a good price. Normally, brokers and realtors accomplish this goal through the development and distribution of property brochures. Presumably, FADA's private-sector experts would utilize this technique since they are able to purchase the best expertise "money can buy." No so. FADA's sole marketing information, its version of a marketing brochure, was not developed until May 1987. This marketing summary, referred to as the "Property Summary", is inadequate and useless. (see Attachment 3.1) The document consists of

—One and one-half pages of introductions,

—One and one-half pages of disclaimers,

—One page each of four property exhibits, and

—A one page prequalification sheet.

Most of the information contained in the piece is not directed at or related to the asset. Each property page has a plain, nondescript, nondetailed map with a black box to denote the property. In comparison, FSLIC, in one regional office, has a 40-page semi-glossy brochure depicting over 400 assets with color photographs and information pertaining to the location, property description, asking price, zoning, and type of asset available. However, the FADA "brochure" was so mediocre and futile that FADA went back to the drawing board to come up with a better piece.

In early December 1987, FADA released a property list containing 191 properties. This time, FADA did not even include maps or any type of location descriptions. The document consisted of approximately 60 pages stapled together. On the first page the following information is found:

"This list may not be complete. FADA does not represent that all of the properties in this List are now available for sale or will be available for sale in the future. FADA reserves the right to withdraw any property from this List at any time, without notice, and for any reason. FADA makes no representation as to the accuracy or completeness of the information in this List, and it is not guaranteed. The information contained in this List is subject to change, and all areas and distances are approximate. The List has been prepared for the exclusive use of FADA and persons and entities to whom

FADA makes it available. It is and remains the property of FADA, and any reproduction of the whole or any portion without the written permission of FADA is prohibited. This List and all copies shall be returned to FADA upon demand.

"Prices may be established in the future and may be indicated in a future property List.

"Copyright—December 1987—FADA. All rights Reserved. These materials may not be reproduced without the written permission of the FADA."

The Committee has heard from several realtors and brokers who have expressed doubts about dealing with the list because of the uncertainties, the possible inaccuracies, and the copyright. As one broker noted, "What can I do with a list that cannot be given to potential purchasers? I make my living by exposing properties to as many persons possible." The list contains 191 assets, but over 76 percent of the assets had no prices stated. A San Diego realtor sent the list to the Committee with the following note:

"I am on the FADA mailing list, and this is what they produce—lists of assets without prices. This is a black hole for the U.S. taxpayer that should be eliminated."

Perhaps a guilty conscience and a few negative comments from potential buyers led FADA once again back to the drawing board.

On January 1, 1988, FADA released another Property List which had substantial cosmetic changes but not much else. The list contained 258 properties, of which only 124 were currently available. Of that 124, 54 of the properties were unpriced. Thus, of the 258 properties listed, potential buyers could begin transactions on just 70 of the assets. The list still contains the disclaimers and a copyright, and again many of the properties have no prices, maps, or location descriptions, and now even the net operating income has been omitted. In addition, when comparing FADA's original property summary containing four assets to its newest list, FADA has not sold those original four properties and, in fact, the asking price for one of the properties has dropped by almost $2 million.

Although FADA's advertising approach leaves much to be desired, people somehow find out about FADA's assets and call to make inquiries. Real estate developers, along with other potential purchasers of property and private contractors experienced in the management, marketing, and disposition of troubled assets, have from FADA's inception complained that FADA is unresponsive to telephone calls, that when calls do go through, FADA will not disclose properties available for sale, and that FADA is generally unhelpful and uncooperative. Some individuals were told that all information must be submitted in writing to FADA's headquarters in San Francisco, others were told that FADA does not have properties for sale, that FADA "simply manages them for FSLIC."

Determined individuals have eventually reached FADA personnel in San Francisco only to be told to continue calling because FADA would like to get to know them but cannot do anything until they submit a questionnaire, an outline of recent acquisitions, a financial profile, and for potential purchasers, a letter from the lending institution. These procedures not only are unacceptable and unrealistic but also are ironic for several reasons: (1) Many individuals involved in business ventures wish to remain anonymous. (2) If the deals are on an "all cash" basis and if a person has the cash in hand, why is a financial profile necessary? (3) How can an individual obtain a commitment from a lending institution when FADA refuses to disclose even the location, size, and value of an asset?

Clearly, this cumbersome process is a deterrent for persons interested in working with FADA and can only lead to confusion, problems, and complaints.

FADA's complaint merchanism

On July 28, 1987, Committee staff investigators interviewed Roslyn Payne in San Francisco to determine what, if any, mechanism FADA had established to deal with complaints such as those which the House Banking Committee had received from buyers and contractors interested in FADA assets and work, respectively. During our interview with Ms. Payne and several key FADA officials, FADA claimed to have received to have received only a few complaints. This is entirely possible since FADA's elaborate series of reporting systems does not have a system designed to handle complaints.

Unlike FADA, a number of other government agencies have set up separate offices or have assigned employees to handle complaints from consumers, contractors, and others who have dealings with the agency or with entities under the agency's jurisdiction. For example, the General Services Administration (GSA) maintains a Board of Contract Appeals, which is charged with resolving disputes arising out of contracts with the GSA, the Department of the Treasury, the Department of Education, and 44 other independent government agencies.

Apparently, FADA's regional offices are not required to pass complaints received from potential subcontractors, or subcontractors under contract to FADA, on to the national office, nor required to keep on file any complaints received. When Committee staff investigators visited FADA offices in Dallas and Los Angeles, they specifically asked FADA for copies of any complaints received by that regional office. To date, no records have been provided to the Committee.

FADA's San Francisco headquarters keeps few complaints on file. Indeed, when Congressional investigators requested examples of complaints, few FADA officials could remember having heard of any complaints. If a FADA employee acknowledged receiving a complaint, it was often dealt with verbally. Thus, little written documentation is available. The House Banking Committee requested that FADA produce any documented cases of complaints on file. FADA could only identify four cases. One such complaint came from Wayne B. Duddlesten, head of Wayne Duddlesten, Inc., of Houston, Texas:

"* * * our Duddlesten Management Corporation completed the [FADA] questionnaire well over one and one-half years ago and I assume it's on file in San Francisco. My frustration has been that it's impossible to find someone who will allocate the time to meet and discuss our firms unique qualifications. I'm worried that selection by FADA for asset management, either direct or subcontracted, may be more political than I realized."

In addition to FADA's files, the House Banking Committee has been deluged with complaints from potential purchasers and contractors, either directly by the complainants themselves or indirectly through their Congressional members. Persistent individuals who have gone to their Congressional members have been told by FADA not to get Congressional members involved. A Florida developer said he was told that if he cooperated by not involving his Congressman and became a "team player", FADA would engage him as a paid consultant. Another frustrated potential buyer expressed his feelings regarding FADA by saying that "FADA is more concerned about perpetuating their jobs than selling assets."

Mr. William Juliano was a frustrated New Jersey developer who sought to purchase FSLIC-owned properties in Florida that were under FADA's control. He alleged harassment by a private detective agency which he claimed was engaged by FADA. Later Mr. Juliano informed New Jersey law enforcement authorities and the Committee that his business office was burglarized and listening devices were discovered.

To date, New Jersey authorities have not concluded that a burglary took place, adding that certain physical evidence noted by the police suggests there was no forced entry or bugging. GAO's Office of Special Investigations and the Bank Board's Office of the Inspector General have reviewed the evidence and reached similar conclusions. The authorities asked that they not be quoted since the matter remains open.

What the Committee learned in pursuing the allegations of Mr. Juliano was that FADA was indirectly responsible for harassment. FADA retained the law firm of Akin, Gump, Strauss, Hauer and Feld for the stated purpose of preparing to contest a lawsuit threatened by Mr. Juliano. What transpired, however, was far from normal or routine. Akin, Gump, Strauss, Hauer and Feld retained the services of the Fairfax Group, Ltd, an entity which specializes in financial investigations. The Fairfax Group then retained a new Jersey private detective firm, Acumen Investigation and Protective Services, Incorporated (Acumen), to further check on Mr. Juliano. A principal in Acumen acknowledged to the Committee that Acumen was paid to investigate Mr. Juliano.

While Acumen's principal denied any illegal activity, she stated that Acumen did obtain information on Mr. Juliano under false pretenses, ran certain checks, and talked to his neighbors. She referred to Acumen's actions as common tactics—what they would usually do for a client.

It is significant that FADA would find it necessary to investigate a person who criticized its operation after being given the run-around when he inquired about certain FADA assets for sale. Upon review of the Juliano case during the October 15, 1987, Banking Committee hearing on FADA, Chairman Fernand J. St Germain summarized FADA's actions towards this buyer as follows: ". . . this man was treated as though we are in a police state." The hearing record on this matter, as well as a complete events chronology, appear in Attachments 3.2 and 3.3.

Other complaints have centered around the fact that FADA does not have a consistent bidding approach. Some bidders have been told they cannot submit an oral bid but that the bid must be in writing, only to later find out that the property they wanted has been sold to an individual who placed an oral bid. In an interview with the *Real Estate Times*, FADA's Vice President of Marketing stated that FADA had not yet utilized the sealed-bid or auction approach in the marketing of assets. Some buyers have complained about inconsistent responses to their marketing queries depending on which FADA regional office they contacted.

It appears that FADA not foresee or plan to deal with inquiries from all over the United States because it was not until October 14, 1987, the night before Chairman M. Danny Wall testified before the House Banking Committee, that FADA and FSLIC met and agreed to designate a marketing coordinator in every regional office. Even so, the "coordinators" are no more than telephone receptionists. Instead of working on marketing concepts for the regional office or contributing to national policies, these "coordinators" answer telephone calls regarding asset inquiries, file written inquiries, and send out information packets.

FADA's inability to communicate effectively with potential buyers and contractors is of particular concern to FADA's board members. For example, in FADA's board of directors minutes dated November 1987, John Zellars, FADA's acting CEO, noted that "there are about 2,000 unrelated third parties, who want to do business with FADA. FADA is using approximately 10 percent of these companies but the selection process is not well understood in the marketplace. This is an area where improved external communications are needed."

Several marketing recommendations have been suggested by FSLIC officials that could help FADA's ailing marketing program. The recommendations included first and foremost, building a positive image. Other recommendations included development of an attractive multi-page brochure, attendance at or sponsorship of real estate marketing meetings, a toll-free number for interested parties to find out information on assets, dissemination of lists of available assets to the press, speaking engagements, and the creation of a National Marketing Task Force to include both FSLIC and FADA personnel.

According to the September 3, 1987, FSLIC memorandum containing the recommendations, a number of marketing ideas have been suggested to FADA, but FADA has not successfully implemented any suggestions. In January 1988, FADA produced a document for distribution to members of Congress outlining its newest developments in its marketing program which contained the same FSLIC suggestions FADA was so reluctant to implement earlier.

To date, many individuals have become extremely frustrated and have chosen to discount FADA as a realistic alternative to purchasing assets. One wonders how many potential buyers, qualified contractors, and dollars have been lost due to FADA's inability to develop sound marketing concepts and positive customer relations.

CHAPTER VI—FADA'S INABILITY TO FULFILL ITS DISPOSITION FUNCTION

FADA's disposition function is twofold: (1) presenting strategies or recommendations regarding the disposal of assets, and (2) actually selling those assets. Unfortunately, FADA seems to have difficulty fulfilling either part of this function. The difficulty surely stems from the fact that FADA's disposition philosophy presented through recommendations in its asset business plans reflects FADA's inability or refusal to develop strategies that are consistent with FSLIC's goals and objectives. Receiverships have obtained FADA recommendations that are inaccurate, inconsistent, and conflict with previous FADA recommendations made on the same asset. FADA's ineffective strategies are manifested in FADA's actual sales which, to date, have not only been unimpressive but have done little to replenish FSLIC's deposit insurance fund. In addition, FADA has presented misleading information with regard to the amount and type of assets in its portfolio, thus misrepresenting the number of properties which may eventually be available for sale.

FADA's disposition philosophy conflicts with FSLIC's philosophy

FADA can dispose of assets either through the workout of non-performing loans or through the sale of properties. However, FADA appears to have problems in the actual disposition of assets. These difficulties stem from the fact that FADA has a contrasting overall disposition philosophy from that of FSLIC. FADA's objective is to negotiate with a troubled borrower first. FADA would rather place assets in a holding pattern for the longer it holds onto a piece of FSLIC property, the more management fees it collects. FADA spends an inordinate amount of time trying to restructure loans, which in the past has proven extremely costly and time-consuming and has done little to replenish FSLIC's deposit insurance fund.

Erick Lindner, FADA's Senior Vice President for Real Estate, writes in *Outlook*, a monthly Bank Board publication, that "in handling non-performing loans, FADA must either find a way to help the borrower make the loan perform, or it must obtain title to the real estate securing the loan for FSLIC." To that end, FADA, as presented in its Business Plan Updates, continually boasts of its expertise in restructuring non-performing loans. As of December 31, 1987, FADA claims that almost 47 percent of its total disposition activities is in the restructuring of loans and that over hundreds of millions of dollars worth are in the pipeline. These figures are quite unsettling in light of the fact that renegotiated loans do little to recover proceeds for FSLIC.

According to FSLIC officials, "restructured debt is the worst option available, it does not provide liquidity and does not collect the delinquent debt. Restructured debt can never be of better quality than that of the real estate and it is one step removed from title to the real estate." In view of FSLIC's position, FADA officials should not spend a significant amount of time restructuring delinquent debt. Instead, FADA should work to obtain title to the real estate. FADA's position favoring restructuring is easily understandable, since no matter how long negotiations last and whatever the outcome of its restructuring efforts, FADA still collects its fees.

In addition to loan restructures, FADA has attempted to come up with other disposition concepts. FADA has surfaced these ideas as "original" recommendations and believes they are far superior to those of FSLIC. Concepts recommended by FADA include hold versus lease versus sell, the securitization of collateral for use as a debt instrument, and bulk sales to entities that have a large number of investments, such as pension funds. All of these ideas are not unknown to FSLIC, and, in fact, FSLIC recommended some of these ideas to the Bank Board in a modified form. However, these techniques are riskier than the traditional methods and take more time to implement.

FSLIC officials have evaluated these strategies and arrived at the following conclusions. The decision to hold/lease/sell entails great risk in weak or depressed markets, both of which are characteristic of the areas where FADA has the majority of its properties. If FSLIC is to hold anything, it should not be paper that can only be liquidated for less than the real estate liquidation value. Given that securitization could include restructured debt, this concept is risky because the borrower has defaulted before and may do so again. Therefore, restructured debt does not guarantee maximum dollar recovery.

While the loan is being restructured, there is cost involved in maintaining the asset and there is always the chance of depreciation. Bulk sales is a difficult strategy in that there is more time involved in developing a package deal and there are fewer potential purchasers. Developing an asset package translates into additional costs to maintain each asset and selling the assets in bulk means selling at a discount. Thus, again, potential for financial loss exists or, at least, a reduced net gain for FSLIC results. Some suggest that FADA should concentrate on the immediate sale of assets through strategies that can be implemented immediately while continuing to work on techniques that require long-term development and planning.

FADA's inconsistent and conflicting recommendations are unacceptable

In one case, FADA submitted two separate recommendations for one asset, *Atlantic Square*, a parcel of land intended for a shopping center located in Delray Beach, Florida. One recommendation was to sell the asset to a person who had a poor credit history, who was instrumental in the failure of a savings and loan, and who had been indicted for misapplication of bank funds (although FADA did advise FSLIC that a successful workout may be beneficial to this person's criminal defense strategy!). FADA even suggested in a memo to FSLIC that this person was unreliable, his motives were questionable, and his finances could be shaky. FADA submitted a second recommendation proposing to place the asset up for bid and sell it at the appraised value. FADA contends that the first recommendation is based on an offer that was well over the appraised value. The second recommendation was based on the idea that if no settlement was reached on the offer, than the property should be available for bids. FADA delayed the bidding process (which could ensure a sell) on the basis of a questionable offer. In this case, FADA delayed the chance of a solid sale to a purchaser in an attempt to work out a deal with a person who could not even obtain a credit card.

In the case of *Fiddler's Cove*, condominiums located in Lutz, Florida, FADA recommended a workout that would cost the receivership $816,233 and net the receivership $759,000, resulting in a loss of $57,233. In this case, FADA had trouble remembering that the goal is to make money for FSLIC.

To further illustrate FADA's inconsistent recommendations as well as demonstrate FADA's disregard for and unaccountability to FSLIC, FADA submitted conflicting recommendations as part of a "mind game" being played on the borrowers in the case of *Cheval Golf and Polo Club* located in Tampa, Florida. FADA sent FSLIC a memo indicating that a workout with the borrower was in process and that no other action need take place. FADA then decided that the borrowers were dragging their feet, so as part of their "negotiation strategy to apply pressure on the borrower," FADA sent FSLIC another memo recommending that foreclosure activities begin on the asset. In prior conversations and memos, FADA's regional manager indicated that FADA had rejected the settlement and intended to pursue foreclosure, but when a FSLIC officer called FADA's asset manager, he stated that FADA had no intention to foreclose. It is not known if FADA's regional manager and FADA's asset manager had different strategies on the same asset, if directions changed in midstream, or if FADA was simply using FSLIC as its "straight man." In any case, this confusion and conflict displays a lack of management and disposition skills as well as a disregard for FSLIC.

Additional problems have included submitting recommendations without sufficient information for the receivership to analyze and approve the strategy. For example, the values of some properties are unknown, no bid amounts are recommended, no information is given on additional equity in second mortgages, and no information is given on whether funds will have to be advanced at the time of sale.

Also, FADA displays its conflicting disposition philosophy through its privatized approach to holding assets. In the *Great Hills Office Plaza* and *West Oaks Bayou Condominium* assets, located in Austin and Houston, Texas, respectively, seven to eight months after being assigned these assets, FADA submitted business plans that recommended holding the assets for a certain length of time in the hope that the economy would improve. This recommendation is quite ironic since a FADA official told Committee staff that the Austin, Texas, market was, in her opinion, the "worst in the world." Accordingly, the receiverships did not approve of such speculation and rejected these proposals. However, FADA's comments on this issue suggest that they only adjusted the recommendations in the "spirit of cooperation" and not because FADA believed that it was incorrect to speculate with government funds. Had FSLIC followed FADA's advice, the receivership may have incurred additional losses due to devaluing/deteriorating assets and significant management, maintenance, and construction costs.

FADA's consistency is obvious in one area—in the revisions of its plans and recommendations. FADA's constant adoption of FSLIC strategies implies that FADA recommendations do not have solid support and that FADA never considered the receivership's position or concerns raised during FSLIC's review of the initial plans. Changing asset strategies lengthens the disposition process and creates confusion for prospective buyers who do not know if or when assets will be for sale and for receivers who are unclear of the status or value of various assets. Because the plans end up being useless to the receiverships, the taxpayers' money is simply being wasted.

FADA's defiance has resulted in increased risks and costs to receiverships and raises questions concerning their ability to adequately support disposition recommendations.

FADA misleads the public about assets in its portfolio

Information FADA has presented regarding the amounts and types of assets in its portfolio—and thus potentially available for sale—has been misleading. As stated earlier, both the Committee and the public perceive FADA's main business as selling property. However, according to FADA, "this perception is far from reality."

In its September 30, 1987, Business Plan Update, FADA stated that its overall portfolio consists of 80 percent loans and only 20 percent real estate owned properties (REOs). Of these REOs, a substantial portion are in litigation or have uncompleted business plans and are not immediately available for sale. Thus very few properties are truly for sale. Based on our review of a briefing report prepared for the Bank Board on September 3, 1987, this information could be misleading because FADA could have more potentially "salable" assets in its portfolio than are being reported. In this report, FADA asserted that its managed assets from liquidating receiverships, assets which when disposed of create proceeds to offset FSLIC's and other creditors' claims against a closed institution, consisted of 56 percent loans and 44 percent REOs.

It would be expected that a significant number of restructured loans occur under the management consignment program where the open institutions are geared toward handling loans as compared to a larger number of REOs in receiverships, which are liquidating entities. As such, potential buyers will look to liquidating receiverships when seeking information about assets available for sale. If buyers hear that FADA's overall portfolio consists of only 20 percent REOs and do not hear that FADA's portfolio from liquidating receiverships consists of 44 percent REOs, then buyers may be misled into believing that fewer assets will be available for sale than there really are. Thus, FADA may be misleading the public and Congress about the number of properties in its portfolio in an effort to combat criticisms about its disappointing number of sales and lack of communication with potential buyers.

FADA misrepresents its sales and disposition results

The previously discussed problems with FADA's asset disposition activities are evidenced in FADA's lackluster disposition results. As of December 31, 1987, FADA boasts of completed sales and loan transactions totaling $583 million since inception. On the surface, $583 million, or 10 percent, of a total portfolio of $5.3 billion over 1½ years may sound impressive. However, further analysis reveals that half of this amount, valued at $275 million, consists of loan restructures, thus possibly resulting in little if any immediate proceeds to receiverships. In addition, FADA takes full credit for property sales despite the fact that FSLIC and receivership personnel are also involved in negotiations.

As shown in table 3, since inception, FADA claims $583 million in completed transactions consisting of $155 million in property sales, $153 million in loan payoffs, and $275 million in loan restructures. However, the degree of FADA involvement in completing the various transactions remains unknown because totals include assets which FADA actively manages as well as those in which it serves in the more limited advisory role.

TABLE 3.—SUMMARY OF COMPLETED FADA TRANSACTIONS FROM INCEPTION THROUGH DEC. 31, 1987

FADA contracts	FSLIC liquidating receiverships	Supervised associations	Total
ASSET MANAGEMENT			
Real estate sales	$120,460,370		$120,460,370
Loan sales and payoffs	129,250,084		129,250,084
Loan restructures and settlements	61,595,062	$9,696,772	71,292,374
ASSET ADVISORY			
Real estate sales		35,010,051	35,010,051
Loan sales and payoffs		23,408,165	23,408,165
Loan restructures and settlements		203,889,260	203,889,260
TOTAL			
Real estate sales	120,460,370	35,010,051	155,470,421
Loan sales and payoffs	129,250,084	23,408,165	152,658,249
Loan restructures and settlements	61,595,602	213,586,032	275,181,634
Total			583,310,304

Property sales

FADA boasts of completed property sales of $155 million under its asset management and asset advisory contracts. However, FADA's record to date indicates that many sales have not been completed solely by FADA. Of the $120 million FADA reports in completed property sales in FSLIC liquidating receiverships, some resulted from negotiations between receiverships and prior savings and loan institutions. Thus, FADA should not claim sole credit for selling the properties. For example, over half of FADA's total property sales of $120 million represents one deal. FADA was quick to claim credit for selling four Park Suites hotels, located in Florida and Texas, by circulating a press release to all members of the House Banking Committee entitled "FADA Concludes $70 Million Sale of Four Vernon Hotel Properties." FADA claims credit for selling the Park Suites properties in the Vernon Savings and Loan portfolio although the buyer was involved in acquiring the hotels before FADA became involved with Vernon.

In addition, FADA claims $35 million in completed property sales under its asset advisory contracts with supervised associations, or institutions in the management consignment program. However, $32 million represents sales from one engagement, Security Properties Incorporated, which FADA has been involved in managing since October 1986.

Furthermore, during the investigation, the Committee learned that $55 million which FADA initially reported as a property sale in June 1987 actually resulted in no real return to the receivership and should have been reported as a write-off. Since the receivership wrote off the asset, FADA was required to return all of its management fees billed. FADA corrected its records almost six months later in December 1987, after Committee investigators notified FADA of the incident. The Committee did not perform an extensive audit of FADA's disposition records. Therefore, it is not known if there are other such incidents where FADA claims credit for a disposition when in fact the asset was written-off by the receivership and no proceeds were recovered.

Loan sales and loan payoffs

The Committee also learned that FADA may not be able to take full credit for the $153 million in asset dispositions classified as loan sales and loan payoffs. Loan payoffs have resulted because (1) the borrower walked in off the street and paid off the loan, (2) the parties negotiated a deal, or (3) the parties were brought out at foreclosure, which is not a controlled or negotiated deal. Documentation FADA provided the Committee did not present a detailed breakdown of this disposition category. Although the amount of FADA involvement in the disposition of loan payoffs is unclear, the mere fact that FADA did not initiate all loan payoffs leads to the conclusion that FADA should not take full credit for the total $153 million.

Loan restructures

FADA claims $275 million in completed loan restructures and, as anticipated, $214 million of the restructures are within supervised associations. However, the Committee learned that $199 million out of the $214 million involves one large Texas real-estate developer. FADA's involvement in this workout began as early as October 1986. Of the remaining $15 million, $10 million is located within one supervised association.

The Committee learned that of the remaining $62 million of loan restructures, occurring within FSLIC liquidating receiverships, a significant amount cannot be considered complete because borrowers have failed to make loan payments. According to a sample of receivership personnel interviewed, a substantial portion of the loan restructures FADA claims as successful in receiverships are not complete because the borrower has once again defaulted on the loan. As such, FADA is once again trying to renegotiate the restructure. FADA continues to collect its asset management fee for monitoring loans—whether or not the borrower defaults immediately. If the borrower defaults, then FADA must once again renegotiate the restructuring so the transaction is not complete and requires additional negotiation.

However, if FADA's claims are true and the restructures are complete, FADA may be holding a substantial portion of performing loans which could be turned back to FSLIC receiverships to manage, thus saving FSLIC the burden of FADA's asset management fees. Since most of the loans have been restructured recently, it is too soon to judge whether FADA's monitoring and recovery efforts have been successful. It is interesting to note that FADA spends considerable time renegotiating loans with borrowers who have defaulted on loans more than once. In a recent edition of the Bank Board publication Outlook, Eric Lindner, FADA's Senior Vice President for Real Estate, states that as opposed to some loan restructures which occur due to a bad economy and thus are beyond the borrower's control, "many FADA-managed assets are not in trouble because of bad luck or a bad economy. They are in trouble because of incompetence, malfeasance, or mismanagement."

FADA has not measured up to its own sales projections

FADA claims its disposition record is remarkable given that 50 to 60 percent of its assets have been assigned since March 1987. However, FADA has not lived up to its own sales expectations. FADA reported that as of September 30, 1987, $600 million in property sales and loan payoffs were under contract or negotiation. However, to date, FADA shows a total of completed property sales and loan payoffs of only $308 million. In addition, FADA expected that a $48 million deal consisting of six shopping centers announced last September and heavily marketed, would be closed by year-end 1987 because the properties were considered to be some of its most marketable and valuable. To date, none of these six properties have been sold. In fact, Committee investigators recently learned that these properties may no longer be available since they are being repackaged under a new marketing scheme.

In addition, as of September 30, 1987, FADA reported loan restructures worth $600 million as under contract or negotiation. However, as of year-end 1987, FADA reported less than half of the $600 million, valued at $275, as completed loan restructures. As previously mentioned, some of those restructures FADA reported as complete may require additional negotiations.

FADA reportedly had $1.2 billion worth of sales and loan activities under contract or negotiation as of September 30, 1987. Although this amount in the pipeline appears significant, FADA as a disposition agency, is supposed to have its assets under some type of deliberation. When assets are assigned to FADA, there are active negotiations, litigations, dispositions, and/or consultations occurring among the parties involved. Thus, the amount of assets under negotiation simply reflect a naturally occurring situation and not necessarily a FADA accomplishment. Assets under contract or negotiation do not represent final sales at this stage and do not help FSLIC financially.

Clearly, FADA is not fulfilling its mission in the disposition of troubled assets for FSLIC. Receiverships appear to be paying fees for portions of assets not under their control and have no idea from FADA of the extent of assets that are being managed for them as compared to the asset base. FADA is presenting FSLIC with recommendations that are in direct conflict with the policies and goals of FSLIC. This unacceptable display of performance highlights FADA's inability to adequately fulfill its function as a disposition association and results in a loss of time, resources, and money for the receiverships. Surely, FADA is defeating the very purpose for which it was created.

CHAPTER VII—COSTLY OPERATIONS IS THE MAJOR FACTOR IN FADA'S NEAR INSOLVENCY

The Federal Asset Disposition Association is a savings and loan in serious financial difficulty. Since July 1986—the date of FADA's first receivership contract—to the present, FADA has lost nearly $15 million and is presently losing about $1 million a month. These losses have resulted in FADA exhausting the $25 million FSLIC originally pumped into the association. As of November 1987, FADA reported a negative cash balance and by year-end had only $5 million in securities. Because of the severe strain on FADA's financial position, FADA has (1) drawn advances of approximately $10.2 million on its line of credit with the Topeka District Bank—with $4 million advanced in December 1987 alone, (2) submitted a "bill" to FSLIC for $6 million, and (3) prepared a new contract fee structure which is expected to greatly improve FADA's capital position.

The bottom line is that FADA is expensive. The Committee understands that FADA's asset management agreement as originally envisioned required FSLIC to pay FADA a management fee of 75 basis points per asset per annum. So, given that FADA is managing approximately a $5 billion portfolio, its annual management fee nearly totals $37.5 million. The fee was considered sufficient enough to completely cover all aspects of FADA's asset management, marketing, and disposition costs with minimal asset maintenance costs passed on to the receivership. Currently, however, FSLIC receiverships pay FADA 75 basis points per asset per annum plus any other costs FADA incurs in managing the asset. Even though FADA charges a flat 75 basis points asset management fee and is able to pass all contracting costs through to FSLIC or the institution it services, FADA is unable to keep its head above water. (see Attachment 4.1)

When FADA was created, its only financial obligation was to obtain proceeds for FSLIC and to break even at the end of each year. Not only has FADA failed in these tasks, but by November 1988, FADA can be added to the growing list of insolvent savings and loan institutions which continues to drain FSLIC monetarily. The Federal Home Loan Bank of Topeka was also concerned about FADA's ability to absorb its overhead base, stating that a huge start-up loss in 1986 is understandable but should not be indicative of future performance. Future losses indicate cause for concern.

In 1986, FADA's operating expenses exceeded its revenue by $3.6 million. (see Attachment 4.2) FADA explained in its March 1987 Business Plan Update that the shortfall occurred because of extensive start-up expenses and overly optimistic budgeting. FADA has been losing money, in part, because FADA thought it would get more assets to manage, and thus more asset management fees, than it did.

In its March 1987 Business Plan Update, FADA also states that "the financial objective of FADA is to stay as close to the break even point as possible while recouping last year's [1986] net loss." However, FADA's financial statements tell a different story. During 1987, FADA lost an additional $11.2 million bringing its total retained earnings to a negative $15 million. (see Attachment 4.3) Instead of recouping previous losses, FADA continues to lose at least $1 million each month. Clearly this loss reflects more than "overly optimistic budgeting"; it illustrates FADA's inability to function as a viable and cost-effective organization.

It appears that FADA is trying to compensate for its debt-ridden financial condition by charging the receiverships higher and higher management fees and by requesting FSLIC to reimburse it $6 million for expenses. In just one case, after the receipt of a FADA billing statement, a receivership estimated that FADA had overstated its management fees by almost $500,000. Committee investigators also learned that FADA turned to FSLIC directly for help by requesting that it reimburse FADA $10 million for legal and appraisal services and management services on assets which had zero net realizable value. Negotiations have reduced FADA's request to $6 million; however, there is no indication that FSLIC has agreed to reimburse FADA.

Given the fact that FSLIC's receiverships have had such a difficult time obtaining information from FADA in order to accurately monitor spending, verify billings, and make payments, one wonders how FADA can support its $6 million request and whether it has overestimated the bills of other receiverships. Again, FADA appears to be depending on FSLIC and the receiverships to bail it out of bankruptcy without sacrificing any of the luxuries FADA has afforded itself. These luxuries include FADA's excessive expenses for salaries and bonuses, travel, equipment rental, office space, and executive search firms, all of which prohibit FADA, and more importantly FSLIC, from realizing a significant return on asset dispositions.

Personnel compensation

FADA's high overhead costs, particularly salaries and related compensation, have the potential for diminishing returns to the Federal government in the liquidations. During 1987, FADA incurred salary expenses of $19 million, and since its inception, salary expenses have totalled over $22 million. Under its current structure, 1988 salaries for FADA's 32 senior executive positions may alone account for over $3 million. (see Attachment 4.4) Roslyn Payne, former FADA President and Chief Executive Officer, earned an annual salary of $250,000. In 1986, the top 17 officials were paid annual combined salaries of $2.1 million. At a time when FADA had not yet developed performance criteria, these same officials received additional performance bonuses of nearly $200,000 for, in all but one case, six months or less of work. Ms. Payne received the highest bonus at $75,000. The bonus for the FADA president is, in fact, almost equal to Federal Reserve Chairman Alan Greenspan's total annual salary. Her total compensation of $325,000 is over one-third more than the salary of the President of the United States.

Even FADA's board, aware of the political implications of paying bonuses, expressed concern over the amount of bonuses being considered. During a January FADA board meeting, Ms. Payne presented an incentive compensation plan with 1986 bonuses totalling approximately $291,000 to be paid by March 1987. Not only did Ms. Payne convince the board that the bonuses were well deserved but she also expressed concern that the level of bonuses might not be reflective of the marketplace. Several board members voiced concerns that performance measurement must be difficult in a "start-up" year and that the personnel committee on the board had only recommended that 50 percent of the potential bonuses be paid while the plan recommended 75 to 80 percent of the bonuses be paid. In addition, one board member expressed the view that the bonuses paid should be consistent with the commitments made to employees when they were hired. Although FADA paid the 1986 bonuses, discussions regarding the process for determining bonuses continue. To date, 1987 bonuses have not been paid.

Despite a steady decline in its capital, FADA has, since August 1987, awarded salary increases to its senior executives ranging between four and ten percent. In addition, during 1987 FADA paid the certified public accounting firm of Coopers and Lybrand $225,000, of which a significant portion funded personnel compensation studies to estimate the salaries and bonuses for various positions.

Travel and telephone expenses

During its first 18 months of operation, FADA spent $1.8 million for its own administrative travel—$1.3 million in 1987 and an additional $500,000 in 1986. This is in addition to the travel for asset management, which FADA passes on to FSLIC. FADA has also incurred nearly $950,000 for telephone expenses since its inception. This seems to be a large sum considering the complaints the Committee has heard from contractors, developers, participants, and buyers that FADA is not returning phone calls or cannot be reached. However, FADA officials do find time to use airplane telephones, which cost significantly more than standard phones.

Our review of travel vouchers, dated March 1986 to November 1987, also revealed serious concerns. Travel itineraries and vouchers indicate that Ms. Payne and other senior FADA executives spend a large amount of time interacting with savings and loan lobbyists. Hence, less time appears to be spent dealing with the actual loan workout and asset management and disposition activities. Ms. Payne and other FADA executives give frequent presentations to lobbying groups and meet frequently with members of Congress, state savings and loan leagues, representatives from savings and loan institutions, and newspaper and television reporters.

Ms. Payne and FADA executives appear to spend more time meeting with FADA's board of directors and the Bank Board chairman and directors than interacting with FSLIC, its parent agency. The Committee's concern is that Ms. Payne has had few meetings with FSLIC personnel specifically in relation to her areas of expertise and may have spent more time on promoting FADA than on asset dispositions.

Ms. Payne has attended meetings with Congressional members, acted as a spokesperson for FADA, and discussed the operations of the Bank Board and FSLIC without the Bank Board or FSLIC's knowledge or approval. In fact, at a March 1987 FADA board of directors meeting, several members expressed concern that "Ms. Payne was required to spend too much of her time engaged in administrative and political matters in Washington, D.C. taking time away from real estate workout matters for the FSLIC."

Discrepancies

Our review of travel documentation indicates that FADA will not be able to account for funds because of poorly filled out and poorly audited travel vouchers. It appears that top senior executives have not been following proper travel procedures and the auditors have been letting the executives slip by.

For example, Ms. Payne submitted two expense reports for the same trip or expense. Due to double reporting from January 1987 to May 1987 alone, Ms. Payne overcharged FADA and personally received $800. After Committee Investigators notified FADA of one of the incidents, Ms. Payne reimbursed FADA.

Additionally, meal and hotel costs for executive personnel were excessively high since FADA personnel are not bound by federal government travel regulations which restrict such expenses. On one voucher, Ms. Payne submitted a claim for dinner totaling $875 with no indication of who participated and why. Further, hotel rates per day were as high as $183 for Ms. Payne and $215 for Mr. Robert Axley, FADA's Senior Vice President and General Counsel, significantly higher than typical government rates.

In addition, FADA reimbursed Mr. Axley as much as $1,200 for charges at a luxurious San Francisco hotel, including laundry bills, although he lived in San Francisco! In fact, FADA reimbursed him twice for the same hotel charge incurred during August 1987—two months before he resigned from FADA. After the Committee pointed this out, the FADA accounting department notified Mr. Axley that he must reimburse FADA. Although this Committee has seen no proof, an internal FADA memo claims that Mr. Axley submitted reimbursement to FADA during February 1988.

Furthermore, the Committee understands that the travel documentation it most recently requested was turned over to FADA's accounting department, which closely scrutinized the vouchers and identified numerous discrepancies. One such discrepancy led to the accounting department notifying Ms. Payne that FADA would neither pay for a trip taken by Mr. Lisle Payne, Ms. Payne's husband, that was charged on FADA's credit card nor pay for personal travel for her and her husband which was included on her expense reports.

Obviously FADA's approach to monitoring travel expenses was inadequate and may need improvement. Not only did these concerns surface during our review, but they were reported to Roslyn Payne last Spring in a FADA internal audit report which identified concerns with travel expense reports. Furthermore, Chairman Wall testified before this Committee on October 15, 1987, that "to the extent that they [travel policies] may not be sufficiently clear, they need to be tightened and clear."

Occupancy expenses

Since its inception, FADA's occupancy expenses have totaled $2.2 million, $1.9 million in 1987 and $319,000 in 1986. This may not be excessive for a private-sector entity, but it is for an organization responsible for recovering funds for depositors and creditors.

Under FADA's charter, its headquarters was to be located in Denver, Colorado. After Roslyn Payne accepted the position as CEO, the administrative headquarters was moved to San Francisco, near Ms. Payne's home. FADA does not maintain office space in buildings owned by receiverships, instead it leases office space in high-rent districts from the private sector. For example, FADA's San Francisco headquarters, with its breathtaking view of the Golden Gate Bridge, currently costs over $66,000 per month—although FADA claims it subletted the space at a reduced rate.

When the Denver Regional Office requested additional office space last Fall at $15-17 per square foot, one FADA director commented that "space rented by FADA [in Denver] should have been in less costly locations." Nonetheless, the San Francisco office space is rented at over $24 per square foot. In addition, FADA's Dallas office negotiated a five-year irrevocable lease for office space with monthly rental payments of nearly $42,000. FADA could have occupied any number of FSLIC-controlled properties, however, including sharing existing office space in a building rented by the FSLIC Southern Regional Office. Providing no further expansion of its Dallas office space, FADA's total rental obligation for this space exceeds $2 million through July 1992.

Equipment rental expenses

Since its inception, FADA has incurred equipment expenses of $2.3 million. In 1987 alone, FADA incurred expenses of $1.9 million. A significant portion of this expense is related to FADA's development of an extensive management information system (MIS). Again, in attempting to perpetuate the private-sector view, FADA entered into an irrevocable lease for computer equipment which FSLIC officials have identified as incompatible with FSLIC's current asset management reporting system. The incompatibility of the FADA and FSLIC computer systems was brought to the attention of the responsible individuals who established the FSLIC Management Information Systems (MIS) Task Force to resolve the issue. However, FADA has not attended any meetings, nor has it assigned a representative to sit on the task force.

Executive search firms

In addition to high salaries and bonuses, since its inception, FADA has paid $888,000 in executive search fees. FADA spent $644,000 during 1987 and $244,000 in 1986 to find exceptionally talented individuals, some of whose performance has since proven to be lacking. This approximately $2 million worth of salaried talent has not alleviated previously cited concerns regarding the quality and timeliness of business plans or FADA's asset management decisions. FADA paid the executive search firm of Korn/Ferry International $125,000 to identify Ms. Payne as a candidate most qualified for the position of FADA's CEO. The Committee understands that she has since been removed by Bank Board Chairman Wall. Korn/Ferry was also paid $50,000 to find FADA a Senior Vice President for Administration—a search which took nine months. While FADA pays extravagant fees to executive search firms to find individuals it considers highly qualified, FSLIC is able to attract qualified talent through in-house recruiting efforts.

In Summary, FADA is wasting money that should be returned to FSLIC and the receiverships' creditors. FADA's sole stockholder, FSLIC, is watching the steady erosion of its investment. FADA is $15 million in the red and losing another $1 million a month. The entity created to play a vital role in liquidating insolvent thrift institutions is nearing insolvency itself.

CHAPTER VIII—FADA'S SERVICES ARE EXPENSIVE AS COMPARED TO FSLIC RECEIVERSHIPS AND THE PRIVATE SECTOR

In carrying out its work for FSLIC, FADA's so-called "private-sector expertise" does not necessarily nor entirely come from FADA but rather from subcontractors who perform services for FADA. FADA's parcelling out of its work results in FSLIC receiverships assuming increased costs, increased responsibility for the oversight of quality control in FADA's subcontractors' work, and, occasionally, less efficient services due to the use of third-party subcontractors.

It appears that the majority of FADA's work, including preliminary business plans and asset business plans, is performed by subcontractors. Although FSLIC uses subcontractors for a large part of its asset management and disposition work, FSLIC endorsed the use of FADA primarily because it would provide FSLIC with real estate expertise not found within its own organization or amongst the numerous subcontractors having worked with or already working for FSLIC. Yet, when FADA sprang into full operation in July 1986, it began drawing on a pool of subcontractors, many of whom FSLIC had already dealt with, to provide FSLIC with the "expertise" for which it had initially hoped FADA would provide.

FADA's employment of subcontractors to perform a significant amount of its work detracts FADA from meeting its goals of optimum cost and efficiency. According to FSLIC, it can perform the work more efficiently with respect to time and cost, by doing the work in-house on subcontracting work to major asset management/disposition companies which have performed successfully for FSLIC in the past.

Under the terms of the current asset management contract, FADA's services are, by design, costly. FADA receives a flat asset management fee of 75 basis points of the value of each asset. On top of this fee, FADA is charging the FSLIC fund with additional overhead by billing FSLIC for all direct and allocable indirect costs related to its management of a particular asset.

During the Committee's investigation both private-sector asset management firms and officials from FSLIC's receiverships were interviewed. All parties interviewed echoed the fact that FADA's contract is very expensive. In 1987 alone, FADA charged asset management and advisory fees of over $20 million. In addition, FADA has billed FSLIC at least another $50 million for reimbursable expenses. These reimbursable expenses FADA bills FSLIC are all-encompassing and primarily include the costs incurred by FADA to hire subcontractors to perform the following functions for them: appraisals and appraisal review; asset management, disposition, consulting, and analysis; property management; and legal and brokerage services.

Many of the receivership officials stated that if they could terminate their contract with FADA, the receivership personnel are fully capable and could very easily take over FADA-assigned assets. One official went as far as to suggest that if FADA must be maintained, "a serious alternative is to renew the contract, reassign all the assets to the receivership, continue paying FADA its management fee and the receivership would still save money." Other receivership officials stated that FADA "is higher priced than many other asset management companies that are as well qualified and provide better service." A representative from a private-sector firm stated that "FSLIC's contract with FADA is a bonanza." He also stated that "his firm would be willing to purchase FADA outright from FSLIC for as much as $125 million if the contract FADA has with FSLIC is maintained."

Comparison of FADA with FSLIC receiverships

In order to evaluate whether FADA's billings to FSLIC are excessive, the Committee requested cost information from nine of FSLIC's receiverships where FADA has been assigned a significant portion of the assets and two of FSLIC's subcontractors responsible for performing asset management services similar to those provided by FADA.

Listed in table 4, on the following page, are the nine receiverships by dollar amount of their assets and the value of those assets transferred to FADA as of September 30, 1987.

TABLE 4.—DOLLAR AMOUNT OF ASSETS TRANSFERRED TO FADA

[In millions of dollars]

Receivership	Total asset value	FADA's asset value
First South	1,280	635
Sunrise	910	603
Centennial	190	54
Presidio	104	68
Sun	201	71
Burkburnett	162	107
Liberty	126	48
Homestead	104	57
Bell	76	26
Total	3,153	1,669

As shown in the above table, FADA has about 53 percent of the total asset value that presently exists in these nine receiverships as of September 30, 1987. Also, as of this date, FADA's asset value of approximately $1.7 billion in the nine receiverships represents about 80 percent of FADA's $2 billion total in receivership assets which it manages.

The Committee requested that the nine FSLIC receiverships provide it with the amounts FADA has billed each receivership to date. Also, the Committee requested receiverships provide information on the incremental costs including human resource costs which would be incurred by the receiverships on a monthly basis if performance of the duties on assets currently assigned to FADA became the responsibility of the receivership office.

The analysis prepared by each receivership is irrefutable; significant savings could be realized at each receivership if partial or full reassignment of the portfolio of assets currently assigned to FADA occurred. If these nine receiverships eliminated FADA's service for 1988 alone, they could save FSLIC at least $10 million. Table 5 presented on the following page shows the nine receiverships by the amount of FADA billings, the incremental cost to the receivership acquiring FADA's assets, and the resulting savings.

TABLE 5.—RESULTING SAVINGS IF RECEIVERSHIPS ASSUMED FADA'S DUTIES

[In millions of dollars]

Receivership	FADA billings	Incremental cost	Resulting savings
First South	8,843	5,044	3,799
Sunrise	4,372	1,434	2,938
Centennial	765	150	615
Presidio	1,133	315	818
Sun	1,460	309	1,151
Burkburnett	420	218	202
Liberty	156	70	86
Homestead	311	159	152
Bell	192	72	120
Total	17,652	7,771	9,881

It should be noted that the resulting savings calculated due to the receiverships acquiring FADA-managed assets is greater for those institutions where FADA manages a large asset portfolio. Since the savings is a projection for 1988 alone, the full magnitude of the potential savings available to FSLIC remains unknown. For example, one receivership official calculated the potential savings prior to the preparation of the Committee's request and determined that if FADA's services were not utilized from the receivership's inception to date, another $1.2 million in additional savings to the FSLIC insurance fund could have been realized. (See Attachment 5.1)

Many receivership officials were concerned that FADA supporters would consider the results highly suspect and without merit. Receivership officials were concerned that the Bank Board, as presented in a letter to Chairman St Germain by its Executive Director for Public Affairs on December 28, 1987, would state that "without objective criteria and standards for comparison, it is exceedingly difficult to draw any meaningful conclusions concerning the relative cost of asset management by FADA and FSLIC receivership staff." FSLIC receivership officials, realizing the potential for criticism and the concerns over the accuracy of the accounting, used conservative estimates and built in overhead cushions to determine costs for managing the assets currently managed by FADA.

FSLIC receivership officials believe that given the resources identified in their analyses, they can effectively perform FADA's current assets management function. Of the $7 billion in troubled assets being liquidated from receiverships as of September 30, 1987, FADA managed only $2 billion, or 28 percent. The remaining $5 billion, or 72 percent, as stated by a FSLIC official, was efficiently managed, marketed, and disposed of by receivership personnel with assistance in some cases from subcontractors. In addition to demonstrating that they have significant expertise in handling large portfolios of troubled assets, receivership personnel believe that they are just as familiar with those assets presently assigned to FADA, having in some cases engaged personnel who were responsible for the management of these assets while employed at the troubled institution.

The receivership's familiarity with FADA's portfolio is further emphasized by the fact that during the transition period, when the Bank Board directed FSLIC's receiverships to transfer portions of their asset portfolio to FADA, receivership personnel had to work closely with FADA personnel providing background on the assets, details on specific problem assets, and an understanding of FSLIC's policies and procedures. Furthermore, the staff is also familiar with the business plans prepared by FADA and its contractors since the receiverships had to establish a separate review department to install a quality control mechanism over FADA's poorly prepared business plans. In summary, receivership officials believe that "any learning curve would be minimal if it occurred at all."

Comparison of FADA with private contractors

The Committee also requested that the two well-known and well-established asset management firms, the J.E. Robert Company and the Palmieri Company, provide it with information on the asset management services performed or being performed by their firms for FSLIC. Information requested of the two firms included the initial value of assets managed, rate or formula for calculating asset management and disposition fees, number of staff engaged, use of contractors, number and value of assets sold, and the asset management and disposition fees billed to FSLIC's receiverships.

In an effort to gather specific information and summarize detailed cost analyses related to FSLIC's asset management contracts with the J.E. Robert Company, the Palmieri Company, and FADA, the Committee requested assistance from the GAO. The GAO was asked to obtain information on three failed institutions: First South Savings and Loan in Little Rock, Arkansas; Sunrise Savings and Loan in Boynton Beach, Florida; and San Marino Savings and Loan in San Marino, California. The Committee's comparison of the services provided to these troubled and failed institutions revealed that FADA's asset management fees were higher than the private-sector firms. Table 6 below presents a comparison of fees billed by asset management organization.

In addition to asset management fees, both the J.E. Robert Company and the Palmieri Company received a disposition fee. The disposition fee varies by contract, but generally the fee structure FSLIC negotiates is based on an initial fee (1.5 to 2 percent) that declines by a specific amount on a periodic basis to a fixed floor level (about .20 percent). Although FADA does not directly receive a disposition fee, it receives reimbursement from FSLIC for the disposition fees FADA is billed by subcontractors. The subcontractors' disposition fee which FADA incurs ranges from 1 percent on the very large assets to 10 percent on the smaller assets. This fee is separate and distinct from any brokerage fee paid by FADA.

The J.E. Robert Company provided asset management service at First South Savings and Loan on a portfolio of $825 million in assets under the watchful eye of the Dallas District Bank for four months prior to the institution being closed. After First South was closed, FADA was assigned to provide asset management services. The portfolio of assets assigned to FADA was substantially the same as the portfolio of the J.E. Robert Company.

FADA, in acquiring the asset management function at First South, should have had the benefit of the four months of work the J.E. Robert Company spent on the portfolio. Unfortunately, FADA has not appeared to capitalize on the J.E. Robert Company's efforts.

Data presented in tables 7 and 8 indicates that the J.E. Robert Company disposed of significantly more assets than FADA in a shorter period of time.

To make matters worse, the Committee's analysis revealed that FADA had recorded $7 million in disposition proceeds which were also claimed by the J.E. Robert Company. FADA has taken credit for the disposal even though the J.E. Robert Company performed 90 to 95 percent of the work and was paid for its services by FSLIC after its analysis. If this $7 million disposition proceed was eliminated from FADA's records, its average monthly proceeds would drop from $3.5 million to $2.9 million.

TABLE 6.—COMPARISON OF COST TO FSLIC FOR CONTRACTOR WORK

[In millions]

Contractor	Time period (months)	Value of assets managed	Asset management fee billed
J.E. Robert Co.	3.6	$825	$913
FADA at First South	11.6	835	3,547
FADA at Sunrise	14.4	619	3,207
Palmieri Co.	35.0	311	5,127

TABLE 7.—FADA DEMONSTRATES SLOWER DISPOSITION PACE

[In millions]

Contractor	Time period (months)	Total proceeds from dispositions
J.E. Robert Co.	3.6	$34.1
FADA at First South	11.6	41.2
FADA at Sunrise	14.4	19.0
Palmieri Company	35.0	132.6

TABLE 8.—FADA HAS LOWER AVERAGE MONTHLY PROCEEDS

[In millions]

Contractor	Amount realized	As a percentage of the value of assets managed
J.E. Robert Co.	$9.5	1.60
FADA at First South	3.5	.44
FADA at Sunrise	1.3	.21
Palmieri Co	3.8	1.23

The analyses presented in tables 6 and 7 further revealed that although FADA is charging more in asset management fees than the Palmieri Company, it is not disposing of assets as quickly. FADA's current contract has a built-in incentive to hold assets, which is clearly evidenced by FADA's significantly slower disposition pace as compared to private-sector firms.

Clearly, these analyses indicate that FADA not only disposes of assets at a slower pace but FADA, as a contractor, is more costly than simply allowing the receiverships to perform the work with the additional resources necessary. FADA's rapid drain on FSLIC resources does not help and certainly inhibits the recovery process.

CHAPTER IX—FADA'S INEFFECTIVE PERFORMANCE AT VERNON FEDERAL SAVINGS ASSOCIATION

In addition to FADA's key role in the liquidation of closed savings and loans it is gaining a significant role in asset management and asset advisory activities related to troubled savings and loans. Beginning on August 1, 1986, FADA began providing advisory service on specific assets to supervised institutions at the request of the Bank Board and Federal Home Loan District Banks. Through March 31, 1987, FADA was involved with 13 such arrangements with the District Banks: one in Seattle, two in Dallas, and ten in San Francisco.

FADA's role in the asset management of supervised institutions is to provide a full range of asset management and disposition services to the new management of those institutions the Bank Board has installed. To date, the Bank Board and FSLIC have engaged FADA to manage three institutions in the management consignment program—the entire asset portfolios of two institutions and part of one institution. Assets under these agreements total about 1400, with a value of $2.5 billion. FADA's first involvement as an asset manager for a troubled savings and loan began with the very large and well-known Vernon Savings and Loan (Vernon) located in Vernon, Texas. FADA managed over 900 Vernon assets with a value of approximately $2 billion. Thus, this one assignment alone represented about 80 percent of the total value of FADA's asset management services to supervised institutions.

FADA's selection as asset manager for Vernon

On March 20, 1987, the Texas State Commissioner closed Vernon Savings and Loan Association and the Bank Board placed Vernon into the management consignment program. Vernon was closed after being found insolvent and had substantially dissipated its assets through unsafe and unsound practices. The vast majority of Vernon's loans, approximately 96 percent, were non-performing. These loans were characterized by deficient underwriting practices, including in many cases, the absence of adequate real estate appraisals.

Shortly before placing Vernon in the management consignment program, the Dallas Federal Home Loan District Bank and the Bank Board contacted San Antonio Savings Association on behalf of Vernon and eventually awarded them a contract to provide a management team to guide Vernon's daily operations. At this time, the Bank Board and the Dallas district bank also engineered awarding FADA a contract to manage Vernon's assets.

Committee investigators observed that neither the newly appointed board of directors of Vernon or Vernon's president and chief operating officer had any input into the selection of FADA as an asset management contractor. Committee investigators were informed that the selection of FADA was made by the president of the Dallas district bank in conjunction with the chairman of the Bank Board. It is well-known that FADA was lobbying for a major role in the management consignment program. Apparently, no other input was solicited from the Dallas district bank staff overseeing Vernon.

In plain English, an exclusive contract to manage Vernon's $2 billion portfolio was awarded without any effort to solicit bids (or even entertain bids) from other asset management entities. Nonetheless, FADA served as the primary asset manager for Vernon for eight months, from March 20, 1987 to November 20, 1987.

FADA's contract results in excessive costs

One comment repeated time and time again to Committee investigators was that FADA's contract resulted in excessive expenditures. Vernon board members quickly cautioned that they were not responsible for establishing the contract. Other interviewees advised Committee staff to compare FADA's contract with that of other asset management entities.

As of September 30, 1987, FADA had billed Vernon a total of $5.3 million for asset management services. Of this amount, over $1.5 million was directly related to FADA's employment of subcontractors, even though FADA maintained a staff of 88 employees at Vernon. Under Vernon's contract, it passed these costs directly to Vernon in addition to its standard fee for all assets managed. Legal costs, under the direction of FADA, added another $5.4 million to the loss that FSLIC has experienced. In total, through September 30, 1987, FADA had directed billings to Vernon of approximately $10.7 million.

In addition to these costs passed on to Vernon, FADA claims it absorbed the costs of additional subcontractors hired to manage Vernon assets. FADA contracted with five consulting companies, whose hourly rates ranged between $60 and $150, claiming it did not have enough of its own employees to devote to the assets it was managing. FADA has paid these contractors $600,000 out of its own pocket through December 1987.

In comparison with a similar-sized private-sector firm managing a comparable asset portfolio, FADA's asset management expenses and legal expenses are exorbitant. Over a period of thirteen months, the private-sector contractor incurred $7.6 million in asset management costs, whereas FADA, at Vernon, over a period of five months, spent $5.26 million. Regarding the legal costs incurred by these entities, the private-sector contractor spent almost $3.6 million over the course of one year, whereas FADA, over a seven-month period, added $5.4 million to FSLIC's total losses. Over the last five months of that time period, FADA's legal costs averaged $1 million per month, while the private-sector contractors' legal costs never exceeded $407,000 per month. In summary, FADA's asset management and legal costs incurred at Vernon, totalled almost $10.7 million while the private-sector contractor costs totalled about $11.2 million for a contract period almost twice as long as FADA's contract period.

With this incredible amount of money being spent at FADA's direction, one would expect that the quality of professional services being provided to Vernon would be truly superb. Unfortunately, the remaining sections in this chapter indicate that this was not the case.

Poor performance in delivery of information to Vernon board

As an asset management contractor for a large portfolio of non-performing assets, FADA's primary responsibility is to quickly prepare status reports and preliminary and final business plans. The timely preparation of status reports and business plans is essential because these documents provide information on the assets' valuation and recommended strategies on the management, marketing and disposition of assets.

At its first meeting in April 1987, the board of directors was expecting a status report from FADA detailing the assets it was managing by type, noting the number and status of participation loans and number and status of raw land with an order of priority assigned to each for the purpose of planning work in the upcoming months. Instead, FADA presented the board with a considerable number of detailed asset business decisions. Had FADA presented the basic information in advance of its meetings, the board could have made more informed business decisions. As it turned out, the status report anticipated in April was not delivered to the board until August 1987.

According to a September 20, 1987, FADA report entitled Significant Accomplishments at Vernon, FADA had submitted 15 asset business plans to the Vernon board for its review. The Vernon board of directors minutes dated September 24, 1987, however, revealed that Vernon's chief asset manager, responsible for overseeing FADA's operations, stated in his presentation to the board that "no final business plans have yet been delivered."

During an interview with a director of Vernon's board, Committee investigators questioned whether the board had reviewed 15 asset business plans. In response, the director stated that he was unfamiliar with the number 15 but that if 15 were true, he was not satisfied and "would like to have recommendations faster than that." He was concerned enough to address the issue with Roslyn Payne as late as September 30, 1987. He asked her to provide the data to the Board more quickly given the severity of the situation at Vernon. The director emphasized that the board needed information from FADA in order to make critical decisions on assets.

Regarding preliminary business plans, FADA, in Significant Accomplishments at Vernon, stated that it had "delivered all 672 preliminary business plans within 90 days." This statement directly conflicts with a FADA official's statement at a Vernon board of directors meeting on July 22, 1987, 122 days after the institution was closed. One of FADA's own portfolio managers stated that "FADA has delivered approximately one-third of the preliminary business plans to the Association." The portfolio manager also stated that "FADA would begin delivering asset business plans toward the end of six months." In fact, it was not until August 27, 1987, 157 days after FADA's services were engaged, that Vernon's board of director minutes reflect that "all preliminary business plans have been delivered by FADA." And, as of November 1, 1987, FADA had presented the Vernon board with some 12 to 15 business plans out of a total of 900 business plans. These excessive time frames are in addition to the 1½ months that FADA was involved in Vernon as asset advisor prior to its asset management contract. Apparently, even though FADA was generally and, in some cases, intimately familiar with Vernon's asset portfolio due to its asset advisory contract, FADA still encountered difficulties in providing timely delivery of information.

Lack of quality evidenced in FADA's performance

Not only did the FSLIC officials interviewed address the issue of FADA's untimely delivery of information, but they also addressed the lack of quality in FADA's performance, performance not up to par with other contractors and performance that fell short of their expectations. For example, FADA, in an attempt to quickly generate initial information on assets, contracted with 13 separate firms to prepare preliminary business plans. As evidenced in a FSLIC document which reviews FADA's operations, none of these contractors had ever completed a preliminary business plan, and nearly 80 percent of the FADA-contracted preliminary business plans required clarification, corrections, or additional information.

As a result of inaccuracies in the plans, FADA was forced to hire an independent contractor, the certified public accounting firm of Laventhol and Horwath. The contractor remedied the situation by obtaining missing information and standardizing the results. This not only resulted in additional cost to the institution, but the process of cleaning up these poorly prepared plans caused severe delays and prevented timely decisionmaking on these assets because the plans were unavailable for review. In addition to untimely and mediocre information, the Committee consistently heard that FADA resisted cooperation and limited its communication with Vernon and San Antonio Savings Association.

Cooperation and communication were lacking

Committee staff were repeatedly informed that FADA was less than cooperative and communicated poorly, if at all, to Vernon management. As one official put it, "FADA lacks the ability to communicate vertically or horizontally and its senior management operates in a mode of paranoia which results in irrational decisions and impedes constructive action." The same official further stated that FADA often presented conflicting information to the Vernon Board.

As the Committee learned from the various officials interviewed, at both Vernon and San Antonio Savings Association, FADA's staff appear to be technically competent, but they lacked direction from senior FADA management and lacked the experience and sophistication to work without direction. As one Vernon director phrased it, "FADA needs a more pragmatic rather than bureaucratic approach to [its] work. FADA wants to be accountable only to FADA's Board of Directors."

A Vernon director was asked to comment on the cooperation and communication he has experienced with FADA officials and staff. The director made the following statements and observations: "Communication and cooperation could be improved. There has been some reluctance on FADA's part to cooperate, possibly stemming from FADA's desire to operate autonomously at Vernon. FADA's attitude could be [due to] its personality and it could be that FADA is a little bit concerned about who's looking over its shoulder, too, because while it purports to be a private corporation dealing with the private sector, it's really not. It is a real strange kind of a situation that we are working with having an asset manager operating as a contractor for us even though we are unable to contract with FADA for services we want. In the private sector if the contractor doesn't perform we fire them, except in this situation we can't."

In an effort to increase and improve communication and cooperation with FADA, the Vernon board requested San Antonio Savings Association to serve to oversee FADA's operations on a daily basis. FADA in Significant Accomplishments at Vernon also acknowledged the need for improving its communications and cooperation. However, FADA's suggestions implied that the problems revolved around Vernon's board of directors needing to clarify data/information needs and that Vernon's counsel, managers, and staff needed to improve "bilateral communication." In addition, FADA has refused to provide signatures on legal documents, thus, jeopardizing FSLIC's and Vernon's fiduciary responsibility.

FADA disregards FSLIC's and Vernon's fiduciary responsibility

FADA's management of Vernon's asset portfolio reflects that FADA does not uphold FSLIC's fiduciary responsibility. According to all parties interviewed, FADA has been unwilling to cooperate with its client regarding its signature on legal documents. Since May 1987, FADA refused to sign legal documents regarding the disposal of assets asserting that FADA did not have signature authority as per the asset management contract. The legal opinions by the Bank Board, FSLIC, and the Dallas district bank concluded that FADA's current asset management contract provides it with the authority to sign such documents. Instead of fulfilling the clients' needs and its responsibilities under the contract, FADA proposed amendments to its current contract on numerous occasions. As of October 29, 1987, ten months into the engagement, FADA was still refusing to sign legal documents. According to one of Vernon's directors, FADA has to "start participating now in litigation . . . FADA people are the only ones with detailed knowledge of what is going on. They have to sign depositions and make themselves available for testimony, but they refuse to do it."

Based on the Committee's interviews and discussions, one notable case continued to resurface wherein FADA refused to share in FSLIC's fiduciary responsibility in overseeing its assets or performed its management functions in such a manner as to jeopardize FSLIC's fiduciary responsibility.

FADA, since May 1987, repeatedly reiterated to Vernon's board of directors, the Dallas district bank, and FSLIC/Bank Board that it refused to sign any affidavits which would place FADA as a witness to any asset-related information contained in such statements. While all parties involved, except FADA, believed that FADA signing affidavits was part of FADA's responsibilities and authority, FADA doubted such authority and requested the Vernon board of directors to write a letter to the Bank Board expressly stating that FADA, as asset manager for Vernon, retained the authority and responsibility to sign affidavits.

Vernon's counsel prepared such a letter and FADA's request culminated in Roslyn Payne hand delivering the letter from Vernon Federal Savings Association to FSLIC's Office of General Counsel (OGC) in July 1987. The letter clarified FADA's responsibility and retention of authority to provide signatures on affidavits and depositions, among others. FSLIC and the Dallas district bank rescinded the letter stating that FADA's contract clearly delineated that FADA held the responsibility and authority to sign as a witness on affidavits and depositions and deemed OGC approval of such a letter unnecessary.

Even though this case did not result in Vernon being charged with any negligence or incompetence, the potential existed for a court of law to call on FADA as a witness if the asset were in litigation or if an individual brought suit against FADA or Vernon. While such instances did not transpire, FADA, nonetheless, appeared to take its responsibility for signing affidavits lightly and showed no demonstrable effort to promote FSLIC's fiduciary responsibility for its assets. Had a receivership engaged in such practice, FSLIC/Bank Board would have held it accountable for its actions.

CHAPTER X—FADA EVOLVES AS AN AUTONOMOUS AGENCY

Although FADA was created solely to provide assistance directly to FSLIC, its only stockholder, it appears that the line of authority is diffused. From the beginning, the Bank Board either knowingly or unknowingly created the problem by establishing a separate board of directors for FADA. This board of directors, in turn, assumed total control of FADA and created a management system whereby executives would take direction only from the FADA board. Obviously, problems will result when FADA provides direct assistance to FSLIC, but receives overall guidance from its own board of directors. Unfortunately, the Bank Board has been unwilling and FSLIC appears to be unable to exert any authority over FADA.

As a result of this diffused line of authority, the Committee investigators have revealed a multitude of problems. Such problems include FADA's evolvement into a large bureaucratic entity, development of policies and procedures which are separate from the standard federal government regulations, and employment of staff who maintain active interests in real estate investment and development companies and ties to the savings and loan industry. Additionally, FADA's view of itself as independent from FSLIC has resulted in problems in the areas of cooperation, communication, and fiduciary responsibility.

FADA's accountability to FSLIC remains unclear

FADA's accountability to FSLIC remains unclear, as evidenced in the differing views stated by FADA, FSLIC, and Bank Board officials. Specifically, FADA believes that it is a separate corporation subject to the control and direction of its board of directors. Supplementing FADA's position, Mr. William McKenna, chairman of FADA's board, said in FADA's May 1987 board of director minutes that (see Attachment 6.1) "the Board of Directors of FADA was responsible for supervision of FADA and that the responsibility was not delegated." Furthermore, FADA's president and chairman of the board have repeatedly raised policy issues and difficulties with Bank Board members directly rather than bringing the issues or problems to the attention of the FSLIC director or other senior FSLIC officials for resolution. FADA's acting CEO and board member, Mr. John Zellars, expressed the opinion that the FSLIC staff wanted FADA to be supervised by the Operations and Liquidations Division (OLD) of FSLIC, and in his opinion, such supervision was not proper. Within a document analyzing FSLIC concerns, FADA expressed that it must remain free to bring matters to the attention of the Board when in its independent judgment it is appropriate to do so—again excluding FSLIC.

According to FSLIC's Office of the General Counsel, however, the Operations and Liquidations Division has authority over contractors FSLIC utilizes in the liquidation of failed institutions. In a memo provided to the Asset Disposition/Receivership Management Committee, FSLIC's Office of the General Counsel stated that: "the FSLIC must maintain its responsibility and accountability for contractors and the manner in which these contractors carry out functions delegated to them. FSLIC must be able to provide assurances that all Receiverships and supporting contracted services are carried out in the most efficient, effective and economical manner, in accordance with policies and procedures, legal/regulatory requirements and terms of contracts."

While FSLIC seems to have been given authority over contractors, FSLIC management has found it very challenging to exert such authority over FADA due to the lack of a definition of the relationship between FSLIC and FADA. To illustrate FSLIC's concerns and frustration in exerting its authority over FADA, FSLIC's deputy director stated in a memorandum during October 1986 to FSLIC's director that: "FSLIC and OLD badly need help for complex workouts and formulating business plans for large or impaired real estate. The OLD Director and his organization are under the direct control of the Director, FSLIC. FSLIC can hire and fire within this group as necessary to insure proper accountability. The same cannot be said for FSLIC's relationship with FADA. FADA is not and never will be an OLD in the hierarchy that extends from the Bank Board. OLD wears the government mantle. FADA is a subsidiary—a semi-private operation—a broker—a contractor. FADA is not Uncle Sam. Uncle Sam is supposed to control FADA."

As of the date of this report, the Bank Board has been reluctant to reconfirm FSLIC's authority over FADA's asset management and disposition functions. While the Bank Board has commissioned several studies regarding the FSLIC/FADA relationship and FADA's performance, no substantive changes have been implemented. Until the Bank Board delineates the lines of authority for FADA and adopts necessary changes, FADA will continue to operate as an unabashed independent bureaucracy.

FADA evolves as a separate and distinct bureaucratic entity

FADA's desire to relieve itself of all accountability to FSLIC and to operate as an independent entity led FADA to establish a separate bureaucratic structure. For example, FADA's original intent was to assist FSLIC through the formation of a small group of approximately 50 to 80 "specialized" real estate personnel. However, FADA mushroomed from a staff of 128 on October 31, 1986, to a staff of nearly 400 by year-end 1987, despite a hiring freeze instituted by Chairman Wall on October 15, 1987. FADA violated this freeze by hiring an additional 53 employees between October 15, 1987 and December 31, 1987. According to Chairman Wall's testimony on February 4, 1988, before the Subcommittee on General Oversight of the House Banking, Finance and Urban Affairs Committee, these new hires had already been sanctioned before the hiring freeze. Committee investigators' review of FADA's documents on new personnel, however, show that the 53 employees were hired subsequent to Chairman Wall's announcement of the hiring freeze. Also during this same time period, 16 employees were lost due to attrition.

FADA's bureaucracy of nearly 400 employees includes thirty-two senior executive positions. These senior executives oversee a pool of lawyers, budget analysts, an administration and operations division, six regional offices, an appraisal department, an office of contractor administration, and various other administrative offices. To support this expansive bureaucratic organizational structure, FADA maintains a centralized operation with a triumvirate management structure wherein the President/CEO, Senior Vice President/General Counsel and Senior Vice President/Real Estate formulate, implement and review policy or engage in asset management and/or disposition decisionmaking. These management functions also allow for input from the regional vice presidents and counsel. This two-tiered senior management team operates with little direct support other than its operational staff of portfolio and asset managers.

Consequently, FADA's thirty-two senior managers hold executive titles with high salaries yet manage very few employees. In essence, FADA's organizational structure is extremely top-heavy with at least two layers of review at the regional and headquarters levels with the triumvirate making all final policy and business decisions.

FADA also engages a private investment firm which serves as an advisor to FADA regarding its investment in government marketable securities. According to FADA's board of director minutes, each "advisor" receives approximately 30 basis points on the amount of assets under management which were originally estimated in the range of $15 to $20 million, meaning that each advisor could earn approximately $45,000 to $60,000. The Bank Board has at its disposal an Office of Finance which serves as an investment advisor to the district banks, effectively managing over $19 billion in investments. Given the nature of FADA's investments and the fact that a reputable investment advisor already exists within the Bank system, one wonders why FSLIC should be required to pay for services that could be effectively performed by the Office of Finance.

Activities of FADA executives result in conflicts of interest

FADA's efforts to perpetuate its autonomous view are manifested in FADA developing its own Business Code of Conduct instead of adopting that of the federal government. Committee investigators found that FADA employees maintain active interest in real estate investment and development firms, and ties to the savings and loan industry that would not be appropriate for government employees with similar duties. If FADA is going to assume its role as agent for FSLIC receiverships, and the accompanying fiduciary responsibilities, then FADA should come under the same conflict of interest policies and procedures which FSLIC/Bank Board employees and other subcontractors for FSLIC must adhere to. However, FADA chose not to accept the standard code of conduct for government employees and instead, with the aid of private consultants, developed its own code of conduct.

It was subsequently discovered that the laxness of FADA hiring and review practices did not reveal sufficient detail about employees' financial interests to determine whether potential conflicts exist. As such, the financial disclosure statements of numerous employees required significant review before appropriate actions could be determined. After conflicts arose and three employees were terminated because of their involvement with FSLIC-insured institutions, FADA, with the assistance of another consultant, revised its hiring procedures and financial disclosure statements to better screen applicants and employees. While the following instances may not be cause for concern in private-sector corporations, the Committee is concerned that activities of several senior FADA executives create the impression of conflicts of interest.

Potential conflicts include the selection of FADA's CEO and the subsequent selection of a FADA asset management subcontractor and, in at least one case, an executive's personal interest in assets under FADA's management. Several of FADA's executives continue to maintain stock and/or partnerships in real estate firms, investment groups, and interest in real estate assets managed by FSLIC-insured institutions.

Concerning Ms. Payne's selection as FADA's President and CEO, Committee investigators point out to the appearance of two potential conflicts of interest. First, a search committee composed of FADA directors recommended the selection of Roslyn Payne as President and CEO on the basis of a list of possible candidates submitted by Korn/Ferry International, an executive search firm. The search committee recommended and FADA's board of directors unanimously approved the selection of Roslyn Payne as FADA's President and Chief Executive Officer. Coincidentally, one of the directors on the search committee—Mr. Emmet Cashin—was also a business associate of Ms. Payne's husband, Mr. Lisle Payne, in the Fox Group, a real estate conglomerate. (see Attachment 1.1)

In addition to Korn/Ferry International receiving a fee of $125,000 to place Ms. Payne, Messrs. Korn and Ferry have since received payments from FADA through ConAm Corporation, an asset management firm chosen by FADA as one of its first major subcontractors. Messrs. Korn and Ferry are cofounders and current directors of ConAm Corporation. To date, ConAm has been paid over $650,000 for services it provides to a substantial number of properties in FADA's portfolio—the most paid to any one FADA asset management subcontractor.

Another example is FADA's termination of its former Dallas regional manager, David Williams, his principal assistant, William Swift, and a Dallas asset manager, John Scott, due to alleged conflicts of interest and unprofessional activities. FADA's review of their financial disclosure statements indicated they were involved in troubled savings and loan institutions or had defaulted on private loans to FSLIC-insured institutions.

FADA's problems with conflicts of interest came to a head in November 1987, when Mr. Robert Axley resigned as FADA's Senior Vice President and General Counsel amidst a Justice Department investigation regarding his involvement in real estate deals tied to savings and loan institutions which later failed. Mr. Axley is on a list of 290 individuals whose financial records have been subpoenaed by the federal grand jury in Dallas due to their association with "major land-development deals, or ownership interest in, or service as officers of, savings and loan institutions." While at FADA, Mr. Axley failed to file a financial disclosure statement until FSLIC revealed his financial interest in several loans issued by a severely troubled savings and loan. In fact, it was not until plans for the closure of this institution, First South Savings and Loan in Arkansas, were under way, with FADA requesting and being assigned the management of a substantial portion of the assets, that Mr. Axley provided the first written notice revealing his relationship with the savings and loan industry. Mr. Axley's financial disclosure statement, prepared ten months after he joined FADA, was not signed until after the First South "takedown" (the day the Bank Board closed the institution and reassigned its assets), and it was not received in FADA Headquarters until nearly two months after the takedown.

Although Mr. Axley managed to limit his personal liability by transferring his interest to a blind trust and having the law firm of Akin, Gump, Strauss, Hauer and Feld act as the Trustee, three of the savings and loan institutions which financed his projects have suffered considerable losses and are insolvent. Unlike Williams, Swift, and Scott, FADA did not terminate Robert Axley rather, he continued to be employed by FADA until his resignation in November 1987.

FADA's Business Code of Conduct stipulates that ". . . certain types of outside employment or business activities will not be approved under any circumstances . . . [including] work for any company or engaging in any business activity that competes or conflicts with Association interests including savings and loans or real estate companies." The code also provides that any employee holding financial interests which could be deemed as interfering with the execution of FADA duties, including general partnerships and stock ownership particularly in FSLIC-insured institutions, shall place all such holdings into a blind trust or dispose of them without causing undue hardship. However, certain FADA senior executives ignored the code and continue to maintain interest in real estate investment and development corporations, as shown below:

Roslyn Payne was previously employed by and owns stock in various Genstar Corporation real estate investment and development subsidiaries. Ms. Payne also has financial interests with the Fox Group, a major real estate development conglomerate which has partnerships with loans from savings and loan institutions. Ms. Payne's husband, Mr. Lisle Payne, is a business associate of former FADA director, Mr. Emmet Cashin, in the Fox Capital Management Corporation, a Fox Group affiliate.

Mr. Robert Axley, former Senior Vice President and General Counsel, maintained stock ownership in several firms including Axley and Associates, Inc. of Dallas, Texas, and Glenhurst Investment, Inc., a real estate investment firm.

Mr. David Gustafson, FADA's Denver regional manager, maintains a general partnership in a real estate investment company located in Denver, Colorado.

Mr. Dennis Dorsey, FADA's Dallas regional manager, and his wife own Dunhill Group Inc. in Dallas, Texas, a real estate company established to hold commissions which Mr. Dorsey received as an independent contractor.

Mr. P. Joseph DeSautels, FADA's Vice President and Director of Asset Management, maintains financial interests in and was former executive vice president of the Fox Group, a real estate syndication firm and DeSautels Company, a California real estate investment firm in which he owns real estate. He also serves as vice president of this firm.

Mr. Mark Plumley, FADA's Vice President for Finance and Administration, is a former chief financial officer of and owns stock in a Genstar Corporation subsidiary, Sutter Hill, Ltd., which deals predominantly in real estate.

Because of FADA's visibility, any appearance of a conflict raises concerns especially when FADA executives' financial interests involve loans from troubled institutions which FADA manages and stock in real estate investment and development companies.

FADA's ineffectiveness in communications and cooperation with FSLIC's receiverships

FADA's tendency to view itself as independent of FSLIC may be the driving force behind its lack of communication with FSLIC's receiverships. Through numerous interviews and discussions with FSLIC officials, Committee investigators consistently heard about incidents reflecting the need to increase communication between FADA and FSLIC and, even with FADA, to avoid duplicative work.

In contacts with FSLIC officials, they acknowledged the need for improved communication between FADA and FSLIC. Recognizing that a considerable reason for the communication hiatus stemmed from a combination of the Bank Board's and FSLIC's unwillingness and inability to define a strong relationship between FSLIC and FADA, FSLIC officials earlier this year evaluated FSLIC employees' concerns regarding the FSLIC/FADA relationship.

One issue of significant importance to FSLIC regarding the FSLIC/FADA communication hiatus is FADA's attitude towards and insistence on obtaining total control over asset litigation although FSLIC houses asset litigation experts aware of FSLIC's "superpowers" regarding the latest legal cases and regulatory authority governing FSLIC. The Committee is aware that FSLIC has met with FADA to discuss the need for open lines of communication among FADA, OGC, outside fee counsel, and officials and counsel of savings and loan institutions where FADA engages in an asset advisory/management contract. It appears that FSLIC's commitment to improve communication with FADA has been countered by FADA's direct and implicit efforts to exert independent and autonomous tendencies.

FSLIC receiverships have experienced problems with FADA in the day-to-day management of assets. For instance, FADA has refused to provide itemized costs or operating statements to the receiverships. FADA's policy is such that it will provide receiverships with summary expense reports and, if receivership personnel so desire, they may inquire about specific payments or review the supporting documentation at FADA's offices provided such inquiries are reasonable. To date, many receiverships have not received detailed operating statements or supporting documentation to justify the bills or invoices they have paid. FSLIC officials believe that FADA should provide FSLIC receiverships with all necessary supporting documentation, including invoices and operating statements, regardless of what FADA perceives is best.

In another instance, FADA has denied receivership personnel copies of contracts FADA negotiates with subcontractors. FADA does not believe that receiverships need such contracts since receiverships have the standard asset management contracts. However, FADA has agreed to provide FSLIC with contracts if FSLIC officials and/or staff would be amenable to briefings by FADA. Given that other contractors provide FSLIC with copies of contracts, FADA should, at the very least, comply with the established policies. Receivership personnel believe FADA should provide them with the original contracts, detailing those aspects which deviate substantially from the standard contracts. In general, receiverships request contracts to enhance their knowledge of the subcontractors' general rights and obligations, fees charged, and services rendered.

In discussions with receivership officials regarding FADA's asset management and communication of its work efforts, the Committee was told that FADA rarely, until recently, communicated with asset managers in receiverships unless emergencies arose. Additionally, FADA consistently failed to consult with the receiverships concerning subcontractors it selected to appraise FADA-managed assets, and FADA has not kept the receiverships informed regarding its plans and activities as outlined in its contract. Receivership officials stressed that FADA has not provided them with information on the current status of assets.

In view of FADA's resistance and unwillingness to communicate with FSLIC, Committee investigators have observed FADA's extensive efforts to promote an overall positive image. It appears that FADA's primary objective is to survive at whatever cost to the FSLIC insurance fund. FADA accomplishes this goal through an extensive promotional campaign intended to eliminate any negative information presented to the public regarding its structure, operations, and performance. FADA promotes itself by publishing puff articles which mislead the reader by presenting information that conveniently excludes most of the facts. FADA then packages such publications for delivery to the United States League of Savings Institutions, state savings and loan organizations, and other savings and loan lobbying groups. Subsequently, FADA promotes this information to Congressional members and the press through its in-house public affairs and Congressional relations staff and its extensive use of media contacts.

Unfortunately for the Bank Board and FSLIC, when FADA promotes itself it does not inform either party when, where, or what it plans on revealing. As a result, FADA makes statements on subjects that the Bank Board has not formally approved and statements that are generally inaccurate and portray FSLIC in an unfavorable light.

FADA disregards FSLIC's fiduciary responsibility

Given that FADA acts as a Bank Board/FSLIC agent with a fiduciary responsibility to the creditors and depositors of troubled and failed institutions, it should be accountable to the Bank Board and FSLIC. FADA not only manages portfolios of these troubled and failed institutions, but FADA also formulates policy and procedures which deviate from those of FSLIC, and ultimately impacts negatively on FSLIC's ability to carry out its responsibilities.

Based on Committee investigators' discussions with FSLIC senior officials and receivership officials, FADA apparently refuses to participate responsibly in assuming FSLIC's fiduciary responsibility. In the following three instances FADA officials expressed that FADA is not accountable to FSLIC and, thus, jeopardized FSLIC's responsibility in its role as receiver. The following examples center around the fact that FADA has acted in its best interest but ignored FSLIC's policies and procedures and specific provisions in the FSLIC/FADA asset management agreement.

In the first instance, FADA incurred significant costs without obtaining FSLIC's approval of its business plans. Specifically, FSLIC requires any subcontractor, including FADA, to present its business plans to FSLIC's Business Plan Review Committees for discussion and final approval. FSLIC officials, however, must approve a preliminary business plan before FADA incurs any costs, other than those reasonable costs associated with preservation of the asset. However, FADA has charged receiverships expenses significantly greater than those needed to preserve assets, before obtaining their approval of business plans. FSLIC officials interviewed believe that FADA has made a conscious decision to forego approval of business plans and incurred significant costs because, in many instances, plans were incomplete.

In the second instances, FADA ignored FSLIC policies and procedures and negotiations reached in the FSLIC/FADA Asset Management Agreement by selling or restructuring assets with potential buyers and borrowers, respectively, before FSLIC's review committee had a chance to review and approve the final management and disposition strategy. The Committee learned of several instances wherein FADA presented completed deals for FSLIC's review committees to approve, rather than presenting the specific details of an offer and allowing the committees to openly discuss the appropriate actions based on FSLIC's best interest.

In both cases, FADA, acting as an agent for FSLIC, implemented asset management and disposition decisions without FSLIC's approval and, hence, made FSLIC accountable for actions it undertook regardless of the outcome. As FSLIC officials informed Committee investigators, FSLIC only requires that FADA honor the terms of the FSLIC/FADA Asset Management Agreement and follow FSLIC's established policies and procedures, with respect to asset management and disposition, required of all other FSLIC subcontractors. According to a FSLIC official, if FADA formulates sound business decisions then FSLIC will have no problem in approving those decisions, but FADA should follow the established procedures to protect FSLIC's assets. Instead, FADA's current mode of operation appears to bypass all authority and places FSLIC in a position to assume more liability which, according to FSLIC officials, is both irresponsible and unconscionable.

In a third instance, the May 22, 1987, minutes of the FSLIC/FADA Coordination Committee meeting illustrate the position of a FADA vice president regarding FADA's fiduciary accountability to FSLIC receiverships:

"The FADA position [is] that FADA is not just another contractor. FSLIC owns 100% of the stock of FADA. Both are working for the same purpose. For FSLIC to review FADA business plans is like FSLIC reviewing FSLIC business plans: presumably it will be satisfied with its own work. Technically the FSLIC Review Committees do not have the authority to renounce or disapprove FADA business plans, since only the Director of FSLIC has that authority."

FADA's interpretation of the Asset Management Agreement implies that if the FSLIC director does not review business plans, then no FSLIC review of FADA's business plans is appropriate. Obviously, FAA does not recognize the FSLIC director's authority to delegate responsibilities to the review committees. The Committee questions why FADA seems to expect the FSLIC director to treat FADA differently from other contractors and review FADA's 100-page business plans, even if they are leatherbound! In reality, business plans prepared by receiverships and other contractors are all reviewed and approved by such committees.

FSLIC receiverships' concern, and rightly so, is that they want to feel comfortable with their authority and duties in meeting their responsibility for liquidating FSLIC assets and, thus, minimize the receiverships managing officers' personal liability for assets. In carrying out their asset management responsibilities, receiverships are looking to treat FADA and its business plans just as they treat other subcontractors and their business plans. Unfortunately, FSLIC, in implementing its oversight function of FADA, has encountered resistance from FADA.

In summary, FSLIC originally intended that FADA serve as an entity directly accountable to FSLIC which would perform as a major subcontractor similar to those currently used by FSLIC. Contrary to the intended framework as delineated by FSLIC, FADA's organizational structure has changed considerably from a relatively small group of "private-sector experts" to a large bureaucratic organization. As FSLIC's deputy director informed FSLIC's director in an October 1986 memorandum:

"FADA is a privatized government function, not a private corporation motivated by private purposes and profit. It is a FSLIC cost center whose only connections with private attributes are its ability to pay commercial rates for salaries and expenses, and to be able to contract without being bound by government contracting rules. FADA is another governmental bureaucracy dressed up in private sector clothes. Its driving motives are more closely related to those of a government agency than to the profit motive associated with private business. There is no FADA bottom line. FADA does not succeed or fail based on its lack of profits. FADA must be subject to the same internal control principles that govern any government agency or office of the Bank Board."

Unfortunately, the Bank Board must not have been in dialogue with FSLIC's directors and deputy directors; otherwise, the Banking Committee might have seen some substantive policy and structural changes to strengthen the FSLIC/FADA relationship, particularly FSLIC's ability to exert its asset management authority and powers over FADA as FSLIC has with its receiverships.

Only by defining the accountability of FADA to FSLIC can a healthy relationship between FSLIC and FADA develop; otherwise, the Bank Board should expect for two entities to continue to jockey for power and authority. Within and between the organizations, this power play may negatively affect work attitudes and morale and how they accomplish their asset management and disposition work which is to maximize the return to FSLIC and, in so doing, protect FSLIC and the Bank Board's fiduciary responsbility and maximize the interests of their creditors.

CHAPTER XI—FADA RESISTS PUBLIC AND CONGRESSIONAL SCRUTINY

As part of the House Banking Committee's general oversight function, all banking related activities are continually monitored. However, the Bank Board, FSLIC, and particularly FADA, have balked at Government regulations ensuring that FADA's operations be subject to public review, have ignored questions raised by Committee members during hearings, and have delayed information requests by Committee investigators.

The House Banking Committee's first encounter with FADA

The Committee first dealt with FADA in early 1987, when FADA strongly contested certain oversight provisions proposed in H.R. 27, the FSLIC Recapitalization Act. Section seven of H.R. 27, as originally structured, required that FADA be audited by GAO, open its board meetings under the Sunshine Act, and report to Congress on a quarterly basis.

Major savings and loan executives on FADA's board also lobbied the Committee heavily. For example, on January 28, 1987, Mr. Tom Bomar, a director on FADA's board and president of Amerifirst Savings and Loan Association, a $4 billion Florida institution, wrote to Chairman St Germain and other members on the Committee on behalf of FADA's concerns. Specifically, Mr. Bomar challenged the Committee's provisions stating that ". . . there seems to be no good reason to have GAO audit FADA" since FADA was not a mixed ownership government corporation and should not fall under the jurisdiction of the Sunshine Act. In his letter, Mr. Bomar expressed the following statements:

"FADA is a federally chartered savings and loan, subjected to all the requirements of all federally chartered Savings and Loans. There seems to be no good reason to have GAO audit FADA. However, if that is thought desirable, it is of no particular consequence other than to cost FADA a little extra time and trouble dealing with another set of auditors.

"I am unsure as to what significance there is in saying that FADA is a mixed-ownership government corporation. It is a mutual Savings and Loan. It was organized by a group of private individuals acting at the request of the Bank Board, but all the money put into it is FSLIC funds and Federal Home Loan Bank borrowing. That does make its status somewhat unique.

"The provision of having FADA subject to the 'Sunshine' law is potentially very damaging. All of us are in accord with the objectives of the Sunshine law. No group of elected or appointed officials has any business doing the public's business in secret."

Mr. Bomar described FADA as a private organization with experts in problem assets trying to work out complex business transactions to recover a maximum return for FSLIC, not as an organization engaged in any public business. Thus, he concluded, since FADA is not a "public" organization, it should not be subject to the Sunshine Act. While FADA's private status has allowed it to exclude certain parties from FADA board meetings, representatives from the U.S. League of Savings Institutions were present when FADA's first CEO was selected.

As a wholly-owned subsidiary of FSLIC, FADA should fall under the full scrutiny of Congress, the U.S. General Accounting Office and the Sunshine Act, and thus, be fully accountable to the American public. The relationships between and among the Bank Board, FSLIC, and FADA needs to be redefined so that FADA is fully accountable to FSLIC and the Bank Board. Although FADA was intended to be subsidiary of FSLIC, FADA has, in fact, heavily influenced policy making at the Bank Board and FSLIC through its senior-level officials including its board of directors.

On March 3, 1987, the Committee invited Ms. Roslyn Payne, FADA's President and then Chief Executive Officer, to testify on H.R. 27's oversight provisions. Ms. Payne stated that FADA could not understand why it was the center so such debate, especially since it was chartered as a savings and loan and not as part of the federal government. She said that FADA had several concerns, clarifications, and suggested modifications regarding its review by Congress and GAO and that "the implications of applying this extremely broad based Government Corporation status on FADA may well effectively erode its ability to achieve the highest values for the FSLIC for troubled real estate assets."

Ms. Payne testified that the open meeting requirement of the Sunshine Act would:

"severely restrict and inhibit the ability of FADA management and Board of Directors to perform its asset management and disposition duties. The Board of Directors openly and candidly discusses the relative strengths and weaknesses of various troubled savings institutions and real estate markets. If these discussions become public, the ability of the FADA to obtain the highest value for troubled real estate assets would plummet. Moreover, public confidence in the safety and soundness of the savings and loan system would be severely shaken. This would have a devastating effect on local communities if runs on thrift institution deposits occurred."

Given the applicability of the Sunshine Act to FADA, the sentence to underscore is "the Board of Directors openly and candidly discusses the relative strengths and weaknesses of various troubled savings institutions and real estate markets." An agency under the Sunshine Act appropriately limits public meetings to general problems with asset management or disposition operations and policy as do the Bank Board, FSLIC, and the Federal Deposit Insurance Corporation.

As a result of FADA's persistence and lobbying efforts, the Banking Committee reexamined its position and did limit the Congress' and GAO's review authority of FADA. It appears that FADA does not mind GAO reviewing its books as long as it is not classified as a government agency, which would detract from its privatized view of itself and would require FADA to serve in the public's best interest by being subject to government regulations.

From the beginning FADA was less than responsive

On March 18, 1987, the Committee, as part of its monitoring efforts, requested that the Bank Board provide information on how it was overseeing FADA as well as information on FSLIC and FADA operations and asset management activities.

Committee investigators found that the Bank Board, FSLIC, and FADA were unwilling to respond to the Committee's March request. On May 7, 1987, Ms. Roslyn Payne wrote to the Committee on FADA's behalf regarding documents which FADA had not yet delivered to the Committee. Not only did FADA delay its response to the Committee, but Ms. Payne also cited sections of its March 31, 1987, Business Plan Update, its quarterly publication, rather than meet the Committee's specific requests for information. It appears that FADA waited until it prepared its March update to fulfill the Committee's request and then intentionally delayed its response and delivery of information until May 1987.

FADA has not been alone in its efforts to foil the Committee's investigation. The

Committee requested information from the Bank Board in March 1987. At that time, the Committee was assured that it would receive the information quickly. In response to the Committee's March request, the Bank Board recently stated that the requested reports are being prepared by FSLIC and FADA in compliance with the Competitive Equality Banking Act of 1987 (CEBA), and will be provided to the Committee in March 1988. The Committee is extremely disturbed by the year-long delay and is concerned that the planned reports will not fulfill the Committee's specific requests made in March 1987.

To show that FADA has repeatedly ignored information requests made by this Committee and has stalled in providing such information, the Committee refers to the following chronology of events. In an interview with a senior FADA official on May 14, 1987, at which time Committee investigators requested additional documents regarding FADA's operations and structure, and even after placing several telephone calls to various FADA and Bank Board officials, Committee investigators did not receive a written response until May 28, 1987. In its response, FADA delivered only two of the documents requested, with no reference therein as to the delivery of the more important documents still outstanding.

On June 17, 1987, the Committee received a sample listing of FADA's senior executives' salaries. As the request fell short of meeting the Committee's distinct request for the names, salaries (plus bonuses), and titles of FADA senior executives nationwide, the Committee renegotiated its request with FADA once again to include employees' earning $70,000 or more annually.

In avoiding the specific request on salary information by offering to send alternative data to the Committee, FADA even suggested meetings amongst the Committee staff director, FADA senior officials, and an attorney representing FADA's outside counsel, Arnold and Porter, to discuss FADA's cooperatives in meeting the Committee's requests. In a July 8, 1987, letter from Arnold and Porter delivered by FADA to the Committee's staff director, FADA's counsel stated that:

"FADA has asked that this information be treated on a confidential basis by the Committee; we want to avoid a needless breach of privacy of employees, particularly at the middle management level."

FADA encouraged the Committee to negotiate with Arnold and Porter, FADA's outside counsel. FADA's high-priced prestigious outside counsel agreed to provide the Committee with a list of FADA's 17 senior executives' salaries and bonuses. It was clear that FADA would not deal with the Committee directly on this issue.

During this same time frame, the Committee began to receive telephone calls and correspondence from other Congressional members who were receiving calls from constituents regarding FADA's operational practices and performance. Based on the magnitude of calls forwarded to this Committee from other Congressional members' offices, coupled with the complaints received by this Committee, the Committee intensified its oversight efforts of FADA.

On July 16, 1987, Chairman Fernand J. St Germain announced a "full-scale, top-to-bottom" investigation of FADA's operational practices and performance. The investigation focused on FADA's asset management and disposition activities as implemented through its asset management agreements with FSLIC receiverships and FADA's asset advisory and management agreements with institutions in FSLIC's management consignment program. Both agreements cover FADA's asset management and disposition duties, responsibilities, and authority. As Chairman St Germain said in his announcement, "It is absolutely essential that the Congress makes certain that this agency is properly structured and that it understands its mission."

FADA refuses to cooperate with the House Banking Committee's investigation

From the first moment Committee investigators stepped into FADA's "corporate" offices, they encountered unacceptable delays in obtaining information, less than truthful officials, and other tactics which this Committee believes were intended to impede the Committee's inquiry. Roslyn Payne obtained the services of the law firm of Akin, Gump, Strauss, Hauer and Feld and others to counsel FADA on "how best to deal with the Committee's inquiry." Two examples demonstrate the combative atmosphere Committee investigators encountered.

At the Committee investigators' first meeting with FADA officials on July 28, 1987, at FADA's San Francisco headquarters, the Committee set forth its policy for obtaining documents from FADA: Committee investigators would place requests in writing and FADA would expedite the requests, transmitting documents to the Committee when necessary. Almost immediately, however, FADA began negotiating with Committee investigators because FADA wanted requests to be reviewed by its attorneys before relinquishing information to the Committee. After several rounds of negotiations, FADA endorsed the following procedure: FADA's in-house attorneys would review all documents requested by the Committee, FADA would send such documents to the Bank Board for its review, and finally, the Bank Board would forward such documents to the Committee. As a result of this bureaucratic procedure, the Committee received its requests in a most untimely fashion, if at all.

Only after repeated phone calls were made by the Committee staff director to Bank Board officials, including Chairman Wall, did the Committee receive any of the documents. Almost no information was provided to the Committee until September 14, 1987, with additional shipments made through September 21, 1987. Certain key documents have not arrived as of this writing.

Following standard procedures, Committee investigators in July 1987 scheduled a series of interviews with FADA employees in the San Francisco office. FADA, operating on instructions from Ms. Payne, immediately sought to have all interviews monitored by a FADA attorney. Declining to abandon Committee procedures, staff investigators objected to the monitoring. After lengthy exchanges, it was not until September 16, 1987 that FADA finally agreed to unchaperoned interviews by the Committee.

During September 1987, the Committee negotiated with FADA and agreed that FADA attorneys would not sit in on interviews between FADA staff members and Committee investigators and that FADA would simultaneously provide the Bank Board and the Committee with copies of documents in an effort to expedite information requests. This arrangement worked well until Committee investigators requested updated information earlier this year with FADA officials in Dallas. The procedure for requesting documents from FADA has apparently changed, and, once again, at FADA's behest. FADA officials informed Committee investigators that if they wanted information from FADA field personnel or from headquarters, (1) they were to request such information from FADA headquarters, which would then obtain the information from its regional offices or headquarters office, (2) a copy of such information would be sent to the Bank Board for its review (3) the Bank Board, in turn, would forward a copy to Ms. Julie Gould, the senior vice president of FADA's Washington, D.C. office, and (4) upon Ms. Gould's review of the documents, copies of the requested documents would be delivered to the Committee. Under this new procedure the Committee experienced severe time delays.

The Committee continues to encounter changes in FADA's procedures regarding documents requested. Between January 5 and January 14, 1988, Committee investigators requested FADA's financial statements and information supporting its 1987 year-end asset sales and loan transactions (the latter constituting information outstanding to the Committee since March 1987). FADA consistently informed Committee investigators that the supporting documentation was not available, even though FADA released information to other Congressional members in a letter dated January 22, 1988.

As a result of the Committee's latest request, FADA has changed the procedure for handling document requests once again, only this time it is due to FADA's senior official's hesitation in providing information relating to its financial position or asset sales to this Committee. In addition to the previous procedure that stipulated that all requests must be placed at FADA headquarters, routed to the Bank Board, reviewed by FADA and the Board, forwarded to FADA's senior official in Washington, D.C., for review before being delivered to the Committee, FADA now requires that the Committee place all requests with FADA's Senior Vice President for Finance and Administration. As a result, FADA is prohibiting Committee investigators from contacting the appropriate office pertaining to the nature of the request, which, consequently, causes misunderstandings regarding the materials requested, not to mention lengthening the wait for the Committee.

Regarding the Committee's latest request, a FADA senior official informed Committee investigators that 70 percent of the request was "new" information which had not been previously requested by the Committee. However, the Committee requested these documents in writing on January 11, and January 12, 1988. Furthermore, a significant number of the documents were not provided until six to eight weeks after initially requested.

To the Committee's dismay, FSLIC joined FADA in its efforts to frustrate the investigation of FADA. FSLIC senior officials in Washington, D.C., instructed their receivership personnel to withhold any information from Committee investigators without first routing the Committee's request through FSLIC headquarters for senior officials' review and approval. Additionally, the Committee recently learned that the Bank Board ordered FSLIC to instruct its receivership personnel to:

"Do all within their ability to make FADA work"

"Discontinue documenting FADA's poor performance or problems with its structure

"Discontinue any negative discussions with Committee investigators regarding FADA and

"Inform Chairman Wall, in writing, through the Bank Board's Office of Congressional Relations, of any documentation requests made by the House Banking Committee."

Employees are pressured to withhold information from the committee

FSLIC employees are afraid of being and have been labeled "whistleblowers". This perception is founded in the directives they received from senior FSLIC officials. FSLIC employees have been told (1) do not talk with Committee staff, (2) do not criticize FADA verbally or in writing, and (3) be positive about FADA. Several specific examples follow.

Prior to scheduled meetings with the Banking Committee, the Regional Director and his employees in FSLIC's Southern Regional Office received a memo stating that after all conversations with Committee staff they must write a report detailing who they spoke with, the name of everyone that participated in the conversation, and what was said. The report was to be forwarded to FSLIC headquarters.

In the middle of an interview with a receivership employee, the employee received a phone call stating that her superiors knew she was in an interview with Committee staff and that she would have to report back everything that was said in the interview. Needless to say, the employee did not feel comfortable in continuing the interview.

After gathering numerous reports documenting their concerns regarding FADA and preparing this documentation for Committee review, FSLIC officials were not allowed to bring this documentation to the interview. They were told that anything prepared for the Committee would first have to be sent to the Bank Board which, ironically in many cases, sent the documentation back down to FADA for review, and analysis. Thus, FSLIC officials who prepared the documentation did not know whether the Committee received all of the information, and whether the information had been censored or revised.

While at a FSLIC event, employees told Committee investigators that they could not be seen talking to or even standing near us in fear that supervisors may be watching.

It is a sad story when an entity such as FADA, supposedly auxiliary in nature, can exert the type of influence and pressure over its governing body—FSLIC—to the point where dedicated employees must fear for their careers and the right to succeed on the merit of their performance.

CHAPTER XII—EFFORTS TO REFORM FADA

The Committee's inquiry into FADA's operations has revealed numerous areas of concern: the lack of real estate expertise; inept managerial leadership; ineffective asset management, marketing, and disposition; lack of internal policy, procedures, and guidelines; unresponsiveness to potential buyers; favoritism in selecting contractors; high overhead costs; lack of long-range planning; and inordinate delays in the sale of real estate.

In order to provide Congress the opportunity to evaluate these concerns as well as the overall economy and efficiency issues, the Subcommittee on Financial Institutions Supervision, Regulation and Insurance held a hearing on FADA on October 15, 1987. Bank Board Chairman Danny Wall was called to testify.

In their opening remarks, members of the Committee expressed concern over the performance, operations, and structure of FADA. Many members stated that they were not looking for Mr. Wall to present a quick fix. Instead, the members emphasized that they wanted an opportunity to discuss the Bank Board's present system for dealing with problem and failed thrifts and to address the problems being encountered by FADA.

A number of members stated that FADA, as currently structured, could not work and, thus called for FADA's abolishment. Congressman Steve Bartlett (R-Texas) stated, ". . . we need to decide whether FADA is fish or fowl, we need to move to either making it work or abolishing it, but nothing in between." Congressman Frank Annunzio (D-Illinois) went as far as to call for the resignation of Roslyn Payne, FADA's president and former chief executive officer. He stated that:

"Ms. Payne's management of FADA has been sorely lacking. She has not brought strong management to FADA. Ms. Payne may run but she can't hide from the facts. The facts make it clear that under her management FADA's operations have been a fiasco. Rather than increasing FSLIC liquidity, it has drained money from FSLIC. Rather than disposing of properties more efficiently than FSLIC it has done worse. Rather than streamlining the disposition process and cutting red tape, it has discouraged purchasers."

In addition to concerns expressed by members of the Committee in their opening statements, members also posed several fundamental questions to Mr. Wall such as:

Has the Bank Board established FADA under an appropriate framework?

Can the Bank Board's current system of managing and disposing of assets work with FADA? Are the FSLIC and the public generally well served by FADA performance?

If FADA is allowed to continue, what changes should be made to the organization and the Federal Home Loan Bank system?

If FADA is abolished, is there some other avenue the Bank Board can take to solve the needs of FSLIC?

Mr. Wall responded to the concerns and questions of Congressional members by asserting that he believes there is a need for a FADA. He also attempted to clarify the relationship between FADA and FSLIC by stating that FADA's objective is to assist FSLIC.

These statements were not sufficient to ease members' concerns, and intense questioning regarding FADA's performance ensued. When questioned if he were to give FADA a grade what might that grade be, Mr. Wall conceded that FADA's performance to date would rate a "D". He also acknowledged that the relationship between FADA and FSLIC needed to be improved and that FADA should be accountable to FSLIC and the Bank Board.

Chairman Wall outlines changes at FADA

To address the members' concerns, Mr. Wall outlined structural changes the Bank Board and FADA's board of directors had discussed on the night before the hearing and decided to implement in an effort to redirect FADA and put it back on track. The structural changes included:

Requiring Roslyn Payne to step aside as CEO although she would retain her title of president and her $250,000 annual salary. Instead, she would focus her efforts on real estate workout, her area of expertise.

Clearly and precisely establishing that the FADA and FSLIC relationship would be one of contractor and client, respectively.

Changing FADA's fee structure to eliminate questions regarding the incentive FADA may or may not have to sell or hold property.

Requiring regular meetings between FADA's board of directors and the Bank Board.

Reviewing the compensation schedule for FADA employees with any recommendations and changes implemented on January 1, 1988.

Requiring no further hiring for the foreseeable future so as to eliminate any question as to whether FADA is growing.

Developing clearer policy statements regarding FADA's responsibilities.

The Committee questions whether the Bank Board proposed changes in FADA only to diffuse negative criticism. To the Committee's knowledge, no substantive changes have been implemented. As of the writing of this report, Committee investigators have been informed of only one action taken by FADA at the request of the Bank Board, the removal of Roslyn Payne. Ms. Payne relinquished her title of CEO but continued to represent FADA and determine policy under her new title of President and Chief Operating Officer. Recently, the Committee was informed that FADA again changed Ms. Payne's personnel status by relieving her of all responsibilities. Until recently, Ms. Payne served as a consultant to FADA.

According to the Bank Board's Office of Congressional Relations as late as January 29, 1988, Committee investigators were informed that the other changes have not yet been considered. Even the one change that needed no additional direction, the immediate hiring freeze to guard against further questions about FADA's organizational growth, was ignored by FADA. As a result, FADA has continued to grow and, since Chairman Wall's announcement, FADA has hired 53 new employees. On February 4, 1988, before the House Banking Subcommittee on General Oversight, however, Chairman Wall testified that these hirings occurred under the previous administration, indicating that the new hires occurred prior to his announcement of the hiring freeze last Fall.

FADA's proposed asset management contract

The Committee understands that the Bank Board is considering the adoption of a new asset management contract between FADA and FSLIC's receiverships. FADA and its board of directors originally felt that the fee structure under the current contract was sufficient compensation for all aspects of asset management, marketing, and disposition with minimal asset maintenance costs passed on to the receivership. Unfortunately, FADA has lost $15 million in addition to directing the receiverships to incur $50 million in subcontractor expenses.

The Committee believes that FADA, its board of directors, and savings and loan representatives supporting the association used their leverage with the Bank Board to force FSLIC into a new contract which would ensure that FADA breaks even regardless of the costs.

Despite eighteen months of complaining about the current contract which allowed FADA to reap fees for any expenses it incurred, FSLIC and its receiverships' complaints may have fallen on deaf ears. Committee investigators believe the proposed contract is in FADA's favor. Although the Bank Board had denied the Committee access to the specific fee structure as presented in the contract, the Committee's investigators understand that FADA will be allowed to recoup all prior losses under the current contract and in the future be given whatever fees necessary to allow FADA to break even.

Under the specific terms of the proposed contract, FADA will receive 50 basis points on the total book value of managed assets instead of 75 basis points. Also, the contract provides that FADA, for the first time, will receive asset disposition fees, beginning at 1.25 percent the first year, 1.25 percent the second year, and remaining constant thereafter at one percent.

Even though the Committee does not know the impact of these new fee changes, investigators believe that on the surface such changes appear to financially place FADA in a better position than under the current contract and place FADA ahead of the contracts that FSLIC had negotiated with private-sector firms in the past.

Unfortunately, the proposed contract also allows FADA to receive substantial fees based on the technical support provided to FSLIC. The type of technical support includes such aspects as identifying, engaging, and monitoring appraisal work as well as reviewing appraisals for accuracy, and expanding the use of FADA's expertise in the area of participation assets.

FADA's fees will increase and the bottom line is that FSLIC will suffer even greater losses. For example, repricing the portfolio of the Vernon receivership under the terms of the proposed contracts will result in fees totalling $27.3 million more than the total amount using the current contract. (See Attachment 7.1) These figures are based on a detailed analysis performed by FSLIC officials who not only calculated the amounts using the basic asset management fee but also considered factors such as the discount rate, inflation rate, rent, utilities, and overhead costs.

FSLIC also performed an analysis factoring in the salaries and benefits for the 48 FADA employees assigned to Vernon although Dallas District Bank officials informed Committee investigators that FADA, when performing asset management services at Vernon prior to its second closure on November 20, 1987, had at least 88 employees. The analysis indicated that if the 48 FADA employees at Vernon, with their current salaries and benefits packages, were incorporated into the receiverships, instead of using FADA as an outside contractor, FSLIC could have saved $17.4 million for the same time period.

Clearly, this analysis indicates that FADA's fees will be exorbitant under the terms of the proposed contracts.

According to Chairman Wall's testimony on February 4, 1988, before the House Banking Committee's Subcommittee on Oversight and Investigations, the Bank Board supported the proposed contract. As such, the Bank Board places FSLIC's creditors, essentially, the taxpayers, in a position of subsidizing FADA's excessive expenses and its inadequate performance.

The Committee understands that Chairman Wall has made preliminary attempts to reform FADA. He has been briefed several times by FSLIC and receivership officials, FADA's San Francisco representatives, and FADA's board of directors regarding FADA's structure, operations, performance, and interaction with FSLIC. Chairman Wall has also commissioned numerous studies and investigations from outside consultants, FSLIC staff, and the Bank Board's Office of the Inspector General. Bank Board efforts to date, however, have not resulted in substantive changes in FADA's relationship to FSLIC or in its operations and performance. Unfortunately, as a result, FADA remains unscathed and its government affiliation remains unclear.

CHAPTER XIII—CONCLUSIONS

Based on the Committee's extensive investigation into the operational practices and performance of FADA, the results are conclusive. FADA as presently structured has not been, and in all likelihood could never be, a cost-effective solution facilitating the maximum recovery for FSLIC. Maintaining two separate bureaucracies—one under direct government control and the other outside of all prudent checks and balances—is inefficient, wasteful and insupportable. The Committee has found FADA to be an organization out of control, ignoring FSLIC and its own established policies and procedures. Rather than maximizing recoveries for FSLIC, FADA through 1987, has cost FSLIC millions of dollars in asset management fees, subcontractor costs and administrative expenses. Listed below is a summary of the findings identified through the Committe's investigation of FADA.

The Savings and Loan Industry Played a Major Role in the Development of FADA and Continues to be Influential in its Structure and Operations.

The Bank Board's decision not to support FSLIC's request to expand its resources set the stage for formation of the new entity.

FSLAC—the industry advisory council—moved into the vacuum with the proposal to form FADA. Key to the birth was FSLAC's insistence on a broad interpretation of Section 406 of the National Housing Act as the legal basis for creation of FADA.

It appears the Bank Board did little more than rubber stamp the industry's legal handiwork declaring FADA's birth legitimate.

The industry's influence became overwhelming in the selection of the members of FADA's board of directors. Nine of the eleven members of the board are drawn directly from the savings and loan industry. A tenth member—who became Chairman of FADA—was also Chairman of FSLAC and was from a large law firm long involved with the savings and loan industry.

FADA's Structure and Mission Are Unclear and It Appears That the Bank Board Did Not Establish Any Formal Guidelines Regarding FADA's Creation and Operations.

The Bank Board's and FSLIC's official statements, whether through omission or by intent, lack precision and clarity in defining FADA's mission and objectives and in establishing the parameters within which FADA was to operate.

Because of the Bank Board's unwillingness and FSLIC's inability to exert their authority, FADA succeeded in establishing an autonomous bureaucracy.

In spite of the numerous and serious concerns raised throughout FSLIC and the receiverships, the Bank Board seems committed to guaranteeing FADA's existence and expansion.

The Bank Board encouraged FADA to establish its role as an exclusive contractor for FSLIC by requiring the receiverships to rely solely on FADA's services, often against the judgment and counsel of senior FSLIC officials.

FADA's Asset Management Performance Has Been Uninspiring and in Some Cases Inept.

FADA business plans are of poor quality and are submitted in an untimely manner.

FSLIC receiverships had to assume FADA responsibilities and some duplication of effort occurred because of FADA's laxness in performing its management duties. This inefficient use of resources resulted in the dissipation of receivership funds.

FADA has neglected to protect and maintain properties which resulted in financial losses and potential liability claims against FSLIC receiverships. The receiverships also incurred excessive insurance premiums and taxes to protect assets in which they had no equity.

FADA lacked the technical knowledge necessary for understanding participation loans and the interpersonal skills necessary to negotiate with participants.

Since Its Inception, FADA Has Placed Little or No Emphasis on the Development of a Quality Marketing Program.

FADA eliminated the position of Vice President for Marketing.

FADA's program hinges on an inadequate marketing brochure and a nonstandardized marketing policy among its regional offices.

Several marketing recommendations have been suggested by FSLIC officials but FADA was unresponsive. It was not until January 1988 that FADA produced a document outlining new developments in its marketing program which contained the same FSLIC suggestions FADA was so reluctant to implement earlier.

Many potential buyers have become extremely frustrated with FADA's marketing brochures and/or policies and have chosen to discount FADA as a realistic alternative for purchasing assets.

FADA's Disposition Function Has Proven Extremely Costly and Time-Consuming and Has Not Accomplished the Goal of Maximizing the Return to FSLIC's Deposit Insurance Fund.

FADA's disposition philosophy conflicts with that of the FSLIC. FADA's objective is to place assets in a holding pattern while it negotiates with troubled borrowers in an attempt to restructure the loans. According to FSLIC officials, restructured debt is the worst option available. FADA's position is understandable, since no matter how long negotiations last or whatever the outcome, FADA still collects its asset management fees.

FADA submits recommendations that are inaccurate, in conflict with previous FADA recommendations made on the same asset, and inconsistent with FSLIC's goal to maximize net proceeds. Problems With FADA's Asset Disposition Activities are Evidenced in FADA's Lackluster Disposition Results.

Of the $583 million in completed transactions (representing only 10 percent of FADA's total portfolio of $5.3 billion), only $120 million are assets which were sold from liquidating receiverships.

Over half of the total property sales of $120 million represented one deal in which FADA became involved at the end of the negotiations when the buyer was already involved in acquiring the asset.

FADA has not lived up to its own sales expectations. As of September 30, 1987, FADA reported $1.2 billion in sales and loan workouts under contract or active negotiation. However, by year-end 1987, only $114 million or 9 percent, had been completed.

FADA takes full credit for all loan sales and loan payoffs, even though it did not initiate or make a significant contribution on all of the transactions.

FADA claims $275 million in successful loan restructures although several borrowers have again defaulted on their loans.

Out of Control Spending Has Resulted in FADA's Near Insolvency.

FADA has lost $15 million since inception and continues to lose $1 million a month primarily due to its excessive administrative expenses.

Since its inception, salary expenses have totalled over $22 million and under its current structure, salaries for the 32 senior executive positions alone during 1988 may account for over $3 million.

Since its inception, FADA's occupany expenses have totalled $2.2 million. FADA does not maintain office space in buildings owned by FSLIC receiverships. Rather, FADA leases office space in high-rent districts.

FADA's internal accounting controls are inadequate. For example, Ms. Payne submitted duplicate vouchers for the same trip on at least two occasions, resulting in an overpayment of $800. In addition, FADA reimbursed Mr. Robert Axley, former FADA General Counsel, over $1,200 for San Francisco hotel charges, even though he was assigned to the San Francisco administrative office.

FSLIC Receiverships and Private-Sector Firms Can Effectively Perform FADA's Current Asset Management Function at a Significant Savings to FSLIC.

An analysis of nine selected receiverships indicates that if FADA's services were terminated for 1988 alone, FSLIC could perform the work, using subcontractors when necessary, at a savings of at least $10 million.

Compared to the private-sector firms reviewed, FADA appears to be charging more in asset management fees and yet, it disposes of fewer assets.

FADA's extensive use of third-party contractors results in FSLIC receiverships assuming increased costs, increased responsibility for oversight of FADA's subcontractors' work, and less efficient services.

FADA's Performance at Vernon Federal Savings Association, an Institution Under the Management Consignment Program, Leaves Much to be Desired.

FADA's asset management contract was extremely costly.

FADA submitted poor quality and untimely business plans.

FADA's lack of cooperation and communication resulted in bureaucratic stagnation.

FADA refused to accept its fiduciary responsibilities, thus subjecting FSLIC receiverships to unnecessary legal liability.

FADA's Perception of Itself as a "Private Sector" Entity Fostered the Creation of a Separate Bureaucracy, exempt from Government Conflict of Interest Standards and Unresponsive to FSLIC.

FADA believes that it is a separate and private corporation subject only to the direction of its thrift industry-controlled board of directors.

FADA's desire to relieve itself of all accoutability to FSLIC and to operate as an independent entity, has resulted in FADA creating a separate bureaucratic structure with its own asset management policies and procedures.

FADA employee maintain active interests in real estate investment and development firms and ties to the savings and loan industry which are inappropriate. Government employees are prohibited from having such conflicts.

FADA has failed to communicate and cooperate with FSLIC receivership officials in the day-to-day management of assets.

The Bank Board and FADA Have Been Less Than Fully Cooperative With the Committee's Inquiry into FADA's Operations and Performance.

FADA balks at being subject to government policies which would subject its operations to Congressional and public scrutiny.

FSLIC and FADA employees were pressured to withhold information from the Committee.

Efforts To Reform FADA Have Been Superficial.

The Bank Board continues to delay addressing the basic concerns regarding the FSLIC/FADA relationship by directing endless investigations, studies and cosmetic changes.

Chairman Wall appeared before the Committee in October 1987 and outlined seven structural changes for FADA. To date, no substantive changes have been implemented.

FADA's proposed contract guarantees that all of its operating costs will be reimbursed, resulting in further losses for FSLIC and the creditors of failed institutions. FADA's services will be even more costly under the proposed new contract. For example, repricing the portfolio of Vernon Savings and Loan under the terms of the proposed contract will result in $16.9 million more in fees than using the current contract.

Overall, the findings of the staff inquiry draw a picture of an agency tied closely to the savings and loan industry, with limited vision of its public responsibilities, an even more limited performance, predilection for bloated bureaucracies combined with a penchant for secrecy. FADA is an agency that fails to meet even minimal standards for a Government agency carrying out essential public responsibilities.

ATTACHMENT 1.1

FEDERAL ASSET DISPOSITION ASSOCIATION—MEETING OF THE BOARD OF DIRECTORS, JANUARY 17, 1986

MINUTES

Meeting: A meeting of the Board of Directors of the Federal Asset Disposition Association ("FADA" or "Association" was convened in the Board Room of the Chicago Airport Westin Hotel, Chicago, Illinois at 8:10 a.m. on January 17, 1986.

Attendance by Directors: The following Directors were present: W.F. McKenna, Chairman; E.R. Biron; G.J. Levy; W.W. McAllister, III; G.E. Rice; D.B. Shackleford; J.B. Zellars; A. Vigna, ex-officio Dir.; L.B. Blaber, Jr., ex officio Dir.

Attendance by others; The following persons were present:

J.M. Buckley, Acting Secretary

Dirk Adams, Acting Counsel.

The following persons were present for relevant portions of the meeting:

Noel Fahey, U.S. League of Savings Institutions ("U.S. League").

Dennis Jacobi, U.S. League of Savings Institutions.

Ronald Walker, Korn-Ferry International.

Roger Stoy, Korn-Ferry International.

General session: The meeting was called to order at 8:10 a.m., CST.

Search Committee report: The first order of business was a report by Mr. McAllister, the Chairman of the Search Committee. Mr. McAllister reported that Korn-Ferry International, the recruiting firm, reviewed over 150 possible candidates, from which the top nine were selected. Those nine candidates were interviewed by the Search Committee and from that number, the three most qualified were selected for the full board of directors to consider. The three candidates chosen were: Phillip D. Winn, William Everett Kane, and Roslyn Braeman Payne. Mr. McAllister noted that Mr. Cashin, who was a member of the Search Committee, voluntarily did not participate in Mrs. Payne's interview by the Search Committee because her husband is a business partner of Mr. Cashin.

Board review candidates: The Board of Directors then proceeded to interview on an individual basis each of the candidates. After the interviews were completed, a lengthy discussion ensued regarding the candidates. Upon completion of the discussion, the following resolution was duly moved, seconded and unanimously adopted (with Mr. Cashin abstaining):

"Resolved, after due deliberation, the Board of Directors unanimously elect Roslyn Braeman Payne, subject to Federal Home Loan Bank Board approval, to be President and Chief Executive Officer of the Federal Asset Disposition Association."

Compensation: A discussion then ensued concerning the compensation of the Chief Executive Officer. Assuming the Federal Home Loan Bank Board concurs with the F.A.D.A. Board selection for Chief Executive Officer, it was agreed that the Search Committee be authorized to negotiate a final compensation agreement.

Consequently, the following resolution was duly made, seconded and unanimously adopted:

"Resolved, that the Search Committee is authorized to negotiate a compensation agreement with Roslyn Braeman Payne, on condition that the base salary is not to exceed $250,000 per annum, with a possible additional bonus based on performance not to exceed $150,000. Be it further resolved that the Search Committee is also authorized to negotiate as part of the compensation agreement, a separation agreement."

Mr. Biron and the members of the board then thanked Mr. McAllister and his committee for the outstanding job they did in bringing to the Board three candidates with exceptional qualifications.

Business plan: Mr. Biron who was appointed at the previous Board meeting to head up a special executive committee to develop a business plan, noted that a revised draft of a plan had been prepared based upon the guidance received previously from the Board of Directors. He noted that in preparing the plan, FADA had received assistance from several sources including Dennis Jacobi and Noel Fahey from the U.S. League, Joe Humphrey of the Federal Home Loan Bank of San Francisco, FSLIC staff members, and others.

ATTACHMENT 1.2

SEPTEMBER 30, 1987.

Hon. M. DANNY WALL,
Chairman, Federal Home Loan Bank Board, Washington, DC.

DEAR CHAIRMAN WALL: —— and I very much enjoyed our discussions in your office on ——. Our company has a strong commitment to assisting the savings industry in the resolution of its extensive real estate related problems by providing to the FSLIC and individual savings institutions, evaluation, asset management, and disposition services with regard to troubled loans and real estate. —— provide real estate asset management and disposition services to —— asset management services to troubled institutions, we have been intimately aware of the evolution of this complex and growing problem.

—— was a strong supporter of the creation of FADA. —— Deputy Director of the FSLIC, originated the recommendation that ultimately became FADA. —— was a member of the Bank Board at the time that FADA was authorized and led the Board's task force in its organization. Personally, I have consistently and publicly maintained my support for FADA and the efforts of Roslyn Payne. Recently, however, I have become increasingly concerned that FADA, in practice, is not following its intended business plan and will continue to be largely ineffective in achieving its goals unless its approach is modified.

As you invited us to do, let me review and expand upon some of the key areas of concern that we discussed at our meeting.

FADA SHOULD NOT BE VIEWED AS AN ALTERNATIVE TO PRIVATE SECTOR RESOURCES, BUT AS A WAY TO LEVERAGE THOSE RESOURCES

FADA was originally conceived as a master contractor/advisor to the FSLIC, composed of a highly skilled senior staff capable of effectively contracting with, managing, and supervising the resources available in the private sector. FADA was not intended to become a new massive quasi-governmental bureaucracy with hundreds of in-house employees attempting, by themselves, to manage the real estate problems of the industry.

In its letter to potential subcontractors dated August 20, 1987, FADA made clear that its "intention is to minimize subcontracting assistance while the asset is in a loan status." Moreover, FADA also emphasized that it views its potential subcontracting needs narrowly (i.e., primarily for REO and "certain components of the asset management process such as market analysis, on-site property management, leasing, etc."). The services and expertise of full-service asset management and capital recovery firms apparently are viewed as unnecessary.

I believe that FADA's approach in this regard is shortsighted. The vast majority of the industry's asset problems are currently in loan status, with estimates ranging in the tens of billions of dollars. For FADA even to begin to handle these problems effectively, it will need an ever-growing staff of extraordinary proportions. On the other hand, if FADA supervised the management and workout of these portofolios by private contractors with appropriate expertise, it would be able to keep the bureaucratic inefficiencies to a minimum, while gaining the benefit of free market competitive pricing.

FADA has already experienced an extremely rapid growth over the past year as a result of its attempts to manage much of the workout process itself. Such a rapid build-up of personnel would, even in the best of circumstances, lead to growing pains, disorganization, and other problems. There are simply not infinite numbers of experienced workout people in this country. Thus, it is extremely difficult to hire this many highly qualified personnel in so short a period of time without sacrificing quality. As a result, FADA has had to hire many people who do not have extensive workout experience and skills. Moreover, rather than utilize resources available in the private sector, FADA has been competing directly with private firms for asset management business, and even for consulting business. The success of FADA is dependent on the existence and health of private workout firms. FADA should not be using its leverage to compete directly with these firms for work.

FADA'S METHOD OF SELECTING CONTRACTORS

Despite the great fanfare attached to the development of a comprehensive, computerized, contractor questionnaire, FADA does not seem to use this data base of contractors effectively for the actual selection of firms. The —— is one of the nation's largest and most experienced workout firms; however, we have yet to receive from FADA a single request for a proposal for work as a result of the questionnaire. In fact, in conversations with FADA staff, we have been advised that if we hoped to get work from FADA, we should make a point of repeatedly and personally soliciting FADA employees for work "as many other firms do."

There has been no effort by FADA to publish Request for Proposals on work available or to establish the criteria for qualifying for such work. Rather, by selecting firms from those that are actively soliciting business, FADA is subjecting itself to a self-defeating process whereby the more experienced and qualified firms (those that are busiest) are the ones which will not be receiving the work.

There also seems to be a considerable amount of favoritism as a result of the decentralized decision making process in the selection of work. Again, FADA staff has made it clear to several of our employees that it was necessary to develop friendships with the individual asset managers doling out the work.

Another problem with FADA's selection of subcontractors stems from its strategy of attempting to assign work exclusively based upon narrow specializations both geographically and by product type (e.g. apartments in Texas, hotels in Colorado). This approach, which seems to be a well-meaning distortion of the adage that "real estate is a local matter," creates several problems. First, many of FADA's assets are receivership assets which need to be administered as receiverships. By dividing or commingling these assets with other receivership assets, FADA is building in a necessary bureaucratic structure for itself.

Second, while real estate is a local matter, workout skills to deal with complex problem assets do not exist in many localities. FADA's approach ignores the reality that dealing with troubled assets is different than dealing with routine "healthy" real estate. Moreover, many of the problem assets are in localities in which the local real estate "experts" are precisely the ones that were involved in the creation of the problems.

There is no question that certain basic tasks of real estate (e.g. on-site property management, and other "local" oriented tasks) should be handled by local firms. However, the basic workout analysis, management, and strategy should be handled by experts, wherever they happen to be located.

FADA'S "PENNYWISE/POUNDFOOLISH" APPROACH

FADA places great emphasis on its ability to obtain a low absolute short-term cost for its subcontracting services. Workout services, however, are not fungible commodities. Particularly when dealing with millions of dollars worth of problem assets, small mistakes or errors of judgment based upon inexperience or lack of care and analysis can result in literally millions of dollars worth of lost recovery. The actual cost of workout services must take into consideration such qualitative factors.

FADA'S APPROACH IN SEPARATING THE BUSINESS PLAN PROCESS FROM ITS IMPLEMENTATION

FADA has repeatedly emphasized that it will not use the same firm to do a business plan and to implement that plan. Such an approach reflects a naivete about the nature of services involved in the successful workout of real estate assets. Several problems will result from this approach, including problems of unaccountability (i.e. did the implementation fail because of the business plan or the implementation? Fingers will be pointed both ways), inefficiency (a new party hired to do the implementation will have to go through a second learning curve), and added bureaucracy (FADA has to contract for, and supervise, two separate firms rather than one).

LACK OF PERFORMANCE CRITERIA AND ACCOUNTABILITY

Although the performance of an asset management firm is admittedly difficult to measure objectively, it is critically important for a client to attempt to establish criteria for measuring the manager's performance. As best I can tell, however, there have been no established criteria for measuring FADA's performance. In particular, there appears to be no attempt to take into consideration the holding costs for assets and the time value of money. As a result, millions of dollars may be lost for the FSLIC because assets are being held to achieve higher later values which actually represent a lower net present value recovery.

FEE STRUCTURE

Although I am not privy to the details of FADA's fee structure, it is my impression that the cost to the FSLIC of FADA's services has been far greater than the cost would be through the use of private firms. In theory, FADA's ability to pass through subcontractor fees seemed to have been designed to give it an incentive to sub-contract as much work as possible, with the understanding that any excess fees would inure to the benefit of the FSLIC. In practice, however, any "profit" earned by FADA will not be returned to the FSLIC, but simply will go into building a greater infra-structure for FADA.

Finally, FADA staff has admitted to us an inherent bias against the selection of firms that have previously done substantial work for the FSLIC. According to FADA staff, "FADA was set up to do things 'better' than the FSLIC and it would be difficult for us to explain the use of the same contractors which FSLIC has used." In this way, FADA has ruled out several experienced and talented firms solely for political reasons.

I still believe that FADA can be an effective tool for the FSLIC in several key areas. In that light, I would like to make the following suggestions:

1. FADA's role should be defined as exclusively supervisory. FADA's goals, responsibilities, and reporting should be clearly defined to support the FSLIC's needs and objectives. FADA should not directly engage in the management of assets, the development of business plans for specific assets, the negotiation of individual workouts, or the disposition of individual assets. FADA should be responsible for supervising pri-

vate contractors and for developing global disposition strategy for troubled assets. FADA should give direction to evaluate the performance of the contractors. It should not attempt to do work that could otherwise be done effectively and competitively by private contractors.

2. Contractor selection procedures.

(a) FADA should announce clear guidelines for the selection of contractors which should be followed in all but exceptional cases. These procedures should include written Request for Proposals sent to all qualified firms. The contractor questionnaires should be used and updated frequently for this purpose. The selection of a contractor should be based upon predetermined criteria which are as objective as possible. Contractors should not be selected solely on the basis of price or their ability to "lobby" local FADA officials. Rather, qualitative factors should be given strong consideration. Contracting personnel should be required to justify in writing the selection of all contractors. Favoritism should not be tolerated.

(b) FADA should adopt a portfolio approach to asset management where possible. Contractors should be required to demonstrate specific expertise to handle assigned assets. A contractor which can demonstrate in-house expertise over a broad range of assets should be preferred to a contractor which only has limited, narrow expertise. The reason for this is the savings in administrative overhead and supervision by FADA personnel.

(c) Contractors should be required to demonstrate experience and expertise in dealing with troubled real estate assets. Experience with *troubled* real estate, rather than general real estate skills, should be given strong consideration.

3. Specific, detailed performance criteria should be established for FADA and should be reviewed on a regular basis. In particular, the cost of holding assets should be taken into consideration quantitatively in evaluating FADA's performance. FADA should not be encouraged to speculate on the turn around in local economies without well-defined market research justifying such a recovery, and then only for a reasonable period of time.

I hope the above will be helpful to you in confronting the task ahead. With new leadership and perspective you have brought to the Federal Home Loan Bank Board and the FSLIC, we are confident that the Board will clarify FADA's role regarding the use of private contractors in a manner which will allow us all to work more effectively. Please let me know if the * * * can be of further assistance to you in this process.

Very truly yours,

—— ——.

ATTACHMENT 1.3

FEDERAL ASSET DISPOSITION ASSOCIATION—MEETING OF THE BOARD OF DIRECTORS, AUGUST 6, 1986

MINUTES

Meeting: A meeting of the Board of Directors of the Federal Asset Disposition Association ("FADA" or the "Association") was convened at the Marriott Hotel (D/FW), Dallas, Texas at 8:00 a.m., CDST, on August 6, 1986.

Attendance by Directors: The following Directors were present: W.F. McKenna, Chairman; Edwin R. Biron; Emmet J. Cashin, Jr.; Gerald J. Levy; Roslyn B. Payne, ex-officio; John B. Zellars; B.R. Beeksma; Leo Blaber, ex-officio; Thurman C. Connell, ex-officio; W.W. McAllister, III; Gene E. Rice; Donald B. Shackelford.

(Mr. Connell replaced Mr. Angelo Vigna as an ex-officio Director in the position reserved for the Director or Acting Director of the FSLIC.)

Attendance by others: The following other person was present: Robert J. Axley, Senior Vice President-General Counsel & Secretary, FADA.

General session: The Chairman called the meeting to order at 8:00 a.m., CDST.

Approval of prior meeting minutes: Upon motion duly made and seconded, the minutes of the meeting of the Board of Directors of the Association of May 1, 1986 were unanimously approved.

President's report: Roslyn Payne reported to the Board on the status of the FADA contract with the FSLIC as receiver for Sun Savings and Loan Association, San Diego, California. In addition, Ms. Payne reported on the status of contracts between FADA and, respectively, Sunrise Savings and Loan Association, Boynton Beach, Florida, Presidio Savings and Loan Association, Porterville, California, and FSB, Inc. (a wholly owned subsidiary of Farmers Savings Bank, Davis, California). All three of the later contracts are with association participating in the Management Consignment Program of the Federal Home Loan Bank Board ("FHLBB").

In addition, Ms. Payne reported that FADA had become involved at the request of the FSLIC in several short term projects involving specific advice on particular real estate asset matters. In addition, FADA had become involved at the request of the Chairman of the FHLBB in the due diligence process prior to the failure of an institution. Mr. Connell stated that the Chairman wanted FADA involved to save money for the FSLIC and to make the selection of outside contractors more efficient. In addition, Mr. Connell stated that having FADA involved in the due diligence process is a valuable double check agianst the conclusions reached by the FSLIC.

In response to questions raised by several members of the Board, Mr. Connell described the process by which assets of a failed institution are segregated between the "good bank" and the "bad bank". Once assets are assigned to the good bank, it becomes very difficult to reassign them to the bad bank. In some cases, it has required the involvement of the FSLIC in its corporate capacity to effect such a transfer. Mr. Connell stated that FADA would be very valuable in the future in assisting the FSLIC in making that asset segregation.

Frequency of board meetings: The Chairman led a broad and detailed discussion of the advantages and disadvantages of Board meetings being held on a monthly, bimonthly or quarterly basis; and the advantages and disadvantages of the various committees of the Board being very active and very involved in the business of the Association.

Ms. Payne reported that she had found all members of the Board to be most cooperative and to have provided her with complete access to them. She cited several examples of Board members being actively involved in assisting the Association in finding and screening key personnel (using recent examples of assistance provided by Mr. Beeksma and Mr. Zellars). She also stated that she appreciated the active involvement of the Board in assisting in the negotiation and resolution of issues involved in the form asset management agreement.

The Chairman suggested that because of the crisis situation currently existing in the savings and loan industry, and the magnitude of the task facing the Association, it would be prudent to conduct board meetings every two months. After a general discussion by the Board, it was suggested by Mr. Shackelford that the Association adopt a policy of board meetings being conducted on a quarterly basis and that for the first year of operations there would be two additional "special meetings" conducted to address the additional issues during the start-up period of the Association. The Chairman announced that the next regularly scheduled quarterly meeting of the Board of Directors of the Association would be conducted in the offices of the Association beginning at 3:00 p.m. on November 7, 1986 and continuing on November 8, 1986. In addition to that regularly scheduled quarterly meeting, it was the consensus of the Board that a special meeting was needed to discuss operational issues, which special meeting was set for October 6th and 7th, 1986, to be conducted in Chicago.

Coordination with FSLIC: Mr. Beeksma inquired as to the current level of cooperation being given FADA by the staff of the FSLIC. In response, Ms. Payne stated that the level of cooperation was generally outstanding as it related to the FSLIC regional offices, and that the level of cooperation with the FSLIC staff in Washington was excellent with few exceptions. She stated that there had been some past problems with certain personnel in the Operations and Liquidations division, but that Mr. Connell had been most helpful in assisting in the resolution of those problems and she was cautiously optimistic that there would be a minimum of problems in the future. Mr. Connell stated that the staff had approached the relationship with FADA on the basis that the FSLIC has with all other contractors in the system and that it had taken the Chairman to correct that incorrect approach. Mr. Connell stated that he was optimistic that since the Chairman had made it clear how he wished FADA to be utilized, the problems with the staff would be minimized. Ms. Payne stated that the problems with the staff had been the reason the form asset management agreement with FSLIC had taken in excess of 90 days to negotiate rather than the original estimate of 60 days. She stated that while there may still be problems at the staff level, she was prepared to work with those problems for the time being and see if they could be resolved without the involvement of the FADA Board. The Chairman stated that the impasse in obtaining an asset management agreement in a form acceptable to FADA had to be effectively broken. He stated that once the problem was described to the Chairman, chief of staff, and Mr. Connell as Acting Director of FSLIC, each of them had given FADA consistent and effective support.

Since the asset management contracts had been completed, it was important that FADA rapidly act on the many problem assets of the FSLIC.

FADA membership in Federal Home Loan Bank of Topeka: Mr. Axley reported to the Board that the membership documents of the FADA in the Federal Home Loan Bank of Topeka had been completed and that the fifty million dollar ($50,000,000) line of credit for the Association had been established and guaranteed by the FSLIC. In response to questions raised by Mr. Rice, Mr. Biron stated that the Investments and Operations Committee was studying the uses to be made of the Association's twenty-five million dollar ($25,000,000) in capital as compared to the uses to be made of the $50,000,000 line of credit. Generally, it was the Investment and Operations Committee's thought that the capital of the Association needed to be preserved for balance sheet integrity and the $50,000,000 line of credit was available to pay contractors costs which would be reimbursed by the receivers.

ATTACHMENT 2.1

MEMORANDUM

To: ——.
From: ——.
Date: March 3, 1987.
Subject: FADA Performance Issues.

I am greatly concerned about FADA performance concerning reporting requirements for financial information and management analysis necessary to support the Bank Board and FSLIC senior management. When informed of FSLIC informational needs and approval procedures, FADA has refused to comply, stating they do not need to conform to our control systems. In addition their managers are not conforming to our policies and procedures for business plans and asset valuation. As you are aware, we felt it mandatory that a consistent methodology be implemented for asset valuation and disposal strategies to establish performance yardsticks for all asset managers, in addition to creating an ability to provide, compare and analyze asset related information for legal, fiduciary and Congressional issues.

Many of the Regional Directors have expressed concern to me that the business plans due from FADA are severely delinquent, not in compliance with Circular 86-1, policies and procedures for asset valuation, or of such poor quality as to be unusable. The Regional Directors have sent samples of those plans to me for my review, and I have also found them to be unacceptable. There have been numerous instances of non-compliance with 86-1, a lack of supporting detail for the recommended strategy, a lack of support for alternative disposition strategies, and many instances of inconsistencies between the detail of the plan and the summary information. In addition, critical management information is often missing from the plan, although readily available in the asset file provided to FADA.

I also have a concern that FADA, although they are purported to be industry experts in asset management, are not doing the work themselves. Instead, they have hired many layers of subcontractors to perform the management of the asset (e.g. property managers, asset managers, marketing managers etc.) If the only help we needed was from contractors, I submit that it could have been done more cost effectively if we had hired the contractors and performed the oversight ourselves. At the present time, it is costing several receiverships $400-500k per month EACH, for FADA fees, and they have seen no plans. That is a significant amount of money to pay when the work product is not forthcoming. In Sunrise, I gave an NRV seminar to FADA subcontractors at FADA's request. There were approximately 70-100 subcontractors present who had been hired to prepare FINAL business plans for submission to Millard Hall in ten days, but these same contractors had not even been provided the names of the assets they were to manage, much less the files on those assets. I seriously question the quality of business plans that will be created in 10 days with little or no information at the start of that short time period.

My recommendation is that FADA be given time and training to get their arms around the assets they are already managing prior to assigning them any more of our portfolio. In this way, we can be assured of the control and compliance necessary to perform our fiduciary responsibilities, while providing management information to the Board. The FSLIC/OLD personnel involved with business plans and asset valuation stand ready to assist FADA personnel in the steep learning curve they are experiencing.

ATTACHMENT 2.2

FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION, AS RECEIVER FOR SUNRISE SAVINGS AND LOAN ASSOCIATION,

DECEMBER 22, 1986.

Memorandum To: ——.
From: ——.
Subject: Federal Asset Disposition Association Evaluation of Services.

As requested, this memorandum is provided in an effort to summarize the FADA's performance to date and to address problem areas which have been experienced. I would like to preface this memorandum by bringing to your attention the actions the Receiver has taken to assist the FADA in performing their duties. Specifically, the FADA was permitted to offer employment to all loan officers of the association without any competitive offers from the Receiver. As a result, the Receiver employs no loan officers of the former association as these individuals are the primary staff of the local FADA office. Additionally, we have provided FADA office space in Houston, furniture for their Florida office, installed a Kodak copier at their request and provided two employees full time to market real estate which they are assigned. Further, the Receiver agreed to a deviation from the Asset Management Agreement by performing property management services on FADA assets for a 120 day period since they were not equipped or staffed to perform this duty as called for in the agreement. They have already requested an extension of this period on some assets and we anticipate other requests; to which the Receiver will have no alternative but to agree or sustain significant financial loss. In summation, the Receiver has assisted the FADA as much as possible in the performance of their duties since their performance has a direct impact on the recovery of the Receivership, and ultimately the insurance fund.

In spite of our efforts, however; the FADA's performance has been less than satisfactory. Our dissatisfaction stems primarily from the lack of management of the assets which they are being paid to manage and the resultant use of the Receiver's resources to take action once the FADA has failed to do so; and secondarily from their failure to provide adequate facts to support their recommendations once they are made. Additional problems exist with FADA's management of the assets and will be discussed after the following summaries of some specific assets assigned to the FADA.

I previously indicated that problems exist with the substance of FADA's recommendations. Often there is insufficient information provided to properly analyze the recommendation and, therefore; to approve the requested action. Attached is a copy of a December 1, 1986 letter (received December 19, 1986) from Faye Haack requesting authority to foreclose on several assets. The following observations are offered:

The value of some properties is unknown.

No bid amount is recommended.

Whether there is any equity in the second mortgages is unknown.

Whether funds will have to be advanced at the sale is unknown.

The failure to consider the answers to these questions prior to recommending foreclosure would suggest that problems with the most basic of fundamentals exists.

The foregoing incidents are considered representative of the FADA's asset management efforts to date. Since a review of each of the assets the FADA is managing is neither feasible nor appropriate within this memo, I will address other aspects of the relationship.

BUSINESS PLANS

One asset was assigned to the FADA on September 12, 1986 and the majority of the assets assigned effective October 15, 1986. According to the terms of the Asset Management Agreement, preliminary business plans are to be submitted to the Receiver within 30 days of assignment with business plans to be provided within 90 days. As of this writing, no business plans have been received—preliminary or otherwise. I will acknowledge that this provision of the Agreement may be unrealistic, however; the Receiver has submitted and had approved approximately 80 preliminary business plans and 2 business plans. It should be noted that the receiver's responsibilities extend far beyond merely managing a portfolio of assets, while that is the FADA's sole function.

INSURANCE

As you are aware, we have been successful in obtaining a blanket peril policy on the assets of the Receivership which will result in both monetary savings and better coverage than previously existed. The FADA was involved from the outset in the discussions of the coverage and the negotiations with the agent of record—Corron & Black. However, at the last minute (as detailed in a previous memorandum) the FADA would not concur in the binding of the coverage. Since the Receiver would be paying the premium and any losses sustained would only impact the Receiver, coverage was bound without FADA's endorsement. Failure to bind coverage by the deadline would have resulted in significant financial loss to the Receivership which was not warranted due to FADA's indecision. The new coverage entails providing information to the carriers on the assets they are insuring. This is accomplished by the completion of information sheets on each asset covered and the assimilation of a consolidated report therefrom. The Receiver assumed the responsibility of preparing the report on both FADA and Receiver assets, however; difficulty has been encountered as a result of FADA's failure to properly complete the information sheets. As a result, we are now correcting the information sheets on the assets assigned to FADA to ensure continued coverage.

TAXES

The Receiver has been paying taxes on FADA assets and will continue to do so until they have assumed their property management responsibilities. Whether this is a function of "property management" or not is questionable, however; the problem experienced in this area was whether or not the taxes should be paid. Initially, the FADA did not want to pay property taxes during the discount period. Only after explaining the financial prudence of paying the taxes during this period would they agree on same.

FILES

FADA employees visit our offices regularly to review files which have already been copied for the FADA. This does not present a problem, however; it should be noted that the local FADA employees review our files since the files the FADA had constructed were sent to Atlanta and the local asset managers have little to work from other than memory.

FEES AND EXPENSES

Naturally, the FADA has promptly billed the Receiver for the management fees called for in the Asset Management Agreement, whether services called for in the Agreement have been rendered or not. Ignoring the obvious problems I have with paying someone else for work which we are performing, the FADA has submitted bills which are not adequately supported and do not contain sufficient information for us to determine what we were paying for. The initial management fee bill submitted by the FADA did not contain loan numbers or asset names by which we could identify what was being paid for. Only after additional information was requested could we identify what fees were being charged.

CONTRACTING WITH THIRD PARTIES

Attached is a copy of a December 19, 1986 memorandum from the FADA Houston Office in which they indicate they have selected management companies for various properties and they will be needing files. Although the FADA has had the opportunity to construct all files necessary for the past three months, they are now directing Receiver employees to supervise the file construction. As stated in the memo, they are having the third party contractors they employ contact the Receiver directly to provide them information on the properties. This is not the first such occurance. If the Receiver is to deal directly with the contractors, why do we need the FADA? Certainly not because of the vast manpower they have available or the wealth of experience they offer. The FADA is being paid to manage assets on a cost-plus basis and is merely contracting out the function for which the Receiver bears the cost and the FADA lives on the plus. The original concept of the FADA was a good one, however; reality bears little resemblance to the original idea.

Although additional topics could be addressed and additional examples cited, I do not think they are necessary to ensure that a clear picture of the relationship between the Sunrise Receivership and the FADA is presented. I would like to point out that the FADA has been very cooperative from the beginning and that I feel they are putting forth their best effort. Unfortunately, these efforts leave a lot to be desired. We will continue working with the FADA to ensure that the Receivership's best interests are protected.

Should you require any thing further, please advise.

ATTACHMENT 2.3

FEDERAL SAVINGS & LOAN INSURANCE CORPORATION, RECEIVER FOR FIRSTSOUTH F.A.

MEMORANDUM

To: ——

From: ——

Date: October 1, 1987.

Subejct: FADA contract/FirstSouth.

The FirstSouth contract with FADA was executed December 6, 1986, for a term of one year. Article XII provides for termination upon 45 days written notice for any reason. (12.1 (a) pg. 23). My reasons for suggesting termination are the following:

A. Operating statements from third party property managers of FADA assigned assets are not being furnished.

B. Taxes are not being timely paid. Penalties to date are $192,822. (See attached Exhibit 1 & 2)

C. Appraisal costs are excessive. (See attached Exhibit 3)

D. We are being charged for July alone over $235,000 for asset management and consulting fees (over and and above the FADA management fee). Upon investigation, it turns out that these charges are not really for asset management or consulting, but are for due diligence (file reviews) performed by subcontractors. For example, if there are three loans on one project, we are billed for three file reviews; (Exhibit 4) in the case of Chasewood three file reviews for one project totaled over $5K; the Excelsior Hotel has three file reviews for one project (on which we have only $3M second mortgage) at a cost in excess of $20K. For August, Lorraine Guardian is one project with three file reviews costing in excess of $11K (Exhibit 3).

E. For one project with two or three loans or files, we are receiving and being billed for two and three separate business plans. Examples: Curlew Landings has three business plans costing $5243.; Independence Square Shopping Center, one project with two business plans. More to come I'm sure.

F. Title reports represent the same multiplication of costs. We have thirty two Freeway Medical Clinic loans—held by two separate corporations. These are condominium medical offices. Twenty-six separate title reports were ordered at a cost in excess of $9K, where the Receiver had a quote for $1200 from Pulaski Title for all of them, and FADA was informed of this.

G. Real Estate Tax Service (RETS) has been engaged by FADA for handling tax appeals at a cost in excess of $50K for 150 FirstSouth properties. Of these 150, only 66 represent taxable properties. (Exhibit 5)

This litany could go on, but I stop to save boring the reader as well as the additional time and expense of FADA Watching, including the writing of this memorandum.

The above represents a failure of good business judgment in understanding the value of services purchased. While I understand that a model FADA contract is being drafted at this very moment, the words of a contract cannot prevent the ills of which I complain. Nevertheless, if such an agreement is in the making, I suggest that you send someone to talk with Receiver personnel at FirstSouth, as I believe our input into the document would be valuable.

If the subject contract is terminated, Receivership personnel is fully capable of taking over the FADA assigned assets. I would welcome the opportunity to detail the projected cost savings. A serious alternative is to renew the contract, reassign all the assets to the Receivership, continue paying FADA its' management fee and we would still save money.

FEDERAL SAVINGS & LOAN INSURANCE CORPORATION, RECEIVER FOR FIRSTSOUTH F.A.

MEMORANDUM

To: ——.

From: ——.

Date: September 22, 1987.

Subject: FADA tax Delinquencies.

Attached is a list of assets showing the delinquent amounts incurred on properties managed by FADA.

As you will note, many of these would have been burdened with even additional penalties were it not for our persistence in making sure that payments were disbursed timely.

Further, you will notice the amount of time we spend in monitoring these assets and communicating with taxing authorities on FADA's behalf.

If you should have any questions concerning this list, please give me a call.

ATTACHMENT 3.1

FEDERAL ASSET DISPOSITION ASSOCIATION—PROPERTY SUMMARY

INTRODUCTION

This Federal Asset Disposition Association (FADA) Property Summary ("Summary") is a concise and informative presentation of certain properties that are currently available for sale. The properties are owned either (i) by the Federal Savings and Loan Insurance Corporation ("FSLIC") acting in the capacity of receiver for a failed savings and loan institution, (ii) by FSLIC in its corporate capacity, or (iii) by a group of financial institutions ("Participants"), including in some cases interests owned by FSLIC. FADA assists FSLIC and Participants in managing and marketing these properties. The ownership interest in these properties has generally been obtained by foreclosure or by agreements with a former borrower that has relinquished title as part of a troubled debt settlement.

HOW TO USE THIS SUMMARY

FADA has developed a marketing system for the properties that will work efficiently and effectively for both Buyer and Seller.[1] The steps you should take to utilize this Summary efficiently are as follows:

Carefully review the properties set forth in this Summary. We have provided information on each property, such as property name, type, approximate location and size and, if appropriate, a brief description of the level of improvements and the approximate occupancy levels.

We have included a simplified road map to help you locate each property.

We encourage you to conduct a drive-by inspection of the property and its improvements.

Once you've determined the properties in which you have a continuing interest, and have viewed those properties, complete the detachable property marketing package request form on the back of this Summary and mail it to us. We will respond in the following manner.

Promptly upon receipt of your request, the appropriate FADA regional office staff or contract marketing agent will receive the details of your request for each property.

Within approximately ten business days of the receipt of your request, one or more of the following will be sent to you for each property in which you've indicated an interest:

---

[1] "Seller" means either FSLIC as Receiver for a failed savings and loan, FSLIC in its corporate capacity, or the Participants.

(a) A detailed property market package describing the property including instructions for submitting offers to purchase, appropriate contact names and telephone numbers.

(b) A letter confirming receipt of your request and stating that active marketing of the property is yet to commence and the anticipated date on which a property marketing package will be sent to you.

(c) An update on the status of the property if it has recently come under a contract of sale, if a sales transaction has closed, or if the property has been withdrawn from active marketing for some other reason.

In addition, the information you've provided in your request will be tracked in our data base for potential future property information.

Although we will attempt to respond appropriately to each request in a timely manner, we do not assume liability for failing to do so.

BROKERS

Offers to purchase properties should be net of Buyer's broker's compensation. Buyers who desire to retain brokers to represent them may do so.

FADA and/or the Seller may from time to time retain agents to market certain properties. In such cases, FADA and/or the Seller shall pay the compensation of such agents pursuant to a separate written agreement. FADA and the Seller shall have no liability with respect to any compensation arrangement entered into by such agents and the Buyers' broker, if any, and the Buyer's broker shall look solely to such agents and/or to the Buyer for compensation.

In all cases FADA and the Seller reserve the right to require written evidence of authority prior to dealing with brokers and will require a written agreement providing that any broker (other than an agent engaged directly by FADA and/or the Seller pursuant to separate written agreement) is not the agent of FADA and/or the Seller, that the Buyer and/or such agents will be solely responsible for the brokers' compensation, and that the broker will look solely to such agents and/or to the Buyer for any compensation. No real estate listing or agency relationship with FADA and/or the Seller is implied directly or indirectly by reason of this Summary or by providing information to or entertaining discussions with brokers.

CONDITION OF PROPERTIES

Interested Buyers should be aware that the Seller may have acquired the properties by foreclosure or deed in lieu of foreclosure, and that the Seller is selling the property in "as is" condition with all faults, without representations or warranties of any kind or nature. Prior to and/or after contracting to purchase, as appropriate, Buyers will be given a reasonable opportunity to inspect and investigate the property and all improvements thereon, either independently or through agents of Buyer's choosing. Buyers shall not be entitled to, and should not, rely on the Seller, FSLIC, FADA, or their agents as to (i) the quality, nature, adequacy and physical condition of the property including, but not limited to, the structural elements, foundation, roof, appurtenances, access, landscaping, parking facilities and the electrical, mechanical, HVAC, plumbing, sewage, and utility systems, facilities and appliances, (ii) the quality, nature, adequacy, and physical condition of soils and geology and the existence of ground water, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the property, (iv) the development potential of the property, its habitability, merchantability, or fitness, suitability or adequacy of the property for any particular purpose, (v) the zoning or other legal status of the property, (vi) the property's or its operations' compliance with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the quality of any labor and materials, and (viii) except as expressly provided otherwise in an executed contract of sale, the condition of title and the nature, status and extent of any right of way, lease, right of redemption, possession, lien, encumbrance, license, reservation, covenant, condition, restriction, and any other matter affecting title. Although Seller's predecessors may have performed work, or contracted for work performed by third parties, in connection with the property, Seller, FSLIC, FADA, and their agents shall not be responsible to Buyer or any successor on account of any errors or omissions or construction defects of such predecessors and third parties.

GENERAL

The Seller is soliciting offers to purchase the properties included in this Summary. This Summary does not constitute an offer to sell, and the Seller reserves the right to withdraw any property at any time without notice, to reject all offers, and to accept any offer without regard to the relative price and terms of any other offer. Any offer to buy must be (i) incorporated in a formal written contract of purchase and sale to be prepared by or on behalf of the Seller and executed by both parties, and (ii) in certain situations, approved by FSLIC and/or Participants. Neither the prospective Buyer nor Seller shall be bound until execution of the contract of purchase and sale, which contract shall supersede prior discussions and constitute the sole agreement of the parties. Prospective Buyers shall be responsible for their own costs and expenses of investigating the property.

The information contained herein was obtained from a variety of sources, including the files of a failed savings and loan. Users of this information should consider the circumstances under which the ownership of the property has been obtained and determine their level of reliance on the information provided.

Seller, FSLIC, FADA, and their agents make no representations as to the accuracy or completeness of such information and it is not guaranteed. The information contained in this Summary is subject to change, errors, omissions, change of price and change of conditions and is not intended to be comprehensive. Statements contained in this Summary which involve matters of opinion, whether or not identified as opinion, are intended to be that only and not representations of fact. This Summary has been prepared for the exclusive use of FADA and persons and entities to whom FADA makes it available. It is and remains the property of FADA, and any reproduction of the whole or of any portion without the written consent of FADA is prohibited. This Summary and all copies shall be returned to FADA upon demand.

CALIFORNIA

Fresno: Property No. 1, Sierra Plaza Shopping Center, 6410 North Blackstone; approximate size, 83,900 s.f.; price, $7,750,000.

Property description: This shopping center includes approximately 83,900 square feet of net rentable space situated on an approximate 6.22 acre site. Current occupancy approximates 85%. Proforma net operating income is approximately $716,000.

FLORIDA

West Palm Beach: Property No. 2, Abbey Park—Phase I, South side of Forest Hill Blvd; approximate size, 16.67 acres; price $1,220,000.

Property description: Vacant land which has a master site plan to build 54 units in one story duplexes and 104 units in two story eight-plexes.

West Palm Beach: Property No. 3, Abbey Park Plaza, 1892 Abbey Road; approximate size, 14,250 s.f.; price $1,100,000.

Property description: This strip shopping center consists of two single story buildings which are situated on approximately 1.55 acres. It is approximately 35% occupied and is anticipated to generate net operating income of approximately $104,440.

Greenacres: Property No. 4, Haverhill Park Apartments, 3750-3785 Mil Race Court; approximate size, 30 units; price, TBA.[2]

Property description: The property includes 15 one story buildings. Seventeen units are approximately 960 square feet each and contain two bedrooms and two bathrooms. Thirteen units are approximately 1,090 square feet each and have three bedrooms and two bathrooms. The property is approximately 74% occupied with seven vacant units requiring refurbishment and leasing.

ATTACHMENT 3.2

FEDERAL ASSET DISPOSITION ASSOCIATION

(Excerpts from Hearing before the Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs, House of Representatives, October 15, 1987)

Chairman St Germain. The Bank Board sent FSLIC materials to FADA after an inquiry of Carl Hoyle to provide materials to us. Is that correct?

Mr. Wall. Some documents, I understand, were sent to the regional office in Atlanta for comment.

Chairman St Germain. Documents went to FADA, rather than coming to us. Had to go to FADA first. That is not direct communication, and that was under the control of Mr. Hoyle and I hope in the future he will be a little more responsive directly to my staff and to my Members.

Have you concluded, Mr. Kanjorski?

Mr. Kanjorski. Yes.

Chairman St Germain. I am going to take a little time here to set a little scenario. I want to make it very clear I have never in my life spoken to Mr. Juliano until he came up here a few moments ago in the presence of everybody in this room. He put his hand out—I did not shake his hand. He introduced himself and said he would like to speak to me. I said this is not the proper time. I have never spoken with the man, never met him before in my life. I am going to review a scenario here I find extremely troublesome.

---

[2] Price will be indicated in the Property Marketing Package.

I don't think the Home Loan Bank Board, FSLIC or FADA should create a police state, and, frankly, my concluson is that this man was treated as though we are in a police state. Mr. Juliano, for instance, complained along the way that he had obtained an appointment with John Hatfield during late March. He first started the process in February 1987.

In late March he complained that he had this appointment with Mr. Hatfield. Unfortunately, FADA's professional discourtesy resulted in Mr. Juliano and his colleague having to sit in Mr. Hatfield's reception area for 3 hours before they could see him.

Chairman Wall, I assure you you will never wait 3 hours to see me; no one ever has when they had an appointment, whether they be the least important, so to speak, constituent, because they are all important to me, including the poorest constituent with a problem. I would never ever keep anyone waiting 3 hours.

So here is a little mind set. We have got a developer here. Let him wait and let him cool his heels. What would your reaction be? You would be upset, wouldn't you? So would I. So would I.

Then I look at the correspondence, March 2, 1987, letter from Mr. William Juliano to Mr. Tim Solomon, asset manager in FADA's Atlanta office re: Mr. Juliano's interest in submitting a bid on the Mutiny Hotel when the property becomes available.

April 7, meeting in FADA's Atlanta office between Mr. Hatfield and Mr. Juliano and two of Mr. Juliano's colleagues. April 7, that is the 3 hours sit down and cool your heels for 3 hours.

April 28, meeting between FADA's Ms. Payne and Mr. Axley and Mr. Juliano in FADA's DC offices. April 28, note from Mr. Juliano to Ms. Payne in which he offers his sincere thanks for taking the time to meet with him. He also asks her to understand that it was never his intention to hurt her or FADA. He only wanted to right a wrong.

May 1, 1987, letter from Mr. Axley to Mr. Juliano in which he expressed FADA's concern about his stated intention to bring a lawsuit based on conflict of interest charges and would like the opportunity to respond directly to him on any special situations which he believed existed.

May 11, letter from Mr. James L. Quarles, III of the law firm, Hale and Dorr, Mr. Juliano's counsel to Mr. Axley re: Mr. Juliano's two concerns: 1) of treatment accorded him by various FADA personnel, and 2) his interest in purchasing assets. Mr. Quarles reiterated Mr. Juliano's request for: specific, enforceable assurances that FADA will provide him with information.

May 12, letter from Mr. Axley to Mr. Juliano in which he expressed: FADA's willingness to assist Mr. Juliano on his inquiries concerning the Mutiny Hotel. June 5, letter from Mr. Plumley to Mr. Juliano in which he expressed: that if FADA markets the Mutiny Hotel and Boynton Trails shopping center individually, FADA will follow-up with appropriate materials to assist him in evaluating and so forth.

June 19, Mr. Juliano's announcement of the law suit against FADA appears in the "Wall Street Journal." June 25, letter from Mr. Juliano to Ms. Payne informing her of his remaining alternative which includes pursuing litigation against FADA. All very proper. He is being forthright as far as I can see. He is saying I am not getting any cooperation. I may be sitting on my heels. I am being thrown from pillar to post. I may well have to bring a suit.

June 26, Mr. Juliano's announcement of the law suit against FADA appears in the "Wall Street Journal." July 28, letter from Michael Madigan—listen to this one, of the firm, Akin, Gump, Strauss, Bob Strauss, Houer and Feld to Mr. Juliano—now this is the big high-powered law firm in Washington writing saying, "Offer set forth by Akin, Gump in July 16 letter to Mr. Juliano and introducing Akin, Gump as FADA's counsel."

Mr. Madigan informed Mr. Juliano—should he file litigation against FADA—you got to be careful because Akin, Gump will represent FADA. That is heavy stuff.

July 31—Mr. Juliano should start quaking in his boots. July 31 letter from Mr. Juliano to Mr. Madigan in which he outlines exactly what he requested. He also requested a meeting with Danny Wall, Bank Board Chairman, as to a proposal for a FADA ombudsman.

August 3, letter from Mr. Quarles of Hale and Dorr informing Mr. Madigan of Akin, Gump that it no longer represents Mr. Juliano. August 27, letter from Mr. Madigan to Mr. Juliano based upon the discussions, Akin, Gump concluded that Mr. Juliano requested the following documents of FADA: 1) information typically provided to a purchaser of real property with respect to the Mutiny Hotel, the Boynton West Trails Shopping Center, and 10 other shopping centers in the Southeast under FADA's management (the nature of the information and the identity of the shopping centers have not been specified to FADA), 2) a legally enforceable option to purchase the Mutiny Hotel, on such specific terms.

Mr. Madigan closed with a final request of Mr. Juliano: to specify any future requests of FADA in writing.

August 26, 1987, letter from Mr. Juliano to Mr. Madigan, in his response to Madigan's letter of August 20. Mr. Juliano mentioned in this letter his frustrating 3 hour wait in FADA's office, only to get no information other than that the properties were already spoken for.

Now, we go to the fact that Mr. Juliano informed the committee and most recently the "Washington Post,"—this is a summary from my staff, that—you do have a copy of that in front of you, the last paragraph, that during the period of events with FADA he was harassed by private investigators—oh, he doesn't have it yet? Chairman Wall, I am reading from the summary of Mr. William Juliano's case.

Do you see the "Washington Post" underlined? During this period of events with FADA he has been harassed by private investigators. Also reported to us was that New Jersey police discovered that someone had broken into Mr. Juliano's office during an August night in an apparent attempt to remove surveillance equipment which had been placed in the ceiling. Police are still investigating the incident.

Our investigation has revealed that the services of a private investigative New Jersey firm whose services were contracted by a Virginia company, in turn, had its services engaged by FADA's law firm.

A call to New Jersey by our staff verified what they had been told by Mr. Juliano. FADA retained Akin, Gump; Akin, Gump retained the Fairfax Group; the Fairfax Group hired Acumen and Acumen investigated Juliano in the State of New Jersey.

Now, I could be wrong, Chairman Wall, but when I look at this scenario and this chronology of events, it seems to me that Mr. Juliano is a potential buyer/developer looking to buy some of the assets under FADA's control. Isn't that what it sounds like to you?

Mr. Wall. Yes.

Chairman St Germain. Correct. There is nothing that has come to our attention where Akin, Gump, Strauss, contend that Mr. Juliano is an evil man, that he is a nefarious individual. Now, here is what bothers me.

Somebody—John Doe—attempts to buy his assets from FADA. They waltz him around for a long period of time. He gets frustrated. His name is Juliano. My name is St Germain. We have that hot blood now, and at times we get a little upset. As I say, I don't know the man, but he got upset. He said, "I am going to sue." Anybody would say I am going to sue. That is nothing new. It is ordinary.

However, this law firm then proceeds to hire investigators. We don't have the—by the way, let me ask you this, Chairman Wall. The thought just occurred to me. FADA retained Akin, Gump; Akin, Gump and Strauss retained the detective agency, Fairfax Group that retained Acumen. The bills were paid for by FADA, correct?

Mr. Wall. Yes.

Chairman St Germain. I am sure, meaning that FADA got a report. Can the committee be provided with the report that FADA received from the investigative agencies that investigated Mr. Juliano and what the directions were to those investigators as to what they should investigate of Mr. Juliano and what reason they had for feeling they should investigate a privacy citizen attempting to do business with a government—I still think it is a government entity.

This is FADA? I would like to see the inquiries and the reasoning behind this, because to say it is ordinary course of procedure for a law firm to investigate something, you do that perhaps if you got cause or reason to believe that you are dealing with somebody who is terribly dishonest, who has done some very evil things, has a bad background, what have you. But I don't think that you put an investigation on everybody who wants to buy assets from FADA, do you?

Do you think that should be the case?

Mr. Wall. Not in the characterization you made, no, not at all.

Chairman St Germain. I, for the life of me, cannot understand why this man, why they felt they should proceed to investigate this gentleman, so I think it is important that FADA answer up and come to the forefront and tell us why. I am asking you now to direct them to cooperate with this committee and its staff to determine why this type of tactic—I think it is most, most unusual and very much out of line.

Mr. Kanjorski. Mr. Chairman, would you yield for 1 minute?

Chairman St Germain. Sure.

Mr. Kanjorski. May I request we request the chairman to provide the committee with all contracts or investigations made by FADA of any individuals by detective agencies.

Chairman St Germain. That might be a good point. Let's determine if there are other people who have been investigated in this manner. If so, this is a very serious, serious situation and I think it probably reflects upon—you know I don't think a law firm will hire investigators to go out and investigate a possible litigant unless they first receive authorization from whomever retains them.

Do you know who retained the firm of Akin, Gump, Strauss?

Mr. Wall. It is my understanding, as you indicated, FADA retained them.

Chairman St Germain. Who in FADA?

Mr. Wall. I don't know.

Chairman St Germain. Does Jim Boland know, Carl Hoyle know?

Voice. No, Mr. Chairman.

Chairman St Germain. I would like to determine who retained these services. I think that is important, because, as I say, I doubt the law firm would hire a detective agency who then hired Acumen, a detective agency, without first consulting their client who is going to pay for the services of the detective agency.

That seems logical to me.

Mr. Wall. I don't know what the normal practices are in the practice of law.

Chairman St Germain. Mr. Kanjorski, do you have any further questions?

Mr. Kanjorski. No.

Chairman St Germain. Chairman Wall, I am sorry that we had to indirectly keep you here in order to indirectly bring out these points, but I think it has been important——

Mr. Wall. If I might, Mr. Chairman, staff reminded me we have underway, as I indicated earlier, an inspector general in our agency conducting an investigation into this specific issue, and we will provide you with the report as we receive it.

Chairman St Germain. As I say, we are going to send you written inquiries supplementing that which were made in this hearing this morning. But I did want to say to you that you have just taken out—I am aware of the fact you were not in control of any of these, but this was one manner in which the committee would bring out the facts and some of the difficulties we have had in obtaining information, and to alert you to some of our apprehensions, our fears and our concerns.

As usual—not as usual, as usual because we met before and worked together before, a job well-done and we just look forward to continuing to work with you and, believe me, in a very, as I told you last evening when I called you, in a very cooperative manner to do that which is best and to assist you and all of your assistants in a very difficult task that you have ahead of you.

Mr. Wall. If you would permit me one comment, Mr. Chairman.

Chairman St Germain. Sure.

Mr. Wall. Perhaps on behalf of myself, as well as my fellow former staff members in the legislative branch, I would just want to wish a fond farewell to Dr. Paul Nelson, who has served this committee as long and as faithfully as he has. We all certainly will miss him.

Chairman St Germain. That is very kind and thoughtful of you. I know how it comes from the heart. Thank you.

The subcommittee stands in recess until the call of the Chair.

[Whereupon, at 1:30 p.m., the subcommittee adjourned, subject to the call of the chair.]

ATTACHMENT 3.3

SUMMARY OF MR. WILLIAM T. JULIANO'S CASE

Mr. Juliano, a New Jersey real estate developer, contacted the House Banking Committee during July of this year to inform the Committee of the treatment accorded him by various FADA personnel. According to Mr. Juliano, he made several inquiries of FADA since February 1987, requesting information on assets under FADA's management and how to bid/purchase assets, to no avail.

During March 1987, Mr. Juliano formally requested assistance, on five occasions, from FSLIC's Eastern Regional Office, Acting Director, Mr. Robert Schmid in relaying his purchase offer on the Mutiny Hotel to Mr. Tim Solomon of FADA's Atlanta office. Mr. Hatfield penned a note to Mr. Schmid that Mr. Solomon was in New Zealand at the time, but that the property was the Receivership's best asset and not really ready for market until a sales price was determined on a leased piece of property behind the hotel.

Mr. Juliano finally obtained an appointment with Mr. John Hatfield during late March. Unfortunately, FADA's professional discourtesy resulted in Mr. Juliano and his colleague having to sit in Mr. Hatfield's reception area for three hours before they could see him!

On April 21, 1987, Mr. Bob Axley informed Mr. Juliano of a meeting on April 28, 1987 with Ms. Roslyn Payne and himself to discuss Mr. Juliano's interest in FADA's operational matters and the Mutiny Hotel. After the meeting, Mr. Axley wrote to Mr. Juliano and expressed FADA's concern about Mr. Juliano's stated intention to bring a lawsuit based on conflict of interest charges and informed Mr. Juliano that FADA would like the opportunity to respond directly to him on any specific situations which Mr. Juliano believed existed.

On June 19, 1987, Mr. Juliano placed an ad in the Wall Street Journal soliciting individuals who had been discriminated against by FADA insider trading or had their rights violated to join in a class action suit. As of June 25, 1987, Mr. Juliano stated that he had not received any information regarding the properties he expressed interest in, as promised by Ms. Payne and Mr. Axley during their April 28, 1987, meeting with him.

Mr. Juliano informed the Committee and, most recently, the Washington Post that during this period of events with FADA he has been harassed by private investigators. Also reported to us was that New Jersey police discovered that someone had broken into Mr. Juliano's office during an August night in an apparent attempt to remove surveillance equipment which had been placed in the ceiling. Police are still investigating the incident.

Our investigation has revealed that the services of a private investigative New Jersey firm whose services were contracted by a Virginia company, in turn, had its services engaged by FADA's law firm.

ATTACHMENT 4.1

Peat, Marwick, Mitchell & Co.,
San Francisco, CA, February 25, 1987.

Board of Directors,
The Federal Asset Disposition Association (the FADA)

Members of the Board: We have completed our first annual examination of the FADA financial statements, for the period beginning November 5, 1985 (the inception date of the FADA) and through December 31, 1986, and have issued our auditors' report thereon dated February 20, 1987. As we gained an understanding of the FADA's history to date, we learned that the FADA had only eight employees at the end of May 1986 as it embarked on a program to build an organizational infrastructure capable of providing efficient property management and disposition services in a very dynamic marketplace on behalf of troubled thrift institutions or their receivers.

Since May, 1986 the FADA has achieved significant progress, as indicated in part by (1) a functional management information system; (2) established operating policies and procedures; and (3) an increase in the number of employees to approximately two hundred as of February 1987. As can be expected in any start-up situation, particularly in a complex political and economic environment, the FADA is evolving and improving its infrastructure daily.

During the course of our examination we reviewed internal controls for the limited purpose described in Appendix II. In connection with our examination we did not identify any condition that we believe to be a material weakness in internal accounting control. A material control weakness in internal accounting control is a condition in which specific control procedures, or the degree of compliance with them, do not reduce, to a relatively low level, the risk that errors or irregularities in amounts that would be material to the financial statements being audited may occur and not be detected within a time period by employees in the normal course of performing their assigned functions. However, our study and evaluation of internal controls would not necessarily dislose all material weaknesses in the system. Accordingly, we do not express an opinion on the system of internal accounting control of the FADA taken as a whole.

Our observations regarding the current operating environment at the FADA are included in Appendix I. Where appropriate, we have presented recommendations intended to enhance the system of internal accounting control or result in other operating efficiencies. The content of Appendix I, which has been discussed with senior management, is based upon circumstances as they existed at February 20, 1987, the date of our auditor's report.

Very truly yours,

Peat, Marwick, Mitchell & Co.,

APPENDIX I

1. Management information systems

The FADA is in the process of converting from a microcomputer based management information system to use of a mainframe computer. This conversion represents a natural progression from an initial startup phase, during which time the volume of activity has been relatively insignificant and such activity could be processed on software developed and adapted to the microcomputer environment, to the current phase of activity which represents increasing volume and the desirability of a larger computer to process such volume. The conversion necessitates the recoding of existing software and provides a good opportunity for adding system enhancements. We suggest that FADA consider the following:

1.1 Parallel System Testing Control Environment.—The conversion to use of a mainframe computer necessitates the recoding of the programs and much data used in the present system. In spite of the similarities in the external appearance of the two systems, the IBM mainframe system is new and must be developed using the same rigorous procedures as any development project. The FADA recognizes the importance of extensive testing to ensure that the results of data processed under the old and new system produces the same results. The control environment for such testing, to ensure the system is thoroughly tested and that any decrepancies in results are properly addressed, is critical. Should the FADA consider it appropriate to obtain additional assurance regarding the testing environment through external consulting services, we would be pleased to assist you.

1.2 Integration of Asset Accounting and Reporting Modules.—Certain data common to both asset accounting and reporting to receivers currently requires input twice because the modules are not integrated completely. For example, changes in the value of an asset must be input into two separate programs. On occasion such changes have been recorded only once, resulting in different values for (1) computing management fees and reporting to receivers and (2) internal management reports regarding the asset values.

We understand the FADA is in the process of making programming changes in order to eliminate the dual input of data common to the asset accounting and reporting modules. During the interim period, control procedures are necessary to ensure that any common data changes requiring dual input are properly reconciled. Implementation of such procedures will enhance the reliability of asset information.

1.3 Income Producing Property Identification.—Certain properties the FADA takes under management are income producing as of the takedown date and the asset managers appear to be very aware of the characteristics of such properties. However, until a business plan for the asset is completed, which often requires several months, the management information system provides no detailed data on the property. Accordingly, a systematic basis for ensuring that asset managers are monitoring such properties on a timely basis does not exist as yet and should be established.

We recommend that the FADA consider adding a code and perhaps income data for such properties to indicate that periodic income is expected after takedown. Portfolio managers could then periodically generate reports on such properties and use the information as a basis for verifying with asset managers that receipts activity is being monitored on a timely basis until the business plans are available for the assets.

2. Accounting and reporting matters

The FADA has made considerable progress in the development of accounting and reporting policies and procedures. However, there are unresolved accounting and reporting issues which the FADA is addressing at present. Our observations and, if appropriate, recommendations regarding such issues and other accounting matters follow:

2.1 Assets Subject to Participation Agreements.—A significant portion of real estate assets placed under FADA management, including loans, involve participating financial institutions and, in many instances, the receivership which the FADA acts on behalf of is not the lead lender. Participations generally are far more complicated than other workout situations because each participation agreement is unique, decisions require the involvement of several parties, and litigation between participants is not uncommon with troubled real estate projects. Key FADA personnel have focused for some time on clarifying the FADA's management responsibilities and developing the legal framework necessary to facilitate decisions amongst participants. The accounting framework, however, has not been developed as yet.

The accounting requirements will depend on many factors, including the following: The extent of FADA's management responsibilities in situations where the receiver is not the lead lender; whether the FADA will be responsible for obtaining funding from and accounting for the interests of each participant; and whether separate legal entities are created for each asset or group of assets.

At the present time the FADA's policy is to charge a management fee on 100 percent of project net book value if the receiver is the lead lender. If the receiver is not the lead, the FADA is computing its management fee based on the receivers proportionate interest in the project. We recommend that FADA consider revising the master agreements with receivers to clarify this policy.

2.2 Reimbursable Expenditures.—FADA management agreements with receivers specify that, in addition to a management fee, FADA will be reimbursed for expenses and that all such expenses will be allocated on an asset-by-asset basis. We are informed that FADA defines expenses as any amounts it pays to third parties in connection with the assets under management. Because the FADA subcontracts to others much of the management function such expenses can be significant. During a review of expenditures made by the Dallas office, internal audit noted that certain third party costs for document reproduction had been charged to the receivership as a reimbursable expense and that the cost was not allocated to specific assets.

We understand that the FADA is in the process of (1) formally clarifying its policy with regard to what cost items normally would be considered third party in nature, (2) determining whether allocation of "common" costs by asset is practical, and (3) amending its agreements with receivers.

2.3 Equipment Purchases.—Installation costs for various hardware items totalling approximately $50,000 and other small equipment and furniture purchases totalling approximately $150,000 were expensed during 1986. It appears that these amounts could have been capitalized and that the FADA fixed asset system is capable of accounting for such items.

We recommend that the FADA review its policy related to equipment acquisitions and, if appropriate, revise the policy to provide for the grouping of small items for capitalization purposes.

2.4 Reporting to Receivers.—The FADA management agreements with receivers specify that reporting to the receivers will be on the basis of generally accepted accounting principles (GAAP). In the following areas the current reporting are either not in technical conformity with GAAP or the potential exists that future reporting may not be in conformity with GAAP:

2.4.1 Establishing Asset Market Values.—The agreements with receivers refer to the establishment of net realizable market values (NRMV) pursuant to business plans. FADA management is in the process of developing a methodology for establishing market values which encompasses appraisal-driven sales price estimates and possibly the use of market finance costs. This process is not complete and involves the FADA working with the Office of Liquidations Division of the FSLIC. The FADA is also considering how current accounting literature may impact assets in the form of loans.

While it is generally agreed that the transfer of assets to a receiver is an event which triggers the revaluation of assets and establishing a new cost basis under GAAP, conformity with GAAP will depend on the valuation methodology adopted by the FADA. The FADA is conferring with us on this matter. In any event, until market values are established, the FADA obviously cannot report to receivers on a GAAP basis. We suggest that once a methodology is fully developed and implemented, the agreements be amended to define specifically that methodology.

2.4.2 Accrual Basis Reporting.—Costs incurred on behalf of receivers, which can be either capitalizable or expense items, but unpaid as yet by the FADA are not included in reports to receivers. Because the level of such costs has not been significant to date, we do not believe the impact to the receivers is material. We also understand that FADA management does not believe the impact of accruing such costs warrants the additional accounting expense the FADA would incur on behalf of the receiver.

We suggest that, if reporting is effectively on a cash basis, the agreements be modified to indicate such. In addition, the FADA should consider implementing procedures to isolate any large accrual items and consider whether such items (1) impact the fair market value data to be reported in the future or (2) should be communicated separately to receivers.

2.5 FHLBB Reporting Requirements.—The FADA is chartered as an Association and therefore appears to be subject to the rules and regulations of the Federal Home Loan Bank Board (FHLBB). However, unlike other Associations, the FADA does not engage in any of the traditional Thrift activities, e.g., the deposit taking and lending functions. Accordingly, the applicability of the rules and regulations to FADA and its reporting requirements to the FHLBB of Topeka are unclear.

We are informed that the FADA has made repeated efforts to clarify its operating and reporting requirements with the FHLBB. We encourage the FADA to continue its efforts in order to prevent any misunderstandings.

3. Processing cash disbursements and receipts (assets under management)

The FADA has made significant progress in the development of policies and procedures to control properly cash disbursements and receipts related to assets under management. The level of cash receipts and disbursement activity for assets under management, including regional activity, which currently is processed by the San Francisco office, was relatively insignificant in 1986 because very few capital expenditures were made. Our testwork included the vouching of a significant number of the receipts and disbursements made during the year. Following are our comments regarding errors noted during the testwork as well as other observations. Generally, it appears that errors are being detected by FADA procedures and that FADA personnel are very control conscious.

3.1 Invoice Processing.—

3.1.1 Propriety of Invoices.—Certain contained math errors or lacked supporting documentation. These deficiencies were detected by the asset accounting department after the items were approved for payment by asset managers. The asset managers should not approve items until invoices have been checked, and responsibility for checking the items should be clearly defined.

3.1.2 Classification of Expenditures.—We noted one instance when a capitalizable expenditure was mistakenly coded as an expense item. The FADA had established a detailed coding list for expenditures and should continue to emphasize the importance of checking the assigned codes.

3.1.3 Timing of Payments.—At present, the FADA issues cheques for vendor invoices on a periodic basis that does not fully utilize available days of credit. We understand, however, that FADA is designing a program to aggregate and schedule invoice payments in an effective manner. As the level of disbursements increases, effective cash management techniques will become increasingly important. We encourage implementation of the cash management program.

3.2 Cheque Issuance.—Two cheques were issued (and honored by the banks) without signatures. While the criteria established for requiring one or more signatures on cheques and the procedures to control the mailing of cheques appear to be appropriate, compliance with such procedures must continue to be emphasized.

3.3 Cash Receipts.—In two instances, details of rental receipts from property managers were either unclear or contained math errors. It is particularly important during this initial period of dealing with external property managers that any such errors detected, investigated, and documented.

We recommend that management continue to emphasize the importance of verifying the mathematical accuracy and reasonableness of property receipt reports. We recommend also that procedures be established to document effectively the performance of external property managers in this area.

We understand also that when cash is received directly by the receiver, typically during the transition period when the FADA first assumes management responsibilities, details of the transaction are forwarded by the receiver to FADA asset accounting, not to the asset manager. Accordingly, asset managers anticipating receipts from property managers sometimes spend time pursuing payment while the payment has actually been received. In addition, the resolution of problems, if any, with the third party property manager regarding such payments is delayed.

We recommend that a procedure be established whereby details of the receipts are channeled to the asset managers on a timely basis for their approval.

4. Other major areas

Following are our comments and recommendations regarding the status and direction of certain other major areas within the FADA:

4.1 Internal Audit Function.—The internal audit department consists of two individuals at present. During the FADA's initial phase of operations, internal audit has focused primarily on (1) assisting in the development of operating controls, (2) assessing the adequacy of contract documentation and (3) examining the propriety of disbursements and receipts for both Corporate and asset management activities. While we concur that these areas of focus have been appropriate during the initial stages of the FADA structural development, the organization is now reaching the stage where the internal audit scope should be expanded. Our comments regarding the areas of expansion follow:

4.1.1 Scope of Activities.—In a number of States there are significant assets which are producing income at present. We suggest that internal audit (1) develop an approach to obtain useful information about such assets (e.g., details of property manager location, number of units, asset manager concerns, etc.) and (2) incorporate such information into an audit plan that provides adequate coverage of both large and small assets and encompasses particular concerns asset managers may have about certain assets.

Different audit programs should be developed to address "full scope" and "limited scope" examinations of assets and external property managers. This process of developing audit programs is already underway in connection with our joint review, with internal audit, of a selected property manager in Southern California.

There has not been significant development activity to date for assets under management. Increase in such activity will require that internal audit focus designing on programs, including on-site visits to selected properties, to ensure the propriety of development costs.

4.1.2 Vendor Selection/Documentation Review.—The FADA is very aware of the importance of establishing and updating information regarding vendors (property managers, appraisers, brokers) and ensuring that contracts are adhered to by all parties.

Internal audit should continue to develop and refine audit programs to ascertain that (1) criteria established for approving vendors and updating the vendor files is adhered to by the FADA and (2) contracts are properly executed and adhered to by all parties. Step 2 can be performed in conjunction with the project examinations specified in section 4.1.1.

4.1.3 Appraisal Data for Asset Business Plans.—Asset business plan values will be based to a large extent on third party appraisals. A key internal audit function will be to establish an audit program to ensure a proper relationship between the appraisers' data and the values shown in business plans (and as used to compute management fees). The program should also include procedures to ensure that the third party reviews of appraisals planned by the FADA are executed in accordance with established policies.

4.1.4 Internal Audit Department Staffing.—The number of internal audit staff required and the structure of the department will of course depend on the level of FADA activity. It does appear, however, that two or more additional internal audit personnel will be required during 1987. Ultimately, it may be appropriate to have at least one internal audit person in each regional office in order to gain a better understanding of regional considerations. It may also be appropriate to consider assigning staff to particular functional areas.

4.2 Section of Vendors.—The FADA has been developing a database of qualified venders (contractors), including property managers, appraisers and brokers and during its initial stage of operations, has selected property managers and appraisers primarily on the basis of FADA personnel familiarity with the vendors' track record. Management has been stressing to headquarter and regional personnel the importance of well documented contractual arrangements with vendors, including the importance of confidentiality agreement provisions. The FADA also requires that its personnel sign confidentiality and code of conduct agreements.

As the list of vendors is now becoming sizable it will be increasingly important that procedures to ensure (1) the confidentiality of information and (2) employee independence with respect to vendors, are monitored and revised on an ongoing basis.

4.3 Development of Asset Business Plans.—The FADA agreements with receivers stipulate that asset business plans will be completed within 120 days of the FADA's assumption of management responsibilities. Completion of the plans normally requires obtaining (1) an appraisal (and appraisal review), which in turn requires that adequate information be available from the receivers' files or other sources, and (2) additional information about the property, e.g. liens, other claims, loan documentation, and project costs.

While the 120 day period should be achievable when project information is available and as the FADA gains experience, in many instances it appears that the project information necessary for the FADA to complete the asset business plans has not been available on a timely basis.

It may, therefore, be appropriate to modify the receiver agreements to state that business plans will be available within 120 days of the date adequate information is provided to the FADA. The term "adequate information" would have to be defined and presumably would encompass additional data for participation arrangements.

ATTACHMENT 4.2

FEDERAL ASSET DISPOSITION ASSOCIATION—FINANCIAL STATEMENTS, DECEMBER 1986

The Federal Asset Disposition Association (a wholly-owned subsidiary of the FSLIC)

Statement of Financial Condition, Dec. 31, 1986

Assets:	
Cash (including interest bearing deposits of $25,000)	$158,103
Federal funds	9,100,000
Investment securities (approximate market value of $9,759,000)	9,818,506
Fees receivable:	
Asset management fees	997,893
Advisory fees	135,744
Reimbursable expenditures receivable:	
Receivership contracts	849,726
Advisory contracts	93,151
Accrued interest receivable	35,084
Property and equipment, net	2,223,632
Federal Home Loan Bank Stock, at cost	48,000
Prepaid expenses and other assets	166,805
Total	23,626,644
Liabilities and stockholder equity:	
Short-term borrowings	800,000
Other liabilities and accrued expenses	1,309,554
Deferred lease payable	78,493
Total liabilities	2,188,047
Stockholder's equity:	
Common stock, no par value, stated value $1,000 per share. Authorized 500,000 shares; issued and outstanding 25,000 shares	25,000,000
Additional paid-in capital	
....	

Preferred stock, no par value. Authorized 500,000 shares; none issued	....
Retained deficit	(3,561,403)
Total stockholder's equity	21,438,597
Total	23,626,644

The Federal Asset Disposition Association (a wholly-owned subsidiary of the FSLIC)

Statement of Operations for the period Nov. 5, 1985 (date of inception) to Dec. 31, 1986

Revenue:	
Asset management fee income	$1,343,067
Asset advisory and other fees	291,951
Total revenues	1,635,018
Operating expenses:	
Compensation and related benefits	3,363,527
Occupancy	318,566
Property and equipment rentals and supplies	366,829
Depreciation	94,268
Telephone	136,548
Travel	468,299
Executive search fees	244,463
Systems consulting	394,749
Legal services	149,384
Other professional services	558,605
Other	382,410
Total operating expenses	6,477,648
Operating loss	4,842,630
Other income and expense:	
Interest income	1,281,833
Interest expense	606
Loss before income taxes	3,561,403
Income taxes	....
Net loss	3,561,403

THE FEDERAL ASSET DISPOSITION ASSOCIATION (A WHOLLY-OWNED SUBSIDIARY OF THE FSLIC)

[Statement of Stockholder's Equity for the period Nov. 5, 1985 (date of inception) to Dec. 31, 1986]

	Common stock	Additional paid-in capital	Preferred stock	Retained deficit	Total
Initial issuance of common stock	$25,000,000				25,000,000
Net loss from date of inception to December 31, 1986				($3,561,403)	(3,561,403)
Balances at December 31, 1986	25,000,000			(3,561,403)	21,438,597

The Federal Asset Disposition Association (a wholly-owned subsidiary of the FSLIC)

Statement of Changes in Financial Position for the period Nov. 5, 1985 (date of inception) to Dec. 31, 1986

Sources of cash:	
Financing transactions:	
Proceeds from stock issuance to FSLIC	$25,000,000
Short-term financing:	
Short-term borrowings	800,000
Total cash from financing transactions	25,800,000
Uses of cash:	
Operating activities: Net loss	3,561,403
Items not requiring cash:	
Depreciation of property and equipment	(94,268)
Deferred lease payable	(78,493)
Cash used for operations	3,388,462
Cash used for (provided by) changes in:	
Management fees receivable	997,893
Advisory fees receivable	135,744
Reimbursable expenditures receivable	942,877
Accured interest receivable	35,084
Prepaid expenses and other assets	166,805
Other liabilities and accrued expenses	(1,309,554)
Cash used for financing operating activities	968,849
Investment transactions:	
Purchase of investment securities	9,818,506
Purchase of Federal funds	9,100,000
Additions to property and equipment	2,317,900
Purchase of Federal Home Loan Bank stock	48,000
Total cash used for investment transactions	21,284,406
Net increase in cash	158,103
Cash, beginning of period	....
Cash, end of period	158,103

THE FEDERAL ASSET DISPOSITION ASSOCIATION

(A wholly-owned subsidiary of the FSLIC)

Notes to Financial Statements

December 31, 1986

(1) *Organization and Significant Accounting Policies:*

The Federal Asset Disposition Association (the FADA), whose stock is wholly-owned by the Federal Savings and Loan Insurance Corporation ("FSLIC"), was chartered in 1985 under Sections 406 (a) and (b) of the National Housing Act of 1934 to help financially troubled thrifts manage and dispose of real estate assets, including loans, pursuant to asset management contracts with these Thrifts or, in most circumstances, the Thrift receivers. As agent serving on behalf of receivers, the FADA does not take title to underlying assets but does have the fiduciary responsibilities inherent in the agency function.

The following accounting policies, together with those disclosed elsewhere in the notes to financial statements, represent significant accounting policies that the FADA follows in preparing its financial statements.

(a) *Investment in Securities:*

Investment securities, consisting of U.S. government securities at December 31, 1986, are stated at cost, adjusted for amortization of discounts and premiums.

(b) *Investment in Federal Home Loan Bank Stock:*

As a member of the Federal Home Loan Bank System, the FADA is required to acquire and hold a specified number of shares of the capital stock of the Federal Home Loan Bank of Topeka, Kansas.

(c) *Property and Equipment:*

Property and Equipment are stated at cost less accumulated depreciation and amortization. Depreciation of office property and equipment is computed on the straight-line basis over the estimated useful lives of the various classes of assets. Leasehold improvements are amortized on a straight-line basis over the remaining term of the lease or the estimated useful life of the asset, whichever is shorter. Maintenance and repairs are charged to expense; improvements are capitalized.

Purchases of equipment are capitalized to the extent that the expenditures individually exceed $300. Purchases of supplies are charged to expense as incurred.

(d) *Fee Income and Reimbursable Expenses:*

Asset management and advisory fee income is accrued and billed monthly. Reimbursable expenditures in connection with the management of assets are recorded as receivables when paid by the FADA and are billed to receivers monthly. These third-party expenditures are not recorded in the FADA statement of operations.

(e) *Collections on Behalf of Receivers:*

The FADA collects revenues in connection with income producing assets under management and remits such revenues directly to the receiver. The FADA currently does not collect or process loan payments related to assets under management.

(f) *Start-up Costs:*

The FADA has incurred significant start-up costs, including consulting fees in connection with the design and implementation of its asset accounting and reporting system software. These start-up costs have been charged to expense.

(g) *Income Taxes:*

Deferred income taxes are provided on earnings that are reported for financial statement purposes in a different period than for income tax purposes.

(2) *Assets Under Management Contract:*

At December 31, 1986 the FADA had under management contract real estate assets, including loans and loan participations, on behalf of seven FSLIC receiverships. Asset totals, by property type and by location, follow. The amounts below (dollars in thousands) represent receivership net book value per the receivers' records (note 3) and are not intended to be indicative of current market values (unaudited).

	California	Florida	Texas	Other	Total
Land	$14,526	$75,639	$188,416	$41,402	$319,983
Residential:					
1–4 units	12,159	61,826	12,950	21,367	$108,311
Multifamily	45,569	59,594	41,748	69,954	216,865
Commercial	77,147	215,949	333,109	117,023	743,228
Industrial	550	13,341	18,480	2,912	35,283
Other				38,356	38,356
Total	149,951	426,349	594,703	291,023	1,462,026

The total assets under management contract includes a significant number of assets subject to participation agreements. For participations in which the receiver is not the lead participant, the asset total includes only the receivers percentage interest in the total asset.

(3) *Asset Management Fees:*

The FADA manages and disposes of receivership assets for a fee, which currently ranges from .50 to .75 percent of the asset value per annum. Asset value initially is the receivership net book value, and is subsequently adjusted to reflect estimated market value pursuant to appraisals and asset disposition plans. As of December 31, 1986, asset disposition plans had not been finalized for the initial assets under management.

For assets subject to participation agreements, asset management fees are calculated on 100 percent of the asset value in those instances when the receiver is the lead participant, and on the receiver's participation percentage when the receiver is not the lead.

(4) *Reimbursement Expenditures:*

In addition to management fees, the FADA is reimbursed by the various receiverships for expenditures related to assets it manages. Such expenditures include all third party payments related to the assets under management, including subcontracted property management fees. The FADA also has been reimbursed for its interest costs of financing such third party expenditures.

For the period ended December 31, 1986, the FADA charged receiverships a total of $1,539,000 for reimbursable expenditures.

(5) *Property and Equipment:*

Property and equipment at December 31, 1986 is comprised of the following:

		Depreciation period
Computer hardware and software	$1,783,151	3 years
Furniture and fixtures	534,749	8 years
	2,317,900	
Less: accumulated depreciation and amortization	94,268	
	2,223,632	

(6) *Short-Term Borrowings:*

The FADA short-term borrowings of $800,000 are drawn against a $2 million open line of credit advance with the Federal Home Loan Bank of Topeka. The open line of credit advance is backed by a contract between the FSLIC and the Federal Home Loan Bank of Topeka under which the FSLIC has guaranteed repayment of up to $50 million of Bank advances to the FADA. Under the terms of the contract, the repayment guarantee applies only to advances used for the purpose of funding operations in which the FADA has a legal agreement with the FSLIC as receiver or conservator for an insured institution.

Interest is charged to the FADA on outstanding draws at the FHLB cost of funds rate, which was 6.75 percent at December 31, 1986. The open line of credit is reviewed on an annual basis by the lender.

(7) *Incentive Compensation Plan:*

The FADA has established an incentive compensation plan for its key officers and managers. The plan is designed to add an incentive element to FADA management compensation packages similar to that which is prevalent in many real estate enterprises. Awards under the plan are based on both individual performance and overall corporate performance. The maximum award as a percentage of base salary ranges from 15 to 60 percent. Award amounts are not linked to proceeds from asset disposition and must be approved by the Board of Directors.

(8) *Income Taxes:*

The FADA incurred a net operating loss of $3,561,000 for the period from inception to December 31, 1986 for financial statement purposes. Accordingly, no provision for income taxes was made. The tax benefits of the net operating loss carryforward can be recognized as it is utilized to offset taxable income reported in succeeding years. The net operating loss carryforward period expires in 2001.

(9) *Commitments and Contingencies:*

At December 31, 1986 the FADA leased office space and equipment in regional and satellite locations. Future minimum lease payments under the terms of existing noncancelable operating leases in excess of one year are as follows:

	Office space	Equipment	Total
Year ending December 31:			
1987	$1,273,905	$235,176	$1,509,081
1988	1,461,670	235,176	1,696,846
1989	1,584,925	232,892	1,817,817
1990	1,663,158	171,117	1,834,275
1991	1,392,624	18,533	1,411,157
Thereafter	147,493		147,493
Total	7,523,775	892,894	8,416,669

Management is not aware of any pending or threatened litigation against the FADA as of December 31, 1986.

(10) *FHLBB Regulations:*

Since the FADA is chartered under Section 406 of the National Housing Act, it is considered subject to Federal Home Loan Bank Board (FHLBB) Regulation. Such regulations govern the activities of Thrift Institutions and contain various financial requirements, e.g., that Thrifts maintain levels of regulatory net capital and investment in liquid assets, as defined by regulation. At December 31, 1986, the FADA's regulatory net capital and investment in liquid assets exceeded amounts required by regulation.

ATTACHMENT 4.3

FEDERAL ASSET DISPOSITION ASSOCIATION—FINANCIAL STATEMENTS, DECEMBER 1987

FEDERAL ASSET DISPOSITION ASSOCIATION

[Balance Sheet Dec. 31, 1987]

	Dec. 31, 1987	Nov. 30, 1987
Assets:		
Cash and cash equivalents	$1,553,521	($102,987)
Investment in FHLB stock	424,100	410,200
Marketable securities	5,017,314	6,006,634
Reimbursable costs receivable	6,180,654	
Asset management fees receivable	3,300,291	
Advisory and other fees receivable	187,350	
Total fees receivable	3,487,641	4,007,926
Expenses receivable from receiverships	8,410,104	

FEDERAL ASSET DISPOSITION ASSOCIATION—Continued

[Balance Sheet Dec. 31, 1987]

	Dec. 31, 1987	Nov. 30, 1987
Expenses receivable from contracts	166,678	
Total reimburseable expenses receivable	8,576,782	6,673,010
Interest receivable	45,173	86,504
Other accounts receivable	160,608	155,354
Furniture and equipment, L/H improvements	4,720,395	
Less: Allowance for depreciation, amortization	(1,017,931)	
Furniture and equipment, net	3,702,464	3,148,924
Prepaid expenses and other assets	410,349	481,038
Total assets	29,558,606	20,866,603
Liabilities and stockholder's equity:		
Liabilities:		
Short-term borrowings	10,192,513	6,651,784
Interest payable	2,175	
Taxes payable		
Accrued expenses payable	2,897,026	2,654,990
Contingent liability—reimbursable costs receivable	6,180,654	
Total liabilities	19,272,368	9,306,774
Stockholder's equity		
Common stock—500,000 shares authorized, no par, 25,000 Shs issued	25,000,000	25,000,000
Preferred stock—500,000 shares authorized, none issued		
Retained earnings (deficit)	(14,713,762)	(13,440,171)
Total stockholder's equity	10,286,238	11,559,829
Total liabilities and stockholder's equity	29,558,606	20,866,603

FEDERAL ASSET DISPOSITION ASSOCIATION

[Income statement—actual versus plan, Dec. 31, 1987 year-to-date]

	Dec. 31, 1987 (year-to-date)	Plan (year-to-date)	Better (worse) than plan
Revenue:			
Asset management fees	$19,058,825	$22,635,000	($3,576,175)
Asset advisory fees	1,318,665	2,377,000	(1,058,335)
FSLIC corporate fees	264,164	1,871,000	(1,606,836)
Total revenue	20,641,654	26,883,000	(6,241,346)
Operating expense:			
Personnel expense	19,059,268	17,841,000	(1,218,268)
Occupancy expense	1,917,105	1,741,000	(176,105)
Equipment expense	1,878,056	2,087,000	208,944
Telephone expense	805,480	878,000	72,520
Travel expense	1,341,084	1,537,000	195,916
Management consulting	1,587,656	151,000	(1,436,656)
Public accountants	70,879	80,000	9,121
Executive search fees	644,137	237,000	(407,137)
Systems consulting	599,485	500,000	(99,485)
Legal expenses	453,820	500,000	46,180
Other professional services	323,265	220,000	(103,265)
Insurance	255,327	631,000	375,673
Contingency		1,000,000	1,000,000
All other expense	1,376,541	1,377,000	459
Total operating expense	30,312,103	28,780,000	(1,532,103)
Operating income (loss)	(9,670,449)	(1,897,000)	(7,773,449)
Other income and expense:			
Interest and dividend income	963,571	1,655,000	(691,429)
Interest expense	533,112	202,000	(331,112)
Gain (loss) on investment securities	(24,522)	0	(24,522)

FEDERAL ASSET DISPOSITION ASSOCIATION—Continued

[Income statement—actual versus plan, Dec. 31, 1987 year-to-date]

	Dec. 31, 1987 (year-to-date)	Plan (year-to-date)	Better (worse) than plan
Gain (loss) on fixed asset sales	(10,812)	0	(10,812)
Other income	537	0	537
Net other income and expense	395,662	1,453,000	(1,057,338)
Net income (loss) before effect of change in accounting estimates	(9,274,787)	(444,000)	(8,830,787)
Effect of change in accounting estimates:			
Adjustment in asset management fees	(1,946,814)	0	(1,946,814)
Net income (loss) after effect of change	(11,221,601)	(444,000)	(10,777,601)

FEDERAL ASSET DISPOSITION ASSOCIATION

[Income statement, month of December 1987]

	December 1987	November 1987
Revenue:		
Asset management fees	$1,696,013	$1,682,066
Asset advisory fees	50,813	61,324
FSLIC corporate fees	3,130	(7,700)
Total revenue	1,749,956	1,735,690
Operating expense:		
Personnel expense	1,706,617	1,955,033
Occupancy expense	181,273	140,727
Equipment expense	194,911	118,643
Telephone expense	74,027	47,841
Travel expense	216,831	100,777
Management consulting	206,779	40,984
Public accountants	17,446	53,433
Executive search fees	23,387	35,860
Systems consulting	50,900	56,376
Legal expenses	53,382	1,881
Other professional services	49,190	39,121
Insurance	26,406	24,800
All other expense	204,904	138,912
Total operating expense	3,006,053	2,754,388
Net operating income (loss)	(1,256,097)	(1,018,698)
Other income and expense:		
Interest and dividend income	67,789	66,393
Interest expense	83,982	60,337
Gain (loss) on investment securities	(1,213)	(162)
Gain (loss) on fixed asset sales	(625)	0
Other income	537	0
Net other income and expense	(17,494)	5,894
Net income (loss)	(1,273,591)	(1,012,804)

Federal asset disposition association

[Statement of changes in financial position for the 12 months ending Dec. 31, 1987]

Cash and cash equivalents—Dec. 31, 1986	$9,258,103
Operating activities:	
Net earnings (Loss)	(11,221,601)
Items not requiring cash:	
Depreciation and amortization	940,339
Cash provided by (used for) operations	(10,281,262)
Cash provided by other sources:	
Additional short term borrowings	9,392,513
Contingent Liability—Reimbursable Costs Receivable	6,180,654
Sale of Marketable Securities	4,801,192
Increase in accrued expenses payable	1,968,108
Interest Payable	2,175
Cash provided by other sources	22,344,642
Cash used for:	
Additions to furniture, equipment and leasehold improvements	2,775,659
Purchase of FHLB stock	376,100
Increases in:	
Reimbursable expenses receivable	7,637,370
Reimbursable Costs Receivable	6,180,654
Asset management fees receivable	2,332,333
Prepaid expenses and other assets	292,976
Interest and other accounts receivable	121,264
Asset advisory and other fees receivable	51,606
Cash used	19,767,962
Decrease in cash	(7,704,582)
Cash and cash equivalents—Dec. 31, 1987	1,553,521

Federal asset disposition association

[Statement of changes in financial position for the month ending Dec. 31, 1987]

Cash and cash equivalents—Nov. 30, 1987	($102,987)
Operating activities:	
Net earnings (loss)	(1,273,591)
Items not requiring cash:	
Depreciation and amortization	163,463
Cash provided by (used for) operations	(1,110,128)
Cash provided by other sources:	
Contingent Liability—Reimbursable Costs Receivable	6,180,654
Increase in short term borrowings	3,540,729
Sale of Marketable Securities	989,320
Accrued expenses payable	242,036
Interest payable	2,175
Decreases in:	
Asset management fees receivable	527,538
Prepaid expenses and other assets	70,689
Interest and other fees receivable	36,077
Cash provided by other sources	11,589,218
Cash used for:	
Reimbursable Costs Receivable	6,180,654
Increase in reimbursable expenses receivable	1,903,772
Additions to furniture and equipment	717,003
Purchase of FHLB stock	13,900
Increase in advisory and other fees receivable	7,253
Cash used	8,822,582
Decrease in cash	1,656,508
Cash and cash equivalents—Dec. 31, 1987	1,533,521

FEDERAL ASSET DISPOSITION ASSOCIATION

NOTES TO THE FINANCIAL STATEMENT

1. ACCOUNTING POLICIES

General

The Federal Asset Disposition Association (FADA) is a special purpose Federally Chartered Savings and Loan Association, chartered on November 5, 1985 pursuant to Section 406 of the National Housing Act. The FADA is wholly owned by the Federal Savings and Loan Insurance Corporation (FSLIC).

The accounting and reporting policies of the FADA are in accordance with generally accepted accounting principles.

Furniture and equipment

Furniture and equipment are stated at cost less accumulated depreciation and amortization. Depreciation and amortization are charged to expense over the estimated useful lives of the assets on a straight line basis.

Fee income and reimbursable expenses

Asset management and advisory fees are accrued and billed monthly. Until net realizable values are established, asset management fees are accrued on the basis of estimated value of the assets managed and are subject to retroactive adjustment.

Reimbursable expenses for the management of assets are accrued to accounts receivable as incurred and billed monthly.

Marketable securities

Marketable Securities are recorded as of settlement date.

2. ASSETS UNDER MANAGEMENT

As of the end of December, the FADA was managing approximately $4.4 billion of real estate assets based on estimated current book value from thirty-two FSLIC liquidating and supervised associations. Estimated net realizable value of these assets is approximately $3 billion. Per the management contracts with FSLIC or supervised associations, FADA is required to calculate net realizable values per prescribed procedures requiring R41(c) appraisals. These real estate assets are owned by the institutions and thus do not appear on the balance sheet of the FADA.

3. REIMBURSABLE COSTS RECEIVABLE

FADA has requested $6,180,654 from the FSLIC to compensate FADA for legal services, appraisal services, and management fees on assets with no book value for fee billing purposes. During 1987, FADA has provided legal and appraisal services that are not being provided by other asset management contractors retained by the FSLIC.

The $6,180,654 has been shown on the balance sheet as reimbursable costs receivable and as contingent liability. Upon collection of the receivable these statements will be restated to include this amount in the income statement as revenues or as a reduction in expenses. The amount is subject to adjustment pending final approval of the FSLIC.

4. MARKETABLE SECURITIES

Marketable securities include obligations of the U.S. Government, other Federal Agencies and Bankers Acceptances. As of December 31, 1987 market value was $4,856,563.

5. CAPITAL LEASE

In 1987, FADA entered into a five year lease on data processing equipment that has been recorded as a capital lease. The fair market value of that equipment on the date of lease was $589,000.

The following is a schedule by years of future minimum lease payments under this lease:

[In thousands of dollars]

Year ending December 31:	
1988	139
1989	139
1990	139
1991	139
1992	35

6. SHORT TERM BORROWING

FADA's short term borrowings are drawn against an open line of credit with the Federal Home Loan Bank of Topeka, which is backed by a contract between the FSLIC and Federal Home Loan Bank, under which the FSLIC has guaranteed repayment of up to $50 million in advances to FADA. The repayment guarantee applies only to advances used for funding asset related activities in which FADA has an agreement with the FSLIC as receiver or conservator for an insured institution.

In addition to the guarantee from the FSLIC, the FHLB of Topeka asked for additional collateral in the form of an Advance Agreement whereby FADA provides collateral from its management fees and reimbursable advances receivable. In addition, FADA will leave securities equal to 20% of advances in the possession of the Bank. This agreement was signed in September.

7. CHANGE IN ACCOUNTING ESTIMATES

In July, FADA adjusted downwards the asset base of six receiverships to reflect estimated net realizable values (NRV), in accordance with the amended asset management agreement dated May 27, 1987. Per the management contracts with FSLIC or supervised associations, FADA is required to calculate net realizable values per prescribed procedures requiring R41(c) appraisals.

Net realizable values estimated to date are approximately two-thirds of net takeover values, and significantly below what FADA estimates will be ultimately recovered. The change in the estimate of the net realizable values reduced FADA's fee income by $2.5 million. Annualized, the change will reduce FADA's fee income by approximately $5.7 million. Prior to the amendment, FADA's management fee was based on net takeover values (including reserves). Year to date earnings have been restated.

As additional net realizable values are determined for assets under management, adjustments may be necessary to revenues. It is difficult to say whether any future adjustments will have a material impact on these financial statements.

ATTACHMENT 4.4

Committee staff's summary of compensation data for FADA's senior executive positions[1] *as of March 1, 1988*

Position	*Salary*
1. Chief executive officer[4]	
2. President/COO[2]	$250,000
3. SVP real estate	183,750
4. SVP general counsel[2]	152,250
5. SVP administration	135,000
6. SVP operations	109,200
VP/Directors:	
7. Valuation services	145,800
8. Asset management	140,000
9. Communications	100,000
10. Human resources	91,520
VP/Managers:	
11. Participations	132,500
12. Risk management	70,000
13. WDC office	73,500
14. Audit[3]	72,000
15. Planning and control	69,000
16. Asset accounting	63,480
17. MIS/Technology	63,000
18. Corporate accounting	57,200
19. Finance and administration[3]	86,100
20. Contractor administration	84,000
21. FSLIC account coord[3]	
22. Regional manager III	131,250
23. Regional manager III	131,250
24. Regional manager III	130,000
25. Regional manager III[2]	120,000
26. Regional manager II	105,000
27. Regional manager I	87,200
28. Regional counsel—SF[4]	
29. Regional counsel III	126,000
30. Regional counsel III	115,000
31. Regional counsel III	111,364
32. Regional counsel II	100,000

[1] Compensation for FADA's senior executives will be reassessed upon the appointment of a new FADA chief executive officer.

[2] Salary at termination.

[3] Position added after August 1987.

[4] Position to be filled.

ATTACHMENT 5.1

SUBCOMMITTEE ON FINANCIAL INSTITUTIONS, SUPERVISION, REGULATION AND INSURANCE OF THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC, November 12, 1987.

Managing Officer,
FSLIC as Receiver.

DEAR ———: The Committee is conducting a review of the organization and operations of the Federal Asset Disposition Association ("FADA"). As part of that review, it is compiling information on the cost, quality and relative success of asset management services available from FADA, private-sector companies and from individual receiverships.

The Committee requests that you provide it with an analysis of the additional cost and resources you would incur on a monthly basis to perform the asset management, marketing and disposition services currently being performed by FADA for assets under your control. Also, please provide the amount FADA has billed your receivership to date on a monthly basis.

The Committee would appreciate your prompt reply to the attention of Mr. Gary Bowser, B303 Rayburn House Office Building, Washington, D.C. 20515.

Sincerely,

FERNAND J. ST GERMAIN,
Chairman.

FSLIC AS RECEIVER FOR RESPONSE TO HOUSE BANKING COMMITTEE REQUEST OF NOVEMBER 12, 1987

As requested by the Honorable Fernand J. St Germain, (copy enclosed) this report has been compiled in an effort to analyze the incremental costs which would be incurred by the Savings and Loan Receivership if performance of the duties currently assigned to the Federal Asset Disposition Association became the responsibility of the Receivership Office. The report is organized according to functional responsibilities followed by a schedule of management fees paid to the FADA, as requested. Additionally, a narrative excerpt describing the organization and staffing of the Receivership Office along with an organization chart is provided in order that a reader unfamiliar with the Sunrise operation may become familiar, if desired.

This report is predicated upon certain broad assumptions which are detailed within the body of the report and should be reviewed with the understanding that numerous caveats may be applicable.

As detailed in the accompanying sections of this report, management fees paid to the FADA to date total approximately $3.2 million which equates to approximately $250,000 per month. These fees do not include expenses for which the FADA is entitled to reimbursement. One of the principal assumptions of this analysis is that the vast majority of the subcontractor expenses incurred by the FADA would continue if direct management of the assets were reassigned to the receivership. The principal exception being the expense associated with subcontract asset managers of unimproved land.

Based on the analyses detailed in the Loan and REO sections of this report, incremental expenses of the Receivership associated with the assumption of direct management of the portfolio assigned to the FADA would be as follows:

Loan department	$494,056
REO department	327,250
Total (annually)	821,306

Since the majority of the duties associated with the taxes and insurance aspect of the FADA portfolio is either contracted out, performed by receivership staff or performed by (our loan servicer); no significant increase in expenses would be anticipated. Likewise, since the receivership has an appraisal department and the FADA contracts out the review of all appraisals a significant increase in expenses would not be expected in this area either. However, for discussion purposes, a 10% adjustment to compensate for increased ancillary functions is not considered unreasonable and would bring the total increased expenses to $903,436-rounded to $900,000.

The $900,000 increased expense to the receivership compares favorably to the annualized average of $3 million currently being paid to the FADA for management fees. As detailed in the REO section of the report, we would also expect to be able to reduce fee management paid to subcontractors from $1,372,160 to $534,000. These figures are estimates of amounts paid to subcontractors solely for management and do not include expenses such as appraisals, engineering studies, legal fees, etc. The estimate of $534,000 is based upon retention of subcontractors on 17 assets which we realize we do not have the expertise in-house to manage or are uneconomical to manage in-house due to geographic location. These estimated expense reductions do not include disposition fees the FADA pays subcontractors, deficits from operations which either FSLIC Corporate or the receivership will have to pay ultimately or business plan preparation expenses. Based on the $233,000,000 REO portfolio currently assigned the FADA (assuming that future REO's would more than offset the decrease in the actual value of the portfolio), a disposition fee of 1 point equates to $2.33 million to be paid subcontractors.

In summation, the following would appear to indicate that significant savings could be realized at the receivership if partial or full reassignment of the portfolio assigned to the FADA were to occur:

FADA management fees	$3,000,000
Subcontractors (excl. appraisals, legals, etc.)	1,372,160
Total	4,372,160
Less:	
Increased receivership expense	900,000
Subcontractors	534,000
Savings	2,938,160 ($244,847/mo.)

It should be noted that due to the breadth of the requested report and the unavailability of certain specific information; a more accurate assessment may result within the context of a more comprehensive analysis. However, it would also appear that potential savings which have been estimated in this report are so great that any savings at all would disappear only in the event of gross inaccuracies.

ATTACHMENT 6.1

FEDERAL ASSET DISPOSITION ASSOCIATION—MEETING OF THE BOARD OF DIRECTORS, MAY 4-5, 1987

MINUTES

Meeting: A meeting of the Board of Directors of the Federal Asset Disposition Association ("FADA") was convened in the Doubletree Inn, Atlanta, Georgia on May 4, 1987.

Attendance by Directors: The following Directors were present: W.F. McKenna, Chairman; B. Beeksma; E.R. Biron; T.E. Bomar; G.J. Levy; J.B. Zellers; T.C. Connell, *ex-officio;* E. Calnan—*ex-officio;* R.B. Payne—*ex-officio.*

Others in attendance: The following other person was present: Robert J. Axley, Senior Vice President & General Counsel, FADA

General session: The Chairman called the meeting to order at 5:25 p.m., EDT.

Approval of minutes: Upon motion duly made and seconded the minutes from the previous meeting were approved.

Mr. McAllister reported that the institution of which he is the Chairman, San Antonio Savings Association ("SASA"), had been requested to contract with Vernon as the Management Consignment Program manager. He reported that the Special Agreement with the Federal Home Loan Bank of Dallas and Vernon was very restrictive and that SASA was attempting to work with the Board of Vernon and the Dallas Bank to make the Special Agreement less restrictive. He reported that part of the delay in obtaining approval of the FADA contract by the Board of Vernon resulted from the delivery of a letter from Mr. Robert Brick an employee of the FSLIC, to the Board of Vernon advising them of the FSLIC staff's position with respect to the relationship between Vernon and FADA. A copy of Mr. Brick's letter is contained within the minute file for this meeting.

Ms. Payne reported to the Board that FADA had been operating under the terms of the Asset Advisory Agreement and that the Asset Management Agreement approved by the FSLIC for use with FSLIC receivers and proposed for use in the Vernon case, allowed FADA greater operating flexibility. Unlike the terms of the Asset Advisory Agreement, the Asset Management Agreement allowed FADA to operate within certain parameters without obtaining Vernon approval for each specific action taken.

Mr. Bomar expressed concern that the letter from Mr. Brick could very well have legal implications involving liability to FADA officers and directors. Mr. Connell stated that the FHLBB was having discussions as to who was responsible for oversight and supervision of FADA and the proper utilization of FADA in receiverships and in the management consignment program. Mr. McKenna stated that the Board of Directors of FADA was responsible for supervision of FADA and that that responsibility was not delegated.

ATTACHMENT 7.1

FEDERAL SAVINGS & LOAN INSURANCE CORPORATION, RECEIVER FOR VERNON SAVINGS & LOAN FSA,

MEMORANDUM

To: ———.
From: ———.
Re: Alternative Asset Management Strategies by the FSLIC As Sole Receiver For Vernon Savings & Loan Association, FSA ("Receiver").
Date: February 8, 1988.

INTRODUCTION

In accordance with Federal Home Loan Bank Board direction under Resolution No. 87-1191, ("Resolution") dated November 19, 1987, concerning the liquidation of Vernon Savings and Loan Association, FSA ("Vernon"), the Receiver has reviewed the various options available for asset management services and forwards its recommendation herein to the Director for approval, provided that the final form of any asset management contract is approved by the Office of General Counsel (OGC). In order to properly evaluate for recommendation the Vernon Asset Portfolio, the Receiver reconciled the Vernon asset database with the accounting general ledger, including the sold portion of all participations (Vernon acting as lead lender). The results of this reconciliation are displayed in Exhibit 1 both geographically and by asset type. The Vernon asset management portfolio encompasses 693 assets totaling in excess of $1.88 billion. The Receiver further sorted this information to arrive at an asset management portfolio suitably assigned to an outside manager in a manner typical of previous Receivership contracts. This portfolio, as displayed in Exhibit 2 by asset type, includes only those assets (and related loans) involved in complex loan workouts and commercial real estate properties. The proposed asset management portfolio consists of 234 assets amounting to over $1.1 billion with an estimated Net Realizable Value of $600 million. The Receiver's recommendation is based upon its belief of which alternative, discussed below, would best serve to liquidate Vernon in an orderly fashion and maximize the value of its assets on behalf of the creditor estate.

RECOMMENDATION

The Receiver requests approval from the Director to allow and so direct the Federal Asset Disposition Association Vernon employees ("FADA/Vernon") to merge with the Receivership staff at their current salary and benefit level.

ALTERNATIVES

1. The Receiver to receive authority from the Director to merge the Portfolio Manager and Sr. Asset Managers of FADA/Vernon with the Receivership staff, at their current salary and benefits, and contract for third party asset management services where needed.

2. The Receiver receive approval from the Director to enter into a management service contract with FADA for those assets located in the State of Texas and other states, except for California and Florida. In addition, receive approval from the Director to contract with a third party asset management service company(s) to manage those assets located in California and Florida.

3. The Receiver obtain approval from the Director to contract with FADA for all asset management services.

DISCUSSION

1. *Recommendation.* The FADA/Vernon staff has managed the Vernon asset portfolio, under a services agreement with the Management Consignment Program Institution, since March 20, 1987. By merging the FADA/Vernon employees with the Receivership, the continuity of management and asset specific knowledge would be maintained. It should be noted that this group has been separated from the Regional FADA staff of officing at the old institution location. The merging of staff would reduce duplicated labor hours and provide for a clear line of authorized authority as delegated under the Resolution. However, the most significant attribute to this recommendation is the significant cost savings. As illustrated in Exhibit 3 the recommended alternative would save the Receivership $13,969,754, in *present value* dollars or a 63.5% cost savings in comparison to the proposed FADA/Receiver asset management services fee structure. When comparing this same recommendation with the proposed standard form asset management fee structure, as reflected in Exhibit 4, the results are again significant amounting to a cost difference of $7,854,724 in present value dollars or a 49.45 percentage cost savings. The assumptions utilized in this analysis accompanies the Exhibit. To the best of my knowledge these assumptions accurately reflect present day conditions.

2. *Alternative No. 1.* Hiring the Portfolio Manager and Sr. Asset Manager would again preserve continuity in the management of the Vernon asset portfolio. This alternative is preferred over the remaining alternatives due to its cost savings when comparing the FADA/Receiver asset management services fee structure with the standard form asset management fee structure. The comparative difference in fee structure, as reflected in Exhibits 3 and 4, is $6,115,030 or 44% cost savings. Additionally, this alternative allows flexibility in hiring an asset management contractor for it's particular expertise. Due to the many different type and location of assets in the Vernon portfolio, this is of particular importance.

3. *Alternative No. 2.* This alternative would allow for the Vernon asset management portfolio to be divided geographically. The predominant location of assets are in

the states of Texas, California, and Florida. Due to the complexities of California and Florida laws, including lender liability, zoning, foreclosure and real estate transactional, it benefits the Receivership to contract with a company experienced in these areas. Additionally, an asset management company experienced in California and Florida would provide insight into real estate property markets not readily available to the Receiver or FADA/Vernon. The oversight of FSLIC's Regional Offices in these areas would further strengthen the Receiverships asset management knowledge.

4. *Alternative No. 3.* The increased cost of contracting with FADA is hard to ignore. The current FADA/Vernon staff is talented and experienced with the Vernon asset portfolio. They have demonstrated an acceptable knowledge of the Vernon portfolio and proficiency in analyzing alternatives. However, the cost savings under the recommendation above makes entering into a FADA asset management contract prohibited.

EXHIBITS

Exhibit One—Vernon Asset Portfolio By Geographic Location and Asset Type.

Exhibit Two—Proposed Vernon Asset Management Contract Portfolio Type.

Exhibit Three—Vernon Asset Management Cost Analysis As Per FADA Proposed Management Fee Structure.

Exhibit Four—Vernon Asset Management Cost Analysis Standard Form Asset Management Fee Structure.

					Assumption explanations
		SCENARIO ASSUMPTIONS			
Discount rate	10.73				Effective Yield on FSLIC recap bonds.
Inflation rate	6.00				Based on 1987 inflation rate plus inflation expectations.
FADA fee basis points	YEAR 1	YEAR 2	YEAR 3 ON		Per proposed FADA contract (Draft 1/22/88).
Mgmnt, legal & acct. fees	75	75	75		Points on net takeover value.
Disposition fee	150	125	100		Points on proceeds from sale [(1) Assume 90.0% of appraised value].
Appraisal review fee	5	5	5		Points on appraised value [(1) Assume 59.0% of net takeover value]. (1) Based on random sample of asset appraisals / sales.
Salaries & benefits	NUMBER	MONTHLY SALARY	ANNUAL SALARY	ANNUAL BENEFITS	
FADA asset management staff:					Estimated FADA employee salaries. This estimate, as it relates to numbers, was arrived at through prior conversations with FADA.
Portfolio manager	1	$8,333	$100,000	$38,000	
Senior asset manager	5	6,667	80,000	30,400	
Asset manager	20	3,750	45,000	17,100	
Appraiser	1	6,250	75,000	28,500	
Property manager	2	2,500	30,000	11,400	
Legal	3	5,833	70,000	26,600	
Accounting	2	2,083	25,000	9,500	
Administrative	14	1,667	20,000	7,600	
Total	48	$37,083	$445,000	$169,100	
Benefit percentage	38.00				Average percentage provided by SRO personnel director.
Rent:					
Square footage / person	303				Current SRO per person average per the facilities administrator.
Rental rate	$8.50				Per signed lease agreements at SRO location.
Utilities:					
Current annual	$5,000				Current SRO average allocation per December 1987 SRO allocation billing report.
Per person	$76				
Southern Regional Office overhead:					
Current monthly	$66,300				Current SRO average allocation per December 1987 SRO allocation billing report.
Current annual	$795,600				
Variable annual portion	$348,552	[1] $5,281			Variable portion of SRO overhead estimated to be 43.81%.

[1] Per person/year.

SCENARIO ONE: AS PRESENTED UNDER PROPOSED FADA CONTRACT

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Beginning NTV—FADA [1]	$1,115,709,185	$948,352,807	669,425,511	$334,712,755	$111,570,918	
Disposition (percent)	15	25	30	20	10	100
Disposition Amount—FADA	$167,356,378	$278,927,296	$334,712,755	$223,141,837	$111,570,918	$1,115,709,185
NIV at year end	$948,352,807	$669,425,511	$334,712,755	$111,570,918	$0	
FADA management fees:						
Management, legal, and accounting fees	$7,740,232	$6,066,69	$3,765,518	$1,673,564	$418,391	$19,664,374
Disposition fee	$1,332,994	$1,851,380	$1,777,325	$1,184,883	$592,442	$6,739,023
Appraisal review fee	$329,134	$279,764	$197,481	$98,740	$32,913	$938,032
Total FADA management cost	$9,402,360	$8,197,813	$5,740,324	$2,957,187	$1,043,746	$27,341,430
Net present value FADA management cost		$21,999,380				
FADA fee annual average (undiscounted)		$5,468,286				
As a percentage of net takeover value		0.49				
As a percentage of net realizable value		0.92				

[1] Net takeover value is the result of a sort of net takeover values for all assets. This sort allocates those assets proposed to be assigned to an outside manager that would be typical of previous receiver contracts and include complex loan workouts and real estate assets where FADA management would maximize value. The remaining assets of $768,661,409 NIV would remain with the receiver.

SCENARIO TWO: INCORPORATE FADA STAFF INTO RECEIVERSHIP

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Beginning NTV	$1,115,709,185	$948,352,807	$669,425,511	$334,712,755	$111,570,918	
Disposition (percent)	15	25	30	20	10	100
Disposition AMT	$167,356,378	$278,927,296	$334,712,755	$223,141,837	$111,570,918	$1,115,709,185
Addition to variable costs:						
Rent	$427,273	$222,793	$157,265	$78,633	$26,211	$732,175
Utilities	$7,273	$6,553	$4,625	$2,313	$771	$21,535
Wages and benefits	$2,863,500	$2,580,014	$1,821,186	$910,593	$303,531	$8,478,824
SRO overhead	$253,493	$228,397	$161,221	$80,611	$26,870	$750,592
Total additional costs	$3,371,538	$3,037,756	$2,144,298	$1,072,149	$357,383	$9,983,124
Net present value in-house management cost		$8,029,626				
Annual average (undiscounted)		$1,996,625				
As a percentage of net takeover value		0.18				
As a percentage of net realizable value		0.34				

SCENARIO ONE VERSUS SCENARIO TWO: DOLLAR COST SAVINGS ANALYSIS

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Scenario one costs	$9,402,360	$8,197,813	$5,740,324	$2,957,187	$1,043,746	$27,341,430
Scenario two costs	3,371,538	3,037,756	2,144,298	1,072,149	357,383	9,983,124
Dollar savings	6,030,822	5,160,057	3,596,026	1,885,038	686,363	17,358,306
Percent value of dollar savings		$13,969,754				
Percentage savings		63.50				

SCENARIO THREE: AS PRESENTED UNDER PROPOSED MANAGEMENT CONTRACT

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
Beginning NTV [1]	$1,115,709,185	$948,352,807	$669,425,511	$334,712,755	$111,570,918	
Disposition (percent)	15.00	25.00	30.00	20.00	10.00	100.00
Disposition amt	$167,356,378	$278,927,296	$334,712,755	$223,141,837	$111,570,918	$1,115,709,185
NTV at year end	$948,352,807	$669,425,511	$334,712,755	$111,570,918	$0	
Management fees:						
Management fees	$5,160,155	$4,044,446	$2,510,346	$1,115,709	$278,927	$13,109,583
Disposition fee	1,332,994	1,851,380	1,777,325	1,184,883	592,442	6,739,023
Total management cost	6,493,149	5,895,826	4,287,670	2,300,592	871,369	19,848,606
Net present value management cost			$15,884,350			
Fee annual average (undiscounted)			$3,969,721			
As a percentage of net takeover value			0.36			
As a percentage of net realizable value			0.67			

[1] Net takeover value is the result of a sort of net takeover values for all assets. This sort allocates those assets proposed to be assigned to an outside manager that would be typical of previous receiver contracts and include complex loan workouts and real estate assets where contractor management would maximize value. The remaining assets of $768,661,409 NTV would remain with the receiver.

Scenario Three Assumptions					Assumption Explanations
Discount rate	10.73				Effective yield on FSLIC Recap Bonds.
Inflation rate	6.00				Based on 1987 inflation rate plus inflation expectations.
Management fee basis points	YEAR 1	YEAR 2	YEAR 3 ON		Per proposed asset mgmt contract (Draft 1/22/88).
Management fees	50	50	50		Points on net takeover value.
Disposition fee	150	125	100		Points on Proceeds from sale [(1) Assume 90.0% of Appraised Value]. (1) Based on random sample of asset appraisals/sales.
Salaries & benefits	NUMBER	MONTHLY SALARY	ANNUAL SALARY	ANNUAL BENEFITS	
Asset management staff:					Estimated employee salaries.
Portfolio manager	1	$8,333	$100,000	$38,000	
Senior asset manager	5	6,667	80,000	30,400	
Asset manager	20	3,750	45,000	17,100	
Appraiser	1	6,250	75,000	28,500	
Property manager	2	2,500	30,000	11,400	
Legal	3	5,833	70,000	26,600	
Accounting	2	2,083	25,000	9,500	
Administrative	14	1,667	20,000	7,600	
Total	48	37,083	445,000	169,100	
Benefit percentage	38.00				Average percentage provided by SRO personnel director.
Rent:					
Square footage/person	303				Current SRO per person average per the facilities administrator.
Rental rate	$8.50				Per signed lease agreements at SRO location.
Utilities:					
Current annual	$5,000				Current SRO average allocation per December 1987 SRO allocation billing report.
Per person	$76				
Southern regional office overhead:					
Current monthly	$66,300				Current SRO average allocation per December 1987 SRO allocation billion report.
Current annual	$795,600				
Variable annual portion	$348,552	[1] $5,281			Variable portion of SRO overhead estimated to be 43.81%.

[1] Per person/year.

PERSONAL EXPLANATION

Mr. KASICH. Mr. Speaker, I ask unanimous consent to have my statement appear in the permanent RECORD following the vote on the Bliley amendment on dial-a-porn.

Mr. Speaker, I was on the floor. I cast my vote. The computer did not record my vote. If it had been properly recorded, it would have reflected the fact that I supported and voted in favor of the Bliley amendment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mrs. MORELLA. Mr. Speaker, I ask unanimous consent to have the permanent RECORD show that, had I been here yesterday for one of the votes, which was House Resolution 422, the resolution on the INF Treaty, I would certainly have voted for it. I am in strong support.

Mr. Speaker, I was honored by the National Mother's Committee at that particular time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

NATIONAL DIGESTIVE DISEASE AWARENESS MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 421) designating May 1988 as "National Digestive Disease Awareness Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation being considered.

Mr. PEPPER. Mr. Speaker, I want to commend my colleagues for joining me in supporting the passage of a bill which designates the month of May as "National Digestive Disease Awareness Month."

The digestive disease system, which includes the esophagus, stomach, intestine, gall bladder, liver, pancreas, and colon, can be affected by a wide range of acute and chronic diseases. In fact, digestive disease represents one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditure for treatment, working hours lost, and mortality.

Sadly, more Americans are hospitalized by digestive diseases than any other diseases, necessitating 25 percent of all surgical operations. It has been estimated that 20 million Americans suffer from chronic digestive diseases, with over 14 million cases of acute digestive disease treated each year. Tragically, at least 100 different digestive diseases, in addition to other disorders of the gastrointestinal tract, cause more than 200,000 deaths every year. It is also one of the most prevalent causes of disability in the work force.

In economic terms, digestive disorders are extremely costly to the American public, and rank third among illnesses in total cost in the United States. Direct personal health care expenditure for treatment of digestive disorders exceeded $17 billion last year. Combined with annual lost wages, taxes, disability, and other financial expenditures, total losses from digestive diseases were estimated at nearly $50 billion last year. Of course, these digestive diseases also take their toll in ways that cannot be measured in dollars.

Fortunately, encouraging progress has been made by researchers through the National Institute of Arthritis, Diabetes, Digestive, and Kidney Diseases, and many victims have been relieved of their discomfort, pain and in extreme cases, death.

The month of May 1988 will mark the fifth anniversary of the National Digestive Disease Education Program, a coordinated effort through the National Institutes of Health to educate the public and the health care community regarding the seriousness of digestive diseases, and to provide information relative to their treatment, prevention, and control. It is expected that this resolution and the subsequent Presidential proclamation will be helpful in calling to the attention of the American people a disease which represents one of the Nation's most serious health problems.

I thank my colleagues for joining with me in this national effort to enhance awareness and efforts to combat digestive diseases.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 421

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality;

Whereas 20 million Americans suffer from chronic digestive diseases;

Whereas more than 14 million cases of acute digestive diseases are treated in this country each year, including ⅓ of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized because of digestive diseases than any other type of disease;

Whereas digestive diseases necessitate 25 percent of all surgical operations;

Whereas digestive diseases are one of the most prevalent causes of disability in the work force;

Whereas, in the United States, digestive diseases cause yearly expenditures of over $17,000,000,000 in direct health care costs and a total annual economic burden of nearly $50,000,000,000;

Whereas more than 100 different digestive diseases, and other disorders of the gastrointestinal tract, each cause more than 200 deaths every year;

Whereas there has been interest on the part of the research community in the causes, cures, prevention, and clinical treatment of digestive diseases and related nutritional problems;

Whereas the people of the United States should recognize prevention and treatment of digestive diseases as a major health priority;

Whereas national organizations, such as the Digestive Diseases National Coalition, are committed to increasing awareness and understanding of digestive diseases in the health care community and among members of the general public;

Whereas the National Institutes of Health, through the National Digestive Diseases Education and Information Clearinghouse and the National Digestive Diseases Advisory Board, is committed to encouraging and coordinating such educational efforts;

Whereas the National Digestive Disease Education Program is a coordinated effort to educate the public and the health care community on the seriousness of digestive diseases and to provide information relative to the treatment, prevention, and control of digestive diseases; and

Whereas May 1988 marks the fourth anniversary of the National Digestive Disease Education Program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1988 is designated as "National Digestive Disease Awareness Month", and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL FISHING WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 190) to authorize and request the President to issue a proclamation designating June 6-12, 1988, as "National Fishing Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. JONES of North Carolina. Mr. Speaker, today the House has before it my bill House Joint Resolution 432 proclaiming "National Fishing Week" June 6-12, 1988. For several years, we have commemorated the activities of millions of recreational and commercial fishermen.

"National Fishing Week" is a special tribute to a national pastime that benefits us in so many ways. Economically, sport fishing generates revenues exceeding $25 million annually, through tourism, plus sales of equipment and services utilized by the 54 million sport fishermen in this country.

Commercial fishermen also play an important role in the economic picture. As the demand for fish grows steadily in our health conscious society, so does the importance of the commercial fishermen. Approximately 300,000 Americans are employed in this industry, which is extremely critical in small coastal towns.

Additionally, these fishermen realize the necessity of protecting the environment that so enriches their lives. Through continued support, education, and conservation, we can hope to ensure that fishing will remain enjoyable and profitable.

The special events, educational classes, and seminars that occur during "National Fishing Week" serve to recognize and strengthen the sport fishing industry. Therefore, I would hope we can again enjoy celebrating this commemorative week.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 190

Whereas the United States Bureau of the Census reported that fifty-four million residents of our country participated in sport fishing in 1980;

Whereas sport fishing is a family oriented, outdoor, recreational activity that provides therapeutic rewards and enjoyment to people of all ages;

Whereas the demands for goods and services by sport fishing participants is estimated to generate $25,000,000,000 in economic activity and employment for an estimated six hundred thousand individuals each year;

Whereas fishing promotes respect for Nation's marine, estuarine, and fresh waters, and their associated plant and animal communities; and

Whereas our country's league of fishing enthusiasts represent a constituency that seeks to prevent the degradation of our Nation's diverse aquatic habitats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is requested and authorized to issue a proclamation designating June 6-12, 1988, as "National Fishing Week" and calling upon Federal, State, and local governments agencies, and the people of the United States to observe the week with appropriate programs and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

NATIONAL ARBOR DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 247) to authorize the President to proclaim the last Friday of April 1988, as "National Arbor Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to the legislation.

Mr. ROE. Mr. Speaker, I want first of all to thank Chairman FORD, Mr. DYMALLY, the distinguished chairman of the Subcommittee on the Census and Population and the gentlelady from Maryland, whom I have the pleasure of sitting with on my Science, Space, and Technology Committee, Mrs. MORELLA, for their support on the expedient passage of Senate Joint Resolution 247, the "National Arbor Day." I would like also to commend my fellow sponsors of the House bill, House Joint Resolution 55, for their assistance and attention to this matter.

It was over 100 years ago that the State of Nebraska established the first official Arbor Day observance in America. Today, there are less than a handful of States that do not have an Arbor Day which is observed by schools, service clubs, and civic groups, as well as arboricultural, horticultural, and agricultural groups.

The importance of trees to the environment has never been underestimated. In the ancient world, trees were worshipped as deities, and in some civilizations, a festival celebrating trees was observed. Trees provide a host of important items, from paper to shade to bark, and protect soil from erosion. We have often taken their presence for granted, yet if you have ever seen a desert, you will appreciate even more the appearance of a tree.

Everyday we are reminded that this resource like any other is finite. Man's encroachment on the environment can have serious consequences, through carelessness or accident it can be destroyed. I believe it is very appropriate to honor those who work to make us aware and educate all of us to the vital need to protect and preserve our arboreal resources.

Finally, Mr. Speaker, I would like to commend the Committee for National Arbor Day, and the Honorable Harry J. Banker who publishes the National Arbor Day Review and all the organizations which lent their support for their work to bring this legislation to life and insure that Friday, April 28, National Arbor Day will more than enhance public awareness in name only.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 247

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April 1988, as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

NATIONAL CHILD ABUSE PREVENTION MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 246) to designate the month of April 1988, as "National Child Abuse Prevention Month," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority does not object to this legislation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 246

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;

Whereas an estimated four million children become victims of child abuse in this Nation each year;

Whereas an estimated five thousand of these children die as a result of such abuse each year;

Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;

Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;

Whereas many dedicated individuals and private organizations, including Child Help U.S.A., Parents Anonymous, the National Committee for the Prevention of Child Abuse, the American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect and to help child abusers break this destructive pattern of behavior;

Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;

Whereas organizations such as Parents Anonymous, and other members of the National Child Abuse Coalition, are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April, 1988, is designated as "National Child Abuse Prevention Month", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

EXPRESSING GRATITUDE FOR LAW ENFORCEMENT PERSONNEL

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 227) to express gratitude for law enforcement personnel, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation and, in fact, would support it.

Mr. DERRICK. I rise in support of Senate Joint Resolution 227, a resolution to designate May 1 as "Law Day, USA." Traditionally, this day has been set aside to honor and commemorate the service of our Nation's law enforcement officers. I believe that it is most appropriate that today we join the other body in adopting this resolution.

Law Day salutes the whole realm of law enforcement personnel—policemen, sheriffs and their deputies, troopers, patrolmen, detectives, constables, and other officers. These men and women are devoted to their jobs, tireless in the work and often underpaid for the tasks they perform.

Last year, 60 police officers were killed in the line of duty. Some 64,000 officers were shot, assaulted or injured while doing their job. These are sobering statistics. Let us not take for granted the danger these men and women face each day. They are putting their lives on the line for the safety of the American public.

Mr. Speaker, I would like to thank the gentleman from California, the gentlewoman from Maryland, and the chairman of the Post Office and Civil Service Committee for their efforts in bringing this measure to the floor. As sponsor of the companion bill, House Joint Resolution 506, I urge my colleagues to support this worthwhile resolution.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 227

Whereas the first day of May of each year was designated as "Law Day U.S.A." and has been set aside as a special day to advance equality and justice under law; to encourage citizen support both of law enforcement and law observance; and to foster respect for law and to understanding its essential place in the life of every citizen of the United States;

Whereas during the course of each year many law enforcement officers are killed and tens of thousands are injured or assaulted in the course of their duties;

Whereas each day police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation; and

Whereas these dedicated people are devoted to their jobs, underpaid for their efforts, and tireless in their work, performing without adequate recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in celebration of "Law Day U.S.A.", May 1, 1988, special emphasis be given by grateful people to all law enforcement personnel of the United States for the unflinching and devoted service in helping to preserve the domestic tranquility and guaranteeing to all individuals their rights under law.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

WORLD POPULATION AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 148) to designate the week beginning April 20, 1987, as "World Population Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, the minority has no objection to this legislation.

Mr. Speaker, I yield to the gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, last year we added the 5 billionth living member to the human race. As our population grows, resources shrink. Overpopulation has dramatic and clear effects: rain forests are eliminated, air and water are polluted, urban slums grow and maternal and child health declines in many developing nations.

By designating this week as "World Population Awareness Week," the House joins more than 40 States in declaring this week a time to consider the effects of rapid population growth on the world's health and economy. I hope we can formulate some solutions to the problems.

These problems do not just occur in the Third World. The industrialized nations depend heavily on the developing world for many strategic materials, and U.S. exports to developing nations account for about 1 of every 24 U.S. manufacturing jobs. U.S. farmers depend on developing countries for about 40 percent of their export market. In economic terms, alone, we have a real substantial stake in the health and productivity of all parts of the world.

This resolution simply points out that current rapid population growth is causing many serious problems and that many of them could be ameliorated by increasing access to voluntary family planning. In the past, the United States was a world leader in recognizing the right of people to control the size of their families. I hope that this resolution will cause some people to think about this and other avenues of help available to us.

I'm proud to join the principal sponsor of this bill, Representative JIM MOODY, my colleagues from California and Maryland in supporting House Joint Resolution 148.

Mrs. MORELLA. Mr. Speaker, further reserving the right to object, I would like to compliment the gentleman from Illinois for his eloquence.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 148

Whereas the world population has reached five billion and is growing at the unprecedented rate of eighty-seven million a year;

Whereas 92 per centum of world population growth occurs in the poorest, least developed countries of the world;

Whereas rapid population growth causes or intensifies a wide range of grave problems in the developing world including environmental degradation, urban deterioration, unemployment, malnutrition, hunger, resource depletion, and economic stagnation;

Whereas 50 per centum of the ten million infant deaths and 25 per centum of the five hundred thousand maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded;

Whereas some five hundred million people in the developing world want and need family planning but do not have access or means to such services;

Whereas the United States has been the leading advocate of the universally recognized basic human right of couples to determine the size and spacing of their families;

Whereas in 1986 a total of twenty-five United States Governors proclaimed "World Population Awareness Week" in their States to call attention to the consequences of rapid population growth;

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 20, 1987, through April 25, 1987, is designated as "World Population Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DYMALLY: Page 2, line 3, strike "week of April 20, 1987, through April 25, 1987," and insert "week beginning April 17, 1988,".

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from California [Mr. DYMALLY].

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment of the joint resolution.

The joint resolution was ordered to be engrossed.

AMENDMENTS TO THE PREAMBLE OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer amendments to the preamble.

The Clerk read as follows:

Amendments to the preamble offered by Mr. DYMALLY: Page 2, at the end of the penultimate clause insert "and".

Page 2, in the last clause, strike the semicolon at the end and insert ": Now, therefore, be it".

The SPEAKER pro tempore. The question is on the amendments to the preamble offered by the gentleman from California [Mr. DYMALLY].

The amendments to the preamble were agreed to.

The joint resolution was ordered to be read a third time, was read a third time, and passed.

TITLE AMENDMENT OFFERED BY MR. DYMALLY

Mr. DYMALLY. Mr. Speaker, I offer an amendment to the title.

The Clerk read as follows:

Title amendment offered by Mr. DYMALLY: Amend the title so as to read: "To designate the week beginning April 17, 1988, as 'World Population Awareness Week'.".

The title amendment was agreed to.

A motion to reconsider was laid on the table.

□ 1900

OLDER AMERICANS MONTH

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the joint resolution (H.J. Res. 508), designating May 1988 as "Older Americans Month," and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I rise in support of House Joint Resolution 508 designating May 1988 as "Older Americans Month."

Mr. Speaker, as member of the Select Committee on Aging, it is an honor for me to be a cosponsor of this resolution.

Today we have over 29 million 831 thousand Americans who are over the age of 65 in comparison with 19,972,000 in 1970. In the 25-year span from 1960 to 1985, there was an increase of 11.8 percent in the over 65 population.

As the number of older Americans increases, we are reminded of their invaluable contributions to our society. They are an untapped resource for our younger generations—their experience and contributions to our Nation help to build up our own unique American heritage and culture.

Older Americans continue to contribute; many significant achievements are made by older Americans—Cecil B. De Mille produced and directed The Greatest Show on Earth when he was 71 years old, and The Ten Commandments when he was 75. Frank Lloyd Wright created his most known works at the age of 69. Grandma Moses started to paint after she was 78. Margaret Mead made a field trip to New Guinea at 72. Golda Meir, formerly of Milwaukee, WI, became Prime Minister of Israel at age 70. Benjamin Franklin started to draft the Declaration of Independence at the age of 70 and was 84 when he appealed to Congress to abolish slavery. Maggie Kuhn was 64 when she began organizing the Gray Panthers, and the list goes on.

I am pleased that there are over 220 cosponsors of House Joint Resolution 508. This bill helps us to focus on the needs, concerns, of older Americans, in addition to recognizing their contributions.

Mr. MCCOLLUM. Mr. Speaker, today I call upon my colleagues to join with me to appreciate, to preserve, to recognize maybe our greatest natural resource, our elder Americans, by designating, for the seventh year in a row, May as "Older Americans Month."

We can speak of their many contributions to society, as workers, as parents, as politicians, as dreamers. However, the essence of what we treasure in our elders is somewhat more intangible. Their very presence among us calls us back to ourselves.

In the hustle and bustle of daily living we can easily miss what is most important in life. In the depth and breadth of life experience we can observe a certain serenity in our elders, a sense that even with the great complexity of life they have learned acceptance.

T.S. Eliot speaks of life's complexity. He says:

> Home is where one starts from. As we grow older—the world becomes stranger, the pattern more complicated—Of dead and living. Not the intense moment Isolated, with no before and after, But a lifetime burning in every moment—And not the lifetime of one man only—But of old stones that cannot be deciphered.

It is true that our search into another generation will be somewhat limited; however, by affirming the dignity of our elders in this way today, we take a first step in deciphering the great mysteries which are theirs to share and ours to explore.

This is why I sponsor legislation each year to set aside the month of May to honor senior citizens. House Joint Resolution 508 which the House adopted today is this year's measure.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 508

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1988 as "Older Americans Month" and calling on the people of the Untied States to observe this month with appropriate programs, ceremonies, and activities.

The joint resolution was ordered to be engrossed and read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have legislative days in which to revise and extend their remarks on the several joint resolutions just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The Speaker pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 18, 1988.

Hon. JIM WRIGHT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I have previously notified you of the receipt of a subpoena in my office issued by the Superior Court of the District of Columbia.

After consultation with my General Counsel, pursuant to Rule L(50) of the Rules of the House of Representatives, I have determined that compliance with the subpoena is consistent with the privileges and precedents of the House

With great respect, I am,

Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

UAB VITAL TO STATE AND NATION

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ERDREICH. Mr. Speaker, once again, the importance of the University of Alabama at Birmingham to Jefferson County, AL, the entire State of Alabama, and indeed, our Nation, has been underscored.

UAB's many contributions to our local community and State were highlighted in the annual report issued recently by university President Charles McCallum. McCallum noted that in 1987, UAB employed almost 12,000 faculty and support staff. These employees received a payroll of $235 million, part of a $461 million total operating budget. These dollars, channeled back into our community, are a tremendous boost to our local economy.

UAB is also a strong supporter of small business development throughout the State, and continues to provide high-quality medical treatment and conduct research activities at its world-renowned medical center.

In 1987, the graduate and undergraduate facilities of UAB provided a well-rounded education for over 14,000 students, and through its medical care, research, and education activities, the university is helping our county, State, and Nation prepare tomorrow's leaders for the challenges of the 21st century.

The University of Alabama at Birmingham continues to be a sparkplug of economic and jobs growth in Jefferson County, and all of us are proud of the university's continued accomplishments. I congratulate the leadership of UAB, President Charles McCallum, and the staff and faculty of the university, on their continued good work.

Following is an editorial by the Birmingham News saluting the University of Alabama for another successful year:

[From the Birmingham News, Mar. 19, 1988]

UAB's IMPACT

The vital role that the University of Alabama at Birmingham plays in our local economy was spelled out this week in President Charles McCallum's annual report.

In 1987, almost 12,000 employees received a payroll of about $235 million dollars, most of which found its way into the local economy. It is hard to overstate the importance of that payroll in supporting Birmingham businesses as UAB employees buy homes, cars, food and other products.

That payroll is part of a $461 million operating budget, of which state appropriations provide only $126 million.

The taxpayers are getting a bargain.

That payroll, though, is just one way in which UAB uplifts this community. Projects that directly help the local economy include the university's support for the Office for the Advancement of Developing Industries and the Alabama Small Business Development Consortium. The OADI's business-incubator facility has helped 13 advanced-technology businesses begin operations that now employ 85 people and have combined budgets in excess of $4 million a year.

Research continues to be an important part of UAB's mission, with research funding putting the university among the top 50 in the nation in the amount of federal money received.

Faculty and staff members cared for 29,856 patients admitted to the University Hospital last year and 34,000 people who came to the Medical Center's emergency department.

UAB's main job, though, is education. McCallum reports that UAB had 14,245 students in 1987 and awarded 2,090 degrees, 41 of which were doctoral degrees.

While most of us in Birmingham are aware of UAB's importance to the community, McCallum's report helps put specific numbers to its economic and educational impact.

We salute UAB for another successful year.

FAIR HOUSING BILL

The SPEAKER pro tempore (Mr. KLECZKA). Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 5 minutes.

Mr. MICHEL. Mr. Speaker, today I am introducing, by request, the administration's fair housing bill. The President, in every message accompanying a State of the Union Address, has aked Congress for effective and substantive action on fair housing civil rights protection. Now is the time for such action.

When we debate this bill, we will be able to examine all of its ramifications. But for now, I simply want to emphasize the fact that, in my view, this is a fair bill, a necessary bill, and a timely bill.

It is a fair bill because it is in the great tradition of the 1968 fair housing bill, for which I voted exactly 20 years ago this month, and which is now current law. I am proud of my civil rights record going back more than 32 years. I believe the administration's fair housing bill reflects the same concern for human and civil rights that has long been at the very heart of the American commitment to equality.

Under the provisions of the administration's bill, the Department of Housing and Urban Development could obtain an injunction while investigating charges of noncompliance, Department of Justice enforcement would be expanded to cover all cases, and private parties could get effective punitive damages and attorney's fees.

Current fair housing law does not prohibit discrimination against the handicapped. The administration's bill embraces the handicapped within the umbrella of fair housing protection. This concern for the rights and needs of the handicapped is one of the most welcome ideas to come along in my time in Congress and I'm glad this bill is responsive to those needs.

I am introducing the administration's bill today so that its provisions can be inserted into the ongoing discussion of fair housing reform. Our goal must be to develop effective legislation that can become law in the 100th Congress, and I believe the President's bill can serve as a realistic basis for the desperately needed improvement in our Federal fair housing laws.

THE B-1B IS FLYING AGAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. STRATTON] is recognized for 5 minutes.

Mr. STRATTON. Mr. Speaker, the distinguished chairman of the Armed Services Committee has over the past several weeks shared with the House his views on the strategic programs the Armed Services Committee reviewed last year. These programs, the MX, Midgetman, Trident II, B-1B, and ATB represent this Nation's investment in strategic deterrence. They are all very costly and very complex programs which will serve to ensure America's freedom from attack into the next century.

Given the critical importance of these programs, it is understandable and beneficial that the chairman and entire membership of the Armed Services Committee have taken a very close look at each system. As chairman of the Procurement Subcommittee, I have been intimately involved with the examination of these strategic programs and support HASC oversight in such areas.

As in all areas under our jurisdiction, it is the function of the HASC to monitor DOD programs to ensure that the U.S. taxpayer is getting the most he or she can for the money invested. This is an important responsibility that the chairman and members of the committee take very seriously.

With that said, it is also important for us to communicate in a fair manner the results of our findings. Strategic weapons systems are by design very complex and it is incumbent upon those who understand them to provide a clear picture of their cost and of their worth to the American public. Regrettably, recent accounts of the B-1B bomber have missed the fairness standard.

While the program has received high marks for cost and schedule some have argued that the B-1B fails the performance test due to problems with its ECM system. As with so many things, performance is in the eyes of the beholder and one can view the glass as eight-tenths full or two-tenths empty. The B-1B strategic bomber program represents a bipartisan cooperative effort to address an acknowledged shortcoming in the bomber leg of our nuclear triad. In 1982, the Reagan administration requested funding for the program and received congressional support and the authorization for multiyear procurement.

Some 6 years later, the Air Force has taken delivery of 98 aircraft with the 100th to be delivered the end of this month—2 months ahead of schedule. Ahead of schedule and within the congressional mandated cost cap, the B-1B is capable of holding at risk any enemy that would threaten our Nation.

While it is true that the B-1B has experienced problems, especially with its electronic countermeasures system [ECM], the plane, as a function of its speed, altitude and small radar cross section, can penetrate and fulfill its mission. While the Soviet defenses against penetrating bombers will continue to improve, the B-1B can also be improved to meet these additional threats and remain capable.

In short, the B-1B is and worth the considerable resources invested in its development and deployment. As with all modern weapons systems, we must maintain its capabilities in a changing world through practical and cost effective enhancements. It is now time to ensure that the proper ameliorative steps are being taken and to build on the considerable inherent capabilities of the B-1B. The American public must understand that this Nation possesses a meaningful nuclear deterrent and that the Congress will work to maintain that force.

THE LEFTWING MACHINE AND THE HOUSE RULES

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 5 minutes.

Mr. **GINGRICH**. Mr. Speaker, I have here, so Members who might be watching on television can see it, the conference report on the trade bill in its current form. It is unbound, it is not available. This I am told is the only copy available on our side of the aisle. I presume it will be available sometime tomorrow morning. It runs to I guess a thousand pages.

The point I want to make to my colleagues is when they look at all of this, there is a rule in the House which says this should lay over for 3 days so that every Member, every interest group, every news media person would have a chance to read it. We will see it at most for 6 hours. We will break the traditional rule of the House. We often do.

But I want to take this evening to make two points. First, every Member who said about the continuing resolution they did not know there was $8 million for a religious school in France, they did not know there was an amendment to kill two newspapers, they did not know this, they did not know that, once again tomorrow, because of the way the House is being railroaded by the leftwing machine which dominates it, we will vote in ignorance, and those who vote yes will in fact not know. It will be impossible to have read it before we vote.

But it makes a larger point which I think Republicans in particular must pay attention to. The leftwing machine, which runs this House, uses the rule to its own advantage when it wants to and suspends the rules when it is to its advantage to suspend them. If it does not want a 3-day layover, we do not get a 3-day layover. If it does not care about germaneness, germaneness is waived. If it does not care about the Budget Act, the Budget Act is waived. If it is inconvenient to go to the committee, we go straight to the Rules Committee and come to the floor without ever having been to the committee.

I say all of that because the American people are being cheated by a process in which only the left redefines the rules routinely, and process becomes substance as the views and the desires of the American people are ignored.

It is my hope that from here on, for as long as the left ignores the true rules, and simply writes its own, that the Republicans will decide it is our job to represent the American people, to insist that procedure is substance, to argue for rules and to fight for rules as we did yesterday on telephone pornography where we successfully fought the rule. We won that fight and we changed the procedure so the American people could have a fair vote.

I can imagine in the near future votes on balanced budget amendments, I can imagine votes on enforcing drug laws, I can imagine votes on bringing to the House all of the various provisions for fair employment, for minimum wage, for equal opportunity which currently apply to business but do not apply to the legislature.

I think it is the job of the Republican minority to recognize that only by approaching the rules the same way as the leftwing majority, only by insisting on our right to make sure that the American people get a vote can we match the left's determination to ensure whatever happens it maximizes its allies' chances to dominate, even if that means suspending the rules of the House.

So tomorrow as we vote without a 3-day layover, as we look at a thousand pages of a trade bill being brought to the floor on 6 hours, not 3 days notice, I think every Member should recognize we have an obligation to ensure that the American people have their views and their opinions heard and have their views and their opinions voted on, and I think that will make some rules votes and some procedural votes over the next months far more important back home than they have been in our lifetime.

GENERAL CARLO ALBERTO DALLA CHIESA

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, even more threatening to world stability than Middle East inspired terrorism are the insidious problems of the illegal narcotics traffic which permeates all corners of the world.

I have been able to observe the important cooperation of, and contributions made by, the Italian Government in combating this heinous criminal activity.

The Italian national antidrug agency estimates that Sicily is one of the world's largest heroin suppliers with an annual turnover of $30 billion.

In its continuing fight against this serious problem, the Italian Government in 1982 assigned one of its top police officials, Gen. Carlo Alberto Dalla Chiesa of the Carabinieri, to Palermo, Sicily, to direct the fight.

Tragically, Gen. Dalla Chiesa and his wife, Emmanuela were assassinated in the center of Palermo while under police escort on September 3, 1982—4 short months after taking up this important assignment.

Dalla Chiesa had come to Palermo as prefect, the top administrative official in the Province of Palermo, to crack down on drug traffickers, as well as other terrorist activities. Palermo, generally considered to be a center of organized crime, is one of the key transit points in the worldwide heroin trade.

While this occurrence was indeed tragic and totally barbaric, Dalla Chiesa and his wife may not have died in vain. His successor, Emmanuele de Francisco, immediately received the broad powers sought by Dalla Chiesa to fight crime and terrorism. The new commissioner was empowered to intercept telephone calls of suspects and given access to all relevant information held by the Prime Minister's secret-service organization. In addition, bank secrecy rules were relaxed and public disclosure was ordered concerning ownership of companies bidding on public works contracts, many known to be affiliated with crime groups.

Gen. Dalla Chiesa was known for his efficiency and dedication. He attained national prominence after directing a string of successful antiterrorist raids, including the rescue of U.S. Gen. James L. Dozier.

In paying tribute to the assassinated general, Prime Minister Giovanni Spadolini referred to the "highest contribution" that the general had made in the antiterrorist struggle, and that "he died at a moment at which, with intelligence and courage, he was putting into action a battle plan against criminal terrorism."

Dalla Chiesa came from a large family with a long military tradition. He was chosen to head the antiterrorist campaign in Italy in 1978. He was later named the head of the Carabinieri in northern Italy until his nomination as deputy commander of this national police force. This was the position he held when the Prime Minister called upon him to go to Palermo and take matters in hand.

Although Gen. Dalla Chiesa only served 4 short months in that post, his name has become synonymous with the fight against terrorism and crime. The new measures adopted by the Government to combat terrorism are the legancy of Gen. Dalla Chiesa and his wife's ultimate sacrifice.

In a land of historic national heroes, many of whom are internationally recognized and honored, there are those whose deeds are just as meritorious but who do not attain this universal acclaim.

Gen. Carlo Alberto Dalla Chiesa is truly an Italian national hero. His life was given on behalf of suppressing criminal and political terrorism in a turbulent region in Italy.

In a recent visit to Rome, I had the pleasure of meeting with Gen. Dalla Chiesa's brother, Romeo, chairman of the Bank of Rome, who in the fine tradition of his brother continues to be deeply involved in the fight against drug abuse in Italy. I conveyed to him the sincere recognition and deep respect the American people have for his brother's dedication to his mission.

Even though his name may not reach the annals of history, the Italian people and those of us who care about the values of life should remember Carlo Alberto Dalla Chiesa whose example should serve as an inspiration to all of us who are engaged in the continuing battle against the international trafficking in drugs.

GREEN TEA AND DIRTY TRICKS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I did not realize the gentleman from Georgia [Mr. GINGRICH] was going to talk about the trade bill. I am going to do a general discussion, as I have for a number of days, on Japan and trade. But I did have some parliamentary comments to make about my concern that there is no complete copy of the trade bill available because my office has been trying for about 6 or 8 hours now today to get a copy of that section of the bill which deals with those who violate our military secrets. As I said, as of an hour ago when I checked with them, they still had not been able to get a copy of that, and yet we see in the Los Angeles paper this week an article where the gentleman from Minnesota, Mr. BILL FRENZEL, the leading person on the Committee on Ways and Means from the Republican side, was not even able to get a copy of the Senate document on the trade bill until it was sent to him by a lobbyist via the Japanese Embassy. I think that is really shocking that the members of the Japanese Embassy can get our documents, documents from the Congress of the United States, faster than our own House Members can receive them.

□ 1915

I asked Mr. FRENZEL about that today and he said yes, that is the way he had gotten it. And he found out that other lobbyists had as well, that the Japanese Embassy had distributed to them.

I think it is about time that we really began worrying about the Members here on Capitol Hill more than we worry about the Japanese Embassy. That disturbs me no end.

It also disturbs me that we are getting back the kind of conference report to vote on tomorrow on trade that we are. Ever since I have been in Congress I have been calling for a strong trade bill, one that really espoused fair trade, not the free trade that has resulted in exporting so many of our manufacturing jobs as they have. But the conference report that is coming back is far different than what we voted out here in this House last summer. We voted out a good trade bill; it was unacceptable. I would have even made that a little stronger. But the one that is coming back to us now, from what I understand—and again we do not have copies, we have not been able to read it—is so watered down that most sections of it are almost meaningless. I hope it is not just a Christmas tree assortment of things that people are trying to tie to trade and get it out there and say, "We passed a trade bill."

With all of this concerning trade, I am very, very concerned when I see what is happening to this country as we continue to drown ourselves in imports or allow ourselves to be drowned in imports with the dollars used to pay for those commodities coming into this country coming back to buy up America's assets and to place U.S. real estate out of the reach of most Americans.

That is what is happening.

Just this past weekend we pulled several articles out of the newspaper along that line. Here is one from the Sunday Sun. It reported an official from the Bank of America who had made a study, his investment real estate group had made a study. And he released points in that study which said that the Japanese bought a record 12.7 billion dollars' worth of United States property last year alone, an increase of 70 percent over 1986. The study was presented at a conference at the University of Southern California last week and it was conducted by Kenneth Leventhal & Co., an accounting and consulting firm. That was the highest estimate of Japanese holdings in the United States provided in a documented report.

The figure means, the story goes on, that the Japanese may be the largest foreign holders of United States real estate.

Now you may say, well "is that all bad?" But let us see what is happening with the price of real estate while that is happening.

In another article in Parade magazine on Sunday there is a journalist friend of the writer who had some land in the Kahala area of Honolulu. She said recently she was offered $3 million for her home which is exactly $2.8 million more than she paid for it. In other words, she paid $200,000 for it some time ago. Now she is being offered $3 million.

She turned that offer down because she said, "I'm sure the Japanese will up the price." They can up their price because, again, they have our dollars, the dollars we are sending over there to buy their goods, their exports which are flooding our markets.

The journalist's friend in Hawaii said that in Honolulu alone, in Hawaii alone in the last 2 years the Japanese investors have spent at least $6.5 billion buying up, to quote her, "virtually anything in Hawaii that isn't nailed down." They are purchasing hotels, restaurants, shopping centers, housing tracts, office buildings and land of every stripe, "you name it and they'll buy it," her friend reports, "and at top price too".

Why are the Japanese on a buying kick? Compared to their yen our dollar is the cheapest it has been in a long time. Moreover, they like Hawaii and its people, about 25 percent of whom are of Nipponese descent.

In another article it points out that one of Japan's wealthiest men has added to his extensive real estate holdings in Hawaii by paying a record $38 million to acquire 5½ acres of the Kaiser estate. They are running the prices up, sky high, high, high, sky high.

In a third article in the Sunday Sun, which edition was full of articles about Japanese buying our land, it said they are now buying up New York's most prestigious highrises and luxury condominiums as the yen's doubled buying power allows them to live out their dreams.

There are 80 Japanese buyers who paid $300,000 to $500,000 each for apartments at the Central Park Place project. Others who are paying $800,000 to $900,000 in a 39-story building that is going up.

Once again, you know, the real estate people may say, "What are you objecting to? It is money coming in."

True, money is coming in. But other than their paying property taxes on that, the profit that they get from shopping centers, from hotels, and others is not contributing to the tax base of this country.

The initial article out of the Sunday Sun concerning the Bank of America study points out that not all real estate transactions are even included. They have such financing of development projects which could reach as high, if they get all the figures in, as $20 billion being spent in this country in 1987.

Then in the Monday morning Sun paper there was an article where the Japanese have started to purchase shopping centers in Maryland. So on and on it goes.

Once again, I want to point out that my concern is that these items are being priced out of the market as far as Americans are concerned.

I yield to the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. GAYDOS. I thank the gentlewoman for yielding.

Mr. Speaker, at this time I want to again commend the gentlewoman for taking out special orders and keeping this House apprised of what is happening, bringing them up to date. I think it is a yeoman job. One thing my colleague who is serving on the steel caucus with me and with JOHN MURTHA and other Members in the House, we always appreciate the gentlewoman's dedication to whatever she has done.

Let me say this: After these special orders are concluded the Pennsylvania delegation is going to honor one of our colleagues who died roughly 10 days ago, John Dent from western Pennsylvania.

As I sit here listening to my colleague from Maryland talking about what the Japanese have accomplished already, what they are going to do in the future and the devastation that they have wreaked upon this country as far as international trade and the invasion of our economic power structure in this country and our economic activities that we have had over the years, it seems to me it is just the same thing as what he said some 30 years ago in the House. When I came here in 1968 I remember standing here as a freshman and he was saying exactly, and predicting exactly, what the gentlewoman is talking about now.

Mrs. BENTLEY. And it is taking place now.

Mr. GAYDOS. Exactly right. And we are going to talk more about what his vision was in some detail. I want to commend my colleague for the great work and her dedication, as I mentioned previously, as to what she has done and what we can expect in the future. I want to state at this time unequivocally that I wish her constituency returns her again, time after time because she is a valuable adjunct to the steel caucus.

Mrs. BENTLEY. I thank the gentleman from Pennsylvania for those very kind remarks and commend him also for being on the alert and pointing out to the American people what is happening in the steel industry and other industries as we are flooded by the imports.

I thank the gentleman.

Over recent weeks, Mr. Speaker, I have been reading some chapters out of the book "The Japanese Conspiracy," small sections of it, about the industries that have been destroyed in the United States by the conspiracy of the Japanese Government and their industries.

We have already discussed the typewriter industry, the television receiving sets, roller chain, carbon steel plate, large power transformers, pipe, and tubing. I will go on tonight to start a little bit on the computer memory disk.

But first I yield to the gentleman from Pennsylvania, Mr. MURTHA.

Mr. MURTHA. I want to join Chairman GAYDOS in commending the gentlewoman from Maryland for the tremendous job she has done in the steel caucus. She is the backbone of the steel caucus and all the things we have been able to do. We certainly appreciate her efforts and her comments here tonight.

Everything she has said has been so appropriate for the working men and women in western Pennsylvania, in Maryland, all the areas which have been so hard hit by these foreign imports.

We appreciate the gentlewoman's work and her comments and especially what she has done for steel in this nation.

Mrs. BENTLEY. I thank the gentleman from Pennsylvania for those kind remarks. I want to say that the two gentlemen from Pennsylvania, like myself, feel very strongly about the attacks; we protest the attacks that people have made that it is our labor market that has destroyed our industry when we know better. We know it was a lot more than that. And when we realize, as has been pointed out in this book, that it was a conspiracy, a foreign government together with their industries, to target each one of ours and to destroy them.

We are there and I am happy to work with the two gentlemen from Pennsylvania in trying to inform the American people on this to see what we can do together. They have been real stalwarts on this. Certainly without them and the leadership they have shown in the steel caucus we would not have the voluntary restraint agreements which have preserved the steel industry to the extent it has today. I am happy to learn this morning that our steel industry is now thriving at 92 percent, which is excellent that they are producing that much. Unfortunately, we do not see the other figures about how much of the steel industry we had to let go before we could get to that point. But at least we are working there and that is to the credit of the steel caucus which has done that.

Mr. Speaker, rather than delay their discussion tonight with bringing up anymore in the book, "The Japanese Conspiracy," I will yield back my time and I will pick up tomorrow night or next week.

Once again, the whole purpose of this discussion is to inform the American people about what is happening.

Mr. Speaker, I therefore yield back the balance of my time but before that I ask unanimous consent to have all of the articles that I referred to included in the RECORD at this time.

The articles referred to are as follows:

[From the Los Angeles Times, Mar. 19, 1988]

JAPAN ALSO HAS AN ADVANTAGE IN THE SENATE

WASHINGTON.—Japanese officials were sitting in their embassy studying a major Senate trade document while House members were forced to wait hours to get their copies, an influential lawmaker complained Thursday.

An irate Rep. William Frenzel, R-Minn., told a closed-door caucus of House trade lawmakers he finally obtained a copy of the paper by messenger from the Japanese as a courtesy. It arrived three hours before the copy from the Senate came.

Frenzel's remarks to House members of a conference committee drafting a sweeping trade bill were confirmed by his administrative assistant, Pat Eveland.

"We think it would be nice if the Senate would decide to give us the trade offer first before the private sector and the press," she said when asked what Frenzel told the caucus. The congressman himself was not available to discuss the matter.

The document was a compromise offer from Senate members of the conference committee. It was designed to resolve conflicts between House and Senate versions of the 1,000-page trade bill, primarily sections dealing with unfair practices by the Japanese and other trading partners.

Eveland said she was on the telephone with a Japanese Embassy official early Wednesday morning discussing the Senate's offer, when to her surprise "it became evident that they had a copy of it."

Just how the Japanese managed to obtain the offer remained unclear, Eveland said. Several copies were distributed to reporters who worked late in the Senate Press Gallery Tuesday night.

[From the San Francisco Sunday Sun, Apr. 18, 1988]

U.S. REAL ESTATE STILL ATTRACTING TOKYO INVESTORS

SAN FRANCISCO (Reuters).—While Japanese investors will continue their U.S. property-buying spree this year, they are becoming more cautious due to global economic concerns and politics, Bank of America believes.

"At minimum, we expect Japanese investment to be equal to or slightly below 1987 levels," Jack Cooper, managing director of Bank of America's Investment Real Estate Group, said in a statement. Bank of America is owned by San Francisco-based BankAmerica Corp., the nation's third-largest bank holding company.

His remarks follow the release of a study that estimated the Japanese bought a record $12.7 billion worth of U.S. property last year, an increase of 70 percent over 1986. The study, presented at a conference at the University of Southern California Wednesday, was conducted by Kenneth Leventhal & Co., an accounting and consulting firm.

This was the highest estimate of Japanese holdings in the United States provided in a documented report. The figure means that the Japanese may be the largest foreign holders of U.S. real estate.

Real estate industry sources noted that the consulting firm's estimate did not cover all real estate transactions. Including all types of investment, such as financing of development projects, a total Japanese investment in U.S. real estate could be as high as $20 billion in 1987, the sources said.

Mr. Cooper said that if the global economic and political issues improve, the Japanese investment this year could be substantially higher than last year.

[FROM THE NEW YORK SUNDAY SUN, APR. 18, 1988]

WEALTHY JAPANESE FLOCK TO BUY MANHATTAN'S MOST EXPENSIVE REAL ESTATE

NEW YORK (Reuters).—Japan's ???? riches are moving into New York's most prestigious high-rise and luxury condominiums as the yen's doubled buying power allows them to live out their dreams.

"The Japanese are buying more and making more inquiries," said Hiroko Suzuki marketing director at the Metropolitan Tower, a luxury apartment house in midtown Manhattan.

"They flock to midtown. They eye high-rise condos with good views" and calculate the appreciation of such an investment over the long term. Ms. Suzuki said.

Luxury condos such as Trump Tower. Trump Parc and Metropolitan Tower are their favorites, said Takeshi Furumoto president of Furumoto Realty Inc.

New York-based real estate agents selling to the Japanese say the October stock-market crash did not dampen the Japanese appetite for prime properties in the United States.

Indeed, the Tokyo market recovered faster than any other.

The Japanese are not the only buyers on the market, real estate agents said.

Many American, European and Hong Kong investors are snapping up expensive condos costing more than $1 million, in part because Manhattan real estate prices proved to be solid investments after the October collapse.

But the Japanese have an added advantage. "Because of the yen's strength, New York apartments must look cheap to them." Ms. Suzuki said.

Since September 1985, the dollar has plummeted from 242 yen to less than 130 yen, slashing U.S. prices for Japanese buyers.

Ms. Suzuki said Japanese buyers easily put out between $1 million and $1.5 million for a tiny apartment with a Central Park view.

Manhattan apartment prices may sound astronomical to other Americans.

But the same money fetches even less in Tokyo, where the price of land soared 68.6 percent last year after rising 21.5 percent the year before.

Fumio Sato of Haseko Realty Inc. has a client who recently purchased an apartment at 100 U.N. Plaza, an elegant address. "She will use it only three or four times a year when she comes for holidays," Mr. Sato said. "It's extravagant, but she likes New York."

A Japanese-language magazine was created recently to help sell American properties to rich Japanese.

About 20,000 copies of the first issue of the quarterly magazine Worldwide were mailed directly to Japanese investors. 50,000 were sold from bookstores in big Japanese cities and 5,000 were sold in New York.

"Nowadays, Japanese clients know New York very well. Sometimes they know more than I know," said Mr. Sato.

In its second issue, due out in May, Worldwide will feature detailed maps of New York and photos of the city designed to entice investors more than 8,000 miles away, said Bill Levine, sales manager of the magazine.

The Japanese demand for New York real estate is expected to keep growing as long as Japan's economy grows stronger and stronger, making Japanese investors increasingly wealthy.

The 55-story Central Park Place project, being built by Japan's Kumagai Gumi Co. Ltd., has lined up 80 Japanese buyers who paid $300,000 to $500,000 for each apartment.

A salesman for Kumagai Gumi said the company also is finding Japanese buyers for apartments at its Worldwide Plaza on the western edge of midtown.

The apartment house is scheduled to be completed before the end of the year.

An apartment at the 39-story building with a good view will cost $800,000 to $900,000, the salesman said.

"Expensive condominiums are attracting the Japanese as their prices are expected to rise in the future," he said.

"The Japanese believe in the proverb, 'Don't be penny-wise amd pound-foolish.'"

[From the Honolulu Sunday Sun, Apr. 17, 1988]

JAPANESE INVESTOR ADDS TO HOLDINGS OF HAWAIIAN LAND

HONOLULU (AP).—One of Japan's wealthiest men has added to his extensive real estate holdings in Hawaii by paying a record $38 million to acquire the remaining 5.5 acres of the Kaiser estate, according to his attorney.

Billionaire Genshiro Kawamoto paid $4.5 million earlier this year to purchase the estate's "picnic house" property and pickup an option to buy the rest of the estate built by industrialist Henry Kaiser.

When another interested buyer offered $38 million, Mr. Kawamoto exercised his option, according to his attorney, Robert J. Lombardi.

Real estate agency Scully Rogers, broker for the sale, and appraiser Robert Hastings said the purchase price was the highest ever paid for a residential property in Hawaii.

The previous record of $21 million was set in March, also by a Japanese buyer.

Hawaii has drawn more Japanese property investment than any other state, including an estimated $3 billion since 1986, and the increasing Japanese appetite has sparked controversy recently.

Honolulu Mayor Frank Fasi last month proposed state legislation to prohibit the sale of residential, agricultural or preservation property to anyone who is not a U.S. citizen, has no plans to become a citizen or would not live on the land at least half of each year. The proposal has little chance of being considered by the legislature this year because it was submitted late in the session.

Mr. Kawamoto has spent an additional $36.9 million to buy 130 acres of land and 142 houses and condominiums on Oahu, the island on which Honolulu is situated.

He said last week that he planned to use the estate, sold by a trust for the Goldman family, as a vacation home when he is in Hawaii on monthly trips from Japan.

The picnic house purchase included nearly 2 acres of land and a boat harbor. The latest purchase includes two houses and an Olympic-sized swimming pool.

"To go through them is like a James Bond movie," Mr. Rogers said. "You lost track of the amenities because you are so in awe of them."

[From Parade Magazine, Apr. 17, 1988]

BUYING PARADISE

A journalist friend of ours who lives in the Kahala area of Honolulu recently was offered $3 million for her home, which is exactly $2.8 million more than she paid for it. She declined the offer. Her reason: "I'm sure the Japanese will up the price."

In the last two years, she says, Japanese investors have spent at least $6.5 billion buying up "virtually anything in Hawaii that isn't nailed down." They are purchasing hotels, restaurants, shopping centers, housing tracts, office buildings and land of every stripe. "You name it, and they'll buy it," our friend reports, "and at top price too."

Why are the Japanese on a buying kick? Compared to their yen, our dollar is the cheapest it has been in a long time. Moreover, they like Hawaii and its people, about 25% of whom are of Nipponese descent. They find the Aloha ambience romantic and exotic and have made Hawaii one of their favorite vacation venues. Despite what they are paying for island property, they are convinced that, come 1993 or so, they will be able to charge Japanese tourists $300 a night and up for hotel rooms, most of which they already own.

Once dependent on pineapples, sugar and the U.S. military for its sustenance and growth, Hawaii rapidly is developing into one of Japan's leading economic outposts. Our friend predicts, "It's just a question of time before Hawaii goes bilingual."

LEGISLATION DEALING WITH SERIOUS PROBLEMS OF UNEMPLOYMENT AND EMPLOYMENT DISCRIMINATION IN NORTHERN IRELAND

The SPEAKER pro tempore. (Mr. KLECZKA). Under a previous order of the House, the gentleman from Massachusetts [Mr. DONNELLY] is recognized for 60 minutes.

GENERAL LEAVE

Mr. DONNELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. DONNELLY. Mr. Speaker, I am introducing legislation today, along with Representatives MCGRATH, COYNE, and KENNELLY, and a bipartisan group of members of the Committee on Ways and Means to deal with the serious problems of unemployment and employment discrimination in Northern Ireland.

Mr. Speaker, on September 19, 1986, President Reagan signed the Anglo-Irish Agreement Support Act, which provided $120 million in contributions to an international fund for economic development projects in Northern Ireland and some border counties in southern Ireland. This legislation was a strong show of support and commitment of U.S. support for the Anglo-Irish agreement, signed on November 15, 1985 between the British Government and Ireland.

Shortly after this legislation was enacted, The Economist magazine said about the Anglo-Irish agreement that "achievements have been modest. The most that can be hoped for is that it will buy breathing space, in which (the people of Ireland) may at last see that their interest lies in learning to live with each other."

Although I am not as pessimistic as The Economist as to the effects of the agreement, I do believe more needs to be done to encourage employment in Northern Ireland. In that spirit, we introduced this legislation today.

Our purpose is to provide a constructive response to the dual problems of unemployment and employment discrimination—problems that are inextricably linked.

This legislation is an incentive measure, designed to encourage U.S. firms to locate in Northern Ireland and designed to encourage firms that are already there to expand their employment.

□ 1930

It creates a major tax incentive for firms which choose to locate in Northern Ireland and hire individuals who have been traditionally unemployed. In addition it requires American firms to comply with a series of fair employment standards that have recently been released by the British Government.

I think it is fair to say that every Member of this House is aware of the terrible problems in Northern Ireland, many of which can be traced to the discrepancies in employment rates in Catholic regions of that country and in other areas. Workers also tell of rampant direct and indirect discrimination in employment. These charts tell a large part of the story.

Chart one shows the difference in unemployment rates between Great Britain and Northern Ireland. The orange bar shows an unemployment rate in England, Scotland and Wales of 9.5 percent. The green bar shows an unemployment rate of 18.3 percent. Over there, there is a comparison of the unemployment rates of Northern Ireland generally and the predominantly Catholic region of Derry, 18.3 percent versus 59 percent.

Chart two also tells the story of the rampant unemployment and employment discrimination. The first graph compares the Catholic percentage of the work force in Northern Ireland with the percentage of Catholics holding skilled jobs. As you can see, there is a great discrepancy. Thirty-five percent of the work force in Northern Ireland is Catholic, but only 12 percent of Catholics there hold skilled jobs.

The second graph compares Catholic and non-Catholic unemployment in Northern Ireland. The orange line shows non-Catholic unemployment at 13.3 percent. The green line shows Catholic unemployment at 27.7 percent.

To deal with these obvious discrepancies, the British Government has recently unveiled a series of steps designed to further tighten antidiscrimination laws in Northern Ireland. These proposals, however, have yet to be enacted into law. Furthermore, it is not clear whether the British Government will aggressively enforce those standards even if they are enacted. In any event, we are all in agreement that we have a responsibility to do more.

Because my legislation deals with tax incentives, I will first detail the current U.S. tax treatment of foreign source income. Next, I will explain the tax incentives which our legislation creates and, finally, I will explain the fair employment standards and the tax sanctions which go along with the failure to comply.

The United States taxes its citizens on their worldwide income. One major exception to this general rule is the foreign tax credit. It allows U.S. taxpayers a credit against income tax liabilities for a tax paid to a foreign taxing jurisdiction. The credit is subject to an overall limit, equal generally to the amount of taxes paid on that income had they been earned in the United States. The excess of the tax actually paid over the limit can generally be carried forward. In general, the foreign tax credit is denied with respect to operations in South Africa.

Another major exception to the general rule that the U.S. taxes worldwide income is the principle of deferral. Generally, income earned by foreign subsidiaries of U.S. corporations is not subject to tax in the United States unless those earnings are repatriated, that is, distributed, to U.S. shareholders as dividends. The foreign tax credit can reduce the tax on those dividends, however. Certain cases notwithstanding, the principle of deferral, income of foreign subsidiaries can be subject to current U.S. tax.

Our legislation begins with a tax incentive for firms which agree to locate in areas of high unemployment in Northern Ireland, if they also agree to employ individuals who are traditionally unemployed in Northern Ireland.

Looking at chart two again, we see the unemployment rate for Catholics in Northern Ireland is more than twice that for the rate of other religions.

Under this bill, a U.S. firm would have to locate in an area of high employment or already be there. For these purposes, our intent is that high unemployment means a parliamentary constituency with an unemployment rate in excess of 20 percent.

It is our understanding that the British Government does not keep unemployment statistics on the basis of parliamentary constituencies. It is possible that could be obtained, for purposes of this legislation, but our intent is to encourage employment in at least the following areas of Northern Ireland: Belfast, Cookstown, Dungannon, Limavady, Derry, Magherafelt, Moyle, Newry, and Mourne, and Strabane.

Next, at least 40 percent of the corporation's work force would have to be composed of members of a religious minority in all of Northern Ireland. Under the bill, firms meeting both tests, the high unemployment location test and the religious minority test, could generally qualify for an additional tax benefit. This benefit will allow the firm to calculate its U.S. foreign tax credit without regard to the foreign tax credit limitation with respect to Northern Ireland manufacturing income.

For example, if a firm had Northern Ireland manufacturing income of $10 dollars and a worldwide income of $100 and paid $4 in tax on the Northern Ireland income, present law would limit the credit to $3.40. Our bill would allow the full $4 to be taken as a credit.

It is also our intention to encourage employment. Therefore, a firm could not qualify for this benefit if it did not meet the 40 percent threshold by dismissing workers who were not members of a religious minority.

Finally, the benefit would only apply if the tax rates in Northern Ireland did not differ materially from the tax rate imposed on other types of income. These determinations would be made under the general regulatory authority of the Secretary of the Treasury.

Under our legislation, U.S. firms in Northern Ireland would always, regardless of whether they elected the benefit, have to comply with a series of fair employment standards, and certify their compliance to the Secretary of the Treasury. These fair employment standards are the expression of our intent that the U.S. taxpayer should, as a condition of receiving tax benefits, abide by fundamental standards and equity that are commonplace in the United States. U.S. taxpayers should never subsidize behavior that would be blatently illegal if practiced in the United States.

The fair employment standards are modeled after standards proposed by the British Government, and include the following: First, the taxpayer would have to take steps to ensure that no direct or indirect discrimination on religious or political grounds existed in employment. Second, the taxpayer would have to establish that they actively practice equality of opportunity in employment. The third, the taxpayer would have to take the advantage of affirmative action programs designed to give unrepresented groups better access to employment and training opportunities.

Again, let me stress that these proposals are for all intents and purposes identical to those recently advanced by the British Government. Therefore, a certificate of compliance from the British Fair Employment Agency that a taxpayer was abiding by British standards would possess strong evidentiary value that the taxpayer was in compliance with the Donnelly standards for purposes of certification by the Secretary.

However, such certification of compliance would not be conclusive since the Secretary of the Treasury would at some point determine that the British Government was not aggressively enforcing their fair employment standards.

Finally, a statement by the Fair Employment Commission that the taxpayer was not in compliance with the standards would create a conclusive presumption that the taxpayer was in violation of the Donnelly standards.

The bill envisions that taxpayers failing to meet the fair employment standards would lose both the foreign tax credit with respect to Northern Ireland source income as well as the benefit of deferral with respect to that income. These sanctions would ensure that U.S. firms practiced fundamental standards of fair employment in Northern Ireland.

The first standard envisions that U.S. employers would take steps to ensure that no direct or indirect discrimination on religious or political grounds exists in employment. That standard would, therefore, require employers to act aggressively to ensure that employees who are members of a religious minority are not discriminated against on the basis of pay, dismissals, or other standards of employment.

In addition, discrimination in the workplace would not be tolerated. For example, employers who permitted provocative religious or political symbols in the workplace would be held in violation of the standard. Isolated incidents of this type would not of themselves be sufficient to cause a violation of the standard.

An employer would also be in violation if he failed to promote a worker or kept that worker employed at a level below his qualifications principally because of that worker's political or religious beliefs.

In addition to ensuring that discrimination does not exist in employment, employers would also have to practice equality of opportunity in employment. Thus, employers could not discriminate against a potential employee on the basis of religious or political beliefs.

Under this legislation, it would not be sufficient for employers to practice equality of opportunity employment and take steps to ensure that no direct or indirect discrimination existed in employment. Employers would have to take advantage of affirmative action programs to actively recruit minority employees.

For example, employers could not argue that skilled jobs are not filled by members of a religious minority because they are not qualified for such jobs. Instead, employers would have to aggressively advertise the availability of such jobs and take advantage of any affirmative action programs to fill the jobs, both skilled and unskilled, with workers from a religious minority. Failure to take advantage of affirmative action programs would place the employer in violation of the Donnelly standards.

Mr. Speaker, with respect to all three fair employment standards, it is our intent that the standards would not be violated unless the taxpayer engaged in a pattern of discrimination which tended to disadvantage an employee of U.S. firms operating in Northern Ireland.

The Secretary of the Treasury would have regulatory authority to implement the provisions of this legislation. Thus, I anticipate that the Treasury Department would further define the Donnelly fair employment standards through regulation.

In addition, the Secretary would be required to determine by July 1 of every year from the beginning in 1989, whether a U.S. taxpayer was in violation of fair employment standards. In addition, every U.S. taxpayer having an operation in the north of Ireland would be required to make an annual report to the Secretary on the extent of its compliance with the Donnelly fair employment standards. A taxpayer who willfully failed to make such a report would be fined not more than $25,000 and could be subject to 1 year in prison.

The bill would generally be effective for taxes paid or accrued or income received or accrued after December 31, 1988. The employment incentive provision would be effective for the period beginning after that date.

Mr. Speaker, this legislation is reasonable and it is fair. All that it does is encourage U.S. firms to locate in this troubled region of the world while ensuring that they abide by reasonable, fair employment standards. The bill says that we will not subsidize discriminatory behavior, and that is right and correct policy.

Every Member of this House is concerned about the violence and the discrimination in the north of Ireland. Previous attempts to end the problems have only met with limited success. To the extent that at the root of these problems is unemployment and employment discrimination, our bill is a constructive response.

I plan to work in the coming weeks and months to urge the members of the Committee on Ways and Means and Members of the Congress who are friends of Ireland to act expeditiously on this legislation.

The adoption of this legislation will go a long way toward rectifying wrongs of the past, to make sure that every child born in the north of Ireland, whether from the minority community or the majority community, will have equal opportunity, not just in housing, but most importantly in the opportunity to earn an honest, decent living, that those people will not be discriminated against either when hired or either when promoted, that those U.S. companies that do business, and we encourage U.S. companies to do business in the north of Ireland, that they will hold to the same employment standards that we hold them to in the United States.

Illegal activity, illegal discrimination that would not for 1 second be tolerated in the United States of America cannot be tolerated in any other nation of the world. I urge every American company doing business in Northern Ireland to take a close look at this employment standard, at their hiring standards and their promotion standards so that they make sure even before the enactment of this legislation that they, in fact, are not in violation of some of the most basic principles of fairness and equity that we enforce on American companies here on American soil.

Mr. COYNE. Mr. Speaker, I rise in support of the legislation introduced today by my distinguished colleague from Massachusetts [Mr. DONNELLY]. I am a cosponsor of this legislation.

This legislation addresses the problems of discrimination and unemployment in Northern Ireland.

The legislation seeks to eliminate discrimination by denying the foreign tax credit to United States corporations doing business in Northern Ireland and which discriminate in the manner outlined in the bill.

The legislation also provides incentives for those United States firms operating in Northern Ireland which locate in a qualified area, that is a parliamentary constituency with an unemployment rate in excess of 20 percent. The legislation provides that to qualify for these incentives the company also employ members of a religious minority in excess of 40 percent.

Mr. Speaker, the sanctions may appear to be harsh, especially in view of the fact that United States firms employ 11 percent of the work force in Northern Ireland. However, the high rate of unemployment in the Catholic community is indisputable and the Government has not taken the necessary actions to eliminate the problem.

The New York Times in November, 1987 quotes a study which states that the unemployment rate "is 2.5 times as high among Roman Catholic men as among men who belong to the Protestant majority."

I see no reason why U.S. tax policy should contribute to this problem by encouraging actions which perpetuate the problem of discrimination. Yet at the same time I am not unmindful of possible disinvestment. So, in order to prevent that, there is a strong incentive in the bill in order to encourage investment in areas of high unemployment.

Recent statements by the British Government of its intentions to take action, sometime in the future are, in the opinion of some, the result of the campaign for the MacBride principles.

I hope that this legislation will enable the British Government to move from its seemingly lethargic state to one in which it moves more aggressively to bring its policies in

Northern Ireland more in line with its recent statements.

If the British Government does in fact move more aggressively to end discrimination and to reduce unemployment and if the companies respond to the positive provisions of this legislation we could accomplish a reduction in the unemployment rate and an end to discrimination without using the sanctions provided for in this bill.

Mr. McGRATH. Mr. Speaker, I rise in support of the legislation my colleagues and I are introducing today which will help to bring about more fair and equitable employment practices by American corporations doing business in violence ridden Northern Ireland.

As I am sure all of my distinguished colleagues are aware, religious minorities, in Northern Ireland have, for many years, experienced considerable and blatant discrimination by employers throughout the region. It is unthinkable and reprehensible that we, as Americans, should continue to provide tax benefits and incentives to foreign subsidiaries of American corporations who do not uphold and practice the same nondiscriminatory employment standards mandated by law in the United States.

The legislation we have introduced today will deny tax benefits to any American subsidiary doing business in Northern Ireland which does not abide by the fair employment guidelines which were recently advanced by the British Government. Under these guidelines, an employer would have to take every necessary step to ensure that discrimination in employment based on religious or political beliefs or national origin is eliminated. Employers would also be required to implement programs which would bring about a swift end to direct and indirect discriminatory activity.

Any American subsidiary not abiding by these fair employment guidelines would lose two important tax benefits. First, no foreign tax credit would be provided against Northern Ireland source income. Second, all income from Northern Ireland sources would be taxed currently in the United States, regardless of whether the income was distributed to U.S. shareholders.

Mr. Speaker, this legislation is an important step toward ensuring that American subsidiaries are not adding to the already difficult and volatile situation in Northern Ireland. I encourage all my colleagues to support this legislation and help ensure that religious persecution and discrimination is not fueled by the United States Tax Code.

Mr. DONNELLY. Mr. Speaker, in conclusion, let me say that there is an enormous incentive provided in this legislation, an incentive for companies based in the United States to locate in areas of high unemployment in Northern Ireland, and I would hope that those same United States companies either that do business in Northern Ireland or wish to do business in Northern Ireland will take a look at these incentives and take a look at the opportunities that are available and take a look at a work force that is as skilled as any in the world. I think that if, after taking a strong, hard look both at the economic situation, the political situation and the religious situation and some of the constructive proposals that are coming from this side of the Atlantic, that they would then make a decision to locate some of their facilities in those areas of high unemployment.

Again, Mr. Speaker, we look forward to enacting this legislation in the 100th Congress. Twelve members of the Committee on Ways and Means have gone on this legislation as original cosponsors, Members who are concerned about the situation there.

Mr. Speaker, I yield back the balance of my time.

□ 1945

TRIBUTE TO THE LATE HONORABLE JOHN H. DENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GAYDOS] is recognized for 60 minutes.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Speaker, let me say this before I recognize my good friend, the gentleman from Illinois [Mr. GRAY], that these special order remarks are in tribute to our late colleague, Congressman John H. Dent from Pennsylvania. We would have more individual participation here today if it were not for the unorthodox schedule that we had today. I have many prepared statements which I will put into the RECORD at the proper time.

We do have here with us Congressman MURTHA who is the successor to Congressman Dent, a very close friend of John Dent.

We have also a very close mutual friend of ours, Congressman KEN GRAY of Illinois, who served in this House around roughly 16 or 18 years with John Dent and who came back to us after having served 20 years and having a hiatus and he is back with us and is about to retire this year. So I think we are extremely fortunate that the gentleman is here today to spread upon the RECORD his sincere feelings about our deceased colleague, John Dent.

Mr. Speaker, at this time I yield to my friend, Congressman GRAY of Illinois.

Mr. GRAY of Illinois. Mr. Speaker, I want to first thank my friend, the gentleman from Pennsylvania, for taking this time to eulogize a great American and a great Congressman, John Dent.

Mr. Speaker, I came here in 1955 and shortly thereafter, about 1958, John Dent came to this House and from the day he took office he was in that well or in some Committee on Education and Labor or I served with him on House Administration and he was fighting for the working man.

If I were asked by the family to put an epitaph on John Dent's tombstone, I would say he was a fighter for the working man. I will guarantee that the coal miner and those people who have to work in the bowels of the Earth and those who have to work by the sweat of their brow had no finer champion in the Congress of the United States than John Dent.

John was a small man in stature, but he was a big man in heart, a big man who wanted to do everything that he possibly could to raise up the social and economic well-being of the people that he represented.

I recited a poem way back in the sixties and John came up to me and said, "I like that poem. Can I have a copy of it?"

Of course, no one knows where the copy of that poem is now, but the title was, "Are you a wrecker, or are you a builder?"

In memory of this great American and the man that we are eulogizing today, John Dent, I would like to recite that poem because I think it has a great message of the type of individual that John Dent was and what a fighter he was for 20 years in this Congress.

I watched them tear a building down,
A gang of men in a busy town;
With a "ho, heave, ho" and a lusty yell,
They swung a beam and the sidewall fell.
I asked the foreman, "Are these men as skilled
As the men you would hire if you had to build?"
He just laughed and said, "No, indeed,
"Just common labor is all you need;
"So I thought to myself as I turned and walked away,
"Which of these roles have I tried to play?
"Have I been a builder who works with care,
"Measuring life by the rule and square?
"Making my deeds to a well-laid plan,
"And patiently doing the best I can?
"Or have I been a wrecker who walks the town,
"Content with the job of tearing down?"

The moral of that story is that if you are inactive, if you are not doing anything for your constituents, you are just as destructive in tearing things down as someone who takes a sledgehammer.

Mr. Speaker, grass will literally grow up in the cracks of the sidewalk if you do not walk on it; so I want to dedicate that to the memory of John Dent, because in the 16 years that I served side by side with John on House Administration and watched him come here as a Representative of the Committee on Education and Labor and fighting for black lung benefits and fighting for a decent minimum wage and fighting for those people who have no voice, other than his voice at that time, and I might say parenthetically that he was exceeded by a great Congressman, JOHN MURTHA, who is continuing to be a real fighter and a builder for Pennsylvania and for that district and for the coal miner and the other people that he has the honor of representing.

So I want to thank the gentleman from Pennsylvania [Mr. GAYDOS] for giving me this opportunity of telling how much I enjoyed serving with John Dent and what a great Congressman, a great American, that John was.

I want to thank the gentleman and the other members of the delegation so much for taking this time to singularly recognize this great American.

Mr. GAYDOS. Mr. Speaker, I want to thank our colleague, the gentleman from Illinois, for those fine remarks.

I know that if there was any possibility at all that John Dent could communicate with us, he would say, "A job well done and thanks, my good friend."

Mr. Speaker, when John H. Dent died 11 days ago, the people of both Pennsylvania and the United States lost a great legislator, and I personally lost one of my best friends, and I know Congressman John MURTHA feels the same way.

John rose from humble beginnings to become one of the strongest protectors and supporters of America's working men and women. He quit school in the sixth grade because of the death of his father and, at that tender age, he was forced to find a job to help support his younger brothers and sisters. But, he didn't let that end his schooling, believe me.

Throughout his life, John was a voracious reader, he took correspondence courses, and he studied at the Great Lakes Naval Training Center. His reading, studies, and lively discussions developed Johnny's natural instinct for politics and for debate.

This in turn helped him get a job with the Rubber Workers Union as an organizer, and that position became the springboard for his election to the Pennsylvania House of Delegates in 1934. He then moved on to the Pennsylvania Senate where he served from 1936 until 1958.

John was the Pennsylvania Senate's Democratic floor leader for 17 years until he was elected to the 85th Congress in 1958 to fill the vacancy created by the death of the late Representative Augustine B. Kelley of Westmoreland County.

When he was first sworn into his House seat, the "Washington Evening Star" described Johnny as "A peppery, fast-talking son of an Italian immigrant who rose to become * * * [a Member of] the Congress of the United States." And when I came to Congress 10 years later, he hadn't changed much at all.

In 1968, John had already been here for 10 years. He knew his way around the halls of Congress and he was quick to take a fellow Pennsylvanian of his adjoining congressional district from McKeesport under his wing.

John Dent and I were close, both at home and in Washington. In fact, I used to ride on numerous occasions from his home to Washington and return. We had adjacent districts in southwestern Pennsylvania and we served together on both the Education and Labor and the House Administration Committees. I was a member of his Subcommittee on Labor Standards, and he was a member of my Subcommittee on Compensation, Health and Safety.

In that capacity, I learned to love John Dent and also to appreciate his many attributes and to know, to find out and determine what made him tick and what his true feelings were at arm's length.

Volumes could be written about his legislative accomplishments and I say that without qualification, but he is probably best known for his role as the champion of the working men and women of the United States.

The enactment of the Coal Mine Safety Act of 1969 was one of his major legislative victories. The bill helped to reduce fatalities and injuries in mines and provided compensation for workers afflicted with black lung disease.

Johnny's legislative skills were demonstrated by his skillful handling of the Employee Retirement Income Security Act [ERISA], which he helped pass which he originated and was the floor manager back in 1974. This complex piece of legislation now protects the pension rights of U.S. workers, both blue collar and white collar, and is still one of the most important pension laws we have today.

He was a tireless overseer of the Fair Labor Standards Act, and he led the fight year after year to assure a fair minimum wage for every worker in this country. There was hardly a bill involving labor and education issues in which he did not have a major role during the 20 years he spent in Congress.

John Dent also was a man of uncanny perception in the field of international trade and economics.

I just mentioned to one of our previous speakers here on a special order, Congresswoman BENTLEY from Maryland, and I did mention to her, and I want to reiterate it here and repeat it here in this part of the RECORD, that if John Dent were here, Congressman JOHN MURTHA and I both know that he would be over here participating and you would hear his booming voice over here taking up the cause and you would hear a very lively discussion on the floor.

When I came to Congress in 1968, he was a lone voice crying in the wilderness, warning of the perilous path down which our trade policy was leading us in this country.

Many of his predictions in the 1960's unfortunately came true and today we are faced with a $170 billion trade deficit and 1.5 trillion dollars' worth of foreign investment as a matter of record here in the United States.

I was privileged to benefit from his insight into international trade. He was one of the House's most respected and acknowledged experts on this issue and I am deeply indebted to him for sharing his expertise during the 10 years that we served in Congress together, and also what he did in this area on behalf of the Members of this great body.

Whether speaking on trade or education and labor issues, Johnny Dent always impressed Members on both sides of the aisle with his fairness, his willingness to listen, and his dedication to America and American workers. He was not afraid to speak out against injustice and poor treatment of working men and women, and his words were always accompanied by deeds.

John put words into action, and when he did, he improved the lives of this Nation's workers. He fought for higher wages, unemployment insurance, retirement pensions, occupational disease, compensation laws, mine safety laws, and many other worker rights.

True, they were not the most popular issues at times, but they were the issues that count in this country.

Johnny Dent was a public servant in the highest sense from the time he first joined a union in his youth until his death 11 days ago. He dedicated his very life to his country and he always tried to make the world a better place in which to live and work.

My dear friend and colleague Johnny Dent will be missed by all those who knew him, and his grieving family can be consoled by the living memory which he left behind in American law on the record spread here in this House, this U.S. House of Representatives.

Mr. Speaker, I offer my warmest condolences sincerely to his family, to his widow, Babe, and Freddy, his son, who is an attorney, an outstanding attorney back in our district, and his two daughters and his granddaughters and all his relatives, in-laws and all, my most warmest condolences. I wish them well as they remember and rightfully reflect on the life of a great man, a great man and a great legislator, and yes, a great orator and a great debator, a friend of the Pennsylvania delegation, our friend, the friend of the Congress, John Dent.

Mr. Speaker, I yield to my colleague, the gentleman from Pennsylvania, Mr. JOHN MURTHA who succeeded our good friend, John Dent.

Mr. MURTHA. Mr. Speaker, I thank the gentleman very much for yielding.

I want to join KEN GRAY and thank the gentleman from Pennsylvania [Mr. GAYDOS] for taking this special order on behalf of the Pennsylvania delegation.

KEN, those were certainly moving words, and JOE GAYDOS, who was such a good friend. I want to join them in wishing Mrs. Dent the most heartfelt expressed condolences to her and her wonderful family. Their granddaughter works for me, Jennifer. She does such a wonderful job. We appreciate her dedication. She is just like her grandfather, a bubbly, hard-working enthusiastic young woman who takes everything seriously, but also understands how important it is to do a good job.

I remember first meeting John Dent when I was a teenager. My grandfather was a good friend of Gus Kelley, who was the predecessor of John Dent. I remember meeting Congressman Kelley at that time and also John Dent, who was in the Senate at that time. I was so impressed by his enthusiasm and his talking to me as a young teenager as if I knew something that was going on. It always stuck with me.

Then I did not see him for years. I came up here and he acted like he remembered, when I reminded him that my grandfather had been a partner of his and Gus Kelley's years before. He acted like he remembered, but he did me the greatest favor when he got me on the Appropriations Committee after I had only been in Congress 9 months.

John Dent was the kind of person who had so many friends, and as anybody knows who works with the Steering and Policy Committee, they know that it is a real accomplishment to be able to work the type of compromises that are necessary in order to get the person you want on that committee.

□ 2000

When my good friend, former Congressman John Dent, died on April 9, our country lost one of its greatest leaders and our citizens lost one of their greatest champions.

When John Dent retired at the end of the 1978 session, I asked his office for a list of bills he had developed over his 44 years in government and his 20 years in Congress. In response, I received a 24-page, single-spaced summary of legislation pioneered and developed by John Dent.

The hallmark to the legislation was it all helped people, the working men and women of America, the men and women who had fought their way up the ladder as had John Dent.

The very first major bill I voted on as a Member of the House of Representatives was the Retirement Income Security Act, a bill he spent 7 years developing, and that since its passage has protected the pensions of millions of Americans. Other areas where this skilled and progressive legislator concentrated until new laws were on the books included the black lung program, unemployment compensation, workmen's compensation, job safety, labor law reform, and trade regulations to protect jobs.

John Dent's life symbolized the American dream. I believe he was the last Member of Congress who did not complete high school. At his retirement, he noted that when he first ran for the State house of representatives he spent $47. Through hard work and dedication, he worked his way into a major leadership role in both the State legislature, and then later in Congress.

I also want to add that John Dent was a personal friend. When I first came to Congress, it was his wisdom and knowledge of how Congress worked and how to get things done that served as my introduction to the House of Representatives.

When he retired in 1978, there were two statements he made that I have always particularly remembered. Asked about future plans, he talked about touring to talk about the economy. And in a statement that was as forward-looking as his career had always been, he said:

> I don't believe the majority of America has any realization of the depth of the danger we face economically in this country. We have got to pay more attention to providing production jobs upon which this country survives.

And in a typically reserved statement about all the success he had achieved, John Dent said:

> I have not been an outstanding Member of Congress. I've been an ordinary Member but to me that's the strength of Congess.

Well, all of us who had the opportunity to serve with him would disagree that John Dent was an ordinary Member of Congress. He was anything but.

You get a picture of the man from some of the comments of those who served with him. Reviewing the CONGRESSIONAL RECORD tributes to John Dent upon his retirement, there are some key words mentioned. Fighter. Warmth of spirit. Quickness of mind. Articulate. Genuine. Loyal. A good friend.

In an early campaign brochure, a comment was made about John Dent that summarized much of his outlook, and is a good reminder to us all:

> It is imperative that we elect men who are fully conscious of their duty to all the people and are not the servants of the special few.

That marks the way John Dent spent his entire legislative career.

Today I am reintroducing legislation to name the Jeannette Post Office the "John Dent Post Office Building." While his true memorial will be in the bettered lives of millions of Americans and the people he directly represented in Westmoreland County, the renaming of the post office would be a reminder of a career of a great American that should not and will not be forgotten.

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague, the gentleman from Pennsylvania [Mr. MURTHA], for those fine remarks.

Mr. YATRON. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. Mr. Speaker, I yield to my friend and colleague, the gentleman from Pennsylvania [Mr. YATRON], who has served with John Dent for the same length of time that I did, roughly 10 years before John Dent retired.

Mr. YATRON. Mr. Speaker, I rise today in great sadness to pay tribute to my good friend and former colleague, Congressman John H. Dent. John's life was dedicated to public service and to representing the people of Pennsylvania's 21st District.

After serving for 24 years in the Pennsylvania Legislature, John Dent ably served in this Chamber for 20 years. I was privileged to serve with John for much of this period. I first met John when I entered the Pennsylvania House of Representatives in 1957. John was Democratic floor leader in the Pennsylvania Senate at that time. As a young legislator, I was deeply impressed with John's full grasp of the issues and his ability to work with members on both sides of the aisle to enact legislation. I often joined with other freshmen members to watch John at work. It was an outstanding learning experience for all of us.

John's legislative skills were put to good use here in the House. In his long career, he built up an impressive record. His outstanding work is still seen in our current laws dealing with private pensions, workmen's compensation, and black lung insurance. In all of his endeavors, he never forgot his roots and the workers and families he represented. He truly was a friend of working Americans. Out Nation is richer as a result of John Dent's work on their behalf.

I feel honored to have known and served with John H. Dent. He was a caring and compassionate man as well as a dedicated political leader and public servant. Mr. Speaker, I join my colleagues in extending my deepest sympathy to Mrs. Dent and to all of the members of John's family.

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague from Reading for those fine remarks.

Let me at this time enter into the RECORD on behalf of those Members who had prepared remarks and could not be here for one reason or another, enter into the RECORD those remarks. I have those statements of Members, including the co-dean of the Pennsylvania delegation, JOHN MCDADE, who was a very close friend of John Dent and who in his prepared statement said the following, and I will just take out one excerpt. "Truly we miss John Dent, the friend of the working man and woman, for his amazing ability for compromise. Even more I think we miss his foresight. Listening to the current debate on the trade bill, I remember when John first spoke out on unfair trading practices and on the effect that they would have on our Nation. I am only sorry that he could not be here with us as we wrap up the trade bill."

Mr. MCDADE was referring in those prepared remarks to the trade bill that we will be taking up probably tomorrow. I remember many occasions when John Dent would get on the floor and he would ask this body to pass some kind of trade legislation because it was in dire need and his warning went unheeded.

Today through a set of circumstances and the unveiling of certain economic factors internationally, we are passing a trade bill.

Mr. Speaker, I have the remarks of the gentleman from Pennsylvania [Mr. MURPHY], another one of our colleagues in an adjoining congressional district, and let me just pull out a few things that Mr. MURPHY says. "John Dent long was the champion of the underprivileged, the wage earner, the disabled worker and the organizations that molded together America's labor force. Together with our former and honored colleague of Kentucky, Carl Perkins, John Dent authored and steered through the House the black lung benefit bill for disabled coal miners. He was the architect and advocate of many of the provisions in the occupational coal mine health and safety laws of our Federal Government. He is one of the crafters and a strong advocate of the Employee Retirement Income Security Act, ERISA, which today provides retirement protection for millions of American workers and former workers. John Dent was a strong and trusted leader of our Pennsylvania delegation in this House of Representatives."

I also want to refer to the gentleman from Pennsylvania [Mr. WALGREN] who is from an adjoining congressional district, and I want to make reference to the fact that the gentleman from California [Mr. HAWKINS] and the gentleman from Ohio [Mr. STOKES] and the gentleman from Ohio [Mr. MILLER] and others have submitted statements for the RECORD.

Let me say this, after having put in the formalities that we have gone through, let me say that all of us have in exercising our common sense and everyday experience read a man as we find him at arm's length. When one associates oneself in a rather long period of time such as 10 years as I have, working down here in Washington with our former colleague, John Dent, certain conclusions are drawn and opinions are drawn because one deals with a person when they are off guard. One deals with them in their time of grief, deals with them in their time of happiness, and deals with them in their time of constraint and when they are in the throes of a very important bill with all those ramifications and pressures placed upon them. Observing a person under those close circumstances at arm's length one really gets to know a person. They cannot fool anyone because in using common sense one sees how the person acts and behaves when he is off guard, as I mentioned, and one really gets to know a man from the inside out, for want of a better descriptive term. That is how I got to know John Dent and I have to conclude that all the things that were said about him by my good friends JOHN MURTHA, and GUS YATRON, and KEN GRAY and the rest of the host of others that are going to put their formal remarks in the RECORD, they cannot be here because of prior commitments in this very, very questionable operation we have here in the House, but all of those men submitted those statements and all those individuals I know have said so sincerely and from their heart because they knew and they got to learn and respect the John Dent that I know, the John Dent that was full of compassion, who in explaining a particular item or a piece of legislation, it very easily would engender tears in his eyes and when his wrath was disturbed he could holler loud and long. He had a lot of friends. He was a gregarious person. We all know that the homosapien is a gregarious creature but John Dent was just a little special. When I went throughout the country with him on hearings concerning ERISA as a young freshman Congressman, I remember the tenaciousness of the man. He put in long hours. I would be tired, and I would be begging to quit the hearings for the day, and we would be staying in a hotel in Chicago, for example, and I would want to get back to the hotel and John Dent, on the other hand, was just getting his second wind. He could drink wine with the best of them, and he was a good friend and colleague.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. Mr. Speaker, I yield to the gentleman from Pennsylvania.

Mr. MURTHA. What the gentleman from Pennsylvania [Mr. GAYDOS] has just said reminds me of the time when we were worn out, it was 3 o'clock or 4 o'clock in the morning in some of those sessions that we went through in the Watergate years, and during those very difficult times when we were passing legislation at the end of a session, it was as if John Dent had not been up for 36 hours or 24 hours because he was a vigorous and enthusiastic and excited and dedicated Congressman in those times and he had such great respect and love for his family. He has such a wonderful family. Mrs. Dent has been such a big part of his dedication and all of us feel so strongly for Mrs. Dent.

□ 2015

I often think about "Doc" Morgan, "Bob" Nix, "Dan" Flood and all the real powers of the Pennsylvania delegation, those years that all of them were here, 20 to 30 years, and were such an influence on us. But John's family had such a profound impact on him and such a profound influence because he had such a love for them. So it is with great sorrow that we eulogize his passing. But I again want to just compliment the chairman for taking this time to pay this special tribute to our good friend John Dent.

Mr. GAYDOS. Mr. Speaker, I appreciate those remarks. I will take just a few more minutes before yielding back. On behalf of JOHN and I, and I know GUS and John Dent's many friends, that was the human side of John Dent.

When I came here he was 60 years of age. When he left and retired he was 70. He passed away roughly at the age of 80.

Between his 60th and 70th birthdays, that man had more steam, for want of a better descriptive term, more ability to dogmatically support an issue than any of the young Members of the House, including myself at that time—and I was only 40 at that time and with all black hair.

John Dent really was an example, a man you would want to follow. I want his granddaughters here with us today and his family to know the humanistic aspect of John Dent, how we love him, what great kidder he was under so many circumstances.

As I mentioned before, when he got on to legislation such as the minimum wage bill, in the 20 years that he was here he was so effective in handling that that when he got on that there was nobody to destroy or amend or defeat that bill because John Dent had it.

I remember when we first started discussing the black lung bill. Right now the American miner in this country today, the poor miners in Kentucky, West Virginia, Ohio, parts of

Maryland, parts of Pennsylvania, none of them then had any compensation for black lung which you were sure to contract if you worked in a mine. I remember we talked about the pittances of funds and the amounts to be paid to the black lung victims and their widows.

Today, and I think I am pretty accurate, although I stand to be corrected, but I believe I am accurate in saying that we expended $2.5 billion last year on black lung to pay those unfortunate people who contracted black lung, which everybody ignored in this country. If you go back and take a look at what he did, and under those circumstances, this new legislation—I remember that he was the father of OSHA, he and "Dom" Daniels from New Jersey. I was on the committee. I remember passing that legislation. That was new legislation concerning a circumstance which had existed for a couple of hundred years. We had no OSHA legislation, no legislation governing the person's right to have decent treatment and healthy conditions on the job when he was making money and then paying Uncle Sam his taxes and then raising a family and making more taxpayers, and we had no protection for those people. They were thrown on the so-called labor scrap heap.

That was new, novel legislation at the time. John Dent just tore right into it. He was so successful.

So we are going to miss him very much. We have missed him.

Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. Murtha].

Mr. MURTHA. Mr. Speaker, let me ask that we put in the Record some of John Dent's speeches which predicted the future so accurately, one from April 4, 1978, "A Protectionist Congress is Needed Now," and other comments that he made, "The Tragedy of the Importation of Steel Fasteners," from April 4, 1978. He was so accurate in his predictions. I ask that those be made part of the Record.

The articles referred to are as follows:

A Protectionist Congress Is Needed Now

Mr. Dent. Mr. Speaker, on March 9, 1978, I made a brief report to the House on an international trade-related aspect of my recent trip overseas. Unfortunately, there were a few minor errors made in recording my remarks. In the interest of accuracy, I would like to submit a corrected statement for the record.

A PROTECTIONIST CONGRESS IS NEEDED NOW

Mr. Speaker, on February 24 I arrived home from a tramp steamer trip in the Mediterranean. When I left, our ship was loaded to the gunnels with perhaps 90 percent American goods funded under one or another American foreign aid programs. When we arrived in Corpus Christi there was not 1 pound of freight on that American ship. That was its second straight voyage without a return load.

I just received a message from the port of Houston. The Houston mass transit system just purchased 500 double-decker buses from Germany. The first load arrived in Houston on a Russian ship. During my trip we were held in the Port of Morocco for 9 days out on the quay, at a $4,500 waiting time cost to the American company, while they let foreign ships go in and out. Other individuals witnessed them taking corn and other goods from American ships, loading it on a truck, taking it to the end of the pier and loading it on a foreign ship.

I want to tell the Members that if they do not pass some kind of protective legislation, this country will not long survive. Twenty years ago I told you this. For 20 years I pleaded with you. Now I am leaving Congress for many reasons, but one is that I could not convince this House of the dangers inherent in this crazy "free trade" policy.

Mr. Gibbons. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, in 1929 and 1930 the debate that we have heard here tonight took place. At that time instead of being the Mikulski amendment, it was the Smoot-Hawley amendment. My Lord, how soon do we have to relive history? How lucky can we be to even have the opportunity to relive history? The same type of discussion, the same type of amendment plunged the American economy into the worst depression that it has ever known. The unemployment rate hit 25 percent.

Our economy collapsed. The international economy collapsed. Hitler rode to power on that. Hirohito rode to power on that. About 1 million American men died because of that. That is what we are talking about tonight.

Is there anybody in this Chamber that will dispute one word that I have said?

Mr. Carney. Mr. Chairman, will the gentleman yield?

Mr. Rooney. Mr. Chairman, will the gentleman yield?

Mr. Dent. Mr. Chairman, will the gentleman yield?

Mr. Gibbons. Well, good. When I get through, I hope all of you get your 5 minutes, too.

The gentleman from Pennsylvania has limited my time to 5 minutes. Will the gentleman from Pennsylvania allow me to have additional time?

Mr. Dent. Mr. Chairman, give the gentleman 1 minute and I will answer that.

Mr. Gibbons. Mr. Chairman, will the gentleman from Pennsylvania (Mr. Rooney) allow me extra time? I will yield, Mr. Chairman, if I am granted additional time.

(At the request of Mr. Dent, and by unanimous consent, Mr. Gibbons was allowed to proceed for 1 additional minute.)

Mr. Dent. Mr. Chairman, will the gentleman yield?

Mr. Gibbons. Mr. Chairman, I will yield for that purpose.

Mr. Dent. Mr. Chairman, the Smoot-Hawley law was passed. In between the time of passage and the time of the effective date of the Smoot-Hawley tariff, we had the 1929 depression. Smoot-Hawley never went into effect in this country, not 1 day of our existence. The Smoot-Hawley tariff rates were never set forth, because the depression came in and stopped Smoot-Hawley, which was supposed to be so bad and it never went into effect, the bugaboo of all bugaboos, the most disgraceful era in our existence.

Mr. Gibbons. Mr. Chairman, Smoot-Hawley was still in effect and it did go into effect, I will say to the gentleman from Pennsylvania (Mr. Dent). Everybody anticipated it and the economy, as we know, went to pieces. The international agreements that we had went to pieces. The Germans moved from a collapsed economy into militarism in World War II. The Japanese did the same thing; so it did go into effect and part of it is still in effect. It was repealed as a democratic measure under Franklin Roosevelt.

Mr. Carney. Mr. Chairman, will the gentleman yield?

Mr. Gibbons. I will yield if the gentleman gets me additional time.

Mr. Carney. Mr. Chairman, the gentleman made a statement; now, back it up.

Mr. Gibbons. Mr. Chairman, I yield only if the gentleman will get me additional time. My time has been limited by the gentleman from Pennsylvania (Mr. Rooney).

The Chairman. The gentleman from Florida does not yield.

Mr. Gibbons. Mr. Chairman, if we examine the last two issues of Time magazine, we will find that Bethlehem Steel has been sending us a message in a two-page ad. The first one I refer to is the one that had Joe Califano with red-tape wrapped all around his neck, with his tongue hanging out. If we look at those two-page ads from Bethlehem Steel, they were not asking for this. They were asking for enforcement of the laws we have on the books of dumping and countervailing. They are entitled to that. I support it and everybody in this Congress supports it and we want to make sure then do.

This week Time magazine, with the ladies on the front cover in their athletic games, had another two-page spread by Bethlehem Steel which has been referred to here and has been talked about as the need for this amendment, complained that they needed protection, but not like this. They needed protection from the 5,600 Government laws and regulations that hamstring them. That is what the people in the steel industry are asking for. They are not asking for this. I have talked to them. I have asked them questions in hearings, all the steel companies, and not one single one wants this kind of thing, because they know that it will slaughter us all in the long run.

Mr. Chairman, I repeat, why do we have to go through this kind of history so many times? Why cannot this body remember the mistakes we made and the good things we did? Let us not do it again. I say to my Democratic Members, it was Franklin Roosevelt and a Democratic Congress that repealed all this.

Mr. Carney. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I urge my colleagues to retain the "buy American" provision to H.R. 11493, the Amtrak Improvement Act of 1978.

In calendar year 1977, Amtrak purchased over 43,000 tons of steel—at a cost of over $15 million.

By the end of 1978, Amtrak plans to have purchased over 64,000 tons of steel for over $25 million.

To the extent that these steel purchases are made possible by the use of public funds, they should not result in the loss of American jobs.

Amtrak has functioned well under a buy American policy which is very similar to the language included in this bill.

The buy American provisions attached to Amtrak authorization bills have not greatly raised Amtrak's costs.

In fact, buy American provisions have saved jobs for countless Americans as well as generated needed tax revenues in our communities.

Amtrak officials have assured me that "buy American" provisions have not affected their costs.

On March 23, 1978, Amtrak officials testified as a "good example" during "buy American" hearings before the subtle. I was the one voice which fought his battle before the gentleman came here, and that was over creamery industry imports. I screamed. What was coming in was a mixture, but it was really sugar and cream.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Dent) has expired.

(By unanimous consent, Mr. Dent was allowed to proceed for 5 additional minutes.)

Mr. DENT. Mr. Chairman, I have not made many speeches since I have not been able to handle things; but I tell the Members that what we are talking about tonight, after the two last decisions made within 3 days by the U.S. Supreme Court, can well mean the end of democracy.

Let me cite those two cases. I am not a lawyer. I am an uneducated person who went to the eighth grade; but I learned through a lifetime of experience. Furthermore, I am the oldest living legislator in the United States in years of service. I learned it the hard way.

Mr. Chairman, there were two Supreme Court decisions. Let me cite one. The State of Iowa was upheld in its right to have a different base for taxation on interstate business in Iowa than on intrastate business, No. 1, which sets up, in its own way, a tariff between States.

Mr. Chairman, the fundamental strength of this Nation has been free, unlimited transfer of goods and services between the States. That has gone down the drain.

The second of these memorable decisions was made just this week. That one is of some importance, especially to the Japanese. It is a case brought by the Zenith Corp., the last remaining color television manufacturer in the United States. They went over to Japan and made a contract to have their televisions made over there in order to learn why the Japanese can undercut us.

Do the Members know how they do it? The Japanese pay rebates to their manufacturers of television sets, which makes the market absolutely uncompetitive insofar as we are concerned.

Let me indicate what that decision does. It is a decision that was asked for by the President because of what the law says. The word "may" was used in that law, the tariff law, with respect to which there was a debate on this floor. The debate was based upon an amendment in the Tariff Act.

The gentleman from Florida (Mr. GIBBONS) ought to know this; he is a student: If any industry is injured by way of the loss of jobs, then that loss of jobs could be compensated for by a tariff increase.

The House took the position that they ought not to be limited to tariff increases, but they may choose; the President may choose the route of tariff increases, quotas, compensating duties, or complete embargo. Using the word "may" was bad judgment, because this administration asked for and got a decision that they wanted. The Supreme Court did not say that it could not impose; they said he did not have to impose.

So, what does that mean? That means that every nation in the world, on its exports to the United States, now can set the rates of their goods in the United States to the point that, by rebates to their manufacturers, they can undercut any product sent into the United States. Let me tell all of you something tonight—and this may be the last time that I take this well—but let me tell you all that everything that has happened, I predicted. The largest deficit—Sam and the rest of you—the largest deficit in the history of the United States in trade has been created in the first 3 months of this year, $17 billion.

We are selling gold. One other nation in the history of the world had to revert to the selling of gold as the only means of having an export. When the regimes of Rome could find no more nations to plunder, Rome went down the drain. We are selling gold. Let me tell you some arithmetic. The American dollar is 70 cents to the dollar today in Japan. They are protesting because our products now going to Japan and their products coming here, the 70-cent dollar is injuring their exports to the United States.

The CHAIRMAN. The time of the gentleman from Pennsylvania has again expired.

(At the request of Mr. ROUSSELOT and by unanimous consent, Mr. DENT was allowed to proceed for an additional 5 minutes.)

Mr. DENT. Let me give you this sample so you will understand what the devil is going on. Here we are, with our dollar 30 percent less. We are selling gold like Rome did, and we are taking back 70-cent paper dollars for one dollar's worth of gold in our Treasury. No nation can survive—no nation can survive trading bullion for paper dollars. We are buying back, mind you—we are buying back, selling our gold and paying for our deficit in trade with 70-cent dollars to them and one dollars to the American people.

How long can you graduates, all of you, of universities; graduates, all of you, of colleges; learned people, how can you stand in this House and not recognize the fault we are in, the fault of people that have lost the desire to save and preserve a nation? My father came here as an immigrant. He was given a pick and a shovel, and he never cared.

When I spoke to him, replying to his broken English to me, would say: "Do not talk to me in Italian; talk to me in English, talk to me in American."

That is what I am saying to the Members. Believe me, as God is my witness, this Nation will not survive 10 more years unless we in this Congress have the courage to stand up and admit there is no way that we can buy buses, there is no way we can buy buses for the mass transit system that we are building, for billions of dollars, and have the buses shipped over to the United States in Russian ships. Let me tell the Members that one Member of this Congress, without naming names, protested that. Do Members know what we got? We got a concession after humbly begging on our knees, begging the Russians who had the contract, begging them on our knees, and they conceded to give us half of the shipments of the buses from Germany to the United States.

Let me ask the Members a question: How are we going to pursue a war? There is no longer a merchant marine—it is a very poor one. There is no longer one tourist ship.

No nation of the world allows American airplane companies to create within their territory a tourist trip. We cannot sell tourist tickets in Germany or Italy for tourists to come to the United States. But we are not allowed to do that in their countries.

All of these things add up to one thing: The default of the Congress of the United States. If we are in low respect, if we are in low regard, we brought it on ourselves.

I give this to the Members in my parting word. Please become what this body was: one-third of the U.S. Government—not the last leg of Government but that leg of Government equal to the other two, the Judiciary and the Administrative.

How can we sit here, how can we go back to our people and how can we send out letters and send out false stories about how important we are? We are not important. We cannot even make a decision.

I am ordered to do this. I will not do it. I have never done it and I never will.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. DENT. I yield to the gentleman from Florida (Mr. Young).

Mr. YOUNG of Florida. I thank the gentleman from Pennsylvania for yielding.

Mr. Chairman, I am as disturbed as I can be about the necessity for the United States to sell gold. I did not want to miss the opportunity to tell the gentleman and our colleagues on the floor this evening that in the last 2 months we have sold 600,000 ounces of gold during the same period that the International Monetary Fund has sold $169 million worth of gold.

I want the gentleman to know that one of the purchasers, in fact the largest purchaser of the IMF gold sale was India, who also owns $745 million worth of our national debt, and who is also one of the largest recipients of our foreign aid program.

Mr. DENT. That is another question.

THE TRAGEDY OF THE IMPORTATION OF STEEL FASTENERS

(Mr. Dent asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENT. Mr. Speaker, there is a trade-related case pending that was discussed this morning in the hearings. It is one that we have already talked about concerning the steel fastener industry.

I want to give the Members a few quick points regarding this matter:

Between 1968 and 1976 steel fastener imports rose by 395 million pounds, an increase of 127 percent.

At least five major plants have closed since 1977, and this is only April 1978. Other shutdowns are expected in the near future.

Imports now account for 45 percent of the American market compared to 21 percent in 1969.

Over 7,300 steel fastener workers have joined the jobless rolls since 1969.

Since 1974 employment in this industry has dropped by 26 percent. The fastener industry is operating at 57 percent of capacity.

Mr. Speaker, I want to call the attention of this body to a couple of facts that we ought to at least start thinking about. In fiscal year 1962 there were 59,532,000 payments being paid to Americans from selected social welfare programs in the United States. In 1977, the number of payments stood at 173,495,798. (Enclosed are tables which outline in detail these programs.) Put another way, that means that one person is paying something to some or all of four other persons in the United States. With only one-fifth, or 20 percent of the American people contributing to the Treasury without aid of some kind from the Federal coffers, the road before us is not only narrow but it is also very short.

I tell the Members now that this is the worst position this Nation has been in in its entire history and this Congress has to do something about it.

TABLE I.—SELECTED SOCIAL WELFARE PROGRAM STATISTICS: FISCAL YEARS 1962 and 1977

	Fiscal year—	
	1962 actual	1977 estimate
"GROUP I"		
1. "Workers collecting unemployment compensation"	[1] 6,467,000	[7] 2,527,400
2. "People collecting military retirement benefits"	[2] 313,436	[8] 1,175,019
3. "People collecting social security"	[2] 17,280,364	[8] 33,200,000
4. "Civil service retirees or survivors"	[2] 602,269	[9] 1,522,600
5. "Railroad-retirement beneficiaries"	[3] 941,000	[9] 1,200,000
6. "People on welfare"	[4] 7,398,700	[10] 21,500,000
7. "Veterans collecting GI benefits, other than education aid" [6]	[5] 179,170	[8] 357,958
8. "Veterans or survivors collecting pensions or compensation	[5] 4,244,898	[8] 4,908,242

[1] Department of Labor. Manpower Administration. Unemployment Insurance Service. Figures include those for the State unemployment insurance program, the Federal employee program, the program for ex-servicemen, and the railroad unemployment program.

[2] Fiscal year 1964 Budget Appendix.

[3] Railroad Retirement Board.

[4] "Trend Report—Graphic Presentation of Public Assistance and Related Data—1970." Social and Rehabilitation Service. National Center for Social Statistics.

[5] Fiscal year 1964 Budget Appendix and the fiscal year 1962 VA Annual Report.

[6] Benefits included for this item are vocational rehabilitation, housing grants, automobiles and other adaptive equipment, and burial allowances.

[7] Social Security Monthly Bulletin, January 1978: average weekly number of beneficiaries. Only includes Federal employees. Statistics on private sector not available.

[8] Fiscal Year 1979 Budget Appendix.

[9] Monthly Benefit Statistics: Railroad Retirement Board.

[10] Estimates from the Department of Agriculture for food stamps, the Social Security Administration for recipients of SSI and AFDC.

SELECTED SOCIAL WELFARE PROGRAM STATISTICS: FISCAL YEARS 1962 AND 1977

	Fiscal year—	
	1962	1977
"GROUP II"		
1. Military personnel	2,807,819	[1] 2,073,580
2. Government workers	2,514,350	[2] 2,842,651

[1] Fiscal year 1979 Budget Appendix.

[2] Manpower Information Statistics Division, Civil Service Commission.

SELECTED SOCIAL WELFARE PROGRAM STATISTICS: FISCAL YEARS 1962 AND 1977

	Fiscal year—	
	1962 actual	1977 estimate
"GROUP III"		
1. "Children in school-lunch program"	[1] 14,184,000	[9] 26,800,000
2. "People helped under Medicaid"	[2] NA	[10] 21,600,000
3. "Medicare beneficiaries"	[3] 0	[11] 25,400,000
4. "Veterans getting hospital care"	[4] 589,975	[10] 1,322,773
5. "People receving food stamps"	[5] 132,000	[10] 17,100,000
6. "College students, excluding veterans, getting loans and/or grants"	[6] 186,465	[12] NA
7. "Adults receiving vocational education"	[7] 2,100,000	[13] NA
8. "Children of poor families counted for Elementary and Secondary Education Act"	[8] 0	[14] 9,965,575

[1] Preliminary figure from the fiscal year 1984 Budget Appendix.

[2] There was no "Medicaid" program in fiscal year 1962. There were, however, public assistance payments to assist in paying the medical expenses of the poor on Welfare. Data on the number of persons who received this assistance in meeting medical expenses is unavailable.

[3] There was no "Medicare" program in fiscal year 1962. However, some of the elderly poor were assisted through the public assistance programs. Refer to footnote number 3.

[4] Fiscal year 1964 Budget Appendix and the fiscal year 1962 VA Annual Report.

[5] September 1962 figure from the fiscal year 1964 Budget appendix.

[6] Report on the National Defense Education Act—fiscal years 1961 and 1962. Office of Education.

[7] Office of Education, Bureau of Occupational and Adult Education, Division of Vocational and Technical Education.

[8] There was no Elementary and Secondary Education Act in fiscal year 1962.

[9] Department of Agriculture Food and Nutrition Budget Division.

[10] Fiscal year 1979 Budget Appendix.

[11] This number is a minimum estimate from the fiscal year 1979 budget estimate. The number cited is for those receiving medical insurance assistance. There were an additional 5,900,000 recipients of hospital assistance. However, there is significant overlap between these 2 parts of the "Medicare" program in that many of those receiving hospital assistance are also counted as receiving medical insurance assistance. As a result, the higher of the 2 figures was taken as a minimum.

[12] The total number of loans and grants (excluding veterans education benefits) made during fiscal year 1977 was 3,350,000. A number of students receive awards under more than 1 program. Special Analysis of the Budget, fiscal year 1979.

[13] 4,024,104 in fiscal year 1975. More recent data is not available. Division of Vocational and Technical Education, Office of Education, 1976.

[14] Office of Education program data.

[From the CONGRESSIONAL RECORD, Sept. 8, 1978]

Mr. DENT. Mr. Chairman. I rise in support of H.R. 11711, the trade adjustment assistance programs improvements. Until the Trade Act of 1974 (and its liberalized trade adjustment assistance provisions) was passed, the record of assistance to workers who had lost their jobs because of imports was totally unacceptable. The process required by the Federal Government was arduous and full of obstacles clearly designed to minimize any real help to a displaced worker.

The Trade Act of 1974 changed the adjustment assistance procedure by easing the very stringent criteria and taking into account the real hardships visited upon workers who have lost their jobs because of circumstances beyond their control. Under the new procedure (beginning on April 3, 1975, through July 31, 1978) 4,019 petitions have been decided: 1,342 have been certified, affecting 365,478 workers; 1,700 have been denied, effecting 383,123 workers; and 772 are still pending. As one can see, even under liberalized conditions over half the worker who petition for assistance do not get it. Moreover, that is only part of the picture, since only the worker who was directly involved in the manufacture of the imported goods can qualify for assistance. Any other worker indirectly affected by a plant shutdown or drop in business activity because of imports could not qualify for any assistance. This is hardly a satisfactory answer to unemployed workers and their families, and hopefully this bill will go a long way toward improving these problem areas.

However, I do want once again to call the House's attention to the fact that the provisions of the Trade Act of 1974 shift the financial responsibility for unemployment caused by international trade agreements from the Federal Treasury, where it legitimately belongs, to State unemployment compensation funds, resulting in a hidden cost to the States that will ultimately total hundreds of millions of dollars.

Let me explain. Under the Trade Act of 1962, States that paid workers determined to be unemployed as a consequence of increased imports were reimbursed by the Federal Government for the unemployment compensation benefits paid to these workers. Reimbursement was, and is, an appropriate approach inasmuch as these workers were unemployed as a consequence of national policy decisions in an international forum, and for no other reason. Such dislocation and unemployment was inherently recognized and expected in the Trade Act of 1962 and in other subsequent trade arrangements, such as the Canadian-American Automotive Agreement.

It surfaced as an even greater issue in deliberations on the Trade Act of 1974, primarily because of the growing number of industries affected by imports, and because of complaints that TRA qualifying guidelines were far too stringent. In dealing with this aspect of the law, the guidelines were liberalized, but the burden for supporting the cost of these TRA benefits was shifted to the States, who have absolutely nothing to say about our trade policy. I pursued this matter in my own State of Pennsylvania and found the following, staggering information:

Under the Trade Act of 1962, 1,040 Pennsylvania workers received a total of $1,066,000 of TRA benefits from the State of Pennsylvania, reimbursed totally by the Federal Treasury, from 1962 through April 3, 1975.

Since the passage of the Trade Act of 1974 through June 31, 1978, 55,394 Pennsylvania workers have qualified for TRA benefits and have received $143,014,215. Of that, $59,552,000 came from the Federal Treasury; the remainder, $83,462,215 came out of Pennsylvania's unemployment compensation fund. This is the case in virtually every State in the country.

This raises two very important issues:

First. The cost this Nation bears as a consequence of its trade policies is vastly understated, and, in fact, hidden. In addition to the revenues lost to communities and States as a consequence of unemployment due to imports, we also pay out enormous amounts of money for these trade policies at both State and Federal levels. Now, if you call the TRA office of the Department of Labor and ask them what the cost of the TRA program is, they will report that under the new act from April 1975 through June 30, 1978, 365,478 workers received benefits totaling $486,785 million. Of that amount, Pennsylvania received $59,552,000. They are right. That is the Federal cost. It is staggering in itself. What they do not tell you is that the real cost to the country is approximately three times that because the States pay these same workers unemployment compensation. In the case of Pennsylvania, the State paid unemployment compensation benefits of $83,462,215 for which it should not be responsible, and for which it will not be reimbursed. And that is only through June 30, 1978. Petitions to the Department of Labor are increasing on a daily basis, and believe me, we have yet to see what unrestricted imports cost this Nation. It is estimated that TRA benefits are increasing by approximately $10 million a month. I suggest that the total payments of TRA, by both State and Federal Treasury will easily approach hundreds of millions of dollars on a yearly basis.

Second. The upshot of this shifting of costs is that it leads itself to easy misrepresentation of a program to which many look as part and parcel of the rationale to continue our present trade policies. It is easy to say that the damage of imports is minimal because we have only paid out of the Federal Treasury a small amount of dollars, ignoring that the major burden of the cost is State borne, and also ignoring that more than half the claims for TRA are denied. Moreover, some of the highest unemployment rates are evidenced in those areas where the most workers have applied for and received TRA benefits.

Thus far the Department of Labor, as of July 31, 1978, has certified 1,342 petitions covering a total of 365,478 workers. Over one-half of these workers are in the States of Michigan, Missouri, New York, Pennsylvania, Wisconsin, Ohio, and California.

I am not for a moment suggesting the dissolution of the TRA program. For many workers, it represents the difference between bread on the table and nothing. I am suggesting that the TRA program was never meant to be a supplemental welfare system, or an excuse for categorically relinquishing more of this country's production jobs in the name of free trade. Moreover, it is grossly inequitable at a time when States are experiencing serious financial difficulties, to expect States to pay for national trade decisions. If the high cost of our trade policy is able to be seen for what it is, then perhaps, those who make the trade decisions will pay closer attention to what their decisions are costing this country, and those of us who are committed to fiscal responsibility will realize the direct impact that trade policies have on unemployment and its concurrent problems.

Mr. McDADE. Mr. Speaker, I am very grateful for this opportunity to honor John Dent, who died on Saturday, April 9. John retired from the House of Representatives in 1978 after serving the people of Pennsylvania and this body with distinction for 20 years.

As a Member of the U.S. Congress, John Dent was a pioneer on many of the issues that still command our attention. John worked diligently for pension reform, and he is credited with crafting legislation to raise the minimum wage. The drive to provide black lung benefits and to ensure mine safety also benefited from John's able leadership.

Congressman Dent has been justifiably called a great friend of labor. His many accomplishments on the House Labor Committee and as the chairman of the Labor Standards Subcommittee were instrumental in improving the quality of life for all American workers. He was truly devoted to the best interests of labor and committed to the welfare of our Nation.

The Pennsylvania delegation has a proud tradition of working together in service to the Commonwealth and the Nation. I greatly valued my working and personal relationship with John Dent, He had that great ability to put partisanship aside in pursuing common interests and always gave a fair hearing to those with whom he disagreed.

Truly we miss John Dent, the friend of the working man and woman, for his amazing ability for compromise. Even more, I think we miss his foresight. Listening to the current debate on the trade bill, I remember when John first spoke out on unfair trading practices and on the effect that they would have on our Nation. I am only sorry that he could not be here with us as we wrap up the trade bill.

In recognition of his service and out of a genuine affection for the memory of John Dent, I am pleased to join my esteemed colleagues from the Pennsylvania delegation in supporting legislation to name the United States Post Office in Jeannette, PA in his memory.

I am pleased that my colleagues are joining me today in honoring John Dent with this special order, and I know that the post office in Jeanette will serve as a lasting tribute to a remarkable legislator and dedicated public servant.

Mr. ANNUNZIO. Mr. Speaker, I rise to pay tribute to former Congressman John H. Dent, whose death on April 9, after a long and distinguished career of public service to our country, was a tragic loss to the people of our Nation.

I was privileged to have John as a close and trusted friend during the 14 years we served in the Congress together, and I shall always cherish his friendship, advice, and guidance which he so generously extended to me.

Congressman Dent dedicated his life to public service, and compiled an outstanding record of creative accomplishments on behalf of the working men and women of this country. Before coming to Congress, he served in the Pennsylvania State House of Representatives, and also in the State Senate for almost a quarter of a century. He was the Pennsylvania Democratic floor leader in the State Senate for 17 years.

First elected to the 85th Congress in 1958, John Dent ably represented his constituents from the 21st Congressional District of Pennsylvania during the two decades he served in Congress. He was the second-ranking member of the House Education and Labor Committee, and the chairman of the Subcommittee on Labor Standards, where he helped to shape one of the most productive periods in the history of the United States for enactment of laws protecting the rights and benefits of workers.

John Dent courageously initiated legislation to insure coal mine health and safety. He played an instrumental role in creating the Black Lung Program, and he was an original sponsor of the Occupational Safety and Health Act of 1970 and the Mine Safety and Health Act of 1977. Congressman Dent worked tirelessly on behalf of the men and women of this Nation, improving their educational opportunities, protecting their minimum wage base, and creating the ERISA Program to protect their pension rights.

During his service in the Congress, John always demonstrated the greatest wisdom, insight, and leadership, as he dealt with our country's trade and labor policies. He will be missed by all of us who had the opportunity to work with him and who knew firsthand of his many legislative achievements on behalf of the American worker.

Mrs. Annunzio and I extend our deepest sympathy to the members of his family who survive him.

Mr. MURPHY. Mr. Speaker, I rise with great regret to speak this afternoon in memory of our esteemed and departed colleague, John H. Dent, formerly of Westmoreland County, PA.

My first memories of John Dent were one of admiration and awe. As a college student in 1949, I had the first opportunity to visit our State capitol and when visiting the Senate Chamber, heard Mr. Dent with his booming and convincing voice speak on the floor of the Pennsylvania Senate as the minority leader. One could not help but to admire as he proceeded through his oration with articulation, emphasis, and eloquence as he made his points.

Eighteen years later I had the opportunity of again joining John Dent here on the floor of this Congress as a colleague and member of his Pennsylvania delegation. Mr. Dent was one of our senior members at that time, after having served 22 years in the Pennsylvania Senate. He then established a 20-year record here in the House, capping 52 years of service to the people of southwestern Pennsylvania. Again, my next impression of John Dent was one of admiration. He served as our Pennsylvania member on the Steering and Policy Committee and carried forth an aggressive effort to place the members of our delegation, seven new members in number, onto the varied and important committees in the House. He gave us his advice, his time, and his ability on the Steering and Policy Committee to the benefit of the seven new members and the delegation.

John Dent long was the champion of the underprivileged, the wage earner, the disabled worker, and the organizations that molded together America's labor force. Together with our former honored colleague from Kentucky, Carl Perkins, John Dent authored and steered through the House the black lung benefits bill for disabled coal miners. He was the architect and advocate of many of the provisions in the occupational and coal mine health and safety laws of our Federal Government. He was one of the crafters and a strong advocate of the Employee Retirement Income Security Act [ERISA] which today provides retirement protection for millions of American workers and former workers. John Dent was a strong and trusted leader of our Pennsylvania delegation in this House of Representatives.

I missed him when he left the floor of this House as a teaching colleague, and I now miss him as a friend.

Mr. STOKES. Mr. Speaker, I would like to thank my colleague, the distinguished gentleman from Pennsylvania [Mr. GAYDOS], for reserving this time to pay tribute to one of the great leaders of this body—the late Congressman John Dent. For 20 years, until his retirement from Congress in 1978, John represented the people of southwestern Pennsylvania and our Nation in an able manner. I was saddened to learn of John's passing on April 9, 1988.

John Dent was one of the most dedicated and talented Members of the House. His outstanding leadership ability and knowledge of parliamentary procedures earned him the respect and admiration of his colleagues. He served with distinction on the Committee on House Administration and the Education and Labor Committee.

I had the privilege of serving with John while he chaired the Labor Standards Subcommittee. During my travels with John on congressional factfinding missions to visit coal mines in West Virginia and Costa Rica, I was impressed with his knowledge and expertise in the areas of workers' compensation, coal mine health and safety, and unemployment.

Mr. Speaker, John was a strong and articulate spokesman for the working people of our Nation. His efforts were instrumental in the development of coal mine health and safety legislation and black lung reform legislation. The Occupational Safety and Health Act of 1970 and the Mine Safety and Health Act of 1977 are reminders of his tireless efforts.

Mr. Speaker, I want to again thank my colleague for the opportunity to pay tribute to John Dent. It was an honor to work with him. My wife, Jay, joins me in expressing our deepest sympathy to his wife, "Babe." He will be sorely missed by his colleagues, his constituency, and our Nation.

Mr. WALGREN. Mr. Speaker, I want to join my other colleagues in paying tribute to John Dent and his career as a representative of working people. I remember Congressman Dent's last speech in this House before his retirement when, as he had so many times over the years, he warned of the damage that free trade, without fair trade, would destroy the manufacturing base of our country. All that John Dent warned against has come true. No issue has risen to such crisis proportion for our economy than the trade issue that John Dent saw coming decades ago.

Mr. Speaker, I want to insert Congressman Dent's remarks of October 27, 1977, in the RECORD again. It is not too late to follow his advise. Tomorrow this House will act on the first comprehensive Trade Bill of this decade. John Dent would be proud of its contents. I urge my colleagues to ponder his life as a strong representative of the best interest of working America—and give meaning to his message as we act to redress the trade deficit he spent a lifetime working against. Although John Dent passed away the other day, his spirit will be present in this House far into the future as we struggle with the imbalance in our trade with the world.

[From the CONGRESSIONAL RECORD, Oct. 27, 1977]

TRADE POLICIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. Dent) is recognized for 60 minutes.

Mr. DENT. Mr. Speaker, this morning I went to the White House for a meeting with the President and his advisers on the crisis facing the American steel industry, its workers, and those communities whose economic life blood depend on steel. Members of the House steel caucus and I listened to the President's people talk about the problem, but we heard very little about solutions.

For the past 20 years, Mr. Speaker, I have been on this floor warning my colleagues about the coming crisis. For 20 years I have attempted to alert the American people about this fallacy called free trade and its disastrous effects on our industrial capacity. For two decades I have preached that this Nation cannot survive on consumption and distribution alone, but also requires a strong and vibrant production base.

Until recently I have been ignored and dismissed as a "protectionist." It took the shutting down of American steel plants to awaken some of my colleagues to the stark reality that we are engaged in an international economic war with countries who do business under different sets of rules, with different priorities, and with different values.

Mr. Speaker, the question of international trade and international economic relations is the single greatest issue confronting this Government, this Congress, and the American people. The question and its resulting problems must be addressed and new solutions proposed. The steel crisis is merely symptomatic of a larger problem involving our entire industrial economy which I believe is threatened by outdated international trade and investment policies which are predicated more on diplomatic and political considerations than on the economic necessities of our people.

Unless we the leaders begin to seriously address the problem, I am convinced that those who must bear the burden, the growing ranks of unemployed production workers, will take their case to the streets and the ballot box for resolution.

Mr. Speaker, I have been given permission by Charles Walters, Jr., the author of "Unforgiven: The Biography of an Idea," to quote extensively from his work on the relationship between international trade and the American agricultural and industrial economy since World War I. The parts of the book that follow are taken from Mr. Walters' own analysis, the testimony of former Georgia Commissioner of Agriculture Tom Linder, and the collected speeches of former Pennsylvania Congressman Louis T. McFadden. I recommend the entire book to those of my colleagues whose own districts have suffered the results of this crazy policy called "free trade" and to those of you who, somewhere down the road, no doubt will meet face to face with constituents who have * * *

Mr. DE LA GARZA. Mr. Speaker, the Congress has been a living force in the American system of government for over 200 years, a dynamic embodiment of its millions of citizens. The will of our people emerges through the agreements and disagreements that develop as each of us as Congressmen attempt to reflect the views and desires of our own constituencies.

Yet, some Members go beyond the mere confines of their own districts, representing and striving to achieve the goals of a far broader constituency—a majority of the body politic. One such individual to whom we pay tribute today is our former colleague John Dent who hailed from southwestern Pennsylvania, who served as a senior member of the Committee on Education and Labor, and who was chairman of the Subcommittee on Labor Standards.

As a Member of Congress for 20 years, John Dent served with a strong sense of "noblesse oblige"—the idea that it was his duty to serve, his obligation as a citizen to do his part. He was principal architect in creating the Black Lung Program. He was in the forefront in the establishment of ERISA to protect the pension rights of all workers. He also was one of the original sponsors of the Occupational Safety and Health Act, and the Mine Safety and Health Act—all legislative contributions which benefited not only the men and women of his district, but all American workers.

The role in the development and enactment of these programs demonstrates the true commitment which John Dent had for mending the ills of our country. I am indeed fortunate to have had the privilege of serving with him. With his passing our whole system loses a significant presence.

It is with deep regret that I say farewell to John Dent. I will remember him with fondness.

Mr. FASCELL. Mr. Speaker, I would like to join our colleagues in mourning the passing of one of our most valued former colleagues, John H. Dent. John first came to Congress in 1958 and worked his way up the seniority ladder of the Education and Labor Committee. He used his position to help working men and women, not only from his southwestern Pennsylvania district, but also from across the country.

John will always be remembered as a particularly good friend to his constituents from the black country region of Pennsylvania. His career spanned 46 years of public service, from city hall to the Halls of Congress. John's many years of hard work and dedicated public service reflected the work ethic of his constituents from western Pennsylvania.

The legislation for which he will be most remembered had the same theme: improving and protecting the health, welfare, and quality of life for working Americans. It is certainly no surprise that John was a guiding force behind the enactment of the Black Lung Program, and an original sponsor of both the Occupational Safety and Health Act of 1970 and the Mine Safety and Health Act of 1977. Those of us fortunate enough to have served with him can surely remember his regular battles to raise minimum wage during his tenure as chairman of the Labor Standards Subcommittee.

Saying, in his dignified manner, that the time had come "when age and common sense dictate retirement," he did just that. Let us make no mistake; John could, and often would, fight long and hard on the issues he felt strongly about. He left those battles behind him when all was said and done and by his own admission "left Congress without bitterness and remorse."

I valued John as a friend and a colleague and will always remember his leadership and his friendship. I feel honored and privileged to have been able to serve in Congress with him. He was a dedicated Congressman and a great credit to his district, to the Nation, and to his family.

I join our colleagues today in expressing my sympathy to John's family.

Mr. FORD of Michigan. Mr. Speaker, after a distinguished career in the Pennsylvania State Legislature, John Dent became an eminent Member of the U.S. House of Representatives. John Dent was truly a representative of the little people, the average working man and woman in America. When John Dent retired from the Congress in 1978 because of ill health, his absence was felt immediately. He had been poised to lead the House of Representatives in consideration of legislation to lift low-wage workers out of their financial morass. John had guided through his Labor Subcommittee and the Committee on Education and Labor a bill to increase the Federal minimum wage. It is fitting that as we remember our departed colleague, soon we will consider legislation to restore the current minimum wage to an appropriate level.

The minimum wage legislation is one of many progressive measures which John Dent championed. Another landmark law synonymous with John Dent is the Employee Retirement Income Security Act, or ERISA. It was his usual concern that American workers should not be exploited or denied the fruits of their labor that led John to conduct extensive hearings documenting cases where hundreds, even thousands, of employees who belonged to company pension plans never received a penny of the annuities. It was John's leadership, political acumen, and legislative skills that assured the passage and enactment of ERISA, which assures that employees covered by private pension plans will receive the pension to which they are entitled.

A review of significant worker protection legislation of the last two decades invariably leads to the contributions of John H. Dent. If there was legislation to improve the wages and working conditions of American workers, John Dent was involved in shaping the law. In addition to ERISA, John led the movement to reform Federal coal mine safety standards, and was a leading advocate of the Occupational Safety and Health Act.

As we eulogize John Dent today, it is not insignificant that his one elusive goal, in a lifetime of achievements for American workers, is embodied in legislation which may not be enacted. I refer, of course, to the trade bill.

John Dent was the leading congressional advocate for, and doggedly pursued, an American fair trade policy. He headed a special Subcommittee on the Impact of Imports on American Industries and Workers. His hearings verified the manner in which foreign producers, in concert with their government's hidden trade practices, placed domestic industries at a competitive disadvantage. John's predictions of the harm from such practices are a painful reality. Many of the unfair trade advantages foreign competitors have been enjoying are addressed in the current trade bill. If there was some way to revive the bill to the satisfaction of all major parties and have it enacted, what a fitting memorial that would be to John Dent.

Though I have dwelled on John Dent's accomplishments in the area of labor legislation, I do not want to leave the impression that he was a one-dimensional man. Far from it. In his early career on the Education and Labor Committee, John headed an education subcommittee which produced such important legislation as Federal assistance for libraries and the education of needy children, and financial assistance to federally impacted school districts. John was just as dedicated to education issues as he was to worker protection measures; and he approached both with the same sense of purpose and zeal.

What is truly remarkable about John Dent's accomplishments is that he was largely self-taught. John had to leave school at a very early age to work to help support his family. Throughout his varied careers, including his legislative work, John read extensively and pursued correspondence courses. Though he never gained a degree, he could hold his own with the brightest. He had great common sense, and an uncommon ability to cut through the rhetoric and get to the central point of any discussion. John could interpret legislation as well as any attorney. He was also a master at political maneuvering. It was these innate abilities that served John Dent so well and enabled him to accomplish so much. It was his personal warmth, his sense of fairness, and his deep concern for the average American which gained him the admiration of his colleagues.

John Dent was not only my colleague, he was my friend and ally. I am deeply saddened by his death. I will miss him.

Mr. MILLER of Ohio. Mr. Speaker, I want to join my House colleagues today to pay tribute to our dear friend and former Member, John Dent. For two decades, John represented the good people of southwestern Pennsylvania. He was an active spokesman for their concerns and their needs. I had the honor and privilege to serve in this Chamber with John for many years, and I will always treasure the memories of his counsel, his friendship, and his leadership.

He made some of the most important health and labor contributions to our Nation that we've witnessed in recent years. He was deeply involved in developing the Black Lung Program. He was an original sponsor of the far-reaching Mine Safety and Health Act of 1977.

This time today—being set aside to honor John and pay tribute to a distinguished American—is fitting and appropriate. Beyond this occasion, we should all remember the lasting efforts of a man who made the concerns of working people the priorities of Congress. He never lost sight of those he represented first, and best.

I can say without reservation that I learned a great deal from John Dent and I will apply those lessons well in the process of attempting to represent my District just as he did for so many years.

He will be missed. I extend my deepest sympathy to his family and loved ones.

Mr. CONTE. Mr. Speaker, on April 9, our former colleague and my dear friend, John Dent, passed away. As one who had the sincere pleasure of serving in Congress for his entire 20-year tenure, I want to join my friend JOE GAYDOS and others in honoring the memory of this outstanding former Member of Congress.

John and I both came to Congress following the 1958 elections. Although we came from different States and different political parties, we became close friends. I'll never forget some of the cherished memories we shared in the early days of our congressional careers.

John will be remembered for many things during his two decades. It would be hard to understate his contributions to the working man and woman of this country. In particular, his efforts on the Education and Labor Committee made the difference in implementing a strong and effective Black Lung Program. And his work on such labor protection issues as the Occupational Safety and Health Act, the Mine Safety and Health Act of 1977, and the ERISA pension bill are modern-day tributes to the greatness of John Dent.

In the mid-1970's, John became the second ranking member on the Education and Labor Committee, as well as the chairman of its Subcommittee on Labor Standards. He will always be remembered as a quite effective Member of Congress who cared more about getting a job done than he did about getting the publicity. A former Member of the other body from the State of Washington once said that, in Congress, "there are showhorses and workhorses." John epitomized the whole concept of a workhorse.

John came to the U.S. House of Representatives at the age of 50. But his service to the people of western Pennsylvania by no means began then. From 1934—at the age of 26—until 1958, John served in the Pennsylvania State House and Senate, eventually ascending to the Democratic floor leader in the Senate before leaving for Congress. Before that, John served in the Marine Corps. It's not an understatement to say that John gave his entire life to public service.

Mr. Speaker, this country owes a great debt to John H. Dent. This loss will be felt by the scores of people who had the honor and the pleasure of knowing this great American. I will miss him greatly, but my memories of him will always be among my most treasured possessions.

Mr. COYNE. Mr. Speaker, former Congressman John Dent served the House and the Commonwealth of Pennsylvania for 20 years and he served it well.

Mr. Dent served as a member of the Jeannette City Council, the Pennsylvania House of Representatives and the Pennsylvania Senate before being elected to the U.S. House of Representatives.

The Almanac of American Politics stated that Mr. Dent was "regularly the chief House sponsor of bills to raise the minimum wage." The House may shortly take up minimum wage legislation. Passage of that legislation would consitute a fitting tribute to Mr. Dent and the working men and women whom he served so well as a Member of this body.

Mr. Speaker I want to include at this point an editorial from the Pittsburgh Post Gazette, dated Thursday, April 14, 1988 concerning Mr. Dent.

The editorial follows:

[From the Pittsburgh Post—Gazette, April 14, 1988]

AN ADVOCATE FOR LABOR

There never was any doubt about the strong identification with organized labor of U.S. Rep. John Dent, the Greensburg Democrat who died last weekend at the age of 80.

In his 20 years in Congress (1959-78), Mr. Dent made no bones about being a strong advocate for labor. Even if there was irony in the fact that during his tenure, labor was hurt by the loss of thousands of jobs in his district, thanks in part to changing economic times, labor's support for him never seemed to waver.

Undoubtedly, that was because of his lead in sponsoring bills to improve coal-mine safety and health, including the black lung compensation law, and the Employee Retirement Income Security Act (ERISA) of 1982.

Mr. Dent will be remembered for bettering the lot of the working man and woman.

Mr. GAYDOS. Let me conclude these special remarks by making this observation on the RECORD and I do this without qualification: John Dent was a decent man. John Dent did not have a real enemy in this House. John Dent was a God-fearing man. John Dent was a good family man. Above all, above all these things, this country is better off because John Dent was a good legislator. He helped so many people. Yes, he was prejudiced, because he helped more working men and women and more of the poor in this country rather than the corporate structure or the big business interests. That is the John Dent that we are talking about. I want his family to know that that is the authentic John Dent. I am sure they know it already.

I want his family to know he was missed when he retired from this House and he is going to be missed now that he has gone on his way.

Mr. Speaker, I yield back the balance of my time.

NATIONAL LIBRARY WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. OWENS] is recognized for 60 minutes.

Mr. OWENS of New York. Mr. Speaker, I rise in celebration of "National Library Week." I rise to pay tribute to the libraries and librarians across the Nation who are responsible for a very vital part of our educational infrastructure. Yesterday we had numerous librarians from across the country under the sponsorship of the American Library Association visiting the offices of their Congressmen to urge continued support by the Federal Government for certain vital programs that are run by libraries through libraries.

National Library Week comes every year. This year it is celebrated from April 17 to April 23.

Of course, we had numerous weeks. There is probably not a week in the year which is not taken now by some group that wishes to bring attention to its particular kind of work. We have become pretty cynical about these various public relations gimmicks that we view special weeks as being. I think they are ceremonies which have some value, ceremonies which we should take seriously in some cases. In the case of our libraries, I think this year is very important for us to dwell on the meaning of these particular institutions in the context of a number of problems which we are considering.

We will be voting on the trade bill tomorrow. One great concern with the trade bill is America's competitiveness. In the process of viewing and reviewing what is needed to make America more competitive, we of course added a section to the trade bill which focused on education. We are finally beginning to understand that underneath all activities of a complex society, undergirding all of those activities is education. We understand that. But we do understand that education is not something which takes place only within formal classroom, with a teacher and students.

Education is not a phenomenon that happens and occurs only within the setting of a university or college. Education is occurring in our society in many other ways. If we want to promote education, if we want to have the most educated populace in the world—and I think we should aspire to have the most educated populace—it may be good to aspire to be the most populous nation in the world, it may be good to be aspiring to be the richest nation in the world, but I think in order to reach those goals, as a goal unto itself we ought to aspire to have the most educated populace in the world.

Very practical benefits flow from this emphasis and concern with education.

Within the effort to build and to create the most educated populace in the world, we have to understand that it is necessary to saturate our environment with all kinds of activities related to education. We must saturate the environment, especially our young people. There must be many different ways, many different instruments, many different institutions which are promoting education.

Among these institutions are the ones which have proven to be the most accessible, the most universal, available, and useful to most members of the family. For example, every member in the family can be educated and receive some benefit or assistance in the process of education from the public library.

If you stop and consider the fact that public libraries are involved in people's lives all the way from preschool until they die, unlike public schools or colleges or universities, most people if they stay within the formal school setting they will only be there for 20 years.

To get a Ph.D., from first grade to the time you get the Ph.D. you are in a formal school setting for 20 years. If you live to be 65, the other 45 years of your life, you may be associated with libraries.

So National Library Week is not just another week, it is not just a gimmick. It is a ceremony, it is a gimmick, it is public relations to some degree but we ought to take it more seriously and understand it, in this case as a part of what we are trying to do here in the Congress and a part of the priority agenda of the Nation.

As is the custom, the President has issued a statement on National Library Week. He states:

> Celebration of this week reminds us of the truth that a well-educated citizenry is critical to the health of any republic. Offering an ever-increasing number of services, America's libraries play a vital role in the education of our people and both symbolize and facilitate the freedoms of inquiry and expression so dear to our country and to millions around the world who do not yet enjoy this liberty.

I will not quote nor read the entire letter of the President.

Mr. Speaker, I would ask unanimous consent to enter the entire letter of the President in the RECORD.

The letter referred to is as follows:

> THE WHITE HOUSE,
> *Washington, April 17-23, 1988.*
>
> NATIONAL LIBRARY WEEK
>
> Greetings to everyone joining the American Library Association in observing the 31st annual National Library Week.
>
> Celebration of this week reminds us of the truth that a well-educated citizenry is critical to the health of any republic. Offering an ever-increasing number of services, America's libraries play a vital role in the education of our people and both symbolize and facilitate the freedoms of inquiry and expression so dear to our country—and to millions around the world who do not yet enjoy liberty.
>
> Libraries' stores of knowledge include, of course, the great books of the ages; libraries help to ensure that the wisdom of our ancestors continues to inspire people, young and old, with the intellectual legacy that is our heritage. During National Library Week and all year long we should set aside time to read; to use our school, university, community, and private libraries; and to help our children discover the treasures that await them in all our Nation's libraries.
>
> Nancy and I send good wishes to America's librarians and patrons. God bless you, and God bless America.
>
> *Ronald Reagan.*

Mr. OWENS of New York. The President is not alone in highlighting the value of libraries.

Harry Truman made the statement,

> Everything I know except my law I learned through the public library.

I am sure that he would add to that that he learned law at the law library.

John Kennedy made the statement,

> Good libraries are as essential to an educated and informed people as the school system itself. The library is the key to progress and the advancement of knowledge.

These are three Presidents who recognize the value.

This year's symbol for the "National Library Week" is the library card itself. It is the card with a charge, they have a little symbol with lightning striking a library clock glorifying the hometown library clock. This may seem a simple approach, an approach that is not going to attract that much attention, but library cards are still not within the purview or within the reach of millions of children. There is a campaign being launched to guarantee that every youngster will have in his life a library card and become familiar with the fact that here is a certain part of life that everybody is expected to develop as they go along.

This morning from 10 o'clock until actually 1 o'clock this afternoon, my Subcommittee on Select Education had hearings considering the future of research and development in the area of education for the next decade.

During the course of those hearings, Dr. James Coleman of Harvard testified on some results of studies that had been done comparing American students with students in other countries. It was interesting to find that in general when compared with our partners in the free world, the other industrialized nations, America ranks at the bottom. United States students rank near the bottom. He made the point that not students in conglomerate, where you take a large number of American students and compare them with a large number of European students. Even when you narrow it down comparing our best students studying biology in high school with the students in Europe who are studying biology, specializing, and our best students who are studying chemistry with students in Europe who are studying chemistry or students in Japan we still are, with the very best score, lower than the other industrialized nations that we are comparing ourselves with.

I think it is a kind of revelation which directly impacts upon our deliberations with respect to the trade bill and our concern about being competitive. We must understand that our young people at this moment in history are not getting the kind of education they need. They are moving backward instead of forward.

At the same hearing, the President of the American Federation of Teachers, Albert Shanker, pointed out the fact that reading programs, certain studies demonstrated that our young people who are most exposed to reading do best in school, but only a small percentage are now continually exposed to reading. So that youngsters in fourth grade are sometimes reading more books and more exposed to reading than a student in the ninth grade, that as students progressed through school they read less and less.

□ 2030

Part of this is due to the fact that libraries are really not considered very important in the larger social setting, and encouraging young people to read is not considered that important. We are missing an opportunity by not stressing the need for youngsters to read on their own and to develop their reading habits. That is as vital as any other aspect of the educational process.

In my city, in New York, we have just gone through a long process of searching for a new chancellor for the school system where education is on everybody's mind, and a chancellor was finally selected. He came in, and actually he was treated like a king. I am proud of the fact that our city paid such homage to an executive who is coming in to run the school system. I am proud of the fact that so much attention by the press, and television and radio was directed on the problems of the school system for a brief period of time, at the same time that great stress was being placed on a new beginning for the New York City school system which services 1 million children, and 60,000 teachers and administrators. It is the largest system of its kind in the Nation, and it spends tremendous amounts of money, close to $6 billion, and all this attention is focused on the school system, all the attention that has been focused on the process of education, and the mayor of the city has announced that he will launch an across-the-board cut of all the city's libraries. They will be cut by 6.3 percent. These are libraries which I can assure my colleagues that they do not have huge budgets to begin with. There are three systems in New York, the Brooklyn Public Library, the Queens Public Library, New York Public Library system. They all make up the total city library system, and an across-the-board cut of 6.3 percent is devastating to each one of these systems.

In Brooklyn alone a 6.3-percent cut means that the Brooklyn Library budget will be cut by $2.25 million. Eighty staff positions will be eliminated. Four branches now open on Sunday would have to close. Ten of the twenty-six branches open on Saturdays would have to close. On Saturdays 45 of the 58 branches would have to close an extra day per week because they do not have the personnel. Morning and evening service of many libraries would be eliminated. The library would have to cut its spending on book acquisitions by $600,000. Another $400,000 would be cut for maintenance on the purchase of necessary equipment and furniture. In terms of hours of service to the public library service, it would be reduced nearly to what they were at the height of the city's budget crisis when New York City was on the edge of bankruptcy in 1965.

Mr. Speaker, this is an example that indicates how terrible it will be to have these cuts imposed on the Brooklyn Public Library.

The New York Public Library, which services Manhattan, and the Bronx and Staten Island will have a cut of almost $4 million and will suffer similar kinds of cuts in services.

I am giving my colleagues these examples partially because they are close to home, and I am familiar with it and agonizing with the people who use these libraries, but they are not unusual, and they are not unique. Yesterday in my office there were representatives from Texas and Oklahoma who said that the situation had become so bad in their States that the States no longer would be able to put up the matching funds necessary to qualify for the library services and construction act funds. These are Federal funds that are available. Only a small percentage is required to be put up by the States to match it, but, nevertheless, their States are about at the position where they will forego and give up Federal money because the States cannot or will not provide the money for the libraries, and I say, "will not" because I do not think any library budgets anywhere in the country are so great that it is necessary to make these kinds of cuts when the local budgets are in difficulty.

Mr. Speaker, the problem is the mind set and the attitudes of decisionmakers and people who are in charge. They always see libraries as either a luxury or necessary evil or an appendage. Nevertheless these same people pay great lipservice and are said to be greatly concerned about education. You cannot in a place like New York City promote education and claim to be promoting education sincerely, on the one hand providing extra money for the board of education and the chancellor while at the same time you cut the public libraries which all of the children of the city use. People do not understand the processes of education. People do not understand that for real education to take place the environment must be saturated with educational activities. People have to make it possible for youngsters to pursue their own interests and especially pursue the reading of books. Reading is so very fundamental in the education process, and any special treatment or extra encouragement that we can provide should be encouraged by government that is really interested in education.

Mr. Speaker, we have fortunately in the budget that was submitted, passed by the House of Representatives, $1 billion extra for the function of education. We have recognized in this House the importance of education, and it is a high priority in the budget. I congratulate the people who prepared the budget, the Budget Committee. I congratulate Congressman GRAY for consistently in the last two budgets emphasizing education.

Unfortunately, the Senate does not have a setaside of $1 billion for education. We have $1 billion more than the Senate for this purpose. We should look closely at what we do with that $1 billion, and, in the effort to approve education across the country we should look at some portion of that billion dollars as being dedicated to the problems faced by libraries.

Mr. Speaker, libraries have suffered drastically under the Reagan administration. This year, as in past years, the President, although he congratulates libraries and recognizes their value in a ceremonial letter, the President each year has placed zero in the budget for the Library Services and Construction Act.

The Library Services and Construction Act is the major instrument through which the Government, the Federal Government, provides assistance to local libraries. That program fortunately each year is funded by the Congress despite the fact that the President continues to place zero in the budget for it.

The Library Services and Construction Act's appropriation for fiscal year 1988 was $125,037,000. The American Library Association has recommended an appropriation for fiscal year 1989 of $132,357,000. That amount is for all of the activities in a wide range of public libraries across the country. It is indeed a small amount. If you want to have some idea of how small the Library Services and Construction Act budget is in totality, just stop and think that for 25 years now the Library Services and Construction Act has been funded by the Federal Government. In all those 25 years all of the money spent in this act would not add up to the price of one aircraft carrier. That is all that we have spent for 25 years.

So, Mr. Speaker, these appropriations are meager in comparison with the need, and I would like to just note that, in addition to the Library Services and Construction Act, there is this summary from the American Library Association of what they are recommending as appropriation amounts including money for the Higher Education Act which goes to libraries, our research and college libraries, and the total of that amount recommended by the American Library Association is $23 million for this fiscal year, 1989, up from our present appropriation of $10 million. In other words, they want to more than double that amount because it is a very tiny amount for research activities, and for education in general we spend a very meager amount. Most corporations, as was pointed out in my hearing this morning, strive to spend. We spend such an infinitesimal amount on our research activities and activities related to research and development that we can hardly indicate that it is so tiny, but the Higher Education Act presently does not provide it, and L.A.'s is increased to $200,294,000. We are recommending small increases for education statistics, which includes library surveys, we are recommending small increases for the National Library of Medicine and a number of other items which I think are useful, but I do not want to read the recommendations in their entirety.

Mr. Speaker, I include for the RECORD the following summary:

SUMMARY OF AMERICAN LIBRARY ASSOCIATION APPROPRIATIONS RECOMMENDATIONS

Fiscal Year 1989 Labor-HHS-Education Appropriations

Library programs	Fiscal years—				
	1987 appropriation	1988 appropriation	1989 authorization	1989 Reagan request [1]	1989 ALA recommendation [2]
Library Services and Construction Act, total	$125,500,000	$125,037,000	$181,000,000	0	$132,357,000
Title:					
I, Public Library Services	80,000,000	78,986,000	95,000,000	0	83,360,000
II, Public Library Construction	22,500,000	22,595,000	50,000,000	0	23,544,000
III, Interlibrary Cooperative	18,000,000	18,669,000	30,00,000	0	19,453,000
IV, Indian Libraries	(funded at 2 percent setaside of appropriations for LSCA I, II, & III)				
V, Foreign Language Materials	0	0	1,000,000	0	1,000,000
VI, Library Literacy	5,000,000	4,787,000	5,000,000	0	5,000,000
Higher Education Act, total	7,000,000	10,052,000	(3)	0	23,294,000
Title:					
II-A, College Library Resources	0	0	(3)	0	[4] 10,000,000
II-B, Training, Research	1,000,000	718,000	(3)	0	1,042,000
II-C, Research Libraries	6,000,000	5,744,000	(3)	0	6,252,000
II-D, Technology	0	3,590,000	(3)	0	[5] 5,000,000
VI, Sec. 607 Foreign Periodicals	0	0	(3)	0	[4] 1,000,000
Education Consolidation and Improvement Act Chapter 2 El/Sec Educ. State Block Grant [6]	529,337,000	508,439,000	(3)	575,000,000	575,000,000
National Commission on Libraries and Information Science	660,000	718,000	750,000	755,000	755,000
Center for Education Statistics (including library surveys)	8,900,000	20,953,000	(3)	29,469,000	29,469,000
National Library of Medicine (including Medical Library Assistance Act)	61,838,000	67,910,000	(3)	74,435,000	74,435,000

[1] Administration will submit $76 million legislative proposal to replace LSCA and HEA II.

[2] ALA generally recommends funding at amounts required to restore FY '88 cuts and adding a current services factor of 4.2 percent.

[3] Such same.

[4] For currently unfunded HEA library programs, ALA recommends amounts authorized for fiscal year 1987.

[5] Five million dollars is amount authorized for fiscal year 1987. Ed. Dept. received over 400 inquiries from potential II-D applicants, even before regs were issued, but estimates awarding only 89 grants from first-time 1988 funding of $3.6 million.

[6] Forward funded consolidation includes former ESEA IV-B School Library Resources and Instructional Equipment.

American Library Association, Washington Office, 202/547-4440. April 1988.

Also each year we receive recommendations from outstanding librarians from across the country in terms of how they benefit from Federal legislation. I would not take the time to read the entire statement by Dr. Vartan Gregorian of the New York Public Library, but he does make some important observations for the funding of the Library Service and Construction Act about the need for continued funding for the National Endowment of the Humanities, about how the Department of Education is doing through title II-C and title II-D, and finally he notes the fact that there is an issue of extreme importance to the Nation's libraries as well as to the public at large of free public access to Government information. This is an issue which I would like to take a minute to highlight.

Dr. Gregorian's letter continues: The current debate over the proposed privatization of the National Technical Information Service is an example of the significance of this issue. The National Technical Information Service complies, retains and makes available abstracts of the results of Government-sponsored research. The contracting out of this service would raise serious questions about public access and would force libraries to pay high costs for the basic right of the public to have free access to Government information. Federal funding for programs which support the flow of Government documents has been cut back too often in recent years. The consequences of further restrictions on access to Government information would be grave indeed. It is urgent that final legislative action be taken quickly on S. 1420 and H.R. 2160 which prohibits the further privatization of the National Technical Information Service.

I might note that S. 1420 and H.R. 2160 are in the trade bill. We have recognized the importance of the National Technical Information Service. We recognize it to the extent that we are prohibiting the contracting out of this service in this bill. This is contained in a letter by Dr. Gregorian of the New York Public Library.

Mr. Speaker, I include for the RECORD the entire letter instead of reading it.

The letter referred to follows:

THE NEW YORK PUBLIC LIBRARY,
New York, NY, April 19, 1988.

DEAR MEMBER OF CONGRESS: Some important changes are being proposed in the coming year in the federal programs that support libraries. For the first time no reduction is proposed for the humanities and the arts, and a modest federal role has been adopted for the first time in support of libraries. While these changes are welcome, and while this will be a year of constraints on funding increases, it is critical that Congressional commitment to education and libraries continue to be realized through the enhanced appropriations needed to support these priorities. I write today to urge your attention to issues that must not be overlooked during the current year.

For each of the past six years the administration has proposed zero funding for the Library Services and Construction Act (LSCA), and yet Congress has continued and even increased appropriations. The coming year poses a new threat to this program: once again zero funding has been proposed for LSCA, while new legislation is being proposed for a reformulation of these library programs within the Department of Education. As a result, the vital programs and services that LSCA supports throughout the nation are in danger of extinction while this reauthorization process begins. At the New York Public Library, for example, grants through Title I of LSCA support outreach services to the unemployed, the blind and physically handicapped, the elderly and the illiterate, as well as such library projects as the publication of the Directory of Community Services in English and Spanish. There is a practical and growing need for services to these special populations, and the cessation of funding for these programs next year would be devastating. I urge the Congress to continue to fund existing LSCA programs in the coming year, regardless of the new direction these programs may eventually take.

For the first time in eight years, the Administration has not recommended cutting funding for the National Endowment for the Humanities, but has requested level funding. With this solid demonstration of commitment to and support of the humanities, I urge the Congress recommend additional funding for this agency in the coming year. The realization is growing that needs in the humanities are not just the needs of universities, but the needs of all Americans, which must be addressed immediately. The Humanities Projects in Libraries and Archives program at the NEH provides funds for very worthwhile projects that reach a great many people, and yet a 28% decrease in funding has been recommended for this program. Appropriations must be restored to at least the current level in order to support vital outreach projects in the nation's libraries. I must also emphasize the importance of additional funding for the Office of Challenge Grants, the program at NEH which supports the very institutions where the humanities thrive. This program has been enormously successful and remains in great demand. Expansion of funding will create more opportunities for other institutions to receive basic financial support.

A most critical question that faces the nation today is what the federal role in preserving our deteriorating heritage should be. The problem of books, periodicals, pamphlets and photographs printed on acid paper that are crumbling in our libraries is becoming a matter of increasingly broad national concern. The National Endowment for the Humanities is making major contributions to the nation's cultural life through the support of national projects that will save the record of the humanities from irreversible physical loss. Substantial increased federal commitment in this area would provide for the urgently needed expansion of preservation activities. The NEH has enormous opportunities to strengthen our intellectual resources, and to preserve our nation's rich history through an expanded preservation program. Important progress is being made through the funding of a number of large scale projects with national implications. I believe the federal role lies in supporting these national projects that will save information and make it broadly accessible through microfilming, and I urge your support for increased appropriations in the Office of Preservation at the National Endowment for the Humanities.

The Department of Education, through Title II-C, has been the source of funds for important projects that strengthen the nation's research libraries' resources. The Slavonic Division at The New York Public Library is currently conducting a project with Title II-C funds to restore, catalog and enhance its collection of Imperial Russian political, social and literary journals. It is distressing in the extreme to think that the important work being accomplished under this federal program would come to a halt if the administration's proposed elimination of all funding is not remedied.

The Department of Education's fledging program to improve library services developed under Title II-D, College Library Technology and Cooperation Grants, has been slated for zero funding in its second year of operation. The $3.6 million appropriated for this program in FY 1988 is creating keen competition among the many applicants to the program. The program will be highly cost-effective, since its goal is to expand access to resources and increase cooperation. I ask Congress to give special attention to the continued funding of both Titles II-C and II-D, with at least inflationary increases for FY 1989.

Another issue of extreme importance to the nation's libraries, as well as to the public at large, is free public access to government information. The current debate over the proposed privatization of the National Technical Information Service is an example of the significance of this issue. The NTIS compiles, retains and makes available abstracts of the results of government sponsored research; the contracting out of this service would raise serious questions about public access, and would force libraries to pay high costs for the basic right of the public to have free access to goverment information. Federal funding for programs which support the flow of government documents has been cut back too often in recent years. The consequences of further restrictions on access to government information would be grave indeed. It is urgent that final legislative action be taken quickly on S. 1420 and HR 2160, which prohibits the further privatization of the NTIS.

I also urge the Congress to support continued access to information by ensuring that *postal rates* be stabilized at at least current levels. There is a direct relationshiop between postal charges and library operations, and I ask that subsidized postal rates for libraries be a priority in the coming year.

Members of Congress have been traditional supporters of federal programs for libraries. With your leadership, the continuation and expansion of library services can be achieved in the coming year, demonstrating that a priority for education must go hand in hand with a priority for libraries. Your consideration is greatly appreciated.

Sincerely,

VARTAN GREGORIAN.

But I would like to continue to further elaborate on the point made by the letter with respect to the National Technical Information Service. This is just one library service that is being contracted out by the Reagan administration. This administration is wedded to an idelogical dogma about contracting out certain services, and libraries have been unfortunately caught up in this process. Libraries were insulted in my opinion because they were lumped in with janitorial services and cleaning services, and it is one of the few professional services that the Reagan administration placed on a list of 14 experimental contracting out or privatization fundings. They have continued despite protests to contract out services including the National Technical Information Services to private companies that in no way are going to be able to carry out the responsibilities of these particular agencies. We are crippling our research and development capacity at a critical time. Some of the libraries that have been contracted out have been contracted out to foreign firms, firms that are opened by foreign companies, and the kind of activity that they are responsible for certainly impacts on our commercial activities and maybe even one day on activities of concern to our national security.

This whole process of privatization has been a part of a pattern in the Reagan administration of not understanding the value of library services, either library services for the public in general or for researchers and professionals. We have had an assault on library related activities by this administration. Numerous publications that libraries are depending upon have been eliminated. Many of the publications that libraries use have been privatized. They have been turned over to private companies, and libraries are forced to pay three times as much for certain very vital handbooks and reference tools that are produced by these private companies at a profit. Then they have to pay when the same products are being produced by the Federal Government. Parts of the Government Printing Office are being privatized and contracted out.

Mr. Speaker, we are on a binge, an ideological binge of contracting out which is hurting libraries very greatly, and, as they hurt libraries, of course what is happening is of course a great impact on the whole educational process. The cost of doing businesss for libraries goes up as we contract out these functions. The quality of the product, the quality of the service, goes down, and we suffer as a result.

So, the contracting process unfortunately is still running rampant. Furtunately, and I hope we do pass the trade bill, the National Technical Information Service will be saved by

Congress if the trade bill is passed as it is presently. That act has a portion which prohibits the contracting out of a National Technical Information Service.

And finally I would like to take a moment to note that the theme of this year's National Library Week is the need for everybody to have a library card, especially young people. September is being designated as National Library Card Sign-Up Month. Today I have introduced a bill at the request of the American Library Association and other groups which designates September 1988 as National Library Card Sign-Up Month. As I said before, this is a gimmick, it is a ceremonial kind of thing, it is a public relations kind of thing, but it also has great value for young people. It is important that every young person see himself as not being complete unless they have a library card, not being complete unless they have the library habit, the habit of going to the library and appreciating the kinds of information that can be found there. So for that reason we are introducing today the national library card sign-up bill. It designates September 1988, and that will be a great campaign to try to get all of the young people across the country into the position of having library cards.

Mr. WEISS. Mr. Speaker, I would like to thank my colleague from New York, Congressman OWENS, for organizing this special order, giving us the opportunity to express our support for libraries and the myriad services which they provide. It is particularly appropriate that Mr. OWENS manage this special order because, as the only professional librarian ever elected to Congress, his perspective is unique.

We all appreciate the vital role assumed by libraries in our communities, schools, and colleges. They are a place to congregate, to learn, to exchange ideas and information. Few of us are even aware of the extent of their services to the community and the Nation. Indeed, great nations are judged, in part, by the strength of their collections.

Libraries provide early access for young children to the joy of learning. They provide a constructive afterschool alternative for older children. Through literacy and language programs, they provide a vital service to nonreaders and non-English speakers. Libraries are a second home for university students and scholars and a pleasant gathering place for seniors. And because most libraries are public, they are available to all.

Support for libraries is predominantly assumed at the State and local level, but Federal funding is crucial in defining and expanding the scope of services libraries provide. It is imperative that we continue to uphold that Federal commitment.

For the past 6 years, President Reagan has requested zero funding for the main Federal program serving libraries, the Library Services and Construction Act [LSCA]. In spite of the President's misguided proposals, Congress has continued and even increased appropriations for the LSCA during that time. I am hopeful that Congress will again maintain this program, which represents only a miniscule portion of the Federal budget.

Funds reaching New York City through title I of the LSCA support outreach services to the unemployed, the blind and physically handicapped, the elderly and the illiterate. Without sufficient funding, the libraries in New York and elsewhere will have a much more difficult time reaching these target populations, and, in turn, the potential contributions of these people to our Nation will be drastically reduced.

Another important source of Federal support for libraries is through the National Endowment for the Humanities. I was very pleased to note that for the first time in 8 years, President Reagan has not requested any cuts in the NEH budget. His level funding request is a big step forward for a man who has never before acknowledged the significance of federal cultural funding to the well-being of our Nation. But, unfortunately, when the funding proposal for the NEH is broken down, we see that the Humanities Projects in Libraries and Archives Program has been slated for a 28-percent decrease in funding. I would therefore recommend that funding for this program at least be maintained at its current level, and funding for the whole NEH be increased.

Whereas libraries bring people together, they themselves are linked together through extensive networks of shared resources. Vital to that service, is the Postal Service's Revenue Forgone Program. Without these reduced postal rates, which enable libraries to send books and materials to other libraries, funds would have to be redirected from other programs. Libraries would have to spend more money on postage and less on the acquisition and maintenance of materials and the provision of vital services to the community. Continued increases in postal rates and cuts in the revenue forgone appropriation create a serious threat to libraries and must therefore be limited.

Also of concern to librarians are potential restrictions on access to Government information and the continuing use of libraries by the FBI to track the activities of suspected foreign spies. We must not allow the free flow of information to be curtailed or force librarians to act as Government agents.

Since the founding days of our Nation, the Congress has been a strong supporter of libraries and library services. During this National Library Week, I am pleased to join my colleagues in reaffirming that support and extending congratulations and thanks to our Nation's librarians, without whose service we as a nation would be greatly diminished.

Mr. GOODLING. Mr. Speaker, this is National Library Week and I would like to take a few minutes to pay tribute to one of the greatest sources of knowledge known to man—our public libraries.

I don't know of a better place for people of all ages to go to gather information or just to choose a book to read for pleasure. School children and college students use libraries to research reports; retirees go to libraries to look up information on faraway places they are free to visit; and other people just go to libraries to read and to satisfy their quest for knowledge.

But libraries are not just places to find books and do research. Some of the libraries in my congressional district provide space for tutors who help people learn to read and write, and provide many of the materials used by tutors and their students. People can't enjoy books if they can't read. Therefore, I find it highly commendable that these libraries are joining in the battle against illiteracy.

Other libraries in my district have developed programs to bring regular and large print books, as well as books on cassette, to the homes of older adults who are homebound and unable to come to their public library. These same libraries deliver books to senior apartment complexes, nursing homes, and adult day care centers.

While Federal support of library programs is limited, it is, nevertheless, important. Without it, libraries might have to charge for services they now provide for free, such as the delivery of books to homebound individuals.

One prime example of the importance of Federal library programs is the development of FAT CAT, which is a computerized catalog of public libraries in York and Adams Counties in my congressional district. People who are trying to locate a specific book can use the computer. If the book is not at their library, it can be borrowed through the interlibrary loan system. The development of FAT CAT has assisted in providing a greater selection of books to citizens throughout my congressional district. It is one more project which probably would not exist if it were not for the availability of grants under the Library Service and Construction Act.

Mr. Speaker, I encourage my colleagues to join me in paying tribute to libraries throughout our great Nation. They truly provide a service which cannot be duplicated.

Mr. GREEN. Mr. Speaker, I should like to thank my colleague from New York, Mr. OWENS, for his leadership in sponsoring this special order on libraries and for providing the opportunity to say a few words.

Who can doubt the importance of our Nation's libraries in enriching the individual's life and in fostering the educational and cultural growth of the country? For the child who has just learned to read, the student conducting post-graduate research, the senior citizen on a limited income who can't buy books, or the adult who needs a how-to book on carpentry or plumbing, our Nation's libraries have stood with their doors open to serve its citizens' needs. It is fitting that we pay tribute to our libraries during National Library Week and that we renew our commitment to their well-being.

Federal funding of libraries is modest, yet every year for the past 6 years the administration has called for zero funding for the Library Services and Construction Act. Under LSCA libraries throughout the country have been able to provide special services such as literacy programs, job information centers, public library outreach, public library construction and renovation, library automation and special services to the blind, physically handicapped and the elderly. In the past strong bipartisan support has saved this program and I shall support its continuation again this year.

The administration has again proposed elimination of the postal revenue forgone subsidy. Eliminating this subsidy would critically impair the ability of libraries to distribute educational and informational material to the public. If the revenue forgone postal subsidy is eliminated, our libraries would have to devote to postage money now spent on books and other library resources. In New York City, the New York Public Library has estimated that elimination of revenue forgone funding would add over $1 million in additional postage costs.

A third area of concern is the proposed elimination of funding under title II-C of the Higher Education Act, which provides grants to major research libraries to maintain and strengthen their collections and to make their holdings available to other libraries whose users have need for research materials. The Slavonic Division of the New York Public Library is currently using title II-C funds for a project to restore, catalog and enhance its collection of Imperial Russian political, social, and literary journals. To think that such a significant project and others like it around the country, would be severely curtailed if we fail to fund it, is distressing and should not be allowed to happen.

We face difficult choices in our attempts to reduce the budget deficit. However, the strength of our Nation depends in large measure on its ability to support the educational resources that benefit all of its people. Let's continue to give our full support to our libraries.

Mrs. PATTERSON. Mr. Speaker, I am pleased to join many of my colleagues in observing the 31st annual "National Library Week."

Our libraries are not just places to find books and research information. They also provide story hours, films, live theater, crafts, and many other programs which enhance a child's desire to learn and read. This positive impact is evident in statistics that show that over 3.4 million books were checked out by children in 1987.

In my State of South Carolina, the State library conducts a statewide annual summer reading program. Of the 36,000 children who participated in the program last year, 4,551 were from my district. This is an example of the meaningful programs our libraries provide.

This week is the perfect time to urge the continuation of appropriate funds to the Library Services and Construction Act in order to provide needed financial assistance to fund special library programming, to purchase needed materials, and to extend and improve services to rural communities, the elderly, and the disadvantaged.

Our libraries are essential to laying the foundation for tomorrow. They are the repository of our past and the basis of our future.

Mr. Speaker, I am pleased to have an opportunity to join the gentleman from New York in recognizing the contributions of our Nation's libraries.

Mr. OBERSTAR. Mr. Speaker, throughout our 50 States, in major urban centers, small towns and peaceful neighborhoods, public libraries quietly provide access to the world of information.

Libraries are where our dreams are stored and shared, where children first explore the secrets of the written word; libraries are the recordkeepers of the daily life of our world.

In my State of Minnesota, nearly 4 million people make use of 339 public library buildings and 26 mobile units. Over 700,000 students are served by the 1,500 library media centers in the public schools. Academic, technical, and specialized libraries serve thousands more readers daily.

Minnesota's public and academic libraries have more than 37 million items of information resources. With a single library card, Minnesotans can have access to the resources of public, school, college and university libraries throughout the State through the interlibrary loan system.

In 1986, Minnesota's public libraries cost the tax-paying public just over $64 million. That is only $16.23 per person for the entire year, truly a bargain.

Local taxes fund the bulk of public library expenditures, but Federal dollars play an important role in library operations. The Library Services and Construction Act provides money for the interlibrary loan program, bookmobiles, and specialized services for the blind, disabled, and institutionalized persons. Titles II-A, II-B, and II-C of the Higher Education Act provide Federal support for college and research libraries.

These programs demonstrate the strong commitment the Federal Government has made to our Nation's libraries. Besides supporting important services, the Federal dollars also act as a catalyst for further State and local funding.

This week we celebrate National Library Week. It is a time to reflect on what our libraries mean to our community, State, and Nation. Libraries are both a local asset and a national treasure. They are the storehouses of our knowledge, and the keepers of our dreams.

Mr. DERRICK. Mr. Speaker, I first would like to commend the gentleman from New York [Mr. OWENS], for his leadership in sponsoring this special order on libraries today. It is very important that we call attention during National Library Week to the outstanding services our libraries provide.

Libraries are vital to our educational system. In South Carolina, illiteracy is a major social and economic problem. Nearly 26 percent of adults over 25 years of age are considered to be functionally illiterate. Over the years, the South Carolina State Library has encouraged public libraries to become involved in local efforts to eradicate illiteracy. Library services and Construction Act, title I funds have been used for this purpose.

Although a single definition of literacy does not exist, functional literacy is generally understood to be the ability to read, write, speak, listen, compute and solve problems in situations that confront adults in everyday life. I am pleased that our public libraries see this as an area worthy of their attention. As libraries themselves are becoming more sophisticated, such as using computers to replace card catalogs, they need to step back and try to bring services to the nonuser.

In my travels through my district, I have seen many positive changes in libraries in the past few years. LSCA has been a catalyst for many of them. I have seen a store building renovated for use as a library in my home county of Edgefield. This summer construction should begin on converting an historic elementary school into the Aiken County Library. These and other libraires have had books purchased with LSCA funding. But of what use will these buildings and books be if our citizens cannot read.

There are an estimated 445,652 South Carolinians who are considered illiterate. They are reason enough to continue funding of LSCA and other library programs.

Mr. Speaker, I hope that this body will continue to give its full support to our libraries.

Mr. MARTINEZ. Mr. Speaker, I rise today during "National Library Week" to honor our Nation's librarians and to reaffirm the important role that libraries play in our national life.

The latter part of the 20th century has truly become the age of information. Whole industries are dedicated to producing, analyzing, and disseminating information. The young men and women of this country need quality educations to be able to contribute to our increasingly complex and technical society. And most importantly, a free society such as ours must make informed public debate on national issues possible by encouraging the widest possible dissemination of knowledge.

The administration has consistently sought to decrease the public's access to library services. Through circular A-130, the Office of Management and Budget has directed that formerly free or inexpensive Federal Government information be made available to the public only through expensive commercial vendors. Funding for the Library Services and Construction Act, which seeks to increase library accessibility to the disadvantaged, the handicapped, and those living in rural areas, has come under fire from the administration for each of the last 7 years.

I say no. The American people must have access to information about their Government. Our libraries must reach out to everyone, including the disadvantaged and the handicapped. Those living in rural areas must not be denied the opportunity to learn simply by virtue of where they live.

In my home district we have a special program called the Community Access Library Line. This is a multilingual information and referral service that assists callers in locating human services, community organizations, community events and government officials and agencies. The program serves 15 million people in the southern California area and receives 40,000 questions annually. Library Services and Construction Act funds initiated this program.

The Los Angeles Public Library System has a program called Older Americans Special Information Service [OASIS]. This program provides inhome services to shut-ins to residents in convalescent homes or other care centers. Again, Library Services and Construction Act funds provided the seed money.

The Library Services and Construction Act has allowed libraries all throughout the United States to create similar programs to make our libraries accessible to all who want to use them. This is essentially a State and local concern, but the Federal Government has an obligation to help these governments meet their obligations to their citizens. We have a responsibility to continue our commitment to the Library Services and Construction Act.

In this Age of Information, we must maintain our commitment to our libraries. In this way we maintain our commitment to the people of this country who need access to information; and, during National Library Week, we honor our librarians.

Mr. DE LA GARZA. Mr. Speaker, it is indeed an honor to be able to participate in today's special order. I say this since one of my foremost priorities has always been the education of our Nation's youth—our future. We must provide for their education as well as the resources utilized to advance it—namely our Nation's libraries. Within their walls lie the seeds of knowledge which once sewn result in a bountiful harvest.

This is said mindful that the first high school graduating class of the 21st century will enter first grade this September. For them the world is a very different place than that into which I was born. Technology has rapidly advanced making many things never dreamed of or thought possible reality. Equally as exciting are all of the choices that now exist making our country a land of opportunity for every child.

Only with knowledge, however, can our youth fulfill their potential and that is what makes our Nation's libraries so invaluable. They are our treasure houses. They contain the world's heritage, and what is found in the past will serve as the basis of the progress to come in the future.

As a country we are indeed fortunate to have access to these services, but we must bear in mind that they too need our support. As we celebrate "National Library Week" I want to take this opportunity to pledge mine.

Mr. HAMMERSCHMIDT. Mr. Speaker, I join with my colleagues today in observing National Library Week and in paying tribute to the men and women who serve our Nation as librarians.

I think all of us in this Chamber recognize the vital role which libraries play in our society. As President Reagan stated in his observance of "National Library Week," "a well-educated citizenry is critical to the health of any republic." Libraries are crucial to that education process.

We have seen the role of libraries greatly expand over the last few decades. Technological advances have enabled these institutions to increase their information services as never before. National Library Week affords those of us in Congress the opportunity to reaffirm our commitment to libraries and to provide all Americans equal opportunity for access to the information required to meet their education, vocational, and recreational needs.

Mr. Speaker, I have long been a supporter of our Nation's libraries and in that context have had the opportunity to work with many librarians. One of the most prominent librarians I have had the pleasure to work with is Dr. Bessie Moore of Little Rock, AR. Much of the credit for the public library system we enjoy in Arkansas today can be attributed to Dr. Moore and the numerous years of hard work that she has given to our State. Today at age 85 she continues to work tirelessly on both the State and national level. Dr. Moore currently serves on the National Commission on Libraries and Information Services, a commission on which she has held a position since 1970.

Additionally, at this time I would like to reiterate my support for House Joint Resolution 90, which calls for a White House Conference on Libraries and Information Services. Now that the conferees have been named, I would urge my colleagues to take swift action and resolve our differences with the Senate so that we can move forward with this important conference.

Mr. SPRATT. Mr. Speaker, I am pleased today to join in recognizing the significant contributions of public libraries. Throughout this week, which is "National Library Week," efforts are being made through various events to increase public awareness of the many services that public libraries provide.

Cooperation is essential among libraries, and it has been a tradition amoung South Carolina libraries. However, since 1979, the South Carolina State Library has devoted considerable resources and energy to the development of a statewide plan for better cooperation, automation, and resource sharing. In 1986, the State library installed an integrated library system to serve as the central component of the South Carolina Library Network. With a special State appropriation, each county library was provided a microcomputer to access the network. This enabled residents of the entire State to have access to the resources of the State library's research collection. Access was soon extended to academic and technical college libraries. This year two pilot projects are testing the feasibility of school library participation.

It is gratifying to know that funds from title III of the Library Service and Construction Act [LSCA] have contributed to this effort. As the network gradually adds new users and new functions, LSCA will play an even more significant role. The future will see the eventual linking of other libraries. As more libraries automate, their book collections will potentially be available to others, thus providing all South Carolinians with better library service.

I strongly support our public libraries. I hope that the activities held during "National Library Week" will help to inform the public of the vital role these institutions play in meeting the needs of the residents in our communities.

Mr. FAUNTROY. Mr. Speaker, I am pleased to join with my distinguished colleague Congressman MAJOR R. OWENS, who is himself an accomplished librarian, in this special order celebrating National Library Week.

I am delighted that Congressman OWENS is once again bringing to the forefront the important role that public library services play in contributing to the quality of our national life. Although public library services are predominantly a function of State and local jurisdictions, the Federal Government's impact is profound in determining whether citizens have access to information resources.

One of the crucial vehicles for Federal assistance to our Nation's libraries is the Library Services and Construction Act [LSCA]. While the amount of dollars provided is not extravagant, the LSCA allocation is vital to library programs targeted to support programming which otherwise would not receive sufficient funding. For example, the District of Columbia received approximately $596,500 in 1988 from the LSCA. Such assistance helps to provide improved library services for the elderly, the economically disadvantaged, and other residents who may have specialized needs for access to library services, as well as for the public in general. We must certainly preserve and strengthen the Federal commitment to providing such essential funds for enhancing public education through library services.

Again, I want to salute Congressman MAJOR OWENS, a long-distance runner for educational opportunity in this country, for riveting our attention upon the necessity of public library services accessible to all Americans.

Mr. HEFNER. Mr. Speaker, it is my great pleasure to salute those men and women and the libraries they represent in paying tribute to National Libraries Week.

The education of our children is crucial for the future of our Nation and libraries play a vital role in the development of these young minds. The information and resources available at the libraries in my district is excellent and is widely used by students and the citizens at large.

This would not be the case if it were not for the support of the grant programs available through the Library Services and Construction Act. This program has been responsible for the revitalization and expansion of many facilities in my district, State, and across the Nation. I certainly support its reauthorization.

This program has made it possible to construct modern, well furnished facilities and provide new automated technologies which bring timely important information to local libraries for use by our people.

Librarians themselves are among the most helpful people any of us encounter in our daily lives, and they are an important and vital link between the citizens and accurate, timely information and resources which is essential for good citizenship.

I am grateful for the opportunities provided by libraries. The library is the cornerstone of any learned society.

Mr. MAVROULES. Mr. Speaker, the library's role in society continues to grow and expand. Once thought of as simply a place to borrow books, it is now an extensive reference center, study hall, information center, and even a gathering place. Although the role of the library is changing, its purpose has essentially stayed the same: to provide and make available a variety of books and materials to the public for educational needs and enjoyment. As a strong advocate of education, I am extremely proud and happy to celebrate National Library Week and would like to recognize and highlight the importance of public libraries in our country.

Although Federal funding for libraries is minimal, the appropriated money goes toward essential programs and services that may otherwise be overlooked. The funding we provide opens up the library to the entire public and broadens the availability of research materials through such means as: interlibrary cooperative networks, easy accessibility to various research materials, and more communication between separate libraries.

Today, the library is used extensively by people of all ages. Starting as elementary school students, many children spend time at the public library reading and borrowing books. At many libraries, younger children have access to computers, movies, and film strips: all important accessories to the educational process. As the child grows older, the library becomes a more serious place; a place where invaluable reference and study materials are available. Then, when studying is no longer a part of a person's life, the library can become a social center: a place where movies are shown, books are read, friends have discussions, and people relax. The library is one of the few public places where people of all ages can use and enjoy what is available.

Like much of the United States, I too take advantage of the libraries resources. More recently, the Library of Congress has proven to be not just a place where books are stored, but the most extensive information center in our country. I think my colleagues and I recognize and appreciate how much the library contributes to the Government: for information, research, and study purposes.

Again, I am happy to be celebrating National Library Week. As we move into the future, libraries are becoming essential and wanted institutions in our society. In each town, libraries are being remodeled, expanded upon, and updated. My colleagues, please join me in this worthy recognition of the public library.

Mr. KOSTMAYER. Mr. Speaker, as you know, this is "National Library Week," and I would like to remind my colleagues of the importance of Federal funding for libraries.

Although public library services are primarily a State and local responsibility, the Federal Government provides aid through the Library Services and Construction Act for many support programs and services which otherwise could not, or would not be funded adequately. Therefore, Federal aid has a critical impact on the quality and breadth of library services available to Americans.

Libraries play an increasingly vital role by linking our scientists, business people, students, and others with the tremendous wealth of information currently available. I can only imagine how difficult my own job would be without the support of the Library of Congress and its staff. We must continue to expand our library system, and improve already existing libraries and their resources so as to serve all Americans more efficiently.

Access to public libraries by the elderly, disadvantaged, and handicapped must be insured. We cannot deny these members of our society the opportunity to enrich themselves through the resources available at our libraries just because they may require services which involve extra effort on the part of library staffs, special materials and equipment, or building renovations.

Mr. Speaker, the Congress and State and local governments must continue to extend and improve services to rural communities which are unserved or underserved by libraries. This can be done through innovative communications technology. By utilizing interlibrary cooperative networks, we can link our Nation's libraries across city, county, and State lines, and greatly increase the base of information available to library users.

American libraries play a significant part in the advancement of technology, the support of research, the education of our youth, and the enrichment of our society as a whole. Mr. Speaker, I'm certain we would all agree that the maintenance and development of our Nation's libraries is crucial to America's future, and I join librarians across the country in celebrating National Library Week.

GENERAL LEAVE

Mr. OWENS of New York. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Price (at the request of Mr. Foley), for today and the balance of the week, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mrs. Bentley) to revise and extend their remarks and include extraneous material:)

Mr. Jeffords, for 60 minutes, on April 27.

Mr. Michel, for 5 minutes, today.

Mr. Hammerschmidt, for 5 minutes, today.

Mr. Petri, for 60 minutes, on April 26.

Mr. Petri, for 60 minutes, on April 27.

Mr. Petri, for 60 minutes, on April 28.

Mr. Petri, for 60 minutes, on May 3.

Mr. Petri, for 60 minutes, on May 4.

Mr. Petri, for 60 minutes, on May 5.

Mr. Gingrich, for 5 minutes, today.

(The following Members (at the request of Mr. Donnelly) to revise and extend their remarks and include extraneous material:)

Mr. Stratton, for 5 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Rodino, for 5 minutes, today.

Mr. Scheuer, for 60 minutes, on April 21.

Mr. Rodino, for 60 minutes, on April 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. Bentley) and to include extraneous matter:)

Mrs. Morella.
Mr. Solomon.
Mr. Hyde.
Mr. Weldon.
Mr. Moorhead.
Mr. Fish.
Mr. Wolf.
Mr. Kemp.
Mr. Denny Smith.
Mr. Ritter.
Mr. Coughlin.
Mr. Gallo.
Mr. Myers of Indiana.
Mr. Green.
Mr. McGrath.
Mr. McCollum.

(The following Members (at the request of Mr. Donnelly) and to include extraneous matter:)

Mr. Rostenkowski.
Mrs. Boxer.
Mr. Traficant.
Mr. Tallon in two instances.
Mr. Kostmayer.
Mr. Hoyer.
Mr. Montgomery.
Mr. Torricelli in two instances.
Mr. Dorgan of North Dakota.
Mr. Torres.
Mr. Ford of Michigan.
Mr. Swift in two instances.
Mr. Jones of North Carolina.
Mr. Levin of Michigan.
Mr. Wyden.
Mr. Fascell.
Mr. Lowry of Washington.
Mr. Dwyer of New Jersey.
Mr. Mineta in two instances.
Mr. Eckart.
Mr. Waxman.
Mr. Aspin.
Mr. Skaggs.
Mr. Applegate.
Mr. Rangel.
Mr. Pepper in two instances.
Mr. St Germain.
Mr. Leland.
Mr. Moakley.
Mr. Clement.
Ms. Kaptur.
Mr. Bilbray.
Mr. Dixon.
Mr. Alexander.
Mr. Studds.
Mr. Hamilton.
Mr. Martinez.
Mr. Walgren.
Mr. Edwards of California.
Mr. Guarini.
Mr. Atkins.

SENATE ENROLLED BILL AND JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled bill and a joint resolution of the Senate of the following titles:

S. 1609. An act for the relief of James P. Purvis, and

S.J. Res. 235. Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

JOINT RESOLUTIONS PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on the following date present to the President, for his approval, joint resolutions of the House of the following titles:

On April 19, 1988:

H.J. Res. 527. Joint resolution to designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week";

H.J. Res. 373. Joint resolution to designate May 1988 as "National Trauma Awareness Month"; and

H.J. Res. 347. Joint Resolution recognizing the identical plaques initiated by Sami Bandak created by Margareta Hennix and Ginvanni Bizzini, and depicting the *Calmare Nyckel*, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware.

ADJOURNMENT

Mr. OWENS of New York. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 49 minutes p.m.) under its previous order, the House adjourned until Thursday, April 21, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3463. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notification of the decision to convert the Public Works functions at the Naval Air Station, Jacksonville, FL; to contractor performance as the most efficient method of accomplishment, pursuant to 10 U.S.C. 2304 nt; to the Committee on Armed Services.

3464. A letter from the Secretary of Education, transmitting a draft of proposed legislation to improve the contribution of libraries to the education of economically disadvantaged or handicapped persons, to increase access to library materials through resource sharing, to support research and assessment necessary to improve library services, and for other purposes; to the Committee on Education and Labor.

3465. A letter from the Secretary of Commerce, transmitting the annual report on the activities of the U.S. Travel and Tourism Administration for fiscal year 1987, pursuant to 22 U.S.C. 2123a; to the Committee on Energy and Commerce.

3466. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the third annual summary report on coal imports, pursuant to 42 U.S.C. 7277(a); to the Committee on Energy and Commerce.

3467. A letter from the Director of Administration, National Labor Relations Board, transmitting notification of the proposed alteration of Federal records systems, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3468. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's report of its activities under the Freedom of Information Act for calendar year 1987, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3469. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3470. A letter from the Deputy Associate Director for Collection and Disbursements, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3471. A letter from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting the report on drug control by the Bureau of Justice Assistance for Fiscal Year 1987; the implementation of the Formula Grant Program based on each State's drug strategy; a wide range of Discretionary Grant Programs developed and implemented, pursuant to 42 U.S.C. 3796m; to the Committee on the Judiciary.

3472. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to amend title 39, United States Code, to provide a method not requiring appropriations to continue favored rates of postage for certain mail which affords public benefits, to curb the misuse of favored rates to mail advertising material, and for other purposes; to the Committee on Post Office and Civil Service.

3473. A letter from the Administrator of Veterans Affairs, Veterans Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to authorize multiyear contracts in certain cases; to the Committee on Veterans' Affairs.

3474. A letter from the Secretary of Health and Human Services, transmitting the Department's annual report on Medicare for fiscal year 1985, pursuant to 42 U.S.C. 139511(b); jointly, to the Committees on Ways and Means and Energy and Commerce.

3475. A letter from the Principal Deputy Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend titles 5, 10, 37, and 38, United States Code, to provide members of the Senior Reserve Officers' Training Corps coverage for adequate care and compensation for disabilities incurred during training; jointly, to the Committees on Armed Services, Veterans' Affairs, and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. CONYERS: Committee on the Judiciary. H.R. 3193. A bill to provide for the acquisition and publication of data about crimes that manifest prejudice based on race, religion, sexual orientation, or ethnicity (Rept. 100-575). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 3 (Rept. 100-576). Ordered to be printed.

Mr. PEPPER: Committee on Rules. House Resolution 430. Resolution waiving all points of order against the conference report on the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, and against the consideration of such conference report (Rept. 100-577). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WALGREN:

H.R. 4417. A bill to authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes; to the Committee on Science, Space, and Technology.

H.R. 4418. A bill to authorize appropriations for the National Science Foundation for fiscal years 1989 and 1990, and for other purposes; to the Committee on Science, Space, and Technology.

H.R. 4419. A bill to authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974; to the Committee on Science, Space, and Technology.

By Mr. DREIER of California:

H.R. 4420. A bill to amend title 18, United States Code, to provide for mandatory imprisonment for using or carrying an imitation firearm to commit a Federal crime of violence or Federal drug trafficking crime; to the Committee on the Judiciary.

By Mr. SCHUMER:

H.R. 4421. A bill to require the Secretary of the Interior to rehabilitate the Canarsie Pier located in the Gateway National Recreational Area, to prepare a plan to rehabilitate the electrical systems at Floyd Bennett Field and Fort Tilden located in such area; and to make emergency repairs to such systems; to the Committee on Interior and Insular Affairs.

By Mr. APPLEGATE:

H.R. 4422. A bill to amend the Appalachian Regional Development Act of 1965 to include Columbiana County, OH, as part of the Appalachian region to the Committee on Public Works and Transportation.

By Mr. APPLEGATE (by request):

H.R. 4423. A bill to amend title 38, United States Code, to increase the rates of dependency and indemnity compensation [DIC] payable to surviving spouses of veterans who have died from service-connected disabilities; to the Committee on Veterans' Affairs.

By Mr. DIOGUARDI (for himself and Mr. DORNAN of California):

H.R. 4424. A bill to amend the Higher Education Act of 1965 to exclude the value of personal homes from the computation of need for student assistance programs; to the Committee on Education and Labor.

By Mr. MICHEL (by request):

H.R. 4425. A bill to amend title VIII of the Act commonly referred to as the Civil

Rights Act of 1968 to provide the Secretary of Housing and Urban Development and the Attorney General of the United States with additional authority to enforce rights to fair housing, and for other purposes; to the Committee on the Judiciary.

By Mr. DONNELLY (for himself, Mr. McGrath, Mr. Coyne, Mrs. Kennelly, Mr. Downey of New York, Mr. Anthony, Mr. Rangel, Mr. Russo, Mr. Guarini, Mr. Jenkins, Mr. Flippo, Mr. Ford of Tennessee, and Mr. Daub):

H.R. 4426. A bill to amend the Internal Revenue Code of 1986 to create incentives for fair employment in Northern Ireland, and for other purposes; to the Committee on Ways and Means.

By Mr. FRANK (for himself, Mr. Mazzoli, Mr. Berman, and Mr. Morrison of Connecticut):

H.R. 4427. A bill to amend the Immigration and Nationality Act with respect to the grounds for exclusion and deportation of aliens; to the Committee on the Judiciary.

By Mr. GUARINI (for himself, Mr. Gibbons, Mr. Florio, Mr. Fazio, Mr. Leland, Mr. Frank, Mr. Dwyer of New Jersey, Mr. Shaw, Mr. Torricelli, Mr. Gallo, and Mr. Scheuer):

H.R.4428. A bill to extend H-1 nursing visas for an additional year and to permit additional immigrant visas numbers to be issued for nurses in nursing crisis areas; to the Committee on the Judiciary.

By Mr. GUARINI (for himself, Mr. Florio, Mr. Scheuer, Mr. Rodino, Mr. Roe, Mr. Hughes, Mr. Dwyer of New Jersey, Mr. Torricelli, Mr. Rinaldo, Mr. Schumer, Mr. Molinari, Mr. Garcia, and Mr. Weiss)

H.R. 4429. A bill to direct the Secretary of Commerce to conduct a study to determine methods of enhancing interstate and foreign commerce in New York City and northern New Jersey; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. HYDE (by request):

H.R. 4430. A bill to authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes; to the Permanent Select Committee on Intelligence.

By Mr. McCOLLUM:

H.R. 4431. A bill to amend title 18, United States Code, to provide civil and criminal forfeitures for certain offenses; jointly, to the Committees on the Judiciary and Post Office and Civil Service.

By Mr. MATSUI (for himself, Mr. Akaka, Mrs. Boxer, Mr. Dymally, Mr. Edwards of California, Mr. Lowry of Washington, Mr. Mineta, Mr. Pashayan, and Ms. Pelosi):

H.R. 4432. A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population; to the Committee on Post Office and Civil Service.

By Mr. MURTHA (for himself, Mr. McDade, Mr. Kanjorski, Mr. Gray of Pennsylvania, Mr. Gaydos, Mr. Coyne, Mr. Kolter, Mr. Schulze, Mr. Yatron, and Mr. Walgren):

H.R. 4433. A bill to designate the U.S. Post Office Building in Jeanette, PA; as the "John Dent Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. SCHULZE (for himself, Mr. Hyde, and Mr. Brown of Colorado):

H.R. 4434. A bill to amend the Internal Revenue Code of 1986 to provide a refundable credit to parents for dependents under age 6, that the earned income credit shall not apply to families having such a dependent, and that the dependent care credit shall not apply with respect to such dependents; to the Committee on Ways and Means.

By Mr. DENNY SMITH:

H.R. 4435. A bill to amend the Controlled Substances Act to provide for a mandatory death penalty for certain serious drug offenses; jointly, to the Committees on Energy and Commerce and the Judiciary.

By Mr. SWIFT (for himself and Mr. Thomas of California):

H.R. 4436. A bill to authorize appropriations for the Federal Election Commission for fiscal year 1989; to the Committee on House Administration.

By Mr. WYDEN:

H.R. 4437. A bill to provide additional enforcement authority for the Forest Service to deal with the production of controlled substances on the national forest system, and for other purposes; jointly, to the Committees on Interior and Insular Affairs, Agriculture, and the Judiciary.

By Mr. WYDEN (for himself, Mr. Flake, and Mrs. Saiki):

H.R. 4438. A bill to enhance the operation of the National Credit Union Administration Board; to the Committee on Banking, Finance and Urban Affairs.

By Mr. HEFLEY:

H.J. Res. 548. Joint resolution proposing an amendment to the Constitution of the United States to provide for 4-year terms for Representatives and to limit the number of consecutive terms Senators and Representatives may serve; to the Committee on the Judiciary.

By Mr. OWENS of New York (for himself, Mr. Goodling, Mr. Solarz, Mr. Cardin, Mr. Broomfield, Mr. Traficant, Mr. Synar, Mr. McGrath, Mr. Sharp, Mr. Mazzoli, Mr. Weiss, Mr. Kostmayer, Mr. Fauntroy, Mr. McEwen, Mr. Skelton, and Mr. Slattery):

H.J. Res. 549. Joint resolution designating September 1988 as "National Library Card Sign-up Month"; to the Committee on Post Office and Civil Service.

By Mr. BUECHNER (for himself, Mr. Armey, Mr. Ballenger, Mr. Brown of Colorado, Mr. Burton of Indiana, Mr. Coble, Mr. Craig, Mr. DioGuardi, Mr. Dornan of California, Mr. Gingrich, Mr. Hansen, Mr. Hastert, Mr. Hefley, Mr. Holloway, Mr. Hunter, Mr. Hyde, Mr. Inhofe, Mr. Ireland, Mr. Kemp, Mr. Latta, Mr. Lightfoot, Mr. Livingston, Mr. Moorhead, Mr. Nielson of Utah, Mr. Oxley, Mr. Denny Smith, Mr. Swindall, and Mr. Smith of Texas):

H. Con. Res. 284. Concurrent resolution expressing the sense of Congress with respect to balancing the Federal budget; to the Committee on Government Operations.

By Mr. GEPHARDT:

H. Res. 429. Resolution electing Glenn M. Anderson of California, chairman, Committee on Public Works and Transportation; considered and agreed to.

By Mr. BROOKS (for himself and Mr. Pickle):

H. Res. 431. Resolution honoring Lady Bird Johnson for her years of dedicated service to the people of the United States and her efforts in the beautification of the Nation and congratulating her in her diamond jubilee year; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

321. The SPEAKER presented a memorial of the Senate of the State of Hawaii, relative to funds for the development of technology to allow for the effective utilization of ocean resources; which was referred to the Committee on Merchant Marine and Fisheries.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Ms. PELOSI:

H.R. 4439. A bill for the relief of Shen-Yen Kuan, Cheng-Shin Kuan, Yang Su-Chin Kuan, and Chia-Wei Kuan; to the Committee on the Judiciary.

By Mr. WATKINS:

H.R. 4440. A bill for the relief of Priti Rekha Chaudhury Juneja; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 963: Mr. Rinaldo.

H.R. 1158: Mr. Kennedy, Mr. Espy, and Mr. Kostmayer.

H.R. 1587: Mr. Clinger.

H.R. 1766: Mr. Solarz and Mr. Latta.

H.R. 2119: Mr. Nielson of Utah and Mr. Ortiz.

H.R. 2214: Mrs. Vucanovich.

H.R. 2537: Mr. Ballenger and Mr. Valentine.

H.R. 2640: Mr. Owens of New York, Mr. Coleman of Missouri, Mr. Hayes of Illinois, Mr. Ortiz, Mr. Porter, Mr. Brown of Colorado, Mr. Madigan, Mr. Evans, Mr. Solomon, Mr. Rose, Mr. Badham, Mr. Mica, Mr. Fawell, Mr. Sensenbrenner, Mr. Fields, and Mr. Roberts.

H.R. 2762: Mr. Rowland of Connecticut, Mr. Rose, and Mr. Murphy.

H.R. 2854: Mr. Dwyer of New Jersey and Mr. Martinez.

H.R. 3071: Mrs. Johnson of Connecticut.

H.R. 3133: Mr. Hochbrueckner and Mr. Tallon.

H.R. 3193: Mr. Moakley.

H.R. 3215: Mr. Gallegly, Mr. Myers of Indiana, and Mr. McCandless.

H.R. 3250: Mr. Herger and Mr. Broomfield.

H.R. 3312: Mr. Swift.

H.R. 3314: Mr. Johnson of South Dakota, Mr. Lujan, Mr. Gray of Pennsylvania, Mr. Hochbrueckner, Mr. Lewis of Georgia, Mr. Stokes, Mr. Ford of Tennessee, Mr. Bustamante, and Mr. Parris.

H.R. 3363: Mr. Jones of North Carolina.

H.R. 3392: Mr. Rangel, Mr. Bilbray, and Ms. Pelosi.

H.R. 3553: Mr. Jacobs.

H.R. 3602: Mr. Kolter.

H.R. 3791: Mr. Feighan, Mr. Lott, Mr. Packard, and Mr. DioGuardi.

H.R. 3794: Mr. Buechner, Mr. Combest, and Mr. Chandler.

H.R. 3809: Mr. Fauntroy, Mr. Lowry of Washington, Mr. Owens of New York, Mr. Hayes of Illinois, Mr. Lewis of Georgia, Mr. Gray of Pennsylvania, Ms. Pelosi, Mr. Ackerman, Mr. Jontz, Mr. Solarz, Mr. Bates, and Mr. Schumer.

H.R. 3845: Mr. Morrison of Washington.

H.R. 3878: Ms. Oakar and Mr. Espy.

H.R. 3891: Mr. Brennan, Mr. Frank, Mr. Mfume, Mrs. Boxer, Mrs. Collins, Mr. Akaka, Mr. Brown of California, Mr. DeFazio, Mr. Guarini, Mr. Garcia, Mr. Ackerman, Mr. Kostmayer, Mr. St Germain, Mr. Foglietta, Mr. Fazio, Mr. Gray of Illinois, Mr. Dwyer of New Jersey, and Mr. Mavroules.

H.R. 3907: Mr. Jenkins, Mr. Schulze, Mr. Chappell, Mr. Wilson, Mr. Hefner, Mr. Natcher, Ms. Pelosi, and Mr. McEwen.

H.R. 3914: Miss Schneider and Mr. Gejdenson.

H.R. 3918: Mr. Ortiz, Miss Schneider, Mr. Lagomarsino, Mr. Bateman, Mr. Lancaster, Mr. Brennan, Mr. Konnyu, Mrs. Bentley, Mr. Bustamante, Mr. Hughes, Mr. Shaw, Mr. Saxton, and Mr. Lehman of Florida.

H.R. 4015: Mr. Campbell, Mr. Bryant, Mr. LaFalce, Mr. Sundquist, Mr. Rhodes, and Mr. Davis of Illinois.

H.R. 4042: Ms. Pelosi, Mr. de Lugo, Mr. Foglietta, Mr. Martinez, and Mr. Matsui.

H.R. 4043: Mr. Johnson of South Dakota.

H.R. 4083: Mr. DeFazio, Mr. Torres, Mr. Hayes of Illinois, Mr. Berman, Mr. Lagomarsino, Mr. Fauntroy, Mr. Roe, Mr. Frank, Mr. de Lugo, Mr. Smith of Florida, Mr. Fazio, Mr. Garcia, Mr. Sawyer, Mr. Rangel, Ms. Pelosi, and Mr. Sensenbrenner.

H.R. 4089: Mr. Fauntroy, Mr. Studds, Mr. Foglietta, Mr. Boehlert, Mr. Towns, Mr. Lewis of California, and Mr. Hatcher.

H.R. 4090: Mr. Fascell.

H.R. 4115: Mr. Thomas of Georgia and Mr. Packard.

H.R. 4127: Mr. Sharp, Mr. Whittaker, Mr. Eckart, Mr. Bilbray, Mr. Neal, Mr. Beilenson, Mr. Frost, Mrs. Boxer, Mr. Quillen, Mr. Morrison of Connecticut, Ms. Slaughter of New York, Mr. Fish, Mr. Jeffords, Mr. Roe, Mr. Mavroules, Mr. Wolpe, and Mr. Dorgan of North Dakota.

H.R. 4128: Mr. Bruce and Mr. Madigan.

H.R. 4132: Mr. Frank, Mr. Morrison of Connecticut, Mrs. Collins, Miss Schneider, Mr. DeFazio, Mr. Gonzalez, Mr. Garcia, Mr. Udall, Mr. Ackerman, Mr. LaFalce, Mr. Lewis of Georgia, Mr. Fauntroy, Mr. Fazio, Mr. Foglietta, and Mrs. Boxer.

H.R. 4145: Mr. Rowland of Georgia and Mr. Nichols.

H.R. 4150: Mrs. Lloyd, Mr. Morrison of Connecticut, Mr. Ireland, Mr. Smith of Florida, Mr. Moody, Mrs. Byron, Miss Schneider, Mr. Schuette, Mr. Fauntroy, Mr. Carper, Mr. Stratton, Mr. DeWine, Mr. Davis of Michigan, Mr. Tauke, Mr. Hayes of Illinois, Mr. Vento, Mr. McHugh, Mr. Davis of Illinois, Mr. Inhofe, Mr. Foglietta, Mr. DioGuardi, Mr. Hoyer, Mr. Richardson, Mr. Staggers, Mr. Miller of Washington, Mr. Gallo, Mr. Petri, Mr. Gaydos, Mr. Gonzalez, Mr. Hughes, Mr. Gordon, Mr. Whittaker, Mr. Ridge, Mr. Spratt, Mr. Hefner, and Mr. Hansen.

H.R. 4189: Mr. Saxton, Mr. Fish, and Mr. Smith of New Hampshire.

H.R. 4193: Mr. Pepper, Mr. Stark, Mr. Foglietta, and Mr. Fish.

H.R. 4199: Mr. Wilson, Mr. Fauntroy, Mrs. Bentley, and Mr. Hawkins.

H.R. 4268: Mr. Brown of California, Mr. Wheat, and Mr. Dwyer of New Jersey.

H.R. 4277: Mr. Hochbrueckner, Mr. Synar, Mr. Donnelly, Mr. Moody, Mr. Fazio, Ms. Snowe, and Mr. Valentine.

H.R. 4308: Mr. de la Garza and Mr. Upton.

H.R. 4357: Mr. Coughlin.

H.R. 4364: Mr. Wise, Mr. Penny, Mr. Dyson, Mr. Boehlert, Mr. Chapman, Mr. Horton, Mr. Donald E. Lukens, Mr. Lancaster, Mr. Fuster, Mr. Espy, Mr. Valentine, Mr. Gunderson, Mr. Crane, Mr. Gray of Illinois, Mr. Jontz, Mr. Myers of Indiana, Mr. Fauntroy, and Mrs. Boxer.

H.R. 4377: Mr. Daub and Mr. Bereuter.

H.J. Res. 361: Mr. Atkins.

H.J. Res. 438: Ms. Pelosi, Mr. Flippo, and Mr. Wilson.

H.J. Res. 462: Mr. Moody, Mr. Waxman, and Mr. Hayes of Illinois.

H.J. Res. 467: Mr. Livingston, Mr. Mack, Mr. Chapman, Mr. Green, Mr. Lehman of California, Mr. Hayes of Illinois, Mr. Vento, Mr. Hughes, Mr. Carr, Mr. Kasich, Mr. Buechner, Mr. Davis of Illinois, Mr. Fish, and Ms. Pelosi.

H.J. Res. 475: Mr. Akaka, Mr. Anderson, Mr. Aspin, Mr. Berman, Mr. Bevill, Mr. Bilbray, Mr. Broomfield, Mr. Clinger, Mr. Coleman of Texas, Mr. Davis of Michigan, Mr. DeWine, Mr. Dymally, Mr. Foglietta, Mr. Frenzel, Mr. Gray of Illinois, Mr. Gray of Pennsylvania, Mr. Hayes of Illinois, Mr. Hiler, Mr. Hutto, Mr. Kastenmeier, Mr. Kemp, Mr. Lancaster, Mr. Leland, Mr. Levine of California, Mrs. Lloyd, Mr. McCloskey, Mr. Martin of New York, Mr. Miller of Washington, Mr. Mineta, Mr. Moakley, Mr. Molinari, Mr. Moody, Mr. Murtha, Mr. Neal, Mr. Owens of Utah, Mr. Pepper, Mr. Regula, Mr. Richardson, Mr. Savage, Mr. Schumer, Mr. Sisisky, Mr. Skelton, Mr. Solarz, Mr. Stokes, Mr. Tallon, Mr. Torres, Mr. Valentine, Mr. Wilson, and Mr. Yatron.

H.J. Res. 476: Mr. Fazio, Mr. Parris, Mr. de la Garza, Mrs. Bentley, Mr. Darden, Mr. Stangeland, Mr. Kasich, Mr. Foglietta, Ms. Pelosi, and Mr. Davis of Illinois.

H.J. Res. 508: Mr. Ballenger.

H.J. Res. 510: Mr. Dwyer of New Jersey, Mr. Fauntroy, Mr. Donald E. Lukens, Mr. Mrazek, Mr. Bustamante, Mr. Hayes of Illinois, Ms. Kaptur, Mr. Frank, Mr. Frost, Mr. DioGuardi, Mr. Mfume, Mr. Hochbrueckner, Mr. Levin of Michigan, Mr. Hughes, Mr. Ackerman, Mr. Horton, Mr. Dingell, Mr. Carper, Mr. Borski, Mr. McGrath, Mr. Lipinski, and Mr. Fish.

H.J. Res. 516: Mr. Chapman and Mr. Lancaster.

H.J. Res. 524: Mr. Horton, Mr. Rahall, Mr. Foglietta, and Mr. Hoyer.

H.J. Res. 528: Mr. Neal, Mr. Borski, Mr. Anderson, Mr. Horton, and Mr. Fish.

H.J. Res. 540: Mr. Smith of Florida, Mr. Hunter, Mr. Coleman of Missouri, Mr. Fazio, Mr. Horton, Mr. Levin of Michigan, Mr. Gilman, Mr. Roe, Mr. McGrath, Mrs. Boxer, Mr. Erdreich, and Mr. Udall.

H. Con. Res. 241: Mr. Fish.

H. Con. Res. 263: Mr. Daub.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1049: Mr. Mavroules.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

155. By the SPEAKER: Petition of Mr. Arthur D. Ward, Orlando, FL, relative to the U.S. Congress; to the Committee on the Judiciary.

156. Also, petition of the City Council, Garden City, MI, relative to the proposed budget change of the Urban Mass Transportation Authority; to the Committee on Public Works and Transportation.

157. Petition of the City Council, Inkster, MI, relative to the Federal Mass Transit Budget level, to the Committee on Public Works and Transportation.

EXTENSIONS OF REMARKS

DICK CHENEY'S PAPER ON CONGRESSIONAL OVERSIGHT OF COVERT OPERATIONS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. HYDE. Mr. Speaker, Dick Cheney is a Congressman respected on both sides of the aisle for his reasoned logic and careful approach to complicated issues. He is one of those Members who "does his homework," a voracious reader knowledgeable on a wide range of issues.

On March 30, Mr. Cheney presented to the American Bar Association Standing Committee on Law and National Security a paper on "Clarifying Legislative and Executive Roles in Covert Operations." It is a topic on which he is particularly qualified to speak, as he is a member of the House Intelligence Committee, former ranking Republican member of the Iran-Contra Committee and current chairman of the House Republican Conference. Moreover, because Dick has been a Member of the House since 1979, and before that was President Ford's White House Chief of Staff during 1975–77, he has unique exposure to foreign policy decisionmaking and to the interests of both the executive and legislative branches.

Soon we will be considering legislation on whether to impose a requirement that Congress be notified within 48 hours of any covert action. I believe Members would benefit from Congressman Cheney's thoughts on this issue. Over the next several days, therefore, I will submit his paper for publication in the Congressional Record. The first portion, submitted today, considers the constitutional basis and history of power over foreign affairs, plus the nature of recent legislation providing oversight over covert action. The second segment addresses the proposed 48-hour notice legislation and some problems with it. In the final installment, the underlying issue of how to achieve informed consent or veto without public debate is considered, and Congressman Cheney offers his own solution as a substitute for the proposed 48-hour legislation.

The material follows:

Clarifying Legislative and Executive Roles in Covert Operations—Part I

(By Dick Cheney)

There is probably a consensus at this conference, and in Washington generally, that the process for managing legislative-executive relations with respect to covert operations could be improved. The consensus quickly breaks down, however, as people begin putting forward concrete suggestions. There are two general areas in which proposals seem to concentrate. One has to do with requiring that Congress be notified of all covert operations within 48 hours of their start. The other deals with the broader issue for which notification is a substitute: the conditions under which covert operations should be deprived of their covert character to be made the subject of public debate. I shall discuss each of these subjects today, first criticizing the bills that have beeen moving through Congress and then concluding with a new set of proposals for grappling with what has become a highly contentious set of issues.

The reason there is so little consensus about solutions is that any idea for improving the oversight process for covert operations must rest on some premises about the appropriate role of the legislative and executive branches in foreign policy more generally. I shall not spend a great deal of time on broad questions of constitutional law. You have already heard from several noted experts in that field. Suffice it to say that I tend to agree with Robert F. Turner's and John Norton Moore's arguments on legislative and executive power.

A few words on the subject will help place the rest of my remarks in context, however. One of the main institutional objectives for the Framers of the Constitution as they worked through the hot summer of 1787 in Philadelphia, was to create an independently powerful executive branch of government—unlike the executive in most states at the time, or under the Articles of Confederation. The Framers specifically wanted an executive who would be able to act with sufficient energy, secrecy and dispatch, to respond to the foreign policy crises the new nation inevitably would face. So they created the Presidency—one person placed clearly in charge of the executive branch—because they knew that when too many people share power and responsibility, decisions become muddy and actions are not taken. Then they gave that single executive the power to be the nation's leader in foreign policy. They made him the "sole organ" for diplomatic communication and gave him broad, discretionary power to deploy the government's resources to protect American lives and interests abroad.

Of course, the Constitutional Convention did not make the President all-powerful. It also gave Congress an important role to play in foreign policy, most obviously by giving the full Congress the power to declare war, tax, appropriate, and regulate foreign commerce, and also by giving the Senate the power to ratify treaties. But by giving Congress an important role to play, the Constitution—contrary to Edward S. Corwin—was not an unbounded "invitation to struggle."[1] Congress and the President were not given the same powers. Rather, each branch was given different powers to influence overlapping policy decisions, with each branch generally being given the powers most appropriate to its own capacities. The expectation was that the President would be able to use his diplomatic monopoly, and his ability to deploy the government's resources, to lead the government by taking concrete actions toward other countries. Congress could always support or oppose the President by granting or denying him the resources needed to follow up on what he had started. But the relationship between initiation and Congressional ratification was to be very different from the domestic field, where Presidential initiation either rests on a statutory delegation, or else must be limited to introducing an idea and then trying to persuade Congress to adopt it.

Since the Vietnam War, as is well known, Congress has gone well beyond its traditional role to develop institutional levers for placing the legislature at every stage of the foreign policy process, from initiation through negotiation and implementation. Nothing could be clearer from the constitutional scheme, for example, than the President's role as the country's "sole eyes and ears" for diplomatic communication. This issue seemed to have been settled during the new government's first months. On October 9, 1789, George Washington answered a letter that the King of France had addressed "to the President and Members of the General Congress" by saying that the task of receiving and answering such letters "has devolved upon me" alone, and not jointly with the Congress. As Judge Sofaer noted in his excellent 1976 book, the Senate twice confirmed this assertion by rejecting motions to request the President to communicate messages on behalf of the United States.[2]

A few years later, the Congress debated the same issue in another guise. Dr. George Logan was accused of meddling in negotiations between the United States and France in 1798. Although there was dispute over the matter, he was suspected by many Federalists of being a secret envoy sent to France to represent the Jeffersonian Democrats. In response, Congress passed a law in 1799, popularly known as the Logan Act, to make it criminal for any citizen of the United States, without the permission of the U.S. government—

"Directly or indirectly [to] commerce, or carry on, any verbal or written correspondence or intercourse with any foreign government, or any agent or officer thereof, with an intent to influence the measures or conduct of any foreign government, or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or defeat the measures of the government of the United States."

The only exception in the act is for individuals seeking to redress a personal injury to themselves.[3]

The Logan Act is still a part of the U.S. Code, with only minor grammatical changes.[4] Although aimed at the most obvious level against private citizens, congressional debate at the time made it clear that the function involved belonged to the *executive* branch, and outrage was expressed not only at Dr. Logan's own role, but at the al-

---

[1] Edward S. Corwin, *The President: Office and Powers* (1957), p. 171.

[2] Abraham D. Sofaer, *War, Foreign Affairs and Constitutional Power"* (1976), p. 94.

[3] 1 Stat. 613 (1799).

[4] 18 U.S.C. 953.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

leged support he received from members of the opposition political party who did not have the President's blessings. It is significant, as the noted consititutional historian Charles Warren wrote when he was Assistant Attorney General, that the more than two hundred pages of debate about the act are printed in the *Annals of Congress* under the heading, "Usurpation of Executive Authority."[5]

Despite this clear legislative history behind a statute almost as old as the Republic, members of Congress today feel they can negotiate with foreign leaders directly, in the name of the legislative branch and in opposition to the President. It would be hard to imagine a clearer usurpation of executive authority than House Speaker Jim Wright's meetings with Nicaraguan President Daniel Ortega last November 11-12, without informing or involving the State Department, to discuss and influence a Sandinista cease-fire proposal that was still in draft form. Ortega's draft contained detailed items for ending U.S. military support for the Nicaraguan Democratic Resistance. This was only one of a series of meetings individual House Democratic opponents to the President's policy have held with the Nicaraguan Communists to discuss what the Communists should do in Nicaragua to persuade a majority in Congress to vote against the President's program.

Nor was that the only recent occasion of creative legislative usurpation of executive authority. Some Democratic Senators tried to use the Department of Defense authorization bill in 1987, for example, to try to impose its interpretation of a treaty on the President. Similarly, many Senators tried to use the same bill—as members of Congress have done ever since the War Powers Act was first introduced in the early 1970's—to assert that the executive's power to deploy governmental resources rests solely on statutory grounds, as if there were no constitutionally independent, inherent power for the executive to act against anything short of an armed invasion of the U.S. mainland.

My view of each of these actions is evident from my use of the word "usurpation." It is equally obvious, however, that a significant number of my Democratic colleagues consider each to have been perfectly appropriate. The underlying difference affects any discussion of reforming the laws for congressional oversight of covert operations. Ultimately, we seem to run up against principled differences over the proper constitutional roles of the legislative and executive branches. Congress could take some practical steps—to match ones the executive already has taken—that would help repair the breakdown in comity that occurred during Iran-Contra. I shall suggest a few specific ideas at the end of this essay. Before I present those ideas, however, I shall first say a few words about the way the oversight process now works, and the problems with the bill now working its way through Congress to tighten up so-called "loopholes."

OVERSIGHT OF COVERT OPERATIONS

During the opening months of President Ford's administration, Congress attached the Hughes-Ryan Amendment to the Foreign Assistance Act of 1974. Born out of general post-Vietnam and post-Watergate suspicions of the executive branch, as well as specific congressional opposition to some past operations,[6] the provision sponsored by Sen. Harold Hughes (D-Iowa) and Rep. Leo J. Ryan (D-Cal.) was intended to insure that Congress would be informed of covert operations conducted by or on behalf of the Central Intelligence Agency. As originally written, Hughes-Ryan prohibited the expenditure of any funds by or on behalf of the CIA for any operations in foreign countries, except those solely intended to obtain necessary intelligence, unless (1) the President specifically found that each such activity was important to U.S. national security and (2) each such operation was reported "in a timely fashion" to the appropriate committees of Congress. The amendment specifically named the House Foreign Affairs and Senate Foreign Relations Committees, but the list of appropriate committees also was generally understood to include the two Armed Services Committees, the two appropriations committees and, after they were formed in 1976 and 1977, the Senate and House Select Committees on Intelligence.[7]

Hughes-Ryan quickly caused problems that were evident even to some of its original supporters. By requiring notification to so many committees, the law in effect was requiring the CIA to notify more than half of the Senate, one-quarter of the House, and vast numbers of staff. It was impossible to prevent leaks under such conditions. In fact, wrote former Director of Central Intelligence William Colby, "every new project subjected to this procedure leaked, and the 'covert' part of CIA's covert action seemed almost gone."[8]

In response to this situation, Congress sought, and found, a reasonable middle ground. In 1980, after abandoning its efforts to pass a lengthy and problematic legislative charter for the intelligence community, Congress decided to revise the oversight law to expand the notification condition from the CIA to all departments, agencies and entities of the United States involved in intelligence activities, and to limit the committees receiving notification to the two intelligence committees. In general, the 1980 law—"to the extent consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches"—required the executive branch to notify the intelligence committees (or, under special conditions, the chairmen and ranking minority members of the two committees, and four leaders of the House and Senate) before beginning any significant, anticipated intelligence activity. The law also contemplated, however, that there might be some conditions under which prior notice would not be given. In those situations, it required the President "to fully inform the intelligence committees in a timely fashion."

Under this law, the intelligence committees in fact have become significant players whose support any prudent Administration would do well to encourage. The 1980 law did not challenge the President's inherent constitutional authority to initiate covert actions. In fact, that law specifically denied any intention to require advance congressional approval for such actions. Nevertheless, Congress does have a very strong lever for controlling any operation that lasts more than a short period of time. Operations undertaken without prior approval have to be limited to the funds available through a contingency fund, or other budget devices, all of which are well known to Congress. Legislative control comes from the fact that Congress may constitutionally abolish these flexible tools and require project-by-project funding. Of course, such a decision would be suicidal because it would deprive the President of all discretion and also deprive the country of any ability to react quickly to breaking events. Congress therefore would not ever be likely to use its power to insist on project-by-project funding. Nevertheless, because the Constitution does give Congress this draconian lever, the intelligence committees can and do use the annual budget process to review every single ongoing operation. Any time Congress feels that an operation is unwise, it may step in to prohibit funds in the coming budget cycle from being used for that purpose. As a result, all operations of extended duration have the committee's tacit support (or non-opposition). Considering how many people in Congress and the general public oppose covert operations in principle, this is an important political base for any administration concerned about the country's long-term intelligence capacities.

A TRIBUTE TO MS. RUTH PACKARD

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. WELDON. Mr. Speaker, I would like to take this opportunity to honor a lady of outstanding accomplishment in my community. This week Ms. Ruth Packard, of Media, PA, will be celebrating her 40th year as an active member of the Rose Valley Chorus and Orchestra. For 40 years, Ms. Packard has demonstrated her committment not only to the Rose Valley Chorus and Orchestra, through her constant work in all aspects of its productions, but to the entire community. By serving this theater group so faithfully through the years, Ruth Packard has helped to weave the fabric of a closely knit, caring community.

It is not often that we take the time to recognize an individual's service to the community for low-profile work. But to accomplish things with no need of glory and recognition is to be truly deserving of praise. Ruth Packard is just such a person. Her motives were never selfish—never to gain personal recognition, and I am sure that none will be more surprised than herself to find that her selfless actions have gained her such wide appreciation.

Although Ms. Packard will be retiring as an active member of the Rose Valley Chorus and Orchestra this year, I have no doubt that her involvement over the years will continue to serve as a fine example for all those who care about the community in which they live.

---

[5] *Annals of Congress*, Fifth Congress, 3d Sess., (Dec. 3, 1798-March 3, 1789), pp. 2487-2721. See also, Charles Warren, Assistant Attorney General, *History of Laws Prohibiting Correspondence With a Foreign Government and Acceptance of a Commission*, U.S. Senate, 64th Congress, 2d Sess., S. Doc. 64-696 (1917), p. 7.

[6] See U.S. Senate, 94th Congress, 2d Sess., *Hearings and Final Report of the Select Committee to Investigate Government Operations With Respect to Intelligence* (1976) (Church Committee) and U.S. House of Representatives, 95th Congress, 1st Sess., House Select Committee on Intelligence, *Recommendations of the Final Report* (1977) (Pike Committee).

[7] Pub. L. 93-559. Sec. 32, 88 Stat. 1804 (1974). The present version of Hughes-Ryan, as amended by the 1980 Oversight Act, may be found at 22 U.S.C. 2422.

[8] William Colby, *Honorable Men* (1978), p. 423.

WASHINGTON STATE SENATE RESOLUTION 1988-8715

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. SWIFT. Mr. Speaker, last year this House agreed to cut the Coast Guard budget to such an extent that many of the States with coastal regions are suffering from a severe deterioration in their ability to provide maritime safety and law enforcement. It is for this reason that I would like to enter into the RECORD a resolution passed by the Washington State Senate which expresses our State's concerns regarding this administration's budget priorities.

STATE OF WASHINGTON—SENATE RESOLUTION 1988-8715

Whereas, the last three major oil spills in Washington State have taken place in North Puget Sound; and

Whereas, the largest oil spill in state history took place near Port Angeles in December, 1985, when 239,000 gallons of crude oil spilled into Puget Sound; and

Whereas, an estimated 3,000 birds were killed when 5,000 gallons of oil spilled near Whidbey Island in December, 1984; and

Whereas, over 200,000 gallons of oil were spilled near Anacortes in April, 1971, and hundreds of marine birds were either killed or injured; and

Whereas, the oil barge which sank near Anacortes on January 31, 1988, has leaked several thousand gallons of heavy oil, and while the amount of oil and environmental damage have yet to be determined, this oil spill will certainly rank among Washington's major oil spills; and

Whereas, the people of Washington State depend on several public agencies to protect our state's waterways and resources from oil spills and other disasters; and

Whereas, the United States Coast Guard performs a major role in the monitoring, clean-up and investigation of marine disasters; and

Whereas, the United States Coast Guard may face a potential reduction of 1,100 necessary and vital civilian and military personnel; and

Whereas, the priorities of President Reagan's administration have not been directed to enhancing the United States Coast Guard; and

Whereas, the Reagan administration's lack of emphasis will diminish the United States Coast Guard's ability to adequately perform their important mission of protecting the safety and environment of our nation's waterways; and

Whereas, the United States Coast Guard plays a vital role in protecting Washington State's marine resources and the quality of life beauty and jobs those resources provide: Now, therefore, be it

Resolved, by the Senate of the State of Washington, That President Ronald W. Reagan reprioritize funding to direct a significant portion of funds to the United States Coast Guard in order to protect the waterways of the State of Washington and other coastal states; and be it further

Resolved, That copies of this resolution be immediately transmitted by the Secretary of the Senate to the Honorable Ronald W. Reagan, President of the United States of America, the U.S. Coast Guard, and each member of Congress from the State of Washington.

TRIBUTE TO JOHN J. GIBLIN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. TORRICELLI. Mr. Speaker, it is with great admiration and respect that I rise today to pay tribute to local 68-68A-68B of the International Union of Operating Engineers. Local 68 is part of a tradition and spans nearly a century; a proud tradition built on dedication and hard work, on loyalty and family devotion.

John J. Giblin began his involvement in the labor movement at a time when local 68 represented the ideals and hopes of a few. Over the years, through the leadership skills, vision and commitment of the union's president, Thomas P. Giblin and the energy, drive and determination of its business manager, Vincent J. Giblin, local 68 has become the driving force it represents today.

Five thousand strong, primarily Stationary Engineers, Local 68 members operate and maintain facilities that service New Jersey's business and industry. The local offers outstanding services and benefits. Their educational programs have won awards and serve as a model for other locals from New York to California. Members provide scholarships, programs for retirees and a pioneer Employee Assistance Program, one of only a few now serving the needs of organized labor. With a strong sense of civic concern and responsibility, they are actively involved in services to the Red Cross and food for the hungry in many communities.

Men of character and absolute integrity, Thomas P. Giblin and Vincent J. Giblin reflect the spirit and dedication of their strong, vital union. I am proud to acknowledge their excellent leadership and the commitment and loyalty of the members.

WIDMER'S WINE CELLARS CELEBRATES ITS 100TH ANNIVERSARY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. KEMP. Mr. Speaker, I would like to call the attention of my colleagues to an important anniversary event this year in western New York. Widmer's Wine Cellars, one of New York State's finest wineries, is celebrating its centennial during 1988. I want to extend my congratulations to all of the people at Widmer's, especially my good friend and president of the company, Charles Hetterich.

Widmer's Wine Cellars was founded one hundred years ago by Swiss-born immigrant John Jacob Widmer, who, from a small plot of rich lakeside soil, began one of the State's largest, most respected wineries.

And, the tradition established by this dedicated and innovative grape grower/-winemaker was carried on by his family.

Widmer's Wine Cellars has been a symbol of stability and progress in the village of Naples, the region of the Finger Lakes and among the grape growers and winemakers of New York.

Its winery has also been a source of family entertainment and education as hundreds of thousands of visitors have been exposed to the rich culture which has been formed through the sights, sounds, smells and tastes of New York Wine Country.

Widmer's is recognized for its leadership role in the industry and its many contributions to the community. It is to be commended for a century of continuous service and encouraged to carry on as it embarks on a second century of industrious leadership in the wine industry.

CHECKOFF SYSTEM IN TABULATING ASIAN SUBGROUPS IN UPCOMING CENSUS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MATSUI. Mr. Speaker, I am introducing legislation today to require that the U.S. Census Bureau utilize a checkoff system when tabulating Asian American subgroups in its upcoming decennial census. Such a system was used successfully in the 1989 census and would be preferable to the Bureau's "fill-in-the-blank" proposal.

In its 1980 census, the Bureau listed nine Asian American subgroups—such as Japanese, Korean, and Chinese—and Asian American respondents were asked to check off their category. If none of the nine applied, respondents were asked to fill in the blank labeled "other." For the 1990 census, however, the Bureau is asking all Asian American respondents to write in their subgroup.

Last month, the Bureau reversed an earlier decision to count Asian American subgroups on a sample—rather than a 100-percent—basis. This is a positive development. However, I believe the Bureau's proposed fill-in-the-blank format will be more costly and less efficient than the 1980 checkoff system—especially given the language barriers faced by many Asian Americans.

The Bureau's own Asian and Pacific Islander 1990 Census Minority Advisory Committee has endorsed preserving the 1980 checkoff system as have a large number of Asian American organizations, local and State government agencies, and community groups.

A full and accurate census is vital to ensuring the proper delivery of social services to all Americans. This legislation amendment is intended to assist in that process.

H.R. 4432

A bill to amend title 13, United States Code, to require certain detailed tabulations relating to Asian Americans and Pacific Islanders in the decennial censuses of population

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 141 of title 13, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g)(1) The Secretary shall take appropriate measures to ensure that each questionnaire used in a decennial census of population contain at least 1 question relating to race or ethnic origin. Such question—

"(A) shall include, in a checkoff format—

"(i) each group identified in question 4 of the short form used in the 1980 decennial census of population; and

"(ii) at least additional 2 groups, each of which shall be within the category of Asian American or Pacific Islander; and

"(B) shall include a means to write in the name of any group not specified under subparagraph (A).

"(2)(A) The Secretary shall tabulate and make available to the general public the population of Asian Americans and Pacific Islanders both by total and by groups, as determined in any decennial census of population.

"(B) The requirements of subparagraph (A) shall, with respect to any decennial census of population, be satisfied not later than December 31 of the first year beginning after the year in which such census is taken.".

(b) The amendments made by subsection (a) shall apply with respect to the 1990 decennial census of population and each decennial census thereafter.

A TRIBUTE TO LAURA BARTHULE

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. SKAGGS. Mr. Speaker, today I rise to pay tribute to a young constituent in my district who is a winner of the 1988 Young Writer's Contest. Laura Barthule from Broomfield, CO, and 107 other first through eighth graders across America were selected from close to 10,000 students, who submitted original poems, stories and essays last fall. Laura is a seventh-grade student at Broomfield Heights Middle School, and I ask that her essay be reprinted in the CONGRESSIONAL RECORD in full as an example of the wonderfully creative work that our young people are producing in Colorado's schools.

A DAY IN THE LIFE OF A SLUG

(By Laura Barthule)

Most people, including myself, find the sight of a slug repulsive. Who wouldn't, when you picture in your mind a kind of snail with no shell, covered in slime, eating plants. You know, your ordinary tree slug.

But for one minute picture yourself as a grey slug. You have a huge appetite for green plants and you leave a trail of slime wherever you go, which lubricates your body for easier traveling and protects you from sharp objects in your path.

It is early in the day. You begin to crawl from your home, an old dead tree stump, to your favorite feeding ground, a flower garden, when you become adventurous and crawl the other way. By chance, you stumble upon a vegetable garden that consist mostly of lettuce heads and tomato plants. You are thrilled and immediately start to eat what to you is a giant tomato from heaven.

You hastily desert the tomato, however, when you hear voices nearby. You listen as the voices discuss the tomato plants.

"I wonder how many ripe tomatoes there will be today?" one voice says.

"Probably a lot. Your plants have been doing well this summer."

They pick all the ripe tomatoes, including the one you were eating and examine them.

"Ew yuck!" one of them exclaims, "It looks like a bug has been eating this one."

"That's slug," you think, insulted at being taken for a bug. But you forget about it as it starts to rain and the humans go back to the house. It rains for a few minutes and you enjoy the cool sensations of the water on your back. After the rain you crawl out of the garden to go back to the stump, but a careless human comes along and steps on you, ending a short, but satisfying life.

THE ROTTENNESS IN DENMARK

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. SOLOMON. Mr. Speaker, when will some of our so-called allies ever learn that left wing Liberals throughout this world are out to do them in.

Mr. Speaker, the enclosed editorial that appeared in the Washington Times points out the totally irresponsible action recently taken by the Danish Parliament that would ban all British, American, and NATO warships from calling on Danish ports.

Perhaps someone should tell these naive allies that no country has ever returned to democracy once it has succumbed to the deadly atheistic Communist regime.

[From the Washington Times, Apr. 20, 1988]

THE ROTTENNESS IN DENMARK

Four hundred years ago, William Shakespeare wrote a tragedy about an effeminate Danish prince who couldn't make up his mind whether or not to commit suicide. While he tarried, he made enemies of friends, caused the death of innocents and plotted against his own mother. The play ends with Hamlet dead and a foreign army in control of the Danish capital.

Last week in the Danish parliament, the Social Democratic Party joined with the anti-NATO Socialist People's Party and the pacifist Radical Liberals to pass a resolution requiring the government to enforce strictly a 32-year-old but long-ignored law banning nuclear weapons from Danish territory in peace time. The law would prevent British, American and NATO warships from calling at Danish ports, the Faroe Islands and Greenland. Conservative Prime Minister Poul Schluter this week is expected to call new elections in May, and Defense Minister Bernt Johann Collet says there will be a referendum on Danish membership in NATO.

In recent years, the Danish Social Democrats, the country's largest party, have pushed numerous anti-NATO, anti-defense measures. They have opposed the deployment of Pershing 2 missiles, advocated the creation of a Nordic nuclear-free zone, pushed resolutions opposing Danish participation in the development of the Strategic Defense Initiative or any modernization of Western nuclear forces and consistently fought to keep Denmark's conventional forces too weak to meet the country's NATO responsibilities. Current NATO plans call for a 15,000-strong British mobile force to rush to Denmark at the outbreak of any East-West war in order to secure strategic airfields and ports.

The latest resolution comports well with New Zealand's similar law enacted last June to ban nuclear weapons from its islands and territorial waters. In December, President Reagan signed a treaty committing America to remove all intermediate range nuclear missiles from Europe without securing any concomitant reduction in the massively superior Eastern Bloc conventional forces that made the deployment of intermediate range missiles a strategic necessity. And the U.S. Congress is no more likely than the Danish Folketing to vote the huge funding increases needed to build our conventional forces into a realistic deterrent in the void left by the departing Pershing 2s.

Like Hamlet, the free West can't make up its mind who the enemy really is, the Soviet empire or nuclear weapons. These days even Ronald Reagan talks more about a nuclear-free world than victory over communism. We have converted a tool of freedom, the instrument that preserved peace for 43 years, into an icon of evil, and we have joined hands with the architects of the most unjust social order in world history in designing our own destruction. The question "to be or not to be" may become a burning one for Denmark's Social Democrats—and other Western nations—sooner than they think.

A TRIBUTE TO MR. JOSEPH E. BLAIR

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. WELDON. Mr. Speaker, I would like to take this opportunity to pay tribute to a friend who has served Delaware County honorably and effectively for more than 20 years.

Mr. Joseph E. Blair, a resident of Upland, is the outgoing president of the Delaware County Borough Association. His leadership of the association has been strong and focused, and I wish to now recognize him for his fine service.

Mr. Blair's public service began in 1968 when he became president of Upland Fire Company. He served in this capacity until 1975, when he was elected to the Upland Borough Council. As a member of council, Mr. Blair directed one of the most significant economic developments in Upland's recent history. The borough received a Department of Commerce Economic Development Grant totaling nearly $4 million to rehabilitate the Upland Terrace Homes. As project coordinator, he successfully utilized the grant to completely reconstruct 156 housing units in Upland Borough, which now are known as Auburn Village.

Reelected three times, Mr. Blair became president of the Upland Borough Council in 1980, a position he still holds. In 1980, he also assumed responsibility on the board of directors of the Delaware County Borough Association. In 1986, he was elected president of the organization and also sits on the executive board and the board of directors.

In addition to his efforts in his elected positions, Mr. Blair has made significant contributions to the community through other channels. Among his most important activities were his participation in two community celebrations. In 1969, Mr. Blair served on the Upland Borough centennial committee. Then, in 1976, he was instrumental in leading the bicentennial committee.

Mr. Speaker, I am sure you will agree that Joseph Blair is an outstanding public servant and leader. I rise proudly with his family and the residents of Upland Borough in commending Mr. Blair for his exemplary service to our community.

SALUTE TO RSVP VOLUNTEERS

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. SWIFT. Mr. Speaker, I rise today to salute the RSVP's around the country. For my colleagues who may not know that RSVP means something else than a yes or no response to an invitation, they should be aware that those letters also stand for Retired Senior Volunteer Program.

Retired Senior Volunteer Programs can be found throughout the Nation with volunteers serving in a variety of capacities. Senior volunteers put their expertise to work in schools, hospitals, libraries, museums, nursing homes, day-care centers, and food banks, to name a few. These dedicated individuals come from varied backgrounds: From those without any formal education to those with the most advanced degree. RSVP volunteers are former carpenters, nurses, typists and attorneys—the only thing a prospective volunteer needs to have is time and a willingness to share themselves with others.

I would like my colleagues to take note today that at 2 p.m. e.d.t. the National Association of RSVP Directors will set free what may be the first nationwide balloon launch to honor the contributions of the 400,000 volunteers across the Nation.

Similar tributes are planned across the country and I am proud to say that in my State of Washington, in the city of Aberdeen, balloons will fly from the Aberdeen Senior Center recognizing more than 360 volunteers in Grays Harbor County.

I would like to extend my congratulations and thanks to all those seniors who share their time and talents in the RSVP.

TRIBUTE TO CANTOR KURT SILBERMANN

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. TORRICELLI. Mr. Speaker, it is with great admiration and respect that I rise today to pay tribute to Kurt Silbermann, who is retiring as cantor of Temple Emanu-el of Englewood, NJ. Cantor Silbermann has been an honored and cherished leader of the congregation for over 25 years.

A man of great talent and ability, dedication and understanding, he worked tirelessly and enthusiastically helping prepare the children of the congregation for their bar and bat mitzvahs. Never indifferent to the needs of others, Cantor Silbermann has shown great concern for the welfare of his community. He participated in numerous interfaith Thanksgiving services, Independence Day celebrations, and school graduations. He has given many entertaining and inspiring concerts in local hospitals for senior citizens and charitable causes.

Cantor Silbermann has been a member of the executive council of the Cantor's Assembly, the National Organization of Cantors, and from 1977 to 1979 served as its president. He is a former student of the Hebrew Union School of Sacred Music, where he graduated cum laude in 1951. His genuine concern and total commitment to Temple Emanu-el these many years certainly defines Cantor Kurt Silbermann as one of the special few who has truly made a difference.

I welcome this opportunity to join with family, friends, and the congregation that honors him, in wishing Kurt Silbermann all the best in the years ahead.

PERSONAL EXPLANATION

HON. BILL GRANT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. GRANT. Mr. Speaker, yesterday, at 5 a.m., a tornado ripped through the city of Madison, my hometown. Before its path of destruction was complete, four people lay dead, hundreds more were injured, scores of homes were obliterated, and millions in damage was suffered.

Mr. Speaker, it was a miracle more lives were not lost in this tragic event. When the news reached me, I immediately flew to Madison to comfort both family and friends.

It was for that reason I was absent yesterday. Had I been on the floor, I would have voted yea on rollcall 55, yea on rollcall 56, no on rollcall 57, and yea on rollcall 58. I respectfully request my explanation be included in the appropriate section of the CONGRESSIONAL RECORD.

NATIONAL VOLUNTEER WEEK

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. HORTON. Mr. Speaker, I rise today to reflect upon the national balloon launch in honor of the over 400,000 volunteers who participate in the Retired Senior Volunteer Program [RSVP]. At 2 p.m. today, all across the country, our skies will be filled with balloons to mark their contributions to America. I want to make special mention of the ceremonies to be held today at the Oswego campus of the State University of New York.

Oswego County RSVP volunteers have contributed the equivalent of $3.4 million of service in the last 14 years. In the past year alone, 425 RSVP volunteers spent 90,000 long hours in the service of 69 nonprofit organizations.

The balloon launch is but one part of National Volunteer Week. It has been planned by the National Association of RSVP directors. All across the Nation, RSVP volunteers serve in schools, hospitals, libraries, museums, and nursing homes, among other places. They range in age from 60 to 103 years and come from every kind of background. Some volunteers have no formal education, others have earned Ph.D.'s. These men and women are retired soldiers, housewives, truck drivers, carpenters, teachers, nurses, executives, and managers. The list goes on and on. The most important thing that these special people share is the desire to serve their communities and their Nation.

The RSVP Program provides these retired Americans with an outlet for their talents. When a person retires, many Americans sadly view him or her as useless. Nothing could be farther from the truth. These men and women have years of experiences and skills that are just waiting to be tapped. The RSVP Program benefits both those who are serving and those who are being served. In general terms, it benefits the entire Nation. So join me today in thanking these volunteers and saluting their efforts at serving our country by remembering the balloon launch and National Volunteer Week.

ARMED FORCES WEEK

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mrs. BOXER. Mr. Speaker, I would like to call to the attention of my colleagues the celebration planned in the San Francisco Bay Area for Armed Forces Week 1988.

RESOLUTION

Whereas, the United States Armed Forces have a long and honorable tradition of preserving, protecting and defending democracy, and;

Whereas, Armed Forces Week '88 is designed to educate and inform regarding the important contributions made by the men and women of our Armed Forces to our nation, and;

Whereas, the theme of this year's observance is "Securing the Blessings of Liberty", and;

Whereas, the San Francisco area is one of only 13 Department of Defense regionally approved sites where major celebrations will be held, and;

Whereas, numerous local events are planned including: hi-tech equipment displays and exhibits, health fairs, band concerts parades, a part in opening ceremonies at a San Francisco Giants baseball game and support for the Bay to Breakers Race, and;

Whereas, these activities will provide Bay Area citizens with an opportunity to learn more about activities of the Armed Forces and to recognize their importance in maintaining our free society,

Now therefore it is appropriate that we acknowledge the significance and importance of the Army, Navy, Air Force, Marines and Coast Guard and their historic connections with the citizens of the San Francisco area during the Armed Forces Week celebration May 11 to 15, 1988. All Bay Area citizens are encouraged to take part in the activities and in so doing honor the men and women who serve our country in today's Armed Forces as they "Secure the Blessings of Liberty."

TRIBUTE TO DEPUTY CHIEF BERNARD C. PARKS

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. DIXON. Mr. Speaker, I join my esteemed colleagues, Representatives AUGUSTUS F. HAWKINS and MERVYN M. DYMALLY, in paying tribute to Bernard C. Parks on his promotion to deputy chief of police of the Los Angeles Police Department [LAPD].

On the evening of April 29, scores of friends and guests will gather in the Wilshire Room of the Los Angeles Hilton to honor this remarkable man on the occasion of his promotion to the rank of deputy chief. While Mr. Parks' promotion is certainly an occasion worthy of celebration, it is also worth pointing out that in the 119-year history of the LAPD, Mr. Parks is only the second black officer to attain the rank of deputy chief.

For those of us who have known Chief Parks through the years, this promotion comes as no surprise. Rather, it confirms what Representatives HAWKINS, DYMALLY, and I have known for years: First and foremost, Chief Parks is a veritable model of determination and dedication.

Born in Beaumont, TX, in December 1943, Mr. Parks subsequently moved to the Los Angeles area, where, in 1973, he graduated from Pepperdine University with a bachelor of science degree in public management. In 1976 he graduated from the University of Southern California with a masters degree in public administration.

Those of us fortunate enough to know Chief Parks during the early stages of his career were able to see how motivated and determined he was to succeed, especially in his chosen profession. He joined the LAPD in February 1965, and rapidly progressed through the ranks. In October 1970, Mr. Parks advanced to sergeant/investigator, and within 3 years he was promoted to sergeant and then lieutenant. Between September 1974 and March 1988, Mr. Parks rose further through the ranks from lieutenant II to his most recent assignment as deputy chief.

As he worked his way up through the ranks, Chief Parks completed tours of duty in the Narcotics Division, the Wilshire Detective Division, and the Internal Affairs Division. He also served as the adjutant of the Office of Special Services, commanding officer of the 77th Street Unit, acting commanding officer of the Personnel and Training Bureau, and the commanding officer of the Operations-Headquarters Bureau. While these are but a few of the positions he has held during his illustrious career, they serve to underscore both the flexibility and the professionalism he brought to each position.

In addition to his eminent professional accomplishments, Chief Parks has been active in numerous professional and community organizations. Among his list of affiliations are the International Association of Chiefs of Police, the Los Angeles Urban League, the National Organization of Black Law Enforcement Executives, the Baldwin Hills Youth Football League, the California Peace Officers Association, the Crenshaw YMCA, the FBI National Academy Associates, and the Oscar Joel Bryant Association.

Mr. Speaker, as we all know, these are difficult times. Everywhere one looks—in the newspapers, on television, in news magazines—reports of gang violence are increasing daily. In fact, last year in Los Angeles, there were 387 gang homicides and 12,000 gang arrests.

But, when we consider the exemplary police career of Deputy Chief Parks and his efforts to make the streets of Los Angeles safe for all of us, we can rest assured that maximum effort is being made to make the LAPD an even more effective crime fighting organization. Deputy Chief Parks, by virtue of his determination, motivation, professionalism as a police officer, and his expertise in law enforcement serves as an excellent role model for any young adult—regardless of sex, race, creed or color.

In his new capacity, Mr. Parks will serve as deputy chief of the Operations-Headquarters Bureau in the LAPD. Accordingly, he will oversee the operations of more than 1,000 officers assigned to the Metropolitan Division, the Bunco-Forgery Division, Detective Headquarters, and the Investigative Analysis Section. These units together serve and protect a metropolitan population of more than 2 million people.

Mr. Speaker, my colleagues, Representatives HAWKINS and DYMALLY, and I firmly believe that Deputy Chief Parks has provided the Los Angeles community with an outstanding record of personal and professional achievement for which he is deserving of this special recognition. Indeed, the LAPD has been fortunate to have a law enforcement officer of the caliber of Bernard C. Parks, who has brought to his assignments a high degree of professionalism, expertise, and humanistic concern for his community. We join Bernard Parks' wife, Bobbie, and their four children, Felicia, Michell, Trudy, and Bernard Jr., in wishing him every success as he embarks on his new challenge as deputy chief of the Los Angeles Police Department.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, April 21, 1988, may be found in the Daily Digest of today's RECORD.

Meetings Scheduled

APRIL 22

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SD-342

9:30 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of Donna F. Tuttle, of California, to be Deputy Secretary of Commerce.

SR-253

10:00 a.m.

Armed Services

Projection Forces and Regional Defense Subcommittee

Closed business meeting, to consider those provisions which fall within the subcommittee's jurisdiction of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense.

SR-222

Banking, Housing, and Urban Affairs

To hold hearings on S. 1776, to require U.S. coins to be redesigned, to require that one coin be redesigned to commemorate the bicentennial of the U.S. Constitution, and to require profits from the sale of proofsets of U.S. coins to be used to reduce the national debt.

SD-538

Energy and Natural Resources

Mineral Resources Development and Production Subcommittee

To hold hearings on S. 2089, to provide for certain requirements relating to the conversion of oil shale mining claims located under the General Mining Law of 1872 to leases, and H.R. 1039, to prohibit the issuance of patents for oil shale claims after a specified date.

SD-366

Environment and Public Works

Business meeting, to consider pending calendar business.

SD-406

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To hold hearings on S. 1992, to promote intergovernmental and interagency cooperation in the development of groundwater policy.

SR-428A

11:00 a.m.

Appropriations

Labor, Health, and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Alcohol, Drug Abuse and Mental Health Administration, and the Health Resources and Services Administration, both of the Department of Health and Human Services.

SD-192

APRIL 25

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Home Loan Bank Board, Neighborhood Reinvestment Corporation, National Institute of Building Sciences, and the Office of Science and Technology Policy.

SD-124

Commerce, Science, and Transportation

To hold hearings on the nomination of Elaine L. Chao, of California, to be a Federal Maritime Commissioner.

SR-253

5:00 p.m.

Armed Services

Closed business meeting, to begin markup of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense. SR-222

APRIL 26

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies. SD-138

Armed Services

Closed business meeting, to continue markup of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense. SR-222

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health. SD-124

Commerce, Science, and Transportation

Business meeting, on pending calendar business. SR-253

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs. S-128, Capitol

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Federal Emergency Management Agency. S-126, Capitol

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary, Office of the Solicitor, and the Office of the Inspector General, all of the Department of the Interior, the Navajo-Hopi Indian Relocation Commission, and the Institute of American Indians and Alaskan National Culture and Arts Development. SD-116

Foreign Relations

Business meeting, to consider pending calendar business. SD-419

10:30 a.m.

Judiciary

Business meeting, to consider pending calendar business. SD-226

2:00 p.m.

Armed Services

Closed business meeting, to continue markup of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense. SR-222

Governmental Affairs

To hold hearings on regulatory reform. SD-342

Rules and Administration

To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of the President of the United States. SR-301

3:00 p.m.

Labor and Human Resources

To resume oversight hearings on the development and promulgation of safety and health standards and the enforcement of those standards by the Occupational Safety and Health Administration (OSHA). SD-430

APRIL 27

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies. SD-138

Armed Services

Closed business meeting, to continue markup of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense. SR-222

9:30 a.m.

Agriculture, Nutrition, and Forestry

To resume hearings to review the current state of U.S. financial markets, focusing on the problems surrounding the October 1987 market break. SD-562

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health. SD-192

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 1935, to provide for the assessment and collection of a fee on the transfer of spectrum licenses and the establishment of a trust fund for public broadcasting. SR-253

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Navy military construction and family housing programs. SD-124

Banking, Housing, and Urban Affairs

To hold hearings on S. 2073, Thrift Charter Enhancement Act. SD-538

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2272, to authorize funds for fiscal years 1989 and 1990 for programs of the Fish and Wildlife Conservation Act of 1980. SD-406

Foreign Relations

International Economic Policy, Trade, Oceans and Environment Subcommittee

To resume hearings to review the advancement of environmentally sustainable development worldwide in Central America through United States foreign assistance policy. SD-419

Governmental Affairs

To hold hearings on restructuring the Nuclear Regulatory Commission. SD-342

2:00 p.m.

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transportation Administration, and the Washington Metropolitan Transit Authority. SD-138

Armed Services

Closed business meeting, to continue markup of proposed legislation authorizing funds for fiscal year 1989 for the Department of Defense. SR-222

APRIL 28

9:00 a.m.

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies. SD-138

Veterans' Affairs

To hold hearings on S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and to hold oversight hearings on activities of the Board of Veterans' Appeals. SR-418

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on the Review of the Dairy Policy Commission Study. SR-332

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health. SD-116

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1927, to provide for the approval of a desert land entry in the vicinity of the Dinosaur National Monument, S. 2057, to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, H.R. 1100, to authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park in the State of Illinois, and H.R. 3869, to amend the Act providing for the establishment of the Tuskegee University National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University. SD-366

Judiciary

To hold hearings on pending nominations. SD-226

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs. S-126, Capitol

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs. S-146, Capitol

Appropriations

Transportation and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard. SD-124

Foreign Relations

To hold hearings on the nomination of Robert S. Gelbard, of Washington, to be Ambassador to Bolivia. SD-419

10:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers. SD-406

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs. SD-366

2:00 p.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, and General Legislation Subcommittee

Conservation and Forestry Subcommittee

To resume joint hearings on alternative agricultural systems and related agronomic and economic research and extension efforts. SR-332

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management. SD-116

2:30 p.m.

Select on Indian Affairs

Business meeting, to mark up S. 1735, to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, and to transfer title to trust lands, S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and S. 2153, to provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona. SR-485

APRIL 29

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, and General Legislation Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Federal Grain Inspection Service, Department of Agriculture. SR-332

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services. SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management. SD-192

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the status of organized crime and the efectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups. SD-342

10:00 a.m.

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings on S. 1482, to make certain improvements with respect to the Federal judiciary, and S. 1996, to grant U.S. district courts personal jurisdiction over citizens and subjects of foreign states in certain product liability actions. SD-226

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies. SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education. SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies. SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education. SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs. SD-124

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume hearings on S. 1480, to promote the integration of universities and private industry in the National Laboratory system of the Department of Energy in order to improve the development of technology in areas of economic potential, and Amendment No. 1627 proposed thereto. SD-366

MAY 12

8:00 a.m.

Veterans' Affairs

To hold hearings on proposed legislation relating to agent orange and related issues. SR-418

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries. SD-192

Governmental Affairs

To resume hearings on restructuring the Nuclear Regulatory Commission. SD-342

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs. S-126, Capitol

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative. S-146, Capitol

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 2203, to extend the expiration date of title II of the Energy Policy and Conservation Act. SD-366

MAY 16

9:30 a.m.

Governmental Affairs

To resume hearings on regulatory reform. SD-342

MAY 17

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs. S-126, Capitol

2:00 a.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on nuclear reactor research and development. SD-366

MAY 18

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

10:00 a.m.

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To resume hearings on S. 1992, to promote intergovernmental and interagency cooperation in the development of groundwater policy. SD-608

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs. SD-366

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

Energy and Natural Resources

To hold hearings on the Economic Regulatory Administration's prosecution of individuals in oil overcharge cases under the "central figure theory", as adopted in Citronelle-Mobile Gathering, Inc. et al., v. Herrington, 826 F. 2d 16 (TECA 1987). SD-366

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs. S-126, Capitol

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

Commerce, Science, and Transportation

To hold hearings on a certain insurance antitrust suit. SR-253

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-138

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs. S-126, Capitol

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

JUNE 9

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies. SD-192

JUNE 10

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs. S-126, Capitol

JUNE 14

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs. SD-192

JUNE 24

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on Japanese patent policy. SR-253

POSTPONEMENTS

APRIL 28

9:30 a.m.

Veterans' Affairs

Business meeting, to mark up S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and other pending committee business. SR-418

HOUSE OF REPRESENTATIVES—*Thursday, April 21, 1988*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

From the rising of the Sun until the going down of the same, enable us, O God, to express thanksgiving for the blessings of life. May the fresh winds of Your Spirit take away the gloom of the night and give hope for the morning. O God, may Your presence never leave us, may Your Spirit ever accompany us and may Your love brighten the opportunities of this new day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. GALLEGLY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. GALLEGLY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 105, not voting 54, as follows:

[Roll No. 62]

YEAS—272

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bartlett
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clement
Coelho
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Darden
de la Garza
DeFazio
Derrick
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (TN)
Frank
Frenzel
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hochbrueckner
Hopkins
Horton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Konnyu
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lungren
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Nelson
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (UT)
Packard
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Skaggs
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stenholm
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weldon
Whitten
Williams
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—105

Armey
Badham
Baker
Ballenger
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Bunning
Burton
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dreier
Edwards (OK)
Fawell
Gallegly
Gallo
Gekas
Grandy
Gregg
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Kyl
Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lukens, Donald
Madigan
Martin (IL)
McCandless
McGrath
Miller (CA)
Moorhead
Murphy
Oxley
Parris
Pashayan
Penny
Quillen
Rhodes
Ridge
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Shays
Sikorski
Skeen
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Wheat
Whittaker
Wolf
Young (AK)

NOT VOTING—54

AuCoin
Barnard
Bateman
Biaggi
Buechner
Chappell
Clay
Coyne
Crockett
Davis (MI)
Dellums
Dicks
Dingell
Dornan (CA)
Emerson
Fields
Ford (MI)
Garcia
Gingrich
Goodling
Hawkins
Hayes (LA)
Houghton
Kemp
Lancaster
Latta
Lehman (CA)
Leland
Livingston
Lowery (CA)
Mack
Marlenee
McDade
Mfume
Mica
Miller (OH)
Molinari
Neal
Nichols
Owens (NY)
Porter
Price (IL)
Ray
Ritter
Sabo
Sisisky
Skelton
Smith (NJ)
Stark
Stokes
Weber
Weiss
Wilson
Young (FL)

□ 1020

Mr. COBLE changed his vote from "yea" to "nay."

Mr. UDALL changed his vote from "nay" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 3439. An act for the relief of Marisela, Felix, and William Marrero.

The message also announced that the Senate agrees to the amendment of the House to the amendment of the Senate to the bill (H.R. 5) "An act to improve elementary and secondary education, and for other purposes."

The message also announced that pursuant to Public Law 100-203, the Chair on behalf of the President pro tempore, upon the recommendation of the minority leader, appoints Mr. DOMENICI and Dean Kleckner from private life, to the National Economic Council.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

CONFERENCE REPORT ON H.R. 3, TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 430 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 430

Resolved, That upon the adoption of this resolution the House shall proceed to consider, without intervening motion, the conference report on the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, and all points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration. Debate on the conference report shall continue not to exceed four hours, equally divided between the majority party and the minority party. Any motion to recommit the conference report with instructions, if offered by Representative Michel of Illinois, or his designee, shall be debatable for not to exceed twenty minutes, equally divided and controlled by the proponent and a Member opposed.

The SPEAKER. The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN] and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 430 provides that immediately upon its adoption, the House shall proceed to consider, without intervening motion, the conference report on H.R. 3. All points of order against the conference report on H.R. 3 and against its consideration are waived. The rule provides that the conference report is considered as having been read when called up for consideration. The conference report is debatable for 4 hours, equally divided between the majority party and the minority party. In addition, the rule states that any motion to recommit the conference report back to conference with instructions, if offered by Representative MICHEL of Illinois, or his designee, is debatable for 20 minutes, equally divided and controlled by the proponent of the amendment and a Member opposed.

Mr. Speaker, this rule allows the House to consider one of the most important pieces of legislation that we will consider this Congress. The trade bill takes a number of steps that protect against unfair trade practices. It requires the President to retaliate against violations of trade agreements and other trade practices. It strengthens and expands the Trade Adjustment Assistance Program and increases its emphasis on training. It imposes sanctions against two companies for selling advanced technology to the Soviets. Businesses will be required to give advance notice of plant closings under the plant closing notification provision. There are numerous provisions to promote exports and increase U.S. competitiveness. The Export Enhancement Program is extended for 2 years at higher levels.

Mr. Speaker, the rule provides 4 hours of debate on the conference report during which time the provisions of the legislation will be more fully explained.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the able gentleman from Florida [Mr. PEPPER], the chairman of the Committee on Rules, has ably explained the rule.

Mr. Speaker, this conference report made in order by this rule is a massive document. I would like for the Members to look at this document. It has not been printed, but it certainly is massive and it is heavy. So we are going to consider this rule today and this measure without a printed copy of the conference report.

It was produced by one of the largest conference committees in the history of the U.S. Congress. Members from 14 different House committees participated. Nearly half the Members of the House were involved as conferees. The work was carried out by splitting the conference into 17 separate subconferences working in different subject areas.

I would especially like to commend the chairman of the lead committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the ranking Republican member of that committee, my able colleague, the gentleman from Tennessee [Mr. DUNCAN], for their role in coordinating this monumental effort.

Mr. Speaker, the rule reported by the Rules Committee late yesterday establishes a fair and manageable procedure for the consideration of this conference report. Because of the large number of committees involved, the usual 1 hour of debate for a conference report was extended to 4 hours. This will provide a better opportunity for each committee to participate in the debate.

In addition, the rule provides that any motion to recommit, with instructions, if offered by the gentleman from Illinois [Mr. MICHEL] or his designee, will be debatable for 20 minutes. In the absence of this provision, there would have been no debate on the motion to recommit with instructions.

At the time of the Rules Committee meeting yesterday, the gentleman from Illinois [Mr. MICHEL] wrote a letter indicating that he would offer a motion to recommit with instructions to develop a solution on the plant closing issue which would allow this trade bill to become law.

Mr. Speaker, there are many necessary provisions in this bill. We should act to clear up the major issue which the President has said will lead to a veto.

In conclusion, Mr. Speaker, I support this rule so that the House may proceed to consider this landmark trade conference report.

□ 1030

Mr. Speaker, I am happy to yield 4 minutes to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Speaker, the distinguished gentleman from Tennessee [Mr. QUILLEN] has already invited our attention to one of the problems that confronts us today. That is that the bill, all 14 inches of it which now reposes on the table to my left, was not available to the Members of the Congress until late yesterday.

As a matter of fact, I have worked on this bill and its predecessors for some 4 years and worked very hard in the conference committee, and yet until the day before yesterday I had not seen all of the legislative language relating to the matters under the jurisdiction of the subconference on which I serve.

Quite clearly the Members did not have sufficient time to deal with the massive amount of material that is before us, and quite clearly that is a failure of the leadership of this House to provide for sufficient time to do this kind of work.

Nevertheless, Mr. Speaker, I am going to support the rule because it made in order the Michel motion which deals with the most important of the matters before us today. The members of the conference committee worked very hard to rationalize two quite different, and quite protectionist, bills in a way that would not be excessively detrimental to our economy, and to our export competitiveness, nor to the ability of this administration, or its successors.

The conference under the enlightened leadership of Chairmen ROSTENKOWSKI and BENTSEN, was exceedingly successful. The bill has plenty of flaws, and yet they cleaned it up pretty well.

The single egregious exception is the plant closing section. That has no business in a trade bill. It is, in fact, contrary to the purpose of the trade bill which seeks to make the United States more competitive in its export adventures abroad.

But, this one feature will make us less competitive by adding extra costs and extra uncertainty to U.S. employers and employees.

It is also not germane. The House, with its flimsy rules, which are often waived, was able to keep such an item out of its bill. The Senate, where as far as we know there are no rules, added it, and the House acquiesced in conference.

The presence of this item does a disservice to the work of the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of our committee, and Chairman BENTSEN on the Senate side, who labored mightily to bring us a responsible bill.

We have before us instead a question of labor management negotiations better settled in the private sector; a question of competitiveness where plant closings clearly are detrimental to our efforts abroad; and a question of germaneness where the question of plant closing clearly has no place in this kind of a bill.

Therefore, Mr. Speaker, I urge that all Members vote for the Michel motion to recommit with instructions. That will have the effect of getting rid of the plant closing notification section which serves no reasonable purpose in this measure. If that section is liberated, it can then be brought before this body as a separate bill and given its due consideration.

Here it is an obvious nongermane, counterproductive hitchhiker which is going to cause this bill to be vetoed. We can avoid the veto. We can get the bill signed. We can remove the uncertainty of changes in the trade law. We can proceed with our international negotiations and proceed with the ratification of the Canada free trade agreement by simply voting for the Michel amendment.

I urge this body to do so.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I support the rule and would direct my remarks to the motion to recommit. When this bill was originally brought to the House floor nearly a year ago, I voted for final passage, even though I opposed major sections of the bill. I voted for the bill because I felt strongly that this country needed a new direction in trade policy. And I felt confident that the most protectionist sections of the bill would be dropped in conference.

To the credit of conferees, much of the protectionist language of the original bill that could have sent shock waves through the financial markets has been removed. And what remains in the bill are a number of bipartisan agreements which this country must have to compete in world trade.

However, what also remains in this Conference Report is one very contentious provision which may well doom the entire bill. This would be most unfortunate because we need a trade bill to give teeth to our trade negotiations.

As ranking minority member of the Subcommittee on Labor-Management Relations, I have played an active role in the debate on the plant closing provisions of the trade bill. Unfortunately, consensus eludes us on this issue. As a result, the entire trade bill may be vetoed.

No one can dispute, ignore or be insensitive to the very real problems of economic and social dislocations associated with plant closing. The impact of a plant closing on the affected workers and their community can be severe, as many of us have witnessed in our own districts.

And the Brock task force made the case for early notice. First and most importantly, a worker is much more likely to participate in a readjustment program if he or she begins the effort at the workplace before actually being laid off. Furthermore, studies have shown that advance notice reduces the time a worker is unemployed by 4 weeks, which in turn reduces costs to the Government for unemployment benefits.

But despite these facts and figures which support the argument for plant closing, business groups oppose mandated requirements for good reason, they believe that such laws would reduce available credit, scare away customers, reduce productivity, and perhaps lead to on-the-job sabotage.

The way to solve this problem and meet the needs of both industry and workers alike, is to carefully craft legislation providing adequate flexibility for business and adequate notice for workers.

I am sorry to say that the language we have before us today does not fit the bill.

Quite frankly, Mr. Speaker, the plant closing section of this omnibus trade bill is a sloppy piece of legislation. Its provisions lack precision and an open invitation to endless litigation.

While known as plant closing notification the provisions are much more far reaching.

The most strenuous objections to plant closing legislation has been based upon the application of the bill to layoffs and not just total shutdowns. The Senate attempted to address this by requiring that at least 33 percent of the workers be affected. I believe that some of the controversy surrounding the plant closing provsions could be resolved by increasing that percentage to 60 percent of workforce layoffs before the notification requirements would be triggered.

Second, and most significantly section 332(b)(2) should be changed to statutory language so that a sudden loss of contract or sudden and significant decline in customer orders would qualify for the "unforeseeable business circumstances" exception to the extent they are unforseeable. This would head off a number of complaints from business officials who regard the plant closing provisions as nebulous and an invitation to endless litigation.

I have several other changes which I offered at the conference level which could have made this a more acceptable bill and might have avoided the controversy which we have today. This bill should be recommitted to the conference. The plant closing provisions in their present form eliminated!

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 6 minutes to the gentleman from Ohio [Mr. TRAFICANT], my able friend.

Mr. TRAFICANT. Mr. Speaker, I am going to support the rule and I am going to support the bill. It is better than what we have, although that does not say a whole lot.

But I would like to comment on the Republican program to recommit with instructions. I do not believe that, I think it is recommit with destruction.

We need a trade bill, and unfortunately this trade bill does not go very far. But I commend the fact that there is worker retraining programs in here, plant closing notice. We are the only major industrial Nation that does not give the courtesy of a plant closing notice, so thank God maybe we will correct that. It provides some sanctions on Toshiba and Kongsberg, which is absolutely necessary, and it has some import relief. But in my opinion, what we are trying to do with this tremendous trade problem is cure cancer with a Band-aid. In fact, ladies and gentlemen, in my opinion, if Moses would have gone to Capitol Hill instead of Mt. Sinai, we would have sent him back with two aspirins and a glass of warm milk instead of the Ten Commandments.

What we are dealing with today is an issue and a concept of one word that has everybody herded in America. The word is protectionism. I am going to submit to my colleagues today that I am a protectionist. I believe that when America is threatened we should respond. But I submit here today that every Member of Congress and the Senate is a protectionist. The problem is they have been protecting the interests of foreign trading partners.

When are we going to stand up and stop letting these foreign trading nations rape our shores, take our jobs, and then they will not let our planes land and they say, "Yankee, go home."

Let us talk about it. I want someone from Harvard or any think tank in America to show me a more protectionist nation than Japan, and Japan enjoys a $70 billion surplus with America. We sit back and say, "Well, geez, let's try and work this out." They say, "Oh, fine, we will get it together."

The bottom line is I want to remind every Member of the House that last winter when Japan announced $60 billion worth of public works projects, a good investigative reporter from the Wall Street Journal found out that in addition to the $60 billion to improve their airports and their seaports they had a provision that said only the Japanese companies can bid on the work. When we found out about it down here, the Pentagon says, "My God, I cannot believe they did it." Our trade department of the U.S. Commerce Department said, "I cannot believe they would do that." When the investigative reporter pressed the Japanese, here is what he said, quite upset, he said, "We here in Japan have one purpose. We take care of the Japanese people. Why don't you people do the same?" They said they decided to keep the jobs and the money in Japan.

□ 1045

Now since we have gotten up and taken to task with Japan, they have changed their position. I submit we will probably get some token business. But the bottom line is, ladies and gentlemen, the way we are going we will not reconcile budget deficits without trade deficit correction.

We are giving America away and our freedoms are being challenged not by communism, where we are attacking them with our troops, but with the dollar and with our foolish trade policy. I say today we have to pass this, but it is a sad day for me.

We have lost 55,000 jobs in my district, Youngstown and Warren, OH, in the last 10 years that averaged $12 per hour, a billion in annual payroll.

You know what we have gotten? About 7,000 jobs that pay about an average of $3.50 to $5.50 and most of those jobs you taxpayers absolutely subsidize with welfare and food stamps.

I think this is ridiculous and I think it is time we do something.

Now what has been the Reagan plan? Drive down the dollar. He has driven the dollar down so far that our trade deficits continue to rise and Japan and foreign countries are buying America. Japan bought Western Resorts and Hotels, Japan bought the biggest bank in Los Angeles, they bought the Dunes and Aladdin Hotel, they bought Bank of America, they bought CBS Records.

Ladies and gentlemen, you can make a direct deposit in a Japanese bank from American soil, not an American bank purchased by Japan, a Japanese bank.

I am not here to bash upon the Japanese. I give them credit. They are pretty smart.

What I am saying to you here today and I am also saying this in a partisan way to our Democratic colleagues, what you are saying here today and what you have been doing in the last 20 years is you are keeping Republicans in the White House and that free trading policy in the White House is going to have a rice paddy on the East Lawn of the White House by 1992 and I am tired of it.

Let me say, Mr. Speaker, I want to thank the chairman, the gentleman from Florida [Mr. PEPPER] who has always been very kind to afford young Members an opportunity to speak out.

Mr. Speaker, my district has been hurt. The people who have hurt my district the most have not been the Japanese; it has been a Washington that has turned a callous shoulder toward the real problems in America. If you are going to stand up for America, you do not posture with rhetoric on the Persian Gulf and Contra aid; this is where you are standing up for America, because this is the vulnerability that affects the future of our children. Our kids in Youngstown have to go to Tennessee to get a job. I am worried in the next 5 years Tennessee will not have any jobs for them.

I am asking Congress today in passing this legislation to look very carefully at its ramifications as it is put into practice and make those adjustments and changes that are necessary to protect our freedom and security.

I thank the gentleman for the time.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Speaker, I rise in opposition to the rule and indeed in opposition to the bill and I would urge the Congress to send the rule back to the Committee on Rules and if we fail in that, to defeat the legislation on this day so that we can bring back to the House floor a trade bill that is worthy of its name, that does not contain the extraneous provision in the trade bill known as plant closings. That provision is a provision that in fact is contrary to the purposes of the trade bill, will drive further American jobs overseas.

The legislation in its current form contains a major provision in law which is a law and a bill that was defeated on this House floor in 1985 after a contentious 2 week marathon. Yet this rule provides that that bill will be attached to the trade bill, will be brought to the floor under the guise of the trade bill and the rule provides that all points of order against that provision will be waived.

Now the provision is clearly contrary to the rules of the House. It would not have been germane had it been offered to the trade bill when H.R. 3 came before the House and it would not be germane today.

Indeed, the entire debate on the Committee on Education and Labor portion of this legislation, even though it proposes massive changes in labor law, is limited to 15 minutes on the minority side to discuss an issue that was debated on the House floor and defeated over a 2-week debate in 1985.

Let me walk through a little bit some of the details of what is in this plant closings, so-called plant closings provision.

Let me first begin by saying there is a misconception that is sometimes used to say that it is a compromise. It is not a compromise. In most respects, most fundamentally the language that is in the trade bill is mandatory notification; it is the same language that the House defeated in 1985. It is still mandatory notice.

The major difference is that it is 60 days mandatory notice instead of 90 days mandatory notice. It is still mandatory.

Most large companies already give notice. It is the smaller organizations that from time to time are not able to give notice to employees of a pending layoff because they do not have notice themselves. Changing economic conditions, loss of a market order, a change in the economy do not allow industry to predict what is going to happen tomorrow or next week or next year.

When they can, they do.

Second, this is legal notice. When legal notice of a layoff is pending, given to most employees, it is also going to be given to customers and creditors. Those customers and creditors then, upon determining there has been a legal notice of a pending shutdown or layoff, will begin to look for new suppliers and begin to cutoff credit.

So this bill in and of itself, while it does provide for 60 days notice of a pending layoff, will require that there be more layoffs and more plant closings. We will get notice, all right; but there will be more of them and more American workers will be out of a job.

Now the House needs to understand that most of the application of this is a layoff notification as opposed to a pure plant closing.

I thank the gentleman for the time.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the able gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Speaker, this bill is among the most complex pieces of legislation that has come before Congress in this decade. While I do not support everything in it, on the whole, this legislation will make a contribution to reducing our trade deficit.

The need for legislation to address our eroding position in the international economy is clear. Three years after the President declared that it was "Morning in America," leading American voices are seriously discussing the possibility that America is a nation in decline. Today America is the biggest debtor nation in the history of the world. Strong action is needed to halt and reverse this slide into economic mediocrity.

Although it addresses only some of the problems we face, this bill is a solid first step in the direction of renewing American economic vitality. But the bill reauthorizes and expands key export promotion programs. It strengthens and expands the Trade Adjustment Assistance Program and increases its emphasis on retraining, one of the keys to restructuring American industry to compete in a changing world economy.

I participated in the conference on H.R. 3 as a member of the House Foreign Affairs Committee. In subconference 3 we streamlined the licensing requirements faced by exporters of hitech items, rerouting enforcement resources to the truly vital technologies while loosening economically damaging restrictions on low-level technologies. In addition, we enacted restrictions designed to reinforce the current ban on the export of North Slope crude oil, while permitting limited exports subsequent to the pending United States-Canada Free Trade Agreement.

Unfortunately, a number of counterproductive items have also been included in this legislation. Although the section dealing with unfair trade practices has been improved since it left the House, it still mandates trade sanctions against countries whose import curbs or export subsidies we find unfair. The fact is that we are as guilty of these kinds of protectionist trade barriers as anybody else, and scapegoating foreigners for our economic shortcomings will not help to solve the problems we face.

In addition, I am very disappointed to see a provision in this legislation to repeal the windfall profit tax. At a time of unprecedented budget deficits, we cannot afford to be giving the oil industry tax breaks which they do not need.

Much attention has been drawn to the plant closing provision in this legislation. While I support efforts to provide individuals and localities with more adequate notice of plant closings, I do not support efforts to dictate layoff policies and practices to American businesses. It is important to emphasize that this bill does not contain such provisions. It is unfortunate that an issue which has nothing to do with trade policy may, in all likelihood, result in the President vetoing this legislation.

Mr. Speaker, while this legislation will make a positive contribution to reducing our trade deficit, it would be a mistake to portray it as a cure-all for the fundamental causes of our loss of leadership in a number of important markets. To do that we must adopt a long-term strategy designed to improve our competitiveness in the industries which hold the greatest promise for the 21st century.

This means increasing our productive investments here at home. We need to improve our education system, rebuild our infrastructure, begin now to build the infrastructure for the new high-technology economy of the future, and encourage new methods of cooperation between Government, labor, and industry.

Nevertheless, on balance, this is good legislation. It will make a meaningful contribution to reducing our trade deficit and improving our competitiveness abroad. I urge my colleagues to support it, and I hope the President will reconsider his decision to veto it.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield 1 minute to my able friend, the chairman of the Committee on Agriculture, the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. I thank the gentleman.

Mr. Speaker, I rise today in support of the conference report on H.R. 3, the omnibus trade bill.

This conference report is the result of long and most difficult negotiations between the two bodies of this Congress, and Chairman ROSTENKOWSKI of the Ways and Means Committee and Chairman GIBBONS of the Trade Subcommittee deserve a great deal of credit for their persistence in pursuing improvements in our trade laws designed to help the United States become more competitive.

Even though there are some reports that the President will veto H.R. 3, there is a tremendous amount in this bill of which we may be proud. For my part, I have worked as hard as possible in the agricultural subconference—subconference VI—to ensure that the U.S. Department of Agriculture is provided with tools needed to enhance the effectiveness of its international programs.

I commend my colleagues who served on subconference VI—for their diligence in helping to fashion a good agricultural trade title for this legislation. Its purpose is to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation. We have provided as a first step in this process, authorization for an increase in personnel for the Department's principal trade agency, the Foreign Agricultural Service, to not less than 900 full-time employees. We encourage the Department to ensure that this increase, which we view as a priority area, be implemented as early as possible.

We have provided authorization for an increase in appropriations of $20 million through fiscal year 1990 for the Foreign Agricultural Service to be used for market development purposes. This increase will allow for an expansion of the agricultural attaché service and international trade policy activities; enhancement of the Foreign Agricultural Service worldwide market information system; and an increase in the number and quality of trade shows and exhibitions conducted by the agency.

The conference report will also enable farmers, exporters and others interested in obtaining data on agricultural trade, or who believe they have been injured by unfair trade practices, to go to one office within the Department of Agriculture for assistance.

Provisions to strengthen the position of our negotiators in their effort to improve the General Agreement on Tariffs and Trade [GATT] are also included. Specifically, the President could trigger a marketing loan program whereby prices of U.S. grains and soybeans would be allowed to go to world market-clearing levels, or the President could use targeted export subsidies to reclaim lost U.S. markets. These options could be used based on progress made in the GATT talks on agricultural trade.

These and other provisions included in title IV—agricultural trade—are explained further in the summary that follows my statement.

In closing, I wish to thank again the conferees on subconference VI for their many contributions and hard work on this conference report.

I urge my colleagues to join me in support of this legislation. Let us pass it with enough votes so that the President understands fully Congress' commitment to free and fair trade.

TITLE IV—AGRICULTURE TRADE

SUMMARY OF PROVISIONS

Agricultural Trade Policy

Provides that it is the policy of the United States to provide agricultural commodities for export at competitive prices; to support the principle of free and fair trade in agricultural commodities; to support the negotiating objectives set forth in the Conference Report; to seek the elimination of barriers to agricultural trade; and provide for increased representation of agricultural trade interests in the formulation of U.S. fiscal and monetary policy affecting trade. (Sec. 4102)

Long-term agricultural trade strategy reports

Requires the Secretary of Agriculture to prepare for each fiscal year a long-term agricultural trade strategy report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture for one-, five-, and ten-year periods. (Sec. 4201)

Technical assistance in trade negotiations

Requires the Secretary of Agriculture to provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues relating to agricultural trade. (Sec. 4202)

Agricultural trade with countries with large trade surpluses

Provides that if a country has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State, may develop an appropriate plan under which that country may purchase United States agricultural commodities for use in development activities in developing countries. (Sec. 4203)

Reorganization evaluation

Requires the Secretary of Agriculture to evaluate the reorganization proposal for the Department of Agriculture recommended by the National Commission on Agricultural Trade and Export Policy and other proposals for improvement of current management of international and trade activities of the Department of Agriculture. An advisory committee would be appointed to assist the Secretary with the review. (Sec. 4204)

Contracting Authority

Authorizes the Secretary of Agriculture to contract with individuals for services to be performed outside the United States to more effectively carry out programs and activities to maintain, develop or enhance export markets for United States agricultural commodities and products. These individuals would not be considered employees of the United States. (Sec. 4205)

Trade Assistance Office

Provides that the Secretary of Agriculture must establish an office within the Foreign Agricultural Service to provide trade assistance to persons interested in exporting United States agricultural commodities and products, and who request information on international trade data including information on trade practices carried out by other countries to promote the export of agricultural commodities and products. The office will also provide information to those who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products. (Sec. 4206)

Foreign Agricultural Service personnel

Provides that the authorized number of personnel for the Foreign Agricultural Services be not less than 900 full-time employees through fiscal year 1990. Also, allows the Secretary of Agriculture to designate up to eight agricultural attaches on assignment abroad for appointment to the diplomatic post of Minister-Counselor. (Sec. 4211)

Attache educational programs

Requires the Administrator of the Foreign Agricultural Service to establish an educational program within the Foreign Agricultural Service that would give agricultural attaches and Service officers an opportunity to provide market development training, and facilitate the exchange of information on market development and export programs with States and private sector individuals. (Sec. 4212)

Personnel resource time

Provides that the Administrator of the Foreign Agricultural Service must ensure that the maximum percentage practicable of the overall personnel resource time of agricultural attaches be devoted to activities designed to increase markets for United States agricultural commodities and products. The Administrator is required to submit a report to the Agriculture Committees of the House and Senate not later than September 30, 1988 and September 30, 1989. (Sec. 4213)

Cooperator organizations

Expresses the sense of Congress that the foreign market development cooperator program of the Foreign Agricultural Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to achieve the objective of expanded United States agricultural exports. Provides that Congress affirms its support of the programs and of the cooperator organizations. Authorizes the Secretary of Agriculture to make surplus CCC stocks of commodities available to cooperator organizations for use in market development projects. Provides that the Secretary must act to prevent conflicts of interest among cooperator organizations participating in the cooperator program. Provides that the Foreign Agricultural Service should develop a means to evaluate the effectiveness of the cooperator program. (Sec. 4214)

Authorization of additional appropriations

Provides for an increase in authorized appropriations for the Foreign Agricultural Service for each of the fiscal years 1988 through 1990 of $20,000,000 for market development activities, including expansion of the agricultural attaché service, market development efforts in developing countries and to increase the number and quality of international trade shows. (Sec. 4215)

Triggered marketing loan and export enhancement

Requires the President to certify to Congress no later than 45 days after January 1, 1990, as to whether there has been significant progress toward achieving an agreement with respect to agricultural trade under the General Agreement on Tariffs and Trade (GATT). If the President does not certify that there has been significant progress, the President must instruct the Secretary of Agriculture to implement marketing loan programs for the 1990 crops of wheat, feed grains and soybeans unless the President determines that the implementation of the marketing loans would harm further GATT negotiations. If the President so determines, an expanded Export Enhancement Program must be implemented unless the implementation of such a program would be a substantial impediment to achieving an agreement under the GATT. The President is authorized to terminate either of these programs at any time if the President determines that continued implementation would harm further GATT negotiations. (Sec. 4301)

Price support for sunflower seeds and cottonseed

Provides that if a marketing loan program is implemented with respect to the 1990 crop of soybeans, the Secretary of Agriculture must implement a price support program for the 1990 crops of sunflower seeds and cottonseed. The Secretary must discontinue any price support program implemented under this provision if the President instructs the Secretary to discontinue implementation of the marketing loan program for soybeans. (Sec. 4302)

Multi-year agreements under the Food for Progress Program

Provides that the President must, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by recipient countries on a multi-year basis. (Sec. 4303)

Targeted Export Assistance Program

Authorizes an increase in the level of funding for the Targeted Export Assistance Program (TEA) for 1988 from $110,000,000 to $215,000,000, subject to appropriations. Authority is also provided for the Secretary of Agriculture to compensate trade associations for expenses incurred in defending countervailing duty actions instituted after January 1, 1986, in foreign countries. (Sec. 4303)

Export Credit Guarantee Program

Provides that it is the sense of Congress that the Commodity Credit Corporation should make short-term credit guarantees available to countries without placing a ceiling on the exports of a particular commodity to a specific country. The full allocation of credit guarantees for a specific country should be available for use exports of all eligible commodities to the country. (Sec. 4305)

Agricultural Export Enhancement Program

Extends the export enhancement program (EEP) through 1990. Increases the ceiling on the value of commodities that can be used under that program from $1.5 billion to $2.5 billion. Provides that in carrying out the program, the Secretary of Agriculture may consider for participation all interested United States exporters, processors, users, and foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products. (Sec. 4306)

Agricultural attache reports

Provides that the Secretary of Agriculture must take certain actions with respect to the reports prepared by agricultural attaches, including the ranking of trade barriers. Provides that to the extent practicable, the reports should be used by the Trade Assistance Office, the new office to be established in the Foreign Agricultural Service. (Sec. 4307)

Dairy Export Incentive Program

Requires that payments in commodities under the Dairy Export Incentive Program be made in the form of generic commodity certificates. Further, if the generic commodity certificates are exchanged for dairy products, the Secretary of Agriculture must ensure that the dairy products are sold for export, and that the sales do not displace usual United States export sales of dairy products. (Sec. 4308)

Barter provisions

Expresses the sense of Congress that the Secretary of Agriculture should expedite implementation of both Section 416(d) of the Agricultural Act of 1949 and section 1167 of the Food Security Act of 1985 which relate to the barter of agricultural commodities. (Sec. 4309)

Minimum level of food assistance

Provides that it is the sense of Congress that the United States should maintain its historic level of food assistance constituting one-third of all United States foreign economic assistance. Not less than one-third of the funds available in each fiscal year for foreign assistance should be used to make food assistance available to foreign countries under the Agricultural Trade and Development Assistance Act of 1954 and section 416(b) of the Agricultural Act of 1949. (Sec. 4310)

Food aid and market development

Provides that it is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products. The President, or if appropriate the Secretary of Agriculture, must encourage recipient countries under food assistance agreements to agree to give preference to United States food and food products in future food purchases. (Sec. 4311)

Wood and wood products

Makes wood and wood products fully eligible for use in Public Law 480 market development programs and in the short- and intermediate-term export credit guarantee programs. Establishes a cooperative national forest products marketing program designed to improve the competitiveness of the United States forest products industry. (Sec. 4401-4404)

Canadian wheat import licensing

Requires the Secretary of Agriculture to assess the effect of the Canadian wheat import licensing program in order to determine the nature and extent of the licensing requirements, and the estimated effect of the program in reducing exports of United States wheat and wheat products to Canada. The Secretary must report the results of the study to the United States Trade Representative within 90 days after the date of enactment of the bill. Not later than 90 days after the results of the study are submitted to the Trade Representative, the Secretary of Agriculture and the Trade Representative must consult with the Agriculture Committees of the House and Senate, the Finance Committee of the Senate, and the Ways and Means Committee of the House on the status of efforts to negotiate the elimination of the licensing requirements. (Sec. 4501)

Import inventory

Requires the Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and any other appropriate Federal agency, to annually compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The Secretary is also to compile and report to the public data on the total amount of production and consumption of domestically produced raw and processed agricultural products. (Sec. 4502)

Honey study

Requires the Secretary of Agriculture to conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe that imports of honey tend to interfere with or render ineffective the U.S. honey price support program. The Secretary of Agriculture must report the results of the study not later than 60 days after the date of enactment of the bill to the Committee on Agriculture and Committee on Ways and Means of the House and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate. (See. 4503)

Dairy import quota study

Provides that no later than 180 days after the date of enactment of the bill, the Secretary of Agriculture must conduct a study on how the milk price support program would be affected if dairy import quotas were reduced or eliminated as a result of the GATT negotiations. The Secretary is required to assess the likelihood that a reduction or elimination of the quotas would occur on a multilateral basis. The study results must be reported to the Agriculture Committees of Congress, the Senate Committee on Finance, and the House Committee on Ways and Means. (Sec. 4504)

Study on intermediate export credit

Provides that not later than 180 days after the date of enactment of the bill, the Secretary of Agriculture must submit a report to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966, the Agricultural Trade Development and Assistance Act of 1954, section 416 of the Agricultural Act of 1949, and the Commodity Credit Corporation Charter Act, to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; to increase livestock production in order to enhance the demand for United States feed grains; and to increase markets for United States livestock and livestock products. (See 4505)

Imported meat, poultry products, eggs and egg products

Requires the Secretary of Agriculture, within 90 days after the date of enactment of the bill, to submit a report to Congress specifying the planned distribution of resources of the Department of Agriculture for sampling imports of meat, poultry, and egg products to ensure compliance with the Federal Meat Inspection Act, and Poultry Products Inspection Act, and the Egg Products Inspection Act governing permitted levels of pesticide, drugs, and other residues. The report must also respond to a 1987 Inspector General audit report. (Sec. 4506)

Study of circumvention of agricultural quotas

Provides that not later than 180 days after the date of enactment of the bill, the Comptroller General of the United States must conduct a study with respect to whether articles containing dairy products or products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid quota limitations. The Comptroller General must report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate. (Sec. 4507)

Study on lamb meat imports

Requires the Secretary of Agriculture to conduct a study on the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of the imports on the production of lamb meat in the United States. The Secretary must submit the results of the study not later than 180 days after the date of enactment of this act to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition and Forestry of the Senate. (Sec. 4508)

Rose study

Requires that no later than 240 days after the date of enactment of the bill, the United States International Trade Commission must complete a study on the competitive factors affecting the domestic rose industry, the effect of the European Community's tariff rate for imported roses has on world trade of roses, and the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses. The report is to be submitted upon completion to the Committee on Agriculture and Committee on Ways and Means of the House of Representatives; the Committee on Agriculture, Nutrition and Forestry and the Committee on Finance of the Senate; the United States Trade Representative; the Secretary of Commerce; and the Secretary of Agriculture. Provides that it is the sense of Congress that the appropriate Federal agencies should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry if, after their review of the study and report, action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors. (Sec. 5409)

Allocation of certain milk

Provides that milk produced by dairies owned or controlled by foreign persons, and financed by or with the use of industrial revenue bonds, will be treated as other-source milk, and will be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program. (Sec. 4601)

Paid advertising for Florida-grown strawberries

Authorizes the inclusion of marketing promotion provisions (including paid advertising) in the marketing order for Florida-grown strawberries. (Sec. 4602)

Application of marketing orders to imports

Provides for an additional period during which marketing order requirements applicable to imports of the commodity to which the marketing order applies could be in effect if the Secretary of Agriculture determines it is necessary to prevent the circumvention of a marketing order by imports. The necessity for the additional period must be reviewed, on request, every three years. The additional period can be no longer than 35 days and the Secretary must take certain issues into consideration when deciding whether to establish the additional period. (Sec. 4603)

Reciprocal meat inspection requirements

Provides that if the Secretary of Agriculture determines that a foreign country applies meat inspection standards that are not based on scientific standards, the Secretary must consult with the United States Trade Representative and they must make a recommendation to the President as to what action should be taken in response to the action by the foreign country. Based on the recommendation, the President may require that a meat article produced in the foreign country not be permitted entry into the United States unless the meat article has met the standards applicable to meat articles in commerce within the United States. (Sec. 4604)

Land-grant colleges

Provides that it is the sense of Congress that land-grant colleges and universities should encourage the study and career objective of international marketing of agricultural commodities and products. Stresses the importance of marketing in international trade and building the rural economy. (Sec. 4605)

Egg imports

Provides that it is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning means used by the European Community to limit the access of United States eggs and egg products, and export subsidies that have had the effect of excluding United States eggs and egg products from world markets. (Sec. 4606)

United States access to the Korean beef market

Provides that it is the sense of Congress that Korea should permit greater access to its markets by United States beef producers. Further, the United States Trade Representative should aggressively pursue negotiations to gain greater access to the Korean market for United States beef and should try to achieve a reduction in beef import tariffs imposed by Korea. (Sec. 4607)

Trade with Japan

Provides that it is the sense of Congress that the import barriers imposed by Japan on agricultural products, including rice, citrus, and beef should be removed in order to avoid any damage to the close relations between the U.S. and Japan. (Sec. 4608)

Tobacco

Provides that it is the sense of Congress that the amount of assessments collected under the no-net cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Department of Agriculture. Provides that it is the sense of Congress that with respect to tobacco or articles containing tobacco imported into the United States, the International Trade Commission should take into account, as if they are costs to the government, contributions and assessments imposed under the Agricultural Act of 1949 in determining whether imported tobacco or articles materially interfere with the tobacco price support program carried out by the Department of Agriculture. (Sec. 4609)

Technical Corrections

Provides for technical corrections to the agricultural aid and trade mission portion of Public Law 100-202. (Sec. 4610)

Pesticide monitoring improvements

Provides that not later than 480 days after the date of the enactment of the bill, the Secretary of Health and Human Services must place in effect computerized data management systems for the Food and Drug Administration under which the Administration will evaluate and provide information on its program for monitoring pesticide residues in food products. (Sec. 4701-4702)

Foreign pesticide information

Provides that the Secretary of Health and Human Services must enter into cooperative agreements with major food exporting countries to assure compliance with the pesticide residue limits of Federal law. (Sec. 4703)

Pesticide analytical methods

Provides that the Secretary of Health and Human Services must, in cooperation with the Administrator of the Environmental Protection Agency, develop a plan for the development of new analytical methods with respect to the detection of pesticide residues. (Sec. 4704)

Mr. QUILLEN. Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PEPPER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device and there were—yeas 340, nays 61, not voting 30, as follows:

[Roll No. 63]

YEAS—340

Ackerman
Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bunning
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clement
Clinger
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Darden
Davis (IL)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Herger
Hertel
Hiler
Hochbrueckner
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Mack
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shays
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—61

Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bentley
Bilirakis
Bliley
Brown (CO)
Buechner
Burton
Callahan
Cheney
Coats
Craig
Crane
Daub
Dickinson
Dornan (CA)
Dreier
Edwards (OK)
Fawell
Gekas
Grandy
Gregg
Henry
Holloway
Hopkins
Hunter
Hyde
Ireland
Kemp
Kyl
Lewis (FL)
Lightfoot
Lott
Lungren
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
Michel
Oxley
Packard
Petri
Roberts
Sensenbrenner
Shumway
Shuster
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Stump
Sundquist
Upton
Vucanovich
Walker
Weber
Whittaker

NOT VOTING—30

Alexander
Atkins
AuCoin
Barnard
Bateman
Biaggi
Chappell
Clay
Crockett
Dannemeyer
Davis (MI)
Dicks
Emerson
Frenzel
Gingrich
Goodling
Hall (OH)
Latta
Livingston
Lowery (CA)
McDade
Mfume
Miller (OH)
Molinari
Neal
Price (IL)
Ray
Sabo
Sisisky
Thomas (CA)

☐ 1114

The Clerk announced the following pair:

On this vote:

Mr. Davis of Michigan for, with Mr. Lowery of California against.

Mr. DeLAY changed his vote from "nay" to "yea."

□ 1115

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 430, I call up the conference report on the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 20, 1988.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Rostenkowski] will be recognized for 2 hours and the gentleman from Tennessee [Mr. Duncan] will be recognized for 2 hours.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to urge my colleagues to adopt the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act. This landmark piece of legislation is the product of 3 years of dedicated effort by 14 House committees. It began as an initiative of this body, under the auspices of both the majority and minority leadership.

As conference chairman, I strongly support this far-reaching legislation. I believe the conferees produced a very good bill under difficult circumstances. The final bill contains 10 titles, covering such areas as unfair trade practices, trade negotiations, export policy, foreign investment, international financial policy, education and labor initiatives, technology programs, Government procurement, patent law, and transportation policy.

I believe that together these 10 titles constitute the first coherent and comprehensive effort ever undertaken to make this country a winner in international competition.

In the next few hours, you will hear Members describe the many critical parts of this sweeping legislation. I hope Members will listen carefully to today's debate, because I believe it will help to dispel the myth that this bill doesn't do much. The bill does a great deal. It represents a fundamental and long overdue restructuring of our trade policy. More than that, it represents a recognition that America must put its house in order and begin competing in the world. This bill, and the policies it inspires, will help us immeasurably in that effort.

I urge adoption of the conference report.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to compliment our chairman on the bill that he has brought before us. It has some flaws, such as the plant closing and other things, but I think the gentleman is to be complimented on a magnificent job.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report on H.R. 3, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Rhode Island [Mr. St Germain], the chairman of the Committee on Banking, Finance and Urban Affairs.

Mr. ST GERMAIN. Mr. Speaker, I rise in support of the conference committee report on H.R. 3. The conference was a massive undertaking and it represents the work of 13 House committees. While the conference itself has taken almost 1 year to complete, the Banking Committee has been studying the issues of our Nation's international competitiveness since 1983. So in a very real sense, the conference report we are considering today represents the culmination of almost 5 years of work by the members of the Committee on Banking, Finance and Urban Affairs.

Before I summarize the provisions contained in the Banking Committee title, I would like to commend the members of the Banking Committee who served as conferees, particularly our three subcommittee chairs: Mary Rose Oakar, for her work on the Council on Industrial Competitiveness; and Walter Fauntroy and Robert Garcia for their leadership on our provision concerning international debt.

Our subcommittee chairs and I were assisted by the other Banking Committee conferees: John LaFalce was the primary architect of the exchange rates provision; Bruce Vento spearheaded our efforts on countertrade and the Defense Production Act; Doug Barnard and Chuck Schumer sought to provide for the fair treatment of U.S. financial institutions overseas; and finally without the efforts of Bruce Morrison we could not have reached agreement on the international debt provisions.

I wish to thank these Members, as well as our Republican Members, for the time and effort they gave to this conference committee. And I urge my colleagues to support the conference committee report.

I would like to briefly summarize the Banking Committee's title of the conference report.

EXCHANGE RATES

Subtitle A requires the President to enter into multilateral negotiations to establish a more orderly manner for determining exchange rates and to stabilize the value of the dollar. Specifically, the President is required to initiate discussions with nations that seek to obtain an unfair trade advantage by undervaluing their own currency. The conference agreement also requires the Secretary of the Treasury to report to Congress on the progress of these negotiations and consult with Congress regarding the direction of national policy to achieve a more stable dollar, reduce foreign borrowing and lower the trade deficit.

INTERNATIONAL DEBT

There has been a substantial loss in our exports to lesser developed nations. Their overwhelming debt burden requires they use hard currency to pay the interest on loans rather than purchasing U.S.-made goods. This section encourages the administration and the International Monetary Fund and the World Bank, to study alternative approaches to addressing the debt problems and report to Congress on these options.

MULTILATERAL DEVELOPMENT BANKS

Subtitle C requires that the Departments of Commerce and Treasury insure that the multilateral development banks increase purchases of U.S. goods and services.

EXPORT-IMPORT BANK

The conference agreement authorizes the tied aid fund for one additional. Through this program, the Export-Import Bank provides U.S. exporters with financing at rates which allow them to compete with foreign predatory financing.

EXPORT TRADING COMPANIES

Subtitle E modifies the regulation of bank related export trading companies. While maintaining a requirement that an export trading company be principally operated to export U.S. goods or services, the conference report recognizes that export trading companies must develop trading partners all over the world. To encourage more successful export trading companies, the conference agreement permits them to become more active in trade between other nations.

As Members of the House know, the Bank Export Service Act of 1982 was a response to skyrocketing unemployment rates and near depression in the manufacturing sector of our economy. Congress felt that these circumstances warranted a limited experiment to allow bank holding companies to engage in nontraditional banking activities to increase U.S. exports. Our desire for increased U.S. exports was tempered by our responsibility to protect the safety and soundness of insured institutions and our knowledge that exporting is a risky proposition for new entrants. The bank holding company structure was used because it offered safeguards for the capital of the insured institutions and there was an existing regulatory framework, well understood by the financial community.

I regret to say that the success of export trading companies has been limited. Committee hearings demonstrated that the cause of this limited success has been general economic conditions rather than the restrictions contained in the 1982 act. Our hearings did identify several regulatory changes which the committee believes would increase the ability of export trading companies to facilitate the export of U.S.-made goods. While the conference report contains measured steps to increase the utility of export trading companies, the conferees remain convinced that the protections in the 1982 act were prudent then and remain prudent today.

PRIMARY DEALERS IN GOVERNMENT SECURITIES

Unfortunately, during the last decade one of our Nation's biggest exports has been our Government debt. The United States continues to provide an open market which allows firms from any nation to become primary dealers in U.S. Government debt. U.S. firms should have the same opportunity in other nations. The conference report provides the Federal Reserve with the authority to decertify foreign firms if their home government does not accord U.S. firms the same opportunities to deal in government debt as the foreign government accords it's domestic firms.

Mr. Speaker, I sincerely regret that the administration has threatened to veto this important legislation. I am particularly distressed that the President has placed on his veto list three items reported by the Banking Committee. In each case, similar provisions were included in both the House bill and Senate amendment. In each case, the provisions are designed to increase our international competitiveness or to ensure fair trade for U.S. firms in other nations. And in each case, the Committee on Banking, Finance and Urban Affairs worked with the administration to report provisions which should not warrant a veto.

We have made significant accommodations to the administration in the sections concerning exchange rates, international debt and primary dealers in Government securities. The administration's opposition to the Banking Committee's provisions is not based on the provision itself, but rather the administration is looking for a way to hide the fact that they are vetoing a bill solely because it will require that working men and women are given 60 days' notice that there jobs will be lost.

Mr. Speaker, it is indeed a sad day when legislation addressing a fundamental and crucial problem in our economy is threatened with a veto solely because of this administration's ideological opposition to treating American workers in a humane and equitable manner. I urge my colleagues to support the conference report.

Mr. DUNCAN. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois [Mr. Madigan], the ranking Republican on the Committee on Agriculture, to be used in any way the gentleman so desires.

Mr. MADIGAN. Mr. Speaker, I think there are some questions about this trade bill conference report with regard to agriculture that have not been addressed in the discussion that has been taking place here in the Capitol Building so far. Beyond the scope of the agriculture section of the conference report, there are other things that seem to me to impact on agriculture. For example, I was told last evening that there is a provision in this trade bill conference report that would allow for the doubling of the amount of ethanol that could be imported into the United States duty-free from the Caribbean Basin.

Now, the issue of ethanol imports from the Caribbean Basin is one we have visited previously in this Congress and I thought we had dealt with it, but apparently we have not, because this conference report is reported to me as containing a provision that grandfathers in activities by certain refineries in the Caribbean with regard to being able to bring into this country duty-free ethanol imports and it proceeds to add more refineries to the list, having the consequence of doubling the total amount of duty-free ethanol that will come into the United States if this bill is to become law.

□ 1120

Now that not only displaces jobs of people working in ethanol plants in the United States, it also displaces the sale of U.S. grain that would otherwise be used to make that ethanol that would otherwise be used in this country. That seems to me to be entirely contrary to the purpose for which this bill is brought to the floor of the House of Representatives.

I thought that we were going to try to create jobs. I thought we were going to try to create markets, but here what we are doing is taking away jobs from the U.S. economy and giving away part of our own market to some foreign imports, just exactly the reverse of what I am told this bill was intended to do.

So I think this is something that should be discussed, it should be pointed out, and I am certainly going to talk to the Republican leader about whether or not there should be some provision in here, in the motion to recommit, that deals with this provision.

Mr. Speaker, I yield to the gentleman from Louisiana [Mr. Huckaby].

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for yielding this time to me, and I want to commend the gentleman for bringing this issue to the attention of the Members here on the floor.

I would like to ask the gentleman if he knows if it is possible for ethanol to enter the country through these provisions being transshipped through Caribbean nations.

What I am alluding to is: Can ethanol being produced in Brazil come through a Caribbean country as a result of these provisions?

Mr. MADIGAN. That was part of the discussion that we had before on the question of ethanol from the Caribbean, whether or not it was actually being refined there or just transshipped through there, and I cannot answer the gentleman. I just learned of this provision in the bill. I do not know whether this would allow for the transshipping from Brazil or from some other source, but I know it would allow the doubling of the refineries in the Caribbean Basin that could bring things into the United States duty-free, which is entirely contrary to the spirit of the agreement that we have reached on this before and is something that would have a negative impact on American agriculture.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Florida [Mr. Gibbons].

Mr. GIBBONS. Mr. Speaker, I appreciate doing this. I want to make some points very clear.

One, the ethanol thing is a red herring, and I hope that the minority leader over there is listening.

Mr. Speaker, the bill is not all opened up for ethanol, and my friend from Illinois is worrying about something that is not a fact. I will be glad to discuss it with him. I hope he will not put ethanol in his motion to recommit.

Let me say to all my colleagues in the House that this is a good bill. Now, if I could write it myself, I could perhaps write a better bill, but we all know the legislative process. You cannot do that.

This bill does some real fine things for the country. First, and foremost and most important, if this bill is not passed, everyone should understand that the President of the United States, who must in the final sense negotiate for this country in international arrangements, will have no power to negotiate. Therefore, nothing will happen in the world to improve the trade conditions of the world. So it is most important that this legislation eventually become law.

Never in the history of this Congress have we had such a good provision for Presidential negotiation as we have in this bill, and, if this bill does not become law, then we are trapped. Nothing can go forward. That is the first and foremost thing.

Second, this bill, if it does not become law, will do more to make our trade competitors happy with the confusion that exists in the United States than any one single thing that we could do or any accumulation of things that we could do. That is because this bill will put pressure upon our trading competitors to open up their markets and to play fairly and squarely by a tougher system of rules than we now have. It will permit the Executive and encourage the Executive to be more forceful in expressing our rights under the GATT and under international law, and under American law, to force our competitors to play fair and square by the rules.

Third, it makes definite some of the things that have been a little unclear in the trade picture. Trade, as all of my colleagues know, is a very complicated subject. It is something that is played on a multilateral field, and it has some rules in it that have needed strenghening. This trade bill does strengthen those rules.

On plant closings, I do not favor the plant closing legislation, but it is a part of this bill. I was put in here legitimately. I am not going to play the role of a spoiler and try to knock it out. I think, if the President wanted to veto this bill on that basis, and I hope that he would not, but, if he does, then I hope that the process can go forward, and we could come here and strip out that provision and finally get a bill.

But I do not want to play the role of a spoiler. I am afraid that this bill will be in for serious trouble if we recommitted it, and so I would urge those who want a trade bill to let this provision, as obnoxious as it is to many, to let it go ahead, and let us see what happens on it.

Mr. DUNCAN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New Hampshire [Mr. GREGG], a valuable member of the House Ways and Means Committee.

Mr. GREGG. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of the underlying bill which we are dealing with here today, the trade bill. It is a positive bill in that it abandons the path of protectionism which was being followed by prior legislation and puts us on the road to opening markets instead of closing our markets.

It is a bill which has some very strong substantive language in areas which people from New Hampshire are concerned about in the area of trade, specifically in the area of sale of telecommunications products into other markets, markets like West Germany, Canada, England, and Japan which have been closed to our communication industry. This bill will address those closed markets and ask those countries to open their markets in a way that will probably bring about results, and we certainly hope that it will bring about results.

Thus the underlying bill is an abandonment in my opinion of what had been the failed policies of the past, the policies of Smoot-Hawley, which were that you closed the borders when you have a trade deficit, and an acknowledgement of the only way that you bring the trade deficit down is by opening up other markets for our goods which are competitive.

Unfortunately the bill has attached to it some very poor language in the area of plant closings. This language is extraneous to the legislation, and it is totally inappropriate to the initiative which this bill creates. The plant closing language is a truly counterproductive, inefficient way to address the issue of layoffs in our society. It is an attempt to create an industrial policy, one which is not responsive to the needs, especially those of the small businessmen. It is a clear and present attack on small business. It says that any business with 100 people or more, and that is any business; it does not have to be manufacturing, it can be service industry, it can be grocery store, grocery chain; will be subject to a Federal law dealing with the manner in which their employees are treated should there be a layoff. It is totally counterproductive and totally inconsistent with the basic trade bill, the purpose of which is to make us a more competitive nation internationally.

Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. Mr. Speaker, I rise in strong support of the conference report. This bill will help cut the trade deficit by giving this country something it has needed for a long time: an active and coherent foreign economic policy.

Over the next several years, we're going to have to compete against foreign products like never before. There's no other way to cut our huge foreign debt, short of a painful recession. And as the stock market crash reminded us, the foreign debt will have to be reversed one way or another—and soon.

This bill will give the country a game plan. It will help remove foreign barriers to our exports, toughen laws against unfair imports, improve the productivity of our work force and boost promotion of exports. It will also establish new quality control procedures on fiscal and monetary policy, exposing when they threaten the competitiveness of our businesses.

We have been rudderless on foreign economic policy for too long. A vote against this conference report is a vote to permit this country to continue to drift in the face one of its most difficult economic challenges ever.

Mr. Speaker, I would like to congratulate the distinguished chairman of the Ways and Means Committee, Mr. ROSTENKOWSKI, and the dedicated chairman of the Subcommittee on Trade, Mr. GIBBONS, for their enlightened leadership in assembling this bill. I urge my colleagues to give the conference report overwhelming support.

☐ 1125

Mr. DUNCAN. Mr. Speaker, I yield 6 minutes to the gentleman from Ohio [Mr. OXLEY].

Mr. OXLEY. Mr. Speaker, I rise today in reluctant opposition to the conference agreement on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. As a member of the Energy and Commerce Committee, which was only one of the committees that put quite a lot of effort into developing a responsible approach to expanding our Nation's competitiveness and increasing our market opportunities, I am disappointed that the conference agreement before us today fails in a number of respects to meet those goals. Because of the inclusion of nongermane, noncompetitive provisions in the conference agreement, the President has pledged to veto this bill, and I support him. There is no place in a trade bill for provisions like the plant closings language, especially when this body defeated it in the last Congress and never even had the opportunity to consider it in this Congress.

However, whether we like it or not, plant closings language is in the trade bill, thanks to an amendment added by the Senate. Even with the pledge of a veto by the President if the plant closings language was retained in the final bill, however, the majority chose to endanger the bipartisan effort to craft an effective trade bill by caving in to the organized labor special interests who demanded that the plant closings language remain. If enacting an effective trade bill is so important to the majority, then why are they playing politics at the 11th hour?

As distasteful as the way this provision was included in the bill is, even more distasteful is the potential damage this provision could do to our economy and our competitiveness. Proponents of the plant closings and layoff provisions admit that what is in H.R. 3 is only a first step and that more worker protection is needed. But at what price? I hope my colleagues had an opportunity to read yesterday's column by Robert J. Samuelson in the Washington Post. If you missed it, I will have it reprinted in the CONGRESSIONAL RECORD following my remarks. In his usual succinct style, Mr. Samuelson reminds us of the dangers associated with mandatory notice provisions, while at the same time putting U.S. companies on notice that they need to do more by themselves, as opposed to Government mandates. Sure, there may be some temporary winners, but those are the companies that are spared making the tough decisions associated with change. Older and middle-aged workers might retain their jobs, but at the expense of younger workers who are more likely to have the kind of advanced training needed to make us more competitive. We stress the need for enhancing the math and science abilities of our students, and yet the plant closings and layoff provisions in this conference agreement threaten to leave these same students without job opportunities. How does that make us more competitive?

Quite frankly, it doesn't. While the overriding purpose of the trade bill is to enhance America's trade and competitive position in the world economy, the plant closings provisions would have just the opposite effect by eliminating needed flexibility for business and industry, thus reducing business' ability to expand and create jobs. Furthermore, the Foundation for the Study of Employment Policy in January published a study indicating that, had the plant closings legislation considered in the 99th Congress become law, the incremental costs to the American economy would have been $3.6 billion and that approximately 460,000 fewer jobs would not be available to American workers. I doubt that we want to see that happen.

I urge my colleagues to oppose the conference agreement and to support the Michel motion to recommit, thus deleting the objectionable plant closings provisions.

The above-mentioned article follows:

[From the Washington Post Apr. 20, 1988]

A MATTER OF SIMPLE DECENCY

(By Robert J. Samuelson)

Suppose you're a 52-year-old machinist. You've worked for your current employer for 18 years. One Thursday morning, you're told that the plant is shutting down a week from tomorrow. A little abrupt? You bet. But that's about the typical notice that many companies give their workers. It's indecent.

President Reagan will probably veto any trade bill that imposes federal notice requirements for plant closings or long-term layoffs. But even if his veto is sustained, the issue won't go away. It will come back next year or the year after. Unless companies give more notice themselves, Congress will do it for them. And that would be a pity, because this sort of regulation is self-defeating. It stifles economic growth.

The danger is not so much the current legislation as what might follow. What Congress now wants—and the administration opposes—is quite modest. It merely legislates a standard of decency: companies with more than 100 workers would generally have to give 60 days' notice before long-term layoffs or shutdowns. The trouble is that these requirements might be a first step toward more sweeping restrictions on layoffs. Proponents of the legislation concede that's what they want.

Down that path lies stagnation. There are temporary winners. Some workers and localities are spared the pain of change. But ultimately the economy bogs down. Older and less efficient plants are protected, while newer and more efficient plants are discouraged. The jobs of existing workers are protected at the expense of jobs for younger workers. Europe is a model of what to avoid. It's awash in laws and customs designed to preserve the status quo. Economic growth is feeble, and unemployment remains stuck at about 11 percent.

But no one should think that organized labor—the main sponsor of plant-closing legislation—is actually the principal force behind it. There are certain modest standards of decency that people expect from companies. When these standards are widely violated, public pressure builds for a political solution. On plant closings and layoffs, companies aren't measuring up.

Losing your job is one thing. Most Americans accept the threat of unemployment, no matter how much they fear it. But it's another thing to have your life turned upside down with hardly a moment's warning. People need time to come to terms with that kind of radical break. They also need time to get a sense of the job market, explore retraining programs or—for experienced workers—simply relearn the basis of how to search for work.

Of course, many companies provide ample warning. Under its union contract, USX (formerly United States Steel) is required to give 90 days' notice of shutdown. Some large companies like IBM and Du Pont have managed to avoid massive layoffs. They've trimmed their work forces primarily through early retirement programs. But most companies don't do so well.

The General Accounting Office, an agency of Congress, conducted a study of plant shutdowns and long-term layoffs for 1983 and 1984. The survey covered plants and offices with more than 100 workers. Here's what the GAO found:

In 32 percent of the cases, there was no notice. Workers were told to pick up their checks and disappear. In another 34 percent of the cases, the notice was less than two weeks. Only 19 percent of the businesses gave more than a month's notice.

Large companies didn't do much better than smaller. For work sites with fewer than than 250 workers, there was no notice in 35 percent of the cases and less than two weeks' notice in 29 percent of the cases. The record for bigger businesses was: no notice (24 percent) and less than two weeks (43 percent).

Blue-collar workers are more than three times as likely to be laid off as white-collar workers. But both groups receive similarly short notice. In 67 percent of the cases, companies provided less than two weeks notice for blue-collar workers; the comparable proportion for white-collar workers was 59 percent.

It's hard to excuse these appalling results. Remember that the survey focused on fairly large companies. Work sites had at least 100 employees. The only mitigating factor was the availability of some post-layoff benefits; income support—mostly severance pay—in about half the cases; health insurance in about 40 percent; and counseling in about a quarter of the cases. Nor is this merely a Rust Belt problem. When Shearson Lehman Bros. bought E.F. Hutton, it dismissed thousands of workers and gave many no more than two weeks' notice.

But all problems don't have good legislative solutions. Congress' current bill demonstrates the practical difficulties. It exempts companies hit with an unpredictable natural or business disaster—a hurricane or loss of a big contract. Also exempted are companies seeking to keep a plant alive by seeking new business; announcing the plant's impending shutdown might doom these efforts. Both these exceptions make sense. But both create ample room for disagreement and bad faith.

Once government began regulating layoffs, it's hard to tell what it might do. As originally introduced, the notice bill imposed harsher conditions. In some cases, it required as much as six months' notice. Companies would also have been required to engage in consultations with affected localities. Might companies someday be forced to pay training expenses for laid-off workers? The whole point of adding more—and costlier—requirements would be to stop shutdowns and layoffs from happening at all.

Heartless though it seems, the administration's opposition to federal notice provisions is farsighted. The best way not to slide down this slippery slope is not to get on it at all. With big budget deficits, Congress is eager to vote benefits than can be paid for by business. But one veto won't make the issue vanish. With unemployment now below 6 percent, the question of mass layoffs is mostly an abstraction. In the next recession, it won't be. And aging baby-boom workers will want more security.

Defining a universal standard for decent notice is impossible. Companies and industries differ. But it's not hard to define the indecent: the nonexistent or minimal notices given today by many companies. Maybe three weeks is adequate, maybe six. Three days, though, just stinks. Companies focus on their short-term costs and profits. The resulting behavior inspires antibusiness legislation. Whatever happened to enlightened self-interest?

Mr. Speaker, indeed this bill has come a long way from when it first began as a very highly protectionist emotionally charged issue that has at least fortunately today abated in its intensity. As a result, the Congress I think has worked long and hard with the administration in trying to foster cooperation and getting a bill that all of us can agree with. Obviously there are still some problems in the bill and I would like to just highlight the major problem that have with this bill, and that is of course the plant closing provision.

First of all, let us understand that the plant closing provision has absolutely nothing to do with the trade bill. It is not germane and I suspect that if it were to have been offered on the floor of the House during our deliberations on the floor on the bill, that it would have been ruled nongermane.

The other body was able to submit it and we find it is still in the conference report after some reports that it may have been removed at some point. I think that is unfortunate because of what this bill does in the general sense.

I would like to ask the Members who have sponsored and supported the plant closing provisions one question, and that is, how does this provision, the plant closing provision, make us more competitive in the world economy?

I really am not able to get an answer to that question, but I would be glad to yield to anybody who would like to take that on. It seems to me that that is the basic question.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. OXLEY. I am happy to yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Speaker, I am glad the gentleman from Ohio [Mr. OXLEY] has asked that question. I think it is one that seems to trouble Members.

First of all, this is a trade bill not necessarily just related to competitiveness. There is a number of good competitiveness improvements here, but it is also a bill to take care, as in fact a key part of the administration's proposal would do, work with workers that are thrown out of their jobs, some 2 million a year, about 1 million at least of those being related to trade. A cornerstone, an important part of the effectiveness of that administration proposal as in their own report is to have adequate notice in order to get with those workers in sufficient time to be able to retrain them and find good employment for them so that they can become more productive workers in other occupations.

Mr. OXLEY. Mr. Speaker, reclaiming my time, I appreciate the remarks of the gentleman from Vermont [Mr. JEFFORDS]. I obviously do not agree because I do think that this provision does not make us more competitive and frankly it makes us less competitive. All we have to do is look at some of the countries that we compete with which countries have these kinds of provisions in law on their books and I think it shows that we are a lot more competitive with them. To allow the leeway that our companies need to make these tough decisions in an economy that is in many cases a changing one and a rather abruptly changing one, these provisions are not beneficial. What concerns me frankly is that we are inserting the Congress of the United States, the Federal Government, into what has traditionally been management-labor negotiations and it disturbs me when the labor unions who cannot get what they want at the bargaining table come to the Congress and ask for this kind of provision.

This bill was defeated on the floor of the House, I might remind my friend the gentleman from Vermont [Mr. JEFFORDS] and my friend the gentleman from Ohio [Mr. PEASE] who I will yield to in just a second. This bill was defeated when it was standing on its own and everyone understands that the only way one can get a plant closing provision is to stuff it into a bill like the trade bill because they simply do not have the votes to pass it in both Houses otherwise. I understand the President will veto this bill because of this provision, and I think he is absolutely right if he does.

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. OXLEY. I am happy to yield to the gentleman from Ohio.

Mr. PEASE. Mr. Speaker, I appreciate the gentleman from Ohio yielding. Since the gentleman from Ohio has asked this question, I am delighted to try to answer it.

The plant closing provision is not my provision. The gentleman from Vermont [Mr. JEFFORDS] is entirely correct, this is a trade policy bill, a national trade policy bill and an essential part of that policy is convincing the American people including American workers that international trade is worth the candle. Some people are going to lose their jobs because of international trade. We know that. We provide in the bill for retraining workers like that.

Mr. OXLEY. Mr. Speaker, reclaiming my time, what about the people who lose their jobs not because of international trade but because of a lack of domestic markets? Those people and companies are treated the same way as they would as if a company lost business because of international competition. That is my concern. It paints the entire industry, the entire economy with one broad brush. I think that is unfortunate.

Mr. JEFFORDS. If the gentleman will continue to yield on that point, I would point out that there are substantial differences between this provision, the notice provisions in this bill than there were in the provisions which were in H.R. 1616 which the House defeated.

Primarily, No. 1, we deferred basically, or we urged people to defer until the Brock task force came out with their proposal. Their proposal indicated that it is extremely important to have notice provisions to make retraining programs and retraining proposals work.

Second, this bill is substantially different in the length of time of notice, and all other notice provisions, and has many safeguards to protect the employer against having sudden termination in its business, loss of contracts, and all those aspects. Much more protection, I might add, than H.R. 1616.

Mr. OXLEY. Mr. Speaker, I appreciate that, but it seems to me we have a basic philosophical difference, and we have to answer that question whether we want the Federal Government determining for small business particularly how they make those decisions. I think the answer to that is "no," very clearly so, and clearly the administration feels the same way. They have already signaled that a veto is imminent, and I would support that. I would like to see this bill passed but it is not going to pass with this provision in it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY of New York. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time. First of all, I do wish to congratulate the gentleman from Illinois [Mr. ROSTENKOWSKI] the chairman of the Committee on Ways and Means, and the gentleman from Florida [Mr. GIBBONS], and the gentleman from Ohio [Mr. PEASE], and the members of the staff for doing simply an extraordinary job in working on this legislation. All parties richly deserve our accolades for the hard work and thoughtfulness that they have provided to this task.

Mr. Speaker, let me just say that this legislation is not a panacea for those who seek one in terms of correcting trade imbalances, but it does begin the process of setting a level playing field for those countries and corporations that want to do business with the United States. We have resisted, correctly so, the temptation to be protectionist with this piece of legislation. We have also wisely resisted the temptation to place the cost of free and fair trade solely on the backs of American workers.

America's not only entrepreneurial spirit but the sweat of the laborers have made this country great, and we have provisions in this bill that are necessary and appropriate to making sure that they are protected from the vagaries of the marketplace.

First of all, the gentleman from Ohio [Mr. PEASE] has worked especially hard on the trade adjustment assistance section of the bill. The price of free trade should be that the American Government pays attention and cares for American workers disrupted by free trade. Trade adjustment assistance in some small measure attempts to do that.

□ 1140

Second, with respect to the plant closing provision, this is a modest proposal. It simply says that the 2 million workers who have lost jobs in the past should also not be put out in the cold by free and more intense competition from abroad.

I had many other wonderful things to say that can be found in my very fine speech.

Mr. Speaker, I rise in strong support of H.R. 3, the Omnibus Trade and Competitiveness Act of 1988 and I want to take this opportunity to commend Chairman ROSTENKOWSKI, Chairman, GIBBONS, and my colleagues on the Trade Subcommittee for the effort which has been made to produce a trade bill which can begin to help this Nation—its workers and its industries—regain its competitive position in the world.

No legislation can take the place of the hard work which must be done by the business and labor communities to become competitive in the global market. But, this legislation provides a legal and policy framework which will assist Americans in obtaining a level playing field in the world trading system. It sends a strong message to foreign governments and foreign companies that the United States refuses to accept business as usual and wants to halt unfair trade practices, obtain market access, and eradicate nontariff barriers which impede world trade. The bill before us today makes progress in all of these areas and stands as a critical milestone in improving American trade law.

Mr. Speaker, we have resisted the temptation to pass broadly protectionist legislation and we have remained true to the tradition of free and open trade. And we have also tried to ensure that the cost of free trade is not borne solely by one group—American workers.

Because of this, we hear loud lamentations and threats about the inclusion of the plant closing provision because it does not belong in the trade bill or because it will hinder competitiveness. As a Member who is strongly committed to free trade, I say to my fellow free traders that the plant closing provision, together with the strengthened trade adjustment assistance provision and the workers' rights provision are the price of our commitment to free trade.

The plant closing provision simply requires that employers of 100 or more full-time workers give 60 days advance notice of plant closings and mass layoffs. Every year, Mr. Speaker, 2 million Americans lose their jobs as a result of mass layoffs or plant closings. Two out of every three workers who lose their job because of a plant closing receive no advance notice at all. This is inexcusable. It can be remedied by the adoption of the plant closing language.

In this trade bill we have strengthened the Trade Adjustment Assistance Program, and I commend my colleague, Mr. PEASE, for his long and hard work on this issue. We have extended the eligibility for workers in secondary industries and we have made the training program an entitlement. By doing this we are saying to the American worker, we as a Nation are prepared to stand by you and your family if you lose your job for trade-related reasons. We recognize that there is a compact between those who gain because of our free trade system and those who lose. We recognize that unless there is some form of assistance, the market will not take care of all people.

It is imperative that we adopt these provisions in order to provide a balanced and fair national trade policy. To do otherwise would be to take a giant step backwards in labor relations.

Mr. Speaker, I would like to turn my attention now to another critical section of the bill. I am especially proud of the provisions adopted in this legislation which improve the international protection of intellectual property. In March, 1987, I introduced H.R. 1328, the Anti-Piracy and Market Access Act, because I believed that the United States was not doing enough to safeguard an important sector of its economy which relies on the security of patents, copyrights and trademarks. I am pleased that the major points of this bill were incorporated in H.R. 3, and I thank Chairman ROSTENKOWSKI and Chairman GIBBONS for their support.

It is clear that many of the industries which are involved in the creation of intellectual property are on the cutting edge of technological change—change critical to an enhanced competitive posture for the United States. Furthermore, intellectual property industries return vast sums to the Treasury through a favorable balance of trade. It is these very industries which are most vulnerable to the work of sophisticated pirates who literally steal the creative genius of our Nation while their governments often look the other way. Billions of dollars in sales are lost yearly by the piracy of American intellectual property resulting from lax enforcement of patent and copyright laws or the total absence of such forms of legal protection in foreign countries.

Enhanced protection for intellectual property is provided in H.R. 3 through the means of identification of priority foreign countries where piracy is most egregious followed by the initiation of a section 301 investigation by the U.S. Government on an expedited basis requiring a determination by the U.S. Trade Representative within 6 months after the date of initiation. This expedited anti-piracy mechanism will send a strong signal to our trading partners in both the industrialized and developing world: Move against pirates or risk trade retaliation by the United States.

While moving against pirates who do everything from the reverse engineering of complex drugs to the illegal copying of books, records and videocassettes, H.R. 3 also provides market access to those persons who rely on intellectual property protection. The denial of market access—the erection of nontariff barriers which prevent the conduct of business in a foreign country—is a growing problem for U.S. intellectual property industries. One only has to look at what is occurring in Canada today to understand the need for an effective market access provision relating to intellectual property protection.

In the name of "cultural sovereignty" Canada has proposed restrictions on film distribution by United States companies which would damage this industry and establish a precedent which could be emulated by many other nations. What the Canadians are trying to do in the name of culture is shift financial benefits from American to Canadian hands. This unfair trade practice would be covered by the provisions from H.R. 3. It was clear to members of the conference committee that Canada's policies in the cultural field as they related to trade by industries which rely on intellectual property protection have a potentially adverse impact on an important sector of the United States economy and must not be countenanced.

In this regard, I want to draw the attention of my colleagues to the consensus of the conferees as expressed in the statement of managers that if the President must take action against a foreign nation which denies market access to a U.S. person, he should design a response which would discourage the erection of similar market access barriers in other countries. To me this is a clear direction to the President that in the determination of appropriate retaliatory measures in response to the denial of market access opportunities he should take into account the potential direct and indirect economic damage resulting from such foreign practice or act.

This is a critical addition to our arsenal of trade laws. I strongly urge my colleagues to vote for H.R. 3.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I would like to clarify with our distinguished chairman of the Ways and Means Committee the intent of section 1322 of the conference agreement, the provision relating to enforcement of steel quotas negotiated in voluntary restraint agreements.

Some of our most loyal and important allies, such as Thailand, are concerned that their traditional export shipments of about 120,000 metric tons of steel to the United States may be jeopardized even though no circumvention through Thailand, or by Thailand through another country, is occurring.

I would like to clarify with the chairman that this new authority is discretionary, is meant to apply only when circumvention is occurring to the detriment of the United States steel VRA program, and is not likely to apply to traditional exporters of minimal shipments of steel products like those in Thailand who are not involved in circumvention efforts.

If the chairman concurs, I would ask him to join me in a letter to the Secretary of Commerce clarifying the intention of this new authority.

Mr. ROSTENKOWSKI. If the gentleman will yield, the gentleman is correct. The authority is discretionary, not mandatory, and I would be happy to join him in an appropriate letter at the proper time.

Mr. DUNCAN. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, There is so much to talk about on this trade issue. The bill is huge and it's been worked on for years and years. There are good, solid provisions in the bill and there are some weak provisions in it, too. But we need a trade bill now. I just think it would be a shame to get tangled up in our scabbard with some of the incidental issues.

One of those issues, I think is plant closing. I'm going to vote for re-committal because I don't think plant closing should be a part of the trade bill. But if this doesn't work, I will vote for the bill.

The idea of the camel getting its nose under the tent—businesses being dictated to by Government—is ridiculous. What about OSHA, what about Sherman Anti-Trust, what about Robinson-Patmann? These are things which government and business have worker together on.

However that is not the issue. The issue is trade. And, Mr. Speaker, I guess I can say this. We've spent 3½ years crafting trade legislation. Now, when financial markets worldwide need a sign of our unity and resolve on trade, the process fails, not because of substance, but rather because of vanity.

We've just witnessed another increase in our trade deficit. It now stands at $13.8 billion—up from $12.4 billion. With sharp indications like that, if we now go back and say to the world, "we cannot resolve these trade issues, we've studied them and we're unable to come to an agreement—we're in paralysis," this is just plain wrong.

No matter how you feel about plant closings, the fact is the trade bill in its entirety benefits America. It gives the President authority to negotiate in the Uruguay round. It gives the USTR authority to take whatever actions necessary to eliminate or offset unfair foreign trade barriers to our exports. It frees up the United States-Canadian Free Trade Agreement. It provides education and training for our workers. It gives our industries and workers hurt by foreign competition assistance they need to become competitive.

Mr. Speaker, we need a trade bill, we need a trade bill, we need a trade bill, we need a trade bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2½ minutes to the gentleman from New Jersey [Mr. GUARINI].

(Mr. GUARINI asked and was given permission to revise and extend his remarks.)

Mr. GUARINI. Mr. Speaker, I am very pleased to be here to lend my support to the Omnibus Trade and Competitiveness Act of 1988. We have spent 3 long, involved years working to craft a trade reform bill that would promote U.S. competitiveness and make our trade remedies more responsive to complex foreign trading policies and practices.

In terms of trade, we lost $171 billion last year. We had our sixth consecutive year of record trade deficits. Since 1980, we have lost 3 to 4 million jobs. The agony is most severe where the actual and potential losses are greatest—in steel and textile States, for example, and in my own State of New Jersey where more than 5,500 companies and 100,000 jobs are directly related to exports.

H.R. 3 is not as comprehensive as the trade reform package I had originally envisioned. There are a few areas, such as the antidumping and countervailing duty provisions, which I would have liked to see strengthened. But we should not fail to enact this vital legislation becauee of those shortcomings.

By enacting this trade reform bill, we are providing the critical tools that can make our trade laws more effective in combating unfair foreign trade policies and practices. In areas such as export targeting and workers rights, we've provided the authority for our U.S. Trade Representative to take action, but it will be up to him to exercise that power. In another provision, we've given the USTR authority to identify priority unfair trade practices and barriers which are most damaging to the United States. But again, it's up to the USTR to aggressively negotiate for their removal. We've provided the critical authority to take action against unfair trade practices while maintaining the necessary flexibility for important economic and national security considerations.

I don't believe this trade bill alone will rectify our current trade and competitiveness situation. But neither will a falling dollar. The solution to our trade deficit lies in a coordinated effort by U.S. Government, U.S. industries and our trading partners. In enacting this legislation, we are doing our part to demonstrate to the world that we are a nation determined to regain its position as a world leader in trade. It's time that we pass this vital legislation and call upon the President and the U.S. Trade Representative to exercise their authority to its fullest, to vigorously pursue those unfair trade barriers and practices, and to take the necessary action that will enhance the competitive position of U.S. industries.

Mr. Speaker one of the provisions of the trade bill before us authorizes the United States to implement the International Coffee Agreement, of which we are a signatory.

This implementing bill permits retroactive implementation of the enforcement provisions of the ICA to January 1, 1987. It is my understanding that these interim procedures have worked well. There is concern, however, among some importers when this bill becomes law, the Customs Service might feel that they should go back and reexamine entries from January 1, 1987.

The enforcement mechanisms of the ICA did not go into effect until October 4, 1987 and documentation procedures from all exporting countries were not fully in place until the first of this year. It is not my intention that the retroactive provision apply before the documentation procedures were in place and I would appreciate it if the chairman could confirm that, except in unusual circumstances, the Customs Service would not be reexamining any import transactions in the coffee trade before the first of this year, 1988.

Is this your understanding, Mr. GIBBONS?

Mr. GIBBONS. If the gentleman will yield, that is my understanding of this situation.

I thank the chairman for that clarification and for his help in this matter.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE], a member of the Judiciary Committee.

Mr. HYDE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, title IX of the trade bill addresses patent law topics that are very important to American technological innovation. As a member of the trade conference and a member of the House Patent and Copyright Subcommittee, which drafted this part of the trade bill, it is important to point out that there are parts of this bill which are very important to American creativity and innovation. Subtitle A, the Process Patent Amendments Act of 1988, is of interest to a large number of technology-based U.S. companies. This provision grants U.S. process patent owners protection similar to that which is already enjoyed by all of our trading partners.

Under current law, a business that wants to manufacture a product in the United States by using a process patented by someone else has to obtain a license from the patent owner or else risk infringing the patent and suffer legal penalties. The same business, however, can import the same product and sell it in the United States without infringing the patent. The trade bill attempts to close this loophole, which is encouraging manufacturing outside the United States.

In circumstances defined in the bill, owners of process patents will be able to obtain monetary damages to compensate them for infringement through importation, use or sale of products manufactured abroad. The process patent amendments complement amendments to section 337 of the Tariff Act of 1930, found elsewhere in the trade bill. The amendments to section 337 strengthen the rights of patent and other intellectual property owners by making it easier and less expensive to exclude infringing imports at the border. One main difference between the process patent remedy and the section 337 remedy is that the process patent remedy makes available monetary damages for past infringement.

I am pleased that the conferees have eliminated some limitations on remedies for process patent owners that were found in the Senate bill, although I would have preferred further strengthening. The bill that has been agreed to eliminates limitations on damages that could have been regarded as compulsory licensing of patents. This is critically important, as the strength of incentives for invention and investment provided by U.S. patent rights depends upon providing rights to the patent owner to exclude competitors from practicing the invention. A right merely to receive a royalty from others who practice the patented invention is a much weaker incentive for future research and development.

The conferees made a major improvement by adopting language that has the effect of deleting from the Senate amendment an exemption for goods which a "party has made a binding commitment to purchase and which has been partially or wholly manufactured." This agreement addresses one of the principal objections raised by industry and the administration, and eliminates the appearance of compulsory licensing.

The conference agreement allows an infringing entrepreneur to sell off all the inventory he has on hand and any product in transit to him. This agreement strikes a reasonable balance between the need to provide effective enforcement of process patent rights and the need to avoid undue hardship to importers and other parties who make commitments without knowledge of infringement by their manufacturers or suppliers.

The conferees accepted the request for disclosure procedure of the Senate amendment, with modifications. I would have preferred no request for disclosure procedure. A large number of companies have complained that the request for disclosure procedure in the bill is an unnecessary burden on patent owners and gives patent owners responsibility for supplying information about patent rights that can be obtained easily by the other party from public files.

The request for disclosure provisions as adopted make clear that good faith demonstrated by a defendant with respect to requests for disclosure does not give the defendant a right to any kind of compulsory patent license. Lack of compliance with request for disclosure obligations as outlined in the bill may prevent a patent owner from obtaining remedies and may cause a defendant to be deemed to have notice of infringement, but good faith utilization of a request for disclosure does not give defendants exemption from remedies for infringement. The purpose of requests for disclosure is to give information to importers and distributors that might assist them in avoiding infringement.

It should be clearly understood that the act of identifying all process patents owned or licensed by a person, in response to a request for disclosure under the bill, does not serve as a basis for the party who requested disclosure to institute a declaratory judgment action to litigate infringement or validity issues. Identification of a process patent in response to a request for disclosure is not a threat to enforce the patent against the party requesting disclosure.

The bill as adopted does provide an alternative for patent owners who wish to avoid requests for disclosure. The alternative is to mark the number of the process patent on the products made by the patented process that have been sold by that person in the United States. This is similar to the patent number marking option which is available under existing law for owners of product patents.

The conferees improved the provision defining what notice is sufficient to trigger infringement liability, by deleting the explicit requirement that, as a part of the notification process, the patent owner must set forth actual knowledge of any commercial feasible process other than the patented process which is capable of producing the allegedly infringing product.

I would have preferred a notice provision similar to those in earlier bills that made the filing of a lawsuit trigger infringement liability in every case. The notice of infringement requirement in the bill, triggering infringement only after information is provided which is "sufficient to persuade a reasonable person it is likely" that infringement is occurring, will have to be monitored closely by Congress. The conferees do not intend for this provision to exempt importers and other infringers from significant damage liability. The provision does not require a patent owner to prove infringement in order to start damage liability.

The bill calls for annual reports by the Secretary of Commerce on the effect of the process patent amendments on domestic industries which allege that their legitimate sources of supply have been adversely effected. The reports will continue for 5 years. It will be important for Congress also to monitor whether the legislation is strong enough to deter importers and distributors in the United States from dealing with illegitimate sources of supply. If experience shows that the notice of infringement requirements or other limitations on damages prevent process patent owners from enforcing their rights, Congress will have to amend the legislation.

I am hopeful that the process patents amendments, although more complex and limited than necessary, will prove to be an important additional weapon for U.S. companies to use to combat piracy and infringement of U.S. technology. We must put a stop to any further erosion of America's technological leadership cause by foreign manufacturers taking a free ride on the research and development efforts of our industry.

Subtitle B, the Patent Law Foreign Filing Amendments Act of 1988, is a useful technical modification of the patent code to prevent accidental loss of patent rights. The amendments provide flexibility in the requirement of existing law that a party may not send abroad any information in a foreign patent application without waiting for 6 months after filing the same information in a U.S. patent application. An implementing regulation under existing law was interpreted to mean that no foreign application may contain any information whatsoever which was not in the U.S. application. The amendments will allow parties who filed information abroad without deceptive intent to obtain a retroactive license if no information was disclosed that was important to national security.

Subtitle C extends the term of a patent issued for the drug "Lopid" for 3 years and 6 months from the date of its expiration. This patent extension responds to unique circumstances surrounding the regulatory testing and approval of Lopid. The extension is necessary in order to provide fair and equitable protection for Lopid under the patent law. The conferees changed the format of the patent extension provision by removing it from the patent code and placing it in the form of a private bill, since the extension deals with a unique situation and does not prescribe rules of patent law of general applicability.

The extension of the patent on Lopid is sound, well considered legislation. Because this legislation makes a positive contribution to the U.S. trade picture, it belongs on this bill.

The pharmaceutical industry generally makes a positive contribution to our trade balance. In 1987, this amounted to approximately $800 million. The extension of the patent on Lopid is consistent with maintaining this favorable trade balance and ensuring fair competition in this important area of international trade.

Anticholesterol drugs are an important part of the international, pharmaceutical trade marketplace, and are growing in importance as people become more health conscious and our scientific knowledge expands. Recently, anticholesterol drugs that share some of the characteristics of Lopid, such as raising the "good" cholesterol, HDL, have been developed by companies in France, penofibrate, Germany, bezafibrate, and Japan. Lopid will compete with these drugs, but unless its patent is extended, that competition will be unfair.

The health benefits of raising HDL have only recently been demonstrated by the Warner-Lambert funded Helsinki heart study. Without this Warner-Lambert study, no market would exist for these drugs, since these drugs all are based on the medical hypothesis proven by the study that raising HDL, while lowering the "bad" cholesterol, LDL, helps prevent heart attacks.

Thus, these foreign drugs will unfairly benefit from the development and research conducted at great expense by Warner-Lambert Co. One recent estimate is that Warner-Lambert has spent approximately $177 million on Lopid, and the drug still has not been approved for the medical use it was designed to meet.

Because of the length of time that has been required to complete the development and study of Lopid, Warner-Lambert has not had sufficient opportunity to recover its investment and a fair return before the expiration of the patent in July 1989. Congress, by mandating a limited patent extension of 3½ years, will provide Warner-Lambert with this opportunity and allow Lopid to compete favorably against these foreign products.

It is not too much to say that Lopid is a breakthrough in pharmacology every bit as significant as the VCR was to the electronics industry. Are we going to repeat history and allow foreign interests to steal the initiative away from Americans who developed and researched a new, important product?

Although the trade bill could not deal with all of the issues involving patent law that have come before the 100th Congress, the conferees and their staffs have devoted a great deal of effort in attempting to improve the trade-related aspects of patent law so that U.S. industry and inventors can protect their technology more effectively.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. MOORHEAD], another member of the Judiciary Committee.

Mr. MOORHEAD. Mr. Speaker, although many of the provisions contained in this trade bill have been worked out and will go far in helping our trade deficit, I will have to vote against the conference report for reasons I have expressed elsewhere in this statement. It's particularly difficult for me to vote against this conference report because it contains provisions relating to process patents which we have finally worked out after 5 years of hearings and negotiations.

In this regard I would like to commend the gentleman from Wisconsin, BOB KASTENMEIER, who provided the support and leadership in the process patent area without which we would not be here today. I would also like to commend our ranking Republican, the gentleman from New York, HAM FISH, for insisting from the very beginning that intellectual and industrial property matters be made part of the trade bill. His support and leadership have also been very valuable in bringing this matter to the floor today.

As I said earlier, I very much regret having to vote against this legislation. The plant closing notice provision is a serious mistake. Not that notice to an employee of a plant closing is a bad idea. Such notice is the decent thing to do. And a number of big plants provide employees with such notice, but what concerns me is a Government-mandated notice. It is one thing for a business to voluntarily provide such notice, but quite another for the Government to require it. Where a business can, it should provide notice but my second concern is that a business forced to provide such Government-mandated notice will be locked into a fixed closing date when it might have been able to hang on a little longer and make it through the tough months. In many cases the 60 days' notice is not going to help the employee because he might not have any place to go and what's really important to him is keeping that business open and what mandated notice does is make it more difficult for that business to stay open. For this reason I will support our President and vote against the conference report even though there are many worthwhile provisions in this trade bill.

As a Nation, we have finally become aware of just how important our industrial and intellectual property law is, not only domestically but also internationally. As the largest exporter of industrial and copyrighted works, it only makes sense for the United States to provide American creators and inventors with the best protection available. In a recently released study prepared by the United States International Trade Commission, entitled "Foreign Protection of Intellectual Property Rights and the Effect on U.S. Industry and Trade," respondents estimated their aggregate worldwide losses as a result of inadequate intellectual property protection in 1987 at $23.8 billion, which can be translated into nearly 300,000 jobs lost for Americans.

We are all aware of the trade deficit and the massive number of foreign-made products coming into the country. People in other countries are using the ingenuity of our inventors to create goods and send those goods into this country to compete with American made goods and consequently beating us with the use of our own technology. The two provisions contained in the trade bill which came out of the House Judiciary Committee address this problem; one revises the procedures used by the International Trade Commission when considering copyright and patent law violations, and the other deals with process patents, which conforms our law with that of most of our trading partners and closes a significant loophole in our patent law.

Under existing conditions, a patent is infringed only if the patented product or process is used, made, or sold in the United States. This is sufficient in the case of a product patent because any item produced overseas and sold in the United States effectively infringes on the patent holder's rights.

However, in the case of a process patent there is no effective way by which a patent owner can prevent a firm from duplicating and using the protected process overseas and then selling the product of that process in the United States.

The Process Patent Amendment Act of 1988, as contained in title IX of the "Omnibus Trade and Competitiveness Act of 1988," closes a gap in U.S. patent law that has aided foreign firms that pirate American intellectual property at the expense of American innovators, jobs, and balance of trade.

Under current law, if the patented process is practiced within the United States without authorization of the patent holder, the patent holder has recourse against the manufacturer. If the patented process is practiced outside the United States and the resulting product is imported, used, or sold within the United States, the patent holder cannot obtain damages for the unauthorized use of its U.S. patent.

These amendments do not, in any way, reduce the current protection against unauthorized practice of the patented process within the United States. Rather, the amendments extend the protection, with some modifications, to unauthorized practice offshore, as most other nations have done for the process patents they issue.

Specifically, if a party in the United States knew he was dealing in infringing merchandise—whether by importing, using or selling the product resulting from the patented process—he is liable for infringement from the time he acquired such knowledge until he ceases infringement unless the use is noncommercial or a retail sale and an adequate remedy is available from other parties. For example, if the party contracted for goods to be made abroad by a specific process and that process was covered by a current, valid U.S. process patent, the party is liable for infringement as a party with knowledge just as if he had practiced the process himself.

If the U.S. party did not know he was dealing in infringing goods, but owned or controlled or is owned or controlled by the person who practiced the patented process outside the United States, liability begins upon a communication from the patent holder of the type that currently suffices as notice of infringement of any kind of patent.

With regard to parties who did not practice the patented process—themselves or through corporate affiliates—or who did not know what process was in fact used, the conferees fashioned a different, more rigorous notice standard, one that does not trigger liability, assuming infringement is ultimately proven, until the infringer has "information sufficient to persuade a reasonable person that it is likely that the product in which he is dealing was made by a patented process."

This higher notice standard was permised on the assumption that U.S. purchasers sometimes do not have the leverage to ascertain what process is used by a foreign supplier or obtain patent indemnification clauses in their contracts to insulate them from liability for infringement. Since patent infringement cases are tried in courts of equity, the conferees expert courts will balance the notice requirements with the degree to which infringers elected not to use their leverge in ascertaining what processes were in fact used or to avail themselves of heretofore normal contractual terms what protect them against infringement liability.

Conferees appreciate that importers, users, and sellers may acquire the information in a variety of ways about the processes used to manufacture products for them. The patent holder may provide him with a written notification which: First, charges infringement; second, specifies the patented process alleged to have been used; third, provides the reasons for a good faith belief that such process was used; and fourth, such information as is reasonably necessary to explain fairly the patent holder's belief unless such information is a trade secret. Such a written communication would completely satisfy the notice requirement. Assertions to the contrary by the foreign manufacturer or supplier would not vitiate this notice.

Rather than detail the type of information that would be required to achieve notice, the conferees preferred to statutorily express the standard—likely—and the objective of the information—to reasonably explain the patent holder's belief. This reflects the conferees' belief that there may be many ways a patent holder may deduce that it is likely that its patented process is being used by an unauthorized person.

Process technology is important in the biotechnology industry, the electronics industry, and the pharmaceutical industry, among others. Recent examples of infringing imports involving process technologies include fiber optics and amorphous metals. During the last Congress we received many letters of support, one from the American Flint Glass Workers Union stating that they believed inadequate process patents protection has cost their industry alone upward of 50,000 jobs.

With regard to other provisions of the process patent section, one of the most important compromises was reached when the Senate agreed to delete its language that would have allowed an infringer to sell products for "which the party has made a binding commitment to purchase and which has been partially or wholly manufactured before the party had notice of infringement." This language went to the heart of the process patent legislation. The whole purpose of this legislation is to preclude the importation of products that violate a U.S. process patent. The patent owner would never be certain as to what was "partially or wholly manufactured, before the party had notice of infringement." An infringer could put together "a binding commitment" with the foreign manufacturer that could last for years. In a practical sense, a U.S. patent owner cannot determine whether imported and infringing goods were or were not "wholly or partially manufactured" when the commitment was made. These acts in a foreign country cannot be proved. Therefore, a court will be unable to assess damages or determine if there was actionable infringement. At best this language was mischievous and at worst it created a giant loophole.

Another significant act of the conferees occurred when the Senate agreed to delete from its notice provision the language "any commercially feasible process other than the patented process" was likely to have been used. The conferees decided against setting forth examples in the statute of the types of information that would be persuasive. In particular, the conferees dropped the Senate version's requirement that the patent holder set forth such information as is reasonably necessary to fairly explain the patent holder's belief that no commercially feasible process other than his was likely to have been used. The patent holder is not intended to have to establish a negative—that no other process could have been used on top of having to provide information that the patent holder has good faith reasons to believe that it is likely his patented process was used. Futhermore, it is not the intent of the conferees to require patent holders, as a condition of enforcing their intellectual property rights, to explain to foreign and domestic competitors how to avoid infringing their patent with a list of all commercially feasible processes, patented and unpatented, known to them for producing the product. Nor is it the intent of the conferees that a written notification provide a road map of how to defend against the allegation of infringement. Certainly, the conferees do not believe that information be required to achieve notice that would not be required to win the infringement case.

Conferees realized that parties may have access to many sources of information in addition to whatever written communication might originate from the patent holder. This bill is not intended to condone a practice of "putting one's head in the sand" or shutting one's eyes to suspicious business practices. Thus, the legislation requires a court to consider what other information was available to the infringer which would heighten a reasonable person's concern that he might be infringing. At such time as the totality of information available to a party is sufficient to persuade a reasonable person that infringement is likely, the court shall designate the party to have had notice.

For example, if a party is dealing with a supplier he knows to have a reputation for infringing patents, the written communication from the patent holder need not be as complete as that required under paragraph 5(B). Similarly, if the normal practice in the industry that supplies the particular type of goods is to infringe, the importer or seller may have a higher responsibility to investigate and gather his own information.

Once a person has notice that he is importing, using or selling a product that is likely to have been made by a process patented in the United States, he can either, one, stop what he is doing and avoid any possibility of liability for infringement, or two, continue to profit from his actions but do so at risk of being subsequently held liable for infringement damages if a court finds him to have infringed.

With increasing frequency, foreign firms are pirating American inventions and denying our people access to their markets. This legislation addresses this problem.

There is a provision in the conference report in the section 301 provisions of this trade bill that I believe is one of utmost importance. This is the so-called market access provision to improve international intellectual property protection which was in the Senate version of the bill but not in the House bill.

The original House version adopted on April 27, 1987, dealt only with the antipiracy provision. The Senate version dealt with both the protection of intellectual property from foreign piracy and market access to remove trade restrictions that deny entry of U.S. intellectual property into other countries. I strongly support both the market access and antipiracy provisions and am pleased to have had a part in insuring that these provisions are incorporated in the conference report.

The export of U.S. films, television programs, and home videocassettes return to this country each year more than $1 billion in a surplus balance of trade. A large portion of our country's wealth comes from the creation of intellectual property, which is in great demand around the world. A primary objective of the antipiracy and market access provisions of this legislation is to insure that intellectual property can move freely in world markets and be protected in other countries against unauthorized duplication.

Piracy and market access barriers cost American intellectual property industies billions of dollars annually. Often these twin problems operate in tandem, and they are unrestrained in many nations. Moreover, when our legitimate products are kept out by trade barriers, pirates rush in to fill the void with illegitimate copies.

Current trade law must be strengthened to provide for a comprehensive attack on our most egregious intellectual property trade problems. A swift, streamlined, and "fast track" approach is needed to address the unique needs of the intellectual property industries. This legislation recognizes the very special nature of intellectual property, that its full commercial value is often of very short duration and can easily be stolen.

The conference report provisions now address these problems by requiring self-initiated section 301 proceedings against offending countries that persist in maintaining market barriers.

Investigations are on a fast track; they must be concluded within 6 months, except where complex circumstances or responsiveness on the part of the offending nation suggest a short extension.

In most cases, a Presidential determination on any action recommended by the U.S. Trade Representative must be made within 30 days of the close of the investigation, with immediate implementation of any corrective measures. However, the President may have up to 4 months to render his decision in certain complex circumstances set out in the legislation. The proposal is not mandatory. The President does not have to act where he finds that to do so would not be in the national economic interest, or where the elimination of the acts, policies, or practices complained of is impossible.

This intellectual property provision is especially timely, because the Canadian Government is threatening to impose severe trade restrictions in the form of a licensing process which could reduce the American film industry's ability to market its films in Canada. Canadians urge the adoption of their trade barriers under the phrase "cultural sovereignty." What they really mean is that they should have economic sovereignty over the distribution of films in Canada. Moreover, the Canadians want to deal with not only films but publishing works. They propose restrictions that would have an immense adverse impact on our U.S. intellectual property industries.

For this reason, I am pleased that the Senate and House conferees have been able to agree on an effective improvement in international intellectual property protection, one that is sorely needed as our intellectual property industries deal in an increasingly complex world beset by many trade problems unknown only a decade ago.

The conference did not reach agreement on patent misuse doctrine reform or on legislation covering the rights in a patent license agreement when the licensee challenges the validity of the patent litigation. I would have favored appropriate legislation to eliminate the patent misuse doctrine to the extent that it prohibits patent licensing practices that do not violate the antitrust laws. The courts should rely on the antitrust laws as the measure of licensing practices that interfere with competition. The patent misuse doctrine, containing arbitrary prohibitions against certain licensing practices, discourages licensing that could stimulate competition and result in more widespread commercialization of technology for the benefit of the U.S. economy.

The conferees were unable to resolve all of the issues relating to licensee challenges to patent validity. Confusion has existed in patent law concerning the rights of licensees and licensors since the ruling by the U.S. Supreme Court in Lear against Adkins in 1969. Relatively recent decisions by the U.S. Court of Appeals for the Federal Circuit, however, have answered some of the questions that existed when the legislation on this topic was originally drafted.

In a article in the February edition of Forbes magazine Howard Banks states:

> For going on 40 years, the United States has been sacrificing national economic interests to the bigger cause of keeping the Free World prosperous. Simple arithmetic says the party is over. No more "Mr. Nice Guy."

I believe Mr. Banks is right on target. However, you have to be very careful when making a comment like that in the area of international trade because someone, somewhere will quickly label you a "protectionist." For that record, I am not a "protectionist." I strongly support free trade, but the only country to practice free trade in the real sense of opening up their borders to anyone and everyone is the good old United States of America. The international definition of free trade is to sell as much as you can as often as you can but only in the United States. We as a country have permitted this double standard and our trading partners continue to get away with it because they know that we will not retaliate. This trade bill makes a strong statement that the time of the double standard is over and I believe our trading partners will understand it.

Our market is the biggest chip we have to play. The only reason that countries like Germany, Japan, Taiwan, South Korea, and the rest are as well off as they are is because of the access they have had over the years to our market. Is it protectionist to say, "We'll buy your shoes only if you permit us to sell personal computers in your country?" Is it protectionist to say, if you want to sell cars in this country then open your markets to American beef, American citrus fruits, and American wheat. If our trading partners want access to the best market in the world then they better be prepared to provide us equal and fair access to theirs.

These provisions in the trade bill make a number of important changes regarding intellectual and industrial property law. They are changes that are important to U.S. industry. They are changes that are important to U.S. inventors and they are changes that are important to maintaining U.S. ingenuity and creativity. Most provisions of the trade bill have the strong support of the administration, and I hope we can resolve other differences so this legislation can be quickly enacted into law.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, when I introduced H.R. 3 at the beginning of this Congress I said that "we face a difficult challenge: the unfinished business of moving Amercia ahead to face unprecedented international trade challenges, which pose as serious a threat to our Nation's future as any that previous Congresses have faced."

Unfortunately, this bill represents a missed opportunity. The bill does not represent the fundamental change that is necessary for our trade policy.

I know that many Members share my deep concern about the economic future of our country. Our Nation cannot continue the policies of Ronald Reagan that have resulted in huge Federal budget and trade deficits.

In the 8 years of the Reagan administration we have seen our budget deficit reach historic levels. We have seen our position as the world's largest creditor nation erode to the point where we are now the biggest debtor. Millions of manufacturing jobs have been lost as well as thousands of family farms. We cannot continue to mortgage our future.

For several years I and others have fought for fundamental change in our trade policy. We have been able to forge a consensus, at least among Democrats, about what we must do to compete: strengthen education, improve productivity, and invest in plant and equipment and people—the human capital which is the most decisive factor of production.

There is, however, a disagreement, even among Democrats, about how to ensure access to the international marketplace. This administration's views are rooted in the past: They refuse to recognize the changing reality of today's global economy. They have pursued a piecemeal approach to unfair trade practices responding more to the progress of legislation in Congress than the needs of our workers and businesses.

This administration turned my amendment into a symbol of a new departure in trade policy. In rejecting the symbol, I feel that they may be rejecting this new departure as well: A new departure which is critical to America's economic future.

Our Nation cannot afford to accept this administration's failures. We must aggressively assert our rights in the international marketplace. Congress must refuse to share the blame. Rather, we must forge a new trade policy that guarantees to our workers and businesses that if they make a good product at a competitive price, they will have the opportunity to sell it in foreign markets as freely as we allow those countries to sell their products in our markets. We must have free and fair trade.

I believe that H.R. 3 takes a major step towards enhancing our competitiveness. The work that has been done to develop a comprehensive approach to our trade policy must be commended. H.R. 3 will help to set our economic ship of state back on course.

But, in the critical area of market access, which I have been a chief advocate for, the proposed conference agreement simply does not go far enough. It substitutes an uncertain process for specific goals. While I am confident that the next President will be a Democrat who will aggressively assert our rights in the international marketplace, our future trade policy must be governed by a results-oriented policy.

This conference report misses the mark by failing to take advantage of the rare opportunity to force a fundamental change in our trade policy. The conference report fails to include a market-access provision that will ensure access to foreign markets. All of the commendable provisions in this bill will not make a dent in our trade deficit if every time we try to get our foot in the door, the door is slammed shut. We have a duty to our workers and businesses to ensure fair access to every market.

The plain, if painful, fact is that without any incentive for reciprocity, many of our trading partners are using our outdated assumptions to take advantage of us.

We must move ahead so that we can maintain the economic foundation that has allowed us to be the leader of the free world and has allowed us to spread the ideals of democracy and the opportunities of a free market to the four corners of the globe.

I am opposed to this conference report because I think we can do better and we must. We should not compromise our future at the alter of free trade. We must recognize that the world has changed and our trade policy must change with it.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. FISH], the ranking minority member of the Committee on the Judiciary.

Mr. FISH. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to commend the gentleman from Wisconsin, BOB KASTENMEIER and the gentleman from California, CARLOS MOORHEAD, for their guidance and leadership in developing the compromises on the intellectual and industrial property sections of the trade bill which are before the House today. Their continued support and hard work in the copyright and patent law area has made our job a lot easier in understanding this complicated area of the law. We are indebted to you both for your effort.

Two of the provisions of the trade bill which were drafted by the House Judiciary Committee, process patents and International Trade Commission reform are both part of the President's competitive package which is contained in H.R. 1155. Process patents and International Trade Commission reform are also contained in bills introduced year after year by my friend and colleague from California, Mr. MOORHEAD (H.R. 379 and H.R. 380). I am pleased that we were able to compromise and retain both provisions in the trade bill.

The importance of the use of the International Trade Commission and the use of process patent protection to our national economy, especially in such vital new technical fields as industrial chemicals and pharmaceutical manufacturing, biotechnology and microbiology, cannot be overstated. Americans have the ingenuity and creativity to compete in this new environment. However, what they create must not be stolen from them.

Process patents are particularly important to the biotechnology industry. Biotechnology is not a product you can patent, but rather it's a group of processes that have in common the use of genetically altered living organisms to produce new medical, agricultural, chemical, energy and waste cleanup products that will enhance our future. Biotechnology was invented in America. The U.S. industry's 1986 revenues exceeded $600 million. Their 1988 revenues are projected to be at least double the 1986 figure. Thousands of new, high-paying jobs are being produced as a result.

Because so many of the biotech inventions are protected by process patents, the future of that industry depends greatly on what Congress does to protect U.S. process patents from unfair foreign competition. America's foreign competitors, most of whom have invested comparatively little in biotechnology research, have targeted the biotech industry for major and concerted action. According to the biotechnology association, in Japan the Ministry of International Trade and Industry [MITI] and the Japanese biotechnology industry have joined forces and established a central plan to turn Japanese biotechnology into a 127 billion yen per year industry by the year 2000. The process patents provisions contained in the trade bill will go a long way in helping our industry maintain its innovative edge.

One of the provisions which we differed with the other body on dealt with whether a patent owner should be required to disclose patent information to a competitor who might also be a potential infringer.

The Senate bill created a scheme where patent owners must "identify all process patents owned * * * or licenses * * * that * * * could be asserted to be infringed." The House bill contained no such provision. We were able to substantially soften this provision.

The launching of a new business or a new product imposes certain obligations, responsibilities, and liabilities on the entrepreneur. Among the liabilities is infringement of another person's patents or trademarks. To insure against economic loss due to patent infringement, a reasonable business practice is to do a patent search in the Patent and Trademark Office and to routinely include indemnity clauses in contracts.

U.S. manufacturers who plan to export their products investigate the status of foreign patents to avoid infringement. Foreign manufacturers should be required to do at least as much to protect U.S. patents as our manufacturers do to avoid infringing foreign patents.

The "request for disclosure" provision contained in the Senate bill, in the opinion of the House turns conventional business practice on its head. The Senate bill created a situation where a competitor gets from the patent owner a list of patents that could be infringed if used by the competitor. Such a scheme protects infringers, imposes burdensome requirements on patent owners, and created a situation that is totally contrary to conventional business practice. There is no precedent in Federal law requiring a private business to disclose commercial information to competitors or suffer a penalty.

The Senate version would have required in addition to the disclosure of patents owned by a plaintiff, the disclosure of license arrangements between patent holders and their licensees. This particular part of the disclosure requirement in the Senate bill would impose a difficult administrative burden on the patent owner. The requirement failed to recognize that, while the disclosure of process patents represents the release of information already within the public domain, the disclosure of license arrangements does not. Such arrangements are a product of private contractual agreement between the parties, and the very existence of a contractual relationship between patent holders and their licensees constitutes sensitive business information. Therefore, this provision was dropped. In its place the conferees agreed in the event of a request for disclosure that is made to a person with a patent license (exclusive or nonexclusive) the recipient of such a request has the choice of either a direct response or passing the request for disclosure on to the licensor. It is very important to note that the conferees agreed that no information obtained in the course of a request for disclosure may be used in subsequent litigation involving the same parties. My concern was that this disclosure mechanism not be used for discovery in, for example, an antitrust suit or any other litigation involving issues not related to patent law.

Another patent provision contained in the Senate trade bill which I wish we were able to retain but we were not and that dealt with the patent misuse doctrine. Patent misuse is a common law doctrine that has its roots in the equitable doctrine of unclean hands. Section 271 of title 35, United States Code provides that certain narrowly described activities of a patent owner shall not be considered patent misuse. The Senate conferees, and a number of House conferees including myself, strongly supported patent misuse reform. Although we were unable to retain the Senate patent misuse provision we were able to obtain a commitment from the House subcommittee chairman to hold a public hearing on the issue and begin the separate processing of a patent misuse reform bill. Congress needs to give further attention to proposals for eliminating or modifying the patent misuse doctrine. Arbitrary rules that discourage licensing practices which do not violate the antitrust laws should be eliminated. Technology licensing can help promote competition and early introduction of innovations into the marketplace.

Another provision of the trade bill which we were able to retain and which will be very helpful to the patent community is reform of the International Trade Commission [ITC]. Presently, patent infringement cases before the ITC must prove injury to a domestic industry. Both bills would eliminate the injury requirement.

Making it easier to file complaints before the ITC is a significant change especially when you consider that almost 90 percent of all cases brought before the ITC involve patent infringement.

The main difference between the two bills concerned transferring authority which now reside in the President to the U.S. Trade Representative. This change in existing law was found in the House version and similar restrictions run through the entire House bill. This is one of the provisions that the President strongly objected to. The House receded on this point making the bill more acceptable to the President.

Another provision the President strongly objects to, was the so-called Gephardt amendment contained in the House trade bill. That amendment was protectionist and would target countries that have large surpluses in their trade with the United States and that demonstrate a pattern of unfair trade practices. Such countries, like Japan, would be subject to harsh retaliatory sanctions. This too was dropped from the bill.

The importance of effective patent law in protecting the investments of U.S. industry in research and development cannot be overemphasized. I believe we have to do something as a nation to put our trading partners on notice that if they want to continue to reap the benefits of our markets they are going to have to open their markets. As a country we can no longer put the rest of the world's economic well being ahead of our own and this trade bill puts our trading partners on notice that we mean business when it comes to fair and open trade.

In addition, I was also a conferee on the Exon-Florio amendment and, before the dust settles on the agreement struck in conference regarding that amendment, I want to comment on a critical aspect of that agreement. That is, the definition of the term "national security." Under the agreement, for the President to initiate an investigation of a merger, acquisition or takeover by a foreigner, he must find that the action could threaten our national security.

Mr. Speaker, for most of this Nation's history the ability to assure our national security was based on our abundant natural resources and the determination and talent of our people. That ability has eroded steadily in this century as our dependence on foreign raw materials and products have grown. Many of us remember the herculean effort in the dark hours of World War II to create a synthetic substitute for quinine, the antimalaria drug which was denied us when the Japanese conquered Southeast Asia.

Today, in maintaining our national security, we must contend not only with our reliance on foreign sources for raw materials and, increasingly, for manufactured goods. We also need to assure our capacity to develop and produce the cutting edge high-technologies which are at the core of our industrial, economic and military strength.

In the view of the conferees, the scope of "national security" is not limited to those industries which develop and produce tanks, rifles, and fighter-bombers. It includes the ability to provide a broad range of human services, materials, products and technological innovations. Of special concern are key domestic high technology industries of strategic importance that play a crucial role in the current and future protection of the national security and our national interests.

U.S. military and national security increasingly rests on a group of technology-intensive industries whose highly skilled employees produce the sophisticated machines, materials, chemicals, and services that are essential to fighting a modern war and to sustaining an advanced industrial economy. These industry segments include, but are not limited to technology, telecommunications, semiconductors, robotics, computers, biotechnology, pharmaceuticals, strategic metals, and advanced materials. The importance of these industries to our national security is evidenced by the significant amounts of defense related products and services they provide to the Government.

These industries are extremely diverse, but they share a number of common features. They are technology intensive and technology driven. They develop innovative products and technology at the forefront of industrial efficiency that are needed to assure that this Nation is secure. A much higher than average proportion of their total investments are made in research and development. Technology itself is one of their leading assets, and is uniquely subject to erosion whether through acquisition or piracy of intellectual property, loss of skilled personnel, or simply a failure to maintain the high level of R&D spending needed to sustain technological competitiveness. They are the base for the additional technologies needed to protect the national security in the future.

In that future, the margin of superiority may be a laser antitank weapon or a breakthrough in biotechnology that strengthens the human immune system against biological warfare. For the next century, it is our research and development infrastructure which will be our most important national security resource, just as the timber to build our naval fleet and the iron ore to cast our cannon were in the last century. The Exon-Florio amendment, as agreed to in the trade bill conference, clearly gives the President the authority he needs to act to protect our high-technology industries should they be threatened.

□ 1155

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. KASTENMEIER].

Mr. KASTENMEIER. Mr. Speaker, I rise in support of two very important provisions in the conference report that were favorably reported by the House Committee on the Judiciary and were drafted in large part by my subcommittee, the Subcommittee on Courts, Civil Liberties and the Administration of Justice.

Both measures improve the administration of this Nation's intellectual property—patents, copyrights, and trademarks—system; both will have a positive effect on reducing the trade deficit; both will maintain and create American jobs, especially in new technology areas. Enactment of these two proposals, considered collectively, would be a major step in bolstering the protection of American intellectual property rights and in improving American competitiveness in the world marketplace. Neither proposal is protectionist, and both proceed on notions of international comity and harmony between nations.

Before I explain the measures, I would like to congratulate the ranking minority member of the subcommittee, Mr. MOORHEAD, for his untiring efforts to improve this country's process patent laws. The original bill bears his name, and he deserves a great deal of credit for the fact that it has become an integral part of the trade bill. My full committee chairman, Mr. RODINO, and the full committee ranking minority member, Mr. FISH, should be commended for their support and assistance on not only process patent reform but also the other intellectual property provisions in the trade bill. Last, I also commend the efforts of Senator DENNIS DECONCINI, Senator PATRICK LEAHY, and Senator ORRIN HATCH, our Senate conferee counterparts.

The first provision reforms the International Trade Commission, particularly as relates to its authority to enforce intellectual property rights.

Section 1341 of the conference report makes procedural and technical changes in the current laws that bar unfair trade practices. Under section 337 of the Tariff Act of 1930, products can be excluded from the United States if they have been produced or manufactured through use of an unfair trade practice.

The purpose of section 337 of the Tariff Act is to provide a remedy for unfair methods of competition in import trade that substantially injure, tend to substantially injure, or destroy an efficiently and economically operated domestic industry. This statute, first enacted in 1922, took its current form in 1974.

The vast majority of these cases have been based on allegations of infringement of U.S. intellectual property rights by imports.

A violation of section 337 usually leads to exclusion from entry into the United States of the articles connected with the unfair trade practice. Such an exclusion order can cover not only articles of persons over whom personal jurisdiction existed and who participated in the proceedings to determine violations, but also articles of importers and foreign manufacturers who never participated in the proceedings and over whom no personal jurisdiction existed in the United States. Such an order can apply to the articles of persons who did not start to produce the articles until well after the order was issued. As such, it is an extraordinary remedy which allows broad relief to a holder of intellectual property rights or other individuals harmed by an unfair trade practice.

Section 1341 of the conference report—which is virtually identical to H.R. 1509, approved by the House Committee on the Judiciary on April 8, 1987—eliminates an existing requirement that owners of patents, copyrights, trademarks, and semiconductor mask works, prove to the ITC that they have been injured by an unfair trade practice. Under the proposal, owners have to show only that they own the intellectual property right in question, and that there has been infringement.

In addition, section 1341 clarifies who can bring a case before the ITC. Under current law, an industry must prove that it is an "efficiently and economically operated industry." The proposal makes clear that a domestic industry can exist through the creation of a licensing industry. Moreover, the proposed legislation clarifies the availability of section 337 relief to universities that have made substantial investments in engineering, or research and development in connection with the exploitation of intellectual property rights.

I would like to congratulate the ranking minority member of my subcommittee, Mr. MOORHEAD, for his work on International Trade Commission reform. I also would like to commend the leadership of the Committee on Ways and Means, particularly the full committee chairman, Mr. ROSTENKOWSKI, and the subcommittee chairman, Mr. GIBBONS, for their cooperation on this measure. I also appreciate their expertise and diligence in crafting a workable section 1303 of the bill, regarding actions against countries that deny adequate and effective protection of intellectual property right. That section, as drafted, dovetails nicely with our domestic intellectual property law and our international commitments.

The second provision relates to process patent reform. Process patent reform is an idea whose time clearly has come. Title IX of the conference report provides that it is an act of patent infringement for a person to import, use, or sell a product which has been made in violation of a U.S. process patent.

Under current patent law, the manufacture and subsequent importation of the product of an item in violation of a process patent does not constitute an infringement of a U.S. patent. After three Congresses of work, we are close to enacting a law remedying that omission.

American patent law has long recognized the validity of securing for inventors the right to exclude others from practicing an invention that consists of a method of making a product. Process patent protection has been a part of U.S. law since at least the 19th century. Process patents extend intellectual property protection for new and useful processes, art or methods of creating an object. Since 1952, there has been an explicit statutory acknowledgment of the availability of process patent protection. Process patents, however, have been granted only partial protection against acts of infringement. This is so because, unlike product patents, the use of a patented process outside the United States and a subsequent importation of the foreign product is currently not an act of patent infringement.

The failure to fully protect American process patents harms American businesses, results in a loss of domestic jobs, and is contrary to the public interest. The conference agreement creates a level international playing field for American interests. Many foreign countries adequately protect process patents, thus leaving American patent holders in a position to become the victims of unfair competition. The agreement places us in parity with our trading partners.

Last, I am pleased the conference report includes the Patent Law Foreign Filing Amendment Act of 1988, a measure that we previously had passed through the House.

In short, the trade bill should and does provide for necessary reforms to this Nation's intellectual property laws. Considered together, these reforms amount to good public policy that improve trade, create jobs, stimulate creativity, and serve the public interest.

Mr. FRENZEL. Mr. Speaker, I yield 2½ minutes to the distinguished ranking member of the Committee on Education and Labor, the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Speaker, I am pleased to have this opportunity to discuss the education and employment and training components of this trade bill which are so important to our ability to compete as a nation in the world markets. Members of the Education and Labor Committee served as conferees on four subconferences for this bill--education, worker readjustment, plant closing notification and interagency consultation. In each case, I believe that the resolutions achieved through these subconferences have produced legislation that strengthens our ability to train and educate individuals for participation in this competitive world.

To address our trade problems we have to look beyond the immediate impact of foreign competition. We have to look for ways to address the root causes of our Nation's decline in the international marketplace: a decline in productivity; a slowdown in research and development activities; and the failure of our educational system to produce a workforce that meets the needs of an ever-changing global marketplace. We need to look toward the future—to determine what our work force will be like and what sorts of skills will be needed for our country to hold a preeminent place in the world economy.

Programs that address our students' deficiencies in mathematics, science, and foreign languages should be adequately funded. We need to equip our workers with basic literacy skills; without them, they may not be able to find a job. We need to go further and assure that our youth and adults are computer literate. Inadequate and outdated scientific research equipment and laboratories must be revitalized so that our ability to conduct basic research and development can be maintained. Our colleges and universities must be retooled in order to keep pace with developments in science and engineering.

Further, we have to address the retraining and upgrading needs of our current work force. We have to match the training needs of business with the availability of education and training programs. Vocational education and occupational skill programs must be designed to contribute to our economic growth. Ways to combat the needs of the ever increasing dropout population must be implemented. And we should examine whether cooperative efforts by labor and management could improve productivity.

Although there are those who may view an education and training component of a trade bill as insignificant, I believe that without such programs, no trade bill can produce long-lasting results. Without a better educated, more highly skilled and more productive work force, America will not be able to hold a leadership role in international commerce.

There are a few provisions in this bill that I believe deserve special note. First, an issue that I have sponsored in the trade bill that we considered not only in this Congress, but in the previous one as well. That is, the issue of revitalizing this Nation's research capacity. In order to begin to reverse our declining research capabilities, this bill contains a scientific facilities and instrumentation program that will provide resources for our undergraduate and graduate institutions of higher education.

Over the last several years, the necessity for the refurbishing of the college university infrastructure has become a critical need at American postsecondary institutions. A number of published reports validate this need and suggest a Federal/postsecondary education partnership to solve the difficult problems faced by colleges struggling for excellence in the face of deteriorating facilities and inadequate instrumentation. When one talks to college presidents about their institution's problems, invariably, they will name facilities renovation and scientific instrumentation as a pressing concern.

It concerns me that we provide billions of dollars in student financial assistance so that our citizens may gain access to postsecondary education and, when that access is gained, they are educated in facilities and use instrumentation which clearly are not state-of-the-art. It is as much a denial of educational opportunity to use student financial aid to open college doors and train students in inferior facilities, as it is to not open the college doors at all.

It is important for my colleagues to know that one-half of higher education's physical plant is more than 25 years old. One-quarter of it was constructed before World War II. Some analysts suggest the total nationwide price tag for replacement and renewal of university facilities, including research laboratories and instrumentation, is between $30 and $40 billion.

Additional facts support the critical need to address this problem. Funding for major Federal programs for construction of university research facilities declined 85 percent in constant dollars between fiscal year 1963 and fiscal year 1984. Direct Federal grants for graduate facilities ended in 1969 and for undergraduate facilities in 1973. Further, more than 88 percent of Federal funds for direct loans for facilities construction was appropriated prior to 1970.

The Association of American Universities also reported that academic institutions were able to address only 50 percent of the needs to renovate and modernize their research facilities. A national institute for independent colleges and universities survey of undergraduate science facilities needs found that overall, 4 out of 10 independent institutions consider their facilities to be inadequate, and only 1 in 10 has state-of-the-art facilities. Twenty of 23 universities that participated in a GAO study reported that the inadequacy of present research facilities was a "leading constraint" to the type of research they were currently conducting.

It is clear that we must do better in supporting excellence in our postsecondary education system. From the mid-1960's until the early 1970's Federal funding of university research facilities and instrumentation accounted for 25 to 30 percent of the total expended for those purposes. For the period following World War II, the Federal Government directly supported 65 percent of the cost of instrumentation and 20 percent of the cost of R&D plant.

The modest step we are taking in this bill is crucial. However, I am disappointed with the legislation's limited treatment of undergraduate facilities and instrumentation. I plan to continue to monitor developments in future facilities legislation and will not hesitate to suggest modifications that I believe are needed to address this void.

Second, the bill expands and strengthens the dislocated worker training provisions included in the Job Training Partnership Act. Concerns that have been expressed regarding the current law are addressed in this bill. Of particular import was the concern that large amounts of unexpended funds remained in the system despite the growing training needs of this population.

The Worker Adjustment Assistance Program [WRAP] in this bill is very similar to the one proposed by the President. It establishes a shared training system for dislocated workers that follows closely the structure of the basic training service system under JTPA. Greater involvement of substate areas and the private sector is required in addition to the role of the States. A fund recapture and reallotment capability are provided so that States and areas with greater resource needs are eligible to receive additional funds. Most importantly though, is the recognition that if training resources are made available to dislocated workers early on, the greater the chance of continuing their attachment to the labor force.

This "rapid response capability" is a key component of the worker readjustment assistance program. Under this provision, any substantial layoff or plant closing will prompt immediate contact from a State dislocated worker unit, which is identifiable to employers and workers throughout the State.

One of the responsibilities of the rapid response team will be to promote the establishment of labor-management committees at the plantsite to coordinate readjustment activities for the affected workers at that plant. This concept is taken from a bill (H.R. 728) I introduced last year that was modeled after the Canadian Industrial Adjustment Service [IAS], which Chairman HAWKINS and I found to be so impressive during our visit to Canada last year.

In the report of the Brock Task Force which was requested by myself, Mrs. ROUKEMA and Mr. GUNDERSON, the IAS is cited as an effective approach and is singled out among all foreign endeavors studied as the one offering "the highest degree of replicability" in the United States. Like the IAS, the bill before us offers a simple, low-cost approach which is purely voluntary on the part of employers and workers. It requires each State to designate a dislocated worker unit, which includes a corps of specialists who will be authorized to provide financial assistance for the operating costs of labor-management committees existing at the plantsite for the purpose of devising and implementing a worker assistance strategy. The employer will also participate in paying the costs of the committee.

In order to facilitate a rapid response, the State specialist will be able to provide the initial, startup installment immediately. While the financial assistance authorized by the State specialist will be only for the operating costs of the committee, it is expected that the committee will also likely tie into other programs funded separately under this new JTPA title III. Because of the voluntary nature of the program, I would encourage the States to hire these specialists with a background in the private sector, since this would be an essential component in establishing credibility and a communication network with the business and labor community. This is confirmed by a recent GAO report entitled "Dislocated Workers: Exemplary Local Projects Under the Job Training Partnership Act" in which it was stated that a "key ingredient" to the success of the projects was having staff with local labor market expertise and extensive contacts with local employers.

Once the Joint Labor-Management Committee has been formed, one of its first tasks would normally be to compile all relevant information regarding each employee through a questionnaire. With this information, the committee can then develop a marketing strategy for each employee and then make an aggressive search in businesses in the geographic area which might have openings. Ideally, committee members will be individuals whose own position, that is, plant manager, foreman, has given them personal knowledge of the abilities and skills of each employee. This knowledge not only will enable them to focus upon relevant positions for reemployment, but will also give them credibility in getting a potential employer to set up a job interview.

I emphasize that these labor-management committees will operate entirely on a cooperative basis and will not require uninterested employers to do anything. Moreover, they will be relatively inexpensive. According to testimony received by the committee from Canadian officials, the average operating costs of each committee in Canada have been about $15,000, of which the IAS normally pays 50 percent. Meanwhile, if these committees work as effectively as the IAS system, they will result in net savings through reduced unemployment insurance costs. In Canada, this program has resulted in estimated savings of $25.5 million, offset by only $9.9 million in Government costs.

Finally, in order to facilitate the State's rapid response capability, the bill includes separate provisions requiring employers of 100 or more to provide at least 60 days notice prior to a plant closing or mass layoff resulting in an employment loss for at least 50 employees, excluding part-time employees.

This is a long overdue labor protection and most certainly does belong in the trade bill before us. Those who suggest that it doesn't are losing sight of our country's need for a workforce with adequate and relevant skills. Nowhere is that need more dramatic than in those situations where workers are displaced by a decisions to shutdown or layoff the employees at a worksite. Without efficient mechanisms to address those displacements, we are risking the loss of workers as productive members of our economy. We need to reach out to them and see that they are placed as quickly as possible into new positions that either match their qualifications or for which they can be retrained.

In order to do that, we must have a reasonable period of advance notice prior to their employment loss. This assertion is borne out by every major study of the problem of dislocated workers. The most compelling of these is the report of the Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation. As I stated before, we asked Secretary William Brock to form this task force during the House's consideration of this issue in the previous Congress. The entire purpose of the task force was to bring labor and management together to study the plant closing problem and see if a consensus could be reached.

While there was disagreement as to whether it should be mandatory, there was no disagreement over the key role played by advance notice in readjustment efforts: "The task force is in agreement with other studies that advance notice is an essential component of a successful adjustment program."

The only item of controversy is whether notice should be mandated. Since the House narrowly defeated a mandated notice bill 3 years ago, we have learned a great deal about how effective our current voluntary system is. We have learned that the voluntary notice now provided by employers is only about 7 days in advance. Thirty percent provide no notice at all and fewer than 20 percent provide more than 30 days.

Are we to be satisfied with this voluntary system when we are told by readjustment experts that anywhere from 2 to 4 months is needed to devise an effective program? Meanwhile, with this bill we are committing ourselves to a new Worker Readjustment Program [WRAP] that could cost up to $1 billion in the first year. While I believe the WRAP Program is needed with or without the advance notice requirement, I believe that we should insist upon mechanisms to ensure the most effective use of those funds.

I do not approach this task lightly. I recognize that there are very legitimate concerns regarding the potential effects of a notice requirement. That is why I have worked very carefully with the Senate sponsors of the provisions and my colleagues on the other side in tightening up these provisions to ensure the necessary flexibility for employers. The result is the most modest provision yet devised. I can assure you that we have literally bent over backward to meet the employers' needs. Indeed, even our minority substitute to the plant closing bill in the Education and Labor Committee did not contain some of these items.

Let me describe the conference agreement for my colleagues.

Employers of 100 or more would be required to provide at least 60 days notice prior to a plant closing or mass layoff resulting in an employment loss for at least 50 employees, excluding part-time employees. "Part-time employees" are defined as employees who work fewer than 20 hours per week or fewer than 6 of the 12 previous months.

A "plant closing" is defined as a permanent or temporary shutdown of a single site of employement or a facility or operating unit therein. A "mass layoff" is an employment loss at a single site of employment of at least 33 percent of the employees, except where 500 or more employees suffer an employment loss, the notice requirement is triggered regardless of the percentage. In either of these events, the workers must experience an "employment loss," which is defined as either an employment termination, a layoff exceeding 6 months, or a 50-percent reduction in hours for each of 6 consecutive months. This represents a major improvement over the Senate-passed bill, which would also have included an indefinite layoff, by deleting this element from the definition, we protect the employer who knows for certain that a layoff will not last 6 months, but simply cannot say exactly how long it will last. In such instances, an employer would be well-advised to tell the workers at the initiation of the layoff that it is not expected to go beyond 6 months. If the employer does make an announcement and the layoff is later extended beyond 6 months because of unforeseeable business circumstances, the employer may comply with the bill by simply giving the requisite notice at the time the extension becomes reasonably foreseeable.

The legislation contemplates that there will be situations where advance notice is impractical, counterproductive, or unnecessary.

A situation where a notice requirement would be impractical would be where a closing or layoff is caused by business circumstances that were not reasonably foreseeable at the time of notice would have been required. The statement of the managers lists a number of examples of such situations, but we have made no attempt to provide an exhaustive list, which could potentially foreclose other possibilities that we didn't foresee.

A situation where a notice requirement would be counterproductive would involve an employer with a good faith belief that notice will jeopardize efforts to gain capital or business that would help avoid a closing. The bill therefore contains a "faltering business" exemption to apply to such situations.

Lastly, the bill contains a number of exemptions to apply to situations where notice is unnecessary because the employees retain employment, have a reasonable opportunity to do so, or are hired for a limited term to begin with. These exemptions include certain sales, transfers, or projects or undertakings where employees were hired specifically for those projects. The conference agreement also retains the Senate provision exempting strikes or lockouts, while clarifying that it would not apply to a lockout intended to evade the bill's requirements.

An employer who violates the statute would be liable to aggrieved employees for back pay and benefits for each day of violation up to 60 days. In addition, the employer would be liable to the local government for up to $500 per day for each day of violation up to 60 days. However, the bill provides an incentive for employers to avoid litigation. An employer which discharges its liability to its employees within 3 weeks of the closing or layoff is thereby relieved of any liability to the local government.

These provisions represent the best package the employer is ever likely to get in this area. The argument has been made that the House defeated a similar proposal 2 years ago, but I assure you that this bill is substantially better from the employer's perspective. The bill in the 99th Congress required 90 days' notice, compared to 60 in this bill. The bill in the 99th Congress would have applied to indefinite layoffs—this bill only applies to layoffs exceeding 6 months. The bill in the 99th Congress did not contain most of the exemptions I have just described. Clearly, this is a better bill for business.

The arguments are strong in support of these provisions being in a trade bill. I have already discussed our need to ensure an effective transition of workers from one job or occupation to another in order to have a competitive human resource capability. But there is an even more direct relationship to trade. If we continue to rely on voluntary efforts, we will continue to see workers left stranded without any idea where the next job will come from. At some point, the political result of such insensitivity is intractable pressure for protectionism and, yes, even rigid plant closings laws such as those we see in some other countries which require a lot more than 60 days' notice.

Instead, I suggest we approach this problem with a proper balance between compassion and practicality, as is represented in this bill. In helping the worker, we will help our economy and our competitive posture in the world marketplace. Isn't that what a trade bill is supposed to be all about?

For all of these reasons, and others, I support the conference report before us today and urge my colleagues to support it as well.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. RODINO], the chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Speaker, I rise in support of this vital piece of trade legislation. This conference report is the result of long and difficult deliberations. What we have before us is a product of legislative compromise. It is a reasonable and constructive proposal that attempts to deal with this country's very serious trade problems.

No doubt, the compromises that have been reached are wholly satisfactory to no one. The legislation will not, by itself, resolve our trade deficit, which has many deep-rooted causes—several that go beyond the subjects we are addressing here today.

At the same time, we should not lose sight of the importance of key provisions in this bill. One seeks to protect the innocent victims of the economic turmoil that unfortunately is part of today's industrial landscape. I refer specifically to the provision that requires employers to provide 60 days' notice to employees who will lose their jobs because of a plant closing. Loyal and committed employees deserve at least this minimal notice before they lose their jobs.

The Committee on the Judiciary has worked on a number of provisions in this legislation, including all those relating to antitrust, intellectual property, and criminal law including foreign corrupt practices. In the process, we have reached delicate compromises on matters such as amendments to the Foreign Corrupt Practices Act, restoration of the patent term for a valuable drug, process patents, and control of acquisitions of U.S. businesses that could threaten the national security. Language that could have undercut legitimate competition or weakened antitrust enforcement has been deleted from this bill. The conferees felt, as I firmly believe, that antitrust enforcement will aid competition. Effective competition at home will enhance our ability to complete abroad.

Altogether, we now have a bill which deserves the strong support of the Members. I urge you to join me in voting for this critical legislation.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from New Jersey [Mrs. ROUKEMA], a member of the Committee on Education and Labor.

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of the conference report on H.R. 3.

Over the last several years I have witnessed a steady increase in the amount of imports into the United States, while at the same time, our trading partners have been less willing to open their markets to U.S. products. The result has been a weakening of the American economy leading to instability in overseas markets, and fear for the world economy.

Last week's surprise trade deficit figures showing a sudden surge in U.S.

imports for the month of February, and the resulting stock market drop of over 100 points, only serves to prove the point that unless we do something to combat the U.S. trade deficit, the future of the American economy will remain unsure.

The trade bill we have before us today makes clear to our competitors that this country now considers trade a top priority.

When this bill was first brought to the floor a year ago, I voted for final passage, although I opposed major sections of the bill. I voted for the bill because I felt strongly that this country needed a new direction in trade policy, and I felt confident that the most protectionist sections of the bill would be dropped in conference.

To the credit of conferees, much of the protectionist language of the original bill that could have sent shock waves to Wall Street has been removed. Instead of the Gephardt provision which required mandatory retaliation, the languge we have in the bill today would force retaliation against countries that practice unfair trade tactics, but would not automatically invoke action against those with large trade surpluses. Other types of special-Interest baggage, like quotas on lamb imports and a $365 million rebate to sugar refiners, have also been removed.

What remains in the bill are a number of bipartisan agreements which this country must have to compete in world trade. To list a few:

Opens markets for our telecommunications industry and establishes reciprocity as a standard;

A trade adjustment assistance program providing funds to those industries that are damaged by imports and that can prove they could recover and become competitive again if given short-term assistance;

A new definition of "unfair trade practices" that includes export targeting;

Increased responsibilities for the U.S. Trade Representative and new authority to negotiate better trade rules for future Presidents;

Better protection of intellectual property rights;

Establishes deadlines for ITC actions on behalf of injured U.S. businesses. It puts teeth into the law for ITC action and appeals;

Increased penalties for international mismarking of country-of-origin statements;

A new, streamlined export licensing procedure which will make it easier for U.S. exporters to meet U.S. customs requirements;

New money for various education and training programs to upgrade instruction in math, science, foreign languages, and computer skills;

Increased authority for the President to suspend mergers or takeovers of U.S. firms by foreign nationals in cases where national security would be compromised;

Better monitoring of domestic and imported products for unhealthy pesticide residues.

Creates trade liaisons within our Embassies and missions abroad; and

Very importantly, this bill takes a major step toward liberalizing American export controls. U.S. businesses have, with justification, complained that too many goods must receive an export license. The law was intended to keep sensitive technology out of our adversaries' hands. But what we have done in the process, is hurt our own trade competitiveness, and lost markets to competitor nations who freely trade technologies. Indeed, in my own district we have had cases when export licenses were denied while other foreign firms were capturing markets.

The provision in the bill would reduce the number of goods that must be licensed and sets up a two-tier system under which products shipped to countries that have adequate enforcement procedures would have fewer restrictions than those countries that tend to be lax with the rules.

Another important provision in the bill is the Economic Dislocation and Worker Readjustment Act which provides funds for employees who lose their job and are faced with unforeseen circumstances. The act even expands the programs to include workers unemployed due to a layoff and certain displaced homemakers. In fact, the experience of Mr. George Kachajian, Silicon Technologies, Inc., of Oakland, NJ, directly influenced and prompted this overdue reform.

The list of modes but meaningful provisions that are part of this bill is lengthy. Unfortunately, press reports have focused on the few controversial sections of the bill and practically ignored the basic thrust of the legislation which, in my estimation, will give the U.S. new opportunities in world markets.

With regard to the controversial Toshiba provisions, my position is that we should have internationally agreed upon limits on the sale of sensitive technology by our allies, and that if those limits are violated, then guilty parties should be punished. While I believe the language needs modification, I do not find these sanctions so counterproductive as to outweigh the benefits of the rest of the bill.

However, it now appears that the fate of the entire trade bill will hinge upon the plant closings provisions added by the Senate last year. The bill would require employers of 100 or more to provide 60 days notice prior to a plant closing or mass layoff involving at least 50 workers.

No one can dispute, ignore or be insensitive to the very real problems of economic and social dislocations associated with plant closings. The impact of a plant closing on the affected workers and their community can be severe, as many of us have witnessed in our own districts. I am no exception, having experienced the closing of a major automotive facility in my own district shortly before I was elected to Congress.

As everyone here knows, the bill would require employers of 100 or more to provide 60 days notice prior to a plant closing or mass layoff involving at least 50 workers.

Quite frankly, Mr. Speaker, the plant closing section of this omnibus trade bill is a sloppy piece of legislation. The language lacks precisions and is ill-defined and practically invites endless litigation. While thought to be only a bill to require notification at the time of a plant closing, it is in fact more far reaching.

The most strenuous objections to plant closing legislation has been based upon the application of the bill to layoffs and reduction in hours not just total shutdowns. The Senate attempted to address this by requiring that at least 33 percent of the workers be affected. I believe that some of the controversy surrounding the plant closing provisions could be resolved by increasing that percentage to 60 percent of the work force to be laid off before "notification" is triggered.

Second, I think that section 332(b)(2) should be changed to include statutory language to define that a sudden loss of contract or sudden and significant decline in customer orders would qualify for the "unforeseeable business circumstances" exception to the extent they are unforeseeable. This would head off a number of complaints from business officials who regard the plant closing provisions as nebulous and an invitation to endless litigation.

Mr. Speaker, the plant closing provisions of this conference report do not have to be the downfall of the entire bill. There are ways to make plant closing more palatable to its foes. Unfortunately, the majority were unwilling to even entertain a compromise on these contentious issues and are today prepared to invite a veto, placing the whole trade bill in jeopardy.

In my judgment this bill should be recommitted to conference and the plant closing provisions modified to address the justifiable objections of the business community.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs.

Mr. FASCELL. I thank the gentleman for yielding time to me.

Mr. Speaker, I thank the gentleman for his stamina, leadership, and cooperation which he and his staff have demonstrated in sheparding this omnibus trade bill through to completion.

I would also like to commend Mr. Bonker, chairman of our Subcommittee on International Economic Policy and Trade, who has carried the burden of the responsibilities of the Committee on Foreign Affairs, along with our colleagues Dan Mica and Howard Berman. They have devoted considerable thought and effort to developing an effective, constructive trade policy and I thank them for the leadership they have provided the Committee on Foreign Affairs and the House in this area.

Title II of H.R. 3, which encompasses the work of subconferences 2, 3, and 4, for which the Committee on Foreign Affairs had primary responsibility, is designed to improve the effectiveness of U.S. export control and export promotion policies and programs.

The provisions on export controls include: a reduction in licensing requirements and in export controls, a strengthening of enforcement activities, and clarification of decisionmaking procedures and in foreign availability determinations. The committee is especially indebted to the National Academy of Sciences for its 1987 study of export controls which provided the Members with important guidance in drafting many of the improvements in the U.S. export control system.

The bill also seeks to encourage other countries to improve their implementation and enforcement of multilateral export controls through the authorization of sanctions for future serious violations of Cocom controls and by imposing sanctions prohibiting importing into the United States and U.S. Government contracting and procurement of Toshiba Machine Co. and Kongsberg Trading Co. and sanctions prohibiting U.S. Government contracting and procurement of Toshiba Co. and Kongsberg Vaapenfabrikk. While I have some serious reservations over the apparent failure of this provision to fully account for the extent to which effective U.S. and multilateral export controls require the cooperation and good will of our allies, I hope that other countries will realize that these measures have been adopted out of serious concern over Western security. I am also hopeful that the exceptions provided in the provision will significantly limit the harm that any sanctions might cause to U.S. firms and that the waivers will avoid sanctions against countries with effective export control systems and against companies which honor those export controls.

The Committee on Foreign Affairs has included various export promotion initiatives in title II. These provisions include: strengthening the U.S. and foreign commercial service, a new market development cooperator program, a national export data system, enhancement of the trade and development programs of the Overseas Private Investment Corporation and of the trade and development program, and procedures to develop information and policy on countertrade.

Finally, the committee, with the cooperation of the Committee on Energy and Commerce, has provided in title V an important rationalization of the Foreign Corrupt Practices Act.

Mr. Speaker, I commend the members of the conference for their tireless efforts and urge an affirmative vote.

Mr. FRENZEL. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from North Carolina [Mr. Ballenger].

Mr. BALLENGER. Mr. Speaker, I rise today to urge my colleagues to vote in favor of a motion to recommit the conference report with instructions to drop the plant closings provision.

I have long promoted the trade bill as a means to address our Nation's trade imbalance and to aid in the restoration of America's competitiveness. The core of the conference report seeks to improve access to foreign markets for U.S. goods, services and investment. The package represents at least 3 years of hard work and cooperation among congressional, business, and labor leaders alike. There are many provisions with which I agree.

I am disappointed, however, that the legislation includes plant closing restrictions. Everyone is aware that retention of this one, relatively small section may kill the entire bill. Yet the leadership insists on including an anticompetitive provision in a package aimed at improving our competitiveness. They are going to renege on a commitment to the American people in return for a provision that merely represents a test of political strength between business and organized labor.

I am opposed to the enactment of plant closing restrictions for a number of reasons. It is essential that management have the ability to make decisions on plant closings and relocations, as they do on other economic matters, without the interference of Government. The passage of this measure would create another level of Federal bureaucracy with the authority to conduct investigations and interfere with normal business operations. In addition, the costs of production would be increased, resulting in lower productivity.

One of the most devastating effects of this legislation would be that the notification itself would hasten the demise of the company in question. The firm's suppliers would refuse to deliver supplies and its lenders would cut off credit. Its employees with good skills would leave to find another job. Notification, in effect, would doom the company to shutting down its operations.

This legislation is nothing more than an attempt by unions to ensure protection of their members' jobs and to gain a direct influence on management decisions of employers. Although I support voluntary efforts by employers to provide early notice of layoffs where feasible and assistance where possible to dislocated workers, the mandated notification contained in the trade bill is abhorrent.

Mr. FRENZEL. Mr. Speaker, I yield 1½ minutes to another member of the Committee on Education and Labor, the distinguished gentleman from Texas [Mr. Bartlett].

Mr. BARTLETT. Mr. Speaker, I thank the gentleman from Minnesota for the additional time.

Mr. Speaker, I urge a "yes" vote on the motion to recommit. The motion to recommit will be a rifle shot motion to delete the onerous and nongermane plant closing provisions from the trade bill. Then we can bring the trade bill back to the House floor, pass a trade bill that does have some effect, a positive effect on trade.

A few comments about the plant closing portion of the trade bill. No. 1, it is not a compromise, it was never a compromise. It is a mandatory notice in every case where as few as 50 employees are laid off at an operating unit for as few as 30 days; it is mandatory, it is not voluntary.

Even the highly vaunted Massachusetts notification bill is a voluntary bill. This is mandatory.

No. 2, it does apply to every layoff in this country for as few as 50 employees at any one operating unit within a facility.

□ 1210

It is not a provision that only applies to a handful of employees. The threshold is 50 employees laid off at any one operating unit, and, last, it costs jobs. There is a job loss in this bill estimated by Robert R. Nathan & Associates of at least 450,000 American jobs that will be laid off and will be lost.

It is true that we can provide additional notice, but we will be providing notice to more people, because more people will be losing their jobs, because we will be starting down that slippery slope of Western Europe of having the Government then control employment decisions.

Vote "no" on the trade bill if it has plant closings in it. The trade bill will then be back.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Florida [Mr. Mica].

Mr. MICA. Mr. Speaker, there is free trade, fair trade, and protectionism. Free trade is a fantasy. Protectionism is a folly. Fair trade is what this legislation is all about, and we have heard about it, but there are nearly 2,000 pages and years of work.

I spent 5 years of working on one paragraph within this piece of legislation. It is a beginning. It is a beginning in a new direction.

Trade has been deteriorating in this Nation for 10 years or more. It violates no treaties. It moves in the right direction. We need a trade bill, and it is not the end. It is the beginning, the beginning, we hope, of a new era for the United States to show that it can and will compete in this Nation and compete in a way that we can truly call fair trade. That is what it is all about.

I urge my colleagues to support this legislation.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina [Mr. McMILLAN], a member of the Committee on Banking, Finance and Urban Affairs.

Mr. McMILLAN of North Carolina. Mr. Speaker, I rise in support of a good trade bill, but against this measure, and encourage my colleagues to vote against this bill. As a conferee and a businessman of many years, I have had an opportunity to work closely with the issues at hand and am convinced that this country needs a trade bill.

There are provisions in this bill that would strengthen our trade policy, but this bill contains excess baggage that would weaken our competitiveness and our economy. I am referring specifically to the plant closing provision.

I have run a retail business that over the last 5 years doubled sales to $800 million and doubled employees to 7,500. It did so by increasing retail locations from 70 to 112—to achieve that required opening 78 locations and closing 36.

On a 1 percent after-tax margin, this business would not have been the engine of job creation with a plant closing provision like this which has nothing to do with trade.

I am willing to support a trade bill that includes most of the current provisions, but any measure which includes this controversial provision will not receive my support nor the support of many of my colleagues.

I urge my colleagues to vote against this measure and for a bill that excludes plant closing provisions.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Speaker, I would like to take this opportunity to commend the gentleman from Illinois [Mr. ROSTENKOWSKI], the distinguished chairman of the House Ways and Means Committee, for the exceptional leadership and for his diligence in steering through the House this comprehensive trade bill.

Mr. Speaker, the trade deficit is a national crisis, and there is simply no way that the Congress of the United States can walk away from this problem which affects every worker, every family, and every community of our Nation. It is not only a matter of the trade deficit itself. Every monthly report on the country's trade position has become a measure by which the money markets and stock market determine whether or not our Nation's economy goes down or up.

We must reflect back to October 19 and the stock market crash. The market nosedive was triggered by the mere reporting of the trade figures for the preceding month. Just 1 week ago the situation was repeated. An unexpected rise in the monthly trade deficit for February sent a shudder of fear through our Nation's financial markets and sent the stock market plummeting over 100 points.

Mr. Speaker, how many warnings does our Nation need? This problem imperils this Nation's economy and the world trading system, make no doubt about it. We cannot sit on our hands and ignore the trade crisis. We cannot cross our fingers and hope that the falling dollar fixes the problem. Congress must act now; fortunately, we are acting responsibly in the legislation that is before us.

No longer is the President saying that this bill is protectionist. It is a competitiveness bill. The bill does not try to impose a counterproductive "quick fix" it addresses the roots of our trade problem. We are attempting to tighten up the trade remedy laws so we can deal with unfair trade barriers in other countries, but we are also emphasizing a long-term strategy of education, worker training, and export promotion.

The jurisdiction of the Committee on Foreign Affairs covers the export side of this trade bill and particularly the issue of export controls.

Mr. Speaker, a few years ago we had a favorable trade balance of $28 billion in high technology; now I am sad to report that we are registering significant deficits in high technology trade. One of the contributing factors is this administration's excessive controls on the export of U.S. goods and technology. We have labored within the House committee and throughout the conference to ease those restrictions to make it easier for U.S. high tech firms to compete in world markets, for there is simply no way U.S. firms can compete with one hand tied behind their backs. We have adopted measures to streamline licensing requirements and improve the procedures of our export control system.

We have also put language in this bill to encourage our allies to upgrade their export control enforcement programs.

The issue of how we deal with another ally who has illegally shipped technology that imperils Western security has been a troubling one. We have a provision in this bill which I feel is unnecessarily punitive, but nonetheless necessary to punish Toshiba Machine and Kongsberg trade by cutting off all their exports to the United States for 3 years. We have taken the additional step to disallow U.S. Government purchases of products from the Toshiba Corp. and Kongsberg Vaapenfabrikk for a 3-year period.

Mr. Speaker, we must do more than just fine tune the trade remedy and export control provisions. We need to place a major emphasis on export promotion. We have attempted to do that in this bill by improving the Foreign Commercial Services; by making the Trade Development Program within the State Department an independent agency and giving them $10 million in additional moneys to help American firms conduct feasibility studies, win big ticket projects and help U.S. industries to compete in those foreign markets.

We have tried to improve the Export Trading Company Act so that we can make it possible for small- and medium-sized companies to get into foreign markets.

Make no mistake about it, it is fiercely competitive out there. The U.S. Government needs not only to remove impediments to business, but to put into place incentives so that small- and medium-sized companies have access to world markets.

Mr. Speaker, we have covered the whole gamut in this legislation. We have tried to remove impediments; we have tried to make it possible for U.S. companies to compete.

This bill also contains a number of provisions that are important to the Pacific Northwest, including measures to boost exports of lumber, plywood, high technology, and agricultural products. While some business leaders in the region had expressed concern about certain provisions of the bill, all of these items have been eliminated or modified.

I want to, once again, commend the leadership, especially of the Ways and Means Committee, and the Committee on Foreign Affairs and others who have been integral to this process.

I am hopeful that when we send this legislation down to the White House the President does not oppose it.

There is no way that we should vote against this bill simply because it has a plant closing provision in it. I would hope that the President would drop his objections to this provision. Certainly, our workers deserve some advance warning before layoffs occur, and our Nation desperately needs a trade policy.

Mr. Speaker, title II, the Export Enhancement Act of 1988, of H.R. 3 is the product of years of work by the House Foreign Affairs Committee, and enjoys strong bipartisan support. Under the able leadership of our distinguished Chairman DANTE FASCELL and the Ranking Minority Member WILLIAM BROOMFIELD, members of the Subcommittee on International Economic Policy and Trade crafted these important measures to help enhance America's competitive position. Representatives MICA, BERMAN, BILBRAY, LEVINE, ROTH, BEREUTER, and MILLER have worked diligently to bring about the important reforms contained in title II of the trade bill.

Mr. Speaker, while much of the attention concerning the trade bill has been focused on those portions dealing with the unfair trading practices of our competitors, a very significant section has gone largely unnoticed—that is, the important reforms contained in this bill to reduce our own, self-imposed disincentives to exporting—the bureaucratic redtape known as the export control system. The provisions contained in subtitle D represent a significant step forward in our effort to improve U.S. export performance. While the conference report does not contain all the provisions originally adopted by the House, it does nonetheless provide significant amendments that will help rationalize our export control system. Let me briefly summarize some of the highlights of the export control section of the trade bill.

STREAMLINES LICENSING REQUIREMENTS

Licensing of low-technology exports to Western destinations constitutes approximately two-thirds of the 120,000 export license applications processed each year. Such applications are routinely approved but only after weeks and months of delay. In continuing to require individual validated licenses for export of these low-level, widely available goods to noncontrolled countries, limited U.S. Government resources are diverted from the review of truly critical high technology items.

To help focus control efforts on strategic items, the conference agreement eliminates licensing requirements for exports of goods and technology to free world countries which can currently be exported to controlled countries without multilateral approval—AEN level. For exports to U.S. allies participating in Cocom—Coordinating Committee on Multilateral Export Controls, consisting of NATO, plus Japan, minus Iceland—or other cooperative agreements, known as 5(k) countries, the conference agreement provides for elimination of licenses for goods and technology which can currently be exported to the People's Republic of China without multilateral approval—PRC green line level. The effect of this provision is to raise the current threshold of exports not requiring licenses to Cocom and 5(k) countries from the AEN to the PRC green line level. While the Secretary may require notification of such exports, such requirements are to be imposed only after-the-fact, and not prior to export. Current G-COM procedures are adequate to meet any postshipment notification requirements.

Another important provision concerning exports to Cocom and 5(k) countries requires the Secretary of Commerce, within 3 months of enactment, to determine which countries have effective export control systems, and to eliminate all licenses to those countries. The effect of this provision is to extend Canada-like treatment to other Cocom and 5(k) countries that have effective control systems, thereby beginning the process to achieve a license-free zone among Cocom and cooperating countries. In addition to receiving license-free status, countries determined by the Secretary of Commerce to have effective systems will also qualify for exemption contained in another portion of these amendments that provides for sanctions against companies in Cocom countries that violate multilateral export controls. The Secretary's determination of an effective system under this section will qualify that country for the exclusion contained in the new section 11A(d) of the EAA. It is further noted by the committee, based on discussions with administration representatives, that several Cocom countries are expected to receive such designation during the initial determination, to be followed shortly thereafter by additional countries that implement effective export control systems.

In addition to eliminating licensing requirements for exports to Cocom countries, the conference agreement also eliminates licenses for the reexport of goods, and technology among Cocom and 5(k) countries, and for parts and components incorporated into foreign-made goods when U.S. content is 25 percent or less of the total value. While the Secretary may require notification of such reexports, such notification requirements, if imposed, are only to be after-the-fact, and not prior to such reexport. The committee also intends, in providing discretion to the Secretary to require authorization for the reexport of foreign-made supercomputers, that such authorization should only be required in cases where the supercomputers contain significant, controlled U.S. parts and components.

CONTROL LIST REDUCTION

The original House bill contained a provision setting the goal of a 40-percent reduction of the control list. This target reduction was adopted after the late Secretary of Commerce Malcolm Baldrige acknowledged that the control list was oversized by as much as 30 to 40 percent, and stated that reduction of the list would actually strengthen licensing and enforcement efforts. While the specific 40-percent target has been deleted from the legislation, the conferees agreed on several provisions to require a reduction in the size and scope of the control list.

Low-technology items which require only notification for export to controlled countries—AEN level goods—are removed from the control list, unless Cocom members agree to maintain such notification requirements. As a practical matter, the placement of items at the AEN level is tantamount to decontrol for almost all members of Cocom except the United States; yet, according to the study by the National Academy of Sciences, AEN-level exports comprise about one-half of the value of all individually licensed exports. Although the United States has provided a general license to Cocom for most AEN items, and for a smaller portion of AEN goods to free world countries, many exporters continue to obtain licenses for these items. While the benefit of controlling these low-technology items is negligible, the economic cost is much higher than for truly strategic goods and technology. Such low-technology items are to be eliminated from control within 6 months, unless the United States and Cocom allies agree that individual items within such category continue to pose strategic concerns.

In addition, the conferees also agreed to decontrol medical instruments, and equipment, unless the functional characteristics of the good as a whole would make a significant contribution to the military potential of a controlled country. The historical problems associated with more stringent U.S. interpretations of the Cocom agreement concerning medical equipment incorporating computers, have resulted in unilateral restrictions on U.S. exporters of medical items. The conference agreement expands the current embedded microprocessor provision, thereby mandating that goods such as medical equipment and instruments with a clear commercial use pattern and whose military applications are incidental shall be decontrolled.

The conferees also agreed to remove from the list goods and technologies unilaterally controlled by the United States within 6 months of enactment or 6 months after imposition, unless the executive branch is engaged in efforts to negotiate multilateral control, or the goods are unique to the United States—no foreign availability. In the case multilateral negotiations, a maximum period of 12 months is provided, after which the items must be decontrolled if no multilateral agreement is reached.

DISPUTE RESOLUTION

The conference agreement contains several provisions to help expedite the resolution of disputes between agencies involved in export licensing. Regrettably, however, an important provision of the House bill to clarify the role of the Department of Defense in reviewing exports to free world destinations is not part of this conference agreement. As noted in the Foreign Affairs Committee report on the Trade and International Economic Policy Reform Act of 1987—Rept. 100-40, part 3—the purpose of the committee's amendment was to clarify DOD's review of exports to controlled countries. While the conference agreement does not contain such clarification, the committee reaffirms its strong belief that the statutory role of the Secretary of Defense in reviewing export licenses is limited to license applications for proposed exports to controlled countries only—defined in section 5(b) of the Export Administration Act as those countries listed in section 620(f) of the Foreign Assistance Act.

The conferees did concur, however, that whenever the Department of Defense reviews any license application, the nature and extent of such review shall be limited to national security, not foreign policy, considerations. Since the 1985 memorandum of understanding between the Departments of Defense and Commerce regarding free world license applications, concern has been expressed that DOD's objections have been based on foreign policy grounds, rather than on the national security basis of whether proposed exports would contribute to the military potential of a controlled country. It is the intent of the committee that such clarification will eliminate any remaining ambiguities.

The conference agreement also requires a report by the Secretaries of Commerce and Defense regarding DOD's review of export license applications to destinations other than controlled countries. It is intended that such report will compel a reexamination within the administration of the efficacy of such concurrent review, and provide the factual basis for Congress to evaluate the effect and redundancy of such joint review.

There are many other important provisions in subtitle D that will help to strengthen our export control system. Amendments to clarify the foreign availability process, improve the administration of export controls, strengthen the enforcement mechanism, prohibit fees for export licenses, and provide for greater industry participation in the export control process, will benefit not only U.S. exporters, and therefore American economic competitiveness, but also better serve the critical objective of strengthening U.S. national security.

SANCTIONS FOR EXPORT CONTROL VIOLATIONS

Mr. Speaker, while this trade bill has many good provisions that will help strengthen American economic competitiveness, it also contains a section which I fear could actually serve to undermine U.S. security interests. The section to which I refer is that dealing with sanctions on the Toshiba Corp. of Japan, and Kongsberg Vaapenfabrikk of Norway. As everyone is well aware, subsidiaries of these companies were involved in illegal sales of high technology to the Soviet Union that has aided the Soviets in quieting their submarines. This egregious violation of the laws of those countries, disclosed after the House had passed its trade bill last year, prompted the Senate to adopt an amendment sanctioning these companies and the entire corporate family for the illegal sale by the subsidiaries.

While the conference agreement scales back the scope of the original Senate amendment to prohibit Government contracting with and imports from the guilty parties—Toshiba Machine Co. and Kongsberg Trade, it also provides retroactive punishment of the parent companies, Toshiba and Kongsberg, who by all accounts had no knowledge or role in this violation. Although such sanctions are limited to U.S. Government procurement from the parent companies, I believe such action is inappropriate.

Let me remind my colleagues that this illegal sale involved no U.S. person, goods, or technology; no U.S. laws were violated. This unfortunate incident is a painful reminder that the United States is no longer the sole provider of advanced technology. It also vividly demonstrates how dependent the United States is on the voluntary cooperation of other Western nations in safeguarding strategic items and preventing Soviet acquisition of goods that can damage our collective Western security interests.

In addition to serious constitutional issues of ex post facto and bill of attainder legislation, retroactive sanctions at this point may have the reverse effect from the intended result. The act of punishing nonguilty parties is unprecedented under U.S. export control laws. Our own Export Administration Act provides penalties for knowing and willful violations of export controls; parent companies are not criminally liable for violations of subsidiaries unless shown to have knowingly violated U.S. law. In sanctioning Toshiba Corp. and Kongsberg, we are holding foreign companies to a higher standard of cupability than that to which we hold our own companies.

Furthermore, action against the nonguilty parties now fails to take into account the changes that have resulted in the past year. In the aftermath of the public disclosures of these violations, the Governments of Japan and Norway have take remedial steps to redress the damage of this serious violation. Legislation strengthening the penalties and lengthening the statutes of limitations for export control violations have been passed; the guilty parties have been punished to the fullest extent of the laws of those countries; the parent company has instituted an impressive system of internal control that serves as a model for all multinational corporations; and both governments have joined with the United States in a renewed commitment to goals and principles of Cocom, the informal Coordinating Committee on Multilateral Controls. In short, all conceivable steps to try and prevent such violations in the future have been accomplished. While I do not deny that the threat of legislative sanctions may have had served as strong inducement for such reforms, I am deeply concerned that the actual imposition of sanctions could well be counterproductive to the continued cooperation of these countries in the multilateral efforts necessary to ensure the success of our export control goals.

Perhaps even more troublesome than the retroactive sanctions against Toshiba and Kongsberg, is the mandatory sanctions for future violations. In formulating the House counterproposal to the Senate amendment, the House conferees had taken the unprecedented step of providing for sanctions on companies violating Cocom controls in the future, but only if those countries did not have effective export control systems. Such exclusion from mandatory sanctions could actually serve as an incentive for such countries to put into effect systems that deterred future violations. Unfortunately, the conference agreement still mandates sanctions on companies in Cocom countries with effective systems, even if those countries have taken every appropriate action to punish those companies. These inflexible and mandatory provisions may well undermine the cooperation and consensus within Cocom that is essential for the effective control of strategic goods and technology.

Beyond the potentially damaging effects of such provisions on our bilateral and multilateral relations with Allies, I am also concerned with the impact of the retroactive sanctions on U.S. companies. As we've seen in the past with other economic sanctions, efforts to punish others often results in significant harm to American companies. The conference agreement attempts to minimize such harmful effects by limiting sanctions on Toshiba Corp. and Kongsberg Vaapenfabrikk to the prohibition on U.S. Government procurement. Exemptions are provided for national security, contract sanctity, component parts, spare parts, routine servicing and maintenance, and information and technology, of which sole source situations are included. While such exemptions should help limit the impact on American companies, the full extent of these sanctions will only be known during the implementation process. It is the intent of the majority of Members of the House side that in implementing these sanctions, the executive branch should do so in a way that minimizes as much as possible the adverse impact on U.S. companies.

In summary, Mr. Speaker, I'm afraid that in our anger to strike out and seek retribution, we may have lost sight of our long-term goals—preventing recurrences of such violations in the future—and actually dealt a blow to American security concerns. It is only through a strengthened multilateral system and cooperation of our Cocom allies that our strategic objectives can be achieved.

EXPORT ENHANCEMENT AND PROMOTION

Finally, Mr. Speaker, I believe the series of provisions dealing with export financing and trade development represent significant, positive reforms in current U.S. Government programs. They are the result of more than 2 years of effort by my Foreign Affairs Subcommittee on International Economic Policy and Trade. The subcommittee worked closely with both labor and business in crafting these initiatives, and they enjoy widespread support among America's exporters.

I take particular pride in section 2204 of the conference agreement, relating to the statutory establishment of an independent Trade and Development Program. TDP has been one of our most successful export development efforts. Since its creation in 1980, the some $75 million TDP has invested in feasibility studies by American firms has generated an impressive $600 million in actual U.S. exports, with nearly $7 billion more in follow-on sales expected in the next 5 to 20 years. TDP's effectiveness, however, has been hampered by its location within the Agency for International Development, and TDP's export promotion mandate has often taken a back seat to AID's developmental mandate. H.R. 3 codifies TDP's independence from AID, and bolsters its trade development mission.

In spite of an OECD agreement negotiated by the Treasury Department, our foreign competitors have continued and increased their use of mixed credits. This act also gives TDP new responsibility to administer the non-Eximbank portion of the tied aid credits program set up by Congress in 1983. AID had been delegated this task. But the Agency's persistent—even obstinate—refusal to implement congressional intent in the 1983 Trade and Development Enhancement Act has left U.S. exporters to cope alone against generous foreign government predatory financing. By giving TDP the mixed credits portfolio and the authority to draw on the cash resources of the economic support fund, we are taking a small step toward leveling the international financing field against such competitors as France, Japan, and Germany. Although the final conference agreement does not eliminte the ability of a single Department, such as Treasury, to block mixed credit aid to our exporters, we expect TDP to be a full and forceful participant in the National Advisory Council's deliberations on mixed credit issues.

Another established program which this bill will strengthen is the United States and Foreign Commercial Service. H.R. 3 give the US&FCS a sound statutory base to promote and protect American business interests overseas. Specifically, the US&FCS is directed to monitor, among other areas, intellectual property protection, foreign government policies and practices on barter, countertrade and offsets, and business opportunities generated through multilateral development bank procurement. The US&FCS is also given responsibility for several new programs, including a new market development cooperator program, a Pacific rim initiative, and a program to promote overseas sales of authentic American Indian arts and crafts. An earmark of $6 million is included in the US&FCS budget for the market development cooperator program. Modeled on the successful agriculture market cooperator program, American firms and trade associations would provide matching funds for such overseas market development activities as research, trade shows, and other promotional activities.

The Foreign Affairs portion of the bill also contains measures to facilitate the development of existing export trading companies and to encourage the formation of such other export intermediaries as export management companies and export management associations. These innovative approaches deserve to be nurtured and assisted, and are wholly consistent with the thrust of this bill in shifting our Nation's trade policy focus from market protection to export promotion.

Taken as a whole, the export enhancement and promotion provisions for which the Foreign Affairs Committee is responsible are the most positive and forward-looking aspects of the bill. They offer American exporters the type of strong Government backing which our foreign competitors have enjoyed for so long and with which they have beat our firms in market after market. It is my hope that this package will set the stage for a new era and emphasis on American growth through exports.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Nebraska [Mr. DAUB], a member of the Committee on Ways and Means, who has followed this conference with great care, particularly looking after the interests of agriculture.

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I first want to take this opportunity to thank the gentleman from Illinois [Mr. ROSTENKOWSKI], my chairman, for the hard work he and the staff have done to bring this to this point of debate today.

Mr. Speaker, this bill is bad export policy, bad farm policy, and bad trade deficit policy.

There are some postive AG specific sections to be sure. I was a conferee on that portion of the bill and there are triggered marketing loans and reciprocal meat inspection provisions. But the dangers for AG exports far outweigh the opportunities.

Super Tuesday helped when it took the name of DICK GEPHARDT out of this bill. Unfortunately, super Tuesday didn't kill super 301 in which the ragged spirit of mandatory retaliation limps on.

Economists tell us that two-thirds of the trade deficit is because of our Federal fiscal and monetary policies. My colleague, Mr. GEPHARDT himself said, unfair trade practices account for only about 15 to 20 percent of our trade deficit.

This mandatory retaliation section is antifarmer. It paints a big red bull's eye on the farmer's forehead and gives our trade partners a perfect excuse to pull the trigger.

Despite these high levels of purchases, this bill orders the President to take retaliatory action for all practices deemed unjustifiable at about the same time. Will the bill's proponents tell us how many of these retaliation actions section is going to require in the first 2 years of it's life.

There is a waiver for the action. But it is to be used in "extraordinary cases," and only where the adverse impact on the U.S. economy is "substantially out of proportion to the benefits of action." Note the language assumes adverse impact will occur and must be tolerated. This is absurd. How much ag sales do we have to loose for a reaction to be substantially adverse?

Would China's cancellation of a $500 million in wheat sales in 1983 for our blockage of just $50 million in textile imports be substantially adverse?

We have a tough problem on Japanese and Korean beef. We have the right position and we are holding their feet to the fire. But getting them to open these markets is difficult. What do you think would happen to our chances for a beef agreement with 20, 30, or even more retaliation actions being taken against them all at the same time.

I also want to say something about the way the oil industry is being treated in this bill. There is almost no opposition to repeal of the windfall profits tax. It could come up under suspension of the rules and pass.

But this industry is told that if this bill doesn't pass they will never get another change at repeal. This is cynical abuse of authority and should not be tolerated.

If you are for free and fair trade, don't take the path that will sink export opportunities—lets' expand them. Let's get tougher on trade cheats. But this bill will upset financial markets and raise interest rates for business and industry, small shopkeepers and farmers.

Let's vote it down.

□ 1220

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Speaker, I rise today to express my support for the provisions in the conference report on H.R. 3 which amend the Foreign Corrupt Practices Act.

The conference report and the accompanying Statement of Managers contain a number of important clarifications of the Foreign Corrupt Practices Act, which should help American companies to better understand their obligations under the act. In my view, the best means of enforcing this or any other law is by encouraging compliance and self-policing by those subject to the law's prohibitions.

Having provided these clarifications in response to such concerns expressed by the business community which have struck us as reasonable, I have no hesitation in saying that the United States has every right to spell out a code of conduct for American companies doing business abroad. The Foreign Corrupt Practices Act was passed by Congress in 1977 with overwhelming support out of the conviction that the United States could not afford the foreign relations debacles that are an all-too-frequent consequence of corporate bribes to foreign officials.

That is why I am happy to say that that the conference report rejects provisions of the Senate bill which would have dramatically weakened the standard of liability for illegal payments by third parties and created crippling loopholes.

The Senate bill would have made a company liable for a bribe paid by its agent or employee only if it could be proved that such agent or employee had been directed or authorized, expressly or by a course of conduct, to pay the bribe in question. In my view, this standard would have given the go-ahead to the corporate executive who writes memos stating that "it would be wrong" to offer bribes to foreign officials, but who at the ame time communicates through a wink and a nod—impossible to prove after the fact—that his or her agent is to stop at nothing, including bribery, to nail down foreign business.

Fortuantely, we held the line in conference, and wrote a "knowing" standard of liability for third party payments which covers any effort by American companies and their executives to put their heads in the sand in order to deny knowledge of illegal bribes by their agents or employees abroad. Where a reasonable person would have realized that a bribe was being offered or paid, or where the defendant in question consciously chose not to ask about what he had reason to believe he would discover, liability is to be found under the standard in the conference report.

The conference report also rejects loopholes that could have eviscerated the prohibition against bribes to foreign officials. We clarified but did not expand the notion of "grease payments" which may be necessary in particular countries to expedite or secure routine governmental actions such as getting goods unloaded at dockside, or obtaining phone service or mail delivery.

The conference report scales back the notion of "reasonable and bona fide expenditures, including travel and lodging expenses" so that such payments do not fall outside the ambit of the act's prohibitions as the Senate bill provided but instead must be raised by the defendant as an affirmative defense. Moreover, such payments must be directly related to the promotion, demonstration, or explanation of products or services or the execution or performance of a contract, and cannot be simply associated with the selling or purchasing of goods or services, as the Senate bill had provided.

I would also point out that the conference report rejects in toto the Senate bill's loophole for any "nominal" payment constituting a courtesy or token of esteem if it is of reasonable value in the context of the type of transaction involved, local custom, and local business practices.

In this respect as in the others I have outlined, I am confident that we have succeeded in rejecting loopholes that could have swallowed the critical prohibition against bribes to foreign officials to obtain or retain business.

What we have before us today is legislation that is anti-bribery, not anti-business. American businesses and their agents and employees can point to the clear provisions of the Foreign Corrupt Practices Act in saying "no" to the blandishments of foreign officials seeking bribes in exchange for the award of business in their countries.

We send a clear message that it is simply unacceptable for American companies to pay bribes to foreign officials. I congratulate my colleagues who worked with me in this important effort, and I support passage of the conference report.

Mr. FRENZEL. Mr. Speaker, I oppose the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988, mainly because of the plant closing notification.

The trade sections of the bill are also flawed. In its current form the bill is a threat, perhaps not a major one, to the world trading system, and to the competitiveness of our own industries. It adds to existing uncertainty and instability in financial markets and provides only minimum benefits in the way of improvements in our trade laws or realistic incentives to remove trade barriers—our own as well as those of our trading partners. Under normal conditions, we should reject this conference report.

Let me first touch upon the problems with the trade provisions lest my colleagues conclude that all is well as long as plant closings is eventually dropped. During the past 2 years, the trade sections of this bill became a dumping ground for special interest language. Thankfully, much of that special interest language was discarded in the end. However, in the clean-up action, plenty of debris was left. The cumulation of that debris makes the bill dangerous over the long run, and reduces the flexibility of future administrations.

For example, section 301, with the added framework of super 301, has become a labyrinth of determinations, calculations and procedures designed to crisis manage almost every trade problem. Mandatory self-initiation and retaliation in certain types of cases is based on the assumption that trade disputes are black or white and the United States will unilaterally decide what the color is to be.

Yet I would note that mandatory self-initiation does not require a big number of investigations. What is important is the quality rather than the quantity of our efforts. A very limited number of cases could increase the prospects for favorable resolution, and yet can have widespread beneficial precedent and effects.

These provisions fly in the face of the fact that an important part of every trade agreement, including the vast multilateral agreement that we call the GATT, is dispute-settlement procedures designed to negotiate disagreements in interpretation and in practice. Some would argue that dispute settlement procedures need to be made more effective, and that certainly is a primary objective of United States negotiators in the Uruguay round, but removing the flexibility in section 301 greatly undermines its effectiveness. We must not lose sight of the fact that we ourselves have blocked dispute-settlement decisions that have gone against us or have disagreed with complaints lodged against us by our trading partners.

Clever language, like the claim that these new 301 requirements are "mandatory but not compulsory," reveals the confused state of these convoluted provisions and the unrealistic expectations that they create about what 301 is designed to achieve and the problems such a trade law is capable of solving.

I believe a strong trade posture is undermined by the new restrictiveness of these provisions. Our U.S. Trade Representative will hesitate to stake out tough U.S. positions on trade agreement violations or "unjustifiable" practices if to do so triggers mandatory time limits and retaliation with very limited flexibility at the end of the day. This same negative impact will result from the super 301 provisions that require the U.S. Trade Representative to label countries rather than practices as egregiously unfair.

Of course, we never want to recognize our own restrictive trade practices, and the new 301 language ignores them as well. If the same standard was applied to the United States because of its sugar, steel or textile quotas, because of our Buy America restrictions, our maritime subsidies, our meat import law or any number of other problems, would we be responsive to such heavy-handed tactics? I doubt it.

Another problem with 301 I feel I must mention before leaving this subject is the inclusion as new actionable practices export targeting and violation of worker rights. Forcing a U.S. definition of fair labor practices, including minimum wage standards and collective bargaining procedures among other things, is a rather colonialistic approach to trade.

Hopefully, we will condescend to take a country's level of development into account as the bill provides, but clearly this section is designed to threaten others to do things our way or else. Also, targeting is a practice we certainly engage in in our own country. This new statute sets the United States up as the cop that both makes and enforces the law unilaterally. I am hopeful the USTR will carefully consider reciprocal U.S. practices in accordance with other provisions under 301.

Problems also surface readily in the countervailing duty and dumping section of this bill. First of all the bill once again resurrects an effort to define lower cost natural resources as unfair, even where countries may have a comparative advantage because of plentiful supply. Backdoor language setting investment opportunities as the standard really stretches the subsidies law into dangerously uncharted waters!

At least the Senate statutory language, which was accepted by the conference, is a definite improvement over House language which along with House report language on this provision, would have no force, stature, significance or relevance in the construction of the Senate definition of a domestic subsidy.

Also, in the CVD and dumping statute we have two additional provisions that I find unacceptable. One is the "melted and poured" provision that ostensibly is aimed at circumvention of steel quotas but in reality is an attempt to expand such quotas to countries where they do not now exist. Remember, that existing quotas are associated with countries where injurious dumping on subsidization was proved. Nonquota countries have not had unfair practices proved against them.

Such a provision interjects a great deal of uncertainty for both our trading partners and United States firms that use imported steel who may find their supplies cut off unexpectedly as shipments arrive at the United States border say from Thailand and find out only then that the steel will be counted against an already filled quota from Japan for example. Caught unaware, the shipment is adrift in redtape. I am thankful for the Duncan-Rostenkowski colloquy on this subject.

Another example of a confusing and administratively burdensome provision in this section is the downstream dumping provisions. It represents another effort to follow components throughout the world, determine whether dumping might be occurring in markets other than our own and then threatening to block entry or apply duties to finished products coming to the United States from innocent countries. Although discretion is included in these provisions, confusion reigns as to how it can actually be applied and the administrative costs that will inevitably result.

Finally, among the trade provisions, the expansion of the Trade Adjustment Assistance Program [TAA] is almost scandalous. Training will become an entitlement that can be claimed as a right, through direct payments from the government or indirectly through a voucher system, by every certified worker. It serves as the ultimate standard for being on the Government dole.

In addition, the bill wants to make supplemental workers wards of the Government as well. After attempting to negotiate with our trading partners an import fee to cover an expected 45 percent increase in the cost of the program because of these peripheral workers, the fee could be unilaterally applied and supplier firms automatically covered. It is a revenue pool hard to resist, but quite likely will backfire on U.S. exporters.

There seems to be no end to the insatiable appetite of certain proponents, for Democratic Members were adding substantive provisions to expand the program down to the last minute—over Republican objections and even though a conference agreement on this issue had already been reached. This is but one example of the politicization of this bill, although most partisan bickering occurred outside subconference 1.

Many other problems exist that I do not have time to elaborate on—multiple offenders language for short-life cycle products—the provision was deemed too onerous to apply it equally to all products—cumulation provisions, definitions of domestic industry that ignore importing sectors, and the industrial policy implications of the section 201 changes. The provisions are all trade restrictive and could cause mirror treatment or retaliation against U.S. exports.

However, with respect to 201, I feel obliged to point out that even with the new industrial policy styled standard for 201, the President clearly retains the legal right to take no action if action would be contrary to the national economic interest. As the bill requires, the President should consider carefully not just the economic and social benefits, but also the economic and social costs of any action.

Now I feel I should turn to the objectionable nontrade provisions. The plant closing issue dominates the list. The administration has been quite clear about the negative consequences of enacting this unacceptable provision. Without the plant closing provisions, it is apparent that the bill will be signed.

The overall budget impact is something nobody talks about. A total of $6.1 billion in new spending or obligations will be incurred over the next 6 years, including new entitlements under TAA that will become costs out of control. Efforts to get our fiscal deficit under control have become a joke. This bill is only one example.

Yet our enormous fiscal deficit is the primary cause of our trade problems and, if reduced, would do more to improve U.S. competitiveness than a thousand page trade bill. Such lack of fiscal discipline and economic leadership must be as discouraging to the world trading community as it is to U.S. businesses that must compete in global markets.

It is shameful that special interests and those seeking protection have threatened the two really positive, important trade policy provisions in this whole massive bill—negotiating authority and implementation of the Harmonized System.

We are now engaged in a purely political exercise, where national interest has been set aside for partisan politics. Members didn't even get a chance to read what they are voting on today. The voluminous report was filed only yesterday afternoon. As has become too common a practice, the 3-day rule permitting Members to educate themselves about the content of the bill, was waived.

Mr. Speaker, the plant-closing feature has poisoned this bill. It has discouraged debate, finalized trade policy, and polarized this House. It must be deleted. When it is excised, the bill will be ready for renewed consideration.

Mr. Speaker, I yield one-half minute to the distinguished gentleman from Wisconsin [Mr. GUNDERSON], a member of the Committee on Education and Labor.

Mr. GUNDERSON. Mr. Speaker, throughout our lengthy debate on the development of a fair and reasoned trade bill, a central issue that has emerged has been that of making the United States more competitive in the international marketplace. In recent years we have become increasingly aware that in order to be truly competitive we must have a highly trained work force. As a result, we have very wisely included an education and employment training title as an intergral part of the trade bill which establishes a number of new innovative education programs and makes significant changes in the major Federal training program serving our Nation's dislocated workers.

At no other time have our country's education and employment training programs been of more importance to the U.S. position in world trade than now. One of the major accomplishments we have achieved in this area has been the development of a newly restructured and enhanced Worker Adjustment Program. Based in large part on the administration's proposal, this revised program amends the existing Dislocated Worker Program, authorized under the Job Training Partnership Act [JTPA], significantly increasing that program's capability of serving the Nation's dislocated workers.

Some may ask why is it necessary to make changes to the existing Dislocated Worker Program? And further, why is it appropriate to do so as a part of the trade bill?

Between 1981 and 1986, the Bureau of Labor Statistics estimated that approximately 10.8 million workers permanently lost jobs in the United States. Of these, 5.1 million were experienced workers, those who had been employed at the job from which they were dislocated for a period in excess of 3 years. The underlying causes of this mass dislocation are varied. Many of these dislocations have resulted from increased foreign competition. However many have also resulted from our constantly changing U.S. economy whereby many goods and production techniques have become outdated and this has resulted in the displacement of large numbers of workers. While some of these changes can be healthy for our economy, there is no question that it is in the best interest of all concerned, for both the workers dislocated and the United States as a whole to assist those workers in making the transition to new employment as promptly and painlessly as possible, regardless of the cause of their dislocation.

To try to find answers on how we may best meet the needs of these dislocated workers, former Secretary of Labor, William Brock established the Secretary's Task Force on Economic Adjustment and Worker Dislocation, whose excellent work formed basis of the worker adjustment proposal now before us.

While found to be effective in many areas of the country, many concerns have been expressed over the existing Dislocated Worker Program's inability to meet the needs of the greater numbers of dislocated workers. Certainly the existing system is underfunded, even still, many States continue to spend their title III moneys very slowly, and lag times in providing prompt service to dislocated workers have been cause for legitimate concern. Finally, concerns have also been expressed that many of the existing Dislocated Worker Programs spend too little time and money on providing training and retraining services to workers, concentrating more on job search and placement assistance.

This is not to say that there are not excellent title III programs out there. In fact a large number of States are running exemplary programs, spending their moneys to the point that they run far short of being adequately funded. Therefore, taking the recommendations of the Secretary's task force, taking into account the findings from other studies conducted on the Dislocated Worker Program, and by building on those State programs that are working well we have established as an integral part of this trade bill, a major rewrite of the title III program under JTPA.

The major goals of these changes can be summarized as follows: First, to ensure a more rapid response to mass layoffs and plant closings, as well as to ongoing, smaller scale displacement; second, to provide for increased local input in development of local programs; third, to increase emphasis on training, recognizing the need to retool the work force and place workers in lasting employment; and fourth, to provide a significant increase in funding for the Dislocated Worker Program, an authorization to increase this program's funding from its fiscal year 1988 level of $287 million to an authorization of $980 million in fiscal year 1989, the amount of funding estimated to be needed to serve all dislocated workers in the United States.

FUNDING DISTRIBUTION

The conference agreement on worker adjustment establishes a delivery system whereby 80 percent of the funding appropriated for the Title III Program will be allotted to the States, and 20 percent will be retained by the Secretary of Labor for Federal readjustment services.

Funding allotted to States will continue to be distributed based on the formula that exists under the current Title III Program until such time as satisfactory data on plant closings and mass layoffs and farmer and rancher dislocation are available. When such data is available, the current formula will be changed so that 25 percent of the funds distributed to the States will reflect this information.

Of the money going to States, each Governor is authorized to reserve up to 40 percent of his or her States' total allotment for statewide dislocated worker activities. With this money, each State must designate or create an identifiable State dislocated worker unit or office with the capability to respond rapidly, on site, to permanent closures and substantial layoffs throughout the State. The State's responsibilities also include the operation of a monitoring, reporting and management system which provides an adequate information base, the provision of technical assistance and advice to substate grantees, and working with employers and labor organizations to promote labor-management cooperation for the purposes of providing job training and transitional assistance to dislocated workers.

Further, each Governor is authorized to reserve an additional 10 percent of the State's allotment for substate area activities, with the specification that this money must be distributed to the substate grantees, at the Governor's discretion, within the first 9 months of the program year. Conferees added a further specification that none of this money be used for statewide activities to be conducted under the Governors' 40-percent reserve moneys.

The remaining 50 percent of each State's allotment must be allocated to the substate areas based on a formula that is developed by the Governor. In the development of the substate allocation formula, Governors must include a list of certain factors that are specified in this legislation which increase the likelihood that all dislocated workers in a State, regardless of occupation and cause for dislocation, will be served through the Worker Adjustment Program. Governors are given the flexibility to weigh such formulas according to their States' priorities however, and additional factors may be added to those prescribed by the act. Again, all of the State's 50 percent moneys must be distributed to the substate grantees as determined by this formula and no substate area may be arbitrarily denied funding under this provision unless the formula so determines the lack of need in that area.

SUBSTATE DELIVERY SYSTEM

Under the conference agreement, Governors are required to designate substate areas for the purpose of delivering dislocated worker services throughout the local areas of the State. Recognizing the benefit of building on the existing service delivery structure established under the Job Training Partnership Act [JTPA], conferees determined that existing service delivery areas serving populations of 200,000 or more, should be automatically designated as substate areas for the purposes of the Worker Adjustment Program. As a result of this designation, coordination between local employment and training programs will be increased, duplication minimized, and time will be saved in implementation of the program that may be otherwise spent on the establishment of an entirely new delivery system. Further, the designation of substate areas of this size provides for increased local involvement in the development of individual areas' programs, which is particularly important to rural areas. Further, this automatic designation of substate areas of 200,000 or more does not preclude the Governor from designating substate areas with smaller population bases. Nor does it preclude two or more service delivery areas from joining together voluntarily and requesting substate area designation from the Governor.

Substate grantees in each substate area are to be determined through a three-part decision between the Governor, the locally elected official in that area, and a representative of that area's Private Industry Council [PIC]. While the Governor is given the authority to select a grantee if the three parties cannot reach a decision on such selection, it is expected that good faith negotiations between the Governor and the other two parties will make this unnecessary in all but the rarest cases.

For the most part, the actual delivery of basic adjustment and training services are expected to be provided through the substate grantees. Further, substate grantees are provided with the additional responsibility of promptly responding to dislocation events when State rapid response assistance would be inappropriate, such as where only a small number of workers are affected. Each substate area is required to describe in its substate plan the methods by which they will respond expeditiously to such smaller dislocation events, including those occurring in sparsely populated areas. This responsibility may be fulfilled, among other ways, through the development of outreach mechanisms, provision of evaluation and counseling to assist in determining eligibility for services and the type of services needed, initial assessment and referral to other services, and the establishment of regional centers to provide these services.

In an effort to increase emphasis on training within the title III program, this legislation includes a requirement that at least 50 percent of the funds expended by a substate area must be spent on training. Substate grantees may receive a waiver from the Governor in order to spend less than this 50 percent on training where they can prove that it will not adversely affect the placement of participants in lasting employment, however in no case may a substate grantee expend less than 30 percent of its total funds expended for training. Another change made to the existing program that should increase the ability of workers to participate in longer-term training is the authorization to States and substate areas to provide needs-related payments to workers who are either ineligible for unemployment compensation, or who have exhausted their unemployment compensation and who enrolled in the title III program early in their eligibility period, and who need such assistance to participate in training programs. The conference agreement places a 25-percent CAP on needs-related payments and supportive services.

SJTCC RECOMPOSITION

Because of the concern that some State Job Training Coordinating Councils [SJTCC] do not contain a high enough representation of organized labor, the conference agreement provides for the recomposition of the SJTCC. This newly composed Council will reflect a 30-percent business and industry membership; a 30-percent State and local government—including local educational agencies—membership; a 30-percent organized labor and community-based organization membership; and a 10-percent general public membership. The provisions governing the SJTCC in this legislation deal only with the recomposition of the councils' membership and do not change the provisions in current law governing appointment to the council.

TRANSITION

Finally, this legislation provides for a smooth transition over the next year into the newly established Worker Adjustment Program. By January 1, 1989, the newly composed State Job Training Coordinating Council is to be in place. By March 1, 1989, the designation of substate areas and substate grantees is to be made. All requirements of the act are to be implemented by July 1, 1989.

Through the changes made to title III of JTPA through this conference agreement, I truly feel that we will have a much stronger Dislocated Worker Program in the United States, and as a result will have a much stronger, highly skilled work force. And this can only improve U.S. competitiveness in the future.

MANDATORY NOTICE

While the provisions of the Worker Adjustment Program have strong bipartisan support, not all of the provisions that were deliberated by our subconferences were noncontroversial. Conferees from the House Education and Labor Committee and the Senate Labor and Human Resources Committee also met to consider the mandatory notice provisions that were contained in the Senate's trade amendments.

While I would prefer that these provisions not be contained in this legislation due to the controversy that they bring to the broader purpose of the omnibus trade bill, we must admit that early notice does compliment the success of the Worker Adjustment Program by allowing earlier intervention in helping dislocated workers make the transition to new employment.

I have gone on record in the past and I go on record today as supporting the notice requirement for employers who knowingly and voluntarily either lay off significant numbers of workers for periods in excess of 6 months or who close down facilities. I agree that workers are entitled to at least 60 days of notification if they are going to lose their jobs where such notification is possible. I do continue to have concerns however about how these provisions will affect those employers who as the result of uncontrollable business circumstances must lay off workers or close their businesses and who are truly unable to provide the required notice. We did attempt to include language in the conference agreement to address this concern, providing a reduction in the notice requirements for employers who due to business circumstances that were not reasonably foreseeable are unable to give the entire 60 days notification. And I appreciate the cooperation of the majority in attempting to work with us to address this issue. I continue to have concerns however about those employers who fall into a gray area, for whom this legislation will surely result in significantly increased litigation.

It should be pointed out however, that the notice requirements included in this conference agreement are much less onerous than those which have been provided in other legislation such as H.R. 1122 which provides not only for much longer periods of notification of employees, but also requires consultation and information sharing.

I wish that we could have found a way to further work out the concerns that many Members share over these notice provisions so that the entire trade bill would not be put in jeopardy over their inclusion in the conference agreement. However this was not possible. While I continue to have concerns over certain aspects of this mandate, I do think that we were able to make progress in making the notice provisions contained in the conference agreement more fair and reasonable for employers than had been the case under the Senate bill, taking into account some of the legitimate problems that businesses would have otherwise encountered.

Mr. Speaker, while this is not a perfect trade bill, and there are a number of provisions included in the legislation over which I hold concerns that are not limited just to the plant closing provisions, I still feel that the overall omnibus bill makes vital changes in our economic and trade policy that will better enable the United States to strike a fair and equitable trade balance.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentleman from Nevada [Mr. BILBRAY].

Mr. BILBRAY. Mr. Speaker, I rise in support of the conference report on H.R. 3, the Trade and International Economic Policy Reform Act.

I would initially like to recognize the work of the chairman of the Foreign Affairs Committee, Mr. FASCELL, and the chairman of the Subcommittee on International Economic Policy and Trade, Mr. BONKER, for their hard work and diligence in putting together a trade package during a difficult conference in subconference 3.

Additionally, recognition should be given to the staff of the subcommittee who has spent many long hours assisting the members in drafting a trade bill that I feel we all can be proud of.

Mr. Speaker, when I came to office last year, I knew that the twin deficits, budget and trade, were a direct threat to our economy. These deficits threaten our jobs, our businesses, and our ability to expand our economy.

The measure before us today will provide for a broad range of reforms, with the intent to restore equity and reciprocity to international trade and to increase our competitiveness overseas.

Mr. Speaker, the time to act is now. Since 1981, when our trade deficit was $40 billion, we have seen it grow to a record $170 billion last year. At 4 percent of GNP, the trade deficit is unprecedented in both size and the speed with which it grew. And the warning signs continue.

Just last week, trade figures were reported for February and we all know the results. In a major surprise, the Nation's trade deficit grew sharply to $13.8 billion, resulting in the Dow Jones industrial average dropping over 100 points in 1 day. With imports surging more than twice as much as exports, the passage of the conference report will help us reduce that trend.

In the export control area, the conference report attempts to expand our exports by abolishing controls on the export of many widely available products to Japan and 14 NATO allies that compromise CoCom. Since these products, which include personal computers, are subject only to routine licensing, decontrolling this category would reduce paperwork, bureaucracy, and improve delivery time thus concentrating resources on truly critical goods.

We also clarified the Pentagon's role in reviewing licenses for exports to nonsocialist countries. The conference agreement states that the review should be done only for "national security" reasons. During hearings that we held last year in the subcommittee, U.S. companies from a wide spectrum testified that the Pentagon sometimes blocked U.S. exports on grounds that went beyond its legislative mandate.

While the final agreement deviated from the House package, I felt that the House position was a strong and fair one between the Departments of Commerce and State.

While Defense does have role in those issues in which DOD makes a unique national security contribution, we need a system that provides the tools for Commerce and Defense to conduct export control operations in a way that protects U.S. security while minimizing the impact on law-abiding U.S. exporters. I am hopeful that the final version will promote some sound management between the two agencies.

And in preparation for Congress to consider the reauthorization of the Export Administration Act in 1989, the conference agreement requests the National Academy of Sciences to conduct a study of national security export controls.

Because of the many discrepancies in the export licensing field, we need to establish a more expeditious trade relationship with countries overseas and thus increase the opportunities for American exporters. Additionally, a poorly administered and cumbersome program can undermine America's competitiveness overseas and can lead to a decline in the rate of technological innovation in key sectors of our economy.

The study will seek answers to such questions as what consequences of Soviet access to certain technologies will be, can the United States effectively deny these technologies to the Soviets, and what are the competitive consequences to the United States of controlling such technologies?

The answers to these and other questions should give Congress the information necessary to structure a vigorous and credible Export Control Program.

Mr. Speaker, I urge adoption of this measure.

Mr. FRENZEL. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Wisconsin [Mr. ROTH], a member of the Foreign Affairs Committee.

Mr. ROTH. Mr. Speaker, while I may not agree with every single provision in this 9-inch thick trade bill, on balance, it is a responsible piece of legislation.

Congress has considered trade legislation for over 3 years. We have put countless hours of work into this particular bill which has involved virtually every standing committee in the House. We have been in conference since last September and we have required the time of hundreds of senior administration officials for advice, recommendations and guidance.

It's time for us to move forward and get on with the business of conducting and implementing the trade policy of this country.

I would like to spend just a few minutes highlighting a major portion of the bill which deals with export control reform.

We made over 50 revisions to the Export Administration Act. Because our reforms were so comprehensive, we will not have to reauthorize the act next year as originally scheduled. We have extended the Export Administration Act to 1990.

Conferees significantly relaxed export control requirements. The bill removes all controls on low-technology and streamlines licensing requirements for export shipments of high-technology.

The bill triggers an immediate relaxation of export licensing requirements for shipments to Cocom destinations. These are the NATO countries plus Japan, minus Iceland. Exports of intermediate technology will no longer require licenses if they are being shipped to Cocom countries.

Within 3 months, no licenses will be required for any exports to Cocom countries that are certified to have effective export control systems.

Low technology is decontrolled worldwide.

Re-export license requirements are dropped for Cocom destinations, except in limited cases.

Re-export license requirements for parts and components shipments to any destination are dropped, provided that those parts do not exceed 25 percent of the finished product.

Our bill will also prohibit the administration from imposing onerous fees on exporters who are required to get export licenses.

Disputes between the Departments of Commerce and Defense must be resolved within 20 days.

The bill provides streamlined procedures for foreign availability determinations. Final determinations must be made within 9 months for decontrol to the East bloc.

All of these provisions should significantly ease the burden of export controls on our exporters while maintaining strict export controls on our most critical and militarily useful technology. It will enable our licensing officers and our customs officers to concentrate their efforts on those areas that really matter.

In my judgment we have struck a good balance here. I think you will find that both the Commerce Department and Defense Department are equally satisfied and equally disappointed with the provisions we have written. And when that happens, it's a clear indication that we have a good bill.

Let me also highlight just a few other areas in the trade bill that we crafted in the Foreign Affairs Committee:

We also have done a lot of work in the area of export promotion.

We have given statutory authority to the U.S. and Foreign Commercial Service. This is the arm of government which helps the companies in our districts with export problems. I know that our own experience back in Wisconsin with the Commercial Service has been very good.

You will also find the Commercial Service in our embassies overseas. They are there to serve the American business community in every possible way. They help our exporters cut through the redtape and they are our frontline force in trade policy. Our commercial officers are the ones taking down the trade barriers in our exporters' path.

We have expanded the Trade and Development Program to fund prefeasibility studies.

We have extended the war chest financing facility for mixed credits to match predatory export financing practices.

We have amended the Foregin Corrupt Practices Act. We have clarified the "reason to know" standard so as to eliminate ambiguities in the law concerning corporate responsibility for the illegal actions of agents.

Conferees also specified those payments which may be considered legitimate common expenses made to facilitate trade.

To summarize, we have made a lot of positive changes that will benefit our exporters. That was the preeminent concern for our conferees and I think we met that objective. Now, lets move forward and get this $170 billion trade deficit under control.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, the trade deficit has reached crisis proportions and the time to act is now. This bill is an investment in the American people. Given the resources and treated fairly, our people can outcompete anyone.

The legislation before us today is a comprehensive trade bill. It includes programs to train and educate our workers, and notices; yes, notices if a plant should close. Most of all, it assures that our American workforce can be truly competitive.

Mr. Speaker, I am proud of the trade provisions added by the Committee on Banking, Finance, and Urban Affairs and my Subcommittee on Economic Stabilization to improve export promotion. Specifically, the proposal offered by my Subcommittee on Economic Stabilization will establish a Competitiveness Policy Council to serve as a forum where labor, business, academia, and public interest groups can all work together with the Government to promote America's interests abroad. The Competitiveness Policy Council will analyze information on the competitiveness of the United States, identify competitive problems, develop long-term strategies, make recommendations, and publish the results of their work.

The purpose of the Competitiveness Policy Council arose out of the need to provide coordination in the delivery of export promotion services by the Federal Government to business and industry. Hearings before my subcommittee proved that although the Departments of Agriculture, Commerce, Energy, Labor, State, the U.S. International Trade Commission and the Small Business Administration all offer export promotion programs the lack of coordination in the delivery of these services mitigates their helpfulness to American business. The Competitiveness Policy Council will facilitate the development of effective strategies to maximize the benefit of Federal export programs for American business.

Mr. Speaker, the Trade and International Policy Reform Act offers an extensive network of programs and services for our American people so that they can truly be competitive. It is time that we as a Congress show that we have the confidence in our own workers, and in our own businesses.

Mr. Speaker, it is time to act. We cannot wait for any more deficits. I urge my colleagues to vote for the conference report and show your support for the American people.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE], a member of the Committee on Ways and Means.

Mr. PICKLE. Mr. Speaker, I rise in strong support of H.R. 3, the Omnibus Trade and Competitiveness Act of 1988.

I am pleased that the measure before the House today includes several provisions which I authored last year and offered in the Ways and Means Committee.

This bill includes language that tranfers to the U.S. Trade Representative the authority to determine whether and what type of action is appropriate in cases of possible unfair trade practices and further allows the Trade Representative to implement such action under section 301.

The result is a stronger Special Trade Representative, one who will serve as a more credible negotiator. Section 301 will truly be a strong tool to knock down barriers to foreign markets, rather than a refuge for foreign governments trying to avoid retaliation.

Also included in the bill is a provision which makes a foreign government's tolerance of cartels actionable under section 301. Many American businesses are now forced to compete with well-established cartels tolerated by foreign governments, and this measure for the first time recognizes these cartels as an unfair trade practice, actionable under section 301.

And no longer can foreign governments repreatedly make empty promises to tear down barriers to fair trade. The bill also includes language which mandates retaliation against a nation which fails to implement a settlement agreement. In the past, numerous verbal agreements have been accepted by foreign governments and then ignored and never implemented. Under this bill, such a tactic will be actionable under section 301.

This measure further includes language instructing the ITC to monitor lamb imports and permitting expedited relief within 28 days if a 90-day ITC review finds injury from increased imports. While I would have preferred to see our lamb producers given the protection of the Meat Import Act, I believe this language is a significant improvement.

Finally, this measure includes the repeal of the onerous windfall profits tax, which is long overdue. This is our best and very possibly our last opportunity to repeal the windfall profit tax in the 100th Congress. From the smallest independent producer to the largest major oil corporation, the U.S. energy industry, which has gone through crippling economic hardships in the last few years, is united in its support of efforts to eliminate this tax.

Mr. Speaker, one of the most significant things we can do in this country to improve trade relations is to strengthen our Special Trade Representative. When our representative can sit across the table from our trade partners person to person and look them in the eye as an equal, knowing that he can take immediate action if that government doesn't live up to its agreement, our country's ability to drive a good bargain and enforce it will be vastly improved. Heretofore, some member of the Cabinet could always appeal to the President and say, "We must not impose any kind of sanctions against them, even though they have violated the trade agreement."

Now, our Special Trade Representative can have real authority to say to our trade partners, "If you violate an agreement, we are going to retaliate."

This language strengthens our Trade Representative and strengthens this bill. Bringing unfair trade cases is both time-consuming and costly. We must give American businesses some certainty when they face unfair trade policies in foreign markets that our government will take action. H.R. 3 accomplishes this.

Mr. Speaker, I urge an "aye" vote on this measure.

Mr. FRENZEL. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. WYLIE], the ranking member on the Committee on Banking, Finance and Urban Affairs.

Mr. WYLIE. Mr. Speaker, I rise in opposition to this bill but I would direct my objections to certain of its sections that have been the subject of negotiations by the conferees of the Committee on Banking, Finance and Urban Affairs.

One, the establishment of the International Debt Management Authority whose purpose is to create a facility for buying, selling, and holding marked-down debt of less developed countries. There is a secondary market established in the private sector now, and this bill would substitute a government sponsored facility. Moreover, at the request of the United States executive directors, both the World Bank and IMF would analyze the debt burden of developing countries, including alternatives for dealing with the problem.

This minimizes the role of our Secretary of the Treasury in the process and politicizes the efforts to deal with Third World debt. How do we pay for it? It is either a sterile exercise or a very costly venture undoubtedly to be paid for by Uncle Sam when all the negotiations are done.

Proponents say this is nonbinding. Then it raises false expectations of debt forgiveness and undermines serious economic reform efforts in debtor countries. Finally, it will just plain scare away future private capital.

The proposal for a Competitiveness Council is, in my judgment, unneeded and a waste of taxpayers' money. It duplicates the functions of numerous existing agencies including the Council of Economic Advisers. It would have access to confidential and proprietary Government information and the makeup of its governing body cannot help but politicize the issue of how best to promote competitiveness in U.S. industry.

We have had similar initiatives in the past—the Productivity Commission, for example, a high-level effort that went nowhere. We just do not need to spend $5 million of the public's money to learn that lesson all over again.

My problems with the proposal for the so-called exchange rate reform can be quickly stated. Essentially the proposal would give the force of law to many initiatives which the administration is already pursuing. The danger here is that policy makers are deprived of flexibility in responding to changing circumstances simply because current policy has been hardened into law. The public disclosure required of sensitive information, in my opinion, far from being helpful could be extremely destabilizing to the value of our dollar.

Finally, I have grave reservations about the good sense of the title which would prohibit the Federal Reserve Board from designating a foreign institution to be a primary dealer in U.S. Government securities until it meets certain conditions. I have no quarrel with the basic intent of the proposal. Current negotiations show excellent promise to ensure that our dealers abroad are given national treatment, that there be no discrimination. However, as the proposal stands it discourages foreign participation in the market for U.S. Government securities. We are poorly situated to hang out a "foreigners' dollars not welcome" sign just now.

The provisions I have mentioned are questionable nontrade provisions which should be dropped from the trade bill and taken up separately. If they have merit they will stand alone and will not need the engine of a trade bill to pull them through the Congress.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. Morrison].

Mr. MORRISON of Connecticut. Mr. Speaker, I thank the gentleman from Ohio [Mr. Pease] for yielding me this time. I rise in strong support of the trade bill as a whole and urge my colleagues to make sure that this very necessary step in the direction of plant closing legislation is kept in this legislation.

I want to speak in particular in support of one provision of the banking section of this bill. That is the provision which mandates that the Secretary of the Treasury initiate international discussions for the creation of a new International Debt Management Authority which might be called Ida Mae. This new multilateral organization would work with both the creditor banks and the debtor nations. Our major banks have a huge debt problem. They are holding in their portfolio billions of dollars in lending to poor countries, especially in Latin America and Africa, who can no longer pay their debts. Make no mistake: our banks may well be endangered by nonpayment of those debts.

At the same time, those countries are being choked by their debts. We must take action now to help them.

What we are proposing in this bill is the creation of a new institution to manage this problem. This new institution would act as a broker to expand the secondary market that has already sprung up to trade in this debt which is clearly no longer worth its face value. Ida Mae would move this deteriorating debt off the books of the banks, work with the debtor countries to restructure the debt in a way that reduces—for the first time since this problem erupted in 1982—these countries' overall debts and reduces their current debt payments. The restructured debt could then be sold through this new brokerage institution in the form of new securities marketed throughout the securities markets of the world. If we succeed in doing this, our banks will be sounder, and the debtor nations will be able to resume their economic growth, making the lives of their people better and expanding their purchase of U.S. farm and manufactured products.

This is the goal of this institution and I think some kind of innovation of this sort is long overdue. That is a major reason for passage of this trade bill today.

This is a trade bill and the debt problem is a trade problem. The fact is that the Third World used to be a great market for American goods, expecially in Latin America. That is no longer the case. Those countries are broke and they cannot buy our goods. The people of those countries as well as the people of the United States pay the penalty. The developing nations' debt is 50 percent higher now than it was in 1982, even though they have dramatically cut back on buying our products and have increased their exports into our own markets. The problem is getting worse. We urgently need to do something about it. We cannot continue the misguided debt and trade policies of this administration.

Those debtor countries are being asked to sell more and more exports and take fewer and fewer imports from countries like the United States. That is lost jobs and lost markets for us. And it is an even poorer life for people who deserve a better material life. If we turn that around, those countries will grow, they will buy more here, our trade will improve, our banks will be safer, their people will be better off, and we will all be the winner. That is the goal of the new institution we are proposing in this legislation and it deserves to be enacted.

Mr. SCHULZE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. Rinaldo.]

Mr. RINALDO. Mr. Speaker, I rise in support of the conference agreement on H.R. 3 and urge my colleagues to join me in supporting this legislation.

The legislation before us is the product of literally years of work. More importantly, it is long past the time when the United States got tough with its trading partners and insisted that international trade be a two-way street.

As the ranking minority member of the House Telecommunications Subcommittee, I have been particularly concerned about our Nation's ability to compete fairly with foreign nations.

The United States has opened up its telecommunications market—the largest one in the world—and it has proved to be a boon for foreign telecommunications manufacturers.

Unfortunately, we have not seen a similar willingness on the part of our trading partners to open up their own markets. This has been particularly true in the Japanese market, which exceeds $32 billion a year.

But it has been equally true in Western Europe. Just a few months ago, we saw AT&T lose a contract in France when, by all accounts, it had submitted the most competitive bid for assuming control of the French CGT.

Three years ago, I introduced legislation that would ensure that the Federal Communications Commission played a role in assuring an equal footing in international telecommunications trade. Although the final language contained in the conference report is not identical to my original amendment as passed by the House, it embodies the substance of my proposal to ensure that free trade is also fair trade.

The conference report provides special authority to the U.S. trade representative to negotiate the opening of foreign telecommunications markets, and I strongly support this approach.

The legislation before us today is long overdue and deserves the support of Members of both sides of the aisle.

In intend to vote for this measure, and I hope my colleagues will join me in assuring its overwhelming passage.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, I appreciate the gentleman from Ohio yielding me this time. Let me say first of all that the trade deficit is a very serious problem in this country. It is high time we do something about it.

The conference report on H.R. 3 is good legislation, and I am here to support it and support it enthusiastically. Part of the trade problem has to do with the Federal deficit, and this Congress and future Congresses have to get serious about solving the Federal deficit problem. Part of the trade problem has to do with foreign trade barriers.

Mr. Speaker, this is the blue book, 350 pages long, printed by the U.S. Trade Representative's office entitled "Foreign Trade Barriers." These 350 pages describe what our producers face when they try to sell in another country. I am saying that when our country opens its arms to the goods from around the world, our producers should expect the same treatment, no less, when we try and sell in their country. We will not continue to allow unfair trade practices and trade barriers to prevent American producers from selling in other countries around the world.

I hope after this bill passes that I will not be able to hold up a book like this dealing with foreign trade barriers ever again. Our trading partners have two obligations, in my judgment, one is to treat us as generously as we treat them, open their markets to us just as we open our markets to them; and, two, when we for example buy $80 billion worth of Japanese goods in this country, the Japanese have an obligation to buy their beef and their wheat from America, not from Australia. There is an obligation for them to do business with us just as we do business with them, just as in any business relationship.

Some people say that we should not pass this bill because it will make our trading partners nervous. Let us have the nerve to pass this, I say. This expands trade opportunity. This is good for family farmers and I know something about that because in our part of the country we need new markets for farm products. This says to our allies and trading partners that they must open their markets. This will be good for family farmers because it is going to expand world trade.

America has got the biggest, most open market in the world, and our trading partners have been able to build much of their recent economic prosperity on our good-natured behavior. Regretably, our trading partners don't often reciprocate. While Japanese video cassette recorders flood our country, the United States is restricted in how much beef it can export to the Japanese. As a quarter million Korean Hyndais hit our shores last year, not an ounce of American beef was allowed into South Korea. The list of trade barriers and restrictions goes on and on.

Why should we condone the actions of our trading partners when they blatantly restrict American products from competing in their markets and when we open our arms and allow them to come into the United States so freely? The answer is, we shouldn't. We should insist that they treat us as generously as we treat them. Our $171 billion trade deficit last year is intolerable, and taking action to expand our trade opportunities is a response that we must pursue.

The trade legislation that we are considering today sends the right signal to our trading partners. We will not sit idly while they build barrier after barrier. We will not close our markets to them, rather we should force them to open theirs.

This trade bill announces to the world our commitment to be a leader in world free trade, and it asserts our right to be treated fairly. This trade bill improves and strengthens our trade laws. It enhances our competitiveness. It sends the right message to the world.

Let me mention some specifics on the bill. While I would have preferred seeing a considerably stronger section 301, I believe that the conferees are on the right track in highlighting the most blatant trade barriers actionable under this section. The Foreign Trade Barriers Report for 1987 is 350 pages long and growing. These are just the most obvious examples of unfair trade; think of how long this report would be if we listed all the smaller examples. Also, section 301 is strengthened by transferring authority to the U.S. Trade Representative.

America has the finest products in the world. This bill promotes the expansion of these American exports by streamlining export licensing requirements and improving export promotion activities.

In order to deal with our trade deficit we must become more competitive. This trade bill helps in that process by upgrading education and training programs to increase the productivity of workers. It will aid in the revitalization of academic research programs. It will aid small companies in utilizing advanced technologies.

In the case of agriculture, I believe that this bill strikes the right chord. The extension of the Export Enhancement Program through 1990 and the increase in the value of commodities to $2.5 billion is good news to our farmers. Moreover, demanding greater access for our agricultural exports to Japan and South Korea is precisely what we need to do more. These nations cannot continue to flood our markets with their products and ban or restrict our agricultural and other exports.

Finally, let me comment on the plant closing provision. I support this section of the bill, because I believe that it represents simple, common decency. The opponents of this plant closing notice section would have you believe that this represented the end of the world. Let's put this in perspective. The bill asks for 60 days notice. It exempts small firms and provides other ways for companies to avoid the notice under certain circumstances. For the worker trying to support a family and making ends meet, 60 days is a minimal amount of time. As for the argument that Government has no business getting involved in this, I say, ridiculous. Workers are integral parts of companies and deserve to be treated decently. Regrettably, some firms don't appreciate this fact and give no notice to their employees when a shut down occurs. This bill asks only for common decency.

Today, we have an opportunity to vote for a bill that will strengthen our trade laws and make us more competitive. While it won't erase our trade deficit, it will help reduce it. We in Congress have worked for many, many months on a trade bill and I believe that we have succeeded in formulating one that is going to help this Nation. I hope that our President agrees. I hope that our President will give this bill the support it deserves. I hope that our President will endorse this bill, because it enhances our trading position in the world. I urge all my colleagues to support this conference report on H.R. 3.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. MATSUI], a distinguished member of the Committee on Ways and Means.

Mr. MATSUI. Mr. Speaker, I also offer my support for this major historic trade bill facing us today. All of us know that we are facing $150 to $200 billion trade deficits on a yearly basis and we have to do something about it. This bill will not solve the overall major structural problem of our trade deficit but it will go a long way in bringing fairness to the trade problem in the United States.

I know some people originally had talked about this bill being somewhat protectionist, but I can say that as a freetrader this bill has been cleaned up enormously.

□ 1250

We have a very powerful provision in section 301 where we have the transfer authority to the special trade representatives. We knocked out a lot of items that business and others are very concerned about. At the same time the centerpiece of the legislation to open up foreign markets is still in the legislation in the form of 301 and 201 has been strengthened.

I think it would be a tragedy if this Congress should turn down this trade legislation. We have to send a signal to our trading partners that we are serious about trade as a major issue facing all of us today.

I urge my colleagues to support this very, very moderate, but very strong, legislation.

Mr. PEASE. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I thank the gentleman for yielding this time to me.

I rise in support of H.R. 3. I note Chairman DE LA GARZA's strong support of the agricultural title of the bill, as well as the other titles. And his full statement to be included in the RECORD of the debate describes in detail the agricultural provisions of the bill.

The conference report we are considering is the product of over 1 year's labor by those of us in the House to craft a comprehensive bill to address what I believe to be one of this Nation's most pressing problems, our competitive standing in the world. While certainly not perfect, this legislation is a prudent, measured response to this problem and will, I believe, enable our workers, our businesses, and our farmers to compete in world markets into the next century.

I want to draw special attention to title IV of the bill. All segments of agriculture have come together in helping to draft legislation to ensure that one of the most favorable and most successful of our Nation's exporting sectors continues that success. It enjoys broad-based support among farmers and agribusinesses alike and deserves the approval of this House, too.

As chairman of the Subcommittee on Wheat, Soybeans, and Feed Grains, I am especially pleased with the work we have done in this conference report to stimulate and promote exports of these products. Over the last year, we have witnessed an enormous rebound in exports of U.S. farm commodities and the authorities in this legislation will ensure that U.S. growers, and the thousands and thousands of other U.S. laborers and businesses who depend on those exports, can continue to exploit their competitiveness in the world.

The extension and expansion of the Export Enhancement Program provides farmers and Government the cooperative tool they need to counter the predatory trading practices they all too often face from foreign competitors. Through the aggressive use of this program during the last year, U.S. exports of farm products, especially wheat, will reach near historic levels. It is imperative for the continued improvement in the agricultural economy that the Congress back these efforts and approve this provision.

In addition, we have crafted a mechanism to continue to press for an agricultural agreement under the present multilateral trade negotiations. The triggered marketing loan and triggered EEP provisions demonstrate the resolve of the Congress to press for an agreement to strike down the barriers to agricultural trade worldwide and force those governments which have erected such barriers to negotiate with the United States for a new framework for agricultural trade under the General Agreement on Tariffs and Trade.

During the months of work on this title of the conference report, the chairman of the Agriculture Committee, Mr. DE LA GARZA, played an invaluable role. I would ask unanimous consent for his statement on the bill, including the summary of the provisions of title VI, be inserted into the RECORD at this point.

In closing, let me reiterate my strong support for this title VI. We need to ensure that our farmers continue to be the most competitive in the world and this legislation will provide them assurances that their government will play a cooperative role in that partnership. The bill is supported by most farm groups, including the American Soybean Association, National Association of Wheat Growers, Rice Millers Association, and the American Farm Bureau. I urge my colleagues to support the legislation.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the distinguished Delegate from the District of Columbia [Mr. FAUNTROY].

Mr. FAUNTROY. Mr. Speaker, I rise in strong support of the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act. It is absolutely imperative that this legislation be approved by the Congress and signed into law by the President. The cost of not doing so is to perpetuate a no trade policy.

Let me just briefly address the Banking Committee portions of this legislation in which I had direct involvement.

DEBT PROVISIONS

The Banking Committee provision requiring the Treasury Secretary to negotiate a debt facility in an effort to reduce the Third World debt will provide strong support to other U.S. initiatives to reduce our trade deficit. The House and Senate conferees reached agreement on this provision following long and arduous negotiations.

The U.S. trade deficit is in part due to the Third World debt crisis. In an effort to service their debt, many Third World countries have reduced their imports and increased their exports. U.S. export-oriented and trade sensitive industries have suffered, as has the development of many debtor countries.

The debt facility represents a vehicle through which Third World debt can be reduced. Once this has occurred Third World countries' efforts to invest, develop, and grow will be greatly enhanced, and U.S. trade will benefit as well.

Finally, the House and Senate have jointly included a provision requiring the IMF and the World Bank to study a series of alternatives to address the Third World debt crisis, including the debt facility provision in the bill. The IMF/World Bank study provision is important in terms of moving the debate ahead.

The U.S. trade deficit is inextricably linked with the Third World debt crisis. The banking provisions act in recognition of this reality.

MULTILATERAL BANK PROVISIONS

The House and Senate passed bills originally had a large number of provisions relating to U.S. participation in the banks. Through the fruitful labors of House and Senate conferees we have condensed, improved, and even eliminated many of these provisions. In many instances the time lag in consideration of this legislation has made some of the eliminated provisions moot. In other cases there was overlap with existing law. In fact in only one case did the conferees agree to eliminate a provision relating to the banks wholly because it would have represented terrible statute. I am referring to the so-called FAIR provision in the Senate bill.

The Foreign Agriculture Investment Reform Act [FAIR] would have precluded positive consideration by the United States of loans intended to help countries grow their own food. It would have, for all practical purposes, ended U.S. participation in the World Bank and other MDB's. While this provision has some surface political appeal its elimination from the conference report represents the best efforts of the conferees to approach problem loans within the banks from a positive rational approach. Again, I thank my colleagues for their farsightedness and I urge passage of the conference report.

Mr. SCHULZE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, during last year's floor debate on H.R. 3, I expressed my distress over the fact that it had taken a $170 billion trade deficit to finally remove our rose-tinted glasses. Until undertaking the arduous task of developing a new trade policy, we had rigidly and imprudently adhered to a policy so idealistic in nature, that it failed to recognize that our trading partners were using it to gain unlimited access to our markets while denying us equal access to theirs. Not only did it ignore the unfair practices of our trading partners, it left us without a recourse for addressing these inequities.

Through a bipartisan commitment to reforming the laws which set forth this Nation's trade policy, Congress has proven its resolve to formulate a more coherent policy to govern our trade relations with the rest of the world. Clearly, this commitment, combined with a willingness on the part of Chairman ROSTENKOWSKI and Vice Chairman BENTSEN to pay heed to the concerns of the administration as well as other interested parties, has taken us one step closer to a more coherent and forward-thinking trade policy.

One area in which significant progress was made is on the issue of advice from the private sector.

This bill expands the private sector advisory committee functions to include information and advice on development and implementation of overall U.S. trade policy and priorities, as well as on negotiation issues. This is a considerable achievement in that sometimes those who formulate our Nation's trade policy tend to lose sight of the far-reaching effects of this policy on the private sector. Therefore, in enhancing the private sector's ability to offer advice to policymakers, we acknowledge the positive contributions that this sector of our economy can make to the formulation of overall U.S. trade policy.

Another of H.R. 3's successes comes in the form of the transfer of authority from the President to the U.S. Trade Representative to make determinations whether certain foreign practices meet section 301 criteria. As you well know, Mr. Speaker, many of us have fought long and hard to bring this about. The proponents of transferring authority have long recognized the confusion which exists within the administration when it comes to reaching a unified position on section 301 cases, as well as the wide array of other trade issues which confront us.

Some of our trading partners have actually taken advantage of this lack of unity by playing off one Cabinet Secretary against another. By retaining the transfer of authority portion of the trade bill, we send a definitive signal that we are continuing our march toward a streamlined government trade establishment and, therefore, a unified voice on trade policy.

Other provisions also warrant accolades: A more effective and usable section 406 to deal with market disruption caused by imports from nonmarket economy, or Communist, countries.

Secondly, the bill strengthens our antidumping and countervailing duty laws to provide U.S. industries with a method of combatting unfair trade practices. Next, H.R. 3 strengthens international protection for U.S. intellectual property rights. Because of the obvious importance of having this kind of protection, this bill will greatly enhance U.S. international competitiveness. Finally, this legislation levies a reasonable and just punishment against Toshiba and Kongsberg for diverting sensitive technology to the Soviet Union.

This provision serves to put our Cocom allies, as well as firms in our own country, on notice that earning profits by selling out to Communist countries is an ill-advised course of action.

Notwithstanding all the positive elements of this bill, I cannot support it because of the inclusion of a provision mandating notification of plant closings and layoffs. To begin with, many U.S. businesses already provide advance notice. While such a policy is commendable, it is not the Government's place to mandate such notification. Such intrusive government policies have plagued many European economies by stifling economic growth and job creation for years.

This is evinced by the fact that since 1982 15 million new jobs have been created in the United States as opposed to approximately 1 million in Europe. On a recent trip to Europe, I heard this sad state of stagnation referred to as "eurosclerosis." This is one import we can do without. Additionally, this provision stands to impede the further growth of my small- to medium-sized business constituency which would rather count on its own ingenuity than on an overly intrusive government calling the shots.

I urge my colleagues to vote against the conference report on H.R. 3 and, at the appropriate time, to vote to sustain the President's veto. Hopefully, we can then take action on this same piece of legislation, minus the irrelevant provision which has transformed its most loyal supporters into its staunchest foes. Only then can we give the American people what they have always deserved . . . a rational and coherent trade policy to pave the way to the 21st century.

□ 1300

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, this is an important conference report bill that this body considers today and a controversial one in some respects. I hope that, in our rush to focus on the highly publicized and more glamourous portions of the bill, we do not overlook the section which provides desperately needed assistance to small business men and women who want to export.

The Members of this body can be proud of the section that has been set aside especially to fortify small business exports. It contains no protectionist provisions, though it should help small businesses defend their rights. We did not engage in ally bashing, though we think the small business section of the trade bill will help small businesses prove they can outperform foreign producers anywhere. And we do not spend much money—the pennies that we did put in are to be leveraged many times over.

The philosophy of our section is simple enough: we tried to provide the tools for the government agencies and their quasi-government service partners and the incentive for local communities of businesses to keep our heads up and our eyes and ears open to take advantage of available technology and trade opportunities. We wanted to nurture a system where American businesses can help themselves by helping one another.

Personally, the opportunity to help shape this bill gives me great pleasure. Having been on the Small Business Export Subcommittee during almost all my tenure here in Congress, I have heard countless small business men and women express their frustration about the difficulty they have breaking into international markets.

The Small Business title helps put in place a system that will help small businesses who are interested in exporting. It also goes a long way toward giving small businesses a say in how our trade policy is set. We have all heard that small businesses account for 49 percent of our GNP, yet only 10 percent of our exports are generated by small businesses. We can and must expand our small business exports. So doing will be our best, long-term solution to reducing the trade deficit.

Briefly, the Export Subcommittee recommended the following goals which we think this trade title achieves:

First we sought to strengthen the International Trade Office of the SBA. This has been done as much as possible by working within the existing organization to set new goals for expanded services and interagency cooperation.

Second, the Small Business title helps small business stand up for their rights. Although this provision has been changed in conference, and although it is not as strong as I would like to see it, the Small Business Conference worked with the Ways and Means Committee to find ways to strengthen the effort by the U.S. Trade Representative and the International Trade Commission to provide basic assistance to businesses who have been the victim of unfair trade practices. In addition, we require the Small Business Administration International Office to work with these groups. This should help small business cope with the extraordinary burden and expense of pursuing their lawful trade remedies. The Small Business Committee received testimony that the cost to bring a petition and follow it through to completion before the International Trade Commission is at least one quarter of a million dollars. Justice at that price for a small business frequently means no justice at all. There are also currently before Congress other proposals which address the issue, but I think we have made a good start.

Third, the title encourages homegrown, export promotion with an emphasis on flexibility, imagination and teamwork. Testimony presented to the committee by four of our most aggressive Small Business Development Centers [SBDC's] has convinced the committee that the SBDC programs are in the best position to spot and help worthy small businesses. We found that they can call on a wide variety of inventive and useful assistance methods. SBDC's can provide both hands-on technical applications to improve competitiveness or financing mechanisms to gear up for international markets. They have firsthand experiences with hundreds of businesses in their communities which can be brought together, encouraged to export and enabled to learn from each other's experience. I think the committee has an excellent package that will give new direction to SBDC's and, most importantly, will provide support that is intelligently applied by experts in the community to businesses who are anxious about exporting.

Fourth, we on the subcommittee wanted to find a way to get small businesses excited about foreign markets. The subcommittee recommended that some form of innovative competition—perhaps along the lines of the Small Business Innovative Research [SBIR] programs—be established to reward export worthy products and ideas. This is in line with the recommendations of the White House Conference on Small Business. My friend and colleague from Virginia, Mr. SISISKY, has been working hard to find a way to make it possible. Incorporated in this title are provisions for the SBA to study and report on a variety of ways to handle such a competition or, perhaps, to focus the existing SBIR program to the world market. With a proper foundation of research and with the leadership of the gentleman from Virginia, the Export Subcommittee will be prepared to move ahead in a separate bill or in the SBA reauthorization bill, to set up such a plan. The subcommittee is committed to actively move on any such proposal, but the report contained in our title is a necessary first step.

Fifth, we provide for the collection of the kind of information businesses need about good ideas in trade worldwide and international business opportunities they can sink their teeth into. My colleague, ANDY IRELAND, has done a great deal of work in improving the information systems for the benefit of small businesses. He points out, and I couldn't agree more, that one of the most important things that the United States can do for small businesses is to collect and disseminate useful information. Our section requires a number of reports; for example, a survey of what our competitor nations are doing to help their small businesses.

Sixth, and last, we recommended ways to help our businesses speak the language of international trade. I am pleased to say that the Small Business trade title includes provisions which:

First. Requires the SBA and SBDC's to identify and list translation services that may be available to small businesses. Frankly I would also like to see better use made of our college language resources and our technical information centers.

Second. Requires SBA International Office to give preferential hiring consideration to multilingual applicants and our title directs the establishment of a program to reimburse International Office employees and regional experts who enter a training program in a foreign language.

Third. Requires the International Office to make their multilingual employees available to provide translation assistance for traded missions or translate documents or meetings as needed on a short-term basis. In addition, they can counsel small businesses who require long-term translation assistance about available public or private services.

Let me also point out that this bill, thanks to the leadership of our chairman JOHN LAFALCE, makes some much needed changes to the guaranteed loan program and opens the door for businesses who have the capability to export, to get the kind of financial assistance they need to do so.

There is a good reason, Mr. Speaker, why the conference on this section of the trade bill went so smoothly: First, I think that the ideas presented in this section are innovative, necessary and well thought out. Second, I think that the members of the conference, under the leadership of JOHN LAFALCE and DALE BUMPERS, followed the example of the small businesses we deal with and came determined to get the job done. For me, this title adds a great deal to the value of the bill and I urge Members to support it and the conference agreement.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, it is no small accomplishment on the part of Members of the House and Senate, that this bill, the Omnibus Trade and Competitiveness Act of 1988, is before the House. I would like to commend, in particular, the chairman of the conference committee, Chairman ROSTENKOWSKI and the Speaker for their leadership in resolving the many difficult issues and uniting the many committees involved in this legislation.

The conference report on which we are voting is the result of diligent efforts of many House and Senate committees to resolve the Nation's trade crisis. To cite one example, the Subcommittee on Oversight and Investigations, which I chair began looking into the adverse effects of unfair foreign trade practices on our balance of trade as early as 1983. Over the next few years, we held over 30 hearings in an attempt to understand the growing problem and to capture the attention of the present administration. The many other committees involved in this trade legislation have also been working consistently on this issue. While the administration seemed unwilling to acknowledge the severity of the problem, the Congress has responded forcefully and filled the leadership void. While this bill will not eliminate all of our trade problems, it constitutes a serious first step toward improving our Nation's balance of trade.

I am pleased by the resolutions reached by the Committee on Energy and Commerce in the subconferences for which we were assigned primary responsibility.

The Foreign Corrupt Practices Act amendments included in the bill will clarify the current provision while continuing to prevent abuses.

A provision on foreign takeovers and mergers will give the President needed authority to stop mergers and acquisitions by foreign persons which run counter to U.S. national security interests.

A pesticide monitoring and enforcement provision will address the serious problem of contaminated food imports.

A provision calling for a National Trade Data Bank will provide businesses and Government officials with access to sorely needed information on trade in both goods and services.

I am also pleased with the title of the bill on trade in telecommunications which will begin to focus attention on the particular problems faced by this growing and important industry;

These issues, and many others, have been successfully resolved by the conferees.

Although the bill represents a significant accomplishment, I do wish that a number of the original provisions in the House bill had been preserved intact in the conference agreement. In particular, I am sorry to see that the original Gephardt amendment was not adopted by the conferees. Nonetheless, I recognize the need to reach compromises with the Senate, and while the bill might not be as tough as I had originally hoped, I believe that the conference agreement reached will substantially improve the trade laws of the Nation.

This is a bill that we can be pleased with. It constitutes a first and significant step toward addressing our trade problems. I urge my colleagues to pass it expeditiously, and I hope that the President will sign it into law.

Mr. SCHULZE. Mr. Speaker, I yield 3 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I reluctantly rise in opposition to the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act. I am reluctant in my opposition, because, as I have stated before, I believe the United States needs effective, strong trade legislation. However, the legislation we are considering is weighed down with provisions that will be more deterimental to U.S. workers, consumers and businesses than no legislation at all.

A bipartisan effort is necessary to enact sensible trade legislation. We all know that last Congress the trade bill became a battleground laden with protectionist issues. The result was no meaningful help to struggling U.S. businesses and workers. Most of us have worked diligently to avoid reaching that same road block again this Congress and in many areas we have been very successful. The bill was vastly improved just recently, when the provision imposing discriminatory, burdensome reporting requirements on foreigners who invest in the United States was dropped. Additionally, we have reached agreement on:

First, amendments clarifying the Foreign Corrupt Practices Act [FCPA];

Second, extending the President's trade agreement negotiating authority;

Third, substantially strengthening our trade laws; and

Fourth, foreign shipping practices.

Several key points should be made about title X of the Omnibus Trade and Competitiveness Act of 1988. This title, known as the Foreign Shipping Practices Act of 1988, gives the Federal Maritime Commission [FMC] authority to investigate whether or not certain laws, activities, or practices of foreign governments or other entities involved in maritime services are responsible for unfair international trade practices in merchant shipping.

The key element in this legislation is that in order for the FMC to move against a foreign country or a foreign vessel operator, it has to establish that the laws or practices of that country adversely affect American vessel operators, and second, that the conditions that adversely affect American carriers do not similarly exist for the carriers of that foreign country in the United States under our laws.

If the FMC does find that laws or practices of a country cause unfair trading conditions and these two standards are met, then the Commission can take action against the foreign carrier who is causing the problems or whose government is responsible for the unfair trade practices.

Mr. Speaker, I want to applaud the chairman of our Merchant Marine and Fisheries Committee, the Honorable WALTER JONES, for the manner in which he has worked with all of the members of our committee in developing this maritime title for the omnibus trade bill. The chairman's statement this afternoon goes into considerable detail about the bill and I endorse his comments.

Earlier this year there were several legislative alternatives being considered. Working together under Chairman JONES' leadership, we have prepared a bill that is properly drawn and tempered with reasonable standards and conditions. In the House-Senate conference with our colleagues from the other body, we have developed language that will help eliminate the kinds of unfair trade practices that have caused American companies so much trouble in international maritime trade. I am pleased to note that the tone of this final conference legislation is very similar to a bill that I introduced last year in an effort to focus attention on the unfair trade practices facing our American merchant marine.

I also feel that the administration will be able to accept this compromise since we have either toned down or eliminated most of the provisions that spokesman for the administration had previously opposed.

Those of us from the Merchant Marine and Fisheries Committee who have been concerned that unfair trade practices were slowly but surely killing our international shipping companies believe that title X will give our American companies an even break so they can compete in the international trade.

Overall, however title X and the other good provisions do not outweigh the self defeating plant closing provision and the provision establishing a council of industrial competitiveness.

The plant closing provision is a step in the wrong direction. This legislation could lead to Government review of all corporate decisions to close plants or layoff workers. U.S. companies must remain free of Government interference in order to make decisions that will enhance their competitiveness. Trade legislation should enhance U.S. competitiveness not hamper it.

Although the administration has decided not to contend it, the provision establishing a competitiveness council is still an onerous provision that will cost taxpayers millions of dollars and is totally unnecessary. Literally, dozens of advisory councils presently exist representing both the business and labor communities. Among its duties the council is to recommend national strategies for enhancing U.S. productivity and international competitiveness. This council, buried deep in the trade bill, smacks of industrial policy and is an unnecessary expenditure of taxpayers dollars.

I regret that based on the inclusion of these provisions I am forced to vote against the trade bill. I urge my colleagues to join me in demonstrating Congress' will is to pass strong, effective legislation that will help American businesses and workers. A no vote on this bill will continue the process and allow Congress to pass a trade bill that will do its job.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. FLORIO].

Mr. FLORIO. Mr. Speaker, I rise in support of the bill.

Our trade problems are the most immediate threat to our Nation's security and well-being. Our trade deficit must be brought down, sharply and quickly.

The bill before you is a comprehensive trade bill which makes extensive changes in U.S. trade law. It is a response to the deteriorating trade position of the United States, a pattern of unfair trade practices by some of our trading partners, and the need to establish a climate where U.S. industries can become more competitive.

Many analysts believe poor U.S. performance in trade was a major cause of last October's stock market crash. And, despite better trade figures early this year, last month's unexpectedly high deficit figures were cited as precipitating last week's major market decline. Last year's deficit was the sixth straight year that our trade deficit broke all previous records.

Clearly, major changes in U.S. trade policy are very much needed.

For too long we have tried to solve our trade problems by changing the procedures we use to deal with unfair trade practices. We have always believed that as long as the trade remedy process allowed for the consideration of relevant and important factors, the conclusions reached would be fair and appropriate from a market standpoint.

What we are now finally coming to realize is that for many of our trading partners trade rules and processes are used only to take advantage. Rather than negotiate for the purpose of reaching agreement, many countries have mastered the art of extending negotiations for the sole purpose of giving their firms time they need to win market share in unfair ways.

In this situation, a crisis occurs when the U.S. industry has become so weak that it can no longer compete. Typically, at this point negotiations conclude with an agreement to take some modest market opening action that will take yet an additional period of time to implement.

We can no longer afford to approach our trade problems in this way.

Strong leadership is needed to implement policies that will enable American firms to once again become leaders, not followers, in the world market place. We must respond forcefully to unfair trade practices of foreign countries that contribute to our trade deficit, but we must do more than that. We must understand the world trade situation, how it affects our economic base, and act to assist industry to become competitive again.

Neither can we afford any longer to let political and economic axioms rule, rather than guide, us in governing our country. Tax increases are viewed as bad even though our Federal budget deficit continues each year to grow larger and larger. Retaliating against unfair trade practices of other countries is resisted as being protectionist or disruptive of our relations with foreign countries, even though evidence clearly demonstrates that U.S. companies are unfairly denied entry to many foreign markets. Government intervention to assist U.S. business in adjusting to the flood of imports coming into our country is opposed because it would disrupt free market forces. Even joint government—private sector efforts to help the United States regain its leadership in technology is rejected unless it is directly related to national defense.

More than anything else, I believe our fundamental attitudes about the role of Government must change. We in government have got to overcome our devotion to ideas and principles that no longer truly fit the world we live in. We need to step back and realize that our Government's hands-off approach to business does not necessarily mean the free market will be allowed to work. Instead, Government has a role to play in preserving the integrity of markets when unfair trade and import practices threaten to destroy U.S. industries.

Our Government needs to become far more attuned to what our national economic interests are. Then, we must aggressively find ways to promote those interests. We must realize that our views of free trade are practiced in only a few other areas of the world and that managed trade is far more widespread. Thus, by continuing to talk about free trade we automatically cut ourselves out of the deals that could get U.S. companies into many foreign markets while we continue to invite other countries to flood our own market with their imports.

What is needed to bring about this change of attitude and approach is really leadership—not legislation. But, in the absence of leadership, the Congress is about to pass trade legislation that will remove the one trade action that too many of our Presidents have chosen to use in response to unfair trade—and that is doing nothing. Under the new trade bill, the President will be required to take some action in response to unfair trade when negotiations fail to produce an acceptable result.

We must make a choice. We must choose whether to take direct action to bring down our trade deficit or to continue relying on endless negotiations to solve our trade problems.

For the past 40 years, our Nation has been the world's strongest supporter of free trade. Our answer to trade conflicts has always focused on negotiated settlements and the development of rules and procedures to address problems.

Quite frankly, free trade worked to the advantage of the U.S. following World War II. We were the free world's largest, and only, fully functioning industrial power with little competition in most world markets.

Those days are gone. Today, we are more important to the rest of the world for what we consume than for what we produce. The strength of most of the major economies in the world today is founded on restricting consumption in their home markets, maximizing investment and producing for sale in the United States—the world's largest and safest market.

If the market place was working as it should, the capital markets would adjust to devalue our currency and the importation of goods and services should decline sharply. But, that has not happened.

Although our currency value has fallen more than 40 percent in 2 years, last year's trade deficit still broke all previous records. Clearly, market forces alone will not bring our trade deficit down.

Furthermore, negotiations have not worked either. After more than 10 years of negotiating agreements that were supposed to open Japan's telecommunications market for United States firms, our companies do not have what could be called a good foothold in that market. With tariff and nontariff barriers now eliminated, United States telecommunications firms still face massive obstacles in Japan. As a result of the deregulation of the United States telecommunications market while Japan and other foreign markets remain closed, the United States telecommunications trade has gone from a surplus of $1 billion in 1980 to a deficit of $2 billion in 1986.

The trade bill we are considering provides for specific negotiations over access of United States telecommunications equipment and services into foreign markets. If negotiations fail, the President is required to take action.

Last year, we concluded talks with Japan—the so-called MOSS talks—that were to remove the last vestige of barriers to our entry into the Japanese telecommunications market. As a result of these talks, Japan rewrote its telecommunications regulatory system in such a way that it now mirrors our own regulatory system administered by the Federal Communications Commission. These actions now make Japan the most open regulatory market in the world next to our own.

With this agreement, United States telecommunications firms had expectations of increasing their share of Japan's market from about 4 to 25 percent. Instead United States telecommunications exports to Japan have increased only marginally. With few exceptions, United States sales in Japan continue to be blocked by the close relationship between the Japanese Government and its firms that have characterized the Japanese economy for a long time.

The Motorola Corp. has confronted this problem in trying to get access to the cellular phone market in Japan. At the same time, six of Japan's mobile phone companies have been found to be dumping their products in our market.

After extensive negotiations, Japan certified that Motorola's equipment met Japanese technical standards. Motorola then entered into an agreement with a Japanese company to compete with Nippon Telegraph & Telephone [NTT] whose telecommunications monopoly in Japan ended recently.

When the Japanese company with which Motorola has its agreement tried to get a government license to compete with NTT, however, they were surprised to find that Toyota Corp. and other major firms with close ties to the Government of Japan had also set up a firm to compete with NTT. The Government of Japan all of a sudden developed serious concerns that its mobile phone market was not large enough for two companies to compete with NTT.

As a result, the company to be supplied by Motorola was locked in a stalemate until recently, with the Japanese Government insisting that it reach an agreement over how to divide up the Japanese market to ensure that NTT has only one competitor in every area. When the Japanese Government allocated the market, the Toyota-led company was given all of the most desirable, urban areas of Japan, while the company being supplied by Motorola was given much less attractive markets.

Japan's treatment of Motorola stands in stark contrast to the treatment Japanese companies have come to expect from our Government. Toyota, Motorola's major competitor for Japan's car phone market, did not hesitate to ask our government to establish a free trade zone around its new assembly plant in Kentucky so that it could import component parts from Japan on a duty free basis.

The Commerce Department recently granted Toyota's request. But I believe our Government must begin to condition approval of requests like Toyota's on more favorable treatment of U.S. companies abroad.

The situation in Japan is not all that different than the situation in other countries. Almost 60 percent of the telecommunications market outside the United States is controlled by Government procurement.

For these reasons, the telecommunications provisions of the trade bill are especially important. Our trading partners must understand that efforts to open markets, alone, are not enough; it is the result that is important. Either U.S. telecommunications exports must increase or the foreign share of our telecommunications market will have to be restricted.

I visited South Korea recently where the Government of that country is using so-called military-offset programs to get the technology they need to compete with United States firms in computers, electronics, telecommunications and other high technology fields. Under this policy, South Korea requires that 50 percent of the value of the sale for routine military equipment be allocated to companies in South Korea. In additon, South Korea requires that United States technology be transferred to South Korean firms. For the advanced fighter program, a special regulation requiring that 60 percent of the value of the work be done in South Korea was passed.

Negotiations and agreements have not, and will not make these kinds of trade problems go away. We need tough legislation that will force our Government to confront the problem of the deficit itself. Provisions of the trade bill that we are considering today our government will have better information regarding offsets or countertrade as a condition of sale in a foreign market. In this way, we will know which countries impose offset requirements, and we can take appropriate action.

Other provisions of this legislation that my committee acted on would give the President authority to block foreign takeovers of U.S. companies, if the takeover threatens national security. When Fujitsu, a Japanese semiconductor firm, tried to takeover Fairchild, a United States-based semiconductor firm, earlier this year, the President found that he had very little authority to act. This provision would give the President important powers to protect our national security.

This provision is backed by the administration and has strong bipartisan support in the House and the Senate. Many, including the administration, were shocked to find how little authority the President has under existing law to respond if foreign takeovers threaten national security.

Under the bill, only the Government could initiate the process that would lead to the President blocking foreign takeovers. We do not want to discourage foreign investment, but if the national security of the United States is threatened by foreign takeovers, the President should have appropriate authority to act.

It is also important to note that the term national security is intended to be interpreted broadly without limitation to particular industries such as defense. National security, for example, could extend to emerging and new technologies, biomedical and health related innovations and other goods or services where the loss of domestic control may necessarily be determined to threaten the national security. National security could also include the maintenance of sufficient plant, equipment, technology, research and development, new and manufactured materials, stockpiles and weapons to guarantee the Nation's health, safety, defense and welfare.

The bill also addresses the problem of United States construction and engineering firms that have been prevented from bidding on Japan's Kansai Airport project. Japanese construction and engineering activities in the United States have increased from nearly nothing in 1981 to almost $2 billion in 1985. Some have estimated that as much as 25 percent of commercial construction in the United States last year was done by Japanese firms. In fact, our own Government has hired a Japanese construction and engineering firm to build a new embassy for us in Egypt.

On the other hand, United States construction and engineering companies have received far less favorable treatment from Japan's Government. For almost 10 years, the United States has been negotiating so the U.S. construction and engineering firms could participate in the huge, $8 billion Kansai airport project. To date very little progress has been made, despite more favorable statements from Japan's Government in recent weeks. Only a handful of contracts have been awarded to U.S. companies.

As a result, the bill would initiate a 301 investigation against Japan on trade in construction, engineering, architectural and consulting services. Negotiations have already failed in this case; it is time to take direct action so that Japan will be forced to change its treatment of United States companies.

Furthermore, we all know that many critical U.S. industries have been seriously weakened by unfair trade practices. For these industries to once again become competitive in the world market, we have to do more to make the economic environment competitive. For example, the Defense Department recently concluded that the competitive position of the U.S. semiconductor industry "is very tenuous in terms of present manufacturing capability" and that "Steps to preserve its viability must be taken with dispatch."

As a result, the bill calls on the administration to develop an interdepartmental arrangement to provide matching grants to the semiconductor industry to develop new and advanced manufacturing technologies. Both the Defense Department and the semiconductor industry have concluded that this is the only way for the U.S. industry to regain its competitive position.

Another provision of the trade bill that I support and introduced as a separate bill in the House earlier this year, is the Literacy Corps Assistance Act, which will provide start up grants to colleges and universities to establish academic courses in which undergraduates would go out into the community and tutor reading, writing, and mathematics to illiterate individuals.

Services would be provided by the students to community entities such as schools, Head Start centers, prisons, agencies serving youth, handicapped, disabled veterans and after-school programs. At the same time, the student tutors would gain from the practical experience a tutoring course would provide while doing their part to help a problem that is damaging to our Nation's competitiveness.

Studies indicate that 27 million Americans cannot read a newspaper, cannot fill out a job application, cannot maintain a checkbook or understand the warning label on a bottle of medicine. In short our Nation has 27 million people that form a class of functional illiterates that are uneducated, untrainable, and economically dependent. And these numbers are growing every year. The Department of Education estimates that every year, 2.3 million more illiterates, including high school dropouts, unlettered pass-along graduates and immigrants, are added to our society. I believe the literacy corps can go a long way toward solving this problem.

Mr. Speaker, I also want to support the inclusion of the so-called plant closing provisions of this trade bill. This provision gives workers assurances that they will receive minimum notice—60 days—before a plant closes. Numerous exemptions are included to protect business, for example, when contracts on principal purchasers are lost. We must realize that one key to increased competitiveness is the ability for labor to make an efficient transition from job to job, and industry. Adequate notice regarding plant closings is an important element of that transition.

Finally, the bill gives the Trade Representative important new authority to deal with unfair trade practices and streamlines our trade laws so they can work more effectively. The legislation also requires the President to include competitiveness impact statements when he comments on legislation. It would also establish a "National Trade Data Bank" in the Commerce Department to ensure that both business and Government policymakers have the information they need to enhance America's international competitiveness.

In conclusion, Mr. Speaker, I want to say that I support this legislation. I believe it is important and that it can help bring about fair trade and greater competitiveness of U.S. firms.

I urge my colleagues to support this legislation.

Mr. SCHULZE. Mr. Speaker, I yield 2 minutes to the gentleman from Idaho [Mr. CRAIG].

Mr. CRAIG. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today in reluctant opposition to the conference report on H.R. 3, and I urge my colleagues to support the motion to recommit.

There are many worthwhile provisions in this conference report—such as those that repeal the windfall profits tax, streamline our export licensing requirements, strengthen our worker dislocation programs, and clarify the Foreign Corrupt Practices Act.

If all we had to consider today were these beneficial provisions, it would be easy for me to support the trade package.

But unfortunately, our review must go beyond just those benefits. We also have to consider the flaws of the conference report. And chief among those flaws is the plant closing notification provision.

Mr. Speaker, a poison pill is a poison pill, no matter how you sugarcoat it. And no matter how many benefits you load on top of the plant closing notification requirements, it is still bad policy that taints the entire trade package.

This provision is an attempt to accomplish legislatively what unions have been unable to do through collective bargaining: place restrictions on the employer's business decisions to relocate or close a plant.

It doesn't matter how many restrictions we're talking about, or how much better this particular provision might be compared to the House language that failed in the last Congress. What matters is that it is bad policy for the Federal Government to intrude into the decisionmaking of private businesses.

It is bad for the businesses themselves. By interfering with the flexibility of management, these notice requirements are guaranteed to contribute to—rather than lessen—the problems of a financially troubled company.

It is bad for States like my own State of Idaho, which is making an all-out effort to attract new business and investment. The Federal rules and regulations we already have in place are discouraging enough to new businesses. Add to those a Federal restriction on essential business decisions, and you have the proverbial straw that breaks the camel's back. Why should anyone choose to build a new plant in the United States at all?

It is bad for workers—the very people that supporters of this provision claim to be protecting. These requirements will discourage creation of new businesses, prohibit the expansion of current businesses and reduce the competitiveness of American industry as a whole. What this all adds up to, Mr. Chairman, is simple: no new jobs.

We must not allow such bad policy to taint a bill intended to enhance the trade posture and economic health of this country. I urge my colleagues to insist that this bad policy be removed from an otherwise beneficial package. Vote for the motion to recommit.

□ 1315

Mr. SCHULZE. Mr. Speaker, may I inquire as to the time remaining? May I also urge Members who might wish to speak on this topic to come to the floor as soon as possible?

The SPEAKER pro tempore. (Mr. MURTHA). The gentleman from Pennsylvania [Mr. SCHULZE] has 1 hour 2½ minutes remaining and the gentleman from Ohio [Mr. PEASE] has 1 hour 7½ minutes remaining.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. Mr. Speaker, I would like to engage in a colloquy with the gentleman from Ohio representing the Committee on Ways and Means regarding the telecommunications trade section of the bill.

That section of the bill was reported out of the Committee on Energy and Commerce.

Mr. Speaker, sections 1380 and 1381 and the accompanying statement of managers require a telecommunications trade study and transmission of trade data by the Federal Communications Commission. My understanding is that nothing in this act is intended to alter the FCC's authority under present law in matters of trade policy. Is that correct?

Mr. PEASE. Mr. Speaker, will the gentleman yield?

Mr. MARKEY. I am glad to yield to the gentleman from Ohio [Mr. PEASE].

Mr. PEASE. I thank the gentleman for yielding.

Mr. Speaker, yes, the gentleman is correct. It is the intent of the conferees that nothing in the statutory or report language in any way changes present law with regard to the FCC's authority in trade policy.

Mr. MARKEY. If I may continue, Mr. Speaker, on October 9, the Dow Jones fell over 500 points in 1 day. The stock market was trying to tell us something—we need action on the trade deficit. The question is, was President Reagan listening?

Mr. President, when Ronald Reagan took office, we had a $34 billion trade deficit. Last year, that figure hit $171 billion.

Why has the trade deficit quintupled on Reagan's watch? Because President Reagan's policy on the trade deficit has been to ingore it and hope it will go away.

Countries like Japan have aggressive policies to protect their exports and to exclude ours. Meanwhile U.S. trade policy has been taking a 7-year siesta.

From telecommunications trade to strengthening means to deal with abusive trade practices abroad, this bill contains desperately needed elements to deal with our trade problem.

For 7 years, the Reagan administration has been scrooge to American workers and Santa Claus to foreign corporations.

Free trade means trade flows in freely and it flows out freely. It doesn't mean free markets for them and obstacles for us.

BRYANT AMENDMENT

The administration opposed the Bryant amendment, put forward by my good friend from Texas, an able member of the subcommittee. That provision would have let Americans know how much of America is being bought by foreigners.

In the basement of the Commerce Department, the administration has the figures. But they don't want to give us that information. Mr. President, the American people have a right to know who is buying their country.

PLANT CLOSING NOTICE

One of the most decent provisions of this bill is the plant closing notice. It says that workers deserve more than a pink slip and best wishes when a plant in their community is shut down.

It is time for the Reagan administration to snap out of the idea that nice guys finish last in the domestic economy, that you can balance the trade deficit on the backs of blue-collar workers, and that the only way to compete with foreign companies is to mistreat working Americans.

Mr. President, those Japanese companies that give their workers job protection for life are the same Japanese companies that are now buying up America. You don't elevate competitiveness by giving workers the shaft.

We have no problem protecting ourselves in the Persian Gulf. Why is the administration unable to protect America in international trade?

Mr. Speaker, 7 years of Reagan trade policy has quintupled our trade deficit. We need this bill to start the post-Reagan era of trade deficit reduction. I urge its support.

Mr. SCHULZE. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. Konnyu].

Mr. KONNYU. Mr. Speaker, H.R. 3, the trade bill we are debating today, has some excellent provisions, especially as to improved export license processing. However, it has so many negative provisions that, on balance, I must oppose it on behalf of my constituents. My business constituents, especially, are against this bill. Let me cite one of the especially negative elements.

This bill effectively prohibits the sales of American semiconductors, that is, chips in common parlance, to our own American Government. That is so because most semiconductors are made, in part, in our country and, in part overseas. Generally, the silicon wafer is processed in America but is assembled into a useable chip with prongs and wires overseas. This method of manufacturing is necessary in order for our companies to be able to compete with lower cost foreign manufacturers.

Due to the foreign cost content of American semiconductor chips, which may be as low as 20 percent or as high as 40 or 45 percent, and due to H.R. 3 prohibiting the Federal Government from purchasing such items I just cited, we are shooting our own American companies in the foot. They will have two choices: sell to the U.S. Government and lose the world market or not sell to the Government and forgo a significant number of jobs and economic success. It is true that this bill gives the President the authority to waive this provision if American security is in question. However, he has to personally act as opposed to existing law which delegates the approval authority to the Department of Commerce. Such ministerial acts repeatedly performed by the President, due to nonavailability of 100 percent American cost content semiconductor chips in most all cases, is really inappropriate. Yet H.R. 3 requires it. Of course, on nonnational security items, there is no out.

In conclusion, Mr. Speaker, I reluctantly oppose H.R. 3 as the President and the House Republican leadership recommends. I ask that if and/or when this bill fails to become law, a new trade bill be considered and that, in that bill, the aforementioned problem be fairly remedied. I thank the gentleman from Pennsylvania for granting me this time.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas [Mr. Bryant].

Mr. BRYANT. Mr. Speaker, I am here today to support this trade bill because we need it for reasons already adequately stated by my colleagues.

I would like to point out, however, the great regret that I feel and many Members feel about an important provision of this bill added by the House that was not included by the Senate, opposed by the Senate conferees and therefore not included in the bill. I am speaking of the provision passed by the House that included in the trade bill an inventory of major foreign ownership in the United States. A simple requirement that major foreign investment may be reported so that we might have an inventory of where foreign ownership is beginning to increase its influence in major sectors of our economy.

This provision was a simple, common sense response to the unarguable fact, agreed to by all observers, that foreign ownership in America, foreign ownership of basic American assets has tripled in only the last 6 years. We ought to know what is going on in our own economy and we ought to be able to keep up with the most dramatic change on the economic scene that is taking place in our country today.

Unfortunately, the rejection of this provision will result in that not being possible.

I would like to thank the House leadership, Speaker Jim Wright, Chairman John Dingell, subcommittee chairman Ed Markey for steadfastly supporting this provision. Why the Senate conferees refuse to face down the White House over this issue is a mystery. But, Mr. Speaker, it is no mystery when you examine the question of why the Secretary of the Treasury, James Baker, speaking for the Reagan administration would make it a personal crusade of defeating this provision because by eliminating this provision, Secretary Baker has obscured and hidden for just a little longer the real result of the economic policies he has outlined for the last 7 years for this country, the real result being the sale, at an alarming rate, of America's basic assets to pay for a 7 year economic "night-on-the-town" which this administration continues to try to market to the American people as prosperity.

Mr. Speaker, I support this trade bill, because it is long overdue. The Reagan administration, under the economic leadership of Treasury Secretary James Baker, has pursued an economic, fiscal, and trade policy that has given us record budget and trade deficits and a record inflow of foreign capital to pay for them.

Few people may remember now that when the trade deficits began shooting upward a few years ago, this administration was claiming that the trade deficits were good for us because they meant that we were getting the benefit of foreign products without having to exchange our own products to get them. I doubt any of us would accept such a ridiculous claim now with a straight face.

Unfortunately, this same administration is now claiming that the increase in foreign ownership of our basic economic assets, which has made us the largest debtor nation in world history, is good for us—so good for us that we should not even be concerned about having the facts on it.

Secretary Baker has orchestrated a behind-the-scenes assault on my proposal to require reliable reporting of major foreign ownership here of such vehemence that it has probably not escaped the attention of any of our colleagues. He has threatened a veto of the entire trade bill if my proposal were included. He maintained this threat even in opposition to a simple proposal to make existing data—data already collected by our Government—available on a confidential basis to the General Accounting Office and our committees acting in executive session.

This information would allow us to document the long-term cost of the economic policies pursued by this administration and by Secretary Baker in particular. Clearly, Secretary Baker wants to keep that legacy hidden for as long as possible.

More than 3 years ago I began investigating the matter of foreign investment in the United States in some depth and discovered that we did not have adequate data available to us to reliably assess its effects. I also discovered that others—economists, scholars, congressional committees—had over the last decade or more attempted to study foreign ownership here and had run up against the same barrier to meaningful research, the lack of reliable and useful information.

According to our best available estimates, in the last 7 years, foreign investment in American farmland, factories, banks, businesses, buildings, government securities, and other U.S. economic assets has tripled to more than $1.5 trillion. Foreign money has been financing a record borrowing binge, while disguising the fact that we are living dangerously beyond our means. Floating on a feather bed of foreign financing, the United States has fallen from its status as the world's largest creditor nation in 1982 to become the largest debtor nation in history, with a foreign debt exceeding those of Mexico, Argentina, and Brazil combined.

We may be paying for the irresponsible budget and trade policies of the last 7 years with our economic sovereignty, as authority over vital economic decisions affecting American jobs, business goals, and prosperity moves overseas. Excessive foreign ownership in our high technology industries could narrow our strategic and competitive edge. Excessive foreign ownership in our energy and defense-related industries could endanger our national security.

The sheer magnitude of these investments has resulted in increased foreign influence in U.S. economic policymaking and U.S. political decisionmaking.

Historically, foreign investment has allowed emerging nations, including our own, to develop their economies. But we are no longer an emerging nation; we have the mature economy of a world leader. And we are trading our sovereignty for a security blanket of foreign money, not to foster long-term economic growth, but to sustain a high national lifestyle. To finance its budget deficits and pay for foreign products, America has been selling off its productive capacity—selling off family jewels to pay for a 7-year night on the town.

This surge of foreign capital, and our growing dependence on it, is the greatest change now taking place in our economy, but one we are ill-equipped to comprehend. Unlike other nations, we do not require disclosure of basic information on foreign ownership in this country in a form useful for sound analysis or informed decision-making.

The administration claims that we already collect enough information on foreign ownership here, through legislation with such confidence-inspiring titles as the "International Investment Survey Act" and the "Foreign Agricultural Investment Disclosure Act." I will explain briefly why the best of the information currently available is of no use to policymakers.

The Department of Commerce has two sources of data on foreign ownership. The first is the Office of Trade and Investment Analysis. In its publication, you can find a long list of foreign investments by name. This is just a compilation of newspaper stories and other already published sources. In the front of the book is this disclaimer:

> While every effort was made to verify the information obtained from public sources, the U.S. Department of Commerce is not responsible for any inaccuracies or gaps in information presented in this report.

The House Government Operations Subcommittee on Commerce, Consumer, and Monetary Affairs, under the late Chairman Rosenthal, concluded that this was an all-but-useless activity, done primarily for public relations to give the impression of a systematic and reliable collection of data.

The Department of Commerce also houses the Bureau of Economic Analysis, which does systematically collect data on foreign investments in U.S. businesses, under authority of the International Investment Survey Act. But BEA keeps that data completely secret—even from Congress—and publishes only aggregate statistics which are of no use to analysts. Furthermore, BEA itself does not request the identities of individual ultimate foreign owners, so they are allowed to hide behind anonymous dummy corporations even from BEA.

And even BEA's aggregate statistics are incomplete. The Commerce Department reports so-called statistical discrepancy in the figures for 1981 through 1987, indicating that the agency believes it has completely missed at least $223 billion in foreign capital entering the United States. Other estimates of the ignorance gap are much higher.

The Agricultural Foreign Investment Disclosure Act also invites anonymity. The Agriculture Department lists 270,000 acres of Texas agricultural land owned by residents of the Netherland Antilles—one acre for every man, woman, and child who lives there. In all likelihood, none owns even one square inch, because the registered landowners are, in fact, dummy corporations.

My amendment to the omnibus trade bill would remedy this deficiency in the information available to policymakers. It would require disclosure of major foreign-owned interests here; for most foreign investors, it asks only, "Who are you, where are you from, and what have you got?"—information that would fit on a postcard. For controlling interests in large U.S. businesses, it asks for basic financial data, less than what much smaller publicly traded American corporations disclose to the Securities and Exchange Commission.

The energy with which the foreign investment lobby has fought this modest provision is surprising; and the tactics the Reagan administration has used in joining their efforts is nothing short of astounding. Treasury Secretary Baker has said that the provision by itself would be enough to compel the President to veto the trade bill. Assistant Treasury Secretary Robert Cornell told the House Commerce Subcommittee that the provision was without precedent anywhere in the world. Many people now assume that the provision must contain some onerous investment restrictions or impediments.

But the truth is quite the opposite, as anyone who takes time to read the provision will see that it creates no restrictions at all. It simply asks major foreign investors to sign in after they have walked through our open door. The United States would still have the most open foreign investment policy in the world—in stark contrast to the other nations, which impose all sorts of restrictions, preclearance requirements, and outright prohibitions on American investors.

Japan, whose multinationals are opposing this simple reporting measure, flatly prohibits foreign ownership of more than 50 percent in energy companies or 25 percent in high-tech companies. Several Japanese agencies prescreen each investment in every industry, soliciting comments from Japanese competitors; based on those comments, the agencies deny or alter investments that they determine "harm the national security, disturb the public order, or hamper public safety," "adversely and seriously affect" Japanese companies, or "adversely affect the smooth operation of the national economy." Any investment could fall victim to these vague requirements.

The other major industrial countries also have very restrictive policies. In fact, investment restrictions are the norm; our complete openness is the exception. Even England's and Switzerland's policies are much more restrictive than ours.

For many countries, the restrictions are hidden in places you would never suspect. A Commerce Department official advised my office that the only way for American investors to find out about the investment restrictions in a particular European country—whose Ambassador to the United States has been personally lobbying against my proposal—was to "hire a lawyer, try to make the investment, and see what they run up against."

Simple reporting, such as my amendment requires, is not a restriction at all, as some would have you believe; quite the contrary, it is internationally recognized as a completely different animal by the Organization for Economic Cooperation and Development, composed of the major Western industrialized nations and Japan. In the 1984 "Declaration and Decisions on International Investment and Multinational Enterprises"—to which the United States is a signatory—the OECD called for elimination of discriminatory foreign investment restrictions and adoption of national treatment for foreign-owned companies. In the same declaration, the OECD called for foreign-owned companies to register and publish the very kind of information that my amendment calls for. In other words, the U.S. Government has agreed in the international community to the very disclosure that the Reagan administration is vigorously opposing.

The United States-Canada free trade agreement which Secretary Baker is enthusiastically urging Congress to approve, endorses and ratifies the continuation in a modified form of the Investment Canada Act, the Canadian Government's registration and review process for foreign investments there. If that agreement is adopted, Canada will, with our Government's official blessing, not only continue to require the same reporting in Canada that my amendment calls for here, but will also continue its prescreening and other restrictions in the full range of Canadian industries, whose American counterparts are completely open to Canadian investors. A report prepared by the Library of Congress documents that the items my proposal calls for disclosure of are all required by the Canadian Government and will continue to be required under the proposed Free Trade Agreement—not to mention Canada's preclearance requirements and other restrictions.

Secretary Baker has declined to personally appear explain why he has made defeat of this proposal such a high priority that he would threaten a Presidential veto over it. Why is the administration is hailing as a milestone for free trade and open investment and a victory for U.S. negotiators Canada's investment reporting, restricting, and blocking provisions as endorsed in the United States-Canada Free Trade Agreement, while insisting that it somehow grossly violates all notions of free trade and open investment for our own country to have a simple reporting requirement?

If my modest proposal is enough by itself to compel the President to veto our trade bill, then surely the Canadian system of more reporting, plus restrictions and preclearance requirements, that our trade negotiators have signed off on is grounds for Congress to reject that agreement.

Legitimate foreign investors are here because they see their best investment opportunities here—secure and profitable ones. No simple reporting requirement is going to change those opportunities. To those who suggest foreign investors will take their money elsewhere as a result of this reporting requirement, I ask where will they take it? They will not find a more open investment climate anywhere in the world. Why would simple disclosure stop them from investing here, if much more onerous requirements have not stopped them and Americans from investing abroad?

Our current policy of ignorance handicaps our ability to responsibly manage our own economy. We don't have enough information even to know most of the questions we should be asking, but I will venture to suggest a few that I believe we should be equipped to answer.

First question: Is there a line beyond which it is not in our economic interest to have foreign ownership of a particular industry? Does foreign control in that industry beyond some point begin to endanger our national security?

Major OPEC acquisitions are reported or rumored to be taking place in the U.S. petroleum exploration and refining industries at bargain basement prices. Saudi Arabia is in the process of buying Texaco's refineries. British Petroleum owns Standard Oil of Ohio, holder of the lion's share of Alaska's 5-billion-barrel Prudhoe Bay oil reserve. The Kuwaiti Government, which in 1982 bought the multibillion dollar Santa Fe International Energy Co., has been buying British Petroleum stock at a rapid rate and reportedly owns 28 percent. The American company on which J.D. Rockefeller built his fortune may soon be in the hands of an OPEC nation. What are the effects of such purchases on our energy independence? We can't assess that with currently available data.

Second question: How much foreign influence is taking place in the American electoral process? How do we guard against a de facto return to the infamous days of the 1972 Committee to Re-elect the President [CREEP], in which money was funneled to President Nixon's campaign anonymously from abroad?

Congress amended the Federal election law in 1974 to stop that practice. Thomas Harris, a commissioner on the Federal Elections Commission from 1976 to 1986, who also served as its chairman, is a vocal opponent of the practice that has developed since the 1974 act of foreign-owned or -controlled U.S. companies forming political action committees for the purpose of contributing to American political campaigns. While the FEC has asked Congress for guidance as to whether it intended to allow this practice, in the meantime the FEC is allowing it to continue, as long as the PAC's do not take any direction from foreign parent companies or any other foreign sources. But ex-Commissoner Harris says that it is not currently possible for the FEC to determine whether the PAC's are taking direction from abroad, because it is impossible even to determine which U.S. companies with PAC's are foreign-owned.

Third question: When is foreign investment creating jobs and when is it displacing them? When is it increasing opportunities for U.S. businesses and when is it shutting them out?

Three House Members asked the General Accounting Office to focus on these very questions in an examination of foreign investment in the U.S. auto and auto parts industries. The lack of reliable data severely handicapped the efforts of GAO investigators to answer these questions meaningfully. The final GAO report relies on interviews with auto union officials and auto executives for its tentative conclusions.

Opponents of may amendment are in effect arguing that our growing dependence on foreign financial assistance compels us to remain ignorant about it. They try to characterize the debate over this provision as about whether foreign investment is good or bad or whether it should be restricted or not, because they don't believe they can win the real debate here, which is whether we should remain in the dark. But many people are already questioning the merits of unrestricted foreign investment here, including some prominent Americans.

In a January 26, 1988, speech to the Economic Club of Washington, New York investment banker Felix Rohatyn said he had come to question the desirability of complete freedom for foreign investors in view of "our growing dependence" on money from abroad. In the January 25 issue of Forbes magazine, Malcolm Forbes called for the immediate creation of a "Board of Knowledgeables whose approval would be required before any foreign purchase of any significance would be allowed of any consequential U.S. company—regardless of size."

A recent survey found that 78 percent of Americans favor legal restrictions on foreign investment in U.S. businesses and real estate. Forty percent want the Government to ban further foreign investment altogether.

America is now hundreds of billions of dollars in debt internationally, with predictions that we may be more than a trillion dollars in debt by 1990. In the coming years, Congress will hear emotional appeals to restrict foreign investment from people who fear it or oppose it. We will hear other emotional appeals to promote and subsidize foreign investment from people who are desperate for financial assistance. The pressure for congressional action will increase continually. If Congress is not equipped to make sound policy judgments based on reliable information, we will be left at the mercy of textbook theory, anecdote, and emotionalism.

It would be highly irresponsible of us to consciously remain in the dark as public concern continues to mount. We need reliable information, and we need to get it into the hands of the numerous researchers inside and outside of Government on which Congress relies for the analytical base on which to make responsible public policy.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Speaker, I rise in strong support of this legislation on which so many have worked so hard. This bill will help strengthen the hands of our Government to deal toughly with our trading partners who have set up unfair hurdles for selling American-made products in their countries. This legislation will help Americans who have been put out of work by the very tough and many times unfair competition.

This trade bill is a very important step in strengthening our economy in order to sustain American prosperity. But it is only part of what we have to do in this country if we are to be competitive and if we are going to be successful in the international economy.

We have to further reduce the Federal budget deficit. We have to see American business and labor work together better than ever before. We have to see American business design and aggressively market products abroad in foreign markets. We have to make further improvement in our educational system so that our citizens, as individuals, can participate in our modern society and our country as a whole will be able to compete in the world economy.

Mr. Speaker, I want to bring particularly to the attention of my colleagues some of the specific provisions with respect to energy, in particular the export of Alaskan oil.

Mr. Speaker, the following points will hopefully make clearer several important features of the conference report language on Alaskan oil exports.

First, "export" is a term of art in the Export Administration Act, see, for example, the definitions section and section 7(k). In 7(d)(4)(A), we ban the export of some products only "from Alaska, or from the rest of the United States in an uncommingled or untransformed state."

This means that the unexportable refined product—when sent to the other 49 States and blended, mixed, commingled in tanks, tankers, or pipelines, or further refined—will lose its legal identity as unexportable product, and be freely exportable like all other refined products have been since 1981.

The goal is to avoid costly, burdensome, and probably futile Commerce Department efforts to trace and track the unexportable Alaskan gasoline, for example, after it is delivered to the other 49 States where it is mixed with chemically identical California gasoline which is free from export controls, resold through the currently unregulated product market, or blended with freely exportable products.

The following letter explains more fully our reasons for seeking to add the commingling phrase to 7(d)(4)(A), and I am grateful to Chairman FASCELL, subcommittee Chairman BONKER, and the other conferees for acceding to this request.

COMMITTEE ON ENERGY AND COMMERCE, SUBCOMMITTEE ON ENERGY AND POWER,
Washington, DC, April 19, 1988.

Hon. DANTE B. FASCELL,
Chairman, Committee on Foreign Affairs, House of Representatives, Washington, DC

DEAR MR. CHAIRMAN: I want to bring to your attention my objections to the final language on Alaskan oil exports in the conference report on the omnibus trade bill, H.R. 3.

This language nominally places new controls on some exports of refined products from one refinery in Alaska. However, it will also reimpose "backdoor" regulation on much larger volumes of refined oil product exports from other states as well.

I did not support these new controls on a single refinery. I think new controls on oil are a bad policy in general, and that controlling the output of this one facility is a discriminatory step, insofar as all other refined product exports have been decontrolled since 1981.

But my personal views are not an issue here. The question instead is, what did the conferees agree to?

We clearly agreed not to affect, impede, or recontrol other product exports from states other than Alaska—a multi-billion dollar trade each year. The transcript recites that expressly.

However, the final bill language bars exports of some Alaskan refined product not just from Alaska, but from any place in the entire U.S.

Thus, that product will be sent to California; it will inevitably be sold and resold, on paper and as "wet barrels," in the custom of the industry; and will be repeatedly mixed and commingled with other chemically identical refined products (such as gasoline and jet fuel) which have for years been free of all export controls.

No one can possibly trace and distinguish the unexportable Alaskan gasoline from the exportable California gasoline. Downstream buyers cannot tell if their heretofore exportable product has been tainted by the Alaskan gasoline. Upstream sellers will not know if they are a party to an export violation, nor will the Alaskan refinery, since it cannot know through whose hands its output will subsequently pass. This uncertainty can seriously hamper our product export markets.

The Departments of Commerce and Energy will probably not be able to enforce this ban—as we learned during the oil price control experience in the 1970's—but may create a costly, burdensome set of recordkeeping and regulatory requirements to try to enforce it.

The other conferees disclaim any desire to disrupt our currently free product export markets, and so state in the proposed statement of managers.

But the statutory language is clear, and is to the contrary. It cannot be reversed by managers' language. I am informed that the Departments of Energy and Commerce, my staff, and the House legislative counsel that drafted this provision all agree on this point. If this is not our intent, why are we saying it?

I will of course appreciate your assistance in achieving statutory language that restores the conferees' actual agreement.

Sincerely,

PHILIP R. SHARP,
Chairman.

Second, the term "refinery" is separate from and does not include any "separation facility" for ethane, propane, or butane.

Third, the first clause of 7(d)(4)(B) exempts the specified exportable volumes in (i) and (ii) from the 7(d) (1), (2), and (3) prerequisites. Thus, no Presidential findings or congressional resolutions are required to "export" these volumes or percentages. Only volumes and percentages above these amounts need such findings and resolutions before they can be "exported" within the meaning of section 7.

Fourth, a major purpose of 7(d)(4)(B) is to provide a firm, nonreducible "floor" guarantee of a certain level of product exporting capability for the proposed Alaska-Pacific refinery, in order to give it a fair chance to gain financing and be built. That guarantee is intended to be aided by the "first-come, first-served" language in the statement of managers: In particular, this refinery—or the first refinery to become operational—will receive the total guaranteed level of "exports," up to the level it can utilize, when it first becomes operational. That volume is not reduced by the construction and operation of subsequent refineries utilizing TAPS crude oil, and the first operational new Alaskan refinery would thus retain this allowance for the indefinite future.

Fifth, there is no expansion of the crude ban beyond its current limits. Cook Inlet oil, and refined product if any from non-TAPS crude, are not affected by this provision of the bill. That is one purpose of the repeated use of the phrase "crude oil subject to the prohibition contained in paragraph (1)," throughout this provision of the trade bill.

Sixth, new 7(d)(6) of the EAA authorizes the export of an additional 50,000 barrels/day of TAPS crude oil to Canada, to implement one of the many provisions in the recent U.S.-Canada Free Trade Agreement. These exports are in addition to other exports of refined product, or Cook Inlet oil, or any other oil which is not "TAPS crude oil."

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of this measure. I would like to thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for his leadership in this area, and the gentleman from New Jersey [Mr. FLORIO] for his able handling of this legislation in the Commerce Subcommittee. The need to develop an effective and credible trade policy to assure equity in the international marketplace has never been more crucial than now.

Just last week, the Commerce Department reported that our national trade deficit was $13.8 billion for February, up $1.4 billion from January at a time when most economists expected it to go down! Just imagine—that $13.8 billion represents thousands of American jobs, American talent, and a marked failure to utilize our industrial capacity. Our greatness as a world power is being siphoned by the success of foreign competition.

Who are the major villains in this worsening tale of trade imbalance? A significant portion, nearly half, of the deficit can be attributed to Japan. But it does not stop there. In addition to Japan, we have Hong Kong, and Korea and, as the trade imbalance worsens, we continue to loose American jobs, access to foreign markets, and our standing in the world market.

What is the major obstacle to a competitive America? It is unfair, restrictive, prohibitive and discriminatory foreign trade practices. American industry cannot compete when import quotas prohibit the selling of American goods in foreign markets. Our industry cannot compete when our Government has no policy to fight unfair trade practices and enhance competitiveness of our goods. Indeed, American labor cannot compete when American industry lays off workers indiscriminately, without regard for their rights as human beings: to have some idea of where their next paycheck will come from.

The conference report on this legislation contains a provision on advance notice of plant closings which was originally in the form of H.R. 1122, the Economic Dislocation and Worker Adjustment Assistance Act. As an original cosponsor of that bill, I cannot overemphasize the importance of providing advance notice for workers in the event of a plant closing. In our present stage of industrial reorganization, it is increasingly difficult for workers to find comparable employment at another plant, and this provision should only be considered a matter of common sense and fairness.

This legislation is critical to our country's economic future. We cannot allow our trade policy to drift without guidance or purpose. The fight against unfair foreign markets, and for American workers and industry, has begun. The time is long past for our Government to fulfill its duty of a tough, effective, and fair trade policy that promotes reasonable competition and protects American workers.

I urge my colleagues to support this measure and oppose efforts to strike the plant closing notices of the bill.

Mr. SCHULZE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. LEWIS] who has been deeply involved with the trade issue. He is one Member who has worked closely with me and others over the past several years in trying to develop a cogent trade policy.

Mr. LEWIS of California. I thank the gentleman for his time and I appreciate his support and help in this very, very difficult area.

Mr. Speaker, there is no question that Americans perceive that there is a need for better tools available in an effort to negotiate with our trading partners, our allies, our friends and some not-so-friendly trading partners throughout the world.

There is no doubt that the American public has been calling for free trade that is fair trade. In this case, in this bill, the Congress, once again, is reacting almost after the fact. A lot of progress has been made in terms of negotiating. There is not any doubt that the relative position of the American dollar in the world has improved our trade position. Today we are talking about passing a bill that, in overreaction, goes to such an extreme that it could undermine, perhaps destroy the international trading system.

I would like to share with my colleagues a leadership meeting with the President just this week in the Cabinet offices.

In that meeting, speaking relative to one aspect of this bill, that is the remaining major problem with the bill known as plant closing, the President said:

> My background as a labor leader tells me that this item is an item that ought to be left to the bargaining table between management and labor. If this item remains in the bill I will veto that bill.

The President has sent a letter to us indicating that fact.

That is not because the President does not recognize there are elements of this bill that would be helpful in the negotiating process.

□ 1330

The fact is that the provisions that relate to plant closings are provisions that way overreact.

The suggestion is that business managers around the country in some way do not care about workers and in some way do not care about their own businesses. The fact is that plant closing notification creates a most unusual problem in the last 60 days when someone is trying to save a business, when someone is trying to place a loan for that business, et cetera.

That notification provision will probably destroy and will undermine—Mr. Speaker, in some way your colleague is losing his voice, and it may be we have overtalked this bill.

I yield back the balance of my time.

Mr. PEASE. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. DONNELLY], a distinguished member of the committee.

Mr. DONNELLY. Mr. Speaker, I rise in support of the conference agreement on H.R. 3, the Trade and International Economic Policy Reform Act. The conferees on this legislation have crafted a strong and fair piece of legislation that should pass overwhelmingly in the House and ought to be signed by the President.

Central to this legislation is its transfer of authority to enforce U.S. rights under trade agreements to the U.S. Trade Representative and its mandate that the USTR take retaliatory actions in cases involving foreign violation of trade agreements to the extent of their burden on U.S. commerce. The bill also reduces the time period during which the USTR may act in unfair trade cases.

Equally important is the so-called section 201 reform which will make it easier for U.S. companies to prove injury from foreign competition. This type of reform will prove extremely important to industries such as the footwear manufacturing industry in Massachusetts where it is not clear that increases in imports are due to unfair trading practices but it is clear that the increases are due to low-price footwear imports flooding the domestic market. The increased and reformed powers of the International Trade Commission will make injury easier to prove.

Mr. Speaker, I would also like to comment on the decision by the conferees to repeal the windfall profit tax. This provision has no business being on a trade bill. It was never considered by the full Committee on Ways and Means, but was instead added by the Senate and agreed to by a handful of conferees. Although this isn't going to dissuade me from voting for this conference agreement, let the record show, Mr. Speaker, that I am opposed to repeal of the windfall profit tax and I am opposed to the procedure used to repeal it.

Finally, Mr. Speaker, we all know that our trade deficit is at unprecedented levels. In turn, that trade deficit has a direct bearing on our budget deficit on unemployment levels and on high interest rates. If H.R. 3 will do anything, it will force this and future administrations to deal with the terrible problems caused by imports flooding domestic markets and will promise every American worker who has lost his or her job because of foreign competition that their government stands with them as a partner, not against them, as an adversary.

Mr. PEASE. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. BROOKS], the distinguished chairman of the Committee on Government Operations.

Mr. BROOKS. Mr. Speaker, I rise in strong support of the Omnibus Trade and Competitiveness Act of 1988. I believe this historic legislation is a highly effective and long overdue response to the unfair trading practices of foreign countries. These practices have lead to the closing of productive U.S. plants, put thousands of workers out of a job, and undermined the health and competitiveness of U.S. industry.

I am particularly pleased that the conference committee adopted title 7—the Buy American Act of 1988—and title 2, which includes strong sanctions against Toshiba and any other company that undermines our national security be selling military technology to the Soviet bloc.

The Buy American Act of 1988 would, for the first time, prohibit Federal agencies from purchasing goods and services from countries whose governments discriminate against U.S. firms in making procurements. Under this bill, the U.S. Government would use its $200 billion a year procurement market to encourage other nations to open up their procurements to American firms. The rules would be simple, effective, and aggressively enforced. If a government in a foreign country discriminates against American companies, then products and services from that country will be banned from U.S. Federal procurement.

The United States first attempted to deal with this problem in 1979. At that time, we signed an international accord in which we agreed to open up the U.S. Government market to the firms of signatory countries and they would do the same for our firms. While we kept our part of the bargain, our trading partners did not. The fact is that we opened up 4½ times more of our Government market than all the other signatory countries combined.

As a result, every year, billions and billions of dollars in potential contracts with foreign governments are lost by U.S. firms because they are not given an opportunity to compete. In the meantime, our Government has continued to blithely award contracts to companies from these very same countries. The Buy American Act of 1988 is based on the simple premise that U.S. taxpayers cannot continue to contribute to the welfare of countries that blatantly and arrogantly discriminate against American producers.

Under this act, the President will issue an annual report listing countries that violate the Government procurement agreement or otherwise discriminate against U.S. firms in Government procurement. If an agreement signatory country does not correct its problems within a 60-day grace period, the U.S. Trade Representative will initiate dispute settlement procedures under the agreement to eliminate the barriers. If, after 12 months, the dispute is not resolved, the country's products and services would be banned from the Federal market place. The ban on the procurement of nonsignatory country's products and services would begin immediately after the 60-day period.

Currently, it can take the U.S. Government years to enforce foreign compliance with the Government procurement agreement, using procedures that are often inconclusive. Obviously, these countries know that they have very little to lose by violating the agreement. Under the Buy American Act, this will all change. Foreign governments can no longer afford to ignore their commitments to the United States and hope to get away with it. These countries will know from the beginning that they will pay a heavy price for blacklisting American companies.

Some free trade at any cost proponents have labelled the Buy American Act as protectionist legislation. Nothing could be further from the truth. The bill requires the President to take reciprocal action to encourage foreign governments to open up their markets to American competition. Such action does not stifle trade. If is not too harsh and it is not costly. It simply promotes the expansion of fair trade which, in the final analysis, is the only form of free trade the United States should accept.

I urge all Members to support the conference report.

Mr. SCHULZE. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. SUNDQUIST] who is also the chairman of the Leader's Task Force on Trade.

Mr. SUNDQUIST. Mr. Speaker, I thank the gentleman from Pennsylvania for his leadership in this area.

Mr. Speaker, I reluctantly rise in opposition to the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. I do so not because the items in the bill that relate to trade and competitiveness are bad, but say they are very good. I oppose this legislation because of one, just one, overwhelmingly anticompetitive non-trade-related and nongermane provision, the plant closing provision.

I represent a district that has had problems with textiles, with shoes, agriculture. I have worked very hard for the past 3½ years for a trade bill. My district needs a trade bill. This country needs a trade bill.

Hundreds of my constituents have been put out of work because of unfair trading practices. Hundreds and thousands of hours in this body have been dedicated toward putting together a trade bill. We do not need a trade bill that divides this House and sends a mixed message. The single plant closing provision is so bad that it alone can contradict all of the good reforms in H.R. 3.

Studies clearly show that a plant closing notification law will cost nearly one-half million jobs and billions of dollars in the national economy. This totally contradicts what we should be doing to achieve what we should achieve with a trade bill. A trade bill ought to help the economy and promote American jobs. A trade bill should not kill American jobs.

I am disappointed that this non-related-to-trade provision was added on at the last minute.

Mr. Speaker, I want a trade bill that is good, not one that defeats its purpose. The plant closing provision will not protect jobs. It is going to send jobs overseas, because there is no provision in the plant closing section of this bill, there is no rule that says that plants who have to close in this country cannot go overseas. They will.

It is no secret that when added on the plant closing provision in the conference report it was a political motivation. It was added to appease special interests.

□ 1340

That was even after this body rejected plant closings in the 99th Congress and never even considered it in the 100th Congress. So I urge my colleagues to weigh the consequences of voting for a bill that includes plant closings. If you do, you are going to be voting for a bill that defeats its purpose, appeases special interests and guarantees a Presidential veto that I hope will be supported. Then we will bring back a trade bill that I will enthusiastically support and one that will accomplish what we all agree ought to be accomplished and speak with one voice.

Mr. SCHULZE. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, "All Gaul is divided into three parts," said Julius Caesar, and this issue is divided into three parts: one part of the provisions is contained in the bill; the second part goes in the Michel substitute; and the third part, the configuration that will occur if the President of the United States should veto it.

One question burns throughout all three issues which we as individual Members of the Congress must answer before we cast a vote on any one of the three parts of this gigantic issue, and that is to what extent would our trading partners retaliate on products made and exported by the United States to our trading partners?

One of the first elements that would suffer, it is generally understood, is the farm community, the agricultural community, the agribusiness community of our Nation.

We must answer that question before we finally cast our vote on the three issues.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Connecticut [Mrs. KENNELLY], a member of the committee.

Mrs. KENNELLY. Mr. Speaker, I rise in strong support of the omnibus trade bill. I want to call attention to a little noticed but vital provision of this bill—section 232.

Section 232 authorizes the President to impose restrictions on imports if the Secretary of Commerce finds that the import in question is being imported in such quantities or under such circumstances as to threaten national security. This provision is a critical part of our trade law and a sound one.

The trade bill improves it. Now the investigation conducted by the Secretary of Commerce prior to a finding is a tough one and it should be. But the needs of American industry and our national security demands that this investigation and finding process be a timely one. And this simply has not been the case.

The National Machine Tool Builders Association Petition took 3 years and 2 months. This is simply unacceptable. An industry can suffer irreparable harm, our national security compromised in far less than 3 years.

One of Connecticut's major industries—ballbearings—has a 232 petition pending. This industry is a vital part of our defense industrial base and employs 1,500 workers in Connecticut—they can't wait 3 years.

This bill assures they will not have to. Now, the Secretary of Commerce will be required to complete an investigation and report to the President within 270 days. The machine tool case sat on the President's desk for over 2 years. The President will now have 90 days to decide whether uphold the Secretary's finding and take action.

This provision is a major step forward in American trade law. I urge my colleagues to support it.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. DEFAZIO]

Mr. DEFAZIO. Mr. Speaker, I rise in support of the omnibus trade bill.

Last November, Japan rejected American attempts to open their massive public works markets to bids by United States firms. No United States firm has won a major contract in Japan since 1965. Are our firms less competitive? Do they lack expertise? No. Ours are the most sophisticated and competitive construction companies in the world.

They will not let us bid on their construction projects, their public works projects, in Japan. This is not free and fair trade. Their portion of the U.S. market has gone from practically nothing in 1980 to $2.5 billion in 1987.

Mr. Speaker, I want to commend the chairman of the Government Operations Committee, the gentleman from Texas [Mr. BROOKS] for his amendment to the continuing resolution which is now permanently incorporated in this trade bill as the Buy America amendment which is extended to both goods and services.

It is critical that we begin to get free and fair trade and reciprocity in the area of services, a growing and important part of our trade deficit.

Mr. SCHULZE. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania [Mr. RIDGE].

Mr. RIDGE. Mr. Speaker, I thank my friend and colleague, the gentleman from Pennsylvania, for yielding this time.

Mr. Speaker, I rise in very strong support of the trade bill conference report. I think support for trade reform is long overdue, and regrettably, the opposition to this very modest approach is much overdone.

This package, I believe, moves the country and the trade policy albeit slowly and deliberately in the right direction from a very blind, unwavering, and from my point of view, unwarranted embrace of free-trade theory to a much more practical orientation in terms of dealing with the realities of the international marketplace.

I think we had all better wake up before it is too late, and that means everybody in this town, government, labor and business. It is a very competitive international world out there. The dynamics are changing every day. And we are not prepared to meet them. We cannot sustain our standard of living by reliance exclusively on our domestic market. It cannot be done.

We have to realize that the only way we are going to be able to compete successfully is to deal directly and forcefully with some of our problems and our friends.

What are some of these problems? Some of our friends, strongest allies, and supporters—and we embrace them for defense reasons, we embrace them for business reasons, and we embrace them for a lot of very good policy reasons—are some of our toughest trade adversaries. They only work and they only promote trade and policies when they are in their own best interests.

We cannot look at the Japanese Diet to promote America's interests. We can not expect their farmers, their steel industry or anybody else in their political community to accede to our wishes.

We cannot expect the European Economic Community to do it or anyone anywhere else.

The only body that is going to stand up for the interests of the American worker and the American businessman, is the Government of the United States and the Congress of the United States.

We are today making a very modest attempt to move policy from a free-trade orientation to a more practical orientation. The dynamics of the marketplace are changing. In the early fifties, about 20 or 25 percent of what we produced in this country was produced around the world. We are going into the nineties. About 90 percent of what we make in this country can be found elsewhere. We have a lot of competition. Our scientists do not have a monopoly on the laws of science or on the laws of physics. Technology is changing and others are learning, using and competing.

We better realize that the young people in our country, those in our high schools and those in our colleges, will probably have to change jobs three or four times in the course of their lifetimes. They are not going to be able to go into the plants and into the mills and work as their grandfathers and their fathers did for 20 or 30 years. That is not what the marketplace is going to let them do. The dynamics are changing. The technology is changing. Competition is even more severe. We must be prepared for adjustments and economic dislocations because of international competition and accelerating technological change.

So one of the provisions, a modest provision, a watered-down provision, a provision that has more exemptions and broader holes in it than some tunnels we drive through deals with the issue of plant closings.

Everybody that has looked at the issue of retraining, of trying to get people who lose their jobs because of competition, who lose their jobs because of changes in the workplace and in the marketplace, everybody agrees that the best thing you can do for those workers is to give them a little bit of notice and retraining, so you can put them back into the employment loop.

So ironically, we have a bill that has massive amounts of dollars, designed specifically to help people who have lost their jobs get back into the loop, to get back into the work force so they can support their families, to get back in so they can continue to work and live and play in their communities, because we realize finally that is one of the things that is going to happen in the international marketplace.

People are not going to be working 20 and 30 years for the same employer, so we say that we had better get smart. We had better think about trying to get these people back into the work force. We are going to set aside hundreds of millions, perhaps billions of dollars, to retrain them.

Most agree that it is a good thing to do. Our own Department of Labor has said we should also give them some notice, because the best way you can help these families and these communities is to give them notice that they are going to get laid off, give them the opportunities to be retrained give them that forewarning and help them prepare to return to work.

This bill provides ample resources for training and education but we have some people around here who do not want to give notice. I do not think you can have it both ways. I think it is good policy to retrain them. It is even better policy to retrain them after they have been given adequate notice that their jobs are in peril. They are going to have to restructure their lives. They are going to have to restructure their families' lives, and I think it is absolutely essential that we keep this provision in this legislation because it is consistent with the congressional will. It is consistent with our interest in trying to help these people help themselves, their families and their communities.

This conference report has several additional provisions worthy of note. First, it takes critical steps to deal not only with specific unfair trade practices but also with countries dealing wholesale in unfair trade practices. The Super 301 provision is the first law to deal with the problem of wholesale cheating. We can now distinguish the trees and see the forest.

The conference report also includes several provisions that will ensure that America's new lean steel industry has a fighting chance with countries bent on putting us out of the business. Specifically, it would strengthen the hand of the administration by granting the U.S. Trade Representative the authority to cover non-VRA countries in the interest of equity to VRA countries. The new law would stop the circumvention of steel VRA's by providing the administration with the authority to count steel that is melted and poured in a VRA country, but further processed into another covered steel mill product in a non-VRA country, against the VRA country's export ceiling—if it is part of a scheme to circumvent the President's steel program.

Even with these new laws, many capable and dedicated workers will lose jobs as change in American industry evolves. These Americans, taxpayers of the past and taxpayers of the future, deserve more than our rhetoric. The conference report would extend and improve the requisite worker retraining that is essential to the future of thousands of workers and their families. For workers laid off due to imports, the bill would create an entitlement to training and remedial education. It extends TAA through 1993 and makes all of its benefits entitlements in order to protect workers from the funding merry-go-round. And, just as critical, the bill provides for $980 million for training, employment services, and income maintenance for workers laid-off for reasons other than imports.

Let me say again, without adequate plant closing notice, voluntary or mandated, all of these worker retraining programs will meet limited success. If my colleagues have read the Department of Labor's task force report, they must now understand the importance of early notice to reemployment and retraining. But, with significant concerns about the implications of mandatory notification, the Congress has moved from the early proposals of 6 months notice to 2 months notice for only 2 percent of America's employers. The trigger excludes part-timers, short-termers and recognizes and accounts for the uniqueness of many industries work schedules. My colleagues, this provision is the common denominator of humane treatment for workers, many of whom have spent most of their lives contributing to a company. It is reasonable and it is flexible. Spending nearly $1 billion on worker retraining programs makes little sense without it.

My colleagues, this bill is essential to enhancing the competitiveness of American industry but it also does much to assist the worker who does not benefit. Both efforts deserve your support now, not next year.

Mr. PEASE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, I am very surprised that many Members have used the advance notice as an excuse for opposing this particular conference agreement. This advance notice is so modest, so watered down and filled with so many exceptions that it probably is not as valuable as some of us would want it to be.

A majority of the House Conferees disagreed with the Senate, because we felt the advance notice is an essential part of any trade bill. The advance notice is essential for retraining and training. It is obviously essential to business to obtain the necessary aid and to a community to readdress itself when it is faced with such disruptions.

But let me refer briefly to some of the education and training provisions that would be destroyed if this proposal is vetoed. It should be abundantly clear, it seems to me, to us as Americans that we face a future poorly prepared to compete in the world markets. United States productivity remains higher than elsewhere in absolute terms, but it has declined in relative terms. From 1971 to 1983, U.S. productivity increased by only 0.3 percent a year. Britain's annual gain was five times that and the French and German rates rose seven times faster than did ours. Japan's rate was 9 times higher than ours and Korea's was 15 times higher than the United States rate.

The education provisions contain numerous ones, but let me refer merely to some outstanding ones as an illustration.

Math-science education to remedy the alarming shortages of math teachers reported by 28 States have been included.

The Foreign Language Assistance Program to address this Nation's indifference to foreign language has been included.

Academic Research Facilities and Instrumentation Modernization Program to lay the groundwork for improvement of our research and development infrastructure, which by all accounts is now outmoded.

The bill amends the Job Training Partnership Act to greatly expand the existing Dislocated Worker Program which seeks to help workers who have lost their jobs and need retraining for new careers.

The bill authorizes $980 million, approved by the administration, in order to do this.

I think the issue is too important for us to use some puny excuse to oppose the package.

□ 1355

Mr. PEASE. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, I rise in support of the conference report. I would like to briefly describe title X, subtitle B on international air transportation. These sections of the conference report amend the Fair Competitive Practices Act of 1974 to make significant improvement in our Government's ability to respond to discriminatory actions by foreign governments and airlines against U.S. airlines.

Under current law, any U.S. air carrier may file a complaint of discrimination with the Secretary of Transportation. If the Secretary finds the complaint valid, the Secretary may take remedial actions, including revoking foreign air carrier certificates to operate to the United States. Current law requires the Secretary to decide within 180 days whether to take action on a complaint. Under this process relatively few complaints have been made despite the fact that discriminatory practices by foreign governments are commonplace.

To improve the process, this subtitle makes three changes in existing law.

First, the 180-day period for the Department of Transportation to take action would be reduced to 90 days. The purpose of this is to reduce the period of time a U.S. airline is exposed to retaliatory actions before the U.S. Government takes action. I believe that the 180-day period in current law is longer than is needed in most cases and that this relatively long deadline has discouraged U.S. airlines from availing themselves of this process. However, I recognize that in some complex cases DOT may need more than 90 days. This title would permit DOT to take the full 180 days in cases of unusual complexity.

The second change to existing law would require the Department of Transportation to consult with the U.S. Trade Representative and the Department of Commerce before taking action on a complaint. Under current law, the Department of Transportation is only required to consult with the Department of State. I believe the expertise of Commerce and the Trade Representative would be very useful to the Department of Transportation as it determines how best to proceed. However, I should emphasize that subtitle B of title X is not intended to expand the jurisdiction of the Commerce Department or the U.S. Trade Representative in bilateral aviation negotiations. These negotiations should continue to be conducted by the Departments of Transportation and State.

The third change in existing law would strengthen the Congress' ability to monitor DOT's handling of complaints against foreign government and the airlines by requiring the Secretary of Transportation to report to the House Committee on Public Works and Transportation and the Senate Committee on Commerce, Science, and Technology on the action taken on each complaint within 30 days of the action.

Mr. Speaker, I would like to add that in addition to its importance to international aviation, this bill is critical to the competitiveness and future of our country's high technology industry, particularly the electronics industry.

Not only does this bill contain long-sought reforms in our export control system, but it will also strengthen the intellectual property protections—patents and copyrights—that both protect and promote the investments in high technology research that are so important to maintaining our competitiveness in technology trade.

In conclusion, Mr. Speaker, this conference report will significantly enhance the effectiveness of the Fair Competitive Practices Act in the area of international aviation, and is vitally important for our country's high technology industries. I urge my colleagues to join me in supporting this important legislation.

Mr. Speaker, I am pleased to yield to my very fine colleague, the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking Republican on our Committee on Public Works and Transportation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank my friend, the gentleman from California for yielding. I also am pleased at our committee's effort to streamline the international aviation complaint process that has been incorporated in this conference report. I want to associate myself with the remarks of the distinguished subcommittee chairman.

Mr. Speaker, it is clear that the trade deficit is a matter of increasing concern in this country. Just last week, trade deficit figures sent the stock market into a nose dive. There are many sectors of our economy that are affected by the trade deficit. However, I would like to focus on its impact on aviation.

In particular, I would like to direct my colleagues' attention to that portion of the conference report that deals with international aviation. This section streamlines the process under which our airlines file complaints against foreign countries. It is the same as H.R. 1972 which was favorably reported by the Public Works and Transportation Committee last year.

Back in 1980, the International Air Transportation Competition Act [IATCA] was passed. This legislation established a procedure where an airline suffering from discrimination could file a complaint at the Department of Transportation [DOT] against the foreign nation involved. It required DOT action on the complaint within 180 days.

But some of our airlines have told us that this complaint procedure does not always work as well as it should. They have told us that while their complaint is pending at DOT, they are sometimes subject to further discrimination and harassment by the foreign government. Therefore, this legislation shortens the time period for DOT action on a complaint from 180 to 90 days. This will reduce the time that our international airlines are exposed to retaliation by the country that is the target of the complaint. But DOT will still have some flexibility to postpone action on a complaint beyond the 90-day limit when that would be in the national interest and not harmful to the airline involved.

This bill will also require DOT to solicit the views of the Commerce Department and U.S. Trade Representative before taking action on an airline's complaint. This will help to bring the perspective of these two agencies to the process. It will not affect the primary role that DOT and State now play in that process. Nor should it undermine the traditional strict separation between air transport issues and the broader trade issues over which Commerce and the Trade Representative have jurisdiction.

Finally, this legislation will require DOT to report to Congress on actions it takes to resolve the problem raised by a complaint.

I am therefore pleased that our committee's efforts to streamline the international aviation complaint process have been incorporated into the conference report.

Mr. MINETA. Mr. Speaker, I am pleased to yield to the gentleman from Minnesota [Mr. OBERSTAR], who is chairman of our Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 3, the Omnibus Trade and Competitiveness Act, and I would draw particular attention to title X, subtitle B, sections 10, 11, 12, and 13 of the bill.

These sections represent the efforts of the Public Works and Transportation Committee to improve the ability of the U.S. Government to respond to discriminatory actions by foreign governments and airlines against U.S. air carriers.

The language contained in H.R. 3 was developed from H.R. 1972, a bill I introduced that amended the International Air Transportation Fair Competitive Practices Act of 1974. H.R. 1972 enjoyed broad bipartisan support within the Public Works and Transportation Committee and represents a significant addition to the trade bill we debate today.

Under the current law, any U.S. air carrier may file a complaint of discrimination with the Secretary of Transportation. If the Secretary finds the complaint valid, the Secretary may take remedial action, including revoking foreign air carrier certificates to operate to the United States. Current law requires the Secretary to decide within 180 days whether to take action on a complaint.

To improve the complaint process, the bill makes several changes in existing law. The 180-day period for the Department of Transportation to take action would be reduced to 90 days. This would shorten the period of time a U.S. carrier is exposed to retaliatory action pending action by the U.S. Government.

Second, the Department of Transportation will be required to solicit the views of the U.S. Trade Representative and the Department of Commerce before taking action on a complaint.

Additionally, the Secretary of Transportation must report to Congress no later than 30 days after action is taken on a complaint. This requirement should improve congressional oversight of the Department of Transportation's handling of complaints against foreign governments and airlines.

Mr. Speaker, I urge my colleagues to adopt the conference agreement on H.R. 3.

Mr. SCHULZE. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Speaker, I urge my colleagues to oppose the conference report to H.R. 3 because it includes the so-called plant closing notification provision.

It is ironic that Congress would include this provision in a bill that is designed to enhance the competitiveness of American firms. If similar legislation had been in effect since 1982, Robert R. Nathan Associates concludes that 460,000 fewer persons would have been employed by 1986. Instead of preserving jobs, this notification kills them.

Let me first make it clear that this provision is much more than just a plant closing notification. It also applies to layoffs exceeding 6 months or reductions in working hours greater than 50 percent for each of 6 consecutive months.

More importantly, the issue involved here is whether employers have the right to discharge, layoff, or reduce the working hours of employees without broad mandatory advance notification, and without the collective bargaining envisioned in legislation approved last year by the Education and Labor Committee. Although the conference report does not include a collective-bargaining mandate, there is no doubt in my mind that the next step will be to require collective bargaining over an employer's right to make very difficult business decisions.

The mandatory advance notification provision has many flaws. The most onerous part of the advance notification is found in section 6403(d). Under this section, if, over a 90-day period, an employer's aggregate "employment losses"—terminations, layoffs exceeding 6 months, or 50-percent reduction in working hours for each of 6 consecutive months—exceed the arbitrary threshold of 50—in shutdowns of a facility or operating unit in a single site of employment—or 33 percent of the employees—in mass layoffs—the employer will find that he has retroactively violated the advance notification requirements.

Consequently, employers will essentially be liable to "rehire" the illegally discharged employees by providing compensation for back pay and employee benefits for each day of violation, and paying $500 to each unit of local government for each day of any such violations. For a small firm, these costs are excessive.

With regard to plant closings, there is no definition of "facilities or operating units within a single site." It is very unclear what factors would differentiate a facility or unit from the rest of the site. If an employer's operations consist of several buildings in a campus-like setting, would the layoff of all the employees who work in one of the buildings be a "plant closing" or would it be a "mass layoff?" Would it matter whether the employees who were laid off performed the same or different services from the employees in the other buildings or would the critical factor be the separate buildings? Each of these judgments would have to be made by an employer more than 60 days before he takes any action, and each judgment would involve the risk of liability.

The advance notification provision also imposes unreasonable long-term forecasting requirements on employers with regard to layoffs. An employer must be able to project not only how many employees it will have to lay off, but whether a layoff or reduction in hours will last for more than 6 months. And if the employer is wrong in his long-term projections, he will instantly find himself in retroactive violation of the advance notification requirements and be required to face the legal consequences. Firms will now be required to maintain meticulous business records to ensure that they do not violate the terms of advance notification.

The points I am raising are designed to demonstrate to my colleagues how unworkable mandatory advance notification is and how it will adversely affect employers and their workers. This point was made very clear to me in a letter I received from the Caterpillar Co. In that letter, Caterpillar representatives state:

> In the early 1980s, Caterpillar was forced to respond quickly and decisively to a more competitive international economy. Part of our necessary response included indefinite layoffs and one- and two-week shutdowns of all or part of plant operations. These actions often had to be assessed on a weekly basis. We didn't have the luxury then—nor do we now—of knowing with certainty what business conditions would be like 60 days in the future.
>
> Caterpillar—leaner and more competitive today—is stronger because of the flexibility we were able to exercise during tough times. If we had been hobbled by restrictive and delaying notice requirements, we might not have been successful in meeting foreign competition.

Anyone who has been in business knows that the ability to discharge and lay off workers, or to reduce working hours, has to remain within the discretion of the employer. For this reason, I urge my colleagues to oppose the conference report to H.R. 3.

Mr. PEASE. Mr. Speaker, I yield 1 minute to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Speaker, the plant-closing notification provision in this bill is a social-justice issue. It is a workplace fairness issue, and here is why: 5 or 6 years ago when the depression in the steel industry began, it triggered massive layoffs in my congressional district, which provides taconite and iron ore for the steel industry. If the workers in those communities throughout northern Minnesota had had 60 days notice, even 30 days notice, they would not have aggravated their unemployment, their loss of job, and loss of dignity by borrowing money for a car loan, borrowing money on a home for a home improvement loan, and so on. They could have avoided that additional aggravation and loss of economic status and increase of economic pain.

The communities could have begun the process of planning for transition from that industry to something else, but they did not have that notification.

Does not an industry owe to its employees 60 or 30 days? We are talking about employees of 20, 30, and 40 years standing. That is the issue involved here. All we are asking is a little bit of social and workplace fairness and dignity.

Mr. FRENZEL. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Speaker, I rise today in opposition to the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. Unfortunately, the conferees saw fit to retain in the final version of the bill the Senate-passed plant-closing language. I firmly believe this advance-notice requirement would cause more unemployment than it would prevent by reducing business' ability to expand and create jobs. Further, it would ensure a plethora of lawsuits and legislative attempts to thwart what is an essential right of industry.

The plant-closing provisions would mandate a company with 100 or more full-time workers ot notify employees 60 days in advance before closing a facility in order to relocate or consolidate its work force, or if it anticipated a layoff of more than 6 months.

The human tragedy of unemployment would not be ended by this mandatory notification requirement, rather it would be exacerbated. The key to strengthening employment opportunities is not tying employers' hands on closing unprofitable or inefficient plants, it is fostering more plant openings. If this provision were to become law, I would wonder why anyone would ever want to open a new plant in the future.

I subscribe to Labor Secretary Anne Dore McLaughlin's description of this advance-notice provision. The Secretary has called it "inherently anticompetitive, antigrowth, and antitrade." The anticompetitive nature of this provision runs counter to the overriding purpose of the trade bill, to enhance America's trade and competitive position in the world economy.

If the Democrat leadership, which has fought for an omnibus trade bill for 3 years, was truly concerned about passing this legislation, they would have fought for the removal of the plant-closing provisions. Since they have ignored the White House veto threats over inclusion of this provision, I must question whether they want a trade bill or just another political issue as we head toward November.

I would like to insert in the RECORD at this point an editorial, "Revenge of the Metzenbomb," which appeared in the Washington Times on Monday, April 18. This editorial concisely sums up the arguments against mandatory notification requirements.

[From the Washington Times, Apr. 18, 1988]

REVENGE OF THE METZENBOMB

With the support of the AFL-CIO and the Democratic congressional leadership, Sen. Howard Metzenbaum has supplied plant-closing provisions in the trade bill. The legislation is being billed as relatively innocuous requirements to ensure that workers and communities are informed before businesses relocate, but in reality it would undermine the fundamental right of a free society to close down or relocate an unprofitable enterprise without lawsuits and assorted bullying from Big Brother in Washington.

The bill would bar an employer from shutting down a plant if it led to an "employment loss" for 50 or more full-time employees or if it laid off more than 500 employees without at least 60 days' advance notice. Failure to do so could make employers liable for back pay and fringe benefits, including medical expenses, civil penalties of $500 a day and attorneys' fees. To avoid such punishment, an employer would have to prove he acted "in good faith." The practical effect of the legislation would be to turn virtually any plant closing, no matter how necessary, into a legal Armageddon that could drag on for years.

Many businesses already go out of their way to soften the impact of plant closings on workers and communities, as Union Carbide, Goodyear, Allied Chemical, General Foods and other corporations have done in recent years with programs to give advance notice of plant closings and help workers retrain, resettle or find other jobs. American Enterprise Institute economist Marvin Kosters has estimated that 60-80 percent of plant closings involve some form of notice, in many cases as much as six months. But faltering companies often have excellent reasons not to provide notice: If they announce their intentions too early, they could be stampeded by their creditors.

The Metzenbaum measure would import the disastrous European experience with governmental plant-closing restrictions to America at the very time the Europeans are realizing the folly of such policies. This year's Economic Report of the President, for example, notes that while employment in Western Europe has been flat since 1970, it has increased by more than 40 percent here.

"European governments have realized that the inflexibility of their labor markets due to job security mandates, along with a variety of other labor market interventions, have impaired growth in employment and spawned high unemployment rates, particularly among youth," the report says. In the 1980s, "European countries have begun to reverse previous policies of increasing job protection."

Mr. Metzenbaum's plant-closing measure, in short, is a formula for achieving what its proponents say they want to prevent: the loss of this country's industrial base. By crippling the ability of U.S. firms to compete in the international marketplace, the Metzenbombers could prove to be the best allies our foreign competitors have.

Mr. PEASE. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I support this legislation so long as the provision requiring the notice of plant closing and major layoffs stays in the bill. The bill is weak in many areas as it is. There are a number of items in this bill that I would prefer not to support, frankly, but I will hold my nose and swallow the bill as long as it contains a decent degree of notification to workers.

I, frankly, find it incredible that the U.S. Chamber of Commerce would oppose the idea that workers ought to be notified. This bill does not even establish protections for those workers. It merely says that they have a right to know what is going to happen to their future.

Mr. Speaker, I am going to put this in personal terms. The day I want away to college my father lost his job. So did a lot of other people at the plant that day. I will never forget the turmoil and the confusion that that caused in my own family when that happened. I came very close to scuttling whatever plans I had to go to college. It was only by sheer luck that I decided to follow through. It would have been so much easier on our family, it would have been so much easier on my father if he had had a little time to plan, a little time to absorb what was happening to him.

Some of the boys in the corporate board rooms may see this layoff notification as being economically inefficient and economically intrusive. I see it as being morally right. I see it as the decent way to do business.

I would urge Members of this House who keep talking economic theory to get beyond the theory, get beyond the books and simply look at the human beings that they are talking about. That is what we are talking about here. We are not talking about somebody's economic theory. We are talking about human beings. We are talking flesh and blood. For once let us put them first.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from Maryland [Mrs. BENTLEY].

Mrs. BENTLEY. Mr. Speaker, I thank the gentleman from Minnesota for yielding me this time.

Mr. Speaker, I am very disturbed about various sections of the conference report on trade which I do not believe have been addressed here today. Fair trade as everybody knows has been a key issue for me since I have been in the Congress and I have been looking forward to a strong piece of legislation that would help create jobs in this country and stop the erosion of our industrial base. I am sorry that I cannot find such a section in this bill.

For example, we have been hearing about a sanction section against the Japanese firm Toshiba. For days now, we have heard also that Toshiba has gone home to Japan pleased as punch that it had succeeded in sidetracking sanctions. Mr. Speaker, they were right. We have read the section as of last night, and they have sidetracked the Toshiba sanctions and that company's $60 million in lobbying has been well spent. The Toshiba sanctions in this conference report are a sham.

Then we talk about "buy America" title VII of the report says that it is the Buy American Act of 1988. That is the title. What it actually is is a statutory support for Government procurement practices which have been in violation of the Buy American Act for many years. The original Buy American Act is one paragraph in plain prose which can be understood even by laymen. It says "buy American," to Government agencies unless, "to do so would be against the public interest or the cost is unreasonable."

I have discussed in other places the misuse of "unreasonable cost" by procurement agencies to get around the law. Under the new buy American provision it will no longer be necessary to circumvent. This bill adds exceptions which allow if they do not require U.S. Government procurement agencies to base purchasing decisions on the effect that they will have on world economic conditions, not on U.S. economic conditions, on world economic conditions.

I wonder what country the drafters of this provision represent?

They may be right. Maybe we should spend taxpayer dollars to ship their jobs overseas, but if so we should resign as Members of the U.S. Congress. Our mandate here is to represent the people of the United States. It is that public interest for which we are answerable. Those who support this provision in the name of using taxpayer dollars for the world should join in a philosophical society or go to work for internationalists. But we represent the people of America. Our oath requires no less than dedication to their interest and no other. In this bill "signatory nations" replaces "America." Refusal to deal with American producers is authorized in the name of trade competition. Foreign purchasing made with our tax dollars is justified in the name of assuring multiple sources. That a title like this could be written and offered while our heavy industry is disappearing because of foreign government subsidies to their industries and because of calculated violations of existing agreements by those countries and their manufacturers is inconceivable.

In 1933 the Congress knew their priorities and were able to write plain English. As far as I can determine in the brief time allowed us to look at this monstrosity, the only reason it takes eight pages in 1988 to say what was said in one brief paragraph in 1933 is that in 1933 America came first. In 1988 it apparently does not.

For true trade policy all we are asking for is a level playing field and as the gentleman from Missouri [Mr. GEPHARDT] said so eloquently this morning, he had tried to provide that for our industries. That has been wiped out. Perhaps Congress is the problem now and nothing else.

This bill makes the Government a partner in too many industries rather than helping industries go ahead on their own. I wish that I could say unequivocally that I was going to support it, but at this point I am still torn on it.

□ 1410

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. KAPTUR]. I wish I could yield her 1 hour, but I only have 1 minute.

Ms. KAPTUR. Mr. Speaker, I thank the chairman who has been such a leader in preparing this piece of legislation.

Mr. Speaker, today I rise in support of the conference agreement on H.R. 3. While it does not solve all of our trading problems, it is a good first step to asserting our Nation's position in the international marketplace. It will help put America on equal footing with its trading partners.

I am very disappointed that the opponents to this bill are hinging their support on the plant closing provision. This unwillingness to give workers 60 dsys notice when their livelihood is about to end sharply contrasts with the treatment of workers in Japan, where employees are guaranteed lifetime employment by their employees. I question the U.S. Chamber of Commerce's advice to it members to vote against H.R. 3 solely on the basis of the plant closing provision when this bill contains so many other major and worthwhile provisions to strengthen America's trade policy.

In the past 8 years, this administration has frittered away U.S. markets of many vital industries, including autos and auto parts, machine tools, steel, and electronics. Our trade deficit has escalated to record levels to the point that our stock market hinges on the release of monthly trade deficit figures. When the February deficit figures released last week revealed a $13 billion increase in the U.S. trade deficit over January levels, the stock market dropped precipitously by over 100 points. The administration's disregard for our worsening trade picture has resulted in the selling off or the shutting down of vital components of our Nation's manufacturing sector. We cannot allow this to go on.

H.R. 3 establishes a fair trade policy and strengthens America's hand in dealing with its trading partners. As a representative from an auto parts producing district, I am particularly encouraged that the trade bill defines a new unfair trade practice. The toleration by a foreign government of anticompetitive practices by private firms in a particular industry which results in a lack of access for the U.S. firms to that industry will now be actionable under our trade laws. When making a decision on unfair trade practice cases, I hope the next administration will fully utilize the new provision in the trade bill to consider reciprocal opportunities in the United States for foreign nationals and firms.

H.R. 3 is written with the expectation that American industry will play the leading role in efforts to keep pace with technology and compete worldwide. A new 201 provision, for instance, encourages domestic industry to submit plans for how it plans to positively adjust to import competition when filing for import relief. The expanded and improved trade adjustment assistance programs will allow our Nation's workers who are displaced from their jobs by imports to better adapt to the evolving global economy.

A vote for the conference report on H.R. 3 is a vote for the growth, strength, and productivity of America. It is a vote for U.S. industry, for jobs in America, and for a better life for our workers. I congratulate the conferees on their efforts.

Mr. GIBBONS. Mr. Chairman, I yield 1 minute to the very distinguished gentleman from Michigan [Mr. LEVIN] who is a fine member of our committee, too.

Mr. LEVIN of Michigan. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in support of this bill. I wish it were stronger. And no area has been more beset by labels than this area of trade, and none has been more tangled by theories than this.

The American people though know the realities. The bad is not good. A $150 billion trade deficit is not a sign of progress. Closed factories are not a sign of growth. They know that dislocation may be natural, but not inevitable, that we can control it. They also know that unfairness should be acted upon. They also know that to help ourselves is not to look for a scapegoat.

So this is just a first step. It is not the end of the debate. It is just the beginning.

And Americans also believe in fairness, and this affects not only trade, but also the question of giving notice to dislocated workers.

Mr. GIBBONS. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Speaker, I rise in support of the conference report on H.R. 3, the Omnibus Trade Act. Many provisions of this sweeping trade legislation are long overdue. Although this measure goes only part of the way in addressing America's declining competitiveness, I am satisfied with it as a constructive beginning.

As was originally intended, H.R. 3 contains appropriate enabling powers to address unfair trading practices of other nations. This bill will send a strong message to the international community that the United States is serious about fair trade. At the same time, however, the bill does not contain language that could trigger a damaging trade war.

The conference committee has done a commendable job in working through the bill. This measure, as we are all aware, was stalled by the Black Monday stock market crash last October. Consideration of the trade bill was postponed while Congress and the White House scrambled to reach agreement on a plan to reduce the Federal budget deficit. Now, as we return our attention to the trade bill, we are faced with the persistent specter of a growing trade deficit, a national crisis no less significant than the budget deficit.

H.R. 3 alone will not restore U.S. competitiveness. Anyone who hails this measure as a cure-all understands neither this legislation nor the nature of the crisis we are currently in. I support this trade bill, but I want to warn my colleagues that we have a long way to go in rebuilding American economic preeminence. I would like to take this opportunity to first touch on a few of the major provisions of the bill, and then focus in more detail on some of the sections of the trade bill of which I had oversight as a member of the conference committee.

Under H.R. 3, Presidential authority is transferred to the U.S. Trade Representative on decisions to investigate foreign practices that hinder U.S. trade and to take necessary action against such practices. Rather than weakening the President's powers in this regard, this provision establishes the U.S. Trade Representative as the point man for swift action against unfair trading practices.

I am enthusiastic about the import relief provision. This part of the trade bill would affect those segments of import-affected American industry which have the best opportunity to regain competitive standing if given short-term Government relief. It makes sense for the Federal Government to focus on faltering industries which have the best chance of recovery.

To assist the dislocated workers in industries which are not as likely to regain leadership in the near future, the trade bill includes improvements in the Trade Adjustment Assistance [TAA] Program. The TAA provides cash payments and retraining to workers in industries found to have been damaged by imports. To the extent that we can reinvigorate our work force through retraining programs, our Nation will be better able to meet the challenges of the ever-changing world economy.

Most importantly, Mr. Speaker, I support the plant closing notification provisions in the trade bill. While this measure may pose an inconvenience for some businesses in the case of plant closures, American communities should be provided reasonable notice to prepare for the impact of mass layoffs.

As American industry tries to cope with changes brought by imports and competition, we must not forget certain minimum obligations we owe to the labor force. Sudden plant closings have caused severe hardship in communities across American. Advance warning can help soften the blow. This plant closing language is clearly a compromise measure—and is much weaker than what a majority of the House Members wanted.

It would be a tragedy if the adminsitration jeopardized the entire trade bill because of its objections to the plant closing provisions. I would hope that my colleagues will hold together on this issue, and override a Presidential veto if necessary.

Mr. Speaker, I was pleased to have been a conferee on the agriculture title and technology competitiveness titles of the trade bill—including subconferences 6, 9, and 13.

The agriculture provisions which we approved in subconference number six, after long hours of deliberation, should result in an improved situation for American agricultural exports. These provisions should also strengthen the hand of our negotiators working on trade issues at the current round of talks under the General Agreement on Tariffs and Trade [GATT]. They should also start correcting some of the trade imbalances which have plagued our agriculture exports in the past.

For example, the triggered maketing loan provision in the trade bill requires that unless significant progress is made at the GATT talks, a program to enhance our export competitiveness will be established. The provisions in this conference agreement also expand our Export Enhancement Program and the targeted export assistance programs, moves which are designed to increase our ability to compete in world markets.

This section of the trade bill contains many other provisions which will help put our agricultural exports on an even level with those of our competitors. These are valuable and needed provisions which I commend to the attention of my colleagues and for which I ask their support.

Mr. Speaker, buried in the trade bill, and separate from its more visible and controversial sections, are some initiatives that will have a positive impact on improving U.S. manufacturing technology. As a conferee on subconference nine of the trade bill, I assisted in developing the package of technology enhancement measures—the essence of which was contained in H.R. 2916, the Technology Competitiveness Act. H.R. 2916 was reported out of the Science, Space, and Technology Committee last year, and has served as the House position to similar provisions included in the Senate trade bill, as amended by Senator ERNEST HOLLINGS.

The measure would enhance the responsibilities of the National Bureau of Standards and change its name to the National Institute for Standards and Technology [NIST]. Besides serving as the keeper of standards and measures, the new NIST will be required, among other things, to assist industry in the development of new technologies, and help improve the quality and efficiency of modern manufacturing processes. The trade bill will also create the centers for the transfer of manufacturing technology—often referred to as the Hollings Centers—which would transfer, through regional centers, new basic manufacturing technology and techniques developed at the National Institute for Standards and Technology to companies throughout the Nation.

The bill will also establish with NIST an Advanced Technology Program that would serve as a focal point for cooperation between the public and private sectors in the development of industrial technology. A primary function of the Advanced Technology Program [ATP] is to encourage private companies to form joint research and development ventures, as defined by the National Cooperative Research Act of 1984. The ATP can help these ventures to form by providing organizational and technical advice and limited start-up funding where appropriate. The ATP is also permitted to contribute a share of the ongoing costs to the consortia for a period of up to 5 years. The ATP must look for ways to tap the talents of national laboratories and their programs must be geared toward solving problems of significance to the private sector.

I should say, however, that the Advanced Technology Program is a scaled-back version of the more comprehensive House recommendation for an Advanced Technology Foundation. Initially, the program was to have broader scope, and more substantial funding in order to execute an aggressive program to raise our technology applications efforts in the United States to the same level of emphasis we place on basic research and development. I would hope that the Advanced Technology Program is only the start of the Government's commitment to assist American industry in improving manufacturing technology. Until the Federal Government is willing to make technology improvements a top priority, the United States will continue to decline as an economic power.

A title also contained in subconference number nine of the trade bill is the Metric Usage Act. Unlike the voluntary Metric Conversion Act of 1975, this measure would mandate all Federal agencies to convert to the metric system of measures by 1992; and all businesses wishing to conduct business with the Federal Government must do so in metric units as well. The 1975 Metric Conversion Act required only voluntary participation and, as you may recall, after several years of effort to educate the public and industry, the country was still largely nonmetric. Currently, the United States and Burma are the only countries in the world that have not converted to the metric system.

In many ways, America's arrogance about its economic superiority is reflected in our resistance to convert to metric. In the past, the American attitude has been that if other nations do not like our products in foot-pound measures, that was simply too bad. As events of the past two decades have shown, foreign markets no longer depend on the United States for quality goods. Metric conversion will clearly add a positive element to the way America does business. While the metric section of the trade bill may not have been discussed in the press in the past months, American industry will certainly take notice and become more competitive once the trade bill becomes law.

The other key titles of the technology enhancement portion of the trade bill include: Creation of a Visiting Committee on Advanced Technology; establishment of a National Advisory Committee on Semiconductors to monitor the semiconductor industry and recommend a strategy to ensure U.S. competitiveness in this industry; and creation of a Presidentially appointed National Commission on Superconductivity to review major policy issues related to superconductivity research.

Subconference No. 13 of H.R. 3 reached agreement on the creation of the Competitiveness Policy Council. The Council would be established consistent with the provisions of the Federal Advisory Committee Act. The Competitiveness Policy Council would develop recommendations for national strategies to enhance the productivity and international competitiveness of the United States. The Council would examine an entire range of issues relating to U.S. competitiveness, including Federal policies, regulations, international agreement on trade, as well as science and technology.

The creation of this advisory body will focus greater attention on the long term solution to the problems we are facing when competing in foreign and domestic markets. With this Council, we recognize that our difficulties will not disappear with the signing of the trade bill into law. The Council will provide advice and make recommendations to Congress and the President. It will also provide a forum for discussion which, we hope, will culminate in a stronger American economy.

Mr. Speaker, the trade bill conference report we will soon endorse will provide some valuable tools; set in motion critical programs; and send clear messages to the rest of the world that America is a nation that is—and can remain—at the vanguard of global industrial evolution. However, I do not see this bill as the complete answer to our trade problems. Clearly, much more work needs to be done in this area, and not only by Congress.

In order to correct the imbalance in trade, all Americans must work together. We must put to use all the resources and talent that this Nation possesses. American industry must work with labor; Federal Government must work with local governments; academia must work with business; and so on. I would venture even further that only when most individuals in America commit themselves to excellence and quality, will America begin to rebuild a strong economy. If we cannot instill this idea in the majority of our citizenry, no legislation passed by this body will change the course of our economic decline.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York, the ever-popular GEORGE WORTLEY.

Mr. WORTLEY. Mr. Speaker, I believe balanced, effective and meaningful trade legislation is overdue, and I support much of the content—and certainly the objectives—of the omnibus trade bill. However, I am deeply disappointed that my colleagues have included several ill conceived and counterproductive provisions that represent a sizeable threat to the United States.

Plant closing notifications is a provision that has been—and will continue to be discussed at length by this body. First of all, I fail to see the logic and reasoning behind including such a provision in this bill. It is quite obvious what will happen if it reaches the President's desk.

I fail to see the logic and the thrust behind mandatory notification of a plant closing. Not only would this create a disincentive to creditors, it would serve to drive away current and potential customers thus leading to even worse business for the firm. Then what do we have? A disastrous situation—thanks to the U.S. Congress—that would further damage the employment status of employees. Furthermore, since the penalty for miscalculation would be great, firms would generally be reluctant to assume any kind of risk or purse innovative business ventures. It is important that firms continue to have the exclusive ability to make decisions about their economic status and viability. They should not be further burdened by the Federal Government.

Mr. Speaker, I can't recall when any of my constituents have ever pressed me to get the Government to lead a public bail out of third world debtor countries and their lending institutions. Yet this is exactly what is called for in the trade bill. It is not entirely clear how the new International Debt Management Authority would pay to purchase the debt of borrowers, but suggested are the gold reserves of the IMF and the liquid reserves of the World Bank. These are financial resources that in large part were contributed by American taxpayers. Using such resources to conduct a risky and high-stakes experiment in world debt does not strike me as wise or appealing.

The financial institutions and the debtor countries themselves must continue negotiating and resolving their debt problems. Both must be willing in many cases to make sacrifices. We should be persuading these lesser developed countries to commit to an economic management plan that will lead to sustained economic growth—based on free market principles. However, by holding out the hope that the debt may be essentially forgiven—compliments of the U.S. Congress—what mechanism would we have to ensure such economic reform? Debtor countries will no longer have an incentive to assume structural economic reform so that they can overcome their debt problems through economic growth rather than austerity. In the end, negotiations of a centralized international agency will create false expectations of debt forgiveness, undermine serious economic reform efforts in those countries, and scare away future private capital that is so desperately needed in those countries.

I also oppose the establishment of a Competitiveness Policy Council. Although this Council has been trimmed notably since its conception in terms of both cost and scope of activities, I am still opposed to its creation. Five million dollars of taxpayers' money is being authorized for this Council although it is unclear what the Council would accomplish that isn't already being carried out by agencies in the Department of Commerce, the U.S. Trade Representative, the International Trade Commission or the private sector itself.

Furthermore, besides being a duplicative data-gathering and advisory body, there is potential the Council will lead to centralized government planning of the economy. Although modifications have been made, it still appears that the Council will be able to assert an aggressive and powerful role as implementor of a national industrial policy. Such a policy would turn the free market on its head by allowing business decisions to become political decisions. The result would be inefficiency, loss of competition and extreme distortions in supply and demand. We should not be contemplating a strategy of allowing the Federal Government to choose the Nation's economic winners and losers—that power properly rests with the consumer.

Mr. Speaker, I am not a blind adherent to some abstract idea of free trade. Trade only benefits our country's workers and businesses when it occurs under fair conditions. Generally, if there is any time that another nation uses unfair trade practices, we should counter with our own measures until the unfair practice is abandoned. I am also not opposed to reforming our Nation's trade laws—if it is done in a balanced and thoughtful manner—to ensure that the legitimate grievances of U.S. workers and businesses are addressed. I believe that except for several provisions, we have a positive and constructive trade bill. However, I also believe that those provisions would prove so disastrous to the economic viability of the United States that I cannot support the version before us today. I urge my colleagues to do the same.

□ 1420

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the gentleman from North Carolina [Mr. VALENTINE].

Mr. VALENTINE. Mr. Speaker, since becoming a Member of this body in 1983, I have, like most other Members, participated in and witnessed several historic occasions. We can all add the consideration of the Omnibus Trade Act to that list. Consideration of this measure today represents the culmination of intensive efforts by practically all standing House committees and their members to produce a sensible and coherent set of trade and competitiveness initiatives.

This is a long, complex, and in some cases, a highly technical bill. Certainly, there is some room for disagreement on some of its provisions. But I believe that we can all agree that Chairman DAN ROSTENKOWSKI of the Ways and Means Committee has performed a remarkable task in managing the effort that produced the legislation we are considering today.

Mr. Speaker, the State of North Carolina and the Second Congressional District have not been immune to the harsh realities of the current trade imbalances. The beleaguered textile industry is a prime example of one of our traditional industries in which thousands of jobs have been lost and hundreds of plants have closed. The result has been significant erosion of many local communities and local tax bases.

Although this industry needs the Textile and Apparel Trade Act that has already passed the House, the trade bill before us today will provide improved fairness for all U.S. industry. The bill before us will provide U.S. industry with tough, enforceable action against foreign trade barriers and unfair trade practices.

North Carolina's agricultural community is another prime example of an industry systematically denied access to foreign markets. This omnibus trade bill strengthens agricultural export promotion programs and provides strong incentives for the removal of foreign barriers to U.S. agricultural exports in the new round of GATT negotiations.

Mr. Speaker, I also represent North Carolina's Research Triangle Park. Located in the Research Triangle Park are a host of research and development firms and industries that contribute significantly to our economic strength. This contribution not only enhances our educational knowledge and strength but our ability to compete effectively in world markets. But these high-technology industries, just like the textile and agricultural industries, face the same road blocks that deny American products and exporters access to foreign markets.

A recent report by the Defense Science Board states that, of 25 semiconductor products and processes, Japan now leads in 12 areas while the United States leads in 5, with parity in the other 8. The United States' position relative to Japan is continuing to decline in 19 of 25 categories, including 4 of the 5 in which the United States now leads. Further, American semiconductor companies have lost 20 percent of their market share in the last 4 years alone. To cite just one specific example, in the key area of dynamic random-access memory [DRAM] chip production, the United States has fallen in a single decade from a position of total world dominance to a 10-percent share of the devices sold today in world markets. These recent declines are of vital importance to our overall national economy, the semiconductor industry, and our long-range defense efforts.

Because of America's growing reliance on high technology, in the area of national defense as well as commerce, I am pleased that the conference agreement creates a joint industry-government consortium for research and development of advanced semiconductor manufacturing technology and a National Advisory Committee on Semiconductors. By including these provisions, the omnibus trade bill makes history in two respects. First, it is the most comprehensive effort ever undertaken to strengthen U.S. trade policies and programs, and second, it establishes the first joint industry-government effort to sustain a unique industry that is critically important to the competitive and national security posture of the United States.

The purpose of the National Advisory Committee on Semiconductors is to improve efficiency in the application of both government and industry resources. The Federal Government spends millions of dollars each year and the commercial industry invests at least five times that amount in semiconductor-related research and development. Despite these investments, maximum efficiency in the application of these resources has not been achieved, at least partially due to a lack of coordination between government and industry.

The Advisory Committee is intended to improve efficiency in the application of both public and private funds for semiconductor research and development. The Advisory Committee will acquire and analyze information, carry out assessments, and provide reports and recommendations. Its most important function is the development of a coordinated national strategy to revitalize the American semiconductor manufacturing sector and enable U.S. companies to regain the competitive ground that has been lost. The focus of the Advisory Committee will be on rationalization of research and development, not on issues such as taxes, trade, or industrial structure.

This activity should be viewed as a modern test case for industry-government cooperation in restoring and maintaining a technological capability that is essential to the Nation. It is not a government committee telling the industry what to do nor is it an industry committee telling the Government what to do. It is a partnership to address a national priority.

We depend largely on semiconductors for telecommunications, advances in medical technology, and computers. Moreover, our Nation's most advanced and sophisticated defense systems are highly dependent upon the availability of leading edge semiconductor devices. Forced reliance upon foreign sources for this technology would be comparable to turning over to foreign governments the most critical and sensitive areas of our national security. Continued reliance on foreign suppliers of semiconductor devices surely will lead to further economic erosion, loss of employment, slower technological and scientific advancements, and the continued decline of the American standard of living.

Mr. Speaker, our committee chairman, BOB ROE, the members of the Science Committee, and the cosponsors of the original legislation deserve special thanks for their support of this initiative. I was also privileged to represent the Science Committee as a conferee on that portion of the trade bill relative to the committee's technology competitiveness provisions.

Enactment of this legislation will surely assist many industries and workers through strengthened section 301 provisions, broadened trade adjustment assistance, enhanced education and dislocated workers retraining programs, and improved import relief for injured American industries. But, Mr. Speaker, this is by no means a perfect bill. Like most Members, I wish that certain provisions had not been included.

For example, I opposed the plant closing notification bill when it was considered during the 99th Congress. I am concerned about its inclusion in this legislation. The overriding purpose of the trade bill is to enhance America's trade and competitiveness, and this provision may have precisely the opposite effect.

The conference agreement, however, is critical to this country's economic future. But let us recognize that this historic legislation will not be the final step toward improving our trade policies. This bill, just like the tax reform bill of 1986, will undergo perfecting changes in the years to come. Although the Omnibus Trade Act may not be perfect, enactment and proper enforcement of this legislation would help to hold the line and slow the decaying of the American economy and lead to permanent measures to ensure balanced and mutually advantageous trade among nations.

Mr. Speaker, I believe the provisions in the conference agreement dealing with trade practices are practical, fair, and reasonable. We may not realize immediate reductions in the trade deficit by enacting this bill, but it would have a major impact on the process by which Congress, the Cabinet and various Federal agencies deal with our trade problems. For these reasons, I support passage of the conference agreement to H.R. 3, the Omnibus Trade and Competitiveness Act of 1988.

Mr. GIBBONS. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Speaker, as chairman of the Committee on Small Business and author of several major provisions of H.R. 3, the Omnibus Trade and Competitiveness Act of 1988, I rise today in strong support of the legislation before the House.

I have long fought for legislative action to combat the economic consequences of the country's staggering and persistent trade imbalances. Beginning in 1983, as chairman of the House Banking Subcommittee on Economic Stabilization, I held an extensive series of hearings on the competitive problems facing this country and the root causes of our deteriorating economic strength. Those hearings illustrated the new international economic environment in which U.S. business must now compete and demonstrated the need for our Government to help our businesses in a positive, not protectionist, way to thrive in world markets.

In response to that need, I and other Members fashioned concrete legislative proposals to improve our ability to compete with other countries in world markets.

Yet at that point and for years thereafter, the Reagan administration refused to acknowledge that there was any competitiveness problems at all. We all remember the promise of supply-side economics: Cut taxes, and our investment, productivity and savings rate would soar. They did not. But our trade and budget deficits soared out of sight.

We must face the fact that sustained trade deficits of recent magnitudes have done permanent damage to our economy and have shifted competitive advantage toward our foreign competitors. But it is not too late to regain the advantage we have lost. I believe that the legislation before us today is an appropriate response to the difficulties U.S. industries have faced as the global market has become increasingly competitive. H.R. 3 is a competitiveness bill, not a protectionist bill.

This bill is also the product of years of responsible bipartisan effort to address a problem we can no longer afford to ignore. It is, in my view, a critical first step in reversing the decline in this country's competitive position.

Not every provision is totally to everyone's liking. That would be impossible in an effort of this magnitude. But the bill before us represents a serious effort at compromise and deserves to be treated seriously by this administration. I can only hope that the administration will reconsider current threats to veto the entire package over what are in fact small points of controversy.

THE TRADE BILL

The bill we have before us deals with a multitude of trade policy problems that are affecting our competitive position: The need to control unfair trade practices; the need for new multilateral negotiations encompassing issues too long ignored; the need to break down barriers to U.S. exports in foreign markets; the need to aggressively promote exports; and the need to close loopholes in our tariff and customs laws. These are important areas of reform and it is long past time we dealt with them.

While these are important steps, they will not suffice. We must also take positive steps to improve the competitive environment in which U.S. industries operate both at the national and international levels.

I am pleased that the bill also contains several important provisions that I have sponsored and which I have been advocating for some time. The exchange rate provision will increase congressional oversight and the accountability of the administration with regard to the impact of U.S. exchange rate policy and other economic policies on our Nation's trade balance and our level of foreign borrowing. The international debt management provision requires the administration to take a look at fresh approaches to the problem of Third World debt, which has constrained the world trading system and restricted U.S. exports to developing countries. The Competitiveness Policy Council will create a mechanism through which Government, business, and labor can work cooperatively to recommend strategies for enhancing U.S. productivity and international competitiveness.

EXCHANGE RATES

In the early 1980's, exchange rates became severely misaligned, at great cost to many U.S. industries and to our Nation's indebtedness. More recently, erratic fluctuations in exchange rate markets have made intelligent Government and business planning impossible. It is the intent of this provision that the exchange rate and the level of foreign borrowing become matters of conscious policy rather than inadvertent side-effects of other policies.

This legislation will increase the accountability of the Secretary of the Treasury for economic policies that affect the Nation's trade balance and its level of foreign borrowing. It requires the Secretary to submit written reports to, and appear before, Congress twice a year to explain and defend his international economic policy, including his exchange rate policy, to propose economic policies designed to bring the Nation's foreign borrowing and trade balance to more acceptable levels, and to elaborate upon the policy choices made.

The Secretary of the Treasury is responsible for policies that most affect exchange rates and foreign borrowing. He negotiates international agreements to coordinate economic policies and to reform international financial markets. He decides when intervention in foreign exchange markets is appropriate. Equally important, he develops national economic policies that affect domestic capital markets and borrowing needs. In each of these three critical areas, the Secretary would be expected to describe recent progress and the policies he will pursue in the future in his semiannual reports.

The Congress must make decisions on such issues as the budget deficit that have an effect on exchange rate policy all the time. With a better understanding of the relationships between economic policies and an explicit statement by the administration of its recommendations as to the appropriate policy mix, Congress and the public could more effectively debate alternatives.

In addition, the legislation mandates multilateral negotiations designed to achieve macroeconomic policies and exchange rates consistent with more acceptable levels of U.S. foreign borrowing and an improved U.S. trade balance. Serious currency misalignments have arisen under the existing exchange rate system and the United States cannot hope to resolve resulting problems unilaterally. Greater coordination and harmonization of economic policies among the United States, the Europeans, Japan, Canada and other major industrialized countries are the only practical ways of preserving relative exchange rate stability at levels consistent with more acceptable balances in trade and capital flows.

Such coordination will prove impossible without serious international negotiations on this issue. I am pleased that the Secretary is working within the Group of 7 to consult more actively on this problem. It is my intention to facilitate and encourage current efforts, and to ensure they become part of a broader effort to negotiate necessary changes in exchange rate and other macroeconomic policy at the international level.

More than half of all U.S. trade is with countries whose currencies have not substantially appreciated against the dollar since January 1985. To a large degree, continued low exchange rates have meant a competitive advantage for these countries in the U.S. market.

The legislation requires the Secretary of the Treasury to pursue bilateral negotiations with countries that manipulate their currencies to obtain arbitrary competitive advantage to ensure that such countries regularly and promptly adjust their currencies to eliminate the arbitrary advantage.

The administration has made significant progress in some of these important areas in the recent past. However, we cannot risk return to the situation characteristic in earlier years of this administration in which currency imbalances and fluctuations undercut the competitiveness or threatened the stability of the U.S. economy while our Government looked on with benign neglect.

THIRD WORLD DEBT

The Third World debt provision of this legislation addresses the reality of the debt crisis. The goal of this legislation is to help restructure the debt burden of the most heavily indebted developing countries, thus expanding the world trading system and increasing U.S. exports.

Over 2 years ago, the administration announced a new policy to promote economic growth in Third World countries as a way to reopen markets to American exports. But the "Baker Plan" has failed to reach even its own modest goals.

Commercial banks and debtor countries continue to be locked in protracted negotiations in which little is accomplished beyond moving the mountain of debt forward. Meanwhile, debtor countries are forced to export to the United States and cannot buy American goods and services. The rapid deterioration of our export trade with Third World debtors has contributed significantly to our $170 billion trade deficit.

The legislation encourages the administration to work toward the establishment of an international debt management facility which could relieve existing debt service burdens and pave the way for renewed opportunities for U.S. exports. Such a facility would: First, assist creditor banks in the voluntary disposition in the private sector of loans to heavily indebted sovereign borrowers; second, encourage countries with strong capital surpluses to apply these surpluses to investments in heavily indebted countries; third, purchase bank loans to debtor countries at a discount; and fourth, establish mechanisms for passing along the benefit of any such discount or other action of the facility to the debtor country.

THE COMPETITIVENESS POLICY COUNCIL

The Competitiveness Policy Council will help to raise competitiveness issues to the top of our national agenda. No high level forum now exists in which Government, business, and labor can deliberate together to develop recommendations regarding economic policies that will positively enhance our competitive position. If we cannot take this small step toward a more cooperative national effort, it is not clear where we can start.

In the past few years, dozens of reports on the long-term competitiveness of the American economy, including that of the President's own Commission on Industrial Competitiveness, have concluded that we need an institutional mechanism to focus attention on competitiveness issues in the policymaking process and develop a consensus regarding Government policies affecting industry. The Council would be precisely such a mechanism.

The Council would function solely as an advisory body, but it would be a significant step in increasing the focus throughout our economy on methods of enhancing our competitive position. It would also review private sector requests for Government assistance or relief and recommend appropriate industry actions designed to ensure that receipt of such assistance will make the industry internationally competitive in the future.

THE SMALL BUSINESS TRADE

The small business title recognizes the role that the U.S. small business sector can and must play in our efforts to correct our Nation's trade imbalances. Small businesses in this country have been a proven source of employment and economic growth, and they can contribute substantially to reversing the U.S. trade deficit. Government studies have indicated that 30,000 or more smaller U.S. firms have the clear potential to export but currently do not.

Just recently the President unveiled a new Department of Commerce initiative, "Export Now," designed to encourage small- and medium-sized businesses to become involved in international trade. I am pleased that the administration has finally decided to begin to tap into this natural resource for export-led growth, and I believe that together with the initiatives embodied in the small business title, we can unleash some of the economic potential of U.S. small business against our foreign competitors.

This title is also important because it gives the small business community the attention it deserves, but has not previously had, within this comprehensive trade legislation. The U.S. small business sector is the envy of our trading partners. Whenever foreign officials and businessmen visit our country they make a point of studying this element of our economy and trying to understand its ability to generate growth and jobs. If we are to sustain a strong and viable small business sector and maintain this competitive advantage, public policy must address the specific needs of the small business community. In the context of trade policy, I believe that the small business title of this bill does so.

This title was fashioned after an extensive series of hearings conducted by the Small Business Committee. At those hearings it was evident that the small business community did not want protectionism. It wanted a fair opportunity to compete against foreign producers and it wanted the Government as a partner rather than an obstacle in its efforts to enter international markets. Title VIII is based upon that philosophy.

Title VIII is designed to coordinate existing Federal programs that can be useful to small businesses; to make trade-related services more accessible to small business; to emphasize innovative approaches to export enhancement for smaller firms; and to provide small business with some of the information marketing leads, technological resources and capital that is required to compete successfully in world markets. The legislation sets forth policy and provides authority for programs that will actively assist small business to become involved in international trade. It goes beyond the traditional emphasis of Federal trade programs to simply market the idea of exporting to such companies, and develops concrete initiatives which will actively engage small businesses in international markets.

There are three major elements of the Small Business Trade Title:

First. The Small Business Administration Office of International Trade is required to take a more active role and to work more closely with the Department of Commerce, the Export-Import Bank, and State international trade programs to market existing trade promotion programs; $3,500,000 is provided for activities to be carried out by the Office;

Second. To ensure that the small business community can access trade-related services, a decentralized service delivery mechanism is established. An additional $5,000,000 will be authorized to encourage the Small Business Development Center [SBDC] network to carry out export promotion and technology transfer activities. In States where the SBDC does not undertake the required activities, other nonprofit entities, such as local chambers of commerce, may be funded; and

Third. SBA's loan guarantee authority is increased in an attempt to make more capital available to small businesses for the revitalization of plant and equipment necessary to meet foreign competition at home and abroad. The loan guarantee authority is raised across-the-board from $500,000 to $750,000, and firms that are engaged in international trade can obtain guarantees of up to $1,250,000.

CONCLUSION

Today the U.S. economy is teetering atop our twin budget and trade deficits. Both can be improved significantly with strong export-led growth. We can build a sturdy foundation for the U.S. economy if we act, but the situation cannot improve unless we develop a national trade strategy that makes the best use of our strengths and resources. The legislation before us today is both a start in providing the necessary elements for such a strategy and an indication of the political will to advance one. It is only in this way that we can put the U.S. economy on a strong footing again.

Mr. FRENZEL. Mr. Speaker, I yield myself 9 minutes.

Mr. FRENZEL. Mr. Speaker, it is unfortunate that the issue before this body today is not the trade bill. It would be useful, it would be helpful, I think it would be good for the country to debate trade, but, because of a decision the leadership of this Congress has made, the plant closing notification is the single issue. Most of what we have heard today has dealt with that particular issue.

The administration says it would sign a bill absent the plant closing notification feature. Our House leadership said, in effect, "Foreget trade. We are going to follow the big labor agenda instead and accept this nongermane hitchhiker."

As long as we need to talk about plant closings, I am glad to do it. I think that together we can count the ways to describe plant closing notification.

The first way is noncompetitive. Ironically, plant closing was attached to a trade bill whose sponsors say the legislation is going to make the United States more competitive in international markets. All we need to do is add the extra cost, time, trouble, travail and uncertainty that plant closing notification brings to assure that we will be less competitive.

The second way is nongermane. It was not even in the House bill, does not have anything to do with trade, has to do with layoffs and plant closings which may occur by any reason.

Nevertheless, here we have it because of the whimsy of our leadership.

The last way to describe it is counterproductive. If one discusses with any American business person the problems of plant closing, and if one discusses those problems particularly with small business people, one becomes convinced of the difficulties those business managers are going to have in running their places of business under such an arrangement.

The plant closing notification is a matter that should be handled in the marketplace. If a business management wishes to trade off flexibility in one area for flexibility in the other, that is perfectly appropriate. But for "Big Brother" to tell us how to do it is grossly inappropriate.

But we have a chance to get rid of this unwelcome hitchhiker. We have a chance to support the Michel motion to recommit the bill, which in fact will excise, or exorcise, this demon and allow us to move the bill forward. With plant closing, the bill will go forward to an uncertain future. Without plant closing it apparently will go forward to signature and enactment, and that is I think what most Members of this body would like to see.

So I hope that we will vote for the Michel amendment and get rid of the unwelcome hitchhiker.

I also think the trade bill needs a little discussion today. There is not time, of course, within the limitations of our rules and so I will describe it more fully in the extension of my remarks which will follow these extemporaneous statements.

From my standpoint, the trade bill is not an unvarnished blessing. For me it is probably overall a net loss under normal circumstances, and yet I must say that under this distinguished and enlightened leadership of the gentleman from Illinois, Chairman ROSTENKOWSKI, and Chairman BENTSEN, this bill was not made whole, but certainly cleansed enormously in the conference process.

What we have left is an imperfect product under which the country will have to work a little harder to prosper, but one which will not run the country nor start a trade war. It will perhaps bring us only scattered retaliation if it is administered by a thoughtful administration.

So again I compliment the two chairmen who helped to manage a very difficult conference. They did not produce my kind of bill, but they produced a bill which will not hurt us badly.

Mr. Speaker, I would like to talk about the general nature of the bill. I find it to be unfortunately based in trade shrinking arguments rather than trade expanding features. The worst feature, the Senate super 301 section, reduces flexibility and will cause, sooner or later, retaliation against American exporters. Unfortunately, we do not know where that retaliation is going to occur, and it will of course occur against our most competitive operators while protecting some of the less competitive ones.

We have added four new actionable causes under 301 not in current international law, and those of course, if we are obliged to retaliate, as we may be under the almost-mandatory features of this section, will certainly be retaliated against.

Undoubtedly the worst portion of the bill is trade adjustment assistance. As much as this body swears that it finds the creation of new entitlements loathsome, we have created another entitlement. This little rascal will cost us about $120 million a year in the first year that it is fully phased in. My constituents certainly did not instruct me to create more entitlement programs, back door spending around the appropriations process. I doubt anybody else did either.

I would also like to suggest that perhaps the most important factor in keeping our negative trade balance high is the fact that the United States has managed its fiscal affairs like an alcoholic. When called on its deficit, it has simply spent more.

There is over $6 billion over the next 6 years embodied in the various features of this trade bill. That extra expense is going to cause us a good deal of trouble for the future, and it is something that was not necessary to either make our trade policy more fierce or to expand opportunities for American action abroad.

□ 1635

Mr. Speaker, in the best of all possible worlds and under usual circumstances I would be voting against the trade bill. Net, it is not a positive one for the United States.

However, it is not without positive features. The negotiating authority is necessary for this country to go forward in the Uruguay GATT round. The passage of this bill is probably necessary for us to dispatch successfully the next major bill, the Canadian Agreement. Certainly the uncertainty that has hung over the trade world because of 4 years of messing around with trade law, threatening, counterthreatening and scaring away investment, will be dispelled if this law is enacted.

For that reason, I have decided to be supportive of the trade bill only under the circumstances, however, that the plant closing section is removed.

I am doubly grateful to my minority leader, Mr. MICHEL, and to the Committee on Rules for providing us with that opportunity.

This bill is a mixed blessing. I think a majority of American business would like to see it passed; I think a majority of this body would like to see it passed. There is one easy way to do it and that is to pass the Michel motion to recommit.

Mr. Speaker, I rise in opposition to the trade bill now before us. I do so reluctantly, since the bill contains many provisions which I strongly support. In addition, many objectionable provisions were stricken from the bill, and many others were moderated.

As a participant in the committee and the conference, I supported the process by which this product was considered. There was productive cooperation between Members of both parties and the administration. Many concerns of the private sector were carefully considered. This spirit of cooperation continued until the last day of the conference on the Ways and Means issues.

Unfortunately, during the final negotiations on the remaining controversial issues, agreements were made that, in my judgment, were not in keeping with the earlier spirit of compromise on the bill. Due to time constraints, there was no opportunity to obtain further changes in the conference report. As a result, I did not sign the conference report on subconference 1 issues, those relating to Ways and Means Committee jurisdiction. Overall, there are many other provisions in the trade bill that I also oppose.

Many Members would have added their support to the trade bill if further compromises had been made and if the very political decision to retain the veto-bait plant closings issue was avoided. In my judgment, this decision demonstrates that the Democrat leadership does not want a trade bill, it only seeks to obtain an issue for the fall elections.

The issue today is plant closing notification. Trade has been forgotten. The Democrat leadership has abandoned the spirit of Bentsen and Rostenkowski, and revitalized the trade issue.

Mr. Speaker, I want a trade bill passed this year. But I believe it should be one of which Members can be proud—one that we can promote among our trading partners as consistent with out international obligations; one that will not violate the standstill agreement of the Uruguay Round of trade negotiations and one that we can use to break down trade barriers of other nations both by using the new authority granted in the bill and by providing that we have not erected new trade barriers of our own. I do not believe that this bill can be so promoted. In fact, I believe that H.R. 3 will result in retaliation among our trading partners, or certainly mirror legislation that will injure American companies.

There are many worthwhile provisions in the trade bill that should be preserved, should a bill be returned for consideration if a veto is sustained on this conference report. I have supported changes in trade laws which would:

Move our 201 trade relief law to more of an adjustment than a temporary protection statute;

Provide negotiating authoirity for the new Uruguay Round of trade negotiations;

Place more emphasis on training in the Trade Adjustment Assistance Program;

Improve our antidumping law with respect to imports from nonmarket economies;

Improve intellectual property rights protection;

Beef up the position of USTR and require that he or she participate in all international meetings where trade is discussed;

Provide improvements in the CBI Program;

Extend the International Coffee Agreement;

Improve the reporting of trade data;

Repeal the windfall profits tax;

Establish deadlines for section 232 national security investigations under the trade law;

Implement the administration's agreement to lift the ban on several Soviet furskins;

Implement the Nairobi protocol duty free items;

Approve many other miscellaneous tariff bills;

Implement the Harmonized System as of January 1, 1989;

Implement the citrus/pasta agreement;

Provide compensation authority for relief under sections 201, 301, and for tariff reclassifications;

Decontrol many export and reexport licenses to our allies, create new deadlines for foreign availability determinations and establish deadlines for interagency disputes on export licenses, all changes to our export control laws;

Increase exports of Alaskan crude oil;

Clarify the Foreign Corrupt Practices Act;

Authorize the administration's $980 million worker retraining program;

Provide new assistance to educational agencies to upgrade math, science, and foreign language capabilities;

Provide new assistance and loan authority to small businesses for export related services;

Beef up the U.S. and Foreign Commercial Services to promote exports;

Initate new export promotion programs;

Increase OPIC's loan guarantee and direct investment programs;

Reauthorize Eximbank's tied aid program along with a study of other countries' tied aid practices;

Improve opportunities for new export trading companies;

Beef up the Foreign Agriculture Service and increase its market development efforts;

Upgrade the services offered by the National Bureau of Standards as well as to provide cooperation with State technology extension services;

Provide process patent protection; and

Initiate an annual statement regarding Federal budget deficit impact on the trade deficit.

This is quite a lengthy list of pluses in the bill, I admit. However, my list of items to oppose in the report is much longer, regrettably. I will admit that many of the items on the following list have been greatly improved, and many include some administrative discretion. However, the fact that there is language on these issues creates an expectation that these issues can be strengthened in the future. Worse, it is likely that many of these sections will be targeted for mirror legislation among our trading partners. Whether the same amount of discretion would result in such legislation is highly questionable, in my opinion. We must not challenge our allies by opening the door in this way.

One of my most serious concerns about the bill is its impact on the agreement we made under the Bipartisan Budget Agreement last year. Through new authority and outlays, we will have expanded the budget deficit by $6.1 billion over the next 6 years. While all of us would like to expand programs to help improve competitiveness and to assist worker retraining efforts—I have listed some of these as pluses in the bill—we must remember our commitments to reduce the Federal deficit as the best way to, in turn, improve the trade deficit.

Below are listed my concerns with respect to the trade bill:

Section 301: Mandatory action for unjustifiable cases with waiver authority that would be nearly impossible to utilize.

Worker rights is an actionable item under 301. This gives the impression that we seek to impose our labor standards on other countries.

Targeting is an actionable item. Targeting is a subjective and vague concept not yet recognized under international trade agreements. Mirror legislation could easily find several U.S. industries the subject of Government targeting:

Cartels is an actionable item. Although this is primarily designed to attack certain Government-tolerated cartels that violate antitrust laws, the language could cover routine private firm purchasing decisions as well.

Modification or termination authority added. A good feature, but would not prohibit increased retaliation where it may not be merited, as specified in the Senate bill.

Super 301—countries, not practices are labeled unfair traders for the first time. If the United States were so labeled, it would be difficult for us to remove our major barriers within 3 years.

Section 201: Special protection for the lamb industry. Lamb is defined as a perishable agricultural product subject to provisional relief. Most committee members believed perishable products would only include fruits and vegetables.

Injury—language was added to ensure that it would be easier to prove injury.

Remedy—For the first time, the President would be forced to provide a remedy if injury is found under 201. Presidential discretion not to grant relief has been seriously weakened here.

Industries can receive up to 8 years of relief, rather than having to prove the need for additional relief after 5 years as is current law. Eight years appears to be more than enough time to adjust, in my judgment.

Trade Adjustment Assistance:

Training has been made an entitlement at a time when our budget will not stand another entitlement program.

Eligibility has been expanded to parts and services workers, as well as oil and gas workers, thus greatly expanding the program well beyond its expectations.

A supplemental wage allowance demontration project has been approved that could further expand the program in the future.

Training is made available at a "reasonable cost". Even though there is a total cap on training, this could vastly inflate the cost of training programs or enable workers to engage in training programs that go well beyond the need for retraining.

An import fee is authorized, along with negotiations to obtain a GATT agreement that such a fee can be imposed, to fund the entitlement program in the future. However, the Congress could impose the fee even though it has not been internationally agreed upon causing us to be liable for compensation.

A trust fund has been set up to fund the program, even though we have tried to get way from establishing new trust funds.

Section 406: Injury test has been relaxed to ensure that market disruption caused by nonmarket economy imports can be far easier to determine.

Antidumping/countervailing duty laws:

Definition of subsidy—United States unilaterally changes the GATT definition of what a "generally available" government subsidy is. Mirror legislation can easily find targets in the United States.

There is some confusion that the report language indicates that House and Senate versions of this section are similar. That is far from true. On the issue of specificity, the Senate had far better language than the House, for instance. Further, the Senate language had the effect of codifying the court cases on PPG Industries and Can-Am Corp., in addition to the Commerce Department's decision in the review of the carbon black case. It is clear that the Senate language and its report is what we agreed to in the conference, which did include some important differences.

AD/CVD is applied to leases equivalent to sales, which have been opposed by many of our trading partners.

Language clarifying as to what is considered a "continuous line of production" could permit a subsidy finding on a raw material as well as a processed product. This would probably overturn a previous subsidy finding with respect to Canada which could threaten the U.S.-Canada Agreement.

In constructed value dumping cases, related party pricing can be disregarded. Although discretionary, this could hurt multinationals located in the United States.

Cross statute cumulation—again discretionary, but could make it easier to find injury.

Circumvention provisions—while I do not support circumvention, these provisions could shut down legitimate facilities in lesser developed countries. There is enough current authority to deal with circumvention.

The steel "melted and poured" section could also affect legitimate facilities in developing countries. In many cases, it may be impossible to trace the origin of imported steel in a finished product. This section was also drafted to include U.S. insular possessions which should not be treated as foreign countries.

Downstream product monitoring—new, expensive, monitoring has been authorized, even though the Government does a great deal of monitoring now and has plenty of authority to conduct further monitoring.

AD and CVD duties cannot be refunded under drawback, even though the ultimate products do not wind up in the U.S. market. This could eliminate any competitive edge obtained through use of drawback laws.

U.S. Government purchases are eligible for AD/CVD. Some DOD purchases are exempt, but this could encourage other countries to assess these fees on purchases from the United States.

CBI—the President is authorized to withdraw CBI benefits on individual products due to intellectual property and other violations. This will have a drastic affect on decisions of investors to expand into the CBI and certainly violates the spirit of the CBI which we are currently attempting to strengthen, not weaken. There is plenty of authority under current law and in this bill to deal with intellectual property rights violations.

Telecommunications—a separate sectoral reciprocity section that is already covered under current 301 laws. There is mandatory retaliation here, as in 301, that includes very narrow waiver authority.

Negotiating authority—authority has been granted, but there are restrictions including the reverse fast track and the limited tariff proclamation authority.

The requirement that the President must determine before May 31, 1993 whether major industrial countries have failed to make concessions that provide substantially equivalent competitive opportunities and to recommend legislation to restore equivalency is pure mischeif.

State trading—the section which forces the President to determine whether State trading enterprises burden trade before countries acceed to GATT would also establish a unilateral decision by the United States to block GATT membership even though the GATT does consider the anticompetitive affects of State trading.

Debarment on sales by Toshiba Corp. to the U.S. Government with some exceptions is far too harsh a response to the diversion by Toshiba Machine Co. The punishment, if any, should have been directed solely toward the subsidiary.

Prospective sanctions against violators of export controls are even worse. Both the retroactive and the prospective sanctions are an unwarranted extraterritorial application of U.S. laws which will infuriate our trading partners which have equally stringent export control laws. This language could threaten the existence of Cocom, or it could cause countries to attempt to cover up export control violations. The United States has many export control violations of its own. Mirror legislation banning U.S. products would cause an uproar in this country. This provision is clearly one of the worst in the bill and should by itself be the subject of a veto.

Export controls—most of the language was positive, but I had hoped that duplicative review by the Defense Department could be eliminated on free world license applications.

Primary dealers in U.S. Government securities reciprocity language will not encourage other nations to provide access for U.S. dealers.

Authority for the President to block foreign investment for national security reasons was an overreaction to the Fujitsu attempted merger with Fairchild. There is enough current authority to address all threats to national security.

Export enhancement for ag products was increased by $2.5 billion at a time when we are attempting to negotiate away export subsidies at the Uruguay Round talks. The President can reject, if deemed harmful to the talks, but the message we are sending here is a dangerous one.

Similarly, the triggered export marketing loan program for wheat, feed grains, and soybeans for 1 year if there has been no progress in the trade negotiations is equally offensive.

Studies on egg, rose, dairy, sugar, and honey imports are only designed to curb imports in the long run.

Language permitting USDA to extend marketing orders if necessary to prevent circumvention of marketing orders by imports is also a questionable extension of authority.

Two senses of Congress relating to United States access to Japanese rice, beef and citrus markets and Korean beef market. These are important matters to us, but we are often insensitive to the impact these measures have on political situations abroad as well as our ability to obtain actual progress.

There is a reciprocity section related to meat inspection systems. Although discretionary, this also will not help us solve the problems.

Targeted export assistance is authorized to provide payment for CVD cases of trade associations. Also discretionary, but the government has no business providing this kind of assistance.

Authority to negotiate an international debt management facility—this language has been improved with added discretion, but it does not seem that the best way to deal with our international debt situation is simply to reduce debt value through this facility.

Currency manipulation—requires negotiations with all who manipulate their currencies and with whom we are running trade deficits. We have made more progress on exchange rates through G-7 and other discussions. Negotiations, with the United States unilaterally deciding whose currencies are manipulated, will be totally counterproductive.

Buy American provision—while improved, this provision still strikes a blow at the GATT Government Procurement Code and efforts in the Uruguay Round to expand it. The United States again unilaterally decides who is violating the code, as well as forcing nonsignators to abide by the code. The goal of this provision has always been to limit imports under U.S. Government purchases. Mirror legislation would hit our exporters and may not include the waivers of this language.

Eximbank has another restriction through a provision to force it to examine whether loans or guarantees to increase the production of certain commodities would injure U.S. producers.

A new competitiveness council duplicates existing authority and provides a step toward industrial policy.

The maritime provision provides added authority to the FMC to investigate and retaliate against unfair shipping practices in liner trade. The langauge has been improved, but there is enough current authority to deal with unfair shipping practices.

Pesticide monitoring of imports has been strengthened, which appears to be only a back door way of restricting imports. We use more pesticides than any other country.

Plant closings—business highly objects to Government imposed restrictions of this kind. More companies are providing this notice on their own. Those which cannot may have important competitive reasons for their inability to provide notice. Business sees this as another example of Government interference which would stifle economic growth in the long run.

Mr. Speaker, in my opinion, decision today turns on plant closings, not on trade. Whether the trade items in the bill are good or bad seems to make little difference.

The Michel recommittal motion should remove the nongermane, noncompetitive plant closing provision. It ought to be adopted so we can debate the real trade bill, which, we are told, would be signed by the President if passed without plant closing.

I shall vote for the Michel motion, against the bill and to sustain the veto, all on the basis of opposition to plant closing notification.

With respect to the rest of the bill, overall, it falls short of my standards, because its designed to shrink trade rather than expand it. However, its passage would remove uncertainties and allow us to proceed in the Uruguay GATT Round and with the Canada Agreement.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALGREN].

Mr. WALGREN. I thank the chairman of the Committee on Ways and Means for yielding this time to me.

Mr. Speaker, I want to rise in strong support for the trade bill that we have from the conference before the House today.

Last night we had special orders honoring former Congressman John Dent, who passed away recently, but who many Members will remember was a Representative from Pennsylvania for many years, who more than anybody else understood that free trade, when uncontrolled, often resulted in the unfair unemployment of large sectors of the American work force.

Historically, administration after administration have failed to use the discretion provided under present law to protect American workers from trade found to be unfair by our trade commission. This bill provides a remedy to that. There are certain elements of protection in this bill; but a degree of protection is important. Most notably, it would require the President to act to prevent and redress the damage done by unfair trade unless certain conditions were certified and waivers granted by the President. That should be a great help.

But this bill does far more than address the proper limits on international trade. By incorporating provisions like those of the Technology Competitiveness Act, this trade bill would put in law major new initiatives in enhancing the competitiveness of American production. Two portions of this bill stand out: The creation for the first time of institutes of technology on the national level and the provision of funds for new science research facilities for America's universities.

Since the start of the Republic, the National Bureau of Standards has pursued the science of measurement in support of American industry. In the course of that pursuit a national laboratory working on the leading edge of new technology has developed. This bill will transform the Bureau of Standards into the National Institutes for Standards and Technology, giving our Nation a focus for the development of new technology.

The science and technology of measurement is the same science and technology required to assure quality and competitiveness. The process of doing the science that lies behind the ability to measure is the same process, with the same focus, that leads to the development of new technologies and ultimately new products. That is why the National Bureau of Standards has become the Nation's preeminent laboratory for industrial science and engineering. And that is why it is so important that we have a National Laboratory focused on pushing the frontiers of science whose mission is to encourage the development of new technology.

Another portion of the bill that will be of critical importance in enhancing the strength of American production is the funding for new science research facilities at American universities. Throughout our history the health of our economy and the strength of our national defense has been coupled to our colleges and universities. This country looks to its colleges and universities for both new knowledge as well as training for scientists and engineers. As a Member of Congress from Pittsburgh, PA, I appreciate more than most the leading role academic institutions play in renewing our economy. It is no coincidence that the United States, with its foundation of academic research and training, has led the world in all measures of achievement in science and technology due to its strong academic institutions.

This leadership is threatened by the present neglect of university research facilities. Just at a time when more is expected of the academic community for economic regrowth we witness crumbling buildings, obsolete equipment, and faculty shortages. Several recent studies and reports have been issued, among them the White House Science Council Report, describing the very large and pervasive dimensions of this situation. Lack of modern facilities and instrumentation not only reduces the effectiveness of research efforts, but also discourages many recent high school graduates from pursuing careers in teaching and research.

The conference report provisions on infrastructure make a relatively small, but significant step in the right direction.

But, it is important to make the record clear about the scope and intended effect of provisions in the bill that establish a program in the National Science Foundation for the revitalization of the Nation's university research facilities.

First, as anyone familiar with the university research facilities area knows, this facilities revitalization program, and the amounts authorized under it, are far from adequate to meet the needs of the Nation's colleges and universities for the replacement and renovation of their scientific research facilities. While the program is surely a step in the right direction, it is only a very small step in that direction. The need is so great that it overwhelms the amounts in this bill. Estimates of the cost of replacing and renovating the facilities in question run as high as $10 billion. This bill provides, over a period of years, total funds that are less than 2 percent of that figure. In short, this bill will not begin to meet the needs of the Nation's colleges and universities for new or renovated research facilities.

Second, as we all know, in an effort to broaden the Nation's research infrastructure, to permit emerging institutions to compete more effectively for Federal research support, and to promote economic development, Congress has from time to time provided funds directly to colleges and universities for research facilities. Some might wonder whether the program in this bill is intended to preclude Congress from providing such direct support in the future.

I can assure the House that the facilities revitalization program in this bill has no such intention. It is not designed to remove or in any way restrict the congressional prerogative to provide funds directly to deserving colleges and universities for the replacement or renovation of their research facilities. Given the enormity of the infrastructure need that I outlined above, given the obvious importance of increasing the research competitiveness of our colleges and universities, and given the urgency of the need to promote economic development, it is clear that Congress has a continuing role to play in this area.

I urge support for this conference report and look forward to the contribution this legislation will make to a brighter economic future for our country.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Maryland [Mr. McMILLEN].

Mr. McMILLEN of Maryland. Mr. Speaker, I support the conference report on the trade bill. We all have put in long hours and much hard work to bring H.R. 3, the Omnibus Trade Act to the floor today.

I believe that it is critical to the Nation's economic future and to the security of our families and homes to create a sound and consistent trade policy. The bill before us today is designed to enhance our competitiveness, open foreign markets, increase our exports and protect workers from market and trade disruptions.

H.R. 3 contains training and worker protection measures including a modest requirement for 60 days notice to workers of plant closings and major layoffs. This section of the bill affects only those employers of 100 or more employees, and exempts cases of faltering businesses and unforeseen circumstances.

But I do want to indicate strong regret that conferees saw fit not to include foreign investment disclosure provisions in the final legislation. I believe that without the foreign investment information this House sought when it passed the Bryant amendment, we can't plan sound trade and economic policy.

We simply don't have access now to the necessary information. Strategic planning for our economic future is involved. We have to have better knowledge of the levels and extent of foreign investment in specific industries and service sectors. To require disclosure isn't to place onerous and impossible burdens on the private sector.

This is not protectionist, nor credit control. We are not impeding, thereby, investment or flow of capital to the United States. Providing information on major holdings in U.S. businesses and real estate doesn't build barriers to foreign investment. On the contrary, good sense dictates that to plan and implement sound trade and economic policy we need this vital information.

The lack of a comprehensive trade and economic policy hurts workers, management, and Government. The American people want us to pass trade legislation that rights trade imbalances that threaten the future of all Americans. Too much time and effort at the highest levels have gone into this bill. Let's not fumble and lose the ball just when the goal is in sight. I urge Members to help pass this bill.

Mr. FRENZEL. Mr. Speaker, I yield 4 minutes to the distinguished gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Speaker, today is the climax of 4 years of debate over trade-law reform. Throughout the many separate drafts and proposals we have considered during that time, our mission has not changed.

In essence, we have sought to achieve three fundamental goals. First, to make American trade law and Government action more responsive, less bureaucratic and better able to meet the challenges of the modern world.

Second, to more effectively assist and promote United States exports.

Third, to build our commitment to reciprocal market access and fair competition, into the laws governing our trading relationships.

This is not a perfect bill and it will not by itself eliminate our trade deficit. It will not, by itself, make us competitive.

To succeed, let there be no mistake about it, we must, American workers and business, produce top quality goods at competitive prices and support that effort with a real commitment to exporting, to being out there on the international market.

It does, however, meet the three broad principles which have guided our trade debate. Equally important it is a giant step toward modernizing the relationship between American business, workers, and Government.

It begins the process of developing that partnership that will help make us strong in the international trading community. It moves toward putting aside the adversarial assumptions which have governed labor-management-Government relations in industrial America.

There are many ways in which this bill will make Government more responsive. The USTR, for example, can assess countervailing duties against consortia for the first time.

American business has driven hard to invest in research and development. Now they can protect their intellectual property rights simply by proving patent infringement and not have to prove economic injury as well, a standard none of our trading partners impose on their businesses.

The system of harmonized tariffs that this bill adopts is good for us all. The ability to respond to export targeting, to cartels, to consortiums are good for America and will make us stronger in the international market.

It allows commerce to expedite antidumping investigations against multiple dumping offenders, who commit a very great injustice to American business; and to act to prevent circumventing antidumping laws through third-country shipments.

Mr. Speaker, I could go on about some of the fairness provisions that this new bill builds into our trade law. But it does as well come very close to being protectionist in other provisions and we will have to exercise discretion both here in the Congress and in the executive branch to prevent some segments of this bill from inviting retaliation.

I want to conclude by saying this bill also gives us new resources, new strength to develop American exports. It allows the Commerce Department to have a market development cooperator program patterned after the USDA's program to develop foreign markets. It puts in place a data bank, again to give exporters the best information we could possibly give them about overseas opportunities.

In my district in the next month I will begin a series of three conferences where we will bring to our people a better understanding of the knowledge that Government now has to make them powerful in the international market and to hook small business, our primary job-driver, into the international market, which will ultimately reduce our trade deficit. This is a good bill; not one without some problems, but a strong initiative to begin building the strong partnership between Government and the private sector that our competitiveness demands. I support it and I congratulate the chairmen and the ranking members of the major committees that have worked on it on their significant contribution to our continued strength and vitality as a society.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I rise today to express my strongest and fullest support for the conference report of the Technology Competitiveness Act, legislation that has been incorporated into the Omnibus Trade and Competitiveness Act. While the report contains provisions that concern numerous technology and technology transfer issues, the main thrust of the Technology Competitiveness Act, as agreed to in the conference report, is to enhance, expand, and enlarge the scope and mission of our Nation's oldest national laboratory, the National Bureau of Standards.

I want to congratulate all of the conferees, from both the House and the other body, who have worked so hard and so diligently to produce the compromise reflected in the conference report. In particular, I want to acknowledge the leadership role played by subcommittee chairman, Mr. WALGREN in helping to craft the compromise, subcommittee chairman, Mr. McCURDY, for his work on the critical materials sections, and subcommittee chairman, Mr. RALPH HALL for his leadership on the Symmetrical Access provisions. I also want to acknowledge the efforts of our colleagues on the other side of the aisle, our ranking Republican Members, Mr. LUJAN at the full committee level, and Mr. BOEHLERT, Mr. LEWIS of Florida, and Mr. SENSENBRENNER at the subcommittee level.

The National Bureau of Standards has worked for almost a century to make American industry more competitive both here and abroad. Measurement to standards is vital in all segments of the industrial economy, from new technologies like advanced ceramics, automated manufacturing, and biotechnology, to more traditional fields such as communications, steel, and chemicals. However, the Bureau's role as a measurement and standards facility has been stretched thin in recent times by the increased emphasis on researching new technologies and the reduced funding for basic programs.

This bill contains the first increased authorization for the Bureau in several years. To reinforce the scope of the Bureau's activities as the Nation's lead laboratory, while directing its resources toward the challenges of new technologies, the conference report changes the name of the National Bureau of Standards to the National Institute of Standards and Technology. The new name reflects not only the enhanced role and responsibility assigned to the Bureau, but stresses the Bureau's traditional function of providing the measurements, calibrations, and quality assurance standards which are vital to U.S. commerce.

In enlarging the mandate of the Bureau, the agreement calls for the establishment of regional centers for the transfer of manufacturing technology. These regional centers will provide outlets for the demonstration of technology developed by the Institute to small- and medium-sized firms, beginning with the technology developed at the Automated Manufacturing Research Facility of the Institute.

By means of these regional centers, the National Institute of Standards and Technology will play an active role in working with the States to increase the access of private businesses to federally developed technologies.

Other provisions in the report that will expand the role of the Institute and enhance technology transfer between the Federal Government, the States, and the private sector include a Technology Extension Service, a nonenergy invention program, and an Advanced Technology Program.

Another provision of the report establishes a clearinghouse for State and local initiatives on productivity, technology, and innovation. Administered by the Office of Productivity, Technology, and Innovation, the clearinghouse will concentrate on the collection and dissemination of information on State and local initiatives that promote technological innovation.

Other language in the report forbids the contracting out of the activities or functions of the National Technical Information Service, and requires that Federal agencies use the metric system in procurement, grants, and other business-related activities by the end of 1992, except when conversion to metric is impractical or is likely to cause significant inefficiencies or loss of markets to the United States.

Recognizing the need to review developments in new technologies, the conference report requires the President, when submitting the fiscal year 1990 budget to Congress, to submit a report on administration policy and proposals in semiconductors, fiber optics, and superconductors, creates the National Advisory Committee on Semiconductors, and mandates the President to appoint a National Commission on Superconductivity.

Finally, the agreement emphasizes the importance of symmetrical access to research and development opportunities and facilities in the negotiation and conduct of international science and technology agreements, and extends the authorization of the National Critical Materials Act programs to fiscal year 1992.

Mr. Speaker, the time has come to choose our priorities, and, at this critical juncture, our scientific and technical progress is of the highest importance for the future of our country. I strongly urge my colleagues to support the conference report on the Technology Competitiveness Act.

Mr. Speaker, as chairman of the Science, Space, and Technology Committee, the authorizing committee for the National Science Foundation, I want to make clear to the House how my committee understands those provisions in the bill before the House that establish in the NSF a program for the revitalization of the scientific research facilities on the Nation's college and university campuses.

As I believe the House is aware, the program is designed to make Federal support available for the replacement and renovation of those research facilities. Because the need for this support is very great, and because this program represents a positive step in the direction of meeting that need, I and the overwhelming majority of my committee members are enthusiastic supporters of the program. I know that I speak for that majority in urging the House to adopt the program as it is outlined in the pending legislation.

At the same time, however, I would caution the House that the program in question is not intended to be the complete or comprehensive or only congressional response to the need for new or renovated research facilities crisis on our college and university campuses. I believe that we in the Congress have an important role to play beyond the authorizing and funding of this program. My committee has held hearings on the facilities issue and has studied it carefully. We have seen the contribution that Congress, by directly funding college and university research facilities, can make to local, regional, and national economic development, particularly in some of our Nation's poorest and most depressed geographical areas. We have seen how such direct congressional initiatives can help to rebuild the Nation's research infrastructure. We have seen how they can assist institutions that aspire to greatness in scientific research to become respected participants in the competition for scarce Federal research funds. We have seen too how such initiatives can stimulate the development of new technologies, new processes, and new materials. Finally, we have seen how they can promote the development of the Nation's greatest single natural resource, the minds of its citizens.

Because my committee has seen these results, we have come to the firm conclusion that such initiatives are an essential part of the congressional response to its duty to promote the general welfare. To build up our emerging institutions, to renew our university research infrastructure, to promote economic development, to stimulate new technological advances, and to improve the opportunities available to our young men and women for scientific education—these are all supremely good things, and direct and decisive congressional action to meet the pressing facilities needs of deserving colleges and universities has proven to be an extremely effective way of achieving them.

Mr. FRENZEL. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey [Mr. Roe] for the purpose of a colloquy with the gentleman from Illinois [Mr. Porter].

Mr. PORTER. Mr. Speaker, will the gentleman from New Jersey yield to me?

Mr. ROE. I yield to the gentleman from Illinois.

Mr. PORTER. I thank the gentleman for yielding.

Mr. Speaker, I understand that the conference report establishes a number of advanced technology initiatives including an Advanced Technology Program to foster public and private cooperation aimed at industrial technology development and greater utilization of existing technology research by businesses.

Is my understanding correct that the Advanced Technology Program is intended to be a very broad-based program and could, therefore, include initiatives aimed at improving the use information technology and developing new information technologies?

Mr. ROE. Yes; your understanding is correct. The ATP program is intended to encompass all types of industrial technology.

Mr. PORTER. I thank the gentleman for his response.

Mr. FRENZEL. Mr. Speaker, I yield 5 minutes to the distinguished former chairman of the Republican conference, the gentleman from New York [Mr. Kemp].

Mr. KEMP. Mr. Speaker, I thank my colleague for yielding. I realize that some of my colleagues support this conference agreement because they believe it is less damaging to trade than the bill passed last April. However, the basic truth is that two bad trade bills cannot be transformed into one good trade bill.

□ 1450

The conferees faced the same problem unsuccessfully encountered by the early alchemists: You cannot take two baser products and end up with gold. Ever since its passage last year, the trade bill has added to the uncertainty that has whipsawed our markets here and abroad. Investors in both foreign and U.S. markets have been haunted by the specter of rising protectionism in the Congress that might lead to another Smoot-Hawley disaster of the 1930's, not only for the United States but for the global economy.

This agreement may end the uncertainty about the bill's contents, but would only replace it with the increased certainty of a trade war and of renewed downward pressure on the dollar. We received a foretaste of the impact protectionist measures have on our currency in March 1987 when the dollar took a sharp drop after the United States imposed restrictive tariffs on Japanese microchips.

This trade action affected only one product. But imagine the damage a wide spectrum of retaliatory trade measures brought under this trade bill would have on world financial stability. Even the whiff of a protectionist odor could create a backlash among our trading partners, foreign investors, the markets, and worldwide capital flows.

This trade agreement is in my view, irremedially flawed. The most damaging thing about the bill is not any single provision. It is the combined effect of all the many changes on our trade policy. Instead of expanding trade to create more world growth and more jobs, this agreement is a misstep toward trade wars, a recession, and a lower standard of living for Americans and people throughout the world.

Some of the more egregious trade-bashing items in the bill include the so-called Super 301 authority, which requires retaliation against trading partners who fail to meet imposed deadlines in changing certain trade practices. Authority for deciding what practices are unfair and authority to order retaliation are transferred from the President to an unelected Government official, the U.S. Trade Representative.

The bill adds several new types of action to the list of unfair trade practices including violation of "internationally recognized worker rights." I find this interesting coming from Congress which routinely exempts itself from every labor law.

In addition, the bill would pay for an expanded trade adjustment assistance program by imposing a GATT-illegal duty on imports. It goes on to limit exports of Alaskan oil instead of allowing exports of Alaskan oil to help improve our trade balance. The bill also limits the administration's options in areas such as import relief, international finance, international monetary policy, Third World debt, Government purchasing, and telecommunications. The cumulative result is to inject protectionism into U.S. trade policy, making it easier for a future administration to start a trade war and more difficult to convince our trading partners to end their protectionist practices.

Instead of adding to trade barriers we should work vigorously to tear them down. I believe we should move forward with bilateral free trade agreements, starting with Canada and Mexico. Such agreements establishing a North American free trade area provide both a carrot and a stick to get Europe, Asia and other nations to open their markets, but without the danger of starting a trade war.

Bilateral and multilateral free-trade agreements are the path to true trade liberalization; the current omnibus trade bill is simply the low road to protectionism.

As George Gilder pointed out in a recent outstanding Policy Review article:

> The new fabric of global interdependence is a precious and unprecedented achievement of the current era. It represents an enduring triumph of capitalism. It would be nothing short of a tragedy to throw it away in an effort to restore the mercantilist zero-sum games that have produced a grim global history of war and poverty.

Mr. JONES of North Carolina. Mr. Speaker, I strongly support the conference report on H.R. 3, a bill which has wide bipartisan support and which should be enacted.

Title X, subtitle A of the conference report before us today deals with unfair practices in ocean and related land-based activity. The 1987 annual report of the Federal Maritime Commission, which is charged with administering the laws designed to keep our maritime trades free and open, states that 1987 was the most active year in the history of the Commission in terms of identifying and correcting conditions unfavorable to shipping the U.S. foreign commerce. Japan, Korea, Taiwan, People's Republic of China, Peru, and Colombia were the targets of Commission investigations.

Clearly, free trade is an elusive commodity, and I think we all realize that. And even though the Federal Maritime Commission has authority to investigate unfavorable conditions, the authority is insufficient to enable them to effectively counter the sophisticated practices that are employed to disadvantage U.S. operators of merchant vessels. When my committee held hearings on the subject last year, the Commission asked that their existing authority be strengthened.

The agreement reached by the conferees on maritime issues, I believe, takes a step to improve the ability of the Federal Maritime Commission to counter unfair practices. It is not an overly ambitious step, but it represents a framework that may be built upon in the future, if it is found to be inadequate in certain areas.

Three important things have been accomplished. First, intermodal activities are clearly and unequivocally included as activities subject to investigation. This is a significant addition to the existing laws, because so much of the ocean-borne cargo moving to and from the United States is under a single bill of lading, and moves the first and last mile by rail or by road.

Second, the Commission has been given additional penalties with which to counter unfair shipping practices. A major problem they have had administering the law is the lack of any but the most draconian penalties.

Finally, the process has been expedited so that a proceeding must be completed within 210 days, including a single, discretionary extension. This is to alleviate the delays we have come to expect from those who are the targets of Commission investigations.

The conference managers agree to limit the scope of the act to liner carriers. However, there remains a concern among House managers that some practices by foreigners may play a role in inhibiting market opportunities by U.S. operators of nonliner vessels. I certainly hope that the Federal Maritime Commission will inform the Congress and the President as to the need for expanded scrutiny of ocean-borne transportation activity to include bulk, tanker, or other noncommon carrier operations. In any event, it is important to remember that the bill addresses vessel common carriage. The type of cargo, and the method of packaging that cargo, is irrelevant to the act.

The managers also agreed to a simple standard for determining an unfair condition, which combines harm to U.S. operators with the concept of reciprocity. In other words, when the policies of a foreign nation toward American carriers are different from our policies toward their carriers, and that causes harm to U.S. operators, an unfair condition exists. Likewise, the acts of private foreign persons may cause a parallel condition.

A determination to investigate certain conduct by foreign governments or persons is discretionary, so that the Commission not be burdened with petitions of a frivilous or harassing nature. On the other hand, legitimate complaints should not be summarily rejected, and the Presidential override of a Commission decision—provided in the act—should come into play after the investigation is completed, and not invoked for the purpose of dismissing a complaint.

The changes to the maritime portion of the trade bill have addressed the concerns of the administration, as well as affected industry groups. Mr. Speaker, I wholeheartedly support this bill because I feel that it furthers the cause of free and fair trade that we in this country espouse, and I urge my colleagues to approve this conference report.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of the comments made by my distinguished colleague from North Carolina and chairman of the Merchant Marine and Fisheries Committee, the Honorable **WALTER JONES.** Title X of H.R. 3, known as the Foreign Shipping Practices Act of 1988, gives the Federal Maritime Commission authority to investigate allegations of unfair trade practices by foreign governments or other persons subject to the jurisdiction of the FMC.

Title X of H.R. 3 represents an acceptable compromise between H.R. 1290. the original House text of which I was a cosponsor, and the Senate-passed text.

The final conference report differs from the House-passed text in several respects. Protections for U.S.-flag bulk operators have been eliminated, provisions mandating investigations where at least 25 percent of a class of goods were carried by a foreign carrier between the United States and that foreign country were eliminated, and finally the conference standard for imposing sanctions centers on a "reciprocity" test versus the House-passed "unreasonable impairment of access" test. These changes appear to have eliminated, in large part, administration objections to passage of a maritime title.

While I remain concerned that the removal of certain provisions weakens the bill to some degree, I am convinced that the Commission will have sufficient authority to take action against foreign entities which establish barriers which adversely affect our U.S.-flag carriers.

I am particularly encouraged by the inclusion of authority to investigate allegations relating to unfair intermodal transportation practices of our trading partners. Mr. Speaker, this authority granted to the Commission has been carefully drafted and I trust the Commission will adhere strictly to the requirements and enforcement provisions set forth in the text of this bill.

I am, indeed, hopeful that this bill will go a long way to ensuring that our liner operators receive the same equal opportunity to compete as foreign carriers now and have been guaranteed under our regulatory regime.

Mr. Speaker, I yield the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of section 4603 of title X of the maritime title. That section reestablishes the authority of the Department of Commerce to provide assistance to mobile trade fair projects. This section is very similar to H.R. 2192, a bill I introduced last year for the purpose of promoting mobile trade fairs. I am most pleased to see my efforts finally bear fruit.

The managers intend that by simply eliminating the specific authorization language, including the sunset provision, that the Department of Commerce will retain authority, within current budgetary constraints, to support mobile trade fairs as an additional tool to encourage and promote U.S. exports. The managers intend that this program include support for the operation of an exhibition ship that is acting as an at sea international management export company representing the manufacturers of American-made products. The authority is left with the Department of Commerce as the appropriate agency to oversee trade promotion activities within the Government, however, the managers recognize that as U.S.-flag carriers are the only recipients of support under this provision that DOT will have to lend its support.

I urge all the agencies involved to cooperate and to assure that our Nation becomes a true innovator in this important project.

Thank you, Mr. Speaker. I yield the balance of my time.

Mr. BIAGGI. Mr. Speaker, the 1980's has been a unique area of unfair trade. Unlike past periods when dominant trading nations unfairly imposed their will on their trading partners, the 1980's have seen the world's foremost trading nation relinquish its economic power. Fair trade has been sacrificed at the altar of diplomacy.

The trade bill we are considering today is an attempt to return the balance, and assure that U.S. trading and economic interests are protected by our Federal Government in the same way that the governments of our trading partners protect their industries. However, among those concerned about trade issues, there has been very little discussion of how our goods travel—ocean shipping is a nonexistent issue. Though many Americans know that the vast majority of our imports and exports are transported over water, few appreciate that foreign operations are carrying most of those goods.

U.S. shipping has a minuscule portion of the business. All told, less than 5 percent of our ocean borne trade is carried on U.S. vessels. The U.S. merchant fleet now consists of 460 privately owned ships; only 376 are in active service. According to forecasts from the Commission on Merchant Marine and Defense, our Nation faces a dire shortage of both shipyards and trained maritime laborers. These statistics are well-known to those of us who work in maritime affairs. Yet, you don't see articles in the newspapers, nor documentaries on television.

Unlike the steel, automobile, and textile industries where millions of American jobs are at stake, shipping services are too far removed from the lives of most Americans. Shipping and shipbuilding are the stepchildren of American industry. The general public doesn't worry too much about the nationality of the ship that transports their Japanese cars. The average American doesn't appear to care that U.S. maritime industries are disappearing. There doesn't seem to be widespread understanding that our merchant marine is an indispensable element of peacetime commerce and wartime sealift and support.

Those of us deeply concerned about the declining U.S. presence on the oceans of the world welcome this opportunity to address the major problems that limit U.S. carriers seeking access to foreign markets. The maritime title of the trade bill—title X—will put some teeth in our laws. It will provide an administrative means to eliminate foreign practices that block access by U.S. ships to foreign cargoes.

The United States opens wide its doors to world shipping. In return, our companies face discriminatory laws and treatment. As chairman of the Subcommittee on Merchant Marine, I directed a thorough study of unfair trade practices harmful to the U.S.-flag merchant marine. The subcommittee investigation and hearings convinced the full committee to report two trade bills—H.R. 1290 and H.R. 1803. A modifed version of H.R. 1290 was subsequently included as title X of the bill before us today. The reports on H.R. 1290 and H.R. 1803 list many of the unfair practices of our major trading partners. House reports 100-39 and 100-501 are enlightening reading.

We have the opportunity, through this legislation, to send a message to the world that we will not tolerate this behavior any longer. I strongly urge my colleagues to join me in supporting this important legislation.

Mr. KILDEE. Mr. Speaker, I rise in support of the conference agreement on H.R. 3, the omnibus trade bill. After months of intense activity, Congress finally has before it the beginnings of an industrial policy. I would like to commend Representative DAN ROSTENKOWSKI and Senator LLOYD BENTSEN for their hard work and diligence in piecing together this comprehensive legislation.

I have mixed feelings about the final result, however. I deeply regret that the bill that we are considering does not include the Gephardt amendment, which would have forced the President to take retaliatory action against nations with large trade surpluses. Although the legislation does contain the so-called Super 301 provisions to respond to unfair foreign trade practices that were contained in the Senate bill, I would have preferred the stronger language of the House measure. Our trade partners must be put on notice that if they wish to have free access to our markets, we must have equally free access to theirs. This bill does that, but the Gephardt amendment would have sent a much stronger message.

I am pleased that the House leadership held firm on retaining the plant closing provisions in the conference report. While by no means as strong or as comprehensive as the House-passed version, the bill does, for the first time, establish in Federal law plant closing notification standards. No one questions the right of companies to manage their affairs in the most economic and efficient manner, including the closing of redundant facilities. However, American corporations do have a social and moral responsibility to their workers and to the communities in which they operate to mitigate, to the greatest degree possible, the impact of massive layoffs associated with the closing of manufacturing facilities. Asking large corporations, with worldwide operations and profits, to provide American workers and communities with 60-day advance notice of plant closings that would result in the loss of 50 or more jobs is not particularly onerous. My district has experienced four plant closings and layoffs in the last year alone, affecting over 10,000 individuals, so I am acutely aware of the corrosive effect such economic dislocation can have on our people, our communities and our society. A 2-month notice period would give workers time to find new sources of income and would allow community leaders time to prepare and strengthen the social safety net needed to help those who are unable to find alternative employment.

I would also like to support the new worker adjustment components of the trade bill. H.R. 3 expands title III of the Job Training Partnership Act, which targets services to dislocated workers. This section will include job search assistance, job development, training and retraining, as well as a State dislocated workers office authorized to respond quickly to plant closings and major layoffs in the State. I am especially pleased at the expansion of services to dislocated workers. Finally, I am gratified that the bill continues the Trade Adjustment Assistance Program and makes it more readily available to workers displaced by plant closings and layoffs. Only a strong, coordinated Federal, State, and local response to this problem can help put our people and our communities back on their feet.

As a conferee to the education section of the trade bill, I am pleased that the measure includes provisions that would create programs for secondary school basic skills, dropout prevention, math and science instruction and foreign language teaching improvement. In our increasingly competitive world, we need more than ever to educate our young citizens in an effective and productive manner. I am also pleased that the trade bill recognizes the important role that community colleges play in educating and training our American workers.

I urge my colleagues to support the conference committee agreement on H.R. 3.

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. We need legislation and programs which will open foreign markets and enhance U.S. exports. To grow out of its net debtor position, the United States will have to erase current deficits and produce a trade surplus. This bill includes a number of positive programs to encourage such a reversal. It improves our import relief policies to remedy injury to U.S. industries. It provides authority and negotiating objectives for new multilateral trade negotiations to strengthen GATT. The bill proposes to facilitate the growth of U.S. exports by expanding U.S. export promotion activities and providing greater opportunities for small businesses to export their products.

Most importantly, Mr. Speaker, this bill enhances U.S. ability to compete in the world market. This bill upgrades education and training programs to increase the productivity of U.S. workers. I am pleased that the committee adopted my provisions to improve the educational opportunities for the citizens of my congressional district. Among my initiatives is an amendment to allow tribal governments the opportunity to negotiate with the Federal Government for aid under the Job Training Partnership Act. Another provision ensures that any new educational programs created under the omnibus trade bill will be sensitive to the needs of minority and disadvantaged students. My amendment on foreign language training allows community action organizations and nonprofit groups to receive funding for foreign language instruction.

Finally, I wish to advise my colleagues of one of my provisions which is very important to my constituents and to the New Mexico economy. This provision ensures protection against the importation of counterfeit native American jewelry. The provision requires customs agents to ensure that imported silver jewelry contains an indelible country of origin marking before that jewelry is allowed into the United States. This provision is extremely important to the Indian artists and craftsmen in my congressional district.

In closing, I want to impress upon my colleagues that this bill represents a sincere effort by the Congress to address legitimate concerns. I wish to commend Chairman ROSTENKOWSKI and my other colleagues on the House Ways and Means Committee for arriving at a fair and balanced bill. We must take hold of the challenges in the international marketplace and try to improve the economic well being of not just our country, but the world economy as well. I encourage my colleagues to vote for this legislation.

Differences Between H.R. 3 and H.R. 1616

H.R. 3	H.R. 1616
Covers only employers of 100 or more workers	Covered employers of 50 or more workers
Provides for 60 days notice	Provided for 90 days notice
Notice applicable to layoffs of ⅓ of workforce or 500 or more workers	Notice applicable to any layoff of 50 or more workers
Exempts unforeseeable layoffs or closings	Exempted unforeseeable layoffs or closings
Applicable to layoffs of six months or more	Applicable to indefinite layoffs as well as layoffs of six months or more
Exempts notice for faltering employers where the notice may be reasonably felt by the employer to jeopardize company	No equivalent provision
Explicit provision terminating any employer liability where employer provides wages and benefits in lieu of notice	No equivalent provision
Remedy expressly limited to backwages for period of violation	Provided Secretary of Labor may seek injunctive relief where an employer was acting in violation
No equivalent provision	Required employers to consult in good faith with organized workers as to reasons for layoff or closing

IN SUPPORT OF ADVANCE NOTICE PROVISIONS OF TRADE BILL

Advance notice of closings and layoffs is necessary:

The National Academy of Sciences, NaCOR, GAO, OTA, and the Reagan Administration have all stated advance notice is essential to promoting efficient adjustment programs for dislocated workers;

Advance notice reduces the duration of unemployment by 27 percent;

OTA estimates the bill will save $300 million in unemployment compensation costs alone;

86 percent of the American people favor a law requiring companies to provide advance notice.

American workers do not receive adequate notice:

2,000,000 workers a year lose their jobs due to layoffs and closings;

Nonunion blue collar workers receive 2 days notice on average;

2 out of 3 workers receive no notice.

Notice provisions are carefully drafted to protect employers:

Bill only covers employers of 100 or more, more than 90 percent of all employers are completely exempted;

Bill only requires 60 days notice;

Notice only applies to layoffs of at least one-third of the workforce or 500 or more employees;

Notice is not required when a faltering company may be hurt by providing it;

Notice is only required where the closing or layoff is foreseeable;

Exclusive remedies do not permit any layoff or closing to be delayed.

Mrs. MEYERS of Kansas. I rise today in reluctant opposition to the conference report on H.R. 3. I want to support a trade bill that will improve U.S. competitiveness and help U.S. businesses gain greater access to foreign markets. H.R. 3 offers many positive provisions, such as the renewal of GATT negotiating authority for the President, and a strengthening of U.S. trade law to better protect us from unfair foreign trade practices. Yet, despite its many positive aspects, I cannot support this bill because of the plant closing provision.

If we are seeking to improve U.S. competitiveness, then we should not allow a provision to be included that would be counterproductive to American business, particularly small business, and in many cases would also be hurtful to American labor. Mandatory advance notification would stifle our Nation's small businesses, by preventing them from responding dynamically and flexibly to rapidly changing economic conditions.

My constituents are very concerned that mandatory advance notification would only serve to accelerate the death of a business in trouble. It could also retard the growth of rapidly expanding small businesses, by causing them to base relocation decisions on how advance notifications will affect them.

Mr. Speaker and Members of this House, it is one thing for a business to provide notices voluntarily, but it is quite another to put into place a sweeping Federal mandate that applies to all businesses which employ more than 100 people. It is important that Congress demonstrate to the world that we are united in our efforts to improve our position in international trade. Unfortunately, this bill will not do that and thus should be defeated. I want very much to vote for a trade bill, but it will have to wait for another day.

If we seek to enhance U.S. competitiveness and open new export markets for American products, then this body will take it upon itself to adopt the Michel motion to recommit and send the President a trade bill he can sign. A trade bill which is minus the plant closing advance notification provision.

Mr. Speaker, I urge all of my House colleagues to vote for the Michel motion to recommit.

Mr. OBERSTAR. Mr. Speaker, we live in a world marketplace. At no other time in our history has America depended so much on goods produced abroad, and never has the competition for a piece of the American market been so heated. With the increase of our thirst for imports has come a corresponding need to export, to balance our trade. Our efforts to do this have been unsuccessful, and our overall trade imbalance has grown to monstrous proportions.

As we have imported more and more goods, we have exported jobs. Many of the mines and mills that once provided my district in northeastern Minnesota with a productive, vibrant economy, industries around which whole cities were created, now stand idle. Imported steel has displaced much of the product that was once made from ore dug out of Minnesota's iron range. An industry that employed 15,000 workers in my district as late as 1980 dropped to below 4,000 4 years later. Despite a moderate economic rebound, the iron industry accounts for only 5,000 jobs today, a loss of 10,000 jobs in 8 short years.

The bill before us will not bring back all of those jobs. Nor will it alone return Minnesota's iron and steel industry to its glory days. However, the economic troubles that have hit my district, and the rest of our Nation's industrial heartland, point to the need for a comprehensive trade policy. This bill is a step in the right direction.

First, this legislation provides safeguards for those workers whose jobs are endangered by imported products. It requires major employers to provide 60 days notice of a plant closing or major layoff. This provision provides workers with a reasonable advance warning of a corporate decision that will have a major impact on their lives. It gives the worker time to look for another job, or to make arrangements to move to another town. It will temper the sudden shock of one of the most disruptive events in our lives: the loss of a job.

In addition, advance notice would give local governments, schools, businesses and social service organizations time to prepare for the loss of jobs in the community. In the case of a plant shutdown, it would also allow local officials and business leaders to search out new industry for the community, or find new use for the idled plant site, again cushioning the blow of the loss of a major employer.

This provision will affect only 2 percent of the country's employers, but will protect 45 percent of the Nation's workers and the communities where they live. It is a reasonable and ethical requirement.

Those workers who are affected by plant closing and layoffs will be additionally helped by the new Worker Readjustment Program created by this bill. It will authorize increased funding for job training and retraining and will allow America to keep its best, most experienced workers where they belong: on the job, and off the unemployment and welfare rolls. Education programs contained in the bill will enable workers to improve their basic skills, allowing them to become more productive, and America more competitive.

The bill before us will also protect our industries from unfair foreign competition. It will strengthen section 301 of the 1974 Trade Act by giving the U.S. Trade Representative greater authority to identify unfair trade practices. More importantly, it requires dollar-for-dollar retaliation for those practices identified as unjustified, and expands the scope of activities that could trigger retaliatory actions. This is possibly the single most significant change in U.S. trade law.

This bill for the first time recognizes the suppression of workers' rights as an unfair, unreasonable trade practice. It provides for retaliatory action against those countries which allow substandard wages, unhealthy working conditions and unfair treatment of workers to keep prices artificially low. Mr. Speaker, we cannot permit the products of exploited labor to displace American goods in our marketplace, and we cannot allow American jobs to be lost to countries that allow these substandard, sometimes subhuman, working conditions.

This bill also contains important safeguards for the steel industry. It protects against foreign producers who would try to circumvent Voluntary Restraint Agreements [VRA's] by channelling steel through a non-VRA country. While this and other provisions enhance the role of VRA's in protecting domestic producers, we must bear in mind that VRA's will expire in 1989, and this provision will be meaningless. Our nation and our industries must continue to plan and prepare for the scheduled expiration of the VRA safeguards.

For all its strengths, however, I feel this bill does not go far enough. I supported, and continue to support, the Gephardt amendment, which was deleted in the House-Senate conference committee. The Gephardt amendment would have provided for a modest, reasonable and measured response to blatantly unfair trade surpluses. It would have required negotiations with the countries responsible, and only if the negotiations were unsuccessful would it have required retaliatory action. Loss of that amendment weakens this bill and our ability to deal with countries practicing unfair trade.

Gone are the days when the strength of the dollar, the size of our market and the enormity of our GNP kept the United States atop the world economic mountain. We are being challenged from Asia, Europe, and Latin America and must rise to meet that challenge. In doing so, we must require fair and equitable treatment, access to foreign markets, and protections against dumping of cheap foreign products on our shores and other unfair trading practices, displacing our workers and sending our dollars overseas.

In 7 short years, America has gone from being the world's greatest creditor nation to the world's greatest debtor. Japan, Korea, Taiwan, Canada, and Germany hold our IOU's. The day will come when we will have to settle those debts. Will we settle them with goods and services from our industries—the products of our workers—or will we be forced to give up our land, to become a nation of tenants, paying rent to a foreign landlord? The choice is ours.

H.R. 3 enhances America's ability to compete without being protectionist. It does not give America special status in the world market, only requires fair play. It is a reasonable approach to a serious challenge, and how America responds to that challenge will determine the course and strength of our economy in the coming years and for future generations.

I urge my colleagues to support this bill.

Mr. LIGHTFOOT. Mr. Speaker, I'd like to take a moment to voice some concerns I have with the legislation we are debating today. I realize this has been a long and hard-fought process for some of my colleagues in their efforts to do what they truly believe is best for our economy. Unfortunately, I do not share that assessment and I intend to oppose the bill for that reason.

The bill contains many good provisions which are worthy of passage by themselves.

For example, the bill contains $2.5 billion in export promotion funds for agricultural products as well as a triggered marketing loan program. I'm also pleased that the conferees in their wisdom declined to include in the package the foreign investment disclosure amendment which could have had an extremely detrimental effect on our economy.

As well, the bill renews and frees up the trade negotiation authority of the President while streamlining export control procedures. The bill also repeals the windfall profits tax which has become a burdensome problem for domestic oil companies.

Still, I cannot condone the plant closing notification requirement in this bill. Of all the provisions in this bill, I find this one the most objectionable. Also, although I agree with the merits of the Trade Adjustment Assistance Program for workers displaced by imports, I have some reservations about expanding this program to $980 million in this time of continuing high budget deficits and low unemployment.

Additionally, while the objectionable mandatory retaliation provisions under section 301 originally contained in the House-passed bill were dropped, I continue to have concerns with the section 301 provisions remaining in the bill. Another provision I understand is in the bill would exempt five companies from import duties on alcohol fuels from the Caribbean Basin. It has been estimated that this exemption would increase ethanol imports from 35 million gallons to 100 million gallons from these five companies alone. It has been further estimated that this exemption could displace 90 million bushels of corn produced in the United States. I cannot believe that we are permitting legislation which would increase domestic corn surpluses just as we are beginning to see the 1985 farm bill achieve its goal of reducing Government grain surpluses.

I would like to make it clear, however, that if this provision and the plant-closing notification requirement were removed from this conference report I would be much more inclined to vote yes on final passage.

I agree we have a problem in this country with our balance of trade. However, I am simply not convinced the provisions in this bill will reduce our trade deficit. Agricultural exports are rising and I believe that it will take far more than mandates for Government action against our trading partners to improve our balance of trade. Further, I do not believe that Government mandates on private business are any solution to unemployment or worker benefit problems. To the contrary, Government involvement in private business activities have brought on far more problems than solved them.

Once again, I regret that I must oppose this bill and I look forward to continuing to work with my colleagues to arrive at constructive solutions to our trade deficit problems.

Mr. OWENS of New York. Mr. Speaker, I rise in support of the conference report on the Omnibus Trade Act [H.R. 3] and against the Republican motion to recommit.

As the conference committee negotiations proceeded over the past few months, I have grown increasingly concerned as some of the most powerful and important elements of the trade bill we passed last year have been watered down, punctured with loopholes, or jettisoned altogether to pacify the White House. By the time the process was completed, we wound up losing most of the provisions, such as the Gephardt amendment, about which I was most enthusiastic and supportive. Though much remains in H.R. 3 which is valuable and worthwhile, I would have had a very difficult time supporting this conference report had we not been able to retain the plant closing provisions added to the bill by the Senate. As far as I am concerned, this section of H.R. 3 is the chief reason to support this bill and enact it into law.

In his novel "Hard Times," Dickens remarked that he had never encountered such "fragile china-ware" as the corporate aristocrats of 19th century Great Britain because of the horrible crises they let out whenever it was suggested that children might be better off in school than in the factories or that something might be done to prevent so many workers from being maimed and murdered on the shopfloor. This past week the Chamber of Commerce has managed to make Dickens' industrialists look like pikers. Never have I heard so much artificial outrage, so much phony hysteria about a labor bill as I have this week about the extraordinarily modest plant closing provisions of the conference report.

Most of the 2 million American workers who lose their jobs every year as a result of plant shutdowns and mass layoffs never receive any advance notice from their employers at all. They go to work day in, day out and then, suddenly, one day they look up and they're out on the street. There is no time to plan ahead. No time to cut back on family spending in anticipation of the lean times ahead. No time to think about finding another job. No time to look into, much less enroll in, possible retraining programs. All at once the roof caves in on these workers and their families.

The plant closing provisions of the Omnibus Trade Act respond to that outrage by requiring that employers give 60-day notice before shutting down a plant or laying off large numbers of their workers. The sponsors of this amendment in the House and the Senate have bent over backwards to prevent this notice requirement from imposing any unmanageable burden on American corporations; indeed, in my view, they have gone too far to accomodate the concerns of employers and I would have preferred that we do without some of the loopholes and exemptions that have been written into the bill. But even with these concessions, the notice provisions represent an important step forward. If enacted into law, they will ensure that millions of workers will be spared unnecessary economic and emotional hardships associated with plant closings and guarantee that the difficult economic changes this country is undergoing will proceed with a minimum of pain.

The bottom line is that advance notice is the decent thing to do. As it now stands, H.R. 3 is significantly less than what is needed to restore the economic strength of this country and maintain a decent standard of living for American workers; so much more could have and should have been done by this Congress. But if we cannot do more now, if we cannot muster the will to do what is necessary to put out the fire of economic dislocation sweeping across this country, the very least we can do is install a smoke alarm. Vote for H.R. 3—and against the motion to strike the plant closing provisions.

Ms. PELOSI. Mr. Speaker, today the House will take final action on H.R. 3, legislation which is critical to the well-being of this Nation's workers. Millions of high-quality jobs have been lost as a direct result of our serious trade deficit, which in 1987 exceeded $171 billion. There are now an estimated 6.8 million Americans looking for work. This statistic does not reflect the numbers of people who have stopped looking for work and have been dropped from the administration's definition of the unemployed; nor does it reflect the anguish experienced by the unemployed and their families.

H.R. 3 is notable for the comprehensive nature of the trade policy which it advocates, rather than the piecemeal approach which the administration has followed. I am especially pleased that the conference agreement contains the provision requiring large employers to give 60-day advance notice of plant closings. This provision, which also requires 60-day advance notice of layoffs lasting 6 months or more, is reasonable. The requirement applies only to employers with 100 or more workers. It includes exceptions for plant closings resulting from unforeseen circumstances and for "faltering companies." This provision addresses an aspect of the trade imbalance which has been ignored for too long—the toll taken in the communities and the lives of workers across America.

H.R. 3 takes some significant steps to halt unfair foreign trade practices and to assist American workers. The conference agreement contains provisions to permit workers and businesses to seek redress against exploitive labor practices by foreign competitors, as well as to increase significantly the resources available to help dislocated workers find good jobs.

The workers of the United States deserve the best that this Nation can provide. In a very real sense, they are the backbone of our economy and they have taken a severe beating from the trade deficit, from unfair foreign trade practices, and even from the practices of some of our domestic corporations. I urge my colleagues to support the conference agreement on H.R. 3 with the plant closing notification provision. The working people of this country deserve no less. Thank you.

Mr. SPRATT. Mr. Speaker, I rise to express my support for the conference agreement to H.R. 3, the Omnibus Trade Act. This important bill represents a comprehensive effort to open foreign markets to American goods while protecting American industries from unfair imports. At the same time, I am opposed to the provision in the bill requiring plant closing notification and regret that the proposal was added in conference.

The time is long overdue for Congress to address our trade crisis in order to stop our hemorrhaging trade deficit. As a Congressman from South Carolina which has suffered for several years from a flood of foreign textiles, I am particularly committed to addressing the Nation's trade deficit. The U.S. balance of trade has deteriorated sharply under the

Reagan administration soaring from $34 billion in 1981 to $156 billion in 1986 and $171 billion in 1987. The news for 1988 is not much better. In February of this year, the monthly trade deficit jumped to $13.8 billion, triggering a 101 point drop in the stock market.

This bill adds teeth to our free-trade policy by making it harder for nations to dump their products into our country at unfair prices while erecting barriers to American exports. For example, the measure includes a section requiring the President to retaliate against violations of trade agreements and other unjustifiable trade practices, a provision which I approve of and support. The legislation also expands the definition of unfair trade practices to include export targeting and foreign cartels. In addition to getting tough with our trading partners who engage in unfair trade practices, the legislation provides extra relief to Americans who have lost their jobs due to foreign imports. The legislation also contains important provisions to encourage greater exports of American products, particularly agriculture, and promotes efforts to solve the Third World debt crisis.

While I support most provisions in the bill, I am opposed to the section dealing with plant closing notification. For that reason, I support the Michel amendment which will have the effect of deleting the plant closing provision from the legislation. While I think a firm owes its employees the maximum notice practicable, I am wary of requiring by statute a specific number of days of public notice before a shutdown. In addition, I do not think the issues covered by the trade bill are sufficiently related to the issue of plant closing. I recognize that the plant closing provisions in the bill now are considerably watered down, but I am still concerned that if the plant closing proposal remains in the bill, it jeopardizes enactment of the entire measure because of the President's promise to veto. Nevertheless, if the Michel amendment is defeated, I will support passage of H.R. 3—in spite of plant closing—because of the critical need for major trade legislation this year.

Mr. MOODY. Mr. Speaker, I rise in strong support for H.R. 3, the Omnibus Trade Act. This comprehensive legislation is the result of 3 years' work in the Congress. It is not a perfect bill but it is a critical one. After years of neglect, we have finally taken steps to address our massive trade deficits and to develop a cohesive policy on trade. Several specific provisions of the bill merit attention.

The "Super 301" provision, for the first time, will lead the United States to initiate comprehensive trade actions against unfair barriers abroad. It moves the United States away from case-by-case decisions and gives us the tools to respond systematically and effectively. In addition, the bill provides a more comprehensive definition of unfair trade practices that includes denial of worker rights, foreign cartels, and export targeting.

This legislation will help to retrain American workers. It extends the Trade Adjustment Assistance Program through 1993 and adds new educational assistance to workers laid off due to imports. For other workers laid off, this bill includes $980 million in training and employment assistance. This bill will help American workers to start again in new and productive jobs.

Despite veto threats by the administration, this bill will require 60-day prior notification of plant closings for firms employing 100 or more workers. The provision is both modest and overdue. Two of every three workers who lose their jobs in a plant closing receive no notice at all. Simple prior notification can reduce traumatic unemployment for these workers by some 27 percent.

H.R. 3 contains important provisions to strengthen protection for intellectual property rights both domestically and abroad. This bill directs the U.S. Trade Representative to identify countries with the worst record of market barriers and piracy practices and to take action to eliminate those barriers. This is a critical and frequently neglected area of trade.

Finally, this bill takes important strides forward in addressing the manipulation of exchange rates by our trading partners. It requires negotiations over trade balances and exchange rates consistent with those balances. For the first time, Congress has passed legislation to address these actions bilaterally and in multilateral forums.

I have touched on only a few of the important and precedent-setting provisions of this legislation. Last year, the United States suffered the worst trade deficit in its history. In 3 years, we moved from the world's greatest creditor to the world's greatest debtor. This legislation gives us critical tools to improve American competitiveness, open markets to American products, retrain American workers, retool American industry, and restore our leadership in trade.

I urge my colleagues to join me in supporting this legislation.

Mr. RITTER. Mr. Speaker, the issue of trade reform could not be of greater importance to the people I represent in the Lehigh Valley of Pennsylvania. The valley is in an economic transition. So are our jobs. While small- and medium-sized businesses in services and advanced technology are growing at a rapid pace, and manufacturing is on the rebound, three of the valley's most important industries are steel, apparel and cement. These are sectors of our economy which are greatly affected by foreign imports. Many thousands of jobs have been lost. Even one of our highest technology producers, AT&T Technology Systems has faced important pressures and trade obstacles to its world class exports. Much is being done to help these industries, including important import restraint actions by the Federal Government under current laws such as VRA's and apparel quotas, upgrading production facilities with new technology and streamlining work forces. But the situation in these industries is still fragile.

Since World War II, the United States has permitted foreign countries to freely use unfair practices such as domestic subsidies, national export targeting strategies and lower defense-spending burdens to bite off huge chunks of the U.S. market. But times have changed and these countries have bounded back. H.R. 3 will go a long way toward ending these inequities which deprive American industry and workers of a fair shake when competing in the global markets.

There is much that U.S. industry and workers must do to be competitive and they have been responding energetically to the new global challenge, However, a level playing field in the high stakes game of trade is crucial to their success. Our competition is tough. The rules of the game must be fair.

An example of how H.R. 3 attacks trade problems is the way it deals with international "services trade." Services now account for 25 percent of all world trade. Until recently, the construction and engineering industries provided a case study of foreign protectionism in services. The Government of Japan is currently building an island in Osaka Bay as a site for the huge Kansai airport with an estimated total cost of $6.5 to $8 billion. Due to an amendment I offered to H.R. 3 requiring the USTR to initiate an investigation into possible 301 unfair trade violations in construction and architectural, consulting and engineering services trade with Japan, the Japanese have agreed to allow the U.S. to bid on a number of big Japanese construction projects.

Congress demonstrated far-reaching support of another important spin-off of H.R. 3—Sematech. In an effort to insure a viable Semiconductor industry in the years to come, I, along with Representative JIM FLORIO of New Jersey, offered an amendment to H.R. 3 containing the beginnings of "Sematech"—the Semiconductor Manufacturing Technology Program—a billion-dollar, future-oriented, industry-wide initiative. Semiconductors are the "seed corn" of the information age and essential ingredients in modern electronic products. A major player in this effort is ATYT which employs some 6,000 workers in my Congressional district.

While funding for Sematech was eventually included in Public Law 100-180, H.R. 3 would insure the progress Sematech makes toward achieving the defense and civilian goals be reported annually to Congress. The Sematech initiative is landmark not only because there has never been a industrywide approach with a team of U.S. companies collaborating in developing new commercial products and manufacturing processes, but also because it's proposed to be done in partnership with government with the private sector taking the lead.

If we lose our ability to compete in this building block of technology, we lose our leadership in computers, electronics, telecommunications and the information industry in general. Semiconductor chip advances are the productivity drivers for factory automation in basic industries such as auto, materials and machine tool industries. When productivity increases, so does the potential for growth and added employment—the ultimate purpose of H.R. 3.

Another amendment to H.R. 3 which I played a part in developing and believe is vital to the future of industrial America, concerns "Competitiveness Impact Statements." Under this provision of H.R. 3, the government will be forced to keep international competitiveness in mind when it promotes legislation. The President or the head of the appropriate department or agency must include in every recommendation or report made to Congress a statement of the impact of such legislation on international trade. This means our jobs in industry and manufacturing can be protected from well-meaning bills that end up costing us U.S. production and U.S. jobs.

I am also pleased to see many aspects of my bill, H.R. 2068 to create a National Bureau of Standards and Industrial Competitiveness, incorporated into H.R. 3. I have worked for many years to develop a greater focus in the Federal Government on technology issues. In many areas, industry and government have simply not been able to generate significant pre-commercial collaboration to bring scientific advances into the marketplace faster.

It is my hope that by creating the Advanced Technology Program within the National Bureau of Standards, we are providing a start. If the ATP dedicates its ideas, its people, and its funds to bridging gaps in industry and private sector efforts, with a team approach, it will have a significant positive impact on our national competitiveness and the high-level jobs that go along with leadership in manufacturing.

Finally, as the Japanese economy continues to prosper; as Japanese manufacturing technology continues to excel and create great new wealth for the Japanese, it is only fair that they begin taking on a greater share of their own defense burden—including the global defense of free and open shipping lanes so vital to their economic success. Currently, a pitifully low 1 percent of GNP is all the Japanese have been willing, or from their point of view, politically able, to spend. But, because they spend 1 percent, and not 3 percent which is close to what the NATO allies spend, some $40 billion per year can be invested by Japan in civilian technologies, products, manufacturing processes. That differential, year after year, amounts to a tremendous, perhaps insurmountable competitive advantage for the Japanese.

As we produce F-16's, B-1's, Stealth bombers, MX missiles and aircraft carriers to protect freedom and "Western civilization," the Japanese produce VCR's, compact discs, high definition television, and the next best widget for sale in the world economy.

With this in mind, an amendment I offered to H.R. 3, calls for the President to evaluate the impact on U.S. competitiveness of foreign countries' expenditures on defense as compared to the U.S. expenditure of over 6 percent of our GNP.

I believe H.R. 3 to be an extremely important bill. My congressional district has been whipsawed by foreign trade practices involving dumping, subsidies, export targeting and a whole host of activities designed to dominate our markets. The effect is to put our workers out of jobs. Because American workers and American jobs need a strong voice from their government in keeping the global trade game a fair one, I believe that this legislation is necessary and urge my colleagues to support it.

Mr. MILLER of California. Mr. Speaker, I rise in strong support of the conference agreement before us today. The conference agreement is critically important for the great many reforms it makes in our nation's trade policy.

This legislation provides for American workers what they should have received long ago: a fair chance to compete in a rapidly changing world economy. Throughout this Administration American workers have been severely handicapped, and the solutions to their difficulties have been ignored.

Today, if American workers are not losing their jobs on a moments notice, they are seeing the fruits of their labor shut out of foreign markets by unfair trade practices. If they are not struggling under the weight of staggering budget and trade deficits, American workers are facing the brunt of unbridled corporate mergers and acquisitions.

I am pleased that the conference agreement covers a wide range of issues. It makes important progress in fighting unfair trade practices, training dislocated workers, improving worker competitiveness, as well as strengthening worker rights. I would like to concentrate, however, on an issue of particular concern to my constituents: plant closings.

In my district of Contra Costa County, 29 large businesses closed down from 1980 to 1984, creating a loss of an estimated 6,000 jobs. The city of Richmond has been very hard hit.

But the full impact is actually much greater because, for every job lost due to a closure, an estimated five more were lost elsewhere in the community. A manufacturing plant supports a wide range of services—those of doctors, lawyers, and small businesses. When a plant shuts down, many of these services go with it. This "ripple effect" is devastating. In the San Francisco Bay area, an estimated 10,000 jobs are lost each year, with a total impact in lost employment of over two hundred thousand jobs.

What we find in parts of my district, like we do all over this country,is declining living and health standards due to sudden large layoffs and plant closures. Of those individuals who lose their jobs, at most an estimated 60 pervent find new employment. This percentage drops much more for older Americans, blacks and other minorities. Many of these Americans lose not only their jobs, but also health and other benefits because they find themselves working on temporary or part-time basis, and often for a minimum wage.

The conference bill before us recognizes that American workers ought to be given advance notice of a plant closure, that they should have some opportunity to find decent employment before suddenly losing their income. The conference agreement requires employers of 100 or more full-time employees to give 60-day advance notice of certain plant closings and mass layoffs. To meet the needs of a rapidly changing economy, this provision is essential.

I urge my colleagues to support the conference agreement with the inclusion of the provision on plant closings.

Mr. GUNDERSON. Mr. Speaker, I rise today in support of the conference report on H.R. 3, the Trade and International Economic Policy Reform Act. As a member of the House Committee on Agriculture and the Committee on Education and Labor, I have been afforded the opportunity to help mold this final product before us today. I served on both subconference No. 6, dealing with agricultural trade, and subconference No. 8, dealing with education and labor.

But before I begin my discussion of the particular provisions of this major conference report, I would like to answer one very basic question: Why at this time in our history do we need a comprehensive revision and reform of our trade laws?

One needs only to examine a few statistics to illustrate the magnitude of the problem our Nation currently faces. In 1986 the U.S. merchandise trade deficit was estimated at $166 billion—an amount that exceeded the gross national product of all but 20 countries in the world. Over a 6-year period from 1980 to 1986, the U.S. trade deficit increased sixfold, making it the highest in world history.

This decline was seen vividly in the agricultural sector—previously an American stronghold. In 1979 and 1980 the United States enjoyed a trade surplus in agricultural commodities of more than $30 billion. By 1986, that surplus had declined to $4 billion. To illustrate the shift in international commerce, Europe, during the same period, moved from importing 25 million tons of grain to exporting 16 million tons.

Admittedly, recent statistics indicate a decreasing trade deficit. In terms of real net exports, the deficit dropped from $162 billion in the third quarter of 1986 to $140 billion a year later. But real exports measure only the quantity, not the value, of trade. The deficit in dollar terms has not reversed. During this same period, economists note that imports rose only about 3 percent in quantity. But because import prices rose almost 13 percent, the end result was a 12-percent import rise in dollar terms. This rise in import values all but offset a 16-percent increase in exports over the same period.

Our Nation must make a commitment to real progress on international trade. The longer we allow a massive trade deficit to exist, the greater the burden on American citizens and their standard of living.

That is why I am supporting the conference report on H.R. 3. Some of the major provisions of this legislation include:

Mandated retaliatory action by the U.S. Trade Representative in cases involving foreign violations of trade agreements or other unjustifiable practices; while the form of the retaliation is at the discretion of the USTR, the action must be equivalent in value to the unfair practice exercised; in extraordinary cases where U.S. retaliatory action would have an adverse affect on the U.S. economy greater than the benefits of retaliation, no action will be taken.

Changes to section 201 of the Trade Act of 1974, the so-called escape clause, will shorten the period of time in which the International Trade Commission must make a determination as to serious injury to a domestic industry from 6 months to 120 days, with a 30-day extension authorized for extraordinarily complicated cases; in addition, domestic industries will be encouraged to undertake actions which will result in a positive adjustment to import competition.

Extends the Trade Adjustment Assistance Program through fiscal year 1993; and authorizes $980 million for the Job Training Partnership Act.

Mr. Speaker, H.R. 3 contains many other significant provisions, including the streamlining of our export control laws, reforms in antidumping and countervailing duty laws, extensions in presidential negotiating authority for tariff and nontariff negotiations, reforms in intellectual-property rights under patents and copyrights, and significant policy statements on international negotiations on exhange rates.

In addition, provisions which I worked on in subconference negotiations deserve specific mention. Due to the controversial nature of the labor provisions included in this bill, I will discuss those provisions in a separate statement. However, I will discuss the education and agriculture provisions at this time.

The education provisions include a new $200 million fiscal year 1988 authorization for compensatory education demonstration grants for basic skills for secondary students and a $175 million fiscal year 1988 authorization for the Education for Economic Security Act, providing grants to upgrade education in math, science, foreign languages, and computers.

The agriculture provisions of the bill are of major importance to international trade. I will review some of the highlights of these provisions.

First, the conference agreement extends the authorization the Export Enhancement Program [EEP] through 1990 and increases the ceiling on the value of commodities that can be used under the program from $1.5 billion to $2.5 billion.

Second, a triggered marketing loan for the 1990 crops of wheat, feed grains, and soybeans has been included in the bill. This provision requires the President to submit a certification to Congress no later than 45 days after January 1, 1990, as to whether there has been significant progress toward achieving an agreement with respect to agricultural trade under the GATT talks. If the President cannot certify that significant progress has been made, the President must implement the marketing loan, unless the President determines that to do so would harm further negotiations.

Third, with regard to the Dairy Export Incentive Program [DEIP], the conference requires that payments in commodities be made in the form of generic certificates. Further, if the generic commodity certificates are exchanged for dairy products, the Secretary of Agriculture must ensure that the dairy products are sold for export and that the sales do not displace usual U.S. export sales of dairy products. This DEIP provision is identical to legislation which I introduced in 1987—H.R. 2986.

The agriculture section also contains significant trade policy statements, requires long-term strategy reports, strengthens the USDA's Foreign Agriculture Service, and authorizes certain trade studies.

One such study, which I authored, is of critical importance to the U.S. dairy industry. It requires the Secretary of Agriculture to report to the House and Senate Agriculture Committees within 180 days of the bill's enactment whether, and to what extent, the dairy price support program would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act of 1933. This study is so critical because being debated right now in the GATT talks are proposals to eliminate all agriculture trade distorting policies. In fact, the U.S. negotiators have proposed eliminating all such policies in GATT nations within 10 years. We do not now know what such drastic agriculture policy changes would mean to our domestic dairy producers, but we must find out before these talks are concluded.

Mr. Speaker, the conference agreement on H.R. 3 is the product of years and years of congressional deliberations. It is long overdue legislation and I urge its adoption today.

Thank you, Mr. Speaker.

Mr. BRENNAN. Mr. Speaker, I rise in support of the omnibus trade bill, H.R. 3, and I would like to applaud the efforts of the House and Senate conferees whose hard work resulted in the bill we have before us today.

This bill is not a cure-all for the trade difficulties the United States faces in the world market. But as the trade deficit continues to soar—February's trade figures showed a $13.8 billion deficit for that month alone—it is essential that we in Congress attempt to do something to address this trade problem.

Our long-term needs will be met through more emphasis on basic education, research, and development. But in order to ensure that U.S. industries survive, and U.S. workers have jobs, we must now promote efforts to put American products on a level playing field worldwide. This bill will help America become more competitive.

H.R. 3 expands eligibility for trade adjustment assistance and promotes more worker retraining. It requires the President to institute mandatory retaliations in the event of violations of existing trade agreements, and prohibits Federal agencies from purchasing goods and services from countries whose governments discriminate against U.S. firms in making procurements. It also provides that large employers who wish to layoff large numbers of their workers must give adequate notice to them so they can attempt to find alternative employment.

Essentially, this bill promotes the dignity of the American worker and works to ensure the fair treatment of American products in overseas markets. The super 301 provisions of the bill will require the U.S. Trade Representative to take action against countries that have benefited from the open U.S. market but who have refused to give U.S. products reciprocal treatment.

Let us all work together to make America the strong trading nation we should be. It is time that made in America means something once again. Our workers are the best in the world. This bill gives them a chance to once again show their abilities on the world market.

H.R. 3 deserves the support of Congress. It is not a perfect bill, but it is a good one. I urge my colleagues to join me in voting for H.R. 3.

Mr. GARCIA. Mr. Speaker, it has been my privilege to be a conferee on this historic legislation. We worked hard within this body to fashion a bill that would give our Nation a coherent and effective trade policy.

We have worked hard in our conference with the other body to bring you this report. We have tried to accommodate the interests of the White House all along the way. Unfortunately, we are now considering this conference report under the threat of a veto from the White House. I hope that the President will reconsider; I hope he will see this legislation to be an important step toward eliminating our growing trade deficit. Everyone gains from this bill: business, labor, the White House, and Congress. Everyone stands to lose if this conference report were to be defeated or to be vetoed.

The United States trade deficit has increased dramatically over the past 7 years. Last year, a year in which our trade deficit was supposed to finally decrease as a result of the falling dollar, it increased over the 1986 level. Congress had to take action. It was our responsibility.

The hard work of my chairman, Mr. ST GERMAIN, the hard work of Mr. ROSTENKOWSKI, Mr. GIBBONS, and others should not be in vain. They have helped create this historic legislation in response to a real problem. They deserve our support. The American people deserve our support.

The subconference with which I was involved, subconference five, has a number of important provisions that would strengthen our trade policy. The exchange rate provision would keep Congress involved with the tracking of our exchange rate policy. The provisions on international debt would put forward important concepts supported by Members who are deeply concerned about the impact that the crisis is having on our trade deficit. Even conservative estimates indicate that the United States has lost $75 billion in trade with Latin America as a result of this crisis.

There is an extension of the Eximbank's tied aid war chest in this bill which will help the bank and others involved with combating the pernicious practice of tied aid by making certain that the agreement reached at OECD last year on this issue will be fully implemented. We must help both the Eximbank and our exporters combat this practice. Extending the war chest is one way of doing just that.

Finally, it is important to note that this is not a partisan bill. It is a compromise, a compromise that deserves the overwhelming support of Members from both sides of the aisle. The White House can continue to launch balloons and send out flyers asking America to export now, but we in Congress have tried to craft legislation that will help our businesses to do precisely that, export, while protecting the rights and concerns of labor. I believe we have largely succeeded. This conference report, therefore, deserves our support. I urge my colleagues to vote yes.

Mr. HAYES of Illinois. Mr. Speaker, I rise in support of the Trade Conference Agreement. We all know that the trade deficit under the Reagan Administration has increased dramatically in the last 7 years. The trade deficit was $34.6 billion in 1981 and reached a record high of $171.2 billion in 1987. If the Reagan administration had been willing to take a stand on this issue, we could have reached a consensus and forged a national trade policy. While we in the Congress have worked for more fair trade, the administration has instead insisted on a policy of free trade.

The Trade Conference Agreement under consideration reflects the hard work of many of my colleagues to resolve very difficult trade problems in a comprehensive manner. While I do support this bill, I would like to go on record as acknowledging that it is a much watered down version of the trade bill that originally passed the House of Representatives. Not only has the Gephardt amendment been dropped, the plant closing provisions have been weakened, and the Bryant amendment which would have required foreign investors to register information about their holdings has also been dropped. The threats to veto by the administration have already reduced the value of this legislation, but it is still too important to give up on.

Mr. Speaker, there are many important provisions in this bill. The sections dealing with import relief, Third World debt, export expansion and the export enhancement program for agriculture are all helpful. But the most important features are the ones that affect the people who have been most adversely affected by our trade problems. The workers. The worker retraining and education programs are indispensable to this legislation. There are also funds to retrain dislocated workers as well as an amendment which I authored which provides for educational grants for innovative dropout prevention and reentry projects.

But apparently, nothing has drawn as much attention as the plant-closing provisions.

American workers have been hit hard by our trade deficit, and structural changes in our economy. The Bureau of Labor Statistics reports that about 2 million workers a year have lost their jobs due to plant closings, layoffs, or the elimination of their jobs. In America most of these dislocated workers receive little or no notice of impending layoffs or plant closing.

For more than 35 years I worked as a trade union leader. I negotiated numerous collective bargaining agreements over the years, all over this country. In the meat packing industry, for example, it was common practice to include a 6 month, plant closing provision in our agreement. That was normal, ordinary and expected. Business recognized that basic fairness required that employees caught in a plant closing situation need to give appropriate notice to others in the local community, such as their landlord, utility company and the like.

The conference agreement requires businesses employing 100 or more workers to give 60-day advance notice of plant closings that would result in job loss of 50 or more workers. It also requires 60-day advance notice of layoffs lasting 6 months or more. If the layoffs affect 500 or more workers, or 50 or more workers who constitute one-third of the workforce at the plant. No notice is required for plant closings resulting from unforeseen circumstances, and for "faltering companies"—if the firm believes in good faith that providing notice would preclude obtaining new capital or new business needed to avoid a shutdown.

This provision applies only to those companies which know in advance that a plant shutdown is imminent and it affects only companies with 100 or more employees. This provision affects only 2 percent of the business establishments in the United States, but it would provide some early warning for nearly half the American work force.

For these and other reasons I support this conference agreement and urge that my colleagues join me by voting for this agreement.

Mr. GAYDOS. Mr. Speaker, I rise in strong support of the conference report on H.R. 3, The Omnibus Trade and Competitiveness Act, and I urge all of my colleagues and the President to support it also.

Every day, every month, every year that passes without a comprehensive and effective American trade policy leaves our Nation further and further behind in the race for a share of the world's wealth and profit.

Every day we read that more American businesses have been bought out by foreign companies. Every month we are assaulted by trade statistics showing we are suffering from a crushing trade deficit. Every year we learn that our economic power is slipping—dragged down by budget deficits, trade deficits, and a hands-off economic policy.

Now, more than ever, America must regain control of its economic destiny, and the first step in the process is passage of the conference report on H.R. 3. Since we passed the bill in the House a year ago, nearly 200 Members of the House and Senate have been working to refine and improve the bill. I believe the final version of the bill which we have before us today represents a fine bipartisan effort, and I am proud to be an original cosponsor of this landmark legislation.

We can see from February's $13.8 billion trade deficit that something needs to be done to tilt the trade balance back in our favor, and the trade bill will help. The bill renews the President's authority to negotiate multilateral and bilateral trade agreements which could improve America's access to foreign markets.

It also provides almost $1 billion for worker retraining and remedial education benefits. These funds are absolutely essential for the hundreds of thousands of American workers who have lost their jobs because of the recent flood of foreign imports.

In my congressional district alone, 40,000 steelworkers have lost their jobs the last 11 years as steel imports have chipped away at our domestic market. Right now imports capture about 22 percent of our steel market, and there's very little hope that American steel companies will be able to put unemployed steelworkers back to work.

For former steelworkers and all other Americans who have lost their jobs due to imports, the trade bill is a desperately needed lifesaver. It offers a chance for these workers to learn new job skills and to get back on the job.

Another part of H.R. 3 which would benefit American workers is the plant closing provision. It requires companies with 100 or more employees to let their workers know 60 days in advance of a plant closing or massive layoff.

The original plant closing provision has been modified to the point where it should be acceptable to both management and labor. The current provision gives management an exemption from plant closing notification if they are seeking new capital or otherwise trying to keep the plant open. It also exempts them if, for some unforeseeable reason, the company is forced to lay off workers quickly and unexpectedly.

This compromise on plant closings offers something to both management and labor. Workers are required to receive notification, and management's efforts to save an endangered plant will not be required to provide a plant closing announcement.

Two months isn't very long to find a job, but it helps. It gives employees a chance to plan for their future while they still have the security of an income, and I believe that's the least we can do for our workers.

Every American knows that last year's $170 billion trade deficit is completely unacceptable. It is our job to mobilize the resources of our schools, our industries, and our Government to make U.S. products more competitive in the world market. H.R. 3 does all of these things.

This conference report is an impressive package. It repesents the coordinated efforts of six different committees over the course of more than a year. This bill sends a clear signal to the President that Congress and the American people want action on the trade deficit.

I want to commend the House leadership for their efforts, and strongly urge my colleagues on both sides of the aisle to vote in favor of the conference report on H.R. 3.

Mr. GRADISON. Mr. Speaker, it is with some disappointment that I rise in opposition to the conference report on H.R. 3. I have watched the progress of the massive conference and must admit that I am impressed with the number of nettlesome issues that were resolved, and the improvements that were made in the House bill. There is much in this bill that is good, but I cannot vote for it.

In a bill of this size, there will always be a number of significant disagreements; that is to be expected. But at the crucial final moments of this conference, the process that had produced so much improvement during the long, hard struggle collapsed. Politics, not policy, has won out, and the result is bad policy.

While no one can fault the goal of trying to give displaced workers a second chance, I can't imagine why we would want to do so by making trade adjustment assistance an entitlement dependent on a GATT illegal import fee. The so-called Super 301 is sure to lead to demogoguery and destructive retaliation. And the issue of plant closing notification has no place in a trade bill.

But there is a bigger problem that makes this all so regrettable.

Despite the good efforts of the administration and many of the conferees, it is not surprising that we have come to this point. The worst flaw of the bill is its premise: that the trade deficit can be significantly reduced by passing a trade bill.

Surely no one debates any more that our budget deficit is the major cause of our trade problem. Yet we still seem to see a trade bill as our best solution. Our trade deficit needs to be reduced, but we are trying to cure a disease by attacking the symptoms. Not until we pursue responsible fiscal policy will real progress be seen on the trade deficit.

On balance the Nation would be better off with no trade bill than with this trade bill. The most important provision is the extension of Presidential negotiating authority for the next President. Once this bill is disposed of, perhaps we can refocus our attention on the basics.

Mr. RANGEL. Mr. Speaker, I rise in support of the conference agreement on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. This legislation should be enacted because it takes major steps toward opening up foreign markets and enhancing U.S. exports. Furthermore, it takes the right steps in protecting American workers through improvements in the Trade Adjustment Assistance Program and the Job Training Partnership Act. Its provisions on plant closings are reasonable and will help protect American workers against arbitrary plant closings that have plagued workers in the industrial and older urban areas of our Nation.

We have waited too long for our President to act on trade. Some oppose the plant closing provisions in this legislation. I support these provisions. A close study of the provisions show that they are not onerous, but properly insure that the decent course is taken when people's livelihood are at stake. Since the plant closing provisions are so reasonable and fair, perhaps the opponents of this bill are using these provisions to hide their opposition to the legislation requiring the President to take action when America is the victim of unfair trade practices.

The situation is not unlike that with the international narcotics trade. This administration is more concerned about other foreign policy objectives than it is about the security of our Nation against the pernicious international drug trade. It is similarly more interested in these foreign policy objectives than it is about the jobs of hard-working Americans. It is time for the administration to recognize that the security of America depends in large part on the strength of economy in the context of world trade and the jobs that fair trade generates.

I urge passage of this conference report because it will protect workers, make America stronger and do so in a way that is fair to both our businesses and workers and to our partners in world trade.

Mr. WEISS. Mr. Speaker, I rise in strong support of the conference report to accompany H.R. 3, the Omnibus Trade Act.

For years, the administration has stood by as the Nation's trade deficit followed our budget deficit through the roof and right up into the sky. The numbers speak for themselves. In 1981, our trade deficit was $34.6 billion. Last year, it was $171.2 billion. The administration's refusal to take any meaningful action has engendered a trade crisis that has seriously harmed American workers and soured our future economic prospects.

Millions of American workers have lost their jobs due to plant closings or layoffs. Numerous American industries have been wounded or crippled by unfair foreign trading practices. And the very future of our economy has been called into question as our trade policy drifts aimlessly and our competitiveness falters.

Passage of the conference report to accompany H.R. 3 will represent the triumph of action over inaction. It will represent a victory for those who believe that America can still produce, America can still compete, and America can still win. It will begin the process of turning around our bleak trade record, and it will restore confidence in our Nation's future.

This legislation includes a series of important provisions that will strengthen our Nation's trade laws and provide assistance to those who have been severely harmed by the administration's trade fiasco.

The conference report calls for tough actions against those nations that raise barriers to our products or engage in unfair trade practices. It improves our import relief policies in order to assist industries in adjusting to import penetration. And it contains numerous provisions to expand U.S. exports abroad and improve our competitiveness.

In addition, the legislation contains vital provisions that will help American workers who have been hard hit by trade-related changes in our economy. First, the conference agreement expands and improves the Trade Adjustment Assistance [TAA] Program, placing a particular emphasis on training. It also authorizes a new Worker Readjustment Program to provide assistance to dislocated workers.

Of equal importance, is the provision that will provide advance notification of impending plant closings and layoffs. The conference report calls for a 60-day notification of plant closings or layoffs in most instances. This is an exceedingly modest proposal and falls far short of what we really ought to be doing. However, it represents a major step forward in the fight for fairness for American workers.

The frequency of unannounced plant closings and layoffs in this Nation represents a national tragedy. In many instances, workers who have toiled for decades in one location are given only moments notice of their impending unemployment. In this way, many corporations demonstrate contempt for their own workers and a total disregard for the needs of the community.

The number of workers affected by plant closings and layoffs is truly astounding. An estimated 2 million Americans are unemployed by shutdowns and mass layoffs each year. Two out of three workers affected by plant closings receive no notice whatsoever. I do not believe that we can stand idly by and watch as these workers—many of whom are suffering as a direct result of the administration's misguided budget and trade policies—are summarily denied employment without warning. We must treat our Nation's workers with the respect they deserve.

Advance notice of plants closings and layoffs is not only a matter of moral necesity, but it is also a matter of economic necessity. The National Academy of Siences has reported that advance notice will not only benefit the workers involved, but it will reduce the incidence of unemployment and the public costs associated with that unemployment. The Office of Technology Assessement [OTA] estimates that the conference report will save $300 million in unemployment compensation costs alone.

Morally and fiscally, the plant closing provisio of this bill is a major step forward that all members of Congress should support vigorously.

The legislation before us also contains provisions that will strengthen the rights of workers abroad. Under the agreement, a disregard for workers' rights will be considered an unfair trading practice, and the U.S. Trade Representative [USTR] will be empowered to take actions against other nations that demonstrate such abuses.

Our Nation has a fundamental responsibility to stand up for the rights of workers, not only in our own Nation, but around the world. I commend the conferees for their thoughtful inclusion of this much-needed improvement.

Finally, the conference report contains provisions to improve our approach to the international debt crisis. Though the steps called for are modest, the legislation acknowledges the importance of the debt crisis. I strongly support attempts to develop creative solutions to this crisis, which threatens our own economic stability just as it threatens the stability of numerous Third World nations.

Mr. Speaker, I commend the conferees for their fine work in developing comprehensive trade legislation. The final product strikes a blow for fairness—fairness in trade between nations, and fairness in the treatment of both American and foreign workers. I am proud to voice my support for this legislation, and I encourage all of my colleagues to do likewise.

Mr. KOLTER. Mr. Speaker, I rise today to express my support for the plant closing notification provision contained in the conference agreement on the Omnibus Trade and Competitiveness Act.

A GAO survey taken last year indicates that few business establishments provide their workers sufficient advance notice to establish an effective reemployment assistance program. About one-third of the establishments surveyed provided their workers no advance notice at all. In 1983 and 1984, closings at over 16,000 establishments with 50 or more employees dislocated 1.3 million U.S. workers. Thousands of these workers, especially those in industries with declining employment, face the difficult and time consuming necessity of transferring job skills.

The pain of being unemployed pales in the comparison with being suddenly unemployed. Here today and gone tomorrow. The American worker deserves more.

The plant closing notification provisions of this bill will mitigate the harsh pain of a plant closing, will give workers a fair chance to plan their lives, and will offer these workers an equitable period of adjustment. I think that is not too much to ask.

I therefore urge my colleagues to give their unfailing support to this legislation.

Mr. GOODLING. Mr. Speaker, I rise in support of the education provisions to the conference agreement on H.R. 5. A few years ago we would have not included education programs in a trade bill. I am so pleased that we in Congress have recognized that the only way to be truly competitive is to improve education and have these provisions included.

Most of the elementary and secondary education programs included in the trade bill are also authorized in the conference report to H.R. 5, which passed the House on Tuesday and the Senate yesterday. I am especially pleased with the literacy programs. We have 75 million functional illiterates in this country. If we hope to stay competitive, we need to teach these people to read in order for them to become more productive members of our society.

We included a Workplace Literacy Partnership Program which will provide grants to States for 90 percent of the cost of business education partnerships which teach literacy skills needed in the workplace.

Furthermore, we included an English Literacy Program, which provides grants to States for English literacy programs for individuals of limited English proficiency.

Finally, we established a Federal Literacy Coordination Office in the Department of Education, which provides $2 million for grants to States and local offices for coordination of literacy programs.

Again, I rise in support of the education provision of the trade bill.

Mr. BUNNING. Mr. Speaker, I rise in opposition to this bill. And I do so for 1,000 reasons. Last year, we wrapped up the year with a flurry of legislation including the two huge budget bills that were needed—the budget reconciliation bill and the continuing appropriation bill.

We had only a couple of hours to look through and digest thousands of pages of material before we had to cast our votes. It was a shameful way to conduct business and virtually everybody involved agreed that we should not do anything like it again.

But here we are once again, a few short months later, getting ready to vote on another 1,000-page piece of legislation which has just been sprung on us without much notice and little time to review it.

I would like to have a trade bill as much as anyone here. Anything we can do legislatively to improve our international trade environment or to enhance our ability to respond to unfair trade practices should be done. In the brief amount of time we have had to review this conference report, it is my impression that there are a good many sound provisions in this measure.

The banking section, which I am most familiar with, has been considerably improved since our version of the bill left the House. That bill originally called for the establishment of a secondary market for Third World debt with U.S. taxpayer supported discounts of Third World debts. At the time, I thought this was rudely inappropriate and in fact, tried to amend it in committee to call for a study rather than to leap directly into establishing such an agency. The conferees wisely took this course of action and the bill is improved because of that.

Unfortunately, the conferees did leave intact the provision calling for the establishment of something called a competitiveness council. It is not enough—in itself—to vote against the bill but it is a bad provision. It is a step—a small step admittedly—toward establishing a national industrial policy—something we have long avoided.

Again this is just one small problem in one section which in itself may not be terribly significant. But one has to wonder how many other little pitfalls like this are hidden in these 1,000 pages that we have had so little time to review.

Congress has been working on this issue for the past 3 years. Putting this vote off another week or two to give everyone a chance to become more familiar with the small print in this measure shouldn't hurt that much.

Of course, all the attention recently has been focused on the "veto bait" provision dealing with plant closings. And what really bothers me about this whole bill that we have been working on for 3 years is that the leadership is willing to throw it all away for this one little provision that has nothing to do at all with international trade, except insofar as it would make us less competitive.

The President has promised a veto if this provision is left in, yet the people who are here today telling us that this is a great bill are willing to lose it all just to placate their friends in big labor. That makes me wonder if this bill does all that much.

Plant closing legislation is bad to begin with. It is made worse because it has no place at all in this bill. It doesn't belong here.

So, I am going to vote against it. We don't know how many little traps there are in these thousand pages. We do know there is plant closing—which is an abomination against free enterprise. And we know that the bill is not important enough to the majority leadership to knock out this piece of "veto bait."

Mr. PANETTA. Mr. Speaker, this country is obviously in trouble in the trade area with over $170 billion trade deficits in both 1986 and 1987 causing extensive damage to the fabric of our Nation's economy. Two years ago we became the world's largest debtor nation. We are beginning to mortgage our children's and our grandchildren's futures. What we need today is action on an American trade policy. Inaction is the best recipe for continued erosion of our Nation's productive capabilities and at worst a prescription for irreversible decline.

I support H.R. 3, the Omnibus Trade Act of 1987. I would like to commend the 10 committees, their chairmen, and scores of subcommittees for putting together this landmark piece of legislation and conference report. This bill represents the most comprehensive effort to reform and modernize our trade laws and practices in years.

There are no simple answers to the trade issue. Free trade with no restrictions is a goal we all seek. But the fact is that our farmers and business people have faced an increasing barrage of protectionism from other countries in the form of unfair dumping, excessive tariffs, and artificial import barriers.

The question is, are we going to stand by and permit this to continue, or are we going to take tough action to make clear to others that these barriers to free trade must be removed?

Right now, few are listening. We have ineffective enforcement of existing international trade laws, and trade deficits continue to rise. In addition, other countries simply are not convinced of our resolve to insist upon free and fair trade.

There has been a renaissance in our Nation's thinking about trade over the last 3 years, not only in Congress but with the administration, labor, business, and education. Recordbreaking deficits have forced the trade issue to the front burner and it's hot; so hot that we need a coordinated response to the trade deficit that will cool these skyrocketing deficits.

America has undergone a painful crash course in international trade and finance over the last few years. We all have become aware of the impact of foreign trade on our everyday lives. Even the President has taken action—finally admitting the problem will not simply disappear by itself—by penalizing the Japanese for allegedly breaking a semiconductor price-fixing agreement made in 1986.

American business also has responded to the problem by taking bold new steps to improve productivity and enhance international competitiveness. Across the Nation we find new approaches to increasing competition including improving management techniques, business-labor-education partnerships, retraining programs, and greater use of technology. Even foreign governments have reluctantly begun to assume some of the responsibility for the trade imbalances and are at least demonstrating a willingness to work to restore integrity to the international trading system.

While the administration cites the above as "encouraging" and "good news" these initial steps are not sufficient in and of themselves. America needs a comprehensive trade policy to coordinate the complex ties of export enhancement, multilateral negotiations, fiscal and monetary policy, agricultural competitiveness, and marketing strategies. The list goes on and on.

We must have a higher vision of the decisions to be made in these areas and a roadmap as to where we are headed, what we hope to achieve, and why. We must be sure that in repairing the tire we do not destroy the car; that the left hand does not demolish what the right so carefully built up.

It is for these reasons that I have long advocated the adoption of a comprehensive trade policy. Whether it was the Comprehensive Trade Policy Reform Act of 1985, 1986, or 1987, I do believe that we need some kind of overall policy direction. The problem is too complex and difficult for a quick fix or a barrier to be raised here or there. We must make a long-term commitment to becoming more productive, opening foreign markets, and improving our ability to bargain with other nations. The process has just begun and it will tap all of our Nation's resources, patience, and perseverance.

The bill before us is by no means perfect and I have particular concerns about some of its provisions as I am sure many Members will. This comprehensive trade legislation, which renews the measures approved by the House last year, provides an excellent starting point for a new bipartisan effort to enhance America's ability to compete. We cannot afford another day of allowing the administration to maintain its 7-year policy of malign neglect.

This trade legislation takes major strides to ensuring American exporters equal treatment in foreign protectionist markets by creating a more level playing field for international competition. The current trade laws have proven obsolete and inadequate in response to unfair trade practices abroad.

I would like to highlight several agriculture provisions which I sponsored and which I believe will strengthen the ability of American farmers to market their products abroad.

Pesticide monitoring: The conference agreement contains a provision that I sponsored with Mr. DINGELL and a number of other colleagues to improve the Food and Drug Administration's pesticide monitoring and inspection operations.

Because a greater share of the American diet now comes from imported food, we must ensure that our monitoring and inspection operations adequately enforce U.S. health and safety laws at the border. This is not now the case. A number of recent Government reports raise serious concerns about the Food and Drug Administration's [FDA] pesticide monitoring and enforcement program. For example, the General Accounting Office [GAO] reported in September 1986 that FDA samples less than 1 percent of all food shipments. GAO also found that FDA's laboratory methods generally cannot detect more than one-half of the pesticides available on world markets. Even in the case of the pesticides that FDA can detect, the American consumer is not protected. GAO concluded that imported foods containing illegal pesticide residues often end up reaching American consumers because FDA does not detain food imports until its laboratory analysis is completed. In addition, GAO reported that importers who violate U.S. pesticide laws are often able to evade any type of penalty. These problems not only threaten the safety of the U.S. food supply, but also do little to deter further violations.

Nearly a decade ago, GAO identified serious deficiencies in FDA's pesticides monitoring operations. Yet despite FDA assurances that improvements were being made, most of these problems still persist.

The provision included in the conference agreement is designed to enable FDA to target its limited resources to the types of crops, countries of origin, and specific pesticides where violations most often occur. It is also designed to give American consumers adequate protection from potentially dangerous pesticides and to ensure that U.S. and foreign farmers compete on a level playing field.

Imported meat and poultry products: The conference agreement also contains a provision to improve the inspection of imported meat, poultry, and egg products. This provision builds on recommendations from a February 1987 Office of Inspector General [OIG] audit which identified significant deficiencies in imported meat inspection processes. Under the provision, the Secretary is required to report to Congress on action it will take to improve the inspection processes in response to the OIG audit.

Marketing orders: The conference agreement provides for the continuous orderly marketing of commodities by permitting expanded inspections on fruit and vegetable imports. It is designed to help ensure that poor-quality produce is kept off supermarket shelves and that imported fruits and vegetables comply with the same quality standards required of domestic produce.

Briefly, the legislation provides for an additional period—not to exceed 35 days—during which marketing order requirements could be in effect if the Secretary of Agriculture determines it is necessary to prevent circumvention of a marketing order by imports. Upon request, the Secretary would be required to review such additional period every 3 years.

Since 1975, table grape imports from Chile have increased 2,500 percent—from 1 to 25 million boxes—and they are projected to double in the next 4 years. But not all of these grapes comply with U.S. quality standards. In 1985, USDA found that 75 percent of the table grapes imported from Chile during a 2-week period just prior to the marketing order's effective date failed to meet the United States minimum grade. And in a 1986 marketing order case in Federal district court, an importer of Chilean table grapes admitted in an affidavit that if the effective date were advanced by 10 days, 40 percent of his imported table grapes would have failed the minimum grade.

The problem that this provision seeks to address is that grape imports from Chile have been able to evade United States quality standards by coming into United States ports just prior to our marketing order effective date. Some of these grapes, many which are of poor quality, are then held in cold storage and released on U.S. markets at the same time that domestic grapes hit the market. This not only dampens consumer demand, but also creates problems for U.S. growers.

This provision is not a protectionist amendment and does not discriminate against foreign growers. In fact, a table grape grower association from a major production region in Mexico—Sonora, Mexico—supports this provision, as well as minimum quality standards of the marketing order. It is also GATT compatible, since the same inspection obligation is required to domestic and foreign commodities. It merely allows imports to be inspected if they are found to be circumventing U.S. quality standards.

Rose study: The conference agreement requires the ITC to conduct a study on how rose imports, the EC's tariff rate for imported roses, and other competitive factors have impacted the U.S. rose growing industry.

The problem confronting domestic rose growers has continued to worsen. Major foreign producers—Colombia, Mexico, Guatemala, Ecuador, and The Netherlands—are selling roses in the United States at prices that are unfairly based on dumping and foreign government subsidies. This was confirmed by a Department of Commerce finding in 1986 that roses from Colombia were being dumped in the United States. In addition, in 1987, the Department of Commerce and the International Trade Commission [ITC] found that four major fresh cut-flower varieties from nine major supplying countries were being dumped in the United States with the help of foreign government subsidies.

Unlike other U.S. fresh cut-flowergrowers, however, rosegrowers have been denied relief as the result of repeated negative injury determinations from the ITC. These determinations have been the subject of court review which after 3 years remain unresolved. In addition, the U.S. Trade Representative has declined to investigate the unfair practices of foreign governments affecting trade in roses under section 301 of the Trade Act of 1974.

Nonetheless, the import share of the U.S. rose market continues to expand. Imports of hybrid tea roses, the principal variety of rose imports, captured 44 percent of the domestic market in 1987, up from 31 percent 3 years earlier.

Significantly, import duties on roses in the European Community—24 percent for 6 months and 17 percent for the other 6 months—compared with a year-round rate of 8 percent in the United States, have the effect of diverting foreign roses to the United States—which, without the high EC duties, would go to the EC market.

The agreement, therefore, directs ITC, notwithstanding its negative determinations in the past, to make a competitive study of the effects of imports, dumping and foreign government subsidies upon domestic rosegrowers.

Although it was deleted during the conference, the Gephardt amendment was necessary to open our eyes by raising the debate on improving the enforcement of trade laws in situations when other nations engage in unfair trade practices by raising barriers and invoking tariffs.

What did the Gephardt amendment really accomplish? It sent a clear signal to our trading partners around the world that the situation has become intolerable for our Nation. Everyone proclaims they are for free trade but not protectionism. Now we must put into place a system of checks and balances to ensure a fair international trading market.

What if the President vetoes this legislation and the Congress is unable to override the veto? What signal would that send our foreign trading partners? Indeed, we have already been given signs that more smiles and empty promises await our Nation in trade negotiations if we fail to provide leadership now by passing this trade legislation.

Today, the Congress must stop the wildfire growth of our trade deficit with a real and pragmatic solution. Leadership is what our Nation has been lacking in international trade for the past 7 years and leadership is exactly what the Congress will be providing in passage of H.R. 3. This type of omnibus trade measure displays the leadership our Nation is seeking in international trade.

I urge Members from both sides of the aisle to support this important piece of legislation. Unless we as a body take this leadership role in advancing America's trade policy, our economy will soon be outpaced by leaner, more forward looking competitors. The challenge that lies ahead is our greatest opportunity for bipartisanship in the Congress and the executive branch in working together. We must create the climate that will allow domestic and international economic growth and prosperity over the long haul. Let's put H.R. 3 into law and begin to pry open the foreign markets of the world in order that our Government will provide our good products, crops and technologies with open markets overseas.

Mr. BIAGGI. Mr. Speaker, I rise in strong support of the conference agreement on H.R. 3, the Omnibus Trade Act.

Simply put, we have an important opportunity today to take effective action against our Nation's trade crisis. We have been too generous for too long, and we're paying the price. Just consider that our trade deficit soared from $34.6 billion in 1981 to a record high of $156.2 billion in 1986, only to be followed by a new record high of $171.2 billion in 1987. Another major jump in the trade deficit reported earlier this month resulted in a 101-point drop in the stock market. Further chilling evidence of our serious trade problems comes from the Bureau of Labor Statistics, which reports that an average of 2 million workers a year have either lost their jobs due to plant closings, layoffs, or the elimination of their jobs. These millions of lost jobs have also been accompanied by billions of lost U.S. dollars due to the same plant closings, unemployment assistance, and all the other ills that result when a vital American industry is decimated.

We have gotten ourselves into this mess due to a number of reasons, most notably because while our trade doors are kept wide open, our foreign trading partners have kept theirs barely ajar. But, we cannot pass all of the blame for our problems. We have been neglectful in our effort to retain our competitive edge, particularly in the area of education and we have suffered greatly because of that.

This legislation offers us the strong and comprehensive approach that we need to begin curing the ills associated with our trade crisis. It toughens our laws against unfair foreign trade practices. It improves some critical shortfalls in our educational system. It also focuses much needed attention on assisting the American worker who is dislocated as a result of our failing trade policies.

As New York's ranking member on the House Education and Labor Committee, I am particularly pleased that the conference agreement has retained the plant closing notification language. Under this section of the bill, businesses employing 100 or more workers would be required to give 60-day advance notice of plant closings that would result in job loss for 50 or more workers. It also requires 60-day advance notice of layoffs lasting 6 months or more if the layoffs affect 500 or more workers, or 50 or more workers who represent one-third of the plant's work force.

For more than 10 years, Congress has considered measures aimed at easing the negative impact of plant closings on local economies and the work force, but without success. Today we have a chance to change all that.

My support for a responsible plant closing notification policy is based on firsthand exposure to the problem. In 1983, the Otis Elevator Co., which is owned by United Technologies Corp., closed its plant in my home district of Yonkers, NY, after operating there for more than 130 years. Most of the 1,200 Otis workers—some of whom had been with the company 30 and 40 years—were caught by surprise; and the city of Yonkers is still feeling the effects of those lost jobs and tax dollars.

However, the Otis Elevator situation is not unique to the city of Yonkers. A General Accounting Office survey of plant closings that occurred during 1983 and 1984 found that a mere 9 percent of companies gave advance notice of 3 months or more before a permanent shutdown. Moreover, approximately one in four workers discovered their termination on the day they lost their jobs. Nearly two-thirds of blue-collar workers received just 2 weeks or less notice. Significantly, it has also been found that prenotification of closings does not have a negative impact on the productivity level at the plant affected.

Clearly, these facts indicate a strong need for a basic and reasonable national policy on the issue of plant closings, and the conference agreement on H.R. 3 provides just that.

As an original member of the House Select Committee on Aging, I also want to emphasize the particular importance of the advance notification and worker adjustment provisions contained in H.R. 3 for older workers. John Rother, director of legislation, research, and public policy for the American Association of Retired Persons [AARP] makes this compelling case in a recent letter that I copied on to the Speaker. In that letter Mr. Rother states,

> Midlife and older workers represent a disproportionately high percentage of workers in manufacturing industries and thus have suffered greatly from the recent rash of plant closings and labor force downsizings. Moreover, these older workers experience significantly longer periods of unemployment—30 weeks average—than younger workers—23 weeks average. The success of employee adjustment programs depends, in large part, on providing employees with adequate notice of dislocation, as well as training and support services such as those provided for in (H.R. 3).

The worker readjustment assistance contained in this conference agreement is significant. In addition to the plant closing notification, H.R. 3 strengthens and expands the Trade Adjustment Assistance Program and increases its emphasis on training. The agreement makes training an entitlement, with any worker meeting specified criteria entitled to payment of training program costs. The conference agreement authorizes $980 million a year for the next 2 years for a new Worker Readjustment Program, to provide comprehensive assistance to dislocated workers.

I also want to focus special attention on the provisions in the bill that help to deal with our Nation's education deficiencies. For too many years now we have been losing sight of the most important factor in influencing America's competitive posture in world trade—the education of our citizens. One of the glaring problems that has resulted is workplace literacy. I was proud to author key provisions in this bill that address this problem head on. Specifically, this agreement includes authorizations for three literacy programs, including fiscal year 1988 authorizations of $30 million for a worksite literacy program, $25 million for literacy grants for programs to serve adults who have limited proficiency in English, and $10 million for grants to higher education to establish literacy corps programs, which provide academic credit to students for voluntary literacy tutoring.

In addition, the conference agreement gives a major boost to areas of education that the United States lags far behind other nations in, including math, science, and foreign language. The agreement authorizes $175 million in fiscal year 1988 for grants to school districts and State educational agencies to improve instruction in math, science, foreign language, and computer instruction, $20 million for demonstration programs for model foreign language programs in elementary and secondary schools, $85 million to improve the research facilities and instrumentation in universities and colleges, and $21.5 million to encourage increased participation in science, engineering, and mathematics.

I am also pleased to note that the agreement authorizes $200 million in fiscal year 1988 for a new program to improve basic skills of high school students, and $50 million for dropout prevention.

Mr. Speaker, this is a legislative product that we can all be proud of. It addresses a very serious problem in a very effective way. It deserves our support.

Mr. FRENZEL. Mr. Speaker, one of the bad features of this conference report is the section providing retroactive sanctions on Toshiba Machine Co., Kongsberg Trading Co., and their parent corporations. Prospective sanctions that are equally harsh are also included to hit future violators of Cocom export control agreements.

While I was greatly disturbed at the violation which has improved Soviet submarine technology and jeopardized United States detection efforts, I believe that we should adhere to our Cocom agreement, where we rely on member countries to administer their own export control laws against violators.

Here we are not only expecting the Japanese and the Norwegians to enforce their laws, but we are imposing our own laws on them as well. The two corporations involved in the diversion as well as all future foreign violators will be subject to U.S. import bans, even though those countries do not have similar laws which would treat our exports in a similar fashion.

The United States has its share of diverters who have made serious national security violations that affected the United States and other nations. Thus far no other country has sought to ban U.S. exports as a result of those violations. Now they will.

Or worse—they will decide to leave Cocom believing they will receive better treatment outside that agreement. Or they will attempt to cover up future violations to escape U.S. laws. All of these options are worse than cooperative action through Cocom.

It is true that both countries had antiquated laws and regulations with respect to prosecution of export control violations and that in some cases license applications were not scrutinized as they should have been. The process was sloppy in both countries, but our own system may not have caught such a willful violation of the law where the information submitted on the export licenses was falsified.

After notification of the violations, both countries, Japan and Norway, acted quickly to investigate the violations as well as to strengthen their export control systems, including passage of laws which extend the statute of limitation and provide stiffer penalties for violations. Government officials have closely examined the new systems of both countries and believe them to be on par with our own.

Both countries also prosecuted the violators, although Japan's statute of limitation had expired on all but the software and spare parts sales. Because of that, even though the toughest penalty was assessed, it was not high by our standards. Top executives of Toshiba Machine, Toshiba Corp., and Wako Trading also resigned, the supreme form of apology in Japan. In Norway, the violator has been prosecuted as well.

Mr. Speaker, I believe we have made our point to both of these countries, as well as to many others. There are also ongoing efforts to ensure that other countries will beef up their export control systems which have been successful.

As a result, I greatly regret that we have made mandatory retroactive and prospective import restrictions a part of this bill.

I believe that our allies will have something to say about our desire to impose stricter penalties on violators other than our own.

If this bill is vetoed, I hope that it will be returned to the House without this very harmful provision. In my judgment, it will backfire and cause more harm to international export control efforts than good.

Mr. KOSTMAYER. Mr. Speaker, I rise today in strong support of the conference agreement on H.R. 3, the Trade and International Economic Policy Reform Act. H.R. 3 is legislation that will enable the United States to improve its posture in the global economy.

If America is to perform up to its capabilities and be competitive in the world market, there are many things we must do, including improving our schools, increasing productivity, and getting our Federal budget in order. But also, we must have a strong and consistent trade policy. H.R. 3 establishes such a policy and will enable the United States to improve its competitiveness, address unfair trading practices, open foreign markets, and enhance U.S. exports. Although, this legislation strikes a blow for U.S. workers, it does so in a way that will prove to be beneficial for business and industry.

The U.S. trade deficit is the highest it has been in our history—up from $34.6 billion in 1981 to an astounding $171.2 billion in 1987. Consequently, the Bureau of Labor Statistics has estimated that approximately 2 million workers a year have lost their jobs due to this huge trade imbalance.

For too long, we have failed to enforce trade agreements and instead have let industries falter as trading partners engage in unfair trading practices—including export targeting and denial of worker rights. H.R. 3 would correct that situation by requiring the President to take action against such violations unless such retaliation is not in our national security interest. In addition, H.R. 3 contains a provision prohibiting Federal purchases of goods or services that are produced or provided by foreign countries that discriminate against the United States.

Under H.R. 3, if an industry is identified as having been hurt by foreign imports, import relief would be provided. The range of options for such relief has been expanded and now includes import restrictions, international negotiations and auctioned quotas. In addition, workers are eligible for trade adjustment assistance, which provides supplemental unemployment compensation payments and other restraining benefits.

Worker retraining and education is also an important element of this trade bill. H.R. 3 authorizes several new programs aimed at improving literary, improving math, science, computer and foreign language instruction, and improving the basic skills of high school students.

The Foreign Affairs Committee on which I serve also wrote important provisions of H.R. 3 designed to increase exports. Many corporate constituents have written me, Mr. Speaker, urging this be done. First, it would modify certain export licensing restrictions so that more products could be traded with our allies. Second, the legislation directs the United States Trade Representative to negotiate the opening of foreign telecommunication markets and it would increase the protection of intellectual property rights.

H.R. 3 is the product of 3 years work by dozens of subcommittees. It represents a truly bipartisan effort and I commend the conferees on a job well done.

H.R. 3 combines strong worker protection provisions with a new emphasis on education and employment retraining. Export promotion is encouraged and there is an increased emphasis on competitiveness. H.R. 3 is good for American workers, it's good for American business and it's good for American industry. I support passage of H.R. 3, a bill which takes a vital step toward improving our economy, eliminating unfair trade practices, lessening the trade deficit and enhancing our international competitiveness. I encourage the support of my colleagues.

Mr. CONTE. Mr. Speaker, I rise to speak out in favor of the conference report on the trade bill. February's $13.8 billion trade deficit is ample proof that the low dollar is not a panacea for solving our trade woes. We need positive action to pull ourselves out of the mess we're in. We need the trade bill.

The trade bill deserves support. It gives us the tools to level the playing field, which has too often been tilted against us. If we don't protect our workers and businesses from unfair trade practices, then our industrial base is going to be whittled away. If we don't help companies gain access to foreign markets, then free and fair trade will remain a deficit, then we will fall deeper into the morass of debt. The trade bill mounts a vigourous attack against these problems.

We've strengthened our response to unfair trade practices by revising section 301. This mandates that we will act against violators of our trade agreements. We've added strength to the import relief provisions under section 201, to enable domestic industries to adjust to import competition. We've given the President the flexibility he needs to conduct effective GATT negotiations. We've improved the Trade Adjustment Assistance Program, and we've made a great step toward helping workers through the $980 million revision of the JTPA Program to assist dislocated workers. We are even making violations of internationally recognized worker rights an unfair trade practice, which will improve the horrendous working conditions of some foreign nations.

Also, for the first time we have a small business title in the trade bill which reflects the growing importance of small businesses in our national and international economy. This title makes statute many beneficial changes to the Small Business Act that include, among other things, raising the authorization on 7(a) and development company loans, enhancing and expanding the capabilities of our Small Business Development Centers and increasing Government participation in the Small Business Innovation Research Program. I am proud to have been a conferee for the Small Business title and commend my colleagues in both Chambers for this bold and visionary leadership.

With all the good in this bill, it is amazing to me that some of my colleagues, following the lead of the administration, are willing to scuttle the whole thing because of a minimal, extremely flexible advance notice for plant closings provision. Advance notice is absolutely vital to a successful, effective worker adjustment program. It is essential to make the $980 million dislocated worker assistance program work. The Brock task force came to that conclusion, as did the National Academy of Sciences, as have many of our international competitors.

The average worker receives only 7 days' notice that he is going to lose his job because of a shutdown or layoff; 7 days to adjust to the most drastic situation a worker can face. Most of the suffering and hardship that they and their families undergo could be avoided if companies would take the simple, responsible step of adequately informing employees of an impending closing. But as the GAO found, 32 percent don't give any notice, and 34 percent give less than 2 weeks. That is totally inadequate, unfair, irresponsible, and expensive.

The OTA estimates that each year $300 million would be saved through reduced unemployment compensation alone by advance notice. Workers would return to the work force much quicker because they have prepared in advance. The anecdotal fears that advance notice ruins troubled businesses have not been borne out by the studies. And we have before us such a flexible proposal that companies which can't foresee shutdowns or layoffs, or are searching for capital to shore up their business, are exempted from the requirement.

I have seen too many workers tossed out on their ears without notice for me to believe that enlightened self-interest will make all businesses provide advance notice. Last November 50 workers at J.P. Stevens in my district were told 2 days before Thanksgiving that they no longer had jobs. What a thing to be thankful for. It's appalling, and we can do something about it. Advance notice improves the trade bill. We desperately need it. I urge my colleagues to support the trade bill with advance notice, and to oppose any motion to take it out.

Mr. BROOMFIELD. Mr. Speaker, it is most unfortunate that the Democrat-majority in this Congress would rather play Presidential politics than pass a responsible, bipartisan, trade bill.

By deliberately retaining the onerous plant closing provisions, provisions that they know the President can never accept, the Democrat leadership has decided to bow to the pressure of special interests. It seems that they would rather destroy a good trade bill for the sake of petty politics.

I will oppose this trade bill in its present form and urge my colleagues to do the same. It is with great reluctance that I do so because I want a good trade bill, the President wants one, and so do many others who will vote against H.R. 3.

As a conferee to this important piece of legislation, I found many of the provisions of H.R. 3 to be beneficial and much needed in our efforts to improve our trade situation. The measure would streamline existing procedures for the protection of American innovations, would improve the ability of the President to raise or lower tariffs, and would give the U.S. Trade Representative expanded powers to identify major barriers to trade erected by foreign countries. Furthermore, I am especially pleased with the legislation's responsible action taken against Toshiba.

All the good done, however, is swept away by the "big brother" plant closing provision. This portion of the bill, puts the Federal Government's nose where it does not belong, and is a rigid requirement that shackles U.S. business. The financially strapped employer may not know what will happen to his company in 6 days let alone 60. It will cause the loss of jobs instead of saving jobs and will discourage employers from hiring new employees. It could cost business more than $1.8 billion annually and will hurt the competitive ability of American business.

The President has stated that he will veto the trade bill with this provision. I hope he vetoes it. And after his veto, I hope the Democrat-leadership of this House will then send us a clean bill that can be quickly voted on and approved.

I say, stop playing politics and write a bill that we can all accept. Let's remove the plant closing provisions and work together to produce a responsible trade bill that will protect America's interests instead of special interests.

Mr. McDADE. Mr. Speaker, today I rise in support of the conference report on H.R. 3 and particularly in support of title VIII, the small business title. At this time, I would like to confine my remarks to the small business title. Our title is the product of extensive hearings, arduous examination and debate of the issue and delight effort to achieve a consensus measure. I would like to commend our chairman, JOHN LAFALCE, subcommittee chairman, IKE SKELTON, subcommittee ranking minority member, ANDY IRELAND, members of the subcommittee and full committee and their outstanding staffs for their fine efforts which are now reflected in this title.

The inclusion of a small business trade title in such a monumental and comprehensive measure as the one before us today is without precedent in the history of this body. Indeed, this marks a legislative milestone and achievement in the history of the committee on small business, and the members of our committee should feel a sense of pride and accomplishment because of this. As the ranking minority member, I am proud of the work our committee has done and the opportunity we have been given. Yet if we look beyond our pride of accomplishment and the celebration of the moment, we see this achievement not as our own but for what it truly is and to whom it truly belongs. Through our title, this body has given further recognition to the growing importance of the most vital sector of America's economy today: small business. Yet, the title also defines a new role for small business: participation in international trade in the context of a changing global economy. America and small business are marching together toward a bright new future full of the promise of greater rewards of prosperity, economic growth and personal development through challenge and competition. I have said it before, but it bears repeating now: small business is America's partner in growth.

Expert testimony given before our committee revealed that an estimated 40,000 small concerns nationwide are now capable of engaging in overseas trade and possess the potential for becoming major exporters of U.S. goods and services. That is an important number and not because it represents such a small fraction of the total number of small businesses nationwide. It is significant because it points to a world of possibilities—and opportunities—that exist for small businesses and can be nurtured with the proper care and feeding. And that is what we have attempted to do in our title: to awaken small firms to their potential as exporters and to provide the means necessary to assist and prepare them to enter the world of international trade.

I would urge my colleagues to support the small business title and the bill that contains it.

Thank you, Mr. Speaker.

Mr. ANDREWS. Mr. Speaker, there are many reasons to vote for the passage of the conference report to H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. This landmark legislation represents the most comprehensive effort ever undertaken to open foreign markets, enhance U.S. exports, improve our competitiveness, and centralize U.S. trade policy. In addition, this bill will repeal the windfall profits tax, a useless, burdensome requirement generating little to no revenue to the Federal Government.

This bill is critical to this country's economic future. It is the product of 3 years of intensive efforts by 23 House and Senate committees.

The problem is serious. We are facing our largest trade deficit ever—approximately $170 billion. Our annual trade deficit has quadrupled since 1982. In a matter of 4 years, the United States has become the No. 1 debtor nation in the world.

In 1982, the United States was the world's largest creditor, with an external credit of $151 billion. By 1985 we had instead a net external of $101 billion. Our manufacturing and agricultural sectors have lost capacity—there has been a decline of 1.7 million manufacturing jobs and 500,000 farm foreclosures since 1981.

In my own home State of Texas, trade matters are of special concern. According to a survey of data in 1986, Texas was the Nation's second largest exporter of manufactured goods. An estimated 135,700 jobs in Texas were dependent upon the production of manufactured exports. Texas ranked first in the Nation as the leading exporter of cotton as well as first as an exporter of chemicals. We ranked fourth in agricultural exports.

Texas is also the home of the Houston port, located in my congressional district, which serves as a point of entry for many foreign imports as well. A total of 32,000 jobs in Houston are directly affected by port activity. And 160,000 jobs throughout Texas are indirectly affected. These facts illustrate both the importance of trade legislation to States in all regions of the country, as well as the need for a careful, balanced approach to legislation to address the trade deficit.

The Ways and Means Committee, on which I serve, has heard from many experts about the source of this problem. And there are many causes: the overvalued dollar, the Federal budget deficit, high interest rates, and the increase in foreign unfair trade practices. The Ways and Means Committee as well as 11 other committees in the House sought the best advice available to fashion legislation which successfully addresses this crisis.

The opportunity to enact a solution is before us. This bill, H.R. 3, offers us a beginning—a chance for America to become competitive again. This bill, which I supported in committee along with 33 of my colleagues, would enhance the competitiveness of U.S. industry by providing new remedies for violations of U.S. trade law and by forcing foreign markets to open to U.S. exports.

Fair trade means that foreign countries will no longer enjoy the privilege of importing goods to the U.S. unless they in turn open their markets to U.S. exports.

Let me take a moment to outline the provisions of H.R. 3. The bill transfers authority from the President to the U.S. Trade Representative [USTR] to determine whether foreign trade practices are unfair. Further, it requires mandatory retaliation against those foreign trade practices which violate trade agreements and other unjustifiable trade practices. The agreement requires the administration to identify unfair trade practices and countries as priorities for action, to initiate unfair trade practice investigations for these priority situations, and to seek agreements for elimination of the practices over a 3-year period.

Aside from combating unfair trade practices, H.R. 3 puts in place a larger worker retraining and education program. Important to my home State, H.R. 3 includes a provision which will allow oil and gas workers involved in exploration and drilling to qualify for trade adjustment assistance benefits.

H.R. 3 authorizes additional funds for export promotion programs to encourage exports of our U.S. goods, including both agricultural and high-tech products. The bill lifts export controls on low technology items that would not be a strategic threat to the United States.

Finally, this legislation repeals the windfall profits tax. The windfall profits tax produces no more than a trickle of revenue for the Government. The cost of collecting and accounting for its dwarfs the revenue realized. Removal of this disincentive would permit oil producers to use funds now devoted to useless administrative activity for exploring and developing badly needed reserves.

This bill is by no means a complete answer to our problems. To truly address the trade deficit we must deal with the Federal budget deficit. We must make the hard choices that are demanded of us by the citizens of this country.

Further, we must do everything we can to encourage productivity and competitiveness in our industries. Two areas of special concern to me are increased research and development assistance and adequate education of our children, especially in science and math. This bill goes a long way to increase education funding. I hope that we will soon increase research and development funds as well.

Overall, this bill represents a good start toward solving our trade problems. But Congress cannot do it alone. We need the support of the administration on this bill. I hope that the President will meet the challenge he faces and sign trade legislation into law this year.

Thank you.

Mr. LEWIS of Florida. Mr. Speaker, the strongest U.S. business in international trade is the aerospace industry. In fact, preliminary figures show that the industry had a positive balance of trade in 1987 of approximately $17 billion. No other industrial segment showed as large a positive trade surplus.

This conference agreement on the Omnibus Trade and Competitiveness Act of 1988, contains a provision that allows for continued international marketability of aerospace products. This was not always the case. The original bill, H.R. 3, mandated that all Federal agencies use the metric system in business-related activities by 1992.

The conference agreement states in title 5, section 5164, "* * * certain aerospace systems generally use the English system of measurements worldwide. It is not the intent of this legislation to force the U.S. aerospace industry, to its financial detriment, to take the lead in metric conversion for these systems."

As a conferee, I pointed out that the worldwide aerospace industry uses largely nonmetric measurements. The Airbus, for example, is nonmetric and it is the product of predominately metric using countries France, United Kingdom, West Germany, and Spain.

Obviously, without the conference agreement, the U.S. aerospace industry would have been put in a decided trade disadvantage, which is not the purpose of H.R. 3.

I would hasten to point out that the industry is not opposed to metric conversion but supports a policy of nonadvocacy that is responsive to the marketplace requirements.

This legislation advocates a responsible position on metric conversion in the aerospace industry and will serve to enhance international trade.

Miss SCHNEIDER. Mr. Speaker, after years of grappling with the problem of developing a policy for trade and economic growth, the House and Senate have produced the conference report for H.R. 3.

This is a complex and wide-ranging bill, and as with any such legislation, it contains a number of problematic provisions. Each of these provisions has been examined and debated by the Congress, and I feel that it is safe to say that each has substantial support.

The major difficulty for the business community appears to be a modest proposal for notifying workers of impending large scale layoffs or plant closings. Many analysts suggest that this provision, by itself, is not unduly troublesome. They fear, however, that it may set a precedence for future Government involvement in business decisions.

I appreciate this concern, and I don't take it lightly. I don't feel that it is appropriate for Government to direct business decisions about opening or closing facilities. I do, however, feel that businesses have an obligation to employees to treat them decently. This includes letting them have information about a future layoff as far in advance as is practical. If this is an unworkable consideration, then we will become aware of it very quickly. It will be remedied.

Opponents of this modest layoff notification provision, however, recognize that it is not an unworkable consideration. Therefore, they resort to a slippery slope argument—they are opposed to layoff notification legislation because it might someday be expanded into something that is genuinely unworkable. I find such reasoning unconvincing. If unworkable approaches are submitted in the future, let us deal with them at the appropriate time.

Let me take a moment to emphasize some of the positive aspects of the trade bill. As cochair of the congressional competitiveness caucus, I am acutely aware that our difficulties in competing in international markets are only partly susceptible to changes in our trade policy. Equally, if not more important, are domestic policy changes that emphasize developing an educated workforce, capable of adjusting to the jobs of the future.

In this regard H.R. 3 strengthens and expands the Trade Adjustment Assistance Program and establishes a Worker Readjustment Program to assist people who lose their jobs as the result of foreign trade.

While H.R. 3 seeks to improve trade policy by tightening enforcement of unfair trade practices and improving protections for intellectual property rights, it also seeks to improve our ability to compete by expanding the role of the National Bureau of Standards and Technology, reflecting its new emphasis on quality control, manufacturing technology, and the dissemination of innovation.

On the whole, Mr. Speaker, I believe that the conference report before us is a remarkable legislative effort and one that acknowleges our Nation's need to accommodate to a changing world market. I urge my colleagues to examine it from the larger perspective and to support its passage.

Mr. LIPINSKI. Mr. Speaker, as far as I am concerned this trade bill, H.R. 3, Omnibus Trade Act, is far too little, and a number of years too late. The trade deficit under the Reagan administration has rocketed from a bad $34.6 billion in 1981 to an obnoxious and dangerously high $171.2 billion in 1987—and the trade deficit gets more dangerous each month.

American middle-class workers have been hammered and exploited unmercifully because of the lack of action by the Reagan administration. The U.S. Bureau of Labor Statistics has reported that an average of 2 million American workers a year have lost their jobs in the 1980's. The Reagan administration's callous indifference to America's middle-class workers has caused the extensive de-industrialization of this country. The once powerful pistons of America's industrial engine have been permitted, by a docile Reagan administration, to slow to the pace of a one cylinder late 19th century experimental internal combustion engine.

H.R. 3 has been stripped of its most creative, concrete, important part—the Gephardt provision. A provision that had a chance of improving our trade deficit, rebuilding our industrial base, and creating jobs for our American middle-class workers. The intelligent, pro-American Bryant amendment, which would have required foreign investors with major holdings in U.S. businesses and real estate to register and provide information regarding their holdings has been dropped. These and other provisions that have been removed from this bill in conference are a great disappointment to me. Yet, I believe it is necessary in order to save American jobs, and aid American industry to support this conference agreement.

This bill has plant closing notification, worker retraining and education programs, sanctions against Toshiba and Kongsberg and export expansion to improve America's competitiveness. It also contains a number of provisions to strengthen laws that protect against unfair foreign trade practices and will press the administration to take effective action against such practices.

My goal is to make the 21st century also the American century. This bill is one small short step in that direction. So once again, I say I am supporting this conference report. It has been said a journey of a thousand miles starts with one small step. I hope this is the start of our making the 21st century also the American century. I just hope that we can accelerate our steps, so that we can make the 21st century the American century before we reach the 22d century.

Mr. DURBIN. Mr. Speaker, I support the major goals of this trade bill. It strengthens our trade laws, gives us new mechanisms for addressing the unfair trade practices of many of our trade competitors, and authorizes funding for training and educational programs that will help our workers to be competitive and to adjust to the effects of increased foreign competition. It is good legislation that will generally benefit American workers and businesses and strengthen the economy.

However, there is one provision in this measure to which I must take strong exception. That provision opens a large loophole in the law for the duty-free import of ethanol shipped from the Caribbean Basin. This loophole will undercut domestic ethanol production, reduce the demand for American-grown corn and other ethanol feedstocks, and undermine our efforts to encourage expansion of the domestic ethanol industry.

It was unwise to include this provision, which will expand imports, in legislation designed to encourage American exports. It is unfortunate that a provision which will allow clever investors to buy subsidized European wine alcohol and convert it into ethanol for sale in United States markets at subsidized prices was allowed to be included in a bill which is expressly designed to prevent subsidized goods from unfairly competing with unsubsidized American products. This provision stands in opposition to the basic thrust of this legislation, and it should not have been included in the conference report.

Mr. Speaker, the ethanol provision in this bill allows a group of ethanol facilities in the Caribbean Basin to take advantage of the duty-free status of countries covered by the Caribbean Basin Initiative. Current law requires that ethanol imported from the Caribbean must come primarily from Caribbean feedstocks. This requirement was put in place to ensure that Caribbean ethanol production actually benefits the people of the Caribbean.

The language in the conference report suspends the Caribbean feedstock requirement. It allows the Caribbean facilities to buy cheap wine alcohol, run it through inexpensive dehydration facilities that require little investment and create very few jobs, and then import the processed ethanol into the United States. In doing so, they will receive duty-free treatment that was intended only for substantial new investment and job creation in the Caribbean Basin.

Even though this legislation has not yet been enacted, Caribbean companies are already preparing for the new opportunity that this bill offers them. According to the March 28 edition of Alcohol Week, a publication that closely follows the ethanol industry, representatives of one of these Caribbean companies met with officials of the European Economic Community recently to discuss the purchase of surplus European wine alcohol at low prices so that they can transship it through the Caribbean to avoid United States tariffs, upgrade it to fuel-grade ethanol there, and sell it in the United States market.

The article goes on to say that in the past this company reportedly has been able to buy European wine alcohol for as little as 17 cents per gallon. Official Italian Government records show that 190-proof Italian ethanol was sold for export to the Caribbean for an average price of 23 cents per gallon in 1987, while French ethanol was sold for just under 40 cents per gallon.

Now the major difference between 190-proof wine alcohol and 200-proof fuel-grade ethanol is that fuel ethanol has had the remaining water removed from it. But fuel ethanol coming to the United States from the Caribbean has a value of closer to 80 cents per gallon if it is not subject to U.S. tariffs. And that is where the Caribbean facilities enter the picture. If they can process the 190-proof wine alcohol into fuel ethanol in the Caribbean, they can avoid the tariff and compete in the U.S. market at a substantial advantage. That advantage produces large profits, which is why Caribbean companies worked so hard to obtain the provision in the conference report which allows them to avoid the feedstock requirements in current law and still receive duty-free treatment for the ethanol they want to import into the United States.

Mr. Speaker, this special treatment for ethanol imported from the Caribbean Basin is likely to displace sales of ethanol produced from domestic sources. It will mean a loss of jobs in U.S. ethanol facilities. It will mean a loss of sales for U.S. corn producers. It will mean an increase in the U.S. grain surplus and will likely lead to an increase in Federal farm program costs.

But I fear that this ethanol loophole will have an even more chilling effect. It will discourage the development of new ethanol capacity in the United States. Why should an American company expand its ethanol capacity or enter the ethanol business when the U.S. Congress is adopting legislation that will allow foreign producers to undercut U.S. production? Why should an American business undertake the risks inherent in the production of a fuel such as ethanol when the Federal Government proposes to allow foreign ethanol into this country which can command an unfairly low price because it was produced from heavily subsidized surplus wine alcohol from other countries? I fear that we will see a stagnant industry a few years from now, and we will look back to this day as the day that the U.S. Congress cut off the future of this industry by favoring subsidized foreign production.

Mr. Speaker, I must admit that my concerns about this provision are tempered by a small amount of hope. I still have hope that this provision will not mean the end of the ethanol industry's impressive expansion over the past 10 years for two reasons. First, the conference report calls for studies by the International Trade Commission and the General Accounting Office to recommend appropriate feedstock requirements. I believe that these studies will identify the importance to the Caribbean people, as well as to the United States, of strong but fair feedstock requirements. The recommendtions of these agencies will hopefully point us in the right direction.

The second reason I have hope despite the unfortunate ethanol language in this conference report is that the Caribbean Basin Initiative will be reconsidered in the next 2 years. I and my colleagues in the alcohol fuel caucus have argued from the very beginning that that is the proper forum for considering the question of what is the appropriate feedstock requirement for Caribbean ethanol that is permitted duty-free treatment. The current law reflects a compromise developed in 1986 to address this issue. If opponents of the feedstock requirement believe it has not been set at an appropriate level, they should raise that issue in hearings on the Caribbean Basin Economic Recovery Act, not in an omnibus trade bill such as this.

Mr. Speaker, this conference report is good trade legislation, but it is tarnished by the CBI ethanol language. I regret that the two issues have been linked together and that several Caribbean ethanol companies will be allowed to invade the U.S. market and jeopardize this important industry.

Mr. HORTON. Mr. Speaker, I rise in support of the conference report and urge its adoption. I would like to discuss provisions dealt with by one of the subconferences in which I participated—the Buy American provisions.

During the Tokyo round of the GATT negotiations—1973—the United States, along with our trading partners, agreed to eliminate practices whereby governments discriminate in their procurement practices against vendors from other signatory nations. Since that time, only the United States has truly had open Government procurement. Therefore, early in this Congress, I joined my colleague, Chairman JACK BROOKS, in introducing H.R. 1750, the Buy American Act, which would assure that our trading partners live up to their agreements in the area of Government procurement. The House included the provisions of that bill when we passed H.R. 3 last session.

The bill adopted by the conference preserves the structure of the House-passed bill. It would close the U.S. Government procurement market, approximately $200 billion per year, to foreign vendors whose governments do not give U.S. vendors fair access to their Government procurements. This should allow U.S. companies to have a reasonable opportunity to sell goods to foreign governments, as those governments have already agreed in the GATT agreement.

While we operate a Government procurement system that is open to bidders from throughout the world, foreign governments, including some of our allies, have publicly announced that certain of their procurements are not open to US. competitors. This just is not fair. U.S. companies should have access to foreign markets. They can provide competitive goods and services, and sales overseas will be a plus on our trade balance numbers. It is hard to justify our Government treating a foreign vendor better than U.S. companies are treated in the vendor's own country.

The Senate had no such language in their trade bill, so considerable negotiations took place on this issue.

The bill requires the President to identify countries that discriminate in their government procurement against U.S. firms, allows time for negotiations to eliminate such discrimination, and if that fails, imposes sanctions in the form of a ban on U.S. Government procurement of goods and services from such country. The President is given discretion to modify or eliminate sanctions if discriminatory practices are ended.

To determine the complex question of the origin of goods, the Office of Federal Procurement Policy in OMB is required to study the issue and make recommendations to Congress within 18 months. With respect to the origin of services, the criteria established in the Treasury, Postal, and General Appropriations Act of 1988 were adopted. Congress will have an opportunity to review the Operations of these provisions since the conference language contains a sunset of these sections in 1996.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of the Michel motion to recommit and in opposition to the omnibus trade bill of 1987, H.R. 3. The United States is the greatest trading nation in the world, with exports over $200 billion a year. This Nation has more at stake in maintaining a healthy world trading system than any other country in the world. While I do support serious efforts to address unfair trade policies and harmful barriers to our exports, and while I support many provisions of the bill, I oppose this bill which could damage our economy and reduce our international competitiveness. This legislation in its present form is opposed by the Reagan administration, the Chamber of Commerce, the National Federation of Independent Business, the National Association of Manufacturers as well as various other groups.

I would like to take this opportunity to touch on a few of the more significant objections I have to H.R. 3. First, the bill requires that firms of more than 100 employees must provide a 60-day advance layoff and plant closing notice. This provision could prevent firms from taking the productivity improvement and restructuring actions necessary to become more competitive. This provision would be especially harmful to small businesses by discouraging entrepreneurial firms from expanding and hiring new workers. This is evident in France where the "49'ers" are employers who do not hire more than 49 employees because of various government restrictions which apply to employers of 50 or more workers. This provision would also invite costly, time-consuming and counterproductive litigation that could hinder management.

The legislation also contains all kinds of extraneous matters which have little or no impact on the trade deficit. The bill calls for approximately 150 different studies, scores of new divisions and agencies and 12,000 new employees. In this time of fiscal restraint we do not need more bureaucracy with a large budget to gather and disseminate information; that is already performed by many advisory bodies.

Finally, I believe that the rush to consider this bill is unnecessary. The conferees have only recently finished their work on the bill. If we are going to give employees 60 days advance notice you would think the Democratic leadership could give members more than a 1-day notice to study this bill which is over 1,000 pages, close to the size of the omnibus appropriation bill universally criticized late last year. Who knows what it might contain.

Mr. Speaker, H.R. 3 could weaken the ability of American firms to compete in the world marketplace, expose American exporters to retaliation by other countries and weaken the President's ability to eliminate unfair trading practices abroad. The administration agrees that the trade deficit is a serious problem and has an aggressive program to deal with this issue. They have initiated cases of unfair trading practices with Japan, the European Community, South Korea, Taiwan, and Brazil that have opened markets, not closed them. They have made important strides toward strengthening GATT which governs international trade and have helped reduce the value of the dollar against other major currencies, so U.S. products are priced more competitively in world markets. The President's Cabinet has recommended that he veto this bill. I encourage my colleagues to oppose this legislation if the Michel amendment does not pass.

Mr. BORSKI. Mr. Speaker, I rise in strong support of the conference report on H.R. 3, the Omnibus Trade Act.

The time to pass this legislation is long overdue. The U.S. trade deficit has risen dramatically during the 7 years of the Reagan administration, reaching a record high of $171 billion in 1987. The administration has been inexcusably lax in the enforcement of our trade agreements and our foreign trading partners have exploited this situation to their advantage.

For too long, the United States has kept its markets open to foreign goods even though other nations have unjustly slammed their doors on American products. We have accepted more and more foreign imports at the expense of American jobs and industry. Clearly, we cannot afford the devastating cost of our failed trade policies any longer. The time to take strong action to reverse our deteriorating trade position is now.

H.R. 3 will improve the ability of the United States to respond to the unfair trade practices of our foreign trading partners. It requires the President to retaliate against violations of trade agreements and other unjustifiable trade practices, and permits the President to waive this mandatory retaliation only under specified circumstances.

It also improves import relief policies to remedy injury to U.S. industries, strengthens laws against foreign subsidies, transfers more authority from the President to the U.S. Trade Representative and enhances long-term U.S. competitiveness.

American workers have been particularly hard hit by the huge U.S. trade deficit, a fact that is appropriately addressed by H.R. 3. The bill strengthens and expands the Trade Adjustment Assistance Program and increases its emphasis on training. It also authorizes a new Worker Readjustment Program to provide comprehensive assistance to dislocated workers who have lost their jobs to plant shutdowns or layoffs.

This legislation is the product of 3 years of labor and negotiation. It is a comprehensive solution to a massive and complex problem and it is deserving of our support. It outlines a tough but fair trade policy that will help us meet the challenges that lie ahead: opening foreign markets, promoting U.S. exports, assisting American workers, and competing in the global marketplace.

Mr. Speaker, I urge my colleagues to support H.R. 3; we cannot afford to do any less.

Mr. RAHALL. Mr. Speaker, as a member of the conference committee that labored for so many months to craft a reasonable compromise, I rise in support of the trade bill conference agreement before us today. Because I am a strong advocate of the Gephardt sanctions language, I am disappointed that it was not accepted by the conferees. Yet I am confident that the steps mandated in the agreement to strengthen laws that protect against unfair foreign trade practices and that press the executive branch to take action against these unfair practices will vastly improve current law. While recognizing the myriad of important provisions contained in the conference agreement, I would like to focus on a few today that I know are of special importance to my home State of West Virginia.

Although it was not included in the House passed version of H.R. 3, I am delighted that the conferees agreed to include plant closing notification language in the conference report and I strongly oppose the motion to recommit with instruction to delete this portion of the agreement. Frankly, this plant closing provision is very modest; the conferees came a long way to allay the concerns voiced by various opponents of advanced notification. The agreement simply would require that businesses employing 100 or more workers give 60 days advance notice of plant closings that would result in job loss for 50 or more workers. It also requires 60 day notice of layoffs lasting 6 months or more, if the layoffs affect 500 or more workers, or 50 workers who constitute one-third of the work force at the plant. Importantly, the agreement allows for exceptions when closings result from unforeseen circumstances. Additionally, exceptions would be made if a company believes in good faith that providing the 60-day notice would preclude obtaining new capital or new business needed to avoid a shutdown.

It is ludicrous that the United States, long a worldwide champion for workers' rights, is one of the few developed nations of the world that does not have either provisions in law or a general practice of advance notice of plant closing. This is a simple matter of fairness and human decency. Do not American workers have the right to know about decisions that may drastically alter their lives and their communities? Should not every opportunity be given our workers to plan for their futures in the face of a major layoff or plant shutdown? Keep in mind that this modification provision, while only affecting 2 percent of all firms, will protect nearly half of our workforce by virtue of the fact that 49 percent of all employees in the private sector work for firms with 100 or more employees. It is also important to note that many major union contracts already have advance notification clauses, clearly demonstrating that American industry in fact can live with such standards. For these reasons, I urge my colleagues to support this modest provision and to oppose the motion to recommit.

Of critical importance to my home State of West Virginia are the expanded worker retraining and education programs contained in the conference agreement. For the Worker Readjustment Program, the agreement authorizes $980 million for fiscal year 1989 to provide comprehensive assistance to dislocated workers. Eligible are those terminated or laid off workers who are unlikely to return to their previous occupation, those terminated as the result of a permanent plant closing, the long-term unemployed, and the formerly self-employed who are now unemployed due to general economic conditions or natural disasters. The program would be run principally at the State level, with States receiving 80 percent of the funds allocated on the basis of the current title III formula. Another important provision for States such as West Virginia, which suffer under high rates of unemployment, would permit States to carry over only 20 percent of their funds to the next year. The excess funds would be redistributed to States that have used at least 80 percent of their allocation and whose unemployment rate exceeds the national average. Finally, each State must establish a dislocated workers office to respond to plant closings and substantial layoffs.

The conference agreement strengthens and expands the Trade Adjustment Assistance Program which has been of such critical assistance to the unemployed in West Virginia. Significantly, it extends program eligibility to secondary workers or firms that supply essential goods and services to firms directly affected by imports. In other words, those coal miners who worked for mines not owned by a steel plant shut down by imports, but which supplied that plant with coal, would now be eligible for benefits. Current law allows only those workers directly employed by an affected company to receive TAA benefits.

This provision would become effective only if an import fee is put in place for financing. The conference report requires the Presient to neogiate with our trading partners for agreement on the imposition of a small uniform fee on all U.S. imports which would be used to fund the TAA Program.

Authorization for the TAA Progam is extended for 2 additional years, through fiscal year 1993. Finally, the conference agreement makes training an entitlement: Any worker who meets specified criteria would be entitled to payment of training program costs. The total annual training cost would be capped at $80 million per year.

Mr. Speaker, the conference agreement also contains a provision based on legislation I have introduced that expresses the sense of the Congress that the objectives of the 1983 Joint Policy Statement on Energy Cooperation, as it relates to U.S. exports of coal to Japan, have not been achieved. The legislation urges the President to direct the USTR, in negotiating a steel trade arrangement with Japan, to take into account the amount of coal that Japan purchases from the United States in determining the level of steel products that can be imported into the United States. It also requires a report to Congress by November 1, 1988.

One of the major causes of the United States-Japan trade deficit is the continued and aggressive exportation by Japan of steel products into this country. Despite the voluntary restraint agreement which has been negotiated with Japan on steel, it appears that country continues to circumvent both the intent and scope of the agreement with respect to certain steel products.

The Japanese have not honored the November 1983 Joint Policy Statement on Energy Cooperation issued by President Reagan and Prime Minister Nakasone, particularly as it relates to United States exports of metallurgical coal to Japan.

This is a matter of grave concern to me and other representatives of coal-producing regions. Metallurgical coal is an essential ingredient in the production of steel. The joint policy statement sought to, among other items, maintain purchases of United States metallurgical coal over future years as steel production in Japan improved.

This agreement provided the United States with an element of trade reciprocity between Japanese steel imports and United States metallurgical coal exports. After all, the United States is Japan's largest market for steel products.

Since November 1983, however, we have witnessed the collapse of what was to be a two-way street on the steel and metallurgical coal trade between Japan and the United States. Despite the fact that steel production has increased in Japan, and despite the fact that Japanese steel exports into the United States continue at a level beneficial to Japan, that country has slashed the amount of United States metallurgical coal it is purchasing and has ridden roughshod over what the world marktet views as being a reasonable price for the dwindling amount of United States metallurgical coal it is still buying. With this in mind, I strongly urge the President to implement this provision of the trade bill.

To close, Mr. Speaker, I urge my colleagues to support this conference report as a much needed revision of our Nation's antiquated and ineffective trade law. One only has to look at the huge trade deficit statistics, which indicate that the deficit is now over five times the level that existed in 1981, to realize how desperately we need this legislation. And again, I encourage members to oppose the motion to recommit.

Mr. ASPIN. Mr. Speaker, I urge my colleagues today to approve the conference report on H.R. 3, the omnibus trade bill. After years of negotiations, hard work, and compromise, the House has produced a bill which, while far from perfect, will help to lower our staggering trade deficit and provide relief for the hundreds of thousands of workers in Wisconsin and across the country who have lost their jobs due to imports.

The omnibus trade bill includes an important provision that would expand the Federal Government's commitment to workers who have been paying the price for our severe trade imbalance. This provision would establish a $980 million comprehensive program to aid dislocated workers, replacing current programs under title III of the Job Training Partnership Act. It would include job training, education, job search assistance, and counseling for dislocated workers.

Over the past decade, the manufacturing economy of southeastern Wisconsin has been devastated by increasing imports. According to the Wisconsin Department of Industry, Labor and Human Relations, over 50,000 manufacturing jobs were lost in the State between the years 1978–84. In the years 1980–87, in Racine, Kenosha, and Walworth Counties, nine plants have shut down or relocated, resulting in almost 1,400 layoffs. In those same years, 20 additional companies laid off over 11,000 employees.

Earlier this year, the Chrysler Corp. announced plans to shut down its stamping and assembly operations in Kenosha by the end of the 1988 model year. If Chrysler goes ahead with its plans, 5,500 workers will lose their jobs. The Kenosha plant first opened in 1902. It is the oldest auto plant in the Nation.

The new worker readjustment program could mean a bigger pot of money available for programs to benefit Chrysler workers in Knosha who may be laid off later this year and workers throughout the State who have lost their jobs because of foreign competition.

Another important provision in the trade bill would expand and improve the Trade Adjustment Assistance [TAA] Program. This essential program provides training assistance and cash allowances to workers who lose their jobs due to imports. Currently, TAA training funds are provided on a cash-available basis. The conference agreement would make this portion of the program into an entitlement, with an annual cap on payments of $80 million. This provision would ensure that eligible workers receive training funds in the form of cash or a voucher.

Unfortunately, the conference agreement does not include the Gephardt amendment. This provision would have required countries which engage in unfair trade practices and have the biggest trade surpluses with us to reduce their surpluses by 10 percent annually. The conferees adopted a much weaker provision, but it would require the administration to enter into negotiations with countries which engage in unfair trade practices, and to retaliate against countries which do not take steps to change their ways.

Fortunately, the conferees included in the final bill a provision that would make violation of internationally recognized workers' rights an unfair trade practice. The criteria used to determine whether these rights are being denied include rights of free association and collective bargaining, minimum wage for child workers, and minimum standards for occupational safety and health.

The trade bill has lost some teeth since it passed the House in April, 1987. But it's a good bill which will force the administration to take steps to eliminate unfair trade practices. And it will significantly boost the federal government's commitment to dislocated workers. This administration has not played a large enough role in providing assistance to these workers and to economically distressed communities. In fact, its performance in this area has been a big disappointment.

The trade bill has its flaws, but it's a major step in the right direction. I urge my colleagues to support the conference agreement and, if necessary, to override a Presidential veto.

Mr. TALLON. Mr. Speaker, we all talk about competitiveness and protectionism versus free trade as if we discovered these issues. Well, we didn't and it's time we put this debate in the proper perspective. We need to look back in our Nation's history, two centuries to be exact, back to correspondence between the British economist David Ricardo and Colonial leader Alexander Hamilton.

Ricado's argument was the same as that of the so-called free traders of today—the American colonies should depend on their natural resources and hope that the comparative advantage would shift their way while the British mopped up. Fortunately, Hamilton, the protectionist, believed that the colonial economy was worth defending. And, the very first measure passed by America's young Congress was a trade bill. On this foundation was built the strongest, most competitive economy the world has ever seen.

America today, like the America of 200 years ago, must compete in an international economy under the burden of growing international indebtedness. Yet, for the first time, it seems we can't control our own economic fate. This country's workers are the most productive in the world. But our Government is paralyzed from responding to foreign nations that simply won't let our products through the gate. So, the Japanese pay $40 for a steak in the grocery store. The European Economic Community subsidizes soybeans at the rate of $15 a bushel. And, we shrink from responding because we're afraid other governments will label us as protectionist. Where would we be now if this had been Alexander Hamilton's response?

What after all do we really mean by free trade? By protectionism? Is it protectionist when we provide urban development action grants that help industries compete more effectively in the world market? Does free trade suffer when we provide funds to improve our infrastructure through funds for water and sewer facilities, and transportation improvements? Are we subsidizing when we provide for worker training programs or low interest loans for a particular company? No. We are doing these kinds of things all the time. so are our competitors: at the State level, at the national level, internationally.

Our competitors aren't afraid of labels. As a result, the mountain of global productivity has grown but we are sliding farther and farther away from the pinnacle. Lacking a strategic response, we have watched our great manufacturing enterprises falter. Seventy percent of American manufactured products are subject to foreign competition in the United States. Until now we have been unable to provide productive work for large numbers of our citizens; we have been unwilling to invest adequately in the plant, equipment, education, and technology essential to international competitiveness; and we borrow more than we are willing to save.

Prior efforts to open foreign markets to American goods have failed. Take American agriculture which has long been acknowledged as the world's finest, but cannot compete with EEC subsidies in third country markets. Within the EEC itself, the subsidy is so high that it effectively cuts off the market from U.S. agricultural products. A recent study estimated the cost of this policy to U.S. farm producers to be as much as $2 billion.

Take the American semiconductor industry which wins 60 percent of market shares outside Japan, but can't get more than an 11 percent market share in Japan. We can no longer sit idly by and watch Japan steadily overtake American manufacturers at home and abroad. The threat from Japan of a retaliatory trade war is an empty one, not because they won't start one but because they already have. For a decade or more the Japanese have dumped their products in the United States market on a consistent and widespread basis.

Finally, we have the opportunity to begin to change all this. The Trade and International Economic Policy Reform Act provides a comprehensive, constructive response to the trade deficit by focusing on education, retraining, and industrial efficiency. This bill promotes the expansion of fair, free trade. It provides for remedies for unfair trade practices, import relief, dumping prohibitions, export promotion, domestic training and education, and special executive trade negotiating authority.

Mr. Speaker, I believe the Trade and International Economy Policy Reform Act will position America to take full advantage of changes in the world economy and meet the trade challenges to tomorrow. Let's get this $170 billion trade deficit under control. Let's get on with our future. Support the trade bill.

Mr. STOKES. Mr. Speaker, I rise today to cast an unequivocal vote in favor of the passage of H.R. 3, the Omnibus Trade Act. As an original cosponsor of H.R. 3, I would like to say that passage of this legislation will help to restore our Nation's position as a leading competitor in the international marketplace. Moreover, passage of this legislation will help to restore our Nation's economic pride.

For almost 100 years, from 1891 to 1970, the United States was a leader in the international marketplace. In fact, during those years, the United States ran an uninterrupted string of surpluses. In recent years, however, the U.S. international trade situation has progressively worsened.

Since 1983, the United States has registered one record-breaking trade deficit after another. Just last year, our Nation had to deal with the highest trade deficit ever—$171 billion. This figure represents a 9.6 percent increase over the $156 billion deficit in 1986.

While U.S. exports, buoyed by the falling dollar, grew by 11.4 percent to $252.9 billion last year, the U.S. demand for imports similarly increased by 10.7 percent—bringing the amount of American dollars spent on imports to $424.1 billion. Looking at the bottom line, we see that imports exceeded exports by approximately 67 percent during 1987.

Taking a look at the big picture, we see that this occurrence—an excess of imports over exports—has resulted in lost job opportunities and a displacement of workers. It is an unhealthy situation and one which we must no longer tolerate, accept or ignore. Today's reality is that a substantial number of persons have lost their jobs due to plant closings and an exodus of manufacturing industries from our labor market. According to the Department of Labor, nearly 11 million workers across the Nation, 2.3 million workers per year are displaced by plant closings, plant relocations, or employment cutbacks. This study, along with other findings, confirms what many of my constituents in the greater Cleveland area have experienced first-hand—that U.S. industry and labor are being obliterated by foreign competition. A snapshot of the greater Cleveland area reveals that between 1970 and 1985 we lost over 106,000 manufacturing jobs and over 400 manufacturing plants. Among these 400 plants, nearly 180 were good-sized organizations with 100 or more employees.

Stories proliferate about the adverse impact of plant closings on families and local communities. The growing problems of the unemployed, displaced workers, and the "working poor" attributable to plant closings reflect the most visible and negative consequences of the manufacturing industry exodus.

Individuals once at the middle-class rung of the ladder are plunged overnight to the lower end of the economic spectrum. This catastrophic loss debilitates individuals and families—financially, emotionally, and physically. Compounding this catastrophe is the fact that few communities have the necessary resources required to provide for the needs of these individuals.

In reviewing the bleak economic picture our Nation has had to face in recent years, it is clear to me that H.R. 3 provides a much needed and long-overdue remedy. While this bill has been designed to deal with very complex and comprehensive trade issues—for instance: issues which address trade negotiating authority, import relief, anti-dumping and countervailing duty laws, windfall profit taxes, retroactive sanctions against Toshiba and Konsberg, small business and technological competitiveness—the plant closing, trade adjustment assistance, dislocated worker retraining and education provisions are of particular interest to me.

The plant closing provision requires firms with 100 or more full-time employees to give 60-day advance notice of certain plant closings and mass layoffs. The Trade Adjustment Assistance Program provides supplemental unemployment compensation payments and retraining benefits to workers who have lost their jobs due to increased imports. The program also provides assistance to businesses injured by imports. Additionally, under the education provisions of this act a number of programs will be created which will improve the productivity and international competitiveness of American workers by improving this knowledge and skills.

It is clear to me that the time for the United States to reclaim its position as a leader in the international marketplace is now. Not only will the enactment of this legislation enhance U.S. competitiveness, but it will help to alleviate the hardship faced by the most vulnerable victims of our Nation's trade malady—the unemployed and displaced worker. For this reason, I ask my colleagues to join me in supporting the passage of H.R. 3.

Mr. AuCOIN. Mr. Speaker, I rise in support of H.R. 3, the conference report on the omnibus trade bill.

Last year, the question on everyone's lips was: How could we make America's industrial machine competitive again in the world markets?

I'd like to use my time to highlight one section of the trade bill before us today that actually lives up to the rhetoric and gives one segment of American industry—the high technology industry—the ability to flex its competitive muscles.

In February 1987 a study by the National Academy of Sciences found that the U.S. export license system was so cumbersome and confusing that it was costing America's high technology industry an estimated $9.2 billion in lost sales each year. The reforms in section 3 of this bill are a giant step forward in streamlining this system—without impairing our national security.

I am especially pleased that the bill puts into place a mechanism that eventually will result in the creation of a license-free zone among our NATO allies and Japan, a proposal that Congressman FRENZEL and I put forward in February 1987. Considering that almost 60 percent of U.S. high technology products are destined for these countries, eliminating licenses on these products will put America's sunrise industry on a level playing field with their overseas competitors.

There are other reforms that will benefit our electronics industry. The bill eliminates reexport controls on products shipped within NATO countries and Japan. It makes it easier for a U.S. company to ship a product overseas if that product is already available from a foreign competitor. It authorizes the President to appoint a representative from U.S. industry to act as an adviser to our Cocom negotiating team. And it authorizes the establishment of several west coast export assistance centers.

This bill gives the green light to America's high technology industry to compete in the international marketplace. And it would have been an even better bill if it curtailed the Department of Defense's redundant role in reviewing licenses of products destined for certain Western nations. But, on the whole, these are truly protrade provisions and I commend my colleagues, Mr. BONKER and Mr. FASCELL, for their role in crafting these reforms.

Mr. VENTO. Mr. Speaker, I rise in support of the conference agreement to H.R. 3, the omnibus trade bill. This measure should be remembered as one of the landmark accomplishments of the 100th Congress because it directs our Nation onto a new course of fair trade, and, indeed, free trade.

For too long now, American workers and American business and industry have been the victims of unfair and unscrupulous trading practices by some of our trading partners. Belated efforts to correct the imbalances and inequities in many of our bilateral trading relationships do not mitigate the need for this far-reaching legislation. Our trade deficit has increased from over $34 billion in 1981 to a new record high of over $171 billion in 1987. The most recent figures for February showed that our trade deficit had unexpectedly hit $13.8 billion for that single month. We cannot continue to provide unfettered U.S. market access to nations which throw up tariff and nontariff barriers to U.S. goods and services. Where the United States has a comparative advantage we must be permitted to compete, just as we purchase and participate in the global economy as consumers of products and services from abroad.

Until recently, the Reagan administration's policy toward these skyrocketing trade deficits has been one of benign neglect. The President has repeatedly refused to take strong action to curb unfair trading practices even when presented with convincing evidence. Today, however, the administration finally began to realize the danger to our Nation's economy from the continued spiraling trade deficits.

While I would have preferred the retention of the provisions in the Gephardt amendment as passed by the House, nevertheless, the compromise provisions in section 301 addressing unfair trading practices are preferable to remaining silent on this issue. The transfer of authority from the President to the U.S. Trade Representative for determining whether a foreign trading practice is unfair is an important step in strengthening the role of the U.S. Trade Representative and bringing some coherence and constancy to the implementation of U.S. trade policy.

I am pleased that the conference agreement provides new protection for intellectual property. It will now be more feasible for businesses and individuals to stop the import of products produced in violation of our trademark, patent, and copyright laws with the elimination of the economic damage test. Counterfeit products and merchandise which enter our country deprive many of our businesses their just compensation for their creativity and, in effect, stifle incentive to develop new products and services. My own State of Minnesota is home to many major companies, such as 3M, Control Data, Cray Research, and others which have a great stake in the protection of intellectual property.

Mr. Speaker, there are so many important changes in our trade policy contained in this legislation that I will not mention all of them here. However, I do want to say that I believe that it would be a serious error in judgment for the President to veto this legislation, which is the product of months of bipartisan work by one of the largest conference committees in the history of the Congress, based upon objections to the provision regarding notice of plant closings. The provision contained in the conference agreement is actually quite modest, in my view. A column in the Washington Post, April 20, 1988, by Robert J. Samuelson shares an assessment of the plant closing provision that is appropriate; it merely legislates a standard of decency.

While companies with more than 100 workers would be required to give 60 days' notice prior to closings or long-term layoffs, companies with fewer than 100 workers would be exempt. There are also exceptions for unforeseeable business circumstances, such as natural disasters or the repudiation of a contract. Special provision is made for faltering companies actively seeking capital to avoid closing.

The General Accounting Office [GAO] study of plant closings and layoffs during 1983 and 1984 of companies with more than 100 employees found that 32 percent gave no notice, 32 percent gave 2 weeks' notice, and only 19 percent gave more than a months' notice to workers. For workers who may have worked loyally for 10, 20, or 30 years for their employer, it is hardly asking too much to expect notice of a plant closing or long-term layoff, especially when the employer may have knowledge of this situation far in advance.

Mr. Speaker, this legislation also addresses important workers' rights policies, not just in the United States, but in the international sector, as well. Nations which deny basic human rights and labor rights and in fact abuse working men and women should not respect unrestricted access to the U.S. marketplace. We have a moral and social responsibility to do what we can to stop these abuses and insure basic worker protections.

I urge my colleagues to join me in voting for the conference report and to put our Nation back on the track to fair trade and truly free trade.

Mr. SOLARZ. Mr. Speaker, I wish to express my strong opposition to that portion of the conference report pertaining to the Toshiba-Kongsberg issue. In my view, this provision is excessively punitive and it almost certainly will not have the effect which its proponents predict—that of strengthening the export control regime.

With respect to Japan, the provision in question imposes mandatory, unwaivable sanctions both on the Toshiba Machine Co., which did sell propeller-milling equipment to the Soviet Union, and on the parent company, the Toshiba Corp., which was not a party to the diversion and had no knowledge of it.

These sanctions are questionable on three grounds:

First, they are grossly extraterritorial. They constitute U.S. Government punishment of a foreign company for its violation not of U.S. law, but of the laws of its own country.

Second, they are probably unconstitutional. To this Member, congressional imposition of these sanctions is tantamount to a bill of attainder.

Third, they are inconsistent to the principles of U.S. export control law. In an analogous situation in the United States—a diversion by an American company of which its parent company had no knowledge—the parent company would not be held liable for the crimes of its subsidiary.

I fear, therefore, that the governments and peoples of Japan and Norway will regard this action by the Congress as spiteful and high-handed, and unworthy of their principal friend and ally. And this reaction goes to the heart of my belief that this legislation is terrible public policy.

There is no question that Japan, the United States, and the rest of our allies have a vital interest in preventing the flow of sensitive technology to the Soviet bloc. In pursuit of that vital interest, the NATO countries and Japan long ago created Cocom, a voluntary, multilateral export control regime. Cocom works only if the member countries cooperate to stanch the flow of technology to the Soviet Union and to Eastern European countries. If the U.S. Government is dissatisfied with the cooperation provided by any of our allies, it should take vigorous steps through the proper channels to secure it.

Yet we must remember that all the member countries of Cocom are democracies. The integrity and effectiveness of the export regime, which is multilateral and voluntary, rests fundamentally on the support which it receives in each country for the Cocom system. If the people of any Cocom member-state come to the conclusion that the United States is attempting to run the export control regime in ways that are unilateral, punitive, and unfair, that country's support for Cocom will naturally decline. Should the United States later make positive and constructive appeals for a real improvement in Cocom, our entreaties will surely fall on deaf ears.

Threatening mandatory sanctions may have had the useful purpose of getting the attention of the countries concerned on the importance that the United States attaches to Cocom. Actually imposing those sanctions, and thereby offending our allies, will only undermine the export control regime.

Mr. SHUMWAY. Mr. Speaker, trade is clearly one of the most important issues that we will address in the 100th Congress. However, I have serious concerns about the way we are approaching this important issue. The omnibus trade bill, which is over 1,000 pages, incorporates the work of 14 House and 11 Senate committees. It seeks to address an incredibly broad range of issues from plant closings to the use of pesticides by foreign agricultural producers. There were almost 200 Members of the House and Senate who served as conferees on this bill. Extensive consultations resulted in some major improvements in the bill. However, in my view, the omnibus trade bill is still seriously flawed.

This bill restricts the President's authority, broad discretion, and flexibility in trade matters which are essential to achieve a negotiated settlement of bilateral disputes. The bill transfers from the President to the U.S. Trade Representative the authority to make determinations of whether foreign practices meet the unfair trade practices criteria in section 301 of the Trade Act. It also give the trade representative the authority to determine whether and what type of action is appropriate and to implement such action. Furthermore, the trade representative must take retaliatory action against foreign violations of trade agreements or other "unjustifiable" practices.

In my view, the authority to address serious trade disputes with foreign countries should rest with the President who is primarily responsible for negotiating with foreign countries under the Constitution. Also, the President is in a better position to assess U.S. interests as a whole, including foreign relations, national security, and domestic and international economic considerations.

I also have serious concerns about the plant closing and layoff provisions which require mandatory 60 day notification and provide substantial fines for noncompliance. This advance notification requirement incorrectly assumes that businesses can adequately predict fluctuations in the marketplace. It hinders the flexibility of U.S. businesses to adjust to sudden economic shifts and will make U.S. companies less competitive in the international maketplace by significantly increasing employment costs.

It is indeed ironic that instead of addressing one of the root causes of the current U.S. trade deficit, a national debt of over $2 trillion, the provisions of the trade bill would cost the taxpayers an additional $2.4 billion in new Federal expenditures. In fact it creates a new Government bureaucracy, the Council on Competitiveness, to the tune of $5 million a year.

Mr. Speaker, for these reasons and others I oppose the conference report on the omnibus trade bill.

Mr. DUNCAN. Mr. Speaker, I support the Omnibus Trade and Competitiveness Act of 1987. We have come a long way in trying to get meaningful and workable trade legislation, and I believe this conference report represents the best result obtainable.

It is not without flaws. It retains some questionable trade provisions, and it strays into some dangerous non-trade mine-fields, notably the plant closing language.

We are told that the President may very well veto the package (if it finally gets to his desk and it probably will), because of the plant closing provisions and some other troublesome sections. I can understand the President's concern, and if the expected veto comes, we will need to evaluate then the best possible course of action.

However, I am convinced that this trade package, warts and all, is too important to be lost in a struggle over components which really have nothing to do with the thrust of the legislation. Frankly, I suspect that its death would constitute the worst possible signal we could send to our trading partners throughout the free world.

We should bear in mind that this trade package is the product of more than 3 years of planning and constructive development on the part of the administration agencies engaged in trade work and the staffs of our committees which have jurisdiction over trade law. It is so complex and comprehensive that there are, inevitably, provisions in it that would offend at least one entity in our society. Conversely, there also is something in it for virtually everyone in the country to like.

I would like to make some points of clarification about some of the controversial provisions in the bill.

Some people reportedly fear that "Super 301" engages in unseemly "namecalling." This is not the case. It merely identifies trade liberalizing priorities, which obviously involve particular practices that inevitably must be addressed in the context of the foreign country which engages them. Every country around the globe has trade liberalizing priorities; this provision simply calls for the identification of ours.

"Super 301" is actually a limited provision. It simply calls for the identification, in only 2 years (1989 and 1990), of trade liberalizing priorities. I expect that, in all likelihood, this will involve as few as two such priorities, resulting in the self-initiation of two section 301 investigations in each of those 2 years. The more limited the number of Super 301 cases, all the more special, and therefore more likely, are the prospects for successful outcomes.

Also, in the "generic" provisions of this section, "denials of worker rights" are added as a possible unreasonable practice that is actionable under section 301 if it burdens or restricts United States commerce. In considering any petition about worker rights, the Trade Representative can be expected to consider carefully whether an investigation would be likely to advance the protection of worker rights abroad. In most cases, it seems unlikely that a U.S. investigation under section 301 reasonably could be expected to have a beneficial effect on worker rights practices abroad.

In addition, this bill calls for self-initiation of investigations of "priority" countries aimed at improving protection abroad of intellectual property rights and market access for products and services dependent on copyright and patent protection. However, this does not require a big number of such investigations. What is important is the quality rather than the quantity of efforts.

Finally, I would note that this bill nominally transfers authority from the President to the Trade Representative, for both determining whether a foreign government practice is unfair and acting under section 301. But under article II of the Constitution, all executive power is vested in the President, who is responsible for the faithful execution of the laws we legislate. No matter what we in the Congress do, the President retains the constitutional right to direct the actions of all those subordinates who work for and report to him.

As our chairman, DAN ROSTENKOWSKI, has said, everybody dislikes at least some part of the package, and perhaps that's the best indication that it represents really good legislation. It will force our trading partners to sit up and take notice, and to deal with us more fairly and equitably. It will enable the President, whoever he or she might be in the years immediately ahead, to negotiate for us in the Uruguay round of multilateral talks now underway in Geneva.

Also, the bill will allow us for the first time to implement a new harmonized system of tariff nomenclature. U.S. business has been at a serious disadvantage as far as exports are concerned, because most of our trading partners are using tariff systems that are closely alike yet are quite different from ours. It is U.S. business that has faced—and will continue to face if this legislation is not enacted into law—the greatest uncertainty as to how our products will be classified and what duties will be assessed on them throughout the world.

We are never going to get a perfect omnibus trade bill on the floor for a vote. Considering the widely differing interests engaged in trade, it is remarkable that a bill such as this could have been put together. DAN ROSTENKOWSKI deserves a lion's share of the credit for this achievement, and I want to express my admiration to him for that. I do not like to go against my President's wishes on the conference report, but in this case I feel the important trade policy issues justifie a yea vote.

Mr. JEFFORDS. Mr. Speaker, I am pleased to note that the conference report for H.R. 3 contains the job creation demonstration program authored by the Senator from Vermont, Mr. STAFFORD. The demonstration program authorizes the Secretary of Labor to provide grants to nonprofit community development corporations [CDC] which will in turn provide technical expertise and capital financing to promote private business ventures in communities with plant closings. This type of activity can prove to be beneficial especially in rural areas.

In my State of Vermont for example, Northern Community Investment Corp. [NCIC] has been involved in such efforts. NCIC works in the six northern counties of Vermont and New Hampshire. Its involvement has ranged over several community development projects, including the rescue of the shoe industry in Lisbon, NH.

A few years ago it was widely believed that the American shoe industry could not compete with imported products. An NCIC equity investment of $950,000 leveraged almost $2 million in private and public funds, enabling a closed shoe factory to reopen. The company initially hired 175 unemployed area residents when it reopened. Today it employs 275 people and has an annual payroll of $2.5 million.

The key ingredients in its success story are NCIC's financial and technical resources. Without its investment funds, and an ability to advise the new business in both securing other financing and in better marketing strategies, this project would not have gone forward.

To help finance these important projects NCIC has received a good deal of its funding over the years from the Office of Community Services of the Department of Health and Human Services. It is the intent of the conferees that under the provisions of this demonstration, the Department of Labor will utilize this expertise and work with the appropriate offices within the Department of Health and Human Services to design and fund these programs to assist communities hard hit by plant closings.

Mr. JONTZ. Mr. Speaker, I rise in support of the conference report on the trade bill (H.R. 3). Our Nation has gone from the world's largest creditor nation to the world's largest debtor nation in just a few short years. Economists now estimate that the United States owes $400 billion more to the rest of the world than we are owed by other countries—a figure which is greater than the total debt of the next three largest debtor nations; Canada, Brazil, and Mexico.

At home, we have seen the results of our Nation's failed trade policies. In my district alone, 30,000 manufacturing jobs have been lost since 1980. One out of every six Americans who were employed in the automobile industry has lost his job; a startling six our of ten Americans who were steelworkers are no longer employed in that industry. Thousands of other jobs have been lost in the textile, electronics, and other important segments of our economy.

Mr. Speaker, this trade bill is needed to make our Nation competitive again. This bill is needed to keep our basic industries strong, to keep good jobs in communities like Kokomo and Marion and Logansport, and restore our Nation to its rightful position in the world's economy.

In many ways, I believe H.R. 3 should be a stronger bill. I was disappointed when the Gephardt amendment, a results oriented provision, to address trade imbalances with our major trading partners, and the Bryant amendment, to provide us with basic information about foreign investment in our Nation, were removed from the bill. But even so, H.R. 3 is a very important piece of legislation for our economic future.

H.R. 3 is not a protectionist bill. Rather, it is based on the idea of reciprocity, requiring other countries to treat our goods in their markets the same way we treat theirs. It is designed to give our Nation the tools that are necessary to deal with unfair trade practices by other nations, to retrain our workers to make them more competitive, and to insure that foreign markets are open to the products of our farms and factories.

In particular, I would like to discuss key provisions in the bill relating to unfair trade practices, plant closing notification, worker retraining and education programs, sanctions against Toshiba for selling technology to the Soviets, and agricultural trade.

The conference report makes several improvements which strengthen existing laws to protect against foreign trade practices, and encourages the administration to take action against any unfair practices.

First, the report mandates that the administration identify countries using unfair and unjustifiable trade practices, but allows the President the discretion to waive mandatory retaliation under specific circumstances. This will ensure that there are no if's, and's or but's about which country is trading fairly and which is not.

Second, the agreement requires that the President prioritizes these unfair trade practices, which will enable us to target unfair traders, initiate investigations, and seek agreements with the offending country to eliminate the unfair practices over a 3-year period. While this provision is weaker than the Gephardt amendment it is still an improvement to existing law which will help to reduce the incidents of excessive and unwarranted unfair trade practices.

Third, the report expands the definition of unfair trade practices to include export targeting, the practice of a foreign government concentrating its exports specifically onto a particular U.S. industry. The new definition of unfair trade practice will also take into account a country's denial of worker's rights, so that we can act against countries which deny their workers basic employee protections. The administration would have the authority to retaliate against these practices.

And last, the report gives the U.S. Trade Representative [USTR] the authority to decide whether a foreign practice is unfair under our current law, and to take actions against the offending nation. The President has had that authority, yet has been reluctant to use it. By giving the USTR this authority, I think we put the tools in the hands of the individual best qualified to act on trade matters. While I hope the USTR will use this power wisely, I hope more that it will simply be used.

With regard to plant closings, the report contains important protections for communities and workers. It assures people that any business employing 100 or more workers give at least a 60-day advance notice of plant closing that would result in a job loss of 50 or more employees. It also requires the same amount of notice for layoffs that run more than 6 months and affect more than a third of the work force at a plant. Yes, there are exemptions for unforeseen circumstances, but the fact remains that the bill finally gives workers the courtesy of at least knowing if they will be out of a job.

On worker retraining and education, the agreement is sound. We know that some presently employed workers are going to be out of a job, due to circumstances beyond their control. It is only fair that we make it a priority to get these people into training programs. The agreement strengthens and expands the Trade Adjustment Assistance [TAA] Program and increases its emphasis on training. It provides for payment for training to any worker who meets a specified set of qualifications—the program is capped at $80 million, however.

On the matter of Toshiba, Mr. Speaker, we place tough sanctions on that company and its subsidiary Kongsberg for violating the agreement not to sell certain high technology to the Soviets. We require that no goods from Kongsberg be sold in the United States for 3 years, and that the U.S. Government not purchase any Toshiba products for the same amount of time.

I think it is disgraceful that these companies violated the trust of the United States and sold technology which will enable the Soviets to produce quiet submarines. The noise that Soviet subs now produce is critical to our Navy in tracking those Soviet subs. Any company that undermines U.S. national security must understand clearly that the American people will not stand for it.

Finally, the agreement extends for 2 years the Export Enhancement Program which increases agricultural exports by lowering the price of the commodity. This is of benefit to our farmers by helping to level the playing field on agriculture exports. As long as our trading partners continue to subsidize their agricultural commodities, the United States cannot compete on an equal basis.

The agreement also requires the U.S. Department of Agriculture [USDA] to implement a marketing loan for soybeans, wheat and feed grains to combat unfair agriculture trading, unless significant progress is made at the General Agreement on Tariffs and Trade [GATT] by 1990.

In conclusion, I want to urge my colleagues to support the trade bill with all of these important provisions. This is legislation that has been well crafted over a long period of time and I believe that it deserves support. Mr. Speaker, we have lost hundreds of thousands of jobs in this country due to the fact that we have a weak trade policy. This bill addresses that problem. It sends a message to the world that the United States is serious about its trade policy, and that we are not willing to sit by and let foreign competition unfairly take jobs away from our workers.

We need this trade bill and I urge my colleagues to support the conference report.

CALL OF THE HOUSE

Mr. DONNELLEY. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 64]

ANSWERED "PRESENT"—394

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Atkins
AuCoin
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clement
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz

Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shumway
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (FL)

☐ 1516

The **SPEAKER** pro tempore. On this rollcall, 394 Members have recorded their presence by electronic device, a quorum.

Under the rule, further proceedings under the call are dispensed with.

CONFERENCE REPORT ON H.R. 3, TRADE AND INTERNATIONAL ECONOMIC POLICY REFORM ACT OF 1987

Mr. **FRENZEL**. Mr. Speaker, I yield 10 minutes to the distinguished vice chairman of the Subcommittee on Trade of the Committee on Ways and Means, the gentleman from Illinois [Mr. CRANE].

Mr. **DeLAY**. Mr. Speaker, will the gentleman yield?

Mr. **CRANE**. I yield to the gentleman from Texas.

Mr. **DeLAY**. Mr. Speaker, I rise in opposition to this bill.

Mr. Speaker, I am amazed at the arrogance of the House of Representatives. Do my colleagues think that they possess the expertise and wherewithal to simply write legislation to dictate the guidelines in which industry is entitled to function? That is precisely what we have seen on the floor today.

No matter how many times my colleagues attempt to defend their behavior by claiming that this bill will not hurt our competitiveness, the facts remain very clear. A vote in favor of H.R. 3 is a vote against our Nation's competitiveness. No flurry of words and rhetoric can mask that fact.

This bill does contain some worthy points, such as the repeal of the windfall profit tax. However, the detrimental provisions effectively negate the possible benefits of this bill. As long as the "bad" remains, the "good" cannot prosper.

Let me take a moment to review several of the anticompetitive provisions in this bill. Section 301 and super 301 come immediately to my mind. Section 301 transfers the authority to initiate cases from the President's office to the United States Trade Representative [USTR]. In addition to the transfer of authority, it mandates required action by the USTR in cases involving foreign violations of trade agreements and other "unjustifiable" acts. The action taken must be equivalent in value to the unfair practice it addresses and must be complete enough to eliminate it.8

The USTR will be forced to initiate cases, make determinations under a fixed deadline, and automatically retaliate. By removing jurisdiction from the President's office and to the USTR, the USTR would be subject to extensive congressional and special interest pressures, giving him less flexibility. No individual agency, however competent, is as well-equipped to weigh the overall national interest of a trade case as the President himself. In an area where flexibility is of crucial importance, these changes would impose detrimental mechanical rigidity. This would be extremely anticompetitive.

How can we possibly justify setting up a "retaliation assembly line?" When the USTR is required to retaliate, other nations will logically respond with mirror legislation. In trying to punish other nations, we only cripple ourselves. Counter-retaliations are worse for American business than the original so-called unfair practices. How can this be beneficial to our business sector and enhance our competitiveness?

An additional anticompetitive provision in this bill requires mandatory notification of plant closings and/or layoffs. This anticompetitive regulation will deteriorate the ability of America's industry to compete in world markets. By requiring employers to provide 60 days notice of plant closings and layoffs, this provision ties employers hands so that immediate decisionmaking in a fluctuating market is impossible. In the long run, this legislation will damage the economy by instituting excessive regulations, making the costs of American industrial production prohibitive in an international market.

Mandatory notification of plant closings would legislate the same labor market rigidities that have stifled job growth in Western Europe. Imposing restrictions on the ability of business to react to changing economic conditions will impede the ability of the economy to grow and create jobs. The French chemical industry and its unions recently agreed to reduce their notice period from 180 days to 80 days in order to stimulate business growth. In contrast, liberals in our Congress are moving in precisely the opposite direction, one of stagnating growth.

This anticompetitive provision will force business decisions to be made on the basis of Government regulations rather than economic considerations. I submit that business executives with knowledge and experience in their particular field of production are imminently more qualified to decide when to announce a plant closing than is the Government.

Mandatory notification will impede business' ability to phase out antiquated products and production techniques. Delaying necessary change does not help workers, it simply leads to additional layoffs and weakens the competitive positions of the employing companies.

This provision will make it significantly harder for companies to respond to changes in consumer demand, economic realities, and competitive conditions. Unfortunately, employers usually are not given 60 days notice of changes in competitive conditions. For example, the Government doesn't announce monetary policy 60 days in advance of changes.

Notices of plant closings could prevent businesses from pursuing alternatives that would allow them to stay in business. This provision forecloses many such alternatives because, as soon as the closing or layoff is announced, creditors, suppliers, insurers, and customers are likely to withdraw support. Thus, instead of facilitating worker readjustment, the mandatory advance notice requirement would lead to additional closings and layoffs.

Finally, we live in an era of multinational production. This costly regulation will lead to an increase in investment in foreign countries. We can already see Ford, General Motors, and others producing products for sale in America in other countries. They do because the cost of production in America is simply too high. Why increase it with additional Government intrusions into business management. Restrictions on plant closings are really restrictions on plant openings. We may not have to worry about layoffs if our companies simply open plants elsewhere.

Make no mistake about it—this bill is seriously flawed with anticompetitive provisions. Vote for America's competitive future by voting against H.R. 3.

Mr. **BEREUTER**. Mr. Speaker, will the gentleman yield?

Mr. **CRANE**. I yield to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I rise in strong support of the conference report on the omnibus trade bill and urge my colleagues to vote for it.

In the history of the United States, few legislative bills can compare with this bill in sheer size, complexity, and the number of committees, Members and subconferences which were involved. Like any legislation of this size or magnitude, nearly every Member will regard it as slightly less than perfect.

While I do not necessarily support every provision in this trade bill, it is generally good legislation which we should enact, and the results of which we should continue to monitor closely. Undoubtedly, this trade bill will need technical corrections at some point in the future. For now, however, we need to move forward and pass this legislation.

Over 2 years ago, this body began work on an omnibus trade bill. The need for new trade legislation was obvious. Since World War II, administrations—both Democrat and Republican—relegated trade issues to the sidelines as other foreign policy, national security, political, or economic considerations were always, routinely given priority and pushed to the forefront. The effect of unfair trade practices of competitor nations, or major market nations, upon American businesses, agriculture, and labor went unattended.

However, the failure to squarely address our trade problems cannot be solely attributed to this or previous administrations. Congress must also share in this failure because the ultimate repsonsibility for trade policy rests with Congress under article I of the Constitution.

Since World War II, the economies and production capabilities of Europe, Japan, and dozens of developing countries around the world now challenge the United States' preeminent position as the leading economic power of the world. For 40 years, the United States has helped virtually every country on this planet to rebuild and strengthen their economies. We have benefited as have all the people of the world. However, the United States can no longer be a one-way market for the rest of the world. We can no longer absorb the production of the world, while our own farmers, businesses, and factory workers do not have access to foreign markets.

The time is now to give U.S. trade policy, trade issues, and unfair trade practices of foreign countries our highest priority. The diffused authority and responsibilities on trade issues which currently is scattered among several Federal departments and agencies needs to be more centralized and strengthened under the USTR. This bill strengthens, to some degree, the hand of the U.S. Special Trade Representative in forging U.S. trade policy and fighting the unfair trade practices of foreign countries, although the change in that direction is less than it should be. It will enable the USTR to be more responsive to trade problems, and slightly less overpowered by the foreign policy, political or economic considerations which too frequently in the past have been raised by other departments of the Federal Government. The USTR and Commerce nearly always lost the intra-government battles to the State Department and the National Security Council during the seventies and the first half of the 1980's.

There are many positive provisions in this bill including:

Let's look first at a few of these reasons why this bill is very much a strongly proagriculture and proagricultural trade bill. Consider these points:

First. Strengthens the hands of the USTR in fighting unfair trade practices, and in the current GAAT negotiations.

Second. It establishes an adjusting long-term agricultural production, marketing and trade strategy (1, 5, 10 years) which is needed.

Third. It increases the funding for the EEP which has been very successful in recapturing lost foreign markets.

Fourth. It threatens our competitors who cheat and subsidize with a market loan program and it does this through wheat, feed grains, and soybeans unless we reach a multilateral agreement at GATT.

Fifth. It expands the Targeted Export Assistance Program which will help agriculture trade organizations open up and expand new markets.

Sixth. It expands and elevates the size, role and importance of the USDA Foreign Agriculture Service overseas a step which is obviously promarket development.

Seventh. It sends a very clear message to the Japanese and Koreans that the United States will no longer accept their barriers to our beef and citrus products.

Eighth. And it establishes an Office of Barter to monitor and exploit international barter opportunities—a step long needed.

Here are a few of the other provisions that are very positive for American trade, jobs, and economic growth:

A renewed and unencumbered negotiating authority for the President to reduce trade barriers with other countries, along with provisions for fast-track congressional approval of those agreements once they are concluded.

A strengthened 301 process which will expedite action against countries engaged in unfair trade practices.

A step toward mandatory retaliation against violations of trade agreements, with plenty of waiver possibilities.

Modifications of the section 201 process to encourage efforts by domestic industries to undertake actions to make a positive adjustment to import competition.

Long-term agricultural trade strategy planning, along with incentives that will enhance the competitiveness of U.S. agricultural commodities and products, and open new foreign markets.

Also included are standby powers that would implement marketing loan programs for wheat, feed grains and soybeans, and an expanded Export Enhancement Program. These provisions will strengthen the hand of the United States in the current GATT round.

Streamlined export control procedures.

Strengthened intellectual property rights protection.

Focused discretion in providing relief from fairly traded imports.

Enhanced telecommunications market access procedures;

Clarification and pragmatic adjustment of the Foreign Corrupt Practices Act;

Allocation of $980 million for dislocated worker assistance, including dislocated farmers and ranchers.

In general, this bill is a protrade, proexport trade bill which is good for our country. Some groups have made an issue of the plant closing provisions in this bill. I would ask that you examine and weigh the plant closing provision in proportion to all the provisions in this trade bill. Even if you oppose plant closing requirements, the benefits of this trade bill far outweigh any requirement which may be imposed upon businesses to notify their workers of a plant closing or layoff. Also, it is important to read the amended provisions and not simply rely on the accuracy of negotiation rhetoric.

The administration has indicated that it may veto this bill if the plant closing provision is not removed from the conference report. I would implore the President to sign this bill. However, it is time for both Republicans and Democrats to put political partisanship and maneuvering aside and pass this bill.

This Member intends to support H.R. 3, and if necessary, I will vote to override a veto. It has taken Congress over 2 years to craft this trade bill. While many in this House have been critical of the administration for not taking a tougher stand on trade issues, the Special Trade Representative, Clayton Yeutter, in the last 3 years has been much more aggressive and successful in assuring fair trade opportunities for Americans. The USTR needs a stronger mandate and the increased flexibility and clout which this legislation provides.

If we fail to pass this trade bill, with or without a plant closing provision, then Congress will have abrogated its responsibility for the trade policy and laws of this Nation. It will send a very unfortunate message to those nations that have been the most active in pursuing unfair trade practices against us.

We have needed a trade bill for years. Now is the time to vote for it.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, in every bill we consider, we are asked to weigh the positive and negative aspects, decide if, on balance, it is acceptable. With regards to the omnibus trade bill, there are certainly elements that deserve support. However, it's loaded with too many unacceptable provisions for me to support in its current form.

Yet there are certain elements I have and will continue to support. Repeal of the windfall profit tax is a top priority for me. This tax raises little if any revenue because the market price for oil has been below the threshold price for the windfall profit tax. The high adminstrative costs of the tax are excessive, counterproductive, and unjustified. I always disagreed with the need for the tax because the market will eliminate long-term profits, and the present oil bust after the boom proves this.

The improved negotiating procedures in H.R. 3 are certainly progress. These would renew the President's negotiating authority, institute better 301 mandatory retaliation procedures against trade agreement violators, streamline export control procedures, and strengthen intellectual property rights. These are provisions which will help promote, protect, and strengthen exporters.

But, overall, this in not a good trade bill, especially since it includes the mandatory notification of business or plant closings. Besides shackling businesses and inhibiting necessary change, this provision will also shut down marginal firms. If a company is in trouble and has to consider the possibility of closing, a notification would ensure that a short term illness becomes fatal. Customers, suppliers, creditors, and interested investors would all be scared away.

Mandatory notification is just the first step in creating broader restrictions against layoffs. Proponents claim that is their ultimate goal. Everyone understands the pain of losing a job and business should do all they can to help workers adjust. But keeping old, inefficient plants open only discourages the construction of newer, more efficient facilities. European and Latin American countries pay massive subsidies to keep their old plants open and, as a result, these countries have feeble economies and little job creation.

I know supporters of this bill insist it is responsible trade legislation. They say that dropping the foreign investment disclosure section and modifying the mandatory retaliation provisions makes this an acceptable bill. It does make it a better bill, but far, far from perfect.

As the Council of Economic Advisers has indicated, this bill will increase the number of cases brought against foreign competitors, rearrange legal definitions and structures to increase the likelihood of finding injury once a case is brought, and increases the likelihood and magnitude of protection once a case is brought.

Finally, we are setting ourselves up for another "morning after" surprise. That last time we had 1,000-plus page bill will little time to review it was the bloated spending bill last year. We are all too familiar with the numerous pork barrel projects hidden in there. This bill could be just as bad, if not worse.

Mr. Speaker, America must respond to international challenges brought by increased global economic interaction. This increasing integration of the world economy has generated benefits for consumers, profits for producers, and jobs for workers. But it has also created tremendous change at an amazing pace. With that change comes painful, but necessary adjustments. This bill—its planting closing provisions and other features—stymie our ability to meet this new challenge.

More than any other country, America's imagination, determination, and experience will handle inevitable changes better than any other country. But we must help, rather than hinder, the ability of American businesses, workers, and investors to adjust. As the leader of free market democracies, we must lead by example, an example of open markets.

As I said before, this bill has some good provisions. But, on balance the negatives outweigh the positives. We need good trade legislation—legislation that helps our businesses compete, that keeps markets open, and that promotes American exports. Unfortunately, in its present form, this is not that legislation.

Mr. CRANE. Mr. Speaker, today I rise in strong opposition to H.R. 3. This bill, which took a committee of 200 Members more than 3 years to amass, is as bad as the extraordinary process by which it was created. There are individual provisions such as those written for lamb, semiconductors, and steel with which I am sure many of us are familiar. But none of us, I am afraid knows the sum total of what is in this legislative behemoth.

Unfortunately, you cannot write a trade bill by announcing a theme and having each committee in the Congress try its hand at writing a chapter. All the President wanted was a minimal amount of negotiating power for the future trade conferences with other industrialized nations. It's as if the Speaker declared, "Bring me your flawed and weak provisions that cannot stand alone" and we delivered to him a flawed package marred by measures so protectionist that one cannot help but think of the days of Smoot-Hawley. If the President gets a new round of trade talks via this bill, it will come at the cost of international economic stability.

The resulting creature, with its ugly appendages such as plant closings, Buy America amendments, shipping provisions and expansion of agriculture marketing loans, is poised to strike out at the international trading system. Flipping through the pages—which is difficult to do, because, after 3 years, we fail to have a printed copy available—there are innumerable provisions which should cause this bill to be defeated.

The protectionism in this bill, while possibly more sophisticated and convoluted that the Smoot-Hawley bill, is not any less dangerous. The best example of the obscure language here is in the so-called super 301 provision which orginated in the Senate as a substitute for the Gephardt amendment. An elaborate mechanism for developing laundry lists of crimes, and carefully drafted to exempt our own unfair trade practices, this section makes interesting reading. By matching up "trade liberalization priorities" and unfair practices with countries labeled as villains, broadscale sets of demands on our trading partners are triggered.

In my view, super 301 is too contrary to principles of sound trade policy to be anything but dangerous. If we confront our trading partners with long lists of demands, unilateral definitions of what is unfair, and accelerated time limits associated with threats to close our market, all that will be achieved will be harm to our exporters and serious reductions in world trade. If it were reversed, how would this country respond to a procedure such as super 301?

The 301 actions demanded by this bill are mandatory with respect to the initiation of certain cases as well as retaliation. The proponents of the 301 changes argue that the USTR would not have to act in "extraordinary cases, where action would have an adverse impact on the U.S. economy substantially out of proportion to the benefits of action, taking into account the impact of not acting on the credibility of section 301."

As much as our international trading relationships are a problem at the present time, a decision to retaliate against a certain country should only be made on a case-by-case basis by the President. Only he possesses the knowledge and moral obligation to take into account the country's interests as a whole. Turning USTR into a hired gun with orders to shoot irrespective of broader national concerns does not make the world safer for anyone, least of all our exporters. A vote for such a set of amendments is a vote squarely against the interests of the American people.

As quickly as some companies and sectors will feel relief from foreign competition under this bill, American companies who have been working the international marketplace, will feel the pain of being shut out of the markets they have spent so much effort developing. We must remember that our trading partners can be just as consummate as we have been in reworking definitions of unfair practices in ways that will protect their domestic industries.

The monstrosity that is the trade deficit, which this bill is aimed at, is not attributable to unfair foreign trade practices. The real causes are over consumption, our low savings rate, and the debilitating fiscal deficit. Yet, in the same bill in which we rail against the trade deficit, we exacerbate its causes by further expanding the budget deficit with $6.1 billion in new spending over the next 6 years.

Such recklessness cannot be tolerated. We must rise above the propensity to enact quick-fix political solutions and take it upon ourselves to find real solutions to the problems which face this Nation.

Moreover, worker retraining is an area where the procedures used to assemble this bill failed acutely. The Worker Readjustment Program and the Trade Adjustment Assistance Program duplicate each other in their goals but still remained in the final form of the bill. Consolidating these proposals proved impossible despite the efforts of the administration. Unfortunately the Education and Labor Committee and Ways and Means both wanted their own programs in the bill. Of course, neither one would sacrifice their initiatives so now the bill contains two programs which do essentially the same thing.

The discussions on TAA also revealed some underlying partisanship that has ultimately surfaced more acutely over the plant closing provisions. Even subconference No. 1 was not immune. Democratic Members were allowed to make substantive changes in the conference agreement until as late as last night. Republican objections were disregarded along with normal procedures governing conference reports.

Also with respect to TAA, I should remind my colleagues, there is a mechanism for funding the program through an across the board tariff agreed to in GATT. The bill directs the President to go off and negotiate this in GATT before benefits to secondary and supplier workers kick in. Will our trading partners such as the Europeans agree? In my view, they will jump at the chance to support their unemployed workers through a tax on U.S. exports. After all, their unemployment levels tend to be quite higher than our own.

We should not forget the special interest provisions throughout this bill, but I will focus on the trade law provisions in subconference No. 1. Yes, even the trade provisions are rife with such problems. The most glaring of these unacceptable provisions, in my view, is targeting, workers rights defined as unfair trade practices, special quota provisions for steel—once again!—downstream monitoring provisions that are a costly burden to the Department of Commerce, and special fast-track procedures for telecommunications and intellectual property rights even though other sections have trade problems that are just as serious.

Of course, the unacceptable nontrade provisions have been clearly stated by the administration. They include plant closings, export controls on refined oil, the friends of industrial policy provision euphemistically called the Council on Competitiveness, expensive agricultural marketing loans, the creation of an international debt facility within the World Bank, the ban against certain foreign primary dealers operating in the Federal Reserve system, overly stiff sanctions against Toshiba Corp. whose subsidiary, Toshiba Machines, violated Cocom rules and was punished under Japanese law, and last but not least the more than $6 billion price tag attached to this bill.

Although Democrats have chosen to make a political issue of the plant closings provisions, it should be clear by now that the President has a much broader list of objections upon which his veto is based. My own view is that the trade provisions are equally unacceptable.

Important trade policy provisions such as negotiating authority, Harmonized System implementation and general congressional commitment to the Caribbean Basin have been sandbagged because Democrats want a political exercise and have been unable to escape the millstone of special interests. It is a great loss to the national interest.

This statement would be incomplete if I did not express my strong abhorrence to the plant closing provision. This measure, which is counterproductive to our competitiveness and trade expansion, has no business being in the trade bill.

Important trade policy objectives should not be the casualties of overzealous protectionism and special interests. All extraneous provisions should be jettisoned. I urge my colleagues to defeat H.R. 3 so we can try again.

□ 1530

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. ROSTENKOWSKI. Mr. Speaker, this conference report represents the best efforts of the largest, longest, and most complex conference in my congressional career. In a few minutes, the Members of the House will decide if our efforts are worthy of their support. Whatever the outcome, I want to say that it was an honor to chair the conference and I want to thank the conferees for their hard work and their patience.

We face a serious challenge as a nation—our challenge is to participate in a world economy that has grown more competitive and more complex. Our success in meeting this challenge will be determined, in large part, by our ability to develop and implement a strong and coherent trade policy.

For too many years, the United States has been without such a policy. The years of inattention have finally caught up with us, and now we face a steady decline in our share of world markets. The result has been the loss of American jobs and a growing dependence on foreign investment.

Today, we can begin the reversal of this alarming trend by approving the most comprehensive trade bill ever considered in the Congress. This legislation is the result of a 3-year, bipartisan effort to open foreign markets, promote exports, centralize our trade decisionmaking process, and assist U.S. workers.

This legislation establishes a U.S. trade policy that the world can both understand and respect. It says that America will be a strong leader for open markets, fairness, and stability. Some of our trading partners would prefer business as usual. But most recognize that American leadership in assuring free trade is vital. I recently visited Geneva and talked to trade ministers from several nations. They all said, that if the United States can forge a strong, unified position on trade the world will be better off. But if we fail, if our policies are allowed to drift aimlessly amid partisan wrangling, the world will continue its slow descent into protectionism.

You have heard many of our colleagues take their best shots at this bill today. Some have argued that the conferees took all the teeth out of the bill. "We need to bash those foreigners, and stop imports," they argue. Others wring their hands and say, "oh my, this bill is too tough. It ties the President's hands." I think that means we did our job well. When the special interests on both sides of an issue are unhappy. I know we did something right.

The fact is, the clear thinkers won in this conference. We surprised the editorial writers. We surprised our trading partners and we surprised the administration. We have strengthened our trade laws without resorting to protectionist measures.

At the beginning of this process, the issue of trade was ripe for exploitation. The conferees had a fundamental choice to make. We had to decide between politics and policy. We made the right decision. Rather than create a political football, we crafted good law. And that's what trade policy should be all about.

What's at stake here is not the next election but the future of the world economy. This conference report is a signal that we are going to stop playing politics with this issue and start dealing with the facts. The world is changing. We're part of a global market and there's no going back to the days of economic self-sufficiency. We need trade.

Our responsibility in world trade is more than the need to defend our own economic interests. We are the only nation with enough economic power and credibility to enforce the concept of fair play in world commerce. Without our leadership, world trade will turn into a free-for-all.

So, this conference report establishes clear principles and themes for our trade policymakers:

For the first time, we mandate that the executive branch take a firm stance against foreign trade barriers that violate trade agreements.

For the first time, we create a systematic approach to be followed when countries consistently engage in abusive behavior.

For the first time, we create a trade policy official in the President's cabinet with real powers to negotiate and act on all trade matters.

For the first time, we integrate our trade policies with overall adjustment strategies to help retrain our workers and retool our industries.

I know some critics believe that we gave the administration too much wiggle room. But every waiver in the bill is carefully crafted and limited in scope. I realize that any waiver can be abused by a neglectful President. But the fact is, only the executive branch can put together a cohesive day-to-day trade policy.

If the American people want action, they must elect a President who will carry out the mandate set forth in this legislation. Congress cannot dictate the outcome of every case. But we can assure that the trade policy decisions of any administration will receive the public scrutiny they deserve. This legislation does not tie the President's hands. But it does require the President to explain his actions. No President should be afraid of such a requirement.

The omnibus trade bill is a good bill. It represents a fundamental restructuring of trade policy. Yet it avoids the siren song of protectionism. In the final analysis, this conference report represents not so much a warning to the world, but a challenge. It says that if others open their markets they will find the United States to be a good ally and willing trade partner. At the same time, it says that the days of a do-nothing America are over. We are going to push harder for export markets than ever before.

This conference report also represents a challenge to American business. You have pushed us for 3 years to do more about foreign trade barriers. If we succeed, you better be ready with a quality product. If not, then don't come back to us asking for more. Consumers deserve the best products at the lowest prices, and American business had better be ready to compete on those terms.

In closing, I want to emphasize how important it is for us to achieve a national consensus on the issue of trade. If we can't speak with one voice at the water's edge, we are going to find ourselves losers to those countries who are better organized and more united.

If this conference report fails, the real winners will be those countries that want the United States to remain a paper tiger on trade issues. We have no choice but to work out our differences and produce a tough, but fair, trade policy. I hope that in the coming days the President, Congress, business, and labor will recognize the terrible price the Nation will pay if this effort fails. The country deserves better than to have this bill die in a crossfire of competing interest groups.

Mr. Speaker, I think the Members of this body should not only support this measure, they should be proud of it. This 3-year effort has been almost exclusively a congressional initiative. In spite of all the skeptics who said it couldn't be done, the legislative process has produced a trade policy worthy of the world's respect.

Mr. Speaker, we have a rare opportunity today. We will never have a better chance or a better bill to implement a strong and sensible trade policy. I urge my colleagues to support the conference report and I urge the President to sign the bill when it reaches his desk.

□ 1540

Mr. FRENZEL. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 10 minutes to the distinguished gentleman from Texas [Mr. Wright], the Speaker of the House of Representatives.

Mr. WRIGHT. Mr. Speaker, this may be the most important vote we cast this year.

Last year the United States suffered the biggest, most devastating trade deficit that has ever beset any nation in the history of the human race. Our trade deficit was $171 billion, and so far this year the figures show that it may be growing even larger.

The problem is not improving. It will not cure itself, it will not yield to lackadaisical effort such as manipulating the value of the dollar downward. That only results in a lower standard of living for the United States and has not improved the trade deficit.

In fact, last year for the first time some of those items which we always had held as our prize products fell into deficit. For a great many years now, we have been in deficit on many of our older, more standard products, such as steel and automobiles. But last year our high-tech information industry fell into deficit, such things as computers, business machines, telecommunications equipment. Those are in deficit too.

What does this mean to the average American? For the average American family I think it means that they have lost last year somewhat in the vicinity of $2,700 in the trade that we give to other countries over and above those things that other countries purchase from us. It is that much of a decline in our standard of living.

Just as we have seen the disruption and erosion of our American industrial base, as plants have closed and employers have moved those plants overseas to produce the same thing, this has led to a decline in the wages that are paid to industrial workers. Today the average industrial worker receives 25 percent less than his counterpart in West Germany. Ours is no longer the best paid industrial work force.

Last year for the first time ever, our per capita gross national product slipped from first place among the industrial nations—a position which it had enjoyed for as long as any of us can remember—to third place. We are no longer even in second place in per capita gross national product in the United States.

Is this not a problem that those of us in Congress need to be concerned about? Should it not occupy our best thoughts? Does it not deserve our most urgent attention? Of course it does.

As the gentleman from Illinois [Mr. Rostenkowski], chairman of the committee has pointed out, this bill is a comprehensive response to a very complex problem. It is the result of more than 3 years of intense, arduous, careful work on the part of Democrats and Republicans on 13 different committees of the House. Fully 90 percent of the provisions in this bill—creative, constructive and responsible provisions—were approved unanimously by bipartisan memberships on the committees that wrote those provisions. So this is a bipartisan bill.

I hope Members will support this bill. We have come now to the end of a long journey. This is the product of much work, and yet it can be summed up I think in three words. It provides the rules and the tools and the schools to restore the United States to its rightful position at the zenith of world competition. It makes us competitive in the world again.

First, it provides the rules. From the 1930's on, we have been a nation that has tried to encourage all other nations of the world to open up the arteries of trade so that we could have fresh and free exchange.

Then as World War II ended, we saw throughout the world a lot of underdeveloped countries struggling to create their own indigenous industries. We wanted to encourage that. So we opened our arms and our shores to their products, and we looked the other way, truthfully, when they systematically began to close their shores and their plants to our American-made products.

Those days did not hurt us very much. We thought that if other countries provided an umbrella of protection over their domestic, infant insudtries, it would serve our national purpose because it would make them less vulnerable to the blandishments of communism and other isms. Indeed, that probably was in our interest in those days.

But my friends, those times have passed. Now those underdeveloped countries are highly developed countries and they are selling enormous amounts of their products on our markets at prices cheaper than those products command on their own markets at home. So they have stolen markets from us and we have sat by idly and done nothing about it.

This is not a protectionist bill. It provides reciprocal rules and it simply says to any country that wants to trade with the United States that it must treat our products on their markets just exactly the same way we treat their products on our markets—no better, no worse. That is not protectionism. That is reciprocity.

Second, it provides the tools to upgrade the quality of America's workmanship. It encourages investment in those things that modernize our aging industrial plants and machinery so that "Made in the U.S.A." once again can be a badge of quality and value throughout the world.

This bill provides tools to help increase investment in those things that are sold abroad. It provides help in marketing American goods abroad. It provides financing for American manufacturers who want to sell abroad. It provides a mode of assistance for small industries in the United States to show them how they can convert new discoveries, new inventions, and new technology into marketable services and marketable goods to be sold on the world economy.

Finally, it helps us to provide the schools that will upgrade the quality of America's work force so that once again we will be No. 1. Unfortunately, we are not now—and that has been due to our negligence, a negligence that we cannot afford to continue.

Last year we graduated from American colleges and universities some 54,000 young Americans with degrees in mathematics, engineering, and science. Japan, with just half our population, was graduating 77,000, half again more than we did. We ignore education and we wonder why we fall behind in trade.

Or consider this fact: The Japanese have in the United States today some 10,000 business representatives actively promoting and selling Japanese goods on American markets. All of the 10,000 speak excellent English. We, by comparison, have only about 500 representatives of American companies on Japanese soil trying to sell goods produced by Americans, and hardly any of those 500 speak any Japanese at all.

Or think about this: The average age of a journeyman machinist in the United States today is 55 years. The average journeyman tool and die maker in the United States is 57 years of age. We have not been replenishing our pool of qualified, skilled, trained workmen. So this bill provides training and it provides job retraining for those who are thrown out of work because of plant closures.

Plant closures, unfortunately, provides the bone of contention on which all of the controversy seems to rest today. Almost everything else has been resolved. There is in this bill a plant closing provision which, as I understand it, will be the subject of a motion to recommit, to take it out.

To whom does it apply? It applies to no more than 5 percent of American companies, and perhaps less than that, maybe as low as 2 percent. A very small percent of the industrial companies in this country would be subject to its provisions.

What does it require of them? It simply requires that if the management knows that they are going to close that plant and throw hundreds of American workers out of jobs and into the emotional and economic turmoil of sudden unemployment—many of them in midlife, many of them just getting ready to send their kids to college—that management must give their workers 60 days notice.

If the company is not privy to the information that it will have to close, if it is not the plan that is made consciously by the board of directors or by the management of that company, then the plant is exempt from this provision.

But where the board of directors deliberately plans to close a factory and throw hundreds of Americans out of work, the provision says that the company ought to give the workers notice so that they can try to get their lives together, so that they can try to bridge the terrible chasm in their lives that is about to occur, and so that they can get retraining.

Is that not simple fairness? Let me just ask each of my colleagues, if our livelihood were about to be terminated in 60 days, would we not want to know about it?

☐ 1555

Do you not think you would be entitled to know it? If those who were getting ready to terminate your source of living for you and your family knew about this themselves, should they not tell you? Should they not give you a chance to rearrange your life and try to get something else?

Well, of course. I think any of us if he is honest would have to answer yes—we would like to be able to have that kind of notice.

Unfortunately, the GAO reports that this is not the case with those companies which do not have union contracts that require notice.

Many companies do give notice. Many of them do the responsible thing. And I want to compliment and congratulate the industrial citizenship of those managers and owners of plants that have on their own undertaken to do the right thing and the decent thing and the socially responsible thing by notifying the community and notifying their employees who have been so faithful and loyal to them.

Some companies do not give notice, however. Do you know what the average notice is that is given to the nonunionized blue collar worker? On average he gets 2 days, only 2 days' notice.

Now see what can happens when a responsible company does the right thing and lets the community know about it. There was a U.S. steel plant—I think they now call it the U.S.X. Corp.—in the State of Utah where it was marginally profitable but not sufficiently profitable to justify its continuance from the vantage point of the managers or of the board of directors of the company.

That plant did give notice. The community valued that plant sufficiently that it arranged for the plant to be purchased and owned locally by local interests. And it is still operating. It is operating successfully, even though its margin of profit is a relatively low one. It is valuable to that community, and it is eminently valuable to the families of the employees who work there.

This can happen in your community too. Would you not like to know in advance so that you could try to do something about it if a plant were getting ready to close in your community and set up a similar plant somewhere overseas in another country to take advantage of the low wage scales? Well, of course you would.

In fact, most civilized countries do require this. Canada has a law requiring it. They do not seem to be suffering.

Japan has a law that requires this advance notification. They seem to be doing very well in world trade.

West Germany has such a law. West Germany does not seem to be suffering in world trade because of their law that requires advance notification.

This is the minimum we can do. So I appeal to you. Think about it from the standpoint of what you would like to have happen to you if you were one of those workers in the work place. Think about what you would like to have happen in your community if some big company were getting ready to close out a plant in your community without notice. You would like to have a chance to try to keep it there. Of course all of us would.

So I appeal to you on the basis of that, on the basis of all that has been done in a bipartisan way—all of the great work that has been performed in this bill by Republicans and Democrats alike—to join forces now.

Now is the time for action. Now is the time to demonstrate that we are the masters of our national destiny. Now is the time to show that we can get our act together. Pass this bill. Pass it today and send it over to the other body and then send it to the White House.

I believe that the President, seeing the importance of the problem, will sign this bill. I just find it inconceivable that on the basis of one little provision, a bill of this complexity and of this enormous importance to the country could or would be vetoed.

We are not fallen leaves in the river of history just being swept along by swift tide carrying us to oblivion.

Prof. Paul Kennedy writes a book about the rise and fall of the great powers as though there is a kind of an irresistable temptation on the part of a nation once it gains power and prestige to overextend itself in military things and neglect itself at home.

That does not have to be the way it is. Our future is not behind us. We can be competitive again. We can improve our productivity. We can do it in a way that shows that we still have a conscience and that we still recognize a responsibility to that most important individual in America—the person, the human being in the work force. Glorify his education; glorify his qualifications—and we will be No. 1 again.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). All time has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I move the previous question on the conference report.

MOTION TO RECOMMIT OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Speaker, pursuant to the rule, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. MICHEL moves to recommit the conference report to accompany the bill, H.R. 3, to the Committee of Conference with instructions that the managers on the part of the House promptly report the conference report back to the House without the provisions of subtitle E of title VI (sec. 6401-6410) entitled Advance Notification of Plant Closings and Mass Layoffs.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. MICHEL. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. Pursuant to House Resolution 430, the gentleman from Illinois [Mr. MICHEL] will be recognized for 10 minutes and the gentleman from Michigan [Mr. FORD], a Member opposed, will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. MICHEL].

PARLIAMENTARY INQUIRY

Mr. FORD of Michigan. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. FORD of Michigan. Mr. Speaker, I would like to pose a parliamentary inquiry. I would like to understand, because in my 24 years in the House I have never seen a motion to recommit a conference report with instructions to pass.

So I am trying to grasp what the rules provide.

Am I correct, Mr. Speaker, that our parliamentary situation is that if a motion with any instructions is passed, that the instruction is a nonbinding suggestion, not to this body, not to this House or to the chairman of the committee of original jurisdiction, Mr. ROSTENKOWSKI, but to the conference of the House and Senate and that would then automatically commit the entire bill to the conference between the House and the Senate which could either disregard or adopt the conference instruction or indeed consider any other matter that would then be before that conference to change the conference report as it comes to us now.

The SPEAKER pro tempore. The whole matter would go back to conference.

Mr. FORD of Michigan. I thank the Speaker.

Mr. MICHEL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank my leader.

Mr. Speaker, after that most eloquent speech by our respected Speaker of the House, did you ever have, as George Gobel once said, "did you ever have the feeling that in a formal dance of tuxedos that you are a pair of brown shoes?" I hate to follow the Speaker, because he is so eloquent.

But I must take issue with what he said about this particular provision by this motion we are trying to take out. The GAO study that he cites is faulted and I do not have time to go into it. Just let me say: Do you truly believe that the indictment that every nonunion business in the United States only gives 2 days' notice is really correct and comes from a well-done study? Look at your own businesses, look at your own way that you treat your employees, do you really believe that that is happening all over this country that would cause this kind of legislation?

Now the Speaker's words brought a tear to my eye, and he does that to all of us. And I am sure the people that are watching this would say, "Yes, why not, just 60 days' notice," that is motherhood and apple pie. But let me tell you what you are doing.

I am more interested in plant openings than plant closings. By this provision on plant closings you are going to cost people their jobs and you are going to shut down businesses.

Many of you know I started my business from scratch. And there were two times in the 15 years that I was trying to build up my business that I was hanging on by my fingernails to keep that business open. If this provision applied to me and I had, in order to cover myself on benefits and stuff, to give 60 days' notice, do you know what would have happened? Every creditor that I owed and was working with would automatically come to me because they had been given notice that I was in trouble and I would have shut my doors and people would have been put out of work. That is what this means.

And why is it in a trade bill? Again, I reiterate I am more interested in plant openings than plant closings. Let us vote yes on this motion to recommit and save jobs and keep plants open, remove this out and then take the trade bill on its merits.

Mr. GALLO. Mr. Speaker, I rise in support of Representative MICHEL's motion to recommit this conference agreement. I have always wanted to vote in favor of a trade bill that will improve the competitive capability of the United States in the world marketplace. Unfortunately, this bill still needs improvement and, by recommitting it to the Conference Committee, we can achieve this goal.

While I support voluntary advance notice of plant closings or layoffs, I cannot support the mandatory provisions included in this bill that would handcuff our businesses during times of extreme uncertainty. Our companies need the flexibility to respond to changing economic conditions and the means to keep their companies from going under, thereby saving jobs. Further, this provision is not germane to the bill and is a classic example of the frequent abuses in Congress that lead to the addition of extraneous provisions to omnibus bills.

What is most frustrating is this provision, which is not germane and does not address the goals of the trade legislation, threatens to be the downfall of three years of intense work by this Congress.

American workers will be more positively assisted by the positive provisions in this bill that expand both the Trade Adjustment Assistance Act and the Job Training Partnership Act than by a mandatory notification requirement that could cost jobs.

In addition, the small business section of H.R. 3 focuses on the more than 25,000 small businesses in this country that have goods and services that could be exported. As a member of the Subcommittee on Exports of the House Small Business Committee, I am pleased that our committee recognized that, in large part, our trade future depends upon promoting new avenues of export opportunity for small- and medium-sized businesses. The Committee included recommendations made by my New Jersey Small Business Export Opportunity Task Force to coordinate information and resources through a single point of entry and to provide greater access to international trade shows for our small businesses.

Finally, I strongly believe that H.R. 3 without the nongermane provisions will significantly improve the ability of the U.S. government and U.S. companies to respond to the expanding world marketplace. This bill would set in place policies to encourage exporting, open markets, and negotiate bilateral trade agreements to provide a level playing field for U.S. companies. I urge my colleagues to support the motion to recommit so we can continue to work together to produce a responsible trade bill.

Mr. FORD of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to this motion to recommit which, according to its sponsors, has a single purpose. And I heard the principal proponent of this say during general debate a little while ago that this is a rifle shot aimed at the plant closing notification provision in the bill. I would like to correct his nomenclature. This is more like a hand grenade with the pin pulled, lobbed into a roomful of people and the one thing you do not know is how many people are going to get hurt but you do know it is going to do damage.

The reason I describe it as more like a hand grenade than a rifle shot is that the process by which he is taking his rifle shot pulls the pin on the hand grenade.

A vote to recommit does not simply cause DAN ROSTENKOWSKI to rise, as he would if it were a bill from his committee, and commit the House to the change and take the bill up immediately. He does not have the power to commit the conferees from the other body.

So if you send it back to his committee it does not go to his committee, it goes to the conference of the House and Senate which would have to be reconvened. I do not know if they appoint the same conferees or not. There were 200 in the last conference.

And the whole ball of wax goes back to square one where we started before.

There are a lot of people running around here who have discovered little things in here that kind of annoy them. They think, "Well, maybe if I had another shot at it I would take a rifle shot at it."

I will tell you, I do not think I would be unpopular with the people in my district if I were to offend my Texas friends a little bit by taking a shot at the repeal of the windfall profit tax.

I would hate to do that, but the gentleman from Texas who insists on doing that to my people gives me very little choice if he succeeds in his procedure.

I suggest that unless they choose not to make me a conferee I will do what I can to bring attention to issues of that kind.

Now this is a dangerous procedure that the minority is undertaking here. You are putting the entire other side of the aisle on the spot because of the strong feelings that some people have.

Let me just respond, for example, to the kind of well meaning misconceptions that are leading Members over there to attack this provision.

The gentleman who was just in the well gave us an example of his own business. It was faltering. If he had given notice it would have cut off his credit.

There is a specific exemption in this notice for a faltering company and it says, as long as the owner of the faltering company reasonably believes that if he has a little more time and if he can get some more credit and he can get some loans he is going to stay in business, he does not have to give 60 days notice. He does not have to give 60 days notice unless he knows that there is no hope at least 60 days before he goes down. If he only knows a week before he goes down, that is the amount of notice he is required to give. And if he only knows the night before he goes down, that is the amount of notice he has to give.

And these anecdotal horror stories have all been taken care of.

I would not, with a straight face, try to tell the people in my district who have supported my efforts since 1973 to get reasonable plant closing legislation, I would not with a straight face try to urge them, they who would like to have it do what you say it does, that what is left of my proposal still does that. But I will tell you, I would rather quote what the gentleman from Texas said about it in my district than what I have to honestly admit about it because the gentleman is describing a much tougher and more effective provision than I.

Mr. Speaker, this motion to recommit has a single purpose: to deny workers any warning before the business they work for shuts down or eliminates their job.

If you vote for this motion to recommit you are voting to treat American working men and women worse than their counterparts around the world. You are telling them they deserve less than Japanese workers, British, German, French, and Canadian workers—all of whom are guaranteed advance notice of plant closings and mass layoffs.

If you vote for this motion to recommit you are not doing small business a favor—they are exempted from the bill's coverage. Only the largest 2 percent of firms are covered. You are not doing responsible business a favor—they already give advance notice to their employees, sometimes months or years in advance.

No, if you vote for this motion to recommit, you are voting to do a favor for the worst elements in the business community—those who operate surreptitiously, with no regard for the needs of their workers or the trauma they will cause them and their families.

The provision this motion deletes is not rigid or punitive. It doesn't say a firm must give notice of every shutdown, regardless of its ability to do so. It says only this: if a business can give 60 days' notice, it has a duty to do so. If it can only give 2 weeks' notice, it must give 2 weeks. If it can't give notice, it isn't required to.

We have accounted for every hypothetical problem a businessman could raise. Does he have a reasonable fear of losing credit his business needs to survive? He is exempt. Did he suddenly lose a contract he needed to retain his work force? He is exempt.

The plain truth is that no reasonable business with any concern for its employees—any at all—need fear this bill.

If you vote for the motion to recommit, you are doing one other thing as well. You are voting to jeopardize this entire trade bill, if not to doom it. The motion to recommit is not a rifle shot, as Mr. BARTLETT described it. It is a grenade full of shrapnel that will send this entire bill back to conference where it will be blown to pieces.

If you care about American workers and their families you will vote to defeat the motion to recommit.

If you care about this trade bill and want to see it passed, you will vote against the motion to recommit.

The conference agreement makes significant improvements in the program to help reemploy dislocated workers, title III of the Job Training Partnership Act. First, it authorizes $980 million for the dislocated worker program, a dramatic increase over the $287 million Congress appropriated for this fiscal year.

Second, the fundamental focus of the program has been clarified and narrowed somewhat. In keeping with the recommendations of the Labor Department's Task Force on Economic Adjustment and Worker Dislocation, the conference agreement directs each State to create or designate an agency to operate a rapid response system to react swiftly to plant closing announcements and deliver services onsite. Part of these rapid response efforts will be a new emphasis on labor-management cooperation. In fact, it is our hope that the majority of services will be delivered under the direction and management of joint labor-management committees, a method that has worked cost-effectively and with substantial success in Canada.

In a major break with past practices in title III, local governments and private industry councils will be guaranteed a large role in the delivery of reemployment assistance to dislocated workers. In accordance with statewide formulas that each Governor will determine on the basis of the differing needs of each state, half of the funds appropriated for the states under title III will be divided among substate areas, generally corresponding to the substate delivery areas designated under title II. The local grantees will operate under guidelines approved by the Governor, but they will be able to tailor programs to local needs without the delays associated with an RFP process or a case by case appeal to the Governor for funding.

Finally, because we recognize that no one is more familiar with the needs of workers than the representatives of organized labor, the role of unions is enhanced in both the title III dislocated workers program and the JTPA program as a whole.

Title III is a good but imperfect program. It has been too slow to deliver aid to the victims of plant closings and mass layoffs and has failed to deliver any assistance at all to the vast majority of dislocated workers. With the changes we have made in H.R. 3, however, and with the early notice that will be provided by the States' rapid response teams, title III's reemployment assistance will be delivered in a timely, effective way. With the authorization provided, which has already been reflected in the budget resolutions of both the House and the Senate, I am hopeful that we will someday soon be able to help every dislocated worker who needs help to find a good job.

The agreement we reached on legislation to require companies to give their workers 60 days advance notice, whenever possible, of plant closings, relocations, sales, or restructurings that result in the loss of 50 or more jobs is far from perfect. I believe it is too little notice, that the legislation provides too many exceptions and loopholes, and that it will be very difficult for employees to enforce their rights.

But, after 14 years of fighting for legislation like this and the dislocated workers assistance provisions in H.R. 3, and realizing that the votes for a better bill just can't be found in this Congress, I am satisfied that what we have done is a significant improvement over the current state of affairs.

What is the current state of affairs? There is no requirement that businesses tell their employees in advance that their plant will close or be relocated overseas even when they know a year or more in advance. Every week, if not every day, businesses shut down plants, relocate operations, reduce their work force, without any warning to the workers whose lives, incomes, and self-esteem depend on the jobs that are eliminated.

Nationwide, the GAO found that the average nonunion, blue-collar worker gets only 2 days notice of his layoff. One-third of all large business establishments shut down or lay off workers without any warning at all.

The Bureau of Labor Statistics corroborated these results with its own study last year. A BLS survey of mass layoff events—the permanent layoff of 50 or more employees—found that two out of three occurred without any advance notice at all.

Any hope I ever had that businesses would voluntarily do the right thing in this regard was smashed long ago. The 1974 Trade Act encouraged businesses to give advance notice of overseas relocations. They have never done so. Massachusetts has a program to encourage advance notice, yet half of all mass layoff events in Massachusetts occur with no warning. New York has a similar voluntary program, but the New York AFL-CIO, which helped create it, has declared it a failure and endorses our legislation.

The Congressional Office of Technology Assessment studied the reasons businesses give for this failure and found that none of them has any merit. Fears of sabotage or declines in productivity after giving notice are unfounded. Loss of business or the inability to secure working capital are not problems for American businesses operating in Canada, yet their American divisions continue to make excuses.

The truth is simple. Employees and their communities will not be protected against unreasonable, sudden plant closings and job loss until Congress acts to protect them.

It is worth noting that everyone agrees—even Secretary of Labor McLaughlin and her predecessor, Mr. Brock—that advance notice makes worker adjustment programs much more efficient and successful. We have just authorized a $1 billion program of assistance to dislocated workers. To make it work, we have to have advance notice; we have to have this legislation.

Mr. Speaker, I rise also to clarify the intent of the conferees with respect to the meaning of the term "representative" under the plant closing and mass layoff title of the bill.

Section 6403(a)(1) of the conference agreement provides that if there is a "representative" for the employees affected by a plant closing or mass layoff, notice of the closing or layoff shall go to that representative. Section 6402(a)(4) in turn defines "representative" as "an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act."

The conferees referred to both sections 9(a) and 8(f) of the NLRA in defining the term "representative" because of the controversy which presently exists as to whether a union in the building and construction industry which is recognized as the exclusive representative or a unit of employees pursuant to a 8(f) prehire agreement enjoys the same status as a union recognized as an exclusive representative pursuant to a Board representation election or an employer authorization check. The conferees concluded that all unions which are recognized as the exclusive representative of a unit of employees through any of the foregoing means in the same legal position and that all such unions are entitled to notice of a plant closing or mass layoff.

As agreed to by House and Senate conferees, H.R. 3 also amends existing education programs, and authorizes new ones. Existing programs that are amended are: the Adult Education Act, the Carl Perkins Vocational Education Act, the Education for Economic Security Act (Math-Science), and the Higher Education Act.

The education and training provisions in H.R. 3 are all related to ways in which to expand the productivity of the work force and to the improvement of trade competitiveness of the Nation. The programs range from elementary and secondary, to vocational and postsecondary education levels.

Mr. Speaker, the Education and Labor Committee found, in proposing its education and training initiatives under H.R. 3, that the relationship between a strong and vibrant educational system and a healthy national economy is inseparable in an era in which economic growth is dependent upon technology and is imperiled by increased competition from foreign countries.

We focused on the impact that years of unprecedented challenges from competitor nations has had on the United States during which time we had not given priority to the relationship between educational and economic growth. We looked at our standing in the international marketplace and found that it had been further eroded by the presence, in the workplace, of millions of Americans who are either functionally or technologically illiterate, due to a lack of training or instruction in math, science, foreign languages or vocational skills needed to adapt to the structural changes occurring in the global economy.

The education and training provisions in H.R. 3 will help restore our competitiveness and enhance our productivity so that all workers will possess not only basic educational skills, but will possess highly specific skills in the areas of math, science, foreign languages, and vocational education.

Many of the programs, it will be shown, have been authorized for 1 or 2 years only under the trade bill, with agreement having been reached among conferees that certain programs would be cross-walked to, and extended for an additional 5 years, under H.R. 5, the education reauthorization bill—the conference report on H.R. 5 passed the House on April 19.

Mr. Speaker, I offer a brief description of the major education and training programs included in the Omnibus Trade and Competitiveness Act (H.R. 3):

WORKPLACE LITERACY PARTNERSHIP PROGRAM

The workplace literacy partnership program allows the Federal Government to pay a large share of the costs of adult education programs which teach literacy skills needed in the workplace. These partnerships can consist of business, industry, or labor organizations, or private industry councils. Conferees agreed to fund this program at $30 million in fiscal year 1988, and then to transfer it to H.R. 5, extending it for another 5 years, as part of the omnibus education reauthorization bill. Conferees also agreed that when funding reaches $50 million or more, the workplace literacy program will become a State administered formula grant program under the Adult Education Act.

ENGLISH LITERACY GRANTS

These grants were authorized at $25 million in fiscal year 1988, with the understanding again that the program will be transferred to H.R. 5, the education bill, and extended for another 5 years. The program provides for demonstration grants to provide English literacy programs for individuals of limited English proficiency. Funds may also be used for teacher training, or combined with funds from other programs providing for literacy training.

MATH-SCIENCE/FOREIGN LANGUAGES

The Education for Economic Security Act is extended for 1 year—fiscal year 1988—and authorized to be funded at $175 million under the trade bill, and then the reauthorization is cross-walked and extended for another 5 years under H.R. 5, the education bill. The major changes in math-science programs is that more of the dollars driven directly to the local elementary and secondary school level, with fewer set-asides for States and for higher education institutions. There is an additional $20 million in funding authorized for model local programs of foreign language instruction.

PARTNERSHIPS FOR EXCELLENCE

This program, whose purpose it is to encourage the creation of alliances between public schools and the private sector in order to apply the resources of the private and nonprofit sectors of the community to the needs of the elementary/secondary schools. It also encourages businesses to work with educationally disadvantaged children and with gifted students, and is authorized at $10 million in fiscal year 1988 and such sums thereafter through fiscal year 1993. Twenty-five percent of these funds must be used for gifted and talented students. An eligible partnership can include: a local educational agency, and a business, nonprofit private organizations, institutions of higher education, museums, libraries, educational television stations, and appropriate State agencies if the State agrees to participate.

STAR SCHOOLS

This program has the purpose of improving instruction in math, science, and foreign languages. The conferees on H.R. 3 agreed to fund star schools at $37.5 million under the trade bill, and then to cross walk it to the education reauthorization bill (H.R. 5) for an additional 4 years. Under the star schools provisions, no grantee can receive more than $10 million in a given fiscal year—funding cycle—and no grantee can receive more than $20 million total funding during the life of the program.

VOCATIONAL EDUCATION

Funded at $25 million, the Carl Perkins Vocational Education Act, part C—Adult Training, Retraining, and Employment Development Program—is revised and extended because of technological changes, international competition, and demographic changes in the Nation's work force over the past decade, all of which have resulted in increased numbers of experienced adult workers who are unemployed, who have been dislocated, or who require training/retraining services for upgrading skills. The program would also include services for experienced workers who are 55 years of age or older. The funds are provided to States for assistance to enable them to meet the urgent needs of adults who are in need of training and retraining. The funds must be matched by the private sector—50 percent match—and recipients must include educational institutions that have linked up with private companies to train people in high growth fields according to criteria developed by the State Board of Vocational Education established within each participating State.

SECONDARY SCHOOL PROGRAMS

Dropout prevention—$50 million—and secondary schools basic skills demonstration programs—$200 million—are authorized under the trade bill for 1 year—fiscal year 1988—only, and then cross-walked to H.R. 5, the omnibus education reauthorization bill. These programs are intended to provide grants to assist secondary school students—who are eligible for such assistance under chapter 1 eligibility criteria—to help them attain grade level proficiency in basic skills, and for remedial and tutorial services specifically tailored to the needs of secondary school students. These are demonstration grants only.

Other smaller programs authorized under H.R. 3, for education and training programs, are: Training technology centers—$15 million; technology education—$2 million; technology literacy—$2 million; and the Student Literacy Corps—$10 million.

HIGHER EDUCATION ACT PROGRAMS

There are $10 million authorized for what is known as the Priority Program, the purpose of which is to assist institutions of higher education that specialize in agriculture, strategic metals and minerals, forestry and wood products research, except that none of the funds can be used for construction of new facilities. The $10 million is authorized for fiscal year 1988 only, and then such sums as necessary in the years thereafter.

Title XII of HEA is amended by adding an authorization of $15 million for fiscal year 1988—and then such sums—for technology transfer centers, to promote programs that further the transfer of technology relevant to a region's economy and for other purposes. Awards will be made on a competitive basis.

$2.5 million are authorized for part D, title II—college libraries—of the Higher Education Act, entitled "College Library Technology and Cooperation Grants."

Title IV of the Higher Education Act, authorizing TRIO programs for disadvantaged high school students, is amended to raise the amount of funding for the Ronald E. McNair post-baccalaureate projects to $5 million annually, if the annual appropriation for TRIO equals or exceeds $215 million.

Finally, $85 million are authorized under title VII of HEA, for the National Science Foundation to carry out programs of facilities repair, renovation, and instrumentation, among eligible institutions of higher education.

I commend the chairman of the Education and Labor Committee, Mr. HAWKINS of California, and its ranking minority members, Messrs. JEFFORDS of Vermont and GOODLING of Pennsylvania, for their energy and commitment to making these new initiatives part of H.R. 3, to improve and enhance the ability of our educational system to serve all who need assistance in making America competitive once again. I recommend that H.R. 3, the Omnibus Trade and Competitiveness Act, do pass.

Mr. DELAY. Mr. Speaker, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. I thank the gentleman for yielding.

Mr. Speaker, would the gentleman please point out to us what business would need this exemption if he was going, if he was going to close his business or he was going to lay people off? Why would you need an exemption from a faltering business, to that provision?

Mr. FORD of Michigan. I can think of examples very quickly.

Suppose a business dependes entirely on a government contract for a weapons system that the Defense Department suddenly cancels and he does not know until he gets notice "We are not buying anymore starting next week." That is when he knows he has got to lay off most of his work force and maybe close down.

Mr. DELAY. And that is not a faltering business?

Mr. FORD of Michigan. It is, yes.

Mr. DELAY. Then it would be exempted. So why do you want this provision?

Mr. FORD of Michigan. Well, the faltering business is one of the many exemptions. I tried to take care of the gentleman's individual example. But it is apparent that if I take care of one example he will come up with another. I will stand here all day and respond to all the examples the gentleman can dream up as fast as he can dream them up. The fact of the matter is the gentleman just ought to read the language and ascribe some good faith to your Labor Department over there in writing the regulations.

□ 1610

PARLIAMENTARY INQUIRY

Mr. MICHEL. Mr. Speaker, I have a parliamentary inquiry. Is it not the prerogative of the author of the motion to recommit to close the debate on the proposition?

The SPEAKER pro tempore. Under this rule, in these circumstances, the gentlemen is accurate.

The gentleman from Illinois [Mr. MICHEL] will have the opportunity to close the debate.

Mr. MICHEL. Mr. Speaker, I would suggest to the gentleman from Michigan [Mr. FORD] that he yield the balance of his time.

Mr. FORD of Michigan. Mr. Speaker, I yield to the gentleman from Wisconsin [Mr. OBEY] such times as he may consume.

Mr. OBEY. Mr. Speaker, I would make only one point. A vote for the motion to recommit means that Members are simply not willing to give the same notice to their constituents that everyone of them gets if they lost an election.

If we lose an election, we lose it in the first week in November, and we have 60 days' notice to put our own affairs in order. Members' constituents, under present law today, do not have that. So I would make the simple point that if Members believe in equal treatment, if Members believe that their constituents ought to be treated with the same degree of equity they are, they will vote against the motion to recommit so that their constituents have the same degree of notice to put their lives back together if they lose a job, just as Members would if they lost theirs this coming November.

Mr. FORD of Michigan. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think we should get to a vote. I just want to reemphasize that this is an extremely unusual procedure, and people should not be misled by an impression of what they think they saw in the past.

When I come to this floor with a bill as a chairman, or the gentleman from Illinois [Mr. ROSTENKOWSKI] does and a motion to recommit with instructions is passed, I do not know whether Members realize it, what I literally do is on behalf of my committee accept the instruction and then call the bill up like that. That is not what will happen in this case, because it is not the gentleman from Illinois [Mr. ROSTENKOWSKI] committee that Members are recommitting it to. It is a conference of the House and Senate, and Members have to wait for the pleasure of those independent gentlemen in the other body.

If we want a back door way to sidetrack the whole trade bill, this is one way to do it. But do not try to dress it up as something it is not. Do not try to put the wolf in sheep's clothing and claim Members are really only concerned about this one little provision, because the effect of what they are doing is to jeopardize the integrity of the entire 2,000-page package that has taken over 3 years to put together.

I yield back the balance of my time.

Mr. MICHEL. Mr. Speaker, first, may I pay my compliments to the gentleman from Illinois [Mr. ROSTENKOWSKI], the chairman and ranking member of the Committee on Ways and Means, the Subcommittee on Trade, Flagship Committee on Trade, and the 13 other committee chairmen and ranking members who have worked so long and hard on this legislation.

There is not a question in my mind, as the Speaker has indicated, this bill, will, indeed, be the hallmark legislation for this session of the Congress. Let me make it clear at the very outset that I am offering this particular motion to recommit, because I want to see a trade bill enacted into law and, of course, that requires a Presidential signature. I have no intention of slowing down the process with my motion. Quite to the contrary, I want to expedite the procedure to get us over the hump, so to speak, by taking out the contentious provision that if left in the legislation will surely provoke a Presidential veto.

Incidentally, I should tell the gentleman from Michigan [Mr. FORD], my good friend, that his observation that this is the first time in his tenure in this House that there is a motion to recommit with instructions on a conference report is, as a matter of fact, in error. We have done it with a Labor/HEW appropriations bill, a banking bill, and the Economic Opportunity Act. Only those three were quickly observed appropriately for this occasion. There may be others.

The conference report before us is over 1,000 pages in length and certainly cuts a wide swath not only in the trade field but in areas that are not all that directly involved with trade.

It is generally a pretty good package, but each and everyone of us, I suspect, could single out sections we might like to see modified or eliminated all together.

Under the rule in which we consider this conference report, we have to either vote for or against this conference report with only one opportunity, through my motion to recommit, to make any adjustment in it.

It was my understanding that prior to the conference report being scheduled for floor action, there were a number of discussions between administration representatives, key players here in the Congress, and particularly the Democrat leadership, to get some agreement that would assure us the bill would be acceptable to the President.

Incidentally I am including the full text of the President's letter addressed to me yesterday which begins:

> DEAR BOB: I am writing to reinforce what Secretary Baker and Ambassador Yeutter have repeatedly stated—I am personally committed to enacting a responsible trade bill.

Whereupon, he then goes on to enumerate this one onerous provision and several others that are not applicable for today.

> THE WHITE HOUSE,
> *Washington, April 20, 1988.*
>
> Hon. ROBERT H. MICHEL,
> *Republican Leader, House of Representatives, Washington, DC.*
>
> DEAR BOB: I am writing to reinforce what Secretary Baker and Ambassador Yeutter have repeatedly stated—I am personally committed to enacting a responsible trade bill.
>
> As you are well aware, the Administration has had numerous recent discussions with Members about our opposition to the Omnibus Trade bill (H.R. 3) as it stands. During these discussions, some have sought reassurance that we will do our best to achieve a trade bill this year. Given the importance of enacting a trade bill that will help open markets abroad and improve America's competitiveness, I know it is important to eliminate any doubt on this point.
>
> I want a trade bill. I will work vigorously to secure one. And I will urge the Leadership to schedule prompt action on a bill immediately after the Congress sustains my forthcoming veto of H.R. 3.
>
> But to finish the trade bill process in a way that serves America's interests—not the special interests—I need your help. I need your vote against the Conference Report and your support for my forthcoming veto. Then together we can complete action on a trade bill that will advance, not impede, our dynamic economy.
>
> Sincerely,
>
> RON.

Again, to reaffirm the President's position: if this provision is deleted, then we will be in much better shape than we are. Apparently we were very close to getting agreement when it fell apart because of two provisions: the Bryant amendment on foreign investment and the so-called layoff and plant-closing provision.

In subsequent developments, the foreign investment provision was dropped, and we are now down to the one bad provision that quite frankly does not belong in this conference report and which cannot be accepted by the President.

The very rule under which they are considering this conference report characterizes the conference report as the Omnibus Trade and Competitiveness Act of 1988. During the course of the debate, we have heard all kinds of comments from both sides of the aisle about the need of our becoming more competitive in international trade, which prompts me to ask this question of every Member of this Chamber: Is there anyone among you who would say that this onerous layoff and plant-closing provision has anything at all to do with improving our competitiveness?

There is absolutely no way you can turn it or twist the language to make us more competitive.

As a matter of fact, this thing applies only to U.S. businesses, those who might find it more appropriate to go overseas and lose jobs.

As the Robert R. Nathan and Associates report suggested, over 450,000 jobs could very well be lost because companies will go offshore to avoid the plant-closing requirement.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, why is repealing the windfall profits tax anymore closely related to trade than is preserving the worker's right to know when he is going to lose his job? Why is that any closer related?

Mr. MICHEL. I am not addressing myself to that issue. I asked the question: Is there anyone here on the issue of plant closings that can say that that improves our competitiveness? It does not. No way. It does not belong in this bill, and no matter what claims are made or every which way Members try and play this thing, the plant-closing provision is anti-competitive, in effect. It is antijob creation in principle and ultimately will be antiworker in practice.

Let me pause here for just a monment and say that we are using the term "plant closing" as a kind of shorthand device. The word plant makes us think in terms of big manufacturing, smokestack industries that employ thousands, but the fact is that this is a business-closing provision, not just a plant-closing provision.

If you have a business, as has been suggested by the gentleman from Texas [Mr. DELAY] and others and you have over 100 employees, this provision is aimed directly at the heart of your business and your employees. I would remind all of the Members that of the 15 million new jobs we have created in the last 6 or 7 years, 80 percent of them have been created by small business.

There is no one in this institution who knows better than I do, from bitter experience in my district, what a loss of jobs can do to individuals and families. In 1982 Caterpillar, my largest employer in my district, was devastated by the recession and was forced to respond quickly and decisively to a more competitive international economy. A part of Cat's necessary response included indefinite layoffs and 1- or 2-week shutdowns of all or part of plant operations.

☐ 1620

These actions often had to be assessed on a weekly basis. They did not have the luxury then and they do not have it now of knowing for a certainty what business conditions would be like 60 days or more in the future.

Caterpillar is indeed leaner and more competitive today. It is stronger because of the flexibility they were able to exercise during those tough times. If they had been hobbled by restrictive and delaying requirements, they might not have been successful in meeting their foreign competition.

I am happy to report today that in my 18th Congressional District we are on the way back. We are once again hiring, rather than firing; but we know the agony of job loss, and it is precisely because I am intimately knowledgeable about and sensitive to the pain of lost jobs that I oppose this plant-closing provision.

This provision imposes a straitjacket around small businesses as well as large ones, inhibiting them from making the decisions that can save jobs and create new ones.

The fact that the United States has not had such a provision is one reason we have been getting foreign investments in our country while Europe has been short-changed because of its plant closing-notice rules.

My colleagues, a few days ago we were within an eyelash of having an agreement on this conference report that would have been passed by both Houses of the Congress and signed by the President.

I believe that if the decision had been free of outside influence, we could have done it.

You know the considerations as well as I do. You know what demands were made on the Speaker that forced him to back away from an imminent agreement.

This conference report brings to mind the words of the poet:

> For of all sad words of tongue or pen
> The saddest are these: It might have been.

Well, Mr. Speaker, I would urge Members to support the motion to recommit and get a Presidential signature. If it fails, I would hope it would be by the narrowest of margins, for that also would be a guidepost to the action we might then be forced to take after a Presidential veto.

I am confident that we can sustain the President's position and then if we come right back with this very same bill, minus the layoff and plant closing section, it will whistle through both Houses of Congress and be signed into law.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. FRENZEL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 167, nays 253, not voting 11, as follows:

[Roll No. 65]

YEAS—167

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Chappell
Cheney
Clarke
Clinger
Coble
Coleman (MO)
Combest
Cooper
Craig
Crane
Dannemeyer
Darden
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
English
Erdreich
Fawell
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Gradison
Green
Gregg
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Jones (TN)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (NY)
McCandless
McCollum
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Montgomery
Moorhead
Morrison (WA)
Myers
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Porter
Quillen
Ravenel
Regula
Rhodes
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schuette
Schulze
Sensenbrenner
Shaw
Shays
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Watkins
Weber
Whittaker
Wolf
Wortley
Wylie
Young (FL)

NAYS—253

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Clement
Coats
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coughlin
Courter
Coyne

Crockett
Daub
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hamilton
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (IL)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Price (NC)
Pursell
Rahall
Rangel
Richardson
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauzin
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)

NOT VOTING—11

Barnard
Biaggi
Clay
de la Garza
Dymally
Emerson
Latta
Molinari
Price (IL)
Ray
Smith (TX)

☐ 1639

Mr. BENNETT and Mr. ALEXANDER changed their votes from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken.

Mr. ROSTENKOWSKI. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 312, nays 107, not voting 12, as follows:

[Roll No. 66]

YEAS—312

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Boehlert
Boggs
Boland
Bonior
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Crockett
Darden
Davis (IL)
Davis (MI)
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Herger
Hertel
Hochbrueckner
Holloway
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Inhofe
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Yates
Yatron
Young (FL)

NAYS—107

Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Coats
Coble
Craig
Crane
Dannemeyer
Daub
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Fawell
Fields
Frenzel
Gallegly
Gallo
Gephardt
Gingrich
Gradison
Green
Gregg
Hansen
Hastert
Hefley
Hiler
Hopkins
Hunter
Hyde
Ireland
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Michel
Moorhead
Morrison (WA)
Mrazek
Myers
Oxley
Packard
Parris
Petri
Porter
Rhodes
Rogers
Rowland (CT)
Schuette
Schulze
Shaw
Shays
Shumway
Shuster
Slaughter (VA)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Stump
Sundquist
Swindall
Tauke
Vander Jagt
Vucanovich
Walker
Weber
Wortley
Wylie
Young (AK)

NOT VOTING—12

Barnard
Biaggi
Clay
de la Garza
Dymally
Emerson
Jones (NC)
Latta
Molinari
Price (IL)
Ray
Smith (TX)

☐ 1650

The Clerk announced the following pair:

On this vote:

Mr. Barnard for, with Mr. Smith of Texas against.

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS' BENEFITS AND SERVICES ACT OF 1988

Mr. MONTGOMERY submitted the following conference report and statement on the bill (H.R. 2616) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration.

CONFERENCE REPORT (H. REPT. 100-578)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendments of the Senate to the bill (H.R. 2616) to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Services Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Definition of Administrator.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Sec. 101. Eligibility for outpatient services.
Sec. 102. Eligibility for domiciliary care.
Sec. 103. Definition of nursing home care.
Sec. 104. Expansion of contract-care authority.
Sec. 105. Health care outside the United States for veterans with service-connected disabilities.
Sec. 106. Internment period required for eligibility for dental care for former prisoners of war.
Sec. 107. Readjustment counseling program.
Sec. 108. Beneficiary travel program.

PART B—PILOT PROGRAMS AND REPORTS

Sec. 111. Adult day health-care program.
Sec. 112. Report on use of contract-care authorities.
Sec. 113. Pilot program of mobile health-care clinics.
Sec. 114. Modification of report on care furnished to veterans having chronic mental illness disabilities.
Sec. 115. Pilot program of community-based residential care for homeless chronically mentally ill and other veterans.
Sec. 116. Reports on assistance to homeless veterans.

PART C—MATTERS RELATING TO AIDS

Sec. 121. Confidentiality of medical records.
Sec. 122. Nondiscrimination.
Sec. 123. Information and training concerning AIDS prevention.
Sec. 124. Restriction on testing for infection with the human immunodeficiency virus.

PART D—OTHER MATTERS

Sec. 131. Definition of Veterans' Administration medical facilities to include certain recreational facilities.
Sec. 132. Veterans' Administration assistance with rehabilitation activities.
Sec. 133. Rules and regulations relating to Veterans' Administration health care.
Sec. 134. Per diem rates for care in State homes.
Sec. 135. Medical research.
Sec. 136. Conversion of underused space to domiciliary care beds.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Sec. 201. Health-care quality assurance activities.
Sec. 202. Hospital cost collections.
Sec. 203. Tort claims.
Sec. 204. Nonprofit research corporations.
Sec. 205. Nursing home revolving fund.
Sec. 206. State home contruction grants.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Sec. 211. Additional pay authorities for nurses to be available for pharmacists and occupational therapists.
Sec. 212. Recruitment and retention bonus pay.
Sec. 213. On-call pay.
Sec. 214. Premium pay for Saturday work.
Sec. 215. Report on effect of certain pay and benefits amendments.
Sec. 216. Health Professionals Educational Assistance Program.
Sec. 217. Pay scales and awards for Department of Medicine and Surgery employees.

PART C—PERSONNEL ADMINISTRATION

Sec. 221. Disciplinary matters as to certain appointees.
Sec. 222. Personnel ceilings for noncareer research personnel.
Sec. 223. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 224. Nurse representation on policy-making committees.

PART D—REPORTS

Sec. 231. Study of pay and other personnel management practices.
Sec. 232. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Sec. 301. Specially adapted housing assistance.
Sec. 302. Automobile assistance allowance.
Sec. 303. Burial benefit for service-connected deaths.
Sec. 304. Effective date.

PART B—COMPENSATION-RELATED PROVISIONS

Sec. 311. Definition of former prisoner of war.
Sec. 312. Presumption of service connection for certain disabilities for former prisoners of war.
Sec. 313. Presumption of service connection for lupus.
Sec. 314. Reinstated entitlement for certain survivors.

PART C—EDUCATION PROVISIONS

Sec. 321. Measurement of laboratory instruction.
Sec. 322. Authority to waive compliance surveys.
Sec. 323. Effective date of awards under the post-Vietnam era veterans' education assistance program.

PART D—INSURANCE PROVISIONS

Sec. 331. Authority for annuity adjustments.
Sec. 332. Exemptions from State taxation.
Sec. 333. Direct administration of veterans' mortgage life insurance.

PART E—MEMORIAL AFFAIRS

Sec. 341. National cemetery grave markers.
Sec. 342. Contributions for certain projects.
Sec. 343. State veterans' cemetery construction grants.
Sec. 344. Grave liners.
Sec. 345. American Battle Monuments Commission foreign currency fluctuations.
Sec. 346. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Sec. 401. Integrity of contracting out process at health-care facilities.
Sec. 402. Standardization of medical and pharmaceutical items.
Sec. 403. Requirements for the procurement of health-care items.
Sec. 404. Multiyear procurement of certain medical items.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sec. 411. Sequestration rules applicable to veterans' programs.
Sec. 412. Child-care services at Veterans' Administration facilities.
Sec. 413. Advisory Committee on Native-American Veterans.
Sec. 414. Management of canteen service.
Sec. 415. Technical amendments to chapter 37.

PART C—REAL PROPERTY

Sec. 421. Limitation on transfer of property to other agencies.
Sec. 422. Congressional procedures for approval of medical facility acquisition and construction.
Sec. 423. Use of former hospital in Minot, North Dakota.
Sec. 424. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. DEFINITION OF ADMINISTRATOR.

For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

SEC. 101. ELIGIBILITY FOR OUTPATIENT SERVICES.

(a) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Paragraph (1) of section 612(a) is amended—

(1) in the matter preceding clause (A), by striking out "may furnish" and inserting in lieu thereof "shall furnish on an ambulatory or outpatient basis";

(2) by striking out "and" at the end of clause (A);

(3) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the

case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).".

(b) OTHER VETERANS.—Section 612(a) is further amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (1) the following:

"(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

"(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

"(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

"(A) to any veteran who is a former prisoner of war;

"(B) to any veteran of the Mexican border period or of World War I; and

"(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

"(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

"(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.".

(c) PRIORITY FOR OUTPATIENT SERVICES.—Section 612(i) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

"(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

"(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

"(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

"(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.".

(d) HOME HEALTH SERVICES.—(1) Section 617 is amended—

(A) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

"(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

"(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

"(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.".

(2) Subsection (k) of section 612 is transferred to section 617 (as amended by paragraph (1)), inserted at the end of subsection (a) (as added by paragraph (1)), and redesignated as paragraph (3).

(3) The heading of section 617 is amended to read as follows:

"§ 617. Home health services; invalid lifts and other devices".

(e) CONFORMING AMENDMENTS.—(1) Section 612(f) is amended—

(A) by striking out paragraphs (1), (2), and (3);

(B) by striking out "(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection)" and inserting in lieu thereof "(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title)";

(C) by striking out "subparagraph (B) of this paragraph" and inserting in lieu thereof "paragraph (2) of this subsection";

(D) by redesignating subparagraphs (B) through (G) as paragraphs (2) through (7), respectively;

(E) by striking out "this paragraph" each place it appears in such paragraphs and inserting in lieu thereof "this subsection";

(F) in paragraph (2) (as so redesignated), by striking out "this subsection and who is required under subparagraph (A)" and inserting in lieu thereof "subsection (a) of this section and who is required under paragraph (1)";

(G) in paragraph (3) (as so redesignated), by striking out "furnished under this subsection" and inserting in lieu thereof "furnished under subsection (a) of this section"; and

(H) in paragraph (5) (as so redesignated), by striking out "under this subsection" and inserting in lieu thereof "under section 617 of this title".

(2) Section 612 is further amended—

(A) in the first sentence of subsection (b)(4), by striking out "subsections (a) and (f) of this section" and inserting in lieu thereof "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)"; and

(B) by striking out subsection (g).

(3) Section 603(a)(2) is amended—

(A) in clause (B), by striking out "section 612(f)(1)(A)(ii) of this title" and inserting in lieu thereof "section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title"; and

(B) in clause (C), by striking out "section 612(g)" and inserting in lieu thereof "section 612(a)(3) (other than a veteran who is a former prisoner of war)".

(f) TECHNICAL AMENDMENTS.—Section 612(b)(1)(B) is amended—

(1) in clause (i), by striking out "at time of" and inserting in lieu thereof "at the time of the veteran's";

(2) in clause (ii), by striking out "one hundred and eighty days" and inserting in lieu thereof "180 days";

(3) in clause (iii), by striking out "ninety days" each place it appears and inserting in lieu thereof "90 days"; and

(4) in clause (iv), by striking out "ninety-day" and inserting in lieu thereof "90-day".

(g) REPEAL OF DATED PROVISIONS; GRANDFATHER PROVISION.—(1) Section 612 is amended—

(A) in subsection (b)(1), by striking out subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(B) by striking out subsection (e).

(2) Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 612 or 624 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty and, for the purposes of section 612(b) of such title, to be compensable in degree.

(h) CLERICAL AMENDMENTS.—(1) The heading of section 612 is amended to read as follows:

"§ 612. Eligibility for outpatient services".

(2) The table of sections at the beginning of chapter 17 is amended—

(A) by striking out the item relating to section 612 and inserting in lieu thereof the following:

"612. Eligibility for outpatient services."; and

(B) by striking out the item relating to section 617 and inserting in lieu thereof the following:

"617. Home health services; invalid lifts and other devices.".

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the furnishing of medical services to veterans who apply for such services after June 30, 1988.

SEC. 102. ELIGIBILITY FOR DOMICILIARY CARE.

(a) REVISED ELIGIBILITY.—Subsection (b) of section 610 is amended to read as follows:

"(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the

purpose of the furnishing of medical services to the veteran.

"(2) This subsection applies in the case of the following veterans:

"(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(B) Any veteran who the Administrator determines has no adequate means of support.".

(b) Conforming Amendment.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

(c) Savings Provision.—The amendment made by subsection (a) shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988.

SEC. 103. DEFINITION OF NURSING HOME CARE.

(a) Clarification of Definition.—Section 101(28) is amended—

(1) by striking out "skilled" in the first sentence; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.".

(b) Conforming Amendments.—Section 620(e)(1) is amended—

(1) by striking out the first sentence; and

(2) by striking out "(as defined in section 101(28) of this title)".

SEC. 104. EXPANSION OF CONTRACT-CARE AUTHORITY.

(a) Additional Covered Services.—Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "Veterans' Administration facility" the first place it appears; and

(2) by adding at the end the following new paragraph:

"(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

(b) Stylistic Amendments.—Section 603(a) is further amended—

(1) in the matter preceding clause (1), by striking out "furnish—" and inserting in lieu thereof "furnish any of the following:";

(2) in each of clauses (1) through (7), by capitalizing the first letter of the first word;

(3) at the end of each of clauses (1) through (5), by striking out the semicolon and inserting in lieu thereof a period; and

(4) at the end of clause (6), by striking out "; or" and inserting in lieu thereof a period.

SEC. 105. HEALTH CARE OUTSIDE THE UNITED STATES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 624(b) is amended to read as follows:

"(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

"(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

"(A) if the veteran is in the Republic of the Philippines or in Canada; or

"(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.".

SEC. 106. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR.

Section 612(b)(1)(F) (as redesignated by section 101(g)(1)) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 107. READJUSTMENT COUNSELING PROGRAM.

(a) Repeal of Transition Requirement.—Subsection (g)(1) of section 612A is amended to read as follows:

"(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

"(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.".

(b) Change in Report Deadline.—Paragraph (2)(A) of section 612A(g) is amended—

(1) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(2) by striking out "(or" and all that follows through "available)".

(c) Requirement for a National Plan.—Section 612A(g) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

"(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

"(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

"(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

"(ii) The distance between the center and the general Veterans' Administration facility.

"(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

"(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

"(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

"(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

"(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

"(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

"(D) For the purposes of this paragraph, the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

"(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

"(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.".

(d) Definitions.—Section 612A is further amended by adding at the end the following new subsection:

"(i) For the purposes of this section:

"(1) The term 'center' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

"(2) The term 'Veterans' Administration general health-care facility' means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.".

(e) Conforming Amendments—(1) Subsection (g)(2)(B) of section 612A is amended—

(A) in clause (i), by striking out "a program" and all that follows through "health-

care facilities" and inserting in lieu thereof "centers"; and

(B) in clause (ii), by striking out "paragraph (1) of".

(2) Subsection (h) of such section is amended—

(A) in paragraph (3)(B), by striking out " 'Centers' " and inserting in lieu thereof " 'Resource Centers' "; and

(B) in paragraphs (4)(A), (4)(B), and (5), by striking out "Center" and inserting in lieu thereof "Resource Center".

(f) Prohibition of Delegation of Duties.—The Chief Medical Director of the Veterans' Administration may not delegate the function of making recommendations under section 612A(g)(3)(A) of title 38, United States Code, as amended by subsection (c).

SEC. 108. BENEFICIARY TRAVEL PROGRAM.

(a) Program Revisions.—Section 111 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsections (b) and (c):

"(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

"(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

"(B) A veteran with a service-connected disability rated at 30 percent or more.

"(C) A veteran receiving pension under section 521 of this title.

"(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

"(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

"(B) In the case of travel by a person to or from the Veteran's Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

"(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

"(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

"(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

"(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph.

"(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.".

(b) Volunteer Transportation.—(1) Such section is further amended by adding at the end the following new subsection:

"(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.".

(2) Not later than six months after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of subsection (h) of section 111 of title 38, United States Code, as added by paragraph (1).

(c) Conforming Amendments.—Paragraph (4) of subsection (g) of such section (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or adjusting amounts" after "rates" the first place it appears; and

(2) by inserting "and amounts" after "rates" the third place it appears.

(d) Stylistic Amendments.—Subsection (d) of such section (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "hereof;" and inserting in lieu thereof "of this section.";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(e) Clerical Amendments.—(1) The heading of section 111 is amended to read as follows:

"§ 111. Payments or allowances for beneficiary travel".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"111. Payments or allowances for beneficiary travel.".

(f) Transition Provision.—In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act.

(g) Effective Date.—The amendments made by subsection (a) shall take effect with respect to travel performed after June 30, 1988.

PART B—PILOT PROGRAMS AND REPORTS

SEC. 111. ADULT DAY HEALTH-CARE PROGRAM.

(a) Three-Year Extension.—Section 620(f)(3) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) Study Requirement.—The Administrator shall conduct a study of—

(1) the medical efficacy and the cost-effectiveness of furnishing adult day health care under section 620(f) of title 38, United States Code, as an alternative to nursing home care; and

(2) the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

(c) REPORTS.—(1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) an interim report on the study under subsection (b) not later than February 1, 1988; and

(B) a final report on such study not later than February 1, 1991.

(2) Each such report shall include—

(A) the results of the study under subsection (b) through September 30 of the year preceding the deadline under paragraph (1) for submission of the report; and

(B) any other recommendation that the Administrator considers appropriate for legislative or administrative action with respect to the furnishing of adult day health care under section 620(f) of title 38, United States Code.

(d) REPEAL OF EXISTING STUDY AND REPORT REQUIREMENTS.—Subsections (b) and (c) of section 103 of Public Law 98-160 (38 U.S.C. 620 note) are repealed.

SEC. 112. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

(a) REVISED REPORT REQUIREMENT.—Section 603 is amended by adding at the end the following new subsection:

"(c) The Administrator shall include in the budget documents which the Administrator submits to Congress for any fiscal year, a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.".

(b) REPEAL OF PREVIOUS REQUIREMENT.—Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is repealed.

SEC. 113. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS.

(a) PROGRAM.—(1) In order to evaluate the desirability of using mobile health-care clinics to increase the access to Veterans' Administration health-care services of veterans who reside in isolated rural areas, the Administrator may conduct a pilot program under which eligible veterans residing in areas which are at least 100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics. The pilot program shall be conducted for a period of not less than 24 months.

(2) The pilot program authorized by paragraph (1) shall be carried out using at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

(b) FUNDING.—There is authorized to be appropriated $5,000,000 for each of fiscal years 1989 and 1990 in order to carry out this section. No funds may be used for the pilot program unless specifically appropriated for that purpose.

(c) EVALUATION.—In carrying out the pilot program, the Administrator shall evaluate the efficacy and cost-effectiveness of furnishing care to eligible veterans through the use of mobile health-care clinics.

(d) REPORTS.—Not later than 20 months after the first health-care service under the pilot program is furnished, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Each such report shall include the following:

(1) Information on the health-care services that were furnished under such pilot program and a detailed specification of the costs of furnishing such services.

(2) Information describing the veterans who were furnished services under the pilot program, including a detailed description with respect to service connection, age, prior access to and use of Veterans' Administration care and services, and the financial need of such veterans.

(3) The preliminary or final results of the Administrator's evaluation.

(4) Any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

SEC. 114. MODIFICATION OF REPORT ON CARE FURNISHED TO VETERANS HAVING CHRONIC MENTAL ILLNESS DISABILITIES.

(a) REPORT ON INSTITUTIONAL CARE FURNISHED MENTALLY ILL VETERANS.—The report required by section 235 of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3266) shall, to the extent feasible, include (1) information on the number of veterans being treated by the Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during each of fiscal years 1986, 1987, and 1988, shown by type of care furnished and the duration of such care, and (2) the Administrator's analysis of any change in the numbers of veterans being furnished any type of such care during such fiscal years, with particular emphasis on the effect of the implementation by the Veterans' Administration of a resource allocation methodology.

(b) DEADLINE FOR SUBMISSION OF REPORT.—Notwithstanding the date specified in subsection (c) of such section, the report required by such section shall be submitted not later than December 15, 1988.

SEC. 115. PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS.

(a) AUTHORITY FOR PROGRAM.—(1) The Administrator shall conduct a pilot program to provide care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of title 38, United States Code.

(2) As part of the pilot program, the Administrator may also provide such care and treatment and rehabilitative services—

(A) to veterans being furnished hospital or nursing home care by the Administrator for a chronic mental illness disability; and

(B) to veterans with service-connected chronic mental illness disabilities.

(b) CRITERIA FOR FACILITIES.—Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) IN-KIND ASSISTANCE.—The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility described in subsection (a) under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate care and services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

(d) DURATION OF PROGRAM.—The authority for the pilot program authorized by this section expires on September 30, 1989.

(e) REPORT.—Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Veterans' Administration under the pilot program through September 30, 1988, and the recommendation of the Administrator (together with the reasons for such recommendation) as to whether the pilot program should be continued.

(f) FUNDING.—(1) There is authorized to be appropriated for the pilot program under this section $6,000,000 for each of fiscal years 1988 and 1989.

(2) Of the amounts appropriated for the pilot program for each such fiscal year, not less than $250,000 shall be expended for management and monitoring of the program to ensure that a high quality of care is provided under the program and to ensure an accurate accounting of funds for the program.

(3) During fiscal year 1989, funds may not be obligated for the pilot program under this section other than funds specifically appropriated for that program.

(g) REPEAL OF CONTRACT AUTHORITY IN TITLE 38.—(1) Section 620C is repealed.

(2) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to that section.

SEC. 116. REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

Not later than December 15 of each of 1988, 1989, and 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities (including outreach activities and delivery of medical benefits and other benefits) of the Veterans' Administration during the preceding fiscal year to assist homeless veterans. The report shall include any suggestions of the Administrator for changes in those activities.

PART C—MATTERS RELATING TO AIDS

SEC. 121. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) GENERAL RULE.—Subsection (a) of section 4132 is amended—

(1) by inserting "(1)" before "Records";

(2) by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.".

(b) PUBLIC HEALTH EXCEPTION.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking out "pursuant to section 4134 of this title"; and

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

"(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

"(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.".

(c) DISCLOSURE TO SPOUSE OR SEXUAL PARTNER.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

"(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

"(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(d) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Subsection (g) of such section (as redesignated by paragraph (4)(A)) is amended by striking out "shall be fined" and all that follows and inserting in lieu thereof "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.".

(e) CROSS-REFERENCE AMENDMENTS.—(1) Subsection (a) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "subsections (e) and (f)".

(2) Subsection (c) of such section is amended by striking out "subsection (b)(2)(C)" and inserting in lieu thereof "subsection (b)(2)(D)".

SEC. 122. NONDISCRIMINATION.

(a) ADMISSION AND TREATMENT OF PERSONS INFECTED WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—Sections 4133 and 4134 are amended to read as follows:

"§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

"(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

"(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

"§ 4134. Regulations

"(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

"(b) The regulations referred to in subsection (a) of this section are—

"(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

"(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

"(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

"(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.".

(b) CLERICAL AMENDMENT.—The items relating to sections 4133 and 4134 in the table of sections at the beginning of chapter 73 of such title are amended to read as follows:

"4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

"4134. Regulations.".

SEC. 123. INFORMATION AND TRAINING CONCERNING AIDS PREVENTION.

(a) INFORMATION PROGRAM.—The Administrator shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). The information program shall be for employees and consultants of the Veterans' Administration, for other persons providing services in Veterans' Administration facilities to beneficiaries of programs administered by the Veterans' Administration, and for such beneficiaries.

(b) REQUIRED ELEMENTS OF INFORMATION PROGRAM.—In conducting the program under subsection (a), the Administrator shall—

(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

(3) make publications and other suitable materials containing such information readily available in Veterans' Administration health-care facilities and such other Veterans' Administration facilities as the Administrator considers appropriate; and

(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Veterans' Administration substance abuse treatment personnel, to each person being furnished treatment by the Veterans' Administration for drug abuse, and to each person receiving care or services from the Veterans' Administration whom the Administrator believes to be at high risk for AIDS.

(c) TRAINING IN AIDS PREVENTION.—The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration.

SEC. 124. RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS.

(a) GENERAL RULE.—Except as provided in subsection (b), the Administrator may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated

to the Veterans' Administration specifically for such a program during that fiscal year.

(b) Voluntary Testing.—(1) The Administrator shall provide for a program under which the Veterans' Administration offers each patient to whom the Veterans' Administration is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

(2) Patients referred to in paragraph (1) are—

(A) patients who are receiving treatment for intravenous drug abuse,

(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and

(C) patients who are otherwise at high risk for infection with such virus.

(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Administrator shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.

Part D—Other Matters

SEC. 131. DEFINITION OF VETERANS' ADMINISTRATION MEDICAL FACILITIES TO INCLUDE CERTAIN RECREATIONAL FACILITIES.

Section 601(4) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.".

SEC. 132. VETERANS' ADMINISTRATION ASSISTANCE WITH REHABILITATION ACTIVITIES.

(a) In General.—Chapter 3 is amended by inserting after section 215 the following new section:

"§ 216. Assistance to certain rehabilitation activities

"(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name 'Veterans' Administration' by—

"(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

"(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

"(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

"(A) the Administrator has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 215 the following new item:

"216. Assistance to certain rehabilitation activities.".

SEC. 133. RULES AND REGULATIONS RELATING TO VETERANS' HEALTH CARE.

The text of section 621 is amended to read as follows:

"Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 134. PER DIEM RATES FOR CARE IN STATE HOMES.

(a) Increases in Rates.—Section 641 is amended—

(1) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof the following:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home care and hospital care,"; and

(2) by adding at the end the following new subsection:

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(b) Effective Dates.—(1) The amendment made by subsection (a)(1) shall take effect as of January 1, 1988.

(2) The amendment made by subsection (a)(2) shall take effect on October 1, 1988.

SEC. 135. MEDICAL RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities and research into injuries and illnesses particularly related to service)".

SEC. 136. CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS.

(a) In General.—(1) Subject to subsection (b), the Administrator shall, not later than June 1, 1988, in urban areas in which there are significant numbers of homeless veterans, convert underused space located in facilities under the jurisdiction of the Administrator to 500 domiciliary-care beds to be used for the care of veterans in need of domiciliary care, primarily homeless veterans.

(2) If the Administrator determines that it is impractical to undertake the conversions required in paragraph (1) to the extent required in that paragraph—

(A) because appropriate space for the conversions is not available in sufficient quantity, or

(B) because in areas in which there is sufficient space the numbers of homeless veterans in need of domiciliary care who would likely use the beds are not sufficient to warrant the conversions,

the Administrator shall carry out paragraph (1) only to the extent that the Administrator has not determined that it is impractical to do so.

(b) Prohibition Against Diminution of Certain Other Conversions.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

(c) Funding.—The Administrator shall carry out subsection (a) within the limits of available appropriations.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

Part A—Administration

SEC. 201. HEALTH CARE QUALITY ASSURANCE ACTIVITIES.

(a) Actions To Improve Quality Assurance Activities.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall take actions to improve the operation of health-care quality assurance programs and activities in the Veterans' Administration, including actions to achieve the following purposes:

(1) Upgrading the Office of Quality Assurance within the Department of Medicine and Surgery Central Office and assigning responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel) to it.

(2) Expanding, and assigning higher priority and greater resources to, quality-assurance programs and activities at each Veterans' Administration health-care facility, including implementation of the review (known as "occurrence screening") of patient records for adverse events which are not the natural consequence of the patient's disease, injury, or treatment and the maximum use of the facility's computerized management information system for such activities.

(3) Upgrading and expanding the office of the Medical Inspector in the Department of Medicine and Surgery Central Office, including increasing the number of employees assigned to such office on a full-time basis, so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrading and expanding the activities of the Veterans' Administration's Office of Inspector General in overseeing, monitoring, and evaluating the operations of the Department of Medicine and Surgery's quality-

assurance programs and activities and its Medical Inspector office so as to provide the Chief Medical Director, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the Office of the Inspector General as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) REPORT.—Not later than 75 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, a report describing the actions taken pursuant to subsection (a), including reports of the Chief Medical Director and the Inspector General of the Veterans' Administration on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report shall include—

(1) the Administrator's views on (A) the effectiveness of quality assurance and risk management and medical inspection programs and activities in the Department of Medicine and Surgery and of the oversight, monitoring, and evaluation of those programs and activities before the implementation of the actions described in the preceding sentence, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken (and the justification for those actions) by the Administrator, the Inspector General, and the Chief Medical Director, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation therefor.

SEC. 202. HOSPITAL COST COLLECTIONS.

Section 629(b)(2) is amended by adding at the end the following new subparagraph:

"(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.".

SEC. 203. TORT CLAIMS.

(a) INAPPLICABILITY OF AN EXCEPTION RELATING TO FEDERAL TORT CLAIMS IN MEDICAL MALPRACTICE AND NEGLIGENCE CASES.—(1) Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(2) The amendment made by paragraph (1) shall apply with respect to claims as to which a final judgment has not been rendered as of the date of the enactment of this Act.

(b) INCREASED AUTHORITY TO ADJUST TORT CLAIMS ADMINISTRATIVELY.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative settlement of tort claims

"(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

"(b) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative settlement of tort claims.".

SEC. 204. NONPROFIT RESEARCH CORPORATIONS.

(a) AUTHORITY OF ADMINISTRATOR.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"§ 4161. Authority to establish; status

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

"§ 4162. Purpose of corporations

"Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

"§ 4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"§ 4164. General powers

"(a) A corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

"(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

"§ 4165. Applicable State law

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

"§ 4166. Accountability and oversight

"(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year.

"(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

"(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

"(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an

annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

"§ 4167. Report to Congress

"Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

"§ 4168. Expiration of authority

"No corporation may be established under this subchapter after September 30, 1991.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purpose of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Report to Congress.
"4168. Expiration of authority.".

SEC. 205. NURSING HOME REVOLVING FUND.

(a) Establishment of Fund.—Chapter 81 is amended by inserting after section 5015 the following new section:

"§ 5016. Nursing home revolving fund

"(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.1

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5016. Nursing home revolving fund.".

SEC. 206. STATE HOME CONSTRUCTION GRANTS.

(a) Date of List of Approved Projects.—Section 5035(b)(4) is amended by striking out "July 1" and inserting in lieu thereof "August 15".

(b) Conditional Approval of Applications.—Section 5035(b) is amended—

(1) in paragraph (4), by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

"(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

Part B—Pay and Other Personnel Benefits

SEC. 211. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) Category of Appointment.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) Authority for Premium Pay.—The second sentence of section 4107(f) is amended—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 212. RECRUITMENT AND RETENTION BONUS PAY.

(a) Authority To Pay Bonus.—Chapter 73 is amended by inserting after section 4119 the following new section:

"§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

"(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

"(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

"(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

"(A) $2,000 per year, in the case of an agreement for two years,

"(B) $3,000 per year, in the case of an agreement for three years, and

"(C) $4,000 per year, in the case of an agreement for four years.

"(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

"(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

"(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

"(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

"(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an

agreement under this section with a registered nurse and such an agreement.

"(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

"(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

"(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

"(h) The Administrator shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel.".

(b) CONFORMING AMENDMENT.—Section 4107(d) is amended by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120".

SEC. 213. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

"(2) This subsection applies to an employee who meets each of the following criteria:

"(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

"(B) The employee is employed in a work unit for which on-call premium pay is authorized.

"(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(3) An employee who is eligible for on call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.".

SEC. 214. PREMIUM PAY FOR SATURDAY WORK.

(a) EXTENSION OF SUNDAY WORK PREMIUM PAY.—Paragraph (3) of section 4107(e) is amended by striking out "Saturday" and inserting in lieu thereof "Friday".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (10) of such section is amended to read as follows:

"(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.".

(2) Such paragraph is further amended—

(A) in subparagraph (B), by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraph (A)"; and

(B) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tours of duty performed by nurses which begin on or after the first day of the first pay period beginning on or after the date of the enactment of this Act.

SEC. 215. REPORT ON EFFECT OF CERTAIN PAY AND BENEFITS AMENDMENTS.

Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by sections 211 through 214, relating to pay and benefits for various health care professionals in the Department of Medicine and Surgery. The report—

(1) shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists; and

(2) shall include such recommendations for further legislative action as the Administrator considers appropriate.

SEC. 216. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPEAL OF OLD PROGRAM.—Subchapter IV of chapter 73 is repealed.

(b) IMPROVED AND EXPANDED PROGRAM.—Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.

"4301. Establishment of program; purpose.

"4302. Eligibility.

"4303. Application and acceptance.

"4304. Terms of agreement.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"4311. Authority for program.

"4312. Eligibility; application; agreement.

"4313. Scholarship.

"4314. Part-time students.

"4315. Status of participants.

"4316. Obligated service.

"4317. Breach of agreement: liability.

"4318. Expiration of program.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"4321. Authority for program.

"4322. Eligibility; application; agreement.

"4323. Obligated service.

"4324. Breach of agreement: liability.

"4325. Allocation and distribution of funding.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"4331. Periodic adjustments in amount of assistance.

"4332. Annual report.

"4333. Regulations.

"4334. Breach of agreement; waiver of liability.

"4335. Service in other agencies.

"4336. Exemption of educational assistance payments from taxation.

"SUBCHAPTER I—GENERAL

"§ 4301. Establishment of program; purpose

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the 'Educational Assistance Program'). The program consists of—

"(1) the scholarship program provided for in subchapter II of this chapter, and

"(2) the tuition reimbursement program provided for in subchapter III of this chapter.

"(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

"§ 4302. Eligibility

"(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

"(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

"(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

"§ 4303. Application and acceptance

"(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

"(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

"(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

"(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

"(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

"(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

"§ 4304. Terms of agreement

"An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Administrator's agreement—

"(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

"(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

"(2) The participant's agreement—

"(A) to accept such educational assistance;

"(B) to maintain enrollment and attendance in the course of training until completed;

"(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

"(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

"(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

"(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

"(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"§ 4311. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

"§ 4312. Eligibility; application; agreement

"(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

"(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

"(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

"(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

"(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

"(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

"(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

"(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

"(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

"(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

"(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

"(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

"(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

"(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

"§ 4313. Scholarship

"(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

"(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veteran's Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

"(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section.

Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

"§ 4314. Part-time students

"In the case of a participant who is a part-time student—

"(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

"(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

"(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

"§ 4315. Status of participants

"Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

"§ 4316. Obligated service

"(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

"(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after the participant's service commencement date, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

"(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

"(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

"§ 4317. Breach of agreement: liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

"(2) The participant is dismissed from such educational institution for disciplinary reasons.

"(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

"(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

"(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

"(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'F' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4313 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4318. Expiration of program

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"§ 4321. Authority for program

"As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

"§ 4322. Eligibility; application; agreement

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

"(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

"(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

"(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

"(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

"(2) The participant's agreement—

"(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year (adjusted in accordance with section 4331 of this title).

"(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

"§ 4323. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§ 4324. Breach of agreement: liability

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

"(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'F' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4323 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4325. Allocation and distribution of funding

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"§ 4331. Periodic adjustments in amount of assistance

"(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

"(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

"(b) For purposes of this section:

"(1) The term 'maximum monthly stipend amount' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(2) The term 'maximum tuition reimbursement amount' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(3) The term 'general Federal pay increase' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

"§ 4332. Annual report

"Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

"(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

"(2) The education institutions providing such training to students in each program.

"(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

"(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

"(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

"(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

"§ 4333. Regulations

"The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§ 4334. Breach of agreement; waiver of liability

"(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

"(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or a agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

"(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"§ 4335. Service in other agencies

"(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

"(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

"(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

"§ 4336. Exemption of educational assistance payments from taxation

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.".

(c) SAVINGS PROVISION.—The provisions of subchapter IV of chapter 73 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with respect to scholarships awarded under that subchapter.

(d) TRANSITION.—Section 4331 of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 73 is amended by striking out the items relating to subchapter IV and sections 4141 through 4146.

(2) The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 75 the following new item:

"76. Health Professionals Educational Assistance Program.................... 4301".

SEC. 217. PAY SCALES AND AWARDS FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES.

(a) SECTION 4103 SCHEDULE.—Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.".

(b) SECTION 4104(1) POSITIONS.—Subsection (b)(1) of section 4107 is amended to read as follows:

"(b)(1) The grades and annual ranges of rate of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade.
"Executive grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.

"NURSE SCHEDULE

"Director grade.
"Assistant Director grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.
"Junior grade.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.".

(c) AWARDS FOR CAREER APPOINTEES.—Subsection (c)(3) of such section is amended by inserting "and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title" after "applies".

PART C—PERSONNEL ADMINISTRATION

SEC. 221. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 222. PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL.

(a) EXCLUSION FROM PERSONNEL CEILINGS.—Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'temporary research personnel' means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years after fiscal year 1987.

SEC. 223. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

SEC. 224. NURSE REPRESENTATION ON POLICYMAKING COMMITTEES.

(a) INCLUSION OF FACILITY CHIEF OF NURSING.—Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended in the first sentence by striking out "deans committee" and inserting in lieu thereof "dean's committee".

PART D—REPORTS

SEC. 231. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Administrator shall conduct a study in order to determine—

(1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and

(2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) MATTERS REQUIRED TO BE DETERMINED.—In conducting the study under subsection (a), the Administrator shall make determinations with respect to various factors which may affect the determinations to be made under subsection (a), including determinations of the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate such pay compression and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(c) CONSIDERATION OF FLEXIBLE EMPLOYEE BENEFITS PROGRAMS.—In conducting the study under subsection (a), the Administrator shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider—

(1) the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees,

(2) the advantages of such programs for such employers and employees, and

(3) the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) REPORTS.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall contain—

(1) the determinations of the Administrator under subsections (a) and (b); and

(2) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the study.

SEC. 232. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) REPORT.—Not later than August 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training heath-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) Information, for each academic year from 1980-1981 through 1987-1988, on the number of affiliated institutions, shown by type of institution and type of training, that—

(A) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary facilities, or other units providing extended care to veterans; or

(B) have a formal program providing education and training in geriatrics; or

(C) have both such programs.

(2) Information on the number of affiliated institutions (shown by type of institution) that are planning to establish programs as described in paragraph (1), together with a timetable for such actions.

(3) Estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in paragraphs (1) and (2).

(4) Estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in paragraphs (1)(A) and (2).

(5) A description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in paragraph (1).

(6) The views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C)(i) or (C)(ii) of section 4101(f)(1) of title 38, United States Code.

(c) DEFINITION.—For purposes of this section, the term "affiliated institutions" means medical and other health-professional training schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

SEC. 301. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,500".

SEC. 302. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,500".

SEC. 303. BURIAL BENEFIT FOR SERVICE-CONNECTED DEATHS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$1,500".

SEC. 304. EFFECTIVE DATE.

The amendments made by sections 301, 302, and 303 shall take effect on April 1, 1988.

PART B—COMPENSATION-RELATED PROVISIONS

SEC. 311. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 312. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES FOR FORMER PRISONERS OF WAR.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy except where directly related to infectious causes,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

SEC. 313. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 314. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended—

(1) in subparagraph (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (C), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

PART C—EDUCATION PROVISIONS

SEC. 321. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) IN GENERAL.—Section 1788 is amended—

(1) in clause (B) of the first sentence of the matter following clause (7) of subsection (a), by inserting "(or two 50-minute periods)" after "two hours"; and

(2) in subsection (c), by inserting "(or two 50-minute periods)" after "two hours".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act.

SEC. 322. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 323. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

PART D—INSURANCE PROVISIONS

SEC. 331. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is amended by adding at the end the following new section:

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 332. EXEMPTIONS FROM STATE TAXATION.

(a) EXEMPTION.—Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to premiums paid for periods beginning after June 30, 1988.

SEC. 333. DIRECT ADMINISTRATION OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) REVISION OF PROGRAM.—(1) Section 806 is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

"(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

"(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

"(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

"(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

"(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mort-

gage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisifed when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

"(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

"(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

"(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

"(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

"(2) The veteran's seventieth birthday.

"(3) Termination of the veteran's ownership of the property securing the loan.

"(4) Discontinuance of payment of premiums by the veteran.

"(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.".

(2) The item relating to section 806 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"806. Veteran's mortgage life insurance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act.

(c) SAVINGS PROVISION.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b).

(d) DISCONTINUANCE OF CONTRACT PROGRAM.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the "Veterans Insurance and Indemnities" appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

(e) FORMER SECTION 806 DEFINED.—For the purpose of subsections (c) and (d), the term "former section 806" means section 806 of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).

PART E—MEMORIAL AFFAIRS

SEC. 341. NATIONAL CEMETERY GRAVE MARKERS.

(a) IN GENERAL.—Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

"(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.".

(b) GRAVE MARKERS IN CERTAIN LOCATIONS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.

SEC. 342. CONTRIBUTIONS FOR CERTAIN PROJECTS.

Section 1004(f) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.".

SEC. 343. STATE VETERANS' CEMETERY CONSTRUCTION GRANTS.

Section 1008(b) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(3) in paragraphs (1) and (2) (as so redesignated), by striking out "per centum" and inserting in lieu thereof "percent"; and

(4) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

SEC. 344. GRAVE LINERS.

(a) AUTHORITY TO PROVIDE.—Section 906 is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

"(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 906. Headstones, markers, and grave liners".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 is amended to read as follows:

"906. Headstones, markers, and grave liners.".

SEC. 345. AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121 et seq.), is amended by adding at the end the following new section:

"SEC. 13. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, American Battle Monuments Commission, Account'. The account shall be used to provide funds, in addition to funds appropriated for salaries and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. Funds in the account may be transferred to funds appropriated for salaries and expenses of the Commission.

"(b) Funds transferred under subsection (a) shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Curren-

cy Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

"(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.".

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Foreign Currency Fluctuations, American Battle Monuments Commission, Account the sum of $3,000,000.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1988.

SEC. 346. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Administrator shall enter into an agreement with the State of Arizona that—

(1) provides for the conveyance to the United States, without consideration, of all right, title, and interest in and to the Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres; and

(2) commits the State to provide to the Veterans' Administration in a timely manner funding in the amount necessary to supplement Federal funding so that the level of operation and maintenance of the cemetery as of the date the agreement is entered into can be maintained during the three-year period beginning on the date of the conveyance of the cemetery under the agreement.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is conducted at no charge to the United States and is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the conveyance of the Arizona Veterans Memorial Cemetery under this section, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) During each of the one-year periods occurring during the three-year period beginning on the date on which the conveyance under subsection (a) is made, the Administrator may not obligate appropriated funds for the operation and maintenance of the Arizona Veterans Memorial Cemetery in excess of the greater of—

(A) the amount that the Administrator estimates would have been obligated for payment during the one-year period involved to the State pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration; or

(B) the amount obligated for such purpose during fiscal year 1987.

(2)(A) Subject to subparagraph (B), in each of the fiscal years occurring during the three-year period described in paragraph (1), the Administrator shall use amounts available for payments under such section 903(b)(1) for the operation and maintenance of such cemetery.

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1).

(3) The Administrator shall use all funding received from the State, as described in subsection (a)(2), for the operation and maintenance of such cemetery.

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery after the conveyance of the cemetery to the United States.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

SEC. 401. INTEGRITY OF CONTRACTING OUT PROCESS AT HEALTH-CARE FACILITIES.

(a) REQUIREMENT FOR TWO BIDDERS.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act.

SEC. 402. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS.

Not later than October 1, 1989, the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Commissioner of the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the procurement of a name-brand item is necessary in the interests of effective patient care.

SEC. 403. REQUIREMENTS FOR THE PROCUREMENT OF HEALTH-CARE ITEMS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§ 5025. Procurement of health-care items

"(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

"(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

"(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

"(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

"(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribe, or

"(iii) procurement under a local contract is demonstrably more cost-effective for the item.

"(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

"(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

"(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

"(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration.

"(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

"(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

"(e) For the purposes of this section:

"(1) The term 'health-care item' includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

"(2) The term 'local contract' means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

"(3) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for a item.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of health-care items.".

(b) EFFECTIVE DATES.—(1) Subsection (b)(1) of section 5025 of title 38, United States Code (as added by subsection (a)), shall take effect one year after the date of the enactment of this Act.

(2) Subsection (b)(3) of such section shall apply to health-care items procured for use by the Veterans' Administration after September 30, 1990.

SEC. 404. MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS.

(a) AUTHORITY FOR MULTIYEAR CONTRACTS.—Chapter 1 is amended by adding at the end the following new section:

"§ 114. Multiyear procurement for certain medical items

"(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

"(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

"(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(A) reducing costs;

"(B) achieving economies in contract administration or in any other Veterans' Administration activities;

"(C) increasing quality of performance by or service from the contractors; or

"(D) encouraging effective competition.

"(3) During the proposed contract period—

"(A) there will be a continuing or recurring need for the supplies or services being procured;

"(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(C) the specifications for the supplies or services are expected to be reasonably stable.

"(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

"(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

"(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

"(b)(1) A multiyear contract authorized by this section shall contain—

"(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

"(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

"(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

"(d) The Administrator shall prescribe regulations for the implementation of this section.

"(e) For the purposes of this section:

"(1) The term 'appropriations' has the meaning given that term in section 1511 of title 31.

"(2) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(3) The term 'multiyear contract' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(4) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"114. Multiyear procurement for certain medical items.".

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

SEC. 411. SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS.

(a) RESTORATION OF CERTAIN REVOLVING FUNDS.—(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985.

(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph.

(b) EXTENSION OF EXEMPTION FOR CERTAIN SERVICE-CONNECTED REHABILITATION AND EDUCATION BENEFITS.—Section 113(a) is amended by striking out "(but only with respect to fiscal year 1987)" each place it appears in paragraphs (4) and (5).

(c) TECHNICAL AMENDMENTS.—Subsection (d) of such section is amended by striking out "a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office" and inserting in lieu thereof "a report of the Director of the Office of Management and Budget".

SEC. 412. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) OPERATION BY VETERANS' CANTEEN SERVICE.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child-care centers

"(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

"(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

"(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

"(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

"(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

"(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

"(d) The Administrator shall prescribe regulations to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4209. Child-care centers.".

SEC. 413. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) Native Hawaiian Representation.—(1) Subsections (b) and (c)(3)(A) of section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) are amended by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians".

(2) Subsection (g) of such section is amended to read as follows:

"(g) Definitions.—For the purposes of this section:

"(1) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) The term 'Native Hawaiian' has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).".

(b) One-Year Extension.—(1) Subsection (f)(1) of such section is amended by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989".

(2) Subsection (h) of such section is amended—

(A) by striking out "second" and inserting in lieu thereof "third"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Administrator".

SEC. 414. MANAGEMENT OF CANTEEN SERVICE.

(a) Financial Management.—(1) The second sentence of section 4205 is amended by inserting "or other interest-bearing accounts" after "checking accounts".

(2) Section 4206 is amended by striking out the second sentence.

(b) Exemption of Canteen Service From Personnel Ceiling.—(1) Chapter 75 is amended by adding at the end the following:

"§ 4210. Exemption from personnel ceilings

"Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4210. Exemption from personnel ceilings.".

SEC. 415. TECHNICAL AMENDMENTS TO CHAPTER 37.

(a) Technical Reorganization of Subchapter I.—(1) Section 1802(a) is amended—

(A) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(B) by striking out the first sentence and inserting in lieu thereof: "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter.";

(C) by striking out "in the preceding sentence, or in section 1818 of this title," in the second sentence and inserting in lieu thereof "in paragraph (2)";

(D) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)", respectively;

(E) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively; and

(F) by adding at the end the following:

"(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

"(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

"(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

"(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

"(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

"(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.".

(2) Subsection (g) of section 1802—

(A) is amended by striking out "1801(a)" and inserting in lieu thereof "1801(b)"; and

(B) as amended by subparagraph (A) of this paragraph, is transferred so that it will appear at the end of subsection (a) of such section and is redesignated as paragraph (4) of such subsection (a).

(3)(A) Section 1815—

(i) is amended by striking out the section heading;

(ii) is amended by redesignating subsection (a) as paragraph (2)(A) and redesignating subsection (b) as subparagraph (B); and

(iii) as amended by clauses (i) and (ii) of this subparagraph, is transferred so that it will appear as paragraph (2) of section 1803(a), as amended by subparagraph (B)(ii) of this paragraph.

(B) Section 1803 is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 1803. Basic provisions relating to loan guaranty and insurance."; and

(ii) in subsection (a) by striking out paragraph (2).

(4) Section 1807 is repealed.

(b) Technical Reorganization of Subchapters II and III.—(1)(A) Section 1816(a)(4)(A)(i)(I) is amended by striking out "section 1816(a)(2) of this title" and inserting in lieu thereof "paragraph (2) of this subsection".

(B) Section 1816(c)(10) is amended—

(i) in subparagraph (A), by inserting "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" after "loan"; and

(ii) in subparagraph (B)(ii), by inserting "(5)(A) or" after "under paragraph".

(C) The heading and subsections (a), (b), and (c) of section 1816, as amended by subparagraphs (A) and (B) of this paragraph, are redesignated as a new section 1832 and transferred to subchapter III of chapter 37 so that they will appear following section 1831.

(D) Subsections (d), (e), and (f) of section 1816 are redesignated as subsections (a), (b), and (c), respectively, and transferred so that they will appear after section 1832, as transferred by subparagraph (C) of this paragraph with the following heading:

"§ 1833. Property management".

(2)(A) Section 1817(a) is amended by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810".

(B) Section 1817, as amended by subparagraph (A) of this paragraph, and section 1817A are redesignated as sections 1813 and 1814, respectively, and transferred so that they will appear after section 1812, as transferred by paragraph (4)(C) of this subsection.

(3) Section 1818 is repealed.

(4)(A) Section 1819 is amended by striking out "under this section" each place it appears in subsections (a)(4)(C), (b)(1), (c)(2), (c)(4), (d)(1), (e), (f), (g) (except where it appears in the second sentence), and (h)(1) and inserting in lieu thereof "for purposes specified in this section".

(B) Section 1819(c) is amended—

(i) in the first sentence of paragraph (3) by inserting before the period the following: "as specified in paragraph (4) of this subsection";

(ii) in the second sentence of paragraph (4), by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810"; and

(iii) in the second sentence of paragraph (4), by striking out "under such section 1810" and inserting in lieu thereof "for purposes specified in such section 1810".

(C) Section 1819, as amended by subparagraphs (A) and (B) of this paragraph, is redesignated as section 1812 and transferred so that it will appear following section 1811.

(5) Section 1832—

(A) is amended by striking out the section heading;

(B) is amended by redesignating subsection (a) as subsection (d)(1) and subsection (b) as paragraph (2); and

(C) as amended by clause (A) and (B) of this paragraph, is transferred so that it will appear at the end of the new section 1833 added by paragraph (4) of this subsection.

(c) CONFORMING AMENDMENTS.—(1) Section 1801(a) is amended by striking out "1819(a)(1)" and inserting in lieu thereof "1812(a)(1)".

(2) Section 1803(c)(3) is amended—

(A) in clause (A), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)"; and

(B) in clause (E), by striking out "1819(a)(1)(G)" and inserting in lieu thereof "1812(a)(1)(G)".

(3) Section 1804 is amended—

(A) in clause (C) of subsection (c)(2), by striking out "1819(a)(5)(A)(i)" and inserting in lieu thereof "1812(a)(5)(A)(i)";

(B) in clause (D) of subsection (c)(2), by striking out "1819(e)(5)" and inserting in lieu thereof "1812(e)(5)"; and

(C) in subsection (f), by striking out "1817A" each place it appears and inserting in lieu thereof "1814".

(4) Section 1810 is amended—

(A) in subsection (a)(9)(B)(ii), by striking out "section 1819(a)(5)" and inserting in lieu thereof "section 1812(a)(5)"; and

(B) in subsection (g)(2), by striking out "section 1819(e)(2)" and inserting in lieu thereof "section 1812(e)(2)".

(5) Section 1811 is amended—

(A) by striking out "1819" each place it appears and inserting in lieu thereof "1812"; and

(B) in subsection (b), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)".

(6) Section 1829(d) is amended by striking out "1817A" and inserting in lieu thereof "1814".

(7) Any reference, in effect on the date of the enactment of this Act, in any law, rule, or regulation to any of the sections, or parts thereof, which are redesignated or transferred by this section shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.

(d) TECHNICAL AMENDMENTS.—(1) Section 1803(a)(1) is amended—

(A) in clause (A)(ii), by inserting "as specified in subparagraph (B) of this paragraph" before the period; and

(B) in clause (B), by striking out "under section 1810 of this chapter" and inserting in lieu thereof "for purposes specified in section 1810 of this title".

(2) Section 1811 is amended—

(A) in subsections (a), (b), and (g), by striking out "under section 1810 or" and inserting in lieu thereof "for purposes specified in section 1810 or"; and

(B) in subsection (d)(2)(B), by striking out "under section 1810(c)" and inserting in lieu thereof "for purposes specified in section 1810".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the item relating to section 1803 and inserting in lieu thereof the following:

"1803. Basic provisions relating to loan guaranty and insurance.";

(2) by striking out the item relating to section 1807;

(3) by striking out the items relating to subchapter II and inserting in lieu thereof the following:

"SUBCHAPTER II—LOANS

"1810. Purchase or construction of homes.

"1811. Direct loans to veterans.

"1812. Loans to purchase manufactured homes and lots.

"1813. Release from liability under guaranty.

"1814. Assumptions; release from liability."; and

(4) by striking out the item relating to section 1832 and inserting in lieu thereof the following:

"1832. Procedure on default.

"1833. Property management.".

(f) TECHNICAL NATURE OF AMENDMENTS.—The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section.

PART C—REAL PROPERTY

SEC. 421. LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES.

(a) GENERAL RULE.—(1) Paragraph (2) of section 5022(a) is amended to read as follows:

"(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

"(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

"(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.".

(2) Any proposed transfer of real property described in subparagraph (B) of section 5022(a)(2) of title 38, United States Code, as amended by paragraph (1), that is described in a report submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Administrator not later than 30 days after the date of the enactment of this Act shall be deemed for purposes of subparagraph (A) of that section to have been described in the President's budget for fiscal year 1989.

(b) SPECIAL RULE.—(1) Section 234 of Public Law 99-576 is repealed.

(2) The Administrator may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Lost Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code, as in effect on that date.

SEC. 422. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

(a) PROCEDURES.—Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.".

(b) DEFINITIONS.—Section 5004(a) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection:

"(A) The term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

"(B) The term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.".

(c) COST VARIATIONS.—Subsection (c) of section 5004 is amended to read as follows:

"(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.".

(d) CONFORMING REPEAL.—Such section is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 423. USE OF FORMER HOSPITAL IN MINOT, NORTH DAKOTA.

(a) AGREEMENT WITH SECRETARY OF LABOR.—Upon the satisfaction of the conditions specified in subsection (b), the Administrator shall enter into an agreement with the Secretary of Labor for the use by the Secretary for nominal consideration of the 20.6 acres of land in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost use agreement with the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(b) CONDITIONS.—The conditions referred to in subsection (a) are as follows:

(1) Sufficient funds are appropriated to the Department of Labor by the end of fiscal year 1989 to enable the Department to establish a Job Corps Center in North Dakota.

(2) The Secretary of Labor selects the property referred to in subsection (a) as the site for such a Job Corps Center.

(3) The Secretary agrees to use such property as a Job Corp Center for the duration of the lease agreement with the Administrator.

(c) RENEWALS.—The agreement between the Administrator and the Secretary of Labor under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

(d) REVERSAL OF PRIOR ADMINISTRATIVE ACTION.—The action of the Veterans' Administration of September 29, 1987, in declaring the property referred to in subsection (a) to be excess to the needs of the Veterans' Administration is hereby rescinded, and such property is returned to the jurisdiction of the Veterans' Administration.

(e) PROHIBITION ON VETERANS' ADMINISTRATION EXPENDITURES.—Notwithstanding any other provision of law, the Veterans' Administration shall not expend any funds for the repair, improvement, or alteration of the property referred to in subsection (a) in connection with the use of such property by the Secretary of Labor.

SEC. 424. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate to the title of the bill and agree to the same.

G.V. MONTGOMERY,
MARCY KAPTUR,
J. ROY ROWLAND,
JERRY SOLOMON,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

ALAN CRANSTON,
DENNIS DECONCINI,
SPARK M. MATSUNAGA,
FRANK H. MURKOWSKI,
AL SIMPSON,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House of Representatives and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the amendments of the Senate to the bill (H.R. 2616), to amend title 38, United States Code, to improve health-care programs of the Veterans' Administration, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendments struck out all of the House bill after the enacting clause and inserted a substitute text, consisting of the provisions of S. 9 as agreed to by the Senate on December 4, 1987, and amended the title.

The House amendments struck out all of the substitute text inserted by the Senate amendments and inserted a new substitute text, consisting of provisions derived from the bills listed below, and amended the title.

The bills referred to above are as follows:

Title I of S. 477, the proposed "Homeless Veterans' Assistance Act of 1987", as passed by the Senate on March 31, 1987 (hereinafter referred to as "S. 477").

H.R. 1659, a bill to increase the payments for the care of veterans in State homes, as passed by the House on May 27, 1987 (hereinafter referred to as "H.R. 1659").

H.R. 2327, a bill to ensure eligibility of certain individuals for beneficiary travel benefits when traveling to Veterans' Administration medical facilities, as passed by the House on June 30, 1987 (hereinafter referred to as "H.R. 2327").

H.R. 2616, the proposed "Veterans' Administration Health-Care Amendments of 1987", as passed by the House on June 30, 1987 (hereinafter referred to as "H.R. 2616").

H.R. 1811, the proposed "Atomic Veterans Compensation Act of 1987", as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 1811").

H.R. 2945, the proposed "Veterans' Compensation Amendments of 1987", as passed by the House on July 28, 1987 (hereinafter referred to as "H.R. 2945").

H.R. 2672, the proposed "Veterans' Housing Rehabilitation and Program Improvement Act of 1987", as passed by the House on August 3, 1987 (hereinafter referred to as "H.R. 2672").

H.R. 2957, a bill to provide for improvements in the National Cemetery System, as passed by the House on August 3, 1987 (hereinafter referred to as "H.R. 2957").

S. 1464, the proposed "Veterans' Administration Beneficiary Travel, Quality Assurance, and Readjustment Counseling Amendments of 1987", the text of which was agreed to by the Senate on October 16, 1987, as an amendment to H.R. 2327 (hereinafter referred to as "S. 1464").

H.R. 3449, a bill to improve health-care programs of the Veterans' Administration, as passed by the House on October 19, 1987 (hereinafter referred to as "H.R. 3449").

S. 9, the proposed "Omnibus Veterans' Benefits and Services Act of 1987", the text of which was agreed to by the Senate on December 4, 1987, as an amendment to H.R. 2616 (hereinafter referred to as "S. 9").

The Senate recedes from its disagreement to the amendments of the House to the amendments of the Senate and agrees to the same with a further amendment, which is a substitute for the House amendment to the text of the bill as amended by the Senate amendment thereto.

The differences between the provisions of the various bills from which the House amendment to the text of the bill was derived, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by the conference agreement, and minor drafting, technical, and clarifying changes.

Except as noted in the cases of sections 101, 108, and 134 of the conference agreement and except for the deletion of section 314 from the House amendment, the description of the conference agreement also describes the House amendment.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Eligibility for Outpatient Services

House bill: The House bill (sections 101 and 106 of H.R. 2616) would, effective October 1, 1987, amend section 612(a) and (f) of title 38, relating to eligibility for outpatient care, to require the Administrator to furnish such outpatient care as the Administrator determines is necessary—

(a) for any service-connected disability of a veteran;

(b) for any disability of a veteran with a service-connected disability or disabilities rated at 50 percent or more;

(c) for a disability for which a veteran (i) is receiving compensation by reason of having incurred the disability as a result of VA care or the pursuit of vocational rehabilitation under chapter 31 of title 38, or (ii) would thus be entitled to compensation but for a suspension thereof resulting from a judgment or settlement, but only to the extent that the veteran's continuing eligibility for VA care is provided for in the judgment or settlement;

(d) for any disability of a veteran who is a former prisoner-of-war; and

(e) in preparation for hospital admission, to obviate the need for hospital care, or to complete treatment incident to hospital, nursing home, or domiciliary care in the cases of (i) veterans having service-connected disabilities rated at less than 50 percent, (ii) veterans with eligibility based on their exposure to certain toxic substances in Vietnam or to ionizing radiation from nuclear explosions, (iii) veterans of World War I and earlier periods of war, and (iv) veterans with annual incomes at or below the standard, known as the "Category A" threshold (currently $15,833 for veterans having no dependents, with higher amounts for those having one or more). Under current law, the furnishing of outpatient care to veterans in these categories and all other categories is not required.

Senate bill: No provision.

House amendment: The House amendment (section 101) followed the House bill with respect to requiring the furnishing of outpatient care under the circumstances described in clauses (a), (b), and (c), above, deleted the provision described in clause (d), above, and revised the provision requiring the furnishing of pre-hospital care, care to obviate the need for hospital care, and post-institutional follow-up care, as described in clause (e), above. Under the House amendment, the Administrator would be required to furnish such care where necessary on a pre-hospital-care or post-institutional-care basis or to obviate the need for hospital care, for any disability of a veteran who has a service-connected disability rated at 30 or 40 percent or of a veteran with an income at or below the pension aid-and-attendance income level (currently $9,940 for a veteran having no dependents, with higher amounts for those having one or more dependents). The House amendment would also amend section 612(i) of title 38, relating to priorities in the furnishing of VA outpatient care, to revise the priorities for outpatient care to otherwise eligible veterans to require that such care be furnished in the following order of priority: (1) care that the VA is required to furnish (as described above), (2) (a) care for a veteran who has a service-connected disability rated at less than 30 percent, or (b) a compensation or pension examination for any veteran; (3) care for former prisoners of war and veterans with eligibility based on their exposure to toxic substances in Vietnam or to ionizing radiation from nuclear explosions; (4) Mexican border period and World War I veterans and veterans who are in receipt of increased pension or additional compensation or allowance based on the need of regular aid and attendance or by reason of being permanently housebound; and (5) veterans with incomes above the pension aid-and-attendance level but not above the Category A threshold. The foregoing provisions would take effect on the date of enactment.

Conference agreement: The conference agreement contains the provisions of the House amendment with a July 1, 1988, effective date.

The conferees note the request made on March 21, 1988, by the Committees on Veterans' Affairs to the Comptroller General to conduct a study to estimate the current and potential demand of Category A veterans for needed VA outpatient care, especially in high demand areas, including the suppressed demand for such care, and to ascertain the number of those veterans who are denied needed care and the reasons for the denials.

The conferees intend that, for veterans to whom the Administrator would be required to furnish certain outpatient care as specified in section 612(a) and (f)(1)(A) as proposed to be amended, the VA's sole obligation with respect to needed outpatient care for such veterans is (1) if the veteran is in immediate need of outpatient care, to furnish appropriate care at the VA facility where the veteran applies or, if the needed services are not available there, to furnish contract outpatient care (to the extent authorized under current law (section 603 of title 38)) or to arrange for the veteran to receive the needed care at the nearest VA outpatient facility, or Department of Defense (DOD) outpatient facility with which the VA has a sharing agreement, at which the needed services are available, or (2) if the veteran does not need immediate outpatient care, to schedule the veteran for the first available appointment at the facility where the veteran applied or, if that is not feasible, refer the veteran to the nearest VA outpatient facility, or DOD outpatient facility with which the VA has a sharing agreement, at which the needed services are available and facilitate the scheduling of an appointment for the veteran there. The VA, of course, would also retain any existing discretionary authority to furnish health care to these veterans in the specified circumstances.

The conferees further note that these provisions would not change current law or practice regarding the beneficiary travel program.

Eligibility for Domiciliary Care

House bill: The House bill (section 102 of H.R. 2616 and section 10 of H.R. 3449) would—

(a) effective October 1, 1987, amend section 610(b) of title 38, relating to eligibility for domiciliary care, to establish a veteran's inability to defray the expenses of needed domiciliary care as the only criterion for eligibility for domiciliary care, and

(b) amend section 622(a)(1) and (g), relating to determinations of inability to defray the expenses of necessary care, to eliminate the existence of a service-connected disability as the equivalent of inability to defray the expenses of necessary domiciliary care and to establish the "Category A" income threshold (described above in the discussion of section 101 of H.R. 2616 (currently $15,833 for a veteran having no dependents, with higher amounts for those having one or more dependents)) as the maximum income limit for those considered unable to defray such expenses for domiciliary-care purposes.

Senate bill: The Senate bill (section 305 of S. 9) would amend section 610(b) to revise the eligibility criteria for domiciliary care to provide eligibility to veterans who are in need of such care for the purpose of receiving treatment or rehabilitation and who either have a service-connected disability or are incapacitated from earning a living and have no adequate means of support.

Conference agreement: The conference agreement (section 102) would, effective on the date of enactment, amend section 610(b) to revise the eligibility criteria so as to provide eligibility to veterans who are in need of domiciliary care for the purpose of receiving medical services and who have incomes at or below the pension aid-and-attendance level (currently $9,940 for a veteran having no dependents, with higher amounts for those having one or more dependents) or have no adequate means of support. The eligibility of a veteran who was a patient or resident in a State home facility or VA domiciliary during the period beginning January 1, 1987, and ending April 1, 1988, would not be limited or restricted by this agreement.

The conferees note that the term "medical services" as used in the modified section is defined in section 601(6) of title 38 to include "rehabilitative services". Further, the conferees support the VA's stated intention to give preference to veterans with service-connected disabilities in the furnishing of domiciliary care.

The conferees do not intend that a veteran be determined to be ineligible merely because his or her income is above the income standard. The conferees note that a veteran may have an income over the pension aid-and-attendance level but also be temporarily incapacitated from earning a living and thereby have no adequate means of support and be eligible for domiciliary care.

Definition of Nursing Home Care

House bill: The House bill (section 103 of H.R. 2616) would amend section 101(28) of title 38, relating to the definition of "nursing home care", to define the term to include services furnished in skilled, intermediate care, and combined facilities and to specify that the term does not include domiciliary or residential care.

Senate bill: No provision.

Conference agreement: The conference agreement (section 103) contains this provision with an amendment to delete the reference to residential care.

Expansion of Contract-Care Authority

House bill: The House bill (section 105 of H.R. 2616) would amend section 603(a) of title 38, relating to the VA's contract-care authority, to authorize the VA to contract for (a) emergency hospital care for veterans who have been placed in community nursing homes at VA expense, and (b) the hospitalization of veterans for observation or examination to determine eligibility for a VA benefit.

Senate bill: The Senate bill (section 302 of S. 9), is substantively identical except that it also authorizes contracting for outpatient, as well as inpatient, observation and examination of a veteran to determine eligibility for a VA benefit.

Conference agreement: The conference agreement (section 104) contains the Senate provision.

Health Care Outside the United States for Veterans with Service-Connected Disabilities

House bill: The House bill (section 109 of H.R. 2616) would amend section 624(b) of title 38, relating to contract hospital and outpatient treatment or care of service-connected disabilities of veterans located outside the United States, to provide the VA with authority to furnish care for service-connected disabilities of United States veterans who are non-United States citizens residing or sojourning in Canada.

Senate bill: The Senate bill (section 304 of S. 9) would amend section 624(b) to authorize the VA to furnish care anywhere outside of the United States (a) for the treatment of the service-connected disability of a United States veteran who is not a United States citizens, or (b) as part of a VA vocational rehabilitation program.

Conference agreement: The conference agreement (section 105) would authorize the VA to furnish care outside of the United States (a) for the service-connected disability of a United States veteran who is in Canada or the Republic of the Philippines, (b) as part of a VA vocational rehabilitation program, and (c) for the service-connected disability of a United States veteran located anywhere outside the United States as determined at the discretion of the Administrator.

Internment Period Required for Eligibility for Dental Care for Former Prisoners of War

House bill: The House bill (section 203 of H.R. 2945) would amend section 612 (b) (1) (F) (redesignated as section 612 (b) (1) (G) by section 101 of the conference agreement, of title 38, relating to the eligibility of former prisoners of war for outpatient dental care, to reduce the eligibility requirement from 6 months of internment to 90 days.

Senate bill: The Senate bill (section 111(c) of S. 9) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 106) contains this provision.

Readjustment Counseling Program

House bill: The House bill (section 107 of H.R. 2616) would amend section 612A, relating to the VA's readjustment counseling program for Vietnam-era veterans, to make discretionary the mandatory transition currently required of the Vietnam-era veteran readjustment counseling program from one conducted primarily through Vet Centers in their community locations to one conducted primarily through VA medical facilities and provide for a 120-day period after Congressional receipt of two reports from the VA which are required by law (sections 612A(g) (2) and (3) during which no transition could take place. The second report is to include a detailed explanation and justification for the VA's plans for the Vet Centers.

Senate bill: The Senate bill (title III of S. 1464) would amend section 612A to (a) eliminate the statutory mandate for the transition; (b) replace the statutory mandate for a transition with a provision permitting the closure or relocation of a Vet Center to a general VA facility only upon case-by-case determinations by the Chief Medical Director after taking into account certain specified criteria (drawn from the VA's existing criteria) relating to ensuring the continued availability and effective provision of readjustment counseling services; (c) require that 60 days advance notification, including the results of consideration of the specified criteria, be submitted to the Veterans' Affairs Committees before any such relocations or closures are made; (d) protect for 2 years the budget and personnel ceiling for any Vet Center relocated to a VA medical facility but allow the CMD to reduce the budget and ceiling after one year on the basis of a determination of a reduction in workload; (e) make the relocation of 10 percent or more of the Vet Centers in existence on July 1, 1987, in any fiscal year an "administrative reorganization" for the purposes of existing reorganization requirements set forth in section 210(b) of title 38, thereby allowing such reorganizations to proceed for a fiscal year only if proposed at the time of the President's budget submission—approximately 8 months in advance for that year—and if appropriate notification is provided; (f) extend entitlement for readjustment counseling to veterans who have served in hostilities after May 7, 1975; (g) extend eligibility for readjustment counseling to active-duty personnel who served during the Vietnam era or in hostilities after May 7, 1975, the end of the Vietnam era, and to World War II and Korean-conflict veterans, with particular emphasis in the furnishing of counseling on the needs of those who served in combat; (h) explicitly authorize the provision of appropriate Department of Veterans' Benefits and health services at Vet Centers; (i) require, 90 days after the date of enactment, that all Vet Center personnel who have served satisfactorily and substantially continuously for 2 years be converted to career positions; and (j) postpone by one year the due date of three reports relating to the transition of the Vet Centers—from April 1, 1987, to April 1, 1988, in the case of a report from the Administrator setting forth the Administrator's views and recommendations on the future of the readjustment counseling program; from July 1, 1987, to July 1, 1988, in the case of a report on the VA's plans for the transition; and from February 1, 1989, to February 1, 1990, on the experience under the first year of the transition—and, from October 1, 1986, to October 1, 1987, the due date of the VA's report on the prevalence and incidence of post-traumatic stress disorder and other post-war psychological problems among Vietnam veterans.

Conference agreement: The conference agreement (section 107) contains provisions derived from the House and Senate provisions which would (a) repeal the mandatory transition requirement; (b) require the Administrator, after considering the recommendations of the CMD, to submit a national plan (at any time but not within 60 days before or after the end of a Session of Congress) which sets forth (1) plans with respect to each Vet Center in existence on February 1, 1988, for not less than the next year as to its relocation to another VA facility, movement to another location, or closure and which includes an evaluation of the ways in which decisions about each center would ensure the continued availability of readjustment counseling to persons eligible for and needing such services in the appropriate service area based on specified criteria drawn generally from certain of the VA's existing criteria as reiterated in the Senate bill, and (2) plans to open any new centers; (c) provide for no action to be taken with respect to any existing center prior to receipt of the national plan and for 120 days thereafter; (d) specify that, after the national plan is submitted, if the VA wishes to change the plan as to one or more centers, the Administrator must submit a revision to the national plan for that center or those centers in accordance with the same type of reporting requirements as apply to the initial plan and explaining the basis for the changes in plan; (e) provide for no action as outlined in any revision to be implemented for 60 days; (f) provide that, after the national plan is submitted, action could be taken as to the centers covered by the plan only in the way described therein or in a revision; (g) provide for no delegation to others of the Chief Medical Director's responsibility relating to making recommendations to the Administrator in connection with the submission of the national plan; and (h) postpone by one year the due date of a report from the Administrator on the effectiveness of the readjustment counseling program in meeting the readjustment needs of Vietnam-era veterans.

The conferees note that the VA has been engaged for four years in an effort to convert to career or career-conditional status those Readjustment Counseling Program field employees who are workng under time-limited appointments. The conferees are concerned about the fact that conversions have proceeded very slowly in certain areas and direct the Administrator to complete the process on a nationwide basis as rapidly as possible.

Beneficiary Travel Program

Both H.R. 2327 and the Senate bill (section 101 of S. 1464) would amend section 111 of title 38, which authories the VA to pay travel expenses of certain VA beneficiaries traveling to or from a VA facility or other place for the purpose of VA examination, treatment, or care or in connection with vocational rehabilitation provided pursuant to chapter 31 of title 38 or counseling required by the Administrator in connection with educational benefits provided under chapter 34 or 35. Under section 111, beneficiary travel payments may be made only to persons receiving benefits for or in connection with a service-connected disability, those who are receiving or eligible to receive a pension under section 521, those whose incomes do not exceed the applicable maximum annual rate of VA pension, and those who are unable to defray the expenses of their travel.

Requirement for Payment

House bill: The House bill would require the Administrator to make beneficiary travel payments to any eligible claimant or beneficiary.

Senate bill: The Senate bill would require the Administrator, if any beneficiary travel payments are made in any fiscal year, to provide such payments during that year to specified categories of veterans (described below under the heading as being eligible for beneficiary travel payments).

Conference agreement: The conference agreement (section 108(a) and (e)) contains the Senate provision with an amendment to specify that, for purposes of determining whether the VA makes any beneficiary travel payments in fiscal year 1988, only payments made after the date of enactment would be counted.

The conferees note their intention that, in the implementation of these provisions, care be taken to ensure that beneficiary travel payments would be made only to eligible veterans whose travel is for scheduled care or examination or who are furnished outpatient care or admitted to an inpatient health-care facility.

Eligibility

House bill: The House bill would provide that the following persons are entitled to beneficiary travel payments when traveling for a purpose specified in the VA's health-care beneficiary travel regulations in effect on July 1, 1986: (a) a veteran traveling in connection with treatment for a service-connected disability; (b) a veteran with a service-connected disability rated at 50 percent or more; (c) a veteran receiving or eligible to receive a VA pension; (d) a veteran whose annual income does not exceed the maximum annual rate of pension which would be payable if the veteran were eligible for pension; (e) a veteran for whom ambulance, wheelchair-van, or other special mode of transportation is medically indicated if an administrative decision is made that the veteran is unable to bear the cost of such transportation; (f) a veteran who is determined (under regulations prescribed by the Administrator) to be unable to defray the expenses of the travel; and (g) such other persons as the Administrator determines by regulation.

Senate bill: The Senate bill would specify that the following persons are eligible for beneficiary travel payments for travel for the purpose of examination, treatment, or care: (a) a person receiving benefits for or in connection with a service-connected disability; (b) a veteran in receipt of a pension; (c) veterans described in clause (d) and (f) of the above description of the House provision; and (d) a veteran traveling for the purpose of a compensation or pension examination.

Conference agreement: The conference agreement (section 108(a)) would specify that the following persons are eligible for beneficiary travel payments for travel for the purpose of VA examination, treatment, or care for which they are eligible: (a) a veteran or other person traveling in connection with treatment for a service-connected disability (as in the House and Senate provisions); (b) a veteran with a service-connected disability rated at 30 percent or more; (c) a veteran in receipt of a pension (as in the House and Senate provisions); (d) a veteran whose annual income does not exceed the maximum annual rate of pension which would be payable if the veteran were eligible for pension (as in the House and Senate provisions); (e) a veteran who is determined (under regulations prescribed by the Administator) to be unable to defray the expenses of the travel (as in the House and Senate provisions); (f) subject to restrictions described below with respect to advance authorization, a veteran or other person whose travel is medically required to be performed by a special mode of travel and who is determined (under such regulations) to be unable to defray the expenses of the travel; and (g) a veteran traveling for the purpose of a compensation or pension examination (as in the Senate provision). In addition, the Administrator would be authorized to provide, by regulation, for beneficiary travel payments to other persons.

Payment for Travel by Special Mode

House bill: The House bill, as noted above, would provide for reimbursement up to the actual expense incurred by a veteran for whom a special mode of transportation is medically indicated if an administrative determination is made that the veteran is unable to bear the cost of such transportation.

Senate bill: The Senate bill would, in the case of travel by a special mode of transportation, authorize reimbursement where the Administrator authorizes such travel in advance, or where a medical emergency requires the use of a special mode, and obtaining prior authorization would be hazardous to the person's health. The Senate bill would also authorize the Administrator to provide payment prior to determining the veteran's eligibility if the Administrator determines that it is in the best interest of furnishing care and services, subject to subsequently recovering the payment from the veteran if the veteran is determined to be ineligible.

Conference agreement: The conference agreement (section 108(a)) contains the Senate provision with an amendment (derived from the House bill) to provide for payment of the travel costs for a veteran as to whom a decision is made by the Administrator that the veteran is unable to bear the cost of the medically-indicated special-mode transportation even though it was not authorized in advance.

Deductible and Related Provisions

Senate bill: The Senate bill would (a) require a $3.75 one-way deductible in connection with VA health-care travel, except for travel in connection with compensation and pension examinations and travel by special mode; (b) apply a $22.50 cap per month on the deductible for pre-approved frequent travelers; (c) allow the deductible to be waived in cases where payment of a deductible would cause severe financial hardship; and (d) require the deductible and the cap to be modified at the same time and by the same percentage as the Administrator increases the rates of allowances and reimbursements paid under section 111.

House bill: No provision.

House amendment: No provision.

Conference agreement: The conference agreement contains the Senate provision with an amendment to reduce the deductible to $3 per one-way trip and the cap for pre-approved frequent travelers to $18 per month.

Allocation of Beneficiary Travel Funds to Facility Directors

Senate bill: The Senate bill would require that, with respect to each fiscal year in which the VA makes any beneficiary travel payments, the Administrator provides each VA medical facility with an allocation sufficient to make beneficiary travel payments in accordance with the Senate provision described above.

House bill: No provision.

Conference agreement: No provision.

Local Waivers

Senate bill: The Senate bill would provide to VA facility directors, subject to the approval of the Chief Medical Director, flexibility to reduce or eliminate beneficiary travel payments by providing for waivers in certain circumstances and would provide that any funds allocated to a facility but, pursuant to a waiver, not expended for beneficiary travel payments be available to the facility director for direct patient-care services.

House bill: No provision.

Conference agreement: No provision.

Voluntary Transportation Networks

Senate bill: The Senate bill would (a) require the Administrator, in consultation and coordination with the Secretary of Transportation and veterans' service organizations, to take all appropriate steps to facilitate the establishment and maintenance of local transportation networks under which organizations, or individual who are volunteering their services to the VA, would take responsibility for the transportation of veterans to VA facilities without reimbursement from the VA, and (b) require the Administrator to submit to the Veterans' Affairs Committees a report, not later than 6 months after enactment, on the implementation of this provision.

House bill: No provision.

Conference agreement: The conference agreement (section 108(b)) contains these provisions.

The conferees note that some transportation provided to veterans in connection with their receiving VA care or treatment is offered free of charge and that this practice is expected to increase as a result of emphasis being placed on the voluntary transportation networks that would be required to be promoted by this legislation. In this regard, the conferees further note that, under the statutory language (both current and as proposed in the conference agreement), reimbursement may not exceed the "actual expense" of travel (section 111(e)(2)(C)). The conferees intend that, in those instances in which a veteran receives transportation at no cost through such a network or in other situations (such as car pools), no payment for beneficiary travel would be made. If the veteran actually incurs some expense in a joint traveling arrangement, reimbursement should be made only for the lesser of the amount of the expenses incurred or the amount provided in law (section 111(e)(2) (B) and (C) of title 38).

Effective Date

House bill: The House bill would take effect on October 1, 1987.

Senate bill: The Senate bill would take effect on the date of enactment.

House amendment: The House amendment would take effect on the date of enactment.

Conference agreement: Except for the provisions relating to voluntary transportation networks, which would take effect on the date of enactment, the conference agreement would take effect on July 1, 1988.

INTERFACILITY TRAVEL

The conferees further note that no mention is made in either the House bill, the Senate bill, or the conference agreement for payments for interfacility travel, that is, the travel of VA beneficiaries between health-care facilities. The conferees are advised that the VA may use its general health-care authority other than section 111 to provide for such travel, and understand that generally VA health-care facilities have used general VA health-care authority and funds, rather than section 111 and funding earmarked for beneficiary travel, to provide for facility-to-facility transfers. The conferees do not intend to restrict such general authority or require any changes in current practices with regard to payment for this type of travel expense.

Services to Overcome Service-Connected Disability Impairing Procreation

Senate bill: The Senate bill (section 301 of S. 9) would amend section 601(6) of title 38, relating to the definition of "medical services" for purposes of VA health-care programs, to authorize the Administrator to furnish services to help a veteran or veteran's spouse achieve pregnancy in cases in which the veteran's service-connected disability impairs the veteran's ability to procreate.

House bill: No provision.

Conference agreement: No provision.

PART B—PILOT PROGRAMS AND REPORTS

Adult Day Health-Care Program

House bill: The House bill (section 108 of H.R. 2616) would amend section 602(f)(3) of title 38, relating to adult day health care, to extend the adult-day-health-care authority for 3 years, through September 30, 1991, and would amend section 301(a) of Public Law 98-160, relating to a study and report to the Committee on Veterans' Affairs on such care, to make the February 1, 1988, report an interim one and to require a final report by February 1, 1981.

Senate bill: No provision.

Conference agreement: The conference agreement (section 111) contains this provision.

Report on Use of Contact-Care Authorities

House bill: The House bill (section 110 of H.R. 2616) would repeal section 201(b) of Public Law 96-22, requiring the Administrator to submit to the Committee on Veterans' Affairs an annual report on the VA's furnishing of contract care.

Senate bill: The Senate bill (section 303 of S. 9) would modify section 201(b) to update the requirement for the report in light of changes made by Public Law 99-272 in the statutory framework of VA contract authorities.

Conference agreement: The conference agreement (section 112) follows the Senate bill, with amendments requiring the Administrator to submit the report with the agency's annual budget submission to the Congress, and cover the VA's utilization of all of its contract-care authorities.

The conferees intend that the report contain statistics showing the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38) in each of the categories described in the following title 38 provisions: (1) section 603(a)(1)(A) and (B); (2) section 603(a)(2)(A), (B), and (C); (3) section 603(a)(3), (4), (5), (6), (7), and (8) (as added by section 104 of the conference agreement) with breakdowns showing inpatient care and outpatient treatment separately; (4) section 612A(e)(1); (5) section 620(a) and (f); (6) section 460A; and (7) section 115 of this Act.

Pilot Program of Mobile Health-Care Clinics

Senate bill: The Senate bill (section 315 of S. 9) would require the VA, in order to evaluate the impact on access to VA health-care services in isolated rural areas at least 100 miles from the nearest VA health-care facility, to conduct at 2-year mobile health-care clinic pilot program using eight appropriately equipped mobile clinics staffed by VA employees to furnish care in geographically-dispersed areas. Annual expenditures for this program would be limited to $5 million. The VA would be required to submit a report to the Veterans' Affairs Committees, not later than 20 months after the start of the program, on experience with the first 17 months of the pilot program. A final report would be required not later than 27 months after the program had begun.

House bill: No provision.

Conference agreement: The conference agreement (section 113) contains this provision with amendments providing a specific appropriations authorization of $5 million per year and making the VA's exercise of the pilot program authority discretionary and subject to funds being expressly appropriated for this purpose.

Modification of Report on Care Furnished to Veterans Having Chronic Mental Illness Disabilities

Senate bill: The Senate bill (section 105(a) of S. 477) would require the VA, as part of a statutory report on the treatment of veterans with chronic mental illness disabilities, to provide information on the number of veterans being treated by the VA for mental illness disabilities who were furnished inpatient care by the VA in fiscal years 1984 through 1986 and an estimate of those furnished inpatient care by the VA in fiscal year 1987, together with an analysis of any change in the numbers of such veterans furnished such care during the period covered by the report, with a particular emphasis on any impact on such numbers from the implementation of the VA's new resource allocation methodology.

House bill: No provision.

Conference agreement: The conference agreement (section 114) contains this provision with an amendment to limit the requirement for data collection "to the extent feasible" and to fiscal years 1986, 1987, and 1988.

Pilot Program of Community-Based Residential Care for Homeless Chronically Mentally Ill and Other Veterans

House bill: The House bill, in a freestanding provision (section 111 of H.R. 2616), would (a) require the Administrator to conduct a pilot program, through September 30, 1988, to provide care and treatment and rehabilitative services (by contract or otherwise) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based facilities to homeless veterans suffering from chronic mental illness disabilities who would be eligible for inpatient care from the VA by virtue of their status as so-called "Category A" veterans; (b) authorize the appropriation of $6,000,000 for this pilot program with no less than $250,000 to be expended for management and monitoring of the program; (c) repeal section 620C, an existing statutory authority for providing such care, treatment, and services to a veteran who is being furnished VA hospital, domiciliary, or nursing home care for chronic mental illness disability, a veteran who is homeless who has such a disability, or a veteran with a service-connected disability rated 50 percent or greater who has a chronic mental illness disability; and (d) require a report by May 1, 1988, on the pilot program to that date.

Senate bill: The Senate bill (section 105 (b), (c), and (d) of S. 477) would (a) require the VA, utilizing the authority in section 620C, to carry out a pilot program through September 30, 1989, through which homeless veterans suffering from chronic mental illness disabilities would be provided community-based residential care; require a report to be submitted by February 1, 1989, on the first 18 months of this pilot program; and (c) provide for the continuation beyond the end of fiscal year 1987 of the VA's section 620C authority to contract for community-based psychiatric residential care for certain veterans with chronic mental illness disabilities, and expand that authority to include care for veterans who need such care for a service-connected disability.

Conference agreement: The conference agreement (section 115) contains the House provision with amendments which would (a) extend the pilot program through September 30, 1989, at an authorization level of $6,000,000 annually; (b) authorize the VA to include in the pilot program veterans suffering from chronic mental illness disabilities who are currently in VA hospitals or nursing homes as well as veterans not in VA facilities who have service-connected chronic mental illness disabilities; and (c) include provisions currently in section 620C which authorize the VA to provide in-kind assistance to contract facilities.

The conferees note that the purpose for allowing for the expansion, described in item (b), above, of those who would be eligible to participate in the pilot program would be to test an alternative to institutionalization for those veterans.

The conferees also note that the enactment of this pilot program does not in any way limit existing VA authority, as described in the explanatory statement which was inserted in the Record during consideration of the legislation that was enacted as Public Law 99-166—appearing on page H 9368 of the October 30, 1985, Record and on page S 15272 of the November 13, 1985, Record, to furnish such community-based services to veterans with service-connected chronic mental illness disabilities for such disabilities.

Regarding the drafting of this provision, the conferees note that the terms "care, treatment, and rehabilitative services" are intended to have the same meaning as under section 620C and that, in providing eligibility based on eligibility under section 610(a)(1) (the "Category A" eligibility), the Conferees do not intend to require that a veteran be in need of hospital or nursing home care in order to be eligible for care and services under the pilot program.

Pilot Program of Noninstitutional Alternatives to Institutional Care

Senate bill: The Senate bill (section 306 of S. 9) would amend subchapter II of chapter 17 of title 38, relating to VA hospital, nursing home, domiciliary, and outpatient care, to require the VA to conduct a 4-year pilot program, from January 1, 1988, through December 31, 1991, at not less than five nor more than ten demonstration projects under which veterans eligible for and otherwise in need of Va hospital care, nursing home care, or domiciliary care would instead receive care, including health-related services from non-VA entities, in non-institutional settings.

House bill: No provision.

Conference agreement: No provision.

Programs To Assist Homeless Veterans

Senate bill: the Senate bill (sections 102, 103, and 104 of S. 477) would: (section 102) establish a 24-month pilot project in ten areas to "undertake and evaluate various activities otherwise authorized by law" as well as activities (1) designating VA employees to coordinate efforts to assist homeless veterans, (2) authorizing cooperation with other entities assisting homeless persons, and (3) facilitating volunteer activities by VA employees to assist homeless persons; (section 103) require the Administrator to report within 90 days of enactment on (1) efforts during 1987 to provide outreach to homeless veterans, (2) effects of such outreach, and (3) any plans to expand outreach; (section 104) require the VA, within 180 days of enactment, in coordination with other Federal entities, to carry out a survey of the number of homeless veterans and submit a report to the Committees on Veterans' Affairs of the Senate and House of Representatives, including a detailed breakdown on problems and use of VA programs, and the reasons for non-use of such programs.

House bill: No similar provision.

Conference agreement: The conference agreement (section 116) contains a provision derived from the Senate provision to require annual reports for three years (1989, 1990, and 1991) concerning the activities of the VA to assist homeless veterans including oureach, delivery of medical and other benefits, and plans for such assistance activities.

The conferees expect that the report will include information regarding the progress of the VA's program for homeless chronically mentally ill veterans and the expansion of the domiciliary program for homeless veterans as well as other activities. The conferees view outreach effort to include coordination of VA activities, coordination and cooperation with other Federal and non-Federal homeless activities, and facilitating volunteer efforts of VA staff.

PART C—MATTERS RELATING TO AIDS

Senate bill: The Senate bill (section 308 of S. 9) would—

(a) require the VA to (1) establish and carry out information and training programs for employees and patients, including (A) the development (in consultation with the Surgeon General and the Director of the Centers for Disease Control) of publications and other materials on AIDS, including AIDS preventive information, (B) the periodic dissemination of the 1986 Surgeon General's Report on AIDS and other materials on AIDS, (C) the making of AIDS materials available in VA waiting rooms, and (D) the dissemination to VA drug abuse treatment personnel and all VA drug-abuse patients and other high risk patients of the 1986 Surgeon General's Report and other AIDS preventive materials; and (2) establish and carry out a program for AIDS education, training, and other activities (including continuing education and infection control programs) designed to improve the effectiveness and safety of health-care personnel and health-care support personnel;

(b) amend section 4132 of title 38, relating to the confidentiality of VA medical records regarding alcohol and drug treatment, to (1) prohibit generally the disclosure of the records of the identity, diagnosis, or treatment of any patient infected with the human immunodeficiency virus (HIV), the virus that causes AIDS, except in medical emergencies or for the purpose of conducting scientific research and audits, but would authorize the release of the information (upon written request) to a public health or safety officer in a State requiring the infection to be so reported or to Federal health or safety officers pursuant to a requirement of Federal law; (2) provide that a disclosure of medical records relating to infection with the HIV would not be prohibited where it is required or authorized by a law having general applicability to Federal health-care services programs; and (3) provide that a VA physician or counselor may, as medically appropriate and in order to protect the health of a veteran's spouse or sex partner, disclose the results of an HIV test to the spouse or sex partner if, after reasonable efforts are made to encourage the veteran to do so, the physician or counselor concludes that the veteran will not;

(c) amend section 4133, relating to a prohibition against discrimination in the furnishing of VA health-care services against drug and alcohol abusers, to prohibit such discrimination against veterans infected with the HIV, based solely on their infection; and

(d) prohibit the VA from implementing any widespread HIV-testing program unless Congress specifically appropriates funds for that purpose, except that, within 180 days after the date of enactment, the VA would be required to promulgate regulations providing for a program under which the VA (1) would offer the HIV test, with pre-and post-test counseling, to all VA hospital patients who are (A) receiving inpatient treatment for intravenous drug abuse, (B) receiving treatment for a disease associated with HIV infection, (C) otherwise at high risk for infection, or (D) under 40 years old, and (2) would be prohibited from administering the test without the patient's informed and separate written consent.

House bill: No provision.

Conference agreement: The conference agreement (sections 121-124) contains these provisions with amendments that would:

(a) modify the reference in the provisions described in item (a)(1)(B) and (D), above, to the Surgeon General's Report on AIDS to delete the specific reference to 1986 in order to make the provisions applicable in the future to the then-current version;

(b) modify the requirement (described in item (a)(1)(C), above) to make AIDS materials available in VA waiting rooms so as to require the materials to be made available in all VA health-care facilities and such other facilities as the Administrator considers appropriate;

(c) delete the authority (described in item (b)(1), above) to disclose information to public safety officers and the authority (described in item (b)(2), above) for disclosures required or authorized under certain other Federal laws;

(d) limit the use and redisclosure of information by a recipient to the use and redisclosure for the specific purpose for which the VA's original disclosure was made;

(e) increase the penalties for disclosures in violation of section 4132 from $500 for a first offense and $5,000 for each subsequent offense to $5,000 and $20,000, respectively, by providing that the penalties would be the same as those prescribed in section 3301(f) of title 38 for unlawful disclosures of the names and addresses of VA beneficiaries;

(f) prohibit disclosure to any person other than the patient or subject involved of the need for a special informed consent form to be completed in a specific case for the disclosure of records of alcohol and drug abuse, sickle cell anemia, and HIV infection;

(g) modify the provision (described in item (b)(3), above) to provide that disclosure may be made by physician or counselor who did not conduct the test or provide the counseling if the patient's or subject physician or counselor is unavailable because of an absence or termination from employment.

(h) substitute for the provision (described in item (d)(1)(D), above), which would require the VA to offer the HIV test to all VA patients under 40 years old, a requirement that the VA, except when medically inadvisable, offer testing, subject to informed, separate, written consent and with pre- and post-test counseling, to any veteran-patient who requests the test; and

(i) clarify that the test would be offered to all VA patients—not just VA hospital patients—who are receiving any type of VA-sponsored treatment for intravenous drug abuse or who are otherwise at risk for infection.

The conferees stress that all counseling with regard to the HIV testing should be conducted by a physician or other health-care professional who has received specific training and education on the most up-to-date information regarding AIDS and the test.

The conferees also direct that, in addition to the items mentioned in the Senate Committee report on S. 9 regarding the content of pre-test counseling (S. Rept. No. 100-215, page 125), the CMD's guidelines include a requirement that individuals be counseled that the results of the test may be disclosed to the spouse or sex partner.

The conferees also direct that, whenever possible, the disclosure of HIV infection to a patient's or subject's spouse or sex partner should be made by the physician or counselor providing the counseling to the patient or subject. Thus, the conferees do not intend that a brief absence, such as a short sick leave or vacation, would ordinarily be sufficient for allowing an alternative physician or counselor to make the disclosure.

PART D—OTHER MATTERS

Definition of Veterans' Administration Medical Facilities To Include Certain Recreational Facilities

House bill: The House bill (section 104 of H.R. 2616) would amend section 601(4) of title 38, relating to the definition of "Veterans' Administration facilities", to add to the definition public or private non-VA facilities at which the Administrator provides recreational activities for patients receiving VA hospitals, nursing home, or domiciliary care.

Senate bill: No provision.

Conference agreement: The conference agreement (section 131) contains the House provision.

The conferees expect that no significant increase in VA expenditures will be incurred for these recreational activities as a result of this provision.

Veterans' Administration Assistance With Recreational Activities

House bill: The House bill (section 4 of H.R. 3449) would amend section 202 of title 38, relating to the seal of the VA, to allow the Administrator to authorize the use, for approved purposes, of the VA seal and other official VA symbols and of the name "Veterans' Administration" by any person making significant contributions to the VA for the support of special recreational activities for the rehabilitation of disabled veterans.

Senate bill: The Senate bill (section 314 of S. 9) would amend section 612 of title 38, relating to eligibility for VA outpatient care, to authorize the Administrator (a) to provide, or assist veterans' service organizations in providing, recreational activities which would further the rehabilitation of disabled veterans if the activities are available on a national basis and a significant percentage of the participants are veterans eligible for VA rehabilitative services, and (b) to accept contributions of funds and other assistance from any appropriate source for the support of such activities and permit the donor to advertise the activity or its participation if the Administrator has approved the advertisement and it clearly states that any product, project, or commercial line of endeavor has not been endorsed by the VA.

Conference agreement: The conference agreement (section 132) contains both the House and Senate provisions with an amendment modifying the Senate provision so as to delete the authorization of the VA itself to provide the rehabilitative recreational activities and thus authorize the VA only to assist in the provision of these services.

The conferees encourage the VA to continue with its collaboration and joint efforts in sponsoring recreational activities such as the wheelchair games in which disabled veterans participate. The conferees expect that no significant increase in VA expenditures will be incurred for these efforts as a result of these provisions.

Rules and Regulations Relating to Veterans' Administration Health Care

Senate bill: The Senate bill (section 309 of S. 9) would amend section 621 of title 38, relating to rules and regulations concerning the furnishing of health-care services, to restrict the Administrator's authority to prescribe limitations on the furnishing of health-care services by the VA so as to permit the exercise of that authority only in times of national or regional emergencies (other than periods of war or emergency covered in section 5011A of title 38).

House bill: No provision.

Conference agreement: The conference agreement (section 133) contains this provision.

Per Diem Rates for Care in State Homes

House bill: The House bill (section 1 of H.R. 1659) would, effective October 1, 1987, amend section 641 of title 38, relating to VA per diem payments to State Homes for the care of eligible veterans, to increase the rates from $7.30 to $9.00 for domiciliary care and to $20.35 for nursing home and hospital care from $17.05 and $15.25, respectively.

Senate bill: The Senate bill (section 310 of S. 9) would, effective October 1, 1987, amend section 641 to increase the payments for domiciliary care to $8.70 and for nursing home and hospital care to $20.35, subject to the availability of appropriations, and, effective October 1, 1988, to authorize the VA to increase these rates annually, beginning in fiscal year 1989, by a percentage not greater than the percentage increase in the cost of care in VA general hospitals, as calculated (under section 620(a)(2)) for purposes of determining the maximum amount the VA may pay for contract care in community nursing homes.

House amendment: The House amendment (section 134) would, effective January 1, 1988, increase the State home per diem rates for domiciliary care to $8.70 and for nursing home and hospital care to $20.35.

Conference agreement: The conference agreement contains the provision of the House amendment and the Senate provision authorizing the VA, effective October 1, 1988, to increase the rates annually.

Medical Research

Senate bill: The Senate bill (section 316 of S. 9) would amend section 4101(c)(1) of title 38, relating to the research mission of DM&S, (a) to add mental illness research as a specific DM&S research mission, and (b) to add post-traumatic stress disorder (PTSD), demenitas, and other mental disorders as specific research areas to be stressed.

House bill: No provision.

Conference agreement: The conference agreement (section 135) contains the first provision with amendments (1) to specify that the DM&S research mission includes prosthetic and other rehabilitative research, and (2) to add a reference to injuries or illnesses particularly related to service as a specific research area to be stressed.

The conferees intend that funding for mental illness research and prosthetic and other rehabilitative research be increased significantly but direct the CMD not to increase funding for those two research missions at the expense of biomedical and health services research. The conferees also note their interest in PTSD research and other research relating to service-related disabilities.

Conversion of Underutilized Space to Domiciliary-Care Beds

Senate bill: The Senate bill (section 107 of S. 477) would require the VA, not later than January 1, 1988, unless impractical to do so, to convert underutilized space in VA facilities located in areas with significant populations of homeless veterans, to 500 domiciliary-care beds to care for veterans in need of such care, primarily homeless veterans.

House bill: No provision.

Conference agreement: The conference agreement (section 136) contains this provision with an amendment to postpone the deadline to June 1, 1988.

The conferees note that the intent of this provision has been substantially carried out by the VA as the result of the enactment of Public Law 100-71, the 1987 Supplemental Appropriations Act, which appropriated $15 million to the VA for the purpose of expanding domiciliary capacity in order to provide care primarily for eligible homeless veterans in urban locations.

Medicaid Treatment of Per Diem Payments to State Homes

Senate bill: The Senate bill (section 312 of S. 9) would amend section 641 of title 38, relating to VA per diem payments to State Homes for the care of eligible veterans, to specify that the VA payments are not to be considered third-party liabilities for purposes of payments under the Medicaid program.

House bill: No provision.

Conference agreement: The conference agreement does not contain this provision.

Furnishing of Tobacco Products

Senate bill: The Senate bill (section 341 of S. 9) would amend section 615 of title 38, relating to furnishing tobacco products to hospitalized veterans, to repeal the Administrator's authority to provide free tobacco products to veterans receiving hospital or domiciliary care.

House bill: No provision.

Conference agreement: No provision.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Health-Care Quality-Assurance Activities

Senate bill: The Senate bill (section 201 of S. 1464) would amend chapter 73 of title 38, relating to the organization of the Department of Medicine and Surgery (DM&S), to achieve the following purposes:

(a) Establish in the Office of the CMD an expanded and autonomous Office of Medical Inspector General consisting of the following personnel:

(1) The Medical Inspector General (MIG) who would be required to be (A) the head of the Office of the Medical Inspector General, (B) directly responsible to the CMD for such functions as may be assigned to the MIG in regulations by the CMD, and (C) a qualified doctor of medicine appointed by the Administrator upon the CMD's recommendation.

(2) Not less than five Assistant MIGs who would be required to be (A) qualified doctors of medicine, doctors of dental surgery or dental medicine, or registered nurses, and (B) employed on a full-time basis in the VA.

(3) Not less than two registered nurses (including any who are Assistant MIGs), not less than one qualified doctor of dental surgery or dental medicine (who may be an Assistant MIG), and not less than five support personnel, all of whom would be employed on a full-time basis in the VA.

(b) Require the MIG be appointed for a term of 4 years, with reappointment permissible for successive like periods and subject to removal by the Administrator only for reasonable cause upon the CMD's recommendation.

(c) Require the MIG to monitor, review, and investigate any adverse incident which is experienced by a patient during the course of the patient's care in a VA health-care facility, including any incident that would not normally be considered a natural consequence of a patient's disease process or illness and any incident that would carry a recognized need for medical intervention.

(d) Require the MIG to conduct such reviews and investigations as the MIG considers necessary to identify problems in the provision of health care to veterans and, when problems are detected, to propose to the CMD such corrective measures as the MIG considers necessary or appropriate.

(e) Require the MIG to conduct such other studies, reviews, and investigations relating to the quality of health care provided to veterans as the Administrator or CMD may assign to the MIG.

(f) Provide the MIG sole discretion (other than with respect to matters assigned by the Administrator or CMD) in determining whether to investigate any incident involving patient care or to study or review any problem in the provision of health care to veterans.

(g) Require the MIG, when conducting an investigation of any incident involving the care of a patient or any study or review of any problem in the provision of health care to veterans, to assign at least one health-care professional from the Office of the MIG.

(h) Require the MIG to submit to the House and Senate Veterans' Affairs Committee not later than February 1 of each year a report on the activities of the Office of the MIG during the prior fiscal year, including—

(1) a description of significant problems, abuses, and deficiencies relating to the administration of DM&S programs and operations disclosed by MIG activities during the preceding fiscal year;

(2) a description of (A) the recommendations for corrective action and of any recommendations for disciplinary action made by the Office during the preceding fiscal year with respect to significant problems, abuses, or deficiencies identified in VA health-care programs, and (B) the action taken as of the end of the fiscal year on each such recommendation, including any recommendations on which action had not been completed prior to the end of the fiscal year;

(3) a specification of (A) which MIG activities were carried out as a result of a request by the Administrator or CMD, and (B) which activities were carried out on the initiative of the MIG;

(4) an identification of each significant recommendation for corrective or disciplinary action described in the report or in previous annual reports on which action has not been completed.

(5) a summary of any matters referred to prosecutorial authorities and the prosecutions and convictions which have resulted; and

(6) a summary of each incident in which information or assistance requested by the MIG from DM&S during the preceding fiscal year has been, in the judgment of the MIG, unreasonably refused or not provided.

(i) Require the MIG to be an ex officio, nonvoting member of all policymaking bodies within the central office of DM&S that are concerned with the quality of health care provided in VA facilities or that are concerned with quality assurance in the provision of care, but preclude the MIG from having any direct responsibility for quality assurance activities, including patient risk management and the reporting of patient injuries under quality assurance procedures.

(j) Require the Administrator to transfer to the Office of the MIG each fiscal year, out of any funds available to the VA for that fiscal year (other than funds available for the operation of the Central Office of DM&S) those amounts as may be necessary, as determined by the CMD, to support five full-time medical doctors and five full-time support personnel in the Office of the MIG.

(k) Require that the positions of five full-time medical doctors and five full-time support personnel in the Office of the MIG be counted against the number of full-time employees authorized by OMB for the program, function, or activity for which the funds transferred to the Office of the MIG would be available except for the transfer of funds.

(l) Require, in the event that the Administrator transfers to the Office of the MIG funds from more than one program, function, or activity, that the ten full-time positions be counted against the number of the positions authorized by OMB for each program, function, or activity in proportion to the amount of funds transferred from them.

The Senate bill (section 202 of S. 1464) also would amend section 4103(a)(4) of title 38, relating to the organization of the Office of the CMD, to require that one Assistant CMD be a qualified physician trained in, or having suitable extensive experience in, health-care quality assurance and risk management and be responsible to the CMD for carrying out the responsibilities under the VA's quality assurance program assigned to the CMD in subchapter V of chapter 73 of title 38 and other related quality assurance responsibilities as may be assigned to the Assistant CMD by the CMD.

The Senate bill (section 203 of S. 1464) also would amend section 4151 of title 38, relating to the VA's Quality Assurance Program, to require the CMD to take such action as may be necessary to ensure that all DM&S personnel (a) are given a periodic explanation of their responsibilities for the quality assurance activities of DM&S, and (b) are advised that any failure to comply with quality assurance procedures prescribed in regulations or in procedural publications issued by DM&S, including any failure to report any incident as required under those procedures, will result in appropriate disciplinary action.

The Senate bill (section 204(a) of S. 1464) also would amend chapter 3 of title 38, relating to the general structure and functioning of the VA, to achieve the following purposes:

(a) Establish, within the VA Office of the Inspector General, in addition to the positions of VA Assistant Inspectors General provided for under section 3(d) of the Inspector General Act of 1978 (5 U.S.C. App. 3), the position of Assistant Inspector General for Health Care Quality Assurance Review (AIG).

(b) Require the Administrator to make available to the Office of the Inspector General sufficient resources to provide for an AIG and other specified personnel (described under clause (d), below) to enable the AIG and such personnel to perform their duties.

(c) Require the AIG to be a qualified doctor of medicine appointed by the VA Inspector General (IG).

(d) Require the staff of the AIG to include, at a minimum, two qualified doctors of medicine, a qualified doctor of dental surgery or dental medicine; a qualified registered nurse, an attorney who has expertise in health-care law, an individual who has expertise in health-care quality assurance and risk management, an individual who has expertise in health-care administration, and a sufficient number of support and additional personnel, not less than five full-time equivalent employees, to enable the AIG to perform the duties of the office.

(e) Require the AIG, in addition to performing (with respect to the activities of DM&S) such other functions and duties prescribed for the VA IG in the Inspector General Act of 1978 (5 U.S.C. App. 3) as may be directed by the IG, to—

(1) monitor, including through reviews of VA health-care facilities, the establishment and implementation of VA health-care quality assurance and risk management programs;

(2) monitor the activities of the MIG;

(3) recommend that the MIG conduct such investigations as the AIG considers appropriate;

(4) coordinate the activities of the AIG with the activities of the MIG;

(5) review any investigation conducted by the MIG of any adverse incident or incidents occurring during the course of furnishing health-care services in a VA facility or facilities and make such recommendations for additional action to the MIG as the AIG considers appropriate;

(6) monitor and analyze the collection and analysis of quality assurance and risk management information by DM&S (including information relating to medical malpractice claims), review such quality assurance and risk management information in order to identify data that are not collected and should be collected, and monitor the analysis by DM&S of trends in the provision of health care services by DM&S;

(7) make such recommendations to the IG of corrective action on health-care matters as the AIG considers appropriate; and

(8) monitor the implementation of recommendations for corrective action made to the Administrator by the IG on health-care matters.

(f) Require the VA IG, in addition to preparing and submitting the reports required by the Inspector General Act of 1978, to submit to the Administrator and the House and Senate Veterans' Affairs Committees, not later than February 1 of each year, a report containing—

(1) a discussion of the activities undertaken by the AIG during the fiscal year preceding the fiscal year in which the report is submitted, including (A) the findings and conclusions resulting from such activities, (B) the recommendations made (on the basis of such activities) by the IG to the Administrator for corrective action in the Activities of DM&S, and (C) any corrective actions taken with respect to those recommendations; and

(2) a discussion of the activities undertaken by the AIG to monitor the MIG's activities during the fiscal year preceding the fiscal year in which the report is submitted, including (A) the findings of the IG and the AIG on the activities of the MIG during the preceding fiscal year, (B) the recommendations, if any, made by the IG to the CMD or the Administrator on the basis of such monitoring activities, including any recommendations for remedial or disciplinary actions as a result of such activities, and (C) an assessment of the extent to which the IG has been effective during such preceding fiscal year in bringing about the recommended remedial and disciplinary actions.

(g) Require that the rate of pay for the position of AIG be the same rate of pay established for the positions of the other VA Assistant Inspectors General.

The Senate bill (section 204(b) of S. 1464) also would amend section 4151(e)(2) of title 38, relating to the requirement that the IG allocate sufficient personnel and other resources to monitor the VA's quality assurance program, to specify that such personnel and other resources be allocated to the AIG.

House bill: No provision.

Conference agreement: The conference agreement (section 201) contains the following provisions:

(a) Not later than 60 days after the date of enactment, the Administrator would be required to take actions to improve the operation of the health-care quality assurance programs and activities in the VA, including actions to achieve the following purposes:

(1) Upgrade the office of Quality Assurance within the DM&S Central Office and assign to that office responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel).

(2) Expand, and assign higher priority and greater resources to, quality-assurance programs and activities at each VA health-care facility, including implementation of occurrence screening and the maximum utilization of the facility's computerized management information system for such activities.

(3) Upgrade and expand the Office of the Medical Inspector in the DM&S Central Office, including increasing the number of employees assigned to such office on a full-time basis so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrade and expand the activities of the VA's Office of the Inspector General (OIG) in overseeing, monitoring, and evaluating the operations of the DM&S's quality-assurance programs and activities and its Medical Inspector Office so as to provide the CMD, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the OIG as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) Not later than 75 days after the date of enactment, the Administrator would be required to submit to the Committees a report describing the actions taken to carry out the provisions in the conference agreement, including reports of the CMD and the IG on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report would be required to include—

(1) the Administrator's views on (A) the effectiveness of quality-assurance and risk-management and medical-inspection programs and activities in DM&S and of the oversight, monitoring, and evaluation prior to the implementation of such actions, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken, (and the justification) by the Administrator, the IG, and the CMD, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation thereof.

The conferees believe that the VA's health-care quality-assurance and risk-management and medical-inspection programs and the oversight and monitoring of those programs by the IG need greater attention and resources from the agency. Rather than mandate precise steps in this regard, however, the conference agreement provides the Administrator, the CMD, and the IG with substantial discretion as to how to proceed to upgrade, expand, and enhance these quality-assurance and medical-inspection programs and activities and monitoring thereof. The conferees feel strongly that the following additional steps should be taken:

1. An office other than that of the Medical Inspector should be assigned the responsibility for monitoring and analyzing the VA's patient-injury-control program.

2. The Medical Inspector should be provided with the authority, funds, and resources to conduct such reviews and investigations as the Medical Inspector considers necessary to identify problems in the provision of health care to veterans, and, when problems are detected, to propose to the CMD necessary and appropriate corrective measures.

3. Action should be taken to ensure that the Medical Inspector is an *ex officio* member of all policymaking bodies within the central office of DM&S that are concerned with the quality of health care provided in VA facilities.

4. The OIG should be required, without expanding its FTEE allocation or total appropriation, to employ individuals with expertise in the areas of medicine and general health care and to allocate adequate resources so as to enable the effective monitoring of quality-assurance, risk-management, and other activities carried out by DM&S.

5. Action should be taken to ensure that the OIG reviews quality-assurance and risk-management information collected by DM&S in order to identify data that are not collected and should be collected, and monitors and analysis by DM&S of trends in the provision of VA health-care services.

The conferees also believe that the VA should give serious consideration to the establishment of a National Quality Assurance Resource Center to develop and evaluate quality-assurance methods based on sound, validated epidemiological principles; compile validated quality-assurance information bases; implement quality-assurance fellowship programs to educate personnel regarding quality-assurance functions and testing; and provide other educational, research, and service support. The conferees expect the VA to describe in the report, to be submitted 75 days after enactment, the consideration and action taken regarding this matter.

Should the broad latitude afforded the Administrator under this provision not achieve the purposes stated in the legislation, the conferees are prepared to recommend specific legislative mandates to enhance the VA quality-assurance, risk-management, and medical-inspection programs and the activities for monitoring and evaluation of those programs.

Hospital Cost Collections and Tort Claims

House bill: The House bill (section 301 of H.R. 2616 would—

(a) amend section 629(b)(2) of title 38, relating to hospital cost collections, to specify that the VA may not institute legal action to recover the cost of certain hospital, nursing home, domiciliary, and medical care more than 6 years after the last day of care for which the recovery is sought;

(b) amend section 4116 of title 38, relating to the defense of certain tort claims, to expand the circumstances under which the Federal government accepts liability for the acts of its employees acting within the scope of their employment so as to cover actions of VA health-care employees that are characterized as intentional torts under the laws of various states; and

(c) amend subchapter II of chapter 3 of title 38, relating to the general authority of the Administrator, to remove a statutory limitation on the authority of the Administrator to settle administrative tort claims under the Federal Tort Claims Act by providing authority to the Administrator to settle claims on the same basis as is now available to U.S. attorneys.

Senate bill: The Senate bill (sections 342 and 343 of S. 9) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 202 and 203) contains these provisions.

Nonprofit Research Corporations

House bill: The House bill (section 2 of H.R. 3449) would amend chapter 73, relating to the Department of Medicine and Surgery, to add a new subchapter VI entitled "Research Corporations". Pursuant to this new subchapter, the Administrator would be authorized to establish a nonprofit corporation at each VA medical center at which significant medical research is carried out in order to provide a mechanism by which research funds received from non-VA sources could be better and more appropriately managed. Provisions in this new subchapter would—

(a) specify that the purpose of such corporations would be to manage funds for medical research in conjunction with the appropriate VA medical center;

(b) describe the membership of the boards of directors (the director, chief of staff, and assistant chief of staff for research of the VA medical center, and individuals from outside of the Federal Government who are familiar with issues involving medical and scientific research, including members who are not affiliated with any source of funding for VA research) and executive directors (individuals appointed by the board of directors, with the concurrence of the VA's Chief Medical Director, who shall be responsible for the day-to-day operations of the corporations);

(c) set forth the general powers of the corporations, including the authority to accept gifts and grants from, and enter into contracts with, various entities in order to carry out such research as may be approved in accordance with VA procedures for VA-funded research and to employ such employees as the corporations consider necessary;

(d) provide that corporations established under this authority shall be established in accordance with the laws of the applicable State relating to nonprofit corporations and, to the extent not inconsistent with Federal law, be subject to the laws of that State;

(e) require that each corporation established under this chapter seek and obtain recognition from the Internal Revenue Service, within three years of its establishment, as a tax-exempt organization;

(f) provide that the VA Inspector General shall have the right to examine the records of any such corporation, require each such corporation to submit an annual report to the Administrator on its operations and activities, and require each member of the board of directors of such a corporation who is a VA employee to submit an annual statement which certifies that the employee is aware of Federal laws and regulations relating to conflicts of interest; and

(g) specify that no such corporations would be authorized to be established after September 30, 1990.

Senate bill: No provision.

Conference agreement: The conference agreement (section 204) contains this provision with amendments which would (a) provide that, in addition to the VA's IG, the Comptroller General would also be authorized to examine the records of any such corporation; (b) require the Administrator to report not less than annually to the two Veterans' Affairs Committees on the number of such corporations and the annual contributions received by each; (c) specify that VA research projects which are funded by such corporations have to be selected by a process which includes peer review; (d) provide that all board members and employees of such corporations and VA employees involved in the functions of a corporation are bound by federal conflict-of-interest laws and regulations and must submit annual certifications of compliance; (e) provide that the authority shall expire 3 years after enactment; (f) and require a report from the Administrator by February 1, 1991, to the two Committees on the results of the use of this authority through September 1990, together with any recommendations for legislative or administrative changes.

State Home Construction Grants

House bill: The House bill (section 2 of H.R. 1659) would amend section 5035(b) of title 38, relating to the awarding of State Veterans' Home construction grants, to change from July 1 to September 30 only during the transition year, 1987, the date for the VA to establish a list of approved projects in the order of their priority.

Senate bill: The Senate bill (section 311 of S. 9) would amend section 5035(b) so as to (a) permanently change from July 1 to September 30 the date for establishing a list of approved projects in the order of their priority; (b) authorize the Administrator to make a conditional award of a grant (while withholding certification of payment until all requirements are actually met) if the Administrator determines that a State has submitted drawings and specifications for a project which are at least 80-percent complete and that the project application will meet all remaining requirements within 180 days; (c) require the Administrator to rescind a conditional grant award and deobligate funds previously obligated if the application is not completed within 180 days; and (d) authorize the Administrator to increase the amount of any grant by 10 percent (but not to an amount in excess of 65 percent of the overall cost of the project) if the Administrator determines both that the estimated cost of construction or acquisition has increased from the estimated cost on which the grant approval was based and that the grant was awarded before the State entered into a construction contract.

Conference agreement: The conference agreement (section 208) contains the Senate provisions amended to (a) establish August 15 as the date by which the annual prioritized list is to be established; (b) revise the findings necessary for the making of a conditional award so as to require findings that the application is sufficiently complete to warrant such an award and that, based on assurances provided by the State, the State will complete the application by a date, not more than 90 days after the conditional award, to be specified by the Administrator; and (c) revise the deadline by which the Administrator is required to deobligate funds to the day after the date specified by the Administrator for the completion of the application.

Community Nursing Home Care in Alaska and Hawaii

Senate bill: The Senate bill (section 307 of S. 9) would amend section 620(a)(2)(A) of title 38, relating to transfers of VA patients for community nursing-home care, to authorize the VA, when contracting for community nursing home care for eligible veterans in Alaska or Hawaii, to pay at a rate of up to 45 percent (up to 50 percent, if determined to be necessary) of the cost of general community hospital care in that state.

House bill: No provision.

Conference agreement: No provision.

Organization of the Office of Chief Medical Director

House bill: The House bill (section 206 of H.R. 2616) would amend section 4103 of title 38, relating to the organization of the Office of the Chief Medical Director (CMD), to (a) authorize the appointment of a second Associate Deputy Chief Medical Director (ADCMD); (b) delete the requirement that the ADCMD be a physician; (c) specify that medical executives in the Office of the CMD would have the right to disciplinary board procedures in the case of removal for cause; and (d) give such executives who were previously appointed under section 4104(1) reemployment rights in the VA health-care system under that section upon the termination of their appointments to the Office of the CMD.

Senate bill: The Senate bill (section 321 of S. 9) would amend section 4103 to authorize the appointment of, in addition to physicians, certain non-physician health-care professionals to various positions in the Office of the CMD and specify that all individuals appointed to CMD Office positions must be qualified in the administration of health services.

Conference agreement: The conference agreement contains neither of these provisions.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Additional Pay Authorities for Nurses To Be Available for Pharmacists and Occupational Therapists

House bill: The House bill (section 7 of H.R. 3449) would amend section 4104(2) and (3) of title 38, relating to appointments of certain DM&S personnel, and section 4107(f), relating to the applicability of VA nurse pay authorities to certain DM&S employees other than nurses, to shift VA pharmacists and occupational therapists into the so-called title 38/title 5 "hybrid" employment category under which the agency may use title 38 appointment, pay, and promotion authorities with respect to specified employees employed under the title 5 personnel system.

Senate bill: The Senate bill (section 322 of S. 9) is substantively identical.

Conference agreement: The conference agreement (section 211) contains this provisions.

Recruitment and Retention Bonus Pay

House bill: The House bill (section 3 of H.R. 3449) would amend section 4107 of title 38, relating to the pay of certain DM&S employees, to (a) authorize the VA, subject to the availability of appropriated funds, to pay to registered nurses (RNs) to work at a VA medical center (VAMC) designated by the Administrator as having an "RN shortage" in any clinical service incentive pay in return for long-term employment contracts; (b) provide annual payments of $1,000, $2,000, and $3,000 for terms of 2, 3, and 4 years, respectively; (c) provide for such incentive pay to be paid over the life of the agreement; and (d) require the VA to include in each agreement suitable penalties if the nurse concerned fails to complete the agreed-upon period of employment.

Senate bill: The Senate bill (section 327 of S. 9) would, effective October 1, 1987, amend subchapter 1 of chapter 73 of title 38, relating to the organization of DM&S, to (a) authorize the VA to pay recruitment and retention bonuses of up to $20,000 for a 4-year period of obligated service to full-time registered nurses working in health-care facilities, or other full-time health-care personnel except for dentists and physicians, not presently fulfilling a VA scholarship or other work obligation who agree to work or are working within a specific geographic area or professional specialty experiencing recruitment and retention problems; (b) require that the bonuses generally be paid in equal installments at the end of each year of service but authorize the Administrator to pay up to 25 percent of the overall bonus prior to the beginning of the first year; (c) generally require repayment if a recipient of such an advance payment fails to complete the first year of obligated service; and (d) require that any such bonus be offered to all those serving in the same professional capacity in the same recruitment area.

Conference agreement: The conference agreement (section 212) would (a) authorize the VA to pay RNs annual recruitment and retention bonuses of $2,000, $3,000, and $4,000 in return for commitments to work full-time for 2, 3, or 4 years, respectively, at a VA health-care facility with an RN shortage; (b) authorize the Administrator to pay up to 25 percent of the bonus at the beginning of the period of obligated service; (c) permit employees who fail to complete their commitment period to retain only that amount which they would have received had they entered into an agreement to serve the period actually served, with any period less than a full year not being counted; (d) specify that the payback requirement does not apply if the inability to complete the contract is beyond the employee's control, with separation for cause not being considered to be beyond the employee's control; (e) authorize a pro-rata bonus for part-time employees working at least half-time; and (f) authorize the Administrator to pay these bonuses to health-care employees other than RNs where, upon the recommendation of the CMD, the Administrator finds shortages in the health-profession concerned.

The conferees urge the CMD to notify both Committees if it is found that limiting the advance on the bonus to 25 percent hinders recruitment and retention of qualified employees.

ON-CALL PAY

House bill: The House bill (section 208 of H.R. 2616) would, effective October 1, 1987, amend section 4107 of title 38, relating to pay for DM&S employees, to require that health-care employees, or employees providing services incident to health-care, who are employed pursuant to title 5 or section 4104(2) or (3) of title 38 who are scheduled to be on-call be paid for each hour of such on-call duty (other than time the employee actually works) at a rate equal to 10 percent of the employees' hourly overtime rate.

Senate bill: The Senate bill (section 328 of S. 9) would amend section 4107 to authorize the VA to utilize the title 38 "on-call" pay provisions, rather than the title 5 "standby" pay provisions, for its title 5 DM&S employees providing health-care services or services incident to patient-care services; and specify that title 5 employees currently earning standby pay who are assigned to on-call status would be entitled to continue to receive pay under the standby system—that is, to be grandfathered in that pay status when that is more advantageous to them than "on-call" pay—so long as their employment status does not change.

Conference agreement: The conference agreement (section 213) contains the Senate provision.

PREMIUM PAY FOR SATURDAY WORK

House bill: The House bill (section 202(a) of H.R. 2616), would, effective October 1, 1987, amend section 4107(e)(3) of title 38, relating to premium pay for VA nurses who work on Sundays, to apply that premium pay rate to nurses who work on Saturdays.

Senate bill: The Senate bill (section 325 of S. 9) is substantively identical to the House bill except that it would take effect on the date of enactment.

Conference agreement: The conference agreement (section 214) contains this provision effective with respect to tours of duty beginning on or after the first day of the first pay period beginning on or after the date of enactment.

Report on Effect of certain Pay and Benefits Amendments

House bill: The House bill (section 11 of H.R. 3449) would require the Administrator to report to Congress, not later than one year after the date of enactment, on (a) the recruitment and retention effects of incentive and additional pay authorities and other provisions of law enacted during the first session of the One Hundredth Congress making changes in pay practices for various health-care professionals in the Department of Medicine and Surgery, and (b) recommendations for further legislative action as the Administrator considers appropriate.

Senate bill: The Senate bill (section 332 of S. 9) would require the Administrator to study various issues relating to enhancing the VA's recruitment and retention of health-care personnel, including (a) whether pay compression exists within the current salary structures and, if it does, the feasibility and cost of revising such structures in order to correct this problem; (b) whether pay differentials for evening and night shifts need to be increased in order to improve the ability of the VA to recruit and retain personnel to work on these shifts; (c) whether it is feasible and desirable for the VA to furnish its healthcare employees with disgnostic testing and laboratory and radiology services and the filling of prescriptions for fees not to exceed the costs incurred by the VA, if that could be accomplished without diminishing services to veterans; (d) whether it is feasible and desirable to give opportunities for research to VA nurses with advanced degrees; (e) whether it is feasible and desirable to establish within the VA collaborative-practice committees which would include physicians, nurses, and other health-care providers as appropriate; (f) whether it is feasible, desirable, and appropriate to offer a program of flexible benefits to VA health-care employees; and (g) whether it is feasible and desirable to increase the responsibilities of the Chief of the Nursing Service.

The Senate bill would also require the CMD, during calendar years 1988-1990, to conduct a pilot program at not less than five VAMCs for the purpose of evaluating the effectiveness of various pay and other personnel management practices, and gaining information and experience regarding the matters required to be studied under this section (described above) and (a) require, as part of the pilot program, that the VA (1) at not less than three sites, increase the responsibilities of the Chief of the Nursing Service in certain respects, (2) at not less than one site, establish a collaborative-practice committee involving physicians, nurses, and, as appropriate, other health-care professionals, and (3) at not less than one site, significantly increase pay differentials for evening and night shifts; and (b) authorize the VA to implement changes in personnel management practices, as otherwise authorized by law, so as to gain information with respect to any of the matters required to be studied.

The Senate bill would also require the Administrator to submit to the House and Senate Committees on Veterans' Affairs (a) not later than one year after the date of enactment, a report describing the results of the aforementioned studies, including: (1) the determinations of the Administrator, and (2) any planned administrative actions, and any recommendations for legislation that the Administrator considers appropriate to include on the basis of the results of such study; (b) not later than 30 months after the date of enactment, the results of the first 24 months experience under the pilot program described above, including (1) the Administrator's evaluation of the effect of each management practice undertaken in the pilot program on the VA's ability to recruit and retain health-care employees, (2) information on the cost factors associated with each such management practice, and (3) any planned administrative actions, and any recommendations for legislation that the Administrator considers appropriate to include in the report on the basis of the results of such pilot program; and (c) not later than 42 months after the date of enactment, a report providing (1) updates on all information provided in the 30-month report previously described, and (2) the Administrator's final assessment of the pilot program based on 36 months of operation.

Conference agreement: The conference agreement (section 215 and 231) contains the House provisions requiring a report on the effects of new pay authorities, made applicable to sections 211 through 214 of the conference agreement, and provisions in the Senate bill requiring a VA study of and report on recruitment and retention issues and, taking into account the practices of non-federal employers, the effects that flexible employment benefit programs would have on recruitment and retention. In conducting the study, the Administrator would be required to make certain determinations, including determinations relating to pay compression and to pay differentials for evening or night work. The reports would be required to be submitted to the conferees not later than 1 year after the date of enactment.

The conferees expect the VA, in preparing the latter report on recruitment and retention issues, to review a wide range of monetary and non-monetary incentives which have the potential for enhancing recruitment and retention of health-care professionals within the VA, including the items referred to in the Senate study provisions: enhancement of employee medical benefits (including diagnostic testing, prescriptions, laboratory services, and radiology services); provision of research opportunities for nurses with advanced degrees; feasibility of establishing collaborative practice programs; and expansion of Chief Nurse responsibilities.

Health Professionals Educational Assistance Program Scholarship Program

House bill: The House bill (section 204 of H.R. 2616), would, effective October 1, 1987, amend sections 4142(a)(1) and 4144(b)(4) of title 38, relating to eligibility for the VA Health Professional Scholarship Program and the payback requirement for participants who fail to fulfill their service obligations, respectively, to expand the program to include training for all disciplines described in section 4104 of title 38, which includes a wide range of medical and allied disciplines, and to make a conforming change in the payback provision.

Senate bill: The Senate bill (section 326 of S. 9) would, replace subchapter IV of chapter 73 of title 38, relating to the Health Professional Scholarship Program, with a new chapter 76 amended to (a) expand scholarship eligibility to include training for physical therapy and any other discipline the members of which provide direct patient-care services or services incident to direct patient-care services; (b) require the Administrator, before awarding scholarships in any discipline other than medicine or nursing, to provide the Committees on Veterans' Affairs with 60 days advance notice; (c) increase the minimum period of obligated service from 1 year for each year of scholarship aid to 2 years for each year of aid; and (d) require that priority in the award of nurse scholarships be given to nurses seeking a fourth year of baccalaureate education.

Conference agreement: The conference agreement (section 216) would (a) expand eligibility for the scholarship programs to include training for all disciplines the members of which provide direct patient-care services or services incident to direct patient care (as described in section 4107 (g) (1) (A) and (B) of title 38), and (b) require that priority in the award of scholarships be given to those entering their final year of training.

Tuition-Reimbursement Program

Senate bill. The Senate bill (section 326 of S. 9) would amend subchapter IV of chapter 73, relating to the VA Health Professional Scholarship Program, to establish a tuition-reimbursement program for full-time nursing personnel and, when needed, for other full-time health-care personnel, for academic courses leading to completing of any degree program in nursing or in a field related to nursing, or in other appropriate degree-granting fields for other personnel—with first priority given those with 2 years of service within the VA whose performance is superior and second priority to others with 2 years of service. A participant would be eligible to receive up to $2,000 a year, with increases indexed to Federal pay raises, and would be required to work for the VA for a period of 1 year following completion of the degree or the last course taken while a participant in the program. Participants not fulfilling their work obligation would be required to repay the United States three times the amount paid on their behalf prorated to reflect the time remaining in their agreement. In lieu of reimbursing the employee directly, the Administrator would be authorized to contract with an educational institution to provide a course or courses at VA health-care facilities for participants in the tuition reimbursement program.

House bill: No provision.

Conference agreement: The conference agreement (section 216) contains this provision with amendments (a) limiting eligibility for tuition reimbursement to full-time employees seeking a degree with a major in nursing, with special emphasis being placed on persons pursuing a course of study which will expedite an increase in the number of registered nurses in the VA, and (b) requiring participants who have not fulfilled their obligation to repay only those sums which have actually been expanded, prorated to reflect the time remaining in the agreement.

The conferees urge the VA to encourage current VA employees interested in nursing as a career to apply for assistance under this tuition-reimbursement program. Employees holding nursing assistant, licensed vocational nurse, or ward secretary positions, for example, would be ideal candidates for nursing programs because they have worked in a patient-care setting and are familiar with the demands of the job. Encouraging upward mobility, by the transition of employees from lower-graded to higher-graded positions, sends a message to employees that the agency is concerned about their welfare. In addition, upward mobility programs provide the agency with a potential pool of workers oriented and known to the agency to fill vacant positions.

Depending upon the success of the tuition-reimbursement program to increase the numbers of nurses within the VA and the availability of funds, the conferees may consider expanding eligibility for the program to other shortage occupations in later legislation.

Pay Scales and Awards for Department of Medicine and Surgery Employees

House bill: The House bill (section 201 of H.R. 2616) would amend (a) subsections (a) and (b) (1) of section 4107 of title 38, setting forth pay schedules for certain VA Department of Medicine and Surgery (DM&S) employees appointed under sections 4103 and 4104 (1) respectively, to update the schedules so that they conform with the rates that were payable, under Executive Order 12578 (December 31, 1986), as the time of initial House passage. This provision would also amend subsection (c) (3) of section 4107 to require that persons appointed to executive positions within the Department of Medicine and Surgery and who are not physicians and dentists be eligible for bonuses and rank awards, as described in sections 4507 and 5387 of title 5, United States code, under the Senior Executive Service.

Senate bill: No provision.

Conference agreement: The conference agreement (section 217) contains this provision with an amendment to amend section 4107(a) and (b)(1) so as to list the positions designated in sections 4103 and 4104(1) and specify that the pay rates are prescribed by executive order pursuant to chapter 53 of title 5.

The conferees note that current rates would be set forth in a footnote at the time of each printing of the Joint Committee print of title 38.

Rates of Pay for Certain Psychologists

Senate bill: The Senate bill (section 331 of S. 9) would require the Administrator to increase the rates of pay for VA psychologists with board certification by using the "hybrid" title 5/title 38 appointment authority unless the CMD determines that more board-certified psychologists are not necessary for the VA to furnish the appropriate quality of psychological services to veterans.

House bill: No provision.

Conference agreement: No provision.

PART C—PERSONNEL ADMINISTRATION

Disciplinary Matters as to Certain Appointees

Senate bill: The Senate bill (section 323 of S. 9) would amend section 4106(g), relating to the Administrator's authority to appoint individuals to title 38/title 5 hybrid positions, to specify that all matters relative to adverse actions, disciplinary actions, and grievance procedures involving employees in such positions be resolved in accordance with provisions of title 5 as though the employees were appointed under that title.

House bill: No provision.

Conference agreement: The conference agreement (section 221) contains this provision with an amendment making title 5 provisions applicable for the resolution of such matters in the case of employees appointed to such positions who are in a probationary status.

Personnel Ceilings for Noncareer Research Personnel

House bill: The House bill (section 205 of H.R. 2616) would amend section 5010(a), relating to the operation of DM&S, to provide that temporary research personnel in the VA—defined as those personnel working in the VA in other than a career appointment for work on a research activity and who are not paid by the VA or are paid from funds appropriated to the VA to support research—shall not be counted as part of any VA personnel ceiling.

Senate bill: No provision.

Conference agreement: The conference agreement (section 222) contains this provision with an amendment to clearify that these temporary research personnel would be working within DM&S.

Authority To Waive Licensure and Internship Requirements for Certain Health-Care Personnel

House bill: The House bill (section 6 of H.R. 3449 and section 209 of H.R. 2616) would amend section 4114(d) of title 38, relating to waiver of licensure and internship requirements for DM&S employees, to authorize the CMD to (a) waive State licensure or registration requirements, as appropriate, for practical and vocational nurses or physical therapists if they are to be employed (1) either in research or academic work and are to have no direct patient-care responsibilities, or (2) in a country other than the United States if their license is in the country in which they are to work, and (b) waive the requirement for a 1-year internship for psychologists if they are to be employed in research or academic work and are to have no direct patient-care responsibilities.

Senate bill: The Senate bill (section 330 of S. 9) is substantively identical.

Conference agreement: The conference agreement (section 223) contains these provisions.

Nurse Representation on Policymaking Committees

Senate bill: The Senate bill (section 329 of S. 9) would amend section 4112 of title 38, relating to VA advisory groups, to require that Chiefs of the Nursing Service or their designees be members of all policy-making and fiscal committees at VA health-care facilities including, but not limited to, committees relating to budget, education, position management, clinical executive issues, planning, and resource allocation, and of the deans' committee or other advisory committee established pursuant to 4112(b) of title 38.

House bill: No provision.

Conference agreement: The conference agreement (section 224) contains this provision.

Disciplinary Actions Concerning Probationary Employees

House bill: The House bill (section 207 of H.R. 2616) would amend section 4106(b), relating to the probationary period of employment within DM&S, to require the Administrator to prescribe regulations relating to the review of employees appointed under section 4104(1) during the two-year probationary period and to authorize the CMD to accept, reject, or modify the recommendations of boards reviewing employees' performance during that time.

Senate bill: No provision.

Conference agreement: No provision.

Disciplinary Actions Involving Title 38 Employees

House bill: The House bill (section 203 of H.R. 2616) would amend section 4110, relating to disciplinary procedures involving DM&S employees employed under title 38, to limit procedures under that section to matters involving proposed removal, suspension for more than 14 days, or demotion involving loss of grade or pay. Matters involving lesser proposed disciplinary action would be resolved in accordance with regulations prescribed by the Administrator.

Senate bill: The Senate bill (section 324 of S. 9) also would amend section 4110 to provide that procedures set forth in title 5 for the resolution of specific lesser disciplinary actions (admonishments, reprimands, suspensions of 14 days or less, and transfers not involving loss of grade) would be used in situations involving title 38 personnel (including the use of a negotiated grievance procedure involving an appeal to an arbitrator). The Senate bill would further amend chapter 73 to add a new section 4120A, entitled "Grievances and certain disciplinary reviews," which would establish for title 38 employees a grievance-resolution process that would parallel that available to title 5 employees.

Conference agreement: No provision.

PART D—REPORTS

Report on Certain Activities Relating to Training in Geriatrics of Medical and Other Health-Professional Schools Affiliated With the Veterans' Administration

Senate bill: The Senate bill (section 317 of S. 9) would (a) set forth findings of Congress regarding the need to prepare for the impact of the aging of the U.S. population and of the Veterans' Administration's leadership role in that regard, particularly with reference to increasing the efforts by medical and other health-professional schools affiliated with the VA in training professionals to care for older patients and in research into the aging process and diseases associated with aging, and (b) require the Administrator to submit to the House and Senate Committees on Veterans' Affairs a one-time report, due not later than March 1, 1988, on VA activities to promote increased efforts by affiliated schools in training health-care professionals to care for older patients and in research into the aging process.

House bill: No provision.

Conference agreement: The conference agreement (section 232) contains this provision with amendments deleting the findings and extending the due date of the report to August 1, 1988.

The conferees reconfirm the findings from the Senate bill, especially with regard to the growing percentage of veterans over the age of 65 and the efforts of the VA to establish arrangements between VAMCs and affiliated medical and other health-care professional training institutions, and expect that the report will take these findings into account.

Report on Health-Care Resources Allocation

Senate bill: The Senate bill (section 348 of S. 9) would require the Administrator, not later than 120 days after the date of enactment, to submit to the Congress a report on the health-care resources allocated by the VA to VA facilities (including contract facilities), and the utilization of health-care resources allocated to each facility, in each State in each of fiscal years 1982 through 1986. The report would be required to include, with respect to each State and VA Medical District in each fiscal year, together with such other information as the Administrator considers appropriate:

(a) The number of VA hospital beds, domiciliary care beds, and nursing home beds.

(b) The percentage of the total amount of the funds available to the VA for health care that was allocated for obligation and expenditure by VA hospitals, outpatient clinics, domiciliary facilities, and nursing homes.

(c) With respect to the three categories of eligibility for VA inpatient care (categories A, B, and C as defined in sections 610(a)(1), 610(a)(2)(A), and 610(a)(2)(b), respectively, of title 38)—

(1) the number of veterans who received health care in VA facilities located in the State in which they reside, the number of veterans who received health care in VA facilities located in a State other than the State in which they reside, and the total cost of furnishing this care;

(2) the total cost of furnishing health care on both an outpatient basis and an inpatient basis with respect to each diagnostic category and the total cost of furnishing this care;

(3) the total number of patient encounters in which the VA furnished health care on both an outpatient and an inpatient basis with respect to each diagnostic category; and

(4) a comparison of the cost-effectiveness of the VA furnishing long-term health care to veterans in adult day-care centers located in the State and the medical district with the cost-effectiveness of the VA furnishing long-term health care to veterans in nursing homes located in each State and Medical district.

House bill: No provision.

Conference agreement: The conference agreement does not contain this provision. As noted in the discussion of the conference agreement provision relating to eligibility for outpatient services (section 101), the Committees on Veterans' Affairs have requested the Comptroller General to estimate the current and potential demand of Category A veterans for needed VA outpatient care, especially in high demand areas, including the suppressed demand for such care, and to ascertain the number of those veterans who are denied needed care and the reasons for the denials.

Additionally, the conferees note that the Senate Committee is making every effort to obtain from the VA the information that would be required by the Senate bill. If those data are not forthcoming on a timely basis, the conferees will again consider the need for legislation requiring that the information be provided.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Specially Adapted Housing Assistance

Senate bill: The Senate bill (section 102 of S. 9) would, effective October 1, 1987, amend section 802 of title 38 to increase, from $35,500 to $40,000, the maximum amount of the specially adapted housing assistance allowance paid to certain veterans with severe service-connected disabilities impairing their mobility and to increase, from $6,000 to $6,775, the maximum amount payable for special housing adaptations to certain veterans with service-connected total blindness or the anatomical loss or the loss of use of both upper extremities.

House bill: No provision.

Conference agreement: The conference agreement (section 301) would, effective April 1, 1988, increase the maximum amount of the specially adapted housing assistance allowance to $38,000 and increase the maximum amount payable for special housing adaptations to $6,500.

Automobile Assistance Allowance

Senate bill: The Senate bill (section 103 of S. 9) would, effective October 1, 1987, amend section 1902(a) of title 38 to increase, from $5,000 to $5,530, the maximum amount of the automobile assistance allowance paid to veterans with certain severe, service-connected disabilities.

House bill: No provision.

Conference agreement: The conference agreement (section 302) would, effective April 1, 1988, increase the maximum allowance to $5,500.

Burial Benefits for Service-Connected Deaths

Senate bill: The Senate bill (section 104 of S. 9) would, effective October 1, 1987, amend section 907 of title 38 to increase, from $1,100 to $2,250, the maximum allowance paid for the funeral and burial expenses of a veteran who dies from a service-connected cause.

House bill: No provision.

Conference agreement: The conference agreement (section 303) would, effective April 1, 1988, increase the maximum allowance to $1,500.

PART B—COMPENSATION-RELATED PROVISIONS

Definition of Former Prisoner of War

House bill: The House bill (section 201 of H.R. 2945) would amend section 101(32)(B) of title 38, relating to the definition of a former prisoner of war, to expand that definition to include active-duty service members held during a period of war—as well as those held during peacetime—by foreign governments or hostile forces under circumstances which the Administrator finds to have been comparable to the circumstances generally experienced by persons held by enemy governments during periods of war.

Senate bill: The Senate bill (section 111(a) of S. 9) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 311) contains this provision.

Presumption of Service Connection for Former Prisoners of War

House bill: The House bill (section 202 of H.R. 2945) would amend section 312(b) of title 38 to add peripheral neuropathy due to trauma, spastic colon, and peptic or duodenal ulcers to the list of diseases which are presumed to be service connected in the case of former prisoners of war.

Senate bill: The Senate bill (section 111(b) of S. 9) would amend section 312(b) to add peripheral neuropathy, irritable bowel syndrome, and peptic ulcer disease.

Conference agreement: The conference agreement (section 312) would add irritable bowel syndrome, peptic ulcer disease, and peripheral neuropathy (except where directly related to infectious causes) to the list of diseases presumed to be service-connected.

Presumption of Service Connection for Lupus

Senate bill: The Senate bill (section 112 of S. 9) would amend section 301(3) of title 38 to add systemic lupus erythematosus to the list of chronic diseases which are presumed to be service connected if they become manifest to a degree of 10 percent or more within 1 year from the date of the veteran's separation from the service.

House bill: No provision.

Conference agreement: The conference agreement (section 313) contains this provision.

Reinstated Entitlement for Certain Survivors

Senate bill: The Senate bill (section 113 of S. 9) would amend section 156(a)(1) of Public Law 97-377, relating to the payment of certain Social Security-equivalent benefits to certain survivors of veterans who died from service-connected causes, to restore to DIC beneficiaries receiving such benefits certain other benefits—equal to the Social Security mother's benefit for children ages 16 and 17 and the child's benefit for post-secondary students and for secondary students over age 19—which were eliminated in 1981 by Public Law 97-35 and restored by Public Law 97-377 in 1982 to Social Security recipients but not to these DIC-equivalent beneficiaries.

House bill: No provision.

Conference agreement: The conference agreement (section 315) contains this provision.

Recodification of and Marriage Requirements for DIC-Equivalent Benefits

House bill: The House bill (section 301 of H.R. 2945) would recodify provisions contained in section 410(b) of title 38, relating to dependency and indemnity compensation (DIC)-equivalent benefits for survivors of certain veterans rated totally disabled at the time of death, in a new section of title 38 and, in the new title 38 section, reduce from 2 years to 1 year for purposes of such DIC-equivalent benefits, the marriage-duration requirement and establishment, as an alternative to the duration-of-marriage criterion, marriage within 15 years after service, with no time requirement if a child is born of the marriage.

Senate bill: No provision.

Conference agreement: No provision.

Scientific Review of Agent Orange Exposure Evidence

Senate bill: The Senate bill (section 115 of S. 9) would require the VA to contract, subject to the availability of appropriations, for a comprehensive review to be conducted by the National Academy of Science (NAS) or another appropriate nonprofit scientific entity, of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to Agent Orange and its component compounds and to submit a report on the review results as to the weight of evidence on this subject.

House bill: No provision.

Conference agreement: No provision.

The conferees believe that the need for such a review should be reconsidered after the results of certain ongoing studies have been reported.

Radiation-Exposed Veterans Compensation

The conferees on both sides agreed to recede from their respective provisions on condition that the Senate conferees would as quickly as possible seek to have the Senate take up H.R. 1811; that the Chairman of the Senate Committee on Veterans' Affairs would propose as a substitute amendment for the House-passed text of that bill the text of section 314 of the House amendment to the Senate amendment to the text of H.R. 2616, with cancer of the colon deleted from the list of cancers which would be presumed to be service connected; and that, if the Senate passed H.R. 1811 with such amendment, the House conferees would seek to have the House take up H.R. 1811 as soon as possible thereafter and concur in the Senate amendment. Therefore, as described below, the conference agreement does not contain any radiation-compensation provisions.

Each of the three measures—the House bill and the House amendment, through an amendment to section 312 of title 312 of title 38, relating to presumptions of service connection for certain diseases, and the Senate bill, through an amendment to title 38 to add a new chapter 14—would establish a presumption of service connection for purposes of disability and death benefits for certain diseases arising in veterans who were exposed to ionizing radiation during the atmospheric or underwater nuclear weapons test program or the American occupation of Hiroshima or Nagasaki, Japan.

Findings, Conclusions, and Statement of Purpose

Senate bill: The Senate bill (section 202) would set forth Congressional findings and conclusions regarding the nuclear test program; the state of science pertaining to ionizing radiation exposure, including the calculation (especially in light of two General Accounting Office reports) and carcinogenic effects of such exposure; the VA's history of adjudicating radiation claims; and the difficulties involved in resolving radiation-exposed veterans' claims for VA benefits. The Senate bill also would state that the purpose of the bill is to establish a process within the VA to carry out the findings and conclusions in order to provide benefits in specified circumstances.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Categories of Potentially Eligible Veterans

House bill: The House bill (section 2) would establish a presumption of service connection for specified disabilities suffered by veterans who, while on active duty, were exposed to ionizing radiation as a result of onsite participation in the atmospheric detonation of a nuclear device or the American occupation of Hiroshima and Nagasaki, Japan, between August 6, 1945, and July 1, 1946.

Senate bill: The Senate bill (section 203) would make potentially eligible for certain disability and death benefits those veterans (including persons who died in the active military, naval, or air service) who, during service (i) participated onsite in the United States Government's test of a nuclear device or the American occupation of Hiroshima or Nagasaki prior to July 1, 1946, or (ii) in connection with internment as a POW in Japan had an opportunity for exposure which the Administrator finds comparable to that of a veteran in the American occupation.

House amendment: The House amendment contains the Senate provision with an amendment to add a beginning date of August 6, 1945, to define the period of the American occupation.

Conference agreement: No provision.

Specified Diseases and Degree of Disability

House bill: The House bill (section 2) would establish a presumption of service connection for the following diseases (if manifested to a degree of 10 percent or more): Leukemia (except chronic lymphatic leukemia); thyroid cancer; bronchogenic carcinoma; breast cancer; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; and pancreatic cancer.

Senate bill: The Senate bill (section 203) would establish a presumption of service connection for the following diseases: (1) leukemia (except chronic lymphocytic leukemia) and cancer of the thyroid; and (2) if the veteran was exposed to more than one rem of radiation, cancer of the small intestine; cancer of the stomach; cancer of the liver (except where cirrhosis or hepatitis B is indicated); cancer of the bile ducts; cancer of the gallbladder; cancer of the pancreas; lymphomas (excluding Hodgkin's disease); and multiple myeloma. The Senate bill would also require that, in the case of claims based on certain other cancers—cancer of the lung; cancer of the colon; cancer of the esophagus; cancer of the rectum; cancer of the pharynx; cancer of the liver (where cirrhosis or hepatitis B is indicated); cancer of the kidney; cancer of the urinary tract; cancer of the bladder; cancer of the brain and nervous system; cancer of the salivary glands; cancer of the bones and joints; and cutaneous melanoma—if the veteran was exposed to more than 1 rem of radiation, the claims receive special consideration. Such consideration would include the VA giving conclusive weight to the Congressional findings in the bill relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors.

House amendment: The House amendment would establish a presumption of service connection for the following diseases (if manifested to a degree of 10 percent or more): leukemia (except chronic lymphocytic leukemia); cancer of the thyroid; cancer of the breast; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; cancer of the pancreas; multiple myeloma; lymphomas (except Hodgkin's disease); cancer of the bile ducts; cancer of the gall bladder; and primary liver cancer (except if cirrhosis or hepatitis B is indicated).

Conference agreement: No provision.

Manifestation Periods

House bill: The House bill would require that all the specified diseases be manifested within 30 years after the veteran's last in-service exposure to radiation.

Senate bill: The Senate bill (section 203) would require that leukemia be manifested within 30 years after the veteran's last in-service exposure to ionizing radiation and would also require that all other specified diseases be manifested 5 or more years after the veteran's first such exposure.

House amendment: The House amendment would provide for a 30-year manifestation period for leukemia and cancer of the colon and a 40-year manifestation period for the other conditions described in the preceding item relating to the House amendment.

Conference agreement: No provision.

Special Provisions Relating to Benefits

Senate bill: The Senate bill (section 203) would provide benefits at the same rates as under chapters 11 and 13 of title 38 and would treat the diseases as service connected for all title 38 purposes except for purposes of chapters 11 and 13. The Senate bill also would provide that benefits would not be payable with respect to a disease for which compensation or DIC otherwise is payable.

House bill: No specific provisions.

House amendment: No specific provisions.

Conference agreement: No provision.

Adjustment of Exposure Estimates

Senate bill: The Senate bill (section 204) would amend section 354 of title 38, relating to consideration to be accorded in the processing of VA claims to time, place and circumstances of service, so as to establish a process for the upward adjustment of veterans' radiation exposue estimates to equal the total of (a) the highest Defense Nuclear Agency (DNA) or other exposure estimate for the veteran, based on film badge, reconstruction, or a combination of film badge and reconstruction; plus (b) for test participants, (1) 5 rems, if the DNA estimates that at least 25 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 3 rems; (2) 3 rems, if the DNA estimates that at least 25 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 1 rem; or (3) 1 rem, if the DNA estimates that at least 20 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 0.5 rem; (c) for occupation troops or former POWs in Japan found to have a comparable opportunity for exposure, 1 rem; or (d) for a veteran exposed in more than one nuclear test or in one or more tests and in the occupation of Japan, the combined total from all such exposures, adjusted as described above.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Preservation of Existing Rights

Senate bill: The Senate bill (section 206) would provide that nothing in that measure would operate or be construed to prevent the granting of service connection under chapter 11 or 13 of title 38 in the case of any disease or disability from which a veteran suffers or has died that is determined on a non-presumptive basis to have been incurred in or aggravated by active-duty service.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Health-Care Eligibility

Senate bill: The Senate bill (section 207) would provide for an extension, from September 30, 1989, to September 30, 1991, in the expiration of health-care eligibility for radiation-exposed veterans set forth in section 610(a)(1)(G) of title 38.

House bill: No provision.

House amendment: No provision.

Conference agreement: No provision.

Environmental Hazards Advisory Committee Reports

Senate bill: The Senate bill (section 208) would amend section 6(d)(3) of Public Law 98-542, relating to reports from the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards, to require the Council to submit its reports to the House and Senate Veterans' Affairs Committees, as well as to the full Advisory Committee and the Administrator.

House bill: No provision.

House amendment: The House amendment contains this provision.

Conference agreement: No provision.

Effective Dates and Sunset Provision

House bill: The House bill (section 3) would provide that its provisions would be effective on October 1, 1987.

Senate bill: The Senate bill (sections 210 and 211) would provide that (a) the radiation-benefits provisions would take effect on January 1, 1988, (b) such provisions would not apply with respect to claims filed after September 30, 1991, and (c) that benefits would not be payable for any period prior to enactment.

House amendment: The House amendment would provide for a May 1, 1988, effective date with no sunset provision.

Conference agreement: No provision.

PART C—EDUCATION PROVISIONS

Measurement of Laboratory Instruction

Senate bill: The Senate bill (section 121 of S. 9) would amend section 1788 (a) and (c) of title 38, relating to the standard for measuring the training time of VA students enrolled in courses with laboratory instruction, to require the VA to consider two 50-minute laboratory periods per week as the equivalent of one quarter or one semester hour or one standard class session.

House bill: No provision.

Conference agreement: The conference agreement (section 321) contains this provision.

Authority To Waive Compliance Surveys

Senate bill: The Senate bill (section 123 of S. 9) would mend section 1793 of title 38, relating to VA surveys of approved institutions to determine their compliance with applicable requirements for education programs under title 38, to give the Administrator, in the case of an institution having a demonstrated record of compliance with all of such requirements, authority to waive the requirement for an annual compliance survey of each institution that offers courses in which 300 or more eligible veterans or persons are enrolled or which do not lead to a standard college degree.

House bill: No provision.

Conference agreement: The conference agreement (section 322) contains this provision.

The conferees stress that they expect this waiver authority to be used judiciously. Only those institutons which over a period of several years have demonstrated a strong record of compliance should be exempted from the annual compliance survey requirement. Additionally, all active institutions should be surveyed at least once every four years. Enrollment of Montgomery GI Bill participants is expected to increase significantly in FY 1989 and thereafter, and periodic compliance surveys are necessary to maintain the integrity of this new educational assistance program.

Effective Date of Awards Under the Post-Vietnam Era Veterans' Education Assistance Program

Senate bill: The Senate bill (section 124 of S. 9) would amend section 3013 of title 38, relating to the VA's administration of the chapter 32 program to require that the effective dates of awards of benefits under chapter 32 of title 38, the Post-Vietnam Era Education Assistance Program, commonly known as VEAP, correspond, to the extent feasible, with the effective dates of awards for VA disability compensation.

House bill: No provision.

Conference agreement: The conference agreement (section 323) contains this provision.

Repeal of Expired Program of Accelerated Payment Loans

Senate bill: The Senate bill (section 125 of S. 9) would amend sections 1682A, 1686, 1737, and 1738 of title 38, relating to certain VA education loans, to repeal the VA's authority to make education loans in the form of accelerated payment of educational assistance allowances.

House bill: No provision.

Conference agreement: No provision.

PART D—INSURANCE PROVISIONS

Authority to Adjust Monthly Annuity Payments

Senate bill: The Senate bill (section 131 of S. 9) would amend chapter 19 of title 38, relating to veterans' insurance programs, to add two new sections (727 and 762) authorizing the Administrator from time to time to make such adjustments as the Administrator determines are administratively and actuarially sound in the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, Veterans Reopened Insurance, or United States Government Life Insurance who is receiving payments under a life annuity settlement option.

House bill: No provision.

Conference agreement: The conference agreement (section 331) contains this provision.

Exemptions From State Taxation

Senate bill: The Senate bill (section 132 of S. 9) would amend section 769 of title 38, relating to premiums for Servicemen's Group Life Insurance (SGLI), to prohibit the States from imposing any taxes on premiums paid under a SGLI or Veterans' Group Life Insurance policy.

House bill: No provision.

Conference agreement: The conference agreement (section 332) contains this provision.

Direct Administration of Veterans' Mortgage Life Insurance

Senate bill: The Senate bill (section 133 of S. 9) would amend section 806 of title 38, relating to Veterans' Mortgage Life Insurance (VMLI) (for veterans who are eligible for VA specially adapted housing assistance), to authorize the Administrator to convert the VMLI program from one conducted through a contract with a commercial insurance company acting as the insurer to one administered directly by the VA and to provide continuing authority for the VA to administer the program directly or by contract.

House bill: No provision.

Conference agreement: The conference agreement (section 333) contains this provision with an amendment providing for direct administration of the program by the VA with no contracting option.

PART E—MEMORIAL AFFAIRS

National Cemetery Grave Markers

House bill: The House bill (section 5 of H.R. 2957) would amend subsection (c) of section 1004 of title 38, which generally requires the use of upright grave markers in national cemeteries, to permit the use of flat markers in an addition to the Wood National Cemetery at Milwaukee, Wisconsin, which was developed on land that was formerly part of the grounds of the adjacent VA medical center and in the Indiantown Gap, Pennsylvania, National Cemetery.

Senate bill: The Senate bill (section 402 of S. 9) would amend section 1004(c) to (a) permit the Administrator, upon the recommendation of the Chief Medical Director, to waive the requirement for upright grave markers in a VA national cemetery if the Administrator determines that the use of upright markers at that cemetery would have a detrimental effect on the health of veterans receiving care at a nearby health-care facility, and (b) require the use of flat markers at the national cemeteries in Riverside, California, Augusta, Michigan, and Bourne, Massachusetts, and at the proposed national cemetery in Northern California.

Conference agreement: The conference agreement (section 341) permits the Administrator to waive the requirement for upright markers in the case of cemeteries located on the grounds of or adjacent to a VA medical center and at each of the specified cemeteries for which either the House or Senate provisions would permit or require the use of flat markers.

Grave Markers for Cremated Remains

House bill: The House bill (section 4 of H.R. 2957) would amend section 1004(c)(2) of title 38, generally requiring the use of upright grave markers in national cemeteries, to permit the use of flat markers for cremated remains.

Senate bill: No provision.

Conference agreement: The conference agreement (section 341) contains this provision.

Contributions for Certain Projects

House bill: The House bill (section 2 of H.R. 2957) would amend section 1004(f) of title 38, relating to the transfer of national cemetery approach roads to state and local governments, to authorize the VA, to the extent appropriations are available, to make contributions to local authorities for the construction of traffic controls, road improvements, or other devices adjacent to national cemeteries if the Administrator determines the contribution is necessary for safe ingress or egress.

Senate bill: No provision.

Conference agreement: The conference agreement (section 342) contains this provision with an amendment to require that the contribution be "essential to ensure", rather than "necessary for", safe ingress or egress.

The conferees expect the VA to continue to make every effort to have local authorities make any needed improvements without VA contributions.

State Veterans' Cemetery Construction Grants

House bill: The House bill (section 1 of H.R. 2957) would repeal clause (1) of section 1008(b) of title 38, which provides that no State may receive more than 20 percent of the total amount appropriated in a fiscal year for grants to States to aid in establishing, expanding, or improving state veterans' cemeteries.

Senate bill: No provision.

Conference agreement: The conference agreement (section 343) contains this provision.

Grave Liners

House bill: The House bill (section 3 of H.R. 2957) would amend section 906 of title 38, relating to headstones and markers for veterans' graves, to authorize the VA, in accordance with specifications and procedures approved by the Administrator, to provide grave liners for the interment of casketed remains in VA national cemeteries and the Arlington National Cemetery.

Senate bill: No provision.

Conference agreement: The conference agreement (section 344) contains this provision with an amendment under which the Secretary of the Army, rather than the Administrator, would be authorized to provide liners for interments at the Arlington National Cemetery and the VA and the Army would each adopt its own specifications.

AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS

House bill: The House bill (section 6 of H.R. 2957) would amend the Act of March 4, 1923 (36 U.S.C. 121), creating the American Battle Monuments Commission (ABMC), to establish in the Treasury, and authorize the appropriation of $3 million to, an account, to be known as the "Foreign Currency Fluctuations, American Battle Monuments Commission", to provide funding to eliminate losses resulting from fluctuations in currency exchange rates of foreign currencies that occur after an ABMC budget request is submitted to the Congress.

Senate bill: No provision.

Conference agreement: The conference agreement (section 345) contains this provision.

Transfer of the Arizona State Cemetery to the Veterans' Administration

Senate bill: The Senate bill (section 406 of S. 9) would (a) authorize and direct the VA to accept from the State of Arizona, on terms and conditions specified by the VA, title to the Arizona State Veterans Memorial Cemetery, with the cemetery thereafter being part of the National Cemetery System; (b) in each of fiscal years 1988 and 1989 limit the amount of appropriated funds that the VA may spend for the operation and maintenance of the cemetery to the amount it would have expended for the payment of plot allowances to the State for the burial of deceased veterans, except that this spending cap could be exceeded to the extent necessary for the repair of damage from flood, fire, or other natural disaster; (c) provide for the VA to use funds available for such plot allowances (*i.e.*, funds in the VA's compensation and pension account) for, and authorize the VA to accept gifts for, the operation and maintenance of the cemetery; and (d) permit the continuing use of flat markers for internments in this cemetery when it becomes a National Cemetery.

House bill: No provision.

House amendment: No provision.

Conference agreement: The conference agreement (section 346) contains these provisions with amendments to require the Administrator, not later than 6 months after enactment, to enter into an agreement with the State under which title would be conveyed and the State would be obligated to provide any supplementary funding necessary to maintain the current level of operation and maintenance; to extend the spending cap through the first 3 years after that agreement is signed; and to delete the exception for spending to repair damage from a natural disaster.

The conferees note that, in order to overcome objections by the House conferees to this provision, the Arizona Congressional delegation has made a commitment to support providing 16 acres of land adjacent to the Phoenix VA Medical Center to accommodate a planned expansion of the medical center and the construction of a State veterans' home.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Integrity of Contracting Out Process at Health-Care Facilities

House bill: The House bill (section 9 of H.R. 3449) would amend section 5010 (c) of title 38, relating to the contracting out of functions at VA health-care facilities, to require that no functions be contracted out unless the Administrator receives responsive bids to perform the function from at least two responsible, financially autonomous bidders.

Senate bill: No provision.

Conference agreement: The conference agreement (section 401) contains this provision.

Standardization of Medical and Pharmaceutical Items

Senate bill: The Senate bill (section 345 of S. 9) would require the Administrator, not later than the beginning of the third fiscal year beginning after the date of enactment, to develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items produced by the VA. The plan would be required to provide for the procurement of generic pharmaceutical items where such procurement is more cost-effective than procurement of a name-brand pharmaceutical item, except where the VA's Chief Medical Director, after consultation with the Food and Drug Administration, determines that an equivalent generic item is not available or that the availability of a brand-name item is necessary in the interests of effective patient care.

House bill: No provision.

Conference agreement: The conference agreement (section 402) contains this provision with an amendment requiring that the plan be implemented by October 1, 1989.

The conferees note that nothing in the conference agreement would permit the VA to procure pharmaceutical items not approved for safety and effectiveness under the Federal Food, Drug, and Cosmetic Act, or a biological product not licensed under the Public Health Service Act, or any item not otherwise permitted to be sold under Federal law. The conferees also note that, under the conference agreement, if the VA's Chief Medical Director (CMD) determines that procurement of a pharmaceutical item not in the VA standardization plan is necessary in the interests of effective patient care, the CMD would have authority to permit a VA medical center director, in accordance with regulations prescribed by the CMD, to procure the pharmaceutical item under a local contract where the center director determined that such procurement was necessary for the effective furnishing of health-care services. However, the conferees intend that this authority be exercised in a way that would be consistent with the intent of this legislation with regard to achieving a more cost-effective VA procurement program.

Requirements for the Procurement of Medical and Pharmaceutical Items

Senate bill: The Senate bill (section 346 of S. 9) would amend subchapter II of chapter 81, relating to VA procurement and supply activities, to add a new section 5025 requiring the VA to procure medical and pharmaceutical items only under national contracts except where local purchase is necessary because (a) the item is not available under a national contract, (b) the item is needed for the effective furnishing of health-care services or the conduct of research or education at a VA medical center as determined by the director of the center in accordance with regulations prescribed by the CMD, or (c) a need for an emergency procurement has arisen. New section 5025 would also provide that, except in the case of emergency need—when the medical center would be permitted to purchase no greater amount than is reasonably necessary to meet the emergency need until resupply could be achieved—(a) not more than 20 percent of all medical and pharmaceutical items procured by the VA in any fiscal year would be permitted to be procured under local contracts, (b) that percentage may be increased to not more than 30 percent if it is determined by the President (or, upon delegation, by the Director of the Office of Management and Budget), based upon the VA's experience during the preceding 2 years, that a higher percentage is necessary for the effective furnishing of health-care services, and (c) to the maximum extent feasible, local contracts be awarded to dealers or manufacturers regularly engaged in the wholesale supply of the items involved.

Under the new section 5025, each medical center would be required to report to the Administrator on December 1 of each fiscal year (beginning on December 1, 1988) the percentage of all items procured through local contracts during the previous fiscal year and—for those medical centers at which purchases under local contracts exceeded 20 percent of the total cost of all items procured during that fiscal year—provide a list indicating the quantity and cost of each item procured under a local contract and an explanation of the reasons for exceeding the 20 percent level. In addition, the Administrator would be required to submit to the Committees on Veterans' Affairs not later than February 1 of each year (beginning February 1, 1989) a report on the VA's experience in the procurement of medical and pharmaceutical items during the previous fiscal year, including a summary of the quantity and costs of items procured under local contracts.

House Bill: No provision.

Conference agreement: The conference agreement (section 403) contains this provision with amendments which would (a) add a fourth exception—demonstrated cost-effectiveness on an item-by-item basis—to the three exceptions in the Senate bill to the prohibition against the procurement of medical and pharmaceutical items (referred to as "health-care items" in the conference agreement) under local contracts, (b) postpone until one year after the date of enactment the effective date of that prohibition, (c) give the Administrator, rather than the President, the discretionary authority to increase from 20 percent to 30 percent the percentage of health-care items which may be procured by the VA in any fiscal year under local contracts, (c) require each medical center to report to the Administrator on December 1 of each fiscal year (beginning on December 1, 1988) the percentage of all items procured through local contracts during the previous fiscal year, (d) requires each medical center at which purchases under local contracts exceeded 20 percent of the total cost of all items procured during that fiscal year to include in its report a list indicating the quantity and cost of each item procured under a local contract and an explanation of the reasons for exceeding the 20-percent level, (e) exclude Federal Supply Classification (FSC) Group 89 (food items) from the description of the term "health-care item", (f) delete, in the description of the term "health-care item" the reference to the "Federal Supply Catalog", and (g) delete the exclusion of "surgical items."

Multi-Year Procurement of Certain Medical Items

Senate bill: The Senate bill (section 347 of S. 9) would amend section 213 of title 38, relating to VA contracts, to authorize the VA to use multi-year health-care supplies and services procurement contracts except where such contracts would interfere with the maximum effective procurement of generic drugs. Specifically, the Administrator would be authorized to enter into a multiyear contract if the Administrator determines that (a) appropriations are available and adequate for obligations necessary to provide for either (1) the total payments required during the full term of the contract, or (2) the total payments during the fiscal year in which the contract is entered into plus cancellation charges payable under the contract; (b) the contract is in the best interest of the government in that the contract would reduce costs, achieve economies in contract administration, increase quality of service from the contractor, or encourage competition; (c) there is an ongoing need for the particular items or services being procured and no substantial likelihood of changes in the need for the supply and the specifications are expected to remain relatively stable; (d) the risks associated with the contractor's ability to comply with the contract are not excessive; (e) use of multiyear contract will not inhibit the capability of small businesses to compete; and (f) in the case of the procurement of a pharmaceutical item for which a patent has expired less than 4 years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract. Such a multi-year contract would be required to provide (1) that the government's obligation under the contract is contingent on the availabilty of financial resources, and (2) that there be payment of reasonable concellation charges to compensate the contractor if the contract is cancelled due to lack of such resources.

House bill: No provision.

Conference agreement: The conference agreement (section 404) contains this provision with amendments to (1) delete language clarifying that the new provisions are not to be construed to supersede any other law authorizing multiyear contracts; (2) substitute language providing that the new provisions are not to be construed so as to restrict the exercise of the right to terminate for convenience a contract under such a law, and (3) delete language describing examples of the types of costs considered to be "nonrecurring, unrecovered costs", the payment of which are to be provided for in a provision which would be required to be included in a multiyear contract.

The conferees agree that the costs—i.e., plant or equipment relocation, plant rearrangement, special tooling, special test equipment, preproduction engineering, and specialized work force training—are appropriate, but do not consider it necessary to identify them in the statute.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sequestration Rules Applicable To Veterans' Programs

House bill: The House bill (section 305 of H.R. 2616), would—

(a) provide for restoring to the Canteen Service Revolving Fund (CSRF) the FY 1986 funds sequestered from the CSRF under the Gramm-Rudman-Hollings (GRH) law (Public Law 99-177; 2 U.S.C. et seq.) by making retroactively effective to FY 1986 the existing sequestration exemption for the CSRF in section 113 (b)(2)(B) of title 38; and

(b) require the Secretary of the Treasury to take the actions necessary to implement the change in the effective date and not later than 60 days after the date of enactment submit to the Committee a report on those actions.

Senate bill: The Senate bill (sections 313 and 114 of S. 9) would—

(a) provide for restoring to the VA's Special Therapeutic and Rehabilitation Activities fund (STRAF)—in the same manner as the House bill would provide for restoration to the CSRF—FY 1986 funds sequestered from the STRAF under the GRH law; and

(b) effective November 19, 1987, amend sections 113(a) (4) and (5) of title 38, under which the program of rehabilitation services and assistance for certain service-disabled veterans under chapter 31 of title 38 and the program of educational assistance for dependents or survivors of certain service-disabled veterans or of deceased servicemembers under chapter 35 were made exempt from sequestration for FY 1987 only, to exempt both programs permanently.

Conference agreement: The conference agreement (section 411) contains these provisions.

Child-Care Services at Veterans' Administration Facilities

House bill: The House bill (section 8 of H.R. 3449) would amend chapter 75 of title 38, relating to the Veterans' Canteen Service (VCS), to—

(a) authorize the operation of child-care centers at VA medical centers through the VCS and require that such services be available for children of VA employees;

(b) require the Administrator to provide to the VCS for the operation of child-care centers, at no charge, space in existing VA facilities, support services (including custodial services), and utilities;

(c) require that any other services provided to the VCS for the operation of the centers be provided on a reimbursable basis;

(d) require that employees assigned to work in the centers be selected based upon their suitability and fitness for such duties; and

(e) authorize the establishment of reasonable charges for child-care services and require such charges to be sufficient to cover all costs of operation (other than the costs of those services provided by the VA without charge).

Senate bill: The Senate bill (section 333 of S. 9) would amend section 223 of title 38, relating to services for VA employees, to—

(a) require the Administrator, to the extent the Administrator determines that it is in the best interest of the VA and practicable to do so based on the demand for such care, to provide on-site child-care centers in VA facilities for children of VA employees and, to the extent space is available, of other Federal employees and non-Federal employees;

(b) require the Administrator, in connection with the establishment of the centers, to provide, at no or nominal cost, space in existing VA facilities, utilities, and other amenities necessary for the health and safety of children;

(c) authorize the Administrator, on a reimbursable basis, to convert space for such centers and to furnish other items necessary for the operation of the centers, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be furnished at no charge;

(d) require VA regulations to be prescribed to—

(1) provide for the participation of parents of children in a child-care center in the establishment of policies governing the operation of the center and oversight of the operation of the center, either directly or through parent-advisory committees or both;

(2) require the development and utilization of a process for screening prospective employees at the centers for fitness and suitability;

(3) authorize parents to conduct fundraising activities in order to help defray the operating costs of the centers;

(4) require the establishment of a schedule of charges for the provision of child-care services for each center, including a sliding-scale schedule based on parents' income and assets, sufficient to cover the center's operating expenses; and

(5) require that centers comply with all State and local laws, ordinances, and regulations relating to the operation of child-care centers;

(e) authorize the Administrator (1) to enter into a contract for the operation of a center with (A) a non-profit organization comprised of parents whose children are cared for at the center, or (B) a non-profit organization which has demonstrated expertise in the operation of child-care centers and has an advisory committee comprised of parents of children being cared for in the centers, or (2) to provide for the direct management of the centers by the VCS;

(f) authorize the Administrator to carry out this child-care services program through the VCS or otherwise; and

(g) specify that, for the purposes of the child-care services program, a parent advisory committee is to be comprised of parents of children in the center and to be fully involved in the establishment of policies to govern the operation of the center and the oversight of the implementation of its policies.

Conference agreement: The conference agreement (section 412) contains provisions derived from both the House and Senate provisions so as to—

(a) amend chapter 75 of title 38 governing the Veterans' Canteen Service,

(b) require the Administrator, to the extent the Administrator determines that it is in the best interest of the VA and practicable to do so based on the demand for such care, to provide on-site child-care centers in VA facilities for children of VA employees, and, to the extent space is available, for children of employees of affiliated institutions and VA research corporations established under subchapter VI of chapter 73 of title 38 (as added by section 204 of the conference agreement);

(c) require that child-care programs be carried out by the VCS with one person therein designated as the coordinator for the program;

(d) in connection with the establishment and operation of the centers—

(1) require the Administrator to provide space in existing VA facilities, utilities, and other amenities necessary for the health and safety of children at no or nominal cost;

(2) authorize the Administrator to convert space for such centers on a reimbursable basis, and to furnish, also on a reimbursable basis, other items necessary for the operation of such centers, including furniture, office machines and equipment, and telephone service, except that basic telephone service and surplus furniture and equipment may be furnished at no charge;

(3) provide for the participation of parents of children in a child-care center in the establishment of policies governing the operation of the center and in oversight of the operation of the center, either directly or through parent-advisory committees or both;

(4) require the development and utilization of a process for screening prospective employees at the centers for fitness and suitability; and

(5) require compliance with State and local laws, ordinances, and regulations specifically relating to health, safety, and child care;

(e) require that (1) the Canteen Service establish for each center a schedule of charges subject to the Administrator's approval, (2) in the case of a center operated by the service, that the charges be sufficient to cover the center's operating expenses, and (3) in the case of a center operated by a for-profit organization, that the charges be established take into account the value of space, utilities, and other services provided and the cost of child-care services in the community; and

(f) require the Administrator to prescribe regulations to carry out these provisions.

Although the express authority to permit parents to conduct fundraising activities to help defray the operating costs of the child-care centers is not included as part of the conference agreement, the conferees recognize the value of such activities in keeping fees affordable.

The conferees intend the phrase "to the extent space is available" in the description in item (b) of the conference agreement to refer to the acceptance of non-VA employee children only to the extent necessary to make it economically feasible to operate the center. When planning for the size of the center, such other children should be taken into account only to that extent.

Advisory Committee on Native-American Veterans

Senate bill: The Senate bill (section 404 of S. 9) would amend section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272), relating to the Advisory Committee on Native-American Veterans. The Senate bill would add a representative to the Advisory Committee, require a third report (due February 1, 1989), and extend the term of the Advisory Committee until 90 days after the third report is submitted to the Administrator.

House bill: No provision.

Conference agreement: The conference agreement (section 413) contains this provision with an amendment which would extend the term of the Advisory Committee until 90 days after the report is submitted to the Congress.

Exemption of Canteen Service From Personnel Ceilings

House bill: The House bill (section 304 of H.R. 2616) would amend chapter 75 of title 38, relating to the Canteen Service, to provide that persons employed by the Canteen Service not be considered to be VA employees for purposes of any personnel ceiling which may otherwise be applied to VA employees by the President.

Senate bill: No provision.

Conference agreement: The conference agreement (section 414) contains this provision.

Pilot Program on Hospital Management Efficiency

House bill: The House bill (section 306 of H.R. 2616) would require the VA to conduct a pilot program to determine the feasibility of operating VA medical centers free of certain statutory and regulatory constraints. Specifically, the Administrator would be required to designate five VA medical centers at which the center's director, pursuant to the Administrator's authorization could waive or alter any laws and regulations applicable to the center's management and administration to detemine the effect of the waivers and alterations on the efficiency and economy of the center. The authorization for this program would expire on September 30, 1990.

Senate bill: No provision.

Conference agreement: No provision.

Consolidation of Veterans' Administration Insurance Centers

House bill: The House bill (section 302 of H.R. 2945) would (a) require the Adminstrator to continue to maintain and operate separately the VA insurance centers located in St. Paul, Minnesota, and Philadelphia, Pennsylvania, and (b) prohibit the Administrator from taking any action to consolidate the centers as proposed in a reorganization plan submitted to the Congress on February 5, 1986, under section 210(b)(2)(A) of title 38.

Senate bill: No provision.

Conference agreement: No provision.

The conferees note that questions regarding the appropriateness and cost-effectiveness of the consolidation have been raised by the General Accounting Office (GAO) in its September 16, 1987, report entitled "Veterans' Administration: Proposed Consolidation of Philadelphia and St. Paul Insurance Centers", and by the Minnesota Congressional delegation. In the conferees' view, these questions should be resolved before any action is taken to implement the planned consolidation. The conferees also note that the Continuing Resolution for

Fiscal Year 1988 (Public Law 100-202) prohibits the use of appropriated funds for consolidation of the centers in fiscal year 1988. In view of these questions, the conferees direct that, before proceeding with such consolidation effort after fiscal year 1988, the VA submit to the Veterans' Affairs Committee a report demonstrating the justification for, and cost-effectiveness of, such a transfer both generally and in light of the GAO's findings, and that the VA include in the report a description of how the telephone-inquiry needs of those persons in the Western time zones currently served by the St. Paul center would be met.

Technical Amendments to Chapter 37

House bill: Section 16 of H.R. 2672 as passed by the House of Representatives on August 3, 1987, contained provisions making technical amendments in subchapters I, II, and III of chapter 37 of title 38, relating to VA home loan guaranties, consolidating in one section (section 1802) all provisions relating to eligibility for VA home loan guaranties and to reorganize subchapters II and III, and clarifying that the amendments are to have no effect on any veteran's benefits under chapter 37.

Senate bill: No provision.

Conference agreement: The conference agreement (section 415) contains these provisions with amendments and with further technical amendments in light of chapter 37 amendments enacted in Public Law 100-198.

The conferees' stress that these purely technical amendments do not signify the conferees or the Congress' review, assessment, or reaffirmation any of the policies expressed in or underlying the provisions affected, including the basic eligibility requirements.

Exclusion of Casualty Reimbursements From Pension Income Computations

Senate bill: The Senate bill (section 141 of S. 9) would amend section 415(f)(1)(i) of title 38, relating to exclusion of fire insurance proceeds from income computation for purposes of pension and parents' DIC reimbursement, to exclude for such purposes reimbursement—based on market or reasonable replacement value—from any source for property loss from any cause.

House bill: No provision.

Conference agreement: No provision.

The conferees' note their view that the VA's General Counsel has interpreted the term "fire insurance proceeds" as used in section 415(f)(1)(I) broadly enough to include also insurance proceeds for losses from causes other than fire. The conferees urge the VA to issue regulations consistent with the broad interpretation of current law set forth in the September 10, 1984, opinion of the General Counsel to the Chief Benefits Director.

Transportation of Plutonium

Senate bill: The Senate bill (section 209 of S. 9) would prohibit air transport of plutonium from one foreign nation to another through the air space of the United States unless (1) the possible routes for shipment (including landing sites and refueling points) have been evaluated in accordance with the National Environmental Policy Act (Public Law 91-190), and (2) the Nuclear Regulatory Commission (NRC) has certified to Congress that the container is safe. The NRC's safety determination would be required to be based upon actual aircraft crash and container drop tests. This provisions would not apply to plutonium contained in a medical device designed for individual human application.

House bill: No provision.

Conference agreement: No provision.

The conferees' note that a substantially similar provision was incorporated in section 5062 of the Omnibus Budget Reconciliation Act of 1987, Public Law 100-203.

PART C—REAL PROPERTY

Limitation on Transfer of Real Property to Other Agencies

House bill: The House bill (section 302 of H.R. 2616) would amend section 5022(a) of title 38, relating to transactions involving certain VA real property, to (a) prohibit the VA from transferring to another Federal agency or to a State (or political subdivision) any interest in real property owned by the United States and administered by the VA which has an estimated value in excess of $50,000 unless the transfer is specifically authorized by law, and (b) require that the proceeds from the sale of any such property be deposited in the VA's Parking Garage Revolving Fund.

Senate bill: The Senate bill (section 401 of S. 9) would prohibit the Administrator from taking any action to declare as excess to the needs of the VA, or otherwise take any action to dispose of, certain land and improvements at the Veterans' Administration Medical Center in West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center in Sepulveda, California (consisting of approximately 46 acres).

Conference agreement: The conference agreement (section 421) contains these provisions with a substitute amendment to (1) prohibit the Administrator from taking any action in a fiscal year to declare as excess to the VA's needs any interest in real property owned by the United States and administered by the VA unless the Administrator has, at the time of the President's budget submission to the Congress, provided the Veterans' Affairs Committees with a proposal to do so, (2) require that the sale of any such property be at fair market value, and (3) require that the revenues generated from the sale of such property be deposited in a new Nursing Home Construction Fund, which, under the conference agreement, would be established under a new section 5016 of title 38.

Congressional Procedures for Approval of Medical Facility Acquisition and Construction

House bill: The House bill (section 5 of H.R. 3449) would amend section 5004(a) of title 38, relating to the authorization by the Committees on Veterns' Affairs of major VA medical-facility construction and acquisition projects (those costing more than $2 million) and leases (those with an average annual rental over $500,000), to provide that no appropriation may be made for a major medical-facility project or lease unless the Senate and House Veterans' Affairs Committees each has first adopted a resolution approving such a project and its cost. Under current law, after the Committees have adopted resolutions with identical texts approving major medical-facility projects it is not in order in either body to consider a measure making an appropriation for that or the next fiscal year for such a project or lease if (a) the project is not approved in the resolution, or (b) the appropriations measure does not specify the project or the amount proposed for it or the amount proposed exceeds the approved amount. Current law also provides that no appropriation may be made for a major medical-facility lease unless the Committees have adopted resolutions approving it and setting forth its estimated costs.

Senate bill: The Senate bill (section 344 of S. 9) would amend section 5004 to replace the existing Veterans' Affairs Committees approval-resolutions process for VA major medical construction and acquisition projects with a legislative authorization process under which it would not be in order in either body to consider a bill, resolution, or amendment appropriating funds for a major VA medical-facility project or lease unless the amount for the project or lease is specified in the appropriations measure and does not exceed the amount authorized for it by a provision of law enacted in legislation reported by the Veterans' Affairs Committees.

The senate bill would further amend section 5004 to replace the existing prohibition against increasing the contract amount by more than 10 percent of the amount specified in the Committees' resolutions with a requirement that the Administrator gave the Committees 30 days' advance notice whenever the cost of a project would exceed by more than 10 percent the amount specified in the authorizing legislation.

Conference agreement: The conference agreement (section 422) contains the House provision with an amendment to permit a point of order to be raised in either body against a bill making an appropriation for a major VA medical-facility project or lease unless it has been approved by a resolution of the Veterans' Affairs Committee of that body and does not exceed the amount specified for it in the resolution. The conference agreement also contains the Senate provision relating to advance notice of contract increases with an amendment to require the notice when the project cost would exceed the amount specified in a Committee's resolution rather than in an authorizing law.

Use of Former VA Hospital in Minot, North Dakota

Senate bill: The Senate bill (section 403 of S. 9) would require the VA, upon certain conditions being met, to enter into an agreement with the United States Department of Labor (DOL) for DOL's use as a Job Corps Center for nominal consideration, of 20.6 acres and the buildings thereon located in Minot, North Dakota, where the VA formerly operated a hospital. The conditions for the lease, which would be renewable for nominal consideration for successive 10-year periods at the request of the Secretary of Labor, would be that (a) sufficient funds must be appropriated to the Department of Labor in fiscal year 1988 to establish a Job Corps Center in North Dakota, (b) the property must be selected by the Labor Department for the establishment of a Job Corps Center, and (c) the Department must agree to use the property for a Job Corps Center for the duration of the lease.

House bill: No provision.

Conference agreement: The conference agreement (section 423) contains this provision with amendments to (a) modify the conditions relating to appropriations so as to require that they be made by the end of fiscal year 1989, (b) nullify the action of the Administrator on September 30, 1987, in transferring the property to the General Services Administration, (c) prohibit the VA from expending any funds for the repair, improvement, or alteration of the property in connection with DOL use thereof.

Naming of Veterans' Administration Medical Center in Shreveport, Louisiana

House bill: The House bill (section 308 of H.R. 2616 would designate the Veterans' Administration Medical Center in Shreveport, Louisiana, the "Overton Brooks Veterans' Administration Medical Center".

Senate bill: The Senate bill (section 407) is substantively identical to the House bill.

Conference agreement: The conference agreement (section 424) contains this provision.

Outpatient Clinic, New Jersey

House bill: The House bill (section 307 of H.R. 2616) would require the VA to establish and operate an outpatient clinic in central or southern New Jersey and to begin the site location process for this clinic no later than 30 days after the date of enactment.

Senate bill: No provision.

Conference agreement: No provision.

The conferees note that funding for the lease for such a clinic was proposed in the President's fiscal year 1988 budget and provided in the Continuing Resolution for Fiscal Year 1988 (Public Law 100-202) and that VA action to establish the clinic is underway.

Fair Market Opportunties in Veterans' Administration Construction Projects

Senate bill: The Senate bill (section 408 of S. 9) would prohibit the use of funds appropriated pursuant to an authorization contained in the bill to carry out any construction project of the Veterans' Administration which uses any architectural, engineering, or construction service of a foreign country during any period in which such foreign country is identified by the United States Trade Representative (USTR) as denying fair and equitable market opportunities for such services of the United States in procurement or bidding for certain public works projects. Not later than 30 days after the date on which each report is submitted under section 181(b) of the Trade Act of 1974, the USTR would be required to determine as to each foreign country whether it denies fair and equitable market opportunities for architectural, engineering, or construction services of the United States in procurement or bidding for construction projects that cost more than $500,000 and are funded, in whole or in part, by the government of the foreign country or by an entity controlled by such foreign country. In making this determination, the USTR would be required to take into account information obtained in preparing the report submitted under section 181(b) and such other information the USTR considers relevant. Any country listed would remain on the list until the USTR determined that it does permit fair and equitable market opportunities in procurement and bidding.

The Administrator could waive the restrictions imposed by this section with respect to the use of a service in a project if the Administrator determines that (1) the waiver is necessary in the public interest; (2) alternative services are unavailable or of insufficient quality; or (3) exclusion of the service would increase the overall cost of the project by more than 20 percent.

House bill: No provision.

Conference agreement: No provision.

The conferees note that a similar provision generally applicable to all building or public work construction projects undertaken with funds appropriated for FY 1988 was incorporated in section 109 of the FY 1988 Continuing Resolution, Public Law 100-202.

APPENDIX

CHANGES IN EXISTING LAW MADE BY THE CONFERENCE AGREEMENT ON H.R. 2616

Changes in existing law made by the conference agreement are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 38—UNITED STATES CODE

* * * * *

PART I—GENERAL PROVISIONS

* * * * *

CHAPTER 1—GENERAL

Sec.
101. Definitions.
102. Dependent parents.
103. Special provisions relating to marriages.
104. Approval of educational institutions.
105. Line of duty and misconduct.
106. Certain service deemed to be active service.
107. Certain service deemed not to be active service.
108. Seven-year absence presumption of death.
109. Benefits for discharged members of allied forces.
110. Preservation of disability ratings.
111. [Travel expenses.] *Payments or allowances for beneficiary travel.*
112. Presidential memorial certificate program.
113. Treatment of certain programs under sequestration procedures.
114. *Multiyear procurement for certain medical items.*

§ 101. Definitions

For the purposes of this title—

(1) * * *

* * * * *

(28) The term "nursing home care" means the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require [skilled] nursing care and related medical services, if such nursing care and medical services are prescribed by, or are performed under the general direction of, persons duly licensed to provide such care. [The term includes intensive care where the nursing service is under the supervision of a registered professional nurse.] *Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.*

* * * * *

(32) The term "former prisoner of war" means a person who, while serving in the active military, naval or air service, was forcibly detained or interned in line of duty—

(A) by an enemy government or its agents, or a hostile force, during a period of war; or

(B) by a foreign government or its agents, or a hostile force, [during a period other than a period of war in which such person was held] under circumstances which the Administrator finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war.

* * * * *

§ 111. [Travel expenses] ***Payments or allowances for beneficiary travel***

(a) * * *

* * * * *

(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

(B) A veteran with a service-connected disability rated at 30 percent or more.

(C) A veteran receiving pension under section 521 of this title.

(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

(B) In the case of travel by a person to or from the Veterans' Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

[(b)] *(d)* Payment of the following expenses or allowances in connection with vocational rehabilitation, counseling, or upon termination of examination, treatment, or care, may be made before the completion of travel:

(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special model of travel for which payment under this section is authorized under subsection (b)(3) of this section.

(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this subparagraph.

(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts may have been increased or decreased pursuant to this paragraph before such date.

(1) [the] *The* mileage allowance authorized by subsection (a) [hereof;] *of this section.*

(2) [actual] *Actual* local travel [expenses;] *expenses.*

(3) [the] *The* expense of hiring an automobile or ambulance, or the fee authorized for the services of a nonemployee attendant.

[(c)] *(e)* When any person entitled to mileage under this section requires an attendant (other than an employee of the Veterans' Administration) in order to perform such travel, the attendant may be allowed expenses of travel upon the same basis as such person.

[(d)] *(f)* The Administrator may provide for the purchase of printed reduced-fare requests for use by veterans and their authorized attendants when traveling at their own expense to or from any Veterans' Administration facility.

[(e)] *(g)*(1) In carrying out the purposes of this section, the Administrator, in consultation with the Administrator of General Services, the Secretary of Transportation, the Comptroller General of the United States, and representatives of organizations of veterans, shall conduct periodic investigations of the actual cost of travel (including lodging and subsistence) to beneficiaries while traveling to or from a Veterans' Administration facility or other place pursuant to the provisions of this section, and the estimated cost of alternative modes of travel, including public transportation and the operation of privately owned vehicles. The Administrator shall conduct such investigations immediately following any alteration in the rates described in paragraph (3)(C) of this subsection, and, in any event, immediately following the enactment of this subsection and not less often than annually thereafter, and based thereon, shall determine rates of allowances or reimbursement to be paid under this section.

(2) In no event shall payment be provided under this section—

(A) unless the person claiming reimbursement has been determined, pursuant to regulations which the Administrator shall prescribe, to be unable to defray the expenses of such travel (except with respect to a person receiving benefits for or in connection with a service-connected disability under this title, a veteran receiving or eligible to receive pension under section 521 of this title, or a person whose annual income, determined in accordance with section 503 of this title, does not exceed the maximum annual rate of pension which would be payable to such person if such person were eligible for pension under section 521 of this title);

(B) to reimburse for the cost of travel by privately owned vehicle in any amount in excess of the cost of such travel by public transportation unless (i) public transportation is not reasonably accessible or would be medically inadvisable, or (ii) the cost of such travel is not greater than the cost of public transportation; and

(C) in excess of the actual expense incurred by such person as certified in writing by such person.

* * * * *

(4) Before determining rates *or adjusting amounts* under this section and not later than sixty days after any alteration in the rates described in paragraph (3)(C) of this subsection, the Administrator shall submit to the Committees on Veterans' Affairs of the House of Representatives and the Senate a report containing the rates *and amounts* the Administrator proposes to establish or continue with a full justification therefor in terms of each of the limitations and factors set forth in this section.

* * * * *

(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.

* * * * *

§ 113. Treatment of certain programs under sequestration procedures

(a) The following programs shall be exempt from sequestration or reduction under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 et seq.) or any other sequestration law and shall not be included in any report specifying reductions in Federal spending:

(1) Benefits under chapter 21 of this title, relating to specially adapted housing and mortgage-protection life insurance for certain veterans with service-connected disabilities.

(2) Benefits under section 907 of this title, relating to burial benefits for veterans who die as the result of a service-connected disability.

(3) Benefits under chapter 39 of this title, relating to automobiles and adaptive equipment for certain disabled veterans and members of the Armed Forces.

(4) Assistance and services under chapter 31 of this title, relating to training and rehabilitation for certain veterans with service-connected [disabilities (but only with respect to fiscal year 1987).] *disabilities.*

(5) Benefits under chapter 35 of this title, relating to educational assistance for survivors and dependents of certain veterans with service-connected [disabilities (but only with respect to fiscal year 1987).] *disabilities.*

(6) Benefits under subchapters I, II, and III of chapter 37 of this title, relating to housing loans for certain veterans and for the spouses and surviving spouses of certain veterans.

* * * * *

(d) In computing the amount of new budget authority by which a budget account of the Veterans' Administration is to be reduced for a fiscal year under a [joint] report of the [Directors] *Director* of the Office of Management and [Budget and the Congressional Budget Office,] *Budget,* or under an order of the President under part C of the Balanced Budget and Emergency Deficit Control Act of 1985, the base from which the amount of the reduction for such account is determined shall be established without regard to any amount of new budget authority in such account (determined under section 251(a)(6) of such Act) for any of the programs listed in subsection (a) of this section.

* * * * *

§ 114. Multiyear procurement for certain medical items

(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

(A) reducing costs;

(B) achieving economies in contract administration or in any other Veterans' Administration activities;

(C) increasing quality of performance by or service from the contractors; or

(D) encouraging effective competition.

(3) During the proposed contract period—

(A) there will be a continuing or recurring need for the supplies or services being procured;

(B) there is not a substantial likelihood of substantial changes in the need for such

supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

(C) the specifications for the supplies or services are expected to be reasonably stable.

(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

(b)(1) A multiyear contract authorized by this section shall contain—

(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

(d) The Administrator shall prescribe regulations for the implementation of this section.

(e) For the purposes of this section:

(1) The term "appropriations" has the meaning given that term in section 1511 of title 31.

(2) The term "cancel" or "cancellation" refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

(3) The term "multiyear contract" means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

(4) The term "nonrecurring, unrecovered costs" means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis.

CHAPTER 3—VETERANS' ADMINISTRATION; OFFICERS AND EMPLOYEES

* * * * *

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

210. Appointment and general authority of Administrator; Deputy Administrator.
211. Decisions by Administrator; opinions of Attorney General.
212. Delegation of authority and assignment of duties.
213. Contracts and personal services.
214. Reports to the Congress.
215. Publication of laws relating to veterans.
216. Assistance to certain rehabilitation activities.
217. Studies of rehabilitation of disabled persons.
218. Security and law enforcement on property under the jurisdiction of the Veterans' Administration.
219. Evaluation and data collection.
220. Coordination and promotion of other programs affecting veterans and their dependents.
221. Advisory Committee on Former Prisoners of War.
222. Advisory Committee on Women Veterans.
223. Administrative settlement of tort claims.

* * * * *

SUBCHAPTER II—ADMINISTRATOR OF VETERANS' AFFAIRS

* * * * *

§ 216. Assistance to certain rehabilitation activities

(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

(1) the activities are available to disabled veterans on a national basis; and

(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name "Veterans' Administration" by—

(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

(A) the Administrator has approved the advertisement; and

(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.

* * * * *

§ 223. Administrative settlement of tort claims

(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

(b) For purposes of this subsection, the term "settle", with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.

* * * * *

PART II—GENERAL BENEFITS

* * * * *

CHAPTER 11—COMPENSATION FOR SERVICE-CONNECTED DISABILITY OR DEATH

* * * * *

SUBCHAPTER I—GENERAL

§ 301. Definitions

For the purposes of this chapter—

(1) * * *

* * * * *

(3) The term "chronic disease" includes—

Anemia, primary
Arteriosclerosis
Arthritis
Atrophy, progressive muscular
Brain hemorrhage
Brain thrombosis
Bronchiectasis
Calculi of the kidney, bladder, or gallbladder
Cardiovascular-renal disease, including hypertension
Cirrhosis of the liver
Coccidioidomycosis
Diabetes mellitus
Encephalitis lethargica residuals
Endocarditis
Endocrinopathies
Epilepsies
Hansen's disease
Hodgkin's disease
Leukemia
Lupus erythematosus, systemic
Myasthenia gravis
Myelitis
Myocarditis
Nephritis
Organic diseases of the nervous system
Osteitis deformans (Paget's disease)

Osteomalacia
Palsy, bulbar
Paralysis agitans
Psychoses
Purpura idiopathic, hemorrhagic
Raynaud's disease
Sarcoidosis
Scleroderma
Sclerosis, amyotrophic lateral
Sclerosis, multiple
Syringomyelia
Thromboangiitis obliterans (Buerger's disease)
Tuberculosis, active
Tumors, malignant, or of the brain or spinal cord or peripheral nerves
Ulcers, peptic (gastric or duodenal)

and such other chronic diseases as the Administrator may add to this list.

* * * * *

§ 312. Presumptions relating to certain diseases and disabilities

(a) * * *

* * * * *

(b) For the purposes of section 310 of this title and subject to the provisions of section 313 of this title, in the case of a veteran who is a former prisoner of war and who was detained or interned for not less than thirty days, the disease of—

(1) avitaminosis,

(2) beriberi (including beriberi heart disease),

(3) chronic dysentery,

(4) helminthiasis,

(5) malnutrition (including optic atrophy associated with malnutrition),

(6) pellagra,

(7) any other nutritional deficiency,

(8) psychosis,

(9) any of the anxiety states,

(10) dysthymic disorder (or depressive neurosis),

(11) organic residuals of frostbite, if the Administrator determines that the veteran was interned in climatic conditions consistent with the occurrence of frostbite, [or]

(12) post-traumatic osteoarthritis,

(13) peripheral neuropathy except where directly related to infectious causes,

(14) irritable bowel syndrome, or

(15) peptic ulcer disease,

which became manifest to a degree of 10 percent or more after active military, naval, or air service shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of such disease during the period of service.

* * * * *

CHAPTER 17—HOSPITAL, NURSING HOME, DOMICILIARY, AND MEDICAL CARE

* * * * *

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

610. Eligibility for hospital, nursing home, and domiciliary care.
611. Care during examinations and in emergencies.
612. Eligibility for [medical treatment.] *outpatient services.*
612A. Eligibility for readjustment counseling and related mental health services.
612B. Counseling for former prisoners of war.
613. Medical care for survivors and dependents of certain veterans.
614. Fitting and training in use of prosthetic appliances; seeing-eye dogs.
615. Tobacco for hospitalized veterans.
616. Hospital care by other agencies of the United States.
617. [Invalid] *Home health services; invalid* lifts and other devices.
618. Therapeutic and rehabilitative activities.
619. Repair or replacement of certain prosthetic and other appliances.
620. Transfers for nursing home care; adult day health care.
620A. Treatment and rehabilitation for alcohol or drug dependence or abuse disabilities.
620B. Respite care.
[620C. Community based psychiatric residential treatment for chronically mentally ill veterans.]

* * * * *

SUBCHAPTER I—GENERAL

§ 601. Definitions

For the purposes of this chapter—

(1) * * *

* * * * *

(4) The term "Veterans' Administration facilities" means—

(A) facilities over which the Administrator has direct jurisdiction; [and]

(B) Government facilities for which the Administrator [contracts.] *contracts; and*

(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.

* * * * *

§ 603. Contracts for hospital care and medical services in non-Veterans' Administration facilities

(a) When Veterans' Administration facilities are not capable of furnishing economical hospital care or medical services because of geographical inaccessibility or are not capable of furnishing the care or services required, the Administrator, as authorized in section 610 or 612 of this title, may contract with non-Veterans' Administration facilities in order to [furnish—] *furnish any of the following:*

(1) [hospital] *Hospital* care or medical services to a veteran for the treatment of—

(A) a service-connected disability; or

(B) a disability for which a veteran was discharged or released from the active military, naval, or air [service;] *service.*

(2) [medical] *Medical* services for the treatment of any disability of—

(A) a veteran described in section 612(a)(1)(B) of this title;

(B) a veteran described in section [612(f)(1)(A)(ii)] *612(a)(4) of this title, for a purpose described in section 612(a)(5)* of this title;

(C) a veteran described in section [612(g)] *612(a)(3) (other than a veteran who is a former prisoner of war)* of this title if the Administrator has determined, based on an examination by a physician employed by the Veterans' Administration (or, in areas where no such physician is available, by a physician carrying out such function under a contract or fee arrangement), that the medical condition of such veteran precludes appropriate treatment in Veterans' Administration [facilities;] *facilities.*

(3) [hospital] *Hospital* care or medical services for the treatment of medical emergencies which pose a serious threat to the life or health of a veteran receiving medical services in a Veterans' Administration facility *or nursing home care under section 620 of this title* until such time following the furnishing of care in the non-Veterans' Administration facility as the veteran can be safely transferred to a Veterans' Administration [facility;] *facility.*

(4) [hospital] *Hospital* care for women [veterans;] *veterans.*

(5) [hospital] *Hospital* care, or medical services that will obviate the need for hospital admission, for veterans in a State not contiguous to the contiguous States, except that the annually determined hospital patient load and incidence of the furnishing of medical services to veterans hospitalized or treated at the expense of the Veterans' Administration in Government and non-Veterans' Administration facilities in each such noncontiguous State shall be consistent with the patient load or incidence of the furnishing of medical services for veterans hospitalized or treated by the Veterans' Administration within the 48 contiguous States, but the authority of the Administrator under this paragraph with respect to the Commonwealth of Puerto Rico shall expire on September 30, 1988, and until such date the Administrator may, if necessary to prevent hardship, waive the applicability to the Commonwealth of Puerto Rico to the restrictions in this paragraph with respect to hospital patient loads and the incidence of the furnishing of medical [services;] *services.*

(6) [diagnostic] *Diagnostic* services necessary for determination of eligibility for, or of the appropriate course of treatment in connection with, furnishing medical services at independent Veterans' Administration out-patient clinics to obviate the need for hospital [admission; or] *admission.*

(7) [outpatient] *Outpatient* dental services and treatment, and related dental appliances, for a veteran described in section 612(b)(1)(G) of this title.

(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.

* * * * *

(c) The Administrator shall include in the budget documents which the Administrator submits to the Congress for any fiscal year, a detailed report on the furnishing of contract care and services during the most recently concluded fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.

SUBCHAPTER II—HOSPITAL, NURSING HOME OR DOMICILIARY CARE AND MEDICAL TREATMENT

§ 610. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) * * *

* * * * *

[(b) The Administrator, within the limits of Veterans' Administration facilities, may furnish domiciliary care to—

[(1) a veteran who was discharged or released from the active military, naval, or air service for a disability incurred or aggravated in line of duty, or a person who is in receipt of disability compensation, when such person is suffering from a permanent disability or tuberculosis or neuropsychiatric ailment and is incapacitated from earning a living and has no adequate means of support; and

[(2) a veteran who is in need of domiciliary care if such veteran is unable to defray the expenses of necessary domiciliary care.]

(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the

purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran who the Administrator determines is incapacitated from earning a living and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

(B) Any veteran who the Administrator determines has no adequate means of support.

* * * * *

§ 612. Eligibility for [medical treatment] *outpatient services*

(a)(1) Except as provided in subsection (b) of this section, the Administrator [may furnish] *shall furnish on an ambulatory or outpatient basis* such medical services as the Administrator determines are needed—

(A) to any veteran for a service-connected disability (including a disability that was incurred or aggravated in line of duty and for which the veteran was discharged or released from the active military, naval, or air service); [and]

(B) for any disability of a veteran who has a service-connected disability rated at 50 percent or [more.] *more; and*

(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).

[(2) Subject to subsection (k) of this section, as part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of such disability (including only such improvements and structural alterations the cost of which does not exceed $2,500 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment for such disability or to provide access to the home or to essential lavatory and sanitary facilities).]

(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

(A) to any veteran who is a former prisoner of war;

(B) to any veteran of the Mexican border period or of World War I; and

(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.

[(3)] *(6)* In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.

(b)(1) Outpatient dental services and treatment, and related dental appliances, shall be furnished under this section only for a dental condition or disability—

(A) which is service-connected and compensable in degree;

(B) which is service-connected, but not compensable in degree, but only if—

(i) the dental condition or disability is shown to have been in existence at *the* time of *the veteran's* discharge or release from active military, naval, or air service;

(ii) the veteran had served on active duty for a period of not less than [one hundred and eighty] *180* days immediately before such discharge or release;

(iii) application for treatment is made within [ninety] *90* days after such discharge or release, except that (I) in the case of a veteran who reentered active military, naval, or air service within [ninety] *90* days after the date of such veteran's prior discharge or release from such service, application may be made within [ninety] *90* days from the date of such veteran's subsequent discharge or release from such service, and (II) if a disqualifying discharge or release has been corrected by competent authority, application may be made within [ninety] *90* days after the date of correction; and

(iv) the veteran's certificate of discharge or release from active duty does not bear a certification that the veteran was provided, within the [ninety-day] *90-day* period immediately before the date of such discharge or release, a complete dental examination (including dental X-rays) and all appropriate dental services and treatment indicated by the examination to be needed;

(C) which is a service-connected dental condition or disability due to combat wounds or other service trauma, or of a former prisoner of war;

(D) which is associated with and is aggravating a disability resulting from some other disease or injury which was incurred in or aggravated by active military, naval, or air service;

(E) which is a non-service-connected condition or disability of a veteran for which treatment was begun while such veteran was receiving hospital care under this chapter and such services and treatment are reasonably necessary to complete such treatment;

[(F) from which a veteran of the Spanish-American War or Indian wars is suffering;]

[(G)] *(F)* from which a veteran who is a former prisoner of war and who was detained or interned for a period of not less than [six months] *90 days* is suffering; or

[(H)] *(G)* from which a veteran who has a service-connected disability rated as total is suffering.

* * * * *

(4)(A) Except as provided in subparagraph (B) of this paragraph, in any year in which the President's Budget for the fiscal year beginning October 1 of such year includes an amount for expenditures for contract dental care under the provisions of [subsections (a) and (f)] *subsection (a)* of this section *(other than paragraphs (3)(B) and (3)(C) of that subsection)* and section 603 of this title during such fiscal year in excess of the level of expenditures made for such purpose during fiscal year 1978, the Administrator shall, not later than February 15 of such year, submit a report to the appropriate committees of the Congress justifying the requested level of expenditures for contract dental care and explaining why the application of the criteria prescribed in section 603 of this title for contracting with private facilities and in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans will not preclude the need for expenditures for contract dental care in excess of the fiscal year 1978 level of expenditures for such purpose. In any case in which the amount included in the President's Budget for any fiscal year for expenditures for contract dental care under such provisions is not in excess of the level of expenditures made for such purpose during fiscal year 1978 and the Administrator determines after the date of submission of such budget and before the end of such fiscal year that the level of expenditures for such contract dental care during such fiscal year will exceed the fiscal year 1978 level of expenditures, the Administrator shall submit a report to the appropriate committees of the Congress containing both a justification (with respect to the projected level of expenditures for such fiscal year) and an explanation as required in the preceding sentence in the case of a report submitted pursuant to such sentence. Any report submitted pursuant to this paragraph shall include a comment by the Administrator on the effect of the application of the criteria prescribed in the second sentence of section 610(c) of this title for furnishing incidental dental care to hospitalized veterans.

* * * * *

[(e) Any disability of a veteran of the Spanish-American War or Indian Wars, upon application for the benefits of this section or outpatient medical services under section 624 of this title, shall be considered for the purposes thereof to be a service-connected disability incurred or aggravated in a period of war.]

(f)[(1) Except as provided in paragraph (4) of this subsection, the Administrator may furnish medical services for any disability on an outpatient or ambulatory basis—

[(A) to any veteran eligible for hospital care under section 610 of this title (i) if such services are reasonably necessary in preparation for, or (to the extent that facilities are available) to obviate the need of, hospital admission, or (ii) if such a veteran has been furnished hospital care, nursing home care, or domiciliary care and such medical services are reasonably necessary to complete treatment incident to such care (for a period not in excess of twelve months after discharge from such treatment, except where the Administrator finds that a longer period is required by virtue of the disability being treated); and

[(B) to any veteran who is a former prisoner of war.

[(2) Subject to subsection (k) of this section, as part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran such home health services as the Administrator determines to be necessary or appropriate for the effective and economical treatment of a disability of a veteran (including only such improvements and structural alterations the cost of which does not exceed $600 (or reimbursement up to such amount) as are necessary to assure the continuation of treatment or provide access to the home or to essential lavatory and sanitary facilities).

[(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.]

[(4)(A)] *(1)* The Administrator may not furnish medical services under [this] subsection *(a) of this section* (including home health services under [paragraph (2) of this subsection)] *section 617 of this title)* to a veteran who is eligible for hospital care under this chapter by reason of section 610(a)(2)(B) of this title unless the veteran agrees to pay to the United States the amount determined under [subparagraph (B) of this paragraph.] *paragraph (2) of this subsection.*

[(B)] *(2)* A veteran who is furnished medical services under [this subsection] *subsection (a) of this section* and who is required under [subparagraph (A)] *paragraph (1)* of this [paragraph] *subsection* to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount equal to 20 percent of the estimated average cost (during the calendar year in which the services are furnished) of an outpatient visit in a Veterans' Administration facility. Such estimated average cost shall be determined by the Administrator.

[(C)] *(3)* A veteran may not be required to make a payment under this [paragraph] *subsection* for services furnished under [this] subsection *(a) of this section* during any 90-day period to the extent that such payment would cause the total amount paid by the veteran under this [paragraph] *subsection* for medical services furnished during that period and under section 610(f) of this title for hospital and nursing home care furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such 90-day period.

[(D)] *(4)* A veteran may not be required to make a payment under this subsection if such payment would result in the veteran paying, under this subsection and section 610(f) of this title, a total amount greater than four times the amount of the inpatient Medicare deductible for care or services, or any combination thereof, furnished under this chapter during any 365-calendar day period.

[(E)] *(5)* This subsection does not apply with respect to home health services under [this subsection] *section 617 of this title* to the extent that such services are for improvements and structural alterations.

[(F)] *(6)* For the purposes of this [paragraph,] *subsection,* the term "inpatient Medicare deductible" means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act (42 U.S.C. 1395e(b)).

[(G)] *(7)* Amounts collected or received by the Veterans' Administration under this [paragraph] *subsection* shall be deposited in the Treasury as miscellaneous receipts.

[(g)(1) The Administrator may furnish medical services which the Administrator determines are needed to a veteran—

[(A) who is a veteran of the Mexican border period or of World War I; or

[(B) who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

[(2) As part of medical services furnished to a veteran under paragraph (1) of this subsection, the Administrator may furnish to the veteran home health services under the terms and conditions set forth in subsection (f) of this section.

[(3) In addition to furnishing medical services under this subsection through Veterans' Administration facilities, the Administrator may furnish such services in accordance with section 603 of this title.]

* * * * *

(i) The Administrator shall prescribe regulations to ensure that special priority in furnishing medical services under this section and any other outpatient care with funds appropriated for the medical care of veterans shall be accorded in the following order, unless compelling medical reasons require that such care be provided more expeditiously:

[(1) To any veteran for a service-connected disability.

[(2) To any veteran described in subsection (f)(2) of this section.

[(3) To any veteran with a disability rated as service-connected (including any veteran being examined to determine the existence or rating of a service-connected disability).

[(4) To any veteran (A) who is a former prisoner of war, or (B) who is eligible for care under section 610(a)(5) of this title.

[(5) To any veteran being furnished medical services under subsection (g) of this section.

[(6) To any veteran who is in receipt of pension under section 521 of this title.]

(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of necessary care as determined under section 622(a)(1)(C) of this title.

* * * * *

[(k) The Administrator may furnish home health services to a veteran in any setting in which the veteran is residing. The Administrator may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.]

§ 612A. Eligibility for readjustment counseling and related mental health services

(a) * * *

* * * * *

[(g)(1) During the 24-month period ending on September 30, 1989, the Administrator shall take appropriate steps to ensure—

[(A) the orderly, gradual transition, by October 1, 1989, of that part of the program established under this section for the provision of readjustment counseling services by Veterans' Administration personnel from a program providing such services primarily through centers located in facilities situated apart from the health-care facilities operated by the Veterans' Administration for the provision of other health-care services under other provisions of this chapter to a program providing readjustment counseling services primarily through such health-care facilities; and

[(B) the continued availability after such date of readjustment counseling and related mental health services under this section to veterans eligible for the provision of such counseling and services who request such counseling.]

(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

(B) a closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.

(2)(A) Not later than April 1, [1987,] *1988,* the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Administrator's evaluation of the effectiveness in helping to meet the readjustment needs of veterans who served on active duty during the Vietnam era of the readjustment counseling and mental health services provided pursuant to this section (and of outreach efforts with respect to such counseling and services). Such report shall give particular attention, in light of the results of the study required by section 102 of the Veterans' Health Care Amendments of 1983 (Public Law 98-160) [(or, if the study is not then completed, whatever information from it is then available)] to the provision of such counseling and services to veterans with post-traumatic stress disorder and to the diagnosis and treatment of such disorder.

(B) The report required by subparagraph (A) of this paragraph shall include—

(i) the opinion of the Administrator with respect to (I) the extent to which the readjustment needs of veterans who served on active duty during the Vietnam era remain unmet, and (II) the extent to which the provision of readjustment counseling services under this section in [a program providing such services through facilities situated apart from Veterans' Administration health-care facilities] *centers* is needed to meet such needs; and

(ii) in light of the opinion submitted pursuant to clause (i) of this subparagraph, such recommendations for amendments to [paragraph (1) of] this subsection and for other legislative and administrative action as the Administrator considers appropriate.

[(3) Not later than July 1, 1987, the Administrator shall submit to such committees a report containing a description of the plans made and timetable for carrying out paragraph (1) of this subsection. Such report shall be prepared taking into consideration the results of the study referred to in paragraph (2)(A) of this subsection (or, if the study is not then completed, whatever information from it is then available).

[(4) Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under as much of the transition as was carried out pursuant to paragraph (1) of this subsection before September 30, 1988, including such recommendations for legislative and administrative action as the Administrator considers appropriate in light of such experience.]

(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

(i) the distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

(ii) the distance between the center and the general Veterans' Administration facility.

(iii) the availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

(iv) the availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

(D) For the purposes of this paragraph , the term "general Veterans' Administration facility" means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.

(h)(1) * * *

* * * * *

(3)(A) In order to carry out the pilot program, the Administrator shall—

(i) designate as sites for demonstration projects 10 facilities which on December 3, 1985, are providing readjustment counseling under this section; and

(ii) assign such staff and other resources to such facilities as are necessary to enable such facilities to provide the services referred to in subparagraphs (A) and (C) of paragraph (2) of this subsection.

(B) Facilities designated under subparagraph (A) of this paragraph shall be known as Vietnam Veteran Resource Centers (hereinafter in this subsection referred to as ["Centers").] *"Resource Centers").*

(4) The Administrator—

(A) shall be responsible for coordinating the assignment and use of employees, on full- or part-time bases, as appropriate, in each *Resource* Center; and

(B) shall, in carrying out that responsibility, make maximum feasible use of the Veterans' Administration employees who are providing services at each facility on the date it is designated as a *Resource* Center under this subsection.

(5) The Secretary of Labor shall provide for the assignment to each *Resource* Center, on full- or part-time bases, as the Secretary considers appropriate, of disabled veterans' outreach specialists appointed under section 2003A of this title or employees on the staffs of local employment service offices who are assigned to perform services under section 2004 of this title.

* * * * *

(i) For the purposes of this section:

(1) The term "center" means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

(2) The term "Veterans' Administration general health-care facility" means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.

* * * * *

§ 617. [Invalid] *Home health services; invalid* **lifts and other devices**

(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) may not exceed—

(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.

(3) The Administrator may furnish home health services to a veteran in any setting in which the veteran is residing. The Administrator may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.

[(a)] *(b)* The Administrator may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, to any veteran who is receiving (1) compensation under section 314(l)-(p) of this title (or the comparable rates provided pursuant to section 334 of this title), or (2) pension under chapter 15 of this title by reason of being in need of regular aid and attendance.

[(b)] *(c)* The Administrator may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.

* * * * *

§ 620. Transfers for nursing home care; adult day health care

(a) * * *

* * * * *

(e)(1) [For the purposes of this section, the term "nursing home care" includes intermediate care, as determined by the Administrator in accordance with regulations which the Administrator shall prescribe.] The cost of intermediate care for purposes of payment by the United States pursuant to subsection (a)(2)(B) of this section shall be determined by the Administrator except that the rate of reimbursement shall be commensurately less than that provided for nursing home [care (as defined in section 101(28) of this title).] *care.*

* * * * *

(f)(1)(A) * * *

* * * * *

(3) Adult day health care may not be furnished under this section after September 30, [1988.] *1991.*

* * * * *

[§ 620C. Community-based psychiatric residential treatment for chronically mentally ill veterans

[(a) For the purpose of this section:

[(1) The term "case management" includes the coordination and facilitation of all services furnished to a veteran by the Veterans' Administration, either directly or through a contract, including, but not limited to, screening, assessment of needs, planning, referral (including referral for services to be furnished by either the Veterans' Administration or another entity), monitoring, reassessment, and followup.

[(2) The term "contract facility" means any facility which has been awarded a contract under subsection (b)(1) of this section.

[(3) The term "eligible veteran" means a veteran who, at the time of referral to a contract facility—

[(A) is being furnished hospital, domiciliary, or nursing home care by the Administrator for a chronic mental illness disability; or

[(B) is homeless and has a chronic mental illness disability; or

[(C) is a veteran described in section 612(a)(1)(B) of this title and has a chronic mental illness disability.

[(b)(1) The Administrator, in furnishing hospital, nursing home, and domiciliary care and medical and rehabilitative services under this chapter, may contract for care and treatment and rehabilitative services in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities for eligible veterans suffering from chronic mental illness disabilities.

[(2) Before furnishing such care and services to any veteran through a contract facility, the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe by regulation) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

[(c) In the case of each eligible veteran provided care and services under this section, the Administrator shall designate a Veterans' Administration health-care employee to provide case management services.

[(d) In furnishing care and services under this section, the Administrator shall accord priority for such care and services in the following order:

[(1) To any veteran for a service-connected chronic mental illness disability.

[(2) To any veteran with a disability rated as service- connected.

[(3) To any veteran for a non-service-connected disability, if the veteran is unable to defray the expenses of necessary care as determined under section 622(a)(1) of this title.

[(e) The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a contract facility under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance.

[(f) Not later than 3 years after the date of enactment of this section, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience under this section. The report shall include the Administrator's evaluation and findings regarding—

[(1) the quality of care furnished to participating veterans through contract facilities;

[(2) any health advantages that may result from furnishing such care and services to veterans in such contract facilities rather than in inpatient facilities over which the Administrator has direct jurisdiction;

[(3) the effectiveness of the use of contract facilities under this section is enabling the participating veterans to live outside of Veterans' Administration inpatient facilities and to achieve independence in living and functioning in their communities;

[(4) the health advantages and cost effectiveness of the use of contract facilities under this section to furnish shelter and health care to homeless veterans who are suffering from chronic mental illness disabilities;

[(5) the cost-effectiveness of furnishing such care through contract facilities under this section, including the effect on the average daily census in the Veterans' Administration hospitals, nursing homes, and domiciliary facilities participating in the program (taking into account whether the beds previously occupied by the participating veterans were subsequently occupied by other eligible veterans or remained unoccupied) and the effect on the numbers of Veterans' Administration staff employed at such facilities; and

[(6) any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in such report.]

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

§ 621. Power to make rules and regulations

[The Administrator shall prescribe—

[(1) such rules and procedure governing the furnishing of hospital, nursing home, and domiciliary care as the Administrator may deem proper and necessary;

[(2) limitations in connection with the furnishing of hospital, nursing home, and domiciliary care; and

[(3) such rules and regulations as the Administrator deems necessary in order to promote good conduct on the part of persons who are receiving hospital, nursing home, or domiciliary care in Veterans' Administration facilities.]

Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).

§ 622. Determination of inability to defray necessary expenses; income thresholds

(a)(1) * * *

* * * * *

(g) For the purposes of [sections 610(b)(2) and] *section* 624(c) of this title, the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Veterans' Administration, shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

* * * * *

§ 624. Hospital care, medical services, and nursing home care abroad

(a) * * *

* * * * *

[(b) The Administrator may furnish necessary hospital care and medical services to any otherwise eligible veteran for any service-connected disability if the veteran (1) is a citizen of the United States sojourning or residing abroad, or (2) is in the Republic of the Philippines.]

(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

(A) if the veteran is in the Republic of the Philippines or in Canada; or

(B) if the Administrator determines, as a matter of discretion and pursuant to regula-

tions which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.

* * * * *

§ 629. Recovery by the United States of the cost of certain care and services

(a)(1) * * *

* * * * *

(b)(1) * * *

* * * * *

(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.

* * * * *

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 641. Criteria for payment

(a) The Administrator shall pay each State at the per diem rate of—

(1) **[**$7.30**]** *$8.70* for domiciliary care,

(2) **[**$17.05**]** *$20.35* for nursing home care, and

(3) **[**$15.25**]** *$20.35* for hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Veterans' Administration facility.

* * * * *

(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.

CHAPTER 19—INSURANCE

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

Sec.
701. Definitions.
702. Premium rates and policy values.
703. Amount of insurance.
704. Plans of insurance.
705. Renewal.
706. Policy provisions.
707. Payment or use of dividends.
708. Premium payments.
709. Effective date of insurance.
710. Incontestability.
711. Forfeiture.
712. Total disability waiver.
713. Death before six months' total disability.
714. Statutory total disabilities.
715. Total disability income provision.
716. Insurance which matured before August 1, 1946.
717. Insurance maturing on or after August 1, 1946.
718. Assignments.
719. National Service Life Insurance appropriation.
720. National Service Life Insurance Fund.
721. Extra hazard costs.
722. Service disabled veterans' insurance.
723. Veterans' Special Life Insurance.
724. In-service waiver of premiums.
725. Limited period for acquiring insurance.
726. Authority for higher interest rates for amounts payable to beneficiaries.
727. Authority for higher monthly installments payable to certain annuitants.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

740. Definition.
741. Amount of insurance.
742. Plans of insurance.
743. Premiums.
744. Policy provisions.
745. Renewal.
746. Dividends to pay premiums.
747. Incontestability.
748. Total disability provision.
749. Change of beneficiary.
750. Payment to estates.
751. Payment of insurance.
752. Optional settlement.
753. Assignments.
754. Forfeiture.
755. United States Government Life Insurance Fund.
756. Military and naval insurance appropriation.
757. Extra hazard costs.
758. Statutory total permanent disability.
759. Waiver of disability for reinstatement.
760. Waiver of premium payments on due date.
761. Authority for higher interest rates for amounts payable to beneficiaries.
762. Authority for higher monthly installments payable to certain annuitants.

* * * * *

SUBCHAPTER I—NATIONAL SERVICE LIFE INSURANCE

* * * * *

§ 727. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

SUBCHAPTER II—UNITED STATES GOVERNMENT LIFE INSURANCE

* * * * *

§ 762. Authority for higher monthly installments payable to certain annuitants

(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.

SUBCHAPTER III—SERVICEMEN'S GROUP LIFE INSURANCE

* * * * *

§ 769. Deductions; payment; investment; expenses

(a)(1) * * *

* * * * *

(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.

* * * * *

CHAPTER 21—SPECIALLY ADAPTED HOUSING FOR DISABLED VETERANS

* * * * *

§ 802. Limitations on assistance furnished

(a) The assistance authorized by section 801(a) of this title shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and shall be afforded under one of the following plans, at the option of the veteran but shall not exceed **[**$35,500**]** *$38,000* in any one case—

(1) where the veteran elects to construct a housing unit on land to be acquired by such

veteran, the Administrator shall pay not to exceed 50 percent of the total cost to the veteran of (A) the housing unit and (B) the necessary land upon which it is to be situated;

(2) where the veteran elects to construct a housing unit on land acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the total cost to the veteran of the housing unit and the land necessary for such housing unit, or (B) 50 percent of the cost to the veteran of the housing unit plus the full amount of the unpaid balance, if any, of the cost of the veteran of the land necessary for such housing unit;

(3) where the veteran elects to remodel a dwelling which is not adapted to the requirements of such veteran's disability, acquired by such veteran prior to application for assistance under this chapter, the Administrator shall pay not to exceed (A) the cost of the veteran of such remodeling; or (B) 50 percent of the cost to the veteran of such remodeling; plus the smaller of the following sums: (i) 50 percent of the cost to the veteran of such dwelling and the necessary land upon which it is situated, or (ii) the full amount of the unpaid balance, if any, of the cost to the veteran of such dwelling and the necessary land upon which it is situated; and

(4) where the veteran has acquired a situable housing unit, the Administrator shall pay not to exceed the smaller of the following sums: (A) 50 percent of the cost to the veteran of such housing unit and the necessary land upon which it is situated, or (B) the full amount of the unpaid balance, if any, of the cost to the veteran of such housing unit and the necessary land upon which it is situated.

(b) Except as provided in section 804(b) of this title, the assistance authorized by section 801(b) of this title shall be limited to the lesser of—

(1) the actual cost, or, in the case of a veteran acquiring a residence already adapted with special features, the fair market value, of the adaptations determined by the Administrator under such section 801(b) to be reasonably necessary, or

(2) [$6,000.] *$6,500.*

* * * * *

§ 806. Mortgage Protection Life Insurance

[(a) The Administrator is authorized, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), to purchase from one or more life insurance companies a policy or policies of mortgage protection life insurance on a group basis to provide the benefits specified in this section.

[(b) Any policy of insurance purchased by the Administrator under this section shall be placed in effect on a date determined by the Administrator and shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran, unless the veteran elects in writing not to be insured under this section or fails to timely respond to a request from the Administrator for information on which the veteran's premium can be based.

[(c) The initial amount of insurance provided hereunder shall not exceed the lesser of the following amounts: (1) $40,000, (2) the amount of the loan outstanding on such housing unit on the date insurance under this section is placed in effect, or (3) in the case of a veteran granted assistance in securing a housing unit on or after such date the amount of the original loan. The amount of such insurance shall be reduced according to the amortization schedule of the loan and at no time shall exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit no insurance shall be payable hereunder. If any eligible veteran elects not to be insured under this section, the veteran may thereafter be insured hereunder only upon application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

[(d) The preminum rates charged a veteran for insurance under this section shall be paid at such times and in such manner as the Administrator shall prescribe and shall be based on such mortality data as the Administrator deems appropriate to cover only the mortality cost of insuring standard lives. The Administrator is authorized and directed to deduct the premiums charged veterans for life insurance under this section from any compensation or other cash benefits payable to them by the Veterans' Administration and to pay such permiums to the insurer or insurers for such insurance. Any veterans insured hereunder not eligible for cash benefits from the Veterans' Administration may pay the amount of the veteran's premiums directly to the insurer or insurers for insurance hereunder.

[(e) The United States shall bear all of the cost of the insurance provided under this section except the amount of the premium rates established for eligible veterans under subsection (d) as the mortality cost of insuring standard lives. For each month for which any eligible veteran is insured under a policy purchased under this section there shall be contributed to the insurer or insurers issuing the policy or policies from the appropriation "Compensation and Pensions, Veterans' Administration" an amount necessary to cover the cost of the insurance in excess of the premiums established for eligible veterans, including the cost of administration and the cost of the excess mortality attributable to the veterans' disabilities. Appropriations to carry out the purposes of this section are hereby authorized.

[(f) Any amount of insurance in force under this section on the date of death of an eligible veteran insured hereunder shall be paid only to the holder of the mortgage loan, the payment of which such insurance was granted, for credit on the loan indebtedness and the liability of the insurer under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

[(g) Each policy purchased under this section shall also provide, in terms approved by the Administrator, for the following:

[(1) reinsurance, to the extent and in a manner to be determined by the Administrator to be in the best interest of the veterans or the Government, with other insurers which meet qualifying criteria established by the Administrator as may elect to participate in such reinsurance.

[(2) that at any time the Administrator determines such action to be in the best interest of veterans or the Government the Administrator may (A) discontinue the entire policy, or (B) at the Administrator's option, exclude from coverage under such policy loans made after a date fixed by the Administrator for such purpose; however, any insurance previously issued to a veteran under such policy may not be canceled by the insurer soley because of termination of the policy by the Administrator with respect to new loans. If the policy is wholly discontinued, the Administrator shall have the right to require the transfer, to the extent and in a manner to be determined by the Administrator, to any new company or companies with which the Administrator has negotiated a new policy or policies, the amounts, as determined by the existing insurer or insurers with the concurrence of the Administrator of any policy or contingency reserves with respect to insurance previously in force;

[(3) issuance to each veteran insured under this section of a uniform type of certificate setting forth the benefits to which the veteran is entitled under the insurance;

[(4) any other provisions which are reasonably necessary or appropriate to carry out the provisions of this section; and

[(5) an accounting to the Administrator not later than ninety days after the end of each policy year which shall set forth, in a form approved by the Administrator, (A) the amount of premiums paid by veterans and contributions made by the Veterans' Administration accrued under the contract or agreement from its date of issue to the end of such contract year; (B) the total of all mortality and other claim charges incurred for that period; and (C) the amount of the insurer's expense and risk charges, if any, for that period. Any excess of the total of item (A) over the sum of items (B) and (C) shall be held by the insurer as a contingency reserve to be used by such insurer for charges under the contract or agreement only. The contingency reserve shall bear interest at a rate to be determined in advance of each contract year by the insurer, which rate shall be approved by the Administrator if consistent with the rates generally used by the insurer for similar funds held under other plans of group life insurance. If and when the Administrator determines that such contingency reserve has attained an amount estimated by the Administrator to make satisfactory provision for adverse fluctuations in future charges under the contract, the Administrator shall require the insurer to adjust the premium rates and contributions so as to prevent any further substantial accretions to the contingency reserve. If and when the contract or agreement is discontinued and if after all charges have been made there is any positive balance remaining in the contingency reserve, such balance shall be payable to the Administrator and by the Administrator deposited to the appropriation "Compensation and Pensions, Veterans' Administration," subject to the right of the insurer to make such payment in equal monthly installments over a period of not more than two years.

[(h) With respect to insurance contracted for under this section, the Administrator is authorized to adopt such regulations relating to eligibility of the veteran for insurance, maximum amount of insurance, maximum duration of insurance, and other pertinent factors not specifically provided for in this section, which in the Administrator's judgment are in the best interest of veterans or the Government. Insurance contracted for under this section shall take effect as to eligible veterans heretofore granted assistance under this chapter on a date determined by the Administrator, and as to eligible veterans hereafter granted assistance under this chapter at the time of the closing of the veteran's loan. The amount of the insurance at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by the policy.

[(i) Insurance contracted for under this section shall terminate upon whichever of the following events first occurs:

[(1) satisfaction of the veterans' indebtedness under the loan upon which the insurance is based;

[(2) the veteran's seventieth birthday;

[(3) termination of the veteran's ownership of the property securing the loan;

[(4) discontinuance of payment of premiums by the veteran; or

[(5) discontinuance of the entire contract or agreement.

[(j) Termination of the mortgage protection life insurance will in no way affect the guaranty or insurance of the loan by the Administrator.]

(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall, to the extent of such compensation or other benefits, deduct therefrom the premiums charged the veteran under this section.

(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the "Veterans Insurance and Indemnities" appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

(2) The veteran's seventieth birthday.

(3) Termination of the veteran's ownership of the property securing the loan.

(4) Discontinuance of payment of premiums by the veteran.

(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.

CHAPTER 23—BURIAL BENEFITS

Sec.
901. Flags.
902. Funeral expenses.
903. Death in Veterans' Administration facility; plot allowance.
904. Claims for reimbursement.
905. Persons eligible under prior law.
906. [Headstones and markers.] *Headstones, markers, and grave liners.*
907. Death from service-connected disability.
908. Transportation of deceased veteran to a national cemetery.

* * * * *

§ 906. [Headstones and markers] *Headstones, markers, and grave liners*

(a) * * *

* * * * *

(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.

§ 907. Death from service-connected disability

In any case in which a veteran dies as the result of a service-connected disability or disabilities, the Administrator, upon the request of the survivors of such veteran, shall pay the burial and funeral expenses incurred in connection with the death of the veteran in an amount not exceeding the greater of (1) [$1,100,] *$1,500,* or (2) the amount authorized to be paid under section 8134(a) of title 5 in the case of a Federal employee whose death occurs as the result of an injury sustained in the performance of duty. Funeral and burial benefits provided under this section shall be in lieu of any benefits authorized under sections 902 and 903 (a)(1) and (b) of this title.

* * * * *

CHAPTER 24—NATIONAL CEMETERIES AND MEMORIALS

* * * * *

§ 1004. Administration

(a) * * *

* * * * *

(c)(1) * * *

* * * * *

(2) The grave markers referred to in paragraph (1) shall be upright for interments that occur on or after January 1, 1987, except that—

(A) in the case of any cemetery scheduled to be closed by September 30, 1991, as indicated in the documents submitted by the Administrator to the Congress in justification for the amounts included for Veterans' Administration programs in the President's Budget for fiscal year 1987, the Administrator may provide for flat grave markers; [and]

(B) in the case of any cemetery with a section which has flat markers on the date of the enactment of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986, the Administrator may continue to provide for flat grave markers in such [section.] *section;*

(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.

* * * * *

(f)*(1)* The Administrator is authorized to convey to any State, or political subdivision thereof, in which any national cemetery is located, all right, title, and interest of the United States in and to any Government owned or controlled approach road to such cemetery if, prior to the delivery of any instrument of conveyance, the State or political subdivision to which such conveyance is to be made notifies the Administrator in writing of its willingness to accept and maintain the road included in such conveyance. Upon the execution and delivery of such a conveyance, the jurisdiction of the United States over the road conveyed shall cease and thereafter vest in the State or political subdivision concerned.

(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.

* * * * *

§ 1008. Aid to States for establishment, expansion, and improvement of veterans' cemeteries

(a)(1) * * *

* * * * *

(b) Grants under this section shall be subject to the following conditions:

[(1) No State may receive grants under this section in any fiscal year in a total amount in excess of 20 per centum of the total amount appropriated for such grants for such fiscal year.]

[(2)] *(1)* The amount of any grant under this section may not exceed an amount equal to 50 [per centum] *percent* of the total of the value of the land to be acquired or dedicated for the cemetery and the cost of the improvements to be made on such land, with the remaining amount to be contributed by the State receiving the grant.

[(3)] *(2)* If at the time of a grant under this section the State receiving the grant dedicates for the purposes of the cemetery involved land already owned by the State, the value of such land may be considered in determining the amount of the State's contribution under paragraph [(2)] *(1)* of this subsection, but the value of such land may not be used for more than an amount equal to 50 [per centum] *percent* of the amount of such contribution and may not be used as part of such State's contribution for any subsequent grant under this section.

[(4)] *(3)* If a State that has received a grant under this section to establish, expand, or improve a veterans' cemetery ceases to own such cemetery, ceases to operate such cemetery as a veterans' cemetery, or uses any part of the funds provided through such grant for a purpose other than that for which the grant was made, the United States shall be entitled to recover from such State the total of all grants made under this section to such State in connection with such cemetery.

* * * * *

PART III—READJUSTMENT AND RELATED BENEFITS

* * * * *

CHAPTER 36—ADMINISTRATION OF EDUCATIONAL BENEFITS

* * * * *

SUBCHAPTER II—MISCELLANEOUS PROVISIONS

* * * * *

§ 1788. Measurement of courses

(a) For the purposes of this chapter and chapters 34 and 35 of this title—

(1) an institutional trade or technical course offered on a clock-hour basis, not leading to a standard college degree, involving shop practice as an integral part thereof, shall be considered a full-time course when a minimum of thirty hours per week of attendance is required with no more than two and one-half hours of rest periods and not more than 5 hours of supervised study per week allowed, but if such course is approved pursuant to section 1775(a)(1) of this title, then 22 hours per week of attendance, with no more than 2½ hours of rest period per week allowed and excluding supervised study, shall be considered full time;

(2) an institutional course offered on a clock-hour basis, not leading to a standard college degree, in which theoretical or classroom instruction predominates shall be considered a full-time course when a minimum of twenty-five hours per week net of instruction and not more than 5 hours of supervised study (which may include customary intervals not to exceed ten minutes between hours of instruction) is required, but if such course is approved pursuant to section 1775(a)(1) of this title, then 18 hours per week net of instruction (excluding supervised study), which may include customary intervals not to exceed ten minutes between hours of instruction, shall be considered full time;

(3) an academic high school course requiring sixteen units for a full course shall be considered a full-time course when (A) a minimum of four units per year is required or (B) an individual is pursuing a program of education leading to an accredited high school diploma at a rate which, if continued, would result in receipt of such a diploma in four ordinary school years. For the purpose of subclause (A) of this clause, a unit is defined to be not less than one hundred and twenty sixty-minute hours or their equivalent of study in any subject in one academic year;

(4) an institutional undergraduate course offered by a college or university in residence on a standard quarter- or semester-hour basis shall be considered a full-time course when a minimum of fourteen semester hours per semester or the equivalent thereof (including such hours for which no credit is granted but which are required to be taken to correct an educational deficiency and which the educational institution considers to be quarter or semester hours for other administrative purposes), for which credit is granted toward a standard college degree, if required, except that where such college or university certifies, upon the request of the Administrator, that (A) full-time tuition is charged to all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, or (B) all undergraduate students carrying a minimum of less than fourteen such semester hours or the equivalent thereof, are considered to be pursuing a full-time course for other administrative purposes, then such an institutional undergraduate course offered by such college or university with such minimum number of such semester hours shall be considered a full-time course, but in the event such minimum number of semester hours is less than twelve semester hours or the equivalent thereof, then twelve semester hours or the equivalent thereof shall be considered a full-time course;

(5) a program of apprenticeship or a program of other on-job training shall be considered a full-time program when the eligible veteran or person is required to work the number of hours constituting the standard workweek of the training establishment, but a workweek of less than thirty hours shall not be considered to constitute full-time training unless a lesser number of hours has been established as the standard workweek for the particular establishment through bona fide collective bargaining;

(6) an institutional course offered as part of a program of education, not leading to a standard college degree, under section 1691(a)(2) of this title shall be considered a full-time course on the basis of measurement criteria provided in clause (2), (3), or (4) of this subsection as determined by the educational institution; and

(7) an institutional course not leading to a standard college degree, offered by a fully accredited institution of higher learning in residence on a standard quarter- or semester-hour basis, shall be measured as full time on the same basis as provided in clause (4) of this subsection if (A) such course is approved pursuant to section 1775 of this title, and (B) a majority of the total credits required for the course is derived from unit courses or subjects offered by the institution as part of a course, so approved, leading to a standard college degree.

Notwithstanding the provisions of clause (1) or (2) of this subsection, an educational institution offering courses not leading to a standard college degree may measure such courses on a quarter- or semester-hour basis (with full time measured on the same basis as provided by clause (4) of this subsection); but (A) the academic portions of such courses must require outside preparation and be measured on not less than one quarter or one semester hour for each fifty minutes net of instruction per week or quarter or semester; (B) the laboratory portions of such courses must be measured on not less than one quarter or one semester hour for each two hours *(or two 50-minute periods)* of attendance per week per quarter or semester; and (C) the shop portions of such courses must be measured on not less than one quarter or one semester hour for each three hours of attendance per week per quarter or semester. In no event shall such course be considered a full-time course when less than twenty-two hours per week of attendance is required.

* * * * *

(c) For the purposes of subsection (a) of this section, the term "in residence on a standard quarter- or semester-hour basis" means a study at a site or campus of a college or university, or off-campus at an official resident center, requiring pursuit of regularly scheduled weekly class instruction at the rate of one standard class session per week throughout the quarter or semester for one quarter or one semester hour of credit. For the purposes of the preceding sentence, the term "standard class session" means one hour (or fifty-minute period) of academic instruction, two hours *(or two 50-minute periods)* of laboratory instruction, or three hours of workshop training.

* * * * *

§ 1793. Compliance surveys

[The Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons where at least 300 veterans or persons are enrolled under provisions of this title or where the course does not lead to a standard college degree. Such compliance survey shall assure that the institution and approved courses are in compliance with all applicable provisions of chapters 31, 34, 35, and 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section.]

(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in

any year for each 40 compliance surveys required to be made under this section for such year.

(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.

* * * * *

CHAPTER 37—HOUSING AND SMALL BUSINESS LOANS

SUBCHAPTER I—GENERAL

Sec.
1801. Definitions.
1802. Basic entitlement.
1803. Basic provisions relating to loan [guaranty.] guaranty and insurance.
1804. Restrictions on loans.
1805. Warranties.
1806. Escrow of deposits and downpayments.
[1807. Service after July 25, 1947, and prior to June 27, 1950.]

SUBCHAPTER II—LOANS

1810. Purchase or construction of homes.
1811. Direct loans to veterans.
[1812 to 1814. [REPEALED.]
[1815. Insurance of loans.
[1816. Procedure on default.
[1817. Release from liability under guaranty.
[1817A. Assumptions; release from liability.
[1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.
[1819. Loans to purchase manufactured homes and lots.]
1812. Loans to purchase manufactured homes and lots.
1813. Release from liability under guaranty.
1814. Assumptions; release from liability.

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

1820. Powers of Administrator.
1821. Incontestability.
1822. [REPEALED.]
1823. Direct loan revolving fund.
1824. Loan guaranty revolving fund.
1825. Waiver of discharge requirements for hospitalized persons.
1826. Withholding of payments, benefits, etc.
1827. Expenditures to correct or compensate for structural defects in mortgaged homes.
1828. Exemption from State anti-usury provisions.
1829. Loan fee.
1830. Use of attorneys in court.
1831. Appraisals.
[1832. Furnishing information to real estate professionals to facilitate the disposition of properties.]
1832. Procedure on default.
1833. Property management.

* * * * *

SUBCHAPTER I—GENERAL

§ 1801. Definitions

(a) For the purpose of this chapter, the term "housing loan" means a loan for any of the purposes specified by sections 1810(a) and [1819(a)(1)] *1812(a)(1)* of this title.

* * * * *

§ 1802. Basic entitlement

(a)*(1)* [Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be] *The veterans described in paragraph (2) of this subsection are* eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in [the preceding sentence, or in section 1818 of this title,] *paragraph (2)* for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period [(1)] *(A)* shall cancel any unused entitlement derived from service during any earlier such period, and [(2)] *(B)* shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

[(A)] *(i)* on real property which the veteran owns at the time of application; or

[(B)] *(ii)* as to which the Administrator has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Administrator the resulting indebtedness of the veteran to the United States has been paid in full.

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

(3) Any unused entitlement of World War II of Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.

[Note: Section 1802(g) was transferred and redesignated as section 1802(a)(4).]

[(g)]*(4)* A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 1801[(a)]*(b)* of this title.

* * * * *

§ 1803. Basic provisions relating to loan guaranty and insurance

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than $45,000, 50 percent of the loan; or

(II) in the case of any loan of more than $45,000, the lesser of $36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than $22,500; or

(ii) the maximum amount of guaranty entitlement available to the [veteran.] *veteran as specified in subparagraph (B) of this paragraph.*

(B) The maximum amount of guaranty entitlement available to a veteran [under] *for purposes specified in* section 1810 of this [chapter] *title* shall be $36,000 reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.

[(2) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.]

[Note: Sections 1815 (a) and (b) were transferred and redesignated as subparagraphs (A) and (B) of section 1803(a)(2).]

[(a)] *(2)(A)* Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Administrator under an agreement whereby the Administrator will reimburse any such institution for losses incurred on such loan up to 15 per centum of the aggregate of loans so made or purchased by it.

[(b)]*(B)* Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Administrator may prescribe within the limitations set forth in this chapter.

* * * * *

(c)(1) * * *

* * * * *

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5), (8), (9)(B)(i) of section 1810(a) of this title or section [1819(a)(1)(F)] *1812(a)(1)(F)* of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 1810(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Administrator determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 1810(a)(9)(B)(ii) or [1819(a)(1)(G)] *(1812(a)(1)(G)* of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

* * * * *

§ 1804. Restrictions on loans

(a) * * *

* * * * *

(c)(1) * * *

* * * * *

(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

(A) paragraph (1) of this subsection;

(B) paragraphs (1) through (5) and paragraph (7) of section 1810(a) of this title;

(C) section [1819(a)(5)(A)(i)] *1812(a)(5)(A)(i)* of this title; and

(D) section [1819(e)(5)] *1812(e)(5)* of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.

* * * *

(f) Any housing loan which is financed through the assistance of this chapter and to which section [1817A] *1814* of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section [1817A.] *1814.*

* * * *

[§ 1807. Service after July 25, 1947, and prior to June 27, 1950

[Each veteran whose only active duty service occurred after July 25, 1947, and prior to June 27, 1950, and who—

[(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

[(2) served for a period of 180 days or less and was discharged or released for a service-connected disability;

shall be eligible for housing loan benefits of this chapter.]

SUBCHAPTER II—LOANS

§ 1810. Purchase or construction of homes

(a) * * *

* * * *

(1) * * *

* * * *

(9)(A)(i) * * *

* * * *

(B)(i) * * *

* * * *

(ii) To refinance, in accordance with section [1819(a)(5)] *1812(a)(5)* of this title, an existing loan that was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.

* * * *

(g)(1) * * *

* * * *

(2) For the purpose of determining whether a veteran meets the standards referred to in subsection (b)(3) of this section and section [1819(e)(2)] *1812(e)(2)* of this title, the Administrator shall prescribe regulations which establish—

(A) credit underwriting standards to be used in evaluating loans to be guaranteed under this chapter; and

(B) standards to be used by lenders in obtaining credit information and processing loans to be guaranteed under this chapter.

* * * *

§ 1811. Direct loans to veterans

(a) The Congress finds that housing credit [under] *for purposes specified in* section 1810 or [1819] *1812* of this title is not and has not been generally available to veterans living in rural areas, or in small cities and towns not near large metropolitan areas. It is therefore the purpose of this section to provide housing credit for veterans living in such rural areas and such small cities and towns.

(b) Whenever the Administrator finds that private capital is not generally available in any rural area or small city or town for the financing of loans guaranteed [under] *for purposes specified in* section 1810 or [1819] *1812* of this title, the Administrator shall designate such rural area or small city or town as a "housing credit shortage area". The Administrator shall, with respect to any such area, make, or enter into commitments to make, to any veteran eligible under this title, a loan for any or all of the purposes described in section 1810(a) or [1819] *1812* of this title (other than the refinancing of a loan under section 1810(a)(8) or [1819(a)(1)(F)).] *1812(a)(1)(F)).*

(c) No loan may be made under this section to a veteran unless the veteran shows to the satisfaction of the Administrator that—

(1) the veteran is unable to obtain from a private lender in such housing credit shortage area, at an interest rate not in excess of the rate authorized for guaranteed home loans or manufactured home loans, as appropriate, a loan for such purpose for which the veteran is qualified under section 1810 or [1819] *1812* of this title, as appropriate; and

(2) the veteran is unable to obtain a loan for such purpose from the Secretary of Agriculture under title III of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) or title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(d)(1) * * *

* * * *

(2)(A) * * *

* * * *

(B) The original principal amount of any loan made under this section for the purposes described in section [1819] § 1812 of this title shall not exceed the amount that bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled under such section at the time the loan is made bears to $20,000. The amount of the guaranty entitlement [under] *for purposes specified in* section 1810(c) of this title of any veteran who is granted a loan under this section, or who before October 18, 1978, was granted a loan under this section, shall be charged with the amount that bears the same ratio to $20,000 as the amount of the loan bears to $33,000.

* * * *

(g) The Administrator may sell, and shall offer for sale, to any person or entity approved for such purpose by the Administrator, any loan made under this section at a price which the Administrator determines to be reasonable under the conditions prevailing in the mortgage market when the agreement to sell the loan is made; and shall guarantee any loan thus sold subject to the same conditions, terms, and limitations which would be applicable were the loan guaranteed [under] *for purposes specified in* section 1810 or [1819] *1812* of this title, as appropriate.

* * * *

[Note: Section 1819 was transferred and redesignated as section 1812.]

[§ 1819.] § 1812. Loans to purchase manufactured homes and lots

(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the housing loan benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

(A) To purchase a lot on which to place a manufactured home already owned by the veteran.

(B) To purchase a single-wide manufactured home.

(C) To purchase a single-wide manufactured home and a lot on which to place such home.

(D) To purchase a double-wide manufactured home.

(E) To purchase a double-wide manufactured home and a lot on which to place such home.

(F) To refinance in accordance with paragraph (4) of this subsection an existing loan guaranteed, insured, or made under this section.

(G) To refinance in accordance with paragraph (5) of this subsection and existing loan that was made for the purchase of, and that is secured by, a manufactured home and to purchase a lot on which such manufactured home is or will be placed.

(2) A loan for any of the purposes described in paragraph (1) of this subsection (other than the refinancing under clause (F) of such paragraph of an existing loan) may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the costs of installing utility connections and sanitary facilities, of paving, and of constructing a suitable pad for the manufactured home.

(3) Any loan made for the purposes described in clause (C), (E), or (G) of paragraph (1) of this subsection shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or by separate loan instruments for (A) that portion of the loan which finances the purchase of the manufactured home, and (B) that portion of the loan which finances the purchase of the lot and the necessary preparation of such lot.

(4)(A) For a loan to be guaranteed for the purpose specified in clause (F) of paragraph (1) of this subsection—

(i) the interest rate of the loan must be less than the interest rate of the loan being refinanced;

(ii) the loan must be secured by the same manufactured home or manufactured-home lot, or manufactured home and manufactured-home lot, as was the loan being refinanced;

(iii) the amount of the loan may not exceed an amount equal to the sum of the balance of the loan being refinanced and such closing costs (including any discount permitted pursuant to section 1803(c)(3)(A) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan;

(iv) the amount of the guaranty of the loan may not exceed the original guaranty amount of the loan being refinanced;

(v) the term of the loan may not exceed the original term of the loan being refinanced;

(vi) the veteran must own the manufactured home, or the manufactured-home lot, or the manufactured home and the manufactured-home lot, securing the loan and—

(I) must occupy the home, a manufactured home on the lot, or the home and the lot, securing the loan;

(II) must have previously occupied the home, a manufactured home on the lot, or the home and the lot, securing the loan as the veteran's home and must certify, in such form as the Administrator shall require, that the veteran has previously so occupied the home (or such a home on the lot); or

(III) in any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy the home, a manufactured home on the lot, or the home and the lot, as a home because of such status, the spouse of the veteran must occupy, or must have previously occupied, the manufactured home on the lot, or the home and the lot, as such spouse's home and must certify such occupancy in such form as the Administrator shall require.

(B) A loan to a veteran may be guaranteed by the Veterans' Administration under this chapter for the purpose specified in clause (F) of paragraph (1) of this subsection without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such purpose. For purposes of section 1802(b) of this title, such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(C) If a veteran is deceased and if such veteran's surviving spouse was a co-obligor under an existing loan previously guaranteed, insured, or made [under] *for purposes specified in* this section, such surviving spouse shall, only for the purpose specified in clause (F) of paragraph (1) of this subsection, be deemed to be a veteran eligible for benefits under this chapter.

(5)(A) For a loan to be guaranteed for the purpose specified in paragraph (1)(G) of this subsection or section 1810(a)(9)(B)(ii) of this title—

(i) the loan must be secured by the same manufactured home as was the loan being refinanced and such manufactured home must be owned and occupied by the veteran (except as provided in section 1804(c)(2) of this title) as such veteran's home; and

(ii) the amount of the loan may not exceed an amount equal to the sum of—

(I) the purchase price of the lot,

(II) the amount (if any) determined by the Administrator to be appropriate under paragraph (2) of this subsection to cover the cost of necessary preparation of such lot,

(III) the balance of the loan being refinanced, and

(IV) such closing costs (including any discount permitted pursuant to section 1803(c)(3)(E) of this title) as may be authorized by the Administrator, under regulations which the Administrator shall prescribe, to be included in such loan.

(B) When a loan is made to a veteran for the purpose specified in paragraph (1)(G) of this subsection or section 1810(a)(9)(B)(ii) of this title, and the loan being refinanced was guaranteed, insured, or made under this section, the portion of the loan made for the purpose of refinancing such loan may be guaranteed by the Veterans' Administration under this chapter without regard to the amount of outstanding guaranty entitlement available for use by such veteran, and the amount of such veteran's guaranty entitlement shall not be charged as a result of any guaranty provided for such portion of such loan. For the purposes of section 1802(b) of this title, such portion of such loan shall be deemed to have been obtained with the guaranty entitlement used to obtain the loan being refinanced.

(b)(1) Use of entitlement [under] *for purposes specified in* this section for the purchase of a manufactured home unit shall preclude the use of remaining entitlement for the purchase of an additional manufactured home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

(2) The Administrator shall restore entitlement to all housing loan benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.

(c)(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to the closing of the loan, except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in manufactured home financing warrants such exemption.

(2) Upon determining that a loan submitted for prior approval is eligible for guaranty [under] *for purposes specified in* this section, the Administrator shall issue a commitment to guarantee such loan and shall thereafter guarantee the loan when made if such loan qualifies therefor in all respects.

(3) The Administrator's guaranty may not exceed the lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the [veteran.] *veteran as specified in paragraph (4) of this subsection.* Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator. In any such accounting the Administrator shall permit to be included therein accrued unpaid interest from the date of the first uncured default to such cutoff date as the Administrator may establish, and the Administrator shall allow the holder of the loan to charge against the liquidation or resale proceeds, accrued interest from the cutoff date established to such further date as the Administrator may determine and such costs and expenses as the Administrator determines to be reasonable and proper. The liability of the United States under the guaranty provided for by this section shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(4) The maximum amount of guaranty entitlement available to a veteran [under] *for purposes specified in* this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran. Use of entitlement [under] *for purposes specified in* section 1810 or 1811 of this title shall reduce entitlement available for use [under] *for purposes specified in* this section to the same extent that entitlement available [under] *for purposes specified in* such section 1810 is reduced below $20,000.

(5) The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.

(d)(1) The maturity of any loan guaranteed [under] *for purposes specified in* this section shall not be more than—

(A) fifteen years and thirty-two days, in the case of a loan for the purchase of a lot;

(B) twenty years and thirty-two days, in the case of a loan for the purchase of—

(i) a single-wide manufactured home; or

(ii) a single-wide manufactured home and a lot;

(C) twenty-three years and thirty-two days, in the case of a loan for the purchase of a double-wide manufactured home; or

(D) twenty-five years and thirty-two days, in the case of a loan for the purchases of a double-wide manufactured home and a lot.

(2) Nothing in paragraph (1) of this subsection shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, to a reasonable extension of the term of such loan, or to a reasonable reamortization of such loan.

(e) No loan shall be guaranteed [under] *for purposes specified in* this section section unless—

(1) the loan is repayable in approximately equal monthly installments; 6

(2) the terms of repayment bear a proper relationship to the veteran's present and anticipated income and expenses, and the veteran is a satisfactory credit risk, as determined in accordance with the regulations prescribed under section 1810(g) of this title and taking into account the purpose of this program to make available lower cost housing to low and lower income veterans, especially those who have been recently discharged or released from active military, naval, or air service, who may not have previously established credit ratings;

(3) the loan is secured by a first lien on the manufactured home purchased with the proceeds of the loan and on any lot acquired or improved with the proceeds of the loan;

(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

(A) with respect to any portion of the loan to purchase a new manufactured home, such cost factors as the Administrator considers proper to take into account;

(B) with respect to any portion of the loan to purchase a used manufactured home, the reasonable value of the property, as determined by the Administrator;

(C) with respect to any portion of the loan to purchase a lot, the reasonable value of such lot, as determined by the Administrator; and

(D) with respect to any portion of the loan to cover the cost of necessary site preparation, an appropriate amount, as determined by the Administrator,

(5) the veteran certifies, in such form as the Administrator shall prescribe, that the veteran will personally occupy the property as the veteran's home except that the requirement of this clause shall not apply (A) in the case of a guaranteed loan that is for the purpose described in paragraph (1)(F) of subsection (a), or (B) in the case described in section 1804(c)(2);

(6) the manufactured home is or will be placed on a site which meets specifications which the Administrator shall establish by regulation; and

(7) the interest rate to be charged on the loan does not exceed the permissible rate established by the Administrator.

(f) The Administrator shall establish such rate of interest for manufactured home loans and manufactured home lot loans as the Administrator determines to be necessary in order to assure a reasonable supply of manufactured home loan financing for veterans [under] *for purposes specified in* this section.

(g) The Administrator shall promulgate such regulations as the Administrator determines to be necessary or appropriate in order to fully implement the provisions of this section, and such regulations may specify which provisions in other sections of this chapter the Administrator determines should be applicable to loans guaranteed or made [under] *for purposes specified in* this section. The Administrator shall have such powers and responsibilities in respect to matters arising under this section as the Administrator has in respect to loans made or guaranteed or under other sections of this chapter.

(h)(1) No loan for the purchase of a manufactured home shall be guaranteed [under] *for purposes specified in* this section unless the manufactured home and lot, if any, meet or exceed standards for planning, construction, and general acceptability as prescribed by the Administrator and no loan for the purchase of a lot on which to place a manufactured home owned by a veteran shall be guaranteed [under] *for purposes specified in* this section unless the lot meets such standards prescribed for manufactured home lots. Such standards shall be designed to encourage the maintenance and development of sites for manufactured homes which will be attractive residential areas and which will be free from, and not substantially contribute to, adverse scenic or environmental conditions.

(2)(A) For the purpose of assuring compliance with the standards prescribed under paragraph (1) of this subsection, the Administrator shall from time to time inspect the manufacturing process of manufacturers of manufactured homes sold to veterans utilizing assistance under this chapter. For the purpose stated in the preceding sentence and for the additional purpose of monitoring safety factors involved in the installation of manufactured homes purchased through the utilization of assistance under this chapter, the Administrator shall from time to time conduct random onsite inspections of manufactured homes purchased through the utilization of such assistance.

(B) The Administrator may, with the agreement of the Secretary of Housing and Urban Development, delegate to the Secretary of Housing and Urban Development, the duty of the Administrator under subparagraph (A) of this paragraph to inspect the manufacturing process of manufacturers of manufactured homes, but any such delegation shall be subject to an agreement that the Secretary of Housing and Urban Development, upon the request of the Administrator, shall promptly provide the Administrator with the complete results of any inspection made by the Secretary pursuant to such delegation. The Administrator shall have the right to withdraw any delegation under the preceding sentence at any time and in whole or in part.

(i) The Administrator shall require the manufacturer to become a warrantor of any new manufactured home which is approved for purchase with financing through the assistance of this chapter and to furnish to the purchaser a written warranty in such form as the Administrator shall require. Such warranty shall include (1) a specific statement that the manufactured home meets the standards prescribed by the Administrator pursuant to the provisions of subsection (h) of this section; and (2) a provision that the warrantor's liability to the purchaser or owner is limited under the warranty to instances of substantial nonconformity to such standards which become evident within one year from date of purchase and as to which the purchaser or owner gives written notice to the warrantor not later than ten days after the end of the warranty period. The warranty prescribed herein shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument and shall so provide in the warranty document.

(j) Subject to notice and opportunity for a hearing, the Administrator is authorized to deny guaranteed or direct loan financing in the case of manufactured homes constructed by any manufacturer who refuses to permit the inspections provided for in subsection (h) of this section; or in the case of manufactured homes which are determined by the Administrator not to conform to the aforesaid standards; or where the manufacturer of manufactured homes fails or is unable to discharge the manufacturer's obligations under the warranty.

(k) Subject to notice and opportunity for a hearing, the Administrator may refuse to approve as acceptable any site in a manufactured home park or subdivision owned or operated by any person whose rental or sale methods, procedures, requirements, or practices are determined by the Administrator to be unfair or prejudicial to veterans renting or purchasing such sites. The Administrator may also refuse to guarantee or make direct loans for veterans to purchase manufactured homes offered for sale by any dealer if substantial deficiencies have been discovered in such homes, or if the Administrator determines that there has been a failure or indicated inability of the dealer to discharge contractual liabilities to veterans, or that the type of contract of sale or methods, procedures, or practices pursued by the dealer in the marketing of such properties have been unfair or prejudicial to veteran purchasers.

(l) The Administrator's annual report to Congress shall, beginning 12 months following October 23, 1970, include a report on operations under this section, including the results of inspections required by subsection (h) of this section, experience with compliance with the warranty required by subsection (i) of this section, and the experience regarding defaults and foreclosures.

(m) The provisions of sections 1804(d) and section 1821 of this chapter shall be fully applicable to lenders making guaranteed manufactured home loans and manufactured home lot loans and holders of such loans.

[Note: Sections 1817 and 1817A were transferred and redesignated as sections 1813 and 1814.]

[§ 1817.] *§ 1813.* Release from liability under guaranty

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran, the Administrator, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Administrator on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Administrator has determined, after such investigation as the Administrator may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible [under] *for purposes specified in* section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Administrator on account of the loan, the Administrator may relieve the veteran of such liability if the Administrator determines, after such investigation as the Administrator deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Administrator would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Administrator for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under subsection 3102(b) of this title, if eligible thereunder.

(c) This section shall apply only to loans for which commitments are made before March 1, 1988.

[§ 1817A.] § 1814. Assumptions; release from liability

(a)(1) If a veteran or any other person disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by a veteran under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Administrator with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—

(A) the loan is current; and

(B) the purchaser of the property from such veteran or other person—

(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 1810 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this subsection, the Administrator shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 1802.

(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

(A) notify the transferor and the Administrator of such determination; and

(B) notify the transferor that the transferor may appeal the determination to the Administrator.

(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Administrator shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Administrator made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Administrator shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Administrator.

(B)(i) If the Administrator determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Administrator with respect to such loan.

(ii) If the Administrator determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Administrator may direct the holder to approve the assumption of the loan if—

(I) the Administrator determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Veterans' Administration and the transferor;

(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Administrator approve the assumption; and

(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

(C) If—

(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

he holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.

(b) If a person disposes of residential property described in subsection (a)(1) of this section and the person fails to notify the holder of the loan before the property is disposed of, the holder, upon learning of such action by the person, may demand immediate and full payment of the principal, interest, and all other amounts owing under the terms of the loan.

(c)(1) In any case in which the holder of a loan described in subsection (a)(1) of this section has knowledge of a person's disposing of residential property securing the loan, the holder shall notify the Administrator of such action.

(2) If the holder fails to notify the Administrator in such a case, the holder shall be liable to the Administrator for any damage sustained by the Administrator as a result of the holder's failure, as determined at the time the Administrator is required to make payments in accordance with any insurance or guaranty provided by the Administrator with respect to the loan concerned.

(d) The Administrator shall provide that the mortgage or deed of trust and any other instrument evidencing the loan entered into by a person with respect to a loan guaranteed, insured, or made under this chapter shall contain provisions, in such form as the Administrator shall specify, implementing the requirements of this section, and shall bear in conspicuous position in capital letters on the first page of the document in type at least 2 and 1/2 times larger than the regular type on such page the following: This loan is not assumable without the approval of the Veterans' Administration or its authorized agent.

(e) The Administrator shall establish in regulations a reasonable amount as the maximum amount that a lender may charge for processing an application for a creditworthiness determination and assumption of a loan pursuant to this section. Such regulations shall establish requirements for the timely processing of applications for acceptance of assumptions.

(f) The section shall apply only to loans for which commitments are made on or after March 1, 1988.

[§ 1815. Insurance of loans]

[Note: Sections 1815 (a) and (b) were transferred and redesignated as subparagraphs (A) and (B) of section 1803(a)(2).]

[Sections 1816 (a)–(c) were transferred and redesignated as section 1832. Sections 1816 (d)–(f) were transferred and redesignated as section 1833.]

[Sections 1817 and 1817A were transferred and redesignated as sections 1813 and 1814.]

* * * * *

[§ 1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975

[(a) Each veteran who served on active duty, any part of which occurred after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975, and who—

[(1) served for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable;

[(2) has served more than 180 days in active duty status and continues on active duty without a break therein; or

[(3) was discharged or released from such active duty for a service-connected disability;

shall be eligible for the housing loan benefits of this chapter, subject to the provisions of section 1802(a) of this title and the provisions of this section.

[(b) Any entitlement to the benefits of this section which had not expired as of October 23, 1970, and any entitlement to such benefits accruing after such date shall not expire until used.]

[Note: Section 1819 was transferred and redesignated as section 1812.]

SUBCHAPTER III—ADMINISTRATIVE PROVISIONS

* * * * *

§ 1829. Loan fee

(a) * * *

* * * * *

(d) Except as provided in subsection (b) of this section, a fee shall be collected from a person assuming a loan to which section [1817A] *1814* of this chapter applies. The amount of the fee shall be equal to one-half of one percent of the balance of such loan on the date of the transfer of the property.

* * * * *

[§ 1832. Furnishing information to real estate professionals to facilitate the disposition of properties]

[Note: The provisions of section 1832 were transferred and redesignated as paragraphs (1) and (2) of section 1833(d).]

[Note: Subsections (a)–(c) of sections 1816 (a)–(c) were transferred and redesignated as section 1832.]

[§ 1816.] § 1832. Procedure on default

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Administrator of such default. Upon receipt of such notice, the Administrator may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. If the Administrator makes such a payment, the Administrator shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2) Before suit or foreclosure the holder of the obligation shall notify the Administrator of the default, and within thirty days thereafter the Administrator may, at the Administrator's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forebearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Administrator.

(3) The Administrator may establish the date, not later than the date of judgment and decree of foreclosure or sale, upon which accrual of interest or charges shall cease.

(4)(A) Upon receiving a notice pursuant to paragraph (1) of this subsection, the Administrator shall—

(i) provide the veteran with information and, to the extent feasible, counseling regarding—

(I) alternatives to foreclosure, as appropriate in light of the veteran's particular circumstances, including possible methods of curing the default, conveyance of the property to the Administrator by means of a deed in lieu of foreclosure, and the actions authorized by [section 1816(a)(2) of this title;] *paragraph (2) of this subsection;* and

(II) what the Veterans' Administration's and the veteran's liabilities would be with respect to the loan in the event of foreclosure; and

(ii) advise the veteran regarding the availability of such counseling;

except with respect to loans made by a lender which the Administrator has determined has a demonstrated record of consistently providing timely and accurate information to veterans with respect to such matters.

(B) The Administrator shall, to the extent of the availability of appropriations, ensure that sufficient personnel are available to administer subparagraph (A) of this paragraph effectively and efficiently.

(C) The authority to carry out this paragraph shall terminate on March 1, 1991.

(b) With respect to any loan made under section 1811 which has not been sold as provided in subsection (g) of such section, if the Administrator finds, after there has been a default in the payment of any installment of principal or interest owing on such loan, that the default was due to the fact that the veteran who is obligated under the loan has become unemployed as the result of the closing (in whole or in part) of a Federal installation, the Administrator shall (1) extend the time for curing the default to such time as the Administrator determines is necessary and desirable to enable such veteran to complete payments on such loan, including an extension of time beyond the stated maturity thereof, or (2) modify the terms of such loan for the purpose of changing the amortization provisions thereof by recasting, over the remaining term of the loan, or over such longer period as the Administrator may determine, the total unpaid amount then due with the modification to become effective currently or upon the termination of an agreed-upon extension of the period for curing the default.

(c)(1) For purposes of this subsection—

(A) The term "defaulted loan" means a loan that is guaranteed under this chapter, that was made for a purpose described in section 1810(a) of this title, and that is in default.

(B) The term "liquidation sale" means a judicial sale or other disposition of real property to liquidate a defaulted loan that is secured by such property.

(C) The term "net value", with respect to real property, means the amount equal to (i) the fair market value of the property, minus (ii) the total of the amounts which the Administrator estimates the Administrator would incur (if the Administrator were to acquire and dispose of the property) for property taxes, assessments, liens, property maintenance, property improvement, administration, resale, and other costs resulting from the acquisition and disposition of the property.

(D) Except as provided in subparagraph (D) of paragraph (10) of this subsection, the term "total indebtedness", with respect to a defaulted loan, means the amount equal to the total of (i) the unpaid principal of the loan, (ii) the interest on the loan as of the date applicable under paragraph (10) of this subsection, and (iii) such reasonably necessary and proper charges (as specified in the loan instrument and permitted by) regulations prescribed by the Administrator to implement this subsection associated with liquidation of the loan, including advances for taxes, insurance, and maintenance or repair of the real property securing the loan.

(2)(A) Except as provided in subparagraph (B) of this paragraph, this subsection applies to any case in which the holder of a defaulted loan undertakes to liquidate the loan by means of a liquidation sale.

(B) This subsection does not apply to a case in which the Administrator proceeds under subsection (a)(2) of this section.

(3)(A) Before carrying out a liquidation sale of real property securing a defaulted loan, the holder of the loan shall notify the Administrator of the proposed sale. Such notice shall be provided in accordance with regulations prescribed by the Administrator to implement this subsection.

(B) After receiving a notice described in subparagraph (A) of this paragraph, the Administrator shall determine the net value of the property securing the loan and the amount of the total indebtedness under the loan and shall notify the holder of the loan of the determination of such net value.

(4) A case referred to in paragraphs (5), (6), and (7) of this subsection as being described in this paragraph is a case in which the net value of the property securing a defaulted loan exceeds the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter.

(5) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at a liquidation sale for an amount that does not exceed the lesser of the net value of the property or the total indebtedness under the loan—

(A) the holder shall have the option to convey the property to the United States in return for payment by the Administrator of an amount equal to the lesser of such net value or total indebtedness; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount of such total indebtedness minus the net value of the property.

(6) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan either does not acquire the property securing the loan at the liquidation sale or acquires the property at such sale for an amount that exceeds the lesser of the net value of the property or the total indebtedness under the loan—

(A) the Administrator may not accept conveyance of the property except as provided in paragraph (7) of this subsection; and

(B) the liability of the United States under the loan guaranty under this chapter shall be limited to the amount equal to (i) the amount of such total indebtedness, minus (ii) the amount realized by the holder incident to the sale or the net value of the property, whichever is greater.

(7) In a case described in paragraph (4) of this subsection, if the holder of the defaulted loan acquires the property securing the loan at the liquidation sale for an amount that exceeds the lesser of the total indebtedness under the loan or the net value and that was the minimum amount for which, under applicable State law, the property was permitted to be sold at the liquidation sale—

(A) the Administrator may accept conveyance of the property to the United States for a price not exceeding the lesser of the amount for which the holder acquired the property or the total indebtedness under the loan; and

(B) the liability of the United States under the loan guaranty under this chapter is as provided in paragraph (6)(B) of this subsection.

(8) If the net value of the property securing a defaulted loan is not greater than the amount of the total indebtedness under the loan minus the amount guaranteed under this chapter—

(A) the Administrator may not accept conveyance of the property from the holder of the loan; and

(B) the liability of the United States under the loan guaranty shall be limited to the amount of the total indebtedness under the loan minus the amount realized by the holder of the loan incident to the sale at a liquidation sale of the property.

(9) In no event may the liability of the United States under a guaranteed loan exceed the amount guaranteed with respect to that loan under section 1803(b) of this title. All determinations under this subsection of net value and total indebtedness shall be made by the Administrator.

(10)(A) Except as provided in subparagraphs (B) and (C) of this paragraph, the date referred to in paragraph (1)(D)(ii) of this subsection shall be the date of the liquidation sale of the property securing the [loan.] *loan (or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection).*

(B)(i) Subject to division (ii) of this subparagraph, in any case in which there is a substantial delay in such sale caused by the holder of the loan exercising forebearance at the request of the Administrator, the date referred to in paragraph (1)(D)(ii) of this subsection shall be such date, on or after the date on which forebearance was requested and prior to the date of such sale, as the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

(ii) The Administrator may specify a date under subdivision (i) of this subparagraph only if, based on the use of a date so specified for the purposes of such paragraph (1)(D)(ii), the Administrator is authorized, under paragraph *(5)(A) or* (7)(A) of this subsection, to accept conveyance of the property.

(C) In any case in which there is an excessive delay in such liquidation sale caused—

(i) by the Veterans' Administration (including any delay caused by its failure to provide bidding instructions in a timely fashion); or

(ii) by a voluntary case commenced under title 11, United States Code (relating to bankruptcy);

the date referred to in paragraph (1)(D)(ii) of this subsection shall be a date, earlier than the date of such liquidation sale, which the Administrator specifies pursuant to regulations which the Administrator shall prescribe to implement this paragraph.

(D) For the purpose of determining the liability of the United States under a loan guaranty under clause (B) of paragraphs (5), (6), (7), and (8) of this subsection, the amount of the total indebtedness with respect to such loan guaranty shall include, in any case in which there was an excessive delay caused by the Veterans' Administration in the liquidation sale of the property securing such loan, any interest which has accrued as of the date of such sale and which would not be included, except for this subparagraph, in the calculation of such total indebtedness as a result of the specification of an earlier date under subparagraph (C)(i) of this paragraph.

(11) This subsection shall cease to have effect on October 1, 1989.

[Note: Sections 1816(d)-(f) were transferred and redesignated as sections 1833(a)-(c).]

§ 1833. Property management

[(d)] *(a)*(1) Of the number of purchases made during any fiscal year of real property acquired by the Administrator as the result of a default on a loan guaranteed under this chapter for a purpose described in section 1810(a) of this title, not more than 65 percent, nor less than 50 percent, of such purchases may be financed by a loan made by the Administrator. The maximum percentage stated in the preceding sentence may be increased to 80 percent for any fiscal year if the Administrator determines that such an increase is necessary in order to maintain the effective functioning of the loan guaranty program.

(2) In carrying out paragraph (1) of this subsection, the Administrator, to the maximum extent consistent with that paragraph and with maintaining the effective functioning of the loan guaranty program under this chapter, shall minimize the number of loans made by the Administrator to finance purchases of real property from the Administrator described in that paragraph.

(3) The Administrator may sell any note securing such a loan—

(A) with recourse; or

(B) without recourse but only if the amount received is equal to an amount which is not less than the unpaid balance of such loan.

(4)(A) Except as provided in subparagraph (B) of this paragraph, the amount of a loan made by the Administrator to finance the purchase of real property from the Administrator described in paragraph (1) of this subsection may not exceed an amount equal to 95 percent of the purchase price of such real property.

(B)(i) The Administrator may waive the provisions of subparagraph (A) of this paragraph in the case of any loan described in paragraph (5) of this subsection.

(ii) A loan described in subparagraph (A) of this paragraph may, to the extent the Administrator determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.

(5) The Administrator may include, as part of a loan to finance a purchase of real property from the Administrator described in paragraph (1) of this subsection, an amount to be used only for the purpose of rehabilitating such property. Such amount may not exceed the amount necessary to rehabilitate the property to a habitable state, and payments shall be made available periodically as such rehabilitation is completed.

(6) This subsection shall cease to have effect on October 1, 1990.

[(e)] (*b*) The Administrator may not make a loan to finance a purchase of property acquired by the Administrator as a result of a default on a loan guaranteed under this chapter unless the purchaser meets the credit underwriting standards established under section 1810(g)(2)(A) of this title.

[(f)] (*c*)(1) The administrator shall identify and compile information on common factors which the Administrator finds contribute to foreclosures on loans guaranteed under this chapter.

(2) The Administrator shall include a summary of the information compiled, and the Administrator's findings, under paragraph (1) of this subsection in the annual report submitted to the Congress under section 214 of this title. As part of such summary and findings, the Administrator shall provide a separate analysis of the factors which contribute to foreclosures of loans which have been assumed.

[Note: The provisions of section 1832 were transferred and redesignated as paragraphs (1) and (2) of section 1833(d).]

[(a)] (*d*)(*1*) The Administrator shall furnish to real estate brokers and other real estate sales professionals information on the availability of real property for disposition under this chapter and the procedures used by the Veterans' Administration to dispose of such property.

[(b)] (*2*) For the purpose of facilitating the most expeditious sale, at the highest possible price, of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter, the Administrator shall list all such property with real estate brokers under such arrangements as the Administrator determines to be most appropriate and cost effective.

* * * * *

CHAPTER 39—AUTOMOBILES AND ADAPTIVE EQUIPMENT FOR CERTAIN DISABLED VETERANS AND MEMBERS OF THE ARMED FORCES

* * * * *

§ 1902. Assistance for providing automobile and adaptive equipment

(a) The Administrator, under regulations which the Administrator shall prescribe, shall provide or assist in providing an automobile or other conveyance to each eligible person by paying the total purchase price of the automobile or other conveyance (including all State, local, and other taxes) or [$5,000], *$5,500,* whichever is the lesser, to the seller from whom the eligible person is purchasing under a sales agreement between the seller and the eligible person.

* * * * *

PART IV—GENERAL ADMINISTRATIVE PROVISIONS

* * * * *

CHAPTER 51—APPLICATIONS, EFFECTIVE DATES, AND PAYMENTS

* * * * *

SUBCHAPTER II—EFFECTIVE DATES

* * * * *

§ 3013. Effective dates of educational benefits

Effective dates relating to awards under chapters 30, 31, *32*, 34, and 35 of this title shall, to the extent feasible, correspond to effective dates relating to awards of disability compensation.

* * * * *

PART V—BOARDS AND DEPARTMENTS

CHAPTER	Sec.
71. Board of Veterans' Appeals	4001
73. Department of Medicine and Surgery	4101
75. Veterans' Canteen Service	4201
76. Health Professionals Educational Assistance Program..........	*4301*

* * * * *

CHAPTER 73—DEPARTMENT OF MEDICINE AND SURGERY

SUBCHAPTER I—ORGANIZATION; GENERAL

Sec.
4101. Functions of Department.
4102. Divisions of Department.
4103. Office of the Chief Medical Director.
4104. Additional appointments.
4105. Qualifications of appointees.
4106. Period of appointments; promotions.
4107. Grades and pay scales.
4108. Personnel administration.
4109. Retirement rights.
4110. Disciplinary boards.
4111. Appointment of additional employees.
4112. Special Medical Advisory Group and other advisory bodies.
4113. Travel expenses of employees.
4114. Temporary full-time, part-time, and without compensation appointments; residencies and internships.
4115. Regulations.
4116. Defense of certain malpractice and negligence suits.
4117. Contracts for scarce medical specialist services.
4118. Special pay for physicians and dentists.
4119. Relationship between this subchapter and other provisions of law.
4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel.

* * * * *

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

4131. Informed consent.
4132. Confidentiality of certain medical records.
[4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities.
[4134. Coordination; reports.]
4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.
4134. Regulations.

9SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

[4141. Establishment of program; purpose; duration.
[4142. Eligibility; application; written contract.
[4143. Obligated service.
[4144. Breach of contract; liability; waiver.
[4145. Exemption of scholarship payments from taxation.
[4146. Program subject to availability of appropriations.]

* * * * *

SUBCHAPTER VI—RESEARCH CORPORATIONS

4161. Authority to establish; status.
4162. Purpose of corporations.
4163. Board of directors; executive director.
4164. General powers.
4165. Applicable State law.
4166. Accountability and oversight.
4167. Report to Congress.
4168. Expiration of authority.

SUBCHAPTER I—ORGANIZATION; GENERAL

§ 4101. Function of Department

(a) * * *

* * * * *

(c)(1) In order to carry out more effectively the primary function of the Department of Medicine and Surgery and in order to contribute to the Nation's knowledge about disease and disability, the Administrator shall, in connection with the provision of medical care and treatment to veterans, carry out a program of medical research (including biomedical, [prosthetic, and health care services research,] *mental illness, prosthetic and other rehabilitative, and health-care-services research* and stressing research into [spinal cord] *spinal-cord* injuries and *other* diseases [and other disabilities] that lead to paralysis of the lower [extremities).] *extremities and research into injuries and illnesses particularly related to service*). In carrying out such research programs, the Administrator shall act in cooperation with the entities described in subsection (b) of this section.

* * * * *

§ 4104. Additional appointments

There shall be appointed by the Administrator additional personnel as the Administrator may find necessary for the medical care of veterans, as follows:

(1) Physicians, dentists, podiatrists, optometrists, nurses, physician assistants, and expanded-function dental auxiliaries;

(2) [Pharmacists, psychologists (other than those described in paragraph (3)), occupational therapists,] *Psychologists (other than those described in paragraph (3) of this section),* dietitians, and other scientific and professional personnel, such as microbiologists, chemists, biostatisticians, and medical and dental technologists; and

(3) Clinical or counseling psychologists who hold diplomas as diplomates in psychology from an accrediting authority approved by the Administrator, certified or registered respiratory therapists, licensed physical therapists, [and] licensed practical or vocational [nurses.] *nurses, pharmacists, and occupational therapists.*

* * * * *

§ 4106. Period of appointments; promotions

(a) * * *

* * * * *

(g)(1) * * *

* * * * *

(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.

§ 4107. Grades and pay scales

[(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be as follows:

[SECTION 4103 SCHEDULE

[Chief Medical Director, $68,909.

[Deputy Chief Medical Director, $66,104.

[Associate Deputy Chief Medical Director, $63,315.

[Assistant Chief Medical Director, $61,449.

[Medical Director, $52,429 minimum to $59,421 maximum.

[Director of Nursing Service, $52,429 minimum to $59,421 maximum.

[Director of Podiatric Service, $42,756 minimum to $56,692 maximum.

[Director of Chaplain Service, $44,756 minimum to $56,692 maximum.

[Director of Pharmacy Service, $44,756 minimum to $56,692 maximum.

[Director of Dietetic Service, $44,756 minimum to $56,692 maximum.

[Director of Optometric Service, $44,756 minimum to $56,692 maximum.]

(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.

(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be [as follows:] *prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:*

PHYSICIAN AND DENTIST SCHEDULE

Director [grade, $44,756 minimum to $56,692 maximum.] *grade.*

Executive [grade, $41,327 minimum to $53,729 maximum.] *grade.*

Chief [grade, $38,160 minimum to $49,608 maximum.] *grade.*

Senior [grade, $32,442 minimum to $42,171 maximum.] *grade.*

Intermediate [grade, $27,453 minimum to $35,688 maximum.] *grade.*

Full [grade, $23,087 minimum to $30,017 maximum.] *grade.*

Associate [grade, $19,263 minimum to $25,041 maximum.] *grade.*

NURSE SCHEDULE

Director [grade, $38,160 minimum to $49,608 maximum.] *grade.*

Assistant Director [grade, $32,442 minimum to $42,171 maximum.] *grade.*

Chief [grade, $27,453 minimum to $35,688 maximum.] *grade.*

Senior [grade, $23,087 minimum to $30,017 maximum.] *grade.*

Intermediate [grade, $19,263 minimum to $25,041 maximum.] *grade.*

Full [grade, $15,920 minimum to $20,699 maximum.] *grade.*

Associate [grade, $13,700 minimum to $17,813 maximum.] *grade.*

Junior [grade, $11,712 minimum to $15,222 maximum.] *grade.*

CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

Chief [grade, $38,160 minimum to $49,608 maximum.] *grade.*

Senior [grade, $32,442 minimum to $42,171 maximum.] *grade.*

Intermediate [grade, $27,453 minimum to $35,688 maximum.] *grade.*

Full [grade, $23,087 minimum to $30,017 maximum.] *grade.*

Associate [grade, $19,263 minimum to $25,041 maximum.] *grade.*

* * * * *

(c)(1) * * *

* * * * *

(3) Notwithstanding the provisions of section 4101(e) of this title, any person to whom paragraph (1) of this subsection applies *and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title* shall be deemed to be a career appointee for the purpose of sections 4507 and 5384 of title 5.

(d) Notwithstanding any other provision of law, and except as provided in [section] *sections* 4118 *and 4120* of this title, pay may not be paid at a rate in excess of the rate of basic pay for an appropriate level authorized by section 5314, 5315, or 5316 of title 5 for positions in the Executive Schedule, as follows:

(1) Level III for the Chief Medical Director;

(2) Level IV for the Deputy Chief Medical Director; and

(3) Level V for all other positions for which such basic pay is paid under this section.

(e)(1) * * *

* * * * *

(3) A nurse performing service on a tour of duty, any part of which is within the period commencing at midnight [Saturday] *Friday* and ending at midnight Sunday, shall receive additional pay for each hour of service on such tour at a rate equal to 25 percent of such nurse's hourly rate of basic pay.

* * * * *

(10)(A) Notwithstanding any other provision of law [but] *and* subject to [subparagraphs] *subparagraph* (B) [and (C)] of this paragraph, [if] the Administrator *may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator* determines *that* it [to be] *is* necessary *to do so* in order to obtain or retain the services of [nurses, the Administrator—] *nurses.0*

[(i) may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection; and

[(ii) may extend the period for which additional pay authorized under paragraph (3) of this subsection is paid to include part or all of a tour of duty any part of which is within the period commencing at midnight Friday and ending at midnight Saturday.]

(B) An increase under subparagraph (A)[(i)] of this paragraph in rates of additional pay (i) may be made at any specific Veterans' Administration health-care facility in order to provide nurses, or any category of nurses, at such facility additional pay in an amount competitive with, but not exceeding, the amount of the same type of pay that is paid to the same category of nurses at non-Federal health-care facilities in the same geographic areas as such Veterans' Administration health-care facility (based upon a reasonably representative sampling of such non-Federal facilities), and (ii) may be made on a nationwide, local, or other geographic basis if the Administrator finds that such an increase is justified on the basis of a review of the need for such increase (based upon a reasonably representative sampling of non-Federal health-care facilities in the geographic area involved).

[(C)(i) An extension under subparagraph (A)(ii) of this paragraph of the period for which additional pay may be paid under paragraph (3) of this subsection may be made on a nationwide, local, or other geographic basis. Any such extension shall be based on a determination by the Administrator that such extension is justified on the basis of a review of the need for such extension in such geographic area.

[(ii) The rates of additional pay payable pursuant to an extension under such subparagraph shall be established as a percentage of the applicable hourly rates of basic pay. Such rates of additional pay may not exceed the lesser of (I) the percentage of such hourly rates of basic pay that the Administrator determines is necessary to be paid within the geographic area involved in order to obtain or retain the services of nurses, and (II) the percentage provided for in paragraph (3) of this subsection of the applicable hourly rate of basic pay.]

(f) Physician assistants and expanded-function dental auxiliaries shall be compensated by use of Nurse Schedule grade titles and related pay ranges and shall be entitled to additional pay on the same basis as provided for nurses in subsection (e) of this section. Notwithstanding any other provision of law, when the Administrator determines it to be necessary in order to obtain or retain the services of certified or registered respiratory therapists, licensed physical therapists, [or] licensed practical or vocational nurses, *pharmacists, or occupational therapists,* the Administrator may, on a nationwide, local, or other geographic basis, pay persons employed in such positions additional pay on the same basis as provided for nurses in subsection (e) of this section. The Administrator shall prescribe by regulation standards for compensation and payment under this subsection.

* * * * *

(j)(1) The Administrator may pay an employee to whom this subsection applies pay

at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

(2) This subsection applies to an employee who meets each of the following criteria:

(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

(B) The employee is employed in a work unit for which on-call premium pay is authorized.

(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

(3) An employee who is eligible for on call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.

* * * * *

§ 4112. Special medical advisory group and other advisory bodies

(a) * * *

* * * * *

(b) In each case where the Administrator has a contract or agreement with any school, institution of higher learning, medical center, hospital, or other public or nonprofit agency, institution, or organization, for the training or education of health manpower, the Administrator shall establish an advisory committee (that is [deans] *dean's* committee, medical advisory committee or the like). Such advisory committee shall advise the Administrator and the Chief Medical Director with respect to policy matters arising in connection with, and the operation of, the program with respect to which it was appointed and may be established on an institutionwide, multidisciplinary basis or on a regional basis whenever such is found to be feasible. Members of each such advisory committee shall be appointed by the Administrator and shall include personnel of the Veterans' Administration (including appropriate representation from the full-time staff) and of the entity with which the Administrator has entered into such contract or agreement. The number of members and terms of members of each advisory committee shall be prescribed by the Administrator.

(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.

* * * * *

§ 4114. Temporary full-time, part-time, and without compensation appointments; residencies or internships

(a)(1) * * *

* * * * *

[(d) The Chief Medical Director may waive for the purpose of appointments under this section the requirements of section 4105(a) of this title that the licensure of a physician, dentist, podiatrist, psychologist, or optometrist, or the registration of a nurse must be in a "State", if—

[(1) in the case of a physician, dentist, podiatrist, psychologist, or optometrist, the person is to be used on a research or an academic post or where there is no direct responsibility for the care of patients; or

[(2) in any case, where the person is to serve in a country other than the United States and such person's licensure or registration is in the country in which the person is to serve.]

(d)(1) Subject to Paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

(B) that the licensure or certification of such an individual be in a State; and

(C) that a psychologist have completed an internship.

(2) The waivers authorized in paragraph (1) of this subsection may be granted—

(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.

* * * * *

§ 4116. Defense of certain malpractice and negligence suits

(a) * * *

* * * * *

(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.

* * * * *

§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in any clinical service.

(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

(A) $2,000 per year, in the case of an agreement for two years,

(B) $3,000 per year, in the case of an agreement for three years, and

(C) $4,000 per year, in the case of an agreement for four years.

(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purpose of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title), if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an

agreement under this section with a registered nurse and such an agreement.

(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

(h) The Administrator shall prescribe regulations to carry out this section.

SUBCHAPTER III—PROTECTION OF PATIENT RIGHTS

* * * * *

§ 4132. Confidentiality of certain medical records

(a)*(1)* Records of the identity, diagnosis, prognosis, or treatment of any patient or subject which are maintained in connection with the performance of any program or activity (including education, training, treatment, rehabilitation, or research) relating to drug abuse, alcoholism or alcohol abuse, *infection with the human immunodeficiency virus,* or sickle cell anemia which is carried out by or for the Veterans' Administration under this title shall, except as provided in **[**subsection (e)**]** *subsections (e) and (f)* of this section, be confidential, and (section 3301 of this title to the contrary notwithstanding) such records may be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b) of this section.

(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.

(b)(1) The content of any record referred to in subsection (a) of this section may be disclosed by the Administrator in accordance with the prior written consent of the patient or subject with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed in regulations prescribed by the **[**Administrator pursuant to section 4134 of this title.**]** *Administrator.*

(2) Whether or not any patient or subject, with respect to whom any given record referred to in subsection (a) of this section is maintained, gives written consent, the content of such record may be disclosed by the Administrator as follows:

(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient or subject in any report of such research, audit, or evaluation, or otherwise disclose patient or subject identities in any manner.

(C)(i) In the case of any record which is maintained in connection with performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative or such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.

[(C)**]** *(D)* If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient or subject, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

* * * * *

(c) Except as authorized by a court order granted under subsection (b)(2)**[**(C)**]***(D)* of this section, no record referred to in subsection (a) of this section may be used to initiate or substantiate any criminal charges against, or to conduct any investigation of, a patient or subject.

* * * * *

(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject.

(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

(B) A disclosure under such paragraph (1) may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

[(f)**]** *(g)* Any person who violates any provision of this section or any regulation issued pursuant to this section shall be **[**fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.**]** *fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.*

[§ 4133. Nondiscrimination in the admission of alcohol and drug abusers to Veterans' Administration health care facilities

[Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers and who are suffering from medical disabilities shall not be discriminated against in admission or treatment, solely because of their alcohol or drug abuse or dependence, by any Veterans' Administration health care facility. The Administrator, pursuant to the provisions of section 4134 of this title, shall prescribe regulations for the enforcement of this nondiscrimination policy with respect to the admission and treatment of such eligible veterans who are alcohol or drug abusers.**]**

§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title.

[§ 4134. Coordination; reports

[(a) Regulations prescribed pursuant to section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title, shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations governing—

[(1) human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act, as amended (Public Law 93-348; 88 Stat. 348), and

[(2)(A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970, as amended (42 U.S.C. 4551 et seq.), and the Drug Abuse Office and Treatment Act of 1972, as amended (21 U.S.C. 1101 et seq.),

to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title. Such regulations may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title) as are necessary to prevent circumvention or evasion thereof, or to facilitate compliance therewith. In prescribing and implementing regulations pursuant to this subsection, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services, and, as appropriate, the President (or the delegate of the President), in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they and the Administrator prescribe.

[(b) Not later than sixty days after the effective date of this subsection, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate a full report with respect to the regulations (including guidelines, policies, and procedures thereunder) prescribed pursuant to subsection (a) of this section. Such report shall include (1) an explanation of any inconsistency between such regulations and the regulations of the Secretary referred to in such subsection (a); (2) an account of the extent, substance, and results of consultations with the Secretary (or Director, as appropriate) respecting the prescribing and implementation of the Administrator's regulations; and (3) such recommendations for legislation and administrative actions as the Administrator determines are necessary and desirable. The Administrator shall timely publish such report in the Federal Register.]

§ 4134. Regulations

(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

(b) The regulations referred to in subsection (a) of this section are—

(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.

SUBCHAPTER IV—VETERANS' ADMINISTRATION HEALTH PROFESSIONAL SCHOLARSHIP PROGRAM

[§ 4141. Establishment of program; purpose; duration

[(a) There is hereby established a program to be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this subchapter referred to as the "Scholarship Program"). The purpose of the Scholarship Program is to assist in providing an adequate supply of trained physicians and nurses for the Veterans' Administration and for the Nation and, if needed by the Veterans' Administration, other health-care professionals appointed under subchapter I of this chapter.

[(b) The Administrator may not furnish scholarships to new participants in the Scholarship Program after the last day of the tenth fiscal year beginning after the first such scholarship is approved by the Administrator.

[§ 4142. Eligibility; application; written contract

[(a) To be eligible to participate in the Scholarship Program, an individual must—

[(1) be accepted for enrollment, or be enrolled, as a student (A) in an accredited (as determined by the Administrator) educational institution in a state, and (B) in a course of training offered by such institution and approved by the Administrator, leading to a degree in medicine, osteopathy, dentistry, podiatry, optometry, or nursing or a course of training to become a physician assistant or expanded-function dental auxiliary;

[(2) submit an application to the Administrator for participation in the Scholarship Program;

[(3) sign and submit to the Administrator, at the time of submission of such application, a written contract (described in subsection (e) of this section) to accept payment of a scholarship and to serve a period of obligated service as provided in section 4143 of this title; and

[(4) at the time of submission of such application, not be obligated under any other Federal program to perform service after completion of the course of study or program of such individual referred to in clause (1) of this subsection.

To be accepted as a participant in the Scholarship Program, an individual must be accepted for enrollment or be enrolled (as described in clause (1) of this subsection) as a full-time student, except that an individual who is a Veterans' Administration employee described in subsection (g)(1) of this section may be accepted as a participant if accepted for enrollment or enrolled (as described in clause (1) of this subsection) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

[(b)(1) In distributing application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Administrator shall include with such forms—

[(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Administrator, including in the summary a clear explanation of the damages to which the United States is entitled under section 4144 of this title if the individual breaches the contract; and

[(B) a full description of the terms and conditions that would apply to the individual's participation in the Scholarship Program and service in the Department of Medicine and Surgery.

[(2) The Administrator shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

[(c)(1) In selecting applicants for acceptance in the Scholarship Program, the Administrator shall give priority to the applications of individuals who have previously received scholarships under the Scholarship Program.

[(2) Before awarding the initial scholarship in any course of training other than in medicine or nursing, the Administrator, not less than 60 days before awarding such scholarship, shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of training and of the reasons why the award of scholarships in such course of training is necessary to assist in providing for the Veterans' Administration an adequate supply of personnel in the health profession concerned.

[(d)(1) An individual becomes a participant in the Scholarship Program only upon the Administrator's approval of the individual's application submitted under subsection (a)(2) of this section and the Administrator's acceptance of the contract signed by the individual under subsection (a)(3) of this section.

[(2) The Administrator shall provide written notice to an individual promptly upon the Administrator's approval under paragraph (1) of this subsection of the individual's participation in the Scholarship Program.

[(e) The written contract (referred to in this subchapter) between the Administrator and a participant in the Scholarship Program shall contain—

[(1) an agreement that—

[(A) subject to clause (2) of this subsection, the Administrator agrees (i) to provide the participant with a scholarship (described in subsection (f) of this section) for from one to four school years (or in a case in which an extension is granted under subsection (g)(3) of this section, the number of school years provided for as a result of such extension) during which period the participant is pursuing a course of training described in subsection (a)(1)(B) of this section, and (ii) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title); and

[(B) subject to clause (2) of this subsection, the participant agrees—

[(i) to accept such a scholarship;

[(ii) to maintain enrollment and attendance in a course of training described in subsection (a)(1)(B) of this section until the participant completes the course of training;

[(iii) while enrolled in such course of training, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator);

[(iv) to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") equal to the greater of—

[(I) one calendar year for each school year for which the participant was provided a scholarship under the Scholarship Program (or, in the case of a participant who is a part-time student, six months for each calendar year, or part of a calendar year, for which the participant was provided a scholarship, with an academic semester or quarter to be counted in only one calendar year), or

[(II) two calendar years (or, in the case of participant who is a part-time student, one calendar year);

[(v) if the participant's period of obligated service is deferred under section 4143(b)(3)(A) of this title, to serve any additional period of obligated service prescribed by the Administrator under section 4143(b)(4)(B) of this title; and

[(vi) in the case of a participant who is a part-time student, to maintain employment, while enrolled in such course of training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility;

[(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subchapter, and any obligation of the participant which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subchapter;

[(3) a statement of the damages to which the United States is entitled under section 4144 of this title for the participant's breach of the contract; and

[(4) such other statements of the rights and liabilities of the Administrator and of the participant as may be appropriate and consistent with the provisions of this subchapter.

[(f)(1) A scholarship provided to a participant in the Scholarship Program for a school year under a written contract under the Scholarship Program shall consist of—

[(A) payment to, or (in accordance with paragraph (2) of this subsection) on behalf of, the participant of the amount of—

[(i) the tuition of the participant in such school year; and

[(ii) other reasonable educational expenses, including fees, books, and laboratory expenses; and

[(B) payment to the participant of a stipend of not in excess of $485 per month (adjusted in accordance with paragraph (3) of this subsection) for each of the 12 consecutive months beginning with the first month of such school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration and the stipend of a participant who is a part-time student shall be adjusted as provided in subsection (g)(2) of this section.

[(2) The Administrator may contract with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A) of this subsection. Payment to such an educational institution may be made without regard to subsections (a) and (b) of section 3324 of title 31.

[(3) The maximum amount of the monthly stipend, specified in paragraph (1)(B) of this subsection and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Administrator for each school year ending in a fiscal year beginning after September 30, 1980, by an amount (rounded to the next highest multiple of $1) equal to the amount of such stipend multiplied by the overall percentage (as set forth in the report transmitted to the Congress under section 5305 of title 5) of the adjustment (if such adjustment is an increase) in the rate of pay under the General Schedule made effective in the fiscal year in which such school year ends.

[(g)(1) To be accepted as a participant as a part-time student, an individual must be a full-time Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility on the date on which such individual submits the application referred to in subsection (a)(2) of this section and on the date on which such individual becomes a participant in the Scholarship Program.

[(2) If a participant in the Scholarship Program is awarded a scholarship as a part-time student—

[(A) the maximum amount of the stipend payable to such participant under subsection (f)(1)(B) of this section shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant; and

[(B) a stipend may not be paid to such participant under such subsection for any month during which such participant is not actually attending the course of training in which such participant is enrolled.

[(3) In the case of a participant who is a part-time student, the Administrator may extend the scholarship award period to a maximum of six school years if the Administrator determines that such an extension would be in the best interest of the United States.

[(h) Notwithstanding any other provision of law, participants in the Scholarship Program shall not by virtue of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

[(i) The Administrator shall report of Congress not later than March 1 of each year—

[(1) the number of students receiving scholarships under the Scholarship Program and the number of students enrolled in each type of health profession training;

[(2) the educational institutions providing such training;

[(3) the number of applications filed, by health profession category, under this section during the school year beginning in such year and the total number of such applications so filed for all years in which the Scholarship Program has been in existence;

[(4) the number of scholarships accepted, by health profession category, during such school year and the number, by health profession category, which were offered and not accepted; and

[(5) the amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

[(j) The Administrator shall prescribe regulations to carry out the Scholarship Program.]

[§ 4143. Obligated service

[(a) Each participant in the Scholarship Program shall provide service in the full-time clinical practice of such participant's profession or in another health-care position, in an assignment or location as determined by the Administrator, as a full-time employee of the Veterans' Administration for the period of obligated service provided in the contract of such participant entered into under section 4142 of this title.

[(b)(1) Not later than 60 days prior to the date described in paragraph (3) of this subsection with respect to a participant in the Scholarship Program who is a full-time student or the date described in paragraph (5) of this subsection with respect to a participant who is a part-time student, the Administrator shall notify the participant of the date described in such paragraph for the beginning of such participant's period of obligated service.

[(2) As soon as possible after the applicable date described in paragraph (3) of this subsection or provided for under paragraph (5) of this subsection, the Administrator shall—

[(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

[(B) in the case of a participant who is such an employee but is not serving in a position for which such participant's course of training prepared such participant, assign such participant to such a position.

[(3)(A)(i) With respect to a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the date for the beginning of the participant's period of obligated service is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State, except that the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

[(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

[(B) With respect to a participant receiving a degree from a school of nursing, the date for the beginning of the participant's period of obligated service is the later of (i) the date upon which the participant completes such participant's course of training, or (ii) the date upon which the participant becomes registered as a graduate nurse in a state.

[(C) With respect to a participant receiving a degree from an institution other than a school of medicine, osteopathy, dentistry, optometry, podiatry, or nursing, the date for the beginning of the participant's period of obligated service is the date upon which the participant completes the course of training leading to such degree.

[(4) Any participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection—

[(A) shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veteran's Administration health-care facility; and

[(B) may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

[(i) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

[(ii) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

[(5) The Administrator shall by regulation prescribe the date for the beginning of the period of obligated service of a participant who was a part-time student. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

[(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

[(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (a) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

[(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

[(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

[(3) For the purposes of this subsection, the term "course completion date" means the date on which a participant in the Scholarship Program completes such participant's course of training under the program.

[§ 4144. Breach of contract; liability; waiver

[(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the contract entered into under section 4142 of this title, shall, in addition to any period of obligated service or other obligation or liability under the contract, be liable to the United States for the amount of $1,500 as liquidated damages.

[(b) A participant in the Scholarship Program who—

[(1) fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (such level determined by the educational institution under regulations prescribed by the Administrator),

[(2) is dismissed from such educational institution for disciplinary reasons,

[(3) voluntarily terminates the course of training in such educational institution before the completion of such course of training,

[(4) fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become registered as a graduate nurse in a State, or fails to meet any applicable licensure requirement in the case of a physician assistant or expanded-function dental auxiliary, during a period of time determined under regulations prescribed by the Administrator, or

[(5) in the case of a participant who is a part-time student, fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the contract.

[(c) If a participant in the Scholarship Program breaches the written contract by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$\left[\quad A=3\Phi\left(\frac{t-s}{t}\right)\right.$$

in which "A" is the amount the United States is entitled to recover; "Φ" is the sum of the amounts paid under this subchapter or on behalf of the participant and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4143(b)(4)(B) of this subchapter; and "s" is the number of months of such period served by the participant in accordance with section 4143 of this title. Any amount of damages which the United States is entitled to recover under this section will, within the one-year period beginning on the date of the breach of the written contract, be paid to the United States.

[(d)(1) Any obligation under the Scholarship Program (or a written contract thereunder) of a participant in the Scholarship Program for service or payment of damages shall be canceled upon the death of the participant.

[(2) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under such Program (or a contract thereunder) whenever compliance by the participant is impossible due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance would be in the best interest of the Veterans' Administration.

[(3) Any obligation of a participant under such Program (or a contract thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date that payment of such damages is due.

[(e) The Administrator, in cooperation with and with the consent of the heads of other relevant departments and agencies and with the consent of the participant or individual involved, may permit—

[(1) any period of obligated service required to be performed under this subchapter to be performed in another Federal department or agency or in the Armed Forces; and

[(2) any period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel scholarship program to be performed in the Department of Medicine and Surgery.

[§ 4145. Exemption of scholarship payments from taxation

[Notwithstanding any other law, any payment to, or on behalf of a participant in the Scholarship Program for tuition, education expenses, or a stipend under this subchapter shall be exempt from taxation.

[§ 4146. Program subject to availability of appropriations

[The authority of the Administrator to make payments under this subchapter is effective for any fiscal year only to the extent that appropriated funds are available for such purposes.]

* * * * *

SUBCHAPTER VI—RESEARCH CORPORATIONS

§ 4161. Authority to establish; status

(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

§ 4162. Purpose of corporations

Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with *the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.*

§4163. Board of directors; executive director

(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

§4164. General powers

(a) A corporation established under this subchapter may—

(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and

(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

§4165. Applicable State law

Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

§4166. Accountability and oversight

(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator.

(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year.

(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corporation, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

§4167. Report to Congress

Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

§4168. Expiration of authority

No corporation may be established under this subchapter after September 30, 1991.

CHAPTER 75—VETERANS' CANTEEN SERVICE

Sec.
4201. Purpose of Veterans' Canteen Service.
4202. Duties of Administrator with respect to Service.
4203. Operation of Service.
4204. Financing of Service.
4205. Revolving fund.
4206. Budget of Service.
4207. Audit of accounts.
4208. Service to be independent unit.
4209. Child-care centers.
4210. Exemption from personnel ceilings.

* * * * *

§4205. Revolving fund

The revolving fund shall be deposited in a checking account with the Treasury of the United States. Such amounts thereof as the Administrator may determine to be necessary to establish and maintain operating accounts for the various canteens may be deposited in checking accounts *or other interest-bearing accounts* in other depositaries selected by the Administrator.

§4206. Budget of Service

The Service shall prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, which shall contain an estimate of the needs of the Service for the ensuing fiscal year including an estimate of the amount required to restore any impairment of the revolving fund resulting from operations of the current fiscal year. [Any balance in the revolving fund at the close of the fiscal year in excess of the estimated requirements for the ensuing fiscal year shall be covered into the Treasury as miscellaneous receipts.]

* * * * *

§4209. Child-care centers

(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title.

(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

(d) The Administrator shall prescribe regulations to carry out this section.

(e) For the purpose of this section, the term "parent advisory committee" means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.

§ 4210. Exemption from personnel ceilings

Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.

CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

SUBCHAPTER I—GENERAL
Sec.
4301. Establishment of program; purpose.
4302. Eligibility.
4303. Application and acceptance.
4304. Terms of agreement.
SUBCHAPTER II—SCHOLARSHIP PROGRAM
4311. Authority for program.
4312. Eligibility; application; agreement.
4313. Scholarship.
4314. Part-time students.
4315. Status of participants.
4316. Obligated service.
4317. Breach of agreement; liability.
4318. Expiration of program.
SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM
4321. Authority for program.
4322. Eligibility; application; agreement.
4323. Obligated service.
4324. Breach of agreement; liability.
4325. Allocation and distribution of funding.
SUBCHAPTER IV—ADMINISTRATIVE MATTERS
4331. Periodic adjustments in amount of assistance.
4332. Annual report.
4333. Regulations.
4334. Breach of agreement; waiver of liability.
4335. Service in other agencies.
4336. Exemption of educational assistance payments from taxation.

SUBCHAPTER I—GENERAL

§ 4301. Establishment of program; purpose

(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the "Educational Assistance Program"). The program consists of—

(1) the scholarship program provided for in subchapter II of this chapter, and

(2) the tuition reimbursement program provided for in subchapter III of this chapter.

(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

§ 4302. Eligibility

(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

§ 4303. Application and acceptance

(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of the damages to which the United States is entitled if the individual breaches the agreement.

(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

§ 4304. Terms of agreement

An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

(1) The Administrator's agreement—

(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

(2) The participant's agreement—

(A) to accept such educational assistance;

(B) to maintain enrollment and attendance in the course of training until completed;

(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

SUBCHAPTER II—SCHOLARSHIP PROGRAM

§ 4311. Authority for program

As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veteran's Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

§ 4312. Eligibility; application; agreement

(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical

therapist, or licensed practical or vocational nurse.

(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the "period of obligated service") of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

(3) In the case of a participant who is a part-time student—

(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

§ 4313. Scholarship

(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

§ 4314. Part-time students

In the case of a participant who is a part-time student—

(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

§ 4315. Status of participants

Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

§ 4316. Obligated service

(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

(2) As soon as possible after the participant's service commencement date, the Administrator shall—

(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necesssary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection.

(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

(3) For the purposes of this section, the term "course completion date" means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

§ 4317. Breach of agreement; liability

(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

(2) The participant is dismissed from such educational institution for disciplinary reasons.

(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

(A) "A" is the amount the United States is entitled to recover.

(B) "F" is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) "t" is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

(D) "s" is the number of months of such period served by the participant in accordance with section 4313 of this title.

(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

§ 4318. Expiration of program

The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

§ 4321. Authority for program

As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

§ 4322. Eligibility; application; agreement

(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

(2) The participant's agreement—

(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year (adjusted in accordance with section 4331 of this title).

(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

§ 4323. Obligated service

(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reim-

bursement will be provided and no period of obligated service will be incurred.

(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

(e) For the purposes of this section, the term "course completion date" means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

§ 4324. Breach of agreement; liability

(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

(A) "A" is the amount the United States is entitled to recover.

(B) "F" is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(C) "t" is the total number of months in the participant's period of obligated service.

(D) "s" is the number of months of such period served by the participant in accordance with section 4323 of this title.

(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

§ 4325. Allocation and distribution of funding

In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

SUBCHAPTER IV—ADMINISTRATIVE MATTERS

§ 4331. Periodic adjustments in amount of assistance

(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rate of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

(b) For purposes of this section:

(1) The term "maximum monthly stipend amount" means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

(2) The term "maximum tuition reimbursement amount" means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

(3) The term "general Federal pay increase" means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

§ 4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

(2) The education institutions providing such training to students in each program.

(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year and the number, by health profession category, which were offered and not accepted.

(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

§ 4333. Regulations

The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

§ 4334. Breach of agreement; waiver of liability

(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States.

(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

§ 4335. Service in other agencies

(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

§ 4336. Exemption of educational assistance payments from taxation

Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.

PART VI—ACQUISITION AND DISPOSITION OF PROPERTY

* * * *

CHAPTER 81—ACQUISITION AND OPERATION OF HOSPITAL AND DOMICILIARY FACILITIES; PROCUREMENT AND SUPPLY

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

Sec.
5001. Definitions.
5002. Acquisition of medical facilities.
5003. Authority to construct and alter, and to acquire sites for, medical facilities.
5004. Congressional approval of certain medical facility acquisitions.
5005. Structural requirements.
5006. Construction contracts.
5007. Operational and construction plans for medical facilities.
5008. Contributions to local authorities.

5009. Parking facilities.
5010. Operation of medical facilities.
5011. Sharing of Veterans' Administration and Department of Defense health-care resources.
5011A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency.
5012. Partial relinquishment of legislative jurisdiction.
5013. Property formerly owned by National Home for Disabled Volunteer Soldiers.
5014. Use of federally owned facilities; use of personnel.
5015. Acceptance of certain property.
5016. Nursing home revolving fund.

SUBCHAPTER II—PROCUREMENT AND SUPPLY

5021. Revolving supply fund.
5022. Authority to procure and dispose of property and to negotiate for common services.
5023. Procurement of prosthetic appliances.
5024. Grant of easements in Government-owned lands.
5025. Procurement of health-care items.

* * * * *

SUBCHAPTER I—ACQUISITION AND OPERATION OF MEDICAL FACILITIES

* * * * *

§ 5004. Congressional approval of certain medical facility acquisitions

(a)(1) * * *

* * * * *

[(2) After the adoption by the committees during a fiscal year of resolutions with identical texts approving major medical facility projects, it shall not be in order in the House of Representatives or in the Senate to consider a bill, resolution, or amendment making an appropriation for that fiscal year or for the next fiscal year which may be expended for a major medical facility project—

[(A) if the project for which the appropriation is proposed to be made is not approved in those resolutions; or

[(B) in the event that the project is approved in the resolutions, if either—

[(i) the bill, resolution, or amendment making the appropriation does not specify—

[(I) the medical facility project for which the appropriation is proposed to be made; and

[(II) the amount proposed to be appropriated for the project; or

[(ii) the amount proposed to be appropriated for the project (when added to any amount previously appropriated for the project) exceeds the amount approved for the project.]

(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.

[(3) No appropriation may be made for the lease of any space for use as a medical facility at an average annual rental of more than $500,000 unless each committee has first adopted a resolution approving such lease and setting forth the estimated cost thereof.

[(4) For the purpose of this subsection, the term major medical facility project means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000. Such term does not include an acquisition by exchange.]

(3) For the purpose of this subsection:

(A) The term "major medical facility project" means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

(B) The term "major medical facility lease" means a lease for space for use as a medical facility at an average annual rental of more than $500,000.

* * * * *

[(c) The estimated cost of any construction, alteration, lease, or other acquisition that is approved under this section, as set forth in the pertinent resolutions described in subsection (a) of this section, may be increased by the Administrator in the contract for such construction, alteration, lease, or other acquisition by an amount equal to the percentage increase, if any, as determined by the Administrator, in construction, alteration, lease, or other acquisition costs, as the case may be, from the date of such approval to the date of contract, but in no event may the amount of such increase exceed 10 per centum of such estimated cost.]

(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.

[(d) In the case of any medical facility approved for construction, alteration, lease, or other acquisition by each committee under subsection (a) of this section for which funds have not been appropriated within one year after the date of such approval, either such committee may by resolution rescind its approval at any time thereafter before such funds are appropriated.]

[(e)] *(d)* In any case in which the Administrator proposes that funds be used for a purpose other than the purpose for which such funds were appropriated, the Administrator shall promptly notify each committee, in writing, of the particulars involved and the reasons why such funds were not used for the purpose for which appropriated.

[(f)] *(e)* The Administrator may accept gifts or donations for any of the purposes of this subchapter.

* * * * *

§ 5010. Operation of medical facilities

(a)(1) * * *

* * * * *

(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

(B) For purposes of subparagraph (A) of this paragraph, the term "temporary research personnel" means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.

* * * * *

(c)(1) * * *

* * * * *

(2) The Administrator may enter into a contract under the circumstances described in paragraph (1)(B) of this subsection only if *responsive bids are received from at least two responsible, financially autonomous bidders and* the Administrator determines—

(A) based on the study described in paragraph (4) of this subsection with respect to the activity involved, that the cost to the Government of the performance of such activity under such a contract over the first five years of such performance (including the cost to the Government of conducting the study) would be lower by 15 percent or more than the cost of performance of such activity by Federal employees; and

(B) that the quantity and quality of health-care services provided to eligible veterans by the Veterans' Administration at the facility at which the activity is carried out would be maintained or enhanced as a result of such a contract.

* * * * *

§ 5016. Nursing home revolving fund

(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) or nursing home facilities and may be made only as provided for in appropriation Acts.

(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.

SUBCHAPTER II—PROCUREMENT AND SUPPLY

* * * * *

§ 5022. Authority to procure and dispose of property and to negotiate for common services

(a)(1) * * *

* * * * *

[(2)(A) Before entering into a transaction described in subparagraph (B) of this paragraph with respect to any real property owned by the United States and administered by the Veterans' Administration which has an estimated value in excess of $50,000, the Administrator shall submit a report of the facts concerning the proposed transaction to the Committees on Veterans'

Affairs of the Senate and House of Representatives, and such transaction may not then be entered into until after the expiration of 180 days from the date upon which the report is submitted.

[(B) Subparagraph (A) of this paragraph applies to (i) any transfer of an interest in real property to another Federal agency or to a State (or any political subdivision of a State), and (ii) any report to a Federal disposal agency of excess real property.

[(C) A statement in an instrument of conveyance, including a lease, that the requirements of this paragraph have been met, or that the conveyance is not subject to this paragraph, is conclusive for the purposes of all matters pertaining to the ownership of any right or interest in the property conveyed by such instrument.]

(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

(B) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.

* * * * *

§ 5025. Procurement of health-care items

(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of the center in accordance with regulations which the Chief Medical Director shall prescribed, or

(iii) procurement under a local contract is demonstrably more cost-effective for the item.

(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration.

(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

(e) For the purposes of this section:

(1) The term "health-care item" includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

(2) The term "local contract" means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

(3) The term "emergency procurement" means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for a item.

SUBCHAPTER III—STATE HOME FACILITIES FOR FURNISHING DOMICILIARY, NURSING HOME, AND HOSPITAL CARE

* * * * *

§ 5035. Applications with respect to projects; payments

(a) * * *

* * * * *

(b)(1) * * *

* * * * *

(4) The Administrator shall establish a list of approved [projects,] *projects (including projects that have been conditionally approved under paragraph (6) of this subsection)*, in the order of their priority, as of [July 1] *August 15* of each year. The Administrator shall award grants in the order of their priority on the list during the fiscal year beginning on October 1 of the calendar year in which the list was made.

* * * * *

(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than than 90 days after the date of the conditional approval, specified by the Administrator.

(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grade initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.

* * * * *

ACT OF MARCH 4, 1923

AN ACT For the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes.

* * * * *

SEC. 13. (a) There is hereby established in the Treasury an account to be known as the "Foreign Currency Fluctuations, American Battle Monuments Commission, Account". The account shall be used to provide funds, in addition to funds appropriated for salaries and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. As and when necessary to use funds in the account to pay such costs, such funds shall be transferred to funds appropriated for salaries and expenses of the Commission.

(b) Funds transferred under subsection (a) to appropriations shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of

funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A chance reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.

* * * * *

VETERANS' HEALTH CARE AMENDMENTS OF 1979

(Public Law 96-22, June 13, 1979)

* * * * *

TITLE II—CONTRACT-CARE PROGRAMS

DEFINITION OF "VETERANS' ADMINISTRATION FACILITIES"

SEC. 201. (a) * * *

* * * * *

[(b) Not later than February 1, 1980, and annually thereafter, the Chief Medical Director of the Veterans' Administration shall submit to the appropriate committees of the Congress, through the Administrator of Veterans' Affairs, a full report on the implementation of section 601(4)(C)(v) of title 38, United States Code, and the amendments made by this section, and on the numbers of veterans provided contract treatment (and the average cost and duration thereof) in each State (as defined in section 101(20) of title 38, United States Code) in the categories described in the following provisions of such title: sections 601(4)(C), 610(a), 612(a), 612(f)(1)(A), 612(f)(1)(B), 612(f)(2), 612(g), 612A (as added by section 103(a)(1) of this Act), the third sentence of section 612(f) (as added by section 102(b)(2) of this Act), and section 620A (as added by section 104(a) of this Act).]

* * * * *

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 1983

(Public Law 97-377, December 21, 1982)

* * * * *

TITLE V—GENERAL PROVISIONS

* * * * *

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

* * * * *

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

SPECIAL ASSISTANCE FUNCTIONS FUND

* * * * *

(INCLUDING TRANSFER OF FUNDS)

* * * * *

SEC. 156. (a)(1) The head of the agency shall pay each month an amount determined under paragraph (2) to a person—

(A) who is the surviving spouse of a member or former member of the Armed Forces described in subsection (c);

(B) who has in such person's care a child of such member or former member who has attained sixteen years of age but not eighteen years of age and is entitled to a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) for such [month;] *month or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code;* and

* * * * *

(C) who is not entitled for such month to a mother's insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. [402(g))] *402(g)), or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code,* by reason of having such child (or any other child of such member or former member) in her care.

* * * * *

VETERANS' HEALTH CARE AMENDMENTS OF 1983

(Public Law 98-160, November 21, 1983)

* * * * *

TITLE I—VETERANS' ADMINISTRATION HEALTH-CARE PROGRAMS

* * * * *

ADULT DAY HEALTH-CARE SERVICES

SEC. 103. (a)(1) * * *

* * * * *

[(b) If the Administrator of Veterans' Affairs furnishes adult day health care under section 620(f) of title 38, United States Code (as added by subsection (a)), the Administrator shall conduct a study of the medical efficacy and cost-effectiveness of furnishing such care as an alternative for nursing home care and of the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

[(c) Not later than February 1, 1988, the Administrator shall submit to the Committee on Veterans' Affairs of the Senate and House of Representatives a report containing—

[(1) the results of the study conducted under subsection (b) (if such a study is conducted);

[(2) the Administrator's recommendation with respect to extending or repealing the date in subsection (f)(3) of section 620 of title 38, United States Code (as added by subsection (a)); and

[(3) any other recommendation that the Administrator considers appropriate for legislative and administrative action with respect to the furnishing of such care.]

* * * * *

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

(Public Law 99-272, April 7, 1986)

* * * * *

TITLE XIX—VETERANS' PROGRAMS

* * * * *

Subtitle B—Miscellaneous Provisions

* * * * *

SEC. 19032. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) * * *

* * * * *

(b) DUTIES.—The Committee shall examine and evaluate programs and other activities of the Veterans' Administration with respect to the needs of veterans who are Native Americans, including American [Indians and] *Indians,* Alaska [Natives.] *Natives, and Native Hawaiians.* Such examination and evaluation shall include—

(1) an assessment of the needs of such veterans with respect to health care, rehabilitation, readjustment counseling, outreach services, and other benefits and services under programs administered by the Veterans' Administration; and

(2) a review of the manner in which and the extent to which the programs and other activities of the Veterans' Administration meet such needs.

(c) MEMBERS.—The Committee shall consist of—

(1) the Secretary of Labor (or a representative of the Secretary of Labor designated by the Secretary after consultation with the Assistant Secretary of Labor for Veterans' Employment);

(2) the Chief Medical Director and Chief Benefits Director of the Veterans' Administration or their representatives; and

(3) members appointed by the Administrator from the general public, including—

(A) representatives of veterans who are Native Americans, including American [Indians and] *Indians,* Alaska [Natives] *Natives, and Native Hawaiians,* and such veterans with service-connected disabilities; and

(B) individuals who are recognized authorities in fields pertinent to the needs of such veterans, including the specific health-care needs of such veterans and the furnishing of health-care services by the Veterans' Administration to such veterans.

* * * * *

(f) REPORTS.—(1) Not later than February 1, 1987, [and] February 1, 1988, *and February 1, 1989,* the Committee shall submit to the Administrator a report containing the findings and any recommendations of the Committee regarding the matters described in subsection (b) that were examined and evaluated by the Committee during the preceding fiscal year.

* * * * *

[(g) ALASKA NATIVE DEFINED.—For the purposes of this section, the term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).]

(g) DEFINITIONS.—For the purposes of this section:

(1) The term "Alaska Native" has the meaning given the term "Native" in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

(2) The term "Native Hawaiian" has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).

(h) TERMINATION.—The Committee shall terminate 90 days after the date on which the [second] *third* report is transmitted by the [Committee] *Administrator* pursuant to subsection (f)(2).

* * * * *

VETERANS' BENEFITS IMPROVEMENT AND HEALTH-CARE AUTHORIZATION ACT OF 1986

(Public Law 99-576, October 28, 1986)

* * * * *

TITLE II—HEALTH CARE AND MEDICAL FACILITIES

* * * * *

PART D—MISCELLANEOUS

* * * * *

[SEC. 234. PROHIBITION AGAINST EXCESSING OF CERTAIN VETERANS' ADMINISTRATION PROPERTIES.

[(a) IN GENERAL.—The Administrator of Veterans' Affairs may not take any action before January 1, 1988, in connection with declaring as excess to the needs of the Veterans' Administration, transferring to another Federal agency, or otherwise relinquishing any Veterans' Administration interest in or disposing of any portion of the real property described in subsection (b). Any such action taken before the date of the enactment of this Act shall be without effect. If on the date of the enactment of this Act, such property (or any portion thereof) is under the jurisdiction of an agency of the United States other than the Veterans' Administration, such property shall revert back to the jurisdiction of the Veterans' Administration.

[(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is certain land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), submitted by the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code.]

* * * * *

G.V. MONTGOMERY,
MARCY KAPTUR,
J. ROY ROWLAND,
JERRY SOLOMON,
JOHN PAUL HAMMERSCHMIDT,
Managers on the Part of the House.

ALAN CRANSTON,
DENNIS DECONCINI,
SPARK MATSUNAGA,
FRANK H. MURKOWSKI,
AL SIMPSON,
Managers on the Part of the Senate.

LEGISLATIVE PROGRAM

(Mr. LOTT asked and was given permission to address the House for 1 minute.)

Mr. LOTT. Mr. Speaker, I have asked for this time for the purpose of receiving the schedule for today and the balance of the week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. LOTT. Mr. Speaker, I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the distinguished Republican whip for yielding

Mr. Speaker, this concludes the business for this week, and tomorrow the House will not be in session.

On April 25 the House will meet at noon to consider suspension of the rules on the following bills:

H.R. 3819, to prohibit additional appropriations for the analysis and study for the Shaws Bend site of the Colorado Coastal Plains project;

H.R. 2558, to authorize the Secretary of the Interior to take corrective action to protect certain portions of the Franklin County, WA, road; system within the Federal Columbia Basin reclamation project;

H.R. 4243, Genocide Convention Implementation Act of 1988; and

H.R. 3971, to concur in Senate amendments to the International Child Abduction Remedies Act.

The intention of the leadership is to postpone votes ordered on any suspensions debated on Monday, April 25, to the close of business, to the end of the day of Tuesday, April 26, so there will accordingly be no votes next Monday.

On Tuesday, April 26, the House will meet at noon to consider H.R. 4264, the Department of Defense Authorization for fiscal year 1989, subject to a rule, and at the end of the day have recorded votes on suspensions postponed from Monday, April 25.

On Wednesday, April 27, the House will meet at 10 a.m. to consider H.R. 4264, the Department of Defense authorization for fiscal year 1989, continuing consideration, but the House will recess at 3 p.m. and reconvene at 4 p.m. to receive the Prime Minister of Canada, the Right Honorable Brian Mulroney, in a joint meeting. The House will reconvene for legislative business at approximately 5:30 p.m. to consider an unnumbered House resolution bill, the emergency mandatory veterans' supplemental appropriations for fiscal year 1988.

On Thursday, April 28, the House will meet at 10 a.m., and recess immediately and reconvene at 11 a.m. for a special ceremony to honor Lady Bird Johnson. The House will reconvene for legislative business at approximately 12:30 p.m. and continue its consideration of the Department of Defense Authorization Act.

On Friday the House will meet at 10 a.m. to consider H.R. 4264, the Department of Defense Authorization Act.

Conference reports may of course be brought up at any time, and any further program will be announced later.

Mr. LOTT. Mr. Speaker, I thank the gentleman for that information.

Let me emphasize two or 3 points. First of all, there will be then no recorded votes on Monday?

Mr. FOLEY. The gentleman is correct.

Mr. LOTT. And any suspension that recorded votes are ordered on will be postponed for a vote at the beginning of business on Tuesday?

Mr. FOLEY. No, at the end of business on Tuesday.

Mr. LOTT. At the end of business.

Mr. FOLEY. We will put that at the end of the business calendar for Tuesday.

Mr. LOTT. And we will come in at 10 o'clock on Wednesday, Thursday, and Friday by agreement; is that correct?

Mr. FOLEY. The gentleman is correct.

Mr. LOTT. And although we thought there would be recorded votes tomorrow, there will not be any tomorrow, but the Members should absolutely expect recorded votes on Friday, April 29; is that correct?

Mr. FOLEY. The gentleman is correct, and I thank the gentleman for that emphasis.

Mr. LOTT. Do you emphasize here or indicate what time we will be finished on Friday?

Mr. FOLEY. I think the probability is 3 p.m. If we had an opportunity to finish the Department of Defense bill by going a brief time longer, we probably would utilize that, but I think 3 p.m. is a safe assumption.

Mr. LOTT. Since none of us believes that, we will believe the 3 o'clock.

□ 1700

ADJOURNMENT TO MONDAY, APRIL 25, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

HOUR OF MEETING ON TUESDAY, APRIL 26, 1988 AND THURSDAY, APRIL 28, 1988

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, April 26, 1988, it adjourn to meet at 10 a.m. on Wednesday, April 27, 1988, and that when the House adjourns on Thursday, April 28, 1988, it adjourn to meet at 10 a.m. on Friday, April 29, 1988.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PERMISSION FOR COMMITTEE ON RULES TO HAVE UNTIL MIDNIGHT MONDAY, APRIL 25, 1988, TO FILE REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. PEPPER. Mr. Speaker, I ask unanimous consent that the Committee on Rules have until midnight Monday, April 25, to file a privileged report providing for consideration of H.R. 4264, the Department of Defense Authorization for fiscal year 1989.

This request has been cleared by the minority and I know of no objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMENDING STATE OF ISRAEL ON OCCASION OF 40TH ANNIVERSARY OF REESTABLISHMENT OF THE INDEPENDENT STATE OF ISRAEL

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the joint resolution (H.J. Res. 541) commending the State of Israel and its people on the occasion of the 40th anniversary of the reestablishment of the independent State of Israel, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. Res. 541

Whereas the State of Israel redeems the Biblical promise to the Jewish people of the homeland from which they were exiled for 2,000 years;

Whereas the establishment of the State of Israel as a homeland for the Jews followed the slaughter of more than 6,000,000 Jews during the Holocaust;

Whereas the United States helped in the creation of the State of Israel by extending diplomatic relations to the State of Israel upon its proclamation of independence on May 14, 1948;

Whereas since its establishment 40 years ago, Israel has rebuilt a nation, forged a new society, and created an economic, cultural, and intellectual infrastructure that is nothing short of miraculous;

Whereas despite the heavy costs of six wars, terrorism, international ostracism, and economic boycotts, the people of Israel have relinquished neither their desire to live in peace with their neighbors nor their democratic ideals;

Whereas at great social and financial costs, Israel has absorbed hundreds of thousands of Jews from countries throughout the world, many of them refugees from Arab countries, and fully integrated them into Israeli society;

Whereas the world, particularly the less developed countries of Latin America and Africa, has benefited tremendously from Israeli advances in agriculture, medicine, and industry;

Whereas the United States and Israel have always maintained a special relationship based on mutually shared democratic values, strategic interests, and moral bonds of friendship and respect; and

Whereas the American people have shared an affinity with the people of Israel and regard Israel as a strong and trusted ally and important strategic partner: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) hails the historic milestone of 40 years of existence of the reestablished, independent State of Israel;

(2) praises the people of Israel for their remarkable achievements in building a new state and society and maintaining the only democracy in the Middle East in the face of constant belligerence by her neighbors;

(3) notes with deep satisfaction the bonds of friendship and cooperation between the United States and the State of Israel which have meant so much to both countries; and

(4) extends the warmest congratulations and best wishes to the State of Israel and its people for a peaceful and successful future.

The SPEAKER pro tempore. The gentleman from Florida [Mr. FASCELL] is recognized for 1 hour.

Mr. FASCELL. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Michigan [Mr. BROOMFIELD] pending which I yield myself such time as I may consume.

Mr. Speaker, I strongly support House Joint Resolution 541, commending the State of Israel and its people on the occasion of the 40th anniversary of the reestablishment of the independent State of Israel. At the outset, I want to commend the bipartisan House leadership including the gentleman from Washington, the majority leader, Mr. FOLEY, and the gentleman from Illinois, the minority leader, Mr. MICHEL, as well as the committee's ranking member, the gentleman from Michigan, Mr. BROOMFIELD, and the gentleman from California, Mr. LANTOS, for their leadership in introducing this resolution.

This resolution expresses in a succinct and effective way the sentiments toward Israel held by members across the ideological spectrum. The establishment of the State of Israel represents the fulfillment of a historic promise to the Jewish people, who suffered numerous national tragedies including the unspeakable horror of the Holocaust. Since its establishment, Israel has endured a recurring set of dangerous challenges to its security, including a constant state of belligerency from most of her neighbors, numerous unprovoked wars, and economic difficulties arising from the need for high military budgets and scarce natural resources.

With major United States assistance, Israel has been able to forge a democratic society, and an economic, cultural, and intellectual infrastructure unparalleled in the Middle East. House Joint Resolution 541 recognizes the important partnership the United States and Israel have forged over these past 40 years and how that partnership has helped to advance mutual policy objectives and international security generally.

I urge approval of the resolution.

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor I offer my support for this resolution commending Israel on the 40th anniversary of its founding. This is a historic moment for all of us.

America continues to stand by Israel as a steadfast friend. Today, our two governments are signing a memorandum of agreement formalizing many of the relationships which exist between our two countries.

I know of few relationships that have endured the test of time as the United States-Israeli friendship. Our two nations have both historic ties and much in common in our views of the world. We are both concerned about the question of Israel's security and peace in the region.

Israel now faces a challenging period in the Middle East. In past years, Israel also faced difficult moments and tribulations. Through determination and commitment, the State of Israel survived. I am confident that Israel will emerge from these current difficulties as a stronger and more confident country.

Because of our close ties to Israel, America can be frank in our discussions with Israeli leaders. Were it not for our close relationship, we would not be able to share our concerns with Israeli leaders in such an honest and direct way. I believe that all of us must recommit ourselves to the search for peace.

I wish the Israeli people well and hope that they continue to make impressive progress in the areas of economic, cultural, and social development.

I urge my colleagues to support this resolution.

Mr. Speaker, I certainly join with the gentleman from Florida [Mr. FASCELL], the chairman of the committee in support of this resolution.

Mr. FASCELL. Mr. Speaker, for purposes of debate, I yield 2 minutes to the distinguished gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I want to commend the gentleman from Florida [Mr. FASCELL], the chairman of the committee, for having brought this to the floor and all of those who are responsible for this joint resolution.

Mr. Speaker, as an American I am proud of the relationship that the United States has with the State-Nation of Israel. I am proud of the shared tradition of freedom and democracy, the shared tradition of the Judeo-Christian ethic, the shared commitment to peace and freedom in that region and around the world.

There has not been a time gone by where we turned to Israel for some help where they have not tried in some fashion or another to help foster our foreign policy goals in the world. There has not been a time gone by when Israel has shirked its commitment to the United States at the United Nations or in testing materials or in participating with us in fora around the world where we need a staunch, strong supporter and ally. The State of Israel has been a strategically and an important ally for the United States, and it is a country which is sincerely grateful for the help that this Nation gives it on an ongoing basis. I am proud that they make no bones about their love of America and their sincerity in being grateful to the people of the United States.

I am also proud, Mr. Speaker, as a Jew, of the accomplishments of the State of Israel because they have helped to bring stability and peace in the region and around the world. I am proud as an American and proud as a Jew to have an ally not only in this region but among the nations of the world who can stand up and claim rightly to be for all of the things that the United States of America stands for.

As they enter their 40th year, as they attempt once again to find a peaceful solution to the problems in that region, I commend them and commend this body for being so closely aligned in the reality of shared values. The people of Israel deserve their 40th anniversary celebration. We would only hope that next year it would all be in peace.

Mr. FASCELL. Mr. Speaker, I thank my colleague for his comments.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO], a member of the Foreign Affairs Committee.

Mr. LAGOMARSINO. Mr. Speaker, I rise today in support of House Joint Resolution 541, to commemorate the 40th anniversary of the founding of the State of Israel. As you know, there are long standing cultural, religious, economic, and political ties between the United States and Israel. Like us, Israel is a democratic nation founded on the principles of freedom, liberty, and democracy. Israel is a strategic ally of the United States and the cooperation between our two nations continues to increase and strengthen. Israel certainly is a trustworthy and loyal friend.

As my colleagues will recall, the United States was one of the very first countries to recognize the new State of Israel just 11 minutes after its birth 40 years ago today. Like us, the modern State of Israel, while a relatively young country, has accomplished much. For example, the Israelis have turned the once arid, Negev desert wasteland into green, productive agricultural region. They have made the desert bloom. Israel is recognized as a world leader in high technology industry and research.

Israel has been able to mature and prosper despite the constant threat to its security and existence since creation 40 years ago. While Israel has provided a safe haven and homeland for persecuted Jews throughout the world, there has been a cost. Already, Israel has engaged in four major wars for survivial. The courage and strength of the Jewish people protected and continue to defend this unique Jewish State. I am encouraged by the constructive efforts by Israel to resolve the difficulties with its neighbors and construct a solid foundation for a lasting peace in the Middle East. Despite numerous setbacks, like the inability of many key regional players to accept the existence of Israel, there have been real successes—such as the Camp David accords. Like Israel, I support continued efforts to negotiate peace.

While modern Israel's statehood is only 40 years old, the Jewish homeland of Israel's heritage is a very long and historical one. I join with my colleagues in commemorating this historic occasion and look forward to celebrating many more in the future.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Speaker, anniversaries are a time to pore over memories of the past, to take stock of the present and to plan for the future. Today, as it celebrates the 40th anniversary of its creation, the nation of Israel can look back on four decades of a dream fulfilled. Today, that nation can take pride in the progress made by the 1 million Jewish refugees who founded a homeland in the desert. And the people of the only democratic state in the Middle East can know with certainty, that despite the abiding hostility of some, the future of Israel is more secure than 40 years ago.

Democracy has many virtues, but tidiness is not one of them. Fractious pluralism, contentious debate, the constant pull between individual freedom and the power of the state—all are carried out under the glare of a free and vigorous press. For a young democracy like Israel, a nation of refugees, surrounded by hostile states these problems are magnified and played out on a world stage.

Israel is not perfect. But our relationship with that nation is one of friendship and alliance, based on shared values and security needs. As a friend, we must and will make constructive criticism. As a democratic nations which has weathered our own share of severe growing pains, our counsel to Israel at this point in her development can be particularly valuable.

But as democratic allies in an often hostile world, our basic relationship—our friendship must and will remain intact.

This vital relationship will remain intact because Israel is a key strategic ally. From joint naval and antiterrorism exercises to allowing us to build a Voice of America transmitter in its territory, Israel is a crucial part of the defense of the Western world.

So today, we join Israel in celebrating her 40th anniversary. Four decades ago, faith and fear were the common ground for the refugees who carved a homeland out of the desert. Today, freedom has replaced that fear, freedom and pride and a fierce dedication to democratic principles. And the faith endures.

□ 1715

Mr. FASCELL. I thank my colleague from Washington for those kind remarks.

Mr. Speaker, I yield 3 minutes to the distinguished chairman of the Committee on Rules, the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Speaker, I thank my distinguished colleague and friend for allowing me some brief time to express my sentiments commending this resolution.

I commend the gentleman and the ranking minority member of the Committee on Foreign Affairs for bringing this resolution to the floor of the House.

Mr. Speaker, in 1948, as a member of the U.S. Senate, I had the privilege of supporting the decision of our Government so eloquently declared by President Truman to recognize as an independent nation the great State of Israel. That was the realization of a dream 2,000 years matured.

It was a great accomplishment for human rights and for deomcracy as well as giving a home upon the ancient land to the people of Israel and to the Jewish people.

Mr. Speaker, I shall never forget visiting with Prime Minister Ben-Gurion in Israel in 1950 only 2 years after the state became an independent entity. One of the things that he said I should never forget, with great emphasis he said, "Every Jew on the face of the Earth will, any time he or she chooses to do so, come and find a home in Israel."

He said, "I do not know how we are going to do it but I know your people in America are going to help us to accomplish that great purpose."

I think that obligation has faithfully been pursued ever since the foundation of the Jewish state.

As has been said already, one of the great centers of democracy in the world is the Jewish State of Israel. We know how much it means to have in that troubled part of the world this dynamic state that believes so dedicatedly in democracy.

Israel is having problems today but those people have always had problems. They have surmounted their problems in times and in ages past.

I have every confidence that they are going to survive as a great state in the democratic world in the years to come. We want them to know the heart of America is with them, that our strength is their strength, that we are their friends and we will continue to support the great realization of that ancient dream into the infinite days of the years ahead.

I thank the gentleman for yielding.

Mr. BROOMFIELD. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN] a member of the Committee on Foreign Affairs.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to commend the distinguished chairman of our House Committee on Foreign Affairs, the gentleman from Florida [Mr. FASCELL] and the ranking minority member, the gentleman from Michigan [Mr. BROOMFIELD] for bringing this measure to the floor on this appropriate day. Today is the 40th anniversary of the independence of Israel, one of our closest allies in that part of the world, if not our closest ally. Israel is one of the strongest democracies in that part of the world, if not the only true democracy in that part of the world. It enjoys a democratic form of government that has opened its doors to Jewish refugees from throughout the world.

As we look back over the history of Israel in that 40 year period, we recognize how that very small nation, confronted with animosity on all of its borders, had to struggle to maintain its independence. Israel is a small nation that today consists of only several million people—I think the last population count is a little over 3 million—and is confronted with hostile neighbors whose numbers are in excess of 30 million, and who are continually waging one war after another to try to push this small sovereignty into the sea.

I think we all recognize too that what is truly needed to bring peace in that part of the world is for both the Israelis and the Arabs to sit down at the same table and negotiate directly, without a lot of outside interference. I do not think we need any international conference. But I do want to commend our Secretary of State, George Shultz, and President Reagan, for maintaining their continuing efforts to try to bring the parties together to try to find a solution, a peaceful solution, to the troubles presently confronting the State of Israel.

We hope in the days ahead we are going to see the kind of responsible direct negotiation that will bring peace to that region. It has already been demonstrated that when there is a true strong feeling, an intent, a willingness, to sit and negotiate a peace, that Israel can negotiate with its neighbors.

Egypt is an outstanding example of what can be done to settle a hostile relationship between two warring nations. A great deal of progress has been made between the Israelis and the Egyptians in the last few years, ever since that peace declaration had been signed.

We are hoping that we are going to see other such agreements in the days ahead.

Mr. Speaker, I am pleased to join with my colleagues in commemorating this 40th anniversary of the independence of the sovereignty of Israel. We hope that in the days ahead, we can see even more progress being made by that small state, a light on the horizon for those who are oppressed and for those who are harrassed by authoritarian governments around the world.

I thank the gentleman for yielding.

Mr. FASCELL. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. I thank the gentleman. I appreciate the constraints and the flexibility with which they are offered.

Mr. Speaker, first of all I would like to commend the gentleman from Florida [Mr. FASCELL], the chairman of the Committee on Foreign Affairs, as well as his ranking member, the gentleman from Michigan [Mr. BROOMFIELD], for their leadership in putting this resolution before the body.

I would also like to commend the two gentlemen from New York, Mr. SCHEUER and Mr. GILMAN, for scheduling the special order that they have on this same important and timely subject.

We speak out today at an especially appropriate time. Forty-three years ago this month marks the end of a conflagration in which the majority of Europe's Jewish population perished in the fiery furnaces of the Nazi death camps. The reason? Simply that they were Jewish, and thus marked for extermination by a perversely racist ideology. To this day, we remember the victims of the Holocaust so as never again to allow such unspeakable atrocities to occur.

I say we meet at an appropriate time principally because we are presently concluding the "Days of Remembrance"—7 days of national commemoration set aside to remember the Holocaust. Yom Hashoah—quite literally the "day of the catastrophe" in Hebrew—was marked in Washington last week by a ceremony at the State Department.

In Israel, they mark this day by setting off sirens for 2 minutes throughout the land. In Jerusalem, in Tel Aviv, in Haifa, and in towns large and small, Israelis come to a standstill in the streets, cars pull to the side of the road and their drivers stand at attention, as they remember the tragedy that befell their brethren in Europe. It is an unforgettable sight, made even more poignant in that so many survivors of the death camps, stateless after the war, found refuge in what was then Palestine.

It is said that there is tragedy in triumph, and triumph in tragedy. I can think of no greater example of the latter than the State of Israel, for the rebirth of the Jewish state came in the aftermath of the attempt to annihilate the Jewish people. And these survivors of the Holocaust became the foundation of that historic rebirth. It is no coincidence that the days of remembrance—which also include Yom Ha-Zikaron, a day of memory for Israel's war dead—conclude with today's Yom Ha-Atzmaut, Israel's independence day. As so often in Jewish history, grief and joy share the same stage.

President Harry Truman well understood the significance of the rebirth of the Jewish state. After all, it was he who made the courageous decision, in the face of unrelenting opposition from several of his closest advisers, to be the first head of state to support and recognize the establishment of the State of Israel. This earned him, in the words of David Ben-Gurion, an "immortal place" in Jewish history.

I have little doubt, Mr. Speaker, that the fundamental basis of United States support for Israel and for strong United States-Israel relations stems from the very fact of Israel's rebirth—after 2,000 years—as a member of the democratic family of nations. Americans identify with a sister democracy; Americans appreciate the common values shared by the peoples of the two countries; and Americans recognize the overwhelming odds which Israel has overcome not only to survive, but thrive.

Israel reborn was a nation surrounded by those who vowed to destroy her at her birth and who, with one notable exception, have reiterated that view in word and deed for 40 years. Yet, it is precisely because of the unremitting hostility Israel has faced during its four decades that both its survival and subsequent achievements are so remarkable.

I can think of no other country which, while surrounded by implacable enemies, has maintained the standards of democracy and decency as has Israel. Yes, there are exceptions. Yes, there are flaws, which are inherent in any democratic society. Yes, the pictures on the nightly news in 1988 are troubling, sowing doubt and confusion in the minds of even Israel's stronger supporters. And yet there are some fundamental facts which simply should not be forgotten.

Israel is the refuge of Jews from over 100 countries, of all backgrounds and colors—Zionist pioneers, Holocaust survivors, Oriental Jews fleeing Arab persecution, Soviet and Ethiopian Jews, and so many others who see Israel truly as the Promised Land.

Israel is home to upward of a half million Moslem and Christian Arabs, Druze, Bahai's, Circassians, and other ethnic groups, minorities living under full and vigorous protection of their democratic and religious rights. Israel's most virulent critics—despotic, antidemocratic dictatorships which flagrantly violate the most fundamental human rights and commit abuses against their own people—would do well to follow Israel's example.

Israel is a world leader in agriculture, medical sciences, the arts, industry, education, electronics, and so many other fields. Israeli achievements in agriculture especially are the reason Israel was able to make the desert bloom. And Israel is not shy about sharing its technological knowhow with American farmers as well as with the people of nations across the globe. Indeed, Israel's experiences with developing countries over the last two decades are supreme models of cooperation and success.

By all these remarks, Mr. Speaker, I do not mean to downplay another, critically important, dimension to the United States-Israel relationship: The strategic ties between the two countries. Indeed, Congress has provided Israel with substantial military and economic assistance over the years, not as a giveaway, but because we realize that aid to Israel is an investment in the security of this country and of the West.

Indeed, the signing today of a memorandum of agreement between the United States and Israel, which formalizes Israel's status as a major non-NATO ally and brings together all of the military and economic cooperative understandings of these last few years, is recognition of the fundamental importance this country—the administration, Congress, and the American people—places on the strategic relationship with Israel.

Mr. Speaker, I could go on and on about Israel's accomplishments over its short life-span. It is an exhilirating, exciting, wonderful, incredible, inspiring, miraculous story, the fulfillment of a 2,000 year-old dream to re-establish a Jewish homeland. It is a story full of—yes—triumph and tragedy, of which Entebbe and Maalot, the 1967 war and the Munich massacre, are just a few episodes.

In these troubled times, all friends of Israel—in Congress and elsewhere, Jew and gentile alike—should remember, above all else, that they are a part of, and privy to, history; and that they should do all they can to ensure that this unique experiment in nation-building not only survives, but flourishes in the years ahead.

□ 1730

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey [Mr. COURTER].

Mr. COURTER. Mr. Speaker, for two millenia, a dream has given life to the soul of Diaspora Jews. But not until the 14th day in May, 1948, could the members of the National Council—the leaders of the Jewish peole in Palestine and of the worldwide Zionist movement—declare the establishment of the State of Israel. The declaration of that assembly read in part:

> The State of Israel will be open to the immigration of Jews from all countries of their dispersion; will promote the development of the country for the benefit of all its inhabitants; will be based on the precepts of liberty, justice, and peace taught by the Hebrew Prophets; will uphold the full social and political equality of all its citizens, without distinction of race, creed or sex; will guarantee full freedom of conscience, worship, education and culture; will safeguard the sanctity and inviolability of the shrines and Holy Places of all religions; and will dedicate itself to the principles of the Charter of the United Nations.

In Washington, DC, too, there was an assembly on that day. On the steps of the Jewish Agency, the flag of Israel was raised, and an invocation was delivered by Rabbi Zemach Green of the Ohev Sholem Congregation in Washington. He called the founding of the State of Israel a dream, "conceived in righteous idealistic toil, and born in agony and self-sacrifice."

"Our God and God of our Fathers," he prayed. "We pour forth our hearts unto Thee, our Father in Heaven with thanksgiving and hallelujahs for Thy wondrous deeds unto the people of Israel, and for Thy grace with us of this generation to be privileged to live and witness the realization of the ancient dream, the age-old dream that was begotten from sacred tradition, nurtured with the people's life-blood, reared in the crucible of martyrdom and fostered in the eternal hope and trust in God."

Only a few hours later, the armies of six countries attacked Israel. Eight months of warfare followed, from which the people of Israel emerged victorious. There have been other wars; they have come and gone but the state, and the dream, remain.

Mr. Speaker, no one should imagine that the beauty and the power in this dream is spent after these 40 years. It burns as ever before. Permit me to quote from a letter I received from a friend, a new Israeli citizen. Congressman DEAN GALLO and I met Marina Shenderovich in Moscow in May 1986. Her family had petitioned the Soviet authorities for the right to emigrate, and been refused. We began working, as best we could and in league with many others, for the release of Marina and her family. Marina, Maya, and Yakov Shenderovich were finally allowed to emigrate to Israel late last year. She wrote to me in November, and I want to choose a few lines from that letter:

> Can you believe it?

she begins.

> I'm really out of there! It's like finishing a marathon run, falling onto the grass, and just breathing, finding joy and amazement from inhaling all of that clean, cool, wonderfully life-giving air. It really is that much of a difference.
>
> I am working as a biochemist in a pharmaceutical company. The equipment is so absolutely modern that my lab in Moscow seemed to be an alchemist's workshop. My fellow workers are friendly, the grounds are beautiful (roses everywhere), and it all seems to be so much out of a dream. I live, here with my husband, within the old city walls of Jerusalem. An 800 year old synagogue, a 1500 year old Byzantine market place, a city wall from the time of the First Temple, almost three thousand years ago—all of this and so much more is less than five minutes from my doorstep.

Mr. Speaker, every democracy is a refuge. Its government may be divided; its critics may be vocal; its politics may be tumultuous. But to those enduring persecution and tyranny, a democracy is a beacon of hope. How redoubly true is this of Israel, where to the liberties of democracy are added the powerful draws of sacred soil, tradition and religion. No wonder that Israel is regarded as the embodiment of a dream.

I am glad for this opportunity, in the 40th anniversary year of Israel's birth, to salute its many successes, and the multifaceted bonds—religious, sentimental, political, economic, and military—joining that country to our own.

Mr. FASCELL. Mr. Speaker, I yield to the distinguished gentleman from California [Mr. MARTINEZ] such time as he may consume.

Mr. MARTINEZ. Mr. Speaker, I rise in support House Joint Resolution 541 and congratulate the State of Israel on its 40th anniversary.

Mr. Speaker, I rise today to congratulate the State of Israel on its 40th anniversary. Mr. Speaker, I can think of no better way of celebrating this historic anniversary than by reminding my colleagues of Israel's importance to the United States, to Democracy and to Jewish immigrants and refugees from all corners of the Earth.

Israel is one of the few countries to have developed stable political institutions during the first few years of its existence. For the United States, that means we have a reliable ally in the movement to promote Western interests in the Middle East region. As a byproduct of her stability, Israel has become the most powerful military force in the region. Given Israel's position on NATO's southern flank, this force has become a bulwark of deterrence against Soviet and Soviet-sponsored adventurism in the region. As my colleagues may remember, our long-standing link with Israel was codified in November 1983 when the United States and Israel signed the memorandum of understanding on strategic cooperation. Moreover, on January 23, 1987, the White House and Congress agreed to name Israel a major non-NATO ally.

Apart from strategic cooperation, the factor that has caused the United States to gravitate to Israel from the beginning has been her dedication to democracy. We all realize that Israel's democratic institutions guarantee meaningful free elections, a robust free press, freedom of religious expression, checks and balances to prevent abuses of authority, basic equality for women, and protection of the rights of individuals and minorities. However, a real test to democratic principles comes when a nation is faced with a crisis. As we know, Israel is currently faced with the crisis of Palestinian uprisings on the West Bank and Gaza Strip. Some would have us believe that Israel has acted like anything but a democracy during the crisis. But, this perception is just not true. As I said during a recent speech before the United Jewish Appeal of Los Angeles, the nation of Israel is a nation of conscience. The uprisings have divided the Israeli people. Some believe a hard line policy is the only way to deal with Arabs, while others ardently protest the treatment of the Palestinians. This devisiveness should demonstrate to the world that Israelis are wrestling with a problem that tears at their moral fiber. By tackling this dilemma head on, the Israeli people have shown that state policy on the Palestinian issue is not being driven by a small minority or oligarchy of leaders, but rather the citizens of the nation of Israel, a democracy.

As a democracy, Israel has recognized that it has serious problems. As a result, steps have been taken to control violence in the West Bank and Gaza Strip in a humane fashion. Further, I am hopeful that the Israeli Government uses the opportunity created by the uprisings to facilitate the framework provided by the Camp David accords for solving the Palestinian issue. Indeed, they should seize on Secretary of State George Shultz, efforts to resolve the issue.

Finally, the founding of the State of Israel has created a homeland for the Jewish people. Since the Diaspora, Jews have not had one place in the world that they could call their own. During this time, Jews faced discrimination, exile, torture, and genocide. In 1948, however, a Jewish homeland was created in Palestine where the Jewish people could find refuge away from the trials and tribulations they have experienced for centuries. Consequently, over 1 million Jewish immigrants and refugees from all over the world have made Israel their home.

In total, all Americans should join in wishing Israel a happy 40th anniversary because America depends on Israel as our friend and ally. Moreover, we Americans should celebrate any nation that embraces the same democratic principles that we hold dear.

Mr. Speaker, I congratulate again Israel on its 40th anniversary of nationhood.

Mr. FASCELL. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I want to not only commend the gentleman from Florida [Mr. FASCELL] and the gentleman from Michigan [Mr. BROOMFIELD], but I want to thank them personally out of the bottom of my heart for the wonderful role that they have played over the many years that I have been here in Congress in support of constructive policies in the Middle East that will someday lead to Israelis and Arabs living together in peace and friendship.

I would also like to thank their fine colleagues on the Foreign Affairs Committee who have provided the leadership for this Congress and the leadership for this country in its stalwart, unswerving support for the State of Israel.

Mr. Speaker, this is a glorious day for all of us. Israel came into being as a poor, beleaguered country of about 600,000 population, assaulted from 360 degrees of the compass by hostile forces, to put it mildly. She has survived six wars, and today she stands as a citadel of decency, of democracy, of sophisticated development in the Middle East.

If there was no Israel, I think the United States would have to invent one. Such is the quality of the relationship between our two countries and such is the contribution that Israel is making, or has the potential to make, to peace, to progress, to development in the Middle East.

Even as we stand here, even during this stage, even as Israel and her Arab neighbors go through this incredibly sad, tragic, anxiety-ridden period with emotional conflicts of all kinds besetting them, even as we speak, cooperation is taking place between Israel and at least one of her Arab neighbors. I look forward to the day when Israel will have the opportunity to live with all her neigbhors in peace and friendship.

□ 1740

Mr. BROOMFIELD. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. DORNAN].

Mr. DORNAN of California. Mr. Speaker, in 23 days we will be celebrating a great moment in the history of the United States and, of course, for the State of Israel. Forty years ago this May 14 in the shank of the night in an infant state just a few hours old, someone turned to a brand new Prime Minister, the newest in the world, and said, "Mr. Prime Minister, President Harry Truman is calling from the White House in the United States," and Prime Minister David Ben Gurion took the call and received the recognition orally by phone from the strongest superpower in the world, the first Nation to recognize the existence of this tiny country, really a reborn country, in an area that those of us who love it call the Holy Land.

Why is there this unusual relationship between these United States of America and this tiny little country on the eastern edge of the Mediterranean, with a population smaller than Norway, smaller than Ireland, if you include the 6 Erin provinces of Northern Ireland, only 3 million people, smaller than Los Angeles city, smaller than Los Angeles County by less than 2½ times, what is this relationship, this bond through thick and thin that keeps our two countries such warm friends, although there have been cold periods in the fifties?

It is because without the Jewish people, without the Old Testament, there is no New Testament. Without Judaism there is no Judeo-Christian culture. Without Mosaic law, and I look up at the face of Moses on this beautiful marble medallion, 1 of the 23 lawmakers represented in this Chamber, all of them are in profile, from the Hammurabis who proceded him and the great Solons and Justinians to those on this side up to and including our great Thomas Jefferson, they are all in profile; but one is bas-relief, full profile, looking right at you, Mr. Speaker, and that is Moses.

Without Mosaic law, there is no foundation for our culture or the cultures of all the nations of Europe, and for that matter, most of the nations of the world.

The modern world as we know it, what we call Western civilization, began with a sacred covenant between the people who first began to worship one God and the world as we know it today.

This is why whether the fate of Israel, indeed, its very existence is in jeopardy, or whether they are setting a shining example for the world of what a tiny little nation can do in the 40-year snap of history's fingers, that nation will always be one of our truest, closest friends, as close really as what we call the mother country of Great Britain, because of this cultural and this historical and this spiritual binding force between our two nations.

Now, there will be a special order later tonight that will be the first of many, I hope, recognizing this coming month of May when this reborn nation celebrates its 40th year of modern existence.

I have been in Israel enough times now that I have to stop and count, 13, 14 times. Every visit I go there, I feel this bond strengthening between our two countries. Just as in 1948 we found out who paid lip service to Israel and who were truly the friends, not fair-weather friends, and Harry Truman was first, we are finding out now who are the fair-weather friends and who truly acknowledges this great bond of indebtedness and this bond of incomparable friendship between our two nations.

Mr. Speaker, I hope we pass unanimously House Resolution 541, and I thank our great chairman from the Foreign Affairs Committee for bringing it to the floor, with enough time to savor it before May 14.

Mr. FASCELL. Mr. Speaker, I thank my colleagues from California for his remarks.

Mr. Speaker, I yield 2 minutes to the gentleman from Missisippi [Mr. ESPY].

Mr. ESPY. Mr. Speaker, I would like to thank Chairman FASCELL and the gentleman from Michigan [Mr. BROOMFIELD] for making this time available so that we might gather for just this little time to celebrate the anniversary of the founding of the State of Israel.

Mr. Speaker, I rise today with my colleagues to commemorate the 40th anniversary of Israel's independence. The 40th anniversary of Israel's independence is reason for celebration not only by Jewish people around the world, but by all men and women who cherish freedom and democratic values.

Israel's story is a real-life drama of toil, dedication to a cause, ingenuity and sacrifice. Despite untold difficulties, Israel's contributions to modern civilization are impressive: in science, agriculture, and medicine, and the arts. Its sons and daughters are talented and creative and their desire to help their fellow human beings improve the quality of their lives has been realized throughout the developing world in humanitarian projects in Asia, Africa, and Latin America.

The United States and Israel have stood together these past four decades as close friends committed to common ideals, the most important of which is peace. The realization of peace between Israelis and Arabs would indeed be a fitting tribute to Israel's founders and all those who have fought courageously to maintain its existence.

For the next 40 years—and beyond—we wish for Israel the peace, security, and prosperity it so earnestly deserves and desires. Guiding the way toward that goal should be Theodor Herzl's dictum: "If you will it, it is no dream."

Mr. BROOMFIELD. Mr. Speaker, I yield back the balance of my time.

Mr. FASCELL. Mr. Speaker, let me conclude by saying that the Israelis have performed many miracles in the past 40 years. There is at least one more that needs to be performed, and that is peace and security for Israel and the people of Israel. With courage and determination and with the continuing help of the United States and the friends of the Israelis, perhaps that miracle, too, will one day be accomplished; so on this 40th anniversary, let us all join in saying "Shalom" to Israel and the people of Israel.

Mr. FASCELL. Mr. Speaker, I have no further requests for time, and I move the previous question on the joint resolution.

Mr. FEIGHAN. Mr. Speaker, I rise in strong support of this resolution celebrating the independence of the State of Israel. The story of this small nation's birth and its survival as a democracy in the most unstable region of the world is an inspiration to all nations.

Israel, founded on the ashes of the Holocaust, has become a thriving, vital democracy. Israel, a nation of immigrants, has accomplished what no one thought was possible. The Israelis not only made the desert bloom, they have surpassed the point of economic takeoff and have become a leader not only in the region, but in the world, in the fields of agriculture, the arts and sciences.

In the United States, we celebrate this event because of the multiple ties between our two countries—as allies, as sister democracies, and as two peoples who share a commitment to individual liberties protected by the rule of law. In recognizing Israel's accomplishments, we pay tribute to those values and to the people who have made the dream of a Jewish state into a modern-day reality.

The past 4 months have been turbulent ones for Israel. I am confident that she will weather this storm as she has in the past. The United States must stand by our longtime friend and ally, and aid in the search for a political solution to the violence that now plagues the region. Fundamental to this search is our continued commitment to Israel's right to exist within secure borders. It was President Harry Truman's commitment to this idea that helped to realize the birth of Israel and it is that principle that we also pay tribute to today.

As we celebrate Israel's 40th anniversary, let us remember the struggles that made her birth possible, the great human resources that permitted her to thrive, and the enduring faith that has allowed her to persevere.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 541, the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

IN PROTEST OF U.N.-SPONSORED CONFERENCE WITH TERRORIST LINKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. SWINDALL] is recognized for 5 minutes.

Mr. SWINDALL. Mr. Speaker, I rise today in strong protest of a 4-day U.N.-sponsored conference that will begin today in my hometown of Atlanta.

I do so because the keynote address at this weekend's event will be delivered by Sam Nujoma, the president of the South West Africa People's Organization, better known as SWAPO. Like the PLO, SWAPO is a worldwide terrorist organization that is heavily funded and trained by the Soviet Union and its East bloc allies. It also happens to have an observer mission at that bastion of world peace, the United Nations. But perhaps most important, SWAPO has been directly linked to the 1984 death of two American diplomats in Namibia.

The visit to the United States of a terrorist whose organization has killed American diplomats is scandalous enough in and of itself. However, this visit takes on even more outrageous proportions because it is being funded by the U.S. taxpayers. The U.N. Council for Namibia has budgeted $25,000 in support of this weekend's conference in Atlanta. This constitutes a gross violation of the U.N. Charter, which prohibits the United Nations from intervening "in matters which are essentially within the domestic jurisdiction of any state. * * *" But not only that, this means that American tax dollars are being used to fund the

United States visit of a man whose group has murdered two American diplomats.

Mr. Speaker, given these facts, I must ask, why hasn't Secretary Shultz and the State Department expressed in the strongest possible terms the U.S. Government's outrage at this intolerable violation by the United Nations of the rights of the United States as a sovereign nation? Why has the State Department not vociferously objected to the United Nations' illegal funding of these conferences? Is the State Department willing to ignore violations of the United Nations Charter to meet its own political objectives? Furthermore, why did the State Department grant Nujoma a visa to enter the United States in the first place?

It clearly makes no sense for the American taxpayers to subsidize conferences which are dedicated to undermining American policies and supporting terrorism against innocent American civilians. I am sure, Mr. Speaker, that my colleagues will remember the State Department's actions regarding this latest incident when the House takes up this year's State Department appropriations bill.

CONGRESS OF THE UNITED STATES,
Washington, DC, April 19, 1988.

Hon. GEORGE P. SHULTZ,
Department of State,
Washington, DC.

DEAR MR. SECRETARY: It has come to my attention that the President of the South West Africa People's Organization (SWAPO), Sam Nujoma, is visiting the United States during the next few weeks to participate in a conference in Atlanta, Ga., and a series of hearings here on Capitol Hill. As the ranking Republican on the House Judiciary Subcommittee on Immigration, Refugees, and International Law, and as a U.S. representative from Atlanta, I am deeply concerned that the State Department has granted Mr. Nujoma a visa to come to the United States. This seems particularly inappropriate given the fact that SWAPO has been found to be directly responsible for the 1984 murder of two American diplomats.

I would also like to express my reservations concerning the funding of the two conferences in which Nujoma will participate. The U.N. Council for Namibia revealed on April 6 that it has budgeted $25,000 and $40,000, respectively, in support of the above mentioned conferences in Atlanta and Washington. This constitutes a gross violation of Article 2(7) of the U.N. Charter, which prohibits the United Nations from intervening "in matters which are essentially within the domestic jurisdiction of any state . . ."

Why, Mr. Secretary, are U.S. taxpayer dollars being used to fund the visit to the U.S. of a man whose organization has murdered two American diplomats?

The Atlanta conference has been organized by the National Alliance of Third World Journalists and will include a discussion of U.S. policy toward southern Africa, an "International Film Festival" featuring the film "Winnie and Nelson Mandela" from the U.N. Department of Public Information, as well as a journalism workshop on the "The Messe Mess" and "Exposing the U.S./Contra Drug Connection." Meanwhile, the Washington conference has been organized by the National Council of Churches. The Council has said the objective of the Washington conference is to "encourage urgent action in the United States for a free Namibia." Given these facts, why is the State Department allowing these conferences to take place? Why has the Department and the U.S. mission to the U.N. not expressed in the strongest possible terms the U.S. government's outrage at this intolerable violation by the U.N. of the rights of the U.S. as a sovereign nation? Furthermore, why has the State Department not vociferously objected to the U.N.'s illegal funding of these conferences? Is the State Department willing to ignore violations of the U.N. Charter to meet its own political objectives?

Even more disturbing than these U.N.-sponsored conferences, however, is the fact that the State Department has granted a visa to Sam Nujoma so that he may visit the United States. As you are aware, existing law prohibits the United States from granting a visa to any alien with known involvement in terrorism. In describing which classes of aliens shall be ineligible to receive visas and thus be excluded from admission into the United States, 8 U.S.C. 1182(a)28(F) states:

"Aliens who advocate or teach or who are members of or affiliated with any organization that advocates or teaches . . . the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers of the Government of the United States or of any other organized government, because of his or their official character; or the unlawful damage, injury, or destruction of property; or sabotage."

Moreover, 8 U.S.C. 1182(a)29 also provides that: "Aliens with respect to whom the consular officer or the Attorney General knows or has reasonable ground to believe probably would, after entry, . . . engage in any activity a purpose of which is the opposition to . . . the Government of the United States, by force, violence, or other unconstitutional means . . ." shall be ineligible to receive visas and therefore be excluded from admission into the United States.

While there may be speculation within the State Department that a recent revision of this law makes it inapplicable to terrorists, Section 901 of P.L. 100-204 (entitled the "Prohibition on Exclusion or Deportation of Aliens on Certain Grounds") states that:

"Nothing in this section shall be construed as affecting the existing authority of the executive branch to . . . deny issuance of a visa to, or to deny admission to the United States of, any alien . . . who a consular official or the Attorney General knows or has reasonable ground to believe has engaged, in an individual capacity or as a member of an organization, in a terrorist activity . . ."

It was on this basis that the State Department on March 4 denied a visa to Gerry Adams, head of the Irish Republican Army's legal political wing. As Department spokesman Donna Sherman told the Washington Post,

"He was ineligible under [the section] of the Immigration and Nationality Act which excludes from admission to the U.S. people who are personally involved with terrorist activities. Our information is that Mr. Adams is personally and publicly committed to and abets the armed struggle in Northern Ireland, and it's on that basis he was denied a visa."

Similarly, Sam Nujoma has personally and publicly stated his commitment to the "armed struggle" in southern Africa. Speaking at the United Nations in May, 1973, Nujoma said,

"I pledge here and now that we will continue to talk to South Africa in the only language they understand and that is intensification of armed liberation struggle . . . SWAPO will continue to mobilize the masses and intensify and expand military operations until all the objectives of the struggle are realized."

Like the PLO, SWAPO is heavily funded and trained by the Soviet Union and its East-bloc allies. SWAPO's activities in Namibia are a core part of the Soviet Union's strategy to undermine the security of the West by cutting off the supply of vital minerals and technology from southern Africa to the United States.

SWAPO has a well-documented record of terrorist attacks against thousands of civilians dating from the mid-1960s. The Senate Judiciary Subcommittee on Security and Terrorism conducted extensive hearings in March, 1982 that detailed SWAPO's long history of terrorism and its promotion of Communist principles. For example, the Subcommittee was presented with strong evidence to show that, while at the United Nations in August, 1977, Nujoma ordered the assassination of two members of a Namibian political party, the Democratic Turnhalle Alliance.

Likewise, the Senate Committees on Foreign Relations and Judiciary conducted joint hearings in May, 1985 to further document SWAPO's involvement in terrorism. These hearings confirmed that, on at least one occasion, SWAPO has been responsible for the death of American diplomats in Namibia. On April 15, 1984, 2 American citizens from a U.S. liaison office in Windhoek, Namibia were killed when a Soviet-made bomb planted by SWAPO terrorists exploded at an Oshakati gas station in northern Namibia. This incident has been confirmed to my office by the State Department's African Affairs Bureau.

Since that time, Nujoma and SWAPO have been relentless in their pursuit of the "armed struggle" in Namibia. Earlier this year, Nujoma announced that 1988 would be a year of "unity and popular action" for SWAPO, and that "every facility, and service that is identified with or used by the enemy is a legitimate target." Apparently making good on Nujoma's declaration, SWAPO terrorists planted a massive bomb that exploded in the First National Bank in Oshakati on February 19 during the crowded lunch hour. The result of the attack was 26 dead, including twelve women and two children. This incident may be the worst in the history of SWAPO.

Congress has shown its disapproval for SWAPO's terrorist activities by annually withholding since 1983 the amount of the U.S. assessed and voluntary contribution to the United Nations budget for projects whose primary purpose is to benefit SWAPO. It has done so in the passage of Public Laws 98-164, 99-591, and 100-498. Of course, you and President Reagan have continually expressed your strong opposition to international terrorism, most clearly in the Middle East.

It therefore makes no sense whatsoever that the State Department would grant Mr. Nujoma a visa to enter in and travel throughout the United States. This action is at best questionable on legal grounds. Moreover, the State Department's willingness to allow free travel to a recognized terrorist and Soviet puppet such as Nujoma represents a serious inconsistency in U.S. policy toward terrrorism. Finally, it grants SWAPO and Nujoma a legitimacy within southern Africa which SWAPO could not gain without American support, while at the same time undercutting respect for U.S. policy toward the region.

For all of these reasons, I strongly urge the State Department to cancel Nujoma's visa and deport this individual immediately from American soil. At the very least, the Department should restrict the travel of Nujoma to the Washington and New York metropolitan areas, so as to minimize any propaganda gains for SWAPO.

Be assured, Mr. Secretary, that these matters do not go unnoticed here on Capitol Hill. It makes no sense for the American taxpayer to subsidize (through U.S. support for the United Nations) conferences which are dedicated to undermining American policies and supporting terrorism against innocent civilians. You may be sure that I will give great attention to the State Department's actions regarding this latest incident when the House takes up this year's State Department Appropriations bill.

Sincerely,

Pat Swindall,
Member of Congress.

"Quest for Truth: The Mission vs. The Message" National Alliance of Third World Journalists Fifth National Conference, April 21-24, 1988, Cosponsored by the Clark College Mass Communications Center

Special Guest: Sam Nujoma, President, South West Africa People's Organization.

CONFERENCE AGENDA

Thursday

"Media—What's To It" Community Seminar

A day-long seminar for community organizers and activists, especially from the Atlanta area, who need to sharpen their press relations skills. Hands-on sessions, skills workshops and case studies will demystify the media. The seminar will help grassroots organizers promote the message—whether it's toxic waste protest, homeless rights or southern Africa support work. Activities incudes a mock news conference, a working session on writing a news release and a meet the press segment between advocates and Atlanta journalists.

6-11 pm—International Film Festival, "Visions of Struggle," Cosponsored by the Atlanta Africa Film Society

Back by popular demand! The three-day festival will offer a global kaleidoscope of important films and videos. A special focus will be on films about Namibia and southern Africa. Several filmmakers will also be on hand. Partial listing:

"Witness To Apartheid"—Sharon Sopher/South Africa.

"Winnie and Nelson Mandela"—director Peter Davis/South Africa.

"Namibia: Independence Now"—director Christine Choy/Namibia.

"Destructive Engagement"—Scope Films/Mozambique.

"Argentina: A Broken Silence"—Victor Fridman/Argentina.

"Suppositions of History"—Al Marshall/U.S.

"A Sense of Pride"—Monica Freeman/U.S.

"Langston Hughes: the Dream Keepers"—St. Clair Bourne/U.S.

"Five Days in July"—Spencer Moon/U.S.

"Caminos Del Silencio"—Feliz Zurita/Guatemala.

"Terra Para Rose"—Tete Moraes/Brazil.

"Corresponsales de Guerras"—Belkis Vega/Cuba.

"Blood and Sand"—Sharon Sopher/Western Sahara.

Friday

"Raising The Curtain On Apartheid Press Censorship" Journalists Dialogue on Namibia and South Africa's Hidden War

10 am-11 am—News Conference[1] (Namibia and South Africa's Hidden War) featuring SWAPO President Sam Nujoma, Angola UN Ambassador Manuel Pacavira, Zambia Ambassador to Washington Nalumino Mundia, African National Congress Chief UN Representative Neo Mnumzana, Mozambique Embassy representative and Frontline States officials will address U.S. southern Africa policy in this election Year (Rev. Jesse Jackson invited).

11:30 am-4:30 pm—Journalism Skills and Career Clinics.

One on one 15 minute segments with editors and media specialists from print and broadcast news organizations for students, budding freelancers and seasoned journalists interested in entering or transitionalizing in the media. Bring your clips, audition tapes, resumes and manuscripts. Sessions scheduled by appointment only, so preregister early! (See preregistration form)

A few of the participating news organizations include The Atlanta Constitution, Cable News Network, ESSENCE, Gannett, Sheridan Broadcasting Network, The Village Voice and The Washington Post.

Concurrent workshops (Segment I)

11:15 am-1:30 pm—A—Breaking Into Freelancing—Selling Without Selling Out:

This session examines the triumphs and struggles of going it alone as a freelance media person.

Maynard Eaton, Black Entertainment Television.

Pearl Cleage, independent writer.

Stan West, print/radio journalist.

Roy Patterson, People TV Cable Company.

B—U.S. Third World Media—A Status Report On Media Owned By People of Color:

Cheryll Greene (moderator), executive editor ESSENCE.

Juan Gonzales, publisher El Tecolote.

Ed Dinoko, editor Philippine News.

Bob Chrisman, editor-publisher Black Scholar.

John Mohawk, editor Day Break.

1:30-3:00—NATWJ Membership Meeting.

Concurrent Workshops (Segment II)

3:15-5:15—A—Investigative Reporting: Uncovering the Real Story:

Dennis Bell, NewsDay—"The Meese Mess."

Martha Honey, freelance reporter—"Exposing the U.S./Contra-Drug Connection."

Helen Zia, former investigative reporter—"Who Speaks for Vincent Chen."

B—"Reporting on the Thaw in U.S.-Soviet Relations: North-South, East-West" (Panelists to be announced).

5:30-11 pm—International Film Festival.

7:30-8:30 pm—"Filmmaker's Salute" Reception. Meet the filmmakers and producers of many of the films screened.

Saturday

8:00-9:30 am—Continental Breakfast.

9:00-12 noon—Journalism Skills and Career Clinic.

9:30-12:30 pm—Opening Plenary, "Racist and Political Violence: the Ultimate Terror"—Case Studies in Media Distortions form the Victims:

Rosario Murillo, Sec. Gen., Cultural Workers Union and Wife of President Daniel Ortega.

Johnetta Cole, President, Spellman College—(Overview).

Lucia Hamutenya, "Kassinga Massacre Remembered."

Maria Teresa Tula, Salvadoran Torture Victim.

Shirley Cabey, Son Victim of Subway Vigilante Bernhard Goetz.

Rabab Hadi, "Tales of West Bank Brutality."

12:30-2:30 pm—W.E.B. DuBois Awards Luncheon "Quest for Truth: The Mission vs The Message".

Guest Speaker: Theo-Ben Curirab, SWAPO Foreign Secretary.

Award Recipients: Carlton G. Coodlett, Publisher, Reporter Publishing, "W.E.B. DuBois Life Achievement Award"; Charles Tisdale, Publisher, the Jackson Adocate, "Journalist Of Struggle Award"; El Tecolote: "Special Works Awards".

3:00-5:00 pm—Namibia and Southern Africa's Untold Story (luncheon Plenary);

Hidipo Hamutenya, SWAPO Secretary of Information and Publicity.

Gwen Lister, The Namibian newspaper (Windhoek, Namibia).

Luis de matos, Member, Union of Angolan Journalists.

Keynote Address

8:00 pm—"Southern Africa Policy & Democracy in A Presidential Year", Sam Nujoma, President, SWAPO.

Sunday

11:45 am—1:45 pm—NATWJ Membership Brunch

11:45 am—4:30 pm—Video Screenings. NATWJ Showcase of Members Skills.

Airline Special

Delta Airlines, in cooperation with NATWJ, is offering a special five percent bonus off published super saver roundtrip fares for conference guests traveling between April 19-26. If special fares do not coincide with travel dates, a 40 percent discount will be afforded for unrestricted roundtrip coach rates. Seven days advance reservation and ticketing is required. Call Delta at 1-800-241-6760. Refer to NATWJ Convention: Account No. U0555 when booking your reservation.

Lodging

Paschal's Motor Hotel, just a few minutes away from the Clark College Mass Communications Center, is offering discount rates for NATWJ conference guests: Single occupancy $32; Double $37; Triple $42; Quad $47. Register at least seven days in advance by calling 404-577-3150. Pascal's is located 830 Martin Luther King Jr., Drive, S.W.

CONFERENCE FEES

	NATWJ members	Nonmembers
Early Bird Package [1] (All sessions, film festival, career clinics, luncheon, receptions)	$35.00	$45.00
Walk-in Registraton (Full Package)	45.00	55.00
Student fees [2] (film festival, workshops and career clinics)	10.00	10.00
Workshops and Career Clinics	15.00	20.00
W.E.B. DuBois Awards Luncheon	20.00	25.00
International Film Festival	6.00	6.00

---

[1] Open to all working press and conference participants.

CONFERENCE FEES—Continued

	NATWJ members	Nonmembers
Receptions	10.00	10.00

[1] Earlybird fees must be postmarked no later than April 8th.

[2] Students must present valid ID. Atlanta University Center students receive 50 percent discount off special student rate.

Note.—"Media—What's To It" Seminar, Free to Atlanta Community (April 21st).

Name:
Address:
City:
State:
Zip:
Phone:
Business:
Address:
Position:
Phone:

Please check where applicable:

☐ I plan to attend the conference. Enclosed is $———
☐ I am an NATWJ member
☐ I will make reservations with Delta Airlines
☐ I will make reservations with Pascal's Motor Hotel
☐ I will attend the Awards Luncheon and want vegetarian menu
☐ I will not attend the conference
☐ I have enclosed $——— contribution

Please send conference materials to:

Name:
Address:
City:
State:
Zip:
Phone:

CAREER AND SKILLS CLINIC PRE-REGISTRATION

Please check desired clinic contacts you would like scheduled:

☐ newspaper recruitment officer
☐ magazine editor interested in freelance writers
☐ print professional who can critique news copy
☐ print professional who can critique features manuscript
☐ broadcast professional who can critique radio audition tape
☐ broadcast professional who can critique video audition tape
☐ broadcast professional who can critique scripts documentaries
☐ broadcast recruitment officer
☐ radio managers interested in stringers
☐ media managers interested in entry-level candidates
☐ seasoned professional who can offer advice on transitionalizing from print to broadcast
☐ seasoned professional who can offer advice on transitionalizing from radio to television/film

Check preferred time slot (indicating first, second, third choice):

Friday ☐ 11:30-12:30 ☐ 12:30-1:30 ☐ 2:30-3:30 ☐ 3:30-4:30

Saturday ☐ 9:00-10:00 ☐ 10:00-11:00 ☐ 11-12:00.

FREE NAMIBIA NOW! CAMPAIGN

WASHINGTON, DC, *March 9, 1988.*

DEAR FRIEND, on May 2-4th, 1988, the World Council of Churches, Program to Combat Racism (WCC, PCR) will be holding its Namibia Hearings in Washington, D.C. The Hearings will be held in the Longworth House Office Building, room 1310 from 9:00 a.m. to 4:30 p.m. each day. We welcome you to attend these important hearings on the struggle for independence and justice in Namibia. For 20 years, the WCC, PCR has undertaken programs to address racism and racial injustice around the world. These Namibia Hearings will highlight the apartheid repression of the Namibian people and discuss South Africa's more than 20 year illegal occupation and brutal colonization of that country.

A distinguished panel of leading international figures has been assembled to hear the testimony of various Namibian, international church community and U.S. spokespersons. The distinguished panel will be chaired by General Olusegun Obasanjo, former Head of State of Nigeria and co-chair of the Commonwealth's Eminent Persons Group (EPG); and will include Malcolm Frazier, former Prime Minister of Australia and co-chair of the Commonwealth's Eminent Persons Group; Michael Manley, former Prime Minister of Jamaica; and Lisbeth Palme, widow of slain Swedish Prime Minister Olaf Palme. Other members of the distinguished panel will be announced at a later date.

The President of the South West Africa People's Organization (SWAPO, the liberation movement of the Namibian people) Sam Nujoma, will be the first speaker of the Hearings. Other invited speakers include Assistant Secretary of State Chester Crocker, former Secretary of State Cyrus Vance, Bishop Kaluma, Head of the Namibian Council of Churches, Senator Lowell Weicker (R-CT) and co-sponsor of S. Res. 254 on Namibia and Representative Mervyn Dymally (D-CA) initial sponsor of H. Res. 131 on Namibia and Chairman of the Congressional Black Caucus.

The Washington Office on Africa is providing logisitical arrangements and local coordination for the May 2-4th event. A more complete schedule of speakers and panelists will be available after April 1st, when an additional mailing will be sent.

FREE NAMIBIA NOW

The World Council of Churches program to combat racism is assembling an internationally distinguished panel to hear testimony from a group of Namibia's most respected leaders, U.S. experts on Namibia, policy makers and victims of South Africa's war in Namibia.

Mark your calendar now for the World Council of Churches program to combat racism hearings on Namibia, Monday, May 2, 1981, to Wednesday, May 4, 1988,[1] 9:00 a.m. to 4:30 p.m., 1310 Longworth House Office Building, Washington, D.C.

The objective of this historic three day event is to: expose government, media and the American public to the realities of the economic, political, moral and human rights issues surrounding South Africa's 20 year illegal occupation of Namibia and encourage urgent action in the United States for a free Namibia.

Logistical preparations being made with assistance from the Washington Office on Africa. For more information call the Washington Office on Africa, (202) 546-7961.

---

[1] May 4th marks the 10th anniversary of the Kassinga massacre when South African troops murdered more than 1000 defenseless Namibian men, women and children refugees.

□ 1755

TRIBUTE TO GEORGE A. PARKER

The SPEAKER pro tempore (Mr. MINETA). Under a previous order of the House, the gentleman from Maine [Mr. BRENNAN] is recognized for 5 minutes.

Mr. BRENNAN. Mr. Speaker, I rise before the U.S. House of Representatives today to honor the dedicated career of Mr. George A. Parker as a veteran fireman for the Rockport Fire Department in Rockport, ME. Mr. Parker has served as a volunteer fireman since January 4, 1918. He has just recently celebrated 70 years as an active member of the fire service. At the age of 86, Mr. Parker still plays an active role in the daily duties of the Rockport Fire Station. His duties include maintaining the station, as well as making sure that all of the fire equipment is ready for emergency use.

He enjoys serving his community while sharing his expertise and knowledge with his fellow colleagues.

Mr. Parker embodies the true spirit of volunteerism which is so important to the benefit of America. I join with other First Congressional District residents in extending sincere thanks to Mr. Parker for his 70 years of service and dedication to his community. He has been a leader for his colleagues, an inspiration to his community, and a dedicated servant to the fire service.

OPELIKA, AL, HIGH BAND RECEIVES AWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Alabama [Mr. NICHOLS] is recognized for 5 minutes.

Mr. NICHOLS. Mr. Speaker, I would like to take this opportunity to congratulate members of the Opelika High School band, who are from my district in Alabama, for receiving the highest honors award for their performance in the 1988 Cherry Blossom Parade which was held here in our Nation's Capital earlier this month.

Besides the highest honors award, Mr. Speaker, the Opelika High School band's drum major Lee Thrower received a first place award and the concert band was honored with a superior rating by the Cherry Blossom Festival judges.

Those of us from east-central Alabama have known for some time that the Opelika High School band is of superior quality and that it provides a great deal of entertainment for all during the halftime of every Opelika Bulldog football game and at various parades throughout the year. And, so, Mr. Speaker, I would like to extend our congratulations to Mr. Mike Stough, the band's director, and all the fine young men and women of the Opelika High School band for helping to make this year's Cherry Blossom Parade a memorable event for everyone involved.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. DAVIS] is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today under this special order to come before the House to explain an inconsistency that occurred in the Sun Times Newspaper in Chicago regarding the vote on the antipornography amendment last Tuesday.

Mr. Speaker, I was detained in my district and I can tell my colleagues that the air traffic control system, the hub airline system, and airline policies plus maintenance gremlins all conspired to prevent me from arriving back here until 6:10 p.m. on Tuesday, April 19, 1988, for the vote on the conference report on H.R. 5.

Consequently, I was not here for rollcall No. 55, which was on House Resolution 422 to support the INF treaty and to provide for the continued security of NATO, on which I would have voted "yes," and my vote would have not changed the outcome of the bill since it passed overwhelmingly.

Also rollcall No. 56, H.R. 4401, to ban the dial-a-porn procedures currently on the telephone exchanges. That is the same language that is in the Helms amendment that I had previously supported on two different occasions, and I would have supported again had I been here. However, this is the one that was reported through inadvertent editorial license in the Sun Times. It was reported that I had voted "no," which was very contrary. I did not vote, but I want it perfectly clear that I supported that amendment and would have voted "yes."

Also on rollcall 57, House Resolution 427, to order the previous question on the rule on that particular bill. I would have voted "no" on that and that also would not have changed the outcome.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. SISISKY] is recognized for 5 minutes.

Mr. SISISKY. Mr. Speaker, Tuesday, due to a death in my family, I was absent when the House considered the conference report on H.R. 5, Elementary and Secondary School Improvement Amendments of 1988, and H.R. 422, a resolution of support for the INF Treaty. However, had I been present, I would have voted "yea" on both measures. In addition, I would have supported the amendment to ban dial-a-porn telephone operations.

THE 73D ANNIVERSARY OF THE ARMENIAN GENOCIDE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise today to call the attention of my colleagues to the 73d anniversary of the Armenian genocide which will be marked by appropriate ceremonies across our Nation and worldwide, as those of Armenian descent, and their friends and neighbors, commemorate the sad day—April 24, 1915—that more than 1 million Armenians lost their lives at the hands of the Ottoman Empire.

In observance of this occasion, Chairman Paul G. Kirk, Jr. of the Democratic National Committee has issued a statement entitled "Armenian Martyrs' Day" which follows:

STATEMENT BY CHAIRMAN PAUL G. KIRK, JR.—ARMENIAN MARTYRS' DAY, APRIL 24, 1988

On April 24, 1988, Armenian Martyrs' Day, we pause to remember and pay homage to the more than one million Armenian lives systematically destroyed by the Ottoman Empire from the years 1915-1923.

It is perhaps beyond the scope of normal human capacity to grasp and comprehend the calculated death and destruction of hundreds of thousands of men, women, and children, at the hands of other human beings. On this day, however, it is our solemn responsibility to remember, to understand, and to learn from this repugnant event in world history that was the first of its kind in the twentieth century.

We must remember, in part, because there are some within the world community who seek to obscure history's truths and lessons regarding the Armenian genocide. Let us take this opportunity to reiterate the truth. The Armenian genocide is a historical fact that has been well documented in American newspapers, protested by the United States Congress, and recognized by numerous U.S. presidents.

All of us must go beyond mere recognition, however, and learn from this horrible tragedy. We must understand that genocide is real; that it has occurred at other times both before and after the Armenian massacre; and that it can happen again.

I believe the best way that we can honor those people who were lost from 1915-1923 is to remember the magnitude of their tragedy, and to pledge never to remain silent on the issue of the Armenian genocide. We must teach future generations about the horror and reality of genocide, so that the awful deeds perpetrated from 1915-1923 will never be repeated.

Mr. Speaker, as we recall and mourn the loss of the Armenian martyrs earlier in this century, so, too, should we now pledge ourselves to continue the fight against the spread of terrorism and irrational violence and destruction so that our common humanity may survive in a more peaceful world where such atrocities hopefully cannot recur.

COMMEMORATING THE 40TH ANNIVERSARY OF ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. SCHEUER] is recognized for 60 minutes.

Mr. SCHEUER. Mr. Speaker, I am very proud to sponsor this special order, along with my colleague and friend, the gentleman from New York [Mr. GILMAN]. This special order commemorates the 40th anniversary of the State of Israel, and by the Israeli calendar, on this very day.

The moral and strategic bonds between Israel and the United States are stronger than ever.

Israel stands out as the United States greatest ally in the Middle East. Since the signing of the historic memorandum of understanding on strategic cooperation in November 1983 the two nations have held joint naval, antiterrorism, and medical exercises, and undertaken a wide array of joint research and development projects.

With the signing of the United States-Israel Free Trade Area in 1985, customs duties on all traded goods will be phased out within the 10 years, paving the way for expanded trade relations as well.

American economic and military assistance to Israel is a cost-effective investment in our strategic interests in the Middle East. Current aid to Israel is less than 3 percent of United States expenditures on NATO's defense of Europe and a fraction of the cost of defending east Asia.

During Israel's short modern-day history, its citizens have made remarkable accomplishments. They have turned its deserts green and developed agriculture and high-tech industries which meet the needs of countries around the world.

Israel has been remarkably successful in developing a semiarid agricultural system. Israel has much to offer the Third World in the areas of agriculture and water resource development.

In a region ruled by totalitarian governments, Israel stands tall as the only democracy in the Middel East.

A citadel of religious and political freedom in the region, Israel offers equal citizenship to Arabs and Jews alike, and has raised the standard of living for all its citizens.

In response to imminent attack in 1967, Israel liberated Jerusalem, where now, people of all faiths can freely practice their religion.

The State of Israel began with Theodore Herzl's vision of the Jewish people reuniting in the land of Israel.

The realization of this dream was miraculous. No other Nation has returned to its homeland to renew its language and cultural after a separation of 2,000 years.

The young State of Israel served as a haven for Jews escaping persecution in Europe, the Soviet Union, and Arab countries throughout the Middle East.

In the 1980's, Israel continues to offer a homeland for Jews throughout the world; from persecuted Jews in the Soviet Union to the Jews of Ethiopia.

The vision of a Jewish homeland has been largely realized.

But the people of Israel, and Jews throughout the world continue to dream that Israel will one day live in peace with her neighbors.

While emerging victorious in four major wars, the people of Israel have paid a heavy price to protect their country against aggression from their Arab neighbors. In the war of independence, Israel lost 1 percent of its population.

The Camp David accords demonstrated that peace is possible. But the territory of the West

Bank is much smaller than the Sinai and much closer to the Jewish heartland and population centers. We must remember that for Israel there is only one war to lose.

We all hope for peace in the Middle East. For 40 years the people of Israel have searched for a lasting and sustainable peace.

All of us who have watched the progress Israel has made over the last 40 years eagerly await the achievements that the next 40 years will bring.

THE 40TH ANNIVERSARY OF THE FOUNDING OF THE STATE OF ISRAEL

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from New York [Mr. GILMAN] is recognized for 60 minutes.

Mr. GILMAN. Mr. Speaker, today is a day all Americans can celebrate; today is the 40th anniversary of the founding of the State of Israel, Yom Haatzmaut. Israel's independence anniversary falls today according to the Jewish calendar; according to the civil calendar, the anniversary will be on May 14, 1988.

I am honored to join with my colleague, the gentleman from New York [Mr. SCHEUER] in sponsoring this special order today, so that our colleagues may have an opportunity to express their thoughts on this momentous occasion.

The relationship between the State of Israel and the United States goes all the way back to the creation of the state in 1948. The United States, having supported the partition of the British mandate by the United Nations, immediately extended recognition to the Jewish state.

The history of modern Israel is well known. Those who study that history recognize that the American people have always stood shoulder to shoulder with the people of Israel. Our relationship is based on mutual respect and shared values—values of democracy, hard work, and tolerance. We identify strongly with Israel, and we are extremely gratified to see its many attainments through the years.

Mr. Speaker, those achievements of the people of Israel could scarcely have been imagined 40 years ago. Israel absorbed hundreds of thousands of immigrants, including many from very underdeveloped parts of the world. Zionist pioneers joined immigrants from around the world to forge a modern, democratic society; a society with an advance welfare state; a society that, because of the hostility of most of its neighbors, needs and maintains a strong, modern army.

Today, Israel faces new challenges. It spends enormous sums to maintain some semblance of a military balance with Syria, armed to the teeth by the Soviet Union. A war forced on it in 1967 left it with occupied territories populated by Palestinians; it has been unable to persuade its neighbors to enter into negotiations to settle the final status of those territories. Recently, violence has erupted in those territories; Israeli reactions have been misunderstood and misinterpreted by many, including by some Americans. But the overwhelming majority of the American people recognize that the people of Israel are genuinely trying to find a way out of the dilemma in which they find themselves.

The point of view of the current administration, the Congress, and the American people as a whole is that we do not abandon our friends when they are in trouble. This applies, all the more so, to friends as close as Israel. In fact, today the President Reagan and Israeli Prime Minister Shamir will be signing a memorandum of agreement extending, for the next 5 years, the economic, military, intelligence, and political cooperative arrangements between our governments. This agreement is a further demonstration of the continuing close ties between our governments; and I am confident that the ties between the American and Israeli people will endure despite whatever difficulties Israel finds itself in at the present time.

Mr. Speaker, American visitors to Israel tell me that life goes on as usual. Everyone talks about the political difficulties and the disturbances, but everyday life goes on. The Israelis continue to make advances in science, culture, medicine, and art. Tonight, Israelis will celebrate the anniversary of the founding of their state with the traditional street celebrations. And, in spirit, the American people will be with them.

Let us hope and pray, that before Israel's 41st anniversary celebration, that Israel's Arab neighbors will negotiate a direct and long-last peace with the State of Israel.

Mr. Speaker, I am pleased to yield to the gentleman from Oregon [Mr. AuCOIN].

Mr. AuCOIN. Mr. Speaker, this is the week of remembrance. It not only marks the 50th anniversary of Kristallnact: the night of the broken glass, in which government-sponsored mobs vandalized Jewish synagogues across Germany. It also marks the 40th anniversary of the birth of Israel.

The spirit that revived the 2,000-year-old dream for the Jewish people to return home, even in the darkest days of the world's history, is best described in Israel's national anthem, Hatikvah, which means the hope.

So long our hopes not yet lost
Two thousand years we cherished them
To live in freedom in the land
Of Zion and Jerusalem.

This freedom is the same freedom that binds America to the State of Israel, the only open pluralistic, egalitarian society in the Middle East.

Despite Israel's 40 years of aggressive wars against her, she has bloomed from a barren desert into one of the most technologically advanced countries in the world.

This success could not have occurred without Israel's commitment to democracy for all people, both Arabs and Jews. Embedded in her traditions and confirmed by the protection of her government, are the fundamental laws of civil liberties for all citizens guaranteeing freedoms of press and religion and the right to hold public office.

While the current problems of the day prove to be of great concern to all of us, we must not forget the miraculous contributions Israel has given to not only the United States, but the entire world.

The United States has profited from Israel's strategic value as a strong reliable ally. In addition, United States-Israel cooperation extends to other countries. From sharing her irrigation methods with African nations plagued with drought, to sending medical technology to health clinics in Asian countries, Israel has given the world important advances in all fields of life.

As the Declaration of Israel's Independence States, "The land of Israel is the birthplace of the Jewish people. Here the spiritual religious, and national identity was formed." She continues to be the hope of the Jewish people. Since her birth 40 years ago, Israel has opened her borders and absorbed over 1 million Jewish immigrants and refugees from all corners of the world suffering from persecution. This resettlement continues even today with the recent rescue of Ethiopian Jewry.

That persecution also exists today, even in the United States. Recently in my district, two synagogues were vandalized in Portland, OR, with anti-Jewish slogans painted in hateful red. This incident concerns me greatly, considering this week marks the 50-year anniversary of the last horror of synagogue desecration. We can't be guilty in this country of letting history repeat itself.

Let us join today in celebration with Israel and share her 40 years of success, let us also hope for the progress of her next 40 years.

□ 1810

Mr. GILMAN. Mr. Speaker, at this time I yield 5 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, having had the opportunity to visit in Israel in January of this year I can better appreciate the sacrifices that have been necessary for Israel to prosper and to exist in a hostile environment amidst hostile neighbors. It is only through the dedication of those Jewish people who have left their place of birth and go to Israel to make it possible for that great country, and this has brought today the 40th anniversary of that great country.

Mr. Speaker, I commend the people of Israel for those sacrifices, and I wish for them many more years of democracy, peace, and prosperity in that land.

On this 40th anniversary I also commend my American Jewish friends and neighbors for the staunch support that they have given to Israel, both spiritual and material, in these 40 years which have contributed to much of the success of Israel and will continue to contribute to their success in the years to come.

Mr. Speaker, on this happy occasion I wish for Israel that she will be able to negotiate the kind of long-term peace with her neighbors that will make prosperity easier for her in the future, but wish for her continued vigilance in the event that that peace is not possible so that she will be able to exist as an important ally to this country and that important part of the world.

I thank the gentleman for allowing me to participate in this special observance.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from North Carolina for his supporting remarks.

Mr. LOTT. Mr. Speaker, I am pleased to join in this special order commending Israel on the 40th anniversary of its independence as a modern state.

As Americans, we feel a special kinship to Israel both because of our Judeo-Christian heritage and our own struggle as a tiny Nation for independence against great odds. Our abiding commitment to the establishment and preservation of the State of Israel is deeply rooted in these spiritual and democratic values, and remains as firm and unshakable today as it was in the beginning.

The admiration and devotion which the American people hold toward the State of Israel grew over the years as we witnessed its heroic efforts to resist invading armies and to grow and prosper on a tiny stretch of barren land which soon bloomed, just as the Zionist dream had come to full flower.

Mr. Speaker, nothwithstanding the fact of this modern miracle, we should have no illusions that this is a perfected work. As daily headlines remind us, this remains a troubled part of the world, and Israel, like most Nations today, has its own share of problems with which it must deal. But perhaps this 40th anniversary of its existence as a modern state will give it cause to rededicate itself to the dream of its Zionist father, Theodor Herzl, of a nation where the Jewish people would live "as free men on our own soil, and in our own homes die peacefully;" and of a world that would be "liberated by our freedom, enriched by our wealth, magnified by our greatness."

Herzl went on to express the hope in 1896 that "whatever we attempt there for our own benefit will redound mightily and beneficially to the good of all mankind."

Mr. Speaker, this should also be a time for us as Americans to rededicate ourselves to those principles and values on which both of our countries were founded, and particularly to ensuring that they will continue to be embodied in a free and secure Israel—our valiant ally in a sea of hostilities. May our continuing friendship and support enhance the prospects for peace and freedom in the Middle East and for many more anniversaries of independence for the State of Israel.

Mr. MACK. Mr Speaker, today as we celebrate the 40th anniversary of Israel's independence, I would like to draw attention to the positive values of the United States relationship with Israel and express some of my concerns about the hopes for Israel's lasting security.

I had the good fortune to visit Israel in December 1987, where I met with several Israeli leaders, including Foreign Minister Shimon Peres. I was moved by the strong values of freedom and democracy which the Israelis have embraced, and I returned to the United States with a very positive impression about the future of our relations.

The cooperative and mutually beneficial relationship between the United States and Israel has matured rapidly in recent years, and is sure to provide greater benefits to America. Of course, we know the United States and Israel maintain a free trade agreement through which our exports to Israel have increased to almost $2 billion annually. In addition, since Israel also participates in a free trade agreement with the European Economic Community, American businessmen can work in both regions with a long-term assurance of open markets.

Our hopes for such an increasingly beneficial relationship hinge on the prospects for regional stability. The tragic violence in the occupied territories in recent months has strengthened the resolve of U.S. officials in their efforts to pursue a peaceful settlement to Middle East conflicts.

Regrettably, I believe too much responsibility for the success of these efforts has been placed on Israel's willingness to participate in an international peace conference and accept a settlement to "trade land for peace." We must remember that we can never trade freedom for peace.

The basic conflict in the Middle East stems, not from Israel's reluctance to negotiate, but from the refusal of the Arabs and the Palestinians, with the exception of Egypt, to recognize Israel's right to exist as a free and independent nation. Progress toward peace is also thwarted by the Palestinian Liberation Organization's violence and intimidation of moderate Palestinians who might be willing to deal peacefully with Israel.

Israel is a close friend of the United States, and we should not expect Israel to risk its vital security interests without formal commitments by the surrounding Arab States that they will recognize Israel's right to exist. And we must continue to support Israel's insistence that it will only negotiate with representatives of the Palestinian people that renounce violence and terrorism.

Mr. McHUGH. Mr. Speaker, it is a privilege for me to join in celebrating the 40th anniversary of the creation of the State of Israel.

Less than a century has passed since Theodore Herzl first stirred the imagination and the longings of Jews everywhere for a homeland that would become, in the ancient words, "a light to the nations."

That the dream of Theodore Herzl should have come true so quickly is a milestone in history. That the State of Israel should have grown and flourished so rapidly in four short decades is an extraordinary achievement wrought by human hearts and hands: the love of Israel and her values that runs so deep in so many human hearts, and the willingness to sacrifice and labor by so many human hands.

Because of that love and that labor, Israel has become truly a homeland, the desert has indeed bloomed, and the Jews of all nations who gather at the Western Wall have indeed claimed their promised land.

Yet this anniversary, a time of jubilation and admiration for all friends of Israel, comes at a time of crisis and challenge. It is a time when Israel must again protect its security while avoiding destructive excesses that could compromise and inevitably erode its deepest values. The unrest in the West Bank and Gaza brings into sharp focus the need to make every effort to reach a negotiated settlement as a necessary step in establishing peace in the region.

I am aware of the awesome difficulties that lie ahead in such an undertaking, involving the participation of Syria, Jordan, Israel, and the Palestinians. I am aware that the possibility of trading land for peace constitutes a painful risk for all Israelis and friends of Israel. Still, there is greater risk in Israel and her neighbors failing to address directly the unresolved political issues—full acceptance by the Arabs of Israel's existence and security, and a just and balanced resolution of Palestinian aspirations.

Mr. Speaker, I hope that people of good will everywhere, as they celebrate this anniversary without forgetting its challenges, will recommit themselves to working for peace for Israel and its neighbors, that peace of Jerusalem for which the ancient teachers admonished us to pray ceaselessly.

Mr. ANNUNZIO. Mr. Speaker, I rise to join my colleagues in the House of Representatives in recognizing the State of Israel on the occasion of its 40th anniversary. It was 40 years ago, at midnight May 14–15, 1948, the fifth and sixth days of Iyar, 5708 under the Jewish calendar, that the British mandate came to an end and the State of Israel was born.

During the last 40 years, Israel's citizens have developed their nation with determination and enthusiasm, and have accomplished in a few short years what most nations never achieve. This has all been done under the constant and persistent threat of hostile neighbors, who repeatedly have tried to destroy this tiny nation. Nevertheless, the commitment to peace in the Middle East of the State of Israel has never wavered, and the people of Israel have demonstrated time and again their willingness to make great sacrifices to achieve this objective.

In 40 short years, the people of the State of Israel have turned the desert into a modern agricultural and technological state. As the only democracy in the Middle East, Israel remains our trusted ally and friend, and continues as a beacon of hope for Jews who still are experiencing severe persecution under Communist rule.

Today, as Israel struggles internally over how best to achieve a lasting peace, the Arab world still is deadlocked over whether it should ever make any peace at all with Israel. The Camp David accords agreed to by Egypt and Israel were rejected by all the other Arab countries, and eventually culminated in the assassination of President Anwar Sadat.

At this point in the RECORD, I would like to include a statement prepared by the American Israel Public Affairs Committee, on the occasion of the 40th anniversary of the founding of the State of Israel. A copy of this statement follows:

ISRAEL AT 40: A MODERN MIRACLE

This week Israel celebrates the fortieth anniversary of its rebirth. Despite four decades of terrorism and wars directed against it, of international isolation and even vilification, the reborn Jewish state has become the single most successful example of nation-building in the post-war era. It is a democracy in a part of the world where there are no other democracies, a country with technologically advanced industries and cutting-edge agriculture, a society where arts and sciences flourish, a refuge and a beacon. In fact, Israel has succeeded in ways its citizens and its overseas supporters—focusing almost exclusively on the events of the day—sometimes take for granted.

Forty years ago, 600,000 Jews, driven by a vision of renewal in their ancient homeland, declared their independence. Although under attack by neighboring states dedicated to its destruction, Israel willingly absorbed one million Jewish refugees. Many were survivors of the Holocaust, mankind's greatest evil to mankind, while others were refugees from Arab and Muslim persecution. Despite the difficulty of establishing a new nation while under attack and with a small economic base, all of the new refugees were housed, fed, and ultimately employed. Indeed, Israel even absorbed thousands of Palestinian Arabs left homeless by the Arab invasion of the nascent Jewish state.

Then, as now, Israeli leaders sought ways to make peace with their Arab neighbors. After the British had announced their intention to leave Palestine in 1947, the United Nations developed a proposal to partition that part of Palestine on the western side of the Jordan River. (Transjordan, the territory of Palestine on the eastern side of the Jordan River which comprised 80 percent of the original League of Nations mandate of Palestine, eventually became the Kingdom of Jordan.) After much debate, the Jewish leaders agreed to accept the UN partition lines even though they realized that this new state would be almost indefensible and did not fulfill their full desires. Palestinian leaders and all Arab states rejected the UN partition plan (which would have created an Arab Palestinian state in what is today called the West Bank and Gaza) and restated their avowed intent to destroy the new nation.

Israel survived its War for Independence and further Arab aggression which led to major wars in 1956, 1967 and 1973. After each War, Israel renewed its search for peace—a search that led eventually to a peace settlement with Egypt negotiated at Camp David. This longing for peace continues within Israel today. While the two major political parties in Israel differ on the best methods to pursue on the path toward peace, the debate in Israel remains one of how to make peace not whether, while in most of the Arab world the question remains one of whether or not to make peace.

The United States and Israel share a unique partnership, evident in the strategic, diplomatic and economic spheres. Being forced to survive among states eager to destroy it has led Israel to develop one of the finest military operations in the world. In turn, Israel's strength has enabled it to become a strategic asset to the United States of unparalleled value. Israel is now considered a "Major Non-NATO Ally" and is a major component of the free world's defense strategy.

Because of Israel's unique location in the eastern Mediterranean on the southern flank of NATO, strategic cooperation between our two nations helps maintain America's vital national security interests. At the United Nations, Israel votes with the United States more consistently than any other nation. Despite misgivings on the ramifications for Soviet Jewish emigration, Israel has allowed the United States to proceed with the construction of a Voice of America transmitter to broadcast into Soviet Central Asia. Israel was also the first nation to agree to a Free Trade Agreement with the United States to eliminate tariff barriers.

During the past 40 years Israelis turned swamps into lush fields and made the desert bloom. Israeli farmers exchange agricultural advances with American farmers and have helped American Indians to cope with similar environments. Israel's experiences have served as a model for other developing nations and Israeli experts now train agricultural planners and farmers around the world.

This nation of immigrants—from over 70 countries—now boasts seven major universities, with numerous other institutions of higher education. Today, Israel maintains world class status in advanced non-military industrial fields including biotechnology, medical instrumentation, fiber optics, and computer software.

Israel is one of the world's few democracies and the only one in the region. Like all democracies, Israel has it flaws. This should not obscure the reality that Israel's democratic institutions guarantee by law equal rights for all its citizens, Arab and Jew alike. Four decades of threats stemming from Arab radicalism and Islamic fundamentalism have not diminished Israel's commitment to human rights—including safeguarding individual rights from the arbitrary power of the state, basic equality for women, freedom of religion, a robust free press, and checks and balances to prevent abuses of authority.

Israel's establishment and survival have seemed nothing short of miraculous. But as Israel's Ambassador to the United Nations recently pointed out:

"The Jewish people have fought for 3,000 years for their place under the sun. They've fought in a battle of unsurpassed pain and unsurpassed triumph. In this 40 years we've had the compression of the Jewish people's greatest tragedy and the compression of its greatest triumph. We came out of the grave where every third Jew was slaughtered and then we crawled back and were able to roll back a tide of armies and liberate our ancient capital and rise up and stand . . . We have a tremendous amount to celebrate . . . We refused to die and came back to life and this is a celebration not only important to Israel and to the Jewish people because it is a symbol of the battle that is really going on today in the world. What kind of future do we want? The future of the Qaddafis and the Khomeinis and the Arafats—or the future of something else? That is what we're celebrating."

Mr. Speaker, I am proud to join with the citizens of the State of Israel, and their friends in the 11th Congressional District of Illinois which I am honored to represent, as well as their friends throughout the world, in celebrating the 40th anniversary of the founding of the State of Israel. Let us all hope and pray that this year will bring a lasting peace in the troubled Middle East, so that Israel may continue to grow and prosper without the continued threat of terrorism and violence.

Mr. SYNAR. Mr. Speaker, today, Israel celebrates the 40th anniversary of its rebirth. I join with all friends of Israel in observing the foundation of a democratic nation with which the United States shares a unique partnership evident in the strategic, diplomatic, and economic spheres.

Like Israel, the United States is a democracy whose Constitution, laws, and institutions guarantee the equal rights of all its citizens. Like Israel, the United States is a diverse society drawing from the strength of many peoples and languages and cultures. Like Israel, the United States is a major component of the free world's defense strategy.

Like Israel, the United States has its flaws. This should not obscure the reality that both our nations are committed to liberty and justice for all, including safeguarding human rights and protecting individual liberties from the arbitrary power of the state, freedom of religion, equality for women, a robust free press, and checks and balances to prevent abuses of government power.

Forty years ago, 600,000 Jews, driven by a vision of renewal in their ancient homeland, declared their independence. Israel's establishment, and its survival and success throughout these 40 years, provide the whole world with a model for self-determination, democracy, and freedom.

Today we look to Israel's past, present, and future, confident that the original vision of a secure homeland at peace with its neighbors will indeed become a living reality. Israel's Ambassador to the United Nations recently pointed out the vital significance of the future for today's celebration:

> The Jewish people have fought for 3,000 years for their place under the sun. They've fought a battle of unsurpassed pain and unsurpassed triumph. In these forty years we've had the compression of the Jewish people's greatest tragedy and the compression of its greatest triumph. We came out of the grave where every third Jew was slaughtered and then we crawled back and were able to roll back a tide of armies and liberate our ancient capital and rise up and stand. . . . We have a tremendous amount to celebrate. . . . We refused to die and came back to life and this is a celebration not only important to Israel and to the Jewish people because it is a symbol of the battle that is really going on today in the world. What kind of future do we want? The future of the Qaddafis and the Khomeinis

and the Arafats—of the future of something else? That is what we're celebrating.

Mr. HOYER. Mr. Speaker, I take this opportunity to celebrate the 40th anniversary of a young country, the homeland of an ancient people. For 40 years, Israel, the modern-day fulfillment of nearly 2,000 years of struggle and longing by the Jewish people to reestablish their historic nation, has been a vibrant, thriving democracy.

Alone among the nations of the Middle East, Israel is a parliamentary democracy. Without question, Israel has experienced its share of problems and difficulties. However, it is important to remember that this nation shares in the great traditions of the Western democracies. Indeed, many of our most enduring and important traditions—political, social, and cultural—evolved from the Judaeo-Christian religion, a product of this land.

It is all too easy for today's critics of Israel to point accusingly to the continuing unrest in the West Bank and the Gaza Strip. But, it is important to bear in mind that for 40 years Israel has been surrounded by hostile neighbors. These neighbors have repeatedly vowed to destroy Israel, to drive her people into the sea. It is truly remarkable and an amazing testimony to the resiliency, the courage, and the tenacity of the Jewish people, that under extraordinarily trying circumstances, Israel has remained committed to democratic principles, has pursued peaceful accommodations with its neighbors, and its people have persisted in making outstanding contributions in the sciences and the arts.

Mr. Speaker, Israel, a faithful American ally and a reliable friend, is located in a strategically important region of the world. Israel does not have the oil resources of many of its neighbors. What Israel does have is a population that shares the values of the American people. As we mark the 40th anniversary of the rebirth of Israel, the House of Representatives and the American people should remember the thousands of years that the Jewish people, dispersed throughout the world, struggled to reestablish their own homeland. We should also remember the horror of the Holocaust, when a modern industrial state turned much of its might toward the destruction of the Jewish people, and much of the world silently watched. Forty years ago, the effort fo the modern Zionist movement culminated in the creation of a Jewish state, a modern, pluralistic, and democratic nation, where the Jewish people might live in peace with its neighbors.

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to the people of Israel as they celebrate the 40th anniversary of their country's rebirth. It is truly an honor to be able to salute the citizens of this brave and courageous nation.

For 40 years, the State of Israel has survived. Despite being surrounded by a sea of hostility, despite efforts to isolate her internationally, despite all attempts to destroy her, the nation of Israel has survived. Not only survived but prospered. Israel has become a symbol of democracy and stability in a region known for its constant turmoil and fanatical rule. She has become an example for the world as to what can be done when a people truly believe and dedicate themselves to these beliefs. The people of Israel have fought, sacrificed, and died for their land and their convictions. For this, they have our highest respects.

We must also remember that Israel has proven to be one of the United State's most reliable and loyal allies. Israel's democratic institutions, so similar to our own, ensure that the United States will have a stable partner in the volatile Middle East. In an area where U.S. national security interests are critical, we have come to depend on Israel for her knowledge and support. Israel is our ally and friend, and on our support and good will she may always rely.

Mr. Speaker, I offer the people of Israel my sincere best wishes on the day of their nation's 40th birthday. Israel and her citizens have earned our respect, friendship, and our allegiance. As she has already accomplished so much, we can only look forward to another 40 years of achievements and triumphs.

Mr. DORGAN of North Dakota. Mr. Speaker, I am pleased to join my colleagues today in commemorating the 40th anniversary of the founding of the State of Israel.

Forty years ago today, the world witnessed the founding of a fledgling democracy, born out of the Holocaust and nurtured by the promise of freedom for Jews around the world. Since that date, the State of Israel has matured and flourished both as a democracy and as a strategic ally of the United States.

During the growth of Israel it has offered citizenship within its national borders to Arabs and Jews alike. Both groups have benefited from the impressive economic growth and improvement in the standard of living that Israel has achieved.

But Israel has unfinished business. A beacon and refuge of freedom for Jews around the world, Israel is especially important to the Jews of the Soviet Union. Hundreds of thousands of Jews there face daily the grim and grinding existence of life as an oppressed minority. For them, the dream of a homeland in Israel makes bearable the intimidation, uncertainty and hopelessness of life in the U.S.S.R. For Soviet Jews, there is hope so long as they can dream of "next year in Jerusalem."

The United States Government has sought to help by urging the Soviet Union to increase the number of exit visas for Soviet Jews in refusal. This must remain at the top of our negotiating agenda with the Soviet Union.

We should also be redoubling our commitment to the building of a durable and just peace in the Middle East, which includes not only self-determination for the Palestinian people, but also recognition of the State of Israel and its legitimate security interests.

In that process, the United States will remain a firm and dependable ally. And today in Congress, we salute our most important ally in the Middle East, the State of Israel, on the occasion of its 40th anniversary.

Mr. JEFFORDS. Mr. Speaker, I'm pleased to join Representative SCHEUER and Representative GILMAN in this special order commemorating the 40th birthday of the State of Israel.

It is appropriate on such an occasion to think back to the moment of birth, when Israel emerged from the ashes of a decade of terror and holocaust to form a nation, open to Jews the world over. From a tenuous beginning—just 600,000 Jews, most of them refugees, surrounded by hostile neighbors—the State of Israel has evolved into a thriving nation, and one of our closest allies.

The path of the Jewish people that led to the creation of the State of Israel is a long and tortured one. The suffering of centuries perhaps partly explains the energy and commitment of Israel's citizens to the task of building a modern economy, an open society, and a powerful military. Her dedication to rapid nationbuilding has allowed little time for her citizens to reflect upon the accomplishments of the past four decades. I hope that this will be such a time.

During this celebration of accomplishment, I would hope that Israelis will also reflect upon the future, and how they can best channel these energies of celebration into a focus upon peace. The current unrest in the occupied territories is in some respects a function of the coming of age. Problems that are less pressing at creation later become more central issues. The threats to the security of Israel are very different now than 40 years ago, and therefore the solutions must also employ new creativity, new approaches, and greater flexibility.

As Israel struggles to resolve the problems of the occupied territories, America must stand firmly behind her, supporting her in the difficult task of wrestling with these central issues. I am confident that with the support of the United States, Israel will have the courage to resolve these issues. No one can do this for her. But we can and must be supportive of the process.

I have very fond memories of my trip to Israel. The vitality and community of the Israeli people made a strong impression upon me and continues to influence my thinking on the Mideast. Until such time as I can revisit Israel, I am appreciative of this opportunity to join the many other Members of Congress in wishing Israel a very happy 40th birthday.

Mr. BILIRAKIS. Mr. Speaker, 40 years ago today, the people of Israel realized their most ardent dream: The establishment of the State of Israel as a free and independent nation.

However, even today—after 40 years of independence—the people of Israel must fight, they must live with threats, they must endure the ravages of terrorism at home and abroad. Israel is a free, but not a secure nation.

However, Israelis have a message for the nations of the world, for the Soviet Union that continues to oppress and hold captive Jews within its borders, for terrorists who continue their cowardly and criminal acts: For as long as we must fight, we will fight; for as long as we must live with threats and worse, we will, and for as long as we must endure terrorist attacks, we will endure.

I have seen firsthand the strength and intensity of the Israeli spirit. I have seen what Israelis have done in their land—turning desert into fruitful ground; creating cities where there was nothing. I was deeply impressed and inspired by this spirit because it was a spirit of building for a constructive purpose.

Mr. Speaker, one of the great tragedies that flies in the face of this accomplishment is that so many for whom the State of Israel is a shining beacon are not free to settle there.

Hundreds of thousands of Jews continue to be mistreated by Soviet authorities—thousands of refuseniks who want the simple freedom to settle in another country where they can live with the dignity every person deserves and is entitled to.

We must never forget that so many Jews in the Soviet Union are being degraded. Whenever we rejoice in the release of an Anatoly Shcharansky or an Ida Nudel, we must remember the thousands yet confined. We must remember those who suffer as did Yuri Tarnopolsky, the Jewish chemist who was convicted of slandering the Soviet system after he compared the Soviet leaders to the Nazis in their treatment of the Jews.

All Americans must continue to speak out—to raise our voices in protest of the mistreatment of our fellow human beings. Though the Soviet leaders ignore our voices—as they have been ignoring them—we must continue to speak out. We must ensure that the cause of human rights is prominently placed on the agenda of any summit, any conference and any meeting between the United States and the Soviet Union.

We must continue to call attention to the abuse of Soviet Jewry until the world is united in revulsion for Soviet atrocities, until the thousands yearning only to live free are allowed to do so. This is a simple matter of right versus wrong. We just cannot allow any people to be deprived of their dignity.

Mr. Speaker, as with people, the same principle must be applied to nations. Like any free and independent nation, Israel is entitled to live in peace with its neighbors with assurances that its borders will be stable and secure and free from the threat of terrorist or military attacks.

Indeed, let us all on this day rededicate ourselves to the cause of peace and freedom. On this day let us support beneficial treaties of friendship such as that between Israel and Eygpt and let us all be united in opposition to the barbarities of terrorism.

The cause of peace has been too long a dark and dismal struggle in the Middle East. However, with God willing and man making the effort, there will be peace in that region.

We Americans must continue to play a role there—working with Jew and Arab alike, but ever in the knowledge that Israel is there to stay and that the United States never will forsake its commitment to that principle.

Indeed, we cannot rest until Israel is a free—and secure—nation; until life in the Middle East is one of peace and compassion, but above all freedom. That is the life everyone deserves and must have. For without freedom, there is no life.

Mr. COELHO. Mr. Speaker, I believe we can all agree that the darkest episode of the 20th century was the Final Solution, or as it is more commonly known, the Holocaust.

This attempt by Adolf Hitler and his Nazi hierarchy to exterminate the world's Jewish population, as well as other "undesirables," did not succeed as originally planned, but the death toll did reach unfathomable heights. We are all aware that 6 million innocent lives were taken between 1941 and 1944, an event which clearly must not be repeated.

I refer to this dark spot on Western civilization, Mr. Speaker, because it was from this period that the necessity for the creation of the nation of Israel became evident. The world's Jewish population must have a safe haven, somewhere on this Earth where they can be assured of physical protection from anti-Semitic prejudices. Israel is such a state.

By itself, this protection for the world's Jewish population would be enough to earn our most profound admiration. Israel, however, has moved far beyond that accomplishment and attained major successes in other critical aspects of society. I make this point, Mr. Speaker, because on this day, the 40th anniversary of the founding of the State of Israel, the world can look with astonishment at what this tiny country has achieved in a short period of time.

This small nation has developed a military and intelligence service which others now attempt to emulate. Of course, this was necessary to its very survival. Perhaps more impressively, its citizens have transformed a barren desert into rich agriculture land. Highly technical and industrial cities have sprung where previously only barren sands shifted. It has produced numerous scholars of significant achievement in various areas of academia. And, its Government provides a citadel of freedom and democracy in the Middle East. Thus, from this century's lowest historical episode came what perhaps will be seen as one of its most lasting achievements, the creation and development of the nation of Israel.

As I have noted, 40 short years have seen unbelievable progress for this tiny, yet resilient nation. I will eagerly watch as Israel makes further strides in its development as one of the world's leading states, and I am proud of the United States-Israeli ties which continue to remain so strong. Mr. Speaker, I thus take special pleasure in joining my colleagues as we commemorate the 40th anniversary of the founding of the nation of Israel.

Ms. PELOSI. Today marks the 40th anniversary of the founding of the State of Israel. I would like to thank my colleagues, Congressman SCHEUER and Congressman GILMAN, for calling a special order to celebrate this important event.

The history of the Jews spans millenia. After thousands of years of persecution, the Jews established their own state on April 21, 1948. After the Holocaust, 600,000 Jewish people, driven by a vision of a new life in their ancient homeland, exercised the right of self-determination. Over the past 40 years, Israel has shown the strength of the vision and commitment of these people, surviving three major wars through courage and perseverance. Through its struggles, the State of Israel has grown stronger and prospered in many ways, most notably by maintaining and building one of the strongest, truest democracies in the world.

The relationship between Israel and the United States has been, and I believe will continue to be, strong and unique. The nature of the special bond between the United States and Israel is not surprising. That bond reflects an understanding of the significance of Israel's existence to Christians and Jews alike, in addition to our strategic interest.

Israel is now involved in a tense situation in the occupied territories, which has caused much concern to many of its traditional supporters. I believe the United States will continue to support Israel through these trying times and that Israel will, as it has so many times in the past, emerge from this crisis stronger than ever. On this special day, I would like to reaffirm my commitment to a strong relationship between the United States and Israel. Thank you.

Mr. SIKORSKI. Mr. Speaker, today I would like to recognize the 40th anniversary of the founding of the State of Israel. We have a lot to celebrate. In these past 40 years, Israel has transformed itself from an ancient to a modern nation, has turned harsh brown desert into lush fields and has become an international symbol of the struggle for freedom and democracy.

On this special commemoration of Israel's birthday, I would like to honor the 40 years of friendship between America and Israel. The unique relationship between our two nations is based not solely in geostrategic considerations, but in shared values, a shared belief in justice and freedom and a shared commitment to equality and democracy.

Israel's very existence is a modern day miracle. Amidst a sea of hostility and adversity, Israel has flourished as a nation. And after 40 years, Israel represents the courage, strength, tenacity—and survival—of the Jewish nation. The realization of their 2000-year-old dream to rebuild a nation in the Land of Zion has reinvigorated the heart and soul of the Jewish people. Israel remains a symbol of hope and courage to people all around the world.

As Benjamin Netanyahu, Israel's former Ambassador to the United Nations, recently remarked:

> The Jewish people have fought for 3,000 years for their place under the Sun. They've fought in a battle of unsurpassed pain and unsurpassed triumph. In this 40 years, we've had the compression of the Jewish people's tragedy and the compression of its greatest triumph. We came out of the grave where every third Jew was slaughtered and then we crawled back and were able to roll back a tide of armies and liberate our acient capital and rise up and stand * * *. We have a tremendous amount to celebrate * * * We refused to die and came back to life and this is a celebration not only important to Israel and to the Jewish people—because it is a symbol of the battle that is really going on today in the world. What kind of future do we want? The future of the Qadafi's and the Khomeini's and the Arafat's—or the future of something else? That is what we're celebrating.

That triumph is truly a cause for celebration. Yom Huledet Samayach Yisrael!

Mr. GORDON. Mr. Speaker, 40 years ago tomorrow, on the 5th of Iyar 5708, the State of Israel declared its independence, and the British mandate in Palestine came to an end. This event marked the culmination not only of a deccades-long struggle by thousands of dedicated people, but of the dreams and aspirations that Jews all over the world had held for thousands of years.

On this day, 40 years later, I am pleased to join my colleagues in paying tribute to Israel, both for its tremendous achievement in building an advanced society and for its strong friendship and alliance with the United States.

When President Harry S Truman recognized Israel within hours of its declaration of independence, the United States became the first nation to have diplomatic ties with the new nation. Since then, our relationship has flourished, and Israel has been among our closest friends and most steadfast allies anywhere in the world.

In 1988, our friendship is as strong as ever, and it must remain so. In the volatile Middle East, Israel is an anchor of stability and security. As the only democracy in a troubled region of the world, Israel stands out as an ally with whom we share values, ideals, and interests.

But our support for Israel is not merely an expression of our strategic self-interest, but also an expresson of our moral commitment to the struggle of the Jewish people. The creation of the State of Israel reunited a people with its homeland after a 2,000-year exile. Born in the aftermath of the Holocaust, Israel was a beacon of hope for millions of Jews who were displaced by that tragedy. Ever since, Israel has been a home to Jews from all over the world.

During the last 40 years, Israel has faced numerous struggles and conflicts. Surrounded by hostile neighbors from the moment of its creation, Israel has continually had to defend itself from those who would destroy it. Israel has shown remarkable courage and resilience in the face of wars, terrorist attacks, and unfriendly world opinion, and her durability is a credit to her leaders and her society.

The challenges that Israel has faced and overcome, however, have not only been political and military. Building on the work of the Zionist pioneers who came to Palestine early in the century, the people of Israel have wrought an almost miraculous transformation of the land. They have made the desert grow. They have built a major city, Tel Aviv, on a Mediterranean beach. And they have created one of the world's leading industrial economies. Compare this record to the first 40 years of any country in the world, and these accomplishments become even more impressive.

Today, as Israel enters its 41st year, it faces perhaps its greatest challenge. We have all been disturbed by the discontent and violence among Palestinians in the occupied territories, and we sense that what is underway is a struggle over the soul of the State of Israel. If that is the case, Israel needs our help more than ever. We must stand by our friends through this time of turmoil, and we must join them in working for a strong, safe, and secure Israel. But we must also preserve Israel's special character as a homeland for the Jewish people, and as a democracy that protects the rights of all its citizens.

And so, Mr. Speaker, I am proud to join in this tribute to the State of Israel on its 40th birthday, and I look forward to celebrating many more.

Mr. DWYER of New Jersey. Mr. Speaker this week Israel celebrates its 40th anniversary as a nation. The nation of Israel was born out of the desire for a homeland and the willingness to fight to make that dream a reality. The proclamation by David Ben-Gurion 40 years ago, establishing the State of Israel, has had ramifications beyond the comprehension of many of that day.

Israel's history is not a 40-year story. It is a saga which has developed over centuries. However, the progress Israel has made as a nation during these last 40 years, is an example of survival, compassion, growth, and strength unequaled in modern history.

The creation of the modern state was not without enormous hardship. Although the United States was the first government to officially recognize the new state, Israel was not welcomed by its neighbors nor was it recognized by many in the world community. It opened its doors for the thousands of Jews worldwide seeking refuge after the war and for the survivors of the horror of the Holocaust. And it was the strength and determination of those people which turned the desert into a viable nation.

Still welcoming those in need of safety, Israel has taken in the Ethiopian Jews rescued through Operation Moses and gives them the opportunity to start new lives in the country which allows them to live their religious heritage.

During the past 40 years, Israel has established the only democracy in the region and made technological and economic advances which have enhanced the quality of life for its citizens. It has built seven universities; it as built museums and, through its progressive agricultural initiatives, it has turned barren areas into productive farmland.

The bonds between the United States and Israel are deep and will not be broken. Israel is an anchor of stability in an area of turbulence. It is the most vital ally the United States has in the region and the interdependence and mutual respect which exists between our two great nations guarantees that 40 years from today we will still be saluting the strides made by Israel.

Mr. ERDREICH. Mr. Speaker, President Harry Truman recognized Israel as an independent nation on May 14, 1948, amidst growing support in the United States to help settle a large number of Jewish refugees, displaced persons and survivors of the Nazi Holocaust. I join today with my colleagues in the House to commemorate the 40th anniversary of the founding of the State of Israel.

While many U.S. Presidents, civic groups, labor unions and political parties supported the idea of a Jewish homeland after the promulgation of the 1917 Balfour Declaration, it took the revelation of the horrendous events which occurred in Europe during World War II to convince the world community of the necessity of such a step. Since that time, Israel has been a vital ally in a continually troubled part of the world.

Few countries have proven more valuable than Israel to the U.S. strategic interest in the last 40 years. A nation with an advanced democratic society with strong liberal and humanitarian values, Israel shares our perception that the expansion of Soviet influence and power is a major threat to world stability, peace in the Middle East and our way of life.

Over the past 40 years, Israel has demonstrated an extraordinary degree of military bravery and competence in not only surviving, but prospering against overwhelming odds in the Middle East. Though secure borders and peace with all its neighbors have thus far eluded Israel, it is this nation's desire that this may soon be achieved.

At this milestone in Israel's history, let us not forget the important contributions this nation has made to the United States and the world. From its strategic location in an economically vital region to its diverse culture, Israel has been an invigorating presence in the modern world and let us hope that it continues to prosper.

Mr. SMITH of Florida. Mr. Speaker, 40 years ago today, the world witnessed one of the most extraordinary events in modern history—the rebirth of the State of Israel.

The events leading to Israel's second establishment were stormy. After winning a U.N. mandate creating a Jewish State, the Jews of British-mandated Palestine, many of whom survived the concentration camps of Nazi Germany, found themselves faced with yet another life or death situation—complete and total rejection by the Arab world. Even now, this tiny, struggling nation has had little respite from Arab hostility. In fact, Israel has been confronted with an unending series of political, economic, and military crises ever since the fateful day of her independence in 1948. Nevertheless, through the trauma of six wars and international isolation, the nation of Israel not only has survived, but thrived.

Israel's geopolitical situation is tragic, not only for Israel, but for all of the people of the world. Also, I am disturbed that most Americans' perception of Israelis is that of a people under siege. The politics of Israel's regional and international isolation has diverted attention from the ingenuity and creativity of a gifted and deeply caring people. On the occasion of Israel's 40th anniversary, it is my great hope that the world will take note of the contributions Israelis have made to the international community.

In the field of medicine, the State of Israel has been on the cutting edge of technology advancement and innovative research. For instance, at the Hadassah Hospital Hebrew University Medical School, doctors have developed a new technique for measuring bone density, which could help them diagnose osteoporosis in its early stages. In Tel Aviv, scientists have developed a procedure to vaporize the arterial plaque which sometimes leads to heart attacks. This revolutionary practice may make heart bypass operations obsolete.

The State of Israel also can take credit for progress in cancer research. Medical scientists at the Morphology Department of the Rapaport Medical Research Institute of the Technion in Hafia have created, for the first time, bone cancer in a test tube. This achievement will have significant implications for the study of cancer and the diagnosis of the genetic factors related to the normal and abnormal development of bone-producing cells.

These medical advancements are for the world to share.

Israel also has taken a leadership role in energy development—particularly in the realm of solar energy. The Israelis learned early on that the land which was promised to be rich in milk and honey was sorely deprived of oil, coal, and natural gas. Israel's rise to the position of a world leader in the field of solar energy is a shining example of necessity fulfilling her role as the mother of invention.

In the 40 years since Israel was founded, solar energy has become an accepted and ubiquitous fact of life. Solar energy is used in factories and on kibbutzim, in private homes and by national utility companies. It can be used to produce steam to drive a turbine, to heat homes, for the desalination of water, or for producing electricity. The uses are nearly as limitless as the supply.

Israel has expressed its desire to aid countries which are in dire need of economic development—notwithstanding its diplomatic status in many of these same underdeveloped nations.

In May 1986, during the United Nations Special Session dealing with Africa's critical economic situation, Israel presented a document entitled "Economic Development and the Transformation of African Agriculture—an Israeli View." In it, the Israelis suggested strategies for rural development and potential Israeli contributions to the critical areas of farmer support and applied research. Unfortunately, many African leaders chose to disregard Israel's offer of assistance. Since then, however, the Israelis have consistently reiterated their desire to assist African nations in the improvement of traditional agricultural techniques and other measures aimed at making African lands more hospitable for agricultural development.

Medical research, energy development, and international economic development and cooperation are but a few of the professional and scientific fields in which Israel is recognized as a world leader. The fact that all of these advancements have been made at a time when the state has been obliged to devote one-third of its budget toward defense expenditures makes these acomplishments even more remarkable.

Mr. Speaker, the brave people of Israel are to be praised and congratulated on the occasion of its 40th anniversary, not only for their tenacity and desire to live free in a democratic society, but also for their contributions to the international community and culture.

Mr. WAXMAN. Mr. Speaker, I ask you and my colleagues to join me in wishing the State of Israel well on the occasion of her 40th anniversary. It is at a painful time that Israel is celebrating its 40th year of statehood—a time in which Israel's commitment to democracy is being tested by her intransigent foes.

During recent months, Israel has had to muster all of her forces—both military, political and moral—to carry out her painful responsibilities. Facing a frustrated Palestinian population on the West Bank and Gaza Strip, Israel has had to deal with the results of Arab unwillingness to recognize her existence. For 40 years, the Arab nations surrounding Israel have refused to meet with her at the bargaining table to even discuss the issues of the territories and the Palestinians. The only exception, of course, is Egypt which signed the Camp David accords with Israel and the United States in 1979.

The intransigence of Israel's neighbors predates Israeli statehood. Arab countries sought to prevent the creation of a Jewish state by opposing the U.N. Partition Resolution of 1947, which partitioned the British mandate of Palestine into Israel and Palestinian states—and which backed by every major U.N. power. Had the Arabs accepted this resolution, there would today be a separate Palestinian state celebrating its 40th anniversary alongside Israel.

Throughout her short history, Israel has made pleas for negotiations. Her countless offers to give up the West Bank and Gaza Strip in exchange for peace continually received the Arab response in the three famous "no"s of the Khartoum Conference of 1967: No recognition, No negotiations, No peace. Even prior to the Six Day war in June, 1967, when the Arab countries had in their possession the very same territories upon whose return they now condition peace in the region, they would not accept Israel as a Jewish state in their midst.

It is at this crossroad, at this time when all parties to the conflict must make extremely tough choices, that the Jewish state pauses to consider its remarkable achievements over the past 40 years. Having weathered five wars, internal conflict over fundamental issues affecting the state, and external threats by countless nations seeking her destruction, Israel has managed to build a robust democracy—one which makes both her supporters in Congress and elsewhere very, very proud.

From the wasteland of post-World War II Europe, from lands as far and wide as Iraq, Yemen, Ethopia, and the U.S.S.R., Israel has taken in hundreds of thousands of Jews in distress, thereby truly fulfilling its age-old commitment of creating an ingathering of exiles. It is with this myriad of Jews, from over 80 countries, speaking different languages, and of varying racial backgrounds, that Israel built for itself a modern and pluralistic society.

From high technology to high culture, from solar energy to world class universities, Israel's achievements reveal a population of extraordinary commitment and idealism. On this important day, I would like to honor an especially courageous part of Israel's society that has shown bold initiative in working with Egyptians who, for 30 years after the founding of the Jewish state, were Israel's blood enemies. For those of us who have been involved with Middle East regional cooperation, we have interacted with an impressive group of Israeli scientists, researchers and health professionals who participate in cooperative joint ventures with their counterparts in Egypt and the United States.

The U.S.-financed Middle East Regional Cooperation Program, which I launched as a modest amendment to the foreign aid bill in 1979, has given rise to Egyptian-Israeli cooperation and the bringing together of over 1,000 scientists to do joint research into problems facing both countries. It has succeeded, both on a political and practical level, beyond all my hopes. Each one of its projects—in marine sciences, infectious diseases and dry land agriculture—has produced breakthroughs. For instance, scientists from Israel and Egypt worked together to quell an outbreak of the deadly, mosquito-borne, Rift Valley fever, which in 1982 killed several thousand people and 3 million livestock.

While scientific cooperation has yielded tangible gains, these advances are not what is most striking about this program. More importantly, countless personal relationships of trust and respect now span the Sinai Desert. The sort of familiarity bred through cooperation on the individual level can dig deep in breaking down hostilities which have been passed from generation to generation.

As I join my colleagues in wishing Israel well today, I express my profound hope that headway will be made on the peace process, and that regional cooperation will continue to make its own breakthroughs toward peace in the Middle East.

Mr. CHAPPELL. Mr. Speaker, on this, the 40th anniversary of the founding of Israel, we celebrate the enduring friendship our two great nations have shared. The United States was the first country to recognize Israel's independence and has always assisted her during times of crisis. For her part, Israel has consistently supported the United States in the United Nations, becoming our most reliable voting partner. This partnership will continue with the increasing commitment to peace that both of our nations so readily pursue.

Israel's extraordinary success is historically unprecedented. In a few short years, the deserts have become fertile farmlands and the country has become a leader in science and technology. They have remained a democracy in an area foreign to democracies. Most importantly, Israel's strength lies in the heart of her people. She is a nation striving to overcome the bonds of the past and create a future for her children, rising from the ashes of the Holocaust to become a free and vibrant nation.

Mr. Speaker, as a cosponsor of Jewish Heritage Week, I salute the State of Israel for her perseverance against enormous odds, and I want the people of Israel to know our hand of friendship will remain extended.

Mr. COUGHLIN. Mr. Speaker, today I rise to note the 40th anniversary of the founding of the modern State of Israel. I congratulate my colleagues, BEN GILMAN and JAMES SCHEUER, for reserving this special order today.

Mr. Speaker, for a turbulent 40 years, Israel has struggled to develop and flourish. It has succeeded, despite five wars, recurring terrorism directed against it, and continuing adversity brought about by an economic boycott sponsored by its enemies.

Indeed, not only has Israel developed and flourished, but it has maintained its democratic character, virtually against all odds. Israel today is a vibrant democracy—as is evident from the current national debate there on the nature of future negotiations for peace with Israel's neighbors. Despite its relatively short history, modern Israel is a nation with a rich, abiding commitment to democratic practices, with a popularly elected national leadership and Knesset, a free and animated press, and an independent judiciary.

Economically, too, Israel is an impressive nation. As one who has visited Israel four times over the years, I have personally witnessed the dramatic developments in that country. In the fields of agriculture, medical technology, computer science, and more, Israel has advanced to represent the state of the art. The conversion of desert wilderness to green cropland is truly a sight to behold.

All this is not to say that Israel is not without its problems. Anyone who has followed recent events in the Middle East is aware of them. At the same time, anyone familiar with the history of the region and the Arab-Israeli conflict knows that there are no easy answers to these problems. A formula for peace that sacrifices the security interests of Israel is not a formula for peace, but simply a prescription for disaster.

Mr. Speaker, as we observe the 40th anniversary of Israel's founding today, it would serve us well to look back at 40 years of achievement and progress. A vibrant, pro-Western democracy with an enterprising economy, a valuable friend and ally in a volatile region of the world—this is the best characterization of Israel today, after 40 years. Given this past, I am confident that the future holds even greater promise—including the promise of peace with her neighbors—for this impressive nation.

Mr. BILBRAY. Mr. Speaker, in 1,000 communities coast to coast, thousands of Americans will mark today's 40th anniversary of Israel's statehood.

Forty years ago, 600,000 Jews, driven by a vision of renewal in their ancient homeland, declared their independence. Although under attack by neighboring states dedicated to its destruction, Israel willingly absorbed 1 million Jewish refugees. Many were survivors of the Holocaust, mankind's greatest evil.

In its 40 years of existence, Israel has struggled against hostile neighboring countries, fought for its legitimacy and triumphed over the terrible legacy of the Holocaust to become a truly strong and democratic nation.

It is fitting that the United States was the first country to recognize the new State of Israel. The moral and strategic bonds between Israel and the United States are stronger than ever. Israel stands out as a reliable ally and a trustworthy friend of the United States.

Since the signing of understanding on strategic cooperation in November 1963, the two nations have held joint naval, antiterrorism, and medical exercises, and undertaken joint research and development projects.

For the past 40 years, the free world has marveled at the spirit and determination of Israel and her people. Israelies have turned swamps into lush fields and made the desert bloom. Israeli farmers exchange agricultural advances with American farmers and serve as a model for other developing nations.

This nation of immigrants now boasts seven major universities, maintains world class status in advanced nonmilitary industrial fields, including medical instrumentation and computer software.

Mr. Speaker, after 40 years, Israel continues to fulfill the aspirations of the Jewish people. To the citizens of Israel and their friends in this and every other nation, I join my colleagues in the Congress in a tribute on this special day. May the State of Israel continue to be a source of encouragement and inspiration for all people of the world.

Mrs. LLOYD. Mr. Speaker, I rise in support of this resolution commending the State of Israel and its people on the occasion of the 40th anniversary of the reestablishment of the independent State of Israel.

Israel has come a long way since its formation in 1948. Israel has become home for exiles from every continent and revived the Hebrew language. Its Jewish population has more than quintupled, from 600,000 to 3.5 million. It's vigorous democracy is a powerful example for the region. By any reasonable standard, Israel ranks among the most successful of the nations that have come into being after the Second World War. Faced with great adversity Israel has prospered.

To our mutual benefit, the relationship between our country and Israel has grown and become stronger. Israel is the United States' most valued and important ally in the troubled region. Our joint efforts in antiterrorism and other strategic exercises, which are a result of the 1983 memorandum of understanding, have served to enhance this bond.

Perhaps Israel's most important role is that it is at the spiritual center of Jews and the Jewish culture throughout the world. It shines as a beacon of hope—to many the only hope—to a people who have seen great suffering for centuries. We in Congress can do our part to work toward influencing the Soviet Union and other oppressive governments to allow greater Jewish emigration.

As builders of a young country, today's Israelis are proud of their country and its accomplishments in a difficult period. That pride is well founded.

Mr. HORTON. Mr. Speaker, I wish to commemorate the 40th anniversary of the State of Israel. Created as a homeland for Jewish people after the tragedy of the Holocaust, Israel has come to symbolize hope for a race of persons who have suffered hardships throughout their history.

The State of Israel has faced adversity from its inception, yet has remained a model of democracy. Despite this constant adversity, the strides that Israel has made in its short history are unprecedented.

Israel has remained our staunchest military ally in this strategic region while our two nations have maintained a very special relationship in political, social, and cultural endeavors as well. The free trade agreement between Israel and the United States will assist our relationship in the economic realm. It is my sincere hope that our respective nations will become even closer in this and other areas.

These last few months have not been easy ones for our friends in Israel. It is at times such as these that we must not criticize but offer support. We must use our special relationship in an effort to resolve the difficulties in this troubled region.

The path that Israel has traveled in its short history has not been an easy one, and there are certainly no guarantees that the future will be any easier. Let us use this commemoration of Israel's 40th anniversary to renew our commitment to these good friends and allies. Israel has never turned its back on the United States, lets send a message that we will not turn our back on Israel.

Mr. MOODY. Mr. Speaker, I want to join my colleagues today in commemorating the 40th anniversary of the birth of Israel.

After 40 years of hostile neighbors and major wars in 1956, 1967, and 1973, Israel has not lost its humanity, its mercy, and its compassion. It remains one of the world's strongest democracies with freedom of religion, freedom of speech, and basic equality for women.

Forty years ago the world seemed divided into two groups of nations: those that wanted to expel the Jews and those that did not want to receive them. Israel will never forget its beginning as a haven for refugees from every nation.

Despite all security threats, Israel has built a tremendous record of success. Israeli agriculture and industry have thrived and an excellent educational system has emerged.

Over the past 40 years, the United States-Israeli relationship has continued to grow. Today, Israel is a critical strategic ally in one of the most volatile regions of the world. It is also an important trading partner. The United States-Israel Free Trade Area Agreement eliminated tariff barriers between these two countries in 1985. Today, we celebrate this friendship that has been four decade in the making. May the next four decades bring even closer and stronger ties.

Mr. McGRATH. Mr. Speaker, it is with great pleasure that I rise today to honor the nation of Israel on the 40th anniversary of its founding. The dedication and commitment of the men and women who have fought for the creation and continued existence of this great nation are examples for all to follow. These brave men and women should be truly proud on this important day in the history of the Jewish people.

As we look back and celebrate the accomplishments of the past, it is indeed important to also look toward the future of Israel. Any attempt to predict what lies ahead for the State of Israel 10 years from today is fraught with risk. Ten years ago, I doubt that even the most skillful and seasoned diplomats would have predicted fulfillment of the Camp David accords, the continuing rise of Islamic fundamentalism, or various other developments that affect the future of Israel.

In some respects, the present internal political conflicts in Israel might be compared to various periods of American history. The Civil War, the political and social upheaval of the Great Depression, and the various civil rights struggles are only a few examples of the slow and sometimes painful maturing process of American democracy. Clashing cultures of immigrant groups make the process even more difficult.

Ever present external threats may make the current political turmoil more perilous for Israel than it might be for another nation. The Israelis, however, have persevered, and the foundation of their government and society is stronger as a result. In the course of my visits to Israel and neighboring nations, I was most impressed by the courage and enthusiasm of the people. Their diversity and freedom to succeed have helped to build a green and prosperous nation in spite of innumerable obstacles.

What many Americans fail to recognize, and what the international media fails to point out in its coverage of the West Bank hostilities, is the vulnerability of Israel to attack on many sides. During one of my visits to Israel several years ago, Prime Minister Begin, who was still in office made a salient point. We were sitting in a bomb shelter where the Government was forced to meet during the Seven Day War when he told me that the Louisiana Purchase was the most significant step in the development of the United States because it shielded our territory from potential adversaries with vast oceans.

PLO style terrorists cannot use rubber rafts or hang gliders to launch attacks on U.S. civilians. Hand held rocket launchers and mortars cannot be used to strike the heart of our country. These, and a multitude of other ongoing deadly threats, will continue to shape Israeli attitudes toward national security.

Given this constant, nagging Arab and Islamic antagonism, I see little hope for a permanent peace for Israel over the next decade. The conduct of the Iran-Iraq war and unrest in other nations underscore the fact that Israel exists in the midst of cultures and groups whose norms transcend all boundaries of accepted international behavior.

Over the next decade I think that American-Israeli security ties will be stronger than ever. Our experience in the Persian Gulf has once again shown that we cannot rely on the so called "moderate Arab nations" in mutual security arrangements.

Despite the challenges to Israel's security, I have tremendous confidence in the ability of its citizenry. Their economic and cultural achievements have made Israel a beacon of progress and opportunity in the Middle East. Efforts such as the United States-Israel Free Trade Zone agreement are examples of the initiative and cooperation displayed by Israel's public and private sector. They will serve to make Israel a stronger and more influential participant in the international economy in the 1990's. I think that economic interdependence with other nations in high technology, agriculture and other areas will also expand support and understanding for Israel in its difficult quest for a lasting peace.

In summary, Israel's progress into the next decade could be compared to a railroad train moving forward. One rail is its economic, cultural, and political foundation. The other is its territorial integrity and security. The engine is a vibrant people who have survived countless threats over thousands of years. I am confident that they will continue to forge ahead, and I hope that they will always receive the full support of all freedom loving Americans.

Mrs. MORELLA. Mr. Speaker, this weekend I will be participating in a ceremony at the Arlington National Cemetery gravesite of British Maj. Gen. Orde Wingate, the father of the modern Israeli Army. It is fitting that Wingate's ceremony take place this week, for this week is the 40th anniversary of an event in which Wingate played an important role—the founding of the State of Israel.

Israel, established as a refuge for Holocaust survivors and as the culmination of the 2,000-year-old Zionist dream, was greeted on the day of its independence with an invasion by its Arab neighbors. Led by such Wingate-trained fighters as Yigal Allon and Moshe Dayan, the fledgling Jewish state beat the odds and the Arabs and secured its independence. The spirit which gave the Israelis the strength to overcome their enemies was summed up by Wingate, who was not Jewish, when he explained his own enthusiasm for the Zionist cause:

> When I was at school I was looked down on and made to feel that I was a failure and not wanted in the world. When I came to the land of Israel I found a whole people who had been treated like that through scores of generations, and yet at the end of it they were undefeated, were a great power in the world, building their country anew. I felt I belonged to such people.

Israel is still besieged by enemies, but it has also become a great nation. Little Israel's farmers have shown the world how to make the desert bloom and its scientists are on the cutting edge of high technology. The Jewish state's commitment to education is symbolized by its book production, which is the highest per capita of any country in the world.

As we honor Israel on its 40th birthday we in the United States are also cognizant of the close alliance between our two countries. Aid to Israel is a bargain when we consider the priceless intelligence information and data on the performance of both Soviet and American weaponry that she shares with the United States. The strategic value of Israel's location is only now beginning to be utilized by the U.S. Navy, which is increasingly taking advantage of Israel's availability as a base in the Eastern Mediterranean. I join my colleagues in expressing the wish that Israel's next 40 years may be as successful as, if not more successful than, the last 40 years and that the United States-Israeli friendship may continue to grow.

Mr. DURBIN. Mr. Speaker, today marks the 40th anniversary of the founding of the State of Israel. It has been 40 years of alliance with the United States, and the cooperation between the two nations has been one of the cultural and strategic understanding and appreciation.

Israel's accomplishments have rivaled those of any modern nation: Modern technological advancements, the accommodation of a mass of immigrants, and the creation of a flourishing agriculture industry.

Israel, after 40 years, continues to fulfill the hopes and dreams of the Jewish people, which is in itself an incredible accomplishment. Jews all over the world continue to focus on this small, proud nation as their historic homeland. This country has been home to Jewish civilization and a source of cultural pride for Jews living both in Israel and in the United States.

Israel and her people have faced great adversity, and there is no doubt that she will continue to face challenges in the future. The United States has a commitment to Israel, to ensure her security and to foster the friendship between our two peoples. We must not abandon our bond and special relationship with this great nation.

To ensure the security and prosperity of Israel, we must continue to strive for a certain, lasting peace in the Middle East. The tragic violence that has marked Israel's passage onto the world stage must end, and as in the past, the United States can lend its active support and encouragement to Israel's peace efforts.

I wish to express my support for a strong future for Israel and to mark its historic first 40 years as a friend to the United States.

Mr. FROST. Mr. Speaker, today marks the 40th anniversary of the founding of the State of Israel. I am proud to join with my colleagues in marking this special and joyous occasion.

Forty years ago, a people driven by a vision of a homeland declared their independence and began the long, hard struggle to build a modern nation. They did so under the most difficult and trying of circumstances. Hundreds of thousands of refugees were arriving to escape persecution and to begin new lives, adding to the burden of a fledgling economy. Additionally, hostile neighbors dedicated to the destruction of the new Jewish state attacked and initiated a deadly round of violence in an effort to eradicate the new state before it could become firmly established.

Yet, in spite of seemingly insurmountable odds, the Israelis never abandoned their dream of building a truly great nation. From the blood, sweat, and tears of many people, an economic, cultural, and political miracle has risen from the desert floor.

Today, Israel stands as one of America's staunchest allies and most loyal friends in the world. It has been an especially important ally in a part of the world that has historically been unstable. Strategic cooperation between our two nations has also helped to promote America's vital national security interests in the region.

The American and Israeli people have also developed an unique relationship over the years. Always strong at the beginning, this relationship has blossomed into special levels of understanding and cooperation. Exchanges in the areas of agriculture, education, and medicine, among many others, have mutually benefited our peoples, and lends promise and hope for even stronger ties in the future.

I'm confident that Israel will continue to build upon the progress of the last 40 years. I know that the bonds of friendship between the United States and Israel will grow even stronger as we move into the next 40 years. Again, I join with the Israeli people in celebrating this great event.

Mr. COURTER. Mr. Speaker, for two millenia, a dream has given life to the soul of Diaspora Jews. But not until the 14th day in May, 1948, could the members of the National Council—the leaders of the Jewish people in Palestine and of the world-wide Zionist movement—declare the establishment of the State of Israel. The declaration of that assembly read in part:

> The State of Israel will be open to the immigration of Jews from all countries of their dispersion; will promote the development of the country for the benefit of all its inhabitants; will be based on the precepts of liberty, justice, and peace taught by the Hebrew Prophets; will uphold the full social and political equality of all its citizens, without distinction of race, creed or sex; will guarantee full freedom of conscience, worship, education and culture; will safeguard the sanctity and inviolability of the shrines and Holy Places of all religions; and will dedicate itself to the principles of the Charter of the United Nations.

In Washington, DC, too, there was an assembly on that day. On the steps of the Jewish Agency, the flag of Israel was raised, and an invocation was delivered by Rabbi Zemach Green of the Ohev Sholem Congregation in Washington. He called the founding of the State of Israel a dream, "conceived in righteous idealistic toil, and born in agony and self-sacrifice."

He prayed:

> Our God and God of our Fathers, we pour forth our hearts unto Thee, our Father in Heaven with thanksgiving and hallelujahs for Thy wonderous deeds unto the people of Israel, and for Thy grace with us of this generation to be privileged to live and witness the realization of the ancient dream, the age-old dream that was begotten from sacred tradition, nurtured with the people's lifeblood, reared in the crucible of martyrdom and fostered in the eternal hope and trust in God.

Only a few hours later, the armies of six countries attacked Israel. Eight months of warfare followed, from which the people of Israel emerged victorious. There have been other wars; they have come and gone but the state, and the dream, remain.

Mr. Speaker, no one should imagine that the beauty and the power in this dream is spent after these 40 hard years. It burns as ever before. Permit me to quote from a letter I received from a friend, a new Israeli citizen. Congressman DEAN GALLO and I met Marina Shenderovich in Moscow in May 1986. Her family had petitioned the Soviet authorities for the right to emigrate, and been refused. We began working, as best we could and in league with many others, for the release of Marina and her family. Marina, Maya, and Yakov Shenderovich were finally allowed to emigrate to Israel late last year. She wrote to me in November, and I want to choose a few lines from that letter.

> Can you believe it? I'm really out of there! It's like finishing a marathon run, falling onto the grass, and just breathing, finding joy and amazement from inhaling all of that clean, cool, wonderfuly life-giving air. It really is that much of a difference. * * *
>
> I am working as a biochemist in a pharmaceutical company. The equipment is so absolutely modern that my lab in Moscow seemed to be an alchemist's shop. My fellow workers are friendly, the grounds are beautiful (roses everywhere), and it all seems to be so much out of a dream. I live, here with my husband, within the old city walls of Jerusalem. An 800 year old synagogue, a 1500 year old Byzantine market place, a city wall from the time of the First Temple, almost three thousand years ago—all of this and so much more is less than five minutes from my doorstep.

Mr. Speaker, every democracy is a refuge. Its government may be divided; its critics may be vocal; its politics may be tumultuous. But to those enduring persecution and tyranny, a democracy is a beacon of hope. How redoubly true is this of Israel, where to the liberties of democracy are added the powerful draws of sacred soil, tradition and religion. No wonder that Israel is regarded as the embodiment of a dream.

I am glad for this opportunity, in the 40th anniversary of Israel's birth, to salute its many successes, and the multifaceted bonds—religious, sentimental, political, economic, and military—joining that country to our own.

Mr. ST GERMAIN. Mr. Speaker, few aspects of modern American foreign policy have been as uncertain and at times confused as our involvement in the Middle East. Every facet of this area of policy has been examined, analyzed and debated for as long as we have recognized our vital interests in that region. And while the United States' political position on myraid Mideast issues has been murky or unfocused, one area has been cystal clear: our steadfast commitment to Israel.

Events of recent weeks, particularly the Palestinian uprisings along the Gaza, have caused many to—for the first time—seriously call into question America's position as one of Israel's foremost supporters and allies. Many of the specific concerns being expressed are, in my view, legitimate, and that is why I am in full support of the efforts being made by Secretary of State Shultz to reach a negotiated resolution of the West Bank dilemma.

But as we reach for a settlement that is fair and just, it is important to keep in mind the historical bonds between the United States and Israel. Thus, the 40th anniversary of the founding of the State of Israel—and this special order—presents us with a timely opportunity to step back from the controversy and gain some critical perspective on our special relationship with Israel.

Practically since day one, it has been apparent that the futures of the United States and Israel are inexorably tied together. As one of the first countries to give official diplomatic recognition to the State of Israel, we symbolically declared our moral as well as political support for it and its goals. We not only recognized it, we conferred legitimacy upon it. And, it soon proved, rightly so.

Over the years it has become increasingly evident that the United States and Israel share something beyond a convergence of strategic interests, although we surely share that, too. As a democracy in a part of the world where the rarity of that concept is exceeded only by the rarity of its practice, Israel has withstood savage pressures and carried forward its experiment in representative government.

For 40 years, Israel has worked to adhere to the demanding principles of democracy, while simultaneously fending off assaults on its very existence. It has taken up an incredibly ambitious challenge, and as one will when he aims high, Israel has occasionally, inevitably fallen short. But always the Israelis have shown a great capacity to recognize flaws, learn from them, and move on. Their growth will, we trust, continue.

It should be obvious by now why the relationship between America and Israel has endured and strengthened over these 40 years: committed to many of the same ideals and goals, we share a sense that we are both engaged in the same enterprise of democratic self-definition. And in the process, we both can claim fundamental success—we have made good lives for the citizens of our countries. In its short modern history Israel has cultivated thriving agricultural and industrial sectors, nurtured numerous universities, and taken a place as a major factor in maintaining military security and stability in the world.

As is true for the United States, there is still much growth and maturation in Israel's future. As we congratulate this loyal friend on its 40th anniversary, we pledge anew to support Israel's efforts, providing guidance when we can and encouragement always.

Mr. APPLEGATE. Mr. Speaker, the 40th anniversary of the founding of the State of Israel, marks a point in the history of democracy as Israel has proved its potential for growth and leadership under a free republic. In the face of adversity, Israel has developed into a trusted and important ally of the United States in the Middle East. I rise with my colleagues in honor of Israel and their achievements over the last 40 years.

Mr. CLARKE. Mr. Speaker, today marks the 40th anniversary of the independence of the State of Israel. This is an appropriate time to pause and remember the significance of that day. On April 21, 1948, the searing memories of the Nazi years were still fresh. On April 21, 1948, many Jews were en route to Israel, part of the hundreds of thousands who made their way there after the war, seeking a secure refuge in their ancient homeland. On April 21, 1948, the blue and white flag was raised by men and women filled with a vision of a just and democratic society where Jewish traditions could flourish. On April 21, 1948, Israel faced the first of many perilous tests on the battlefield, all of which it has survived.

In the last 40 years Israel has successfully assimilated immigrants from many lands and cultures. At the same time, Israeli democracy has remained among the world's most vigorous, and the Israeli economy has thrived despite the great burden of defense imposed by the hostility of several neighboring countries. Green crops grow in regions which had been brown and unproductive for centuries. Strong universities, great musicians, and lively fine arts all testify to the creativity and talent of the Israeli people. Israel is a beacon of hope and pride for Jews all over the world.

Mr. Speaker, I join millions of other Americans today in congratulating Israel on her 40th anniversary.

Mr. RANGEL. Mr. Speaker, I rise to pay tribute to Israel's 40th anniversary as an independent state. I along with most Americans and Members of Congress have given my support for the State of Israel. That is why I feel this day should not pass without acknowledging its significance.

Mr. Speaker, today is truly a momentous day of celebration. For the birth of the Jewish State of Israel marks the day when the children of Abraham and Moses returned to their homeland, after a nonvoluntary exile of 2,000 years. The Jewish people during this long period were victims of discrimination, persecution, and desecration by their non-Jewish neighbors.

History reminds us of the Spanish Inquisition, the Progroms, and the horrible attempt of genocide in the Holocaust of World War II, which the Jews faced and persevered. They survived these unjust and horrendous ordeals through their unshakable faith in God and in hope of one day realizing their dream of returning to the land of their forbearers.

The courageous Zionist soldiers of 1948 struggled and fought to establish the State of

Israel, so that the Jewish people would never again have to suffer injustice, discrimination, and persecution at the hands of strangers of their religion. These soldiers of Israel paid a heavy price as did their subsequent counterparts, who repelled attempts to vanquish the State of Israel.

Today, Israel is the home for almost any Jew who wishes to live there. The representation of its citizens covers that of over 100 countries. Israel is a model of cultural and economic miracles, in which a garrison state, can at the same time flourish in the arts, music, industry, and technology.

However, at this time, Israel is undergoing an internal crisis which may be a distracting element in the celebration of its 40th birthday. Extremists on both sides must look to the "road of moderation" in order to enjoy a more peaceful coexistence for the next 40 years. I am concerned, as are many Americans, with the current situation in the occupied territories and hope to see this unfortunate dilemma be resolved in a peaceful and timely manner.

Mr. Speaker, in closing I again want to express my support for the State of Israel and want to wish Israel and its citizens a happy 40th birthday. I wish to submit for the RECORD Israeli Vice Premier Shimon Peres' statement on Israel's 40th anniversary:

GREETINGS OF VICE PREMIER AND MINISTER OF FOREIGN AFFAIRS SHIMON PERES ON THE OCCASION OF ISRAEL'S 40TH INDEPENDENCE DAY

We are today celebrating 40 years of the independent Jewish state, the State of Israel. What has been achieved during these 40 years is unprecedented in the annals of human history, as in our own history and experience. No other nation has ever returned to its homeland after a separation of 2,000 years, renewing its language and culture to carry on one of the oldest and most unique heritages in the world.

The experience of these 40 years has not been easy. We have never sought wars, nor do we seek victories. Five times we were attacked; five wars were forced upon us. Despite inferiority in numbers, we prevailed over our adversaries. But we paid for these victories with the lives of those dearest to us.

While overcoming these challenges, Israel has recorded impressive achievements in many areas of life. We have created a Hebrew culture. Our children speak in the language of the prophets. We have developed one of the most advanced agricultures in the world, despite the aridity of the land. Indeed, Israel today exports fruits, vegetables and flowers to many countries. We have developed sophisticated industry—in certain fields we stand alongside the most advanced nations. We have provided health care and social services for all our citizens, and extended life expectancy in Israel by ten years. Our children enjoy free primary and secondary education. Trees have been planted, roads, have been built, new settlements have been established—including kibbutzim and moshavim, representing a unique combination of freedom and equality in the 20th century.

Israel has come to hold a special place in the hearts of millions of people, yet there is still a great deal to be done. The most important goal after independence, namely peace, has not yet been achieved. During the next 40 years, peace will therefore be our highest priority—for the sake of our children, for the sake of Arab children, for the sake of the region. Only through peace will we be able to realize our desire to be a nation that contributes to and enriches its environment; a nation that cares for all people regardless of differences in race, in color, in religion, in national origin.

This may today seem something of a dream. But, having in our first 40 years realized our greatest dreams, we may be permitted to dream once again, together—the dream of all Jewish people, you and us. For it is such solidarity of vision that has lead us to this point—and will lead us to a much greater and more important future.

Mr. SCHUETTE. Mr. Speaker, I join my distinguished colleagues today in this important special order celebrating the 40th anniversary of Israel. I rise today not only to celebrate the important formation of a national identity for the Jewish people, but to show our appreciation for a longstanding ally who has been a pillar of strength in perhaps the most volatile region in the world today.

Back on May 14, 1948, seemingly defying the odds, the vision of an independent state for the Jewish people was revived. Although it took more than three decades for this right of national revival, which was acknowledged by the Balfour Declaration, to reach fruition, it was a tribute to the resolve and determination of the Jewish people.

Looking ahead, the unique partnership that our two nations have enjoyed over the last 40 years certainly faces important challenges ahead. These are indeed trying times for Israel, but I believe that we should not forget that there have been other anniversaries which have been marked by far greater trouble than that of today.

In conclusion, Mr. Speaker, despite the odds and some rocky times, the State of Israel has been preserved and has indeed prospered over the last 40 years. I join all my colleagues in the Chamber today in congratulating the people of Israel on the accomplishments of their first 40 years, and in wishing them well in the future.

Mr. LEHMAN of Florida. Mr. Speaker, the State of Israel has achieved so much in its short 40-year existence as a modern state. It has thrived despite adversity. It has survived the onslaught of enemies seeking its destruction. As Israel has endured and gained strength, its challenges have endured as well. While peace remains beyond its grasp with most of its neighbors, the miracle of peace with Egypt gives hope to us all. The uprising in the West Bank and Gaza reflects the failure not only of Israel to reach a resolution of the Palestinian issue, but of the Arab countries that are unwilling to contribute toward a peaceful solution, instead exploiting the Palestinians for their own purposes. For years, Israel has tried to negotiate directly with its neighbors, a plea to which only Egypt responded.

Israel has made tremendous strides agriculturally, economically, educationally, and has offered its people a home free of the religious persecution that so characterized the countries of many of its citizens' birth. Israel remains a haven for refugees still fleeing persecution, and is an example for us all. As Israel opens its doors to those seeking refuge, it aids developing countries by sharing its technology where it is needed.

Israel is a miracle, a democracy with flaws, but most of all an evolution of history borne out of pain, suffering, vision, and triumph. Mazel Tov.

Mr. DEWINE. Mr. Speaker, as we all know, today is the 40th anniversary of Israel's founding. Although a small country, Israel has been and continues to be a country of great importance to Americans. As a nation, we share fundamental moral and strategic ideals. Israel is a democracy, and the only democracy in the Middle East. In addition, Israel, like the United States is a nation of immigrants from many countries, and shares with us a commitment to freedom and opportunity.

It is unfortunate that today, Israel continues to face many of the same challenges to its stability and integrity that it has faced throughout its history. There are still those who would destroy the State of Israel if given the chance. We all recognize the extreme adversity that historically has confronted Israel, and that Israel has met these challenges.

I am proud that we Americans have supported Israel so strongly in these 40 years. It is essential that we continue to provide the necessary support to Israel to thwart those who would destroy it

We would be remiss, however, if we ignored the assistance that Israel provides to the United States. We do not have a one-way relationship. There is no country which enjoys better relations with the United States than Israel. Although, as sovereign nations, we have our disagreements, we both share many common interests. In the United Nations, for example, where many of our so-called allies vote against the United States, Israel consistently votes to support United States positions. Furthermore, Israel and the United States cooperate extensively to protect our common security interests. Israel's strategic location in the Middle East and on the Mediterranean is an important security asset to the United States, and we have recognized Israel's strategic importance as a major non-NATO ally.

Today, on the anniversary of Israel's independence, we salute the many past accomplishments by the people of Israel. But, we also can look forward to more accomplishments and to continuing and strengthening our productive relationship. However, it is my hope that on future anniversaries we will not have cause to lament the many challenges to Israel's integrity as a sovereign nation. Rather, I look forward to a future in which Israel's right to exist is accepted and even defended by all states.

Miss SCHNEIDER. Mr. Speaker, the founding of Israel as a modern state 40 years ago marked a high point in the 5,000 year history of the Jewish people. Israel was born in a tumultuous time and its brief history has been marked with struggle. To the credit of the citizens of Israel and Jews throughout the world, it has survived external threats and internal dissent that would have been disastrous to most nations.

Israel is now facing what may be the greatest challenge of her short history. The manner in which it is met will set the course for her future. As one who's personal history is only 1 year longer than that of Israel, I have viewed the growth and maturation of Israel almost since its begining. If the future can be foretold by looking at the past, then I am confident that Israel will meet the current challenge in a way that is a credit to herself and her allies.

The spirit of the founders of modern Israel continues in its citizens today. It is a spirit of optimism, hope and compassion. It is a spirit that looks to the future while never forgetting the past. I join my colleagues in the House in wishing Israel every good fortune in the years ahead—peace, prosperity, and justice.

Mr. BALLENGER. Mr. Speaker, I want to take a few minutes on ths very special day to express my sincere congratulations to the State of Israel on the occasion of its 40th anniversary.

During the past 40 years, the citizens of Israel have demonstrated an unyielding commitment to freedom and democracy in a part of the world where little exists. And they have done so while continually faced with a struggle for survival. This spirit should be recognized by free people everywhere, but we should pay special homage to the people of Israel on this occasion.

I consider myself a friend and supporter of Israel. Israel is our only steadfast, consistent, reliable ally in the Middle East. Our strategic cooperation with Israel provides our Nation with forward bases and ports in a crucial area of the world. The foreign aid that we send to Israel, I am convinced, is an investment in our Nation's security. We must not allow the security of Israel to be compromised nor put at risk.

Just as we have had a close relationship with Israel over the past 40 years, I am looking forward to continuing harmony over the next 40 years and beyond.

Again, I congratulate Israel on this occasion and wish for it a healthy and happy future.0

Mr. WEISS. Mr. Speaker, I rise today to celebrate this historic occasion of the 40th anniversary of the existence of Israel.

For 2,000 years, Jews have clung to the dream of Zion. For 2,000 years, they have prayed "next year in Jerusalem." Forty years ago,their prayers were answered and their dream became reality. The miracle that is Israel was born. Jews from around the world returned to their ancient homeland, fleeing persecution, fleeing the horror of the Holocaust which extinguished 6 million of our loved ones.

Israel's continued existence today represents a great victory over overwhelming odds. The 40 years since the rebirth of Israel have been fraught with enormous difficulties. Thousands have fought and died to protect Israel from the numerous invasions of hostile Arab neighbors. Many have been injured or murdered by the brutal terrorists who daily threaten innocent citizens with violent death. Inceasing efforts have been needed to counter the international campaign to undermine the legitimacy of Israel as a nation.

Despite all this, Israel has survived. Even more, it has triumphed. Gardens have been created out of deserts. Modern cities have sprung up in the middle of wilderness. A dead language has been brought back to life. A democratic system has been established and strengthened in a region hostile to democracy.

The United States has supported Israel since its inception. We share and encourage Israel's commitment to human rights and democratic values. Both the Government of the United States and the American people have dedicated themselves to the security and survival of Israel. Israel has been and remains our strongest ally in the Middle East. As Members of Congress, it is urgent that we do all in our power to strengthen and maintain the bond between our two nations in the future.

As we celebrate today, we must also take the time to reflect on where Israel is headed in the future. It is a sad reality that at this time of celebration, the State of Israel is facing another crisis. During this critical period, the United States must first of all recommit itself to the strong support and defense of Israel. At the same time, we must attempt to bring about solutions to the current unrest that will preserve and strengthen the democratic fiber of Israeli society and encourage regional stability over the long run. All of us look forward with yearning toward a cessation of violence and toward renewed and vigorous efforts to establish a lasting peace throughout the Middle East.

Israeli leaders must be extremely careful as they address the difficult problems which they currently face. After 40 years of being unable to come to a peaceful resolution in the region because of the intransigence of Arab leaders, it would be tragic if Israel itself, were now to be viewed as being intransigent because of the mishandling of the uprisings in Gaza and the West Bank territories or because of confusing statements by some Israeli leaders regarding territorial compromise as a component of direct negotiations between Israel and her neighbors.

Some might consider it unfair that a double standard, or a higher standard, is often applied to the actions of Israel when compared to other Nations. Israel however, has always been proud of its commitment to the highest moral standards. It is one of the traits that has made her the special object of support by the people and the Congress of the United States and people and governments of good will the world over.

Theodor Herzl, the founder of modern Zionism, once declared that "If you will it, it is no dream." In the past 40 years, the people of Israel have demonstrated that will and faith can triumph over great obstacles. They have made the dream of Zion a reality. I rise to commend the Israeli people and nation for all that they have achieved in the past, and to pledge my continued commitment and concern for its survival and prosperity in the future.

Mr. TORRICELLI. Mr. Speaker, today, marks the 40th anniversary of the founding of the State of Israel, an occasion of importance to Americans as well as Israelis. The United States, under President Truman, was the first country to extend diplomatic recognition to the new State. Over the years, the United States and Israel have developed human, political, military and economic ties that are among the closest any two nations can have.

Anyone who has read a newspaper or watched television lately knows that Israel is going through a time of troubles. The violence on the West Bank and Gaza, and the larger conflict that underlies it, pose massive dilemmas for Israel. And yet, with all the bumps and blemishes, Israel remains a democratic, progressive society.

For all of its life as an independent State, Israel has never enjoyed a single moment of formal peace with all its Arab neighbors. Although Israel is now at peace with Egypt, formerly its most powerful adversary, the burden of military spending continues to weigh heavily. Israel continues to spend nearly 30 percent of its gross national product on the military, and the economic cost of hundreds of thousands of citizens on frequent reserve duty creates further disruption.

In spite of these difficulties, Israelis have created a society that is unique in many respects. To cite just one example, Israel, though limited in its own resources, assists other developing countries in agricultural and other economic development. It is a matter of great pride to me and my colleagues in Congress that we have been able to play a role in joint Israeli-Egyptian scientific and agricultural projects. These endeavors, we are confident, will not only benefit the economies of both these countries, but contribute to an enduring peace between them.

Mr. Speaker, the Israelites of ancient times entered the Promised Land after 40 years of wandering in the desert. Now, 40 years after the establishment of modern Israel, its citizens face no less daunting a task. It is for them to decide what form their society will take, what risks they are willing to take for peace, and what role they wish to play in their region, and, indeed, in the world.

Israel, like the United States, was founded on the ideals of liberty and equal justice. For Israel, the challenge will be to maintain these ideals in the face of economic disruption and overwhelming security problems. I have every hope that the challenge will be met. Israel's people are inventive and resilient, and with the help of friends here and elsewhere they will succeed in accomplishing as much in the next 40 years as they did in the first.

Mr. LOWRY of Washington. Mr. Speaker, I rise to join my colleagues in celebrating the 40th anniversary of the birth of the modern State of Israel.

Our own country celebrated its 40th birthday sweeping up the ashes of the War of 1812, which had ended in 1815. We, as a nation, know the threats to existence that young countries have to overcome.

As a young nation, we shared many characteristics with Israel today. We were a democracy surrounded by nondemocracies, a new nation challenging the established order, a nation peopled largely by immigrants trying to turn unplowed land into farms and to build an industrial base where there had been none. We know the problems of democracy—a supremely troublesome form of government—and we know that it is the only form of government worth the trouble.

As we celebrate, it is important to underscore our absolute, unswerving commitment to Israel—that there will be a 50th anniversary and a 60th anniversary and a 200th anniversary in the years to come. I am proud to join my colleagues today as we renew our special commitment to the survival of Israel and congratulate our friends on the tremendous triumph represented by the past 40 years.

Mr. FAZIO. Mr. Speaker, I join my colleagues today in commemorating Yom Ha'atzmaut, the 40th anniversary of the founding of the State of Israel.

On May 14, 1948, on the fifth day of the Hebrew month of Iyar, Israel became a State. David Gruen, a Polish Jew who immigrated to Palestine in 1906 and later took the Hebrew Name Ben Gurion, read the declaration of independence that day outside a Tel Aviv museum for all the world to hear. That evening, Egyptian aircraft bombed Tel Aviv.

Since 1948, Israel has come a long way. Its Jewish population has grown from 600,000 to 3.5 million. The army that once struggled to defend its land is now the strongest army in the Middle East. Exiles from all over the world have come to settle and Israel's people have revived the Hebrew language. Israel has turned vast amounts of desert land into productive farmland, and pioneered technological breakthroughs in industry and agriculture. It also boasts one of the world's highest rates of literacy.

Like the United States, Israel is a strong democracy. Its citizens enjoy legally protected civil liberties and full voting rights. Its press is guaranteed freedom and women are guaranteed basic equality. Due to its growth and prosperity, Israel is one of the most successful of the new nations that came into being after World War II.

This is a time of celebration of Israel's achievements, but it is also a time when Israel is facing an uprising and conflict within its own borders: the Palestinian uprising in the occupied West Bank and Gaza Strip.

During this tumultuous time in Israel's history, one thing remains clear, diplomacy and compromise on both sides will achieve peace in the Middle East. And toward that end, all parties in the region must fully accept U.N. Resolutions 242 and 338, accept Israel's right to exist, and renounce terrorism, before the prospects for peace can be advanced.

On the 40th anniversary of the Founding of the State of Israel, it is my hope, and the hope of thousands of other people, that the peace process will move forward. It is time to build a Middle East where every nation and people can live in peace, security, with an absence of violence and bloodshed, and ultimately, in prosperity.

Mr. ASPIN. Mr. Speaker, I would like to join my House colleagues in celebrating the 40th anniversary of Israel's independence.

It has been four decades since Israel established herself as an island of democracy in the Middle East. Despite being surrounded by hostile neighbors bent on her destruction, Israel has continued to follow the democratic principles on which she was founded.

As the only democracy in the Middle East, Israel has developed a unique relationship with the United States. This alliance covers many strategic, ideological, and cultural issues. As the chairman of the House Armed Services Committee, I would like to focus on strategic and military aspects of American-Israeli ties.

We're all aware of the obvious value Israel has in helping the United States defend our strategic resources in the Middle East. Activities such as American and Israeli intelligence agencies sharing information, United States Navy ships making port calls at Haifa and Ashdod, et cetera, are all Israeli actions which make our role in defending the Persian Gulf easier. However, these instances are not really unique to Israel; we have many allies around the world who offer us similar assistance.

We have to look closer at the American-Israeli relationship to see the special benefit the United States derives from its relationship with Israel. With most of our other allies, "strategic alliance" means what we do for our allies' defense. We put American troops in Western Europe and Korea. We have military bases in many countries where we are expected to pay rent even though these bases are heavily dedicated to the defense of the host nations. We pay for the nuclear umbrella to defend our allies around the world. We foot the bill for virtually the entire Japanese air and sea defense structure. Likewise, we pick up the tab for the defense of Canada.

Israel differs in this regard. Israel does not ask for our troops. Israel does not ask us to defend its territory. Israel does not cut its defense spending to the bone and expect the United States to save them should a national security crisis occur.

Israel's commitment to its self defense becomes even more apparent when we look at defense spending. The United States spends almost 7 percent of its GNP on defense. Our major allies in Europe and Asia average 3.3 percent—less than half as much. Canada and Japan spend 2 and 1 percent respectively.

Israel spends more than 20 percent of its GNP on national security. Not only does this spending relieve us of the burden of sending United States troops to Israel, but it also works to defend democracy in an area of the world where democratic principles often get only lip service.

Critics of Israel claim that we give Israel too much military aid. It's true that we give more military aid to Israel than to any other country. However, we're not spending on costly base rentals and troop support as we would with some other allies. United States military aid helps Israel defend herself, and keeps American soldiers from being based in one of the world's most volatile regions. We'd spend twice as much to base troops there. I'm firmly convinced that United States military aid to Israel should not be viewed as dollars spent, but dollars saved.

Let's look at another aspect of military expenditures and burden sharing. Despite our base rental fees and troop deployments, several European parties of the left—the British Labour Party and West Germany's Social Democrats come to mind—often become sources of irrational defense policies and anti-Americanism when they are out of power. This doesn't happen with either major party in Israel. While we occasionally have our policy differences with Labor or Likud, these don't result in Yankee-bashing, as is often the case with our European allies.

In sum, the United States-Israeli relationship is singular and exemplary. Israel works hard to defend herself, and this helps both the United States and Israel. We don't have to spend money on bases and troop support, and Israel is a much stronger nation and society due to her self-reliance. On the 40th anniversary of Israel's independence, we should look at how much America benefits from this ally, and how fortunate we are to have a friend like Israel working with us to defend our Middle Eastern national interests. As we look forward to celebrating many more Israeli independence days, we should look on the United States-Israeli alliance as an example of how a good military alliance can be developed, and hope the Israeli relationship serves as a model for dealing with many other nations.

Mr. SKAGGS. Mr. Speaker, I'd like to take this opportunity to offer my sincerest best wishes and congratulations to the nation and people of Israel on the 40th anniversary of the founding of their nation.

At this moment in their history, the Israeli people can rightfully look back at the last 40 years with pride, pride for having brought forth productive farmlands and industry out of desert, for having established a democracy in the midst of a region known for political chaos and warfare, and for having created an oasis of hope and promise in the Middle East.

I had the good fortune of being able to visit Israel earlier this year, and was greatly impressed by the thriving and diverse society that has taken root there. It helped me understand why so many Americans, and so many of my constituents, consider Israel such a vital place, such a staunch ally, and such an important friend.

What I hadn't realized before my trip, however, was how much the people of Israel look to the United States as its own beacon of hope. Again and again in my conversations with Israeli citizens, I was thanked, as a representative of our country, or simply as an American, for our steadfast support.

Surrounded by enemies, Israel has been forced tro defend itself against countless attacks. Two of the aides in my own office were forced to seek shelter from shelling attacks during their separate visits to the Israeli town of Qiryat Shemona in recent years. Our support for Israel, offered not just as an ally but as a friend, has helped Israel survive in a hostile region and let the people of Israel know they are not alone in the world. It is vital we continue that support.

All of us who have seen the tremendous progress Israel has made during the last 40 years eagerly await the accomplishments the next 40 years will bring.

Mr. PICKETT. Mr. Speaker, today marks the 40th anniversary of the founding of the State of Israel. Though still a relatively young nation, Israel has experienced an extraordinary transformation.

Mr. Speaker, I would like to share with my colleagues the words of my constituent, Dr. Israel Zoberman, rabbi of Congregation Beth Chaverim in Virginia Beach and president of the Virginia Beach Clergy Association. Dr. Zoberman views Israel's 40th anniversary as an opportunity to reflect upon the future, not the past. He envisions a future in which Arabs and Israelis will become partners in fighting the "common enemy of fear, mistrust and ignorance in pursuit of the blessings of shalom." I urge that Dr. Zoberman's "Israel at 40" be included in the RECORD:

ISRAEL AT 40

(By Dr. Israel Zoberman)

Reaching middle-age is a challenging proposition for it compels us to examine the path we traveled and look at the distance that lies ahead. It is an opportunity, not without a measure of pain, to reflectively gain a deeper insight into who we are and what we might yet become. A balanced approach is the key to a constructive assessment.

Admittedly, Israel is a challenged entity as it celebrates four decades of Jewish independence. Its quest for peace remains elusive as it is agonizingly exposed to the complex scenario of the Palestinian question that while begging a response, offers no simple solution. The dramatic and shaking eruption of discontent in the administered territories begun December 9 with its high cost in human lives and suffering, looms large in Jewish consciousness. Extricating itself from dangers implicit in ruling over a vast, recalcitrant Arab population forced upon it, allowing for Palestinian fulfillment while safeguarding its own vital rights in a context that bridges the gap between Israel and its neighbors is an essential though demanding task for a vulnerable State lacking a political concensus for fateful decisions. The fact remains that with the hopeful exception of Egypt, the Moslem Arab world is yet to come to grips with a Jewish presence that insists on belonging to a region where it commenced its historic journey and fashioned a Biblical legacy propelling monotheistic faith into being and shaping the Western mindset.

The State of Israel is more than a creation of a post-colonial era. It is the living expression of an ancient people refusing to abandon its bond with a Land from which it was exiled and which became embedded in a spiritual life with a keen historic memory. Survivors of the Holocaust's monumental tragedy found enduring meaning in the noble opportunity to regain lost dignity and cope with grave loss through commitment to a reborn State guaranteeing a Jewish future. Joining refugees from Arab countries and the pioneers who preceded them, together they embarked on building a dynamic democracy whose accomplishments have enriched the human enterprise, attesting to the triumph of man's spirit over adversity and its potential for renewal. Israel is acclaimed for its institutions of learning and research, along with creative social frameworks while model and support for Third World nations as well as a continuous haven to persecuted brethren and inspiring focus to world Jewry.

Faced with long-standing high military preparedness, Israel is exposed to the risk of adopting a Spartan way of life, though to its credit, it succeeded in containing that threat to its soul, exhibiting an open and variegated cultural climate. Any state serves at best as a structure for the realization of values and ideals, where partriotism ought not turn into chauvinism. Contending with an urgent agenda of social and spiritual concerns including the particular needs of its Arab minority and the issue of Jewish religious pluralism, Israel's remaining guide is the prophetic yearning for a spirited, just and caring society.

Following a lengthy experience of powerlessness, not being its own master for two millenia, Israel is discovering the advantages as well as the traps of wielding means of control that are not without limitations. Though its conduct is often critiqued with a double-standard, it ought not diminish its impulse to be faithful to a unique heritage forged in history's crucible, mindful of fortifying a critical bond of shared vision and common interest with the United States in which American Jewry has a profound stake.

May a well-earned 40th anniversary celebration overshadowed by a tormenting conflict, mark new beginnings for the Middle East, cradle of promise for the human family, turning Israelis and Arabs into partners fighting the common enemy of fear, mistrust and ignorance in pursuit of the blessings of shalom.

Dr. Israel Zoberman is Rabbi of Congregation Beth Chaverim in Virginia Beach and President, Virginia Beach Clergy Association.

Mr. BUSTAMANTE. Mr. Speaker, I want to thank Mr. SCHUMER and Mr. GILMAN of New York for organizing this special order on occasion of Israel's 40th anniversary.

We, in the United States share in Israel's celebration due to the many values we share in common. Israel, like the United States is a vibrant democracy which, despite the constant threat to its survival by hostile Arab Nations, has held steadfast to democracy. Israel's Democratic Government is the source of its stability, reliability, and strength in a region where the long-term political survival of most regimes is in question. I agree with Secretary of State George Shultz's assessment that our relationship with Israel has developed and matured for good reasons, and we want to keep it that way.

One of those good reasons is our mutual interest in achieving and maintaining peace in the Middle East where the forces of radicalism must be deterred through strength. For this reason Congress decided to upgrade the status of our strategic alliance with Israel last year. Congress passed a provision in the fiscal 1987 defense authorization granting Israel major non-NATO ally status, along with Japan, South Korea, Australia, and Egypt. By expanding the scope of strategic cooperation, the United States and Israel will be able to meet threats to mutual interests in the Middle East and the Eastern Mediteranean.

There are already many joint projects that have resulted from our strategic alliance with Israel, particularly in the area of joint military planning and exercises. Israel has participated in joint naval exercises with the 6th Fleet designed to strengthen U.S. antisubmarine warfare capabilities in the eastern part of the Mediterranean. It has provided access to its ports for regular ship visits by the 6th Fleet. Indeed, when the President ordered a naval task force to the region last year, elements of that fleet called on the port at Haifa.

Israel has made facilities available for the storage and maintenance of U.S. materiel for American use in a conflict. It has provided KFIR aircraft to the U.S. Navy's Aggressor Squadron and to the U.S. Marine Corps to help train American fighter pilots. It has provided access to bombing ranges in the Negev Desert for training exercises. It has engaged in military training exchanges with the U.S. Marines. It has staged joint military exercises with American Special Antiterrorist Forces.

Israel has entered into formal arrangements to provide access to its sophisticated hospital facilities for U.S. military casualties in a conflict. These facilities have already been used to treat U.S. personnel injured in the bombing of the U.S. Embassy annex in East Beirut and on several other occasions.

Israel has shared with the United States the lessons of its combat experience in Lebanon, where Israel successfully used American equipment against Soviet weapons. It has undertaken joint research and development projects with the Pentagon to build on the technological expertise acquired from decades of conflict.

But Israel's role as an ally of the United States goes well beyond the confines of military cooperation in the Middle East. At the United Nations, Israel votes with the United States more than any other country in the world. At our request, Israel agreed to install a Voice of America Transmitter in the Negev for American broadcasts to Soviet Central Asia, Afghanistan, and Eastern Europe. Israel agreed to this despite the inherent risk of worsening the plight of Soviet Jews.

As for trade, a key focus of Congress this year when American exports are meeting protectionist trade barriers from our closest allies, Israel signed the historic free trade area agreement, making it the first country in the world to abolish all trade barriers with the United States.

Even in Texas we are reaping the benefits of this close partnership. Recently a major cooperative enterprise began in Laredo. The Texas Department of Agriculture, the Texas-Israel exchange, and Laredo Junior College are working together to address the complex economic problems facing the people along the Texas-Mexico border. With cooperation from area farmers and ranchers, businesspeople, and other public and private groups in Texas, Israel and Mexico, these agencies are setting up a 135-acre demonstration teaching farm. I have been very supportive of this project which will be based on innovative, low-cost agricultural technologies developed in Israel. These approaches, adapted to local conditions, represent new hope for economic revitalization among family farmers and ranchers throughout the border region.

While the benefits of our strategic alliance with Israel are as obvious as they are numerous, I find that the administration's policies toward the other countries in the region are counterproductive. In light of the revelations on the Iran affair, I especially question the use of arms sales instead of diplomacy as the principal instrument of Middle East policy. By supplying arms to Israel's enemies, we erode Israel's military edge as well as our capacity to maintain stability in the Middle East.

The threat to Israel is not negligible. For example, despite deep reductions in oil revenues, Saudi Arabia continues to order weapons on a grand scale. It leads the Arab States in military expenditures, this year alone they are spending over $18 billion on the military—a sum more than 75 percent of Israel's entire GNP. In each of the years 1981–83, it was importer of arms. Current Saudi military expenditures per regular soldier are almost twice American expenditures—approximately $262,000 to $136,000. The Saudi Defense Minister, Prince Sultan, made clear in a Washington Post report, that the focus of this military buildup is Israel, not Iran or the Soviet

Army in Afghanistan. Therefore, not only does it seek to acquire military capabilities far beyond its legitimate defense needs, it continues to fund Syrian and Jordanian arms purchases and PLO terrorist activities against Israel.

I commend Israel on its 40th anniversary for its success against great odds and wish that its next 40 years should be filled with success and peace.

Mr. WOLPE. Mr. Speaker, today Israel celebrates its 40th anniversary as a modern state, the second rebirth of the Jewish homeland, the fulfillment of five millenina of history and destiny. It is a season for rejoicing, for thanksgiving, for reflection and recommitment. Israel was born in the ashes of the Holocaust, the awesome crime against the Jewish people and so many other innocents. In the wake of the horror was the understanding, after decades of education, struggle, and sacrifice as modern Zionism was born and flowered, that only in an independent country could oppressed Jews finally have a haven and a touchstone for their future. Zionism is truly the national liberation movement of the Jewish people, and its founders—Herzl, Weizmann, Ben Gurion, Szold, and countless others—changed the face of the Jewish people and influenced the course of the entire world.

Israel at 40 is a nation so young and yet so old. Israel cherishes peace, yet war encompassed its birth and has marked every subsequent generation of Israelis, Palestinians, and Arabs since those fateful days. Israel was founded in the spirit of pioneering labor, yet has evolved into a technocratic, modern society with the highest standard of living in the region. Israel was conceived with the teachings of religious and moral faith—literally the bedrock of Western civilization—yet it is on the cutting edge of every modern political and moral challenge confronting the world, from economic survival to terrorism, from the search for justice to the quest for security. Israel is a metaphor for the dilemmas faced by diverse nations throughout the world. Israel is on the line, every day, testing itself and being tested, with Israel's trials, triumphs, and tribulations never failing to engage the world. How else to explain the enormous attention to a tiny country, with a fragment of humanity, that has come to mean so much to so many?

Israel's strengths are enduring. Israel's identity is derived from its history. Israel's vibrancy and excitement are derived from the vast diversity of its people—the gathering of committed Jews from the corners of the Earth. Israel's democracy is its distinctive character, and the source of the deep ties between Israel and America—a special relationship that is as unique as it is cherished. Forty years ago, Israel was born and the United States extended a commitment, in the country's first moments of life, to its legitimacy as an independent State. That singular commitment has survived the most awesome challenges—challenges that continue to this day—but has not yet been wholly fulfilled. The dream and the hope is for Israel to exist in peace with its neighbors. To this goal, the United States and Israel are united. On this 40th anniversary of Israel's founding, we rededicate ourselves to Israel's future with peace.

Mr. STOKES. Mr. Speaker, I want to thank my distinguished colleagues from New York [Mr. SCHEUER and Mr. GILMAN], for reserving this time to salute the 40th anniversary of the State of Israel. I am pleased to join with my colleagues and with Israel's many other supporters to celebrate this anniversary.

The warm and close ties that bind the United States and Israel are rooted in a common set of values and common interests. This has led to the establishment of foundations and bilateral institutions to enhance cooperation between the two countries in areas such as science and technology, economic development and education. This has closely bound our nations by cultural and historic ties, as well as by concrete interests.

On this 40th anniversary, I am reminded of my previous visits to Israel. I have been privileged to visit Israel on two occasions—once in 1972 and again in 1983. On each occasion I was greatly impressed with the people who comprise this democratic oasis in that part of the world. On each of those occasions, I talked with leaders of that nation. I had the opportunity to discuss with them their hopes and dreams for Israel. They shared with me their commitment and desire and their great longing for peace in that part of the world.

Between my trips in 1972 and 1983 I could see much progresss being made throughout this nation. It is a beautiful land and not only can you enjoy its beauty, but it is also steeped in religious history. On each of my visits I tried to see as many of the historic places there as I could.

It is indeed a pleasure for me to reiterate my support for the State of Israel on the occasion of its 40th birthday. It is a shining example of democracy in that part of the world.

Mr. RODINO. Mr. Speaker, it is a great pleasure to join my colleagues in paying tribute to the State of Israel on this 40th anniversary of its founding.

This valiant nation was born in strife and on the very day of its creation was plunged into war. In this earliest of many struggles for survival, 6,000 Israeli lives were lost.

Through the past 40 years Israel has known no real peace or security. It has had to maintain constant vigilance and, too often, wage war against its hostile neighbors.

Yet despite sacrifice of human and material resources simply to exist as an independent democracy, the State of Israel had made momentous advances in agriculture, education, medicine, technology, the arts, and many other fields of endeavor. Today the once barren homeland is a flourishing modern nation.

While fighting for existence, Israel has still welcomed and assimilated diverse groups of Jews from throughout the world.

During its short life, the State of Israel has fulfilled its commitment to the principles of democracy, justice, and human rights. It has a democratic system of government, a free press, an independent judiciary, and adherence to values cherished by our own country.

Although we have disagreements with the State of Israel, these do not weaken the strong relationship between us, and Israel remains a close and loyal ally in that troubled part of the world.

I salute Israel on this important anniversary, and I am confident that this brave nation will resolve its current problems and continue to seek a just and lasting peace in the Middle East.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise today to pay a very special tribute to the 40th anniversary of the rebirth of Israel. Anniversaries are a reflection of the culmination of years of hard work and dedication, and Israel's anniversary is no exception. Through decades of adversity, impeded by terrorism, war, and international isolation, the Jewish state has become a successful example of a flourishing nation.

Forty years ago, 600,000 Jews declared their independence. Since then, Israel has fended off constant attacks by neighboring countries dedicated to its destruction. Then, as now, Israeli leaders have sought to maintain a homeland for the millions of Jews worldwide who regard that area of the world as holy. Implicit in Israel's objective of maintaining a homeland has always been a hope for peaceful co-existence with their Arab neighbors. To this end, Israel has abided by the U.N. resolution that partitioned Palestine, even in the face of Arab rejection of this international pact.

Mr. Speaker, Israel's actions since its war for independence have been oriented toward gaining a peaceful settlement have surfaced internally on the best course of peace, Israel's commitment to peace is unyielding, as is evident in this country's courageous move to sign the Camnp David accords in 1979. Israel has shown all the world that it is most deserving of our respect and support.

In addition to being a stalwart advocate of peace in the region, Israel is of great strategic importance to this country. Circumstances have caused Israel to amass an awesome armed service; for this reason, Israel ranks with our other major military allies and is an important addition to the free world's defenses. As their security concerns closely approximate to our own, Israel continues to be of significant value to us in the defense of our interests in the volatile Middle East region. We must never lose sight of this important factor.

On the occasion of Israel's 40th anniversary, we must again articulate our support for continued negotiations for peace in this troubled region of the world. Critical to the success of the peace process is the acceptance by all participants of U.N. resolutions 242 and 338, which incorporate the concept of "land for peace" and denounce violence and terrorism. This is an important starting point in the delicate negotiations process.

Mr. Speaker, Israel has much to be proud of its 40 anniversary; yet so much remains to be done. It is my earnest hope that the next 40 years of Israel's existence will bring enduring peace to the Middle East.

GENERAL LEAVE

Mr. GILMAN. Mr. Speaker, I ask unanimous consent that all members have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

IN HONOR OF THE LATE VERNON W. THOMSON

The SPEAKER pro tempore. The gentleman from Wisconsin [Mr. GUNDERSON] is recognized for 60 minutes.

Mr. GUNDERSON. Mr. Speaker, I take this special order this evening to remember a predecessor of mine, the gentleman who served in this Congress for some 14 years from western Wisconsin, that being Vernon W. Thomson, and, as we begin this particular time of memory, I yield to the dean of our Wisconsin delegation, my good friend and colleague, Mr. KASTENMEIER.

Mr. KASTENMEIER. Mr. Speaker, I rise today to join my colleagues to pay tribute to our former colleague, the Honorable Vernon W. Thomson of Wisconsin, who passed away on April 2.

Vern was born in Richland Center, WI, some 82 years ago. He attended Carroll College and the University of Wisconsin Law School.

Vern began his career of a half-century of public service as an assistant district attorney of Richland County. He also served as Richland Center city attorney from 1933 to 1940, and mayor of Richland Center from 1944 to 1950. In 1934, Vern was elected to the Wisconsin State Assembly and served until 1950. During his last three terms in the assembly, he served as its Speaker. In 1950, Vern was elected Attorney General of Wisconsin. After three terms, Vern was elected Governor of Wisconsin in 1956.

Although Vern was defeated for reelection in 1958, he was elected to the House of Representatives from Wisconsin's Third District in 1960. For 14 years, Vern served the neighboring Third District in the House. During his seven terms in the House, Vern was a member of the House Foreign Affairs Committee, Small Business Committee, and the District of Columbia Committee.

After leaving Congress in 1974, Vern was appointed by President Ford to serve on the Federal Election Commission. He was Chairman of the Commission in 1976-77.

Mr. Speaker, Vern Thomson was in every sense one of Wisconsin's most memorable political leaders. He was a good public servant and a very likable person. Vern leaves many, many friends who served and still serve in the House of Representatives.

Mr. Speaker, I would like to extend my deepest sympathy to his family.

Mr. GUNDERSON. Mr. Speaker, I am most pleased to take this time along with the dean of Wisconsin's congressional delegation, BOB KASTENMEIER, to honor the memory of our distinguished former colleague from Wisconsin, Vernon W. Thomson, who passed away on April 2.

Vern was born on November 5, 1905, in Richland Center, WI, and raised on a farm in Richland County. Educated at Carroll College in Waukesha, WI, and at the University of Wisconsin-Madison, his first jobs were teaching at Viroqua High School from 1927-29 and at the Madison Vocational School from 1929-32.

Subsequently, Vern Thomson spent almost all of his adult life in the public service of his city, county, State, and Nation. He assumed the dual role of city attorney for Richland Center, WI, and the assistant district attorney for Richland County immediately following his graduation from the University of Wisconsin Law School in 1932.

First elected to the Wisconsin State Assembly in 1934, he was a member of that legislative body for eight consecutive terms—1935-51—serving as its speaker from 1939-45 and as the Republican floor leader from 1945-51. It's no small accomplishment that, at a time when the average age of a member of the Wisconsin Assembly was close to 60, Vern Thomson was elected its speaker at 34.

In April 1944, Vern was also elected mayor of Richland Center, a position he held along with this assembly post until he was sworn in as Wisconsin's attorney general in 1951. During his tenure as attorney general and as a member of the Wisconsin Judicial Council, he presided over the first complete revision of Wisconsin's substantive criminal code as well as the modernization the State's children's code.

After serving three terms as attorney general, Vern Thomson was elected Governor of Wisconsin in 1956 at which time the New York Times described him as a "vigorous campaigner and skilled phrasemaker who is immensely popular." Among other things, his term as Governor was marked by the passage of new, tighter lobby-control legislation which underscored the progressive political traditions of the State of Wisconsin through absolute prohibitions on gifts to State officers and employees.

Vern Thomson was subsequently elected as the Representative of Wisconsin's Third District to the U.S. Congress in 1960. He was elected to a total of seven consecutive terms and served on the Foreign Relations, Small Business, and District of Columbia Committees during his 14-year tenure in the House.

Following his public service in the House, Vern Thomson was appointed by President Gerald Ford to a 5-year term on the newly revitalized Federal Elections Commission in 1975. He served as FEC Chairman from 1976-77.

Throughout his political career, Vern was not only known as an orator who could stir the passions of his colleagues and constituents, but as a man of vision as well. He warned us about deficits long before deficit spending became an annual occurrence. He worked to protect American workers long before we had a trade deficit. He was an environmentalist long before such preservation was fashionable.

This latter designation was particularly important to those of us who call western Wisconsin "home" for, even on his last day in Congress, Vern Thomson was working on fully funding his dream of making the lower St. Croix River a permanent part of our Nation's Wild and Scenic River System. In fact, with the passage of that legislation, the gentleman from North Carolina, Mr. Taylor, who was one of the floor managers of the bill commented that, with its passage, the lower St. Croix would forever be a monument to Vern Thomson.

And it is a most fitting memorial to this avid fisherman who, more than any other man I have known, made public service an honorable profession for the rest of us to enter—a man who served his country with distinction on the House Foreign Affairs Committee as the ranking member of its State Department and Foreign Operations Subcommittee—a man who, raised on a farm and trained as an educator, also never lost sight of the issues truly important to his constituents.

As our late colleague Bill Steiger of Wisconsin observed on the floor of the House on December 20, 1974, the legislative career of Vernon W. Thomson is one of the fullest, most notable in the history of Wisconsin—perhaps second only to that of the famed "Fighting Bob" La Follette. And I am most pleased that we were able to honor Vern and his distinguished career last May at a testimonial dinner in La Crosse where over 300 of his friends and constituents said a resounding "thank you" for his half-century of service to western Wisconsin.

Today, we underscore that gratitude here in the House of Representatives. At the same time, we must say "goodby" to Vernon W. Thomson as well. We will miss his wisdom and insight. His example, however, will remain with us forever.

Mr. BROOMFIELD. Mr. Speaker, I would like to join my colleagues in remembering a fine American. Vernon Wallace Thomson left behind a distinguished legacy of public service and commitment to his country which will serve as an example to us all. I had the privilege of serving in Congress and on the Foreign Affairs Committee with Vern from 1961 until 1974. These were some tumultuous years for America and I can say we were very lucky to have someone like Vern Thomson in Congress.

In 1974 Vern was appointed to the new Federal Election Commission and was subsequently chosen to chair this vital body. Through his guidance the Commission was able to establish itself as an important regulator of our campaign finance system. His public career spanned over 40 years and his honesty and spotless record were truly a testament to this outstanding man.

Vern Thomson was a warm, compassionate man and a true friend. His passing is a great loss to those who served with him regardless of party. I know he will be sorely missed.

Mr. PETRI. Mr. Speaker, I rise to honor Vernon Thomson, a lifelong public servant from Wisconsin. Rather than provide you with a list of his many accomplishments, I am going to tell you a little story about Vernon that illustrates his sense of humor.

Vernon was a Shriner. The Wausau Shriners invited him to speak at their dinner. Now, this particular group dressed as Indians for their meetings. So, when they made Vernon an honorary member, they gave him the title of "Big Chief No Raise 'Em Taxes." The Big Chief was then introduced as the next speaker. He rose, raised his right hand, and said, "How." And that was the whole of his speech.

We could certainly use some of that brevity around here from time to time. In any case, I am pleased to have the opportunity to speak here tonight. Vernon Thomson's dedication to public service should serve as an example to us all. It is fitting that we honor him here.

Mr. SENSENBRENNER. Mr. Speaker, I rise with great respect and admiration to pay tribute to one of Wisconsin's finest statesmen, Vernon W. Thomson.

His career began as an assistant district attorney in Richland County, WI, in 1933, and included 7 years as mayor of Richland Center. He served 6 years as speaker of the Wisconsin State Assembly and 6 years as State attorney general before becoming Governor of Wisconsin in 1957.

In 1960, he was elected to the House of Representatives. Serving a largely agricultural district, Congressman Thomson worked to insure the long-term viability of the American family farm.

Congressman Thomson was defeated in 1974, but he did not have much time to rest before being called into service in 1975, by President Gerald Ford to be one of the six members of the newly created Federal Election Commission. After the reformation of the Commission in 1976, because it was declared unconstitutional, Mr. Thomson was appointed once again and was elected as Chairman for 1 year before retiring.

In 1981, Thomson was called out of retirement by President Carter to serve as an interim member of the Federal Election Commission. Vern Thomson's appointment to the Federal Election Commission by a Republican President and a Democratic President clearly indicates the recognition of Mr. Thomson's integrity. Of course, that integrity had been recognized years before by his constituents and adversaries in our State and in Congress.

His colleagues, constituents, and the voters of Wisconsin admired this statesman and servant. He epitomizes that which our Nation's founders envisioned to be the model politician and office holder. Vernon Thomson has left a legacy for our Nation and the state of Wisconsin which can rarely be equaled.

Mr. DE LA GARZA. Mr. Speaker, I was deeply saddened recently to learn of the passing of our former colleague and statesman, Vernon W. Thomson. There is no question those of us who were privileged to serve with him have lost a great friend as has our Nation.

During his many distinguished years of service—as speaker of the Wisconsin Assembly, attorney general, Governor, and Member of Congress—Vernon Thomson provided the people of his great State with outstanding legislative representation. He was an individual who truly possessed all of the qualities essential for outstanding leadership—sound judgment, patience, and perseverance along with a keen sense of propriety and practicality.

His ideas, his feelings, his views in the legislation this body considered during his 14 years in Congress helped to better the lives of all our citizens. While we no longer will have access to his great wisdom and vision his memory will remain for those who follow, and I think it will be many, many generations before the final chapters of Vernon Thomson can be written in history.

Mr. MILLER of Ohio. Mr. Speaker, it is with profound sorrow that I learned of the death of our former colleague and good friend, Vernon W. Thomson. He passed away on April 2, after an extended illness.

For seven consecutive terms—from 1960–74—the citizens of the Third District of Wisconsin sent this able legislator and dedicated public servant to the U.S. Congress. Prior to his election to the House, Vern served as the speaker of the Wisconsin General Assembly, State attorney general, and the Governor of the State of Wisconsin. He turned in a record of performance and service that is still discussed today by those who followed the progress of the Dairy State.

In the House, he was a distinguished member of the House Foreign Affairs Committee, the Small Business Committee, and the District of Columbia Committee. He is remembered warmly on all three posts.

After leaving the Congress, he was appointed to a 5-year term on the Federal Elections Commission. He later served as its Chairman. I remember his diligent service to the House and I was always impressed with his solid assessment of legislation. He was very well respected and he earned the admiration of his colleagues.

Vern set an example for all of us to follow. He will be greatly missed, both in Washington and in Wisconsin.

I extend my sympathy to his family and friends.

Mr. CONTE. Mr. Speaker, I want to join my colleagues here today in paying tribute to a former Member of the House and a close friend, Vernon M. Thomson.

Vernon passed away on April 2. He leaves behind a legacy of devotion to the public welfare and will always be remembered for his concern and compassion for the constituents in his Wisconsin district.

He came to the House of Representatives 2 years after my election, and served with distinction until 1975, when then-President Gerald Ford appointed him to the newly created Federal Election Commission.

Vernon spent his entire life working on behalf of the citizens of Wisconsin. He was born in Richland Center, WI, and eventually was graduated from the University of Wisconsin and the Wisconsin Law School. He was an assistant district attorney in Richland County, mayor of Richland Center, speaker of the State assembly, State attorney general, and Governor of the Dairy State. Clearly, a full five decades of his life were spent working for and with the people of Wisconsin.

While he was in the House of Representatives, Vernon had tremendous rapport with his colleagues. His knowledge of agricultural issues was exceeded by few, his willingness to work for the public good exceeded by none. I take great pride in considering Vernon to be a close friend, and his loss is a personal one.

Mr. Speaker, my wife Corinne joins me in expressing our heartfelt sympathy to the Thomson family. Our prayers are with them. Their loss is our loss as well.

□ 1820

GENERAL LEAVE

Mr. GUNDERSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GUNDERSON) to revise and extend their remarks and include extraneous material:)

Mr. SWINDALL, for 5 minutes, today.

Mr. WALKER, for 5 minutes, today.

Mr. DAVIS, of Illinois, for 5 minutes, today.

(The following Members (at the request of Mr. SCHEUER) to revise and extend their remarks and include extraneous material:)

Mr. BRENNAN, for 5 minutes, today.

Mr. NICHOLS, for 5 minutes, today.

Mr. SISISKY, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MFUME, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GUNDERSON) and to include extraneous matter:)

Mr. PURSELL.

Mr. EDWARDS of Oklahoma.

Mr. BILIRAKIS in four instances.

Mr. BROOMFIELD.

Mr. GUNDERSON.

Mr. FRENZEL in five instances.

Mr. Leach of Iowa.

Mr. Smith of New Jersey in three instances.

Mr. Porter.

Mr. Miller of Ohio in three instances.

Mr. Shumway.

Miss Schneider.

Mr. Gradison.

Mr. Bunning.

Mr. William Thomas of California.

Mr. Hopkins.

Mr. Hyde.

Mr. Green.

Mr. McCollum.

Mr. Young of Florida.

Mr. Coughlin.

(The following Members (at the request of Mr. Scheuer) and to include extraneous matter:)

Mr. Jacobs.

Mr. Gaydos.

Mr. LaFalce.

Mr. Roe.

Mr. Waxman.

Mr. Gray of Pennsylvania.

Mr. Aspin.

Mr. Mfume.

Mr. Fazio.

Mr. Walgren.

Mr. Solarz.

Mr. Hoyer in two instances.

Mr. Lantos in two instances.

Mr. McHugh.

Mr. Feighan.

Mr. Tallon in three instances.

Mr. Weiss.

Mr. Berman.

Mr. Jontz.

Mr. Lipinski.

Mr. Chappell.

Mr. Murtha.

Mr. Vento.

Mr. Edwards of California.

Mr. Kanjorski.

Mr. Skaggs.

Mr. Traficant.

Mr. Applegate.

Mr. Obey.

Mr. Garcia.

Mr. Matsui.

Mr. Sikorski in two instances.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 3439. An act for the relief of Marisela, Felix, and William Marrero.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 227. Joint resolution to express gratitude for law enforcement personnel;

S.J. Res. 246. Joint resolution to designate the month of April 1988, as "National Child Abuse Prevention Month"; and

S.J. Res. 247. Joint resolution to authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day".

ADJOURNMENT

Mr. GUNDERSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until Monday, April 25, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3476. A letter from the Secretary of the Air Force, transmitting a copy of the detailed unit cost report which addresses the increase in the DSCS III A&B program on which a notification was submitted in March (Ex. Com. No. 3244), pursuant to 10 U.S.C. 2431(b)(3)(A); the Committee on Armed Services.

3477. A letter from the Assistant Secretary of State, Legislative Affairs, transmitting copies of the reports of political contributions by Robert South Barrett, IV, of Virginia, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of Djibouti, William Graham Walker, of California, Ambassador Extraordinary and Plenipotentiary-designate to the Republic of El Salvador, and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XXIV, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MONTGOMERY: Committee of conference. Conference report on H.R. 2616 (Rept. 100-578). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CONYERS (for himself, Mr. Fauntroy, Mr. Bates, Mr. Hayes of Illinois, Mr. Valentine, Mr. Evans, Mr. Owens of Utah, Mr. Traficant, Mr. Jones of North Carolina, Mr. Solarz, Mrs. Collins, Mr. Kildee, Mr. Garcia, Mrs. Roukema, Mr. Brown of California, Mr. Hawkins, Mr. Levin of Michigan, Mr. Shays, Mr. Hansen, Mrs. Morella, Mr. Courter, and Mr. Ford of Tennessee):

H.R. 4441. A bill to amend the Federal Food, Drug, and Cosmetic Act to require a health warning on the labels of bottles containing alcoholic beverages; to the Committee on Energy and Commerce.

By Mr. CONYERS (for himself, Ms. Pelosi, Mr. Bustamante, Mr. Leland, Mr. Lewis of Georgia, Mr. Torres, and Mr. Dymally):

H.R. 4442. A bill to assure due process and equal protection of the law by permitting the use of statistical and other evidence to challenge the death penalty on the grounds of disproportionate patterns of imposition with respect to racial groups, to prohibit such patterns, and for other purposes; to the Committee on the Judiciary.

By Mr. CONYERS (for himself, Mr. Owens of New York, Mr. Courter, Mr. Mack, Mr. Fauntroy, Mr. Gray of Pennsylvania, Mr. Traficant, Mr. Horton, Mr. Fuster, Mr. Roe, Mr. Lewis of Georgia, Mr. Hayes of Illinois, Mr. Wheat, Mrs. Boggs, Mrs. Boxer, Mr. Dymally, Ms. Kaptur, Mr. Garcia, Mrs. Collins, Mr. Flake, Mr. Mfume, Ms. Pelosi, Mr. Evans, Mr. Mazzoli, Mr. Fazio, Mr. Weiss, Mr. Pepper, Mr. Bryant, Mr. Levin of Michigan, Mr. Sabo, Mr. Wolpe, Mr. Dellums, Mr. Crockett, Mr. Hughes, and Mr. Hawkins):

H.R. 4443. A bill to make permanent the Martin Luther King, Jr., Federal Holiday Commission; to the Committee on Post Office and Civil Service.

By Mr. BRENNAN:

H.R. 4444. A bill to amend the Internal Revenue Code of 1986 to permit tax-free sales of certain fuels, and for other purposes; to the Committee on Ways and Means.

By Mr. HUGHES (for himself, Mr. McCollum, Mr. Rodino, Mr. Mazzoli, Mr. Crockett, Mr. Feighan, Mr. Smith of Florida, Mr. Smith of Texas, Mr. Shaw, Mr. Gekas, Mr. Biaggi, Mr. Weiss, and Mr. Bateman):

H.R. 4445. A bill to amend title 18, United States Code, to prohibit certain firearms especially useful to terrorists; to the Committee on the Judiciary.

By Mr. SHAW (for himself, Mr. Badham, Mr. Ballenger, Mr. Bartlett, Mr. Barton of Texas, Mr. Bennett, Mrs. Bentley, Mr. Bilirakis, Mr. Bliley, Mr. Cheney, Mr. Coble, Mr. Combest, Mr. Craig, Mr. Davis of Illinois, Mr. DeLay, Mr. DioGuardi, Mr. Dornan of California, Mr. Edwards of Oklahoma, Mr. Erdreich, Mr. Fawell, Mr. Gekas, Mr. Gilman, Mr. Gingrich, Mr. Grant, Mr. Gregg, Mr. Hammerschmidt, Mr. Herger, Mr. Hunter, Mr. Ireland, Mr. Konnyu, Mr. Kyl, Mr. Leath of Texas, Mr. Lewis of California, Mr. Lewis of Florida, Mr. Livingston, Mr. Lott, Mr. Donald E. Lukens, Mr. McCollum, Mr. Mack, Mr. MacKay, Mr. Martin of New York, Mrs. Martin of Illinois, Mr. Miller of Ohio, Mr. Montgomery, Mr. Nielson of Utah, Mr. Ritter, Mr. Rogers, Mr. Roth, Mr. Schuette, Mr. Skeen, Mr. Solomon, Mr. Smith of Texas, Mr. Smith of New Hampshire, Mr. Denny Smith, Mr. Swindall, Mr. Thomas of California, Mr. Vander Jagt, Mr. Walker, Mr. Whittaker, Mr. Wortley, Mr. Young of Florida, Mr. Lagomarsino, Mr. Gallegly, Mr. Harris, Ms. Kaptur, Mr. Bereuter, and Mr. McEwen):

4446. A bill to provide for a drug-free America; jointly, to the Committees on Energy and Commerce, the Judiciary, Interior and Insular Affairs, Armed Services, Foreign Affairs, Merchant Marine and Fisheries, Banking, Finance and Urban Affairs, Education and Labor, and Post Office and Civil Service.

By Mr. DENNY SMITH (for himself, Mr. Hansen, Mr. Herger, Mr. Marlenee, and Mr. Young of Alaska):

H.R. 4447. A bill to require a fee, and the posting of a bond in certain cases, in order to appeal a decision to offer a timber sale on a national forest or the public lands; jointly, to the Committees on Agriculture and Insular Affairs.

By Mr. STOKES:

H.R. 4448. A bill to designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, OH, as the "John O. Holly Building of the United States Postal Service"; to the Committee on Post Office and Civil Service.

By Mr. TAUZIN (for himself and Mr. Fields):

H.R. 4449. A bill to authorize expenditures for fiscal year 1989 for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. VENTO (for himself, Mr. Oberstar, Mr. Sabo, Mr. Sikorski, and Mr. Penny):

H.R. 4450. A bill to ensure that certain Railroad Retirement benefits paid out of the Dual Benefits Payments Account are not reduced, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. PARRIS (for himself, Mr. Bliley, and Mrs. Martin of Illinois):

H. Con. Res. 285. Concurrent resolution relating to drug trafficking in the Washington Metropolitan Area; jointly, to the Committees on the District of Columbia, the Judiciary, and Public Works and Transportation.

By Mr. SKAGGS (for himself, Mr. DeFazio, Mr. Buechner, and Mr. Owens of Utah):

H. Con. Res. 286. Concurrent resolution regarding the receipt of radioactive waste at the waste isolation pilot plant; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. GRAY of Pennsylvania (for himself, Mr. Latta, Mr. Obey, Mr. Kemp, Mr. Derrick, Mr. Downey of New York, Mr. Gradison, Mr. Miller of California, Mr. Mineta, Mr. Solarz, Mr. Gephardt, Mr. Panetta, Mr. Donnelly, Mr. Fazio, Mr. Frost, Mr. Lowry of Washington, Mr. Nelson of Florida, Mr. Williams, Mr. Wolpe, and Mrs. Martin of Illinois):

H. Res. 432. Resolution authorizing printing of the record of proceedings of the Committee on the Budget incident to presentation of a portrait of Hon. James R. Jones; to the Committee on House Administration.

By Mr. SIKORSKI (for himself and Mr. Lantos):

H. Res. 433. Resolution requesting the President to issue a proclamation in commemoration of the 50th anniversary of the Javits-Wagner-O'Day Act; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 137: Mr. Kolter and Mr. Torricelli.

H.R. 190: Mrs. Meyers of Kansas and Mrs. Martin of Illinois.

H.R. 303: Mrs. Johnson of Connecticut, Mr. Waxman, and Mr. Smith of Florida.

H.R. 570: Mr. Barnard, Mr. Shumway, Mr. Dreier of California, Mr. Hiler, Mr. de la Garza, Mr. Henry, and Mr. Roe.

H.R. 578: Mr. Eckart.

H.R. 779: Mr. Kennedy.

H.R. 920: Miss Schneider.

H.R. 1095: Mr. Swindall.

H.R. 1614: Mr. Baker.

H.R. 1632: Mr. Borski.

H.R. 1645: Mr. Anderson, Mr. Ackerman, Mr. Akaka, Mr. Andrews, Mr. Bates, Mr. Bateman, Mr. Biaggi, Mr. Borski, Mr. Brown of California, Mr. Bryant, Mrs. Byron, Mr. Buechner, Mr. Conyers, Mr. Courter, Mr. DeFazio, Mr. Dellums, Mr. Derrick, Mr. Dymally, Mr. Dyson, Mr. Erdreich, Mr. Espy, Mr. Evans, Mr. Fascell, Mr. Foglietta, Mr. Frost, Mr. Garcia, Mr. Grant, Mr. Gray of Illinois, Mr. Gordon, Mr. Guarini, Mr. Harris, Mr. Hammerschmidt, Mr. Hayes of Louisiana, Mr. Horton, Mr. Hyde, Mrs. Johnson of Connecticut, Mr. Jontz, Mr. Kanjorski, Mr. Kildee, Mr. Kolter, Mr. Kostmayer, Mr. Lantos, Mr. Lehman of California, Mr. Leland, Mr. Lewis of California, Mr. Lipinski, Mr. Thomas A. Luken, Mr. Lungren, Mr. MacKay, Mr. Martinez, Mr. Matsui, Mr. McCloskey, Mr. McCurdy, Mr. McDade, Mr. McMillan of North Carolina, Mr. Mica, Mr. Miller of California, Mr. Mineta, Mr. Montgomery, Mr. Moody, Mr. Murphy, Mr. Murtha, Mr. Nichols, Mr. Nielson of Utah, Ms. Oakar, Mr. Oberstar, Mr. Obey, Mr. Olin, Mrs. Patterson, Ms. Pelosi, Mr. Pickett, Mr. Rahall, Mr. Ray, Mr. Roe, Mr. Richardson, Mr. Rowland of Connecticut, Mr. Sabo, Mr. Savage, Mr. Stokes, Mr. Sunia, Mr. Volkmer, Mr. Walgren, Mr. Watkins, Mr. Weiss, Mr. Wheat, and Mr. Yatron.

H.R. 1692: Mr. Moakley.

H.R. 2134: Mr. Lewis of Georgia and Mr. Ballenger.

H.R. 2502: Mr. Fauntroy.

H.R. 2508: Mr. Stokes, Mr. Florio, and Mrs. Collins.

H.R. 2532: Mr. Clarke, Mr. Coleman of Texas, Mr. Miller of Washington, Mr. DeWine, and Mr. Johnson of South Dakota.

H.R. 2569: Mr. Mavroules and Mr. Cooper.

H.R. 2585: Mr. Annunzio.

H.R. 2719: Mr. Weldon.

H.R. 2762: Mr. Hyde and Mr. Dowdy of Mississippi.

H.R. 2848: Mr. Smith of New Hampshire, Mr. Hammerschmidt, and Mrs. Vucanovich.

H.R. 2944: Mr. Frank and Mr. Molinari.

H.R. 3054: Mr. Conyers.

H.R. 3174: Mr. Guarini, Mr. Dwyer of New Jersey and Mr. Rinaldo.

H.R. 3259: Mr. Foglietta, Mr. Roe, Mr. Coleman of Texas, Mr. Brooks, Mr. Boehlert, Mr. Martinez, Mr. Roybal and Mr. Garcia.

H.R. 3291: Mr. Young of Florida, Mrs. Lloyd, and Mr. McCloskey.

H.R. 3454: Mr. Smith of New Hampshire, Mr. Bonior of Michigan, Mrs. Boxer, Mr. Rowland of Georgia, and Mr. Rhodes.

H.R. 3455: Mr. Gray of Pennsylvania, Mr. Ritter, Mr. Hayes of Illinois, and Mr. de la Garza.

H.R. 3511: Mr. Torricelli.

H.R. 3526: Mr. Daub, Mr. Martinez, and Mr. Smith of Texas.

H.R. 3565: Mr. Carper.

H.R. 3570: Mr. Sharp.

H.R. 3699: Mr. Stangeland, Mr. Gunderson, and Mr. Moody.

H.R. 3718: Mr. Durbin.

H.R. 3719: Mr. Roybal, Mr. Rose, Mr. DeWine, Mr. Penny, Mr. Wolpe, Mr. Markey, Mr. Torricelli, Mr. Dwyer of New Jersey, Mr. Clement, Mrs. Patterson, Mr. Wolf, Mr. Fazio, Mr. Marlenee, Mr. Scheuer, Mr. Clay, Mr. Applegate, Mr. Ballenger, Mr. Biaggi, and Mr. Dellums.

H.R. 3726: Mr. Smith of Florida.

H.R. 3777: Mr. Swindall.

H.R. 3812: Mrs. Lloyd, Mr. Bevill, Mr. Martinez, Mr. Eckart, Ms. Pelosi, Mr. Hawkins, Mr. McCurdy, and Mr. Edwards of California.

H.R. 3889: Mr. Synar, Mr. Gregg, Mr. Stump, Mr. Owens of Utah, Mr. Cooper, Mr. Crane, Mr. Hall of Texas, Mr. Edwards of Oklahoma, Mr. Gray of Illinois, Mr. Luken, Mr. Johnson of South Dakota, Mr. Mack, Dr. Konnyu, Mr. Gundrson, Mr. Wyden, and Mrs. Saiki.

H.R. 3907: Mr. Hastert, Mrs. Vucanovich, and Mr. Latta.

H.R. 3937: Mr. Johnson of South Dakota.

H.R. 3977: Mr. Weiss, Mr. Flippo, Mr. Gray of Illinois, Mrs. Vucanovich, Mr. Davis of Michigan, Mr. Skeen, Mr. Rangel, and Mr. Johnson of South Dakota.

H.R. 4013: Mr. Dwyer of New Jersey.

H.R. 4037: Ms. Kaptur, Mr. Mfume, Mr. de Lugo, Mr. Kanjorski, and Mr. Garcia.

H.R. 4060: Mr. AuCoin, Mr. Rahall, Mr. Eckart, Mr. Harris, Mr. Moody, Mr. Hamilton, Mr. Sawyer, and Mr. Miller of Washington.

H.R. 4070: Mr. McDade, Mr. Daub, Mrs. Morella, Mr. Hansen, Mr. Mfume, Mr. Solomon, Mr. DeFazio, Mr. Lagomarsino, Mr. Mrazek, Mr. Brown of California, Mrs. Bentley, Mr. Fazio, Mr. Dwyer of New Jersey, and Mr. Wolf.

H.R. 4074: Mr. Hatcher.

H.R. 4091: Mrs. Bentley, Mr. Miller of Washington, and Mr. Lagomarsino.

H.R. 4158: Mr. Studds, Mr. Pursell, Mr. Kildee, Mr. Bates, Mr. Darden, and Mr. Hughes.

H.R. 4192: Mr. Clement, Mr. Ford of Tennessee, Mr. Coleman of Texas, Mr. Shumway, Mr. Fascell, Mr. Rahall, Mr. Watkins, Mr. Cheney, Mr. Conte, Mr. Shaw, Mr. Kanjorski, Ms. Kaptur, Mr. Hubbard, Mrs. Johnson of Connecticut, Mr. Glickman, Mr. Morrison of Washington, Mr. Stenholm, Mr. Rogers, Mr. Udall, Mr. Carper, Mr. Mica, Mr. Lightfoot, Mr. Olin, and Mr. Fields.

H.R. 4199: Mr. Lagomarsino and Mr. McMillen of Maryland.

H.R. 4224: Mr. Lowry of Washington, Mr. Dicks, and Mr. Borski.

H.R. 4226: Mr. Brown of California, Miss Schneider, Mr. Jontz, Mr. Walgren, Mr. Morrison of Connecticut, Mr. Valentine, Mr. Neal, and Mr. Horton.

H.R. 4275: Mr. Slattery, Mr. Ritter, Mr. Martin of New York, and Mr. Shuster.

H.R. 4277: Mr. Clinger, Mr. Shays, and Mr. Russo.

H.R. 4292: Mr. Mfume, Mr. Frank, Ms. Pelosi, Mr. Torres, and Mr. Kennedy.

H.R. 4309: Mr. de la Garza.

H.R. 4335: Mr. Owens of New York, Mr. Akaka, Mr. Rangel, Mr. McMillen of Maryland, Mr. Garcia, Mr. Lewis of Georgia, and Mr. Bonker.

H.R. 4338: Mr. Guarini, Mr. Rodino, Mr. Weldon, Mr. Ford of Michigan, Mr. Neal, Mr. Carper, Mr. Kaptur, Mr. Florio, Mr. St Germain, Mr. Horton, Mr. Gray of Pennsylvania, Mr. Wolf, and Mr. Borski.

H.R. 4373: Mr. Gray of Illinois, Mr. Huckaby, and Mr. Baker.

H.R. 4396: Mr. LaFalce, Mr. Jontz, Mr. Chandler, Mr. Dornan of California, Mr.

Rowland of Georgia, Mr. Rowland of Connecticut, Mr. Hopkins, Mr. Lagomarsino, and Mr. Baker.

H.R. 4409: Mr. Bruce, Mr. de la Garza, Mr. Gonzalez, and Mr. Lewis of Georgia.

H.J. Res. 50: Mr. Florio, Mr. Stark, and Mr. Miller of California.

H.J. Res. 137: Mrs. Saiki, Mr. Gallegly, Mr. Feighan, Mr. de Lugo, Mr. Callahan, Mr. Boland, Mr. Coyne, Mr. Holloway, Mr. St Germain, Mr. Walgren, Mr. Crane, Mr. Hammerschmidt, Mr. Guarini, and Ms. Slaughter of New York.

H.J. Res. 398: Mr. Coble, Mr. Archer, Mr. McDade, Mr. Neal, Mr. Chandler, Mr. Lujan, Mr. Frank, Mr. Stenholm, Mr. English, Mr. Madigan, Mr. Jacobs, Mr. DioGuardi, Mr. Ravenel, Mr. Lewis of California, Mr. Lowry of Washington, Mr. Feighan, Mr. Olin, Mr. Buechner, Mr. Frenzel, and Mr. Russo.

H.J. Res. 403: Mr. Lancaster and Mr. Pepper.

H.J. Res. 417: Mr. Buechner, Mr. Kolbe, Mr. Frost, Mr. McGrath, Mr. Gallo, Mr. Hamilton, Mr. Feighan, Mrs. Bentley, Mr. de la Garza, Mr. DeWine, Mr. Frank, Mr. Scheuer, Mr. McDade, Mr. Jeffords, Mr. Nowak, Mr. Courter, Mr. LaFalce, Mrs. Meyers of Kansas, and Mr. Bunning.

H.J. Res. 420: Mr. Erdreich.

H.J. Res. 438: Mr. Bennett, Mr. Gray of Illinois, Mr. Chappell, Mr. Barnard, Mr. Lowry of Washington, Mr. Nichols, Mr. Hyde, Mr. Grant, Mr. Rogers, and Mr. Lantos.

H.J. Res. 441: Mr. Smith of New Jersey, Mr. Mazzoli, Mr. Mrazek, and Mr. Courter.

H.J. Res. 442: Mr. Rinaldo, Mr. Applegate, Mr. Aspin, Mr. Weber, Mr. Brennan, Mr. Roybal, Mr. Donnelly, Mr. Dannemeyer, Mr. Vander Jagt, Mr. Bonior of Michigan, Mr. Cooper, Mr. McMillen of Maryland, Mr. Sisisky, Mr. Stokes, Mr. Craig, Mrs. Byron, Mr. Bryant, Mr. Chapman, Mr. Coyne, Mrs. Johnson of Connecticut, Mr. English, Mr. Gray of Pennsylvania, Mr. Kastenmeier, Mr. Bennett, Mr. Callahan, and Mr. Vento.

H.J. Res. 443: Mr. Bonker, Mr. Campbell, Mr. Chapman, Mr. DeWine, Mr. Duncan, Mr. Erdreich, Mr. Fascell, Mr. Flake, Mr. Gephardt, Mr. Grant, Mr. Green, Mr. Kasich, Mr. Kennedy, Mr. Lehman of Florida, Mr. Lott, Mr. Moody, Mr. Morrison of Connecticut, Mr. Olin, Mr. Ortiz, Ms. Pelosi, Mr. Price of Illinois, Mr. Richardson, Mr. Rodino, Mr. Savage, Mr. Schaefer, Mr. Scheuer, Mrs. Schroeder, Mr. Shays, Mr. Sisisky, Mr. Skaggs, Mr. Skelton, Mr. Smith of New Jersey, Mr. Torricelli, Mr. Walgren, and Mr. Young of Alaska.

H.J. Res. 451: Mr. Scheuer.

H.J. Res. 452: Mr. Holloway, Mr. Davis of Illinois, Mr. Wylie, Mr. Smith of New Jersey, Mr. Ballenger, Mr. Rhodes, Mr. Hall of Texas, and Mr. Ritter.

H.J. Res. 465: Mr. Fazio, Mr. Roe, Mr. Horton, Mr. Lantos, Mr. Walgren, Mr. Owens of New York, Mr. Wolf, Mr. Mfume, Mr. Fauntroy, Mr. Morrison of Washington, Mr. Neal, Mr. Smith of Florida, Mr. Daub, Mrs. Collins, Mr. Clay, Mrs. Lloyd, Mr. Spence, Mr. Lagomarsino, Mrs. Roukema, Mr. Hochbrueckner, Mr. Levin of Michigan, Mr. Bevill, Mr. Frost, Mr. Moakley, Mr. de Lugo, Mr. Weiss, Mr. Johnson of South Dakota, Mr. Matsui, Mr. Frank, Mr. Chapman, Mr. Coelho, Mr. Smith of Iowa, Mr. Lewis of Georgia, Mr. Pepper, Mr. Dwyer of New Jersey, Mr. Gray of Illinois, Mr. Wyden, Mr. Roybal, Mr. Konnyu, Mr. Espy, Mr. Bilirakis, Mr. Leland, Mr. Conte, Mr. Coats, Mr. Young of Florida, Mr. McMillen of Maryland, Mr. Cardin, Mr. Hayes of Illinois, Mr. Stokes, Mr. Donnelly, Mr. Borski, Mrs. Bentley, Mr. Berman, Mr. Biaggi, Mr. Bliley, Mr. Boucher, Mr. Carr, Mr. Henry, Mr. Stark, Mrs. Byron, Mr. Packard, Mr. Dyson, Mr. Conyers, Mr. Hall of Texas, Mr. Sundquist, Mr. Wortley, Mr. Dellums, Mr. DioGuardi, Mr. Dixon, Mr. Dowdy of Mississippi, Mr. Applegate, Mr. Jontz, Mr. Pursell, Mr. Fawell, Mr. Florio, Mr. Frenzel, Mr. Fuster, Mr. Hayes of Louisiana, Mr. Hyde, Mr. Murphy, Mr. Hastert, Mr. Solarz, Mr. Early, Mr. Blaz, Mr. Feighan, Mr. Garcia, Mr. de la Garza, and Mr. Hammerschmidt.

H.J. Res. 472: Mr. Livingston, Mr. Towns, Ms. Kaptur, Mr. Mrazek, Mr. Lancaster, Mr. McMillen of Maryland, Mr. Kolter, Mr. Upton, Mr. Grant, Mr. Matsui, Mr. Goodling, and Mr. DeWine.

H.J. Res. 477: Mr. Bateman, Mr. Bilirakis, Mr. Neal, Mr. Matsui, Mr. Bereuter, Mr. Bustamante, Mr. Dingell, Mr. Garcia, Mr. Gregg, Mr. Hansen, Mr. Kasich, Mr. Levin of Michigan, Mr. Livingston, Mr. McGrath, Mr. Nichols, Mr. Miller of Washington, Mrs. Boxer, Mr. de Lugo, Mr. Kyl, Mr. Borski, Mr. Espy, Mr. Hall of Texas, Mrs. Byron, Mrs. Collins, Mr. DioGuardi, Mr. Craig, Mr. Fauntroy, Mr. Fuster, Mr. Gray of Illinois, Mr. Ortiz, Mr. Richardson, Mr. Rodino, Mr. Savage, Mr. Smith of Texas, Mr. Fish, Mr. Boehlert, Mr. Bennett, Mr. Hammerschmidt, Mr. Badham, Ms. Kaptur, Mr. Rhodes, Mr. Schuette, Mr. Hughes, Mr. Miller of Ohio, Mr. Brown of California, Mr. Lungren, and Mr. Walgren.

H.J. Res. 488: Ms. Slaughter of New York, Mr. Buechner, Mr. Bilbray, Mr. DeWine, Mr. Foglietta, Mr. Davis of Illinois, and Mr. Levin of Michigan.

H.J. Res. 501: Mrs. Patterson, Mr. Roe, Mr. Moakley, Mr. Foglietta, Mr. Smith of Florida, Mr. Derrick, Mr. Carr, Mr. Kolter, Mr. Tauzin, Mr. Porter, Mrs. Meyers of Kansas, Mrs. Johnson of Connecticut, Mr. Stallings, Mr. Hefner, Mr. Dorgan of North Dakota, Mr. Davis of Michigan, Mr. Fawell, Mr. Ackerman, Mr. St Germain, Mrs. Morella, Mr. Wyden, Mr. English, Mr. Sawyer, Mr. Lowry of Washington, Mr. Petri, Mr. Neal, Mr. Schumer, Mr. Leach of Iowa, Mr. Coyne, Mr. Carper, Mrs. Vucanovich, Mr. Valentine, Mrs. Bentley, Mr. Garcia, Mr. McCloskey, Mr. Bilbray, Mr. Robinson, Mr. Pashayan, Mr. Kostmayer, Mr. Skelton, Mr. Fuster, Mr. Hatcher, Mr. Biaggi, Mrs. Boxer, Mr. Boucher, Mr. Wolf, Mr. Frost, Mr. Evans, Mr. de la Garza, Mr. Russo, Mr. Rowland of Georgia, Mr. Dyson, Mr. Lagomarsino, and Mr. Johnson of South Dakota.

H.J. Res. 509: Mr. McGrath, Mr. Lipinski, Mr. Horton, Mrs. Boxer, Mr. Fish, Mr. Gray of Pennsylvania, and Mr. Lungren.

H.J. Res. 530: Mr. Kolbe, Mr. Lightfoot, Mr. Hiler, Mr. Cheney, Mr. Frenzel, Mr. Thomas of Georgia, Mr. Green, Mr. Moorhead, Mr. Fawell, Mr. Martin of New York, Mr. Akaka, Mr. McGrath, Mr. Miller, of Ohio, Mr. Taylor, Mr. Flippo, Mr. Conte, Mr. Buechner, Mr. Brown of Colorado, Ms. Oakar, Mr. Levin of Michigan, Mr. Edwards of Oklahoma, Mr. Clinger, Mr. Martinez, Mr. Boehlert, Mr. Boland, Mr. Bennett, Mr. Burton of Indiana, Mr. Smith of New Hampshire, Mr. Biaggi, Mr. Courter, Mr. Torres, Mr. Solarz, Mr. Lehman of California, Mr. Dyson, Mr. Rowland of Georgia, Mr. Latta, Mr. Spence, Mr. Wilson, Mr. Callahan, and Mr. Spratt.

H.J. Res. 534: Mr. Fawell, Mr. Lehman of California, Mr. Horton, Mrs. Bentley, Mr. de la Garza, Mr. Espy, Mr. Lipinski, Mr. Dwyer of New Jersey, Mr. McGrath, Mr. Levin of Michigan, Mr. Bevill, and Mr. Lungren.

H.J. Res. 537: Mr. Coyne, Mr. Matsui, Mrs. Collins, Mrs. Roukema, Mr. Mrazek, Mr. Green, Mr. Lehman of Florida, Mr. Wolf, Mr. Skelton, Mr. Gray of Illinois, Mr. DeFazio, Mr. Rowland of Connecticut, Mr. Ackerman, Mr. Moakley, Mr. McGrath, Mr. Foglietta, Mr. DeWine, Mr. Darden, Mr. Fawell, Mr. Lipinski, Mr. Bonior of Michigan, Mr. Hoyer, Mr. Huckaby, Mr. Horton, Mr. Fazio, Mrs. Boxer, Mr. Crockett, Mrs. Bentley, Mr. Pepper, Mr. Dornan of California, and Mr. Garcia.

H.J. Res. 543: Ms. Slaughter of New York, Ms. Pelosi, and Mr. Martinez.

H. Con. Res. 280: Mrs. Lloyd, Mr. Matsui, Mr. Kennedy, Mr. Gray of Illinois, Mr. Owens of Utah, Mr. Akaka, Mr. Grant, Mr. Lewis of Georgia, Mr. Ravenel, Mr. Mack, Mr. Fascell, Mr. Fuster, Mr. Smith of Florida, Mr. Roe, Mr. Hayes of Louisiana, Mr. Wilson, Mr. Bonior of Michigan, Mr. Baker, Mr. Horton, Mr. Lipinski, Mr. Hutto, Mr. Ireland, Mr. Lehman of Florida, Mr. MacKay, Mr. Nelson of Florida, Mr. Fazio, Mrs. Bentley, Mr. Berman, Mr. Biaggi, Mr. Bilbray, Mr. Blaz, Mr. Bosco, Mr. Broomfield, Mr. Callahan, Mr. Chandler, Mr. Conte, Mrs. Morella, Mr. Bevill, Mr. Fish, Mr. Dannemeyer, Mr. Daub, Mr. Derrick, Mr. Dicks, Mr. de Lugo, Mr. Barnard, Mr. Bennett, Mr. Dymally, Mr. de la Garza, Mrs. Collins, Mr. Lagomarsino, Mr. Evans, and Mr. Espy.

SENATE—*Thursday, April 21, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Honorable TERRY SANFORD, a Senator from the State of North Carolina.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

A moment of silence in memory of John Legarreta, a Capitol Police officer who labored here 20 years, who died yesterday.

Bless the Lord, O my soul: and all that is within me, bless his holy name. Bless the Lord, O my soul, and forget not all his benefits: Who forgiveth all thine iniquities; who healeth all thy diseases * * *.—Psalm 103:1-3

God of Abraham, Isaac, and Israel, infinite in mercy and love, we pray this morning for any in our large family who are ill, in hospital or home, that each may experience the reality of Your healing presence. Especially, we remember Shirley Metzenbaum as she enters the hospital this morning for eye surgery. We thank You for the good health she has enjoyed since her accident, and we pray for the perfect restoration of her vision. During her brief time in the hospital, remove all anxiety and encourage Senator METZENBAUM.

We thank You for the excellent reports concerning Senator BIDEN, and we pray that he will be prepared in body, mind, and spirit for the surgery that remains to be done. Reassure him and Mrs. Biden of the love and prayers of their friends in the Senate family.

We pray for Darren Geary, son of Capitol Police Officer Geary, as he will enter the hospital on Monday for face surgery. Grant total success to the surgeon and rapid recovery to Darren. Bless his family in a special way at this time. Thank you, Father, for Your blessing upon all who have need on Capitol Hill and their loved ones, and thank You for hearing our prayer, O Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 21, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable TERRY SANFORD, a Senator from the State of North Carolina, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. **SANFORD** thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The majority leader is recognized.

BUILDING THE FUTURE

Mr. **BYRD**. Mr. President, this morning I feel like the messenger who brings the proverbial good news and bad news. On the good news front, I am delighted that the conferees on the omnibus trade and competitiveness bill are nearing completion of their conference report. I expect that the bill will be filed later today.

It is my understanding the House will act on the report today. This means it could possibly come up tomorrow. The Senate could begin on it tomorrow if Senator BENTSEN is ready. He and I have discussed the matter.

At the time we discussed it, I discussed the schedule in terms of having the trade conference report come up on Monday. Since then, I have come to the conclusion that there might be a chance that the Senate would want to proceed with the trade conference tomorrow, all sides being willing. I have not discussed that kind of schedule with Senator BENTSEN as yet, but I might alert all Senators that this could be an approach.

It is legislation that is important for the country, Mr. President, and the closer it is to becoming law the better news it is.

On the bad news front, the President continues to issue veto talk. Divisive veto talk continues to pour forth from the White House.

After years of bipartisan work in the Senate, after one congressional compromise after another, the administration has concentrated its ire on a provision that promises some workers a 60-day notice before a plant closing or a lay off.

There is substantial support for the legislation Mr. President. It passed both Houses by more than a two-thirds margin and has continued to gain public support. It encourages investments in education, training, and research to make America more competitive, it gives the President new tools to fight foreign protectionism, and it will give a strong boost to American exports in foreign markets.

But all this is put at risk, by the apparent determination to keep the American working man or woman from getting a 60-day notice that their job, perhaps their future, is at risk.

More dangerous than the bad news, is the wishful thinking that has come with it. There are so many who like so much in this bill, that they hope for a quick second turn-around if the Congress cannot override a Presidential veto. They had better think twice.

As we all know, the rules of the other body could permit consideration of this bill, could permit consideration of a stripped-down version, quickly, after the changes are made. We do not have that luxury in the Senate, Mr. President. The omnibus trade and competitiveness bill is complex legislation that required months and months and months of hearings, discussions, markups in the committees, and took almost 3 weeks of floor debate in this body. The House passed it in a single day. In the House, there were only a handful of amendments considered on the floor. Senators proposed a total of 175 amendments—many of them controversial.

Working out an agreement on a 1,000-page bill inevitably leaves a number of Senators dissatisfied. Some things are included that a Senator may not like and even popular provisions can be dropped to reach an accommodation with the House. Any effort to consider a future competitiveness bill could open, again, the old disputes and also new proposals.

A quick turnaround on new trade legislation after a veto is sustained, if it is sustained, may not be possible.

Let me return to the good news—the strengths of the trade bill. I remain surprised, Mr. President, that the administration is still talking veto about a trade bill that gives the people of America so much of what America needs on the trade and competitiveness front. Let me cite just four examples.

At present, the administration is conducting worldwide trade negotia-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tions without being able to assure its trade partners that agreements will be given fast track consideration by the Congress. We not only give the President new negotiating authority, but we strengthen his hand by giving explicit congressional support for many of his negotiating goals.

In addition, the President is given so-called proclamation authority—the right to lower tariffs as a result of multilateral agreements.

We have worked closely with the administration to work out provisions that will bring better protection to U.S. intellectual property rights.

With the administration, the Congress developed and improved programs for men and women thrown out of work through the quickening pace of economic change.

Where the administration had specific proposals the conferees worked to put them in the bill. Where the Congress took the lead in developing an idea, the conferees walked an extra mile and more to take into account administration suggestions and objections.

Mr. President, the country needs a strengthened trade policy and concrete steps toward long-term competitiveness. This bill moves us toward both goals. I very much hope the President will sign it.

Mr. President, I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. Senators are permitted to speak therein, but not to exceed 5 minutes each.

The Senator from Wisconsin is recognized.

NO JUSTIFICATION FOR U.S. SDI RUSH

Mr. PROXMIRE. Mr. President, what should the Congress make of the argument by advocates of the strategic defense initiative [SDI] that we must proceed vigorously with SDI including the earliest possible deployment because the Soviets are way ahead of us in their SDI program? This Senator cannot forget the vivid warning about the onrushing Soviet SDI by former Defense Secretary Weinberger when he testified about the Soviet SDI threat before the Senate Defense Appropriations Subcommittee. Secretary Weinberger told our subcommittee that the Soviets were progressing vigorously with their own SDI. Then he said he could not imagine a more serious threat to our country than a situation in which the Soviets had an effective antimissile defense, and we did not.

Would not the Defense Secretary's hypothesis, if it turned out to be a reality, mean that the United States would lose the credibility of its nuclear deterrent? Would not it mean that the Soviet Union could destroy not only the United States offensive missiles, but could then have this country at its mercy? The Soviets could then utterly devastate this country, level every American city, finish America as a organized society. They could do all this with impunity. Behind its impregnable antimissile defense, the U.S.S.R. could stand supreme. What a nightmare!

But how could this happen? How could a Soviet Union that has consistently trailed the United States at every step of the nuclear arms race suddenly overtake us, dash ahead and hold the supreme and defensive world power? True, the Soviet Union has succeeded in matching the United States nuclear weapon for nuclear weapon since the dawn of the nuclear age in 1945. But consider the consistent sequence.

The United States, not the U.S.S.R., produced the first atomic bomb. A few years later the Soviet Union matched that feat. The United States, not the Soviet Union, produced the first hydrogen bomb. Several years later the U.S.S.R. produced their hydrogen bomb. The same United States first, Soviet second sequence developed with that enormously complicated military scientific feat—the multiple independently targeted reentry vehicle—the MIRV'd missile. The United States was first. Only then did the Soviets succeed in begging, buying, borrowing or stealing the technology. The same sequence has followed with the development of nuclear tipped cruise missiles and most recently with computer honed submarine propellers that permit submarines to glide under the oceans with such slight sounds that enemy sonar cannot detect their presence.

But now we are told that the Soviet Union may be ahead of us in what is by far the most scientifically difficult challenge of all—the development of a strategic defense that could protect a huge nation from enemy missile attack? Is this possible? The answer is emphatically, "no." It is not true.

In the spring issue of foreign policy, two experts carefully analyze the charge that the Soviet version of star wars poses a serious threat to our national security. The two experts are Stephen Daggett, who is a senior analyst at the Committee for National Security, and Robert English, who was formerly a senior analyst at the same organization. Daggett and English meticulously review the evidence in their article. They point out that until President Reagan made his announcement of SDI in March of 1983, United States defense and intelligence analyst generally held that Soviet strategic defense effort did not pose an imminent threat. "But beginning in February 1984, when SDI budget requests were first submitted to Congress, the administration swiftly concocted an alarming picture of Soviet strategic defense activities. When the Pentagon claimed a decade of intense effort just to catch up, the issue became clear—the 'star wars gap.' "

Mr. President, the clearest tipoff on the transparency of this phoney charge of an onrushing Soviet SDI was the failure of the Defense Department to call for the development of new weapons that would penetrate or destroy the Soviet defenses. Daggett and English discuss in detail the Defense Department's frequently expressed concerns about the Soviet radars including the Krasnoyarsk radar. They conclude that these radars suffer from "damming technical limitations in performing any part of a battle management function." The one Soviet ABM system that is the most advanced is the one permitted the Soviets by the ABM Treaty—the new Moscow system. But even its effectiveness is minimal.

According to Lawrence Woodruff, Deputy Under Secretary of Defense for Strategic and Theater Nuclear Force:

> The Soviets have been developing their Moscow defense for over ten years at a cost of billions of dollars. For much less expense we believe we can still penetrate these defenses with a small number of Minuteman missiles equipped with highly effective chaff and decoys.

Furthermore, the most capable Soviet air defense missile, the SA-12B, has been tested only against short range "tactical" missiles. In those tests, it succeeded in just 1 out of 20 attempted intercepts. And that was against short-range missiles. Against U.S. strategic missiles it could be even more pathetic.

Mr. President, year after year the Under Secretary of Defense for Research and Development reports to the Congress on the status of the U.S. military technology compared to the Soviet technology. What do these reports show? Repeatedly, they show that the United States leads the Soviet Union decisively. In fact, in the 15 military technologies relevant to SDI, the United States leads in 12. The Soviet Union leads in ony three.

The fact is that this country can afford to proceed carefully and deliberately with a relatively modest level of funding of SDI research and without any hasty premature deployment. With respect to SDI, the Russians are not coming. And they are not 10 feet tall; they are close to 5 feet 2.

Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

ISRAEL'S 40TH ANNIVERSARY

Mr. LEVINE. Mr. President, today is the anniversary of a miracle: the establishment of the State of Israel. Unfortunately, the recent headlines may obscure the miracle. News of rioting in the West Bank, or of political tension in Jerusalem, sounds anything but miraculous. Israel has all the trappings of the modern political state, and more than the average nation's share of problems.

But, in a sense, even Israel's problems attest to the miracle. The fact is that 40 years ago, it seemed unlikely that Israel would survive even to its first anniversary of statehood. Bombs fell on Tel Aviv, then Israel's capital, as David Ben Gurion read the state's proclamation of independence. Egypt, Jordan, Lebanon, Syria, and Iraq had declared war on the new state and vowed that it would be still-born.

The Arab war against Israel took a heavy toll. Six thousand Israelis, 1 percent of its population, were killed in that independence war. But the state survived. And even as the war was still being fought, Israel went about its mission of absorbing hundreds of thousands of Holocaust survivors.

In a sense, it was the Holocaust that demonstrated that there was simply no alternative to the establishment of a Jewish state in the ancient homeland. During the 1930's and 1940's, as Nazi anti-Semitism moved in stages from discrimination, to threats of violence, to pogroms, and finally to mass murder, no nation in the world offered a home to the imperiled European Jewish communities. While 6 million died, the world looked away.

The one community on Earth that was anxious to offer a home to the Jews of Europe, the community in Palestine, could not do so. the British, who then controlled that area, banned Jewish immigration just as the Holocaust was beginning. The Jews of Europe, without a home of their own, were trapped.

The existence of Israel is a guarantee that there will be no repeat of the events of less than a half-century ago. Endangered Jews anywhere know that they have a place in Israel. The era of homelessness is over.

But Israel is more than just a refuge. It is also a thriving democracy, the only real democracy in its region of the world. It is a strong and dependable American ally, in an area where our Nation has all too few friends or allies. Israel has fulfilled many of the dreams of its founders.

But in one area there is cause for disappointment. After 40 years, the dream of an Israel at peace with its neighbors is still unrealized. Of the five Arab states that declared war on Israel in 1948, only one, Egypt, has since signed a peace treaty with the Jewish state. Not one of the other Arab states has agreed to direct negotiations.

On this anniversary, one can only hope that Israel's neighbors and the Palestinians will, at last, reconcile themselves to the simple fact that Israel is here to stay. Four decades of war and nonrecognition have accomplished nothing. And, worse, they have cost thousands of lives and billions of dollars.

Looking back it is amazing to contemplate what Israel has accomplished despite the ongoing state of war. It has maintained a vibrant democratic system, an independent judiciary, a free press and a commitment to fundamental rights. Despite the war, Israel holds itself—and is held—to the same high standard to which we hold this country. Sometimes that high standard makes life difficult for Israel. But I believe that few Israelis would have it any other way.

In medicine, education, science, the arts, agriculture, cybernetics, and in virtually every other area of human endeavor, Israelis have made contributions far out of proportion to their numbers.

We can only speculate on what Israel will achieve once peace is established. But there can be little doubt that its neighbors and the world at large will be the beneficiaries. An Israel at peace will be, as its founders envisioned, a "light unto the nations."

Mr. LEVIN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. MOYNIHAN. Mr. President, I rise today to note a most special occasion: the 40th anniversary of the founding of the State of Israel. Forty years ago, the United States took the lead in welcoming the newly-created State of Israel into the community of nations. Since that time, the United States and Israel have enjoyed a special friendship arising out of mutual respect and shared values.

In 40 short years, Israel has built a nation, forged a new society, and created an academic, cultural, economic and military infrastructure. Israel has established world-class universities and is ranked among the 10 leading industrialized nations in the world. She is among the most advanced in the world in the production of high technology and agricultural products. She has redeemed and absorbed hundreds of thousands of Jews from disparate countries and cultures, many of whom are survivors of the Holocaust or refugees from Arab lands. In recent years, Israel has provided a haven for Jews persecuted in the Soviet Union and Ethiopia and refuge for Southeast Asian Boat People.

Israel repeatedly has been forced to defend herself against outside aggression. Despite the burdens of endless war, terrorism, and economic boycott, the people of Israel have never relinquished their fervent desire to live in peace with their neighbors and all members of the international community. Today, as always, Israeli leaders ponder how to pursue peace, not whether to do so. Would that all their neighbors would always do the same.

The State of Israel fulfills 2 millenia of Jewish dreams: A land which affirms Jewish freedom and independence, and which underscores the extraordinary relationship between a people, their faith and their homeland from which they were exiled for centuries.

As a tribute to that relationship, and as testimony to the affinity all Americans feel toward the State of Israel, I ask unanimous consent that the text of the declaration of Israel's independence be printed in the Record following my remarks. I also ask unanimous consent that an article from the May 15, 1948 New York Times reporting the establishment of the State of Israel be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, May 15, 1948]

PROCLAMATION OF THE NEW JEWISH STATE

Tel Aviv, Palestine, May 14 (AP)—Following in the text of the Declaration of Independence of the Jewish state:

The land of Israel was the birthplace of the Jewish People.

Here their spiritual, religious and national identity was formed. Here they achieved independence and created a culture of national and universal significance. Here they wrote and gave the Bible to the world.

Exiled from Palestine, the Jewish people remained faithful to it in all the countries of their dispersion, never ceasing to pray and hope for their return and restoration of their national freedom.

Impelled by this historic association, Jews strove throughout the centuries to go back to the land of their fathers and regain statehood. In recent decades they returned in their masses. They reclaimed a wilderness, revived their language, built cities and villages and established a vigorous and ever growing community, with its own economic and cultural life. They sought peace, yet were ever prepared to defend themselves. They brought blessings of progress to all inhabitants of the country.

In the year 1897 the First Zionist Congress, inspired by Theodor Herzl's vision of a Jewish state, proclaimed the right of the Jewish people to a national revival in their own country.

BALFOUR DECLARATION CITED

This right was acknowledged by the Balfour Declaration of Nov. 2, 1917, and reaffirmed by the Mandate of the League of Nations, which gave explicit international recognition to the historic connection of the Jewish people with Palestine and their right to reconstitute their national home.

The Nazi holocaust which engulfed millions of Jews in Europe proved anew the urgency of the re-establishment of the Jewish state, which would solve the problem of Jewish homelessness by opening the gates to all Jews and lifting the Jewish people to equality in the family of nations.

Survivors of the European catastrophe, as well as Jews from other lands, claiming their right to a life of dignity, freedom and labor, and undeterred by hazards, hardships and obstacles, have tried unceasingly to enter Palestine.

In the second World War, the Jewish people in Palestine made a full contribution in the struggle of freedom-loving nations against the Nazi evil. The sacrifices of their soldiers and efforts of their workers gained them title to rank with the people who founded the United Nations. On Nov. 29, 1947, the General Assembly of the United Nations adopted a resolution for a re-establishment of an independent Jewish state in Palestine and called upon inhabitants of the country to take such steps as may be necessary on their part to put the plan into effect.

This recognition by the United Nations of the right of the Jewish people to establish their independent state may not be revoked. It is, moreover, the self-evident right of the Jewish people to be a nation, as all other nations, in its own sovereign-state.

Accordingly we, the members of the National Council, representing the Jewish people in Palestine and the Zionist movement of the world, met together in solemn assembly by virtue of the natural and historic right of Jewish people and of resolution of the General Assembly of the United Nations, hereby proclaim the establishment of the Jewish state in Palestine, to be called Israel.

We hereby declare that as from the termination of the mandate at midnight this night of the 14th to 15th of May, 1948, and until the setting up of duly elected bodies of the state in accordance with a Constitution to be drawn up by a Constituent Assembly not later than the first day of October, 1948, the present National Council shall act as the Provisional State Council and its executive organ, the National Administration, shall constitute the Provisional Government of the State of Israel.

EQUALITY TO ALL PROMISED

The State of Israel will promote the development of the country for the benefit of all its inhabitants; will be based on precepts of liberty, justice and peace taught by the Hebrew prophets; will uphold the full social and political equality of all its citizens without distinction of race, creed or sex; will guarantee full freedom of conscience, worship, education and culture; will safeguard the sanctity and inviolability of shrines and holy places of all religions; and will dedicate itself to the principles of the Charter of the United Nations.

The State of Israel will be ready to cooperate with the organs and representatives of the United Nations in the implementations of the resolution of Nov. 29, 1947, and will take steps to bring about an economic union over the whole of Palestine.

We appeal to the United Nations to assist the Jewish people in the building of its state and to admit Israel into the family of nations.

In the midst of wanton aggression we call upon the Arab inhabitants of the State of Israel to return to the ways of peace and play their part in the development of the state, with full and equal citizenship and due representation in all its bodies and institutions, provisional or permanent.

We offer peace and amity to all neighborning states and their peoples, and invite them to cooperate with the independent Jewish nation for the common good of all. The State of Israel is ready to contribute its full share to the peaceful progress and reconstitution of the Middle East.

Our call goes out to the Jewish people all over the world to rally to our side in the task of immigration and development and to stand by us in the great struggle for the fulfilment of the dream of generations—the redemption of Israel.

[From the New York Times, May 15, 1948]

ZIONISTS PROCLAIM NEW STATE OF ISRAEL; TRUMAN RECOGNIZES IT AND HOPES FOR PEACE; TEL AVIV IS BOMBED, EGYPT ORDERS INVASION

(By Gene Currivan)

TEL AVIV, PALESTINE, Saturday, May 15—The Jewish state, the world's newest sovereignty, to be known as the State of Israel, came into being in Palestine at midnight upon termination of the British mandate.

Recognition of the state by the United States, which had opposed its establishment at this time, came as a complete surprise to the people, who were tense and ready for the threatened invasion by Arab forces and appealed for help by the United Nations.

In one of the most hopeful periods of their troubled history the Jewish people here gave a sigh of relief and took a new hold on life when they learned that the greatest national power had accepted them into the international fraternity.

CEREMONY SIMPLE AND SOLEMN

The declaration of the new state by David Ben-Gurion, chairman of the National Council and the first Premier of reborn Isreal, was delivered during a simple and solemn ceremony at 4 P.M., and new life, was instilled into his people, but from without there was the rumbling of guns, a flashback to other declarations of independence that had not been easily achieved.

The first action of the new Government was to revoke the Palestine White Paper of 1939, which restricted Jewish immigration and land purchase.

In the proclamation of the new state the Government appealed to the United Nations "to assist the Jewish people in the building of its state and to admit Israel into the family of nations."

The proclamation added:

"We offer peace and amity to all neighboring states and their peoples, and invite them to cooperate with the independent Jewish nation for the common good of all. The State of Israel is ready to contribute its full share to the peaceful progress and reconstitution of the Middle East."

WORLD JEWS ASKED TO AID

The statement appealed to Jews throughout the world to assist in the task of immigration and development and in the "struggle for the fulfillment of the dream of generations—the redemption of Israel."

Plans for the ceremony had been laid with great secrecy. None but the hundred or more invited guests and journalists was aware of the meeting until it started, and even the guests learned of the site only ten minutes before. It was held in the Tel Aviv Museum of Art, a white modern-design two-story building. Above it, flew the Star of David, which is the state's flag; and below, on the sidwalk, was a guard of honor of the Haganah, the army of the Jewish Agency for Palestine.

As photographer bulbs flashed and movie cameras ground out reels of scene, great crowds gathered and cheered the Ministers and other members of the Government as they entered the building. The security arrangements were perfect. Sten guns were brandished in every direction and even the roofs bristled with them.

The setting for the reading of the proclamation was a dropped galley whose hall held paintings by prominent Jewish artists. Many of them depicted the sufferings and joys of the people of the Diapors, the dispersal of the Jews.

The thirteen Ministers of the Government Council sat at a long dais beneath the photograph of Theodor Herzl, who in 1897 envisaged a Jewish state. Vertical pale blue and white flags of the state hung on both sides. To the left of the ministers and below them sat other members of the national administration. There are thirty-seven in all, but some were unable to get here from Jerusalem.

At 4 P.M. sharp the assemblage rose and sang the Hatikvah, the national anthem. The participants seemed to sing with unusual gusto and inspiration. The voices had hardly subsided when the squat, white-haired chairman, Mr. Ben-Gurion, started to read the proclamation, which in a few hours was to transform most of those present from persons without a country to proud nationals. When he pronounced the words "We hereby proclaim the establishment of the Jewish state in Palestine, to be called Israel," there was thunderous applause and not a few damp eyes.

After the proclamation had been read and the end of the White Paper and of its land laws pronounced, Mr. Ben-Gurion signed the document and was followed by all the other members of the administration, some by proxy. The last to sign was Moshe Shertok, the new Foreign Minister and the Jewish Agency's delegate to the United Nations. He was roundly applauded and almost mobbed by photographers.

The ceremony ended with everyone standing silently while the orchestral strains of the Hatikvah filled the room. Outside, the fever of nationalism was spreading with fond embraces, warm handshakes and kisses. Street vendors were selling flags, crowds gathered to read posted bulletins, and newspapers were being sold everywhere.

As the sabbath had started, there was not the degree of public rejoicing that there would have been any other day.

The proclamation was to have been read at 11 P.M. but was advanced to 4 because of the sabbath. Mr. Shertok explained that the proclamation had to be made yesterday because the mandate was to end at midnight and the Zionists did not want a split second to intervene between that time and the formal establishment of the state.

In the preamble to the declaration of independence, the history of the Jewish people was traced briefly from its birth in the Land of Israel to this day. The preamble touched on the more modern highlights, including Herzl's vision of a state, acknowledgement of the Jewish national homeland by the Balfour Declaration in 1917 and its reaffirmation by the League of Nations mandate and by the United Nations General Assembly resolution of Nov. 29, 1947.

It asserted that this recognition by the United Nations of the right of the Jewish people to establish an independent state could not be revoked and added that it was the "self-evident right of the Jewish people to be a nation, as all other nations in its own sovereign state."

The proclamation stated that as of midnight the National Council would act as a Provisional State Council and that its executive organ, the National Administration, would constitute a provisional government until elected bodies could be set up before Oct. 1.

Israel, the proclamation went on, will be open to immigration by Jews from all countries "of their dispersion." She will develop the country for the benefit of all its inhabitants, it added, and will be based on precepts of liberty, justice and peace taught by the Hebrew prophets.

The new state, according to the proclamation, will uphold the "social and political equality of all its citizens without distinction of race, creed or sex" and "will guarantee full freedom of conscience worship, education and culture."

The statement pledged safeguarding of the sanctity and inviolability of shrines and holy places of all religions. It also contained a promise to uphold the principles of the United Nations.

There was great cheering and drinking of toasts in this blacked-out city when word was received that the United States had recognized the provincial Government. The effect on the people, expecially those drinking late in Tel Aviv's coffee houses, was electric. They even ran into the blackness of the streets shouting, cheering and toasting the United States.

Mr. BENTSEN. Mr. President, this week Israel is marking its 40th anniversary as a modern nation. I want to join in commemorating that watershed event in recent history.

Israel was born in strife and still lives in strife. Its existence has been always at risk, never fully secure, often gravely threatened.

The strength of Israel's enemies has waxed and waned over these two score years, but the United States has been a steadfast friend and supporter. From Harry Truman's heroic recognition of the newly founded state to congressional enactment of the United States/Israeli Free Trade Agreement, we have stood together for our mutual benefit.

We have not agreed on everything, of course. Even best friends can have their disagreements. We do not approve of every Israeli action, and they do not like all of our policies. But on the most basic issues—resistance to communism, support for human rights, willingness to take risks for genuine peace, close cooperation on the most sensitive security matters—Israel and the United States have worked side by side.

With the perspective of four decades, it is clear that our areas of agreement have been vastly greater than our issues in dispute. American support for Israel has brought us enormous benefits, in diplomacy, intelligence, and defense. Our own military forces are stronger today because of the lessons we have learned from Israel.

It is remarkable that any nation could survive and prosper in the circumstances which Israel has faced. Yet Israel has defended itself in frequent combat, has overcome severe economic problems including triple-digit inflation, and has preserved a vigorous democracy.

Israelis often seem contentious and introspective. They are wrestling with questions which only they can answer. They must devise answers, but I believe that we should be helpful and supportive as they struggle for those answers.

On this 40th anniversary, we should salute Israel's remarkable achievements, creating a nation of high tech industry and flourishing agriculture, thriving arts and advanced sciences, all in an oasis of pro-Western democracy in the troubled Middle East. We are, and should remain, active partners with Israel in the search for a durable peace and social justice.

Mr. GRAHAM. Mr. President, we have come a long way since May 14, 1948—and much of that way together. At Israel's birth, pain turned to hope: that what was lost might be reclaimed; that children might grow strong and unafraid; that there would, at last, be a place where wanderings could cease, where the heart could rest.

The first day of Israel was a day of jubilation—and there have been many days of jubilation these 4 decades. And there have been days, and nights, of sorrow. Because the tension of Israel's birth is unresolved. Because the children have learned to live with fear. Because the youngest and most promising daughters and sons still die unfinished. Because lasting peace is an elusive peace.

Americans rejoice with Israelis on this day of celebration. Israel is a stable democracy in a sea of change and confusion. Israel is a refuge for the oppressed and a sanctuary for the continuing thread of history, for ancient faith. The existence of Israel is a miracle of purpose and endurance. But once again we have seen that miracle shadowed by struggle.

Survival cannot be the question. Israel must survive. America's commitment is the strongest friendship. Israelis' commitment to the future of their nation is unshakeable. Survival is not the question. "What price peace? is the question".

There must be peace. No nation can live at war within its own borders, at war within itself, under constant threat and attack from outside.

This anniversary, this occasion for full and open hearts, is also a time for open talk, for open minds. There is much to be said. Every possible option to reach harmony has to be part of the dialog. The humanity and compassion of the Israeli people will not brook endless violence.

A resolution of the current hostilities is a resolution to dedicate the next 40 years to the realization of Israel's long-held dreams: to building, to sharing resources, to finding a new understanding and prosperity.

That is my 40th anniversary wish for Israel: that this next generation and all those to follow will grow up in the sunlight of peace, that the Promised Land be a beacon of freedom and brotherhood, that Israel's 80th anniversary be a joyful milestone and that sorrow be a distant memory.

Mr. BURDICK. Mr. President, I rise to join my colleagues in congratulating Israel on the 40th anniversary of its rebirth.

I salute the Israeli people for the great vision, courage and faith they have shown in building a thriving democracy under the most adverse circumstances.

In these difficult days, Israel must know that she can rely on the support of her closest ally. What better time for the United States to restate its firm commitment to our friend and strategic partner than on the 40th anniversary of Israel's rebirth.

Mr. President, I had a chance to witness the progress Israelis have made when I visited their country last summer. It was my first visit since 1965, and I was deeply impressed not only with the obvious economic development, but perhaps more importantly, with the strength of the country's democratic institutions. It is a remarkable achievement which I was moved to write on in a piece which appeared in the Christian Science Monitor last month.

I would like to share this article with my colleagues on the day that we in the Senate honor Israel's 40th anniversary.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, Mar. 29, 1988]

AN AMERICAN SENATOR'S RETURN TO ISRAEL

(By Quentin N. Burdick)

Americans who are strong supporters of Israel have watched the tragic events of the last few months with great concern and pain.

My anguish is especially strong because I was just in Israel last summer. It was my first visit since 1965, and I was quite overwhelmed by the progress the Israelis had made in 22 years.

It remains no small feat that a young country that has had to defend its very existence through six wars since World War II has nonetheless managed to maintain strong democratic institutions and a vibrant political life. Against great odds, Israel has built a modern economy and tamed the wild desert.

As a senator from an agricultural state, I was particularly impressed with the innovative techniques Israelis have developed to overcome extreme shortages of water and good soil. When one thinks of the disaster that desertification poses to many third-world countries, one realizes how much Israelis could contribute to international economic development if they were free to devote their energy and resources to pursuits other than the burden of defense.

I was most deeply moved on my trip by the changes that had occurred in Jerusalem. In 1965, it was a divided city of barriers, barbed wire, and guns. Hadassah Hospital and Hebrew University were merely empty buildings atop Mt. Scopus. Certain quarters of the city stood in disrepair; access to the holy places was restricted.

In 1987, the barriers and barbed wire were but a distant memory. The Jerusalem I visited is a magnificently rebuild city in which all three faiths enjoy free access to the holy places. Hebrew University has become a thriving institution of higher learning. And, at Hadassah Hospital, doctors just recently performed their first successful heart transplant operation.

How had West Bank Palestinians fared since my last visit?

In 1965, Palestinians endured a grim existence under Jordanian occupation. Electricity and running water were rare. There were sanitation problems. Unemployment was rampant, and educational opportunities limited. Even under the rule of a brother Arab nation, the Palestinians has no political freedom. Conditions were a great deal worse in Egyptian-occupied Gaza.

Today, the material life of the Palestinians is much improved. Electricity and running water have been introduced. A number of infectious diseases, including polio and typhus, have been eradicated. There is a virtually no unemployment, and I counted six universities and a number of vocational and agriculture schools in the territories.

While the standard of living for Palestinians has improved significantly, it is their tragedy that political freedom remains elusive. They did not have it under the British, they did not have it under the Jordanians, and they do not have it under the Israelis.

One can understand the feelings of frustration that must well up in the Palestinian soul. But their rage and their frustration, their sticks and their knives, are wielded against the wrong enemy. How many times has Israel offered to make peace with its hostile neighbors based only on the condition that they recognize its right to exist? How many times have the Palestine Liberation Organization and all Arab countries, except Egypt, said no? Ironically, even when the Egyptians came to the negotiating table, they refused to take back Gaza.

No, the real enemy of the Palestinians on the West Bank and Gaza are their fellow Arabs who have been perfectly willing to use them as pawns in their own propaganda games.

Certainly in the last few months there have been incidents of excessive violence by Israeli soldiers against Palestinian civilians, which cannot be condoned. But even as we rightly condemn such violence, let us also remember that the strongest condemnation often comes from Israelis themselves. The Israeli people are capable of the toughest kind of self-criticism. It is the basis of their strength as a people and a democracy.

What does the future hold for this troubled land? It is not easy to see how or whether the situation can be resolved. There are as many scenarios as there are analysts, as many pessimists as optimists. Clearly circumstances are changing. This must not be just another "opportunity lost" for peace. Perhaps the Palestinians will put down their stones and put on the mantle of peacemaker at the negotiating table. Whatever happens, the Israeli nation will eventually find itself tested on the most fundamental question of all—its survival as a Jewish state and a democracy.

In this difficult and uncertain period, Israel must be able to draw strength and courage from the unwavering support of its American friends. It needs us now when it is under attack from mobs wielding stones and knives as surely as it did when the attacks came from tanks and fighter planes. The battlefield is different, but it is war just the same. We cannot turn away as our friend is attacked and unjustly condemned in the court of public opinion.

I have given much thought these past few months to the Israel I first visited in 1965 and revisited in 1987. It makes me yearn for peace all the more. The Israelis have so much expertise to contribute to the world in the fields of education, health, and agriculture. One can well imagine their great potential and the benefits to mankind if only they were free to live in peace.

Mr. METZENBAUM. Mr. President, today, Thursday, April 21, 1988, is independence day in the State of Israel. Each independence day is celebrated with special joy in Israel. In 1988, however, the Israelis are marking a particularly impressive birthday: This year Israel turns 40.

Some people think of turning 40 as going "over the hill," or reaching the beginning of middle age. Israel has had many challenges in its 40 year history, but with all these challenges, the progress that Israel has made is what stands out most on this 40th independence day. It points to a drive and determination that illustrate how young at heart Israel really is.

Here in the United States, we can only look upon our ally with admiration. In 40 short years, the Israelis have carved a civilization out of an unusable piece of land under hostile conditions. How many times have we in the West watched as Israelis fended off attacks by overwhelming enemy forces, returning soon thereafter to the task of draining the swamps and making the desert bloom.

Israel is a modern democratic country, with a diverse and politically active population. The pride in the rebirth of a Jewish national homeland continues to this day.

Over the past 40 years, Israel has proven itself to be a reliable ally and an important asset to United States national security. It has a solid record of safeguarding the best interests of the United States in the Middle East. Our mutual commitment to stability and freedom has been demonstrated time and again, to the benefit of the entire Western alliance.

A reliable friend, a strategic asset, and an outpost of democracy, Israel has strived to meet its calling as "a light unto the nations." I am confident that the Israelis will face the challenges of today and tomorrow with the same courage and conviction of years past.

I congratulate the State of Israel on its 40th anniversary.

Mr. DASCHLE. Mr. President, today marks the 40th anniversary of the rebirth of the State of Israel. I want to join my colleagues in congratulating the people of Israel for bringing a modern day miracle to the Middle East. Israel's 40th anniversary is cause for celebration of both the Israeli people's resolve toward establishing a vibrant, pro-Western democracy in a region surrounded by hostile neighbors, and the strong relationship between the United States and Israel.

Since 1948, Israel has taken in over 1 million Jewish immigrants and refugees, or one-third of its population, from all over the world. An immigrant nation committed to democracy, Israel shares many of the same values that built the United States. Those democratic values have remained the cornerstone of Israeli life, in spite of a long, historical struggle and constant threats to Israel's survival by hostile Arab nations.

The common bond between Israel and the United States is manifested, in part, in the important strategic relationship between the two countries. Israel is the United States' strongest and most important ally in the Middle East and participates in a military partnership established to secure our shared strategic interests. In a very volatile region of the world, Israel provides the rare alliance of a stable government that seeks a close relationship with the United States, and is a reliable partner in efforts to promote Western interests in the Middle East and around the world.

The American people are strongly supportive of Israel, for they believe in Israel's right to exist within secure, defensible borders, and they recognize Israel's crucial support of our strategic interests and democratic values. Israel has contributed significantly to our security efforts in the Persian Gulf, maintenance of United States materiel, and training of United States forces. Support for the United States has also been evident in the United Nations, where Israel votes with our Government more than any other country.

U.S. military and economic aid to Israel is a clear expression of American support for Israel. That aid is an important investment in Middle East peace and stability, for it strengthens our only democratic ally in the region. At a time when it is common to hear of United States aid being wasted or abused, it is clear from Israel's almost miraculous progress that Israel has put its aid to good use. The desert has literally bloomed, and this constantly threatened state has remained a strong force capable of defending itself and Western interests.

United States aid to Israel has also benefited the United States. Most aid is spent in the United States, generating American jobs, and shared defense technology eases the crunch for U.S. defense dollars. The investment has been a good one.

While much of the current focus on Israel has been on the tragic events of recent months, it is important to remember the historic struggle and the extraordinary success of the State of Israel. In spite of the great adversity facing Israel, she continues to search for peace while all but one of her Arab neighbors shun the peace effort and refuse to recognize Israel's right to exist.

Today I join my colleagues and the American people in supporting the peace effort and recognizing the pioneering spirit of the Israeli people. I congratulate them and wish them well on this 40th anniversary of the great State of Israel.

Mr. GRAMM. Mr. President, on the occasion of the 40th anniversary of the State of Israel I would also like to extend my congratulations. I would like to share with my colleagues a letter that I sent to Prime Minister Yitzhak Shamir.

I ask unanimous consent that my letter appear in the Record at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, DC, April 18, 1988.

His Excellency YITZHAK SHAMIR,
Prime Minister of Israel, Prime Minister's Office, Hakirya Jerusalem, Israel.

DEAR MR. PRIME MINISTER: Congratulations on the 40th anniversary of the founding of Israel.

We share a vision, your nation and mine. It is a powerful idea, an idea for which people freely give their wealth and their blood. The idea, the vision, is freedom.

Israel has always stood for freedom, as much a dream as a place. Over the millenia, from the Diaspora through the Holocaust, Israel lived in the hearts of its people, sustaining them generation upon generation.

Ultimately, four decades ago, a handful of courageous individuals made that dream of freedom real, and not only Israel, but the world is a better place for it.

In celebrating the founding of Israel with you, I celebrate the dream of freedom that has nurtured our two nations from the beginning.

Yours respectfully,

PHIL GRAMM,
U.S. Senator.

Mr. DOLE. Mr. President, I want to join my colleagues in paying tribute to one of the United States' most constant and supportive allies, the State of Israel, on this, its 40th anniversary.

Zionism, had been a central tenet of Jewish life for many years before the dream of "next year in Jerusalem" became a reality in 1948. It took the steely determination of men like Theodore Herzel, and David Ben Gurion, and for some, the horrors of the Holocaust, to make the world recognize the need for a Jewish homeland.

And it has taken that same kind of steely determination to turn Israel into a desert flower—a modern, innovative, productive, democracy. It has taken that same kind of steely determination to thwart efforts by its neighbors to obliterate the state. For Israel, has never been able, not for one day, to take its existence for granted.

Today, once again, Israel and its people are being tested. Mistakes have been made by this young and beleaguered nation—some in recent months on the West Bank and in Gaza. Use of force—which should be a last resort—has sometimes appeared to be the first resort. Terrorists have been turned into martyrs; exiles into heroes. That is not the way to resolve this problem.

But Israel is a nation that has already met incredible challenges. And—while it will be a particular challenge to find a way to end the turmoil on the West Bank, in the Gaza Strip, and in the territories—Israel's history is one of just that kind of determination.

I believe that now, as before, the Israelis will summon that determination, and resolve this painful dilemma.

Mr. President, we humans view a 40th birthday as a milestone, and undeniable coming of age. Well Israel too, has reached a point where it can look back with pride and a sense of great accomplishment, and look ahead to meeting the challenges—to fulfilling the hopes and dreams of its creation.

Mr. BOSCHWITZ. Mr. President, I rise to salute the 40th anniversary of the rebirth of the State of Israel.

The land of Israel was the birthplace of the Jewish people. It was there that the Jewish people first developed their culture and wrote the Book of Books, giving to the world a new vision of ethical monotheism. It was there that ancient prophets first enunciated the concepts of social justice and international peace that continue to serve as the cornerstones of Western civilization.

For over 3,500 years, there has been a continuous Jewish presence in the land, sometimes in large numbers, at others only in small communities. But wherever the Jews lived in their dispersion, they never lost faith with the land. For the past 2,000 years, Jews prayed three times a day for rain to fall at the appropriate season in Israel. The would end each Passover seder with the ringing words, "Next year in Jerusalem." They would recall the words of the Psalm, "If I forget thee, O Jersualem, let my right hand lose its cunning."

Through dark centuries of oppression, Jews prayed for redemption and for return. In the late years of the 19th century, some Jews began to go beyond prayer and to organize groups to go back and settle their ancient homeland. They returned to a sparse land of barren hills long since denuded of biblical forests. In the lowlands, malarial swamps festered. It was not surprising, therefore, that for centuries the Holy Land had been a land of emigration. In the mid-19th century, the total population was estimated at about half a million—less than one-tenth its current population, 35,000 of whom were Jews.

Young Jews began to return, in small groups at first, imbued with a pioneering spirit, seeking redemption through restoring the land. These courageous pioneers took a name for their movement: Zionism. If the land of Israel was a central feature in Jewish belief, Jerusalem was the center of the land. And the center of Jerusalem was Mount Zion, the burial place of King David. "Out of Zion shall go forth the Law," it was proclaimed in the ancient texts.

From the early days of settlement, the growing Jewish community in the Land began to create miracles. It revived the Hebrew language—a language confined largely to liturgy for more than 2,000 years. It created many institutions that have endured to this very day. For example, institutions of learning were founded that have become world famous: Hebrew University in Jerusalem and the Technion in Haifa, to name but two. Jewish immigrants began to reclaim the swamplands and the deserts. On barren hills they planted trees, and on a stretch of beach on the outskirts of Jaffa, they began the first new Jewish city in modern times, Tel Aviv.

From its earliest days, too, the movement was committed to democracy as the organizing principle of government. That commitment endures, despite a struggle for survival, despite the lack of peace, despite the need to absorb diverse groups of immigrants from around the world, and despite the unremitting hostility of many of its neighbors in the region.

So from a small beginning, Israel was reborn. Today, flourishing modern cities adjoin ancient biblical sites. The hills are forested, the valleys rich in agricultural produce. It has built a modern economy, made the desert bloom, and became a world leader in science, the arts, and technology.

But above all else, Israel continues as a land of refuge for oppressed Jews. Yesterday, they came from the death camps of Europe and from the Arab countries of the Middle East. Today, they continue to come from the Soviet Union and from Ethiopia. Imagine how different history would have been if Israel had been created in 1928 instead of 1948. Millions of innocent people would have been spared. The people of Israel today yearn for peace and security. Their history demands no less and their neighbors should demand no more. And when peace is achieved—as it surely will be—all the peoples of the region will benefit from its blessings.

Mr. BOND. Mr. President, today it is a true pleasure to join my colleagues in offering congratulations to the people of Israel as they celebrate 40 years of prosperity and freedom. That nation's accomplishments during its short history truly provide reason for celebration.

Since Israel was founded in 1948, it has been one of the United States' strongest and most dependable allies. Our two nations and peoples share a deep historic commitment to democratic principles, individual human rights and religious values—a commitment which is all too rare among the nations of the world today.

In the years ahead, I look forward to seeing Israel continue to thrive and grow on the energy and dedication of its people which have brought honor and victory. Also, I look forward to the relationship between the United States and Israel growing even closer and stronger, so that 40 years from today, our successors can look back and say the next four decades have been prosperous as the past four.

Mr. HUMPHREY. Mr. President, this is an important week for the people of Israel. This week marks the 40th anniversary of Israel's independence.

Israel is our most important ally in the Middle East. Her ties of friendship to the United States and her military strength make Israel an important deterrent to Soviet adventurism in the region. Beyond geopolitics, Israel is important to America by virtue of common cultural and religious values.

Yesterday I sent a letter to Prime Minister Shamir, offering my congratulations on the occasion of Israel's 40th anniversary. The letter expresses my deep respect and admiration for the people and State of Israel. I ask unanimous consent that the text of my letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

APRIL 20, 1988.

Hon. YITZHAK SHAMIR,
Prime Minister,
State of Israel.

DEAR MR. PRIME MINISTER: It was a pleasure to see you last month during your important visit to the United States. I wish you much success in advancing the cause of peace that the people of Israel have for so long sought.

On the occasion of Israel's fortieth anniversary, please accept my heartfelt respect and congratulations. Israel's example as a beacon of democracy in a troubled region of the world is a continuing inspiration to the United States. As I wrote recently to Secretary Shultz, the people of Israel, better than anyone else, understand their own security imperatives. In view of our longstanding relationship based on common cultural and spiritual values, I am confident that our commitment to Israel's security and independence will continue to strengthen in the years ahead.

With warmest regards, I am
Sincerely yours,
GORDON J. HUMPHREY,
U.S. Senator.

Mr. GRASSLEY. Mr. President, tody, Israel celebrates her 40th birthday and we Americans join in this historic occasion.

Israel's survival over these 40 years represents a remarkable achievement. In 1948, Israel, populated with only 600,000 Jews, declared her independence and immediately defended against hostile neighbors. In the midst of fighting for her very existence, Israel took in and made a home for some 1 million Jewish refugees, as well as thousands of Palestinian Arabs.

Israel's successful integration and absorption of Jews from many diverse backgrounds continues to be one of her more unique accomplishments.

In her short history, Israel has endured more war and hostility—1956, 1967, and 1973 found Israel defending against her Arab neighbors. This hostility has been a constant throughout the existence of the State of Israel.

And there have been other constants during the course of Israel's survival. First, Israel remains the ony nation in the Middle East which embraces democratic values and traditions. Second, Israel continues to make advances in agricultural technology, bringing flowers and crops to desert lands. And third, Israel is dedicated to a peaceful existence for her citizens. The Camp David accords demonstrate Israel's commitment to peace.

But one fact in Israel's history has not been a constant, rather it has evolved over the time of her existence—that is the relationship and alliance between Israel and the United States. Israel has become an important ally to the United States, a diplomatic and strategic ally, as well as an economic ally. As our reliable ally in the Middle East, Israel is a key element in American defense strategy. In sum, Israel's existence and survival is vital to our national security interests.

So on this historic milestone, I join with many of my colleagues to congratulate Israel and wish her a secure and peaceful existence into the future.

Mr. KARNES. Mr. President, I want to take this opportunity to congratulate the nation of Israel as it celebrates its 40th anniversary. Israel's Declaration of Independence established three objectives for the newfound nation. These goals were to provide a haven for every Jew who wanted it, to make the nation a magnet for the Jews of the world, and to establish peace with its neighbors.

In the time since the founding of Israel, it has demonstrated an unwavering commitment to its guiding principles in the face of many limitations and open hostility. Today, Israel serves as a haven for the Jews of the world, who have suffered from persecution over the years. Israel also has met its commitment to serve as an emotional and spiritual magnet for the Jewish people. Israel is a strong nation today because of the will of the Jewish people to contribute to the cause of Israel.

While Israel's goal of establishing peace with its neighbors has not yet been realized, progress toward that end has been made. It is Israel's vigilance and strength, however, that will serve as the basis for making progress toward peace. There is no substitute for vigilance in the pursuit of peace. The Israeli people have demonstrated an enduring vigilance during the last 40 years. This characteristic of the Israel people, more than any other, will serve the cause of peace, and it is this sort of vigilance that we in the United States should try to emulate.

Again, I congratulate the people of Israel on the 40th anniversary of the birth of their nation. The progress that has been achieved by the Israeli people during the last 40 years is truly astounding. I am sure that the progress of the Israeli people will continue to astound us in the future.

CONGRATULATIONS ON THE 40TH ANNIVERSARY OF ISRAEL

Mr. SHELBY. Mr. President, today I rise to offer my congratulations to the people in the country of Israel on their 40th anniversary. It is truly a day to celebrate for these courageous people.

Forty years ago approximately 600,000 Jews, driven by an age old vision of their promised land combined with several years of vile persecution by the Nazis, declared their independence. Israel opened its doors to over 1 million refugees. The majority of these people were Jewish, some survivors of the Holocaust, an event that will always sadden and boggle the mind. Others were refugees from Arab and Muslim persecution. Though plagued by attacks from their neighbors and a small economic base, Israel managed to feed, house, and eventually employ these individuals.

Mr. President, I would like to point out that now as then, Israel continues to struggle for peace and ultimately survival. This small bastion of democracy in a sea of totalitarian states not only survived the war for independence, but went on to halt further aggressions by its neighbors in the wars in 1956, 1967, and 1973. After each of these battles, Israel renewed its quest for peace. This quest eventually let to the signing of the Camp David accord which has led to a peace settlement with Egypt that remains today. Although there are many differences on the part of Israel's two major political parties on how peace will be achieved, no one has disputed the fact that peace must be attained, only on the best method to do so.

Forty years have past in which Israel has made a number of major accomplishments. Its great military strength has enabled it to become one of our most valuable allies in an area of the world where we need friends. The land which was once largely desert now thrives with life. There are seven major universities and Israel has achieved world renowned status in the fields of medical instrumentation, fiber optics, and computer software.

In conclusion Mr. President, the reborn State of Israel has become the most successful example of nation building since the Second World War. Sometimes Israel's citizens and many of its United States friends take Israel's amazing success for granted, while directing all their attention to the events of the day.

40TH ANNIVERSARY OF THE ESTABLISHMENT OF THE STATE OF ISRAEL

Mr. INOUYE. Mr. President, today the people of the United States join with the people of Israel and its friends around the world to celebrate the 40th anniversary of the founding of the Jewish state. The story of its creation is as remarkable now as it was four decades ago when those of my generation watched the miraculous events of 1948 unfolding. From Maine to Florida and from New York to the trust territories of the Pacific, we followed with astonishment and admiration the establishment of a modern, humane society in the image of our own.

Israel's founding fathers, like those who guided the fledgling United States to independence in 1776, believed that the path to prosperity lay squarely in the ability of society to harness the talents of a free and enlightened citizenry. Despite the range of calamities which have befallen the Middle East in recent years, the Israelis have remained true to this fundamental premise of statehood—believing, as do most Americans, that justice and democracy can be made to flourish even under the most extreme conditions.

The rededication of a Jewish homeland after 19 centuries of exile and dispersal has been, and remains, an inspiration to us all. Just over four decades ago who could have imagined what the future held in store for this spirited people, ravaged by war and deprivation and orphaned in a world of nations.

Yet, Israel today is a vibrant, creative, and productive country whose citizens have demonstrated not only a capacity for survival under great adversity, but also enormous generosity even while enduring the pains of economic hardship. We see evidence of this generosity around the world in Israeli programs to aid the less developed nations in Africa and Latin America, and in the innovative approaches they have taken to the problems of feeding a hungry world. Few of us realize how we have all benefited from Israeli advances in medicine, agriculture and the basic sciences.

Mr. President, it is not necessary to recite all the ties which bind the people of the United States and the people of Israel. For ours is a common heritage, inseparable and indestructible. Since that special day when President Harry Truman recognized the new State of Israel, to the day when we watched President Carter bring about the signing of a peace treaty between Egypt and Israel, the United States has remained a true and steadfast friend. In this 40th anniversary year we once again reaffirm the friendship of our two nations and look forward to strengthening, even further, our close partnership.

ISRAEL'S 40TH BIRTHDAY

Mr. MITCHELL. Mr. President, today marks the 40th anniversary of the State of Israel, the realization of the dream of Zion. For over 2,000 years that dream had been sustained by Jews throughout the world.

The realization of "next year in Jerusalem" deserves our attention and reflection on this anniversary day.

The State of Israel has had a difficult birth. Faced with hostile neighbors and the constant threat of destruction, the Jewish nation has overcome daunting odds with courage and faith.

It has welcomed thousands of Holocaust victims and hundreds of thousands of Jews from every corner of this Earth, providing sanctuary for those who have long lived in fear.

Yet Israel has not just survived. It has flourished.

Israel's cultural, educational and economic accomplishments serve as an inspiration to us all. With determination and creativity, Israel has forged a rich existence encompassing a modern agricultural system, symphonies, industry, housing, and universities. These achievements are remarkable.

Still more remarkable is the example of Israeli democracy, thriving in a region without a history of democratic institutions.

Like America, Israel sometimes acts in error, and sometimes divides in disagreement. The greatest strength of a democracy is its ability to recognize and correct its own mistakes, and through debate and compromise to move forward in unity. We have seen Israel rise to such internal challenges and demonstrate the resilience of its system of government.

Israel is and will continue to be a close friend and respected ally of the United States. We will have disagreements and face our own internal difficulties, such as the current problems in the West Bank and Gaza Strip. But disagreements cannot alter the fundamental strength of the relationship between the United States and Israel.

Our relationship is deeply grounded in common interests, shared values, and our democratic systems. Forty years after Israel's rebirth, we are sure that our friendship is unshakable.

David Ben-Gurion had hoped that Israel would be a "light unto the nations." This is a difficult, perhaps impossible, task for any state. But Israel is in many ways a land of miracles.

Fifty years ago, the idea of a Jewish State was a distant dream. Today it is a reality.

Twenty years ago only a few Soviet Jews had ever made it to Israel. Today, hundreds of thousands have arrived and there are hopes that many more will join them.

The accomplishments of Israel are many and the future holds the possibility of many more.

I believe that Israel can and will continue to meet the challenges that face the nation, and continue to serve as a source of strength and pride throughout the world.

ISRAEL'S 40TH BIRTHDAY

Mr. HARKIN. Mr. President, in this period of turmoil and uncertainty that Israel now faces, it is especially important for Israel's friends to demonstrate their support. For this reason, I am proud to join my colleagues Senators CARL LEVIN and RUDY BOSCHWITZ in today's session to express the United States Senate's congratulations to Israel on its 40th birthday.

All Americans, indeed all nations, should be proud of Israel's accomplisments since its founding 40 years ago. As a nation, Israel has established a special relationship with the United States.

As a people, Israelis have forged a special place in the hearts and minds of the American people.

It is a special relationship that is well deserved.

Israel is an ancient nation reclaimed by a millenia of descendants, reclaimed by their blood, suffering, and sacrifices.

It is a nation that has survived against all odds, as a homeland for Jews and a refuge from hostile anti-Semitism around the world.

It is a nation rooted in the ideas of freedom, democracy, social justice, economic opportunity, and human rights.

It is a nation surrounded by hostile enemies, yet able to defend itself while preserving those democratic institutions.

Still, Israel must remain vigilant. Forty years after its birth, most of Israel's neighbors continue to threaten its existence. As a member of the United States Senate and the Foreign Operations Appropriations Subcommittee, I am proud to play a special role in giving Israel the support necessary to help insure its security and continued survival.

In these troubled times, it is incumbent that we support Israel in finding a solution to the current cycle of violence and counterviolence in the Middle East. We must encourage compromise and promote a peaceful resolution of the crisis.

Peace is our goal, but we recognize it cannot be obtained at the cost of endangering Israel's existence.

This year we not only celebrate Israel's past but commit ourselves to ensuring its future—as a homeland for a people who suffered centuries of oppression, and as a nation founded on freedom and respect for justice. We must remain steadfast in doing all we can not only to maintain Israel's security but to help Israel remain true to the ideals and goals which have always given it its identity and its special place in our hearts.

40TH ANNIVERSARY OF THE BIRTH OF THE STATE OF ISRAEL

Mr. SASSER. Mr. President, I rise today to acknowledge the 40th anniversary of the State of Israel.

In some sense, it may seem a grim irony that, at this very moment—as we celebrate the beginning of the Israeli State—much of the Middle East is convulsed in violence and disorder.

Sadly, that has been Israel's history. It was born in blood and sweat, in violence and discord.

But the force of creation in 1948—the midwife in that remarkable birth—was idealism, and abiding hope and faith in the human spirit.

Following the unspeakable horror of the Holocaust, hundreds of thousands of nameless, homeless refugees sought sanctuary from the chaos of Europe—from the madness and the hatred that had taken the lives of millions.

In 1988, it is all too easy to forget the suffering of those displaced people. It is all too easy to forget the abject fear of those starving masses as they fled the violent insanity of Auschwitz and Buchenwald, and searched aimlessly, sometimes hopelessly, for a home.

Mr. President, in 1988 it is difficult to reconstruct the emotional atmosphere of a world gone mad.

It is an impossibility for us, in this great and stable Nation, to imagine what those people endured—the burden of what was past, the greater burden of what might be to come.

For those huddled masses, in that dark world, the possibility of a Jewish homeland was a beacon of light. For many, it was almost certainly the single reason for continuing—for shutting out the past and struggling into the future.

The thought of Israel in 1948 was a solitary symbol of hope against an immense backdrop of violence and despair.

It was a hope that began decades before the cataclysm of the 1940's. It was a dream deeply rooted in Old Testament history, held tenaciously throughout the centuries of the Diaspora and the sufferings of the Ghetto, and finally renewed by the Balfour Declaration of 1917.

For Theodor Herzl and the sophisticated Zionism of 19th century Western Europe, for the Russian peasant fleeing the pogroms of the pale, for the refugees from Hitler's concentration camps, Eretz Israel was always the shining symbol—the promised land.

Mr. President, I submit that, 40 years after the dream was finally realized, the hope still exists, the symbol endures.

Israel remains a nation engulfed by strife, surrounded by antagonistic forces. That, as I have said, is its heritage.

But at the center of the Israeli experience in the 1980's is still the hard core of idealism and faith that carved a new democratic civilization out of a desert of hostility and violence.

We, in this country, must never forget Israel's origin—the suffering and courage of its founders. We must never forget the centuries during which the promise remained unfulfilled. We must never forget the years when the hope nearly perished at Dachau and Treblinka.

On this occasion, as we pursue a just peace in the Middle East, we must rededicate ourselves to the continued survival of Israel, and to the spirit of hope that binds us so powerfully to the Israeli people.

FORTIETH ANNIVERSARY OF THE ESTABLISHMENT OF THE STATE OF ISRAEL

Mr. ROTH. Mr. President, today I would like to join my colleagues in paying tribute to the State of Israel and in recognizing the 40th anniversary of the establishment of the State of Israel.

The State of Israel rose, like a phoenix from the general devastation of World War II and from the particular, unique suffering of the Jewish people during that most unhappy period of Western history. Steeled in the furnace of affliction, the State of Israel has withstood numerous military and paramilitary assaults upon its sovereignty and security. It has fought off the assaults of its much larger neighbors and, most surprisingly of all, it has done so while maintaining a democratic form of government.

Mr. President, over the past 5 years, I have noticed in certain branches of the media a subtle trend toward criticism of the State of Israel, criticism which has focused on two primary points: First, Israel's invasion of Lebanon and, second, Israel's refusal to negotiate with the Palestinian Liberation Organization.

Mr. President, I would like to take this opportunity to meet these two criticisms head on. The Israeli invasion of Lebanon can only be understood through a historical appreciation of the situation in Lebanon prior to Israeli action. Let us not forget that, prior to the Israeli entry into that country, the Lebanese state was, in many respects, a PLO state. Sunni, Shi'ite, and Christian alike were, in many parts of the country, overwhelmed by a heavily armed, foreign, PLO force which saw the country as nothing more than a jumping off point for terrorist operations against Israel.

Israel itself felt the full force of this PLO strategy as, day after day, rocket shells fired from southern Lebanon rained upon the towns of northern Galilee. I wonder what the United States, or any other government, would do if one of our neighbors began to lob shells and rockets across our borders. I would suggest most strongly, Mr. President, that we would cross our border in pursuit of the offending party and pursue him until he had been justly punished. This is what the Israeli defense forces did and I, for one, find that perfectly understandable. The towns of northern Galilee are now safe and if Israel is reluctant to allow hostile forces to return to southern Lebanon, where they could resume their war of artillery, once again, I find this perfectly understandable.

So far as negotiations with the PLO are concerned, I wonder how many of us here would advocate that the United States negotiate with a foreign power which is officially dedicated to our extirpation? Apologists for Yassir Arafat have asserted that he has all but recognized Israel's right to exist—how extremely generous of him. However, I must ask, if he is truly willing to recognize Israel's right to exist, if he is not playing duplicitous verbal games, why cannot he simply come out and say it, in plain language? If he is waiting for Arab consensus, he will wait forever. Syria's policy toward Israel is, in many ways, a function of its policy toward other Arab countries and its desire to achieve preeminent status in the Arab world. King Hussein of Jordan appears to be nothing more than a compulsive fence sitter, fully determined not to be the first Arab head of state to follow the lead of Anwar Sadat. With the exception of Egypt, other Arab nations are too far distant from the region to view the settlement of the Palestinian situation as a matter of high priority—it is much easier for them to play politics with the issue for their own benefit.

In short, Mr. President, if the Government of Israel is going to negotiate on the Palestinian question, with whom is it going to negotiate? The simple fact of the matter is that none of the involved Arab parties, with the exception of Egypt, are willing to take the necessary initial steps which will make negotiations possible. At one time, it might have been possible for Israel to have negotiated with leading figures in the Palestinian community who are not members of the PLO. However, the PLO has pursued a ruthless assassination campaign against any Palestinian alternates to its own authority and, thereby, effectively blocked that avenue toward peace. In passing, I might add that, in my opinion, the State Department's decision to talk with members of the Palestinian National Council, under the polite fiction that they are not members of the PLO is pure sophistry and likely to suggest to the PLO that its intransigence will, ultimately, be rewarded.

Mr. President, we all wish to see peace in the Middle East but if this country is to play a constructive role in the achievement of that peace, the people of this Nation will have to be kept informed of both sides of the issue. As each day passes, I see more and more evidence that they are being supplied with only part of the regional story. In recognition of the 40th anniversary of the establishment of the State of Israel, we should all pledge to do our utmost to lay all the facts before the American people.

THE FORTIETH ANNIVERSARY OF THE FOUNDING OF THE STATE OF ISRAEL

Mr. SANFORD. Mr. President, I rise to offer my congratulations to the leaders, people, and friends of Israel. On this day 40 years ago, the State of Israel was founded.

In this country 40 years ago, President Truman was in a hotly contested political battle with Thomas E. Dewey, his Republican challenger. On the campaign trail, Truman was asked about Israel, and he replied by quoting the 1948 Democratic Party platform, which read:

> We pledge full recognition to the State of Israel. We affirm our pride that the United States, under the leadership of President Truman, played a leading role in the adoption of the resolution of November 29, 1947, by the United Nations General Assembly for the creation of a Jewish state.
>
> We approve the claims of the State of Israel to the boundaries set forth in the United Nations' resolution of November 29 and consider that modifications thereof should be made only if fully acceptable to the State of Israel.
>
> We look forward to the admission of the State of Israel to the United Nations and its full participation in the international community of nations. We pledge appropriate aid to the State of Israel in developing its economy and resources.
>
> President Truman, by granting immediate recognition to Israel, led the world in extending friendship and welcome to a people who have long sought and justly deserve independence.

Much has transpired since that platform, and the commitment it expressed to the creation of a Jewish state, carried President Truman to victory. The people of Israel have transformed desert into rich, productive land. After four wars, Israel has demonstrated that despite its size and geography, it is no longer the weak nation it was thought to be in 1948. Israel has become, in 40 years, an ally of considerable strategic value to the United States. Perhaps most importantly, Israel and its most powerful Arab neighbor, Egypt, have met at the bargaining table and fashioned a peaceful solution to their differences.

Yet, despite these changes, despite the passing of 40 years' time, some basic realities persist. In a troubled region of the world, Israel remains the only true democracy in the Middle East, a beacon of stability in a sea of political turmoil. Despite the intervening years, the words of the 1948 Democratic party platform still hold true. The United States is as committed to the Israel of 1988 as it was to the Israel of 1948.

Unfortunately, one other sad fact still remains despite the years. With the exception of the Camp David accords, peace is still absent in the Holy Land. I hope that on this joyous occasion for the people and friends of Israel, those states which have refused to seek peace will reflect on the strength and permanency of the State of Israel and the United States' special commitment to it. Israel, with its successes and prosperity, should be an example to its Arab neighbors, not an enemy.

Once again, I offer my congratulations to the people of Israel, and I pray that on this 40th anniversary, all sides in this bitter conflict will rededicate themselves to finding the peace that has eluded them for so long.

49TH ANNIVERSARY OF ISRAEL'S INDEPENDENCE

Mr. RIEGLE. Mr. President, I am pleased to join my colleagues in paying special tribute to the state of Israel, on this, the 40th anniversary of its establishment.

The long, arduous, but successful fight for sovereignty, as well as the political and economic development of Israel over the past four decades, are a tribute to the great ingenuity and resourcefulness of the Jewish people. Since 1948, Israel's Jewish population has more than quintupled, from 600,000 to 3.5 million. Exiles from every continent have come to live in Israel where the Hebrew language has been revived. Although it has had to build up the strongest military in the region to defend itself from most of its Arab neighbors, for nearly a decade Israel has enjoyed a peace treaty with Egypt, the most powerful of them. Successive wars have not stopped the country from becoming increasingly prosperous. Desert has been turned into productive farmland, technological breakthroughs in industry and agriculture have occurred, and Israel boasts one of the highest rates of literacy and book publishing in the world.

These accomplishments have occurred within a nation whose commitment to its democatic principles is unwavering. Today, that commitment is both the source of its greatest strength and presents Israel with one of its greatest challenges. While I believe that Israel's democratic traditions will, in the end, help bring about a fair and just resolution to the crises it currently faces, the kind of debate and discussion encouraged in a democratic society makes resolution, in the short term, of those problems all the more challenging. But the Jewish people have always confronted hardship straight on, and from the struggle have emerged even stronger.

And so, despite the difficulties facing the State of Israel, this anniversary is cause for celebration. With the exception of NATO there has not been a more enduring relationship in the postwar era than the one between the United States and Israel. Given the wealth of common values and concerns which our nations share, such a relationship is only natural. For four decades, the maintenance of the security, territorial integrity, and the independence of Israel has been one of the pillars of United States foreign policy. It must continue to be so.

As we mark this 40th anniversary, it is my hope that the State of Israel will continue to be a source of encouragement and inspiration for all the peoples of the world. Today, we reaffirm our commitment to ensure a prosperous and secure future for Israel and its people, and to help build the kind of nation envisioned by Theodor Herzl, the father of Zionism, who, in 1896 wrote:

> [In Israel, the Jewish people will live] as free men on our own soil, and in our own homes die peacefully. The world will be liberated by our freedom, enriched by our wealth, magnified by our greatness. And whatever we attempt there for our own benefit will rebound mightily and beneficially to the good of all mankind.

HONORING THE 40TH ANNIVERSARY OF THE FOUNDING OF ISRAEL

Mr. HEINZ. Mr. President, it was 40 years ago today, according to the Jewish calendar, that the world witnessed a truly miraculous event: The founding of the Jewish State of Israel. For 2,000 years the world's diasporic Jews endured inquisitions, pogroms, and the greatest of evils, the Holocaust. It was only the enduring prayer of "Next Year in Jerusalem" which gave hope to the scattered and diverse Jewish communities across the world.

When Israel's independence was proclaimed, many doubted it could last. Well, not only has it lasted, it has succeeded phenomenally. Since the birth of the Jewish State, it has absorbed over 1 million Jewish immigrants and refugees from over 70 countries. As a nation of immigrants committed to liberties which we believe are self-evident, Israel shares the very values which we Americans hold most dear.

Israel's achievements in the arts, industry, agriculture, science, and technology are a wondrous sight to behold. Israel's prodigious survival and prosperity under constant threat of annihilation is unprecedented. The State of Israel is far more than a small country under siege, it is the fulfillment of a 2,000-year-old dream and an active and energetic democracy. I urge my colleagues to join me in honoring the 40th anniversary of the founding of Israel.

ISRAELI INDEPENDENCE DAY

Mr. LAUTENBERG. Mr. President, I join my colleagues in congratulating Israel on the 40th anniversary of her independence.

Israel's existence has been filled with countless challenges; 40 years ago, the greatest challenge confronting Israel was the mere survival of the state. As Israel struggled in the war of independence, all odds were against her. Five hostile Arab countries sought to wipe Israel off the map and push Israel into the sea. They wanted to destroy thousands of years of Jewish history, dreams, and aspirations.

But Israel met that challenge with courage and determination. And she met similar challenges in 1956, 1967, and 1973 with boundless vigor as well. Each time the survival of the state was threatened, the people of Israel united. Because the Arab world would not accept Israel and let her live in peace, Israeli citizens have been required time and again to defend their precious homeland from hostility and annihilation.

But survival has not come without a heavy price. It has not come without great pain and suffering. To exist as a free country, Israel has had to pay with the lives of its people. She has had to pay with sorrow, anguish, and tears.

Despite the challenges to her existence, in 40 short years, Israel has worked miracles in the Middle East. Israel has made the desert bloom. She has turned sand dunes into sunflowers. She has turned swamps into cities. She has turned rubble into roads.

But Israel has built more than a nation; she has built a rich and diverse community of individuals the world over who are committed to the survival of the State of Israel. Some climbed back from the edge of annihilation after the Holocaust to create a future in the State of Israel. Some fled oppression in the Soviet Union, Europe, Africa, and Asia to build a life of freedom. All are proud to live in the most vibrant democracy in the Middle East.

Mr. President, even after four decades of war, Israel's Arab neighbors continue to challenge the very existence of the State of Israel. To date, no Arab leader other than Sadat has agreed to make peace with Israel. The Arab countries refuse to recognize that Israel is here to stay, and that Israel has the right to live in safe and secure borders.

Just as they wanted and deserved their independence in 1948, Israelis want and deserve to live in peace in 1988. I hope that next year, on Israel's 41st anniversary, the dream of peace will at long last be realized.

Mr. DECONCINI. Mr. President, discussions concerning the situation in the Middle East continue to occupy our time. The Middle East should occupy our time, for it is vital to United States geopolitical interests. Therefore, it is necessary to take a good hard look at the current United States-Middle East initiative to determine how this could affect our longstanding and loyal democratic ally in the Middle East—Israel. Despite some questions regarding how Israel is responding to rioting on the West Bank and Gaza, there is no doubt about Israel's importance to the United States in this volatile region.

Although I am generally supportive of Secretary Shultz mission to bring the parties in the region together, I am somewhat skeptical as to how our actions will bring about a better, more peaceful situation for Israel.

Recently, Secretary Shultz met with two members of the Palestine National Council [PNC]. This Council, according to everyone except the State Department, is considered to be part of the PLO. Even the Palestine Liberation Organization [PLO] and members of PNC consider the PNC as an integral part of the PLO. According to one of Arafat's top aides, Bassam Abu Sharif, "We consider the meeting an important political step because it was between Shultz and two members of the PNC, the highest legislative body in the PLO." Mr. President, I do not believe United States Government officials should be meeting with the PLO, the PNC or Palestinian organizations that do not recognize Israel's right to exist. Additionally, we should be condemning violence against Israel.

If I were an Israeli, I would also be concerned about entering into a United States-sponsored agreement concerning an international peace conference. I would be concerned because a previous, and very important United States-Israel agreement, had been breached without the consent of the Israelis—the 1975 memorandum which outlaws recognition or negotiation with the PLO. Meetings with the Palestinian Liberation Organization—or any of its diplomatic branches—contradict the 1975 memorandum of agreement and the spirit of United States law.

It is essential that American assurances withstand the test of time. Such promises were essential elements of the Israel-Syria and Israel-Egypt disengagement agreements following the 1973 war and the historic Camp David accords. Similar assurances will play a crucial role in any future settlement.

United States law and the 1975 United States-Israel agreement prohibit "recognizing or negotiating" with the PLO, which is recognized as a terrorist organization. Although the State Department has insisted that the Shultz meeting with the PNC was with "American citizens" and that "there has been no change in U.S. policy," these individuals are part of the PLO.

What surprises me, Mr. President, is that this is the same organization that planted a car-bomb only 300 meters from where the Secretary was staying in Jerusalem. The individuals that met with Secretary Shultz neither condemned the car-bombing nor the recent hijacking of a civilian bus in which numerous Israeli civilians were murdered. And, the PLO has not recognized Israel's right to exist, nor has it curtailed its violence against Israel.

Mr. President, I grieve every time I turn on my television and see the continuing violence in the territories. It saddens me to see young Palestinian boys and girls throwing stones and molotov cocktails at Israeli soldiers. And it grieves me to see the young Israelis forced to defend themselves against such attacks. I wish the Israelis were teaching their troops to respond with better riot techniques rather than with war techniques. Israel is capable of doing a better job. Despite what I see on TV, I know the reason why the Israelis are there in the first place. Israel is in the West Bank as a result of Arab aggression. Israel is in the Gaza Strip as a result of Arab aggression. Israel should continue to be concerned about Arab aggression.

In her short history, Israel has lost over 16,000 soldiers due primarily to Arab aggression. On the first day of her existence, she was invaded by the armies of seven countries, whose combined populations outnumbered Israel's by more than 100 to 1. A full 1 percent of Israel's population was killed in this war of independence. In American terms, that would equate to loss of 2½ million lives.

In my view, Israel should not be expected to return to her 9-mile width which existed before the Six Day War. However, I am not in a position to deny her that choice. As a concerned friend, I can only try to make the environment for negotiations as judicious as possible so that when a solution is achieved, it can be a lasting one. One where peace is the final outcome. One where further hostilities do not kill Israelis and Palestinians. One which fosters cooperation and friendship among Jews and Arabs.

Mr. President, let's stop criticizing the Israelis for their reluctance to enter into an international peace conference. This Senator does not support an international peace conference because the Soviets will only try to manipulate this conference for selfish purposes. The Israeli Government is at least discussing how to go about making peace with her neighbors. The Arab States, on the other hand, are still trying to decide whether to make peace with Israel, or whether to continue their belligerence toward America's best ally in the region.

My opposition to an international conference does not mean that Israel should not follow U.N. Resolution 242 which, among other things, states that Israel agrees to trade land for peace.

It is also time for King Hussein to start taking the same risks toward peace that the Israelis have been taking for the last 40 years. It is time for President Mubarek of Egypt to follow through in the tradition of Anwar Sadat to encourage a settlement that preserves Israeli and Arab security. It is time for the Arab world to truly recognize the accomplishment of the Camp David accords. We should encourage a peace with security and dignity for Israel, Egypt and Jordan.

Mr. President, as with Israel, I do not wish to propose any particular solution to the Jordanians. However, I can make speeches that encourage a responsible look at the process and the players in this conflict. The Israelis have agreed to have Palestinian representation at any negotiations in conjunction with the Jordanians. After Secretary Shultz met with the PNC, a spokesman for the PLO repeated the demand for PLO representation on "equal footing with all other parties." That is precisely the danger of meeting with the PNC. This is why a joint Palestinian-Jordanian body should be part of a bilateral effort. The Jordanians should take advantage of this. King Hussein knows that the PLO has its sights on conquering the East Bank of the Jordan, the Eastern portion of the old British mandate of Palestine, and the Western portion, Israel. It is in the King's best interests to begin taking some risks now while the United States and the world community are still supportive of this confluence of participants.

Mr. President, because of the reaction to the recent meeting between the Secretary of State and the PNC as well as the reaction to the previous letter to Secretary Shultz, dated March 31, 1988 and signed by 24 Senators, I feel that the article "No Suicide for Israel" by A.M. Rosenthal should be entered into the Record so that my colleagues can carefully analyze and assess the issues raised by the author.

I ask unanimous consent that the Rosenthal article be entered into the Record at this point.

There being no objection, the article was ordered to be printed in the Record, as follows:

No Suicide for Israel

It happens to everybody from time to time. We believe certain things about a matter of important controversy and we say them. But when we hear the same points made by others, we become queasy and know something is wrong or missing.

Many of us have been saying the same things about Israel: Israel cannot go on forever being an occupying power. Jews must not break bones. Israeli use of force against young Palestinians is costing her support around the world. Israel must enter negotiations on Gaza and the West Bank.

Right, right. But sometimes when I hear or read these points, which I have made myself, made over and over by others, I find myself deeply uneasy. It is not because there is no validity in them, but because so often they are presented empty of the historic realities that brought about the crisis and must be understood to find a way out.

This is an attempt to set down the political, military and historic truths that raise fears about the road that many American intellectuals, journalists and senators are demanding Israel take.

Causes: The critics' implication is that the cause of the current crisis is Prime Minister Yitzhak Shamir's opposition to an international conference and his refusal to agree in advance to cede West Bank territory.

This is not true. The cause is 40 years of Arab refusal to accept the existence of Israel, 40 years of furious hostility and military attempts to destroy her.

You do not have to like Mr. Shamir to realize that if the Arabs had accepted Israel in the beginning or for 20 years thereafter, all of the West Bank and Gaza and other territory would today be part of a Palestinian state.

If you believe that the very existence of Israel is anathema, you are right to see her policies as the root cause of the Mideast ugliness. Otherwise not.

Occupation: Some critics also act as if it were Israeli occupation of the West Bank and Gaza in 1967 that led to so many years of unrest and skirmishing there.

This too is a historic distortion. It was the Arab countries that seized Gaza and the West Bank, which were to be part of the Palestinian state under the 1987 U.N. partition—not in peace but with constant harassment and attack against Israel.

Finally Israel struck back. Her unhappy occupation of the West Bank is a result, not the cause, of aggression—Arab aggression.

Negotiation: With whom and for what? The U.S. proposes an international conference with the Big Five participating. Since Britain and France are cool to Israel and the Soviet Union and China are hostile, the chicken is being invited to negotiate under the sponsorship of four foxes and a lame dove. To think the major powers would not pressure Israel for Arab advantage is not only naive but black comedy.

It is not the Big Five Israel must live with, but the Palestinians, and other Arabs. Which Arab states have promised to negotiate directly with Israel? None. Which Arab leaders are criticizing Palestinians sworn to the elimination of Israel? None. Which Arab leaders are criticizing Palestinians sworn to the elimination of Israel? Where are the "moderate" Palestinians who can swerve the young men of Gaza and the West Bank away from seeking Israel's death?

Stakes: Israel is fighting for survival. The Arab states are fighting out of anti-Israel hatred and fear of the Palestinians. The young Palestinians are fighting for a new Palestinian state because they hate the ruler of a present state with a Palestinian majority: Jordan. They plan to eliminate King Hussein one day and swallow Jordan as part of their own single Palestine.

As things stand, a ceded West Bank Territory will become a de facto state run by the P.L.O. and other Palestinians sworn to destroy Israel. Those young Palestinians would not be hurling stones from their territory but rockets.

Solutions: Open pressure on Israel to make concessions must be accompanied by open pressure on the Arabs. Palestinians must accept totality and clearly the right of Israel to live forever, secure and in peace. The U.S. and the Arab leaders can achieve this and guarantee it, if we have the will and they the courage.

Mr. Shamir may not promise in advance to cede "territory for peace." That is what direct talks are for.

But the definition of peace cannot mean Palestinians continuing war to the death. And they too must feel hard pressure to do some ceding, specifically of their demand for another Palestinian state in a region where one already exists, and to negotiate in peaceful stages for the eventual goal: a single Jordan-Palestine.

Americans have a right to criticize Israel. They have a right to suggest solutions—but not the suggestion of suicide.

ISRAEL'S 40TH BIRTHDAY

Mr. LEAHY. Mr. President, I rise to pay tribute to the nation and people of Israel on the 40th anniversary of their independence. In these troubled times it is particularly important that we not let recent events there diminish the significance of this day.

It was 40 years ago today, after Palestinian leaders and the Arab states rejected the U.N. plan to partition Palestine, that David Ben-Gurion, Israel's first Prime Minister, took the bold step of declaring Israel's independence. A year later, Israel won what was to be the first of five wars with its Arab neighbors, but not until 6,000 Jews had died. That war marked the beginning of Israel's struggle to survive, a struggle that continues to this day.

The Israel that emerged from the war of independence was a nation surrounded by enemies still threatening to destroy it. After each war, Israel has renewed its elusive quest for peace. It is a sad irony that if the Palestinians had accepted the U.N. partition plan, which would have created an Arab Palestinian state in what is today the West Bank and Gaza, the Palestinians would now have a homeland of their own.

Instead, today, as was the case 40 years ago, Israel celebrates its birthday in the midst of bloodshed. Few political conflicts have defied solution as tenaciously as the fate of the Palestinians in the West Bank and Gaza. It is so weighed down by history, so fueled by hatred, so tied to Israel's ultimate survival, that many people have lost hope for real peace between Israel and its Arab neighbors.

Our commitment to the future of Israel is beyond question. The Arab countries should know by now that we will do what is necessary to ensure its survival. Israel's security, as much as the Palestinians' desire for a land of their own, is the key to peace in the Middle East.

Despite its difficult history, Israel's achievements are remarkable. Its population has grown to 4.5 million, many of whom are Israeli Arabs. In what was once a desert, Israel grows more food than it can eat. The debate that divides Israel today over the future of the territories illustrates the vibrancy of its democracy.

For 40 years the American people have stood by Israel. Our history, and the history of the people of Israel, are irrevocably intertwined. We may not always see eye to eye, but at times like these we must remember that no matter what happens, we are with them.

Mr. BRADLEY. Mr. President, I am pleased to rise today in recognition of the 40th anniversary of the State of Israel. Forty years ago on April 21, 1948, the long awaited dream became a reality, Israel was born.

This ancient aspiration took root around the turn of the century with the efforts of Theodore Herzl to establish a nation that would give expression to Jewish cultural identity—an identity that was submerged and vanishing because of the dispersion of the Jewish people. The cause of Israel gained urgent impetus in the search for sanctuary by the Jewish survivors of the Nazi desecration against humanity.

The State of Israel is a powerful example of the strength of human courage and creativity in the face of enormous intolerance. We as Americans identify with its spirit of democracy, innovation, and humanitarian values. As allies, we share the common goal of stability in a volatile region of the world and we must all persist in our efforts to ensure peace and commitment to human dignity. We all have waited far too long for the day when all the inhabitants of the Middle East, Jews and Arabs alike, are free to turn from the debilitating work of war to the invigorating labor of peace. On this historic occasion, I join with all Americans and Israelis in hope for a day when Israel can live in peace with its neighbors.

THE 40TH ANNIVERSARY OF ISRAELI INDEPENDENCE

Mr. WIRTH. Mr. President, we have much to celebrate today as we commemorate the 40th anniversary of the rebirth of Israel.

Modern Israel began 40 years ago when a remarkable collection of Jews—survivors of the Holocaust, refugees from anti-Semitism elsewhere in the world, and visionaries not unlike America's Founding Fathers—declared their independence in a land surrounded by hostile neighbors.

Israel survived its struggle for independence and subsequent attempts at its destruction in 1956, 1967, and 1973. After each of those wars Israel sought peace with its neighbors. The search finally bore fruit in 1976 with the Camp David accords and peace between Israel and Egypt. The pursuit of lasting regional peace between Israel and her other neighbors continues. Israelis and Americans alike share that goal.

A remarkable story has unfolded through 40 years of fighting for survival. While frequently besieged by their neighbors, the citizens of Israel have made the desert bloom, building a diverse economy and a vibrant society.

Israel was conceived as a democracy and has grown strong—drawing refugees from more than 70 nations—under circumstances that historically have proved to be the undoing of many democratic states. Forty years after her independence, however, Israel faces perhaps one of its biggest challenges: The need to address the problems and discontent in the occupied territories of the West Bank and Gaza Strip. Supported by strong democratic institutions, embodied in free press and two major political parties, I am confident Israel has the moral strength to resolve the strife in the occupied lands in a manner which is consistent with its democratic principles.

It is especially fitting that we Americans celebrate Israel's 40th anniversary with her today. We share a unique and special relationship. Americans admire Israel's tenacious determination to survive as a democracy and prosper economically under adverse conditions, and the United States values Israel as a staunch ally in a troubled region of the world.

There is another reason Americans admire Israel. It has to do with the similarities between Israel's founding fathers and our own forebearers. Separated by more than 300 years, both groups began an "errand in the wilderness" not only to escape persecution but to build a new state in that wilderness. Israel, like the early settlements in New England, is that "city on a hill." To paraphrase John Winthrop, the eyes of all people are upon them. They have made a story and a byword throughout the world.

ISRAEL'S 40TH ANNIVERSARY

Mr. SARBANES. Mr President, 40 years ago today the State of Israel proclaimed its independence as a homeland and beacon of hope to Jews around the world. Just 11 minutes later, President Truman announced to the American people:

> This Government has been informed that a Jewish State has been proclaimed in Palestine and recognition has been requested by the provisional government thereof. The United States recognizes the provisional government as the de facto authority of the new State of Israel.

In Israel's 1948 Declaration of Independence there is the following statement:

> We extend our hand to all neighboring states and their people in an offer of peace and unity and appeal to them to cooperate with the independent Jewish nation for the good of all.

It is one of the great tragedies of our time that the neighboring states rejected this offer and reacted instead with hostilities. Israel weathered the war for independence, and has weathered three additional wars since then, and every conceivable form of terrorist outrage as well.

The fundamental relationship between the United States and Israel is a special one because it is based on shared values and experiences. Israel, like our own Nation, is a land of immigrants and pioneers, its democratic achievements reflecting the hard work, sacrifice, courage, devotion, and self-discipline of its people. In just 40 years the Israeli people have turned desert wasteland into modern cities and prosperous farms; they have built educational and medical systems equal in quality to any in the world; they have taken in, and continue to take in, the victims of Soviet oppression and persecution, as earlier Israel offered a new life to the survivors of the Holocaust.

To build an independent Jewish nation on a small piece of desert would have been difficult even under the most ideal conditions. For Israel to have done so while her very existence was constantly being threatened is truly a tremendous accomplishment. In the face of hostility and adversity, Israel has persevered and developed. Today we join in paying tribute to the great achievements of the Israeli people, and to the fruitful and enduring partnership between our two nations. We wish for Israel the peace and prosperity her gallant people have long sought.

ISRAEL'S 40TH ANNIVERSARY

Mr. GLENN. Mr. President, I rise to join many of my colleagues in sending best regards to the people of Israel on this the 40th anniversary of the founding of their state. Their's is a remarkable story, born of tragedy, tested by adversity. Today Israel stands as a symbol of democracy in a region where democracy otherwise has yet to take root. Of necessity they have developed an impressive self-defense capability, having prevailed not only in their war for independence but also in three subsequent conflicts against the combined forces of their Arab neighbors. In recognition of its steadfast friendship and strategic location in the eastern Mediterranean, Israel has now been recognized as a "major non-NATO ally" of the United States. Israel's achievements have not, however, been limited to the security sphere. Over these 40 short years the people of Israel have made most impressive strides in all aspects of nation-building. They have established a strong, technologically advanced economy, they have turned arid desert into productive farmland, they have successfully incorporated into their society millions of immigrants and refugees, and they have internationally established themselves in the fields of art, science and education.

Israel is a valued friend and Western security partner. The United States has consistently supported and encouraged Israel's attempts to find a just, lasting and secure peace with its Arab neighbors. Inevitably we will have differences of opinion with Israel, as we do from time to time with all our friends and allies. However, differences of opinion on specific issues or methods for approaching the peace process should not be allowed to obscure the depth and strength of the friendship between the United States and Israel, between our two governments and our two peoples. We share the same commitment to Israel's secure existence and continued prosperity. We will continue to work together toward the realization of those goals in a relationship governed by mutual respect, support, and friendship.

My prayer for the people of Israel as they celebrate this 40th anniversary is that the future will bring them genuine and lasting peace in which they can continue their national growth as a free, secure, and prosperous people, an integral member of the family of nations, and a model for other young nation-states who are struggling to establish themselves against great odds.

CHILD CARE

Mr. SASSER. Mr. President, I rise today to comment on the great need that we are experiencing in this country for improved child care services. Just a few weeks ago, I held field hearings of the Senate Budget Committee on the problems we are facing in the area of child care in this country. The testimony that I heard in Chattanooga and Knoxville, TN, has convinced me that there is a need for a Federal role, and the Federal Government needs to act and act soon, in assisting the States in improving the availability and the quality of child care services.

Over the last 2 months, I have visited a great number of child care facilities in my State ranging from child care facilities for upper-middle-class families, who can afford to pay for the very best, down to child care centers for impoverished working mothers.

I have spoken with parents, with the child care providers, and with professionals in the field, and I hear time after time a common theme. That theme is that child care services are inadequate and that the situation is growing worse. A survey in 1987 by the Tennessee Children's Services Commission found that there were 437,000 children under the age of 6 in need of child care, but there were only 105,000 child care slots all across my State, which means there was only one slot available for every four children in need. I think that the State of Tennessee is typical of other States in this area. Fifty-five percent of the mothers in my State with children under 6 years of age work. Nationwide that figure has risen from 30 percent in 1970 to 57 percent in 1987, a doubling of the number of mothers who work with children under 6 years of age in one generation. These figures speak of a very serious problem.

When I was a youngster, the father worked and the mother stayed home and raised the children, and that is the way it was in the nuclear family of the 1940's and 1950's and, to a certain extent, even the 1960's. But times have changed, and now both mother and father must often work to maintain the same standard of living that was attainable with only one working parent in prior times. Now we have the sad legacy of single-parent families all across this country. So the culture is changing, society is changing, and with this change comes a dramatic and escalating need for care for the children of this country.

There is an obvious problem when we look at the question of supply and demand. I find that the demand is not simply for preschool children. In my State of Tennessee there are some 65,000 latchkey children, children who come home every afternoon after school to an empty house. As well, there were over 16,000 teenage pregnancies in Tennessee last year, a sad commentary on children having children. Over 6,000 of these pregnancies led to unwed mothers under the age of 18.

Finally, I heard testimony which portrayed the severe lack of care for infants and for handicapped children. For handicapped children age 6 weeks to 9 years there are only 756 child care slots available in Tennessee, and many of these come at such a high cost that it is prohibitive for the average middle-class family.

These bleak statistics are backed up by hundreds of letters that I have received over the last few months which ask that we in the Senate move quickly to pass a child care assistance bill. Families from all income groups are in desperate need of quality child care, and they are turning to the Congress of the United States for help.

I also heard testimony from the Commissioner of Human Services in my State, Commissioner Nancy-Ann Min. Ms. Min spoke of the problems she has witnessed and impressed upon me the inability of the State to address these needs. In almost all of the 50 States and particularly in States such as my native State of Tennessee, the budget simply does not allow for major expenditures for child care services. It is clear to me that we have a responsibility to help provide this assistance. The Labor Committee is now considering several bills to address child care needs. Some of this legislation is very extensive, while other bills are more limited in their scope. My concern is that we act as quickly as possible. This is truly a national crisis that is already upon us. Without some action, it is a crisis that is going to become only worse. It is my hope that this Congress can make a significant commitment for the care of our children and the future of our Nation in this historic 100th Congress.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The **ACTING PRESIDENT** pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER** (Mr. GRAHAM). Without objection, it is so ordered.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I failed to ask, and I will now ask unanimous consent, that the distinguished Republican leader's time be reserved for his use later in the day.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** The time for morning business has expired.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

The **PRESIDING OFFICER.** Under the previous order the Senate will now resume consideration of Senate Joint Resolution 282, which the clerk will report.

The assistant legislative clerk read as follows:

Joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional, and Presidential elections.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Gramm Amendment No. 1954, in the nature of a substitute.

(2) Hollings Amendment No. 1955 (to Amendment No. 1954), of a perfecting nature.

(3) Hollings Amendment No. 1956 (to Amendment No. 1955), of a perfecting nature.

(4) Gramm Motion to recommit the joint resolution to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment in the nature of a substitute.

(5) Hollings Amendment No. 1957 (to the motion to recommit), of a perfecting nature.

(6) Byrd Amendment No. 1958 (to Amendment No. 1957), of a perfecting nature.

The PRESIDING OFFICER. Under the previous order here will now be 1 hour of debate to be equally divided and controlled by the Senator from South Carolina [Mr. HOLLINGS] and the Republican leader, or his designee.

Mr. BYRD. Mr. President, on behalf of Mr. HOLLINGS, I yield myself such time as I may require.

Mr. President, we are now considering a proposal for a constitutional amendment to permit limitations to be placed on campaign spending.

A constitutional amendment is not my preferred way of addressing the problem of soaring campaign costs. With 50 other cosponsors, Senator BOREN and I proposed legislation, S. 2, that would restrict spending in congressional races. It is clear that a majority of this body recognizes the need for reform and supported S. 2.

Nonetheless, a majority was not sufficient for the Senate to consider S. 2, because the opponents made it a point to prevent a vote on the bill. They voted against cloture eight times. And they successfully defeated our efforts to invoke cloture eight times. They claimed that they supported reform, but objected to S. 2 and the provisions thereof.

Now, those who say they want to stop the runaway costs of elections, can demonstrate it by supporting this resolution proposing a constitutional amendment. The concept has had strong bipartisan support. There is nothing threatening in the proposed constitutional amendment. It permits the people to decide. And would require future legislation to become effective so it is permissive only. Its most important effect would be to reenforce the consensus that exists for getting the big money out of politics.

Campaign finance reform has been called for by editorial after editorial in major newspapers across this Nation.

Senator HOLLINGS modified his original proposal, Senate Joint Resolution 21, following the hearings of the Constitution Subcommittee. He rewrote the proposal to tighten the language, as suggested by constitutional authorities, and he added a provision to permit the States, as well as Congress to limit spending in elections under their jurisdiction. Both are sound improvements.

Mr. President, this joint resolution is a challenge to those who call for campaign finance reform. With the Senate unable to bring S. 2 to a vote, we must explore other avenues to at least move in the direction of getting the costs of campaigns down. I know some may believe that there are concerns about the first amendment under the proposed constitutional amendment. But we should not allow these concerns to become a smokescreen for those who do not want any reform.

If we do not act, the American people will be the losers. We have nothing to fear in letting the people of the several States decide if they agree that the time to stop the escalating costs of elections is now.

Let the people decide. If we will not support S. 2, then let us have a constitutional amendment. Who is it in this body who fears having the people decide?

Since the people are the real losers in the money chase, and we are going to find that out someday—and the American people are going to find it out—let us let the people decide, if they want to stop the big money and the special interests from electing their representatives.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The majority leader has yielded the floor. Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, with respect to the constitutional amendment before us, the distinguished majority leader has hit the target with eloquent precision. What we have accomplished in Senate Joint Resolution 282 is to boil down into one line the constitutional authority to limit campaign expenditures. On this critical issue, the time has come to put up or shut up. If you are for limits then all you are doing in Senate Joint Resolution 282 is voting to empower Congress to proceed with the consideration of spending limits. It is not our task today to debate what form those limits should ideally take.

The subject of campaign expenditures is admitedly complex because you must consider direct, indirect, individual wealth and so on. Yet constructive, workable, bipartisan formulas are possible. After all, we did it before in drafting the Campaign Finance Act Amendments of 1974.

So we are really down to a single issue which all men and women of good will should be able to agree. In fact, an overwhelming majority say that they do agree. They believe in limits. And that is what the vote will be on this afternoon, once you cut through the smoke screen and red herrings of Kibbles n' Bits, cat food, dog food, bottled water, and so on ad nauseam.

Indeed, I was rather surprised to hear a Senator from Kentucky talk of bottled anything other than bourbon. But this Senator has taken to the floor to fuss and worry about bottled water. You can tell that our opponents do not have any valid objection. All they are trying to do is confuse this issue.

The point here is that in this constitutional amendment we do not take away from the Court its inherent right to review. The question was raised by our distinguished subcommittee chairman, the Senator from Illinois, Senator SIMON, that he would like to insert the word "reasonable." Everybody believes in being reasonable. And being not only reasonable but political, it would be easy for me to include a word and pick up a vote.

But I have looked with care. And what we want now is a sound amendment devoid of any mischievous verbiage, and categorical with respect to what is intended. And the intent here is to limit strictly the amplification of speech.

We are not amending the first amendment in any manner or means. You cannot do so. The Court would not suffer it. When the court looks at any amendment or provision of the Constitution, the Justices look at it in its entirety to ensure that it does not conflict with other provisions of the Constitution. The Justices look at the first amendment, the guaranteed right of free speech. They look at the fifth amendment, the guaranteed right of the individual not to be deprived of his right, liberties, speech or otherwise without due process. This inherent right of review has been fixed since Marbury versus Madison.

The Supreme Court has the right constitutionally to review the acts of the executive branch and of the legislative branch. We, in turn, have a right to review the acts of the judicial branch. Our right in this regard is very limited, very strained, and taken very advisedly, because it is only the power to amend; and we do not want to amend the Constitution willy-nilly to undo every court decision with which we have disputes. There would be total chaos.

So we have arrived at this particular step in an advised fashion, after numerous failed efforts to address this problem with conventional legislative solutions. Likewise, this amendment is informed by a careful understanding of freedom of speech as set forth by Justices White and Marshall in Buckley versus Valeo. In that decision, concurring in part and dissenting in part, Justice White says, "We are superimposing our political judgment for the political judgment of the congressional branch."

What that does, in effect, is create a supercongress of five individuals; and each and every time the word "reasonable" is included in a constitutional provision, it transforms the Court into a supercongress of five Justices who decide what they think is reasonable.

As I indicated the other day, in Glass-Steagall, an earlier Congress thought that that was reasonable and enacted it and prohibited banks from engaging in the securities business. The 100th Senate, however, has decided that Glass-Steagall is unreasonable, and we have stripped away its inhibitions on the banking business in America. With the changing times, the definition of what is reasonable in the banking business has changed.

Accordingly, the proposal for a test of reasonableness in the Constitution is faulty, dangerous, and absolutely unnecessary.

We did not amend the first amendment in our 1974 act. We have all kinds of ways to engage in and participate in politics.

I do not believe the distinguished Senator from Wisconsin, who spent only $145 in his last campaign, was deprived of his freedom of speech because he did not use TV.

Everyone has freedom of speech. All we are talking about, here, is the excessive amplification of a single candidate's message, effectively depriving cash-poor candidates of the right to respond. We all recognize that campaign spending goes up, up, and away to the point where the average Member of this body has to collect and spend $3 million in order to retain office. To the point where Senators must neglect their duties in order to go out and raise money. Senators must collect $10,000 a week in order to raise money for the average campaign. That is absolutely outrageous. Everyone agrees. Today, we have an opportunity to deal constitutionally with this horrendous problem today in the Senate.

We have not amended the first amendment. We have not amended the fifth amendment. We would not be permitted to amend those. We are looking strictly to restore to Congress the power to regulate campaign spending—a right we all thought we had until Buckley versus Valeo.

That is the distortion and discombobulation of that particular decision, because it said: "Yes, Congress, you have the authority to regulate campaign contributions—they are not freedom of speech. But that same money, in the hands of Senators who are spending for reelection, is magically transformed into free speech, protected by the Constitution from being regulated."

If I have personal wealth and an outsider wants to run for my Senate seat, if I have $1 million or $10 million—there are several Senators who in recent campaigns, spent in excess of $10 million—and my opponent has only $50,000, I will make it appear that he has lockjaw, that he does not care, that he is unwilling to defend himself. Because he will not be able to match my spending on TV ads. He will not be able to pay for a response. Without a response, even his best friends would think: "Something is wrong. He doesn't seem to care about becoming Senator." In essence, I have taken away his freedom of speech.

So this particular amendment is to restore, not to inhibit, the freedom of speech by allowing more equal access to the amplification of all candidates' political message. Lest we get bogged down in the particulars of what constitutes ideal limits, let me emphasize that we are not enacting a campaign finance bill on the floor of the Senate today when we vote. We are not doing that at all. We are not getting into the question of what should be reasonable campaign costs, in comparison to the cost of cosmetics, a bottle of water, or Kibbles 'n Bits, as the Senator from Kentucky has so artfully framed the issue.

We are not getting into the question of independent expenditures, which go to the heart of the distortion and corruption of Buckley versus Valeo. Consider that if an independent committee collects $1 million on behalf of the Hollings candidacy and another committee collects $1 independently against the Hollings candidacy, if the first committee tells me about it and I know about it, and I am presumed to have approved it, directly or indirectly, then they go to jail. That is a criminal offense. But if the other committee said nothing to me and I had nothing to do with it, and they collect their $1 million however they wish, then, under Buckley versus Valeo, that is perfectly constitutional. This illustrates the corruption of that decision and the dilemma that the United States finds itself in this morning.

So I hope we can get by all the side debates about what might happen later with a particular bill. We know that whatever Congress passes will have to standup to judicial review under the first amendment and the fifth amendment with respect to freedom of speech. It is silly and distracting to hypothesize a future law that says the Republicans will get $50,000 and the Democrats will get $10,000. This is nonsense.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, it would be quite easy to pass a meaningful campaign finance reform bill this year. There are a number of things that need doing.

The distinguished majority leader appointed a group of eight to try to work out some kind of bipartisan campaign finance reform bill a few months ago. We agreed on a lot of things.

To show how easy it would be to pass some genuine reform I offered as an amendment to the lobbying bill just 2 days ago a measure that would help do something about one of the problems that we all agree in this body is a serious concern, and that is the problem of great wealth buying public office.

So the Senator from Kentucky offered an amendment to the lobbying bill that says essentially this: If you put up your own money or go to a lending institution and borrow money to spend in your own behalf in a campaign, you cannot get it back after the election.

Buckley versus Valeo said that it was an unconstitutional violation of the first amendment to say that you could not put your own money into a race, but it certainly did not say anything about the recoupment of that.

I think that measure, should it become law, would go a long way toward prohibiting the practice or at least reducing the propensity of wealthy people to ante up a large amount of their own money in an effort to personally purchase office and then once the election is over, going downtown and shaking down every interest group and individual they can find to try to repay themselves.

There are two other items that could be addressed and should be addressed, and this Senator may offer them in a form of nongermane amendment to various measures as we move along this year that would improve the process.

In addition to the increasing incidence of millionaires spending their own money to buy public office another thing feeding the cost of campaigns is the cost of television. We all know that television and radio are the most effective way to reach the American people. Particularly in a large State such as the State of the occupant of the Chair, you could shake hands until you are blue in the face for the next 15 years and maybe never meet everybody in Florida. You simply have to use the means of mass communication. You have to use it effectively if you are going to be able to compete in a modern American political race, but the cost of television has grown astronomically while that what we can receive from others in the form of a campaign contribution has been limited since the mid-1970's. The cost of television has gone straight up. The stations are supposed to sell us the time at the lowest unit rate available to any advertiser during that period. They do that.

There are a couple of problems with that, however. The rates are very high in the fall typically. That is a rating season for most of the Nation, so the rates are extremely high even for the lowest unit rate and, of course, if you do not buy it at the lowest unit rate you do not guarantee that you cannot be bumped by another advertiser who could either be your opponent or Kentucky Fried Chicken.

So as a practical result of the current system, we end up paying the highest unit rate during a 60-day period leading down to the conclusion of any fall campaign, and it is astronomically expensive and the costs have risen dramatically. We could well address the issue of the cost of television, not that we want to require the stations to give it away—we do not—but it seems to me when we are talking about electing the people representatives, there ought to be reasonable and affordable access to the most effective means of communication during that 60-day period every 2 years.

It is not like we were asking them to do it on a year-round basis. We are talking about a real meaningful reduction during the most critical time preceding an election.

So those are two things, Mr. President, that have driven the cost of campaigns, the propensity of the growing number of people of great wealth to try to buy office themselves and, second, the cost of television. And the third thing that has grown is the proliferation and increase in PAC's.

This Senator said frequently that if there is any part of the current electoral system that smacks of undue or special influence, certainly it is the political action committee contributions.

If what we are concerned about here is this whole debate over campaign finance reform is the appearance of special or undue influence, then we ought to be talking about political action committees, if that is our concern.

We could reduce the amount of PAC contributions from the current level of $5,000 per election downward. We could put an aggregate limit on PAC contributions, something the distinguished Senator form Oklahoma, Senator **Boren**, suggested in various forms of S. 2, but in any event, we could address that issue if we wanted to.

So those are the three things that would clearly have an impact on the rising cost of campaigns without putting a limitation on the participation in American politics on the part of individual contributors.

Really, Mr. President, that is what this debate has gotten down to. One side of the aisle for the most part would like to put a limit on the number of people who can participate in the political process by the making of a limited and fully disclosed cash contribution. We think that is bad public policy. We think it is something we can never ever agree to, because we ought to encourage greater participation in politics, not less. We ought to encourage more contributors, not fewer, and after all there is a rather severe limit on what people can contribute anyway and it has not been raised in 15 years.

Some have said we have to spend a lot of time raising money, but let me say nobody makes us do that. Many incumbents do not do it. I can think of a number of Senators on this side of the aisle or on the other side of the aisle who choose not to do it. It is a strategy decision. Nobody makes us do it. There are others of us who as a matter of strategy decide we want to look strong early and we do raise money early and we earn interest on the money early, and we try to put ourselves in a good position going into the campaign because we think it is the intelligent thing to do. But nobody makes us do it. It is an individual choice, and many Senators have succeeded in being reelected without doing that.

Amend the Constitution because somebody chooses as a matter of strategy to raise money early? That is an absurd notion. We rarely amend the Constitution in this country. When we do it it is usually for good purpose. And here we are talking about for the first time in history modifying the first amendment to the U.S. Constitution over this problem, one that we could cure in a variety of other ways, statutorily. Why even Common Cause, the American Civil Liberties Union and the Washington Post, all strong advocates of S. 2, oppose amending the U.S. Constitution to get at this problem.

It is simply not warranted. It is not the kind of problem that rises to a level of amending the U.S. Constitution, something we have rarely done, done only 26 times in the history of our country.

Now why are we even debating this issue? We are debating this issue, Mr. President, in the opinion of the Senator from Kentucky, because of the partisan advantage that would flow from a system that brought about the limitation on limited and fully disclosed campaign contributions. Why? Because the Republican Party, by and large, has done a better job of raising funds from limited and fully disclosed contributors out around America than has the opposition.

So now we are seeking to get authority to rewrite the rules, and, as we all know, he who writes the rules controls the game.

None of these proposals, of course, would be effective. We have had a system of spending limits in the Presidential race since 1976.

A friend of mine described the spending limits as putting a rock on top of Jell-O. When you put a rock on top of Jell-O, the Jell-O just slides out to the side.

What happened under the Presidential system since 1976, the system of spending limits in public finance, first, $1 of every $4 spent in those races has gone to lawyers and accountants trying to figure out ways to get around it. Second, spending had not been limited; spending has gone up astronomically, but the kinds of spending have been, by and large, unlimited and undisclosed or approved methods of getting around the system of limitation.

I would say, Mr. President, that a spending limit provision in America would have as much chance of working as prohibition did. It would not work. It cannot work. There is nothing inherently evil about money in politics provided the contributions are limited and fully disclosed so that our opponents in a race can make an issue out of the fact that we got $500 from this PAC or that PAC, or $1,000 from this individual or that individual. It is right on the form for everyone to see. Issues are frequently made in our races of who contributes to us. It is fair game, perfectly appropriate. Let the candidates take their best hold.

What has happened under the post-Watergate legislation that regulates the election of Members of Congress, what has, in fact, happened, is we have developed a true two-party system in this country in every region. That is what has happened. That is not bad for America. That is not only good for the two-party system, it is good for everyone.

In certain sections of the country, like mine, where there was not any party competition 2 years ago, now both sides are heard from. This post-Watergate legislation that applies to congressional races has brought about a competitive two-party system in America that is good for this country, not bad for this country.

If there is a scandal waiting to happen in American politics, it is not in the congressional races, it is in the Presidential races, which is breeding a sense of disrespect for the law, making cheaters out of otherwise honest men and women who go out and run for President of the United States under a completely absurd set of rules that cannot and will not ever work. And yet we are considering amending the Constitution—the Constitution of the United States that we have only amended 26 times—to give the Congress the authority to do this further?

Mr. President, it is a bad idea, with all due respect to those who propose it. It is a bad idea. It is an idea whose time came in the 1960's and left.

For those who follow this issue, let me say this sort of thing is no longer fashionable. You cannot find very many respectable scholars in the field in America anymore who advocates spending limits. This was an idea that was very fashionable in the late 1960's and early 1970's and now we have had a chance to observe how it works through three Presidential races.

The Senator from Kentucky put in the RECORD the other day—and I will not do it again today—a whole list of the most prominent political scientists in America, most of whom are liberal Democrats by persuasion, who say this is a terrible idea; it has not worked in the Presidential races; it should not be extended to the congressional races; and let us not go down that path. It is bad public policy.

So I am hoping we will bury this idea shortly once and for all. I hope it will not rear its head again. There are some things that need doing, let me repeat. One of them we did 2 days ago on a voice vote without dissent. We said that if you ante up a lot of your own money to try to buy public office, you cannot get it back after the election. That is an important step in the right direction.

We could do something about the cost of television. The group of eight that the distinguished majority leader appointed agreed that was a problem we ought to address. We could adjust the PAC contributions. As far as this Senator is concerned, we could eliminate them altogether. But, if we do not want to do that, we could reduce the individual PAC contributions or we could put an aggregate limit on them.

There are a number of things we could do. We could do something about the disclosing of soft money, one of the great scandals in American politics today. Soft money, unlimited, undisclosed, nobody has any idea how much is spent.

All of these things could be addressed, I would say to you, Mr. President, and to my colleagues, and pass this body by an overwhelming margin, improve the system under which we operate without amending the Constitution, without tampering with the first amendment, without the influx of public dollars into political campaigns, and without putting a limit on individual, fully disclosed cash contributors to political campaigns.

So I hope, Mr. President, and my colleagues, that we will pass meaningful, bipartisan campaign finance reform sometime in the future. But I sincerely hope we will not amend the Constitution. It seems to me that that is truly a bad idea.

I yield the floor.

The **PRESIDING OFFICER.** The Senator from Kentucky yields the floor. Who yields time?

Mr. **BYRD.** Mr. President, will the Senator yield me 5 minutes?

Mr. **HOLLINGS.** I yield 5 minutes to the distinguished majority leader.

The **PRESIDING OFFICER.** The Senator from South Carolina yields 5 minutes to the majority leader.

Mr. **BYRD.** Mr. President, the distinguished Senator from Kentucky has spoken against this constitutional amendment and says "nobody makes us do it," referring to the raising of campaign funds—"nobody makes us do it." Of course nobody makes us do it. Nobody makes us break the speed limit, but we do it. Nobody makes us go out and raise money and run all over the country to the four winds, leave our families and our work here undone, and go out and engage in a money chase. Nobody makes us do it. That is true. But Senators who hope to continue in public service are forced by the present system to do it.

Now, perhaps there are some who do not do it. But, as we saw and as we have heard, it requires on the average of $3 million a Senate seat on the basis of the 1986 election. On the basis of $3 million a seat, that is $10,000 a week for 52 weeks a year for 6 years if a Senator wants to continue in public service.

So let us not go for the argument that nobody makes us do it—nobody makes us do it. That is no excuse for not trying to do something to stop the money chase that is undermining this institution and taking Senators away from their work.

This majority leader is in a position to know. I know more about the 100 Senators here than any other single Senator does; perhaps Senator DOLE knows as much or about as much. A Senator came to me only yesterday and said, "What will we be doing on a Tuesday of next week, on Tuesday afternoon next week? Will we be having any votes? I have to go up to New York. I have a fundraiser in New York. Will we be having any votes?"

My answer was, "Well, in all likelihood we will have the trade conference report up."

I hear this every day. "What will we be doing next week or tomorrow? Monday, Tuesday, Wednesday, Thursday, Friday. I hope you will not have any votes on next Monday afternoon. I have to go out of town to raise money for my campaign. I hope you will not have any votes next Tuesday, not before 6 o'clock. I hope you will not have any votes next Friday after 11 o'clock, because I have to go here or there or somewhere else."

Now, nobody makes us do it. But this is one of the reasons why this Senate is unable to operate at times as it should. It is the reason why we did not have votes on Mondays of last year, why we were not in session on Mondays of last year. And it is the basic reason why we are in session 3 weeks now and out 1 week.

If it continues as it does, this Senate is going to be not literally in 3 weeks and out 1 week; instead, it will be, only figuratively speaking, in 3 weeks and out 1 week. Because by the time you nibble off here and nibble off there and you do not have any votes on Mondays before 6 o'clock and on Fridays after 11 o'clock, you have cut down on the time of the Senate, the time it needs to do the people's business.

Now, I have been in this Senate for 30 years, and I have been working in the leadership in one place or another for 22 years. I have seen a big change in this Senate. One of the basic, if not the most basic, reasons behind the change is the money chase that has grown and is growing and will continue to grow if no limitations are placed on campaign expenditures.

One may say, "Well, we can stack votes or we can do this." Once you start stacking votes, once you tell Senators that there will be no more rollcall votes, watch that east door over there. Watch that south door there. Senators are going to get out of this Chamber as fast as they can go, because they have to go out and raise money. If not in New York, then here in this city—breakfasts, luncheons, dinners, receptions. Senators are going to get out of here.

Who is going to be left here in this Chamber then to debate amendments or even call up amendments? It inevitably slows down and impedes the work of this Senate.

So let us not dispose of this amendment with the back of our hand by just saying "nobody makes us do it."

Then there is this remonstrance against amending the Constitution. I wish the same arguments would be made with respect to the rules of the Senate.

Everybody has their ideas about the rules of this Senate, how they ought to be amended. But they are difficult to amend and they ought to be difficult to amend because this Senate is a unique body. It is not the House of Representatives. Sometimes as I listen to Senators, I think they ought to be back in the State legislatures somewhere. I have served in a State legislature. They have their place. They have their proper spheres of action.

But this is the Senate of the United States of America. And when our forebears wrote the Constitution, they meant for it to be difficult to amend. But what is the Constitution? The Constitution is the organic instrument by which all of the institutions of this Government live and breathe and have their being. But if the people want to amend the Constitution the 27th time, they can amend the Constitution again. And why will we not at least give them the opportunity? Are we afraid? Are we afraid of the judgment of the people?

I will tell you why there is fear of a constitutional amendment. Our good friends on the other side of the aisle, all but two of them, have demonstrated that they do not want any limitation on campaign expenditures. And all of them except three held the line against cloture on S. 2.

My friend from Kentucky says, oh, there are lots of things we can do to reform campaigning. We ought to do this. We ought to do that. And he has made some good suggestions. But why did he and our other Republican friends not vote for cloture on S. 2 so that the Senate could vote on such amendments to S. 2 as my friend from Kentucky has enumerated here this morning? I would like to have voted for some of those amendments. But our Republican friends never allowed the Senate to act on S. 2.

The **PRESIDING OFFICER**. The Senator's 5 minutes have expired.

Mr. **McCONNELL**. Will the Senator yield on that point?

Mr. **BYRD**. I will be happy to yield on that point.

Mr. **McCONNELL**. If the Senator will yield on that point, as this Senator said, ad nauseam over seemingly endless debate on that subject, our side was more than happy to sit down and write a bipartisan campaign reform bill and the distinguished Senator, at the end of the debate, did appoint the group of eight. Had we been able to come up with such a bill and come to the floor for a single vote on that we would have done it. We would have been more than happy to. But we were not prepared to open up the whole measure.

We were prepared to have a bipartisan campaign finance reform bill previously agreed upon by both sides, and we could have moved one through very rapidly. That was the point, I say to my friend from West Virginia.

Mr. **BYRD**. A very reasonable argument. Very reasonable argument. The point is those people, who are the millions who are looking through the eyes of that camera there, know that there cannot be any genuine campaign finance reform until and unless there is a limitation put on expenditures. That is what we are talking about. That is what this whole problem is about.

Now, the distinguished Senator is on the side that would not, would never—the word "never"—never agree to legislation to put a limitation on campaign expenditures.

Oh, yes, we can write a bill. But only as long as there is no limit on campaign expenditures, they said.

The line was drawn in the sand. Never will we cross over that line, they said.

Mr. **McCONNELL**. Will the leader yield on that point?

Mr. **BYRD**. Yes; I will be happy to.

Mr. **McCONNELL**. The point, I would say to the distinguished Senator from West Virginia, is so all those millions of people out there could continue to participate in these campaigns with limited, fully disclosed campaign contributions. After all, what is evil, I would say to my friend, about making a contribution to a campaign? What is evil about that?

In our view, absolutely nothing. One of the interesting things that has happened with the post-Watergate legislation is the growing number of people in America who are contributing to their favorite candidate and that is how the money is raised, from a whole lot of people.

Mr. **BYRD**. Well, we have seen campaign finance reform work in the Presidential campaigns. But the distinguished Senator from Kentucky says it will not work. It will not work. But who among our Presidents has utilized most the new system? Mr. Reagan. He has been the chief beneficiary of that system.

I say it has worked; worked very well. But now let us just leave the record like it is. Let me say once again, the reason my good friend from Kentucky does not want this amendment is because the people will have an opportunity to voice their opinion. If this amendment is adopted, believe you me, the people are going to know what it is all about. They will know what it is all about. And I have no doubt that they would ratify the amendment.

It would require three-fourths of the legislatures. What is wrong with that? Is the Senator afraid to have three-fourths of the legislatures make this decision? Ratify this amendment? And then, as the Senator from South Carolina says, the amendment is only permissive. The Congress still must write the legislation in pursuance of the constitutional amendment, and the Supreme Court of the United States would still be able to rule on the law passed by the Congress.

I say, now is the time to stand up and say: Let the people be heard. Let the people speak. Are we afraid to let the people of the United States make the decision?

I thank the Senator for yielding.

The **PRESIDING OFFICER**. The time of the Senator from South Carolina has expired. Who yields time?

The Senator from Kentucky.

Mr. **McCONNELL**. Mr. President, I yield 5 minutes to the distinguished Senator from Texas.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **GRAMM**. Mr. President, we have two issues before us today. One issue we have just heard argued with great passion and imaginary lines drawn in the sand about limiting the ability of people to contribute to political campaigns. I have always been proud of the fact that some 80,000 people contributed to my Senate campaign, and I do not know of a better measure of support than how many people are willing to put up their time and talent and money than people who are willing to contribute.

It is interesting, who are the people in the political party that get most of the PAC money and virtually all of the labor PAC money. We heard early talk about eliminating PAC's or putting limits on it. We do not hear it any more.

But people in the political party that have difficulty mailing out mailers and telling people what they stand for and then people being willing to write a check to say that is what they want America to be; they want to limit the ability of these people who may read a vision that some young man or woman has for America and decide to put a check in the mail and send it to him.

When I ran for Congress I was a schoolteacher, and the first time I ran I spent $50,000, which was all my worldly savings, and lost. I got 29 percent of the vote.

The second time I ran I did not have $50,000, but luckily people had sort of caught on to the fact that I was serious about why I wanted to go to Congress, and so I literally had thousands of people from all over my district contribute.

The second time I ran for the Senate I had more individual contributors than any nonincumbent candidate for the Senate in the history of America.

Mr. **BYRD**. Mr. President, will the Senator yield?

Mr. **GRAMM**. I am not unhappy about that. I am not willing to apologize for it. I am proud of it.

I would be happy to yield.

Mr. **BYRD**. Mr. President, I am proud of it also and S. 2 would have allowed the voices of those little people out there who only have $1 or $2, or $10, they would be the people who would be heard. Not the big contributors. Not the fat cats. And it would not cause me to have to run out to California, and to Florida, and to Pennsylvania, and to New York, and here in Washington, day and night, and to Utah, and to Arizona, and to Texas, and to Georgia, and to Alabama—all these States, and others, I had to go to in 1982 in order to raise campaign funds.

But S. 2 would have allowed those small dollar bills to roll in. Those $2 bills—there are still a few of them around. And $10 bills and $20 bills, and $50's, even. Those are the people who would be making the contribution. And we Senators could stay here, stay right here and do our work. We would not have to run around the country and look for the $1,000 contributions or the $2,000 contributions. I am trying to help. You know the way Senator BOREN and I proposed, would have had just precisely the results that the distinguished Senator from Texas is talking about, the desirable way of raising the necessary funds and stay within reasonable limits.

And the people would like to have it that way. S. 2 was the blue-ribbon approach toward achieving that objective. I thank the Senator for yielding.

Mr. GRAMM. Mr. President, if I might respond, if the distinguished leader were supporting a bill that said giving them $1,000 is too much, we want to cut that to $500 or $100 or $50, I might or might not agree with it.

Quite frankly, I have taken a good look at my own political situation, as most Members of this body have, and I have concluded that limiting campaign contributions really helped me, because I have a broad base of support, and most of the fellows I end up running against have supporters who would give a lot more than $1,000 if they could, but they cannot, so they have to have a broad base.

If the distinguished majority leader was talking about something like that, I might or might not support it, but I would say: "Now, that is a reasonable position." But what the distinguished majority leader is talking about is not limiting what PAC's can give——

Mr. BYRD. Oh, yes. The bill that Mr. BOREN and I introduced and modified——

Mr. GRAMM. That is not the bill we finally ended up with.

Mr. BYRD. Oh, yes; yes. The Senator ought to go back and read it.

Mr. GRAMM. In that bill, a PAC could still give $5,000.

Mr. BYRD. Under our modification, there would be—and this is what the Senator from Texas, I believe, objects to, one of the things he objects to, there would be an overall limit; in other words, the accumulated total. Is that not right, let me ask my friend from South Carolina?

Mr. HOLLINGS. That is right.

Mr. BYRD. In the bill S. 2.

Mr. HOLLINGS. Exactly.

Mr. BYRD. That is right. So there was a limit on the overall PAC contributions a candidate could receive.

Mr. GRAMM. If I might respond, Mr. President, and I am using up my time here, I want to make my point. It is a simple point.

Mr. BYRD. Let us take a bit more time. We might convert the distinguished Senator from Texas.

Mr. GRAMM. If the proposal were to limit what an individual could give or a PAC could give, I would say it fits within his argument, but the proposal is not to reduce the amount a PAC can give as an individual PAC, but only limit the number of PAC's who can give such a contribution.

Mr. BYRD. No——

Mr. GRAMM. Not to limit an individual contribution, but the reality is to limit the number of individuals who can give.

For example, if the campaign limit, supported by the distinguished majority leader and my distinguished colleague from South Carolina, who on most issues is clearly on the right side, but drifts off from time to time, if some arbitrary limit on contribution were set and a little old lady from Hillsboro heard a speech that her Senator might make and decided that that fellow's voice ought to be heard a little louder by putting it on the radio, and she sent $35, I would have to send her check back.

So I submit, if what you really want is to limit the influence of the few, then move to limit the size of contributions, but do not limit the ability of people to contribute. What is so magic about a number? I do not mean it in any disrespectful way, because we know all these things have partisan overtones.

But the plain truth is, when I send out a letter saying what my vision of America is, within the context of what most people in my party believe, people read that letter and they like it and they send back money. When many people who have a vision of America, of Government growing, providing more benefits to special interests, send out their letter, they do not get checks back. They get letters back saying: "Include me in those special interests. Let me ride in the wagon. I am tired of pulling."

I would again say, if $1,000 is too much to give, move to reduce it. If the Democrats are tired of getting most of the PAC money, eliminate PAC's.

Mr. BYRD. Will the Senator yield?

Mr. GRAMM. I will be happy to yield.

Mr. BYRD. The Democrats are tired of having to engage in the money chase. Will the Senator agree with me that there ought to be a composite total on the contributions that a candidate can receive from PAC's?

Mr. GRAMM. Mr. President, I cannot say what Thomas Jefferson would say if he was standing here. Thomas Jefferson might think $1,000 is too much to give to a campaign. He might think that PAC's are bad. He might want to eliminate them. I do not know. I can say at least what I believe in my heart, and that is that Thomas Jefferson would never vote to draw an arbitrary limit and say beyond that limit, within some defined level of fair participation, that we draw a line and say whoever wants to engage in the political debate beyond that point cannot do it.

If somebody thinks that maybe the Lord has provided a new Thomas Jefferson, I have not seen him. I have been looking for him. But if somebody thought he had been provided and wanted to send him a check for $35, I, for one, think that it is fundamentally wrong and undemocratic and, in fact, the Supreme Court has ruled that it violates freedom of speech.

What this amendment seeks to do is to change the Constitution to limit the freedom to speak by preventing somebody from saying: "This man or this woman speaks for me, for my vision for the future I want for my children and, therefore, I am sending him my $35, and I am putting him on my prayer list." That is what the issue is here.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. GRAMM. I am afraid I am running out of time.

Mr. BYRD. We have now invoked Jefferson, and we have invoked the Lord.

Mr. GRAMM. Those are good authorities, Mr. President.

Mr. BYRD. Good authorities, but we know that even the Devil may quote Scriptures for his own purposes. Now, we are even talking about prayer lists. Prayer lists. What the able Senator objects to is having, No. 1, a limitation on campaign expenditures. He is opposed to that. He is opposed to that even if the American people would like to have an opportunity to vote on a constitutional amendment to limit campaign spending.

Now, he does not want the American people to have that opportunity to cast a vote on a constitutional amendment, even though that constitutional amendment is only permissive, and the Congress then would have to come back and pass a law, which still would have to pass the obstacle course of the courts.

Mr. GRAMM. Mr. President——

Mr. BYRD. The obstacle course of the courts. Mr. President, I will see that the Senator has more time.

Mr. President, why not have a composite total on PAC contributions and a total on campaign expenditures, and then the Senator could send out his little prayer list to the people of his State. What we are seeing now are these lists that go out to the whole country. I receive letters from Republican candidates, signed by Ronald Reagan, or signed by a certain Senator—and I will not name him. Yes, letters to me asking me for contributions to Republican Senators in this great cause of "saving America."

I have thought about having some of those letters printed in the RECORD. They are mush—mush—asking the people for contributions—all over this country.

Now why should I, as a Senator, if I want to continue in public service, and I have been here 30 years, and I have a pretty good bit of seniority. You cannot buy that. You cannot get 30 years of seniority without paying your dues of service here. Why should I have to rely on voters in California or

New York or Utah or Pennsylvania or Florida or Georgia or Virginia to sustain me in my efforts to be reelected in West Virginia so that I can continue in public service?

But that is the present system. I want to change it. I tell you what, this office is going to the highest bidder. That is what we are talking about. And that is what the Senator from South Carolina is trying to do something about. He is trying to stop the bidding process. He is beginning at the roots, invoking Jefferson. I do not know of any who would be better to invoke than Jefferson or the Bible. What does the Bible say about the matter? Does it say money is the root of all evil? Does it?

Mr. McCONNELL. Will the leader yield?

Mr. BYRD. Does it?

Mr. GRAMM. It says love of money is the root of all evil.

Mr. BYRD. Right, the love of money is the root of all evil. Amen.

Mr. McCONNELL. Will the leader yield?

Mr. BYRD. Yes.

Mr. GRAMM. May I reclaim my time?

Mr. BYRD. Mr. President, I ask unanimous consent——

The PRESIDING OFFICER. The Senator from Texas controls time.

Mr. BYRD [continuing]. That the distinguished Senator from Texas may have an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Texas is given an additional 5 minutes.

Mr. BYRD. And that the able Senator from South Carolina may have an additional 5 minutes.

The PRESIDING OFFICER. Without objection, the Senator from South Carolina is given an additional 5 minutes.

Mr. GRAMM. Mr. President, I am going to yield to the Senator from Kentucky who I feel is swelled up with a statement, but I would like to just respond for a few minutes. First of all, I have not seen our distinguished majority leader more exercised or more eloquent in quite some time. Let me say that I am amazed that the majority leader can speak with such passion of changing the Constitution of the United States to limit free speech by limiting the ability of people to contribute.

Now, there is nothing in any proposal that I have seen that would limit people from other States in their ability to contribute in Senate races. I have not seen any proposals that have been made that would do that. In fact, I am not aware in my race for the Senate that I have been in a race where my opponent did not get more money out of State than I did.

Your proposals would limit the ability in my State, the ability of the people in South Carolina, it would limit their ability to contribute to their Senator.

What I object to is this: By setting the limit, you let big special interest groups through their PAC's you let rich people through big contributions fund a campaign. And then a candidate who has a broad-based appeal is limited in terms of his ability to take contributions no matter how small they may be, no matter how broad the base of support that candidate might have.

There are two problems with that. No. 1, it is wrong, and the Constitution says it is wrong, and the Supreme Court has struck it down. So what we are trying to do here is to circumvent the Constitution.

No. 2, it is wrong because the only way—as you know and I know, for all practical purposes, being an incumbent has great advantages. Unless a challenger can go out and raise money and get their face on television, they are not being covered as we are at the moment.

Now, for some of us it may not help to have our face on television. But in any case, if the majority wanted to limit PAC contributions or say an individual should not be able to give more than $500, or $250, or $100, then other people in other States should not be able to contribute. There would be a logic to their position. But what betrays their position as simple partisanship is it strikes at the one thing that is the very heart of American democracy, and that is broad-based participation.

The adoption of the proposals of the majority would benefit the candidate who does not have a broad-based support but who is supported by big special interests groups with PAC's and by a handful of rich people and who want to say now that I got my money from that narrow group of people, I want to set a limit so that my opponent cannot send out a letter and say I have this vision for America's future. It is a vision of putting the Federal Government on a budget, let working people keep more of what they earned, getting Government to be a bit more concerned about the people pulling the wagon instead of always focusing on the ones riding in the wagon and having somebody send him a check to help him get that message out. That is what is wrong with the proposal.

Now, Mr. President, I did not come over here today to debate this proposal. I just got caught up in this debate. I came over here to remind my colleagues that we really have before us two proposals. One is to limit free speech by adopting the amendment of the distinguished Senator from South Carolina. It does not say you cannot give a certain amount of money if you are rich or if you are willing to sell your house to support somebody or you have deep convictions. It does not say that. It does not say in terms of the proposals we have seen that you are going to limit the ability of these PAC's to give which seems somehow to be the embodiment of evil except when we get down to vote. We always talk about that but then we bait and switch.

What this says is are we going to have the power to set an arbitrary limit which affects the freedom of speech. The Supreme Court has said that is unconstitutional. This is a proposal to limit free speech by changing the Constitution. I am opposed to it.

We have a second proposal before us that I submit is of much greater import to the American people and should be to us and that is to require a balanced budget amendment to the Constitution. That would help elections because it would limit the ability of incumbents to buy votes with the taxpayers' money. That is an election reform. In fact, if we had a balanced budget amendment in the Constitution and Members of the Senate had to say no every day, we would have a rash of retirements. There would be a lot of people who just would get tired of saying no and as a result they might retire.

It certainly has an impact on elections, but it is of far greater importance.

At some moment when everybody is ready, Mr. President—and they may be ready at the moment—I am going to move to table the underlying motion to recommit, which is the balanced budget amendment to the Constitution.

Now, I am not in favor of tabling it——

The PRESIDING OFFICER (Mr. Reid). The Senator's time has expired.

Mr. BYRD. Mr. President, I ask that the Senator may have an additional minute. He should be able to complete his thought.

Mr. GRAMM. I thank the distinguished majority leader. I am not in favor of tabling my amendment, but I am in favor of giving this body an opportunity to speak on what along with the tragedy and the crisis we face in drugs is viewed by America as being one of the top one or two issues in the country, and that is the problem of deficit spending.

So if Members of the Senate want to say yes, I want to vote on a balanced budget amendment to the Constitution, they should vote against this motion to table. If they want to say no, limiting campaign contributions, limiting freedom of speech is more important than mandating a balanced budget to the Constitution, then they would vote for this motion to table.

Now, I cannot imagine why anyone would vote for this motion to table, but perhaps they are not reading the

Bible or listening to Mr. Jefferson. But in any case, I commend my colleagues to vote for the motion to table. And if no one else wishes to speak, I would make that motion.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I would like to take 5 minutes to respond to the peroration of my distinguished colleague and, on budgetary issues, my coconspirator, Senator GRAMM. The Senator claims that we are limiting free speech. He says:

> I just don't believe Thomas Jefferson would say that expenditures should be limited to the point where you couldn't debate, you couldn't participate, you couldn't speak.

Nonsense.

Permit me to read just one portion of the amendment.

> Congress shall have the power to set limits on campaign expenditures.

That says nothing about limits on speech. I have been elected five times to this body. From my experience, I can cite the many campaign activities I engage in aside from collecting money to get on TV.

I speak at the REA. They will have 5,000 or they will have 15,000 in a tent or community hall.

I go to the National Guard. I am very proud of our National Guard. I will go to their encampment. Money is not a factor, there, in my freedom of speech. I go to the League of Women Voters, chamber of commerce, the Rotary luncheons.

I will seek out special meetings of the textile show we have every fall. They bring some 20,000 into convention hall.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. HOLLINGS. I will conclude and then I will yield. I am thinking of my colleague, Senator PROXMIRE. He spent only $145 in his reelection effort. His opponent spent $133,000.

Under the premise of the Senator from Texas, after "old PROX" used up his $145, he could no longer debate, he could no longer participate, and he could no longer speak. That is absolutely false. We are not amending the first amendment here. We are talking strictly about the cost of the amplification of free speech.

Let us get the thought clear in the Senator's mind. We are not limiting the freedom of speech. We have had the authority going back 77 years. The Federal Corrupt Practices Act of 1911 limited campaign expenditures, and it was found constitutional.

Yet, today Buckley versus Valeo says it is constitutional to limit the contributor; his money does not equate with freedom of speech. But the money spent by the candidate is equated with free speech, and held sacrosanct. That is a total distortion.

Now I will be delighted to yield.

The PRESIDING OFFICER. All time has expired.

Mr. BYRD. Mr. President, this is the debate that should have been occurring some days ago. I ask unanimous consent that there may be an additional 2 minutes. Mr. BOREN is here, and his bill, S. 2, has been spoken of.

Mr. GRAMM. May I respond, if the distinguished Senator from South Carolina will yield? I can respond in 2 minutes, and I will be through.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator from Texas may have 2 minutes, the Senator from South Carolina may have 2 minutes, and the Senator from Oklahoma may have 1 minute, and that I may have 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, I know it pains my dear friend from South Carolina to be seeking to amend the Constitution to limit free speech, but it was exactly under the first amendment rights that the Supreme Court said you can limit the power of a man to give above a certain amount, but you cannot limit within those campaign limitations the amount of contributions that can be made in the aggregate, or received and spent by a candidate because that limits free speech. As much as the distinguished Senator from South Carolina may dislike that, that is a reality.

Second, not everybody may get invited to speak at the textile show. The distinguished Senator talks about going down, he is going to speak at the textile show, and that does not cost any money. What about the guy who voted against textile quotas? What about the guy who said, "You know, we are already paying twice as much for clothing as the average person in the world because our textile industry is one of the most protected industries on Earth." And he voted for all of those poor people that are trying to clothe their children. And so he does not get invited to the textile show. Maybe because he is not an incumbent, and REA wants to be sure that they continue to get some assistance, they are afraid to invite the nonincumbent. So he does not get invited to talk to REA. He does not get invited to talk to the textile show.

Maybe the distinguished Senator from Wisconsin is so brilliant and so loved that he can get reelected on $145. I admire him for that. But should we limit somebody who wants to get his message across from going out and within campaign limitations raising money and spending it, somebody who may not get invited to the textile show, who may not be supported by various special-interest groups and not be heard? I say no. You are not limiting campaign contributions of PAC's, and you are not limiting individual contributions. You are limiting participation.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from South Carolina is recognized.

Mr. HOLLINGS. I thank the distinguished Presiding Officer.

Senator, we have limited campaign expenditures going back 77 years to the Federal Corrupt Practices Act. Likewise, we effectively regulated campaign expenditures in the case of one Truman H. Newberry of Michigan. Newberry's election as Senator was challenged by his Senate colleagues on the grounds that the $195,000 he spent in the primary was too large. A Senate resolution declared that "the expenditure of such excessive sums in behalf of a candidate * * * being contrary to the sound public policy, harmful to the honor and dignity of the Senate and dangerous to the perpetuity of a free government, such excessive expenditures are hereby condemned and disapproved." As a consequence, Senator Newberry resigned his office.

I remind my colleagues that under article I, section 5, the Constitution states that, "Each House shall be the judge of the qualifications of its own Members."

Mr. President, we have all corrupted the process. On average, we are all gathering $10,000 a week or 3 million bucks per cycle. Senate Joint Resolution 282 does not limit freedom of speech. It limits campaign expenditures. It is a nice little nuance to come around and accuse us of trying to do away with the first amendment. But we do not have such power.

We cannot do away with the fifth amendment allowing the equal protection of the individual and due process of the individual. And we cannot take away from the Senate the precedent of determining the qualifications of the Members.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Oklahoma is recognized for 1 minute.

Mr. BOREN. Mr. President, I thank the Chair, and I thank my colleague from South Carolina for leading this fight.

Let us be clear. I want to make two short points. First of all, there is not a dispute between those who favor an amendment to balance the budget, constitutional amendment, and those who want to have a constitutional amendment to do something about limiting the right to try to buy elections. I happen to favor both of those causes. I have been a cosponsor of the budget-balancing amendment every time it has come up. The Senator from South Carolina has been a strong supporter of it. That is just a smokescreen. Everyone knows we are going to have other times and other occasions on which to talk about the other issues.

So by voting against the Senator from Texas on this matter, I certainly, nor anyone else should be interpreted as opposing the budget-balancing amendment.

Second, we are not talking about limiting freedom of speech. We are talking about limiting the right to buy elections. The American people have the common sense to see through this kind of sophistry, and that is all it is.

How can our values become so confused that we confuse the right of free speech with the right to buy elections? The contrary happens when Members have to raise $10,000 every week of their 6-year term to get elected. It inhibits their ability to go home and talk to people in their States. They have to go to other States to raise that $10,000. It is inhibiting conversations between Members of this body and their constituents. It is inhibiting their right to speak with the people back home, the electorate in their own States.

The PRESIDING OFFICER. The majority leader is recognized for 1 minute.

Mr. BYRD. Mr. President, there will be some additional time after this vote in which Senators may still debate this matter.

The Senator from Oklahoma made my speech when he talked about balancing the budget. The Senate has voted on balanced budget amendments heretofore. I have voted for them. We will do so again. He has correctly said that is a smokescreen when tied to this.

I will tell you who will be the first to oppose this balanced budget—Mr. Reagan. He is the man who is always out advocating it. Do you know what will be the first casualty under a balanced budget amendment? National defense and the SDI Program. I have voted for SDI. That will be the first casualty.

This is all talk. It is a smokescreen.

The distinguished Senator from Texas spoke about broad-based support. He wants broad-based support. I do, too. I want broad-based support within the confines of the State of West Virginia, which has 24,000 square miles, but if flattened out, it would be bigger than the great State of Texas, the State which my colleague to my left represents. [Laughter.]

So, broad-based support is what I want, but within the State of West Virginia. I do not want a system that requires me to have to go to California, New York, Florida, Maine, and points east, north, south, and west on the compass in order to raise money and stay in the bidding chase to represent the people of West Virginia. I want my broad-based support within my State, from my people.

I say let us vote for this amendment and let the people of West Virginia and the people of Texas and the people of South Carolina express their viewpoint, and then we will have an opportunity, when it comes to the implementation of that constitutional amendment, to pass reasonable laws in conformity therewith.

The PRESIDING OFFICER. The time allocated for controlled debate has expired.

The Senator from Texas.

Mr. GRAMM. Mr. President, we do not have an amendment before us to limit contributions to the West Virginia Senator by the people of West Virginia. I might be willing to support such an amendment, and suspect I might. That is not before us.

It is also interesting to hear my dear colleagues who were for a balanced-budget amendment back home, but who want to say now, "I am for it, but I don't want to vote on it today." It is not more important than this amendment to limit campaign contributions.

Mr. BOREN. Mr. President, will the Senator yield?

Mr. GRAMM. I am happy to yield.

Mr. BOREN. Can the Senator point out one instance when we voted on the balanced-budget amendment, time and time again—I voted on it more than a score of times—can the Senator give one instance in which this Senator said back home that he was for it and came here and voted against it? Is it not true that this Senator voted for it every time it has come up?

Mr. GRAMM. Mr. President, if I may reclaim my time, that is not what I said. If the distinguished Senator from Oklahoma will analyze the words I said, I said, No. 1, we have not voted on it in this Congress. I am desirous to have a vote on it. I have offered a motion to recommit. It gives us an opportunity to say, is it more important to vote on a balanced-budget amendment to the Constitution today or on limiting freedom of speech in terms of campaign contribution?

I do not doubt where the distinguished Senator from Oklahoma stands on this issue. The question is, Which is more important—limiting free speech by limiting the ability of people to contribute or a balanced-budget amendment to the Constitution? I say that a balanced-budget amendment to the Constitution is far more important.

Therefore, assuming that there is no objection, I move to table the underlying Gramm motion to recommit with instructions, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to recommit.

Mr. BYRD. Mr. President, this is a 15-minute rollcall vote, and Senators were alerted last night to that.

The PRESIDING OFFICER. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. GORE], the Senator from Massachusettes [Mr. KENNEDY], the Senator from Ohio [Mr. METZENBAUM] and the Senator from West Virginia [Mr. ROCKEFELLER], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 5, nays 90, as follows:

[Rollcall Vote No. 106 Leg.]

YEAS—5

Bradley
Chafee
Cohen
Hatfield
Weicker

NAYS—90

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chiles
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson
Wirth

NOT VOTING—5

Biden
Gore
Kennedy
Metzenbaum
Rockefeller

So the motion to lay on the table the motion to recommit was rejected.

(Later the following occurred:)

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. BRADLEY. Mr. President, I voted "nay" on the last vote. I wish to be recorded in the affirmative. It will not change the outcome of the vote. I ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

The PRESIDING OFFICER. The Senate will be in order. Senators will please take their seats.

The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, the distinguished Republican leader and I and others have been discussing having the vote on the motion to invoke cloture after a relatively brief debate. It is my understanding that the distinguished Senator from South Carolina would agree to a time limitation not to exceed——

Mr. HOLLINGS. It depends, Mr. President, on if we get the kind of participation we have had. I would agree to an hour, and I would be glad to cut it back to a half-hour.

Mr. BYRD. Shall we say 2 hours—and the time could be yielded back—equally divided between Mr. HOLLINGS and Mr. McCONNELL?

Mr. HEFLIN. Mr. President, I would like 10 minutes.

Mr. HOLLINGS. I will yield the Senator 10 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 2 hours, to be equally divided between Mr. HOLLINGS and Mr. McCONNELL, on a motion to invoke cloture on the amendment by Mr. HOLLINGS to the motion to recommit with instructions.

Mr. HOLLINGS. Exactly.

The PRESIDING OFFICER. Hearing no objection, that will be the order.

Mr. DOLE. Mr. President, a vote will occur, then, not later than a quarter of 2, that correct?

Mr. BYRD. Yes.

Mr. DOLE. It could occur prior to that time.

Mr. BYRD. A vote could occur prior to that time. A vote would occur, if the 2 hours were consumed, at precisely a quarter to 2.

I ask unanimous consent that that be a 15-minute rollcall vote, with the call for the regular order to be automatic.

The PRESIDING OFFICER. Without objection, that will be the order.

Mr. BYRD. Mr. President, I ask unanimous consent that the automatic quorum under rule XXII be waived.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Who yields time?

Mr. HOLLINGS. Mr. President, I yield 10 minutes to the distinguished Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 10 minutes.

Mr. HEFLIN. Mr. President, the first bill that I introduced as a U.S. Senator when I came to the Senate in 1979 was a resolution calling for a constitutional amendment to balance the Federal budget. I helped organize a balance the budget caucus. Since that time, I have sponsored and supported every effort to pass a constitutional amendment to balance the budget. I believe that my record in support of the balanced budget constitutional amendment speaks for itself.

I do have a slight disagreement with other proponents of this measure on the relationship of the declaration of war and nonwartime hostilities pertaining to the balanced budget amendment. I do not believe a balanced budget constitutional amendment should impair the right of the President to direct needed and appropriate military action. But, I have always supported a constitutional amendment to balance the budget and continue to do so.

While I believe there is no more important matter facing our Nation than Federal deficits and believe that at the earliest convenience the Senate should adopt a balanced budget constitutional amendment, I also believe that the constitutional amendment proposed by my friend from South Carolina merits full consideration and I feel that he ought to be given an opportunity to have his amendment thoroughly debated and discussed.

I look forward to working with my friend from Texas, Senator GRAMM, in the future to gain passage of the balanced budget constitutional amendment as soon as possible. But I would also say to my friend from Texas that I think what we are doing now is a disservice to the effort to adopt a balanced budget constitutional amendment. It has come up in a rapid manner and there are many people who did not anticipate it. There has not been what I feel is the necessary groundwork, the activity that should take place across America before a vote on this important matter.

I say this after looking at the history of what happened in 1982 when the Senate approved a constitutional amendment to balance the budget with 69 votes—2 more than the required two-thirds majority. It then went to the House of Representatives. However, in the House, the resolution calling for the constitutional amendment to balance the budget had been held hostage by the House Judiciary Committee. In order to get a vote, it was necessary for Members of the House to file a discharge petition. A discharge petition was filed and immediately thereafter the House voted to discharge it—which required a majority vote.

Then, immediately after the House voted to discharge, it held a vote on the constitutional amendment to balance the budget, itself. It would have required a two-thirds vote. While it did receive a simple majority of the votes, it did not receive the required two-thirds majority of those Members of the House of Representatives who were present and voting. It missed its goal by a fairly narrow majority.

I have read and have heard discussed many times that if everyone had not been caught by surprise by this House vote, the proponents of that constitutional amendment in the House would have won at that time. But they were caught by surprise in having an immediate vote and there was not a coordinated effort by many grassroots organizations to build up support for a constitutional amendment to have a balanced budget.

So here we are today in somewhat of a similar situation. There has not been the cultivation, there has not been the nurturing, there has not been the fertilizing of an effort to pass a constitutional amendment requiring a balanced budget. We, the proponents of the balanced budget constitutional amendment, are, in effect, being caught by surprise.

If we have an up-and-down vote on this matter, I am fearful that it can hurt the movement for adoption of a balanced budget constitutional amendment. Efforts have already been made in various States to rescind the resolutions calling for a constitutional convention to add a balanced budget amendment. That is because of fears that a constitutional convention would be wide open. But those resolutions calling for a constitutional convention have put pressure on the Congress to act on this issue.

So, I would hate for the Senate to take an action which would deal this effort a setback, which would turn out to be an effort to cut off your nose to spite your face, where we and other supporters of the balanced budget amendment are caught by surprise. We have not yet had the opportunity to cultivate support for this effort back in the grassroots. The media has not yet spotlighted this issue. And if the Senate votes now, I am afraid that we will get far fewer votes in support of our balanced budget constitutional amendment.

So I urge my friend from Texas not to use this most important issue of a constitutional amendment to balance the budget as some ploy to defeat another legislative effort or as a smokescreen or as a way of holding hostage the issue of campaign spending. Doing so would be a disservice to the effort to pass a constitutional amendment requiring a balanced budget.

About 2 years ago we had a vote in the Senate on the constitutional amendment to require a balanced budget. It received only 66 votes, thus falling short by 1 vote. It is now on a very fragile track, you might say. Two or three votes one way or the other may make the difference in regards to whether we eventually pass a balanced budget constitutional amendment. Efforts to use it for partisan or political advantage do it a disservice. I really look at this as being an effort that can harm our movement, and as we look back into the history, little things mean a lot.

So I urge my colleagues to give very careful consideration to this and I hope that this effort to substitute the campaign finance constitutional amendment with the balanced budget constitutional amendment is aborted.

The PRESIDING OFFICER. Who yields time? The Senator from Alabama used 9 minutes. Who yields time? The Senator from Kentucky?

Mr. McCONNELL. I have a full hour remaining; is that correct?

The PRESIDING OFFICER. You have an hour.

Mr. McCONNELL. I have a couple of speakers but they are not ready yet so I will just retain my time.

Mr. HOLLINGS. Well, Mr. President, let me correct the record here with respect to certain comments made by my colleague from Texas, on the one hand, and the distinguished Senator from Kentucky on the other hand.

Right to the point, the Senator from Texas was trying to equate money with participation. We are not talking here, about participation. There are abundant forms and types of participation that have nothing whatsoever to do with money.

The issue, again, is expenditure in campaigns. Campaign limits. Limits on campaign expenditures.

The distinguished Senator from Texas claims that he oppose limits on the grounds that he wants to expand participation. That sounds pretty. But there are ample varieties of participation that have nothing whatsoever to do with money.

Likewise, our Senator from Kentucky is like an octopus. The octopus, once cornered, will secrete vast effusions of dark ink, and then make its escape in its own darkness. And now we have the Senator from Kentucky trying to escape the issue of limiting campaign expenditures. His ink cloud is all this bafflegab about cat food and bottled water. He hypothesizes a very reasonable bill that, perhaps, all of us could vote for. But the truth of the matter is we are not voting on such a bill. We are voting to empower Congress to consider such a bill. The article reads:

> Congress shall have the power to set limits on campaign expenditures.

That in no way inhibits freedom of speech under the first amendment. Everyone has the freedom of speech. Incidentally, we are going to vote here in a couple of hours on just that, a limitation on the freedom of the Senate's speech. We call it cloture. There are other kinds of limits. But this amendment would limit only the unlimited amplification of speech.

Senator PROXMIRE's campaign limit of $145 did not limit his freedom of speech. He exercised all the other privileges and opportunities of a candidate to get out and meet people and shake hands—a practice which has been ridiculed by my distinguished colleague from Kentucky. He says we have got to move into the modern age.

Well, I humbly differ because I still think that with shaking of the hand, you can see the people coming out of the mill gate, and they will stop and talk and tell you of their concerns. And a political campaign is a very informative thing for a public office holder. You find out whether you did right or wrong, or why your constituents differ.

I had such an experience last week, explaining my vote on the Grove City bill. Each week that you go back and shake hands, you learn, again, how to better reach your people.

But the astounding thing in the wonderful interlude of ink from the distinguished Senators from Kentucky and Texas, was the former's assertion that there is nothing inherently evil—I am quoting the Senator from Kentucky—there is nothing inherently evil with money and politics, if properly disclosed and properly reported.

I disagree. There is something inherently evil about money in politics. It is corruptive. And the Congress found so in 1911 when it enacted the Federal Corrupt Practices Act.

In passing that act, the Congress was very much worried about the corruption of money. They did not throw up an inkscreen of alleged threats to freedom of speech. The Constitution amply safeguards freedom of speech. We have got the fifth amendment assuring equal protection and due process to the individual. And we have, also, article I, section 5 of the Constitution stating that this body can determine the qualifications of its Members.

Under the Federal Corrupt Practices Act of 1911, there was an issue brought in the case of Henry Ford versus Truman H. Newberry in the early 1920's. The Senate set a limit. This body set a limit of $195,000. They said that if you spent more than $195,000, you are not going to be seated.

In the case of Senator Frank L. Smith of Illinois in the late 1920's, Senator Smith was forced to resign his seat. In the election, Smith had spent $458,782 compared to his opponent's $20,841.

When the time came for the convening of this august body, Mr. Smith presented himself right there at the middle door, and a Senator jumped up and said:

> Mr. President, I move that we appoint a committee to investigate and determine whether or not he meets the qualifications, to see if he has corrupted the process.

They immediately raised the point and said: "Oh, no, under the Constitution, this man has been duly elected and certified from the State of Illinois and deserves to be seated, and it will not be delayed while this body investigates."

They said: "Not so. You are not going to be seated and will not be given the oath."

The Senate finally decided to refuse to seat the Senator. The decision was based, in part, on the Senate's finding that "a candidate in whose behalf exorbitant sums of money were received and dispensed * * * was held to be disqualified."

So I strongly demur, Mr. President, to the contention of my colleague from Kentucky that there is nothing wrong spending huge amounts of money so long as it is properly reported. This is wrong. The issue is not whether the Republican Party can survive.

My friend from Kentucky talks as if the Republican Party is going to fold if you take away the money. I hope that is not his position.

The Democrats started their party in the 1830's under Jackson. But the Republicans, in the 1850's, took over the Whigs. The Republican Parts has won the White House in 4 out of the last 5 elections. In South Carolina, I have a Republican Governor, and I have been 22 years a junior Senator because there is a Republican senior Senator.

We know the two-party system is strong and robust. In the 22 years I have been here, I have had 6 years of Democratic administrations and 16 years of Republicans. So the issue is not about the continuance of the Repubican Party. That is more of the octopus defense, that somehow we are ending the Republican Party.

The only thing we are trying to end is corruption. Do not stand on this floor and say there is nothing wrong with money in politics. There is.

When the majority leader, who will yield his post willingly after this year, which he readily could be reelected to, said: I'm tired of Senators. Most of my job and headaches around here are pleas of "don't have votes," don't do the business of the Senate because I have to go out and get money. Close it down. Let us have a window. Can we not all go down and collect our money so we can come back?

I thought a window was just that, you look out and see. But I found in this body that it does not have physical windows; it has a political window where we all run out, collect the money, and come back in. It is corrupting, and money does corrupt. That is what we say up and down on this amendment.

Heaven knows, the Senator from Kentucky and the Senator from South Carolina could agree on a good campaign bill of an evenhanded nature to limit expenditures. This will allow us to get back to shaking hands and talking to the Rotary Club. We can go to the AFL meetings. We can go to the REA meetings. We can go to the National Guard, and the Carolina-Clemson game where we can meet a lot of people. These are things that have nothing to do with money. There are all kinds of campaigning opportunities. In fact, the better ones have nothing to do with money.

The corrupting ones are just that, those 30-second, little gibes that the Senator from Kentucky tries to characterize as robust political debate. It is robust political ambush. It does not debate anything. There is no opportunity to answer.

When you are out there shaking that hand, you better be prepared to answer questions. When you are meeting constituents at the mill gate, you better be ready to talk to them. When you are invited to that Rotary Club, you better make sense. When you are there at the National Guard, those who are willing to commit to the defense of the country, you better be ready to address their questions on national security.

What attracted me to politics 40 years ago has been removed. We have taken the people out of politics.

The year before last, in order to be reelected, I had to collect money to get on TV, to collect money to get on TV, to collect money to get on TV. I could not get out to these factory meetings and town meetings to hear and to listen. There was not that opportunity.

The people have been removed from politics by what the distinguished colleague from Kentucky calls robust political debate, and it is nothing more than robust political ambush. It is the techniques that have taken over with the consultants, slick TV ads, mass mailings and so on. Bam, bam, bam, in 30 TV seconds, your work is distorted and your reputation is assassinated.

I thought eagles were birds. I found out that eagles are not birds, they are buzzards. I can tell you that here and now. Here I am sitting and all of a sudden the word goes out to the eagles—the fat cat Republican contributors. I said: "What in the world are 'eagles'?" Well, they are people hither and yon who do not even know the candidate, but they are willing to give $1,000 to various candidates around the country. We know, for example, that our colleague, from North Dakota, Jim Abdnor, got $900-some thousand from those people in the last month of the campaign.

In my last campaign, I was prepared for an ambush from the eagles who swoop down and buzz you like buzzards, pick you up and throw you out before you have a chance to answer. And this is cynically called robust political discussion.

Let me at this point reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I have enjoyed the debate with the distinguished Senator from South Carolina. His emotion and conviction comes through clearly. Essentially it seems to me that what my friend from South Carolina longs for is a simpler day. Back in the beginning, when he started his long and distinguished career in Government service, the Democratic primary in South Carolina was it. Boy, if you made it through the primary, you were in.

An interesting thing has happened in the South, and the distinguished occupant of the chair knows this as well. What is coming on in the South is a two-party system. By golly, we are finding out that we just do not own these seats. We do not get them automatically when we file; we have to fight and compete for them everywhere in America. There is not a section of the country today in which we do not have the potential, in the Statewide races at least, of competitive contests. And it is no accident, Mr. President, that has come about in the last 12 or 13 years under the post-Watergate legislation as it applied to congressional races that we seek to alter either by last year's version of it, S. 2, or the most recent version, the constitutional amendment.

The distinguished majority leader said money is the root of all evil. I assume that does not include soft money; just some kinds of money apparently are the root of all evil. And the various versions of campaign finance reform that we have had out here on the floor have not done much about the soft money issue. We all know soft money, for example, is, say, a labor union operating a telephone bank in behalf of a candidate—not limited, not disclosed, never shows up on anybody's form.

It was estimated—I was just checking with staff on this next figure—in the Presidential race in 1984 about a third of the money in the whole race was soft money, undisclosed, unaccounted for, outside the system.

So what we are trying to do here, what we tried to do with S. 2 and what is hoped the Congress will have the authority to do under some kind of constitutional amendment is to get a limit on one kind of money, that is, the cash contribution.

I remind my colleagues that we have had since the mid-seventies a system under which cash contributions are very limited, a thousand in the primary, a thousand in the general for the individual, and the PAC's $5,000 in the primary, $5,000 in the general; the average PAC gives $1,000, and those limits have not been raised, Mr. President, since the mid-seventies.

So there is no particular problem other than the time that it takes to raise money, which many people object to, and I can understand it. The reason that we in this body this day and age spend some time raising money is because there is competition out there. There is somebody out there in virtually every State in America of either party who looks in the mirror some morning and sees a U.S. Senator, and that is fine. We ought to encourage that sort of thing. We do not own these seats. we periodically have to compete for them. And what has happened in this country in the last 12 or 15 years is that we have a competitive two-party system across America, and we got it under this system that encourages limited, fully disclosed campaign contributions.

Sure, spending is up, but contributors are up. The number of people contributing to elections across America has dramatically increased. Some people say, "Oh, my goodness, all the money that is being spent is turning off the voters." It is turning on the voters. The races in which the expenditures are high are races in which the competition is good and the turnout is up. Show me a race in which little money is spent and I will show you a low turnout. Statistics demonstrate it time and time again. Now in our zeal to put a total limit on the number of individual, fully-disclosed contributors we can have in American politics, we are contemplating amending the U.S. Constitution, something we have only done 26 times in the history of this country. As I have said before, I think it is an ill-advised suggestion.

I do not wish to speak any longer at this point.

One of the Senators is on the floor who shares my view on this constitutional amendment, Senator WIRTH, from Colorado. I yield to the Senator from Colorado 10 minutes.

Mr. WIRTH. I thank the Senator from Kentucky for yielding. I wish to advise him and others who are listening both in and outside this chamber why I oppose this amendment while I remain a strong advocate of campaign finance reform. I have spoken on any number of occasions about what I believe are the growing, cancerous abuses in the process of financing campaigns. I have had some very spirited debates with my colleague from Kentucky about how much money we are spending for campaigns, the abuses of the process, the horrors of so-called independent expenditures, the need to disclose soft money expenditures, the whole array of related issues. I strongly supported S. 2. of course. I think the Senator from Kentucky and I will continue to disagree on the need to have a bill not dissimilar to S. 2.

However, despite my concern about campaign finance and my deep belief that we have to make a change, I think that attempting to solve these problems with the constitutional amendment before us today is wrong for a variety of reasons. As frustrated as we may be with the current, flawed system of campaign finance, and as frustrated as we may be with the Supreme Court's rulings on this subject, I think we have to be very careful about using a constitutional amendment to address the problems we see.

If the proposed amendment to the Constitution authored by the distinguished Senator from South Carolina, Senator HOLLINGS, is passed by the Congress and ratified by the States in its current form, both the Congress with respect to elections for Federal office, and the States with respect to elections for State and local office, would be permitted to enact spending limits applying to election campaigns for those offices. This, of course, would obviate the Supreme Court's prior rulings that equate campaign spending with free speech and prohibit mandatory spending limits.

I address this subject, Mr. President, as one who has been a long-time and fervent supporter of establishing reasonable, carefully-crafted spending limits. Campaign spending has soared beyond comprehension during the past two decades. This is something which is not just an irritant to those who seek elective office and must raise staggering sums to fund their campaigns. It is a matter which should be of great concern to all Americans—and, in fact, the American public increasingly is coming to recognize the destructive effects of the situation and to demand that we do something about it.

The simple truth is that money is playing an overinflated role in campaigns for public office. It is sapping the time and energy of candidates—to the extent that they find themselves spending great portions of their time, and often the majority of their waking hours, chasing campaign money instead of debating the issues and meeting and talking with those citizens who will be asked to vote for them or their opponents.

Of equal or greater concern to the voters is the appearance of impropriety that comes when individuals or organizations with interests that will be affected by the various entities of Government, make large contributions to candidates for election to those entities. The higher campaign costs soar, the more most candidates must depend on such contributions. It is plainly apparent that the public's concern about the possible effect on the fairness and impartiality of the governmental process is growing as a result. Our representative democracy cannot forever withstand such erosion; we've got to halt it and restore confidence in the idea that governmental officials will make decisions based only upon their convictions about what will best serve all their constituents.

For these reasons, I strongly supported the campaign finance reform legislation brought before the Senate in the 100th Congress by the distinguished majority leader and the distinguished senior Senator from Oklahoma [Mr. BOREN]. S. 2 was a carefully crafted bill which, as one of its principal features, would have established voluntary spending limits for campaigns for the Senate and a set of incentives for compliance with those limits. In its most recent iteration, candidates complying with the limits would be eligible for reduced television and other advertising rates—and, should any candidate's opponent fail to abide by the spending limits, the candidate would be given public funds to assure his own campaign message could be competitively delivered to the voters.

Very sadly, despite the support for this legislation by several on that side of the aisle, monolithic Republican opposition prevented the Senate from even acting on that legislation. The Republican opponents conducted a filibuster that the bill's proponents were unable to overcome—despite the fact that on a number of occasions 55 Members of the Senate demonstrated their desire to act on the bill.

That is the history which brings us here today. The principal sponsor of the constitutional amendment before us shares my belief that we cannot—we must not—stand by while campaign spending rockets to even more obscene levels. Recognizing that the Supreme Court's actions have made it impossible simply to limit campaign spending by law, he has proposed amending the constitution specifically to permit both the Congress and the States to impose such limits.

I commend Senator HOLLINGS for his courage and his tenacity on this issue.

After this preface, however, it is necessary that I indicate that I will be unable to support the proposed constitutional amendment. I have discussed this with the distinguished Senator from South Carolina, but I also wish to state my reasons for others who know of my strong feelings about campaign spending. To summarize my position, my strong concerns about amending the Constitution, and, in particular, tinkering with the first amendment, in this case must supersede my support for taking effective action on campaign spending.

My most fundamental concern goes to the issue of the integrity and sufficiency of the U.S. Constitution, and to the risks of tampering with one of the most incredible documents in the history of humankind.

Two hundred years ago, a group of Americans with utterly remarkable vision and wisdom crafted a general framework for a Government of, by, and for the people. That framework has demonstrated that it has the breadth and resiliency to serve today, and for as far as we today can see into the future. I think the proof of that is that our Union has survived and thrived for 200 years. During these 200 years, we have not amended the Constitution very often. We have been very careful about the process of amending the Constitution properly so.

Generally, it is worth remembering that, regardless of the merit of any such amendments, the more times we amend the Constitution, the less resistance there will be to further amendments. That is not and should not be an insurmountable argument against the proposed amendment before us, or to any other specific amendment. But it does speak to the gravity of any decision to amend this great document.

The overall concern that I have about amending the Constitution is my first concern. Second, I think that we have to be especially careful when we do anything that may affect that most sacred part of the Constitution, the first amendment.

If there is any part of the Constitution as that document now exists which is more vital to the nature of our democracy than any other, I would suggest that part is the first amendment, which guarantees the freedom of speech. Whenever any alteration in the first amendment is under consideration, our most protective instincts should come into play. As constitutional law is now situated, any change to the Constitution that affects campaign spending de facto affects free speech and, thus, the first amendment. The prudence and caution that I believe should be exhibited before amending the Constitution in any way surely should be exhibited before any step that will or could alter the impact or reach of the first amendment.

I had the privilege, as the Senator from South Carolina knows, of chairing the Subcommittee on Telecommunications on the House side before my election to the Senate. In that position I was met over and over again with a broad national set of concerns about the first amendment. From that experience I gained even greater reverence for the fundamental freedom of speech which it assures.

Recapping briefly, then, my broad concern is about amending the Constitution overall; second, I am specifically concerned about touching the very delicate first amendment. But, then, looking at the amendment itself, I think we ought to have some further concerns.

It is my understanding that this amendment has not had what I would characterize as thorough critical, consideration, in the Senate.

It is with considerable regret, and after conversations with a number of serious students of the Constitution and the law—notably including Lawrence Tribe at Harvard University on Tuesday of this week—that I have concluded that the proposed amendment before us has not been considered sufficiently carefully. If I am not mistaken, the amendment was the subject of only 1 day of hearings earlier this year. Beyond that 1-day hearing, it has never been considered, acted on, or reported favorably or otherwise by any subcommittee of the Congress, nor by any full committee.

We have, of course, been debating it here on the Senate floor, but only for portions of 3 or 4 days. Respectfully, I submit that amending the Constitution and, specifically, possibly altering the character of the first amendment, requires greater, deeper, more critical consideration.

I do wish to present for my colleagues' consideration one possible unintended but potentially very deleterious effect of the language of the proposed amendment we are considering—a matter called to my attention by several of those with whom I have discussed this amendment in recent days. The language of the permission the amendment grants to the Congress for establishing campaign spending limits is so broad and general that, arguably, even if the Congress were to pass a truly terrible bill that discriminates or provides unfair advantage to some—perhaps incumbents—in a way that otherwise would be ruled unconstitutional by the Supreme Court, the Court might conclude that the amendment had deprived it of the power even to consider the matter.

At the very least, it would appear that any constitutional amendment on this subject should embrace the concept that any implementing legislation must be "reasonable"—regardless of whether that adjective itself is used in the amendment, or, if so, whether it is further defined therein or left to the Court's interpretation.

I am certain that the amendment's proponents do not intend to leave such a large area of uncertainty in a constitutional amendment that directly addresses the first amendment and also that could so significantly alter the conduct of the free elections that are a bedrock feature of our representative democracy. But I fear that the uncertainty is present, and, knowing that, I cannot in good conscience vote for it.

Finally, I think there is one other issue that we ought to consider—particularly those of us who are advocates of S. 2. If we were to pass this amendment in the Senate, and if the amendment were to pass in the House and then go on to the State legislatures in the country, the ratification process likely would take a long time—3- 4- or 5-years. During that 3- 4- or 5-year period of time, we would be in a state of hiatus. It would be almost impossible for us to act on campaign finance here.

I believe strongly that we ought to act much more rapidly than that. Passing a constitutional amendment is simply going to slow down the process, it is not going to give us the sense of urgency that we need to act on S. 2 or a similar bill.

This argument runs counter to the position of the Senator from Kentucky. He wants to slow this down. He opposes S. 2 specifically, and generally opposes any legislation that would establish campaign spending limits.

I think we who want to see campaign finance reform ought to achieve that objective legislatively. We ought to use a vehicle, perhaps S. 2 or perhaps something different from S. 2, but ideally a bill that could be worked out with the Senator from Kentucky and the others on the other side of the aisle.

I hope that the pressure that is going to build up in 1988 on this issue will cause us to go into 1989 with this as a high priority, whether there is a Republican or a Democrat in the White House.

Recapping once again: I am very concerned about amending the Constitution at all. I think amending the Constitution in anyway that could affect the first amendment is especially problematic; third, I think this amendment in its current form would have some unintended, undesirable consequences. I think we should examine any proposed constitutional amendment much more critically and carefully than this one has been examined.

Fourth, as an advocate of campaign finance reform, I think approval for submitting a constitutional amendment to the States will only slow down the effort to obtain necessary reforms.

Once again, I want to compliment the sponsor of this measure, Senator HOLLINGS, who has been a tireless critic of the current campaign finance law. I agree with a very great deal of his remarks earlier today. I also commend our distinguished majority leader, who has been so indefatigable in pursuit of the establishment of spending limits and other long-overdue campaign finance reforms, and other supporters. They have advanced this proposal in good faith as an answer to a vexing and threatening problem that cries for attention—and, at least in some cases, in frustration over the rigid opposition of the Republican Party to S. 2 or other legislation of that nature which could resolve this problem without necessitating resort to anything so profound as a constitutional amendment. I just disagree with the solution these proponents of the constitutional amendment have advanced.

I am not convinced that it is either impossible or undersirable to address fully satisfactorily the matter of campaign spending via a constitutional amendment. It may well be possible to devise a constitutional amendment that is sufficiently precise in what it will require and permit to offer full protection to the Constitution, the first amendment, and our electoral process. I regret that I cannot be confident that such a proposal is before us today.

If the Congress ultimately judges that this amendment will not be submitted to the States for ratification, as I believe is the wisest course for the reasons I have outlined, or, if it is submitted to the States, if the States choose not to ratify it, I cannot overemphasize how critically important I believe it is for the Congress to devise and enact either legislation such as S. 2 or perhaps a more critically-considered constitutional amendment to address the matter of campaign spending. I dedicate myself to that task, and offer to work with all those who share the view that we must address this problem soon and effectively or risk an unafforable erosion of confidence in and support for our representative democratic government threatening all that we love and cherish which is perserved by that government.

I think my distinguished colleagues from the State of Kentucky for yielding me this time.

Mr. President, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator form Kentucky.

Mr. McCONNELL. Mr. President, I would like to commend the Senator from Colorado for his observations about the appropriateness or lack thereof of amending the Constitution in this particular regard, and just make one further observation before he leaves the floor.

A number of important campaign finance reforms might well have been enacted this year. We did one 2 days ago without even a record vote. I offered an amendment to the lobbying bill, which was accepted by the sponsors, that would prohibit a millionaire candidate from getting himself paid back after the election.

There are three things that have driven campaign costs: A growing tendency for millionaires to spend their own money in their own behalf; the cost of television; and the proliferation of PAC's. In all three of those areas, a majority on this side would be willing to address.

The ease with which we got the millionaire provision attached to the lobbying bill the other day is further evidence that in those areas of campaign finance reform where there is bipartisan agreement we could act and act tomorrow.

I thank the Senator for his observation.

Mr. WIRTH. If the Senator will yield, I would be delighted to see all three of those, or any piece of legislation. I think the American public would be well served by putting overall limitations on campaigns. I know the Senator has difficulty in doing that and argues that in the South it is not working as a two-party system, and the only way you can become competitive is by spending money.

I would give another regional argument to that, and say that most of the Rocky Mountain section of the country that I come from, and it is increasingly so, is a Republican area. But I do not think that the answer to that is just spending money. The answer to that is putting up the candidates and running vigorous campaigns. And I do not think that the answer to a strongly Republican or Democratic area is just to spend more money. We get competitive by having the right issues, by having the right kind of people and the right kind of campaigns.

I think it is a fact that the public is well served by having a limitation because that gives the candidates more time to campaign.

My opponent and I in 1986 each spent well over $4 million in a very small State. What we were doing was spending all of our time going out and raising money, talking to people about raising money, and leaving almost no time at all for discussion of the issue. The reason for that is if he put a bumper sticker on a carrier pigeon, I had to put a bumper sticker on a carrier pigeon; if he put a sideboard on the bus, I had to put a sideboard on the bus; if he did radio, I did radio. It was just amounting effectively, as the Senator from South Carolina pointed out, to a zero-sum game.

I think we ought to break into that. The Senator knows how I feel.

Mr. McCONNELL. Sure. We have had this discussion before. We feel that kind of vigorous competition is good. Colorado had the seventh highest turnout of any Senate race in America as a result of the vigorous competition between the Senator from Colorado and his opponent.

Mr. WIRTH. It was anesthetizing. It was a very good race, but a very comptetitive situation between two candidates who disagreed on just about everything except campaign finance reform.

Mr. McCONNELL. Of course, as long as there is an attempt to put a limit on freedom of expression, we are not going to go along with that. But there are a whole lot of other areas of campaign finance reform that are important and can be addressed, and I hope will be addressed. And maybe the way to do that is the way I did the other day; by offering segments of that campaign reform on other measures.

Mr. WIRTH. I thank the Senator for yielding.

Mr. HOLLINGS and Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time,

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, with respect to my colleague from Colorado, let me say that there can never be a sufficient amount of study on this issue. However, this is not a last-minute amendment. On the contrary, it has been pending for some 3 years, and we are finally getting a hearing. Scholars from the Brookings Institute and various universities have testified in favor. Of course, there are other scholars who testified in opposition. But I do not accept the political axiom that says, "When in doubt, do nothing, and stay in doubt all the time."

The Senator made the statement that any limit on campaign expenditures limits free speech. Not so. The U.S. Congress found, and constitutionally so, under the Federal Corrupt Practices Act, that money corrupts. I earlier cited the case of Frank L. Smith of Illinois, who spent more than $195,000 and was denied his seat due to corruption. I have cited article I, section 5, which allows the Senate to determine qualifications.

Limits on campaign expenditures did not take away the freedom of speech. They do not take away article I, section 5, on qualifications, nor the fifth amendment rights of the individual to due process and equal protection of the laws under the Constitution.

The Senator is absolutely right—you do not just willy-nilly barrel in and amend the Constitution. This has been a 77-year struggle. It was a power we thought we had in 1973 and 1974 when we passed the Campaign Finance Act Amendments. The distinguished Senator from Colorado has been a part of this struggle.

Senate Joint Resolution 282 is our last best hope to deal with the campaign finance mess. We have on the House side bipartisan support, and they have also consulted constitutional scholars, and they are prepared on the House side to take this up.

This constitutional amendment will not take too much time. On the contrary, this is the best way. For 17 years, we have tried conventional legislative solutions. You can pass S. 2, and it is DOA—dead on arrival. The President will veto that. It is not going through this Congress. And I do not look at it optimistically next year either.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I am going to yield some of my time to the distinguished Senator from Rhode Island in just a minute.

I thought it might be appropriate to quote the Supreme Court in Buckley versus Valeo. We talked a lot about decisions. The Senator from South Carolina pointed out it was a 5-to-4 decision. Of course, some of our best and most long-lasting decisions have been 5-to-4 decisions. Japanese internment, for example, was an 8-to-1 decision and we certainly think that was a mistake.

Let us listen to the words of the Supreme Court in Buckley versus Valeo decided January 30, 1976. The Supreme Court said:

> The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution, it is not the Government but the people individually as citizens and candidates and collectively as associations and political committees who must retain control over the quantity and range of debate on public issues in a political campaign.

Mr. President, I yield 10 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank my distinguished colleague from Kentucky for yielding me time, and at the same moment I do want to express to him all of our appreciation for the time he has given to this measure, not only this particular measure but the prior one, namely, S. 2. On that S. 2 he and I disagreed. It is important to recognize the contribution that the Senator from Kentucky made in raising before this body the problems that were involved with S. 2.

So, Mr. President, I certainly want to tip my hat to the distinguished junior Senator from Kentucky.

Now, Mr. President, I rise in opposition to Senate Joint Resolution 282, a proposed amendment to the Constitution to give Congress the power to set limits on campaign expenditures. Now some may question my opposition to this proposal. After all, as my colleagues may remember, I was a cosponsor of Senator BOREN's bill, S. 2. In fact, I voted eight times for cloture. That is the most cloture votes we have ever had in this body. Unfortunately, 60 votes are needed for cloture, and the votes were just not there.

At that time, I urged Senators on both sides of the aisle to work together to fashion a compromise, bipartisan proposal, a measure that we all could support because it was obvious that S. 2 was not going anywhere.

It was clear then, and it is clear now that this Senate will not support overall campaign spending limitations. We might as well recognize it. Like the eight cloture votes taken during the debate on S. 2, the proposal before us is, in my judgment, moving the Senate further away from comprehensive campaign finance reform. Even Common Cause, the major proponent of S. 2, opposes this particular effort on floor today. In a letter dated March 23, 1988, Fred Wertheimer, the president of Common Cause, outlined his position on Senate Joint Resolution 21, Senator HOLLINGS' original legislation.

> The proposed constitutional amendment, would not establish expenditure limits in campaigns; it would only empower Congress to do so. Thus even if two-thirds of the Senate and the House should pass Senate Joint Resolution 21 and three-quarters of the States were to ratify the amendment.

Now, this is a long shot, we must admit:

> It would then still be necessary for the Senate and the House to pass legislation to establish spending limits in congressional campaigns.
>
> Yet it is this very issue of whether there should be spending limits in congressional campaigns that has been at the heart of the recent legislation battle in the Senate. Opponents of S. 2, the Senatorial Election Campaign Act, made very clear that their principal objection was the establishment of any spending limits in campaigns.
>
> So even assuming a constitutional amendment were to be ratified, after years of delay the Senate would find itself right back where it is today—in a battle over whether there should be spending limits in congressional campaigns.

I am concerned that passage of this resolution will ultimately put campaign finance reform on the back burner.

There are so many areas in which we agree.

We can make significant improvements in our system of campaign financing. So let us make a new beginning. Let us look at the recent work of two Members on this side of the aisle. Just last week, the Senate approved an amendment offered by the junior Senator from New Hampshire [Mr. RUDMAN] to the Post Employment Integrity Act, which would prohibit all Members of Congress from converting excess campaign funds to personal use upon leaving Congress. That was adopted. That was a step forward.

In addition, Senator MCCONNELL offered an amendment, which was approved unanimously by the Senate, that would close the so-called millionaire's loophole. That is a step forward. Both of these initiatives grew out of the group of eight that met prior to the demise of S. 2.

The work of Senators RUDMAN and MCCONNELL is real campaign finance reform. It brings the Senate back into focus on the central issue of maintaining the integrity of our campaign finance system. Although there were areas of disagreement with respect to S. 2, there were in fact many instances of agreement, the Senator from Kentucky has time and time again pointed those out. It is time to bring those forward to form the basis of a new campaign finance reform proposal. The limitation of campaign expenditures is not going anywhere. So let us agree on the things that we can agree on. That is what the Senate is all about, compromise. There is no need to wait for the passage of a constitutional amendment to move ahead with campaign finance reform. Let us debate limitations on PAC's. That is where many people feel there are abuses.

Independent expenditures—we can work on that. There is no constitutional problem there.

The disclosure of soft money. The need for PAC's to more fully identify themselves. These PAC's with strange names—what are they? Nobody knows what they are. There ought to be a requirement that the PAC's identify themselves. What is the Desert PAC? Few know. We should require a PAC to identify what its purposes are.

The important factor is that there are grounds for compromise and reform today, not in 2 or 3 years from now or at some time down the road when this proposal could become effective.

The same problems are going to be before the Senate even if this proposal were passed today.

In my judgment, it is time for the Senate to enact legislation to reform our system of campaign financing instead of pursuing a cause that will only serve to divide this body and postpone action on what our campaign financing system needs most, reform.

So I do wish that we could move forward with some of the proposals that the entire Senate can support and not get bogged down on a matter such as we have before us today.

For that reason, I will vote against this resolution.

I thank the distinguished Senator from Kentucky for yielding me time and for all the constructive effort he has made in furthering the debate on campaign finance reform.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Rhode Island has been bogged down for 17 years. He acts like we just started this process. We have been in the trenches for 17 years and have yet to find a solution.

They would not even let us get a vote on S. 2. That is the crowd over there that says, "Don't let us get bogged down here. Let's move forward adroitly." And then we sit the whole year around here moving forward adroitly. That is why they said, "Let's keep debating." So we failed after eight times to get it to a vote. They denied us eight times. So that is why we have arrived at this constitutional amendment.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. HOLLINGS. I am delighted to yield.

Mr. CHAFEE. The Senator is pressing his joint resolution for a constitutional amendment.

Mr. HOLLINGS. Yes.

Mr. CHAFEE. Let us say, in the best of all worlds, that it passes here, passes the House, and is ratified by the requisite number of States. All right, where are we?

Mr. HOLLINGS. We are then knowing constitutionally we can limit expenditures.

Mr. CHAFEE. All right. Then what happens on the floor of the Senate?

Mr. HOLLINGS. We do many of the things that we thought we had done back in 1974.

Mr. CHAFEE. All right. Well, it comes to the Senate, and the distinguished Senator from South Carolina says, "We will limit expenditures for a candidate running to $2,000."

Mr. HOLLINGS. That is not realistic.

Mr. CHAFEE. Whatever the sum is.

Mr. HOLLINGS. Do not be casual about it, because we have candidates spending $9 million or $10 million of their own money. We think that is corruptive.

Mr. CHAFEE. Choose the sum, whatever it is; x dollars.

Now, You bring that up, and there is a filibuster. Where are we then?

Mr. HOLLINGS. You can still filibuster. I am not trying to do away with filibustering. I am trying to give this body the constitutional right to limit expenditures.

Mr. CHAFEE. What I am saying here is that we will be no further along than we were under S. 2. On S. 2, you, yourself, pointed out the number of cloture votes.

Mr. HOLLINGS. Right.

Mr. CHAFEE. There were not enough votes; it did not succeed.

Mr. HOLLINGS. That is right.

Mr. CHAFEE. So why do you believe it would succeed under different circumstances when it has not succeeded here in one, two, three, four, five, six, seven, eight votes; eight cloture votes? The Senate does not want it. And those votes were not even close on those cloture votes, I believe the high-water mark was 53 or 54.

The point I am making is that if we get the constitutional amendment that is proposed—and I do not like tinkering with the Constitution—it does not get us any further than we were with S. 2.

As the Senator from Kentucky has said, it is time to put forward a bipartisan effort to enact reforms that the entire Senate can support.

Mr. HOLLINGS. Mr. President, I, too, do not like to tinker with the Constitution. I, too, agree that there is some question about the Senate wanting to do something about it. I am not trying to solve all problems, but I am trying to bring it right into sharp focus so we can possibly move along.

Now, there are those who are just absolutely opposed. There are many who said, "I am opposing it because of public financing" in all of those eight particular votes. Many said, "I believe in limits. I believe in limits." A lot of those who did not allow us to vote during those eight cloture votes were saying in every breath, "I believe in limits."

Let us find out. As the old expression goes, put your money where your mouth is. Now comes the hour of truth. This amendment does not focus on individuals or PAC's or independents or soft money or hard money. It has nothing to do with all those octopus defenses of the Senator from Kentucky.

It says, purely and simply, give Congress the power to limit campaign expenditures. And if Senators are for limits, we have caught them. That was not the intent, to catch anybody. But perhaps we will get that one saving grace out of this, and we will flush them out from that octopus defense. If Senators believe in limits, that is in the approach of Senate Joint Resolution 282 and they should vote here "yea" today.

I retain the balance of my time.

The PRESIDING OFFICER. Who yields time?

Mr. McCONNELL. Mr. President, I yield the distinguished Senator from Iowa 10 minutes.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I rise to speak about freedom of speech and campaign spending limits, just as many of my colleagues have. I am in opposition to this constitutional amendment and in support of leaving freedom of speech the way it has been interpreted. I would like to promote dialog in this country and help the political process be as open as possible.

Senate Joint Resolution 282 seeks to amend the Constitution in order to void the Supreme Court's 1976 decision in Buckley versus Valeo, in which the Court struck down a 1974 law imposing expenditure ceilings of Federal campaigns.

The Court found that campaign expenditure ceilings impose "severe restrictions on protected freedoms of political expression and association" and concluded that such limits violate the first amendment.

The essence of Senate Joint Resolution 282 is to remove first amendment protection from Federal campaigns. By capping spending, political debate—whether through television, mail, or whatever medium—is necessarily restricted.

Consequently, I believe that a constitutional amendment limiting freedom of speech is not the route to take toward attaining needed reforms in the way we finance our political campaigns.

The implications of this proposed constitutional amendment are chilling.

What are the implications if this proposed amendment takes away from the Federal courts any ability to determine that particular expenditure limits enacted by Congress discriminate against or otherwise violate the constitutional rights of challengers?

The answer to that question is "many."

And maybe more importantly, what are the implications, if any, or narrowing—by constitutional amendment—the first amendment rights of individuals as interpreted by the Supreme Court?

I would like to address this question in my remaining remarks.

Since its decision in Buckley versus Valeo, the Supreme Court has "insisted that first amendment rights are put so much at risk by laws regulating political giving and spending, that such laws must undergo the almost always fatal process of strict judicial scrutiny."

It would seem, therefore, that a constitutional amendment of the sort being offered here is an attempt to make an "end run" around the constitution and the first amendment.

The supporters of Senate Joint Resolution 282 are attempting to accomplish what the Court has said the Congress cannot do because it is unconstitutional!

Just because such an amendment, by becoming a part of the constitution, would be "constitutional", does not necessarily mean that such an amendment would be wise or in keeping with the original understanding of the Founding Fathers——

Especially regarding one of our most precious and fundamental freedoms, the right to speak those thoughts that we may have on our minds.

Mr. President, the package is different, but the issues have not changed. Senate Joint Resolution 282 is just another version of S. 2. The problems associated with campaign spending limits may have changed in color, but they still taste the same.

That is why some of my deepest concerns regarding this legislation are directed to the effect it would have on the two party system of this Congress.

These problems were evident in S. 2, and they are evident in Senator HOLLINGS' resolution for a constitutional amendment. Spending limits, whether or not it passes the test of constitutionality, is still bad policy. The issues have not changed. The problems are not different.

The Denver Post, in a February 29 editorial, refers to the bill as the "Incumbent Protection Act of 1988." I quote from the newspaper:

> The proposal would sharply limit campaign spending for incumbents and challengers alike. But such "equality" isn't fair because every incumbent enjoys a huge taxpayer subsidy. Incumbents can mail out tons of self promoting "newsletters" touting the incumbent's heroic deeds—at taxpayer expense. And congressional staffs toil late into the night to re-elect their bosses.

If this resolution is passed and the amendment is ratified and the Congress decides to enact spending limits, Democratic incumbents' advantage would be cemented through spending limits. Spending limits inherently favor incumbents.

Proponents of the resolution may point out that challengers do not have to spend more money than incumbents to win. But these same people fail to point out that challengers must spend enough money to win. They need to spend at least enough money to "bring their case to the voters."

I don't know how much money that is. I don't know what the magic formula should be. Just because I don't know the answer does not mean that someone else does. In fact, I am quite sure that the answer will vary for every candidate in every year of every election. The conditions of every election campaign are different from every other and cannot be anticipated. Therefore, effective and fair campaign spending limits cannot be legislated by Congress.

Allowing challengers to raise enough money to deliver their message to voters ensures voters a choice. Only then can voters choose among candidates of comparable visibility and credibility.

Such choices are essential components for an electoral democracy. Voter knowledge of elections varies with challenger spending.

Mr. President, the ability of the challenger to spend enough money to provide voters adequate information to make a choice is the only way to maintain the two-party system in which our democracy flourishes.

So, Mr. President, I am going to vote against Senate Joint Resolution 282 and I urge my colleagues to oppose it.

Before I relinquish the floor and my time, I want to compliment the Senator from Kentucky for his vocal opposition to this joint resolution and for his opposition to S. 2. I also want to compliment the Senator from South Carolina, even though we disagree on whether or not this legislation is worthy, for attempting to achieve his goal in a constitutional way.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. DODD). Who yields time?

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I might say to my friend from South Carolina there has been some discussion here about maybe an agreement to take 5 minutes apiece right before the vote at 1:45 and discontinue the discussion, unless there is anything further to say. The Senator from Kentucky has really said about all he has to say except for a few minutes of close, right before the vote.

Mr. HOLLINGS. Is it the Senator's intent to go into recess until 1:35 and then have 5 minutes a side? Let us check that out with the leadership; to vote at 1:45.

Mr. McCONNELL. Maybe we should just do a quorum call.

Mr. HOLLINGS. I would suggest the absence of a quorum. The leader is coming to the floor.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. McCONNELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has 23 minutes, 23 seconds.

Mr. McCONNELL. I yield 5 minutes to the Senator from Kansas.

The PRESIDING OFFICER. The Senator from Kansas is recognized for 5 minutes.

Mrs. KASSEBAUM. Mr. President, I want to express my support for the joint resolution introduced by Senator HOLLINGS. As a cosponsor of this legislation, I am convinced that it is a necessary step in the process of bringing the soaring costs of our political campaigns under control.

I believe the need to move forward with this type of constitutional amendment can best be demonstrated simply by looking at the current system of campaign finance. You do not have to be an expert to reach two immediate conclusions. One, if you want to run for public office today, you have to raise and spend a lot of money. Two, if you want to be reelected to public office, you have to raise and spend a lot of money.

Senate Joint Resolution 282 seeks to remedy this problem, and I believe it is rapidly becoming a very serious problem, by giving to Congress the power to regulate expenditures for Federal elections and by giving similar power to the States. The language of the amendment is as simple and straightforward as the goal.

Unfortunately, as we all learned from the protracted debate over S. 2, the problems of campaign finance are far from simple. The competing interests and the conflicting demands of our political life are difficult to comprehend, let alone reconcile.

I believe there has been much thoughtful debate, and I would like to say the Senator from Kentucky, in opposition to this resolution, has lent valuable insight and, I think, a thoughtful perspective to the problems that face us in trying to come up with an answer that is going to work. But, nevertheless, that should not diminish the efforts to try.

Over the past 2 years, I have been involved in efforts to build a bipartisan consensus to deal with this problem. Invariably, these efforts have run into the problem set out by the Supreme Court in its 1976 ruling on Buckley versus Valeo, which struck down a law imposing expenditure ceilings on Federal campaigns. In handing down this decision, the Supreme Court, in effect, recognized the troubling reality of the current system—in order to effectively exercise one's freedom of speech, one must spend large sums of money on expensive media efforts such as television advertising.

In a very real way, this puts freedom of speech—or perhaps more accurately the freedom to be heard—on the auction block with the most freedom going to the highest bidder. The results can be seen all around us as our political dialog increasingly is dominated by the need to raise money and the ability to spend money. Another less visible result is that the average citizen's right to freedom of speech, and right to be heard, is being sharply and dramatically devalued.

In short, Mr. President, I believe that the growing power and influence of money in our political campaigns is weakening the most fundamental link in our democracy, the link between the elector and the elected. I believe it is essential that we find a way to reverse this process.

By itself, Senate Joint Resolution 282 cannot fully do this job. If two-thirds of the House and Senate approved this amendment and if three-fourths of the State legislatures were to ratify it, Congress would still have to come up with legislation to implement it.

And there, of course, is the real sticking point.

This would not be an easy job, but this legislation can make that job easier by allowing Congress to develop a comprehensive solution that contains none of the gimmicks and subterfuges employed in past efforts as a way to deal with the Supreme Court's decision.

As we learned in the debate over S. 2, the problems of our present campaign finance system are so complex and so interrelated that piecemeal efforts, I believe, are self-defeating. One change always produces new problems and difficulties that require other changes. And that is what the Senator from Kentucky [Mr. McCONNELL] has laid out very succinctly in the course of these debates.

Mr. President, this is why I believe and I say that the legislation before us is a necessary step toward solving this problem. It is time for Congress to look at the whole picture, to balance all of the interests and needs in a comprehensive review of the law and then to shape a fair and equitable package that protects the rights of all.

Thank you, Mr. President, and I yield back any time that may be remaining.

The PRESIDING OFFICER. The time of the Senator from Kansas has expired.

Mr. McCONNELL. Mr. President, I just want to commend the distinguished Senator from Kansas. We have had many discussions. We have not always come out at the same place. They have been useful, and I want to thank her for her contribution to this debate.

Mrs. KASSEBAUM. I thank the Senator.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the distinguished Republican leader and I had earlier indicated that the vote would occur on the motion to invoke cloture at circa 1:45 p.m. today.

The principals have indicated to me that they would like to recess the Senate until 1:35 p.m., and that there then be 10 minutes to be equally divided between Mr. McCONNELL and Mr. HOLLINGS, and that the vote on the motion to invoke cloture occur at 1:45 p.m. today.

I, therefore, make that request. I ask unanimous consent that the vote on the motion to invoke cloture occur today at 1:45 p.m., that paragraph 4 of rule XII be waived, that the Senate stand in recess until 1:35 p.m., that the time between 1:35 p.m. and 1:45 p.m. be equally divided and controlled by Mr. McCONNELL and Mr. HOLLINGS, that the vote be a 15-minute vote and the call for the regular order be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:35 P.M.

Thereupon, the Senate, at 1:18 p.m., recessed until 1:35 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DODD).

Who yields time?

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I have characterized the opposition to Senate Joint Resolution 282 as the octopus defense. We have observed our distinguished colleague from Kentucky as the octopus squirted out the dark ink of irrelevancies, escaping under cover of his obfuscations. The dark ink is things that are just not involved in this constitutional amendment: soft money, hard money, individual or corporate contributions, PAC's, and so on. We are not setting the limit itself. We are not adulterating in anyway the Constitution because we do not limit speech. We limit campaign expenditures; the amplification that comes about as a result of expenditures.

What we have simply found is that the expenditures, unlimited, are corrupting. The Congress found it in 1911. It found it again in 1974. Today 90 percent of the Senators on the floor of the Senate say money is corrupting; 10 percent, like my colleague from Kentucky, says there is nothing wrong with spending money so long as it is properly audited and recorded. I disagee with that.

I want the Congress to have, under the Constitution, the power to regulate this corruptive influence.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute and 15 seconds remaining.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, we can get meaningful bipartisan campaign finance reform tomorrow. To show the ease with which a number of provisions upon which both sides have agreed can be adopted, 2 days ago the Senator from Kentucky offered an amendment to the lobbying bill to prohibit a millionaire candidate from getting himself paid back after an election. It was adopted on a voice vote. One of the most pernicious events that occur around this place is people of great wealth anteing up large amounts of money to buy public office, going around, and getting it retired after the election is over. We can eliminate that practice.

We can do something about the cost of television which is what has really driven the cost of campaigns. We can do something about it tomorrow. We can do something about PAC's. We could limit the aggregate amount they could give. We could reduce their individual contribution allowances. We could abolish them altogether if we so chose. All of those steps could be taken.

But, Mr. President, what is before us today would be the first time we have sought to amend the first amendment in the history of this country, to restrict freedom of speech.

The Supreme Court said in Buckley versus Valeo, and it was very clear:

> The First Amendment denies government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution it is not the government but the people—individually as citizens and candidates and collectively as associations and political committees—who must retain control over the quantity and range of debate on public issues in a political campaign.

That is what we are talking about—the opportunity to make limited, fully disclosed, cash contributions to campaigns. One side would seek to limit those because it does not do as well with limited, fully disclosed contributors. It does better with soft money, PAC money, and other activities.

Until this body is willing to write a bipartisan campaign finance reform bill, we will get nowhere. In the meantime, needed reform does not occur.

So it is the hope of the Senator from Kentucky that maybe we will do it on a piecemeal basis. I offered the millionaire loophole amendment 2 days ago, and it was adopted. We are working on television time and what stations must allow us to purchase it for. We are going to make some other suggestions about PAC's. So maybe we will get it on a piecemeal basis.

However, we do not want to imitate the Presidential system. There has been a lot of discussion around this place describing the endless debate on Senate Joint Resolution 282, that there was somehow a scandal waiting to happen. It is happening, all right, and it is in the Presidential system of spending limits and public financing, under which $1 out of every $4 has been spent on lawyers and accountants and under which everybody, by and large, has violated the regulations and it has made every candidate a potential cheater. It is probably already happening. We should do something about it.

The Senator from Kentucky will introduce a bill shortly that will eliminate the Presidential system as it is currently devised, under which we have this ridiculous State-by-State limit that nobody pays attention to and use of public money, which most Americans think should not be spent on political campaigns.

There are a lot of problems that need to be addressed, but putting a limit on freedom of speech is not one of them, and that issue is so contentious that it will not go anywhere in this body.

I hope we will not invoke cloture today, that we will put that aside today forever, and that we will get on to more important matters that should be dealt with by the Senate.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 40 seconds remaining.

Mr. McCONNELL. I yield it back.

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute and 15 seconds.

Mr. HOLLINGS. Mr. President, I say, most respectfully, that my colleague misspoke. It does not say categorically that any limit on campaign expenditures is, in and of itself, a limit on freedom of speech. On the contrary, it says that those who contribute can be limited, but those who spend in campaigns cannot. This is the distortion and the confusion of Buckley versus Valeo.

He spoke of bipartisanship. It sounds like we are going to have a little rally, an ecumenical movement. We tried it for 3 weeks and eight cloture votes, and they would not let us bring S. 2 to a vote.

The fundamental issue in Senate Joint Resolution 282 is whether or not you believe in spending limits—nothing more, nothing less. If you believe in the limits, then let us empower Congress under the Constitution so that, as a bipartisan group, we can get together and legislate limit.

There is no better way to decide this than with an up-or-down vote.

Mr. McCONNELL. Mr. President, I ask unanimous consent to have printed in the RECORD a document entitled "Excerpts from the Findings and Major Recommendations of the Campaign Finance Study Group, Institute of Politics, Kennedy School of Government, Harvard University, October 1979."

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS FROM THE FINDINGS AND MAJOR RECOMMENDATIONS OF THE CAMPAIGN FINANCE STUDY GROUP, INSTITUTE OF POLITICS, KENNEDY SCHOOL OF GOVERNMENT

The Study Group cannot emphasize strongly enough that there is nothing intrinsically wrong with campaign contributions and expenditures. Adequate campaign funds are essential to competitive congressional elections. The essence of an election campaign is to provide voters with a choice among alternative candidates. That process requires the communication to voters of some minimum quantity of information about the contestants. In contemporary America, providing that information to the voters costs substantial amounts of money.

Every study based on the information available since 1972 has shown that most campaigns have too little, not too much money. The most competitive elections, where the voters have the most information about candidates, are those in which the most money is spent. Election contests in which spending is comparatively high are also those in which voter participation tends to be highest. While campaign finance laws must certainly guard against the undue influence of wealthy interests of individuals in the political process, they should at the same time be designed to enhance rather than hinder the raising and spending of campaign funds deemed appropriate.

Much as some may decry the amounts of money expended in a few exceptional cases, the whole picture leads to exactly the opposite conclusion: Too little money is currently available to those seeking Federal office.

Whether one is discussing direct mail, fundraisers, or private solicitations, it simply costs more to bring in the campaign dollar, than it did before the act.

We also know that election contests characterized by a relatively high level of spending are also those in which voter participation tends to be higher.

Even if income were keeping pace with these rising costs, the average political campaign spends too little money, not too much. Contrary to popular impression, congressional campaigns spend surprisingly small sums. This fact becomes glaringly evident when campaigning is compared to corporate advertising. For the 1976 elections, all candidates for federal office spent just under $212 million dollars on salaries, materials, office space, funding raising and advertising. In the year 1976, by comparison the total amount spent on advertising media was $33.6 billion, or more than 150 times the sum of campaign budgets. In a very real sense, electoral politics is in competition with corporate advertising for the attention of American citizens. Limited campaign funds often mean limited campaign activity, which, in turn, means a poorly informed and apathetic electorate.

Note on the members of the Campaign Finance Study Group of the Institute of Politics:

The members of this group (and their titles at the time of the study) are:

Christopher Atherton (Chair)—Assistant Professor of Political Science, Yale University;

Joel Fleischman—Professor of Law and Policy Sciences, Duke University;

Gary Jacobson—Associate Professor of Political Science, Trinity College, Connecticut;

Nandra Kayden—Assistant Professor of Political Science, University of Massachusetts;

David Keene—consultant, Des Indes Corporation, Washington, D.C. (associated with Citizens for Reagan and other Republican organizations);

Susan King—Founder, VP and Co-Director for the Center for Public Financing of Elections, Washington, D.C. (formerly Executive Assistant to Vice Chairman, Federal Election Commission);

Nicholas Mitropoulos—Executive Assistant to the Director, Institute of Politics, Harvard University (associated with several past Democratic campaigns);

Jonathan Moore—Director, Institute of Politics, Harvard University;

Mark Moore—Associate Professor of Public Policy, Harvard University;

Richard Neustadt—Associate Professor of Government, Harvard University; and

Gary Orren—Associate Professor of Government, Harvard University.

EXCERPTS FROM TESTIMONY BY DR. DAVID ADAMANY, PRESIDENT OF WAYNE STATE UNIVERSITY, DETROIT, MICHIGAN

I want to make the point, Mr. Chairman, that it is important for all of us that campaigns be generously funded. The system of checks and balances, as I try to teach students in my law school classes, is not just the checks and balances between the three branches of the government, but they are the checks and balances that emerge in a campaign system in which challengers have an opportunity to present their programs and to criticize the records of those who hold public office, since the ultimate electoral check is in voting and not in institutional relationships.

In a system where there is insufficient funding to wage campaigns, there can be no effective checks upon the government by voters.

I believe the expenditure limits as drafted in S. 2 are too low.

If one views expenditures not as an evil but as a form of public education, then limitations on expenditures should be approached with caution.

I would personally prefer that we have no expenditure limits. . . . So if there were a limit on PACs and a reduced limit on individual contributions, plus public financing, you would not need expenditure limits.

At the present time, my colleague, Gary Jacobson, who will be testifying later, has developed the leading scholarly studies that show that unless there is an opportunity to spend money, candidates—especially those with lower visibility—cannot develop a public presence sufficient to make an effective campaign.

As I look at the numbers, it is apparent that more than half of the challengers in 1984 would have had their spending reduced by the limits proposed in this bill. That means that the least visible candidates would have been injured by the expenditure limits as presently written.

Mr. Chairman, I will not discuss the specific aspects of expenditure limits except to recommend that they be substantially increased in this bill if they must be retained at all.

I am concerned also, Mr. Chairman, about the limitation on citizen participation in politics that is incorporated in S. 2. I think it is very important for citizens to have an opportunity to participate in politics, and the provisions of S. 2 cut off the opportunity for people to participate in politics by making contributions. After $250,000 is raised, there is not an opportunity under the public financing provisions, for an ordinary citizen to make a contribution. I think this is a mistake.

(Note: The following excerpts are from Dr. Adamany's written statement to the Committee.)

The great danger in enacting contribution limits is that we will dry up the funds necessary to wage vigorous political campaigns. There is now a very considerable body of scholarly work that shows that the greatest impact of expenditure limits is on candidates who challenge incumbents. Those who hold office have ample opportunity to make their names and records known during their term of office. But challengers typically do not have wide recognition of either their names or their political programs. Hence, as they are able to reach the public with this information, voters become more aware of their choices at the polls. And this tends to produce a more vigorous electoral system.

At the same time, S. 2 also threatens to weaken competitive politics by setting expenditure limits on Senate campaigns. Expenditure limits may suppress opposition by capping campaign spending at a level that prevents challengers from gaining visibility for their records, their programs, and their criticisms of incumbent officeholders.

It is fair to ask, therefore, whether S. 2's expenditure limits are reasonable.

Incumbents' expenditures are not as important in political campaigns as challengers' expenditures.

Incumbents already have extensive visibility, it is challengers who need to spend money to gain public attention and support.

There are several possible remedies for this problem. The expenditure limits could simply be abolished, but a cap of $250 could be put on all contributions.

The fourth major concern of campaign finance reform is to permit citizens to participate in the political process. Making campaign contributions is an important form of political participation.

The most serious defect in our presidential campaign regulations, in my view, is precisely the prohibition on individual contributions during the general election campaign. This cuts off opportunities for citizen participation.

Note: In addition to serving as university president, Dr. Adamany is also a professor of law and political science and the former Chairman of the Wisconsin State Elections Board. His testimony before the Senate Rules Committee in 1987 was made in support of S. 2 with the strong reservations noted above on campaign expenditure limits.

EXCERPTS FROM TESTIMONY BY JOEL M. GORA, PROFESSOR OF LAW, BROOKLYN SCHOOL OF LAW, ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION

The American Civil Liberties Union strongly opposes these proposed Constitutional amendments that would permit plenary government regulation of political campaign funding. These proposals (S.J. Res. 21 and S.J. Res. 130) pose a grave danger to the values of political speech and association, and thus to the essence of self-government.

The ACLU believes that government restrictions on political campaign funding infringe on freedom of speech and association.

We have viewed campaign finance restrictions with great skepticism. They appeared to us not so much as benign efforts to reform politics, but suspect attempts to restrict political speech and stifle citizen criticism of government.

That is why the ACLU believes that limitations on contributions or expenditures made for the purpose of advocating causes or candidates in the public forum impinge directly on freedom of speech and association and should generally be opposed. Government restrictions on political expenditures and contributions inevitably have two unacceptable consequences: (1) limiting the quantity of political resources directly restricts the quality and content of political speech, and (2) allowing government to monitor and control political speech in order to enforce such limitations is deeply disruptive of political freedom.

Disclosure is an effective antidote to any potential corruption or undue influence where candidates rely heavily on the contributions of others.

The proposed constitutional amendments would permit unacceptably sweeping and severe regulation of our system of political expression.

Giving government the power to regulate expenditures "intended to affect" elections invites intensive and disruptive official scrutiny of all public speech even arguably within that zone. That has certainly been our experience with enforcement ever since the 1972 reforms, which were immediately applied against an ad hoc group that sponsored a newspaper advertisement urging the impeachment of President Nixon. The government claimed that the ad was for the purpose of influencing the outcome of the fall elections. The ACLU won that case, but the government has frequently applied campaign laws in an exceedingly sweeping fashion, despite warnings from the courts.

The responsible approach is to seek out solutions that maximize political speech and activity, not by limiting those groups and individuals whose resources permit them to engage in speech and association, but by improving the ability of those who lack such resources to participate in the political process.

One solution would be to lift the current $1,000 ceiling on individual contributions to Federal campaigns. That would encourage political access and opportunity, considerably ease fund-raising difficulties, and reduce the relative influence of political action committees. Concerns with undue influence could be addressed by requiring effective disclosure of large contributions.

NOTE: Mr. Gora testified against two Senate proposals to amend the Constitution to permit Congress to regulate and limit campaign finance. The effect of these proposals would be to overturn the U.S. Supreme Court's ruling in *Buckley* v. *Valeo* (1976) which held that restrictions on campaign funding are restrictions on campaign speech and therefore not permitted under the First Amendment.

EXCERPTS FROM A STATEMENT BY LARRY SABATO, UNIVERSITY OF VIRGINIA, IN A LETTER TO SENATOR PACKWOOD DATED MARCH 21, 1988

My objections (to campaign spending ceilings) can be stated succinctly:

(1) Expenditure ceilings, in most circumstances, will favor incumbents and make it even more difficult for challengers to defeat entrenched legislators. While some of your electorally threatened colleagues may disagree, our political and governmental system is heavily weighted toward incumbents—too much so, in my opinion. With more than 92 percent of incumbent U.S. House members regularly reelected (98 percent in 1986), discouraging competition ought to be the last thing we do.

(2) Ceilings will not stop or even slow campaign expenditures; they will merely redirect the flow and channels of money. Specifically, I would expect an increase in independent expenditures—the least accountable and often most negative form of election spending. Once again, an unintended, undesirable consequence will result from well intended campaign finance reform.

(3) Inevitably, ceilings will lead to creative accounting practices and other methods that will have the effect of "stretching" the ceilings. We have already seen this occur at the presidential level. The effect is to undermine respect for the campaign finance system generally. Why build into the law artificial devices that almost unavoidably lead to barely-legal cheating and encourage noncompliance?

(4) Designed to reduce special interest influence on government, ceilings may actually increase the power of some interests at the expense of others. Ceilings would favor the large, organized interests which are in a position to contribute early in an election cycle, before the ceiling for a given candidate is reached. Smaller or later-organizing groups that lack capital early in the election cycle may be forbidden from contributing directly to a candidate. Since officeholders are especially likely to give access to those who have donated money to their election campaigns, spending ceilings may also have the unintended consequence of granting more access to the "haves" and less to the "have nots."

EXCERPTS FROM TESTIMONY BY DR. GARY JACOBSON, UNIVERSITY OF CALIFORNIA AT SAN DIEGO

The primary need for any campaign finance system is to supply large amounts, sufficient amounts of money. The current system does that.

A lot of the money that is spent now is spent on raising funds. Still, the (expenditure) limit ought to be high, it ought to be generous enough so that there is not much chance of really stifling any kind of serious competition, especially on the part of challengers.

For a State the size of California, my home State, I think that both of the candidates in this last election spent in the neighborhood of $10 to $12 million. A limit much below that I think would be a bad idea. This is not an election where a lot of money seemed to be wasted—it is an expensive State to campaign in, it costs a lot of money to reach voters under current electoral practices.

The fundamental purpose of having a campaign, that is to allow candidates to reach voters with their message . . .

(Note: The following excerpts are from Dr. Jacobson's written statement to the Committee.)

Elections are supposed to give voters a choice. For an informed choice, voters need to know something about both candidates. Most voters are not going to be even minimally informed without a vigorous campaign. And, under the current American structure of politics and communication technology, vigorous campaigns cost money. Lots of money. A good deal more money than most voters, and even some politicians, think seemly. So, the first requirement of any adequate campaign finance system is that it permit candidates—especially those not already well-known—to raise enough money to be serious competitors and so to give voters a real choice.

The current campaign finance system—particularly as it applies to Senate elections—fulfills this prerequisite.

The system (must) allow candidates who are not already well known to spend enough money to be competitive. Most public funding proposals I have seen have set spending ceilings far below what is necessary for an obscure candidate to mount a competitive campaign. They would therefore serve to protect incumbents. S. 2 is no exception.

Note: Dr. Jacobson is a professor of political science at the Unviersity of California at San Diego.

EXCERPTS FROM TESTIMONY BY DR. GARY C. JACOBSON, UNIVERSITY OF CALIFORNIA AT SAN DIEGO

Insofar as the original FECA (Federal Election Campaign Act) was intended to place a lid on campaign spending and decrease the importance of campaign contributions from identifiable interests, it has not succeeded. It is easy to understand the concern that these developments have generated, but I think that much of the concern is misdirected. As a consequence, some current proposals for further changes in campaign finance regulation are likely to have unwelcome consequences. In particular, they threaten to decrease political competition and enhance the electoral security of incumbent office holders.

No candidate can be competitive without reaching voters, and under most circumstances there is no way of doing this without spending a great deal of money.

Congressional incumbents' campaigns are, in fact, heavily subsidized through the resources that come with the office. There is no way to eliminate this subsidy without impairing the Congressmen's ability to serve their constituents. Challengers normally need a great deal of money to begin to match the advantages available to incumbents.

Campaign money, therefore, matters most to candidates who are not incumbents. The statistical evidence on this is abundantly clear. In contests between incumbents and challengers, it is the amount spent by the challenger that makes by far the most difference. The more the challenger spends, the better the challenger does on election day. This relationship holds no matter what statistical controls are employed.

The same studies show that, once the challengers' spending is taken into account, the incumbents' spending has little affect on the outcome of the election. In simple terms—in fact, you might find this surprising—on the average, the more incumbents spend, the worse they do. This doesn't mean that incumbents lose votes by campaigning hard.

It means that incumbents raise and spend more money the more seriously they are challenged, and the more seriously they are challenged, the smaller their share of the vote.

In general, any policy that increases the amount of money available to candidates will help challengers. It is also plain that the contribution or spending limits or any other measures that restrict the amount of money spent in campaigns will, if they have any effect at all on competition, help those already in office.

For those of us who worry about electoral competition then limits on campaign spending are clearly a bad idea.

More, rather than less, campaign money is necessary.

EXCERPTS FROM TESTIMONY BY JOHN F. BIBBY, UNIVERSITY OF WISCONSIN AT MILWAUKEE

Political science research has consistently demonstrated that money is particularly important for nonincumbent candidates and how well they do is a direct function of how much they spend; whereas, for incumbents, spending has much less of an impact and quickly reaches a point of diminishing returns.

High levels of spending for nonincumbents, I think, is absolutely essential if we're going to have competitive races.

This is the major problem which I have with expenditure limits. I think they work to the disadvantage of nonincumbents and they discourage the electoral competition.

Voter turnout is closely linked with the level of competition. Therefore, anything—such as expenditure limits—which discourages competition, I think also discourages voter participation. Our turnout rates, as you know, are already among the lowest in the western world.

Overall, my view is we should be encouraging participation, not restricting it.

(Note: The following excerpts are from Professor Bibby's written statement to the Subcommittee.)

Expenditure limits work to the disadvantage of nonincumbents and discourage electoral competition. The most comprehensive proposals before this Committee include a provision for a cap on expenditures either through direct public funding of campaigns or through incentives such as reduced advertising rates. Keeping in mind that it is challengers, not incumbents, who benefit most from campaign spending, such proposals have a definite anti-challenger and anti-electoral competition bias.

Candidates are often unequal in many ways (e.g. name identification, partisanship of the constituency). Public financing/expenditure limit regulations, by requiring equality of finance, would merely emphasize these other inequalities and prevent less well known candidates from gaining access to the key resource that might enable them to catch up.

Expenditure limits for candidates and severe contribution limits on PACs could well result in even higher level of independent expenditures than we already have. These are potentially the most irresponsible type of campaign activity. It is, however, a form of activity that is feasible only for the largest, wealthiest, and most sophisticated PACs.

Political science research has shown that voter turnout is encouraged by competitive elections. Therefore, if voter turnout in congressional elections is to be encouraged, it is essential that no unduly severe limits be imposed upon campaign spending—particularly nonincumbent spending. Such limits disadvantage nonincumbents and thereby hold down competition. Voter turnout in the United States is already below that of other western democracies and nothing should be done in the name of electoral reform to worsen that situation.

EXCERPTS FROM A PAPER WRITTEN BY HERBERT E. ALEXANDER, UNIVERSITY OF SOUTHERN CALIFORNIA

["American Presidential Elections Since Public Funding 1976-1984"]

The low individual contribution limit and the expenditure limits have reduced campaign flexibility and rigidified the election campaign process. The contribution limit prevents potential candidates from mounting a campaign late in the prenomination season because it makes it extremely difficult to raise sufficient funds in a short time. The expenditure limit makes it difficult for candidates who have spent close to the maximum allowed to alter campaign strategy and tactics to fend off new challenges or to take new developments into account.

The relatively low expenditure limits have encouraged candidates to favor mass media advertising, which is more cost-effective and less time-consuming than grass-roots campaigning but may not be as informative. It has caused candidates to centralize control of their campaign efforts in order to assure that they remain within the expenditure limits, but this centralization comes at the expense of local authority and direction. The low expenditure limits also have led candidates to resort to a variety of subterfuges to circumvent the limits.

The low contribution and expenditure limits have encouraged the development of a variety of ways to frustrate the intent of the limits, including the presidential PACs, delegate committees and independent expenditures used in the most recent campaign. Such developments demonstrate the difficulties in attempting to regulate money strictly in the American political arena. In a pluralistic society, such as that of the United States, in which freedom of speech is guaranteed, restricting money at any given point in the campaign process often results in new channels being carved through which monied individuals and groups can seek to bring their influence to bear on campaigns and officeholders.

The 1984 general election experience strongly suggests that in a political system such as that of the United States, animated by a variety of competing interests each guaranteed freedom of expression, a tightly drawn system of expenditure limits does not work well.

Note: Mr. Alexander is Director of the Citizens' Research Foundation as well as a professor of political science at the University of Southern California. These excerpts are from his conclusions in a paper delivered to an international conference of political scientists.

"FINANCING PRESIDENTIAL CAMPAIGNS," REPORT OF A CONFERENCE OF PRESIDENTIAL FINANCE OFFICERS, SPONSORED BY THE CITIZENS' RESEARCH FOUNDATION

EXPENDITURE LIMITS

Since the state expenditure limits (for Presidential campaigns) went into effect, one candidate has refused to accept public funding, in order to avoid the state limits, which he believed would not have allowed him to spend sufficient funds to overtake the front-runner early in the primary season. Other candidates, who have accepted public funding, and therefore the state expenditure limits, nevertheless maintain that the limits do not take into account the disproportionate political impact of the early prenomination contests in less populous states, where the spending limits are low but the stakes are high. They complain that the limits force them to centralize control of spending and to impose budgetary restraints, thereby discouraging grass-roots campaigning and the involvement of volunteers in their campaigns.

Some candidates have resorted to subterfuges to circumvent the state limits in important early primary contests. For example, they have arranged overnight accommodations for their staffs in a state bordering on a primary contest state so the costs could be counted against the bordering state's spending limit.

Finally, some observers maintain that the state spending limits, particularly in states with early prenomination contests, encourage independent expenditures on behalf of candidates who are approaching the state limits.

UNLIMITED CAMPAIGN SPENDING—A SCANDAL WAITING TO HAPPEN

Mr. DIXON. Mr. President, much of my time as an Illinois Senator has been spent on the issue of campaign finance reform. I have introduced several bills on the topic and have cosponsored several election reform bills offered by my colleagues including S. 2 and Senator HOLLING's original constitutional amendment.

I have devoted so much time to this issue because I believe election reform is crucial. If we don't fix the way this country chooses its representatives and Senators, there is going to be a major scandal.

Things have gotten much worse since I first became involved in this issue in 1982. The cost of getting elected has skyrocketed. In the 1982-83 cycle, congressional candidates spent a total of $342.4 million. In the 1985-86 cycle, which I participated in, congressional candidates spent a total of $450 million, a 32-percent increase and a new spending record. Needless to say, I don't take any pride in this new mark.

In the 1985-86 cycles, spending for the Senate races alone increased by 24 percent just from the last election cycle in 1983-84. This increased cost of campaigning is making the political arena more difficult to enter. In the last four election cycles, the number of announced candidates actually decreased from 2,288 in the 1979-80 cycle to 1,868 in the 1985-86 election cycle. If we truly want to open up the process, we have to limit spending.

As we all know, Congress is currently not empowered to limit spending. Unfortunately, the Supreme Court's 1976 ruling in Buckley versus Valeo declared that spending limits may not be constitutionally imposed unless they are adopted voluntarily.

Buckley versus Valeo is a strange decision. The Court allowed limits to be set on individual contributions but declared any cap set on overall spending to be unconstitutional. However, I don't want to question the Court's decision. It is, after all, their job to decide whether or not a law is constitutional. I do not believe, however, that limiting spending constitutes a limit on freedom of speech.

S. 2 attempted to circumvent the Court's ruling by establishing a system which would provide strong incentives to candidates to accept voluntary spending limits. Unfortunately, my distinguished colleagues on the other side of the aisle filibustered, and we did not have the votes to invoke cloture.

During the debate on S. 2, many Senators condemned it as an assault on the taxpayer. It was improper, they announced, for the campaigns to be financed out of the public till.

However, S. 2 was not a public campaign finance act. Its primary purpose was to limit the obscene amount of money spent on campaigning for public office. Unfortunately, we lost that battle. I still hope we can win the war—but, for now, it is time to put that matter aside.

Fortunately, we have before us now another opportunity with Senate Joint Resolution 282 to stop the upward spiral of campaign spending. Senator HOLLINGS approach is simple and direct. His amendment simply says:

> Congress shall have power to set limits on campaign expenditures by, in support of, or in opposition to any candidate in any primary or other election for Federal office;

And that:

> The States shall have power to set limits on campaign expenditures by, in support of,

or in opposition to any candidate in any primary or other election for State or local office.

His amendment says nothing about public campaign financing. It only says that "Congress shall have power to set limits on campaign expenditures." In other words, Congress would be empowered to set limits.

Senate Joint Resolution 282 is a compromise measure. It accommodates those Senators who opposed public financing. I would hope that my distinguished colleagues on the other side of the aisle who could not support S. 2 for that reason will support Senator Hollings' amendment.

Senator Hollings' constitutional amendment would only grant the Congress, and the States, the right to set limits. I personally believe we need to set spending limits now before this Congress faces a major campaign finance scandal. I intend to continue to work toward establishing these essential reforms as soon as possible.

However, until then, we should explore every possible avenue including this measure now before us. It is really only a small step forward in the struggle to establish limits. We should pass it and allow the debate on how we should limit campaign spending to proceed. Campaign finance reform is in the interest of both parties. More importantly, it is in the country's best interest.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 1:45 p.m. having arrived, the clerk will report the cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Hollings amendment, No. 1957, to the Gramm motion to recommit with instructions S.J. Res. 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential contributions.

Senators Ernest F. Hollings, Terry Sanford, Dennis DeConcini, Brock Adams, Spark Matsunaga, Bob Graham, Lawton Chiles, J.J. Exon, Paul Simon, Wyche Fowler, Jr., Barbara A. Mikulski, Tom Daschle, Claiborne Pell, David L. Boren, Jay Rockefeller, Dale Bumpers, Don Riegle, Alan Cranston, John Melcher, and Robert C. Byrd.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the Hollings amendment No. 1957 to the Gramm motion to recommit with instructions Senate Joint Resolution 282, a proposed constitutional amendment relative to campaign contributions and expenditures, shall be brought to a close? The yeas and nays are required, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Ohio [Mr. Metzenbaum], and the Senator from Mississippi [Mr. Stennis] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. Hecht] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 52, nays 42, as follows:

[Rollcall Vote No. 107 Leg.]

YEAS—52

Adams
Baucus
Bentsen
Bingaman
Boren
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Wirth

NAYS—42

Armstrong
Bond
Boschwitz
Bradley
Chafee
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Heinz
Helms
Humphrey
Karnes
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Quayle
Rudman
Simpson
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—6

Biden
Gore
Hecht
Kennedy
Metzenbaum
Stennis

The PRESIDING OFFICER. The yeas are 52, the nays are 42. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. HOLLINGS. Mr. President, I am encouraged that at least a majority of this body would constitutionally limit campaign expenditures and am equally complimented that a substantial group, some 40 percent, still want to hear me. But I doubt that, really.

I yield to the majority and minority leaders for the course of conduct from here because I do not believe, having debated it substantially under S. 2 and now under Senate Joint Resolution 282, that we are going to change much the minds of those who voted numerous times on this particular score. In short, I think that we have gone like Kansas City as far as we can go and, rather than belabor the body, I yield to them so we could get on, again, with even more important business.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Adams). Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—H.R. 1811

Mr. BYRD. Mr. President, the Republican leader and I have been able to work out, through our staffs and contacts with other Senators, the following time agreement:

I ask unanimous consent that the majority leader, after consultation with the minority leader, may, at any time—which would not be today—turn to the consideration of Calendar Order No. 613, H.R. 1811, the atmospheric nuclear tests veterans bill, with the further proviso that the bill be considered under the following time limitations:

One hour equally divided between Messrs. Cranston and Murkowski or their designees on the bill, including a substitute amendment to be offered by Mr. Cranston; that no other amendments be in order; that no motion to recommit with or without instructions be in order; that there be 10 minutes on any debatable motion or appeal or point of order if submitted to the Senate; that the agreement be in the usual form.

I would say I would not call this up before Monday of next week.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. No objection.

The PRESIDING OFFICER. Hearing no objection, it is so ordered.

The text of the agreement is as follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 1811, an act to amend title 38, U.S.C., to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation, debate on the bill, and a substitute to be offered by the Senator from California (Mr. Cranston), shall be limited to 1 hour, to be equally divided and controlled by the Senator from California (Mr. Cranston) and the Senator from Alaska (Mr. Murkowski), or their designees.

Ordered further, That no amendments other than the substitute be in order.

Ordered further, That no motion to recommit, with or without instructions, be in order.

Ordered further, That time for debate on any debatable motion, appeal, or point of order which is submitted be limited to 10 minutes, to be equally divided and controlled.

Ordered further, That the agreement be in the usual form.

Mr. BYRD. Mr. President, I thank all Senators. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. BYRD. Mr. President, the vote on cloture was 52-42, with six absentees. Five of those absentees, we think, would vote with Mr. HOLLINGS for cloture. They are, of course, Mr. BIDEN, who will not be here, of course, in the immediate future. That is a vote, however, for cloture.

Mr. GORE, who may be here any time. I do not know just what his schedule would call for.

Mr. HECHT, Mr. KENNEDY, Mr. METZENBAUM, and Mr. STENNIS; now, of those six, I would venture to say that four, and possibly five, would vote for cloture. And would Mr. HECHT. I would leave that to the distinguished Republican leader to determine how he might vote.

I wonder if I could make a proposal. That is, that either this afternoon or tomorrow, we vote up or down on the amendment, and if all 100 Senators were voting, which they would not be, of course, that with, let us say 99—let us say we can produce 99 of those Senators, and 34 votes would defeat the constitutional amendment resolution, I wonder if we can have a vote up or down and that will tell the story and move on to something else, in either event.

What would be the reaction of the distinguished Republican leader or the Senator from Kentucky, who has been leading the fight against the amendment?

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes.

Mr. DOLE. I think based on the conversation I had with those who have been the most active in campaign reform efforts this year on this side of the aisle, they have preferred we do not have an up or down vote. If it would be of some help to the majority leader and the distinguished Senator from South Carolina, obviously there could be a second cloture vote. It has been suggested by one of the colleagues on that side, if we could have an up or down vote on the balanced budget amendment, maybe I can persuade my colleagues to give us an up or down vote on the Hollings amendment on campaign reform.

I have discussed this with the distinguished Senator from Kentucky, who has been leading the efforts on this side, and I think he is prepared to discuss the bill further, but is not inclined at this time to have an up or down vote.

Mr. McCONNELL. I might say to the distinguished Republican leader, the constitutional amendment approach to this issue, in the grand scheme of this debate, is relatively new. There was one day of hearings this year before the Judiciary Subcommittee. It was not actually reported out of the Judiciary Committee even, and it is the hope of the Senator from Kentucky that some day down the road he might even get more support for opposition to the constitutional amendment. I certainly concur with the observations that the Republican leader just made.

Mr. BYRD. So what I am hearing is that there would be an objection to a unanimous-consent request to vote at a given hour on tomorrow?

Mr. DOLE. Up or down? Yes, there would be an objection.

Mr. BYRD. There would be an objection.

Mr. DOLE. But there would be no objection to a unanimous-consent request to have a cloture vote sometime tomorrow.

Mr. BYRD. All right. I should think that we ought to have another cloture vote, if I may make that suggestion to my friend from South Carolina, for this reason: With 52 votes for cloture, out of the five possible votes that were not here today, one, of course, we cannot hope for tomorrow, that would be Mr. BIDEN, because of his illness. But it is possible that we could have a 2:30 vote on which those who hope for cloture would win. Who knows, maybe on absentees, perhaps overnight three of those who voted against cloture might have a change of heart.

Mr. HOLLINGS. I could change the mind of the Senator from Kentucky. I am agreeing with both the leaders at this moment. In all fairness, the distinguished leader is a scholar of the procedures here, and I rather agree with him.

I would like to have it, but I more or less represented to the majority leader I would not belabor the body and do as we did before with eight votes, but at least one more cloture I think would be in order if it does not disturb the pace of events here on the floor.

Mr. BYRD. It would not, and I think we ought to try a second time. Robert Bruce tried seven times and won on the seventh. ROBERT BYRD tried eight times and lost. But FRITZ HOLLINGS may try twice and who knows? We may win.

Mr. HOLLINGS. I have the Republican leader sort of moving in my direction.

Mr. BYRD. So if we may then, I think the distinguished Republican leader has made a good proposal as far as cloture is concerned. I am sorry the distinguished Senator from Kentucky does not want to have an up or down vote on the amendment. I can understand why. I can understand why, but I think he has the votes; I think he has more than one-third of the votes on an up or down vote. That part I cannot understand, but the distinguished Senator has a right to object, wishes to and he also has a right to continue to try to marshal his colleagues to vote against the amendment.

I appreciate the statesmanlike attitude on the part of the Senator from South Carolina. There is no point in continuing to kick the wall, as the late Hubert Humphrey said.

VOTE ON CLOTURE MOTION TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that at such time as the distinguished Republican leader and I and the other principals who are involved, and other Senators, agree on a cloture vote tomorrow, that that cloture vote occur on the same cloture motion on which the Senate voted today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, after having conferred with the distinguished Republican leader and Senators HOLLINGS and MCCONNELL and SIMPSON, that the vote occur on the motion to invoke cloture tomorrow at 11 o'clock a.m.; that the debate be equally divided and controlled beginning at 10:30 a.m., and that the time be controlled by Mr. HOLLINGS and Mr. MCCONNELL, 15 minutes to a side; that the automatic quorum call be waived, and that the rollcall vote itself be a 15-minute rollcall vote with the call for the regular order to be automatic at the end of 15 minutes.

The PRESIDING OFFICER. Is there objection? The unanimous-consent request as the Chair understands is that at 10:30 the debate on this matter would start. There would be 15 minutes to a side; that the automatic vote would not be required; that there would be a yea and nay vote——

Mr. BYRD. No, the Chair does not understand it.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. The automatic quorum would be waived.

The PRESIDING OFFICER. The automatic quorum be waived.

Mr. BYRD. The vote on the cloture motion is automatic, but the automatic quorum would be waived.

The PRESIDING OFFICER. The Chair understands that the automatic quorum would be waived and that the vote would occur at 11 o'clock. Is there any objection? Without objection, it is so ordered.

Mr. BYRD. This does not rule out a quorum call. It does rule out the automatic quorum call.

Mr. HOLLINGS. I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank my good friend, Mr. HOLLINGS. I thank Mr. McCONNELL, and I thank the Republican leader.

Mr. HOLLINGS. I thank, Mr. President, the distinguished majority leader and minority leader and we look forward to tomorrow.

Mr. BYRD. Yes. We might find that broken sword, hilt buried in the dry, trodden sand.

Mr. HATCH. Mr. President, the first amendment to the Constitution states that "Congress shall make no law * * * abridging the freedom of speech." This sweeping guarantee of free speech has long served as the linchpin of individual liberties in our constitutional system.

Although in no way limited to political expression and association, the first amendment, in the words of the Supreme Court, "has its fullest and most urgent application precisely to the conduct of campaigns for political office." Monitor Parrot versus Roy (1971). In line with this reasoning, the Supreme Court applied the first amendment to invalidate several forms of campaign regulations in the Buckley versus Valeo (1976) case. Again, in a more recent case, the Supreme Court affirmed that the first amendment prevents Congress from restricting independent political expenditures. FEC versus NCPAC (1985). The Supreme Court states succinctly the importance of the first amendment in the arena of campaign regulation:

> Discussion of public issues and debate on the qualifications of candidates are integral to the operation of the system of government established by our Constitution. The first amendment affords the broadest protection to such political expression.

Buckley at 13.

Nonetheless this constitutional amendment proposal would empower Congress to do precisely what the first amendment has prevented. These proposals would grant Congress plenary control over political and campaign expression and association. In this sense, these proposals are designed to exempt one form of speech from first amendment protection. Ironically, these proposals would carve out of the bill of rights protection for that form of speech deemed by the Supreme Court to be the "fullest and most urgent application" of the first amendment.

Senate Joint Resolution 282 states that Congress and the States would have power to "set limits on campaign expenditures by, in support of, or in opposition to any candidate * * *" This is clearly intended to overturn the Buckley versus Valeo case. This is clearly intended to create an exception to the first amendment's free speech guarantees. This broad grant of power raises countless questions about damage to individual rights of free speech and association. At the outset, I feel compelled to ask: How has the first amendment failed us? In what ways has the free and full exchange of political information and the free and full debate of political subjects harmed for democratic processes? Why carve an exception out of the protections of the first amendment? Why give Government the power to decide what may be said in political debates?

To those who question whether first amendment freedoms are actually being trimmed back by this proposal, the Supreme Court—our primary articulator of constitutional law—offers a clear response. In Buckley versus Valeo, the Court stated that "expenditure provisions [of the 1974 act] violate the first amendment." The Supreme Court made that interpretation even more explicit by noting that "the act's independent expenditure ceiling, its limitation on a candidate's expenditures from his own personal funds and its ceilings on overall campaign expenditures, since those provisions place substantial and direct restrictions on the ability of candidates, citizens, and associations to engage in protected political expression, [are] restrictions that the First Amendment cannot tolerate." (424 U.S. at 627.)

Thus, the Supreme Court leaves no doubt that limits on political expenditures directly restrict the quality and content of free speech. Moreover, if expenditure limits are permitted, the Government will also be permitted to monitor and control political speech in order to enforce the expenditure restrictions.

Before examining the untoward implications of Senate Joint Resolution 282, I suggest that we examine briefly the policy behind expenditure limits. Two primary governmental interests are advanced as justifications for regulating expenditures and political speech: First, deterring corruption in government, and second, equalizing political opportunity.

Looking first at the corruption notion, we note that there is certainly no threat of corruption when a candidate uses his own resources to fund a campaign. Yet Senate Joint Resolution 282 specifically empowers Congress to limit expenditures "by * * * any candidate." Thus, Senate Joint Resolution 282 has a larger agenda than checking corruption. After all, butchery of the first amendment would not be necessary to deter corruption; a disclosure statute would be sufficient to deter corruption and would have no deleterious effects on free speech. As Professor Gora of Brooklyn Law School said on behalf of the ACLU in opposition to a constitutional exception in the first amendment, "disclosure is an effective antidote to any potential corruption or undue influence."

The second justification for limiting campaign expenditures is the leveling notion, which would limit some individuals and groups in order to advance relatively the political opportunity of others. We must honestly acknowledge, however, that incumbency will always tend to disrupt the political balance and make absolute equality unattainable. Moreover, if equality justifies limiting what candidates can spend out of their own personal funds, then equilibrium will only be obtained by further limiting independent expenditures in a campaign. To no one's surprise, this is precisely how Senate Joint Resolution 282 operates. It drastically limits not only the freedoms of candidates to get their message out, but even presumes to limit the freedoms of others to support or oppose particular political messages.

Even at the cost of these radical restrictions on freedom, we must acknowledge that equality will not be bought. Powerful media voices, newscasters, journalists, or single-issue organizations will still support one candidate over another and destroy the level political playing field. Moreover some political parties have more registered voters than other parties. This further upsets the level playing field for candidates. And even if restrictions were placed on molders of public opinion or party registration, there would still be no way to equalize political opportunity. Equality of political opportunity will simply not be purchased with restrictions on political speech.

The way to enhance political opportunity is not to confine and restrict speech, but to expand it. With full and free opportunities to speak and be heard, new candidates with new messages can enter the political arena and their messages will be assessed on their merits. On the other hand, restrictions on campaign expenditures will mean some messages will not be heard and others will not be heard in their entirety. Restricting speech will frustrate, not facilitate, political equality.

While I cannot detail all the potential forms of damage Senate Joint Resolution 282 encompasses, I am troubled by at least the following possibilities:

RESTRICTING A CANDIDATES USE OF PERSONAL FUNDS

Could Congress, under powers currently denied by the first amendment but granted by this proposal, prohibit a candidate from spending his own personal funds to further his personal campaign? The language of Senate Joint Resolution 282 would allow restrictions on campaign expenditures "by * * * any candidate." Thus, for the first time, Congress could deny candidates the right to purchase radio time or newspaper space to tell voters their position on issues. Voters would have less information. Candidates would have less opportunity to deliver their message. Our system of government presupposes an electorate which understands public issues and chooses a course in the voting booth. An uninhibited and robust public discussion is the best means to ensure this informed electorate. This is the essence of self government. For this reason, the Supreme Court in Buckley invalidated limits on personal campaign expenditures as violative of the first amendment.

Yet, Senate Joint Resolution 282 would empower Congress to limit the most vital forms of debate and restrict voting information. The first amendment rights of candidates to air their views and the first amendment rights of voters to hear those views are both sacrificed by this proposal. The vital organs of self government are cast aside as dross by this proposal.

RESTRICTIONS ON INDEPENDENT EXPENDITURES

Could Congress limit or eliminate independent political expenditures? The language of Senate Joint Resolution 21 would allow that action and indeed Congress has even attempted this once. Fortunately in the FEC versus NCPAC case, the Supreme Court permitted individuals to contribute to independent political entities. Under Senate Joint Resolution 282, Congress could deny an independent campaign the right to support a candidate with a message shared by the independent entity. This means that nuclear disarmament groups could no longer support a nuclear disarmament candidate and fiscal responsibility groups could no longer support a balanced budget candidate. Thus, Americans would find it more difficult to support candidates who share their message. This would be a severe blow to self government as well as to free speech. Why should Americans who favor nuclear disarmament or school prayer be disabled from supporting candidates via a nuclear disarmament organization? Once again, this hinders free and open exchange of information. Once again, it limits the ability of the American people to make their choices known to their representatives. Once again, it limits free speech.

REGULATION OF SOME SPEECH AS UNWISE

Could Congress decide to limit some expenditures as wasteful, excessive, or unwise, while allowing similar expenditures in the same campaign? For example, could Congress decide that Governors receive extensive free publicity as office holders and therefore place strict limits on their expenditures for air time while permitting their opponents to broadcast without restrictions? Senate Joint Resolution 282, by its language, would permit Congress to decide some campaign expenditures are wasteful, excessive or unwise. Perhaps future Congresses, in an effort to give all candidates a level playing field, might determine that a Governor's expenditures for air time are excessive.

Under the current first amendment, the Government is not allowed to determine what kinds of campaign expenditures might be regulated. The Buckley case, once again, makes this clear: "The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise. In the free society ordained by our Constitution, it is not the Government, but the people—individually as citizens and candidates and collectively as associations and political committees—who must maintain control over the quantity and range of debate on public issues in a political campaign." (424 U.S. at 653.) Once again, we might ask: Why create an exception in the first amendment? Our first amendment has prevented the Government from dictating the terms of political debate, from deciding that some expenditures for speech are allowed while others are prohibited. Do we want the Government, presumably via some bureaucracy, deciding when and how candidates may speak?

By allowing Congress plenary powers to regulate political expenditures, Senate Joint Resolution 282 clearly contemplates that Congress will possess the discretion to decide some expenditures are appropriate while others are not. This discretion might be delegated to a bureaucracy. Do we really want the Government deciding what forms of speech may be funded and which may not? The primary purpose of the first amendment was to prevent the Government from telling individuals what they may or may not say. Yet in the particularly sensitive area of political speech, this proposal would give the Government power to decide what may or may not be said.

FORCING CANDIDATES TO RELY ON PUBLIC FINANCING

Under Senate Joint Resolution 282, Congress could conceivably outlaw almost all personal expenditures and force a candidate to rely solely on public financing—financing which might be held at inadequately low levels by a Congress of incumbents which is anxious to discourage challengers. Nothing in the language of Senate Joint Resolution 282 would stop Congress from employing this tactic to defend incumbents.

RESTRICTIONS ON POLITICAL ENDORSEMENTS

Under Senate Joint Resolution 282, a newspaper or any other organization or group might be inhibited from endorsing a candidate. The language of this resolution permits Congress to limit "expenditures * * * in support of * * * any candidate." An endorsement by a newspaper or any other political advocacy group could only be made if that organization made some expenditure in support of a candidate. Is there any real reason to give Congress power to prohibit newspapers and other organizations from endorsing candidates?

CRIMINAL SANCTIONS FOR SPEAKING OUT

Senate Joint Resolution 282 gives Congress power to limit campaign expenditures. Accordingly, it may well be argued that Congress could make it a Federal felony for a candidate to spend a few dollars of his own funds to buy a newspaper ad asking voters for their support. We do not need to contemplate this prospect long to understand the chilling implications of this proposal. Do we need to give Congress power to lock up individuals who do nothing more than try to speak their minds?

RESTRICTIONS ON TV OR RADIO SPEECH

Another chilling prospect is that Congress could reduce the amount of campaign expenditures for each TV advertisement to $100, thus meaning that no candidate could use TV to communicate with voters. This would discriminate against voters who do not have the time or disposition to gain political information through printed media. Moreover it would cripple a candidate's ability to reach millions of voters overnight. Once again, the victims of this proposal would be free speech, robust debate, open advocacy, and ultimately, an informed electorate and self-government.

These are not idle or illogical speculations. These are precisely within the language and scope of the proposal. After all, Senate Joint Resolution 282 is proposed precisely to overturn the Buckley versus Valeo decision and at the same time to overturn the principles of free speech, free association, free press, and self government upon which that case is based. There is no way to overrule Buckley without overruling basic free speech doctrines.

This is just a preliminary list of potential problems. The fundamental question raised by this amendment is in what ways has the first amendment failed us? This proposal is premised on the notion that the current system of open debate and exchange of ideas under the first amendment is flawed. I vigorously dispute the notion that we must create an exception to first amendment free speech protections for political campaigns. To the contrary, campaigns are the fullest and most urgent application of those freedoms.

Mr. DOLE. Mr. President, here we go again on so-called campaign finance reform. The 100th Congress has already set a record thanks to this issue. Eight cloture motions on one reform package have failed.

So now there's a new tactic: Amend the Constitution.

Mr. President, this is a bad idea. It's bad policy. It's a "short-cut strategy" born out of frustration. But you don't short-cut the Constitution, and you don't run a detour through the first amendment.

Now, we're all familiar with the landmark amendments to the Constitution—major civil rights reforms for all Americans. But, fundraising for House and Senate races isn't even in the same league.

It seems ironic that the document that guarantees our basic right to participate in a democracy is now being used to limit that participation.

Now, Mr. President, I support individual contribution limits. Let's be clear on this point: This Senator, this side of the aisle, believes in reform—true reform; fair and equitable reform.

You may recall that the Federal Election Campaign Act, S. 1672, which a number of Senators joined me in introducing last September, included contribution limits on individuals and PAC's. In fact, under our bill, individual PAC contribution limits would be reduced from $5,000 to $3,000 per election.

But, aggregate contribution limits are a different issue altogether. I must oppose them for the same reasons that I have opposed them in the past.

Some suggest that in opposing spending limits, Republicans are acting as obstructionists—that we are acting as critics rather than participants in the process: but that's just not truth in advertising. Look at the record: 11 Senators joined me in cosponsoring S. 1672 last September. In doing so, we presented our plan for real reform—not incumbent protection.

SPENDING LIMITS—EFFECT VERSUS INTENT

On the surface, giving Congress the power to impose spending limits sounds like a good idea. But in my mind, a number of problems arise.

Members of Congress already enjoy a number of advantages such as franking, free media and professional staff, most also enjoy relatively high name recognition within their home States.

Spending limits would disallow any effort to offset these incumbent advantages. As a result, the Hollings proposal would make it even more difficult for a challenger to win a Senate seat.

A TRULY PARTISAN ISSUE

Let's face facts and look at the numbers: the Democrats enjoy a majority in both the Senate and the House. It follows that an incumbent protection bill favors the Democrats.

This is one Republican who insists on a two-party system. I have worked to help broaden the party, the Republican Party. But, the fact is, that we are outnumbered in many parts of the country. In the South, for example, registered Democrats outnumber Republicans by a 4-to-1 margin, or more.

I ask my colleagues, how in the world are we supposed to compete—or even hope to get our message out—if we are not allowed to wage an aggressive, fair and square fight?

So, this is a partisan issue because it affects the electability of challengers. But, the problems don't stop there.

I believe that if spending limits were imposed, candidates would focus more of their attention on the big contributors and the PAC's than on their grassroots fundraising efforts.

With campaign spending limits in place, fundraising expenses would, in all probability, count against the overall spending limits for each candidate. Campaigns currently spend a large percentage—between 22 and 33 percent—of their money raising more money. With the limits in place, candidates would naturally look for more cost-effective ways to raise money. The most obvious cost-cutting measure would be to focus more attention on the big contributors, and the PAC's and less on grassroots efforts to contact the average voter. In my mind, this is not reform.

It is the Main Street American—not the Wall Street executive or the labor union boss—who should ultimately have the influence in the electoral process.

We are having a hard enough time convincing Americans to participate in the electoral process. In my view, spending limits would reduce the amount of direct contact between candidates and voters, and in doing so, alienate voters even further.

THE CONSTITUTIONAL QUESTION

Mr. President, there are also serious constitutional questions about the proposals to limit campaign expenditures.

The proponents of this measure have argued that limits on campaign spending will ensure electoral integrity. However, in a statement from May 1987, the distinguished Senator from California, Senator CRANSTON, pointed out that the proponents of this amendment "face the intellectual task of making the case," that the effect of this constitutional amendment would be "to protect the first amendment, not to harm it."

Mr. President, I don't think that those favoring this legislation have made their case. In my view, requiring full disclosure of campaign spending would be a better alternative.

According to two landmark Supreme Court cases, campaign contributions and expenditure limits must be discussed in the context of the first amendment. In Tinker versus Des Moines Independent Community School District (1968), the Court expanded the definition of "freedom of speech" to freedom of nonverbal expression, and in Buckley versus Valeo (1976) the Court ruled that campaign expenditures are a logical extension of freedom of expression.

Senator HOLLINGS has recognized that there is a constitutional issue, but I don't think that the American people want us to tamper with the basic protections provided in the bill of rights as a way to solve the problem of campaign financing. In my view, we should leave the first amendment alone.

A DANGEROUS PRECEDENT

The American Civil Liberties Union has announced its opposition to the Hollings amendment, arguing that the last thing this country needs is "a second first amendment." In my view, the ACLU has raised a valid point.

This amendment would set a dangerous precedent. It would turn our Constitution into a "quick fix document"—something we can turn to whenever the Senate has a problem.

I believe that the competing values inherent in this issue are important. As Members of the Senate, we must seek a balance between the principles of freedom of speech and electoral integrity. But let's not use the constitutional amendment process to do our work for us.

CLOSING

Mr. President, I must oppose this measure, because it is not a solution to the problem of campaign spending.

I want reform. But, it has to be fair. I have indicated from the very beginning a willingness to negotiate on this issue, but, unfortunately, we have not been able to reach an agreement.

In my view, our bill—"the Congressional Campaign Finance Reform Act"—addresses each of the problems that the critics of the present system have identified. Those who have joined me in cosponsoring this measure have played a constructive role in the legislative process.

For me, the choice on this constitutional "short-cut" is clear. Mr. President, I urge my colleagues on both sides of the aisle to join me in opposing this misguided measure.

Mr. DODD. Mr. President, I join my colleague, the Senator from South Carolina in strongly urging the Senate to pass this constitutional amendment. I supported S. 2 during the past year and again this year when we debated it in this body. I always felt, however, that after the Buckley versus Valeo decision the necessary first step and the most direct approach in this matter is to make it clear, by a constitutional amendment, that a limit on campaign spending is not be regarded as a fetter on our right of free speech that we all cherish. That is why I joined my friend, Senator HOLLINGS in introducing this measure.

Two-hundred years ago the first U.S. Senate convened to begin one of the most important and visionary political experiments in human history. On that day in 1788, a radically new constitutional framework and political culture was born.

The fundamental principles which guided our political ancestors live on in the hearts and minds of the American people and all of us as Members of Congress. They sought to establish a popularly elected government which would be representative of and accountable to ordinary citizens. They set up a system of checks and balances to guard against institutional privilege and to make sure that special interests—what they used to call factions—would never supersede the broader interests of society as a whole.

Unfortunately, we have recently allowed to flourish a system of campaign finance laws and practices which threaten to erode the application of these principles in modern-day government. According to the Congressional Research Service, the average cost of winning a Senate seat increased from $609,000 in 1976 to over $3 million just 10 years later. The four candidates in the two most costly races in 1986 spent almost as much as all 66 Senate hopefuls did 12 years ago. In just one election cycle, spending on Senate races increased 31 percent, from $136 million in 1984 to $179 million in 1986.

Political action committees [PAC's] have played a major role in this spiraling of campaign costs. Between 1980 and 1986, PAC contributions to congressional candidates increased by over 150 percent, from $52 million to $128 million. In 1985-86, 13 Senate candidates received $1 million or more each from PAC contributions.

Let me be clear about one thing. I do not believe PAC's are inherently evil or destructive, nor do I think we must eliminate them from the American political system. On the contrary, PAC's can serve to bring ordinary citizens into the political process, many of whom might not otherwise recognize the importance of being involved. PAC's also provide an essential public information service and lend expertise to us as national legislators on a wide variety of issues. The real concerns here are twofold: First, that PAC's now have a disproportionate impact in the legislative process; and, second, the public perception that congressional offices are now up for sale to the highest bidder.

In any event, the raw numbers on campaign and PAC expenditures are alarming indeed. We are now in danger of losing what the framers worked so hard to achieve two centuries ago: An aristocracy not based on wealth or vested interest but an aristocracy of achievement arising out of a democracy of opportunity. "We the people" is fast becoming "we the special interests" and "we the well to do". As Senator BYRD said on the opening day of the 100th Congress,

> It will be a tragedy if the entrance requirement for service to this great forum is not intelligence, integrity, ability, and public-spiritedness, but rather the willingness and ability to play the deadly earnest game of fundraising, or personal wealth and the willingness to spend it or risk it in order to gain election.

Mr. President, as the sponsor of comprehensive campaign reform legislation in the 99th Congress, I understand how difficult it is to solve all the problems plaguing our current system of electoral financing. As politicians from different parties and points on the ideological spectrum, we are bound to have disagreements on the various elements which should be included in a campaign reform bill. They are disagreements which reflect the different demographics or our two parties' constituencies, the ways in which we campaign and seek political support, and the different issues and perspectives which make up the two parties' political philosophies.

This Congress has a historic opportunity: To reverse a destructive trend in our campaign system and ensure the perpetual integrity of our most precious constitutional principles. One-hundred years from now the cold eye of history will be upon us. We will be judged firmly on the demands and opportunities of our time and the steps we took to resolve them. When the Members of the 150th Congress convene during the Tricentennial of the U.S. Constitution, I want them to be able to say that we took decisive action to ensure that Government remains representative of and accountable to the American people; that we helped to resolve the public's confidence in us as public servants and in our hallowed institutions. If instead we pass along a legacy of vacillation and partisan stalemate, we will be condemning our descendants to the gradual erosion of our democratic principles.

Mr. President, I strongly urge my colleagues to adopt this constitutional amendment.

Mr. BYRD. Mr. President, there will be no more rollcall votes today.

I thank the distinguished leader on the other side of the aisle.

OIL TRADING

Mr. D'AMATO. Mr. President, I rise today with the purpose of providing for the RECORD information concerning a murky aspect of the world of oil trading and the impact of this trading on the prices which we in the United States pay for the pervasive and indispensible products of the petrochemical industry—from gasoline and heating oil to fertilizer and plastic bags.

Mr. President, I would like to begin by pointing out that when the media quotes the price of oil, the probability is high that the quote is not the cost of a barrel of oil from the Persian Gulf. Contrary to general opinion, the quote is most likely to be the cost of a barrel produced from the North Sea. Even less understood is that the price quoted is likely to have been heavily influenced by the fact that the market in which this North Sea oil is traded is used by its 80 to 100 participants principally as a futures market for hedging and speculation.

The Brent Market, named for a blend of crude oils produced in the North Sea fields, is an informal trading arena which accounts for trades of up to $100 billion of oil contracts each year. The market is largely unregulated and traders around the world frequently work out of a simple room equipped with telephones and telex machines. A large number of the traders and brokers are located in the United States. Fifteen or twenty contracts are written for each of approximately 43 cargoes of oil delivered each month. Most of the oil is bought and sold entirely for speculation or hedging with trades calculated in U.S. dollars using the American barrel as the standard of volume.

The lack of regulation and oversight has had very disturbing consequences. At the end of 1987, a single oil trader, Transworld Oil, reportedly bought all but two of the Brent cargoes destined for delivery in January 1988. Purchase of these cargoes by Transworld Oil for approximately $450 million effectively pushed world oil prices up by approximately $2 a barrel at a time when most analysts expected prices to fall due to the indecisive outcome of the OPEC meeting the previous December.

Another important component of the lack of regulation is related to tax. As oil production in the North Sea is taxed in the United Kingdom at rates of up to 88 percent while refinery products are taxed at only 30 to 35 percent—frequently with loss-carry-forward little or no tax is paid—it would appear commercially attractive, other things being equal, for oil producer/refiner companies trading between themselves to keep the prices at which North Sea crude is sold as low as possible while retaining results of the lower price as increased profits. This process is called tax spinning, and the alleged collusion involved provides the broad basis for a suit in U.S. district court brought by Transnor, another of the oil traders, against several of the major oil companies. In January 1986, oil sold for $26 to $28 per barrel on both markets. In mid-February, prices had dropped to $12 to $14 per barrel. Among other things, Transnor claims that the actions by the oil majors are in violation of the Commodity Exchange Act and are responsible for this sharp drop of oil prices during the period in question. Interestingly, the decline did not result in corresponding savings at the gas pump and oil company profits increased dramatically.

Despite the fact that this vitally important and unregulated market is apparently open to manipulation, the response of the United Kingdom to attempts to regulate the trading has been tentative. New British rules encourage the establishment of a futures exchange and clearinghouse, but do not require such mechanisms as a prerequisite for carrying on North Sea trade. The most restrictive of the rules rely on self-regulating organizations who would attempt to impose a code of conduct.

However the Transnor case may be decided, it is evident that the practice of trading on the Brent Market requires additional scrutiny by the U.S. regulatory agencies. With regard to Transworld Oil's activities, it is very disturbing from the perspective of energy security as well as fair trade practices that a single company could so profoundly influence the world price of oil simply by putting at marginal risk as little as $450 million.

Mr. President, I believe that we should continue to watch these activities carefully. I intend to do so. I will speak to this issue again at an appropriate time.

DRUG ABUSE

Mr. WILSON. Mr. President, there is no more important issue facing the Congress than that of drug abuse. Indeed, our actions to curb the use of drugs and interdict the supply of these deadly substances will greatly influence the course of this Nation. For if we fail to act, or if in acting, we do not do all that is within our capacity, future generations of Americans will suffer. While, overall, I have several concerns about the administration's current drug fighting efforts, I am encouraged by the effort undertaken by the White House conference for a drug free America to fight illicit drug use. Recently, the conference sponsored a series of roundtable discussions, in which I participated, to develop a comprehensive and effective response to drug abuse. I look forward to reviewing the report on those discussions.

Lois Haight Herrington, chairman of the White House Conference for a Drug Free America, has been forceful in her commitment to fight drug abuse. Indeed, prior to the commencement of the recent White House Conference, the chairman authored an editorial which appeared in the Washington Post entitled, "Drugs Were Wrong in the '70s, Too." On behalf of the conference, I ask unanimous consent that Mrs. Herrington's article appear in its entirety at the conclusion of my remarks.

Mr. President, in the editorial, a response to an earlier op-ed piece by Richard Cohen, Mrs. Herrington stresses the need to effectively combat the use of illegal drugs. I agree that we can ill afford to throw in the towel on our battle against drug abuse. America cannot become victim to such defeatism—the defeatism suggested by Mr. Cohen by advocating that we "just say yes."

Rather, what is needed, in my view, is a strengthened commitment to ending the abuse of illegal substances. Lois Haight Herrington and the White House Conference is an embodiment of that commitment, and I commend the chairman and the dedicated organization she chairs for their diligent efforts in pursuit of a drug free America.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

DRUGS WERE WRONG IN THE 1970S, TOO

(By Lois Haight Herrington)

In his op-ed column of Jan. 14 ["When Do You Lie For a Friend?"], Richard Cohen insinuates that some illegal drug use is okay, "a naive and basically harmless activity."

He is wrong! A number of good people made that mistake in the '60s and '70s, and many bear the scars of their errors to this day. Let us not be mistaken: drug abuse was bad then, just as it is bad now. The only difference is that we now see with greater clarity just how dangerous and destructive drugs are.

Drugs were against the law in the 1970s as they are in the 1980s, and those who used them were breaking the law. The user was then, as now, lining the pockets of, and supporting the scum of the earth—the drug pusher who peddles death, destruction, ruined lives and lost dreams.

The user then, as now, keeps the thugs in business—the same thugs who corrupt governments and who threaten, injure and kill innocent citizens who get in their way. These same thugs are people who think and preach that education and hard work are for chumps, and that for two or three hours a day selling "poison" you can have it all—car, condo, yacht, big money.

Users then, as now, dropped out, ruined health, families, and friends, and while chasing their high, victimized millions of innocent citizens. The drugs of the '70s are the drugs of the '80s and are as flat-out wrong, illegal and terrible now as they were then.

Many Americans realize this. But the fact that Cohen doesn't gives a hint as to his politically biased logic—a logic which seeks to hide another evil. It is all the more egregious for its subtlety; that it is permissible to lie about a crime, especially if it is a friend who committed it. Our moral values are left to drift in the wind when we preach that it is all right to lie if we personally do not condemn that which we lie about.

That may be Richard Cohen's code—intellectual dishonesty often traps the unwary. However, we must never let it cloud our moral integrity, and we must pray that no one, anywhere, ever again buys his tired old tirade—that those who fought then and those who fight now against the use, sale and profiting from illegal drugs are "holier-than-thou ideologues" or somehow un-American. That is not so, Mr. Cohen. They are trying to preserve America.

THE ARMENIAN GENOCIDE

Mr. LEVIN. Mr. President, April 24, 1988, marks the 73rd anniversary of the Armenian genocide of 1915–23. In the 73 years since the genocide, the Armenians have continued their struggle to escape persecution and unite in their ancestral homeland. This challenge continues even today, as the Armenian people test the proclaimed policy of glasnost.

Who would have predicted even a few months ago that more than half a million people would take to the streets of Yerevan to demand the return of the Karabakh region? Who would have thought that 100,000 Karabakhians would sign a petition to the Communist Party Central Committee requesting the annexation of Karabakh to Soviet Armenia or that Nagorno-Karabakh's regional assembly would vote to rejoin Armenia?

I raised the issue with General Secretary Gorbachev during a trip I took to Moscow in early March. Gorbachev seemed well acquainted with the Armenian genocide, and with the roots of the Karabakh controversy.

I told Mr. Gorbachev that anything the Soviet Government could do to address the legitimate grievances of the Armenian people would have a positive impact on United States-Soviet relations. I also transmitted to him, and personally supported, a cable from Alex Manoogian which appealed for the correction of a "historic injustice" by implementing the 1920 commitment of the Baku Soviet to return Karabakh to the Armenian Republic.

There has been, unfortunately, a rejection of any change in Karabakh's political status. Instead, the Soviets have made a promise to address some of the economic, cultural, and educational grievances of the Armenians in Karabakh.

While this was a disappointing response, it doesn't negate the importance of the events of the past few months. I don't believe that Mr. Gorbachev can ignore the legitimate grievances of the Armenian people indefinitely. Those responsible for the violence and the killings in Sumgait must be brought to justice. And the clearly expressed will of the Armenian majority in Karabakh has to be recognized in a substantive way.

The United States Government and Members of Congress can help by letting the Soviets know that we attach a great deal of importance to how they handle the Karabakh situation. At the same time, on this important anniversary Congress must also renew its efforts to remind the world of the events of 73 years ago. Efforts can and must be increased to educate people about the genocide.

The Armenian people are still trying to lay to rest the ghosts of 1915-23. The massacre of the Armenians was the 20th century's first act of genocide. Last year I said to the Senate: "Let us not let the tragedy visited upon the Armenians, and others, ever happen again." The atrocities committed in Sumgait demonstrate that persecution of these proud people continues 73 years later. Sadly, we have not yet learned from our past.

WORLD POPULATION AWARENESS WEEK

Mr. HARKIN. Mr. President, the differences between the State of Iowa and the nation of Bangladesh are plain enough. Differences in language, culture, climate, and history are obvious. And though the two lands are almost exactly the same geographic size, the difference in population is no less vivid: There are 2.8 million Iowans, while Bangladesh is home to some 108 million people.

One of the most important differences, however, at least in terms of its impact on the future, is the disparity in population growth rates. Iowa's population growth has stabilized. Bangladesh's enormous population, however, will double over the next 26 years if current growth rates continue to hold. Bangladesh is already a land of great hardship, of terrible urban density, huge unemployment, and environmental disruptions. It boggles the mind to imagine that same land with twice the number of people.

The diverging futures of Iowa and Bangladesh are representative of the industrialized world and the Third World as a whole. The richer nations have achieved population stabilization and can turn their attention to spreading the benefits of economic progress. The nations of the developing world, on the other hand, are losing ground in the struggle for development because of surging population growth rates. America's long-standing efforts to provide leadership and development assistance in the Third World will be frustrated until the developing nations are able to overcome these population pressures.

This week, citizens of Iowa and the other 49 States will gather at colleges, union halls, libraries, and civic clubs to mark the third annual World Population Awareness Week and to consider how this country might best help its developing neighbors in that struggle. This week provides an important opportunity for all of us to reckon with these challenging demographic trends, and I am pleased that Iowans are playing a leading role. I look forward to reviewing the successful results of this effort, and I ask unanimous consent that Gov. Terry Branstad's proclamation be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

PROCLAMATION

Whereas, the world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas, more than 90 percent of this unprecedented growth takes place in nations of the Third World least able to accommodate such rapid expansion; and

Whereas, rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic health services, and undermines economic development as well as social, cultural and political stability; and

Whereas, the massive proliferation of our human numbers places enormous strains on the global environment, contributing significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the Earth's land and waters and the destruction of its ozone layer; and

Whereas, the tragic results of the ever increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere; and

Whereas, the disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them:

Now, therefore, I, Terry E. Branstad, Governor of the State of Iowa, do hereby proclaim the week of April 17-23, 1988, as World Population Awareness Week in Iowa, and call upon citizens to reflect upon the consequences of world overpopulation and the opportunities to contribute to a solution.

TRIBUTE TO JOHN L. SALTER

Mr. ADAMS. Mr. President, earlier this week my State lost a great friend. John L. Salter will be sorely missed. As administrative assistant to Senator Henry M. Jackson for many years, he left an indelible mark on this country.

His commitment changed the history of Washington State dramatically, as well as the course of my own life. I came to know John Salter in the 1950's when we were both active in Washington State politics and in the Presidential campaign of John F. Kennedy.

In addition to his invaluable contribution to the election of President Kennedy, John Salter played a great part in my own election to the House of Representatives in 1964. His tireless efforts helped lead to the election of some of the most successful public officials from Washington State.

John was a very colorful character. Many of us looked to him for his unexcelled advice on matters involving both politics and issues. Along with that advice, he always had a sharp wit, which he often affectionately directed at his friends and colleagues.

I remember with great fondness many words and experiences shared with John Salter, and I know many join me in expressing great sorrow at his loss and in offering sincere condolences to John's wife Bettye and his three daughters, Erin Thurber, Tierney Dike, and Tracey Salter.

STATEMENT OF ROBERT D. BLACKWILL BEFORE THE SENATE ARMED SERVICES COMMITTEE

Mr. WIRTH. Mr. President, in his presentation to the Senate Armed Services Committee on conventional arms control in Europe, Robert Blackwill, lecturer in public policy at the John F. Kennedy School of Government, Harvard University, presents the Atlantic Alliance's challenge as that of "enduring efforts to achieve unilateral advantage through conventional arms control." Blackwill presents Soviet objectives as consistently seeking to codify Warsaw Pact conventional superiority and bring about the withdrawal of United States troops from Europe, goals not deviated from in the least by Gorbachev's Budapest appeal of June 1986. For Blackwill, with the high quality of Soviet diplomacy under Gorbachev's leadership, the West must wage a battle over European public opinion in pursuing conventional arms control, and in particular must try to ensure that "any blame for lack of progress in this endeavor falls squarely on the Soviet Union."

Any conventional arms control, Blackwill contends, must reduce the pact's capability for short-warning attack and limit the Soviets' enormous mobilization capacity, must contain stringent verification provisions. However, NATO does not have much it can afford to give up and still hope to retain an adequate force structure. Blackwill cautions against significant cuts in NATO forces in central Europe and eliminating United States short-range nuclear weapons in exchange for cuts in Soviet armor. Blackwill instead points to his proposal of reducing the number of offensive weapons—primarily tanks and artillery—in the alliances to equal ceilings. Verification in the conventional realm is nothing short of a nightmare, so Blackwill contends that manpower limits should be eschewed and that Soviet tank and artillery reductions take place by the regiment. Still, even if the Gorbachev regime makes monumental strides in military glasnost, the West will never achieve complete certainty in its verification efforts, and should therefore focus on uncovering only those violations that make a military difference. Blackwill concludes by outlining his—and Rand Corp. vice president, Jim Thomson's—proposal for parity between the rival blocs, with each side limiting its tanks to a ceiling of 20,000 and artillery pieces to 15,000 within the Atlantic-to-the-Urals area.

I ask unanimous consent that the statement be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF ROBERT D. BLACKWILL

Thank you for inviting me to express my views at this hearing concerning conventional arms control in Europe. In addressing this subject today, including in the context of the INF Treaty, I take as a given that we all agree that the United States and NATO should vigorously press the Soviet Union and its Warsaw Pact Allies to test whether Moscow's enduring efforts to achieve unilateral advantage through conventional arms control in Europe have actually changed under Mr. Gorbachev.

MOSCOW'S TRADITIONAL OBJECTIVES

As you know, formal East-West exchanges on conventional arms control in Europe began in 1973. While the U.S. pushed for the MBFR talks principally to stave off congressional pressures for unilateral troop withdrawals from Europe, Moscow sought to avoid these negotiations between the two alliances. It had no wish to negotiate away its conventional advantages. In the end, the Soviets went along to secure U.S. agreement to the Conference on Security and Cooperation in Europe (CSCE) but the U.S.S.R. never demonstrated in MBFR its professed interest in fairly reducing conventional forces in Europe.

Instead, the Politburo attempted through the many Eastern proposals over the fourteen long and fruitless years in MBFR to weaken NATO and transatlantic solidarity. To this end, Moscow pursued a set of reinforcing objectives:

To codify Warsaw Pact conventional superiority through an MBFR agreement;

To manage over time the graduated withdrawal of U.S. forces from Europe;

To constrain U.S. reinforcement capability;

To limit the size and the mobilization potential of the West German army;

To inhibit NATO force modernization;

To undermine the Alliance's military strategy of Flexible Response; and

To convince Western republics that security problems on the continent are essentially political and not military in character and that NATO nations are overspending on defense.

A fundamental question before us today on this subject is whether Gorbachev has altered these objectives.

SOVIET POLICY EVOLVES

In East Berlin on April 18, 1986, Gorbachev shocked NATO by announcing Soviet readiness to accept conventional force reductions and limitations from the Atlantic to the Urals. Moscow had asserted forcefully and frequently for 30 years that the U.S.S.R. would never accept a conventional arms control regime that included major portions of the Soviet homeland and excluded completely the territory of the United States. But Gorbachev shunted past policy aside and in its place formulated a new and enormously ambitious conventional arms control concept.

This concept was formalized at a Warsaw Pact Summit in Budapast two months later. There, the East proposed initial reductions of 10,000 to 150,000 men by each side within a year or two. (Recall that the current MBFR proposals by both alliances envisage total first phase reductions of less than 20,000 men.) It foresaw further cuts of 25 percent (about 500,000) by each alliance by the early 1990s; suggested a freeze on armaments levels; called for reductions in tactical air forces and cuts in nuclear delivery systems with ranges up to 1,000 kilometers; and singled out the problem of "dangerous" technological advances in conventional weaponry.

THE BUDAPEST APPEAL AS OLD THINKING

It is important to examine the Budapest Appeal closely, for it remains to this day and despite calls from Moscow for "reasonable sufficiency" and "defensive defense," the only specific conventional arms control proposal Gorbachev has yet put forward. Fully consistent with the disruptive Soviet European security objectives that I enumerated earlier, the Budapest Appeal is strikingly one-sided in design:

Its call for equal reductions of 100/150,000 on each side could allow the Soviets to reduce their less ready forces in the inner U.S.S.R. while NATO would be forced because of its lack of strategic depth to take much of its cuts in the first line divisions in Central Europe; this would make the balance in that critical area worse for the West and not better;

With its definition of tactical air forces, the East seems to have included on the NATO side all land-based and sea-based naval aircraft of this type while conveniently excluding air defense, reconnaissance and bomber aircraft which the Warsaw Pact deploys in great numbers;

The net effect of the East's armaments' proposal would be both to contractualize through treaty the Warsaw Pact's significant numerical advantages in major conventional weapons systems and to require that withdrawn US armaments be stored in the United States; similar Soviet armaments could be stockpiled in the western USSR thereby worsening still further NATO's geographic disadvantages;

By including nuclear weapons reductions in its initiative, Moscow continues to promote vigorously the denuclearization of Western Europe; and

Verification of residual limitations after reductions, always an ojectionable concept from the Soviet point of view, figures almost not at all in the Budapest Appeal.

NEW WORDS, BUT SO FAR ONLY WORDS, FROM MOSCOW

In the period following the Budapest Appeal, the Soviets have called for the elimination of the capacity for surprise attack; proposed the evolution to defensive force postures and doctrines for NATO and the Warsaw Pact; admitted they have some advantages in conventional forces in Europe, especially tanks; and expressed much greater willingness to accept intrusive verification measures in the context of a conventional arms control agreement.

These are important ideas for the West to explore with the Soviets, although Moscow also continually asserts that a rough conventional balance presently exists between the two sides in Europe. To this point, it is only radical and quite general rhetorical concepts we get from the Soviet Union, not any detailed initiative concerning its conventional force structure and deployments that would back up Gorbachev's aggressively conciliatory propositions. Those positive Soviet actions may come. I hope they do. We should all notice that they haven't yet.

WESTERN POLICY OBJECTIVES

As with the Warsaw Pact, NATO's broadest objective in pursuing conventional arms control in Europe in the period ahead should be political in nature. With Gorbachev posing the greatest Soviet public affairs challenge to the West in the postwar period, the United States in particular must try to ensure that any blame for lack of progress in this arms control endeavor falls squarely on the Soviet Union. Given the current high quality of Soviet diplomacy, that is a formidable task.

NATO's military goals in new Atlantic-to-the-Urals talks should derive from the threat represented by forward deployed Soviet armored forces in Eastern Europe and the massive reinforcements from the U.S.S.R. that would follow on in a conflict. The West needs to try to get at this abiding danger and increase warning time through an arms control agreement that reduces the Warsaw Pact's capability of utilizing these forces for short warning attack and to spearhead large scale and reinforced offensive action. This would at a minimum necessitate the withdrawal from Eastern Europe of many Soviet first-line tank and motor rifle units with their armaments to areas outside the Atlantic-to-the-Urals zone with much smaller reductions on the Western side; large reductions in Soviet ground forces capability inside the U.S.S.R.; and the establishment of an adequate verification regime to promote compliance with the resulting residual ceilings. If it can be done without unduly constraining Western flexibility, and be verified, NATO might also seek limits on the Red Army's enormous mobilization capability.

In addition, the United States and its Allies should protect against several negative outcomes in the new talks. NATO should especially avoid: Western reductions in Central Europe that would undermine necessary force-to-space ratios and the integrity of NATO fighting forces there; crippling limitations on U.S. reinforcement capability; weakening constraints on European mobilization and NATO force restructuring; technological limits on NATO's force modernization; interference with Western military activities outside the Atlantic-to-the-Urals zone; steps which would accelerate the denuclearization of Europe; U.S. troop withdrawals that would undermine extended deterrence; and any agreement with the East which would make NATO decision making in a crisis more difficult. This does not leave the Alliance very much with which to bargain with Moscow. That is a function of the serious military problems NATO confronts in Europe.

WHAT SORT OF NATO PROPOSAL?

With this background in mind, let me now quickly look at possible proposals that the West might put forward in the next phase of conventional arms control in Europe.

One idea is for the first phase US-Soviet cuts in their respective forces in Central Europe, followed by subsequent reductions on the part of other members of the two alliances. I do not support this notion. In my view, it would bite dangerously into NATO's operational reserves; complicate through no increase commitments West German and other Allied mobilization options; leave untouched Soviet forces in the U.S.S.R.; block some NATO defense improvements, with insufficient concessions from the East; give Moscow few military incentives to proceed beyond this first stage; and perhaps result in the withdrawn U.S. forces leaving active service because of budgetary reasons. As important, in the aftermath of the INF Treaty, a U.S. proposal to cut significantly its divisions in West Germany could further persuade our NATO Allies that the United States was on its way out of Europe and that our nuclear guarantee no longer had much credibility.

A second set of ideas surrounds the proposition that the United States should trade short range nuclear weapons, artillery and/or dual capable aircraft, for Soviet armor. Here, too, I have my doubts. The French and British governments rightly fear a slippage to denuclearization in Europe. They oppose any further negotiation with Moscow on nuclear weapons on the continent, including swapping nuclear weapons for tanks, until the conventional imbalance has been redressed. For the United States to proceed, therefore, would produce serious strains with these major Allies and undoubtedly divide NATO. Indeed, Paris would simply not agree to link conventional and nuclear weapons in the forthcoming negotiation among the 23 members of the two blocs.

Moreover, to trade U.S. nuclear weapons for Soviet tanks would not constrain Soviet nuclear weapons or U.S. tanks. So one would have to limit, and perhaps reduce, both U.S. and Soviet nuclear weapons and tanks. In that circumstance, Moscow would have incentives to stress through its proposals the nuclear rather than the armor component of this equation, thus potentially undermining Flexible Response. Further, it is difficult to see how limits on Soviet nuclear artillery shells and bombs could be verified. Many of NATO's dual capable aircraft would have crucial conventional missions at the outbreak of war. And given the rapid reintroduction capability to Europe of withdrawn aircraft, any restrictions on these systems would probably have to be global in character—a serious problem considering America's worldwide interests and obligations.

BLACKWILL/THOMSON PROPOSAL

That brings me to a proposal that Jim Thomson, Vice President of the RAND Corporation, and I have put forward.

Instead of a solely superpower emphasis, it is preferable in our judgment to reduce the number of offensive weapons in the two alliances to equal ceilings. In the Central European setting, the tank is clearly the preeminent offensive weapon. It could be used to spearhead blitzkrieg attacks designed to seize Western territory. Although tanks are also the best anti-tank weapon, NATO's need for tanks springs largely from the fact the Warsaw Pact has them, and in great numbers. Thus, if the Pact sharply cut its tank forces, NATO could also reduce its tank holdings.

But the reduction (or even elimination) of tank forces would not eliminate offensive capabilities. Warsaw Pact infantry, whether on foot or in vehicles, could also break through if artillery could be used to knock holes in NATO's forward defenses. Thus, it would probably be wise to include artillery reductions and residual ceilings as well. It is tempting to expand the list to cover additional weapons, but other ground and air force weapons do not have the same offensive capacity as tanks and artillery, and including them would both make a proposal more complicated and more difficult to verify.

As for verification, it is a conventional arms control nightmare. First, manpower. The Warsaw Pact has about three million men in its armed forces in the Atlantic-to-the-Urals area. If the East reduced these troops by two hundred thousand, imagine trying to verify compliance with a residual Pact ceiling of 2.8 million soldiers spread across thousands of military installations in millions of square miles. The Soviets could thwart the count by prolonging the period between inspection request and the arrival of inspectors, during which people could be moved around; ensuring inspection teams were too small to do the job; declaring a priori large areas off limits to inspectors; and curtailing inspectors' time on-site and freedom of movement. These folks, after all, did invent the Potemkin Village.

So the West should not include manpower in its proposals. Tanks and artillery are far easier to keep track of but that, too, would be an extraordinary challenge in the vast Warsaw Pact area from the inner-German border to the Ural Mountains. Thus, the West would be wise to insist that tank and artillery reductions be taken by the withdrawal of units—not divisions but their components (regiments and battalions).

If this verification approach was pursued, there would have to be a comprehensive and disaggregated data exchange on the two sides "order-of-battle," a listing of major units, their components, and tank and artillery holdings by individual units. This would be coupled with an intrusive, extensive and mandatory on-site inspection regime to check those inventories. But even with that monumental stride forward in Moscow's military glasnost, conventional arms control simply does not lend itself to strict verification standards. Either verification will become an impenetrable barrier to a conventional arms control treaty between East and West in Europe, or the United States will have to be willing to accept some uncertainty in verification. Given the nature of the beast, the US vertification emphasis should be on uncovering violations that make a military difference. In conventional arms control, exact counts of men or weapon systems are impossible.

EQUAL TANK AND ARTILLERY CEILINGS

This, then, is the Blackwill/Thomson proposal: Both sides should cut tank holdings to equal collective ceilings of 20,000 and artillery including multiple rocket launchers and heavy mortars to 15,000 in the Atlantic-to-the-Urals area. In the smaller zone of Central Europe, the corresponding figures would be 10,000 and 4,000. It is important to have the smaller zone to be sure that the most immediately threatening Soviet forces—those in Eastern Europe—are withdrawn or destroyed. Reductions would be taken in the form of regiments and battalions. The cuts would be sizable. The Warsaw Pact would have to eliminate about 30,000 tanks and 25,000 artillery pieces all told. NATO would reduce about 4,000 tanks and 2,000 artillery pieces. It is important to stress this is the required end result of negotiation, not an opening NATO position to be whittled away over time. Parity is what we are after, a simple idea that publics can understand and hopefully support.

These cuts would have a positive military difference. The Warsaw Pact would have to remove or destroy somewhat more than half of its tanks and artillery west of the Urals. But, since tank and artillery regiments rather than divisions would be withdrawn or deactivated, the East would not have to eliminate 50 percent of its 200 plus divisions. Instead, the Pact could pull out about half the offensive teeth of these divisions, leaving the less threatening components, such as infantry and anti-armor forces, behind or deactivate some divisions to save money and manpower and reorganize others.

The result would be substantially restructured and less offensive forces—and, to repeat, parity in the most offensive conventional weapons on the two sides. Modernization of forces would still be necessary, of course, but this would occur in the context of a far more stable conventional balance in Europe.

NEGOTIATING PATIENCE A KEY

I hope this concept is clear and fairly simple. Obviously, many details would have to be worked out. But by putting it forward soon, the West would be making a forceful statement about its aims in conventional arms control:

It wants to increase stability in Europe and to transform the military balance away from reliance on offensive weapons.

It wants to maintain the U.S. military commitment to the security of Europe—and the credibility of extended deterrence.

It challenges the Soviet Union to take a bold step consistent with Moscow's recent rhetoric, including its assertion that its military doctrine is defensive, toward changing the fundamental nature of the East-West military competition in Europe.

Although it does these things, the proposal is unlikely to be accepted in the short term. The Soviets have accumulated their offensive military power in Europe for many reasons, including intimidation of Western Europe and political suppression of Eastern Europe. Mr. Gorbachev says he wishes to alter the Soviet Union's post-war security patterns, including those in Europe. Perhaps he does. But until the Politburo changes in practice these destabilizing objectives, which as I indicated above it has yet to do, it is unlikely to agree as well to a fundamental shift in the military balance.

Nevertheless, fears of a drawn out negotiation should not prevent NATO from initiating a detailed dialogue with the U.S.S.R. on what the West believes it needs for its defense and the role conventional arms control can play in promoting stability in Europe. More than ever, we need to get past the beneficent generalities emanating from Moscow and patiently test real Soviet security goals through specific and fair Western negotiating proposals.

Attachment: Robert D. Blackwill, "Grim Prospects for Conventional Arms Control," The Washington Post, December 20, 1987.

THE OUTLOOK IS GRIM FOR CONVENTIONAL ARMS CONTROL

In the aftermath of the INF Treaty, attention in the West is now sensibly turning to conventional defense and arms control in Europe. After Mikhail Gorbachev's visit to Washington, there is even a hum of optimism in the air on this subject. Such humming should stop. Significant progress in conventional arms control negotiations with the Soviet Union in the next several years is quite unlikely.

It is true that Moscow's rhetoric concerning conventional arms control has changed. In calling for deep reductions of conventional arms, Soviets now routinely use the phrase "reasonable sufficiency" to describe the proper objective of Warsaw Pack and NATO defenses. They call for a transformed European security system based on "new thinking" in which neither alliance has the capacity for surprise attack. They admit that the Warsaw Pact has asymmetric advantages in some conventional weapons systems such as tanks. Moreover, major cutbacks in the Red Army would certainly assist Gorbachev's efforts to reform and reinvigorate the Soviet economy. So why the pessimism?

1. The Warsaw Pact enjoys conventional superiority in Europe with no prospect that NATO will build up its conventional forces. Moscow could well wish through an arms control agreement with the West to codify its conventional advantages at lower levels. Why should it wish to negotiate them away?

2. It is possible that the U.S.S.R. would be willing to trad*** BAD MAG TAPE ***e some armor for Western nuclear weapons and/or dual-capable aircraft. After INF, such a deal would further the Soviet goal of a denuclearized Europe and therefore will for the forseeable future be unacceptable to NATO. So what Moscow wants, NATO will not give.

3. Withdrawing many Soviet divisions from Eastern Europe could incite unrest there and threaten Gorbachev's hold on power.

4. Any NATO conventional arms control proposal should propose deep cuts in Soviet forces in the western U.S.S.R. as well as major withdrawals of the Red Army from Eastern Europe. James Thomson of the Rand Corp. and I have suggested elsewhere equal tank and artillery limits for NATO and the Warsaw Pact in the Atlantic-to-the-Urals area and in Central Europe and have argued that because of the immense mass of Soviet reinforcement capability from the U.S.S.R., small reductions, even if asymmetrical, would be worse than nothing. But equal armaments ceilings would require the elimination of tens of thousands of Warsaw Pact and especially Soviet tanks and artillery. This wkuld signal not just an arms control agreement but a fundamental transformation of the postwar political order in Europe. Not likely.

5. Verifying a conventional arms control agreement would be enormously difficult and would require rapid Western access to thousands of Eastern military installations as well as the Soviets' willingness to expose, through an exchange of information with the West, their order of battle down to the battalion level. To imagine such military openness—far beyond the INF verification regime—is to contemplate another sort of Soviet Union than even the most accommodating Gorbachev could likely deliver.

6. Gorbachev can reduce the size of the bloated Soviet armed forces unilaterally, thus saving money, without appreciably diminishing the military threat to Western Europe. This could include small Soviet troop withdrawls—no more than four divisions—from Eastern Europe, which would be meant to impress Western public opinion, stimulate NATO reciprocity, allow rapid reintroduction of Soviet forces in time of East European turbulence and avoid stringent verification. In fact, one could argue that if Gorbachev really wishes urgently to reduce Soviet spending on conventional forces, he cannot afford to wait for a treaty with the West that at best could take years to conclude.

This is not to say that the United States and NATO should give up on this endeavor as hopeless. To do so would both leave the initiative with Moscow and miss the opportunity to test Gorbachev's fine-sounding phrases. Therefore, the alliance needs publicly to put forth soon its concept for conventional arms control in Europe and explain how this concept fits into Western strategy. But to believe that Gorbachev—no matter how visionary—through good will and arms control will rescue the West from its conventional inferiority in Europe is to be on the lookout for Santa.

Thus, nuclear deterrence will remain a crucial element in the defense of the West. After the INF Treaty is ratified, we can expect renewed Soviet and Allied, especially German, domestic pressure to reduce, even eliminate, battlefield nuclear weapons in Europe with ranges below 500 kilometers. Foreign Minister Hans-Deitrich Genscher of West Germany has stated that he has a commitment from NATO Ministers that the alliance will expeditiously press for follow-on talks with Moscow on these short-range nuclear systems, most of which are deployed in the Federal Republic. Since such a negotiation would serve Moscow's objective of moving toward a nuclear-free Europe, one could expect much more Soviet flexibility here than with respect to conventional forces. Thus NATO's enduring conventional inferiority could be matched by an ever less credible nuclear deterrent. Call it old thinking or new, this is what Moscow may have in mind. Gorbachev can, of course, demonstrate otherwise—but not on the pages of Pravda.

THE DEMILITARIZATION OF THE REPUBLIC OF CYPRUS

Mr. TRIBLE. Mr. President, I rise today to urge my colleagues to join me in support of Cypriot President George Vassiliou and his call for the demilitarization of the Republic of Cyprus. If implemented, this bold initative could serve as the first step toward the end of the 14-year-old occupation and division of that nation.

As we all know, in 1974 Turkey invaded and occupied almost half of the Republic of Cyprus. Since that time, Turkey has refused to remove its illegal occupation force and continues to insist that valid security concerns preclude such a withdrawal. In fact, last year we witnessed an increase in the size and capability of the Turkish Force on Cyprus.

Rather than simply demanding the withdrawal of the Turkish troops on Cyprus, President Vassiliou has sought ways to restore the sovereignty of Cyprus, while at the same time addressing Turkey security concerns. The demilitarization program he is promoting accomplishes these dual goals.

Under this initiative, Turkey would be required to withdraw both its 35,000 occupation force and its 65,000 settlers from the Republic of Cyprus, in turn, would dismantle its own defenses and dissolve its National Guard. In addition, all troops in Cyprus under the 1960 Treaty of Alliance (Greek and Turkish contingents) would be withdrawn and the so-called Turkish Cypriot Security Force would be dissolved.

When the demilitarization program was complete, the only forces remaining on the Republic of Cyprus would be an international peace force under the auspices of the United Nations and a small joint Greek-Turkish Cypriot Police Force, also under U.N. supervision.

Once the Turkish troops and settlers are out of Cyprus, I am confident that the Greek Cypriots and Turkish Cypriots could sit down and resolve their remaining differences quickly. A united Cyprus would eliminate a significant impediment to the strengthening of relations between Greece and Turkey, and would strengthen the NATO alliance. In these interests and in the interests of peace, I urge my colleagues to lend their strong support to President Vassiliou and his unprecedented efforts to reunite his nation.

CAMPAIGN SPENDING

Mr. DASCHLE. Mr. President, the heart of S. 2 was its limit on total spending by a candidate.

Any campaign finance reform proposal that doesn't include a limit on total campaign spending doesn't deserve to be called reform.

The problem, as we all know, is that the Supreme Court has said Congress cannot constitutionally limit campaign spending.

That decision has forced those who share the view that campaign spending is escalating completely out of control into a series of maneuvers to try to write a constitutionally permissable campaign spending limit.

In the first draft of S. 2 we tried public financing because the Court said regulation of total campaign spending would be permissable only if the candidates were spending taxpayer dollars. But reform opponents said that cost too much.

Then we tried to meet the Supreme Court test by rewriting S. 2 to include no tax dollars except to punish a candidate who refused to accept total spending limits. We hoped this might satisfy the Court, but never found out because opponents attacked this provision as too cumbersome and still too costly.

In my view it was the hoop jumping into which we were forced by the Court's Buckley versus Valeo decision, more than any other factor, that gave opponents the excuses to defeat S. 2.

Senate Joint Resolution 21 would end the need for hoop jumping. By clearly granting Congress the right to put a lid on campaign spending, it would open the door to a straightforward limitation of total candidate spending.

Instead of cumbersome rationalizations, future advocates of campaign spending limitation could place the facts on the stunning rise in campaign spending directly before the Nation and ask, very simply, that they support a legal limit on total spending.

I know there are some who see limitation of campagin spending as a free speech issue. We cannot be too vigilant where our right to free speech is concerned, but it escapes me how those who strongly backed S. 2 can now oppose Senate Joint Resolution 21 on constitutional grounds.

If a campaign spending limit tramples on our freedom of speech, then it does so whether it is made possible through a constitutional amendment, as in Senate Joint Resolution 21, or by the potential payment of public moneys, as in S. 2.

But a campaign spending limit does not trample on our right to free speech no matter how it is created. What it does do is limit a grave threat to all our rights and to our entire democratic electoral system.

By permitting the restoration of spending sanity in campaigns, Senate Joint Resolution 21 would help restore the right to meaningful speech in politics by turning down the volume of the special interest's voices so those of the public and the candidates may be heard again.

And Senate Joint Resolution 21 would not have to delay passage of campaign reform legislation. If ratification were delayed, reform legislation like S. 2 could be introduced and moved at any time.

Mr. President, this Congress must show the Nation it is serious about campaign reform. Instead of excuses, our voters want action.

They do not believe limitation of political spending will cost too much. that's why they favored S. 2.

Nor do they believe limitation of political spending will cost them their freedom of speech. That's why they favor Senate Joint Resolution 21.

I believe they are right on both counts.

Runaway political spending is what is costing us. The time to move against it is now.

JOHN MUIR DAY, APRIL 21, 1988

Mr. KASTEN, Mr. President, I rise today in celebration of the 150th birthday of one of the most prominent citizens ever to grace my home State of Wisconsin.

John Muir, who emigrated from his native Scotland to Wisconsin as a small boy, is one of the most important figures in the historical development of the environmental protection movement. He founded the Sierra Club, and he was instrumental in the creation of the National Park System. More than any other single individual in the last century, John Muir has shaped the perspective of those of us who are trying today to protect America's natural heritage.

Growing up at Fountain Spring Farm and Hickory Ridge Farm near Portage, WI, young John Muir could not have failed to develop a deep and abiding love of Wisconsin's environment—and America's. And that love of nature did in fact grow in Muir's heart, and kept on growing until it flowered forth in the record of achievement that became John Muir's gift to future generations of Americans.

It has been said that the good life is the pursuit of excellence in accordance with virtue—and that this good life is both the source and the goal of human happiness. John Muir's life bears witness to the truth of these observations.

Muir understood the importance of the natural wonders of America, their goodness and beauty—in short, why they were worth preserving. But he also recognized that he could not be happy unless he tranformed his affection into action.

He knew that having your heart in the right place is never enough. To live the good life, a life of excellence and virtue, you have to work and to persevere. You have to make your good intentions live and breathe in the world of reality.

John Muir did not succeed in his very first attempt to create a nature preserve. But he later attributed much of his achievement to the attitude bred in him by his early life. Lack of success could only strengthen his resolve to pursue what he thought—and most of us who are environmentalists agree today—are essential goals.

John Muir exerted himself throughout his life to advance the cause of environmental protection. His genius and persistence paid off, and Americans of our own and future generations are the winners.

The most appropriate way for us to honor John Muir on this special day is to recommit ourselves to his goals, and work without ceasing to preserve the natural bounty he cherished. Perhaps we should even visit the closest nature preserve, and apply to John Muir the epitaph of the famous architect Christopher Wren in St. Paul's Cathedral in London: "If you want to see his monument, just look around."

Mr. President, John Muir once wrote that America's forests "must have been a great delight to God; for they were the best he ever planted." John Muir remains a great delight to Wisconsinites—and all environmentalists—because he was himself the best of the breed.

I ask unanimous consent that an article entitled "Muir's Wisconsin Meadow" from the Milwaukee Journal Magazine of April 17 be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Milwaukee Journal, Apr. 17, 1988]

MUIR'S WISCONSIN MEADOW

(By Inga Brynildson)

Five students in Kathy Lee's fourth grade class at Madison's John Muir Elementary School caught a bus to the State Capitol back in February. Their goal: to persuade the Legislature to proclaim April 21 "John Muir Day" in Wisconsin in honor of the 150th birthday of the nation's foremost conservationist and their school's namesake.

It turned out to be an easy task. "We won 97 to 0," said class member Joshua Edelman, 9.

Muir was about the age of Lee's students when he arrived in Wisconsin from Dunbar, Scotland, in 1849. The state was just a year old.

He stayed here about 15 years, toiling on his family's Marquette County farms and attending the University of Wisconsin. In the spring of 1864, wanderlust and concerns about the Civil War draft started Muir on a walk that would last his lifetime and bring him into the company of philosopher and poet Ralph Waldo Emerson and president Theodore Roosevelt.

Today, Muir is best known for his accomplishments after he left Wisconsin.

His enthusiastic writings about the beauties of the western Rockies and California's Yosemite Valley so inspired the nation that Muir became widely known as the "Father of our National Parks." He also founded the California-based Sierra Club.

John Muir sometimes preached as a lay minister at the Little United Presbyterian Church that still stands off County Highway O in south-central Wisconsin's Marquette County.

While Muir was on the farm, he didn't go to school, but he read any book he could borrow from neighbors and taught himself math in the "scraps of time" between meals and chores. In his mid-teens, Muir rose at 1 a.m. and felt like he was getting away with something to have "five hours to myself!"

In these wee hours, Muir, shivering in the dark farmhouse basement, began his tinkering with inventions that eventually bought his ticket off the farm. With hand-whittled wood and scrap metal, Muir built elaborate gadgets such as a self-starting sawmill, thermometers, barometers and many "timekeepers"—without ever having seen the inside of a clock. One of his most infamous inventions was what Muir dubbed his "early rising machine." The bed-frame-like contraption not only kept time but, by collapsing the footboard at the appropriate hour, would catapult its sleepy occupant out of bed.

At age 22, Muir packed up some of his novelties and caught the train from Pardeeville to Madison. There he hoped to exhibit his talents at the State Fair and attract a job in a machine shop. Muir's inventions became the prize of the fair and reports of their wonders were carried in newspapers as far as the East Coast.

At the fair, Muir met University of Wisconsin Prof. Ezra Carr and his wife, Jeanne, who became strong influences on his adult life. The Carrs were great admirers of young

Muir and fostered his intellectual development during his UW years.

After he left Wisconsin, Muir continued a letter-writing friendship with Jeanne Carr, who introduced him to influential publishers and to the woman he eventually married, Louisiana Wanda Stentzel, known, as Louie. A pyschic friend of Jeanne forecast that Muir would make his home in Yosemite Valley.

On the university campus, Muir equipped his second-floor dormitory room in North Hall with several of his inventions, including the early rising machine and a study desk that retrieved books set in a carriage beneath the desktop and also timed how long he should study each subject. The study desk is on exhibit in the main foyer of the old State Historical Society building on the west end of State St. in Madison. No one knows what became of Muir's trick bed.

Muir often took long swims and would explore the botany along the shore of Lake Mendota. For years a locust tree on campus, now dead, was known as "Muir Locust." The tree was said to have opened up the world of botany to Muir when he learned that this towering tree was a relative of the common garden pea.

Muir studied at the university four years without completing a degree, although years later, he was awarded honorary degrees from the UW and from Harvard University. An elderly Muir recalled his departure from Madison in his autobiography, *My Boyhood and Youth.*

"From the top of a hill on the north side of Lake Mendota, I gained a last wistful, lingering view of the beautiful university grounds and buildings where I had spent so many hungry and happy and hopeful days. There, with streaming eyes, I bade my blessed alma mater farewell. But I was only leaving one university for another, the Wisconsin University for the University of the Wilderness."

Jack Holzhuetar of the State Historical Society says the lack of recognition of Muir's Wisconsin years isn't that surprising. It is typical for great figures to be known from their birthplaces and from where they made their mark.

"Since Muir was neither born here nor had his career here, the general public may not associate Muir with Wisconsin," Holzhueter said.

Muir enthusiasts, however, want to increase awareness of his time in this state. I share an interest in Muir with my brother, Erik Brynildson, who now owns part of the land in Marquette Country where the Muirs settled when they moved to Wisconsin. He is trying to raise interest in declaring the area a national historic site.

He says, "We tend to forget that before there was a 'John of the Mountains' there was a 'John of the Meadow.' Much of Muir's love of nature can be traced right here to Fountain Lake."

Fountain Lake, now called Ennis Lake, is east of Highway 51 in the Town of Buffalo. The shoreline and adjacent lowland meadow are managed by Marquette County as the "John Muir Memorial Park."

Erik's land is the upland ridge where, as a graduate student for the UW—Madison Department of Landscape Architecture, he is researching the exact locations of the original Muir homestead and buildings that burned at the turn of the century.

Contrary to previous theories, Eric believes it is on this ridge where the Muirs built their makeshift "bur-oak shanty" while building the farmhouse. He points to two huge lilac bushes that still bloom on the site.

"Muir makes reference to these bushes which he said flanked the shanty and that his sister Sarah planted." Eric says.

He also examined the reference point of a drawing of the lake that Muir sketched while sitting on the shanty roof.

Besides trying to figure out the building sites, Eric wants to restore the landscape to its native beauty as Muir first saw it. Here again, be relies on the detailed record of plants and animals in Muir's childhood recollections:

"To this charming hut, in the sunny woods, overlooking a flowery glacial meadow and a lake rimmed with waterlilies, we were hauled by an ox team across trackless carex [marsh-plant-filled] swamps and low rolling hills sparsely dotted with roundhead oaks."

Countless hours of Muir's sweat went into clearing the Fountain Lake farm of its natural beauty, perhaps because of his father's desire to have dominion over the land.

"You could say the pioneer spirit was thrashed into him," Eric says. "He tried at least three times after he left Wisconsin to purchase the Fountain Lake farm. It was his dream until he died to have this area protected."

In fact, it might not be going too far to suggest that the idea for the preservation of national parks was spawned in the tiny still-bubbling meadow spring. In 1894, in a speech to the Sierra Club, Muir recalled the evolution of his preservation ethic:

"Saving bits of pure wilderness was a fond, favorite notion of mine long before I heard of national parks. When my father came from Scotland, he settled in a fine region of Wisconsin, beside a small glacier lake bordered with white pond lilies. And on the north side of the lake, just below our house, there was a carex meadow full of charming flowers. . . .

"And when I was about to wonder away on my long rambles, I was sorry to leave the precious meadow unprotected; therefore I said to my brother-in-law, who by then owned it, 'Sell me the 40 acres of lake meadow, and keep it fenced and never allow cattle or hogs to break into it, and I will gladly pay you whatever you say.'

"I want to keep it untrampled for the sake of its ferns and flowers, and even if I should never see it again, the beauty of its lilies and orchids is so pressed into by mind, I shall always enjoy looking back at them in imagination, ever across seas and continents, and perhaps after I am dead."

Now is not the first time the idea has been raised of following through on Muir's dream for the meadow. Renowned wildlife ecologist Aldo Leopold, who also lived in Wisconsin, tried to preserve Muir's boyhood home.

In an April 14, 1948, letter to Ernie Swift, director of what then was known as the Wisconsin Conservation Department, Leopold suggested that the site be turned into a state park. One week later, on Muir's birthday, Leopold died and the idea was all but forgotten.

Eric thinks the time has come to recognize the national significance of the farm. Earlier this year, he won the approval of the Marquette County Board to petition the National Park Service to designate the Muir Memorial Park and the adjoining original Fountain Lake farm lands as a national historic site.

"Traditionally we think of historic sites as buildings, birthplaces of famous Americans. Why not designate a natural landscape that gave birth to a great idea: the national park system?" Eric asks.

His idea was endorsed by the fourth World Wilderness Congress, which met last September in Estes Park, Colo. Sen. Robert Kasten (R-Wis.) also has launched a campaign to preserve the Muir homestead in Wisconsin, asking the U.S. interior secretary to study ways to preserve and enhance the site.

In the meantime, Sierra Club volunteers and other Muir enthusiasts plan to start restoring the Muir homestead land to natural prairie. They'll spread the first of the prairie seeds by hand this week as part of the celebration of Muir's birthday. The seeds come from neighboring prairies.

Kathy Lee's students at John Muir Elementary School also are planning a birthday party for John Muir. They'll plant trees, have a birthday cake, hold a science exposition and listen to Scottish bagpipes.

"The students are proud of their part in promoting John Muir Day," says Lee. "They hope people in Wisconsin will take a few moments to think about Muir and his Wisconsin heritage."

As one of Lee's students, 10-year-old Jonathan Stier, says, "When [Muir] went to Yosemite, he always thought back on Wisconsin and got the idea to preserve. He lived in Wisconsin but what he did goes beyond the state to the whole nation. He started the national parks."

Another student, Joshua Edelman, says: "I've never been to a national park, but I hope to go. For one thing I feel really good that not all this land is built up. I hope I can leave behind a legacy like John Muir did."

Muir's journeys took him to many corners of the world, but his memories of his Wisconsin meadow stayed with him throughout his life:

"When we first saw Fountain Lake meadow, on a sultry evening, sprinkled with millions of lightning bugs throbbing with light, the effect was so strange and beautiful that it seemed far too marvelous to be real. . . . Once I saw a splendid display of glowworms in the foothills of Calcutta, but glorious as it appeared in pure starry radiance, it was far less impressive than the extravagant abounding, quivering, dancing fire on our Wisconsin meadow."

As Muir's 150th birthday draws near, the Wisconsin spring warms his meadow. Quiescent pupae descended from lightning bugs, which once sparked an idea in a boy's mind, ready their wings for summer.

HONORING BIRTHDAY OF NOTED NATURALIST JOHN MUIR

Mr. BREAUX. Mr. President, I rise this afternoon to call the Senators' attention to the birth 150 years ago today of the noted naturalist, John Muir. It is an event which I did not wish to go unnoticed by this body.

A native of Scotland, Muir emigrated with his family to Wisconsin in 1849, where he studied science at the University of Wisconsin. Muir at first studied medicine, but soon turned his attention to the area that would make him famous: the study of natural history.

His achievements—first as scientist and naturalist, later as author and artist, and ultimately as lobbyist and founder of the Sierra Club—directly contributed to the establishment of our Nation's system of national parks.

Muir's career as a naturalist began in 1867 when he walked from Indiana to the Gulf of Mexico, recording his observations in a journal published many years later as "A Thousand Mile Walk to the Gulf."

In 1868 he traveled to the Yosemite Valley—a place which together with the glaciers of Alaska and the redwood forests of California—will forever be associated with the name John Muir.

He lived in Yosemite for 6 years, eventually demonstrating his then radical theory that the valley was caused by glacial erosion. This was one of the first places for which Muir would win protection as a national park.

He then journeyed to Alaska in 1879, further pursuing his study of glaciers and discovering Glacier Bay and a previously unknown glacier which now bears his name.

Muir returned to California, retiring from his studies for 10 years to run an orchard. Having made a success of this business venture, he gave himself over full time to the topic of conservation, particularly the preservation of the remaining virgin forests of the West.

Through his efforts and those of his supporters and colleagues, Congress passed the Yosemite National Park bill, establishing our first two national parks: Yosemite and Sequoia.

Later, when others sought to overturn the establishment of these parks, John Muir was among the leaders of the fight to reserve and expand our Nation's fledgling park system.

Today our National Park System consists of 341 separate park units, encompassing nearly 80 million acres of land. Hundreds of millions visit these parks every year, rediscovering their ancient connection with nature.

To quote Muir himself: "In God's wildness lies the hope of the word—the great fresh unblighted, unredeemed wilderness." As an avid outdoorsman, I can attest that few things are as stimulating as time spent in the wilderness.

This commitment to conservation did not die with Muir in 1914. Its tradition is carried on by the Sierra Club which he helped to found, and which to this day continues his fight to preserve the parks and forests and wilderness areas we have set aside, and to expand those preserves to include more of our rapidly vanishing wild areas.

Today Muir is remembered through the continuing work of the Sierra Club, through his several books, and through the national parks and forests and wilderness areas which Congress has established.

While just one park bears Muir's name—a virgin stand of his beloved redwoods near San Francisco, CA—the entire park system is a monument to his commitment to conservation.

RULES AND PROCEDURE OF SPECIAL COMMITTEE ON INVESTIGATION OF THE SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. DECONCINI. Mr. President, I ask unanimous consent that the rules of procedure for the Special Committee on Investigation of the Select Committee on Indian Affairs as adopted by the special committee recently be printed in full in the CONGRESSIONAL RECORD.

There being no objection, the rules were ordered to be printed in the RECORD, as follows:

RULES OF PROCEDURE OF THE SPECIAL COMMITTEE ON INVESTIGATIONS OF THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

RULE 1. CONVENING OF MEETINGS AND HEARINGS

1.1 *Meetings.* The committee shall meet at the call of the chairman. The members of the committee may call special meetings as provided in Senate Rule XXVI, except that actions of only two members of the committee shall be required to call special meetings.

1.2 *Notice.* The committee shall make public announcement of the date, place, and subject matter of any hearing at least one week before its commencement, except that a hearing may be called on shortened notice if the chairman determines that there is good cause to begin such hearing at an earlier date.

1.3 *Presiding Officer.* The chairman shall preside when present. If the chairman is not present at any meeting or hearing, the co-chairman shall preside. Any member of the committee designated by the chairman may preside at a hearing.

RULE 2. CLOSED SESSIONS

2.1 *Procedure.* All meetings and hearings shall be open to the public unless closed. To close all or part of a hearing or meeting, or a series of hearings or meetings for a period of no more than 14 days, the committee shall vote in open session by a record vote, including proxy votes, of a majority of the members of the committee. If discussion in closed session is necessary, a motion shall be made and seconded to go into closed session to discuss whether the meeting or hearing will concern the matters enumerated in Rule 2.2. Immediately after such discussion the committee shall return to open session and the meeting or hearing may then be closed by a record vote.

2.2 *Closed Session Subjects.* A meeting or hearing may be closed if the matters to be discussed concern: (1) national security or the confidential conduct of foreign relations; (2) committee staff personnel or internal staff management or procedure; (3) matters tending to reflect adversely on the character or reputation; or to invade the privacy, of any individuals; (4) matters that will disclose the identity of any informer or undercover law enforcement agent or will disclose any information relating to the investigation or prosecution of a criminal offsense that is required to be kept secret in the interests of effective law enforcement; or (5) matters that will disclose information relating to the trade secrets of financial or commercial information that must be kept confidential by reason of law or in order to prevent competitive injury; or (6) matters required to be kept confidential under other provisions of law or regulations.

2.3 *Witness Request.* Any witness called to testify at a hearing may submit to the chairman, no later than 24 hours in advance of a hearing, a written request to be examined in closed or open session. The chairman shall inform the committee of the request, and the committee shall take such action pursuant to Rule 2.1 as it deems appropriate.

2.4 *Broadcasting.*

(a) *Control.* Any meeting or hearing open to the public may be covered by television, radio, or still photography. Coverage must be conducted in an orderly and unobtrusive manner, and the presiding officer may for good cause terminate coverage in whole or in part or take other action to promote orderly proceedings.

(b) *Request.* A witness may request of the presiding officer on grounds of distraction, harassment, personal safety, or physical discomfort that during his or her testimony cameras, media microphones, and lights shall not be directed at the witness, and the presiding officer may take such action as he deems appropriate.

RULE 3. QUORUMS AND VOTING

3.1 *Reporting and Other Business.* Two members shall constitute a quorum for reporting a matter or recommendation to the Senate or for the conduct of other business.

3.2 *Testimony.* One member shall constitute a quorum for hearing testimony.

3.3 *Proxies.* Proxies shall be in writing, and shall be filed with the chief clerk by the absent member or by a member present at the meeting. Proxies shall contain sufficient reference to the pending matter to show that the absent member has been informed of it and has affirmatively requested that he be recorded as voting on it. Proxies shall not be counted towards a quorum.

3.4 *Polling.*

(a) *Subjects.* The committee may poll only (1) internal committee matters including the committee's staff, records, and budget; (2) authorization for steps in the investigation, including the authorization and issuance of subpoenas and deposition notices, requests for applications for immunity orders, and requests for documents; (3) other committee business, not including a vote on reporting to the Senate, that the committee at a meeting has designated for polling at a subsequent time.

(b) *Procedure.* At the direction of the committee or the chairman, as provided in Rule 3.4(a), polling sheets shall be circulated to each member specifying the matter being polled and the time limit for completion of the poll. If any member so requests, the matter shall be held for consideration at a meeting. The chief clerk shall keep a record of polls, including a written record of members' written or oral disposition of polled matters. If the chairman, with the approval of a majority of the members, determines that the polled matter is in one of the areas enumerated in Rule 2.2, the record of the poll shall be confidential.

RULE 4. SUBPOENAS

4.1 *Authorization.* Subpoenas may be authorized by the committee and may be issued by the chairman or any member of the committee designated by the chairman. The chief clerk shall keep a log, and a file, of all subpoenas.

4.2 *Return.* A subpoena duces tecum or order for documents may be issued whose return shall occur at a deposition or at another time and place other than at a hearing. When a return on such a subpoena or order is incomplete or accompanied by an objection, the chairman may convene a meeting or hearing on shortened notice to determine the adequacy of the return and to rule on the objection or may refer the issues raised by the return for decision by poll of the committee. At a meeting or hearing on such a return, one member shall constitute a quorum.

RULE 5. HEARINGS

5.1 *Notice.* Witnesses shall be given at least 48 hours notice, unless the chairman determines that extraordinary circumstances warrant shorter notice, and all witnesses shall be furnished with a copy of Senate Resolution 381, 100th Congress (1988), and of these rules.

5.2 *Oath.* All witnesses who testify to matters of fact shall be sworn unless the committee authorizes waiver of oath. The chairman or any member shall administer oaths to witnesses at hearings.

5.3 *Statement.* Any witness desiring to make an introductory statement shall file 10 copies of the statement with the chairman or chief clerk 48 hours in advance of the appearance, unless the chairman determines that there is good cause for a witness's failure to do so. A witness may be required to summarize a prepared statement if it exceeds 5 minutes.

5.4 *Counsel.*

(a) *Presence.* A witness's counsel shall be permitted to be present during the witness's testimony at any public or closed hearing or deposition or staff interview to advise the witness of his or her rights; provided, however, that in the case of any witness who is an officer or employee of the government, or of a corporation or association, the chairman or the committee may rule that representation by counsel from the government, corporation, or association or by counsel representing other witnesses, creates a conflict of interest, and that the witness shall be represented by personal counsel not from the government, corporation, or association or not representing other witnesses.

(b) *Inability to Obtain Counsel.* A witness who is unable for indigence or other reason to obtain counsel shall inform the committee at least 48 hours prior to the witness's appearance, and the committee will endeavor to obtain volunteer counsel for the witness. Failure to obtain counsel will not excuse the witness from appearing and testifying.

(c) *Conduct.* Counsel shall behave in an ethical and professional manner. Failure to do so shall, upon a finding to that effect by a majority of the members present, subject counsel to disciplinary action, which may include warning, censure, or ejection.

5.5 *Transcript.* An accurate electronic or stenographic record shall be kept of all testimony in closed and public hearings. At a witness's request and expense, access to a copy of a witness's testimony in public or closed session shall be provided to the witness. Upon inspecting the transcript, within a time limit set by the chief clerk, a witness may in writing request changes in the transcript to correct errors of transcription, grammatical errors, and obvious errors of fact, the chairman or a staff officer designated by him shall rule on such requests.

5.6 *Impugned Persons.* Any person who believes that evidence presented, or comment made by a member or staff, at a public hearing, or at a closed hearing concerning which there have been public reports, tends to impugn his or her character or adversely affect his or her reputation may:

(a) file a sworn statement of facts relevant to the evidence or comment, which shall be placed in the hearing record;

(b) request the opportunity to appear personally before the committee to testify in his or her own behalf; or

(c) request that submitted written questions be used for the cross-examination of witnesses called by the committee. The chairman shall inform the committee of requests for appearance or cross-examination. If the committee so decides, the requested questions, or paraphrased versions or portions of them, shall be put to the other witnesses by a member or by staff.

5.7 *Additional Witnesses.* The cochairman of the committee shall be entitled, upon a timely request made to the chairman, to call additional witnesses or to require the production of documents during at least one day of hearing.

RULE 6. DEPOSITIONS AND EXAMINATION OF RECORDS

6.1 *Deposition Notices.* Notices for the taking of depositions shall be authorized by the committee and issued by the chairman or by a staff member designated by him. Such notices shall specify a time and place for examination, and the name of the staff member or members who will take the deposition. Unless otherwise specified, the deposition shall be in private. The committee shall not inititate procedures leading to criminal or civil enforcement proceedings for a witness's failure to appear unless the deposition notice was accompanied by a subpoena authorized by the committee.

6.2 *Counsel at Depositions.* Witnesses may be accompanied at a deposition by counsel to advise them of their rights, subject to the provisions of Rule 5.4.

6.3 *Deposition Procedure.* Witnesses at depositions shall be examined upon oath administered by an individual authorized by law to administer oaths, or any member who may be present and elect to administer the oath. Questions shall be propounded orally by staff members. Objections by the witness as to the form of questions shall be noted for the record. If a witness objects to a question and refuses to testify on the basis of relevance or privilege, the committee staff may proceed with the deposition, or may, at that time or at a subsequent time, seek a ruling by telephone or otherwise on the objection from the chairman of the committee or a member designated by him. The chairman or designated member may refer the matter to the committee or rule on the objection. If he overrules the objection, he may order and direct the witness to answer the questions. The committee shall not initiate procedures leading to civil or criminal enforcement unless the witness refuses to testify after having been ordered and directed to answer.

6.4 *Filing of Depositions.* The committee staff shall see that deposition testimony is transcribed or electronically recorded. If it is transcribed, the witness shall be furnished with a copy, or access to a copy, for review. No later than five days thereafter, if a copy is provided, the witness shall return it with his or her signature, and the staff may enter the changes, if any, requested by the witness in accordance with Rule 5.5. If the witness fails to return a signed copy the staff shall note on the transcript the date a copy was provided and the failure to return it. The individual administering the oath shall certify on the transcript that the witness was duly sworn in his or her presence, the transcriber shall certify that the transcript is a true record of the tesimony, and the transcript shall then be filed with the chief clerk. Committee staff may stipulate with the witness to changes in this procedure. Objections to errors in this procedure that might be cured if promptly presented are waived unless timely objection is made.

6.5 *Examination of Records.* The committee or the chairman may authorize the staff to inspect locations or systems of records on behalf of the committee.

RULE 7. SENSITIVE OR CONFIDENTIAL MATERIALS

7.1 *Nondisclosure.* No member of the committee or its staff shall disclose, in whole or in part or by way of summary, to any person outside the committee and its staff, for any purpose or in connection with any proceeding, judicial or otherwise, any testimony taken, including the names of witnesses testifying, or material presented, in depositions or at closed hearings, or any confidential materials or information, unless authorized by the committee or the chairman.

7.2 *Nondisclosure Agreement.* All members of the committee staff shall agree in writing, as a condition of employment, to abide by the conditions of a nondisclosure agreement promulgated by the committee.

7.3 *Violations.* Allegations concerning unauthorized disclosure may be addressed by the committee or may be referred by a majority vote of the committee to the Select Committee on Ethics. Any member of the staff who fails to conform to the provisions of Rule 7 shall be subject to disciplinary sanction, including termination of employment.

7.4 *Applicability of Rules.* For purposes of Rules 6 and 7, committee staff include the employees of the committee, detailees and consultants to the committee, and the officers and employees of the Office of Senate Legal Counsel who are requested by the chairman to work on committee business.

RULE 8. DETAILEES AND CONSULTANTS

The chairman shall have authority to use on a reimbursable basis, with the prior consent of the Committee on Rules and Administration, the services of personnel of any department or agency of the United States and shall have authority to procure the temporary or intermittent services of individual consultants or organizations.

RULE 9. EFFECTIVE CHANGES IN RULES

These rules shall become effective upon publication in the Congressional Record. These rules may be modified, amended, or repealed by the committee, provided that all members are present or provide proxies or if a notice in writing of the proposed changes has been given to each member at least 48 hours prior to the meeting at which action thereon is to be taken. The changes shall become effective immediately upon publication of the changed rule or rules in the Congressional Record, or immediately upon approval of the changes if so resolved by the committee as long as any witnesses who may be affected by the change in rules are provided with them.

WILLIAM F. (BILL) NICHOLS ARMY RESERVE CENTER

Mr. HEFLIN. Mr. President, I recently had the privilege of paying tribute to my long-time friend and distinguished colleague in the Alabama Congressional Delegation, Congressman BILL NICHOLS, at the dedication of the William F. (Bill) Nichols Army Reserve Center, in Anniston, AL.

Congressman NICHOLS has served my State and our Nation in an outstanding capacity for 22 years. He is responsible for making the Alabama Congressional Delegation as good as it is, and we are truly blessed to be able to work with him in efforts that will benefit the people of our State. Congressman NICHOLS has also worked to make America a stronger Nation, and to ensure that we will always be able to defend our freedom and liberty against any threat.

During the dedication ceremony, I was deeply impressed by the remarks which were made in Congressman NICHOLS' honor, and believe that they accurately illustrate the kind of man he is and describe the wonderful accomplishments that he has made on behalf of the people of Alabama and America as a public servant. Among those who spoke at the ceremony were Secretary of the Army John Marsh, Maj. Gen. A. Winston Porter, Jr., commander of the 121st Army Reserve Command, Brig. Gen. Richard Allen, who heads the 3d Transportation Brigade which will be headquartered at the Nichols Army Reserve Center, and myself. Congressman NICHOLS also spoke at the ceremony. I ask unanimous consent that these remarks be printed in the CONGRESSIONAL RECORD so that people can see the tremendous example Congressman NICHOLS has set for all of America.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRIGADIER GENERAL ALLEN DEDICATES NEW CENTER

Two hundred years ago in the spring of 1788, there was an excitement throughout the land as the 13 original states were in the process of ratifying the newly drafted Constitution of the United States. Crowds, such as the one here today, gathered to hear speeches, pro and con, from important and informed men just as we have here today. The remarkable instrument that they debated is the foundation upon which this nation has been built. This oldest written constitution was the work product of a remarkable group of men—men who, despite their many differences, shared many outstanding characteristics. The man who honors us today by allowing us to place his name on this United States Army Reserve Center would have been comfortable in the presence of the framers of our constitution since he, too, shares many of their outstanding characteristics.

First, they were all practical men, men who were doers, who knew how to get things done. They were farmers, merchants, planters, politicians and lawyers, not political scientists or theoreticians.

Next, they were all statesmen. As a group, they were able to subordinate the parochial interests of their state or region to the interest of the nation as a whole. They hammered out difficult compromises which ensured that the small and the weak would be protected from the large and the strong, realizing that often the minority must be protected from the "Tyranny of the Majority".

Finally, and most significant from my perspective, 23 of the 55 signers of the constitution were citizen-soldiers like those participating in this ceremony here today. They had put their lives on the line in the name of freedom and they were not about to let conditions persist that would put that freedom in jeopardy.

As I mentioned, Congressman Bill Nichols shares many of those outstanding characteristics. He, too, is a practical man who knows how to get things done. Educated in the classrooms at Auburn University, and in the school of hard knocks on the football practice field, this former all-star has been getting things done for all of his life, as an athlete, a soldier and a congressman.

He, too, is a statesman who for 22 years has helped guide this nation at peace and at war, as a member of the United States House of Representatives. The fact that the army, as an exception to policy, has decided to name this facility in his honor is clear evidence of the high esteem in which he is held by those with whom he works in our Nation's Capital.

Finally, like those partriots of old, Bill Nichols was a citizen-soldier who answered the call to defend freedom during World War II. Like all U.S. soldiers past and present, Lt. Bill Nichols, U.S. Army Reserve, took the oath to "Support and Defend the Constitution of the United States", and he very nearly paid the ultimate price. Awarded the Bronze Star Medal and the Purple Heart for his heroism, his example gives real meaning to words often used so carelessly today—words like loyalty, duty, honor and sacrifice.

Our constitution, at article one, section eight, enumerates the power given to the Congress of the United States. Subsection 8 grants the congress the power "To raise and support armies . . ."

I emphasize the word "SUPPORT" because no one in congress in the last 22 years has been more supportive than congressman Bill Nichols in fulfilling this constitutional mandate to support the Army of the United States and especially the citizen-soldiers of the United States Army Reserve. That there is a 3rd Transportation Brigade here in Anniston, Alabama today and that we have this magnificent facility that we are now enjoying can be attributed directly to his hard work to ensure that the U.S. Army is properly supported and funded. This magnificent facility we are today dedicating now houses three major United States Army Reserve Units, the 3rd Transportation Brigade, the 3rd Battalion 15th Field Artillery, and the 490th Chemical Battalion. The Citizen-Soldiers who train in this facility, year in and year out, will be better able to perform their war fighting mission because of the support congressman Nichols has given in organizing and equipping these units and having this training facility constructed here in Anniston.

As we dedicate this facility to a truly great American, I ask that those of us who are citizen-soldiers and who will be training within these walls dedicate ourselves to the ideals of its namesake. Each time we assemble for training and see Bill Nichols' name spread across the front of this building or each time we glimpse the magnificent portrait hanging in the foyer, we will be inspired to live up to his superb example of duty, honor, loyalty and selfless sacrifice.

INTRODUCTION OF SECRETARY MARSH BY MAJOR GENERAL WINSTON PORTER, JR.

Senator Heflin, Senator Shelby, Congressman and Mrs. Nichols, distinguished guests, soldiers of the 3d Transportation Brigade, ladies and gentlemen:

Secretary of the Army John O. Marsh, Jr., a native Virginian, has had a long and distinguished career in the service of his country. Commissioned from OCS in 1945 at the age of 19, he served with the U.S. occupation forces in Germany. Following active duty, he graduated from Washington & Lee University Law School and went into private practice in Virginia.

In addition to serving in the U.S. House of Representatives for four terms, Secretary Marsh has served as the Assistant Secretary of Defense for Legislative Affairs; as Vice President Ford's Assistant for National Security Affairs; and as Counsellor to President Ford. On January 30, 1981, he was appointed Secretary of the Army and is the longest serving Secretary of the Army since the position was authorized in 1947.

In addition, Secretary Marsh served 4 years in the U.S. Army Reserve and 25 years in the Virginia National Guard, rising to the rank of lieutenant colonel. He voluntarily served a month's active duty with the U.S. Army in Vietnam.

Secretary Marsh is married to Glenn Ann Patterson who is here with us today. They have three children.

Secretary Marsh has been a great leader for the Army during the 1980's. He has been a great friend to the U.S. Army Reserve and it is only with his leadership that we are here today to dedicate this reserve center in honor of Congressman Nichols.

Ladies and gentlemen, it is a distinct privilege for me to present to you the Honorable John O. Marsh, Jr., Secretary of the Army.

REMARKS BY THE HONORABLE JOHN O. MARSH, JR., SECRETARY OF THE ARMY

To a very distinguished Congressional delegation, Senator Heflin, Senator Shelby, and the individual that we honor today, it is a pleasure on behalf of the Army to be here to thank you for the enormous contributions that each of you make in the defense of this great country.

As Emory Folmer and Will Hill Tankersley, the other distinguished guests on the platform realize, this is an important day, not just in Anniston, not just in Alabama, but in America. I would like to cite several reasons why we have gathered here, and why this Center is being named for Congressman Bill Nichols.

America needs heroes. We need role models and we need heroes—words that well describe Bill Nichols. That is the principal reason this facility will bear his name.

We are grateful to you, Bill, for that role model, for being a hero. We are very grateful to you, Carolyn, for everything you have done that has contributed so much to this very distinguished career.

But our country does need heroes, and all nations need heroes. Longfellow observed this when he said, "The heights by great men reached and kept were not attained by sudden flight, but they, while their companions slept, were toiling upward in the night."

The role model for whom this Center is named has been much more than a Congressman. It is also named for a great Alabama athlete. Captain of the Auburn team, he played in the Orange Bowl on the team that defeated Michigan 6-0. He went on to earn not just his bachelor of arts degree, but also his masters degree.

There was another dimension to his life on public service that I suspect was not as well noticed at Auburn at that time, or here in the State of Alabama. He was a member of the ROTC. Commissioned a United States Army officer, he served with the 8th Division, was critically wounded, and bears the marks of that wound to this day. So, it was that military career, that athletic career, that statesman's career that have led to the naming of this Center today. And then, of course, there has followed a very distinguished career in the Congress of the United States.

I had the honor to serve with Bill when he first came to Congress. I can tell you that he is universally respected, and regarded with great affection on both sides of the aisle because of his integrity, his honesty, his effectiveness and above all his deep dedication to this Country and the values it represents.

A truly hard worker, he was the co-author of the Goldwater/Nichols bill, a landmark piece of legislation relating to the organization of our Armed Forces which in the last two years has significantly changed the command structure and the way in which our Armed Forces do business.

That was very important legislation, because it impacts on Reserve Components and that's another reason that this building is named for Bill. This Reserve Center represents, among other things, the new dimension that is played in our National Security Program by components of the Reserves.

I would mention to you that today in the United States Army, for every one soldier that serves in the active force, there is one soldier serving either in the National Guard or in the Army Reserve.

Because America needs heroes, we want this building to remind the young men and women in uniform, who serve their nation from this facility, of this role model. It will inspire them and certainly enhance the quality of their public service. I would hope there will soon be displays in this building that identify the achievements of this individual, so that people who visit here can see the contributions that one individual can make to the world in which they live, making it not just a better world, but a safer world in which there is peace and freedom for all.

To you, Bill, we are most grateful.

SPEECH OF SENATOR HOWELL HEFLIN

Ladies and Gentlemen, we are gathered here, today, not only to dedicate a facility that will enhance our national security, but also to pay tribute to Congressman Bill Nichols—a man who has, throughout his life, answered his country's call to duty, and served our State and our nation with courage, devotion and distinction, many, many times above and beyond the call of duty.

Congressman Nichols has worked tirelessly throughout his career to see that America is strong enough to defend its liberty and freedom. Because of his work, it is entirely appropriate that this facility we dedicate today bears his name and will remind all of his contributions for years to come.

The William F. (Bill) Nichols Army Reserve Center will provide the 3d Transportation Brigade, the 490th Chemical Battalion, and two batteries of the 3d Battalion, 15th Field Artillery with the space and facilities to train and house equipment in a high state of mobilization readiness. I can think of no greater monument to the work and accomplishments Bill Nichols has made possible through over 20 years in the House of Representatives. It will not only be a monument to be viewed, but a working and efficient monument which will continue throughout its life to add to our nation's military strength.

Congressman Nichols is known in Washington for his leadership, his patriotism, and his dedication to serving the public good. An example of the great respect with which he is regarded occurred immediately following the groundbreaking ceremony for the expansion and renovation of this Army Reserve Center.

Bill had worked for years on legislation which would reorganize the chain of command at the Department of Defense and Joint Chiefs of Staff in order to allow for better coordination during times of armed conflict. He rightly believed that the time for this reorganization was long overdue. National leaders since Dwight D. Eisenhower had tried with no success to accomplish this military reorganization, but were all unsuccessful because of the resistance of the Defense Department.

However, Bill Nichols crafted such excellent legislation that it passed the House of Representatives by an almost unanimous vote. His colleagues in the House then paid him a tremendous compliment. They named the legislation "The Bill Nichols Department of Defense Reorganization Act of 1986," the first time in almost three decades that such an honor had been bestowed.

I personally believe that this legislation is one of the most important bills to be passed in the decade. It will serve to eliminate the confusion at high levels of command.

Bill Nichols has always supported a strong U.S. military. I am sure that his combat experience as a soldier in World War II has helped him to understand the plight of the serviceman. Indeed, he is known as "the Serviceman's Friend" for his support of weapons, equipment, supplies, and programs which will benefit our soldiers in combat and peacetime. He knows what it is like to be in combat under fire. During the war he fought valiantly and was severely wounded at the battle of the Hurtgen Forest in Germany. As a result of his bravery on the battlefield, he was highly decorated and awarded the Bronze Star and the Purple Heart.

However, Congressman Nichols has also worked to see that the hard-earned dollars of the American taxpayer are not wasted or abused. He has never given the Pentagon a blank check, but has endeavored to ensure that the taxpayer's dollars are spent in the wisest possible manner.

As chairman since 1983 of the House Military Investigations Subcommittee, Bill Nichols has led the probes into procurement abuses that resulted in the government paying outrageous prices for spare parts—such as $436 for a $7 hammer. And Bill went beyond the investigations, ultimately working to gain the passage of legislation that would increase competition in defense contracts and eliminate procurement abuses. Bill could be Chairman of the full Armed Services Commitee—if it wasn't for his respect of the seniority system and respect of his friends on the Committee who hold higher seniority than him.

While Bill Nichols is known as a military expert, he is considered above all as a dedicated, knowledgeable, balanced legislator and statesman. His leadership is felt in every area of concern to the people of Alabama and America. Whether it be agriculture, education, or anything else, Alabama and America are well-represented by Congressman Bill Nichols.

Additionally, he is known by his constituents as a responsive, caring and highly competent legislator, and he is known by many of us as a dear and good friend.

I am delighted to be here, today, and to join so many in paying tribute to Congressman Bill Nichols on such an outstanding occasion. I know that he is deeply proud of the Army Reserve Center that bears his name, and will be prouder, still, as the many dedicated young men and women fulfill their duty to our country while serving at the center. I know that Bill's wonderful wife, Carolyn, and their family are proud of his accomplishments.

Indeed, all who are gathered here, today, are proud of the leadership, the service, the efforts, and the accomplishments that Bill Nichols has made on behalf of our State and nation. He is still a young man—young in spirit, young at heart, young in activity. I am sure that our expectations of many more accomplishments on his part will come true.

REMARKS OF CONGRESSMAN BILL NICHOLS

Senator Heflin, Senator Shelby, Secretary Marsh, General Porter, General Allen, distinguished members of the Army Reserve and friends, I want to thank all of you for being here today to participate in the opening of this new Army Reserve Center in the City of Anniston, Alabama, which bears the name of William F. "Bill" Nichols.

This afternoon I am extremely honored and most humbled that the Reserve Units housed in this building saw fit to name this structure for me, and I take this occasion to express my appreciation to those who leave their homes one weekend a month to undergo training which accrues to the military strength of these United States.

So, this afternoon, I accept this high honor in appreciation and admiration and with the deep respect which I hold for the Reserve forces of this country.

Many years ago, as a Reserve officer having been commissioned an "shave tail" second lieutenant from Auburn University's R.O.T.C. program, I took the oath of office to defend this country in time of need. The Reserve Forces performed exceptionally well in World War II, distinguishing themselves on the field of battle and providing the essential officers, non-commissioned officers and enlisted strength to defeat the Germans and the Japanese.

The role of the Reserves is probably more important now than it ever has been in the history of our nation. Though we still register young men for the draft we don't require them to serve in our military as we once did. So we now depend heavily on the men and women who unselfishly sacrifice one weekend a month and two weeks a year in summer camp to be part of our national defense effort.

Just as the "minuteman" played a vital role in the fight for our nation's independence more than two-hundred years ago, the reservists of today that are part of the Individual Mobilization Program must also be ready at a moment's notice. They are members of the Selected Reserve and eligible for the President's 200,000 call-up authority, providing the Active Army with trained individuals for contingency operations.

The Active Army also depends on the Army Reserve to be a full partner in overseas and training exercises. Perhaps this became evident to many Americans just ten days ago when they discovered that the recent deployment of troops of Active Army personnel from Ft. Bragg and Ft. Ord were greeted in Honduras by reservists who were already in that Central American country for training missions of their own which are held throughout the entire year.

So, all of us should remember that the next time we see a convoy of green trucks rolling down I-20, or fighter jets screeching over the Birmingham airport, or a fleet of ships patrolling Mobile Bay, we must not think that it is just another group of "Weekend Warriors" playing soldier, but, instead, we should recognize it for what it is: dedicated men and women who are answering the call for the need of a national defense effort in this country which can be called upon at a moment's notice.

Such simple conclusions can also be drawn from this building. On the outside it looks just like any other building, constructed of brick and mortar. However, it is more than just the headquarters of the 3rd Transportation Brigade of the Second Army, it is a symbol of the vital link the people who march through its doors play in the formation of the "Total Army".

We live in an uncertain world, and only God above knows what lies in our future. But this simple structure should serve as a reminder to all who drive by on McClellan Boulevard that the nearly 600,000 members of the Army Reserve are on a constant vigilance, fulfilling their mission of ensuring peace for this country by deterring war.

I view my first responsibility in Congress is to keep this Nation strong. Wars are not prevented nor are ideals preserved because one country is more logical, better educated or more considerate than the other. America today is great because it continues to be strong. Its individual citizens have believed in the values of this great country of ours so strongly that they have been willing to maintain a strong and ready defense force and if need be, to wear the uniform and defend its flag!

In the words of President Franklin D. Roosevelt, "Our security is not a matter of weapons alone. The arm that wields them must be strong, the eye that guides them clear, the will that directs them undomitable." We should count ourselves among the lucky that we have such a dedicated force protecting us.

So finally this afternoon, as we salute all who are involved in our Nation's Army Reserve effort, let us all remember the words of the President who serves us today, Ronald Reagan, when he said, "We must never forget that freedom is never really free, it is the most costly thing in the world. Freedom is never paid for in a lump sum; installments come due with every generation. All any of us can do is offer the generations that follow a chance for freedom."

I know that as I drive by this Reserve Center from now on it will not be just seeing my name affixed on the side of the building that will move me, but, instead, it will be the dedication of the people who work within it that will lift my spirits high.

TRIBUTE TO THE BRINDLEE MOUNTAIN VOLUNTEER FIRE DEPARTMENT

Mr. HEFLIN. Mr. President, one of the duties of serving in the U.S. Senate that I enjoy the most is holding town meetings with citizens throughout my home State of Alabama. Recently I traveled to Morgan City, AL, where I held a town meeting at the Brindlee Mountain Volunteer Fire Department. The services that are being offered by the Brindlee Mountain Volunteer Fire Department are truly outstanding, and it is my honor to rise today in tribute to the work it is doing and the services it is performing for the citizens of Morgan and Marshall Counties.

The Brindlee Mountain Volunteer Fire Department was first organized in 1972, with four active members and one fire truck, although for the first year there was no building in which to house the truck. In the second year, the members of the fire department had procured an old metal storage building in which to house the truck and began to hold fundraisers for operational expenses and for additonal equipment. In 1977, the fire department was able to build a fire station at Union Hill, AL, and purchase a second fire truck, In 1982, the fire department built a second fire station at Morgan City, AL, where I held my recent town meeting, and in that same year they were able to purchase a third truck. Since that time they have bought two more fire trucks.

Today, the Brindlee Mountain Volunteer Fire Department has 30 active members, many of whom have received extensive training in firefighting and lifesaving techniques. Because of the rapid growth of the Brindlee Mountain Volunteer Fire Department and the dedicated efforts of its members, the communities throughout Morgan County have been well served. Fire insurance rates for home and property owners in the area have dropped by approximately 50 percent.

Needless to say, the Brindlee Mountain Volunteer Fire Department is not resting upon its already formidable accomplishments. Their efforts are currently devoted to several projects which will each significantly enhance the community. Among these projects are an enhanced 911 emergency number service for Morgan County, the installation of more fire hydrants along existing water lines in the department's coverage area, and plans to apply for a grant to improve the Brindlee Mountain water system.

I am often asked by citizens with whom I meet—particularly young people—how they can get involved in public service, or what actions they can take to serve their communities, my State, and our Nation. I believe that the efforts and accomplishments of the members of the Brindlee Mountain Volunteer Fire Department offer a tremendous example of how citizens can band together in an effort that provides an invaluable public service and a lasting benefit for the citizens and families of a community.

In this time of Gramm-Rudman-Hollings, reduced Federal spending, and budget cuts, I believe that the members of the Brindlee Mountain Volunteer Fire Department have shown what a group of determined and energetic people can do and how they can serve their communities. I commend them for their efforts.

CONGRATULATIONS TO JAMES B. ODOM

Mr. HEFLIN. Mr. President, on Friday, April 1, 1988, James B. Odom took charge of NASA's manned space station project. I am delighted to rise today, first to congratulate Mr. Odom for being selected to head this project, and also to welcome him and his family to Washington. Finally, I would like to offer my help and full support in all efforts to organize and obtain funding for this most important space center program.

I am sure that we will encounter opposition to the space center both here in the Senate and over in the House. However, in my judgment the quick development and deployment of a manned space center is crucial in ensuring the future role of the United States as a world leader in science and technology. With the appointment of James Odom as the Administrator of this project, we are on the road to success in this project. The expertise and management experience that he brings will ensure that the project has the organization and credibility it needs.

James Odom has almost 30 years of experience with NASA's Marshall Space Flight Center. After first attending Troy State College, he received his B.S. degree in mechanical engineering from Auburn University in 1955, and then worked for a year at the Chemstrand Corporation in Decatur, AL. Jim joined the U.S. Army's rocket research and development team at Redstone Arsenal in 1956 as a systems engineer and then transferred to Marshall Space Flight Center in 1959, prior to its formal establishment in July 1960.

At Marshall, James Odom has held various engineering and technical management positions. In many ways, his career at Marshall has reflected the development of our Nation's space exploration. He was actively involved in the development of Earth satellites and unmanned space probes. He served as Chief of the Engineering and Test Operations Branch for the second stage of the Saturn V launch vehicle, which was so crucial to the success of the Apollo Program. In 1972, he was appointed Manager of the external tank project in the Shuttle Projects Office. In 1982, he became Deputy Manager for Production and Logistics in the Shuttle Projects Office, and he became Manager of the space telescope project in 1983.

Throughout his career at Marshall, James Odom has distinguished himself through his efforts, his expertise, and his accomplishments, which have won him many honors. In 1973, he received the NASA Exceptional Service Medal for his outstanding contributions to the S-2 stages. In 1981, he was awarded NASA's Distinguished Service Medal for his outstanding contributions to the development of the space shuttle and its successful first orbital flight test. Most recently, in 1985, he was awarded the Presidential rank of "Meritorious Executive" in recognition of his sustained accomplishments and exceptional performance in contributions to both the external shuttle tank project and in the management of the space telescope project.

Mr. President, I can think of no one individual who could bring a higher degree of professionalism, dedication, and expertise to the space station project than will James Odom as its Administrator. He knows that he will be faced with opposition as he seeks congressional support and funding for the space station project. Yet, he is without a doubt the best person to face the rigors of the job at hand.

Just as the strength of the Roman Empire depended on its system of roads, and the strength of Spain and Great Britain was because of their command of the seas, so will our future strength as a nation depend upon our exploration of space. Jim Odom knows that our future lies in our ability to develop and implement the technology for space exploration and for a permanently manned space station. He knows, as I do, that if we as a nation do not expand our technology and fulfill our goals in space exploration, that we will fall behind in science, in technology, and therefore in jobs, and in stature. I look forward to working with James Odom to fulfill our dream of seeing the deployment of a permanently manned U.S. space station ahead of schedule.

Mr. President, I ask unanimous consent that the attached newspaper articles announcing James Odom's appointment as Administrator of the Space Center be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Huntsville (AL) News, Mar. 4, 1988]

ODOM TO ASSUME SPACE STATION POST

(By Thurston Hatcher)

WASHINGTON.—A Decatur man has been named top administrator for NASA's space station program.

James Odom, who is currently director of the Science and Engineering Directorate at Marshall Space Flight Center, will become associate administrator for the space station program in Washington, NASA officials announced Wednesday.

The space station project has been plagued by uncertainty over funding since NASA awarded contracts to private aerospace firms Dec. 1.

There has been talk in Washington of scaling back the project or shifting the burden to private industry.

"We obviously would like to get some (stable) funding for the program," said Odom, who has almost 30 years experience at Marshall.

The new job, however, means that Odom will leave his home in Decatur for NASA headquarters in Washington.

"That's one of the hardest things I'll have to deal with: leaving Decatur," he said. "But it's an exciting program and I'm looking forward to it."

He said he had little idea he was being considered for the job until he met in Washington this week with NASA Administrator James Fletcher.

"The purpose of the meeting was to ask me to take the job," Odom said.

During his career, he has been manager of the external fuel tank project, manager of the Hubbell Space Telescope Office and deputy manager for production and logistics in the space shuttle projects office.

In his early years, he worked on everything from weather satellites to the Mariner mission probe to Mars. Then came Apollo, which lasted until the early 1970s.

A graduate of Troy State and Auburn University, Odom began his engineering career with the Chemstrand Corp. in Decatur. He subsequently joined the rocket research and development team at Redstone Arsenal before moving to Marshall in 1959.

He replaces Andrew Stofan, who recently announced he will leave NASA April.

"Everything I've worked on has been a challenge," Odom said. "It's been a dynamic career, which I've enjoyed tremendously."

In a statement, Sen. Richard Shelby, D-Ala., congratulated Odom on his appointment.

"I am very proud that one of Huntsville's own has been selected to play such a vital role in the continuation of the space station program," he said.

The proposed permanently manned space station is scheduled for deployment in the late 1990s.

[From the Huntsville (AL) Times, Mar. 3, 1988]

MARSHALL VETERAN TO HEAD SPACE STATION PROJECT

(By Randy Quarles)

WASHINGTON.—Veteran Marshall Space Flight Center executive James B. Odom will take charge of the manned space station project April 1 as a NASA associate administrator, the space agency announced today.

Odom, 54, moves into the Washington job at a time when the space station is struggling with Congress for money.

He replaces Andrew J. Stofan, who is retiring from the National Aeronautics and Space Administration at the end of March after only 18 months in the top space station post. Stofan has complained publicly about interference from members of Congress.

One of Odom's first tasks will be to persuaded key lawmakers to keep his program alive.

"It's obviously quite a formidable job," Odom said today in a telephone interview. "There's still a good deal of selling.

"It's the kind of thing I enjoy doing," he said. "I enjoy putting programs together, and there's a good bit of that challenge to it."

President Reagan is seeking $967 million from Congress for space station work during the 1989 fiscal period, which begins Oct. 1. NASA Administrator Dr. James C. Fletcher told a House subcommittee today that the amount is needed to move the program into "full-scale" development.

Chairmen of key House and Senate appropriating panels have warned NASA that the request may be trimmed. They also have refused to release some funds already allocated for space station work in 1987 and 1988 until NASA completes a report in early April on the project's possible "rescoping."

I look forward to working with Congress in getting the funding understood, and in getting the full funding established so we can execute a timely and efficient development program," Odom said.

Though he has not been directly involved in the project, Odom described himself as a solid space station advocate. Even with the current Federal budget problems, he said, the United States cannot afford to give up the plan.

"If we're going to stay a leading nation in technology and science, which I think is imperative, the space station is a very valuable link in that process," Odom said.

Some of the project's critics content that NASA should concentrate on building an unmanned facility that would be visited periodically by astronauts, rather than the more expensive, permanently manned laboratory now envisioned. However, Odom said the crew basing is crucial not only for the station concept itself, but for later activities such as missions to the moon or Mars.

But Odom said he did not apply for the space station post. Fletcher called him about it, and Odom met with the NASA administrator Tuesday in Washington.

"He's a very persuasive individual, and he talked me into it," Odom said. "It's been pretty fast."

"It's a great program, and it obviously will be the centerpiece of the agency the last of this century and the first quarter of the next one. I look forward to being a part of it."

Odom has had experience with embattled programs. In 1983 he became manager of the Hubble Space Telescope Office at the Marshall Center after it came under heavy congressional fire for cost overruns and technical problems. He has been credited with helping to get the telescope program back on track.

A native of McKenzie, Ala., in Butler County, Odom is a 1955 Auburn University graduate with a bachelor's degree in mechanical engineering. He joined the U.S. Army's rocket research and development team at Redstone Arsenal in 1956.

In 1959 he transferred to the Marshall Center, which was formally established as a NASA field facility the following year.

At Marshall Odom has held a number of engineering and technical management posts. He worked on Earth satellites and unmanned space probes; was chief of the engineering and test operations branch for the second stage of the Saturn 5; managed the external tank project in the Space Shuttle Projects Office; and served as deputy manager for production and logistics in the Shuttle Projects Office.

He became head of the center's Science and Engineering Directorate in November 1986.

FURTHER INFORMATION ABOUT THE TONGASS TIMBER SUPPLY REPORT

Mr. PROXMIRE. Mr. President, yesterday our esteemed colleague from Alaska, Senator STEVENS, spoke concerning a newly released General Accounting Office report on the Tongass National Forest in southeast Alaska, which we both requested.

At the time I requested the study I said that the taxpayers were taking a beating paying for a gold-plated timber program in southeast Alaska. The GAO, the official auditing arm of Congress, agreed with my view on the Tongass, offering timber for sale which has no market.

Mr. President, the Federal Timber Program specified in section 705(a) of the Alaska Lands Act is unique to the Tongass National Forest. It mandates supplying 4.5 billion board-feet of timber each decade and spending at least $40 million each year achieving that end. By law, these funds are not subject to the annual appropriations process or to rescission or deferral.

Mr. President, my colleague asserts that the facts in the GAO report don't matter because "a deal is a deal," and the Tongass Timber Program was promised in return for wilderness designations in southeast Alaska.

Yet, when Congress enacted the Alaska Lands Act we provided a mechanism for revising the timber program. Section 705(a) was to be thoroughly reviewed by Congress after 5 years. That review was completed more than 2 years ago and agrees with the GAO position. Simply put, the Tongass Timber Program is an environmental and economic disaster. Now is the time to rewrite the program.

Excessive logging and roadbuilding are destroying a unique old-growth rain forest and its fish and wildlife populations, and threatening the tourism and fishing industries of the region.

Next, Mr. President, my colleague asserts that the Tongass subsidy is justified because massive wilderness set-asides prevent economically viable timber harvests on the Tongass. I disagree strongly with this view.

Most of the lands set aside as wilderness on the Tongass are either nonforested, as is more than 65 percent of the Tongass land base, or so scarcely forested that even the Forest Service classifies these areas as incapable of growing commercial quantities of wood. Of the 10,000 acres of timber in the highest volume class—50,000 board feet per acre or more—only 9 percent has been set aside as wilderness, while more than 90 percent of this high quality wildlife habitat is available for timber harvest.

In its official report to Congress on the status of the Tongass Timber Program—required by section 706(b) of the Alaska Lands Act, draft report, 1985—the Forest Service responded to Senator STEVEN's charge, stating that "the anticipated increased dependence on low-volume classes * * * has not occurred * * * nor has there been any apparent restriction on access to harvest units as a result of the wilderness designations."

The GAO also rebutted the effort to make wilderness the scapegoat for waste on the Tongass, stating: "(t)he Forest Service does not need to make added investments to overcome the impact of wilderness designations * * *" The GAO also finds that arguments such as Senator STEVENS' would "* * * make the Forest Service a guarantor that the (timber) industry will not bear the risk of timber market fluctuations."

Finally, Mr. President, my colleague from Alaska claims that but for the designation of wilderness on the Tongass, there would be no need for a Tongass subsidy. In effect, he suggested that we are really subsidizing wilderness in southesast Alaska.

Yet, Federal taxpayers were subsidizing logging in southeast Alaska for many years before the passage of the Alaska Lands Act. However, the subsidy has doubled since the Alaska Lands Act while timber industry employment was cut in one-half.

Furthermore, section 1315(e) of the Alaska lands Act provided the Forest Service with authority to make land exchanges for any timber purchaser affected by wilderness designations. This "hold harmless" clause actually benefitted purchasers by allowing them access to more commerically valuable timber lands those protected as wilderness.

Mr. President, according to numbers suggested by the GAO report, the Tongass Timber Program will waste between $980 million and $2.8 billion over the next 50 years unless Congress intervenes. To that end, I have introduced S. 708, the Tongass Timber Reform Act, that would repeal sections 705(a) and 705(d) of the Alaska Lands Act.

I will be sending a copy of the GAO Tongass report to every Senator's office soon. I urge my colleagues to review these important findings and to join me as a cosponsor of S. 708

TRI-VALLEY'S NUTRITION RESOURCES DEVELOPMENT PROGRAM

Mr. BOSCHWITZ. Mr. President, a very interesting article appeared in the Washington Post on Monday, April 18, about the Tri-Valley Opportunity Council's Nutrition Resources Development Program.

Last spring Senator DURENBERGER and I contacted the Department of Agriculture in support of Tri-Valley's request for a donation of 27,500 bushels of Durum wheat to use in their Nutrition Resources Development Program. As stated in the article, Tri-Valley is using this wheat to convert into pasta products for distribution to food banks throughout Minnesota and North Dakota.

This article demonstrates Tri-Valley's record of success in helping meet the needs of the elderly and low-income groups in northwestern Minnesota. I am impressed by the tremendous level of support and organization that this group has accomplished. This is a real cooperative effort Tri-Valley, the Government, and the private sector.

Mr. President, as my colleagues and I work on legislation this year to combat hunger in America, I hope they will take special note of this success story. I ask unanimous consent that a copy of the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NETWORK FOR FEEDING POOR ROOTED IN SURPLUS WHEAT—MINNESOTA ACTIVIST FEARS PROGRAM'S END

It was generous of the government to give away surplus wheat to feed the needy, the Rev. Clifford Deeton thought, but he had a better idea.

Raw grain isn't much good to anyone, so why not get some of that wheat, convert it to flour, then into pasta and put a finished product in the hands of the hungry that actually could be eaten?

The result was that government durum wheat provided through the Temporary Emergency Food Assistance Program (TEFAP) is being converted into nearly 500,000 pounds of high-protein macaroni by a community nutrition organization based in tiny Crookston, Minn.

There's more to the story. Deeton persuaded farmers in Egland, N.D., to truck the government wheat at no charge to nearby Cando. He then got a local company, Noodles by Leonardo, to process it into macaroni at reduced rates.

Then student semitrailer drivers volunteered to chauffeur the pasta to distribution points in North Dakota and Minnesota. The Burlington Northern railroad has offered to carry more foodstuffs at no charge.

The processing and packaging (each bag includes a recipe), the drivers' fuel and travel expenses are paid with funds solicited by Deeton and others at the Tri-Valley Opportunity Council at Crookston.

As Congress and the Reagan administration tangle over continuing the TEFAP distribution of surplus commodities, Deeton and his colleagues at Tri-Valley are disappointed but not deterred.

"Food banks in our area feel an end to this program will be devastating," Deeton said. "These products have contributed greatly to the needs . . . we've seen needs increase in Minnesota and North Dakota as a result of the agricultural crisis."

The federal government's donation of durum wheat to Tri-Valley was just the beginning of an unusual program that has taken root in this remote area of northwest Minnesota. Since the wheat arrived:

Deeton expects to get upwards of 250,000 pounds of pinto and navy beans as a gift from dealers and farmers in the region. All of it will be sent to community feeding programs in several states.

About 80,000 pounds of refined sugar, donated by sugar-beet farmers' cooperatives in Minnesota and North Dakota, will go to area food banks.

As soon as the Pillsbury Corp. agrees to a Deeton proposal, the 2 million pounds of potatoes he thinks farmers in the Red River Valley will contribute will be processed into about 300,000 pounds of instant potato flakes at the company plant at Grand Forks, N.D.

Word about the Crookston project has spread fast. Farmers have been quick to contribute raw materials. Foundations, churches and the Minnesota state government have provided funds for processing. And inquiries for aid are coming from food banks as far away as Texas and Ohio.

"There's no downside on these projects," Deeton said. "We charge for our costs and we use the money as a rotating fund to get more things going . . . It's a real cooperative effort."

Deeton, born on a farm in southern Ontario and a minister to farmers around Baker, Minn, for 25 years, had a final thought.

"We know that many of the farmers who produce this food will have to go to food banks for nutrition assistance," he said. "It's damnable when the peoples who grow our food and fiber can't make enough to provide for themselves. They may gross $100,000, but it's all owed to someone else. Something is wrong."—Ward Sinclair.

CEO OF THE YEAR—"BULL DURHAM OF PHELPS DODGE"

Mr. DeCONCINI. Mr. President, in a recent issue of Financial World, one of the Nation's top financial magazines, a distinguished citizen and business leader from the State of Arizona, G. Robert "Bull" Durham, was voted the top Chief Executive Officer of the Year.

Bill Durham's accomplishments are truly extraordinary. His skill and business savvy moved a depressed copper company with losses just 3 years ago of $276 million, or $11.27 a share, to earnings of $105.4 million in the fourth quarter of 1987.

Bull Durham and his colleagues personally created the plan that turned the Phelps Dodge Corp. around and on the upward spiral—a turnabout that is truly spectacular.

As further evidence of the significance of his accomplishments, I would like to share with you Financial World's process for selecting CEO of the Year.

Financial World sent ballots to the CEO's of 2,549 public companies with annual revenues exceeding $100 million. Ballots were also sent to the security analysts who follow these corporations. The list was broken down into 61 industry categories. From these ballots, 184 bronze winners were chosen. The 61 categories were then divided into 12 broader industry groups from which judges selected silver winners. A fresh team of judges then voted for the best CEO from this group of 12. To receive this type of endorsement by one's peers and colleagues from a broad spectrum of industries, is truly a great honor.

My sincerest congratulations to this distinguished citizen of the State of Arizona. It is a well-deserved achievement.

Mr. President, I ask unanimous consent that the Financial World article appear in its full text in the Record following my remarks.

There being no objection, the article was ordered to be printed in the Record, as follows:

Bull Durham Phelps Dodge

(By Kevin Lahart)

Three men strolling along the river after dinner remarked on the sight: A diffused, brightening blue-white glow backlit the gap between the peaks for a time before the perfect full moon itself rose out of the mountains. Predictably, the movie Moonstruck came up. "That was a great movie," Bull Durham said. then he chuckled, "The best part was the scene about the copper pipe."

G. Robert Durham, "Bull" to his colleagues and friends, was only half kidding. For the chairman and chief executive officer of $1.6 billion in sales Phelps Dodge, the largest producer of copper in the U.S., demand for the metal is everything. On the highway just across the San Francisco River, the moon picked up the chrome exhaust pipes of another Peterbilt hauling a flatbed trailer bearing 28,000 pounds of virtually pure copper. Produced a few miles away at Phelps Dodge's Morenci, Ariz., mine and solvent extraction/electro winning plant, the load on the truck was hitting the market having cost 25¢ a pound to produce. With the price of copper hovering around $1 a pound, that truck load alone will put $21,000 on the company's bottom line.

Pound after pound, ton after ton of the stuff—mined and refined at Morenci, at PD's Chino and Tyrone operations across the state line in New Mexico and elsewhere—nearly a billion pounds of copper, produced at an average cost of just over 55¢ a pound and selling in 1987 at an average price of 82¢ a pound enabled Phelps Dodge to post earnings of $206 million, or $5.70 a share, last year. By contrast, its largest U.S. competitor, $1.3 billion in sales Asarco, reported earnings of $279 million for 1987, but most of that came from a $71 million tax credit and from a $243 million pretax profit from the sale of assets.

Yet just three years ago, 154-year-old Phelps Dodge reported a loss of $276 million, or $11.27 a share. The company whose fortunes depended on the metal that comes only from redhued mountains was nearly done in by red ink.

Four straight years of depressed copper prices put giant Anaconda out of business as Atlantic Richfield, which had bought the mining company in 1976, sold it off piece by piece. It sent a shrunken Kennecott into the arms of Standard Oil and British Petroleum. Four years of low copper prices were driven further down by third world producers dumping supplies into the world market to earn hard currencies. Those same four years of copper prices well below the cost of production drove George Munroe, the now-retired chairman of Phelps Dodge, to call on Durham, who was senior vice president, and four of his colleagues late in the third quarter of 1984 to devise a plan to try to save the foundering company. The quintet came up with a plan, now in its fourth year, that focused on cutting costs in copper production and diversifying beyond metals production.

The crisis in copper traces back to the mid-1970s. It is a labor-intensive and energy-intensive business, and it was hit on both fronts. First energy costs soared. Then the price of labor increased dramatically as cost of living increases tied to inflation were written into labor contracts. When the bottom fell out of copper prices beginning in 1980–81, the high costs of production remained.

In mid-1984, the company was producing copper at a cost of over 80¢ a pound when the market price was about 65¢. Phelps Dodge was losing nearly $2 million a week.

"After three or four years of very tough times, we were going through a great deal of anguish," says Durham. "Very low copper prices generated substantial losses. Frankly we were very frustrated at the outlook and prospects for the copper industry.

"We had done all the classic things that companies do when they are faced with tough times," he goes on "We cut, then eliminated the dividend. We reduced manning. We reduced the payroll. All salaried people took pay cuts, from the secretaries to the chairman. The directors cut their fees. We did all the classic belt-tightening, hang-tough types of things. We began selling nonessential assets to stem the losses, to get some cash to carry us. The corporation took a tough stance with the United Steelworkers Union in a much-publicized strike and prevailed. That was in 1983 and it was all resolved by early 1984.

"We did all those things," he stresses, "and yet we were still losing a lot of money. In the third quarter of 1984 we were losing at a rate of $25 million a quarter."

But little more than two years later, when the price of copper was still at 65¢, you could see Durham's plan starting to take effect: In the final quarter of 1986 Phelps Dodge managed to earn nearly $11 million. The operating leverage was enormous. In the fourth quarter of 1987, with copper hitting $1.46 a pound, Phelps Dodge earned $105.4 million.

What has happened at Phelps Dodge between the day in August 1984 when Durham and his four colleagues closeted themselves to reinvent their company and today is a turnaround that looks spectacular because of the recent surge in the copper market. Remove the spike in copper prices and their accomplishment is still impressive.

Running a company whose major line of business is a commodity is a grueling task. There is no differentiation, no product advantage. Automobiles and VCRs lend themselves to creative marketing. Commodities do not. Salt is salt. Copper is copper.

Copper is, in addition, subject to the vagaries of a less than perfectly orderly market and uncertain economic cycles. Major producers include not only competing companies, but countries whose nationalized mines, production facilities and pricing policies serve economic and political purposes as well as mercantile ends.

Yet somehow Durham had to find a better way: "We had to be objective," says the 59-year-old Durham, who helped put himself through school by working in the coal mines of his native West Frankfort, Ill.

"Munroe asked five of us to see if we couldn't put together a plan for the corporation that would allow us to function as a viable company and accept the fact that a 65¢ copper price was going to be the bogey that we had to overcome. This was in

August of '84. He told us there was no sacred cows.

"With that we closeted ourselves for the better part of a month. We sat down and looked at all the assets, all the pieces that Phelps Dodge consisted of. We asked, "What's our lowest cost copper operation? What's our lowest cost mine, lowest cost mill, lowest cost smelter?" Then we put that on the table to see what the company looked like. We developed a plan by which, if we were able to achieve it in four or five months, we could have a viable company."

Many of the changes were quite mundane: Mining and productions facilities that the company had been operating for decades were to be closed down. Thousands of employees would find themselves out of work. The company was to be cut to the bone.

Says Durham: "We presented it to the board. They approved it and said, 'Now you go do it.'"

They also promoted Durham to the presidency of the company. "Within three or four months we had stopped the losses. Then we began to see improvement, with absolutely no help from the cooper market. The price hung at 65¢ for the next three years, until the middle of last year. And we just honed and honed our operations."

The initial changes implemented to reduce costs were dramatic. The honing was mundane. Mining engineers figured the slope of the sides of openpit mines could be steepened. Trucks replaced railcars for inpit mining. They made a lot of small changes. Individually, they don't look like much, but they add up.

Headquarters was consolidated on four floors of a Phoenix office tower, and the company's elegant Park Avenue offices vacated.

In that Phoenix office it is clear, even though good times have returned to the copper industry, that Phelps Dodge is a lean company. Durham has no secretary of his own. He shares an administrative assistant with two key lieutenants. When he travels to New York, he flies coach. And even though he and his top executives are forever hopping around the Southwest, the country and the world, the usual corporate trappings are missing. When, for example, a visitor expresses surprise that there are no company planes, Durham says over the steady throb of the twin engines of a chartered Beechcraft, "No, and there never will be. We don't do ourselves what others can do better for us."

But neither does Durham hire outsiders to do what he is convinced he and his people can do better. Over the past several years, Phelps Dodge has done a fair amount of divestiture and acquisition. And though Durham will hire Bob Alexander of Silver City, N.M., to fly him to Morenci, he won't let an investment banker negotiate a deal for him. "We like to sit across the table from anyone we are dealing with, face to face," he says. "Investment bankers don't always have our best interests at heart. They want to do the deal."

Recently, Durham has been in an acquisitive mode, diversifying a bit away from copper, buying a pair of cash cow, niche companies in basic industries that he hopes will contribute a steady $150 million to the bottom line. "We wanted companies not oriented to the copper cycle," he said.

In late December 1986, Phelps Dodge bought privately held Columbian Chemicals, a major producer of carbon black for the tire industry, for $240 million. Even with that purchase, Phelps Dodge was able to reduce its total debt load by $185 million in 1987. On March 4, Phelps Dodge bought, for $272.5 million, the Accuride Corp., the major producer in North America of wheel rims for medium and heavy trucks. Durham says that no further nonmining acquisitions are planned for the near future.

"What we wanted to do was to break our complete dependence on copper," Durham says, "but first we had to get enough strength in the copper business." He's succeeded at both and now can smile and savor the success. The measure of that success is that the company was able to reduce its copper production costs by a third.

Durham does not anticipate that Phelps Dodge will be looking outside the copper industry for further expansion in the foreseeable future. But a significant capitalization program is still underway, particularly in expanding the company's ability to produce copper via the very low-cost solvent extraction/electro winning process. SX/EW is a combination process whereby copper is leached from vast piles of low-grade ore and then produced via electrolysis. The $92 million Morenci plant, for example, which went on line last year, can produce 100,000 pounds a year at 25¢ a pound.

In addition, says Durham, "We're spending $50 million on a plant for our Chino operation in New Mexico, expanding SX/EW at our Tyrone, N.M., plant and building a $44 million crushing and conveying system at Morenci. All of these will enable us to continue to have dramatic reductions in the cost of producing copper."

In recent weeks the price of copper has pushed well over a dollar a pound. And the company that in 1987 produced 9% of the world's copper is in fat city. Phelps Dodge is aiming to lower its average production cost of 55¢ a pound to 48¢ a pound, close to that of its biggest competitor, the Chilean government, whose operations produce 18% to 19% of the world's copper at about 45¢ a pound.

If the price were to hold at a dollar through 1988, a net operating loss carryforward from the bad years would allow Phelps Dodge to flow the entire potential $450 million from its copper operations along to the bottom line. Add in the conservative estimate of $150 million from nonmetals operations, and it could be looking at a 1988 earnings of $20 a share and a price/earnings multiple of about 2. Bull Durham isn't counting on such a scenario.

He'll be happy with an average copper price of 82¢, but because of cost cutting and diversification, he says, the company can be profitable well below that level. He doesn't like to predict things, he says, but is counting on 1988 being a good year, "about as good as 1987."

And if not, if the market completely falls apart and the price of copper crashes to unthought of levels? "Worst case, we can close down our regular mining operations and rely on SX/EW." But even in that worst case, the situation would not be as bad as it was four years ago when Durham and his colleagues sat down to save their company.

A TRIBUTE TO JAMES OLSON

Mr. LAUTENBERG. Mr. President, this week New Jersey and the Nation lost one of its corporate leaders, with the passing of James Olson, chairman of AT&T.

Since the breakup of AT&T in 1984, the company and its thousands of employees have had to make major adjustments. It has not been an easy time. That was especially true when Jim Olson took the helm as chairman in 1986.

Yet, Jim Olson was not unprepared for the challenges that faced him. He made his life in the telephone business. He was a 44-year veteran of the Bell System. A great deal of pride and commitment was built up over those years. He faced some tough decisions. The lay-offs that he found necessary, to enable AT&T compete, had a real and substantial human cost. Yet, he cared deeply about his company, its employees, and its contribution to America.

That last point is important Mr. President. AT&T has been a national asset. It is part of our modern infrastructure, upon which a competitive, efficient economy depends. Through the pathbreaking work of scientists at Bell Labs, it has contributed greatly to our technological base, not just in telephony and telecommunications, but in a range of areas.

Jim Olson was not a soft-spoken man. He was forceful. He was a roll-up-your sleeves kind of man. In fact, so much so, he wore short-sleeve shirts.

Mr. President, I express my condolescences to Jim's wife Jean and to the rest of his family. Jim Olson will be missed.

FAMILY SECURITY ACT OF 1987

Mr. MOYNIHAN. Mr. President, Senators will know that yesterday morning the Finance Committee reported out S. 1511, the Family Security Act of 1987, which was introduced on July 21 last year, and which now has some 56 cosponsors and, as I believe, even more supporters. On the front page of this morning's Washington Post, Mr. Spencer Rich nicely captured the moment:

> The Senate Finance Committee, traditional graveyard of welfare overhaul proposals, yesterday approved a dramatic restructuring of the nation's welfare system, stressing education and training for welfare mothers to help them get jobs. The vote was 17 to 3.

Our indefatigable chairman, Senator BENTSEN, has stated that he would seek rapid floor action in the hope that the bill can become law in 1988. The distinguished majority leader stated on the floor the day before yesterday that welfare legislation was one of the measures on which he would seek to complete action in this Congress. The Republican leader, Senator DOLE was present on that occasion, and there was an emphatic sense of cooperation all round.

Thus was can expect welfare legislation to be on the floor in the very near term. That being the case, it may be helpful to outline some of the large issues we will be dealing with.

REDEFINITION

For a generation we have talked of welfare reform. The very term suggests why it has never come about. The meaning of the word reform is clear. The first modern usage listed in Webster's third edition is thus: "to restore to a former good state."

Now this is exactly what cannot be done, and ought not to be attempted, with respect to the Aid to Families with Dependent Children Program. The former good state of the AFDC Program was that of a widow's pension, as provided in the original Social Security Act. In common usage it is life insurance. It was set up in an era when married women typically were not in the work force. In the event of the death of the family wage earner, income ceased. Life insurance was thereupon provided. AFDC began as a grant program to bridge the period between enactment of Social Security and the time when families would be fully covered by survivors insurance.

That came to pass, and today some 1.2 million families are supported by survivors insurance.

But AFDC did not wither away. It continued in place, but is increasingly providing for a quite different population, 3.8 million families, more than twice that of survivors insurance. Earlier, the issue of child support by an absent father did not arise. The father was dead. The fathers of today's children are not dead, they are merely absent. Similarly, whereas earlier the issue of providing work opportunities for mothers did not arise, the present recipients of welfare live in an economy where some 70 percent of married women with children over 5 are now in the work force, and the proportion is expected to rise to 80 percent by the turn of the century.

There is no former good state to be recreated. To paraphrase Abraham Lincoln, as our situation is new, we must think anew and act anew. We believe we have done this in the bill that has now been ordered reported to the calendar.

A STIGMATIZED PROGRAM

Let me offer an example, or if you like, evidence for this point by examining the different fate of children who are provided for under survivors insurance as against aid to families of dependent children. Keep in mind that both programs are to be found in title IV of the Social Security Act, our basic social insurance program. Bear in mind, further, that the children in these programs are equally needful, equally innocent of any wrongdoing. The orphaned child and the abandoned child.

Since 1970 the provision for children under survivors insurance has, in constant dollars, increased 53 percent. This is an impressive fact. The increase is far greater than the growth of median family income, which has been almost flat during this period. Clearly, Americans will care for orphans.

But what of the abandoned child? AFDC benefits have been cut during this period. The executive branch doesn't seem to know exactly, or to care very much, but the House Committee on Ways and Means calculates that since 1970, in constant dollars, the AFDC benefit for a family of three has declined 35 percent. I would expect that had anyone in 1970 proposed to cut by a third the amount of food and clothing to be provided a destitute 8-year-old child, that person would have been thought by many to be something of a monster. Even so, that is what we did.

Here is the experience of two northern, prosperous, progressive constituencies, the city of New York and the State of Minnesota:

AVERAGE MONTHLY AFDC AND SURVIVORS INSURANCE BENEFIT PAYMENTS

[Per recipient payment, in constant 1986 dollars]

	AFDC	SI
New York City:		
1970	$203	$222
1986	158	339
Change (percent)	−22	+53
Minnesota:		
1970	203	222
1986	199	222
Change (percent)	−15.5	+53

Note that in both jurisdictions AFDC and SI payments in 1970 were about equal; 17 years later the welfare child received only half as much as the orphaned child.

How can this be? Some would infer that race has something to do with this outcome, and I do not reject the proposition that there must be some influence. But that is surely not the main reason.

That said, it should even so be recorded that Hispanic children are especially exposed to welfare dependency at this time. There are nine States in which Hispanics are the largest ethnic group receiving AFDC benefits. These are: Arizona, California, Colorado, Connecticut, Idaho, Massachusetts, New Mexico, New York, and Texas. The list, of course, includes our three most populous States: California, New York, and Texas. This is true, for example in New York City, where Hispanics make up more than half—an estimated 56 percent—of the AFDC case load.

The main reason for the opposing trends is that the recipients of survivors insurance are seen as upright persons for whom a wage earner worked and saved against a day of misfortune.

Survivors insurance payments come from a trust fund. By contrast, AFDC benefits are paid from appropriated funds. It is charity. The recipients, be they adults or children—and, of course, two of every three is a child—they are not seen to have earned their benefits.

Mind, on an actuarial basis a great portion of the SEI benefit is de facto a grant, but this is an arcane matter. The father worked, did he not? He paid in, did he not? End subject.

Thus, one group of children is seen as having been provided for by prudent parents; the others is seen as the spawn of antisocial self-indulgence. They must be provided for after a fashion and up to a point, but that is all. The Irish have a saying, cold as charity. And it is more than a matter of prejudice. One of the greatest English philosophers raised this attitude to the point of principle. In his Essays on Politics and Society (1861), John Stuart Mill argued that any man receiving "parish relief" ought to be denied any right to vote.

> . . . the receipt of parish relief should be a peremptory disqualification for the franchise. He who cannot by his labour suffice for his own support, has no claim to the privilege of helping himself to the money of others. By becoming dependent on the remaining members of the community for actual subsistence, he abdicates his claim to equal rights with them in other respects.

In fact, the statute disfranchising any male receiving alms was not repealed in Britain until 1948—some 3 years after universal free medical care was enacted.

In our discussions of welfare in the Finance Committee, we have tried to keep close to the data, such as it may be, but all of us have had personal encounters with this subject and, after all, they say that data is the plural of anecdote. Let me, then, tell the Senate of a visit I made last winter to my old high school in east Harlem in Manhattan. The school is now a center for science and mathematics and the students there, almost all minorities, are exceptional in so many ways. After sitting in a number of classes, I was asked to an assembly to talk. I was introduced as someone who in his youth had received welfare, and who had got over that. The term—got over—intrigued me. And so, after a bit I asked the group how many of them came from families supported by welfare. About five hands went up in a roomful of young persons. I then asked everyone to close their eyes. Now how many? Seven or so hands. Later, I realized I ought to have asked the question correctly as Reverend Jackson does on the issue of drugs: How many students here know someone else who is or has or whatever. On the other hand, I probably learned more asking the question in the wrong way. Half the youth in that room came from welfare families. Forty-five percent of the youth in the New York City school system are on AFDC. But only a handful were willing to admit it. The system stigmatizes the children as well as the adults.

A nice way to treat children.

BENEFIT LEVELS

It is in this context that I would briefly address the question of benefit levels. Our newly reported legislation does mandate the AFDC-UP Program nationwide. This means that two-parent families without work or with too little income will be eligible for benefits in some 24 States that do not now provide them. But we make no effort to increase benefits, even though, as I have stated, benefits have declined over the past two decades or so.

And why? Because Congress is not willing? Yes, that may be said. But much more importantly, the States are not willing. There is a home truth here that needs telling. The Federal Government is in no way responsible for the decline in welfare benefits. Any State that has wished to maintain the level of its AFDC benefits, or increase that level, has had only to notify Washington and the matching funds would automatically have been provided. That is the law. And, indeed, California and Maine have maintained their benefit levels by the simple device of indexing. I think it fair and necessary to say to concerned groups that if you could not do it in your own State or city, or would not, there are few grounds on which to insist that the national government do it for you.

May I say further that unless we redefine this program and do so quickly, this decline in benefits will surely continue and possibly accelerate. Median family income in America has scarcely risen for almost two decades. The prospects for the next decade are not especially promising as we commence to pay back the debt accumulated in the 1980's. The level of social ease is not likely to rise. And so if we care at all about these children, we should care enough to do what is necessary to allow them to be presented as a potential asset to society, rather than a threat to it.

THE FAMILY SECURITY ACT

If our legislation does not raise benefits, what does it do? I believe a fair statement is to be found in the lead paragraph of today's Wall Street Journal report of yesterday's committee action.

> The Senate Finance Committee approved a major overhaul of the welfare system designed to move recipients into the work force.

Those are the moral signals we are sending. Not out of any disposition to punish. Or to be harsh. To the contrary. Our purpose is to free these women and children of the stigma of dependency.

First off, we want it understood that young men have no right to produce children and suppose they can thereafter leave it to others to raise them. There has been a certain fashion for this view in some circles. In the city of New York, for example, with its permanent welfare caseload of some three- quarters of a million human souls, the welfare agency does not even record the Social Security number of the male parents of welfare children. Well, no longer. The city will identify the man, and we will find him. And please, no fidgeting about the poor fellows being unemployed. If they are unemployed, our bill envisages training them. That is the message. No one escapes responsibility for parenthood.

As for welfare mothers, for the first time ever we create an entitlement for education, job training, job search. This is a momentous event. We have heard so much for so long about workfare and whatever. That is to say, about efforts to make welfare recipients work. It is not so. The dirty little secret is that, far from being forced to work, welfare mothers are for practical purposes prevented from working. All over our Nation mothers with children have entered the work force. Except these mother. I am happy to see that the New York Times has taken to describing them as unemployed. Which they are. And their unemployment rate approaches 94 percent.

The work and training entitlement in the bill rises to $1 billion in 1992. As Mr. Rich notes, outlays are not expected to reach that level in the early years for this money is not easy to spend. We require that half the amount go to those likely to be long-term dependents, many of them young persons who are the hardest to win back for the larger society. It will not come easy. We will need some successes. But if we can but enact this legislation in this Congress, the money will always be there. There will then be a bit of role reversal, or so I hope. There will be no excuse—for governments. If 5 years from now some city still has a quarter million adult welfare recipients with maybe 4,000 doing work of any kind, and hardly more getting training of any kind, well it will be some official's fault. Not the welfare mothers' fault. For the money will have been there and the city or State or county will have failed in its elemental duty to put it to use. The situation will be no different, in my view, from that of a school board which having thought the matter over, decides that schools are not necessary after all, and politely refuses Federal aid in order to avoid having to pony up the local share of school costs.

Of course, we already have had successes at the level of State government. This had been the inspiration of our current effort. Last year the Governors' association made welfare change its major goal. Bill Clinton of Arkansas, as chairman of the NGA, took up the cause with unequaled energy and conviction. Governor Michael Castle of Delaware headed the committee that produced the Governors' proposal. Ours is their bill. We follow their lead, and most specifically, the hugely encouraging facts that have come out of Mike Dukakis' E.T. Program in Massachusetts, George Deukmejian's GAIN Program in California, and Tom Kean's REACH Program in New Jersey. We are greatly indebted to these leaders. I dare to hope that a generation of children whose lives we can save—often literally save—will come to know their names.

Mr. President, I ask unanimous consent that today's articles from the Washington Post and the Wall Street Journal be included in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. MOYNIHAN. As so let us hope we will do our duty. For it is just that. At any given moment, one child in six in America is a ward of the Senate Finance Committee. One-third of these are supported by SI, two-thirds by AFDC. Over time, one child in three in America will be supported by one program or the other. Clearly the level of that support is so disparate as between the two groups of children and another that conscience commands we undertake to change these outcomes. It may take a generation. Very well, had we addressed the issue when it first presented itself a generation ago, we would not be where we are today. Which is to say, at the first time in our Nation's history when children are the poorest group in the population.

EXHIBIT 1

[From the Washington Post, Apr. 21, 1988]

SENATE PANEL BACKS WELFARE RESTRUCTURING—EDUCATION, TRAINING FOR JOBS STRESSED

(By Spencer Rich)

The Senate Finance Committee, traditional graveyard of welfare overhaul proposals, yesterday approved a dramatic restructuring of the nation's welfare system, stressing education and training for welfare mothers to help them get jobs. The vote was 17 to 3.

The House passed its welfare measure Dec. 16 by a 36-vote margin, and Finance Committee Chairman Lloyd Bentsen (D-Tex.), who tailored compromises to allay Republican suspicions and ease the bill through the panel, said he will seek rapid floor action in the hope that the bill can "become law in 1988," despite White House veto threats.

In addition to the education and training provisions, the bill would beef up laws compelling parents who are absent from the home to support their children. Most notably, it would require in many cases that employers automatically deduct legally due child-support payments from the paycheck of such a parent, even if not in arrears.

"We are bringing a generation of American women back into the mainstream of American life . . . . We've been fighting and struggling for this for a quarter century," said a jubilant Sen. Daniel Patrick Moynihan (D-N.Y.), the bill's chief sponsor.

Bentsen broke into a smile after the vote and called the bill "a major step forward in welfare reform."

However, Sen. William L. Armstrong (R-Colo.) said the bill "does not contain the elements of reform," allowing welfare mothers to turn down jobs if they don't pay at least as much as the value of their cash benefit plus their food stamps and Medicaid benefits combined.

Armstrong also contended that a provision requiring all states to make families with unemployed fathers eligible for welfare benefits for at least six months annually would add 130,000 families to the welfare rolls, although others put the figure at 70,000.

Armstrong, who was joined by Sens. William V. Roth Jr. (R-Del.) and Malcolm Wallop (R-Wyo.) in voting against the bill, repeatedly warned that President Reagan would veto the bill in its current form. The administration opposes, among other things, the bill's costs, the unemployed-parent provision, and failure to set mandatory levels for the proportion of welfare mothers that each state must enroll in the program.

The Finance Committee bill would cost about $2.8 billion over the next five years. The House bill, with more generous benefit provisions, would cost about $7.1 billion for a similar period. There is also a Republican plan, costing about $913 million, that administration spokesman may push on the Senate floor.

Although policy experts over the years have talked of making welfare clients seek jobs, there is no major large-scale training and education program to help ready them for work.

Under the bill, states would be required to set up a variety of basic education, skills, job-training, job-search and remedial education programs.

Welfare parents whose children are at least three years old (or at state option, at least one year old) could be required to participate in the education and training programs, with special targeting of those who lack high-school diplomas or who have been on welfare for long periods.

Child care would have to be provided where needed, with federal matching funds available to help cover costs up to the local market rate. The state would also have to reimburse the individual for transportation costs.

To ease transition from welfare to employment, the bill would require the states to help provide child care for up to nine months and Medicaid for up to a year after a person gets a job and leaves the cash welfare rolls. States could require these families to contribute according to a fee schedule.

The bill would also require all states to make families eligible for welfare if the father is present in the home but unemployed, but the state could limit benefits to six months in any one year. At present, half the states voluntarily include unemployment-father families.

Under the bill, federal outlays to help reimburse the states for child care, Medicaid benefits and unemployed-parent provisions would not be subject to any cap. But federal outlays for the education and training programs—including transportation costs—could not exceed $500 million in fiscal 1989, $650 million in 1990, $800 million in 1991, and $1 billion a year thereafter. However, outlays are not expected to reach the caps initially because it takes time to get new programs started.

[From the Wall Street Journal, Apr. 21, 1988]

SENATE PANEL CLEARS WELFARE OVERHAUL DESPITE THREAT OF A WHITE HOUSE VETO

(By MICHEL MCQUEEN)

WASHINGTON—The Senate Finance Committee approved a major overhaul of the welfare system designed to move recipients into the work force.

The panel approved the five-year, $2.8 billion proposal on a bipartisan 17-3 vote yesterday and sent it to the full Senate, where sponsors expect swift approval. The House approved a similar but more costly measure, 230-194, in December.

However, the legislation faces hurdles. The Reagan administration has threatened a veto, complaining that certain increased benefits in the measure would attract more recipients to welfare rolls and increase their dependency.

The Senate bill would replace the decades-old Aid to Families with Dependent Children program with a new one that would require many recipients to work, go to school, or receive job training in order to keep their benefits.

"This is a momentous event. We are redefining this 1935 program from a widow's pension to a program that will bring a generation of young American women back into the mainstream of American life," said Daniel Moynihan (D., N.Y.), chief sponsor.

Under the bill, states would offer assistance with child care, transportation and job placement, and would be required to extend at least limited benefits to two-parent families in which both are unemployed. Currently, 24 states exclude such families. The bill also would toughen child-support collection measures, in part by requiring states to deduct payments from many parents' paychecks.

Supporters call the measure a radical redesign of the nation's approach to welfare, intended to incorporate notions of family responsibility as well as social concern for the disadvantaged. Single parents of children over the age of three could lose benefits if they don't participate, but money will be targeted to recipients most hampered in the workplace by lack of education or skills.

Despite the hefty price tag, committee Chairman Lloyd Bentsen (D., Texas) said the measure wouldn't raise the federal deficit because methods to fund it are included.

The measure would expand an existing Internal Revenue Service program under which debts to the federal government may be deducted from tax refunds raising $2 billion for the welfare programs. It would raise another $800 million by reducing the existing tax credit for child care expenses for those earning more than $70,000 a year and eliminating it for those earning more than $97,500. Sen. Bill Bradley (D., N.J.) criticized the provision, saying it would mean that "upper-middle-class women who work are paying for welfare reform."

The broader House bill initially was estimated to cost $5.2 billion over five years, but congressional budget analysts said yesterday that costs could be as high as $7.1 billion.

In contrast to the House bill, which received no GOP votes in committee and few on the floor, the Senate measure was backed by six of the committee's nine Republicans, including Minority Leader Robert Dole of Kansas.

However, it isn't clear whether a presidential veto could be overridden. The administration's threat was underlined this week when cabinet officals for budget, labor, human services and agriculture wrote the panel saying they would urge a veto. But Mr. Moynihan said, "If the president vetoes it, the next president will sign it. We've reached a consensus on absolutely every issue.

MESSAGES FROM THE HOUSE

At 9:32 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the concurrent resolution (H. Con. Res. 268) setting forth the congressional budget for the U.S. Government for fiscal years 1989, 1990, and 1991; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. GRAY of Pennsylvania, Mr. FOLEY, Mr. LOWRY of Washington, Mr. WILLIAMS, Mr. FROST, Mr. SCHUMER, Mr. SLATTERY, Mr. ATKINS, Mr. GUARINI, Mr. DURBIN, Mr. LATTA, Mr. GRADISON, Mr. GOODLING, Mr. DENNY SMITH, Mr. EDWARDS of Oklahoma, Mr. THOMAS of California, and Mr. ROGERS as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2266. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes;

H.R. 2641. An act to amend the National Trails System Act to provide for cooperation with State and local governments, for the improved management of certain Federal lands, and for other purposes;

H.R. 2889. An act for the relief of Frances Silver; and

H.R. 4389. An act to amend the Demonstration Cities Metropolitan Development Act of 1966 to provide relocation assistance to certain persons affected by closures of Coast Guard bases and installations.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 270. A concurrent resolution authorizing printing of a House report, previously printed in the Eighty-second Congress, concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre.

At 10:03 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, without amendment:

S.J. Res. 190. Joint resolution to authorize and request the President to issue a proclamation designating June 6-12, 1988, as "National Fishing Week";

S.J. Res. 227. Joint resolution to express gratitude for law enforcement personnel;

S.J. Res. 246. Joint resolution to designate the month of April 1988 as "National Child Abuse Prevention Month"; and

S.J. Res. 247. Joint resolution to authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day".

At 12:12 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 4222. An act to amend the Immigration and Nationality Act to extend the application period under the legalization program;

H.J. Res. 421. Joint resolution designating May 1988 as "National Digestive Disease Awareness Month"; and

H.J. Res. 508. Joint resolution designating May 1988 as "Older Americans Month."

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2266. An act to amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2641. An act to amend the National Trails System Act to provide for cooperation with State and local governments, for the improved management of certain Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2889. An act for the relief of Frances Silver; to the Committee on Governmental Affairs.

H.R. 4389. An act to amend the Demonstration Cities Metropolitan Development Act of 1966 to provide relocation assistance to certain persons affected by closures of Coast Guard bases and installations; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following joint resolutions were read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 421. Joint resolution designating May 1988 as "National Digestive Disease Awareness Month"; and

H.J. Res. 508. Joint resolution designating May 1988 as "Older Americans Month."

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 270. A concurrent resolution authorizing printing of a House report, previously printed in the 82d Congress, concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre.

The Committee on Environment and Public Works was discharged from the further consideration of the following bills, which were placed on the calendar:

S. 1827. A bill to designate the Federal building located at 330 Booth Street in Reno, NV, as the "C. Clifton Young Federal Building"; and

S. 2248. A bill to designate the U.S. courthouse located at 156 Federal Street in Portland, ME, as the "Edward Thaxter Gignoux United States Courthouse".

ENROLLED BILL AND JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, April 21, 1988, he had presented to the President of the United States the following enrolled bill and joint resolution:

S. 1609. An act for the relief of James P. Purvis; and

S.J. Res. 235. Joint resolution deploring the Soviet Government's active persecution of religious believers in Ukraine.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-442. A resolution adopted by the Texas and Southwestern Cattle Raisers Association favoring funds for a research program on hard yellow liver disease; to the Committee on Agriculture, Nutrition, and Forestry.

POM-443. A resolution adopted by the Texas and Southwestern Cattle Raisers Association opposing the establishment of an inspection station in Texas for the importation of Mexican cattle that have not been inspected in Mexico prior to shipment; to the Committee on Agriculture, Nutrition, and Forestry.

POM-444. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Armed Services.

"HOUSE RESOLUTION NO. 1170

"Whereas, Since 1973, the Defense Intelligence Agency has records of more than 800 sightings of United States personnel alive in Southeast Asia; and

"Whereas, Until 1978, information concerning sightings of United States personnel was available to the American public, but such information is now classified as requiring protection against unauthorized disclosure; and

"Whereas, There are 2,421 members of the Armed Forces which are unaccounted for in Southeast Asia and the families of our servicemembers and the American people have the right to see the reports of the Defense Intelligence Agency; and

"Whereas, Certain classified information in possession of the Defense Intelligence Agency concerning reports of sightings of United States personnel in Southeast Asia has been turned over to the Government of Vietnam; and

"Whereas, H.R. 2260 is currently before the United States Congress and it would mandate disclosure of information concerning American personnel classified as prisoners of war or missing in action in Southeast Asia; therefore be it

"*Resolved, by the House of Representatives of the eighty-fifth general assembly of the State of Illinois,* That we respectfully urge the United States Congress to adopt H.R. 2260; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be respectfully presented to the President of the United States, to the leaders of both Houses of Congress, and to each member of the Illinois Congressional delegation."

POM-445. A resolution adopted by the Illinois State Board of Education favoring the location of the proposed Superconducting Super Collidor in Illinois; to the Committee on Commerce, Science, and Transportation.

POM-446. A concurrent resolution adopted by the Legislature of the Commonwealth of Massachusetts; to the Committee on Commerce, Science, and Transportation.

"RESOLUTIONS MEMORIALIZING THE PRESIDENT AND SECRETARY OF TRANSPORTATION TO DIRECT THE FEDERAL RAILROAD ADMINISTRATION TO REQUIRE THE GUILFORD TRANSPORTATION INDUSTRIES TO COMPLY IMMEDIATELY WITH ALL SAFETY RULES AND REGULATIONS

"Whereas, Guilford Transportation Industries owns the strikebound Springfield Terminal and Maine Central Railways; and

"Whereas, unions employed by those railways have been on strike since November when a worker in Lawrence, Massachusetts was killed; and

"Whereas, the unions insist safety is the primary issue; and

"Whereas, the Federal Railway Administration's offices contain a two foot high box filled with 70 pounds of documents outlining safety violations at railroad facilities owned by said company; therefore be it

"*Resolved,* That the Massachusetts General Court hereby urges President Ronald Reagan and the Secretary of Transportation James Burnley to direct the Federal Railroad Administration to require the Guilford Transportation Industries to comply immediately with all safety rules and regulations; and be it further

"*Resolved,* That copies of these resolutions be forwarded by the Clerk of the House of Representatives to the President, the Secretary of Transportation, the Federal Railroad Administration, the Presiding Officer of each branch of Congress and to the Members thereof from this commonwealth."

POM-447. A joint resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY JOINT RESOLUTION NO. 44

"Whereas, Commercial whaling is responsible for the dangerous decline of many species of whales, such as blue, gray, humpback, and right, as well as many other endangered species; and

"Whereas, In 1982 the International Whaling Commission passed a moratorium banning commercial whaling effective January 1, 1986; and

"Whereas, Some countries may aggressively continue commercial whaling, often under the guise of scientific research; and

"Whereas, There are alternate methods of studying whales—benign techniques-such as photo identification, aerial counts, nonintrusive observations, and radio telemetry, which can provide necessary data on whales without harm; and

"Whereas, Without exception, every product derived from whales can now be synthesized or obtained from other materials; now, therefore, be it

"*Resolved, by the Assembly and Senate of the State of California, jointly,* That the California Legislature respectfully memorializes the Congress and the President of the

United States to enforce existing laws, specifically the Packwood-Magnuson Act and the Pelly Amendment, on countries that continue to pursue commercial whaling on any level or that endanger whales and their environment in the name of "scientific research;" and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to each member of the International Whaling Commission, to the Administrator of the Environmental Protection Agency, to the Chairperson of the National Marine Fisheries Service, to the Chairperson of the Senate Committees on Commerce, State, and Justice, and to related committees of United States Senate, and to the Chairman of the House of Representatives Committee on Merchant Marine and Fisheries."

POM-448. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"ASSEMBLY JOINT RESOLUTION No. 58

"Whereas, over 10,000 military and civilian women served our country in a brave and selfless manner in Vietnam; and

"Whereas, Their unique, valuable, and extremely laudable contributions to American efforts during that conflict have gone unnoticed by many people in our nation; and

"Whereas, The nonprofit Vietnam Women's Memorial Project, Inc., was founded in 1984 to educate the public about women's military service in Vietnam and to construct a memorial honoring their accomplishments; and

"Whereas, The proposed placement of the memorial—a lifesize statue—on the grounds of the nation's Vietnam Veterans Memorial received the support of the Secretary of the Interior and the Director of the National Park Service after extensive consultation with veterans and other interested groups; and

"Whereas, Support has also come from the American Legion, Veterans of Foreign Wars, Vietnam Veterans of America, the American Nurses Association, Disabled American Veterans, National League of Nursing, Jewish War Veterans, American Federation of Nurse & Health Professionals/AFT and others; and

"Whereas, Despite the extent of this support for the memorial, the federal Fine Arts Commission has disapproved placement of the statue because of its belief that the existing statue depicting three male soldiers also represents the contributions of women, and that if a women veterans statue were allowed, it would be necessary to add other statues such as one for the Canine Corps; and

"Whereas, A women veterans memorial is most appropriate to show this country's appreciation and recognition for their bravery, honor, an unparalleled commitment to service; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the California Legislature respectfully memorializes the President and Congress of the United States to support and enact legislation for the erection of an appropriate memorial statue honoring women Vietnam veterans on the grounds of the Vietnam Veterans Memorial; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Federal Fine Arts Commission."

POM-449. A resolution adopted by the Second Olbiil Era Kelulau; to the Committee on Energy and Natural Resources:

HOUSE RESOLUTION No. 2-0073-19S

"Whereas, the Micronesian Claims Act of 1971 which was enacted by the United States Congress created the Micronesian Claims Commission; and

"Whereas, it was the duty of the Micronesian Claims Commission to receive, examine, adjudicate, and render final decision, in accordance with the laws of the Trust Territory and international law, with respect to (1) the Claims of Micronesian inhabitants of the Trust Territory who suffered loss of life, physical injury and property damage directly resulting from the hostilities between the governments of Japan and the United States between December 7, 1941, and the dates of the securing of the various islands of Micronesia by the United States Armed Forces (Title I), and (2) those claims arising as postwar claims between the dates of the securing of the various islands of Micronesia by United States Armed Forces and July 1, 1951 (Title II); and

"Whereas, the governments of Japan and the United States entered into an agreement in 1969 to contribute ex gratia the equivalent of $10 million dollars (US currency) to the Micronesian inhabitants of the Trust Territory to compensate them for their sufferings caused by World War II, each government contributing the equivalent of 5 million dollars (US currency) (Title I); and

"Whereas, the Micronesian Claims Commission issued awards under Title I in the amount of 34,349,509 dollars in US currency; and

"Whereas, since there were insufficient funds to pay the entire amount of the awards, each claimant was paid a pro rate share of the award; and

"Whereas, the remaining unpaid balance of the award made under Title I of the Micronesian Claims Act of 1971 is 24.3 million dollars; and

"Whereas, in 1977 the United States Congress authorized the appropriation of funds to pay the 50% of the unpaid awards owed by the United States if Japan would contribute its 50% share; and

"Whereas the congressional records of the United States Congress made it very clear that the United States Congress will appropriate and pay to Micronesian Claimants the 24.3 million dollars, which represents the unpaid balance of the award made to Micronesian Claimants under Title I, if the Secretary of Interior certifies to the United States Congress that the government of Japan had contributed to the Micronesian governments and equivalent of 12 million dollars in aids; and

"Whereas, the officials from both the Interior Department and the State Department had confirmed and informed the United States Congress that the Government of Japan had contributed more than 12 million U.S. Dollars in aid to the Mirconesian governments since 1978; and

"Whereas, the first half of the 24.3 million dollars has now been appropriated by the United States Congress; now, therefore

"Be it resolved, That the House of Delegates of the Second Olbiil Era Kelulau hereby thanks the United States Congress for appropriating and including in the Fiscal Year 1988 Budget the first half of the 24.3 million dollars of War Claims awards to Micronesian Claimants; and

"Be it further resolved, That the House of Delegates of the Second Olbiil Era Kelulau urges the United States Congress to appropriate and include the second half of the 24.3 million dollars in the United States Fiscal Year 1989 Budget; and

"Be it further resolved That certified copies of this resolution be transmitted to the President of the United States, President of the Senate and Speaker of the House of Representatives of the United States Congress, Chairman Morris Udall of the Committee on Interior and Insular Affairs, Chairman Ron de Lugo of the Subcommittee on Insular and International Affairs, Chairman of the Senate Appropriation Committee of the United States Congress, Chairman of the House of Representives Appropriation Committee of the United States Congress, President of the Federated States of Micronesia, President of the Marshall Islands, Governor of the Northern Mariana Islands, President of the Republic of Palau, and President of the Senate and Speaker of the House of Delegates of the Second Olbiil Era Kelulau."

POM-450. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Energy and Natural Resources:

HOUSE RESOLUTION No. 1169

"Whereas, A new study predicts increased use of ethanol in gasoline would save the federal government billions of dollars in farm program costs and would cut crude oil imports by more than $2 billion per year; and

"Whereas, House Resolution 2052 mandates increased use of ethanol through 1992, by which time 50 percent of the nation's gasoline would contain 10 percent ethanol as an octane booster, and currently, ethanol blended fuels comprise about 8 percent of the gasoline used in this country; and

"Whereas, In addition to cutting crude oil imports, increased ethanol use would raise farmers' incomes and eliminate the nation's costly grain surplus: and

"Whereas. Each year, United States corn farmers supply most of the 300 million bushels of grain processed into fuel alcohol and the State of Illinois makes and produces more than half of all United States ethanol; therefore, be it

"Resolved, by the House of Representatives of the eighty-fifth general assembly of the State of Illinois, That the United States Congress is hereby encouraged to pass and the President to approve HR 2052 to assist the farming industry to regain economic composure while the need for crude oil imports is reduced; and be it further

"Resolved, That a suitable copy of this preamble and resolution be presented to the President of the United States. The President of the United States Senate, the Speaker of the United States House of Representatives and to each member of the Illinois Congressional Delegation."

POM-451. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Environment and Public Works:

"HOUSE RESOLUTION NO. 1187

"Whereas, Coal mining is a major Illinois industry providing nearly 15,000 jobs and billions of dollars in overall economic benefits to our State, making it literally the economic mainstay of many communities; and

"Whereas, Illinois coal is the key to affordable energy for millions of electric utility customers in Illinois and some 20 other states; and

"Whereas, In response to federal clean air act requirements, Illinois has significantly reduced air pollution from coal burning at a cost of hundreds of millions of dollars to electric utility customers; and

"Whereas, The State of Illinois has invested many millions of dollars in research and development projects designed to further reduce air pollution from coal; and

"Whereas, The Congress of the United States has before it measures which in an attempt to solve the acid rain issue could cut Illinois coal production by up to two-thirds of current levels, erase 4,000 to 6,000 mining jobs and ignite a $600 million or more loss to the State economy; and

"Whereas, Such federal acid deposition legislation would cost Illinois utility customers many more millions of dollars per year without offering any meaningful support for the costs of new pollution control equipment; and

"Whereas, What all parties need to do instead is to develop more cost effective pollution control methods, a need which is widely recognized in the United States and Canada and which is the subject of the major recommendation of the Drew Lewis-William Davis Report: therefore, be it

"*Resolved, by the House of Representatives of the eighty-fifth General Assembly of the State of Illinois,* That we express our strong belief that any federal acid deposition legislation would levy disproportionate costs on the State of Illinois and result in job dislocation in the State; and be it further

"*Resolved,* That the Governor and the members of the Illinois Congressional Delegation be urged to continue to work for meaningful federal support of new clean coal technology development which would solve the problem without economic disruption; and be if further

"*Resolved,* That a suitable copy of this resolution be sent to Governor James R. Thompson, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Illinois Congressional Delegation."

POM-452. A resolution adopted by the Texas and Southwestern Cattle Raisers Association opposing the EPA's Endangered species protection program and its provisions relative to pesticides; to the Committee on Environment and Public Works.

POM-453. A resolution adopted by the Texas and Southwestern Cattle Raisers Association favoring an examination of the National Wetlands Inventory; to the Committee on Environment and Public Works.

POM-454. A resolution adopted by the Texas and Southwestern Cattle Raisers Association favoring the repeal of the preproductive expensing law; to the Committee on Finance.

POM-455. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Finance.

"HOUSE RESOLUTION NO. 1163

"Whereas, The United States Congress in Section 1703 of the Tax Reform Act of 1986 (signed into Public Law 99-514 on October 22, 1986) changed the collection procedure of the federal excise tax on gasoline (currently 9.1 cents per gallon) and gasohol (currently 3.1 cents per gallon) as of January 1, 1988; and

"Whereas, Congress intended that all tax-exempt sales of gasoline and gasohol be eliminated; and

"Whereas, The new procedure, by not including independent petroleum marketers as 'taxpayers', effectively prevents such marketers from selling tax-exempt gasoline and gasohol to state and local governments (including school districts), thus requiring such marketers to collect the tax up-front from such units of government and then such units of government have to apply to the U.S. Treasury Department for refunds; and

"Whereas, Many such units of government have no sources of supply other than independent petroleum marketers; and

"Whereas, Such units of government have not budgeted for this unexpected expense and time dealing with additional government paperwork; and

"Whereas, Existing Section 6416 of the U.S. Internal Revenue Code provides for tax exempt sales of gasoline and gasohol by "taxpayers" to state and local governments with the taxpayers applying for refunds to the U.S. Treasury Department; and

"Whereas, Section 10422 of H.R. 3545, the Budget Reconciliation Act of 1987, that passed the U.S. House of Representatives on October 29, 1987, would allow independent petroleum marketers to remit the tax directly to the government, thus making them "taxpayers" consistent with Section 6416; and

"Whereas, The Section 10422 provisions to H.R. 3545, together with Section 6416 of the Internal Revenue Code, would allow independent petroleum marketers to sell gasoline and gasohol to state and local governments on a tax-exempt basis; therefore, be it.

"*Resolved, by the House of Representatives of the eighty-fifth General Assembly of the State of Illinois,* That the United States Congress retain the existing Section 6416 of the Internal Revenue Code an enact as soon as possible legislation similar to Section 10422 of H.R. 3545; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be presented to the Speaker of the United States House, the President of the United States Senate and the Illinois Congressional Delegation."

POM-456. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Finance:

"HOUSE RESOLUTION NO. 1164

"Whereas, The United States Congress in Section 10502 of the Omnibus Budget Reconciliation Act of 1987 (signed into Public Law 100-203 on December 22, 1987) changed the point of collection of federal diesel fuel excise taxes (currently 15.1 cents per gallon) from the retail level to the wholesale level to the wholesale level as of April 1, 1988; and

"Whereas, This change in the federal excise tax law will then require farmers and other off-road diesel fuel users to pay the diesel fuel tax at the time of purchase and then to file with the U.S. Internal Revenue Service for a refund on a quarterly or annual basis; and

"Whereas, The up-front payment of these taxes by farmers and other off-road diesel fuel users will increase the farmer's annual cost of production, will further inhibit the farmer's cash flow by requiring the need to borrow additional funds for operating expenses, and will have similar effects on other off-road users of diesel fuel; and

"Whereas, The requirement to apply for refunds will require more time of each farmer and other off-road users of diesel fuel and shift the paperwork burden from the government to the farmer and other off-road users of diesel fuel; therefore, be it

"*Resolved, by the House of Representatives of the eighty-fifth General Assembly of the State of Illinois,* that the United States Congress reverse its action on this change in the collection of the federal diesel fuel excise tax and amend Section 10502 of the Omnibus Budget Reconciliation Act of 1987 to reinstate the same tax exemptions for farmers and other off-road users as previously existed; and be it further

"*Resolved,* That suitable copies of this preamble and resolution be presented to the Speaker of the United States House, the President of the United States Senate and the Illinois Congressional Delegation."

POM-457. A resolution adopted by the Senate of the State of Alaska; to the Committee on Finance:

"SENATE RESOLVE NO. 22

"*Be it resolved by the Senate:*

"Whereas the Congress in 1977 reduced the basic Social Security retirement benefit and made other changes to the formula for distributing benefits under the Social Security Act; and

"Whereas the changes included a five-year phase-in period that caused Social Security recipients born during the years 1917 through 1921 to receive lower benefits than persons born before 1917, and to take a greater reduction in benefits than those born after 1921; and

"Whereas these benefit reductions are particularly unfair to the more than 6,000,000 Social Security recipients born during the years 1917 through 1921; and

"Whereas legislation has been introduced in the Congress that would rectify this problem;

"*Be it resolved by the Alaska State Senate,* that the Congress is respectfully requested to enact legislation that would change the Social Security benefits formula to bring recipients born during the years 1917 through 1921 up to parity with recipients born before 1917.

"Copies of this resolution shall be sent to the Honorable George Bush, Vice-President of the United States and President of the U.S. Senate; the Honorable Jim Wright, Speaker of the of the U.S. House of Representatives; the Honorable Edward R. Roybal, U.S. Representative from California; and to the Honorable Ted Stevens and the Honorable Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress."

POM-458. A resolution adopted by the Public Affairs Luncheon Club of Dallas supporting aid for the Contra forces in Nicaragua; to the Committee on Foreign Relations.

POM-459. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary.

"HOUSE RESOLUTION NO. 1204

"Whereas, In November, 1986, President Reagan signed into law the new Immigration Reform and Control Act; and

"Whereas, Provisions in the Immigration Reform and Control Act called the Seasonal Agricultural Work Act or S.A.W. are intended to legalize enough agricultural workers to harvest the hand-labor crops in the United States; and

"Whereas, The S.A.W. program is falling short of the original estimate, legalizing only about 10% of the estimated number needed to harvest the crops in this country; and

"Whereas, The period of time designated by the S.A.W. for immigrants to become legal was from May 1, 1985 to May 1, 1986, which was not long enough; and

"Whereas, The length of time for the legalization process for S.A.W. applicants needs to be extended to accommodate the number of workers needed in the agriculture industry; and

"Whereas, A program called H-2A, which allows foreign workers to be in the United States for a short period of time to harvest crops, needs the help and clearance from the federal and State labor departments; therefore, be it

"Resolved, by the House of Representatives of the eighty-fifth General Assembly of the State of Illinois, that we urge the United States Congress to consider changing the Immigration Reform and Control Act to allow more time for individuals to qualify; and that we urge the federal and State labor departments to work with employers to allow foreign workers to come to the United States for harvests; and be it further

"Resolved, That a suitable copy of this preamble and resolution be respectfully submitted to the President of the United States, the Secretary of Labor, the President of the Senate and the Speaker of the House of Representatives of the United States Congress, each member of the Illinois Congressional delegation and the Illinois Director of Labor."

POM-460. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on the Judiciary.

"House Resolution No. 1207

"Whereas, Desperate economic straits in their homeland have led countless young Irish women and men to forsake that homeland in search of gainful employment; and

"Whereas, The United States has traditionally welcomed Irish immigrants as hardworking, well-educated and law abiding citizens; and

"Whereas, The United States has closed the door to large scale immigration; and

"Whereas, As a result, many Irish immigrants have been forced to immigrate to the United States unlawfully; and

"Whereas, The United States has recently opened the door a crack for many illegal aliens who currently reside in this country; and

"Whereas, This amnesty has led to an unfair discrimination against Irish illegal aliens due to the arbitrary cut off date provision in that amnesty; and

"Whereas, The United States should continue its tradition of welcoming Irish immigrants; therefore, be it

"Resolved, by the House of Representatives of the Eighty-fifth General Assembly of the State of Illinois, That we urge Congress to act to correct the inequitable nature of the immigration amnesty and thus grant amnesty to a greater number of Irish nationals; and we particularly ask the Illinois Congressional Delegation to consider this matter; and be it further

"Resolved, That suitable copies of this preamble and resolution be presented to the Speaker of the United States House of Representatives and the President of the United States Senate and to the members of the Illinois Congressional Delegation."

POM-461. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"Assembly Joint Resolution No. 40

"LEGISLATIVE COUNSEL'S DIGEST

"AJR 40, Killea. Clandestine drug laboratories.

"This measure would urge the President and Congress of the United States to make federal drug law enforcement funds available to match state funds to be used for the cleanup of hazardous substances produced by clandestine drug laboratories.

"Whereas, The illegal manufacturing of drugs has dramatically escalated in recent years; and

"Whereas, One hundred clandestine drug labs were seized by law enforcement in California in 1983, with that number more than tripled in 1986; and

"Whereas, The Federal Drug Enforcement Agency reported a similar trend nationwide; and

"Whereas, Chemicals combined in illegal drug manufacturing processes, particularly in methamphetamine labs, produce extremely hazardous substances and poisonous gases which permeate structures and contaminate the surrounding environment; and

"Whereas, Illegal labs have been found in apartments, motel rooms, motorhomes, and other inhabitable dwellings; and

"Whereas, Currently, no state or federal funding is made available for the immediate cleanup of the structures and surrounding environment contaminated by hazardous substances and spills produced by illegal drug manufacturing processes; and

"Whereas, The lack of proper cleanup operations undertaken at the site of seized drug labs and the abandoned hazardous waste produced from those labs threaten the health of innocent tenants, homeowners, and landlords who may reinhabit apartments, motorhomes, garages, or other structures following only cursory cleanups of the structures and surrounding environment; and

"Whereas, There is growing public demand for suppression of illegal drug activity, yet there is no financial support from federal or state government for cleaning up the extremely dangerous contamination at the site of every illegal drug lab seized; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That, in response to the public mandate for strict drug law enforcement, the Legislature of the State of California urges the President and Congress of the United States to make federal drug law enforcement funds available to match state funds to be used for the cleanup of hazardous substances produced by clandestine drug laboratories; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States and the presiding officer of each house of the Legislature, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Director of the Federal Bureau of Justice Assistance."

POM-462. A resolution adopted by the Senate of the State of Kansas; to the Committee on Labor and Human Resources:

"Senate Resolution No. 1854

"Whereas, Consumers throughout the nation are becoming more health conscious and more concerned about the foods they eat; and

"Whereas, Citizens are demanding complete and accurate information on ingredients contained in processed, packaged food products, and are not asking for recipes or trade secrets to be divulged; and

"Whereas, A recent survey of 2,500 food products found 1,155 items containing fat and oils; and

"Whereas, More than one-third of such food products claimed to contain "100% vegetable oils", but actually included "tropical oils" such as palm, palm kernel, or coconut oil, each of which is high in saturated fats; and

"Whereas, Current labeling requirements and practices make it impossible to know the kind, volume or percentage of oil used in any food product; and

"Whereas, Consumers are also concerned with water and other ingredients being added to or combined with pork products; and

"Whereas, Kansans, as well as consumers throughout the country, have a right to full disclosure on the label of ingredients in the food products they buy: Now, therefore,

"Be it resolved by the Senate of the State of Kansas, That we urge Congress to enact legislation to establish uniform national labeling standards for food manufacturers and processors in order to benefit consumers and provide them with accurate information so they may make informed choices on food purchases; and

"Be it further resolved, That the Secretary of the Senate be directed to send enrolled copies of this resolution to the President of the United States Senate; the Speaker of the United States House of Representatives; and to each member of the Congressional delegation from the State of Kansas.

"Senate Resolution No. 1854 was sponsored by the Committee on Agriculture."

POM-463. A joint resolution adopted by the Legislature of the State of Virginia; to the Committee on Veterans' Affairs:

"Senate Joint Resolution No. 87

"Whereas, the Vietnam War was unpopular and controversial and many of those who served were among the very young and poor; and

"Whereas, these individuals frequently feel that they were "raised in the United States, but grew up in Vietnam"; and

"Whereas, the trauma of their experience in Vietnam still elicits emotional responses from most Vietnam Veterans; and

"Whereas, between 9 and 17.7 million gallons of herbicide including Agent Orange, Herbicide White and Herbicide Blue were sprayed from airplanes in Vietnam to defoliate the trees and expose the enemy as well as destroy their food crops; and

"Whereas, Agent Orange contains a mixture of two herbicides, one of which contains the dioxin, TCDD; and

"Whereas, TCDD has been called "one of the most toxic man-made compounds known"; and

"Whereas, laboratory experiments have demonstrated a wide variety of reactions to dioxin in different animals and there is no consistency in the results of these studies; however, relatively small doses of dioxin cause death, cancer and birth defects in some species of animals; and

"Whereas, studies of individuals exposed to dioxin in industrial accidents and through environmental contamination do not provide conclusive scientific evidence to substantiate that dioxin creates chronic health problems; and

"Whereas, it must be understood, however, that such longitudinal studies may not be highly accurate because the latency period was not long enough to show chronic health effects and the data was incomplete; and

"Whereas, the federal government has funded approximately 80 completed studies and at this time, approximately 70 studies are still in progress; and

"Whereas, one of the problems encountered by the federal government in these studies is that there is no comprehensive list of those that served because many of the records were stored in Saigon and were destroyed in the precipitous departure; and

"Whereas, several researchers and the National Cancer Institute have reported that exposure to herbicides increases the possibility of contracting a rare form of non-Hodgkin's lymphoma; and

"Whereas, soft tissue sarcoma, porphyria cutanea tarda, digestive disorders and lung cancer have been reported to occur at increased rates among those exposed to herbicides; and

"Whereas, common sense would lead to the conclusion that exposure to an extremely toxic substance must have some profound effects on some of the exposed animals and humans; and

"Whereas, although they served their country when needed, Vietnam veterans were made to feel unwanted on returning home and have never been accorded the respect and gratitude that they deserve; and

"Whereas, many Vietnam veterans are suffering from terminal illnesses or long-term chronic illnesses which, in all probability, resulted from their exposure to Agent Orange; and

"Whereas, many Vietnam veterans are pleading for help; they are eloquent, angry and frustrated by a situation they view as unconscionable; and

"Whereas, the Joint Subcommittee Studying the Effects of Agent Orange on Citizens of the Commonwealth agrees that the evidence for Agent Orange causing an increase in chronic health problems among those who were exposed in Vietnam has gained enough significance to justify federal actions to compensate those who suffer from certain conditions and that a mechanism should be established to provide an objective, medically valid review of each case for the purpose of eligibility for compensation; now, therefore, be it

"*Resoved by the Senate, the House of Delegates concurring*, That the Congress of the United States is hereby memorialized to grant presumptive compensation to Vietnam veterans with conditions which have been proven more prevalent among this group such as chloracne, porphyria cutanea tarda, non-Hodgkins lymphoma and lung cancer and to allow such compensation for additional conditions as the evidence accumulates. In addition, the Congress of the United States is requested to amend the Social Security Act to provide an exemption for funds awarded pursuant to the class action suit for the purposes of determining eligibility for federally established public assistance programs; and, be it

"*Resolved further*, That the Clerk of the Senate of Virginia shall transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States, and the members of the Virginia Delegation to the United States Congress that they may be apprised of the sense of the Virginia General Assembly in this matter."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BOREN, from the Select Committee on Intelligence:

Special Report entitled "Report on the INF Treaty Monitoring and Verification Capabilities" (Rept. No. 100-318).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 2302: An original bill to authorize appropriations for the Federal Election Commission for fiscal year 1989 (Rept. No. 100-319).

By Mr. FORD, from the Committee on Rules and Administration, with amendments and with a preamble:

S. Con. Res. 88: A concurrent resolution to facilitate the convening of a Silver Haired Congress (Rept. No. 100-320).

By Mr. FORD, from the Committee on Rules and Administration, with amendment:

S. Res. 414: An original resolution relating to the purchase of calendars.

S. Res. 415: An original resolution to pay a gratuity to Janis K. Barber.

S. Res. 416: An original resolution to pay a gratuity to Oscar M. Holmes, Jr. and Theodore Holmes.

S. Res. 417: An original resolution to pay a gratuity to Swanhild Spackman.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 114: A concurrent resolution authorizing the Law Enforcement Torch Run for the Special Olympics through the Capitol Grounds.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER:

S. 2301. A bill relating to the treatment of certain furskins under the Endangered Species Act of 1973; to the Committee on Environment and Public Works.

By Mr. FORD, from the Committee on Rules and Administration:

S. 2302. An original bill to authorize appropriations for the Federal Election Commission for fiscal year 1989; placed on the calendar.

By Mr. NICKLES:

S. 2303. A bill to amend the Federal Deposit Insurance Act to provide deposit insurance in a manner which does not discriminate against small- and medium-sized banks by expanding the assessment base and reducing the rate for deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BRADLEY (for himself, Mr. DECONCINI, and Mr. KASTEN):

S. 2304. A bill to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Uraine Famine; considered and passed.

By Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. HEINZ, Mr. SIMON, Ms. MIKULSKI, and Mr. PELL):

S. 2305. A bill to amend title XVIII of the Social Security Act to provide for long-term care benefits, and for other purposes; to the Committee on Finance.

By Mr. CRANSTON (by request):

S. 2306. A bill to amend title 38, United States Code, to authorize multiyear contracts in certain cases; to the Committee on Veterans' Affairs.

S. 2307. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. WIRTH (for himself and Mr. GARN):

S.J. Res. 301. Joint resolution designating January 20, 1989, as "National Skiing Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 414. An original resolution relating to the purchase of calendars; placed on the calendar.

S. Res. 415. An original resolution to pay a gratuity to Janis K. Barber; placed on the calendar.

S. Res. 416. An original resolution to pay a gratuity to Oscar M. Holmes, Jr. and Theodore Holmes; placed on the calendar.

S. Res. 417. An original resolution to pay a gratuity to Swanhild Spackman; placed on the calendar.

By Mr. KARNES (for himself, Mr. ARMSTRONG, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HATCH, Mr. HECHT, Mr. HELMS, Mr. MCCONNELL, Mr. NICKLES, Mr. SIMPSON, Mr. COCHRAN, and Mr. DANFORTH):

S. Res. 418. A resolution to expedite consideration of the diesel fuel tax; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 2303. A bill to amend the Federal Deposit Insurance Act to provide deposit insurance in a manner which does not discriminate against small- and medium-sized banks by expanding the assessment base and reducing the assessment rate for deposit insurance; to the Committee on Banking, Housing, and Urban Affairs.

FAIR DEPOSIT INSURANCE ASSESSMENT ACT

Mr. NICKLES. Mr. President, today, I am introducing the Fair Deposit Insurance Assessment Act to correct an inequity in the method the FDIC uses to assess its insurance premiums. Essentially, my bill requires the FDIC to begin assessing premiums on foreign deposits held by U.S. banks.

The problem we face is that the largest banks in the United States are not paying their fair share of the premiums into the insurance fund of the FDIC. These larger banks have been shown to benefit the most from the FDIC insurance. Whether or not you agree with the too-big-to-fail concept, which says that larger banks should not be allowed to fail, you can agree on the idea that all banks should participate equally in the insuring of deposits in this Nation. If, in fact, these larger institutions benefit greater from the insurance system, as has been shown in the FDIC policy toward larger institutions, they should begin to pay the additional premium on those foreign deposits.

Bankers in my State have argued for this change for years and it's about time we do something about it. When we see that all deposits of the larger institutions, which hold the vast majority of foreign deposits, are fully insured, and the smaller banks are closed with the possibility of uninsured depositors, we must see to it that changes are made.

The Senate acted upon this idea in 1986 during consideration of the budget resolution. We voted 63 to 32 to assess all deposits. Unfortunately, this concept did not the carry the conference committee and was never acted upon by either the House or Senate Banking Committees. However, it shows the desire of this body to correct a glaring loophole that is requiring smaller, ailing banks to insure the foreign assets of money center lenders.

My legislation offsets the added revenue from the assessment of the foreign deposits with a reduction of the deposit insurance rate from one-twelfth of 1 percent to one-fourteenth of 1 percent. The reduction in the rate as it applies to U.S. deposits will save our domestic bankers, who have no foreign deposits, over $100 million. This will help, even though small, our community bankers who are operating on a razor-thin margin.

Similar legislation has been introduced in the House by Representative KLECZKA and is pending in the House Banking Committee.

I am sure my colleagues will agree that this change is imperative to the soundness and integrity of our banking insurance system. Their cosponsorship is solicited and welcomed.

I ask unanimous consent that the article by Irvine H. Sprague, a former Director and Chairman of FDIC, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From American Banker, Feb. 19, 1988]

THE MAJOR BANKS HAVE PAID TOO LITTLE FOR FULL FDIC COVERAGE

(By Irvine H. Sprague)

Congressman Gerald D. Kleczka, D-Wis., on Thursday introduced legislation to have the Federal Deposit Insurance Corp. assess premiums on the foreign deposits held by U.S. banks. As a member of the House Banking Committee, Mr. Kleczka should get a hearing. At stake is about $300 million in assessments against a handful of megabanks.

The proposed legislation revives an issue that has been lurking in the background for years and addresses an effort I have carried out with notable lack of success since the failure of Continental Illinois National Bank and Trust Company of Chicago in 1984. Sen. William Proxmire, D-Wis., joined the effort at that time and had legislation drafted similar to Mr. Kleczka's bill.

The largest banks in the United States simply do not pay their fair share for the protection of FDIC insurance. Eight pay on less than half of their deposits. The other 14,000 banks across the nation pay on 100% of theirs.

To rub in the discrepancy, the biggies who pay on only a fraction of their deposits are all in the "TBTF" category: too big to fail. There is no way our government will allow any of the largest banks to go under. Not only are they exempt from much of the assessment costs, they are de facto guaranteed that all of the deposits are protected.

In 1984, I was cautioned by fellow FDIC board members not to rock the boat on the assessment issue: "Why do this?" I was asked. "Nothing is going to happen, and you are making the big banks mad at us."

In 1986, I outlined the unfair assessment system in my book, "Bailout," and since then I have pursued the subject in speeches to community bankers in Minnesota, California, Florida, Georgia, Iowa, and Illinois. In every instance, the response was strong support for change.

This support was evidenced in 1986 during the closing days of the 99th Congress when the Senate voted 63 to 32 to assess all deposits, foreign and domestic alike. The reform was misplaced in the budget bill and it disappeared in conference.

FDIC assessments can be used only by the FDIC and have nothing whatever to do with general government. However, the administration counts FDIC profit or loss in its consolidated budget account. Thus more FDIC profits do reduce the reported budget deficit. But the fact is, these dollars have absolutely no impact on government spending or the federal budget.

FDIC Chairman L. William Seidman has noted the phoniness of the budget issue. He said that assessing foreign deposits raises several complicated issues and that the appropriate forum to consider them is the House and Senate banking committees.

The hearings should be volatile. The community bankers are vocal about getting the short end of the stick. This is a guaranteed winning issue for any congressman in 1988. How often do you find an issue that is fair, right, long overdue, and also popular with your constituents? The congressmen need only balance the financial support from and the pressures by a dozen big-city institutions against the votes of their local constituents. The choice is easy.

The distinction between foreign and domestic deposits dates back to 1933 when the FDIC was created. The laws states the assessments will be made on "domestic deposits." The reasons for this language are lost to history, but it certainly was not because of any dependency on foreign deposits in 1933.

Before Continental there was no real reason to question the lack of payment for the protection of foreign deposits. After all, we figured that it was theoretically possible for a big bank to fail and that the uninsured foreign deposits would be at risk. Four years earlier, we had bailed out First Pennsylvania, but foreign deposits were not a major factor.

Continental caused me to reconsider the assessment rules. The more the system is examined, the clearer it becomes that it is patently unfair.

The Continental bailout protected the entire $69 billion holding company structure: the book and off-book liabilities, the insured and uninsured depositors, foreign and domestic. At the time of the failure, there was just under $3 billion in insured domestic deposits, on which only $6.5 million in assessments had been paid.

The message was clear. Big banks with foreign deposits pay on only a fraction of their total deposits, yet all of the deposits are protected. The Continental cost appears to have leveled off at about $1.75 billion, and in the process all banks have lost the assessment rebate they had been receiving for more than 50 years.

Citicorp, the unchallenged leader in American banking, with over $200 billion in holding company assets, paid $34 million to the FDIC in 1987, the assessment based on just 38 percent of its deposits. At the same time, Bank America, less than half as large as Citicorp, paid $42 million, the assessment based on 69 percent of its deposits.

Does anyone believe that either Citicorp or BankAmerica would be allowed to fail? The answer, of course, is no. So we have a situation in which two of America's megabanks, both receiving the same kind of protection, pay vastly different rates.

Since Mr. Kleczka's proposed change in law will affect only a handful of institutions, the lobbying is narrowly focused. The basic argument against the legislation is that the imposition of a one-twelfth of 1% charge on foreign deposits will make the megabanks noncompetitive in foreign markets.

This kind of reasoning would be analogous to Lee Iacocca arguing that Chrysler should not have to pay taxes so it could better compete with Toyota.

The lobbyists are chasing their tails with this argument. Either the margin is so low that it is immaterial, or it is so high that it is intolerable for these banks to maintain such an advantage over their American rivals.

The Citicorp lobbyist, Bob Barnett, a former FDIC chairman and a savvy politician, came up with a new twist in talking to Congressman Kleczka. Changing the assessment would hurt foreign trade, he argued. Trade is a buzzword in this election year, so I guess Mr. Barnett decided to throw it into the pot, relevant or not.

The words used to describe the deals are different. But the total protection for all depositors exists whether the bank is given open-bank assistance, bailed out, sold, or handled in what is called a purchase and assumption transaction. The uninsured depositors are at risk only in a payoff, whether direct or through a deposit transfer, when the bank is closed and the insured depositors receive their money.

In fact, there has been only one closure and payoff of a bank over $200 million in the entire history of the FDIC, Penn Square. In addition, there have been five payoffs over $100 million and eight more over $50 million. Only in these cases was there any significant loss to depositors.

My original proposal was to assess all deposits and use the added income to reduce the basic rate for all banks. Mr. Kleczka follows this approach with a reduction of the rate from one-twelfth to one-fourteenth of 1%.

Today, with the FDIC operating with a record low surplus in 1987 of $50 million, it would be more prudent to use the added income to build up the FDIC fund.

By Mr. MITCHELL (for himself, Mr. CHAFEE, Mr. GRAHAM, Mr. ROCKEFELLER, Mr. HEINZ, Mr. SIMON, Ms. MIKULSKI, and Mr. PELL):

S. 2305. A bill to amend title XVIII of the Social Security Act to provide for long-term care benefits, and for other purposes; to the Committee on Finance.

LONG-TERM CARE ASSISTANCE ACT

● Mr. MITCHELL. Mr. President. I today introduce legislation to address the serious problem of providing long term care for the Nation's growing number of elderly citizens.

The 20th century has witnessed one of the most dramatic demographic shifts in history. In 1900, 1 in 25 Americans was over the age of 65. By 1986, 1 in 8 was at least 65.

The elderly population is itself growing older. In 1986, 41 percent of the elderly population was age 75 and older. By the year 2000, half of the elderly population is projected to be over age 75.

The elderly are the heaviest users of health services. They account for 30 percent of all hospital discharges, 20 percent of all physician visits, and one-third of the country's personal health care expenditures, even though they comprise only 12 percent of the population. Health care use is greatest in the last year of life and among those over age 85; the so-called "old-old."

In addition to the aging of the population in general, and the increase in the over 85 segment of the elderly population in particular, a second demographic factor has a profound impact on the need for long term care. That is the aging of the "Baby Boomers," those born between 1945 and 1960. As that group moves through the latter stages of life, its numbers will strain over capacity to provide health care for all our citizens.

As the population ages, particularly beyond the age of 85, the need for long term care for chronic illness increases dramatically.

Some experts predict that the number of those over age 85 will quadruple—from nearly 6 million to over 26 million—between 1988 and 2050. While it is impossible to make precise projections about costs of care 60 years from now, one comparison is instructive. If the makeup of our population were similar today to what it is most likely to be in 2050, the costs of long term care in 1987, rather than being around $50 billion, would very likely exceed $200 billion.

Long-term care includes a range of services provided to those in our society who suffer from chronic illness, and cannot function independently. The range of services varies, as does the degree of disability. The elderly are the greatest users of long term care, and are often the least able to find appropriate care and to have the financial resources to pay for such care.

Long-term care includes respite care, adult day care, home care, nursing home care, as well as informal care provided by family and friends. The vast majority of the elderly who receive long-term care in our Nation receive care from family and friends, so-called informal caregivers. While approximately 5 percent of the elderly reside in nursing homes, a tremendous share of financial resources of the elderly and their families, as well as State and Federal Government resources, are spent on that institutional care.

Nearly all States spend at least half of their Medicaid dollars on nursing home care for the elderly. The financing of long-term care is dominated by out-of-pocket costs to the elderly and the Medicaid Program; a program intended to provide basic health care to the poor of all ages. Medicare pays for only about 2 percent of nursing home costs nationally. Private insurance coverage for long-term care is in its infancy. Very few policies exist, and those that do are often inadequate to meet the costs of care.

The reality is that we as a nation do not have a long-term care policy. The services that are available to the elderly to provide long-term care are in no way coordinated or adequately financed. Most elderly persons who require nursing home care must either be wealthy enough to pay for that care themselves, or are forced to impoverish themselves to become eligible for Medicaid.

The current Medicare home health benefit is not adequate to meet the needs of those who might be able to remain in their homes if a broader range of benefits were available. Indeed, the existing benefit, while inadequate, has not been fully available to all of those who are eligible for it under current law. People must now need skilled services to be eligible for the Medicare home health benefit.

There are currently no Federal supports for respite care or adult day care.

In short, the existing long-term care services available to the elderly are inadequate, poorly coordinated, and unfinanced.

As I introduce this legislation today, I hope to begin a national dialog on the delivery and the financing of long-term care. This bill is not a panacea. It is not the final solution to the problem of financing long-term care. It is, rather, a sincere effort to begin a process that will culminate in reforming the way long-term care services are delivered and paid for.

This bill is the product of more than a year's work and discussion with some of the best minds in the country on the subject of long-term care. I welcomed the opportunity to discuss this complex subject with many experts in the fields of aging, health, insurance and finance.

I look forward to continuing dialog with all interested organizations and Members of Congress, in an effort to improve this legislation and to eventually enact a program which will be fiscally responsible and will truly meet the need for long-term care for the Nation's 31 million Medicare beneficiaries.

Last year, the Congress spent many months working on the Medicare Catastrophic Loss Prevention Act of 1987. This legislation was intended to provide protection for Medicare beneficiaries from the catastrophic costs of acute illness. But that act, which was the subject of much debate on both sides of the Hill, does not address the most catastrophic costs of all—that of long-term care expenses.

Of all out-of-pocket health care costs to the elderly, acute care costs make up only 20 percent. The remaining 80 percent of out-of-pocket costs result from the expenses incurred for long-term care services.

The bill I introduce today addresses the burden of out-of-pocket expenses for long-term care borne by the elderly and their families.

The bill provides a new Medicare benefit for long-term care, and will include services along a continuum from occasional respite care to full institutionalization. The legislation includes specific sources of revenue, so it will not add to the Federal deficit.

First, the bill is designed to provide the least restrictive and most cost-effective care possible, and is intended to provide the maximum opportunity for the elderly to remain in their homes whenever possible.

The bill includes a respite care benefit, with services provided either in the home or in an adult day care setting. Services would be reimbursed up to $2,000 annually, with a 50-percent copayment. Eligibility would be restricted to beneficiaries residing with one or more family members who provide unpaid assistance—the "informal caregivers" who now are the vast majority of providers of long term care.

Second, the bill provides a new and more expansive home care benefit which will be available for chronic home care services, including homemaker and chore aid benefits. An annual deductible of $500 and a copayment of 20 percent would be required for the new category of benefits. No copayment or deductible will be required for existing Medicare home health benefits. Homemaker and chore aid services will be provided to people who have functional or cognitive limitations even though they may not need skilled services.

Reimbursement for these services could not exceed 65 percent of the cost of the average Medicare skilled nursing facility nursing home costs.

Third, nursing home benefits would be available to those beneficiaries who qualify for chronic nursing home services. Medicare would begin to reimburse for these costs after a 2-year exclusionary period. After the exclusionary period, reimbursement will be available for an unlimited period; but a 30-percent copayment for services will be required.

Current Medicare skilled nursing home benefits are not subject to this exclusionary period.

All of these new benefits will be available to Medicare beneficiaries who are determined to be eligible by an assessment and certification process. The assessment will be conducted by States or independent organizations which will not benefit financially from the placement of individuals in certain facilities or programs.

Criteria for eligibility will include functional impairment as determined by activities of daily living as well as cognitive dysfunction as determined by a physician. The criteria will be more restrictive for the nursing home benefit, but no more restrictive than the criteria currently specified by Medicaid for the intermediate level of nursing home care.

The exclusionary period for the nursing home benefit has been the subject of much debate during the past year. There are some who do not support this concept, and others who believe a public-private partnership for long term care is the only feasible way to design a program.

The policy issue we face is how to target our limited public resources to the elderly that are most in need, while at the same time retaining the social insurance contract that is maintained throughout our Social Security System. The issue is not trivial nor is it easily solved.

There are a number of different proposals that have received serious consideration in my effort to devise the best program forward. Should we provide coverage for people when they first enter a nursing home, thereby covering a large number of short term admissions, risk increasing demand for services, and because of limited resources, provide limited coverage of long term admissions? Or should we cover long term admissions and thereby decrease the risk of impoverishment for those families and individuals who by chance must stay in nursing homes for long periods of time, limit the risk that any one family has to face by decreasing as much as possible the initial period before benefits begin, and stimulate prefunding of long term care by private insurance?

Both of these alternatives have their strengths and weaknesses. I have elected to propose an exclusionary period. This part of the proposal will require further discussion and refinement.

The proposal for chronic nursing home care is the result of substantial consideration and is a compromise. The trade-off between benefits and cost is real. The length of the exclusionary period is pivotal. A short exclusionary period will provide a much more comprehensive benefit, with coverage available equally to all, but with an extremely high public price tag. A long exclusionary period decreases the public cost, but provides less relief for those who are forced into poverty by spending down into Medicaid. My approach has been to decrease the exclusionary period as much as possible, given realistic funding limitations. For example, the table below illustrates the cost limitations.

EXCLUSIONARY PERIOD

[Cost estimates (in billions of dollars): Chronic nursing home care]

	2 year	18 month	1 year
Fiscal year:			
1991	0	0	0
1992	0	9.5	22.6
1993	13.2	20.1	23.6

Decreasing the exclusionary period dramatically increases the cost. Moving from a 2-year exclusionary period to a 1-year exclusionary period in 1993 will increase the cost by $10 billion.

While I would prefer to set the exclusionary period at 1 year, and thereby increase the number of people who would be covered, as well and increase the number of people who could afford private insurance for the period of exclusion, the cost is prohibitive given the available resources.

A central factor in this approach is the response of the private insurance industry. If private long-term care insurance becomes widely available at a reasonable cost, which I believe is likely with a 2-year exclusionary period, this approach will be successful. I have had many discussions with persons in the insurance industry in an attempt to determine what level of response can be expected in the development of long-term care insurance. This subject has been one of great interest to many organizations and Members of Congress in recent months.

Based upon my discussions, I believe that the insurance industry will respond to the demand for long-term care insurance with the development of policies to meet the needs of our aging population.

Enactment of this proposal will result in substantial savings in the Medicaid Program, at the State and Federal level. Those funds can be used to improve existing Medicaid programs, to decrease the net costs of this new long term care program, or both. I propose to invest those savings in the proposed financing package, thereby decreasing the net cost of this new program.

In a time of budget restraint, there must be careful targeting of programs to get the most impact from limited funds. The economic situation of the elderly population has improved greatly since the advent of Medicare. Fewer elderly are in poverty. More elderly retire with assets and income in addition to the Social Security benefit.

There is a tension growing between the need to allocate our scarce resources to meet the most urgent needs, and the desire to support the social insurance concept in which the benefit is not related to income. This bill does both. It is based upon the social insurance concept in that once a beneficiary becomes eligible for benefits and the exclusionary period expires, the benefits are identical for all beneficiaries regardless of income. But the bill also recognizes the need to target programs to those beneficiaries most in need; it does that through the exclusionary period which limits the benefit to those who incur the enormous expense of very long stays in a nursing home.

I recognize that the low income elderly—most of whom are already poor and thus eligible for nursing home care under Medicaid—will be the group least aided by the proposed nursing home benefit, though they will benefit greatly from the respite care and home health benefit. This bill includes two additional provisions which are intended to provide further protection for the poorest of the elderly; a spousal impoverishment provision and a Medicaid buy-in to 100 percent of the Federal poverty line for Medicare beneficiaries eligible for long-term care benefits. I expect and welcome further discussion on this problem and will work with all interested parties to minimize the adverse impact of a nursing home stay on those with low incomes.

This bill will create a new long-term care trust fund, funded from three revenue sources in addition to the annual Medicaid savings. Annual program costs in fiscal year 1993, when the Long-Term Care Program is fully implemented, are expected to be about $16 to $18 billion including the annual Medicaid savings. The rest of the funding would come from sources related to the distribution of program benefits, so that those income and age groups which benefit most from the Long-Term Care Program will contribute the most in revenues to pay for it.

The direct beneficiaries of this program are the elderly. It is they who will be eligible to receive the long-term care benefits. At the same time, however, this legislation benefits the nonelderly who will inherit family assets which would otherwise be spent-down to pay for nursing home care. It is, therefore, appropriate to ask them to finance a portion of the program.

Currently, the elderly with the least financial resources already receive long-term care support from the Federal Government through the Medicaid Program. They are either eligible for Medicaid when they enter a nursing home or they quickly spend down their few assets and become eligible for Medicaid. These already poor elderly will receive little or no benefit from this legislation, so they should carry little of the burden of financing the program.

The following specific sources of revenue are proposed.

First, the elderly would finance part of the program through increases in the part B premium. This would include a $2 per month increase in the basic premium, as well as a corresponding increase in the supplemental premium to raise the same amount of revenue as the increase in the basic premium. Total revenue from this source would be about $2.5 billion annually by the time the Long-Term Care Program is fully phased-in.

Second, the Medicare wage cap, which in 1988 exempts wages above $45,000 from the 1.45 percent Medicare hospital insurance tax, would be repealed. This would raise about $8.5 billion annually by the time the program is fully phased in.

Finally, a 5-percent surtax would be imposed on transfers by gift or inheritance of assets in excess of $200,000. Current law exempts estate and gift transfers of less than $600,000 by applying a unified credit against tax liability. This proposed surtax would be imposed after the unified credit is taken so that transfers with a value between $200,000 and $600,000 would be taxed.

I supported the increase in the unified credit in 1981. I recognize the strong sentiment in Congress to continue to exempt estates with less than $600,000 of assets from taxation. I do not propose to revisit this issue by lowering the unified credit. Instead, this is a narrowly targeted tax which is designed to specifically relate to the benefit of the program. This legislation will protect family assets from being exhausted in long-term care expenditures. It is appropriate that those family assets then be subject to modest taxation to fund the program.

This legislation would raise the revenues necessary to fund the new Long-Term Care Program benefits. It will, therefore, be subject to attack by those who object to any increased revenue. However, it should be understood that this legislation will not increase national expenditures on long-term care. It will, rather, provide for a fairer, more certain way of funding those expenditures. It will remove the financial threat hanging over American families.

This legislation will promote the development of private long-term care insurance. There will be a demand for long-term care insurance to cover the exclusionary period for the nursing home benefit, the copayment requirements for home health and nursing care, and other long-term care costs not addressed in this legislation.

Unfortunately, The Congressional Budget Office has not yet developed final cost estimates for this program. As work continues on the legislation, both the revenue sources and the program benefits may have to be adjusted to insure budget neutrality.

Because of the important role of private insurance, it is important to clarify a number of issues in current law with respect to the tax treatment of long-term care insurance. Therefore, the bill includes a number of Internal Revenue Code changes to clarify that long-term care insurance is generally to be treated for tax purposes the same as accident or health care insurance.

The most important change will clarify the reserve treatment of long-term care insurance. The bill provides that under current law amounts set aside by insurance companies to satisfy obligations to policyholders under long-term health care policies are deductible in computing taxable income. The deductibility of the reserves will be treated the same as reserves for noncancellable accident and health policies.

This is an issue which the Internal Revenue Service is now attempting to deal with in a request from the insurance industry for a published revenue ruling. Regardless of how the Service rules on the question of whether current law permits these policies to be reserved for tax purposes, I believe we should statutorily provide for reserve treatment and give the private insurance industry certainty as to the tax treatment of those reserves.

The bill includes a specific definition of long-term care insurance which, because it requires that care be provided only by qualified providers, does not cover all long-term care insurance policies being marketed today.

Other changes in this section of the bill will clarify the tax treatment of long-term care insurance to employers offering group coverage and to employees receiving long-term care benefits. Finally, the bill provides that long-term care expenditures and insurance premium payments are deductible medical care expenditures. In general, these changes are intended to conform the tax treatment of long-term health care to the current tax treatment accident and health care.

This proposal will be criticized from two diametrically opposite points of view. Those who prefer a program providing comprehensive coverage—that is for reimbursement of nursing home expenses from the first day of eligibility—will say that it does not go far enough. Those who are opposed to any Government program and are opposed to any new revenues to pay for such a program, will say that it goes too far.

Thus it is important that it be clearly understood what this proposal is, and what it is not.

It is not a comprehensive public program to provide reimbursement for all services received. It is, rather, in its public aspect, intended to protect American families against the catastrophic cost of very long-term care. It is, in short, a form of public insurance policy against the extraordinary expense of very long-term care that will be incurred by a minority of elderly Americans who cannot be identified in advance.

Obviously, a gap in the public program is created by the exclusionary period. The bill seeks to fill that gap by encouraging the development of private insurance to cover expenses incurred during that period. I seriously considered a wholly comprehensive Government program, but elected the alternative contained in the bill, for two reasons: First, our health care system is in part public, in part private. Although there are shortcomings in that structure, on balance it has provided most Americans with readily access to high quality medical care. This bill extends that concept to the problem of long-term care.

Second, the cost of a fully public program is very high, making its political feasibility questionable. It will be extremely difficult to gain the necessary support for even the limited program suggested in this bill. The broader the coverage, the higher the cost, the more difficult enactment becomes.

It is, of course, an individual judgment as to where the proper balance lies. This bill represents my judgment. I understand that others will reach different conclusions on that question and respect those views and look forward to further debate and discussion on this central concern.

The lack of a current long-term care policy results in unfairness to many American families. In the next 30 years the situation will get worse, unless we now come to grips with the problem. We need a coordinated effort, drawing on the resources of the public and private sectors. We need to prefund future liabilities in the private sector through insurance and in the public sector through the development of a fund dedicated to long-term care. This bill provides an opportunity for public and private cooperation to meet an important social goal.●

● Mr. CHAFEE. Mr. President, I have joined Senator MITCHELL in sponsoring this legislation because I believe it is time for us to have a comprehensive, rational and fair solution to the problem of long-term care on the table to examine.

It is clear that although many senior citizens support the Catastrophic Loss Protection Act we are currently working on in conference, most feel strongly that long-term care is a catastrophic expense and should be included as part of any discussion on catastrophic coverage.

For most of the elderly, the risk of needing long-term care and entering a nursing home is their most paralyzing fear. They have good reason to be concerned. The lifetime risk of entering a nursing home is about 20 percent and the average cost of 1 year in a nursing home is approximately $22,000. One-half of all nursing home payments are out-of-pocket expenditures by the elderly and almost all the rest are paid by the Medicaid Program.

By default, Medicaid has become our long-term care program. As it is currently structured, Medicaid is clearly inadequate and the incentives it has created are perverse.

Approximately one-half of all Medicaid recipients in nursing homes were not initially poor, but spent their income and resources on long-term care before becoming eligible for Medicaid.

No elderly individual or couple should be forced into poverty before assistance will be provided for long-term care for a chronic illness or debilitating condition like Alzheimer's disease.

Long-term care is not a new issue to me. It has been clear for some time that the most difficult task we all face is solving the problems faced by individuals with a chronic, debilitating illness or a severe disability which requires progressive levels of care over an extended length of time. Long-term care assistance can be required by any individual, regardless of age.

In fact, I am the author of legislation—S. 1673, the Medicaid Home and Community Quality Services Act—to restructure our long-term care system as it applies to the disabled. I mention this legislation because I believe many of the concepts it embodies should be applied to all people of all ages and disabilities needing long-term care. These concepts are: prevention, independence, and flexibility.

Every individual should have the opportunity to remain at home with their family or in their own community. Our long-term care program should encourage rather than discourage this. Too often we see young children with disabilities torn away from their families and placed in an institution, simply because that is the only help or relief the parents can find. The same is true with aging individuals who simply are not capable of performing one or two daily tasks necessary to live independently. Through respite and home care, visiting nurse services and outpatient health care, many people would be able to live normal and active lives much longer.

We can prevent unnecessary institutionalization and encourage independence for as long as possible by allowing flexibility in the manner and range of services provided. Around these concepts we can build a high quality, appropriate system of long-term care services which is carefully planned and monitored.

The proposal we are introducing today is attractive because it recognizes the importance of these concepts.

Home-based benefits such as respite care and home health care will be available to Medicare beneficiaries immediately.

The respite care benefit will assist families with an impaired elderly family member by providing home or day care assistance. The home health care services will consist of those currently available under Medicare with some liberalization and the addition of homemaker and chore aide services.

Together, these services will relieve some of the burden on unpaid family caregivers and help elderly individuals remain with their families longer. They will also go a long way toward helping elderly individuals remain independent longer.

After a 2-year period, 70 percent of the cost of an individual's nursing home care will be paid for by this program—30 percent of the cost will be the individual's responsibility.

By placing an emphasis on respite care, home health care and case management our proposal recognizes that a comprehensive long-term care system must encompass much more than traditional health care.

However, this emphasis is not created at the expense of more intensive nursing home care. Our proposal will provide financial assistance for nursing home care after a 2-year exclusionary period. This will enable every individual to plan for the future because they will know in advance what their financial liability will be in the worst case scenario.

Because our proposal would create a defined risk, we hope it will encourage private insurance companies to begin to offer long-term care coverage. Indeed, in order for the system to be successful, private sector involvement is essential.

Our proposal recognizes that there is a critical role for the private sector to play. However, the system must be integrated so the care of each individual is coordinated and managed by one entity—such as a case management system. It must be easy to follow and understand—without a lot of paperwork to four and five different agencies or insurance companies.

As always, financing will be one of the most difficult issues to resolve. Our bill calls for an increase in the Medicare part B flat premium as well as an increase in the supplemental premium we will establish when the Catastrophic Loss Protection Act is passed. Copayments and deductibles will be required in order to receive services. In addition, our bill would repeal the current Medicare wage tax limit. Finally, our bill would impose a 5-percent surtax on the transfer of assets by gift or inheritance in excess of $200,000.

Together, these financing mechanisms would pay for all of the benefits in our proposal. However, more attractive financing mechanisms may evolve as we continue to examine the issue.

This bill will give us a place to begin serious examination of the long-term care issue. My cosponsorship is a pledge to work in the Finance Committee with my colleague from Maine on a comprehensive solution to the long-term care problems we face in this Nation.●

● Mr. HEINZ. Mr. President, I am very pleased to join Senator MITCHELL and my colleagues in cosponsoring the Long Term Care Assistance Act of 1988. Today is a watershed in our efforts to protect older Americans and their families from the crippling costs of long-term care. Senator MITCHELL has put together the first significant comprehensive bill to finance long-term care. It is comprehensive because it covers both home care and nursing home care, and because it calls for a combination of private and public financing.

Public opinion polls show that a majority of adult Americans of all ages have personally experienced the high cost of long-term care. Over 60 percent of single older persons who either enter a nursing home or use daily home care run out of money before the end of the year.

It is particularly noteworthy that Senator MITCHELL has accepted the challenge of extending Medicare coverage to nursing home costs. While the cost to the public for nursing home coverage is daunting, I believe nursing home costs may be the principal driving force behind rapidly growing public support for public long-term care insurance.

A majority of working Americans are now aware that nursing home costs averaging $25,000 a year are impoverishing tens of thousands of American families annually, and that existing public programs provide no solution to this problem. Coverage of these costs must be included in any proposal for Medicare reform that hopes to attract broad public support. Senator MITCHELL's bill has tackled this problem head on: it not only addresses home care costs—it pays for catastrophic nursing home expenses as well.

In consideration of the very high price tag of a public program that covers nursing home costs, however, Congress should seek to ensure that comprehensive and affordable private long-term care insurance coverage is widely available to the elderly and disabled. The Long Term Care Assistance Act of 1988 accomplishes this goal by creating tax incentives for private long-term care insurance, including incentives for very promising workplace-based insurance. Thus, this legislation not only looks to the public sector, it encourages the private sector to jump in as well. It is a bill that touches neatly on all facets of the solution.

At the same time, we must be cognizant of the limitations of the private long-term care coverage currently available. According to a recently published survey of 53 long-term care insurance policies done by the Consumers Union, most policies still require prior hospitalization before covering a nursing home stay. We will send a strong message to these insurors when the catastrophic health insurance bill eliminates Medicare's own 3-day hospitalization rule.

More troubling is the widespread practice by insurors of denying policies to those who need them most due to existing disabilities. With the introduction of this legislation today, Congress moves one giant step closer toward extending comprehensive long-term care coverage to those who cannot afford—or are too sick to qualify for—private long-term care coverage.

Our work is far from done, however. Congress still must address the critical problem of the inadequacy of the Medicaid Program. For example, in 20 States today it is possible to spend all of one's income for long-term care and remain ineligible for Medicaid payments. I will be working with Senator MITCHELL and the other cosponsors to correct this severe defect in the Medicaid foundation upon which this legislation is built.

In closing I would simply like to congratulate GEORGE MITCHELL and his staff for their success in crafting legislation that is sure to serve as the basis for all long-term care legislation in this, and the next, Congress.●

By Mr. CRANSTON (by request):

S. 2306. A bill to amend title 38, United States Code, to authorize multiyear contracts in certain cases; to the Committee on Veterans' Affairs.

VETERANS ADMINISTRATION MULTIYEAR CONTRACTING ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2306, the proposed "Veterans Administration Multiyear Contracting Act of 1988." The Administrator of Veterans' Affairs submitted this legislation by letter dated April 18, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, at this point, together with the April 18, 1988, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2306

Be it enacted by the Senate and House of Representatives of the United States America in Congress assembled, That this Act may be cited as the "Veterans Administration Multiyear Contracting Act of 1988".

SEC. 2. Title 38, United States Code, Section 213 is amended (1) by inserting (a) before "The" in the first sentence; and (2) by adding at the end thereof the following new subsection:

(b)(1) For the purposes of this subsection:

(A) The term "multiyear contract" means a contract for supplies or services with a no longer than five year effective period. It does not include a contract for construction or a lease of real property.

(B) The term "appropriations" is used, as defined in 31 United States Code, Section 1511.

(2) Subject to paragraph (5), the Administrator may enter into a multiyear contract for the acquisition of supplies or services when—

(A) appropriations are available and adequate for fixed obligations that are required for—

(i) total payments that would arise under the full term of the contract; or

(ii) payments for the first fiscal year during which the contract is in effect, plus the full amount of estimated cancellation costs, if any; and

(B) the Administrator determines that—

(i) such a contract will serve the best interests of the Veterans Administration by—

(I) reducing costs under the contract; or

(II) achieving economies in administration, performance, and operation;

(ii) during the proposed contract period—

(I) there will be a continuing or recurring need for the supplies or services; and

(II) the need for the supplies or services to be acquired is expected to remain substantially unchanged in terms of rate of performance, rate of acquisition, and total quantity and extent of supplies or services; and

(iii) the specifications for the supplies or services are expected to be reasonably stable, and the technical risks associated with the acquisition are not excessive; and

(iv) such a contract will not inhibit small business concerns from submitting a bid or proposal for such contract.

(3) A multiyear contract authorized by this subsection shall include—

(A) A provision that the Veterans Administration's obligation under the contract during the second or any subsequent fiscal year included in the contract period is contingent on the appropriation of funds for such year, if it is determined that appropriations are not available to cover total payments under the full term of the contract; and

(B) Notwithstanding 31 United States Code, Section 1502(a), a provision for the payment of a reasonable cancellation charge to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to a provision described in subparagraph (A).

(4)(A) If the Administrator determines that the amount of funds appropriated is not sufficient to cover programs of the Veterans Administration and for all multiyear contracts issued by the Veterans Administration during the second or subsequent fiscal years included in the contract period, the performance under the contract may be cancelled.

(B) Any cost of the cancellation of performance under the contract shall be paid from appropriated funds which were originally available either for performance of the contract or for the payment of cancellation costs. If funds are not available from the original account, current year funds available for contracting may be used.

(C) Amounts appropriated to finance cancellation costs may remain available until expended for outyear cancellation or contract costs, as appropriate.

(5)(A) Nothing in this subsection is intended to modify or affect any other provision of law which authorizes multiyear contracting.

(B) This subsection does not authorize the Administrator to acquire property or services by means of a multiyear contract unless he is otherwise authorized to acquire such supplies or services.

(C) Nothing in this subsection is intended to modify or affect the Veterans Administration's rights to terminate for convenience a multiyear contract.

(D) The Administrator will promulgate regulations implementing this subsection.

SEC. 3. The amendments made by section 2 of this Act shall take effect with respect to contracts entered into after September 30, 1988.

VETERANS' ADMINISTRATION,
Washington, DC, April 18, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmited herewith a draft bill, "To amend title 38, United States Code, to authorize multiyear contracts in certain cases." It is requested that the bill be referred to the appropriate committee and that it be favorably considered for enactment.

The proposed bill would authorize the Veterans Administration (VA), in certain cases, to use multiyear contracting for the acquisition of supplies or services. Currently, there is no specific statutory authority providing for multiyear contracts. Title 38, United States Code, Section 213 provides general contracting authority for the VA. This bill would amend that section to provide the Administrator the authority to enter into multiyear contracts for obtaining supplies or services where that contracting method is demonstrated to be cost effective. Although a realistic projection is difficult to provide, the VA anticipates a 5 to 10 percent decrease in bid prices in contracts found to warrant a multiyear commitment as well as administrative savings from eliminating reprocurement and contractor transition costs, which would otherwise occur.

If enacted, the VA would be required to establish, prior to entering into a multiyear contract, that appropriations are available and adequate for payments for the first fiscal year of the contract plus the full amount of estimated cancellation costs, if any. In addition, the VA would be required to determine that the contract will serve the best interests of the VA, that there will be a continuing need for the supplies or services during the proposed contract period, that the specifications for the supplies or services are expected to be reasonably stable, and that small business participation will not be inhibited. The bill would require that the VA's obligation for the second and subsequent fiscal years of the contract be specifically contingent on appropriations for such years and would authorize the payment of cancellation charges if the performance of the contract was cancelled. The cancellation charge would be paid either from appropriated funds which were originally available or current year appropriations. The bill would be effective for contracts entered into after September 30, 1988.

No additional costs would result from enactment of this proposal.

The Office of Management and Budget advises that there is no objection to the submission of the draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,

Thomas K. Turnage,
Administrator.

SECTION-BY-SECTION ANALYSIS

The "Veterans Administration Multiyear Contracting Act of 1988" amends title 38, United States Code, Section 213, to authorize multiyear contracts for the Veterans Administration in certain areas.

Section 1 states that the short title of this bill is the "Veterans Administration Multiyear Contracting Act of 1988."

Section 2 amends title 38, United States Code, Section 213, by relettering the existing section as subsection (a) and adding a new subsection (b).

Subsection 213(b)(1) defines "multiyear contracts" to mean a supply or service contract in effect for a period not exceeding 5 years. It specifically excludes construction contracts and leases for real property. It also defines "appropriations" as it is defined in 31 U.S.C. § 1511, which includes appropriated amounts, funds, and authority to make obligations by contract before appropriations.

Subsection 213(b)(2) establishes the following criteria which must be met before the Administrator may enter into a multiyear contract:

First, appropriations are available and adequate for fixed obligations that are required for the total payments that would arise under the contract or for payments for the first fiscal year during which the contract is in effect, plus the full amount of estimated cancellation costs, if any.

Second, the Administrator determines that: (i) the contract will serve the best interests of the Veterans Administration by reducing costs or achieving economies in administration, performance, and operation; (ii) during the proposed contract period, there will be a continuing need for the supplies or services and such minimum need is expected to remain substantially unchanged; (iii) the specifications for the supplies or services being acquired are expected to be reasonably stable; and (iv) the multiyear contract will not inhibit small business participation.

Subsection 213(b)(3) states that a multiyear contract must include a provision which makes the Veterans Administration's obligation under the contract for the second and subsequent years contingent on appropriations for such years, if appropriations are not available to cover total payments under the full term of the contract, and a provision for the payment of a reasonable cancellation charge to compensate the contractor for nonrecurring, unrecovered, costs, if any, if the performance of the multiyear contract is cancelled. The cancellation charges may be paid notwithstanding 31 U.S.C. § 1502(a), which has been interpreted by the Comptroller General as prohibiting the payment of cancellation charges. *See e.g., In the Matter of the Burroughs Corporations,* 56 Comp. Gen. 142 (1076).

Subsection 213(b)(4) provides that a multiyear contract may be cancelled if appropriated funds are not sufficient for expenditure on all programs and multiyear contracts issued by the Veterans Administration for the second or subsequent years of the contract. In such case, the cost of the cancellation must be paid from appropriated funds which were originally available either for performance of the contract or for the payment of cancellation costs. If such funds are not available, current year appropriations may be used. Amounts appropriated to finance cancellation costs may remain available until expended for outyear cancellation or contract costs, as appropriate.

Subsection 213(b)(5) provides that this legislation is not intended to modify or affect any other provision of law which authorizes multiyear contracting, and does not authorize the Administrator to acquire supplies or services by means of a multiyear contract unless he is otherwise authorized to acquire such supplies or services. Nothing in the legislation is intended to modify the Veterans Administration's rights to terminate for convenience a multiyear contract. Regulations providing sufficient guidance and control over the use of multiyear contracts will be promulgated.

Section 3 provides that this legislation will apply to contracts entered into after September 30, 1988.

By Mr. CRANSTON (by request):

S. 2307. A bill to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

VETERANS' EDUCATION ASSISTANCE IMPROVEMENTS ACT

Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I have today introduced, by request, S. 2307, the proposed "Veterans' Educational Assistance Improvements Act of 1988". The Administrator of Veterans' Affairs submitted this legislation by letter dated April 12, 1988, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record at this point, together with the April 12, 1988, transmittal letter and enclosed section-by-section analysis.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Veterans' Educational Assistance Improvements Act of 1988".

(b) References to Title 38.—Except as otherwise specifically provided, whenever in the Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) Table of Contents.—The table of contents of this Act is as follows:

TABLE OF CONTENTS

Sec. 1. Short title; references to title 38, United States Code; table of contents.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

Sec. 101. Cooperative training for certain individuals under the Montgomery GI Bill and the Post-Vietnam Era Veterans' Educational Assistance Program.

Sec. 102. Accepting alternate secondary school credentials for Montgomery GI Bill eligibility.

Sec. 103. Repayment of certain individuals' basic pay reduction under the Montgomery GI Bill.

Sec. 104. Election of certain educational assistance allowance entitlement under the Montgomery GI Bill.

Sec. 105. Extension of training at no or nominal pay under the vocational rehabilitation program.

Sec. 106. Limitations on educational assistance for incarcerated veterans under the Post-Vietnam Era Veterans' Educational Assistance Program.

TITLE II—ADMINISTRATIVE PROVISIONS

Sec. 201. Clock-hour measurement of certain unit courses or subjects creditable toward a standard college degree.
Sec. 202. Veterans' Advisory Committee on Education extended.
Sec. 203. Enrollment in refresher, remedial, and deficiency courses.
Sec. 204. Technical and Clerical Amendments.
Sec. 205. Expansion of ex officio members on the Commission to Assess Veterans' Education Policy.

TITLE I—EDUCATIONAL ASSISTANCE AND VOCATIONAL REHABILITATION PROGRAM IMPROVEMENTS

Sec. 101. Cooperative Training For Certain Individuals Under the Montgomery GI Bill and the Post-Vietnam Era Veterans' Educational assistance Program.

(a) Montgomery GI Bill.—(1) Section 1402(3) is amended by—

(A) striking out ", and" at the end of clause (A) and inserting in lieu thereof "; ";

(B) striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new clause:

"(C) includes cooperative training as defined in section 1682(a)(2) of this title in the case of an individual entitled to educational assistance under this chapter who is not serving on active duty while pursuing that training.".

(2) Section 1432 is amended by adding at the end thereof the following new subsection:

"(d)(1) The amount of the monthly basic educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of such monthly allowance otherwise payable to such individual under section 1415 of this title, as determined by the Administrator.

"(2) For each month that an individual is paid a monthly educational assistance allowance under paragraph (1) of this subsection, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.".

(b) Post-Vietnam Era Veterans' Educational Assistance Program.—(1) Section 1602(2) is amended by—

(A) striking out ", and" at the end of clause (A) and inserting in lieu thereof "; ";

(B) striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(C) adding at the end the following new clause:

"(C) includes cooperative training as defined in section 1682(a)(2) of this title in the case of an individual entitled to educational assistance under this chapter who is not serving on active duty while pursuing that training.".

(2) Section 1631 is amended by adding at the end thereof the following new subsection:

"(d)(1) The amount of the monthly benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual as determined by the Administrator, based on the formula provided in subsection (a)(2) of this section.

"(2) For each month that an individual is paid a monthly benefit payment under paragraph (1) of this subsection, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.".

SEC. 102. ACCEPTING ALTERNATE SECONDARY SCHOOL CREDENTIALS FOR MONTGOMERY GI BILL ELIGIBILITY.

(1) Section 1411(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

(2) Section 1412(a)(2) is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

(3) Section 2132(a)(2) of title 10, United States Code, is amended by striking out "(or an equivalency certificate)" and inserting in lieu thereof "(or the equivalent as determined by the Secretary concerned, pursuant to regulations prescribed by the Secretary)".

SEC. 103. REPAYMENT OF CERTAIN INDIVIDUALS' BASIC PAY REDUCTION UNDER THE MONTGOMERY GI BILL.

(a) In General.—Chapter 30 is amended by adding at the end of subchapter IV the following new section:

"§ 1437. Restoration of basic pay for certain individuals

"(a) The Secretary concerned, pursuant to regulations to be prescribed by the Secretary, shall make a lump-sum payment of basic pay in an amount described in subsection (b) to an individual—

"(1) who first becomes a member or first enters on active duty as a member of the Armed Forces after June 30, 1985, and does not make an election under section 1411(c)(1) or section 1412(d)(1) of this title;

"(2) whose basic pay has been reduced under section 1411(b) or 1412(c) of this title;

"(3) who has been discharged or released from service on active duty or in the Selected Reserve for a medical condition which preexisted such service and which the Administrator determines is not service-connected; and

"(4) who, but for such discharge or release before completion of the service described in section 1411(a)(1)(A) or 1412(a)(1)(A) of this title, as appropriate, would be eligible for basic educational assistance under this chapter.

"(b) The amount of basic pay payable to an individual under subsection (a) of this section shall be equal to the total amount reduced from the individual's basic pay under section 1411(b) or 1412(c) of this title less the amount, if any, of educational assistance paid to the individual under this chapter.".

(b) Conforming Amendment.—Section 1435 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

"(d) Payments of basic pay authorized by section 1437 of this title shall be made from appropriations made to the Department of Defense or Department of Transportation, as appropriate.".

(c) Clerical Amendment.—The table of sections at the beginning of chapter 30 is amended by adding at the end the following new item:

"1437. Restoration of basic pay for certain individuals.".

SEC. 104. ELECTION OF CERTAIN EDUCATIONAL ASSISTANCE ALLOWANCE ENTITLEMENT UNDER THE MONTGOMERY GI BILL.

Section 1412 is amended—

(1) in subsection (b)(1) by striking out all after "Selected Reserve" and inserting in lieu thereof "(A) for a service-connected disability, (B) for hardship, or (C) for the convenience of the Government in the case of an individual discharged or released after three and one half years of such service.".

(2) by adding at the end the following new subsection:

"(e)(1) Entitlement to basic educational assistance under this section shall be waived in the case of an individual described in clause (1)(A) of subsection (b) of this section who elects entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, instead of entitlement to assistance under this section.

"(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance solely under section 1411 of this title. Such an election is irrevocable.".

SEC. 105. EXTENSION OF TRAINING AT NO OR NOMINAL PAY UNDER THE VOCATIONAL REHABILITATION PROGRAM.

Section 1515 is amended—

(1) in subsection (a)(1) by striking out "Federal agency (including the Veterans' Administration)" and inserting in lieu thereof "(A) Federal agency (including the Veterans' Administration) or (B) any State or local government agency which is supported in whole or in part with Federal funds".

(2) in subsection (b) by striking out paragraph (3) and inserting in lieu thereof:

"(3) Use of facilities under clause (1)(B) of subsection (a) or use of facilities and services under clause (4) of subsection (a) of this section, shall be procured through contract, agreement, or other cooperative arrangement.

"(4) The Administrator shall prescribe regulations which shall provide monitoring capability or other safeguards designed to prevent possible abuse of nonpay resources by State or local government agencies and otherwise ensure that the training or work experience provided is in the best interest of the veteran and the Federal Government.".

SEC. 106. LIMITATIONS ON EDUCATIONAL ASSISTANCE FOR INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1631 is amended by adding at the end the following new subsection:

"(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover (A) the cost of established charges for tuition and fees required of similarly circumstance nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title, whichever is the lesser. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.

TITLE II—ADMINISTRATIVE PROVISIONS

SEC. 201. CLOCK-HOUR MEASUREMENT OF CERTAIN UNIT COURSES OR SUBJECTS CREDITABLE TOWARD A STANDARD COLLEGE DEGREE.

Section 1788(e) is amended to read as follows:

"(e)(1) For the purposes of measuring clock hours of attendance or net of instruction under clause (1) or (2), respectively, of subsection (a) of this section for a course—

(A) which is offered by an institution of higher learning, and

(B) for which the institution requires one or more unit courses or subjects for which credit is granted toward a standard college degree pursued in residence on a standard quarter- or semester-hour basis,

the number of credit hours (semester or quarter hours) represented by such unit courses or subjects shall, during the semester, quarter, or other applicable portion of the academic year when pursued, be converted to equivalent clock hours, determined as prescribed in paragraph (2) of this subsection. Such equivalent clock hours then shall be combined with actual weekly clock hours of training concurrently pursued, if any, to determine the total clock hours of enrollment.

(2) For the purpose of determining the clock-hour equivalency described in paragraph (1) of this subsection, the total number of credit hours being pursued will be multiplied by the factor resulting from dividing the number of clock hours which constitutes full time under clause (1) or (2) of subsection (a) of this section, as appropriate, by the number of semester hours (or the equivalent thereof) which, under clause (4) of such subsection, constitutes a full-time institutional undergraduate course at such institution.

SEC. 202. VETERANS' ADVISORY COMMITTEE ON EDUCATION EXTENDED.

Section 1792(c) is amended by striking out "December 31, 1989" and inserting in lieu thereof "December 31, 1993".

SEC. 203. ENROLLMENT IN REFRESHER, REMEDIAL AND DEFICIENCY COURSES.

(a) MONTGOMERY GI BILL.—(1) Section 1434(a) is amended by—

(A) inserting "(1)" before "Except";

(B) designating the second sentence as paragraph (2) by inserting "(2)" at the beginning thereof;

(C) striking out "those provisions" in the redesignated second paragraph and inserting in lieu thereof "the provisions of the sections enumerated in paragraph (1) of this subsection"; and

(D) adding at the end the following new paragraph:

"(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified," and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in a deficiency, remedial, or refresher course or courses offered by an appropriate educational intitution and required for, or preparatory to, the pursuit of an approved program of education.".

(2) Section 2136(b) of title 10, United States Code, is amended by striking out "and 1683" and inserting in lieu thereof "1683, and 1691(a)(2)".

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.-Section 1641 is amended—

(1) in subsection (a) by—

(A) inserting "(1)" after "(a)"; and

(B) by adding at the end thereof the following new paragraph:

"(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is "already qualified," and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in a deficiency, remedial, or refresher course or courses offered by an appropriate educational intitution and required for, or preparatory to, the pursuit of an approved program of education."; and

(2) in subsection (b) by striking out "1691(a)(1)" and inserting in lieu thereof "1691(a)".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1733(a) is amended to read as follows:

"The Administrator may approve the enrollment of any eligible person under this chapter in any appropriate course or courses as may be approved for an eligible veteran under section 1691(a) (if pursued in a State) of this title.".

SEC. 204. TECHNICAL AND CLERICAL AMENDMENTS.

Title 38 is amended as follows:

(1) Section 1413 is amended—

(A) in subsection (a)(2) by striking out "of the beginning" and all that follows through "section 1411(b) of this title" and inserting in lieu thereof "the individual first enters on active duty as a member of the armed forces".

(B) in subsection (b) by striking out "of the beginning" and all that follows through "section 1412(c) of this title" and inserting in lieu thereof "the individual first enters on active duty as a member of the Armed Forces".

(2) Section 1432(c) is amended by adding at the end the following new paragraph:

"(4) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under paragraph (3) of this section shall be reduced in the same proportion as the monthly educational assistance allowance payable is reduced under paragraph (2) of this section.".

(3) section 1434 is amended—

(A) in subsection (a)(1) by inserting "1780(f)," after "1780(c),";

(B) by redesignating (c) and (d) as subsections (d) and (e), respectively; and

(C) by inserting after subsection (b) the following new subsection (c):

"(c) Payment of educational assistance allowance in the case of an eligible individual pursuing a program of education under this chapter on less than a half-time basis shall be made in a lump-sum amount for the entire quarter, semester, or term (computed at the rate determined under section 1432(b) of this title) not later than the last day of the month immediately following the month in which certification is received from the educational institution that such veteran or individual has enrolled in and is pursuing a program at such institution.".

(4) Section 1633 is amended by adding at the end the following new subsection:

"(d) For any month in which an individual fails to complete 120 hours of training, the entitlement otherwise chargeable under subsection (c) of this section shall be reduced in the same proportion as the monthly educational assistance allowance payable is reduced under subsection (b) of this section.".

(5) Section 1790 is amended—

(A) in subsection (a)(2) by striking out "and prepayment"; and

(B) in subsection (b)(3)(A) by inserting "30," before "32".

SEC. 205. EXPANSION OF EX OFFICIO MEMBERS ON THE COMMISSION TO ASSESS VETERANS' EDUCATION POLICY.

Section 320(a)(3) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3248) is amended by inserting "the Assistant Secretary of Defense for Force Management and Personnel," after "paragraph (2)(A),".

VETERANS ADMINISTRATION, OFFICE
OF THE ADMINISTRATOR OF VETERANS AFFAIRS,
Washington, DC, April 12, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes." I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Educational Assistance Act of 1988," would make a number of amendments to the Veterans Administration education and vocational rehabilitation programs to facilitate the administration of the programs and make certain provisions more equitable.

Title I of the draft bill would provide for payment of benefits for cooperative training to participants under chapters 30 and 32 of title 38 after their release from active duty; change the secondary school credentialing requirements necessary for entitlement to educational assistance under chapter 30 of title 38 and chapter 106 of title 10; restore a serviceperson's military pay withheld under chapter 30 in certain circumstances; permit certain individuals eligible for chapter 30 benefits to elect the rate of basic educational assistance allowance and entitlement; allow for nonpay training in certain State or local government agencies as part or all of a chapter 31 vocational rehabilitation program; and provide for limitations on payment of educational assistance to certain incarcerated veterans under chapter 32.

Title II of the draft bill contains administrative provisions that would provide for a change in the measurement of clock-hour, credit-hour courses pursued concurrently; extend the existence of the Administrator's Education Advisory Committee; and provide for a uniform policy with regard to remedial, refresher, or deficiency course pursuit under chapter 30, 32, and 35 of title 38 and chapter 106 of title 10. Further, technical and clerical amendments to title 38 are included under section 204 of the draft bill which would clarify the date from which entitlement begins under chapter 30; provide for a reduction in entitlement charge proportionate to the reduction in benefits paid under chapter 30 when a veteran in an apprenticeship or other on-job training program fails to train "full time"; correct a chapter 30 reference to an inapplicable chapter 36 provision for computing the less than half-time training rate; delete an outdated reference to prepayment allowances; and add chapter 30 to the list of chapters under which the VA can suspend benefits in certain situations. Finally, the draft bill would amend the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Pub. L. No. 99-576) to specify that the Deputy Assistant Secretary for Military Personnel and Force Management (or his or her designee) shall be an ex officio member of the Commission to Assess Veterans' Education Policy.

The cost or savings implications of these proposals are estimated to be insignificant.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

SECTION-BY-SECTION ANALYSIS

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

Section 1

Subsection (a) provides that the draft bill may be cited as the "Veterans' Educational Assistance Improvements Act of 1988."

Subsection (b) provides that, unless otherwise specified, whenever in the draft bill an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

Subsection (c) sets forth the table of contents for the draft bill.

TITLE I—EDUCATIONAL ASSISTANCE PROGRAM IMPROVEMENTS

Section 101

Under the current provisions of chapters 30 and 32 of title 38, United States Code, benefits for cooperative training are not provided to participants after their release from active duty. Cooperative courses have been a successful part of the training pursued by veterans under prior GI Bills, qualifying trainees for direct access into their chosen objectives. Recent legislation now permits veterans entitled to chapter 30 and 32 benefits to pursue apprenticeship or other on-the-job training and to participate in the veteran-services program (work-study). We believe that such individuals likewise should be permitted to pursue cooperative programs.

Sections 1402(3) and 1602(2) are amended to make cooperative training available both to veterans entitled to educational assistance under the Montgomery GI Bill-Active Duty and those entitled under the Post-Vietnam Era Veterans' Educational Assistance program. Payment for such training is authorized at 80 percent of the basic full-time monthly rate otherwise payable, with entitlement charged accordingly.

Section 102

The current law provides that to be considered eligible for the Montgomery GI Bill (38 U.S.C., ch. 30 and 10 U.S.C., ch. 106), an individual must have a secondary school diploma or an equivalency certificate. We believe that the secondary school requirement was intended to assist the military in obtaining high caliber personnel and, therefore, the requirement should conform to the standards acceptable to the Armed Forces.

This section would amend sections 1411(a)(2) and 1412(a)(2) of title 38 and section 2132(a)(2) of title 10 to eliminate the reference to an equivalency certificate and require, instead, that an individual have certain alternate school credentials accepted by the Armed Forces, pursuant to regulations promulgated by the Department of Defense, as equivalent to a secondary school diploma.

Section 103

Current law does not provide for any repayment of the amount by which an individual's basic pay was reduced for chapter 30 participation.

This section would amend chapter 30 to specify that a person who receives an early discharge or release from service for a preexisting medical condition which the Administrator determines is not service-connected and, as a result of such discharge or release, does not meet the length-of-service requirements for entitlement under that chapter shall be entitled to receive military pay from the Department of Defense (or Department of Transportation, as appropriate) equaling the entire amount of his or her military pay reduction for participation in the chapter 30 program, less any inservice chapter 30 educational assistance received. This would remedy the inequity for such persons who pay for but, through no fault of their own, are denied the opportunity to use educational benefits.

Section 104

The Montgomery GI Bill currently provides that an individual entitled to basic educational assistance under section 1411 based on a 2-year active duty obligation will be entitled to receive benefits of $250 per month for 36 months. Under section 1412, if an individual enlists for 2 years and, after discharge, serves 4 years in the Selected Reserve, that person would be entitled to receive $300 a month for 36 months. However, should the latter individual be discharged due to disability after serving only a short period in the Selected Reserve, the individual could have far fewer number of months entitlement, albeit payable at the higher $300 rate, than if his or her entitlement had been based solely on active duty service under section 1411.

This section would amend section 1412 by adding a new subsection authorizing an individual, eligible for chapter 30 benefits thereunder, who is separated prior to the completion of his or her 4-year Selected Reserve obligation due to disability, to elect whether he or she wants the greater monthly benefit under that section or the extended entitlement under section 1411.

Section 105

Under current law, the VA may use the facilities of any Federal agency to provide training or work experience for no or nominal pay as a part or all of a veteran's vocational rehabilitation program if the VA determines that such training or work experience is necessary for the veteran's rehabilitation. This provision has been a valuable option which has either led to employment or contributed to the employment credentials of those veterans being provided such training or work experience. Unfortunately, it is not a viable option for those veterans who could benefit therefrom but who reside in areas remote from Federal facilities. In many cases, however, such veterans live near State or local Government facilities which could be used to provide similar training or work experience.

This section would amend section 1515 to allow the use of nonpay programs in State or local government agencies, supported in whole or in part with Federal funds, to provide the training or work experience appropriate for an eligible service-disabled veteran's program of vocational rehabilitation under chapter 31.

This section also would require that the VA promulgate regulations to monitor and guard against potential abuse of such free resource by the employing agency and to ensure that such training is in the best interest of the veteran and the Federal Government. We believe that this will enhance the effectiveness of the vocational rehabilitation program.

Section 106

Under current law, benefit payments to certain incarcerated veterans are reduced or eliminated under the chapter 30, 31, and 34 programs. No such provision exists, however, applicable to incarcerated veterans in receipt of education benefits under chapter 32. The statutory payment limitations regarding incarcerated veterans exist in response to the very real problem, as noted by prison officials, that veterans with substantial sums of money cause disruption in prisons. Since these considerations apply as well to participants in the chapter 32 program, the Agency believes a provision pertaining to these individuals should be incorporated in that chapter.

This section would amend section 1631 to add provisions similar to section 1682(g), limiting the amount of chapter 32 educational assistance payable to persons incarcerated in a Federal, State or local penal institution for conviction of a felony to the lesser of the allowance otherwise payable or the established charges for tuition, fees and necessary books, supplies and equipment. Moreover, this amount would be reduced to the extent tuition and fees are paid under other non-VA governmental programs.

TITLE II—ADMINISTRATIVE PROVISIONS

Section 201

Currently, section 1788(e) sets forth a method for determining full-time pursuit of a course not leading to a standard college degree which is offered by an institution of higher learning and for which the institution requires one or more unit courses or subjects creditable toward a standard college degree. This method provides for reducing the number of clock hours otherwise required for full-time study, under section 1788(a)(1) or (2), by the percentage which the number of credit hours (represented by such unit courses or subjects) being pursued is of the number credits required for full time under section 1788(a)(4).

This amendment would replace the current text of section 1788(e) with provisions for measuring such course enrollment by converting the credit hours being pursued to equivalent clock hours and combining this number with the actual number of clock hours concurrently pursued, if any, to determine training time under section

1788(a) (1) or (2). This method, unlike the existing complex procedures of section 1788(e) which necessitate creation of an artificial measurement scale in each case, simply converts credit hours to equivalent clock hours, enabling measurement in the same unit expressed in section 1788(a) (1) or (2). Moreover, the Agency has found that measurement under current law requires a far greater number of calculations than would be necessary under this amendment. Thus, the proposal would greatly simplify such measurement determinations and yield more readily understandable and consistent results.

Section 202

Current law, section 1792(c), provides that the Administrator's Education Advisory Committee shall remain in existence until December 31, 1989. Since the enactment of that section, however, several legislative amendments to VA programs have occurred. For example, legislation was enacted making the Montgomery GI Bill a permanent program. This makes it imperative that the Committee continue to function in order that it may advise the Administrator on matters pertaining to veterans' education benefits under that program. The number of veterans applying for their VA education benefits under this program will increase starting in 1987. Further, we anticipate that following the termination of the noncontributory GI Bill on December 31, 1989, there will be a sharp increase in the number of veterans eligible for educational assistance under the Montgomery GI Bill, continuing into the mid-1990's. Thus, this section would amend section 1792(c) to extend the existence of the Advisory Committee until December 31, 1993.

Section 203

The Montgomery GI Bill (38 U.S.C., ch. 30 and 10 U.S.C., ch. 106 programs) currently does not provide for remedial, refresher, or deficiency course pursuit. However, under chapter 32, payments are made and entitlement is charged for such courses; chapter 34 provides for such pursuit, without an entitlement charge, if the student is a veteran; and under chapter 35, payments for such pursuit are made to an eligible spouse or surviving spouse, without an entitlement charge, and to a child but with an entitlement charge. There is no significant reason to treat all these categories of beneficiaries differently.

Although we find it inappropriate to modify the chapter 34 provision since the program is in its closing stages (benefits cannot be afforded after December 31, 1989), we believe that the other, ongoing educational benefit programs should follow a uniform policy in this area. Thus, this section would amend chapters 30, 32, and 35 of title 38 and chapter 106 of title 10 to permit eligible individuals to receive payment for these courses at an appropriate charge to entitlement.

Section 204

(1) Currently, section 1413 states that certain individuals entitled to educational assistance benefits under chapter 30 will have their entitlement computed based on service after the beginning of the period for which the individual's basic pay is reduced. We believe that Congress intended that such entitlement would begin to accrue immediately upon initial entry onto qualifying active duty, even though the military department, in some cases, may not be able to effectuate the necessary reduction until after a month or more of full basic pay has already been issued.

However, since the statutory language is susceptible to a different interpretation which could penalize the individual for the untimely action by the military department, this section would, therefore, amend section 1413 to clarify that entitlement will be computed from the date of first entry on active duty in the case of an individual described in section 1411(a)(1)(A)(ii)(I) or 1412(a)(1)(A).

(2) Under current law, section 1432 requires a charge against a veteran's chapter 30 entitlement of .75 of a month for each of the first 6 months of the individual's pursuit of a fulltime program of apprenticeship or other on-the-job training; .55 of a month for each of the second 6 months; and .35 of a month for each month thereafter. These entitlement charges correspond to the rate of monthly educational assistance allowance paid, with one exception. The exception is that the full entitlement charge otherwise applicable is made even though there is a reduction in the monthly benefit for any month in which the veteran fails to complete 120 hours of training.

The current law, in effect, imposes a double penalty on the veteran: the monthly benefit is reduced, yet entitlement is charged at the "full" rate. Not only is this inequitable, but it also creates administrative problems.

This provision, therefore, would amend section 1432 to provide for a proportionate reduction in entitlement in accordance with the reduction in monthly educational assistance allowance paid when a veteran pursuing an apprenticeship or other on-job training program under chapter 30 fails to work 120 hours in a month.

(3) Section 1434(a) currently incorporates by reference certain enumerated portions of chapter 36 which shall apply to the administration of the chapter 30 education benefits program. One such applicable provision, section 1780(f) of chapter 36 which deals with payment for less than half-time training, inappropriately authorizes rates which are inapplicable to chapter 30.

Consequently, this subsection would amend section 1434(a) to except section 1780(f) from applicability to chapter 30 and would add a separate section of similar content but referencing chapter 30 rates.

(4) This provision would amend section 1633 to provide for a proportionate reduction in chapter 32 entitlement in accordance with the reduction in monthly educational assistance allowance paid when a veteran pursuing an apprenticeship or other on-job training program under chapter 32 fails to work 120 hours in a month. This amendment is similar to the amendment to chapter 30 made by subsection (2) of this section.

(5) This subsection makes two amendments to section 1790. First, it would amend section 1790(a)(2) which provides that the Administrator may disapprove educational institutions for the enrollment of eligible veterans or eligible persons when the institution would deny them the benefits of prepayment allowances. Since the Va no longer prepays education benefits, this amendment would delete reference to such payments.

Second, this section would amend section 1790(b)(3)(A) to add chapter 30 to the list of chapters enumerated therein.

Currently, section 1790(b)(3)(A) provides that the VA can suspend benefits if the school offering a course has violated one or more of the recordkeeping or reporting requirements of chapters 32, 34, 35, or 36. However, there is no express provision which would permit the VA to suspend benefits if an institution violated these same requirements under chapter 30. This results in the anomalous situation whereby the VA may suspend benefits under chapter 30 for violations of the recordkeeping or reporting requirements of other chapters but not of chapter 30 itself.

More importantly, the chapter 30 program, now a permanent program under the Montgomery GI Bill, is a major education benefits program which surely was intended to be embraced by a general provision for assuring proper payment of benefits by the VA.

Section 205

The Commission to Assess Veterans' Education Policy was established by Pub. L. No. 99-576. The statute provides that the Administrator, the ex officio members of the Administrator's Education Advisory Committee (38 U.S.C. § 1792), and the leadership of the House and Senate Veterans' Affairs Committees shall be ex officio members of the Commission. Since the Department of Defense has a vested interest in the education benefits paid to veterans and servicepersons, particularly under the Montgomery GI Bill, we believe that it would be appropriate to include a representative of that Department on the Commission. This would ensure that the views and interests of the military services are considered vis-a-vis the significant policy issues on which the Commission must report.

This draft bill would specify that the Deputy Assistant Secretary for Military Personnel and Force Management (or his or her designee) shall be an ex officio member of the Commission.

By Mr. WIRTH (for himself and Mr. GARN):

S.J. Res. 301. Joint resolution designating January 20, 1989, as "National Skiing Day"; to the Committee on the Judiciary.

NATIONAL SKIING DAY

Mr. WIRTH. Mr. President, today Senator GARN and I are introducing a joint resolution to designate Friday, January 20, 1989, as "National Skiing Day." In sponsoring this measure, I am especially pleased to be joined by the Senator from Utah, who shares my fondness for skiing. I'm sure that he, too, would prefer to be in the Rocky Mountains today, enjoying the last great days of skiing remaining this year. And as January 20, 1989, will be Inauguration Day, perhaps thousands will want to celebrate with a beautiful day on our Nation's mountains.

The State of Colorado boasts several of the world's best ski areas. In fact, it is especially fitting to commemorate "National Skiing Day" on January 20, 1989—1 week before Colorado hosts the World Alpine Ski Championships at Vail. This event will mark the first time in 40 years that the United States has hosted this premier event in international skiing.

More than 15 million Americans, from literally every State, are downhill skiers. Today, there are more than 600 ski areas in 40 States across the country. Just last year, the country's downhill ski areas recorded nearly 54 million skier visits. Another 6 million Americans enjoy cross-country, or Nordic, skiing on trails and forests throughout the Nation.

These statistics show that Americans have enthusiastically embraced skiing as an outdoor sport. What these statistics don't reveal is that skiing is a sport that fosters a deep appreciation of the outdoors and enriches the human spirit. There is nothing more exhilarating on a sunny winter morning than to stand at the top of a mountain for the first run of the day on fresh powder snow.

In addition, skiing continues to play an important role in the growing recreation and tourism industry in this country. And my State is no exception to this trend. Recreation and tourism is Colorado's second largest industry and on Colorado's western slope, skiing is the leading industry. This sport accounts for one-third of all retail sales, a quarter of all employment, and almost half of the housing construction. Statewide, this industry creates 53,000 jobs, contributes $1,5 billion to Colorado's economy, and produces $146 million in State and local taxes.

Mr. President, skiing is an important part of my State's economy and the economies of many other States. Last fall, working with the Colorado ski country, we brought skiing to the Nation's Capital. We constructed "Mount Colorado" on the lawn of the Capitol to encourage Members of Congress and their staffs to take part in this sport and to enjoy the great outdoors. It is my hope that we can build on the enthusiasm that we saw here last fall by recognizing "National Skiing Day." I urge my colleagues to join me in supporting this joint resolution.

Mr. GARN. Mr. President, it has been my policy throughout my service in the Senate to encourage economic development in an environmentally responsible way. This is precisely the reason I am cosponsoring Senator Wirth's resolution designating January 8, 1989, as "National Skiing Day." Such a day helps citizens foster appreciation and respect for the outdoors and, at the same time, affords economic growth in the many ski regions throughout the country.

Skiing is a vital part of recreation and tourism in my State's economy and the economies of many other States. Nationally, ski areas bring in over $1.6 billion a year. In Utah alone, the ski industry employs an estimated 6,000 workers in manufacturing, distribution and resort positions. Utah's ski resorts have evolved into year-round mountain resorts providing both winter and summer activities. Skiing in Utah brings in over $360 million and over $27 million in combined State and local tax receipts. Over 53 percent of the 2.5 million lift tickets sold in Utah are sold to out-of-State skiers while 47 percent of the lift tickets are purchased by Utah residents. In a family oriented State like Utah, skiing provides an excellent family sport.

Utahn's are extremely fortunate to have seven world class resorts within 30 minutes of downtown Salt Lake City. Skiing has had a positive effect on our canyons by increasing both recreational value and commercial use of the national forests, providing employment opportunities and economic development, and creating an appreciation for the beauties of nature. In fact, because of the lack of humidity in our desert climate, Utah's snow is light, dry and plentiful. That is why Utah's license plates claim ours as "the greatest snow on Earth."

This resolution is good for the vitality of America. No sport can so clear the senses and invigorate the body. I urge my distinguished colleagues to join us in this fitting recognition of an important and growing industry.

ADDITIONAL COSPONSORS

S. 612

At the request of Mr. Simon, the name of the Senator from South Carolina [Mr. Hollings] was added as a cosponsor of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 927

At the request of Mr. Daschle, the names of the Senator from New Mexico [Mr. Bingaman] and the Senator from Alabama [Mr. Shelby] were added as cosponsors of S. 927, a bill to protect caves resources on Federal lands, and for other purposes.

S. 951

At the request of Mr. Heflin, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 951, a bill entitled the "Federal Courts Study Act."

S. 1081

At the request of Mr. Bingaman, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1124

At the request of Mr. Simon, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1124, a bill to amend title 18, United States Code, to require that telephone monitoring by employers be accompanied by a regular audible warning tone.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Maine [Mr. Cohen] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

At the request of Mr. Murkowski, his name was withdrawn as a cosponsor of S. 1220, supra.

S. 1600

At the request of Mr. Ford, the names of the Senator from Georgia [Mr. Nunn], the Senator from Oklahoma [Mr. Nickles], the Senator from Texas [Mr. Bentsen], the Senator from Mississippi [Mr. Cochran], the Senator from Maryland [Mr. Sarbanes], the Senator from Wisconsin [Mr. Proxmire], the Senator from Colorado [Mr. Wirth], and the Senator from New Hampshire [Mr. Rudman] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1851

At the request of Mr. Moynihan, his name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2025

At the request of Mr. Breaux, his name was added as a cosponsor of S. 2025, a bill to amend title II of the Toxic Substances Control Act.

S. 2129

At the request of Mr. Baucus, the name of the Senator from Missouri [Mr. Bond] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2159

At the request of Mr. Nickles, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 2159, a bill to amend the Commercial Motor Vehicle Safety Act of 1986 to provide that the requirements for the operation of commercial motor vehicles will not apply to the operation of certain farm vehicles.

S. 2176

At the request of Mr. Dixon, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of S. 2176, a bill to amend the Internal Revenue Code of 1986 to permit the tax-free purchase of motor fuels by individuals who are exempt from paying the motor fuels excise tax, and for other purposes.

S. 2240

At the request of Mr. Johnston, the name of the Senator from New Mexico [Mr. Domenici] was added as a cosponsor of S. 2240, a bill to amend the act to reauthorize the State Mining and Mineral Resources Research Institute Program, and for other purposes.

SENATE JOINT RESOLUTION 113

At the request of Mr. Heflin, the name of the Senator from South Carolina [Mr. Thurmond] was added as a cosponsor of Senate Joint Resolution 113, a joint resolution proposing an amendment to the Constitution of the United States with respect to the impeachment of article III judges.

SENATE JOINT RESOLUTION 238

At the request of Mr. Gore, the names of the Senator from Texas [Mr. Bentsen], the Senator from Missouri [Mr. Bond], the Senator from Minnesota [Mr. Boschwitz], the Senator from New Jersey [Mr. Bradley], the Senator from Arkansas [Mr. Bumpers], the Senator from North Dakota [Mr. Burdick], the Senator from Rhode Island [Mr. Chafee], the Senator from Florida [Mr. Chiles], the Senator from Mississippi [Mr. Cochran], the Senator from California [Mr. Cranston], the Senator from Missouri [Mr. Danforth], the Senator from South Dakota [Mr. Daschle], the Senator from Arizona [Mr. DeConcini], the Senator from Illinois [Mr. Dixon], the Senator from Connecticut [Mr. Dodd], the Senator from New Mexico [Mr. Domenici], the Senator from Minnesota [Mr. Durenberger], the Senator from Georgia [Mr. Fowler], the Senator from Ohio [Mr. Glenn], the Senator from Iowa [Mr. Grassley], the Senator from Alabama [Mr. Heflin], the Senator from Pennsylvania [Mr. Heinz], the Senator from South Carolina [Mr. Hollings], the Senator from Hawaii [Mr. Inouye], the Senator from Louisiana [Mr. Johnston], the Senator from Kansas [Mrs. Kassebaum], the Senator from Massachusetts [Mr. Kerry], the Senator from New Jersey [Mr. Lautenberg], the Senator from Vermont [Mr. Leahy], the Senator from Michigan [Mr. Levin], the Senator from Indiana [Mr. Lugar], the Senator from Idaho [Mr. McClure], the Senator from Arizona [Mr. McCain], the Senator from Hawaii [Mr. Matsunaga], the Senator from Maryland [Ms. Mikulski], the Senator from New York [Mr. Moynihan], the Senator from Oklahoma [Mr. Nickles], the Senator from Georgia [Mr. Nunn], the Senator from Rhode Island [Mr. Pell], the Senator from South Dakota [Mr. Pressler], the Senator from Arkansas [Mr. Pryor], the Senator from Nevada [Mr. Reid], the Senator from Delaware [Mr. Roth], the Senator from Maryland [Mr. Sarbanes], the Senator from Illinois [Mr. Simon], the Senator from Pennsylvania [Mr. Specter], the Senator from Vermont [Mr. Stafford], the Senator from Mississippi [Mr. Stennis], the Senator from South Carolina [Mr. Thurmond], the Senator from California [Mr. Wilson], and the Senator from Colorado [Mr. Wirth] were added as cosponsors of Senate Joint Resolution 238, a joint resolution to designate the month of May 1988, as "National Digestive Diseases Awareness Month."

SENATE JOINT RESOLUTION 280

At the request of Mr. Hatch, the names of the Senator from Alabama [Mr. Heflin], the Senator from Missouri [Mr. Bond], the Senator from Mississippi [Mr. Cochran], the Senator from Arizona [Mr. DeConcini], and the Senator from Minnesota [Mr. Boschwitz] were added as cosponsors of Senate Joint Resolution 280, a joint resolution to designate the week of November 27, 1988, through December 3, 1988, as "National Home Care Week."

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. Lautenberg, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corp. and Eastern Air Lines.

SENATE CONCURRENT RESOLUTION 112

At the request of Mr. Baucus, the names of the Senator from Mississippi [Mr. Cochran], the Senator from Illinois [Mr. Simon], the Senator from Oklahoma [Mr. Nickles], the Senator from North Dakota [Mr. Burdick], the Senator from North Dakota [Mr. Conrad], the Senator from Wyoming [Mr. Wallop], the Senator from Indiana [Mr. Lugar], the Senator from Arkansas [Mr. Pryor], the Senator from Utah [Mr. Garn], and the Senator from Alabama [Mr. Shelby] were added as cosponsors of Senate Concurrent Resolution 112, a concurrent resolution expressing the intent of Congress regarding certain provisions of Public Laws 100-202 and 100-223.

SENATE RESOLUTION 391

At the request of Mr. Heflin, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of Senate Resolution 391, a resolution calling on the United States to assist the Government of Colombia in its battle against the terrorist activities of illegal drug producers and traffickers.

SENATE RESOLUTION 414-ORIGINAL RESOLUTION REPORTED RELATING TO THE PURCHASE OF CALENDARS

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 414

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $72,800 for the purchase of one hundred and four thousand 1989 "We The People" historical calendars. The calendars shall be distributed as prescribed by the committee.

SENATE RESOLUTION 415-ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO JANIS K. BARBER

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 415

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Janis K. Barber, widow of John R. Barber, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 416—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO OSCAR M. HOLMES, JR. AND THEODORE HOLMES

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 416

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Oscar M. Holmes, Jr. and Theodore Holmes, sons of Vividell B. H. McDonald, an employee of the Architect of the Capitol assigned to duty on the Senate side at the time of her death, a sum to equal six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 417—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO SWANHILD SPACKMAN

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 417

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Swanhild Spackman, mother of Gleora S. Jacobson, an employee of the Senate at the time of her death, a sum equal to ten and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 418—RELATING TO THE CONSIDERATION OF THE DIESEL FUEL TAX

Mr. KARNES (for himself, Mr. Armstrong, Mr. Durenberger, Mr. Grassley, Mr. Hecht, Mr. Helms, Mr. McConnell, Mr. Nickles, Mr. Simpson, Mr. Cochran, and Mr. Danforth) submitted the following resolution; which was referred to the Committee on Finance.

S. Res. 418

Whereas on April 1, 1988, the Internal Revenue Service began requiring that all purchasers of diesel fuel, regardless of purpose for which the fuel is intended to be used, pay a 15-cent per gallon tax at the time of purchase of diesel stocks, pursuant to 26 U.S.C. 4093;

Whereas the fuel tax is collected for the purpose of raising revenue from on-road uses to pay for roads programs;

Whereas individuals who purchase diesel fuel for off-road farm use have been and continue to be exempted from this tax;

Whereas regardless of the off-road farm exemption, farmers must now pay the tax at the time of purchase, apply for a refund, and wait for up to a year to receive the refund;

Whereas the new provisions require farmers to absorb the paperwork costs involved with compliance with these provisions;

Whereas farmers often will need to borrow money, and pay the interest charges, in order to comply;

Whereas if farmers neglect to request the refund, they effectively lose the money and their exemption;

Whereas this provision in law constitutes unreasonable, costly and utterly unnecessary interference in family farming;

Whereas major farm groups including the American Farm Bureau, the National Farmers Union, the National Grange and thirteen other agricultural groups have stated their strong opposition to the diesel fuel tax provisions due to the costly burdens it places on their members;

Whereas the Secretary of the Treasury has stated that the language in the 1986 Tax Reform Act that requires the new collection procedures does not allow him to take administrative action to resolve this problem;

Whereas legislation introduced in Congress to correct this inequity has not yet become law, although farmers continue to pay the tax. Now, therefore, be it

Resolved it is the sense of the Senate, That—

(1) consideration of legislation introduced in the 100th Congress to repeal the pertinent sections in the 1986 Tax Reform Act requiring the collection of diesel fuel taxes from off-road farm users be expedited;

(2) upon repeal of the aforementioned sections, all funds already collected from off-road farm users under the repealed provisions be returned to the purchasers as quickly as possible.

● Mr. KARNES. Mr. President, I rise today to introduce a sense of the Senate resolution to repeal the diesel tax collection provision that has been imposed on off-road farm users—farmers—that Congress included in the 1986 Tax Reform Act. This resolution will not, by itself, reverse the decision to reverse the tax. But I think it is crucial to keep the matter of the diesel fuel tax moving in Congress. A number of bills have been introduced in the 100th Congress to remove this onerous section from the 1986 Tax Reform Act. Hearings have been held. The fact of the matter is that farmers are continuing to pay the diesel tax every day as they purchase their fuel. Every day we delay means more costs and more headache for our farmers.

We need to move the diesel tax collection repeal to the front of the Senate's legislative agenda. The purpose of this resolution is to put the Senate on record supporting expedited consideration of the repeal. In addition, it would state the sense of the Senate that any moneys already collected from off-road farm users would be returned to them as quickly as possible, assuming we are successful in securing the repeal.

Some proposals for addressing this issue may not be sufficient to fully to release farmers from the burdens imposed by the diesel provisions. However, I feel it is important to get the diesel fuel issue to the floor as soon as possible. Once it comes to the floor, my colleagues and I who want the full repeal should be allowed to offer an amendment to that effect if necessary.

Mr. President, the need to move this matter forward quickly is evident from the dilemma farmers face. This is a tax that farmers don't owe. In fact, the procedure is to collect the tax and then have farmers file for a tax return. If the amount of tax paid in any one tax quarter exceeds $1,000 then farmers can file for a return on a quarterly basis. In addition, if farmers are lucky enough to have a large volume use for diesel fuel and can get a wholesaler to do business with them then they are exempted from the tax collection requirements. Mr. President, there aren't many farmers who fall under this large user category. Most are family farmers who buy diesel fuel from a distributor in the same way that you or I buy gasoline from the corner station.

The tax counts as a revenue raiser, and for that reason many here have been unwilling to support an unconditional repeal until an alternative source of revenue can be found. That is a difficult issue but one I believe we can resolve. I would be glad to join with my colleagues to see whether we could shift funds from surplus accounts to cover the cost of the repeal.

One thing is certain; the issue of how we meet any revenue shortfall caused by the repeal is our problem, not the farmers' problem. We cannot ask them to effectively make interest-free loans to the Government to help meet our budget difficulties simply because they use diesel fuel.

Mr. President, I submit the text of my resolution for publication in the Congressional Record, in addition to the list of my colleagues joining me as original cosponsors.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, April 21, to receive a closed briefing on the Persian gulf region.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON AGRICULTURAL RESEARCH AND GENERAL LEGISLATION AND SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Agricultural Research and General Legislation, and Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Thursday, April 21, 1988, to receive testimony on alternative agricultural systems.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Defense Industry and Technology be authorized to meet during the session of the Senate on Thursday, April 21, 1988, in closed session to conduct a markup of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services Subcommittee on Strategic Forces and Nuclear Deterrence be authorized to meet during the session of the Senate on Thursday, April 21, 1988, in closed session to conduct a markup of the amended fiscal year 1989 Defense authorization request.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, April 21, to continue hearings on the implementation of the United States-

Canada Free Trade Agreement and the potential impacts on energy and natural resources industries.

The **PRESIDING OFFICER**. Without objection it is so ordered.

COMMITTEE ON FINANCE

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on Thursday, April 21, 1988, to continue hearings on the United States-Canada Free Trade Agreement.

The **PRESIDING OFFICER**. Without objection it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. **BYRD**. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on Thursday, April 21, 1988, on S. 42, Federal Employees' Optional Early Retirement Act of 1987. For further information, please call Len Weiss, staff director, at 224-4751.

The **PRESIDING OFFICER**. Without objection it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, April 21, 1988, to hold hearings on "Organized Crime: 25 Years After Valachi."

The **PRESIDING OFFICER**. Without objection it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, April 21, 1988, to hold a hearing on judicial nominations.

The **PRESIDING OFFICER**. Without objection it is so ordered.

SUBCOMMITTEE ON SURFACE TRANSPORTATION

Mr. **BYRD**. Mr. President, I ask unanimous consent that the Subcommittee on Surface Transportation, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on Thursday, April 21, 1988, to hold an oversight hearing on the issue of truck access.

The **PRESIDING OFFICER**. Without objection it is so ordered.

ADDITIONAL STATEMENTS

DOUGLASS CATER, PRESIDENT OF WASHINGTON COLLEGE

● Mr. **WIRTH**. Mr. President, from time to time, remarkable people take on difficult goals and achieve remarkable success. Douglass Cater, president of Washington College, in Maryland is one of those people.

The complex financial, academic, and public relations problems facing higher education in America are nowhere more apparent than in our liberal arts colleges. Even though our tradition and history of higher education has been built upon the small college, we now face the question: Will they survive?

Few people in the United States have done more to apply our ideals, reflect our history and look to the future than has Doug Cater. As the president of the 10th oldest college of its kind in the country, he has committed himself to ensuring that education continues to be "the first work of our democracy."

The following article depicts his challenges and his successes. I commend it to my colleagues.

DOUGLASS CATER: HE'S CHANGING WASHINGTON COLLEGE

(By Neil Grauer)

They're closing down a street in Chestertown this week. Not for a parade, although there will be joyful groundbreaking ceremonies.

No, this closing will help put a new face—its first formal entrance—on the 206-year-old Washington College. This, as well as a tree-lined quadrangle and the $7.5 million Academic Resources Center, is the latest development project fostered by Douglass Cater, the high-profile president of this small, private college on the Eastern Shore.

Mr. Cater, 64, is now in the sixth year of a crusade to restructure the programs and facilities at the college. He wants to lure students from a shrinking market and provide them with a thorough liberal arts education—something some critics of academe say is either no longer available or costs too much.

His task, he says, like those who guide the fortunes of similar schools, is to ensure that education continues to be "the first work of our democracy." It is an increasingly perilous ambition because some education experts have predicted that as many as 200 small independent colleges (those with enrollments under 1,000) will have shut down by the end of this decade.

As the 10th oldest college of its kind in the country—and the only one to which George Washington actually contributed money and personally gave permission to use his name—Washington College has, as Mr. Cater noted in his 1982 inaugural address, "a longer head start in the hard race against extinction."

But when he assumed the president's chair, Washington College, with a 1982 enrollment of 684, was running short of breath—and of vision, too. His presidency so far has given it a hearty second wind and a view toward expanding its horizons, while retaining the special qualities, such as a good teacher-student ratio, that smallness allows. It currently has just 835 students, fewer than many high schools.

As in all change, however, the shift in gears for this outwardly placid, 104-acre enclave has not been accomplished without pain.

Some complain, for instance, that in raising the profile of Washington College—to bring such luminaries as Henry Kissinger, Walter Cronkite and Lady Bird Johnson to town—this former Washington-based journalist and one-time aide to President Lyndon B. Johnson, has raised his own profile as well.

And one faculty member, who prefers to remain annoymous, has noted that Mr. Cater's management style is unquestionably productive but unnecessarily combative.

"Personally, he is difficult to work with. He is temperamental. He loses his temper. He yells at people. He takes things personally when he oughtn't to. What Douglass Cater has done is stir things up a great deal—and that's all to the good. But there has been a fairly high cost to that, and things could have gone a lot more smoothly if he weren't as self-centered as he is. Still, it's preferable to have agitation than lethargy."

Mr. Cater's activities have inspired the sly witticism, voiced by a former college official, that his critics think his ultimate goal is to "cut down the [college's] Washington Elm and replace it with a Douglass Fir."

The gibe brings a booming, rueful laugh from Mr. Cater. He denies an overweening egotism, noting that when he worked in the White House he deliberately sought to remain in the background. He spurned an offer to become the president's press secretary, one of the most visible jobs in the country. (The man who took it was Bill Moyers.)

"This is the first job I've had where the buck stops here. I was urged by many trustees [who said] 'Look, you and the college now are one and you should behave in that way. . . . Your national network and reputation can do nothing but help the college, so don't hide your light under a bushel.' "

He took their advice. Under his leadership the school has launched a continuing fund-raising drive, headed by high-profile Baltimoreans Alonzo G. Decker Jr., former chairman of the board at Black & Decker, and W. James price 4th, managing director at Alex. Brown Inc., which has brought in more than $28 million in the past three years. With this money, the new academic center, a science center and other buildings have been planned or built, a state-of-the-art computer system is in the works, and a balanced budget—now topping $14 million—has been maintained for the past five years. In addition, the number of student applications—the lifeblood of any institution—has almost doubled.

"Washington College suffered the same fate as Chestertown: It was just overlooked," says Glen A. Thomas, who acts as a consultant on admissions marketing strategies for colleges around the country, including Washington College. "I think under Cater it has developed substantial visibility. they've had some super years on their enrollment and they've substantially improved that quality of their classes, which is as important as the numbers."

Mr. Thomas, a former director of admissions at Johns Hopkins, has found in Mr. Cater "an administrator who identified a problem and wanted to deal with it directly. He's a hard taskmaster, I think, but I found that he demanded of people around him the same intensity of work that he puts into it himself."

In the process, Mr. Thomas says, Mr. Cater has, "of course stepped on toes and got some people riled up."

But there are those who applaud his efforts.

"I think he imagines Washington College differently than any president before imagined it," says Robert Day, chairman of the English department "I think he imagines it in a way much closer to that of the founders . . . which is [as an institution] to educate the citizens for an active role in our democracy."

And junior Andrea Kehoe, 20, editor of the school newspaper, says Mr. Cater "has brought a lot of excitement to the college. A lot of students seem to feel that in 10 years this is really going to be an exceptional school. It's a good school now, but down the road it's going to be even better. And they think a lot of that ties into what he has done."

Mr. Cater, born in Montgomery, Ala., was the son of Silas Douglass Cater, a lawyer who served as the city manager and a state senator. When he was 12, Doug had a bout with rheumatic fever that kept him in bed for a year. The experience had a profound effect on his outlook, he says.

"That changes your life, when you engage in that kind of prolonged introspection that a year in bed affords," he says. "When you get out, you've got a sort of stored-up fat of energy and ambition. You want to prove yourself to yourself and to others."

The illness left its mark on him in other ways. Although he says he's led "a fairly active life," he underwent open heart surgery in 1977 to replace a heart valve damaged years earlier by the disease. He also suffers from curvature of the spine, "which if I don't work out at least three or four times a week . . . makes me stiffen up and become almost a hunchback," he says. Recently, severe arthritis led to the replacement of one of his knees with a prosthetic device. As he sits before a cracking fire in the elegant, 252-year-old Hynson-Ringgold House in Chestertown, which serves as the college president's home, he constantly shifts around in a silk-upholstered, wing-backed chair, seeking a comfortable position.

While in high school, he got a scholarship to the Phillips Exeter Academy in New Hampshire, one of the most rigorous—and exclusive—prep schools in the country. From there he went to Harvard and took bachelor's and master's degrees with honors, following time out for service in World War II. After graduating from Harvard, he joined the now-defunct Reporter magazine, for which he soon became a one-man bureau in Washington.

"That was hog heaven for me," he says with a grin. "I never thought of going back and getting the Ph.D., he confesses, which makes him something of an odd man out in higher education, "since a Ph.D. is still regarded as a sort of Good Housekeeping seal of approval."

Eventually he became the national affairs editor of Reporter and later wrote several books, among them "The Fourth Branch of Government," a 1959 study of the role of the press in Washington, and "Power in Washington," a 1964 work on the interaction among Congress, the White House and special-interest groups.

In 1964, Lyndon Johnson asked him to join the White House staff. There he became involved in the Great Society's initiatives in public and higher education, as well as public broadcasting. A number of the educational programs Mr. Cater got through Congress were never properly funded because of the rising costs of the Vietnam War, says Hugh David Graham, a professor of history at the University of Maryland Baltimore County, who wrote "The Uncertain Triumph," a study of federal educational policies in the 1960s.

Mr. Cater left the White House in 1968, the year Johnson announced he would not run for a second term, and in 1970 he became director of the Program on Communications and Society of the Aspen (Colo.) Institute for Humanistic Studies, a think tank now based at the Wye Plantation on the Eastern Shore.

He spent three years in the late '70s to the early '80s as vice chairman of the *Observer*, England's oldest weekly. His job there was coming to an end when the chairman of the Aspen Institute, a member of the Washington College board of trustees, asked him to consider succeeding the late Dr. Joseph H. McLain.

"I'd reached the point in my life when I was tired of thinking about big, insoluble problems, [and] this struck me as an ideal human-sized job. I would be dealing with *little* insoluble problems."

Among his first acts when he came to work at Washington College in 1982 was to hire Cambridge Associates, a Massachusetts-based firm, to study the college's immediate and long-range financial prospects for capital expenses, recruiting students and staffing. What it found was not good. Unless swift corrective measures were taken, the analysts warned, the school would be running a deficit of $163,000 by 1987 and its enrollment would shrink to 672.

Instead, by adopting the consultants' recommendations, the college not only has maintained a balanced budget but now has a tidy $98,819 surplus in the bank. Applications for admission have increased 10 percent each year, and enrollment is on its way to 850 students by next fall, according to Kevin Coveney, the admissions director hired by Mr. Cater in 1983. Mr. Coveney says his boss' drum-beating for the college has "contributed greatly to the upturn in applications."

Mr. Cater believes "the main recruitment mechanism in the electronic age is word of mouth."

"It's so-and-so tells so-and-so, 'Great things are going on at Washington College. You ought to consider it.' Then if we can get them to come to campus, it's almost a sure-fire means of locking up the recruitment. . . . This fall, we were [able to be] more selective than we've ever been in our history. We had more applications than we could accept. And that is a great luxury for a college—to get to pick and choose."

One potential source of students that Mr. Cater wants to tap is the reservoir of foreign young people whose parents are diplomats in Washington. "I think it enriches the mix of the student body immeasurably to have students from other cultures. And . . . it makes our job of recruiting our own ethnic minorities easier if there is a larger community of those who are not Anglo-Saxons. At the moment, I find it very difficult to recruit able black students. For one, we don't have enough big scholarships, and two, they're rather lonely here. Those that come fare very well. They are liked. . . . The college and the community have no problems with blacks. . . ."

Like most colleges and universities, Washington College has been raising its tuition every year. Since Mr. Cater became its president, the school's tuition has nearly doubled, from $4,650 to $8,170. Room and board costs have risen from $2,250 to $3,540. The total cost now is $12,250 compared to $7,071, a hike that has outpaced the annual inflation rate, as have most college cost increases.

But, despite charges from such people as Education Secretary William J. Bennett that the ever-rising tuition costs of private colleges and universities have made them "under-accountable and underproductive" spendthrifts, Mr. Cater says the tough dollars-and-cents, bottom-line business acumen of many college trustees does not dispose them to profligacy.

"The question is whether balancing our budgets, especially in the private institutions, under the tight supervision of a board of trustees, isn't the most cost-effective way of measuring cost-effectiveness."

Mr. Cater also keeps a firm eye on the curriculum, about which, he says, he is a pragmatist who advocates a perpetual re-evaluation. "There is no perfect formula for what is the curriculum of a college. . . . It's rethinking what is higher education that shows whether a college is alive or dead. If it's not doing [the job of educating] it shows that it's complacent."

"I think it's going to be in the liberal arts college—and in the small liberal arts college to begin with—that we'll rediscover what it is that is most effective in awakening the creative capacity of the individual young person's mind. It's a miracle when it happens, and it happens at different times with different kids.

"I believe that the liberal arts education ought to prepare the young person—and give him the arrogance—that says I can go out and do anything that comes my way or that I happen to want to do. But in the meantime, I've also acquired the ability to think."

One discipline on which Mr. Cater puts special emphasis, however, is writing—not surprisingly. The college's veteran vice president and treasurer, Gene Hessey, says that an average of $80,000 to $90,000 has been added to the budget for the writing program and for word processors.

As pleased as Mr. Cater is with Washington College's progress, he has a strong sense of the uncertainty of the future—the college's and his own. As for the college, he says he doesn't "clearly see beyond 1990."

"I think we are such a small ship and the sea is so big and so potentially tempest-tossed that to say that for the long term this is what the condition will be should be foolhardy. The fate of the independent liberal arts college in America—except for those that have a security blanket as big as the Ritz, to mix Fitzgerald's metaphor—we cannot know."

He has told the college's trustees that he is willing to have "a second term" as president, but a serious illness last winter has left him fatigued.

"One measure of how long I stay is going to be a sheer question of energy. There are times when I'd just love to take the other fork in the road and go have a hand at writing. The one thing that worries me is that it only takes one clot to hit one synapse of the brain to knock out the ability to write altogether. And that would be an absurd conclusion to a lifetime of accumulating experience, if I couldn't find some way of translating it onto paper."

With all four of their children grown, he and his wife Libby have bought land across the Chester River from the college and are considering building a retirement home there. He has "some books in me burning to get born," among them one he'd like to call "How to Be a Great Little College President"—"with its not being clear whether the 'great' applies to the college or the president," he says with a laugh.●

ACQUIRED IMMUNODEFICIENCY SYNDROME RESEARCH AND INFORMATION ACT

● Mr. D'AMATO. Mr. President, I rise today in strong support of S. 1220, the Acquired Immune Deficiency Syndrome Research and Information Act. This legislation, as reported by the Committee on Labor and Human Resources, represents a truly comprehensive, bipartisan effort to address one of the most serious health epidemics of our time.

The devastating impact of AIDS has been felt in every State and community in this Nation. More than 58,000 Americans have been diagnosed as having AIDS, and more than 32,000 Americans have died from this disorder. As tragic as these figures are, the actual numbers are almost certainly much higher; the Public Health Service estimates that 20 percent of all AIDS cases are not being reported.

Nowhere has the impact of AIDS been more acute than in New York. To date, more than 14,270 cases have been reported in New York State, representing 25 percent of all cases nationally. The vast majority of these cases have been concentrated in the New York metropolitan area where AIDS is now the leading cause of death among males between the ages of 25 and 44, and females between the ages of 25 and 34. It is estimated that roughly 500,000 New Yorkers are currently infected with the AIDS virus, with more than 70,000 showing signs of AIDS-related illness. By 1991, more than 60,000 cases of full-blown AIDS are expected in the city, with over 40,000 deaths resulting from the disease.

One of the greatest challenges we face in combating AIDS is its deadly relationship to the use of intravenous drugs. IV drug abuse now accounts for more than half of the AIDS-related deaths in New York City. It is also to blame for the tragic increase in the number of children with AIDS. Already in New York, more than 200 children have been diagnosed with AIDS; nearly all of them have an IV drug abuser as one or both parents. Clearly, our success or failure in defeating AIDS will greatly depend on our willingness to undertake a serious war on the use of IV drugs.

In an effort to combat the mounting AIDS epidemic, Congress has appropriated more than $1.8 billion to date for research and education on the disease. For fiscal year 1989 alone, the President has requested $1.3 billion for AIDS related activities. By 1991, it is likely that annual Federal aids appropriations will meet or exceed the $2 billion level recommended by the National Academy of Sciences in their 1986 report, "Confronting AIDS."

S. 1220 will help to ensure that our increasing Federal AIDS dollars are well spent by providing our Nation with a comprehensive plan for action against AIDS.

First, S. 1220 will officially designate AIDS as a public health emergency, adding an additional $30 million to the Public Health emergency fund. This designation makes clear that emergency measures must be taken to curtail the continuing spread of AIDS, and provides resources needed to take immediate action.

Second, S. 1220 will foster international cooperation in the war against AIDS. Specifically, this bill seeks to improve the international exchange of AIDS research findings and to avoid duplication of research efforts, through the establishment of an international AIDS data bank.

Third, this bill will authorize an intensive national AIDS information and prevention campaign. The activities are especially vital in the absence of an effective AIDS vaccine or drug treatment. At present, our best defense against AIDS is an informed public.

Fourth, S. 1220 will provide up to $100 million to help States pay for home community-based care for people with AIDS. Such care is not only more humane, but can be up to 10 times more cost effective than hospital-based care. In addition, S. 1220 will fund training programs for health professionals in the detection, diagnosis, treatment, and prevention of AIDS.

Finally, S. 1220 will expand and intensify our Federal AIDS research activities by establishing a national program for AIDS research at the NIH. This program will focus on the development of potential AIDS treatments and vaccines, with an emphasis of making experimental drug treatments more widely available for persons with AIDS.

Mr. President, our Nation needs a strong sense of direction as it struggles to contend with the complex and growing problem of AIDS. I believe that S. 1220 will provide ths critical sense of direction in three important areas: research, information, and patient care. I urge my colleagues to join me in supporting this crucial legislation.●

ARBOR DAY OBSERVANCE

● Mr. EXON. Mr. President, I rise today in observance of Arbor Day. As many of you know, Arbor Day was started in Nebraska by J. Sterling Morton. The first Arbor Day was observed on April 10, 1872. After Mr. Morton's death in 1902, the Nebraska Legislature changed its observance of this important day to April 22, the birthdate of its founder.

Julius Sterling Morton not only was a great Nebraskan, signified by serving as secretary of the Nebraska Territory and also as Acting Governor, but he also distinguished himself on a national level by serving as Secretary of Agriculture under President Grover Cleveland.

Mr. Morton's home, Arbor Lodge in Nebraska City, NE, now serves as the focal point for those interested in carrying on Mr. Morton's love for trees.

In 1972, the National Arbor Day Foundation was started in Nebraska. Their first project was the centennial anniversary of the beginning of Arbor Day. The foundation has grown over the years, and now has over 5,000 members from all over the Nation. The foundation has a $9 million annual budget which they use to promote trees and conservation. One of their more important activities is the Tree City U.S.A. Program, in which they recognize cities for exceptional use of trees on public lands.

This year, the foundation is presenting 23 awards at its annual Arbor Day banquet. These awards recognize accomplishments in community forestry, roadside beautification, and urban revitalization through tree planting, just to name a few. Also included in the Arbor Day celebration this year is a fair and festival planned for the Morton Apple Orchard. As some of you may know, Nebraska City is famous for its apples.

A major activity in this year's Arbor Day celebration is the groundbreaking for the new National Arbor Day Center which will be located in Nebraska City. This center will be a continuing education and conference center focusing its activities on tree planting and conservation. The center will be active also in the restoration of some of the original buildings on the Morton property.

The center will also continue the longstanding relationship the foundation has enjoyed with the Nebraska State foresters, the U.S. Forest Service and the U.S. Park Service.

Mr. President, I am proud to be a Nebraskan, and proud that my home State has taken the foreground with respect to the observance and celebration of Arbor Day.

The tradition of setting aside a special day in honor of trees started in Nebraska, and that tradition continues with great strength today.●

CONGRATULATIONS ON THE BIRTH OF A CHILD TO DR. AND DR. DAVID ALBERT

● Mr. D'AMATO. Mr. President, I rise today to congratulate two well-known and distinguished New Yorkers, Dr. and Dr. David Albert, on a very important, albeit personal, event—the birth of Benjamin, their first child. Dr. and Dr. Albert reside in Bayside, Queens, NY, and are lifelong residents of the State of New York. Both have led distinguished careers in the health field providing much-needed service to the communities of metropolitan New York City.

David Albert, D.D.S. M.P.H., a graduate of the New York University School of Dentistry, is an assistant professor of Dentistry at Columbia University. Dr. Albert instructs classes in the disciplines of oral anatomy and public health. He is also the director of the dental clinic at Columbia Presbyterian Hospital. Dr. Albert, a recipient of the National Public Health Service scholarship, served as an attending physician at the Morrisania Community Hospital in the South Bronx before becoming a professor at Columbia University. Dr. Albert is the brother of Helen Albert, a legislative assistant on my Washington staff.

Marcy Albert, M.D., a graduate of New York Medical School, is a fellow in pediatric medicine at Long Island Jewish Medical Center in New Hyde Park, NY. Dr. Albert served as a resident at the same hospital and is now serving in the ambulatory care unit. Dr. Albert received her undergraduate degree in chemistry from Queens College, located in Flushing, Queens.

Dr. and Dr. Albert have contributed much to the health and well-being of their fellow New Yorkers and it gives me much pleasure to share in the joy of this happy occasion.

SOUTH DAKOTA INDIAN COUNTRY KEEPS BEST KEPT HIGHER EDUCATION SECRET

● Mr. DASCHLE. Mr. President, 9 of the 25 poorest counties in the Nation are now in South Dakota, and 8 of these are on or near Indian reservations. All but 3 of these 25 counties saw per capita income fall between 1981-86, an indication that the Nation's poorest are getting poorer.

The Pine Ridge Indian Reservation has the distinction of being located on the poorest county in the State of South Dakota and the United States. Unemployment is at 85 percent, and all the social ills that accompany high unemployment are also prevalent—high rates of alcoholism, infant mortality, suicide, violent crime, and so forth.

But, in spite of the poverty, Pine Ridge Indian Reservation also has the important distinction of having in its midst the fastest growing college in South Dakota—Oglala Lakota College. Total enrollment at Oglala Lakota has risen from 319 in the fall of 1978 to 1,050 in the spring of 1988.

Since the 1970's, South Dakota has seen tribally controlled community colleges flourish on five of its reservations, providing further education in a supportive environment close to the reservation. The South Dakota Sioux are acknowledged nationally by the Indian community for their leadership in this area. Sinte Gleska, Oglala Lakota, Cheyenne River, Sisseton-Wahpeton, and Standing Rock Community Colleges offer real hope to those Indian communities they serve.

The enormous success of these colleges and their continuing importance to their local communities is a remarkable and significant story which should be studied by our Nation's policymakers. Of all the programs for Indians in which the Federal Government participates, the tribal college movement is truly one of the most successful. The record of these institutions in my State of South Dakota is testimony to this fact.

Mr. President, the Chronicle of Higher Education recently published an article entitled, "In a Barren Land, A Tribal College Flourishes," which outlines the history of the development of tribally controlled colleges and highlights in particular Oglala Lakota College on Pine Ridge. I commend this article to my colleagues' attention and ask that it be printed in the RECORD.

The article follows:

[From the Chronicle of Higher Education, Apr. 6, 1988]

IN A BARREN LAND, A TRIBAL COLLEGE FLOURISHES

(By Carolyn J. Mooney)

PINE RIDGE RESERVATION, SD.—In a land so barren that it became known years ago as the Badlands, and in a community so poor that it had the nation's lowest per-capita income in 1980, a tribally controlled college considered by some outsiders to be one of the nation's best-kept higher-education secrets is quietly flourishing.

Its name is Oglala Lakota College, and for 17 years its American Indian students, instructors, and administrators have followed a philosophy that now serves as a college motto—*Wa Wo Ici Ya*, a Lakota Indian expression meaning "We can do it ourselves."

Chartered in 1971 by the Oglala Sioux Indian Tribe as a higher-education center, the college grew out of a few classes that initially were offered on the reservation under agreements with Black Hills State College and other state institutions. It began receiving federal money in 1974, but it wasn't until Congress passed the Tribally Controlled Community College Assistance Act in 1978 that it became eligible for the annual federal support that provides about 36 per cent of its approximately $4.5-million operating budget.

Now, 10 years after the passage of that act, some 20 tribally controlled colleges stretching from Washington State to Oklahoma are regularly—if not generously—financed by it. Two of the 20—Oglala Lakota and neighboring Sinte Gleska College—have become four-year institutions; ten are approved by regional accreditation bodies. Almost all are located on American Indian reservations and controlled by governing boards made up of tribe members.

Like Oglala Lakota, which is in the southwest corner of South Dakota, many of the tribal colleges have been hailed as unique institutions by those who have studied them. They provide education to a poorly served minority group while helping to preserve a fragile culture, and, with their emphasis on part-time study programs, basic adult education, and two-year degree programs designed to serve the needs of a particular reservation, are thought to have contributed significantly to an 18.4-per-cent-increase in American Indian enrollment in higher-education institutions between 1976 and 1986.

4,200 FULL-TIME STUDENTS

Together, the tribal colleges, which are considered independent, enroll the equivalent of about 4,200 full-time students. In some states, they enroll more American Indian students than do public institutions. In Montana, for example, the six state universities enrolled the equivalent of 690 American Indian students on a full-time basis in the fall of 1985, compared to the 774 at Montana's five tribal colleges.

The recognition of the tribal colleges has come about despite numerous obstacles that they are still fighting to overcome—a perpertual shortage of money, little of the political clout held by blacks and Hispanics, inadequate facilities and equipment, bureaucratic delays in the federal agencies that finance them, small or non-existent endowments, and poorly prepared students.

"I think the tribal colleges are one of the bright spots in all of Indian education," says Alan Lovesee, associate counsel for the House Committee on Education and Labor, which authorizes federal spending for the colleges. The colleges, he adds, have helped reverse negative stereotypes that portray American Indians as being highly dependent on federal welfare programs.

TRANSFER TO UNIVERSITY

Leigh D. Jeanotte, who runs the assistance programs for American Indian students at the University of North Dakota, says his institution regularly recruits transfer students from the state's four tribally controlled community colleges. He estimates that 25 per cent of the university's 390 American Indian students transferred from tribal colleges, and he thinks they adjust and perform better as a result.

While the University of North Dakota has an unusually strong program to help American Indian students succeed there, "many times we've told potential students that their best bet would be to stay at a tribal college for two years," Mr. Jeanotte says.

Vito Perrone, vice-president of the Carnegie Foundation for the Advancement of Teaching, which is planning a study of the tribal colleges later this year, also credits the colleges with improving the retention rates of American Indian students.

"Young men and women who go directly to state colleges have often struggled in an environment that has a lot of alien factors," he says. "The tribal colleges have been more successful than many of our mainstream institutions, which are disconnected from their communities."

Indeed, what distinguishes the tribal colleges most from other higher-education institutions is their tie to the land and the culture.

The Lakota Indians, a branch of the Sioux that has been battling the federal government for control of South Dakota's Black Hills for more than a century, feel that tie acutely.

It is also clearly visible at Oglala Lakota College, a collection of small buildings and double-wide trailers scattered throughout the tribe's 7,000-square-mile reservation.

"Unless you can save the land, there's no way you can preserve the culture," Robert Gay, the college's vice-president for instruction, tells a visitor touring the reservation.

Because the college's nine teaching centers are scattered, to limit the distances students must travel, it isn't unusual for faculty members at Oglala Lakota to drive hundreds of miles each week to teach.

Cars are so important here that a recent course catalogue published by the college featured photos of students and faculty members in their cars.

ROADS IMPASSABLE IN WINTER

The distances are compounded by rough roads and weather: Winter blizzards sometimes make impassable the winding dirt roads that lead to the reservations, and more than once Mr. Gay has been forced to spend the night in his car.

But there is a harsh kind of beauty to the land here, which may explain why so many tribe members who leave the reservation eventually return. The pale gold plains can rise into craggy peaks resembling some lunar landscape, or they can drop off into canyons so steep and so sudden that the remains of unfortunate animals that grazed too close or were blown over during a blizzard are uncovered when the ground thaws in the spring.

Buffalo roamed this land once, but now the Lakota Indians share it with coyote, antelope, and deer. Occasionally the road winds past landmarks named after tribal leaders and events of the Sioux Nation's past—Red Cloud, Crazy Horse, and, at the top of a small hill, a monument honoring the 200 Indians who were killed by federal troops during the battle of Wounded Knee in 1890.

If the Lakota's landscape, history, and economic situation are bleak—unemployment hovers around 75 percent, and the reservation's poverty, alcoholism, and other social problems have been well documented—the future of Oglala Lakota College appears much brighter. College officials have learned that their accreditation, first approved in 1982, would be extended for five more years.

Tom Allen, the development director, is optimistic about a direct-mail fund-raising campaign started last year with a $50,000 private grant. The American Indian College Fund, created by the tribal colleges last year and patterned after the United Negro College Fund, is also expected to provide Oglala Lakota and ther tribal colleges with scholarship money once it gets off the ground (*The Chronicle*, September 2, 1987).

Enrollment is at its highest level ever, with a total of 1,050 students registering for classes last fall.

And college officials are buzzing about the possibility of even offering a graduate-degree program in the future.

"People here are finally starting to realize that you don't have to leave the reservation to get an education," says Dennis M. Brewer, a tribe member who has served on one of the local boards that help formulate college policy.

Besides training teachers, nurses, and police officers for the reservation, the college offers programs to tribal management, Lakota studies, computer science, and other fields. As of last June, it had granted some 413 associate degrees, 48 baccalaureates, which it only recently began offering, and 865 high-school-equivalency certificates. Nearly 90 per cent of the graduates find jobs.

Like Mr. Brewer, who was looking for a way to improve his future when he began taking courses in agriculture, business, and the Lakota langauge, the people enrolled in Oglala Lakota are non-traditional students whose average age is 30. Some 40 per cent of those who register never completed high school, earning general-equivalency certificates instead, and require substantial remedial work.

HIGHLY DECENTRALIZED

Students frequently enter the college after having spent several years drifting in and out of jobs off the reservation, and many, like Michele A. Crowe, a 33-year-old tribe member enrolled in the nursing program, are women with children.

Because students often lack transportation and child care, classes are highly decentralized, which means the college's approximately 33 full-time and 75 part-time faculty members are constantly traveling back and forth to different teaching centers. Slightly more than half the full-time faculty members are non-Indians, some of whom have been working on the reservation since they arrived as volunteers under government programs in the 1960's and 1970's.

That was a period of advancement for American Indian tribes, which were beginning to gain federal recognition of their need for more autonomy in controlling their land, schools, and other affairs. In 1968, Navajo Community College was founded in Arizona, becoming the first tribally controlled college to receive federal appropriations. While the other tribal colleges now receive a joint appropriation from Congress each year, Navajo has continued to receive a separate appropriation—a reflection of its political strength and status as an institution for the nation's largest tribe.

PATERNALISM AND NEGLECT

Before the late 1960's, however, both elementary and secondary schools and higher-education institutions for American Indians were dominated by the Bureau of Indian Affairs, an agency at the U.S. Department of the Interior, or by religious organizations. Micheal A. Olivas, a professor of law at the University of Houston who has written extensively on education for minority group members, has described the history of higher education for American Indians "as a record of evangelism, majority dominance, paternalism, and neglect."

Unlike other minority groups, American Indians have a special trust relationship with the federal government. Many of the 19th-century treaties negotiated between various tribes and the federal government stipulated that the tribes, in exchange for the land that provided them with their livelihood, would receive federal assistance for education and other services.

But advocates of American Indians' rights claim the federal government has never fully met those obligations. Frustration with the government—and particularly with the Indian bureau, which oversees the tribal colleges and numerous public schools on reservations—runs high among tribe members, some of whom joke that B.I.A. is an acronym for "Boss Indians Around."

Officials at many of the tribal colleges complain that while their enrollment continues to rise, the number of federal dollars they receive for each full-time student has steadily declined, to about $2,491 last year, from $2,900 in 1980. And while some non-Indians attend tribal colleges, the institutions do not receive federal funding based on their enrollment.

John B. Forkenbrock, a Washington-based lobbyist for the tribal colleges, says they do not fare nearly as well as other institutions that rely on the federal government for their base funding, such as Howard University or the military academics. Nor, he adds, do they receive as much money per student as most state institutions.

Tribal-college officials also claim that the Bureau of Indian Affairs has stalled in establishing a federally supported endowment fund, revising the way it counts students, and providing construction money—benefits approved by Congress in recent years. Some advocates of the tribal colleges say the situation won't improve unless the colleges are removed from the jurisdiction of the bureau, and have called for an independent commission to oversee the colleges.

DELAYS AT INDIAN BUREAU

"The bureau's No. 1 priority is to meet the needs of this Administration and to keep the budget down," Mr. Forkenbrock says.

Mr. Lovesee, the lawyer for the House committee that authorizes spending for the colleges, agrees. "The bureau's budget request," he says flatly, "is a joke."

Officials at the Indian bureau say their agency has suffered from some of the same budget problems that plague the colleges, and acknowledge that high turnover and a staff shortage have contributed to communications problems and delays.

Esther J. Whalen, chief of the bureau's branch for post secondary education, says: "I think the colleges are doing as much as they can do with the money they have."

Still, she expects they will have to take on a bigger role in the reservations' economic development in the future. "I think in the beginning they were able to train people, but I think they're going to have to look beyond," she says.

LITTLE REWARD OR MOTIVATION

Gregory O. Gagnon, who teaches history at Oglala Lakota, notes that reservation youngsters often have no motivation to finish high school. "Our bright students here are as bright as those anywhere," he says. "But there's no immediate reward for getting a [high school] diploma."

Indeed, that problem is starting to catch up with some of the tribal colleges. Often located in rural areas unlikely to attract business, and where the land is too poor for farming, American Indian tribes depend heavily on the Indian bureau and the tribal governments for employment.

As the number of tribal-college graduates climbs, whether there will be enough jobs on the reservations for those who stay seems doubtful.

That has posed a dilemma to some: Should the colleges, which have made the preservation of Indian culture so important, advance the education of tribe members who may later leave because they have so few career opportunities on the reservations? Are they willing to prepare students and push them to work on advanced degrees elsewhere, knowing that they may not return?

One such student is Pauletta Red Willow, a tribe member who returned to the reservation here recently after studying at both the University of North Dakota and the University of South Dakota. She was planning to take several courses at Oglala Lakota while saving money for premedical studies elsewhere.

Although she thinks the reservation offers little for young tribe members now, she may eventually want to settle there. Life at both public universities, she says, was "overwhelming."

Phillip John Young, a 43-year-old Sioux tribe member who transferred from Little Hoop Community College to the University of North Dakota, is also torn over whether to return to his reservation.

"I would love to teach on a reservation," he says, "but it depends on the job situation."

Spending a few years at the tribal college in North Dakota prepared Mr. Young for culture shock later. "People are more competitive in the white world," he says. "They think we're all getting a free ride."

Mr. Gay, Oglala Lakota's vice-president for instruction, isn't worried about losing students to the non-Indian world.

"We try to teach them to succeed in both worlds," he says. "We want to see Indian people become more self-sufficient."

Adds Lowell Amiotte, the college's president: "I think our graduates could succeed anywhere they go."

But Janine Pease-Windy Boy, president of Little Big Horn College on the Crow Indians' reservation in Montana, thinks higher education for American Indians should be emphasized for its own sake, and not tied solely to economic issues.

"We're into placement as much as we can be, but we're not interested in running a relocation program," she says. "Education has to do with the solidarity of our people—they can make good decisions and understand who they are."

About 150 students attend Little Big Horn each year, and about 10 per cent transfer from the two-year college, the president estimates.

Courses in Crow history and language are emphasized, and fulfill requirements that courses in Western Civilization and American history would fulfill at mainstream institutions.

"We tell our students that if they're interested in Western civilization courses, they can take them on a four-year campus," says Ms. Pease-Windy Boy. "We feel it's very important for them to know about their own culture."

The college also wants to train more mathematics and science teachers because there is a shortage of American Indian teachers in those fields, both in nearby public schools and at the college, she says.

In the meantime, the college is trying desperately to improve its facilities by the time it is considered for accreditation in 1990. Like some of the other small tribal colleges, it has struggled constantly to continue operating since it opened in 1981.

SPIRIT OVERCOMES MONEY WOES

Some officials at the tribal colleges wonder whether all the institutions will be able to survive, or whether there will be a weeding out among the smallest and weakest if their financial situations don't improve.

At a recent reception in Washington, Sen. Daniel K. Inouye, a Hawaii Democrat who has been one of the colleges' strongest advocates in Congress, told a group of American Indian leaders that he hoped there would be many more tribally controlled colleges in the future. But many of those present agreed they would be pleased if the existing colleges continued to operate at a level that would allow them to keep—or earn—their accreditation.

By far the biggest factor in the colleges' favor is the commitment of the tribes that control them.

Concludes Mr. Forkenbrock, the colleges' lobbyist, and a non-Indian: "Their funding is very shaky, but their spirit is strong and healthy."

Says Simon Looking Elk, Oglala Lakota's executive vice-president: "I'm proud of this college. It always amazes me. It takes education directly to our people."

Adds Ms. Pease-Windy Boy of Little Big Horn: "I think there are phenomenal things going on in these colleges. They started out of nothing. I think they're going to make it out of sheer guts."●

ARMENIAN MARTYR'S DAY

● Mr. SARBANES. Mr. President, this Sunday we will commemorate the 73d anniversary of the date on which the Turkish Ottoman government began its systematic efforts to annihilate the Armenian people. As a result of a series of deportations and brutal massacres carried out over a 3-year period beginning in 1915, an estimated 1.5 million Armenians—approximately 60 percent of the Armenian population—were killed, the survivors left homeless and scattered across the globe. As then-U.S. Ambassador, Henry Morgenthau, wrote of what he had witnessed:

> I am confident that the whole history of the human race contains no such horrible episode as this. The great massacres and persecutions of the past seem almost insignificant when compared to the sufferings of the Armenian race in 1915.

It is, therefore, encumbent upon us, in order to insure that such a tragedy never be repeated, each year to remember the victims and pay tribute to the survivors. As Americans, citizens of a nation founded on the ideals of freedom and human dignity, we must educate ourselves about the events of 1915-18 and renew our commitment never to remain indifferent in the face of such assaults on humanity. We do not live in the past, but we cannot live without it. In the words of the great philosopher, George Santayana: "Those who can not remember the past are condemned to repeat it."

Yet centuries of oppression and persecution did not succeed in snuffing out the rich culture and traditions of the Armenian people. Americans of Armenian descent have passed their noble heritage down through the generations, and in so doing have enriched the fabric of life for all Americans. They have distinguished themselves in America and around the world for their adherence to traditional principles of devotion to family and church and respect for education and hard work. They have made tremendous contributions to every aspect of our national life, including medicine, business, arts and sciences, and academia. Rather than embittering or dividing the Armenian community, the memory of suffering and surviving such an atrocity has strengthened their faith and reinforced their commitment to social justice.

The courage and strength of Armenians is also evident today in the Soviet Union, where they have undertaken a difficult struggle for the reunification of Nagorno-Karabakh with the rest of Armenia. Their efforts are testing the very limits of glasnost, and we join with them in calling upon the Soviet Government to respect basic human rights and freedoms and to work in good faith toward a peaceful and just resolution of the situation.

As we recall the ghastly events nearly three-quarters of a century ago, we must express our profound admiration for the determination, courage, and perseverence of the Armenian people. Having lived with tragedy—few families were unaffected by it—Armenians are committed to the proposition that their experience has meaning for all of us. To ignore or forget the past is to remain its captive; remembrance and understanding are the means of coming to grips with its legacy. And indeed, in the face of such tragedy remembrance and understanding are universal imperatives, essential to decent people and decent societies; they cannot be the special province only of the survivors.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the Congressional Record notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Colleen Getz, a member of the staff of the Armed Services Committee, to participate in a program in Germany, sponsored by the Haus Rissen International Institute for Politics and Economics, from August 14-24, 1988.

The committee has determined that participation by Ms. Getz in the program in Germany, at the expense of the Haus Rissen International Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Lorne Craner, a member of the staff of Senator McCain, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, from April 2 to 8, 1988.

The committee has determined that participation by Mr. Craner in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Lori Murray, a member of the staff of Senator KASSEBAUM, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, from April 2 to 8, 1988.

The committee has determined that participation by Ms. Murray in the program in Chile, at the expense of the Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Dr. Daniel Bond, a member of the staff of the Joint Economic Committee, to participate in a program in Korea, sponsored by the Ilhae Institute, from April 1 to 10, 1988.

The committee has determined that participation by Dr. Bond in the program in Korea, at the expense of the Ilhae Institute, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Brent Franzel, a member of the staff of Senator BOND, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, from April 1 to 8, 1988.

The committee has determined that participation by Mr. Franzel in the program in Chile, at the expense of Adolfo Ibanez Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Christina M. Bolton, a member of the staff of Senator DOLE, to participate in a program in the Middle East, sponsored by the National Council on United States-Arab Relations, from April 1 to 7, 1988.

The committee has determined that participation by Ms. Bolton in the program in Middle East, at the expense of National Council on United States-Arab Relations, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Doyce A. Boesch, a member of the staff of Senator NICKLES, to participate in a program in the Middle East, sponsored by the National Council on United States-Arab Relations, from April 1 to 7, 1988.

The committee has determined that participation by Mr. Boesch in the program in the Middle East, at the expense of the National Council on United States-Arab Relations, is in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Mark Greenberg, a member of the staff of Senator TRIBLE, to participate in a program in Taiwan sponsored by the Tamkang University, from April 3 to 11, 1988.

The committee has determined that participation by Mr. Greenberg in the program in Taiwan, at the expense of the Tamkang University, was in the interest of the Senate and the United States.

The Select Committee has received a request for a determination under rule 35, for Dr. Andrew Semmel, a member of the staff of Senator LUGAR, to participate in a program in Chile sponsored by the Adolfo Ibanez Foundation, from April 1 to 8, 1988.

The committee has determined that participation by Mr. Semmel in the program in Chile, at the expense of the Adolfo Ibanez Foundation, was in the interest of the Senate and the United States.●

AGENDA

Mr. BYRD. Mr. President, there is a good reason for not having the AIDS legislation up. In any event, that was not to come up until the pending matter had been disposed of, which we thought might occur. But, in any event, there is nothing else we can go to this afternoon.

But on tomorrow we will have a cloture vote which will occur at 11 o'clock. It may be that we can, upon the disposition of that matter of the constitutional amendment resolution, take up the bill on AIDS, S. 1220, or it may be that the Senate would be in a position at that time to take up the trade in competitiveness conference report. In any event there will be rollcall votes tomorrow.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 30 minutes, and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Republican leader.

BICENTENNIAL MINUTE

APRIL 25, 1789: JOHN ADAMS ON THE VICE PRESIDENCY

Mr. DOLE. Mr. President, 199 years ago this week, on April 25, 1789, John Adams, the first Vice President of the United States, arose from his seat as Presiding Officer of the Senate and delivered a speech in which he catalogued his distress with the job that he had held for only 4 days. His lament was prompted by the business of the hour: The consideration of the report of the committee appointed to propose a time, place, and procedure by which Congress would administer the oath to the first President of the United States.

Among Adam's audience that day was the irascible Senator William MaClay of Pennsylvania, who each night poured out into his diary his displeasure with his colleagues and impatience with the new Government. MaClay regarded Adams as a pompous federalist and saved some of his harshest words for the Vice President. Though he mocked Adams, MaClay faithfully recorded his words on April 25. Bemoaning the uncertainties of his position, Adams complained:

> Gentlemen, I do not know whether the framers of the Constitution had in view the two kings of Sparta or the two consuls of Rome when they formed it; one to have all the power while he held it, and the other to be nothing. Gentlemen, I feel great difficulty how to act. I am possesed of the two separated powers. I am Vice President. In this I am nothing, but I may be everything. But I am President also of the Senate. When the President comes into the Senate, what shall I be? I cannot be President then. No, gentlemen, I cannot, I cannot. I wish gentlemen to think what I shall be.

Adams' listeners, some sympathetic, some derisive, could offer little solace. MaClay recorded his own reaction. He wrote:

> God forgive me, for it was involuntary, but the profane muscles in my face were in tune for laughing in spite of my indisposition.

HOUSE CONCURRENT RESOLUTION 270 PLACED ON CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that House Concurrent Resolution 270, dealing with the printing of a health document under the circumstances of the Katyn Forest Massacre just received from the House be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 2248

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 2248, a bill for the naming of the courthouse in Portland, ME, and that the bill be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL PLACED ON CALENDAR—S. 1827

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be discharged from further consideration of S. 1827, a bill to name the Federal building in Reno, NV, as the "C. Clifton Young Federal Building," and that it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOINT RESOLUTION PLACED ON CALENDAR—HOUSE JOINT RESOLUTION 421

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate receives House Joint Resolution 421 to designate May 1988 as "National Digestive Disease Awareness Month" from the House, it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMISSION ON THE UKRAINE FAMINE

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2304, a bill introduced earlier today by Senators BRADLEY, DECONCINI, and KASTEN extending the life of the Commission on the Ukraine Famine.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2304), to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read the second time at length and the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

Mr. BRADLEY. Mr. President, today I am introducing legislation along with my colleagues from Arizona [Mr. DECONCINI] and from Wisconsin [Mr. KASTEN] to extend the life of the Ukrainian Famine Commission. Four years ago we created the Commission to study the great famine of 1932–33. This tragedy was primarily a result of a conscious decision by the Soviet Government to use starvation as a political tool. An estimated 7 million people died in Ukraine. Additionally, thousands of American citizens are survivors of this genocide. Such a catastrophe should never reoccur. By studying its causes we may be preventing another similar tragedy.

The mandate of the Ukrainian Famine Commission expires on April 22. The Ukrainian-American community has urged us to extend that mandate an additional 2 years so that the Commission can complete its study. To demonstrate their support, the Ukrainian community has donated thousands of dollars to the project, thus relieving the American taxpayers of the funding responsibilities. I believe we too should demonstrate our support for this effort.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2304) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, is amended under the heading "COMMISSION ON THE UKRAINE FAMINE"—

(1) in section 3(2), by striking out "two years after the organizational meeting of the Commission held under section 6(a)" and inserting in lieu thereof "June 22, 1990";

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AN ACT TO AMEND THE IMMIGRATION AND NATIONALITY ACT

Mr. BYRD. Mr. President, I understand that the Senate has received from the House H.R. 4222. On behalf of Mr. KENNEDY I ask that the bill be read for the first time.

The PRESIDING OFFICER. The bill will be read the first time.

The assistant legislative clerk read as follows:

A bill (H.R. 4222), to amend the Immigration and Nationality Act to extend the application period under the legalization program.

Mr. BYRD. Mr. President, I now ask that the bill be read the second time.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, there is objection.

The PRESIDING OFFICER. Objection is heard. The bill will remain at the desk until its next reading which will be on the next legislative day.

OLDER AMERICANS MONTH

Mr. BYRD. Mr. President, I inquire of the distinguished Republican leader if Calendar Order No. 618 is ready for action on his side.

Mr. DOLE. It is ready for action.

Mr. BYRD. I thank my friend.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 618.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 287) designating May 1988 as "Older Americans Month".

The PRESIDING OFFICER. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered, engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

S.J. RES. 287

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;

Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;

Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and

Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1988 as "Older Americans Month" and calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

Mr. BYRD. Mr. President. I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR FRIDAY

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow when the two leaders or their designees have been recognized under the standing order, there be a period for morning business, not to extend beyond 10:30 a.m., and that Senators may speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF S.J. RES. 282

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 10:30 a.m. on tomorrow, the Senate resume consideration of Senate Joint Resolution 282, Calendar Order No. 604, the joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that when Mr. ADAMS completes speaking under morning business, the Chair automatically put the Senate out until 10 o'clock tomorrow morning, unless another Senator seeks recognition.

There will be no further business transacted today—nothing other than morning business. In morning business, there will be no business transacted without my contacting the distinguished Republican leader personally.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mr. BYRD assumed the chair.)

SENATOR BYRD AS PRESIDING OFFICER

Mr. ADAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington [Mr. ADAMS] is recognized.

Mr. ADAMS. Mr. President, before starting my speech, I wish to state that it is a great honor to have the occupant of the chair be there. He is the most experienced person in the Senate and one of the most experienced at presiding and has taught many of us a great many things. I am grateful for the opportunity to have him present when I make this speech. It is one of the most important speeches I will make in my life. Therefore, I appreciate the time the majority leader has given me on a very important afternoon.

WAR POWERS

Mr. ADAMS. Mr. President, I want to speak a few minutes about what is happening in the Persian Gulf and what is not happening in Congress.

Over the last year, the United States has substantially increased its military presence in the Persian Gulf. On several occasions the President has used this military force to conduct specific operations in the region.

Yet the Congress has never authorized the deployment or approved the use of this force.

Most Members of Congress appear to be in support of the limited actions that were specific that the United States planned in response to Iran's mining of the gulf. I certainly support such limited responses.

Many Members of Congress, however, have questions about the nature and the wisdom of our overall policy in the gulf. I certainly have questions. I do not understand how the reflagging and convoying of Kuwaiti vessels contribute to the achievement of our stated objectives. I believe in those objectives, which are: containing the war, neutrality between the adversaries, protecting free transit through international waters, and preserving the free flow of oil. But this Senator believes that there are better ways to achieve them.

That feeling appears to be shared by others. This morning's Washington Post, for example, reports that the distinguished Senator from Virginia [Mr. WARNER] has made some suggestions to the Secretary of Defense relative to expanding American protection on a random basis to non-American-flagged ships. That may be a good idea. I have a couple of ideas for changing our basic strategy in the gulf as well. Senator NUNN has made some suggestions. I believe other Members of the Senate long experienced in these matters and with a great deal to offer to the United States may have some proposals to make.

But here is the problem: It is not enough for some of us as Senators to have ideas. The Senate as an institution is a marvelous institution and needs to give its guidance to the President of the United States and to the members of this administration.

Mr. President, I envy the Senator from Virginia who is able to get to the administration and have them consider his proposal. I applaud him for working on this problem. But there are a couple of points that need to be made.

His suggestion, and the suggestions that I and others have made, really relate to basic policy and strategy decisions. They are not tactical matters. They are not a matter of discussing how many ships we have, they have, or who shot what kind of a missile at what ship on what day. Those are matters we all understand. For people who are in the military, they are on the spot and conducting the operations. But policy and strategy are basic to our mission in the gulf, and those sorts of policy decisions cannot be made by a single Senator or by the Secretary of Defense or by the President of the United States alone. Determining our basic policy in the gulf is a matter for congressional review, debate, and decision.

I would suggest that the Congress, and particularly the Senate, with its unusual abilities to operate in the foreign policy area, because of the powers specifically given to the Senate, has a responsibility and a right to debate the policy being followed by the administration as well as consider some alternatives. Only by engaging in a full and frank debate, only by working with our colleagues and having the administration work with us, can we refine our approach to the problem and strengthen our national commitment to solve it.

That is what a number of us tried to do last year, when we attempted to invoke the procedures established by the War Powers Resolution. For a number of reasons, however, the policy debate we wanted to have never occurred but instead degenerated into a debate about procedures. None of us want to experience that again.

Great efforts were made by the leadership and by all the parties involved to try to move from the procedural problems that may exist with the War Powers Act to a debate on the policy because that is our job, not debating tactics.

For some time now, I have been searching for a better way to get the policy debate we want and what the Nation needs.

I understand that Senator BYRD, Senator NUNN, and Senator MITCHELL have been working on a bill to reform the War Powers Resolution itself. I have had an opportunity to talk with some of those in these discussions. I certainly agree that some changes need to be made and the approach they are advocating might be very helpful in dealing with future situations. But it will not help us address this situation—it will not allow us to get at the question of whether what we are doing in the gulf makes any sense.

In order to help focus on that issue, I am suggesting two approaches.

First, I am drafting a bill which would authorize our continued deployment of forces in the Persian Gulf but, at the same time, creating new criteria for their use. I plan to circulate this language to my colleagues, obtain their suggestions, and then offer it as an amendment to an appropriate legislative vehicle.

Mr. President, I want it to be an appropriate legislative vehicle because the power of the purse is fundamental in the Congress' power to control activities within this Government.

Second, I am also drafting, and am prepared to file, a War Powers Resolution. The President, in his letter of April 19, indicated that he does not intend the letter to trigger the procedures created by the War Powers Resolution.

Mr. President, I am pleased that our activities of the last year have caused consultation to take place. I think this has been important and I think it was necessary. But, because we have not had a triggering by the President of the War Powers Resolution pursuant to law, which I think he should have done, since there are imminent hostilities going on in the gulf today, I will use the unanimous-consent agreement entered into on December 4, 1987. Consistent with that unanimous-consent agreement, a resolution filed pursuant to section 5 of the War Powers Resolution should give us an opportunity to get this issue to the floor under expedited procedures. While I recognize that the War Powers Resolution may be challenged, it is the law of the land. I will follow the law and carry it out with every breath in my body in an effort to protect my right to place this issue before the body if it has not already been raised in a more "traditional" manner.

Mr. President, I am not sure it will do any good, but I want to at least try to clarify my purpose for taking these actions. I am not—not—trying to force the withdrawal of all American forces from the Persian Gulf. We have a right to be there and we have a mission to perform there. I am trying to accomplish two things.

First, I am trying to protect the role of the Congress. The Constitution, article I, section 8, is clear: The Congress is to be involved in the decision to deploy American forces into areas of hostility. The Congress is not now involved and I am deeply troubled by the precedent that creates. We are abrogating our obligation under the Constitution and we are abrogating our responsibility under the law.

That we have all voted for and has been signed. That creates a dangerous precedent and constitutes an unjustified grant of authority to the executive. Even if you agree with everything the executive is doing in this instance, you just have to be concerned about the implications for the future. We cannot simply allow the Constitution or the law to be flouted because we like the results that it produces. The consequences of selective observance of the law are truly frightening.

Second, I believe that the Congress should be involved in defining and improving our policy in the gulf. In the past few days, a number of criticisms and suggestions have been made which merit further study and debate. None of those suggestions are inconsistent with the stated goals of the administration. None of those suggestions are incompatible with the continued presence of American forces in the region.

The suggestions are designed to improve our ability to achieve the results we want while reducing the risk to our interests and minimizing the economic, political, and human costs we are incurring. Whether or not they can actually do that is something we cannot determine unless and until we subject the suggestions to full debate.

Mr. President, in the last year we have deployed dozens of American ships in the gulf. We have spent tens of millions of dollars. We have asked Americans to sacrifice their lives. But the Congress has never authorized the deployment, never appropriated any money, never clearly stated its support for the policy that is being followed.

I am not seeking to create conflict between the executive and legislative branches. Such a clash is unnecessary. I am not seeking to compel the removal of American forces from the gulf. Complete withdrawal would be unwise. All I am trying to do is get the Congress of the United States to debate the issue of war and peace.

I am trying to get the Congress of the United States to accept and discharge its legal and constitutional obligations. I honestly believe and anticipate that such a debate will improve and sharpen our policy, help unite the country behind that policy, and send a clear signal of resolve and commitment to the Gulf States and the international community.

Mr. President, surely asking the Congress to talk about our policy in the light of the events of the last few months is not unreasonable. I think the American people expect us to do that. And for the life of me, I do not know why we have not and why we should not.

I hope that the course of action I have outlined here will help make such a debate possible. I look forward to working with you, Mr. President, and with my colleagues to make sure that this possibility becomes a reality.

I think that the honor that has been displayed by our servicemen should be matched by our own, in being certain that we have debated the matter, demonstrated our respect for the law, and debated the issue of war and peace.

I thank you, Mr. President, for your kindness and for the time I have had today to discuss this and to indicate what I intend to do.

I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ADAMS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New York.

PANAMA

Mr. D'AMATO. Mr. President, I rise to express my continuing concern about the dangers posed by the administration's policy—or lack of one—concerning General Noriega's remaining in power in Panama.

Frankly, those dangers have only been exacerbated by the half-hearted and vacillating manner in which our Government has reponded to the people of Panama in their valiant efforts to rid themselves of this criminal dictator.

In years past, a number of somewhat reasonable arguments were made to justify dealing with Noriega. He appeared to be actively supportive of the Government's policy concerning the freedom fighters in Nicaragua. He was an emerging power in a country where we have very important strategic interests.

These arguments will no longer wash. For years, we have known that Noriega was dealing with Castro as he was dealing with our Government. His relationships with Ortega have also been clear for a very long time. His activities in the drug arena and his links with Castro and the Colombian drug rings may well make him responsible for the deaths of more United States citizens than we have lost in Vietnam.

Tentative, vacillating, and hesitant are the only words to describe the actions of the administration in this matter. The indictment of Noriega occurred only after overwhelming evidence had accumulated. The Drug Enforcement Administration continued to praise Noriega's cooperation long after silence would have been prudent. Recently, the modest initiatives of the Department of State have been overruled by doves in the Department of Defense.

And most recently, we have learned that the Department of the Treasury has left loopholes in President Reagan's Executive order which are very likely to result in substantial U.S. dollars accruing to Noriega's government in the next few days. The President's Executive order excluded interbank transfers from prohibited activities. The national bank of the Noriega regime will begin settlement of interbank transfers with the United States and Panamanian banks in the next few days. Sources opposed to Noriega in the Panama banking industry indicate that this could result in Noriega obtaining as much as $30 million next week.

The mechanics of this transfer are revealing. The National Bank of Panama now owes United States and Panamanian banks approximately $16 million while the United States and Panamanian banks owe the National Bank of Panama approximately $46 million. Panamanian law requires the settlement of National Bank debits prior to obtaining funds due from other banks and the National Bank has insufficient funds to pay the required $16 million. However, Libya has evidently agreed to provide Noriega a loan of $20 million in cash to pay the National Bank debts and thereby obtain the $46 million settlement in return.

So, while there is that $16 million that prohibits it obtaining these dollars with the inclusion of that $20 million, those dollars will free up $46 million.

Concurrently, Treasury has refused to hold open the possibility of establishing a safety net through the Treasury's exchange stabilization fund for the Panamanian banks for, hopefully, a post-Noriega government. With this lack of reassurance and support from the United States, it is easy to understand why the Panamanian banks cannot afford to resist Noriega's pressure to open.

In a very alarming development, Castro's top political and military advisers are now in Panama assisting Noriega—specialists on the United States and Central America. Roberto Hernandez and Emil Ravilo, who are Castro's liaison with the Colombian M-19 and drug cartel, are among this group of advisers. Nicaragua's Ortega has sent Julio Lopez and Ricardo Wheelock, political and military advisers to the Sandinistas, to assist in the effort. Mr. President, these are capable men, and dedicated opponents of the United States.

Noriega may choose to install yet another phony government as a facade to deflect dissatisfaction. If he obtains sufficient funds to continue to operate, he very well may publicly step down while continuing to direct activities from behind the scenes.

Mr. President, we have repeatedly missed opportunities to act decisively and effectively in Panama. Every day brings us closer to a Cubanized Panama. If this occurs, it will be a sad and ironic legacy of the Reagan administration—one whose impact and ramifications will be with us for a long time to come.

Thank you, Mr. President.

RECORD OPEN UNTIL 5 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that Senators may have until 5 o'clock today to place statements in the RECORD and to introduce bills and resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I move in accordance with the order previously entered that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and, at 3:07 p.m., the Senate recessed until Friday, April 22, 1988, at 10 a.m.

EXTENSIONS OF REMARKS

TRIBUTE TO ROSE OHANIAN

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MOORHEAD. Mr. Speaker, many of us in the Congress, and especially those who have served on the Judiciary Committee, were well acquainted with Rose Ohanian who was the mother of Candy Danielson and the mother-in-law of George Danielson who so capably represented his district in the Congress for many years. Rose Ohanian was a wonderful lady whom I greatly respected and admired. I wish to include in the CONGRESSIONAL RECORD a tribute to Rose Ohanian by George Ohanian and Candy Danielson.

TRIBUTE TO ROSE OHANIAN, IN MEMORIAM

(By George Ohanian and Candy Danielson)

Rose Ohanian was born in the village of Soorp Nishan Vank, county of Kemakh, in Armenia. Her maiden name was Akabi Der Hovagimian, and she had many brothers and sisters. Also within her large extended family were members of the clergy. She would state with reverence that there were priests in her family background, and then would smile with great pride.

She loved her life in Armenia, and enjoyed playing in the fields with her brothers and sisters. However, her happiness with her family and her carefree days as a young Armenian girl were short-lived. In an area in and near Erzurum and Erzinga, the horrible Armenian massacres occurred, and Rose's entire family was murdered. Missionaries, searching for survivors, discovered this very young, gentle little girl, sitting in a large field, surrounded by bodies of the dead, sobbing plaintively.

She spent several years in orphanages, under the guidance of international missionaries, and was moved westward into Europe, and finally into France. She remembered her last stay in a French orphanage, and being tended to by the Nuns.

Rose arrived in America in the early 1920's, and was subsequently married to Martin Ohanian in Hartford, Connecticut. Her first child was a daughter, known to us today as "Candy." Her second-born was a son, George.

These two children became Rose's whole life. Through the Great Depression years, she reared them with the steadfast devotion and selfless caring that was part and parcel of her very loving nature. Rose taught her children gentility, refinement and morality, and disciplined them with love and communication.

To those who knew her, Rose Ohanian has been described as "a classy lady," and "a very special lady." She was a perfectionist and idealist whose warm and loving personality was radiant with charm whether she was among friends or meeting people for the first time.

The perfectionist in her nature was never more evident than when she worked as an inspector of aircraft parts during World War II at the Pratt & Whitney Aircraft defense plant in East Hartford, Connecticut. She took great pride in her work and, realizing that the lives of American Air Force servicemen were at stake, no faulty parts ever escaped her watchful eye and careful scrutiny. Rose's outstanding inspections were recognized by her supervisors who often remarked they wished other inspectors were as careful as she.

Rose also took great pride in her citizenship, participated in the political process and voted at every election.

When her son-in law, George Danielson, became involved in California politics, Rose was right there with her daughter, Candy, in every campaign. She knew all the basic requirements of grassroots politicking, was very good at it and helped in every way that she could. She enjoyed and was especially skillful at greeting and shaking hands with her son-in-law's political supporters in his home district as well as at social gatherings in Sacramento, California and Washington, D.C.

And as a grandmother, her love for her granddaughter, Jennifer Rose, presented to her by her daughter-in-law, Eileen, was boundless.

On the floor of the House of Representatives, when a measure was being debated to set aside a day to honor the nation's mothers-in-law, Congressman George E. Danielson made the statement that his mother-in-law, Rose Ohanian, was "the best mother-in-law in the world." Her children and grandchild would also add that she was the best mother and grandmother, whose gentle, kind and loving nature will be greatly missed. She will live in their hearts forever.

Nurturer and caretaker, dispenser of love and advice, and always there when needed, Rose is now with her Beloved Jesus Christ, and with all the family members that she was so cruelly deprived of so very long ago. She is so very much loved by her family and friends, and is so very much missed.

Rose Ohanian passed away on Thursday, March 17, 1988 in Monterey Park, California. At her services on March 22 at Old North Church, Forest Lawn Hollywood Hills, were her family, several Justices and Judges of the California Appellate and Superior Courts, lawyers and long-time personal and political friends, including representatives of Governor George Deukmejian, U.S. Congressman Carlos Moorehead, State Senate President Pro Tem David Roberti and Los Angeles County Supervisor Mike Antonovich. Services were conducted by Rev. Berdj Djambazian of United Armenian Congressional Church.

Resolution to adjourn in the Memory of Rose Ohanian were passed by the Los Angeles City Council, the Los Angeles County Board of Supervisors, the California State Senate and the State Assembly.

She is survived by her son and daughter-in-law, Mr. and Mrs. George Ohanian and granddaughter, Jennifer Rose Ohanian; and by her daughter and son-in-law, Justice and Mrs. George E. Danielson.

Governors and Mrs. Deukmejian, who knew Rose Rhanian personally, sent the following handwritten message:

"Your mother was such a nice person. We enjoyed knowing her and seeing her in our 'early years' in the Legislature. You are in our thoughts and prayers."

"STRATEGIC BLOCK" INVESTING

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MOAKLEY. Mr. Speaker, proponents of corporate takeovers have argued that takeovers act as a useful check on incompetent and entrenched management. Opponents argue that managers are being forced from one quarter to the next to maintain a defensive flow of income, but probably a serious long terms cost.

However, a new form of takeover is developing, called "strategic block" investing, which presents serious dangers. The targets of this takeover strategy are often well managed companies with stable earning and solid growth propsects. Stockholders may see a quick, short-term gain in such a takeover, but that gain is paid for by the fast restructuring of the firm that squanders the company's better long-term potential.

Recently, Mr. Coleman Mockler, chairman of the Gillette Co., has written thoughtfully on this subject to other corporate executives. I would like to share Mr. Mockler's reflections with my colleagues:

THE GILLETTE CO.,
Boston, MA, April 15, 1988.

CHIEF EXECUTIVE OF ALL AMERICAN CORPORTIONS,
Main Street, Anytown, U.S.A.

DEAR CHIEF EXECUTIVE: This letter reflects my opinion regarding a new phenomenon which I believe is potentially a serious danger to virtually all publicly owned U.S. companies. This phenomenon is sometimes called "strategic block" investing. It is potentially more serious than the wave of corporate takeovers that has engulfed American companies because the laws and rules governing corporate takeovers do not apply.

So-called "strategic block" investing involves:

The formation by Wall Street market players of large pools of capital, much of which may be foreign-sourced, based on promises to the investors in the pools of immediate yields that are far in excess of conventional yields.

The taking of a significant equity stake in a company, not to make a tender offer, but with a view to putting a company "in play," and forcing its immediate sale or break-up by threatening a proxy contest, consent solicitation, or the initiation of a "low ball" or inadequate takeover bid by third parties.

The targets of the "strategic block" investor may not be the usual candidates attacked by takeover artists. Rather, they can be companies with skilled management, well-deployed assets, excellent performance

---

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and prospects and investment returns that are well above what would be obtainable in the stock markets generally in the near or longer term. They can be any company whose perceived sale or break up value happens to be more than its then current stock price—virtually any publicly owned company.

How can "strategic block" investing be effective against well-managed, excellent-performing companies? The answer is that shares of stock typically trade at a substantial discount to "sale prices," which recognize the inherent premium for corporate control. Equally important, current stock market prices tend to reflect comparisons with other investment opportunities and may not fully reflect the intrinsic, longer-term values of investment in R&D, people and new products which are made by companies that are being well managed for the longer term. "Strategic block" investing seeks to force the immediate realization of the gap between stock market trading prices and sale prices, regardless of whether greater stockholder value can be realized over the near or longer term by the company's continued independence or later sale.

One example of this new phenomenon is the proxy contest currently being waged by Coniston Partners to force the sale or break-up of The Gillette Company. Gillette produced record sales, operating profit, cash flow and net income for 1987. The Company has recently announced that it expects even better results for 1988 and beyond. Gillette's stock market performance since 1980 has been significantly above the Dow Jones Industrial Average and the Standard & Poor's 500.

If a company like Gillette can be forced to an untimely sale or break-up by a group of market players, virtually every major publicly owned corporation in America, including those with excellent earnings and prospects and superior stock market performance, is equally at risk.

Your company, through its pension and other benefit plans, may hold stock in a number of companies that could be attacked by "strategic block" market players. If you agree that the so-called "strategic block" phenomenon is not in the best interests of publicly owned companies, their stockholders and their other corporate constituents, including their plan participants, please make your views known in an appropriate way with due regard for the fiduciary obligations that may be involved. The next sound and successful American company to be forced to an untimely sale or break-up could be your own.

Very truly yours,

COLMAN M. MOCKLER, Jr.,
Chairman of the Board
and Chief Executive Officer.

OPPOSITION TO PROPOSED FAA RULE

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MINETA. Mr. Speaker, many of our colleagues have received a considerable amount of communication from our constituents regarding the Federal Aviation Administration's proposed rule to establish new airspace where altitude encoding—or Mode C—transponders will be required equipment. I, and my colleagues from the Committee on Public Works and Transportation, Mr. ANDERSON, Mr. HAMMERSCHMIDT, Mr. GINGRICH, Mr. ROE, Mr. STANGELAND, Mr. NOWAK, Mr. CLINGER, Mr. SKAGGS, and Mr. PACKARD, have written to Mr. T. Allan McArtor, the FAA Administrator, expressing our concerns about the proposal and making some suggestions for change. I am including in these remarks a copy of that letter for the information and reference of our colleagues:

COMMITTEE ON PUBLIC
WORKS AND TRANSPORTATION,
U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, April 14, 1988.

Hon. T. ALLAN MCARTOR,
Administrator, Federal Aviation Administration, Washington, DC.

DEAR ALLAN: We are writing to express our serious concerns about the recently proposed rules requiring altitude encoding transponders and establishing a lower common floor for controlled airspace.

First, we appreciate the extension of the public comment period until May 12, as we requested. This will afford persons directly affected by the rule a better opportunity to partricipate in the rulemaking process.

This rulemaking process is somewhat unique in that it is a rulemaking mandated by Acts of Congress, and the outcome of the rulemaking process has to a great extent been prescribed. The Congress did, in fact, provide the Federal Aviation Administration with explicit directions to require Mode C transponders in more airspace than is currently required in order to ensure the safe separation of aircraft by air traffic controllers and to provide for a workable Traffic Alert and Collision Avoidance System (TCAS). Also by statute, a Final Rule must be issued by June 30, 1988.

Subject to these legal requirements, we believe that the Federal Aviation Administration has ample discretion and flexibility to promulgate a final rule that is workable, fair, and contributes to improved aviation safety. However, after review, we have found that FAA's proposed rule goes well beyond what is needed to accomplish the safety goals of the legislative mandate and that the FAA should exercise some of the discretion and flexibility available to the agency to make necessary changes.

In developing the specific parameters of the airspace to be governed by the new rule, we believe that it is essential to focus on the underlying rationale and purpose for this legislation and its mandated regulation. The extraordinary growth over the past two years in the number of hazardous and potentially hazardous near midair collision reports involving airline aircraft suggests an increase in the potential threat and risk of involving commercial aircraft in midair collisions. The midair collision over Cerritos, California in August 1986 most directly and tragically illustrates this risk and hazard.

The Congressional directive that Mode C become a more widely installed device is directly aimed at providing air traffic controllers with a greatly enhanced means to separate airline aircraft from other aircraft. Widespread use of Mode C by general aviation will also make the airliner collision avoidance device, TCAS-II, much more effective. The safety benefits of increased use of Mode C transponders to the national aviation system are clear. Therefore, the FAA and the aviation community, in determining the parameters of the airspace for the new Mode C requirements, should be primarily concerned with whether the airspace in question has airline aircraft operating in it.

In this context, the FAA should consider whether airline aircraft really would be afforded better protection from midair collisions by a requirement that all general aviation aircraft have Mode C transponders when they are 40 miles away from relatively small airports and operating at relatively low altitudes since it is our understanding that it would be highly unusual for airline aircraft to be in this particular airspace, we would question what safety benefit would be achieved by making the Mode C requirement this sweeping. If Mode C is, in fact, necessary within a 40-mile radius, which we question, it seems that general aircraft could be accommodated through an appropriate, and rather simple configuration, taking into account the altitudes and distance the commercial aircraft are from the airport when climbing and descending. This aspect of the proposed rule would have the effect of creating vast new areas of airspace in which Mode C transponders would be required and apparently without regard to whether safety would actually be improved by the expanded requirement.

We do not have specific radii, airspace shapes or configurations, or altitudes to suggest at this point. There are experts at the FAA and in the aviation community in a far better position than we are to make these technical evaluations and determinations. However, on the policy level, we would suggest that the goal of providing increased protection for airline aircraft from midair collisions is what should primarily guide the changes in the current rules.

Another problem we see developing is that some aircraft appear to have limited, or no, technical capability to carry the electrical systems needed to power transponders. We are particularly concerned about the gliding and soaring community in this regard. We believe it would be very useful for the FAA to analyze and publicly indicate the extent to which some aircraft will have technical difficulty in meeting the proposed requirements and what the FAA sees as the implications of the rule changes for this segment of the aviation community. In short, the question is: Will these type of aircraft in effect be grounded in areas affected by the rule if no alternative is provided to becoming equipped with Mode C?

We also urge that the proposed rule's definition of "controlled airspace" be addressed in a separate rulemaking proceeding. By and large, the issues raised by the controlled airspace proposal are not directly related to the statutorily mandated new Mode C requirements. We believe the process and discussion of the controlled airspace issues would be much better served by going through a traditional rulemaking process which provides more time for comment and analysis than is provided in the Mode C rulemaking schedule.

Finally, we would like to receive your analysis of the effect of the legislative language in the Airport Safety and Capacity Expansion Act of 1987 authorization which specifies that any exemptions to the new Mode C requirements will only apply to areas other than Terminal Control Areas (TCAs) and Airport Radar Service Areas (ARSAs). We would like to know the implications of this for aircraft which have traditionally been allowed to operate in TCAs and ARSAs without a transponder. We would also like to learn whether the FAA finds exemptions to areas outside of TCAs and ARSAs to be necessary from a safety standpoint and if the FAA would recommend any legislative changes in these provisions. We request your earliest possible response on this last issue in the event we choose to proceed legislatively.

We appreciate your consideration of our views.

Sincerely,

John Paul Hammerschmidt, Ranking Republican Member; Newt Gingrich, Ranking Republican Member, Subcommittee on Aviation; Arlan Stangeland; William F. Clinger, Jr.; Ron Packard; Glenn M. Anderson, Acting Chairman; Norman Y. Mineta, Chairman, Subcommittee on Aviation; Robert A. Roe; Henry J. Nowak; David E. Skaggs.

THE CRIME OF WAREHOUSING

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. OWENS of New York. Mr. Speaker, New York City needs a master plan with a multiplicity of policies, strategies and tactics if it is ever to successfully end its scandalous housing crisis. And such a plan must, of necessity, include a war on the immoral practice of "warehousing" apartments.

Warehousing is a vicious evil that must be defined as a crime. New York is known as the place where the big fortunes are made in real estate, and indeed, many have grown wealthy by taking apartment buildings off the housing market and "warehousing" them until they can turn them into high-priced co-ops or condominiums. While several people in New York real estate have become new millionaires through this growing co-op and condominium conversion mania, hundreds and thousands of low-income and poor families have been displaced, made homeless, and are otherwise suffering to satisfy this greed of the powerful few.

According to an article in the April 5 Village Voice by Jack Newfield, there are currently between 60,000 to 80,000 homeless people in New York City, numbers roughly equal to many of the estimates of warehoused apartments. The citywide apartment vacancy, Newfield writes, is 2.4 percent. There are more than 500,000 people on the waiting list for public housing, but there are only 187,000 available public housing units in the city. One-third of all New York City tenants are paying at least 40 percent of their incomes for rent.

Outlawing warehousing would not solve all of the city's housing problems, but it would be a vital first step toward alleviating the artificial "shortage" of clean and affordable rental housing; and that is the one thing that the real estate moguls hope will never be achieved.

For warehousing is one of the key components of the secret "planned shrinkage" master plan which the real estate lobby and the New York power elite have executed for the last 10 years. "Take away their housing and drive the poor out of the city." This is the motto of the secret plotters. But while the plotters believe otherwise, it is a given that every human being is sacred, and deserves food, clothing, opportunity, and, last but not least, shelter. This piece of Earth called New York City belongs to all who live there, not just the rich.

On February 26, I testified at a hearing of the New York City Council Housing Committee chaired by Councilman Archie Spigner. The subject was the anti-warehousing bill, Intro. No. 369. All of the members of the City Council are cosponsors of this bill except Enoch Williams, Peter Vallone, Jerome O'Donovan, Rafael Colon, Susan Molinari, Archie Spigner, Joseph F. Lisa, Noach Dear, and Walter Ward.

Outlawing warehousing means ending homelessness for thousands of families immediately. When we end the hoarding of apartments we produce housing without waiting for private funds, Government subsidies, approvals by various agencies, mortgage negotiations, construction contracts and numerous other activities which delay the provision of shelter to those in need. Make warehousing a crime and we can then demand the keys to the thousands of apartments that are presently available for occupancy.

Every human being by merely being alive acquires power, and this "people power" resides partially in our elected officials who represent us and act in our interest. The New York City Council has the power to pass antiwarehousing legislation. Banning the vicious practice of warehousing is constitutional. The city council must go forward and pass an effective measure barring warehousing; its "constitutionality" could be tested later in the courts.

We need immediate action by public officials to demonstrate that the elected representatives are again seizing control of the housing policies of New York City. When city councilmembers are in control, the people are in control. When the people are in control we take care of crucial necessities such as the need for housing. By enacting an anti-warehousing law, elected officials, not the real estate moguls and their cohorts, will again be in control. And this law is the most practical and most immediate means for giving good housing back to the people.

A new anti-warehousing law should begin in the Crown Heights section of my district. Along Eastern Parkway and several other prime streets there are numerous buildings which have been mysteriously boarded up for many years. This is one more scandal which must be exposed. An investigation of a wholesale warehousing conspiracy in Crown Heights should begin with the New York City Buildings Department.

Housing is a life and death matter in New York City. Present laws must be enforced and we need a new anti-warehousing law.

RECOGNIZING THE AMERICAN POLITICAL SCIENCE ASSOCIATION'S CONGRESSIONAL FELLOWSHIP PROGRAM

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. WALGREN. Mr. Speaker, I want to congratulate the American Political Science Association on the 35th anniversary of the Congressional Fellowship Program. Since 1953, APSA has sponsored this professional-level program in the Congress, a program which began with 6 fellows and currently includes almost 50 men and women who are political scientists, journalists, Federal executives, health science faculty, anthropologists, and foreign professionals.

The APSA congressional fellows bring expertise to congressional offices and learn firsthand the legislative process. Congress and the fellows both substantially benefit from this exchange. Fellows usually spend one-half of their assignment in the House and the other half in the Senate. The fellows that I have had in my office have contributed their expertise and unique perspective on a wide range of issues. I value their knowledge, judgment, and recommendations in many different areas.

Each fellow goes through a competitive screening process within his or her sponsoring agency or organization, attends a comprehensive orientation program arranged by APSA, and then is interviewed in person in congressional offices by subcommittee staff to negotiate an assignment. There is always competition for the career Federal executives who serve as Federal fellows or foreign affairs fellows. It is my understanding that John Kennedy got Federal employees involved because he wanted them to realize the role of Congress in the Federal Government rather than think of Congress as an interruption in their day. In 1964, President Johnson addressed the congressional fellows and asked "Where are all the women?" and the following year women were awarded the fellowship.

Over 500 career civil servants have served as APSA congressional fellows since 1961. A number of Federal employees, researchers, and executives have contributed to my work in the Science, Research, and Technology and the Health and the Environment Subcommittees. They have enormous expertise to offer. Through the APSA Fellowship Program, both the Member and the executive fellow interact and reach greater understanding of their respective missions.

I want to express my support for the program. It is appropriate during the 35th anniversary of this program to recognize the contributions of the APSA congressional fellows and to thank them for their hard work and service to Members of Congress. It is a great honor for me to join in this tribute to the APSA congressional fellows. I hope more Members of Congress will participate in this program, one which provides a healthy exchange between these two branches of the Federal Government.

DICK CONLON OF THE DEMOCRATIC STUDY GROUP

HON. MIKE LOWRY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. LOWRY of Washington. Mr. Speaker, in my March 31 remarks regarding Dick Conlon's 20th anniversary as executive director of the Democratic Study Group, I noted that one of his most important achievements is the widely respected research service he created at DSG over the past two decades. DSG research has an unparalleled reputation for integrity and accuracy, among other reasons, because of Dick's insistence that a correction or supplment be issued promptly whenever a DSG report is not precisely accurate or is incomplete in some respect. Thus, it was no surprise that I found the following letter on my desk when I returned to Washington from the Easter recess;

Democratic Study Group
House of Representatives,
Washington, DC, April 12, 1988.

Hon. Mike Lowry,
Chairman, Democratic Study Group,
U.S. House of Representatives.

Dear Mike: It is very pleasant to receive recognition for one's accomplishments—especially when that recognition is unsolicited. I was truly overwhelmed by your remarks in the March 31 Congressional Record regarding my 20 years at DSG, and I am deeply appreciative.

However, you are far too generous in the credit you give me for the various accomplishments of DSG over the past two decades. I do accept credit for development of DSG's research product; it continues to be my proudest achievement. However, the continued excellence of our research would not be possible were it not for the commitment and hard work of the DSG staff.

But, it is what you said with respect to my role in the enactment of the congressional reforms of the early 1970s that requires me to write this letter. You give me far too much credit, and I cannot allow the record to stand that way.

I did play an important role in the reform effort and I am immensely proud of that role. But the reforms were an institutional—not an individual—achievement. It was the Members of the DSG Executive Committee, not Dick Conlon, who initiated the reform effort, who decided which reforms to pursue, who devised the political strategy to win their approval, who made the strategic decision to pursue reforms on a step-by-step basis over several Congresses rather than attempting to enact a comprehensive reform package at one time.

And it was DSG Chairman Jim O'Hara who, in 1968 when others were pressing for more dramatic reforms, saw that the key to reform in the House was revitalization of the Democratic Caucus and who proposed monthly caucuses as a way of achieving this end. Indeed, were it not for this relatively innocuous first step, none of the far-reaching reforms which were adopted could have been achieved.

Similarly, the reforms of the 1970s would not have been possible without the leadership of the Chairmen who followed Jim O'Hara: Don Fraser, Phil Burton, and Tom Foley.

Other DSG leaders and Members who made major contributions to the success of the reform effort included Dick Bolling, Mo Udall, Sam Gibbons, Julia Butler Hansen, Jack Bingham, Frank Thompson, Jr., John Blatnik, Chet Holifield, John Culver, Dave Obey, Tip O'Neill, Ab Mikva, Henry Reuss, Bill Ford, Jim Corman, Tom Rees, Brock Adams, Don Edwards, Neal Smith, Frank Evans, John Seiberling, Dante Fascell, Lloyd Meeds, Bob Eckhardt, and Bob Kastenmeier.

It was these Members and others like them who were responsible for the success of the reform effort in the House. It was my great honor to have had the opportunity to work for and with them.

Again, Mike, my thanks to you and the former Chairmen who helped you for your thoughtfulness and the generosity of your remarks.

Sincerely,

Richard P. Conlon,
Executive Director.

ARROGANCE AND IGNORANCE AT EPA

HON. MATTHEW G. MARTINEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MARTINEZ. Mr. Speaker, I rise today to make my colleagues aware of the arrogance and ignorance the Environmental Protection Agency (EPA) demonstrates when faced with a congressional inquiry or request.

On Friday, April 15, California State Assemblywoman Sally Tanner, chairwoman of the California Assembly Committee on Toxic Materials, asked me to arrange for a meeting with EPA Administrator Lee Thomas and me regarding EPA Region IX's recent announcement that the cleanup of ground water contamination in my district is beyond the scope of the Superfund Program. Ms. Tanner asked me to schedule the meeting with Administrator Thomas during her upcoming trip to Washington, DC.

At first glance, some of my colleagues may think that it would have been more appropriate for an individual opposed to a decision made by a regional office to first seek redress with that office. Nonetheless, most, if not all of my colleagues, would agree that it would be more than appropriate to go up the chain of command if the regional office was indifferent to the concerns of an individual seeking redress. That is exactly what Assemblywoman Tanner and I have done.

Consequently, Assemblywoman Tanner and I have requested that Administrator Thomas meet with us to discuss this issue. Rather than recognize his ultimate responsibility over Region IX, Administrator Thomas has flatly refused to meet with us. Administrator Thomas' decision not to meet with those who are concerned about ground water contamination in the San Gabriel Valley reminds me of the ostrich which buries its head in the sand to ignore impending problems.

By his refusal to meet with Assemblywoman Tanner and me, Administrator Thomas is telling us that he is burying his head, or making himself ignorant of, the fact that bureaucratic incompetency led to the breakdown of Region IX's contracting system with the contractor responsible for research and monitoring ground water contamination in the San Gabriel Valley. As a result, these activities have been temporarily terminated, thereby increasing the cost of the San Gabriel Valley ground water cleanup.

Moreover, EPA Region IX recently announced that they believe ground water contamination in the San Gabriel Valley is beyond the scope of the Superfund Program and that local water consumers should pay for the cleanup. It is clear to me that such statements indicate that EPA Region IX desires to shirk its responsibility to execute the Superfund Program as mandated by Congress. When Congress enacted the Superfund Program in 1980, it lucidly intended that EPA cleanup major deposits of hazardous waste contamination. That is why its ridiculous for any unit of EPA to say—8 years after the enactment of Superfund—that any cleanup is beyond the scope of the Superfund Program. It is unfortunate that an EPA Administrator would make himself ignorant of a situation of this significance and subsequently demonstrate his arrogance by refusing to meet with State and Federal elected officials who represent people effected by the Agency's decision.

In sum, we have gone through the chain of command. We have made Administrator Thomas aware of the magnitude of the problem through correspondence. Indeed, Assemblywoman Tanner and I both know that Mr. Thomas' schedule would permit him to meet with us on one of the days we have requested. Instead, Mr. Thomas chooses to ignore the bureaucratic pathologies at Region IX and ignore us. Fortunately, Assemblywoman Tanner, concerned Members of Congress and myself will not be ignored. We will continue to make our displeasure with Administrator Thomas known until he cleans up the mess at EPA Region IX.

IN SUPPORT OF H.R. 4155, TO DESIGNATE THE ARMED FORCES RECREATION CENTER AT FORT DERUSSY, HAWAII, AS THE "DAN DANIEL ARMED FORCES RECREATION CENTER"

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. WOLF. Mr. Speaker, I rise in support of H.R. 4155 and would like to join with my colleagues in honoring the memory of our late colleague Dan Daniel, the gentleman from Virginia who served the 5th District with such honor and distinction for almost 20 years.

It was a privilege to serve in this House with Dan Daniel and to be a part of the Virginia delegation with him for 8 years. There was no stronger supporter in this House for a strong national defense than Dan Daniel and his work on the Armed Services Committee reflected his commitment to our national security.

He also was a tireless advocate for the men and women who serve in the Armed Forces and promoted the needs of our military personnel. He was genuinely concerned about the morale of our Armed Forces and worked especially hard to preserve the recreation center at Fort DeRussy as a place where the dedicated men and women in uniform could rest and relax.

It is a particularly fitting tribute to name the recreation center at Fort DeRussy, HI, in his honor and I urge my colleagues to join in unanimous support of this legislation.

NATIONAL DAY OF REMEMBRANCE

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. ATKINS. Mr. Speaker, April 14 is the day on which the United States commemorates the victims of genocide. It is a national day of remembrance, and is tremendously important. Horrors of the magnitude of genocide are too great to be held in people's memories for too long. We need constant reminders of what humankind has been capable of in order to ensure that the world will never see an attempt to exterminate an entire people. This day provides us an opportunity to remember.

Prior to 1914, there were over 2 million Armenians living in Turkey. Since the end of the First World War, there have never been more than approximately 100,000. This is a truly staggering fact. That a population could be reduced to 5 percent of its original size in the space of a few short years is almost incomprehensible.

The 20th century has seen horrors previously unknown and unimagined by human beings. The final solution in Hitler's Germany. The firebombing of Dresden by the Allies during World War II which left that historic city looking like the surface of the moon. In Cambodia, we still see the horrors of Pol Pot's regime. Weapons have been developed and used which have destructive power that is almost beyond understanding. All of these horrors have been acknowledged by the world community, and all have been subjected to the shame of universal denunciation.

Yet before any of these terrible events occurred, the Armenian population of Turkey was reduced to one-twentieth its previous size. The World community has been strangely silent on the methods through which this happened.

In 1908, there was a revolution in the Ottoman empire, and the group which would come to be known as the Young Turks rose to power. The Young Turks endorsed a policy of Turkish supremacy, and attempted to assimilate all the various nationalities within the Ottoman empire into one huge Turkish people. The Armenian people had preserved their cultural integrity for centuries. They had a tremendous sense of themselves and pride in their history. Needless to say, they would not allow their rich cultural heritage to be stripped away. Armenians resisted conscription into the Ottoman armies, and in some cases formed armed resistance groups.

These groups gave the Young Turks the excuse they needed to systematically slaughter an entire people. The Turkish Government began wholesale deportation and murder of Armenians, claiming it was necessary for reasons of national security. United States Ambassador Morgenthau, in Turkey and witnessing these activities, wrote that "* * * the treatment given the convoys clearly shows that extermination was the real purpose * * *."

The Turkish Government claims that the Armenian Genocide is a fabrication, cleverly created by the Armenian insurgents. I find this hard to believe.

The Armenian Genocide happened. Millions of people were killed in a deliberate attempt to eliminate an entire culture. The United States and the rest of the world cannot, must not continue to deny history. The Armenian people resisted the efforts to crush them, and their courage and strength in the face of tremendous adversity should be praised. It has been 80 years since the Young Turks came to power. How much longer will the world wait to acknowledge the tragedy that befell the Armenian people?

Genocide is a crime against humanity that is unrivaled by any other. When we next hear the plaintive cry "Never again!" let us think of all peoples who have been crushed under the iron hand of an oppressor and had the strength and the will to resist and rise another day.

NATIONAL VOLUNTEER WEEK

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. ST GERMAIN. Mr. Speaker, as you may know, this week we are celebrating National Volunteer Week. This is the time in which we acknowledge the efforts of thousands of Americans who donate their time in the service of others. There are few endeavors for which I have more respect than the selfless activities of these individuals, without whom much good would go undone and many needs would go unmet.

I wish today to commend in particular the efforts of an organization in my district, the Providence Retired Senior Volunteer Program (RSVP), whose accomplishments in this area are extensive and noteworthy. As one of six RSVP programs in the State of Rhode Island, the greater Providence chapter has been providing leadership in the area of volunteer services for some time now.

With 360 volunteers in the cities of Providence, North Providence and Johnston, RI, the greater Providence program serves at 61 area nonprofit agencies and institutions. In the course of their efforts this year, the volunteers donated more than 70,000 hours of their time. I think you will agree Mr. Speaker, this is an extraordinarily dedicated group.

But what is perhaps most impressive is the composition of this group: senior citizens. The greater Providence RSVP has members ranging in age from 60 to 93 years, a testament to the enduring vitality of the senior citizen community in this country. At a time in their lives when they have earned the right to take it easy, these seniors continue to give of themselves.

At hospitals—as patient representatives, escorts for wheelchair patients, as deliverers of mail and flowers; at health agencies—as liaison between staff and patient, appointment reminders, typists; at senior centers—as meal servers, teachers, entertainers; at literacy programs—as tutors; and at nursing homes—as friendly visitors and feeders: These senior volunteers exemplify a generosity of spirit we should all respect and admire.

OPERATION TIGER

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. STUDDS. Mr. Speaker, In the near future, we will mark the 44th anniversary of a very important event in this Nation's military history. On April 26, 1944, American forces undertook Exercise Tiger, a practice run for the D-Day invasion of France. What was intended to be a training mission, however, resulted in 749 American fatalities after a chance encounter with the German Navy.

I today join my friend and constituent, Mr. Joseph Theodore of South Dartmouth, MA, in pausing to reflect upon this tragic event and pay tribute to those who did not return. It is my honor to fulfill the request of the American Legion Post No. 1 of New Bedford, MA, in having an American flag flown over the Capitol in honor of those brave men who made the ultimate sacrifice during Exercise Tiger.

Mr. Speaker, I would like to share with my colleagues the following recent article from the New Bedford Standard Times which shares one survivor's memories of that dreadful April night.

VETERAN ESCAPED TIGER'S JAWS

(By Jack Stewardson)

DARTMOUTH.—Anthony "Tony" Pacheco still vividly recalls that deadly April night 43 years ago off the southern English coast.

At the time, he was a 24-year-old corporal among 30,000 men aboard several LST troop ships off the English town of Truro for what was to be a dry run for the D-Day invasion at Normandy, France.

It was called Exercise Tiger and when it was over, 749 Americans had died in the English channel during a chance encounter with a squad of German torpedo boats. It proved to be one of the largest losses of American lives in the war since the Japanese attack of Pearl Harbor.

On April 26, 1944, Mr. Pacheco and his fellow GIs were destined for Slapton Sands, a beach along the Devonshire coast chosen for the exercise because of its similarity to Utah beach at Normandy, one of the five beaches Allied forces would eventually assault in the D-Day invasion a little more than a month later.

That night, as the ships cruised the English Channel, many soldiers had gone below to play poker and dice.

Mr. Pacheco and a friend, Daniel Denealt of Manchester, NH., stayed on the top deck, watching the skyline.

About 10 p.m., the quiet night was broken by a call to general quarters, sending Navy gunners scrambling to their posts. Many infantrymen, awaiting the practice beach assault, thought it was all part of the exercise.

"Then all of a sudden there was a tremendous explosion," Mr. Pacheco recalled Tuesday at his South Dartmouth home. In the distance, one of the LSTs in the convoy went up in flames and soon the sky was filled with anti-aircraft fire and the bright streaks of tracer bullets, all flying blindly at enemy aircraft that did not exist.

"Then all of a sudden, all the ships started shooting at each other," Mr. Pacheco said. "They had gotten word that German E-boats (torpedo boats) were attacking."

There was another explosion and a second LST fell apart, followed by a third blast as yet another LST was hit.

"When it happened, we thought, 'My God, this is the invasion.' It all happened so suddenly and so fast, you didn't have time to think."

Mr. Pacheco and his friend ran to the bow of their ship, donning lifegear and expecting their craft to be hit at any second. They later learned that one of the German torpedoes had just missed it by 12 feet.

"Then all of a sudden our ship got out of there at full speed, zigzagging," he added. "We were engulfed in smoke, and as we got away we could hear screams in the water. The sky was a mass of red.

"It was a good hour of hell and confusion.

"There was a tremendous feeling of helplessness," Mr. Pacheco said. "We all wondered what had happened. We weren't told a thing."

Sunday, however, the story of that tragic night was played out as crowds of Americans and Britons huddled along the English shore to unveil a memorial plaque cast in Colorado and mounted on a chunk of Devon granite to honor the hundreds who died in Exercise Tiger.

Mr. Pacheco and his wife, Dorothy, who raised five children, live in Padanaram. Now 67, he is a commercial artist and formerly operated a music store.

"I'm very glad they finally paid tribute to those who died there," said Mr. Pacheco, looking back on the events. "I think it's about time."

In the secrecy surrounding the D-Day invasion, Exercise Tiger went unreported as the Allied command buried the story along with the casualties.

"They felt evidently it was only a month and a half from D-Day" and they didn't want to give the Germans any indication that an invasion was afoot," he said.

"And it was handled so poorly that the war department didn't want to admit it was a terrible mistake."

Mr. Pacheco later would read a brief account in the Stars and Stripes military newspaper containing a German report of E-boats sinking several merchant ships, but he did not even learn the official name of the exercise until reading recently about plans for the memorial.

"It's one of those things you don't think about," he said, looking back on the events of 43 years ago. "It comes and goes."

Mr. Pacheco was a member of the 261st Medical Battalion of the 1st Engineers Amphibious Brigade—a unit assigned to go in with assault troops to clear away mines and other obstacles—which went to England to prepare for the liberation of Europe.

He had joined the service before the United States entered the war. A few months before the Japanese attack on Pearl Harbor, he had hoped for an assignment in Hawaii but there were no openings. He joined the Engineers Brigade when he was assigned to Camp Edwards on Cape Cod, and shortly after was sent overseas, where he participated in amphibious landings in Africa, Sicily and Italy before being sent to England.

"We knew we were there to prepare for Normandy," said Mr. Pacheco. "One morning they told us to get ready, that we were participating in a simple maneuver."

His battalion was loaded on trucks and taken to a staging area where they board four LSTs, the large troop carriers that also shipped trucks and tanks.

Although his ship escaped intact in Exercise Tiger, many soldiers along the deck were injured in the panic-filled crossfire that greeted the reports of attacking E-boats.

Mr. Pacheco said that the following morning, surviving LSTs rendezvoused with British corvettes—small destroyers—which were supposed to screen the exercise but weren't at the scene when the attack took place. There also was no air cover in the exercise.

"We created a lot of the damage ourselves," he said. He noted reports that many troops drowned because they put life vests around their waists instead of under their arms. In addition, he said, "What I think went wrong, they didn't have enough protection for the amount of men they had out there."

When the surviving ships finally returned to port, the distraught men were given three-day leaves to help them forget.

A month later, June 6, 1944, they returned for the real thing.

Yet, compared to Exercise Tiger, Mr. Pacheco recalls, the D-Day invasion was a piece of cake.

"It's a funny thing," he said. "At D-Day we were surrounded by so many ships, it really didn't have the frightening effect."

At Utah Beach, 179 men died.

DR. DAVID WORTHEN: "EVERY DAY A NEW FRONTIER"

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MONTGOMERY. Mr. Speaker, a good friend died on April 14—a friend of veterans, a friend of the medical community, a friend of mankind. Dr. David M. Worthen, retired Assistant Chief Medical Director for Academic Affairs for the Veterans' Administration, died from Lou Gehrig's disease.

Upon his retirement from the VA in June of 1987, the House and Senate Veterans' Affairs Committees presented the following resolution to Dr. Worthen in appreciation for his contributions to improved health care for veterans. I would like to share with my colleagues the words of that resolution, as well as a concise but poignant account of Dr. Worthen's life and death, an article by Mr. Bart Barnes of the Washington Post.

RESOLUTION

Whereas David M. Worthen, M.D., is recognized for his outstanding and unparalleled commitment to the assurance of quality medical care through his dynamic leadership as the Assistant Chief Medical Director for Academic Affairs for the Veterans' Administration; and

Whereas David M. Worthen, M.D., has advanced and improved world-wide medical care through dedicated research, education, and direct patient care; and

Whereas this eminent man of science and education has left a distinguished mark on the lives of the veterans of our Nation's wars by an unexcelled standard of performance; and

Whereas Dr. David M. Worthen's sensitivity and visionary commitment to service for mankind has been a source of inspiration for his colleagues in the Veterans' Administration, the national community of health care providers, and America's sick and disabled veterans: Now, therefore be it

Resolved that the Committees on Veterans' Affairs of the House of Representatives and the Senate of the United States, by and through the Chairmen and Ranking Minority Members of the two Committees, express their enduring appreciation to David M. Worthen, physician, educator, and humanitarian, upon his retirement from government service, for his wisdom and his counsel, for his tireless energy, dedication, and integrity, and for the high standards he has set for those who will follow him in service to the veterans of his beloved Nation.

G.V. (Sonny) Montgomery, Chairman, Gerald B. Solomon, Ranking Minority Member, Committee on Veterans' Affairs, U.S. House of Representatives.

Alan Cranston, Chairman, Frank H. Murkowski, Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senate.

[From the Washington Post, Apr. 4, 1988]

DR. DAVID WORTHEN, OPHTHALMOLOGIST, AUTHOR, DIES

(By Bart Barnes)

David McQuarrie Worthen, 51, a Veterans Administration ophthalmologist who wrote eloquently about facing the certainty of his own death from amyotrophic lateral sclerosis, which is also known as Lou Gehrig's disease, died April 14, at his home in Potomac, just over a year after his illness was diagnosed.

Until he retired on medical disability in June 1987, Dr. Worthen was the VA's assistant chief medical director for academic affairs and a member of the medical school faculties of Georgetown, Howard and Johns Hopkins universities.

He also had served on 17 advisory groups on medical education, government regulation, health and fitness. At his retirement the VA established a David M. Worthen Award for academic excellence, and the American Medical Association voted him a special commendation for his "great character and courage" and his contributions to medical education and eye care.

Before moving to this area and joining the VA in 1980, Dr. Worthen had been professor and chairman of the division of ophthalmology at the medical school of the University of California at San Diego, and a member of the faculties of the medical schools of the University of Florida and Harvard University.

His story of living under what he called the ALS "sentence of death" was published in the Journal of the American Medical Association last September and in The Washington Post's Health section last October.

"The meaning and joy of life are best understood beneath the shadow of death," Dr. Worthen wrote in The Post.

"I realized an inner peace when the sentence had been declared, my time defined and my remaining tasks listed. The gift of knowing the time of death—being able to share with loved ones the emotions denied to those whose departure is rapid—compensates for the slow dissolution of movement."

A progressive and incurable disease, ALS gradually causes the loss of most voluntary movement, including speech, swallowing and respiration, but it does not affect the mind. It is generally associated with Lou Gehrig, the New York Yankee first baseman, who died of it in 1941.

Dr. Worthen wrote that the chain of events that led to his being found to have

ALS began in the summer of 1985 when he suffered an electrical shock while working on outdoor furniture with an electric drill.

At that time he had a full professional schedule with clinical duties at Georgetown, Howard and Johns Hopkins medical schools, weekly operations on VA patients, laboratory research, travel and teaching. A physical fitness enthusiast, he ran 80 to 100 miles a week and jogged to work along the C&O towpath.

"My wife and I were celebrating our 27th wedding anniversary, and our five children were maturing and accomplishing their own goals," Dr. Worthen wrote.

"But that innocent accident with the electric drill heralded a permanent change in my life. It propelled me from one side of the diagnosis to the other—from beng a physician to being a patient."

Within a few weeks of the accident, Dr. Worthen realized there was something wrong. His left hand had turned blue and was sometimes numb. There was a "beehive sensation" and muscular twitching in his left arm and forearm. Months later the fingernails on his left hand stopped growing, and because of the clumsiness, of his left hand, he asked to be taken off surgery.

Travel became a burden, because it was difficult for Dr. Worthen to handle luggage, and he switched to clip-on ties to make dressing easier.

Early medical diagnoses suggested damage to the left arm and limited damage to the spinal cord. There were periods of physical improvement but they were followed by further deterioration.

In November 1986, Dr. Worthen ran in the Washington Marine Corps Marathon. His time was three hours, 39 minutes—good for his age group but his slowest time ever.

"I began to have an awareness of dying. The reality of death slithered into my consciousness like a serpent and with stinging thrusts, punctured and numbed my waking hours," Dr. Worthen wrote.

"By the spring of 1987, I realized I was not getting any better. I went in for another round of tests. On March 30, 1987, a consulting physician confirmed the serpent's bite. A diagnosis of amytrophic lateral sclerosis was unequivocally made."

Some of Dr. Worthen's physicians wondered if the ALS had been precipitated by the electrical shock. Others doubted that it had been. At this point Dr. Worthen didn't care.

"Suddenly I was one of the 'other people'—these things always happen to other people."

As a physician, Dr. Worthen recalled, he had always "stressed the need to leave every patient with hope. Now I was the patient . . . no patient should be considered hopeless, as help in some form will keep hope alive."

As the disease progressed, Dr. Worthen lost the use of his hands and arms. His speech could be understood only by his wife, Gaye Butler Worthen, who became his voice and hands, writing articles and letters as he dictated.

"From inside the diagnosis, I am impressed with the universal need that all people have to care and to give assistance," he wrote.

"Every day for me there is a new loss, every day a new frontier, and every day the realization that joy comes from receiving assistance as well as from giving assistance.

Dr. Worthen was born in Provo, Utah. He graduated from the University of Utah and received his medical degree at the University of Minnesota. He was a Navy physician from 1961 to 1964, and trained in ophthalmology at the Massachusetts Eye and Ear Infirmary in Boston.

In addition to his wife, of Potomac, he is survived by three sons, Mark Worthen of Waco, Tex., Eric Worthen of Gaithersburg and Brian Worthen of Potomac; two daughters, Leslie and Anne Worthen, both of Potomac; two brothers, Ralph Worthen of Salt Lake City and Howard Worthen of Dallas, and a sister, Ruth Puronen of Elko, Nev.

RAIL MOBILE MX VERSUS MIDGETMAN

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. ASPIN. Mr. Speaker, next week debate begins on the National Defense Authorization Act. One controversy I expect to reach a feverish pitch is that over two programs now seen as competitors—rail mobile MX and the Midgetman missile.

To enlighten debate, the Armed Services Committee compared the programs and has filed its report.

Some of my reasons for supporting Midgetman are outlined in an April 14 speech based on the committee report. Put simply, the program has excelled in critical measures such as cost, management, and schedule. That is due in part to planning for the missile's development done by a presidential commission headed by retired Air Force Gen. Brent Scowcroft.

General Scowcroft supports Midgetman. Like myself, he worries that the loss of Midgetman would strip our Nation of a land-based system that can respond to "tactical warning"—a few moments notice of Soviet attack.

This point is made with clarity in an article from the New Republic, written by General Scowcroft, National Security Advisor from 1975 to 1977; John Deutch, Under Secretary of Energy from 1977 to 1979; and R. James Woolsey, Under Secretary of the Navy from 1977 to 1979.

I include the article at this point in the RECORD:

REAGAN'S LATEST NUCLEAR STRATEGY: COME AND GET US

Admiral Kimmel and General Short thought they would have it when they went to bed in Honolulu on December 6, 1941. The previous summer Stalin thought he would have it. The South Koreans thought they would have it—until 1950. The Israelis thought they would have it—until 1973.

It's called "strategic warning"—the idea that a nation need not worry about a surprise attack because any enemy will always give timely, clear warning of its preparations. It includes the assumption that one's own government will always recognize that warning for what it is and will respond appropriately. It is a comforting and seductive thought. But history has shown that when a nation designs its key military forces so that they will survive *only* when strategic warning is perceived and acted upon, it risks tempting an enemy to exploit the vulnerability at some point and attack.

This is the risk the Reagan administration is now coming to accept, with its combination of arms control and budget cuts. It is moving us pell-mell into an era in which only those with a childlike faith in strategic warning can be comfortable with the long-term survivability of U.S. strategic forces.

For some time the United States has rightly been attempting to make a portion of our strategic forces as survivable against sudden attack as ballistic missile submarines at sea. Under the current START treaty, the numbers of these submarines will decrease sharply as we approach the 21st century; by 2000 we will have half or fewer of the 41 boats we had in the '70s.

A year ago the administration proposed a program to deal with ICBM survivability: a two-missile ICBM force. Part was to consist of the MX missile, deployed on railroad trains stationed in garrisons—essentially military round-houses—on Air Force bases. The trains would not operate on the nation's railroads in peacetime; that would require too much of what the Defense Department calls "public interface." Although these MX trains would be highly vulnerable in peacetime, the plan was to move them onto the railroad system after a strategic warning of a Soviet attack. Such movement would require several hours. To compensate for the trains' vulnerability, a force of small single-warhead ICBMs (Midgetman) would be deployed on highly mobile nuclear-hardened vehicles. This force would be survivable under all conditions of attack.

So far so good. Highly capable ICBM forces would deter nuclear blackmail in a crisis and would provide stability by removing any Soviet temptation to attack a vulnerable force—even if someday Soviet antisubmarine warfare could threaten our submarines. Two recent developments, however, have severely undermined this sound program.

The first is the administration's fixation on deep reductions in ballistic missile warheads as the only measure of merit in strategic arms control. The portion of the START draft treaty currently agreed upon provides for sharp reductions in the ballistic missile forces of both sides, land- and submarine-based, and its liberal counting rule for bombers encourages a shift of forces toward bomber forces. The effect on our strategic forces would be sharp reductions in the number of U.S. ICBMs and submarines. These cuts would heighten the problem of survivability for the remaining, diminished, U.S. ballistic missile force. With the warheads the Soviets will be permitted by a START agreement, they could launch an effective attack on both our bomber bases and the remaining U.S. silos. For the U.S. ICBM force, then, the program of pursuing both the mobile Midgetman and the MX becomes even more important.

Yet defense cuts have played havoc with these programs. Part of the administration's answer to the budget crunch has been to announce "termination" of the mobile Midgetman—while providing enough funds for minimal support in order that the system might be resuscitated by a subsequent administration. Call it termination without extreme prejudice, bolstered by a dangerous rationalization about strategic warning. By announcing that it is planning to develop only the MX rail garrison program, the administration is resorting to the argument that strategic warning will always be enough to preserve the survivability of the train-based MXs. Even if that were true, it is folly to bet the entire ICBM force and the nation's security both on the certainty of receiving strategic warning hours before any

Soviet attack and on the faith that the United States would always act on that information.

On the other hand, every group of experts that has looked at Midgetman (even those picked by the Defense Department itself) has said essentially the same thing: deployed in hardened mobile launchers on the large Southwestern military bases, it is as survivable against surprise attack as military systems get. It is even highly survivable on such bases without the far more certain tactical warning, i.e., the few minutes' warning of a Soviet attack provided by radars and other sensors after Soviet ICBMs or sub-launched missiles are actually in flight.

Indeed, survivability in the absence of strategic warning is the prime military feature that distinguishes mobile Midgetman from MX on trains. The latter would need hours of advance strategic warning in order to survive, hours that have proved elusive throughout history. Strategic warning may be especially difficult to obtain in the future because a handful of modern quiet Soviet submarines, capable of firing newer versions of ballistic or cruise missiles, could carry enough weapons to threaten all U.S. strategic forces, except our at-sea submarines.

As if all this were not enough, the administration has completely snarled up the relationship between its programs and its negotiating approach. At Geneva it has proposed to ban mobile ICBMs. If that happens, we may not be able to deploy a survivable ICBM at all. If the agreement does not ban ICBMs—and if we cancel our own mobile Midgetman for budgetary reasons but deploy MX in its garrisons—then the Soviets would have two survivable ICBMs and we would have nothing comparable. The new Soviet SS-25 ICBMs will be out on road-mobile launchers and their SS-24s will be on trains deployed on their rail system in peacetime. (They do not have American-style "public interface" problems.) The United States, under these circumstances, could well have only one vulnerable "mobile" ICBM, on trains parked in garrisons, and some equally vulnerable silos.

Most administration experts and even opponents of the mobile Midgetman will privately admit most of these points. They offer really only one argument against the program: cost. Indeed, in order to make their case stronger, some Midgetman opponents have not been able to resist fiddling with the cost figures. For example, the press recently reported that mobile Midgetman, based on actual bids, will be more than $4 billion cheaper than the Air Force's original estimates. And the original cost estimates made by the office of the secretary of defense had been much higher even than the Air Force's. (It is common in the Pentagon to overestimate the cost of what you want to kill.) The House Armed Services Committee estimates, on the other hand, that over the next 15 years mobile Midgetman would total under five percent of our spending on strategic programs. The real question is whether it is worth five percent of our strategic budget over these years—probably on the order of $30-plus billion—to have at least a portion of our ICBM force clearly able to survive a Soviet surprise attack.

Of course, there's always SDI, as the administration never fails to point out. Some advocates of early SDI deployment recently have been working, with the MX rail garrison supporters, against mobile Midgetman because they see it as a competitor to SDI deployments. This is roughly analogous to the Pit Bull Breeders' Association campaigning against locks on doors. And this breed may be toothless: the "Phase I" SDI deployment now being pushed—space-based kinetic energy interceptors and ground-based exo-atmospheric interceptors—is not designed to deal well with the threat presented by Soviet submarine-launched ballistic missiles, especially if they fly low. At some point we may need defensive systems to help protect our strategic forces, in order to give our aircraft a few extra minutes to escape their bases even against an attack by such ballistic missiles, or by fast or stealthy Soviet submarine-launched cruise missiles. (Defending garrisons for MX trains would be much more demanding, since the trains take hours to escape, not minutes.) But defenses against these sorts of systems are not a top priority of U.S. defensive efforts.

Do we want our ICBM vulnerability to continue to be the obsessive issue that it has been in our politics and arms control negotiations for the last 19 years, or do we want to fix the problem? Do arms control supporters such as Democratic candidates Mike Dukakis and Jesse Jackson (who support the administration position on terminating mobile Midgetman) really want to see a future reprise of the SALT II debate of 1979, with a "window of vulnerability" being a real and immediate problem instead of a distant and theoretical one?

There may be ways to achieve ICBM survivability other than mobile Midgetman. One technically respectable suggestion is to use a modern version of the old concept of a shell game for MIRVed ICBMs: multiple shelters for each Minuteman or MX. This is probably feasible within a properly drafted START treaty. It is also cheaper, with modern techniques such as hardened missile canisters, and would require less land than it would have a decade ago when the cumbersome MX "racetrack" system was contemplated for deployment in Utah and Nevada. It would, however, be necessary to face the political problem of acquiring new land on which to put the shell-game shelters. And it would require us first to decide on a survivable ICBM program and then to design our arms control stance to protect it. The Reagan administration has not demonstrated this sort of sequential reasoning.

Of the solutions that the administration is now seriously considering to protect U.S. ICBM survivability, neither MX trains in garrisons nor early SDI deployment of the type now planned nor both together will solve the problem. As for "deep cuts" in ballistic missile forces, in the absence of a truly survivable ICBM they make the problem of providing strategic stability worse, not better.

Indeed, our ICBM vulnerability could well lead military leaders, particularly in the face of the Soviet SLBM threat, to recommend a day-to-day posture of launching our ICBMs based only on warning—without being able to wait for any confirmation of an attack by verifying that there have been nuclear detonations. Such a posture would seriously risk nuclear war by accident and, as the secretary of defense's recent commission on deterrence put it, would be "a reckless gamble with fate" that should be "banished from our long-term strategy."

Without a survivable ICBM, such as mobile Midgetman, the administration and those who support it on this issue are on the verge of leaving behind them as their principal strategic legacy a new kind of triad: vulnerability, wishful thinking, and a hair trigger.—BRENT SCOWCROFT, JOHN DEUTCH, AND R. JAMES WOOLSEY.

(Brent Scowcroft was a national security adviser from 1975 to 1977; John Deutch was undersecretary of energy from 1977 to 1979; and R. James Woolsey was undersecretary of the Navy from 1977 to 1979. They swear they really did write it together).

TRIBUTE TO CHARLES J. FRAMIGLIO

HON. DON EDWARDS

OF CALIFORNIA

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. EDWARDS of California. Mr. Speaker, on Saturday, April 30, Mr. Charles J. Framiglio will be honored by the Disabled American Veterans at a testimonial dinner to be held in San Jose, CA.

Charlie is the Department of California Commander for the Disabled American Veterans, with membership over 90,000 strong in the State. He is also adjutant of Machado Memorial San Jose chapter 11 of the Disabled American Veterans, with over 2,400 members in our congressional districts.

Charlie was born in Massachusetts in 1922, and joined the U.S. Navy on September 12, 1942. He volunteered for the Amphibian Corps and was assigned to LST 921. While en route to the invasion of southern France, his ship was torpedoed and sank. He was hospitalized for 17 months.

In 1948, Charlie and his wife Clara moved to San Jose where he pursued his profession as a carpenter, raised his family, and became active in the Disabled American Veterans. He has served in every DAV elective office in his chapter, district and Department of California. He was State chairman of the Veterans' Administration Volunteer Service and is still active as a volunteer. Charlie retired from his carpenter position in 1952.

Charlie's active participation in all aspects of the DAV is much appreciated by all its members. Indeed, his work is greatly appreciated by all citizens who owe a lasting debt to those men and women who have served in the Armed Forces of our country.

We join in wishing Charlie, his wife Clara, their daughters Clara and Charlene, and their grandchildren Jason, Alicia, and Laura all the best in the years ahead. To Charlie our sincere thanks and heartfelt appreciation for a job well done. We know we can count on you to keep up your outstanding work with the DAV.

FIRE SAFETY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, April 20, 1988, into the CONGRESSIONAL RECORD:

FIRE SAFETY

The recent fire in Scottsburg Indiana reminded me again of the need for fire safety. As I drive about southern Indiana, I am impressed with how often fires occur and how much damage they do. I am also reminded how important it is for all of us to be fire conscious.

Fire is a leading cause of accidental death in the nation. The United States has one of the worst fire safety records in the industrialized world. The U.S. fire death rate is more than twice the world average. Last year 6,000 Americans died as a result of fires and 100,000 people were injured. Property damage from fires exceeds $6 billion annually. In Indiana last year 150 people died as a result of fires. This year more than 25 Hoosiers have died from fires. Damage from the Scottsburg fire has been estimated at $2 million, with three businesses destroyed and two other buildings damaged. Fortunately, no one was killed, or even injured.

Most fires occur in the home. About 80% of all fires occur there. Fires causing deaths and injuries usually occur between midnight and dawn. Children and older persons run the greatest risk of dying in a fire. Most deaths occur not from burns but from smoke inhalation, and could be prevented by smoke detectors. The primary causes of residential fires include faulty electrical and heating systems, cigarettes and lighters, and human error. Often the burning material smolders, heating surrounding material, so that once a flame appears, it quickly spreads and can engulf an entire house in less than two minutes.

Since it is difficult to stop fires once they have started, finding ways to prevent fires from starting, and reducing damage of already-started fires is critical. Tragically, some 85% of all fires are preventable. They start by carelessness or malevolence. Devices such as smoke detectors and sprinkler systems can help to reduce the damage that a fire can do. Smoke detectors are useful as an early warning device giving people time to get to safety, and sprinkler systems help protect property, and contain fires in public places such as hotels and high-rise buildings.

Fire safety has traditionally been left primarily to state and local governments. But the federal government has recognized that fire safety is a serious problem in the U.S. and has assumed a limited role. In 1974 the Congress set up the U.S. Fire Administration to coordinate fragmented federal efforts. It is one of the lesser-known federal agencies, but its work is important. The Fire Administration has programs on fire prevention and arson control, firefighter health and safety, and fire data and analysis. Recent Fire Administration efforts have included setting safety standards for firefighter suits, developing low-cost smoke detectors and residential sprinkler systems, assisting community volunteer fire prevention programs, and providing a host of public education programs. The Center for Fire Research located at the National Bureau of Standards provides the scientific basis for fire prevention and control. For example, the Center has developed computer models for studying and predicting the behavior of fires which are used by architects to make safer buildings. The federal government also maintains a National Fire Academy for improving the skills of firefighters through training and outreach programs.

Annually the federal government spends only $20 million on fire safety. Some have suggested eliminating or sharply cutting the federal fire programs, arguing that fire safety is best left to state and local governments. Though some cuts have been made and staff levels have been reduced, the Congress has resisted proposals to eliminate these programs. Overall, my sense is that the federal fire safety efforts have made significant contributions and are worth continuing. While the U.S. continues to have one of the world's highest rates of both fire death and property loss, the federal programs have helped bring about declines in both, saving lives and billions of dollars.

States and local governments are responsible for building codes, construction rules, and safety inspections. In 1984 Indiana was the first state to combine several state offices to ensure that all aspects of fire safety, from building codes to elevator safety, are handled by one agency. This has cut down on red tape and has made it easier to monitor building codes and safety features. Other states are now using Indiana as a model to centralize fire regulations and inspection. However, much work remains to be done by the states, including better monitoring of buildings and enforcement of safety codes.

Local fire departments are the key to the control of fire damage and death. In Indiana, 90% of all the fire departments are volunteer. Among the problems that volunteer fire departments face is the rising cost of fire prevention. A new fire engine can cost from $100,000 to $200,000. Volunteer fire departments receive funds for equipment through local taxes, such as property taxes. But since 1974 Indiana has had a property tax freeze. This means that the money given to the fire departments has remained about the same while the costs of operating fire departments have risen as much as 400%. Until 1984 the volunteer departments received federal revenue sharing dollars to help pay some of the increasing costs, but that money is no longer available.

Improving our fire prevention efforts must be addressed on a variety of levels. Cities, counties, and states must make greater use of available technologies to improve building codes, and beef up their inspection programs. Schools must expand fire safety education efforts. The private sector can provide seed money for federal fire safety activities and help with public education efforts. Families should practice home exit drills and make sure they have working smoke detectors in place. At the national level, we should continue to conduct research into the causes and prevention of fires, disseminate fire safety information to states and localities, and, most importantly, provide an education campaign about the hazards and prevention of fire. The single most effective action we can take is to increase public awareness of the severity of fire problems in the U.S. and improve public vigilance of fire safety. The fire in Scottsburg reminds us that fires do not just happen somewhere else.

CHANGES PROPOSED FOR TERMS OF OFFICE IN HOUSE AND SENATE

HON. JOEL HEFLEY

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. HEFLEY. Mr. Speaker, I rise today to introduce an amendment to the Constitution of the United States that would lengthen the term of office for Members of the U.S. House of Representatives to 4 years; require that terms for Members of the House coincide with Presidential elections; limit the length of time any Member of the House may serve to three consecutive 4-year terms; and limit the length of time any Member of the Senate may serve to two consecutive 6-year terms. Representatives and Senators that are in office the full 12 years will be allowed to bid for reelection only after being out of his or her congressional seat one full term.

The term of office for Members of the House has been the subject of debate ever since the Constitutional Convention of 1787, with the majority of the discussion being spent on the length of term. In modern times, however, the debate has expanded to include limited tenure for both Representatives and Senators.

At the Constitutional Convention in 1787, the present 2-year term for Members was determined only after a compromise was reached between those who wanted a 1-year term and those who wanted a 3-year term. It is interesting to note that only one person, George Mason, spoke out in favor of the 2-year term. The first resolution to lengthen House terms to 4 years was introduced on February 8, 1869, during the 40th Congress. Since that year, only five Congresses have not seen the introduction of at least one proposal to change House terms. On June 20, 1906, the House passed a measure to lengthen House terms by a vote of 89 yeas to 86 noes, but failed because two-thirds majority in favor required to amend the Constitution was not attained.

Several Presidents have been in favor of lengthening House terms, including Harry S. Truman, Dwight D. Eisenhower, Lyndon B. Johnson, and Richard Nixon. In 1951 President Truman proposed to lengthen House terms to 4 years, with elections coinciding with Presidential elections, and limit to 12 the number of years both Representatives and Senators could serve. President Eisenhower, in 1955, was a proponent of 4-year terms for Representatives with their elections coinciding with the President, and he also endorsed a 12-year limit for Congressmen stating: "What is good for the President might very well be good for Congress." In 1966 President Johnson was a proponent of extending the terms for Members of the House to 4 years. President Nixon advocated lenghtening House terms to 4 years on May 16, 1973, by stating:

> Personally, I have long favored the 4-year term for members of the House, with half of the Members elected every 2 years. Members serving for two-year terms have to spend one of every 2 years running for reelection, with the result that they serve 1 year and run one year. This not only places an enormous burden on the Member himself; it also can work to the disadvantage of his constituents and of the country. By reducing the extraordinary campaign burden on its Members, I believe the House of Representatives could be a more effective instrument of government.

I believe that the time has come to allow Representatives enough time to do what they are elected to do, and that is represent the people in the best way possible. After all, our forefathers established the House of Representatives to be the House of the people. With 2-year terms, Members are constantly thinking about their next election, which distracts them from devoting full time to their elected office. Four-year terms would allow Members more time to deal with the volume and complexity of present-day legislation, and it would give them more time to gain valuable experience and knowledge on major issues.

Length of tenure for Members of the House and Senate is an issue that should be acted upon for the betterment of our country. Turnover in both bodies of Congress would benefit the legislative system as a whole by allowing fresh minds, on a routine basis, to bring new and innovative ideas to the legislative branch. In addition, limited tenure would change the seniority system and solve many problems that have plagued the House and Senate for several years. Although my bill limits congressional tenure at 12 consecutive years, those Members who desire additional terms may bid for re-election after remaining out of office for one term. I believe this concept will break up seniority from time to time and allow for greater flexibility and distribution of power among the congressional leadership.

Although this type of legislation has been introduced on several occasions and received little or no congressional action, it is my hope that this proposal will go through the proper legislative procedures and reach the House and Senate floors for a vote. The majority leadership has buried proposals like this for too long, and now is the time for Congress to seriously consider this type of legislation. I urge my colleagues to thoroughly review this constitutional amendment and support it as it goes through the legislative process.

Mr. Speaker, I include the text of the bill to be printed in the Record.

The text of the bill follows:

H.J. Res. 548

Joint Resolution proposing an amendment to the Constitution of the United States to provide for four-year terms for Representatives and to limit the number of consecutive terms Senators and Representatives may serve

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

"Article —

"Section 1. The House of Representatives shall be composed of Members chosen every fourth year by the people of the several States, and the electors of each State shall have the qualifications requisite for electors of the most numerous branch of the State legislature. The four-year term of office of the Members of the House of Representatives shall begin on noon of January 3 of the year in which the term of office of the President begins.

"Section 2. No person who has served three consecutive four-year terms in the House of Representatives shall be eligible to serve in the House of Representatives during the term immediately following the third such consecutive term. No person who has served two consecutive six-year terms in the Senate shall be eligible to serve in the Senate during the term immediately following the second such consecutive term.

"Section 3. Only terms beginning after the date of the ratification of this article shall be taken into account in determining eligibility for service under section 2.

"Section 4. The provisions of this article shall take effect at noon on January 3 of the first calendar year which begins after the date of the ratification of this article and in which the term of office of the President begins.".

MODERNIZATION OF U.S. CIRCULATING COIN DESIGNS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. RANGEL. Mr. Speaker, I would like to make some comments in favor of the bill pending in Congress for the modernization of U.S. circulating coin designs.

Some people have suggested that the legislation currently being considered would circumvent the authority of the Secretary of the Treasury. However, the Congress also has the authority to change coin designs. In fact, we did so in 1975-76, when we mandated the bicentennial of the Independence reverses of the quarter, half dollar, and dollar coins, and we did so in 1964, when this body changed the half dollar to feature President Kennedy on the obverse and the Presidential Seal on the reverse.

There is concern as well over the poor judgment shown by Congress in the past in the matter of the Susan B. Anthony dollar. Let me say that unlike that ill-fated coin, our legislation seeks only design changes. We are not attempting to change the size, weight, color, denomination, or composition of any coin, merely the designs.

If the Anthony dollar failed, it was not because of its design, although that left something to be desired. The failure of that dollar coin was because its size was too close to that of the quarter. Everyone agrees on that point.

In answer to critics who claim that new coin designs do not always result in greater seigniorage I would like to point out that in all but one instance of new coin introductions in the last 40 years—1959, 1964, 1976, and 1981—there has been an increase in coin production and more seigniorage. Even the Treasury admits that revenue will be enhanced. The numismatic scholars agree. In fact, the only dispute about revenue from changing coin designs is the amount.

In addition to the income from seigniorage, profits will be realized through the sale of special sets to collectors, the very people who are the most active in asking for this change in design. Lest we think this group of collectors is insignificant, let us examine for a few moments their buying power which means our profit potential. On March 9, 1988, the U.S. Mint reported to the House Appropriations Subcommittee for Treasury, Postal Service, and General Government. For the fiscal year 1987-88 the Mint reported seigniorage profits of $458 million. In addition, profits of roughly $320 million were reported from other noncirculating coinage programs including commemoratives, American Eagle bullion coins and other special offerings. Put simply, some $320 million in profit in addition to the seigniorage, is mostly directly attributable to the collectors who have made our Government the Nation's largest coin dealer.

Let me add that the record of increased collector buying is clear in the case of all recent coin design changes. As with the seigniorage, we may not be precisely certain as to just how much additional collector buying there will be, but we have every reason to believe that it will take place, as collectors are some of the most vocal proponents of circulating coin design changes.

This collector constituency is not to be dismissed. It has been instrumental in the success of commemorative programs. It purchased those coins by the hundreds of millions of dollars, if we turn our backs on it over circulating coin designs, might it not do the same the next time there is a commemorative we want it to buy?

Let me point out that there was a bicentennial of the Constitution commemorative. The celebration of that great event does not end in 1990 as some have suggested, but rather in 1992, plenty of time for the first new circulating coin with the special bicentennial of the Constitution reverse as called for in H.R. 3316. We had such special reverses in 1976 and they were extremely popular. We also made special silver coin sets of them which substantially increased our revenue from the 1-year change. We call for a 2-year change not wanting to duplicate the bicentennial of the Constitution commemoratives, but rather because the Constitution is important to us all. Why not put a reminder of that great document in the hands of every American?

Some have asked whether the only support for this idea comes from coin collectors. The initial proposal came to us from the Commission of Fine Arts which passed it unanimously. The Commission of Fine Arts did so in its capacity to recommend to the Secretary of the Treasury and to the Congress on matters regarding the aesthetics of U.S. Coins and Metals. To the best of my understanding, no one on the Commission is a collector. The proposal has also been endorsed unanimously by the Commission on the bicentennial of the U.S. Constitution. This Commission is headed by former Chief Justice Warren Burger and includes Members of this body, the Senate, and a large number of public representatives. Let me add that in the Senate the companion legislation now has 55 cosponsors and surely some if not most of them are not collectors.

Let me discuss the question of what designs the new coins will have. We have spelled out very clearly that the presidents will remain on our coins. Our wording will remain as required by law. The first reverse will be in honor of the Constitution. The only aspect of the new designs which have no specific guidelines are the reverses other than the first one changed.

We have an established procedure for changing designs. That procedure has remained basically unchanged for decades with the Secretary of the Treasury making a final determination.

Some have questioned whether we need an advance public consensus on new designs. No such advance design consensus exists when we approve a new commemorative coin. No consensus existed when the American Eagle bullion coins were proposed, but that did not stop us from going ahead. We know that public taste cannot be mandated legislatively. That hasn't stopped us in the past; whether the matter was circulating coins, boullion coins, or commemoratives.

If anything, I suspect we will find new designs will excite the American people. We have seen that with our most recent issues and we've seen that in the past. To remain stagnant is an anathema to the people.

It is my firm conviction that the collectors are virtually unanimous in wanting a design change. We have seen letters, petitions, polls, and every other possible form of communication on that point. I am certain most Members would agree that the revenue raised from these collectors is more than welcome.

Frankly, Mr. Speaker, this Member does not want to raise taxes and he does not want to cut back on programs. If anything, there are some programs which need more money, not less. I see roughly $300 million in the past year alone going into the Government's coffers from these collectors and projections of much, much more at their request. They want to spend their money with us and I for one think we can find a good use for it. Like it or not, they are our customers and they are saying they will pay us for a new product. Does anyone seriously think the American people would prefer new taxes to new coin designs? Does anyone seriously think that we can continue to cash checks for hundreds of millions of dollars from these collectors without considering their desires in return?

Already I see some signs that collectors want us to consider their concerns. Sales of proof bullion coins were down this year. After 6 weeks, the Olympic commorative gold coin orders equalled less than 50 percent of the Statue of Liberty gold coin orders and less than 25 percent of the bicentennial of the Constitution gold coin orders during the same period of time. I submit to you these collectors are now sending us a message with their wallets. They are telling us that if we want their continued support, they want new designs. I, for one would prefer new designs and the opportunities that they present to the prospect of explaining to the people in my district that we waited for the Secretary of the Treasury to change designs and he didn't, so we lost millions if not billions of dollars in revenue. The people of my district elected me to lead, not to wait for the Secretary of the Treasury.

I submit to you today that coin design changes represent a great opportunity. Even if there was a legitimate concern about new designs, when balanced against the revenues these coin programs bring, I am certain that the Secretary of the Treasury and the Commission of Fine Arts can find us appropriate designs. Surely they can do no worse than some of the ones we have now. We have provided direction in terms of design. We have more than ample proof of the revenues raised from collectors and of their desires. It seems to me that all we need now is the courage to move ahead with an idea whose time has come.

RESOLUTION SUPPORTING U.S. ACTION IN PERSIAN GULF

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. COUGHLIN. Mr. Speaker, yesterday Representative SONNY MONTGOMERY joined me in introducing House Concurrent Resolution 283, a Sense of the Congress measure commending the President for his judicious use of United States military forces in the Persian Gulf and praising our service personnel for the fine job they have done in protecting American interests there.

Mr. Speaker, recent events in the region, including the hijacking of a Kuwaiti jetliner, the sowing of new mines in the Persian Gulf by Iran, Iranian military clashes with United States forces, and renewed threats to American hostages, make clear that the region is fraught with difficult problems.

The United States, however, has very important national security concerns in the region. While Members of Congress may have different views on what the exact nature of America's involvement in the region should be, I think all my colleagues would agree that our Nation cannot simply walk away from the Persian Gulf. We have a role to play there. And if a foreign nation takes hostile action against us, we have the right to defend ourselves.

In light of this, it behooves the Congress to go on record in support of the President's judicious decisions to deploy additional forces to the Persian Gulf last year and in support of the measured reponse that the President pursued following Iranian aggression against United States forces on Monday. The President properly put Iran on notice that the United States will not allow Iran to take offensive actions against American ships or aircraft with impunity.

Moreover, this resolution would put the Congress on record in support of the excellent job that American military forces have done in protecting United States interests in the Persian Gulf area. We should remember that American forces have conducted numerous convoy escort missions, with great success, over the course of many months. They have done so under conditions of high tension, constant deprivation, and, as we have seen recently, the possibility of violence. American military personnel in the region, including all branches of the Armed Forces, have performed admirably. House Concurrent Resolution 283 would recognize this outstanding record, specifically calling on the services to provide an appropriate decoration to those U.S. personnel who have served in this important region since the beginning of the first convoy escort mission.

Mr. Speaker, this is admittedly a small token of appreciation for our service personnel on duty in the Persian Gulf and neighboring areas. I think, however, that it is an important one just the same. Our sailors, our marines, our soldiers and our airmen deserve and would appreciate this demonstration of support from the Congress. I urge my colleagues to join SONNY MONTGOMERY and me in cosponsoring House Concurrent Resolution 283.

THE DODECANESE ISLANDS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. PEPPER. Mr. Speaker, the Dodecanese Islands which lie off the coast of Greece have a long and proud history. I became acquainted with these islands and their people after World War II when I was able to support their cause and assist in their return to Greek ownership.

On March 21 the Dodecanese Society held a dinner in Washington, DC, to commemorate the 40th anniversary of the Dodecanese Islands return to Greece. I'd like to share with you the remarks that were made that evening by our distinguished colleague, Congressman MICHAEL BILIRAKIS of Florida.

The material follows:

REMARKS OF CONGRESSMAN MICHAEL BILIRAKIS

Honored guests, beloved friends, fellow "patriotes," ladies and gentlemen, good morning!

I am deeply proud to have been invited to be with you tonight. You bestowed a great honor on me last year when you chose me as your "Dodecanese Man of the Year." While I have received other similar titles, yours has been special because it came from my own kind. The honor which you bestowed upon me came from those who know, as I know, another land; from those whose roots lie, like mine, in tiny islands far, far away. It came from people who, like me, have planted seeds in a new country that they have worked hard for, nurtured, and protected. In short, it came from people with whom I share a common past—a common hellenic and Dodecanese experience that is the unparalleled combination of proud history, noble character, and indomitable spirit which has served as the guiding lamp for civilizations to follow.

Yes, my friends, you did me a great honor and I cherish it and, again, thank you.

Tonight, however, we are here to honor the fortieth anniversary of the return of the Dodecanese Islands to Greece. I'm sure you'll agree that nothing can be said about this momentous event without commending my distinguished colleague and dear friend, Senator CLAUDE PEPPER, for his tireless efforts in our behalf.

For those few who may not have followed his illustrious career, Senator PEPPER has been a tireless and indomitable leader throughout decades of public service to his country and fellow man.

The Senator is the personification of selflessness and commitment to public service par excellence. He traditionally lends his most capable hand to the side of right and inevitably, helps it to prevail as he did when he saw right and justice in the Greek cause and helped us to prevail with his sense of the Senate resolution in 1946. CLAUDE, on behalf of all my fellow "patriots," in the

United States, as well as Greece, I extend a heartfelt, warm, "efharisto," thank you.

My friends, just as the Dodecanisa are grouped together because of their common characteristics, you and I, similarly, share a common experience that bonds us close. Your parents, like my beloved parents, Emmanuel and Irene Bilirakis, traveled to this shore in search of a better life for us, their children. They came here weatherbeaten and tired, with nothing but the clothes they wore on their backs. While they lacked material goods, however, they carried with them something that is of greater value than all the material possessions in the world—the willingness to work hard and the determination to make a life for us, their children, that was better than that which they knew.

We have been fortunate, my friends, to grow up in this "Land of Plenty." Our parents struggled to learn the language, to learn marketable skills, to make a living, to keep a roof over our heads, to educate us, and to rear us in the Hellenic tradition.

Fellow "patriots," we are blessed with the richness of two worlds. We have had instilled in us the teachings of two schools, old versus new, traditional versus contemporary. Hellenic versus American. My friends, we are rich indeed.

We have within us the benefit of two philosophies and two ways of looking at the world. We are able to pursue an objective, a goal, or an obstacle with the benefit of all our "schooling"—that which we received in the classroom, certainly, but even more importantly—that which we received from our parents at the kitchen table.

Our Hellenic heritage has given us many commendable attributes: pride, honor, love, a strong work ethic, and a commitment to excellence that is unparalleled. Let us not, therefore, forget whence these gifts came from. Let us do whatever we can to preserve, protect, and enhance these gifts so that our children may benefit from our rich heritage as we have done.

Back in Tarpon Springs, Florida, where I come from, you can take a stroll down the street and see a determination to preserve the Hellenic traditions at its best.

From the St. Nicholas Cathedral packed with the Orthodox faithful, to the sponge divers on the docks, to the old men playing "hartya" and backgammon in the "kafenia," Tarpon Springs has preserved and maintained the traditions which were brought to its shores generations ago!

It is not, however, just the adults who follow the traditions their parents taught them. In Tarpon Springs, I am proud to say, the newer generations have, similarly, learned and practice the traditions of their parents, grandparents, and great grandparents.

In my own family, I have attempted, as my father did with me, to instill the best of both worlds into my sons' lives. They have, fortunately, grown up to love the country they were born in, yet still be aware of, and proud of, their Greek heritage. They fluently speak the language their grandparents spoke, they dance the same dances, and share the same traditions. They, in short, feel the love their grandparents felt for Greece and to feel the pride in self and country that comes from being Greek.

Our individual efforts at maintaining the Greek traditions in our homes must, similarly, be duplicated on a larger scale, on the local and national levels, so that Hellenism will live on. We must work together, as one family, united against a common enemy—that enemy being the decline and eventual extinction of the Hellenic tradition from our children's and grandchildren's lives.

As to all issues and matters, we have a real advantage, my friends. We have an ethnic base—four million strong in the United States. This is our greatest asset. But the asset is of benefit only if we truly unite so that we may, in turn, effectively petition and influence our governments, local, State, and Federal, to follow the paths and policies that will be most beneficial to our interests as Greek-Americans.

It's important, however, that we bear that distinction in mind. I said "the paths and policies that will be most beneficial to our interests as Greek-Americans." We are, after all, Americans first who have a responsibility to preserve the liberties and freedoms that we have been fortunate enough to know in this great country.

We must take the initiative and become involved. We must be wary of those who claim they have our genuine interests in mind but who, in reality, use our heritage and our great numbers merely for the attainment of some personal goal or end.

While our great numbers and our excellent image in our communities are assets, they can, just as easily, become liabilities if we become robots and do merely as "Gianni" or "Kosta" down the street do—regardless of whether or not we believe in our hearts that it is right.

We have a responsibility—a responsibility to be taken very seriously—to educate ourselves on the issues of these days and to determine what is best for ourselves, for our children, for our businesses and livelihoods, and for the overall good of Greece, Cyprus, and, particularly, of our beloved United States of America.

As I'm sure you'll agree, Greeks have historically never been ones to sit daily by and be dictated to, used, or manipulated. We are all chiefs—sometimes Indians, but mostly Chiefs—and, as such, we are smart and deliberate in our decisions and actions.

We must retain our culture, traditions and heritage. We must be united, always, as we consistently endeavor to achieve the responsibilities which I mentioned earlier. We must be good Greeks and great Americans. These are our challenges and obligations. We must meet them.

I owe this to the memory of my beloved father, you owe it to the memory of your mothers and fathers, we owe it to ourselves, and we owe it to the future generations who deserve to continue to be proud to say, "I am a Greek American."

Thank you, my fellow "patriotes", may God bless you all.

ARMENIAN GENOCIDE

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. GREEN. Mr. Speaker, I rise today to memorialize the tragic slaughter of 1.5 million Armenians, which began 73 years ago. In the 8-year period between 1915 and 1923 the Ottoman Empire conducted a brutal, systematic persecution against the Armenian people. The genocide began with the arrest and execution of leading intellectuals and clergymen and the massacre of young Armenian soldiers. Soon hundreds of thousands of men, women, and children were forced to walk to their deaths through Asia Minor to the Syrian Desert.

When we recall the Armenian Genocide, we are reminded of one of the darkest chapters of our world's history. It is painful to admit that human beings are capable of such heinous acts. Yet we should not deny history. We must not forget what happened to the Armenians, and we must make sure it never happens again.

Already the horrible act of genocide has been repeated twice in the 20th century: Once by Hitler, and again in Cambodia. When someone suggested to Hitler that world public opinion would be hostile to his "final solution of the Jewish problem," Hitler responded, "who remembers the Armenians?" If we allow such events to slip from our minds who is to stop another tragedy?

Unfortunately, in August 1987, the House failed to approve the rule for consideration of House Joint Resolution 132, a bill which would designate April 24 as a "National Day of Remembrance of the Armenian Genocide 1915-1923." It is a national shame that Congress, bowing to the pressure of the Turkish Government, rejected a day to honor the Armenian people and to remember the cruel acts we must never allow our world to repeat.

To this day Turkish officials do not admit to the Armenian genocide, although Kemal Ataturk, founder of modern Turkey, condemned the "massacres of millions" by his Ottoman predecessors. They deny it despite the fact that in 1915 U.S. Ambassador Henry Morgenthau telegrammed that "a campaign of race extermination is in progress" against the Armenians. Turkey's denial of the massacre only elevates the purpose of observing this anniversary.

I am cognizant of the crucial role Turkey plays in NATO, and I greatly value our alliance with that nation. Yet, I do not agree with Congress's fear of angering its government, for this resolution does not blame present-day Turkey for the events of 1915. In fact, it specifically states that the genocide occurred under the Ottoman Empire, not the Republic of Turkey.

Though no one has the power to change the past, we do have the ability to shape the future. That is why I ask all of my colleagues to join with me in remembrance of the terrible tragedy the Armenians endured. No people should have to face such persecution twice.

DESPITE GLASNOST, COMMUNISM STILL PRODUCES REFUGEES WHO "VOTE WITH THEIR FEET"

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. RITTER. Mr. Speaker, all of America and the free world is watching to see if glasnost can grow in the hard earth of communism. President Reagan was on target when he said, with respect to the Berlin wall, "Mr. Gorbachev, tear down this wall." But too many walls remain.

Last month in Havana, Gen. Doan Khue, a Politburo member and chief of staff of Vietnam's Peoples' Army concluded a 10-day visit with Gen. Ulises del Toro, chief of staff of the Cuban Revolutionary Armed Forces. Radio Hanoi reported "the two sides discussed measures to promote cooperation between the two armies on the basis of fraternal solidarity and proletarian internationalism."

We note that 30 years after Castro "liberated" Cuba, refugees are braving unbelievable dangers to flee. And 13 years after the Soviet-backed, North Vietnamese invasion of South Vietnam, countless numbers of Vietnamese "boat people" are still drowning in the Mekong River and the Gulf of Thailand desperately trying to escape. An April 19 article in the Washington Post by Murray Hiebert states:

> Since January, Thai marine police, the Navy and fishing boats have formed a blockade, sealing Thailand's eastern sea border with Cambodia . . . Refugee officials here (Bangkok) estimate that at least 170 refugees died, mostly from drowning when their boats were pushed off, during the first few weeks of the blockade.

Mr. Speaker, the free world has a real challenge to deal with this situation or, as Al Santoli writes with respect to the refugees, to leave people seeking to escape enslavement by Communist masters "stranded on barren isles." We must continue to press forward with actions, not just words, resulting from glasnost and perestroika and see that such policy extends throughout the Soviet empire. Otherwise the crush of refugees will be unbearable. Second, a plan should be initiated within the United Nations to protect the refugees from totalitarian Communist oppression.

Al Santoli, author of "Everything We Had" and "To Bear Any Burden: The Vietnam War and Its Aftermath," also serving as associate editor of Parade magazine, is a writer specializing in Southeast Asian affairs. In the March 29 issue of the Washington Times he writes of the tortuous problem of refugees coming out of Communist Southeast Asia. I include the article at this point.

(By Al Santoli)

STRANDED ON BARREN ISLES

"Dear brother: I am now on Koh Kut island. I was together with 100 people. The boat turned over and 17 drowned. Smugglers left us on this island. We were robbed. Not enough water and food, especially for the children. Please contact the United Nations to help us. Contact mother and tell her that I am still alive."

This desperate plea from a young woman to her brother in the United States represents hundreds of desperate families who fled totalitarian Vietnam and are now stranded on barren islands in the Gulf of Thailand.

In late January, the Royal Thai government closed its borders to refugees from neighboring communist states. At least 200 men, women, and children have lost their lives after being pushed off the coast by Thai officials or their boats were rammed by deputized fishermen or pirates. Hundreds of others have undoubtedly drowned after being dumped into the Gulf by Thai and Cambodian smugglers. And further north, the Laotian border has been closed to entry of persecuted Hmong families.

To make this tragedy worse, the Reagan administration has considered cutting back the modest number of refugees accepted from Southeast Asia this year, and is proposing further reductions for fiscal 1989. This is tantamount to denial of first asylum in Asia, issuing death sentences to thousands of innocents.

In a series of tough public statements, high ranking Thai Ministry of Interior officials justify their cruel new policy by calling the refugees "economic migrants." However, during interviews with groups of these boat people stranded on the islands, I found that many were families of re-education camp prisoners, and others who carried documents certifying that they had applied in Vietnam to join families in the United States through the Orderly Departure Program.

In a trip to the Laotian border, I found that many of the Hmong are families of former soldiers, persecuted for their past relationship with the United States. The Hmong refugee camp at Ban Vinai is now closed to new arrivals. Relief officials and Hmong in the United States fear that the Thai will again give the Laotian communists "blood gifts," by returning unwilling refugees to certain execution.

On March 11 Thai Deputy Minister of Interior Somphorn Klinohongsa asked the United Nations High Commission for Refugees to tell Vietnamese communist authorities to stop their people from leaving the country, "or else Thailand may have to send their bodies back to Vietnam." Relief agencies and diplomatic sources express concern that the anti-piracy effort has collapsed.

A United Nations survey of nearly 1,500 boat people who arrived in the southeast Thailand province of Trat during January, before the borders were closed, showed that nearly 66 percent had been in re-education camps or were the families of re-education camp prisoners.

All had come to Thailand through a cynically orchestrated pipeline where, for a price, communist officials truck them through war-torn Cambodia, which is being colonized by Vietnamese troops. In the ports of Kompong Som (formerly Sihanoukville) and Koh Kong the refugees are loaded into Thai and Khmer smugglers' boats for another fee.

Farther south, along the Malay peninsula of Thailand, refugee boats come directly from Vietnam, braving Vietnamese naval patrols and 200 miles of pirate- and shark-infested water. In recent weeks Thai officials have also turned back boats in this area. Recently, more bodies reportedly washed up on Thai beaches.

Although some minimal assistance has been given to people stranded on one island, there are 50 other islands in the Gulf that need to be routinely searched. Despite pronouncements by the Thai Foreign Ministry that asylum seekers will be treated more humanely, the interdictions at sea and pushback of refugee boats continue, as does the sealing of the Laotian border along with churlish treatment of Hmong refugees.

To protect the refugees in Thailand, many of whom are former allies and associates of America, the Congress and administration must fund the emergency provisions of the Refugee Act, which was recently requested by the president's interagency panel. This would cover the resettlement of the new flow of Soviet Jewish and Armenian emigrees without numbers having to be transferred from the Southeast Asia quota for 1988.

The Thais and Malaysians must be guaranteed that an equal number of 29,500 refugees will be accepted from the region in 1989. Immigration and Naturalization Service officers in the field must cooperate by processing this number.

At present because of INS footdragging there is a threat of falling 2,000 to 5,000 short on off-take from the region this year. And there is no excuse for falling short on the Orderly Departure Program quota, which is intended to process compelling cases and relatives of American citizens directly out of Vietnam to decrease the number of desperate boat refugees.

Bipartisan support for maintaining the refugee program has been expressed by legislators such as Republican Sens. Mark Hatfield of Oregon and Rudy Boschwitz of Minnesota; Democratic Sen. Claiborne Pell of Rhode Island; Democratic Reps. Peter Rodino of New Jersey, Chet Atkins of Massachusetts. Stephen Solarz of New York; and Republican Reps. Jim Leach of Iowa and Bob Dornan of California.

However, other key legislators such as Democratic Sen. Edward M. Kennedy of Massachusetts and Republican Sen. Alan Simpson of Wyoming have added to bureaucratic inertia by advocating repatriation back to the communist countries as an alternative to the resettlement option. Their attitude can create a historic parallel to the fate of German Jews in the 1930s and the return of Soviet and Eastern European displaced persons to Soviet gulags at the end of World War II.

America's attitude toward refugees is also seen in the broader picture of our relationship with the young democracies of Southeast Asia. The legacy of the U.S. abandonment of Indochina, while a disturbing memory for Americans, is an ever-present fact of life for the people of the region.

At a recent congressional hearing on the refugee crisis, William Brown, the U.S. ambassador to Thailand, stated that if America's commitment to refugee resettlement is reduced, first asylum for refugees in Thailand, and subsequently the entire region will be lost, creating substantial loss of life among brave Hmong who fought for us, as well as Vietnamese re-education camp prisoners who fought beside us, and their families.

Surely, even in this age of cynicism and political opportunism on most issues. America's most basic premise of being a beacon of hope for those who dream of freedom should be maintained.

HOOSIER ELECTED TO LEAD NATIONAL TRUCKING GROUP

HON. JOHN T. MYERS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. MYERS of Indiana. Mr. Speaker, I am pleased to call to the attention of my colleagues the fact that Mr. Thomas R. Schilli, president of Schilli Transportation Services in Remington, IN, was elected today as president of the Interstate Carriers Conference.

An affiliate of the American Trucking Associations, the conference represents more than 600 trucking companies and 200 affiliated members throughout the United States and Canada. Conference members provide vital trucking services to 49 of our 50 States and all Canadian provinces.

Mr. Schilli, who resides in Lafayette, has held numerous leadership positions within the conference and the Indiana Motor Truck Association. He has been in the trucking business since 1969 and is a native of St. Louis, MO.

The conference has chosen well in selecting an outstanding leader in Tom Schilli.

THE IMMIGRATION NURSING CRISIS RELIEF ACT OF 1988

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. GALLO. Mr. Speaker, I am pleased to join with my colleague from New Jersey, FRANK GUARINI, as an original cosponsor of legislation to alleviate a critical situation facing immigrant nurses in our State and others. I urge the immediate consideration of the Immigration Nursing Crisis Relief Act of 1988.

Many immigrant nurses in New Jersey who have helped close the 17-percent vacancy gap of nursing positions are threatened with deportation due to expiring visas.

This legislation would extend these nurses' temporary work permits for 1 additional year. Further, the bill calls for the Secretary of Health and Human Services to declare the extent of the national nursing shortage and determine the number of additional immigrant visas necessary to address the shortage.

Immigrant nurses who enter this country under this program would be permitted to apply for permanent resident status as long as they remain in the profession for an additional 5 years.

Recently, my special ad hoc Committee on Health Care Issues, comprised of the hospital administrators from the 11th district, reported that:

> It is imperative that the immigration requirements for foreign nurses be modified so as to allow more ease in bringing out-of-country professionals to the United States during this critical period. We believe some sort of "emergency" status should be provided to nursing individuals seeking work in this country in order to expedite immigration and citizenship proceedings. Currently, recruiting efforts are hampered by infrequent administration—only twice a year—of the required English proficiency examination as well as a 3-year maximum entry period for work-related purposes.

Just this past Monday, I met with a group of nurses from my district who pledged their support for Federal immigration legislation that would prevent the deportation of thousands of specially recruited foreign nurses across the country. One representative of a nursing home in northern New Jersey reported that nearly half of the visas of their nursing employees will expire in the next year or two.

While this is only a short-term solution, it is important that we act now to prevent our hospitals and other health care facilities from being forced to close more hospital beds and further limit services to patients.

ALBERT L. AND MARY B. SHARP, 1988 RESIDENTIAL CITIZENS OF THE YEAR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. TORRES. Mr. Speaker, I rise today to commend the recipients of the 1988 Residential Citizens of the Year, Mr. Albert L. and Mary B. Sharp. This distinction is awarded each year by the Santa Fe Springs, CA, Chamber of Commerce.

Albert and Mary Sharp exemplify the type of outstanding citizens that have helped to develop the city into a great community to live and work. Both have lived in the city for 30 years and have raised their two sons in the community.

Active in numerous school activities and the PTA for 26 years, Mary Sharp was elected to the Board of Education of the Little Lake City School District in 1985. In addition to her board duties, Mary is also a member of the Santa Fe Springs Women's Club, the city's Beautification Committee and the Rio Hondo Symphony Association. Mary also finds time to help with the library, Christmas floats, and home decoration committees, and the board of directors for the Santa Fe Springs Community Playhouse.

Albert Sharp has been equally active in school and civic affairs. In 1982 he was elected to the Santa Fe Springs City Council and has served as mayor during 1985-86. Like Mary, he also served on the Little Lake City School District Board of Education from 1974 until 1982. In addition to his council duties, Albert [Al] serves as commissioner on the city's Redevelopment Agency and Housing Authority.

A vice president for Jensen Industries, Al is also active with various trade organizations, such as the Recreational Vehicle Industry Association, Trailer Coach Association, and the Recreational Vehicle Association. Al is a member of the U.S. Reserve Officers Association and served as a captain in the U.S. Air Force [1952-57].

Al and Mary have received numerous awards for their unselfish volunteerism and service to the community. They are role models for our young people and I have personally observed their dedication to helping the youth of Santa Fe Springs.

Mr. Speaker, I am honored to ask my colleagues to join me in congratulating my good friends and outstanding Americans, Albert and Mary Sharp, on receiving the distinction of Santa Fe Springs 1988 Residential Citizens of the Year.

POVILAS PECELIUNAS: AMERICAN CITIZEN HELD IN LITHUANIA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. HOYER. Mr. Speaker, recently the Helsinki Commission has noted a stronger effort by the Soviet Government to fulfill certain human rights obligations under the umbrella of the Helsinki Process. Evidence of this effort can be seen in substantial increases in amnesties for political prisoners and in certain attempts to limit psychiatric abuse against Soviet citizens. And in general, more Soviet citizens are being allowed to emigrate, although there are still noticable exceptions. The Helsinki Commission hopes that the liberalizing policies of the recent 2 years under General Secretary Gorbachev will continue.

Nevertheless, the fact remains that there are still thousands of Soviet citizens who are denied the fundamental right—guaranteed by the Universal Declaration of Human Rights—to leave any country, including his own. The case of Povilas Peceliunas is particularly revealing. Peceliunas is an American citizen, born of two United States naturalized citizens in the formerly independent nation of Lithuania. His American passport number is 25197282. Peceliunas has spent over 20 years in labor camp and internal exile since 1952. His latest trial was in 1980, when he was brought to trial on charges of "anti-Soviet agitation and propaganda" for allegedly editing the underground publication Alma Mater and contributing articles to the samizdat publication, Perspectives. Although the Soviet authorities declared that the trial was to be open to the public, Peceliunas' relatives and friends were not permitted admission. When sympathizers held a vigil outside the chamber, they were roughed up by the police. Thus, over 5 years after the Soviet Government signed the Helsinki Accords, obliging the signatories to respect the human rights and fundamental freedoms of its citizens, Peceliunas was sentenced to 3 years in strict-regime camp and 5 years internal exile.

Peceliunas was allowed to return to Vilnius, Lithuania in October 1987 after completing his term of exile, but his travails have not ended. He is suffering from a severe respiratory condition due to prison camp conditions. To make matters worse, a February 13, 1988 Lithuanian television broadcast devoted 20 minutes to slandering Peceliunas and his past political activities. And still Soviet authorities will not allow him to join his sister and brother in Ohio.

Mr. Speaker, the Helsinki Commission urges the Soviet Government to continue its fledgling reforms in the area of human rights by allowing all its citizens, and in this case, one of our citizens, the right to emigrate to the country of their choice. The Helsinki Commission urges the earliest possible resolution of Povilas Peceliunas' emigration request.

INTRODUCTION OF ANTI-TOY GUN THREAT ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. DREIER of California. Mr. Speaker, today, I am introducing the "Anti-Toy Gun Threat Act" to provide a penalty for criminals using a toy gun in the commission of a Federal crime of violence or Federal drug trafficking crime. Currently our Federal criminal statutes do not contain provisions for crimes committed with toy weapons in lieu of real weapons. This bill would simply apply the same Federal punishment to individuals who use a toy gun which exists for those who use a real gun.

I should note from the outset that this bill does not impose restrictions on the manufacture, sale or distribution of toy or antique firearms. Further, it would not prohibit children from playing innocent games with toy guns. The bill is intended to extend the "use a gun, go to prison" logic to Federal crimes committed with a toy gun.

While seemingly harmless, the use of a toy gun has almost as great a potential for tragic consequences as the same actions committed with a real firearm. With the realistic-looking toy guns available today, victims of violent crimes—as well as the police who respond to these acts—have virtually no way of knowing whether the attacker is wielding a fake or a real weapon. The most widely publicized example of the use of a toy gun occurred in August 1987, in Los Angeles, CA. David Horowitz, a reporter with KNBC-TV, was forced to read a statement on the air by a man who claimed to have a gun. The pistol was later found to be a toy. Fortunately, this incident did not end in tragedy. The same cannot be said of the numerous cases involving motorists and the use of toy guns on our highways.

The new Federal penalties for the use of a toy gun would come under the enhanced sentencing provisions of the Firearms Act of 1968. Should this bill be enacted, anyone using an imitation firearm in the commission of a Federal crime is subject to a mandatory 5-year prison term, just as they would be for the use of a real firearm.

"Imitation firearm" was chosen as the term to be used to define a toy gun. An imitation firearm is defined in the bill as "a device that is not a firearm, but is designed, redesigned, made, or remade to look like a firearm." This definition had to be inserted following the word "firearm" in the enhanced sentencing section of the statutes.

Since the statutory definiton of "firearm" includes "explosive devices," by defining "imitation firearm" to reflect the definiton of a firearm, the bill includes fake explosive devices as well as toy guns for purposes of imposing penalties. You might recall that on February 23 a man attempted to hijack a China Airlines flight with a fake hand grenade. Although this attempted hijacking did not occur within U.S. territorial jurisdiction, and neither the hijacker nor the airline was American, the incident points out a deficiency in U.S. law. The bill which I am introducing covers crimes committed on U.S. airlines and in areas of exclusive Federal jurisdiction.

I urge quick adoption of this measure which will close a gaping loophole in the Federal criminal statutes. The approach taken by this bill will not interfere with consumer choice or force costly regulations on manufacturers. Rather, it will only increase the cost to the criminal of using a nonfunctioning gun for the purpose which he would use a real gun. By imposing a mandatory prison term, the bill would deter future misuse of toy guns.

SEVENTY-FIFTH ANNIVERSARY OF AVENEL, NJ, FIRE COMPANY NO. 1

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. DWYER of New Jersey. Mr. Speaker, it is indeed a great honor to bring to the attention of my colleagues the many contributions of Avenel Fire Company No. 1 which is celebrating its 75th year of service May 7, 1988. This important occasion will be noted with a special fireman's parade, with fire companies from surrounding communities and throughout the State of New Jersey participating.

Early in 1912, a group of Avenel residents joined together to organize a fire company, and the company was formally chartered early the following year with 12 original members.

By the end of its first year, the company had purchased a 70-gallon chemical hand-drawn apparatus, a carboy of acid, and a barrel of soda for firefighting. Through fundraising events, the company was able to purchase property for their first firehouse and a new 250-gallon-per-minute pumper, the first piece of motorized fire apparatus in fire company history.

The new firehouse was built in 1929 at Route 1 and Avenel Street, where it has been located for the past 59 years. In 1930, the Avenel Fire Company No. 1 Ladies Auxiliary was organized. The year 1936 saw the purchase of a 500-gallon truck and the installation of a fire-alarm system, with 85 fire-alarm boxes.

Over the next 25 years, the fire company continued to expand, and in 1963 celebrated its 50th anniversary with its traditional parade and the purchase of a new 750-gallon pumper. The ensuing years saw the continued upgrading of equipment and expanded capacity, bringing this premier fire company to its diamond anniversary in 1988.

Avenel Fire Company No. 1 operates an advanced paging system, with a dispatcher on duty 24 hours a day. Indeed, the company's 46 volunteer firemen are on call 24 hours a day as well, serving their fellow residents with a high level of professionalism and dedication.

Avenel Fire Company No. 1 exemplifies the very best of our volunteer fire companies which play such a pivotal role in the safety of our communities around the Nation. These brave men and women deserve our highest praise. I am proud to offer my congratulations to all those associated with Avenel Fire Company No. 1 during its first 75 years, and extend to all of them our heartiest gratitude for a job well done.

SERIOUS DRUG OFFENDERS DEATH PENALTY ACT OF 1988

HON. DENNY SMITH

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. DENNY SMITH. Mr. Speaker, it has now been 1½ years since we passed the Omnibus Drug Enforcement Act of 1986. As we all know, however, despite our best intentions, the past 18 months have not brought victory in the war against drugs and drug dealers.

A 22-year-old policeman is murdered in New York as he guards a citizen who had spoken out against drug dealing in his neighborhood. My home State of Oregon is among the national leaders in methamphetamine labs and marijuana production. Every day in Washington, DC, adds to the body count of a record number of drug-related murders. Cocaine, heroin, and other deadly drugs continue to flow into our country, our schools, and our children.

In other words, it's "business as usual" for the drug merchants of death as they kill one another for turf and as they impose their death penalty on police, informants, and innocent bystanders. And if they ever go to jail, that's just part of the risk of making millions.

It's also "business as usual" in Congress. We stand and wring our hands as the murders continue. If we are to deter trafficking, then we must make the punishment as severe as the monetary profits are great for those who get involved in drugs.

The only nations that have halted the poisoning of their societies are the nations that subject drug traffickers to the death penalty. Several of my colleagues have introduced legislation which would allow for the imposition of the death penalty in some drug trafficking cases, and today I am adding my bill to this important effort.

My legislation would mandate imposition of the death penalty on traffickers who manufacture, distribute, or dispense controlled substances in the following instances:

First. Any trafficking violation which leads to the death of a law enforcement officer.

Second. Any violation involving 10 or more kilograms—about 22 pounds—of heroin, cocaine, PCP, or a controlled substance analogue.

Third. Any second violation involving 1 or more kilograms—about 2.2 pounds—of heroin, cocaine, PCP, or a controlled substance analogue.

Fourth. Any violation involving 1 or more kilograms, if, at the time of arrest, the trafficker is armed with a dangerous weapon.

Fifth. Any violation involving 1 or more kilograms, if there is additional evidence that the drugs involved were sold to a minor under the age of 18.

This legislation does not go as far as some of us would like, but it is a serious proposal which would put drug traffickers on notice that their free ride is over.

CREDIT UNION SYSTEM IMPROVEMENT ACT OF 1988

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. WYDEN. Mr. Speaker, today I am introducing legislation to enhance the operations of the Federal regulator and insurer of credit unions, the National Credit Union Administration. I am pleased that two members of the Banking Committee, Congressman Floyd Flake and Congresswoman Patricia Saiki, are joining me as original cosponsors of this bill.

Credit unions are a vital part of this Nation's financial services industry. Nationwide, there are more than 16,000 credit unions serving 58 million members. As not-for-profit, member-owned cooperatives, credit unions are able to provide an array of consumer-oriented services, including assistance with personal finances, services with no or minimal fees, and loans at reasonable rates to persons who are often unable to obtain them elsewhere.

Our bill does not grant new powers to credit unions or change the manner in which they conduct their business. Instead, it makes two adjustments to the internal operations of the National Credit Union Administration. This agency has played a key role in maintaining a safe and sound credit union system, and in developing a national system of cooperative credit as an alternative to our for-profit banking system.

The NCUA is governed by a three-person board, whose members are appointed by the President. Our first amendment would require that one of those board members possess substantial credit union experience, ensuring that at least one board member has firsthand knowledge of the credit union philosophy upon taking office. Report language accompanying the bill might define "substantial experience" as 5 years as a volunteer, official or an employee within the credit union system. Recently there was a vacancy on the NCUA board, and the President appointed an individual who had more than 20 years of credit union experience. We believe this is a good idea, and would like to see a requirement for credit union experience enacted into law.

The second amendment seeks to maintain a healthy balance between federally-chartered and State-chartered, federally-insured credit unions. Credit unions may choose either a Federal or a State charter, and the system has long been structured to preserve these two equally viable options. There are now approximately 10,000 Federal charters and 6,000 State charters.

However, over the past several years the forces affecting the balance have clearly tipped toward the Federal portion of the system. This has occurred for a number of reasons, including the creation of Federal insurance for credit unions in 1970. In an effort to maintain the dual-chartering system, our second amendment would require that one member of the NCUA board be assigned the job of consulting with State-chartered credit unions in the formulation and implementation of board policies and regulations. This should help to reassure State-chartered credit unions that their voice continues to be heard in NCUA board decisionmaking.

We believe these amendments to the Federal Credit Union Act will help to preserve a balanced and consumer-oriented credit union system. I would urge my colleagues to join us in support of this effort.

THE 80TH BIRTHDAY OF MIRIAM COHN

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. WAXMAN. Mr. Speaker, on April 27, Miriam Cohn will celebrate her 80th birthday. As a constituent of my district for more than 30 years, Miriam proudly wore the crown "rebbetzin." Along with her late husband, Rabbi Franklin Cohn, Miriam served the Jewish community and citizens of my district with compassion and dignity.

Miriam Cohn and her family fled Nazi Germany and came to the United States in 1939. After a short stay in New York, she took her family to Walla Walla, WA, Seattle, San Francisco, and North Hollywood before they settled in the 24th Congressional District in Los Angeles. As an immigrant, Miriam had to adapt to a new people, language, and customs. She came to embrace this country as it had embraced her when she first arrived to Ellis Island.

Miriam Cohn had to overcome heavy losses in her life: the fight for survival in Hitler's Germany, the death of her parents and brother at the hands of the Nazis, family scattered throughout the world as a result of the Holocaust, starting a new life in a foreign land, the loss of her sister in 1967 and her husband in 1971. Despite these tragedies—more than many people endure—Miriam has maintained an optimistic outlook. She does not dwell on her personal misfortunes, but serves as wise counsel to all whose lives she touches.

Miriam Cohn has raised two children, Aviva and Hillel, and is the proud grandmother of Michael, Elana, Marc, Lisa, and Todd. Her family is the core of her happiness, and she has always been a vital force in theirs. I join them in wishing her a happy and healthy 80th birthday. I hope she has many years of happiness ahead.

CRITICAL SITUATION IN NORTHERN ETHIOPIA

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. LELAND. Mr. Speaker, I have closely monitored recent developments in northern Ethiopia as the armed struggle between forces of the Eritrean and Tigrayan Peoples' Liberation Fronts and the Government of Ethiopia has escalated to an unprecedented level of intensity and violence. It is not my role, nor my intent, to take sides in the political conflicts which tragically divide the people of Ethiopia. But it is appropriate and necessary to express alarm at the growing and serious threat which this conflict presents to the lives of millions of innocent people.

People around the globe were horrified in 1984 when famine struck Ethiopia. A food emergency brought about by severe drought degenerated into famine due to inadequate warning systems and the slowness to respond to the situation on the part of the donor community as well as the Ethiopian Government. The lack of infrastructure, the rugged terrain of the country, a relative absence of development and relief agencies, and political ideology combined to hinder an effective relief operation. Hundreds of thousands of people, eventually several million, were forced to leave their homes in a desperate search for food. Many did not survive the journey.

But the world responded to the needs of the Ethiopian people. The largest and most complex relief operation in history was launched. A million tons of grain were provided by donors, including China and India—countries which in the past had endured famines of their own. The United States was the largest contributor of emergency food and nonfood relief assistance. Food was delivered to literally millions of Ethiopians who otherwise would not have survived. Despite the constraints, the operation was incredibly efficient; audits undertaken by the United States Agency for International Development indicate that in excess of 99 percent of the American food aid reached the intended beneficiaries.

The response to famine was joined by schoolchildren, church and civic groups, entertainers, and ordinary citizens. Food, water, medicine, clothing, blankets, seeds and tools for planting were provided to those in need. Eventually the rains returned, the drought was broken and the famine ended. Some element of hope returned. We will never know the exact number, but perhaps several million lives were saved in Ethiopia in 1984 and 1985 due to the generous response of so many.

Several months ago it became clear that acute drought was again going to result in a serious food emergency in Ethiopia. Unlike the situation in 1984, however, adequate early warning, the presence of numerous development and relief agencies and prompt response from the international donor community as well as the Ethiopian Government gave rise to the hope that crop failure need not result in massive famine. Food, transport capacity, medical supplies and other relief requirements have been made available. Mobilized relief agencies were largely successful in getting food delivered where and when needed to prevent the dislocation of large numbers of people—the essential achievement in preventing the massive deaths witnessed in 1984. There was reason to hope that, this time, famine was being averted.

Ironically, recent developments destroy that hope as the specter of genuine famine for several million people in Tigray and Eritrea provinces in northern Ethiopia—the areas hardest hit by drought—grows in direct proportion to the escalation of the conflict between the Government and the forces in opposition. UN relief convoys have been attacked by successionist forces; roads and airports have been attacked by successionist forces; roads and airports have been closed by the government. The Government has effectively suspended most relief operations in Tigray and Eritrea. The International Red Cross has been forced to curtail its operations. Food is now reaching only limited locations in either province and in greatly limited quantities.

What will happen next in northern Ethiopia is only too clear. If means are not found immediately to allow the unimpeded resumption of relief operations, a massive dislocation of the civilian population will occur. Hundreds of thousands, then perhaps several million people, will again be forced to trek across the desert and over the mountains in a search of food and survival. Many will not make it. Many who end up in make-shift relief camps will then contract infectious diseases and they will die. Many who survive will be absent from their land at planting time. Another crop will be lost, the misery will be extended into next year. Famine will again stalk the land.

The proud and noble people of Ethiopia do not deserve this fate. We must do all that we can to prevent this tragedy. We must call upon all parties to the conflict to assess their responsibilities to the people of northern Ethiopia. The roads and airfields must be reopened to relief shipments without delay. The international relief agencies must be allowed to resume operations. The private and voluntary organizations must be allowed to carry out their missions. The food must get through to where it is needed without regard to political calculations.

The choices are clear. Either the Government of Ethiopia, the Eritrean People's Liberation Front, the Tigrayan People's Liberation Front and the other parties involved in the conflicts in northern Ethiopia can take the steps required to prevent the onset of famine by allowing the relief operations to proceed without hinderance or we will again witness famine. The duty of all parties to take these steps without delay is imperative. All should know that the world is watching.

TOWN OF WASHINGTON CELEBRATES ITS BICENTENNIAL

HON. HAMILTON FISH, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. FISH. Mr. Speaker, it is with great pride that I rise to speak about the bicentennial celebrations of the town of Washington, Dutchess County, in my home district of New York.

Washington is my home town, and it is situated on some of the most beautiful land in New York State, with open spaces, green rolling hills and dairy farms.

The town was founded on March 7, 1788. This year the townspeople celebrate Washington's 200th birthday with a commemorative ceremony at Town Hall. On April 23 the township will hold a bicentennial gala ball, and I am looking forward to attending it.

Further activities are planned in mid-May and throughout the year. On May 14 there will be a community breakfast at the firehouse and a day-long street fair. At 11 a.m. members of the Dutchess Pilot Association will fly their planes over the area. At 2 p.m. on the community field, the Fusileers Fife and Drum Corps from neighboring Verbank will host a fife and drum muster. And in the evening a dozen or more groups from New York and other States will participate in an ancient fife and drum torchlight parade.

Activities the following day, May 15, include a community barbeque and a concert by the West Point Military Academy's Jazz Knights.

Mr. Speaker, I am proud of the community spirit evident in the town of Washington, and I wish the residents all the best in their celebrations.

TRIBUTE TO THE MATHEWS HIGH SCHOOL GIRLS BASKETBALL TEAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Mathews High School girls basketball team of Vienna, OH, which is located in my 17th Congressional District of Ohio. The Lady Mustangs recently won the Ohio Division III State Championship and finished the seasons with a 27-0 record.

The Lady Mustangs, coached by Dennis Holmes, set out at the start of the season to be the best basketball team in the State of Ohio. They achieved their goal on March 19, 1988, by defeating the Utica High School Lady Redskins 63-48 in Columbus.

Mr. Speaker, I am honored and privileged to represent such an outstanding group of young ladies.

IN HONOR OF SOROPTIMIST "WOMEN OF DISTINCTION"

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to ask my colleagues in the U.S. House of Representatives to join me in saluting the Soroptimist International of Torrance as it honors three outstanding community leaders with its prestigious "Women of Distinction" award on Sunday, May 15, 1988, at its Sixth Annual Installation of Officers and Awards Brunch.

The Soroptimist "Women of Distinction" is an annual program which honors women who have been recognized by their peers for their exemplary character and integrity, outstanding ability, and demonstrated leadership, and as ideal role models. I would like to share with you a brief account of their accomplishments and abilities.

Susan Marie Rhilinger is a lieutenant with the city of Torrance Police Department, the first woman to hold this position. She has 18 years experience with the department, holding positions of increasing responsibility, including police officer and sergeant. Since 1980, she has held leadership positions in the Torrance Police Officers' Association, including first woman president and 3 years as vice president. She is in her second year as president of the Soroptimist International of Torrance. Ms. Rhilinger is a member of the board of trustees of the Casa Colina Foundation for the handicapped and was a member of the steering and executive committees for the Wheelchair Tennis Classics for the past 2 years. Since 1985, she has presented the Gender Equity Conference, a nontraditional careers conference for high school students in conjunction with the Torrance Unified School District. In 1987 she received the Torrance YWCA South Bay Woman of the Year Award.

De De Hicks is executive director of the Volunteer Center of the South Bay, Harbor, and Long Beach areas. She coordinates volunteer recruitment and placement of over 2,000 volunteers in 500 agencies per year. She has more than 15 years leadership in community volunteer activities, including: past president, board member and committee chair for Community Association of the Peninsula; board member and charter member of Norris Community Theater; president and board member of The Associates; past president, League of Women Voters, St. John Fisher Parish Council, and Nativity School Parents Council. Ms. Hicks has received numerous honors throughout her volunteer efforts. She was named YWCA Woman of the Year in 1986 and Palos Verdes Chamber of Commerce/Rotary Club of Palos Verdes Citizen of the Year for 1987.

Macelle Kahladorf has been a community volunteer for the South High School Parent/Teacher/Student Association for 20 years. She has lead fundtraining efforts for scholarships for students and school programs. She headed the 1988 carnival to raise funds for the stress management program at South High. She is an active member of the Torrance PTA Council and the Torrance League of Women Voters. Ms. Kahladorf is a charter member of the high school's soccer booster club and a booster with the track and drama clubs. She has been a member of the Tri-Advisory Committee at South High, composed of parents, students, and staff, addressing concerns of both the school and community and making recommendations for improvement and change. A retired nurse, Mace volunteers time to help her sick and elderly neighbors. Her school involvement has earned her the PTA Life Service Award.

It is a pleasure to bring the outstanding record of public service performed by these women to the attention of my colleagues.

CHILD ABUSE PREVENTION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. VENTO. Mr. Speaker, last week the House approved the conference report for the Child Abuse Prevention, Adoption, and Family Services Act of 1987, H.R. 1900. I want to take this opportunity to again thank and commend all those who played a role for their work.

Child abuse and negligence are on the rise in our Nation and are reflective of a deeper source of conflict—family violence—in part a result of the extreme stresses in our society. The National Committee for the Prevention of Child Abuse estimated that in 1986, no less than 1,200 children died from abuse and neglect—a 23 percent increase over 1985. In 1986 alone, an estimated 2.2 million children were reported abused, neglected, or both. These rising numbers give testimony to the importance of approving funding for child-abuse prevention and other family services.

The crisis of family violence permeates society at every level. An article from the April 18 Newsweek magazine focused on the role of stress in the increasing frequency of family violence. The article highlighted that stress in the workplace coupled with stress in the homeplace can be linked to substance abuse, depression, and spousal or child abuse. Counseling and treatment for these and other stress-related problems is estimated to cost business $150 billion annually in insurance or disability claims, or in lost time and productivity. These economic costs can hardly compare to the social and psychological costs that go hand in hand with family violence.

While we've seen dramatic increases in the reporting of child abuse and negligence, we have seen a drop in the available Federal funding for their prevention and treatment. Reauthorizing funding for these programs through 1991 gives Congress the opportunity to provide Federal financial assistance to prevent abuse and treat its victims.

Our challenge will be to fund these programs for child abuse prevention and treatment, for adoption opportunities, for family violence prevention. These national programs must not just give us advice but should really reach out with help in terms of dollars and some in-depth studies of the problems that are affecting families which are in trouble.

Families in trouble that must be helped in order to curb the vicious cycle of the parent who was abused as a child who becomes an abuser in their parenthood, almost against their will. Families that must be helped to assist them in dealing with the often harsh realities of their life situations. Families that must be helped who are physically, mentally, and socially torn apart by the violence within them.

H.R. 1900 will not solve all the problems. It does not authorize all the dollars necessary to prevent child abuse and family violence. It does, however, continue national efforts to deal with these problems and that in itself, is imperative.

EXPLANATION OF MISSED VOTE

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. CLEMENT. Mr. Speaker, due to an unavoidable scheduling conflict, I missed the vote on final passage of the conference report on H.R. 5, the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

Had I been present, I would have voted "yea" on final passage of the conference report.

20TH ANNIVERSARY OF LUCAS COUNTY MENTAL HEALTH BOARD

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Ms. KAPTUR. Mr. Speaker, in Toledo we are celebrating the 20th anniversary of the Lucas County Mental Health Board which has been a progressive innovator in bringing quality mental health services to severely mentally disabled people in the Toledo metropolitan area. Nationally, about 1 in every 10 Americans is in need of some level of mental health service. The Lucas County board has been at the cutting edge of providing them in our area.

In 1986, services were provided to 39,890 people, including some 7,000 severely mentally ill clients. These services include family counseling, individual psychiatric treatment and crisis intervention for children, adults and the elderly. An important source of funds for these vital services is provided by local tax levies which yield over $2 million in annual revenue. The remainder of the board's $15.8 million in annual budget comes from the State and Federal Governments, fees and the private sector.

Recently, the Lucas County board was 1 of only 9 such agencies in the country to be awarded a grant by the Robert Wood Johnson Foundation in recognition of its quality service. The board will use the funds, $500,000 per year for 5 years, to improve its services and develop new ideas for interrelated services and delivery. In conjunction with the grant, it will also have 125 section 8 housing assistance certificates allocated from the Department of Housing and Urban Development to help lease housing units in the general community for mentally disabled tenants.

Congratulations to the Lucas County Mental Health Board on the quality services it renders and for its continuing efforts to assist the mentally disabled population of the Toledo metropolitan area.

BLYTHEVILLE AFB IS THE BEST

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. ALEXANDER. Mr. Speaker, I rise today to pay tribute to Col. Bruce Smith, wing commander; Col. Ray M. Boudreaux, base commander; and the officers and the men and women who serve the 97th Bombardment Wing of the Strategic Air Command at Blytheville Air Force Base, AR. The 97th has been designated as the recipient of the coveted Omaha Trophy, which is awarded annually to the best wing in the Strategic Air Command.

Blytheville became the home of the 97th Bombardment Wing on July 1, 1959. Since that time, the wing has distinguished itself in performing the vital mission of the Air Force Strategic Air Command.

During my almost 20 years in the Congress, it has been my privilege to know and work with many of the exceptional people who have served in the 97th. Their dedication to duty and commitment to excellence has made this Nation and the world a more secure place to live.

Mr. Speaker, I submit for the record the text of a telegram from SAC headquarters to the commander of the 97th:

Telegram

Date: April, 1988.

From: Gen. John T. Chain, Jr., Commander in Chief of the Strategic Air Command, Offutt AFB, NE.

To: Col. Bruce Smith, Commander, 97th Bombardment Wing, Blytheville AFB, AR.

Subject: Omaha Trophy for CY 1987.

1. The 97th Bombardment Wing, Blytheville AFB, AR, has been selected as the winner of the Omaha Trophy, presented annually to the most outstanding wing in the Strategic Air Command.

2. The 97 BMU's record in the areas of inspections, exercises, competitions, safety, community relations and humanitarian endeavors demonstrates the high standard of performance to which SAC ascribes.

3. I applaud the members of the 97 BMU for their outstanding contributions to the SAC mission and extend my heartiest congratulations for a job superbly done.

Mr. Speaker, peace, nor freedom, nor political stability is guaranteed by establishing a government that sets freedom as its goal. "(T)here will always be war, and rumor of war." Thus potential threats from foreign powers create the continuing need to maintain a military force to protect a civilized way of life. Constant vigilance is necessary to guarantee our national interests. In fact, citizens enjoy the freedoms set out in the Bill of Rights, to disagree with their Government, with the policy of the President and/or Congress, because the U.S. Armed Forces protect the right to differ. Accordingly, every citizen owes a personal debt of gratitude to the men and women of the U.S. Air Force who dedicate their lives so that all Americans can be free—the liberty of our land. As their Representative, in Congress, I offer my congratulations and I thank them for a job well done.

STUDY OF COMMERCE IN NEW YORK CITY AND NEW JERSEY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. GUARINI. Mr. Speaker, over the last several years, the turf wars between New York and New Jersey have been typified by Mayor Koch's advertising campaign boarding up the Holland Tunnel to prevent New York businesses from relocating across the Hudson River in New Jersey. At a time when our country must face huge deficits and unprecedented foreign competition, we can ill afford to hinder or prevent economic expansion in the hub of our Nation's economy.

With the aftershocks of the October stock market crash still lingering in the business community, we need a vehicle to facilitate long term economic cooperation between New York City and northern New Jersey. Consequently, I am introducing a bill today that directs the Secretary of Commerce to conduct a study to determine methods of enhancing interstate and foreign commerce in New York City and northern New Jersey. The Secretary shall consult with representatives from both the public and private sectors, including the Governors of New York and New Jersey, State and local economic development officials, and leaders from the business community.

Upon completion of the study, the Secretary shall submit a report to the Congress summarizing his findings and containing his recommendation for additional facilities and services necessary to promote interstate and foreign commerce in the northern New Jersey and New York City area. In the meantime, I would urge the formation of an advisory committee, consisting of State and local development officials, and representatives of the business community, in an effort to resolve various border disputes that are so detrimental to our regional development.

THE SOCIAL SECURITY TRUST FUND

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. DORGAN of North Dakota. Mr. Speaker, the Social Security trust fund is accumulating a substantial surplus which is now included in calculating the budget deficit for purposes of the Gramm-Rudman law. These excess taxes are being taken from the paychecks of American workers and businesses with the promise that they will be set aside to fund their future retirement claims.

Continuing to include the Social Security trust fund in the deficit calculations masks the real extent of the budget crisis and may ultimately risk the faith that our constituents have in us to protect the integrity of their retirement system.

Ms. OAKAR and I are proposing that the Social Security trust fund be removed from the deficit calculation on September 30, 1989. Doing so will help mitigate pressures to reduce Social Security benefits to offset spending for other programs. It will allow us to preserve the integrity of a retirement system that pays for itself and to restrict the use of this dedicated tax to its intended purpose. It will put us on a sound budget track as well.

NATIONAL ET NURSE DAY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mrs. MORELLA. Mr. Speaker, I urge my colleagues to take time to join others across the country in the observance of Enterostomal Theapy [ET] Nurse Day, April 20. This day has been chosen as a special opportunity to recognize the special care and guidance that ET nurses provide to help their patients live more complete and normal lives. ET nurses for patients with ostomies, draining wounds, pressure sores, and incontinence.

These nurses are endeavoring to make the public aware of the care and rehabilitation of patients with these conditions and to promote the prevention of illness which leads to these conditions. These health care professionals have forcefully demonstrated their compassion and their commitment to providing even higher standards of practice and quality of care.

I am pleased to speak today on behalf of ET nurses across the country, and I hope my colleagues will join me in recognizing their vital contributions to the care of so many Americans.

A TRIBUTE TO EDWARD GRISWOLD

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. ECKART. Mr. Speaker, it is my pleasure today to honor Mr. Edward Griswold. Ed has faithfully served the city of Conneaut in the 11th District of Ohio for the past 21 years.

Rare is the opportunity to pay tribute to someone who has demonstrated such a high degree of commitment and regard for public service. Ed was first elected in 1966 to the city council and served as councilman and mayor of the city of Conneaut.

During his career Ed demonstrated that he knew how to make both Washington and Columbus work for Conneaut. His ability to retain Federal dollars in the form of grants has provided the citizens of Conneaut with many needed civic projects.

The future of Conneaut, OH, and indeed the future of our Nation depends on the type of commitment that individuals such as Ed have demonstrated. Ed's public service has provided a model for young people to follow—a model of integrity, dedication, and competence.

As Ed enters his retirement from elected office he leaves us with his strong record of service and many fond memories. We all wish him well.

TRIBUTE TO REV. ELLIE SHAPTON

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. BILBRAY. Mr. Speaker, I rise today to pay respectful tribute to an outstanding Nevada civic and religious leader, the Rev. Ellie Shapton.

Reverend Shapton serves as the Protestant campus minister at the university of Nevada, Las Vegas Center for Religion and Life. The University center aids the Protestant, Jewish, and Catholic communities of UNLV providing specific programs that serve each religious group as well as cooperative ecumenical programs.

After receiving a BA in geography from UCLA, a MS of science in library science from USC and a masters of divinity from the Church Divinity School of the Pacific, Reverend Shapton worked as a librarian for 10 years. In 1982 she came to Nevada and began her post as the Protestant campus minister at the university center.

At the university center Reverend Shapton represents all mainline Protestant denominations. She provides worship services, spiritual direction, pastoral counseling, referred services and programs for UNLV students. She has also preached and led worship services in most local Protestant congregations.

In 1984 the reverend was ordained a deacon in the Episcopal Church and in 1985 she was ordained a priest. In the Episcopal Church of Nevada, Reverend Shapton serves as an associate priest at St. Matthew's, director of Christian education at All Saints and serves as one of the priests for St. Christopher's of Boulder City.

Mr. Speaker, I ask you and my colleagues to join with me now in recognizing this outstanding Nevadan and commemorating her services to the Las Vegas community.

LEGISLATION TO DESIGNATE COLUMBIANA COUNTY AS PART OF APPALACHIA REGIONAL COMMISSION

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. APPLEGATE. Mr. Speaker, today, I am introducing legislation to designate Columbiana County in Ohio as part of the Appalachia Regional Commission. In effect, I am expanding the number of eligible counties that receive much-needed Federal assistance in order to face the social and economic obstacles unique to Appalachia.

Columbiana County, located in southeastern Ohio on the Pennsylvania Ohio border has suffered the same plight as other Appalachia counties in Ohio. Columbiana County is surrounded by counties that have been designated and have benefited from the tremendous success of the ARC In 1965, Columbiana

County was originaly part of the ARC designated counties that would be targeted for Federal assistance and guidance. Unfortunately, the county feared the label of poverty, and distress and declined the offer. At the time, the county government believed that once designated a distressed county they would be forever separated from prosperity and the hope of economic development would be lost forever. As we have all seen with the success of ARC-funded programs, this was not the case. However, in 1965, Columbiana County had no way of knowing that their economic foundation would erode along with other parts of the Rust Belt. Columbiana County suffered along with Jefferson County in Ohio and Beaver County in Pennsylvania due to the attack on our industrial base.

The original objective of the Appalachian Regional Development Act of 1965 was to stimulate public investment in public services and facilities that will attract private sector investments and start the region on its way toward accelerated social and economic development; to help establish a set of institutions in Appalachia capable of permanently directing the long-term development of the region and on a joint Federal-State-local basis to develop comprehensive plans and programs to help accomplish the overall objectives of this Act. In order to meet this objective, all of Appalachia must become part of this joint Federal-State and local partnership. I realize that the ARC is in a phase-out period, however, we cannot phase out a program that has not met the objectives for all Appalachian counties. I believe that once we examine Columbiana County we will see striking similarities between this county and other Appalachia counties. Local school districts in the county are unable to meet the demands of properly educating their students and many individuals lack access to quality health care services. Is it fair to deny students and residents of the county the same chance afforded their neighbors? It is time to give Columbiana County the opportunity to develop their true economic and social resources.

KEITH F. MAINLAND RECEIVES JOHN W. McCORMACK AWARD

HON. JAMIE L. WHITTEN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. WHITTEN. Mr. Speaker, yesterday afternoon Keith F. Mainland, the former Clerk and Staff Director of the House Committee on Appropriations was honored as the 16th recipient of the John W. McCormack Award for excellence for the 100th Congress. Since many of my colleagues knew Keith during his 28 years of service to the House, it will not come as a surprise that he would be honored for serving this institution so well.

The selection committee of the House of Representatives for the McCormack Award is made up of:

Jack Russ, Chairman, Sergeant at Arms of the House.

James D. Ford, Secretary, Chaplain of the House.

Ronald Lasch, Treasurer, Minority Floor Assistant.

Donnald K. Anderson, Clerk of the House.

Janice Joyner, Special Assistant to the Speaker.

Walter Kennedy, Minority Floor Assistant.

James T. Molloy, Doorkeeper of the House.

Hyde Murray, Counsel to the Minority Leader.

William R. Pitts, Jr., Minority Floor Assistant.

Robert V. Rota, Postmaster of the House.

George M. White, Architect of the Capitol.

Mr. Speaker, I would again like to congratulate Keith for his devotion to service, his family for supporting him through many difficult times, and the entire staff of the Appropriations Committee for working with him in a truly professional manner.

At this time I would like to insert in the RECORD the description of Keith's career which was included in the official program:

KEITH F. MAINLAND, CLERK AND STAFF DIRECTOR, HOUSE COMMITTEE ON APPROPRIATIONS

Keith F. Mainland served the United States Government for some 28 years, working for the U.S. House of Representatives as a member of the staff of the Committee on Appropriations from 1962 to April 30, 1985. From 1972 until his retirement, Keith was Clerk and Staff Director of the Committee, being the eighth Clerk since establishment of the Committee at the close of the Civil War in 1865.

Keith was born in Elgin, Illinois on January 14, 1932, and in 1945 he and his family moved to the Washington, D.C. area. In 1949, Keith graduated from Washington-Lee High School in Arlington, Virginia and in 1953 from Northwestern University with a bachelor's degree in Business Administration. Immediately upon graduation, Keith was commissioned a Second Lieutenant in the U.S. Marine Corps and served with distinction in the Korean conflict. Keith is married to the former Sandra (Sandy) Wadlow and has two children, Kirk and Marlene.

Keith was originally appointed to the staff of the Committee by Chairman Clarence Cannon of Missouri and served with what is now the HUD-Independent Agencies Subcommittee under Chairman Albert Thomas of Texas. In October of 1972, he was appointed Clerk and Staff Director of the Committee by Chairman George Mahon of Texas and continued to serve in that capacity under Chairman Jamie Whitten of Mississippi.

Keith's work in the House of Representatives exemplifies the best of professional public service and can be summarized in three words—commitment, integrity, and competence.

Not only did Keith bring these qualities to the often difficult and complex world of appropriations, but he did so with a graciousness and friendliness that immeasurably assisted the process. By personifying these qualities himself, he helped cause them to be the hallmark of the entire Appropriations Committee staff.

While Keith F. Mainland was appointed to the staff by Democratic members of Congress, he worked in a truly bipartisan manner that allowed all Members of the House to utilize his abilities and talent and to depend upon him for honest, straightforward answers to questions and problems.

In selecting Keith F. Mainland to be the 16th recipient of the John W. McCormack Award, the House of Representatives honors not only an individual, but also those qualities of commitment, integrity, and competence which are the fundamental requirements for the operation of the House of Representatives—the fundamental institution of American democracy.

KEITH MAINLAND, 100TH CONGRESS RECIPIENT OF THE JOHN W. McCORMACK AWARD

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. BOLAND. Mr. Speaker, I want to express my sincere congratulations to Keith Mainland who was awarded the John F. McCormack Award of Excellence yesterday. This award is given each Congress to the outstanding staff individual of the House. Keith is the 16th to be awarded this high honor.

For all of us who have served on the Appropriations Committee over the past 25 years—we appreciate the outstanding service rendered by Keith to both the committee and the House in his role as Chief Clerk and Staff Director.

I can remember when Keith came to work for the committee—in fact, I remember it very well because he was first assigned to the HUD-Independent Agencies Subcommittee—which in those days was chaired by Albert Thomas of Texas—who was a giant in this body. Keith learned his trade well under Mr. Thomas' tutelage, and went on to work in Chairman Mahon's office and finally became Chief Clerk and Staff Director in 1972.

I especially remember Keith for his even temperament—his sunshine personality—his incredibly dry sense of humor—and above all, Mr. Speaker, his effectiveness as Staff Director of the Appropriations Committee. The role of Chief Clerk and Staff Director of Appropriations is not an easy one. It's demanding in every sense of that word. It means being here often over long hours—on weekends—and holidays in order to ensure that the essential funding measures of Congress are ultimately enacted.

Keith always made the trains run on time. And if there is a hallmark of the Appropriations Committee it is just that. The committee must deliver 13 regular appropriations bills each year plus a number of urgent supplements, regular supplementals, continuing resolutions and on and on. Those do not just happen. The bill language and the reports accompanying them must be carefully crafted and they must be accurate. Keith made that all happen with grace and good humor.

Mr. Speaker, Keith exemplified, as well as anyone, the fact that others make the House function besides the Members. He represented the unsung devotion of the staff to the institution.

So, Mr. Speaker, this award is both well deserved and well earned. I want to pay special tribute to Keith and to his family and wish him continued health, happiness, and "good fishing" in his retirement.

TRIBUTE TO MS. SINA M. REID AND DR. UTHMAN RAY, JR.

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. MFUME. Mr. Speaker, I rise today in honor of two very distinguished community activists in my home district of Baltimore. On Wednesday, May 4, 1988, the Baltimore Urban Services Agency's Concerned Citizens Committee will be honoring Ms. Sina M. Reid and Dr. Uthman Ray, Jr., for their many hours of dedicated community service.

The committee's selection of Ms. Reid and Dr. Ray stems from their unselfish commitment to serving the youth of Baltimore and for their excessive contribution of time, patience, and energy to the Urban Services Agency's innovative program called "Project Survival." For the past 10 years Project Survival has provided athletic, educational, and overall intellectual development assistance for several thousand inner-city youths. Through Project Survival programs, Baltimore youths have a viable and worthwile alternative to the many pitfalls of the urban landscape.

A former social worker turned entrepreneur, Ms. Reid credits much of her success unselfishly to her family, for instilling in her the belief that success can only come through hard work. A devout Christian, Ms. Reid believes, and encourages others to believe, in the innate abilities of all people, irrespective of race, gender, or socioeconomic status.

A mother, wife, corporate executive and civic leader, Ms. Reid's experience in both the public and private sectors, has enabled her to share her wealth of maturity and compassion. That in turn has motivated a larger number of young men and women within Baltimore to work at being the best that they can genuinely be. For those of us who know Ms. Reid, we all recognize that the purpose and tenets of Project Survival found instant compatibility in her daily commitment to our community and its people.

Dr. Uthman Ray, Jr., is also someone that many of us in Baltimore are extremely proud of. For the past 30 years, Dr. Ray has operated a "mission of mercy" at 2225 W. North Avenue with the same zest of community involvement and spirit that first inspired him to open his practice in west Baltimore. A devoted and principled family man, one would be hard-pressed to find a community organization or leader who has not in one way or another worked with Dr. Ray over the years.

Dr. Ray's many accomplishments have served to chronicle his life of service from a very early age. His pursuit of academic excellence can be traced through Baltimore City College, Morgan State College, and Meharry Medical College. Dr. Ray has received numerous citations and awards for his years of dedication in our community. I am sure his many friends and associates will agree that his merits far exceed the hunderds of accolades that he has accumulated over the years. Despite a very demanding schedule and challenging profession, Dr. Ray continues to assist our city's youth to develop their inner-self, as well as the direction of their futures. Dr. Ray's relationship with Project Survival is yet another demonstration of his lifelong pledge to give back to the community from which he came.

Mr. Speaker, many of us within the House Chamber are fully aware of what the term "public service" truly means. For distinguished citizens such as Ms. Reid and Dr. Ray, who truly are two of "Baltimore's best," I wish to personally thank them for exemplifying to the Nation, what service to the public actually entails.

CARMEN J. ARMENTI, A GOOD FRIEND AND DEDICATED PUBLIC SERVANT

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday, April 24, 1988, the Boys and Girls Town of Italy will be honoring two of its own members for their outstanding leadership and contributions to community service. Among the honorees is Carmen J. Armenti, a very good friend of mine and an outstanding public servant for the people of the city of Trenton.

Mr. Speaker, since I have been a Member of Congress—and even long before that—Carmen Armenti has been serving on the Trenton City Council. Carmen and I have worked together to win Federal funding for important projects in the city and I am very grateful for his input, leadership, and hard work on these initiatives. Throughout his career, Carmen has been a key player and most effective advocate for increased services for city residents and for the redevelopment of the industrial and economic base of the city. Time and time again Carmen has demonstrated to me and I'm sure to others as well that he is a compassionate, caring, and capable individual who is willing to invest all the time and energy needed to improve the world around him.

You know, Mr. Speaker, over the years Carmen's performance has earned him the utmost respect and trust of Trenton City residents. He is the only person in the history of the city to have been elected to all positions under the Trenton City Council form of government. In 1962, Carmen was elected north ward councilman and since that time he has served as a councilman at large, president of the council, and as the mayor of Trenton. As an elected official and as a local businessman, the needs of the city and the needs of individuals have been paramount in his mind. He is like a "community trustee" or "town father;" easy to approach and always willing to listen and guide those in need of help.

Mr. Speaker, the "Distinguished Citizen's Award" that Carmen is to receive from the Boys and Girls Town of Italy will not be his first, and I suspect it will not be his last either. Carmen has been selected for numerous awards including: Outstanding Service Award, Unico International; Fermi Federation Outstanding Service Award; VFW Post No. 2 Outstanding Service Award; Trenton PAL Distinguished Service Award; Outstanding Service Award, Trenton Puerto Rican Community; Ethiopian World Federation Outstanding Award, "Need to Feed the World Hungry;" Boys Club of America Merit Award; Certificate of Merit, National Urban League; New Jersey State PBA Silver Card Life Member; Muscular Dystophy Man of the Year; Mercer County Diabetes Association Man of the Year, Hamilton Chamber of Business Association Man of the Year; Central Jersey Engineers Council Citizen of the Year; and the Kent A.A. Distinguished Citizen's Award just to name a few. Clearly, Mr. Speaker, Carmen has made several noteworthy contributions for which so many people are grateful.

Mr. Speaker, throughout his entire life Carmen Armenti has been an active and well liked member of so many organizations, associations and clubs. He has lent his time, his wisdom, and his talent to a variety of good causes and he has helped make a difference. I am proud to call Carmen Armenti my friend and I extend my heartfelt congratulations to him and his wife Hope on this most momentous and joyous occasion.

NATIONAL LIBRARY WEEK

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 20, 1988

Mr. TALLON. Mr. Speaker, it is a pleasure for me to join with my colleagues and all Americans to celebrate "National Library Week" this week. As a literate and civilized nation, we are dependent on our libraries to provide us with information and to keep us entertained.

This week affords us the opportunity to highlight the vital role of libraries in our communities. Libraries are an integral part of the education of our Nation's youth yet they are often seen as only a bank of knowledge and not as an exciting window on new horizons. Libraries offer a wide range of programs and services that are designed to make learning a dynamic experience.

We, as Government officials, need to work together to see that libraries are able to maintain and improve these services to communities. While library funding is largely a State and local responsibility, the Federal Government provides essential funding for many library programs.

Many of South Carolina's 1,330 libraries are utilizing Federal funds to initiate and continue programs that expand availability of library services to the public. Adult illiteracy projects, rural outreach programs, building construction, and children's services are made possible in South Carolina because of Federal funds.

The South Carolina State Library also works closely with the Library of Congress in its operation of a regional library for the blind and physically handicapped. This comprehensive program includes a sophisticated system of maintaining personal contact with each person involved in the program. Without LSCA funding, this successful program would not reach its 9,000 beneficiaries.

As our Nation becomes more and more information oriented, it will be our libraries that will be our foundation. I encourage all Americans to visit their local library for an eye-opening learning experience.

SETBACK IN SINGAPORE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. PORTER. Mr. Speaker, eight former political detainees in Singapore were rearrested yesterday after they publicly announced to their Government and their country that they were not Communists.

As part of their statement, the eight individuals described their treatment during detention, including manipulative interrogation, forced confessions, and torture at the hands of Singapore's internal security forces.

One week ago, many of us met with Singapore's Prime Minister Lee Kuan Yew and expressed our concern over human rights abuses and press restrictions in his country. Unfortunately, yesterday's action undermines the significant steps the Prime Minister made during his visit.

These actions, which are so disdainful of true democracy, continue to frustrate those in the United States and the West who support Singapore. While, Singapore shows impressive progress as an economic and culturally advanced nation, Prime Minister Lee would be wise to allow his democracy to grow up as well.

THE SOCIAL SECURITY NOTCH DISPARITY

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. BILIRAKIS. Mr. Speaker, on Thursday, April 14, the Social Security Subcommittee, of the Ways and Means Committee, held a hearing on the Social Security notch problem. This hearing, although not a formal markup, constituted a long-awaited first move toward eliminating the discriminatory notch period in the Social Security system.

The notch gap, which means that individuals born between 1917 and 1921 receive over $100 a month less in Social Security benefits than those born just before them with similar work histories has, rightfully, been a subject of concern to millions of senior citizens born during that period.

While notch correction legislation has been introduced in Congress after Congress, none of it has been reported to the floor of the House of Representatives for debate.

I was one of the witnesses to testify at the recent hearing and would like to submit my testimony in the RECORD for the benefit of my colleagues who were unable to be present. I am hopeful that my testimony and that of my like-minded colleagues will help to encourage the Social Security Subcommittee to act upon this pressing issue. I, for one, am committed to restoring benefits that are due our senior citizens.

The statement follows:

THE NOTCH DISPARITY, SOCIAL SECURITY SUBCOMMITTEE

Mr. Chairman, it is indeed an honor and a pleasure for me to sit before you today. I have long awaited the moment when a legislative body of the House of Representatives would examine the Social Security "notch" issue. I commend you for holding the hearing, Mr. Chairman, and thank you for the opportunity to be heard before your distinguished subcommittee.

Mr. Chairman, I, like many of my colleagues, have long been frustrated by the issue before us today. Ever since my first election to Congress in 1982, it has been the subject of the majority of the correspondence I receive from my elderly constituents.

Granted, I represent a district that holds the third-highest concentration of senior citizens in the country. However, I do not think that my experience is the exception. Rather, I think that most Members of the House, like me, continue to be overwhelmed with expressions of concern, and opposition, to the "notch" period in the Social Security system from their constituents.

Mr. Chairman, can you imagine anyone having to choose between food or prescription medication for the month because he doesn't have enough money to pay for both? Sad as this may be to comprehend, this is, unfortunately, the scenario that many senior ciitzens are confronted with each month.

Isn't it true that almost everyone has a tough time making ends meet financially nowadays, you might ask? While this may be true, the unfortunate fact, Mr. Chairman, is that we, as a body, are collectively responsible for the senior citizens of our districts living without food or medication for a day, or a week, during each month through our inaction in resolving the discriminatory "notch" period in the Social Security system.

This "notch" gap, which resulted from a "solution" having backfired, is the cause of thousands of senior citizens across the country receiving $100 or more a month less in Social Security benefits than others with similar work histories due to no other reason than the year in which they happen to have been born.

While $100 may not seem like much today, it is a tremendous amount to those who try to live on $500 to $600 a month.

In addition to the fact that the amount itself would assist thousands of people to lift themselves out of poverty, however, the Social Security "notch" issue also involves a principle. It, Mr. Chairman, involves no less than fair and equitable treatment of our citizens by our Government.

I'm sure that all my colleagues will agree that our Social Security system should not discriminate against anyone. This is a subject that I feel very strongly about for, while discrimination against anyone in any form is bad enough, it is doubly intolerable when we are talking about discrimination against the people who have served this country through depressions, recessions, and World War II.

Ever since my first election to Congress in 1982, I have tried to help. I have introduced "notch" correction legislation in every Congress I have served in, I have joined and addressed "notch" rallies, I have testified before the Select Committee on Aging, I have done numerous 1-minute statements on the floor of the House, I have corresponded with the committee of jurisdiction urging hearings on the issue, I have become a member of the "notch" coalition, and have cosponsored and signed the discharge petition to move H.R. 1917—Chairman Roybal's "notch" correction bill.

In the 100th Congress, my bill is known as H.R. 1026. It attempts to lessen large benefit disparities between groups of new recipients by requiring the Secretary of Health and Human Services [HHS] to make a projection, before October of each year, of the replacement rates for hypothetical new recipients becoming entitled the following year who, over their working years, steadily earned minimum, average, and maximum wages.

The Secretary is then required to prescribe a benefit formula for the following year's new eligibles that would keep the replacement rates for those hypothetical cases within 5 percentage points of the replacement rates of similarly situated workers who became newly entitled in 1979.

Mr. Chairman, the question of which "notch" correction bill is enacted does not matter to me. What does, however, matter to me is that the "notch" disparity be rectified so that none of our citizens are treated unfairly to the benefit of others.

I am hopeful that today's hearing, as well as the recent hearings in the Senate, are an indication of the positive action yet to come. Let this hearing, Mr. Chairman, result in the enactment of the necessary legislation to restore due benefits to our senior citizens.

WORLD POPULATION AWARENESS WEEK

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. FEIGHAN. Mr. Speaker, most Americans are somewhat aware that the world's population is growing. However, few Americans may realize that the world's population is growing faster than ever before and will double over the next four decades if current growth rates hold. Fewer still probably realize that nearly all of this expansion is taking place within the Third World.

Americans need to come to grips with these developments. Fortunately, Americans have this very opportunity to gain a better understanding of these important trends during World Population Awareness Week, April 17–23. World Population Week has been recognized in Ohio and across America.

Perhaps we can best see how urgent the situation has become by drawing a comparison between the population trends in a typical African nation and my own home State of Ohio.

The State of Ohio is four times larger in land area than the Eastern African nation of Rwanda, and yet Rwanda already has a population of well more than half of Ohio's 10.7 million. Furthermore, while Ohio's population will take more than 100 years to double in size at current growth rates, Rwanda will double its population every 19 years—virtually every generation—at current birth rates.

Given such high birth rates, it is not surprising that half of Rwanda's population is under age 15, meaning that a majority of the population is only now beginning to enter its reproductive years. Rwanda will be obviously hard put to generate sufficient economic and educational opportunities for these new citizens. Its splendid environmental resources will be damaged as more land is taken from human settlement and as the population becomes increasingly concentrated in towns and cities, generating greater amounts of pollution and waste products.

The future vitality of the global environment and the world economy depend upon the success of nations such as Rwanda in overcoming the challenging problems relating to rapid population growth. Americans have a duty and an opportunity to contribute toward a solution, and World Population Awareness Week is a significant step in the right direction.

I congratulate the Ohioans who will be taking part in the activities connected with World Population Awareness Week, and I ask that Gov. Richard F. Celeste's proclamation be printed in the RECORD.

PROCLAMATION

Whereas, the world's population has reached five billion and is growing at the unprecedent rate of 87 million a year; and

Whereas, 90 percent of this increase is expected to occur in the poorest, least developed countries of the world already struggling to provide their people with adequate food, housing, sanitation, employment, health care and other basic human services; and

Whereas, world overpopulation is a major cause of problems of malnourishment and hunger, resource shortages, environmental deterioration and ecological degradation that lead to social unrest, rebellion and war; and

Whereas, 50 percent of the 10 million infant deaths and 25 percent of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded; and

Whereas, there is an estimated 500 million people who need and want, but lack access to, voluntary family planning services; and

Whereas, substantial fertility declines have been recorded in many countries where there has been leadership commitment, implemented with the assistance of organizations such as the United Nations Fund for Population Activities, to enable couples to exercise the human right of voluntarily limiting their family size;

Now, therefore, I, Richard F. Celeste, Governor of the State of Ohio, do hereby proclaim the week of April 17, 1988 through April 13, 1988 as "World Population Awareness Week" throughout the State of Ohio, and call upon all Ohioans to reflect upon the consequences of overpopulation and what they can do toward assisting in the achievements of population stabilization through humanitarian and voluntary action.

In witness whereof, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed at Columbus, this 2nd day of March, One Thousand Nine Hundred and Eighty-Eight.

RICHARD F. CELESTE,
Governor of the State of Ohio.

Attest:
SHERROD BROWN,
Secretary of State.

ADVANCED CRUISE MISSILE

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. ASPIN. Mr. Speaker, there are two theories associated with developing new weapons without broad congressional and public scrutiny. One holds that the more hidden a program is, the more smoothly it will go. The blacker, the better. The other holds that we don't have to worry about the first theory because these black programs are getting plenty of high-level attention and scrutiny.

Today, as part of my overall assessment of the key strategic programs, I am going to question both of those theories. For my text I take the advanced cruise missile [ACM].

The House Armed Services Committee undertook at the beginning of this Congress a review of the major programs in the Reagan administration strategic buildup. Based upon these reports I have put together a series of speeches grading those programs. This speech, the third in the series, covers cruise missiles. The first two dealt with ballistic missiles and bombers.

Most of the committee reports have been publicly released. The report on the ACM is an exception. A report has been done, but because of the high classification, the report remains locked in the committee safe.

The ACM is not a classically black program. I am not barred from acknowledging its existence. I may speak its name. But it is protected in nearly all interesting details by high classification. There is one interesting and unfortunate thing I can tell you. It is a procurement disaster. The ACM is the worst of the programs the committee has looked at and it's particularly bad when compared to the air-launched cruise missile [ALCM], the excellent system that preceded it in development.

Why? Because of classification the reasons will have to remain sketchy, approaching nonexistent. But there is a message; high classification has proved no barrier to bad management.

As with the other programs I have examined, I've given grades to the cruise missile systems in the areas of management, cost, schedule, and performance. The grades of the ACM and ALCM are shown in this table:

CRUISE MISSILE REPORT CARD

Program	ALCM	ACM
Management	B	F
Schedule	A	D
Cost	A	D
Performance	A	[1]

[1] System has not yet reached initial operating capability.

The ACM is still being tested and so I can't assess its performance. But the fact that the program's management receives an F does not bode well.

ACM is an improved version of the ALCM, the weapon that enables aging B-52's to attack targets in the Soviet Union without human crews having to pierce formidable Soviet air defenses. Among the things we can talk about, ACM will extend the range of the cruise missile. That will allow the aircraft carrying the ACM to stand off further out of harm's way when releasing the missile. The additional range will also enable ACM to detour around some defenses on the way to the target. Stealth materials and techniques will help it avoid detection by radar on the way.

All this will happen if the missile works. That's no minuscule qualifier. There have been serious problems with quality control and contractor discipline during missile assembly. Because of those delays, Congress has so far authorized only a portion of the missiles requested—yet deliveries are only a fraction of the number funded.

One problem for ACM has been the failure of the Air Force to follow an evolutionary course, building upon the solid technological achievement of the ALCM and inventing only when necessary. The Navy's Trident D-5 missile program should be the guide. The Navy missile program office carefully charted what would require advancing the state of the art and concentrated on those areas while resisting novelty for its own sake.

The Air Force has belatedly recognized its difficulties with ACM. After the program was well along—and I wish I could tell you how well along—the Air Force moved to recompete the contract. The current contractor, General Dynamics, and the second source, McDonnell Douglas, could be ready to go head-to-head in fiscal year 1990. This corrective step may be overtaken by events, however. The Air Force is reviewing its competition analysis and, perhaps more importantly, strategic arms negotiations with the Soviet Union may well limit cruise missile numbers. But the latter point is beyond the control of ACM's managers.

Looking at what is within their purview, the record of ACM's masters is extremely poor. These black programs are supposed to get high-order management attention. If this one did, it didn't do much good. This is a cause for concern. As with the B-2 Stealth bomber, our efforts to lift some of the classification barriers that prevent wider scrutiny—by the public, not the Congress—were blocked by the Defense Department.

The second cruise missile program I'll review is the air-launched cruise missile [ALCM], ALCM is a mature program. The first production contract was awarded in 1980. So far, 98 B-52G's have been equipped with ALCM. The Air Force goal is to equip all 96 B-52H's with the missile by early 1990.

Last year, we asked the General Accounting Office to look at the ALCM program. It turned up testing fraud similar to that uncovered in the MX program. Specifically, GAO found that some tests for the ALCM's flight data transmitter were omitted and test records falsified. The flight data transmitter or FDT helps keep the ALCM in stable flight as it flies its predetermined course to the target. A similar problem was discovered in a component of the MX guidance system called the inertial measurement unit or IMU. Different divisions of Northrop Corp. manufacture the two components.

In addition, it was discovered that FDT's are sensitive to cold temperatures of the kind they must endure on long bomber flights to their release points. On at least two occasions, FDT's malfunctioned during prelaunch tests due to the effects of cold temperatures after checking out properly on the ground.

The Air Force will test a sample of 125 FDT's, but the GAO has questioned whether these will be representative of all the units produced by Northrop. The Armed Services Committee is requiring the service to keep Congress fully informed.

But overall, let me emphasize, in the ALCM program the Air Force and the prime contractor, Boeing Aerospace, have produced a good product. The program set a date of December 1982 for initial operating capability [IOC], that is having the first squadron of B-52G's equipped with externally carried ALCM's. The date was met. Schedule merits a grade of A.

On cost, the $4.1 billion program—including research, procurement and associated military construction—came in under the development estimate by $66 million. So, it receives an A on cost.

Management receives a B because of the difficulty with the FDT's.

That comes close to matching the highest grade on our strategic systems report card, straight-A performance of the Trident II D-5 submarine-launched missile.

The Air Force must now urgently look to the problems of the ACM. The B-2 Stealth bomber is years away and limited in number, and the B-1's problems raise serious questions about its ability to penetrate the Soviet Union. This is no time to have tomorrow's cruise missile on the skids rather than in the air.

TRIBUTE TO ELLEN DEAN

HON. BILL CHAPPELL, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. CHAPPELL. Mr. Speaker, I rise today to commend and congratulate a resident of my district, Ellen Dean, of Jacksonville, FL, who has been selected as one of five women to represent the United States at the World Aerobatic Championship next August in Canada.

The following Florida Times-Union article does an excellent job of describing how this remarkable young woman has accomplished this most prestigious achievement.

[From the Florida Times-Union, Oct. 15, 1987]

FLYING . . . HIGHER AND HIGHER AND HIGHER

(By Carol L. Lewis)

It has been said that flying is a "rich man's" sport, but Ellen Dean doesn't let that stop her.

Ms. Dean earned her private pilot's license in 1982, and since taking up aerobatic flying three years ago, has already advanced to the unlimited, or most advanced category of the exciting sport.

She has given the sport her all—literally and physically. Unlike some aerobatic pilots who are full-time pilots or entrepreneurs who can afford to finance everyday flying, Ms. Dean, 29, has degrees in forestry and is a cartographic systems analyst.

She cuts expenses by living in a small apartment, dining in and forfeiting luxuries such as television and air-conditioning. Friends tease her about her 1978 dull green, rusting Chevy Nova, then smile as Ms. Dean shows off her aircraft—a $40,000 Ultimate Pitts Special, painted a vibrant red, yellow, blue and orange.

The sacrifices that Ms. Dean has made are paying off. Recently, she won a spot on the United States Aerobatic Team. She ranked fourth of 10 women competitors and 17th of 37 in overall competition. Five men, five women and two alternates were selected for the team, which will compete in August 1988 in Red Deer, Alberta, Canada.

"She has a chance to come out a winner," said Jim Holland, one of the leading aerobatic pilots in the world and an instructor at First Coast Flight Center at the St. Augustine Airport.

"Some of the competitors have won numerous competitions, but she still has a chance. She works hard," he said.

That's the attitude that Ms. Dean, the pilots, aircraft builders and mechanics in St. Augustine have embraced. Although the competition is almost a year off, they've already begun to map out their strategy.

Ms. Dean will fly her aircraft, a basic Pitts model that has been modified to fly the maneuvers she must perform in the unlimited category of aerobatics. As the four levels of aerobatics become more advanced, more endurance is required of the plane and the pilot.

The constant flying and fancy maneuvers that Ms. Dean must perform during practice put a strain on the airplane's engine.

"The wings are stronger and set up to roll faster and the landing gear is much more streamlined to produce the drag compared to those of the basic model," said Ms. Dean, examining the plane as it sat at Aero Sport Inc. on Saturday. "The engine has been souped up like a race car. The work has been done to make the aircraft lighter and to perform better."

Her aircraft is home-built from a kit from the Pitts Factory. Its black inscriptions read, "Ellen Dean, pilot" and "Sponsored by the pilots of St. Augustine."

"The pilots of St. Augustine are excited about me competing and are offering a lot of tender loving care to the plane," she said.

Ms. Dean is one of several aerobatic pilots in St. Augustine. Some aerobatic pilots fly competition and some fly in air shows. She is the only pilot from St. Augustine who has ever made the world team. Four other pilots from the Miami-Pompano Beach area also will be competing. Two males and another female from St. Augustine competed at the national level and will be strong contenders for the next U.S. team, she said.

Jim Moser, an aerobatic pilot and owner of the general aviation facility and flight school in St. Augustine, has been behind her from the beginning.

"Aerobatics is a very hard sport to pull off," Moser said. "It's refreshing to see someone who has taken the time and has the drive to pull it off. It's very unusual for a woman of Ellen's type to get involved. At her level of competition, you usually find [only] the very, very wealthy.

"We sponsor her fuel so she can practice and many of the pilots kick in a few dollars to enable her to fly," Moser said.

"In order to save money, we've taught her to change her own tires and oil. She has had to get dirty to make it work, but she has pulled it off."

It will cost about $15,000 in repairs before the airplane is ready for the competition, but the pilots aren't complaining.

"When it's time to compete, she won't have to worry about finances. We want her to have tunnel vision toward the team. The American team members, unlike the Russians, don't receive [government] money to compete," Moser said.

Al Crichton, an aircraft builder and a retired New York policeman, will work on Ms. Dean's aircraft too. Crichton has been building airplanes for 20 years.

"The old geezers from New York will work on the plane." he said proudly. "I will recover it. We are all rooting for her."

For Ms. Dean, pulling it off means spending weekends in St. Augustine practicing or working on her airplane. But that's where she spends her weekends anyway. Other pilots are there flying, working on their planes or just hanging out.

"You come down to the airport to keep an eye on things or troubleshoot the airplane to see if there is something wrong with it," she said. On weekends, she averages about five hours of flying time. She flies in 30-minute intervals, about four times a day. "It gets tiresome, but you get used to it," Ms. Dean said.

During the competition, Ms. Dean will be graded on the precision of the maneuvers. When she practices she performs her maneuvers inside an aerobatic box, a cube of air that is 1,000 meters on each side. The bottom is 300 feet above the ground. She must fly within the confines of the aerobatic box at altitudes between 300 and 3,300 feet.

Often, her maneuvers are videotaped and critiqued. "She listens and weighs what everybody says. She listens well," Moser said.

Pilots describe her as a hardworking dedicated, timid woman who takes on a "Dr. Jekyll-Mr. Hyde" personality when it's time to get behind the controls of her plane.

Aerobatics is tough on the body, because of the negative G's or forces of gravity pushing on your head, and the positive G's draining the blood away from your head. Some maneuvers require more G's up to seven negatives and seven positives, seven times the weight of the body pushing against it.

Ms. Dean weighs 135 and is 5 feet 9 inches tall. She wears pads at her hips to help reduce bruising on the body when she is strapped into the airplane.

As she flew within the aerobatic box last Saturday, several of her friends watched from the ground. Her maneuvers included a Hammer Head, in which she pivoted the plane, and a Four Point Vertical, in which she rolled vertically and stopped at four points—north, south, east and west.

The Vertical Snap Roll, her favorite maneuver, always measures the experience of aerobatic pilots in the unlimited category, Ms. Dean said.

"You go into an accelerated spin and stop at a precise point. The maneuver requires a lot of finesse and timing. It's the one maneuver that people always have problems with and is the most difficult to master."

Ms. Dean's dream of flying became reality while she was attending graduate school at Purdue University.

"A number of my office mates were pilots, and I often went flying with them. There was an aviation school there. It was the natural thing to do," she said.

When she moved to Jacksonville in 1984 to take a job with Champion International Corporation, Timberlands Technical Center, she didn't plan to continue flying. But a visit to the St. Augustine Airport, where she watched aerobatic pilots perform and was taken up for her first aerobatic ride, changed her mind. She took lessons with Jim Holland and continues to fly with him when she needs a refresher course on some maneuvers.

She has never been afraid to fly, but she doesn't take chances. A line in her cockpit reads, "do not do anything stupid." It's a good reminder, she said.

When Ms. Dean is flying, it may look as if she is playing. But her airplane is designed to do all the maneuvers she tries, some of them perilous.

"It can be dangerous. You are disoriented. You're upside down. You are going against what the body wants you to do. You do stuff according to the way the body falls; that makes it dangerous. You are lifted against the straps. You will want to feel close against the seat. You have a foreign feeling to the body, looking upside down."

Now that she has placed on the national team, another one of her dreams is to fly in an F-16, a military jet fighter. "The more you fly, the more you can appreciate what an aircraft can do. The F-16 is one of the highest performing jets in the world," Ms. Dean said. "Just to ride would be a real thrill."

SAD TEXTILE TALE

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. FRENZEL. Mr. Speaker, printed below is an editorial from the Journal of Commerce of April 21, 1988, which discusses the purchase of J.P. Stevens & Co. by two other major textile manufacturers.

The article raises an issue we should keep in mind when considering further legislation to protect the textile industry. The buy out will reduce U.S. competition in the sheet and towel market, thus enabling price increases to occur.

Then, the industry has the best of both worlds—when price competitive imports surge due to the inflated U.S. prices, the industry can obtain quotas on those items, thus protecting their market and higher profits. As you may know, the U.S. textile industry has been achieving record profits in the last 2 years and is operating nearly at capacity.

In my judgment, this industry has already received too much protection. I hope my colleagues will resist new protection.

SAD TEXTILE TALE

Pity the poor U.S. textile industry. If Congress fails to enact legislation limiting growth in textile imports to 1% a year, officials of the American Textile Manufacturers Institute claimed during their annual meeting earlier this month, textile production in the United States could cease by the 1990s. The trade group's president, Robert G. Laidlaw, warned ominously, "The government is happily giving away our industry, and people are not going to reinvest if they don't have confidence."

That sense of impending doom, we suppose, is why two major textile manufacturers and a New York investment firm are about to spend $1.2 billion to purchase and divide up the assets of the nation's second-largest textile manufacturer, J.P. Stevens & Co. The price, $68.50 a share, is well above the $43 a share Stevens' own management offered for the company two months ago.

The two buyers already in the industry, West Point-Pepperell and the Bibb Co., plan to divide up much of Stevens' market share in sheets and towels. By reducing competition in those businesses, they can charge higher prices. They get an assist from the government's vast protectionist apparatus: If foreign producers attempt to enter the market and drive down prices, the government is likely to slap quotas on the imports.

In textiles, as in so many industries, protection offers windfall profits to those who hold stock in companies that benefit from protection. As the enthusiastic bidding for J.P. Stevens & Co. shows, those windfalls can be significant. Unfortunately, every purchaser of clothing and textile products is required to pay for them.

KIDSLINE

HON. KWEISI MFUME

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. MFUME. Mr. Speaker, in this age of drug abuse, homicide and suicide among our youth, it pleases me to know that there are so many people that refuse to give up on them. These dedicated individuals not only contribute money, but they give of themselves when it would be so easy to give up, turn their backs and say, "there is nothing I can do," or, "it's not my problem." I would like to commend and thank the director of the Mayor's Office for Children and Youth, Ms. Barbara Schuyler Elder, the director of Kidsline, Ms. Dale Hart, and the many volunteers who are all a part of a successful and innovative program located in my congressional district of Baltimore. This program is entitled Kidsline.

Kidsline was developed in 1984, in hopes of coping with the problems of Baltimore's "latchkey children," of which there are approximately 40,000 in the city and surrounding areas. This service is made available primarily to youngsters who are left alone after school while they await the arrival of their parents and is also accessible during nonschool days. The program is staffed by volunteers and work-study students from the Community College of Baltimore and funded by various city and State agencies as well as private contributions. Staff are available to answer telephones, give advice, or just to play games with a lonely and in many cases, frightened child. Young teens have somewhere they can call when they are confused about peer pressure in relation to drugs, violence, and sex. As a result, there may be times that a youth can be deterred from straying in the wrong direction when they know there is someone available who will listen when they need to voice their concerns. In many cases, this program can also be instrumental in preventing potential suicides, which have become an increasing problem in communities across the country.

Mr. Speaker, this program by no means is meant to take the place of adult supervision. Instead, it is a positive outlet for the youth of Baltimore to express their fears and doubts when there is no one else to listen. There is still work to be done in the area of funding for day care services and after school activities.

That is why I implore my colleagues to support funding for programs such as these. I truly believe that if we show our youth that we as adults care, we will see a monumental improvement in the way they start to take pride in themselves and their community.

AMERICA'S LIBERTY—OUR HERITAGE

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SMITH of New Jersey. Mr. Speaker, the Voice of Democracy broadcast scriptwriting contest is carried out yearly by the Veterans of Foreign Wars and its Ladies Auxiliary. The New Jersey State winner of this year's competition, "America's Liberty—Our Heritage," is Miss Cara Torruellas, a high school junior at Villa Victoria Academy in West Trenton, NJ.

Mr. Speaker, I would like to submit for the RECORD a copy of Miss Torruellas' very well-written script.

AMERICA'S LIBERTY—OUR HERITAGE

Going to school, attending church, becoming an informed citizen, and being a good samaritan. These are only a portion of my never-ending responsibilities I face each day as a young adult. At times I wish they would all disappear! This morning it seems like such a heavy burden as I walk to school again. Just then my thoughts were startled by a piercing cry. I glanced upward and caught sight of a magnificent bald eagle soaring above my head . . . as if, as if he were trying to tell me something. I stood there, mesmerized, looking at our symbol of America, freedom, and liberty. His cry awoke in me a sudden awareness that these are not only my responsibilities but also my liberties. I am as free as the eagle because the Constitution not only assures me the right to fly but also affords me the encouragement to fly! In no other country would you or I enjoy such freedom. Yet we must remember that although the bald eagle is free, because of man's inconsideration and neglect, it is also on the verge of extinction. Is is possible that our liberties, our heritage, can also become obsolete, forgotten?

Our forefathers fought countless battles to break out of an oppressive tyranny and anarchy. They then designed the foundation of our democracy—the Constitution—to manage power in government, insure peace and tranquility, preserve freedom, and guarantee individual rights. What are these rights—the rights our forefathers fought so adamantly to secure?

Our constitution clearly mandates as its first amendment the Freedom of Religion, Freedom of Speech, Freedom of the Press, and Freedom of Assembly without the indiscriminate oppression by a Central Government. We are also assured fairness in social and legal treatment. And perhaps the most renowned of all is the right to dream and to pursue that dream.

These rights and liberties have become our heritage; the expectation of fairness, of a brighter future, the opportunity to prosper, and to pursue happiness. What we all know as the American Dream.

Our liberties and heritage are one and the same—if one is lost, so is the other.

In order to preserve our constitutional rights, we as Americans have certain obligations we must uphold.

First of all, we must be informed citizens; aware of our rights and also our limitations, as a society and as individuals.

Second, we must respect our neighbor's beliefs; never infringing upon their rights.

Third, we must use these rights properly to insure justice and a sense of well-being and faith in our system.

And finally, we must remember our forefather's sacrifices for these rights and perpetuate their greatness to future generations.

Rouesseau once said: "Free people remember this maxim: We may acquire liberty but it is never recovered if it is once lost."

Our heritage is just that—Ours—it cannot be found anywhere else; and like the bald eagle, once extinct, it is forever lost.

JEWISH HERITAGE WEEK

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. TALLON. Mr. Speaker, I am pleased to participate in recognizing the worldwide Jewish population during this week which has been designated by Congress to be "Jewish Heritage Week."

During March, April, and May, Jews will celebrate several significant events both religious and historical which contribute to their unique heritage. It is important for all Americans to take note of these celebrations since the Jewish culture is such a strong fiber in our American heritage.

Our Nation as a whole often takes for granted the religious observations, such as Yom Kippur and Passover, which are held sacred by almost 6 million Jewish Americans. Jewish Heritage Week gives all citizens the opportunity to become aware of the religion and the culture of the Jewish people.

Moreover, the history which has shaped Jewish culture has been inextricably tied to our history as Americans. This century has been plagued by prejudice and persecution of Jewish people throughout the world. The shameful and tragic decimation of the Jews during World War II has been a painful lesson that America has learned well; oppression for any reason cannot be tolerated anywhere in the world.

Jews throughout the world are commemorating the 45th anniversary of the Warsaw Ghetto Uprising during this week. This courageous rebellion in the face of certain defeat at the forces of a diabolical holocaust exemplified the determination and the cohesion of the Jewish community.

In the United States, these same characteristics of the Jewish people are exhibited in both individual and community success. Unlike many countries where Jews are denied basic civil rights, America has experienced prosperity because of the unlimited contributions of Jews to politics, education, business, and civic organizations.

The cultural diversity in America is our Nation's strength. We must encourage the expression of this diversity during Jewish Heritage Week in order to foster a nationwide understanding of our national character. I encourage all Americans to commemorate this week in honor of our Jewish citizens.

SANDINISTAS' TRUE COLORS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. PORTER. Mr. Speaker, the Sandinista government is once again displaying its disdain for fairness and fundamental freedoms.

In Nicaragua, the newspapers, that are guaranteed freedom under the Arias Peace Plan, depend on the government for their newsprint. Hours before a scheduled meeting between government officials and Contra representatives, La Prensa was told that its quota of newsprint had run out. No newsprint, no free press, Mr. Speaker.

During the ensuing meeting, Daniel Ortega demonstrated yet again why he is so undeserving of the trust of the international community. The Sandinista negotiators requested that the Contras disarm before negotiations for a lasting cease-fire could go on. Rightly, the Contras walked away from the table and refused to negotiate from a position of surrender.

In 24 hours the Sandinistas disarmed those in Managua who write and speak for freedom, and then attempted to disarm the brave men in the fields who fight and die for that same freedom.

The true colors of the Sandinistas have been recognized by many for years. These latest strong-arm tactics merely paint the disturbing picture in Nicaragua more clearly than ever.

SIERRA CLUB'S JOHN MUIR SESQUICENTENNIAL

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. PURSELL. Mr. Speaker, on this date April 21, 1988, we celebrate the 150th anniversary of the birth of John Muir, the first president of the Sierra Club. Mr. Muir was an individual who had the foresight to realize the importance of our great national treasures of wild nature. I would like to share with my colleagues an excerpt about Mr. Muir that appeared in the April 1988 Sierra magazine:

HOME INTO THE MOUNTAIN'S HEART

John Muir, as T. H. Watkins has noted, was not a titanic force in American literature: "[T]here were those before him, with him, and after him who wrote with a clearer eloquence, with greater sureness and sense of craft." Still, as the frontier was closing in the late 19th century, it was Muir who most effectively proclaimed the wonder and spectacle of wild nature to an increasingly settled urban populace. As he strove to communicate to his contemporaries the splendors of a landscape to which language could not, ultimately, do justice, the end he had in mind was not description for its own sake—at least not always. For much of Muir's best, most heartfelt writing was polemical in its way, intended to inspire action as well as insight.

The Sierra Club, an activist group from the start, has long looked on Muir as its patriarch, for reasons historical as well as rhetorical. Alarmed by the prospect of the Sierra Nevada's ruination, Muir in 1892 endorsed the formation of a club to support the exploration and preservation of the range he loved so well. Within a month he was elected president of the infant Sierra Club, a post he held until his death 22 years later. Since then the Club has endeavored to sustain the high values Muir embraced, values beautifully and forcefully expressed in his writings—the correspondence he so vigorously conducted for most of his life as well as his journals and his many books, pamphlets, and magazine articles, both famous and obscure. Much is revealed in these texts, but perhaps of greatest significance to us, his beneficiaries, are the spiritual insights Muir cultivated on his rambles and the preservation ethos he first developed, then preached.

TRIBUTE TO JOHN MUIR

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Ms. PELOSI. Mr. Speaker, 150 years ago today, John Muir was born in Scotland. He was a writer, explorer, and, above all, a devoted naturalist. Today, we can look at Yosemite, the California Redwoods, and the Grand Canyon, to name but a few areas, and be reminded of John Muir's monumental work to insure that these unique natural specimens were preserved for the future.

John Muir left a lasting mark on our environment, as well as on our national appreciation for the preservation of America's wild lands. You might say he raised our consciousness to a level of better understanding the harmony of environmental and human activity. The writing of John Muir stimulated the Nation and paved the way for him to influence our Federal Government in establishing Yosemite National Park in 1890. Two years later, he brought together the first members of the Sierra Club. The special friendship of John Muir and President Theodore Roosevelt resulted in doubling the area of the National Park System, and quadrupling forest lands to 195,000,000 acres in the early 1900's.

Close to San Francisco and close to the hearts of the many environmentalists of the city is Muir Woods located in Marin County. Redwood stands have now been preserved in Redwood National Park and in several California State parks, but Muir Woods is the only such primeval forest readily accessible from the metropolitan Bay Area. H.R. 4315, to expand Muir Woods, is currently pending in the Interior Committee.

In 1908, President Roosevelt proclaimed the woods a national monument in John Muir's name. John Muir stated, upon learning:

> This is the best tree-lover's monument that could be found in all of the forests of the world. You have done me great honor and I am proud of it * * * Saving these woods from the ax and saw, from the money changers and water changers is in many ways the most notable service to God and man I have heard of since my forest wandering began.

The legacy of John Muir is more relevant today than ever before. Our world is challenged by dramatic changes in the atmosphere resulting from air pollution, acid rain, ozone depletion, and the buildup of greenhouse gases. In recent years, there has been increased international concern for the future of our tropical rain forests, population and energy policies, and threats to the health of our world environment.

Public awareness of these problems and an interest in confronting this new generation of problems must continue to be emphasized. We can thank John Muir for planting the seed that has grown into a stronger awareness of the relationship of ourselves with nature and a commitment to improve our world condition.

I am pleased to join 189 of my colleagues in cosponsoring House Joint Resolution 459, designating April 21, 1988, as "John Muir Day," which was signed into law through Senate Joint Resolution 245 on April 7.

AMERICA'S LIBERTY—OUR HERITAGE

HON. DAVID R. OBEY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. OBEY. Mr. Speaker, today, I would like to bring to the attention of our colleagues in the House an essay written by my young constituent, Steven Paul Shore, which has the honor of being the winning entry from the State of Wisconsin in this year's Voice of Democracy Scriptwriting Contest. More than 300,000 secondary school students participated in this prestigious competition sponsored by the Veterans of Foreign Wars of the United States and its Ladies Auxiliary.

Steven's script tells the story of a visitor to our time from 18th century America who finds the same freedom of speech he fought for being exercised by his latter day ancestors. I join with Steven's parents, Paul and Susan Shore, as well as his classmates at Newman High School in my hometown of Wausau in expressing our congratulations to him for reminding us all of the important role our basic freedoms play in our American way of life. Steven has every right to be as proud of his accomplishment as we are.

AMERICA'S LIBERTY—OUR HERITAGE

In this year, 1987, America is celebrating the 200th Anniversary of its Constitution. This document, which we inherited from our founding fathers, guarantees us the liberties which all Americans enjoy, today.

The following narration shows how a man from the 18th century could still practice his freedoms in the 20th century.

"Hey, nice clothes buddy, you look like someone from the pages of a history book", hollers a person leaning out of a bus window as it passes a strangely dressed man. Feeling out of place, Nathanial Thomas, the man wearing a pleated shirt with ruffles, and a three corner hat shouts back, "Shut thy vulgar mouth".

Downtroddenly he continues along the street and stops to watch many strange motorized things go pass. Being confused, he yells, "What has thy bloody legislature done with all ye horses? It's just like those twits to pass a law forbidding the use of horses and only allow these blasted contraptions on the street. They should all be removed from office".

Even though this stranger has made a statement against the government, he hasn't been arrested for speaking his mind. Though his language has changed in 200 years his freedom of speech has remained the same.

Feeling hungry and thirsty, Nate journeys up the street looking for an eatery and pub. Passing a stranger along his way, he asks directions to the nearest pub and quickly takes off without thanking the man.

Moments later Nate stops in front of an old brick building. Above the doorway, hangs a sign which reads, "Washington's Pub and Eatery". Rcognizing the name, he wipes his brass buckled shoes and enters.

Many people give him strange stares. Nate walks up to the bar, sits down, and orders a drink. Halfway through his drink, Nathaniel catches a glimpse of some strangely dressed young men wearing brightly colored, flowered shirts, and matching shorts. Being curious, Nate introduces himself and asks the boys where they're from. One replies, "We're a group of concerned students who once a week assemble above the bar and talk about the crime problem of the city.

Smiling, Nate comments; "When I was a young lad as thyselves, I also belonged to a group. We were called the post revolutionists. We discussed the greatness of freedom and how to stay free. I thinketh it was great to have the freedom of assembly."

Mr. Thomas then ventured out into the street. Across from the pub was a church with its doors open. Out of curiosity, he decided to wander inside. To his surprise, a Catholic service was being held. Even though Nate wasn't Catholic, he felt he could join in anyway. When the service was over, Mr. Thomas walked out of the door with his shoulders back and his head held high. He just practiced the most sacred freedom of all, the freedom of religion. Nathaniel was welcomed by open doors no matter what he believed. Once more, he worshipped freely like he did 200 years ago.

As Nate stepped out of the door a strange cold feeling came over him. He passed out and slumped to the ground. Hours later, he awoke to find himself lying on the dirt floor of his colonial house. Slowly Nate got up off the floor, made his way to the writing table and said, "Be it a dream or be it true, my journey to thee future was one all mankind should remember".

Nathanial Thomas, living in a time that formed our heritage of freedom was satisfied to know that 200 years later the same rights and freedoms were still being honored. With this in mind, his inner thoughts spilled forth as he skillfully penned this poem:

Founding Fathers I must commend for
thoughtfully penning freedoms that didn't end.
Although 200 years from now the times are strange
The Liberties of now and then didn't change.
My mind was wandering and my body lost.
But still I expressed freedoms at no cost
Far from home I roamed around.
Yet friend freedom gave a common ground.
To younger generations, I offer advice.
Before taking freedoms for granted, you best think twice.
And practice freedoms at all cost, for if you don't, they will be lost.

RAYMON M. POCINO, LABOR LEADER AND COMMUNITY ACTIVIST

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SMITH of New Jersey. Mr. Speaker, on Sunday, April 24, 1988, the Boys and Girls Town of Italy will be honoring two of its own members for their outstanding leadership and contributions to their communities. One of the recipients is Raymond M. Pocino, a recognized labor leader in the State of New Jersey.

Mr. Speaker, Raymond Pocino began his career working as a part time laborer at the young age of 16. By the age of 24, he was working full time in the Construction and General Laborer's Union Local 172 of south Jersey. Because of his notable talent and hard work, Ray was then able to embark upon an impressive ascent through the ranks of union leadership.

Just 1 year after he joined local 172, Ray became a foreman and then at the age of 27, Raymond Pocino became the youngest business agent in the history of Laborer's Local 172. Shortly thereafter, Ray was elected a member of the executive board, serving many years as corresponding secretary and then as secretary-treasury.

In 1983, Mr. Speaker, the members of local 172 elected Raymond Pocino president and business manager of the union. The Boys and Girls Town of Italy reports that during Ray's tenure as president, membership in the union has increased by more than 75 percent to over 3,500 members. In addition, Ray led the union as it strengthened its training programs for its members, expanded health and dental services and bolstered member participation in union activities. Ray's leadership, his effectiveness and his way of working with people are easily credited for the union's expansion and increased prestige throughout the State.

As is with most leaders, Mr. Speaker, Ray's successful record with local 172 has encouraged others to tap him for many important projects in New Jersey. Gov. Tom Kean appointed Ray as a commissioner for the study of hiring, employment and compensation for agricultural workers. Ray has also served as a member of the Coalition for Transportation Trust Fund Renewal and he continues to serve as a member of the Public Employees Committee of the New Jersey AFL-CIO; the Women in Construction Task Force; and on the board of governors of a joint project between the University of Medicine and Dentistry of New Jersey and the New Jersey Institute of Technology. Ray has also served as a member of the fundraising committee for the annual dinner/roast of the Hemophilia Foundation.

Mr. Speaker, it is clear to see from his illustrious background, that Raymond Pocino is a hard working man who has dedicated a lifetime to America's working men and women and to important community projects. In granting him their Distinguished Citizens' Award, the Boys and Girls Town of Italy adds that Raymond Pocino is "a man whose life exemplifies integrity and fairness." I'd like the Congress to join me in congratulating Ray Pocino on his many achievements and wishing him the very best for the future.

THERE ARE SO MANY WARS AND SO LITTLE TIME

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. JACOBS. Mr. Speaker, there are 40 wars raging on this Earth and thus far the administration has only managed to involve us directly in 6 of them.

With less than a year to go, chances for running up the score seem bleak.

Or to paraphrase the words of another actor of yore, "There are so many wars and so little time."

The thing about being President is you don't have to settle for a war movie.

RESTORE RETIREES BENEFITS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. VENTO. Mr. Speaker, earlier this month, 275,000 railroad retirees discovered that their vested dual benefits were unexpectedly cut by 5.3 percent. This unfair reduction is the result of insufficient funding of the railroad retirement fund.

The continuing resolution provided $76 million more than the President requested in his budget, however, the $352 million appropriated is about $10 million short of the amount needed to fulfill the commitments to railroad retirees. For hundreds of thousands of retirees living on limited fixed incomes, this cut chips away at the quality of their lives.

As you know, "vested dual benefits" were created in 1974 when Congress restructured the railroad retirement system. Prior to the restructuring, railroad retirees who had also worked in Social Security covered occupations were entitled to a combination of Social Security and railroad retirement benefits that exceeded the benefits of other retirees who were not eligible for Social Security. Congress eliminated this discrepency in 1974 but acknowledged that those benefits that had already been vested should be protected. Congress funded the vested dual benefits account with general revenues to prevent the inequity of assessing charges against present rail workers for benefits which they are not eligible to receive. These benefits are a fixed amount and are not adjusted for inflation.

Congress made a commitment to these retirees and must not renege on that promise. These retirees experienced a reduction in their vested dual benefits 2 years ago as a result of Gramm-Rudman sequestration. Congress later realized the inequity of cutting these benefits and exempted dual benefits from sequestration under technical amendments to the act. These retirees felt they were protected and now, Congress seems to be turning its back on them.

Today, I am introducing legislation to restore the $10 million needed to fulfill our commitment to these retirees. My legislation also changes the status of dual benefits from discretionary to mandatory to bulwark these benefits against future discretionary spending cuts. Railroad retirees have sacrificed enough in the past in order to restore the financial balance of the railroad retirement system. They deserve fair and equitable treatment in return. I urge my colleagues to join me in cosponsoring this legislation to restore these benefits and to prevent further erosion of dual benefits.

WORLD POPULATION AWARENESS WEEK

HON. JIM JONTZ

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. JONTZ. Mr. Speaker, the fact that the world's population is growing by 90 million people every year is cause for concern. But there is one aspect of that growth that is especially troubling: 92 percent of world population growth is taking place in the developing nations, where resources are already stretched thin and where struggling economies and fragile environments will find it increasingly difficult to accommodate new citizens.

The population trends between the Third World and the industrialized world are very different. Consider the outlooks faced by the nation of Jordan and my own home State of Indiana. Jordan and Indiana are nearly exactly the same size in land area. Today, Indiana's population of 5.5 million is more than 1 million larger than Jordan's. But that fact will not be true for very long. The reason is that while Indiana's population would take well more than 100 years to double at current growth rates, Jordan's will double over the next 19 years.

That astonishing rate of growth is not likely to subside in the near future. Fifty-five percent of all Jordanians are under age 15. That means that a majority of the population will be entering its reproductive years in the very short term. Clearly Jordan, and nations like it throughout the Third World, cannot possibly manage to sustain such growth for very long. Its economic, social, political, and environmental consequences are deeply disturbing to all of us who recognize the importance of Third World stability to U.S. strategic and humanitarian interests.

I am especially pleased, therefore, that the citizens of Indiana will be taking part in the many activities and events related to World Population Awareness Week, recognized nationally this week.

This week holds the potential for advancing a clearer understanding of the urgency of the challenge before us. I congratulate the citizens of Indiana for their contributions to this effort, and I ask that Governor Robert Orr's proclamation be printed in the RECORD following my remarks.

Thank you.

PROCLAMATION

Whereas, the stewardship of American citizens requires each of us to be accountable for the general progress and well-being of our society not only in our state and nation, but throughout the world as well; and

Whereas, if the American Dream is to remain a reality, and if mankind is to realize the promises of a better tomorrow, we must become cognizant of those things which threaten to destroy the hopes for quality living; and

Whereas, the current population of the world has reached five billion and is growing at the unprecedented rate of 87 million each year; and

Whereas, the effects of such rapid population growth can be seen throughout the developing world in problems such as unemployment, hunger, malnutrition, overcrowded cities, environmental degradation, resource depletion and atmospheric pollution; and

Whereas, no nation is shielded from the far-reaching and devastating effects of overpopulation; it can, and ultimately will, affect every country in every aspect of human life and endeavor;

Now, therefore, I, Robert D. Orr, Governor of the State of Indiana, do hereby proclaim the week of April 17-23, 1988, as "World Population Awareness Week" in the State of Indiana, and call upon all Hoosiers to reflect upon possible solutions for averting demographic disaster.

ARMENIAN MARTYRS' DAY

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. FAZIO. Mr. Speaker, today I join my colleagues in observance of Armenian Martyrs' Day. April 24, 1988 marks the 73d anniversary of the beginning of the genocide of 1.5 million Armenians by a dying Ottoman Empire.

The genocide began with the arrest and execution of leading intellectuals and clergymen and the murder of a young man drafted to serve in the Turkish army. By 1923, one-half of the world's Armenian population had been massacred on its ancestral land which it had inhabited for more than 3,000 years.

Unfortunately, the present Turkish Government continues to refuse to acknowledge the atrocities of the Ottoman government. By acknowledging the tragedy, the present government would not have to take responsibility for acts of the extinct Ottoman government. It would, however, help the nation heal itself of the more than half-century-old wounds from which the Armenian people still suffer, and it would be a step forward for all humanity. The Turkish people should follow the example of the West Germans and work toward understanding what happened in prior governments. The West German Government is greatly respected by the world community for the open and honest manner in which it has dealt with the Nazi atrocities. The modern day tragedy of this genocide is that the pain and suffering of the Armenian people still continues, in part due to the refusal of the Turkish Government to acknowledge that the genocide ever took place.

What happened 73 years ago was the first atrocious display in the 20th century of international neglect and passivity in the face of genocide. Had the historical lesson of the Armenian genocide been recognized in time, it could have prevented or at least mollified the later tragedies. But, sadly, the level of man's inhumanity to man demonstrated by the Ottoman Empire between 1915 and 1923 was repeated in Germany and again in Cambodia. It is important that not only Armenians, Jews, and Cambodians remember the atrocities of genocide, but that all of mankind remembers these events. We have a moral responsibility to remind ourselves of the tragedy and consequence of genocide so that it will not happen again.

By allowing the Turkish Government to erase every memory and rewrite history, the entire human race suffers. For we will have no memories to ensure such tragedy from occurring again. As the Nazi Army prepared for the invasion of Poland on August 22, 1939, Hitler asked his top commanders, "Who still talks nowadays of the extermination of the Armenians?" Let us make sure that no one asks such a question today.

We must heed our own warnings and do all that we can to ensure that another race, nationality, or ethnic group does not face the atrocities the Armenians faced 73 years ago. Today, we pause to remember the 1.5 million men, women, and children who died because they happened to be Armenian. By recognizing this tragic event, we act in the hope that our efforts will prevent such a recurrence.

THE B-1B: A CREDIBLE STRATEGIC DETERRENT

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. EDWARDS of Oklahoma. Mr. Speaker, I would like to reflect on recent statements concerning the B-1B bomber and its role as part of our strategic deterrent. Being a national security issue, this system like so many in the strategic area seems to bring forth strong feelings. This is all the more the case since the B-1B, rightfully or not, has come to symbolize the Reagan administration's defense buildup.

The B-1B was invisioned more than 20 years ago as the follow on to the aging B-52. As a result of decisions based more on politics than on military need, the program was canceled during the Carter administration. In 1982, President Reagan, faced with an acknowledged shortcoming in the penetrating bomber leg of the nuclear triad, requested congressional approval for 100 B-1B's to be delivered starting in 1986. The Congress in a bipartisan manner provided authorization for the B-1B and granted it multiyear procurement status to ensure that it would be available on time.

The first B-1B's were delivered to the Air Force by the prescribed date in 1986 and the 100th B-1B will be delivered to the Air Force by the end of this month—2 months ahead of schedule and within the congressionally mandated cost cap. To most people this would represent a procurement success story, but due to shortcomings in the plane's EDM system, some have labeled the program a failure and argued that the B-1B cannot fulfill its penetration mission.

In fact, the B-1B does have some problems, not unlike any other complex system this Nation has ever developed. The ECM system does not perform as advertised and may not do so for several years. However, when the politics are stripped away, we find a system with considerable capability which can fulfill its mission as it stands on the runway today. As a result of the B-1B's speed, low altitude characteristics, and small radar cross section, it can penetrate the Soviet Union and carry out the mission it was designed to do.

The fact that the B-1B is capable and can penetrate has been repeatedly stated by the Air Force in both open and closed hearings. Further testimony to the plane's abilities can be found by talking to the crews who fly the B-1B and who would, if called upon, risk their lives based on that confidence. These are the people who really know what the B-1B can do but regrettably they are not provided an opportunity to make floor statements.

Mr. Speaker, the Nation's security is the primary function of the Federal Government. Intense scrutiny of our defense programs is therefore an absolute priority of the Congress. With this responsibility, however, comes the duty to accurately inform the Nation on the state of its Armed Forces. Politics aside, the American people should know that their considerable investment in the B-1B program has provided them with a credible deterrent force with which to help defend the United States for the next 30 years.

CONGRESS-BUNDESTAG EXCHANGE PROGRAM

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. HORTON. Mr. Speaker, the chance to travel and learn about other cultures is one of the most rewarding experiences in life. Each year as many as 300 students are provided this opportunity through the Congress-Bundestag Youth Exchange Program. This year-long program consists of a full scholarship to allow students to intern in the West German Bundestag. A similar number of West German students intern in the U.S. Congress under the Exchange Program.

It is always good to learn that the students who travel to Bonn have truly appreciated their experience. It is for this reason that I would like to include in the CONGRESSIONAL RECORD a letter written by a youth from my district. Laura King wrote me to express her appreciation for helping her to participate in the Congress-Bundestag Youth Exchange Program. The text of her letter is as follows:

DEAR CONGRESSMAN HORTON: I imagine that the majority of your mail consists of either problems, complaints, or requests. This letter, however, doesn't fit into any of those categories, instead, its a letter of appreciation.

I have just returned from a year in West Germany and participated with the Congress-Bundestag Youth Exchange Program. This scholarship enabled me to have a year-long experience that has already started to influence my future. I am now planning on studying at Boston University, with majors in language and International Relations. It is this exchange experience that has made me more open, accepting and aware about many current issues. Through all of this learning, I feel I've grown as an individual in ways that wouldn't have been possible if I hadn't participated in this Youth Exchange Program. I now see the need for better international relations with all countries and hope to use things I've learned from this exchange experience beneficially toward the international relations of the future.

I hope to have encouraged you to go on with your support and influence to continue this program. The benefits are numerous and provide the younger generations with a better understanding of each other, and most of all friendships that secure a hope for the future.

Thank you again for making such an opportunity available to me.

Sincerely,

LAURA KING.

TRIBUTE TO G. ROBERT "BULL" DURHAM

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. KOLBE. Mr. Speaker, I think it is especially appropriate today, amidst the ongoing debate over the omnibus trade bill and concern over U.S. competitiveness, to salute G. Robert "Bull" Durham who has just been named "1987 CEO of the Year" by Financial World magazine.

Phelps Dodge, led by its chairman Bull Durham, attests to the reawakening ingenuity of American business. Through a period of depressed copper prices and fierce foreign competition, Phelps Dodge has blazed a trail of economic prosperity which will stand as a national example for years to come.

I commend to my colleagues a feature article appearing in Financial World, April 5, 1988 which tells the story of Arizona based Phelps Dodge and its CEO, Bull Durham.

The article follows:

BULL DURHAM: PHELPS DODGE

(By Kevin Lahart)

Three men strolling along the river after dinner remarked on the sight: A diffused, brightening blue-white glow backlit the gap between the peaks for a time before the perfect full moon itself rose out of the mountains. Predictably, the movie "Moonstruck" came up. "That was a great movie," Bull Durham said. Then he chuckled, "The best part was the scene about the copper pipe."

G. Robert Durham, "Bull" to his colleagues and friends, was only half kidding. For the chairman, and chief executive officer of $1.6 billion in sales Phelps Dodge, the largest producer of copper in the U.S., demand for the metal is everything. On the highway just across the San Francisco River, the moon picked up the chrome exhaust pipes of another Peterbilt hauling a flatbed trailer bearing 28,000 pounds of virtually pure copper. Produced a few miles away at Phelps Dodge's Morenci, Ariz., mine and solvent extraction/electro winning plant, the load on the truck was hitting the market having cost 25¢ a pound to produce. With the price of copper hovering around $1 a pound, that truck load alone will put $21,000 on the company's bottom line.

Pound after pound, ton after ton of the stuff—mined and refined at Morenci, at PD's Chino and Tyrone operations across the state line in New Mexico and elsewhere—nearly a billion pounds of copper, produced at an average cost of just over 55¢ a pound and selling in 1987 at an average price of 82¢ a pound enabled Phelps Dodge to post earnings of $206 million, or $5.70 a share, last year. By contrast, its largest U.S. competitor, $1.3 billion in sales, Asarco, reported earnings of $279 million for 1987, but most of that came from a $71 million tax credit and from a $243 million pretax profit from the sale of assets.

Yet just three years ago, 154-year-old Phelps Dodge reported a loss of $276 million, or $11.27 a share. The company whose fortunes depended on the metal that comes only from redhued mountains was nearly done in by red ink.

Four straight years of depressed copper prices put giant Anaconda out of business as Atlantic Richfield, which had bought the mining company in 1976, sold it off piece by piece. It sent a shrunken Kennecott into the arms of Standard Oil and British Petroleum. Four years of low copper prices were driven further down by third world producers dumping supplies into the world market to earn hard currencies. Those same four years of copper prices well below the cost of production drove George Munroe, the now-retired chairman of Phelps Dodge, to call on Durham, who was senior vice president, and four of his colleagues late in the third quarter of 1984 to devise a plan to try to save the foundering company. The quintet came up with a plan, now in its fourth year, that focused on cutting costs in copper production and diversifying beyond metals production.

The crisis in copper traces back to the mid-1970s. It is a labor-intensive and energy-intensive business, and it was hit on both fronts. First energy costs soared. Then the price of labor increased dramatically as cost of living increases tied to inflation were written into labor contracts. When the bottom fell out of copper prices beginning in 1980-81, the high costs of production remained.

In mid-1984, the company was producing copper at a cost of over 80¢ a pound when the market price was about 65¢. Phelps Dodge was losing nearly $2 million a week.

"After three or four years of very tough times, we were going through a great deal of anguish," says Durham. "Very low copper prices generated substantial losses. Frankly we were very frustrated at the outlook and prospects for the copper industry.

"We had done all the classic things that companies do when they are faced with tough times," he goes on "We cut, then eliminated the dividend. We reduced manning. We reduced the payroll. All salaried people took pay cuts, from the secretaries to the chairman. The directors cut their fees. We did all the classic belt-tightening, hang-tough types of things. We began selling nonessential assets to stem the losses, to get some cash to carry us. The corporation took a tough stance with the United Steelworkers Union in a much-publicized strike and prevailed. That was in 1983 and it was all resolved by early 1984.

"We did all those things," he stresses, "and yet we were still losing a lot of money. In the third quarter of 1984 we were losing at a rate of $25 million a quarter."

When G. Robert Durham was growing up, cigarette papers were used to roll tobacco, and Bull Durham—it came in a small, white cloth bag with the packet of papers gummed to the outside—was the most famous brand. Movie cowboys rolled their own, and prepubescent boys of little means and small hands tried the very tricky business of creating the perfect cigarette from too-small paper and too-dry tobacco. For Durham, the nickname was probably inevitable.

Durham grew up in West Frankfort, Ill., where his father was a coal miner, and he himself spent summers as a miner while going to school.

"The whole area was coal mines, underground mines, operated by the Old Ben Coal Corp. They provided an education for my family. We were pretty good schoolboy athletes, and the Old Ben company provided a means and an impetus to get out of the mines."

Thus impelled and properly funded, Durham went off to Purdue University, where he studied economics and "the business side" of labor law.

Durham married his high school sweetheart, Kathleen Roby, between semesters of his junior year at Purdue. The first of five children was born the following year. After graduation in 1951, "We went to St. Louis and I joined Reynolds. Aluminum was just coming to prominence. We were a bunch of young guys, and it became almost a crusade for us, to cover the world with aluminum." It was at Reynolds where, he says, "I learned the discipline of the big corporation."

By the early 1960s, Durham had moved to the Ashby Corp., at the time a large producer of, among other things, lawn furniture. "A friend told me that the government was having trouble getting Army cots produced for Vietnam. They were having trouble getting lumber and cotton duck." Durham figured that aluminum tubing and nylon webbing would do as well and set about convincing the Army. Soon his company found itself supplying the Army.

In 1967, Phelps Dodge acquired Ashby, and Durham became executive vice president of Phelps Dodge Aluminum.

In 1973 his life changed. "I developed cancer. In July of 1973, I had a kidney removed. Post-op everything was fine and I jumped back to work." And he started thinking. "When you go through a major operation, you start seeing things differently. In mid-1974 I started looking for my successor and in March of 1975, I actually retired. For a couple of years, I had a great time."

Phelps Dodge lured him out of retirement in mid-1977 to become chairman of its troubled Phelps Dodge International Corp., but first had to agree to put the subsidiary's headquarters in Coral Gables, Fla. "The guys at PD International were very talented. They knew what to do. I just served as the catalyst. We put together a plan and turned it around quickly."

In 1982, then-Chairman George Munroe called Durham to New York to become senior vice president of corporate planning for what was becoming a sick company. It was in that role that, in 1984, he and four of his colleagues created the plan that turned the company around.

But little more than two years later, when the price of copper was still at 65¢, you could see Durham's plan starting to take effect: In the final quarter of 1986 Phelps Dodge managed to earn nearly $11 million. The operating leverage was enormous. In the fourth quarter of 1987, with copper hitting $1.46 a pound, Phelps Dodge earned $105.4 million.

What has happened at Phelps Dodge between the day in August 1984 when Durham and his four colleagues closeted themselves to reinvent their company and today is a turnaround that looks spectacular because of the recent surge in the copper market. Remove the spike in copper prices and their accomplishment is still impressive.

Running a company whose major line of business is a commodity is a grueling task. There is no differentiation, no product advantage. Automobiles and VCRs lend themselves to creative marketing. Commodities do not. Salt is salt. Copper is copper.

Copper is, in addition, subject to the vagaries of a less than perfectly orderly market and uncertain economic cycles. Major producers include not only competing companies, but countries whose nationalized mines, production facilities and pricing policies serve economic and political purposes as well as mercantile ends.

Yet somehow Durham had to find a better way. "We had to be objective," says the 59-year-old Durham, who helped put himself through school by working in the coal mines of his native West Frankfort, Ill.

"Munroe asked five of us to see if we couldn't put together a plan for the corporation that would allow us to function as a viable company and accept the fact that a 65¢ copper price was going to be the bogey that we had to overcome. This was in August of '84. He told us there were no sacred cows.

"With that we closeted ourselves for the better part of a month. We sat down and looked at all the assets, all the pieces that Phelps Dodge consisted of. We asked, 'What's our lowest cost copper operation? What's our lowest cost mine, lowest cost mill, lowest cost smelter?' Then we put that on the table to see what the company looked like. We developed a plan by which, if we were able to achieve it in four or five months, we could have a viable company."

Many of the changes were quite mundane: Mining and production facilities that the company had been operating for decades were to be closed down. Thousands of employees would find themselves out of work. The company was to be cut to the bone.

Says Durham: "We presented it to the board. They approved it and said, 'Now you go do it.' "

They also promoted Durham to the presidency of the company. "Within three or four months we had stopped the losses. Then we began to see improvement, with absolutely no help from the copper market. The price hung at 65¢ for the next three years, until the middle of last year. And we just honed and honed our operations."

The initial changes implemented to reduce costs were dramatic. The honing was mundane. Mining engineers figured the slope of the sides of openpit mines could be steepened. Trucks replaced railcars for in-pit mining. They made a lot of small changes. Individually, they don't look like much, but they add up.

Headquarters was consolidated on four floors of a Phoenix office tower, and the company's elegant Park Avenue offices vacated.

In that Phoenix office it is clear, even though good times have returned to the copper industry, that Phelps Dodge is a lean company. Durham has no secretary of his own. He shares an administrative assistant with two key lieutenants. When he travels to New York, he flies coach. And even though he and his top executives are forever hopping around the Southwest, the country and the world, the usual corporate trappings are missing. When, for example, a visitor expresses surprise that there are no company planes. Durham says over the steady throb of the twin engines of a chartered Beechcraft. "No and there never will be. We don't do ourselves what others can do better for us."

But neither does Durham hire outsiders to do what he is convinced he and his people can do better. Over the past several years, Phelps Dodge has done a fair amount of divestiture and acquisition. And though Durham will hire Bob Alexander of Silver City, N.M., to fly him to Morenci, he won't let an investment banker negotiate a deal for him. "We like to sit across the table from anyone we are dealing with, face to face," he says. "Investment bankers don't always have our best interest at heart. They want to do the deal."

Recently, Durham has been in an acquisitive mode, diversifying a bit away from copper, buying a pair of cash cows, rich companies in basic industries that he hopes will contribute a steady $150 million to the bottom line. "We wanted companies not oriented to the copper cycle," he said.

In late December 1986, Phelps Dodge bought privately held Columbian Chemicals, a major producer of carbon black for the tire industry, for $240 million. Even with that purchase, Phelps Dodge was able to reduce its total debt load by $185 million in 1987. On March 4, Phelps Dodge bought, for $272.5 million, the Accuride Corp., the major producer in North America of wheel rims for medium and heavy trucks. Durham says that no further nonmining acquisitions are planned for the near future.

"What we wanted to do was break our complete dependence on copper," Durham says, "but first we had to get enough strength in the copper business." He's succeeded at both and now can smile and savor the success. The measure of that success is that the company was able to reduce its copper production costs by a third.

Durham does not anticipate that Phelps Dodge will be looking outside the copper industry for further expansion in the foreseeable future. But a significant capitalization program is still underway, particularly in expanding the company's ability to produce copper via the very low-cost solvent extraction/electro winning process. SX/EW is a combination process whereby copper is leached from vast piles of low-grade ore and then produced via electrolysis. The $92 million Morenci plant, for example, which went on line last year, can produce 100,000 pounds a year at 25¢ a pound.

In addition, says Durham, "We're spending $500 million on a plant for our Chino operation in New Mexico, expanding SX/EW at our Tyrone, N.M., plant and building a $44 million crushing and conveying system at Morenci. All of these will enable us to continue to have dramatic reductions in the cost of producing copper."

In recent weeks the price of copper has pushed well over a dollar a pound. And the company that in 1987 produced 9% of the world's copper is in fat city. Phelps Dodge is aiming to lower its average production cost of 55¢ a pound to 48¢ a pound, close to that of its biggest competitor, the Chilean government, whose operations produce 18% to 19% of the world's copper at about 45¢ a pound.

If the price were to hold at a dollar through 1988, a net operating loss carry forward from the bad years would allow Phelps Dodge to flow the entire potential $450 million from its copper operations along to the bottom line. Add in the conservative estimate of $150 million from nonmetals operations, and it could be looking at a 1988 earnings of $20 a share and a price/earnings multiple of about 2. Bull Durham isn't counting on such a scenario.

He'll be happy with an average copper price of 82¢, but because of cost cutting and diversification, he says, the company can be profitable well below that level. He doesn't like to predict things, he says, but is counting on 1988 being a good year, "about as good as 1987."

And if not, if the market completely falls apart and the price of copper crashes to unthought of levels? "Worst case, we can close down our regular mining operations and rely on SX/EW." But even in that worst case the situations would not be as bad as it was four years ago when Durham and his colleagues sat down to save their company.

BEALE MEMORIAL BRANCH LIBRARY DAY

HON. WILLIAM M. THOMAS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. THOMAS of California. Mr. Speaker, today I rise to pay tribute to the Beale Memorial Branch Library in Kern County, CA, in my 20th Congressional District of California. This wonderful new facility will be officially dedicated on Saturday, April 30, and immediately promises to become a cultural and educational keystone in Kern County.

The Beale Library is a facility that any modern city would love to call its own. The new building carries the name of a past library founded by Truxtun Beale, an American diplomat, who built the first Beale Library in honor of his father, Edward Fitzgerald Beale.

That library opened on June 2, 1900. We've come a long way since then, with the new library an impressive edifice to public service and education. To be sure, the Beale Library isn't simply going to be a building full of books. Far from it—this facility will serve as a total cultural and educational resource full of intellectual challenge.

Some of its many features include a special Children's Library and a small amphitheater for story readings. Special rooms have been set aside for collections that emphasize particular areas of interest. One room honors the region's important petroleum industry; another examines local history; still another is devoted to the study of genealogy. Appropriately, paintings by California artists adorn the interior walls of the Beale.

Libraries are a much-needed refuge in an all-too distracting world. And in this relentless "Age of Information," the library stands as a sanctuary for the curious and the informed. As William Shakespeare said, "My library was dukedom enough for me."

Many people were involved with the creation of the Beale Library. Special thanks should go to the Kern County Board of Supervisors, the Kern County Library Foundation, and to the generous citizens of Kern County.

The new facility will establish a new standard of public service and excellence in Kern County. I am happy to send my best wishes to Beale Memorial Branch Library and congratulate its patrons on what will be a most worthwhile resource for years to come.

LEAGUE OF WOMEN VOTERS 1988 WOMEN OF HONOR

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. LEVINE of California. Mr. Speaker, I rise today to bring to the attention of my colleagues in the House of Representatives the work of the League of Women Voters and the two women it is saluting for their outstanding contributions through volunteer work. The 1988 honorees are Caroline Leonetti Ahmanson and Dorothy Jonas.

The League of Women Voters, a national, nonpartisan multi-issue organization, was founded with the goal of encouraging the informed and active participation of all citizens in Government. The league has been a force in public policy since its founding in 1920 because it is based on sound, informed work at the grassroots level. Membership in the League of Women Voters is open to all citizens, men and women, of voting age.

Dorothy Jonas is a close and special friend. Since 1978, she has been a full-time activist in the battle to win equal rights for women. During the nationwide drive to ratify the equal rights amendment, she sponsored and coordinated fundraising drives for the ERA, including the "ERA Countdown Campaign" with Alan Alda and Betty Ford.

In addition, Ms. Jonas and her daughter, Bonnie Sloane, learned firsthand how eager married women are to understand their status under the law—eager, but concerned because they lack accurate information.

In 1981, as a new appointee to the California Commission on the Status of Women, Dorothy Jonas served as chair of a commission task force to explore the discriminatory impact of California laws on married women's rights. In 1984, as chair of the commission, Ms. Jonas succeeded in making the rights of women in marriage a priority item for commission study and legislative action.

Her efforts culminated in the successful passage of a new California law, chapter 1091, effective July 1, 1987, mandating open financial books during marriage and establish, for the first time, legislative intent to promote the equal partnership marriage.

When I was a member of the California Legislature, Dorothy and I worked closely together to reform California's rape law by eliminating the inappropriate but century old "victim resistance" standard.

Ms. Jonas is also chair of NOW's National Task Force on the Rights of Women in Marriage, a group of legal experts and activists across the Nation working to reform State property laws in order to protect the rights of wives, divorced women, and widows.

Dorothy Jonas is convinced that it is essential to secure the full protection of the law over the rights of every spouse, in order to stabilize and dignify the American family.

Ms. Jonas continues her organizational commitments with numerous other groups, some of which include, president, advisory board of the Rape Treatment Center, Santa Monica Hospital; founder/coordinator of the Los Angeles Women's Leadership Network; member, board of directors, American Civil Liberties Union Foundation; member, Los Angeles Women's Political Committee. She also is a member of the League of Women Voters; Women For:; YWCA of Los Angeles; Comision Feminil Mexicana Nacional; National Council of Jewish Women; Women's Equity Action League; and Asian-Pacific Women's Network.

Dorothy is married to Allan Jonas, also a close friend and gifted and selfless leader of our community. They have four grown children and seven grandchildren.

Caroline Leonetti Ahmanson has been involved in business, cultural, civic, national, and world affairs, and has travelled worldwide primarily to encourage cultural exchanges and for people-to-people programs as well as to promote trade for the United States and the Greater Los Angeles area. She is vice-chair of the board of directors of the National Committee on the United States-China Relations, vice president of the board of directors of the Los Angeles World Affairs Council, chair of the Los Angeles-Guangzhou—Canton—Sister City Association, and a trustee of the American Women for International Understanding.

Ms. Leonetti has a long and distinguished background in business and holds many positions of responsibility such as, chair of the board of Caroline Leonetti Ltd., a self-improvement center and talent agency she founded in 1945, and former chair of the board of directors of the Federal Reserve Bank of San Francisco. She serves on the board of directors of the Walt Disney Co., Fluor Corp., and Carter Hawley Hale Stores, Inc. She serves on the city of Los Angeles Economic Advisory Council by appointment of the mayor and serves on the Archdiocesan Finance Council by appointment of the archbishop. She also serves on the board of directors of the Los Angeles Chamber of Commerce.

In her cultural sphere of activities, Caroline Leonetti is vice chair, board of trustees of the California Museum Foundation of the California Museum of Science and Industry. She is a member of the board of trustees of the Los Angeles County Museum of Art, the Music Center, the Los Angeles County Arts High School Foundation, the Los Angeles Arts Task Force and by Presidential appointment of the President's Committee on the Arts and Humanities. This is only a partial listing of Ms. Ahmanson's philanthropic and civic minded activities. She is a woman of limitless energy and spirit and it is with great pleasure that I share some of her accomplishments.

PITT HONORS GENERAL RIDGEWAY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. MURTHA. Mr. Speaker, tonight the president of the University of Pittsburgh, Dr. Wesley W. Posvar, will announce the naming of the Matthew B. Ridgeway Center for International Security Studies at the University of Pittsburgh. There are few individuals more deserving of such an honor than Gen. Matthew B. Ridgeway.

General Ridgeway served the United States with great distinction during a military career that spanned five decades. A graduate of the U.S. Military Academy at West Point, General Ridgeway commanded the 82d Airbourne Division during the invasion of Normandy in 1944. He then was named Deputy Supreme Allied Commander of the Mediterranean Theater of Operations, and at the end of World War II represented General Eisenhower as the U.S. Army Representative on the Military Staff Committee of the United Nations. In 1951, General Ridgeway assumed the Supreme Command of Allied Forces in Korea, and finally was named Supreme Commander of Allied Forces in Europe in 1952. The city of Pittsburgh has been General Ridgeway's home for the past 33 years, as he has served as the chairman of the board of trustees at the Mellon Institute of Industrial Research.

General Ridgeway's ties to Pittsburgh, and his lifelong commitment to international security, make the naming of this new center at the University of Pittsburgh very fitting. Students at Pitt will have a fine example to look up to as they study the increasingly important field of international security concerns, and General Ridgeway can be assured that his dedication to world peace and security will live on through future generations of scholars.

I would like to take this opportunity to congratulate Gen. Matthew B. Ridgeway on his years of dedication to the United States and world security, and also on his commitment to the University of Pittsburgh. The university has made a fine choice for this honor.

H.R. 303

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. BILIRAKIS. Mr. Speaker, on April 14, 1988, the House Veterans' Affairs Subcommittee on Compensation, Pension and Insurance held a hearing on H.R. 303 which I introduced. The hearing marked the first time Congress had ever addressed this important issue.

As the House sponsor of H.R. 303, I am requesting your assistance in this effort to eliminate the fundamental inequity in current law which requires military retirees to pay for their VA disability compensation out of their military retirement. As you know, a 19th century law requires military retirees to waive dollar for dollar the amount of their military retirement equal to the amount of their VA disability compensation.

Career military retired veterans are the only group of Federal retirees who are required to waive their retirement pay in order to receive VA disability. I find this 19th century waiver requirement entirely inequitable because a military retiree is unjustly penalized by the fact that he choose the military service as his career. In effect, the military retiree is singled out solely because of his career choice.

It is deeply disturbing that this brave group of disabled retired veterans are the only group of Federal retirees who cannot collect their retirement for having served their country for 20 years or more and also receive their VA disability for a service-connected injury depending on their percentage of disability. If the servicemember does not give up his military retirement he forgoes all disability benefits from the Veterans' Administration.

H.R. 303 has received widespread bipartisan support from 220 of our colleagues. Senator SPARK MATSUNAGA of Hawaii has just recently introduced the Senate counterpart, S. 2120, which currently has nine cosponsors.

My bill has been endorsed by 17 veterans organizations including the American Legion, Disabled American Veterans, Veterans of Foreign Wars, Uniformed Services Disabled Retirees, Military Order of the Purple Heart, Non-Commissioned Officers Association, Reserve Officers Association, Fleet Reserve Association, the Retired Enlisted Association, Catholic War Veterans, Air Force Sergeants Association, the Jewish War Veterans, National Military Family Association, National Association for Uniformed Services, AMVETS, the Retired Officers Association, and the American Retirees Association.

I am pleased to say that many of these dedicated groups are here this morning to speak of their support for the enactment of H.R. 303 and the elimination of the offset between military retired pay and VA disability. This alliance of veterans organizations and 220 Representatives in the House assert that the statutory offset is an injustice to those veterans who have sustained a service-connected disability during their military career. And if we believe in the concept of a republic, then those 223 Representatives speak for a majority of the American people.

Given this overwhelming support in Congress and in the veterans community, Congress should be compelled to take action on this matter.

I would like all of my colleagues to just remember one thing: H.R. 303 is simply a matter of equity. It is our duty as Members of Congress to eliminate inequitable laws, such as the offset in current law. H.R. 303 will help us fulfill this duty and treat all Federal retirees in a fair and evenhanded manner.

Let me give you just a few examples of other Federal personnel receiving disability payments and retirement. For example, it is possible to have two Federal retirees with the same service-connected disability suffered in the same battle who have worked the same number of years in Federal service treated differently. Why? Because one served all his years in the military and the other served only 2 years in the military and the remainder in civil service.

The military retiree must pay for his disability benefits from his retirement check. But the civil service retiree may receive both his civil service retirement and his VA disability in spite of the fact that his military service is included in calculating his civil service retirement and in spite of the fact that he had been receiving VA disability during all the years as a civil servant.

In another case, two veterans could both be rated 100 percent service-connected disabled and both receive the same amount of VA disability even though one served for 2 years in the military and the other served for 20. The travesty in this situation is that the disabled career veteran has his entire retirement annuity offset by his VA disability compensation.

I'm anxious that Congress closely scrutinize this policy and the rationale for treating career military differently from the short-term veteran. As I stated a few moments ago, an individual with only a few years of service can continue a career in private or government employment—while at the same time receive VA disability compensation—then apply his military service toward civil service, and receive retirement pay concurrently with VA disability benefits.

Probably the most frustrating fact to me is that we have asked these brave men and women to serve during a time of need, under tremendous duress and danger, and yet the Government fails to abide by its commitment to provide full military retirement. How can we possibly expect to maintain a viable national defense if servicemembers realize that if they experience a service-connected disability they cannot receive VA disability and military retired pay? Military personnel cannot protect themselves from loss of income through the purchase of private disability insurance or seek redress through legal action against the U.S. Government. Congress should carefully review this matter with regard to the offset's effect on our Nation's ability to recruit and retain qualified, military career personnel.

As the sponsor of this legislation, I have encountered many arguments from opponents which I would like to briefly address. With regard to the statement that my bill would enable retired veterans to "double dip," I contend that there would not be any duplication of benefits if H.R. 303 were enacted. My bill would not enable the retired disabled veteran to receive two payments for the same disability. Disability compensation and DOD longevity pay are entirely separate programs with entirely different purposes. Retirement pay is earned for 20 years or more of faithful service and is an inducement to attract and retain qualified personnel to the military as a career.

VA disability compensation, on the other hand, was established to replace the loss of earnings attributable to a service-connected or service-aggravated injury. Disability compensation also serves to compensate the disabled veteran for his reduced ability to compete for civilian employment.

It is quite clear to me that DOD longevity pay and VA disability benefits are vastly different: the former relates to length of honorable service in the Armed Forces and the latter relates to disability and subsequent loss of earning potential.

Mr. Speaker, disabled military retirees often are solely dependent upon VA disability as many cannot earn an income elsewhere. Statistics clearly indicate that disabled veterans have a much lower earning potential than the civilian force. Therefore, these service men who in the line of duty became disabled are singled out as the only group of Federal retirees who cannot collect both their retirement and VA disability. Again, why do we compensate the noncareer veteran for disabilities and not those who have sacrificed and served their country the longest?

To clearly demonstrate the inequitable consequence of the offset, how can we justify why a service member who receives heroism pay as part of his retired pay for a Distinguished Service Cross, Silver Star, or Soldiers Medal must waive that heroism pay. In this instance, the soldier who has been awarded for an extraordinary act of heroism is stripped of his recognition and must also fund his VA disability out of this award.

And conversely, the veteran who receives dependency allowance or aid and attendance allowance as part of his VA disability must waive dollar for dollar his military retirement. Remember how pleased we all were that we were able to provide a cost-of-living increase to recipients of VA disability? Well the actual impact of Congress' action was to increase the amount of military retirement that the disabled retired veteran must waive each month in order to receive his VA disability.

I am convinced that there is no sound policy for not allowing retired career military to collect their retirement pay and their VA disability compensation. The cost associated with H.R. 303 is perhaps the only logical impediment toward enactment. Cost estimates have been varied: from $2 billion to $900 million. Before the Subcommittee on Compensation, Pension and Insurance on April 14, 1988, DOD estimated a cost of a minimum of $1.1 to a maximum of $1.7 billion per year.

I must admit that the process of obtaining accurate data on the cost of H.R. 303 and the actual number of affected retired veterans has been frustrating at best. The differing figures that I have received from the Department of Defense, from the Veterans' Administration and from the Congressional Budget Office all differ. How can opponents possibly shoot down this equitable proposal when accurate cost figures are not available? In addition, none of the cost estimates have incorporated the return to the U.S. Treasury resulting from the fact that military retirement is fully taxable.

I submitted to the subcommittee what I view as a rather conservative estimate from the Joint Committee on Taxation which concludes that $100 million would be returned in income tax to the Treasury if H.R. 303 were enacted. The Congressional Budget Office will not provide figures on the return to the Treasury. In general, approximately 20 to 30 percent would be returned as taxable income.

In closing, I wish to outline the situation of a 100-percent disabled veteran of three wars: World War II, the Korean conflict and Vietnam. In addition to his three periods of service, Col. James Lindberg Hughes, USAF, was a prisoner of war for 6 years in the "Hanoi Hilton" during the Vietnam conflict. Colonel Hughes served this Nation in the most honorable terms for 25 years and 2 months. How can we justify the fact that Colonel Hughes must waive his 60 percent of his military retirement in order to receive VA disability for his service-connected disabilities incurred during his service in three wars and having been a former prisoner of war? That to me is unconscionable.

There are countless other distinguished retired veterans who must also fund their VA disability from their military retirement. The present law is unjust, unrealistic and simply does not adequately compensate those brave service members who have defended our Nation.

Mr. Speaker, the subcommittee review of H.R. 303 was indeed a momentous event for the hundreds of thousands of retired veterans affected by this discriminatory law. In closing, I urge the House leadership and the leadership of the House Veterans' Affairs Committee to favorably consider this matter so that retired veterans who should be rewarded rather than penalized for having served their country for

20 plus years can receive the compensation they have earned.

NATIONAL OUTDOOR POWER EQUIPMENT SAFETY MONTH, H.J. RES. 546

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SIKORSKI. Mr. Speaker, this week, I introduced legislation designating April as National Outdoor Power Equipment Safety Month, House Joint Resolution 546.

It is important that we proclaim the month of April as a time to heighten safety awareness among the 59 million U.S. households that use outdoor power equipment to mow their lawns, till their gardens, and work their yards.

Many of us here today work our yards with these nonportable gas and electric powered lawn and garden products such as walk behind and riding lawn mowers, garden tractors, rotary tillers, rotary snow throwers, lawnedge trimmers, shredder-grinders, lawn vacuums, and leaf blowers. However, it is also likely that many of us do not follow all safe operating procedures when using powerful machines. In fact, the vast majority of American people do not use all safe operating procedures, not do they realize the vital importance of safety as it relates to outdoor power equipment.

This by no means is an area that the outdoor power equipment industry has overlooked. Since its inception in 1952, the Outdoor Power Equipment Institute [OPEI], a national trade association whose members manufacture about 95 percent of the nonportable gas and electric lawn and garden maintenance products, has been concerned with safety. The OPEI has implemented a number of safety education programs for manufacturers, retailers, consumers, schools, and community groups. The results of a recent Gallup Poll, Inc., and National Gardening Association survey conducted for OPEI indicate that consumers do consider safety important, and yet consistently neglect to follow all safe-operating procedures. The Consumer Product Safety Commission's emergency room National Electronic Injury Surveillance System projects that 70,000 consumer-sustained injuries related to outdoor power equipment last year. That figure clearly illustrates the need to provide enhanced awareness of safety precautions that will reduce such a high injury rate.

On April 19, 1988, I introduced a significant vehicle to help make America's millions of outdoor power equipment users more aware of the necessity of outdoor power equipment safety. I learned the hard way that the consequences of unsafe operation of outdoor power equipment can be serious or deadly. I cut off one of my toes and part of my foot with a gas power mower last spring. It was a painful and inconvenient injury.

It is my sincere hope that this resolution will help prevent such injuries. So I ask you to consider the safety of all Americans and help make them more aware of the importance of outdoor power equipment safety. I urge your support to proclaim April National Outdoor Power Equipment Safety Month.

NATIONAL LIBRARY WEEK

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. YOUNG of Florida. Mr. Speaker, although our Nation is becoming increasingly information oriented, one of our greatest sources of information is too seldom singled out for praise. National Library Week, which we celebrate today, allows us to recognize the enormous store of knowledge that our Nation's libraries supply.

Not only is the library the foundation of learning for our schools and institutions of higher education, but libraries also play a vital role in the community. In Pinellas County, our community libraries are used by a wide range of people, from young children just learning how to read to senior citizens long since retired. Learning is a life-long pursuit, and libraries put the realm of knowledge within the reach of all citizens.

Libraries have been around for 5,000 years and have survived everything from wars to book burnings to budget crises. Cynics have predicted the library's demise at the advent of movies, radio, television, the mass-market paperback, computers and most recently home video. Yet libraries today are thriving precisely because they have adapted and changed with the times and have even been able to utilize many of these technological advances. And libraries are being used now more than ever. The U.S. Library Circulation Index shows that library circulation has more than doubled in the last 35 years; other research shows it has expanded at twice the rate of population growth for the past four decades.

Without Federal support, libraries might not have been able to modernize and keep up with the times. In saluting National Library Week, I would like not only to encourage more Americans to take advantage of their local libraries, but to reaffirm my commitment to promote these valuable institutions. As a member of the Appropriations Committee, I will continue to support Federal funding for one of our Nation's greatest educative resources—our libraries.

TRIBUTE TO DAVID R. MILLER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding member of my community, Mr. David R. Miller. For the past year Dave has served as the president of the United Chambers of Commerce of the San Fernando Valley. On May 7, he will be honored at the organization's 10th annual installation dinner.

Dave was well prepared when he took the office of president a year ago. His background in politics and business along with his commitment to serving his community made him an ideal spokesperson for the United Chambers of Commerce of the San Fernando Valley. Dave's political experience includes serving as an administrative assistant to former Congressman Victor V. Veysey, serving as a White House staff member, and working as a national coordinator for a Presidential campaign.

Dave is now the owner of his own economic and management development firm specializing in governmental advocacy. In addition to meeting the demands of this business, he serves on the Senate Commission on Business Insurance, is a member of the advisory group for the Assembly Select Committee on Small Business, and is vice chairperson of the Southern California Delegation to the White House Conference on Small Business.

Over the years, Dave has demonstrated a deep commitment to serving the San Fernando Valley community. He has been an active member of a number of community groups and charitable organizations including the YMCA and the United Way. As founder and chairman of the Board of the Leadership Foundation of the San Fernando Valley, he develops programs which bring together community leaders for the purpose of refining their leadership skills and background knowledge relative to the current issues affecting their community. Dave has served as the spokesman for over 7,200 member businesses in the San Fernando Valley. Dave has also held several previous offices and served as chairman of a number of committees for the United Chambers of Commerce. Although he is stepping down from the chief executive post, I am confident that he will continue to lend his experience and talent to this organization.

It is my distinct honor and pleasure to ask my colleagues to join me and the United Chambers of Commerce of the San Fernando Valley in honoring David R. Miller, an effective president and a man truly dedicated to serving his community.

U.S. RESPONSIBILITIES TO AFGHANISTAN

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. McCOLLUM. Mr. Speaker, the following is a penetrating article by Julian Gearing in the April 23 issue of Jane's Defence Weekly regarding the recently signed and United States backed treaty on Afghanistan.

This article makes it quite clear that the Soviet control of that area is still a top priority of the Soviet Government and that this treaty, and the actions of the United States in promoting, endorsing, and signing this agreement leave some very troubling questions unanswered.

I am very concerned that in spite of an announced troop withdrawal, and a verbal promise for mutual resupply, the Soviets have stockpiled enough material and weapons for their puppet regime to make any "mutual resupply" promise irrelevant. Further, the fact that this stockpile exists may prompt the State Department to accept this ruse and use it as an excuse to stop supplying the Afghan freedom fighters.

This treaty, therefore, will not be just an abandonment of the Afghan freedom fighters, but an action which will assure the continued Communist subjucation of Afghanistan into the next century.

Moreover, it will increase the hatred (if that is possible) of the United States in the Islamic world. This ironically, would fulfill a prediction of Iran's theocratic ruler, Khomenini.

I urge my colleagues to read this and use the information from this article in our deliberations this summer on the appropriations for the region of the world.

[From Jane's Defense Weekly, Apr. 23, 1988]

CHAOS LIKELY IN AFGHANISTAN

(By Julian Gearing)

The Afghanistan settlement is effectively a private deal between the superpowers. It will do little to bring peace to Afghanistan, and a continuing struggle between Dr. Najib's government and the Muslim mujahideen for control of the country seems inevitable.

The mujahideen were not involved in the Geneva talks and despite the terms of the accord, both the Soviet Union and the USA pledged continuing support, including arms if required, for the opposing factions.

In a statement to the United Nations Secretary General, the USA said it reserved its right to supply arms to the mujahideen for as long as the Soviet forces remain in country.

Eduard Shevardnadze, Soviet Foreign Minister, said that an understanding on this issue had been reached with the USA. He is reported to have described it as a "sensible compromise". Military assistance is supplied under a friendship treaty between the two countries.

U.S. Secretary of State George Shultz claimed after the Geneva signing that the Kabul regime, which is not recognized by the USA, will fall before the last Soviet troops have left.

Like the USA, Pakistan does not recognize the Kabul government.

The other party to the agreement, the Afghan Government itself, resisted the treaty until the last minute, and then Foreign Minister Abdul Wakil emphasized that Soviet military assistance would certainly continue after 15 May.

Western analysts believe that the first forces to withdraw will be those from the provincial cities in the south and west, Kandahar and Herat, and from outposts in the countryside. Major bases, however, such as Shindand in the west, Jalalabad in the east, the capital city of Kabul, and bases in the north will be given up reluctantly, and then only at the last minute.

Lines of communication, principally the roads which link Kabul, Herat and Shindand with the Soviet Union, will be crucial.

While there has been an apparent concession by the Soviet Union to 'front-end load' the withdrawal of their estimated 115,000 troops (half leaving within three months), the estimated 20,000 to 30,000 special counter-insurgency forces will probably be the last to leave. These forces may be expected to spearhead retaliatory attacks on guerrilla strongholds if the mujahideen persist in attacking Soviet forces as they head for home.

Despite the political decision to withdraw. Western analysts and diplomats say that the Soviet Union has no intention of relinquishing its influence over the country once their soldiers have gone. During the withdrawal, the Soviets would seek to strengthen the regime's presence in the north of Afghanistan, with or without Soviet forces, and the creation of a fall-back capital in Mazar-i-Sharif.

Soviet efforts at direct funding of militias and local governors over the past two years, bypassing the Kabul government, have been seen as a means of strengthening ties with the north of the country. Coupled with this has been the creation of a new post of Minister for the North and the formation of a new province that could form part of a buffer zone. Guerrilla operations have been severely cut back on the northern plains due to a heavy 'pacification' effort.

During and after the Soviet withdrawal, Afghanistan's neighbours look set to compete for spheres of influence. Apart from the Soviet interest in the economic and military benefits of a buffer zone in the north, Pakistan and Iran are likely to maintain and expand their footholds in the south and west of the country.

It is not a foregone conclusion that there will be a rapid collapse of the Communist regime. Guerrilla pressure on posts in the countryside may result in their fall within a few months, helped by the conscripts' noted tendency to desert.

Dislodging the regime from the major cities and military bases, however, may be beyond their capabilities. The faction-ridden guerrillas might well fall prey to infighting, which the Soviet Union will, no doubt, be trying hard to encourage by accentuating the differences among the groups.

In such a scenario of civil war and chaos, the suffering of the Afghan people will continue and many of the refugees will be reluctant to return home.

LONG-TERM CARE

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. BILIRAKIS. Mr. Speaker, on Wednesday, April 13, I, as chairman of the Republican Research Committee's Task Force on the Elderly, held an informational hearing on a subject that is vitally important to senior citizens and their families.

The need to provide our senior citizens with protection against long-term care expenses, especially nursing home expenses which can average $20,000 to $25,000 per year, has been ignored too long.

The purpose of my task force hearing was to explore what experts from different sectors of our society had to say on this important subject. In this regard, we heard from the administration, Members of Congress supporting specific long-term case proposals, academics, and groups interested in health care and elderly issues.

I would have liked to reprint all of the testimony in the Congressional Record for the benefit of my colleagues who were unable to attend my hearing. Fiscal restraint, however, prevents me from doing so. All testimony is, however, available from my office or from the Republican Research Committee.

As an alternative, I would like to submit my own testimony for the Record in hopes that it will encourage my colleagues to study the issues raised therein. Our senior citizens have waited too long for solutions to the difficult problem of providing affordable long-term care. We must provide them peace of mind and protection from financial ruin resulting from long-term health care expenses.

OPENING REMARKS—CHAIRMAN MICHAEL BILIRAKIS, TASK FORCE ON THE ELDERLY, LONG-TERM CARE HEARING, APRIL 13, 1988

Ladies and gentlemen, good morning. I am pleased to see so many of you here today.

I am Congressman Michael Bilirakis, chairman of the Republican Research Committee's Task Force on the Elderly.

Let me first explain that the task force on the elderly is a group currently consisting of 23 Members of Congress who have joined together to examine the issues important to our senior citizens and to develop ideas and policies to address their needs.

This task force, is a perfect example of Members of Congress from all over the country putting their heads together to respond to the voice of our senior citizen population.

In this regard, I think that all of you will agree that there is no issue more prevalent on the minds of our elderly today than their economic security—in particular, the financing of any future medical and home care needs. The long-term care issue is one that demands attention, for many of our senior citizens have had to endure the emotional strain of losing a lifetime's savings to pay for the medical needs of a loved one.

While 8 out 10 senior citizens are protected from acute, hospital-related health costs, fully 9 out of 10 seniors have no protection from long-term care expenses.

This issue is one that we can no longer avoid addressing. In the next few weeks, Congress may enact catastrophic protection legislation that does not meet what our seniors are telling us is their primary need—long-term care protection.

I might add here that I held a series of ten town meetings in my Florida district on the subject of the catastrophic legislation in Congress. I wanted to see how my constituents felt about the legislation and, sure enough, they let me know! The attendance at my town meetings was unusually high—averaging 500-800 people at each—and the overwhelming message expressed to me, in no uncertain terms and almost unanimously I might add, was resounding opposition to the catastrophic legislation primarily due to its failure to address the elderly's long-term care needs.

This message comes from those who are having to bear these costs and, while thousands of seniors are being financially and emotionally devastated in trying to pay for nursing home costs that average $20,000 to $25,000 per year, major health care bills have been introduced in Congress that do not even cover nursing home costs.

I have personally heard from hundreds of constituents who painfully describe to me how they have become penniless after a lifetime's work and thrift trying to pay for the home care needs of a loved one. There are undoubtedly thousands upon thousands more such stories nationwide.

The time to help these unfortunate victims, although long overdue, has finally arrived!

I am hopeful that today's forum will serve as a first step in the process of debating legislative alternatives. This hearing will serve an informational purpose. During the course of the next couple of hours, we will hear from individuals from various organizations and perspectives give us their evaluation of the long-term care needs of our society and how they can best be solved.

In order of appearance, we are privileged to be hearing from the administration, Members of Congress, academics, and representatives from several organizations involved with long-term care clientele.

Once we hear what these distinguished witnesses have to say, we will have more information available to us in our efforts to assist the elderly.

I am certainly eager to hear the testimony, so I'll not delay further. I would like to introduce panel I, the Deputy Assistant Secretary, Health Planning and Evaluation, from the Department of Health and Human Services (HHS) Mr. Steven A. Grossman.

Mr. Grossman, Welcome.

TESTMONY OF CONGRESSMAN MICHAEL BILIRAKIS, TASK FORCE ON THE ELDERLY LONG-TERM CARE HEARING, APRIL 13, 1988

Ladies and gentlemen of the Republican Research Committee, in addition to the privilege of chairing the distinguished task force on the elderly, I am also pleased to say that I have introduced legislation which will help to meet our society's long-term care needs through various approaches.

My bill, H.R. 2039, which is privileged to have the original cosponsorship of four task force members—Mrs. Barbara Vucanovich, Mrs. Helen Bentley, Mr. Bill McCollum, and Mr. Bill Schuette, in addition to 16 other cosponsors, is intended to be part of the solution to our current long-term care needs.

H.R. 2039, the Elderly Americans Economic Security Act, contains four different provisions which, if enacted, will help our elderly plan for and meet their long-term health care costs as well as delay expensive institutionalization.

How can any one bill do all this, one might ask? The key, of course, is not in looking to the Federal Government to provide the remedy but by encouraging the private sector to meet its own needs.

H.R. 2039 does just this. It encourages people to help themselves by giving them a hand. It provides incentives—temporary helping hands, if you will, to help them to meet the needs before them.

First, H.R. 2039 would encourage families to stay together for longer periods of time and delay expensive institutionalization by giving heads of households who care for elderly family members in their homes a tax credit as an incentive.

This tax credit would apply for expenses exceeding 5 percent of adjusted gross income incurred in the custodial care of qualifying elderly. For purposes of this provision, custodial care is defined as meaning any "services which constitute personal care and which do not entail or require the continuing attention of trained medical or paramedical personnel, such as help in walking * * * asssistance in bathing, et cetera."

I am particularly proud of this provision for it, in a sense, encourages families to stay together longer. It encourages the young to take care of their elderly as long as they can. It encourages the rejuvenation of an old-world tradition that has, unfortunately, disappeared—extended families taking care of their own rather than falling back upon public assistance.

Second, H.R. 2039—the Elderly Americans Economic Security Act—would help reduce today's astronomical health care costs by encouraging health care providers such as doctors and nurses to donate their services to homebound patients by granting them a tax deduction in the form of an extension of the charitable contribution in return for their services.

This provision, in addition to saving many Federal dollars, could also bring back the long-departed house call. The thinking behind it is that, along with encouraging the house call by active medical practitioners, there are many retired doctors and nurses who would be willing to go to certain home-bound individuals and provide their services to them.

The materials used in providing this care, prescription drugs, et cetera, would be reimbursed at 100 percent while the deduction for time would be 50 percent of the prevailing rate for a doctor or professional nurse's time as determined by Medicare.

H.R. 2039 caps the amount deductible at double all other charitable contributions and would be subject to the same restrictions as defined in the Internal Revenue Code of 1954.

Accountability would come via a standardized form that would require the receiver of the service or his or her guardian to sign as proof that a service was provided—this would be similar to the current tax credit system for business lunches.

Third, H.R. 2039 will help individuals to meet their long-term care needs by allowing withdrawals from IRA's for the purpose of long term health care—meaning that the amounts withdrawn to pay for custodial care in or out of nursing homes as well as insurance premiums for long term care would be tax exempt.

Finally, the elderly Americans Economic Security Act will encourage planning for future long-term care needs by allowing deductions of employer contributions to employee pension plans for the purchase of long-term care insurance for employees.

My colleagues, over 80 percent of health care expenses incurred by the elderly are related to long-term care and nursing home costs. I am not claiming that H.R. 2039 will solve all of our long-term care needs. What I am saying, however, is that my bill can be part of the solution to this immense societal problem.

H.R. 2039 helps people to help themselves. It provides incentives to encourage people to plan for and take care of their own needs. It follows the Republican thinking that is so clearly embodied in a favorite saying of mine, "Give a man a fish, and you feed him for a day. Teach him to fish, and you feed him for a lifetime."

Thank you very much.

H.R. 4442, RACIAL JUSTICE ACT TO END DISCRIMINATION IN CAPITAL SENTENCING

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. CONYERS. Mr. Speaker, equal justice under law has long been the cornerstone of the American judicial system. It is a concept that is embodied in our Constitution and which sets our Nation apart from such tyrannical regimes as South Africa. Yet, during my career as an attorney, and as a Member of Congress serving on the House Judiciary Committee, I have seen many cases pass through our courts where race has been a factor determining the outcome.

Each branch of our Government has, from time to time, taken steps to reduce the effects of racism in our society and to ensure that all citizens are treated equal. In our criminal justice system, these efforts are especially important, because it is there where an individual's life and liberty are at stake.

Sixteen years ago, the U.S. Supreme Court was called upon to consider evidence that the death penalty was being imposed more frequently when the defendant was black and the victim was white. The Court found, in the case of Furman versus Georgia, that the statutory procedures then in effect produced a penalty that was being applied in an arbitrary and capricious manner. Capital sentencing statutes were ruled unconstitutonal and the States then began to enact new ones providing for guided discretion. These statutes, however, have also failed to eliminate the impact of race as numerous studies since Furman have shown that those who kill whites remain much more likely to be sentenced to death than those who kill blacks.

One year ago this week, the Supreme Court, in a 5 to 4 decision, rejected statistical evidence of continued racial disparity in the imposition of death sentences in Georgia. Justice Powell, writing for the majority, stated that racial discrimination in sentencing was an inevitable part of the judicial process. He then went on to hold the statistical evidence of that fact was not sufficient to establish a constitutional violation and that defendants must prove what is virtually impossible, that specific decisionmakers in their case acted with discriminatory purpose in seeking or imposing a death sentence.

Because it is now clear that the Court has turned its back on this problem, it is necessary for the Congress to act to protect the civil and constitutional rights of capital defendants. That is why I have today introduced the Racial Justice Act. The measure is supported by a wide variety of civil rights organizations that are calling for its prompt consideration.

The Racial Justice Act will allow defendants who have been condemned to death to challenge their sentence on the ground that a disproportionately high number of those who kill whites are condemned to death in the States where their conviction has been obtained. It permits the use of statistical evidence to establish that either the race of the defendant, or the race of their victim, improperly influences the outcome of the sentencing process. Such a showing would give rise to a prima facie violation of the defendant's 14th amendment right to equal protection under the law. The Government could then rebut the claim by presenting clear and convincing evidence that the racial disparity was the result of nondiscriminatory factors.

This legislation will reverse the impact of the Supreme Court's decision in McCleskey versus Kemp, by permitting the use of statistical evidence of discrimination to establish a constitutional violation in capital cases, just as it is already allowed in constitutional challenges to jury selection and employment discrimination cases.

There have been no major studies on capital punishment during the past 15 years which have failed to find that race is a significant factor in determining who is sentenced to death. Evidence of racial disparity has been found by scholars in 13 States.

In 1980, William Bowers and Glenn Pierce examined over 16,000 homicide cases in Florida, Georgia, Texas, and Ohio and found that black defendants convicted of killing whites were more likely to receive the death penalty than were defendants of other races.

In 1982, Professors Joseph Jacoby and Raymond Paternoster conducted an analysis of South Carolina death penalty cases and discovered that defendants charged with killing whites were 3.2 times more likely to have the prosecutors seek the death penalty than those who killed blacks.

In 1984, Prof. Samuel Gross and Robert Mauro examined sentencing patterns in Arkansas, Florida, Georgia, Illinois, Mississippi, North Carolina, Oklahoma, and Virginia. They found consistent discrimination based on the victim's race in all these States.

In 1985, Prof. Michael Radelet and Glenn Pierce scrutinized prosecutorial discretion in a sample of 1,017 Florida homicide cases. They found a strong tendency to treat cases more severely if they involved black defendants and white victims.

A 1987 study by Professors Bienien, Weiner, Denno, and Allison of the University of Pennsylvania, and Professor Douglas Mills of Princeton University, revealed that the death penalty is sought by New Jersey prosecutors in 50 percent of the cases where there are black defendants and white victims, but only in 28 percent of the cases where blacks kill blacks.

A 1987 study by a professor Sheldon Eckland-Olsen from the University of Texas concluded that cases involving white victims in that State are more likely to produce death sentences for the defendant.

A 1987 study of capital cases in Colorado, conducted by Prof. David Baldus, concluded that the killer of a white person is 20 times more likely to be sentenced to death than one who kills a black.

The most far-reaching look at race and capital punishment was undertaken not by the academic community, but by the Dallas Times Herald Newspaper. On November 17, 1985, the paper reported that it had examined capital sentencing in 32 States and found that a person convicted of killing a white was three times more likely to receive a death sentence than if the victim had been black.

The text of the Racial Justice Act follows along with a section-by-section analysis.

H.R. 4442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Racial Justice Act of 1988".

SEC. 2. PROHIBITION OF DEATH PENALTY IN DISPROPORTIONATE PATTERN.

(a) In General.—A government shall not impose or carry out the penalty of death in criminal cases in a racially disproportionate pattern. An individual shall not be put to death in execution of a death sentence imposed under law administered in violation of this subsection.

(b) Disproportionate Pattern.—For purposes of subsection (a), a racially disproportionate pattern occurs when the penalty of death is imposed—

(1) more frequently upon persons of one race than upon persons of other races convicted of crimes for which such penalty may be imposed; or

(2) more frequently as punishment for crimes against persons of one race than as punishment for crimes against persons of another race;

and the greater frequency is not explained by relevant nonracial circumstances.

SEC. 3. PROOF REQUIREMENTS.

(a) Establishing Pattern.—To establish that a racially disproportionate pattern exists for the purposes of this Act—

(1) ordinary methods of statistical proof suffice; and

(2) it shall not be necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution.

(b) Prima Facie Case.—To establish a prima facie showing that a racially disproportionate pattern exists for purposes of this Act, it suffices to show that death sentences are being imposed or executed—

(1) upon persons of one race with a frequency that is disproportioned to their representation among the total numbers of persons arrested for, charged with, or convicted of, death eligible crimes; or

(2) as punishment for crimes against persons of one race with a frequency that is disproportioned to their representation among the numbers of persons against whom death eligible crimes have been the subject of arrests, charges, or convictions.

(c) Rebuttal of Prima Facie Case.—To rebut a prima facie showing of a racially disproportionate pattern, a government must establish by clear and convincing evidence that identifiable and pertinent nondiscriminatory factors persuasively explain the observable racial disparities comprising the disproportion.

SEC. 4. DATA ON DEATH PENALTY CASES.

(a) Designation of Central Agency.—Any State or Federal entity that provides by law for death to be imposed as a punishment for any crime shall designate a central agency to collect and maintain pertinent data on the charging, disposition, and sentencing patterns for all cases of death-eligible crimes.

(b) Form for Data.—The central agency so designated shall devise and distribute to every local official or agency responsible for the investigation or prosecution of death-eligible crimes a standard form to collect pertinent data.

(c) Preparation of Data by Local Officials.—Each local official responsible for the investigation or prosecution of death-eligible crimes shall complete a standard form on every case of death-eligible crime and shall transmit it to the central agency no later than 3 months after the disposition of each such case—whether that disposition is by dismissal of charges, reduction of charges, acceptance of a plea of guilty to the death-eligible crime or to another crime, acquittal, conviction, or any decision not to proceed with prosecution.

(d) Police and Investigative Report.—In addition to the standard form, the local official or agency shall transmit to the central agency one copy of all police and investigative reports made in connection with each case of death-eligible crime.

(e) Other Duties of Central Agency.—The central agency shall affirmatively monitor compliance with this section by local officials and agencies. It shall maintain all standard forms, compile and index all information contained in the forms, and make both the forms and the compiled information publicly available. The compiled information shall be made publicly available in machine readable form. The central agency shall also maintain a centralized, alphabetically indexed file of all police and investigative reports transmitted to it by local officials or agencies in every case of death-eligible crime. It shall allow access to its file of police and investigative reports to counsel of record for any person charged with any death-eligible crime or sentenced to death who has made, or intends to make, a claim under section 2; and it may also allow access to this file to other persons.

SEC. 5. LEGAL COUNSEL.

(a) Requirement.—In any action brought in a court of the United States within the jurisdiction conferred by section 2241, 2254, or 2255 of title 28, United States Code, in which any person raises a claim under section 2—

(1) the court shall appoint counsel for any such person who is financially unable to retain counsel; and

(2) the court shall furnish investigative, expert or other services necessary for the adequate development of the claim to any such person who is financially unable to obtain such services.

(b) Nonapplication of Presumption of Correctness.—Notwithstanding section 2254 of title 28, United States Code, no determination on the merits of a factual issue made by a State court pertinent to any claim under section 2 shall be presumed to be correct unless—

(1) the State is in compliance with section 4;

(2) the determination was made in a proceeding in a State court in which the person asserting the claim was afforded rights to the appointment of counsel and to the furnishing of investigative, expert, and other services necessary for the adequate development of the claim which were substantially equivalent to those provided by subsection (a); and

(3) the determination is one which is otherwise entitled to be presumed to be correct under the criteria specified in section 2254.

SEC. 6. DEFINITIONS.

As used in this Act—

(1) the term "pertinent data" means the data to be collected in the standard form as designated by the central agency. Such term includes, at a minimum—

(A) pertinent demographic information on all persons charged with the crime and all victims (including race, sex, age and national origin);

(B) information on the principal features of the crime;

(C) information on the aggravating and mitigating factors of the crime, and on the background and character of every person charged with the crime; and

(D) a narrative summary of the crime; and

(2) the term "case of death-eligible crime" means a case in which the complaint, indictment, information, or any other initial or later charging paper charges any person with a crime for which the punishment of death is authorized to be imposed under any circumstances upon conviction.

SEC. 7. CLAIMS BEFORE ENACTMENT NOT BARRED.

A person is not barred from raising a claim under section 2 on the ground of having failed to raise or to prosecute the same or a similar claim before the date of the enactment of this Act, nor by reason of any adjudication before the date.

RACIAL JUSTICE ACT OF 1988

SECTION BY SECTION ANALYSIS

Section 1

Establishes the short title of the bill as the "Racial Justice Act of 1988."

Section 2

PROHIBITION OF DEATH PENALTY IN DISPROPORTIONATE PATTERN

Prohibits the imposition or the carrying out of the death penalty in a racially disproportionate pattern. Such a pattern occurs when a death sentence is imposed more frequently upon defendants of one race, or is imposed more frequently upon defendants as punishment for crimes against persons of one race.

Section 3

PROOF REQUIREMENTS

(a) Provides that ordinary methods of statistical proof shall suffice to establish a racially disproportinate pattern. It is not necessary to show discriminatory motive, intent, or purpose on the part of any individual or institution. (b) Establishes the requirements for a prima facie case. (c) A government may rebut a prima facie case by presenting clear and convincing evidence that the observable racial disparities are the result of identifiable nondiscriminatory factors.

Section 4

DATA ON DEATH PENALTY CASES

Any government which provides by law for the imposition of a death sentence shall designate a central agency to collect and maintain data on the charging, disposition, and sentencing patterns for all capital cases. A standard data collection form shall be utilized. Local law enforcement officials shall transmit the data collection form and a copy of the police investigative report to the central agency no later than three months after the disposition of each such case. The data compiled from the forms shall be made available to the counsel of the public. The police reports shall be made available to the counsel of record for any defendant seeking to establish a claim under section 2 of this Act.

Section 5

LEGAL COUNSEL

(a) Counsel shall be appointed for all indigent defendants pursuing habeas relief under 28 U.S.C. §§ 2241, 2254, or 2255 in a Federal court. The court shall furnish investigative, expert, or other services necessary for the adequate development of such a claim. (b) No state court determination on the merits of a factual issue pertinent to a claim under Section 2 shall be presumed correct unless the State is in compliance with Section 4 and the factual determination was made in a court proceeding where the requirements of Subsection (a) were met.

Section 6

DEFINITIONS

The term "pertinent data" is defined.

Section 7

CLAIMS BEFORE ENACTMENT NOT BARRED

The failure to raise a claim of this nature before the date of enactment shall not act as a bar to a future claim, nor shall having previously raised this or a similar claim act as a bar.

RACE AND DEATH IN AMERICA SINCE 1976

[As of Apr. 21, 1988]

A total of 99 persons have been executed in the United States since 1976, when the U.S. Supreme Court reaffirmed the use of capital punishment (see *Gregg* v. *Georgia*, 428 U.S. 153 [1976]).

As of March 1, 1988 there were 2,021 men and women on death row.

WHO'S BEING EXECUTED?

	Number	Percent
Black defendants	39	39.8
White defendants	53	54.1
Hispanic defendants	6	6.1
Total	98	
Black victims	11	11/1
White victims	84	84.8
Hispanic victims	3	3.0
Asian victims	1	1.0
Total	99	

Note—One defendant killed a white and a minority victim.

RACIAL COMBINATIONS

	Number	Percent
White defendant/white victim	53	53.5
Minority defendant/white victim	31	31.3
Minority defendant/minority victim	15	15.2
White defendant/minority victim	0	0

WHO'S BEING SENTENCED TO DEATH?

Number of people death sentenced since 1982, by race of inmate and victim:

Black kills White—727.

White kills Black—43.

Executions Are Still a Southern Phenomenon

Alabama	3
Florida	18
Georgia	12
Indiana	[1] 2
Louisiana	17
Mississippi	3
Nevada	[1] 2
North Carolina	3
South Carolina	2
Texas	27
Utah	[2] 2
Virginia	2

[1] Both inmates voluntarily gave up appeals.

[2] One inmate voluntarily gave up appeals.

G. MICHAEL GANTES, 1988 BUSINESS/PROFESSIONAL CITIZEN OF THE YEAR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. TORRES. Mr. Speaker, I rise today to recognize the recipient of 1988 the Business/Professional Citizen of Year, Mr. G. Michael Gantes. This distinction is awarded each year by the Santa Fe Springs, CA, Chamber of Commerce.

An active member of the Sante Fe Springs Chamber of Commerce, Michael served as president of the SFS Chamber during 1986-87 and has been an ongoing member of the legislative committee. He has served as chairman of the business education committee for 4 years and is currently chairman of the nominations committee.

During last year's October 1 earthquake in nearby Whittier, Michael headed the chamber's efforts to assist the victims of the earthquake. He has also assisted local high schools as a speaker for their annual career education days.

Michael is employed by FEDCO, Inc. in Santa Fe Springs, where he is the administrative assistant to the president of the corporation. He is also a vice president for corporate operations at FEDCO and is responsible for public relations, advertising and promotions. Michael has been employed by FEDCO for 26 years.

A native of San Diego, Michael and his wife, Ellen, reside in Newport Beach. Their son, Peter, is currently employed by the Santa Fe Springs Fire Department as an auxiliary fireman and ambulance paramedic. They have one married daughter, Patti, and a grandson, Chad.

Active with his church, Michael is a deacon and has chaired various fundraising committees. He is a school board member for the Brethren Schools and is active in the parent-teacher organization. He is vice president of the board of directors of the Southern California Region of CEF, a children's organization.

Mr. Speaker, on Wednesday, April 27, 1988, the community will convene a luncheon to honor Michael Gantes for his unselfish contributions to the business and residential community of Santa Fe Springs. I ask my colleagues to join me in congratulating G. Michael Gantes for his outstanding record of service to the community of Santa Fe Springs.

INTRODUCTION OF LEGISLATION TO EXEMPT CERTAIN TAXPAYERS FROM IRS USER FEES

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. DONNELLY. Mr. Speaker, on April 13, I introduced legislation to exempt certain taxpayers from the Internal Revenue Service User Fee Program enacted as part of last year's budget reconciliation legislation. My legislation restores some fairness to retired senior citizens who have been penalized by the new User Fee Program.

Mr. Speaker, the reconciliation legislation authorized the Internal Revenue Service to establish a User Fee Program. The bill envisioned that the IRS would set up a series of fees for certain services which the agency had previously been providing for free. For example, if a taxpayer now requests a private letter ruling, the IRS will generally charge that taxpayer at least $200. The legislation did give the IRS discretionary authority to reduce or waive the fees in certain instances, however.

One year earlier, as part of the 1986 Tax Reform Act, Congress agreed to repeal the so-called basis recovery rule, under which taxpayers who contributed to their own pension were entitled to recover their own contributions tax free so long as they recovered their total contributions within 3 years. After the employees' contributions were recovered, the pension was fully taxable.

The 1986 act replaced this simplified scheme with a more complicated method of annuity taxation. In general, a taxpayer who contributes to his own pension must calculate his exclusion ratio to determine the portion of his pension that is subject to tax. The formula used for calculating the exclusion ratio is extremely complicated, and requires taxpayers to use annuity tables published by the Internal Revenue Service.

It has recently come to my attention that the IRS has used the generic authority to impose user fees contained in the 1987 act to charge taxpayers who need to calculate their exclusion ratio. Mr. Speaker, this is adding insult to injury. I opposed the repeal of the basis recovery rule. I hope that Congress will someday overturn that mistaken decision. But to add to the unfairness of repealing the basis recovery rule a fee to calculate a tax liability legally due the Government is an outrage. To its credit, the IRS has reduced the fees it could have charged, and is only charging $50.

Still, there is an element of unfairness in the IRS asking taxpayers to use an extremely complicated formula and risk making a costly error or else charging retired employees on a fixed pension $50 to make this calculation for them. Therefore, I have introduced legislation prohibiting the IRS from charging any fee for calculating a taxpayer's exclusion ratio. My bill, H.R. 4371, also clarifies that any fees paid by taxpayers during the last tax season will be deductible in tax year 1988.

Mr. Speaker, this legislation is only fair. Many of us have heard from our constituents with complaints over the complexity of this year's tax forms, and the $50 fee is merely more complexity and more unfairness in their minds. This legislation deserves strong support, and I will be urging my colleagues on the Committee on Ways and Means to move expeditiously on it in the coming months.

H.R. 1834

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. FOGLIETTA. Mr. Speaker, Danny Casey works at a health supply store in my district. He has a wife who is 8 months pregnant. Danny works full time at the health store, and this year he will earn less than $7,000. For about 1 more month that salary will keep him just above the poverty level. When the baby comes, the Casey's names will be added to the growing number of working people living below the poverty level.

Aside from all of the extra expenses the Casey's will have to incur over the next few years for infant and child care, Danny Casey has one other permanent expense. Care for his diabetes. Danny cannot afford a private doctor, so the city provides him with some assistance, but in order to get it Danny must wait for hours at the clinic. This provides him with two choices, neglect his treatment or lose his job. Danny chooses to risk his health. "I have a family to support," he says.

In 1987 2 million adults worked full time at the minimum wage. Two-thirds of all minimum wage workers are adults, 60 percent of those are women, most of them single mothers.

Since the last time the minimum wage was raised in 1981, real earnings for those full-time workers have dropped 29 percent. Meanwhile, since 1983 top paid executives in this country have experienced a pay increase of 16 percent.

These statistics are grim. But the most distressing fact is that there are thousands of families like Danny's, people who work hard to support themselves, and yet are still forced to live in poverty.

Mr. Speaker, H.R. 1834 is a bill which seeks to address this serious inequity. I plan to support this bill when it comes to the floor, and I hope my colleagues will do the same.

CELEBRATING ELSIE A. GREENLEAF

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. HOYER. Mr. Speaker, tomorrow, April 22, is a very special day for a special lady, Elsie A. Greenleaf a native and life-long resident of Prince Georges County, MD. For on that day, she will turn 90 years of age.

Mrs. Greenleaf was born in Beltsville and now resides in Seat Pleasant. For 16 years, she worked at the DC General Hospital.

As with so many who live a long and fruitful life, Mrs. Greenleaf is an active member of her church, Lincoln Park United Methodist. She sings in the choir and attends weekly prayer meetings. In addition, Mrs. Greenleaf is a member of the United Methodist Women and serves as a chaplain.

The oldest living member of her large family, Mrs. Greenleaf will be joined by many extended family members and friends on Saturday, in a celebration of this special milestone in her life. It is sure to be a crowded affair, as Mrs. Greenleaf is the proud mother of four children, grandmother of five, and great-grandmother of seven.

Mr. Speaker, I hope you and our colleagues will join in sending the happiest birthday greetings to Elsie Greenleaf. Surely it is the wish of all of us to reach our 90th year still active, healthy, and as loved as is she.

MONESSEN'S GREYHOUNDS CLASS "A" CHAMPIONS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. GAYDOS. Mr. Speaker, I rise to offer formal congratulations from the floor of the U.S. House of Representatives to the new Pennsylvania Class "A" high school basketball champions—the "Greyhounds" of Monessen.

In a 62 to 60 thriller over Bristol at Hersheypark Arena, that was decided in the last 12 seconds, the "Greyhounds" capped a 24-5 season and brought home their first title since the school won the WPIAL Championship in 1923.

The "Greyhounds" nearly made a clean sweep this year. They won their section 16 WPIAL championship and made it to the semifinals in the State competition before losing to Frew Mills, 64 to 61.

But, the Class "A" PIAA State tournament gave the chance to redeem themselves and the "Greyhounds" responded by putting away four opponents before taking the title game.

Whether it be basketball, football or baseball, the Mon Valley in western Pennsylvania has been a virtual gold mine for talent hungry collegiate scouts. Many of our athletes have gone on to make their mark in college and professional sports. Monessen High School has furnished its share of gifted athletes.

So, it is my pleasure to salute this year's edition of the Monessen "Greyhounds" basketball team and to offer my congratulations to the coaches and players.

Coaches—Joseph Salvino, head coach, and Rick Tyburski, Dave Mahalko and Randy Marino, assistants.

Starters—Jim Malinchak, Ray Roskos, Mike Bright, Chad Scott and Brian Kessler.

Reserves—Jason Gigliotti, Junior Scott, Tony Crisi, Scott Holmes, Jim Young, Rick Williams, Aaron Kunder, Chris Hornak, Lou Cavris, Rodney Wilson, and Glenn Wallace.

Mr. Speaker, I know the coaches, the players, the student body and faculty at Monessen High School, along with thousands of their fans, already are looking toward the 1988-89 season. I wish them well in defending their class "A" PIAA title.

THE WALL STREET JOURNAL REPORTS FROM LHASA ON CURRENT CONDITIONS IN TIBET

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. LANTOS. Mr. Speaker, as I am certain many of my colleagues noted in reports that have been published recently, there are continuing indications of unrest and violence in Tibet as a consequence of human rights violations against the Tibetan people.

Reports from Beijing, the Chinese capital, indicate that Chinese officials plan to restrict access to Tibet and its capital of Lhasa. In the past Chinese authorities were willing to allow tourist visits in order to earn hard currency, but now they are anxious to prevent foreigners from visiting Tibet in order to stifle and surpress any news of Chinese human rights violations and reports of Tibetan resistance.

Mr. Speaker, in view of the limited information that is now reaching the outside world about the events taking place in Tibet, the reports that do reach us have a special importance.

William McGurn, deputy editorial page editor of the Asian Wall Street Journal recently visited the Tibetan capital of Lhasa. His report on that visit was published in the American edition of the Journal last week. I ask that it be placed in the RECORD, Mr. Speaker, because it provides an excellent report on current conditions there.

[From the Wall Street Journal, Apr. 14, 1988]

FORBIDDEN TIBET LOOKS OUTWARD

(By William McGurn)

LHASA, TIBET.—It's early afternoon here outside the Jokhang Cathedral, and every Tibetan knows that something's up. Ragged Buddhist pilgrims throw themselves to the ground in supplication before the temple entrance; the great brass prayer wheels continue to turn; but there is an edge to the day's activity: Someone important is coming. Has to be important, because almost every other person in the square is a plainclothes policeman.

The someone turns out to be four American congressmen here on a lightning visit. For about 45 minutes their entourage is let loose to wander about the market surrounding the Jokhang, to meet Tibetans and perhaps pick up a souvenir bracelet. As they do, however, a Chinese soldier perched high atop a roof overlooking the square quietly photographs any Tibetan bold enough to go up to the visitors.

Only a month ago the Jokhang and its surroundings were the scene of a demonstration that though initially was said to have been small, was—as a visitor here quickly finds out—the largest and bloodiest protest against the Chinese occupation since the abortive 1959 uprising. Coming on the heels of riots last fall, the violent March 5 protest reminded Peking that nearly four decades of colonial Chinese rule has failed to snuff out Tibetan calls for independence and the near-universal loyalty to their exiled god-king, the Dalai Lama.

CARROT AND THE STICK

These disturbances come at a particularly sensitive time for China. Not only do they jeopardize prospects for the badly needed foreign exchange China hopes to earn from opening the "Rooftop of the World" to tourism, they mar the image of a reformed and enlightened People's Republic that Peking is trying desperately to project to an anxious Hong Kong and a recalcitrant Taiwan. The result is a curious mix of carrot and stick, a startling public appeal to the Dalai Lama to come home coupled with an internal show of force that people here say is the most repressive since the days of the Cultural Revolution. As the ban imposed on the press during the October demonstration indicates, the linchpin of the whole enterprise is to keep tourist money flowing in and as little information as possible going out.

"The Chinese are afraid of the foreigner," says one Tibetan woman, her black hair braided with blue-and-white ribbons. "The foreigner goes home and tells the world the truth."

The Chinese have good reason to fear this. A reporter who slips into Tibet on a weeklong tour finds that despite Peking's claims that abuses ended with the Cultural Revolution, the evidence supports Asia Watch's contention in February that "a pattern of serious human-rights violations continues to characterize political and social life in Tibet today." A month after the demonstrations, for example, the authorities have yet to give a credible count of casualties. the Chinese now put the number of dead at five, though for weeks they admitted only to the killing of one policeman, who is being built up in the local press as a hero. But Tibetans say that in addition to the policeman and at least two laymen, between eight and 16 monks also were killed. "A chinese dies and he is a hero," says a 60-year-old woman bitterly, "but Tibetans are nothing."

Peking could have saved itself that hero and avoided the bloodshed had it not ordered the annual March 5 prayer festival to go on and forced Buddhist monks to march past Chinese TV crews and photographers here to record the event as proof that China respects religious freedom in Tibet. The monks filed by all right, but then a group from Ganden monastery started chanting for Tibetan independence and the release of one of their brothers, Yulu Dawa Tsering, imprisoned after the last riots. The Chinese responded by rushing the Jokhang, and rumors flew through town that the Chinese were killing monks inside the cathedral, Tibetan Buddhism's most sacred site. Up to 10,000 people then took to stoning anything Chinese: shops, restaurants, even a doctor's office.

Although Chinese forces have now adopted a low profile with the advent of tourist season, this was not before letting Tibetans know who was still boss here. A monk in nearby Drepung monastery says that the evening after the latest protest about 60 military trucks came rumbling up to the grounds and four monks were taken away; two others, he says died in or after the riots, and the Chinese have now stationed 50 policemen in the monastery itself. Other monasteries tell the same story, with a Ganden monk reporting that 100 were arrested at his monastery. Tibetans estimate that altogether at least 600 people were arrested. Based on word of mouth, the Tibetans tend to exaggerate numbers. But the Chinese simply lie.

Families, for example, have not been told where those arrested are being kept, and only recently have the next of kin been asked to come and collect the dead, their outrage compounded by the evidence of torture and Chinese demands for a "storage" fee of between $135 and $162—more than the average annual per-capita income here. The family of one man arrested after the riots, Tenzin Sherap, was asked around March 23 to come to the morgue. According to a Western report smuggled out of Tibet, his sister said she could identify him only by his clothes, so badly battered was his face. A man who helped with the funeral rites said that all the man's bones has been broken.

If the Chinese botched the prayer festival, they fared better on the more familiar ground of cracking heads, made all the easier by regulations imposed last time around that restrict individuals and forbid the press from coming here. But the start of tourist season has put Peking on a tightrope. Tourists are being let in, but only in groups and mostly on expensive tours ranging from $1,500 to $2,200 per person per week from Hong Kong. This way their money goes to Chinese-owned hotels and their movements are controlled by Chinese travel agencies.

Backpackers aren't as lucrative and pose risks. Their little money goes to Tibetan hotels and restaurants, and, more likely to speak some Tibetan, they find out things the government doesn't want the world to know. Were it not for these people, last fall's and last month's uprisings would have gone the way of those in the past, suppressed quickly, quietly and with impunity.

Yet for all Peking's Himalayan headaches it would be disastrous for Tibetans to conclude that they have a real shot at independence. For one thing, Tibet is just too important. Rich in many of the resources China lacks, the Tibetan plateau lies at the strategic heart of Asia, near the U.S.S.R., China and India. American diplomatic sources say that since 1950 China has built up a military presence here that includes a number of airfields, radar stations, about 100,000 ground troops along with thousands of paramilitary police, militia and reservists; the Americans refused to comment on reports of five missile bases here for China's nuclear arsenal. Indeed, most of China's modernization in Tibet revolves around a military infrastructure. Decked out in olive drab, Lhasa resembles more a set for the TV series "M*A*S*H" than the holy center of Tibetan Buddhism.

The Chinese case is that Tibet is an integral part of their country—and, at a quarter of China's land mass, this is a sizable part. Peking dates its claim not from the 1950 invasion but the 13th century, when the Mongol Khans established an empire that ruled both China and Tibet. Although history leans to the Tibetan claims, and though Tibet was certainly a de facto independent nation from the fall of the Manchus in 1911 until the Communist invasion, there is enough ambiguity for the Chinese to make a case. A bad case, yes, but they believe it, and those who overlook this will forever underestimate Chinese reactions to a challenge.

DALAI LAMA OPPOSES VIOLENCE

The Dalai Lama himself understands this well, and he has consistently urged his compatriots not to resort to violence. He skirts the issue of independence, his one bargaining chip, preferring to speak of human rights and peaceful accommodation. "Historically Tibet has never been a part of China," he says from London, where he is ending a pastoral visit. "However, about the future I am leaving my options open. The real issue is the genuine satisfaction and happiness of the Tibetan people."

As the Dalai Lama knows, in the long term, Tibetan independence depends, as it has throughout history, on a China weakened and distracted by some outside power, a day that is a long way off if it comes at all. In the meantime, the land once known as the Forbidden Kingdom, for its refusal to admit foreigners, now depends on foreigners' presence as the only insurance that the heavy pendulum of Chinese policy will not swing against it yet again. "If you leave," says one Tibetan, an small photo of the Dalai Lama on the wall behind her, "they can kill us all."

VISIONS

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. WEISS. Mr. Speaker, it is a privilege for me to salute today the efforts of a number of New York City high school students involved in a project that is truly worthy of my colleagues attention.

On April 27, 1988, 20 high school students will be participating in VISIONS, a performance to benefit the American Foundation for AIDS Research [AmFAR]. The show will be performed at the Borough of Manhattan Community College, an outstanding institution of higher-education located within the 17th Congressional District. The students have chosen to perform songs from Broadway shows that relate to many of the words associated with the AIDS crisis, including fear, prejudice, isolation, loneliness, anger, despair, death, courage, and love. The performance is sponsored by the New York City Board of Education which is the first school system in the country to sponsor a benefit of this kind.

The student performers were selected from city wide auditions and attend the alternative high schools and programs of the NYC school system. VISIONS hopes to raise $10,000 to benefit AmFAR, the national organization that distributes funds to important AIDS research efforts. Equally as important as the money that will be raised is the commitment that these students are domonstrating toward the fight against AIDS and toward educating themselves and their peers about the AIDS health crisis.

Mr. Speaker, I am honored to pay tribute to all of the dedicated people—both on and off the stage—who are making VISIONS a reality.

CURBING TEEN-AGE SUICIDE

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. ROE. Mr. Speaker, I rise to call my colleagues' attention to an epidemic that has recently been afflicting the teenagers of not only my district and the State of New Jersey, but of the entire Nation as a whole: teenage suicide.

Statistics of the U.S. Centers for Disease Control's Youth Suicide Surveillance unit in Atlanta disclose that suicide is the fastest growing cause of death among young people. Every 80 seconds, a teenager attempts suicide and every 90 minutes one succeeds. Half a million youthful Americans attempt suicide each year and between 5,000 and 10,000 succeed.

In light of these alarming statistics, I am pleased to announce that Hoffmann-La Roche, a pharmaceutical firm located in my district in Nutley, NJ, has financed a program that will educate the public on spotting and helping teenagers with suicidal tendencies. The program is entitled "No Way Out—Teen-Age Suicide," and is further described in the ensuing newspaper article:

[From the New York Times, Jan. 31, 1988]

GROUPS SEEK TO CURB TEEN-AGE SUICIDE

(By Ralph Ginzburg)

NEWARK.—As an aftermath to the suicides involving four teen-agers in Bergen County last year that touched off a rish of what some police officials termed "Copycat" suicides, a consortium of New Jersey nonprofit orgnizations has started a campaign to educate the public on spotting and helping teen-agers with suicidal tendencies.

The bodies of the four Bergen County teen-agers—Thomas Rizzo, 19 years old; Thomas Olton, 18, Cheryl Anne Burress, 17, and her sister, Lisa Marie, 16—were found March 11, 1987, in Thomas Olton's car in a garage parking bay.

Financed by a grant from Hoffman-La Roche Inc., the Nutley pharmaceutical conglomerate, the consortium, piloted and propelled by Newark Media Works, a nonprofit consultatnt to other nonprofit organizations, has been:

Producing and distributing to every radio station in New Jersey, and to all 359 National Public Radio stations in the country, a series of three 30-minute programs comprising narratives by teen-agers who survived suicide attempts, parents and siblings of teen-agers who killed themselves and therapists and counselors who deal with this baffling phenomenon.

Disseminating to high school guidance teachers a manual on detecting suicidal tendencies in troubled students and organizing peer-group discussions to heighten awareness of the problem and sources of help.

Scheduling talks by parents of teen-age suicides at parent-teacher meetings, church convocations and hospital staff briefings to help open up discussion of the subject, which has long been muted by shame.

Furnishing New Jersey's Education Commissioner, Dr. Saul Cooperman, with copies of the audio-cassette programs, collectively titled "No Way Out—Teen-Age Suicide," to distribute to all school districts in the state and to other state education commissioners or their equivalents nationwide.

"We are concerned by much more than the stunning but isolated quadri-suicide in Bergenfield last year," said Kenneth P. Berkowitz, vice president and director of public affairs at Hoffmann-La Roche. "We are alarmed by the epidemic proportions that suicide is reaching among teen-agers and we are eager to do something about it."

Statistics of the United States Centers for Disease Control's Youth Suicide Surveillance unit in Atlanta disclose that suicide is the fastest-growing cause of death among young people.

For youths 15 to 24 in the United States, suicide is second only to accidents as the leading cause of death, according to the centers. Every 80 seconds a teen-ager attempts suicide and every 90 minutes one succeeds.

Since 1950, according to the Youth Suicide Surveillance unit, the suicide rate among young people has tripled. Half a million youthful Americans attempt suicide each year and between 5,000 and 10,000 succeed.

Furthermore, said a recent Youth Suicide Surveillance unit report, "death certificates represent a significant degree of suicide underreporting."

"A recent survey of 200 medical examiners concluded that the reported number of suicides is probably less than half the true number," the report continued.

Experts believe that medical examiners discretely term many suicides "accidents" to spare bereaved families guilt and, in some instances to preserve life-insurance claims.

The "No Way Out" tape being distributed by Media Works is a three-program series in which teen-agers discuss their suicide attempts, parents talk about the loss of a child by suicide and mental-health experts advise anguished friends and relatives on making meaningful contact with a depressed perhaps suicidal teen-ager.

Mr. SPEAKER, I seriously urge my colleagues to take a deep interest in this issue, and I want to offer my deepest appreciation and thanks to Hoffman-La Roche for helping to enlighten the American public on this terribly vital and important matter.

SOUTH AFRICAN CHURCHES SPEAK OUT, ARCHBISHOP TUTU REPLIES TO PRESIDENT BOTHA'S ATTACK

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SYNAR. Mr. Speaker, the churches continue to speak out loud and clear against the violation of human rights in South Africa. With the effective banning of leading anti-apartheid groups, including the United Democratic Front [UDF] and the Congress of South African Trade Unions [COSATU], the churches have become even more prominent in the people's struggle for freedom and democracy in South Africa.

The Botha regime is obviously disturbed by the criticism of its unjust policies by churchmen such as Nobel Peace Prize laureate Anglican Archbishop Desmond Tutu. In letters last month released to members of the South African Parliament and the South African Council of Churches, President Pieter W. Botha suggested that Tutu had acted on behalf of communism and that the churches' leaders "love and praise the African National Congress and the South African Communist Party with its atheistic ideology * * * perpetrating the most horrendous atrocities imaginable."

Last week Archbishop Tutu responded to Botha's attack, charging that the South African President had "contravened basic ethical tenets" by continuing to support "vicious policies" while professing to implement reforms that would dismantle apartheid. In his letter of April 12, 1988, the Archbiship raised a most challenging question: "How much time has been wasted and how many lives have been lost trying to beautify apartheid through cosmetic improvements when the pillars of a vicious system still remain firmly in place?"

Mr. Speaker, I ask that the text of this excellent letter be submitted in the RECORD.

ANGLICAN ARCHBISHOP OF CAPE TOWN,
Claremont, Cape Town, April 8, 1988.

Mr. P.W. BOTHA,
The State President, Tuynhuis, Cape Town.

DEAR MR. STATE PRESIDENT: Thank you for your letter dated 16 March 1988. I must confess I am surprised that a letter marked "Personal" should have been distributed to Members of Parliament and to the media without the concurrence of its recipient. I thought that there were conventions governing such things.

Since you are a fairminded person, I am sure you will ensure that my reply will receive the same publicity accorded your letter to me. Certainly I am sure you will ask SABC-TV to give it equally prominent coverage.

I am distressed that during the interview with you, which I had requested for the sole purpose of appealing to you to exercise your prerogative to commute the death sentence of the so called "Sharpeville Six" and which you then used as an occasion for haranguing me about the Church leaders and our petition, you appeared to sit loosely to facts.

You had already been reported in an interview with the Washington Times as alleging that our petition was drawn up after the march. I tried to correct this erroneous view. But you then proceeded to accuse me of having preached under a flag depicting the hammer and sickle. I denied this accusation. You did not withdraw your extraordinary accusations, but you claimed that you had photographs to prove your charge. I challenged you to produce this photographic evidence which I knew was non-existent because I have never been so photographed as you had alleged. I refer to this matter because of the questions in your letter about atheistic Marxism.

I want to state quite categorically that I stand by all that I have done and said in the past concerning the application of the Gospel of Jesus Christ to the situation of injustice and oppression and exploitation which are of the very essence of apartheid, a policy which your government has carried out with ruthless efficiency. My position in this matter is not one of which I am ashamed or for which I would ever want to apologise. I know that I stand in the mainline Christian tradition. I want you to know that I have never listened to Radio Freedom nor do I have the opportunity to read "Sechaba." My theological position derives from the Bible and from the teaching of the Church. The Bible and the Church predate Marxism and the ANC (African National Congress) by several centuries.

May I give you a few illustrations? The Bible teaches that what invests each person with infinite value is not this or that arbitrarily chosen biological attribute, but the fact that each person is created in the image of God (Gen. 1:26). Apartheid, the policy of your government, claims that what makes a person qualify for privilege and political power is that biological irrelevance, the colour of a person's skin and his ethnic antecedents. Apartheid says those are what make a person matter. That is clearly at variance with the teaching of the Bible and the teaching of our Lord and Saviour Jesus Christ. Hence the Church's criticism that your apartheid policies are not only unjust and oppressive; they are positively unbiblical, unchristian, immoral and evil.

Apartheid has said that ultimately people are intended for separation. You have carried out policies enshrined in the Population Registration Act, the Group Areas Act, segregated education, health, etc. The Bible teaches quite unequivocally that people are created for fellowship, for togetherness, not for alienation, apartness, enmity and division.

The experience of the United States and the findings of its highest court were that it is in fact impossible to carry out a policy of "separate but equal." The policies of apartheid do not even pretend to seek to embody "separate but equal." Quite unabashedly they are intended to be separate and unequal. Just note the grossly unfair distribution of land between black and white or the unequal government expenditure on black and white education. I could multiply the examples. Apartheid, the policy of your government, is thus shown yet again to be unbiblical, immoral and evil in its very nature.

* * *

The followers of Jesus are constrained by the imperative of his Gospel to be concerned for those he has called the least of his brethren. The NCK (the Dutch Reformed Church in South Africa) recognized this when it was in the forefront of the struggle for justice for the poor whites as evidenced by the words of Dr. C.D. Brink in a paper delivered at the Volkskongres in 1947:

"The aim of the church is to bring about social justice. Justice must be done to the poor and the oppressed, and if the present system does not serve this purpose, the public conscience must be roused to demand another. If the church does not exert itself for justice in society, and together with the help she can offer also be prepared to serve as champion for the cause of the poor, others will do it. The poor have their right today: I do not ask for your charity, but I ask to be given an opportunity to live a life of human dignity."

We are law-abiding. Good laws make human society possible. When laws are unjust then Christian tradition teaches that they do not oblige obedience. Our Lord broke not just man's law but what was considered more serious: he broke God's law in order to meet human need—as when he broke the law of the Sabbath observance. He paid due regard to the secular rule in the person of Pontius Pilate but subsequently engaged in a defiance of that secular authority when he refused to answer his questions.

It is a hallowed tradition of direct non-violent action such as we engaged in when we tried to process to Parliament. We were mindful too of what the apostles said to the Jewish Sanhedrin, that obedience to God takes precedence of obedience to human beings.

We accept wholeheartedly St. Paul's teaching in Romans 13 that we should submit ourselves to earthly rulers. Their authority however is not absolute. They themselves also stand under God's judgment as his servants. They are meant to instil fear only in those who do wrong, holding no terror for those who do right. The ruler is God's servant to do the subjects good. The ruler rules for the benefit of the ruled. That comes not out of a political manifesto but from the Holy Scriptures. The corollary is that you must not submit yourself to a ruler who subverts your good. That is why we admire those who oppose unjust regimes, e.g., totalitarian communist government. The Bible teaches that governments can become beasts in the symbolic language of the book of Revelation. Not too many governments nor their apologists who use Romans 13 with glee are quite so enthusiastic about its full implications nor of Revelation 13.

I am sure you could not have been serious when you quoted a passage allegedly from Radio Freedom in which you underline certain words such as "church", "liberation struggle", "justice" and because our petition uses similar words you want to suggest that there must be sinister connection between us and the ANC. If a communist were to say, "Water makes you wet", would you say, "No, water does not make you wet", for fear that people would accuse you of being a communist? I would have thought our discussion was at a slightly higher level.

I told you in my interview that I support the ANC in its objective to establish a nonracial, democratic South Africa; but I do not support its methods. That is a statement I have made in the Supreme court in Pretoria and on other occasions. My views have never been clandestine. You appointed the Eloff Commission to investigate the SACC (South African Council of Churches) when I was still its General Secretary. Your Security Police investigated my personal life and looked into my bank accounts and tried to discredit me in their evidence before the Commission. They were unable to find anything of which to accuse me. Not even Craig Williamson could produce evidence that I held different views to those I had expressed in public. You know I went to Lusaka twice last year. I tried to persuade the ANC to suspend the armed struggle; that is a matter of public record.

I am committed to work for a non-racial, just and democratic South Africa. I reject atheistic Marxism as I reject apartheid which I find equally abhorrent and evil. Transfer of power to the people of South Africa means exactly that. The latest apartheid Constitution cannot by any stretch of imagination be described as democratic when it excludes 75% of the people of South Africa from any meaningful participation in the political decision making process. I long for and have dedicated myself to work for a South Africa where all South Africans are South Africans, citizens in an undivided South Africa not one that is balkanised into unviable bantustan homelands. When you are a citizen you share through exercise of your vote in the political decision making process either directly or through duly elected representatives. Since 1976 I have appealed to the government to head our cri de coeur. I have said nobody in their right senses expected these real changes to happen overnight. You yourself can bear me out that when an SACC leaders' delegation met you and your Cabinet colleagues in 1980, I again said that if you did something dramatic then I would be among the first to say to our people, "Hold it. Give them a chance, now they are talking real change." Then I said, "Declare your commitment to a common citizenship for all South Africans in an undivided South Africa; abolish the pass laws; stop immediately all forced population removals and establish a uniform education policy." That was eight years ago. How much time has been wasted and how many lives have been lost trying to beautify apartheid through cosmetic improvements when the pillars of a vicious system still remain firmly in place?

I would say if you were to lift the State of Emergency, unban all our political organizations, release all detainees and political prisoners and permit exiles to return and then say you would be ready to sit down with the authentic representatives and leaders of every section of our society and negotiate the dismantling of apartheid and drawing up of a new Constitution, I would say to our people, "Please give him a chance. He is talking real change." Your apartheid policies are leading our beautiful land to disaster. We love South Africa passionately. Our black fathers fought against the Nazis for it (many Afrikaners being pro Nazi at the time refused to support the war effort), and many who wore the uniform of the Union Defence Forces used to be turned away from NCK church services.

We long for the day when black and white will live amicably and harmoniously together in the new South Africa.

Kindly confirm whether you include me in the paragraph in your letter to the Reverend Frank Chikens which reads:

"You love and praise the ANC/SACP with its Marxist and atheistic ideology, landmines, bombs and necklaces perpetrating the most horrendous atrocities imaginable; and you embrace and participate in their call for violence, hatred, sanctions, insurrection and revolution * * *" because as supporting evidence you then quote what I said in St Paul's Cathedral, London.

I want to state the obvious—that I am a Christian religious leader—by definition that surely means I reject communism and Marxism as atheistic and materialistic. I try to work for the extension of the Kingdom of God which will ultimately have rulers such as the ones described in Isaiah 11:1-8 and in Psalm 72:1-4 and 12-14:

"O God, endow the king with thy own justice, and give they righteousness to a king's son, that he may judge thy people rightly and deal out justice to the poor and suffering. May the hills and mountains afford the people peace and prosperity in righteousness, he shall give judgement for the suffering and help those of the people that are needy; he shall crush the oppressor."

"For he shall rescue the needy from their rich oppressors, the distressed who have no protector. May he have pity on the needy and the poor, deliver the poor from death; may he redeem them from oppression and violence and may their blood be precious in his eyes."

I work for God's Kingdom. For whose Kingdom with your apartheid policy do you work? I pray for you, as I do for your Ministerial colleagues, every day by name.

God bless you.

Yours sincerely,
Most Reverend DESMOND M. TUTU, D.D.

LOCAL HERO

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. GARCIA. Mr. Speaker, In a world that has often been criticized for its lack of compassion and selflessness, it is still possible to find someone who is willing to risk his life so that another may live. Such a man was Ralph Norman, a 76-year old Bronx retiree, who was killed on March 28 after heroically saving a little boy. An accident involving a delivery truck and a school bus nearly cost the life of the young boy, but without hesitation or regard for his own safety, Mr. Norman pushed the 7-year-old child out of the way moments before the truck toppled over and trapped him underneath.

Mr. Norman's courageous act exemplifies what is best in human nature—a quality of self-sacrifice that is so often forgotten by those who have grown too cynical to believe that some people still care about others. Whether or not we had the privilege to know Mr. Norman personally, we are all richer for having known of him. Though he lost his life because of his bravery and concern, his memory remains with those whose lives he has touched. I join with Mr. Norman's family and friends, and many in the Bronx, in New York, and across this country, in mourning the passing of Ralph Norman—a true hero.

REPORT FROM WEST BANK AND GAZA

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. GREEN. Mr. Speaker, I would like to bring to my colleagues' attention a March 10 letter which I received from the Simon Wiesenthal Center. It is a very important letter in that it enumerates the conclusions of a team from the Simon Wiesenthal Center which recently returned from the West Bank and Gaza.

Before people characterize the Israelis as the naysayers or the obstructionists in the peace process, I think it is necessary that they read the Wiesenthal Center letter reprinted below. While I shall not reprint the flyers to which the center makes reference, I shall be happy to provide them to anyone who is interested.

DEAR CONGRESSMAN GREEN: As staunch supporters of Israel and as the second largest Jewish organization in the United States, we recently headed a team from the Simon Wiesenthal Center to speak directly to the residents of Gaza and the West Bank and to learn more about the current situation from Israeli leaders—including Prime Minister Shamir, generals, foot soldiers and settlers.

We came to a number of conclusions:

I. The eight 40-year old refugee camps in the Gaza (and eventually all camps in the West Bank throughout the Middle East) must go. On this point—all Israelis—including Mr. Shamir who labeled conditions in those camps 'inhuman' agree. They are prepared to coordinate a 5-year $2 billion program which can be funded by the international community. This can be undertaken *without altering* the 'refugee status' of the people involved. This issue should no longer be held hostage to the elusive political settlement.

II. There has been a total radicalization of the population under 25. Virtually everyone we spoke to wants either a Fundamentalist Islamic state or a PLO state. As for the Israelis: 'they should go back to Europe' . . .

III. The flyers circulated to try to harness the 'revolt' are fraught with virulent anti-semitism. It is the type of rhetoric that does not bode well for future coexistence.

IV. The vast majority of Israelis on both sides of the political spectrum desire negotiations. They pose a crucial central question—with whom? They seek to know the final demands of the other side (underlining Jordan and Syria) before Israelis will be willing to take huge risks. * * *

Sincerely yours,
RABBI MARVIN HIER,
Dean.
RABBI ABRAHAM COOPER,
Associate Dean.

A TRIBUTE TO JEAN LA MOTTE

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to a distinguished member of the Sacramento community, Jean La Motte, for her outstanding contributions to the people of Sacramento. It is an honor to be able to salute this devoted individual.

Since 1973, Jean has been a fixture on the Sacramento air waves. From "Inside Stanislaus County" to "A New Morning," the early morning viewers in our community have had the pleasure of watching Jean at work. Without fail, Jean's programs have been dedicated to the service of others. Along with General Motors, she coordinated the "Best of the Class" program, a project designed to recognize and encourage academic excellence among high school students. Also, Jean assists with the "Spirit of Youth" awards annual volunteer luncheon which honors young people who have done outstanding volunteer work for nonprofit organizations.

Jean was instrumental in beginning an annual blood drive at KXTV, receiving for her efforts the American Association of Blood Bank's Award of Merit. As Jean herself has said, "One pint of blood can save several lives." Furthermore, she has been the recipient of numerous local and national awards, most recently being nominated by the American Legion Auxiliary for their Golden Mic Award.

Mr. Speaker, on behalf of the city of Sacramento and the State of California, I want to congratulate Jean for a job very well done. Her dedication to the people of our community is most impressive and I want to thank her for all of her tireless efforts.

SITE SAFETY AND EMERGENCY PREPAREDNESS NECESSARY BEFORE WIPP OPENS

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SKAGGS. Mr. Speaker, today I am introducing a resolution that expresses congressional concern about the current plans of the Department of Energy [DOE] for the storage of transuranic nuclear waste from its facilities.

The Department of Energy has selected underground salt beds in southern New Mexico to be the site of the Nation's first permanent nuclear waste repository. This site, known as the "Waste Isolation Pilot Plant" [WIPP], will have nuclear waste shipped to it from across the Nation. Because of the potential threat to public health and the environment inherent in the type of waste involved, it is crucial that adequate steps are taken to protect people from the risks involved in the WIPP project.

Nevertheless, DOE plans to start putting wastes in the repository this October despite two major unresolved safety questions—whether the States en route to WIPP have received adequate assistance to deal with accidents in transit, and whether the site itself is safe. The resolution I am introducing expresses the sense of Congress that these matters should be resolved before the WIPP Program is initiated.

Although Western States face the greatest impact from the WIPP, as the vast majority of wastes are located at DOE sites in Colorado, Washington, Idaho and New Mexico, wastes must also be shipped from the States of Ohio, South Carolina, Illinois, Tennessee, Nevada, and California. All together, approximately 23 States will be corridor States for WIPP shipments. Many of these States will experience several shipments a day across busy interstates and through major population centers.

Of particular concern to me is that 80 percent of the radioactive wastes in the WIPP Program will be transported through my home State of Colorado. These wastes will be shipped right through the center of our front range cities that contain 2.6 million people.

The major danger is that plutonium might be released in a transportation accident, especially one involving a fire. It is important to note that plutonium is one of the most lethal substances known to man. A fraction of a microgram, one one-hundredth the size of a grain of ordinary table salt, is the maximum permissible dose to an individual.

Even with these known risks, the DOE has been reluctant to make commitments to provide adequate assistance to States for emergency preparedness and emergency response training in case of a enroute accident.

In addition to the risks inherent in transporting nuclear wastes across our Nation's highways, there is another potential problem with the proposed WIPP site. Earlier this month the National Academy of Sciences confirmed that there is water leaking into the site of the WIPP.

This leakage could corrode the steel drums that contain the waste and so threaten the repository's ability to safely store wastes. This is especially troubling since plutonium has a half-line of up to 24,000 years. It is essential therefore, that the salt chambers remain dry for thousands of years to store the wastes safely.

The DOE still intends to place 20,000 to 30,000 barrels of nuclear waste in WIPP to study the effects of the leakage. This is quite troubling to me because any breach in containment of these wastes could cause serious public health problems if radioactive materials were to escape and contaminate acquifers.

Mr. Speaker, I believe Congress has a paramount responsibility to ensure that all components of the WIPP Program are designed to protect public health and safety and the environment. To that end, my resolution expresses the sense of this body that adequate measures should be taken regarding emergency response capabilities and training to protect the people of the States through which the radioactive waste will be shipped, as well as the people of the State in which the waste will be stored. The resolution further states that the DOE should not place any waste in the WIPP unless and until it is determined that the leakage does not present a threat to the safe storage of nuclear waste.

THE 1988 GERMANTOWN PROTEST

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, April 28, 1988, marks the 300th anniversary of the 1688 Germantown Anti-Slavery Protest in Philadelphia. The 1688 Protest, written by four Germantown settlers, was one of the earliest recorded protests against slavery in North America. Mayor Goode of Philadelphia has proclaimed 1988 as the "Year of the Tercentenary."

In honor of the 300th anniversary, a broad coalition of community groups based in Germantown has coordinated the "1988 Germantown Protest." The renewed call to justice reads in part: "While human slavery has been abolished by law, the callous disregard of life persists today in the abundant denial of basic rights and needs."

To support this cause, on Saturday, April 23, 1988, between 2 p.m. and 4 p.m., thousands of Philadelphians will join together near the historic signing site in lower Germantown.

Mr. Speaker, I would like to commend the efforts of the 1988 protestors who are renewing the Anti-Slavery Protest. They are committed to standing today, as are many of us in the U.S. Congress, for the rights and the basic needs of the homeless, the hungry, the unemployed, and the neglected.

VIETNAM VETERANS MEMORIAL MOVING WALL COMES TO STEUBENVILLE, OH

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. APPLEGATE. Mr. Speaker, I would like to take this opportunity to inform my colleagues in the House that my hometown of Steubenville, OH, will be hosting the Vietnam Veterans Memorial Moving Wall from April 28 through May 2.

As many of you know, the moving wall is a one-half-scale replica of the Vietnam Veterans Memorial here in Washington, the most visited memorial in our Nation's Capital. Inscribed with the names of more than 58,000 Americans who paid the ultimate sacrifice during the war in Vietnam, the Vietnam Veterans Memorial attracts millions of visitors from throughout the United States each year, as well as many individuals from throughout the rest of the world.

Because not everyone in our Nation is able to come to Washington and to see the Vietnam Veterans Memorial in person, the moving wall provides the opportunity for each and every American to see firsthand the closest thing possible to this emotionally moving monument situated near the Lincoln Memorial.

It is often said that the establishment of the Vietnam Veterans Memorial marked the turning point of America's acceptance of her millions of sons and daughters who served in this controversial conflict on the other side of the globe. The developing understanding and recognition of America's Vietnam veterans has become an integral part of our society and culture during the 1980's, very different from the malignment and misunderstanding that permeated our Nation's thinking during the 1960's and 1970's. The time of the Vietnam veteran has finally come—nearly a generation after the height of fighting in Southeast Asia.

The powerful emotional impact of the Vietnam Veterans Memorial cannot be overstated; the message of this memorial brings forth memories of battles in rice patties and on mountain plateaus; it recalls air battles over the Gulf of Tonkin and the mainland of Vietnam. Most of all, the Vietnam Veterans Memorial evokes the powerful memories and thoughts of those brothers, fathers, sons, and daughters, who gave their lives in defense of freedom and liberty throughout the free world.

The moving wall brings with it many messages as it travels through the small towns of America. I'm pleased to be a part of bringing this message to my constituents and to the people of West Virginia, Pennsylvania, and Ohio who will travel considerable distances to experience the same feelings that are felt by those visitors to the Vietnam Veterans Memorial in Washington.

Mr. Speaker, I want to thank the Vietnam Veterans Support Group of Steubenville, the Greater Steubenville Convention and Visitors Bureau, and all of the other veterans' organizations and local officials who have done what they did to bring the Vietnam Veterans Memorial Moving Wall to Steubenville. Most of all, I want to thank all of the soldiers and sailors, airmen and marines, and nurses, who paid the supreme sacrifice and whose names appear on the wall; and I want to thank, as well, their fellow veterans who will come to pay homage to the memory of their colleagues who will not return from battle.

TRIBUTE TO POLISH CONSTITUTION DAY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the observance of the 197th anniversary of the Polish Constitution. The Polish Constitution was adopted on May 3, 1791. This date is not mentioned in Poland today, but it continues to be enthusiastically observed by members of Polish communities everywhere in the free world.

The anniversary of the Polish Constitution of 1791 is one of the most important Polish national holidays. It marks the anniversary of the transformation of Poland into a modern state. This feat is remarkable considering the fact that in 1772, Poland was divided among the empires of Russia, Prussia, and Austria. The Polish Constitution was drafted by Poles who were unified behind the threat of annihilation and influenced by the liberal movements in America, Great Britain, and France.

The Polish American Congress plays a vital role in celebrating the anniversary of the Polish Constitution. The Youngstown District of the Polish American Congress in my 17th Congressional District of Ohio plans to mark the anniversary of the Polish Constitution on May 1. I extend best wishes to the millions of Polish citizens of this country and the numerous contributions you have made to American society.

TRIBUTE TO SWEDISH DIPLOMAT PER ANGER—COLLEAGUE OF RAOUL WALLENBERG IN BUDAPEST

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. LANTOS. Mr. Speaker, in a few days, the Congressional Human Rights Caucus will hold hearings to address the ever-present issue of missing persons. From Latin America to Asia, on both sides of Europe's Iron Curtain, there are individuals—young and old—who remain unaccounted for and who have vanished. At this time, as we prepare to investigate these tragic cases, I would like to call to the attention of my colleagues Per Anger, who will be the key witness at these upcoming hearings.

At the hearing, Ambassador Anger will express his unusual interest in and concern for missing persons. Per Anger was a coworker of Swedish humanitarian Raoul Wallenberg during the chaotic and heroic months when Wallenberg launched the major effort that resulted in the saving of 100,000 men, women, and children from Nazi extermination camps during 1944. In January 1945, however, Wallenberg was abducted by Soviet military authorities and he has not been seen outside Soviet prisons since that time. Ambassador Anger has pressed for a full disclosure of Raoul Wallenberg's whereabouts, and he has been a major voice in bringing the story of Wallenberg's heroic efforts to the attention of the world.

After graduating from law school in Sweden, Ambassador Anger served his country as a member of its diplomatic corps from 1942 until his retirement in 1979. He was posted at the Foreign Ministry in Stockholm and in the field in Budapest, Cairo, Addis Ababa, Paris, Vienna and San Francisco. His 37 years of distinguished service were capped with service as the Swedish ambassador to Australia and then to Canada.

It was during his tour of duty in Budapest during the Second World War—when the Germans, the Hungarian Nazi collaborators, and finally the Russians made life utterly intolerable—that his truest colors showed. At great personal risk to himself and considerable risk to the Swedish legation, he worked with Wallenberg in a variety of ways to extend Swedish diplomatic protection to 100,000 Hungarians Jews who otherwise would have been taken on cattle cars to Auschwitz.

Ambassador Anger vividly recalls Wallenberg's dedication to duty in his book "With Raoul Wallenberg in Budapest." As the Second World War drew to a close and Stalin's army advanced on Budapest destroying everything in its path, Wallenberg refused to take shelter, saying: "Sure, it gets a little scary sometimes, but for me there's no choice. I've taken on this assignment and I'd never be able to go back to Stockholm without knowing inside myself I'd done all a man could do to save as many Jews as possible." Since the war's conclusion, Mr. Anger continues to do all a man could do to free Raoul Wallenberg from Soviet control.

Per Anger comes to us now as he carries out one last mission—to fight for one last life. He comes to us now on behalf of Raoul Wallenberg, who according to recent accounts may still live in the shadowy half-world of the Gulag. He has been held without charges for over 40 years, since the end of the conflict which brought both Swedish diplomats to Hungary.

Mr. Speaker, I would like to take this opportunity to pay tribute to Ambassador Anger. First, for his efforts with Raoul Wallenberg 44 years ago. Thanks to their efforts my wife, Annette, and I as well as tens of thousands of others are alive today. Second, for his untiring effort to win the release of his friend and colleague, Raoul Wallenberg. Per Anger has called unceasingly on Soviet authorities to provide a full account of Raoul Wallenberg's stay in Soviet prisons. I invite my colleagues in the Congress to join me in honoring Per Anger—an outstanding diplomat and humanitarian.

PERSONAL EXPLANATION

HON. JIM MOODY

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. MOODY. Mr. Speaker, I was absent Tuesday, April 19, 1988, because I was attending the inauguration ceremony for John Norquist who was recently elected mayor of Milwaukee. Had I been present, I would have voted "aye" on H. Res. 422, to express support for the INF Treaty, and "aye" on the conference report on H.R. 5.

I was also unavoidably absent yesterday, April 20. Had I been present I would have voted "no" on the Gekas amendment to H.R. 4222 and "aye" on final passage of H.R. 4222.

SERIOUS CONCERNS OVER TREATY

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. STUMP. Mr. Speaker, I am inserting into the RECORD this afternoon, articles from next week's edition of Janes Defence Weekly which point out serious concerns over the treaty the United States has just signed with the Soviets regarding Afghanistan. I hope that my colleagues will take the time to read these articles and use the information they provide as we enter the appropriations process later this summer.

The articles follow:

[From Janes Defence Weekly, Apr. 23, 1988]

AFGHAN ARMY WILL STAY LOYAL, SAY SOVIETS

The Afghan armed forces are 160,000 men strong, with an additional 100,000 troops serving in various militia and self-defence units according to a senior Soviet expert who has discussed the forthcoming Soviet withdrawal from Afghanistan with *JDW* in a briefing in Washington. The Soviet Government believes that the Afghan Army will hold together following the Soviet withdrawal. The officers are loyal to the regiment and units are organised in such a way that the troops are personally loyal to their officers. They will follow them regardless of the political context.

The presence of Soviet military advisers in the ranks of the army constitutes another major factor in ensuring reliability. These advisers will probably remain after a withdrawal. Former post-graduate students of the prestigious Oriental Studies Institute of the Academy of Science USSR are among these advisers.

The Soviets would like to continue military aid to the Afghan Army after withdrawal. It would ensure that the army has the capabilities and power to ensure the survival of a new regime in Kabul, and its control over the administrative, military/strategic and economic centres of Afghanistan.

"SABOTAGE," CLAIMS PRESIDENT ZIA

Pakistan's President Zia ul-Haq said last week's explosion of an ammunition dump near Islamabad which killed more than 100 people and wounded more than 1000 "couldn't be anything else but sabotage". Although denied by President Zia, the Ojhari dump was believed to be a transit point for US and Chinese weapons en route to the mujahideen guerrillas in Afghanistan.

In attempting to reconstruct the chain of events at Ojhari, it appears that between 9:30 and 9:45 am local time, an incendiary device exploded in a truck, during loading in an external part of the dump complex.

The truck, reportedly carrying Peshawar licence plates, caught fire and the ammunition on and around it began to explode. Attempts were made to extinguish the fire.

At about 9:55, there was a major explosion in the innermost section of the dump, causing a secondary explosion of the stored ammunition. The combined explosions created an approximately 300 m orange fireball, which developed into a high, thick pillar of smoke.

That explosion was followed, in quick succession, by two similar explosions in other parts of the dump, about 1.6 km apart.

Each explosion caused fire and triggered secondary explosions which launched the stored ammunition and lasted for more than 30 minutes.

The shape and nature of each explosion indicated that a combined charge of blast and incendiary components was used in the inciting bombs.

The bomb in the diversionary explosion in the truck was possibly activated by remote control while the prepositioned bombs could have been equipped with noise activated time fuses.

About 40% of the dump was destroyed, most of the damage being caused by exploding 107 mm multi-barrel rocket launchers, 122 mm mortar shells and 14.7 mm anti-aircraft ammunition.

Mostly Chinese-manufactured ammunition, anti-aircraft and artillery shells and rockets launchers escaped destruction.

A second explosion of an arms dump at an Afghan refugee camp in Baluchistan last week killed at least six and injured at least 50 people, while at Faizalabad in Lahore, there was yet another explosion of an ammunition factory, also on 10 April.

SOVIET WITHDRAWAL STILL POSES PROBLEMS

The agreement signed last week between Afghanistan and Pakistan, guaranteed by the Soviet Union and the USA, has provided a basis for the withdrawal of the estimated 115,000 Soviet troops from Afghanistan.

The withdrawal will commence on 15 May and half the troops will be out by mid-August. The last Soviet soldier will leave by mid-February next year, although there are indications the Soviets will attempt to complete the withdrawal by the end of this year.

However, both superpowers have confirmed they retain the right to continue support for the rival factions in Afghanistan, including the right to supply arms.

In a written statement to the United Nations, the USA said it would send arms to the mujahideen guerrillas for as long as the Soviet Union continues to send arms to the Kabul government.

"The United States has advised the Soviet Union that the United States retains the right . . . to provide military assistance to parties in Afghanistan. Should the Soviet Union exercise restraint in providing military assistance to parties in Afghanistan, the United States will similarly exercise restraint," read the statement.

Afghan Foreign Minister Abdul Wakil said: "Soviet military assistance will continue . . . in the context of traditional bilateral arrangements."

The agreement said, in part, that Afghanistan and Pakistan would respect each other's sovereignty and refrain from armed intervention; refrain from attempts to destabilize the other's country; and prevent its country from training, equipping, financing or recruiting groups to fight in the other's country.

The agreement will remain in effect for 18 months, after which time it will be reviewed. Some observers have doubted the legality of the agreement, as both Pakistan and the USA refuse to recognise the legitimacy of the Kabul government.

Hardliners among the Afghan mujahideen called the accord a sell-out by the USA for having failed to secure a cut-off of Soviet military aid to the Kabul government.

Leaders of the guerrilla coalition vowed to keep fighting until the Communist government fell.

FADA ILLEGALLY ESTABLISHED

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. KANJORSKI. Mr. Speaker, for over a year now the staff of the House Banking Committee has been examining the activities of the Federal Asset Disposition Association, a unique quasi-governmental agency established by the Federal Home Loan Bank Board to dispose of the assets of troubled thrift institutions. Yesterday the chairman of the House Banking Committee shared with the House the exhaustive and thorough results of that year-long study.

The very clear conclusion of that study is that FADA has been ineffective, inefficient and a costly mechanism for disposing of Federal assets. Of equal importance to me, because FADA was set up outside the regular confines of the Government, it has avoided traditional governmental restrictions on salary, conflicts of interest, revolving door activities, and other potential ethical problems.

I want to share with my colleagues some additional research on FADA's establishment that was done at my request by Dr. Harold Seidman, of the Center for the Study of American Government. Dr. Seidman is the Nation's foremost expert on the Government Corporation Control Act of 1945.

It is Dr. Seidman's firm belief that the Federal Home Loan Bank Board violated the Government Corporation Control Act of 1945 in establishing FADA, and thus that it is illegally constituted. His research, along with that of the Banking Committee staff, make it clear to me that FADA was improperly established, has bungled its job, and should be abolished.

Mr. Speaker, we must accept the fact that FADA has failed. It is time to end this experiment and pursue one of two other options. The first option is to return to the status quo before FADA was established by having FSLIC do all of its own asset disposition. FSLIC has done asset disposition for many years and there is no reason why we cannot give it additional resources to continue doing this job.

The other option, which requires more effort but may be more productive in the long run, is to establish a new centralized, Government-controlled agency to do all of the Government's asset disposition work. Today asset disposition work is being done separately by FADA, FSLIC, the FDIC, HUD and other Government agencies. There may be economies of scale which can be achieved by centralizing these functions in one agency. But if we do centralize these functions it must be in a totally governmentally controlled agency subject to all of the regular ethics laws of the Government.

I welcome the chance to work with the Federal Home Loan Bank Board, other Federal regulatory agencies, and my colleagues in the Congress on legislation to put our asset disposition house back in order.

The report follows:

REPORT TO CONGRESSMAN PAUL E. KANJORSKI, BY DR. HAROLD SEIDMAN, CENTER FOR THE STUDY OF AMERICAN GOVERNMENT ON THE FEDERAL ASSSET DISPOSITION ASSOCIATION

This will respond to your letter of March 2, 1988 to Ray Kline, President, National Academy of Public Administration, requesting that I analyze the applicability of the U.S. Constitution, and the Government Corporation Control Act of 1945 (13 U.S.C. 9102-09) to the Federal Asset Disposition Association (FADA). The views expressed are my own and do not necessarily represent those of the National Academy of Public Administration.

Certain facts are not in dispute:

Without notice to or specific approval by the Congress, the Federal Home Loan Bank Board (Bank Board) on November 1, 1985 authorized the organization of FADA as a federal savings and loan association under authority of section 406 of the National Housing Act, as amended, (12 U.S.C. 1729) with the Federal Savings and Loan Insurance Corporation (FSLIC) as sole stockholder and guarantor of a line of credit with the Federal Home Loan Bank of Topeka.

The chartering of a federal savings and loan association which was prohibited by the Bank Board from accepting funds for deposit was unprecedented. To comply with the legal requirement that federal savings and loan associations have deposit insurance, the Bank Board provided that FSLIC should insure non-existent deposits.

As a wholly owned government corporation, FSLIC is required to include in its budget submitted to the President and the Congress "estimates of operations by major types of activities." In submitting its budget for fiscal 1986 FSLIC did not disclose its intention to organize and invest $25 million in FADA and this expenditure was not included in its budget program approved by the Congress.

Under Bank Board regulations, applicants for a federal charter must reside in the proposed institution's home state. None of the FADA directors approved by the Board reside in Colorado, designated as the association's "home office". Except for one lawyer and the Director, FSLIC, President of a Home Loan Bank, *ex officio*, the Board of Directors is composed entirely of chief executives of federal savings and loan associations who are residents of nine different states.

The Bank Board relies entirely for its authority to charter FADA on section 406 of the National Housing Act (12 USC 1729). This section reads:

"In order to facilitate the liquidation of insured institutions, the corporation (FSLIC) is authorized (1) to contract with any institution with respect to the making available of insured accounts to the insured members of any insured institution in default, or (2) to provide for the organization of a new federal savings and loan association for such purpose subject to the approval of the Federal Home Loan Bank Board."

The words "such purpose" as used in the section clearly relate back to "making available of insured accounts to the insured members of any insured institution in default." The section provides authority to organize a new federal savings and loan association for the limited purposes of facilitating liquidation. It does not provide authority for the Bank Board to utilize a federal savings and loan association as a legal vehicle for chartering a corporation to engage in activities other than those prescribed by law for a federal savings and loan association.

It is acknowledged that FADA does not accept deposits, make loans or othewise act as a thrift institution. The Guide to the Federal Home Loan Bank System (March 1987) describes FADA as "a private company owned by the FSLIC." (p. 53). The authority for FSLIC to own or invest in a private company other than a failed or troubled insured savings and loan association is not cited. The Bank Board's 1986 annual report (p. 18) defines FADA's mission as assisting "the Board and the FSLIC in the management, workout and sale of troubled real estate assets. The FADA does not take title to any of this real estate but rather acts as manager and professional real estate consultant to the FSLIC. Simply put, the FADA has become a major FSLIC contractor for asset management."

It is evident from the testimony of M. Danny Wall, Chairman, Federal Home Loan Bank Board, before the House Committee on Banking, Finance, and Urban Affairs on October 15, 1987, that FADA was established to evade the pay caps, personnel ceilings, and other budegetary and legal constraints which were making it difficult for the FSLIC to recruit and retain the expert personnel it needed to do its job effectively. According to Chairman Wall, "FSLIC needed expertise in certain areas that could be more efficiently acquired in a captive organization than paid for by using outside contractors." (Hearing, Serial No. 100-37, p. 59, p. 67) No claim was made that FADA was created to facilitate the liquidation of insured institutions and to pay off depositors in such institutions.

The admitted objectives in chartering FADA as a corporation was to circumvent laws enacted by the Congress. While the ends sought by the Bank Board may have been legitimate and praiseworthy, the means were inappropriate and of questionable legality.

Article II of the United States Constitution vests in the Congress exclusive power to establish federal offices and to prescribe the powers and duties of federal officers. The same article vests the power to appoint federal officers in the President, by and with the advice and consent of the Senate, or, in the case of inferior officers, the President alone, the heads of departments or the courts of law.

The organization of a corporation to act as a federal agency, except by or pursuant to an act of Congress, represents a usurpation of Congressional power under Article II. The Constitutional objection is not removed when a wholly owned government corporation, acting in "its corporate capacity", organizes a subsidiary corporation to serve as its agent. As the Supreme Court ruled in the case of *Cherry Cotton Mills* vs. *U.S.* (327 U.S. 536 (1945)) the designation of the Reconstruction Finance Corporation as a corporation "did not alter its characteristics so as to make it something other than what it actually is, an agency selected by the government to accomplish purely governmental purposes." In keeping with the Constitution, the Government Corporation Control Act of 1945 (now codified as 31 U.S.C. 9102) prohibits any agency, including a government corporation, from acquiring "a corporation to act as an agency except "by or under a law of the United States specifically authorizing the action." The Control Act further directed that any wholly owned corporation created under the laws of any state, Territory, or possession of the United States or political subdivision thereof either be liquidated or reincorporated by act of Congress.

According to Black's Law Dictionary (Fifth Edition, 1979, p. 42) "the term agency includes any department, independent establishment, commission, administrative authority, board or bureau of the United States or any corporation in which the United States has a proprietary interest, unless the context shows that such terms was intended to be used in a more limited sense." The United States Code (15 U.S.C. 103) defines as an agency "a corporation owned or controlled by the government of the United States."

The argument that FADA is not an "agency" or "federal instrumentality," because it is chartered as a Federal savings and loan association is without merit. There can be no question that FADA is a corporation in which the United States has a proprietary interest. Congress has not by law exempted FADA from the provisions of the Control Act and other laws such as the Civil Service and Classification Act, Federal Property and Administrative Services Act, conflict of interest laws and other statutes which are specifically applicable to wholly government owned corporations.

Tennessee Valley Associated Cooperatives, Inc. was held to be subject to the Control Act even though no federal money was directly invested in the corporation. The Corporation had been incorporated in Tennessee by directors of the Tennessee Valley Authority who held one hundred shares of stock in the corporation on behalf of the United States. Pursuant to the Control Act, Tennessee Valley Associated Cooperatives, Inc. was liquidated.

The Competitive Equality Banking Act of 1987 provided that FADA shall be subject to a financial audit by the Comptroller General and that FADA's activities, receipts, and expenditures be included in FSLIC's budget. The Budget of the United States for 1989 for the first time includes FADA although FADA was unable to supply financial data on a fiscal year basis for 1987. While providing for some degree of accountability, these provisions do not eliminate legal doubts as to FADA's status and relationships to the United States government. FADA continues to operate in a legal vacuum in which FADA claims to be a private entity and, therefore, not subject to the constitutional provisions, laws, and regulations applicable to federal agencies. (Hearings pp. 2-3)

Private individuals and corporations are not subject to the same constitutional provisions, and laws as federal agencies and employees. These constitutional provisions and laws applicable to federal agencies are designed to prevent abuse of power and to assure fairness and openness in the administration of laws, honesty, integrity, and competence of public officers and employees and accountability to duly elected officials and the public. The vesting of control of federal funds and the exercise of governmental powers in private individuals or corporations raises fundamental constitutional questions and represents a potential threat to responsible and accountable democratic government.

AMERICAN JEWISH COMMITTEE SUPPORT OF INDOCHINESE REFUGEES

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SOLARZ. Mr. Speaker, I rise today to call the attention of my colleagues to the remarks of David Harris, Washington representative of the American Jewish Committee, at a rally in support of Indochinese refugees held in Washington on Sunday March 27, 1988.

I also spoke at this rally, as did members of the Vietnamese, Laotian, and Cambodian communities, called to demonstrate our support for a generous and compassionate policy of welcoming these refugees.

Mr. Harris's remarks note the especially strong sentiment that we, as Jews, have for those in this desperate situation. I salute him, and the American Jewish Committee, for these words and it is with pride that I place his remarks in the RECORD, along with letters from Theodore Ellenoff, the president of the American Jewish Committee, and Le Xuan Khoa, president of the Indochinese Resource Action Center, to Secretary of State Shultz and to the New York Times.

The material follows:

REMARKS BY DAVID A. HARRIS

Ladies and gentleman, I consider it an honor to be with you today and to bring the support of the American Jewish Committee to this rally.

In a very real sense, we are all boat people. Most of us in this country are ourselves or the descendants of boat people. We are the lucky ones. Whether it was the Mayflower more than three centuries ago, or the crammed steam ships of the late 1800's and early 1900's that brought millions of Southern and East European immigrants and refugees to these shores, or the makeshift rafts of the Haitians, or the boat flotilla of the Cubans. We are the lucky ones. Those boats somehow proved seaworthy enough to make the perilous voyage, and we were given admittance to a country of safe haven and refuge.

As Jews, we understand very well the motivations of refugees. We understand the fear, threats, persecution, and violence based on fanatical and misguided religious, national, ethnic, and political grounds that force some people to flee their homelands in the hope of a better and more secure life for themselves and their children. Yes, we know these things all too well from the school of personal experience. I, for example, am the son of refugees from Nazi Europe. I am the grandson of refugees from Communist Russia. I am the husband of a refugee from extremist Libya.

When the first reports appeared in the 1970's about people fleeing Vietnam, Laos, and Cambodia, often by boat, it struck a very special and poignant chord in the Jewish community. Images of boats being turned back from safe haven, of people dying at sea reminded many of us of our own tragic experiences just 35 years before.

In 1939, a ship carrying 930 Jewish refugees from Germany—the St. Louis—was refused permission to disembark all but a few of its passengers in Cuba, its first port of call, even though all held Cuban landing certificates. Subsequently, the United States, Chile, Argentina, Columbia and Paraguay refused permission for the refugees to enter. Believe it or not, the ship was actually compelled to return to Europe. Finally, four European countries agreed to accept the refugees. In the following years, three of the four were overrun by the Nazis. Many of the original passengers were among the victims of Hitler's death camps.

And one other tragic example. In 1942, the Struma, carrying 769 refugees from Romania bound for Palestine, stopped in Turkey for badly needed repairs, Turkey refused to assist because of Arab pressure not to cooperate in facilitating immigration to Palestine, and because of a British refusal to issue permits for the refugees to proceed to Palestine. The ship sank off the Turkish coast. All but one of the passengers died.

That's why we raised our voices, calling, first, on the Ford and then on the Carter Administrations to respond generously to the crisis in Indochina with increased admissions numbers. And we were pleased they did.

And it's why, in 1980, the American Jewish community sponsored a full page ad in the New York Times. It read "Do A Mitzvah"—which in Hebrew means a good deed—"Save A Life." And with the money raised we were able to construct a school to serve the needs of children in one of the refugee camps in Thailand.

And it's why we called on synagogues throughout the country to join with Catholic and Protestant churches and aid those refugees seeking admission that had no other sponsor—and many responded. The Jewish migration agency, HIAS, has helped thousands of refugees from Indochina to come to this country and be resettled. And I am very proud that my family and I sponsored a husband and wife—an ethnic Chinese couple—who had fled Saigon.

And it's why in June 1977 tiny Israel welcomed the entry of 66 Vietnamese refugees to that country after they had been rescued off the Vietnamese coast by an Israeli ship, and in January 1979 admitted another 101 Vietnamese refugees.

Israel's capacity to absorb large numbers is understandably very limited, but Israel wanted to make an important gesture of solidarity and understanding, and at the same time, perhaps, challenge other countries, often more capable of absorbing large numbers but seemingly indifferent to this human tragedy, to do the same.

And it's why just two weeks ago our organization's president, Theodore Ellenoff, joined with Mr. Khoa, the distinguished president of the Indochina Resource Action Center, in publishing in the New York Times a letter appealing for increased refugee numbers for the current year to accommodate the unexpected exodus of refugees from Indochina and the Soviet Union. And, in a joint letter sent to both the President of the United States and the Secretary of State, we made a similar appeal.

And it's why we have urged the Thai Government to take additional steps to insure that Thailand remains a country of first asylum and safety for refugees. But we also understand that the Thai Government needs the assurance of the U.S. and other receiving countries that refugees will be permanently resettled.

We note with pride the warm welcome our country has extended to hundreds of thousands of refugees in recent years. We believe that a generous refugee admissions policy is an act of humanitarianism and generosity—a reaffirmation of the strength and appeal of nations like our own—a recognition that our society respects and welcome pluralism and seeks to practice tolerance. In so doing it proves the point that all Americans benefit. We become a better society for our diversity, a richer society.

And let's be clear. Advocates of a generous refugee policy need not be defensive. Every study has shown that refugees give back to their adopted country much more than they have ever taken.

That's why we stand with you and lend our support to the call for an additional 15,000 refugee slots for the current year.

Thank you.

THE AMERICAN JEWISH COMMITTEE,
New York, NY, February 19, 1988.

Hon. GEORGE P. SHULTZ,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MR. SECRETARY: As two organizations deeply involved in human relations, human rights and refugee issues, we wish to express our concern about several recent developments affecting refugees.

We are very troubled by reports from Thailand that Vietnamese refugees, arriving in unexpectedly large numbers, are being turned back. As a result, some died tragically at sea. Thailand also is reportedly adopting other measures that would seek to discourage further refugee inflow, including moving some refugee groups perilously close to the Lao and Cambodian borders. On humanitarian grounds, our Government must seek to reverse this Thai policy and insure that Thailand remains a country of first asylum for refugees from neighboring countries.

To do so most effectively, the United States must make it absolutely clear that we will admit the maximum number of refugees from the region so provided in the Fiscal Year 1988 ceiling, namely, 29,500. To reduce that figure would mean not only continued hardship for those refugees in first countries of asylum, some of whom have been awaiting resettlement for five years or longer, but also the likelihood of further efforts by Thailand and other countries of first destination to restrict entry. Tragic consequences almost certainly would follow.

At the same time, we recognize that progress with the Soviet Union in the sphere of emigration has been achieved. As a result of the Administration's persistent advocacy of the right to leave in its agenda with Moscow, an increased number of both Armenians and Jews have, as you know so well, been permitted to leave, creating pressure for a shift in refugee numbers from Southeast Asia to the Soviet Union.

We firmly believe that shifting numbers is not the proper answer. Both groups are deserving and of particular concern to the United States. We respectfully urge that our country respond to this dramatic new situation with compassion and generosity by invoking the Emergency Provisions, as provided for in the Refugee Act of 1980, in the case of unanticipated emergency conditions.

We recognize that additional refugee admissions for the current fiscal year would necessitate supplemental funding, but believe that such extra expenditures are warranted by the present situation and justified for both humanitarian and foreign policy reasons.

Respectfully,

LE XUAN KHOA,
President, Indochina Resource Action Center.
THEODORE ELLENOFF,
President, American Jewish Committee.

[From the New York Times, Mar. 8, 1988]

CRUEL TRADE-OFF

To the EDITOR:

As representatives of agencies deeply concerned about refugee issues, we believe that "Cruel and Needless, Choice of Refugees" (Feb. 17) is right on target.

Two separate developments are at work. In Southeast Asia, an unanticipated increase in the number of refugees fleeing has put additional pressure on countries like Thailand. The Thais, fearful that the refugees will become permanent rather than a temporary population en route to Western countries of final resettlement, have begun to deny entry to refugees, in some cases resulting in tragic death at sea.

In the Soviet Union, stepped-up emigration opportunities for Amenians and, to a lesser extent, Jews, have swelled the anticipated number of refugees beyond United States expectations for the current year.

As you note, there has been some discussion of shifting limited refugee slots from Southeast Asia to the Soviet Union. That reallocation would amount to a cruel trade-off. As such, we oppose it. Instead, the Administration ought to invoke the emergency provisions of the 1980 Refugee Act and increase the refugee ceiling by 15,000 to a total of 83,500 for the current fiscal year. Both groups of refugees are deserving of United States entry on humanitarian and foreign policy grounds. Neither should be denied entry at the expense of the other.

THEODORE ELLENOFF.
LE XUAN KHOA.

New York, Feb. 22, 1988.

The writers are, respectively, presidents of the American Jewish Committee and the Indochina Resource Action Center.

NATIONAL ENDOWMENT FOR DEMOCRACY

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. SHUMWAY. Mr. Speaker, like many Members, I was initially skeptical about the National Endowment for Democracy. However, after reviewing the various programs made possible by the Endowment, I have changed my mind. NED is making a real contribution to the growth of democracy in some of the most difficult and crucial situations in the world.

I believe that the more that is known about NED's work, the more support there will be—on both sides of the aisle—for its unique and profoundly important mission. NED consistently supports democratic groups across the board; it is only partisan with regard to democracy itself.

For these reasons, I commend to the attention of my colleagues the recent statement by Carl Gershman, President of NED, before the House Appropriations Subcommittee on Commerce, Justice and State.

STATEMENT OF CARL GERSHMAN, PRESIDENT, NATIONAL ENDOWMENT FOR DEMOCRACY

Over the past four years the National Endowment for Democracy has established a durable foundation that is at once conceptually, programmatically and procedurally sound. Conceptually, our work has been based upon the view, set forth in 1984 in our Statement of Principles and Objectives, that "the existence of autonomous economic, political, social and cultural institutions"—in a word, civil society—"is the foundation of the democratic process and the best guarantor of individual rights and freedoms."

Programmatically, we have acted upon this idea by contributing to the development, and in some cases the very survival, of a wide array of free institutions devoted to the values of democracy: trade unions, business associations and political parties (work carried out through our core grantees in these fields, the Free Trade Union Institute, the Center for International Private Enterprise, and the National Democratic and the National Republican Institutes for International Affairs), as well as civic organizations of women and youth, public policy institutes, cooperatives, and a variety of free communications media including newspapers, journals, books and films.

Procedurally, in addition to establishing high standards for the careful selection, monitoring and evaluation of grants, we have adhered to three basic operating principles: our grants are open to public scrutiny, our programs are responsive to the needs and initiatives of our partners abroad, and our approach is consistent, not veering to the left or to the right but holding faithfully to a democratic course. In practice, this means that we are ready to assist authentic democratic initiatives in a wide variety of circumstances: in authoritarian systems where the goal is transition to democracy; in developing democracies where the goal is the reinforcement of democratic structures and values; in closed societies where the goal is opening the system to independent activity; and in conflict-ridden countries where the goal is sustaining the possibility of democracy when the violence subsides.

This approach has been presided over by a Board of Directors that reflects the broad diversity and vigorous pluralism of American society. It has found support in a growing bipartisan majority in Congress and acceptance here and abroad among groups actively working to promote democratic ends. The fact that this bold, innovative and authentically democratic approach has also been unifying and consensual demonstrates how broad and deep is the commitment to democracy in our own country and indeed throughout the world.

If we have been successful it is largely because there exist people abroad who are passionately and courageously devoted to democracy. For them, democracy is not something to be taken for granted. It is a precious ideal whose value is enhanced by the very precariousness of its existence in some countries, or by its denial by force in many others. These people, with whom the Endowment has established bonds of solidarity and cooperation, include:

In the Philippines, trade unionists, business leaders, women civic activists and high school students who are struggling to consolidate their new democracy under the most difficult conditions;

In Haiti, democrats who refuse to relinquish the political space they have gained since the overthrow of Duvalier, and who continue to work for the establishment of democracy despite the violence of the past year;

In Nicaragua, where the labor, business and political groups comprising the civic opposition, along with the editors of La Prensa, the Mothers of Political Prisoners, youth activists and many others have refused to succumb to fear and represssion and may now be in a position to advance their democratic aspirations;

In Chile, where the unfolding political process that will result in a plebescite later this year could bring about the transition to democracy that groups across the democratic political spectrum have been striving to achieve;

In South Africa, where black and white democrats, undaunted by the new wave of repression, are working together to replace apartheid with a democratic system;

In Poland, Czechoslovakia, Hungary and other countries of eastern Europe where there has been an extraordinary growth in independent democratic action, a process that is now spreading even to the Soviet Union itself.

These are but a few of the countries in which we have been active, all of which are listed in the annual report that we have submitted to the subcommittee. Among the many projects described, there are some that already have had an especially broad and significant impact. I would like to call the subcommittee's attention to:

The Institute for Liberty and Democracy in Peru, where pioneering work with the vast informal sector of microentrepreneurs has produced a new free-market approach to development in the Third World that is beginning to transform development theory and policy around the world;

Conciencia in Argentina, a women's civic action movement that is spreading to fifteen other Latin American countries and has been established in the Philippines as well;

Libro Libre in Costa Rica, a movement of democratic intellectuals, which has produced a new democratic literature for Central America and which represents the first coherent attempt to promote democratic ideas in the region;

The International Coalition for Human Rights in Cuba, headed by Armando Valladares who just recently led the successful fight for the establishment of a United Nations commission to investigate Cuban human rights violations.

The Chinese Intellectual, a journal of independent opinion circulating in China whose editor has now established a major intellectual center in Beijing which is working to further the process of reform and opening.

The third and final factor that accounts for the progress and acceptance of the Endowment is the very nature of the world situation in which we find ourselves. This situation is clearer to us now, after the experience of Nicaragua, than it was before. What we have all learned and, I think, can agree upon is that an anti-Communist dictator (such as Somoza) is not a bulwark against Communism, nor is the removal of such a dictator a guarantee of democracy. If we don't build up the democratic forces—systematically, over time, with adequate resources—then there will not be a strong democratic alternative when the authoritarian system collapses, as inevitably it must. In a word, we will have only ourselves to blame if we find ourselves with no option other than retreat or the use of force, and we will pay the price—as we have—in money, in division that strains the political fabric of our society, and possibly in lives as well.

There is even a more basic reason for the relevance of the Endowment today. We live in a state of strategic parity with our main rival, the Soviet Union. There may be violent conflicts at the margins of the world political system, but the overall balance is likely to be preserved. This means that the use of force will continue to decrease as an instrument of policy, and competition will increasingly shift to the realm of politics. We must have the capability to engage effectively in this competition.

Ironically, while democracy is the most broadly accepted and legitimate political idea in the world today, we have never done very well at explaining and defending it. In fact, we have all but abandoned the field of political competition to our ideological rivals, who have usurped the banner of democracy for their own anti-democratic ends.

We're now beginning to wake up to this unpleasant reality, but we still have a long way to go. True, there has been a democratic revival during this decade, and conditions are still favorable for democratic advance. But this is no cause for complacency. It was only a little more than a decade ago that democracy was thought to be in decline, and it will not take many setbacks for pessimism to return once again.

In the meantime, we should accept the fact that political competition will not disappear, that democracy has dedicated opponents who have hardly given up the fight, and that we must therefore have the wherewithal to defend and promote our values in a world of diverse cultures and competing political philosophies.

I believe that the Endowment is potentially the most effective instrument we have for advancing our values in the world. It is cost-effective, activist, engaged. It not only provides concrete assistance to democrats on the frontlines of political struggle, but sends a message of solidarity and democratic commitment. We are gaining good will even as we assist our friends and thereby advance our own interests as well.

We hope that as we continue to progress, you will continue to weigh our needs against the enormity of the challenge we face and the promise this new institution offers for serving the finest ideals and highest interests of our country.

DICK CHENEY'S PAPER ON CONGRESSIONAL OVERSIGHT OF COVERT OPERATIONS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, April 21, 1988

Mr. HYDE. Mr. Speaker, today I am honored to submit for publication the second of three installments of DICK CHENEY's recent paper for the American Bar Association on how to clarify executive and congressional responsibilities in supervising covert actions. In the first section, submitted for the RECORD yesterday, Mr. CHENEY argued that constitutionally and historically, the President has a monopoly on diplomatic communication and the power to initiate foreign policies, including to lead the Government in concrete actions involving deployment of existing resources; the Congress, on the other hand, through its budgetary control has the power to sustain or veto those initiatives which endure over some period of time. On oversight of covert action, all operations of extended duration in effect have the committees' tacit support, the Iran/Contra program being the notable exception.

In the second segment submitted today, Mr. CHENEY considers the proposed 48-hour rule on notification of covert actions. Existing bills, he argues:

> * * * are typical examples of "never again" thinking by Congress. To make sure the [Iran/Contra] disaster will never again repeat itself, Congress is willing to deprive future Presidents of all possible discretion under conditions Congress cannot possibly foresee. The result is an approach to legislative-executive relations that I consider fatally flawed for interrelated constitutional and practical reasons.

I commend this analysis to other Members and urge them to stay tuned for the final supplement next week. In his conclusion, Congressman CHENEY offers a substitute to proposed legislation which is designed to enhance congressional oversight while not infringing on executive prerogatives.

Clarifying Legislative and Executive Roles in Covert Operations—Part II

(By Dick Cheney)

PROPOSED 48-HOUR RULE

The intelligence committees can only review covert operations if they know about them, however. President Reagan did not notify the intelligence committees of the Iran arms sales for eleven months after signing a formal finding to authorize them. I do not think anyone in Congress believes this was timely. The important questions are, how should Congress respond? Should Congress try to close the "timely notification" loophole legislatively? Or are the costs of loophole-closing so severe that it pays to seek more creative and more politically and operationally sensitive ways out of the problem? I favor the second approach. A majority of my colleagues, however, seem to be stuck in a legalistic and largely sterile attempt to close loopholes. I will discuss positive alternatives at the end of this presentation. First, let me indicate what I think is wrong with the dominant mode of congressional thought.

The Senate has recently passed, and the House will soon consider, bills that would require the President under all conditions, with no exceptions, to notify Congress of all covert operations within 48 hours of their start. Those bills, in my opinion, are typical examples of "never again" thinking by Congress. To make sure the last disaster will never again repeat itself, Congress is willing to deprive future Presidents of all possible discretion under conditions Congress cannot possibly foresee. The result is an approach to legislative-executive relations that I consider fatally flawed for interrelated constitutional and practical reasons.

At the heart of the dispute over this bill is a deeper one over the scope of the President's inherent constitutional power. I believe the President has the authority, without statute, to use the resources placed at his disposal to protect American lives abroad and to serve other important foreign policy objectives short of war. The range of the President's discretion does vary, as Justice Jackson said in his famous concurring opinion in the Steel Seizure case. When the President's actions are consonant with express congressional authorizations, discretion can be at its maximum. A middle range of power exists when Congress is silent. Presidential power is at its lowest ebb when it is directly opposed to congressional mandate.[9] What is interesting about this typology, however, is that even when Congress speaks, and the President's power is at its lowest, Jackson acknowledged that there are limits beyond which Congress cannot legislate.[10] Those limits are defined by the scope of the inviolable powers inherent in the Presidential office itself.

Let me now apply this mode of analysis to the sphere of covert action. Congress was legislatively silent about covert action for most of American history, knowing full well that many broad ranging actions had been undertaken at Presidential initiative, with congressionally provided contingency funds.[11] For most of American history, therefore, Presidents were acting in the middle range of the authority Jackson described. Congress does have the power, however, to control the money and material resources available to the President for covert actions. Hughes-Ryan and the 1980 oversight act represent attempts by Congress to place conditions on the President's use of congressionally provided resources. Those conditions, for the most part, have to do with providing information to Congress. Because Congress arguably cannot properly fulfill its legislative function on future money bills without information, the reporting requirements can be understood as logical and appropriate extensions of a legitimate legislative power.

The constitutional question is: what are the limits to what Congress may demand as an adjunct of its appropriations power? Broadly speaking, Congress may not use the money power to achieve purposes that it would be unconstitutional for Congress to achieve directly. It could not place a condition on the salaries of judges, for example, to prohibit the judges from spending any time (i.e., any part of their salaries) to reach a particular constitutional conclusion.[12]

In the same way, Congress could not use its clearly constitutional powers over executive branch resources and procedures to invade an inherently Presidential power. For example, Congress does not have the constitutional power to use an appropriations rider, such as the Boland Amendment, to deprive the President of his authority as the "sole organ of diplomacy" to speak personally, or through any agent of his choice, with another government about any subject at all. I mean this last statement specifically to include asking another government to support the Nicaraguan Democratic Resistance. Congress does have the power to prevent the President from offering another country something of value in return for such support. For example, it could prevent a President from conditioning foreign aid on another country's support for the Contras for fear that U.S. foreign aid, the control over which is in Congress's province, would just become a laundering device. But despite protestations and innuendoes galore during the Iran-Contra hearings, Congress may not prevent the President from using exclusively Presidential powers to achieve results Congress may not like.

How does this reasoning apply to the proposed 48-hour rule? Congress quite properly justified the 1980 notification requirement, as I mentioned earlier, on the need for information as a necessary adjunct to the legislative power to appropriate money. By doing so, Congress stood squarely within a line of cases upholding Congress's contempt power. In the 1821 case of *Anderson* v. *Dunn* the Supreme Court upheld the use of contempt as an implied power needed to implement others given expressely by the Constitution. In a statement that clearly applies to all of the government's branches, the Court said: "There is not in the whole of that admirable instrument, a grant of powers which does not draw after it others, not expressed, but vital to their exercise; not substantive and independent, indeed, but auxiliary and subordinate."[13]

Using this line of reasoning, the Court argued that even though courts were vested with the contempt power by statute, they would have been able to exercise that power without the aid of a statute. For the same reason, the court held, Congress must have inherent authority to exercise a similar power.[14] Later cases tried to circumscribe Congress's contempt power, but the power itself was always held to be a necessary adjunct to Congress's legislative functions and therefore to rest on an implied constitutional foundation.[15]

So far, the Court's argument would seem to support Congress's right to demand information of the executive. But what happens if that power confronts another implied power held by another branch that is equally well grounded on a constitutional foundation? That was the issue in the executive privilege case of *U.S.* v. *Nixon*.[16] In that case, we learned that the decision in any particular case must rest on the competing claims of the two branches at odds with each other. That is how I think the 48-hour rule must be decided.

The proposed 48-hour bill recognizes the President's inherent power to initiate a covert action, as long as that action is limited to resources already available to the President. That is why the 1980 oversight act and the proposed 48-hour bill both take pains to say that by requiring notification, Congress is not asserting a right to approve Presidential decisions in advance.[17] If Congress ever tries to insist on advance approval, that would surely be overturned as a legislative veto.[18]

But if the President has the inherent power to initiate covert actions, then the same rule that gives Congress the right to demand information, and the related contempt power, also gives the President the necessary implied powers he may need to put his acknowledged power into effect. In virtually all cases, there is no conflict between the President's power to initiate an action and requiring the President to notify the intelligence committees, or a smaller group of leaders, of that operation in advance. In a few very rare circumstances, however, there can be a direct conflict.

According to Admiral Stansfield Turner, who was the Director of Central Intelligence at the time, there were three occasions, all involving Iran, in which the Carter Administration withheld notification during an ongoing operation. Notification was withheld for about three months until six Americans could be smuggled out of the Canadian Embassy in Teheran. As Representative Norman Mineta pointed out in testimony following Turner's, the Canadian government made withholding notification a condition of their participation.[19] Notification was also withheld for about six months in two other Iranian operations during the hostage crisis. Said Turner: "I would have found it very difficult to look . . . a person in the eye and tell him or her that I was going to discuss this life threatening mission with even half a dozen people in the CIA who did not absolutely have to know".[20] In these situations, President Carter thought his constitutional obligation to protect American lives could not have been fulfilled if he had been required to notify Congress within 48 hours. And as the Canadian example makes clear, the choice between not notifying or not going ahead at all is sometimes put on us by people outside U.S. control.

---

[9] *Youngstown Sheet and Tube Co.* v. *Sawyer* 343 U.S. 579, 635-38 (1952).

[10] *Ibid.* at 645.

[11] For a summary, see U.S. House of Representatives, 100th Congress, First Session, Select Committee to Investigate Covert Arms Transactions with Iran and U.S. Senate, 100th Congress, First Session, Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition, *Report of the Congressional Committees Investigating the Iran-Contra Affair*, H. Rept. 100-433, S. Rept. 100-216 (November 1987), pp. 467-69.

[12] For a somewhat analogous but less absurd case, see *Brown* v. *Califano* 627 F. 2d 1221 (1980).

[13] *Anderson* v. *Dunn*, 6 Wheat. 204, 225-26 (1821).

[14] Id. at 628-29.

[15] *Kilbourn* v. *Thompson*, 103 U.S. 168 (1881), read the power narrowly, but *McGrain* v. *Dougherty*, 273 U.S. 135 (1927) and *Sinclair* v. *U.S.*, 279 U.S. 263 (1929) in turn read *Kilbourn* narrowly. Later cases have tended to involve conflicts between the contempt power and the First Amendment, *Watkins* v. *U.S.*, 354 U.S. 178 (1957) and *Barenblatt* v. *U.S.*, 360 U.S. 109 (1959).

[16] *U.S.* v. *Nixon* 418 U.S. 683 (1974).

[17] See U.S. Senate Select Committee on Intelligence, 100th Congress, 2d Session, *Intelligence Oversight Act of 1988*, S. Rept. 100-276, pp. 16, 24, 26.

[18] See *INS* v. *Chadha*, 462 U.S. 919 (1983).

[19] U.S. House of Representatives, Permanent Select Committee on Intelligence, Subcommittee on

The Iranian hostage examples also show that the situations under which notification may have to be withheld depend not on how much time has elapsed, but on the character of the operations themselves. It is worth emphasizing that the proposed bill would require notification within 48 hours of an operation's start—that is, when the U.S. begins putting people in place, not when the operation is finished. Let us put aside for the moment whether fear of Congressional leaks would be a legitimate reason for withholding notification about a particularly sensitive operation. I believe there is good reason to be concerned about leaks, but am willing to defer argument about whether this concern carries constitutional weight, because there are better examples to make my point. There can be no question that when other governments place specific security requirements on cooperating with the United States, the no-exceptions aspect of the proposed 48-hour rule would be equivalent to denying the President his constitutionally inherent power to act.

Who should have the power to decide that notification would make action impossible? In the rare situation in which a President believes he must delay notification as a necessary adjunct to fulfilling his constitutional mandate, that decision must by its nature rest with the President. The President obviously cannot consult with Congress about whether to consult. That would itself be a form of consultation. If the President could go that far, there would not be a problem and we could just accept the rule.

So, on the one side of the scale, we see that the President's implied power to withhold notification may be a necessary adjunct to the inherent power to act. What is on Congress's side of the scale? In the same report on the 48-hour bill that acknowledged the President's power to initiate action, the Senate Intelligence Committee offered two constitutional justifications for its notification requirement. The first was "to provide Congress with an opportunity to exercise its responsibilities under the Constitution."[21] The second was "to ensure that decisions to undertake covert actions are not left solely to a handful of single-minded executive officials."[22]

The second of these reasons is nothing less than a demand that Congress participate in a decision it has already acknowledged belongs to the President. Prudence undoubtedly should lead to consultation, but the dictates of prudence do not settle questions of constitutional power. The first argument about legislative responsibilities is more weighty, but I would submit that there is no legislative power that requires notification under all conditions, with no exceptions, during any precisely specified time period. All we need to know is whether to continue funding ongoing operations. We have had that information in every case, with the exception of President Carter's and President Reagan's hostage-related Iran initiatives.

I suppose you could argue that failure to notify might, in the extreme, deprive us of our ability to decide about continuing to fund a particular operation. Iran-Contra was such an extreme. But the choice is not one-sided. The price of assuring notification about all operations within a specific time period is to make some potentially life-saving operations impossible. On the scale of risks, I am more concerned about depriving the President of his ability to act than I am about Congress's alleged inability to respond. I feel this way not because I am sanguine about every decision Presidents might take. Rather, it is because I am confident that Congress eventually will find out in this leaky city about decisions of any consequence. When that happens, Congress has the political tools to take retribution against any President whom it feels withheld information without adequate justification. President Reagan learned this dramatically in the Iran-Contra affair. It is a lesson no future President is likely to forget.

Legislation, 100th Cong., 1st Sess., Hearings on H.R. 1013, H.R. 1371, and Other Proposals Which Address the Issue of Affording Prior Notice of Covert Actions to the Congress, April 1 and 8, June 10, 1987, p. 158.

[20] Id. at 45. See also 49, 58, 61.

[21] *Intelligence Oversight Act of 1988*, S. Rept. 100-276, p. 21.

[22] *Ibid.*, p. 22.

SENATE—*Friday, April 22, 1988*

(Legislative day of Monday, April 11, 1988)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. SANFORD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

*I will lift up mine eyes unto the hills, from whence cometh my help. My help cometh from the Lord, which made heaven and earth. He will not suffer thy foot to be moved: he that keepeth thee will not slumber * * *. The Lord is thy keeper * * *. The Lord shall preserve thy going out and thy coming in from this time forth, and even for evermore.*—Psalm 121:1-3, 5, 8.

God of Abraham and our fathers, thank You for the promise the psalmist gives us of Your constant, unremitting care and guidance. As the Senators travel to their home States or wherever responsibility demands, grant to them protection on their journeys, effectiveness in their labors, and safe arrival and return. Energize them for the responsibilities that await them, and grant that each may have some time with family this weekend. Help them remember their responsibility to themselves for health, mental and physical, for rest and recreation, and keep them aware of the presence of Him who never leaves nor forsake them. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

GRANDCHILDREN

Mr. BYRD. Mr. President, I thank the Chaplain for his prayer, and for the Scriptures that he has read.

Let me turn my attention this morning to another matter. The Chaplain, only last week, became the doting grandparent of another grandchild.

I should say the same is true, I believe, with Senator HELMS. Senator HELMS has just been blessed with a new granddaughter. So we have a new grandson and a new granddaughter, both of which are equally precious and in which both may be seen as one's first taste of immortality.

We grandparents have reached a new plateau in life. We like to say, and we are accurate in saying, we see ourselves going on beyond our own lifetimes to all the future generations.

Inasmuch as the Chaplain's grandchild is a boy, may I say I have three living grandsons and two granddaughters. So, these lines, may I say to Senator PROXMIRE, are generic and will apply equally to the girls. I did not write the poem. The title of it is "Boys," and I would like to presume to dedicate it to someone today. I dedicate it to the Chaplain and to Senator HELMS.

Boys

A possible man of affairs,
  A possible leader of men,
Back of the grin that he wears
  There may be the courage of ten;
Lawyer, merchant or priest,
  Artist or singer of joy;
This, when his strength is increased,
  Is what may become of the boy.

Heedless and mischievous now,
  Spending his boyhood in play;
Yet, glory may rest on his brow,
  And fame may exalt him some day,
A strength that the world shall admire,
  A skill that the world shall employ,
A faith that shall burn like a fire,
  Are what may be found in the boy.

He with the freckles and tan,
  He with the fun-loving grin,
May rise to great heights as a man,
  And many a battle may win.
Back of the slang of the streets,
  Back of the love for a toy,
It may be a great spirit beats—
  Lincoln once played as a boy.

Trace them all back to their youth,
  All the great heroes we sing.
Seeking and serving the truth,
  President, poet, and king;
Washington, Caesar, or Paul,
  Homer, who sang about Troy,
Jesus, the greatest of all,
  Each in his time was a boy.

RESERVATION OF REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Republican leader may have his time reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

WORDS OF CONGRATULATIONS

Mr. PROXMIRE. Mr. President, before I make my statement, I would like to congratulate both the Chaplain and the majority leader on their statements on the glory and joy of grandparentage.

May I say I hope that the new grandchild in the Halverson family will either be a Senate Chaplain some day or maybe even better still a poet or someone who can quote poetry as no one I have ever known in my life, the majority leader.

TIME FOR CONGRESS TO ACT ON STOCK MARKET VOLATILITY

Mr. PROXMIRE. Mr. President, what is wrong with stock market volatility? Who cares if the Dow Jones Index falls more than a hundred points in 1 day? And so what if the market suffers another Black Monday with a 500 point drop in a single session? No one has addressed the serious damage these fluctuations have done to our economy. In the judgment of this Senator, that damage calls for prompt and decisive action by the Congress. The October crash took place 6 months ago. The New York Stock Exchange, within a few days of the crash, appointed a commission, headed by former Attorney General Nicholas Katzenbach, to study the problems raised by the sudden free fall in stock values and recommend whatever action it thought necessary. The President of the United States also appointed a commission, headed by former Senator Nicholas Brady to also study and recommend Government action.

The Katzenbach Commission reported in late December. The Brady Commission reported a few days later, in January. Shortly after the Brady report, the Securities and Exchange Commission weighed in with an extraordinarily detailed report.

At hearings before the Senate Banking Committee, the Chairman of the Federal Reserve Board, as well as other regulators, delivered thoughtful analyses of the problem. As chairman of the Senate Banking Committee, I directed the regulators, including the heads of SEC, the FED, and the Commodity Futures Trading Commission to report whatever recommendations for congressional action they favored by March 1. At the request of the regulators, we skipped that date until later in March.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

I specifically called on the regulators since they represented independent agencies to report directly to the committee without clearing their statements with the administration. But in mid-March, the Secretary of the Treasury intervened and asked for a report by the agencies to him by some time in May. When the regulators appeared before our committee a couple of weeks ago, they made no recommendations. They said they wanted to proceed slowly, carefully, and cautiously.

It was obvious to this Senator, Mr. President, that the so-called, and I mean so-called, independent regulators had been called off from making legislative recommendations to the Congress by the administration. If the administration does not want any congressional action on the recommendations made in the report of its own Brady Commission, it is following exactly the strategy that will give them the nonaction they covet. Obviously, as time passes since the October 19 crash, concern among the American people and the Congress diminishes. In this case, time is the friend of a do-nothing policy.

But, in the judgment of this Senator, a congressional policy of doing nothing will not only disserve this country's tens of millions of investors. It also poses a grim threat to our economy. In this testimony before our committee, former Senator Brady told the committee that the present divided regulation of the market constitutes "a pistol pointed at our head and it is loaded." In other words, a similar crash, or even worse crash, could happen at any time unless the Congress acts to provide unified regulation.

Mr. President, what worries this Senator more even than the gruesome prospect of another Black Monday is what has already happened to our economy because of the excessive volatility of our great equity markets. Here is why: This country is slipping deeper and deeper in debt. Federal debt is bad. But that is not nearly the worst of it. Federal debt has reached the scandalous level of $2.6 trillion. But household debt is worse at $3 trillion, and business debt is even more oppressive at $3.6 trillion. Business that was $2.85 for every dollar of earnings 30 years ago is now more than $9 for every dollar of earnings and rising rapidly.

So why does volatility in the stock market represent increased danger developing from the debt problem? Because corporations that should be coming to the market to secure more equity capital have been overwhelmingly dissuaded from seeking equity capital by the volatility of the market. Do you doubt it? Then take a long hard look at these statistics. In the 4 months following the October 19 crash, the initial corporate stock offering fell 80 percent below the stock offerings in the 4 months before the crash. Even worse was the report on secondary stock offerings. In the 4 months following the October crash, secondary stock offerings almost disappeared. They fell about 95 percent below the offering level in the 4 months before the crash.

Mr. President, this is precisely the opposite of the policy that would serve the competitive interests of this country. This failure to use our capital markets to increase equity capital at a time when debt is soaring is making our business economy more fragile and more vulnerable to a recession than it has ever been. Our huge business debt will require massive interest payments in bad times as well as good.

I have talked often about how this demand for interest service will divert cash-flow from corporate investment in research and other policies that would improve competitiveness. The even more serious damage will come from the huge burden. As the economic recovery slows down, more and more American firms will become insolvent. More and more will fail. As we move into the next recession, the failure will become a torrent. That could precipitate this country's first depression in 50 years.

Here is the real reason why the Congress should act promptly and decisively to put the Brady Commission's recommendations that would begin to reduce our stock market volatility into effect.

MESSAGE FROM THE HOUSE OF REPRESENTATIVES—H.R. 3

A message from the House of Representatives by Mr. Hays, one of its clerks, announced that the House agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 3 entitled, "An Act to enhance the competitiveness of American industry, and for other purposes."

Mr. PROXMIRE. Mr. President, I would like to congratulate the clerk on being able to bow with such a fantastic load. I understand this weighs much more than 20 pounds, and I wish I would move to send it back to the House because it is too heavy, but I guess it is too late for that.

Mr. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, the weight of the bill is indicative of the weight of the impact that the trade legislation will have on the competitiveness position of this country. I hope that I can highlight one aspect of that bill which has received all too little attention.

NATIONAL SECURITY AND THE TRADE BILL

Mr. BYRD. Trade has a major national security concern. Simply stated, our economic strength and technological leadership are central elements of our national security. Economic policies must be viewed and considered with their national security implications as an integral part of that consideration. This has not been the case in the past. It is still not generally recognized. The Reagan administration, particularly the State Department and the National Security Council, does not regard trade apparently as a matter which should be viewed from the perspective of our national security. But, there is a growing realization that the two are directly related.

This perspective has recently been given additional weight by the popular book by Prof. Paul Kennedy, entitled "The Rise and Fall of Great Powers." The theme of the book is that the United States is losing its position as an unrivaled superpower because of the weakening of our economy vis-a-vis the rest of the world and our declining competitiveness. While Mr. Kennedy's thesis is being used by some to argue that the United States should no longer attempt to exercise its power as the leader of the west, the book has helped to focus attention on the interrelation of economic strength and national security.

I have long been interested in incorporating national security concerns into our economic decisionmaking. In 1985, I introduced a bill, S. 1533, which was designed to revitalize section 232 of the Trade Expansion Act of 1962. Section 232 provides redress when imports of foreign products threaten to impair the national security of the United States. Unfortunately, the statute has not been adequately utilized.

This is alarming when we consider what is at stake. We run a serious risk of eroding our defense industrial base, unless there is a vigilant attempt to protect our domestic defense production capabilities.

For a confusing and sometimes elusive litany of reasons, Presidents have been reticent to grant relief to industries filing petitions under section 232, alleging a threat to national security. My bill ensured that petitioners filing cases alleging that imports threatened national security would no longer have to fear that their cases will drag on endlessly for years. The bill set reasonable time limits for final decisions on these petitions.

I am very pleased that the central provisions of my legislation have been incorporated into the omnibus trade bill. If the President signs the trade bill, he will be endorsing the principles incorporated in my proposed revisions to section 232, to more closely link national security considerations when evaluating relief to threatened domestic industries.

The omnibus trade bill also contains another important provision which recognizes the link between trade and national security—the Exon-Florio provision which gives the Federal Government the specific authority to prevent the acquisition of U.S. firms by foreign companies if the President determines that the foreign interest might take action to impair the national security. This is the first concrete legislative response to rising concern about foreign takeovers.

This provision gives the White House a way to block such takeovers, if it so chooses. Current law already provides a process for reviewing such takeovers. Under the new provision, the President could only take action if the current review procedures—or other laws including antitrust, environmental, and defense procurement acts—were inadequate to protect the national security.

That is as it should be. No one wants to encourage the President to go hunting among foreign investors, to put a chilling effect on foreign investment.

But, Mr. President, we need to get beyond the idea that national security is solely a function of how many troops and weapons we can field. The economic well-being of vital industries must be as much a national priority as is the maintenance of a strong armed forces establishment. This trade bill makes an important contribution to safeguarding our economic strength, our national security, and our technological leadership.

Later today, at the conclusion of the action, one way or the other, on the constitutional amendment resolution, the Senate will proceed to the conference report, and debate will ensue on this very important bill, which received strong bipartisan support in the Senate when the legislation was passed by this body. Seventy-one Senators voted for this legislation, with two supporting Senators absent on that occasion, which constituted an impressive supermajority in support of the legislation. Frankly, I think in many respects it is an improvement over the House bill, but it is a composite of the thinking and work of the conferees of both Houses reflecting the thinking and the work, long years of work as a matter of fact, on the part of members of both parties and particularly those on the Finance Committee in the Senate and those on the Ways and Means Committee in the House.

But, let us not forget that this is a far different bill than the usual trade legislation that passes this body because this bill reflected the work also of many other committees. There are nine Senate committees that had input into this bill. And that is why it is a comprehensive bill, and involves more than just tariffs. It puts this country on a competitive basis as our young people face the future, and as even we ourselves in our present day face enormous triple-digit deficits.

Mr. RIEGLE. Will the Senator yield just briefly for an observation?

Mr. BYRD. Yes, I yield.

Mr. RIEGLE. I will be brief myself. But I want to just commend the leader for his efforts over long periods of time to lay the foundation for this trade legislation that has just come back into the Chamber and was presented at the desk.

The difficulty of creating the circumstances whereby we could hit this problem head on and develop a legislative package has been years in the making. The Senator from West Virginia more so than any other person I think made it possible for us to engage those issues and set the legislative process in motion in a way that has produced this legislation. And in those pages that were just delivered at the desk are a number of provisions the Senator from West Virginia has developed. He has worked with others of us, including myself and other colleagues, in certain areas of that bill.

I think it is probably the most important piece of legislation to come through that door and go to the desk for our action this year, and for some period of time.

But I want to say that had the Senator from West Virginia not been persistent through good days and bad to bring these issues forward and have the discussion of the national competitiveness, the strategic impact on our economy, the job impact and so forth, we would not be at this point that this legislation is now ready for our final action, and hopefully for the President's signature.

So I thank the Senator for his leadership. He leads all the time in virtually every area, but his leadership in this area has been manifest. I am deeply grateful for that.

Mr. BYRD. Mr. President, these words, coming from a Senator who has been, and still is, a central player in the development of this legislation through his assignment on the Finance Committee, are very charitable. I thank him.

I thank the Chair.

Mr. BREAUX addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Louisiana.

Mr. BREAUX. I thank the Chair.

I join with my distinguished colleague from Michigan in commending the leader for his role in bringing the trade bill to the floor, and hope that we will consider it in a timely fashion in this coming week.

Mr. SPECTER addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Pennsylvania.

THE INF TREATY

Mr. SPECTER. Mr. President, I seek the floor this morning to urge the majority leader and the Senate to take up the INF Treaty for floor action at an early date.

The distinguished majority leader is quoted in this morning's press in two respects. One of his statements I agree with, and one I respectfully disagree with. Senator BYRD is quoted as saying: "The Senate should not rush to judgment on the INF Treaty," and I think that is correct. Senator BYRD is also quoted in this morning's press as saying that, "The date of the summit is not important," and on that contention I respectfully submit that Senator BYRD is incorrect.

The President has requested early action by the U.S. Senate on the INF Treaty, and I believe that this body should respond to the President's request by taking the treaty up at an early date.

EXTENSION OF TIME FOR MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, 10:30 having arrived, morning business has expired.

Mr. SPECTER. Mr. President, I ask unanimous consent that I may be permitted to proceed for a period not to exceed 5 minutes.

Mr. BYRD. Mr. President, I support the request.

The distinguished Senator has mentioned my name. I was not informed that this was going to occur. I would appreciate it in the future.

I enjoy these exercises with my distinguished friend, and it is becoming apparently a habit on his part to take issue with statements that I am reported to have made, and he has a perfect right to do that. I would only like the opportunity to know in advance. That would be the same courtesy I would accord him. But I was not notified in advance. I just saw the Senator on the screen.

I want to hear what the Senator has to say. I returned to the Chamber a bit late. I wish he would repeat that portion in which I believe he said that he agreed with me and that portion of what was reported which I believe he said I was "incorrect." I will listen with great interest, and I may ask for time to respond.

I ask unanimous consent that the Senator have an additional 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, the Senator may proceed for an additional 5 minutes.

Mr. SPECTER. I thank the distinguished majority leader for concurring in my request.

I had taken steps earlier today, if I may say, Senator BYRD, to inform you that I would take the floor and speak this morning. I asked my staff to call your staff, and I believe you will find that staff has advised staff.

Mr. BYRD. I will check on that. I say to the Senator that I was not advised. If the Senator made that effort, then the fault was with us, and it may be inadvertent or otherwise. I am sure it was not intentional. But I am glad the Senator is doing that, because I really enjoy these discussions back and forth. I am happy to stand on what I said and to defend it here; and if ever I find I am wrong, I will be happy to admit that.

Mr. SPECTER. I thank the distinguished majority leader.

I think you will find that before I came to the floor, I asked my administrative assistant to contact your foreign policy specialist, to give you that notice, because I think it is important that if one Senator refers to another, there be notice given, so that there can be an opportunity to hear the entire matter and to respond.

I do not wish to say anything that the distinguished Senator from West Virginia does not have notice of in advance and an opportunity to hear and a full opportunity to reply.

Mr. BYRD. I thank the Senator.

Mr. SPECTER. I would make one prefatory comment.

I am not making it a practice to disagree with the distinguished majority leader. I have commented on two issues, both near and dear to my heart. One is the issue of the INF; and the issue of summit meetings and agreements between the superpowers has been a subject of concern to this particular Senator for a long time, going back to April 19, 1982, when I introduced the first sense-of-the-Senate resolution during the Reagan administration calling for a summit, a resolution which I repeated in 1983, 1984, and 1985. It was passed on three occasions by overwhelming votes, and on one occasion by a voice vote.

So that when I seek the floor to express myself on this subject, it is a matter in which this Senator has had a deep interest, as I think we all do, but this Senator has expressed it more on the floor of the Senate in the course of the past 7 or 8 years, perhaps, than some other Senators have.

It is true, as Senator BYRD has said, when he made the floor statement on March 23 relating to a summit binge and an April binge, I did take the floor to voice disagreement with his position. I have noted the statements by the distinguished majority leader yesterday, and I think they pose a very, very important issue, one which I think Senators ought to speak up on, because I know that the distinguished majority leader has an open ear and an open mind and is interested in what his colleagues have to say on the subject. He sets the schedule—we respect that—but he has always been very concerned about attitudes on both sides of the aisle.

I had said—and I am delighted to repeat—that I had noted the distinguished majority leader quoted in this morning's press in two respects.

I started off with a point of agreement, where I said that I agreed with the tenor of the majority leader's comment that the Senate should not rush to judgment on the INF Treaty. I think that is totally true, undeniable.

I said that I respectfully disagree with the expression where the majority leader is quoted in this morning's New York Times. I had sought the CONGRESSIONAL RECORD this morning, to see if I could find a more authentic version, and it was not available at the time I left my office and came to the floor, shortly after 10 o'clock. I do not know if the majority leader spoke on the floor for the RECORD or is quoted in press conferences.

At any rate, the New York Times contains this quotation from Senator BYRD: "The date of the summit is not important." With that statement, providing it is accurate, I respectfully disagree.

The reason I disagree, Mr. President, is that I believe that while we should not rush to judgment, we should not delay our judgment. There is a time and a tempo for all matters, and there is reason to believe that President Reagan has orchestrated his timing with some substantial care. We have the President's refusal early on in his administration to hold summit meetings until he felt that he was ready. The first summit meeting was held in 1985, and the President——

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. SPECTER. I ask unanimous consent, in view of the exchange, that I be permitted to speak for an additional 5 minutes.

Mr. GRAMM. Mr. President, reserving the right to object, many of us are here today to debate a pending issue that is set for a vote on a time certain basis.

If the distinguished Senator from Pennsylvania wants to debate the majority leader on the time factors that dominate the ways of Presidents and nations, I think that is a wonderful topic. But that is not the reason we are gathered here today, and I am going to feel constrained to object to any additional request for time.

I would be willing to withhold, if the distinguished Senator wants to just simply sum up and complete his statement. But we have several Members on the floor who have come over for the particular purpose of debating the issue at hand, and I do not think that should be held up for this debate.

So I would be willing to withhold, if the distinguished Senator should have a request for a couple of minutes to complete his statement; but I would feel constrained to object to an additional 5 minutes, and I do object.

Mr. BYRD. Mr. President, I think the distinguished Senator from Texas makes a good point.

I wonder if the distinguished Senator from Pennsylvania would be willing to delay his remarks until after the vote. Mr. HOLLINGS is here. Could we delay this until after the vote, and until after Senator BENTSEN will have opened with his statement on the conference report on the trade bill?

We have plenty of time today, and I will be happy to listen at great length to my friend.

I ask that the Senator be allowed to proceed now for 2 minutes to finish his statement.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. SPECTER. Mr. President, I accede to the request of the distinguished majority leader to withhold further comment until after the vote which is scheduled for 11 o'clock.

I would just make two comments in less than a minute. I will not proceed with my discussion at this time, because it cannot be accomplished in 2 minutes. I will just note that some 5 minutes have already elapsed. My statement would have been completed if my unanimous-consent request had been agreed to. I would note further that it is a very customary practice of this body to accord a Senator 5 minutes where other Senators are waiting, and it is just a little surprising to me that the objection has been lodged, but I have noted it, and I do yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. The time of morning business has expired.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

The ACTING PRESIDENT pro tempore. Under the previous order the Senate will now resume consideration of Senate Joint Resolution 282 which the clerk will report.

The assistant legislative clerk read as follows:

> A joint resolution (S.J. Res. 282) proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional, and Presidential elections.

The Senate resumed consideration of the joint resolution.

Pending:

(1) Gramm Amendment No. 1954, in the nature of a substitute.

(2) Hollings Amendment No. 1955 (to Amendment No. 1954), of a perfecting nature.

(3) Hollings Amendment No. 1956 (to Amendment No. 1955), of a perfecting nature.

(4) Gramm Motion to recommit the joint resolution to the Committee on the Judiciary, with instructions to report back forthwith, with an amendment in the nature of a substitute.

(5) Hollings Amendment No. 1957 (to the motion to recommit), of a perfecting nature.

(6) Byrd Amendment No. 1958 (to Amendment No. 1957), of a perfecting nature.

The ACTING PRESIDENT pro tempore. Under the previous order the time until 11 a.m. will be equally divided and controlled.

Mr. BYRD. Mr. President, do the two sides have 30 minutes under the order?

The ACTING PRESIDENT pro tempore. Under the order they have 20 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the two sides have the original 30 minutes they thought they had.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Kentucky.

Mr. McCONNELL. Mr. President, I yield 10 minutes to the distinguished Senator from Texas.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, I found myself last night thinking about the remarks that were made yesterday by the distinguished majority leader. In fact I woke up this morning about 4 o'clock thinking about those remarks, and I came to the conclusion that the distinguished majority leader had raised some very good points. But it also struck me that those points did not have anything to do with the issue that was before us.

I remind my colleagues that the issue before us is whether or not we are going to amend the Constitution to allow the Congress to adopt a law in violation to the existing free speech clauses of the Constitution to limit total political participation as individuals contribute money.

The distinguished majority leader talked about two issues that are not directly related to that. One was people from another State contributing to candidates in a specific State. The distinguished majority leader talked about West Virginia and how he thought the people of West Virginia ought to decide campaigns and, of course, we have had a continued discussion about political action committees. In fact there was a time when this whole issue was focused on political action committees and you can imagine how startled I was when one day suddenly we were not limiting the ability of an individual political action committee to give a specific amount of money.

So, having spent considerable time thinking about the speech yesterday given by the distinguished majority leader, I thought it would be helpful if we had an opportunity to address those very issues.

So, Mr. President, I would like to ask unanimous consent that the pending joint resolution before us to amend the Constitution be amended striking everything after the comma on line 3 and inserting in lieu thereof "no person who does not reside in a State shall contribute to a candidate for Congress in such State" and article I, "All contributions by political action committees to candidates for Federal office are hereby precluded."

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I have a better suggestion. I suggest that the distinguished Senator vote for cloture on this joint resolution and then he can offer his amendment and I would have an amendment I would like to offer to his amendment at that time. I think his amendment could be made into a good amendment. If he will proceed in that fashion, I think that is the way we ought to go.

Perhaps we could work out some additional time and if he can assure me, then, that once our two amendments, his amendment plus my amendment to his, are agreed upon, then we will vote on final passage.

Mr. GRAMM. Mr. President, I was so swayed by the logic of the distinguished majority leader I just sought to bring it right to the floor right now.

Mr. BYRD. I am impressed. I did not realize the Senator was so swayed.

Mr. GRAMM. The majority leader was eloquent beyond the norm yesterday.

Mr. BYRD. Not beyond the norm. I admit I was eloquent but not beyond the norm.

But, Mr. President, if the Senator would agree to help us to round up the cloture votes so that we could go about amending this resolution in the proper, thoughtful, and effective way, I would love to participate in that amendment process.

Mr. GRAMM. Mr. President, if I might reclaim my time, the problem is that my amendment would not be germane if I voted for cloture.

Mr. BYRD. We can arrange for that. I am willing to arrange for the amendment to be germane.

Mr. GRAMM. Mr. President, I made a unanimous-consent request to bring——

Mr. BYRD. Mr. President, I reluctantly am constrained to object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. GRAMM. I suspected there might be an objection, because last night as I pondered this address from yesterday I wondered why is it that we are debating an issue about limiting political participation and amending first amendment rights and yet people keep talking about issues that do not bear on that point.

So I asked myself, whose freedom to participate is really being limited by this amendment? Is it freedom of the American Federation of State, County, and Municipal Employees PAC that is limited? In the last election they gave $1,085,858 to Democrats and only $18,000 to Republicans. Their freedom is not limited. They are going to be able to give Democratic candidates $5,000 in the primary, $5,000 in the general if the proposed legislation is adopted.

Would we limit the Machinists Nonpartisan Political League? This nonpartisan political league in the last election contributed $1,366,750 to Democrats and $9,050 to Republicans.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. GRAMM. If I might get through this list, I will yield.

Would we limit the UAW Victory Cap, which gave Democrats $1,421,555 and gave Republicans $14,350? No.

Would we limit the National Education Association PAC which gave Democrats $1,969,276 and contributed $90,157 to Republicans? No. We know we do not limit their freedom to participate.

Do we limit the freedom of the Carpenters Legislative Involvement Committee, which gave $876,363 to Democrats and $67,473 to Republicans? No, we do not.

And to just show that I am not picking on organized labor, do we limit the PAC of General Electric that gave $146,180 to Democrats and $96,420 to Republicans? Or General Dynamics, which gave $187,933 to Democrats and $178,225 to Republicans? Or Chrysler Corp. PAC, which gave $137,175 to Democrats and $75,995 to Republicans? No.

In fact, we are not effecting PAC's here and the truth is that the Democrats who are candidates for Federal office get far more money from political action committees than Republicans.

Now, I thought to myself, Mr. President, if we are not limiting them, who are we limiting? That is the point I want to make to my colleagues here today. And I want to just pick an election and pick some real people and tell you who is limited by this amendment.

In 1983, I resigned from Congress and went back home and ran again, and I do not want to go into all the details of the election, but I sent out a letter and I said in that letter, I have resigned from Congress and I am running for reelection and here are the things I believe, and I ended the letter with a quote from William Barrett Travis at the Alamo.

And that letter raised over $80,000. Who contributed to that letter?

Well, a guy named Dickie Flatt, a printer from Marfa, contributed. He runs a print shop in Marfa. It is open to 7 to 8 o'clock every night. It is open on weekends. Whether you see him at Boy Scouts or Methodist Church or PTA, he never gets the blue ink off the end of his fingers.

Now, under this proposal, if Dickie Flatt contributed late in the campaign and the person he contributed to had reached this arbitrary limit, he could not participate.

Jack and Annabelle Farrell, in my old congressional district, run a little shop. He does the work on transmissions; she does the bookkeeping. They contributed to that campaign.

Jose Montemayor runs Jose's, a little restaurant in my home town. His mama does the cooking. His brother tends the cash register.

The PRESIDING OFFICER. The Senator's 10 minutes has expired.

Mr. GRAMM. Will the Senator yield me 3 additional minutes.

Mr. McCONNELL. Mr. President, I would say, provided the Senator from Kentucky retains 3 minutes to close, I would be happy to yield additional time to the Senator from Texas.

The PRESIDING OFFICER. The Senator has 2 minutes you can yield to him.

Mr. McCONNELL. Could I retain 3 minutes to close, Mr. Leader?

Mr. BYRD. Oh, by all means.

Mr. McCONNELL. I yield 3 additional minutes to the Senator from Texas.

Mr. GRAMM. Finally, Mr. President late in my campaign I got a contribution from Sister Mary John. Sister Mary John wrote me a letter saying she got $25 a week for incidentals and so she put $5 of that every week during that campaign into my race as a contribution.

Now I do not know Sister Mary John, but I can tell you that there is nothing wrong with the Sister Mary Johns of this world, who believe in somebody, contributing to their campaign.

What this amendment does not do, it does not limit the influence of political action committees. It does not limit the influence of rich people. It limits the ability of the American people to participate. And it is partisan in nature because it looks at what those who represent special interests and those who ride in the wagon can raise from those special interests and then it seeks to set limits which limit the ability of the people who do the work, pay the taxes, pull the wagon and make America a great Nation; it limits their ability to participate.

There is nothing wrong with the Sister Mary Johns being involved in the political process?

Now, maybe if my party opposed voluntary prayer in the schools and did not protect the lives of the unborn, I would be afraid of the Sister Mary Johns, but, thank goodness, my party stands up for those principles and I want her involved and I want Dickie Flatt involved and I want Jose Montemayor involved and I want Jack and Annabelle Farrell involved. And quite frankly, the problem with American democracy is a lack of involvement. So if our colleagues want to limit the amount that can be given, let them do it, limit the amount an individual can give, eliminate PAC's, but do not deny freedom of speech to the American people.

Mr. BYRD and Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, the Senator from South Carolina has not had an opportunity to respond. I yield to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, we have a very serious subject matter here that is being obscured and obfuscated by the Senator's colorful yarns about Sister Mary John and Dickie Flatt and all the other wonderful people of the State of Texas. The only thing that the distinguished Senator from Texas said worth listening to was his quote from William Barrett Travis of Edgefield, SC. I rather liked that, because Travis went down to save Texas from the Mexicans taking over, just as we today are trying to save Texas from the money taking over. That is what is the crux of this debate, not Kibbles 'n Bits and cat food and cosmetics and all the Billy Bobs who financed the Senator from Texas's campaign.

We started way back in 1911, 77 years ago, with the Federal Corrupt Practices Act. Later, this U.S. Senate limited the amount of expenditure in campaigns. The Senate limited expenditures to $195,000 in the case of Henry Ford versus Truman Newberry. Again in the case of Frank L. Smith, who was elected to the Senate in 1926, the Senate refused to allow him to be sworn in—in part because exorbitant sums were received and dispensed by his campaign. We did so under our authority in article I, section 5 of the Constitution, which empowers the Senate to determine the qualifications of its own membership.

When Mr. Frank Smith presented himself at that door, they said, "No, you spent too much. You spent too much in your campaign. It is corruptive and you shall not be seated."

So it was no surprise that, in 1974, we thought we had that same authority to limit expenditures. It was clearly affirmed in many, many previous decisions. Then we were blindsided by the corrupt and contradictory Buckley versus Valeo decision which said, "Oh, no, with respect to contributions, the freedom of speech can be limited. But, oh, yes, with respect to the actual expenditure, the freedom of speech could not be limited."

Then with S. 2 we danced all around this place trying to agree, with the carrot-and-stick approach, to persuade candidates to accept limits voluntarily. We went through eight cloture votes, and now we are again trying to get to the fundamental issue. The Senator from Kentucky yesterday said, as I quote from page S 4458 of yesterday's CONGRESSIONAL RECORD: "There is nothing inherently evil about money and politics," so long as it is properly disclosed. "Let the candidates take their best hold."

What he is saying is, let the candidates take their best financial hold and those who have the money will get the best hold and those who are poor and not as affluent will get no hold at all. In other words, they will get no free speech.

Now, the way to resolve the campaign finance mess is not to get sidetracked by the issues of out-of-State contributions, or the cost of cosmetics, or how the Senator from Texas raised money for his campaign. That is nonsense. We seek only to give Congress the authority, as this constitutional amendment proposes, to limit campaign expenditures. We are talking strictly about limiting the amplification of a candidate's message. We are not talking about free speech.

There are many ways to exercise that freedom of speech other than with money, as the Senator from Wisconsin has proved by being reelected time and again, the last time by spending only $145 compared to his opponent's, $133,000.

All of us who have been candidates know that the freedom of speech is not affected by putting limits on campaign expenditures. Likewise, the fifth amendment is not involved. So let us not be distracted by these red herrings.

Opponents of S. 282, like the Senator from Kentucky, ooze sweetness and cooperation, saying "Why, in a bipartisan fashion, we could easily pass a little bill here. We can all get together and let the bitterness pass."

And then, when you actually try to get together in a bipartisan fashion, as happened eight times under S. 2, they say, "Oh, no, we can't even vote. We want to talk it to death." They are filibustering, they don't want a vote. They don't want a solution to the campaign finance mess because they are happily wallowing in it.

Similarly, the Senator from Rhode Island takes the floor to say, "Why waste time with the constitutional amendment? Let's get to it; do it with conventional legislation." He said, "Even if we pass the amendment, we will then have to pass a bill." I repeat, we tried to get such a vote eight times under the distinguished majority leader's bill. They would not allow a vote. Yet now they have the gall to wax romantic about Sister Mary Johns and Dicky Flatt and all the rest of the nonsense.

And so we must live with the corruption that has been visited upon this body. We are distracted and stymied by all the so-called windows and "Don't make us come back until Tuesday because I have a lunch on Monday," and "Let's hurry up and get out on Thursday because I have a fundraiser on Friday," and "Let's have a window this evening" and "We cannot continue the debate tonight because there are some money people downtown waiting on me." It is outrageous. It has to stop and we should not be distracted or deflected with this nonsense from the opposition and their attempt to prevent a vote.

I retain the remainder of my time.

The ACTING PRESIDENT pro tempore. Who yields time?

The Senator from Kentucky has 3 minutes.

Mr. McCONNELL. How much does the other side have remaining?

The ACTING PRESIDENT pro tempore. Eight minutes.

Mr. McCONNELL. Mr. President, it is no diversion and it is no shenanigan. The issue before us today is freedom of speech.

Common Cause, the Washington Post, the American Civil Liberties Union, all agree that the issue is freedom of speech.

What did the Supreme Court say in Buckley against Valeo? We have had this decision put down because it was 5 to 4. The Japanese internment decision was 8 to 1. Was this a good decision? Obviously not. Some of the best decisions the Supeme Court has ever made have been 5 to 4 and the Supreme Court said in Buckley against Valeo:

> The first amendment denies Government the power to determine that spending to promote one's political views is wasteful, excessive, or unwise.

You could not be any more clear than that, Mr. President. That is what the Supreme Court said. What this is about is the first amendment to the Constitution. We have never sought to amend it before. It would be unprecedented to begin to tamper with the first amendment to snuff out the opportunity to contribute to the people Senator GRAMM was talking about all across America who participate in the political process by making a limited, fully disclosed contribution. There is absolutely nothing wrong with that.

What this whole debate is about is partisan advantage. What the opposition seeks to do is put a limitation on the number of individual fully disclosed contributions you can have in a political campaign in America; to snuff out the voices of those little people across America who want to contribute to the process.

Why do they want to contribute their money, Mr. President? I will tell you why. They are busy. They are operating a pharmacy or a small business, tending to their creating wealth, as the Senator from Texas said; creating the wealth in America.

As the Senator from Texas put it, they are pulling the wagon. They are not in the wagon. They are making jobs and making things happen and creating products and they are busy and their idea of participation is to send a check to their favorite candidate and that is what this is all about. We want to protect that right which is an integral part of the American political process.

The other side does not do as well with those little Main Street contributors so they want to put that limit on. So the so-called soft money, which is already an enormous problem in American politics, will go on undisclosed and unchecked. That is what the issue is about.

The very thought that we would tamper with the first amendment to the Constitution of the United States in order to snuff out the rights to participate of those people on Main Street America, it seems to me, is incomprehensible. But we could have important, meaningful campaign finance reform. We took the first step 3 days ago on an amendment offered by the Senator from Kentucky to the lobbying bill which would prohibit millionaires from anteing up a lot of their own money and then repaying themselves after the election. We could do something tomorrow about the cost of television.

The ACTING PRESIDENT pro tempore. The Senator's 3 minutes——

Mr. McCONNELL. I ask unanimous consent for 2 more minutes.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

Mr. McCONNELL. We could do something tomorrow about the cost of television. We could do something tomorrow about the influence of PAC's if we want to. There are a lot of things that could pass this body in a bipartisan fashion that would amount to meaningful, important campaign finance reform. But that is not what we are talking about. One side wants to snuff out the opportunity to participate. They are willing to go so far as to amend the U.S. Constitution to do it and, Mr. President, I think it is safe to say after 10 cloture votes, first on S. 2 and now on the constitutional amendment, that that notion of snuffing out that opportunity to participate is not going anywhere.

So I hope that we will move on to other issues, other things that are more important to America and get on about the business of the Senate.

Mr. President, I yield back the remainder of my time.

Mr. BYRD. How much time do we have remaining?

The PRESIDING OFFICER (Mr. HEFLIN). Eight minutes.

Mr. BYRD. Would the Senator like to go first?

Mr. HOLLINGS. My colleague may go ahead. You take 5 minutes; I will get 3.

Mr. BYRD. I request the Chair to let me know when I have consumed 4 minutes.

Mr. President, I am almost moved to tears by all of these stories about depriving the little people of an opportunity to contribute and depriving the people of this country of the ability to participate.

We hear about the Sister Mary Johns and so on.

I, too, shall tell a story of voter participation. We had to meet in a garage on a Sunday afternoon when I first ran for Congress, which was while the junior Senator from Kentucky was still cutting his teeth, probably. I have been around in this political arena a long time and I have seen the so-called little people participate.

I can remember the little old lady, on that Sunday afternoon. I was trying to take up a little collection and the whole State machine wanted to throw me off the ticket. My own Governor wanted to take me off the ticket. I had to appeal to the little people and the little old lady—her name was not Mary John. It does not make any difference. Let us say she was a Sister Mary John

She said: "Brother Byrd, I have only got $1 to give, but I give it here and now, and with it goes a prayer."

Mr. GRAMM. Amen.

Mr. BYRD. Amen.

So the Senator is not telling this Senator anything new about the participation of the little people. I have always had to depend upon the man in the street; the man who works with his hands and earns his bread by the sweat of his brow. Those are the people I have to depend on.

I do not want to have to depend on those fat cats all over the country who do not elect me but who, to their credit, are interested in my party and who want to see my party continue to win elections.

But they will be just as happy as I will be if we ever pass legislation that puts a limitation on campaign spending. I am sure they are tired of seeing us Senators coming to them with our hands out, saying: we need money; money.

Those on the other side this morning are trying to deflect the attention of the viewers and the listeners, away from the real issue here today. Let me just read what we are talking about. This is the constitutional amendment language that the distinguished Senator from South Carolina proposes:

SECTION 1. Congress shall have power to set limits on campaign expenditures.

Now, we can have all these arguments about the details of the legislation when the time comes. That is not what we are supposed to be doing today. We are debating a constitutional amendment that lets the people judge. It lets the people have a voice in whether or not Congress should be able to limit campaign expenditures.

If this constitutional amendment passes by two-thirds of both Houses and is ratified by three-fourths of the State legislatures, then the Congress will discuss and debate legislation to be enacted pursuant to that constitutional amendment. Only then.

But here our friends today are trying to obfuscate the issue and cloud the issue, fuzz it up by talking about the law that Congress will have an opportunity to discuss and debate at length pursuant to the constitutional amendment when that time comes.

The issue here today is whether we will stop the bidding——

The PRESIDING OFFICER. Four minutes have expired.

Mr. HOLLINGS. Go ahead.

The PRESIDING OFFICER. You have 1 more minute.

Mr. BYRD. I thank the Chair and I ask for 2 additional minutes as the distinguished Senator from Kentucky did.

Mr. HOLLINGS. Yes.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. BYRD. Mr. President, the real issue here is, Are we going to stop this money chase? Are we going to stop this bidding? Having Senate seats go to the highest bidders, the candidates who can go out and raise the most money?

My Republican friends have talked about PAC's. Let us have an aggregate limitation on PAC contributions to any candidate. That will not only affect the labor PAC's, that will also affect the business and professional PAC's as well. Let us just limit it on all of them. But they will still have an opportunity to participate. And so will the little people.

The legislation that we on this side have been trying to get some action on in the Senate would allow the little people to participate and would limit overall campaign expenditures.

That is all we are asking. Let us put a limitation on campaign expenditures. Let us also put a limitation on the aggregate contributions that PAC's can make to any single candidate.

Mr. President, I ask for 1 more minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the issue here, however, is let the people speak. Are our Republican friends afraid to leave it in the hands of the people from whom this Constitution derives its being?

On this side of the aisle, are we afraid to let the people judge? That is all we are asking. We need not be debating the details of the law which will be discussed and passed upon by the Congress pursuant to the constitutional amendment when it is once ratified. That merely beclouds the issue.

Those people out there watching through that camera, are we saying we are afraid to let them make a judgment? All we are asking is that they be given an opportunity, an opportunity through their elected representatives here, to vote on a constitutional amendment. They do not have to ratify it. If, in their wisdom, they think it should be rejected, they will not ratify it in three-fourths of the legislatures.

Are we afraid? This language which, once more, says: "Congress shall have power to set limits on campaign expenditures."

Why not let the people speak?

Mr. President, how much time remains on this side?

The PRESIDING OFFICER. Two minutes and forty seconds.

Mr. McCONNELL. I say to the distinguished majority leader, I have been asked to object to any further extensions if we are about ready to wrap up here.

Mr. GRAMM. If the distinguished leader will yield, the majority has 1 more minute than the minority, and I would like to ask if I might have 1 minute to balance out the time since the distinguished majority leader took one?

The PRESIDING OFFICER. The Senator from South Carolina controls the time.

Mr. BYRD. I ask unanimous consent that the Senator from South Carolina have 4 minutes in total and that the Senator from Texas have his—what does he want? One minute?

Mr. GRAMM. If he is going to have 4, Mr. President, I would like to have 4 as well.

Mr. BYRD. Well, well——

Mr. GRAMM. I will take one.

Mr. BYRD. No, no, let the Senator have 3.

Mr. McCONNELL. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute and 15 seconds.

Mr. GARN. Mr. President, reserving the right to object.

Mr. HOLLINGS. Mr. President, not on my time.

Mr. McCONNELL. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Carolina has 1 minute and 36 seconds.

Mr. HOLLINGS. Mr. President, I object, and let me address the Senate.

No. 1, the gentleman who says he wants the little people to participate is exactly part of the crowd that opposes repeal of the Hatch Act, whose sole purpose is to prevent the little people from participating.

I have heard enough of this. We have successfully limited contributions. We have legislated all kinds of limitations, beginning with the Federal Corrupt Practices Act in 1911; and in the case of Henry Ford versus Truman Newberry where we said that expenditures of $195,000 were too much; and in the case of Frank L. Smith, who was denied his seat in the Senate in part because he has spent exorbitant sums in his election campaign.

Using that same power, we passed the Federal Election Act Amendments of 1974, which was discombobulated by Buckley versus Valeo. Our task today is to undo the damage of Buckley, but we are being blocked by a willful minority. This will be the 10th cloture vote, the 10th time these Senators have blocked reform. Let us be clear. They are not just filibustering this bill. They are trying to financially filibuster themselves into office. Their dream is to raise astronomical amounts of money so that they can drown out their opponents and financially filibuster themselves into office. That is what they are about, let's be plain.

The PRESIDING OFFICER. The Senator's time has expired.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 11 a.m. having arrived, under the previous order, the clerk will report the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Hollings amendment, No. 1957, to the Gramm motion to recommit with instructions S.J. Res. 282, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential contributions.

Senators Ernest F. Hollings, Terry Sanford, Dennis DeConcini, Brock Adams, Spark Matsunaga, Bob Graham, Lawton Chiles, J.J. Exon, Paul Simon, Wyche Fowler, Jr., Barbara A. Mikulski, Tom Daschle, Claiborne Pell, David L. Boren, Jay Rockefeller, Dale Bumpers, Don Riegle, Alan Cranston, John Melcher, and Robert C. Byrd.

QUORUM CALL WAIVED

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the Hollings amendment, No. 1957, to the Gramm motion to recommit with instructions Senate Joint Resolution 282, a proposed constitutional amendment relative to campaign contributions and expenditures, shall be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Illinois [Mr. Dixon], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Hawaii [Mr. Matsunaga], and the Senator from Nevada [Mr. Reid] are necessarily absent.

I also announce that the Senator from Delaware [Mr. Biden] is absent because of illness.

Mr. SIMPSON. I announce that the Senator from Nevada [Mr. Hecht], the Senator from Nebraska [Mr. Karnes], the Senator from Oregon [Mr. Packwood], and the Senator from Idaho [Mr. Symms] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 53, nays 37, as follows:

[Rollcall Vote No. 108]

YEAS—53

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kassebaum
Kerry
Lautenberg
Leahy
Levin
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Proxmire
Pryor
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simon
Specter
Stennis
Wirth

NAYS—37

Armstrong
Bond
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Heinz
Helms
Humphrey
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Quayle
Simpson
Stafford
Stevens
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—10

Biden
Dixon
Gore
Hecht
Karnes
Kennedy
Matsunaga
Packwood
Reid
Symms

Mr. BYRD. Regular order, Mr. President.

The PRESIDING OFFICER. On this vote, the yeas are 53, the nays are 37. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. BYRD addressed the Chair.

PROPOSED CONSTITUTIONAL AMENDMENT RELATIVE TO CAMPAIGN CONTRIBUTIONS AND EXPENDITURES

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Conversations will be conducted in the Cloakrooms or outside the Chamber.

Mr. BYRD. Mr. President, on this vote today—may we have order in the Senate?

The PRESIDING OFFICER. Conversations will please be taken to the Cloakrooms.

Mr. BYRD. Mr. President, I thank the Chair.

Fifty-three Senators voted for cloture. Thirty-seven Senators voted against cloture. Ten Senators did not vote. Of the 10 Senators who did not vote, 6 would have voted for cloture. One of those six would be unable to cast a vote for cloture in the event we were to have another vote in the next few days, Senator Biden. But there are 6 other votes definitely to add to the 53 which would put the Senate to 59 votes for cloture. We are within striking distance of only one vote.

I have discussed this with the distinguished Senator from South Carolina, and we recognize that certainly it is not outside the realm of possibilities for 60 Senators to vote for cloture on this matter.

I hope there will be in due time some Senators, who thus far have indicated support in one or more fashions heretofore, or at least an inclination to give support, who might reconsider and vote for cloture.

We are, as I say, within striking distance, which is closer than Robert Byrd was able to get on the bill introduced by Senators Boren and Byrd.

So I congratulate the distinguished Senator from South Carolina in getting 53 votes with 6 others out there for sure, or 59 votes, depending upon illnesses and absences.

Mr. HOLLINGS. Will the distinguished Senator yield?

Mr. BYRD. Yes.

Mr. HOLLINGS. I thank the distinguished leader.

Really, in essence, the credit goes not to me or to the distinguished leader. The fact is that the public is beginning to understand the depths of the corruption, and they are not distracted by bogus claims that we are tampering with the freedom of speech. I would never try and I would never succeed in trying to inhibit free speech. S. 282 has been carefully studied by the best of constitutional scholars.

What we are trying to do is limit the excessive amplification of a monied candidate's message. On this basic issue, our public support is growing steadily.

The awesome amounts of money, as I stated a minute ago, permit well-heeled candidates to financially filibuster their way into office. This must stop. It adulterates the procedures of the U.S. Senate to the point where we cannot perform our duties.

We have to quit on Friday because we have to go back home to raise money and cannot come back until late Monday evening because of fundraisers on Monday.

We have these so-called windows so we can go downtown to the financial groups and raise money: $3 million, on the average, for each of us seated here today; $10,000 every working week. Indeed, I have to stop talking right now so we can all run out and get our money.

I yield the floor.

Mr. BYRD. Mr. President, I recognize that to adopt this joint resolution, involving a proposed constitutional amendment, would require a two-thirds vote, unlike the majority that would be required on S. 2. But from the standpoint of cloture, the distinguished Senator from South Carolina has moved considerably closer than we were able to move on S. 2.

I will take about 2 minutes, and then I will close and put this measure back on the calendar for now.

I congratulate the Senator from South Carolina, and I would suggest that the measure go back on the calendar for the time being, but that we not assume today that, with this vote, this matter will never come back before the Senate. It very well could.

We do have to move on to other things. We have the conference report on the trade and competitiveness legislation, and I hope we will be able to complete that conference report next week.

I say, in tribute to the able Senator from South Carolina, some lines of a verse. I do not remember the name of the author.

This I beheld, or dreamed it in a dream:
There spread a cloud of dust along a plain;
And underneath the cloud, or in it, raged
A furious battle, and men yelled, and swords
Shocked upon swords and shields.

A prince's banner
Wavered, then staggered backward,
hemmed by foes.
A craven hung along the battle's edge
And thought, "Had I a sword of keener
steel—

That blue blade that the king's son bears—but this
Blunt thing!" He snapt and flung it from his hand,
And lowering, crept away and left the field.
Then came the king's son, wounded, sore bestead,
And weaponless, and saw the broken sword,
Hilt-buried in the dry and trodden sand,
And ran and snatched it; and with battle shout
Lifted afresh, he hewed his enemy down,
And saved a great cause that heroic day.

May I say to the distinguished Senator from South Carolina, our sword is broken, but there will be another day when someone will snatch that sword and save a great cause, a cause for which we have been striving, on that heroic day. It is as sure to come as I am sure that I live and breathe today.

Mr. President, I thank the distinguished Republican leader and all Senators who have participated in this debate. I especially thank the Republican leader and the others in the leadership on the other side for the arrangement by which this constitutional amendment could be called up, and for their cooperation in many ways, as we have attempted to reach a conclusion on the matter.

So far as I am concerned and so far as the Senator from South Carolina is concerned, as of this day and time, we are ready to move on to other things.

If the distinguished Republican leader has anything he wishes to say at this point, I will yield and then I want to take up the conference report.

Mr. DOLE. I thank the distinguished majority leader.

Mr. President, I also congratulate the distinguished Senator from South Carolina. I think campaign finance reform is a matter of interest to everyone in this Chamber.

I particularly want to commend the distinguished Senator from Kentucky [Mr. McConnell] and the Senator from Oregon [Mr. Packwood] for their efforts over the past several weeks. Some of those weeks, I have been absent.

I think the record should show that maybe not all the wisdom is on one side of the aisle when talking about campaign finance reform. We believe there are opportunities for all of us to come together, to put together and fashion a bipartisan bill that will sail through Congress.

I would guess that those on this side who hold that view are not going to retreat from that, and they will be working with their counterparts on the other side. But the record should be clear that it is not one side that wants reform and the other side that opposes reform. Reform can be many things to many people.

One thing we will insist on in campaign finance reform is that we not be discriminated against, now or in the future, in an effort to strengthen the two-party system. I believe that is the crux of the debate.

I thank the distinguished Senator from Kentucky [Mr. McConnell] for his tireless efforts to make certain that we have campaign finance reform, that it is fair and across the board, does not discriminate against anyone in either party, and gives us an opportunity to increase participation in the process. That is what this is all about—to bring more people into the process.

I have no quarrel with anybody on the other side. They have their views and we have ours. I think the bottom line is that when it is all said and done, it will be our views—their views and our views—put together, and perhaps we can reach a bipartisan agreement.

I know how important this is to the distinguished majority leader. I would certainly be willing to try to work out some bipartisan campaign finance reform measure. The American people are concerned. We are spending too much money in all races. If we could find some way to reduce the cost of campaigning, and, as the Senator from South Carolina said, spend more time here and less time out raising money, the American people would be better for it and so would we.

We have not given up. We just do not happen to agree with S. 2. We did not agree with that, and we do not agree with this approach. But the record should be clear that we are concerned and are interested and want to be players in a constructive way in campaign reform legislation.

I would also indicate that the majority leader is correct. There are four absentees on this side and I think they would continue to vote against cloture, and even if there were some change we would still need, as the majority leader pointed out, 67 votes for the amendment itself and I do not think that could happen. I just do not see that much erosion, nothwithstanding the eloquence of the pleas of the distinguished Senator from South Carolina.

So I would assume that the majority leader intends to move this to the calendar.

Mr. BYRD. Yes.

Mr. DOLE. I thank the majority leader.

I yield briefly to the Senator from Kentucky.

Mr. McCONNELL. Mr. President, I thank the distinguished Republican leader. He is once again right on the mark. There were a number of Senators on the other side of the aisle who shared our view that the constitutional amendment was not the right way to go but did vote for cloture, so I think his observation about the vote on the merits is correct.

I thank the Republican leader for the kind remarks that he made about this Senator's work on this issue, and he is, of course, absolutely correct. There are important campaign reform issues that could and should be addressed on a bipartisan basis, and hopefully we will have a chance to do that in the coming months.

I thank the distinguished Republican leader.

Mr. HOLLINGS. Mr. President, will the majority leader yield a second?

Mr. BYRD. I yield.

Mr. HOLLINGS. Mr. President, the majority leader obviously has been overgenerous to me. His eloquence is equal to his parliamentary skill. I am grateful to him and enjoy working with him.

I think we will change Senator McConnell's mind before we get through.

I thank the Senator very much.

SENATE JOINT RESOLUTION 282 RETURNED TO CALENDAR

Mr. BYRD. Mr. President, all Senators have had an opportunity now to comment on this issue.

Mr. President, I ask unanimous consent that Senate Joint Resolution 282, Calendar Order No. 604, be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS TRADE AND COMPETITIVENESS ACT—CONFERENCE REPORT

Mr. BYRD. Mr. President, the distinguished manager of the trade bill, Mr. Bentsen, is here on the floor.

Mr. President, I submit a report of the committee of conference on H.R. 3, which just came over from the House of Representatives this morning, and ask for its immediate consideration.

Mr. STEVENS. Mr. President, reserving the right to object, and I do not believe I shall object, I would like to ask my good friend from West Virginia if that includes the reading of the conference report?

Mr. BYRD. Yes. I would ask unanimous consent that the reading of the conference report be dispensed with.

I can say this to the distinguished Senator: There are not going to be any votes today on this conference report and there will undoubtedly be some Senators who will want to debate it today and on Monday and into the days of next week.

I just feel that the sooner we may begin the sooner we may be able to act finally on the report.

Mr. STEVENS. Reserving the right to object again, Mr. President, I am very reluctant to get into extended dilatory tactics and, as I understand it, it would be within my right to object to the waiving of the reading of this report, which is some thousand pages long and would put a substantial burden on the staff on this Friday afternoon.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. STEVENS. Let me just ask both the leader and the distinguished manager of the bill, my good friend from Texas, Senator BENTSEN, if we can have some assurance as to the amount of time we would have next week. As both Senators know, my State is completely up in arms over one provision of this bill, and I want time to alert the Members of the Senate to the precedent that is being set in this bill in terms of discrimination against the State with regard to the export of its products.

I would like to have, and just inquire if we could have, assurance that there be no vote on adopting this conference report until, say, at least Wednesday.

Mr. BENTSEN. Let me say this to the distinguished Senator from Alaska: I asked the majority leader to set up a hotline for staff assignment, so that on any inquiry coming in from staff they could know which staff members of which one of these subconferences they can talk to about any particular provision.

The one thing I do not want us accused of is not letting the Members of the Senate and their staffs look at this conference report at length and to have a chance to look at the managers report.

So, we have stressed that in trying to work with the minority in order that they could be fully informed in that regard.

I would hope with what has taken place on the House side where staffs have had a chance to listen to that and then this following it here and starting on Friday, frankly I would hope that by Tuesday we could resolve this one, but I would urge that the minority senior Members confer on this point.

Mr. STEVENS. Maybe by the close of business Tuesday we could be assured of having some adequate opportunity to express our deep dissatisfaction with this bill.

I would say to my good friend from Texas, my State produces in excess of 2 million barrels a day of oil. There is a provision in this bill that says not more than 70,000 barrels a day can be exported as refined products.

I want a chance to explain to the Senate what it means. It is an entirely new precedent limiting the export of the product of a State that has already gone through primary manufacture.

To my knowledge that has never happened in the history of the United States. We have to have time now to research that.

I was only furnished a copy of the final version of that this morning. To my knowledge my State does not yet even have the complete text of that. It was changed at the last minute, as my good friend knows.

Under those circumstances, I feel compelled to ask for sufficient time to get this information to my State and get back from there the views of the members of the State government as well as the industry that is concerned.

Again, we could go through a lot of strain to get that data easy enough but I would be reluctant.

Would it be within the scope of a potential understanding that we could have the time certain on Tuesday afternoon late that we might say that no final vote on this would take place before 5 o'clock? I am not trying to limit someone else who might want to talk after 5. I do not think I can get this information here before Tuesday.

Mr. BENTSEN. Mr. President, I would say to the distinguised Senator from Alaska that is one of the reasons we wanted to get started today, to further explore the issue. I would also say to my good friend I went to extreme lengths to see as we developed this piece of legislation insofar as our jurisdiction in the Finance Committee that the Republican Members were apprised of everything, every step of the way, and he will probably note that every member of that committee, Democracts and Republicans, signed the conference report.

I feel that they think there was a full, fair exchange and I have been committed to that from the very beginning.

I certainly think the Senator from Alaska should be given full time to explore his particular issue, and I know he is deeply concerned for his State.

Mr. STEVENS. As a member of the Finance Committee in one part I did sign the conference report with the notice to all concerned that I objected to these anti-Alaska provisions and that is what I am now trying to do. That amendment was changed and we have to examine it. As I understand it, it includes the 50,000 barrels a day that is under the Canadian free trade agreement. That is new and I think that the Senate ought to understand, if this bill becomes law, the precedent that it sets.

It is unconstitutional in my opinion, but I do not wear the nine hats over there in the Supreme Court, so I am not certain that they will agree with me.

Would my good friend from West Virginia respond? I am not trying to set the time when the vote will take place. I would just like assurance that the vote will not take place before 5 p.m. on final adoption of this conference report on Tuesday.

Mr. BYRD. Mr. President, the Senator is making a very legitimate request. I can assure him that that vote on that conference report will not take place prior to 5 p.m. on Tuesday next.

Mr. STEVENS. I thank the leader and my friend from Texas.

I do not object, Mr. President.

The PRESIDING OFFICER (Mr. WIRTH). Without objection, it is so ordered.

The report will be stated.

The assistant legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their repective House this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of April 20, 1988.)

Mr. BENTSEN. Mr. President, listening to my good friend from Alaska brings back to mind how we started this trade bill. I went over to visit with the President at the beginning of last year and said to him then: "Mr. President, as the new chairman of the Finance Committee, I am certainly not here seeking confrontation. What I am really looking for is cooperation, seeing if we cannot develop a trade policy for this country of ours."

We have not had a trade policy, and we had one since World War II. We were in a situation that we were so dominant, from a political and from an economic and from a military standpoint, that we could trade off points for some foreign policy objective of the moment, trade off economic points, trade off on trade.

We did not have trade as the No. 1 priority as did other countries around the world. We had a situation where we had a Marshall plan to try to help these other countries, some of them vanquished foes. And in doing so, we helped develop some of the most productive and some of the most competitive and democratic nations in the world.

Those were our objectives. We were here and they were there. But that time has sure changed. Now we are in tough competition and we are seeing this country with a $171 billion trade deficit last year and the administration time and time again forecasting dramatic reductions in that trade imbalance. But it has been a creeping adjustment. We have seen over a million and a half jobs in manufacturing that would have been created in this country if we could have had our exports continue to increase at the rate at that they had been increasing. But that situation is now past.

But in leaving the President and going back, I said: "Mr. President, I want it to be bipartisan. I will work to see that it is bipartisan."

I went back to the Finance Committee. We worked up a bill which was the forerunner of what we have finally brought to pass and it became the Bentsen-Danforth bill out of that committee, a bipartisan bill.

I see the distinguished Senator from Missouri here. I think of the incredible number of hours that he has committed to this piece of legislation, as we met working out differences between Republicans and Democrats. On the day we introduced it, we had 58 cosponsors, 33 Democrats, 25 Republicans, about the same ratio as Democrats and Republicans in the U.S. Senate.

It has been bipartisan for very practical reasons. It was my judgment that if we failed to consult with the folks across the aisle, the effort would fail. This bill contains many ideas jointly proposed by Republicans and Democrats alike. I could name some examples.

Take trade adjustment assistance. That is where you had Senator ROTH of the Republican Party and Senators MOYNIHAN and BRADLEY, among others, of the Democratic Party.

The provisions on intellectual property and technology transfer were the result of efforts by Senators MITCHELL and LAUTENBERG of the Democratic Party and Senator CHAFEE of the Republican Party.

The export control provisions and the Foreign Corrupt Practices Act provisions have been ramrodded by people like Senator HEINZ, as well as Democrats interested in removing disincentives to U.S. exports.

The provisions requiring retaliation for foreign violations of trade agreements were first proposed by the ranking member of the minority on the Finance Committee, Senator PACKWOOD, my Republican colleague.

When the trade bill was passed by the Senate, the administration met with Republican Members trying to get them to vote against that bill on that very day, pushed as hard as they knew how. But, in spite of the administration's efforts, many Republicans voted for the bill. I believe they recognized that putting a bipartisan trade policy in place was far more important than any temporary partisan advantage.

From the very beginning, I have personally sought the cooperation and the contribution of the administration to the trade bill.

Moreover, the chairmen of other committees in this conference sought to work with the administration on the bill. Senator SARBANES urged administration-supported changes on his House colleagues in the Banking Committee subconferences. Senator LEAHY discussed the agricultural provisions with Secretary Lyng. Senator DECONCINI worked with the Commerce Department on the process patent provisions. Senator GLENN closely consulted with trade Ambassador Clayton Yeutter on the Government procurement sections of the House bill. Literally dozens of provisions in this bill have been brought to the point where they satisfy Republicans and Democrats, the executive branch and the legislative branch.

I must say that many resented the administration's participation, because that participation often meant that provisions that had been carefully scrutinized by a number of the Members for a number of years and discussed with a wide variety of constituencies, that they had to further satisfy the administration or even throw out that part of the bill at the last minute.

I had one of the key negotiators for the administration in my office. He said, "I have to leave with something from these negotiations; take something back; win something." I said, "Let me tell you what you have already won." And I took out four pages, single-line items that we had substantially modified or dropped or changed.

The other point is, this piece of legislation has broad support amongst the American business community. That is because this bill was developed in close consultation with the businesses which are actually out on the front lines attempting to correct the trade deficit by selling more in this country and abroad.

While the problems of domestic companies are certainly complex and diverse, they come down to one basic idea: Trade just has to be a top priority for the American Government. And it should not be below the President of the United States to call up the chief executive of another country to try to win a point.

I can recall when Maggie Thatcher called up the chief executive of Egypt to pick up $1½ billion order for the workers of Britain and took it away, in that instance, from this country.

You have to sell American products and that means it ought to be a top priority for our country. Whether we are insisting on the administration exposing its exchange rate policy; or the American Government removing disincentives to exports under the export control system, or the administration being mandated to act against foreign unfair trade practices, business supports this bill because it has specific, concrete provisions that assure the American Government that it will take care of its trade problems and not sweep them under the rug.

One of the concerns has been the question of plant closings. There is some controversy there.

I was looking at a poll of the four quadrants of the United States. In each and every one of those quadrants, more than 80 percent of the American people said that notification should be given to workers who are going to be let go.

I do not think it is out of line, I do not think it is wrong to say to someone, who has been working with a company for 25 or 30 years, that you are going to give them more than 7 days notice that this is your last check. I think it is reasonable to say that you are going to give 60 days' notice to a town that has given tax benefits to a plant to be established there that you are going to close down that plant and give them some time to adjust.

All the studies show that you can work better with those employees if you work with them as a group to try to help them find jobs, to help make the transition.

I went through this as a businessman with a division of the company that I headed where we were closing that division down. We gave them 90 days' notice. We put a carrot out there at the end if they would stay to the last day, and it worked. And their morale stayed high because we helped them find other jobs that would start 90 days from now. But they were given a bonus to stay that full time and to get that job done.

This particular provision was a much more onerous provision in the beginning. It has been substantially moderated to meet concerns that were expressed by some of the Members.

These people who think you can keep a secret on a plant closing, now that you have the Xerox machine—you cannot keep those secrets. The problem that you normally run into is that the rumors are much worse than the reality. The vast majority of major companies in this country give more than 60 days' notice; they have it in their management-labor contracts.

And another point. For small business we have a specific exclusion. If they have fewer than 100 members, they are not covered; they are excepted from it.

This bill of ours started out with some things that were labeled protectionist. And I think some of those charges in isolated instances were correct. But we have addressed them and we have removed them. We have changed them. We have put a positive spin on trade in this bill.

There is not a lot of free trade left in the world today. GATT covers about 6 percent of trade; that is all. And what you have seen is a rise of protectionism around the world, a return of mercantilism. What we are talking about is breaking down those barriers, opening up access to American products, leveling that playing field.

I get a little wary of people who say you must not negotiate too hard. They equivocate, they make that the equivalent of protectionism. I do not buy that argument.

Our competitors certainly negotiate hard for their economic self-interests and so should we. Then I hear these people say: Oh, you cannot do that. You cannot negotiate in a tough manner and a self-interested manner with the Japanese. They will retaliate. You will get in a trade war.

I spent 16 years building a business. I look at the Japanese with a $60 billion trade surplus with this country. Retaliate? In business I learned never to run off my No. 1 customer, and neither will the Japanese or whomsoever it may be; the Europeans, the South Koreans. They will negotiate. And we will work out our differences. But it requires that something be done and that an administration not just turn its back and do nothing.

If we do not do this you are going to see a destruction of world trade. In the first 5 years of this decade trade has not grown at all. In effect, world trade was a shrinking pie in the 1980's.

Nearly 30 percent of Japanese imports from industrialized countries were subject to import restrictions in 1986, according to the World Bank. Thirteen percent were subject to restrictions in the European Community, up from 10 percent in 1981. Even here in the United States, the leading trade country in the world trading system, import restrictions shot up from under 9 percent in 1981 to nearly 15 percent in 1986.

There is no question that the decline of American leadership in world trade was also an important factor in pushing for this bill.

One of most important things this trade bill attempts to do is to provide that leadership again. Not only does it provide negotiating authority for the Uruguay round, which will probably collapse without this bill, but it also makes Congress a part of the process of the Uruguay round. Once and for all we must give foreign countries the impression that the U.S. Government speaks with one voice.

A major accomplishment of this bill is to give the administrator and its successor the tools it needs to conduct trade negotiations. The bill extends the President's authority to negotiate trade agreements through May 31, 1993, ample time to complete the Uruguay round negotiations. Agreements reached are subject to congressional approval under the fast track, with the exception of tariff agreements, for which the administration argued successfully it needed the authority for the President to proclaim tariff changes, subject to statutory limitations, as an inducement to our trading partners to enter into agreements.

The bill implements the Harmonized Tariff System at the beginning of 1989, a provision of major importance to the administration and the business community. Under the new tariff system, U.S. classifications of imports and exports will be consistent with those of our trading partners, lending predictability to the treatment of articles bought and sold abroad.

This bill contains a carefully negotiated set of objectives for the Uruguay round and all American trade policy that will carry us well into the 1990's.

Moreover, it assures that congressional committees will be consulted on trade. We are not going to be doing the negotiating. We understand that. But we also understand what this Constitution says and this Congress has responsibility over trade, and we are to be a part of the policy determination.

We need that kind of consultation. I can recall when we had Bob Strauss as Trade Ambassador. He consulted with us so much he finally almost convinced us it was our idea. But we were a part of the process, and that is what we ask, for us to be able to discharge our constitutional responsibility.

Finally, the bill assures that the fast track—the heart of the American procedure for approving and implementing trade agreements—can be quickly withdrawn in the event a future administration refuses to consult with Congress. There is no point whatsoever in having a fast track with all the advantages it gives an administration, unless that administration is prepared to bring Congress in on the negotiation, not just at the end, but from the beginning to the end.

A key provision of this bill is the one enhancing our Government's ability to enforce U.S. rights under trade agreements and to respond vigorously to foreign unfair trade practices. We amend section 301 of the Trade Act of 1974 to accomplish several things. First, we make it more likely the administration will take action when a foreign country violates a trade agreement with the United States. The bill allows the administration to refuse to retaliate in such cases only in very limited circumstances, and to provide reasons why a failure to act was appropriate.

We add time limits for section 301 investigations and decisions on whether to retaliate. The bill will put an end to cases, like the one involving citrus, in which the foreign country drags out the process for years, until even a favorable result is of little benefit to the U.S. companies harmed by the unfair foreign practice.

The bill elevates the stature of the Trade Representative, the one administration official whose job it is to oversee trade matters, in the section 301 process. Under current law, the President makes the final decision whether to act in response to foreign unfair practices. Every executive branch agency has a potential say in the decision, and the need to expand trade and business opportunities abroad often gets lost in the chorus of voices. The bill places the Trade Representative in the decisionmaking role, subject to the direction of the President, if he so chooses. By moving the Trade Representative above the salt, so to speak, we make him a more effective advocate for trade policy, and diminish the likelihood that necessary action will be blocked for nontrade reasons.

Over and above the ordinary process for initiating and conducting section 301 cases, the bill establishes the "super 301" procedure for dealing with foreign countries and trade practices identified as "trade liberalization priorities." What we have in mind here is concerted action to break the logjam in our trading relations with certain countries caused by their systematic use of trade barriers. Over the next 2 years the Trade Representative must start section 301 cases against these priority countries and practices with the aim of significantly increasing U.S. exports to those countries maintaining numerous and pervasive trade-distorting practices. Super 301 contains a carrot as well as a stick. A priority country can avoid retaliatory action in the section 301 cases by negotiating and agreeing to eliminate the unfair practices or provide compensation to the United States over a maximum 3-year period.

Finally, this bill amends section 301 to recognize the importance of protecting our intellectual property rights abroad. The technological innovation and creativity embodied in our patents and copyrights is essential to the ability of our country to compete both at home and in the world market. Too often this innovation is pirated in other countries that offer U.S. firms no recourse to protect their intellectual property rights, or U.S. companies dependent on intellectual property protections are unable to gain access to foreign markets. The bill provides that the Trade Representative should initiate cases to deal with these problems on his own motion based on his identification of priority countries. Expedited treatment is given to these cases.

The bill also bolsters the ability of our Government to provide remedies to U.S. firms that are subject to infringement of their patents, copyrights and trademarks by imports into this country. The International Trade Commission already has broad authority under section 337 of the Tariff Act of 1930 to stop imports at the border if the ITC's investigation shows those imports infringe U.S. intellectual property. But current law requires the U.S. industry to prove economic harm as a result of the imports before the ITC can act. The bill removes the injury test.

This bill does restrict Presidential discretion in trade, but only the discretion to do nothing about our trade problems. This bill does require consultation with Congress on trade matters. But it is not protectionist, it is not partisan, and it is not negative.

One of the objectives of this trade bill is to put into law new ways to assist workers and industries in adjusting to import competition. In light of our record trade deficits, we must do a better job of addressing the dislocation that import competition can create for firms and workers. Whether this country has an effective adjustment policy is important to its economic strength and to its leadership of the international trading system.

Among our trade laws, section 201 of the Trade Act of 1974 offers industries a mechanism to apply for import relief when they are being seriously injured by increasing imports.

In practice, section 201 has nearly become a dead letter. Few industries bother to apply because of the stringent criteria in the law. An industry must be nearly dead before relief is likely. Furthermore, industries know that, since the law was enacted, the President has taken little or no action in more than two-thirds of the cases that have come before him.

Whether we like it or not, industries that are being impacted by imports look to the Government for helping in dealing with global competition. We in Government, whether in Congress or the administration, respond because the industries and their employees are our constituents and we have an obligation to them. The result is something I call ad hoc protectionism—that is, import relief is given to industries that are politically powerful enough to get it, outside of any legal framework. But have there been any assurances that these measures result in a more competitive industry or more competitive America? I think not.

This bill tries to deal with these pressures for import relief in a way that will make America more competitive in the long run. It makes section 201 of the Trade Act of 1974 an affirmative adjustment mechanism, rather than just an import relief statute.

First, the bill makes it more likely that the President will take some action when an industry petitions for relief under section 201. If the International Trade Commission recommends action to help industry, it will be difficult for the President to justify doing nothing.

Second, the bill requires both the President and the ITC to focus on promoting adjustment, rather than just providing import relief. And it gives the President a wide range of options beyond import relief so that he can take actions that are tailored to the situation at hand.

Third, the bill encourages efforts by industry to make a positive adjustment to import competition and expects them to demonstrate their intentions to the ITC and the President. Probably the one situation in which the President could justify doing nothing would be if the industry showed no inclination to do something for itself. Moreover, if the industry does not live up to its side of the bargain, the President would have authority to terminate any actions he had taken.

These are the most important elements of this bill's efforts to reform section 201. It also puts into law other useful provisions, such as the authority to provide emergency relief for perishable agriculture products or to stop any circumvention if the President restricts imports.

This bill breathes new life into section 201. It makes this law serve the national interest, not special interests.

This bill also puts a new face on the Trade Adjustment Assistance Program.

The purpose of trade adjustment assistance is to ease the transition of workers who lose their jobs because of import competition. It is Congress' way of recognizing that the Government has a special obligation to assist workers impacted by our open trading policies.

In the past, the Trade Adjustment Assistance Program has focused primarily on providing financial support to unemployed workers. By virtue of the amendments adopted in the trade bill, trade adjustment assistance will do a better job at its real purpose—getting people, our most important asset, back to work. Workers will be required to learn the skills needed to find new jobs in order to have the benefits of financial assistance under the Trade Adjustment Assistance Program.

This administration has repeatedly proposed to kill trade adjustment assistance. In administering the program, the administration has waged guerrilla warfare against it. In addition to shifting the focus of this program to training, the trade bill makes a number of technical changes to the law so that it will work the way Congress intends.

In the coming decade, the United States must do a better job of adjusting to the reality of the global marketplace. This means that Government, industry, and labor must address the adjustment issue head on. All must accept responsibility to help America compete. With its provisions on section 201 and trade adjustment assistance, this bill moves in the right direction.

This bill makes useful changes to our antidumping and countervailing duty laws. There is one theme to these amendments—we will not let our laws be circumvented through manipulation by foreign exporters or importers.

Generally, I believe our antidumping and countervailing duty laws have been working fairly well. American business has turned to these laws, more than any other trade laws. Why? Because they get results. The laws are effective and fair, and there is no discretion on whether to apply them.

There have been some problems, however, with efforts to circumvent antidumping and countervailing duties. This bill gives the administration and American industry the tools to go after such efforts. And it does so in a way consistent with our international obligations. These are useful changes that will make good laws work even better.

I am sure that some of the opponents of this bill in the administration have more than one reason for opposing it. They are looking to veto this bill and have been looking for reasons since the beginning. But because the bill has widespread bipartisan support, because it has the reputation of being a positive, progressive trade-expanding piece of legislation, they are not in a position to veto the bill.

There are, however, those within the administration who believe that one provision gives them an opportunity to veto this whole bill. It is the plant closings provision.

Mr. President, trade could have been a partisan issue in 1988. It is truly remarkable that in the year in which the United States ran the largest trade deficit of any country in history, a year in which there are both congressional and Presidential elections, trade has not become a partisan political issue.

Senators DANFORTH, PACKWOOD, CHAFEE, and other members of the Finance Committee support many of the trade policies that Democrats on the Finance Committee support. On the Banking Committee, Senators HEINZ and GARN support many of the same export control policies that Democrats support. On the Agriculture Committee, Senators LUGAR and COCHRAN and other Republicans support many of the same agricultural policies that Senator LEAHY and his Democratic colleagues support. On the Small Business Committee, Senator WEICKER supports many of the small business policies that Senator BUMPERS and his Democratic colleagues support.

Of course, there are partisan divisions. Of course, some of them show up on this bill. After all, Democrats do control the Congress.

But the extraordinary thing is that this bill has not been made partisan in Congress. It is a bipartisan bill. Without that bipartisanship, quite frankly, this administration could not have been brought to the position where it was prepared to sign the bill but for one minor provision.

I believe that if this Congress continues in a bipartisan effort to pass out good, positive trade legislation, the administration will reconsider the plant closings issue and sign the bill because it is good for the country and they know it.

Mr. President, there has been a lot of loose talk the last couple of days about passing another bill, or not having any bill at all. Members of this Senate know better than anyone else in the world, the complications of either of those strategies. The Senate spent 5 long weeks last summer considering over 150 amendments to the trade bill. Committee chairmen from nine different Senate committees were tied up on the floor week after week, day after day, trying to fashion this legislation. A second bill would potentially involve the same process. When the President says he will submit a new trade bill if he vetoes this one, I can't help recall how many opportunities his administration have had to participate in this process, and how much has been modified to meet their concerns.

To have no trade bill is an even worse strategy. The only winners in that will be the nations that believe they profit from the United States not having a trade policy. The day this trade bill is defeated, champagne corks will pop in capitals around the world as nations come to the realization that the Uruguay Round is going nowhere except a series of pleasant cocktail parties in Geneva. This administration and the next administration will be fatally crippled in their ability to get trade talks going. Remember, in 1969 American trade negotiating authority expired and it was not renewed until 1975. That delayed the Tokyo Round, which did not finish until 1979.

The current Uruguay Round is infinitely more complex than was the Tokyo Round. It is well within the range of possibility that if this bill is not enacted this year the Uruguay Round will last into the next century, and the problems that must be vitally and urgently addressed internationally will be postponed so long that the round itself will, in effect, be dead.

This bill is the opportunity to do something about the trade problem. It may be the only opportunity we have, the culmination of 3 years of bipartisan effort. I urge Members on both sides of the aisle to vote for this constructive, positive, forward-looking legislation.

There is much more to be said on this. Before this debate is over I am going to say it. But I see my distinguished partner, Senator DANFORTH from Missouri, here. I want to say once again how much I have appreciated the effort and contribution that this distinguished Senator has made to the process of this piece of legislation.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I wonder if I could ask a question of Senator BENTSEN, the chairman of our committee? I also see that the majority leader is on the floor and he might be interested in the question as well.

Mr. President, it is clear what is going to happen to this bill. The conference report will be adopted by the Senate. The bill will be sent to the President. The President will veto the bill. The bill will come back and we will vote on whether or not to sustain the President's veto.

Many Senators on my side of the aisle object to the plant closing provision. I am not that bothered by the plant closing provision, myself.

My hope, however, was that it would be kept off this bill. I voted to keep it off when the bill was on the floor of the Senate because I saw it as a dead weight which we would have to carry, something that was impossible to bear or at least very difficult to carry. But in any event, a number of Republican Senators would like to vote against the bill. They would like to vote to sustain the President's veto. After all, he is a Republican President. We are loyal to him.

Then their hope is that this bill could come back again; that the various provisions of the bill, absent plant closing, could come back again. For example, one provision of the bill, that is very important to some Senators, is the repeal of the windfall profits tax. Some Senators would like to vote to repeal the windfall profits tax. They believe that they would have that opportunity at some later point, maybe in connection with the technical corrections tax bill or some other legislation and, therefore, that this particular train would not be leaving the station.

I would just like to ask the Senator from Texas, who has had the opportunity to work with this issue for a very considerable amount of time, whether he has some response to this desire on the part of Republican Senators to vote against the bill, to vote to sustain the President's veto, and then to have another crack at this issue or at some of the other issues contained within this bill at some later point in time?

Mr. BENTSEN. I say to my friend from Missouri, as you well know, it is quite a different procedure for us over here on the Senate side from that on the House side. They might get some kind of cloture rule, if they were of the mind to proceed on it again, but we do not have that over here. I think it is a route that is fraught with peril. I think it is a high-risk procedure because I can see all sorts of people saying try it again and debate and a lot of barnacles being put on the bill. Then, if you were able to pass it through the Senate, you have a conference again.

I really do not want to do that conference again. We are running out of time.

And then you have another problem. You mentioned the windfall profits tax. I do not know how long that would take. I recall the CBO report and the OMB report on the previous piece of legislation when they called it a revenue loser. The administration insisted all revenue losers be dropped. I can understand that, and I went along with it.

But we were able this time to get CBO, because of what happened, to say it is not a revenue loser. The OMB waffled on it and put in some qualifications.

Now, suppose you have a situation where, because of some conflict developing in the Middle East, the price goes up and you have a revenue loser again. So I think it is a very high risk procedure to try to repeal the windfall profits tax at a later time.

Mr. DANFORTH. The windfall profits tax repeal would have to be on a bill from the Ways and Means Committee.

Mr. BENTSEN. That is correct.

Mr. DANFORTH. The Senator from Texas has had the opportunity of speaking with the chairman of the Ways and Means Committee about the windfall profits tax in the past. Does Congressman ROSTENKOWSKI give evidence of strong support for the repeal of the windfall profits tax? Does he seem eager to repeal the windfall profits tax? Is it the kind of thing he would likely agree to on, say, a technical corrections bill, or is this a subject that calls for very hard bargaining and a grudging agreement on the part of Congressman ROSTENKOWSKI.

Mr. BENTSEN. My friend from Missouri has a great sense of humor because, as he well knows, the distinguished chairman of the Ways and Means Committee is strongly opposed to the repeal of the windfall profits tax. This is the first time he has agreed to do otherwise and go along with it. I still have all the scars from that negotiation period. That is no easily won victory with the House leadership.

Mr. DANFORTH. My recollection is that with respect to the membership on the Ways and Means Committee, and I know Congressman PICKLE is from Texas—I do not know whether or not he represents an oil-producing part of Texas—but most of the Democratic members on the Ways and Means Committee, and certainly the senior members of the Ways and Means Committee, are from urban areas of the country.

Congressman ROSTENKOWSKI is from Chicago; Congressman RANGEL is from New York; Congressman PEASE is from

Ohio; Congressman GIBBONS is from Florida. It would not seem that there would be a natural constituency within the Ways and Means Committee for the repeal of the windfall profits tax.

Mr. BENTSEN. The Senator from Missouri is very perceptive on that. That is correct. That is why it has been a fight trying to get that done for years. This is the first time we got a breakthrough on it, and I sure do not want to see us waste it.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes.

Mr. BYRD. There are Senators in this body who voted for the trade and competitiveness bill, who are opposed to a repeal of the windfall profits tax, but they voted for the bill because there are other provisions in it which made it overall a worthwhile bill to support.

If this bill is vetoed, which involves years of work on the part of each of the Senators who are now speaking—Mr. BENTSEN and Mr. DANFORTH—it is pretty unrealistic to think that if the President vetoes this bill, another bill will be quickly sent back to the President stripped down. That is wishful thinking.

I am not saying it cannot be done, but I am saying that we should stop, look, and listen. This Senate's rules will not allow the celerity of action with which the House can approach a stripped down version

The House can do that in a day or 2 days, but not this body.

There were 170 amendments offered to the bill when the bill was first debated on the Senate floor. Now if we have to start all over again, there are Senators who strongly support the plant closing provision that the President is so opposed to, and they may have problems with a new bill.

That provision is important to my State, the State of West Virginia. We have suffered.

Also, when we start down that road again with repeal of the windfall profits tax, and other provisions, any one of which can be very controversial, we are taking a gamble on not having any trade legislation become law.

What do we have after this bill? We have the budget conference. We need to get that report adopted, hopefully within the next week. And then we have 13 appropriations bills. We have the INF Treaty. We have the United States-Canadian Free Trade Agreement and, by the way, the action on this trade bill, whatever the final decision in the White House, will have an impact on that United States-Canadian Trade Agreement.

I suggest we do not have that kind of time. We have two political conventions and a very important election, coming along this year, and these have to be taken into consideration.

So I would say to the President, if he vetoes this bill—and I hope he will not—he puts at risk this country's future. I believe the President is a reasonable man—I hope that those people who are around him will advise him very carefully on this and take into consideration what is being said by the managers. This legislation, if the President vetoes it, is not going to be turned around that easily, that quickly, and sent back to the White House in view of the problems that I have set forth, and there are additional problems that I will not take time on now.

I urge that the President not gamble. This is a good bill. It is a good bill for America. I hope that the President will rethink the position on which he has repeatedly spoken publicly. Put away the veto pen.

Mr. President, I announce that there will be no more rollcall votes. Various Senators have inquired.

Mr. DANFORTH. Mr. President, I want to react to what has been said by the majority leader and by the chairman of the Finance Committee.

I have been trying for a very long time to get this bill enacted. I think this is a bill that is worth saving. I support it. I very strongly support it. I will vote for the conference report. I will vote to override the President's veto. I will fight for the conference report. I will fight to override the President's veto.

This is a major piece of legislation. Because of my concern that the plant-closing provision would jeopardize the bill, I voted to keep it off the bill. I am sorry it is on the bill. I think it is a burden that the bill cannot carry.

I wish the President would sign the bill even with plant closing on it. He will not do so. There is no doubt about that. He is going to veto the legislation.

The questions which I put to the chairman of the Finance Committee and the majority leader were simply matters of information. I think it is important for Senators to vote on this bill with their eyes open to the consequences. If the veto is sustained, my hope is that there will be a second track. If the veto is sustained, it is my hope that new legislation will be forthcoming and that it will be enacted into law. I will fight for that. But I think it has to be made clear that it is by no means certain that there can be a second track of legislation. It is by no means certain that this bill can be saved in some other form. It is by no means certain that we will have the time in the Senate to do that. It is by no means certain that the House of Representatives would agree to it. It is by no means certain that in a political year the Senators on the other side of the aisle would think it would be a particularly good idea to give us a second crack at this legislation.

So I hope that if the veto is sustained, we will have a second opportunity. I will ask for a second opportunity. I hope for a second opportunity, but I am not sure we will get it. That is the point I wanted to establish in this colloquy with the chairman of the Finance Committee and with the majority leader.

Mr. President, I am not going to speak at any length today on the bill. I hope to speak on it next week. But I want to say this. This is major legislation. The trade aspects of this bill, the Finance Committee and Ways and Means Committee provisions in this bill, constitute major legislation. This is not some minor, small, or cosmetic change in the trade laws. This is major legislation. It has been a long time in the making. This particular bill had its origin as far back as 1981. In 1981, the concept for the 1984 Trade and Tariff Act was born, and that 1984 Trade Act was the basis for what we are doing today. So this is not some fly-by-night bill. It is major legislation. It is very difficult legislation. It is legislation that has received the close attention of the majority leader and of the Senate Finance Committee chairman.

I can remember last summer a kind of shuttle diplomacy, a sort of Henry Kissinger effort, I undertook between the minority leader's office and the majority leader's office late at night trying to work out the details of what is now called Super 301, bringing together the various groups that were interested in this bill and moving back and forth from office to office.

I have had the privilege of being on the Senate Finance Committee now for 11-plus years. We have had four chairmen of the Finance Committee during that period of time and all of them have been strong chairmen and outstanding chairmen, and I have seen them work on difficult and complex legislation.

I do not think there has been anything more difficult than this bill. With all of the hard legislation that we have had in the Finance Committee, I do not think there has been anything more difficult than this, more complex than this—more difficult, not on the basis of just pleasing one interest group or another, but on the basis of trying to bring together fundamental philosophical differences. It has been amazingly difficult. The job that Senator BENTSEN has just done, working on this legislation, has been amazing. What a negotiator. If you have a problem, ask LLOYD BENTSEN to negotiate it for you. What he brought back to the Senate conferees was really remarkable.

As the Senator from Texas indicated, there were some problems in the bills that were passed by both the Ways and Means Committee and the Finance Committee, included in both the House and the Senate bills. There were problems. We went to conference with the idea of working out those problems. Day after day after day we met in the Finance Committee or with the Ways and Means Committee. Hour after hour Chairman ROSTENKOWSKI and Chairman BENTSEN negotiated the provisions of this bill, and they were able to remove from the bill the most troublesome aspects as far as the administration was concerned. We made every effort to get rid of the protectionist elements of the bill, and we succeeded.

We ended up with a bill that the administration now says, with regard to the trade aspects, the Finance and Ways and Means provisions, it strongly supports and—in part—even needs, and it can live with the whole thing. Labor supports it. Business supports it. Even the editorial page of the Washington Post supports it. That is a hard thing to pull off. And the Senator from Texas did it, to his great credit.

Mr. President, it is not hard, I guess, to come up with noncontroversial legislation if the legislation is bland, innocuous, empty, if it does not do anything, and it is purely cosmetic. But this bill is not bland and it is not innocuous. It does have content. It is a significant change in U.S. trade policy, but it is a responsible change.

What we attempted to do in this legislation was to create some consistency in the enforcement of trade laws, and in the enforcement of international agreements. If the United States negotiates trade agreements with other countries, and if we never enforce those agreements, the result is unilateral concessions.

The problem that we have had in the past is that enforcement of the laws, enforcement of the rules of the game, has been occasional, sporadic, and ad hoc. There has been no consistency and no predictability in enforcement. If there is no consistency, and there is no predictability, there is no credibility either. So other countries believe they have a free shot. They can adopt their own protectionist policies, and nothing will happen because there is so much discretion in U.S. law that any President who wants to do absolutely nothing can do absolutely nothing.

So what we attempted to do in this legislation, and what we succeeded in doing, was to provide credibility by providing greater consistency, by providing a real trade policy so that our actions are no longer unpredictable or quirky as they have been in the past.

The challenge in providing a trade policy, the challenge of providing consistency and credibility in our enforcement of trade laws, is to do so without putting the President of the United States in a straitjacket. How do we create a greater likelihood that trade laws will be enforced without removing all discretion from the President? Or, as Bob Strauss said when he testified before the Finance Committee, how do we create a law which is mandatory but not compulsory? We have been focused like people contemplating some zen exercise on this question. What does it mean to be mandatory and not compulsory?

I think we have come up with it in this bill. While we do not put the President in a straitjacket, we do create visibility in Presidential decisions and standards for Presidential decisions, so that it is clear when the President—in exercising his discretion—knows that the unbridled use of discretion is at least subject to the kind of standard, the kind of spotlight, and the kind of political criticism that comes from the abusive use of discretion.

I think that is a powerful thing. We all know that in matters of foreign policy, we are not going to put the President of the United States in a situation where a lawsuit is going to be filed to compel him to do something which, under the circumstances of a particular case, appear to be crazy. We are not going to do that. But short of having enforceable lawsuits against the President, it is possible to create the kind of standard, and the kind of visibility in Presidential decisions so that there is a much greater likelihood that the laws will be enforced rather than be ignored. That has been the goal of this legislation. That is what we have accomplished with this legislation. That is why it is a good bill.

I am sure that anybody who pores through a thousand pages of legislation will find plenty of things to criticize. But I also say that the next time we have trade legislation before us, who knows what is going to be in it? Who knows what is going to happen in a later Congress or with some other President? Who knows what kind of provisions are going to be put into the bill, what real protectionism can be put in the legislation? This bill is not protectionism. It is enforcement. It is not protectionism. It is reciprocity. There is all the difference in the world between the two.

So, Mr. President, I think we should act, and I think we should pass this bill. I think we should be proud of this bill for what it does for U.S. trade policy. Does it eradicate the trade deficit? No. Does it by itself change the trade numbers? No. But does it give us greater confidence that the rules of international trade are going to be enforced? Yes, It does. Does it give us greater confidence that the people of the United States are going to be able to avail themselves of the fruits of international agreements? Yes. It does that. That is what trade policy should be about.

I hope we will vote for this bill. I hope we will vote to override the President's veto and if we fail, I would hope there is another chance.

I want to express my appreciation again to the chairman of our committee for really an outstanding job. I also want to express my appreciation to Senator BYRD and to Dick D'Amato of his staff, for all the hours that they have put into making this possible.

Mr. BENTSEN. Mr. President, I would like to thank the distinguished coauthor of the original bill, Senator DANFORTH, without whose wise counsel and great assistance this could not have been accomplished up to this point. I thank him for his most generous statements regarding the Senator from Texas.

Mr. BYRD. Mr. President, I also thank the distinguished Senator. He has just made a very compelling speech in support of the bill, a very reasoned speech as to why this bill should not be vetoed, and a very strong speech in support of overriding of the veto, if unfortunately it should occur.

I thank Mr. DANFORTH also for the work that he has done. I expressed my comments earlier because he—like the manager of the bill—contributed greatly to the measure with his talent, and the results reflect that kind of contribution on his part.

I thank them both. The American people are in their debt.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, let me rise to commend the Senator from Texas, the Senator from Missouri, Senator BENTSEN, and Senator DANFORTH for their leadership in bringing about the conference report result. I cannot think of any piece of legislation where two men have put in more time, more hours, more dedication, more devotion than have Senators BENTSEN and DANFORTH in order to get to the point where we are at this very moment.

Having said that, let me say that I could not agree more with the distinguished majority leader, Senator BYRD, who pointed out the difficulty of enacting legislation in this body.

There are controversial parts of this bill. Whether similar controversial parts could ever get through again or get through in this session of Congress is really a major issue. I hope, therefore, that we will see fit to support the conference report. And should the President decide to veto it—and I sincerely hope he does not—I also hope that we will have the votes to override the veto.

There are provisions in this conference report with which I do not agree.

There are provisions with which I did not agree in the original trade bill.

I am totally opposed to the repeal of the windfall profits tax, but on an up-and-down vote, I lost that issue. That did not cause me not to vote for the bill, but it certainly will remain a controversial issue in the future.

Amendments have been made to the Corrupt Practices Act in this legislation that many of us strongly object to and feel that they are inappropriate, but they are in the trade bill, and we take the total package as it is.

There are other provisions about which I know other Members of this body are concerned. But I think that, overall, it is a good trade bill. I hope the Senate will see fit to accept the conference report overwhelmingly; and if the President should see fit to veto it, and I hope he does not, I hope we will then have the votes to override it.

I rise today specifically to address a single provision of the trade bill. Frankly speaking, it is a modest provision. It is not the most important part of this legislation, but it has become the most controversial. I refer, of course, to the plant closing issue.

In the last few months, hardly a single day has passed without a media story discussing the controversy surrounding the plant closing provision of the bill. The President and his top aides have repeated daily his threat to veto the entire trade bill over this one provision. I deeply regret the administration's position. I wish it were not so.

I repeatedly have sought compromise, not confrontation, in connection with this particular provision. That is why last summer I modified the bill in committee and on the Senate floor.

We reduced the number of days of notice from 180 to 60. We increased the size of the small-business exemption from 50 to double that amount, 100. We eliminated provisions requiring consultation and information disclosure, which were very strongly opposed by the business community. They claimed such provisions would be onerous. We eliminated them.

Our efforts at compromise won the support of Congress, and now Congress has stood firm in its support for mandatory advance notice.

We tried to come up with a provision in this area that was workable, that other Members of this body could accept. There is no secret about the fact that when that particular measure came to the floor of the Senate, our own vote count did not indicate that we had a majority, and we made changes, and we continued to make changes.

I remember well one night when the Senator from Indiana inquired of me as to what the most recent changes were. He said he had gone downstairs for a salad, and at the time he came back, we had made an additional change, and he asked me if that were true. I said, yes, we did make an additional change, and two additional Senators joined in support of the measure.

So I say that what we have before us is not the ultimate; it is not that which we originally sought. But it is a reasonable, livable compromise. We do not want to place any undue burden on the business community.

I was a business person before I came to the Senate, and I want the economy of this country to be as strong and viable as it can possibly be. Therefore, I thought we should try in some way to modify that provision so that the business community, hopefully, would find it acceptable.

As Senators well know, last summer, 60 Senators voted to include mandatory notice as a part of the trade bill, and 71 Senators voted for the bill with mandatory notice included. Yesterday, 253 Members of the House of Representatives voted to retain the mandatory notice as part of the conference report; and the full conference report, including plant closings, was approved by an overwhelming vote of 312 to 107.

Why all this controversy about one provision of the bill? What is the so-called veto bait? I have heard talk that this is labor's concern. Oil companies have a concern about the repeal of the windfall profit tax, and a substantial number of members of the business community are concerned about modifications in the Corrupt Practices Act.

There are other provisions in the bill, numbers of them, that are there because certain people wanted them, and these provisions have modified existing law.

Our provision, the plant-closing provision, is a simple and straightforward provision requiring companies to give their workers and their local communities 60 days' notice when closing a plant or ordering a mass layoff. Businesses with fewer than 100 employees are exempt from the legislation. That means that only 5 percent—only 5 percent—of the business establishments in the United States are affected. Yet, nearly half of the American work force will benefit from the provision.

With this provision, we are not requiring companies to stay open. We are not requiring companies to disclose information or to consult with their workers about plant closings. All we are requiring is that companies give their employees and their local communities a chance to make it without them. It is a reasonable provision.

I do not understand, frankly, why the President has been so adamant in his refusal to consider this provision. It will not hurt the American economy. I hope, for the country's sake, that the President will see fit to take a look at the provision, to talk with those with whom he consults, to bring in some of the business community, and ask them, "Aren't many of you already giving this kind of notice?"

It is the nonunion operations that fail to give adequate notice, more then the union operations. Congress as part of the trade bill has approved the largest worker retraining and readjustment effort in our Nation's history. That, too, is part of this bill. We are pledging $980 million annually to assist workers whose jobs have been eliminated due to direct foreign competition, changes in technology, and other dramatic shifts in our economy. Since 1980, more than 10 million Americans have lost jobs through shutdowns or layoffs. We must help these men and women, and the millions who will come after them, adapt to changing economic realities. In a dynamic global economy, we need a shock absorber that will mitigate the most painful side effects of competition and economic growth. Far from being anticompetitive, this provision will bolster popular support for free trade. And experience shows conclusively that the most successful worker adjustment programs begin before the plant shuts it gates.

If the worker adjustment programs are to work at their best, then they will work at their best when the employees are still on the job, when there is a chance to get them as a group, when they are more localized, but once the plant is closed down then it is so much more difficult to provide the adjustment and retraining that is provided for in this bill to the extent of $980 million, a portion of the bill which I am pleased to say the President does support.

You do not have to take my word for it as to what the impact of the plant closing provision would be. The GAO repeatedly has found that worker adjustment programs are far more effective when preceded by substantial advance notice. This administration's own special task force, appointed by former Secretary of Labor Brock, concluded that "advance notice is an essential component of a successful worker adjustment program."

That came from the former Secretary of Labor's special task force. And the National Academy of Sciences has recommended that "Federal action be taken to ensure that a minimum of 2 to 3 months advance notice is provided to all workers."

I could not agree more. With our 60-day notice requirement, we will see increased participation in worker adjustment programs. We will see significant declines in unemployment for dislocated workers. We will also see substantial savings in unemployment insurance costs for employers. And, perhaps most important, we will see less of the misery and hardship to workers and communities that attend sudden plant closings.

The argument has been made that advance notice is a good idea, but we should not make it mandatory—that we should encourage voluntary notice by businesses. I agree. But the fact of the matter is that we have had a voluntary notice system in place for decades, and it is not working. White-collar workers in this country receive an average of 14 days' notice of business closings. Blue-collar workers receive an average of 7 days' notice. Nonunion blue-collar workers get an average, believe it or not, 2 days' notice. Two-thirds of the 2 million workers who lose their jobs from plant closings or mass layoffs get no notice whatsoever.

I want to repeat that: Two-thirds of the 2 million workers who lose their jobs from plant closings or mass layoffs get no notice whatsoever.

Who are the victims of these regrettable business practices? They are the 260 workers at an Iowa pork plant in Minneapolis, who received less than 1 days' notice before their plant closed. They are the 600 employees of Fairchild Republic on Long Island, most of whom received 3 days' notice before a mass layoff. They are the 1,000 drivers for Milne Trucking in northern California, who received 3 days' notice before losing their jobs. They are the 900 employees of the Drummond Co.'s mines in Alabama, who lost their jobs on 2 weeks' notice just prior to Christmas.

In short, these are the people of America. They are not regionalized. They come from all over the country.

They are millions of hard-working Americans who are the cream of the American work force. Their personal tragedies are the product of our voluntary notice approach. I say, we have tried voluntary notice for long enough. It is time to mandate a little human decency.

I have already noted the broad support for mandatory notice in both the Senate and the House of Representatives. But the support goes well beyond the Halls of Congress. The local communities of this country—the U.S. Conference of Mayors, the National League of Cities, and the National Association of Counties—all have endorsed mandatory notice as part of the trade bill and have affixed their names to a full-page ad in the Washington Post that came to my attention yesterday. Mandatory advance notice is supported by the U.S. Catholic Conference, the American Baptist Church, the Lutheran Church, the Presbyterian Church, the United Methodist Church. It is supported by the American Association of Retired Persons, the NAACP, the National Farmers' Union, the National Urban League. It is supported by the New York Times, the Washington Post, the Christian Science Monitor, the St. Louis Post Dispatch, the Plain Dealer of Cleveland, and a host of other newspapers throughout the country.

What is the significance of this list—of cities, towns, counties, religious groups, civil rights organizations, and newspapers? What it reflects is the fabric of American life. An overwhelming majority of Americans want a Federal law requiring advance notice. Business Week reports that 86 percent of the American people favor such a law. This impressive support covers the entire country: 88 percent in the South, 89 percent in the East, 84 percent in the Midwest, and 82 percent in the West. In short, mandatory advance notice is an idea whose time has come.

It is time to put aside the rhetoric and veto threats. It is time to recognize that as a matter of common sense, as a matter of economic reality, and as a matter of simple human decency, Congress must enact the plant closings provision into law.

Let me conclude with a personal comment to the President of the United States:

"I am aware, Mr. President, that you have said publicly time and time again that if the plant closing provision is in the bill you will veto it. But I would like to say to you, Mr. President, you are a reasonable man. I ask you to reconsider your position. I ask you to look at the vote in the House yesterday. I ask you to look at the Labor Department's own task force. I ask you to look at the GAO report. I ask you to look at all the newspaper editorials, all of the public bodies who support mandatory notice.

"Please, Mr. President, we hope you will not veto this bill. But if you do, Mr. President, many of us will work hard to try to override that veto. I hope you do not give us that opportunity."

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER (Mr. BREAUX). The Senator from South Carolina.

Mr. THURMOND. Mr. President, the United States continues to face serious trade-related problems. Congress must appropriately address these trade problems if American business is to remain competitive in the international marketplace. The trade deficit—over $171 billion in 1987—has caused extensive damage to the very fabric of the economy of this Nation. The 1987 trade deficit of over $171 billion was an all-time record for any country since trading among nations began. Imports from foreign countries totaled over $424 billion while exports totaled a mere $253 billion. Such huge deficits clearly indicate that the competitive strengthen of American industry is declining.

The loss of jobs, American jobs, is the result of our trade-related problems. Recent job loss has been staggering. Between 1980 and 1988, manufacturing industries lost 878,000 jobs. As long as we continue to open our borders to any foreign nation without appropriate limitations, the situation we now face will continue to get worse. Today's trade-related problems did not just happen. They are the consequence of the willingness of this Government to allow wide-open access to domestic markets, even though foreign nations follow trade policies designed to protect their own self-interests. Congress must adopt a tough, effective, well-designed trade bill if America is to remain the strongest Nation in the world.

Even though I agree with the main thrust of this omnibus trade bill—which is to provide relief from foreign imports and unfair trade practices—I will be unable to support it based on the plant closing provision.

The plant closing provision should not be included. The trade bill deals with trade among nations while the plant closing provision is a domestic labor issue. Plant closing requirements should be addressed in another measure. These two concepts do not coincide. While the trade bill tries to improve the competitiveness of American industry, the plant closing provision would only inhibit the competitive strength and growth of our industries.

It seems ironic to include a provision which severely restricts the competitiveness of the same industries the bill seeks to protect from unfair foreign trade practices. The two issues are totally inconsistent.

The plant closing provision would limit the ability of American business to improve productivity, increase efficiency, restructure and compete with overseas manufacturers. The provision would not create but destroy many jobs that currently exist. It is counterproductive that legislation of this type is being proposed at the same time American industry is being urged to become more competitive.

The notice required under the plant closing provision seems harmless, but what it actually does is delay adjustment to changing business conditions which we know may happen quickly. This delay could mean bankruptcy for a borderline business. The Wall Street Journal stated in relation to the plant closing provision that the more risks there are in starting or expanding a business the fewer new business will be started; and therefore fewer jobs. Mr. President jobs are the bottom line; jobs are what the trade bill is all about. The intent of the trade bill is to secure employment for Americans and to prevent the transferral of jobs overseas. The plant-closing provision puts existing American jobs at risk. This provision in essence defeats the purpose of the trade bill.

Mr. President, having set forth my reasons for opposing this trade bill, I would like to also state my support for much needed trade legislation.

The most important task Congress faces today is that of restoring American international economic strength. To achieve this goal, we must erase our enormous trade deficit.

One provision of this trade bill which will benefit our domestic industry provides for stronger action against unfair trade practices. The bill would require the U.S. Trade Representative to begin formal action against countries with many unfair foreign trade practices, identified in an annual report of world trading practices initiated under the bill. Responding to unfair trade practices abroad will strengthen many of our domestic businesses, especially the textile and apparel industry which has been the victim of foreign labor abuse and foreign government subsidies.

The one major domestic industry which has been hardest hit by imports is the domestic textile and apparel industry. I will use this specific industry to exemplify the problems of foreign imports since textile and apparel manufacturing is a major industry in South Carolina and I have seen the devastating effect of imports first hand. Unquestionably, the domestic textile industry is suffering as a result of foreign imports. Unfortunately, the administration has failed to take effective action to prevent the tremendous loss of jobs and job opportunities caused by foreign imports. Unless Congress takes prompt action to stop the flood of textile and apparel imports, the devastation will drive the domestic textile and apparel industry to extinction. Over 2 million Americans employed in these industries could suffer the tragedy of losing their jobs.

Over 1,000 textile and apparel plants have closed since 1980. Almost 300,000 textile and apparel jobs have been lost to imports in the last several years. Approximately one-half of all textile and apparel goods sold in the United States are made abroad. During the past 5 years, textile and apparel imports have increased at an average of 20 percent a year. This Nation had a record textile and apparel trade deficit of $24.8 billion in 1987. I repeat, $24.8 billion in 1987. This reflects a 17-percent increase over 1986.

Figures released by U.S. Department of Commerce show that imports of textiles and apparel in 1987 reached a record $29 billion while exports totaled $4 billion for the year. This equates to an import-export ratio of 7 to 1. The entire trade deficit reflects an import-export ratio of only 1.67 to 1. This clearly depicts how hard the textile and apparel industry has been hit compared to other industries. The textile and apparel trade deficit is 14.5 percent of the overall trade deficit. Month after month, year after year, textile imports continue to surge upwards. Such disturbing statistics are an affront to textile employees, as well as other Americans. This current trend must not be allowed to continue. Our textile industry and its 2 million employees must be saved from the devastation caused by enormous textile imports flooding into our country.

These statistics warrant the introduction of a separate bill, S. 549, Textile and Apparel Act of 1987. This measure is currently pending on the Senate Calendar and I urge my colleagues to act expeditiously as possible on this. With each passing day, more textile and apparel plants are closing due to foreign imports.

The chief concern I have with considering the textile bill as a freestanding measure is that its opponents may argue that the remedies in this so-called generic trade bill should be given an opportunity to work before industry specific measures are enacted. The purpose of this statement is to address that concern and potential argument. I want to make it completely clear that the textile and apparel trade deficit is far higher than the general trade deficit as depicted by the ratios I listed above. These figures justify the enactment of the textile and apparel bill.

I want all of my distinguished colleagues to have notice of the fact that the Textile and Apparel Trade Act of 1987 will soon be on the Senate floor for consideration. The argument that it does not merit support because it provides assistance to a specific industry, in view of the bill which we are currently considering, lacks substance. If anything, the Textile and Apparel Act of 1987 deserves special consideration given the devastating ratios I stated above.

In closing, it is the responsibility of the leaders of this Nation to provide appropriate assistance to those domestic industries facing grave harm due to foreign imports. It is simply not acceptable for those elected by the citizens of this Nation to stand by and watch major domestic industries perish due to foreign imports and the unfair trade practice used abroad. Millions of jobs are at stake. Millions of family livelihoods are at risk. The human toll must not be forgotten. I strongly urge you to favorably respond to this endangered industry.

Mr. President, as I have stated, there is much about this trade bill that I like. An effective and tough trade policy is vital if we are to regain the competitive strength of this Nation. However, the plant closing provision, as well as others I have mentioned, are so onerous to American business, so inflexible, and so anticompetitive at a time when increased competitiveness is needed, I will vote against this measure and urge my colleagues to do likewise.

Now, Mr. President, I simply want to say that Congress must seriously address the trade problem if American business is to remain competitive in the international marketplace. A trade deficit of over $171 billion, which was an all-time record for any country since trading among nations began, has caused extensive damage to the very fabric of the economy of this Nation.

Even though I agree with many of the provisions of this omnibus trade bill which is to provide relief from foreign imports and unfair trade practices, I will be unable to support it based on the plant closing provision.

The plant closing provision is a domestic labor issue, as I stated, and should not be included in an international trade bill. It is both ironic and counterproductive to include a plant closing provision which restricts the competitiveness of the same industries this bill seeks to protect and make more competitive in a global economy. Moreover, this bill does not address the needs of the South Carolina textile and apparel industry which is why I have introduced the Textile and Apparel Act of 1987 to limit imports and protect against unfair trade practices abroad.

The plant closing provision is simply Federal intervention in private business. Mr. President, we have had too much Federal intervention in the matter of dealing with States, counties and local entities of the government. We have had too much Federal intervention regarding religious matters, into private schools, and into private business.

Now, the Labor Department prepared some specific points as to why this provision, to which we object, the plant closing provision, should not pass. I want to give those at this time.

The first is the provision would reduce economic flexibility and therefore impair the ability of the U.S. companies to adapt to changing economic conditions and compete. And second, making U.S. companies anticompetitive would lead to a loss of jobs rather than saving jobs.

Third, requirements would represent a change in the role of government in labor-management relations in the United States by making government more intrusive.

And fourth, requirements are likely to promote confrontation and litigation between employers and employees rather than the cooperation that is essential to an effective worker readjustment program.

Fifth, requirements would bring management decisions to a standstill. Even the discontinuation of a product line or an internal reorganization would be subject to question and legal challenge.

So, Mr. President, in closing I simply want to say, again, that this trade bill does contain some good things, but it contains some things that are not good and one of the worst in here is the plant closings. We must keep the Federal Government out of business. We must keep the Federal Government out of private lives. We must keep the Government out of fields where it has no jurisdiction under the U.S. Constitution. We should abide by federalism and if we believe in the Constitution. Federalism is an important part of the Constitution.

Putting the plant closing provision in this bill violates federalism. For that and the other reasons I stated, I shall have to vote against this bill and vote to uphold the President's veto, if he vetoes it.

The **PRESIDING OFFICER**. The Senator from South Carolina yields the floor. Who seeks recognition?

Mr. **GLENN**. Mr. President, I rise today in support of the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. I support it as a promising antidote to the most vexing problem this Nation has faced in its entire economic history—our chronic, huge trade deficits. These deficits signal that the United States—for a host of reasons—has lost its ability to react swiftly and successfully to fundamental changes which have transformed the international marketplace. These deficits reflect the simple fact that our competitive advantage has declined.

The legislation before us responds to this competitiveness problem in a variety of ways. I am pleased that conferees from the Governmental Affairs Committee, working in 8 of the 17 different subconferences, helped to craft a major portion of this response. The Governmental Affairs conferees developed legislation covering a wide range of issues, including: U.S. access to foreign research and development activities; the National Critical Materials Council; international government procurement trade; small business trade remedy assistance; the Competitiveness Policy Council; the impact of the Federal budget on the U.S. trade balance; the National Trade Data Bank; oversight of the Sematech project; and "competitiveness impact statements."

Throughout this long conference process—and I must say it has been a painstakingly deliberative one—we on the Governmental Affairs Committee have worked in a bipartisan fashion. Moreover, we have worked closely with both the business and labor communities, as well as with the administration. While this is not a perfect bill—indeed I have a number of reservations about it—it does represent, for the most part, a consensus. I hope, therefore, that it will garner the widespread support in this body that it deserves.

I am particularly pleased with our committee's work on a provision that will foster symmetrical access to foreign research and development activities. This provision will ensure that our Government will negotiate future international science and technology agreements with an eye toward opening research and development facilities and opportunities abroad to Americans in the same way we have opened such facilities and opportunities here to foreigners. An interagency review process is established to make certain that agencies with expertise in trade and national security policy, among others, have a chance to review proposed U.S. international science and technology agreements before they are signed.

The impact of the Federal budget deficit on our Nation's trade balance is the subject of another important provision worked on by the Governmental Affairs Committee conferees. This provision requires both the administration and Congress to publish annually, with their budgets, assessments of how the projected budget deficit will affect the flow of U.S. trade, the Nation's saving rate, and other important macroeconomic variables. This provision will force us to recognize explicitly every year that, until we cure our budget deficit problem, our international trade problem will not go away. I daresay that this provision, perhaps more than any other provision in this entire trade bill, demonstrates to the American people that we as a nation, must be fiscally responsible if we are to become more competitive internationally.

The committee's conferees also spent much time and energy on a measure to open up international government procurement trade. I believe the conference agreement on this score strikes a healthy compromise. It enhances the ability of U.S. businesses to break into foreign government procurement markets without disturbing the Nation's favorable balance of defense trade.

Our work on Sematech—the federally supported consortium of U.S. semiconductor manufacturers—is also noteworthy. The legislation calls for an assessment of how future funding of Sematech should be channeled, including an appraisal of the optimal mix between civilian and defense financing for such advanced technology projects.

Mr. President, I am very proud of the enormous effort the Governmental Affairs Committee has expanded on these and its other provisions. I also greatly appreciate the similar efforts of the other Senate committees. We have crafted a sensible response to our trade problems. My only disappointment is that our response is not stronger and more focused.

As many of you know, I believe deeply that this Nation's drive for competitiveness will not be complete until the trade and technology functions of our Government are consolidated, rationalized, and strengthened. H.R. 3 does not do this sufficiently.

In this country, our ability to develop and apply new technologies is our greatest asset. It is, in the parlance of economists, our "comparative advantage" relative to the rest of the world. And, it is the reason that this Nation was, for years, the world's most successful trading country.

Yet the very legislation that is to address our loss of this position does not establish in this country what each of our successful trading partners already has—a bona fide competitive strategy which combines a coherent trade policy with a well-defined technology policy. For example, H.R. 3 does not provide for systematic Federal Government investment in advanced, long-run civilian technology development and application on a scale commensurate with our international competitors. Similarly, it does not eliminate the labyrinth of our confused trade policy making apparatus. For these reasons, I do not believe that H.R. 3 is a sufficient response to our long-run competitiveness problems.

But it is a necessary response and, as such, I very much support it. Passing this legislation will send a vital message to our trading partners: "The U.S. Government is serious about trade and will act to keep world markets open."

Mr. **BAUCUS**. Mr. President, I was interested in hearing the comments of the distinguished Senator from South Carolina, Mr. THURMOND, because as a Member of this body he has spent a good portion of his life trying to encourage economic development which is so important to the State of South Carolina and to the country as a whole.

But the question we are debating is much larger than the narrow question of plant closings. In fact, in my judgment the issue of plant closings has been made to be much more of an issue than it actually is. I think that the importance of plant closings is clearly not as great as its proponents claim, nor as great as its detractors claim.

Mr. President, I have spoken to the heads of many companies in America about this provision. I have asked their opinions on this issue. I have yet to speak to the leader of any major business organization in America, who thinks that this plant closing provision is a problem. None of them do. None of them, privately, think that this is a problem.

In fact, Mr. President, the business community strongly believes privately that there are more good provisions in this bill than there are bad provisions. And, after all, no bill is going to be perfect. Most businessmen feel that plant closing notification is not a problem.

In fact, Mr. President, the Office of Technology Assessment did a study on this provision, which is contained in the law in some other countries, including Canada.

This study shows that the 60-day notification to employees of plant closing or layoff does not have any detrimental economic effect on the firm or on the country. Now many people claim that giving 60 day's notice to employees might encourage those employees to slough off their work or to steal or whatever. In my judgment that is a very negative view of human nature; certainly not conducive to productivity.

But studies show that this did not happen. That is, where plants have shut down with prior notification, the exact opposite has happened. That is, productivity at that plant has actually increased. It has actually increased because those employees want to keep their jobs. They are going to try to show to that firm, to that company, that even though the firm or company may have decided that that plant should be closed, that they want to keep their jobs. So they are going to work hard to show that maybe that plant can make a profit and make things go.

So, however you slice it, Mr. President, it is very clear to me that this is more than making a mountain out of a molehill. You know, some people say it is an example of the tail wagging the dog in this bill. I do not think that is right. I think it is the hair on the tail wagging the dog.

This bill is 1,800 pages. Plant closing notification is about two pages. The trade bill is critically important because, the main parts of the bill will help America to finally begin to form and shape a trade policy. That is vital.

Why is it important? It is important because we have some economic problems that we have to address and face.

What are they? No. 1, we have a trade deficit in the neighborhood of about $170 billion a year. We have had these deficits for quite a few years. They are building up to such a degree that if left to continue, there is no doubt in anyone's mind that America is going to be not a first-rate nation, economically but a second-rate nation.

Second, we have a huge budget deficit. We also have a low investment in research and development. We do not spend as much time and dollars in education, particularly in kindergarten through high school.

We do not spend enough time retraining workers. In the future, trends are going to be for more worker mobility, training employees to have different kinds of jobs instead of just one job all their lives.

We also have a problem in these areas, Mr. President, because America is coming more and more under the gun, as more and more countries put economic pressure on the United States. We live in an interdependent economic world and that trend will increase.

The fact is that the assumptions we have about trade and commerce are not shared by the majority of the world. We are a laissez-faire country; free competition, open market. That is the way we do business.

But the fact is, 75 percent of the goods and services traded in the world today are traded on some system different than that. Seventy-five percent of the goods and services traded in the world today are under an economy of government which has a different economic philosophy.

Asian countries have export-driven economies. That is, their internal economic policy is not laissez-faire; it is not free competition. Rather, it is designed to get their companies to export more to other countries, particularly to America.

Other European countries have a different philosophy. Their government, management and labor share more. The government has a much greater involvement in corporate decisions—what industry does or does not do. Those are shared economies.

The point is very accurate and valid; we Americans are really in a minority.

Our form of government, our philosophy of dealing in economic matters is not the same as the majority of the world.

What does that mean? That means we have to first at least understand that. Second, it means that we have to ask questions of ourselves, what are we going to do about that, if anything?

And we should do something about it. What should we do? We should begin the best way that we can to put together a trade policy, try to pass an international trade bill that begins to address some of those problems.

Sure, it is not going to be perfect, it is not going to be the final solution, the final answer, but there is always a tomorrow. Congress is not going to wrap up today and never meet again.

In the future, we can adapt, we can shape, we can mold, we can adjust any trade bill that we pass today to meet new exigencies, new conditions and new demands that seem to be most appropriately met at that time.

But we have to begin. We have to have a trade policy. This country does not have a trade policy today.

Sure, we have some laws that deal with international trade, but the general frame of mind and mood, is basically every individual, every man, every woman, every company, every industry pretty much do whatever it can within America and outside America. Again, this is a philosophical approach that 75 percent of the rest of the countries and firms in this world do not share.

This bill is the first step, the first major step. As I said, we do have trade laws, but this is the first major step to try to bring some coherence into our trade policy. What does it do?

First of all, it strengthens the ability of the President to go after those unfair trade practices that other countries setup to make it difficult for us to sell products into those countries.

Sure, we Americans are not simonpure. We do not wear white hats. Other countries do not all wear black hats. That is to say, we have some trade barriers. It is true that we do not allow every product to come in as freely as sometimes we Americans like to think. But the fact is that our hat, even though it is not white, is a shade of gray, which is a lighter shade of gray than is the shade of gray of other countries' hats. Other countries have more barriers to trade than do we.

So this bill, particularly under section 301 and super 301, is an attempt, a very solid, effective attempt to strengthen the powers of our USTR and the President to go after those unfair trading practices.

I think that is a good idea. And I think it, by far, offsets any slight problem the plant notification provision might have.

Second, this bill empowers the President with the negotiating authority to go to the next international round of trade negotiations, called the GATT, and to begin to negotiate some agreements between America and other countries to go the next steps in addressing trade barriers in this world.

What are those areas that are not now covered by the GATT? They are trade in services and investments and a whole host of other trade which is not now covered.

The fact is, only between 5 and 10 percent of the goods and services traded in the world today are covered by GATT provisions. It is a free-for-all for the rest. Different countries have different philosophies.

So the President should have, and I know the President wants to have, the authority to begin to negotiate with other countries ways to reach agreements on these goods and services.

This bill has that. I think it is a terrific provision. I can go down the list. There are many, many others. We, for example, strengthened what is called antidumping law to make it easier for American companies to take action against those foreign companies that dump; that is, sell products at below cost in America.

This is particularly important in high-technology industries because, under current law, it takes a long time for an American company—a high-technology company—to begin to go through all the hoops and redtape it takes to finally bring an antidumping action against unfairly priced imports.

So we speeded that up. That is very important because high technology changes so quickly. It changes so quickly that by the time an American company goes through all the present hoops and redtape, it is too late because the dumper has not moved to a new product. Again, this is an important change for high-technology companies because technology changes so very quickly. This bill addresses this problem.

And high technology is important—supercomputers, superconductors, semiconductors, you name it. If this country is going to grow and develop, we have to have those technologies in our country and we have to have the wherewithal and means to prevent other countries from unfairly dumping their products in America.

There are other good provisions in this bill. But the main point I want to make, Mr. President, is it is important for us to put a trade policy in place. It is important for us to begin to take care of ourselves. This bill is a step in that direction.

It is also critically important that we Americans show to the world that we can govern, that America can put a trade policy in place. If this bill is not signed by the President and enacted into law, it will send a signal to the world that America cannot govern, America cannot put a trade policy into place, and America cannot get its act together.

I think it is important we begin to get our act together, to begin to show to the world we can have some control over our own destiny.

We have a great form of government, but it is the only form of government in the Western World that has such shared powers. It is not a parliamentary form of government. We have a legislature, and we have an executive branch. That was set up because our Founding Fathers mistrusted power. They wanted to share power. They wanted to spread it out so no one gets too much power.

That is a good idea. But as a consequence of having so much shared power, we tend not to work together enough. We do not cooperate together enough.

In Japan, in Germany, in England, in France, in Italy their form of government is parliamentary. The majority party that is elected in their legislature is automatically the government: The members of parliament in those countries of the majority party elected are automatically the cabinet in the government.

That is why those countries tend to get their act together a little more than do we. It is automatic. In our country, it is not automatic. We have to work harder.

In the long run, we have to work harder to get our two branches of government to agree, and we probably have a stronger policy. But it puts a greater burden on us to get our act together.

In the final analysis, Mr. President, it is clear to me that this is something that must be done. We must pass this bill. It must be signed by the President. Then we will be taking the first series of steps necessary to not only enact a trade policy but show the world that we can govern. We can get our act together; we can have some control of out destiny. I think it would be a sad day, Mr. President, if the bill is vetoed. The President would be signaling, to the world that he would rather fight with the Congress than lead the country and cooperate with the Congress in passing a trade bill.

Mr. President, I yield the floor.

THE INF TREATY

The PRESIDING OFFICER. The Chair recognizes the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I see the distinguished majority leader has returned to the floor. Earlier today at the conclusion of morning business I had started to make a short presentation, but the time for morning business had expired. I wonder if the majority leader would care to respond if this might not be the appropriate time to have the continuation of that discussion.

Mr. BYRD. Mr. President, I do think this would be an appropriate time. There will probably be some other speakers who will want to discuss the conference report on the trade and competitiveness bill but no one is on the floor at this time. I suggest to my friend that this might be the best opportunity.

Mr. SPECTER. I thank the distinguished majority leader. I shall proceed at this time.

Mr. President, during morning business I had started to make some comments concerning statements made by the distinguished majority leader yesterday on the scheduling of debate, consideration of the INF Treaty by the Senate, and the majority leader had made a comment that he had an open mind and was prepared to listen and was prepared to consider the modification of his position depending upon how the logic of the situation appealed to him. I am pleased to have this opportunity to present my views and perhaps to have a brief discussion as to the underlying merits of moving ahead to consider the INF Treaty by the Senate at an early time.

Earlier today, Mr. President, there were two statements that I had quoted of the distinguished majority leader, one of which I agreed with and one with which I respectfully disagreed. I agreed with the majority leader's statement that we should not rush to judgment on the INF Treaty. I think that is conclusively correct. The Senate has the duty to make an independent judgment and an independent evaluation of that treaty and we should not rush to judgment.

I said at the same time that I disagreed with the majority leader's statement that the date of the summit is not important. The majority leader is quoted in this morning's New York Times to that effect: "The date of the summit is not important." The majority leader had made that statement apparently in response to statements made by the administration, by the President himself, and by the President's spokesman, Mr. Marlin Fitzwater. President Reagan is quoted in this morning's Philadelphia Inquirer as saying, in response to a question about the scheduling of Senate action on the INF Treaty that—and this is the newspaper account:

> President Reagan warned the Senate yesterday that it would "put a strain" on his summit with Soviet leader Mikhail S. Gorbachev if it failed to ratify the U.S.-Soviet nuclear missile treaty before he arrived in Moscow on May 29.

This is a direct quote now of the President:

> I think it would be very upsetting.

Reagan said during an appearance before a foreign policy group here:

> We're hoping and praying they will, and yet their scheduling of it for discussion and debate is such that I'm very concerned that possibly we may have to go without it having been ratified.

Mr. President, my thought is that those are strong words to be used by the President, when he talks about praying that the Senate will move ahead with consideration of the INF Treaty.

Mr. President, I believe there is substantial reason to believe that the President has orchestrated his timing on arms control with care. He was very reluctant to move ahead with a summit in the early part of his administration. As I said earlier this morning, this Senator has had a special interest in pressing to have a summit. I believe that I was the first Member of Congress during the Reagan administration to press for a summit, having filed Senate Concurrent Resolution 81 in the 97th Congress on April 19, 1982, and then having offered that summit resolution as an amendment to the Department of Defense authorization bill, and it was hotly contested. I offered that amendment on May 12, 1982. Senator Tower, then chairman of the Armed Services Committee, opposed it. Senator Percy, chairman of the Foreign Relations Committee, opposed it. We had a heated debate, a tabling motion lost, and eventually the amendment was passed 92 to 6.

This Senator renewed the call for a superpower summit in 1983, in 1984, and in 1985. Three times the resolution passed by large margins: 92 to 6, 82 to 7, 84 to 10. On one occasion the amendment was offered at about midnight, and I settled for a voice vote at the request of the then majority leader Howard Baker.

This Senator has had a keen interest and has had occasion to discuss the summit with the President; on occasions when he would ask me for support on the MX, for example, I countered with, "How about some activity on the summit?"

The President said early on that he did not think it realistic to negotiate with Brezhnev and Andropov for a short time and Chernenko. The President was not ready until he had his own timetable in mind, until the United States had renewed its military strength. But the President's approach has been very fruitful. He took the zero-zero option on INF. People said in 1981 it would be impossible to do, but now we know that the Soviets have come around to his way of thinking.

President Reagan has unique credibility, Mr. President, with the American people and with the people of the world on the subject of arms control. He has established himself, to put it mildly, as a sufficient critic of the Soviet Union, so that if he is willing to accept Soviet representations and Soviet promises, considering President Ronald Reagan's long history of skepticism, it is good assurance to many people in this country, a unique kind of credibility.

We have the approach of General Secretary Gorbachev, who has his own reasons for wanting to push ahead with disarmament. We have seen some remarkable stands taken by the Soviet Union. A few years ago most would have thought it impossible that the Soviets would withdraw from Afghanistan, but the Soviet Union has announced its intention to do so. It remains to be seen whether they will.

We have seen on-site inspection come to pass in INF where the Soviets are opening up their borders for on-site inspection. A few years ago few would have thought that was possible.

General Secretary Gorbachev has his own problems, as we read daily in the newspapers, about the No. 2 leader of the Soviet Union and about the editorials and comments in Pravda, and Izvestia and other Soviet lines, so that it is not certain how long this window of opportunity will remain where Mr. Gorbachev and Mr. Shevardnadze are willing to talk. I am not saying that we ought to rush into anything. I am saying that we ought to be very careful. We have learned from bitter experience that we cannot trust the Soviets. But President Reagan perhaps knows that as well if not better than any living American, perhaps anybody in the world today. So we have this opportunity.

Mr. President, the Soviet Union pays close attention to what happens on the floor of the United States Senate. I was rereading this morning the remarks of the distinguished majority leader back on March 23 of this year when he was making comments that he did not want to see us rushing ahead with a summit binge or a treaty binge. And the distinguished majority leader made the comment that he was making the statements of the kind when Mr. Shevardnadze was in town, even though Senator BYRD acknowledged that the Soviet foreign minister might not necessarily see his precise statement. With enough copies I finally found a CONGRESSIONAL RECORD that I can site with precision.

The distinguished majority leader said, and this appears at page 4835 of the CONGRESSIONAL RECORD on March 23:

> I say this at a time when Mr. Shevardnadze is in town. I think he should understand and be reminded, not that he will hear what I say, but at least I will have done my best, to help him understand that the treaty will never go into effect until and unless the Senate votes by a two-thirds supermajority to approve the ratification of that treaty.

We know, Mr. President, that the Senate put the brakes on SALT II at a time when the Soviet Union went into Afghanistan. We know also, Mr. President, that the majority leader, Senator BYRD, and the Republican leader, and minority leader, Senator DOLE, estabished an observer team. I participated in a few of those meetings in Geneva. We are trying to be on top of this issue. The President of the United States made a statement as relayed through Presidential spokesman Marlin Fitzwater as reported in today's Washington Post:

> Presidential spokesman Marlin Fitzwater said Wednesday that Senate delay could "dampen" progress toward a START agreement, and Reagan said yesterday in response to a question that he was "very concerned" that he might have to go to Moscow without the final ratification papers.

Given these strong statements by the President, including that he is praying for Senate action, it seems to me that while we ought not to rush to judgment, we ought not to delay judgment.

We have voluminous reports which have been filed by the committees charged with the responsibility to inquire into the treaty. The Senate Foreign Relations Committee has a report of 515 pages. The Committee on Armed Services has filed its report, and order it to be printed on April 1. We have the letter report from the Intelligence Committee dated March 21, 1988. So that there is a great deal of material which is before the U.S. Senate, and the treaty is ripe for consideration.

I understand the concerns which the distinguished majority leader has expressed as reported in the press, that there is an issue yet outstanding on what will happen about advanced technology as it relates to the INF Treaty. Secretary of State Shultz has conferred with Soviet Foreign Minister Shevardnadze, who has written a letter. Well, that issue may not be resolved with finality. There has been hearings scheduled on that to take place next week. But I would suggest respectfully that work can proceed on that issue and still the Senate can schedule and take up the issue of INF at an early date.

I would suggest, Mr. President, that there may well be other issues which will come into focus as the debate unfolds on the INF Treaty. So far, the committee has worked on them, and I have attended many hearings in the Intelligence Committee. The Foreign Relations Committee and Armed Services Committee have considered the matter. But once the floor debate starts, there will be intensified concern in the Senate on many, many issues which have not had the intensity of focus yet that they will have. I would be surprised if we do not find a number of issues, perhaps many issues, which we will focus on once we start to get into the inner workings of these committee reports and really start to debate this issue on the floor.

It may be, Mr. President, that we cannot complete action by May 29 when the summit is about to start. If we cannot complete action with appropriate consideration, then we ought not to complete action. We ought to take whatever time is necessary. But I do strongly believe, Mr. President, that when the Chief Executive has made the statements with the strength and fervor that he has spoken that it would be appropriate, desirable, and warranted for the U.S. Senate to respond to that and to try to proceed at an early date.

There is an enormous amount, Mr. President, to consider about debate within the confines of the issues already raised in the hearings before the three committees. That debate profitably could be started at an early date. That is why I have expressed my concern on the floor of the Senate about what I have seen in the meeting yesterday, and while we should not rush to judgment, I very strongly feel we should not delay our judgment. That is why I have made these statements today. I am very appreciative that the majority leader has returned to the floor to hear the comments which I have made.

I see him rising and I would be very interested in hearing whatever responses the distinguished majority leader may have.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The majority leader.

Mr. BYRD. Mr. President, I have listened with interest to the distinguished Senator from Pennsylvania. I will respond to two or three of the things that the Senator has said, that was not directed to him, except that I do have to respond so that the Record will be clear.

The distinguished Senator says he agrees with me that the Senate should not rush to judgment on this treaty. He says likewise the Senate should not delay action on the treaty.

Mr. President, I do not seek to delay action on the treaty for the sake of delay. The distinguished Senator has referred to the "strong words" used by the President, and has indicated that the President has expressed "concern" that he might have to go to Moscow without final action on this treaty by the Senate.

Mr. President, I respect the viewpoint of the President, and I can appreciate his desire to go to the summit with the approval of the Senate having been given to the ratification of the treaty prior to the time the President goes.

Mr. President, I did not set the date for the summit. I had nothing to do with it. I feel that it is my responsibility to do whatever I can to help the Senate to fulfill its responsibility under the Constitution of the United States with respect to the INF Treaty, or any other treaty. And in fulfilling that responsibility, I can see no nexus between the INF Treaty and the date that has been set by this administration and by the leaders in the Soviet Union for a summit. The President sets the date for the summit. That is his business. It is not any of my business as to when the administration may wish to set a date for this summit or the next summit or any other summit that might occur while this administration is in office. It is of no consequence to me insofar as the INF Treaty is concerned.

The distinguished Senator refers to the New York Times story, "'The date of the summit is not important,' Mr. Byrd said," to quote that line only, and to leave it at that, of course, takes the matter out of context.

The date of the summit is not important to me. I was talking of the summit date within the context of Senate action which I expect to be forthcoming on approval of the ratification of the INF Treaty. That is the context.

I believe that the Washington Post story today also quite accurately reflects both the context and the statements that I made in response to questions yesterday at a news conference here in the Capitol.

At the conclusion of my remarks, I shall ask that the New York Times story, to which the distinguished Senator from Pennsylvania has alluded, and the new story titled, "Byrd: Senate Won't Rush on INF Pact," by Helen Dewar, appearing in today's Washington Post, appear at the close of my remarks.

Mr. President, let me begin, so that the Record will be as clear as I possibly can make it, as to why this Senator takes the position he does with respect to the time for scheduling this treaty for floor debate.

First of all, as a U.S. Senator, I am required, each time before entering upon this office for a new term, to take an oath, to solemnly swear that I will support the Constitution, will bear true faith and allegiance to the same, and will well and faithfully discharge the duties of the office on which I am about to enter, "so help me God." To me, that is a solemn oath, and I will attempt always, the best I know how, to fulfill my commitments under the oath.

Now, that oath refers to the Constitution of the United States. Let us take a look at the Constitution, in part.

Article VI:

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof, and all Treaties made, or which shall be made, under Authority of the United States, shall be the supreme Law of the Land * * *

So when we talk of a treaty, we are talking about the "supreme law of the land"—the supreme law of the land. We are talking about a "supreme" law of the land which, unlike any other law, is required to be made by the President of the United States "by and with the advice and consent of the Senate." We are talking about a supreme law of the land which does not require a vote in the House of Representatives. But we are talking about a law of the land which requires a supermajority of two-thirds of this body.

The ordinary legislation that passes both Houses and becomes law has only to have a majority of those voting in each House in order for that legislation to go to the President's desk and become law, if he signs it; or, if he withholds his signature, it becomes law, anyhow, unless in the meantime Congress has adjourned and prevented the return of that legislation to the House in which it originated.

So we are talking about a supreme law of the land. We are talking about the INF Treaty. We are talking about something that may become the supreme law of the land which requires a two-thirds vote of this body and is not required to pass the other body.

Now let me read into the Record from the Constitution: "He"—meaning the President—"shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur * * *"

There is the record. I can understand how this President—or any other President—may express concern that the Senate has not acted in time for him to carry out the instruments of ratification to a summit meeting which will occur on a given calendar date. I can understand when the President speaks strongly or those representing the President speak strongly. I respect the President, and I respect those who speak on behalf of him.

But I have to say to the distinguished Senator from Pennsylvania that there is a higher authority, in this Senator's view, a higher authority than the President of the United States or anybody who speaks on his behalf. There is a higher authority than this Senate. There are a number of higher authorities, for that matter. There is the highest authority—in Whose Name we swear this oath upon entering this office.

There is also the higher authority of the Constitution, and I have just read the pertinent parts of the Constitution that apply here.

Now, I am going to be true to my oath. I am going to be true to the Constitution, and I am going to remain true to my responsibilities to the Senate. That is the long and short of it, and I do not care who wishes to criticize that position. I will not be displaced from it. That is the end of that.

Now, let us go a little further into the general subject matter.

I am not opposed to this treaty. I want to see this treaty approved by the Senate. I have said that from the beginning, after I first read the treaty.

I said that, on the surface of the treaty, I find it to be a good treaty; and unless there develops a problem in connection with the verification of it—something I did not foresee at that time—I intend to vote for it.

But I also said that the committees would be in a position to go behind the four corners of the treaty, go behind the language of it, and probe and question and delve into the whole subject matter and get the facts. They would be in a better position to find out if there is a hole somewhere, if there is a gap that needs to be filled.

So, as we have proceeded, the distinguished Senator from Georgia, Mr. NUNN, has advised me that, on the basis of his committee's study, there is a matter of concern that has emerged in connection with the INF Treaty. He has spoken of his concerns to me and last week was to give me an oral report after which he would submit a written report.

I indicated to Mr. Nunn that I wanted the written report. Of course, I would be glad to listen to the oral report as well.

I have not attempted to hurry Mr. Nunn and I do not intend to try to hurry Mr. Nunn. What I want is the answer, the right solution, to the concerns that he expressed. And he is much better able to express those concerns, the problems that he has found in connection with this treaty, than am I.

I fully trust Mr. Nunn to do his best to fulfill his responsibility to the Senate and under the Constitution. I have full confidence that he will do that.

I am not going to suggest to him that, regardless of what his concerns may be, that he has to be ready by a certain date, because we are dealing here not with an ordinary bill, as I have already said. We are dealing with the supreme law of the land in the form of a treaty, which is not easy to repeal or revise. An ordinary bill that becomes law can easily be repealed by a subsequent law passed in the same fashion—and during the very same session of the Congress for that matter—and only by a majority vote in each House.

We are dealing with one of the categories of the supreme law of the land here that, if we make mistakes, those mistakes are not so easily rectified as in the case of an ordinary law of the land passed by Congress.

I want Senator Nunn to help us all to get to the bottom of this problem that he and his committee have found. Senator Boren, who chairs the Intelligence Committee, likewise has the responsibility to advise the Senate concerning the verification procedures and whether or not, under the treaty, we are prepared to adequately protect the security interests of this country—and, for that matter, our allies as well.

It is a matter that every citizen in this land holds me responsible for and holds the President responsible for.

If there is a hole in this treaty, it is not my fault. That is the fault of the administration and its negotiators who failed to do their homework. If there is a problem there, that is their problem, if the summit comes and goes without the treaty. But now it is our problem to clarify it and to help correct it if we are going to approve this treaty.

So, again, I am not seeking to delay action for the sake of delay. But I will tell Senators one thing, I am not going to be pushed or rushed or stampeded by anybody in any office or by any combination of anybodies in this country. This is not a partisan matter with me. I want to see this treaty receive approval by the Senate, and I have confidence it will be if it can be shown to be a good treaty.

Senator Nunn has advised me that the problem does not appear to be insuperable, and I think we can deal with it. But before the Senator from West Virginia casts his vote for approval of this treaty, he is going to have to be satisfied that the Soviets are bound by the same commitments that the United States is bound by in this treaty.

I took an oath before this Senate to uphold and support this Constitution. I did not take an oath that I would call up a certain treaty by a certain day just because somebody else drew a line in the sand and said "This is a date on which we want to have a summit."

I did not make that a part of my sworn oath.

I want to do all I can to cooperate with the administration, and it is in the administration's interest to do everything within its power to get the solid documentation that will convince this Senator, and the Senator from Georgia, and other Senators who are concerned about this problem, that there is no question but that the Soviets are going to be bound, and no question but that they know they are going to be bound by the same commitment by which we are bound by the INF Treaty.

If Jimmy Carter were still the President and still in the White House, and if this identical set of circumstances came up, Robert Byrd would be right here today right in this spot at this particular time on the clock saying these very same words, because I put the interest of this country and its security right where every Senator puts them or ought to put them, and that is above the political interests of any person or party in this country and under any administration.

Remember, we are dealing with the Soviet Union. Let us keep that in mind. We are dealing with the Soviets, and that in itself tells a tale.

I think we ought to try to make sure that all "i's" are dotted and all "t's" are crossed when we deal with the Soviet Union.

The Senate is carrying out its constitutional duty at a steady and responsible pace, and there is broad support for that treaty here in the Senate, and we are moving forward. I will meet in due time with the chairmen, Senator Boren, Senator Nunn, and Senator Pell, as we have met before upon several occasions in our efforts to advance the action on this treaty in an orderly, thorough, and expedited way. We are not going to rush to judgment on this treaty.

We may rush to judgment on a bill now and then, but as I have already explained, if that bill is a bad bill it can easily be repealed or recitified within the next week. Even before it is signed into law if we discover it is a bad bill, we can call it back from the White House. There are plenty of ways to do that with a bill but not so with a treaty.

Senator Nunn is on the floor. He will describe the futuristic technology problem and any other concerns that he may have with this legislation. I am sorry that so much importance has been given to the idea that the Senate must approve the INF Treaty by the time of the summit. I am interested in a good treaty and I am going to do what I can to expedite action on a good treaty, but what I have said for the record, is out of respect for all those who want to see this treaty approved by the Senate and out of respect for the President and all those who speak for him and who want to see this treaty approved in time for him to take the instruments of ratification to the summit so they can be exchanged there.

I have no problem with that at all. I would be perfectly happy if this can be done by the time the President goes to the summit. I have no desire that it be delayed. I have no hidden strategy or timetable by which I hope to defeat the President's desires in this instance.

But I also do not have any compunctions about saying where I stand, or as to where I think this Senator's responsibilities are and where I think this Senate's responsibilities are. And I do not base such responsibilities just on Robert Byrd's opinion. I base them upon the written word of the Constitution. There it is for all to read.

Mr. President, I thank all Senators. I thank the distinguished Senator from Pennsylvania. What I have said is not said in rancor in any way for his having brought up the subject today. As a matter of fact, I am glad that he has brought up the subject because a good bit is being said these days about the importance of the treaty, about the desire of the administration for having it approved by the Senate before the summit date. I have had to respond to some questions about when it will be scheduled for floor action, and I have done so frankly, and I have stated the whys and wherefores.

So perhaps with this laying in the Record of what I have attempted to say, and with what the distinguished Senator from Georgia will say following my remarks, people will understand what this Senate's responsibility is. It has an equal responsibility with the President of the United States. And this Senate is nobody's rubber stamp.

I believe I said something in the same vein to Mr. Gorbachev when I was in Moscow. I know I said the same to Mr. Brezhnev in the Crimea in 1979 when we were discussing the SALT II Treaty.

This Senate is no President's rubber stamp and this Senator is no President's man. The Senate is larger than the combination of us all, the 100 Senators here. They will go and come, and the Senate will be here after they are gone.

I hope that we do not, during my time here, rush to judgment—and at the same time, we do not delay for the sake of delay; I am not for that—I hope we do not rush to judgment on a treaty and then find out, perhaps after this administration is long gone, that we made a mistake and that the Soviet Union does not consider itself bound by what we consider ourselves to be bound.

It is a serious question. It is not a political question with me and it is not a matter of meeting a certain time on a certain day in a certain month. The important thing is that we have a good treaty—for us. I assume that it will be good for the Soviets. They will think so or they will not have entered into it.

But it has to be a good treaty for us because, in the final analysis, it will be the supreme law of the land and Robert Byrd is going to be answerable to his children and grandchildren. And when I look into the looking glass I want to feel that I did not cheat the man in the glass and that I did not cheat my children and grandchildren and the people of the United States. That is where I stand.

As Fitzjames said in Scott's Lady of the Lake, "Come one, come all, this rock shall fly from its firm base as soon as I." In saying that, I am speaking for the Senate, not for Robert Byrd. I am speaking for the Senate.

I applaud the President of the United States. I think that it was this President, because of his standing firm with the Soviets on SDI—which I support and which has passed this Senate on at least two or three occasions by one vote—I think it was only through his firmness and his standing like a rock that the Soviets, after leaving the negotiations, came back. So I give him credit, just as I gave Mr. Nixon credit for opening the doors to China, the People's Republic. I give the President credit and I honor him and respect him for that.

But I also have to respect my duty under the Constitution to this Senate and to the people of my State and the Nation.

I want to yield the floor so that Mr. Nunn can get the floor.

By the way, the fact that he is here is not the result of any pact or agreement between us that we would appear on the floor at the same time on the same subject. He is going to speak on the problem that his committee has discovered.

Mr. PELL. Before yielding, will the Senator yield for a question?

Mr. BYRD. Yes.

Mr. PELL. I think the Senator knows the affection, respect, regard, and loyalty that I have for him. In any case, what I am concerned about is there has been a certain momentum toward arms control which was dearly lacking for the first 7 years of this administration. I hope the Senator would share my assessment of the importance of the continuation of that momentum. I am not thinking just of this treaty, which is of relative insignificance, since it covers only 3 percent of the total warheads of the two sides around the world, but the fact that if the momentum does not continue we could well fall back into a very fallow period. I think it is not only to the benefit of us but of humanity that everything be done to keep that momentum going and I am sure the Senator agrees.

Mr. BYRD. Well, I agree with the Senator with respect to momentum so long as we are not going in the wrong direction.

May I say to the distinguished Senator from Rhode Island that, under his chairmanship, the committee which he chairs placed on the Executive Calendar in February 1987, two arms-control treaties, now well over a year ago. And the reason they have not been called up is because this administration has welched on its own word in writing.

Mr. PELL. Amen.

Mr. BYRD. On its own word in writing, it welched.

Mr. PELL. Amen.

Mr. BYRD. And those words have been placed in the Record before and they can be placed in again if anybody wishes to have it done—welched on its assurances that it would support those treaties. The President said that it would be part of the first order of business that he would support in the 100th Congress, if the Congress would take action to unbind his hands with respect to certain conditions and provisions that had been written into, I believe it was, the continuing resolution or a piece of legislation dealing with the SALT II Treaty. And Congress did its part.

And the Senator from Georgia, who is right here on the floor, had a considerable part, I believe, in bringing about that happy state of affairs in which the Congress untied the President's hands when the President went to Reykjavik. The President said that he would make this part of the first order of business to support these treaties if Congress would remove language which might have the effect of tying his hands at Reykjavik. Congress did that. He did not keep his promise. I have said that before, so it is nothing newsworthy.

The Senator from Rhode Island has taken a strong position of leadership in moving toward arms control.

Mr. NUNN. Will the Senator yield?

Mr. BYRD. Yes; I referred to the Senator's name.

Mr. NUNN. If the Senator will yield, I would just like to comment. I wanted to make and still would like to make a statement on the very point the Senator from West Virginia has been addressing, the question of futuristic INF weapons.

I think that the Senator from Pennsylvania addressed those before I came in. Senator Pell and I have talked about it on many occasions.

First, let me say that I agree with the Senator from West Virginia in terms of those two nuclear testing treaties, because I did help negotiate that along with Senator Warner right before the Reykjavik summit. We did have an agreement with the administration. It was in writing and they did later change their mind.

Mr. BYRD. The Senator says it more diplomatically.

Mr. NUNN. The Senator's priorities, I think, are absolutely right. The Constitution of the United States is what we have sworn to uphold and defend. I think the Senator from West Virginia could not have been more cooperative with the Armed Services Committee on the INF Treaty. I cannot speak for the Foreign Relations Committee but I am sure the Senator from Rhode Island feels the same way, and the Intelligence Committee which I served on, with regard to their consideration of this treaty.

The Senator has given us the direction and coordination to work together. He has been the leader in that respect. We have worked together. We have eliminated as much as possible in the way of duplication. Our committee had 31 hearings on this subject now. Senator Pell spent many hours on it.

I think we are near the point where the debate will begin, depending on the Intelligence Committee hearings next week. I do not know what they show, because they have got to go into the verification of an item that was not presented to either the Intelligence Committee or the Foreign Relations Committee or the Armed Services Committee. They do not know about the verification of it because it was not there the first time around. It was a new item that came up that the administration had not themselves thought about. It came up on questioning.

So, no one is trying to delay this treaty. I do not think it should be delayed. I do not think it will be delayed. But I think we have got to have a good treaty.

Last year, we spent 3 months, the Senator from West Virginia will recall more than anyone, 3 or 4 months last year, trying to get the armed services bill up. What was the reason? The reason was we had a filibuster going on. The filibuster was going on because there was a disagreement on interpretation of a treaty that was signed in 1972.

That interpretation is not a trifling matter. It was a very important matter and still is. It has a tremendous bearing on the current negotiations and the SDI Program.

So these are not matters that are insignificant. They are important matters. I do not think that we would be doing our duty if we did not clarify any issue that we see that needs clarifying before we ratify this treaty.

There is no need putting the Senate of the United States 5 or 6 years from now into the situation we have got into on the ABM Treaty, with a dispute between the executive branch and Congress, different feelings here, different there, and a different interpretation between the Soviets and our own administration.

Why do that again if we can avoid it? If we can avoid it, it will be, from my perspective, through diligent work and positive oversight on our part. We should certainly not allow an ambiguity to stay in this treaty if we see one.

Mr. BYRD. Mr. President, if the Senator will yield, I will yield the floor.

Suffice it to say that the distinguished Senator from Rhode Island—I would have yielded the floor earlier to the distinguished Senator from Rhode Island for whom I have the highest affection and respect and toward whom, on more than one occasion I have paid the highest respect and the very best words that I knew how. I have often referred to him as "Mr. Integrity." I mean that absolutely.

I agree with him about the importance of momentum and I think he, in using the word momentum, is linking the INF Treaty with the SALT II Treaty.

Mr. PELL. With the previous treaties, and with the future treaties. There is a continuum.

Mr. BYRD. My feeling is, let us take one step at a time, one treaty at a time; and be sure, as we deal with this treaty, that the Soviet Union is being bound by the same commitments that our own country is being bound by. We will deal with the SALT Treaty whenever we get to it.

In other words, I will roll up my britches when I get to the creek.

Mr. PELL. I would add it was thanks to the Senator's urging that we took up the PNET and TTPT and got it through as early as we did. I appreciate his interest very much.

Mr. BYRD. I thank the Senator.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, it was a coincidence I came to the floor. I did not know the Senator from West Virginia or the Senator from Pennsylvania were on the floor or the Senator from Rhode Island, particularly on this subject matter. But I did come to the floor because this is an important matter we have been working on for quite a while.

As you know, the Armed Services Committee filed a report on INF. We raised several issues. We tried to deal with those issues.

This was the most important issue that we said had to be clarified in that report which was agreed to in our committee by a vote of 18 to 2.

Now, what I will say today is not in the form of a committee report. The committee has not had a chance to read what I am saying today. I am going to give every member of the committee a copy of this. They will be able to speak their own minds but I do not report for the committee today. I am speaking my individual views.

The truth of it is, our committee has a huge load at the beginning of every year because that is when we have got to do all our work on the armed services bill, a $300 billion bill that we are supposed to be in charge of and get out sometime in the month of May.

We had 31 hearings on the INF Treaty. We have gotten very far behind in our work. This week the subcommittees are meeting for many hours, trying to get the defense authorization bill marked up at the subcommittee level. Next week our full committee will be meeting.

So, every member of the committee will have the right to comment on and either agree or disagree with what I am saying here today. But what I am offering is what I have given the majority leader in writing and I will share with my colleagues as to the particular question that we have on the modern-type exotic INF weapons.

Mr. President, the controversy which has arisen with regard to the applicability of the INF Treaty to future types of INF weapons is a very important, I would say critical issue which, unless resolved, could sow the seeds for highly contentious compliance disputes with the Soviet Union in the future.

By way of background, I should explain that there are four general categories of land-based missiles, cruise and ballistic, of INF ranges of 300 to 3,300 miles. Category A I would label nuclear-armed missiles; category B, conventionally armed missiles with traditional types of explosive warheads; category C, futuristic types of missiles, such as missiles armed with a laser or a microwave pulse generator or some other type device that we might not even at this stage evision which may come in the future; and category D, surveillance, radar jamming, and other types of unarmed drones and remotely piloted vehicles known as RPV's.

Those are the four categories that I will be talking about today and I had a discussion with the majority leader on this, I believe yesterday. To repeat, category A is nuclear, category B is conventional, category C is futuristic, and category D is surveillance type missiles.

There is no question that category A is banned by the INF Treaty and that both parties are bound by this prohibition. From the outset of the negotiations, both sides agreed that the treaty would apply to nuclear-armed ground-launched cruise and ballistic missiles so-called GLCM's and GLBM's of INF range.

There is also no question that category B is banned and that both sides are so bound as to category B, that is, the conventional armed. In contrast to category A, however, the United States did not agree that the treaty would apply to this category of missiles until late in the negotiations. That is about September 1987. So including nuclear was the decision at the outset. On conventional we did not have a meeting of the minds until about September 1987.

Before turning to category C, which as my colleagues know has now become an issue of particular concern in the Senate's review of the treaty, let me jump ahead to category D and say that until the receipt of Soviet Foreign Minister Shevardnadze's recent letter, there appeared to be no question that unarmed missiles were excluded from this treaty and that both sides clearly understood this. I will discuss the Shevardnadze letter and its implications for category D in the course of commenting at some length on category C, which is the futuristic weapon.

The INF Treaty provides that the only types of GLCM's and GLBM's of INF range which are covered under its provisions are GLCM's and GLBM's which are weapon delivery vehicles. During the Armed Services Committee hearings, however, a fundamental issue arose as to how, exactly, the two sides defined the term "weapon delivery vehicle." I appreciate the determined efforts by Senators QUAYLE, WARNER, LEVIN, EXON, COHEN, and other members of the committee to get to the bottom of this issue in our hearings.

Mr. President, this definitional issue goes to the heart of whether category C missiles are covered; again, category C being futuristic system. The article-by-article analysis of the treaty submitted by Secretary Shultz defines this term as "those types of [GLCM's and GLBM's] that have been * * * flight tested or deployed with any type of warhead device or simulation thereof." This, language suggested that GLCM's and GLBM's which destroyed their targets through more exotic means which technically did not involve warheads such as lasers, would not be covered. That was the implication from that article-by-article analylsis.

Following a period of confusion as to the administration's position on this issue, Ambassador Glitman testified on March 30 that the administration had determined that the term "weapon delivery vehicle" was defined by the United States as "any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it." This broad definition differs from the article-by-article analysis. This broad definition would obviously encompass such future types of weapons as laser or microwave pulse generators, or other weapons.

As a matter of domestic law, there is no question that if this treaty is ratified and unless there is a change by the Senate, the United States will be bound, not just in this administration, but the next administration, the one after, and the one after, by this comprehensive definition which has been given by an authoritative witness before our committee and, indeed, joined in by the representatives from the Department of Defense, the Joint Chiefs, and from the State Department.

My concern, however, is exactly what the Senator from West Virginia identified a few minutes ago. And that is whether the Soviet Union will also be bound by this definition.

The administration has conceded that at no point in the negotiations did the two parties specifically discuss INF missiles using future technologies and that the parties never specifically addressed the meaning of the term "weapon-delivery vehicle." Nonetheless, the administration has taken the position that no clarification of the Soviet position on this issue is required because we can trust that the Soviets will act in good faith to interpret these words in accordance with their "ordinary meaning." That is the administration's position. It is the position of the administration that the "commonly accepted" meaning of the words "weapon-delivery vehicle" is the definition which Ambassador Glitman presented on March 30.

The administration also points to several U.S. memoranda of conversations, so-called memcons, with the Soviet side during the negotiations which contain inferences that the Soviet Union viewed the scope of the treaty broadly, with no exemption for any type of future conventionally armed GLCS's or GLBM's. These memcons have been provided to the Senate but remain classified.

Secretary Shultz elected to raise the future weapons question with Mr. Shevardnadze on the occasion of their April 14 meeting in Geneva to sign the U.N. convention on Afghanistan. On April 15, the Soviet Ambassador in Washington delivered a letter to the Secretary from the Foreign Minister which commented on their discussion in Geneva.

It is unfortunate, as I view it, and probably inadvertent—I would say likely was inadvertent—that the letter raises more questions about the Soviet position than it answers. Compounding the problem is the fact that the Senate has actually been provided two versions of the letter which differ in key respects. The first was an English-language translation of the original Russian text prepared by the Soviet Government that was sent by Ambassador Kampelman to Senator PELL on April 18. The second was a State Department translation sent by Secretary Shultz to Senator DOLE on April 20.

Mr. President, I ask unanimous consent that both letters be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. NUNN. Those two versions are different and they have to be read very carefully because the key words are different in the two interpretations. I, personally, do not know which interpretation is correct.

My concerns about the Shevardnadze letter include:

The first translation of the letter raised a question as to whether the Soviet Union believes that the types of unarmed missiles which I have listed under category D are covered by the treaty. It is possible to read the phrase in the letter "intermediate-range and shorter-range missiles, however equipped"—and that is the exact language of the letter—as including surveillance drones or RPV's and other types of nonweapons-equipped missiles. In the second translation, the phrase "however equipped" was changed to read "however armed."

My second concern with the letter is that the letter refers only to missiles which are equipped with "warheads." This is troubling since, as previously mentioned, this issue arose in the first place because the article-by-article analysis appeared to indicate that only those INF missiles equipped with "warheads" were covered.

I know the Senator from Virginia is on the floor now. I know he recalls that. That is where we came into this, with the article-by-article analysis talking about warheads, and that gave us reason to believe that the treaty was limited. And then Ambassador Glitman came back and said that was not the correct interpretation. It was much broader than that.

Again, I think the Soviet Foreign Minister's letter created some of these problems completely inadvertently. I do not think it was intentional. I think it was, in all likelihood, rushed. You cannot afford to rush when you are dealing with something of this nature.

There is a third problem.

Most important, the letter fails to provide an explicit assurance that the Soviet Union agrees with the administration's position that the term "weapon-delivery vehicle" means "any INF missile which carries a weapon, that is, any mechanism or device which, when directed against a target, is designed to damage or destroy it."

Now, that language is different from "warhead." A warhead is one thing, but that is not what we are talking about in the administration's interpretation. Again, I want to repeat it: "* * * any INF missile which carries a weapon, that is, any mechanism or device which, when directed against a target, is designed to damage or destroy it."

In light of these concerns, I believe that a category III understanding may be required making approval of the treaty contingent on the President's obtaining an explicit confirmation from the Soviets that they agree with the administration's definition of "weapons delivery vehicle." I do not agree that we can trust that the Soviets might not at some future point present a different definition of "weapons-delivery vehicle" in an attempt either to block certain types of U.S. drones or RPV's which we would not consider to be "weapons-delivery vehicles" or to allow the Soviets to deploy INF missiles which we would consider to be banned.

Some may argue that a new, more precise letter from the Soviet Union on this question could obviate the need for a Senate understanding.

I am skeptical on that point. I have not had a very good experience with letters, even from our own Government, and when you deal with strictly letters, I am skeptical. So mark me down as skeptical, but I will keep an open mind if someone has an argument to make otherwise on that point.

The Senate must also take affirmative steps to ensure that a future U.S. administration could not act unilaterally to reinterpret the treaty to either broaden or narrow the definition presented by the Reagan administration to the Senate during the ratification proceedings. The INF future weapons issue has served to underscore the inadequacy of Secretary Shultz's refusal in his February 9 letter to Senator BYRD and to me to say whether future administrations will honor the Reagan administration's reading of the treaty.

We do not yet have that assurance, and that is what the dispute in the Foreign Relations Committee was about: Whether future administrations are bound by authoritative testimony given to the Senate.

I will say this very issue we are talking about now makes a very powerful case of the category I understanding to the resolution of ratification which was approved by the Foreign Relations Committee in its report to the treaty.

That is the amendment that first was called the Biden amendment and later evolved into a different amendment but, nevertheless, I think it probably retained that description.

That is not an amendment that has to be signed off on by the Soviet Union. That is a matter of internal understanding between our administration and our Senate.

The future weapons issue makes a powerful case for the category I understanding to the resolution of ratification approved by the Foreign Relations Committee in its report on the Treaty.

My proposed category III understanding on future INF weapons would not amend the treaty. Rather, it would require a formal and binding assurance from the Soviet Union that it agrees with the administration's definition of the words "weapon-delivery vehicle" as used in the treaty. The Soviet assurance would have to be secured, if we go this route, which I would recommend, through a procedure that will leave no doubt as to the explicit agreement of the Soviet Union to the United States interpretation.

The protocol of exchange of instruments of ratification is the normal vehicle for reporting such clarifications. Now, I do not see this, Mr. President—and I say to the majority leader—I do not see this as a killer amendment even though the administration may—I do not know—warn us of dire consequences and suggest that this understanding might open a Pandora's box. I do not see it this way. I do not see any reason why this should delay the treaty in any respect. I do not know why it would delay it. I think we could debate this matter in a couple days, as a matter of fact, and we can see if the Senate agrees with my position. If they do not, of course, it is one situation. If they do, I do not see why it would be a delay. If the Soviets agree with the administration's specific definition, which we have been asssured that they do—and I presume they do for the purpose of this discussion—then there should be no problem with asking them to confirm it in a legally binding form at the time instruments of ratification are exchanged.

If the Soviets disagree with this definition, which has been given to us authoritatively by the Reagan administration, then the time to find out whether they disagree is now, not later, nor a year from now, not in the next administration. If they do not agree, the time for us to discover that is now.

So, Mr. Leader, I have given you in essence this statement plus a few other observations in a report from me. And as the Senator from Virginia did not hear this—he was not here then—I made it clear in my opening comments that these are my personal views. This is not a committee report, This is my personal view, which is not inconsistent with the committee report. The committee report, when we delivered it, left this question open and called the attention of the Foreign Relations Committee and the Senate to this question. These are my personal views. I would like to have gotten the committee together, gotten everybody together on this, and we can still do that. I am going to send a copy of this to every member of the committee and they can react to it. But we have just been taken up with markups in subcommittee. We have to get our bill finished next week. We have sort of run out of time. That is the reason why I wanted to go ahead and give my personal views to the majority leader and to my colleagues. I am sure that other Senators on the committee or otherwise will be expressing their views on this at a later time.

EXHIBIT 1

THE COUNSELOR,
DEPARTMENT OF STATE,
Washington, DC.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR SENATOR PELL: In my letter to you of April 14, I reviewed the Administration's position on the issue of the possible use of future technologies in connection with INF missile systems. Although the Administration did not believe it necessary to conform with the Soviet Union our common understanding on this issue, the Secretary raised this question with Foreign Minister Shevardnadze in Geneva on April 14 in order to meet the expressed concerns of some Senators.

On April 15, Ambassador Dubrinin delivered Minister Shevardnadze's reply to the Secretary, a copy of which is attached. As you will note, Minister Shevardnadze confirmed that the Soviet side's understanding of this issue is the same as that of the U.S. side.

Sincerely,

MAX M. KAMPELMAN.

Attachment—As stated.

(Unofficial translation)

MR. SECRETARY: In our conversation in Geneva on April 14 you raised the question of the INF Treaty interpretation in connection with the fact that a question has arisen during the US Senate debate on this treaty as to whether the ban covers the intermediate—and shorter-range missiles that could be equipped with warheads developed with some future technologies. As you noted, in responding to senators the administration is saying that the Treaty ban covers intermediate- and shorter-range missiles, however equipped.

At the same time you were interested in knowing the Soviet side's understanding of this question so as to convey it to the US senators.

I would like to confirm to you once again that the Soviet side's understanding of this question is the same as that of the US side's. The definitive view of the Soviet side is that the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles bans these two classes of missiles, however equipped, nuclear or any non-nuclear.

THE SECRETARY OF STATE,
Washington, DC, April 20, 1988.

Hon. ROBERT DOLE,
United States Senate.

DEAR BOB: Many thanks for your letter of April 13. I was reassured to learn that you have again become involved in INF Treaty issues.

The Administration has given careful consideration to the question of the INF Treaty's effect on future technologies, ever since Senator Quayle raised this issue in Senate Armed Services Committee hearings beginning in January. The Administration has concluded that the INF negotiating record, viewed in conjunction with the Treaty test and with customary international law and the Vienna Convention on the Law of Treaties, demonstrates that the United States and the Soviet Union share a common understanding that all U.S. or Soviet ground-launched missiles with ranges between 500-5500 kilometers, both present and future, should be subject to the provisions of the INF Treaty.

During the INF negotiations, the United States and the Soviet Union did not specifically discuss INF ballistic and cruise missiles using future technologies, such as lasers, to damage or destroy targets; nor did the Parties specifically address the meaning of the term "weapon delivery vehicle." Instead, the Parties recognized that it was unnecessary to define in the Treaty terms which had ordinary, commonly understood meanings or where the commonsense meaning of the term was intended by the Treaty. Indeed, Article 31 of the Vienna Convention on the Law of Treaties (which the U.S. recognizes as largely reflecting customary international law) provides that treaties "shall be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context . . ."

In the context of the INF Treaty, it is our considered judgment that the Parties understand the term "weapon-delivery vehicle" to mean any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it.

The Senate Armed Services Committee, however, called upon the Administration to "demonstrate to the Senate's satisfaction, before the final floor vote on advice and consent, that the United States and the Soviet Union reached a clear understanding on this question." In addition, some Senators, including Senators Nunn and Quayle, have called for a written confirmation of this understanding with the Soviet Union. As you know, the Administration believes that the INF Treaty stands on its own merit and opposes any Treaty amendments and conditions.

To meet these concerns by some Senators without requiring a written Soviet confirmation, which could possibly reopen the negotiations, the President decided that I should raise the issue with Foreign Minister Shevardnadze during my April 14 meeting with him in Geneva. Minister Shevardnadze told me that he was not aware there was a problem, but that he would look into the matter and get back to me.

On April 15 Ambassador Dubinin delivered Minister Shevardnadze's reply, a copy of which is attached. As you will note, Minister Shevardnadze confirms that the Soviet side's understanding of this issue is the same as that of the U.S. side.

I look forward to working with you in a common effort to conclude the Treaty ratification process successfully.

Sincerely yours,

GEORGE P. SHULTZ.

DEPARTMENT OF STATE,
DIVISION OF LANGUAGE SERVICES.

(Translation)

DEAR MR. SECRETARY: In the course of our conversation in Geneva on April 14 you touched on the question of the interpretation of the INF Treaty in connection with the fact that during the U.S. Senate debate of this Treaty, the question has arisen whether the ban extends also to intermediate and shorter-range missiles which could be armed[*] with warheads developed with some future technologies. As you noted, the Administration's response to the senators is that the ban under this Treaty covers intermediate and shorter-range missiles, however armed.[*]

At the same time, you were interested in the Soviet side's understanding of this question in order to convey it to the U.S. senators.

I would like to confirm to you once again that the Soviet side's understanding of this question is the same as that of the U.S. side. The Soviet side unequivocally assumes that the Treaty on the Elimination of Intermediate-Range and Shorter-Range Missiles bans these two classes of missiles, irrespective of their armament,[*] nuclear or any kind of non-nuclear.

Mr. BYRD and Mr. WARNER addressed the Chair.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. NUNN. Mr. President, I will yield the floor.

Mr. BYRD. Mr. President, I will only take a few minutes. I thank the distinguished Senator for his statement, for his careful explanation of the matters of concern. I will review his written statement which I have heard today, comprised of several pages, and I will be discussing the matter with him again next week and with other Senators. I will also be discussing with Senator BOREN the progress of his consideration of matters involving verification. As we go along, we will determine at what stage then we think we are ready to proceed in an orderly fashion with debate on the Senate floor, always keeping in mind that the final object is to have a treaty that is in this country's best interests.

I believe that the Senator from Georgia in his statement has very clearly indicated that this is a matter of no small significance and that it is a matter which requires more than some letter, with all due respect to anyone's letter, and that is a matter that is correctable. Nobody is charging any trickery, anything other than inadvertence, but it is a matter we will be dealing with and we have to deal with. I thank him and will be working with him and Senator WARNER and others.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, will the Senator from Georgia remain for just a few minutes.

I was about to say to my good friend that he and I have worked together as full partners on this issue as we have on many issues in the past. I have had access to and, of course, shared with him our views on the various documents that have been put in the record today. My concern, however, is that a category 3 amendment opens up the problem of renegotiation of the treaty. And we do not know what other issues might surface if we reopen negotiations on the treaty.

That is our concern. The Senator from Georgia, I believe has accurately described the series of events which led to this problem on futuristic weapons, but it is my hope that before we come down solidly on the requirement of renegotiation, that we would explore exhaustively every alternative we can to reach a common understanding with the Soviet Union.

My understanding is that the United States and the Soviet Union have a common understanding on how futuristic weapons should be interpreted in the treaty. It is unfortunate that the letters from Secretary Shultz, and the Soviet Union have words in them that leave open certain questions that need to be resolved. I am hopeful that we can follow a procedure like we did under SALT II with respect to backfire bomber. We exchanged letters with the Soviets on an agreed production rate for the backfire bomber outside of the actual treaty text. It appeared to satisfy while the exchange of letters is not, I believe, legally binding by international law, thus let us try to explore every option before renegotiating this treaty and allow the Senate to move forward expeditiously on such scheduling as the leadership deems necessary.

Mr. NUNN. Will the Senator yield for a brief observation?

Mr. WARNER. Yes.

Mr. NUNN. I first want to say to the Senator from Virginia—I see on the floor the Senator from Indiana—they have been just as much involved in this issue as I have. I think we do have an understanding of the problem. I think it has been a common understanding, but I did not want to purport today, because I was speaking my own views, to speak for anyone else, and I did not. But as far as renegotiation, I do not say that is the only way. I do not say categorically it is the only way. I said I would be skeptical about handling this by letter, but I would listen to the arguments of those who might feel otherwise. I will listen to my good friend from Virginia on this subject without any doubt.

But I would say that if there is a meeting of the minds and if the Soviets do agree with the administration's definition of weapon delivery vehicle, then that would be the quickest negotiation in history because all they would have to do is agree to it. That does not take any meeting in Geneva or meeting in Moscow or meeting in the United States. If they agree, they agree. Whatever understanding we propose will without any doubt be discussed on the floor of the Senate for a day or so, and they will have a chance to read it.

I would certainly let the administration have the courtesy of any understanding I propose in advance. They could go to the Soviets, and it would be a matter of perhaps 5 minutes for them to actually sign off on it. And they will have at least 2 or 3 weeks. Probably the Senator from North Carolina will have more to say about the timeframe they will have than anyone else here. But they will have plenty of time to look at this language.

So I do not see it as a problem if they could agree with it. If they do not agree, there is a problem because we are bound, as I read domestic law if we ratify this, unless it is changed, by the administration's authoritative testimony before our committee or otherwise. The problem is the Soviets are not yet bound by that. So that is the way I see it. But I will be glad to have a dialog with the Senator.

Mr. QUAYLE. Will the Senator yield?

Mr. WARNER. I thank the Senator from Georgia. I am working today with the National Security Council on this very point and with the Secretary of State. We hope to come up with some proposals which I am confident will meet the concerns raised by the Senator from Georgia and others on this issue.

Mr. NUNN. I would say in one further response, if the Senator will yield, on the Backfire bomber issue the Foreign Relations Committee did have a category 3 understanding in 1979 which would have required then President Carter to have the Soviets sign off on it.

Mr. QUAYLE. Will the Senator yield for a clarification?

Mr. NUNN. I do not have the floor.

The PRESIDING OFFICER. The floor is available. The Chair recognizes the Senator from Indiana.

Mr. QUAYLE. Mr. President, let me speak very briefly. I appreciate the indulgence of the chairman of the Senate Armed Services Committee and his courtesy about other things. I want to just make sure that we understand what the controversy is. I want to see if we agree with that. Is the issue at hand dealing with the definition of what a weapon delivery vehicle is? Is that the issue in dispute?

---

[*] The Russian word used here, "osnashcheny, osnashcheniye" can be translated both as "armed, armament" and "equipped, equipment". During the INF Treaty negotiations in Geneva, it was standard practice to translate it as "armed, armament".

Mr. NUNN. That is exactly right.

Mr. QUAYLE. The dispute goes along the lines of whether a weapons delivery vehicle is in fact something else other than a missile carrying a warhead?

Mr. NUNN. The Senator is correct.

Mr. QUAYLE. The reason I raise that question is because of the testimony where it is said if a system damaged or destroyed its intended target, it would not necessarily have to be a warhead to be banned under the treaty.

Mr. NUNN. The Senator is correct.

Mr. QUAYLE. If, in fact, a warhead could be equated with something that would damage and destroy, would it be banned?

Mr. NUNN. Well, without any doubt, our common understanding of the word "warhead" means something that would damage or destroy but a warhead is not the only thing that would damage or destroy. There are other types of destruction and other types of damage that can be brought about by other kinds of devices attached to a ground-launched cruise missile or ground-launched ballistic missile, and that would involve things like lasers and other things that might not be warheads, but nevertheless could damage or destroy. So there you get into the question of—and I do not want to use the term again, but until I think of something better—a narrow interpretation of a weapon vehicle. We will find another word because this gets back into too much history.

But the more restrictive interpretation of what would cause destruction or damage would be a warhead. A much more expansive definition, if I could use those terms, of a weapon delivery vehicle would be something that would damage or destroy including but not limited to a warhead.

Mr. QUAYLE. Foreign Minister Shevardnadze uses the word "warhead" and not "damage and destroy." Is that correct?

Mr. NUNN. He uses that word in the first letter that has been translated. There is a second translation. I am not absolutely sure whether he definitely uses it there. I would have to go back and look at the letter which was just put in the RECORD. He does use the word "warhead" in that first interpretation letter.

Mr. QUAYLE. In the second interpretation letter, I think the "warhead" word is still there. What is changed is "however equipped," which reads "however armed" in the second translation. I believe that is the only major change. I do not believe there is a change in the word "warhead." So it is my understanding that his reference is to warheads.

Mr. NUNN. I would have to read it very carefully, but that causes me concern. The Senator is right. That word causes me concern because that could be read as the more restrictive interpretation while our administration is now using a more expansive definition that goes beyond warhead.

Mr. QUAYLE. If you get into a more expansive definition and you say this, that you are going to ban anything that damages and destroys, which I am not so sure that we should do or are going to do. I wonder if we thought of any definition of what "damage" means.

Mr. WARNER. Mr. President, if I could enter into the discussion of this issue.

Mr. QUAYLE. Do we have a definition of what "damage" means?

Mr. NUNN. I think as far as getting the word to describe beyond "damage," I mean without using the same word, damage means damage.

Mr. QUAYLE. Partial damage is damage?

Mr. NUNN. I am going to say to the Senator from Indiana that these questions were posed to the administration. I believe what we should do is to refer to their testimony of what they mean rather than having at this stage me trying to speak for them. But the word "destroy" or "damage" has been used. When you say "damage," whether it is 10 percent damage, 50 percent, 90 percent damage, it seems to me the administration has to address. But I believe we ought to defer to the record on that so we can be very explicit and careful.

(Mr. SIMON assumed the chair.)

Mr. QUAYLE. I accept the Senator's understanding. But that goes to the problem as you can see in this exchange right here. What we have gotten ourselves into, in my judgment, is a definitional nightmare. We have gotten ourselves into a definitional nightmare because what we are trying to do in one instance is to determine what a weapon delivery vehicle is. And the common understanding on the first Department of State analysis was it is something that delivers a warhead. Mr. Shevardnadze in a response to the letter said it is a warhead.

The problem comes up where we have now had some testimony that perhaps the meaning could be something that would damage and destroy. I think that is where the administration is going to have to sort of repair this part of definition and to see what in fact we are talking about because, as you listen to the exchange right here, I mean the Senator from Georgia knows a great deal about these issues. He is an expert. You start getting into these things of what is damage, and it is my judgment, and the reason I raised this issue in the first place, it shows just how difficult it is when you start trying to ban something when you do not even know what it is.

I do not think they should have gone down this route of talking about banning things that they did not discuss in the first place and that they could not clearly define.

So now we are getting back into this definitional jargon, and the Senator from Pennsylvania will be very intrigued by this, as a member of the Central Intelligence Committee along with the Senator from Virginia. If, in fact, we keep going down this route of coming up with new definitions, we have no alternative whatsoever but to go back to the Soviets and reopen negotiations because we are not going to be able to resolve all of these definitions and simply say here is our definition of the word "weapons delivery vehicle," here is our definition of "damage" and "destruction," and to think we are going to be able to resolve that. We are going to get ourselves into renegotiation, and if, in fact, we do get ourselves into renegotiation, I do not know how you can resolve this by the summit. It is my desire to resolve this by the summit. But we do have this particular problem.

Mr. WARNER. Mr. President, would the Senator yield for an observation?

Mr. QUAYLE. I am glad to yield.

Mr. WARNER. I do not think the problem is one of disagreement between the Soviet Union and the United States. It seems to me that the United States and the Soviet Union have a common understanding, a common goal. Admittedly the negotiations did not in the judgment of myself and others, particularly the Senator from Indiana, clarify this issue during the course of the negotiations to an extent that would substantiate the positions they have put forth today in these letters.

But given that void, they still appear to have a common understanding and it seems to me they could further clarify this in writing to resolve this problem. I now refer to the two translations of the letters from the Soviet Union. As you know, one translator said "* * * shorter missiles that could be equipped with warheads * * *." The second is "* * * could be armed with warheads * * *." But the ending phrase I think is the most difficult one. I will read the whole sentence. "* * * Could be equipped with warheads developed with some future technologies. As you noted, in responding to questions by Senators, the administration is saying that the treaty bans intermediate and shorter range missiles, however equipped."

There is the key word that troubles me "however equipped" in first translation and however "armed" in second translation coupled with our use of the word "damage." Lots of things can cause a small amount of damage.

Mr. QUAYLE. Is the word "damage" in either one of those letters?

Mr. WARNER. The word "damage" is not in either letter. That is correct. It does appear in the Secretary of State's letter to the minority leader of the Senate.

Mr. QUAYLE. Here is the problem. In fact, as the Senator pointed out, there was a meeting of the minds. There is a meeting of the minds of what you are going to want. In fact, there is no dispute that you are going to ban warheads on INF range cruise or ballistic missiles that are ground launched. Mr. Shevardnadze uses that word. The State Department's analysis used that word "warhead." That is "however armed," armed with a warhead. That is clearly the understanding.

The question is, if they are going to take that meeting of the minds, that letter, in conjunction with the State Department analysis and try to expand it and give us a new definition of weapon, then they will have plenty to grope with. What is a "weapon"? They say, "Well, a weapon"—the Senator, former Secretary of the Navy, knows what a weapon is. A weapon is something used in combat. It could be anything. You can have a weapon that does not necessarily physically damage or destroy. This is where we have to get a clarification from the administration. If they want to expand that definition of weapon to say that it is anything that damages and destroys beyond a warhead, then I think that they are getting themselves into a real problem.

Mr. WARNER. Senator, they have done that in testimony before our committee. The Senator from Indiana was present.

Mr. QUAYLE. They have used the word "damage" and "destroy." The question is if it is in relation with "warhead."

If it is in relation to warhead, then we are trying to define what warhead is.

Mr. WARNER. We come back to the second letter from the Soviet Union, which seems to me to go beyond the term warhead. They say "however armed."

Mr. QUAYLE. "However armed" would refer in that paragraph back to the first paragraph.

Mr. WARNER. In other words, the Senator argues that "however armed" has as its antecedent "warhead."

Mr. QUAYLE. Right. It references "warhead." Our problem is defining "warhead." Our problem is defining "weapon." If we get beyond that, then we are getting into new definitions and maybe renegotiation.

Mr. WARNER. I do not pretend to be a grammarian, but I might take exception to the antecedent, because if you take the sentence as a whole, it says: "As you noted, the administration's response to the Senators"—that would include the testimony before the Armed Services Committee when they used "damage or destroy." I repeat: "As you noted, the administration's response to the Senators is that the ban under the treaty covers intermediate and shorter-range missiles, however armed."

So there might be warheads. And the response to the Senators, if it is a response to the Senators, would embrace that testimony that covered damage and destruction.

Mr. QUAYLE. The Senator is aware of the State Department analysis of what a weapons delivery vehicle is?

Mr. WARNER. Oh, yes.

Mr. QUAYLE. And the State Department analysis says that a weapons delivery system is a warhead.

Mr. WARNER. Yes, I know.

Mr. QUAYLE. It does not say "damage and destroy." We can read a lot into that letter. We can go a lot of different ways, put our best minds to work, try to figure out what it means. If we try to put in a lot of definitions and a lot of other things, I think we are going to be here for quite some time on these definitions and what they really mean. But if we are going to resolve this with any degree of alacrity, we will have to figure out how the word "warhead" fits into it, what that definition of warhead is, and if a warhead is something that damages and destroys or if the system in question damages and destroys like a warhead, then, it should be banned as a weapon. It can be explosive, incendiary, or chemical in its effect.

If you use the terminology "damage and destroy like a warhead," then I believe it would be making some progress in trying to get a meeting of the minds. If we go another route, we are going to be into a lot of definitions, then, I think it will take a lot of discussion.

Mr. WARNER. Does not the Senator from Indiana agree that in the subsequent testimony before the Armed Services Committee—beyond the article-by-article analysis—we began to explore this issue in a comprehensive and intensive way? Indeed we held a classified hearing in room 407, where Ambassador Glitman and the Vice Chairman of the Joint Chiefs, got into these subjects.

It was clear to me that they have gone beyond the definitional article-by-article analysis and embrace any type of front end—let us call it a front end—on a ground based or ballistic missile which could cause damage or destruction.

Mr. QUAYLE. We started to get into some of these things. I think the Senator was there when I was asking a series of questions along these lines, of what constituted damage. I think that if you read that record, which is classified, you will find a bit of confusion about what constitutes damage.

I believe what we have to do now is to go back and see what the record is that we have before us. We have to look at the presentation that the administration has taken. You have to look at the administration's article-by-article analysis. You have to look at the Shevardnadze letter, at the negotiating record, and at the treaty itself. Then we have to figure out how we are going to deal with the futuristic devices or futuristic systems, because not all—I do not think anybody said this—not all in the category of futuristic systems should be banned; because there are many ways that would not have the capacity of being either like a warhead or do damage and destroy like a warhead.

Mr. WARNER. I say to my friend that, philosophically, I think we are in agreement. I think our Nation has gone too far and given away too much. But I must now confront myself with what the INF ratification record is as a result of the evolution of these events, and I come back to my point that it appears to me that the record before the Senate covers just about any type of front end you can couple on to one of these INF range ground-based ballistic or cruise missiles.

I will cite from the Secretary of State's letter dated April 20 to the minority leader of the Senate—

> In the context of the INF Treaty, it is our considered judgment that the Parties understand the term "weapon-delivery vehicle" to mean any INF ballistic or cruise missile system that is tested or deployed to carry a weapon—that is, any mechanism or device which when directed against a target is designed to damage or destroy it.

I thought Senator NUNN had just put it into the RECORD.

In any event, I am not sure, but I do not want to breach any classification. I understood that it was declassified, but I am not in a position now to so state, because it still bears some mark. But I will find out.

This indicates too that it is the intent of the United States to include any mechanism which could cause damage or destruction, and that is consistent with the subsequent testimony we have received.

Mr. QUAYLE. I have no dispute with the argument that the words "damage and destroy" have been inserted in this debate. There was absolutely no question about that.

I think what we have to do, as I said, is to go back and construct the entire history to determine just what is meant by damage or destroy. I am certain that the Senator from Virginia will be with us as we go back and try to construct the entire history of this issue.

When you look at the entire history, you have to look at what the most recent communications are. The most recent communications are—we have one from Secretary of State Shultz to Senator DOLE; we have the Shevardnadze letter; we have the testimony in S. 407. There is going to be testimony next week before the Senate Intelligence Committee on this issue.

Furthermore, the Senator knows that we have combed the record; and once in a while one witness says something different from another witness, and we try to figure out the meeting of the minds. I think the challenge now is to go back, see what has been presented, look at this in its totality, and figure out where we are going to go.

If we are going to go down the route of using "damage and destroy" and say that is the criteria for "weapon," which I think some may want to do, to say "damage and destroy" is a definition of "weapon," that is a rather interesting definition of weapon. That certainly is not in the dictionary. Maybe that is a definition that negotiators have; maybe that is a definition we want to arrive to. I do not think we want to get that broad or narrow, however you want to interpret that on this particular issue, because you are really getting back into renegotiation.

If you are going to try to define what damage means or what destruction means, you are getting back into renegotiation, and I think it has a potential of prolonging our review of this treaty.

Mr. WARNER. That concerns me greatly; because I hope the Senator from Indiana recognizes that while our President does not want to rush things, nor does the leadership of the Senate want to rush the consideration of this treaty, there are certain distinct advantages in having this treaty acted upon by the Senate prior to the forthcoming summit between the President and General Secretary Gorbachev. I think we should weigh that consideration as we view this issue.

Perhaps we can expedite our attention on this problem. As the Senator stated, the Senate Intelligence Committee, of which I am a member, will be meeting this week primarily to examine the verification and monitoring issues of this new category of warhead or armed front-end, however the terminology may come out, and which can damage or destroy to see what are the collection assets today and in the immediate future of the United States to provide adequate monitoring of concern.

As a matter of fact, it was the verification concerns that led to the administration adopting the position, as I understand it, to eliminate any front end that can cause damage or destruction.

It was the inability of really either side to perform adequate verification of these systems, and that is a very puzzling situation.

Mr. QUAYLE. I think it is not only puzzling but perhaps paradoxical because if in fact what drove this decision to go beyond banning nuclear weapons—remember the INF Treaty's objective is to reduce the threat of nuclear war. That is what we want to get rid of. That is what we want to eliminate. As a matter of fact, many discussions have gone on this floor on how we ought to augment our conventional capability, how we ought to increase our conventional capability, raise the nuclear threshold.

And it is rather paradoxical that because of verification we decide to give up some very promising nonnuclear systems.

And the very idea of giving up some very promising conventional systems, we are now even going to go further, perhaps—we will wait and see what the administration really says as far as the final definition—now that we have a record out there that is somewhat inconsistent. If, in fact, they are going to get into such things that may only have the potential of damaging, I mean to tell you, how you would have a chance of verifying this or of verifying something that may be partially damaging versus permanent damaging as compared to verifying that something has nuclear or conventional warhead is an absurdity on its face.

Mr. WARNER. Mr. President, I concur in the observations of our good friend from Indiana. He and I debated this issue many times, and it may well be that we have backed ourselves into a very difficult situation.

It is just my hope that the Senate can look at this issue in the context of its overall responsibility of the INF Treaty and make some determination as to whether we can or cannot resolve it to our satisfaction in the time that remains between now and the forthcoming summit. We have an obligation to our President to do so, and I am sure the leadership of the Senate and others will act very responsibly in seeing what we can do in the time remaining.

Mr. QUAYLE. Mr. President, let me just conclude and to make this observation again: I do not believe there is any disagreement between me and my friend from Virginia. We want to examine the totality of the record and to see exactly where we are. I tend to agree with him, and he knows we have been in arguing and debating in this committee for a number of months now that perhaps we have gone too far in banning some of these nonnuclear systems that we might want to use.

But, be that as it may, I think that it is our obligation now to see if we can resolve this issue. But we are going to have to resolve this issue in the totality of the record, and I will be honest with you, the record is not entirely clear. It is far from that.

I think that is probably one of the reasons we did not want to negotiate it. When we get into futuristics—and as a matter of fact, when I first raised this question in January, I thought the answer would come back, "No, we did not discuss it," and, "No, they are not covered,"—and now that they are covered we are going to have to figure out how they are covered and it becomes a very problematic discussion on how you ban something that you do not know anything about.

What we are going to have to try to do is to come up with a meeting of the minds, to come up with what we think a weapon delivery vehicle is. That is the key operative phrase that we are having the difficulty with. But when we get into this, I just hope we do not get into a definitional nightmare.

Once you inject—and I am not disputing that damage and destruction has been interjected here—once you do you must define damage. What is damage? I do not know.

Our scholarly lawyer from Pennsylvania can help us with a definition of damage and while he is at it maybe he can help us with a definition of weapon.

But this is the complexity that we are in and this is the situation that we find ourselves today and it is something that will, in fact, have to be resolved.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, a few hours ago, when I raised with the distinguished majority leader the suggestion that we ought not to delay consideration of the INF Treaty because of the President's stated interest in having the matter ratified before the summit on May 29, I had no idea that my request would result in extensive debate on the INF Treaty on this very day. But that is where the debate has gone and I think very much to the benefit of the country.

We have taken up in some detail some of the really tough issues and have really in effect started some of the floor debate on the INF Treaty.

When I had raised a disagreement with the distinguished majority leader on his statement, that he was not concerned about the debate of the summit, I had done so because of my concern that to the extent the Senate could accord the President's wishes, we do so.

I totally agree with what the majority leader had to say when he said, "We should not be pushed, we should not be rushed, we should not be stampeded."

But I disagreed with him totally when, in his reply speech, he said, "I do not care when the President sets a date for a summit. It is of no consequence."

That is what I do disagree with.

I do think that, while we ought not to rush to judgment, we ought not delay if we can move ahead and proceed. I think that the discussion this afternoon has been very fruitful on this subject because it has produced the chairman of the Armed Services Committee and other members, the ranking minority member, Senator WARNER, and the Senator from Indiana, Mr. QUAYLE. It has also produced the appearance of Senators from the Foreign Relations Committee.

The distinguished Senator from Rhode Island, Mr. PELL, had made the comment, which I think joined with what this Senator has urged, when he said that there is a momentum now for arms control. That momentum has been lacking for 7 years and if the momentum is not continued, then we will fall back to a fallow period. When Mr. PELL, the Senator from Rhode Island, said that, I think he is joining with what this Senator had said earlier, that we ought to move ahead, not precipitately, but carefully. If we can accommodate the Senate proceedings in time for the summit on May 29, as the President has requested, then we ought to do that.

I think when the Senator from Georgia, the chairman of the Armed Services Committee, took the floor, and in addition to detailing a number of technical aspects, said that it may be that this issue can be reconciled. I think he used the expression, in 5 minutes with the Soviet Union—well, perhaps it cannot be done in 5 minutes, but it is an obvious statement that it may be done in a fairly brief manner.

When the Senator from Georgia spoke about the time for debate, I believe he said that it would take, I forget his expression, 2 or 3 days, or a few days. So that when you add together the statement of the Senator from Rhode Island, the Chairman of the Foreign Relations Committee, Mr. PELL, about the desirability of momentum, and add to that the statement of the Senator from Georgia, the chairman of the Armed Services Committee, about the debate on whether this issue can perhaps be accomplished in a short period of time, and then the extensive debate on the technicalities, I think the ball was advanced. The process was advanced on that discussion, so that it does look to me, Mr. President, that, at the end of this session, it may be well within the purview of the U.S. Senate to honor the President's request, articulated in forceful terms when President Reagan used the term "prayed"—that he prayed that the Senate will be able to complete its business within the time allotted before the summit, and that it would be very much in our interest to do so.

While we ought not to rush to judgment, Mr. President, I reemphasize that I do think that it is important for us to keep our eye on the date of the summit.

I thank the majority leader for scheduling, in effect, this time and I thank the other Senators who have come to the floor on this subject, because I think the conclusion is a very beneficial one. Personally, I feel much better now about the prospects of our moving through the Senate process after hearing from Senator PELL, Senator NUNN, Senator WARNER, and Senator QUAYLE.

I thank the Chair and I yield the floor.

Mr. WARNER and Mr. RIEGLE addressed the Chair.

Mr. WARNER. Mr. President, may I finish this matter? Would the Senator indulge me for a few minutes?

Mr. RIEGLE. Of course.

Mr. WARNER. Mr. President, I wish to thank my colleague from Pennsylvania. He has been an arduous working partner on this whole subject as a member of the Intelligence Committee. I think the discussion and colloquy today among Members have been very helpful.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I thank the Chair. I am always pleased to yield to my friend from Virginia.

OMNIBUS TRADE AND COMPETITIVENESS ACT—CONFERENCE REPORT

The Senate continued with consideration of the conference report.

Mr. RIEGLE. Mr. President, I now want to take us back to the subject that is pending before the Senate, the trade bill conference report.

There was some discussion earlier in the day on the trade conference report, its importance to the country and the detail that is contained in it.

At this time, I want to summarize some of the critical aspects of that legislation and then I want to illustrate the enormous trade problem that we have facing this country. The latest data that we got last week knocked the stock market down over a hundred points in a single day. That puts the problem that we are facing and why this trade legislation is vitally needed for our country into perspective.

As a member of the Senate Finance Committee, I had the opportunity to participate in crafting this trade bill. As a matter of fact, a number of amendments that I was able to offer in the committee have now been incorporated in the final package that is before the Senate, the package that passed the House yesterday by an overwhelming vote.

I would like to touch briefly on some of those items. The most important by far, in my judgment, and I think the heart of the trade bill, is in title I, what we call the world markets opening initiative. Thus is an approach and a strategy developed by myself and Senator DANFORTH from Missouri within the Finance Committee, later incorporated into a leadership initiative by Senator BYRD and Senator DOLE, on a bipartisan basis, and which, in turn, gained the overwhelming support of Members of the Senate when it was included in the Senate trade bill.

That provision was retained with some modification; but the heart of it, the essence of it, the basic approach was maintained in the Senate conference report and is now a part of the bill. It creates a super 301 procedure which mandates the identification and, over time, the elimination of major unfair trade barriers maintained by our trading partners that keep American goods out of those countries and prevent us from being able to sell overseas where we otherwise should and would be selling.

This is a significant change in the current law because it mandates a results-oriented test and it provides an absolute mechanism to force open those markets that have been closed overseas by unfair trade practices. This means, of course, an enormous potential for added strength in our domestic economy. And that means jobs, good American jobs here at home across our 50 States and certainly in my own home State of Michigan.

So this particular part of the bill is where the real teeth are to stop the trade cheating that is going on where other nations have been taking advantage of the United States, taking advantage of our open markets on the one hand and yet denying us equal access abroad.

A second important provision in this bill is in section 1101 and section 1301 having to do with international workers rights. This legislation, for the first time, would define as an unreasonable trade practice, under section 301 of the Trade Act, those activities by any country which show a persistent pattern of denying workers in that country the right to organize or bargain collectively or that would otherwise allow the use of child labor or forced labor or where there are no minimum standards for wages, hours of work, or safety.

The Trade Representative must take into consideration whether or not these practices are consistent with a country's level of economic development.

In other words, it would include those kinds of subhuman work practices in foreign countries as an item that would constitute, in the end, an element of unfair trading if those practices end up causing the flow of foreign goods to come in here produced from that kind of inhumane labor condition. It would also make worker rights a negotiating objective in the new round of multilateral trade talks. This final version is the language that was adopted by the Senate Finance Committee.

A third item has to do with market access. This is also found in section 301 of the bill. It defines as an unreasonable trade practice foreign government toleration of systematic anticompetitive activities by or among foreign private businesses which have the effect of restricting market access to U.S. goods. That is a very important provision. It is in the final bill.

A fourth item provides equal access to government securities markets for U.S. financial institutions, known as primary dealership. It prohibits foreign companies from dealing in U.S. Government securities unless our own U.S. firms are guaranteed national treatment in the home country of the foreign-owned company. The provision would take effect 1 year after date of enactment. It is a minor modification from the amendment that we offered and had adopted in the Banking Committee, but essentially the same.

A fifth item has to do with foreign dumping evidence. This is in section 1329. Evidence that foreign merchandise is selling below cost in another country must be used as evidence by the International Trade Commission in determining whether a threat of material injury exists. So this helps us tighten down the testing mechanism of where unfair trading practices are being carried out by foreign competitors.

Finally, there is a specific item that affects my own State of Michigan directly in the trading area. In section 1905, we provide for a Customs port of entry for the Oakland-Pontiac Airport. And while that is an item that has particular obvious meaning and relevance to our State, we think its benefits will radiate out and help the country as a whole.

So those six items are in this bill and I am proud of the fact that they are. They are essential elements that will make this trade bill strong and effective, assuming we pass it here in the Senate and we can put it into law, either with the President's signature or over his veto.

Now, if I may, I would like to provide some information to my colleagues with respect to the scale of the trade problem at the present time. I have a chart here with me that shows how our trade deficit has developed over the last several years. I will briefly describe what is on this chart.

The line at the top of the chart is a zero line or balance of trade line. The timeframe starts at 1969, and what this area up above here in red indicates is that we were roughly at a balance of trade. We had a slight deficit in the early seventies.

It was not until the late seventies that we came down into a serious trade deficit position of about $40 billion a year.

Then, roughly in 1982 we had a major change in circumstances and suddenly our trade deficit got much larger.

We went through what we call an exponential change, down to a trade deficit level last year of roughly $170 billion. That is a $170 billion trade deficit for a single year, a phenomenal size deficit and a very radical change from what our prior history had been just a few years before.

If you take that trade data and you break out the month-by-month figures for the year of 1987 it starts to give us more insight into what is actually happening. The chart that is on the left side of this graph indicates that through the end of the year 1986 our trade deficit was down in the range of about $165 to $170 billion.

Then, as each month's data came in during the year of 1987 and was reported by our Commerce Department, I posted it on this chart on an annualized basis. I did this so we could see how we were doing; whether we were starting to see any kind of substantial improvement in our monthly trade performance or whether or not the deficit was maintaining itself at about the same severe level.

What you can see here in looking at these 12 months of data is that we seem to be more or less stuck at a very severe deficit level. Some months are better than others. Actually, October last year was the worst month in our history with a trade deficit of $18-plus billion. Then the months of November and December got a little better. But on an annualized basis, still a very severe level.

Of course there have been a lot of questions as to what would happen in 1988. Economists have been looking for what is called a J curve effect. By a J curve effect is meant some improvement in our trade policy and performance based on changes in currency values and changes in national operating efficiency.

Normally you would start to see these lines coming up like this, moving back toward a balance of trade as a whole series of adjustments would take us out of this severe trade deficit position.

But, as one can see, there is very little sign of a so-called J curve effect and we seem to be stuck down here in a very severe deficit level.

If you look at the data that has come in so far in 1988, one will see that the month of January, was about the same as last December. But then February's data that we just got last week, was worse. The deficit increased beyond what was anticipated. It was running at an annual rate of about $166 billion for the entire year. It was the publishing of that negative trade deficit information that knocked the stock market down over 100 points last Thursday and caused great concern about the fact that we seemed to be stuck, as I say, with a very severe trade deficit level.

If you think of this information as the income statement on trade I would like to show you what the balance sheet looks like. Because the balance sheet is in real trouble, our national balance sheet with respect to the rest of the world. Not much is written or said about this, although more attention is being paid to it all the time.

This chart is scaled in $50 billion segments. The line across the top, again, is a zero line or a balance line.

What this chart shows is that in roughly 1984 the United States moved into the debtor nation status, into this red ink zone, for the first time since 1914. If you go back in history from 1984 where one sees this blue area, we had been a creditor nation. We had had a positive international financial balance going all the way back to 1914, taking us through the world wars, the Great Depression, other periods of time where we had major economic difficulties.

But as we started to draw that down, and in 1984 crossed this debtor nation line, we have been adding national debt at a very alarming rate of speed. We have come down this curve, we have passed all the other nations on the debtor nation list.

What is depicted here are the four quarterly additions to our international debt for the calendar year of 1987 and of course that same pattern is continuing to this very day.

The United States of America, because of our trade deficit, is, today, adding international debt at the rate of $1 billion every 2½ days. Every 2½ days this country of ours as a whole and all of us in our society are placed deeper in debt to international lenders to the amount of $1 billion every 2½ days.

So, if one thinks about the change in national circumstance from roughly 1982 down to the end of last year, 1987, this is really a remarkable turn of events. It is totally alien to our previous economic performance in this century. There is nothing that we can find that is even close to being like this and, as a matter of fact, this rate of descent down into this international debtor's hole, I think, is profoundly dangerous to our country and to our future. It cannot be sustained and ought not to be sustained.

Now, I take the time to discuss this because the trade bill that is at the desk, and that the Senate will vote on, is designed to turn these trend lines around, to enable us to become more productive, more competitive internationally, stop the trade cheating, protect the trademarks and proprietary patent strength that we have for goods that we can sell in the world market and in other ways strengthen our international economic performance.

But, as one can see, it is crucial that we get these trend lines turned around. We just cannot continue to operate on this basis.

Mr. SIMON. Would my colleague yield?

Mr. RIEGLE. Yes. Yes, I yield.

Mr. SIMON. I first commend him and I would like to ask him one question. Is it not true, not only have we become the number one debtor nation, but the total debt we have now is roughly double the total indebtedness of the next three debtor nations, Mexico, Brazil, and Argentina combined.

Mr. RIEGLE. Yes. Yes, the Senator is exactly right.

As a matter of fact, the New York Federal Reserve Board has made an estimate of where America's international debt will be in roughly 2½ years' time. When we get to the year 1990, between 1990 and 1991, we are going to owe the rest of the world roughly $1 trillion.

The $1 trillion as the Senator knows is a thousand billion. It is an awful lot of money. But the outstanding debts of other nations, even when those nations are combined together, are dwarfed by ours, as the Senator said.

Mr. SIMON. So, in a very real sense we are moving down the same path that Argentina and Brazil and Mexico moved and from which they are trying to extricate themselves; a very, very precarious economic situation?

Mr. RIEGLE. Well, the Senator is exactly right. We are living on an international credit card. There was, in relationship to that, a story in this morning's paper about Nicholas Brady, our former colleague who headed the Brady Commission that studied the stock market crash. He asserted in a speech that he gave yesterday that the Japanese, who are now one of our major lenders—as we borrow all this international money, the Japanese—they are lending us back money that used to be ours and is now theirs. And he, in fact, asserted that the Japanese became nervous and began to sell their government debt holdings in U.S. Government instruments, drove up the interest rates, and he made the assertion that he thought that that was the trigger event that actually caused the big stock market crash back in October of last year when the stock market went down over 500 points in 1 day.

So, not only are we in debt more and more each day to these foreign lenders, but there are now these new questions of the degree to which we may be turning over control of our future to economic decisionmakers in other countries.

Mr. SIMON. If my colleague will yield, I commend him for what he is saying. The reality is, if the Riegle family or the Simon family gets too deeply into debt, you start losing your independence, and the same is true of the United States of America.

We are discussing the trade bill. In fact, if we want to impose some kind of leveling off in trade with Japan, we now have to think: What will Japan do in terms of buying our debt?

Mr. RIEGLE. That is exactly right.

Mr. SIMON. And we are losing that independence that is so vital to this country.

Mr. RIEGLE. Exactly, and if they should decide at a future point that, yes, they are willing to lend us back some of what used to be our money, but they want a higher interest rate, it could have the effect of pulling interest rates up generally in this country, and we know higher interest rates are one thing that will shutdown our economy.

So we could actually have a recession brought about through higher interest rates because foreign lenders decide to play hard ball at some point.

Mr. SIMON. I commend my colleague for his leadership here.

Mr. RIEGLE. I thank the Senator. Let me show him one more chart that really illustrates this another way. What I have done is taken our trade deficits since the year 1980 down through last year, 1987, at the bottom of this chart. So this constitutes the entire trade deficit of the United States; roughly $170 billion in 1987.

What I have done is code the bilateral trade deficits with just three countries, and these three countries constitute, as you can see, roughly half of the total trade deficit. I have Japan coded in red; Taiwan coded in yellow; Korea coded in brown; and other countries coded blue.

What is significant is if you look at our bilateral trade deficits for 1987, you will see the bilateral deficit for Japan alone was over $60 billion. That meant that Japan on net was taking $60 billion our of the United States economy. That is $5 billion a month. It is an extraordinarily withdrawal of capital from a nation that needs capital and has a low savings rate.

Importantly, if you look between 1987 and 1986, actually the trade deficit we have with Japan went up in 1987 over 1986, despite the fact there was a huge fall in the value of the dollar and certain other things happened that should have made this deficit go down.

When you do not see the deficit go down, you have to begin to ask why that is. When you look at it, you will find that there are a whole set of reasons, including a lot of unfair trade practices where the Japanese will not let American products come into Japan and be sold. They have not let us bid on construction projects. They will not buy Michigan cherries in the amounts we can sell them because they do not want to displace agricultural products in their own country.

So Japan has had this pattern of an enlarging bilateral surplus, $70 billion last year, $5 billion a month coming out of the U.S.A. every 30 days.

Let me say something about Taiwan which, as you can see here, has grown a very large bilateral surplus itself. Taiwan is an area of roughly one-quarter the size of the State of Ohio. It is about as big as this room, actually, when you think about its size. Taiwan had a trade surplus with us of almost $19 billion. It is an incredible amount of money. They are taking a billion and a half dollars a month out of the United States.

Korea, which has come on as a very strong international competitor, was not even on the chart back in 1980 because their surplus was so small, but you can see it enlarging. When you get this much space on a graph line that totals $170 billion, it is big numbers.

The fact is, today when I was out on the Senate steps, I had two groups of students from Michigan visiting here. I had a middle school group that was visiting from the Livonia area, and I had another high school group that was visiting from the Grand Rapids area.

We talked about their job future and the job future of their parents, working in Michigan today, their security depends so importantly on this trade picture because if we continue to let our best jobs go overseas in increasing numbers, we just cannot have the kind of job future that we have known in our recent past. We will have jobs, yes, but they will not be jobs that have health insurance associated with them, or have retirement programs associated with them, or have a wage scale associated with them because of the high value added work that is being done that would allow that wage earner to earn enough, say, to become a home owner or to put aside enough money for their children to be able to go to college.

So the whole question of whether or not we have a fair trading system goes immediately to the issue of what kind of jobs we have in this country and what kind of jobs we are going to have in the future. Those young people today standing out there, working in school, trying to prepare themselves, have a vital stake in that legislation that is down on the desk. That is why it is essential that the President sign that bill.

Once it passes the Senate, as it will, and goes down to the White House for signature, the President ought to sign that bill because, otherwise, we are not going to see much improvement, in my view, in these statistical trend lines because these trend lines look at the last 8 years. The last 8 years have seen the buildup of this problem in the dimensions that I have laid out.

So I hope that the people of the country who have a direct and personal stake in our economic future will also add their voices to this debate and ask the Members of the Senate and the President to support this trade legislation. Its main purpose is to insist on fairness and to let us compete on a basis where we have a fair chance to win our share of the commerce of the world trading system.

It is probably the most important thing we will do in this Congress this year. There are other key issues, but this is certainly one of the most important. So I recommend it to my colleagues.

I hope the people of the country will speak out in the time leading up to the vote next week and before the President makes his final decision because we need to make this the law of the land. When we do, America will be able to make an economic surge, and everyone will gain because of that.

I yield the floor.

Mr. PELL. Mr. President, I support this trade bill conference report, and particularly the very important education provisions that are an integral part of that report. Clearly, education plays a central role in a long-term strategy to regain our competitive edge in the world economy. A strengthened economy demands a more educated work force. Education unleashes the productive ability of our citizens. Education develops the basis skills that will enable workers to master quickly the seemingly ever-changing demands of the workplace. And education promotes the ingenuity and creativity of those who will carry our industries into new ventures and new markets.

The education components of the trade bill comprise a comprehensive legislative strategy. That strategy seeks to develop widespread educational competence among our citizenry. And in doing so it strengthens the ability of our future work force to meet the challenges of the international marketplace.

It is important to realize in this context that the fundamental tools to accomplish this task already exist in law.

They need only the teeth of better funding in order to be effective. The education components of the trade bill stake out those areas of education where increases in current programs or new authorizations will strengthen our competitive capabilities. Those key areas include mathematics, science and technology education, basic skills instruction and literacy, and vocational education.

First, we provide for reauthorization of the Education for Economic Security Act. This is the program we enacted almost 5 years ago to upgrade math and science instruction in our elementary and secondary schools. It is a law whose only handicap has been inadequate funding.

Second, we have authorized the Star Schools Program Assistance Act, which will improve a student's access to basic and advance courses in mathematics, science, and foreign languages through use of telecommunications.

Third, we authorize $21 million for model programs in foreign language instruction at the elementary and secondary level. Foreign language facility is an important component of our ability to do business with other nations, and it is clear that such ability must be developed in the very early grades.

Fourth, we have provided a $200 million increase in the chapter I program specifically targeted to basic skills for secondary students. Efforts to strengthen the competence of our work force must insure that students are provided the basic skills necessary to enable them to perform their vocational duties competently and to adapt to changes in their work responsibilities resulting from changes in industries.

Fifth, we provide a new $10 million authorization for educational partnerships between the public schools and the private sector and community organizations. This Demonstration Grant Program will encourage organizations in the community to contribute their resources, their time, talent, and equipment, to enhance the quality of instruction in public schools. In this vein, it will promote community support and responsibility for elementary and secondary schools.

Sixth, I am particularly pleased that we have incorporated the Training Technology Transfer Act as an important part of the education provisions of the trade bill. This is legislation that I introduced earlier in this session, and it would facilitate the sharing of computer software training programs developed by Federal agencies or by contract with Federal agencies. For example, information regarding basic skills training programs developed at the Department of Defense could be converted at very reasonable cost for use in educational institutions, thereby defraying the high cost of development of this software.

Seventh, we have authorized a new program in international education to provide grants to universities which emphasize the importance of international study in a business program. This demonstration program is designed to encourage higher education institutions to make foreign language instruction and international studies an integral requirement of a business program. Programs funded under this title should also serve as resources for businesses in the community in which the center is located.

Eighth, we enable the Secretary of Education to provide up to $5 million for Ronald E. McNair Scholarships. This important program provides scholarships for graduate minority students. By enabling these students to pursue a course of study at the graduate level, these scholarships serve to increase the talent pool of minority professionals in science, mathematics, and technological fields.

Ninth, we provide important changes in the Carl D. Perkins Vocational Education Act for training and retraining programs. On the one hand, we increase by $10 million the authorization for industry-education partnerships for training in high-technology occupations. We also create a new $25 million authorization for adult retraining of the current work force. Vocational programs under this title would insure that services that dislocated workers received under the Economic Dislocation and Worker Adjustment Assistance Act would be of the highest quality and would stress training in high-technology occupations.

Tenth, we have a critically important new program to address the school dropout problem. In providing measures to improve our competitiveness we cannot ignore the fact that well over 25 percent of our students drop out of school. Without adequate skills, these young adults cannot be part of a competitive work force, nor will they have the ability to adapt to the changing needs of the workplace.

The School Dropout Demonstration Assistance Act established under this title authorizes a $50 million demonstration grant program to local educational agencies and educational partnerships. Grants under this title shall be awarded to successful projects which seek either to prevent students from dropping out or to encourage students who have left to reenter school and graduate.

Eleventh, the education components of the trade bill also include three literacy demonstration programs. The Literacy Corps Assistance Act is designed to provide grants to higher education institutions to encourage college students to volunteer as tutoring aides in the fight against illiteracy. The Workplace Literacy Assistance Program encourages educational institutions and businesses to provide workers with basic skills instruction. And the Technology Education Act provides literacy instruction in the area of technology and instruction in the application of this technology to vocational demands.

And 12th, we provide an authorization of $85 million at the National Science Foundation for an extremely important program to upgrade research facilities at our Nation's colleges and universities.

Mr. President, as I said when we originally passed the Senate version of the trade bill, we no longer operate in an isolated economic setting. The emergence of the international marketplace challenges us to improve the productivity and competitiveness of American industries. Our ability to face this challenge is critically dependent on the sum total of the ability and talent of our work force. And in that regard, our long-term strategy must include a strong agenda to develop and promote the productive capabilities and energies of our people. The education components of the trade bill provide the strong agenda upon which we must act. It is with that in mind that I urge my colleagues to support the conference report.

Mr. SIMON. Mr. President, the Congress is about to complete 3 years of hard labor on one of the most important issues we face as a nation—improving our economic position in the world and our preparedness to meet the challenges of tomorrow by developing our people and establishing fair trade policies for future competitiveness.

H.R. 3, which was passed overwhelmingly in the other body on Thursday by a vote of 312 to 107, is a bipartisan bill which was crafted with the constructive involvement of every major committee in both Houses of Congress. The administration has played a role as well, although the President is threatening a veto because of his concerns with several provisions in the bill.

TRADE PROVISIONS GENERALLY

Mr. President, I strongly support the conference commitee's report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1987. I commend my colleagues who have worked diligently on the issue of international trade and competitiveness for the past 3½ years. Their interest and knowledge of this important issue is clearly reflected in the product.

When my colleague from Texas, the distinguished senior Senator from the Longhorn State, first introduced the omnibus trade bill, I was proud to be a cosponsor. While the conference report on H.R. 3 is different from S. 490, the bill first considered by the Senate, I believe it is far superior.

When Congress first began its deliberations of the trade issue, experts were quick to point out that our trade problems were not the result of one misguided policy or one faulty law. Our multibillion dollar trade deficit was the sum of a number of problems related to our overall competitiveness. Therefore, Congress decided to tackle that issue as well.

One of the first things that was pointed out in this debate was that our Nation's educational capability was inextricably linked to our competitiveness. Accordingly, the Senate Labor and Human Resources Committee contributed the section to the bill which improves our Nation's math, science and foreign language capabilities, as well as attacking illiteracy in the United States.

Another point that the witnesses stressed was that the crushing debt of the Third World was destroying what were once good export markets for the United States. The Reagan administration's approach to the problem—the "Baker Plan" hasn't worked. Banks have been understandably reluctant to throw good money after bad, and this simple fact has undermined the basic premise of the Baker plan. We must be realistic about this debt, and I believe that taking steps toward the creation of an international debt management facility is the realistic way of proceeding.

We also heard from a number of industries about the problems that generated this bill in the first place: "unfair trade practices." To combat these practices, which have cost the United States billions in exports, we added the "super 301" amendment to the trade bill, an amendment which I cosponsored.

There are those who say that the executive branch already has enough tools at his disposal to combat unfair trade, and that is true. But what is also true is that the way our law is written now, an administration like this one can sit on its hands and allow these statues to collect dust. We have seen the results and overall economic effect of the Reagan administration's "Do nothing" trade policy: A $170 billion deficit and a stock market that sits on the edge of its seat once a month, waiting for the bad news to be delivered from the Commerce Department. Enough is enough.

This trade bill offers us a way to depart from this economic uncertainty and to take control of our market again. I am in accord with my colleagues: We don't want to close down the American market. We want to open those foreign markets that are closed to us and have been closed for years.

These are some of the most important points, but they are not all. American exporters will be helped by the "beefing up" of the United States and foreign commercial service. Our commercial officers could be on the front lines of export promotion, but sadly, they have not done all they should. This bill improves on our export promotion services, and that will benefit all our businesses.

Taken together, H.R. 3 is a bill that helps make foreign trade fair trade and makes this Nation competitive, and I urge my colleagues to adopt this conference report.

LITERACY AND FOREIGN LANGUAGE ASSISTANCE PROVISIONS

I am particularly pleased that this bill includes a proposal of mine from the 97th Congress that would authorize $20 million for States to assist local education agencies in developing, improving and implementing model programs in foreign language instruction in elementary and secondary schools. This program also includes a $1 million authorization for a Presidential Award for excellence in Foreign Language Instruction for one elementary and one secondary school teacher in each State. This program is particularly significant because it marks the first time that a national effort will be made to encourage foreign language instruction in our elementary schools. Currently only 1 percent of our elementary schools offer foreign language instruction—when it has been shown time and again that this is the most feasible time to teach foreign languages to students. By a time a student reaches college level it is extremely difficult to try and master another language. This bill is only a start, but it is a start long overdue, and it is one I hope to see expanded through its success in our schools.

Additionally, I want to commend Senator DODD on his successful efforts to include a much-needed Worksite Literacy Program in this bill. I am quite pleased to see a $30 million authorization for this program that would authorize matching grants for education partnerships for onsite literacy programs in the workplace. As our Nation's economy is increasingly becoming a high technology one, we must begin to improve the skills of our work force. This program is critical to our long-term economic competitiveness.

PLANT CLOSING PROVISIONS

The President has indicated his strong opposition to giving 60 days notice to workers who are about to be laid off. On this issue, the President is simply wrong. Of the 2 million workers who lose their jobs annually due to shutdown or layoff—two out of three receive no advance notice. Although the larger industries provide such notice routinely, the average blue-collar worker receives only 7 days notice. Unorganized workers receive only about 2 days notice of the average.

Two days is no time to find a new job, be retained, sell a home and move to a place where employment is available, and no time to make the mental adjustment to a possible period of unemployment. Loss of a job can often mean personal loss of self-respect. This often leads to problems in the home with children and the spouse. The Nation gave President Reagan 4 years notice before they terminated his job—2 months notice is a small consolation to the people who make up the backbone of the American economy that their working situation may change.

Let's look at the facts on plant closing provisions in H.R. 3:

Requires 60 days notice by an employer with more than 100 workers;

Covers layoffs affecting one third of the work force or any work force if more than 500 persons are affected by the layoff;

Exempts small businesses with less than 100 workers; and

Exempts firms from the duty to provide notice when the company has a reasonable belief that notice would cause an avoidable shutdown.

A great deal of discussion during Senate consideration of the trade bill and during the Committee on Labor and Human Resources consideration of S. 538, the Economic Dislocation and Worker Adjustment Assistance Act has centered on the "plant closing" provisions. In some respects, these portions of the bill have overshadowed the critical issues of expanding and improving the Delivery of services to dislocated workers under title III of the Job Training Partnership Act, and the critical relationship between advance notice and worker retraining. The Secretary of Labor's Task Force on Economic Adjustment and Work Dislocation in a competitive society force agreed that advance notification to employees and the community of plant closings and wide-scale permanent layoffs is good employer practice, when coupled with a comprehensive program of counseling, job search information and training.

In a 1987 report, the conference board also noted that "Both survey and interview participants note that advance notice is beneficial to employees and is an essential element in a plant-closing program," because notice facilitates greater program participation and because "a functioning plant is, perhaps, the program's single most important resource."

It is important to note that the Secretary's task force found no evidence that the productivity of the work force is adversely affected during a notification period.

I want to speak again briefly, and particularly about just three provisions of the trade bill.

One is a little-noticed provision in the trade bill that provides $20 million to assist local education agencies to encourage elementary school training in foreign languages. What does this training in foreign languages have to do with the trade deficit that Senator Riegle was talking about here just a little bit before?

There is a very simple rule in business. You can buy in any language. If you want to sell, you have to speak the language of your customer. We do not speak the languages of our customers. We are the only nation on the face of the Earth where you go through grade school, high school, college, get a Ph.D. and never have a year of foreign languages. That has to change.

Fewer than 1 percent of the elementary school students in this Nation take foreign languages. In virtually every other country on the face of the Earth, every elementary school student takes foreign languages. The $20 million in this bill is not going to provide any short-range answers. But it is going to prepare our Nation in the future so that we can be equipped. Twenty million dollars is a small amount in terms of the national education agenda. But it is a small but clear signal to the schools of the Nation. We are going to have to change our policy. We are going to have to do much better in this area of foreign languages.

The second part that is included, and it was included at the suggestion of our colleague, Senator Dodd, and I commend him for that; that is a small amount to encourage literacy training. I have been able to get $5 million on the Library Services Construction Act and $2 million in VISTA, and some college work-study money, and a little bit here and there. But no other major industrial society tolerates the level of adult illiteracy that we tolerate. It has to change. We ought to be moving massively.

What Senator Dodd is doing here is not moving massively. But at least he is moving a little more forward. It is a step that needs to be taken. I am pleased that it is being taken.

Finally, I want to speak briefly about the contentious part of this trade conference bill. That is plant closings.

I ask unanimous consent, Mr. President, to insert into the Record the Washington Post editorial of April 18.

There being no objection, the article was ordered to be printed in the Record, as follows:

Plant Closings and the Veto

As a test of wills, the collision between the administration and Congress over plant-closing legislation is splendid theater. But it would be a sad waste of effort and opportunity if the whole trade bill were allowed to die over an issue that is only remotely connected to trade.

President Reagan has said that he will veto the bill if the plant-closing language stays in, and the Democratic leadership of Congress refuses to take it out. The provision itself is a rather modest one, requiring 60 days' notice to employees before a major layoff or the closing of a factory. Many large companies already have similar notification rules in their labor contracts, and when you consider the impact of a plant closing on the surrounding community, it's a reasonable rule. But most of business, vehemently opposed, protests that it's the camel's nose under the edge of the tent. It would be a precedent, the argument goes, for further restrictions, and the first thing you know the American labor markets would be as rigid and inefficient as Europe's. That fear seems grossly overdrawn in view of the present state of the labor movement.

Labor has lost a long series of skirmishes over the past several months, and that's one reason for the passion it brings to the plant-closing provision now. The congressional conference on the trade bill has weeded out all the genuinely protectionist items, many of them strongly supported by unions. Those defeats were aggravated by the failure of the trade-protection issues to swing any significant numbers of votes in the presidential primaries and caucuses after Iowa. Labor's campaign for the plant-closing requirement is an attempt to salvage at least one visible victory in a bill in which the unions have a great deal at stake.

There is good reason to hope that even after a veto, the trade bill will eventually become law—with or without the offending language. The negotiations will resume. Many businesses have strong interests in passage of one section or another of the bill. It would allow the next president to negotiate trade agreements reaching for the first time into kinds of trade—services, for example—in which American companies are increasingly engaged. Similarly, labor's friends in Congress can point to many paragraphs that would make American trade law more consistent and predictable in its application. It's unfortunate that a small but useful plant-closing rule should have acquired such symbolic importance at this stage of the bill's evolution. When the jousting over it has ended, there will be time to remember that there are other valuable purposes to be served by this legislation.

Mr. SIMON. I point out the necessity for moving in this area.

For blue collar workers working in plants that are not organized, that are not unionized, the average notification for loss of jobs is 2 days. That is indefensible. There just is no defense for that. That is hurting everyone.

If anyone wonders why people join unions, you just take a look at that particular provision. They get a little protection. It does not mean that every union worker gets protection in this country. Obviously they are going to get more protection if this bill passes. Our friends in Western Europe have plant closing notification requirements. Our friends in Canada have plant closing requirements. Why should not American workers have the same protection?

This is not an onerous bill. Last night I was at the White House correspondents dinner here in Washington, ran into a former high official of this administration, and he says "I have been following what is going on on plant closing." He said "That thing is cleaned up so that no one should object to it. I don't understand why the White House is objecting to it."

My feeling is those who object still are looking at the title, and not the substance. Let me point out what it does. It requires 60 days notice for employers with more than 100 workers, and any business that has fewer than 100 workers which is the large majority of businesses in this country is not covered by plant closing.

No. 2, it covers layoffs affecting one-third of the work force or if more than 500 people are affected by the layoffs. So if you had, for example, a plant with 1,400 employees, and you laid off 400, you would not be covered by this legislation. Frankly, we probably ought to be covering them. But this bill is so mild, so moderate that it does not even cover those.

Then, finally it exempts firms from the duties to provide notice when the company has a reasonable belief that notice will cause an avoidable shutdown, another fairly significant loophole there.

I would point out also that the Secretary of Labor appointed a task force to look at this whole problem. That task force, among other things, said this:

> Experience has also shown that the earliest notification possible leads to more effective delivery of public and private services to dislocated workers . . .
>
> The task force is in agreement with other studies that have concluded that advance notification is an essential component of a successful adjustment program . . .
>
> It is true that a recent General Accounting Office survey indicated that in too many plant closing and permanent mass layoffs, insufficient advance notice of job loss is given to make possible an optimal private and public role in the reemployment process.

I might add one other reason why employers should be for this.

I used to be in business, and one of the things that aggravated me as much as anything was to pay increasing unemployment compensation costs when I was not causing that unemployment.

The reality is that responsible employers who notify employees in advance so that employees can line up their jobs are being penalized by irresponsible employers who just move in and, without adequate notice, fire employees. Responsible employers are paying higher and higher unemployment compensation because or irresponsible employers.

What this bill will do will be to save money for responsible employers.

I think the provisions in this, in terms of plant closing, are very sensible. I heard the distinguished Senator from Texas [Mr. BENTSEN] the other day in the Democratic caucus mention that he had studied these provisions, and, as a former employer, he felt that they were very sensible. I certainly believe the same.

I hope this body acts decisively, as the House has, on this conference report. I hope we will send a clear signal to the White House, and I hope that those in the White House do not just look at labels, but will examine the substance of the legislation. The substance of the legislation is sound and deserves to support of the Senate. It deserves the support of the White House.

During joint hearings between my Subcommittee on Employment and Productivity and the Subcommittee on Labor, we reviewed the plant closing issue and the evidence on economic impact extensively. There simply is no compelling evidence to support the claim that jobs will be lost. Following a hearing before my subcommittee on March 6, 1987, Senator QUAYLE and I tried to develop a consensus among representatives of business and organized labor to no avail. Those who suggest we can or should postpone this decision to a later time want to kill plant closing legislation. We have delayed long enough—now is the time to act.

Mr. President, the American people overwhelmingly support advance notice, 86 percent of those responding to a recent Harris survey for Business Week said they favor a law requiring companies to give advance notice of a plant closing. This necessary and important new right for American workers is also no reason to veto this critical bill. In an April 18, 1988 editorial, the Washington Post eloquently made out a case against the President's threatened veto of the trade bill because of this provision.

I urge my colleagues to vote "aye" on the conference report.

SENATOR ROBERT C. BYRD

Mr. SIMON. Mr. President, I was not here when the Senate majority leader announced that he would be stepping down at the end of this session. I simply want to join others who have commended him for his leadership.

Senator BYRD has never said anything or done anything publicly or privately to embarrass this body. He has been a distinguished leader. And he has really embodied the American story, a struggle from childhood on to emerge as one of the most important figures in the most important Nation on the face of the Earth. It is a great American story.

And I am proud to have him as my leader. I am proud to have him as my friend. We are all in both political parties, and I think all Americans are grateful to Senator BYRD.

He is going to serve the people of West Virginia, subject to their expression in the next election, I hope for a long time to come and serve the people of this Nation for a long time to come.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. HARKIN). The Senator from New York.

PANAMA

Mr. D'AMATO. Mr. President, yesterday I spoke about the issue of Panama and questioned the policy, or the lack of policy, as it relates to dealing with General Noriega and what is taking place.

Today, I would like to refer to an article by syndicated columnist Georgia Anne Geyer. This article appeared Monday in the Washington Times.

I think this is important enough that I am not going to just submit this article for the record as read in its entirety, but I am going to take the time to read this article and then make some other observations as to the deteriorating situation economically and politically. The stability of Panama is eroding hourly, as the people of Panama and, indeed, I think the people of the United States wait for there to be action, and decisive action, that will rescue the people from a drug-dealing dictator by the name of Manuel Noriega.

The article is entitled "Helping Noriega Out With The Gringos."

> Until now, Roberto "Bobby" Eisenmann, the courageous La Prensa publisher and opposition leader in besieged Panama, rejected out of hand any idea that Panama could become "a new Cuba."
>
> "I never thought that Noriega could convert Panama into another 'new society,'" says Mr. Eisenmann, as the Panamanian situation gets worse and worse. "There were legitimate revolutions in Cuba and Nicaragua, and Manuel Noriega is in a total vacuum by himself. I always thought it was impossible, from a vacuum, to convert Panama into a different society. Today I have different thoughts."

Mr. President, I think that is quite compelling when one of the leading opponents against the theory of the Cubanization of Panama and of the left making inroads today, Mr. "Bobby" Eisenmann, the editor of La Prensa, says he was wrong.

> The real Panamanian revolution—the people's spontaneous, nonviolent outpouring of rage against Gen. Manuel Noriega and his hated Panama Defense Forces—is almost a year old. The closing of 130 of Panama's influential banks, mostly through American economic pressures, approaches its second month, and yet nothing has changed.
>
> It is all rather simple, Mr. Eisenmann told the Women's Democratic Club in a groundbreaking speech on April 12 that defined for the first time an entire political phenomenon in the Americas. We are witnessing the ominous birth of "narcomilitarism."
>
> "This phenomenon has sold our country to the drug lords," Mr. Eisenmann told the group. "This is why the traditional pressures against the Noriega regime have not been effective."

Mr. President, later on I am going to make reference to exactly what is taking place.

They have an economy all their own in which they can make do without consideration of what is going on in the country."

Meanwhile, the Cubans, who for years have used Panama as their Hong Kong for outside goods and services, have moved in with cunning glee. There are seven leading Cuban military and intelligence specialists now advising Gen. Noriega and responsible for the increased sophistication of his tactics.

Among them are Ramiro Abreu, a Central American specialist with the Department of the Americas of Cuban Intelligence; Luis Arbuzi, a U.S. specialist with the same; Fernando Ravelo, the ex-Cuban ambassador to Colombia and currently the liaison between Fidel Castro and narcotics cartels of the Castroite Colombian M-19 guerrillas.

Let us understand that Castro sees the vacuum, Mr. President, and is moving to fill it.

There are also two Nicaraguans, one of them a Julio Lopez who works for Sandinista hard-liner Comandante Bayardo Arce.

Emerging is an unholy and historic alliance of the Latin Marxists, the rich narcotics cartels and unscrupulous military opportunists such as Gen. Noriega. Mr. Eisenmann calls it a new-style "chemical warfare."

"The radical left in Panama has gone underground," the renegade anti-Noriega Panamanian ambassador to Washington, Juan Sosa, told me. "Underground, it can provide protection for the 'narcos.' Then the narcos provide the money and the military provides the stability."

Another frightening comparison with Fidel Castro's original transformation of Cuba is the fact that in a basically egalitarian Panama that is overwhelmingly middle-class, the middle classes are beginning to leave. As the paralysis of the country drags on, more than 25,000 middle-class Panamanians already have fled to Costa Rica.

The difference in Mr. Castro's 1959 takeover of Cuba is that he deliberately moved out the middle class, which threatened his compulsion to total power; then he organized the lumpen, the marginalized, the Cubans "outs" under his unquestioned power. It is not too implausible that that could happen with Gen. Noriega and the Panamanian "outs."

What to do now? The economic sanctions were fine in the beginning. At this point, however, if the United States does not soon take military action, get Gen. Noriega out unconditionally, reorganize the Defense Forces and see that the democratic elections the Panamanian people want are held, that "vacuum" of revolutionary potential ironically could be neutralized by this new alliance.

For the moment, Gen. Noriega has decided that Washington is a helpless complainer and that it is possible to outwit the gringos perpetually. America's favorite "incrementalism"—stepped-up pressures on men such as Gen. Noriega—has not worked because Gen. Noriega has too many alternative avenues of power and can sidestep his political vacuum.

Yet, here too, the old truths vie ironically with the new ones. Although the United States has just absorbed the "lesson" of nonintervention in Latin America, it is increasingly clear that our intervention is desperately needed to shield not only countries such as Panama but all of us from this multinational threat of "narco-militarism."

I think Georgia Anne Geyer and some of the observations she makes are particularly appropriate. Here we have a power vacuum being filled by the leftists, by the Cubans, and by the narco terrorists. That is exactly what they are. The stability of this whole region is up for grabs and the question is: Where is our policy?

Mr. President, yesterday I spoke of the possibility that Panama's General Noriega would soon get access to $30 million through a series of interbank transfers with his national bank, Banco National de Panama.

Now, for this money to be transferred, the national bank must first pay off its debts to United States and Panamanian banks in Panama. United States and Panamanian banks owe the national bank $46 million, so therefore if they pay $16 million that the national bank owes United States and Panamanian banks, they will get a net of $30 million. That is a lot of money at one time to give Noriega to continue to pay his Panamanian defense forces so they can continue to suppress the people.

Mr. President, $16 million to get a net of $30 million is pretty good collateral for potential lenders. Vice President BUSH recently revealed that Libya is trying to provide Noriega with $20 million, and I understand that our Government is trying to prevent this transfer. I do not know whether they are going to be successful. But in addition to that potential of $30 million, we now hear that Noriega is soliciting money from the Colombia narcotics traffickers, and that is a fact.

Informed banking sources from Panama tell me that there has been a substantial influx of drug cartel money into the Panamanian banks. Now, if this is true—and these sources have proved to be reliable in the past—it is just a matter of time before Noriega and his cronies will secure that $30 million and with it de facto control over the banking system in Panama.

Mr. President, the capitulation of the banks could be particularly tragic. If there has been one area where our policy has responded fairly well, it has been the economic pressures applied through the banks. Unfortunately, as with our other actions, when it came time to go that extra step to make that hard and difficult step, the administration wavered. As a result the one sanction that has destabilized the Noriega regime the most may soon be lost or neutralized.

Mr. President, Panama is quickly becoming a nation in ruins. As I said before, the middle class of Panama, one of the strongest in all of Latin America, is quickly being destroyed. Panama is a nation that every day now becomes more dangerous to our interests. It is a nation that cries out for immediate and strong U.S. action.

Yet the days run into weeks, the weeks into months and General Noriega is still in Panama destroying a population of 2.3 million people with cavalier indifference.

Mr. President, indeed it may be too late for us to take the kinds of decisive actions that would have removed Noriega with relatively little risk, but I would suggest that no action at this time creates greater dangers to the Panamanian people, to the stability of the region and to our vital interests as they relate to the Panama Canal.

The victims of American indecision include American civilians as well, Mr. President, residing in Panama and the Panama Canal Zone. Civilian employees at the Panama Canal Commission, which are so vital to the operation of the canal, are prohibited under the terms of the treaty agreements from access to official U.S. commissaries and exchanges. The imposition of economic sanctions has subjected them to extreme hardships, closing many stores and making the employees targets for robbers, some of those robbers are the very police who are supposed to be providing protection, as well as instances where they search for not only cash but also food in some cases. These restrictions and dangers have compelled many of these U.S. citizens to resort to arrangements for contraband through friends with privileges in order to obtain food and other necessities.

Why this is so outrageous, Mr. President, is because the Senate on March 30 passed a resolution introduced by Senator THURMOND, which passed overwhelmingly, expressing our concern for these American citizens. Since then, nothing has happened and the administration continues to do nothing for these Americans who are trapped in this desperate situation just like the Panamanians.

Let us be absolutely clear on one thing, Mr. President. If Noriega succeeds, it will not be just a defeat for our policy in Panama. No, Mr. President. The implications of this failed policy will go far beyond just Panama. If we fail in Panama, it will be seen as a major victory for the international drug cartel. It sends a message to the landers, and future landers of every Latin American country, that they can traffic in narcotics, that which find their way into the United States, with impugnity, and that the United States does not have the will or the resolve to deal with this situation.

Mr. President, the stakes in Panama are high. A solution favorable to resolving the situation will not happen by our simply sitting by. If the United States is truly concerned about the Cubanization of Panama, the safety of thousands of Americans, and our long-term national security interest in

Panama, it will have to change its policies of inaction and do it now.

Mr. President, the question is what policy do we now have? It appears to this Senator that the answer is that we have no policy.

Thank you, Mr. President.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. BURDICK). The Senator from Illinois.

Mr. SIMON. Mr. President, if I may comment just briefly on the words of my colleagues from New York, this afternoon I understand the Roman Catholic bishops in Panama have issued a statement criticizing Noriega, the military dictatorship there, but also criticizing American foreign policy and how we are handling the situation. Next week, I intend to make some more formal comments on what we are doing down there.

BICENTENNIAL MINUTE

APRIL 1, 1788: ALEXANDER HAMILTON ON THE SENATE'S CONFIRMATION POWERS

Mr. DOLE. Mr. President, 200 years ago this month, on April 1, 1788, Alexander Hamilton prepared, as one of the Federalist Papers, a major statement explaining the respective roles of the Senate and the President in appointing key Federal officers under the newly signed Constitution.

Hamilton reasoned "that one man of discernment is better fitted to analyze and estimate the peculiar qualities adapted to particular offices, than a body of men of equal, or perhaps even superior discernment." He argued that, "a single well directed man, by a single understanding, cannot be distracted or warped by that diversity of views, feelings and interests, which frequently distract and warp the resolutions of a collective body."

Hamilton explained the wisdom of dividing the appointment powers. Each party to the process would have to consider the powers of the other. In need of Senate approval, the President would consider his own reputation and political future before proposing "candidates who had no other merit, than that of coming from the President's own State, or of being in some way or other personally allied to him." If the Senate rejected a Presidential nominee, it would realize that the President would still be able to select another candidate of his choice. The Senate "could not even be certain that a future nomination would present a candidate in any degree more acceptable to them," Hamilton continued, "and as their dissent might cast kind of stigma upon the individual rejected; and might have the appearance of a reflection upon the judgment of the chief magistrate; it is not likely that their approval would often be withheld."

Alexander Hamilton placed great confidence in the Senate's ability to resist undue pressure from the President. Though a President "might occasionally influence some individuals in the Senate," he remained confident that no President could "purchase the integrity of the whole body."

ISRAEL'S 40TH ANNIVERSARY

Mr. DECONCINI. Mr. President, I would like to offer my congratulations to the people of Israel, for according to the Hebrew calendar it was 40 years ago this week on the 4th day of the Hebraic month Lyar in the year 5708 that the State of Israel was established. After centuries of struggle, the children of Israel again had a home and a land which they could call their own. Celebrations are taking place in Israel and the United States this week to mark this important occasion.

President Harry Truman officially recognized the infant State of Israel minutes after Israel declared her independence. The British Union Jack was lowered on yet another former territory and the blue and white flag with the Star of David was raised over Tel Aviv and other cities. At a meeting at the United Nations, the United States offered its congratulations to the newest state in the brotherhood of nations. Her borders were under attack within 24 hours of her birth. Unfortunately, her people have long suffered adversity throughout Israel's short life.

Israel was born in the aftermath of World War II and the grim reality of Hitler's bloody Holocaust. As a nation founded on the principle of freedom of religion, there was no question that the United States would support the establishment of the Jewish homeland called for in the 1917 Balfour Declaration. The founding of a Jewish nation was made more urgent by the large numbers of Jewish refugees, displaced persons, and survivors of the Nazi nightmare. A sense of humanity, tempered by a sense of shame at the horrible events of the war, caused an outpouring of support for Israel by the American people.

Our countries have been tied over the years by strong bonds of trust and admiration. Many American Jews have chosen the path of "aliyah" or "going up" to the homeland long believed in by the Jewish people. We have trade and military ties, of course, but more importantly is the close bond between two nations who have struggled for the cause of democracy and human rights. Just as our brave forefathers fought tyrannical British rule to create the Great Experiment which has become known as the United States, so did the heroes of the Jewish struggle fight for the creation of a homeland.

The sense of hope and renewal felt by the world in the late 1940's, 1950's, and 1960's were shared by the people of the day. Alongside the rollcall of luminaries such as Adenauer, de Gaulle, Kennedy, Monnet, and Marshall who had a vision of a new and better world, we must add the names of David Ben Gurion, Golda Meir, and Moshe Dyan.

After years of war in the Middle East, we witnessed an historic event when Menacham Begin, Anwar Sadat, and Jimmy Carter sat down together, worked for peace and signed the Camp David accords.

Today, we again celebrate this determined beginning of a brave and devout nation. Its citizens have stalwartly weathered past adversity and they will overcome the difficulties which currently afflict their nation. Just as Israel has stood by our Nation during times of national despair as well as national jubilation, so must we offer our support as Israel seeks to resolve her internal dilemmas. Let us celebrate Israel's accomplishments, the establishment of this democratic state within the Middle East, and the preservation of the principle of religious freedom. To the people of Israel, I salute you and say, "Mazeltov!"

FORTIETH ANNIVERSARY OF STATE OF ISRAEL

Mr. DANFORTH. Mr. President, I rise today to express my congratulations to the people of Israel on the occasion of the 40th anniversary of the creation of the State of Israel.

Israel has grown and prospered over the past 40 years. Its Jewish population has increased nearly sixfold—from 600,000 to 3½ million. The nation has become prosperous. Its army has turned into the strongest in the Middle East. Israel has remained our most steadfast ally in the region.

Forty years ago, as Israel celebrated its birth, Tel Aviv was bombed by Egyptian aircraft. War and hostility have marred much of the history of Israel. As Israelis celebrate this week, they do so under the specter of violence on the West Bank and Gaza Strip.

Mr. President, for the past decade Israel has enjoyed peaceful relations with Egypt. My wish for Israelis on this day is that one day they will be allowed to believe their survival is no longer at risk.

FORTIETH ANNIVERSARY OF THE STATE OF ISRAEL

Mr. SPECTER. Mr. President, on this momentous occasion of the anniversary of the State of Israel, I send my warmest regards and congratulations to the State of Israel on the occasion of its 40 years of independence. This milestone in the history of the Jewish people provides Jews in Israel and in the Diaspora great cause for celebration.

Since its establishment a mere 40 years ago, Israel has become the focal point of traditional and contemporary Jewish culture. The existence and success of Israel as a nation has reawakened and stengthened a sense of Jewish identity for Jews throughout the world. Millions worldwide have been inspired to reach out and embrace their rich Jewish heritage.

Israel has produced remarkable achievements in the fields of industry, agriculture, advanced medical technology, defensive systems, and in many other areas. The people of Israel have dedicated themselves to the building of one of the most progressive democratic societies in the world.

I hold the State of Israel and its people in high esteem and express my strong support to Israel in her quest for peace and prosperity.

FORTIETH ANNIVERSARY OF THE STATE OF ISRAEL

Mr. DIXON. Mr. President, this week marks the 40th anniversary of the founding of the modern State of Israel. In the last four decades, Israel has succeeded as a nation in a way that is unparalleled in modern history. Israel is America's staunchest ally and the only full-fledged democracy in the Middle East. Israel has created world-class industries and state-of-the-art agricultural techniques in a land whose topography is arid. Israel's successes and contributions are sometimes taken for granted, however, by a world consumed with the events of the day.

In 1947, 6000,000 Jews, driven by a vision of their ancient homeland, declared their independence. Shortly after that, Israel absorbed more than 1 million European Jewish refugees, many of whom were survivors of the Holocaust. Israel has built an economic base sufficient to accommodate this huge influx in the fact of conflict and adversity.

The United States and Israel enjoy a partnership at all levels. Strategically, Israel is considered a major component of the free world's defense as a "non-NATO ally." Israel guarantees that American security and defense interests in the Middle East can be served through its combat-proven strength and its position at the crossroads of three continents. Continued joint political and military cooperation between the United States and Israel enhances America's and the free world's multilateral ability to deter Soviet aggression. Strategic cooperation between the United States and Israel advances the peace process by deterring aggression and by affirming Israel's presence in the region.

Economically, the United States-Israel Free Trade Area [FTA] strengthens the economy of Israel as it fulfills its position as the foremost ally of the United States in the Middle East. This bilateral lowering of tariffs and other trade barriers helps to reduce the U.S. trade deficit.

Politically, through its votes, Israel agrees more often with the United States than any other country in the United Nations forum. The majority of Americans support continued close ties with Israel, and the Israeli citizenry wants organic, close ties with the United States.

Israel is committed to democracy, liberty, and knowledge. Israel's Parliament, judicial system, and institutions are dedicated to fundamental civil liberties for all. Israel's universities flourish and Israel is an exporter of agricultural and technical advancements achieved through its own research and development. Overall, though, Israel's miraculous achievements in the last four decades, from its humble beginnings as a nation of immigrants to its status as an advanced, stable, and reliable democracy, make it a brightly shining lighthouse in a sea of adversity. The extraordinary will of the Israeli people is unparalleled. May Israel have many more anniversaries.

ISRAEL'S 40TH BIRTHDAY

Mr. WEICKER. Mr. President, I want to congratulate Israel on the occasion of her 40th birthday. When Israel was founded in 1948, the United States and Israel embarked upon an alliance based, not on politics or mere pragmatism, but above all on principle: a mutual commitment to democracy and a common belief in individual freedom, liberties, justice, and human rights. Forty years later, Israel remains our irreplaceable and critically important ally in the Middle East.

A visit to Israel is an experience to be appreciated by people of all faiths—and no faith at all. The nation of Israel is the result of a dream that weathered many years and many hardships before its fulfillment. In just four decades, the dream has, in large part, been made reality because of the faith and hard work of its people. Israel is a modern nation in contrast to her neighbors. Especially in the areas of health, education, agriculture, and science, her list of achievements is lengthy.

Mr. President, no one can deny that Israel is at a crossroads in her existence. My firm belief and hope is that the vision of a nation dedicated to freedom and democracy which brought about her creation and which has sustained her through the years will be strengthened and become more vital than ever, and that the United States will reaffirm our commitment to our friend in the Middle East.

LONG-TERM CARE ASSISTANCE ACT OF 1988

Mr. ROCKEFELLER. Mr. President, yesterday I had the privilege of joining a group of my Senate colleagues as an original cosponsor of the Long-Term Care Assistance Act of 1988. This legislation was authored and introduced by Senator GEORGE MITCHELL, chairman of the Senate Finance Committee's Subcommittee on Health and a leading champion of quality health care for all Americans.

The Long-Term Care Assistance Act of 1988 is a historic effort to address one of the most pressing concerns affecting today's and tomorrow's senior citizens. This legislation builds on the existing Medicare Program by broadening the scope of coverage to include a range of long-term care services as benefits available to the elderly and disabled for the first time. I am honored to be part of bringing this bill before Congress, and I'm confident that it will serve as the beginning of a serious, committed effort on our part to bring an end to the current gaps in health care and insurance that strike fear in the hearts of Americans of all ages.

Under our bill, based on a screening process to determine eligibility for long-term care benefits, an elderly adult or his or her family may receive respite care services, home-care services, and, after a 2-year exclusionary period, nursing home care. In addition, the bill recognizes and encourages private industry's role in filling gaps that currently exist in coverage of long-term care services. Various tax incentives are provided for insurance companies to stimulate private market interest in developing and marketing private long-term care insurance policies to those who can afford it.

Like Senator MITCHELL, I am a member of the Senate Finance Committee, which is responsible for the Federal Government's two major health insurance programs, Medicare and Medicaid. We worked hard last year on the catastrophic health care bill which should shortly be on the Senate floor for a final vote. The catastrophic health care bill will protect many elderly from financial catastrophe from major costs associated with hospital and acute care. In the process of pursuing this aspect of the catastrophic health care crisis, it became even more clear to use that it is time to deal with the tragic fact that many of our elderly are being forced into poverty from another source—namely, from the extraordinary costs of long-term care.

Unfortunately for most West Virginians, the costs associated with long-term care is only part of the picture. Almost 70 percent of all West Virginians live in rural areas. The rural elderly face unique problems which limit their access to long-term care services, such as poor roads, weather conditions, and isolation. In West Virginia, the problem is further compounded because many of our youth are leaving rural areas for better economic opportunities. Without an extended family nearby, many elderly are forced to struggle along, sometimes miserably, on their own, or may be forced to enter a nursing home.

Mr. President, I am deeply concernd about these problems. I believe the Federal Government must step in and respond compassionately and constructively with programs, resources, and tools to provide long-term care coverage to those who need it. This led me to recently become an original cosponsor of the Rural Long-Term Care Demonstration Act of 1988, offered by Senator DURENBERGER. This bill would fund several major projects across the country to demonstrate and evaluate various ways of providing long-term care services in rural areas.

Making long-term care services affordable is a key to resolving the long-term care problem. Part of the reason so many elderly are unprepared for the financial burden associated with long-term care is because many elderly think that care is already covered by either Medicare or by a combination of Medicare and what are commonly referred to as private Medigap insurance policies. Unfortunately, this is not the case. Medicare essentially does not cover nursing home care and other long-term services. Under our bill, the Long-Term Care Assistance Act of 1988, it would.

Currently, private insurance covers even less. In 1986, Medicare paid less than 2 percent for nursing home care; private insurance paid only 1 percent. Medicaid, a public health insurance program intended to pay the health care bills of the poor, is the largest public financer of nursing home care. In 1986, Medicaid paid 41 percent of the total nursing home bill. Expenditures for nursing home care consume almost half of Medicaid's total budget.

The biggest payers of nursing home care are the elderly themselves or their families. They pay out-of-pocket for over half of the total expenditures for nursing home care. This amounted to $19.4 billion out of the $38.1 billion spent on nursing home care in 1986.

A recent study found that 40 percent of nursing home residents discharged from a nursing home paid for all of their own nursing home care. When a person stayed in a nursing home for longer than 6 months, Medicaid was the primary payer in 56 percent of all cases. Because Medicaid is a program for poor people, these elderly are forced to spend down their income and assets in order to qualify for Medicaid. In West Virginia, an individual's income cannot exceed $200 per month; two-member household's income cannot exceed $275 month.

Nationally, 90 percent of single elderly patients spend down after 1 year in a nursing home; 70 percent after only 13 weeks. For those couples with a spouse in a nursing home, half spend down in 6 months. Most people don't enter a nursing home poor, rather paying for the costs of a nursing home impoverishes them.

Currently, Medicare and Medicaid pay for very few community-based or home-care services, such as homemaker or chore services. Medicare pays primarily for acute care services in the home, such as skilled nursing care, physical therapy or speech therapy. Some nursing home care is paid for by Medicare but beneficiaries must meet strict eligibility guidelines. In 1987, less than 7 percent of Medicare's budget was spent on long-term care services; this includes expenditures for skilled nursing facilities, home health, and hospice care.

Although Medicaid coverage includes a more comprehensive array of community-based and home-care services, because Medicaid is a joint Federal/State program, services vary from State to State. Under current law, an elderly adult living in the community is eligible for Medicaid if he or she is receiving cash assistance from the SSI program. This means that only 36 percent of the elderly living below the poverty line are eligible for Medicaid.

What all these statistics mean is that there are tremendous gaps in our health care system. Most home-care is provided informally by family. It's only when the demands of care-giving become so great, do families seek assistance outside. Trends such as increased mobility, a decrease in family size, growing numbers of women entering the work force, and many other recent societal changes all are working to severely strain the weak long-term care system we have in place.

Approximately 5 percent of all elderly are in a nursing home at any point in time; and for every person in a nursing home there are two similarly functionally disabled persons living in the community. This adds up to approximately 15 percent of the aged population. The vast majority of the aged are not disabled or dependent in activities of daily living. I think this is an important point to keep in mind. The problem is not too big to manage, but we need to act now so that as America "greys" we will have the means to help those 15 percent who will need assistance.

Senator MITCHELL's bill is a good starting point for a serious national dialog on the best and most fiscally responsible ways to deal with the long-term care crisis and develop a national long-term care policy.

The Long Term Assistance Act of 1988 provides a solid framework for future discussion. It is a sign of our times that any major spending bill must also include ways to finance it. Senator MITCHELL has taken on this challenge with several proposals for raising the funds to finance long-term care benefits, and I think they are well worth considering.

Mr. President, I am committed to playing an active role in this debate. Through my seat on the Senate Finance Committee, I plan to work with Senator MITCHELL and our other colleagues on confronting the long-term crisis head on. It is time to end the fear that strikes elderly and their families. We must meet the challenge with compassion and constructive solutions. I am pleased to be part of getting this effort underway.

H.R. 5, THE ELEMENTARY AND SECONDARY EDUCATION IMPROVEMENT ACT

Mr. MOYNIHAN. I rise today to congratulate the Senate on passing the conference report on H.R. 5, the Elementary and Secondary Education Improvement Act of 1987, and sending this vital legislation on its way to the President. This bill reauthorizes many essential programs such as chapter 1, chapter 2, impact aid, magnet schools, and bilingual education, and creates new ones such as dropout prevention, computer education, and classroom instruction via satellite. All these programs are indeed necessary for the proper education and training of our Nation's children.

Knowledge is power; economic and political power. As our founders wrote over and over, the survival of our Republic depends on the ability of our people to guard their liberties; education is the instrument by which they are able to do so. Without education, the ability to read and understand and apply what one has read, individuals are deprived of the most valuable tool by which they can hold their elected representatives accountable.

It is education, pure and simple, which this bill will provide. Millions of children stand to benefit, not a few of them in my own State of New York.

Of particular importance to me is the Magnet School Program. Magnet schools are schools which seek to attract a desegregated student body by offering a specialized and focused academic program. In recent decades, magnet schools have been especially beneficial as a means of desegregating our Nation's school system. In my own State of New York, we have many magnet schools, some have been recognized nationally for both academic achievement and radical integration.

H.R. 5. includes the provisions of a bill I introduced on the first day of the 100th Congress, the Magnet School Expansion Act (S. 38). This bill sought to raise the level of funding for this program from $75 million to $150 million. I am pleased to see that H.R. 5 authorizes the Magnet School Program at $165 million for fiscal year 1989. The primary reason for introducing S. 38 was to ensure that both existing magnet school programs and new ones would have equal opportunity to be funded under this program. It is my hope that with these additional funds, we will be able to do so.

The importance of this program cannot be underestimated. Last year, 126 school districts applied for funding but only 38 were funded. Clearly there is an overwhelming demand to increase programs of voluntary desegration. Why? Because we have emerging a situation where there are no longer dual sets of schools but rather, dual sets of neighborhoods. The result has been inequalities in our educational system—Magnet schools can provide a very effective solution.

The first $75 million appropriated will be distributed with no consideration to an applicant's prior funding. The additional $90 million will be distributed with special consideration given to those applicants that have never been funded under the Magnet School Program. In this way, those programs that are working are allowed to continue doing so and those that need start-up funds are given the chance.

Surely all of the programs authorized under H.R. 5 will benefit millions of children across this Nation. In passing this legislation today, the Senate is reaffirming its commitment to those children that they will be afforded equal educational opportunities and that they will reach adulthood with all the advantages such education brings forth.

EDITORIAL SUPPORT FOR COVERT ACTION BILL

Mr. COHEN. Mr. President, several weeks ago, the Senate passed by a vote of 71 to 19, S. 1721, legislation I introduced, which would require, among other things, that the President provide notice of covert activities to Congress within 48 hours of approving such actions. That bill is currently being considered by the House Intelligence Committee, which hopes to complete action in the near future.

Subsequent to the Senate vote, a number of editorials have appeared in the Nation's press supporting this action and encouraging prompt passage by the House. They also persuasively point out to the President the inadvisability of vetoing this bill should it pass the Congress.

I ask unanimous consent, Mr. President, that these editorials from the New York Times, "Timely Law on Covert Action"; from the Washington Post, "The 48-Hour Bill"; from USA Today, "We Need Laws to Limit Covert Actions"; from the Bangor Daily News, "Cohen and Secrecy"; and from the Lewiston Daily Sun, "Veto is Out of Line" and "The Need for Oversight," be printed in the Congressional Record following these remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, Mar. 22, 1988]

Timely Law on Covert Action

While the Iran-contra grand jury prepared its first indictments last week, the Senate gave the first legislative response to that scandal. A new bill, passed by a vote of 71 to 19, would make unmistakably and laudably clear the President's obligation to notify Congress about covert actions. President Reagan utterly failed to do so in his secret deals to sell arms to Iran to gain the release of American hostages.

Current law requires that House and Senate Intelligence Committees be notified in advance of clandestine intelligence action. In special cases the law permits "timely" notice to eight legislative leaders. Timely has never been defined in the law.

The Administration gave no notice to Congress about the Iran-contra transactions. More than 10 months after these misguided policies began, the Reagan Administration still stonewalled, still concealed an arms deal that violated solemn Presidential promises about dealing with terrorists. When these dealings finally were exposed, the Administration insisted with a straight face that it was prepared to give "timely" notice—just as soon as the last hostage had been freed.

Thus the Senate's desire to define timeliness in such cases. The new bill would still require advance notification, but in special cases would require the President to give notice no later than 48 hours after approving a covert action. The Senate went too far, however, in accommodating Administration concerns about the danger of leaks. The bill would permit the Administration to limit notification to the top majority and minority members of each chamber. It would thus exclude the chairmen of the Intelligence Committees, who are best equipped to understand the notice.

This bill would not interfere with the President's rights and capacities to carry out covert action. It would simply insure Congress's constitutional right to know and advise. The bill would not have been necessary had the Reagan Administration observed the most rudimentary compliance with the old notification law. Because the White House failed to comply, Congress now must define a term like "timely notice," one that ought to be understood by national leaders of good will.

Even after abusing longstanding expectations of trust, the Reagan White House takes a position of injured innocence and threatens a veto should the House approve the bill. By just such an attitude, the Administration brings the new legislation down on itself.

[From the Washington Post, Mar. 20, 1988]

The 48-Hour Bill

With the bill that it passed last week, the Senate takes a necessary step in the long struggle over covert intelligence operations. Present law requires the administration to notify Congress of a covert operation before it begins except in extraordinary circumstances of great urgency, and then in a "timely" fashion. But in the Iran-contra affair, Congress discovered that the administration was interpreting the term "timely" to mean "when and if convenient" and had allowed the operation to continue for 10 months with no notification.

The Senate's bill now sets a firm limit of 48 hours in these extraordinary cases. As a gesture to the administration, in these circumstances it also limits the number of members notified to four—the leaders of the two parties in each house. It would have been better to keep the chairmen and vice chairmen of the two intelligence committees on the list. They usually have a more precise sense than the party leaders of what's involved.

Notification is more than merely an empty gesture of courtesy toward Congress, for Congress shares large responsibilities for foreign policy and national security. Beyond that, it's a safeguard. In this kind of operation, the president has no other source of advice outside the chain of command that he himself controls. There is said to have been more than one case in which a president, hearing warnings from Congress about the unsoundness of a plan, has taken a second look and dropped it. Where an operation will require appropriations, the president needs to know about congressional opposition before he becomes irrevocably committed.

No presidential power is threatened but the power to keep Congress in the dark. The administration's reason for refusing to notify Congress of the Iran-contra affair was surely to conceal President Reagan's staggering violations of his own policies.

The administration has indicated that Mr. Reagan will veto this bill. The Senate, with strong bipartisan support, gave it enough votes to override a veto. Now it goes to the House. It is careful and limited legislation—and the need for it has been demonstrated.

[From USA Today, Mar. 16, 1988]

We Need New Laws to Limit Covert Action

The Iran-contra fiasco has embarrassed a presidency, ruined promising careers and hobbled U.S. policies abroad.

And some may go to jail for their roles in that harebrained scheme to sell arms to Iran and divert some profits to Nicaraguan rebels fighting the Sandinista government.

We must make sure this doesn't happen ever again.

But sadly, the president is fighting legislation approved by the Senate Tuesday that could help prevent a replay of the Iran-contra affair. The administration is saying that if it can't defeat this law by veto, it will go to court to block it.

That would only compound the mistakes already made.

Closing the loopholes that allowed zealots in the White House to take the government into their own hands is one of the most important steps Congress can take this year. It should post this bill. And the administration should embrace it, not fight it.

The Iran-contra affair happened because Congress was kept in the dark about it for 10 months. This law would require the administration to notify congressional leaders of all covert activities within 48 hours.

Iran-contra happened because the administration, which said it would never deal with terrorists, secretly sold arms to the Ayatollah Khomeini and covertly sent money to the contras. This law would bar such covert activities unless they are justified in writing—in advance.

Iran-contra happened because some officials could claim they thought they had the president's authority. This law would eliminate that excuse by requiring written orders.

President Reagan has said he will make some of these changes in intelligence procedures. Fine, but that agreement doesn't bind him or future presidents.

Some say that making a president inform Congress about covert actions is an unconstitutional restriction on his authority to conduct foreign policy.

You can read that phony argument elsewhere on this page. But remember, the Founding Fathers gave Congress foreign policy responsibilities, too. Congress has to appropriate the money for covert activities.

The administration should treat Congress as a partner, not an enemy. If the administation cannot persuade Congress that a policy is right and necessary, then it's probably not.

That's what happened in the Iran-contra affair. Indictments in that scandal are expected any day from a grand jury impaneled by special prosecutor Lawrence Walsh.

Last week, Reagan's former national security adviser, Robert McFarlane, pleaded guilty to four counts of misleading Congress and promised to help prosecute others.

Some still insist that those who defied Congress and withheld information from it deserve medals, not handcuffs. That's a twisted view of democracy. Anyone who violates criminal laws must be held accountable.

No law can guarantee that future presidents and their aides won't deceive Congress. Or that there will never be another scandal like Iran-contra.

But we can make it more difficult. We must.

[From the Bangor (ME) Daily News, Dec. 19-20, 1987]

COHEN AND SECRECY

Sen. William S. Cohen is continuing his aggressive pursuit of legislation that would force a president to give timely notification to Congress of covert operations.

The bill, heard this week by the Senate Select Committee on Intelligence, would require that at least eight key members of Congress be told of secret operations within 48 hours of their implementation. The administration has said it opposes the bill because it has the effect of placing restrictions on presidential action and also increases the opportunity for breaches of security.

In his testimony before the committee Wednesday, Defense Secretary Frank Carlucci, who has served under four presidents, repeated the administration arguments and offered another: President Reagan already has fixed things. "The new procedures," said the defense secretary, "are working well . . . mistakes such as in the Iran-Contra affair would not recur under the system now in effect."

Mr. Carlucci may be comfortable with the current situation, but most members of Congress are not, and they reflect what undoubtedly is the majority public sentiment.

There is a serious weakness in the defense secretary's optimistic appraisal of existing policy. As Sen. Cohen pointed out to Carlucci, White House policy may well change again following the 1988 election. "We have no guarantees," said Cohen, "That there will be a continuation of these procedures." None at all.

It is difficult to understand how intelligence gathering will be undermined by informing congressional leadership and ranking members of the intelligence committees within two days of commencement of a covert activity. The country learned a lot from the Iran-Contra scandal. One of the myths laid to rest was that of Congress being leaky, untrustworthy and unable to keep a secret. It simply isn't true.

But the heart of the matter is concensus.

Covert operations are not executed in a policy vacuum. They are part of a larger national strategy. If the ultimate objective of the policy is undesirable or if the covert action is inappropriate, unnecessary or self-defeating, no amount of secrecy will bring success. More important, no amount of secrecy will ensure eventual public support. Iran-Contra taught this country that much.

A 48-hour rule makes sense. A covert operation so iffy and so fragile that it can't withstand limited congressional scrutiny when it is two days old probably shouldn't be launched in the first place. Iran-Contra provided a good lesson there, too.

[From the Lewiston (ME) Daily Sun, Mar. 16, 1988]

VETO IS OUT OF LINE

Despite the fact that his own administration caused the distrust which prompted Congress to pursue a covert operations oversight bill, and despite the findings in the Congressional report that criticized President Reagan for creating an atmosphere that permitted the diversion of profits from arms sales, Reagan has vowed to veto any bill requiring the president to inform Congress about all covert actions within 48 hours after they start.

Last year's Iran-Contra hearings brought many interesting actions of the Reagan administration to light. Transferring the profits from secretly selling arms to Iran to the Nicaraguan Contra guerrillas—a possible violation of law—was among the most controversial. Not only did it violate the U.S. policy with regard to trade with Iran, make a spectacle of U.S. foreign policy, and cause Reagan substantial political embarrassment, it also involved a failure to notify Congress of covert action.

Current law requires the executive branch to notify the legislative branch of any covert actions, except under extraordinary circumstances, in a "timely" fashion. Although it is not defined, one can safely surmise that "timely" was not intended to mean more than 10 months, as the Reagan administration apparently interpreted it.

Had Reagan followed the spirit of the law, he could have saved himself a considerable amount of trouble and spared the United States the foreign policy setback.

The bill that the president has promised to veto was introduced by Sen. William S. Cohen. It would strengthen the oversight function of Congress with an as-soon-as-possible-or-within-48-hours stipulation. But it would also allow the president to choose if he wants to inform only the leadership of both houses and the chairmen and vice chairman of the intelligence committees if extraordinary secrecy is warranted.

The proposal, which was co-sponsored by Sen. George J. Mitchell, would also prevent individuals or clandestine groups from abusing the system and ensure that the president still has the flexibility needed to carry out his responsibilities.

In light of the Iran-Contra affair and the demonstrated need for oversight that emerged in the committee hearings, the Reagan administration can hardly defend its position of promising to veto this bill. It seems that the president is determined to retain the maximum amount of power for the executive branch despite the conflicts that are apparent.

[From the Lewiston (ME) Daily Sun, Nov. 29, 1987]

THE NEED FOR OVERSIGHT

During the protracted Iran-Contra hearings, the short comings of current laws regulating government activities became more and more apparent.

And the subsequent congressional report issued last week criticized President Reagan for creating an atmosphere that permitted the diversion of profits from arms sales—a possible violation of the law.

In the wake of the committee's findings, legislation was introduced by Sen. William S. Cohen to close the gap on intelligence gathering and covert operations so that more than one branch of government—specifically Congress—remains apprised of secret missions; to prevent individuals or clandestine groups from abusing the system; and finally to ensure that the executive branch still has the flexibility needed to carry out the responsibilities of the president.

Co-sponsored by Sen. George J. Mitchell, the bill is aimed at preventing another debacle such as the Iran-Contra affair by adding new checks to the system of checks and balances.

That so few men—without answering to elected officials—could carry out a covert operation of this scope and impact points to a desperate need for preventative legislation. The proposal before the U.S. Senate appears to fill the gaps in the current law as well as clarify the limitations and clear up the ambiguities.

The bill strengthens the oversight function of Congress by requiring the president to notify the intelligence committees of all covert operations as soon as possible or within 48 hours. The president can choose to inform only the leadership of both houses and the chairman and vice chairman of the intelligence committees if extraordinary secrecy is mandated.

The legislation also:

requires the executive branch to reveal to Congress all government agencies, entities and third parties active in special activities;

requires that all findings be in writing unless an emergency exists, otherwise there is a 48-hour grace period;

provides for the first time, specific authority for the president to initiate covert actions;

expands the covert-operation limitations under current law applying to the CIA to cover agencies of the executive branch; and

prohibits retroactive authorization of special activities.

The committee hearings demonstrated the dire need for this bill. Congress should follow through on the committee's work and approve it—thus strengthening its own oversight function and preventing future Iran-Contra affairs.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

Mr. COHEN. Mr. President, in recognition of the plight of Soviet Jewry, I am pleased to join today with the Congressional Call to Conscience Vigil for Soviet Jews. This call to conscience reaffirms our commitment to human rights, and, in particular, the provisions of the Helsinki accords, which require the Soviet Union to respect fundamental freedoms, including the right to seek family reunification and emigration.

Clearly, there has been important progress in recent years in reaching agreements between the United States and the Soviet Union on matters of mutual interest. The INF Treaty is a prominent example. Yet, there has been insufficient progress on the important and longstanding issue of emigration for Soviet Jews and other religious minorities. Emigration of Soviet Jews today is still a small fraction of what it was in the late 1970's

During a recent trip to the Soviet Union, I met with a refusenik family I had adopted under the auspices of the student coalition for Soviet Jewry. This gave me the opportunity once again to see firsthand the effects of Soviet policies on Jews who apply to emigrate. The story of Emil Mendzheritsky, his wife Tsilia Raitburd, and his mother Vera Segal, is typical of that of thousands of Soviet Jews.

After applying for an exit visa in 1979, Emil was fired from his chemical engineering job and Tsilia from her job as a physicist. Since then, they have been accused of parisitism, and have had their apartment searched several times. Emil now works as a street cleaner and Tsilia is unemployed. Soviet authorities have made the dubious argument that this family cannot be allowed to emigrate because Emil and Tsilia once had access to state secrets. Even if that were true, and I do not believe that this is a valid reason, there is still no possible justification for the persecution that the Mendzheritskys have been subjected to. For such warm and intelligent people to be denied decent jobs for such an extended period of time in my view constitutes a form of cruel and unusual punishment.

I believe, and I know my colleagues will agree, that we must maintain our commitment to those in the Soviet Union who are being persecuted for their religious beliefs. We must continue to remind Soviet officials, calmly but persistently, that such human rights abuses are in violation of the Helsinki accords and are an impediment to improved United States-Soviet relations. If we continue to speak out, I believe that the Soviets will eventually recognize that it is in their interest to see this problem resolved. I urge my colleagues to raise this issue during visits to the Soviet Union and in their meetings with Soviet officials here in the United States.

MARGARET ARCH

Mr. McCAIN. Mr. President, on March 19, I had the privilege of attending a ceremony on the Navajo reservation to dedicate the naming of a sandstone arch in memory of Margaret Goldwater, the late wife of former U.S. Senator Barry Goldwater.

In a letter to Peter MacDonald, chairman of the Navajo Tribal Council, Senator Goldwater recalled seeing the arch for the first time when he and his son, Barry Jr., were camping in the area around 1947. As they laid down for the night, Barry Jr., asked if the hole above them was an arch. The elder Goldwater said he thought it was merely a hole in the clouds. The next morning both of them discovered that the hole in the clouds was actually a round arch rising above a caved spring and horseshoe shaped canyon. And so on March 19, Goldwater, his grown children, and dozens of other family members retraced the steps where Barry and Margaret, and later with their children spent so many wonderful times together.

The Navajo reservation is not unfamiliar ground to the Goldwaters. Back in the forties, Barry and Margaret spent much time traveling around the Navajo reservation, where they even owned a share in the Rainbow Lodge trading post located at Navajo Mountain up near the Arizona and Utah border. For about 14 years Barry took tourists down a remote canyon flanking the rugged mountain to Rainbow Bridge. Asked about these tours, Goldwater remarked, "The best year I ever had I took 400 people down on mules and only lost $1,400."

Mr. President, the dedication was a moving tribute to one of the most wonderful women many of us had ever known. And, I know it is a day that Barry Goldwater shall never forget. I would like to share with my colleagues the eloquent speech delivered by Chairman MacDonald at the dedication ceremony. And I would also like to include the personal reflection and moving words of thanks given by Senator Goldwater. I ask unanimous consent that a copy of Chairman MacDonald's speech and a copy of Senator Goldwater's speech be inserted in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARGARET ARCH

BY SENATOR BARRY GOLDWATER

MARCH 19, 1988

To all the Dine present, I say, Ya'at'eeh! Particularly, I want to thank Peter MacDonald for the way that they undertook this job, and I know it wasn't easy. My admiration for him has grown, because he demonstrated to me that when men think they're right, and they're willing to argue about it, right always bobs up. I want to thank the Tribal Council, and particularly the Tonalea council for their wilingness to accept this suggestion. Alan Reed has had a major part in the efforts to name this arch along with John McCain, Congressman Kyl and many, many others.

I don't have it in my ability to say thank you in the way that I'd like to. I don't mind saying that I stand here with a tear in my heart. And I hope it'll stay there and not come popping out. This is a part of the world and a part of my state, a part of your reservation and land that I have lived on and a people that I've lived with. So, I come here today with a great feeling of warmth for your land and for your friendship.

This arch I don't believe for one minute has never been seen before. I know that many Indians who've lived here, when I inquired, said yes, they knew about it, but it never had a name. This is way back about 1948, many years ago. And I thought what a nice thing it would be if I could name this arch after my wife Margaret, never thinking for one moment that when it occurred, she might not be here anymore. But wherever she is up in heaven, I know she is proud. And she's happy.

She loved this land. I know that's not easy for people who've lived here all their lives, to realize that people who are not Indian, can hold this land in the same sacred feeling that you do.

I think Peggy and I first came up here, almost 60 years ago. She and I owned an interest in the Rainbow Lodge and Trading Post up at Navajo Mountain. And for many, many years, we used to run tourists down to see the Rainbow Natural Bridge. The best year I ever had, I took four hundred people down on mules, and I only lost fourteen hundred dollars. Now, that's all been changed with the building of Lake Powell. You go up to see the bridge and there may be five thousand people there every weekend. It's still the same beautiful bridge and I am very happy to say that my people hold that place in the same love and affection that those of you who are natives to the land do.

Peggy used to come up here with me. It's hard to believe that Peggy could ever love camping. The first thing she always asked for was hot water and a cold bath. But up here, she loved to camp out. And I remember once I took her on a trip around this particular part of the Reservation in a jeep. We traveled a thousand miles and we were never on a road. It was a happy experience. In fact, she and I spent our fifteenth wedding anniversary on top of Navajo Mountain. We went up there on mules. I took along six bottles of champagne, and a chocolate cake. There were five of us that went up there and we darn near froze to death. But it was an experience that neither one of us ever forgot.

I remember, too, the evening that my son and I, my oldest son who is here, were camping down here on the flat. We were in our bedrolls, and just as the sun was going down, he turned to me and he said, "Dad, is that an arch up there?" And I looked at it and I said, "No, I think it's a hole in the clouds." Well, the next morning when the clouds were all gone, we looked up and sure enough, there was this arch. Well naturally, I had to get up there and see it. But I didn't reckon with the terrain. And I finally found myself in the bottom of a canyon that I don't think a good snake could have gotten out of.

Later, I drove Peggy up here. We marched over on that side and I started hiking out. I'd said I'll be gone three or four hours—I wanted to take some better pictures. I got back about five hours later having gotten no closer to it than I did before, and there was a Navajo sitting there with her having lunch. Later she said to me, "When you left me, I was all alone. And the first thing I knew, here came this Navajo on a horse, and he got off the horse and he said to me, 'you look lonesome.'" And she said, "I found out he spoke better English than you do." We sat down and had lunch together and had a pleasant visit.

Here we are today, realizing the efforts of many people. I stand here with great pride and I know that I speak for my family, and the pride that they hold in having this arch named after Peggy.

Many, many years of my life, I've spent up here. I was very unhappy the day my lodge burned down up at Navajo Mountain. The Navajo Council had realized that you can't run trading posts out of garages, you had to have a pretty decent store to do it. I didn't have the money to rebuild it, so I gradually let my lease go. I went up there just three years ago to look it over and out of that beautiful lodge there is just a few remnants of a foundation, what's left of our stable, and that's all.

I've always been well aware of the beauty of this particular part of the Reservation, of your land. I think of all the beauty that you'll find where you live, and I say this in recognition of Monument Valley and the other beautiful places that we find; I can't think of a more beautiful spot than White Mesa. I've ridden over this mesa on a mule. I've walked over it. I've flown over it. I've driven jeeps over it, and there is just no end to the beauty, no end to the inspiration, no end to the reverence that you people very rightly hold in your hearts, the sacredness of the land that you rightly call your own.

And as long as I live (and I'm going to live alot longer than alot of people think I am, particularly certain members of this political party who wish I hadn't even been here now) I'll always hold in my heart my knowledge of you people, my association with you people, the nights I've spent in your hogans, the times I've watched sandpaintings being made to cure or in remembrance of somebody who'd passed away. It's been a wonderful, wonderful life.

And I want to thank you from the bottom of my heart for what you've done today in remembrance of my wife Peggy. In recognition of the fact that my family is here with me today, and they hold the same feelings in their heart, we have only one thing to say; thank you. It's a simple term. If I dig my heart out and hold it up to this microphone, someway it would say, "Thanks alot, we'll never forget you." Goodbye.

TRANSCRIPT FROM MARGARET ARCH CEREMONY, MARCH 19, 1988

Chairman Peter MacDonald of the Navajo Nation:

You know, in the beginning, the great spirit created this earth which we call "Mother Earth". And on her left, the great spirit placed the Navajo people to live in peace, harmony, and to respect all that's been placed on this earth.

Many years ago, Senator Barry Goldwater and his family spent years among us, the Navajo people, in this area, among this beautiful land and country. So majestic, so soothing, so beautiful, so accommodating. I don't blame them for treasuring this place, this land and the people of this land—the Navajo people.

As we stand here and look around us, we can see for ourselves why you, Sentor Goldwater, and your family, have felt the way you do about this land, and how you want to continue to be associated with this land and keep coming back here.

Senator Goldwater, we want to welcome you back to this country, to the Navajo country. I know, and the Navajo people know, that we have had difference of opinion. But, it is very, very difficult to go through many years of public life without having these differences.

There comes a time for all people, as human beings, to need each other and want to draw closer together. Today, is such a time. Sorrow, pain and tears that come after the loss of a loved one is an emotional experience which we, the Navajo people, fully understand. So when you made your request to do this, because the one you loved had passed on, we understood and knew how your felt. We also knew that no loved one can ever be replaced. No matter what is said, no matter what is done, we know that love expressed for that person can never diminish. Today, we celebrate that love. A love between two people, and between those people and this beautiful land.

I think of no more appropriate, more heart-felt response on the part of the Navajo people—particularly the Navajo people of this area—then the renaming of this glorious arch behind me, which will stand guard over this landscape for all eternity.

Today, Senator Goldwater, this natural arch has reunited old friends; you and I and the Navajo people. I am especially happy that we have finally come together. With the dedication of this beautiful arch, we recognize the fondness you and your beloved Margaret had for this beautiful land and the people who live here.

Senator, I want you to feel as welcome in the Navajo Nation as you did when you discovered this heavenly spot which, from where the sun now sits, will forever be known as "Margaret Arch."

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on April 21, 1988, during the recess of the Senate, received a message from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on April 21, 1988, are printed in today's RECORD at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated by the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT ON AERONAUTICS AND SPACE—MESSAGE FROM THE PRESIDENT—PM 133

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

I am pleased to transmit this report on the Nation's progress in aeronautics and space during calendar year 1986. The report is provided in accordance with Section 206 of the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2476).

It is with great sadness that we mourn the passing of the brave men and women aboard the Space Shuttle Challenger, but it is more important to remember them for their bravery and pursuit of challenge. I believe they would be proud of the challenge we have undertaken to move the Nation forward into a new era of space flight, one more stable, more reliable, and safer than before.

Space activities continue to provide vital support to U.S. national security interests. In response to expendable launch vehicle failures as well as the Challenger tragedy, the Department of Defense has embarked on a space launch recovery program that will provide for more assured access to space and reduce the backlog of critical national security payloads that were scheduled for launch on the Space Shuttle. In addition, critical space communications, navigation, meteorology, and surveillance programs continue to make vital contributions that enhance the effectiveness of our military forces and strengthen the overall deterrent posture of the United States. Also, space-related research conducted in support of the Strategic Defense Initiative continues to make impressive progress toward a more safe and secure future.

In 1986, the National Aeronautics and Space Administration and the Department of Defense initiated the joint National Aero-Space Plane research program that could result in an entirely new family of aerospace vehicles. Also, NASA and the Department of Defense examined and continue to study space transportation requirements for the late 1990's and early years of the 21st century. This study could lead to future development and technology efforts associated with advanced manned and unmanned space transportation systems aimed at providing increased responsiveness, flexibility, and reliability, as well as learning the costs of assured access to space while meeting evolving payload requirements.

Advanced planning continued for a permanently manned Space Station. At my request, our friends and allies cooperated with us in the initial planning and design phases of the Space Station. In addition to helping us build an enhanced facility, their investments will help to strengthen free world ties in space science and exploration.

During the year, we continued to unlock the mysteries of the universe. In January 1986, Voyager 2 became the first spacecraft to fly past Uranus, transmitting over 7,000 images of that planet and its rings and moons. The fastest known spinning binary pulsar was discovered.

In studies of the Earth and its environment, scientists continued to observe conditions from Earthbound and spaceborne platforms and to participate in interdisciplinary research activities that will allow better understanding and prediction of environmental problems throughout the world.

As most of you are aware, space is no longer just the domain of the United States and the Soviet Union. It has become a highly competitive international arena where more and more nations are vying for economic, scientific, and military advantages. Continued advances in aeronautics and space technology will strengthen the Nation's scientific capabilities and develop the technological infrastructure needed to maintain U.S. national security interests as well as economic competitiveness.

Because of the Challenger tragedy, the year 1986 was a difficult one for all of us who support U.S. space activities. In the aftermath of Challenger, we established goals to restructure and strengthen our space planning and organizations. I believe we have made considerable progress toward realizing these goals, which will allow the United States to return space transportation capabilities to safe and reliable operation.

RONALD REAGAN.

THE WHITE HOUSE, *April 22, 1988.*

MESSAGES FROM THE HOUSE

At 10:11 a.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3) to enhance the competitiveness of American industry, and for other purposes.

The message also announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 148. Joint resolution to designate the week beginning April 20, 1988, as "World Population Awareness Week."

ENROLLED BILL AND JOINT RESOLUTIONS SIGNED

The message further announced that the Speaker has signed the following enrolled bill and joint resolutions:

H.R. 3439. An act for the relief of Marisela, Felix, and William Marrero;

S.J. Res. 227. Joint resolution to express gratitude for law enforcement personnel;

S.J. Res. 246. Joint resolution to designate the month of April, 1988, as "National Child Abuse Prevention Month"; and

S.J. Res. 247. Joint resolution to authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day."

The enrolled bill and joint resolutions were subsequently signed by the Acting President pro tempore [Mr. SANFORD].

At 11:05 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 541. Joint resolution commending the State of Israel and its people on the occasion of the fortieth anniversary of the reestablishment of the independent State of Israel.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 148. Joint resolution to designate the week beginning April 17, 1988, as "World Population Awareness Week"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 3606. An act for the relief of Brenda W. Gay; and

H.R. 4222. An act to amend the Immigration and Nationality Act to extend the application period under the legalization program.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, April 22, 1988, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 227. Joint resolution to express gratitude for law enforcement personnel;

S.J. Res. 246. Joint resolution to designate the month of April 1988, as "National Child Abuse Prevention Month"; and

S.J. Res. 247. Joint resolution to authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3037. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the fourth calendar quarter of 1987; to the Committee on Environment and Public Works.

EC-3038. A communication from the Executive Director of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, a report on the study of the feasibility and cost of establishing public ferry boat service on the Missouri River between Niobrara, NE, and Springfield, SD; to the Committee on Environment and Public Works.

EC-3039. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, a report on abnormal occurrences at licensed nuclear facilities for the third calendar quarter of 1987; to the Committee on Environment and Public Works.

EC-3040. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "Overweight Vehicles—Penalties and Permits, an Inventory of State Practices"; to the Committee on Environment and Public Works.

EC-3041. A communication from the Deputy Secretary of Agriculture, transmitting, pursuant to law, the annual report on hazardous waste management activities for calendar year 1987; to the Committee on Environment and Public Works.

EC-3042. A communication from the Deputy Secretary of the Treasury, transmitting, pursuant to law, a report entitled "The Operation and Effect of the Domestic International Sales Corporation Legislation; to the Committee on Finance.

EC-3043. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report on the number of children in foster care pursuant to voluntary placement agreements for fiscal year 1986; to the Committee on Finance.

EC-3044. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on forced detention by the African National Congress and the South African Government; to the Committee on Foreign Relations.

EC-3045. A communication from the Director of the Office of Legislative Affairs, Agency for International Development, transmitting pursuant to law, the report on the operations of the Agency's Minority Resource Center for fiscal year 1987; to the Committee on Foreign Relations.

EC-3046. A communication from the Acting Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on United States-Soviet Reciprocity in matters relating to Embassies; to the Committee on Foreign Relations.

EC-3047. A communication from the President of the United States, transmitting, pursuant to law, certification that Japan has conducted whaling activities that diminish the effectiveness of the International Whaling Commission Conservation

Program; to the Committee on Foreign Relations.

EC-3048. A communication from the Assistant Director of the United States Information Agency, transmitting, pursuant to law, the annual evaluation of the Cuba Service of the Voice of America; to the Committee on Foreign Relations.

EC-3049. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report discussing whether the number of personnel of Soviet state trading enterprises in the United States should be reduced; to the Committee on Foreign Relations.

EC-3050. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a Presidential determination regarding decision-making procedures on budgetary matters in certain specialized agencies of the United Nations system; to the Committee on Foreign Relations.

EC-3051. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to April 14, 1988; to the Committee on Foreign Relations.

EC-3052. A communication from the Archivist of the United States, transmitting, pursuant to law, the annual report of the National Archives and Records Administration for fiscal year 1987; to the Committee on Governmental Affairs.

EC-3053. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-158 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3054. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-157 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3055. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-156 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3056. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-170 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3057. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-168 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3058. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-169 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3059. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-167 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3060. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-165 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3061. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-166 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3062. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-172 adopted by the Council on March 29, 1988; to the Committee on Governmental Affairs.

EC-3063. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-162 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3064. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-161 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3065. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-160 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3066. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-159 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3067. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-163 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3068. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-164 adopted by the Council on March 15, 1988; to the Committee on Governmental Affairs.

EC-3069. A communication from the Director of the Office of Personnel of Management, transmitting, pursuant to law, the annual report of the Office entitled "Performance Management and Recognition System—Fiscal Year 1986 Performance Cycle; to the Committee on Governmental Affairs.

EC-3070. A communication from the Chairman of the Board of Directors, Tennessee Valley Authority Retirement System, transmitting, pursuant to law, statements, tables, and general information for the TVA retirement system; to the Committee on Governmental Affairs.

EC-3071. A communication from the Records Officer, United States Postal Services, transmitting, pursuant to law, notice of a proposed computer matching system; to the Committee on Governmental Affairs.

EC-3072. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, notice of a proposed computer matching program; to the Committee on Governmental Affairs.

EC-3073. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Proceedings of the October 8, 1987 Roundtable Discussion on Generally Accepted Accounting Principles and Regulatory Practices"; to the Committee on Governmental Affairs.

EC-3074. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Receipts and Disbursements of the Public Service Commission's Agency Fund for FY 1987"; to the Committee on Governmental Affairs.

EC-3075. A communication from the Chairman of the Merit Systems Protection Board, transmitting, pursuant to law, a report entitled "Federal Personnel Policies and Practices—Perspectives From the Workplace"; to the Committee on Governmental Affairs.

EC-3076. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the annual report of the Board concerning implementation of the Government in the Sunshine Act during calendar year 1987; to the Committee on Governmental Affairs.

EC-3077. A communication from the Director of the Information Security Oversight Office, transmitting, pursuant to law, a copy of the Office's annual report to the President for fiscal year 1987; to the Committee on Governmental Affairs.

EC-3078. A communication from the Director of the National Park Service, Department of the Interior, transmitting, pursuant to law, the annual report on the disposal of surplus Federal real property under the Public Benefit Discount Program for Park and Recreation Purposes; to the Committee on Governmental Affairs.

EC-3079. A communication from the Records Office of the United States Postal Service, transmitting, pursuant to law, notice of a proposed computer matching system; to the Committee on Governmental Affairs.

EC-3080. A communication from the Director of Selective Service, transmitting, pursuant to law, the annual report of the Service under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3081. A communication from the Freedom of Information Act and Privacy Officer of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3082. A communication from the Executive Secretary of the Federal Home Loan Bank Board, transmitting, pursuant to law, the annual report of the Board under the Freedom of Informantion Act for calendar year 1987; to the Committee on the Judiciary.

EC-3083. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the annual report of the Office under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3084. A communication from the President of the American Academy and Institute of Arts and Letters, transmitting, pursuant to law, the annual report of the Academy for calendar year 1987; to the Committee on the Judiciary.

EC-3085. A communication from the Secretary of Education, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3086. A communication from the Secretary of the Interior, transmitting, pursuant to law, the annual report of the Department under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3087. A communication from the Acting Assistant Attorney General (Legislative Affairs), transmitting a draft of proposed legislation to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal year 1989, and for other purposes; to the Committee on the Judiciary.

EC-3088. A communication from the Secretary of Labor, transmitting, for the information of the Senate, notice of her continued opposition to mandatory plant closing and layoff legislation; to the Committee on Labor and Human Resources.

EC-3089. A communication from the Secretary of Education, transmitting a draft of proposed legislation to make certain amendments to the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), and the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), and for other purposes; to the Committee on Labor and Human Resources.

EC-3090. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for Family Educational Rights and Privacy; to the Committee on Labor and Human Resources.

EC-3091. A communication from the Secretary of Education, transmitting a draft of proposed legislation to reauthorize the Emergency Immigrant Education Act of 1984, to simplify and improve the allocation of funds, to ensure that program funds are more specifically targeted to meet the special educational needs of eligible immigrant children without supplanting State and local funds, to clarify ambiguous provisions, and for other purposes; to the Committee on Labor and Human Resources.

EC-3092. A communication from the Secretary of Education, transmitting, pursuant to law, final regulations for institutional eligibility under the Higher Education Act of 1965, as amended, and student assistance general provisions; to the Committee on Labor and Human Resources.

EC-3093. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, 26 recommendations for legislative action; to the Committee on Rules and Administration.

EC-3094. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 10 and title 38, United States Code, to make certain improvements in the educational assistance programs for veterans and eligible persons, and for other purposes; to the Committee on Veterans' Affairs.

EC-3095. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, a report on certain cases recommended for equitable relief; to the Committee on Veterans' Affairs.

EC-3096. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, section 203(b), United States Code, to delete the requirement that settlements of claims in excess of $1,000,000 on a construction contract be provided for specifically in an appropriation law, and to provide instead that the Administrator notify the House and Senate Committees on Appropriations of construction contract claims settlements of more than $1,000,000; to the Committee on Veterans' Affairs.

EC-3097. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, and other provisions of law, to extend the authority of the Veterans' Administration [VA] to continue major health-care programs, and to revise and clarify VA authority to furnish certain health-care benefits, and to enhance VA authority to recruit and retain certain health-care personnel; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SARBANES, from the Joint Economic Committee:

Special report entitled "the 1988 Joint Economic Report" (Rept. No. 100-321).

By Mr. BURDICK, from the Committee on Environment and Public Works, with amendments:

S. 2186. A bill to improve the efficiency and effectiveness of management of public buildings (Rept. No. 100-322).

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 2049. A bill to establish an independent national commission on the Veterans' Administration home loan guaranty program; to amend title 38, United States Code, to authorize reductions in the interest rate on loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures, and to establish credit worthiness requirements for assumptions of Veterans' Administration vendee loans; and for other purposes (Rept. No. 100-323).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works:

Robert Earl Farris, of Tennessee, to be Administrator of the Federal Highway Administration.

(The above nomination was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CONRAD:

S. 2308. A bill for the relief of Merlina Weber; to the Committee on the Judiciary.

By Mr. BREAUX (for himself and Mr. SANFORD):

S. 2309. A bill to protect the right to carry out a lawful hunt; to the Committee on Environment and Public works.

By Mr. MOYNIHAN:

S. 2310. A bill to require the Secretary of the Interior to rehabilitate the Canarsie Pier located in the Gateway National Recreation Area and to prepare a plan to rehabilitate the electrical systems at Floyd Bennett Field and Fort Tilden located in such area; to the Committee on Energy and Natural Resources.

By Mr. DOMENICI:

S. 2311. A bill to amend the Internal Revenue Code of 1986 to meet the growing challenge of America's infrastructure needs; to the Committee on Finance.

By Mr. BAUCUS (for himself and Mr. DANFORTH):

S. 2312. A bill to amend the Internal Revenue Code of 1986 to make the research credit available to certain start-up ventures; to the Committee on Finance.

By Mr. CRANSTON.

S. 2313. A bill to coordinate the regulatory authority of the Federal Energy Regulatory Commission with that of State or local regulatory agencies relative to service which would bypass local utility service and to facilitate the resolution at the State or local regulatory level of competition policy issues relative to local service; to the Committee on Energy and Natural Resources.

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2314. A bill to authorize certain construction at military installations for fiscal year 1989, and for other purposes; to the Committee on Armed Services.

S. 2315. A bill to authorize appropriations for fiscal year 1989 and 1990 for civil defense programs; to the Committee on Armed Services.

S. 2316. A bill to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for fiscal years 1988 and 1989, and for other purposes; to the Committee on Armed Services.

By Mr. SYMMS (for himself and Mr. MCCLURE):

S. 2317. A bill to repeal certain provisions of law requiring the installation of transponders in all aircraft; to the Committee on Commerce, Science and Transportation.

By Mr. JOHNSTON (by request):

S. 2318. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON BILLS AND JOINT RESOLUTIONS

By Mr. BREAUX (for himself and Mr. SANFORD):

S. 2309. A bill to protect the right to carry out a lawful hunt; referred to the Committee on Environment and Public Works.

HUNTER PROTECTION ACT

Mr. BREAUX. Mr. President, each year I join with the millions of Americans who engage in the lawful practice of sport hunting. The vast majority of these hunters are properly licensed by their State. They observe the game laws regarding limits. They hunt only during the lawful seasons, using the proper ammunition. They respect the rights and prerogatives of landowners. In short, they take part in their sport in a completely lawful and sportsmanlike manner.

When conducting themselves in accordance with the law, hunters are a very useful and necessary element in the conservation and management of wildlife resources. Sport hunters, out of their deep concern for the conservation of America's wildlife resources and the preservation of the habitat necessary for these wildlife resources, are one of the most active groups working to ensure proper public input into wildlife management.

Unfortunately, however, there are some people in this country who are opposed to hunting. They believe that the taking of animal live is reprehensible in any form.

Mr. President, these people are entitled to their beliefs. In fact, they are entitled to come to Washington or their State capitols and lobby to change the laws of this country to prohibit sport hunting.

But some of these activists have chosen to take another course to stop hunting in this country. Instead of attempting to change the laws through the orderly course of legislation, they have embarked on a confrontational path of harassment, intimidation and obstruction aimed at legitimate and law abiding sport hunters. Their aim is to stop hunting by force, not by legislation.

For that reason, Mr. President, I am today introducing legislation, the Hunter Protection Act of 1988, aimed at protecting the right of hunters to engage in lawful exercise of their sport.

In order to demonstrate why I believe this legislation is needed, allow me to quote from an Associated Press story, dated December 9, 1987, concerning the tactics of a group known as Earth First!:

> Baker, Calif. (AP)—Big game hunters and wildlife activists squared off in rugged mountain country during the state's first hunt of bighorn sheep in more than a century with protesters striving to spook animals under the gun.
>
> Earth First! activists crept through the brush, stalking hunters as they tracked the sheep, bursting into the open blasting air horns and blowing whistles once the shooters drew a bead on the once protected beast.
>
> The first harassment occurred Saturday, when the state-authorized hunt began. Earth First! protesters ran into the line of fire with noise-makers blaring, causing the animal in the hunter's sights to bolt from the line of fire, said group spokesman Michael Robinson.

Furthermore, Mr. President, I would like to call the Senate's attention to Friends of Animals, Inc., which has published a memorandum which it calls tips for hunt saboteurs.

I quote from the opening paragraph:

> Fourteen million Americans will be shouldering their rifles and shotguns within the next few months, marching off to their annual offensive against our wildlife. These legions, which are more numerous, and generally better equipped than the entire Nazi armies of the Second World War, will take a bloody toll before the season ends. They will kill deer and rabbits, ducks, dogs, cats, a few children, and even a few hunters.

Mr. President, first I suggest it is unfair and very irresponsible to compare this Nation's sportsmen to the Nazi Army.

This memo of tips for saboteurs offers some advice for stopping the legal sport of hunting. It says,

> Get into the woods yourself the day before the hunting season. If you're familiar with the most commonly hunted areas, try to drive the wildlife away. A stroll through the forest with a nice loud radio and a dog on a leash, will serve to make wildlife more wary of humans.

Another tips says,

> Certain substances, such as rotten eggs, when rubbed into hunting blinds, make these enclosures even more uncomfortable for the hunters. Uncomfortable hunters are irritable, and are also poorer shots. Plastering the floor of a hunting blind with cow dung is another good idea.

Mr. President, I submit that instead of attempting to influence public opinion and affect changes in our Nation's laws by working within the governmental process, these antihunting activists are waging a campaign of low-level terrorism against law abiding citizens who are simply participating in a sport which the vast majority of Americans condone and which is legally sanctioned in every State in the Nation.

A small minority should not be allowed to deprive millions of Americans of their right to participate in the lawful conduct of their chosen sport. While we may not approve of every law on the books, in a free and democratic society our duty as citizens is to work to change the system through the orderly process and not through violence and reckless intimidation.

Mr. President, my legislation simply says that any person who knowingly acts with intent to obstruct, impede, or otherwise interfere with the conduct of a lawful hunt on land affected with a Federal interest may be assessed a civil penalty of not more than $5,000 for each violation. A penalty of up to $10,000 may be assessed for each violation if the violation involves the use of force or violence against the person or property of another.

Perhaps more importantly, State game officials and others could seek injunctive relief to prevent such harassment from taking place.

My legislation complements laws which have been enacted in at least 27 States, including Louisiana.

Mr. President, I am aware that there are some hunters who do not observe the game laws. There are some hunters who bag game over the limit and I support law enforcement agencies who are guarding against the depletion of our game resources. And I support strong penalties for violators. My legislation is not designed to aid hunters who break the law.

Hunting is a legitimate, lawful sport and compatible with good management and conservation practices when done properly. And if and until hunting laws are changed, we must do what we can to protect the rights of law-abiding citizens engaged in a government-sanctioned sport.

By Mr. MOYNIHAN:

S. 2310. A bill to require the Secretary of the Interior to rehabilitate the Canarsie Pier located in the Gateway National Recreation Area and to prepare a plan to rehabilitate the electrical systems at Floyd Bennett Field and Fort Tilden located in such area; referred to the Committee on Energy and Natural Resources.

LEGISLATION TO REHABILITATE CANARSIE PIER

● Mr. MOYNIHAN. Mr. President, I rise today to introduce a bill that would authorize funds for much-needed repairs to Canarsie Pier in the Gateway National Recreation Area. Gateway comprises the islands and water of Jamaica Bay and portions of the shoreline in Brooklyn, Queens, Staten Island, and New Jersey. It was created in 1972 out of former city and State parks and military bases such as Fort Tilden and Floyd Bennett Field. The parks had not been kept up and the military bases were abandoned coastal defense stations.

The funds the National Park Service planned on to create a sound and enjoyable recreation area have not materialized. Much of what should have been done has not been, including repairs to Canarsie Pier. Built 60 years ago, it is visited by 230,000 people annually. They fish, picnic, eat at the restaurant, and endure holes in the sidewalk and backups in the septic system.

I obtained money in 1986 for a detailed analysis of the problems at the pier. This bill would provide money for engineers to draw the blueprints and for construction companies to do what must be done. It also directs the Secretary of the Interior to plan for repairs to the electrical systems of Fort Tilden and Floyd Bennett Field, where there is danger of fire, explosions, and from PCB's.

Nine million people visit Gateway National Recreation Area each year. They should not be deprived of the full enjoyment of this splendid park by health and safety hazards such as those I have described. This bill is a step toward realizing the goals the Park Service set out in the seventies for Gateway. The name is apt; it is the aquatic gateway to New York City and northern New Jersey, and it should be maintained as such.●

By Mr. DOMENICI:

S. 2311. A bill to amend the Internal Revenue Code of 1986 to meet the growing challenge of America's infrastructure needs; to the Committee on Finance.

ENVIRONMENTAL INFRASTRUCTURE ACT

● Mr. DOMENICI. Mr. President, I am today introducing the Environmental Infrastructure Act of 1988.

This bill seeks to encourage investment in those portions of our Nation's infrastructure that enhance our environment.

My proposal is intended to make these public works improvements less costly as investments, both to local government and to the private sector, by assuring that these investments will receive favorable treatment in the Tax Code.

This is a limited bill, one affecting only investments in water supply systems, sewage treatment, solid and hazardous waste disposal, and public facilities required to achieve compliance with regulations of the Environmental Protection Agency.

This bill does not affect all forms of municipal or State financing. But coming, as it does, during the week when the Supreme Court decided that Congress could eliminate the tax-exempt status of non-Federal bonds, I believe this bill sends a message.

That message is that the tax-exempt status of State and local bonds is sound national policy. It serves as an integral component of a strong partnership between the Federal Government and other levels of government.

By focusing the bill on a narrow group of public needs, I am not ignoring other pressing needs in America's infrastructure. But these environmentally related investments simply must be encouraged in every way we can. This is a good place to start.

We hear a lot about the crisis in our public works. The closing of the Williamsburg Bridge in New York City is a recent and dramatic example. But daily crises occur in every city and hamlet in America: potholes, inadequate drinking water, closed bridges, untreated sewage, inadequate disposal of hazardous wastes, deteriorating transit systems.

In the State of New Mexico, many unmet needs exist that this bill would assist. We have serious drinking water problems in the area known as the South Valley, outside Albuquerque. We have similar problems in the Espanola Valley in northern New Mexico and in other rural areas experiencing rapid growth.

As new industry comes into our State, the need for a state-of-the-art hazardous waste disposal facility will become increasingly necessary.

The legislation I am introducing today will help New Mexicans meet these needs, at a price we can pay.

This bill is based directly upon recommendations in two important recent studies on America's infrastructure.

The initial study came from a distinguished panel of public officials and private citizens, the Private Sector Advisory Panel on Infrastructure Financing. That panel was established over 3 years ago to advise the Senate Budget Committee on techniques that Congress might use to increase public investments in roads, dams, airports, bridges, water systems, and waste disposal.

The second report was released earlier this year by an equally distinguished group, the National Council on Public Works Improvement, which was established by Public Law 98-501.

Both reports concluded that America faces a great challenge in reviving our decaying public works investment. Both reports deserve the careful attention of this body.

To understand the severity of the problem, we need to examine the sharp reduction in spending that has occurred on infrastructure. The National Council on Public Works Improvement found that "capital spending—on public works—has dropped from 2.3 percent of GNP in 1960 to 1.1 percent today." It also found that the share of each dollar spent by American governments for public works dropped from 20 cents in 1950 to 7 cents in 1984.

The National Council determined:

> If we spend too little on public works or if we invest in inefficient projects, society loses more than the direct public cost. In the long run, our ability to compete in the international economy will be weakened, and our standard of living will suffer.

Those are harsh words. But they are words to which we, as a society and as a government, must listen.

Both the advisory panel and the National Council see a vast task before us. In the words of the Council, that task will require "a national commitment shared by all levels of government and the private sector, to increase capital spending by as much as 100 percent above current levels."

As one example, compliance with the Clean Water Act between now and the year 2000 has been estimated to require $109 billion in new investment. Billions more will be needed for storm water control.

Over that same span, it has been estimated that America will need $75 to $110 billion to maintain and upgrade safe and dependable water supply systems in urban areas, with another $40 billion needed to provide safe drinking water to small communities and rural areas.

Compliance with Federal requirements for the management and disposal of solid and hazardous wastes will cost tens of billions of dollars more.

In studying local options to finance these facilities, the private sector advisory panel found that State and local governments will have to continue to rely on traditional financing devices—general and dedicated revenues, short-term borrowing, special assessment, and bonded indebtedness. In addition, the advisory board found that private sector spending on infrastructure offered significant potential for growth.

For each of these—bonds and public-private partnerships—the Federal Tax Code is critical. The ease with which local governments finance public facilities through bonds is governed directly by the tax-exempt bond rules of the code. If the private sector is to enter the picture, the tax laws must allow a facility to generate an adequate return on investment.

We should make non-Federal investments in public works more attractive, not more cumbersome and costly. But Mr. President, Federal tax law has moved in precisely the opposite direction. Instead of loosening the rules, Congress has ratcheted them down.

Beginning with the 1982 tax bill, and continuing with the 1986 Tax Reform Act, the code has been tightened on these investments.

Provisions that were written into the code to prevent abusive private use of tax-exempt financing for hotels, stadiums, and the like spilled over onto projects that are publicly owned and operated to serve the general public. As the private sector advisory panel stated in its final report:

> * * * The narrow focus on tax-exempt bonds as a drain on Federal revenue, rather than as a means by which state and local governments conduct their financial affairs and provide essential public services, has led to provisions that go far beyond any necessary correction of abuses. These provisions impose restrictions that greatly constrain state and local autonomy and threaten the loss of financing for projects whose function is clearly to serve the general public.

The code now classifies a State or local bond as a "private activity" bond, regardless of the nature of the facilities financed, if more than 10 percent of the proceeds are used, and more than 10 percent of the proceeds are secured, by one or more private businesses.

An example would be a municipally owned and operated sewage treatment plant, which assigns more than 10 percent of its capacity for the use of one or more large commercial users. In such a case, the project would exceed the 10 percent private use limit if the industrial contracts are different in any way from the arrangements open to the general public.

What does this mean? It means that once the 10 percent limit is exceeded, bonds for the entire facility no longer can be exempt from taxation, unless the bonds fit within the State's private activity volume cap.

As a result of the 1986 Tax Act, these caps are far lower than they had been. It is possible for one large sewage treatment plant to take up as much as 15 percent of a State's allowable volume, a volume for which many worthy public projects must compete fiercely.

But even if bonds for an environmental facility were safely classified as governmental, they continue to face new restrictions. Perhaps the most onerous one requires that State and local governments rebate to the Federal Government any profits from higher yielding investments that might be made during a brief, preconstruction period. This requirement prevents local governments from managing bond proceeds efficiently.

Is that what we want to do? I think not.

Issuers of bonds for certain infrastructure purposes, the private sector advisory panel argued, "should be allowed to retain reasonable investment earnings on such debt issues. The alternative is simply to pile greater costs onto local governments, and higher fees on the local users."

With that background, let me explain how my bill works.

First, it creates a new category of tax-exempt bond, an "infrastructure bond." An infrastructure bond would be an obligation, issued by a State or local government, that is used to finance any of five types of public investment: wastewater treatment, solid waste disposal, hazardous waste disposal, water supply for public use, and facilities required for a public agency to achieve compliance with regulations issued by the Environmental Protection Agency.

These public infrastructure bonds will be freed from the constraints imposed on tax-exempt bonds by the 1986 Tax Reform Act. These bonds would not be subject to a cap. These bonds will not be subject to the alternative minimum tax. These bonds may be refunded at any time.

Further, the Environmental Infrastructure Act allows local governments to reinvest proceeds from infrastructure bond issues temporarily at higher yields. With the reasonable constraints in the bill, this provision will provide local governments more flexibility in financing these facilities.

In its report, the National Council on Public Works Improvement clearly supported a provision such as this one. Improving America's infrastructure, the Council said, requires "removal of unwarranted limits on the ability of State and local governments to help themselves through tax-exempt financing."

Last year, a dozen important national organizations—groups like the National Governors Association, the National Association of Counties, the Associated General Contractors of America, the American Public Works Association, and others—joined in creating a new organization they called Rebuild America.

Rebuild America terms itself a "coalition for quality infrastructure investment." One of its key goals is this:

> Federal restrictions on the use of tax-exempt financing for infrastructure purposes should be eliminated.

Infrastructure bonds are one area of concern to me, an issue dealt with in his legislation. Another is public-private partnerships, which have taken on new importance as we seek capital to meet public needs.

So the second major thrust of my bill encourages private investments in public facilities. This bill extends to all types of environmental infrastructure facilities the same tax treatment the Tax Code now gives only to solid waste facilities. All these facilities will be placed in the 7-year accelerated cost recovery class. If they are financed with tax-exempt bonds, they will be depreciated over 10 years.

The advisory sector advisory panel determined:

> A faster rate of depreciation under the Federal tax law would encourage private investments and participation in the development of such projects.

The Private Sector Advisory Panel concluded that "private investment in public facilities offers a sound opportunity to increase substantially the capital available for infrastructure investments.

I agree.

Public-private partnerships might take the form of publicly owned and privately managed hazardous waste disposal facilities, or a public hazardous waste disposal authority, which assumes responsibility for the disposal of hazardous waste through privately owned and managed facilities.

Tax policy should encourage such arrangements. It has failed to do so.

To attract private investment, sewage, solid and hazardous waste, and water facilities must hold the promise of profitability. Projects of this sort are long-term investments. They do not generate a quick profit; the return is low and spread over many years. The cost-recovery rules now in the Tax Code lessen the economic feasibility of such arrangements.

The cost recovery periods for sewage treatment facilities and water supply facilities have been made so long that the private investment option is virtually foreclosed.

Mr. President, the Environmental Infrastructure Act is but one step forward in a comprehensive program to meet America's infrastructure needs. The private sector advisory panel and the National Council on Public Works Improvement made recommendations to improve our infrastructure.

I shall continue to examine these recommendations in these reports, possibly introducing further legislation in this important area.

To aid in a broader understanding of this proposal, I ask unanimous consent that a copy of this bill, together with a summary of the legislation and a copy of the executive summary of the private sector advisory panel's final report, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENTS OF 1986 CODE.

(a) SHORT TITLES.—This Act may be cited as the "Environmental Infrastructure Act of 1988".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 2. INFRASTRUCTURE TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (a) of section 141 (relating to private activity bonds) is amended by inserting the words "which is not an infrastructure bond and which is" after the words "any bond" and before the word "issued."

(b) INFRASTRUCTURE BONDS DEFINED.—Section 141 is amended by inserting after subsection (d) the following new subsection:

"(e) INFRASTRUCTURE BONDS.—

"(1) IN GENERAL.—For purposes of subsection (a), the term 'infrastructure bond' means any State or local bond which is issued as part of an issue 95 per centum or more of the proceeds of which are to be used to provide infrastructure facilities which are available for the ultimate use of the general public (including electric utility, industrial, agricultural, commercial, nonprofit, or governmental users).

"(2) INFRASTRUCTURE FACILITIES.—For purposes of this subsection, the term 'infrastructure facilities' means—

"(A) sewage facilities,

"(B) solid waste disposal facilities,

"(C) hazardous waste disposal facilities,

"(D) facilities for the furnishing of water, or

"(E) facilities, whether or not described in subparagraphs (A) through (D), which are constructed, reconstructed, rehabilitated or acquired for the purpose of achieving compliance by a State or local government with Federal statutes and regulations administered by the United States Environmental Protection Agency.

"(3) HAZARDOUS WASTE DEFINED.—For purposes of this subparagraph, the term 'hazardous waste facility' means any facility for the disposal of hazardous waste, but only if—

"(A) the facility is subject to final permit requirements under subtitle C of title II of the Solid Waste Disposal Act (P.L. 98-616), and

"(B) the portion of such facility which is to be provided with such issue does not exceed the portion of the facility which is ultimately to be used by persons other than

"(i) the owner or operator of such facility, and

"(ii) any related person (within the meaning of section 144(a)(3)) to such owner or operator, unless such owner or operator is a State or local government or agency thereof."

(c) Conforming Amendments.—

(1) Section 142 is amended—

(A) by striking out paragraphs (4), (5), (6), and (10) in subsection (a) and redesignating paragraphs (7), (8), and (9) as paragraphs (4), (5) and (6) respectively.

(B) by striking out subsections (e) and (h) and redesignating subsections (f) and (g) as subsections (e) and (f) respectively.

(2) Section 146 is amended—

(A) by striking out subsection (h) and redesignating subsections (i) through (n) as subsections (h) through (m) respectively, and

(B) by striking out "(1) In General.—Except as provided by paragraph (2)," and paragraph (2) from subsection (k).

(3) Section 150 is amended by striking out "paragraph (7)" each place it appears and inserting in lieu thereof "paragraph (4)."

(4) Subparagraph (C) of paragraph (5) of subsection 168(g) is amended by substituting "(4)" for "(7)".

(d) Effective Date.—The amendments made by this section shall apply to obligations issued after December 31, 1988.

SEC. 3. ARBITRAGE REBATE REQUIREMENT MODIFIED.

(a) In General.—Paragraph (4) of subsection (f) of section 148 is amended—

(1) by inserting after the words "in a bona fide debt service fund" and before the words "shall not be considered" in clause (i) of subparagraph (B) the words "or deposited in a reasonably required reserve or replacement fund."

(2) by striking all of clause (ii) of paragraph (B) after the words "Additional period for certain bonds.—" and substituting in lieu thereof the following:

"(I) Obligations other than private activity bonds.—In the case of an issue (other than a refunding issue) of obligations other than private activity bonds (and other than tax or revenue anticipation bonds), an issue shall be treated as meeting the requirements of paragraph (2) if

"(A) no later than the day which is one year after the date of issuance of such issue, at least 20 per centum of the gross proceeds have been expended for the governmental purpose of the issue;

"(B) no later than the day which is two years after the date of issuance of such issue, at least 50 per centum of the gross proceeds have been expended for the governmental purpose of the issue; and

"(C) no later than the day which is three years after the date of issuance of such issue, at least 95 per centum of the gross proceeds have been expended for the governmental purpose of the issue.

For purposes of this subclause only, only proceeds expended for construction, reconstruction, or rehabilitation (including the acquisition of land, equipment and furnishings) shall be considered to have been expended for the governmental purpose of the issue.

"(II) Qualified 501(c)(3) bonds.—In the case of a qualified 501(c)(3) bond, clause (i) shall be applied by substituting '1 year' for '6 months' with respect to the portion of the proceeds of the issue which are not expended in accordance with clause (i) if such portion does not exceed the lesser of 5 percent of the proceeds of the issue or $100,000."

(b) Effective Date. The amendments made by this section shall apply to obligations issued after December 31, 1988.

SEC. 4. INFRASTRUCTURE FACILITIES GENERALLY 7-YEAR PROPERTY

(a) In General.—Subparagraph (C) of paragraph (3) of subsection 168(e) (relating to classification of certain recovery property) is amended by striking out the word "and" from subparagraph (ii), redesignating subparagraph (iii) as subparagraph (iv), and inserting after subparagraph (ii) the following new subparagraph:

"(iii) any infrastructure facility (within the meaning of section 141(e)(2)), except as provided in paragraph (3)(B)(vi) of this subsection, and".

(b) Alternative Depreciation System.—The chart in subparagraph (B) of paragraph (3) of subsection 168(g) (relating to special rules for determining class life) is amended by striking out the lines assigning class lives to property described in subparagraphs (D)(i) and (E) and adding after the line assigning a class life to property described in subparagraph (C)(ii) and before the line assigning a class life to property described in subparagraph (D)(ii) the following line:

"(C)(iii) .... 10"

(c) Property Leased to a Tax-Exempt Entity.—Section 168(h) is amended by redesignating paragraphs (3) through (8) as paragraphs (4) through (9) respectively and inserting after paragraph (2) the following new paragraph:

"(3) Exception for property which is part of an infrastructure facility.—For purposes of this subsection, the term 'tax-exempt use property' shall not include any property which is part of an infrastructure facility (within the meaning of section 141(e)(2))."

(d) Effective Date.—The amendments made by of this section shall apply to property placed in service after December 31, 1988.

The Environmental Infrastructure Act of 1988—Section-by-Section Description

SECTION 1—SHORT TITLE AND REFERENCE TO 1986 CODE

Section 1 states that the legislation may be cited as the Environmental Infrastructure Act of 1988, and specifies that all references to existing provisions shall be to the Internal Revenue Code of 1986, unless otherwise specified.

SECTION 2—INFRASTRUCTURE TAX-EXEMPT BONDS

Section 2 creates a new category of tax-exempt bond, the infrastructure bond.

Subsection (a) amends the definition of "private activity bond" in section 141 to specify that no infrastructure bond will be considered a private activity bond—i.e., infrastructure bonds will be treated as "governmental" bonds.

Subsection (b) defines "infrastructure bond" as any state or local bond which is used to provide "infrastructure facilities" for the ultimate use of the general public. "Infrastructure facilities" are defined as sewage facilities, solid waste disposal facilities, hazardous waste disposal facilities (provided the facility is subject to the permit requirements of the Solid Waste Disposal Act and the tax-exempt financing is not used to finance the ultimate use of the facility by any private owner, operator, or related persons), and facilities for the furnishing of water.

Also included are any facilities whose purpose is to achieve compliance with federal environmental statutes and regulations. For instance, a mass transit system constructed to achieve compliance with Clean Air Act standards would qualify.

Subsection (c) makes technical amendments to other sections of the code in order to make the Internal Revenue Code conform with the changes in subsections (a), (b), and (c). These include:

(1) Removing sewage facilities, solid waste disposal facilities, hazardous waste disposal facilities, and facilities for the furnishing of water from the list of "exempt facility" private activity bonds, in section 142 and renumbering the other items on the list accordingly.

(2) Deleting all references to those facilities in section 146, which relates to the state-by-state volume cap.

(3) Amending references to multifamily housing bonds in sections 150 and 168(g) to reflect the renumbering of the exempt facilities list.

Subsection (d) specifies that the provisions of section 2 will apply to bonds issued after December 31, 1988.

SECTION 3—ARBITRAGE REBATE REQUIREMENT MODIFIED

Section 3 modifies the arbitrage rebate requirement so as to provide more latitude for local governments to manage the proceeds of bond issues in order to minimize their indebtedness, so long as the proceeds are spent within a reasonable time.

Paragraph (1) of subsection (a) provides that reasonably required reserve funds are not included in the gross proceeds which must be spent within a certain period in order to avoid the rebate requirement.

Paragraph (2) of subsection (a) extends the temporary period for governmental bonds, including infrastructure bonds. For these bonds the rebate requirement will be avoided if at least 20 percent of the proceeds have been spent for construction, reconstruction, or rehabilitation by the end of the first year after the date of issuance; at least 50 percent of the proceeds have been spent by the end of the second year; and at least 95 percent by the end of the third year.

Subsection (c) specifies that the provisions of Section 3 will apply to bonds issued after December 31, 1988.

SECTION 4—INFRASTRUCTURE FACILITIES GENERALLY 7-YEAR PROPERTY

Section 4 places all infrastructure facilities in the 7-year ACRS class, so that all such facilities will be depreciated in the same manner as are solid waste facilities under current law. Currently, municipal wastewater treatment plants are in the 15-year class and municipal sewers and water supply facilities are in the 20-year class.

Subsection (a) specifies that an infrastructure facility will be classified as 7-year property.

Subsection (b) assigns infrastructure facilities a 10-year class life for purposes of the alternative depreciation system, which is used for property financed with tax-exempt bonds and for property leased to a tax-exempt entity. Currently, tax-exempt bond financed municipal wastewater treatment plants are depreciated over 24 years, water supply facilities over 30 years, and municipal sewers over 50 years.

Subsection (c) specifies that infrastructure facilities will not be included in the term "tax-exempt use property"—i.e., property that is subject to the restrictions imposed on property leased to tax-exempt entities. The principal restriction imposed on such property is that it be depreciated over 125% of the lease term.

Subsection (d) specifies that the amendments made by Section 4 will apply for property placed in service after December 31, 1988.

PRIVATE SECTOR ADVISORY PANEL ON INFRASTRUCTURE FINANCING

EXECUTIVE SUMMARY

America has shortchanged its future.

We need better highways. We need to expand our sewage plants. We need improved garbage disposal, safer bridges, more efficient air traffic systems, cleaner drinking water.

The Panel is convinced that America has fallen behind in building the sinew of infrastructure necessary for the future. Following considerable analysis of methods to finance future infrastructure, the Private Sector Advisory Panel on Infrastructure Financing recommends a number of important initiatives, including:

Creation of a new Infrastructure Trust Fund, financed with $25 billion in special federal contributions over five years, and dedicated to capitalizing state infrastructure banks and revolving loan funds;

Creation of a new, tax-exempt infrastructure bond to help local governments meet local needs; and

Support for public/private partnerships in constructing and managing infrastructure facilities.

Background

To a disturbing extent, America's public facilities are defined by words such as "neglected," "decaying," "inadequate."

Each of us—all 240 million—at some point in our daily routines becomes aggravated with the problem of a clogged highway, a leaking water system, a stream polluted by untreated sewage, an aging subway car. Our roads and freeways are in disrepair. More frightening, we hear too frequently of collapsed bridges.

The physical underpinnings of America's economy have eroded.

Public spending on roads, bridges, and other types of physical infrastructure has declined steadily since the late 1960's. As a percentage of our gross national product, combined annual, federal, state, and local infrastructure investment fell from 3.5 percent of GNP in 1967 to about 2.7 percent of GNP in the mid 1980s. That percentage continues to drop.

Our failure to repair, replace, and expand essential public works is as glaring in the Sunbelt cities of the Southwest as in the older industrial cities of the Northeast.

The accumulated backlog carries a cost of overwhelming proportions. The shortage that will occur between now and the year 2000 has been estimated at $240 billion by the Congressional Budget Office. The Joint Economic Committee of the Congress put the shortfall over that period at $448 billion. Other estimates range much higher. Whatever number is accurate, it is astronomical. The situation appears certain to become more serious if action is not taken.

Why? The reasons are diverse. To a great extent, we see the consequence of choices made at every level of government in the allocation of resources. Instead of spending tax dollars on public works at the rate utilized for many years, America shifted its goals. While such a choice was never presented directly to America's taxpayers, it has been a decision at all levels of government, a decision that robs the future to pay for today.

Since the earliest civilizations, economic growth moved forward with public works. For America, the canals of the Northeast were followed by railroad lines stretched across the continent. We raised dams so the desert might bloom. We stitched together a system of interstate highways to speed travel. Public investment in public facilities added to our productivity, to economic growth, to a better life for all Americans.

As we enter the third century of the Republic, this Panel is convinced that a new national commitment to public works—to our infrastructure—is absolutely essential.

Senator Pete V. Domenici established the Private Sector Advisory Panel on Infrastructure Financing to advise the Senate Budget Committee on the role of the federal government in financing future infrastructure facilities.

The Panel was asked to examine the potential for state and local investments in infrastructure, review new market instruments and debt financing mechanisms, determine the usefulness of new state and local financing institutions such as infrastructure banks and revolving funds, recommend long-term predictable sources of funding, and investigate the potential for private sector investment in public works.

Simply put, the challenge was to examine options for infrastructure financing, then recommend effective ways to select and fulfill the best option.

The Panel reviewed activities in several states and held a series of hearings to gain insights and information. The states which participated in case studies included Florida, Indiana, New Jersey, Texas, and Washington. Public hearings were held in Washington, D.C., Albuquerque, Trenton, Indianapolis and Seattle.

The Panel did not attempt to measure the level of need for increased infrastructure funding which has been well-documented in studies by the Joint Economic Committee and the Congressional Budget Office. Instead, the Panel focused on the evolution in governmental responsibility for infrastructure financing, the impact of that shift on state and local financing, and the potential for new and innovative financing mechanisms to meet capital needs.

Should America rely more on the federal government, or on the state and local governments, or on private enterprise? Should we embark on a new wave of federal spending? Should we look for new, creative alternatives in public spending?

Based on its review, the Panel has reached the following conclusions.

CONCLUSIONS

The continued productive capacity of the American economy depends on the availability of adequate basic public facilities. Rebuilding, revitalizing, and expanding America's public infrastructure is imperative to our future.

America's need for more and better public facilities is a national issue that must be addressed nationally. Public works are not only essential for interstate and international commerce, they are essential for the health, safety, and general welfare of the American people.

A significant federal role in building and rebuilding our nation's infrastructure is altogether appropriate. Since both the states and the local governments lack the capacity to address this need equitably and comprehensively, a revived federal involvement is essential.

The federal contribution to infrastructure financing has declined. With the sole exception of outlays earmarked from motor fuel tax receipts in the Highway Trust Fund, federal infrastructure spending has diminished, with state and local interests bearing an increasing share of the burden.

The financial responsibility for meeting America's infrastructure needs has fallen most heavily onto state and local governments. In six categories of public works investment—highways, water supply, wastewater treatment, aviation, mass transit, and water resources—annual federal spending recently was $25.5 billion, compared to non-federal annual spending of $63.6 billion.

As the federal government shifted priorities away from infrastructure financing, new federal laws have mandated state and local compliance with new requirements for water pollution control, clean drinking water, and the clean-up of hazardous wastes. While essential for the public welfare, these new laws provided little in additional funding to assist in meeting the considerable cost of state and local compliance.

States and localities have faced not only the federal shift in priorities but have had to contend with the "taxpayer revolt" which in many localities capped property taxes which are a primary source of revenue for local governments. To contend with the resulting revenue shortfall, local governments have increasingly turned to the bond market to borrow funds necessary to finance infrastructure facilities.

Within the past decade, the annual volume of tax-exempt debt issued for public works rose from just over $6 billion in 1977 to four times that level. State and local governments turned to new forms of loans, debt packages, credit enhancements, and other forms of financing. User fees and other exactions also have become increasingly popular, and many localities are exploring the potential for public/private partnerships.

Yet these initiatives have been insufficient. Demands for public facilities have continued to exceed the ability of state and local governments to respond. State and local governments lack the resources and the flexibility to shoulder the expanding burden of financing America's infrastructure need. Compared to the dimensions of need for new and improved public facilities, state and local resources are insufficient.

Infrastructure banks, revolving loan funds, and other innovative funding systems are being used effectively in a number of states. They offer the potential to become a major sustaining source of financial assistance for local infrastructure investments, when sufficiently capitalized.

Over the years, the federal government has, through the tax code, encouraged investments in public works indirectly through the availability of tax-exempt municipal bonds, favorable depreciation allowances, and investment tax credits. Historically, this indirect federal contribution has provided a substantial and valid subsidy of state and local infrastructure financing.

In recent years, however, increasingly severe restrictions on the use of tax-exempt bonds have made this form of infrastructure financing increasingly difficult. The tax-exempt bond provisions in the 1986 Tax Reform Act are even more restrictive. These provisions will reduce the volume of state and local debt financing, and make even traditional governmental bonds more difficult and more costly to issue.

The new tax code thus complicates and further confounds efforts by state and local government to fill the breach in infrastructure financing.

Increasing use of user fees to finance project costs, as well as supporting adequate operations, maintenance, and repair budgets, is sound policy, and should be incorporated into project planning.

Some of the newer mechanisms for raising special revenues, such as development exactions and impact fees, are effective in areas of rapid growth. These, however, hold limited appeal for areas of slower growth or declining economic base.

Federal regulations and compliance standards may reduce local flexibility and constrain or frustrate the application of cost effective and innovative solutions to local infrastructure needs.

The trend toward private investments in public works facilities and services should be encouraged through federal tax provisions and federal program implementation.

Based on these conclusions, the Panel offers the following recommendations, in order of priority:

Recommendation No. 1

Congress should create an Infrastructure Trust Fund to capitalize infrastructure state banks and revolving loan funds.

Legislation should be enacted to create a trust fund to distribute among the states $5 billion annually for each of five years. This money should be raised from a dedicated, broad-based, new source of taxation, then placed in the Infrastructure Trust Fund for distribution by formula that, among other things, stresses population and land area.

This Federal Trust Fund contribution would go to recipient states once they establish a revolving fund or infrastructure bank to finance needed infrastructure facilities within the state. The contribution from the Trust Fund would provide 80 percent of the capital for each bank or fund, with the state required to contribute the remaining 20 percent.

These revolving funds would provide loans or credit enhancement to build and maintain highways, streets, roads, mass transit, wastewater collection and treatment, solid waste disposal, water supply facilities, and other pressing infrastructure needs.

The states would not be required to repay these Trust Fund grants. But to assure the revolving nature of the state funds or banks, local governments would be required to repay at least the principal amount of all loans.

In the Panel's view, a Trust Fund is preferable to other possible forms of federal assistance such as increased categorical grants. Properly structured, the state banks or funds would replenish themselves, serving as continuing sources of investment capital.

No additional federal capital would be required following the fifth year of the program to make the revolving system work.

Clearly, the total sum available for construction will be contingent upon both the initial capital, the level of state matching funds, and the terms and conditions of loans, guarantees, and other forms of assistance. The Panel estimates that within 15 years, the initial federal capitalization, together with the 20 percent state match, could produce close to $75 million in infrastructure investment, assuming the loans were repaid at 7¼ percent interest. Alternatively, if the same amount of capital—$25 billion in federal grants plus $6.25 billion in state matching funds—were loaned over 10 years, with no interest charged, the program would generate $40.3 billion in new infrastructure work. It must be underscored that America's infrastructure needs far exceed the scope of a program with these assumptions, but this infusion of new capital will create a funding device available in perpetuity.

Each state revolving fund or infrastructure bank should be available for new construction, as well as for rehabilitation and major maintenance and repair of existing facilities.

The additional funds made available under this recommendation must be just that, additional funds. These funds must not be used to supplant existing federal and/or non-federal investments in infrastructure. This is a program to reduce the huge backlog, not simply provide a different source of funding for work that would be accomplished anyway.

To be eligible for funds from a state bank, a local government should be required to document its needs and established capital plans and budgets.

Under this recommendation, the federal government would serve as a catalyst in responding to our national need for infrastructure financing without adding permanently to the size of the federal bureaucracy.

Recommendation No. 2

Congress should create a new category of tax-exempt bond, an infrastructure bond.

With or without an Infrastructure Trust Fund to pump new cash into infrastructure, tax-exempt financing must continue to be available if state and local governments are ever to begin to meet their infrastructure needs.

State and local governments rarely have the funds on hand to finance expensive infrastructure projects. Therefore, they increasingly have had to borrow to pay for needed public improvements. Total outstanding state and local debt in recent years has increased significantly, now totaling more than one-half trillion dollars. A major portion of this increase has been in so-called "private activity" debt.

In the 1986 Tax Reform Act, Congress restricted the scope and availability of tax-exempt financing for private purposes. In seeking to give all taxpayers a fair shake, Congress went too far, in the view of the Panel. The restrictions imposed by Congress will effect not only bonds used for private purposes, but also, many bond issues which fall into the private activity category but are used for traditional governmental purposes.

Under the 1986 Tax Reform Act, vital bond issues for sewage collection and treatment, solid waste disposal, and water supply facilities, among other legitimate public purposes, will often fall under the classification—and limits—of "private activity" bonds. Such bonds are subject to state-by-state volume caps, based on population.

If the volume of bonds issued goes above the annual cap the Act imposes on each state, such bonds will no longer be tax-exempt issues. In which case, financing these necessary facilities will be costlier to the issuer and to the users.

To offset this unintended result, the Panel recommends the creation of this new category of governmental bonds, "infrastructure bonds," which would be excluded from the definition of "private activity" bonds under the federal tax code.

Issues of infrastructure bonds should be allowed to retain reasonable investment earnings on such debt issues. The alternative is simply to pile greater costs onto local governments, and higher fees on the local users.

Recommendation No. 3

Public/private partnerships must be encouraged in infrastructure financing.

Private investment in public facilities offers a sound opportunity to increase substantially the capital available for infrastructure investments.

The potential for public/private partnerships in solid waste disposal, wastewater treatment, water supply, transportation, and other areas has been demonstrated in recent years. But federal action is needed to encourage this potential.

Federal executive departments and agencies should follow the example of the Environmental Protection Agency and the Department of Transportation by actively promoting and facilitating public/private partnerships in which the private sector develops, operates, and in some cases owns, needed facilities in cooperation with local government.

These opportunities are most evident in projects such as water supply or sewage treatment. The low and slow rate of return on such facilities requires an early and rapid tax write-off to maintain a flow of cash sufficient to attract private investment. A faster rate of depreciation under the federal tax law would encourage private investment and participation in the development of such projects.

Sewage treatment and water supply facilities should be placed in the same category with solid waste facilities in the Accelerated Cost Recovery System. Depreciation should be allowed over seven years generally, and over ten years with tax-exempt bond financing.

A federal clearinghouse should be established to coordinate and distribute information on initiatives at every level to encourage public/private cooperation in confronting our infrastructure problems.

Recommendation No. 4

Federal technical support should be emphasized for all areas of infrastructure development.

Whatever new financing initiatives are undertaken by the federal government, whether in response to these Panel recommendations or other proposals, state and local governments will continue to carry the principal responsibility for building most public works.

Adequately funded, state and local governments can fulfill this responsibility. They can achieve it with greatest efficiency if provided additional technical support from the federal government. This support will be particularly valuable at the local level.

In the administration of various categorical grant programs, federal agencies have accumulated vast technical experience and expertise. As some of these grant programs wane, this wisdom may be lost. This must not occur. New emphasis should be given to make this federal experience and expertise available to state and local governments.

In this way, non-federal officials should be able to make better decisions on design, development, operation, maintenance, and other aspects of building and rebuilding needed public facilities.

Recommendation No. 5

Existing Federal Trust Funds for infrastructure must be preserved as an essential federal component for constructing infrastructure.

The existing highway, airport, and waterway trust funds help assure a more stable and reliable level of funding for certain infrastructure purposes. As devices for revenue collection and allocation, dedicated trust funds are very effective. They promote better planning, management, and budgeting at the state and local level.

The utility of trust funds to assist state and local capital investment planning is best served when disbursements are dependable and timely, and Congress should act promptly on reauthorizations and annual appropriations.

Recommendation No. 6

Federal agencies should review standards and regulations related to infrastructure programs.

A review of federal regulations is needed to assure that the standards and regulations permit and encourage cost-effective solutions, plus innovations in design, technology, and response, and in no way frustrate or discourage non-federal initiatives.

In particular, a thorough review is needed of federal compliance standards to assure that life-cycle cost analysis is encouraged, that new investment is not encouraged at the expense of efficient operations of existing facilities, and that innovative techniques with the promise of superior performance have every opportunity to demonstrate their value.

The panel offers these six recommendations not as a solution to all of our infrastructure problems, but as a step—a major step—toward overcoming those problems.●

By Mr. BAUCUS (for himself, and Mr. DANFORTH):

S. 2312. A bill to amend the Internal Revenue Code of 1986 to make the research credit available to certain startup ventures; referred to the Committee on Finance.

ENTREPRENEURS' RESEARCH INCENTIVE ACT

● Mr. BAUCUS. Mr. President, I am pleased to introduce legislation, along with Senator DANFORTH, to make the incremental R&D credit available to startup ventures. This legislation, the Entrepreneurs' Research Incentive Act, is needed now to encourage the research and development activities that eventually will lead U.S. firms to greater productivity and to an enhanced ability to compete in world markets.

The importance of R&D efforts to the economic growth of our Nation cannot be overstated. In the past 60 years, technological improvements have accounted for two-thirds of our increased labor productivity. The fastest growing U.S. industries are high-technology industries, and high-technology products account for a substantial portion of our manufactured exports.

We must strive to maintain, if not improve, our position as a high-technology leader. But look where we are headed. Japan, Germany, France, and the United Kingdom spent proportionately more on civilian R&D than we do. In 1986, the U.S. high-technology trade balance was a deficit of $2.6 billion. Six years earlier it was a $27 billion surplus. This cannot continue. Congress and the administration must act to encourage R&D efforts.

Extension of the R&D credit to startup ventures is only a portion of the effort we must make to hold our own in this high technology economy. But it is an important portion. U.S. entrepreneurs start thousands of S corporations, partnerships, and C corporations every year with dreams that creative research and hard work will lead to new products that can be successfully marketed. Those entrepreneurs take very substantial risks in starting these ventures. We should, at a minimum, extend to them the same R&D incentives that are available to major companies.

Now it's true that startup ventures cannot take the credit in the early years of the venture. That is because they do not earn income, and the benefit of the credit is that it offsets income tax liability. However, the current credit can be carried forward for 15 years. The same rules would apply to startups. They could earn the credit in the early years of operation and carry forward unused credits until the research produces income tax liability.

Since enactment of the existing R&D credit in 1981, the credit has been limited to research performed "in carrying on" a trade or business. This means the credit is limited to companies that are actively marketing products in the year in which they perform research. Startup ventures do not meet this "in carrying on" test because they are performing research that will lead to marketing efforts in future years. This restriction on startup ventures was intentional. The concern, when the incremental credit was enacted in 1981, was that the restriction was necessary to prevent R&D tax shelters from abusing the R&D credit.

That concern has been eliminated. First, few, if any, R&D tax shelter partnerships exist today. Second, Congress has enacted other rules, such as the passive loss rules and the new minimum tax, which severely limit the extent that losses and credits can be utilized to create a tax shelter. Third, the R&D credit provision itself contains a limitation, section 41(g) which permits the credit to offset only tax from the activity or entity that gave rise to the credit. Thus, for example, partners in a partnership can utilize the credit only against income from that partnership.

Since the potential for abuse that led to the restriction on startups has been eliminated, we should act this year to eliminate the restriction and extend the R&D credit to startup ventures. We discussed this restriction with Treasury and other witnesses last year when I held hearings in the Finance Subcommittee on Taxation and Debt Management on R&D incentives. At that hearing, Treasury agreed that the restriction on startup ventures is a problem.

Our bill would address this problem. In technical terms, the bill extends the credit to startups by permitting research to be eligible if the prinicipal purpose of the taxpayer is to use the results of the research in the active conduct of a trade or business. The research must still be undertaken for use in a business, not for investment purposes. Thus, for example, research which if successful is intended solely to be licensed to unrelated parties for use in their businesses would not be eligible for the credit under this provision. Moreover, the provision only applies to so-called in-house research by a taxpayer—that is, salaries and supplies of the taxpayers' employees—and not to research contracted out to unrelated parties.

The revenue cost of the bill is minimal. The Joint Tax Committee staff estimates that the revenue cost of the bill is $18 million in 1989 and is less than $200 million through 1993. Additionally, I am committed to working to make this bill revenue neutral.

Even at this small cost, the bill permits virtually all startups to be eligible for the credit. This should encourage startup ventures to undertake the kinds of research that are important to the long run vitality of American industry in the world economy. America's high-technology companies know that R&D is crucial to our competitiveness in the world economy. And I am very pleased to report that many of those companies have endorsed this bill. I am inserting in the RECORD two letters—one from the American Electronics Association and one from the Council on Research and Technology—that endorse this bill. These groups have worked hard for this legislation and for other proposals to enhance the competitive position of the United States. I welcome their support for this legislation.

I ask unanimous consent that copies of the letters from AEA and Cortech be inserted in the RECORD along with a copy of the legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Entrepreneurs' Research Incentive Act".

SEC. 2. RESEARCH CREDIT FOR START-UP VENTURES.

(a) GENERAL.—Subsection (b) of section 41 of the Internal Revenue Code of 1986 (defining qualified research expenses) is amended by adding at the end thereof the following new paragraph:

"(4) TRADE OR BUSINESS REQUIREMENT DISREGARDED FOR IN-HOUSE RESEARCH EXPENSES OF CERTAIN VENTURES.—In the case of in-house research expenses, a taxpayer shall be treated as meeting the trade or business requirement of paragraph (1) if, at the time such in-house research expenses are paid or incurred, the principal purpose of the taxpayer in making such expenditures is to use the results of the research in the active conduct of a future trade or business—

"(A) of the taxpayer, or

"(B) of 1 or more other persons who with the taxpayer are treated as a single taxpayer under subsection (f)(1).".

(b) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after December 31, 1988.

CORETECH,
March 28, 1988.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: As chairman of the Council on Research and Technology (CORETECH), I am pleased to express our strong support for the bill you and Senator Danforth are introducing to extend the R&D tax credit to start-up companies. This legislation is another excellent example of the continuing leadership you have shown on R&D and competitiveness issues.

Present law discriminates against start-up companies by not giving them the credit for the research they undertake at a most difficult and important time—when they are developing their first innovative products as a new company. Yet, the continuing development of these companies is crucial to the American way of succeeding in international competition. Companies like Apple and Intel in the 1970's and Sun Microsystems and Microsoft in the mid-1980's have been in the forefront of the U.S. competitive response. Similar companies must be fostered as we move to the 1990's. The R&D credit will make an important difference to these companies to be formed and fostered in the years ahead.

CORETECH is composed of 79 universities, 45 companies, 17 trade associations and 6 research institutes. None of these organizations are themselves affected by the extension of the R&D credit to start-up companies. Nonetheless, we are unanimous in our support of your legislation so that these companies, like our own corporate members, have an incentive to increase their research effort beyond what they could afford on their own.

We look forward to working with you on this legislation.

Best regards.

Sincerely,

DR. JOSEPH A. SALOOM.

AMERICAN ELECTRONICS ASSOCIATION,
Washington, DC, March 25, 1988.

Hon. MAX S. BAUCUS,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR BAUCUS: I am writing to express the strong support of the American Electronics Association (AEA) for the bill to be introduced by you and Senator Danforth making the R&D credit available to start-up companies.

AEA is the nation's largest high technology trade organization, consisting of 3,500 companies across America. Three-fourths of AEA's members employ fewer than 300 people. A large portion of these AEA member companies were once fledgling start-up companies, many within the last 10 years. Their successes have been legendary. Because of this history, AEA has a tradition of speaking for the entrepreneurial sector of the electronics industry.

Since its enactment in 1981, the R&D credit has not applied to start-up companies. Yet the nurturing of these companies is vital to the process of strengthening our industry and its productivity and competitiveness. Between 1978 and 1984 the electronics industry created over one million new jobs in the United States. Many of these were created by start-up companies. Their success or failure depends on their ability to invest in risky R&D activities. Making these companies eligible for the credit will help them find the means to make these investments. It is a most important positive step.

We appreciate your leadership on this issue.

Sincerely,

RALPH J. THOMSON,
Senior Vice President, Public Affairs.●

● Mr. DANFORTH. Mr. President, in the competitive world in which we live today, we must stay on the cutting edge of research and development. We cannot afford to let our major international trading partners leapfrog over us into the forefront of high technology, research, and development. For this reason, I am pleased to join Senator BAUCUS today in introducing legislation which will extend the R&D tax credit to startup ventures and to new lines of business within existing firms.

The current law does not allow startup ventures to take the R&D tax credit, because expenditures by such firms, before market sales, are not considered to be made "in carrying on" a trade or business. Consequently, the credit is of no value to startup ventures that are developing new products or to existing businesses attempting to enter a new trade or business. Interestingly, the R&D expenses leading to many of America's most significant small business innovations; the lightbulb, the phonograph, the airplane, the human growth hormone, and the personal computer would be ineligible for the current R&D tax credit.

In 1987 the Subcommittee on Taxation and Debt Management of the Finance Committee held a hearing on R&D incentives. At that time witnesses representing the American Electronics Association and other groups urged that the credit be modified to make startup ventures eligible where the goal of their research is to develop a future business. Thousands of S corporations, partnerships, and C corporations are started in this country every year with visions that their research will lead to new products and technologies. The development of these new products and technologies are essential to our continued economic growth and the risks these firms take should be rewarded.

Of course, startup ventures by definition have no current income and thus pay no income tax. But for all taxpayers the Code permits the R&D credit to be carried forward for 15 years. There is no reason why new ventures should not earn credits as startups to be available when and if they ultimately are successful and begin paying taxes.

The major justification for the "in carrying on" test was prevention of use of the credit by tax shelters. Potential abuses of the credit by R&D tax shelter partnerships have been largely eliminated by the passive loss rules of the 1986 Tax Reform Act. Furthermore, the R&D credit provision itself contains a limitation—under section 41(g)—which permits the credit to offset only tax from the activity or entity that gave rise to the credit. Thus, for example, shareholders in an S corporation can utilize the credit only against income from that S corporation.

For all these reasons, I believe that the credit should now be made available to startup ventures. This legislation would accomplish that result by permitting research to be eligible for the credit if the principal purpose of the taxpayer is to use the results of the research in the active conduct of a present or a future trade or business. Research undertaken for investment purposes will not qualify. Thus, for example, research intended solely to be licensed to unrelated parties for use in their businesses would not be eligible for the credit under this legislation. Moreover, the legislation does not apply to research contracted out to unrelated parties but rather to the "in house" research by a taxpayer—that is, salaries and supplies of the taxpayers' employees.

The revenue cost of the bill is minimal. Yet at this minimal cost, the bill will permit virtually all startups to be eligible for the credit. This will encourage these ventures to undertake the kinds of research that are important to the longrun vitality of American industry in the world economy.●

By Mr. CRANSTON:

S. 2313. A bill to coordinate the regulatory authority of the Federal Energy Regulatory Commission with that of State or local regulatory agencies relative to service which would bypass local utility service and to facilitate the resolution at the State or local regulatory level of competition policy issues relating to local services; referred to the Committee on Energy and Natural Resources.

NATURAL GAS TRANSITION ACT

Mr. CRANSTON. Mr. President, today I am pleased to introduce the Natural Gas Transition Act of 1988. This legislation addresses the issue of who has proper jurisdiction over the bypass of local natural gas distribution companies by interstate pipelines.

The situation arises when a large industrial user of gas hooks up directly to an interstate pipline thus "bypassing" the local gas utility. Often, as a result of the bypass, residential, small businesses, agricultural, and other ratepayers must pay a higher proportion of the costs associated with operating the utility system. In effect, they end up paying for the bypass benefits enjoyed by a few large industrial users.

Historically the Federal Energy Regulatory Commission has deferred to State and local regulatory commissions on this bypass question. However, under the current administration, the FERC has approved numerous cases where an industrial user can leave a local distribution company and connect to an interstate pipeline.

The Consumer Federation of America issued a report entitled "A Residential Consumer View of Bypass of Natural Gas Local Distribution Companies" which states:

> The stakes for residential consumers in the bypass issue are very large—on the order of $2 billion.

Mr. President, my bill does not prohibit bypass of local distribution companies but it does restrict the Federal Energy Regulatory Commission's authority to allow bypass in two cases: First, when the State or local regulatory authority certifies to FERC that the bypass would prejudice the present or future interests of the remaining customers of that utility, and second, when a local distribution company [LDC] objects and the would-be bypasser is unable to demonstrate that the LDC is not willing to provide transportation service on terms and conditions that are in effect, accepted or approved by the LDC's State or local regulatory authority.

Utility bypass should be evaluated by comparing the costs and benefits of utility service to all customers instead of just considering the benefits to a few. I believe the State or local regulatory authority is in the best position to make such a determination not the FERC.

I ask that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Gas Transition Act of 1988".

SEC. 2 BYPASS RESTRAINT

(a) The Federal Energy Regulatory Commission shall not permit service pursuant to the Natrual Gas Act or the Natural Gas Policy Act of 1978 where that service would displace any service being provided or which could be provided by a local distribution company if—

(1) the State or local commission with jurisdiction over an affected local distribution company certifies to the Commission that, in its judgment, the service would prejudice the present or future interests of the customers of the affected local distribution company; or

(2) the proposed service is protested by an affected local distribution company and the proponent of the service fails to demonstrate, after a hearing on the record, that the affected local distribution company is not willing to provide transportation service on terms and conditions in effect, or accepted or approved by its State or local commission.

(b) In no event shall the Commission permit Service that would displace any service being provided or which could be provided by a local distribution company unless and until 30 days after the Commission has published a notice of the proposed service in the Federal Register.

(c) For purposes of this Act, the term "local distribution company" means any entity engaged in the distribution of natural gas for consumption and regulated or operated as a public utility by a State or local government or agency thereof.

(d) This Act shall apply to call service not provided before the date of enactment of this Act, regardless of whether the authority to provide such service was granted by the Commission before such date.

By Mr. NUNN. (for himself and Mr. Warner) (by request):

S. 2314. A bill to authorize certain construction at military installations for fiscal year 1989, and for other purposes; to the Committee on Armed Services.

AMENDED MILITARY CONSTRUCTION AUTHORIZATION ACT

● **Mr. NUNN.** Mr. President, by request, for myself and the senior Senator from Virginia [Mr. Warner], I introduce, for appropriate reference, a bill to authorize certain construction at military installations for fiscal year 1989, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the Record immediately following the listing of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Amended Military Construction Authorization Act, 1989".

TITLE I—ARMY

Sec. 101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) Inside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $6,000,000.
Fort McClellan, $7,900,000.
Redstone Arsenal, $14,800,000.
Fort Rucker, $2,110,000.

ALASKA

Fort Wainwright, $44,490,000.
Fort Richardson, $6,250,000.

ARIZONA

Fort Huachuca, $6,600,000.
Pine Bluff Arsenal, $7,500,000.

CALIFORNIA

Fort Ord, $13,050,000.
Sierra Army Depot, $380,000.

COLORADO

Pueblo Depot, $3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $1,600,000.

GEORGIA

Fort Benning, $24,350,000.

HAWAII

Fort Shafter, $7,200,000.

ILLINOIS

Rock Island Arsenal, $980,000.
Savanna Army Depot, $470,000.

KENTUCKY

Fort Campbell, $20,500,000.
Lexington-Bluegrass Depot, $770,000.

MARYLAND

Aberdeen Proving Ground, $8,400,000.
Fort Detrick, $6,500,000.
Fort Ritchie, $9,100,000.

NEW JERSEY

Fort Dix, $6,200,000.

NEW YORK

United States Military Academy, West Point, $19,750,000.

NORTH CAROLINA

Fort Bragg, $36,602,000.

OKLAHOMA

Fort Sill, $3,700,000.

OREGON

Umatilla Army Depot, $3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, $1,900,000.
New Cumberland Army Depot, $1,800,000.

TEXAS

Corpus Christi Army Depot, $7,400,000.
Fort Hood, $15,900,000.
Red River Army Depot, $10,400,000.
Fort Sam Houston, $3,250,000.

UTAH

Dugway Proving Ground, $12,800,000.
Tooele Army Depot, $92,300,000.

VIRGINIA

Fort A.P. Hill, $5,900,000.
Fort Eustis, $2,500,000.
Fort Pickett, $4,000,000.
Vint Hill Farms Station, $800,000.

WASHINGTON

Fort Lewis, $9,800,000.

WISCONSIN

Fort McCoy, $2,100,000.

VARIOUS LOCATIONS

Defense Access Roads, $1,000,000.
Classified Locations, $3,600,000.

(b) Outside the United States.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $15,000,000.
Friedberg, $1,300,000.
Giessen, $6,300,000.
Grafenwoehr Training Area, $7,000,000.
Hohenfels Training Area, $36,960,000.
Karlsruhe, $2,550,000.
Mainz, $19,550,000.

Mannheim, $14,400,000.
Rheinberg, $12,400,000.
Schweinfurt, $9,700,000.
Stuttgart, $3,350,000.
Vilseck, $44,600,000.
Wiesbaden, $13,900,000.
Worms, $1,300,000.
Wuerzburg, $33,650,000.
Various Locations, $18,000,000.

HONDURAS

Site 5, $3,050,000.

ITALY

Various Locations, $1,250,000.

JAPAN

Various Locations, $7,900,000.
Various Locations, $5,300,000.

KOREA

Camp Casey, $3,700,000.
Camp Gary Owen, $1,150,000.
Camp Greaves, $1,540,000.
Camp Hovey, $3,200,000.
Camp Kittyhawk, $1,350,000.
Camp Libby, $1,150,000.
Camp Page, $670,000.
Camp Sears, $1,100,000.
Camp Stanley, $1,200,000.
Camp Stanton, $1,400,000.
K-16 Army Airfield, $670,000.
Taegu, $990,000.
Yongsan, $1,400,000.
Various Locations, $6,200,000.
Various Locations, $9,200,000.

KWAJALEIN

Kwajalein, $15,490,000.

VARIOUS LOCATIONS

Various Locations, $35,150,000.

SEC. 102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation: Fort Wainwright, Alaska, one hundred and fifty units, $27,000,000.

Fort Irwin, California, two hundred and sixty-three units, $24,000,000.

Helemano, Hawaii, one hundred units, $11,400,000.

Schofield Barracks, Hawaii, forty units, $4,450,000.

Fort Leavenworth, Kansas, two hundred and seventy-two units, $20,000,000.

Fort Drum, New York, one hundred units, $10,000,000.

Augsburg, Germany, thirty-four units, funded under section 103.

Hohenfels, Germany, eighty-eight units, $8,400,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 104(a)(5)(A), with respect to the construction or improvement of family housing units in an amount not to exceed $10,628,000.

SEC. 103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may improve existing military family housing units in an amount not to exceed $72,300,000.

(b) WAIVER OF MAXIMUM PER COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 102, $3,360,000.

Taegu, Korea, ninety-six units, $4,450,000.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,425,271,000 as follows:

(1) For military construction projects inside the United States authorized by section 101(a), $437,452,000.

(2) For military construction projects outside the United States authorized by section 101(b), $343,020,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $98,328,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $188,178,000.

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,340,093,000, of which not more than $52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $175,510,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000, to remain in effect until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,000,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

SEC. 105. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101(a) of that Act, as extended by section 2107(a) of the National Defense Authorization Act, 1987 (Public Law 99-661) and section 2105(a) of the National Defense Authorization Act, 1988 (Public Law 100-180) shall remain in effect until October 1, 1989, or the date of enactment of the Military Construction Act for fiscal year 1990, whichever is later:

(1) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(2) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(3) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(4) Barracks with dining facility in the amount of $2,350,000 at Elefsis, Greece.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the National Defense Authorization Act, 1988 and 1989 (Public Law 99-180), shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of $2,850,000 at Nurenberg, Germany.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(4) Multi-purpose training ranges in the amount of $20,000,000 at Wildflecken, Germany.

(5) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(6) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(7) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(8) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(9) Museum site preparation and utilities in the amount of $2,500,000 at Fort Rucker, Alabama.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987, (Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later.

(1) Child development center/religious education facility in the amount of $820,000 at Yuma Proving Ground, Arizona.

(2) Primary water supply connection in the amount of $2,150,000 at Fort Riley, Kansas.

(3) Child development center in the amount of $1,350,000 at Detroit Arsenal, Michigan.

(4) Unaccomplished officers housing in the amount of $13,200,000 at Fort Leonard Wood, Missouri.

(5) Material test facility in the amount of $9,700,000 at Dugway Proving Ground, Utah.

(6) Open/close landfill in the amount of $980,000 at Badger Army Ammunition Plant, Wisconsin.

(7) Barracks modernization in the amount of $3,700,000 at foreign various location 276.

(8) Command and control building in the amount of $10,000,000 at Baumholder, Germany.

(9) Dining facility in the amount of $2,100,000 at Giessen, Germany.

(10) Aircraft maintenance hangar in the amount of $78,100,000 at Hanau, Germany.

(11) Contingency facility in the amount of $4,300,000 at Palmerola Air Base, Honduras.

(12) Multiple object tracking facility in the amount of $2,400,000 at Kwajalein.

(13) Thirty-eight manufactured home spaces in the amount of $730,000 at Fort Irwin, California.

(14) Forty units of family housing in the amount of $4,100,000 at Crailsheim, Germany.

(15) Ninety units of family housing in the amount of $8,400,000 at Schweinfurt, Germany.

(16) Seventy manufactured home spaces in the amount of $1,100,000 at Aberdeen Proving Ground, Maryland.

(17) Improvements to one family housing unit in the amount of $69,000 at Mainz, Germany.

TITLE II—NAVY

SEC. 201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, $8,345,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, $12,000,000.

Naval Air Station, Adak, $29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, $11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, $26,630,000.

Marine Corps Air Station, Camp Pendleton, $9,450,000.

Marine Corps Air Station, El Toro, $3,970,000.

Marine Corps Air Station, Tustin, $10,990,000.

Marine Corps Base, Camp Pendleton, $64,460,000.

Marine Corps Logistics Base, Barstow, $1,190,000.

Mountain Warfare Training Center, Bridgeport, $3,200,000.

Naval Air Station, Moffett Field, $650,000.

Naval Air Station, North Island, $11,860,000.

Naval Amphibious Base, Coronado, $870,000.

Naval Amphibious School, San Diego, $10,100,000.

Naval Aviation Depot, North Island, $2,110,000.

Naval Construction Battalion Center, Port Hueneme, $10,900,000.

Naval Construction Training Center, Port Hueneme, $10,080,000.

Naval Hospital, Lemoore, $2,160,000.

Naval Hospital, San Diego, $11,350,000.

Naval Ocean Systems Center, San Diego, $8,660,000.

Naval Post Graduate School, Monterey, $3,140,000.

Naval Civil Engineer Corps Officers School, Port Hueneme, $7,420,000.

Naval Security Group Detachment, San Diego, $1,950,000.

Naval Shipyard, Mare Island, $3,950,000.

Naval Space Surveillance Field Station, San Diego, $3,760,000.

Naval Station, Treasure Island, San Francisco, $7,000,000.

Naval Submarine Base, San Diego, $3,150,000.

Naval Supply Center, San Diego Annex, North Island, $1,695,000.

Naval Training Center, San Diego, $7,980,000.

Naval Weapons Center, China Lake, $12,260,000.

Naval Weapons Station, Seal Beach, $13,890,000.

Navy Public Works Center, San Diego, $500,000.

Navy Public Works Center, San Francisco, $15,810,000.

Pacific Missile Test Center, Point Mugu, $20,470,000.

Personnel Support Activity, San Diego, $1,180,000.

Shore Intermediate Maintenance Activity, San Diego, $10,720,000.

Submarine Training Facility, San Diego, $10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, $1,170,000.

Naval Submarine Base, New London, $6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District Washington, $38,100,000.

Naval Intelligence Command Headquarters, Washington, $114,000,000.

Naval Research Laboratory, Washington, $19,800,000.

FLORIDA

Naval Air Station, Cecil Field, $340,000.

Naval Air Station, Jacksonville, $8,810,000.

Naval Air Station, Key West, $850,000.

Naval Air Station, Pensacola, $25,600,000.

Naval Aviation Depot, Jacksonville, $14,180,000.

Naval Hospital, Pensacola, $3,450,000.

Naval Legal Service Office, Mayport, $1,450,000.

Naval Station, Mayport, $3,060,000.

Naval Supply Center, Pensacola, $2,640,000.

Naval Technical Training Center, Pensacola, $2,840,000.

Naval Training Center, Orlando, $23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, $5,740,000.

Naval Submarine Base, Kings Bay, $56,330, 000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, $24,270,000.

Naval Legal Service Office, Pearl Harbor, $2,380,000.

Naval Station, Pearl Harbor, $8,370,000.

Naval Submarine Base, Pearl Harbor, $11,250,000.

Naval Submarine Training Center, Pacific, Pearl Harbor, $1,780,000.

Naval Supply Center, Pearl Harbor, $8,350,000.

Navy Public Works Center, Pearl Harbor, $3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, $3,440,000.

Navy Public Works Center, Great Lakes, $1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, $19,000,000.

LOUISIANA

Naval Station, Lake Charles, $3,700,000.

MAINE

Naval Air Station, Brunswick, $530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, $1,860,000.

Naval Academy, Annapolis, $540,000.

Naval Air Test Center, Patuxent River, $1,250,000.

Naval Explosive Ordnance Disposal Technology Center, Indian Head, $7,380,000.

Naval Medical Data Services Center, Bethesda, $5,930,000.

Naval Ordnance Station, Indian Head, $1,270,000.

Naval Surface Warfare Center Detachment, White Oak, $2,540,000.

MISSISSIPPI

Naval Construction Training Center, Gulfport, $4,070,000.

Naval Station, Pascagoula, $17,520,000.

NEVADA

Naval Air Station, Fallon, $9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, $18,600,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, $8,090,000.

NEW YORK

Naval Station, New York, $33,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, $32,380,000.

Marine Corps Air Station, New River, $8,400,000.

Marine Corps Base, Camp Lejeune, $23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, $38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, $1,270,000.

Navy Aviation Supply Office, Philadelphia, $1,400,000.

Navy Ship Parts Control Center, Mechanicsburg, $2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, $11,560,000.

Naval Justice School, Newport, $2,060,000.

Surface Warfare Officers School Command, Newport, $4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, $2,260,000.

Naval Shipyard, Charleston, $640,000.

Naval Supply Center, Charleston, $1,090,000.

Naval Weapons Station, Charleston, $22,250,000.

TEXAS

Naval Station, Galveston, $8,110,000.

Naval Station, Ingleside, $31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, $1,700,000.

Fleet Combat Training Center, Atlantic, Dam Neck, $4,700,000.

Marine Corps Combat Development Command, Quantico, $14,290,000.

Marine Corps Detachment, Camp Elmore, $1,690,000.

Marine Environmental Systems Facility, Dam Neck, $5,000,000.

Naval Air Station, Oceana, $2,690,000.

Naval Amphibious Base, Little Creek, $8,270,000.

Naval Amphibious School, Little Creek, $640,000.

Naval Aviation Depot, Norfolk, $8,940,000.

Naval Guided Missile School, Dam Neck, $4,450,000.

Naval Legal Service Office, Norfolk, $1,080,000.

Naval Medical Clinic, Norfolk, $2,470,000.

Naval Ophthalmic Support and Training Activity, Yorktown, $1,970,000.

Naval Security Group Activity, Northwest, Chesapeake, $5,400,000.

Naval Supply Center, Norfolk, $6,600,000.

Naval Supply Center, Williamsburg, $3,300,000.

Naval Surface Warfare Center, Dahlgren, $25,442,000.

Naval Weapons Station, Yorktown, $12,360,000.

Navy Public Works Center, Norfolk, $4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, $11,010,000.

Naval Station, Everett, $52,950,000.

Naval Supply Center, Bremerton, $5,740,000.

Strategic Weapons Facility, Pacific, Silverdale, $15,060,000.

Trident Refit Facility, Bangor, $990,000.

VARIOUS LOCATIONS

Land Acquisition, $36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, $6,470,000.

GUAM

Naval Security Group Detachment, $400,000.

Naval Station, $2,820,000.

Naval Supply Depout, $7,660,000.

Naval Public Works Center, $6,720,000.

ICELAND

Naval Air Station, Keflavik, $12,000,000.

ITALY

Naval Air Station, Signoella, $7,950,000.

Naval Support Activity, Naples, $7,150,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, $3,280,000.

Marine Corps Base, Camp Butler, Okinawa, $2,840,000.

PANAMA

Naval Station, $7,140,000.

PHILIPPINES

Naval Public Works Center, Subic Bay, $28,340,000.

SPAIN

Naval Communication Station, Rota, $400,000.

VARIOUS LOCATIONS

Classified Locations, $31,270,000.

Host Nation Infrastructure Support, $500,000.

SEC. 202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may construct or acquire family housing units (including land acqusition), at the following installations in the number of units shown, and in the amount shown for each installation:

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, one hundred units, $9,470,000.

Marine Corps Air Station, El Toro, one hundred units and sixty mobile home spaces, $10,120,000.

Marine Corps Base, Camp Pendleton, three hundred and fifty units and access roads, $28,510,000.

Naval Complex, San Diego, four hundred units, $31,830,000.

Naval Station, Long Beach, three hundred units, $26,110,000.

Navy Public Works Center, San Francisco, three hundred units, $35,736,000.

GEORGIA

Naval Submarine Base, Kings Bay, two hundred and fifty units, $19,860,000.

NEW YORK

Naval Station, New York, one hundred and fifty units, $14,900,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 204(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $2,315,000.

SEC. 203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may improve existing military family housing units in an amount not to exceed $61,589,000.

(b) WAIVER OR MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Pensacola, Florida, one unit, $34,900.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $17,214,000.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,389,658,000 as follows:

(1) For military construction projects inside the United States authorized by section 201(a), $1,275,895,000.

(2) For military construction projects outside the United States authorized by section 201(b), $141,940,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $148,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $240,440,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $554,988,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Washington, District of Columbia); and,

(3) $46,000,000 (the balance of the amount authorized for the Command, Control, Communications and Intelligence Complex, Naval Support Activity, Naples, Italy).

TITLE III—AIR FORCE

SEC. 301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $8,150,000.

Maxwell Air Force Base, $17,800,000.

ALASKA

Eielson Air Force Base, $15,250,000.

Elmendorf Air Force Base, $20,540,000.

King Salmon Airport, $2,850,000.

Shemya Air Force Base, $14,860,000.

ARIZONA

Davis-Monthan Air Force Base, $980,000.

Luke Air Force Base, $4,550,000.

Williams Air Force Base, $6,000,000.

ARKANSAS

Little Rock Air Forces Base, $3,850,000.

CALIFORNIA

Beale Air Force Base, $8,900,000.

Castle Air Force Base, $10,800,000.

Edwards Air Force Base, $5,200,000.

George Air Force Base, $23,550,000.

March Air Force Base, $4,900,000.

Mather Air Force Base, $440,000.

McClellan Air Force Base, $3,080,000.

Onizuka Air Force Base, $4,300,000.

Travis Air Force Base, $10,400,000.

Vandenberg Air Force Base, $33,550,000.

COLORADO

Buckley Air National Guard Base, $25,800,000.

Cheyenne Mountain Complex, $6,500,000.

Lowry Air Force Base, $12,000,000.

Peterson Air Force Base, $13,300,000.

United States Air Force Academy, $10,240,000.

DELAWARE

Dover Air Force Base, $1,000,000.

FLORIDA

Avon Park, $3,700,000.

Cape Canaveral Air Force Station, $26,980,000.

Eglin Air Force Base, $11,020,000.

Eglin Air Force Base, Auxiliary Field 9, $20,100,000.

Homestead Air Force Base, $6,200,000.

MacDill Air Force Base, $4,580,000.

Patrick Air Force Base, $1,126,000.

Tyndall Air Force Base, $6,000,000.

GEORGIA

Robins Air Force Base, $18,900,000.

HAWAII

Hickam Air Force Base, $4,250,000.

IDAHO

Mountain Air Force Base, $1,400,000.

ILLINOIS

Chanute Air Force Base, $6,500,000.

Scott Air Force Base, $14,500,000.

LOUISIANA

Barksdale Air Force Base, $7,300,000.

England Air Force Base, $3,100,000.

MAINE

Loring Air Force Base, $3,000,000.

MARYLAND

Andrews Air Force Base, $2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $12,400,000.

MICHIGAN

Wurtsmith Air Force Base, $4,990,000.

MISSISSIPPI

Columbus Air Force Base, $2,950,000.

Keesler Air Force Base, $4,550,000.

MISSOURI

Whiteman Air Force Base, $84,300,000.

MONTANA

Malmstrom Air Force Base, $10,950,000.

NEBRASKA

Offutt Air Force Base, $2,450,000.

NEVADA

Indian Springs, $3,150,000.

Nellis Air Force Base, $6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, $4,500,000.

Pease Air Force Base, $2,100,000.

NEW JERSEY

McGuire Air Force Base, $3,550,000.

NEW MEXICO

Cannon Air Force Base, $4,100,000.

Holloman Air Force Base, $2,900,000.

Kirtland Air Force Base, $13,000,000.

NEW YORK

Griffiss Air Force Base, $700,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $3,050,000.

NORTH DAKOTA

Grand Forks Air Force Base, $13,290,000.

Minot Air Force Base, $6,250,000.

OHIO

Wright-Patterson Air Force Base, $11,455,000.

OKLAHOMA

Tinker Air Force Base, $12,650,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $3,350,000.

TENNESSEE

Arnold Engineering Development Center, $213,800,000.

TEXAS

Bergstrom Air Force Base, $2,800,000.

Carswell Air Force Base, $3,500,000.

Dyess Air Force Base, $3,470,000.

Goodfellow Air Force Base, $2,350,000.

Kelly Air Force Base, $29,300,000.

Lackland Air Force Base, $14,039,000.

Laughlin Air Force Base, $1,910,000.

Randolph Air Force Base, $6,150,000.

Reese Air Force Base, $990,000.

Sheppard Air Force Base, $10,700,000.

UTAH

Hill Air Force Base, $9,930,000.

WASHINGTON

Fairchild Air Force Base, $9,480,000.

McChord Air Force Base, $13,100,000.

WYOMING

F.E. Warren Air Force Base, $37,200,000.

VARIOUS LOCATIONS

Base 55, $5,130,000.

Base 57, $8,520,000.

Base 65, $810,000.

Base 68, $800,000.

Base 80, $987,000.

Base 81, $2,800,000.

Base 83, $5,000,000.

Base 90, $5,300,000.

Classified, $4,000,000.

(b) Outside the United States.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, $1,900,000.

CANADA

Forward Operating Locations, $600,000.

GERMANY

Bitbury Air Base, $1,060,000.

Einsiedlerhof Air Base, $1,500,000.

Hahn Air Base, $16,650,000.

Hessich-Oldendorf Air Station, $740,000.

Norvenich Air Base, $2,300,000.

Pruem Air Station, $620,000.

Ramstein Air Base, $10,800,000.

Rhein-Main Air Base, $5,000,000.

Sembach Air Base, $3,550,000.

Spangdahlem Air Base, $10,270,000.

Wenigerath Air Base, $1,700,000.

Zweibrucken Air Base, $1,300,000.

GREENLAND

Sondrestrom Air Base, $5,950,000.

Thule Air Base, $1,830,000.

GUAM

Andersen Air Force Base, $900,000.

ICELAND

Naval Air Station, Keflavik, $1,100,000.

ITALY

Aviano Air Base, $7,600,000.

Kadena Air Base, $1,850,000.

Misawa Air Base, $4,550,000.

Yokota Air Base, $500,000.

KOREA

Camp Humphreys, $3,350,000.

Kunsan Air Base, $17,330,000.

Osan Air Base, $8,490,000.

NETHERLANDS

Camp New Amsterdam, $10,300,000.

Volkel Air Base, $2,300,000.

OMAN

Masirah Air Base, $2,800,000.

Seeb Air Base, $7,100,000.

PANAMA

Howard Air Force Base, $2,600,000.

PHILIPPINES

Clark Air Base, $33,140,000.

PORTUGAL

Lajes Field, $4,850,000.

TURKEY

Incirlik Air Base, $9,590,000.

Pirinclik Air Station, $1,500,000.

UNITED KINGDOM

RAF Alconbury, $2,650,000.

RAF Bentwaters, $6,230,000.

RAF Feltwell, $500,000.

RAF Lakenheath, $10,170,000.

RAF Mildenhall, $7,150,000.

RAF Upper Heyford, $3,830,000.

RAF Welford, $3,720,000.

VARIOUS LOCATIONS

Base 30, $3,850,000.

Base 71, $2,260,000.

Base 74, $750,000.

Base 79, $1,900,000.

Base 82, $2,800,000.

Base 119, $2,050,000.

Classified Locations, $16,473,000.

SEC. 302. FAMILY HOUSING.

(a) Construction and Acquisition.—The Secretary of the Air Force may construct or acquire two hundred sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of $19,920,000.

(b) Planning and Design.—The Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS.

(a) In General.—Subject to section 2825 of Title 10, United States Code, the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed $154,280,000.

(b) Waiver of Maximum Per Unit Cost for Certain Improvement Projects.—Notwithstanding the maximum amount per unit for an improvement project under Section 2825(b) of title 10, United State Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown and in the amount shown for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,136,000.

Maxwell Air Force Base, Alabama, fifty units, $2,722,000.

Eielson Air Force Base, Alaska, ninety-six units, $7,943,000.

Elmendorf Air Force Base, Alaska, forty-eight units, $3,818,000.

Davis-Monthan Air Force Base, Arizona, one unit, $60,000.

Luke Air Force Base, Arizona, one hundred fifty-two units, $5,975,000.

McClellan Air Force Base, California, thirty units, $3,207,000.

Peterson Air Force Base, Colorado, one unit, $74,000; eighty units, $3,527,000.

Bolling Air Force Base, District of Columbia, one hundred and ten units, $4,018,000.

Eglin Air Force Base, Florida, fifty units, $2,138,000.

MacDill Air Force Base, Florida, four units, $279,000.

Robins Air Force Base, Georgia, one hundred and sixty units, $6,861,000.

Scott Air Force Base, Illinois, four units, $184,000.

Grissom Air Force Base, Indiana, one hundred and eighty-six units, $6,788,000.

Barksdale Air Force Base, Louisiana, two units, $185,000; one hundred and fourteen units, $6,200,000.

England Air Force Base, Louisiana, one hundred and six units, $5,830,000.

Andrews Air Force Base, Maryland, five units, $338,000.

Pease Air Force Base, New Hampshire, one unit, $121,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,921,000.

Kirtland Air Force Base, New Mexico, four units, $240,000; one hundred and fifteen units, $4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, $10,600,000.

Minot Air Force Base, North Dakota, one unit, $65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, $4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, $7,869,000; sixteen units, $600,000.

Dyess Air Force Base, Texas, one unit, $64,000.

Kelly Air Force Base, Texas, one hundred and one units, $3,381,000.

Randolph Air Force Base, Texas, two units, $199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, $6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, $16,000,000; eight units, $706,000; nine units, $1,039,000.

Anderson Air Force Base, Guam, one unit, $167,000; one hundred and twenty units, $8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, $8,707,000.

Yokota Air Base, Japan, eighty-one units, $5,629,000.

Osan Air Base, Korea, ten units, $447,000.

Clark Air Base, Philippines, eighty-two units, $4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, $1,119,000.

RAF Greenham Common, United Kingdom, one hundred nineteen units $5,588,000.

SEC. 304. AUTHORIZATION OF APPROPRIATION, AIR FORCE.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,196,616,000.

(1) For military construction projects inside the United States authorized by section 301(a), $882,397,000.

(2) For military construction projects outside the United States authorized by section 301(b), $249,953,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $124,800,000.

(5) For military family housing functions—

(a) for construction and acquisition of military family housing and facilities, $181,200,000; and

(b) for support of military housing (including functions described in Section 2833 of title 10, United States Code), $741,766,000 of which not more than $16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation on Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

SEC. 305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS.

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987, (Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of a Military Construction Authorization Act for fiscal year 1990, whichever is later:

(1) KC-135 CPT Simulator Facility, in the amount of $890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of $1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator Facility in the amount of $660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of $230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land Acquisition Auxiliary Field in the amount of $3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of $3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of $3,000,000 at Plattsburgh Air Force Base, New York.

TITLE IV—DEFENSE AGENCIES

SEC. 401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) Inside the United States.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, $19,000,000.

Defense Depot, Tracy, California, $590,000.

Defense Fuel Support Point, Pearl City, Hawaii, $1,900,000.

Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, $1,600,000.

Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, $430,000.

Defense Depot, Mechanicsburg, Pennsylvania, $460,000.

Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, $350,000.

Defense Depot, Ogden, Utah, $6,000,000.

Cheatham Annex, Virginia, $450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $5,209,000.

DEFENSE MEDICAL FACILITIES OFFICE

Hunters Point Annex, Naval Station Treasure Island, California, $5,000,000.

Marine Corps Base, Camp Pendleton, California, $5,000,000.

March Air Force Base, California, $3,000,000.

Naval Station, North Island, California, $7,200,000.

Naval Station, Treasure Island, California, $11,000,000.

Tyndall Air Force Base, Florida, $800,000.

Fort Benning, Georgia, $700,000.

Fort Leonard Wood, Missouri, $1,450,000.

Seymour Johnson Air Force Base, North Carolina, $3,700,000.

Marine Corps Recruit Depot, Parris Island, South Carolina, $4,100,000.

Corpus Christi, Texas, $6,100,000.

Dyess Air Force Base, Texas, $950,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $28,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $2,230,000

Classified Locations, $20,000,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, $3,000,000.

Classified Location, $4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $72,500,000.

(b) Outside the United States.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, $785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, $800,000.

Defense Reutilization and Marketing Office, Kaiserslautern, Germany, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, $4,200,000.

Geilenkirchen Air Base, Germany, $450,000.

Hahn Air Base, Germany, $18,500,000.

Patch Barracks, Germany, $4,700,000.

Rhein-Main Air Base, Germany, $14,200,000.

Smith Barracks, Germany, $5,100,000.

Spangdahlem Air Base, Germany, $1,250,000.

Wildflecken, Germany, $4,800,000.

Camp Howze 2nd Infantry Division, Korea, $780,000.

Seoul, Korea, $55,000,000.

Taegu Air Base, Korea, $4,400,000.

Royal Air Force, High Wycombe, United Kingdom, $720,000.

Royal Air Force, Lakenheath, United Kingdom, $41,000,000.

Base 54, $12,800,000.

Classified Locations, $21,100,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, $2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, $8,151,000.

Bad Kissingen, Germany, $1,620,000.

Baumholder, Germany, $1,940,000.

Erlangen, Germany, $3,890,000.

Gelnhausen, Germany, $1,482,000.

Giessen, Germany, $7,627,000.

Wildflecken, Germany, $2,752,000.

Keflavik, Iceland, $5,434,000.

Aviano, Italy, $9,450,000.

Pusan, Korea, $1,980,000.

Seoul, Korea, $7,332,000.

Brunssum, Netherlands, $8,863,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, $11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, $16,000,000.

SEC. 402. FAMILY HOUSING.

The Secretary of Defense may construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000.

SEC. 403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to Section 2825 of title 10, United States Code, the Secretary of Defense may improve existing military family housing units in an amount not to exceed $113,000.

SEC. 404. AFCENT SCHOOL.

(a) The Secretary of Defense (hereinafter referred to as "The Secretary"), is authorized to contribute funds in the amount of $8,863,000, as such amount may be increased by other provisions of law, to the Government of The Netherlands for the United States' share of the cost of the International Elementary and High School project in Brunssum, Netherlands.

(b) The Secretary is authorized to pay funds for the project authorized in subsection (a) to the Government of The Netherlands in its capacity as construction agent.

SEC. 405. CONFORMING STORAGE FACILITIES.

Section 2404(a) of the Military Construction Authorization Act, 1987 (P.L. 99-661), as amended by Section 2149 of the Military Construction Authorization Act, 1988 and 1989 (P.L. 100-180), is further amended to read as follows:

"(a) Authority to Construct.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, using not more than $5,000,000 appropriated for fiscal year 1988, and using not more than $9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for conforming storage facilities."

SEC. 406. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) In General.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $732,700,000 as follows:

(1) For military construction projects inside the United States authorized by section 401(a), $215,661,000.

(2) For military construction projects outside the United States authorized by section 401(b), $290,610,000.

(3) For military construction projects at the Naval Station, Anacostia, District of Columbia, $25,200,000 as authorized by section 2141(a) of the Military Construction Authorization Act, 1988 and 1989.

(4) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, as amended, $23,000,000.

(5) For military construction projects at Fort Lewis, Washington, Authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, as amended, $9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,187,000, of which not more than $17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) Limitation of Total Cost of Construction Projects.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 401 may not exceed the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a).

TITLE V—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program as authorized by section 501, in the amount of $502,100,000.

TITLE VI—GUARD AND RESERVE FORCES FACILITIES

SEC. 601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectual and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) for the Department of the Army—

(A) for the Army National Guard of the United States, $138,300,000, and

(B) for the Army Reserve, $79,900,000.

(2) for the Department of the Navy, for the Naval and Marine Corps Reserves, $48,400,000.

(3) for the Department of the Air Force—

(A) for the Air National Guard of the United States, $147,500,000, and

(B) for the Air Force Reserve, $58,800,000.

TITLE VII—EXPIRATION OF AUTHORIZATIONS

SEC. 701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) Expiration of Authorization After Two Years.—Except as provided in subsection (b), all authorizations contained in titles I, II, III, IV, and V for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1991, whichever is later.

(b) Exception.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of the Military Construction Authorization Act for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 702. EFFECTIVE DATES

Titles I, II, III, IV, V, and VI shall be in effect as of October 1, 1988 or the date of enactment of a Military Construction Authorization Act for FY 1989, whichever is later.

TITLE VIII—GENERAL PROVISIONS

LONG-TERM FACILITIES CONTRACTS

Sec. 801. Section 2809(a)(3) of title 10, United States Code, is amended by striking out "20 years" and inserting in lieu thereof "32 years".

RENTAL GUARANTY PROGRAM

Sec. 802. Section 802(b)(11) of the Military Construction Authorization Act, 1984 (10 U.S.C. 2821 note), subsection (b) is amended—

(1) in paragraph (11) by striking the word shall and replacing it with the word "may".

(2) by adding a new paragraph, "(13) may provide, in cases where housing whose occupancy is guaranteed is located on government land, (A) that utilities, trash collection, and entomological services may be provided by the Government at no cost to the

occupant to the same extent that these items are provided to occupants of Government owned housing and (B) may require the rent collection and maintenance of the housing be accomplished through the use of separate agreements or the use of Government personnel.

WAGE RATE THRESHOLD

SEC. 803. (a) Chapter 169 of title 10, United States Code, is amended by adding at the end of subchapter III the following new section:

"§ 2865. Wage Rate Thresholds for military construction projects

"(a) Contracts awarded by the Secretary of Defense or the Secretaries of the military departments estimated to cost $1 million or less are exempt from the requirements of the Act entitled "An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes", approved March 3, 1931 (40 U.S.C. § 276a *et seq.*) and commonly referred to as the Davis-Bacon Act.

"(b) Contracts awarded by the Secretary of Defense or the Secretaries of the military departments subject to the Davis-Bacon Act under subsection (a) shall not be split into two or more contracts for the purpose of avoiding the application of the Davis-Bacon Act.

"(c) Whenever the Secretary of Labor determines that a division for such purpose has occurred, the Secretary may (1) require that the contracts be amended so as to incorporate retroactively all the provisions which would have been required under the Davis-Bacon Act, and (2) require the contracting officer to compensate the contractor for payment to each affected laborer and mechanic, of an amount equal to the difference between the rate received and the applicable prevailing wage rate with interest on wages due at the rate specified in 26 U.S.C. 6621(c) from the date the work was performed by such laborers and mechanics, provided that the Secretary of Labor shall make such a determination only where the Secretary of Labor has notified the Secretary of Defense no later than 180 days after completion of construction on the project that an investigation will be conducted concerning an alleged violation of this subsection.".

(b) The amendments made by this section shall be effectvie with respect to solicitations for bids or proposals made on and after the date of enactment of this Act.

(c) The table of sections at the beginning of such subchapter is amended by adding at the end the following item:

"§ 2865. Wage rate thresholds for military construction projects."

DIVERSIFICATION AND ENCROACHMENT ON DOD ACTIVITIES

SEC. 804. (a) Section 2391 (b)(1) of title 10, United States Code, is amended to read as follows:

"(b)(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapons system program, (C) by a publicly-announced planned major reduction in Department of Defense spending affecting the community, or (D) by the encroachment of a surrounding civilian community on an installation, if the Secretary of Defense determines that the action taken pursuant to (A), (B), and (C) is likely to impose a significant impact on the affected community, or in the case of (D) if the Secretary of Defense determines that the encroachment of the surrounding civilian community is likely to impair the continued operational utility of the military installation."

(b) Subsections 2391(b) (4) and (5) of such title shall be renumbered as subsections 2391(b) (5) and (6) respectively, and a new subsection 2391(b)(4) shall be inserted as follows:

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending affecting the community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction involves the loss of 1,000 or more full-time Department of Defense and contractor employee positions during a five-year period in the locality of the affected community.".

COMMUNITY PLANNING ASSISTANCE

SEC. 805. (a) In addition to the authority provided by any other provision of law, the Secretary of Defense may provide community planning assistance under the authority of section 2391(b) of title 10, United States Code, in the following amounts:

(a) not to exceed $600,000 for communities located near newly established Light Infantry Division Posts, and

(b) not to exceed $2,800,000 for communities located near newly established Navy Strategic Dispersal Program homeports.

(b) The authority to provide community planning assistance under this section shall expire on September 30, 1991.

GENERAL COUNSEL OF THE
DEPARTMENT OF DEFENSE,
Washington, DC, March 24, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft of legislation "To authorize certain construction at military installations for Fiscal Year 1989, and for other purposes." The Office of Management and Budget advises that enactment of this legislation would be in accord with the President's Amended Budget for Fiscal Year 1989. Appropriations in support of Titles I through VII of this legislation are discussed in that Budget.

This Proposal would authorize appropriations for new construction and family housing support for the Active Forces as follows: $2,425,271,000 for the Department of the Army; $2,389,658,000 for the Department of the Navy; $2,196,616,000 for the Department of the Air Force; and $732,700,000 for the Defense Agencies in Fiscal Year 1989. Title V would authorize $502,100,000 for the United State's share of the NATO Infrastructure Program. Title VI, totaling $472,900,000 would authorize appropriations for the Guard and Reserve Forces. Title VII establishes the effective dates for the program. Title VIII contains the general provisions.

Sincerely,

KATHLEEN A. BUCK.●

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2315. A bill to authorize appropriations for fiscal year 1989 and 1990 for civil defense programs; to the Committee on Armed Services.

CIVIL DEFENSE AUTHORIZATION ACT

● Mr. NUNN. Mr. President, by request, for myself and the senior Senator from Virginia [Mr. WARNER], I introduce, for appropriate reference, a bill to authorize appropriations for civil defense programs for fiscal years 1989 and 1990.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the RECORD immediately following the text of the bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2315

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated for the fiscal year ending September 30, 1989, to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 *et seq.*), the sum of $160,393,000, and such sums as may be necessary for the fiscal year ending September 30, 1990.

FEDERAL EMERGENCY
MANAGEMENT AGENCY,
Washington, DC, March 28, 1988.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is draft legislation "To authorize appropriations for civil defense programs for fiscal years 1989 and 1990."

The authorization level in the enclosed draft reflects the President's 1989 budget for civil defense as transmitted to Congress on February 18, 1988.

In accordance with section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260), the bill authorizes appropriations of $160,393,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.

The Office of Management and Budget advises that there is no objection to the submission of this proposal for consideration of the Congress and that its enactment would be in accord with the President's program.

Sincerely,

SPENCE W. PERRY,
General Counsel.●

By Mr. NUNN (for himself and Mr. WARNER) (by request):

S. 2316. A bill to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act of fiscal years 1988 and 1989, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF DEFENSE AMENDED BUDGET AUTHORIZATION ACT

● Mr. NUNN. Mr. President, by request, for myself and the senior Senator from Virginia [Mr. Warner], I introduce, for appropriate reference, a bill to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for fiscal years 1988 and 1989, and for other purposes.

I ask unanimous consent that a letter of transmittal requesting consideration of the legislation and explaining its purpose be printed in the Record immediately following the text of the bill.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Department of Defense Amended Budget Authorization Act, 1989".

TITLE I—PROCUREMENT

AUTHORIZATIONS OF APPROPRIATIONS

Sec. 101. Army.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement by the Army, as follows:

For aircraft, $2,791,500,000.

For missiles, $2,586,600,000.

For weapons and tracked combat vehicles, $2,960,600,000.

For ammunition, $2,007,800,000.

For other procurement, $4,774,000,000.

Sec. 102. Navy and Marine Corps.—(a) Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement by the Navy, as follows:

For aircraft, $8,980,000,000.

For weapons (including missiles and torpedoes), $6,271,800,000.

For shipbuilding and conversion, $9,130,100,000.

For other procurement, $4,789,700,000.

(b) Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of $1,157,300,000.

Sec. 103. Air Force.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:

For aircraft, $16,630,000,000.

For missiles, $8,158,000,000.

For other procurement, $8,393,500,000.

Sec. 104. Defense Agencies.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the Defense Agencies in the amount of $1,216,100,000.

Sec. 105. Chemical Demilitarization.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the purposes of the destruction of lethal chemical weapons in accordance with section 1412 of the Department of Defense Authorization Act, 1986, (Public Law 99-145; 99 Stat. 747) in the amount of $162,900,000.

Sec. 106. Amendment to Authority Provided the Secretary of Defense in Connection with the NATO AWACS Program.—Section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100) is amended by inserting "and the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force, signed by the United States Ambassador to NATO and other follow-on support agreements for the NATO E3A between the United States Government and the commander of the NATO E3A Force" after "December 6, 1978" in subsection (a).

TITLE II.—RESEARCH, DEVELOPMENT, TEST AND EVALUATION

Sec. 201. Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $5,030,700,000.

For the Navy (including the Marine Corps), $9,216,200,000.

For the Air Force, $14,932,100,000.

For the Defense Agencies, $8,978,100,000, of which—

(1) $166,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(2) $143,400,000 is authorized for the Director of Operational Test and Evaluation.

TITLE III—OPERATION AND MAINTENANCE

Sec. 301. Authorization of Appropriations.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

For the Army, $22,085,200,000.

For the Navy, $24,945,800,000.

For the Marine Corps, $1,792,000,000.

For the Air Force, $21,950,000,000.

For the Defense Agencies, $7,725,700,000.

For the Army Reserve, $794,900,000.

For the Naval Reserve, $979,200,000.

For the Marine Corps Reserve, $77,500,000.

For the Air Force Reserve, $1,028,500,000.

For the Army National Guard, $1,797,000,000.

For the Air National Guard, $1,965,400,000.

For the National Board for the Promotion of Rifle Practice, $4,300,000.

For the Court of Military Appeals, $3,500,000.

For Environmental Restoration, Defense, $500,000,000.

Sec. 302. Working Capital Funds.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces of the United States and other activities and agencies of the Department of Defense for providing capital for working-capital funds, in amounts as follows:

For the Army Stock Fund, $321,900,000.

For the Navy Stock Fund, $204,700,000.

For the Air Force Stock Fund, $206,900,000.

For the Defense Stock Fund, $30,000,000.

TITLE IV—PERSONNEL AUTHORIZATIONS

Part A—Active Forces

Sec. 401. End Strengths for Active Forces.—The Armed Forces are authorized strengths for active duty personnel as of September 30, 1989, as follows:

(1) The Army, 772,300.

(2) The Navy, 593,200.

(3) The Marine Corps, 197,200.

(4) The Air Force, 575,600.

Part B—Reserve Forces

Sec. 402. End Strengths for Selected Reserve.—(a) For fiscal year 1989 the Armed Forces are authorized strengths for selected reserve personnel of the reserve components as of September 30, 1989, as follows:

(1) The Army National Guard of the United States, 457,300.

(2) The Army Reserve, 320,600.

(3) The Naval Reserve, 152,600.

(4) The Marine Corps Reserve, 43,600.

(5) The Air National Guard of the United States, 115,200.

(6) The Air Force Reserve, 83,600.

(7) The Coast Guard Reserve, 13,000.

(b) The Secretary of Defense may waive the end strength prescribed by subsection (a) by not more than 4 percent.

(c) The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

(1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and

(2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

Sec. 403. End Strengths for Reserves on Active Duty in Support of the Reserves.—Within the end strengths prescribed in section 402, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.

(2) The Army Reserve, 13,329.

(3) The Naval Reserve, 21,991.

(4) The Marine Corps Reserve, 1,945.

(5) The Air National Guard of the United States, 7,948.

(6) The Air Force Reserve, 657.

Sec. 404. Increase in Number of Certain Personnel Authorized To Be on Active Duty in Support of the Reserve Components.—(a) Senior Enlisted Members.—The table in section 517(b) of title 10, United States Code, is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
E-9	589	201	170	18
E-8	2,406	404	546	74".

(b) Officers.—The table in section 524(a) of such title is amended to appear as follows:

"Grade	Army	Navy	Air Force	Marine Corps
Major or lieutenant commander	3,191	1,000	654	115
Lieutenant colonel or commander	1,376	520	463	75
Colonel or Navy captain	348	188	198	25".

(c) Effective Date.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1988.

Sec. 405. Authorization of Training Student Loads.—

(a) In general.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 80,281.

(2) The Navy, 65,925.

(3) The Marine Corps, 18,064.

(4) The Air Force, 36,857.

(5) The Army National Guard of the United States, 19,561.

(6) The Army Reserve, 17,190.

(7) The Naval Reserve, 3,136.

(8) The Marine Corps Reserve, 3,459.

(9) The Air National Guard of the United States, 2,868.

(10) The Air Force Reserve, 1,827.

(b) Adjustments.—The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1989 shall be adjusted consistent with the manpower strengths authorized in title IV of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE V.—GENERAL PROVISIONS

Sec. 501. Repeal of Requirement for Separate Budget Requests for Procurement of Reserve Equipment.—Section 114(f) of title 10, United States Code, is repealed.

Sec. 502. Repeal of Requirement for Authorization of Civilian Personnel by End Strength.—Section 115(b)(2) of title 10, United States Code, is repealed.

Sec. 503. Repeal of Requirement for Reduction in Nonmanagement Headquarters Activities and Support Activities.—Section 601(b)(2)(B) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1065) is repealed.

Sec. 504. Repeal of Limitation on Funds To Be Authorized or Appropriated for Fiscal Year 1989.—Effective October 1, 1988, sections 106(a)(1), (b)(1), (c)(1), and (d)(1); 111(e); 129; 205(b); 216(a)(1), (b)(1) and (c)(1) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1019) are repealed.

Sec. 505. Repeal of Indefinite Limitation on Funds for Forward Area Air Defense System.—Section 111(d) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1019) is repealed.

Sec. 506. Repeal of Indefinite Limitation on Funds for Nuclear Warhead for Army Tactical Missile System.—Section 258 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1067) is repealed.

Sec. 507. Increase in Authorized Limitation for Cross Servicing Agreements With Allied Countries.—Section 2347(a)(1) of title 10, United States Code, is amended—

(1) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000"; and

(2) by striking out "$25,000,000" and inserting in lieu thereof "$50,000,000".

Sec. 508. Wage Rate Thresholds for Defense Contracts.—(a) Chapter 141 of Title 10, United States Code, is amended by inserting after section 2402 the following new section:

"§ 2402a. Wage rate threshold for Defense Contracts. Purchases of and contracts for services covered by Chapter 137 of this title estimated to cost $1 million or less are exempt from the requirements of the Service Contract Act of 1965 (41 U.S.C. §§ 351 *et. seq.*)."

(b) The amendments made by this section shall be effective with respect to solicitations for bids or proposals made on or after the date of enactment of this Act.

(c) The table of sections at the beginning of Chapter 141 of Title 10, United States Code, is amended by adding after the item relating to section 2402 the following:

"§ 2402a. Wage rate thresholds for Defense contracts."

General Counsel of the
Department of Defense,
Washington, DC, March 25, 1988.

Hon. George Bush.
President of the Senate, Washington, DC.

Dear Mr. President: There is forwarded herewith legislation, "To authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel strengths for such Department for fiscal year 1989, to amend the National Defense Authorization Act for Fiscal Years 1988 and 1989 and for other purposes."

This proposal is part of the Department of Defense legislative program for the 100th Congress and the Office of Management and Budget advises that its enactment would be in accord with the program of the President.

Title I provides procurement authorization for the Military Departments and for the Defense Agencies in amounts equal to the budget authority included in the President's amended budget request for the Department of Defense for fiscal year 1989. It contains a provision that amends the basic waiver authority statute, section 103 of the 1982 Authorization Act, by inserting a reference to the Memorandum of Understanding for Operations and Support of the NATO Airborne Early Warning and Control Force and other follow-on agreements for the NATO E-3A.

Title II provides for the authorization of each of the research, development, test, and evaluation appropriations for the Military Departments and the Defense Agencies in amounts equal to the budget authority included in the President's amended budget request for the Department of Defense for fiscal year 1989.

Title III provides for authorization of the operation and maintenance appropriations of the Military Departments and the Defense Agencies in amounts equal to the budget authority included in the President's amended budget request for the Department of Defense for fiscal year 1989. Title III also includes the authorization of appropriations for the purpose of providing capital for working-capital funds of the Military Departments and the Defense Agencies in amounts equal to the budget authority included in the President's amended budget request for the Department of Defense for fiscal year 1989.

Title IV prescribes the personnel strengths for the active forces and the selected Reserve of each reserve component of the Armed Forces in the numbers provided for by the budget authority and appropriations requested for the Department of Defense in the President's amended budget request for the Department of Defense for fiscal year 1989. This title also prescribes the end strengths for reserve component members on full-time active duty or full-time National Guard duty for the purpose of administering the reserve forces and provides for an increase in the number of certain enlisted and commissioned personnel who may be serving on active duty in support of the reserve components. Finally, title IV provides for the average military training student loads in the numbers provided for this purpose in the President's amended budget request for the Department of Defense for fiscal year 1989.

Title V consists of eight general provisions. Section 501 repeals the provisions of section 114(f) of title 10, United States Code, requiring a separate budget request for the procurement of Reserve equipment. Section 502 repeals the provisions of section 115(b)(2) of title 10, United States Code that requires the authorization of an end strength for civilian personnel of the Department of Defense. Section 503 repeals limitations contained in the National Defense Authorization Act for Fiscal Years 1988 and 1989 that pertain to funds that may be authorized and appropriated for fiscal year 1989. These provisions are: Sections 106(a)(1), (b)(1), (c)(1), and (d)(1) pertaining to the Mobile Subscriber program, the Army Tactical Missile System, the Trident II missile program, and the T-45 training system program, respectively; Section 111(e) pertaining to the A-6F configuration; Section 129 pertaining to the HEMTT truck program; Section 205(b) pertaining to the LANDSAT program; and Sections 216(a)(1), (b)(1), and (c)(1) pertaining to the Army Tactical Missile system, the Trident II missile program, and the T-45 training system respectively. Section 504 repeals the indefinite limitation contained in section 111(d) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 that pertains to the Forward Area Air Defense System. Section 508 increases the wage rate thresholds for Defense contracts under the Service Contract Act to $1 million.

Enactment of this legislation is of great importance to the Department of Defense and the Department urges its speedy and favorable consideration.

Sincerely,

Kathleen A. Buck.●

By Mr. SYMMS (for himself and Mr. McClure):

S. 2317. A bill to repeal certain provisions of law requiring the installation of transponders in all aircraft; referred to the Committee on Commerce, Science, and Transportation.

MODE C TRANSPONDERS LEGISLATION

Mr. SYMMS. Mr. President, today, Senator McClure and I are introducing legislation to repeal sections in the fiscal year 1987 continuing resolution and the Airport and Airway Safety and Capacity Expansion Act of 1987 that require the Federal Aviation Administration to promulgate rules mandating the use of mode C transponders in all aircraft operating within terminal airspace served by approach control radar.

Concerned private pilots of gliders, balloons, antique airplanes, and general aviation aircraft have registered thousands of complaints regarding this proposed ruling. They cite the loss of airspace, workload of air traffic controllers, and costs of installation as the major flaws of the congressional generated rulemaking. And I agree.

I believe the FAA is taking advantage of the rulemaking requirements to make an unprecedented and totally unwarranted airspace grab. This notice of proposed rulemaking further jumbles the already hacked up airspace surrounding this Nation's airports. It fails to address even the most rudimentary concept it was supposed to embrace—safety. In fact, this proposal does exactly the opposite.

The FAA has issued these standards without assessing their own capabilities of ensuring that these regulations can work. The concept of safety is seemingly thrown aside when one considers that air traffic controllers will soon be bogged down by a workload increased by 33 percent due to additional information appearing on their screens. Then what will happen to safety?

The need for these mode C transponders for aircraft in areas like Caldwell, Pocatello, and Moscow, ID is nonexistent. Even Idaho's busiest airport in Boise lacks the kind of concentrated air traffic that would justify the expenditures required for installing the transponders. But, if an aircraft in such areas makes just one trip per year to Salt Lake City, or Seattle, they must comply with the otherwise unnecessary mode C regulations.

By repealing the relevant sections in the continuing resolution and the Airport Safety and Capacity Expansion Act, we would not limit the FAA's ability to ensure safe conditions in our airspace. They could still pursue safety regulations, but Congress would have made it clear that the currently proposed rulemaking is far more expansive than we intended.

Currently, the Federal Aviation Administration says their hands are tied by the congressional language passed last year which cut the Department of Transportation's budget by 5 percent if they fail to issue new rules requiring the mode C transponders. It's my intent to repeal those rules, and allow the FAA to pursue more reasonable regulations for air safety, thereby avoiding unnecessary Federal intervention.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD immediately following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

REPEAL OF PROVISION RELATING TO TRANSPONDERS IN ALL AIRCRAFT

SECTION 1. Section 326 of title III of the Department of Transportation and Related Agencies Appropriations Act, 1988 (101 Stat. 1329-382), which is a part of the joint resolution entitled "Joint Resolution making further continuing appropriations for fiscal year 1988, and for other purposes", is repealed.

REPEAL OF SECTION 601(F)(3) OF FEDERAL AVIATION ACT OF 1958

SEC. 2. Section 601(f)(3) of the Federal Aviation Act of 1958 is repealed.

Mr. McCLURE. Mr. President, I rise along with my colleague Senator SYMMS to introduce a bill to repeal provisions of two bills we enacted last session.

Those provisions, contained in the fiscal year 1988 continuing resolution and the Airport and Airways Safety and Capacity Expansion Act, prompted the Federal Aviation Administration to propose regulations that will force the owners of small aircraft to either install expensive electronic equipment or drastically alter the altitudes at which they fly and the airports they use.

The laws were passed with the aim of improving safety. However, their net effect will mean between $2,000 and $4,000 increased costs for small plane owners, because they will be required to purchase new equipment. Failure to purchase what is known as a mode-C transponder will prevent small general aviation pilots from flying in most of the country east of the Mississippi, in most parts of California, or anywhere near a city of any size in other parts of the country. Without the equipment, the aircraft would also be prohibited from operating at higher than 6,000 feet above the ground, anywhere in the country unless the pilot had a special waiver from the FAA.

Everyone agrees that safety in the skies is a major concern and we must continue to do all we can to decrease the risk of tragedy. However, I am convinced this is not the solution to our problem. Penalizing general aviation is not the answer to our safety concerns. Congress should repeal the provisions that launched these overburdening regulations and go back to the drawing board.

By Mr. JOHNSTON (by request):

S. 2318 A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; referred to the Committee on Energy and Natural Resources.

LEGISLATION TO AMEND THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

● Mr. JOHNSTON. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Pennsylvania Avenue Development Corporation, I send to the desk a bill to amend the Pennsylvania Avenue Development Corporation Act of 1972, to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Pennsylvania Avenue Development Corporation, and I ask unanimous consent that the joint resolution, and the executive communication which accompanied the proposal from the Chairman of the Pennsylvania Avenue Development Corporation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended. 40 U.S.C. 871), is amended as follows:

By adding at the end of section 17(a) "There are further authorized to be appropriated for operating and administrative expenses of the Corporation $2,353,000 for the fiscal year 1989 and such sums as may be necessary for fiscal year 1990, fiscal year 1991, and fiscal year 1992".

PENNSYLVANIA AVENUE
DEVELOPMENT CORPORATION,
Washington, DC., March 17, 1988.

Hon. GEORGE BUSH,
President of the Senate, S-212 Capitol Building, Washington, DC.

DEAR MR. PRESIDENT: The budget presented in the President's Budget Appendix for FY 1989 for the Pennsylvania Avenue Development Corporation's salaries and expenses will require additional authorization. Authorization is also needed for fiscal years 1990, 1991, and 1992.

The Office of Management and Budget has advised us that there is no objection from the standpoint of the administration's program to the submission of this draft legislation to the Congress, and that its enactment would be in accord with the President's program.

Thank you.

Sincerely,

HENRY A. BERLINER,
Chairman.●

ADDITIONAL COSPONSORS

S. 533

At the request of Mr. THURMOND, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 533, a bill to establish the Veterans' Administration as an executive department.

S. 708

At the request of Mr. Proxmire, the name of the Senator from North Dakota [Mr. Conrad] was added as a cosponsor of S. 708, a bill to require annual appropriations of funds to support timber management and resource conservation on the Tongass National Forest.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1378

At the request of Mr. Thurmond, the name of the Senator from Nebraska [Mr. Exon] was added as a cosponsor of S. 1378, a bill to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

S. 1600

At the request of Mr. Ford, the name of the Senator from Alabama [Mr. Heflin] and the Senator from Oregon [Mr. Hatfield] were added as cosponsors of S. 1600, a bill to enhance the safety of air travel through a more effective Federal Aviation Administration, and for other purposes.

S. 1776

At the request of Mr. Armstrong, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution.

S. 1851

At the request of Ms. Mikulski, her name was added as a cosponsor of S. 1851, a bill to implement the International Convention on the Prevention and Punishment of Genocide.

S. 2015

At the request of Mr. Kennedy, the name of the Senator from Oregon [Mr. Hatfield] was added as a cosponsor of S. 2015, a bill to amend the Immigration and Nationality Act to extend for 1 year the application period under the legalization program.

S. 2033

At the request of Mr. Thurmond, the name of the Senator from Minnesota [Mr. Durenberger] was added as a cosponsor of S. 2033, a bill to amend title 18, United States Code, with respect to child protection and obscenity enforcement, and for other purposes.

S. 2077

At the request of Mr. Kasten, the names of the Senator from Colorado [Mr. Armstrong] and the Senator from Alabama [Mr. Heflin] were added as cosponsors of S. 2077, a bill entitled the "Livestock Producers Recordkeeping Act of 1988."

S. 2115

At the request of Mr. Danforth, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 2115, a bill to amend the Internal Revenue Code of 1986 to eliminate tax credits from the passive activity rules, to modify the business credit limitation provisions, and for other purposes.

S. 2129

At the request of Mr. Baucus, the names of the Senator from Alabama [Mr. Shelby], the Senator from Utah [Mr. Hatch] and the Senator from Arizona [Mr. DeConcini] were added as cosponsors of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2246

At the request of Mr. Bumpers, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 2246, a bill to establish the Lower Mississippi Delta Development Commission.

S. 2286

At the request of Mr. Riegle, the name of the Senator from Iowa [Mr. Grassley] was added as a cosponsor of S. 2286, a bill to amend the Internal Revenue Code of 1986 to increase the standard deduction for child dependents.

SENATE JOINT RESOLUTION 266

At the request of Mr. Symms, the names of the Senator from New Jersey [Mr. Bradley], the Senator from Wyoming [Mr. Wallop], the Senator from Utah [Mr. Hatch], the Senator from Louisiana [Mr. Breaux], the Senator from Arizona [Mr. McCain], and the Senator from North Carolina [Mr. Helms] were added as cosponsors of Senate Joint Resolution 266, a joint resolution to designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week."

SENATE JOINT RESOLUTION 269

At the request of Mr. Weicker, the names of the Senator from Louisiana [Mr. Breaux], the Senator from Mississippi [Mr. Cochran], the Senator from Kansas [Mr. Dole], the Senator from Florida [Mr. Graham], the Senator from Alabama [Mr. Heflin], the Senator from Maryland [Ms. Mikulski], the Senator from Alaska [Mr. Murkowski], and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of Senate Joint Resolution 269, to designate the week beginning October 30, 1988, as "National Marine Technology Week."

SENATE JOINT RESOLUTION 272

At the request of Mr. Durenberger, the names of the Senator from Utah [Mr. Hatch], the Senator from Delaware [Mr. Roth], and the Senator from Massachusetts [Mr. Kerry] were added as cosponsors of Senate Joint Resolution 272, a bill to designate November, 1988, as "National Diabetes Month."

SENATE JOINT RESOLUTION 275

At the request of Mr. Weicker, the names of the Senator from Alabama [Mr. Heflin], the Senator from Rhode Island [Mr. Pell], the Senator from Michigan [Mr. Levin], the Senator from New York [Mr. D'Amato], the Senator from Mississippi [Mr. Stennis], the Senator from New Jersey [Mr. Bradley], the Senator from New Mexico [Mr. Domenici], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of Senate Joint Resolution 275, a joint resolution to designate August 1-8, 1988, as "National Harness Horse Week."

SENATE JOINT RESOLUTION 278

At the request of Mr. Glenn, the names of the Senator from Maryland [Ms. Mikulski], the Senator from Rhode Island [Mr. Pell], the Senator from Kansas [Mr. Dole], and the Senator from Alaska [Mr. Stevens] were added as cosponsors of Senate Joint Resolution 278, a joint resolution designating November 20-26, 1988, as "National Family Caregivers Week."

SENATE JOINT RESOLUTION 298

At the request of Mr. D'Amato, the names of the Senator from North Dakota [Mr. Conrad], the Senator from Mississippi [Mr. Cochran], the Senator from Iowa [Mr. Grassley], and the Senator from North Dakota, [Mr. Burdick] were added as cosponsors of Senate Joint Resolution 298, a joint resolution designating September 1988 as "National Library Card Sign-Up Month."

SENATE RESOLUTION 394

At the request of Mr. Heinz, the names of the Senator from West Virginia [Mr. Byrd], and the Senator from Montana [Mr. Melcher] were added as cosponsors of Senate Resolution 394, a bill expressing the sense of the Senate that funding in fiscal year 1989 for the Federal-aid highway and mass transit programs should be at the levels enacted in the Surface Transportation and Uniform Relocation Assistance Act of 1987.

AMENDMENTS SUBMITTED

MODERNIZATION OF UNITED STATES CIRCULATING COIN DESIGNS

CRANSTON AMENDMENT NOS. 1973 THROUGH 1975

(Ordered referred to the Committee on Banking, Housing, and Urban Affairs.)

Mr. CRANSTON submitted three amendments intended to be proposed by him to the bill (S. 1776) to modernize United States circulating coin designs, of which one reverse will have a theme of the bicentennial of the Constitution; as follows:

AMENDMENT No. 1973

On page 2, strike lines 16 through 21 and insert the following:

Section 5112(d) of title 31, United States Code, is further amended by adding at the end thereof the following new paragraph:

"(4) The design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall be considered for redesign. No more than three of the five coins enumerated shall contain the likeness of those currently displayed. The new obverses shall not contain the likeness of any real person living or dead.".

AMENDMENT No. 1974

On page 2, line 26, after the period insert the following: "In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; separation of powers, including the independence of the judiciary.".

AMENDMENT No. 1975

On page 2, line 2, after the comma insert "United States Code".

On page 3, line 4, after "31" insert ", United States Code".

Mr. CRANSTON. Mr. President, I have asked the author of S. 1776, Senator ARMSTRONG, to add me as a cosponsor of the bill. I believe this legislation, which would require new designs for the five U.S coins in general circulation, is long overdue.

It was my privilege this morning to chair a hearing of the Senate Banking Committee on S. 1776. The response of all who testified was so favorable that I anticipate we can report out the bill for consideration by the full Senate in the near future.

When the Banking Committee marks up the bill, I will propose three amendments. Today I submit these three amendments for referral to the Banking Committee.

One of the amendments is simply technical; the other two deal with coin design. I would like to discuss them briefly.

Mr. President, I believe we are failing to take full advantage of the educational value coins have for our citizenry. Coins are the most tangible symbols of our Nation in our daily lives—we touch them, examine them, carry them around in our pockets and purses during all our waking hours. People look at coins—particularly young people. They know that coins commemorate our Nation's history and freedom. And people—particularly young people—will look at new coins and learn what they stand for. New coins probably have more instantaneous and widespread access to American consciousness than any other form of communication—even more than a new TV series.

In an age when pollsters report an astonishing ignorance among our Nation's young people of the events and ideals of our historical evolution as a Nation, we are grossly negligent when we fail to take full advantage or our coins' potential to impress upon the minds of our people the principles and ideals which epitomize America.

Currently, S. 1776 is silent on the themes to be considered in redesigning our coins, except to specify that the first coin designed shall commemorate the bicentennial of the U.S. Consititution. While I agree with this specification, I'd like to go a good deal further by spelling out that for all the redesigns, the Secretary shall consider thematic representations of the following constitutional concepts.

First, freedom of speech and assembly;

Second, freedom of the press;

Third, right to due process of law;

Fourth, right to a trial by jury;

Fifth, right to equal protection under the law;

Sixth, right to vote;

Seventh, separation of powers including the independence of the judiciary.

I will offer such an amendment during committee markup.

My second amendment addresses the fact that each of our current general circulation coins bears the likeness of an American President.

It wasn't always this way. For the first 116 years American coins bore symbols of liberty almost exclusively. It wasn't until the minting of the first Lincoln penny in 1909 that a general circulation coin contained the likeness of a real historic person. It remained that way until the 1930's when Washington appeared on the quarter, 1932 and Jefferson on the nickel, 1938. But even then, the three Presidents, long since dead, had been adjudged in the passage of time as the three greatest in American history.

Following World War II a new trend in American coin design developed when three Presidents—Roosevelt, Eisenhower, and Kennedy—were placed on general circulation coins each within about a year of his death.

I want to make it clear that I do not criticize any of the three decisions to honor these Presidents. Each man was an American hero. Each was enormously popular among our people. Particularly in the case of John F. Kennedy, the tragedy of the assassination of this brillant, young, charismatic American President was a wrenching blow to the American psyche. Commemorating President Kennedy on the half dollar was and is fully reflective of the will of the American people.

I don't disagree with any of these decisions.

I am concerned, however, that in the aggregate this trend will become a precedent in the future for using our general circulation coins to commemorate the lives of recent American heroes, Presidents or others. Such a precedent could easily lead to turning our coin design into a political battleground with partisans struggling for this symbolic vindication of their heroes' political philosophies.

Not only would such an outcome demean our coinage, it would waste the valuable education resource our coins represent, as I discussed earlier.

In the hopes of reversing this trend toward using general circulation coins solely to commemorate past Presidents—as they do now—I will offer an amendment to provide that only three of the redesigned coins shall contain the likenesses of the Presidents currently displayed. The other two new designs shall not contain the likeness of any real person living or dead.

This approach will give us the opportunity to use our coins more effectively to represent those principles and ideals which are the essence of our freedoms and our system of justice. And it will be a constant reminder to the American people that the Constitution and our belief in freedom are as important symbols of America as is a President of the United States.

This approach will give us the opportunity to use our coins more effectively to represent those principles and ideals which are the essence of our freedoms and our system of justice. And it will be a constant reminder to the American people that the Constitution and our belief in freedom are as important symbols of America as is a President of the United States.

PLASTIC POLLUTION CONTROL ACT

CHAFEE AMENDMENT NO. 1976

(Ordered to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to the bill (S. 1986) to study, control, and reduce the pollution of aquatic environments from plastic materials, and for other purposes; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

FINDINGS

SECTION 1. The Congress finds that—

(1) plastic ring carrier devices have been found in large quantities in the marine environment;

(2) fish and wildlife have been known to have become entangled in plastic ring carriers;

(3) non-degradable plastic ring carrier devices can remain intact in the marine environment for decades, posing a threat to fish and wildlife; and

(4) eleven States have enacted laws requiring that plastic ring carrier devices be made from degradable material in order to reduce litter and to protect fish and wildlife.

DEFINITIONS

SEC. 2. As used in this Act, the term—

(1) "regulated item" means any plastic ring carrier device which is made, used, or designed for the purpose of packaging, transporting, or carrying multipackaged cans or bottles, and which is of a size, shape, design, or type capable, when discarded, of becoming entangled with fish or wildlife; and

(2) "naturally degradable material" means a material which, when discarded, will be reduced to environmentally benign subunits under the action of normal environmental forces, such as, among others, biological decomposition, photo-degradation, or hydrolysis.

REGULATION

SEC. 3. Not later than 24 months after the enactment of this Act (unless the Administrator of the Environmental Protection Agency determines that it is not feasible), the Administrator of the Environmental Protection Agency shall require, by regulation, that any regulated item shall be made of naturally degradable material which, when discarded, decomposes within a period established by such regulation. The period within which decomposition must occur after being discarded shall be the shortest period of time consistent with the intended use of the item and the physical integrity required for such use. Such regulation shall allow a reasonable time for affected parties to come into compliance, including use of existing inventories.

● Mr. CHAFEE. Mr. President, today I am offering an amendment to S. 1986, a bill reported by the Committee on Environment and Public Works. My amendment will have the effect of striking provisions in this bill which have already become law, leaving intact a committee-reported provision to require the use of degradable plastic six-pack yokes, a requirement which 11 States have already adopted.

I would like to note, Mr. President, that my amendment has been fully cleared with the chairman of the Committee on Environment and Public Works, Senator BURDICK, and the ranking member of this committee, Senator STAFFORD.

Also, the Society of the Plastics Industry, the major group representing the industry, has reviewed this amendment and has indicated that it has no objections to its passage.

Last December the Committee on Environment and Public Works reported the Plastic Pollution Control Act of 1987, S. 1986. The purpose of this bill was to implement the provisions of an International Convention for the Prevention of Pollution from Ships, commonly known as Marpol annex V, and to study, control, and reduce the pollution of aquatic environments from plastic materials.

I was very pleased when the majority of provisions in S. 1986, including provisions relating to Marpol annex V, elements of a New York Bight restoration plan authored by Senator LAUTENBERG, and a major study of plastic recyclability and degradability, were included in a bill sent to the Senate from the House of Representatives. This bill, H.R. 3674, was passed by the Senate and signed into law by the President, becoming Public Law 100-220.

Over the past decade there has been a growing concern among conservationists and scientists over discarded plastic in our Nation's waters and on land. Entrapment in plastic debris such as six-pack holders, packing bands, lost or discarded fishing nets, and ingestion of plastic materials is known to kill thousands of birds, sea lions, turtles, seals, and fish each year.

The plastic pollution problem has grown to such a point that we cannot walk to our Nation's beaches and parks without encountering plastic litter. Beach cleanup efforts in some States, including Rhode Island, have resulted in the collection of many thousands of discarded plastic products.

Public Law 100-220 takes a giant step toward eliminating plastic waste in the environment: Marpol annex V will make it illegal for ships operating in U.S. waters to discard plastic overboard, and the Environmental Protection Agency will take a serious look at ways to reduce plastic pollution in the environment. In particular, EPA will consider recycling and degradability as methods for reducing plastic in the solid waste stream and reducing plastic litter, especially in the marine environment.

However, Mr. President, one provision in S. 1986 as reported by the Environment Committee was not included in the House bill, due to jurisdictional concerns between committees in the House of Representatives. This provision relates to a requirement that plastic six-pack holders be made from degradable materials.

The amendment I am offering today to S. 1986 will strike all sections of S. 1986 already contained in Public Law 100-220, leaving only the section requiring the Administrator of EPA to require that six-pack holders be made from naturally degradable materials. The Administrator would be given 24 months to issue a regulation, and would allow a reasonable time for affected parties to come into compliance, including the use of existing inventories.

Also, the Administrator will require the use of degradable six-pack holders only if he determines that it is "feasible." Expert testimony in the Committee on Environment and Public Works supports the belief among scientists that there is no environmental harm from the use of degradable six-pack holders. However, as a part of Public Law 100-220 the Administrator is undertaking a study to make certain that no harm to the environment will result from degradable plastic as used in six-pack holders. If the Administrator determines as a result of this study that the environment, including fish and wildlife, are harmed by the use of degradable plastic six-pack holders, he will conclude that it is not feasible to require their use.

Mr. President, as I stated earlier, 11 States, including my own State of Rhode Island, have banned the sale of nondegradable six-pack holders. Other States include Connecticut, Delaware, Maine, Massachusetts, New York, New Jersey, Oregon, Vermont, California, and Alaska. Degradable six-pack holders are actually made from photo-degradable materials which, when exposed to sunlight, become brittle and breakdown into microscopic pieces. Industry has indicated that it can meet the demand nationwide for degradable six-pack holders. Since the technology exists, and is already in use in several States, it is no longer necessary to see six-pack holders littering our beaches and parks and entangling birds and sea-lions.

I am under no illusion that approving this legislation will solve the problem of plastic debris in the environment. Six-pack holders constitute only a small portion of the total amount of plastic in the solid-waste stream. However, passage of this bill will send a strong and important message: That degradability is a viable option, and is one part of the solution to the plastic waste problem.

While promoting degradable plastics will help solve the problem of plastic debris, it is important to bear in mind that degradability is only a partial solution. Degradable plastics by their nature do not lend themselves well to recycling. Recycling may be the preferred method of resource recovery for most plastics.

Mr. President, it is my hope that S. 1986, as reported by the Environment Committee and amended, can be quickly approved by the Senate. I urge my colleagues to join me in supporting this much-needed and overdue legislation.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the public that the hearing on April 28, 1988, before the Subcommittee on Public Lands, National Parks and Forests, which was scheduled to begin at 9:30 a.m. will now begin at 10 a.m.

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be authorized to meet during the session of the Senate on Friday, April 22, 1988 to conduct a markup of pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Friday, April 22, 1988, to conduct a hearing on S. 1776, the American Coin Redesign Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday, April 22, 1988, to hold hearings on Organized Crime: 25 Years After Valachi.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MINERAL RESOURCES, DEVELOPMENT AND PRODUCTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Mineral Resources, Development and Production of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Friday, April 22, 1988, to receive testimony on S. 2089, the Oil Shale Mining Claims Conversion Act; and H.R. 1039, a bill to amend section 37 of the Mineral Leasing Act of 1920 relating to oil shale claims.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Government Efficiency, Federalism, and the District of Columbia, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Friday April 22, 1988. To resume open hearings on S. 1992, the Heinz-Sasser bill to improve the efficiency and intergovernmental relation aspects of the Nation's Ground Water Management Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TRIBUTE TO MS. MYRTLE RIGGS

● Mr. HOLLINGS. Mr. President, I would like to take this opportunity to pay tribute to Ms. Myrtle Riggs, a resident of Sullivan's Island, SC. Ms. Riggs has recently been elected national president of the National Association of Women Highway Safety Leaders, an organization of women volunteers working to reduce deaths and injuries on the streets and highways.

Ms. Riggs has long been known for her dedication to the prevention of highway accidents and for her voluntary efforts toward that end. She received the Award of Distinction from the National Highway Traffic Safety Administration and is currently a member of the South Carolina Governor's Highway Safety Committee. She also received the prestigious Order of the Palmetto from the Governor of South Carolina in 1987 and is a past president of the South Carolina Association of Women Highway Safety Leaders.

I am very proud of the people of South Carolina like Ms. Riggs who selflessly work for the safety of their fellow citizens. I congratulate her on her election to this national office.●

NATIONAL VOLUNTEER WEEK

● Mrs. KASSEBAUM. Mr. President, as "National Volunteer Week" draws to a close, I want to take this opportunity to pay tribute to the millions of Americans who look beyond themselves to give their time on behalf of others.

Our social services, health, education, political, community, and cultural institutions rely heavily on the contributions of volunteers. Their selfless efforts make the world a little bit better place for all of us. Although volunteers derive great personal satisfaction from the service they are able to offer, they deserve as well a broader public recognition for their work.

Volunteer activities are so varied, it is impossible to do all of them justice. As an example, however, of the fine work which is being done, I would like to mention the Retired Senior Volunteer Program [RSVP]. This program is one of several older American volunteer activities overseen by the ACTION agency.

Nationwide, about 400,000 older Americans serve as RSVP volunteers in a variety of settings. Fifteen RSVP programs operate in my home State of Kansas. Each local program designs its own volunteer activities—which includes things such as tutoring, delivering meals, and calling on the homebound elderly. Potential services are limited only by the imagination, which is something which never seems to be in short supply among RSVP volunteers.

Dag Hammarskjold once observed that "you have not done enough, you have never done enough, so long as it is still possible that you have something to contribute." This is a creed by which our Nation's volunteers live each day. We are all the richer for their efforts, and I salute them.●

WORLD POPULATION AWARENESS WEEK

● Mr. KERRY. Mr. President, I am pleased that my own State of Massachusetts will be joining with more than 40 others from Maine to Hawaii in recognizing "World Population Awareness Week." The efforts made by the many Americans who will participate in the educational events relating to this week are extremely important.

For anyone who might doubt the urgency of the problem, a basic contrast is helpful. Compare the population trends in my home State to that of one of our developing neighbors in the Americas, El Salvador. Both Massachusetts and El Salvador have roughly the same geographic area, about 8,000 square miles. And both are home to about the same number of people—approximately 5½ million. But here any similarities end, and the differences go far deeper than the obvious fact that El Salvador is at war and Massachusetts at peace.

Massachusetts' population growth is largely stabilized, growing just enough to keep pace with it expanding economy. The population of my State will not double until at least 100 years from now, at present growth rates. El Salvador's population, on the other hand, is growing by leaps and bounds despite the ravaging effects of war. The number of Salvadorans will double in the next 27 years at present growth rates. Already, it has the highest population density rate of any Central American country. The growing pressures of such growth on El Salvador's crippled economy, infrastructure, and environment do not bode well for the future of any tentative peace that country is able to construct from its present civil war.

The United States needs urgently to become aware of the complex ways in which rapid population growth determines peace and prosperity in the Third World. The activities connected to World Population Awareness Week will no doubt help to remedy that need, and I am proud that the citizens of my State are taking a leading role. I ask that Gov. Michael Dukakis' proclamation be printed in the RECORD.

The proclamation follows:

A PROCLAMATION—1988

Whereas the world's population of more than five billion will, at its present growth rate, double in the next 40 years; and

Whereas more than 90 per cent of this unprecedented growth takes place in nations of the third world least able to accommodate such rapid expansion; and

Whereas rapid population growth overwhelms the capacity of human societies to provide food, housing, education, employment and basic services and undermines economic development as well as social, cultural and political stability; and

Whereas the massive proliferation of our human numbers places enormous strains on the global environment which contributes significantly to the depletion of natural resources, the conversion of cultivable fields and forests into wasteland and desert, the pollution of the earth's land and waters and the destruction of its ozone layer; and

Whereas the tragic results of the ever-increasing imbalance between population and resources can be seen in the emergence of renewed famine in Africa and elsewhere; and

Whereas the disastrous consequences that unchecked population growth portends for humankind and the natural environment can be averted by the extension of family planning services to the more than 500 million people in the developing world who need and want such services but lack the means or access to obtain them: Now, therefore

I, Michael S. Dukakis, Governor of the Commonwealth of Massachusetts, do hereby proclaim April 17th through the 23rd, 1988 as "World Population Awareness Week" and urge the citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.●

TEN OUTSTANDING YOUNG MINNESOTANS

● Mr. BOSCHWITZ. Mr. President, I rise at this time to pay tribute to 10 fine citizens of my great State of Minnesota. These young Minnesotans have consistently exhibited a desire to contribute to the welfare of their communities, through work and volunteer activities.

Coming from a variety of backgrounds, these people all are working to achieve a better future for Minnesota and America. For this reason, the Minnesota Jaycees recently declared that Ann Carrott, Dennis Ceminski,' Michael Cichanowski, Ivan Schumann, Gordon Elliott, Dennis Brueggemann, Thaddeus Jude, Thomas Reiffenberger, Stephen Barlow, and Lois Glewwe are the "Ten Outstanding Young Minnesotans for 1988".

Ann Carrott, currently the Douglas County attorney, belongs to the Alexandria Jaycees. Further, she has worked hard to prevent child abuse. Minnesota has greatly benefited from her efforts.

Dennis Ceminski works as a speech clinician for the Park Rapids area schools. Due to his productive use of a 1975 Federal research grant, a screening test known as the critical ratio format test has been developed to analyze speech and language patterns of handicapped children.

For more than 20 years, Michael Cichanowski has been an innovator in canoe design and construction. His revolutionary ideas have made We-no-nah Canoe, Inc., an industry leader producing over 3,000 hulls a year. As well as serving the canoeing public, Michael has contributed to the welfare of the community as a whole through his work for the Boy Scouts and the Winona Junior USSA cross-country ski team.

Ivan Schumann is an alcoholism and chemical dependency rehabilitation counselor for the St. Cloud Hospital. Not long ago, Ivan was himself a victim of alcoholism. He, however, has turned his life around. Today, he is a family man who truly believes in and lives according to the Jaycee creed. His inspirational turnaround is a touching story. Ivan has proven that the disease of alcoholism can be dealt with.

Gordon Elliott of the Pine Island Jaycees is the general manager of the Pine Island Farmers Elevator Co. Under his management, this company has enjoyed enormous success. In addition to leadership in the business community, Gordon actively participates in the Star City Commission, Cub Scouts, the Bicentennial Celebration Committee, the Olmsted County Ag Agency, and his church.

Dennis Brueggemann is the executive director for the Minnesota Special Olympics. He also helped organize the Special Olympics in Brazil, opening these worthwhile competitive festivities to our friends in South America. In addition, Dennis has instituted a comprehensive accounting system that tracks all Special Olympics funds at both the State and local levels.

Thaddeus Jude is a State Senator. In the Minnesota State Legislature, he has consistently taken admirable positions on issues of importance. For instance, Thaddeus has continuously supported fiscal constraint, effective law enforcement, and efforts to clean up the environment.

Thomas Reiffenberger is the executive administrator of the Lake Homes and Program Development, Inc. At these homes, mentally handicapped people are truly able to feel at home with one another. Thomas' caring and resourcefulness have enabled citizens with mental handicaps to live full and productive lives.

Stephen Barlow presently serves as the chief financial officer and vice-president of Barlow Foods. Steve created the annual Channel One Food Drive. The last three drives raised almost 100,000 pounds of food for the needy. Steve has also served as cochair of the Rochester Legislative Weekend Committee, which is designed to foster communication between elected officials and their constituents.

Lois Glewwe is the editor of the South St. Paul Centennial History and the coordinator of the South St. Paul Centennial Commission. She also put together the All-Class reunion in August, 1987, in which over 14,000 graduates were invited back to South St. Paul for the weekend.

Mr. President, these 10 fine citizens have consistently lived according to the creed of the Jaycees, which is that service to humanity is the best work of life. Through their hard work in the business community and their priceless donations of time and energy to worthwhile community organizations, these people have set an example for all of us to follow. It is my pleasure to congratulate these men and women for their valuable contributions to Minnesota.●

SONAT WINS NATIONAL SAFETY AWARD

● Mr. HOLLINGS. Mr. President, one of the most important responsibilities for the Commerce, Science, and Transportation Committee, which I am privileged to chair, is our jurisdiction over many aspects of laws governing public safety. Tragically, we are usually reminded of this important governmental responsibility at the time of an accident involving injuries or loss of life.

I am particularly pleased, therefore, to draw attention to a case where the news is good; a case where government is able to recognize the achievement of a company that has made safety a top priority. I am referring to Sonat Inc., located in Birmingham, AL which has recently been awarded the national Safety Award for Excellence [SAFE] by the Minerals Management Service of the Department of the Interior.

The SAFE Program is designed to recognize exemplary performance by oil and gas lessees, operators and contractors operating on the Outer Continental Shelf [OCS]. During 1987, the Minerals Management Service [MMS] conducted 9,502 inspections in the three active OCS regions—Alaska, the Gulf of Mexico and the Pacific.

In presenting the award, Department of the Interior Donald P. Hodel said,

> The SAFE award underscores our belief that responsible offshore exploration, development and production are of critical importance. Sonat's superior record demonstrates that these operations can be conducted in a safe manner that protects the environment and human lives while providing America with the domestic energy production so vital to out national interests.

To be eligible for the national award, an operator must be a district award winner. During 1987, two Houston-based Sonat companies won district SAFE awards. Both district offices cited Sonat personnel as being well trained and having excellent knowledge of MMS regulations and

OCS orders. All facilities were cited for exceptional cleanliness and maintenance.

In conclusion, Mr. President, let me add my own congratulations to Sonat for their commitment to safety. Their operations can serve as an example to all of industry to make safety a primary consideration.●

ANWR: KEY TO AMERICA'S ENERGY FUTURE

● Mr. HATFIELD. Mr. President, I want to take this opportunity to bring to my colleagues' attention an insightful speech that I recently heard concerning the United States' future energy needs. These remarks, which were delivered by Mr. Robert Wycoff, president and chief operating officer of ARCO, were presented at a meeting of community and business leaders in Portland, OR. The speech outlines a course of action that he proposes to help us plan for our energy future, and I encourage my colleagues to take a few minutes and acquaint themselves with it.

Mr. Wycoff, who was ARCO's manager in Alaska when the trans-Alaska pipeline and Prudhoe Bay—our largest oil field—were being planned, had some specific suggestions on what the Congress can do to provide the Nation with a reliable supply of energy at the turn of the century—a time when we may need it desperately.

His prescription includes continued conservation, encouragement for oil production in non-OPEC countries throughout the world, and development of oil supplies at home, particularly in the Arctic National Wildlife Refuge. He makes the latter case by painting a picture of what our current energy situation would be if Congress had not acted in 1973 to allow development of the Prudhoe Bay and other fields on the Alaska North Slope.

In light of this week's string of events in the Persian Gulf, and our growing dependence on imported oil, I believe Mr. Wycoff's comments are especially timely, and I ask that they be inserted in the RECORD.

The comments follow:

ANWR: KEY TO AMERICA'S ENERGY FUTURE

(By Robert E. Wycoff)

I'm delighted to be with you this morning. ARCO has had a fine relationship over the years with the city of Portland and the state of Oregon, and this seems a good time to express our gratitude for that longstanding friendship, and then talk a bit about what the future may bring.

ARCO has been coming to Portland for more than 15 years for ship drydocking and repair. During the past five years, we've had the majority of our ship work done here because, frankly, we've found the facilities and workers to be the best on the west coast.

We've also had a long and productive relationship with this state and the entire Pacific Northwest in the construction of North Slope modules.

So in every sense, you've helped in a major way to keep Alaskan oil flowing. That service has been important to many millions of Americans.

Last year, we celebrated the first 10 years of the delivery of North Slope oil to the lower 48—and we keep on celebrating with every shipload of North Slope crude that arrives in Puget Sound or Los Angeles.

The importance of this oil to ARCO is clear and obvious. Without it, we would be just another struggling company. With it, we do very well for ourselves and for our customers.

Eighty five percent of the petroleum products sold in Oregon comes from North Slope crude. Some of that comes through our competitors here in Oregon, but we enjoy a very large market share ourselves. As a result of the availability of this North Slope oil, gasoline prices here are a bargain as compared with what they would be if we had to rely on more expensive imported oil.

But North Slope is much more than a major source of business for ARCO in the Pacific Northwest. Nationwide, it's one barrel of every four produced in the United States. And it's the country's strongest defense against another energy crisis of the kind that hit America twice in the 70s.

No one understands that better than our guest of honor. Senator Hatfield has been a strong ally in keeping that oil flowing.

We're going to need more of that kind of support in the difficult time ahead. The situation is pretty clear: North Slope oil is critically important. Existing reserves will inevitably play out. We need to replace them.

But I think you'll agree that the idea of trying to replace current North Slope production is a bit of a reach. The oil has been so important to ARCO and the country that it's difficult to accept the idea that this incredible stream of energy will eventually begin to diminish.

But it will, and the question we're wrestling with is how to delay that day, and keep the oil pumping for as long as we possibly can. So far we and the other North Slope producers have managed to handle the problem pretty well.

But there's a limit to how much we can get from existing reserves. The industry has pumped more than five and a half billion barrels from Prudhoe Bay, the biggest field up there.

That's more than half of what we estimate we'll be able to produce over its life. Our projection now is that the field will begin to decline by early 1990 and by the year 2000 will be producing about a half-million barrels a day, a third of its present volume.

Newer fields such as Kuparuk and Lisburne will help offset some of that decline, but the fact remains that with the decline of Prudhoe Bay, one of the great oil fields of the world will be phasing out, and we've got to do all that we can to replace the production.

If we can't do that, we've got to do something else—start thinking about what a lot more imported oil will mean for this country. It's not a particularly reassuring thought, considering that we're already importing four of every ten barrels we use. By 2000, it will be five of ten. By 2010, it could be more, a lot more.

Clearly, there are certain realities we can't escape, such as the fact that most of the oil that's left in the world is in the Persian Gulf.

But I believe we can deal with that, and still manage to preserve a working measure of energy control in this country, by doing three things—using the energy we have wisely, looking for oil worldwide and giving the industry access to potential U.S. oil discoveries.

The first necessity is to encourage and, when necessary, mandate energy conservation. When the price of oil is soft, as it is right now, people tend to overuse it.

So we clearly need to augment market forces with sensible government programs such as those stipulating automobile mileage and appliance standards. Both are effective programs.

The Strategic Petroleum Reserve is another valuable program that should be maintained and accelerated—to give us time in the event of another interruption in oil supplies.

But conservation and emergency storage aren't enough by themselves. So, my second point is the absolute urgency of finding more oil wherever we can, from Timbuktu to Bakersfield. It's become clear to me that the way to keep OPEC's monopoly power in check is not at the bargaining table but through the market.

The truth is that *the more oil that's found anywhere outside OPEC countries, the less power OPEC has over us.* OPEC is relatively powerless now because the new non-OPEC production that came on stream in the early 80s made the global oil market work again. Our objective should be to do everything possible to keep it working.

There are things the federal government can do to help the American oil industry in this great task, starting with a more intelligent tax policy, both here in the U.S. and for overseas operations as well.

The third necessity is for the U.S. to develop its own oil far more aggressively than it is today. The idea of "draining the desert first" is silly—and dangerous. We can't allow ourselves to become too dependent on the Persian Gulf. Recent history suggests that when OPEC's capacity utilization reaches 85 percent—about 10 points higher than it is now—they'll overwhelm the market. We've got to help keep that percentage down.

That means, among other things, that we've got to make up our minds about the Arctic National Wildlife Refuge, or ANWR, as it's called. ANWR is a very large piece of land, about 19 million acres, on the North Slope adjacent to the Prudhoe Bay area. Part of the land, about 9 percent, comprises the Coastal Plain and is highly prospective for a major oil discovery.

There are really just two questions to answer: Should we explore and develop ANWR? And can we develop it with adequate protection for the environment?

As to the first point, let me ask a hypothetical question: What would have happened if we had never developed Prudhoe Bay?

As I look back, that threat was far from just theoretical. After ARCO and our partners found the oil field in 1968, we had to overcome years of stiff opposition from the environmentalists before we could bring it to market.

It took nine years all told—six years before Congress finally issued the pipeline permit, and another three years for the actual construction. And it never would have happened, is my guess, if the Arabs hadn't stopped sending us oil in September, 1973. The embargo finally forced Congress to make up its mind.

Well, what if Congress hadn't acted?

Obviously, we'd be much more dependent on foreign oil. Right now, we're importing

40 percent of our supply. Without the North Slope we'd be importing more than 50 percent—with a rising share from the politically unstable Persian Gulf area—much more of a security risk than we have now.

That would be tough financially. At current prices of $18 a barrel we'd be sending at least $12 billion more a year overseas. But with a 25 percent price increase from OPEC—not unreasonable considering the extra oil they'd be selling to America—our incremental oil payment would have ballooned to $28 billion a year—real money by any definition.

Add that to our current $170 billion trade deficit and you get the full picture—and to pay for oil we could have produced ourselves!

And what would have happened here in Oregon and in the rest of the country if the North Slope had never been developed? On the West Coast, you would have been dependent on imported oil, rather than self-sufficient as you are now. And the whole country would have seen much higher energy prices of the kind that can convert a strong economy into a recession, as we saw in the 70s.

Without the North Slope, the construction and fabrication projects that were carried out here simply wouldn't have happened. The huge barge flotillas never would have sailed. The jobs would never have been created.

Well, that's what might have been. Fortunately, that nightmare didn't happen because the North Slope oil was found, developed and marketed. The dollars are being kept in the U.S. The wages are going to American workers, many in Oregon. And many billions of dollars in taxes and royalties are going to the American people, not overseas.

While we're on the subject of nightmares, it's worth recalling another one that didn't occur, either. The environmental nightmare—the ravaged air, land, water and wildlife that our opponents freely forecasted would take place if oil development were allowed to go forward.

It's interesting—if a bit frustrating—to note that the same doomsaying predictions that were made 20 years ago about Prudhoe development are being made today about ANWR.

Well, what can I say? Just that the industry's record of 20 years of safe and sane oil development on the North Slope argues strongly that we can treat ANWR in the same careful way. In fact, we'll do even better because we've learned a lot.

If you look at newer fields like Kuparuk and Lisburne, you'll see just how far we've advanced from those early days at Prudhoe. That's the kind of expertise we'll apply at ANWR—if we have the chance.

Another point that's widely mentioned: Is there enough oil at ANWR to make it worth taking the financial and environmental risk to get it? Most experts agree there's about a 20 percent chance of a major success.

In my opinion, that's an opportunity we must take advantage of, even though it's not a sure thing. That's an opinion that's shared by the federal Department of Interior. DOI thinks ANWR is—quote—"the best single opportunity to increase significantly domestic oil production." Unquote.

The Department thinks ANWR could produce 150,000 to 600,000 barrels a day for 20 to 30 years. Given the long lead time, production of that oil couldn't start until around the year 2000, but that's exactly when we'll need it the most. And remember that it would all come from a relatively small piece of ANWR—less than a tenth of 1 percent of the total land area.

I said ANWR is not a sure thing. If the oil isn't there, it'll be bad news for our energy future. But if that's the case, we need to know it, so we can take the necessary steps to offset the loss of that production.

There's still one more question that we need to ask: How do the American people feel about ANWR? Do they favor oil and gas exploration? Or preservation as a wilderness?

Let's not kid ourselves. At this point in history, few Americans devote a lot of thought to matters such as the industry's exploratory strategies in ANWR. That's understandable, when oil is as cheap and abundant as it is right now.

But while they may not spend much time thinking about the specifics, our suspicion was that Americans *are* concerned about having enough secure supplies of energy to guarantee the future growth of the country.

To confirm our views, we asked a Washington pollster, Peter Hart, to go out to the people, pose questions about energy, the environment and ANWR, and see what they had to say about those topics.

Hart talked to 1,500 voters across the country. I'm told that's a good representative sample. As far as we could tell, the respondents had no special knowledge of energy but, as it turned out, they *do* have an absorbing concern with the *future* of the country. And they're not comfortable with what they see happening—or *not* happening.

If there is one major conclusion that can be drawn from the responses Hart gathered, it seems to be that while energy is not a principal concern, Americans as a group are very much worried about how well the economic foundation is being laid for the 1990s and the early decades of the 21st century. They fear that the nation is somehow losing control.

Whatever label we put on it, the Americans Hart talked to fear that America's economic security is ebbing, and they worry what things will be like when their children are grown and seeking their own economic security in the 1990s or the 2000's.

On the energy-vs.-the-environment issue, the tendency Hart discovered is that Americans want both energy security and a clean, beautiful environment.

Most didn't know where ANWR is, probably hadn't even heard of it. But they were aware about the need to develop domestic energy for the future, and a majority favored wilderness development for that purpose, *if it is done responsibly.*

The theme Hart suggested as holding the greatest logic for the American people, is that *this generation of leadership must pay more attention to preparation for the future.* We are being asked to invest in tomorrow—*to do it now and do it right.*

I think that argument fits ANWR like a glove.

Clearly, we've got to act on our energy future *now.*

Just as clearly, we are bidden to do whatever we do *right.*

In short, we're being told to continue our work, but to carry it out in a careful, responsible way—finding the energy we'll need in the years to come, *and* protecting the environment while we do it.

I think that the past 20 years has shown that the domestic oil industry is capable of doing that in the Arctic. I would like the opportunity to prove it once again at ANWR—for the sake of everyone who depends on North Slope oil.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Gail Groeninger, a member of the staff of Senator LUGAR, to participate in a staff exchange program in Germany, sponsored by the United States Information Agency, from April 15 to May 1, 1988.

The committee has determined that participation by Ms. Groeninger in the program in Germany, at the expense of the United States Information Agency, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Ms. Kellye Eversole, a member of the staff of Senator BOREN, to participate in a staff exchange program in Germany, sponsored by the United States Information Agency, from April 15 to May 1, 1988.

The committee has determined that participation by Ms. Eversole in the program in Germany, at the expense of the United States Information Agency, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Wallace J. Henderson, a member of the staff of Senator BREAUX, to participate in a program in Chile, sponsored by the Adolfo Ibanez Foundation, which was from April 1-8, 1988.

The committee has determined that participation by Mr. Henderson in the program in Chile, at the expense of the Adolfo Ibanez Foundation, was in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35, for Mr. Ed Long, a member of the staff of Senator HARKIN, to participate in a program in Turkey, sponsored by the Turkish Foreign Policy Institute, from April 2-11, 1988.

The committee has determined that participation by Mr. Long in the program in Turkey, at the expense of the Turkish Foreign Policy Institute, is in the interest of the Senate and the United States.●

NATIONAL SAFETY BELT USE WEEK

● Mr. D'AMATO. Mr. President, I rise today in support of Senate Joint Resolution 270, legislation to designate the week of June 26 through July 2, 1988, as "National Safety Belt Use Week." This resolution will serve to promote valuable safety devices—seatbelts and child car sets.

Over the last decade, 470,000 Americans have died on our highways. Last year alone, approximately 46,000 Americans died on our highways, while an estimated 300,000 Americans were injured seriously enough to require hospital treatment. These statistics simply cannot be ignored.

Because of these figures, 32 States and the District of Columbia have enacted mandatory seatbelt laws since 1984, while the Department of Transportation has increased its national safety belt campaign to promote usage. In 4 short years, it has become apparent that deaths and injuries from traffic accidents have declined due to seatbelt use. Department of Transportation statistics show that, since 1983, 2,975 lives were saved in those States with seatbelt laws, and an additional 5,060 lives were saved through an increase in public awareness of the benefits of safety belt usage. Over 95,000 injuries have also been averted due to the increase in safety belt use.

While most Americans recognize that seatbelts reduce the risk of deaths or critical injury in the event of a traffic accident, less than one-half of all Americans use their safety belts. However, through enforcement of State laws and an increase in public awareness and acceptance of seatbelt use, we can expect continued and increased usage in the years to come.

Mr. President, my home State of New York enacted a mandatory seat belt law effective January 1, 1985. Since that time, more than 500 New Yorkers are alive who might not have been had this law not been passed. It is also estimated that 40,000 New Yorkers have escaped serious injury because of this law. It is my hope that through increased use and awareness of seatbelts and child car seats we will be able to save even more lives. I am pleased to lend my support to Senate Joint Resolution 270 and I urge my colleagues in the Senate to join me in cosponsoring this legislation.●

PHILIP A. KARBER ON "CONVENTIONAL ARMS CONTROL OPTIONS OR WHY NUNN IS BETTER THAN NONE"

● Mr. WIRTH. Mr. President, Philip Karber, a senior defense analyst at the BDM Corp., is greatly distressed at the Atlantic Alliance's inability to respond to the Warsaw Pact's Budapest Appeal with a bold and easily understood counterproposal of its own. For Karber, the Budapest Appeal, while undoubtedly designed with Western European public opinion in mind, is impressive in the degree to which it moves away from previous unyielding Soviet positions. Karber sees it, in fact, as "difficult to overdramatize."

After presenting a detailed history of the Vienna MBFR negotiations, in which he sees the West having gradually shifted away from its initial negotiating strategy in the face of stubborn Soviet opposition, Karber sets forth a detailed list of what points of agreement and disagreement have emerged from 14 years of negotiations. He concludes that, in sum, the results have been nearly worthless. The Warsaw Pact's decisive numerical superiority in main battle tanks has not been addressed, and the final proposed manpower cuts are but a fraction of each side's total ground forces. In short, the MBFR talks demonstrated that future conventional arms control efforts must be "radically redirected."

Karber then depicts what new directions he believes conventional arms control should follow. He stresses that: First, reductions be focused upon those categories of weaponry featuring a significant imbalance; second, that the emphasis in all reductions be upon stabilization; and third, that the ultimate success of the West in wrestling significant concessions from the Soviets depends upon the "public clarity and political comprehensibility" of Western proposals. For example, the West needs to show that expanding the geographical scope of conventional arms control to "the Atlantic to the Urals" in the realm of air capabilities is dangerous for NATO. If United States air bases in Britain were included, aerial reinforcement from the United States would be critically threatened. Karber stresses that the value of now including Soviet territory west of the Urals is not in reducing forces presently stationed there, but rather in keeping Soviet forces withdrawn from Europe from being restationed there.

Karber concludes by lauding the efforts of Georgia Senator **SAM NUNN**, whom, he says, "has produced the only authoritative, substantive proposal for a redirection of Western, conventional arms control policy," and who has "the only articulated Western conventional arms control concept which meets the mandate of 'bold'." Karber goes on to develop a highly detailed proposal based upon the Nunn approach, responding to the perceived need to forge a dynamic and thoughtful Western response to the Soviets' seizure of the conventional arms control initiative.

Mr. Karber's views follow:

CONVENTIONAL ARMS CONTROL OPTIONS OR WHY NUNN IS BETTER THAN NONE

(Prepared for the Atlantic Brucke conference on "Arms Control and Conventional Defence in Europe," Berlin, Sept. 18, 1987, by Phillip A. Karber)

[Charts and graphs not reproducible in Record.]

This piece would not have been possible without Senator Nunn's encouragement and permission to explore the military implications and potential modalities of his proposal. Also, a great debt is owed to the senior DBM staff—A. G. Whitley and Nancy Phillips—for their assistance in preparing the data and material included here and to the authors of two papers whose insights were invaluable: Millard Barger, "Conventional Arms Control Proposals for Europe—A Chronological Summary, 1945-1986" and Diego A. Ruiz Palmer, "Can MBFR be Saved from Self-Destruction?," March 25, 1986.

All the comments and conclusions in this paper are soley the responsibility of the author and should not be taken to represent the views of any of the above-mentioned people.

(c) No part of this paper may be reproduced without the written permission of the author.

In the spring of 1986 the new General Secretary, Mikhail Gorbachev, reinvigorated the issue of NATO/Warsaw Pact conventional arms control with an announcement of new Soviet initiatives. As expanded upon in the Warsaw Pact's Budapest Appeal several months later, these initiatives were surprising in their scope and startling in the degree to which they moved away from entrenched Soviet positions and evidenced a willingness to be creative if not conclusive. What was new in the Gorbachev approach is difficult to overdramatize.

If seldom in the past had the Soviets found it in their interests to raise the issue of conventional arms control, now, in a sudden role reversal, the reluctant old maid became the anxious young suitor.

Gorbachev explicitly adopted the Western geographic framework of "Atlantic to the Urals"—and with it the inclusion of a large and significant area of Soviet territory.

The overt admission that there might be certain areas of Soviet conventional superiority which would require an asymmetrical level of reduction on their side—a major variation from their classic if incredible position that an overall balance in conventional forces exists between the two blocks.

Where the Soviets traditionally viewed verification as anathema, i.e., a Western plot for intrusive intelligence gathering, Gorbachev implied that Soviet forces on Soviet territory would be legitimate targets for inspection.

Where in the past the Soviets had seemed content merely to withdraw elements of their forward posture back to the motherland, Gorbachev raised the prospect of actually dismantling and destroying the equipment.

While ulterior motivations can certainly be found to caveat Gorbachev's intentions and other elements of the proposal could be construed as maliciously playful (for example the call for a 150,000-man withdrawl spread across the entire breadth of Europe), nonetheless, any one of the above points would have been hailed as a new breakthrough if raised in the context of the 13 fruitless years of the preceding MBFR negotiations.

Even more surprising than the new aspects of Gorbachev's initiatives has been the laconic response of the Western alliance. After all, for nearly 20 years it has been NATO which has actively sought conventional arms control with the East. Any positive Soviet movement on such traditional stumbling blocks as geographic scope, asymmetrical reductions and verification would have seemed to warrant an immediate and enthusiastic response. Instead it took six months for NATO to respond to Gorbachev's specifics with a rhetorical call for "bold new initiatives." Another six months later NATO's report was noticeable only to the extent that it did not live up to its advanced billing. As the American defense commentator B.F. Schemmer noted, "Gorbachev makes these grandstand proposals which get front page headlines all over the world and a year later NATO's 'bold' response is so bland it couldn't get buried on the obituary page."

A. MBFR IN RETROSPECT

In entering negotiations with the Warsaw Pact on mutual and balanced force reductions in Central Europe, the NATO member nations set for themselves a very ambitious goal: redressing the conventional military balance through arms control, thereby depriving the Soviets of a superiority in conventional armaments which they had been enjoying since the early post-war period and had increased at the cost of a massive investment in resources. In comparing the latest NATO proposal, submitted in Vienna in December 1985, with the initial NATO proposal of November 1973, it is clear that due to Soviet intransigence, the West had to scale down its expectations considerably. From a comprehensive, multi-year phased agreement involving, in a first stage, the withdrawal of a Soviet tank army with 68,000 men, 1,700 main battle tanks and all associated combat equipment in return for the withdrawal of 29,000 U.S. servicemen, the West's frustrating quest for an elusive accord in Vienna has led the allies to propose a partial, time-limited agreement calling for the removal of 11,500 Soviet and 5,000 U.S. troops.

From the start of the negotiations process there has been a difference of approach between East and West. This difference was reflected in the controversy which surrounded the very name of the negotiations during the preliminary talks. The West had proposed "Mutual and Balanced Force Reductions" (MBFR), but the East objected to the inclusion of the word "balanced," which implied asymmetrical reductions in order to reach parity, an implication consistent with NATO's view that the Warsaw Pact enjoys a significant advantage in manpower and equipment inside the reductions area (the so-called "NATO Guidelines Area" or NGA), as well as a considerable geographic advantage by virtue of the proximity of the USSR. The Warsaw Pact asserted then that there exists an approximate balance of forces in Central Europe, that whatever numerical advantage it enjoys over NATO is marginal and hence militarily insignificant and that mutual reductions should therefore be essentially equal. The East prevailed symbolically and instead of MBFR the Vienna talks were officially named negotiations on "Mutual Reductions of Forces and Armaments and Associated Measures in Central Europe" (MURFAAMCE)

The initial disagreement on the name of the negotiations was to presage a much deeper dispute over the data issue and, ultimately, a seemingly irreconcilable divergence of views regarding the fundamental political and military purposes of the talks. Admittedly, the record was not all negative. Substantial areas of agreement between the two alliances existed, at least implicitly, on the scope and format of an agreement on mutual and balanced force reductions in Central Europe. The principal points of agreement included:

The area where the reductions would take place comprises the Federal Republic of Germany, the Benelux countries, the German Democratic Republic, Poland and Czechoslovakia.

Reductions may be phased and unequal in size in order to achieve parity.

The concept of a first-phase agreement as providing a general framework for future reductions.

The omission in the context of a first-phase agreement of any reference to the need for prior agreement on data.

Initial reductions by the United States and the Soviet Union within one year from the entry into force of the agreement.

Reductions in units with up to 10 percent as individuals.

Withdrawn forces shall return to within their national boundaries.

Withdrawn forces shall not be deployed in new locations in such a way as to diminish the security of any state participant in the negotiations, including those with special status.

Lists shall be exchanged of the American and Soviet units to be withdrawn from the area of reductions.

The United States and the Soviet Union shall inform all parties about the start of the practical arrangements to reduce their ground forces in Central Europe and about their completion.

Observation points should be established through which withdrawn Soviet and American forces shall pass.

Each side should determine independently the location of these points in its own territory.

There shall be a no-increase commitment following the period of reductions.

National technical means of verification should be used in a manner consistent with generally recognized principles of international law and the sides should undertake not to interfere with the national technical means of verification of the other side.

The agreement envisaged should be of limited duration.

Implementation of a verification regime would also provide most valuable experience in applying associated measures, which would prove useful in the future in the course of more substantial reductions.

The agreement should be legally binding.

The East proposes that the sides should undertake to pursue the negotiations on the reduction of armed forces and armaments in Central Europe with the objective of reaching parity of equal collective levels of up to 900,000 men, including up to 700,000 men in ground forces. The West agrees that, subject to the successful implementation of a first-phase agreement, this should remain our objective.

Of the many options considered in the West, three of those presented at MBFR are worth remembering:

First proposal—1973: Trade withdrawal of 29,000 U.S. troops for Soviet withdrawal of a Tank Army (4 tank and 1 motorized division, army assets equaling 65,000 troops).

Option 3—1975: Trade withdrawal of 36 Pershing missiles, 54 F-4 nuclear capable fighters, and 1,000 tactical nuclear warheads for Soviet tank army.

The Soviets did not accept Option 3 but in effect over the subsequent 12 years it was unilaterally implemented.

Under INF all Pershings to be withdrawn in exchange for removal of Soviet missiles which were not deployed in 1975.

U.S. Air Force has reduced its force structure within NGA by withdrawal of a Wing (54 F-4 aircraft). Modernization with F-16/F15 has reduced UNSAFE nuclear capable aircraft by 96.

Under Montebello decision NATO is withdrawing 2,000 tactical nuclear warheads.

The Soviet tank army is still deployed in the DDR, although it has been restructured with one division resubordinated opposite NATO NORTHAG and one division withdrawn in 1979 with much Soviet fanfare. Example of the 6th Guards Tank Division is worth remembering:

Division flag and Headquarters re-deployed to Belorussia M.D. within 30 km of Polish border.

Manpower (10,500 men) and most battalions redistributed to other GSFG divisions to increase their infantry and artillery strength.

Armored battalions sent to CGF in Czechoslovakia and T-62 tanks replaced with T-p72M.

New division location equipped with new manpower, new battalions, new equipment—kept at high readiness status.

Thus, instead of reduction of threat by one division-increase by additional division equivalents and clear evidence of Soviet deception.

The final positions of the two sides in MBFR were also revealing, both in terms of what was accomplished and what was not.

In the face of stubborn Soviet opposition, the West gradually shifted its negotiating strategy in Vienna away from a combination of manpower and equipment reductions solely to manpower reductions. By doing so, it has virtually ensured that any MBFR agreement would not alter the most threatening and destabilizing aspect of the present conventional force imbalance in Central Europe: The Pact's decisive numerical superiority in main battle tanks.

In April 1978, the West modified its intitial MBFR proposal of November 1973, which had called for the withdrawal of a five-division strong Soviet tank army, including 68,000 soldier and 1,700 tanks, in exchange for the withdrawal of 29,000 U.S. servicemen, to assuage the Soviets. In the new proposal, the West did not require that a complete tank army be removed, accepting instead that the 68,000 servicemen and 1,700 tanks be withdrawn from any five Soviet divisions. This modified position would have allowed the Soviets to spread the impact of the reductions among the five field armies of the Group of Soviet Forces in Germany (GSFG), rather than withdraw one of the five armies in whole, thereby preserving the basic offensive posture of their contingent in East Germany. Even more disturbing was the fact that while the November 1973 proposal required that all weapons and equipment associated with a tank army be withdrawn, including armored fighting vehicles, artillery pieces, antitank weapons and air defense systems, the April 1978 proposal called for the withdrawal of 1,700 tanks alone.

Led to believe by the Soviets' negotiating behavior in Vienna that they would never accept an agreement which involved a unilateral withdrawal of military equipment, the West finally abandoned all hope of reducing the Pact's armor strength and, in a fateful decision, proposed in December 1979 asymmetrical manpower reductions which did not involve any withdrawal of military equipment.

Through the 14 years of MBFR negotiation the Warsaw Pact adamantly maintained that despite inventory differences in the quantity of individual armament categories, there was an approximate military balance in Central Europe—one which favored neigher side—and thus neither side should be forced to make disproportionate or unequal reductions. To back up this claim, the Warsaw Pact repeatedly pointed to manpower, where there is only a 20 percent Warsaw Pact advantage, as opposed to conventional armaments inventories where there is more than a 200 percent Warsaw Pact advantage. Although the last MBFR orientation eschewed weaponry in favor of focusing on manpower, the 2.2 to 1 ratio of proposed cuts, 5,500 men for NATO to 11,500 for the Warsaw Pact, had several noteworthy features:

It represented a significant modification of a Warsaw Pact position and in so doing, established a precedent of asymmetrical or "balanced" reductions.

The ratio of asymmetrical reduction, although applied to manpower, mirrored the Warsaw Pact proportional advantage in conventional armaments and was thus much more favorable than if it had been calibrated on the ratio of manpower.

As a precedent for subsequent and significant military reductions, the 2.2 to 1 ratio could be applied to virtually any armament category (or to manpower), and the result would produce a significant improvement in NATO's military posture.

Whatever negative things can be said about MBFR, the relatively small size of the final proposed cuts in manpower were such a miniscule fraction of the respective alliance's force in NGA that they would hardly have been militarily decisive. For NATO, a proposed cutback of 5,500 troops would be the equivalent to 0.6 percent of their current ground forces; for the Warsaw Pact, a cutback of 11,500 men would equal only 1.2 percent. Given that 80 percent of this manpower reduction was slated to be withdrawn from direct combat and combat support formations, for NATO this equates approximately to a U.S. brigade and for the Warsaw Pact approximately to a Soviet division. For both sides, this represented about 2 percent of their active in-place combatant force structure. The small level of these cutbacks meant that an MBFR agreement would be relatively insignificant in terms of military capability of either side and the following claims could be made for it:

It did not dramatically change the military balance;

It did not force either side to change existing higher level command arrangements or operational plans;

Even if one side were able to cheat on a level that would totally nullify their required reduction, nonetheless, the small size of the withdrawal meant that they would be taking a large political risk for marginal military results.

The West had long believed that there is a substantial, indeed, militarily significant difference in the ability of the two sides to regulate an arms reduction by national technical means. Because of the closed nature of and restricted access within East European countries, "on site" verification was a longstanding policy objective of the West, just as the Eastern bloc had adamantly regarded it as intrusive and unacceptable. An MBFR agreement which explicitly permitted any level of "on site" verification, no matter how low the level, and which established specified exist-entry control points was viewed as a net gain for the West. This gain would be in terms of a real increase in ground observation capability but more importantly in creating the precedent, legitimized by the Warsaw Pact, that verification of conventional arms control requires supplementing national technical means with "on site" inspection. If the Western proposal of 30 inspections per year had been agreed to by the Warsaw Pact for a military non-decisive reduction, and if this scaling level of one annual inspection per 400 Eastern bloc troops withdrawn is carried over into a future militarily significant reduction of 100,000 troops, it could produce a requisite for 250 inspections per year, which would have been a truly significant level of arms control verification.

Although the traditional MBFR deadlock over data was broken only by an abandonment of the Western demand that it be settled prior to any agreement, the final proposal, however, did call for an explicit "post-condition" exchange of data, including the identification of the units involved in the reductions and location where the reductions were made.

By the end of MBFR several outstanding differences between the latest Eastern and Western proposals remained to be overcome for an agreement to be reached. But the disagreement centered principally on the verification regime which would guarantee enforcement of an MBFR agreement, and, compared to the obstacles with which negotiators were confronted in the past—notably over the data issue, the scope and timing of reductions and the establishment of alliance ceilings versus national sub-ceilings—verification appeared to be a more tractable problem. At the end, while the two sides were still off by a factor of ten over the number of inspections which would be permitted under the agreement (the West requesting 30 per year, the East arguing for only three), the real difference was sufficiently small that the West would have been hard pressed to refuse an offer from the Soviets which split the difference in half. What was intractable at the end were caveats attached to the East's draft proposal which:

Excluded from the monitoring regime the Soviet Army's semi-annual troop rotations into and out of Eastern Europe (amounting to some 200,000 men entering and, presumably, existing the NGA);

Would limit information exchanges on forces remaining in the NGA (as opposed to information exchanges on forces withdrawn) to "major formations" of approximately 380,000 men, versus battalion-level units as proposed by NATO; and

Would make acceptance of a legitimate on-site inspection request by the other side optional.

Sadly, arms-control has had no material impact on the competition in conventional armament. The MBFR negotiations have not produced an agreement yet, and while the parties have been politely exchanging views, the military blocs they represent increased the level of major conventional armanent deployed in Central Europe between 1974 and 1984 by 24 percent, or more than 20,000 weapons. This figure includes over 10,000 tanks and other armored vehicles, 5,000 antitank weapons, over 2,000 artillery and multiple rocket launcher (MRL) systems, and over 1,000 air defense systems. The most comprehensive of proposals put forward by either side to date would not have effected a reduction anywhere near the magnitude of the conventional weaponry added since MBFR began. However, as NATO looks to the future—toward a stable conventional deterrent—it is readily apparent that if arms control is to play any role, the approach taken in MBFR must be radically redirected.

The dominant approach of the MBFR negotiations has used military manpower as the measure of control and method of reduction. But this emphasis on manpower not only has served as an argumentative impediment to an agreement but, in the event a compromise is reached, would not facilitate a meaningful halt or reduction in the conventional arms race. Manpower is only a surrogate measure of military capability. The medium of expression in an armament competition is arms, not people. In modern mechanized warfair the success of either a manpower-oriented offensive or fire-predominant defense is not the relative number of troops but the technological capability and combined arms synergy of the respective weaponry. As a surrogate measure, manpower has far more problems endemic to controlling an arms race than other mechanism such as directly regulating the armaments.

First, the proximate imbalance in manpower does not reflect the stark imbalance in conventional armament. In 1985 the ratio of ground force manpower between the Warsaw Pact and NATO was 1.2:1, which is in stark contrast to the 2:1 ratio in the total quality of conventional weaponry. In every armament category the Eastern bloc is ahead and, in all but one, the relative force ratio is substantially more unbalanced than that of aggregate manpower. Assuming a Western interest in correcting rather than perpetuating an imbalance in arms, manpower should have been the least preferred index of control and reduction instead of being the most favored. Second, quantitative changes in manpower show a minimum correlation with the upward spiral in conventional armament. From 1965 to 1985, over 30,000 conventional weapons were added into operational combatant units deployed in Central Europe by both sides, an armament increase of almost 55 percent, yet aggregate manpower grew by less than 10 percent. The major reason for this anomaly is that much of the new weapons technology is less manpower-intensive than the systems replaced. A third problem in using manpower as a surrogate method of conventional arms control is that there are considerable differences in how manpower is organized, used, and accounted for both between and within NATO and the Warsaw Pact. One of the biggest differences is the fact that the 46 percent of all ground force manpower located in Central Region is from nations outside the area and they have a quite different overhead structure. Indigenous armies (those of the Federal Republic of Germany, Belgium, The Netherlands, German Democratic Republic, Czechoslovakia, and Poland) must use a considerable proportion of their national ministry of defense, for functions such as command, training, and peacetime support infrastructure. Foreign units deployed in Central Europe are organized either as semi-self contained expeditionary forces (those of the United States and the United Kingdom) or forward extensions of field armies deployed in immediately adjacent areas (those of France and the Soviet Union). In terms of a correlation between manpower and weaponry the latter are the most efficient in achieving a high ratio of "bands" to bodies. Thus, an asymmetry exists between the two blocs in the ratio of combatant troops to overhead support manpower, a difference that inherently favors the Warsaw Pact because the Soviet army, the largest national force in Central Europe of either alliance and representing over half of the Warsaw Pact ground force manpower, fields the highest ratio of combat to overhead personnel. This asymmetry has assumed greater significance recently in the context of NATO's April 19, 1984 proposal which excluded combat service support forces from the realm of the negotiations, both in terms of the exchanges of data on ground forces manpower called for by the proposal and the actual troop reductions being considered.

A fourth problem of depending upon manpower as a measure of conventional arms control is that of verifying both that an agreed reduction has taken place and that an agreed ceiling is being observed. Major items of conventional armament (all of the weapons categories reviewed earlier) are amenable to observation by national technical means without resort to intrusive inspection. Manpower is not. Satellite imagery can observe a unit kassern and determine whether the unit is active, how many armament assets are located in the vehicle parks (or deployed on maneuvers for equipment normally stored under roof), and track the rate of modernization replacement. However, the best high-resolution photograph cannot determine how many troops live in a barracks or the percentage manning of a unit at any given time. If the level of verification for inventories of a given category of conventional armament is on the order of + 2 percent rate of error then the comparable confidence level for manpower is at least +20 percent rate of error. Where changes in armament levels can be verified in a matter of days, a similar assessment of manpower levels would take weeks. In the event of interbloc disagreement over data, armament levels can be resolved empirically through the mechanism of a unit comparison of photographic evidence of equipment holdings, whereas the methodologies for estimating manpower border on the metaphysical and are likely to lead to interminable and unresolvable debate, as evidenced in the MBFR negotiations. The inherently elusive and dubious quality of manpower as a reliable indicator of arms control was implicitly acknowledged by NATO when the West proposed on April 19, 1984, as a means to overcome the enduring data dispute, that agreement be reached on figures that would fall within the "acceptable range" of the West's estimates, as opposed to an absolute agreement on precise figures.

The fifth problem with manpower is that dependence upon such an ambiguous and elusive surrogate measure of conventional balance is likely to undermine the very confidence that an MBFR agreement is intended to create and thus to exacerbate rather than resolve the problem of crisis instability. For example, since 1946 the Soviet forces deployed in East Germany have replaced 40,000 to 80,000 troops twice a year (usually in the fall and spring) with new draft cohorts. Historically, this transfer process was conducted by rail, took several weeks to accomplish, and was highly visible. However, starting in the early 1970s the Soviets introduced a dramatic change in the method of their semi-annual troop rotation; this replacement of manpower is now conducted by air transport, completed in days, and is virtually opaque in terms of near real time verification as to whether the returning aircraft actually are carrying discharged personnel. Coincidentally, it was also in the early 1970s that the Soviets began stockpiling additional unmanned equipment in training and storage areas within the German Democratic Republic. Thus assuming some form of manpower-oriented arms control agreement, should an East-West confrontation occur co-terminously with the Soviet aerial troop rotation they could bring in additional troops but not take any out and thereby reinforce their forward personnel by up to 15 percent. It would take Western intelligence weeks to determine if and to what extent surreptitious manpower had been added, not to mention the difficulty in proving it conclusively. The mere threat of such an option would hardly be coducive to crisis stability and the only sanction available to NATO would be the visible and vulnerable process of rapid mobilization, an overt violation of the very manpower limitation it was trying to enforce.

B. CURRENT ISSUES AND COMPONENTS FOR FUTURE OPTIONS

With the functional demise of MBFR in the Spring 1986, the West exhausted the menu of options under the original MBFR approach. The resurgence in popularity of conventional arms control accelerated after the quasi-success of CDE in Stockholm and Gorbachev's apparent endorsement of the wider geographic parameters of the French concept of "Atlantic to the Urals" which offered a breakout from the narrow confines of MBFR's NGA. A dominant concern throughout MBFR had been the problem of poximity—the whatever reductions of Soviets made in Central Europe could be quickly and perhaps decisively overturned by a rapid reintroduction of the same forces from the USSR—a concern magnified by reduction proposals which focused on Soviet/U.S. first phase efforts because of the further distance and time required for reintroduction of American withdrawals.

The expanding geographic horizon was accompanied by a general dissatisfaction with the basic MBFR philosophy:

Preoccupation with manpower rather than weaponery;

Consistent erosion of military significance under the guise of "negotiability" and a seemingly endless willingness to carry on fruitless negotiations ad infinitum—as if this dialogue was a constructive objective in and of itself.

To the extent that those arguing for an alternative approach to MBFR shared a common and alternative framework, it could be summarized in the following three points:

1. Reduction should be focused upon militarily significant elements—that is, concentrating on those categories of weaponry where there was an operationally significant imbalance.

2. Emphasis was on stabilization:

a. Reductions which would reduce preemptive incentives;

b. Lower the need for maintaining forces at a high level of readiness; and

c. Cooling off the pace of the European arms competition where the rapid introduction of technological innovation made the balance appear volatile and vulnerable to dramatic swings.

3. A political requirement for the negotiations would be that the substantive merits of a proposal not be lost in an arcane and complicated formula which would be incomprehensible and unpersuasive to Western publics and political leaders. The argument here was that the strength of the Western position and ultimately its success in achieving militarily significant stabilization measures vis-a-vis the Soviets would be dependent on the public clarity and political comprehensibility of the Western proposals—so that if the Soviets became intrasigent this would strengthen, not weaken, Western resolve.

The problem with the sudden demise of MBFR, the rapid geographic expansion of the "Atlantic to the Urals" framework and the redefinition of the objectives is that virtually all of these were brought on outside the purview of established NATO inter-governmental and intra-bureaucratic institutions tasked with defining conventional arms control. Thus, despite the fact that these institutions had 14 years during MBFR to think through the range of issues, because these institutions had operated at such a slow pace and within such narrowly confined decision space, they were uniquely unprepared for a fast breaking, high-level escalation and creative magnification of the principles and parameters of the negotiations. Bluntly stated, the gnomes of the MBFR mafia, having operated on a tightly constrained alliance tether and grown comfortable with their snail's pace, were unprepared for:

the Gorbachev "end-run";

a creative French "wild card";

a serious discussion of militarily significant options.

The noticeable sluggishness of Western response to Gorbachev—both in quickness and conceptual clarity—was in great part driven by the lack of institutional anticipation.

For the same reasons there is as yet today, 18 months after the Gorbachev initiative, no coherent conventional arms control option which can be identified as the position of one of the original participating Western governments in MBFR. When the calcified posture in Vienna came apart, so did the Western consensus. Each government or institution, knowing from 14 years of experience what it did not want to happen, seemed unable to identify a positive new course. This makes it hard to evaluate alternative options, because there aren't any. That is not to say that various agencies in Western governments have not identified elements of interest, but these range over a wide variety of components, none of which in itself is a fully defined option. The following discussion will attempt to summarize the argument for several of these component variables—types of armament reductions, the role of manpower limitations, organizational level and geographic scope. Ultimately, Western articulated options will consist of some combination of these, but the permutations are infinite and the likelihood not imminent.

ARMAMENT REDUCTIONS

At least since the Napoleonic era, the conventional capability of modern military formations has not been measured by the quantity of men under arms, but in terms of the quantity/quality, organizational structure and concept of operations of the armament. The fundamental problem with conventional arms control is that conventional forces are by nature composite (a collection of combined arms seeking a decisive synergy is complex in implementation and unpredictable in outcome). Nevertheless, in focusing on what are militarily significant elements in this combined arms approach to the stability of the Central European conventional balance, various efforts are being made to single out those elements which are destabilizing due to inordinate quantitative imbalance or qualitative contribution to preemptive incentives.

1. Tanks and Armored Fighting Vehicles

The modern main battle tank, capable of moving across country under armored protection and featuring armament capable of defeating a similar vehicle fielded by the opposition, is uniquely associated with the fast-paced blitzkrieg operation of the 20th century—where participants sought an early and decisive defeat of the opponent by driving rapidly into the depths of his defense. The tank is also uniquely associated with the perceptions of Soviet conventional superiority. It, more than any other weapon, is credited by the Russians and their opponents as the key to their success in World War II, both in Europe and the Far East. The Soviet army and its allies field more tanks today than the entire rest of the world combined. The threat of high-speed armored offensive has been the dominant theme of four decades of NATO defensive doctrinal development and is the primary rationale for the majority of NATO's conventional technology programs. The Soviets have consistently maintained a quantitative advantage over NATO in tanks, an advantage which looms larger the more carefully one "counts the beans" and the more one concentrates on peacetime deployment asymmetries in Central Europe.

The West periodically leaps ahead in the state-of-the-art of tank technology. But despite the dreams of European apologists for Soviet military power, the continued viability of large tank formation on the European battlefield remains a very real NATO nightmare. While there are many ways to defend against tank attack other displaying an equal amount of tanks, and Western governments are investing in virtually all of them, these compensating alternative methods currently and for the foreseeable future depend upon extensive defensive preparation (establishment of extensive minefields and barriers, field fortifications for infantry), redeployment (particularly of NATO's armor from peacetime garrisons), and reinforcement (the rapid introduction of U.S. tactical air). But the time and visible activity required for this defensive preparation provide a strong preemptive incentive for an opponent to launch his attack before they are completed.

2. Artillery and Fire Support

With the emergence of the arguments for focusing on the Warsaw Pact asymmetry in tanks, a counter-argument developed emphasizing the importance of conventional artillery and fire support—a position taken primarily by the U.S. and some military establishments expressing concern that the tank imbalance was being treated as the only offensive threat. This position argues that the essence of modern conventional combat is combined arms operations and that recent Soviet development in the quantitative and qualitative expansion of their conventional fire support makes this an equal hazard to a stable conventional defense.

1. Over the last two decades the Warsaw Pact has tripled the quantity of its conventional artillery deployed opposite NATO in Central Europe.

2. With the quantitative imbalance greater than three to one, the disparity is even worse than in the category of tanks.

3. Growth in Soviet conventional artillery has been matched by new operational concepts, greater operational flexibility which threatens NATO's conventional defenses even when those defenses are fully deployed.

4. The growth of Soviet artillery has been matched by qualitative modernization in both self-propelled artillery and modern munitions.

5. Quantitative expansion has been matched in the last decade by a build-up of forward ammunition stocks sufficient to sustain both forward and reinforcing armies, thus reducing NATO's warning time and severely straining its own limited stocks of conventional munitions. These arguments have not been used to single out artillery as a sole element of a reduction scheme but rather as an argument against focusing solely on tanks in favor of large combined arms units of reduction implementation.

3. Air and Air Defense

The West has been silent on any component approaches focusing on air assets, the primary reason being the continued perception that the quality and flexibility of Western tactical aircraft, munitions and pilots more than compensate for the quantitative inferiority. In this category of armament, the expansion of the geographic frame of reference to include territory "from the Atlantic to the Urals" is viewed as most dangerous. Restrictions or reductions which might have been acceptable under the narrow confines of the Central Region (with its limited bed-down capacity and growing vulnerability of large main operating bases), would be inadmissable when applied to U.S. air bases in Britain, infrastructure critical not only to the backbone of NATO's embryonic FOFA capability (the F-111), but also the staging area for large-scale U.S. aerial reinforcement for NATO.

The lack of Western willingness to bring its strongest qualitative suit of cards to the bargaining table is unlikely to be mirrored in acquiescence by the Warsaw Pact. There is a growing body of evidence, starting with last year's last minute CDE proposals and building as the focal point of Soviet interest in doctrinal discussions that Western air power will be unavoidably introduced into any negotiations by the other side.

Besides fixed-wing aviation, there are three elements of the aerial balance which have received surprisingly little attention.

1. Growing strength of Warsaw Pact armed attack helicopters—with nearly a 2 to 1 advantage against NATO.

2. Impact of new, long range SAM systems both in an ATBM role and as dualrole platforms for conventional SSMs.

3. Growing capability of conventional armed SSMs to attack both forward air bases and air defenses systems versus restrictions on some of these as covered in the proposed INF treaty.

4. Conventional Weapons of "New Physical Principles"

Although not receiving much arms control interest in the West, there are a series of imminent technologies which may have a significant impact on the Central European conventional balance over the next decade.

1. Battlefield lasers—particularly in counter-optics application;

2. Concentrated forms of energy bombardment—particularly in counter-electronic applications;

3. "Designer" explosives—concussion wave FAE/liquid fire.

Interestingly, it is the Soviets who have been discussing these developments more openly than the West, albeit not in an arms control context. Interestingly, it is the Soviets who have been testing these devices in Afghanistan and may be nearing operational deployment in Central Europe.

B. ORGANIZATIONAL LEVEL OF IMPLEMENTATION

While it is relatively easy to conceive of overall quantitative ceilings in aggregate numbers, tracking actual reductions is best facilitated by identifying the level of the unit at which the reduction would be made. Because military forces are structured in organizational entities to facilitate their command, maintenance and logistic support, withdrawing the weapons makes little sense to the side implementing the withdrawal if the overhead structure remains forward deployed. There is a significant asymmetry between NATO and the Warsaw Pact in the size of this unit overhead structure reflecting:

Different historical experience;

Different levels of combined arms integration;

Different philosophies with respect to duration of unit commitment;

Different efficiencies in scale, (the side with multiple echelons of forces not needing as high a percentage of overhead per unit as a force with only one echelon);

Different levels of presumed militarized support from national civilian infrastructures.

The selection of the level of unit implementation of reduction also affects the quality of verification—generally, the larger the unit, the easier its redeployment is to track. Although, as discussed earlier, larger units can be broken down and disassembled with their sub-units redistributed, the smallest practical unit of implementation and the largest discussed today by either side has been the division—consisting of ten to twenty battalions. Because of NATO's smaller peacetime force structure, the general bias in the West is to take its own reductions in the smallest units (battalions), while asking for the other side to take them in large units (divisions). Interestingly, the Warsaw Pact has seemed to go along with this approach preferring to lose the division overhead in aggregate withdrawals rather than accept the penetrating eyes of inspector verification focused on small unit implementation. Given the traditional rigidity of the Warsaw Pact organizational pattern, it is very unlikely that they would prefer to take large-scale reductions in a single category of weaponry by stripping divisions of their subordinate battalions.

C. GEOGRAPHICAL SCOPE

Much of the new-found enthusiasm about the prospect of conventional arms control is associated with the apparent willingness of the Soviets to accept the broader geographic framework of the "Atlantic to the Urals." MBFR had long been roundly criticized for excluding those areas of the Soviet Union not only adjacent to Central Europe where large and reinforcing forces could be mobilized without violating any MBFR-style treaty and rapidly deployed into Central Europe before the West could reintroduce the units which had been withdrawn or bring in its own reinforcements and thus, thanks to conventional arms control, face a worse imbalance then they would have had without it. But, having now breached the sacrosanct territory of Mother Russia and reached new continental depths, the question remains: What kind of arms control regimen makes sense when applied to this geographic area?

To the extent that special norms are established to inhibit mobilization—if applied equally to NATO they would impede critical and early actions required by the West to meet an unreinforced attack. For example:

Call-up of reservists and territorial army troops;

Commitment of national commands to Host Nation Support;

Commitment of national troops to NATO integrated command.

To the extent that the expanded geographic area is used for on-site periodic verification and (assumes that units and assets withdrawn from Central Europe have in fact been redeployed to the rear rather than redistributed in the forward area), it is a useful complement to national methods of verification. But in fact, if the units have been redeployed into the Soviet reinforcing western military districts they can still be sent back into Central Europe faster than corresponding U.S. reinforcing forces.

To the extent that the West asks the Soviets to remove their forces in the western military districts (given a finite limit to the total of any Soviet reduction), the forward imbalance in active formations is proportionately less stabilized. In short, to get the most of the Soviet reductions, it is in the West's primary interests to have their reductions taken from Central Europe. It is there that they threaten an unprepared peacetime defense with preemption.

A major disadvantage of the broader "Atlantic to the Urals" area is that while it includes a wider swath of Soviet forces and territory, it also includes on the NATO side the assets of Turkey, Greece, Italy, Spain and Portugal, assets which are essentially irrelevant to the Central European military balance. But the Soviet strategic reserve military district (Kiev, Moscow, Ural, Volga M.D.'s) have the lines of communication, flexibility and infrastructure to be committed to the Central Front. None of these attributes apply to the Spanish armed forces—which in any event are not even militarily committed to NATO.

The most positive aspect of "Atlantic to Urals" formula is to apply it as an exclusionary zone. Since U.S. forces withdrawn from the center would not be placed in adjacent areas such as France, U.K., Spain or Portugal, any Soviet forces withdrawn from Central Europe should be redeployed East of the Urals. Given U.S./Soviet withdrawals proportionate to their forward inventories (i.e., disproportionate reductions), and assuming that the U.S. did not disband the withdrawn formations, the disparity in return time to Europe (rail versus fast deployment ship), is not significant.

In retrospect, the MBFR approach was not wrong in focusing on Central Europe as the most important area for reductions. In fact, to geographically define the most dangerous aspect of the peacetime conventional imbalance between NATO and the Warsaw Pact, a comparison between the Rhine and the Oder would have highlighted even more the danger of the heavy Soviet forward imbalance. But this would have had the effect of singling out West German territory for special status—a unique status which neither Germany nor the rest of NATO felt was healthy. Thus, the MBFR NGA zone was not an unreasonable compromise between defining the most unstable geographic deployments and the sharing of "control area" status. The primary value of including Soviet territory west of the Urals is NOT in reducing forces there—but in keeping withdrawn forward forces from being stationed there.

III. ARE WARSAW PACT ATTACK AMENABLE TO ARMS CONTROL MEASURES?

A. Are inherently "offensive" or destabilizing force components?

1. The combined arms structure applies to all attack scenarios.

2. Key Components and Emerging Technologies:

a. NATO Air Defense Suppression—change in tactics? Tactical ballistic missile.

b. Air Offensive—main operating bases infrastructure; platforms: Fencers, Backfire, SSM; new munitions.

c. Air Defense Operation—need to net mobile radars; air space management; impact on point defenses on FOFA.

d. Reconnaissance Strike—new recognition of NATO vulnerability; new long-range systems; competing assets with air offensive.

e. Fire Strike and Defense Suppression—mass versus new munitions; self-propelled trend; nuclear-capable artillery.

f. Penetration and Exploitation—combined arms integration at lower levels; mechanization of infantry; division versus corps OMG versus tank army; new life for the main battle tank.

g. Air Support for Penetration—close support aircraft; armed attack helicopter.

h. Support and Sustainability—bridging; foward-deployed ammunition; East European mobilized transport.

B. Nature of combined arms threat varies by scenario; and

C. Susceptibility to arms control varies by component and by nature of restrictive regime;

D. Combined arms threat is exacerbated by quantitative disparity;

1. Short warning: 2:1 initial; 2:1 overall.

2. Rapid reinforcement: 1.4 initial; 2.2:1 overall.

3. Extended mobilization: 1.2 initial 3.2:1 overall.

E. What do we really want from the Soviets?

1. Short-Warning Attack;

a. Withdraw 4-5 Soviet divisions and their equipment to USSR.

b. Keep NATO covering/GDP forces within 95 percent of current strength.

c. CDE exercise rules in operation.

d. Similarity to old Option 3.

2. Rapid Reinforcement;

a. Withdraw 13 Soviet divisions and equipment.

b. Must leapfrog western military districts.

c. Manpower and equipment ceiling for WMD and forward area.

d. 2 for 1 NATO reduction.

e. Strength x Distance x Manning Calculus.

f. Fixed-site monitoring teams for:

new unit kaserns (including U.S.).

POMCUS sites.

entry/exit points.

air bases.

g. Conditional NATO "no-first-use" revocable at Soviet reinforcement

3. Extended Mobilization;

a. Withdraw Red Army from Central Europe—30 divisions disbanded

b. NATO reductions—⅓ brigades active; ⅓ brigades at 50 percent manned; ⅓ brigades cadre POMCUS/EHU.

c. Need new geographic regions—Euro-Guidelines Area; Northern; Center; Southern Reinforcing; Reserve; Linkage between Center, reinforcing and reserve areas.

F. Analytic Dangers;

1. Attacker's initiative, deception and feedback;

2. Quantitative asymmetry must be addressed asymmetrically;

3. Modern mobility outdates narrow exclusion;

4. Careful zones of CBM applied to NATO do reduce alert/reaction time;

5. There are no inherent "offensive" structures—NATO needs combined arms for defense;

6. There is no substitute for national technical verification—on-site inspection can be useful but intrusive for both sides;

7. Data disputes are inevitable—agreed data should be means not ends.

IV. SAM NUNN VERSUS GORBACHEV

In the spring of 1986 as it was becoming evident that MBFR was headed for the scrap yard, Senator Sam Nunn of Georgia argued before NATO in Brussels that the West could not afford another round of fruitless negotiations and that before proceeding with any new format for future negotiations, the alliance needed a "conceptual military framework for conventional arms control." Having reviewed a similarly titled planning document prepared by SACEUR, the Senator argued that a variant of this methodology should be used by NATO in addressing conventional arms control with the following elements:

A careful "Net Assessment" of Warsaw Pact military strength as compared to NATO;

Focusing arms control to take on the ambitious task of asking "what we would want the Soviets to do to improve the stability of the Central Region military balance—if we could get them to do it?"

Asking the alliance to creatively develop conventional arms control options which addressed militarily significant imbalances options which were capable of being understood by Western publics.

In the spring of 1987, having in the interim assumed the chairmanship of the Senate Armed Services Committee, Nunn again returned to Brussels and proposed a new Western approach for conventional arms control in Central Europe:

Western publics are becoming increasingly allergic to nuclear weapons and will become increasingly aware that NATO relies on the early use of nuclear weapons in response to non-nuclear attacks.

NATO has no revolutionary plan for implementing conventional force improvements or for bold, innovative conventional arms control proposals which could combine to eliminate its reliance on the early first use of nuclear weapons.

NATO faces a Soviet leader—whatever his long run intentions may be—who appears willing, in the parlance of the American card game called poker, to call NATO's bet and up the ante.

One of the ironies in conventional arms control is that it was the Soviet Union and its allies in Eastern Europe—and not the West—that took the initiative in making far-reaching and ambitious proposals even though they enjoy a decided military advantage.

It is regrettable that the Western response and internal alliance consultations have been marked by disputes over procedural issues than by intensive effort to hammer out our own sound and stabilizing proposal. It is exceedingly odd that an undertaking of this importance has to wander like some homeless orphan from embassy to embassy in Vienna rather than be conducted in a more structured and coherent form.

For 14 years our primary focus at MBFR has been upon marginal quantities of manpower, where, even if both sides had confidence in the numbers and verifiability of aggregate manpower, and we still cannot agree on, an MBFR agreement based mainly on manpower cuts would not be militarily significant.

The root of military instability in Europe lies not in the Warsaw Pact's modest numerical advantage in troops in Central Europe but in their advantage in forward deployed tanks, artillery tubes, maneuver battalions, and the like.

The root of military instability lies in the Pact's capacity for a potentially decisive short-warning attack against NATO. Our aim in conventional arms control ought to be identical to the aim of the Balanced Technology Initiative: to effectively deny to Soviet ground forces forward-deployed in Eastern Europe their ability to threaten NATO with a short-warning offensive capability.

First, the initial focus of conventional arms control should be asymmetric and verifiable reductions in the ground forces of both super powers based on the territory of their respective NATO and Warsaw Pact allies. "By 'asymmetric,' I mean something like the following: the U.S. would withdraw two-plus of its Army divisions from the Federal Republic and the Soviets would withdraw 13-plus divisions from East Germany, Poland, and Czechoslovakia. That would represent an equal reduction by 50 percent of the forward forces each super power now has in-place.

Second, the super power ground forces so removed should be pulled back to locations that would require equal time to return to their forward positions.

To date Senator Nunn, although not a member of the executive branch, has produced the only authoritative, substantive proposal for a redirection of Western conventional arms control policy. Despite NATO's platitudes and philosophical principles, the NUNN proposal is the only articulated Western conventional arms control concept which meets the mandate of "bold." As originally articulated by the Senator, the reduction concept did not include many of the specifics associated with a forward proposal or address many of the questions which would be asked to evaluate a specific option. The following represents a heuristic attempt to put some hypothetical meat on the Senator's morphological outline of the concept. I have continued to call it the Nunn concept because it is consistent with it—however, the Senator has no knowledge of and bears no responsibility for the added details which follow.

A. Size of reduction:

1. U.S. actively manned ground force maneuver units located in the NGA reduced and withdrawn by 50 percent: 2 divisions, 1 brigade and 1 cavalry regiment.

2. Soviet actively manned ground force maneuver units located in the NGA reduced and withdrawn by 50 percent: 13 divisions.

B. Type and location of units:

1. U.S.

a. 2 armored divisions.

b. 1 mechanized infantry brigade.

c. 1 cavalry regiment.

d. all deployed in the FRG.

2. Soviet.

a. 13 tank divisions.

b. deployed as follows: 10 in the DDR; 1 in Poland; 2 in Czechoslovakia.

C. Rates of Applicability:

1. Included: all subordinate elements, equipment and manpower of identified formations.

2. Excluded: higher headquarters, above/external elements including fire-support, logistics, other maneuver units, unit supporting slice, all forces not specifically designated.

D. Geographic Definitions:

1. NGA: area in which reductions will occur (see Map A).

2. Exclusionary zone for assets withdrawn:

a. U.S.: territory of NATO allies or other European states;

b. U.S.S.R.: same as above, plus (see Map B).

Western Military Districts (Baltic, Belorussia, Carpathia MDs).

Military Districts or areas adjacent or proximate to other NATO regions (Leningrad, Odessa, Trans-Caucasus, North Caucasus, Moscow, Kiev, Ural, Volga MDs).

3. Redeployment Zone:

a. U.S.—CONUS (see Map D).

b. U.S.S.R.—East of Urals (see Map C).

E. Itemization of Assets.

F. Process of Reduction:

1. Each side identifies units/sub-units to be withdrawn over 13 equal segments;

2. Each withdrawn unit is identified by title, assets, current location, NGA exit point and final destination;

3. Each side is permitted to send verification team to accompany withdrawn units and assets from NGA to final destination.

G. Ceiling on Armaments:

1. Both sides will agree on total ceiling number of major assets (tanks, AFV, artillery, MRL, AD guns, SAMs, helicopters) before reduction and after;

2. The highiest category of remaining weaponry on either side will become a ceiling for that category of equipment applicable to both sides.

3. Both super powers agree to limit the remaining divisional units in the NGA to:

U.S. = 2 non-armored divisions, 1 mech bde, 3 cav reg.

Soviet = 12 non-tank divisions, 1 tank division.

4. With 60 days prior notice a super power can reintroduce one divisional size unit (or activate unmanned equipment equal to a division) for 60 days per year. Notification will include unit home assets and location while visiting the NGA.

H. Asymmetrical Category Reductions:

1. NATO is most concerned about the high concentration of Soviet tank formations in the NGA;

2. If the Soviets accept a 13 tank division withdrawal they do not have to request symmetry in the U.S.'s armored divisions/plus. They may choose another type of equal unit or asset within the following parameters:

a. unit must be in NGA;

b. unit must be of super power nationality;

c. requested withdrawal cannot exceed 50 percent of super power assets in a given category or one half of ground force manpower.

1. Verification and Sanction:

1. After reduction phase:

a. one inspection trip per year per unit withdrawn.

b. Soviet = 4.

c. U.S. = 13.

d. national technical means of verification.

2. Challenge of suspicious activity.

a. 3 challenges per year per side.

b. if not required can be accumulated up to 15 challenges.

c. challegne = registration of suspicious activity; visit of inspection team to specific location.

d. abrogation of agreement and reintroduction of units and assets if challenge not accepted.

j. Negotiating Forum:

1. Conventional Arms Stabilization Measures Talks;

2. Location;

a. Vienna or alternately between;

b. West/East Berlin;

c. Paris/Warsaw.

3. Phases:

a. First Phase = U.S./Soviet 50 percent armored reduction.

b. Second phase = European discussions on: intra-regional stabilization issues; confidence and transparency; active unit reductions; mobilization.

c. Third phase = four power re-evaluation of postures and presence.

d. Coterminus = process of first three phases would not preclude or prejudice simultaneous stabilization enhancements—doctrinal dialogue; negotiations on battlefield and short-range systems; discussion on qualitative limits on "new physics" weaponry.

K. Modalities.

1. First phases:

a. Consultation with allies (individually or "en bloc" at any time).

b. Formal treaty between the U.S. and Soviet Union prior to implementation.

c. Periodic reporting to CSCE.

L. Rationale.

1. In early 1950 U.S. formal presence in NGA was below 100,000 troops/Soviet below 200,000. It was Stalin's mobilization of the Red Army and activation of forward tank armies which necessitated the return of the U.S. 7th Army to Europe.

2. The presence of super power large armored formations is not conducive to a sense of security—due to the high speed and combat power of these units.

3. Negotiated reductions of 50 percent armored unit withdrawal:

a. should be proportionate to super power forward presence.

b. has historical precedent.

c. levels residual capability for expressions of legitimate European security interests and significant alliance role.

M. Observations on the Nunn Example.

1. Advantages:

a. Meets ambitious objectives.

1. Is conducive to stability, particularly in reducing danger of short-warning attack or preemptive incentives in "Guns of August" scenario.

2. Produces militarly significant reductions—while minimizing prejudice of asymmetry in U.S. versus Soviet proximity to Europe.

3. Easily explained to Western publics and politicans:

Equity of 50 precent reduction;

Legitimacy of returning to pre-cold war postures;

Sounds reasonable because it is reasonable;

Soviet intransigence can be used to educate Western publics on conventional imbalance and need for NATO to offset Warsaw Pact armored threat.

2. Collateral Advantages:

a. Even a super power phase one would mean West European armies could benefit from:

1. less stringent readiness requirements.

2. less demanding active manpower consumption.

b. Give Gorbachev the 150,000-man reduction he asked for.

c. Raises consciousness of American proponents of unilateral reduction that the 7th Army has a unique and critical role as counter-balance of Soviet forward pressure.

d. Allows West Europeans to address intra-European security issues with East Europeans as part of a second phase without being overawed by Soviet dominance.

3. Disadvantages:

a. Does involve short-range/battlefield nuclear systems.

1. U.S.=204 155/203mm artillery (approximately 15 percent of NATO certified tubes).

2. Soviet=234 152mm tubes (assumes Soviet SS-21 reorganized at army-level brigades).

b. Still leaves Warsaw Pact advantage in all categories of conventional arms in forward area.

c. Leaves gap in U.S. V and VII Corps area which FRG/French units would need to screen.

d. Need for both sides to redeploy remaining units in old garrisons.

e. Does not get handed on above divisional combatant units and overhead slice.

1. artillery brigades.

2. Soviet independent tank regiments.

3. manpower inefficiency in overhead structure/slice which was not proportionally reduced.

4. U.S. and Soviet could equal an additional 50,000 for each side.

V. THE NEED TO ADDRESS UNASKED QUESTIONS

A. What are our long term security objectives?

1. Level of Soviet presence

a. Full withdrawal from Eastern Europe?

b. What is a legitimate size for the Red Army?

c. How much do we want the Soviets as partners in collective security?

2. Multi-national participation in forward defense:

a. What is the minimum defensive posture?

Rapid reaction covering force.

GDP main defense line

Operational reserves

Rear-area security

Replacement and reconstitution assets.

b. What resource pressures do we hope arms control will ameliorate?

Manpower?

Budgets?

Technological modernization?

c. What are trade-offs in multi-national "layer cake" versus German vulnerability?

What are national resource pressures?

What are multi-national resource "fixes"?

3. U.S. role as NATO super power.

a. Can U.S. troops ever go home?

What is the long-term rationale?

Does Europe really want them?

b. What is the minimum essential level of U.S. continental presence?

In peacetime;

In forward defense;

In crisis management and rapid return;

In extended reinforcement and sustainability;

In nuclear custoding and perceptual deterrence.

4. To what extent should nuclear weapons be considered in conventional arms control?

a. Public pressure.

b. Soviet interest.

c. Conventional systems (key Soviet components) are nuclear capable.

d. Downward pressure from INF/Montebello.

e. Is NATO nuclear first use negotiable—with what safeguards?●

WORLD POPULATION

● Mr. LEAHY. Mr. President, I want to take this opportunity to speak briefly about what is perhaps the gravest threat to peace on Earth after the threat of nuclear war—the ever-mounting problem of world population growth.

The explosion in world population that we have witnessed in recent years, especially in the countries least able to handle such growth, shows no sign of receding. This monumental growth poses unprecedented health, environmental, economic, and national security problems not only for the developing countries of the world, but for our own Nation as well.

Here are a few examples which underscore the magnitude of the problem that the countries of the Third World face:

The world's population is growing at the rate of 87 million per year; 9 out of every 10 babies born today are born in the poorest countries.

Forty percent of the population of those countries is under the age of 15. These young people are just entering their most productive childbearing years, and thus ensure that the population boom will continue unless an unprecedented, international effort is undertaken to control this growth.

500 million people in the developing world want and need family planning but don't have access or means to such services.

With unemployment rates in many developing countries already hovering near 30 percent, it is estimated that the nations of the Southern Hemisphere will require another 800 million jobs by the year 2000 to employ their rapidly expanding populations.

By the year 2000, as many as 65 countries may not even be able to feed their own people.

While the problems of the Third World may seem far removed from the daily lives of many Americans, in fact the opposite is true. In the already politically volatile regions of Central America and the Middle East, where the United States has vital security interests, the population will more than double by the year 2025. These additional inhabitants will place increasing burdens on the resources of those regions. Economic and political stability will be even more threatened.

In recognition of the seriousness of the problems that the world population boom poses to the future of this planet, organizations all over America, including in my own State of Vermont, are observing the week of April 17-23, 1988, as "World Population Awareness Week." Vermont's Gov. Madeline Kunin recently issued a proclamation declaring this week as World Population Week in Vermont, and I ask that the full text of that proclamation be printed in the RECORD.

The proclamation follows:

PROCLAMATION

Whereas the world's population has reached five billion and is growing at the unprecedented rate of 87 million a year; and

Whereas rapid population growth causes or intensifies a wide range of grave problems in the developing world including environmental degradation, urban deterioration, unemployment, malnutrition, hunger, resource depletion, and economic stagnation; and

Whereas 50 percent of the 10 million infant deaths and 25 percent of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded; and

Whereas some 500 million people in the developing world want and need family planning but do not have access or means to such services; and

Whereas the United States has been the leading advocate of the universally recognized basic human right of couples to determine the size and spacing of their families: Now, therefore

I, Madeleine M. Kunin, Governor of the State of Vermont, do hereby recognize the week of April 17-23, 1988 as "World Population Awareness Week" in Vermont, and I call upon all citizens to reflect upon the consequences of overpopulation.●

THE FORGOTTEN UNEMPLOYED

● Mr. BINGAMAN. Mr. President, the administration likes to talk about the current economic expansion and the dropping rate of unemployment. The fact is that this expansion has been weaker than all other economic expansions since World War II, except for the stagnated expansion of 1980-81, and that unemployment is now back to where it was in 1979. More importantly, there are many in this country who have not shared in the so-called good times. New Mexico has been one of the areas of the country which has not benefited as much as others. Unemployment in New Mexico in February was 8.6 percent, well above the national rate.

One of the areas hardest hit in New Mexico is Mora County, a rural area of about 4,000 people located in the northern part of our State. Flanked by the Sangre de Cristo Mountains, it is a ranching community with a centuries old tradition. For all its natural beauty, the county's economy is severely depressed. As an article in yesterday's Wall Street Journal by Alan Murray entitled "Out of Luck" points out, people in Mora County love living there, but they just don't have jobs.

Mr. President, when we here in Washington debate the economic future of America, I hope we look beyond the aggregate statistics on unemployment and GNP. I hope we look to the stories about people that tend to get lost in the statistics, like the people in Mora County.

I ask that a copy of Mr. Murray's article be printed in the RECORD.

The article follows:

OUT OF LUCK: UNEMPLOYMENT TOPS 25 PERCENT IN SOME REGIONS MIRED IN DEEP POVERTY

(By Alan Murray)

DAVY, WV.—Trapped among the mountains and slag heaps of southern West Virginia, this forgotten hamlet looks almost like a ghost town. Nearly all the stores on the main street are burned out or boarded shut. The flower boxes along the railroad tracks are empty and rotting. The tiny Tug River is clogged with trash and sewage. All signs of economic life have fled.

Only the people remain.

"I haven't worked in 3½ years," says Troy Roberts, who sits at a street corner with four other men and shares a bottle in a brown paper bag. "I started working in the mines when I was 15. My dad worked 32 years. If there was jobs, I'd still be working. But there ain't jobs."

Mr. Roberts' lament is heard all over McDowell County, where the official unemployment rate runs an astronomical 32%, and local authorities say the true rate is higher. Similar problems afflict other isolated corners of the nation as well, places like Starr County, Texas, Sharkey County, Miss., and Mora County, N.M. After 5½ years of a rising economic tide, these areas are still stuck on rock bottom, with no hope in sight.

THE NATIONAL PICTURE

Nationwide, the civilian jobless rate has dropped to 5.6% of the work force, the lowest in nearly a decade. The fall has led economists and policy makers to speculate about whether unemployment has reached its "natural" rate—the lowest it can go without generating labor shortages and inflation.

But there is nothing natural about the idleness in these disparate pockets of poverty. According to government statistics for January, the latest available, 30 U.S. counties still have jobless rates of 25% or higher. More than 100 others are over 15%.

In some cases, these counties' difficulties are deeply rooted in history. The rural areas of the Rio Grande Valley and the Mississippi delta, for instance, have long faced intractable problems of poverty.

In other cases, high jobless rates reflect the wrenching effects of world trade. A soaring dollar in the early 1980s caused many industrial, agricultural and mining products to lose out to foreign competition. "We've always had pockets of unemployment," says Janet Norwood, the commissioner of the Bureau of Labor Statistics. "That's not unusual. But the restructuring of industry over the last couple of years has moved at a faster pace than in the past, and that's had an impact."

VICIOUS CYCLES

In most of these areas, high unemployment has created a vicious cycle of impoverishment. The lack of jobs reduces the tax base; a shrinking tax base starves schools and other community services; and the low level of education and services diminishes the chance of attracting new industry and jobs—while also making it harder for people to leave and find work elsewhere. If it weren't for government welfare payments, many such counties would differ little from destitute Third World nations.

Some experts fear that the problems will grow even worse in the years ahead, as more and more technological economy increases the need for an educated, skilled labor force. "It used to be that an illiterate adult with a strong back could always find a job," says Gov. Bill Clinton of Arkansas, which has several counties mired in jobless rates exceeding 20 percent. "But that's just not true anymore."

Here in McDowell County, unemployment is inextricably tied to the decline of one industry: coal. For years, the county prospered by supplying the metallurgical coal that fired the nation's steel mills. Work was plentiful, and the pay high. At the beginning of this decade, many miners were earning more than $40,000 a year.

THE BOOM DAYS

"When I was growing up, this area was booming," say David Goad, a 15-year veteran of the mines who was laid off two years ago. "I came out of the Navy, and there was no incentive to go back to school. If your dad worked in the mines, you could, too."

The mining companies dominated the county. They owned most of the land, discouraged the development of other industries, even ran many utilities and commercial businesses.

"Since the late 1800s, we've been a single-industry-based economy," says Earl Whiteley, administrator of the local hospital and head of the county Economic Development Authority. "People never thought there needed to be an alternative. It was pretty much King Coal."

But the king was dethroned by the steel industry's long decline, and most of the county's mines shut down. The worst blow came on Nov. 7, 1986, when U.S. Steel Mining Co. closed its last mine in the county and laid off more than 1,000 employees. Today, only the industry's remnants survive: giant slag piles and corrugated metal buildings rusted and pocked with holes.

In the past two years, the county has struggled to bring in new industry. But it faces huge obstacles: Practically no level land (the one site being promoted is a flattened-out mountaintop); no sewers (instead, streams carry all kinds of refuse); narrow roads with potholes and weak bridges (at one old span on the main road to Davy, buses sometimes unload their passengers before crossing).

"I was surprised when I heard the National Guard of West Virginia had gone to Honduras to build a road," Mr. Whiteley says. "Hell, we can't get a road built here."

Also causing companies to shy away is the county's history of union violence. Southern West Virginia is where the United Mine Workers was born and where the coal wars were fought years ago.

Now, with the coal industry in a hole, the county's major employers are the school board and the government-funded hospital. Most of the other residents live off savings, unemployment insurance, welfare and food stamps.

Desperate for anything that will create jobs, local leaders recently made a bid to locate a controversial federal nuclear-waste dump in the county. "The area's survival is at stake," writes the Welch Daily News publisher, David Corcoran. "The project promises to bring improved roads and a higher standard of living."

ANOTHER CASE

A far cry from McDowell County, W.Va., is Mora County, N.M. It is a region of haunting beauty, with flat grasslands adorned, here and there, with mesas and pine trees. To the west, the snow-capped Sangre de Cristo Mountains majestically mark the horizon. The people are mostly Hispanic, some with family roots in the region going back centuries.

"Don't think of Mora as a place where people are destitute," says Sam Adelo, who headed a task force that recently looked into the county's problems. "There is a genteel way of life. People will sell a little hay, sell a cow or two, do services for each other. They love their way of life."

But they don't have jobs. The Labor Department put the unemployment rate at 34% in January.

Like McDowell County, Mora suffers partly from isolation; it is far from Albuquerque and Santa Fe, the centers of commerce and government. And unlike neighboring Taos County, it hasn't attracted tourists. (Even with its tourists, Taos suffers from a 23% jobless rate.)

One of Mora County's affluent few, David Salman, lives a short way outside the town of Mora. Seated at a desk in his home, he discusses the county's woes.

"The main thing is that there's nothing here," he says. "There's no agriculture, and there's no industry. There are no resources, no oil, no minerals. There's nothing a family can get by on." He himself raises cattle, but a single yearling needs 10 to 15 acres of grassland. Only a few local people have enough land to feed a herd.

Mr. Salman also has a small but thriving business in raspberries. But such efforts, he says, "are capital-intensive, management-intensive and marketing-intensive." He says he had to buy his own truck to get his fruit to market.

Mora's people are waiting to work, Mr. Salman says, noting that hundreds appear whenever he hires raspberry pickers. Usually, they haven't anything to do—yet many refuse to leave. "There is a tie to the Hispanic culture here," he says. "The whole life style keeps people here, and even brings people back."

The town of Mora, like Davy, is a place of vacant storefronts. To shop, people drive 32 miles to Las Vegas, N.M. Mora's only surviving businesses are Teresa Maria's cafe, an auto parts store, a liquor store and several bars. As in McDowell County, drinking is a favorite pastime.

"Alcoholism is very high," says Virginia Alaniz, who directs an alcoholic-treatment center just outside of town. "This is a rural area, and there aren't many things to do here. There is a lot of cruising"—and a lot of alcohol-related auto accidents.

"POLITICS" DENOUNCED

In both Mora and McDowell counties, the people often complain bitterly of "politics". In both, government agencies are the main employers, and elected officials become powerful dispensers of patronage. In both, many people feel that public services are neglected. In McDowell County, officials express regret that sewers weren't built back when the county was thriving. And in Mora, charges of misused funds were one reason Gov. Garrey Carruthers set up the task force to study the county's problems. "Politics has hindered Mora for a long time," Ms. Alaniz says.

Like McDowell, Mora County recently tried to develop new industries, with little success. "Everybody always has big ideas about bringing industry in," Mr. Salman says. "But it's very difficult to generate economic activity of any permanence in an area like this."

The best solution, he contends, "is to educate our young people so they can leave." And many do leave. But as Mora County Commissioner Matias Maestas notes, "It's very difficult for people to leave the area to seek employment because they aren't skilled."

And in such places, some just don't want to go. The little town of War, W.Va., has only $6,000 in its treasury, and Jeannie Snodgrass, its mayor faces a showdown with the Environmental Protection Agency this summer over its failure to install sewers. Nevertheless, she is proud of her home and wears a large, bright button that reads: "We Love War."

"This is home to a lot of us," she says. "I was raised here, went to school here. We have garbage, I have to admit, but there's a closeness. Nobody can take that away."●

REPROCESSING AS A TOOL IN NUCLEAR WASTE MANAGEMENT

● Mr. HECHT. Mr. President, as I have stated many times before, I am completely and absolutely opposed to the deep geological disposal of unreprocessed high level nuclear waste. The best thing to do with nuclear waste is to reprocess it, recycle it, put it right back into a conventional nuclear reactor and burn it as fuel.

Most people in Nevada with whom I have discussed this issue tell me that I am on the right track. Virtually every nuclear scientist or engineer with whom I have spoken on this matter also agrees that reprocessing and recycling nuclear waste is the best way to go. However, it still remains for me to convince my colleagues here in the Senate, and also the Members of the House of Representatives, that deep geologic disposal of unreprocessed spent nuclear fuel is not in the best interests of our country.

When I first learned of the advantages of recycling nuclear waste and began pointing these out here on the floor of the Senate, I occasionally got the response that while reprocessing might be more energy-efficient, and it might postpone the need to spend billions of dollars on a repository for a number of years, reprocessing still left us with residual waste that would have to go into a repository of some sort eventually, even if it was a smaller and cheaper repository than is currently on the drawing boards.

A number of scientists had told me that by modifying the sequence and nature of the chemical reactions used in reprocessing, it might every well be possible to totally eliminate the need for any repository at all. I did not relay these remarks to my colleagues at the time, because I had no written confirmation or documentation as to how this might actually be accomplished. Now I do have this documentation, and I want to share it with my Senate colleagues and the people of Nevada.

Spent nuclear fuel is composed primarily of four different types of material. The first is the highly radioactive but relatively short-lived group of fission products. The fission product material is by far the most highly radioactive material in spent fuel, but fission products decay to relatively harmless levels in about 50 years. They present a serious short-term problem, but they need not concern us for periods of thousands of years.

The second type of material is the group of radioactive elements making up the actinide series in the chemical periodic table, most of which are transuranic elements, which eventually decay through an isotope of uranium. This category of waste is dangerous, but not nearly as highly radioactive as the fission products. Unfortunately, these actinide wastes remain dangerously radioactive for a very, very long period of time. These are the materials that the Environmental Protection Agency wants to keep isolated in a repository for 10,000 years, or preferably a lot longer than that.

The third type of material in the spent fuel is the remaining unburned uranium-235 fuel, and that portion of the plutonium created inside the reactor that has not already been burned for energy in the normal course of reactor operation. It is this type of material that the French and many other countries intend to extract through reprocessing to make new reactor fuel.

The fourth type of material in the spent fuel is the unfissioned uranium-238, which actually makes up about 95 percent of the weight of the spent fuel. Uranium-238 is not radioactive itself, and basically is just a lot of inert filler material. This filler can and probably will be recycled as filler in new nuclear fuel, as a result of reprocessing.

Under the most commonly discussed reprocessing techniques either in use today, or likely to be put into use in various countries over the next few years, one is still left with a residual waste made up of the fission products and the actinide wastes. It is these two types of materials that, under the current set of reprocessing assumptions, would eventually need to go to some facility somewhere that fairly closely resembles what we mean when we speak of a deep geologic repository.

However, there are very real possibilities for destroying the troublesome long-lived actinide or transuranic wastes in commercial nuclear reactors. These wastes could be destroyed quite effectively in conventional light water reactors in common use today. Westinghouse Corp. indicates that one such reactor could destroy the actinide waste produced by about 10 other reactors. Actinide waste could be destroyed a bit more efficiently in a conventional light water reactor with a somewhat modified design to allow for the use of more fully enriched nuclear fuel. This sort of facility could destroy the waste produced by about 25 other reactors. A new type of light water reactor that Westinghouse Corp. says could be developed specifically to burn actinide waste could destroy the waste from 37 regular nuclear reactors.

Finally, any of several variations of the essentially experimental liquid metal fast reactors could also be developed to burn actinide waste. The fast reactors resemble breeder reactors in some ways, but their purpose would be to destroy actinide waste and produce energy, rather than to produce new plutonium, which is the traditional mission of the breeder reactor. A liquid metal fast reactor could destroy the waste produced by up to 60 conventional light water reactors.

There are now about 106 conventional nuclear reactors in use in this country. About another 16 are expected to come on line over the next decade or so. We can effectively eliminate the actinide or transuranic wastes produced by all these reactors by adopting one or a combination of the waste-burner approaches described above. At the two extremes are the options of designing and building two new liquid metal fast reactors on the one hand, or, on the other hand, simply changing the fuel we put into 10 of the as yet unfinished reactors so that these reactors can burn up actinide waste as they produce energy. Any of these approaches would naturally require the presence of a reprocessing facility to separate the various types of nuclear waste from spent fuel, and then reconstituting the actinide waste in new fuel so it can be destroyed along with the plutonium and unfissioned uranium-235.

Now that I have outlined how we can get rid of the actinide or transuranic nuclear waste, let me get back to the fission products for a monent. It may be easy to recycle the fission products into new fuel in the same way as we can recycle the actinide waste. However, since this material is highly radioactive, and this would certainly increase the cost of reprocessing these materials into new nuclear fuel, it probably makes a bit more sense to adopt one of two other approaches. First, we could simply store the spent fuel above ground for a long enough period of time, perhaps as long as 50 years, so that the fission products would essentially have all decayed away, and then reprocess and recycle the transurancies, plutonium, and uranium into new fuel.

Or, we could reprocess the spent fuel at an earlier time, separate out the fission products from the rest of the material which would be made into new fuel, combine the fission products with an inert material like glass frit, and just keep it in storage above ground in a monitored retrievable storage facility until the fission products had aged for about 50 years and their radioactivity has essentially decayed away to safe levels.

The point is that we are naturally much more confident of our ability to keep waste isolated that will be dangerous for 50 years than we are of our ability to keep waste isolated that will be dangerous for tens of thousands of years, so if we can destroy the transuranic waste, the fission products ought to be relatively easy to keep under control.

Mr. President, I ask that a paper by Dr. Chauncey Starr of the Electric Power Research Institute, a paper by Dr. Meyer Steinberg of Brookhaven National Laboratory, and two letters by Dr. Steinberg be inserted in the Record immediately after my statement. These materials describe in greater depth how we can more effectively handle actinides and fission products without spending tens of billions of dollars on an unnecessary deep geologic repository.

The material follows:

Evolving an Acceptable Nuclear Power Fuel Cycle

(By Meyer Steinberg, Brookhaven National Laboratory)

AIChE PANEL DISCUSSION—AUGUST 25, 1986

This panel subject grew out of some reflection and discussion among a minor group of technical people, that perhaps there may be a better way to run the nuclear fuel cycle than has developed from its military roots. The nuclear age was initiated by the Manhattan Project, the objective of which was to produce weapons materials for the first atomic bombs.

I am a believer in nuclear energy. I believe that we will eventually need it in a big way. However, even from recent experience, I should say especially from recent experience, it is obvious to me that some significant improvements are needed in the nuclear technology so that it will become more pallatable and acceptable not only to technical people but to the entire public at large. As long as it is unacceptable to a large contingent of the public it becomes too costly to apply and highly uneconomical to deploy.

Let us examine the issues.

The first concern is the establishment of long-term safe nuclear power plant operation.

We have accumulated quite a lot of experience with light water reactors (LWRs) since Three Mile Island (TMI), safety systems have been improved, so as to avoid loss of coolant, avoid melt-down, and avoid positive void coefficient, which may have caused the trigger for the Chernobyl accident. It is interesting to note that this very day, the Russians are reporting at the IAEA in Vienna on all they know about the accident.

There is one area which I believe needs further examination and must be improved and that is to make reactors chemically inert.

A melt-down of fuel may be bad enough but it can be contained. An explosion, however, is intolerable, since this causes the spread of fission product activity far afield of the immediate vicinity of the reactor. The real cause of both the potential spread of reactivity at the TMI accident, and that which actually occurred at the Chernobyl accident, was that the generation of hydrogen gas took place by the heated zircaloy fuel element cladding reacting with the surrounding cooling water and steam. Zirconium reacted with water forming hydrogen gas and zirconium oxide solid. At Chernobyl, there may have been an additional reaction of steam with graphite forming both hydrogen and carbon dioxide. Hydrogen and carbon monoxide mixing with air outside the reactor in the building caused explosions at Chernobyl. An article in the New York Times, reviewing the Russian report, stated that the initial act was a steam explosion followed by a volumetric or hydrogen explosion. A steam explosion could sometimes be taken care of with fast acting pressure relief valves, and the expanding steam would cool down. A hydrogen explosion cannot be easily contained and releases a great deal of energy to cause a very high increase in pressure and temperature.

My solution to this materials problem is to attempt to eliminate the reduced metal in water-cooled reactors and make the reactor cores chemically inert. Why not develop an oxide coated or uranium oxide alloyed ceramic fuel element? We know that the thermal, mechanical, and radiation stresses are very high in fuel elements, however, ceramic materials development has progressed rapidly in the last decade, and at least attempts should be made to research the possibilities of inerting the fuel with respect to the coolant, so that we will not have to deal with the potential of blowing up a reactor and spreading radioactivity far and wide. We were very lucky at TMI because, as I understand it, the nuclear LWR pressure vessel filled up with 300 psig of hydrogen due to the Zr-water reaction. Remember all the reports and discussions about a gas bubble. This was hydrogen and it was finally leaked into the containment vessel where it either caught fire or was purposely burned inside the containment. Luckily the containment did not rupture. Insulation inside the containment and other equipment, however, burned. This prompted EPRI to run a full scale experiment for burning off hydrogen in containment vessels to test safety procedures. Why not attempt to avoid generation of hydrogen in the first place? If water reactors cannot be made inert, then helium-graphite gas cooled reactors, or other compatible coolant-fuel-moderator materials should be strongly considered for inerting the reactor.

The second issue is acceptable nuclear waste management and, mainly, high level waste management.

At present, we have the Waste Management Act of 1982, which is based on the geological-age disposal and storage of high level waste. The problem here is that the high level waste requires storage for tens of thousands of years, if not for hundred of thousands of years. And, of course, the objection by the public is "do not bury it in my backyard". These arguments and debates are going on very much now and the DOE is being given a very rough time concerning the process of selection of specific geological-age waste storage and disposal sites. In fact, the AAAS journal Science (August 22, 1986 issue) had a headline on a commenting article which stated "Nuclear Waste Program Faces Political Burial".

The problem with high-level nuclear waste derives from losses built into the Purex spent nuclear fuel reprocessing process. The Purex process was essentially developed to recover fully-enriched uranium-235 greater than 93% U-235 and 99+% Pu-239, mainly required for weapons production. Because of these specifications, that is the necessity to produce high purity plutonium (Pu), some plutonium in the extraction process of necessity spills over into the waste, which become very difficult to recover because of its dilute condition. The Pu contaminated waste requires geological-age storage since the Pu has a 26,000 year half life and, as a rule of thumb, requires at least 10 half lives or a quarter of a million years to decay to background. The civilian power reactor fuel does not need this fully enriched or concentrated high-purity fissile material. Reactor fuels need only 3 or 4% fossile fuel concentration when used in light water thermal reactors. The two categories of long-lived nuclear waste are the transuranics or TRUs and the intermediate 30-year half-life radioactive fission products, LLFPs, Cs, and Sr. Most of the other radioactive fission products have half-lives that are short, less than 2 years. The bulk of the fission products, especially after 20 years of storage, are non-radioactive and stable and can be readily disposed of. People forget that from a mass concentration, the long-lived isotopes are a small fraction of the total fission product waste.

This being the case then, why don't we design a fuel reprocessing scheme which, instead of extracting plutonium, we extract only the stable fission products and recycle all the TRUs and the LLFPs long-lived radioactive fission products back into the fuel elements? The cycle would go like this. The LWR spent fuel would be stored for, say up to 20 years, to decay out all the very short-life isotopes then the fuel would be reprocessed to extract the stable fission product waste, and all the other radioactive material would be recycled to be incorporated into fresh fuel elements for the power reactors. Thus, I am suggesting that reprocessing be performed primarily for waste treatment and not for plutonium recovery. This was referred to several years ago by some negative term "back door" reprocessing. Today, however, the positive term can be applied to reprocessing for waste management. Maintaining the Pu in dilute form also lessens the fear of promulgating a plutonium economy because the plutonium will always be in dilute form. The emphasis is on recycling waste, just as we speak about recycling industrial and municipal waste, not only to recover the valuable material resources. Recycling of TRUs and fission products leads to the avoidance cost of geological-age disposal and should overcome the objections of the public on nuclear power because it would no longer be necessary to select a site to bury the waste. I might mention here that the AIChE Nuclear Energy Division's Position Paper states that currently there is no alternative to geological-age storage, even though other approaches, such as transmutation, were examined. This is not true since recycling has never been seriously considered. My contention is that examination of new process approaches such as recycling developed and balanced against avoidance costs can lead to more economical nuclear energy.

It is claimed today in the U.S. that reprocessing is uneconomical for recovering of plutonium from spent fuel because of the availability of low-cost uranium. This is true today only because the nuclear industry is declining and there is much less demand for fissile material than was originally forecast a decade ago. Reprocessing for nuclear waste recycling and avoiding geological-age storage may become economical if it allows the nuclear power industry to become acceptable to the public who will allow the industry to expand.

Of course, there always will be a low-level waste disposal problem from the use of radioactive isotopes for medical and industrial treatment services and from general cleaning operations around the nuclear power industry, however, the problem of low-level waste disposal is much smaller than the disposal of high-level and long-lived waste. High level waste is currently being stored and generated by the military nuclear program.

The third issue is provision for long-term fissile fuel supply in a long-term nuclear fission economy.

The only fissile material existing in nature, U-235, is very limited, projected to last perhaps 3 to 5 decades, depending on the cost of natural uranium and the rate of installation of nuclear thermal reactors around the world. The conventional method of extending the fuel supply is to develop the breeder reactor which would convert the bulk natural fertile U-238 to the fissile Pu-239 or the fertile naturally plentiful Th-232 to the fissile U-233. However, the breeder reactors have yet to be proven safe. One type, which we and many more have advanced, is the liquid metal sodium cooled fast breeder reactor (LMFBR). But we know very well that sodium reacts violently with water producing hydrogen which, as stated previously, can cause dangerous explosions. There are other technical problems such as the rate of plutonium production or the so-called "doubling time" and the nuclear positive reactivity void coefficient problem which may be the basic cause of the Chernobyl accident. Furthermore, there is a need for closing the cycle by reprocessing to recover the fissile material. If this system is applied, in the long run, all power reactors will have to be breeders because we will have run out of reasonable cost U-235 for fueling new reactor capacity. Also, breeders are necessary to convert thorium to U-233 in the thorium-uranium (Th-U) cycle. Therefore, having acquired much experience over many years and NRC licensing of LWR thermal reactors, we will have to discard this experience and adopt a whole new generation of liquid metal fast breeder reactors, and this will take additional decades to prove safe for licensing.

There is, however, another option, and that is to adopt a Spallator (accelerator breeder). The first amount of Pu was made by an accelerator at Berkeley by E. O. Lawrence using spallation neutrons. Modern accelerator technology allows us to design and construct large linear accelerators to efficiently produce high energy protons, which when directed and impacted on a natural U or Th target, produces large amounts of neutrons for converting the fertile material, U-238 and Th-232, to fissile Pu-239 and U-233, respectively. This can be performed in a subcritical target assembly which would be much safer than any breeder reactor. Furthermore, one Spallator fuel producer would provide enough fuel for many conventional light water reactors or other gas-cooled thermal reactors over the entire reactor lifetimes. For example, one 600 MW(e) accelerator breeder or Spallator can produce sufficient Pu-239 from natural U-238 to fuel as many as nine 1000 MW(e) light water power reactors. In addition, the fuel elements might be recycled several times through the reactor and Spallator without reprocessing in what we call a regenerative or refresh cycle so as to increase burn-up and reduce reprocessing requirements. What I am suggesting here is a fuel factory which converts natural fertile material to fissile material for operation and utilization in well-run light water or gas-cooled thermal reactors upon which we are presently building our safe nuclear power reactor experience today. The Spallator is a true enrichment plant. The present so-called "enrichment plants" based on gaseous diffusion, centrifuges, and laser isotope separation are really "depletion plants". They take 6 tons of Uranium ore to make 1 ton of fuel and throw away 5 tons waiting for the breeder reactor to convert these 5 tons back to fissile Pu. The Spallator converts the natural U or Th directly to fissile Pu or U-233 for use in presently operating LWRs and can convert all of it.

The last issue, and in my opinion, the most important, from the point of view of survival, is the issue of proliferation of weapons material.

As everyone knows by now, the two superpowers have stock-piled at least 30,000 nuclear weapons on each side ready to be delivered and set off on a moment's notice. The amount of fissile material in these weapons amounts, roughly to about 600 tons. Will we live with this "sword of democlese forever over us—until the end of days". We are now hearing both from Chairman Gorbachev and President Reagan that not only do they want to limit the proliferation of weapons, but to actually reduce and eliminate the weapons in the not too distant future. Now, we are presented with a technical problem. How do we eliminate and get rid of nuclear weapons materials? To bury them is not to eliminate them, one would only create a plutonium mine. To eject the nuclear weapons materials into outer space does not eliminate them, and besides the space shuttle Challenger disaster has taught us well, that rocket disposal to outer space is far from fail-safe. The only way is to convert the Pu weapons material into fuel elements and burn the Pu up in nuclear power reactors. When I speak to the so-called "anti-nukes" they are unanimously anti-nuclear weapons for which one cannot fault them, however, I tell them that they should be pro-nuclear power, because if we stop the several hundred thermal power reactors in the world today, we will never get out of the nuclear age. The reason is that we will then have eliminated the capability of burning up the Pu and will then have to live with nuclear weapons for several hundred thousand years waiting for the Pu to decay. By burning weapons plutonium in the existing power reactors, not only do we rid ourselves of weapons materials but we also can gain the benefit of generating the much needed electrical power. I tell the anti-nukes that once we rid the world of the bulk of the weapons Pu by means of our present nuclear reactors, then and only then can we take up the debate as to whether nuclear fission is really safe and whether it is worth the risk. The anti-nukes then begin to listen and think of this option. An agreement will have to be made with the Soviets to do the same. We will not disarm unilaterally. Verification can consist of each bringing an equal mass of weapons Pu to a power reactor for burn up. There would then be no question that we are both conforming to the spirit of the agreement.

What I have suggested is by no means trivial. It is a "tall order" which has a large research and development effort and cost attached to it. However, I do not believe that with our past 40-odd years of experience in the nuclear age, the developments suggested here will be as expensive as that which we have already spent and which has brought us to a nuclear power standstill in many countries in the world. It behooves us to examine new alternatives, especially now in the U.S., when there is a nuclear hiatus, and so we can prepare for when the next wave of new nuclear power installations are needed, which may be within another 20 years.

I have two slides, showing a conventional fuel cycle and the proposed fuel cycle with the changes discussed. I will also show two slides which indicate the effect of recycling of TRUs and long-lived fission products (LLFPs) reaching long-term asymptotic value. The TRUs take relatively short time to reach equilibrium while the LLFPs take a much longer time.

The least we can do is to investigate the alternatives I have outlined and that is to (1) improve the safety of LWR reactors by eliminating the use of reducing metal in fuel elements and cladding, (2) recycle radioactive waste into LWRs, (3) produce fissile material for LWRs and other thermal reactors using the Spallator instead of converting all civilian reactors eventually to liquid metal sodium-cooled fast breeder reactors (LMFBRs), and (4) burn-up weapons materials in existing reactors. Given the incentive, which may soon be forced upon us, I have little doubt that these developments can be achieved at an economically competitive cost. My belief is based on the tremendous accomplishments we have already achieved in the nuclear industry over the past 40 years.

I will now call upon the other panel members one by one for their remarks, after which we will open the floor to questions and discussions.

[Charts and graphs not reproducible in RECORD.]

PANELISTS

Meyer Steinberg, Chairman, Department of Applied Science, Process Sciences Division, Brookhaven National Laboratory, Upton, NY 11973.

Dr. Edward J. Hennelly, Chemical and Nuclear Engineer, E.I. dupont de Nemours and Co., Inc., Savannah River Laboratory, Aikens, SC 29801.

Dr. James Bell, Oak Ridge National Laboratory, Chemical Technology Division, Oak Ridge, TN.

Mr. Sidney M. Stoller, S.M. Stoller Corp., 1250 Broadway, New York, New York.

Dr. Robert L. Beckman, U.S. Naval Academy, Annapolis, MD 6097 Belleview Pkwy., Apt. 201, Falls Church, VA 22041.

Dr. William Tedder, Chemical Engineering Dept., Georgia Institute of Technology, Atlanta, GA 30332-0100.

Mr. Harold A. Channer, P.O. Box 65, New Paltz, NY 12561.

RESHAPING FISSION FOR SOCIAL ACCEPTABILITY

(By Chauncey Starr, Electric Power Research Institute)

RESHAPING FISSION FOR SOCIAL ACCEPTABILITY

As a preamble to this paper, let me state that in my opinion, most of the nuclear power stations throughout the world have been designed by engineers to be adequately safe by any realistic measure. The unusual instance of the RBMK failure is, of course, the clear exception to this generalization.

Certainly in those countries where close professional attention is paid to both the technology and the operation of nuclear power stations, I would not anticipate a serious public risk from any internal failure modes of the existing reactors. In addition, the techniques for the eventual disposal of high-level radioactive waste have been well known for several decades and I am equally convinced that we have several options for the safe, permanent disposal of such waste.

Thus, if our only task was to convince our professional colleagues that nuclear power is a long-term, benign source of electrical energy, I believe our task would be straight forward and feasible of accomplishment. Repeated surveys have shown that in the U.S. the scientific community overwhelmingly believes that nuclear power is an important source of energy for the future, and is very doubtful that a Chernobyl-style diaster will occur for other reactor types. It is interesting that a recent survey showed that more scientists would prefer to live next to a nuclear plant than next to an airport, or a coal-fired plant, or a chemical plant, or an oil refinery.

Unfortunately, for those of us who live in democratic societies, the eventual decision on the future of nuclear power will be determined by public opinion, and will only secondarily be influenced by professional advice. For several decades an anti-nuclear campaign has been conducted in the U.S. by a complicated mix of special interest groups. I will not here try to discuss the complex motivations that find their outlet in a common anti-nuclear power posture. The history of these movements has generally indicated that the attack on nuclear power is often a surrogate for many other sociological objectives. Nevertheless, the opportunity to prey upon public anxieties for health and safety have provided these anti-nuclear movements the common bond for developing a growing public opposition in many parts of the world, and in otherwise sophisticated countries. Of course, the Chernobyl accident provided a key demonstration that gave this movement its most powerful weapon for justifying their anti-nuclear power position. The disorganized response to the Chernobyl accident by various Governments in Eastern and Western Europe did no enhance public confidence in formal accident response capabilities to a large scale nuclear accident.

THE FUTURE DEVELOPMENT OF NUCLEAR POWER

I consider the idea of foreclosing the nuclear option for the future as both illogical professionally and socially destructive. It is surprising that the people of such a sophisticated nation as Sweden would even consider approving the obviously political proposal for elimination of nuclear power some decades hence.

In a world that faces an eventual scarcity of fossil fuels of all kinds, with economic, geopolitical and military consequences of fossil fuel dependence already evident, the availability of nuclear power for energy supply is essential.

Further, the potential environmental, ecological, and climatic consequences of unrestricted use of hydrocarbons, including wood, to meet the world's energy needs are so vast and global that we must seek less harmful supplementary sources. Nuclear power is one of the few economically feasible and, if properly managed, environmentally benign alternatives.

There is no possible way that depending solely on renewable resources can meet the needs of the world today or in the future. I am a supporter of improved energy efficiency for end-use purposes, and for the efficient use of all resources, but these steps can only defer for a decade or so the continued growth in the developing and industrial world's needs for more energy supply.

This growing need, combined with the comparatively benign nature of the nuclear power cycle, convinces me that it is inevitable that nuclear power will continue to be a major and growing world-wide electricity supplier.

The principal issue appears to me to be the urgent need to develop, in the democratic societies of the world, a public recognition of nuclear power as an energy source of major societal value.

To achieve a wide-spread social acceptability of nuclear power, we must face directly the existence of the public fear that has been so successfully stimulated by the anti-nuclear movement. We must recognize that no amount of professional argument concerning the low probability of a severe accident will be generally convincing.

Although it is doubtful that probability theory is quantitatively applicable to the very rare event analysis that we undertake in evaluating severe accident nuclear power risks, such as those earthquake initiated, nevertheless, we use Probabilistic Risk Assessment (PRA), professionally to express our thoughts, and to reveal safety issues. Unfortunately, in so doing, we also imply that the rate severe accident could occur tomorrow, just as well as decades from now.

Thus, we strengthen the current public fear of the worst-case threat of a high-level exposure from a severe accident, rather than on its probability. This fear has been steadily inflamed by the easy catch words and superficial explanations offered by very skillful anti-nuclear power propagandists.

I do not believe that public education on the technology can, in the foreseeable future, significantly remove this sociological barrier to the full expansion of nuclear power utilization.

However, as I will discuss later, public education on comparative risk, and the management of rare accidents is essential.

The public must understand and accept that rare unpredictable and unforeseeable events may occur. There is no zero risk in living, and no absolute predictions for the future.

My thesis is that we now have to initiate a redirection and reshaping of the technology of nuclear power systems, such that they meet the prime objective of social acceptability; and that to meet this objective, the public must be assured that in the event of any foreseeable accident, a risk management system exists that credibly can provide protection from the point of view of health and safety.

As a corollary, this means that the end objective of nuclear system design would be first the assurance of a minimal amount of radioactive release to the public in event of a severe accident, and, second, that the potentially exposed public can be fully guarded from any significant exposure.

These obvious objectives are also the objectives of much of the safety analysis of our present reactor systems, and of our emergency plans for post-accident management of public exposure.

However, our present approach is to try to achieve these objectives utilizing the nuclear power systems that we have developed in the past four decades.

We have generally engineered safety as a superimposed addition to a basic design primarily optimized for power criteria, with a substantial increment in ecomomic costs as a result. My point is that we should re-examine our technical approach to all these systems to maximize safety objectives as a primary element of design.

Such design for safety, rather than safety as an add-on, is part of the Advanced Light Water Reactor program being conducted at EPRI, with several other cooperating utility and manufacturing organizations. It now appears that there is a significant economic incentive for this approach, as well as an improvement in safety characteristics. I am urging that the primacy of public safety and social acceptability should be the objective for the advanced nuclear power systems of the twenty-first century.

It is relevant to recall that our present nuclear power systems followed technical paths similar to those of the military developments intended for producing nuclear weapons material. Several decades ago, both the civilian and military programs picked paths that seemed then to be technically and economically feasible. Our present nuclear system infrastructures are the result of these early choices.

These were based on the "knowledge modules" available in those early days. The domains of technical feasibility and constraints have changed in the past decades. Today, we perceive new options as well as new constraints, both in reactor technology and in the fuel cycle.

Our present back end of the fuel cycle is primarily based on the Purex process. The technical objective of the Purex process is the separation of completely uncontaminated plutonium, and as a result, the process produces in its waste stream a collection of long-lived radioactivities, including one to two percent plutonium, and a significant uranium contribution.

This is the origin of our growing global problem of high-level radioactive storage. For example, with the 24,000 year half-life of plutonium, it takes about 250,000 years to decay to background level. While the public can conceive of storage for hundreds of years, and even for a thousand years in terms of the visible evidence of past civilizations, the concept of storage for geological periods is beyond their conception.

It is interesting that the U.S. policy in the 1970s to halt the development of civilian reprocessing and to concentrate on the storage of spent reactor fuel was the result of the developing fear that the availability of reprocessed cleaned plutonium might be a stimulus for the expansion of nuclear weapons production in the non-nuclear weapons states.

This argument was used by the anti-nuclear power movement to stop the development of the fast breeder cycle, which depended on reprocessing for its economic justification. It should be noted that the alternative breeding cycle of thorium-U_{233} was not seriously developed because of the absence of large scale facilities and practical experience with a chemical reprocessing cycle for that type of fuel. No experience with real power reactors operating on such cycles has been developed.

It is an interesting commentary on the strategic planning of our large industrial nations that only the light water reactor concept has developed commercially (with the exception of the CANDU system). All the other interesting mixtures of moderator coolant and fuel have either been dropped after pilot operation, or have been unable to bring their technology into full competitive operation. It is obvious that nuclear power development is very costly, and without the stimulus of a growing market and public acceptance, the many billions of dollars necessary for such development will not be forthcoming. Nevertheless, if we are seriously to consider nuclear power as a major energy source in the twenty-first century, we should reexamine the basis for the choice of optimal reactor and fuel cycle systems to meet the ultimate objective of social acceptability.

I am proposing that it is timely for the industrial nations involved in nuclear power development to not only continue to improve their present systems, and in particular the light water reactor system, but also to undertake the cooperative exploration of alternative systems for commercial use, perhaps fifty years hence.

Behind this suggestion is my belief that the light water reactor is not necessarily the best combination of the various technical options for maximum reliability and minimal potential for radioactive release under extreme accident conditions. The Advanced Light Water Reactor program shows that there is room for improvement in the LWR system, and I am confident that continued development will take place.

I believe, however, that some of the other systems that were explored in the past could be superior in performance if they were intensively developed, to a mature industrial operation state, and that they could more satisfactorily meet the objectives of public health and safety.

If one examines our accumulated experience with reactor failures and accidents, there are certain outstanding objectives which one would seek in attempting to minimize radioactive releases to the public. The clear initiating sources of severe accident potentials are: (1) loss of coolant, (2) loss of external power, (3) failure of safety devices to function on demand, (4) a combination of operator mistakes which interfere with the proper function of reactor safety systems, and, (5) the removal of the residual thermal energy produced by the stored radioactivity stored in the fuel after reactor shut-down. A second set of basic issues pertain to the effectiveness of post-accident containment of radioactively in the event of a severe failure sequence leading to a core melt. There are several technical concepts for this post-accident management of radioactive releases including the containment building, its internal spray and cooling systems, venting systems, external rain-out devices, and such similar approaches to reducing the "source term" which determines the magnitude of the releases to the public.

These basic design issues are handled differently for each one of the reactor concepts. It is the optimal combination of solutions to these problem areas that should determine which direction nuclear power development takes in the twenty-first century. We each have our favorite, mine is based on the liquid metal fast reactor. As an example of what I mean by reactor development for the future, let me just mention some of the technical potential for enhancing the acceptability of the LMFR. Because of its operation near atmospheric pressure, the system can be readily designed to prevent significant loss of its liquid sodium coolant.

Further, liquid sodium is easily adaptable to a thermal convection system for the removal of residual heat, therefore, a continuous external power supply need not be available. I believe this system also lends itself to the removal of mechanical motion devices for both the circulation of the coolant and for control purposes.

The electromagnetic pump has already demonstrated its capabilities and could eventually replace the troublesome mechanical pump and seals. Control systems might be based on increasing use of thermal expansion devices. The need for large excess reactivity changes for burnup might be reduced by the proper mix of heterogeneous core elements.

The post operation of LMFR experimental lower power units has demonstrated inherent dynamic stability under conditions of power and temperature transients.

The LMFR should, therefore, lend itself to automatic control systems to replace operators. I believe that such plants could be operated and controlled by automatic computerized systems so that only the operational maintenance of the automatic devices is needed.

Operators today are rarely permitted independent decision making in off-design situations, and the transition to automation should be feasible.

I have not, of course, discussed any of the detailed development issues and technical problems which need to be resolved in order to meet such objectives successfully. However, it is my belief that even a modest sustained development focused on these goals could be reasonably successful.

The point I wish to make by this example is that it may be possible to move in the direction of nuclear reactors whose intrinsic capability and performance minimizes the possibilities for severe accidents and substantially reduces radioactive releases. Such developments could be important, not only for the reactors of the future, but also for reducing the source term from our present LWRs.

Our general objective is to minimize as much as possible the potential for release of radioactivity to the public. Typical of the kind of investigation which I believe should be undertaken is the potential for water spray, external to a containment building to remove the bulk of radioactive releases in the event of a containment building failure, or a venting system failure.

We know empirically that an external and easily testable rain-out system can decontaminate the gas passing through it by roughly a factor of 100. Obviously, if a water spray system surrounding a containment building could be this effective, the magnitude of the source term would be substantially reduced, and thus, the distance at risk for an exposed population.

This brings me to my fundamental point. I believe that the nuclear industry should give more attention to the post-accident emergency measures to assure those members of the public who might be exposed in the event of a release of radioactivity, that a credible system exists for guarding them from harm. I believe these systems should involve local services, medical and civilian, both for insuring that there is no health danger to any member of the public, and for assuring the public that their health and safety has been provided for. No member of the public should be asked to accept the likelihood of major personal damage in the event of an accident.

I might point out that in most industrial countries, this is the objective we usually set for emergency fire protection and emergency medical services. We must remove the mind-set of the inevitability of harm in the event of a reactor accident, which now pervades many sectors of the public.

Let me return to the fuel cycle. It is possible to establish a combination of very long burnup fuel and chemical reprocessing, which separates out for recycling, the plutonium and all the long-lived radioactive elements, primarily the actinides, so that the radioactive waste stream has half lives characteristic of decades rather than tens of thousands of years. The long-lived elements could then be either recycled back into the fuel cycle for reactor use or, as suggested by M. Steinberg of Brookhaven and others, separately converted in neutron accelerator or fission-fusion devices.

It has been demonstrated that in the pyrochemical reprocessing of metallic fuels from fast reactors, the bulk of the actinides are extracted together with plutonium. Further, new separation techniques for individual elements are now available. The proposed recycle of low-lived isotopes is clearly feasible, although needing development for large scale use.

Recent studies by Westinghouse's Advanced Power Systems have shown that both the PWR and the LMFR could be configured to provide a rapid burn-up of high level nuclear waste. One such LMFR waste burning reactor could handle the actinides from about 60 LWR's. This is about the number of LWR's that could be serviced by a large commercial reprocessing plant of 1,500 MT/year. A waste burning PWR could handle the actinides from about 10 LWR's, and this could be increased by special fuel development. I believe the economic incentives for such an approach may be very large in view of the potential for major reduction in the cost of high level waste storage.

The 1982 Nuclear Waste Policy Act of the United States now generates $300–400 million per year for addressing this problem. I suggest that this waste fund should be used, in part, to develop the burnup fuel cycle described above, rather than on the burial of spent fuel elements. In the 21st century the accumulated Pu in such spent elements would represent one of the largest energy resources of the world. It is ridiculous not to use it and simultaneously reduce the waste storage problem. Two or three centers for chemical reprocessing and LMFR actinide burning, could provide for the entire current nuclear capacity of the United States.

Such centers could be located at existing Government nuclear reservations where the necessary technical manpower and expertise already exist.

This could also be a pattern for servicing the back end of the fuel cycles of the developing nations of the world, and ensuring the peaceful use of nuclear fuels.

The combination of long-lived fuel elements and chemical separation would result in a modest amount of storable waste that could be foreseen to reach natural background levels in a few hundred years. The public understands about life times and historical periods. I do not believe the public can conceive of geologic times.

We need to be able to assure the public that we are not creating long-term intergenerational hazards through the production of a radioactive waste stream. The concern with the welfare of our children and our children's children is common to all of humanity. We should meet this concern.

The thrust of my comments is simply that we should recognize that the future of nuclear power development in the twenty-first century will be heavily determined by its actual performance and resulting social acceptability.

This is likely to be a more important issue than competitive energy economics. For this purpose, we should re-examine our technical approaches to make the social acceptability of the nuclear power system our primary development direction. Many of the concepts, and much of the technology, that might enter into an optimal system for the future has already been studied in various ways. In a few years we will have 5,000 reactor-years of operating experience. We have new perceptions and new "knowledge modules."

Many of the industrial countries are each spending hundreds of millions of dollars in diverse nuclear developments. I am proposing that the nuclear community combine its resources to undertake an internationally cooperative effort to re-examine the combination of recent developments and our accumulated experience to seek directions which might give us a fresh approach both to nuclear power systems, and to a greatly enhanced social acceptability of these systems for the future.

Large experience in LMFR systems exist in both Western and Eastern industrial nations. An international peaceful nuclear power development program could well complement the growing international spirit of cooperation between the major world powers. Such a program could demonstrate again the potential for realizing the social and economic value of nuclear power.

MEYER STEINBERG,
PROFESSIONAL CHEMICAL ENGINEER,
Melville, Long Island, NY, May 15, 1987.

Congressman MORRIS UDALL,
Chairman, House Interior Committee, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN UDALL: I know that you and the country have been struggling for an alternative to the discredited nuclear waste program and that you have been seeking bold ideas to overcome the problem.

Based on fundamental nuclear physics and chemistry consideration, a number of us scientists feel there is a possible technical alternative solution to the nuclear waste problem as it is presently perceived. In its simplest form, the technical concept consists of reprocessing spent nuclear fuel to extract only the stable and non-radioactive fission product elements and to recycle to the nuclear reactors all the long-lived radioactive fission product elements. The long-lived fission products will burn up and decay in the fuel cycle so that only the stable products need to be disposed of as ordinary non-radioactive waste. In this manner, one avoids the need for waste repositories and geological-age storage which is the route of the problem, i.e., "not in my backyard" (NIMBY).

It should be made clear that I am not recommending reprocessing for the sake of promulgating a 'plutonium economy". I am recommending reprocessing for the sake of waste management. It should also be made clear that the details of the concept have to be researched and developed. It is not as yet a "fait-a-complis" but it, basically, has a reasonable chance of success with an enormous pay-off as you can well understand struggling with the present concept of getting someone to agree to "burying the waste" in his backyard.

When approaching DOE with this proposal, the answer I get is that the Waste Management Act does not include recycling waste into reactors and furthermore reprocessing is uneconomical. Both of these objections can be validated only if a serious evaluation can be performed on the entire concept despite some misdirected attempts which have been made in the past.

I am enclosing with this letter several reports and documents which I have sent to other congressional staffers. I believe this concept can be explored if some simple legislation can be added to the DOE program allowing investigation of recycling of nuclear waste.

Your consideration of this concept is greatly appreciated.

Sincerely,

MEYER STEINBERG,
Head, Process Sciences Division.

BROOKHAVEN NATIONAL LABORATORY, ASSOCIATED UNIVERSITIES, IND.,
Upton, Long Island, NY, March 26, 1987.

Dr. JACK DUGAN,
Subcommittee Energy Research and Development, Rayburn House Office Building, Washington, DC.

DEAR DR. DUGAN: As per your request, I am sending you herewith several reports on recycling nuclear waste into reactors as an option for waste management. I firmly believe that the nuclear industry should eat its own waste.

As you know, we talked to you about recycling and burning waste when you were working for Senator Lujans. We have been trying to obtain funds from DOE to research this approach for a long time without much success. The answer we get is that recycling waste is not in their waste management program. Now that Congress is again reviewing the entire waste management program, I think its high time to take a good look at burning the transuranics and recycling the long-lived fission products as an alternative to geological age storage.

I might point out that there are several countries around the world that have expressed interest and that have been doing something about this approach.

1. Japan, through CRIEPI (The Japanese equivalent of our EPRI), has been working on an actinide (transuranics—TRU) burner reactor.

2. Individuals at EPRI are interested in the concept of transmutation of TRUs, however, official policy keeps this possibility at a low level probably because of the present DOE waste management policy. EPRI is in contact with, but has not given, the Japanese any encouragement.

3. Some individuals at Argonne and Hanford National Laboratories think that waste burning should be investigated but are not being encouraged by management.

4. Oak Ridge National Laboratory (ORNL) says waste burning is feasible but not practical. ORNL suffers from a multimillion study funded by DOE on partitioning and transmutation which, as far as I am concerned, was a white wash because it obtained the answer that DOE wanted, which was it is feasible but not worth the cost. The concept involved an add-on partitioning plant to an existing reprocessing plant which was powered by a fossil-fueled plant, and the conclusion was that the emissions from the fossil fuel plant was more dangerous than the geological-age waste storage.

5. The French have recognized waste burning but have not followed up on it.

6. Chinese nuclear experts also recognize the value of waste burning and have written it into their long-term plans.

I want it clearly understood that there are several approaches to nuclear waste burning. One is the separation of the long-lived TRUs and burning in a separate reactor which is what the Japanese are proposing. Argonne may be interested in recycling based on their metal breeder reactor IFR concept. Another is burning fission products in a spallation neutron source powered by an accelerator. What I am primarily talking about is a whole new LWR fuel cycle and reprocessing scheme which involves storing fuel to decay out the short-lived FRs, reprocessing to extract only the stable fission products, and recycling all the rest of the fissile and fertile material into LWRs fuel. The fissile U-235 and Pu-239 are always in a dilute condition so that at no point is the fissile material concentrated which avoids the accusation of promulgating a "plutonium economy". In other words, fuel reprocessing is performed to separate only stable waste instead of the present conventional Purex reprocessing (an outgrowth of the weapon program) which is for the purpose of recovering and concentration of Pu-239 to eventually be used in mixed oxide fuel. This fuel cycle means that hot elements will have to be handled into reactors, while really should not be a problem. My answer to critics concerning this is that hot elements are presently removed from reactors, then hot elements can be put back into reactors with the same or even less difficulty. Another point is that fresh hot elements are less prone to diversion because of difficulty in handling.

Although I have indicated in the paper (BNL 31004) a possible reprocessing scheme for removal of the stable products, I am not saying this is the only scheme or how well it will work. There may be other chemical processing schemes. What I am suggesting is that, if one accepts the premise of separating only the stable products for disposal, then a research program should be instituted to achieve this goal and hire a dozen or so chemists and chemical engineers to come up with a chemical processing scheme to accomplish this objective. After all, when we wanted plutonium for weapons program, we waited more than a decade with many more scientists and engineers to devise the most suitable Purex process. If you set the goal to avoid geological-age storage, I am certain that a suitable processing scheme can be devised. Now ORNL or Savannah River may argue that it would cost 40 billion dollars to come up with such a process and would take 40 years. I strongly doubt this because we have learned quite a lot over the last 40 years about TRU and fission product chemistry.

It should also be noted that the fuel cycle shown in the paper includes an accelerator (Spallator) which is mainly for the purpose of producing enough fuel for the LWRs so that enrichment is not needed. However, from a waste management point of view, this is not a necessary step. The recycling can work without the Spallator and with enrichment to make up fissile fuel material.

A vital part of this concept is to make an analysis of how the fission products will act in an LWR. I am enclosing an FTP/A which we submitted to DOE to begin studying the neutronics at a fairly modest level. This also was not accepted by DOE. It is my perception that there is the feeling in the nuclear establishment, especially DOE, that if we bring up the idea of recycling and waste burning that the anti-nuclear establishment will call for a halt to the program on burial of waste and bring down the entire waste management program. I am not suggesting to stop the burial program. What I am suggesting is to provide funds to make a concerted effort to examine this waste management option in a scientifical and technically honest way. The present waste management program is sinking now and it is placing another road block in the way of the development of nuclear energy. As long as there may be an option, why not at least give it a fair shake.

I think if we can "make the nuclear industry eat its own waste", this would be a great advance to its healthy development.

Sincerely,

Meyer Steinberg,
Head, Process Sciences Division.●

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the trade conference report the Senate proceed to the consideration of the AIDS bill, S. 1220.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I state for the record that the final vote on the conference report on trade and competitiveness could occur on Tuesday prior to 5 o'clock p.m. I assured a Senator today it would not occur, but it is my understanding that he is exploring the matter and that he very well may be agreeable to that vote occurring before 5 o'clock on Tuesday which would be helpful to several Senators I know about on this side of the aisle. If it could occur at 4 o'clock or 3 o'clock, fine.

So I simply say again the final vote on the trade bill conference report could occur on Tuesday prior to 5 p.m.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. It would be fair to say it probably could occur any time after our policy luncheon on Tuesday?

Mr. BYRD. Yes, that is a good idea, and the distinguished Republican leader has suggested that and I concur in that. I hope that it will occur in such a timeframe.

Mr. DOLE. So Members should be on notice that they should be around any time after 2 o'clock.

Mr. BYRD. Yes, they should be on notice that the vote could occur at any time after 2 o'clock p.m. on Tuesday.

RELIEF OF JOHN H. TEELE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be discharged from further consideration of H.R. 2139, a bill for the relief of John H. Teele, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2139) for the relief of John H. Teele.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia?

There being no objection, the Senate proceeded to consider the bill.

Mr. SHELBY. Mr. President, I rise today in support of H.R. 2139, a bill for the relief of John H. Teele. H.R. 2139, introduced by my good friend and former colleague, Congressman Ronnie Flippo, passed the House by voice vote on October 6, 1987. I introduced a somewhat similar measure in the Senate, S. 1046, which was cosponsored by the senior Senator from Alabama, Senator Heflin, and by Senator Kerry.

I would like to reiterate some of the facts surrounding this bill. Mr. John H. Teele, who was employed in the private sector and resided in Chelmsford, MA, applied and was selected for Federal employment with the U.S. Missile Command, Department of the Army. The Redstone Arsenal in Huntsville, AL, was to be Mr. Teele's first duty station in his position as an electronics engineer. In good faith, Mr. Teele relocated himself, his wife, and four children to Huntsville based on travel orders which were issued on April 29, 1985, by the Department of the Army. The expense incurred was in excess of $12,000. Upon reporting for duty and submitting his travel voucher claim, it was administratively determined that Mr. Teele's travel orders contained erroneous information, as the purpose for his travel was a first duty station move in a manpower shortage position, not an employee move as a result of a transfer from one official duty station to another for permanent duty. Although unfamiliar with the laws governing travel and relocation reimbursements, Mr. Teele was, I believe, unintentionally misled by the Department of the Army to his financial detriment. A claim for reimbursement by Mr. Teele ensued after the denial of his original request. H.R. 2139 is the result of the claim process.

The Comptroller General of the United States has indicated in a decision dated June 26, 1987, that Mr. Teele is entitled to favorable consideration of his claim by the Congress. Further, the Department of the Army in a letter to Senator Biden, as the chairman of the Judiciary Committee, dated March 28, 1988, has also indicated that Mr. Teele is entitled to favorable consideration of his claim by the Congress. I ask unanimous consent that a copy of the decision by the Comptroller General and the letter from the Department of the Army be printed in the Record.

I urge my colleagues to take swift action to correct this injustice, hardship, and unjustified economic loss suffered by Mr. Teele by approving H.R. 2139.

There being no objection, the material was ordered to be printed in the Record, as follows:

Comptroller General of
the United States,
Washington, DC, June 26, 1986.

Hon. George Bush,
President of the Senate.

Dear Mr. President: Pursuant to the Act of April 10, 1928, 45 Stat. 413, 31 U.S.C. § 3702(d) (1982), we have the honor to transmit our report and recommendations to the Congress concerning the claim of Mr. John H. Teele to be reimbursed normal relocation expenses as though he had been an employee of the Federal government transferred in the interest of the government from one duty station to another for permanent duty.

In essence, this claim involves a person living in Massachusetts who accepted a job offer from the Department of the Army for a position in Huntsville, Alabama. Based on representations by agency officials who provided him with erroneous information regarding his relocation expense reimbursement and travel orders which were issued containing the same erroneous information, he accepted the position in good faith and incurred travel expenses, which, but for the fact that he was a new employee, would have been reimbursed. For the reasons stated in our report, we believe the claim deserves the consideration of Congress.

While we are requesting favorable consideration of the present claim by the Congress, we will continue to consider other cases as meritorious claims based solely upon the facts and circumstances therein involved.

An identical report is being transmitted to the Speaker of the House of Representatives.

Sincerely, yours,

Milton J. Socolar
(For the Comptroller General
of the United States).

To the Congress of the United States: Pursuant to the Act of April 10, 1928, 45 Stat. 413, 31 U.S.C. § 3702(d) (1982), we submit the following report on the claim of Mr. John H. Teele, a resident of Massachusetts, who was the recipient of a job offer as a new employee to a manpower shortage position in Huntsville, Alabama, which he accepted from the Department of the Army. Mr. Teele was erroneously advise by agency officials that he was entitled to be reimbursed all normal relocation expenses. That erroneous information was reiterated in the Travel Authorization issued to him.

Subsequent to issuance of the Travel Authorization and the performance of travel by Mr. Teele and his family, he filed a travel reimbursement claim in an amount in excess of $14,000. The Department of the Army discovered the error in the Travel Authorization and determined that since he was not an employee transferring from one official duty station to another, he was only entitled to limited travel expense reimbursements ($357.33). The full details surrounding the claim are set forth in our decision of this date, B-218645, and a copy of that decision is attached hereto and incorporated by reference.

In summary, we find no basis within our authority to grant the claim presented by Mr. Teele. Based on the foregoing facts, however, we believe that this claim deserves the consideration of Congress as a Meritorious Claim. Mr. Teele, who was unfamiliar with the laws governing travel and relocation expense reimbursements of new employees appointed to a manpower shortage position, acted in good faith reliance on the erroneous representations of agency officials and the Travel Authorization issued which contained erroneous information consistent with those representations. Mr. Teele was unintentionally misled by the Department of the Army, to his financial detriment. We do not believe anything in Mr. Teele's conduct would justify the significant personal financial loss that would occur without congressional intervention.

Provided the Congress concurs with our recommendation on this claim, it is our view that enactment of a statute in substantially the following language will accomplish the relief recommended.

"*Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled,* That John H. Teele is deemed to be an employee transferred by the Department of the Army from one official station to another for permanent duty in the interest of the government without a break in service incident to travel performed from Chelmsford, Massachusetts, to Huntsville, Alabama, in May 1985, for the purpose of permitting reimbursement of relocation expenses authorized by 5 U.S.C. § 5724 and 5 U.S.C. § 5724a, incident to that travel."

MILTON J. SOCOLAR
(For the Comptroller General
of the United States).

THE COMPTROLLER GENERAL OF
THE UNITED STATES,
Washington, DC, June 26, 1986.

DECISION

Matter of: John H. Teele—Manpower Shortage Travel and Transportation—Meritorious Claims Act.

DIGEST

1. A new appointee to a manpower shortage position was issued travel orders erroneously authorizing reimbursement for temporary quarters subsistence expenses, real estate expenses and miscellaneous expenses as though he were a transferred employee. After travel was completed, his orders were corrected to show entitlement only to travel, travel per diem and movement of household goods, as authorized for manpower shortage position. The claimant asserts entitlement to full reimbursement, arguing that the advice received when hired and the travel orders issued are consistent with private sector practices. The claim is denied. Under 5 U.S.C. § 5723 (1982), the travel and transportation rights of a manpower shortage appointee are strictly prescribed. Regardless of whether the error was committed orally or in writing, the government is not bound by any agent's or employee's acts which are contrary to governing statute or regulations.

2. GAO will no longer follow its general policy of not referring erroneous advice cases to Congress under the Meritorious Claims Act, 31 U.S.C. § 3702(d). Instead, each such case will be considered for submission based on its individual merits. Accordingly, GAO submits to Congress claim of new appointee to a manpower-shortage position who was erroneously issued travel orders authorizing reimbursement for temporary quarters subsistence expenses, real estate expenses, and miscellaneous expenses where the appointee reasonably relied on this erroneous authorization and incurred substantial costs.

This decision is in response to a letter from Mr. John H. Teele. He requests that his relocation expense claim, which was disallowed administratively, be allowed by this Office or submitted to Congress as a meritorious claim under the provisions of 31 U.S.C. § 3702(d). We conclude that while his relocation expense claim may not be allowed, it is appropriate to submit it to Congress as a meritorious claim.

BACKGROUND

Mr. Teele, who was employed in the private sector and resided in Chelmsford, Massachusetts, applied for Federal employment with the United States Missile Command, Department of the Army. By letter dated April 26, 1985, he was informed that he was selected for the position of Electronics Engineer, grade GS-14; that his first duty station would be Redstone Arsenal, Alabama; and that his tentative reporting for duty date (May 20, 1985) was dependent on preparation of travel orders which were to follow. We understand that the position to which he was appointed was designated a manpower shortage category position.

The travel orders issued on April 29, 1985, authorized him and his immediate family (spouse and four dependent children) to travel from Chelmsford, Massachusetts, to Huntsville, Alabama, by privately owned vehicle. In addition to mileage reimbursement, travel per diem, and shipment of household goods with up to 90 days temporary storage, Mr. Teele incorrectly was authorized temporary quarters subsistence expenses, not to exceed 60 days, real estate expenses, and miscellaneous expenses. He was also given a travel advance of $3,600.

Following his reporting for duty at Redstone Arsenal, Alabama, and submission of his travel voucher claim, it was administratively determined that his travel orders had been improperly issued since he was not an employee being transferred from one official duty station to another for permanent duty. By amendment dated October 8, 1985, his orders were corrected to show that the purpose for his travel was to effect a first duty station move in a manpower shortage position and that reimbursement for temporary quarters subsistence expenses, real estate expenses, and miscellaneous expenses was not authorized.

The total amount of his claim is approximately $14,500.[1] Because Mr. Teele was a manpower shortage position employee, it was administratively determined that his maximum entitlement, in addition to the transportation of his household goods, was $357.33. In this connection, because his travel orders had been erroneously issued, the agency determined that, since he was only entitled to $357.33, he had to repay $3,242.67, representing the balance of his $3,600 travel advance.

As the basis for his request that his claim be submitted as a meritorious claim, Mr. Teele asserts that in the private sector when a business firm hires an individual for a position which requires the individual to move to another location, it is normal for that firm to reimburse all of the individual's relocation expenses. He contends that having received similar expenses. He contends that having received similar advice from the Missile Command's Civilian Personnel Office, he had no reason to question the validity of that advice, especially when that advice was confirmed in the travel orders.

DECISION

The employment relationship between the Federal government and its employees is statutory, not a simple contractual relationship, nor one which is established by informal custom and practices. Since Federal employees are appointed and may serve only in accordance with applicable statutes and regulations, the ordinary principles of contract law do not apply. See *Elder and Owen,* 56 Comp. Gen. 85, at 88 (1976); *Kania* v. *United States,* 227 Ct. Cl. 240, at 251, 640 F.2d 264, at 268, *cert. denied,* 454 U.S. 895 (1981); and *Shaw* v. *United States,* 226 Ct. Cl. 240, at 251, 640 F.2d 1254, at 1260 (1981).

It is a rule of long standing that all public officers and employees of the Federal government must bear the expense of travel and transportation to their first permanent duty stations in the absence of a provision of law or regulation providing otherwise. One such provision of law is contained in 5 U.S.C. § 5723 (1982). That provision authorizes the travel and transportation expenses of a manpower shortage position appointee and immediate family and includes the movement of their household goods and other personal effects from their place of residence at the time of selection to the first duty station. However, it does not include temporary quarters subsistence expenses, real estate expenses, or miscellaneous expenses. Those expenses are authorized only for Federal employees who are being transferred from one official station or agency to another for permanent duty (5 U.S.C. § 5724(a)(1)).

With regard to the erroneous advice given and the improperly issued travel orders, it is a well settled rule of law that the government cannot be bound beyond the actual authority conferred upon its agents and employees by statute or by regulations. This is so even though the agent or employee may not have been completely aware of the limitation on his authority. See *M. Reza Fassihi,* 54 Comp. Gen. 747 (1975), and court cases cited therein. Also, the government is not estopped from repudiating unauthorized acts performed by one of its agents or employees and any payments made on the basis of such erroneous authorizations are recoverable. See *Joseph Pradarits,* 56 Comp. Gen. 131 (1976), and *T. N. Beard,* B-187173, October 4, 1976.

In the present case, Mr. Teele was a new appointee in a manpower shortage position. His maximum statutory entitlement was reimbursement for his and his immediate family's travel, travel per diem, and movement of their household goods and personal effects. Since Mr. Teele's household goods and effects were shipped by Government Bill of Lading and he was reimbursed for his travel and his family's travel to Huntsville, he has received all the reimbursement to which he is entitled under 5 U.S.C. § 5723, and the agency's action to require him to repay the excessive travel advance received by him ($3,242.67), is legally correct.

Having determined that the disallowance of Mr. Teele's claim was legally correct, we turn to his request that the matter be submitted to Congress as a meritorious claim under 31 U.S.C. § 3702(d). For the reasons stated below, we agree with Mr. Teele that a submission is appropriate in this case.

Subsection 3702(d) of title 31, the so-called Meritorious Claims Act, provides: "The Comptroller General shall report to Congress on a claim against the Government that is timely presented under this section that may not be adjusted by using an existing appropriation, and that the Comptroller General believes Congress should consider for legal or equitable reasons. The report shall include recommendations of the Comptroller General."

---

[1] A line item audit of his overall claim was never performed administratively since it was determined that he was not entitled to reimbursement for any expenses other than his actual mileage and travel per diem.

It has been our general policy not to report to Congress under the Meritorious Claims Act claims which are based on erroneous official advice furnished to Government employees, even where the employee acted reasonably in reliance on the erroneous advice and incurred substantial costs.[2] We reasoned that since such cases are not unusual they fail to present the extraordinary circumstances for which submissions under the Meritorious Claims Act should be reserved. Also, we expressed the view that to submit individual erroneous advice cases to Congress would afford preferential treatment to the few claimants whose cases come before us over many others similarly situated whose cases we never see.

We now conclude that a change in this policy is warranted. While erroneous advice cases are not unusual, each such case deserves to be considered on its own merits. The fact that we are unable to seek relief in all cases should not prevent the submission of those worthy cases that do come before us. Therefore, we now will submit to Congress erroneous advice cases which, in our judgment, meet the standards for relief under the Meritorious Claims Act.

We are satisfied that Mr. Teele's claim meets the Act's standards based on substantial equitable considerations. As noted previously, the erroneous authorization was set forth in his travel orders and thus had every appearance of official sanction. It seems clear that he incurred substantial costs in reliance on this authorization and that his reliance was reasonable. Accordingly, we are forwarding a report to Congress requesting that Mr. Teele be reimbursed normal relocation expenses as though he had been an employee transferred in the interest of the government. Collection action on the excessive travel advance should be suspended pending congressional consideration of our request.

Milton J. Socolar
(From the Comptroller General
of the United States).

Department of the Army,
Washington, DC, March 28, 1988.
Hon. Joseph R. Biden, Jr.,
Chairman, Committee on the Judiciary, U.S. Senate, Washington, DC.

Dear Mr. Chairman: Reference is made to your request for the views of the Department of Defense on S. 1046, 100th Congress, a bill "For the relief of John H. Teele." The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The purpose of this bill is to authorize and direct the Secretary of the Treasury to pay to Mr. John H. Teele, from funds not otherwise appropriated, the sum of $12,692.00 in reimbursement for losses sustained by Mr. Teele as the result of erroneous advice given to him by Department of the Army personnel.

In the spring of 1985, Mr. Teele applied for and was selected for the position of electronics engineer, grade GS-14, with the United States Missile Command, Department of the Army. His first duty station was to be Redstone Arsenal, Alabama and he was directed to report for work on or about May 20, 1985. At the time of his selection for this position, Mr. Teele was employed in the private sector and resided in Massachusetts. On April 29, 1985, travel orders were issued to Mr. Teele authorizing him and his immediate family, a wife and four children, to travel by private vehicle from his residence in Massachusetts to Huntsville, Alabama. In addition to mileage reimbursement, travel per diem, and the shipment of household goods, the orders also provided that he was authorized temporary quarters subsistence expenses, not to exceed 60 days, real estate expenses, and other miscellaneous expenses. Based upon these orders, he was provided a $3,600 travel advance. When he reported for duty in Alabama and submitted his travel voucher claim, it was determined that the orders had been improperly issued. It was determined that in addition to the shipment of his household goods, he was only authorized $357.53 for travel expenses and that he must repay the balance of the $3,600 travel advance ($3,242.67).

Mr. Teele was a new appointee filling a manpower shortage position. The travel and transportation rights of a manpower shortage appointee are very limited (see 5 U.S.C. 5723). Such employees are authorized travel and transportation expenses involving the movement of household goods and personal effects, as well as reimbursement for travel for themselves and their family. They are not authorized temporary quarters subsistence expenses, real estate expenses, or miscellaneous expenses as is a permanent Federal employee who is moved from one duty station in the Federal government to another.

After his relocation expense claim was administratively denied, Mr. Teele sought a decision from the Comptroller General. He requested that the Comptroller General allow his relocation expense claim or submit it to the Congress under 31 U.S.C. 3702(d).

The Comptroller General decided that the disallowance of Mr. Teele's claim and the action to recover the excessive travel allowance was legally correct. Being a new appointee, Mr. Teele was not authorized such expenses by law. Referring to the improper travel orders, the Comptroller General noted that the Government is not bound by the unauthorized acts of its employees or agents, or prohibited from correcting such erroneous acts once discovered. The Comptroller General, however, agreed the matter was appropriated for submission to the Congress based upon "substantive equitable consideration" and suggested that the Congress take action to reimburse Mr. Teele for normal relocation expenses as though he had been a Federal employee transferred in the interest of the government.

An analysis of the reimbursement normally authorized an employee who is moved in the interest of the government was conducted using Mr. Teele's relocation expense claim as a basis. Based upon this analysis, it was administratively determined that an employee moved in the interest of the government would be entitled to $12,351.

Mr. Teele acted reasonably in relying on his government travel orders. He should not, however, be unjustly enriched or given preferred treatment over the other Federal employees transferred in the interest of the government.

In view of the recommendation of the Comptroller General, and the special circumstances of this case, the Department of the Army believes equity dictates granting relief in the sum of $12,351. This is the amount that Mr. Teele would have been entitled had he been a government employee transferred to a new duty station.

The Department of the Army, on behalf of the Department of Defense, recommends amending the bill by deleting the "sum of $12,692", on line 5 of page 1 of the bill and substituting in place thereof "sum of $12,351". As amended, the Army recommends favorable action on S. 1046.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

Michael P.W. Stone,
Assistant Secretary of the Army,
Financial Management.

The PRESIDING OFFICER. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 2139) was ordered to a third reading, was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, if the distinguished Republican leader is agreeable, I would like to proceed to the consideration of calendar orders numbered 617 and 621 through 630 on the calendar of business. Does the leader have any objections?

Mr. DOLE. No; each of those have been cleared on this side.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the aforementioned calendar orders; that they be considered en bloc; that they be agreed to en bloc; that amendments, where shown, be adopted en bloc; and where there are amendments to the preamble, where necessary, those amendments be adopted; that Senators who may have statements in relation to any of these measures may appear appropriately in the Record; that the action on the various and sundry measures appear severally on the face of the Record; and that the motion to reconsider en bloc be laid on the table.

---

[2] See, e.g., B-209292, February 1, 1983; B-202628, December 30, 1981; B-195242, August 29, 1979; B-191039, June 16, 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

SETTING OF DATE FOR CELEBRATION OF NATIONAL DAY OF PRAYER

The bill (S. 1378) to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated, was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution to provide for setting aside an appropriate day as a National Day of Prayer", approved April 17, 1952 (Public Law 82-324; 66 Stat. 64), is amended by striking "a suitable day each year, other than a Sunday," and inserting in lieu thereof "the first Thursday in May in each year".

AUTHORIZING THE LAW ENFORCEMENT TORCH RUN FOR SPECIAL OLYMPICS THROUGH THE CAPITOL GROUNDS

The concurrent resolution (S. Con. Res. 114) authorizing the Law Enforcement Torch Run for the Special Olympics through the Capitol Grounds, was considered and agreed to; as follows:

S. CON. RES. 414

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. AUTHORIZATION OF RUNNING OF THE LAW ENFORCEMENT TORCH RUN FOR THE SPECIAL OLYMPICS THROUGH CAPITOL GROUNDS.

On May 20, 1988, or on such other date as the President pro tempore of the Senate and the Speaker of the House of Representatives may designate jointly, the Law Enforcement Torch Run for the Special Olympics may be run through the Capitol Grounds, as part of the journey of the Special Olympics torch to the District of Columbia Special Olympics Spring Games at Gallaudet University in the District of Columbia.

SEC. 2. RESPONSIBILITY OF CAPITOL POLICE BOARD.

The Capitol Police Board shall take such action as may be necessary to carry out section 1.

SEC. 3. CONDITIONS RELATING TO PHYSICAL PREPARATIONS.

The Architect of the Capitol may prescribe conditions for physical preparations for the event authorized by section 1.

PURCHASE OF CALENDARS

The resolution (S. Res. 414) relating to the purchase of calendars, was considered, and agreed to; as follows:

S. RES. 414

Resolved, That the Committee on Rules and Administration is authorized to expend from the contingent fund of the Senate, upon vouchers approved by the chairman of that committee, not to exceed $72,800 for the purchase of one hundred and four thousand 1989 "We The People" historical calendars. The calendars shall be distributed as prescribed by the committee.

GRATUITY TO JANIS K. BARBER

The resolution (S. Res. 415) to pay a gratuity to Janis K. Barber, was considered, and agreed to; as follows:

S. RES. 415

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Janis K. Barber, widow of John R. Barber, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO OSCAR M. HOLMES AND THEODORE HOLMES

The resolution (S. Res. 416) to pay a gratuity to Oscar M. Holmes and Theodore Holmes, was considered, and agreed to; as follows:

S. RES. 416

Resolved, that the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Oscar M. Holmes, Jr. and Theodore Holmes, sons of Vividell B.H. McDonald, an employee of the Architect of the Capitol assigned to duty on the Senate side at the time of her death, a sum to equal six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

GRATUITY TO SWANHILD SPACKMAN

The resolution (S. Res. 417) to pay a gratuity to Swanhild Spackman, was considered, and agreed to; as follows:

S. RES. 417

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Swanhild Spackman, mother of Gleora S. Jacobson, an employee of the Senate at the time of her death, a sum equal to ten and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

AUTHORIZING THE PRINTING OF A CERTAIN HOUSE REPORT

The concurrent resolution (H. Con. Res. 270) authorizing printing of a House report, previously printed in the Eighty-second Congress, concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre, was considered, and agreed to.

The preamble was agreed to.

EDWARD THAXTER GIGNOUX U.S. COURTHOUSE

The bill (S. 2248) to designate the U.S. Courthouse located at 156 Federal Street in Portland, MA, as the "Edward Thaxter Gignoux U.S. Courthouse," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United states Courthouse located at 156 Federal Street in Portland, Maine, shall be known and is designated as the "Edward Thazter Gignoux United States Courthouse".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Thaxter Gignoux United States Courthouse".

C. CLIFTON YOUNG FEDERAL BUILDING

The bill (S. 1827) to designate the Federal Building located at 330 Booth Street in Reno, NV, as the "C. Clifton Young Federal Building," was considered, ordered to be engrossed for a third reading, read the third time, and passed; as follows:

S. 1827

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 330 Booth Street in Reno, Nevada, shall hereafter be known and designated as the "C. Clifton Young Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building".

NATIONAL DIGESTIVE DISEASE AWARENESS MONTH

The joint resolution (H.J. Res. 421) designating May 1988 as "National Digestive Disease Awareness Month," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

OLDER AMERICANS MONTH

The joint resolution (H.J. Res. 508) designating May 1988 as "Older Americans Month," was considered, ordered to a third reading, read the third time, and passed.

The preamble was agreed to.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d-276g, as amended, appoints the Senator from

Alaska [Mr. Murkowski] as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the second session of the 100th Congress, to be held in Key West, FL, May 5-9, 1988.

BILL PLACED ON CALENDAR OF BUSINESS—H.R. 3606

Mr. **BYRD.** Mr. President, I ask unanimous consent that H.R. 3606, which appears on the Calendar of Bills and Joint Resolutions read the first time, appear on the Calendar of Business.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

BILL PLACED ON CALENDAR OF BUSINESS—H.R. 4222

Mr. **BYRD.** Mr. President, I ask unanimous consent that H.R. 4222, which appears on the Calendar of Bills and Joint Resolutions read the first time, likewise be placed on the Calendar of Business.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMENDING THE STATE OF ISRAEL

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 541, to commend the State of Israel on the 40th anniversary of the reestablishment of its independence, just received from the House; that it be considered as having been read the third time, passed, the motion to reconsider laid on the table.

The **PRESIDING OFFICER.** Without objection, it is so ordered. The preamble is agreed to.

The text of the joint resolution, together with its preamble, reads as follows:

House Joint Resolution 541

Whereas the State of Israel redeems the Biblical promise to the Jewish people of the homeland from which they were exiled for 2,000 years;

Whereas the establishment of the State of Israel as a homeland for the Jews followed the slaughter of more than 6,000,000 Jews during the Holocaust;

Whereas the United States helped in the creation of the State of Israel by extending diplomatic relations to the State of Israel upon its proclamation of independence on May 14, 1948;

Whereas since its establishment 40 years ago, Israel has rebuilt a nation, forged a new society, and created an economic, cultural, and intellectual infrastructure that is nothing short of miraculous;

Whereas despite the heavy costs of six wars, terrorism, international ostracism, and economic boycotts, the people of Israel have relinquished neither their desire to live in peace with their neighbors nor their democratic ideals;

Whereas at great social and financial costs, Israel has absorbed hundreds of thousands of Jews from countries throughout the world, many of them refugees from Arab countries, and fully integrated them into Israeli society;

Whereas the world, particularly the less developed countries of Latin America and Africa, has benefited tremendously from Israeli advances in agriculture, medicine, and industry;

Whereas the United States and Israeli have always maintained a special relationship based on mutually shared democratic values, strategic interests, and moral bonds of friendship and respect; and

Whereas the American people have shared an affinity with the people of Israel and regard Israel as a strong and trusted ally and important strategic partner: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) hails the historic milestone of 40 years of existence of the reestablished, independent State of Israel;

(2) praises the people of Israel for their remarkable achievements in building a new state and society and maintaining the only democracy in the Middle East in the face of constant belligerence by her neighbors;

(3) notes with deep satisfaction the bonds of friendship and cooperation between the United States and the State of Israel which have meant so much to both countries; and

(4) extends the warmest congratulations and best wishes to the State of Israel and its people for a peaceful and successful future.

ORDERS FOR MONDAY, APRIL 25, 1988

PROCEED TO CONSIDERATION OF H.R. 1811 AT 10 A.M.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Senate, on Monday next, proceed to the consideration of Calendar Order No. 613, H.R. 1811, at the hour of 10 o'clock a.m.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. ON MONDAY NEXT

Mr. **BYRD.** Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in adjournment until the hour of 9:30 a.m. on Monday next.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

NO MOTIONS OR RESOLUTIONS OVER UNDER THE RULE TO COME OVER

Mr. **BYRD.** Mr. President, I ask unanimous consent that on Monday next the call of the calendar be waived and that no motions or resolutions over under the rule will come over.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

MORNING BUSINESS

Mr. **BYRD.** Mr. President, I ask unanimous consent that after the two leaders or their designees have been recognized under the standing order on Monday next, there be a period for morning business not to extend beyond 10 o'clock a.m., and that Senators may speak during that period for not to exceed 5 minutes each.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

PROGRAM

Mr. **BYRD.** Mr. President, the Senate will convene at 9:30 a.m. on Monday next. After the two leaders or their designees have been recognized under the standing order there will be a period for the transaction of morning business not to extend beyond 10 o'clock a.m. during which Senators may speak for not to exceed 5 minutes each and at which time, namely 10 o'clock a.m., the Senate will proceed to the consideration of the bill H.R. 1811, an act to amend title 28, United States Code, to provide certain benefits to veterans and survivors of veterans and for other purposes.

There will be a 1-hour time limitation on that bill. Only one amendment will be in order. That will be a substitute to be offered by Mr. Cranston. The time will be equally divided and controlled by Mr. Cranston and by Mr. Murkowski or their designees.

There will be a rollcall vote on the amendment or on the passage of the bill, as amended, if amended. That will be a 15-minute rollcall vote with the call for the regular order to occur automatically at the conclusion of the 1 hour.

Upon the disposition of that bill, Mr. President, I ask unanimous consent that the Senate resume consideration of the conference report on the trade and competitiveness bill.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Debate will continue on the conference report and I am sure there will be Senators who will want to speak throughout the afternoon and perhaps into the evening. The Senate will resume consideration of the conference report on Tuesday, but on Tuesday the resumption of consideration on the conference report will not likely occur prior to 10 o'clock a.m.

Mr. President, there will be at least one vote that will occur on H.R. 1811, or in relation thereto, or with respect to the substitute amendment. I wonder if the distinguished Republican leader would agree with me that it might be well to state to our colleagues on the record that that will be a rollcall vote and I, therefore, ask unanimous consent, Mr. President, that the rollcall vote, when ordered, be a 15-minute rollcall vote and that the call for the regular order be automatic.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Does the distinguished Republican leader have any further business to transact or any further statement to make?

Mr. DOLE. No additional business. No statements.

Mr. BYRD. I thank the leader, and I thank all Senators.

ADJOURNMENT UNTIL 9:30 A.M. MONDAY

Mr. BYRD. Mr. President, if there be no further business, I move, in accordance with the order previously entered, that the Senate stand in adjournment until the hour of 9:30 a.m. on Monday next.

The motion was agreed to; and, at 4:54 p.m., the Senate adjourned until Monday, April 25, 1988, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate April 21, 1988, under authority of the order of the Senate of February 3, 1987:

COMMODITY FUTURES TRADING COMMISSION

FOWLER C. WEST, OF TEXAS, TO BE A COMMISSIONER OF THE COMMODITY FUTURES TRADING COMMISSION FOR THE TERM EXPIRING APRIL 13, 1992, REAPPOINTMENT.

POSTAL RATE COMMISSION

WILLIAM H. LEBLANC III, OF LOUISIANA, TO BE A COMMISSIONER OF THE POSTAL RATE COMMISSION FOR THE TERM EXPIRING NOVEMBER 22, 1994, REAPPOINTMENT.

Executive nominations received by the Senate April 22, 1988:

BOARD FOR INTERNATIONAL BROADCASTING

ARCH MADSEN, OF UTAH, TO BE A MEMBER OF THE BOARD FOR INTERNATIONAL BROADCASTING FOR THE REMAINDER OF THE TERM EXPIRING MAY 20, 1989, VICE LILLA BURT CUMMINGS TOWER.

DEPARTMENT OF JUSTICE

Francis Anthony Keating II, of Oklahoma, to be Associate Attorney General, vice Stephen S. Trott.

IN THE NAVY

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TRAINING CORPS PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

KURT B. ADAMS
MICHAEL E. BOLDT
JERRY A. BYERS
JOHN P. GOODWIN
ALVIN HOLSEY
RANDALL R. HUBBARD
TROY A. JOHNSON
WALT R. MASSEY, JR.
PHILLIP D. MAY
MICHAEL J. MCMANUS
DONALD J. RAY, JR.
DEAN L. REHBEIN
PATRICK C. ROCHE
JEFFREY M. ROGALINER
STEVEN P. SOPKO
KELLY R. URICE
JOSEPH T. WALKER

THE FOLLOWING NAMED NAVY ENLISTED COMMISSIONING PROGRAM CANDIDATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JEFFREY A. FISHER
THOMAS D. FOHR II
JEFFREY W. GILLETTE
WANDA M. GUNDERSON
BARRY J. HEIM
JOHN L. MCGAHA
THOMAS A. SCHARES
DOUGLAS L. STREBECK
JAMES P. TOLLE
GARY J. YETTER

THE FOLLOWING-NAMED NAVAL RESERVE OFFICERS TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

JOHN H. ALLMAN
MICHAEL G. BARGER
CHRISTOPHER A. BLOW
SCOTT C. FERRIS
CHARLES M. FUTRETT
RICHARD R. GESSNER
DAVID S. GILMER
KARA S. HULTGREEN
THOMAS W. JOHNSON
DENNIS A. LAZAR
JAMES D. MACY
SCOTT P. NOS
MICHAEL V. TREAT
MARK S. VANYE
TIMOTHY D. ZOOK
DONALD L. ZWICK

THE FOLLOWING NAMED U.S. NAVY OFFICERS TO BE APPOINTED PERMANENT COMMANDER IN THE MEDICAL CORPS OF THE NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 593:

JOHN W. BISHOP
DANIEL E. BOYLE, JR.
DAVID R. FIELD
THOMAS E. NOLAN
BASIL L. PUGH
ALAN I. SHAPIRO

HOUSE OF REPRESENTATIVES—*Monday, April 25, 1988*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. Coelho].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC,
April 21, 1988.

I hereby designate the Honorable Tony Coelho to act as Speaker pro tempore on Monday, April 25, 1988.

Jim Wright,
Speaker of the House of Representatives.

PRAYER

The Reverend Father Arsen Barsamian, St. James Armenian Church, Richmond, VA, offered the following prayer:

Heavenly Father, we thank You for the gift of life and that singular blessing of being a member of Your holy family. Forgive our sins that have caused our separation from You. It separates we human beings from one another and even within each of us from our own souls. In this season of rebirth and resurrection we recall acts of man's inhumanity toward his fellow man. We remember, O Lord, the victim of all genocides and holocausts and especially the souls of the first genocide of this century, those of our Armenian brothers and sisters. Help us, O Lord, in our resolve to do Your will so as to bring an end to injustices, past and present. Increase in us the power of Your love and lead us so we may be a reflection of Your goodness. Guide our deliberations so we may do that which is pleasing in Your sight. As it is in heaven, so, too, be it here on Earth. We ask this in praise and glory of Your holy name, through our Lord and Saviour, Jesus Christ, together with the Holy Spirit, now and forever. Amen.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill, joint resolutions and a concurrent resolution of the House of the following titles:

H.R. 2139. An act for the relief of John H. Teele;

H.J. Res. 508. Joint resolution designating May 1988 as "Older Americans Month";

H.J. Res. 541. Joint resolution commending the State of Israel and its people on the occasion of the fortieth anniversary of the reestablishment of the independent State of Israel;

H.J. Res. 421. Joint resolution designating May 1988 as "National Digestive Disease Awareness Month"; and

H. Con. Res. 270. Concurrent resolution authorizing printing of a House report, previously printed in the 82d Congress, concerning an investigation and study of the facts, evidence, and circumstances of the Katyn Forest massacre.

The message also announced that the Senate had passed bills, a joint resolution and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 1378. An act to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated;

S. 1827. An act to designate the Federal Building located at 330 Booth Street in Reno, NV, as the "C. Clifton Young Federal Building";

S. 2248. An act to designate the U.S. Courthouse located at 156 Federal Street in Portland, ME, as the "Edward Thaxter Gignoux United States Courthouse";

S. 2304. An act to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine;

S.J. Res. 287. Joint resolution designating May 1988 as "Older Americans Month"; and

S. Con. Res. 114. Concurrent resolution authorizing the Law Enforcement Torch Run for the Special Olympics through the Capitol Grounds.

The message also announced that pursuant to sections 276d-276g, title 22 of the United States Code, the Chair on behalf of the Vice President appoints Mr. Murkowski as a member of the Senate delegation to the Canada-United States Interparliamentary Group during the 2d session of the 100th Congress, to be held in Key West, FL, May 5-9, 1988.

WELCOME OF REV. ARSEN BARSAMIAN

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, it is my privilege and honor to welcome to the House of Representatives Father Arsen Barsamian, pastor of St. James Armenian Church in Richmond, VA, and his wife and son who are in the gallery today.

Born and raised in Milwaukee, WI, Father Barsamian has become a most-respected Armenian theologian having studied at the:

Armenian Seminary of the Catholicissate of Cilicia in Beirut, Lebanon;

Armenian Seminary of the Armenian Patriarchate in Jerusalem, Israel;

Seabury-Western Episcopal Theological Seminary; and

Garrett Biblical School.

For the past 21 years, Father Barsamian has been the spiritual leader of our vibrant Armenian community in the Richmond area. Father Barsamian has dedicated his life to fanning the flame of Armenian Christianity and culture; a flame that was nearly snuffed in 1915.

In 1915 the Ottoman Turks began the systematic destruction of the Armenian people. Moving from town to town, the Turks butchered the Armenian men, brutalized the Armenian women, and carried off healthy Armenian children to be raised as Turkish Muslims. Armenian survivors of the initial violence were then uprooted from their 2,000-year homeland and forced on a death march into the Syrian desert. Two out of every three Armenians perished in this atrocity. Had it not been for the Allied defeat of the Turks in World War I, this could very well have been the last chapter in the history of this proud people.

Armenians throughout the world mark April 24 as Martyr Day; a day to mourn the death of their loved ones and ancestors; a day to reflect on the struggles of those Armenians who survived the genocide; and a day for all Armenians to unite and look to the challenges of tomorrow. Today, the Armenian flame is burning brightly, a source of strength for the Armenian people, and a symbol of hope for all of mankind.

TRIBUTE TO THE LATE HONORABLE MELVIN PRICE

(Mr. MICHEL asked and was given permission to address the House for one minute.)

Mr. MICHEL. Mr. Speaker, the flags around the Capitol are flying at half-mast today, and it symbolizes the passing of our dear friend and colleague, Mel Price.

Mel ranked No. 2 in this House next to the dean of the House in seniority having first been elected to this body way back in 1944 when he was a member of the Army during World War II and was plucked out of his outfit to begin serving here in this House of Representatives.

Members are well aware of his long distinguished record of service and what a stalwart individual he was in always shoring up and providing for the defense of this country, serving for many, many years as the chairman and ranking member of our Armed Services Committee.

There are so many things that at a time like this we could say about Mel, but we will defer those until a time when I am sure we will have a special order and all Members will be recognized for appropriate tributes to Mel.

For this moment, let me say funeral plans have been arranged by the Sergeant at Arms and the family. Buses will depart the Capitol steps at 8 o'clock in the morning for Andrews Air Force Base where the funeral will be held in Belleville at Mel's church at 11 a.m. tomorrow. It is expected that all Members wishing to attend the funeral notify the Sergeant at Arms so that appropriate arrangements can be made for as many Members as possible to attend the funeral.

As for this Member, having known Mel for so many, many years and his dear wife Gari, I want to take this opportunity on behalf of the House, therefore, to extend our deepest sympathy to Gari and to son Dr. Major Bill Price for the great loss that they have sustained in the passing of our dear friend.

Mr. GRAY of Illinois. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I will be happy to yield to the gentleman from Illinois.

Mr. GRAY of Illinois. Mr. Speaker, I thank the distinguished minority leader for yielding. I want to associate myself with his remarks.

Mr. Speaker, this is a very sad day for me. This is not the time to go into a long eulogy of our departed friend, Mel Price. However, having known Mel for 44 years, both of us having been in the military service together at Camp Lee, VA, in 1944, this is a sad day for this body and a sad day for this country. I thank the gentleman from Illinois [Mr. Michel], the distinguished minority leader, for taking this time to make this sad announcement.

I hope all Members and staff who can get away will be able to travel to Belleville, IL, for the 11 a.m. Tuesday services to pay proper tribute to our dear friend and great Congressman Mel Price. Thank you.

Mr. MAZZOLI. Mr. Speaker, will the gentleman from Illinois [Mr. Michel] yield?

Mr. MICHEL. Mr. Speaker, I will be happy to yield.

Mr. MAZZOLI. I want to thank the gentleman from Illinois [Mr. Michel] and the gentleman from Illinois [Mr. Gray] for having brought this to our attention.

Many of us were home over the weekend and heard of Mel's death, and we all join and will be taking part in the eulogy.

□ 1210

EXPRESSING SORROW OF THE HOUSE AT THE DEATH OF HON. MELVIN PRICE, REPRESENTATIVE FROM THE STATE OF ILLINOIS

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 434) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 434

Resolved, That the House has heard with profound sorrow of the death of the Honorable Melvin Price, a Representative from the State of Illinois.

Resolved, That a committee of such Members of the House as the Speaker may designate, together with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That when the House adjourns today, it adjourn as a further mark of respect to the memory of the deceased.

The resolution was agreed to.

A motion to reconsider was laid on the table.

HOUR OF MEETING ON TOMORROW

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at 4:30 p.m. on tomorrow.

The SPEAKER pro tempore (Mr. Coelho). Is there objection to the request of the gentleman from Kentucky?

There was no objection.

RHONDA R. BALLARD, WINNER OF VOICE OF DEMOCRACY BROADCAST SCRIPTWRITING CONTEST

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITTEN. Mr. Speaker, the Veterans of Foreign Wars has long been an organization that supported the highest ideals of freedom and liberty. Its members and its ladies' auxiliary demonstrate this commitment each year by sponsoring the Voice of Democracy broadcast scriptwriting contest and scholarship program. This year more than 300,000 secondary school students participated nationwide.

The winner from Mississippi was Miss Rhonda Renee Ballard, a junior at Eupora High School in Eupora, MS, and the daughter of Mr. and Mrs. Charles T. Ballard.

Mr. Speaker, her words are worth repeating and I include them in the Record.

AMERICA'S LIBERTY—OUR HERITAGE

Liberty, by definition, is the quality or state of being free, but what does the term liberty actually mean? Is it a statue with its head held high, a bird soaring through the air, a flag waving in the breeze, or is liberty a bell resounding through Independence Hall? Liberty is all these things, and more. It is not just a word or an object. Liberty is a state of mind, a state of being, and a heritage that is ours only in America.

Our country's formation was based on the foundation of liberty. When the pilgrims entered this new land, they became the beginning of the creation of a democracy, not just an ordinary one, but a unique democracy based on truth, liberty, and justice for all. The pilgrims were the beginning, and the people that followed them in the years to come created some of the most memorable events in American history. Events such as the signing of The Declaration of Independence, and the Constitutional Convention established, on paper, the legal right to liberty that our country holds today. But the fight for liberty did not end with these events. The struggle was a brutal one. The wars, the riots, and the protests were the occurrences that made liberty meaningful in the minds and hearts of all Americans. The true spirit of liberty, I believe, is best seen in the heart of a soldier fighting for what he believes.

Visualize, if you will, a brave, young soldier, wounded and bleeding in a deserted field moments after battle. Lying on the cold ground with his leg bleeding profusely, the soldier realized that his regiment had once again lost to the enemy. His comrades were gone, and the American flag for which they had fought so bravely was torn to shreds and lying on the ground beside him. The young man, in an effort to stop the endless flow of blood, seized the torn American flag and began to wrap it tightly around his leg. He pulled the wrap tighter and tighter. Slowly his pain began to disappear, and a feeling of pride overwhelmed the youth as he bled through the red, the white, and the blue. He now felt that the puddle of blood surrounding him was not a painful or grotesque sight, but a triumphant one. You see, death was no longer frightening because this young man had paid the price—in blood and tears—for liberty.

Is this what liberty is all about? Maybe Thomas Jefferson had the right idea when he said, "The tree of liberty must be refreshed from time to time with the blood of patriots and tyrants." Or perhaps it was Thomas Paine, who believed that "Those who expect to reap the blessings of freedom must undergo the fatigue of supporting it." I believe that the young soldier, as well as these great men, had the right idea. They fought for liberty as their fathers before them had, and now it is our turn. We have a responsibility to our forefathers and to future Americans to keep the heritage of liberty alive. Will this fight for liberty ever end? History is the only answer to the question, or as Patrick Henry put it, "I know no way of judging the future but by the past." Thanks to our ancestors, we in America, now hold freedom in our grasp, but we must not forget how we earned it. A great American, Woodrow Wilson, once said, "A nation that does not remember what it was yesterday, does not know what it is today."

Yes, we must remember liberty as our ancestors established it. First, there was the land, then the people, and always the promise and idea of liberty. Americans have written and talked about the promise of their country and their ideas about the meaning of liberty since the beginning, but one definition remains clear. Liberty is a state of mind, a state of being, and a heritage that is ours only in America.

INTRODUCTION OF YAKIMA RIVER BASIN ENHANCEMENT LEGISLATION

(Mr. MORRISON of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON of Washington. Mr. Speaker, for the last 40 years, water users in the Yakima River basin as well as Congress have attempted to deal with the fact that the demands of Federal contracts for delivery of water from the Yakima River exceed what the system can supply, particularly in short-water years. Drought conditions in the Pacific Northwest over the past 2 years have dramatically demonstrated the need to address this problem, and today I am introducing legislation, along with Senator EVANS and Senator ADAMS, that for the first time presents Congress with an outline of the elements of a comprehensive solution.

The bill represents an important step in our effort to solve the water problem in the Yakima basin in that for the first time it provides the broad framework for a comprehensive solution that addresses additional storage, conservation, and the fulfillment of Indian treaty rights. The bill does not, in its present form, however, represent a consensus of opinion, or my opinion, as to all the elements that should be included in a final Yakima enhancement package or the balance that should be achieved among those elements. It is intended only to bring the issue to Congress and better define the specific matters that must be addressed in the coming weeks if legislation is to be enacted this year. I would have preferred to resolve these matters prior to the introduction of legislation, but due to the short time remaining in this session of Congress I feel it is essential that we introduce a bill now—with the understanding that it is only a starting point and that all issues are open for discussion.

TRIBUTE TO HUGH M. BATES

(Mr. HARRIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to my constituent, Mr. Hugh M. Bates, a man whose lifetime has been spent in serving his native State of Alabama and this great country.

Few citizens in our community can match or even approach Hugh Bates' record of service. After completing high school, he enlisted in the U.S. Marine Corps and served his country in Korea where he was awarded the Bronze Star and three Purple Hearts. Upon his return, he attended Penn State University and Virginia Polytech Institute.

In 1965, he was appointed postmaster of Clanton, AL. He served as both vice president and president of the Alabama chapter of the National Association of Postmasters of the United States [NAPUS]. He recently completed 2 years of service as national president of NAPUS, the first and only Alabamian to be so chosen. In this capacity, he well represented the interests of 43,000 members of that organization, both active and retired. He continues his association with the U.S. Postal Service as interim executive director of NAPUS and as a member of the board of directors of the NAPUS Federal Credit Union.

Mr. Bates has also contributed generously to the community of Clanton, AL. He has served as chairman of both the hospital board of Clanton and the school board trustees and as president of the civil defense rescue. His civic activities include president of the chamber of commerce, commander of both the VFW and the American Legion, and member of the Clanton Industrial Development Board. He is also a 32d degree Mason and Shriner and an active member of the First Baptist Church of Clanton.

A dedicated family man, Hugh M. Bates and his wife, Jane have three children and six grandchildren.

Mr. Speaker, I wanted to share with the House both Mr. Bates' contributions and my community's appreciation for his continued service throughout the years. We wish his family and him continued health and much happiness in the years ahead.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 22, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 4:50 p.m. on Friday, April 22, 1988 and said to contain a message from the President whereby he transmits the annual Aeronautics and Space Report covering 1986 activities.

With great respect, I am,
Sincerely yours,

DONNALD K. ANDERSON,
Clerk, House of Representatives.

REPORT ON AERONAUTICS AND SPACE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology:

(For message, see proceedings of the Senate of Friday, April 22, 1988, at page S4578.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on both motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, April 26, 1988.

GENOCIDE CONVENTION IMPLEMENTATION ACT OF 1988

Mr. MAZZOLI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4243) to implement the International Convention on the Prevention and Punishment of Genocide, as amended.

The Clerk read as follows:

H.R. 4243

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Genocide Convention Implementation Act of 1988".

SEC. 2. TITLE 18 AMENDMENTS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 50 the following:

"CHAPTER 50A—GENOCIDE

"Sec.
"1091. Genocide.
"1092. Relation to other remedies.
"1093. Definitions.

§ 1091. Genocide

"(a) BASIC OFFENSE.—Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d) of this section and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

"(1) kills a member of that group;

"(2) causes serious bodily injury to a member of that group;

"(3) causes the permanent impairment of the mental faculties of a member of the group through drugs, torture, or similar techniques;

"(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

"(5) imposes measures intended to prevent births within the group; or

"(6) transfers by force a child of the group to another group;

or attempts to do so, shall be punished as provided in subsection (b) of this section.

"(b) Punishment for Basic Offense.—The punishment for an offense under subsection (a) of this section is—

"(1) in the case of an offense under subsection (a)(1), a fine of not more than $1,000,000 and imprisonment for life; and

"(2) a fine of not more than $1,000,000 or imprisonment for not more than 20 years, or both, in any other case.

"(c) Incitement Offense.—Whoever in a circumstance described in subsection (d) of this section directly and publicly incites another to violate subsection (a) of this section shall be fined not more than $500,000 or imprisoned not more than five years, or both.

"(d) Required Circumstance for Offenses.—The circumstance referred to in subsections (a) and (c) of this section is that—

"(1) the offense is committed within the United States; or

"(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

"(e) Nonapplicability of Certain Limitations.—Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1) of this section, an indictment may be found or an information instituted at any time without limitation.

"§ 1092. Relation to other remedies

"Nothing in this chapter—

"(1) precludes the application of State or local laws on the same subject; or

"(2) creates any Federal civil remedy with respect to the conduct prohibited by this chapter.

"§ 1093. Definitons

"As used in this chapter—

"(1) the term 'child' means an individual who has not attained the age of 18 years;

"(2) the term 'ethnic group' means a set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage;

"(3) the term 'incites' means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

"(4) the term 'national group' means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;

"(5) the term 'racial group' means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

"(6) the term 'religious group' means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

"(7) the term 'substantial part' means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.".

(b) Clerical Amendment.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 50 the following new items:

"50A. Genocide .... 1091".

The SPEAKER pro tempore (Mr. Harris). Pursuant to the rule, a second is not required on this motion.

The gentleman from Kentucky [Mr. Mazzoli] will be recognized for 20 minutes and the gentleman from Georgia [Mr. Swindall] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. Mr. Speaker, it is no exaggeration to say that your Committee on the Judiciary brings to the floor today a bill of monumental and historic significance—the Genocide Convention Implementation Act of 1988.

The genesis of this legislation can be traced to that point in time 43 years ago when the world was compelled to confront the horrifying realities of the Nazi murder camps. The names of those camps are well known—Treblinka, Dachau, Auschwitz, Burhenwald—names that will continue to carry with them powerful feelings of anguish, horror, and disgust.

It is too late to help the victims of the Holocaust. But it is not too late for us, as a nation, to express our collective outrage at the crime of genocide and to fashion whatever prosecutorial tools may be necessary to ensure that those who would commit genocide in the future are severely punished.

The simple purpose of H.R. 4243 then is to deter and dissuade, where possible, those who would commit this grievous sin against man and God. If deterrence fails, they would be punished severely.

Mr. Speaker, we are aware of the long and difficult history of the International Convention on the Prevention and Punishment of the Crime of Genocide. But for the record it might be worth pointing out a few things.

This Convention was signed by the United States in 1948 and submitted to the Senate by President Truman for its advice and consent in 1949. There it languished for 37 years.

It might be interesting to note here that for 19 of those 37 years our colleague from the other body, the senior Senator from Wisconsin, Senator Proxmire, made a speech, at the beginning of every day the Senate met, in behalf of the Senate taking up that treaty and approving it. Mr. Proxmire delivered a statement every day, 3,300 such statements. Finally, 1986, Senator Proxmire's exhortations to his colleagues and the country prevailed, and the Senate on February 19, 1986, gave its advice and consent to the Genocide Convention by a vote of 83 to 11.

The Senate's advice and consent to the treaty, however, did not come without conditions. The eighth and final Senate proviso to the convention established as a condition precedent to final ratification of this convention that domestic legislation criminalizing the act of genocide had to be adopted by both bodies and signed into law.

Pursuant to this mandate, Mr. Speaker, the distinguished gentleman from New Jersey [Mr. Rodino], chairman of our full Judiciary Committee, and I, along with the gentleman from California [Mr. Berman], introduced the legislation before us today. It was overwhelmingly approved at the subcommittee and again at the full committee level on April 13.

At this point I would digress for a moment to salute and pay tribute to two people in my hometown, and the district I am privileged to represent: Mrs. Kathy Sloane, who is the wife of our distinguished county judge/executive, Harvey Sloane, both personal friends of mine of long standing, and Mr. Richard Heideman, a leader in the B'nai B'rith organization at home, and also a personal friend of long standing. Both took part in the deliberations before our subcommittee and the full committee and submitted very important statements for the record which helped us to formulate our opinion on this matter. I want to thank them for that interest.

Turning back to the bill, Mr. Speaker, H.R. 4243 is carefully crafted to conform precisely with the Genocide Convention itself. Both seek to protect those groups of people distinguishable by their race, their religion, their nationality or their ethnicity. To be convicted of genocide it must be shown that the person had to commit an act of violence with the specific intent to destroy, in whole or in part, one of those four protected groups.

Depending on the act, the penalty in the bill before us ranges from 5 years imprisonment or a $500,000 fine to life imprisonment and a $1 million fine.

Mr. Speaker, I am pleased to note that virtually identical legislation has been approved by the Judiciary Committee in the other body and is awaiting floor action. I think floor action will be swift and positive.

We stand, therefore, Mr. Speaker, on the threshold of bringing to closure a process that began 40 years ago. With the enactment of H.R. 4243 we will be able at long last to join the list of some 96 nations of this world which have already ratified the Convention on Genocide.

Mr. Speaker, I urge my colleagues to vote for and to vote enthusiastically for H.R. 4343.

Mr. Speaker, I reserve the balance of my time.

□ 1225

Mr. SWINDALL. Mr. Speaker, I am pleased that H.R. 4243, legislation to implement the Genocide Convention, is before the House today. This year marks the 40th anniversary of the creation of the Genocide Treaty which was adopted unanimously by the U.N. General Assembly in 1948. Not surprisingly, the United States was the first country to sign the treaty on December 11, 1948, 2 days after it was adopted. It was transmitted to the Senate soon afterward seeking ratification. However the Senate did not ratify the treaty until 1986 in the 99th Congress. The final step in the process of the U.S. ratification of this treaty is the legislation before us today to implement this treaty and make it part of our own U.S. criminal law.

The Genocide Treaty was an outgrowth of the Holocaust trauma that occurred during World War II. The convention was designed to place all of the nations of the world on record in opposition of the crime of genocide in hopes of preventing future tragedies. By ratifying the convention and implementing the treaty into our own laws, the United States joins the community of nations pledging to forever ban genocide.

This legislation has two purposes. First, to codify the international law respecting the crime of genocide and second, to list the punishment for acts of genocide. In essence, this legislation makes an offense with its specific intent to destroy in whole or in substantial part, a national ethnic, racial, or religious group: First, to kill a member of the group; second, to cause serious bodily injury to a member; third, to cause the permanent impairment of the mental facilities of a member; fourth, to subject the group to conditions of life that are intended to cause a physical destruction of the group; or fifth, to impose measures intended to prevent birth within that group or to transfer by force a child of the group to another group. The bill also prohibits the attempt and the direct or public incitement to commit any of these offenses. This legislation is strongly supported by both the Department of State and the Department of Justice.

I might add, Mr. Speaker, that there were some reservations prior to the ratification or passage by the Senate with respect to the treaty vis-a-vis our own Constitution. I might add that those problems were worked out before ratification so in no way does the passage of this treaty in any way subjugate the rights of individual Americans to their constitutional rights as guaranteed under our Constitution.

Mr. Speaker, 97 other countries including every major power and virtually every democratic country have already ratified this convention. I am hopeful that we can move quickly toward final passage of this legislation in the House and encourage the Senate to do the same. I urge my colleagues to vote in support of H.R. 4343.

Mr. MAZZOLI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. I thank the gentleman for yielding.

Mr. Speaker, I rise in strong support of H.R. 4243.

I want to pay tribute to the gentleman from Kentucky [Mr. MAZZOLI], to the gentleman from New Jersey [Mr. RODINO], the chairman of the Committee on the Judiciary, and to the other members of the Committee on the Judiciary and of the House who have made it possible to bring this historic legislation before us today.

Forty years after the adoption of the Genocide Convention by the United Nations, the Congress of the United States has finally gotten around to enacting the necessary implementing legislation which will give substance to the American ratification of this important treaty.

Mr. Speaker, I represent back in Brooklyn in my own constituency probably more survivors of the Holocaust than any other Member of the House.

For literally thousands and thousands of my constituents in Brooklyn, the Holocaust is not an ancient memory but a living reality which haunts literally every step of their daily existence.

It seems to me that the murder of 6 million Jews which took place during the Second World War constitutes the central existential fact in the history of human civilization. It demonstrated the depths of depravity to which the human spirit can sink. I would suggest, Mr. Speaker, that there is no greater or higher task that confronts us as a nation than to do everything we possibly can to make sure that no such catastrophe ever befalls the Jewish people nor any people anywhere in the world ever again.

This legislation which we enact today constitutes a small but significant step in that direction. I want to express my own profound personal appreciation to my very good friend from Kentucky, the chairman of the subcommittee, for facilitating the adoption of this historic legislation. There is nothing that we can ever do, there is nothing that we can ever say which will bring back the 6 million from their graves; but by adopting this legislation today we can endow and invest their deaths with a redeeming significance. By taking the kind of action which can diminish the possibility of another Holocaust in the future we can ensure that they will not have entirely died in vain.

I would also like to point out to my colleagues that in addition to commemorating the 40th anniversary of the Genocide Convention, 1988 marks the 40th anniversary of the creation of the State of Israel, and just last week, we celebrated Yom Ha'atzmaut—Israel's independence day. Just as the passage of this bill would constitute an important symbol of our commitment never again to allow another Holocaust, the existence of the State of Israel represents the world's living memorial to the victims of the Holocaust and the ultimate guarantee that the Jewish people will never again fall victim to genocide.

So, Mr. Speaker, I call upon all of our colleagues in the House to support this legislation and to put the House of Representatives and the Congress of the United States firmly on the side of justice and human dignity.

The noted American philosopher, George Santayana has so eloquently stated: "He who chooses not to recall the past is condemned to repeat it." It is incumbent upon this Congress to implement the Genocide Convention and thus say "never forget."

I thank my friend from Kentucky for yielding this time to me.

Mr. MAZZOLI. Mr. Speaker, I want to thank my friend for a very powerful and eloquent statement and for his friendship over the years and his support, his very important support in bringing this bill foward today.

I think the people in the gentleman's district are extremely well served on a daily basis by his service here in the Congress.

Mr. SWINDALL. Mr. Speaker, I yield such time as he may consume to my friend and colleague, the gentleman from New York [Mr. FISH], the ranking member of the full Committee on the Judiciary.

I might also add at this time, Mr. Speaker, that as a result of the efforts of this gentleman, we have seen this legislation not only move expeditiously but we have seen it move with virtually no opposition whatsoever.

Mr. FISH. Mr. Speaker, I thank my colleagues for those kind remarks.

Mr. Speaker, I urge my House colleagues to support the legislation we have before us today, H.R. 4243, the Genocide Convention Implementation Act of 1988. Passage of the legislation will be the final step toward ratification of this international treaty approved in 1948 by the United Nations.

Immediately following World War II, the United Nations convened to assure that atrocities like those committed by the Nazi regime against European Jews must never be repeated. At the Genocide Convention, all member countries pledged to outlaw acts of genocide and to punish their perpetrators. The convention was submitted by President Truman to the Senate for its "advice and consent" in 1949.

During the nearly 40 years of debate that followed, some lawmakers feared treaty implementation would undermine U.S. sovereignty. Finally in 1986, the Senate approved the Genocide Convention incorporating provisions to accommodate the various concerns raised in these debates. The legislation now before us to implement this convention into U.S. law defines the crime of genocide—an attempt to destroy a national, ethnic, racial or religious group—and sets appropriate punishments for anyone found guilty of this crime. To date, the United States has no law governing genocide.

Mr. Speaker, it is a fact the world today continues to look to the United States for moral leadership in human rights. Therefore, the U.S. implementation of the Genocide Convention is important to those throughout the world who look to this country for consistency and strength on human rights issues.

It is also important in our continuing dialog and pressure on human rights as we have been criticized for failure to complete ratification of this convention.

Mr. Speaker, your Judiciary Subcommittee on Immigration, Refugees and International Law heard numerous parties in support of the legislation including the State Department and the Justice Department. Implementation was strongly favored by witnesses representing groups that have experienced genocide: the American Jewish Committee, Amnesty International, B'nai B'rith International, Armenian Assembly of America, and the National Spiritual Assembly of the Baha'is of the United States.

Hyman Bookbinder read a statement to the subcommittee from Nobel Laureate Elie Wiesel. In his statement Mr. Wiesel said:

> What is at stake is our moral credibility in the world. Naturally, our Nation opposes any massacre; but genocide is the ultimate massacre and thus must be opposed and denounced with force and vigor.
>
> What is at stake is our honor as a nation governed by an ancient ethical tradition that proclaims its belief that life is to be celebrated and sanctified.

Mr. Speaker, I am hopeful that this final step to implement this treaty will be completed quickly by both Houses of Congress and urge my colleagues to vote for its passage.

Mr. MAZZOLI. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. I thank my friend from Kentucky for yielding this time to me and I also want to congratulate the chairman of the full committee, the gentleman from New Jersey [Mr. Rodino], as well as the ranking member, the gentleman from New York [Mr. Fish], and the gentleman from California [Mr. Berman], and all those who have sponsored this important initiative.

Mr. Speaker, the Genocide Convention has two purposes. The first is to codify our national law respecting the crime of genocide. The second is to require the contracting parties to the convention to deter acts of genocide and punish them pursuant to their laws and in fact to date some 96 nations have signed the law.

Mr. Speaker, genocide is defined generally as acts committed with intent to destroy in whole or in part a national, ethnicl, racial, religious group by acts such as killing, maiming, wounding, deliberate attempts to in fact prevent births in those groups.

Mr. Speaker, one could not think of a more horrendous act against a people or an ethnic or religious or other group.

It has taken us some 40 years, Mr. Speaker, and that is unfortunate. But the timing is ironic because this is the 40th anniversary of the founding of the State of Israel. So it is timely that we in fact get our act together in this country and sign a most important convention. Although we were one of the first countries concerned, unfortunately we have been a little tardy in ratifying it. I am proud to be a sponsor of this important piece of legislation. I congratulate my colleague for moving it quickly to the floor.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. HUGHES. I yield to the gentleman from Kentucky [Mr. Mazzoli].

Mr. MAZZOLI. I thank the gentleman for yielding.

Mr. Speaker, I appreciate my friend's yielding. I want to thank him for his help at the full committee level because as the gentleman knows, we brought this up in a very expeditious way in the hope that we might qualify to bring this matter to the floor by April 14 which, as the gentleman knows, was a national day of remembrance of the Holocaust.

We missed that by just a little bit because of some parliamentary problems. But the gentleman has been extremely helpful to us on the full committee and at the subcommittee in making sure that we had our record, making sure that we received the requisite number of votes to bring it out under this procedure.

So I want to thank him for his help and support over the years.

Mr. HUGHES. I thank the gentleman. As the gentleman knows, in fact, this Genocide Convention came out of the tragedy, the grotesqueness of the Holocaust. It is appropriate that in fact we move it expeditiously to the floor. I am proud of the gentleman from Kentucky for moving it as he has. This implementing legislation has moved very speedily through the Congress thanks to the gentleman and also the ranking Republican on the committee.

Mr. RODINO. Mr. Speaker, genocide, the deliberate extermination of a racial, religious, or ethnic group: Is there a more heinous or diabolical crime which can be conjured up in man's mind?

Yet, modern history records within our lifetime and memories, two major occurrences of genocide.

Who can forget the Holocaust? An estimated 6 million Jews died in the years from 1933 to 1945. The Holocaust was unique in scope and barbarity, concentrating on the complete annihilation of one people, the Jews. This is the very definition of genocide.

Laws and physical persecution provoked anit-Jewish arrests and riots. Countries conquered and dominated by the Nazis forced Jews into crowded ghettos ravaged by disease and starvation. They were banished to concentration camps which culminated in executions in death camps at Auschwitz, Treblinka, Dachau, and Buchenwald. In 1942, this became the implementation of the final solution, the complete extermination of European Jewry.

If some are too young to recall the Holocaust, surely the wanton executions of untold millions under Pol Pot and the Khmer Rouge are still vivid. All prominent members of previous Cambodian regimes and all Cambodian citizens viewed as potentially hostile were rounded up and executed. All urban residents were sent to rural areas to work literally as slaves under the ruthless direction of soldiers. Untold millions were killed and dispersed.

All this demonstrates the imperativeness of this legislation, H.R. 4243, the Genocide Convention Implementation Act of 1988.

It has been a long time in reaching this point in the legislative process. In 1946, India, Cuba, and Panama proposed to the U.N. General Assembly that study should be given to declaring genocide an "international crime." The United Nations declared that "punishment of the crime of genocide is a matter of international concern" and asked member governments to create legislation for the prevention of genocide.

After the U.N. Council and the General Assembly considered the convention, it was unanimously adopted on December 9, 1948. President Truman signed it that year. Ninety-six nations have ratified the convention and every U.S. President since Truman has endorsed it.

After 37 years of consideration, the Senate gave its advice and consent to the treaty in 1986. The only remaining step is the passage of this implementing legislation. Once this is done, the President can then deposit the instrument of ratification with the United Nations.

How often have we heard the expression, "It can't happen here?" We may be complacent enough to think genocide is never likely to occur within our borders. Nonetheless, this legislation underlines our leadership role in the free world on behalf of the cause of human rights. Above all this bill clearly condemns this most vicious and barbaric crime.

History has shown that the crime of genocide has been visited upon ordinary good, unsuspecting people taken up in a manic and hateful atmosphere. Survivors and descendants of survivors of genocidal criminality can attest to the fact that hatred of those who are different can provide vile and incomprehensible reactions, leading to the systematic elimination of those who are different.

I repeat, this legislation reinforces our moral credibility in the world and demonstrates our profound commitment to the dignity of man.

I urge my colleagues to vote for H.R. 4243.

Mr. FASCELL. Mr. Speaker, this is an historic day in this Chamber for human rights and the United States! This Chamber has before it legislation to implement the Genocide Convention. The General Assembly adopted that Convention back in December 1948—almost 40 years ago. It came into force in January, 1951. Many States of the world have ratified the convention, technically called the Convention on the Prevention and Punishment of the Crime of Genocide. Ratification requires advice and consent of the other body as well as enactment of legislation implementing the provisions of the convention.

The United States remains one of the very few governments that has not yet ratified the Genocide Convention. The United States signed the convention in 1948, and numerous Presidents, beginning with Harry Truman transmitted it to the Senate for its advice and consent. But the convention, like other human rights instruments languished for a number of years. The American Bar Association supported its ratification and along with public support from various groups it contributed to U.S. consideration of the convention. To his credit, President Reagan transmitted it to the Senate which finally gave its advice and consent in February 1986 when after adding eight provisos, approved the convention by a vote of 83 to 11.

Subsequently, in January 1987, Congressman RODINO, chairman of the Committee on the Judiciary, introduced H.R. 4243, the Genocide Convention Implementation Act which after due consideration in the Judiciary Committee was amended and reintroduced as a clean bill, the Genocide Implementation Act of 1988. The purpose of this legislation is to deter and punish, through criminal penalties, anyone who commits specified acts of violence specifically intended to destroy, in whole or part, a national, religious, ethnic or racial group. Adoption of this legislation will further full ratification by the United States Government of the convention.

Under the terms of the convention, final and full ratification cannot occur until implementating legislation is adopted. The administration has strongly supported U.S. ratification and this legislation. I hope that Members of this Chamber will give their full endorsement to it also. Passage of this legislation will enable the United States to join a majority of the members of the world community in upholding the international legal principles of this very significant international human rights instrument!

I strongly endorse the Genocide Implementation Act of 1988 and commend my good friend and colleague, Congressman RODINO for his significant work in bringing this legislation to the floor today. I would hope that passage of this legislation and subsequent full U.S. ratification would be followed by the administration's transmittal of other international human rights instruments that the United States has already signed to the other Chamber for advice and consent.

Mr. ATKINS. Mr. Speaker, I rise today in support of the Genocide Convention Implementation Act. Upon enactment of this legislation, it will finally become possible—after a delay of 41 years—for the United States to ratify the International Convention on the Prevention and Punishment of Genocide.

Mr. Speaker, in the aftermath of World War II, nations grieving for the victims of the Nazi Holocaust, convened at the United Nations. Their purpose was to ensure that never again would such atrocities—such wholesale slaughter of human beings on the basis of race, religion, nationality, or such distinguishing characteristics—be repeated. Henceforth, these nations agreed, genocide would be outlawed and perpetrators of genocide would be prosecuted.

Notwithstanding the requests of seven Presidents, the U.S. Congress steadfastly refused to ratify the convention. Instead, we comforted ourselves with "lest we forget" sorts of exhortations.

Well, Mr. Speaker, we did forget. In the wake of our own departure from the war in Veitnam and Cambodia, the evil leaders of the Khmer Rouge in Cambodia took over and systematically and wantonly destroyed from 1 to 3 million Cambodians. Slave labor, merciless torture, hunger, disease were all rampant in Cambodia—not by happenstance, not by an act of God or nature—but because of the malevolent Hitlerian dictator, Pol Pot and his henchmen.

The nations of the world had said "never again" after Nazi Germany, but indeed they were wrong. Genocide committed by Khmers against Khmers happened and the vows taken by so many to prevent another Holocaust were suddenly hollow and meaningless. It is our shame that genocide did occur again in our midst and we did nothing.

Haing Ngor, the actor who starred in the movie the Killing Fields, described in his own recently released autobiography the harrowing effects the crimes committed by the Khmer Rouge had on his own life:

> Day after day the purge grew worse. Some were taken away for complaining, most for stealing food to stay alive. We tried to learn why the Khmer Rouge were killing so many but found no real reason. It was just something they did, a craving they could not satisfy. They created enemies to devour, which increased their appetite for enemies . . . . Shock, horror, grief—with the death of my father, part of us died too. Two weeks later, my brother and his wife were taken away with their hands tied. They never came back. There were only two of us left to pray for their souls. We wondered who would light candles for us.

The genocide of Cambodia is not an event of the far distant past. It is yesterday's tragedy. One has only to walk among the Cambodian refugees housed in camps on the Thai-Cambodian to understand the sadness, the poignancy, the emptiness of the lives of the survivors. For them, the only memorial to a holocaust is the refugee camp where they wait—wait for the long trip home when times are better and their country is restored to normalcy.

And, so today, we pass the legislation that at the very least gives greater credence to our abhorrence of genocide. I remain perplexed, Mr. Speaker, why this day is so long in coming, but at least it has arrived. Now, Mr. Speaker, let us attach some greater meaning to American ratification of the treaty by bringing to justice one of the world's most heinous criminals, Pol Pot. Let us not pass today's legislation and expect that it in itself will produce the moral suasion to protect future victims. We know now that that is not enough. Only by prosecuting, by exposing and punishing Pol Pot, who lives and plots to this very day, will we make people understand that perpetrators of genocide cannot go free, unencumbered by their crimes, by their hatred and the spectre of punishment.

Mr. YATRON. Mr. Speaker, after four decades, it appears that the United States will soon ratify the Genocide Convention. The House of Representatives passed the implementing legislation and hopefully the U.S. Senate will not be far behind.

Out of the ashes of the holocaust, the newly founded United Nations wanted to put an end to the scourge of genocide, so on December 9, 1948, the U.N. General Assembly adopted and proposed for signature and ratification a Convention on the Prevention and Punishment of the Crime of Genocide. On December 11, 1948, during the Truman administration, the convention was signed.

Despite this historical signing, the convention did not receive the advise and consent of the Senate for many years. On April 24, 1985, the House Foreign Affairs Subcommittee on Human Rights and International Organizations, which I chair, marked up a resolution expressing the sense of the House of Representatives with respect to the ratification of the Convention of the Prevention and Punishment of the Crime of Genocide. The resolution was amended and passed by the House on May 21, 1985. After 27 years, the Senate gave its advise and consent to the treaty in 1986.

Mr. Speaker, the Genocide Convention, which U.S. representatives to the United Nation had a significant role in drafting, is an important human rights instrument. Genocide is the most abhorrent of all human rights violations, and the convention establishes a procedure to try any person(s) charged with committing such an act.

The convention also focuses attention on that repugnant crime. Hopefully, by instituting this convention and drawing attention to this heinous act, we will never again witness such a deed.

Mr. LEVIN of Michigan. Mr. Speaker, I rise in support of this bill. This month is known as the Days of Remembrance as we commemorate the holocaust, so it is perhaps especially fitting that we consider approval of the Genocide Convention at this particular time.

Forty years ago the Genocide Convention was adopted unanimously by the U.N. General Assembly. Although the United States signed that agreement, final, formal ratification cannot occur until Congress submits its advice and consent. One can only wonder why we allowed for 40 years our best intentions to be overcome by debate. This bill now has bipartisan support in both Houses of Congress and it has support in the key executive branches—State and Justice. We must not delay this bill's passage another moment.

Those of us who have become familiar with the tragic histories of the holocaust, the Armenian Genocide and the displacement of one-third of the Afghan people know fully that no piece of legislation could have stopped these atrocities. We know the bill is mostly symbolic. It's symbolic of our commitment to the sanctity of human life. And it's symbolic of our special commitment to minority groups and ethnic groups, many of whom have faced serious threats to their population.

But this bill is not only symbolic. It defines acts which constitute genocide and establishes laws governing the investigation and prosecution of those who perpetrate genocidal acts. And perhaps more importantly it requires the signers of the convention to deter, to prevent, these acts of genocide. By formally ratifying the Genocide Convention we pledge ourselves to observe a legal, as well as moral obligation, to never forget previous genocides, and to never again allow genocidal acts to occur.

Mr. Speaker, I urge my colleagues to vote for this legislation.

Mr. GEKAS. Mr. Speaker, I rise in somewhat reluctant support of H.R. 4243. I support the intent of the legislation and that is to implement the International Convention on Genocide negotiated in 1948 which the U.S. Senate ratified only after some 40 years.

However, what H.R. 4243 fails to do is a glaring defect which may in fact make what we do today entirely nugatory. The criminal penalties in this bill should include the death penalty. For if there was ever a crime that merited capital punishment it certainly would be genocide. Some 40 States apply capital punishment for deeds which pale in significance to the crime of genocide. Yet H.R. 4243 does not contain the death penalty—even for the intentional, wanton slaughter of an entire race. I find this omission unconscionable.

I fear that if we punish the crime of genocide less severely than nearly 40 of our States punish ordinary homicide we are making an unfortunate statement on the culpability of the respective offenders. We are holding the Eichmanns of this world to a lesser moral standard than we do the least advantaged of our citizens—an indefensible duality when one considers the overwhelming evil of genocide.

Since this bill is being brought up under suspension, I am precluded from offering the amendment which I did at the Judiciary Committee to apply the death penalty to genocide. I support the bill now only in the hope that the Senate will be able to fill the gap which we have left.

Mr. Speaker, I can conceive of no more serious a crime than genocide and I can think of no reason for not imposing the most serious punishment permitted under our system of laws. H.R. 4243 does not do that and for that reason it makes but a garbled moral statement about what is and what is not the most reprehensible human conduct.

Mr. SWINDALL. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MAZZOLI. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky [Mr. MAZZOLI] that the House suspend the rules and pass the bill, H.R. 4243, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that all Members may have 5 days in which to revise and extend their remarks on H.R. 4243, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

INTERNATIONAL CHILD ABDUCTION REMEDIES ACT

Mr. FRANK. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 3971) to establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

The Clerk read the Senate amendment, as follows:

Page 5, strike out lines 2 to 7, and insert:

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

The SPEAKER pro tempore. Is a second demanded?

Mr. SWINDALL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. FRANK] will be recognized for 20 minutes and the gentleman from Georgia [Mr. SWINDALL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

□ 1240

Mr. FRANK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is the day in which the House is being asked to face up to some very difficult issues.

Having gone on record against genocide, we will now forthrightly condemn child abduction.

The House has already passed this bill. It was necessitated by a treaty which we signed. We do have a serious problem where in cases of divorce or separation there have been cases of the noncustodial parent abducting the child from the custodial parent. When that happens within the United States, our legal system has been able in many cases to deal with it, but there is a pattern that has tragically developed of the noncustodial parent in some cases kidnapping a child and taking that child to a foreign country.

The U.S. Government has signed a treaty with several countries where we have commonality in our legal system to set up procedures whereby we can litigate to recover the child. And it is obviously a very important thing for us to do; namely, to prevent children from being used as pawns. The trauma and the horror that is inflicted on the child, who is the victim, is inordinate. Having children who have a right to live in one country with the custodial parent, forcibly abducted to live in a foreign country or country where that child may not know the language, that ought not to be, and it is our obligation to do everything we can do to prevent that.

Mr. Speaker, this bill implements that treaty. It was passed, as I said, a couple of weeks ago unanimously. It went to the other body. There was a minor difference on some details; namely, dealing with what the jurisdiction ought to be in the courts. The House had modified it; the lead was taken in that by our colleague from Maryland who serves on the subcommittee, Mr. CARDIN. He was asked by the chairman of the full committee and myself to work out the differences. He was satisfied, after some conversation, that we could all live with the way the Senate did it; the administration I should say.

The Justice Department clearly preferred a different way. The State Department, while it concurred in the Justice Department's presentation, concurred with a certain lack of enthusiasm leading me to believe that they preferred it the way the Senate did it.

In any case I do not think anyone thinks these are major differences of the sort that ought to slow this bill down, so I hope we will concur in the Senate amendment. That will allow the bill to go to the President. He will sign it. The process of the ratification of the treaty will begin, I think, as soon as we act today, and we will not have a magic answer, but a much better set of procedures to deal with the problem of abductions.

Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I want to congratulate the gentleman from Massachusetts, the chairman of the Administrative Law Subcommittee, for his excellent work on H.R. 3971, a bill to establish procedures to implement the 1980 Hague Convention on the civil aspects of international child abduction. It is a good piece of legislation.

Child abduction is a serious problem. In most instances it is just an effort on the part of the noncustodial parent to escape the jurisdiction of the court that has awarded custody of the child or children to one particular parent. This, in fact, is very carefully drawn. It does not remove from the States, and that is clearly spelled out, jurisdiction over a child, custody and care, but it does, in fact, implement an international convention to deal with those cases where, in fact, a child has been abducted.

Mr. FRANK. Mr. Speaker, I thank the gentleman from New Jersey. His expertise in the field of criminal law is available to the rest of us on the committee, and we appreciate his support.

Mr. SWINDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill we now have before us, H.R. 3971, addresses head on an issue that has become increasingly important to citizens of our country and of foreign countries as well. I would like to concur with the remarks made by my colleague, Mr. Frank, the chairman of the subcommittee from which this bill originated in the House, and to commend our colleagues in the Senate for acting on this legislation.

In recent years, there has been an increase in the abduction of children from one country, who are then transported into a foreign country in order to evade enforcement of the child custody laws against the abductor. Certainly a person who abducts a child should not be able to succeed in that abduction simply by fleeing to a foreign country and then hiding behind legal obstacles in that foreign country in order to keep that child from being recovered by his or her rightful custodial parent. This legislation addresses that problem by implementing the Hague Convention on the Civil Aspects of International Child Abduction.

H.R. 3971, like the Hague Convention, sets forth procedures under which a parent whose child has been abducted may seek recovery of that child in a foreign country without the obstacle of a protracted custody battle. The purpose of the convention is simply to return the custody of the child to the status quo that existed before the child was abducted; then, if a legal custody battle is to ensue, at least the wrongdoer will not benefit from a lenghty legal contest by having custody of the child during the pendancy of the legal dispute.

Members of the Subcommittee on Administrative Law and Governmental Relations in the House hammered out some of the issues surrounding this legislation at the subcommittee level and further at the full committee level. The language of the Senate amendment to the House bill regards concurrent jurisdiction of the Federal and State courts over the procedures set forth by this legislation. The Senate language regarding court jurisdiction was part of the original House bill and was subject to debate in the committee process on the House side. Many of us in this body felt that the language of this bill should have remained in its original form to begin with. Consequently, we have no objection to accepting the Senate amendment with regard to Federal and State court jurisdiction over these procedures.

I commend my colleague from California, Mr. Lantos, for introducing this bill, my colleagues on the Judiciary Committee for the constructive debate regarding this bill, and our colleagues from the other body for moving this important legislation in an expedited fashion.

Mr. FRANK. Mr. Speaker, I again yield myself such time as I may consume.

Mr. Speaker, I want to congratulate and thank my friends on the other side, the gentleman from Georgia, who is helping out, and the gentleman from Florida, who has to be absent today but was very cooperative.

I did not want to point out that this is an example of interbranch comity. I want to point that out probably because serving in the legislative body means you get to say the word "comity," which nobody else in the world ever says.

But we had a conference last December on the State Department authorization bill in which our colleagues on the other side of the building included a number of matters that were within the jurisdiction of the Judiciary Committee, and several of us at the time asked that those be deferred because we wanted to preserve committee jurisdiction, and I want to be able to report this was one of those. My colleagues should understand that was a good-faith effort, and I think it is important to point out that, of all the issues that were in that authorization that we thought should not be, I believe that the Judiciary Committee has either completed action or is undertaking action.

So I want to say that to give some legitimacy to the committee process. We thought that these things would benefit from the committee being able to study them. In fact, the committee made some changes here which the Senate concurred in, and I think that is a useful thing to point out.

Mr. Speaker, I also want to include at this point in the Record, although I will ask for general leave, statements by two of the men who are very much responsible for the successful conclusion of this. First, the chairman of the full committee, the gentleman from New Jersey [Mr. Rodino] whose leadership on this and other things has been very important; and, second, the gentleman from Maryland, whom I already mentioned, who took a very active part in this and was very helpful in bringing it to a conclusion.

Mr. RODINO. Mr. Speaker, the Committee on the Judiciary considered H.R. 3971 on an expedited schedule so that abducted American children can be returned home as soon as possible. The bill provided for implementation of the Hague Convention on the civil aspects of international child abduction.

The House passed H.R. 3971 on March 28, 1988, under suspension of the rules, and I now urge my colleagues to accept the Senate's single amendment. The Senate's amendment would provide for concurrent jurisdiction in State and Federal courts for actions which arise under the convention. In effect, this result is in large part the same as the House-passed version. The House-passed version provided for jurisdiction in State courts for actions seeking the return of an abducted child and jurisdiction in Federal court for consideration of Federal questions.

Enactment of H.R. 3971 offers hope to the anguished parents who lose their children abroad in violation of our laws and international law. At present, it is estimated that over 3,000 children have been abducted across international boundaries and now live in foreign countries in violation of custody orders. The 1980 Hague Convention will assist these parents. It also applies to abductions from the child's place of habitual residence prior to the issuing of a custody order.

H.R. 3971, the International Child Abduction Act, has strong bipartisan support in the Congress for obvious humanitarian reasons. Mr. Speaker, I urge my colleagues in the House to concur in the Senate amendment and pass H.R. 3971.

Mr. CARDIN, Mr. Speaker, H.R. 3971, the International Child Abduction Remedies Act provides for implementation of the Hague Convention on the civil aspects of the international child abduction. As this bill passed the House on March 28, 1988, it provided that State courts would have jurisdiction over actions for the return of a child abducted cross international borders, and that jurisdiction would be available in the Federal court for these actions under the general standards for Federal jurisdiction.

The Senate has now passed H.R. 3971 with a single amendment. This amendment provides that the State courts and the U.S. district courts will have concurrent jurisdiction over actions which arise under the convention.

From a practical standpoint, the approaches taken by the two versions have the same result. Litigation in these cases will always arise under this Federal law and under the convention, and thus will be subject to Federal court jurisdiction because they will involve Federal questions. They will also typically involve individuals who are citizens or subjects of foreign states, and will therefore be able to be brought in Federal courts because of diversity jurisdiction.

Although the two approaches have the same practical effect, the Senate approach could avoid any delay in obtaining an expeditious hearing in these cases by preventing the possibility of any litigation over whether Federal or State court jurisdiction is most appropriate in a particular case. Therefore, I urge this House to agree to the Senate amendment.

In doing so, however, I believe it is important to emphasize the view of Congress that we have no intention of expanding Federal court jurisdiction into the realm of family law. In fact, Congress reaffirms its view that States have traditionally had, and continue to have, jurisdiction and expertise in the area of family law. Here we are not intruding into this jurisdiction. Rather, we are simply providing through simple and unambiguous language that in the special circumstance where international child abduction is alleged, both the Federal and State courts should be available to resolve the claims. As a matter of fact, the State courts will often provide the best fora for these cases because their backlogs are often substantially less than those of the Federal courts in many parts of the country.

Passage of this legislation is essential to the ratification of the Hague Convention on international child abduction, and I urge that the House concur in the Senate amendment.

Mr. YATRON. Mr. Speaker, the Hague Convention on the Civil Aspects of International Child Abduction has as its purpose the establishment of uniform rules to be applied in cases of international child abduction. The convention addresses problems created when children are wrongfully removed or retained abroad due to parental custody disputes and requires that these children be returned to the country of their habitual residence upon application of the left behind parent. It also provides for establishment of a central authority in every government that is a party to the convention to receive and facilitate processing of requests for return of children.

The convention was adopted October 24, 1980 at the 14th session of the Hague Conference on Private International Law by a unanimous vote; currently 29 states have signed it and 9 of these have ratified it: Australia, Canada, France, Hungary, Luxembourg, Portugal, Spain, Switzerland, and the United Kingdom. The Hague Conference, incidentally, was established back in 1893 at the initiative of the Dutch Government, to promote the progressive unification of the rules of private international law and has worked in such areas as family law, international judicial assistance, and recognition and enforcement of foreign judgments.

The United States signed the International Convention on Child Abduction in December 1981, and the U.S. Senate gave its advice and consent to it in October 1986. However, the administration considered that the U.S. Government had not yet ratified it because Federal legislation would be needed to give effect to various provisions of the convention. The Department of State sent Congress an executive communication on implementing legislation in March 1987; Congressman LANTOS, my colleague from California, introduced the proposed implementing legislation, H.R. 2673, in the House on June 11, 1987. He reintroduced a similar bill in February 1988, that responds to concerns raised in hearings before the Committee on the Judiciary and the Committee on Ways and Means.

Last fall, during consideration in the House-Senate conference on the Department of State Authorization Act for fiscal year 1988 and fiscal year 1989, the Senate offered amendments to that legislation that would have the effect of implementing the convention. However, the House conferees opposed adoption of the amendments because the House Judiciary and Ways and Means Committees needed to consider them. In addition, I believed it would be appropriate for the Subcommittee on Human Rights and International Organizations to discuss the convention and proposed implementing legislation.

I am very pleased that our distinguished colleagues in the House Committee on the Judiciary and on Ways and Means have been able to act quickly to consider and recommend legislation implementing the convention. And, I commend them for their expeditious work.

H.R. 3971, the International Child Abduction Remedies Act, provides necessary legislation to implement the provisions of the convention. It establishes jurisdiction in the State courts for actions that develop under the convention; it also establishes a U.S. central authority to discharge the duties imposed on the United States by the convention and to cooperate with other competent authorities of ratifying countries to secure the prompt release and return of children.

I strongly endorse passage of H.R. 3971, and applaud the careful work of the sponsors of the bill and the House committees responsible for bringing it to conclusion here today.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 3971.

The SPEAKER pro tempore (Mr. HARRIS). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Massachusetts [Mr. FRANK] that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 3971.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

□ 1250

A LESSON IN HYPOCRISY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 5 minutes.

Mr. FRANK. Mr. Speaker, I want to talk briefly today about hypocrisy.

Several months ago I joined a number of my colleagues in opposing legislation that would have banned tobacco advertising. I believe that tobacco smoking is clearly harmful, cigarette smoking in particular, where people inhale. I think the cigarette companies have done a very poor job in coping with this health issue, and I think we ought to be taking measures like strong labeling measures and increased taxes on cigarettes to discourage smoking; but my belief in untrammeled freedom of expression leads me to oppose restrictions on advertising. I think free speech means that people have got to have the right to say bad things and stupid things within a very wide range, although there are obviously limits and people ought not to be allowed to do specific advocacy of certain violent acts and criminal acts; but I think it was a mistake for people to try to ban cigarette advertising.

I found myself aligned with many of the cigarette companies in opposing restrictions on advertising, and I expressed the hope at the time that those with whom I was aligned, the cigarette companies, would not limit their support for untrammeled free expression only to their right to sell a product, because it would bother me to think that they were simply using the first amendment for their own commercial purposes and professing to believe in free speech, when they did not, and free expression, when they did not.

I thought they were right to oppose restrictive legislation. I had expressed the hope that this would be part of a general effort by them to support freedom of expression.

I was, therefore, appalled, Mr. Speaker, absolutely appalled at the hypocrisy of the R.J. Reynolds Nabisco Co. when they fired their advertising agency because that advertising agency helped Northwest Airlines publicize its antismoking policy.

Now, I recognize that there is a very real difference between Government and private entities. Free speech constitutionally is directed at Government restrictions. It does not apply to private corporations. I do not suggest that it does, and it is clearly much more damaging to have the Government shutdown speech than to have a particular private entity move against freedom of expression, because the Government is so all-encompassing.

But the spirit is the same in both cases. When the R.J. Reynolds Nabisco Co., tells us not to restrict cigarette advertising because it would inhibit freedom of expression and they then fire their advertising agency because it expressed for Northwest Airlines a particular viewpoint, we are seeing hypocrisy at its most blatant and graphic form.

I want to tell my temporary allies in the cigarette industry that the behavior of R.J. Reynolds has sadly, in my judgment, weakening their ability to beat back that legislation. I was still opposed. I remain committed to the notion that people in this society have a right to say stupid and offensive things. That seems to me essential to a democratic society; but when a cigarette company uses the arguments of free speech and the rhetoric of free expression to oppose legislation, and then turns around, and remember, they did not fire this advertising agency for working for a competitor. That seems to me an entirely legitimate response, if someone is working for your competitor.

This advertising agency at the behest of another client prepared advertising which expressed that client's view that not smoking would be better on airlines.

In other words, R.J. Reynolds Nabisco was not saying that these people were helping my competitor. They were not saying that they were betraying confidential information from R.J. Reynolds. What they were saying was that if you indulge in the freedom of expression that we think should be untrammeled, if you engage in freedom to express through adverstising, which we have said is so important, and we do not like what you say, we are going to financially hurt you, and that attitude is wholly inconsistent with any true respect for free expression.

Mr. Speaker, I hope that other cigarette companies will not do anything remotely like that.

There will be other antismoking campaigns. There will be specific antismoking activities that I will agree with, a few I might disagree with. If the cigarette companies and the larger companies of which they are part follow the path of R.J. Reynolds and seek to use their financial clout to discipline people who express disagreeing views with them, they are going to undermine what I think is a very important fight, and it is preserving the right of untrammeled free expression in this country. It is not only hypocritical to do what R.J. Reynolds did, it is shortsighted.

DEMOCRACY IN THE PHILIPPINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota [Mr. PENNY] is recognized for 5 minutes.

Mr. PENNY. Mr. Speaker, I'm taking this time today to submit into the RECORD a letter from a constituent, Dr. Jim Eddy, a professor at Winona State University in Minnesota. In his letter, he describes his observations of the emerging democracy in the Philippines. I believe you will find it as encouraging as I did. Mr. Speaker, I include the text of Dr. Eddy's letter immediately following this letter:

WINONA STATE UNIVERSITY,
Winona, MN, April 11, 1988.

Representative TIMOTHY J. PENNY,
Cannon Office Building,
Washington, DC.

DEAR TIM: My recent trip to the republic of the Philippines from March 22 to the 29th has left me totally impressed.

Under President Corazon Aquino's leadership and the support of many others, the people to the Philippines are institutionalizing a participatory democracy. In the Philippines the people are voting for constitutions and elected leaders, but much more; they are directly involved in the public policy debate on land reform and the United States base issue. This suggests the Philippines has emerged from an authoritarian issue translating process to one that is democratic in nature.

The evidence of how democratic the issue translating process is in the Philippines was made known to me in several ways:

First, the climate of dialogue is open and relaxed. Yes, there is an insurgency confronting the Philippine republic, but this doesn't inhibit the discussion on land reform or the status of United States bases.

Second, everyone is participating in the dialogue. My discussions with Secretary Philip Juico of the Department of Agrarian Reform underscored the dedication of the Aquino government to develop legitimate power via land reform. Secretary Juico repeated several times how important it is to institutionalize advocacy on the part of the people. The opposition led by such articulate leaders as Erique Zobel confirmed my belief that everyone, except the insurgents, wants to construct nation building within the framework of the Philippine Constitution.

Third, the public is being well-informed on such issues as land reform and the bases. What I learned from my interviews with Secretary Juico and Mr. Zobel is being communicated very well in the several newspapers. In my discussions with students and professors at De La Salle University as well as taxi drivers etc., the public is informed and communicating their opinions to political carriers in a very substantive way.

Fourth, the development of public policy is being constructed with an emphasis upon comprehensive planning. The political carriers and policy makers in the Philippines know where they want to go on land reform, because a great deal of research and rational thought has been applied. Yes, differences exist on how much of an initial payment should be made to the owners, but there is no disagreement on the need for land reform. This consensus is the effect of much more than the insurgency; it is the result of excellent academic input from such dedicated professionals as Dr. Luzviminda B. Cornista of the Institute of Agrarian Studies at the University of the Philippines. What I learned from Dr. Cornista in an interview at Los Banos was underscored by professors such as Daniel Guzman, George Pahl and Eduarco Salgado.

What does this experience in the Philippines suggest for United States policy?

First, the United States must discipline its involvement in Philippine's affairs to a role of supporting the realization of an emerging participatory democracy. Such support should include:

1. Confining our involvement to responding to the initiatives of the Aquico government. This seems most appropriate for our macro concern should be with the continued development of a participatory democracy and the application of a democratic issue translating process to the issues of land reform and the negotiations on the bases.

Second, apply the lessons of the Camp David negotiations to our current discussions with the Aquino government on the future of the bases. At Camp David the approach was to utilize the advice of Roger Fisher, and emphasize conflict resolution. For the United States, this means communicating to the Philippine negotiators the positive aspects of our relations. What differences may exist on such matters as sovereignty vis-a-vis the bases should be negotiated only after there is established a consensus on the specifies on mutual interest to have the bases there. If this cannot be established, then we must find another base for deploying United States forces in the region.

Third, the Congress must provide the leadership in this election year regarding the need to financially support the efforts of the Aquino government to institutionalize land reform etc. Our interests in the Philippines must be primarily in stabilization via land reforms etc., and not the bases. Congress must prevent the base negotiations from becoming a dominate political issue in 1988. We don't need another reactive political outburst such as took place in 1980 over the Panama Canal Treaty.

In conclusion, I was deeply impressed by what I saw and heard in the Philippines. After twenty years of authoritarian rule by Marcos, the Philippines is an open and relaxed participatory democracy. We should express our gratitude to the Philippine people for their remarkable efforts by publically encouraging their efforts with positive support. Such support must include respect for their sovereignty, and financial assistance for their nation building efforts.

Sincerely yours,

JIM EDDY, Ph.D.

THE SATELLITE SURVIVABILITY ACT OF 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of California. Mr. Speaker, today I am introducing legislation to help prevent a United States-Soviet arms race in antisatellite weapons and help ensure the long-term survivability of United States military satellites.

Over the past 20 years, the United States has become enormously dependent on military satellites for communications, early warning of attack, arms control verification, and intelligence gathering. It is widely agreed that the United States is more dependent on satellites than is the Soviet Union. According to one military trade publication, U.S. "dependence on them—satellites—is deepening with every tick of the clock."

Given our Nation's heavy reliance on military satellites, an important objective of U.S. national security policy should be the protection of our satellites from possible disruption or attack. This goal can be reached in two ways. First, by preventing the Soviet Union from developing a sophisticated and lethal antisatellite capability. And second, by incorporating into our military spacecraft various technical and design characteristics that help guard them against attack.

The first of these approaches requires an arms control agreement placing strict, verifiable limitations on weapons capable of damaging or destroying satellites. No existing arms control agreement restricts antisatellite weapons. The 1972 Anti-Ballistic Missile Treaty provides only perfunctory restrictions on Asat's by prohibiting interference with "national technical means of verification," which include reconnaissance satellites. The 1967 Outer Space Treaty prohibits the deployment of nuclear weapons in space, but does nothing to restrict nonnuclear Asat's or nuclear Asat's not based in space.

During 1978 and 1979, the United States and the Soviet Union held three rounds of Asat talks, during which the United States sought a comprehensive ban on the development, deployment, and use of weapons capable of damaging satellites. The Reagan administration, however, has refused to resume Asat negotiations, despite repeated calls from Congress to do so. Instead, the administration has relentlessly pursued the objective of deploying Asat weapons to threaten Soviet satellites.

Administration officials have claimed that United States Asat weapons are necessary to deter the use of Soviet Asat's. But at the present time, the Soviet Union possesses only an extremely crude Asat capability, based on 1960's technology. By pressing ahead with the development of a sophisticated Asat system, the United States would invite the Soviets to do the same. As a result, U.S. satellites—the vast majority of which are presently secure against attack—would become vulnerable as never before. Moreover, the existence of a sophisticated United States Asat system would do little to deter Soviet Asat use in the event of an emerging conflict.

When it comes to Asat's, the deterrence argument doesn't work. Since the United States is more dependent on military satellites than is the Soviet Union, a tit-for-tat Asat battle would be of relative benefit to the Soviet Union at each step of the conflict. Moreover, because the Soviet Union has a far more robust space launch system than does the United States, the Soviets are in a far better position than we are to quickly replace satellites destroyed during an Asat battle.

As you know, Mr. Speaker, this body has for the past 4 consecutive years voted for a moratorium on Asat tests against objects in space. That moratorium is existing law, and it has helped forestall an Asat arms race. The existing Asat test moratorium, however, represents only an incomplete and temporary measure for constraining Asat's. What is needed is a more comprehensive approach to the problem of ensuring the survivability of U.S. military satellites. The legislation I am introducing today is designed to serve that purpose. I encourage my colleagues to support the Satellite Survivability Act.

ASAT TEST MORATORIUM

This section of the bill would prohibit the United States from testing a dedicated antisatellite weapon against a target in space so long as the Soviet Union does not test an antisatellite weapon. This provision is similar to existing law, but it is broader. The Asat test ban now in effect applies to any Soviet Asat, but for the United States it restricts tests of only the so-called miniature homing vehicle Asat under development by the Air Force. The Satellite Survivability Act would prohibit the United States from testing any form of Asat against an object in space so long as the Soviet Union refrains from Asat testing. If the Soviets resumed Asat tests, the United States could do the same.

ASAT TREATY LIMITATIONS

This section calls on the President to negotiate with the Soviet Union a mutual and verifiable treaty placing strict limitations, on antisatellite weapons. In the process of such negotiations, the President is urged to pursue the Soviet offer to dismantle existing Asat's. The objective of the negotiations should be to develop an Asat Limitation Treaty that would prevent either nation from developing an Asat capability that could pose a rapid, coordinated attack on satellites at all altitudes.

SATELLITE SURVIVABILITY PLANS

This section of the bill is designed to make sure that the Department of Defense is taking the necessary precautions to ensure that United States military satellites are survivable against projected Soviet Asat threats. The Secretary of the Air Force would be required to send classified "satellite survivability plans" to Congress each year describing the technical measures incorporated into U.S. military satellites to help protect them from attack.

In the past, the Department of Defense has not spent sufficient funds on satellite survivability measures. Nor has the Pentagon paid enough attention to the use of arms control limitations as a means of constraining Soviet Asat capabilities. The plans called for by this legislation would provide Congress with information on the cost of implementing additional survivability measures beyond those already incorporated into the Nation's military satellite systems. As a result, Congress would be in a better position than it is today to invest in measures to make U.S. satellites more survivable. Such investments might be viewed by Congress as a better approach to the satellite survivability question than paying for systems designed simply to threaten Soviet satellites.

ASAT POTENTIAL OF MISSILE DEFENSE SYSTEMS

This section is designed to help bring attention to the antisatellite capabilities of technologies being developed for defense against ballistic missiles. Lasers, particle beams, and kinetic kill vehicles under development in the strategic defense initiative [SDI] Program—and its Soviet counterpart—may never lead to systems capable of intercepting a large-scale missile attack. In the pursuit of such systems, however, both superpowers could produce weapons that threaten essentially all orbiting spacecraft, including elements of a space-based defense.

The Satellite Survivability Act would require the Secretary of Defense to report annually to Congress on the Asat potential of technologies within the SDI Program. In particular, the Defense Secretary would be required to inform Congress of the Asat capabilities of each specific SDI technology to be tested which is capable of being used to damage or destroy objects in space. In addition, the Secretary would be required to assess the threat posed to United States satellites if the Soviet Union were to test, at similar levels of performance, technologies under development within the SDI.

THE CHOICES WHICH FACE THE AMERICAN PEOPLE IN 1988

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. GINGRICH] is recognized for 60 minutes.

Mr. GINGRICH. I want to talk this afternoon, Mr. Speaker, on the choices which face the American people in 1988 and on the fact that we are in many ways at a crossroads, a crossroads which is as great as the crossroads we faced in 1980 when at the end of 4 years of Carter's liberalism, with 13 percent inflation and 22 percent interest rates, with a decaying America, with problems overseas and a weak military, the American people chose to leave malaise and move toward hope and opportunity by electing Ronald Reagan.

I think that this year's choices are just as real and just as deep and, quite candidly, I do not believe either party has addressed them yet. I think that this year's choices relate to the future of our children and grandchildren, to the security of our parents and grandparents, and to whether America will be prosperous and safe in the next decade.

In order to understand this, let me suggest that there is a way of thinking about human problems which suggests that there are four layers of solution; that first, you have to have a vision of what you are doing. Only after you have a vision of what you are doing can you begin to develop strategies for doing it.

Once you understand your vision and strategies, you then have to develop specific projects which are definable and delegatable solutions, achievements, something you can say, "Please get that done."

Finally, you have to have everyday tactics that fit your vision and your strategies. These four levels are important because the top level drives the other levels. Your vision of what you are doing drives the rest.

For example, for days and days we watched the Kuwaiti airliner that was being held hostage, the people on the airline, the innocent victims being killed. That was a tactical event. On the scale of terrorism in the world, that was an incident.

We read about the Japanese Red Army terrorists being picked up on the New Jersey Turnpike. That was a specific tactical incident.

At the vision level, the question we have to ask is, what would a world be like that did not have any terrorists? We have to answer that larger question.

Each night we see violent crime on our streets—tactical incidents.

Each night we read about the problems of youth gangs in Los Angeles. We see the problems of drug dealers in the District of Columbia. Those are tactical incidents.

At the vision level, the question has to be, what is our solution? What is America's vision of drug-free America?

At the vision level, frankly, Republicans are baffled right now, because when you ask the American people the question, "Are we on the right track or the wrong track?" about 55 percent of the American people say that we are on the wrong track. Only 34 percent say we are on the right track, and Republicans at the end of 8 years with Ronald Reagan say, "My goodness, this is bad news. How can we somehow convince them we are on the right track?"

I think that is exactly the wrong question. Take the list of any week's news: terrorism, AIDS, drugs, violent crime, economic competition from overseas, our trade deficit, our Federal budget deficit, go down the list of any given week's news and I would suggest to you that any reasonable person would conclude that America today is not on the right track. We do not have welfare reform to require work of able-bodied adults. We do not have an effective war on drugs that is protecting our streets, cleaning up our neighborhoods and saving our children. We do not have a cure for AIDS and we do not have a clear program for taking care of those who have AIDS. We do not have today the kind of educational reform necessary for our children and grandchildren to compete with Koreans, Brazilians, and Germans in the world market.

The fact is, to put America on the right track is going to require change; but I think it can require changes that occur without any great risk.

I think the challenge to the Republican Party is to recognize, first, that the battle cry for 1988 cannot be that we are really doing everything right, let us continue. The battle cry for 1988 has to be that we have begun to recover from Jimmy Carter and the liberal welfare state and the sickness of the seventies. Now we need to move on into the nineties with continuing changes in the right direction.

Change is essential, because frankly, we are living through the third great wave of change in human history. Look at Cable Network News, look at C-SPAN, which is on right now, look at home computers, talk about the capacity on a worldwide basis, use the telephone, look at the jet airplane, it is clear that the world is continuing to change. Just as mankind went from hunting, gathering, to agriculture, the first great transformation, and just as mankind went from agriculture to an industrial revolution, the second great transformation, in Alvin Toppler's language, we are now going through the third great wave of change.

The challenge for 1988 is, Which of the two political parties can best help America take change on America's terms? Which of the two political parties can best help America move into the 21st century in a way that is safe and secure, but that also brings us prosperity and new opportunities?

At that level, let me suggest, both parties are failing, and the failing is massive.

In fact, I would suggest if you look at all the problems and challenges facing America, that our political leaders in both parties have been giving us solutions that are about three orders of magnitude smaller than our problems. When you look at child care, at the difficulties of people living longer and therefore needing long-term health care and long-term nursing care, when you look at the problems of illegal drugs or the difficulties of dealing with terrorism, again and again as we look around, our solutions, whether they are Republican or Democrat, have been about three orders of magnitude too small.

Now, what does that mean? An order of magnitude is a factor of 10. In other words, if you go to a luncheon and you think you are ordering a $2 meal, but you are off by an order of magnitude, they charge you $20; if you are off by two orders of magnitude, they charge you $200; or to use a different example, imagine that you were going to brainstorm how to go from Washington to Los Angeles quickly. If somebody got up and said, "I know. Why don't we start walking west? We can cover 2½ miles an hour." That would be literally two or three orders of magnitude too small. Most of America would probably say, "Who else has an idea?"

But in Washington, DC, the proposal to walk west would be debated in public hearings for at least 3 years and the editorial pages would argue over whether we should be walking west in Nikes or Reeboks. If you think I exaggerate, I would say to my colleagues, read any week's clippings of what American politics and politicians talk about and compared to the challenges to our children and our grandchildren of America in the nineties, they are trivial. They are tactical answers to what are vision level problems.

Now, there are ways to reach the right order of magnitude, and I want to suggest two major steps that the Republican Party and, frankly, the Democratic Party should take. They are based on the idea that if you look at American history for 200 years, it has been clear that our citizens are smarter, know more, do more and are closer to reality than government and bureaucracy and politicians. There is 1 President, 100 Senators, 435 House Members, out of a country of approximately 250 million, so that leaves another 249,999,500 people available to help advise us on what we need to be doing to get to the right order of magnitude.

□ 1305

That means that the right solution to health care probably today is to be found in a town in Colorado, or Arizona, or Connecticut, or Georgia where somebody has worked out the right solution, that the right model of nursing-home care for people over 100 years old probably exist somewhere in America today if we knew where to go, that the right model of taking care of drugs and creating a drug-free neighborhood exists somewhere possibly in Oregon, or Florida, or in New York if we knew where to look.

That leads me then to the following four-step process for politicians in an age of change.

We have to learn first to listen, then we have to learn itself, then we have to help, and then we can lead. Let me start with learning to listen. We must go out and listen to the American people. Where are the best child-care programs, where are the best health-care programs, where are the best preventive-health programs, where are the best wellness programs, what are the kinds of things being done so our young people learn to read and write and to do mathematics, where is the best calculus program?

There is a new movie, "Stand and Deliver," which ought to be a model for all of us that people everywhere who have courage and ideas and imagination can make a difference. We need to listen to those. Then we need to learn from them. What are the lessons all of us should learn from "Stand and Deliver"? How can all of us go to our local high school, go to our local teachers, and go to our local school board and get the same quality education not in 10 years, not with a Federal program, but simply taking a video cassette of that movie and saying, "Does this work?" What can we learn in our neighborhood?

Third, we need to help. Having listened and learned, how can we help people starting with voluntary associations, the Boy Scouts, Girl Scouts, the

YMCA, the YWCA, Big Brother programs, all of the hundreds of thousands of way in which Americans voluntarily get together. How can we help with local government? How can we help local businesses? And in this process we will only gradually come up through State government and finally to the Federal Government. Finally, having listened and learned and helped, then we have earned the right to lead but all too often in the city of Washington, DC, we have people who do not listen, we have people who do not learn, we have people who do not help, and they just impose an obsolete view by the power of the bureaucracy, and they tell the American people instead of listening to the American people. I can think of no better example of what is wrong with that old-fashioned liberal welfare state centralized bureaucracy than to look at what is beginning to happen to Medicare where the bureaucrats in this city are writing the provisions for our senior citizens, provisions that have nothing to do with being a real senior citizen but make perfect sense in a high rise building off the Mall in a committee of 12 bureaucrats none of whom are on Medicare or have to suffer through their own redtape and their own regulations.

Once we have listened and learned and helped and are ready to lead, there is a five-step process to solving problems in an age of dramatic change. The first step is to determine do we really have a problem?

I would suggest, for example, that when one talks about single head-of-household mothers who are out there by themselves in a small town, say in rural Wisconsin, who do not have any local child-care program, who cannot go to work because they live too far from their parents and grandparents to be able to have their children taken care of by them, they have a real problem.

If one is 93 and needs help in a nursing home or help with home-health care, that person probably has a real problem.

I would say if one is 16 and cannot read because the school has failed that person totally, that person has a real problem.

So the first step is, do you have a problem?

The second step is, do you need help with that problem?

It is important to remember, for example, that most Americans who are overweight do not need a Federal Government program for a diet. Most Americans who are overweight need to go on a diet. They can help themselves.

Most Americans who need to exercise probably do not need a Federal bureaucracy for an exercise program. They simply need to get in the habit of going for a walk, get in the habit of going swimming, or playing tennis, or doing something which lets them exercise on their own. They might need to get together to build a local tennis court, or they might need to get together to get local government to develop a program for developing walking trails, but in fact there are many ways we can help ourselves.

If we decide that there is a problem, and we decide that they need help, the third question which is where the Democrats and the liberal welfare state fails is to ask the question, How do we ensure the highest level of quality, quantity, and choice?

Let me give a simple example. If in the mid-1950's we would have had Governor Dukakis running for President offering to universally solve everything through the Federal Government, and somebody had said that there are just not enough hamburger stands for lunch, and we decided, yes, that is true, we have a Federal crisis in hamburger stands, and we established a Federal bureaucracy of hamburgers, the average American would be told that there is no Wendy's, there is no McDonald's, there is no Burger King, but you can go to a gray building with a flag in front of it and on Thursday at 3 o'clock pick up your hamburgers, they will come in a size decided by a committee in Washington, and they will come in the form and at the cost that a committee has set.

If my colleagues think I am exaggerating, look at all the Federal programs that we have today. Let me suggest to my colleagues that even when we have problems, the worst way normally to solve those problems is by a centralized bureaucracy in Washington. We may want to use government to reshape the marketplace, we may want to have a program of tax credits, we may want to have vouchers, there are many ways we can help people have the money to solve their own problems other than by giving power to a Washington bureaucrat.

The fourth step is, who chooses? Again Medicare is a good example. The complaint I am hearing from more and more of my senior citizens is that they are losing control over their lives, for example, when they get to see the doctor, how often they get to see the doctor, who judges the doctor, how much redtape to fill out, how much he gets paid for the visit, all those things are being decided by anonymous bureaucrats who my senior citizens cannot talk to, my senior citizens cannot reason with, and who do not themselves go through that experience.

The left has a simple program. The left always believes that we Americans are too dumb to choose for ourselves so they would raise our taxes, they would hire more bureaucrats, and the bureaucrats will choose for us. This is true whether it is child care, whether it is helping displaced homemakers, whether it is retraining the unemployed, whether it is taking care of senior citizens on health care, whatever the issue is, a Washington bureaucrat is always smarter than the American citizen if you are part of the left. But I would suggest in fact that as often as possible we want the choice to remain at home.

The fifth step, having decided first that we have a problem, second that we need help, third how do we maximize quality and quantity and choice, and finally, who chooses, the fifth step is how much can we afford this year and how much will it cost all together?

Let me say candidly that ever since Herbert Hoover, the Republican Party has had a great weakness as a problem-solving party because all too many Republicans start with step five and say, "We cannot afford it so you are not allowed to have a problem." Or, "We cannot afford it, so you cannot need help." Or, "We cannot afford it so we cannot talk about how to improve your current choices over quality and quantity."

Let me suggest to all of my colleagues that that is not very smart on the part of the Republican Party. Instead, we need to say that given that we do have problems that are real, and here I would include child care, drug problems, wellness, home health care, taking care of our senior citizens who need nursing homes, education reform both for children and for adults, and a whole range of other problems, given that those problems are real and that people do need help with them, there are ways through the free market and high technology sectors to dramatically increase the range of choices that we want to increase the options of quality and quantity for every American on their own terms, that it is possible to design systems where government helps individuals and families and neighborhoods make their choices, that in that setting we Republicans have an obligation to come up with the solution and then fight over the price, not to start at the price and decide that we cannot have a problem because we cannot afford the solution.

When they start doing that, the Democrats in general and the left in particular will rapidly lose the debate because their answer to virtually every problem is to use Government to set up another bureaucracy to raise taxes, to take more power away from our citizens, to centralize more decisions in high rise buildings in Washington, and then to tell our citizens what their Government will let them do with their own money and how much paper and redtape they have to fill out to get the Government's permission to spend your own money. Given those two choices between a creative problem-solving Republican Party that has listened, learned, helped, and is prepared to lead, and a bureaucratic welfare state leftwing Democratic Party whose only answer is more bureaucracy, more government, higher taxes, and more inflation, the country will choose, but that requires frankly a more inventive and more activist Republican Party than we have often been.

When we start listening to the American people and working with the American people and helping the American people, we discover rapidly that there is a very fundamental value difference in America between the left and the rest of us, that the left has now become a real ideology just as in the British Labor Party or the German Social Democratic Party, that the left whether it is Jesse Jackson or Mike Dukakis or a range of leftwing candidates, all share a set of values that frankly in Britain would be called the loony left. People will say to me, "That is strong language. How can you talk about loony left?"

Let me try out a couple of examples. First of all, in Massachusetts under Governor Dukakis there is a Weekend Release Program for prisoners, that is prisoners are allowed to go out on weekends, they are given some sort of a pass. Under that program 85 violent criminals have been let out including 11 first-degree murderers, and several have skipped, and one of them went to Maryland and kidnaped a man and woman, and raped the woman.

The judge in Maryland said that he would not send the violent criminal back to Massachusetts because he does not want that violent criminal let out again on the weekends.

In answer to all that, the citizens of Massachusetts rose up in a rebellion and said that this is crazy, how can you let criminals out to prey on us on weekends?

There is a citizens' initiative in Massachusetts, and I have been told Governor Dukakis' staff has been in the prisons registering prisoners to vote, because in Massachusetts prisoners can vote while in prison, so that prisoners can vote against the citizens' initiative to lock the prisoners up.

I would suggest that in most of America, in Iowa, or in Oregon, or in Georgia, that would count as "loony left" and it would make no sense to say to people, "Do you think we should let violent criminals register to vote so they can vote to let themselves loose?"

It makes me believe that Governor Dukakis' antidrug program will be to only let convicted drug peddlers out on Sundays.

Let me give my colleagues another example of the loony left. A number of us argued during the fight over the Grove City bill that we were seeing a fundamental shift, a shift from civil rights to radical rights, a shift from race to religion as the central issue in American governmental power.

People said, "Oh, there really is not an antireligious left. There really are not people out there committed to pushing religion out of the public life. There really are not people out there who strongly disapprove of religion."

Let me suggest that there is a child care bill in the Congress today, a child care bill which has a paragraph in it, and this is a liberal Democrat child care bill, it has a paragraph which says, no room which receives money under this bill can have any religious pictures or symbols in the room, and they must either be physically removed or the religious pictures and symbols must be physically covered up.

This is for child care.

I know of no paragraph in the bill that says that they cannot watch MTV with 4-year-olds. There is not a paragraph in the bill that says they should not teach deviant life styles to 4-year-olds. There is not a section in the bill that says one should not have anybody around who in any way might be potentially a drug user. None of those things apparently are great threats to 4-year-olds, but in an age where we worry about child abuse there is a paragraph in a liberal Democratic child bill which says that seeing the Star of David or seeing the Crucifix is clearly a threat to the future of 4-year-olds.

I would suggest that is madness. If that is not loony left, I do not know how anyone could describe it.

We have been told as an example of the loony left that this is the year the Democrats are going to make "the year of the family." I understand that in the New York debate Governor Dukakis, Senator GORE, and Jesse Jackson all agreed there was no objection on their part to homosexual couples adopting children. I think it is fair to ask in terms of the loony left exactly what kind of family do you have in mind? Exactly what do you think is the traditional American family?

Finally, we come to the issue of drugs, and there has been no issue on which the left has done a better job this year of fundamentally deceiving the American people about its beliefs and its values. I would say on behalf of the left that it is a far more powerful machine for the acquisition of power than are moderates and conservatives. The left understands what it wants and the combination of big labor unions, leftwing politicians, and activists and the Democratic big city machines is an extraordinary vehicle for the acquisition of power.

Let us now talk about the drug issue. I think there are some things that need to be laid out on the table. Everyone worries about the gangs and the fact that this new movie "Colors" talks about youth gangs. Where are the gangs? The gangs tend to be in New York City headed by a Democratic mayor; the gangs tend to be in Los Angeles which city is headed by a Democratic mayor; the gangs tend to be in Chicago, which is headed by a Democratic mayor. Who are all these Democratic mayors in favor of for President? A Democrat. Do we expect that the Democrats who are part of this coalition, whose major allies have been total failures, who have basically built up a bureaucracy which pays off labor union dominated local unions, a bureaucracy which is soft on crime and tough on policemen, a bureaucracy which consistently makes it easy for the criminal and consistently makes it harder for the law enforcement arm, are we to expect that in fact all of a sudden magically they are going to be effectively antidrug? I do not think so.

Let me take a second example of how systematically misleading the Democrats have been on the issue of drugs. All of us have heard Jesse Jackson say that it was terrible to have a hundred million dollars cut out of the Coast Guard.

□ 1320

All of us have heard him say that the Reagan administration should have done more to save the Coast Guard's $100 million. Let me say, standing in the U.S. House of Representatives, it is very, very disturbing to hear a Democrat attack the Reagan administration, because the Democrats in the House took $100 million out of the Coast Guard. It is fundamentally misleading to the American people and misinforms the American people about who has been soft on drugs, and this is not an accident.

Let me read a telegram which is a followup to a phone call made by the Secretary of Transportation to Jesse Jackson. This is February 19, and this is not recent, February 19:

> In our telephone conversation of January 22, 1988, I explained to you that contrary to your public assertions, the Reagan administration did not cut the Coast Guard operating budget by $100 million for the current fiscal year. It was the Democratic controlled Congress who enacted these cuts over our strong objections. During our conversation you expressed a willingness to address this issue fairly and to join with the administration in urging Congress to restore additional funding this year, yet during the nationally televised debate last night once again you blamed the Reagan administration for cuts made by Congress. Your actions do a great disservice to the heroic men and women of the United States Coast Guard, and I urge you to cease this partisan rhetoric and to assist the Reagan administration in convincing the Congress to provide additional funding for the Coast Guard during the current fiscal year and to fully fund the President's request for 1989.

Then that was signed by Jim Burnley, Secretary of the U.S. Department of Transportation. That is a telegram of February 19 about a phone conversation of January 22.

The fact is liberal Democrats know that they have been soft on crime, they know that their left wing is opposed to the death penalty. They know they are afraid to clean up the big cities, and they know that they will not tell the truth about their allies who run the big cities. They are unwilling to change the liberal judges they have appointed who let criminals go loose.

In that setting, they also know that given a choice of paying off their pork barrel allies the extra money versus helping the Coast Guard, they gutted the Coast Guard in favor of taking care of their allies, and they know if they told the American people the truth, they would be defeated and, therefore, given a choice, liberal Democrats systematically disinform, and, in my judgment, deceive the American people.

Let me carry it a stage further. Every liberal in America has found a solution to the drug problem, "Let us beat up on Mexico, and let us beat up on Colombia. By George, we are going to get tough and cut off your foreign aid and punish you."

What could be more pathetic than the richest, most powerful nation in the world beating up its weak, helpless neighbors because American citizens are so willing to pay money for drugs and we are so gutless in dealing with the drug issue we are not willing to clean up our own mess? So we blame the people down the street. If we want to teach the Colombians how to have a drug-free country, there is a place to start. There is an easy place to start. It is called the District of Columbia.

Before we look at Colombia, maybe we had better look at the District of Columbia. What do we find in the District of Columbia? We find, according to newspaper reports, over 100 people killed in the national capital so far this year. We find, according to newspaper reports, that illegal Jamaican people who have no right to be in this country are now so systematically in our own national capital that they are a threat to the lives of innocent Americans. We have put up with it. We pretend we can do nothing, and then the liberal Democrats, whose allies after all run the District of Columbia, the liberal Democrats who are afraid to get tough about drug users and drug pushers in America, the liberal Democrats eagerly go beat up on Mexico and Colombia, because they do not have the courage to organize a demonstration project to have a drug-free U.S. Capital, a first step to show other countries it is possible to defeat the drug users and to defeat the drug dealers.

Let me go a step further. Not only is there a loony left, the country knows there is a loony left. Let me give you the past history. The last leftwing candidate for President won in 1964, Lyndon Johnson. In 1968, Hubert Humphrey got 43 percent, and in 1972, George McGovern got 38 percent. In 1976, no liberal was nominated. Jimmy Carter, in 1976, was an antiliberal, anti-Washington, Southern Baptist populist who was going to clean up this city. He defeated the liberals in the primary. In 1980, Jimmy Carter beat EDWARD KENNEDY in the primaries and then got 41 percent. In 1984, Walter Mondale stood up proudly in San Francisco and said, "I really am a liberal," and the country said, "Yes, you are." He got 41 percent and only carried his home State by 7,000 votes losing 49 other States.

If it is true that the base vote for the left in America today is 41 percent, how can they be in charge of Capitol Hill? How can they own the House and Senate? Let me suggest that there are some very real challenges to every American as they look at Capitol Hill, because starting in 1975, Capitol Hill has changed radically from the world we remember from our history books and our civics lessons in high school.

In the first place, the liberal Democrats who won in 1974 because of Watergate knew they could not survive unless they cheated, and so they simply changed the rules of the game. They established very expensive, very powerful machines for incumbents.

An incumbent today gets about a $1 million advantage from taxpayers in direct mail, in newsletters, in computers, in offices, in staff, in travel, about a $1 million advantage in order to make sure they win.

Now, Republicans get it as well as the Democrats, because the House Democrats figured out that as long as the incumbents in both parties win, the Democrats would always be in charge, because there are 250 of them and only about 180 Republicans.

The result is the House of Representatives which used to be closest to the American people got elected every 2 years, and the Founding Fathers wanted it to represent the people. The House of Representatives is now the least representative institution in Federal Government.

In 1986, only 1.5 percent of all the incumbents in the House running for reelection were defeated. About one-third of the Senators get defeated regularly, but 1.5 percent of the House Members.

So start with the fact that there is now a leftwing machine which controls the U.S. House of Representatives and which has tremendous influence in the U.S. Senate. Second, that leftwing machine changed the rules of elections to make sure that labor union bosses have enormous power and are able to gather up tremendous amounts of money and that the rules of the Federal Election Commission apply to working Americans, they apply to professional Americans, they apply to businessmen and women, but they do not apply to big labor, and so big labor has a huge advantage in helping dominate which is why last year the political director of big labor said and was quoted in Time magazine as saying that, "We own the House. We own the committees. We own the schedule." Because big labor and the left own the House of Representatives today. The American people do not.

Third, when that was not good enough, when all of the incumbent advantages were not good enough, when all the labor union boss advantages were not good enough, it looked like after 1980 the Democrats were going to lose, and they did lose 33 percent in the landslide after Carter's disaster, they gerrymandered. They went to California and drew district lines so cleverly that 50 percent of the vote in California for Republicans is only worth 40 percent of the seats. In other words, the Democrats systematically went out and cheated the American people, and the estimate nationally is they cheated the center right coalition that does not approve of the leftwing of about 23 seats, and so there would be about 201 seats instead of the 178, and given all of those steps, they found that those steps, despite the huge incumbent advantage and despite all the changes in FEC rulings, to make sure the big labor union bosses have an advantage, and despite gerrymandering, they still were not satisfied.

You will find consistently that because they know they are so out of touch with the American people, because they cannot defend their loony left, that the chameleon has become the symbol of the Democratic Party. The Democrats go home routinely and deny what they do in Washington. The Democrats routinely say, "Oh, I am really pro" whatever group they are standing in front of.

You see this today in this interesting conversation about who the Vice President will be when the San Francisco Democrats visit at Atlanta this summer and have their convention, and there is talk about, for example, SAM NUNN being on the ticket.

Now, the Democratic Party is increasingly schizophrenic. It has a Jesse Jackson wing which is about 35 or 40 percent of the party, and it has a liberal leftwing of which can accept Dukakis, and about 20 percent of the party is in the center, the Chuck Robb-Sam Nunn sort of wing.

What the Democrats would like to do this summer is make sure the Jesse Jackson loony leftwing and all the people who are activists on the left are satisfied with promises but not too obviously. Then they would like to nominate someone from the centerist wing for Vice President who would run around for 3 months and say, "We are really not who we are. Really, we are who you need us to be."

Let me ask this question: On the strategic defense initiative, no tax increase on a whole range issues, the fact is there are fundamental differences between a SAM NUNN and a Jesse Jackson. The fact is that they do not believe in the same vision for America. They do not believe in the same future. They do not believe in the same dangers of communism. They do not believe in the same military structure. They do not believe in a whole range of issues. They are fundamentally different, and while just like Jimmy Carter ran in 1976 saying, "Trust me," the new unknown technocratic Governor Dukakis, would like to run saying, "Trust me." So he has to be asked the question: "When you decide to name a Supreme Court Justice, who do you call left? The SAM NUNN wing of the party or the Jesse Jackson wing of the party? When you decide to appoint cabinet members, who do you call the centerist wing of the party? The slipping 20 percent of the party or the rising, stronger 40 percent?"

□ 1330

Is an essentially liberal, to the far left party with an activist loony left faction now really going to think it can get by with chameleon behavior, going to the American people and saying ignore what we do in the Congress, ignore that we have owned the U.S. House of Representatives for 34 years and been the majority, ignore all of our promises to Jesse Jackson and to the socialist mayor of Vermont who has now rejoined the Democratic Party because it is again far enough to the left, to the various activist lifestyle work groups that represent all of the various people in the ACLU who do not believe in locking up criminals, forget all of our promises to the various leftwing groups, we are really all right, at least until the day after the election.

The last time we elected a Governor, a nontechnocrat, we got Jimmy Carter, and that was a disaster. And that is what we will get this time.

But what happens in the U.S. Congress, forget the Presidency for a minute. You have a labor union boss leftwing machine which basically owns the House of Representatives in terms of majority leadership, yet from the country's standpoint this is an enormous threat after 34 years of a Democratic domination. Take just a couple of examples.

The Philadelphia Inquirer has done a brilliant series over the last 2 weeks on who gets big breaks in the tax bill and points out how dangerous it is to have bills written in secret, late at night, and how special interests get bought off.

Look at the congressional continuing resolution in December, which has three specifics which I think are very, very shocking examples.

The sum of $8 million is written in for a religious school in France on behalf of a Member who happens to have a contributor who is on the board of directors of the religious school. Let us remember that this is a leftwing Congress that does not believe in America. According to their latest child care bill, you cannot show the Star of David or the crucifix, but it is all right to send $8 million to a religious school in France.

Late at night two airplanes are cut out of the Defense Intelligence Agency. Why? Because a very powerful Member of Congress was not allowed to take his girlfriend on an airplane ride. They got away with it. The planes are killed and the bureaucracy has learned a lesson. If that Congressman shows up with his next girlfriend, you had better put her on the plane or you will get punished by the leftwing machine that runs this Congress.

And late at night, at 3 in the morning, EDWARD KENNEDY put in an amendment which would have taken two newspapers away from Rupert Murdock and said basically if you criticize KENNEDY in Boston you will be punished by the U.S. Congress.

People might say that was a rare example. But let me give my colleagues another example of how Lord Acton was right when he said that power tends to corrupt and absolute power corrupts absolutely. There is an article in the April 16 Congressional Quarterly that every Member of Congress should look at. It is entitled, "CBO's unwelcome cost estimate vanishes."

> As House members brace for battle over a Democratic-sponsored minimum-wage bill (H.R. 1834), a controversy is bubbling in the background over cost estimates for the measure.
>
> The Congressional Budget Office (CBO), which has always prided itself on its nonpartisan, professional assessments of economic issues, prepared not one but two "official" cost estimates for H.R. 1834. While both cited the same probable costs to the states and the federal government, only the first discussed the measure's likely impact on the economy at large.
>
> It concluded that the projected increase in the minimum wage, from $3.35 to $5.05 over four years, could lead to higher prices on consumer goods and the loss of nearly 500,000 jobs.
>
> That report, dated March 25, barely saw the light of day before it was superseded March 29 by a second version, which omitted any reference to the bill's effect on the economy.
>
> According to Michael Pogue, who prepared both CBO estimates, staffers on the Education and Labor Committee had specifically requested a discussion of the bill's impact on the economy. In fact, in the cover letter accompanying the original estimate, acting CBO Director James L. Blum wrote, "At the request of several committee members, the estimate also includes a discussion of the possible impact of HR 1834 on the economy."
>
> The majority staff, Pogue said, then "decided they didn't want it," and a second report—minus the impact assessment—was sent to the committee.

Consider what has gone on here. The liberal Democrats, the leftwing machine, wants to pass a bill that big labor wants. They asked the economists, who are supposed to be nonpartisan and technical, to analyze that bill. The economists said would you like to kill 500,000 jobs? Nobody has said yet how many people want to vote in favor of killing 500,000 jobs, which is what the nonpartisan Congressional Budget Office came up with.

Instead, what the leftwing decided to do, what the liberal Democrats decided to do, was kill the report which would tell the American people things that the liberal Democrats do not want the American people to hear.

I find it fascinating that this is the third example in the last few months of leftwing Democrats trying to censor information they did not like. If my colleagues will remember, not only did Senator KENNEDY and others put in an amendment which would have killed two newspapers because they were critical of the left, but recently the Speaker of the House, JIM WRIGHT, sent his chief of staff, and Bob Strauss, the very wealthy and famous Democratic lobbyist, to New York City to threaten Bankers' Monthly with a libel suit if they printed an article which was unfavorable to the Speaker. So now we have another example.

First the American people are told they should not know these things, and then the news media is told if they write these things they will be punished, and then we wonder why later on when we are not informed accurately and we vote for dumb things that they turn out not to work. And when the American people then get angry and go to their local Congressman, they are told in effect, "I don't need you because the liberal Democratic Congress, having written the rules so the labor union bosses have all of the advantages, having designed districts so Democrats have all of the advantages, having given themselves a tax paid $1 million campaign account for their office, can now look at the average American and say, 'You can't beat me. I don't care what you think.' "

In this setting it seems to me the challenge to the Republican Party and to George Bush is very simple. It is first to recognize and be honest and straightforward with the American people that we face enormous challenges and problems. If we are going to give our children and grandchildren an effective, prosperous, free, and safe America, we have to reform education, we have to have a real war on drugs which is going to stop the drug dealers and going to stop drug use and clean up America. We have to have an effective effort to stop terrorism. We have to have an effective effort to reform welfare so able-bodied adults work for a living. There is a long shopping list, and while Ronald Reagan has been brilliant in helping us to recover from Jimmy Carter and the last leftwing Democratic administration, America still has a long way to go and we must listen, learn, help, and then lead the American people in walking through the five steps I outlined earlier to find real solutions for child care, real solutions for health care, real solutions for the problems of aging and real solutions for the child legislation, legislation helping big cities that are now overrun by drug addicts and terrified by teenage gangs and drug dealers.

Second, we have to be honest and direct and straightforward about the reality of the looney left. The fact is that every time the American people see behind the chameleon-like masquerade and see how far to the left the modern Democratic Party has gone, how far to the left big labor bosses in Washington have gone, how far to the left Jesse Jackson and that wing of the Democratic Party has gone, how many looney left activists are going to visit Atlanta—and I am quite serious, I am proud and delighted that the Democrats are coming to Atlanta, but that is not going to be a Southern convention. That is going to be a San Francisco convention moved south, and if anything there are going to be even more looney left activists this time than there were in San Francisco.

Third is the major issue in American politics which I think is at the center of power in America. Given all of the ways in which the modern left cheats in order to keep control of Capitol Hill, given all of the ways in which the modern left blocks the American people from taking back their own House of Representatives and their own Congress, how are we going to have an opportunity to break up what has now been a 34-year monopoly on power by an increasingly labor union, leftwing dominated Democratic Party? How are we going to take charge once again of our own Capitol Hill on behalf of the American people?

Let me close by saying we can complain about the news media, we can complain about the leftwing Democrats, we can complain about labor union bosses, but the fact is we have a successful, aggressive, hard-hitting Republican Party that insisted it was wrong for a Member of Congress to kill two airplanes just to punish a defense agency for not flying his girlfriend around and made a public fight on this floor, and put those two airplanes back in the appropriations bill; a Republican Party that insisted on this floor and forced a recorded vote on whether or not Democrats should be allowed to kill two newspapers; a Republican Party that fought on this floor and insisted that the Speaker could not send the wealthiest Democratic lobbyist in Washington and the chief of staff of the Speaker of the House to New York to blackmail and bludgeon a magazine out of printing an article; a Republican Party that insisted on this floor and in a recorded vote on whether or not we were going to tolerate partisan tampering with the Congressional Budget Office; a Republican Party that understood that the time to take away a chameleon masquerade and insist that Dukakis submit how liberal he is, the time to focus on how far to the left the Democratic Party has gone, the time to indicate how many looney left activists will be in Atlanta is not in September, but now.

We, the Republicans, have an obligation to that center right 61 percent or 60 percent that has consistently in 1968, 1972, 1976, 1980, and 1984 voted against the left. They deserve people willing to stand and slug it out.

Candidly let met close with an example. When a leading leftwing Democrat consistently misinforms the American people about who cut out the $100 million from the Coast Guard, when the Reagan administration is blamed for what liberal Democrats in the House did, and when that Democratic presidential candidate knows that it is wrong to say it, it is misinforming the American people, it is fundamentally incorrect, then we Republicans have to have the courage to stand up and say, "You owe the American people an apology. We need your help in the U.S. House making your allies pass good legislation." It is baloney for us to let the Democrats browbeat us into keeping quiet while they systematically misinform the American people, while they blame us for what they are doing so they can get even more pork while blaming the Reagan administration for their actions.

Mr. Speaker, I think we are at a crossroads. I think if we choose wrong in 1988 we are going to sink back into the decay, the inflation, the disaster of the Carter years. I think that Governor Dukakis is in fact the Jimmy Carter of the left, that he provides all of the weaknesses of Carter except an even more leftwing ideology. I think that it is vital for the Republican Party to have the courage to stand up every day, to systematically listen to the American people, help the American people solve problems and then have the courage to represent those 60 percent of the American people in standing face to face with the leftwing of the Democratic Party and in insisting that the rules be changed in the House so that the American people have an even break and it is not just big labor and the left that gets heard from, but the American people have a chance in their own House of Representatives.

APPOINTMENT AS MEMBERS OF FUNERAL COMMITTEE OF THE LATE HONORABLE MELVIN PRICE

The SPEAKER pro tempore. Pursuant to House Resolution 434, the Chair, without objection, announces the Speaker's appointment of the funeral committee of the late MELVIN PRICE, the following Members on the part of the House:

Messrs. MICHEL of Illinois, WRIGHT of Texas, ROSTENKOWSKI of Illinois, YATES of Illinois, ANNUNZIO of Illinois, CRANE of Illinois, MADIGAN of Illinois, and Mrs. COLLINS of Illinois, and Messrs. HYDE of Illinois, RUSSO of Illinois, PORTER of Illinois, and Mrs. MARTIN of Illinois, and Messrs. SAVAGE of Illinois, DURBIN of Illinois, EVANS of Illinois, LIPINSKI of Illinois, HAYES of Illinois, GRAY of Illinois, BRUCE of Illinois, FAWELL of Illinois, DAVIS of Illinois, HASTERT of Illinois, BENNETT of Florida, BROOKS of Texas, SMITH of Iowa, STRATTON of New York, DICKINSON of Alabama, MONTGOMERY of Mississippi, NICHOLS of Alabama, ASPIN of Wisconsin, DELLUMS of California, GILMAN of New York, MOAKLEY of Massachusetts, BONIOR of Michigan, KILDEE of Michigan, and Mrs. BYRON of Maryland, and Messrs. CARR of Michigan, and BILBRAY of Nevada.

Without objection, the Chair will reserve the right to add other Members to this delegation and will announce any additional names later in the day.

There was no objection.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SWINDALL) to revise and extend their remarks and include extraneous material:)

Mr. GINGRICH, for 60 minutes, today.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. FRANK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. PENNY, for 5 minutes, today.

Mr. BROWN of California, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, each day on April 26 and 27.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. GAYDOS, for 60 minutes, on April 28.

Mr. GRAY of Illinois, for 60 minutes, on April 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. SWINDALL) and to include extraneous matter:)

Mr. GREEN.

Mr. HOPKINS.

Mr. CRANE.

Mr. SPENCE.

Mr. BROOMFIELD.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. MAVROULES.

Mr. MONTGOMERY.

Mr. TORRES.

Mr. PEPPER.

Mr. ANDERSON in 10 instances.

Mr. GONZALES in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. SOLARZ.

Mr. RODINO.

Mr. ROE.

Mr. BRENNAN.

SENATE BILLS, JOINT RESOLUTION, AND CONCURRENT RESOLUTION REFERRED

Bills, a joint resolution, and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1378. An act to provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated; to the Committee on Post Office and Civil Service.

S. 1827. An act to designate the Federal Building located at 330 Booth Street in Reno, NV, as the "C. Clifton Young Federal Building"; to the Committee on Public Works and Transportation.

S. 2248. An act to designate the U.S. Courthouse located at 156 Federal Street in Portland, ME, as the "Edward Thaxter Gignoux United States Courthouse"; to the Committee on Public Works and Transportation.

S. 2304. An act to amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine; to the Committee on Foreign Affairs.

S.J. Res. 287. Joint resolution designating May 1988 as "Older Americans Month"; to the Committee on Post Office and Civil Service.

S. Con. Res. 114. Concurrent resolution authorizing the Law Enforcement Torch Run for the Special Olympics through the Capitol Grounds; to the Committee on Public Works and Transportation.

ADJOURNMENT

Mr. GRAY of Illinois. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minutes p.m.), pursuant to House Resolution 434, and under its previous order, the House adjourned until tomorrow, Tuesday, April 26, 1988, at 4:30 p.m., in memory of the late Honorable MELVIN PRICE.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3478. A letter from the Assistant Administrator for Pesticides and Toxic Substances, Environmental Protection Agency, transmitting a final rule which revises a number of existing regulations in the area of registration and classification procedures, pesticide policies, and data requirements for registration, pursuant to 7 U.S.C. 136w(a)(4); to the Committee on Agriculture.

3479. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Review of Receipts and Disbursements of the Office of the People's Counsel Agency Fund," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3480. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled, "Review of Space Leased at 450 5th Street, N.W. for the Public Service Commission," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

3481. A letter from the Acting General Counsel, Department of Energy, transmitting notification of meetings related to the International Energy Program to be held on April 12, 1988, Rome Italy; to the Committee on Energy and Commerce.

3482. A letter from the Deputy Director for Administration, Central Intelligence Agency, transmitting notification of a proposed new Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

3483. A letter from the Secretary of Transportation, transmitting the third annual report of the actions taken to increase competition for contracts during fiscal year 1987, pursuant to 41 U.S.C. 419; to the Committee on Government Operations.

3484. A letter from the Secretary, Department of Transportation, transmitting the annual report of the activities of the Maritime Administration for the fiscal year ending September 30, 1987, pursuant to 46 U.S.C. app. 1118; to the Committee on Merchant Marine and Fisheries.

3485. A letter from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting notification of the decision to convert the vehicle operations and maintenance function at Peterson Air Force Base, CO, to contractor performance as the most cost-effective method of accomplishment, pursuant to Public Law 99-190, section 8089 (99 Stat. 1216); jointly, to the Committees on Appropriations and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PEPPER: Committee on Rules. House Resolution 435. Resolution providing for the consideration of H.R. 4264, a bill to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for fiscal years 1988 and 1989, and for other purposes (Rept. 100-579). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN of California:

H.R. 4451. A bill to promote measures to help prevent an arms race in antisatellite weapons and help ensure the survivability of U.S. military satellites; jointly, to the Committees on Armed Services and Foreign Affairs.

By Mr. LEWIS of Florida (for himself and Mr. MACK):

H.R. 4452. A bill to amend title 28, United States Code, with respect to the configuration of the middle and southern districts of Florida; to the Committee on the Judiciary.

By Mr. MORRISON of Washington:

H.R. 4453. A bill to authorize certain elements of the Yakima River basin water enhancement project, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. FAUNTROY (for himself, Mrs. MORELLA, Mr. MCMILLEN of Maryland, Mr. HOYER, Mr. WOLF, and Mr. PARRIS):

H.J. Res. 550. Joint resolution designating July 4, 1988, as "July Fourth Family Celebration Day"; to the Committee on Post Office and Civil Service.

By Mr. SPENCE:

H.J. Res. 551. Joint resolution to designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week"; to the Committee on Post Office and Civil Service.

By Mr. MICHEL:

H. Res. 434. Resolution expressing the condolences of the House on the death of Representative Price of Illinois; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

322. By the SPEAKER: Memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to Medicaid

reimbursement; to the Committee on Energy and Commerce.

323. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to the Vietnam Women's Memorial; to the Committee on House Administration.

324. Also, memorial of the House of Delegates of the Legislature of the State of West Virginia, relative to the salaries for Members of Congress; to the Committee on the Judiciary.

325. Also, memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to farmers payment of tax on diesel fuel; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1270: Mr. Traxler, Mr. Flippo, Mr. Vander Jagt, Mr. de Lugo, Mr. Annunzio, Mr. Smith of Florida, Mr. Applegate, Ms. Pelosi, Mr. Moorhead, Mr. Bustamante, Mr. Dorgan of North Dakota, Mr. Miller of California, Mr. Chappell, Mr. Coelho, Mr. Dellums, Mr. Dyson, Mr. DioGuardi, Mr. Hayes of Louisiana, Mr. Lantos, Mr. Madigan, Mr. Conyers, Mr. Hughes, Mr. Mrazek, Mr. McEwen, Mr. Chapman, Mr. Schuette, and Mr. Regula.

H.R. 1917: Mr. Hubbard.

H.R. 1924: Mr. Craig and Mr. Boehlert.

H.R. 2148: Ms. Snowe, Mr. Slattery, Mr. Frank, Mr. Sharp, and Mr. Brennan.

H.R. 2228: Mr. Johnson of South Dakota.

H.R. 2603: Mr. Johnson of South Dakota, Mr. Lagomarsino, and Mr. McEwen.

H.R. 3075: Mr. Miller of Washington and Mr. Swift.

H.R. 3651: Mr. Weber, Mr. Owens of New York, Mr. Mrazek, Mr. Owens of Utah, Mr. Kostmayer, Mr. Waxman, Mr. Kolbe, Mr. Bereuter, Mr. Houghton, Mr. Bilbray, and Ms. Snowe.

H.R. 3778: Mr. Chandler.

H.R. 3791: Ms. Oakar and Mr. Gray of Illinois.

H.R. 3844: Mr. Kanjorski, Mr. Hastert, and Mrs. Vucanovich.

H.R. 3892: Mr. Fish and Mr. Saxton.

H.R. 3900: Mrs. Saiki.

H.R. 4071: Mr. Gonzalez and Mr. Eckart.

H.R. 4088: Mr. Lewis of Florida.

H.R. 4224: Mr. Neal.

H.R. 4247: Mr. Penny, Ms. Pelosi, Mrs. Boxer, Mr. Biaggi, Mr. Crockett, Mr. Frank, Mr. Neal, Mr. Levin of Michigan, Mr. Dwyer of New Jersey, Mr. Rowland of Connecticut, Mr. Rinaldo, and Mr. Sisisky.

H.R. 4315: Ms. Pelosi.

H.R. 4325: Mr. Schumer, Mr. Murphy, Mr. Torres, Mr. Biaggi, Mr. Horton, Mrs. Boxer, Mr. Foglietta, Mr. Gray of Illinois, Mr. Lewis of California, Mr. Evans, Mr. Dwyer of New Jersey, Mr. Bates, and Mr. Rinaldo.

H.R. 4438: Mrs. Lloyd.

H.J. Res. 138: Mr. Wolf, Mr. Lightfoot, Mr. Staggers, and Mr. Ballenger.

H.J. Res. 374: Mr. Smith of New Hampshire.

H.J. Res. 438: Mr. Courter, Mr. Dicks, Mr. Fuster, and Mr. Levin of Michigan.

H.J. Res. 464: Mr. Foglietta, Mr. Cooper, Mr. Russo, Mr. Gunderson, and Mr. Gallo.

H.J. Res. 489: Mr. Darden, Mr. Downey of New York, Mr. Mavroules, Mr. Smith of Florida, Mr. Walgren, Mr. Hoyer, Mr. Wolf, Ms. Oakar, and Mr. Fuster.

H.J. Res. 504: Mr. Jones of North Carolina, Mr. Fish, Mr. de la Garza, Mr. Petri, Mr. Pepper, Mr. Lantos, Mr. Bryant, Mr. Holloway, Mr. Levin of Michigan, Mr. Nichols, Mr. Pursell, Mr. Gilman, Mr. Roe, Mr. Dwyer of New Jersey, Mr. Wortley, Mr. Davis of Illinois, Mr. Lewis of Georgia, and Mr. Kildee.

PETITIONS, ETC.

Under clause 1 of rule XXII,

158. The SPEAKER presented a petition of the State Bar of California, San Francisco, CA, relative to extending the amnesty program of the Immigration and Nationality Act; which was referred to the Committee on the Judiciary.

SENATE—*Monday, April 25, 1988*

The Senate met at 9:30 a.m. and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Delight thyself also in the Lord; and He shall give thee the desires of thine heart. Commit thy way unto the Lord; trust also in Him; and He shall bring it to pass.—Psalm 37:4-5.

We thank Thee, Father in heaven, for the assurance of satisfaction and direction which You promise through the psalmist. Give us grace to meet the simple conditions of delighting in Thee, trusting in Thee, and committing our way unto Thee—that we may experience the desires of our hearts; and the fulfillment of our plans. Teach us the wisdom of taking You seriously in all our ways. Thank You, Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 25, 1988.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. PROXMIRE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

Mr. BYRD. Mr. President, I thank the Chair.

THE JOURNAL

Mr. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

URGENT NEED FOR BETTER TRADE STRATEGY AND NEGOTIATING CAPABILITIES

Mr. BYRD. Mr. President, the trade bill now pending before the Senate addresses the need to develop a more coherent framework for identifying the problems which need corrective action in our trade situation, and for a new system to approach those problems in a vigorous and credible way.

It does this in a number of ways. First, it gives more authority to the Trade Representative so that there is not, as is presently the case, an invitation to those nations with whom we are negotiating trade matters to work our bureaucracies against each other, to play a game of divide and conquer and thereby cripple the development of any decisive trade strategies by the executive branch.

Second, it attempts to lay out a realistic, predictable timetable for action by the administration to attack trade imbalances caused by unfair foreign barriers, and to require retaliatory action if those negotiations fail. This process, which has been called the "super 301" process, and is based on the amendment which I offered together with the distinguished minority leader, Mr. DOLE, along with the Senator from Michigan [Mr. RIEGLE], and the Senator from Missouri [Mr. DANFORTH], the "world markets opening initiative" amendment. Some have attempted to label this amendment "protectionist," which is the exact opposite of its intent and its effect. It attempts to remove protectionism from the world trading system by setting out a process which puts pressure on those unfair barriers which are the essence of mercantilist practices, or protectionism today.

I call the attention of my colleagues to a cogent piece on this point, debunking the charge of protectionism in association with the "super 301" amendment, which appeared in the April 17 edition of the New York Times, by Robert T. Green, who is the Timothy Harkins Professor of Business at the University of Texas, at Austin. As Professor Green points out, to call an initiative aimed at knocking barriers down as "protectionist" stands logic on its head.

Why is such legislation needed? According to Mr. Clyde Prestowitz, who was a trade negotiator during the present administration, it is absolutely essential if we are going to begin to become a more effective negotiator and if we are going to manage our trade strategy in a more sensible way. He indicates that it is far from certain that the administration even is capable of clearly identifying the problems needing correction. He argues we have a crying need for more adept, knowledgeable, and effective negotiators. Mr. Prestowitz is the author of a recently well-received work on the United States-Japan relationship entitled "Trading Places: How We Allowed Japan to Take the Lead." He contributed a thought-provoking piece in yesterday's edition of the New York Times which argues that the administration has no overall strategy for trade with Japan, no clearly developed set of goals which are to be accomplished in negotiations with the Japanese. He argues, even more fundamentally, that the "U.S. Government does not have the ability to produce the studies" required to determine what our trade agenda should actually be. In other words, we are just not prepared to effectively negotiate with the Japanese, nor, presumably, with anyone else because we have not thought the problem through, much less followed through with tough, knowledgeable negotiators with a solid agenda and premeditated negotiating goals.

Mr. President, this kind of indictment from a recent administration trade negotiator is a discouraging and devastating critique of our current level of expertise in putting our trade house in order. It certainly argues strongly for the kind of revamping that is embodied in the trade measure now before the Senate.

I ask unanimous consent that the article by Mr. Prestowitz, which appeared in the New York Times of Sunday, April 24, entitled "The Negotiations Gap—Japan Talks Trade While America Sleeps," and the article to which I have alluded titled "Legislating the Trade Gap—Why the New Bill Is Not Protectionist," by Robert T. Green, which appeared in the New York Times of April 17, be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, Apr. 24, 1988]

THE NEGOTIATIONS GAP—JAPAN TALKS TRADE WHILE AMERICA SLEEPS

(By Clyde V. Prestowitz)

Recently the United States Government triumphantly announced that it had solved a major trade dispute with Japan. After years of negotiations, an accord was reached under which American construction companies will be allowed to bid on designated public works projects in Japan.

The agreement comes, not coincidentally, just as Congress is debating trade legislation

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

and during a period when Japanese companies are doing $3 billion worth of construction work here, while American companies are doing almost none in Japan.

I hope that this deal, and others, will prove a bonanza for American industry. But history, and my own experience as a United States trade negotiator, suggest otherwise.

Since the Strauss-Ushiba agreement of 1978, there have been annual announcements of new accords on everything from baseball bats to semiconductors. In each case, it was said that Japan was doing exactly what we wanted it to do. But the question remains why, in every case, the results have not materialized.

A large part of the answer is to be found in Americn negotiating practices. In the first place, the United States has never worked out a clear strategy for trade with Japan. Decisions about what issues to put on the agenda are not made on the basis of careful analysis of the relative strengths and weaknesses of the American or Japanese industries. Nor do they go on the agenda after an evaluation of where the United States can get the best economic results. In fact, the United States Government does not have the ability to produce the studies required to make those determinations.

Instead issues are put on the negotiating agenda in an ad hoc manner by a series of interagency committees loosely coordinated by the Office of the Trade Representative. Each agency has a favorite problem left over from past negotiations. New issues come to the office's attention either as the result of complaints from industry or from the chance discoveries of its own staff. But they do not come from any trade strategy.

The Japanese are continually amazed by our lack of planning. During one series of negotiations in Tokyo in 1982, an official of Japan's Economic Planning Agency told me that he could not even understand the American agenda. His agency, he said, had carefully analyzed American and Japanese industry and believed there were more important issues for the Americans to negotiate than the ones we had proposed.

In Washington, Japanese diplomats are part of the power elite. All speak flawless English and most have studied at American universities. They attend Congressional hearings, speak at our universities and appear on "Nightline" and other television shows.

By contrast, only about 10 percent of the American Embassy staff in Tokyo speaks any Japanese and only two or three have enough fluency to give a speech in Japanese or appear on a Japanese talk show. While the Japanese are full players in Washington, Americans in Tokyo have difficulty even understanding what is said.

In keeping with their dislike of bureaucracy, American trade negotiators believe in being "lean and mean." Usually, during negotiations, they are outnumbered at least 2 to 1. The American team often smiles condescendingly at the legions of staff members that always accompany the Japanese negotiators and feed them a constant stream of high-quality information. But as one Japanese official said, if you are too lean, you starve. And if you starve, how can you really be mean?

In addition, the American representatives are not usually as knowledgeable as the Japanese about the issues selected by the United States team. American negotiators are often political appointees who change jobs frequently and who have had little previous experience with the issues they are discussing. During the construction talks, for example, the head of the American team changed four times. In fact, at a critical stage in the bargaining, the talks had to be delayed because the leader of the American team resigned. In addition, none of the chief American negotiators had any experience in the construction industry. By contrast, the Japanese team was led by officials with long experience in construction and who kept their continuity during the talks.

The American system of political appointees also leads to poor coordination. Officials who come and go simply do not have the time to develop the relationships they need for a true esprit de corps. Moreover, there is pressure to go for quick agreements, rather than to plan for the long term. And there is always competition for the limelight by people who need to build credentials before returning to private life.

High-powered lobbying also complicates the negotiator's life. The Japanese retain a large number of political operatives and former American trade officials in Washington to represent their interests. Indeed, one of the largest contracts to come out of the construction negotiations so far was the $225,000 annual retainer charged by a major Washington lobbying firm to provide information and advice to the Japanese construction industry during the talks. In my experience, it is not unusual for such lobbyists to know the details of Cabinet-level trade discussions minutes after the meetings.

Looming over all of this is the fact that Japanese officials understand they do not have to concede much because the United States is more interested in harmonious political and security relations between the two countries than it is in trade. During the construction talks, the Japanese were informed by some of their lobbyists that despite recommendations for retaliation by sub-Cabinet American officials, there was nothing to fear. The real United States objective was to reach an agreement that would discourage Congress from passing a tough trade bill.

Finally, American negotiators suffer from the "movement is progress" syndrome and are ready to travel at the drop of a hat. Consequently, most of the talks are held in Tokyo, where the Japanese can play on their home court. American negotiators are entitled to a rest day after trips as far away as Tokyo. But to take that day would be to admit weakness to their peers. Quite simply, one reason our negotiators do so poorly is that they are always half asleep.

[From the New York Times, Apr. 17, 1988]

LEGISLATING THE TRADE GAP—WHY THE NEW BILL IS NOT PROTECTIONIST

(By Robert T. Green)

The trade legislation before Congress is being assailed by its critics as protectionist. It has been compared with the Smoot-Hawley Tariff in the 1930's. A Presidential veto is being threatened when the bill gets out of Congress.

The irony behind all of the cries of protectionism is that the main thrust of the trade bill is to reduce protectionism worldwide. While there are some limited protectionist aspects of the bill, it is mainly concerned with foreign actions that limit the ability of American companies to compete abroad.

Most trade-related provisions of the bill are a direct reaction to the huge trade deficits and the ineffective way the Administration has been handling them. Current policy has relied on dollar devaluations and bilateral negotiations on a product-by-product basis to bring down the deficit. The ineffectiveness of these policies is evident from the lack of progress being made in correcting the trade imbalance. The trade bill addresses other conditions associated with the trade deficits—the protectionism of other countries.

One of the bill's principal focuses is to hasten the process by which American companies can have their complaints about a foreign nation's discriminatory policies heard and redressed. Under the current system, companies whose products are unfairly excluded from foreign markets must go through a long, complex procedure. Often, this process can take years and by the time the case is adjudicated, the product is obsolete, the specific discriminatory activity has been altered, or other factors have intervened to make the complaint irrelevant.

These long time lags make a mockery of attempts to halt discriminatory trade practices. It is now common for companies not to report such practices because of the small likelihood that such reporting will have any timely impact.

The bill also mandates an expansion of the National Trade Estimate, an annual inventory of foreign trade barriers and distortions that affect American commerce. The bill requires that an estimate be made of the cost these barriers have for the United States, in terms of lost exports, jobs or other negative economic consequences. This expanded reporting will facilitate the United States trade representative's ability to identify countries that engage in consistent patterns of trade barriers and market-distorting activities against American exports.

The bill also focuses on international abuse of intellectual property rights, a problem that is having an increasing impact on the ability of companies to compete abroad. Many nations do not recognize or enforce laws that protect intellectual property rights. Abuse of these rights is particularly debilitating to the American competitive position because so many of this nation's most competitive industries rely on patents, trademarks and copyrights to keep their international competitive lead. It is the bill's intention to identify nations that abuse intellectual property rights, attempt to get them to respect these rights, and, if they do not respond, impose sanctions.

The most controversial aspect of the trade bill concerns the actions to be taken against nations identified as chronic offenders. The bill stipulates that action must be taken within specified time frames, if recommended by the trade representative. The particular action is left to the discretion of the President, but the critical point is that retaliatory action is mandated. Even here, though, the President is not required to retaliate if there are mitigating circumstances. The President must report to Congress on the retaliatory actions taken, and must justify a lack of retaliation in the cases where he has decided that mitigating circumstances exist.

It is the preceding requirement for either retaliation or a justification for the lack of retaliation that appears to be drawing the cries of protectionism. Yet it is not protectionist. The President is given wide latitude in determining the action to be taken, and he is not required to take any action if in his judgement the situation warrants none. Under the current laws, the President can act at his discretion; the proposed legislation makes it mandatory that the President either act or explicitly justify his reasons for not acting.

This legislation would not be necessary if the Administration had done a better job of managing the trade deficit. The current policy is not working, and one reason is that it does not address one of the fundamental causes of the trade deficit: that some nations engage in trade practices that systematically exclude American goods from their markets.

To view the actions prescribed in the new trade bill as protectionist is erroneous. These actions are simply measures intended to counter those instances of protectionism abroad that have had a negative impact on American trade.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BYRD). Without objection, it is so ordered.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDING OFFICER. Under the order, the distinguished Republican leader is recognized.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. DOLE. Mr. President, I ask unanimous consent to reserve my time.

The PRESIDING OFFICER. Without objection, the Republican leader's time will be reserved.

MORNING BUSINESS

The PRESIDING OFFICER. At this time, under the order, there will be a period for the transaction of morning business not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each. Mr. PROXMIRE is recognized.

CAN AMERICA STOP LIVING BEYOND ITS MEANS?

Mr. PROXMIRE. Mr. President, an increasing number of thoughtful observers are warning the American people and especially those of us in the Congress who make policy for this country that we are living beyond our means. We are borrowing from Europe and Japan as well as from ourselves so we can consume today what our children and grandchildren will have to pay for in the future. We see the most conspicuous mark of this irresponsible spendthrift policy in our huge Federal Government deficits. It is also reflected in even larger measure in our much bigger household debt and business debt.

As a nation we have pushed indebtedness to the highest level ever, by far in the history of this or any country. Sure our Nation is still strong. Yes, it is still productive. But our massive overall Federal, household, and business debt already exceeds $9 trillion. As we move on toward a 10 trillion mountain of Government and private debt, we are coming ever closer to a national interest burden public and private that will exceed $1 trillion every year. We will not only pay that burden in taxes to our National Government, we will also pay it in interest on our home mortgages, interest on the autos we are buying, interest on our credit card purchases. At the same time we are accumulating this mountain of household debt we are saving less and less of our income.

Our monumental borrowing does not come from the savings of thrifty Americans. American savings in relation to borrowing has sharply declined. Business borrowing in our country today is even more conspicuously mortgaging America's economic future. The ratio of business borrowing in this country which typically averaged about three times earnings or less has soared to more then $9 of borrowing for every dollar of earnings! Businesses have to pay every dollar of the interest on that debt, in full, on time. Not a penny of it can be cut without the danger of foreclosure. That means earnings that should go into research and investment in more productive facilities and upgrading the skill of employees must go into interest payments. It means American competitiveness is diminishing.

Worst of all we are running up this largest debt in the history of any country ever in the longest peacetime economic recovery period in our 200-year history. Big wartime deficits are understandable. A nation fighting for its life can justify borrowing from the future to preserve its freedom.

Deficits generally increase in recessions and soar in depressions. Think of it. For 5 years this country has been blessed with peace and economic recovery. If ever America should have had balanced budgets this was the time for it. But what has happened? Deficits and the national debt have zoomed. Today economists close their eyes and grit their teeth when they contemplate what will happen to our national debt come the inevitable next recession. And if you want to see a competent economist, a grown adult, who loves this country actually break down in tears, ask him what happens to the economy of our country if we finally get around to cutting spending and raising taxes only after that next recession hits. Talk about counterproductive. Tax hikes and spending cuts in a recession in a country head over heels in private as well a public debt would deepen and lengthen a recession into full fledged depression. This country is rushing toward a tragic economic quandary.

There is another dimension to this quandary that makes it even more agonizing. Our country's economy today is more closely bound to the economy of the rest of the free world than it has even been in history. We suffer from an unfavorable balance of trade. Other country's economy today is more closely bound to the economy of the rest of the free world than it has ever been in history. We suffer from an unfavorable balance of trade. Other countries are not only lending unprecedented amounts of money. They are producing increasing amounts of what we consume. Can this world-class economy overcome this painful and embarrassing adverse balance of trade? Can we count on expanding American employment and production as we recapture more of our own domestic market and well more abroad? This is going to be far more difficult than most Americans realize. Like it or not America is the leader of the free world. Our economy is the mighty engine that is pulling our trading partners along. Our explosive fiscal policy and our rapidly increasing private debt will plague us in the future.

But meanwhile these improvident irresponsible, American policies have been a lifesaver for many of our trading partners. What irony, European countries have been enjoying a huge trade surplus with America. That means more jobs for our trading partners, but it is not enough. Their unemployment is raging along at a depression level 11 percent. In Ireland and Spain unemployment hovers around 20 percent. Even in Germany—the strongest economy in Europe, unemployment has hit 9½ percent.

What does this huge European unemployment mean for America's economic future? It means that in this zero sum world of international trade we cannot significantly improve our balance of trade with European countries without aggravating their already depression level unemployment. It means that the balance of trade "solution" as the stimulus that will allow America to shift gears and pursue a sound fiscal policy just isn't available. Any major improvement in our balance of trade with European countries would drive our friends and military allies into even deeper economic depression.

So what solution is there for the free world economies? The administration has proposed that our trading partners loosen up, relax and enjoy life. The administration invites our European friends to join our Texas style—big debt, big spending party with irresponsible deficits. It tells the Europeans to turn on even more pizzaz with a stimulative monetary policy. In other words we ask these countries that have been sticking to the economic straight and narrow to join us, do what we do, live beyond your means. They're like a prudent couple standing by the highway with a broken down car. A brand new Cadillac wheels up and stops. The driver shouts "get in ole buddy," but he has a beer in one hand and he is obviously drunk. Like any other invitation for a quick joy ride, it is seductive. But is it right?

Mr. President, this joy ride, live-beyond-your means pitch makes no sense to me in logic and in just plain gut reaction. Certainly in the long run, the path of reducing debt, increasing savings at every level makes good sound sense for our country. Oh sure, it means a period of reduced American living standards. It means sacrifice. But that has always been the price of progress.

FINANCIAL HOLDINGS AND 1987 FEDERAL INCOME TAX RETURNS OF SENATOR WILLIAM PROXMIRE

Mr. PROXMIRE. Mr. President, in 1963, 1965, 1967, and 1970, and yearly since 1974, I have submitted for the RECORD a history of my financial holdings from the time I was first elected to the Senate in 1957 until April of 1987. In order to bring the full record up-to-date, I submit herewith the history of my financial holdings since April of 1987.

My assets include ownership of a home in Madison, MI, on which I owe a mortgage to the former owners; ownership of my home and furnishings in Washington, DC, on which I owe a mortgage to Perpetual Saving Bank; ownership of a 1980 automobile; ownership of one checking account in a Washington, DC bank; one checking account in a Madison, WI, bank and one savings account in a Madison, WI, bank. I hold State and municipal bonds totaling $65,000 in face value; two Shearson Lehman Managed Municipal Fund accounts totaling $114,974, and a Federal Service Retirement cash deposit of $84,574. My principle assets are my homes in Washington and Madison, WI, which all together are assessed at about $485,000 including furnishings net of mortgages.

I estimate my net worth to be about $766,000.

To the best of my knowledge, this is an accurate record of my financial holdings and obligations.

I herewith submit a balance sheet showing my net worth and how it was arrived at and a copy of my 1987 Federal incomce tax return.

I paid $48,523 in Federal taxes on my 1987 income. In addition, I paid $6,584 to the State of Wisconsin on my 1987 income and $5,388 to the D.C. government for a total of $11,972 in "State" income taxes.

I ask unanimous consent that the balance sheet and copy of my 1987 Federal tax return be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Net worth of Senator William Proxmire as of April 1988

Municipal and State bonds (face value)	$65,000
Two checking and one savings account:	
National Bank of Washington	743
Madison, WI—checking	2,503
Madison, WI, savings	9,379
Shearson Lehman Managed Municipal fund No. 1	57,529
Shearson Lehman Managed Municipal fund No. 2	57,445
1980 Buick Regal (blue book retail value)	2,500
3097 Ordway Street, NW:	
Assessed value	477,000
Mortgage value	(47,868)
Furnishings	40,000
118 Bradford Lane, Madison, WI:	
Assessed value	48,500
Mortgage value	(32,921)
Cash deposit in Federal Retirement	84,574
Thrift savings plan	1,653
Total	766,037

WAGE AND TAX STATEMENT, 1987

Hon. William Proxmire, United States Senate, Washington DC.

Employee's social security number: [redacted]

1. Federal income tax withheld: $29,235.32.

2. Wages, tips, and other compensation: $85,245.85.

3. Social Security employee tax withheld: $3,131.70

4. Total Social Security wages: $43,800.00

6. Thrift Savings Plan deferred compensation not included in block 2: $2,237.45.

7. State or local tax withheld. $6,419.45

8. State or local wages: $85,245.85.

9. State or locality: WI.

Ellen H. Proxmire, 3097 Ordway St., Washington, DC.

8. Employee's social security number: [redacted]

9. Federal income tax withheld: $14,921.57.

10. Wages, tips, other compensation: $76,433.30.

11. Social security tax withheld: $3,131.70.

13. Social security wages: $43,800.

18. State wages, tips. etc: $76,433.30.

U.S. INDIVIDUAL INCOME TAX RETURN, 1987

William and Ellen H. Proxmire, 118 Bradford Lane, Madison, WI.

Presidential Election Campaign: Do you want $1 to go to this fund? Yes; If joint return, does your spouse want $1 to go to this fund? Yes.

Filing status

Married filling joint return (even if only one had income).

Exemptions

6a. Yourself.

6b. Spouse.

e. Total number of exemptions claimed (also complete line 35), 2.

Income

7. Wages, salaries, tips, etc. (attach Form(s) W-2) (see statement 1) $161,679.

8. Taxable interest income (also attach Schedule B if over $400), $728.

9. Tax-exempt interest income (see pg. 10 DON'T include on line 8, $3,279.

10. Dividend income (also attach Schedule B if over $400), $1,497.

11. Taxable refunds of state and local income taxes, if any, from worksheet on page 11 of Instructions, $149.

13. Business income or (loss) (attach Schedule C), $14,717.

14. Capital gain or (loss) (attach Schedule D), $3,269.

16a. Pensions, IRA distributions, annuities, and rollovers, Total received, $3,785.

b. Taxable amount (see page 11) (stmt. 3), $3,785.

17. Rents, royalties, partnerships, estates, trusts, etc. (attach Schedule E), −$2,361.

20a. Social security benefits (see page 12), $14,097

b. Taxable amount, if any, from the worksheet on page 12, $7,049.

22. Add the amounts shown in the far right column for lines 7, 8, and 10-21. This is your total income, $190,512.

Adjustments to income

25. Self-employed health insurance deduction, from worksheet on page 14, $391.

29. Add lines 23 through 28, $391.

AGI

30. Subtract line 29 from line 22. This is your adjusted gross income, $190,121.

Tax computation

31. Amount from Line 30 (adjusted gross income) $190,121.

32a. You were 65 or over.

33a. Itemized deductions. See page 15 to see if you should itemize. If you don't itemize, enter zero. If you do itemize, attach Schedule A, enter the amount from Schedule A, line 26, and skip line 33b, $33,266.

34. Subtract line 33a or 33b, whichever applies, from line 31. Enter the result here, $156,855.

35. Multiply $1,900 by the total number of exemptions claimed on line 6e or see chart on page 16, $3,800.

36. Taxable income. Line 34 less line 35. Enter the result (but not less than zero), $153,055.

37. Enter tax. Schedule D, $48,523.

39. Add lines 37 and 38. Enter the total, $48,523.

Credits

43. Subtract line 42 from line 39. Enter the result (but not less than zero), $48,523.

47. Subtract line 46 from line 43. Enter the result (but not less than zero), $48,523.

Other taxes

49. Alternative minimum tax (attach form 6251), 0.

53. Add lines 47 through 52, $48,523.

Payments

54. Federal income tax withheld, $44,346.

61. Add lines 54 through 60. These are your total payments, $44,346.

Refund or amount you owe

65. If line 53 is larger than line 61, enter amount you owe, $4,177.

SCHEDULE A—ITEMIZED DEDUCTIONS

Name(s) as shown on Form 1040: William and Ellen H. Proxmire.

Medical and dental expenses

1a. Prescription medicines and drugs, insulin, doctors, dentists, nurses, hospitals, insurance premiums you paid for medical and dental care, etc., $2,286.

c. Other (list-include hearing aids, dentures, eyeglasses, etc.): Insurance reimbursement, −$59.

2. Add lines 1a through 1c, and enter the total here, $2,227.

3. Multiply the amount on Form 1040, line 31, by 7.5% (.075), $14,259.

4. Subtract line 3 from line 2. If zero or less, enter -0-. Total medical and dental, 0.

Taxes you paid

5. State and local income taxes, $11,185.

6. Real estate taxes, $5,380.

8. Add the amounts on lines 5 through 7. Enter the total here. Total taxes, $16,565.

Interest you paid

9a. Deductible home mortgage interest you paid to financial institutions (report deductible points on line 10), $4,044.

12a. Personal interest you paid (see page 22) (see statement 9), $3,956.

b. Multiply the amount on line 12a by 65% (.65). Enter the result, $2,571.

13. Add the amounts on lines 9a through 11, and 12b. Enter the total here. Total interest, $6,615.

Contributions you made

14a. Cash contributions. (If you gave $3,000 or more to any one organization, report these contributions on line 14b.), $5,705.

17. Add the amounts on lines 14a through 16. Enter the total here. Total contributions, $5,705.

Miscellaneous deductions subject to 2 percent AGI limit

20. Unreimbursed employee business expenses (attach Form 2106), $3,993.

21. Other expenses (list type and amount) (See statement 10), $4,190.

22. Add the amounts on lines 20 and 21. Enter the total, $8,183.

23. Multiply the amount on Form 1040, line 31, by 2% (.02). Enter the result here, $3,802.

24. Subtract line 23 from line 22. Enter the result (but not less than zero), $4,381.

Total itemized deductions

26. Add the amounts on lines 4, 8, 13, 17, 18, 19, 24, and 25. Enter the total here and on Form 1040, line 23a, $33,266.

SCHEDULE B—INTEREST AND DIVIDEND INCOME

Part I—Interest income

2. Other interest income (list name of payer):

Interest from municipal bonds, $3,279.

(J) DC Natl Bk, $224.

(H) United Bk 271-601, $238.

(H) United Bk 176-014, $266.

Subtotal, $4,007.

Tax-exempt interest, $3,279.

3. Add the amounts on lines 1 and 2. Enter the total here and on Form 1040, line 8, $728.

Part II—Dividend income

4. Dividend income (list name of payer—include on this line capital gain distributions, nontaxable distributions, etc.):

(H) Shearson—81054, $116.

(H) Shearson—81713, $1,330.

(H) Shearson—MNGD Munic, $4,158.

(H) Folger Nolan Feming Douglas, $83.

5. Add the amounts on line 4. Enter the total here, $5,687.

6. Capital gain distributions. Enter here and on line 13. Schedule D, $32.

7. Nontaxable distributions. (See Schedule D Instructions for adjustment to basis), $4,158.

8. Add the amounts on lines 6 and 7. Enter the total here, $4,190.

9. Subtract line 8 from line 5. Enter the result here and on Form 1040, line 10, $1,497.

Part III—Foreign Accounts and Foreign Trusts

10. At any time during the tax year, did you have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)? (See page 25 of the instructions for exceptions and filing requirements for Form TD F 90-22.1.) No.

11. Were you the grantor of, or transferor to, a foreign trust which existed during the current tax year, whether or not you have any beneficial interest in it? If "Yes," you may have to file Forms 3520, 3520-A, or 926. No.

SCHEDULE C—PROFIT OR (LOSS) FROM BUSINESS OR PROFESSION (FORM 1040)

A. Principal business or profession, including product or service: Speaker services.

C. Business name and address: Sen. William Proxmire, SD 530 Dirksen Blg, Washington, DC.

F. Accounting method: Cash.

G. Was there any change in determining quantities, costs, or valuations between opening and closing inventory? (If "Yes," attach explanation.). No.

H. Are you deducting expenses for an office in your home? No.

I. Did you file Form 941 for this business for any quarter in 1987? No.

J. Did you "materially participate" in the operation of this business during 1987? Yes.

K. Was this business in operation at the end of 1987? Yes.

L. How many months was this business in operation during 1987? 12.

Part I—Income

1 a. Gross receipts or sales, $16,920.

c. Subtract line 1b from line 1a and enter the balance here, $16,920.

3. Subtract line 2 from line 1c and enter the gross profit here, $16,920.

5. Add lines 3 and 4. This is the gross income, $16,920.

Part II—Deductions

19. Legal and professional services, $100.

25. Taxes, $100.

26. Travel, meals, and entertainment: a Travel, $2,003.

30. Add amounts in columns for lines 6 through 29. These are the total deductions, $2,203.

31. Net profit or (loss). Subtract line 30 from line 5. If a profit, enter here and on Form 1040, line 13, and on Schedule SE, line 2 (or line 5 of Form 1041 or Form 1041S). If a loss, you MUST go on to line 32, $14,717.

SCHEDULE D—CAPITAL GAINS AND LOSSES AND RECONCILIATION OF FORMS 1099-B

1. Report here, the total sales of stocks, bonds, etc., reported for 1987 by your broker to you on Form(s) 1099-B or an equivalent substitute statement(s). If this amount differs from the total of lines 2b and 9b, column (d), attach a statement explaining the difference. See the instructions for line 1 for examples. Do not include real estate transactions reported to you on a Form 1099-B on line 1, 2a, or 9a, $33,700.

Part II—Long-term capital gains and losses—Assets held more than six months

9a. Form 1099-B Transactions (Sales of Stocks, Bonds, etc.):

(a) Description of property (Example, 100 shares 7% preferred of "Z" Co.), Shearson MNGD Munics.

(b) Date acquired (Mo., day, yr.), 7/10/85.

(c) Date sold (Mo., day, yr.), 1/19/87.

(d) Sales price, $700.

(e) Cost or other basis, $626.

(g) Gain if (d) is more than (e), subtract (e) from (d), $74.

(a) Description of property (Example, 100 shares 7% preferred of "Z" Co.), Shearson Mngd Munics.

(b) Date acquired (Mo., day, yr.), 7/10/85.

(c) Date sold (Mo., day, yr.), 5/20/87.

(d) Sales price, $8,000.

(e) Cost or other basis, $7,806.

(g) Gain if (d) is more than (e), subtract (e) from (d), $194.

(a) Description of property (Example, 100 shares 7% preferred of "Z" Co.), Milwaukee Cnty Wis.

(b) Date acquired (Mo., day, yr.), 5/25/83.

(c) Date sold (Mo., day, yr.), 10/01/87.

(d) Sales price, $25,000.

(e) Cost or other basis, $22,031.

(g) Gain if (d) is more than (e), subtract (e) from (d), $2,969.

9b. Total (add column (d)), $33,700.

12. Net long-term gain or (loss) from partnerships, S corporations, and fiduciaries, $32.

16. Add all of the transactions on lines 9a and 9c and lines 10 through 15 in column 9(f) and (g), $3,269.

17. Net long-term gain or (loss), combine columns (f) and (g) of line 16, $3,269.

Part II—Summary of parts I and II

18. Combine lines 8 and 17, and enter the net gain or (lose) here. If results is a gain, also enter the gain on Form 1040, line 14, $3,269.

Part IV—Alternative tax computation

20. Enter amount from Form 1040, line 36, $153,055.

21. Enter the smaller of the gain on line 17 or the gain on line 18, $3,269.

22. Subtract line 21 from 20 and enter the result, $149,786.

23. Enter: a $16,800 if you checked filing status box 1; b $28,000 if you checked filing status box 2 or 5; c $14,000 if you checked filing status box 3; or d $23,000 if you checked filing status box 4, $28,000.

24. Enter the greater of line 22 or line 23, $149,786.

25. Subtract line 24 from line 20, $3,269.

26. Figure the amount of tax on line 24. Use the Tax Table or Tax Rate Schedules, whichever applies, $47,608.

27. Multiply line 25 by 28% (.28) and enter the result, $915.

28. Add lines 26 and 27 Enter the result here and on Form 1040, line 37 and check the box for Schedule D, $48,523.

SCHEDULE E—SUPPLEMENTAL INCOME SCHEDULE

1. In the space provided below, show the kind and location of each rental property: Rental property, 118 Bradford Lane, Madison, WI.

2. For each property listed, did you or a member of your family use for personal purposes any of the properties for more than the greater of 14 days or 10% of the total days rented at fair rental value during the tax year? No.

3. For each rental real estate property listed, did you actively participate in the op-

eration of the activity during the tax year? Yes.

Rental and royalty income

4. Rents received (See stmt 6), $4,680.

Rental and royalty expenses

19. Other (list) (see stmt 6), $6,722.

20. Total expenses other than depreciation and depletion. Add lines 6 through 19 (form 4562 and stmt 6), $6,722.

21. Depreciation expense, or depletion, $1,590.

22. Total. Add lines 20 and 21, $8,312.

23. Income or (loss) from rental or royalty properties. Subtract line 22 from line 4 (rents) or 5 (royalty), −$3,632.

24. Deductible rental loss, $2,361.

26. Losses. Add royalty losses from line 23 and rental losses from line 24, and enter the total (losses) here, −$2,361.

27. Combine amounts on lines 25 and 26, and enter the net profit or (loss) here, −$2,361.

29. Total rental or royalty income or (loss). Combine amounts on lines 27 and 28, and enter the total here. If Parts, II, III, IV and V on page 2 do not apply to you, enter the amount from line 29 on Form 1040, line 17. Otherwise, include the amount from line 29 in line 42 on page 2 of Schedule E, −$2,361.

FORM 6251—ALTERNATIVE MINIMUM TAX—INDIVIDUALS

1. Taxable income from Form 1040, line 36 (can be less than zero), $153.055.

3. Add lines 1 and 2, $153.055.

4. Adjustments:

c. Miscellaneous itemized deductions from Schedule A, line 24, $4,381.

d. Taxes from Schedule A. line 8, $16,565.

e. Interest from Schedule A, line 12b $2,571.

p. Passive activity loss, $2,361.

s. Total adjustments (combine lines 4a through 4r), $25,878.

5. Tax preference items:

f. Tax-exempt interest from private activity bonds issued after August 7, 1986, $175.

j. Total tax preference items (add lines 5a through 5i), $175.

6. Combine lines 3, 4s, and 5j, $179,108.

8. Alternative minimum taxable income (subtract line 7 from line 6), $179,108.

9. Enter: $40,000 ($20,000 if married filing separately; $30,000 if single or head of household), $40,000.

10. Enter: $150,000 ($75,000 if married filing separately; $112,500 if single or head of household), $150,000.

11. Subtract line 10 from 8. If zero or less, enter zero, $29,108.

12. Multiply line 11 by 25% (.25), $7,277.

13. Subtract line 12 from line 9. If zero or less, enter zero, $32,723.

14. Subtract line 13 from line 8. If zero or less, enter zero, $146,385.

15. Multiply line 14 by 21% (.21), $30,741.

17. Tentative minimum tax (subtract line 16 from line 15), $30,741.

18. Regular tax before credits (Form 1040, line 37) minus foreign tax credit (Form 1040, line 44), $48,532.

19. Alternative minimum tax (subtract line 18 from line 17). Enter on Form 1040, line 49, 0.

FORM 2106—EMPLOYEE BUSINESS EXPENSES

Your name: Ellen H. Proxmire.

Part I. Employee Business Expenses

Step 1 enter your expenses (other than meals and entertainment)

1. Vehicle expense from Part II, line 15 or line 22, $3,500.

4. Business expenses not included in lines 1 through 3. Do not include meals and entertainment (see statement 4), $493.

6. Add lines 1 through 5 and enter the total expenses here, $3,993.

Step 4 figure expenses to deduct as an itemized deduction on schedule A (form 1040)

14. Subtract line 12 from line 10, $3,993.

16. Subtract line 15 from line 14, $3,993.

17. Add the amounts on line 16 of both columns and enter the total here. Also enter the total on Schedule A (Form 1040), line 20. (Qualified Performing Artists and handicapped employees, see instructions), $3,993.

Part II—Vehicle expenses (use either your actual expenses (section C) or the standard mileage rate (section B).)

Section A.—General Information (Vehicle 1)

1. Enter the date vehicle was placed in service, 1/1/86.

2. Total mileage vehicle was used during 1987, 8,000.

3. Miles included on line 2 that vehicle was used for business, 5,600.

4. Percent of business use (divide line 3 by line 2), 70.

5. Average daily round trip commuting distance, 5.

6. Miles included on line 2 that vehicle was used for commuting, 1,250.

7. Other personal mileage (subtract line 6 plus line 3 from line 2), 1,150.

8. Do you (or your spouse) have another vehicle available for personal purposes? Yes.

9. If your employer provided you with a vehicle, is personal use during off duty hours permitted? Not applicable.

10. Do you have evidence to support your deduction? Yes. If yes, is the evidence written? Yes.

Section C.—Actual Expenses (Vehicle 1)

16. Gasoline, oil, repairs, vehicle insurance, etc. (stmt 5), $1,034.

17. Vehicle rentals, $3,966.

19. Add lines 16 through 18, $5,000.

20. Multiply line 19 by the percentage on Part II, line 4, $3,500.

22. Add lines 20 and 21. Enter total here and on Part I, line 1, $3,500.

FORM 4562—DEPRECIATION AND AMORTIZATION

Name(s) as shown on return: William and Ellen H. Proxmire.

Part I—Depreciation

Section C.—Other Depreciation

10. Other depreciation (see statement 6), $1,590.

Section D.—Summary

11. Total (add deductions on lines 5 through 10). Enter here and on the Depreciation line of your return (Partnerships and S corporations—Do NOT include any amounts entered on line 5), $1,590.

FORM 8582–PASSIVE ACTIVITY LOSS LIMITATIONS

Name(s) as shown on return: William and Ellen H. Proxmire.

Part I—Computation of 1987 passive activity loss

Rental Real Estate Activities With Active Participation

Activities acquired before 10-23-86:

1a. Activities with net income, 0.

1b. Activities with net loss, $3,632.

1c. Combine lines 1a and 1b, $3,632.

Activities acquired after 10-22-86:

1g. Net income or (loss). Combine lines 1c and 1f, $3,632.

3. Combine lines 1g and 2g. If the result is net income, see the instructions for line 3. If this line and line 1g are both losses, go to line 4; otherwise, enter -0- on line 9 and go to line 10, $3,632.

Part II—Computation of the special allowance for rental real estate with active participation

4. Enter the smaller of the loss on line 1g or the loss on line 3, $3,632.

5. Enter $150,000 ($75,000 if married filing separately and you lived apart for the entire year), $150,000.

6. Enter modified adjusted gross income, but not less than -0-. If line 6 is equal to or greater than line 5, skip lines 7 and 8, enter -0- on line, 9, and then go to line 10. Otherwise go to line 7, $185,433.

9. Enter the smaller of line 4 or line 8, 0.

Part III—Computation of passive activity loss allowed

10. Combine lines 1c and 2c and enter the result, if the result is -0- or net income, skip to line 16, $3,632.

11a. If line 9 is -0- enter -0- on line and go to line 12.

11b. If line 1c shows income, has no entry, or shows, -0-, enter -0- on line 11. Otherwise enter the smaller of line 1c or line 8, 0.

12. Subtract line 11 from line 10. If line 11 is equal to or greater than line 10, enter -0-, $3,632.

13. Subtract line 9 from line 3, $3,632.

14. Enter the smaller of line 12 or line 13, $3,632.

15. Multiply line 14 by 65% (.65) and enter the result, $2,361.

16. Enter the amount from line 9, 0.

17. Passive Activity Loss Allowed for 1987. Add lines 15 and 16, $2,361.

18. Add the income, if any, on lines 1a, 1d, 2a, and 2d and enter the result, 0.

19. Total losses allowed from all passive activities for 1987. Add lines 17 and 18. See page 5 of the instructions to see how to report the losses on your tax return, $2,361.

FORM 8582—PASSIVE ACTIVITY LOSS LIMITATIONS "ALT MIN TAX"

Name(s) as shown on return: William and Ellen H. Proxmire.

Part I—Computation of 1987 passive activity loss

Rental Real Estate Activities With Active Participation

Activities acquired before 10-23-86:

1a. Activities with net income, 0.

1b. Activities with net loss, $3,632.

1c. Combine lines 1a and 1b, $3,632.

Activities acquired after 10-22-86:

1g. Net income or (loss). Combine lines 1c and 1f, $3,632.

3. Combine lines 1g and 2g. If the result is net income, see the instructions for line 3. If this line and line 1g are both losses, go to line 4; otherwise, enter -0- on line 9 and go to line 10, $3,632.

Part II—Computation of the special allowance for rental real estate with active participation

4. Enter the smaller of the loss on line 1g or the loss on line 3, $3,632.

5. Enter $150,000 ($75,000 if married filing separately and you lived apart for the entire year), $150,000.

6. Enter modified adjusted gross income, but not less than –0–. If line 6 is equal to or greater than line 5, skip lines 7 and 8, enter -0- on line 9, and then go to line 10. Otherwise, go to line 7, $185,433.

9. Enter the smaller of line 4 or line 8, 0.

Part III—Computation of passive activity loss allowed

16. Enter the amount from line 9, 0.

17. Passive Activity Loss Allowed for 1987. Add lines 15 and 16, 0.

18. Add to income, if any, on lines 1a, and 2d and enter the result, 0.

19. Total losses allowed from all passive activities for 1987. Add lines 17 and 18. See page 5 of the instructions to see how to report the losses on your tax return, 0.

STATEMENT 1.—WAGES, SALARIES, TIPS, ETC.

Employers name and address	Income tax withheld	Wages salaries tips, etc.	FICA	FICA wages for sch se
(H) U.S. Senate	$29,235	$85,246	$3,132	$43,800
(W) Washington, Inc	14,922	76,433	3,132	43,800
Total withheld, wages, and FICA	44,157	161,679	6,264	87,600

STATEMENT 2.—PENSION AND ANNUITY WITHHOLDING

Pension/annuity description	Federal income tax withheld
Civil service retirement (total Federal taxes withheld)	$189

STATEMENT 3.—PENSION AND ANNUITY INCOME

General rule, description	Taxable portion
(H) Civil service retirement (taxable income under general rule)	$3,785

STATEMENT 4.—OTHER EMPLOYEE BUSINESS EXPENSES, FORM 2106

Other expenses	Amount
Dues and publications (total other business expenses)	$493

STATEMENT 5.—EMPLOYEE BUSINESS AUTO EXPENSE

Automobile expenses—Other	Amount
Gas, oil, and lube (total automobile expense—Other)	$1,034

STATEMENT 6.—RENT AND ROYALTY INCOME

(H) Property 1 (Rental property, 118 Bradford Lane Madison, WI)	Amount
Rental income	$4,680
Expenses:	
Insurance	229
MTG interest pd to fin inst	4,948
Legal and professional fees	100
Taxes—Property	1,445
Depreciation	1,590
Total deductible expenses	8,312
Net loss	−3,632
Disallowed passive loss	−1,271
Allowed passive loss	−2,361

STATEMENT 6.—RENT AND ROYALTY INCOME

Date acquired	Depreciation calculation					
	Cost or basis	Prior years depreciation	Method	Yrs	Pct	Current depreciation
118 land 11/22/80	$11,500					0
118 Bradford 11/22/80	31,800	$9,805	SL	20		$1,590
Total	43,300	9,805				1,590

STATEMENT 7.—PASSIVE ACTIVITY LOSS LIMITATIONS

Form or schedule reported on—	Activities acquired before 10/23/86		Activities acquired after 10/22/86	
	(A) Income	(B) Loss	(C) Income	(D) Loss
Rental real estate activities with active participation: rental property schedule E (total)		−$3,632		

ALLOCATION OF UNALLOWED LOSSES

	(A) Loss	(B) Ratio	(C) Unallowed loss	Amount
Passive losses in excess of income				3,632
Special allowance and pre 10/23/86 losses allowed				2,361
Unallowed losses to be allocated				$1,271
Rental property schedule E (total)	$3,632	1.000000	$1,271	

ALLOWED LOSSES

	Form or schedule reported on—	(A) Loss	(B) Unallowed loss	(C) Allowed loss
Rentral property schedule E (total)	3,632	1,271	2,361	

STATEMENT 8.—PASSIVE ACTIVITY LOSS LIMITATIONS ALTERNATIVE MINIMUM TAX

Form or schedule reported on—	Activities acquired before 10/23/86		Activities acquired after 10/22/86	
	(A) Income	(B) Loss	(C) Income	(D) Loss
Rental real estate activities with active participation: Rental property form 6251 (total)		$3,632		

ALLOCATION OF UNALLOWED LOSSES

Form or schedule reported on—	(A) Loss	(B) Ratio	(C) Unallowed loss	Amount
Passive losses in excess of income				$3,632
Special allowance and pre 10/23/86 losses allowed				0
Unallowed losses to be allocated				3,632
Rental property form 6251 (total)	3,632	1.000000	3,632	

ALLOWED LOSSES

Form or schedule reported on—	(A) Loss	(B) Unallowed loss	(C) Allowed loss
Rental property form 6251 (total)	$3,632	$3,632	0

STATEMENT 9.—PERSONAL INTEREST

	Amount
Bk of Wilmington	$1,855
NBW	27
Credit cards	733
Marine Bank	256
Thomson McKinnon	1,085
Total personal interest	3,956

STATEMENT 10.—MISCELLANEOUS DEDUCTIONS SUBJECT TO 2-PERCENT AGI LIMIT

	Amount
Tax preparation fees	$1,100
Senate office exp	90
Total miscellaneous deductions	1,190
Other business expenses (H) Member of Congress travel (total)	3,000
Total business expenses—Miscellaneous itemized deductions	3,000
Total miscellaneous itemized deductions to schedule A	4,190

STATEMENT 11.—DOCTORS, HOSPITALS, DRUGS, AND INSURANCE PREMIUMS

	Amount
Doctor, dentist, etc. expenses other doctors, dentists, nurses, etc. (total)	791
Medical insurance premiums	1,495
Total doctors, hospitals, drugs, and ins. premiums	2,286

STATEMENT 12.—CASH CONTRIBUTIONS UNDER $3,000

	Amount
Charities qualifying for 50 percent limitations:	
Misc. organized charities	1,325
Multiple sclerosis	3,600
Misc. organized charities	780
Total cash contributions to charities qualifying for 50 percent limitation	5,705
Total cash contributions under $3,000	5,705

Name: Senator William and Ellen Proxmire. SSN: (H) [redacted] and SSN: (W) [redacted]

Address: 118 Bradford Lane.

City, State, ZIP: Madison, Wisconsin 53714.

CERTIFICATE

I hereby certify that I was in travel status in the Washington, D.C., area, away from my home in my home state of Wisconsin, in the performance of my official duties as a Member of Congress for 270 days during the year 1987 and that my deductible living expenses while in such travel status amounted to $3,000.

WILLIAM PROXMIRE.

NOTE.—If such living expenses exceeded $3,000, the deduction is limited under section 162(2) of the Internal Revenue Code of 1954 to $3,000.

Mr. PROXMIRE. Mr. President, I yield the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The PRESIDING OFFICER. Under standing order, the Republican leader is recognized for 10 minutes.

INF

Mr. DOLE. Mr. President, 3 months ago today, President Reagan submitted a landmark arms control treaty to the Senate for its advice and consent to ratification. The INF Treaty is the first agreement to reduce existing nuclear weapons. It also establishes the principle of asymmetrical reductions, and incorporates unprecedented verification procedures.

Since January 25, the INF Treaty has undergone a thorough examination. I certainly want to commend Members of the various committees who have participated in this examination. I think it is fair to say that at no time in the past 200 years has the Senate scrutinized a treaty so carefully. Hundreds of person-hours have been spent examining the history of negotiations—and I think this has been a healthy development. Three committees have considered extensive testimony, and issued reports.

Three months of scrutiny has, by and large, upheld the judgment most of us formed upon first reading: the INF Treaty is a good one, and it is effectively verifiable. Naturally, some tough questions have arisen. The Constitution gives the Senate a "second look" at treaties precisely to insure that those tough questions are asked and answered before ratification.

Most issues raised have been resolved; only a few await further judgment on the Senate floor. No issue which has yet arisen warrants delay of the treaty consideration process which we are already deeply into.

In fact, I believe we can—and should—press on so that we can give President Reagan our advice and consent to ratification before he goes to Moscow at the end of May.

Two weeks from today we will begin the final phase of our work. We will have to translate our excellent preparatory work into excellent policy. To do that, we must draw together in a truly bipartisan search for reasonable solutions to outstanding problems.

Unfortunately, so far we have seen a genuine attempt at bipartisan compromise on the treaty interpretation issue swept aside in favor of a provision which will surely cause rancor and delay on the floor.

Then there is the very important so-called futures issue. I said at the outset of this process that the Senate would play a constructive role, and the armed services committee's work on this subject is a perfect example. Senators NUNN, WARNER, QUAYLE, and others are to be commended for bringing the futures issue to the fore. It is an important question which must be resolved.

But I suggest that we should not start out brandishing category three conditions—those that require further agreement from the Soviets—and leaping into positions adversarial to our President.

We may find that a category 3 condition is the only solution, but we should leave no stone unturned to find an alternative.

I would just suggest that I think on this side of the aisle, I am certain not all will finally agree to ratification, but we are prepared to roll up our sleeves and get down to work. I believe the compromise we nearly reached on treaty interpretation is still within reach. We need to explore, as I have heard the distinguished majority leader say, all the possibilities on the so-called futures issue—perhaps a category 1 or 2 condition, or some other arrangement can be found.

I will be meeting later today with the President's Chief of Staff, Howard Baker, and National Security Adviser, Gen. Colin Powell, to discuss these issues as they too are prepared to work with us to solve the problems that have arisen. They feel very strongly about having a treaty completed by the time the President goes to Moscow.

So I would just say to the majority leader and my colleagues on this side of the aisle, and on both sides of the aisle, that we will be working together to find reasonable solutions to real issues which have arisen. The committees have spent, as I have said, hundreds and hundreds and hundreds of hours, and I do not know how many witnesses totally. But as we examine the INF Treaty, I think we will find some solution. And such an effort would be the finest hour of a process of which we are justifiably proud.

If we rededicate ourselves to this effort today, we can begin effective and expeditious consideration of the treaty on May 9—as the majority leader plans. We should be able to complete our work in 2 weeks, thus combining our full constitutional duty and the President's desire to ratify the treaty at the upcoming summit. I believe the two are entirely consistent.

I think most everyone would share that view, and I am certain that we will be doing all possible on this side of the aisle to make certain that there is timely ratification.

Mr. BYRD. Mr. President, as I have indicated before, I have no interest in delay on the treaty for the sake of delay. But I feel that the Senate has the responsibility under the Constitution to very carefully study this treaty, and as the minority leader has said, hundreds of hours have been spent by three committees under whose jurisdiction certain aspects of this treaty fall. That is not to say that we should not take additional time if it is necessary. I have not said that we would take up the treaty on May 9. I have said that we would not take up the treaty before May 9.

I have also said that, insofar as trying to meet the summit deadline is concerned, that is no guide to me at all. It is the Senate's responsibility to carefully study this treaty to give its advice and consent to the treaty if it finds the treaty to be a good one. To me that is the sole benchmark that this Senator and that this Senate should attempt to be guided by. I have reason to believe that, in due time, we will be satisfied with this treaty. I said upon my first reading of it several months ago that I thought it was a good treaty, that on the surface it seemed to be a good treaty, but that the committees would obviously probe and delve into the information and the facts, and that if there is a weakness, it would be found through the committee process.

Some problems have arisen. I have said, and I believe Senator NUNN has said, that we do not think those are insurmountable.

I just want to repeat that I think that, in the interests of our country and of all the people, we must be guided by the facts on which the treaty is based. We must carefully study the record, and, as problems have been found, we must do the best we can to surmount those problems. If they cannot be surmounted, that is another question.

I appreciate the advice that the distinguished Republican leader is giving us. I am sure that we will work together in this matter as we go along. But the Senate will not be rushed or hurried, waiting on the report of the Intelligence Committee. As I understand it, that committee will be going forward this week in its study. Mr. BOREN, of course, will be prepared, in due time, to inform the Senate as to what the findings of that committee are.

I will continue to talk with Mr. NUNN and Mr. DOLE and others. But the White House is just going to have to wait, so far as I am concerned, until we are satisfied that these problems can be surmounted. I hope they will be, and I believe they will be, and there is yet time.

I thank the distinguished Senator for yielding.

Mr. DOLE. I thank the distinguished majority leader.

Mr. President, I do not have any disagreement with the statement by the majority leader. But, all things being equal, if they are satisfied, I hope we can accommodate the President, because this is an important meeting with the Soviets.

Mr. BYRD. Mr. President, I want to accommodate the President, and will accommodate the President where I can. But that is not my first responsibility under the oath which I took upon entering this office and which I have taken five times. That is not my first objective—whether it is a Republican President or a Democratic President.

When I had my own Democratic President, Mr. Carter, in the White House, and I was majority leader at the time, I was not always looking out for accommodations with the President.

I certainly want to accommodate the President, more so than any other single public official in this country, where I can do so. But I am going to accommodate the Senate and our responsibility under the Constitution first, before the accommodation of anybody else or any other office. The people down at the White House just might as well understand that, and Senators in this Chamber might as well understand that. That comes first.

I hope we will be able to deal with those problems in time to take up the treaty on May 9, and that will probably be the case. There is no willful delay here. I have justifiable reasons for waiting, and I will do my duty.

I thank the distinguished Republican leader.

Mr. DOLE. I thank the majority leader.

As he may recall, this Senator was criticized sharply for indicating pretty much the same line, that we do have a responsibility. It is separate and apart from the executive.

We will do what we need to do to make certain that we have taken the proper second look.

There were some even suggesting, before the treaty was up here, that we ought to jump on board. I did not subscribe to that. I strongly support the majority leader's view that we have a serious obligation in the U.S. Senate, a constitutional obligation, and we are going to carry it out.

Mr. BYRD. Mr. President, if the distinguished Senator will yield, the distinguished Senator from Kansas, the Republican leader, did precisely that—he insisted upon at least reading the treaty before he threw his support behind it. I complimented him then and saluted him then, and I do so today.

Mr. DOLE. I thank the Senator.

BICENTENNIAL MINUTE

APRIL 25, 1854: SENATE APPROVES THE GADSDEN PURCHASE

Mr. DOLE. Mr. President, throughout the Nation's history there have been notable occasions when a major shift in the American priorities has become dramatically apparent in the deliberations of the U.S. Senate. One of these instances occurred 134 years ago today, on April 25, 1854, as the Senate reluctantly consented to the ratification of a treaty with Mexico.

During the previous decade, the Nation had concentrated on the expansion on its empire. Between 1845 and 1848, the United States, by acquiring Texas, Oregon, California, and the Southwest, had virtually doubled its territory. There was talk in the early 1850's of annexing Canada, seizing Cuba, and planting an American colony in slaveholding Brazil.

Under the influence of this spirit of manifest destiny, President Franklin Pierce in 1853 authorized the U.S. Minister to Mexico, James Gadsden, to buy as much Mexican territory as possible for $50 million. A former president of a South Carolina Railroad, Gadsden hoped to create a southern rail system that would run to the Pacific and securely tie the West to the South, ensuring the latter section's economic survival. Essential to this plan was the acquisition of a triangular section of land amounting to 54,000 acres adjacent to the U.S. border in northwestern Mexico.

The Senate heatedly debated the Gadsden Purchase Treaty early in 1854. Free-State Senators strongly opposed the pact, fearing it would provide more territory that might be opened to slavery. Initially, the Senate rejected the treaty. Approval came only after its supporters agreed to trim the land area to the minimum necessary for the railroad and to reduce the purchase price to $10 million. For the first time in history, the Senate had refused to accept land ceded to the United States—A major turning point, as the divisive issue of slavery curbed Senators' appetites for further expansionist adventures.

USDA NATIONAL NEEDS FELLOWSHIP PROGRAM 1988

Mr. BOND. Mr. President, the next century will reveal technological advances unmatched since the beginning of time. As Members of what has been called the greatest deliberative body in the world, we must encourage this change, not fear it. Technology is something which evolves, it is not bestowed upon a population or country. Failure to recognize this will only impede our Nation's progression from the Green Revolution to the Gene Revolution. As Winston Churchill once said, "unless the intellect of the nation keeps abreast of all material improvements, the society in which that occurs is no longer progressing."

The advent of the biotechnological era is somewhat similar to Thomas Edison's discovery of the proper filament for the electric light bulb in 1879. What may seem outlandish and impossible today, might be taken for granted 109 years from now.

Although biotechnology will play a major role in the future of our Nation and the world, the vast majority of people don't understand what it is. Simply stated, technology has advanced to the point that we can remove a gene from an organism and recombine it with the genetic material of another organism. Recombinant DNA, as this is called, has given researchers the ability to transfer the genetic characteristics of two organisms which can not be mated naturally.

The benefits from this evolving field could affect each and every person on Earth. In the field of human health, scientists are pursuing immunology based therapies for cancer, anticholesterol agents, interferones, blood products, growth factors, hormones, and various new vaccines. In agriculture, advances could lead to the development of new plant varieties with greater resistance to disease, improved adaptability to climatic factors, and enhanced photosynthetic efficency. Agricultural producers may be able to produce genetically engineered livestock, and have access to vaccines for such things as foot and mouth disease, scours, and shipping fever.

Mr. President, last week I had the opportunity to address a class of graduate students who exemplify the pioneer spirit of our Nation. Pursuing careers related to the agricultural sciences, these dedicated individuals will help chart a course which will undoubtedly provide infinite challenges and opportunities.

The students comprised the first graduating class of the U.S. Department of Agriculture's National Needs Graduate Fellowship Program. This extremely important program, funded by Congress since 1984, provides competitive grants to universities to support outstanding graduate students in areas characterized by shortage of expertise—biotechnology, agricultural engineering, food and agricultural marketing, food science and human nutrition. To invest in human capital is to invest in the future.

Because the President's fiscal year 1989 budget eliminated funding for this program, efforts are under way to restore and expand funding through the appropriations process. I would hope that other Senators recognize the program's importance and support our efforts. Can we really afford not to continue programs which will have such a profound effect on our future?

Mr. President, I ask unanimous consent that a copy of my remarks to the National Needs Fellows be printed in the Record.

There being no objection, the material was ordered to be printed in the Record as follows:

Address by Senator Christopher S. Bond—From Green to Gene: Another Revolution?

It is fitting that you have assembled at one of the most prestigious institutions in the world: the National Academy of Sciences. As members of the first graduating class of National Needs fellows, you have exhibited an intellect of remarkable proportion. Your training and research have enabled you to become part of a scientific community which will no doubt provide infinite challenges and opportunities.

The next century will reveal technological advances unmatched since the beginning of time. We must encourage this change, not fear it. Good friends, technology is something which evolves, it is not bestowed upon a population or country. Failure to recognize this will only impede our nation's progression from the Green Revolution to the Gene Revolution. As Winston Churchill once said, "Unless the intellect of a nation keeps abreast of all material improvements, the society in which that occurs is no longer progressing."

As professionals with educational backgrounds in agriculture, you must look beyond current surpluses and excessive production. What will the structure of agriculture be in twenty-five years? Fifty years? One hundred years? Recent projections state that there will be 9 billion people on Earth in the year 2025. World demand for food production is expected to double in the next 30 years. Without a doubt, biotechnology will play a major role in whether the United States changes the path of modern history or simply hitchhikes its way through the twenty-first century. The course which we chart will be determined by many: Academia, the scientific community, governmental agencies, Congress, farmers, ranchers and ultimately consumers.

As many of you already know, technological evolution is not given and there are those who will fight it every step of the way. One outspoken opponent has stated that "biotechnology stands to increase surpluses, soil loss, pollution and to wipe out what's left of small farms; not to mention the bigger picture of the potential disaster inherent in releasing mutant life forms."

I'm more of an optimist than that. Human health benefits aside, biotechnology will lead to the development of new plant varieties with greater resistance to disease, improved adaptability to climatic factors, increased herbicide tolerance and enhanced plant growth and photosynthetic efficiency.

According to a paper published in Technology Review in 1987, Dr. David Pimentel of Cornell University indicates that significant benefits will result "when organisms such as bacteria, viruses, fungi, nematodes, and insects are engineered to control insect pests, weeds, and plant diseases." He indicates that the gains could be enormous given the fact that one-third of all U.S. crops—about $50 billion worth—are annually lost to pests. Additional savings, up to $500 million, could be generated by reduced pesticide costs.

In livestock, Bovine Somatotropin (BST) has increased dairy cattle milk yields by 10 percent to 25 percent per cow per day within several days of use. Porcine Somatotropin (PST) may lead the way to adapting pork to meet today's demand for leaner meat products. Other possibilities include the development of vaccines for foot and mouth disease, scours and shipping fever. Genetic engineering of chickens, swines and cattle may also become a reality.

As a child growing up in a small town in Missouri, I vividly remember the excitement and anticipation of county fair time. Everyone was raising their livestock, growing their produce or building their 4-H projects. Of course, the culmination of everyone's efforts was the judging at the annual county fair. Even though Mexico, Missouri is a small town, we all thought the competition was the toughest anywhere.

Imagine now, the 4-H projects of the early twenty-first century. Your children and grandchildren will be the first 4-H'ers in history to raise genetically engineered sheep and cattle. Another project could use biotechnology kits which genetically engineer tomatoes which actually glow in the dark. I'd be willing to bet each kid would still think their tomatoes glow better than anyone elses.

However, efforts to improve agricultural inputs and outputs must be supported by the entire production, processing and distribution chains. The development of new crops will be of little use without the proper equipment for planting and harvesting. Agricultural marketing will undoubtedly become much more sophisticated by dealing with products specifically tailored to meet consumer demand.

Current issues illustrate the increasing role which food scientists will play in the future. Consumer confidence in our nation's food supply may have been jeopardized by recent examples of salmonella in eggs and sulfamethazine residues in pork. I would hope that Congress acts soon to pass legislation to supplement organaleptic inspection with microbiological and chemical sampling. Again, such a thing can be done, thanks to advances in genetic engineering.

With all of the talk about the possibilities of biotechnology, it is very easy to overlook an essential component—education. Future advances in agriculture will not be made solely as a result of research funding, but because of a national commitment to producing highly skilled researchers and educators. Our job is to make others realize that educational programs such as this are investments in human capital.

Some months ago, some startling figures were brought to my attention. Undergraduate enrollments in U.S. colleges of agriculture have declined by nearly 50 percent during the past decade. In 1986, USDA projected a 10 percent annual shortfall of college graduates in food, agriculture and natural resource disciplines through 1990. A 17 percent shortfall is projected for agricultural scientists, engineers and related specialists.

In my opinion, this could not come at a worse time. We must enact steps to reverse this trend and enlighten others of the opportunities existing within the agricultural sciences. For starters, increased efforts must be undertaken to increase funding for the National Needs Fellowship Program. Congress seems willing to appropriate research funds without questioning the quality of the researchers. I am of the opinion that the two are not mutually exclusive. Quality researchers lead to quality research. The United States currently spends more than $4 billion annually on public and private agricultural research—yet we can't find $10 million a year for programs such as this. At the very minimum, this program should be guaranteed funding of $10 million per year, for 5 years.

In addition, a competitive challenge grant program should be implemented at $10 million annually, for a 5-year period. Dependent upon matching state and private funding, this program would address specific priority areas of investment. It would increase educational awareness of the agricultural sciences by improved student recruitment activities, curriculum revitalization initiatives, expanded undergraduate research projects and greater opportunities for faculty development.

Next Wednesday, I will testify before the Senate Agriculture Appropriations Subcommittee. We have to make people aware of the virtues of the programs and seek additional funding. Also, efforts are underway to inform other Senators on the programs thus expanding our base of support. It should be noted that the Senate Appropriations Committee has supported increased funding in the past, only to have the gains erased in the Conference Committee by members of the House of Representatives.

The support of our National Needs Fellows, who are the most knowledgeable about the merits of the program, will be crucial in efforts to expand future programs. I urge you to contact the members of your Congressional delegation and request their support.

We are all aware of the current federal budget constraints. The buzzword in Washington now seems to be "offset." In other words, if you want to spend additional funds, find an offset. In this case, however, we are truly investing in our future. Continuation of this program should not be dependent upon finding an offset. Aren't we in agreement that education is a top national priority?

As a seasoned veteran, having survived one whole year as a Senator, I can say that it is different to predict what Congress will do this afternoon, much less through the next century. Congress will undoubtedly play a role which extends beyond simply appropriating funds. While the federal government establishes scientifically acceptable testing guidelines, Congress must also ensure they do not become unnecessary deterrents. Public safety will remain the utmost concern and must always be considered. We must all keep in mind that it takes years to regain the public's confidence once the assurance of safe products has been compromises.

Congress must be in a position to ensure safety, thus an oversight role of the regulatory system will most likely continue.

Along these lines, one concern which continues to surface in Congress relates to the deliberate release of genetically engineered organisms into the environment. Although guidelines have been established by the National Institutes of Health, an increasing number of localities are passing ordinances implementing more stringent regulations. A way to minimize this trend is to ensure that the federal government, including Congress, does not lag behind the advances made by the scientific community.

An area which may require additional resources is the Office of Trademarks and Patents (OTP). Recent rulings have affirmed that patents can be awarded for genetically engineered seeds, plants, plant tissue cultures and animals.

However, it is my understanding that companies must wait about two and a half years before their application is reviewed. It then takes another 2 years on average before a final decision is rendered. As of the beginning of 1988, OTP's backlog of applications, appeals and amendments was 6,907.

It is evident that technology has progressed at a faster rate than our ability to evaluate it. While basic research holds the key to advanced technologies, applied research assumes the responsibility for proving the benefits to society.

If current legislation is any indication of the future, Congress will deal with a full spectrum of technologies issues related to agriculture. Bills now pending range from prohibiting the patenting of animals altered through genetic engineering to the authorization of a plant modification research program.

One such bill that seems to have some momentum was approved last week by the Senate Labor and Human Resources Committee. The legislation would establish a new executive branch advisory board on biotechnology and genetic research issues. The proposed National Biotechnology Policy Board would include representatives from industry, government and universities and will provide advice on regulatory policies and ways to encourage additional participation in the field of biotechnology.

Good will or good intentions are not a substitute for action. Neither the federal government in general nor Congress in particular should impede the evolution of technology. Let me again assert that progress results from sound research not a resounding fear of the future.

In 1966, a seminar at the Delhi School of Economics in India focused on the impacts from the wide-spread introduction of high-yielding green revolution seeds of dwarf wheat and rice varieties. The seminar participants were similar to those assembled here this morning—government officials, scholars from agricultural and general universities, a sprinkling of foreign advisors and expatriate technical assistants and a few political leaders.

Within the first few hours of that three-day meeting, the discussion focused on a call by many participants for the government to prohibit further testing or use of high-yielding seeds. Specifically, participants sought to ban the distribution to farmers of the genetic stocks then available to the research stations of the nation. Despite the protests of a few, the meeting concluded with a clear consensus to prohibit the entry and use of the new varieties. In this case, India's hungry masses were fortunate that government leaders ignored the group's contagious fear.

As George Bernard Shaw said, "all progress is initiated by challenging current conceptions."

We have at hand the opportunity to challenge the current conception—or misconception—that biotechnology stands to increase surpluses, soil loss, pollution and to lead to disasterous mutations.

Only by doing so can we achieve progress.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes under the prior terms and conditions.

The PRESIDING OFFICER (Mr. DASCHLE). Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO THE AMERICAN POLITICAL SCIENCE ASSOCIATION CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. MURKOWSKI. Mr. President, I rise today to pay tribute to the 35th anniversary of the American Political Science Association Congressional Fellowship Program.

Since 1953, this program has provided an immeasurable degree of service to the Congress, and to the Republic.

By providing to the Congress the service of midcareer Government executives, journalists, medical professionals, and political scientists for 9-month fellowships in congressional offices, the program has created a resource of ideas unmatched in the history of our country. The fellows have brought their expertise to the solution of major public policy questions and provided excellent advice and counsel to this Senator and to many other Members of both Houses of the Congress.

Not only have the congressional fellows contributed to the Congress' understanding of complex issues but they have also made a major contribution to the academic and public understanding of the functioning of the Congress. The hundreds of men and women who have served as congressional fellows have gone on to serve in key positions of influence in the Government and private sectors.

They have become Members of Congress; university presidents; key members of the congressional staff; American ambassadors; academic experts on the Congress and, in the case of the foreign fellows, key officials of their home governments.

During my own service in the Senate, Mr. President, congressional fellows have served as legislative assistant for foreign affairs in my office. I have found these members of the Foreign Service, and my current fellow, a senior intelligence officer of the Defense Intelligence Agency to be seasoned experts on foreign affairs and ready students of the legislative ethos.

These fellows have provided me with quality of counsel which it would be difficult to get through normal staffing procedures. I have and continue to value their advice.

Mr. President, at the moment we have 49 members of the Congressional Fellowship Program serving here on Capitol Hill, 24 of these are Government executives; 8 are foreign fellows, 5 of them, sponsored by the Asia Foundation, come from our key Asian trading partners. The remaining fellows are journalists, members of the medical professions and university students and professors of political science and anthropology. The American Political Science Association has assembled in this year's fellows a group of distinguished individuals whose accomplishments have been crowned by their selection as congressional fellows. They are serving among us, some in quiet ways and some in more visable ways. The impact of their presence is felt everyday in this place and the Congress is better for it.

Mr. President, not only has the American Political Science Association Congressional Fellowship Program made enormous contributions on its own, but it has served as the model for several other congressional fellowship programs which have made enormous contributions on their own. The ASPA Program has set the standard however, and it has held that standard high for 35 years to the great benefit of the Congress and the American people.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

BENEFITS FOR VETERANS AND SURVIVORS OF NUCLEAR TESTS OR OCCUPATION OF HIROSHIMA AND NAGASAKI

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 1811, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 1811) to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Time for this debate and the substitute to be offered by the Senator from California shall be limited to 1 hour to be equally divided and controlled.

The Senator from California.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I am pleased to announce that Senate and House conferees have reached an agreement regarding legislation to provide compensation for certain veterans exposed to ionizing radiation and to being before the Senate for adoption that compromise agreement and urge its adoption.

AMENDMENT NO. 1977

(Purpose: To provide a presumption of service connection to veterans (and survivors of such veterans) who participated in atmospheric nuclear tests as part of the United States nuclear weapons testing program of in the American occupation of Hiroshima or Nagasaki, Japan, and who suffer from certain diseases that may be attributable to exposure to ionizing radiation. and for other purposes)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mr. CRANSTON] proposes an amendment numbered 1977.

Mr. CRANSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation-Exposed Veterans Compensation Act of 1988".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED VETERANS.

(a) PRESUMPTION.—Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veteran's service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) The diseases referred to in paragraph (1) of this subsection are the following:

"(A) Leukemia (other than chronic lymphocytic leukemia).

"(B) Cancer of the thyroid.

"(C) Cancer of the breast.

"(D) Cancer of the pharynx.

"(E) Cancer of the esophagus.

"(F) Cancer of the stomach.

"(G) Cancer of the small intestine.

"(H) Cancer of the pancreas.

"(I) Multiple myeloma.

"(J) Lymphomas (except Hodgkin's disease).

"(K) Cancer of the bile ducts.

"(L) Cancer of the gall bladder.

"(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

"(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia).

"(4) For the purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, participated in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means any of the following:

"(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

"(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.".

"(b) EFFECTIVE DATE.—Subsection (c) of section 312 of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.

"(c) REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE SCIENTIFIC COUNCIL REPORTS.—Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives".

Mr. CRANSTON. Mr. President, at the outset, I want to recognize the contribution of the ranking minority member, the Senator from Alaska [Mr. MURKOWSKI], who introduced a radiation compensation bill last year—S. 453—which played a major role in focusing the debate on and bringing about increased attention to this area. I also want to extend similar recognition to the activity in the House Committee on Veterans' Affairs, where five members—including the chairman [Mr. MONTGOMERY], and the ranking minority member [Mr. SOLOMON], the former ranking minority member [Mr. HAMMERSCHMIDT], who has always had such concern and compassion for radiation-exposed veterans and their survivors, and the chairman of that committee's Subcommittee on Compensation, Pension, and Insurance [Mr. APPLEGATE]—joined as sponsors of a radiation compensation measure, H.R. 1811, introduced by Representative ROWLAND of Georgia, who has demonstrated such commitment and dedication to those veterans and survivors and has been a leader in the House's passage of that legislation this year. Finally, and foremost, I wish to note the leadership of the principal cosponsor of S. 1002, my good friend, the Senator from Illinois [Mr. SIMON], who, dating back to his years in the House, has been at the forefront of efforts to secure compensation for these veterans.

Regarding the legislation before us today—a substitute amendment to H.R. 1811—in the April 13 conference on H.R. 2616/S. 9, the conferees on both sides, at the urging of Senators MURKOWSKI and SIMPSON, agreed to recede from their respective provisions—title II of S. 9 and section 314 of the House amendment to the Senate amendment to H.R. 2616—relating to providing compensation for certain veterans exposed to ionizing radiation. The conferees took this position on the condition that as soon as possible following Senate passage of the conference agreement on H.R. 2616, the proposed Veterans' Benefits and Services Act of 1988, or before action on that legislation, the Senate conferees would make every effort to have the Senate take up H.R. 1811 and that I would propose as a substitute amendment for the House-passed text of that bill the text of section 314 of the House amendment—beginning on page H1204 of the RECORD for March 29, 1988—with cancer of the colon deleted from the list of cancers which would be presumed to be service-connected, and that, if the Senate passed H.R. 1811 as so amended, the House conferees would then seek to have the House take up H.R. 1811 as soon as possible thereafter and concur in the Senate amendment. I am today fulfilling my commitment to that agreement and am delighted to do so very swiftly.

I have had a longstanding concern for the approximately 225,000 veterans who participated in the detonation of 235 nuclear devices in connection with our Government's Nuclear Weapons Testing Program and the American occupation of Hiroshima and Nagasaki, Japan, following the detonation of atomic bombs over those two cities on August 6 and August 9, 1945. Along with others of my colleagues in the Senate, I have long sought to find solutions and answers to the questions raised by those veterans' exposure to ionizing radiation during their military service.

Science has clearly proven that ionizing radiation can produce serious adverse human health effects. While we do not have all the answers as to how much radiation exposure is necessary before the various adverse effects appear, there is a long list of cancers for which radiation has been established as a risk factor. Unfortunately, we are not likely to have many more answers regarding the effects of the radiation exposure which these veterans received during their lifetime, since the scientists have determined that a general morbidity study of them is not feasible.

Mr. President, these veterans were not exposed to radiation because of the exigencies of war; rather, they were part of peacetime experiments. And they were exposed despite the growing knowledge on the part of many Government officials of the risks of serious long-term health effects from ionizing radiation exposure.

Yet, these military personnel were not informed of the risks associated with their participation in the nuclear weapons testing program, nor was their health status systematically monitored thereafter.

Accordingly, I strongly believe that we have the reponsibility to ensure that these veterans finally are treated in an evenhanded and compassionate way with respect to their claims for VA benefits.

Yet, the VA has awarded compensation in less than 40 of the over 6,000 radiation claims filed.

The compromise agreement we are proposing is a reasonable, politically acceptable compromise generally in line with the congressional budget. This agreement marks the end of a long and arduous journey to enact legislation providing compensation in connection with veterans' exposure to ionizing radiation from nuclear detonations.

BACKGROUND

Mr. President, I would like to set forth some of the background leading up to the development of this legislation. As the chairman of the Committee on Veterans' Affairs, I introduced S. 1002, the proposed Veterans' Radiation Exposure Disability and Death Benefits Act of 1987, in the 1st session of the 100th Congress. My introductory statement on S. 1002 begins on page S. 5040 of the April 9, 1987, RECORD. Joining with me as original cosponsors of this measure were Senators SIMON, MATSUNAGA, DECONCINI, MITCHELL, ROCKEFELLER, and PELL. That bill provided for disability and death benefits to veterans and their survivors in connection with veterans' exposure to ionizing radiation through participation in the U.S. Government's nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan. Title II of S. 9, as reported by the committee on July 31, 1989, which became title II of the Senate-passed amendment to H.R. 2616, was basically derived from S. 1002.

Prior to that, on February 4, 1987, the ranking minority member of our committee [Mr. MURKOWSKI] introduced S. 453, and on March 25, 1987, Representative ROWLAND introduced H.R. 1811. Mr. President, the introduction of these three bills last year— S. 453, H.R. 1811, and S. 1002—clearly represented a major step forward for radiation-exposed veterans.

The measure we are considering today—my amendment to H.R. 1811—is the result of many months of negotiations and represents the conclusion of our continuing efforts to address the concerns and resolve the problems facing veterans who were exposed to ionizing radiation while in the service of our country. I see those concerns as falling into three general categories: compensation for disabilities possibly related to exposure; answers to questions about the factual effects of exposure to low-level ionizing radiation; and, finally, access to health care for current problems that might be related to exposure. Although Congress has addressed the latter two issues in what I believe are significant and appropriate ways, prior to the onset of the 100th Congress the compensation issue had not gone forward, pending the continuing search for scientific understanding of the precise effects of low-level radiation exposure on human health.

Generally, Mr. President, I had considered it premature to provide presumptive compensation—that is, for the Congress to make decisions regarding the relationship between relatively low levels of ionizing radiation exposure and the diseases of the various body organs and tissues when the scientists could not. That is one of the reasons why I introduced the legislation, ultimately enacted as Public Law 98-160, which mandated epidemiological study of the long-term health effects of exposure to ionizing radiation on those veterans who participated in the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan, and why I also joined with Senator SIMPSON in 1984 in authorizing the Veterans' Dioxin and Radiation Exposure Compensation Standards Act, enacted as Public Law 98-452. However, after more than 3 years of evaluation, the scientists now have indicated that it is not scientifically feasible to design a morbidity study of those radiation-exposed veterans and that the only mortality study that can proceed at this point and that could be powerful enough to detect any excess disabilities would be one involving only one series of detonations—Operation Crossroads, the 1946 two-detonation series in the Pacific, in which the largest number of military personnel participated—and which is just getting started.

Additionally, I was greatly impressed by the findings and conclusions of the General Accounting Office [GAO], in a 1985 study I requested on Operation Crossroads, about the lack of adequate safety precautions during that operation and about how many uniformed personnel may have been exposed to ionizing radiation there.

Approximately 20 percent of all nuclear test participants, 42,000, were present at Operation Crossroads, and hence the GAO findings and conclusions about that operation are particularly meaningful.

I was equally impressed with the GAO's findings and conclusions in a September 1987 report I requested about certain operations during which Air Force veterans flew through the mushroom cloud caused by nuclear detonations. The GAO's report on Operation Tumbler-Snapper in 1952, Operation Redwing in 1956, and Operation Dominic I in 1962 basically confirmed the GAO's findings and conclusions reached in the Operation Crossroads report regarding significant overall understatement by the Defense Nuclear Agency [DNA] of the Department of Defense [DOD] of radiation exposure levels. The GAO also found major errors in the DNA's estimates of certain individual radiation exposure levels, particularly with respect to Operations Redwing and Tumbler-Snapper, and concluded that safety precautions were not adequate, especially with respect to those two operations.

These two GAO reports have raised very serious questions for me about the degree to which credit could or should be given to the repeated assurances from the DOD that the DNA's exposure estimates are accurate and that there was generally no significant exposure to radiation among the veterans who participated in the nuclear weapons test program.

Mr. President, the Senate bill contained significant findings and conclusions about the GAO reports and the DNA dose reconstructions, and the two committees have reconfirmed those findings and conclusions in their explanatory statement on H.R. 1811/S. 9, which I will insert in the RECORD at the conclusion of my remarks.

The truth is, Mr. President, that we will never know the extent of the exposure to ionizing radiation that these troops received. Some clearly received significant doses. Many are given no film badges or badges that could not be read or their badges were not read properly. Guessing at dosages and then attempting to surround those guesses with scientific jargon to make them sound precise just will not do.

SENATE BILL

Mr. President, after extensive considerations of all of the alternatives regarding the issue of compensation for these veterans and their survivors and possible resolutions of that issue, I developed legislation, S. 1002, that I believed and still believe provided a compassionate and fair approach. In view of the status of scientific inquiry and the GAO findings and conclusions, I thought it unjust and unfair to continue to withhold all compensation for lack of scientific confirmation.

S. 1002 addressed the two key problems which resulted in the denial of over 99 percent of all claims for VA benefits filed by radiation-exposed veterans or their survivors: First, the impossibility of determining, with respect to a given veteran, whether his disability was caused by radiation exposure rather than by something else, and, second, the likely underestimates by the DNA of radiation-exposure levels, on which the VA relies in adjudicating such claims.

Mr. President, in order to demonstrate the basis for its proposed benefit proposals, S. 1002 incorporated a number of congressional findings and purposes on the state of sciences pertaining to ionizing radiation exposure, including the calculation of and the carcinogenic effects of such exposure; the VA's history of adjudicating radiation claims; and the difficulties involved in resolving veterans' claims for VA benefits when based on exposure to ionizing radiation (described in detail beginning on page S5040 of the RECORD for April 9, 1987).

S. 1002 would have, first, provided a monthly disability or death benefit for a veteran—or eligible survivor of a veteran—who was exposed to ionizing radiation during participation in the nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, prior to July 1, 1946, who developed any of certain radio-genic diseases specified in the bill. The benefit would be equal to that provided in chapter 11 or 13 of title 38, United States Code, for a veteran with a disease shown to be strongly associated with radiation and which has not been shown to be strongly associated with any other risk factors; 50 percent of such compensation would have been paid for a disease which has been shown to be moderately associated with radiation and which has not been shown to be associated with other significant risk factors. S. 1002 also would have provided for special consideration of claims for VA benefits for a veteran with a disease shown to be somewhat associated with radiation, but much less so than the diseases within the first two categories, or to be equally as associated with other risk factors as with radiation or more strongly associated with them.

Second, S. 1002 would have mandated that the DNA radiation-exposure estimates, or which the VA relies in evaluating claims for benefits, be upwardly adjusted according to a formula based on the ranges of exposure estimates for substantial segments of the participants in each nuclear test operation, as determined by the DNA estimates. Under this methodology, radiation exposure estimates would have been increased for approximately two-thirds of all radiation-exposed veterans from both the nuclear weapons testing program and the American occupation.

Mr. President, on June 30, 1987, the Senate Committee on Veterans' Affairs held a hearing on S. 1002 and S. 453 to consider VA compensation and other service-connected benefits. On July 31, 1987, the committee approved a slightly modified version of S. 1002 and ordered it favorably reported as title II of S. 9, the proposed Omnibus Veterans' Benefits and Services Act of 1987.

Title II of S. 9 provided for disability and death benefits to veterans and their survivors in connection with veterans' exposure to ionizing radiation through participation in the United States Government's nuclear weapons testing program, the American occupation of Hiroshima or Nagasaki, Japan, or, as the bill was modified during the executive session of the committee, internment as a prisoner of war in Japan during World War II if the veteran thereby had an opportunity for radiation exposure comparable to that of a veteran who participated in the occupation. According to the Congressional Budget Office, title II of S. 9 would have provided benefits to as many as 5,000 veterans and survivors at a cost of $40 million in its first full year of implementation.

In title II of S. 9, we sought to provide both a fair and compassionate approach and one based on the existing state of scientific knowledge. As I discussed in detail in my floor statement upon Senate passage of S. 9—beginning on page S 17093 of the RECORD for December 4, 1987, certain cancers—leukemia, except for chronic lymphocytic leukemia, and thyroid cancer—have been shown to be highly susceptible to radiation induction, and these were included in the bill for presumptive compensation purposes without reference to the level of the veterans' exposure to radiation.

Eight other forms of cancer—cancer of the small intestine, stomach, liver, except where cirrhosis or hepatitis B is indicated, bile ducts, gallbladder, and pancreas, lymphomas, excluding Hodgkin's disease, and multiple myeloma—which have been shown to have a moderate susceptibility to radiation and have not been strongly associated with any other significant risk factors, were included in S. 9 for presumptive benefits purposes if the veteran was exposed to more than one rem of radiation.

Other cancers—cancer of the colon, lung, esophagus, rectum, pharynx, liver—when cirrhosis or hepatitis B is indicated—kidney, urinary tract, bladder, brain and nervous system, salivary glands, and bones and joints, and cutaneous melanoma—although susceptible to radiation, are as, or more, likely to be caused by other risk factors, such as tobacco smoking, alcohol abuse, or poor diet. These cancers were to be given special consideration in claims based on radiation exposure for benefits, including the Administrator's giving conclusive weight to the congressional findings relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors.

Mr. President, we spent many hours evaluating different alternatives and researching these issues with a variety of scientific consultants, including epidemiologists and radiological oncologists at the National Cancer Institute, members of the BEIR III Committee, members of the VA's Veterans' Advisory Committee on Environmental Hazards, and scientists at private institutions, including UCLA, Johns Hopkins, and Harvard. We tried very hard to develop a rational, scientifically consistent basis for drawing lines between and among various radiogenic cancers, and I was satisfied that we had succeeded.

For all cancers except leukemia, S. 9 would have, based on the long latency period for such cancers, required a 5-year latency period between a veteran's first exposure to nuclear-detonation radiation in the service and the manifestation of the cancer before a cancer would be considered for presumptive compensation.

As to leukemia, rather than requiring a latency period, presumptive benefits would have been available under S. 9 if it developed at any time after a veteran's exposure. However, the bill had a cutoff date—30 years after a veteran's exposure to radiation—after which compensation would not be presumptively provided in the case of a veteran with leukemia. This approach was based on the finds of BEIR III and statements in the report of the National Institutes of Health Ad Hoc Working Group to Develop Radioepidemiological Tables, that the risk of leukemia becomes negligible 25 to 30 years after the radiation exposure. No similar cutoff date was applied to the other cancers specified in the committee bill because as BEIR III Notes with reference to those cancers, "there is as yet no indication that the increased risk of cancer eventually declines." With further reference to the issue of a cutoff date, the NIH radioepidemiological tables report notes that "[t]he BEIR committee rejected a plateau model of finite length for cancer, other than leukemia and bone cancer—which was not included in S. 9 for presumptive compensation—because after approximately 30 years of followup in the major exposed populations, excess risk has shown no sign of declining."

Title II of S. 9 as reported and passed by the Senate also contained the dose-reconstruction provision from S. 1002.

The provisions of S. 9 relating to ionizing radiation exposure would have terminated as to new claims submitted after September 30, 1991. This date was expected to be approximately 1 year after the VA is scheduled to submit the report from the Public Law 98-160 radiation mortality study. In addition, an update of BEIR III—BEIR V—is expected to be completed and published in 1989.

Also, section 208 of the bill would have required—as would have S. 1002—that the reports of the Advisory Committee, required under Public Law 98-542 to be submitted to the Administrator, be submitted concurrently to the Senate and House Veterans' Affairs Committees.

Finally, S. 9—like S. 1002—provisions would have extended VA health care eligibility for radiation-exposed veterans by 2 years, from September 30, 1989 to September 30, 1991.

HOUSE BILL

Mr. President, the House of Representatives originally passed its radiation-exposure legislation on July 28, 1987, in H.R. 1811. After extensive negotiations between the two Committees on Veterans' Affairs, following Senate passage of its radiation-exposure legislation in H.R. 2616/S. 9 on December 4, 1987, the House on March 29, 1988, passed new legislation, as part of amendments to the Senate amendment to H.R. 2616, which, in section 314, incorporated a partial compromise agreement that had been reached between the two committees on H.R. 2616/S. 9.

As originally passed by the House, H.R. 1811 would have provided presumptions of service connection for 10 diseases—any form of leukemia other than chronic lymphatic leukemia; thyroid cancer; bronchogenic carcinoma; breast cancer; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; and pancreatic cancer. However, such presumptions would have applied only where the disease manifested itself within 30 years after the last date on which the veteran was exposed to ionizing radiation.

HOUSE AMENDMENT TO H.R. 2616

The March 29, 1988, House amendment to the Senate amendment to H.R. 2616 would have provided presumptions of service connection for 14 diseases, four of which were from the original House-passed bill (cancer of the breast; cancer of the pharynx; cancer of the esophagus; and cancer of the colon); five of which were from the Senate bill (cancer of the liver, where cirrhosis or hepatitis B was not indicated; cancer of the bile ducts, cancer of the gallbladder; lymphomas, except for Hodgkin's disease; and multiple myeloma); and five of which were common to both bills (any form of leukemia, except for chronic lymphocytic leukemia; thyroid cancer; cancer of the stomach; cancer of the small intestine; and pancreatic cancer). The 30-year manifestation period would have been expanded to 40 years for all diseases except for leukemia (excluding chronic lymphocytic leukemia), in which case the 30-year manifestation period would have been retained.

The House amendment also included the S. 9 provisions relating to U.S. military personnel interned as prisoners of war in Japan at the end of World War II and to the reports of the VA Environmental Hazards Advisory Committee.

CONFERENCE DELIBERATIONS

Although the House action on March 29 made substantial progress toward an acceptable compromise, the major issue blocking agreement on this legislation was the inclusion of colon cancer with a 30-year manifestation limit in the House amendment, for which I felt there clearly was no scientific basis. This was in contrast to leukemia, which also was included with a 30-year cap—as it had been in S. 9—and for which such a limit is scientifically justified. The obvious purpose of the 30-year cap for colon cancer was to limit the cost of the bill. As it was, the cost of the House provisions—$44 million in fiscal year 1989—exceeded the fiscal year 1989 cost of the Senate-passed measure by 10 percent and was far greater than the $15 million cost of the original House-passed bill, H.R. 1811. The inclusion of colon cancer ignored its strong association with dietary factors as well as its very high prevalence—the second highest in the United States—among the general, non-radiation-exposed population. That other parts of the gastro-intestinal tract were included in the House amendment did not seem relevant to me, since, according to BEIR III, these organs have differing susceptibilities to radiation, as well as to other risk factors.

At the conference and during the preceding negotiations, I stated that I believed that it was inconsistent for the House to insist upon including colon cancer when lung cancer—which was in the original House bill and which is more strongly associated with radiation exposure than is colon cancer—had been excluded from the House amendment. Just as colon cancer is associated with dietary factors, lung cancer is associated with another significant risk factor—tobacco smoking.

Equally important, lung cancer, like colon cancer, is very common; in fact, it is the most common cancer in the United States today.

Given that in the Senate legislation we had tried to provide compensation for radiation-exposed veterans, and their survivors for disabilities which have been associated with radiation exposure and which are not strongly linked to other significant risk factors, the Senate conferees believed that it was inappropriate to include colon cancer in legislation intended to compensate presumptively because of exposure to ionizing radiation.

At the conference and during the preceding negotiations, the Senate was willing to deal with H.R. 1811 and the House amendment to H.R. 2616 rather than insist on the Senate bill provisions because that turned out to be, I greatly regret, the only way to reach some agreement on this legislation. In so doing, the Senate in essence accepted the thrust of the House bill with only one modification.

The House's sole significant concession prior to the April 13 conference was to expand its general 30-year manifestation cap for all cancers to 40 years, except for leukemia, which had a 30-year cap in both bills.

In conference, the House finally agreed to a second concession and dropped colon cancer.

CONFERENCE AGREEMENT

Mr. President, the outcome of our conference agreement is a generally rational, politically-acceptable compromise. That was not my preference; in both S. 1002 and later in title II of S. 9 we had tried to develop a bill based on the scientific knowledge available in this area. I fought hard for the adoption of that approach, but it was not acceptable to the House. I believe that each of the Senate positions I have enumerated should have been incorporated into the final version, but the House was adamant in its resistance.

Hence, as so often happens in Congress, we have now reached an agreement based on other factors. What we are presenting to the Senate now as an amendment to H.R. 1811 is the text of the House amendment to the Senate amendment to H.R. 2616 with colon cancer dropped from the list of presumptively-compensated conditions. The compromise agreement would thus provide a presumption of service connection for 13 conditions: leukemia (other than chronic lymphocytic leukemia), cancer of the thyroid, cancer of the breast, cancer of the pharynx, cancer of the esophagus, cancer of the stomach, cancer of the small intestine, cancer of the pancreas, multiple myeloma, lymphomas (except Hodgkin's disease), cancer of the bile ducts, cancer of the gall bladder, and cancer of the liver (except where cirrhosis or hepatitis B is indicated).

The presumption period for the specified diseases would be the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except in the case of any form of leukemia other than chronic lymphocytic leukemia, in which case such period would be 30 years beginning on that date.

I also want to indicate, Mr. President, that the term "atmospheric" nuclear tests is intended to include underwater as well as above-ground nuclear detonations—the same scope of coverage for test participants as was proposed in title II of S. 9.

CONCLUSION

Mr. President, as I stated at the outset, I believe that this measure is the best compromise available to us at this point. It is both a compassionate and fiscally-responsible response to the serious and continuing needs and concerns of radiation-exposed veterans and their families. For them, it is simple justice. For us, it is a fulfillment of our responsibility to veterans injured and injured wrongly through service to our country.

The Congressional Budget Office has estimated the fiscal year 1989 cost of this measure to be $36 million, $4 million less than the fiscal year 1989 estimate for the Senate provision. Our committee last year was allocated $29 million for fiscal year 1988 for spending for radiation compensation legislation. With an effective date of May 1, the cost of the measure we are proposing would be $15 million this fiscal year. Hence, the cost of this measure is well within the fiscal year 1988 budget crosswalk allocation to our committee under section 302(a) of the Budget Act and the allocation by the committee under section 302(b) of that act.

So we are not proposing to the Senate anything new in the way of funding. This was all before the Senate last December when it passed the Senate bill 88-0.

I want to stress that we had the votes on both sides of the conference table to incorporate this substantive agreement in the conference report on the omnibus veterans' bill, H.R. 2616, filed last week and scheduled to come before both bodies this week. Our Republican colleagues strongly preferred that we proceed separately on this radiation legislation and we accommodated their request.

In closing, I want to thank for their excellent efforts on this legislation all of the staff members of the Senate Committee whom I recognized upon Senate passage of S. 9—S 17079, December 4, 1987—and the staff of the House Committee on Veterans' Affairs who worked on the bill, Mack Fleming, Pat Ryan, John Brizzi, Arnold Moon, Charlie Peckarsky, and Jean Richardson.

It is my hope that my colleagues will join me in sending this measure to the House for prompt concurrence in order to demonstrate their commitment to and compassion for these veterans and survivors who have waited so long for justice.

Mr. President, I ask unanimous consent that there be printed in the Record at this point an April 25, 1988, letter to me from the Disabled American Veterans expressing strong support for the pending amendment; the Congressional Budget Office cost estimate on H.R. 1811; and the Explanatory Statement which was prepared by the two Committees on Veterans' Affairs in lieu of the joint explanatory statement which would accompany a conference report as the definitive legislative history of the measure and which the chairman of our counterpart committee in the House will also insert in the Record during the debate in the other body.

There being no objection, the material was/were ordered to be printed in the Record, as follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, April 20, 1988.

Hon. Alan Cranston,
Chairman, Committee on Veterans' Affairs, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate of your draft amendment to H.R. 1811, a bill to provide compensation for certain disabilities of veterans who were exposed to ionizing radiation during military service.

If you wish further details on this estimate, please call me or have your staff contact Kathleen Shepherd (226-2820).

Sincerely,

James L. Blum,
Acting Director.

Attachment.

Congressional Budget Office Cost Estimate

1. Bill number: Draft amendment to H.R. 1811.

2. Bill title: The Atomic Veterans Compensation Act of 1988.

3. Bill status: Amendment to H.R. 1811 to be offered on the Senate floor.

4. Bill purpose: To establish a presumption of service-connection for certain diseases of veterans who were exposed to ionizing radiation while participating in the military occupation of Hiroshima and Nagasaki or in military tests involving the atmospheric detonation of nuclear devices. The diseases covered by the bill are as follows: any form of leukemia other than chronic lymphocytic leukemia, cancer of the thyroid, cancer of the breast, cancer of the pharynx, cancer of the esophagus, cancer of the stomach, cancer of the small intestine, cancer of the pancreas, multiple myeloma, any form of lymphoma other than Hodgkin's disease, cancer of the bile ducts, cancer of the gall bladder, and primary liver cancer (except if cirrhosis or hepatitis B is indicated). To qualify for benefits, the disease must become manifest to a degree of 10 percent or more within 40 years of the last date of such exposure, except for leukemia where the manifestation period is 30 years.

5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1988	1989	1990	1991	1992	1993
Budget authority	15	36	37	38	38	39
Estimated outlays	12	36	37	38	38	39

The cost of this bill would fall in budget function 700.

Basis of Estimate: The cost of benefits provided by this bill was estimated using a model that operates on data from a variety of sources. The number of veterans participating in the occupation and nuclear testing, distributed by date of exposure, was supplied by the House Veterans' Affairs Committee staff. The normal incidence of, and one- through five-year relative survival rates of the specified cancers in the general population of males aged 55 and older was supplied by the Demographic Analysis Section of the National Cancer Institute (NCI). Remarriage and death rates for the surviving spouses of affected veterans were taken from census data involving widows, by age group, in the general population.

The estimate is also dependent upon a number of assumptions, the most critical of which is that veterans in the exposed population contract these diseases at the same rate as their non-veteran counterparts in the general population. This assumption was necessary because there is no data on the cancer experience of these particular veterans. Should the diseases specified in the bill be more prevalent among radiation-exposed veterans, the cost of this bill could be higher than shown above. It was also assumed that virtually all deaths among these cancer-stricken veterans would be considered service-connected, thus qualifying the veteran's survivors for dependency and indemnity benefits (DIC).

It was estimated that this bill would generate appropriately 700 new compensation cases that were assumed to receive benefits at the rate payable for 100 percent disability. About 3,200 new DIC cases were estimated, which were assumed to receive the average benefit payable to all DIC cases under current law.

6. Estimated cost to state and local governments: The Congressional Budget Office has determined that the budgets of state and local governments would not be significantly affected by enactment of this bill.

7. Estimate comparison: None.

8. Previous CBO estimate: H.R. 1811, as ordered reported by the House Veterans' Affairs Committee on July 22, 1987, and S. 9, as ordered reported by the Senate Veterans' Affairs Committee on July 31, 1987, both contained provisions to compensate veterans for disabilities resulting from exposure to ionizing radiation during military service. CBO transmitted an estimate of the House bill on July 22, 1987, and of the Senate bill on November 9, 1987. The differences among these two cost estimates and that shown above are the result of differences in legislative provisions.

9. Estimate prepared by: K.W. Shepherd (226-2820).

10. Estimate approved by: C.G. Nuckols, for James L. Blum, Assistant Director for Budget Analysis.

Explanatory Statement on H.R. 1811/Title II of S. 9, the "Radiation-Exposed Veterans Compensation Act of 1988"

This document explains the provisions of H.R. 1811 as passed by the House of Representatives on July 21, 1987 (hereinafter referred to as the "House bill"); title II of H.R. 2616 as passed by the Senate on December 4, 1987, with a substitute amendment derived from title II of S. 9 as reported (hereinafter referred to as the "Senate bill"); and section 314 of H.R. 2616 as passed by the House on March 29, 1988, with a substitute amendment to the Senate amendment (hereinafter referred to as the "House amendment"); and the provisions of a compromise agreement between the House and the Senate Committees on Veterans' Affairs on those measures. The compromise agreement on H.R. 1811 was reached in the context of a conference committee agreement on H.R. 2616/S. 9; the conferees there decided to proceed separately with radiation-exposure legislation, and both sides receded from their radiation provisions in H.R. 2616/S. 9 in favor of immediate and separate action on H.R. 1811 incorporating the agreement reached by the conference.

The differences between the three measures and the provisions of the compromise agreement are noted below, except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

INTRODUCTION

Each of the three measures—the House bill and the House amendment, through an amendment to section 312 of title 38, relating to presumptions of service connection for certain diseases, and the Senate bill, through an amendment to title 38 to add a new chapter 14—would establish a presumption of service connection for purposes of disability and death benefits for certain diseases arising in veterans who were exposed to ionizing radiation during the atmospheric or underwater nuclear weapons test program or the American occupation of Hiroshima or Nagasaki, Japan.

FINDINGS, CONCLUSIONS, AND STATEMENT OF PURPOSE

Senate bill: The Senate bill (section 202) would set forth Congressional findings and conclusions regarding the nuclear test program; the state of science pertaining to ionizing radiation exposure, including the calculation (especially in light of two General Accounting Office reports) and carcinogenic effects of such exposure; the VA's history of adjudicating radiation claims; and the difficulties involved in resolving radiation-exposed veterans' claims for VA benefits. The Senate bill also would state that the purpose of the bill is to establish a process within the VA to carry out the findings and conclusions in order to provide benefits in specified circumstances.

House bill: No provision.

House amendment: No provision.

Compromise agreement: No provision.

The Committees reconfirm the findings and conclusions set forth in paragraphs (1) and (2) and (3)(B) and (E) of section 202(a) of the Senate bill.

CATEGORIES OF POTENTIALLY ELIGIBLE VETERANS

House bill: The House bill (section 2) would establish a presumption of service connection for specified disabilities suffered by veterans who, while on active duty, were exposed to ionizing radiation as a result of onsite participation in the atmospheric detonation of a nuclear device or the American occupation of Hiroshima and Nagasaki Japan, between August 6, 1945, and July 1, 1946.

Senate bill: The Senate bill (section 203) would make potentially eligible for certain disability and death benefits those veterans (including persons who died in the active military, naval, or air service) who, during service (i) participated onsite in the United States Government's test of a nuclear device or the American occupation of Hiroshima or Nagasaki prior to July 1, 1946, or (ii) in connection with internment as a POW in Japan had an opportunity for exposure which the Administrator finds comparable to that of a veteran in the American occupation.

House amendment: The House amendment contains the Senate provision with an amendment to add a beginning date of August 6, 1945, to define the period of the American occupation.

Compromise agreement: The compromise agreement contains the provisions of the House amendment.

The Committees note their intention that the VA interpret the term "onsite participation" broadly rather than restrictively and to include, for example, airborne personnel who flew cloud-sampling planes during nuclear weapons tests and the ground crews who decontaminated or otherwise came in contact with contaminated planes or other equipment. Although such personnel were not present at the actual test site, many of these personnel clearly had an opportunity for exposure to ionizing radiation from such a test. The Committees' intention in including the word "onsite" is to exclude military personnel who were distant from the test site or any radiation-contaminated instrumentalities, such as personnel involved in procurement for a weapons test who did not travel to the test site.

SPECIFIED DISEASES AND DEGREE OF DISABILITY

House bill: The House bill (section 2) would establish a presumption of service connection for the following diseases (if manifested to a degree of 10 percent or more): Leukemia (except chronic lymphatic leukemia); thyroid cancer; bronchogenic carcinoma; breast cancer; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; and pancreatic cancer.

Senate bill: The Senate bill (section 203) would establish a presumption of service connection for the following diseases: (1) leukemia (except chronic lymphocytic leukemia) and cancer of the thyroid; and (2) if the veteran was exposed to more than one rem of radiation, cancer of the small intestine; cancer of the stomach; cancer of the liver (except where cirrhosis or hepatitis B is indicated); cancer of the bile ducts; cancer of the gallbladder; cancer of the pancreas; lymphomas (excluding Hodgkin's disease); and multiple myeloma. The Senate bill would also require that, in the case of claims based on certain other cancers—cancer of the lung; cancer of the colon; cancer of the esophagus; cancer of the rectum; cancer of the pharynx; cancer of the liver (where cirrhosis or hepatitis B is indicated); cancer of the kidney; cancer of the urinary tract; cancer of the bladder; cancer of the brain and nervous system; cancer of the salivary glands; cancer of the bones and joints; and cutaneous melanoma—if the veteran was exposed to more than 1 rem of radiation, the claims receive special consideration. Such consideration would include the VA giving conclusive weight to the Congressional findings in the bill relating to the relationship between the particular disease, its susceptibility to radiation exposure, and its link to other significant risk factors.

House amendment: The House amendment would establish a presumption of service connection for the following diseases (if manifested to a degree of 10 percent or more): leukemia (except chronic lymphocytic leukemia); cancer of the thyroid; cancer of the breast; cancer of the pharynx; cancer of the esophagus; cancer of the stomach; cancer of the small intestine; cancer of the colon; cancer of the pancreas; multiple myeloma; lymphomas (except Hodgkin's disease); cancer of the bile ducts; cancer of the gall bladder; and primary liver cancer (except if cirrhosis or hepatitis B is indicated).

Compromise agreement: The compromise agreement contains the provisions of the House amendment with cancer of the colon deleted.

MANIFESTATION PERIODS

House bill: The House bill would require that all the specified diseases be manifested within 30 years after the veteran's last in-service exposure to radiation.

Senate bill: The Senate bill (section 203) would require that leukemia be manifested within 30 years after the veteran's last in-service exposure to ionizing radiation and would also require that all other specified diseases be manifested 5 or more years after the veteran's first such exposure.

House amendment: The House amendment would provide for a 30-year manifestation period for leukemia and cancer of the colon and a 40-year manifestation period for the other conditions described in the proceding item relating to the House amendment.

Compromise agreement: The compromise agreement contains the provisions in the House amendment with reference to cancer of the colon deleted.

SPECIAL PROVISIONS RELATING TO BENEFITS

Senate bill: The Senate bill (section 203) would provide benefits at the same rates as under chapters 11 and 13 of title 38 and would treat the diseases as service connected for all title 38 purposes except for purposes of chapters 11 and 13. The Senate bill also would provide that benefits would not be payable with respect to a disease for which compensation or DIC otherwise is payable.

House bill: No specific provisions.

House amendment: No specific provisions.

Compromise agreement: No provision.

ADJUSTMENT OF EXPOSURE ESTIMATES

Senate bill: The Senate bill (section 204) would amend section 354 of title 38, relating to consideration to be accorded in the processing of VA claims to time, place, and circumstance of service, so as to establish a process for the upward adjustment of veterans' radiation exposure estimates to equal the total of (a) the highest Defense Nuclear Agency (DNA) or other exposure estimate for the veteran, based on film badge, reconstruction, or a combination of film badge and reconstruction, plus (b) for test participants, (1) 5 rems, if the DNA estimates that at least 25 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 3 rems; (2) 3 rems, of the DNA estimates that at least 25 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 1 rem; or (3) 1 rem, if the DNA estimates that at least 20 percent of the members of the veteran's service branch or of the total participants in the particular test were exposed to more than 0.5 rem; or (c) for occupation troops or former POWs in Japan found to have a comparable opportunity for exposure, 1 rem; or (d) for a veteran exposed in more than one nuclear test or in one or more tests and in the occupation of Japan, the combined total from all such exposures, adjusted as described above.

House bill: No provision.

House amendment: No provision.

Compromise agreement: No provision.

PRESERVATION OF EXISTING RIGHTS

Senate Bill: The Senate bill (section 206) would provide that nothing in that measure would operate or be construed to prevent the granting of service connection under chapter 11 or 13 of title 38 in the case of any disease or disability from which a veteran suffers or has died that is determined on a non-presumptive basis to have been incurred in or aggravated by active-duty service.

House bill: No provision.

House amendment: No provision.

Compromise agreement: No provision.

The Committees do not consider this provision to be necessary because the provision of the compromise agreement would not on their face preclude or restrict, and are not intended to preclude or restrict, the right of claimants to apply for and receive benefits under current law—that is, on a nonpresumptive basis—including any right to have benefits paid retroactively. The Committees intend that the VA (a) make awards under this measure to all veterans and survivors with pending claims who satisfy this measure's requirements and (b) notify those claimants of their rights with respect to continuing to pursue their claims on a nonpresumptive basis in order to receive retroactive benefits.

HEALTH-CARE ELIGIBILITY

Senate bill: The Senate bill (section 207) would provide for an extension, from September 30, 1989, to September 30, 1991, in the expiration of health-care eligibility for radiation-exposed veterans set forth in section 610(a)(1)(G) of title 38.

House bill: No provision.

House amendment: No provision.

Compromise agreement: No provision.

ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE REPORTS

Senate bill: The Senate bill (section 208) would amend section 6(d)(3) of Public Law

98-542, relating to reports from the Scientific Council of the Veterans' Advisory Committee on Environmental Hazards, to require the Council to submit its reports to the House and Senate Veterans' Affairs Committees, as well as to the full Advisory Committee and the Administrator.

House bill: No provision.

House amendment: The House amendment contains this provision.

Compromise agreement: The compromise amendment contains this provision.

EFFECTIVE DATES AND SUNSET PROVISION

House bill: The House bill (section 3) would provide that its provisions would be effective on October 1, 1987.

Senate bill: The Senate bill (sections 210 and 211) would provide that (a) the radiation-benefits provisions would take effect on January 1, 1988, (b) such provisions would not apply with respect to claims filed after September 30, 1991, and (c) that benefits would not be payable for any period prior to enactment.

House amendment: The House amendment would provide for a May 1, 1988, effective date with no sunset provision.

Compromise agreement: The compromise agreement contains the provision in the House amendment.

DISABLED AMERICAN VETERANS,
Washington, DC, April 25, 1988.

Hon. ALAN CRANSTON,
Chairman, Senate Veterans' Affairs Committee, U.S. Senate, Washington, DC.

DEAR CHAIRMAN CRANSTON: I am writing to you concerning the compromise agreement recently worked out between the Senate Veterans' Affairs Committee and your counterpart in the House to provide disability compensation benefits to veterans exposed to radiation during their active military service.

This legislation—H.R. 1811, the Radiation Exposed Veterans' Compensation Act of 1988—represents a culmination of many years of research and investigation by the scientific community, as well as extensive hearings conducted by the Veterans' Affairs Committees of both Houses seeking a solution to the very real concerns of those veterans exposed to radiation.

Quite frankly, Mr. Chairman, while this legislation does not fully address all of those concerns, we truly believe it represents a sincere effort on the part of the Congress to relieve nearly four decades of suffering for these veterans and their families.

The more than 1.1 million members of the Disabled American Veterans and its Ladies Auxiliary support, in the strongest possible terms, the compromise agreement of the House and Senate Veterans' Affairs Committees on H.R. 1811. Mr. Chairman, I urge you, and all members of the United States Senate to totally support Congressional passage and enactment of this long-overdue legislation.

Sincerely,

GENE A. MURPHY,
Commander.

Mr. CRANSTON. Mr. President, before yielding the floor to the Senator from Alaska, I wish to again recognize his contribution, because he has played a major role in focusing the debate on and bringing about increased attention to this area.

I wish also to recognize the efforts and contributions of the present Presiding Officer of the Senate, Senator DASCHLE, who has long been concerned about this and many other veterans issues and has worked hard on them.

I yield the floor.

Mr. MURKOWSKI. Mr. President, I thank the chairman and my gracious colleague, the Senator from California, for his comments.

Mr. President, we have a rather unusual set of circumstances before us. We have, as a consequence of the conference with the House on the veterans' radiation bill, reached a point where, the pending amendment seeks to extend coverage to some 13 types of cancers.

Before I go further into my remarks, Mr. President, I want to thank the distinguished chairman of the committee, Senator CRANSTON, for the many courtesies and cooperation he and his staff have extended to me and my staff and to those who wished to be heard on this very important, controversial, and emotional issue.

As I indicated, this is not a particularly easy debate for me because of the deep concern which we have on our side of the aisle for atomic veterans and their families. As the ranking Republican member of the Committee on Veterans Affairs, I personally believe very strongly that Congress has a responsibility to address the valid concerns of those veterans who, in direct performance of their duty, were exposed to ionizing radiation at an atmospheric nuclear weapons test or those who were involved in the occupation of Hiroshima and Nagasaki, Japan.

I know they will, perhaps, be disappointed on the action being taken on this side of the aisle this morning. However, I believe the legislation before us today does not really represent the sound public policy that we sought when we began the effort with regard to the responsibility of our Government to those exposed to ionizing radiation.

I fully appreciate the difficulties of proving a causal relationship between ionizing radiation and the latent manifestation of certain forms of cancer. The relationship between the exposure of radiation and the types of cancers, appropriate manifestation periods, intervening causes and exposure levels are issues for which there are no easy answers. A good deal of funding has been spent by our scientific community, which is still searching for these answers. The difficulty in finding thoughtful answers is compounded by the lack of clear and consistent scientific and medical evidence as well as a degree of uncertainty regarding the exact radiation levels our military personnel were exposed to at the tests and occupation.

We readily understand the dilemma of trying to go back and measure levels of radiation during the Bikini tests or even further, measuring the radiation levels of those who occupied the Nagasaki and Hiroshima areas after the A-bomb.

Notwithstanding a commendable effort by the Defense Nuclear Agency to reconstruct radiation doses, it is really impossible to know the actual levels received by servicemen who participated in the testing program and occupation of Hiroshima and Nagasaki over 30 to 40 years ago. Our knowledge of the hazards of ionizing radiation was slowly evolving at the time and the technology to monitor exposure was in the embryonic stages of development. But today, Mr. President, we know that at certain exposure levels, ionizing radiation causes or is a contributing factor in the onset of cancerous tumors.

Mr. President, in view of the uncertainty surrounding dose levels and the state of the science regarding causation, I believe that it is important to take bold steps to establish a presumption of service connection—for veterans with certain forms of cancer. We may never know for sure, but the benefit of the doubt should be given to those who, in the direct performance of their duty, risked their lives for our national security.

At the same time I believe equally as strongly that we have a duty to legislate responsibility in this area. I believe that we diminish the integrity of the legislation when we create a presumption of service connection for cancers which have a higher association with the individual's lifestyle than radiation. Unfortunately, that is the case with the proposed amendment to H.R. 1811. This does not serve the American people, including our Nation's veterans, very well.

As my colleagues may recall, I was the first Member to introduce radiation compensation legislation in the 100th Congress. My bill, S. 453, was limited in scope. It focused primarily on rare and blood related diseases which were the most strongly associated with exposure to radiation. The cost of my bill was $13 million in the first year.

We have heard from the chairman of the Veterans' Committee that the legislation before us today would cost approximately $36 million the first year. Well, it is obvious, Mr. President, that we are dealing here with an all encompassing piece of legislation. The costs could very well exceed $36 million. The legislation that I introduced, S. 453, as I have indicated, was a step forward. It was the first effort to get into the area of ionizing radiation.

Although it was a small step, I believe it was a responsible first step and, most importantly, stood a reasonable chance of being enacted into law.

Senator CRANSTON also introduced legislation—S. 1002—to compensate veterans exposed to radiation. Although I did not completely agree with his approach, I believed that Senator CRANSTON made a commendable effort to address the difficult scientific and medical issues associated with this complex issue. Senator CRANSTON's bill—which was ultimately passed by the Senate as part of an omnibus veterans bill—established three distinct categories of cancers which had varying susceptibility to induction by radiation.

The first category acknowledged that only leukemia and thyroid cancer were highly susceptible to induction by ionizing radiation.

The second category acknowledged that eight other types of cancers were moderately susceptible to induction by radiation and, thus, required that a minimum exposure level was necessary for the presumption to apply.

Of course, the VA would have the authority to challenge or rebut the presumptions in categories 1 and 2 if it was recognized that intervening causes could have contributed to the manifestation of the disease.

The third category—also known as the special consideration category—would have provided for no presumptive compensation for 13 specified diseases which were somewhat susceptible to induction by radiation but equally or more associated with other factors.

During the Veterans' Affairs Committee's consideration of radiation compensation legislation, I proposed to make the legislation more limited. Those efforts were unsuccessful. Again during Senate consideration of this legislation, I stated on the Senate floor my concerns that some diseases specified in the bill may be subject to medical and scientific dispute. I hoped that a more sound approach would be agreed to in a House/Senate conference on this issue.

Mr. President, I regret that this proposal—which is the proposed compromise agreement on this issue—does not track my approach, nor does it take into account the principles encompassed in the original Senate-passed bill. It simply provides a presumption for 13 diseases—some of which are known to be very strongly associated with intervening factors.

Mr. President, the list of these diseases is rather lengthy, but I think it is appropriate that they be included in the RECORD.

In my original proposal, the diseases included leukemia—except chronic lymphocytic leukemia, liver and multiple myeloma. We have added to that list, as a consequence of the House conference, cancer of the thyroid, stomach, small intestines, breast, pancreas, bile ducts, gall bladder, pharynx, esophagus, and lymphomas.

As was noted already by Senator CRANSTON, these cancers would have to be diagnosed within 40 years after exposure, except leukemia, which is 30 years.

I think the situation here in expanding this list is the reality that this legislation would in effect, create a new entitlement.

Let me reflect briefly on the implications associated with the costs. As we reflect on this legislation, one has to relate at whose expense will this extended liability to the Federal Government fall.

We know that the budget for the Veterans' Administration is roughly $28 billion. There is no secret that this extended coverage will come out of the veterans' budget. One has to ask the question: Will the additional costs come out of the VA medical care account, an account that is already stretched to substantial limits as a consequence of the changing needs of our American veterans as they grow older and their care changes?

Mr. President, I think it is clear there are many questions that we do not know. But we do know that this list is so expansive and, as a consequence of the expansion, the bill proposes a manifestation period. I think this is very interesting, as we delve into this a little more, the amendment proposing a manifestation period of 40 years for all diseases, except leukemia, which is, as I stated previously, 30 years.

Make no mistake about it, this is the flip side, this is the effort to address the expansive costs associated with what we are about to create here. This means that veterans must have been diagnosed with the disease within 40 years after exposure. There is no scientific or medical basis for such a 40-year limitation. It was done simply as a tool to keep outyear costs under control. I ask my colleagues: What kind of sense does this make?

If the people who were exposed during the occupation at Nagasaki and Hiroshima in 1945, 40 years ago, have not had a previous diagnosis, they are excluded. They were excluded in 1985. The testing in Bikini in the 1950's or thereabouts: Those people will be excluded in 1990 if there has not been some type of a diagnosis prior to that time.

So what we have done here by adding an additional nine types of cancers is we have opened the door, on the one hand, and closed it on many who may come down with these various types of cancer. If they were involved in the occupation of Nagasaki and Hiroshima and have not been diagnosed, they are not going to be covered.

So I think we have a bit of a flimflam here as we address the merits of the legislation before us. We are trying to be all-encompassing to those veterans with an expanded list of presumptive diseases; 13 in all. Yet, at the same time, we are closing the door on many of them who may come down with various diseases included on this list, but since they were not diagnosed within the 40-year period, they are not going to be covered.

Mr. President, I think it is much more responsible to reflect on the merits of those three diseases that had been identified as the most associated with exposure to radiation.

I urge my colleagues on the House and Senate Veterans' Affairs Committees during the conference on the issue, to support my efforts to eliminate from the legislation the following cancers: colon, pharynx, esophagus, and stomach. I am pleased that the Senate was successful in its efforts to exclude colon cancer. I certainly believe it was appropriate. I regret that additional cancers were not excluded. I remain opposed to including in the bill pharynx, esophagus, and stomach cancers. These are points I have already enunciated.

I am not saying these diseases do not have some association to exposure to ionizing radiation. In fact, radiation may cause any of the aforementioned diseases. However, it is important to note that we have not proposed to include in this bill cancers which are associated with radiation. For example, we do not include skin and lung cancer. We exclude these diseases because they are known to be strongly associated with other factors, specifically exposure to sunlight and smoking.

For the same reasons, I oppose the inclusion of certain cancers. These cancers—pharynx, esophagus, and stomach—are very common. They are also strongly linked to other factors, such as alcohol use, chewing tobacco, smoking, and diet. Family history for the disease is also a factor which increases the risk for developing these diseases. All of these factors are known to contribute to these types of cancers.

Senator CRANSTON also believe that cancer of the pharynx and esophagus were only "somewhat susceptible" to induction by radiation and were equally or even more associated with other risk factors.

It is for these reasons that the American Cancer Society states that lifestyle changes—such as healthy diets—eating low-fat foods and foods containing certain vitamins, reduced alcohol intake, quitting smoking—are important ways to reduce the risk of such cancers.

It is unfortunate the bill currently being considered by the Senate, as I have stated, goes too far. Because of this, the VA has stated in a letter to all Senators, its opposition to the enactment of this legislation if time permits, Mr. President, I would intend to read the highlights of that letter, but I will defer because I see some of my colleagues who want to speak on this legislation.

The President's advisers have indicated to me that this legislation will almost be assuredly vetoed. I remind my colleagues of the significance of that statement. That is based on the President's evaluation, and that of the White House that, indeed, we are establishing a new entitlement and going far beyond the intent of responsible legislation.

I do know that our chances for a Presidential signature would have been greatly increased if we had taken a small step, a responsible step which represented a milestone in this area. Unfortunately, we have not.

Therefore, it is with deep regret that I will have to oppose the legislation. However, I want my colleagues to know that I am committed to continuing my efforts to work toward and pass a responsible radiation compensation bill. I will work with my colleagues in the months ahead to send such a responsible bill to the President.

Again, I deeply regret that I must take this action. But those of us who are attempting to recognize the realities of the budget process and the medical evidence associated with certain types of cancer dictates that this must be the action we take today.

I thank the Chair. I ask unanimous consent that the letter from the Veterans' Administration with regard to its opposition to this legislation be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
Washington, DC, April 21, 1988.

Hon. HARRY M. REID,
U.S. Senate, Washington, DC.

DEAR SENATOR REID: On behalf of the Administration, I strongly urge you to vote against the passage of H.R. 1811.

This bill would amend title 38, U.S.C., to establish a presumption of service connection for the payment of disability compensation for certain diseases manifested by veterans within specific periods after their participation in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki, without regard to the amount of radiation exposure received.

If this legislation, which would seriously compromise the established service connection determination process, is passed, the President's senior advisors will recommend a veto.

We believe that this bill ignores the body of scientific evidence regarding the effects of radiation exposure and compromises the integrity of a system of claims adjudication that is based on accepted medical and scientific knowledge.

The Veterans Advisory Committee on Environmental Hazards, a thoroughly qualified body of independent experts, has reviewed H.R. 1811 and concluded that its provisions do not have a scientific basis, do not allow for scientific analyses, and in fact may be contrary to accepted scientific knowledge regarding radiation exposure.

I have enclosed for your information, a copy of my letter to the Honorable G.V. (Sonny) Montgomery, Chairman of the Committee on Veterans' Affairs, which communicates the Veterans Administration's strong objection to the passage of this unsound and unwarranted measure. I have also included a brief fact sheet which further explains our position.

Our position on this legislation is based on our concern that it would seriously undermine the legitimacy of our veterans' compensation system. In accordance with existing law, compensation claims of atomic veterans are already being properly addressed through fair and equitable adjudication of their individual merits.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress, and that enactment would not be in accord with the program of the President.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

The PRESIDING OFFICER (Mr. LEVIN). Who yields time?

Mr. CRANSTON. How much time does the Senator wish?

Mr. DASCHLE. Five minutes.

Mr. CRANSTON. I will be glad to yield 5 minutes.

THE PRESIDING OFFICER. The Senator from South Dakota.

Mr. DASCHLE. Mr. President, I have listened carefully to the remarks of the Senator from Alaska, and I feel compelled to respond to them. Several people have made two suggestions that I find very troubling. First, they have suggested that this bill is too costly, and second, they have suggested that there is not enough scientific evidence to support a presumption of service connection for diseases associated with service-connected exposure to ionizing radiation.

Let me address the cost issue first. Mr. President, in the overall scheme of things, the cost of this legislation is infinitesimal. The fiscal year 1988 veterans budget is $28.2 billion. This legislation to compensate veterans suffering from diseases related to service-connected exposure to ionizing radiation will cost $14 million for fiscal year 1988, meaning that this compensation will represent less than one-thousandth of the VA budget. The budgetary cost of passing this legislation is minimal. The human cost of not passing it is great.

Second, let me address the premise that there is not enough scientific evidence to support a presumption of service-connected disability for veterans exposed to ionizing radiation during their military service. As others have mentioned, Congress has provided presumptions of service connection for many negative health effects suffered by American veterans. The presumptions are necessary precisely because science has not given us definitive answers. As Members of Congress, we cannot wait indefinitely for absolutely irrefutable science to dictate our policy.

It has been over 40 years since American veterans were exposed to the atmospheric nuclear testing program and the aftereffects of the nuclear explosions at Hiroshima and Nagasaki. Scientific evidence strongly suggests a link between the exposure and the diseases listed in H.R. 1811. Some say that we lack definitive proof. How long will we wait for that proof? Will we wait until all these veterans are dead? Are we so afraid of making a mistake in favor of the veteran—of extending benefits when they are not deserved—that we are willing to risk making the opposite mistake of denying benefits to deserving veterans? Mr. President, I am not.

We have compensated veterans in many cases where the evidence of service connection is far less compelling. We have presumed that heart disease in veteran paraplegics is caused by military service, and we have compensated for that. We have presumed that diabetes developed within 7 years after military service is also service connected, and we have compensated for that. We have presumed that spastic colon is caused by the POW experience, and we have compensated for that.

The presumption in H.R. 1811 is based on an abundance of evidence that exposure to ionizing radiation causes certain disabilities. The presumption is, in fact, conservative, in that it limits compensation to veterans who have developed those disabilities within 30 years of their exposure.

While we will never have absolute scientific proof of the causal relationship between veterans' disabilities and exposure to ionizing radiation, we, as policymakers, must come to a policy decision. Whether we realize it or not, that decision will be based on a presumption. That presumption can favor either the veteran or the VA, which refuses to compensate him. Based on the invaluable service atomic veterans have given this country, and based on the strong scientific evidence that their disabilities are service connected, we must make a presumption in favor of the veteran. This compensation is long overdue.

Finally, Mr. President, I want to remind my colleagues that it has been over 20 years since many veterans were exposed to agent orange, and the situation facing these veterans is much the same as the one facing atomic veterans. The scientific evidence of a causal relationship between military service and disabilities is strongly suggestive, but not definitive enough for those more concerned about the budget than fairness to veterans. I hope we will learn from this experience and not wait 40 years before addressing the concerns of the victims of agent orange.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield 5½ minutes to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I thank the Senator from California.

Mr. President, I rise in strong support of this legislation. In fact, I really think it is somewhat incredulous that we are even debating compensation to atomic veterans, people who could not be more deserving. I think it is important to remind ourselves a little bit of the history of this legislation. As the Senator from South Dakota has just said, for close to 20 years, between 1945 and 1962, the U.S. Government, not some private corporation, conducted atmospheric nuclear weapons tests in Nevada and in various locations in the Pacific. American servicemen, approximately 250,000 of them, were assigned to ships to assist in performing these tests and the followup operations. They were doing their duty. In the line of duty, they were exposed to the dangers of nuclear tests. Usually, without any protective clothing, usually without any respiratory devices, these men were scrubbing decks of radioactive ships within hours of the detonation of the bombs. This legislation affects servicemen who were sent to Nagasaki and Hiroshima for the cleanup operations after those devastating bombs were dropped.

Three years ago, when I first came to the Senate, Mr. President, I became intensely interested in this issue, and I got to know a man from Charles Town, WV, by the name of Mr. W.R. Carper. He was one of those people. He is one, in fact, of only about 100 atomic veterans who still live in my State. Mr. Carper, when he was 19 years old, was part of a Navy crew that performed what were called salvage duties. Salvage duties at Crossroads, a site off the Pacific's Bikini Islands, where two major atmospheric tests were begun in 1946.

For several months that year, Mr. Carper removed material from the decks of the ships that were in the area where the bombs were detonated. He recalls, in fact, one particular person who was called the Geiger man. The Geiger man accompanied the salvage crew and reported whether the area of the ship was hot or not hot. Many times, needless to say, the ship was hot. The Geiger man was there to find out. Mr. Carper also remembers the kind of instructions he received on how to protect himself from these hazards. He was told, "Take a shower; clean your clothes when you get back to your ship as soon as you can."

Now, as the distinguished Senator from South Dakota has pointed out, we may not have the quintessential scientific evidence between radiation exposure at these sites at that time and deaths which have occurred since that time.

But we do know that many have died from cancer and the kind of cancer that is associated with radiation. For 40 years we have studied this problem, Mr. President. For 40 years ad nauseum we have studied this problem, spent millions of dollars, U.S. taxpayers' dollars to do studies, and none for the atomic veterans. I think that is wrong. I think it is time to bring an end to the research and to the injustice, and to respond with recognition and compassion for what these people went through in the line of duty at the orders of the U.S. Government in the service that they were constitutionally sworn to obey. We know enough to act.

The bill is based on sound credible information. And it is after all, I would say to my colleagues, simple justice, and that fulfills a responsibility for veterans who are suffering. And make no mistake about that; these people are getting older, you know. To be very blunt about that, I remember in one hearing, there was a man in front of us, I would guess in his seventies, who was dying of cancer. He was at our hearing and describing what it was like to die from cancer. I was very moved by that.

We have studied the problem in the Government. The man gets not a dime. In fact, the last time that I checked, the Veterans' Administration was turning down about 99 percent of the claims filed by atomic veterans for service-connected compensation.

Mr. President, I am proud to be a part of this legislation. When I came to the Senate 3 years ago and I was lucky enough to get on the Senate Veterans Committee, Senator PAUL SIMON was the original sponsor of this bill. I was the sole cosponsor at that time. I am very proud of that. But in the 99th Congress, that bill was called the Atomic Veterans Relief Act. I told our atomic veterans from West Virginia then that our day will come, Congress will do the right thing, and now I believe we are about to.

I want to thank Senator SIMON for his enormous service, foresight, and compassion, and Senator CRANSTON and all of those on the Veterans Committee who have made this possible.

I urge all of my colleagues to strongly support this legislation.

I thank the Senator from California. I thank the Chair.

Mr. MURKOWSKI. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Eight minutes and thirteen seconds, and nine minutes and forty-six seconds controlled by Senator CRANSTON.

Mr. MURKOWSKI. Mr. President, within a few minutes I intend to ask unanimous consent that 10 more minutes be provided, 5 minutes equally divided to each side. But I will have a few moments before I present that to the Chair.

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. I thank the Senator from California.

Mr. President, I rise today in support of H.R. 1811 as amended by my distinguished colleague from California [Mr. CRANSTON]. He has been a great advocate for the atomic veteran when many would not rise to speak out on their behalf. I want to commend him and his fine staff for their efforts on S. 1002, the Veterans' Radiation Exposure Disability and Death Benefits Act, and for their work in conference with the House on this matter.

It is appropriate that this bill arrives before this body 1 week after we struggled to come to terms with another injustice from the World War II era, compensation for Japanese-American citizens interned during the war. The legislation addressing that matter and the legislation addressing the needs of many of our atomic veterans both are efforts to put harmful episodes of the past honorably behind us.

It has been 6 years since I became aware of the need for congressional action to aid atomic veterans, and for 6 years, I have closely followed the controversies surrounding compensation for our veterans exposed to radiation. I have asked why it is that we find it so difficult, as a nation, to do right by those men and women who served us through their participation in the nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan.

Today, more than 40 years after this testing began, we have the opportunity to redress some of the wrongs, to act affirmatively by extending benefits for certain radiogenic diseases suffered by many of the atomic veterans.

The measure is not as comprehensive as I have worked for. It does not create a comprehensive presumption of service connection for all radiogenic illnesses. It does not address all of the needs of veterans like Bob Farmer who served at Operation Crossroads and whose nine children have suffered birth defects. It is not perfect.

But we must not let the opportunity for any relief for these men and women pass us by. They can turn nowhere else for help. The Veterans' Administration and the Pentagon have resisted most appeals to accommodate these needs. As former service personnel, atomic veterans are barred from seeking relief through the courts. This matter is now on our doorstep. This is a congressional responsibility.

For many, this bill comes too late. For others, time is a luxury they cannot afford. But if signed by the President it would improve the lives of many of our atomic veterans. It would mark a major advancement in our Nation's attitude toward atomic veterans and in acceptance of our responsibility to make right the wrongs done to them at the onset of the atomic age.

Senate consideration of this bill today occurs under the cloud of a threatened Presidential veto. As the President and his advisers weigh this decision, I urge them not to act until they have considered the great sufferings—past and present—of many fine veterans and their families: Veterans like Bob Farmer of Steeleville, IL, and Warren Zink of Downers Grove, IL.

This is not an expensive bill; the first-year cost is less than $40 million for the medical needs of these Americans. More important, helping these former servicemen with their medical bills is the fair thing to do. It is the right thing to do.

I urge my colleagues to support this legislation.

Mr. President, I am pleased to see this legislation finally here. I introduced the first legislation on this subject when I was a Member of the House and reintroduced it as Senator ROCKEFELLER just mentioned, when I was in the Senate.

Let me tell you how I happened to introduce this legislation. A fellow named Bob Farmer from Steelville, IL, came to me. He said, "I was a young seaman in the Marshall Islands when they had the tests. And they told us to duck behind a truck." He said "I had swimming trunks on and my buddy did. We ducked behind the truck and they told us to close our eyes. We ducked behind the truck." He said "When I opened my eyes afterwards, I could see the bones in my hands and I looked ahead of me to my buddies, and I could see their skeletons." He says it was kind of a weird experience, but they did not think too much about it. Then they went in, washed down the ships that were in that immediate area. Then played in the sand in the ocean there, and did not think anything about it.

Then years later Bob Farmer starts to develop tumors. Bob Farmer and his wife were married, had nine children. All of them appeared to be perfectly normal, except one had a hip deformity. Neither Bob Farmer nor his wife and their families had any history of any kind of genetic disease problems. As it has turned out all nine of their children have some kind of genetic problems.

The U.S. Government says they have nothing to do with Bob Farmer's problems. That is just wrong. And as I learned more and more about Bob Farmer I found out there were a lot of Bob Farmers around this Nation.

We not too long ago had legislation in this body, and Mr. President, as a member of the Armed Services Committee I am sure you played a role in seeing that it was there. We had some compensation for the residents of the Marshall Islands, and we should have. I do not begrudge this to the people of the Marshall Islands one iota. But young service personnel, who were ordered there by our Armed Forces, also are entitled to compensation. When they show up with leukemia, thyroid cancer, and the other problems that are associated with exposure to radiation, let us recognize that there is a good chance this was caused by that exposure. That is what this bill does. It does not go, frankly, quite as far as the bill that I originally introduced, but is a substantial step forward. It will cost approximately $40 million a year. And we are getting some justice out of it.

It is perhaps significant that last week we passed the bill that Senator MATSUNAGA was the chief sponsor of to bring justice, a little justice, to Japanese Americans, and to say we have done an injustice to these people. It is appropriate that 1 week later we come here and say to those who have served our country, who were ordered into some cases Nagasaki just days after the explosion there, in some cases they were out in the tests, and were exposed immediately to radiation. We have a responsibility. This bill moves in the right direction.

I want to commend Senator CRANSTON, Senator MURKOWSKI, and everyone who had anything to do with it. I recall the support Senator ROCKEFELLER gave when I first introduced the bill in the Senate, when I moved over to the Senate. We are moving in the right direction for some people who deserve justice, and we are providing that justice. I am proud to be a Member of the Senate today as we move in the right direction here. And I trust we will do precisely that.

I yield back the remainder of my time.

Mr. MURKOWSKI. Mr. President, I have had an opportunity to confer with the chairman of the Senate Veterans' Affairs Committee.

I ask unanimous consent for 10 minutes equally divided between each side at that time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MURKOWSKI. I thank the Chair.

Senator THURMOND, I believe, has a statement, and I ask that he be recognized.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

I believe the Senator from South Carolina needs 4 or 5 minutes. Is that correct?

The PRESIDING OFFICER. The Senator is recognized.

Mr. THURMOND. Mr. President, the issue of compensating veterans who suffer from certain cancers and who were involved in atomic tests or the occupation of Hiroshima or Nagasaki stirs great amounts of emotion.

Because this is an emotional issue, we must exercise added caution to ensure that the compensation issue is approached in a sound, yet compassionate manner. The bill before the Senate today, H.R. 1811, the Atomic Veterans Compensation Act, is well-intentioned. It establishes a presumption of a service-connected disability for veterans suffering from certain cancers, who were exposed to radiation during the testing of a nuclear device or who participated in the American occupation of Hiroshima or Nagasaki.

Although it is a well-intentioned bill, we must ask ourselves the following question: Does the bill represent the wisest approach to the radiation compensation issue? The answer is no, it does not. Now, Mr. President, I make this statement fully aware that it may be perceived as antiveteran. However, nothing could be further from the truth. I have long been a staunch supporter of veterans and will continue to lend my strong support to meritorious veterans legislation.

As a member of the Veterans' Affairs Committee, I supported a separate radiation compensation bill offered by Senator MURKOWSKI, the ranking minority member of the committee. Although that bill did not succeed in committee, I believe it represented a wise and reasonable approach to this important issue. It was carefully tailored to provide compensation to certain veterans suffering from leukemia, liver cancer, multiple myeloma, and cancer of the bone marrow. These diseases have a close association with radiation. On the other hand, the bill before the Senate sweeps too broadly. It would provide compensation to veterans suffering from leukemia, certain lymphomas, multiple myeloma, and cancer of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, and liver. Mr. President, some of these cancers are attributable to factors other than radiation, such as diet, lifestyle, alcohol, and tobacco. Accordingly, I do not believe there is a strong enough causal connection between radiation and these diseases to merit the presumption called for in this bill.

In addition, Mr. President, as a member of the Judiciary Committee, I cosponsored and supported legislation which would repeal the so-called Warner amendment, and thereby permit atomic veterans to bring suits in Federal court against contractors involved in the production of atomic weapons.

Mr. President, the Administrator of the Veterans' Administration is strongly opposed to H.R. 1811, and has indicated that the President's senior advisors will recommend a veto, should it pass the Congress. As he stated, "this bill ignores the body of scientific evidence regarding the effects of radiation exposure and compromises the integrity of a system of claims adjudication that is based upon accepted medical and scientific knowledge."

Mr. President, I believe we can arrive at a reasonable compromise measure which the House, Senate, and President can all support. However, for the previously mentioned reasons, I cannot support the current bill. Accordingly, I urge my colleagues to vote against this measure.

Mr. President, how much time have I used?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. THURMOND. I yield that time back, so that Senator MURKOWSKI can allot it.

Mr. MURKOWSKI. Mr. President, I thank my good friend, Senator THURMOND. I very much appreciate his message. He has made the point—without any degree of uncertainty—as to the need to address responsibly the needs of veterans who were exposed to ionizing radiation.

Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The Senator has 8 minutes and 10 seconds remaining.

Mr. MURKOWSKI. I yield to my colleague from Idaho up to 5 minutes, as he wishes.

Mr. McCLURE. I thank the distinguished Senator from Alaska for yielding this time.

Mr. President, I very much appreciate the comments just made by the Senator from South Carolina. I think no one who knows the history of Senator THURMOND and his stubborn and steadfast support for all people who serve in the armed services and those who are now veterans of service can doubt his sincerity and his devotion to their causes.

Mr. President, I rise today in what I must admit is reluctant opposition to H.R. 1811. Supporters of this bill portray it as an appropriate mechanism to compensate veterans exposed to ionizing radiation from the atmospheric nuclear detonations that occurred during the 1940's through the early 1960's. While on its surface, this may appear as a just and reasonable approach, I would argue that such an approach is a dangerous precedent and an unnecessary exposure of taxpayers' dollars to a potentially limitless drainage.

This legislation would establish an open-ended, self-inflicted admission of liability on the part of the Federal Government for these veterans. It suggests that the Government somehow was willful and wanton in its conduct of the atmospheric tests, which we all know is simply not true.

Furthermore, the bill would leave begging the question of whether we should compensate civilians exposed to low levels of radiation during the atmospheric test period. We would, by enacting this bill, be setting ourselves up for a liability exposure much larger and far more costly than the estimated 220,000 veterans directly addressed in the bill.

Even worse, enactment of this bill begs the question of what other universes of "beneficiaries" may be out there who might make similar cases for compensation: What about workers at our national laboratories in nuclear research over the years? What about other veterans exposed to ionizing radiation in some period of their service?

I would agree that the problem of proper treatment of all victims of our atmospheric weapons testing program needs to be addressed in some responsible manner. But I would argue that this bill's treatment of one segment of the total "universe" of people potentially affected by relatively low levels of ionizing radiaiton will ultimately lead us down a path of open-ended entitlement payouts totaling billions of dollars for which none of us are prepared to or able to commit.

We must not act precipitously in dealing with veterans' compensation for exposure to ionizing radiation. After all, the current provisions of the veterans' benefits under section 313 of title 38 of the United States Code already allows for payments of such claims; in fact, many of these particular cases have already been awarded under the current VA benefits package.

While there have been numerous congressional hearings on this issue over a number of years, there has never been a comprehensive evaluation of the magnitude of the problem, the precedent-setting nature of the solution, the potential size of the total beneficiary group, or the extent of the funding obligations. There has never been a proposal put forth to address all these issues in a comprehensive manner.

Certainly, we must recognize the Federal Government's obligation with respect to exposures of our citizens to ionizing radiation. But we also must act responsibly in protecting the taxpayers' funds from unlimited drainage.

I caution my colleagues to reject this piece of legislation as the wrong first step in a slide down an abyss to unknown, unlimited, and unwarranted Federal obligations.

Mr. President, the reason I have taken the time to come here in opposition to this amendment, and I am in opposition to the bill, is not that we should not be compassionate or that we should not be concerned about the veterans who were exposed to radiation through either the tests or in the cleanup, or wherever else they may have been with respect to low-level radiation.

This bill sets an arbitrary threshold for veterans to receive benefits related to exposures to low levels of radiation, despite scientific evidence that no additional cancer or other health effects have been measured in this population.

First, the "Smoky" test followup study, done by the Centers for Disease Control, shows fewer deaths and fewer cancers than would be expected from a normal population.

Second, the NAS study done by Seymour Jablon, concerning five atmospheric tests, showed no excess mortality from leukemia or other forms of cancer or other illnesses.

The report to H.R. 1811 even admits that, "While much has been learned about the carcinogenic effects of high doses of radiation exposure, scientists still are uncertain how low-level ionizing radiation exposure causes cancer, and how to predict the effects of exposure to low doses of ionizing radiation."

If the evidence isn't at all convincing, then why are we taking this giant step in assigning benefits when no benefits are in fact warranted?

The best available evidence on the veterans involved in the atmospheric testing suggests that the vast majority, 99 percent, were exposed to less radiation—5 rads—than is considered necessary to produce cancer.

The Veterans' Administration is handling these claims already, using a much more scientific and logical approach. In processing these claims, the VA considers exposure level, age at time of exposure, lifestyle, before and after, sex, occupational history, and the latency period. The VA has already awarded benefits for this category of claimants, and there is no justifiable, scientific reason to change the process by which the VA awards these claims.

Screening of claimants, either by the 10 percent rate test proposed in H.R. 1811, or by some other method—such as radioepidemiological tables from NIH—should be utilized only to decide which claims warrant further review, not to decide which claims are valid. This issue is too complicated and too vague to warrant this automatic payout approach. It will open the floodgates for all kinds of claims from all sectors for which the Government should not be assuming a responsibility in such an unscrutinized, open-ended manner.

Mr. President, I ask unanimous consent to have material in connection with this matter printed in the RECORD.

There being no objection, the material was ordered printed in the RECORD, as follows:

VETERANS' ADMINISTRATION,
Washington, DC, April 21, 1988.
Hon. JAMES A. MCCLURE,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCLURE: On behalf of the Administration, I strongly urge you to vote against the passage of H.R. 1811.

This bill would amend title 38, U.S.C., to establish a presumption of service connection for the payment of disability compensation for certain diseases manifested by veterans within specific periods after their participation in atmospheric nuclear tests or the occupation of Hiroshima or Nagaski, without regard to the amount of radiation exposure received.

If this legislation, which would seriously compromise the established service connection determination process, is passed, the President's senior advisors will recommend a veto.

We believe that this bill ignores the body of scientific evidence regarding the effects of radiation exposure and compromises the integrity of a system of claims adjudication that is based on accepted medical and scientific knowledge.

The Veterans Advisory Committee on Environmental Hazards, a thoroughly qualified body of independent experts, has reviewed H.R. 1811 and concluded that its provisions do not have a scientific basis, do not allow for scientific analyses, and in fact may be contrary to accepted scientific knowledge regarding radiation exposure.

I have enclosed, for your information, a copy of my letter to the Honorable G.V. (Sonny) Montgomery, Chairman of the Committee on Veterans' Affairs, which communicates the Veterans Administration's strong objection to the passage of this unsound and unwarranted measure. I have also included a brief fact sheet which further explains our position.

Our position on this legislation is based on our concern that it would seriously undermine the legitimacy of our veterans' compensation system. In accordance with existing law, compensation claims of atomic veterans are already being properly addressed through fair and equitable adjudication of their individual merits.

The Office of Management and Budget advises that there is no objection to the submission of this report to the Congress, and that enactment would not be in accord with the program of the President.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

VETERANS' ADMINISTRATION,
Washington, DC, June 25, 1987.
Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs,
Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to provide the views of the Veterans Administration (VA) on H.R. 1811, 100th Congress, a bill "to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation." We strongly oppose its enactment.

Briefly, the bill would amend chapter 11 of title 38 to establish a presumption of service connection for disability compensation purposes for certain radiogenic diseases manifested to a degree of 10 percent or more within 30 years of the date of participation in the case of veterans who participated in the atmospheric detonation of a nuclear device or the American occupation of Hiroshima and Nagasaki prior to July 1, 1946. The presumption of service connection would apply to all forms of leukemia (except chronic lymphatic leukemia), polycythemia vera, thyroid cancer, bronchogenic carcinoma, and female breast cancer.

The VA is committed to assuring that the health-related concerns of atomic veterans are responsibly addressed. We have fully implemented the provisions of law that authorize free, comprehensive health care for atomic veterans regardless of whether their ailments are radiation related. We have also worked diligently to devise and apply regulations to ensure the careful, reasoned consideration of their compensation claims on the basis of the best available evidence. The enactment of H.R. 1811 would mark a radical departure from this reasoned approach that is not justified by scientific evidence, and as a result would seriously undermine the legitimacy of our compensation programs.

Our primary objections to the bill may be summarized as follows: existing law already provides entitlement to service connection for radiogenic diseases; a presumption of law in the case of low-level radiation exposure would substantially weaken the legitimacy of the service-connected disability benefit programs; and, the eligibility criteria embodied in the bill are overinclusive and inequitable.

The VA currently has broad authority to grant service connection for disabilities, including those caused by exposure to ionizing radiation during military service, even where the initial symptoms of disease manifest themselves years after exposure. Some 28 such claims have been allowed to date. Moreover, when scientific research produces new findings on the cause of a particular disease or its association with the circumstances of service, existing law enables the VA to revise its regulations to assure the latest scientific data are brought to bear. This assures an orderly system of claims adjudication that is firmly based on accepted medical and scientific knowledge.

VA's regulation governing adjudication of compensation claims based on radiation exposure, at 38 C.F.R. § 3.311b, provides for case-by-case reviews in recognition of the many variables that must be considered in assessing the merits of such claims. Thus, once it is verified that a radiogenic disease has developed within specified periods after exposure to radiation in service, analysis continues, taking into account a number of factors. These include:

(1) The probable dose, in terms of dose type, rate and duration as a factor in inducing the disease, accounting for any known limitations in the dosimetry devices employed in its measurement or the methodologies employed in its estimation;

(2) The relative sensitivity of the involved tissue to induction, by ionizing radiation, of the specific pathology;

(3) The veteran's gender and pertinent family history;

(4) The veteran's age at time of exposure;

(5) The time-lapse between exposure and onset of the disease; and

(6) The extent to which exposure to radiation, or other carcinogens, outside of service may have contributed to development of the disease.

Because each of these factors can substantially affect the likelihood that a claim is valid, there is no pat formula or blanket rule that can be devised which would equitably provide benefits and be neither overinclusive nor underinclusive. There is no acceptable "quick fix," no substitute for thoughtful analysis of the facts unique to each case in endeavoring to separate the more deserving claims from the rest.

All authoritative scientific information leads to the conclusion that the overwhelming majority of veterans covered by H.R. 1811 received very low doses of radiation, whether they participated in the weapons tests or the occupation of Hiroshima and Nagasaki. For example, official film badge data for the test participants show fully 42% received no dose whatsoever, and the average for the entire group was only .5 rem. Less than 1% received doses exceeding 5 rem, which under current Federal guidelines is the annual allowable exposure for radiation workers.

To put these doses into perspective, it should be borne in mind that the average American sustains an annual dose-equivalent of .18 to .53 rems to the lungs per year from "natural background" sources (i.e., terrestrial and cosmic radiation and naturally occurring radionuclides deposited in the body). Thus, the average test participant's dose was only slightly more than he would have encountered from simply living on planet Earth for a year. When one considers that we also sustain average annual doses of some .103 rem to the bone marrow from medical and dental X-rays, the relative insignificance of the radiation exposure of test participants can be better appreciated.

The doses for the occupation forces were even more negligible, given such historical factors as the limited activities of the personnel, the distance between the hypocenters of the detonations and where the servicemembers were stationed, the relatively short duty assignments in the cities, and the assignment of troops to the cities only after weeks had elapsed since the bombings. An absolute worst-case analysis by the Defense Nuclear Agency shows no veteran's dose could have exceeded 1 rem as a result of his participation in the occupation of Hiroshima and Nagasaki.

What is the health effect, if any, of such small doses? While the effects at high doses are well documented, the effects, if any, of the low doses sustained by most of these veterans are so few as to be undetectable. Prudence may dictate that one not assume there is no adverse health consequence whatsoever from doses as low as one rem or less, but the best estimates are that the risk, if any, is infinitesimally small. For example, the lifetime risk of death from cancer in the general population is some 16% or 17%, so that we might expect 32,000 to 34,000 deaths from cancer will eventually occur in any population of 200,000 (roughly the number of veterans who participated in the weapons tests). A radiation exposure of .5 rem for this population would only, it is widely accepted, increase the number of cancer deaths by ten cases (above the 32,000 to 34,000 "naturally occurring" ones). The issue really becomes whether the Federal government should presume that all 32,010 eventual cancers among atomic veterans are service connected in order to assure that the ten possible excess cases related to service are covered, or whether it is better public policy to look at each case individually to separate the more deserving claims from those less deserving. We believe the only responsible approach is the latter.

The principle that the Government owes more to veterans injured as a result of service than to other veterans has guided benefits policies since our Nation's infancy. No one can question the responsibility to compensate for loss of life or health in the line of duty, which is why the VA's compensation programs deserve and enjoy broad public support. If eligibility criteria are diluted to the point where significant numbers of beneficiaries have no valid claim to these payments, public support will almost certainly erode. Such dilution of the standards could well invite a backlash the results of which are impossible to predict. That is why it is essential that eligibility standards remain tenable, and that the underlying principle of service connection not be compromised.

We are also concerned that the population of veterans at which H.R. 1811 is directed may not be defensible on substantive due process grounds. The bill focuses on test participants and occupation troops only, to the exclusion of all other veterans exposed to radiation. Literally every service-member who ever served even one day was exposed to natural background radiation and, since the nuclear age began, to man-made forms of ionizing radiation from fallout, X-rays and in many cases from nuclear power plants and weapons handling. Virtually all veterans of the modern era received standard chest X-rays during entrance and separation examinations, for example. If the policy proposed in H.R. 1811 is adopted with respect to only "atomic" veterans, on what basis can other veterans equally exposed be denied equal treatment?

For example, consider the case of a test participant whose estimated dose was .5 rem. If he later contracted leukemia (other than chronic lymphatic leukemia), section 2 of the bill would require that his leukemia be presumed service connected. Now, consider the second case of a veteran whose documented dose of .5 rem was sustained as a result of his duty as an X-ray technician. VA could legitimately deny his claim based upon the extremely tenuous relationship between so small a dose and the development of leukemia. Is there a rational basis for compelling a different result in the atomic veteran's case?

It is also unclear to us how the list of cancers for which service connection is to be presumed (under section 2 of the bill), to the exclusion of other radiogenic forms of cancer, could pass a rational-basis test in a court of law. We observe, for instance, that bronchogenic carcinoma is a common disease principally associated with smoking rather than exposure to low-level ionizing radiation. Moreover, no reliable studies have found evidence of excess hazards of developing polycythemia vera following exposure to such radiation.

As recently as 1984, Congress rejected blanket presumptions of service connection for atomic veterans, and instead entrusted to VA responsibility for carrying out a policy which would "ensure that Veterans Administration disability compensation is provided . . . for all disabilities . . . that are connected, based on sound scientific and medical evidence, to [exposure]. . . ." (Sec. 3, Pub. L. No. 98-542.) We have in place rules to do exactly that, and enactment of H.R. 1811 would be a serious retreat from the principle that service connection should be grounded in sound scientific and medical evidence. In fact, the Veterans Advisory Committee on Environmental Hazards has reviewed the measure and concluded it does not have a scientific basis, does not allow for scientific analysis, and may be contrary to scientific knowledge. For the foregoing reasons, we cannot countenance so unwarranted an undermining of service-connection principles, and therefore must register in the strongest possible terms our objection to passage of this legislation.

As requested, the VA has estimated the five-year cost of enactment of this legislation. We must emphasize that the cost of the measure is not a factor in our opposition to H.R. 1811. Assuming that the measure is intended to cover peacetime as well as wartime veterans and to provide a basis for payment of survivors' benefits, the estimated cost and caseload data are as follows:

[Dollar amounts in thousands]

Fiscal year	Veteran cases	Veteran cost	Survivor cases	Survivor cost	Man years	Admin. cost	Total benefit cost
1988	1,968	$20,200	4,366	$31,400	12	$341	$51,600
1989	1,955	19,900	4,382	31,500			51,400
1990	1,942	19,600	4,389	31,600			51,200
1991	1,923	19,200	4,396	31,700			50,900
1992	1,908	19,000	4,403	31,700			50,700
Total		97,900		157,900			$255,800

The administrative cost after the fiscal year following enactment would be insignificant; i.e., it would be less than $100,000 in any fiscal year.

The Office of Management and Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report on H.R. 1811 to the Congress.

Sincerely,

THOMAS K. TURNAGE,
Administrator.

BASES FOR OPPOSITION TO H.R. 1811

H.R. 1811, as amended, would presumptively service connect a number of cancers determined to be radiogenic without regard to the amount of radiation exposure a veteran had following participation in an atomic weapons test or service with the occupation forces of Hiroshima or Nagasaki, Japan. The VA has been steadfast in its opposition to a presumption of causation that does not take into account the scientific evidence regarding the level of radiation exposure that would be required before an effect would be observed. We have also been reluctant to set an amount of radiation exposure that would result in favorable consideration of a claim.

The approach taken by the VA has been to take into account a variety of factors, of which the amount and type of radiation exposure a veteran had is one. Assigning a minimum level of exposure before favorable consideration would be given to a claim would create the impression that radiation exposure is the sole determinant. In fact, other factors may play a significant role in the development of a cancer and may impact on the determination that radiation exposure did or did not contribute to the cancer's development. Among these are age at the time of exposure, the life-style of the individual prior and subsequent to the exposure of interest, the sex of the individual, the latency period since exposure, the family history of the individual, and the occupational history of the individual. One individual with a given exposure may warrant favorable consideration of a claim whereas another individual with different characteristics but the same radiation exposure may not.

The Committee on Interagency Radiation Research and Policy Coordination (CIRRPC) has recommended that the VA employ as a screening device the radioepidemiological tables developed by the National Institutes of Health Ad Hoc Working Group. The use of the tables would only be determinative as to whether or not a claim should receive further review, not whether it should be favorably considered. In part this is due to a recognition of the uncertainties associated with the Tables. The CIRRPC recommended that for those cases that survive the screening "additional scientific and medical evidence will need to be analyzed which is specific to the individual cases. . . ."

The doses required to produce a probability to a 99% degree of certainty that a given cancer was more probably than not caused by a radiation exposure at age 20 range from 0.9 rads for chronic granulocytic leukemia occurring within 20 years of exposure to 25.5 rads for lung cancer in a smoker. The doses increase with an increase in the age at the time of exposure.

The best available evidence at this time suggests that the vast majority (99%) of the participants in atomic weapons testing were exposed to no less than 5 rads with the average participant being exposed to less than 0.5 rad. Some 42 percent of the participants are estimated to have received no radiation exposure.

Mr. MURKOWSKI. Mr. President, how much time remains?

The DEPUTY PRESIDENT pro tempore (Mr. MITCHELL). Four minutes and 6 seconds.

Mr. MURKOWSKI. I yield 2 minutes to the Senator from Wyoming.

Mr. SIMPSON. I thank the manager of the bill. Senator MURKOWSKI does a marvelous job as the ranking member on the Veterans' Affairs Committee. I served in that capacity and as chairman.

Mr. President, I wish to voice my opposition to the provisions contained in H.R. 1811, the "Radiation-Exposed Veterans Compensation Act of 1988." Although I was a member of the House-Senate conference committee that has worked on this bill, I feel it is an unwise, potentially costly, and unjustified measure.

This bill will establish presumptions of service-connection for certain diseases when they are manifested to a degree of 10 percent or more in veterans who participated in certain "radiation-risk activities." Thirteen diseases are added by this bill to the list of diseases that are simply presumed to be service-connected—that means that the veteran seeking to receive compensation or medical care on the basis of such conditions does not have to show that there is any evidence whatever that the disease was caused by or aggravated by his military service. He or she is eligible for compensation if the disease is manifested within a 40-year, or in some cases, a 30-year period.

This bill adds leukemia—(other than chronic lymphocytic leukemia)—cancers of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, liver, and multiple myelomas and lymphomas—(except Hodgkin's disease)—to the list of those that will be considered service-connected. The disease must be manifested within 40 years, except for leukemia, which must be manifested within 30 years.

This list of cancers bears no rational relation to any scientific or medical evidence of causation. Many of these are cancers of the digestive tract, which are very common in older men and are strongly linked to diet. If there is a scientific or medical reason to grant service-connection for a disease in an individual case, then that is perfectly reasonable. But, to grant a presumption of service-connection for diseases that occur commonly and are not known to be radiogenic is sheer absurdity.

These are terrible diseases, but does it not make sense to require that there be some evidence linking the incidence of the disease with conditions encountered during military service? I submit that it makes very good sense.

If there are to be presumptions, there should at least be solid scientific and medical justification for presuming the disease to be causally linked to military service conditions. That does not exist for these cancers.

These provisions are costly, with an estimated price tag of $36 million the first year. This bill invites a veto because it simply does not make any sense. It is costly; it ignores scientific and medical evidence. I trust that it will be vetoed and that the veto will be sustained.

This is one issue that has the most marvelous of connotations. Yet, it has no realistic basis in scientific and medical evidence. Those are the kinds of things we always get into, in this remarkable arena, that leave us with a lot of plain confusion. There is not anyone here who is going to rise and say these are not terrible diseases. They are terrible, hideous diseases.

It does not make sense to say that just because one has been in the military, he or she contracts these diseases. In fact, this is an area that we will have to examine in the United States.

If I recall correctly, there are 40 diseases on the statute books that you are presumed to have contracted just by being in the military, which is absolutely the height of absurdity. There is nothing more absurd than that.

Senator Cranston and I went through the agent orange issue. I was chairman, and Senator Cranston was the ranking member. We resolved that in a very thoughtful manner, because we required some medical and scientific evidence. That bill passed the Senate by a vote of 95 to 0. We have not heard the anguish of that again.

I am puzzled by this unwise and costly and unjustified measure that comes forward now, where we say there is service connection if one of these diseases is manifested to the degree of 10 percent or more by veterans who participated in certain radiation risk activities, going back for 30 or 40 years. We are adding 13 diseases, diseases that occur in the general population on a daily and yearly basis.

I think it is an absurd approach toward compensation, whether it is out of guilt or whatever it may be that stimulates it.

I thank the Chair.

Mr. CRANSTON. Mr. President, I yield to the Senator from Hawaii, 5 minutes.

Mr. MATSUNAGA. Mr. President, I thank the distinguished Senator from California for yielding.

I rise in strong support of the substitute to H.R. 1811 offered by the chairman of the Veterans' Affairs Committee, the senior Senator from California.

I must say that I need to respond first to the Dear Colleague letter which the Senator from Idaho [Mr. McClure] sent out. He implores that we not and I quote "act precipitously in dealing with veterans' compensation for exposure to ionizing radiation." I would like to note, however, that this legislation would establish no new benefit system. Veterans already are entitled to VA compensation for disabilities resulting from radiation exposure at a weapons test, and some—albeit a very tiny fraction of those who have applied for such benefits—already have been awarded benefits. What this legislation would do is address the insurmountable and inequitable problems—including the inaccuracies in the DNA exposure estimates—of proving the link between a particular disability and radiation exposure and thus allow veterans to obtain the benefits which already are authorized.

Mr. President, the bill before us provides a presumption of service connection to veterans of the U.S. atomic testing program and of the occupation of Nagasaki and Hiroshima who suffer from 13 different forms of cancer listed in the bill: leukemia, multiple myeloma, lymphomas, and cancers of the thyroid, breast, pharynx, esophagus, stomach, small intestine, pancreas, bile ducts, gall bladder, and liver. For all these cancers, except leukemia, service-connection will be presumed if they manifest themselves within 40 years of the last possible exposure to ionizing radiation to a degree of 10 percent or more. In the case of leukemia, the legislation calls for a somewhat shorter manifestation period of 30 years.

Mr. President, this legislation, the outgrowth of many years of committee deliberations and hearings, is fair and necessary. Two hundred thousand U.S. military personnel participated in 235 atmospheric and underwater nuclear test shots from 1945 to 1963. An additional 25,000 servicemen occupied Hiroshima and Nagasaki in the aftermath of the detonation of atomic bombs over those cities, and thousands more passed through those cities in the months following the explosions. In sum, at least a quarter million service members may have been exposed to potentially dangerous levels of ionizing radiation from atomic explosions.

Mr. President, everyone in this Chamber today is aware of the dangers of radiation. Who cannot forget the stark fear that accompanied the Three Mile Island incident? Who cannot remember the silent cloud of deadly radioactivity that spread from Chernobyl across parts of Russia and Europe? And it is our fear of the effects of radiation that made the recent debate over the nuclear waste repository issue so heated. Our fear is well grounded. The scientific evidence is incontrovertible that high-level radiation causes cancers, cancers that often do not show up until many years after exposure.

However, it is the misfortune of so-called atomic veterans that the causal relationship between low-level ionizing radiation and certain forms of cancer is less clear, although it is generally acknowledged that any level of radiation exposure is dangerous. Scientists are uncertain how low-level ionizing radiation causes cancer; moreover, scientists cannot predict the effects of exposure to extremely low doses of such radiation. So the question of how much low-level radiation exposure is sufficient to presume radiogenesis of particular forms of cancers is one that cannot be answered categorically at this time, if ever. Certainly it remains problematic whether science can directly and absolutely correlate such radiation exposure with certain diseases before the participants in the atomic testing program or occupation of the nuclear-devastated cities of Japan die off. For thousands of veterans of atomic detonations who have cancer, this uncertainty, through no fault of their own, precludes them from ever receiving compensation from their government for exposure to radiation that in fact may have caused their cancers.

To compound the problem, proper documentation of exposure is often lacking. For example, in one series of test shots, Operation Tumbler-Snapper, the cumulative exposure records have been lost or destroyed. In addition to the lack of proper documentation, a significant amount of error in measurement has been noted in many cases. For example, in certain instances badges or dosimeters were worn infrequently or not at all. In others, film badges may have been improperly processed or interpreted. Recent General Accounting Office [GAO] reports on Operation Crossroads and Operation Redwing indicate that film badges or dosimeters were not distributed to every individual. In Operation Crossroads, for example, GAO discovered that of 6,300 participants only 15 percent wore film badges, and that these badges were not worn throughout the course of the operation. In Operation Redwing, the agency found that the radiation exposure of veterans involved in nuclear cloud-sampling activities were significantly underestimated. GAO also found that some veterans may have been subjected to internal radiation exposure, which was not measurable by any of the radiation monitoring devices used at the test sites.

Perhaps the most troubling fact is that documents have shown that some U.S. Government officials were aware of the long-term health risks of radiation exposure, yet little precaution was taken to ensure that exposure was minimized, or that the participants were properly informed of the risks. Furthermore, no systematic effort was made to monitor the health of participants in the years after the tests were conducted.

Mr. President, in the hope of obtaining more data that might better correlate radiation exposure to disease, the Senate Veterans' Affairs Committee recommended, and the Congress enacted, legislation in the 98th Congress directing the administration to conduct a morbidity study of atomic veterans. Unfortunately, that study was ultimately deemed unfeasible. Lacking this data, the committee has been unable to assess normally the issue of service connection for atomic veterans. Nevertheless, because enough evidence has been gathered concerning the range of errors in radiation exposure measurement, and in consideration of the fact that the Government was negligent in some degree in protecting the safety of participants, the committee believes it necessary to presume service connection of certain cancers strongly associated with radiation exposure.

Mr. President, I am aware of opposition to this bill from the administration and Members of this body who fear that H.R. 1811 will set a "dangerous precedent" for other groups—such as the Marshall Islanders or the "Nevada Downwinders"—to press for presumptive compensation. They use the fiscal argument that the Federal Government will be held liable for millions of dollars in claims it is in no position to pay. Mr. President, this is entirely beside the point. The point is that American veterans may be suffering from the ill effects of exposure to radiation they incurred in the line of duty to our Nation. If there is a reasonable chance that their claims of service connection have some scientific basis, it is incumbent upon Congress to give them the benefit of the doubt. Mr. President, it is not our job to find excuses to deny benefits to deserving individuals. It is not our place to reject compensation for atomic veterans solely on the basis that such action may open the door for other would-be claimants to seek compensation. If atomic veterans deserve compensation, they should be granted compensation.

Mr. President, I urge my colleagues to support this long overdue legislation.

Mr. CRANSTON. Mr. President, I yield 1 minute to the Senator from Illinois.

Mr. SIMON. I thank my colleague from California.

Mr. President, let me touch on a couple points in response to the Senator from Idaho and I have great respect for him but when he cites the VA tests I do not know that he is aware that the GAO has criticized those VA tests and how they were conducted.

Second, when he says if you can show a service connection to the cancer you have then you can get benefits. How can you prove that the cancer you have was caused by what happened in the service? It is virtually impossible.

Then, finally, in his Dear Colleague to the Members of the Senate, the Senator from Idaho says this is some kind of admission of guilt on the part of the Government or the VA.

It is not an admission of guilt any more than when you pay somebody who was in an automobile accident who is in the service. You are not saying the car manufacturer is guilty or the service is guilty, but the reality is that someone suffered because of being in the service. That is all we are asking. Let us get justice for these people.

Mr. MURKOWSKI. I inquire of the Chair how much time remains?

The DEPUTY PRESIDENT pro tempore. The Senator from Alaska has 1 minute, 34 seconds; the Senator from California has 1 minute and 52 seconds.

Mr. MURKOWSKI. I defer or we can proceed to take up my 1 minute.

Mr. CRANSTON. I will proceed, if I may.

Mr. President, I appreciate the concerns which my colleague from Idaho has raised in his Dear Colleague letter about this legislation serving as a precedent which might be used to provide or expand benefits to others—for example, the Marshall Islanders who were exposed to the ionizing radiation that so severely contaminated those islands after U.S. nuclear weapons tests. However, I believe very strongly that it would be terribly inequitable for us to deny VA benefits to the veterans of this Nation because of concern over legislation which someone might possibly seek to introduce in the future to provide non-VA benefits to those islanders, or to the downwinders in this country, or to others.

If such legislation is introduced at some future time, we can debate its merits then. But it is not before us now. This is a veterans' bill.

I do not see how we can now vote to deny benefits to veterans who deserve those benefits as a result of service to our country, according to the judgment of Congress as demonstrated by overwhelming passage in both bodies of radiation-exposed veterans compensation legislation. I do not see how we can in good conscience reverse our judgment just because we think someone might later cite such benefits as an argument for expanding benefits to nonveterans.

Indeed, I think the fact that the Congress has approved benefits for the Marshall Islanders while not also acting to provide similar benefits to U.S. veterans who were exposed in the very same tests, clearly demonstrates that we are capable of considering separately the distinct merits of providing benefits to these different groups. Now it is the veterans whose needs must be met.

Mr. President, the Senate already has expressed its view on this issue—when it approved by an 80-0 vote on December 4 the radiation benefits provisions in title II of S. 9. The aguments which have been raised against this bill would have been even more applicable to the S. 9 provisions, since they actually would have provided even more extensive benefits.

I urge my colleagues to make the same response this time that they made in December—by adopting this measure to provide fair and meaningful compensation for these veterans and their families who have already waited too long and are so deserving of the consideration this legislation would afford them.

Finally, Mr. President, the Senator from Idaho has referred to a lack of scientific studies showing excess mortality or morbidity. The truth is that there has been no scientific study of these 225,000 radiation-exposed veterans, and the scientists have concluded that no mortality or morbidity study can be conducted on these veterans as a group in any feasible way.

So, would the Senator have us ignore the reality of what happened at these tests, because the scientists are not able to design a valid study?

Clearly that would be totally unfair.

We should do what is fair and what is right by adopting the amendment and passing the bill as amended.

The DEPUTY PRESIDENT pro tempore. The Senator's time has expired.

The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, in the remaining time, let me read from a letter from the Veterans' Administration, dated April 21, 1988, sent to each Senator. I quote the fourth paragraph as follows:

> We believe that this bill ignores the body of scientific evidence regarding the effects of radiation exposure and compromises the integrity of a system of claims adjudication that is based on accepted medical and scientific knowledge.
>
> The Veterans Advisory Committee on Environmental Hazards, a thoroughly qualified body of independent experts, has reviewed H.R. 1811 and concluded that its provisions do not have a scientific basis, do not allow for scientific analyses, and in fact may be contrary to accepted scientific knowledge regarding radiation exposure.

That is from the Veterans' Administration which has the responsibility to the veterans of this country.

In listening to the comments from my colleagues this morning, let me state that I do support legislation to provide compensation for certain diseases. That has been my approach all along. This bill simply goes too far and, therefore, is not good public policy. It extends automatic compensation to some 13 types of cancer that could also be associated with other factors.

I have listened to the presentations of my colleagues. I was deeply moved by their personal accounts. Those accounts would be covered under the proposed radiation bill that I introduced.

That is the very point that I think we are making here, Mr. President. This is a body that is concerned. It is compassionate. And it does want to do something about addressing the needs of veterans who were exposed to radiation. But, Mr. President, what we are doing here is creating something in excess of $36 million a year as opposed to the initial proposal which was $13 million.

The DEPUTY PRESIDENT pro tempore. The Senator's time has expired.

Mr. MURKOWSKI. I thank the Chair.

Mr. DOMENICI. Mr. President, I rise to express my strong support for H.R. 1811, the Atomic Veterans Compensation Act of 1988. H.R. 1811 will provide much-needed compensation to atomic veterans. Atomic veterans are those veterans who were exposed to radiation as a result of their participation in the atmospheric nuclear weapons testing program of the United States or the occupation of Hiroshima and Nagasaki. This compensation to atomic veterans is long overdue.

H.R. 1811 will provide disability payments through the Veterans' Administration [VA] to atomic veterans and survivors' benefits to their families by creating a presumption of service connection for 13 diseases. This means an atomic veteran need only prove that he is, in fact, an atomic veteran and he is at least 10 percent disabled as a result of 1 of the 13 diseases in order to obtain disability compensation from VA for his illness. The VA may deny the claim only if it can prove that the disease is not service connected.

The 13 diseases are leukemia, lymphoma, multiple myeloma (a blood cancer), and cancers of the thyroid, breast, pharanyx, esophagus, stomach, pancreas, liver, small intestine, gall bladder, and bile duct.

The diseases must manifest themselves within 40 years—30 years for leukemia—of the date of radiation exposure in order for the veteran to be eligible for benefits.

H.R. 1811 makes it very likely that an atomic veteran will be eligible for compensation and puts the burden on the VA to prove that he is not eligible. This is a major departure from current law, under which the burden is on the veteran. This is a step in the right direction.

Mr. President, between 1945 and 1962, the U.S. Government, like other nations developing atomic arsenals, detonated nuclear weapons in the atmosphere. The United States conducted a total of 235 atmospheric detonations of nuclear weapons. The first of these tests was at Trinity Site, outside of Alamogordo, NM.

An estimated 220,000 to 240,000 military personnel participated in these tests. Another 25,000 servicemen were assigned to the occupation forces in Hiroshima and Nagasaki after atomic bombs were dropped there in World War II. The atomic veterans valiantly contributed to the safety and security of the Nation.

A significant portion, if not all, of these atomic veterans were exposed to some quantity of low-level ionizing radiation. A number of atomic veterans have contracted a variety of illnesses, including various types of cancer, they attribute to radiation exposure.

It is important to keep in mind that veterans are unable to collect damages for their service-related injuries by suing the Federal Government because of the Feres doctrine of the Federal Tort Claims Act. Instead, Congress has established the VA compensation system, which provides a very generous program of veterans benefits available for people who are injured in the line of duty.

This legislation is needed because the current system isn't working. The veterans have tried to use the system, but it has been unresponsive.

The atomic veterans have filed claims with the VA to obtain compensation for their radiation-related injuries. Although the VA is obligated to provide health care and compensation for any injury that arises in the course of an individual's military service, the overwhelming majority of the claims of atomic veterans have been denied.

Since 1978, over 6,000 claims for VA benefits have been filed by atomic veterans and their survivors for disabilities resulting from exposure to radiation. The VA has granted benefits in only 28 of these cases. That means that 99.5 percent of all atomic veterans' claims have been denied. The VA has denied the claims because it has been unable to conclude that the veterans' exposure to radiation during the atomic tests caused their illnesses.

It is beyond dispute that scientific research over the years has proven that exposure to ionizing radiation can endanger human health. However, scientists state that it is very difficult at this time to determine the correlation between specific doses of ionizing radiation and the develoment of cancer. Doctors are unable to say whether any particular individual's illness results from exposure to radiation or from some other factor.

As a result of the impossibility of determining whether a certain individual's illness is caused by radiation exposure rather than some other factor, the Veterans' Administration has denied 99.5 percent of the claims of atomic veterans who seek compensation and health care for radiation-related illnesses.

It is apparent that the VA has refused to grant the atomic veterans the compensation to which they are entitled. This is not fair. Those who suffered injuries as a result of the Nation's atmospheric nuclear tests deserve to be compensated for their injuries by this Nation.

Over the past few years, Congress has passed various bills to improve the VA compensation system for atomic veterans. For my own part, I have introduced legislation in the last two Congresses in an attempt to give the atomic veterans the relief that they deserve.

In 1981, Congress enacted the Veterans' Health Care Act, which expanded the eligibility for VA health-care services of atomic veterans, notwithstanding that there may be insufficient medical evidence to conclude that a veteran's illness was associated with his exposure to radiation.

The Veterans' Health Care and Programs Improvement Act of 1983 directed the VA to carry out an epidemiological study of a group of atomic veterans to determine their current health status.

Finally, in 1984, Congress enacted the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to ensure that the VA provides disabilty compensation to atomic veterans who are suffering from radiation-related disabilities as a result of their service in the Armed Forces.

Unfortunately, it is clear that this legislation has not worked as intended. Atomic veterans are not receiving compensation. Only 13 claims have been granted since the law went into effect.

It is equally clear that Congress can no longer simply rely on the existing VA benefits claims adjudication process to provide the relief that atomic veterans deserve.

In 1986, in order to assure that a fair, predictable, efficient, and systematic program of atomic veterans compensation exists, I introduced S. 2898, the Atomic Veterans Relief Act. The bill would have allowed veterans who are entitled to receive medical care under current law for radiation-related diseases also to receive disability compensation for those diseases, unless the VA could demonstrate that the disability was not related to the atomic veterans' exposure to radiation.

S. 2898 also would have allowed the atomic veterans to sue the Federal Government directly for their radiation-related injuries. Although I personally believe that the courtroom is an inefficient forum for providing compensation for the atomic veterans, I included that provision because of the very strong desire expressed by some atomic veterans that they be able to present their cases to a court of law.

This Congress, I joined with the distinguished Senator from Alaska, Senator MURKOWSKI, in introducing S. 453, the Veterans' Ionizing Radiation Compensation Improvement Act of 1987.

S. 453 would have added three radiation-related diseases to the list of presumptive diseases and would have allowed atomic veterans with those diseases to receive compensation through the existing VA compensation system. It also would have adjusted the radiation exposure estimates that the VA uses in evaluating other radiation-related claims. This would compensate for the uncertainty surrounding those estimates.

S. 453 was supported by the National Association of Atomic Veterans, the Veterans of Foreign Wars, the Disabled American Veterans, the Paralyzed Veterans of America, and the American Legion.

I also enthusiastically supported the atomic veterans compensation provisions of title II of H.R. 2616 as passed by the Senate last December.

The House-Senate conference on H.R. 2616 agreed to drop the atomic veterans compensation provision from the bill and to consider a compromise version of the atomic veterans compensation legislation as H.R. 1811, the bill now before the Senate.

In order to meet its responsibility to atomic veterans, Congress must ensure that there exists a fair, predictable, efficient, and systematic program within the VA for compensating persons with radiation-related claims.

H.R. 1811 will do that, that is why I strongly support it.

The alternative to improving the VA compensation system would be to pass a law allowing atomic veterans to sue the Government contractors that assisted the Federal Government in carrying out the nuclear weapons testing program over their participation in the program.

Such a course of action would run counter to the purposes of the VA system: to provide an efficient system of compensation for service-related diseases. Lawsuits are a terribly inefficient system of compensating individuals.

In passing this bill, Congress would be choosing to establish an improved VA compensation system rather than litigation. That is a wise choice in my view.

Mr. President, the atomic veterans of this country served this Nation with honor and distinction. In the course of that service, a number of them suffered grievous injury. Our Government has an obligation to these people. It has not successfully met this obligation in the past. It is time that we recognized that fact and set to work righting the wrong that was committed over 40 years. ago. These men served this Nation well, and it is time for this Nation to serve them well. H.R. 1811 does just that, and I encourage its adoption.

Mr. KERRY. Mr. President, I rise in support of H.R. 1811. This bill would provide compensation to our "atomic veterans", and it is long overdue. I commend Senator ALAN CRANSTON for bringing this legislation before the Senate, and I urge its passage.

This bill is an appropriate way to compensate veterans who were exposed to ionizing radition from atmospheric nuclear detonations that occurred from the 1940's to the 1960's, including the explosions at Hiroshima and Nagasaki. The bill would amend title 38, U.S. Code, to establish a presumption of service connection for the payment of disability compensation for certain diseases manifested by veterans, including cancer, within specific periods after their participation in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki.

Mr. President, it is well known that atomic radiation in high doses can cause cancer. The accident 2 years ago at Chernobyl reminded the world once again of the awesome and terrible nuclear radiation. Many American servicemen have lived through their own Chernobyls. Some of them were present in Hiroshima and Nagasaki during the immediate aftermath of the nuclear blasts in those cities, and absorbed huge doses of radiation. Others were eyewitnesses to nuclear tests in this country in the 1950's. Some were actually flown in military aircraft directly through the mushroom clouds produced by the nuclear weapons in the atmosphere.

Many of these veterans are now suffering from cancer and other diseases caused by their exposure to radiation in the line of duty. Many have already died. But many of these veterans, Mr. President, have been waiting as long as 40 years or more to receive any compensation from the U.S. Government. This is simply an unconscionable and intolerable situation, one which this bill would finally correct.

Last week, I received a letter from Gen. Thomas Turnage, the Administrator of the Veterans Administration, opposing this legislation, and recommending a Presidential veto if this bill is passed. General Turnage wrote:

> We believe that this bill ignores the body of scientific evidence regarding the effects of radiation exposure . . . The Veterans Advisory Committee on Environmental Hazards . . . has reviewed H.R. 1811 and concluded that its provisions do not have a scientific basis, do not allow for scientific analyses, and in fact may be contrary to accepted scientific knowledge regarding radiation exposure.

Mr. President, a number of studies have recently been done on the medical implications of nuclear war. These shed light on the effects of atomic radiation on human health.

A volume published by the Institute of Medicine of the National Academy of Sciences summarizes these findings. One paper by Dr. Joseph Rotblat of the University of London, entitled "Acute Radiation Mortality in a Nuclear War," states that:

> Under wartime conditions, even exposure to sublethal doses could give rise to fatalities, because the suppression of the immune system would reduce the chance of recovery from other normally non-lethal injuries; indeed, the interactions may be synergistic.

Another paper in the same volume, by Drs. David Greer and Lawrence Rifkin of Brown University, states that:

> Survivors of a nuclear attack would suffer from injuries caused by ionizing and UV radiation, physical trauma, burns, malnutrition, and psychosocial stress. Several independent lines of research have indicated that these separate agents converge on the T lymphocyte component of the immune system, generally causing a reduction in T lymphocytes and a decrease in the ratio of helper-to-suppressor T lymphocytes.

The article goes on to point out that epidemics of diseases similar to AIDS "would be likely in the months and years following a nuclear attack."

And Drs. Robert Marston and Frederic Solomon of the Institute of Medicine point out that survivors of Hiroshima and Nagasaki suffered "blood cell abnormalities, high fevers, chronic fatigue, diarrhea, vomiting, and depression," which came to be known as "radiation sickness." They state that "It would eventually be revealed that survivors were experiencing an increased incidence of certain forms of cancer."

Mr. President, there is no question of these results. They are scientific fact.

Mr. President, why does this sound familiar? It so happens that the Veterans Advisory Committee on Environmental Hazards is the same group which has been telling Vietnam veterans for many years that there is no connection between agent orange and cancer, that veterans who were exposed to agent orange have nothing to worry about, that there is no "scientific evidence" to link agent orange to cancers and other diseases suffered by Vietnam veterans.

The facts are otherwise, Mr. President. A report released by the Air Force in March, based on new data from its "Ranch Hand" study, shows that Vietnam veterans who were exposed to agent orange suffer higher than normal incidences of five conditions linked to exposure to dioxin, including tumors, birth defects, psychological disorders, liver damage, and cardiovascular damage.

Another study, released last fall by the VA after it was leaked to the press, covered 50,000 veterans who served in Vietnam. It showed that marines who served in areas that were heavily sprayed with agent orange died from non-Hodgkins lymphoma (a rare type of cancer), at a rate 110 percent higher than normal, and from lung cancer at a rate 58 percent higher than normal.

And a 1986 study by the National Cancer Institute of farmers in Kansas who had been exposed to 2,4-D, a primary ingredient of agent orange, suffered non-Hodgkins lymphoma at a rate six times higher than normal.

Mr. President, it is simply false to say that there is "no scientific evidence" to link agent orange with cancer and other diseases. It is equally false to make the same statement about atomic radiation. It is true that cancers may take many years to appear in the body. But do we have to wait until all the veterans have died before we decide that there is enough "scientific evidence" to say that they should have been compensated?

Veterans are dying every day. Atomic veterans are dying, and Vietnam veterans are dying. How much longer are we going to make them wait? I am glad that the Senate is addressing the issue of compensation for our atomic veterans. Some of them have been waiting for 40 years or more. But are we going to make Vietnam veterans wait 40 years before we recognize that they, too, are entitled to compensation?

Mr. President, let us pass this legislation, and provide compensation for America's atomic veterans. But let us also remember that America's Vietnam veterans are still suffering. I hope that, before this year is out, I will be back on this floor speaking in support of legislation to compensate the victims of agent orange. We owe no less to the veterans who served in Vietnam.

Mr. GRASSLEY. Mr. President, I think most of us would agree that, if it can be demonstrated that military duty resulted in cancer in any individual, the Government should be responsible for that individual's treatment. I think that this principle underlay title II of S. 9, the veterans benefit bill which passed the Senate last year and has been in a Senate-House conference since then. That bill established three categories of disease, with a different degree of presumptiveness as to whether military duty could have caused the disease. I supported S. 9 when it was voted on in the Senate last year.

Unfortunately, the legislation before us today goes far beyond that principle, and I am unable to support it. I am unable to do so for several reasons.

First, the authors of the legislation wish the Federal Government to assume responsibility for treatment of all cancer which may occur in those veterans who participated in nuclear tests or the occupation of Hiroshima or Nagasaki, despite the fact that virtually all of those cancers will have no relationship to radiation exposure which may have occured while the individuals in question performed those duties.

According to the Veterans' Administration, some 32 to 34,000 cancers would occur in the 200,000 plus atomic veterans just in the natural course of things, without considering additional cancers which might be attributable to exposure in nuclear tests or that Hiroshima or Nagasaki. The Veterans' Administration notes that the overwhelming number of veterans involved in these situations were exposed to levels of radiation which pose no threat to them. The VA argues further that the number of cancers which would be attributable to exposure in these situations would be very small, probably less than two dozen. Requiring the Federal Government to assume responsibility in this blanket way for all cancers which eventually materialize in this group of veterans is not reasonable. This problem is made more acute in this legislation because it would include as eligible for compensation those who develop cancers not strongly linked to radiation exposure, who, in other words, develop cancers which are very common.

Furthermore, this blanket presupposition that a relationship exists between nuclear test duty or Hiroshima/Nagasaki occupation and radiogenic cancer effectively undermines service connectedness, or, at least, adulterates that concept since it is presumed, and not proven, that a connection exists between that duty and eventual cancers.

Second, existing law already entitles atomic veterans to claim compensation from the Veterans' Administration for Disease that may be attributable to exposure to radiation. Such claims are presently considered in a case by case fashion, and allow consideration of a host of features specific to each individual case, which would not be possible were the legislation before us to become law.

Third, the legislation would establish a prima facie entitlement for some veterans, but not for others who might have an equally strong claim to such entitlement. Since many of the veterans who would be made eligible by this legislation received radiation exposure no greater than other veterans—those, for instance, who had x-rays while entering and leaving the service, or who work on nuclear submarines—why should those other veterans be excluded by the legislation from eligibility for the benefit it contemplates?

Fourth, and finally, the bill would create a much greater potential liability for both military and civilian workers who are exposed to some level of radiation in the course of their duties, even though those exposures would not necessarily cause cancers.

Mr. ADAMS. Mr. President, I rise today to express my support for this important piece of legislation. This bill provides presumptive benefits for the so-called "atomic veterans," those who were exposed to low-level ionizing radiation while present at the occupation of Hiroshima and Nagasaki or present at atmospheric testing of nuclear weapons.

Although atomic veterans are theoretically eligible to receive service connected disability benefits from the Veterans' Administration, the VA has denied over 99 percent of these claims. The VA has cited lack of a definitive scientific connection to low-level ionizing radiation and radiogenic cancer, as the reason for these denials. However, a report by the Office of Technology Adjustment has concluded that it is impossible to design a morbidity study which will establish such a correlation. For this reason, it is now necessary for Congress to provide presumption benefits to these individuals.

Some of my colleagues have suggested that providing these benefits is tantamount to a confession of guilt or negligence on the part of the U.S. Government. Mr. President, this legislation makes no such inference. It merely states that certain diseases afflicting servicemembers present at these events are likely to have been caused by their experiences while in the Armed Services.

I am sure that many of the Members here today have heard the cases and the appeals of these atomic veterans. Nonetheless, it is important to remember these individuals when we consider this legislation. A former constituent of mine was an Air Force radiation monitor for 3 years, and was present at many nuclear tests, including the well known "Operation Red Wing." As a radiation monitor, it was his job to collect air samples from the mushroom clouds to determine the radiation levels.

Unfortunately, this constituent will not be able to take advantage of these benefits, as he died of lymphosystic lymphoma cancer in 1986. Subsequent to his death, his widow applied for and was denied, death benefits from the VA. The VA maintained that his records did not contain any evidence of ionizing radiation exposure, despite the fact that he was present at test sites for at least 1 year.

His widow, however, was not deterred. She independently obtained copies of her husband's records from the Department of Energy's Radiation Exposure History, which showed that her husband had been exposed to 4.15 rems of radiation. Further, GAO studies have shown that Defense Nuclear Administration's radiation exposure estimates for "Operation Redwing" were, in some cases, as much as 100 percent inaccurate; leaving open the possibility that he was exposed to a far much greater amount of radiation.

Mr. President, atomic veterans have been the subject of debate in this body for many years. I hope that today we will finally end this debate and provide these men and women the benefits which their conditions warrant. For the thousands of atomic veterans, who put themselves at great risk while serving their country, time is not standing still. Consequently, we must act now, so that these individuals and their families may receive the benefits of this legislation.

The **DEPUTY PRESIDENT** pro tempore. All time having expired, the question is on agreeing to the substitute amendment offered by the Senator from California.

The amendment (No. 1977) was agreed to.

Mr. **CRANSTON**. Mr. President, I ask for the yeas and nays on the measure now before us, as amended.

The **DEPUTY PRESIDENT** pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The **DEPUTY PRESIDENT** pro tempore. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The **DEPUTY PRESIDENT** pro tempore. The bill having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. **CRANSTON**. I announce that the Senator from North Dakota [Mr. BURDICK], the Senator from Florida [Mr. CHILES], the Senator from Arizona [Mr. DECONCINI], the Senator from Illinois [Mr. DIXON], the Senator from Connecticut [Mr. DODD], the Senator from Nebraska [Mr. EXON], the Senator from Kentucky [Mr. FORD], the Senator from Tennessee [Mr. GORE], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Maryland [Ms. MIKULSKI], the Senator from New York [Mr. MOYNIHAN], the Senator from Georgia [Mr. NUNN], and the Senator from Rhode Island [Mr. PELL], are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of illness.

I further announce that, if present and voting, the Senator from Arizona [Mr. DECONCINI], the Senator from Tennessee [Mr. GORE], the Senator from Maryland [Ms. MIKULSKI] and the Senator from Rhode Island [Mr. PELL], would each vote yea."

Mr. **SIMPSON**. I announce that the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Utah [Mr. GARN], the Senator from Nevada [Mr. HECHT], the Senator from Nebraska [Mr. KARNES], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Virgnia [Mr. TRIBLE], and the Senator from California [Mr. WILSON] are necessarily absent.

The **PRESIDING OFFICER** (Mr. SHELBY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 30, as follows:

[Rollcall Vote No. 109 Leg.]

YEAS—48

Adams
Baucus
Bingaman
Boren
Boschwitz
Bradley
Breaux
Bumpers
Byrd
Chafee
Conrad
Cranston
D'Amato
Daschle
Domenici
Fowler
Glenn
Graham
Harkin
Hatch
Heflin
Heinz
Hollings
Inouye
Johnston
Kennedy
Kerry
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mitchell
Packwood
Pressler
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Simon
Stennis
Warner
Weicker
Wirth

NAYS—30

Armstrong
Bentsen
Bond
Cochran
Danforth
Dole
Evans
Gramm
Grassley
Hatfield
Helms
Humphrey
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Proxmire
Quayle
Roth
Rudman
Simpson
Stafford
Stevens
Symms
Thurmond
Wallop

NOT VOTING—22

Biden
Burdick
Chiles
Cohen
DeConcini
Dixon
Dodd
Durenberger
Exon
Ford
Garn
Gore
Hecht
Karnes
Lautenberg
Mikulski
Moynihan
Nunn
Pell
Specter
Trible
Wilson

So the bill (H.R. 1811), as amended, was passed, as follows:

H.R. 1811

Resolved, That the bill from the House of Representatives (H.R. 1811) entitled "An Act to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation," do pass with the following amendments: Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation-Exposed Veterans Compensation Act of 1988".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED VETERANS.

(a) PRESUMPTION.—Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veterans' service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) The diseases referred to in paragraph (1) of this subsection are the following:

"(A) Leukemia (other than chronic lymphocytic leukemia).

"(B) Cancer of the thyroid.

"(C) Cancer of the breast.

"(D) Cancer of the pharynx.

"(E) Cancer of the esophagus.

"(F) Cancer of the stomach.

"(G) Cancer of the small intestine.

"(H) Cancer of the pancreas.

"(I) Multiply myeloma.

"(J) Lymphomas (except Hodgkin's disease).

"(K) Cancer of the bile ducts.

"(L) Cancer of the gall bladder.

"(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

"(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia).

"(4) For the purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, participated in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means any of the following:

"(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

"(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.".

(b) EFFECTIVE DATE.—Subsection (c) of section 312 of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.

(c) REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE SCIENTIFIC COUNCIL REPORTS.—Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives.".

The title was amended so as to read "An Act to amend title 38 United States Code, to provide a presumption of service connection to veterans (and survivors of such veterans) who participated in atmospheric or underwater nuclear tests as part of the United States nuclear weapons program or in the American occupation of Hiroshima or Nagasaki, Japan, and who suffer from certain diseases that may be attributable to exposure to ionizing radiation, and for other purposes."

Mr. CRANSTON. Mr. President, I moved to reconsider the vote by which the bill, as amended, was passed.

Mr. SIMON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OMNIBUS TRADE AND COMPETITIVENESS ACT—CONFERENCE REPORT

The Senate resumed the consideration of the conference report.

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the conference report on H.R. 3.

The Senator from Texas.

Mr. BENTSEN. Mr. President, we have before us a conference report on trade legislation that has been about 3 years in the making, at least certainly the last 1½ years. We have a piece of legislation before us, the conference report, of enormous magnitude and importance to the future of our country.

We have seen a situation where we have not had a trade policy in this country since World War II. There was a time when we were so dominant from an economic, political, and military standpoint that we could afford to be able to trade off certain economic points for some foreign policy objective of the moment. That day has passed. We cannot do that any longer. We are in tough competition with some very able, intelligent, aggressive competitors.

I heard the situation the other day where the Secretary of Trade, the Minister of Commerce in Japan said this was a racist measure. That is an incredible, outrageous statement to make. I think the action that we took here just the other day, with a substantial amount of compensation to the people of Japanese ancestry in our country, a tax to be paid by the American people to try to make that statement, shows how we feel about people of other countries and the ancestors of people of our forefathers who have come from many shores.

The realities are that the Japanese have spent some $60 million lobbying this Congress, the American people, and the editorial writers of our country. They spent over $60 million hiring those lobbyists, some of the top law firms in this city and public relations firms to sell their point of view: You let this trade bill go down the tube, waste the effort.

I will tell you where the champagne corks will be popping. They will be popping in Japan, and they will be popping in Germany, and all of it because of a peripheral issue that is before us now where it appears the administration has chosen to draw a line in the sand and said the whole thing hangs on this.

I think that is a high-risk policy and one that should not be taken. I think that is betting the whole farm on the question of an issue that is one of many and not of sole importance to this piece of legislation.

We will be discussing this, I assume, for the next couple of days and hopefully we will finally have a vote on it. I hope it passes by substantial margin as it did in the House and that there is an understanding by the administration of how strongly Congress feels in a bipartisan way why this should be put into law and not just a political issue of the campaigns of the fall of 1988.

Mr. President, we have others who want to speak this morning, and I will be speaking in addition as the debate goes on today, but I know my distinguished friend from Hawaii, the ranking member of the majority on that committee, has some strong feelings on this piece of legislation, and I will yield the floor at this point.

Mr. MATSUNAGA addressed the Chair.

THE PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in support of the conference report on the Omnibus Trade And Competitiveness bill, H.R. 3.

I must first congratulate the chairman of the Senate Conference Committee, Senator BENTSEN, for the long and tedious work that he has put into this legislation, and for his extraordinary leadership and patience in navigating the shoals that have pervaded the course of this bill. Crafting this legislation has been a long, arduous, complex, and trying process. It has involved more industries, more businesses, more labor organizations, more government departments, more foreign governments than perhaps any other piece of legislation that this Congress has ever written. Senator BENTSEN's leadership in this effort has heightened the admiration that many of his colleagues already had for him.

Mr. President, I believe that the conferees have, by and large, produced a conference report on H.R. 3 that is moderate in nature but significant in achievement. If there is any single message that is contained in this measure, it is that the Congress wants to see the issues that arise from our international trade relations elevated to a central position in deciding our national economic policy.

For too long, this country has allowed the assertion of economic self-interest in our international relationships to be a secondary concern. We could choose not to drive a hard bargain in trade negotiations because of fear of offending trading partners or because other countries were more obstinate than our negotiators chose to be.

The central message of this legislation is that it is time for the United States to insist that other countries offer reciprocal market access and trading opportunities to our firms that we afford in our relatively open economy.

Among the most noteworthy provisions in the bill, in my view, is empowering the President with adequate negotiating authority to conclude bilateral and multilateral trade agreements in the coming years. This administration has been engaged in comprehensive multilateral trade negotiations in the Uruguay Round and it is imperative that the ability of the President to conclude trade agreements be restored as soon as possible. Many of the trade problems that have been raised by Senators during consideration of this trade bill are issues that can best be addressed through multilateral agreements, not unilateral legislation. As chairman of the International Trade Subcommittee, I am pleased to have sponsored this provision upon the introduction of the original trade legislation last year.

Another solid achievement of the conference was the amendment of section 201 to make that important statute directed at facilitating positive industrial adjustment, rather than to serve merely as an avenue for temporary import relief. This effort is consistent with the adjustment policies of all of our major trading partners and one that is necessary for our country to adopt, since the forces of international trade play a larger role in our economy. Mr. President, it is a very difficult task to construct an adjustment statute that facilitates and provides incentives for industrial adjustment without providing unnecessary protection from competition that can drain the Nation's resources. In this bill, I believe that the conference report has come up with a provision that does just that.

This bill also includes an important provision initiating trade negotiations with our major trading partners regarding the telecommunications sector. I generally do not believe in sector specific reciprocity in trade. However, this provision is long overdue to attempt to compensate for the unilateral opening of the U.S. telecommunications market in 1984 with the breakup of AT&T. The dramatic breakup of AT&T typifies our longstanding myopic consideration of international trade issues in our economic decisionmaking: the AT&T breakup was viewed as largely a domestic policy issue when it was made, not as a trade issue.

Many constructive changes in the law have not received the attention in the press that they deserve. Senator MOYNIHAN has sponsored a provision that requires an annual report from the executive branch on those trade and economic indicators that will illuminate the trade effects of our general economic policies. This report should help us to avoid undertaking policy initiatives such as the 1981 tax cut, without being fully aware of the effect it will have on our international trade position.

The conference report also provides for implementing the harmonized tariff system in the United States commencing on January 1, 1989. Making the tariff schedule of the United States conform with that of our major trading partners is a significant achievement of benefit to American firms involved in international trade. As the sponsor of the amendment which included this proposal, during last summer's floor consideration of the trade bill, I am especially pleased with the action taken by the conferees on this matter.

Mr. President, under current law, the initial reporting of trade statistics has been distorted in overstating the cost of imports by including the value of freight and insurance in their numbers. The pending bill corrects that reporting anomaly by making a number of changes in order to produce a fairer reporting of monthly trade figures and to establish a volume index on trade flows so that trade in real goods is reported in addition to the nominal dollar trade figures.

Mr. President, the bill also mandates an interagency study of the significant changes that have occurred in China's economy. I believe that the Congress should be more cognizant of these historic changes in the Chinese economy and how they will affect our trade with China in the future. I, for one, look forward to receiving this report when it is completed next year.

In other parts of this bill, Mr. President, many constructive proposals have been included. I heartily endorse the creation of a Competitiveness Policy Council. This Council will serve an important function in coming years; it will keep the issue of America's ability to compete in the international economy at the top of our national agenda, where it belongs.

I also applaud the provisions crafted by the Commerce Committee conferees. In terms of actual importance to our economy, I believe that the creation of regional centers for the transfer of manufacturing technology, as well as the support technology extension service, will be a strong contribution to upgrade the manufacturing capability of smaller firms in our economy. Maintaining technological competence among our smaller manufacturers has been an area wherein this country has lagged behind countries such as Germany and Japan, which have long historical traditions emphasizing the training of skilled labor to assist in the diffusion of new technologies throughout their economies. In a time of rapid technological change, this provision is a needed step toward that same goal.

Mr. President, there are other amendments in this bill which are also commendable. These positive changes in the law include the streamlining of the licensing process in the administration of export controls, amendments to the Foreign Corrupt Practices Act, education amendments for funding greater efforts to combat illiteracy and to provide better funding for joint programs for business and international studies. In the latter area, I must call the attention of my colleagues to the fact that the University of Hawaii, Graduate School of Business already has one of the best such joint programs in the country with an emphasis on training Americans regarding the business environment of the nations of the Pacific Rim. I believe that we must encourage greater emphasis on programs such as the University of Hawaii's Pacific Asian Management Institute, to compete, as we must, in international markets in the future. This bill provides a very modest level of support for such business programs.

Mr. President, I would also like to comment on one of the key provisions of this legislation—the super 301 provision. I voted for this provision on the floor last summer and supported its retention during the course of the trade conference. I did so because I think we need to have a firm approach in confronting foreign barriers to U.S. exports. However, I still have doubts about the underlying premise of this approach to trade relations with so-called "persistent pattern" countries. That premise is that through one or more unfair trade investigations by the U.S. Trade Representative, we can achieve what is presumed to be "fair trade" with a trading partner.

Much of what we need to learn about the conduct of international trade is that other countries do not necessarily operate on the same set of economic, business and social assumptions that Americans make in conducting business. In many cases, the different set of operating assumptions is disadvantageous to a society such as ours which is open and transparent in nature. What constitutes an open market for one country does not necessarily equate with the open market that we have in the United States.

What the super 301 amendment means to accomplish is to develop a consistently aggressive policy in attacking major trade barriers in countries that have what are deemed to be a persistent pattern of barriers. There is no doubt that we need to learn to deal effectively with countries whose economies function in such a manner—but we would not necessarily be able to change their ways of doing business. In my view, the key element of an effective trade policy in regard to persistent pattern countries is not necessarily being tough with what is called an unfair practice, it is being smart and recognizing when your own economic self-interest is being adversely affected and acting to protect it. In some cases, this requires the use of section 301 actions to open foreign markets or to seek compensation for lack of access. In other cases, it is going to require reciprocity for the lack of access that we face in other countries. In every case, it is going to require a clear vision of where our economic self-interest lies and a resolve to firmly defend those interests.

However, I remain skeptical of the premise that after a period of years, we are going to eliminate unfair trading practices in another country and thereafter have a level playing field. The real issue is not necessarily a multitude of barriers but frequently patterns of business relationships that prevent American firms from achieving equitable treatment in a foreign market. We need to recognize that section 301 is a limited tool; not a panacea. Overemphasis on section 301 investigations may lead to unrealistic expectations of its inherently limited effectiveness. Moreover, the super 301 approach assumes that all of the major trade barriers are in other countries; I suspect that in the conduct of such negotiations, other countries will seek to make the negotiations reciprocal in nature.

Mr. President, given a bill of this scope and complexity, and the fact that conferees were each involved in drafting only a portion of the final bill, I believe that it is fair to say that every Senator can find one or more provisions that he or she believes is ill-advised or that should not be in the bill. From my own perspective, one such provision in this bill is the mandatory sanctions against Toshiba Machine Corp., and its parent company, Toshiba Corp., and Kongsberg Trading Co., and its parent, Kongsberg Vaapenfabrik.

Debate over this provision has been acrimonious and heated. There is no doubt that the actions of Toshiba Machine and Kongsberg Trade were abhorrent to all of us in this body and, in fact, to legislators in their own respective Governments of Japan and Norway. However great our rage over these actions, it does not warrant action by the Congress to mandate unilaterally the international behavior of foreign firms in regard to trade in controlled, high technology products. It is a fact that the United States cannot effectively assert jurisdiction over actions in foreign countries which violate Cocom procedures nor the statutory embodiment of those procedures in Cocom member countries.

I believe that these sanctions will be counterproductive in promoting the only effective method of controlling technology flow to the Eastern bloc—through better, more consistent multilateral cooperation and through tougher enforcement of domestic laws by other Cocom countries. Imposing economic sanctions against two of our most reliable and most important defense partners is truly a mistake that will come back to haunt us. Both countries involved, Japan and Norway, have recognized the severity of the problem; both have undertaken commitments to the United States to enhanced defense cooperation to overcome the technological implications of the transactions in question. To alienate our friends through this sort of legislation is, in my view, extremely short-sighted, and, to be sure, I am not alone in this view. The administration, though its Departments of State, Commerce and Defense, has expressed strong opposition to the mandatory sanctions provision.

In closing, Mr. President, I would also like to comment on a certain myth that permeates the debate over trade issues in Washington. That myth focusses the debate on trade on the matter of trade policy, that is, if we had a better trade policy, somehow the country would be better off in terms of our balance of trade. Mr. President, the one thing that we should not forget is that until this Government provides more balanced fundamentals in our economy, we are going to have a trade deficit, regardless of what our trade policy is. There is going to be a serious problem with import competition in this country until we are able to restore a better balance between savings and consumption in our economy; and until this better balance is achieved, we will continue to face a mountain of red ink in our trade account.

Furthermore, while Government needs to be cognizant of the positive contributions it can make in confronting foreign trading practices which are adverse to our economic interest, we should not be fooled into believing that adjusting the interagency trade process is the key to greater success in international trade or in increasing our exports. Success in international markets lies largely in the hands of a healthy and dynamic private sector, not in the meeting rooms of Government agencies in Washington.

What Government can do is to provide the supporting resources to aid our businesses in competing more effectively in world markets. We need an Export-Import Bank that is funded sufficiently to compete with the Aggressive trade finance and mixed credit policies of many other nations around the world. We need a United States and Foreign Commercial Service that is adequately funded and staffed to provide the kind of advice and information to American firms that will allow them to compete more effectively abroad. We need greater emphasis on innovative programs like the Trade and Development Program under the Agency for International Development which assist in the creation of export opportunities for our businesses. These types of programs are the nuts and bolts of Government's role in successful export. We need to make sure that they are well-funded and well-staffed.

Mr. President, I urge my colleagues to support this bill. As I have noted, I believe that it has many constructive provisions. It is a bill that has been developed on a bipartisan basis; and while it has its shortcomings, the bill does address many of the outstanding problems that we need to face in order to improve our long-term trading position. It represents a good beginning.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, this is one of those bills that you feel ambivalent about: I am going to support a 70-30 bill.

If I were writing it, had I had my way totally, would the bill look exactly like this? No. Nor, frankly, would the tax reform bill that we passed 2 years ago, when I was chairman. Had I had exactly my way, it would have looked different.

In any democratic body—and I mean that with a small "d"—very seldom does a Member get his or her own way 100 percent.

So, you are faced frequently with having to make a decision on the bill: On balance, where do I come down? Usually, if it is a 60-40 or 70-30 balance, you will come down, if you are on the 70 side, in favor of it. Sometimes you run across a bill that contains a provision that you feel aggrieved about as a matter of conscience or with respect to your State, and you vote against it.

In this bill, I find no individual item that I feel so personally aggrieved about that I cannot live with the rest of the bill. There is nothing in the bill I can point to and say this absolutely zeroes in on my State and hurts my State so much that I cannot support the bill.

So I am brought back to the realization of considering the pros and the cons. Would I have written it this way? Not exactly.

In terms of a perfect bill, I would have given the President fast track authority; and I will elaborate on that in a minute. I would have passed the harmonized system of tariff classifications; and I will elaborate on that in a minute. I think I would have included the miscellaneous trade and tariff provisions in it that no one really disagreed with. And that is about it.

I do not find the current trade laws all that bad; but missing from the current trade laws are the implementation of the harmonized system of tariff classification and the fast-track authority.

When we use a term like "fast-track authority," that is a term of art inside Congress, so let me elaborate. Fast-track authority simply gives the President the right to negotiate a trade agreement, present it to Congress, and it then goes through the House and the Senate on what we call a fast-track. We are not allowed to amend it; we have to vote it up or down.

Why is that necessary, and why is it important to be in this bill? It is not in the current law. The authority expired last January and has not been in the law since then.

There is hardly a Member of this body who does not support the negotiation of trade agreements for the lowering of tariffs, the lowering of non-tariff barriers. We say let us have a level playing field, and America can compete with the world, and we will go toe to toe with the Germans, with the Australians and others. Everybody wants to get the barriers down.

When the President, however, goes to negotiate in a multilateral negotiation, with a lot of countries involved—30, 40, 50, 60 countries, all siting down and negotiating a trade agreement to which they all agreed to be bound—given that situation, every country has to give something to get something. Just as none of us gets a bill that is 100-percent perfect, no country in a multilateral negotiation gets an agreement it regards as 100-percent perfect.

A leader is willing to go back to his or her country with an agreement that has some up sides and some down sides and say that, on balance, for the country it is a good bill—knowing that you will have some individuals, some businesses, some unions that are mad because their particular sector may not have come out in a way that that union, business, or individual had hoped. But the President says, "For the good of the country, we came out all right."

Every leader in every country is faced with that situation. Whether it is President Mitterrand in France or Prime Minister Thatcher or any other leader, they have to go back, having won some and lost some, and say, "On balance, it is good for the country."

Almost all whom the President negotiates with in these multilateral negotiations are either leaders of parliamentary democracies or dictatorships. In a parliamentary democracy, the majority party rules. You do not have a separate executive and a separate legislative body. The Prime Minister is both the executive and chief legislative officer, head of the party. The prime minister makes an agreement, and it goes through parliament. A dictator makes an agreement, and he has the power to impose the agreement.

If those countries make an agreement, they know they can get the agreement through. However, they do not want to sign such an agreement with the United States, if they think that agreement is not going to be ratified by the United States—for this reason: when they go back and say, "Some good and some bad," they are fully aware, as is everyone in politics, that the people who are mad remember longer than the people who are happy.

So, given an agreement that is going to hurt your chemical industry or your pear industry or your textile industry, if the bill goes through and the country benefits on balance, you come out all right. But if the bill does not go through, then those who thought you were going to do them in are mad.

So President Mitterrand and Prime Minister Thatcher do not want to sign an agreement for which they will take some criticism at home, have it come back to the United States, and have the agreement killed because the President cannot get it ratified.

So long as the President has what is known as fast-track authority, so long as he can bring the agreement back, present it to Congress—and we cannot filibuster it, cannot delay it, we must vote it up or down—the likelihood is that the bill will pass. The fast-track authority gives leaders of other countries confidence to sign multilateral trade agreements, knowing that it is likely the United States will ratify it.

I regard the fast-track authority as perhaps the most important part of this bill. This bill does reestablish the authority that Presidents have had for over a decade to negotiate trade agreements and put them on the fast track.

As I say, the authority in the old law expired last January. It will be difficult to have serious worldwide negotiations until the President gets it again. That might be enough, all by itself, to cause me to support this bill.

I mentioned the harmonized system of tariff classifications. Just a word on that. This is a worldwide agreement that all of the major nations have entered in to harmonize customs classifications. This system should make both data collection and customs clearance easier around the world. There is not much disagreement about this. All the other major trading countries agreed to this and put it into effect. They are all waiting for the United States to do the same. We promised them we would put it in effect the first of this year, 1988. We did not. This bill puts it into effect on January 1, 1989. It is a step in the right direction.

Beyond these basics, we have streamlined the export licensing system, I think, without jeopardizing the national security. Here the issue is one of perpetual confrontation between Congress and the executive branch—and I do not mean just this Congress and this President, or Democratic Congresses and Republican Presidents. There is always a battle when a Congressman wants to get export licenses for goods manufactured in the particular State of the Member of Congress. And when it involves high technology equipment there is always a debate as to whether or not this equipment might jeopardize our national security.

All Members of Congress think that all Presidents are too selective and too restrictive in what they will allow to be sold overseas.

This bill streamlines the export licensing processes, I think to the satisfaction of everybody. All of us can be pleased.

There are many things in this bill that we did not do, about which I am very pleased. When this bill started out, there were about 30 "Oh-I-hope-that-is-not-in-the-bill" provisions, any four or five of which would have caused me to vote against it. Almost all of them have been taken out. Many of them fall in the area of sections 201 and 301 of the trade law. Section 201 is a provision in the law that allows an industry in the United States, when it thinks it is injured, to petition for relief from imports. It petitions the International Trade Commission and they make a recommendation one way or the other. It goes to the President. The President can put into effect or not put into effect the recommendation.

The important part to remember about section 201 is there does not have to be any allegation of unfair foreign practices. The petitioning industry in the United States simply says, "We are hurt by imports." Under the current law, the President is allowed to weigh whether or not giving relief to the specific industry is outweighed by the harm that it might do to the general public. If he thinks that the harm to the general public is greater than the relief to the petitioning industry, the President can turn down relief.

This particular situation came to a head in a recent case involving shoes. The shoe industry in the United States petitioned the International Trade Commission arguing it was being seriously injured by imports. Again there was no argument about unfair trade, no argument that Brazil was cheating or Japan was cheating or Italy was cheating or they were engaged in unfair practices. The shoe industry simply said "We are hurt by imports from Brazil, Japan, Italy, Singapore, Korea, the People's Republic of China, Taiwan," or wherever.

It went to the International Trade Commission. The International Trade Commission is not supposed to, and appropriately, weigh the national interest versus the injury to the industry. What the International Trade Commission is solely to consider is the condition of the industry allegedly injured by imports.

They found in the shoe case that the industry was injured by imports and made a recommendation to the President for relief in the form of quotas, limitations on imports.

The President decided on balance that the American public generally would be more injured by the limitation on imports than would the shoe industry be helped, and he therefore did not impose the relief. This was basically his argument: The kinds of products that were coming in were not the $150, $200, $250 shoes. Those are a relatively limited product designed frankly for purchase by people of upper income. Many of those are still made in the United States. The kinds of products that were coming in in droves were $10, $15, $20 sneakers, the kind that a middle-income family goes through at the rate of three or four pairs a year, with growing sons or daughters who either outgrow them or wear them out in 3 months.

The President said if we impose limitations on those imports for the average person in this country, that is going to make that $10, $12, $14, sneaker cost $14 or $16 or $18. That is not good for the average citizen in this country and, therefore, I am going to turn down the relief that the shoe industry wanted.

That is the case that I think is the genesis initially of the whole trade bill, and many of the bad provisions in it. It is important to realize that the President did not violate the law, as was initially charged. In the existing law, the President has the right, in fact, the obligation, to weigh the public good against the injury to the industry, and decide which way he was going to come down.

But there was a certain feeling that somehow if the International Trade Commission found that the shoe industry was injured, automatically the President should have given them relief even if the average member of the public had to pay $2 or $4 or $6 more for a pair of sneakers. That was not the law.

When this bill started out, it was originally drafted that the President would have no discretion and would have to put into effect recommendations of the International Trade Commission regardless of how he felt about the general public good. That provision has been taken out.

The way the bill now reads is roughly the way the current law operates. It is convoluted language. We have changed it so that when you read it, it sort of looks like maybe the President has to act. But when you read it all the way through, he does not. He can still take into account the national economic well-being and turn down relief if he thinks that the general public is going to be more disadvantaged than is the petitioning industry going to be advantaged. What is in this bill is in essence a restatement of current law; it is a good provision.

Then we come to what we call section 301. Section 301 does not generally relate to imports into this country. It relates primarily to exports from this country to other countries overseas or to Canada or to Mexico.

Under section 301, an industry can petition if it thinks that a country has unfair trade barriers to our products going into that country.

For example, rice. We have a very difficult time getting United States rice into Japan. It is a staple of Japanese diets. Their industry is highly protected. Rice is infinitely more expensive in Japan, the indigenous rice they provide from local products, than what we can provide. But we have a difficult time getting rice in. It is the same with beef and citrus products by and large.

We think those are unfair barriers.

Under the present law the President is not required to initiate an action or retaliate against a foreign country's unfair barriers if he thinks it would not be in the national interest.

This was a serious point of contention between the Congress and the President because from roughly 1981 to 1985 President Reagan self-initiated no section 301 actions, nor did President Carter in all of his 4 years of Presidency. Despite the complaints of lots of American industries that other countries were unfairly putting up barriers against their products, the United States took very little action under section 301.

Part of the reason was military. The Department of Defense would say, "Well, gosh, we need Japan's intelligence-gathering activities and we need the bases."

Part of it was diplomatic from the State Department: "Don't retaliate against anybody over anything."

You often had the Commerce Department on the other side siding with American business and American unions, and the State Department and Defense Department against. You had an internal battle within the administration as to whether or not the trade obligations of foreign countries, in terms of letting our products in, were greater than the defense or diplomatic considerations. Congress kept getting madder and madder and madder. Because there is no question that all kinds of countries have all kinds of barriers against American products. We are not entirely clean ourselves. We have some barriers against other products coming in. Perhaps the greatest of our barriers is in the textile industry, where we put up severe barriers and limitations and quotas on textiles coming into this country from overseas.

(Mr. REID assumed the Chair.)

Mr. PACKWOOD. Initially, some Members wanted to compel the President—compel him—to initiate some of these section 301 cases, or maybe a lot of these section 301 cases, and in some areas where the President might not want to. For example, let us assume that the citrus industry were to complain because it was unable to make a sale to Japan of $5 million or $10 million worth of citrus products and, at the same time, Japan is contemplating buying from Boeing $3 billion or $4 billion or $5 billion worth of airplanes. On balance, the President might want to say, "Given that circumstance, I don't want to irritate Japan right now when they can just as well buy these planes from the Airbus industry in Europe and I don't want to bring an action in the citrus industry." He wanted to be able to weigh those kinds of economic considerations. This was not so much an argument of economic versus diplomatic or economic versus military, it was economics versus economics. He said, for the greater good, I would rather sell $5 billion or $10 billion worth of planes than $5 million or $10 million worth of oranges. He did not want to have that kind of power removed.

The bill, in section 301, more or less compromises this issue. The administration is required to choose some "trade liberalization priorities"—those are the words, "trade liberalization priorities"—from among the many barriers that exist in the world today and to initiate some section 301 cases. But we only provide this for 1989 and 1990 and we do not tell him which ones he has to bring or how many. It could be few.

In the section 301 provisions, we did not tie the President lockstep and say, "Every time there is a foreign barrier, you have to bring a section 301 action." We have not got an institutionalized, compulsory requirement that, even where he finds an unfair practice, the President must in all cases retaliate.

From the very day we started this bill we tried to follow the admonition of U.S. Trade Representative Robert Strauss, in which he said, "Well, in terms of these 301 actions, what you want is a provision that is mandatory, but not compulsory." And we spent the better part of the 6 months drafting this bill trying to figure out if you could divine what was mandatory and not compulsory. And we have come about as close as we can. Assuming that is a hair you can split, we have come about as close as we can. And, frankly, the administration has not identified this as one of the issues over which they would veto the bill. They have a half a dozen others over which they are going to veto it, but this is not one of them. They, by and large, said we would rather have the current law, but we can live with the bill.

In the areas of what in the trade law they call dumping and countervailing duties, by and large the bill came out as I would have liked it and as the administration liked it.

Dumping is where a country sells products in this country below fair market value. If Germany were to have a car made in Germany selling in Germany for $20,000 and they cannot sell them all, they try to sell them here for $10,000. That is dumping. U.S. companies sometimes do the same thing.

Countervailing duties are where you have a product that is subsidized in a foreign country. They do not necessarily sell it here for less than cost, but it is subsidized. In complaining about subsidies, we in the United States should be very careful. We have agricultural subsidies. The argument will be made we have electric power subsidies. The Tennessee Valley Authority, tremendous public generator of power, makes cheap power. Foreigners could say that is a subsidy.

In this area of dumping and countervailing duties, selling below cost and subsidies, businesses in the United States have more dumping and countervailing duty actions brought against them overseas than are brought in the United States against the products of any foreign country.

So these unfair trade laws are a double-edged sword. We wanted to avoid encouraging countries to pass mirror legislation that, in the long run, might be more harmful to us than helpful to us.

The bill has come out all right in this area. Again, the administration can accept it, has generally accepted it, and I find it satisfactory.

Were there some provisions I would just as soon have eliminated? Sure.

There is a provision that allows workers in the oil and gas industry to get trade adjustment assistance, when similarly situated workers in other industries would not. I thought that was an unfair singling out of a particular industry, but it is in the bill. On the other hand, a lot of special provisions were dropped. Sugar drawback and wire fence panels, things that were initially in the bill that related to a particular industry, have been dropped out.

Interestingly, some provisions were dropped out even though they were initially in both the House bill and the Senate bill—identical provisions. Normally, under our rules, when the House passess a bill and we pass a bill, and there is the same provision, we normally do not take them out of a bill. In this case we did, to the betterment of the bill.

The so-called Bryant amendment, had this been in the bill, in and of itself, would have been enough to cause me to vote against it. The Bryant amendment is a very simple amendment. In broad terms, it would have imposed, in my mind, unconscionable and restrictive requirements on foreign investment in this country. If the Japanese want to build an auto factory or they want to open a bank; Britain wants to come and invest; Germany wants to come and invest; this bill would have had very severe reporting requirements. Now, this flies in the tradition of the history of this country. Of all the countries in the world, especially all of the industrial countries, we have historically been the most open in welcoming foreign money.

Roughly from the time the Pilgrims landed in 1620 until World War I, our country had what we would call a trade deficit in terms of money in or goods in. Up until the time we became an industrial power, most of our machinery was brought from Europe.

We always welcomed foreign capital. The canals and railroads that were built in the 1800's were built in large part with German and British capital invested in this country. We have always welcomed foreign capital, and I do not know why not. If they want to come and build a factory and employ people, more power to them.

We have seen tremendous quantities of capital coming into this country in the last 5 years. I can understand why we have seen it, especially since the tax reform bill was passed 2 years ago. This capital is coming from countries that have tax rates for individuals of 40 or 50 or 60 or 70 percent and tax rates on corporations of 30 or 40 or 50 or 60 percent. Now they can come into this country and have a maximum tax rate of 28 percent on individuals and 34 percent on corporations in a market of 250 million people without any internal barriers, in a market that has created 15½ million jobs in the last 5 years, in a market that has grown 64 months in a row, the longest peacetime growth in the history of this country and longer than anything Europe has ever matched. No wonder that they want their money to come in. I do not mean hot money. Hot money is what comes in and is invested in a Treasury bond because interest happens to be 6 percent. And if that is more or less than Germany is paying, well that is money that can fly very quickly if the interest rates change.

However, when you invest in a factory in this country and you get mad, it is hard to pick up your factory and go someplace. That kind of money is coming in in droves and we ought to be delighted.

In fact, over 10 years ago, we were debating in this body the Burke-Hartke bill. That was a bill that was making an argument that American money was going overseas investing in factories overseas: Why did we not prohibit that or limit it; why did we not require that the money be invested here to produce jobs here; and, instead of American money going overseas, why did we not do something to get overseas money to come to America?

Well, Mr. President, since 1981 we have achieved that. More money, in terms of investment, has come into the United States since 1981 than has gone out, and it has been cascading more and more over each year since 1981. We have achieved what the authors of the Burke-Hartke bill wanted, which was foreign investment in the United States. The Bryant amendment would have discouraged that. The Bryant amendment, in and of itself, would have been sufficient justification to vote against this bill; but out of the bill.

There are some things that are in it that I wish were not. One is the requirement that the President attempt to negotiate with our GATT partners. GATT is the General Agreement on Tariffs and Trade, the worldwide body that serves as a forum for negotiation and implementation of multilateral trade agreements.

This bill directs the President to negotiate with our GATT partners to see if they will agree to permit that a fee be imposed on all imports, to pay for workers who are displaced from their jobs because of imports.

On the surface, I can see the logic. You think to yourself: You are working in a factory, the factory is closed because of foreign competition; why not a little tariff on imports to pay for the transitory relief of the worker who is displaced, to train him, to move him, to get him another job.

On the surface it seems fair, and I certainly have no objection to the retraining. It is the source of the money that bothers me.

This country is in the midst of an economic boom. Given normal circumstances over the next decade, this country is going to prosper beyond anything we have ever seen in our history. We are going to be labor short in the next decade. It is going to be an unusual year on the average when unemployment is above 5½ or 6 percent, mainly because we have put the baby boom to work. The baby boomers were born 1945 to 1965. Usually people go to work about 20 years after they are born. So everybody that was born from 1945 to 1965 on the average has already gone to work, and as you move through the work force and become 20, and 25, and 30, and 35, and 40, and 45, you become more productive as you get older, until you finally get so old that you retire. They have all been absorbed. The birth rate turned way down in 1965 and has by and large stayed down.

So we do not have this great quantity of new workers coming into the labor force that we had from 1965 to 1985.

Second, women began to go into the work force in extraordinary numbers in about 1960. No one knows exactly why but they began to go in, in numbers disproportionate to what they had gone into the work force previously.

That stopped in about 1985. They are still coming in, still coming in, in great number, but not disproportionate to what they had come in, in 1981, 1982, 1983, 1984.

So, we have absorbed the baby boom. We have absorbed the women and we are going to be labor short.

My hunch would be—this is a guess, I have no exact knowledge on this—you can probably lift the immigration barriers and say we will take in every Asian, every Hispanic, every German, every person from the United Kingdom, Ireland, who wants to come to this country and we will put them to work and we will still be labor short in this country. That is one reason the country is going to boom.

You are going to have business cycles. I do not mean everything is up all the time but if you mean what is going to be the direction over the next decade, it is up.

Second, the tax reform bill that we passed 2 years ago may have a lot of advantages, but one overwhelming advantage is that it encourages people to invest money in things they think they can make money at rather than in tax shelters. I do not know why in a capitalist society that should be a hard thing to sell, but it is causing people to put their money in things that they know something about. It causes people to invest in a grocery store or in a duplex because they think they are a good property manager or grocer, not because the Tax Code directs their investment one way or the other. That has the advantage of what economists would call the efficient investment of capital. You put it into things you think you know about, things you think you are good at, things that in a market competitive system you think you can beat somebody else at. And that is working.

Productivity in this country in manufacturing, the one thing that we have worried about, is dramatically up over the past 3 years. With the exception of Japan, it is up better than all of our European competitors. That is another reason why the economy is going to boom. Therefore, my misgiving about asking our trading partners throughout the world to agree to impose a fee on imports to fund trade adjustment assistance—to take care of their unemployment—is that I think on average, and especially in Europe over the next decade, their unemployment rate is going to be about twice what our unemployment rate is.

If I were they, I would jump at this offer and say: You bet. We want you to finance our unemployment. This is Germany, Italy, France—we want to finance our unemployement off of imports coming from America, and we will let America finance its unemployment off of imports coming from our country to America. The United States is going to end up the loser, that is my misgiving about this financing method. It is in the bill. My preference would be that it not be in the bill.

Then there is the so-called primary dealer provision. This relates to investment banking houses. We have a provision in the bill that will prohibit foreign investment banking houses from locating in the United States, as primary dealers in Government securities, if our investment banking houses cannot locate in the foreign country.

On this one, we may have shot ourselves in the foot, cut off our nose to spite our face, call it what you want. We still have immense deficits in this country and one of the ways that we finance the deficits is selling bonds. We sell many of the bonds to foreigners, sometimes foreign business, sometimes foreign governments, sometimes foreign individuals. These foreigners are used to dealing with their banking houses. The foreign banking houses that are in the United States are important conduits for selling U.S. securities overseas.

My hunch is if we exclude these primary dealers, these investment banking houses, from the United States because they will not let our investment houses operate in their country, we are going to make our deficit a bit more difficult to finance and cause the interest rates to go up slightly over what they would otherwise be. It is in the bill. If I were drafting it it would not be there.

At the start of this bill there were about 30 hoped for, from my standpoint, "nots" that could have ended up in the bill that are now not in the bill. That is why I say, on balance, 60 to 40, 70 to 30, something in that magnitude—on balance, I find the bill more preferable than not. Is it perfect? No. It is my bill exactly? No. Is it Chairman BENTSEN's bill exactly? No. Did he win exactly what he wanted? No, he did not. Did the chairman of the Ways and Means Committee, DAN ROSTENKOWSKI, win exactly what he wanted? No. He did not win what he wanted either.

But in the give and take of the legislative process, is the bill better than bad? I think it is. It is certainly much better than it originally threatened to be. For that reason, Mr. President, I am going to support the bill with warm enthusiasm. Not overwhelming enthusiasm but warm enthusiasm because, on balance, it is a better bill than a bad bill.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, this Senator intends to vote against this omnibus trade conference report. I will also vote against overriding a veto. I will do so for one critical reason. This trade bill tears the heart out of the Foreign Corrupt Practices Act. Eleven years ago in 1977 I authored that law. That law was designed to stop bribery by American corporations abroad. It succeeded brilliantly. Before the law was enacted, this country has suffered a series of sickening embarrassments from large bribes paid by American corporations in Japan, Italy, the Netherlands and elsewhere. The scandals seriously damaged Governments in these countries friendly to the United States. Because it was such a tough antibribery proposal, the Foreign Corrupt Practices Act passed the Congress unanimously.

Make no mistake about it, Mr. President. Today the Congress is about to vote for a conference report that absolutely guts that Foreign Corrupt Practices Act. Members of Congress, egged on by corporation officials who feel uncomfortable with the provisions of this law, know they could not push this smoothly concealed destruction of the antibribery statutes through the Congress on its own. So they have slipped it into this massive overall trade bill.

Here is one of the two or three longest, most complex, most controversial bills the Congress has ever considered. It contains thousands of pages and hundreds of thousands of words. No one will ever read it in full. So here is the perfect concealment in depth for the "Bring Back Bribery" provisions.

Mr. President, in my book, this bill, if and when it becomes law, will not be known as the trade bill of 1988. It will be and should be known as the "Bring Back Bribery Bill." And as American corporations pay the bribes and the bribery scandals mortify our country in future years, this will be the legislation that made the bribes inevitable.

In the early 1970's, shortly before the Congress enacted the Foreign Corrupt Practices Act, the Lockheed Corp. paid a $1.4 million bribe to the Prime Minister of Japan. He went to the slammer in disgrace. For Lockheed that bribe was a great investment. That $1.4 million bribe brought in tens of millions of dollars in profits. That is why bribes can be attractive. A relatively small payment can bring large returns.

In the many hearings this Senator has attended on the Foreign Corrupt Practices Act, I have yet to hear one shred of documentation that justifies changing the 1977 law. There is no question that officials of corporations engaged in foreign trade want very much to kill this antibribery law. For 11 years, the law has made them feel uncomfortable. They fear that under present law, if they do not make a constant effort to prevent any officials of their corporation or any agent of their corporation from paying bribes, they may be prosecuted.

Well, what is wrong with that? This is precisely the purpose of the law. It has worked. It has stopped foreign bribery by American corporations. Has this law had an adverse effect on American exports? The only documented evidence on the subject indicates it has not. Indeed, in the years 1978 and 1979 the 2 years immediately following the enactment of the FCPA, exports sharply increased. A 1981 study by the GAO on the FCPA, that was based on an actual survey of 250 major corporations, revealed that most said the FCPA had little or no effect on their business. A 1984 scholarly study made by a University of Southern California expert, Dr. John Graham, further documented the fact that the law has had no adverse effect on export sales.

Has the law resulted in any unjust prosecutions? Again, the answer is negative. In the extensive Senate hearings on this legislation, there was not a single instance, not one, in which there was even an allegation of an unjust prosecution. So here we have a law adopted by Congress in response to a series of shameful bribes. The purpose of that law was to stop corporate bribery abroad. Has it worked? It has worked extraordinarily well. Why has it worked? Because it requires that a corporate official must keep written records of payments made to foreign officials by his corporation. He is also liable if he "knows or has reason to know" that agents hired by the corporation will use bribes to win sales. This means he will police his agents to make sure that won't happen. He will automatically question the size of payments made to such agents.

So what happens when we change the law to eliminate the "reason to know" language and substitute therefore a simple "knowing standard?" What happens is that the prosecution must then prove what is in the mind of the corporate official. That official will automatically be less concerned with the size of payments to such agents if they get results.

If the change in the law provided, which it does not, that the prosecution had to prove that the official engaged in a "reckless disregard" that would have constituted an improvement in the proposed change in the law. This is because "reckless disregard" constitutes an objective standard. It does not require the prosecution to prove what the corporation official had in mind or did not have in mind. If a corporate official makes huge payments for minimal agent services, he would assume risks that could be questioned. In the words of the model Penal Code, a juror would have a duty to determine whether the lack of knowledge on the part of the corporation executive was or was not because he ignored a substantial and unjustifiable risk of bribes that "involves a gross deviation from the standard of conduct that a law abiding person would observe in the officials' situation." Why should not corporate officials be liable if they assume such a risk?

"Reckless disregard," which we failed to get into the statute, is a weaker standard than the present law; much weaker. Under the present law, the prosecution only has to show that the official had "reason to know." The paper trail established elsewhere in the present law provides a strong basis for prosecution of corporate executives who are required by law to keep a record of payments to foreign officials. That means that officials cannot authorize a bribe without violating either the provision of law that requires the corporation to keep accurate records and books or without violating the "reason to know" provision of the law.

So a change in the present law to drop "reason to know" and substitute "reckless disregard" would have weakened the law. But the trade bill provisions go much farther. They drop all objective standards in the statute. In effect, they challenge the prosecution to prove what the corporation official had in his mind.

For 11 years, the law now on the books has worked. In the course of that time, it has obviously made corporation officials nervous. It has required them to make sure that all payments to foreign officials were noted in writing, and clearly identified. It has required the officials who want to be sure they will be free of prosecution under the law to establish a firm policy of knowing the details of these payments. So it works because corporation officials—to play it safe—must make an effort to know what their corporation is doing when it makes payments to foreign officials. In a word to play it safe, they must make as sure as they can that their corporation pays no bribes to foreign officials.

Let me add a few words about constructive contributions made by the Senate Banking Committee, which I chair, to the omnibus trade bill. Members of our committee helped write major portions of title II dealing with export enhancement, of title III dealing with international financial policy, and of title V which, among other things, provides new authority for the President to block takeovers by foreigners of key American companies that could threaten our national security.

Senators SARBANES, DIXON, GARN, and HEINZ worked hard to forge titles II, III, and V of the bill. Senators CRANSTON and GRAMM also helped deal with the difficult issue of national security export controls in title II. We have worked out a final compromise in that area that will delete bureaucratic redtape. It will also make sure that we can control the export of items that are important to our Nation's security. In this area we all owe a great deal of thanks to Senators GARN and HEINZ, and Senator GARN, in particular who spent countless hours of his time on the multilateral export sanctions provisions of title II, sometimes referred to as the Toshiba/Kongsberg provisions. Despite the joint efforts of an unprecedented campaign by private lobbyists and the administration to gut that provisions, thanks largely to Senator GARN's efforts, the conference worked out a constructive final result. It will insure that foreign companies think twice about selling banned items that threaten Western security to the Soviets.

I also want to say a special word of thanks to Senator PAUL SARBANES who chairs the Banking Committee's International Finance Subcommittee. He mastered the many complex issues on export controls and made a major contribution to the successful compromises reached in the conference on those issues. In particular he took the lead in shaping the important provisions of title III dealing with international financial policy. The very important sections of that title which address exchange rate and international debt issues bear the mark of the intellectual rigor he always brings to matters he addresses. These are two issues that will become increasingly important to our country. Senator SARBANES has helped establish a framework that will help ensure that we address these issues in a creative and responsible matter.

Finally let me thank you my good friends Senators EXON and DANFORTH from the Commerce Committee who were so helpful in shaping the authority we give the President in title V to block takeovers threatening the national security. Again each of these Senators, and particularly Senator EXON, spent numerous hours ensuring that provision was carefully drafted to give the President the needed authority, without ending a message that foreign investment was not welcome in our country. I thank them both.

But, Mr. President, while this trade bill has many merits, there is no way we can escape the fact that it is a "Bring Back Bribery Bill." Mark my word, we will regret it, and deeply. That is why I must vote against it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, there is an article in the Wall Street Journal this morning that is written by Mr. Walter S. Mossberg, and it deals with this question of plant closings. It is a remarkable article. It says that the issue is being blown all out of proportion. It says the discussions "are laden with ideological and pseudoeconomic rhetoric characteristic of political debate in an election year." The article goes on to say that "the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide their plans to close a plant until the last minute, leaving workers and communities in the lurch."

The vast majority of large companies already have these kinds of provisions in effect. When I was running a business I had to close down a division. I went beyond what this particular provision in this conference report calls for and gave 90 days' notice.

There are those who say you would have sabotage and that sort of thing as you wait for that period of time to expire. I do not believe that. What enlightened management does is to put out a carrot by giving a bonus to workers if they wait until that last day. If they leave before that time, they get only their paycheck. It works out. If you have a small town that has given some tax advantages to a company to come in, it seems to me it is only right they be given 60 days' notice to see if they cannot come in to management and say, "Maybe there is something else we can do; maybe we can do something about utility rates for that plant, or something else on taxes, to make it economically feasible to stay, to keep those jobs here and to keep our people employed." If somebody works for a company 20 or 25 years, I do not think it is so unreasonable to require that, when management decides to close down a plant, that employee be given 60 days' notice. One of the things you find, as you deal with these kinds of closing and terminations, is that you can do a much better job if you have the employees still together as a group rather than having them disseminated, going their own way, and then try to help them individually.

I have seen some of these plant closings in Texas too many these days. I watched one by a very large company, a company called Texaco, which closed down a refinery with over 4,500 employees. They gave those workers notice and they worked with that community. It is a tough period, a difficult one to adjust to, but at least the notification was given. The city fathers had a chance to sit down with management to try to work out how they could help people make the transition and to get into other productive jobs. They were able to give them counseling collectively, and then give them the time to adjust.

This is not some socialized scheme that you have seen in Europe where they go far, far beyond this proposal. This is not something where you have to get consent of the employees of the community to close down the plant. That is not what we are talking about. It just says give them a little time to adjust.

As social reforms go, the plant-closing provision appears fairly minor. The U.S. Chamber opposes the provision but the group nevertheless says it encourages business to give advanced notices of layoff when possible. The Wall Street Journal article further states that the Reagan administration's own task force on economic adjustment and worker dislocation, which included representatives from General Electric, USX, formerly United States Steel, and other major corporations, declared in 1986 that advanced notification to employees and the community of plant closings and large-scale permanent layoffs is good industrial practice. That is the position of the Reagan administration's own task force on economic adjustment.

Mr. President, I ask unanimous consent to put this article in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLANT-CLOSINGS QUARREL DISTORTS A MODEST IDEA

(By Walter S. Mossberg)

WASHINGTON.—This capital's latest cause celebre is something called "plant closings," a provision in the pending trade bill that would require many employers to give their workers and local governments 60 days' notice of plans to close a plant or conduct a widespread layoff.

As is common here, the provision is being blown out of all proportion. Discussions of it are laden with ideological and pseudoeconomic rhetoric characteristic of political debate in an election year.

President Reagan and the business lobbies assert that the entire trade bill should be vetoed if the plant-closings language stays. They call the provision a European-style government intrusion on business that would impair U.S. firms' competitiveness in world markets.

Meanwhile, the Democrats and their union allies contend that the plant-closings measure is a major step toward helping U.S. economic adjustment. They say it's a social reform of such profound importance that preserving it is worth losing a trade bill they have sought for years.

In fact, the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide plans to close a plant until the last minute, leaving workers and communities in the lurch. It is squarely in the tradition of such social reforms as the child labor and minimum wage laws. These act to soften the social consequences of free market decisions and thus permit the market continued public acceptance without the sort of deep government involvement often practiced abroad.

As social reforms go, the plant-closings provision appears fairly minor. According to business and labor, many big companies already offer some form of advance layoff notice. The U.S. Chamber of Commerce opposes the provision, but the group nevertheless says it "encourages" businesses to give advance layoff notices when possible.

The Reagan Administration's own Task Force on Economic Adjustment and Worker Dislocation, which included representatives from General Electric, USX and other major corporations, declared in 1986 that "advance notification to employees and the community of plant closings and large-scale permanent layoffs is good industrial practice." The panel didn't call for writing the idea into law, but it cited evidence that advance notice doesn't hurt productivity.

Furthermore, the idea isn't exactly novel. Most major U.S. trading partners, including Canada, Japan and West Germany, have such regulations already, and they seem to be competing just fine.

In the smoke of ideological charge and countercharge, it's important to note what the plant-closings provision wouldn't accomplish. It wouldn't bar a single closing or layoff. It wouldn't require companies to get worker or government approval to close plants or conduct layoffs. It wouldn't affect companies with under 100 workers, or any company laying off less than a third of its work force, unless 500 workers are involved.

It merely requires stable companies that know well beforehand of plans to close plants or order mass layoffs to share this information 60 days in advance with the affected workers and local governments. That's all.

The provision includes a formidable list of exceptions. Companies that are "faltering" and trying to raise capital—those for whom advance notice might pose financial problems—are exempt. So are those closing plants due to "unforeseeable" business developments, or strikes or lockouts. So are plant closings due to the sale of a business, or consolidations within local areas, if workers are offered new positions.

Business groups have thrown up a barrage of objections to the provision. They contend that the exemptions aren't broad enough and that the need to give advance notice of a closing would somehow thwart expansion at many businesses and drive weak firms into bankruptcy.

ADVANCE WORKER NOTICE OF PLANT CLOSING

Canada—1 to 16 weeks, depending on case.
Germany—30 days after notifying government.
Britain—Up to 90 days, depending on case.
France—2 to 14 weeks, depending on case.
Sweden—Varies, depending on case.
Japan—"Sufficient" advance notice.

Source: Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation, December 1986.

But these arguments hide a deeper reason employers and the White House are fighting what amounts to a simple industrial practice that business concedes has merits. They fear that the plant-closings measure will somehow set a precedent for further "labor engineering" by the government. They are worried, too, about litigation and bureaucratic restraints.

There are many items in the trade bill that will indeed affect America's ability to compete in world markets, but the plant-closings measure isn't one of them. And it is strange indeed that the fate of the massive bill is turning on language that has nothing directly to do with trade. The ideological debate over the provision doesn't bode well for the ability of the nation's leaders to grapple with the really important economic issues that America surely will face in the years just ahead.

Mr. BENTSEN. The article makes the point that Canada requires advanced notification of plant closings, that Germany requires it, and that Japan requires it. Notification does not seem to have stifled their competition. It certainly does not seem to have put a damper on their productivity.

The other thing that you find about plant closings, is that good and able management is going to know months in advance. This is not some precipitous, calamitous decision that is decided by a bolt of lightning in the middle of the night. Plant closings occur because management has seen an economic problem that they do not believe can be overcome. They finally come to that painful conclusion to close down a plant. But sometimes, when you have the notification given 60 days in advance, labor has a chance to sit down and say, look, we do not want to move. We do not want to sell our houses. We have enjoyed the relationship with this company. We are comfortable in this role. We feel productive, and we will make some accommodations on the work rules. We will make some accommodations on the compensation to try to see that this thing will fly; that it does return a profit. And the same thing is true with the community in trying to work out those kinds of differences.

This is a good bill of over 1,000 pages, a bipartisan bill which passed this floor by a vote of 71 to 27. I say to my distinguished friend, ranking member of the committee, a number of things in that bill were put in because he felt they were important. The same thing is true with a number of the Cabinet officers of this administration, whom we met with repeatedly. Some of them came to my office and said, "Senator, we have to take something out of these negotiations." This was right at the end, after the bill had already passed both Houses and we had it out of the conference committee. I said, "It is already out of the conference committee. You have taken innumerable things out of these negotiations, over 100 different items that I can number. I have a long list of provisions that we either dropped because the administration did not think it would work or we modified or compromised it." We developed a consensus, Republicans and Democrats working together.

When we finished that conference report, every conferee from the Finance Committee signed it, Democrats and Republicans alike.

The administration says, "Well, we will veto this and we want you to bring it right back, stripping out the measures that are not acceptable to us." I do not say that cannot be tried. But I tell you that is a high-risk policy, a high-risk gamble. We do not have the luxury of the House, where you can have a closed rule and bring the bill to the floor without a specific provision. It is open here. Amendments are only limited by the imagination of the staffs or the individual Members of the Senate. I would say to the administration many an item you did not want on this bill was tried on the floor of this Senate, and we defeated it. I do not know if we could defeat them again. I certainly assume those things would be tried again. I do not know how long it would take to complete action.

I will tell you this: We have a terribly crowded agenda on the Finance Committee. The catastrophic illness bill has been held up because of the priority of this trade bill. It is a major priority for our country to try to turn this deficit around. But the conference on the catastrophic illness bill ought to proceed. It would be finished if those of us who are involved in this bill could just get to work on it. If you start over on this trade bill, I do not know how much longer it would be delayed.

We have a technical corrections bill. That is for the 1986 tax bill that was passed here. We have all kinds of taxpayers out there wondering about this ambiguity, that conflict, in the 1986 bill, wanting it resolved so they know what they must do. The courts want to understand it. CPA's and tax lawyers are wondering how to advise their clients. We have to finish that bill which is exceedingly complex and a major piece of legislation.

The administration has the United States-Canadian Free Trade Agreement. We have been holding hearings on the agreement, a priority for the administration. We have stated that we will have legislation for the administration to introduce by approximately June 1st. We will have a short fuse to try to pass that legislation.

There is welfare reform legislation, which was just marked up and passed by the Finance Committee. Welfare reform legislation passed the House of Representatives last year. We are trying to do something to break the cycle of welfare. We are trying to help young mothers with young children to get off of welfare and get the kind of training and education they need to make themselves productive.

A growing part of our community is single women who are mothers, kids having kids. We are trying to find some way so they do not leave latchkey babies behind while they go off to work. We are trying to take care of a situation where, of mothers who have children under 6 years of age, 50 percent of those not on welfare work. In contrast, those who are on welfare do not work. There is no equity in that.

This country is facing increasing competition from countries whose people are better educated. It is terribly important that our children have competitive educations. We are not going to be able to compete otherwise. We have worked on a piece of welfare legislation to reform this.

We have watched 50 Governors working on welfare reform. A vast number of them are committed to it, saying that we need to reform welfare in this country. There are demonstration projects in the States of a number of those progressive Governors that appear to be working, achieving their objectives, helping some of these folks get off welfare and lead productive lives.

What we have seen in a welfare bill in the Senate is one that gleans the best of each of these demonstration projects, puts it all together in one piece of legislation, a piece of legislation that is revenue neutral.

With those kinds of things pending, you can see what kind of job we have in the Senate if we start this process of considering the trade bill over again.

Notification of plant closings makes common sense for America and shows some humaneness when management has to make a painful decision. Keep it secret? Not likely. Now that you have the Xerox machine, it is hard to keep it secret and avoid all the rumors and trauma that go with it. It is much better to approach it forthrightly and give notification.

The plant closing provision is not a part of my committee's jurisdiction. It was done by another committee. If somebody wants to pick out things in this bill to disagree with, in a bill of 1,000 pages and hundreds of items, they can do that. But you cannot vote 95 percent for a bill or a conference report. You vote it up or down. That is the choice.

There are good provisions like the harmonized system which would result in the adoption of an international customs classification system, so that you know what kind of duty to put on products. The rest of the world has already moved to it. It is time for this country to be part of it. That is taken care of in this piece of legislation.

Talk about protectionism. There are over 100 different miscellaneous tariff items in the bill that the members put in to bring down tariffs because those products are in short supply in this country. Manufacturers say they need to import them to use in manufacturing an end product, so that they can sell it and often times send it back overseas. Miscellaneous tariff bills have been deferred for a while, at least a couple of years. We have to move forward on them.

This trade bill is the product of 44 conferees on the Senate side. It has substantial support across the board. I urge that this body report it out by a very substantial majority. I think that would send a positive signal to the White House and temper the conversation about a possible veto.

Mr. President, I see the distinguished Senator from Louisiana here, and I would like to hear what he has to say.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. BREAUX. Mr. President, I thank the distinguished chairman of the Senate Finance Committee for yielding to me and allowing me to make some brief remarks on the bill.

I commend him for a job very well done in putting together an extremely complicated but very necessary piece of legislation for the Senate to consider this week in the form of a conference report.

This legislation is not easy. The distinguished Senator from Texas brings a background of knowledge in trade and business that I think is exceeded by no one in this body. I believe this bill reflects his personal commitment to bring to the Senate a bill that is workable as well as extremely needed. We commend him for the great work this conference did. It was not an easy task. The work was long. I think the product reflects his touch and that of the other members of the conference who worked hard to bring about a product that we should all support with enthusiasm.

The concerns and expressions I have heard of why this bill should not be passed comes from the White House, and it is their preference that provisions dealing with plant closings not be included. I believe that if plant-closing provisions were not in the bill, they would still have other objections about something they would perceive to be wrong with this bill and would be recommending a veto or refusal to sign it based on something else.

Let us look at the specific, stated reason for not supporting this bill, it being that this contains the so-called plant-closing provisions, which they feel are so bad that the bill should be vetoed.

The argument I have heard from the other side and those who oppose the bill is that to require that a plant notify the workers in a community that it is leaving the community, that it is closing the plant, and that it is going to be firing workers—their basic reason for objecting to that type of notification is that it is government interference and that a government should not have the right to tell a plant that it should notify the workers, that that is bad and it is government interference.

No. 1, I think it is important to reflect on what this bill does not do. It does not tell a plant that it cannot close. It does not tell a plant or a company or a corporation that it cannot leave town. It does not tell a plant that it cannot shut its doors and board its windows and put a for sale sign on the property and open a new plant the next day in Tokyo or Taiwan or South Korea or any other place it feels it can do better than it is doing in the United States. It does not restrict a company's activities in moving or closing or relocating in any way. It can continue to do that.

What it cannot do, however, under this bill, is that type of activity or action without letting its workers in a community know about it in advance, if the company, in fact, knows about it in advance.

It is interesting to me that the White House takes the position that requiring a company to give 60 days' notice to a community and to its employees that it is going to be firing is Government interference. Yet, I would think that these people, when the local community comes in, through their governmental bodies, and gives land to the plant to locate in that town, would not think that is Government interference. That is good government.

I would think that these people would also feel that when local government says, "We're going to waive your having to pay property taxes if you build your plant in our community," that is not government interference. That is good government.

I would think that these same people would feel that when the local community says, "We're going to waive our local county taxes and our local city taxes, and we're going to get the State to waive the State corporation franchise tax if you locate here," that is not government interference. That is good government.

These people would probably also agree that when a local community says, "If you need utilities, we can provide free utilities for a certain period of time if you locate in our community," that is not government interference. They would probably argue that that is good government.

These same people would also probably argue forcibly that when the local community and the local city council or the local county commission comes in and says: "We will build you a road from your plant to the main highway if you locate in our community," they would argue that is good government, that is not government interference, that is government and business working hand in hand for the benefit of society at large.

I also believe that these same people would argue that if the local community says "We will get and construct a railroad spur to connect your plant with the main railroad track," that is not government interference, that is good government because it encourages us to locate in this particular community.

They would think all of that is good government and not government interference.

But give them one small requirement and that small requirement is that "If you know your plant is going to be leaving, give us 60 days notice so that we, in the community, can make preparations and try and replace this lost industry and the local workers who are going to lose their jobs can make plans to try and find employment in another area or in another business or give the local community an opportunity through their local chambers to go out and find a new industry or perhaps come in and take over this plant and operate it." Yet they would say that is government interference.

I would argue that these propositions are not just a one-way street. A company cannot come into a community or a town and reap all of these benefits and get commitments to provide perhaps free roads or free utilities or waive property tax or waive State corporation income tax and get all the good things that a community in a State and local government provide and yet say that "We are not going to be willing to work as a partner with the local community and at least make plans and preparations to give that community and those employees notification when we have to close."

Some have argued, well, it would be impossible sometimes for a plant to notify within 60 days if they are going to close a plant; they may not know in enough time.

This legislation does not require them, I would submit to do the impossible. It only requires them to give notification when they, in fact, know that they are going to be closing.

I have seen concrete examples, Mr. President, of major plants that have built new facilities in foreign countries like Taiwan, Singapore, Japan, and have been under construction for a year or more in the foreign country, knowing quite well that their economic developments calls for them to close the plant here in the United States and move to their new facility in some foreign country as soon as that foreign facility is completed. That company knew not 60 days before they closed, but a year or more before they closed the U.S. operation that they were going to move out of this country just as soon as their plant was completed in the foreign country.

We are not requiring that they have to notify them a year in advance. But they should give that local community at least 60 days' notification when in fact they know that they are going to be closed.

I note that when this bill first came before the U.S. Senate there were some on the original bill that said "You are requiring 180-day notice. That is too long."

So the committee came back and said "Well, how about 120 days?"

They said, "No, that is too long."

"How about 90 days?"

They said, "No that is too long."

The committee has now come back and the conference committee has reported a 60-day notification, and yet they will say now that that is too long.

What do you think it would take, how far would we have to compromise before the other side would ever be willing to say that some notification is required?

Would 24 hours still be too much? Would they at least require a plant to notify on the bulletin board they are getting ready to move out the next morning?

I would suggest that some would say there is no obligation whatsoever. My argument this afternoon is simply that a plant that is located in a community that has made great sacrifice to get that plant there, that has given time and time again to make the State more competitive, that has compromised and given up revenues in the form of a tax break is entitled to something in return, some show of partnership with that local community that they acted in good faith. Many plants do this already. And these plants are not adversely affected by this legislation.

Many corporate presidents understand what good community public relations is all about and they make a great effort to relocate their employees and they make a great effort to notify the community that things are going to be different when they leave and for those companies that have that foresightedness to apply good community public relations they should support—I think they generally do—the provisions of the trade conference bill.

But for those companies that think they can drain the community, that they can take all the advantages and have little, if any, obligation to that community, this legislation is necessary, this legislation that says "Give us notice before you leave is important. We have done our part. We have contributed to making your stay here worthwhile. We have gone that extra mile. But if you cannot make it in our town, we understand. But please at least say 'Goodby,' please at least tell us that you are having to leave within 60 days if and when you know that you are in fact departing."

I think that also is good government and I think that is the partnership that I think more American companies and employees need to join together to bring about more successful companies in the United States.

If we have those type of relations, we will not have to see companies leaving the borders of the United States and going to other countries where they think they can do better from an economic standpoint.

So I commend the chairman of the committee, the distinguished senior Senator from Texas, for the great work that he has done, the business background that he brings to this piece of legislation. He knows that this is good not only public relations but is good business relations and is good for the companies that it is going to affect.

Mr. President, I yield the floor at this time.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Louisiana for his contributions and efforts on this piece of legislation. He has been a major contributor to it.

It is interesting, too, that the public opinion polls that I have seen in all four quadrants of the country show that a mimimum of 80 percent of the people think that notification of plant closings should be done.

I have here also a memorandum, dated April 25, 1988, from some of the kinds of firms that help us on our trade sales abroad, major exporters. It reads:

To: Members of the U.S. Senate.

From: Jack Valenti, President, Motion Picture Association of America, Inc.; Nicholas A. Veliotes, President, Association of American Publishers; Jason S. Berman, President, Recording Industry Association of America; Jonas Rosenfeld, President, American Film Marketing Association; Edward P. Murphy, President, National Music Publishers' Association, Inc.

Re: The Omnibus Trade and Competitiveness Act of 1988.

We represent major American industries which deal in intellectual property. We supply the USA with billions of dollars in surplus balance of trade, and therefore we contribute mightily to the fiscal health of this nation.

We urge you, with respect as well as urgency, to be supportive of the Omnibus Trade Bill.

For the first time, in this Bill, intellectual property is brought to the fore with protective shields in place to guard against non-tariff trade barriers and other obstructions to the free movement of American intellectual property in foreign countries.

Anti-piracy provisions are contained within this Bill. Pirates can destroy our global trade unless our government has the authority to persuade other governments to give us protection in foreign markets.

The Bill provides the President with discretionary authority to take swift and specific action in those situations where foreign governments fail to safeguard our property, even as we protect theirs in our own country, or where foreign markets are unfairly closed to U.S. products of intellectual property.

This Bill is absolutely essential to our future. We call on you with all the passion we can summon to give this Bill your full support.

Mr. President, I also have a letter from the U.S. Conference of Mayors. It says, "The Nation's mayors urge you to vote for the trade bill. For every city, every community, no matter how large or small, national trade policy is a local issue."

I ask unanimous consent to have printed in the RECORD that letter in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, April 20, 1988.

DEAR SENATOR: Just as the national trade deficit affects every American, your vote on national trade policy will touch every American community, no matter how large or small. National trade policy is a local issue. The nation's mayors urge you to vote for the trade bill.

Hardly a day passes without news of another community experiencing the economic impact and personal pain of our inadequate trade policies: jobs lost, family dreams shattered, plants shut down, main streets boarded up.

America's trade problem has been years in the making, and there will be no quick fixes. Yet the Senate's vote will represent a critical milestone in continuing the momentum that Congress began a year ago. Both the House and the Senate overwhelmingly approved trade legislation last year that is designed to come to grips with our serious trade imbalance. And that trade imbalance remains as serious today. The conference report which you will consider would continue the momentum initiated last year and send a clear signal that the United States is serious about trade.

In recent days much has been said about the plant closing provision passed by the Senate and subsequently approved by the conferees. The White House has threatened a veto if this provision is included in the final legislation.

It is hard to understand why a provision that would require companies to provide workers and their communities with a modest 60-day warning in advance of a major plant closing would be the basis for a presidential veto. This is even harder to comprehend since this provision only applies to companies with 100 or more employees. This provision would affect only two percent of business establishments in the United States, but would provide some early warning for nearly half of the American workforce.

Workers have a right to know about decisions that dramatically affect their livelihoods and that of their families and their communities. Local governments likewise need this advance warning in order to plan for the future in the face of the economic and social hardships which accompany major plant shutdowns. Experience has shown us that a community and its workers can often take bold and extraordinary steps to keep plant gate open, if there is some warning. If plant closure cannot be avoided, advance warning provides workers and their communities with a head start in job search and placement, counseling, and the initiation of training and retraining programs.

America needs a trade policy—a policy that works at both the national and local level. That's why the legislation before the Senate is so important. While no single piece of legislation will solve all of our trade problems, your vote represents a critical test of our national commitment. And it is important to remember that national trade policy is really a local issue affecting millions of American workers and the communities in which they live. Again, we urge you to vote for the trade bill.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

Mr. BENTSEN. Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER [Mr. BREAUX]. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

RECESS UNTIL 2:15 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 20 minutes.

There being no objection, the Senate, at 1:55 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, while the Senate is considering H.R. 3, the Omnibus Trade Act conference report, I would like to share several observations about this legislation with my colleagues. At the outset, let me state that I will be voting for the conference report but that I do so with a sense of some disappointment in what we might otherwise have been able to accomplish.

It is not that the bill lacks good things in it. There are undoubtedly many good things in this bill. In fact, any bill this large would have to contain some good things if only by the law of averages, and this one is no exception. Any judgment of the bill's merits, therefore, must inevitably involve a weighing of its good and bad points, and I suppose each Senator has to do that for his or herself. For my part, there are a number of things in the bill worth bragging about.

One of the first, Mr. President, is the Export Administration Act amendments.

On the export enhancement front, for example, I think the Banking Committee conferees have made some important improvements. One major area is our work on further amendments to the Export Administration Act. Senators will recall the major effort to rewrite that act which occupied the Banking Committee throughout 1983, 1984, and 1985 and produced some significant advances in liberalizing our control system while improving our enforcement of controls on truly important goods and technology.

Since that bill was enacted, it has become clear to those of us who work on this issue in both the House and Senate that further delicensing would not endanger our national security but would in fact strengthen our control program by allowing us to force more resources on effective protection of the most sophisticated items, ones the Soviet Union wants more than any others. As a result, both House and Senate passed EAA amendments that liberalize controls, and the conference agreement take some significant steps in that direction as well.

In particular, we are beginning what I hope will be a fairly rapid movement toward a license-free zone within Cocom—the group of our allies that coordinate their export control systems. The first step involves the President determining which other Cocom members maintain effective licensing, control, and enforcement systems, the result of which will be delicensing for U.S. shipments to those countries. That will be a first.

It is my hope that the creation of what will effectively be a "two-tier" system within Cocom will provide the same incentive to other countries to upgrade their control systems as section 5(k) in the 1985 amendments did. That provision, which permitted Cocom-like treatment for non-Cocom members that satisfactorily upgraded their systems, has produced major advances in control efforts by a number of nonaligned countries that previously had been major sources of diversion of Western technology to the East, to the Soviet Union and its allies. I recognize that some of our Cocom colleagues may have some reservations about this approach, although our informal contacts with some of them were decidedly not negative, but I nonetheless hope they will reserve final judgment until we all see how this new section of our law is implemented. It is no secret that licensing and enforcement is not equally tight in all Cocom nations and that our collective security suffers as a result. We believe that this new approach will lead to a stronger Cocom by offering a benefit to the countries that have successful programs and an incentive to those who do not. We hope our allies will give it a chance to work.

Another important change is the decision to accept House language that requires the removal of unilateral controls if the products are available from other sources and we are unable to persuade the other governments to control them. The unilateral control list is left over from the days when Cocom was even less effective than it is now, and it is not regularly reviewed in any but the most pro forma sense by our administering authorities. Our maintenance of it is a visible reminder of the inadequacies of Cocom that has not proved to be helpful in building a stronger multilateral institution. We should focus our efforts on strengthening the Cocom multilateral approach rather than trying to maintain a separate control regime. The provision retains authority for unilateral controls where there is no foreign availability but will require ultimate decontrol in situations where availability exists if agreement on multilateral controls cannot be reached.

My emphasis on these issues, important though they are, is not intended, Mr. President, to ignore the numerous other improvements the conferees have made in the Export Administration Act. We have rewritten the foreign availability provisions and have provided for a separate determination of East-West foreign availability that will help encourage export of competitive American products in areas outside the East bloc. We have delicensed a large number of lower technology goods, eliminating the need for 25 to 30 percent of current licenses, according to the Commerce Department. We have substantially eliminated reexport controls, which have been a major irritant to our Cocom allies. And we have undertaken a host of other steps that will continue the trend toward more effective focus on a smaller number of truly critical items.

TOSHIBA/KONGSBERG

Also in the export control area, a word needs to be said about the so-called Toshiba provision. Use of that term has become a shorthand way of referring to the provision in the bill providing for sanctions against companies in other countries that violate Cocom rules and participate in a diversion of significant critical technology to the East bloc that results, in the President's judgment, in a serious adverse impact on the strategic balance of forces. That, I might add is a stern and demanding test. But it is a necessary one. While the provision applies modest retroactive sanctions to Toshiba Machine Co., its parent Toshiba Corp., and the counterpart pair in Norway, Kongsberg Trading Co., and Kongsberg Vaapenfabrikk, the important part of the provision is the regime established for prospective sanctions in the event the same thing happens again in that country or any other.

I must say, Mr. President, that in a bill that is, in my judgment, far too weak in applying sanctions to those who break either our laws or international agreements, I am pleased that at least one of the subconferences held the line on this issue and put into the bill a provision that may actually make a difference. Estimates of the cost to the United States of the Toshiba/Kongsberg diversion range from $8 billion to $100 billion. That is a big cost, Mr. President, for shipping $16 million of this extremely sophisticated computer control machine tool technology to the Leningrad shipyards. In my experience with these matters, the truth is probably somewhere in the middle, but even the lowest estimate is staggering. Even more disturbing are the continuing revelations that the diversion that led to these sanctions was not an isolated incident, either with respect to these companies or other companies. That will take further investigation, and it may well be that other diversions, if in fact they occurred, do not rise to the level of seriousness which would justify the sanctions contemplated in this bill.

In any event, I believe strongly that we all owe a debt to the Senator from Utah [Mr. GARN] for his leadership over a long period of years in identifying this problem and proposing an effective means of dealing with it. Senator GARN has consistently focused on the only important issue in this debate—our national security and the effectiveness of the Cocom system. Others have expressed a variety of concerns that, frankly, I find somewhat irrelevant—the state of our overall relations with Japan, Norway, or whatever country engages in the next diversion, possible disruptions in the activities of American businessmen, the trade policy implications of actually limiting imports from someplace, the extraterritorial application of our laws. These are the same concerns that the same people always express whenever anyone in Congress proposes taking an action our trading partners might not like. They are the same concerns that have consistently prevented our country from defending its economic rights and interests effectively.

At the same time, however, I would note that the provision is not, in either its intent or effect, a strictly unilateral approach. In particular, the conferees agreed to my amendment that would exclude from the reach of sanctions entitles other than the directly guilty party in countries that the President had certified as having effective export control and enforcement programs. That certification will track the Cocom delicensing certification I referred to earlier and in so doing will provide a powerful incentive for Cocom members to upgrade their control and enforcement programs. It will also significantly limit the reach of the sanctions by excluding from their coverage parents, subsidiaries or other affiliates of the party that actually engaged in the diversion.

These sanctions are not, by the way, an exercise in the extraterritorial application of U.S. law. In my judgment what we are doing here is analogous to the pursuit of an antidumping complaint. In both cases a government makes a unilateral judgment that a foreign party has violated an international agreement its own government has subscribed to, and then exercises its right to limit that party's imports into the complaining country. It is an international agreement that is being violated, and the punishment, which is confined to an import or procurement limitation, is well within a sovereign government's authority, no matter what the lobbyists hired and paid for by such companies may say.

This trade bill itself, particularly the work of the Ways and Means and Finance Committees, which I will have more to say about later, is evidence of the difficulty of overcoming the Washington establishment's affection for maintaining a placid equilibrium. In that regard, Mr. President, I admit it. This provision is disruptive. It will make people angry. It will shake them up. It will disrupt established business patterns in some respects. Senator GARN's view, which he has frequently expressed more articulately than I—although I share it, is that such disruption is necessary if we are to protect that which is most important—our national security.

So I welcome this provision, Mr. President. It is one of the few strong ones in the bill, and it is therefore, one of the few that will actually make much of a difference in the implementation of policy.

FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

In one of the committee's most significant accomplishments, we succeeded, after 7 years of effort, in reaching agreement with the House on revisions to the Foreign Corrupt Practices Act that will provide clearer guidance for Americans doing business abroad as to what activities are permissible and what are not, without opening the door to bribery. I know that my colleague from Wisonsin, Senator PROXMIRE, disagrees with this analysis, as he has for the past 7 years. In this instance, however, I am joined in support of these changes not only by a bipartisan majority of the Senate subconferees, but by a solid majority of the House subconferees, including Representatives DINGELL, RODINO, BERMAN, and HUGHES, all of whom over the years have been staunch supporters of a strong FCPA.

The result of our efforts will be a strong law, but also a clearer one that will give the American business community better guidance for their activities in numerous parts of the world.

EXPORT TRADING COMPANY ACT AMENDMENTS

Third, the conference agreement makes some useful improvements in the Export Trading Company Act, which I authored in 1982. That Act was designed to promote exports through encouraging export trading companies that would provide export services to those unfamiliar with the complications and uncertainties of exporting. Unfortunately, it arrived on the scene just as the dollar's value was peaking, and our trade deficit was rapidly rising. That, along with excessively restrictive regulation by the Federal Reserve Board, made the act less effective than we all would have liked. The bill before us today makes some modest improvements in the act by easing the 50 percent export income test and revising Federal Reserve Board regulations with respect to inventory and debt-to-equity ratio requirements. I would have preferred more, particularly a provision from the Senate bill overruling the Fed's erroneous interpretation of the 1982 act with respect to ETC's providing services, but that will have to await another round in what has become an ongoing battle with the Fed.

WORKER ADJUSTMENT

Mr. President, I have spoken on this floor many times regarding the plight of displaced workers. One million skilled workers lose their jobs every year. Fewer than 30,000 receive any help at all from existing Federal programs. Only 60,000 actually receive retraining. Failure to return these workers to meaningful employment is more than an embarrassment, ultimately, it will leave our Nation without the human resources to compete in a global economy.

The trade bill contains provisions which can help us return our most skilled workers to that economy. The bill would replace the Dislocated Workers Assistance Act with a new worker readjustment assistance program. Funding would triple to $980 million, sufficient to provide longer term, intensive job training, and income support to displaced workers. A year ago last February, Senator ROCKEFELLER and I introduced similar legislation, S. 524, and I wholeheartedly endorse the worker adjustment provisions of this bill, which track in many respects that legislation we introduced early on in this Congress.

TRADE ADJUSTMENT ASSISTANCE

In addition, the legislation would dramatically reform the trade adjustment assistance program, which is our best effort to help displaced workers, who have lost their jobs because of the impact of foreign imports and who, because we have done so little over the last 7 or 8 years, represent a promise that has been broken in the worst way.

The trade bill would expand eligibility to secondary workers—those whose jobs are lost when the industries they supply suffer from foreign competition. It would end the cruel hoax of the Department of Labor's first separation requirement, which denies trade readjustment assistance to workers who were repeatedly laid off prior to a plant's final shutdown. The bill would make TAA training an entitlement, but one which is capped at $80 million. It contains amendments which Senator ROCKEFELLER, Senator MITCHELL, and I authorized to improve the administration and management of the program. I am pleased that these amendments have remained in the legislation and believe that trade-impacted workers will have a new opportunity to remake their lives.

PLANT CLOSING NOTIFICATION

There has been a great deal of discussion regarding plant closing notification. When it was offered on the Senate floor, I supported the Senate's provisions on this subject last July, for the simple reason that State and local job training service providers cannot respond to large-scale closings without notice. It is simply not possible to arrange classroom training, job search assistance, and counseling and assessment with only a few days' notice.

In my remarks last year on the floor, I expressed some concern that provisions governing layoffs might be too restrictive and could penalize troubled industries which are unable to prove that layoffs were unforeseeable. The conference report requires notice of layoffs which affect 500 or more workers or layoffs of more than 50 workers if that is one-third or more of the plant's work force. I remain concerned that these provisions are inequitable; yet I recognize that the legislation has been significantly altered since its inception. Further, this debate, and the statement of managers will help to clarify the legislative history of this provision and guide any future court action.

In my opinion, notice of a final shutdown is only fair. Workers deserve an opportunity to plan for the future; to take advantage of job search and training programs. Notice of lay-off is a very different matter. The majority of layoffs are based on the business cycle, which is extremely unpredictable. It is imperative that the courts interpret the legislation, which requires notice only where lay-offs were reasonably foreseeable, with the understanding that sudden market fluctuations are unforeseeable, and thus notice cannot be provided.

EXCHANGE RATES AND INTERNATIONAL ECONOMIC POLICY COORDINATION

The language included in the bill on international economic policy coordination closely tracks legislative language reported by the Banking Committee in 1986 when I was chairman of the Subcommittee on International Finance and Monetary Policy. The bill recognizes the need to make international monetary and economic policies a conscious part of the policy debate domestically, and to make international coordination of these policies a central element of relations with our Western allies. To that end, coordination goals and objectives are established in law and an international monetary policy report is established to ensure a continuing dialog between the executive and legislative branches on these important issues.

REVIEW OF MERGERS AND ACQUISITIONS WITH FOREIGN PERSONS

The bill provides additional authority for the President to suspend or prohibit mergers and acquisitions that would result in foreign control of U.S. persons involved in interstate commerce if the President finds that such foreign control would impair our national security. Under current law, the President can exercise an element of control over defense contractors, and he can exercise extraordinary powers if conditions warrant declaration of an international economic emergency. However, absent congressional action, he lacks the targetted authority provided in this provision to protect the national security.

While the provision is clearly not intended to impose barriers to foreign investment, there are critical industries and sectors in the United States whose control by certain foreign persons would be extremely inimical to our interests. The President's authority to deal with this problem would be assured.

INTERNATIONAL DEBT

Mr. President, the debt section of the trade bill is a mixed bag. Its regulatory provisions also track legislative language reported by the Banking Committee in 1986 during my tenure as chairman. These provisions are premised on the notion that our Government and regulators has to provide intelligent incentives to debtors and creditors to achieve lasting solutions to the debt problem. Economic reform by the debtors has to be supported by reduction of their debt service burden. To that end, the Treasury and bank regulators are instructed to study the widest possible range of regulatory measures to encourage a reduction in the indebtedness and, therefore, the burden of the major debtors.

On the other hand, an opportunity to move beyond studies to actual resolution of the debt problem was missed in this bill, at least in my judgment. Instead of meaningful action, the bill focuses on studies and negotiations relating to creation of a multilateral debt management facility. Such an institution would shift the burden of LDC debt service from banks and LDC debtors to Western governments and their taxpayers. It would relieve those with the most at stake—the debtors and their creditors—of the burden of working out solutions to the debt problem and would tend to provide the greatest rewards to countries whose debt has been discounted most because of poor economic performance.

The bill should have enforced much tougher, more active regulation of banks heavily exposed to LDC debt. The requirements for higher capital and reserves under the International Lending Supervision Act which I sponsored in 1983 should have been toughened. This would force regulators to require reserves against loans to debtors not dealing effectively with their problems and moving toward insolvency, rather than doing nothing while conditions deteriorate. Such an activist approach would also provide an opportunity to reward debtors that are coming to grips with their problems with more liberal treatment and a regulatory seal of approval to encourage additional lending and investment from abroad.

IMPORT-RELATED ISSUES

Mr. President, I am sure that this does not exhaust the list of constructive provisions in this bill, since I have concentrated primarily on those areas within my purview as a conferee. I do want to spend a few minutes, however, discussing the outcome of subconference 1, the trade policy material generally regarded as the core of the bill. Although I did not serve on that subconference, I serve on the Finance Committee which wrote the provisions, and I was responsible for a good number of them, both in committee and on the floor. However, my comments are not going to focus on my own provisions, despite the fact that a good number of them appear, in whole or in part, in the final version of the bill. Rather I want to talk about what is not in the bill, because it is the missing pieces that tell the real story. In that regard, Mr. President, perhaps we can spend a few minutes thinking about who this bill is not going to help.

First, it is not going to help import-impacted industries adjust. The Senate's amendments to section 201 of the Trade Act of 1974, the so-called escape clause mechanism, were modeled on legislation I first introduced in 1983, the Industrial Revitalization Act. That legislation, along with subsequent revised versions, was designed to create a quid pro quo between the Government and industries seeking import relief. Industries would have to make a strong commitment to adjust to new competitive circumstances and develop actual plans to do so, and the Government, in return, would provide an umbrella of relief from imports for a defined period of time to allow the promised adjustment to occur, assuming of course that the International Trade Commission found that the GATT article XIX injury standard had been met.

The conference agreement, although it is still modeled in many respects on my proposals, retains the quid without the quo. The burden of adjustment remains, along with what I fear is only a modest tightening of The President's discretion in granting import relief. While it may be difficult for him to do nothing, it will continue to be quite easy for him to do very little, and to avoid doing anything intelligent. This is a real disappointment for those of us who believed that the best way to combat industry-specific protectionist pressures was to provide a legal basis for forcing adjustment.

Second, the bill is not going to help industries being victimized by customs fraud. Senators may recall that throughout last fall and early this year I placed in the RECORD a series of "Frauds of the Day," each detailing a case of fraud that had harmed a U.S. business. There is no disagreement that this is a serious and growing problem. The House and Senate bills each had a provision to deal with customs fraud. The House had a provision that would, under certain narrowly defined circumstances, have allowed imports from customs scofflaws to be excluded from our market. The Senate bill contained my provision providing a private right of action against customs fraud, a provision I had worked on with the Treasury Department, and which they did not oppose. Nevertheless, the conferees removed both provisions from the bill. As a result we are telling importers the Congress is not concerned about their crooked schemes designed to evade our trade laws, and we are telling American industry that when they are forced out of business by people breaking our laws, that is just too bad.

Mr. President, that is a terrible message to send.

Mr. SIMON. Mr. President, will my colleague yield?

Mr. HEINZ. I am delighted to yield to my friend.

Mr. SIMON. The Senator was talking about terrible practices and fraud. Just a couple of hours ago, having a casual conversation with our colleague, Senator PROXMIRE, it was pointed out to me as to this conference report, which I support, among the things that we have done is we have emasculated, according to him, the provision that prohibits bribery abroad by American corporations.

The Senator from Pennsylvania was on the conference committee. I really hope if this bill becomes law somehow we can move back to the present law in that regard.

Mr. HEINZ. Is the Senator asking a question?

Mr. SIMON. I am asking why that was done and what we can do to correct that error.

Mr. HEINZ. I say to my friend from Illinois that Senator PROXMIRE, who is the author of the original Foreign Corrupt Practices Act has maintained that the law that he helped write back in 1977 was perfection itself and that a word changed, let alone several areas changed in that legislation, would in his words "legalize bribery."

I believe that the conferees have done anything but legalize bribery in this legislation. Indeed, to the contrary, I think we will find that our revised Foreign Corrupt Practices Act, with the reforms contained in this legislation, will be a vast improvement on what we have had. The law will be clearer. It will be easier to understand. It will be more enforceable. As a result, we were able to have, both on the Senate side and on the House side, strong bipartisan majorities for these reforms.

I might add that on a number of occasions Senator PROXMIRE expressed support for the FCPA amendments as reported by the Senate. Regarding the knowledge standard in the law with which the Senator has expressed greatest problems, Congressmen RODINO, BERMAN, HUGHES and a clear bipartisan majority in the House indicated the conference outcome was an improvement over the Senate bill. I would refer my colleague from Illinois to the comments of Congressman BERMAN on the House floor last Thursday on this point.

So I think if the Senator from Illinois is concerned about legalizing bribery, he really need have little in the way of concern on this legislation. I say that as somebody who has been involved in this issue here on this floor for longer than I can recount, and I will not take the Senator's time to do so.

Mr. SIMON. I thank the Senator from Pennsylvania, and I will follow through on that.

Mr. HEINZ. Mr. President, third on the list of what this bill is not going to do is that our conference report before us is not going to help the victims of unfair trade practices in this country. I repeat that. This bill is not going to help the victims of unfair trade practices in this country. I think that is a shocking revelation perhaps to many of our colleagues, certainly to the public, because there were many provisions in both the House and Senate bills that were in fact designed to improve our unfair trade practice laws.

Many of them, primarily the minor ones, found their way into the final product and will provide what you might call a modest cleanup of current law.

The ones that would have made a difference, however, such as the ESP offset, diversionary dumping, private right of action for dumping cases, applying our countervailing duty law to nonmarket economies, the provisions on cumulation, and many others, were dropped or gutted.

Mr. President, the Finance and Ways and Means Committees seem to find time to rewrite the entire Tax Code every 2 or 3 years, but we have not had a significant revision of our unfair trade practice laws since 1979. As a result, smart lawyers on both sides of these issues have found ways to evade congressional intent, and a number of unintended consequences have emerged as well through the process of litigation. Significant reform is overdue, and this bill, I am sorry to say, fails to provide it. As a result, we are saying to our industries who suffer from unfair trade practices—which increasingly includes those in high tech sectors as well as more classic "sunset" industries—that the Congress is not going to help, that they should not look to our law for relief. We have seen what happened to the domestic television industry over the last 20 years, primarily because of Japanese dumping. What we are now telling industries as disparate as machine tools, semiconductors, and steel is that we do not care if the same thing happens to them—a sorry message indeed, that we will all, I fear, come to regret and regret sooner rather than later.

Fourth, as to what this bill does not do, is that it is not likely to provide much help to industries with their market access problems abroad. The two committees expended tremendous efforts to our section 301 procedures—our laws against unfair practices that bar our companies from competing in foreign markets—in the wake of the administration's reluctance over the years to use the procedures either creatively or aggressively to reinforce American interests. Even when they did begin to employ the 301 process and take cases to the GATT, it appeared to be explicitly an effort to defuse congressional sentiment to do more, rather than a genuine conviction that American companies needed defending. As a result, the Senate bill contained provisions for mandatory initiation of certain cases and virtually, although not entirely, mandatory retaliation in the event of unsatisfactory resolution of complaints. The Senate bill also broadened the universe of actionable practices in some significant ways, including the addition of the workers rights language that was the source of some controversy last summer.

The subconference result, however, is totally unlike the Senate bill nor, for that matter, much like the House bill. It is a disappointment on all fronts. The mandatory initiation provision is gone entirely. The mandatory retaliation provision has been weakened with additional excuses for the President not to act. The list of enumerated actionable practices has been shortened down to a very short list indeed.

How significant these actions are remains to be seen. It is fair to say that the stronger provisions were developed as a response to years of several administrations' failure to act decisively. Nevertheless, the authority to act decisively is in current law and will still be there if this bill is enacted. It is the will to use that authority that seems consistently, year in and year out, to have been lacking, and these new provisions do not, by themselves, create new backbone where none has been before. That will be up to the next President. However, if it is the intent of these amendments to prevent a repeat of years of inadequacy, then I believe they fail that test.

Finally, Mr. President, this bill fails to deal with one other very important subject. It fails to deal with the underlying realities of the world trading system. There is no question that we do not have it in our power to legislate away the trade deficit. And anybody who claims that this bill will do so is in serious error. Nor can we in this bill, or probably in any other, legislate away macroeconomic realities that contribute to the problem. The realities are that we consume too much, we save too little, and we are not productive enough.

We can, however, point ourselves in the right direction to tackle those problems and point our country in the right direction to attack the problems in the international trading system. The bill makes some progress in acknowledging that our simple-minded reliance on reducing the dollar's value as the answer to all our trade problems is not a coherent policy. It also makes some modest progress in recognizing the complexity of the international debt situation and acknowledging that a variety of policy options will be needed to manage it effectively.

The bill fails, however, to reposition our Government and our trade policy to deal with the different world that confronts us—a world in which we are no longer, as we once were just two decades ago, the preeminent economic power. Today, we are one of many, not the only. Today, we also live in a world in which we are not insulated from the winds of trade change, but we are increasingly buffeted by them; a world in which the rules of the game are under constant attack by mercantilist forces.

For some 10 years, I have been arguing here on the floor, in committee, and in countless forums, that we can no longer view the economic world through the prism of the 1950's and 1960's. We have to adapt to the new reality of a tougher world where our stake is greater and our advantages more marginal. We began that adaptation in 1979 with the last trade bill the Congress can be proud of. We marked time in 1984 with a bill that failed to address any of the trade problems we faced—a failure made embarrassingly evident by the sorry statistics of the following 3 years.

Now it appears we are largely marking time again. We are not reorienting the trading system. We are not helping our injured industries. We are not standing up for the rule of law in trade. And we are not helping our producers increase their access abroad.

If we had been doing this 4 years ago I would not have said, as, indeed, I did say, "we have missed a golden opportunity to put these issues on the table, to identify them, as problems of the future if not the present and to signal our determination that we and our trading partners address them." When the Finance Committee reported its part of the trade bill last June, nearly a year ago, I said, in expressing disappointment with the bill at that point, that our policies had failed and that more of the same simply was not good enough. Well, Mr. President, what we have here is more of the same, and it is clearly not good enough.

Nevertheless, I will vote for this bill. It is difficult to do so with enthusiasm. I do so with some reluctance, in view of its failures. But those failures are primarily errors of omission. What is in the bill is largely not objectionable and in a good number of cases, as I have indicated, commendable. In voting for the conference report, however, I will say again what I said 4 years ago. We have not addressed the basic international economic issues facing us, and until we do, we will continue to have trade bills. I shudder at the prospect of passing trade bills as frequently as we pass tax bills, but we may have to do that until we get it right. Benjamin Disraeli once said, "Free trade is not a principle; it is an expedient." Well, Mr. President, in the name of free trade we have chosen the path of expedience with this bill. I hope that next time around we can do better.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will be very brief. I know Senators wish to speak.

I want to mention one provision of this bill, one section of this bill, which I think is critical and has not been sufficiently emphasized; that is, agriculture.

At this very moment our trade negotiators are negotiating with Japanese negotiators over setting a date certain by which Japan will eliminate its quota on American beef. Japan at this point is telling our negotiators that they may be willing to set a date certain, some years hence, but only if they, Japan, set a tariff, a higher tariff on American beef in Japan to correspond with or offset the effect of eliminating the quota.

This is the kind of problem we have been facing for years, that is one trade barrier being replaced with another. It is another example of a series of contentious issues, serious negotiations, where it is exceedingly difficult for the United States to come to cloture, to advance the ball, to not have to deal with another trade barrier that pops up.

The State Department is tending to indicate to the USTR that we should accept that. I very much hope our USTR does not accept that.

Under current law, our negotiator does not have quite the same authority he would have if this conference report were adopted; authority to negotiate with the Japanese. Because if this conference report is adopted, our trade negotiator would then have the authority to, basically, set in motion some retaliatory actions in effect, if Japan does not agree to eliminate its quota within a date certain.

I do not want to overstate the point, I do not want to exaggerate the point, but if this conference report becomes law and is signed by the President then our trade negotiator would be in a much better position to negotiate an agreement, not only in this case with respect to beef, but in every other case like this.

Point No. 2, this conference report also increases by 150 percent the Export Enhancement Program; that is the Agricultural Program which has allowed the American grain industry to sell the huge surplus of stocks, particularly wheat and other commodities, overseas. We have been able to meet the competition. That is in this conference report.

If this conference report is not passed by this Congress or signed by the President, then American agriculture loses that 150-percent increase under EEP. That is probably one of the strongest provisions in this bill that helps agriculture. That is another reason why this conference report should be adopted.

There is a third reason, and I will then yield the floor so my friend from West Virginia can address the bill. The third reason is this. If, by 1990, the U.S. trade negotiators do not reach an agreement in the GATT round on agriculture, then the United States is able to trigger in marketing agreements, orderly marketing agreements on other agricultural commodities. That is a terrific boon to agriculture. It has helped cotton farmers. It will help others.

We are asking all those in the Senate who have not yet supported that conference report, who are concerned about their agricultural interests, I urge them to look at the very strong agricultural provisions in this bill and when they do they will realize A, they should vote to support this conference report; and B, particularly if they are Members of the other party, urge the President of the United States to sign it.

This conference report has many provisions that will help America's trade. But the one I would like to focus in on is agriculture. It has very, very strong provisions that will very much help American agriculture and I urge, again, my colleagues to support the conference report for this reason.

Mr. President, I see my friend from West Virginia apparently waiting and I yield the floor.

The PRESIDING OFFICER. (Mr. GRAHAM). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am in total support of the Omnibus Trade and Competitiveness Act. This is a good bill, one that is desperately needed by this country. It makes changes in our laws and regulations that will improve America's ability to compete.

I know the people of my State, West Virginia, want a trade bill. I'm sure the American people—whether Democrat or Republican, from the North or South—want a trade bill. Everywhere I travel in West Virginia, I get asked about trade. Congress and the administration are expected to do something to make the trading system fair and to do something about a trade deficit that is the sign of problems that we simply have to deal with.

Yes, this bill is not perfect. Many compromises have been struck and concessions made. But that's because the process of writing and debating legislation of this scope and complexity has to involve accommodation. Most importantly, the process has been aimed squarely at getting enough support from all sides to enact it into law. I am truly disappointed that the administration has yet to appreciate this process and does not realize that it's time to pass this legislation.

The positive features of the bill are too numerous to list fully. I want to cite just a few that I consider to be the most important.

First, and of great importance to my own State of West Virginia, are the changes the bill makes in trade adjustment assistance. As a member of the Senate Finance Committee, I was actively involved in writing the provisions on TAA. The way we treat workers in industries that are no longer competitive is tragic. No advanced industrialized country does a worse job than we do in helping displaced workers obtain training so they can become qualified for a new job. This bill provides a guaranteed source of funding for this retraining. It also includes a number of changes to the current system so that displaced workers can take maximum advantage of the new opportunities. Mr. President, our strength as a country lies in our people. There is no greater priority than assuring a satisfying, productive, rewarding job for every able-bodied American. The men and women of West Virginia who are unemployed because of imports or for other reasons that are not their fault want to work, and this bill will help provide them the means to do so.

Let me turn for a moment to the plant closing provision, which is directly related to our efforts to help workers adjust in a highly dynamic economy and trade situation. Again, we are virtually the only advanced industrialized country in the world that has no law providing decent treatment for workers when their employer closes down a business, a plant, or a coal mine. Management has no right to throw hundreds or thousands of workers out onto the street with no warning at all. We are talking about people with families to feed, electric bills to pay, and mortgage payments to meet. They must receive basic, humane treatment. Frankly, Mr. President, I find it inconceivable that anyone would vote against the plant closing provision—against the basic right of an individual to be treated with dignity and consideration.

Another vitally important objective of this bill is to expand world trade on an equitable basis. Section 201 is designed to provide American industries with the time they need to become competitive again. The bill puts a new obligation on American industry to assure that they will use this time well and not just sit back and enjoy the special short-term protection it affords. How can anyone vote against a measure like this that ensures positive adjustment of our economy?

The new section 301 provisions will expand global trade, something that should be a goal of every American. We face closed markets on every continent, and this section gives the U.S. Trade Representative the tools it needs to get those markets to open up, not just to American products but to products from other countries as well. Everyone benefits when world trade grows, as long as it doesn't just grow in one direction. Section 301 is a critical part of this bill.

The trade bill grants the President negotiating authority for the Uruguay Round of multilateral trade negotiations. All Americans will benefit from successful negotiations as we try to liberalize international trade rules. This bill provides for a smooth process of approval and assures that consultation within the United States among the executive branch, the Congress, and the private sector will be carried out to the benefit of this country.

There are many more excellent and critically necessary provisions in the trade bill. When they become law we can get down to the business of making America competitive again.

Mr. President, I am distressed by the President's talk of vetoing this bill. I think he would be making a serious mistake, and those supporting his veto, should he decide to go in that mistaken direction, will regret their actions. A veto of this bill would hurt the American people. A veto would delay the day when our trade deficit will disappear. A veto would damage American business and American workers. I urge all of my colleagues to vote in favor of the trade bill, and I urge the President to sign it as soon as it reaches his desk.

Mr. METZENBAUM. Mr. President, last week I rose to discuss in great detail the substance of the plant closing provision of the trade bill. According to the opponents of this provision, requiring employers to give workers and their communities 60 days' advance notice of a plant closing or mass layoff is a radical idea that threatens the core of our free enterprise system. That position is truly regrettable.

There is nothing radical about the plant closing provision.

No less a person than the conservative columnist, James J. Kilpatrick, addressed himself to the issue just yesterday on national television.

It is a modest requirement that amounts to basic fairness and simple common decency. The plant closing provision reflects the values of mainstream America, and I just heard the Senator from West Virginia address himself to this subject. He is entirely on target.

The Wall Street Journal—the Bible of the business community—had this to say on today's front page:

> In fact, the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide plans to close a plant until the last minute, leaving workers and communities in the lurch. It is squarely in the tradition of such social reforms as the child labor and minimum wage laws. These act to soften the social consequences of free market decisions and thus permit the market continued public acceptance without the sort of deep Government involvement often practiced abroad.

Listen to what Robert J. Samuelson, a nationally syndicated, probusiness columnist, wrote last week:

> Suppose you're a 52-year-old machinist. You've worked for your current employer for 18 years. One Thursday morning, you're told that the plant is shutting down a week from tomorrow. A little abrupt? You bet. But that's about the typical notice that many companies give their workers. It's indecent."

After this telling example, Samuelson goes on to assess the plant-closing language in the trade bill:

> But no one should think that organized labor—the main sponsor of the plant-closing legislation—is actually the principal force behind it. There are certain modest standards of decency that people expect from companies. When these standards are widely violated, public pressure builds for a political solution. On plant closings and layoffs, companies aren't measuring up.
>
> Losing your job is one thing. Most Americans accept the threat of unemployment, no matter how much they fear it. But it's another thing to have your life turned upside down with hardly a moment's warning. People need time to come to terms with that kind of radical break. They also need time to get a sense of the job market, explore retraining programs or—for experienced workers—simply relearn the basics of how to search for work.

Listen to three of the Nation's leading newspapers—the Washington Post, the New York Times, and the Christian Science Monitor. The Post editors concluded last year when the trade bill was being considered by the Senate that:

> It's useful to make a distinction between the kind of legislation that provides a shock absorber and the kind that tries to prevent competitive shocks altogether by penalizing foreign goods and keeping them out of the country. The plant-closing provision is a shock absorber, an attempt to mitigate the most painful side effects of competition and economic growth.

The Christian Science Monitor has declared:

> But really, providing 60 days' notice to a worker or community hardly seems excessive in a society where it takes that long to sell a house, or relocate the kids to a new school, or just start to budget the paycheck better."

Just last week, the New York Times after thorough analysis of the issue concluded:

> On Reflection, we're prersuaded that businesses too often lay off employees with little or no warning. Additional Federal regulations won't make America more competitive but the proposals in the foreign trade bill could, without undue burden, help employers become more humane.

Finally, listen to county and municipal leaders who through the U.S. Conference of Mayors, the National Association of Counties and the National League of Cities have declared:

> On the basis of fairness alone, workers have a right to know about decisions that dramatically affect their livelihoods and that of their families and their communities. Companies really shouldn't be allowed to keep such important information a secret from their workers and their community.
>
> Local governments likewise need this advance warning in order to plan for the future in the face of the economic and social hardships which accompany major plant shutdowns.
>
> Experience has shown us that a community and its workers can often take bold and extraordinary steps to keep plant gates open, if there is some warning. If plant closure cannot be avoided, advance warning provides workers and their communities with a head start in terms of job search and placement, counseling, and the initiation of training and retraining programs. In Canada, advance notification has helped reduce unemployment time from 22 to 7 weeks for affected workers.

The passages I just read reflect only a sample of the broad support for the plant-closing provision of the trade bill. Advance notice is supported by the U.S. Conference of Mayors, the National League of Cities, the National Association of Counties, the New York Times, the Washington Post, the Christian Science Monitor, the Cleveland Plain Dealer, and numerous other newspapers. In addition, the following groups all have expressed strong support for mandatory notice: the U.S. Catholic Conference, the American Baptist Church, the Lutheran Chruch, the Presbyterian Church, the United Methodist Church, the NAACP, the American Association of Retired Persons, the National Farmers' Union, the National Urban League, and scores of other religious, and civil rights organizations around the country.

Given these strong endorsements from the mainstream of American life, it is hardly surprising that an overwhelming majority of the American people support the need for mandatory plant closing legislation. Business Week reports that 86 percent of the American people favor such legislation.

The Congress must do the right thing by enacting the plant closing provision into law. It is good public policy; it makes economic sense; and it is a matter of simple human decency.

This is an issue that has become a cause celebre, and the President, likes to make flippant remarks about it. I can only say to my colleagues and to the President of the United States that: "Mr. President, we are not looking for confrontation with you on this issue. We think you are a decent man and we think that this issue is about decency. We ask you to reevaluate your position and take another look at the plant closing provision. Take a look at the fact that conservative columnists, like Samuelson and Kilpatrick, groups like the Conference of Mayors, the National League of Cities, the National Association of Counties, along, with other public officials, and various religious, community, and civil rights organizations, all have come together and said this legislation should be passed.

"Mr. President, we ask you not to veto the bill. We ask you, Mr. President, to affix your signature to it and let it become law. It is a matter of simple common decency."

Mr. President, I yield the floor.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I am pleased to support the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988. I would like to congratulate my colleagues on the work they have done over the past year to fashion this bipartisan approach to our trade problems. The trade bill conference has been one of the most complex in the history of the Congress, and I believe that the participants have done the country a tremendous service in navigating this bill through that complex process.

For years, America's trade problems have suffered from neglect. When I entered the Senate in 1983, our trade deficit was running over $60 billion. Now we routinely run up that much in just a few months. No serious observer can believe that the United States can continue to run these historically high trade imbalances without facing grave consequences. I am pleased that this bill recognizes the precariousness of our situation.

The bill makes a number of important changes to trade law and trade policy. It provides for new authorization for trade negotiations, for the implementation of the harmonized international tariff schedule, for reform of export controls, for changes to the Export Trading Company Act and the Foreign Corrupt Practices Act, and for measures strengthening our trade promotion activities. The bill specifically strengthens the ability of our trade laws to deal with the problem of foreign barriers to trade. It attacks the problem on the basis of reciprocity. There is nothing sinister or menacing about reciprocity. Reciprocity gives foreign producers control over their own access to the U.S. market; if foreign producers wish to compete openly in our home markets, we must be able to compete openly in their home markets. Free trade must be mutually free.

This bill also moves U.S. trade policy in an important direction—away from import relief for the sake of import relief and toward import relief for the sake of structural adjustment. The bill moves away from the notion of import relief as an entitlement to industry. By encouraging industry to make positive adjustment plans to counter import competition, this bill takes a giant step forward in the process of constructing a competitive America.

I am also pleased that this bill recognizes that we confront not just a trade problem, but a competitiveness problem. Our trade deficit is but one manifestation of the challenge this Nation faces in the new world economy. Over the past two decades, we have seen a deterioration of the ability of American firms to compete internationally and of the American people to maintain and improve their standard of living. Despite the length of the current economic expansion, little has been done over the past 8 years to improve our economic competitiveness and much has been done to hurt it. This bill reverses that trend.

The Omnibus Trade and Competitiveness Act of 1988 includes important measures to improve the ability of U.S. firms to compete both internationally and domestically. It increases assistance to dislocated workers, improves worker retraining activities, bolsters education, augments science and technology, and increases the protection of intellectual property. Active participation by the Federal Government in the areas of export promotion, education, worker assistance and retraining, and science and technology development is absolutely critical if America is to regain its competitive edge.

IMPACT ON NEW MEXICO

Mr. President, the bill contains a number of provisions important to my home State of New Mexico, some of which I had the privilege of authoring. To help the ailing oil and gas industry, this bill repeals the windfall profits tax on oil. This is a tax which generates no revenue, only paperwork. The bill also expands trade adjustment assistance coverage to oil and gas workers and to suppliers of the oil and gas industry.

By strengthening our trade laws, especially those concerning unfair trade practices and antidumping and countervailing duties, this bill will give our hard pressed natural resource industries, such as copper, potash, and uranium, the tools they need to fight unfair foreign competition.

Also important to New Mexico and the Southwestern United States is a provision in this bill which I was pleased to originally offer that expresses the support of the Congress for the bilateral framework agreement on commerce and investment signed last November between the United States and Mexico. Better commercial relations between our two nations will result in increased trade between Mexico and New Mexico.

The bill also contains two provisions to help native American artisans. One provision requires permanent markings on imported native American-style jewelry. The sale of such counterfeit 'Indian' jewelry both takes away sales from native American artisans and cheapens the value of their work. Now, consumers will be able to tell the authentic from the fake. The bill also includes a provision I authored to authorize the Secretary of Commerce to help Indian tribes and artisans promotion the exports of native American arts and crafts. While the provision authorizes no new funds, I urge the Secretary to set aside suitable funds to facilitate the export of Indian arts and crafts. I also hope the Secretary will promulgate the rules and regulations needed to implement this provision as soon as possible.

This is but a cursory overview of the various provision of the trade bill. There are also a number of provisions which will benefit New Mexico's education, high technology industries and agriculture.

Mr. President, I would like to discuss in greater detail two parts of the competitiveness legislation which I introduced: the Competitiveness Policy Council and the National Trade Data Bank.

COMPETITIVENESS POLICY COUNCIL

The Competitiveness Policy Council will serve as an external forum for the discussion of problems of economic competitiveness. It will also serve as a mechanism for creating solutions to those problems through the interaction of business, labor government, academia, and public interest groups. And it will act as a source of badly needed independent review of the competitiveness policies of the Federal Government. The council will review and comment on existing and proposed Federal policies and regulations. And it will report annually to the Congress and the President on the ability of the United States to compete internationally, on the status of major sectors and industries of the economy, and on the affect of Government policies on the ability of those industries to compete internationally.

The council would also fill a major void in the current advisory system—a forum for consensus building. The current advisory systems exists solely to channel information from the private sector to the Government. It does not, and should not, constitute a forum for discussion of and consensus building on a competitivenes strategy. Yet, such a discussion and consensus building forum is crucial if we are to meet the competitive challenges facing this Nation. The council will supply that very important need.

It should be noted that the council does not have any administrative or operational responsibilities, nor is it intended to create any new administrative process in the Federal Government. The council is advisory only.

NATIONAL TRADE DATA BANK

Mr. President, another provision in this bill establishes a National Trade Data Bank. The data bank is to consist of two data bases: the International Economic Data System and the Export Promotion Data System. Both of these systems will build on current data systems. Specifically, the Export Promotion Data System is expected to be an expansion of the current Commercial Information Management System and include appropriate data from other departments and agencies.

The provision explicitly requires each department and agency to furnish information to the National Trade Data Bank, which is intended to be a centralized point of access for information on trade and international economics throughout the Federal Government. While the Commerce Department collects extensive information on trade and export promotion, other departments, agencies, and programs also have valuable data. Therefore, it is important that the data bank consist of trade data from all appropriate Federal departments and agencies, not just the Commerce Department.

The provision also creates an Interagency Trade Data Advisory Committee, to be chaired by the Secretary of Commerce. This committee's function is to advise the Secretary on the operation of the National Trade Data Bank. Currently, policymaking on trade data is scattered throughout the Federal Government with OMB charged with coordination. Unfortunately, OMB plays the role of naysayer rather than facilitator of trade data in all too many cases. It is my hope that the Interagency Trade Data Advisory Committee, rather than OMB, will serve as the focal point for interagency coordination of trade data and for the creation of a coherent trade information policy within the Federal Government.

CONCLUSION

Mr. President, as the most recent trade figures show, our problems are far from over. Obviously, this bill will not solve them all overnight, nor is this bill perfect. But the Omnibus Trade and Competitiveness Act of 1988 is a step in the right direction. Nevertheless, much still needs to be done. The good work of the Congress in focusing on trade and competitiveness needs to continue.

Mr. SARBANES. Mr. President, I rise in support of the conference report on the Omnibus Trade and Competitiveness Act, which is before us.

I commend the very able chairman of the Senate Finance Committee, the distinguished Senator from Texas, for his very effective leadership in crafting not only the Finance Committee's parts of this bill but also in bringing the rest of us who had a piece of it together in a way that I think we constructed a national trade policy in this legislation. It represents a very important and significant advance.

Mr. BENTSEN. Mr. President, that is a very generous statement by the Senator from Maryland. But without the cooperation, the help, and the leadership he showed in handling that part of the conference, we would not be at this juncture. I appreciate it very much.

Mr. SARBANES. I thank the Senator.

Mr. President, the Banking Committee, which had important sections of this bill, has crafted a major contribution toward national policy.

I am deeply concerned about the President's assertion that he will veto this measure, because I think it would represent—if the veto could not be overridden—a loss of a tremendous amount of work on the part of Members of Congress on both sides of the aisle. Much of what is in this legislation represents a cooperative effort to come together on pressing issues facing our Nation, particularly the deteriorating trade position, the growth in the trade deficit over the last few years, which has resulted in the United States now being, for the first time since 1919, a debtor rather than a creditor nation. The United States has passed from creditor to debtor status in the last couple of years as a consequence of this very large trade deficit we have been running year to year.

Even if we improve the trade deficit position, until we bring it back into balance, we will still continue to deteriorate into a worsening international debtor status.

Mr. President, I thank my colleagues on the Banking Committee, particularly the chairman, Senator PROXMIRE, and the ranking minority member, Senator GARN, and Senator HEINZ, who is the ranking member of the International Finance Subcommittee, which I am privileged to Chair.

The Banking Committee held seven hearings—extended, careful, thorough hearings—on provisions in this legislation within our jurisdiction: on the matter of export controls, which is of concern to many of our exporters; on exchange rates, which many perceive as having made a major contribution to our trade deficit, because the exchange rate situation was ignored in the early 1980's in the overvaluation of American currency, which put our producers at a disadvantage in international competition, and was allowed to continue; on international debt, which is a matter of major concern; on export trading companies and export promotion.

In all these areas, I believe that the committee came forward with constructive suggestions which were adopted or modified by the Senate. We then went to conference.

I think it is important to understand the impact which the administration has had throughout on these deliberations, not only in the committee, not only on the floor of the Senate, but, once again, in conference, which, in many respects, was a three-way play among the Senate, the House, and the administration, as efforts were made to work out problems that were seen in the provisions, to improve particular aspects of the legislation.

In the area of export controls, the conference report strikes a careful balance between the need of U.S. exporters to be able to compete effectively in international markets and the genuine security requirements of the United States in controlling the sale to the Eastern bloc of high-technology goods with military application. Although the conference report delicensed many low-technology items, thereby freeing American business of a range of burdens which they found onerous, at the same time the conference report strengthens export control enforcement by focusing regulations on those critical technologies that are militarily significant.

Second, Mr. President, the conference report addressed two important aspects of international finance policy.

First of all, it calls for a regular report by the Secretary of the Treasury on exchange rates as they affect international economic policy. This should increase the accountability of any administration and avoid the drift in the conduct of international economic policy that occurred in the early 1980's.

In addition, the subtitle provides that the President shall seek to confer and negotiate with other countries to achieve better coordination of the macroeconomic policies of major industrialized countries, a matter which is of prime importance if we are to develop an internationally coordinated economic strategy designed to address the world economic scene in which we find ourselves and in which the United States has become increasingly interdependent.

It also provides that the Secretary of the Treasury shall initiate negotiations with foreign countries that manipulate the rate of exchange between their currency and the U.S. dollar for the purpose of gaining unfair competitive advantage in international trade.

I submit: What could be a more reasonable position than that we must begin to focus upon and take steps against the manipulation of the rate of exchange by certain countries in order to gain an unfair competitive advantage in international trade?

The conference report includes important language addressing the international debt issue.

Mr. President, I want to take just a moment on this, because it is a matter in which I have had a keen interest for a sustained period of time.

I believe that the provisions in here are reasonable as an important first step. They represent significantly less than what was sought by many Member of Congress, including this Member, but they reflect an effort to try to begin to move on this important issue.

In that regard, I am deeply concerned—"disturbed" would be the more accurate word—by the administration's statement of its objection to this provision, of stating in their factsheet that the bill requires a negotiation to create a centralized, new international agency for LDC debt to bail out these nations, the banks, or both.

The bill does nothing—nothing—of that sort. In fact, at the prompting of the Treasury, to whose concerns we try to be responsive, the bill provides for the Secretary of the Treasury to initiate a study to determine the feasibility and advisability of establishing an international debt management authority; and it provides that if the Secretary determines that the initiative of international discussions with regard to such an authority would carry a material risk of reducing the value of the debt, disrupting debt service, or causing defaults, the Secretary could report that to Congress and therefore would not begin discussions.

If such a determination were not made then he would begin such talks, but he would not initiate such talks if such a determination had been made but would report that to the Congress and his reasons for such determination.

This was expressly designed to address some of the problems which the Treasury had raised about this matter and in my judgment constituted a very responsive action on the part of the Congress.

Second, it is important to note that this legislation provides that the authority, if one were to be established, would purchase Third World debt at a discount on a voluntary basis. In fact, what is happening at the moment is commercial banks are selling their Third World debt at a discount, but the debtor countries get no benefit from it that would allow them to resume a growth path. Private parties buy the debt, buy it for speculative purposes, and they hold the Third World countries to the full amount even though the banks which have disposed of the debt have taken a discount and have taken a loss.

The consequence of this tremendous debt overhanging the Third World countries, the developing countries, is to have limited markets for American imports in those very countries, to have intensified the import competition which we confront from those countries as they seek to maximize their foreign exchange earnings in order to meet their debt obligations.

So they are forced on an austerity path that prevents them from being able to move on a growth path which would serve not only the purposes of the developing countries, but the purposes of the developed countries as well. Obviously, all of us share advantages from the world being able to move on a growth path and this proposal is one effort to move in the direction of carefully examining a route we might take which would significantly contribute to that.

It is also designed, of course, to get those countries running very large current account surpluses to make a larger contribution toward meeting the debt problem of the developing countries.

In fact, it provides that support for such an authority, if one were to be established, should come from the industrialized countries and the greater support should be expected from countries with strong current account surpluses.

One of the ways the nations with strong current account surpluses, Japan and West Germany, can make a contribution and assume a greater responsibility in terms of their international economic burden is to make this kind of contribution toward the developing countries in addressing the Third World debt question.

Mr. President, I think the provisions brought into this legislation by the Banking Committee are reasonable and highly desirable. As I mentioned before, there are export control provisions where we streamline licensing requirements, reduce the control list, clarify foreign availability procedures, and improve export controls enforcement. There are provisions on exchange rates, on reporting on exchange rates, and on the international monetary situation which are extremely important, important provisions on international debt, and provisions on export trading companies, designed to enhance their ability to function in the international environment and to promote American exports.

Finally, Mr. President, let me make this observation: This bill in many of its provisions represents extended and careful consideration by committees of the Congress over a very long period of time. This bill was not easily arrived at. And I submit that if it fails of passage, either because of a veto or because of not being able to override a veto, it is extremely unlikely that we could go back and put together the pieces.

In the course of developing this legislation, people with very strong views were repeatedly required to adjust, moderate, modify, compromise those views in order to reach the understandings that are reflected in this conference report.

Those adjustments took place within the committees in each House. They took place on the floor of each House. They took place in the conference between the two Houses and at every step of the way with the administration impacting significantly on the decisions that were to be reached.

Now, to lose this product which represents countless hours of committee work and to assume that somehow one will simply be able to go back and pick up the pieces and move it through, I think is being totally unrealistic.

There are many people who look at this legislation and if they get another chance at it will want to move it in this direction. There are many others who look at it and if they get another chance at it will want to move it in that direction. There are others, I assume, who look down the road and say, well, we will be dealing with a different administration, and they may take a different attitude toward important pieces of this legislation.

So I think the chance is here to make a major contribution to American trade policy, to sharpen and improve America's international competitive ability, to start to turn around this hemorrhaging trade deficit which has moved us into a debtor status as a nation for the first time since 1919. And I submit to you that, in addition to the economic consequences of that status, we cannot assume that we are going to be able to sustain our international leadership if economically we have weakened to the point that we now owe others.

You cannot stand tall in the saddle if you ride into the town and you owe everyone that you see. We need a policy that is going to move us out of that situation, and I think a very significant and important beginning is contained in this legislation.

I strongly urge support for the conference report and I very much hope it will be enacted into law.

I simply close with the observation that if we have to go back and start over again, in my view, it is going to be extraordinarily difficult to put these pieces back together.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland yields the floor.

The Senator from North Carolina.

Mr. SANFORD. Mr. President, I have a longer statement to make, perhaps at some later time, but I would like to follow on what our distinguished colleague from Maryland has said about the veto because it certainly is distressing to see the President, who has long been an ardent foe of fair and reciprocal trade, the heedless architect of the largest and longest running trade deficits in our history, is now about to destroy our chance to get back into world business. It is his political hype that has turned prime attention of the crucial legislation to a relatively minor section of the bill. The issue of plant closing notification has become the center of a maelstrom stirred up by the White House to defeat our fair trade bill.

Senators supported this modest little plant closing notification provision of this bill 60 to 40 when we voted on it last July. It is a relevant, although small, part of the new initiatives to make this Nation more productive and competitive.

The issue of plant closing notification is of special relevance to my State of North Carolina. In recent years, North Carolina has had one of the highest rates of plant closings and mass layoffs in this country, especially in the State's textile industry.

In all too many communities in North Carolina and other parts of rural America, workers have come to work in the morning to be shocked with word that the jobs would end in a day or two or a week or two. We know the loss of a plant can very well mean the death of a community. The first section of the plant notification subconference report and legislation deals with employment and training assistance for dislocated workers. Without this, we create additional unemployed and unemployable workers, additional burdens for the taxpayers, and extensive and unnecessary human suffering. Displaced workers could benefit from programs to provide them with job training and job placement assistance, if they have time to get adjusted. That is why this is relevant to that provision. As a study conducted by the Office of Technology Assessment [OTA] found, "the best time to start a project for displaced workers is before a plant closes or mass layoffs begin." This conclusion was further reinforced by Secretary of Labor's Task Force on Economic Adjustment and Worker Dislocation, which reported that "advance notification is an essential component of a successful adjustment program."

This plant closing provision is modest—too modest. It applies only to employers of 100 or more full-time workers. They must give just 60 days advance notice of plant closings. The bill's numerous exemptions fully protect the needs and interests of business. No business entity that closes a plant because of unforeseen business circumstances or faltering companies would be subject to the plant closing notification requirement.

It is sad that the President is opposed to this sound hedge against chronic unemployment, and outrageous that he would use this lame excuse to destroy our chance to regain our world trade competitiveness, that he would veto this carefully prepared trade bill to satisfy his peeve about the tiny part of it directed toward the unlucky plant worker about to lose his job.

Of the 2 million American workers who lose their jobs through plant closings and mass layoffs, two-thirds received no advance notice at all. How can we expect to enhance our economy's competitiveness when American workers are not given even the remotest chance to plan for the future? And on a more fundamental level, don't American workers, who work so long and hard to build our economy, deserve the right to be told in advance that their jobs have been terminated?

Let us keep this deliberation in the proper perspective. The plant notification is modest fairness. The trade bill is essential to the future prosperity of America.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from North Carolina has yielded the floor.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SANFORD). Without objection, it is so ordered.

THE PRIMARY AND CAUCUS SYSTEM OF THE STATE OF VERMONT

Mr. LEAHY. Mr. President, first I was going to try to explain the primary and caucus system of the State of Vermont, but I decided that I would not do that because I understand that the Senate may want to recess at some point today rather than go straight through until tomorrow. So I will save that for another time or one in which I can at least place an explanation in the RECORD.

But I would hasten to note to my colleagues that diversity and active participation are alive and well in the State of Vermont. We have now had, first, A primary, won by one candidate substantially, and we have had our local caucuses in which two candidates in my party split the vote, and next month we will have the convention. Perhaps I will wait until then because we will then have had a third resolved and then I can explain it all at once.

CONGRATULATIONS TO SENATOR MATSUNAGA

Mr. LEAHY. Mr. President, seeing my good friend, the Senator from Hawaii, on the floor, I wish to congratulate him for handling what was a piece of legislation which has been the work of years, the reparations bill.

I might say that the Senator from Hawaii showed the kind of thoughtful concern and the kind of eloquent debate that this body is known for but does not always show. I have often said, Mr. President, that the Senate of the United States is the conscience of the Nation, or should be. The Senator from Hawaii spoke to the conscience of the Nation last week and a very hefty majority of the Senate responded with the best voice of that conscience in voting for his legislation.

I applaud the Senator from Hawaii for making everyone of us search into his conscience, but also allowing the United States to speak to a point which surely has to have troubled the conscience of this country for over 40 years. And so I applaud my friend, Senator MATSUNAGA, for doing that.

Mr. MATSUNAGA. Will the Senator from Vermont yield?

Mr. LEAHY. I am pleased to yield to the Senator.

Mr. MATSUNAGA. The Senator, of course, is speaking out of order. The subject before the Senate now is the conference report on the trade bill, but I was hoping he would continue and go on and on.

Mr. LEAHY. Mr. President, I would note that the Senator from Hawaii did not object to the point of me speaking out of order, but I assure the Chair I will go to the trade bill immediately.

Mr. MATSUNAGA. Mr. President, I wish to thank the Senator for the great support that he gave me in helping to get the bill passed. I will certainly remember him. I will say to him now, "I owe you one." I thank the Senator.

Mr. LEAHY. The Senator owes me nothing. The Senate owes the Senator from Hawaii.

OMNIBUS TRADE AND COMPETITIVENESS ACT—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. LEAHY. Mr. President, I rise today in support of the comprehensive trade legislation that has taken so much of our effort and so much of our time. We have seen the hard work of the distinguished Senator from Texas, who is here on the floor, who has urged, debated, cajoled. He has not threatened any of us, but he certainly urged us very forcefully on occasion. The forcefulness of debate and his urging have paid off very well. I think all of the work that we have seen on this, both from Republicans and Democrats alike, has been worth it.

We have an unusual chance to pass a bill that will revitalize the American economy and help American workers. We have emerged from an 8 month conference with a trade bill we can all be proud of, that we should all vote for, and that the President should sign.

The omnibus trade legislation represents 3 years of long, hard work by Members of Congress and the administration—by Republicans and Democrats. This is a bipartisan effort to create an effective trade policy for the United States.

No one should question the need for a national trade policy. Since 1981, the U.S. trade deficit has increased fivefold, from $27.3 billion to $171.2 billion in 1987. The most recent trade figures also cry out for action. After months of small improvements, the monthly trade deficit in February increased by $1.4 billion to $13.8 billion. It was not too long ago that a $13.8 billion annual trade imbalance would be considered unacceptable.

The worsening trade imbalance is sending thousands of jobs overseas—American jobs, not Republican jobs or Democratic jobs. This bipartisan legislation will help bring those jobs back. In my own State of Vermont, more than one-third of the workers in the once thriving machine tool industry are out of work. It would be one thing if these Vermonters lost their jobs to more productive workers. But, the fact is that these jobs left Vermont due to foreign government subsidies and illegal trade barriers.

Mr. President, this is a golden opportunity to send a message to our trading partners. That message is: deal with American businesses and workers in a fair way or you will suffer the consequences. This trade bill says "no" to protectionism and "yes" to tough new rules to break down unfair trade barriers.

As one of the Senate conferees I have participated in the debate on many matters that were before the Conference. A lot of tough decisions were made. We all have given some and gotten some. Some provisions have been added and other taken out to achieve a compromise—to achieve a workable U.S. trade policy.

The trade bill strengthens sections 201 and 301 of the Trade Act of 1974 which allow workers and businesses to enlist the support of the Government to adjust to imports and to combat unfair trade practices. All of us know that unfair foreign trade barriers are not the sole cause of our trade imbalance. But that is no reason to act like patsies and accept the outrageous behavior of our trading partners.

Korea, for example, boasts that it has opened its markets to American consumer goods. That's not even a half truth. It is true that American companies can now export consumer products to Korea. But what happens to these products when they get there? The Korean Government forbids United States companies from warehousing or distributing consumer products. The bottom line is that you can ship all the products you want to Korea. You just can't get them to the consumers.

The trade bill also provides job retraining for current workers, to help them keep or find well-paying, quality jobs—jobs that will help them provide for their families.

The bill will increase the effectiveness of intellectual property protection and provide needed support for improved math, science, engineering, and foreign language education. If we are going to compete effectively in world markets, we must give our children the tools to be the best workers, managers, and scientists.

I have spoken of the importance of this bill to the Nation and Vermont. As chairman of the Senate Agriculture Committee, let me take a moment to speak of the special importance of this bill to the American farmer.

Farmers want free trade; $1 in every $5 in farm sales comes from export sales. That is why it is so important that this is a free trade bill. It will not give anyone an excuse to build barriers against our agricultural exports.

But fair trade is just as vital as free trade to our farmers. They have suffered long enough from closed markets and rampant export subsidization by our competitors.

That is why the export enhancement program is extended. The market development capabilities of the Foreign Agricultural Service are strengthened, and the Department of Agriculture is required to begin to look at agricultural trade policy from a long-term perspective, rather than the catch-as-catch-can policies that have characterized this administration.

The agriculture provisions sound a warning to all our trading partners that it is time to trade fairly. The bill would require the implementation of a marketing loan program or an expanded export enhancement program in 1990 if foreign countries do not take meaningful steps in multilateral trade negotiations to stop their unfair trading practices.

This bill also warns our friends in the European Community that we will not tolerate their efforts to apply unscientific inspection requirements on imports of our beef and beef products.

Finally, this bill makes the Dairy Export Incentive Program an effective tool to promote the export of dairy products.

In summary, this bill is important to:

Every wheat farmer who sees his wheat markets in North Africa disappearing to the Europeans.

Every soybean farmer who fears new barriers to exports of oilseeds.

Every cattleman who sees export markets closed in the Far East by protectionist import regulations.

Every dairy farmer who knows the need for new markets for dairy products.

That is why this trade bill has gained the support of some of the major organizations that represent the American farmer, including the American Farm Bureau, the National Association of Wheat Growers, the Rice Millers Association, and the American Soybean Association.

The agriculture title is not protectionist. It is export oriented. It will ensure that our agricultural products remain competitive in world markets.

I could speak for hours, Mr. President, but the point should be obvious. There is too much good in this bill to let it slip away.

The protectionist Gephardt Amendment was dropped. The highly restrictive foreign investment provisions were liberalized. Countless more compromises were reached in an effort to build a consensus among many diverse elements in the United States economy.

Now, it seems that all the attention is focused on one section of the bill: the plant closing provisions. The President has even vowed to veto the whole trade bill, because he does not like a single part of it. That provision would require big companies to give workers 2 months notice if they are going to lose their jobs due to a plant closing. This is only fair. Thousands of American workers who have worked for 10, 15 and 20 years for big U.S. corporations have seen their livelihoods disappear overnight.

American businesses can live with the final plant closing compromise. The provisions are very flexible and provide exemptions for plants that are trying to find financing to keep their operations going.

We never get exactly what we want in this body. Each piece of legislation is a compromise. But when we bring together a bill of this quality, a bill that is so desperately needed, a bill that will help so many of our citizens, we have beaten the odds, and we had better make the most of it.

As I stated earlier Mr. President, I was involved as a conferee on many aspects of this legislation. I would like to briefly discuss some of the more important provisions agreed upon by the Subconference on Agricultural Trade, the Subconference on Pesticide Monitoring, and the Subconference on Patents.

AGRICULTURAL TRADE

Mr. President, agricultural issues are at the top of the international trade agenda. Growing agricultural trade barriers and ever increasing export subsidies threaten the entire world trading system.

Every American has a vital interest in resolving the growing tensions in world agricultural trade. These issues, if not managed responsibly, could prompt retaliation against important sectors of the U.S. economy, including manufacturing and high technology.

The agriculture title is a small but important part of this huge undertaking. Agricultural trade is an integral part of a healthy United States farm economy. I believe the provisions of this bill will do much to help continue the recent improvement we have seen in agricultural exports.

The agriculture title recognizes the central importance of agricultural trade in the entire trade picture. For years, consistently high agricultural trade surpluses helped balance our overall trade account. Farm trade surpluses have been on the decline, however, adding fuel to our Nation's growing trade deficit. The agriculture title will help turn this decline around and improve the overall competitiveness of the United States.

This title also emphasizes the importance of the ongoing negotiations concerning agricultural trade being conducted in the Uruguay round of multilateral trade negotiations. Both the Senate and the House conferees were concerned that some of our trading partners, such as the European Community, will not make substantive concessions with respect to agricultural subsidies in the Uruguay round negotiations. This title contains a provision calling for the implementation of a marketing loan program or an expanded enhancement program in 1990 if significant progress has not been made in the multilateral negotiations.

AGRICULTURAL TRADE POLICY

The conference report provides that it is the policy of the United States to provide agricultural commodities for export at competitive prices; to support the principle of free and fair trade in agricultural commodities; to support the multilateral trade negotiating objectives set forth in the bill; and to seek the elimination of barriers to agricultural trade.

The conference report requires the Secretary of Agriculture to prepare annual long-term agricultural trade strategy reports establishing policy goals for United States agricultural trade and exports. The reports must set forth recommended levels of spending on international activities of the Department of Agriculture for 1-, 5-, and 10-year periods.

TRIGGERED MARKETING LOAN AND EXPORT ENHANCEMENT

The conference report also requires the President to submit a certification to Congress no later than 45 days after January 1, 1990, as to whether there has been significant progress toward achieving an agreement with respect to agricultural trade under the General Agreement on Tariffs and Trade [GATT].

If the President cannot certify that there has been significant progress toward reaching an agreement, the President must instruct the Secretary of Agriculture to implement a marketing loan program for the 1990 crops of wheat, feed grains, and soybeans unless the President determines that the implementation of a marketing loan would harm further negotiations. If the President so determines, an expanded Export Enhancement Program must be implemented unless the implementation of such a program would be a substantial impediment to achieving an agreement under the GATT.

The President is authorized to stop the implementation of either of these programs at any time if they have their intended effect; namely, they spur the GATT negotiations and the President determines that continued implementation would harm further negotiations.

Mr. President, I think this is the most important provision in the agricultural title of the conference report. To put it simply, the triggered marketing loan is a warning to our trading partners. If the Uruguay round of negotiations are not successful, if certain of our trading partners do not stop the unbridled use of export subsidies and import barriers, the United States will make all of our major commodities competitive in the world market. We will match their subsidization. We will exceed their deter mination.

We desperately need a meaningful GATT agreement concerning agricultural trade. The triggered marketing loan enhances our chances to get it.

EXPORT ENHANCEMENT PROGRAM

The conference report extends the authorization for the export enhancement program [EEP] through 1990 and increases the ceiling on the value of commodities that can be used under that program from $1.5 billion to $2.5 billion. The conference report also provides that in carrying out the program, the Secretary of Agriculture may consider for participation all interested United States exporters, processors, users, and foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products.

TARGET EXPORT ENHANCEMENT PROGRAM

The conference report authorizes an increase in the level of funding for the Targeted Export Assistance Program

[TEA] for 1988 from $110,000,000 to $215,000,000. This increase is subject to appropriations. The TEA program is also amended to provide discretionary authority to the Secretary of Agriculture to provide compensation for expenses incurred by trade associations in defending countervailing duty actions instituted after January 1, 1986, in foreign countries.

DAIRY EXPORT INCENTIVE PROGRAM

The conference report requires that payments in commodities under the Dairy Export Incentive Program be made in the form of generic commodity certificates. Further, if the generic commodity certificates are exchanged for dairy products, the Secretary of Agriculture must ensure that the dairy products are sold for export and that the sales do not displace usual United States export sales of dairy products.

TRADE WITH COUNTRIES WITH LARGE TRADE SURPLUSES

The conference report provides that if a country has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State, may develop an appropriate plan under which that country may purchase U.S. agricultural commodities for use in development activities in developing countries.

FOREIGN AGRICULTURAL SERVICE

The conference report strengthens the Foreign Agricultural Service [FAS] of the Department of Agriculture by providing for an overall increase in authorized appropriations for fiscal years 1988 through 1990 of $20,000,000. The increase is to be used for general market development activities, including market development efforts in developing countries, and to increase in number and quality of international trade shows. The conference report also provides for a minimum level of FAS personnel of 900 and would call for the designation of senior FAS officers as Minister-Counsellors.

RECIPROCAL MEAT INSPECTION

The conference report further provides that if the Secretary of Agriculture determines that a foreign country applies meat inspection standards that are not based on scientific standards, the Secretary must consult with the U.S. Trade Representative and they must make a recommendation to the President as to what action should be taken. The President may require that a meat article produced in the foreign country not be permitted entry into the United States unless it is determined that the meat article has met the standards applicable to meat articles in commerce within the United States.

TRADE WITH JAPAN AND KOREA

The conference report sets forth the senses of Congress that the import barriers imposed by Japan on agricultural products, including rice, citrus, and beef should be removed. The provision draws an analogy between those import barriers and the barriers recently determined by a GATT panel to be inconsistent with the GATT.

The conference report also sets forth the sense of Congress that Korea should permit greater access to it markets by U.S. beef producers. Further, the United States Trade Representative should aggressively pursue negotiations to gain greater access to the Korean market for United States beef and should try to achieve a reduction in beef import tariffs imposed by Korea.

WOOD AND WOOD PRODUCTS

The conference report contains provisions designed to make wood and wood products fully eligible for use in Public Law 480 market development projects and in the short- and intermediate-term export credit guarantee programs. The substitute will also establish a cooperative national forest products marketing program that is designed to improve the competitiveness of the U.S. forest products industry.

MARKETING ORDERS

The conference report authorizes the Secretary of Agriculture to provide for a period in advance of the beginning date of a marketing order during which marketing order requirements could be in effect, if it is determined that the additional period is necessary to prevent circumvention of the marketing order by imports. The additional period can be no longer than 35 days.

This provision is in response to complaints by growers that low quality imports are entering the United States just prior to the imposition of a domestic marketing order. It is alleged that those imports are being held in cold storage until the marketing order goes into effect. Then, because of a loophole in the marketing order enforcement procedures used by the Department of Agriculture, the substandard grapes are sold to the retail market, taking advantage of the higher prices that exist under the marketing order.

This provision was controversial because of its potential to unnecessarily restrict imports. The conference report is a compromise designed to authorize the Secretary of Agriculture to take action to prevent substandard imports from circumventing the domestic marketing order. However, the Secretary is only to take such action if it is absolutely necessary. Circumvention must be proved and it must be of a substantial nature.

The necessity for such additional period must be reviewed, on request, every 3 years in order to determine if it is still necessary to keep the additional period in place to prevent circumvention of the marketing order.

IMPORTED MEAT, POULTRY, AND EGG PRODUCTS

The conference report requires the Secretary of Agriculture, within 90 days after enactment of the act, to submit a report to Congress specifying the planned distribution of resources of the Department of Agriculture for sampling imports of meat, poultry, and egg products to ensure compliance with the Federal Meat Inspection Act, the Poultry Products Inspection Act, and the Egg Products Inspection Act governing permitted levels of pesticide, drugs, and other residues in such products. The report must also respond to a 1987 Inspector General audit report.

MISCELLANEOUS PROVISIONS

The conference report also contains a sense of Congress provision concerning the method of allocation of export credit guarantees used by the Department of Agriculture.

The conference report also calls for studies to be conducted concerning egg imports, rose imports, the Canadian wheat import licensing scheme, the use of intermediate export credit, dairy imports, sugar imports, and honey imports.

PESTICIDE MONITORING

This title contains provisions that would require the Secretary of Health and Human Services [HHS] to enter into cooperative agreements with governments of countries that are major importers of food to the United States so that HHS will know what pesticides are being used on imported food and can better enforce the law. HHS would also have to beef up its monitoring and detection systems. This provision benefits consumers and farmers by enforcing the pesticide residue limits on imported food.

If the Secretary of HHS is unable to enter into such a cooperative agreement with a major food importing nation, the Secretary must, to the extent practicable, obtain information on pesticide use in such country from other Federal or international agencies or private sources. Foreign pesticide use information collected under this provision must be made available to State agencies engaged in the monitoring of imported food for pesticide residues.

The Secretary of HHS is required to establish computerized data management systems to track and evaluate the results of the Food and Drug Administration's [FDA] Program for monitoring domestic and imported food products for pesticide residues. The information summarized under this provision must be compiled annually and made available to Federal and State agencies and other interested persons.

Finally, the Secretary of HHS must develop a research plan for the development and validation of new and improved methods for the detection of pesticide residues, and the agency must conduct a review to determine the potential use of rapid pesticide detection methods.

This proposal was negotiated among the majority and minority of the Agriculture Committee and the House Energy and Commerce Committee. Every concern of HHS, the U.S. Trade Representative, and the administration was fully addressed. The regulatory staff at FDA had a full opportunity to suggest changes, most of which were adopted.

In fact, the major part of the bill that the Trade Representative objected to—the requirement that countries who export food to the United States provide information about the pesticides used on the food—was completely revised to meet their objections.

PATENTS

Mr. President, I also served as a conferee on the Judiciary portion of the trade bill. The chairman of the Judiciary Committee's Subcommittee on Patents, Copyrights and Trademarks [Mr. DeConcini] and the subcommittee's ranking member [Mr. Hatch] deserve a great deal of credit for helping to craft legislation that will assist America's inventors and innovators.

As a result of our work with Congressmen Rodino, Kastenmeier, Fish, and Moorhead, America's patent laws will better serve those Americans that invest their time, money, and energies to develop new technologies.

One of our conference's biggest achievements came from our work on process patents legislation. Process patents legislation, which has been with us since the 98th Congress, is targeted toward products that are manufactured in other countries, but manufactured by the use of a process patented in the United States. As a result of this legislation, American businesses will be protected against those who go overseas to circumvent the policies underlying our patent system.

The bill also contains a provision that comes from an amendment that I offered when the trade bill was before the Senate last summer.

United States law currently states that an American inventor may not provide to a foreign patent office any information that is not contained in the inventor's U.S. patent application. If a foreign patent office requires any additional information whatsoever, the patentee must take the time and money to procure a supplemental license. Furthermore, if the patentee provides that information without procuring a license, the inventor can lose his valuable U.S. patent protection.

My amendment helps American inventors trying to gain patent protection overseas by codifying one of the Patent Office's regulations. It provides statutory authority for an American inventor to give a foreign patent office the technical information it requires. The patentee would continue to have to notify the U.S. Patent Office of his foreign application immediately thereafter. Importantly, my amendment does not change the rules for those who hold patents on national security-related products. They will still be required to obtain special licenses before filing in a foreign office.

I was disappointed that the conferees could not agree to include patent misuse legislation in the trade bill. Patent misuse is a defense in patent infringement suits. It penalizes a patent holder who attempts to extend the patent beyond the limited statutory monopoly. The Senate trade bill included a provision that would require the alleged anticompetitive practices be tested by traditional antitrust principles. I am glad to note that the House will be studying patent misuse in a hearing in early May. That hearing will pave the way for enactment of a separate patent misuse bill this year.

Mr. President, I cannot say enough about the fine leadership exhibited by Senator Bentsen in sheperding this bill through the Congress. More than any other Senator, he set the tone for a reasoned, practical conference. He was not afraid to make the hard choices. I thank him for his efforts.

I also want to commend the ranking minority member of the Finance Committee, Senator Packwood for his commitment to this legislation.

As always, my good friend Senator Lugar was helpful and supportive throughout the Subconference on Agricultural Trade.

I also would like to thank Chairman de la Garza, Congressman Gibbons, Congressman Fascell, and all of the Members of the House of Representative who were conferees on the agricultural title.

Finally, I also offer my thanks to all of the hard work put in by the staff on this bill, particularly the fine staff of the Finance Committee, and the staffs of the House Agriculture, Ways and Means, Foreign Affairs, Rules, and Energy and Commerce Committees. They have done a yeoman's work.

Mr. President, as is stated, this has been a long and difficult process. But all of the time and all of the work was necessary. We have a serious trade deficit staring us right in the face.

It threatens the jobs, the homes, the security of our people. Our farmers, our factory workers, our service industries suffer from the uncoordinated, unsuccessful trade policies we have been following.

This bill will go a long way toward correcting these policies.

Mr. President, we must fulfill our responsibility to the citizens of this Nation and act to reverse our trade imbalance. By enacting this bill, Congress will have done its part. I hope the President will do his and sign this bill.

Mr. President, I highly compliment the distinguished senior Senator from Texas for all the work he has done.

He has had the patience of Job and at times probably felt that he had the task of Sisyphus; but he turned in a Herculean effort and accomplished it.

I will not use any more metaphors to describe his efforts for fear that someone in Texas will actually look them up and find some that may be used against him.

Mr. President, I yield the floor.

The **PRESIDING OFFICER.** The Senator from Texas.

Mr. **BENTSEN.** Mr. President, I am overwhelmed at the kind comments of my friend. The job he did on the trade bill was a very important part of it.

The American farmers understand that. We have a whole list of farm organizations that have now gone on record for it and I think much of it the Senator from Vermont is responsible for.

These are some of the agricultural groups supporting this bill:

The National Association of Wheatgrowers, Rich Millers Association, American Soybean Association, American Farm Bureau Federation, National Woolgrowers Association, National Milk Producers Federation, National Pork Producers Council, National Council of Farm Cooperatives, Farmland Industries, Land of Lakes, and Agriculture Processing, Inc.

They understand what this means. American farmers have lost their market share and much of it has been because of protectionism around the world, barriers put up to our products coming in.

Look at the people of Japan spending 27 percent of their disposable income on food and we spend 16 to 17 percent. Think what it would do to the standard of living of the Japanese if they dropped those barriers to agricultural products. Their per capita income has passed ours. It has gone above $20,000; or is at $18,000.

Our standard of living still surpasses theirs, and one of the primary reasons is the great productivity of the American farmer in providing us the kind of diet that we can have afforded to us if we have the good sense to pick the right ones.

Mr. **LEAHY.** Mr. President, will the Senator yield for a comment?

Mr. **BENTSEN.** Yes.

Mr. **LEAHY.** When we started working on this bill in the Senate Agriculture Committee—and the distinguished Senator from Texas was kind enough to provide significant input into it—I told the members and most of the farm organizations interested that we were not writing a Republican bill or a Democratic bill. We were writing a bill that would allow us to be competitive. A bill that would enable the most productive agricultural sector in the world to compete on a level playing field.

I think that is why, as the distinguished Senator from Texas has noted, virtually every significant farm organization and commodity organization in the country supports this bill. This legislation allows our American farmers to compete on a level playing field, a place where they can compete as well as anyone in the world.

But I would also note for my colleagues here that we have been able to develop that kind of an agricultural title precisely because it is part of this whole trade package. That is why it is so necessary that it pass and that the President sign it, because most of us do have some farming interests in our States.

I do not think we could put this kind of an agricultural trade package together as a free-standing piece of legislation. We have been able to do it in the bill of the Senator from Texas.

Those who are concerned about the agricultural interests and well-being of their States have this as one more reason to vote for this piece of legislation.

Mr. **BENTSEN.** I thank the distinguished Senator for the major contribution he has made on this piece of legislation.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **LEAHY.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **LEAHY.** Mr. President, so many people have been working so hard on this legislation it is impossible to list them all. I would note Bill Gillon, from the Senate Agriculture Committee staff, who has worked extremely hard with both sides of the aisle in putting this legislation together. In the last several weeks, he has gone back and forth in the conference—it has looked almost like a tennis match between the House and the Senate—working on the final provisions that finally brought the agricultural title of this legislation together. He has gone tirelessly, day and night, back and forth, working on that. I wanted to note that.

I also want to note my appreciation to Mike Sher of my personal staff who has done so much to advise me on so many parts of the non-agricultural parts of the trade bill.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. **DANFORTH** addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Missouri.

Mr. **DANFORTH.** Mr. President, on July 21 of last year, the Senate adopted its version of omnibus trade legislation. At that time, I remarked on the impressive scope of the bill—the work of 9 Senate committees, 4 weeks of floor debate, nearly 150 amendments considered—and I urged the House and Senate conferees to strive for a solid compromise measure that could be enacted into law. Today, as the Senate considers the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988, it is time to reflect on what we have achieved during the 9-month conference process.

As before, I am struck by the enormity of our accomplishment. Many said at the outset of the conference that the process was doomed to fail, that its structure was unmanageable and its task—reconciling two 1,000-page bills and stripping away the protectionist, anticompetitive filler—too great. The conference setup, involving nearly 200 Members of Congress in 17 subconferences, may have been awkward at times. But the fact is that the conferees succeeding in drafting a compromise measure, free of most of the truly controversial and counterproductive provisions. That was no small feat: It required countless hours of negotiations between the House, the Senate, and the administration, consultations with business and labor groups, and extensive staff work. Following that kind of effort, it is especially unfortunate that we now find ourselves at an impasse, deadlocked in a highly polarized debate over a peripheral provision that threatens to drag down the entire bill. We should not let that happen. This legislation is worth saving.

In particular, the trade portions of this bill represent a major advance toward a coherent trade policy based on reciprocity. Developed over the past 7 years, the concept of reciprocity represents a clear and workable alternative to the damaging excesses of protectionism and the unfortunate shortsightedness of free trade dogmatism. A middle ground between these extremes, reciprocity is based on a few upbeat, realistic assumptions: America can compete; our trading partners must recongize that trade is a two-way street; and the administration must exercise its authority to press for access in foreign markets for our competitive goods and services.

While we began to focus on the concept of reciprocity as early as 1981, the legislative foundations of this particular bill was laid in 1984 and 1985, amid congressional frustration about a critical lack of coherence and consistency in U.S. trade policy. The reciprocity measure I had introduced in 1982 was enacted into law as part of the Trade and Tariff Act of 1984, and, pursuant to its adoption, the administration announced the first self-initiated section 301 cases in the history of U.S. trade policy.

A bipartisan consensus on the need to revitalize our trade policy had just begun to develop, and it has flourished throughout consideration of this legislation. Indeed, the notion of reciprocity has reshaped the debate about trade policy—creating a consensus between Republicans and Democrats, Congress and the executive branch, business and labor. That alone is a big achievement.

The trade portion of H.R. 3, embodies within subconference 1, is good legislation and should become law. These provisions are vital to the conduct of our trade policy as we move toward the next century. For example, the bill grants the administration fast-track legislative authority to implement new multilateral and bilateral agreements aimed at reducing tariff and nontariff barriers to trade. This grant of negotiating authority is an essential prerequisite for active U.S. participation in the Uruguay round of multilateral trade negotiations [MTN]. Officially launched in 1986, the Uruguay round is aimed at strengthening the General Agreement on Tariffs and Trade [GATT], the foundation of the modern-day international trading system. These talks promise to be unique, including for the first time serious negotiations on such areas as agricultural subsidies, services, investment, and intellectual property rights. U.S. participation and leadership will be critical for the trade talks to succeed. Let me emphasize that without this grant of authority, the Uruguay round is dead in the water: Other trading nations simply will not engage in serious discussions about much-needed reforms in the GATT if they know our representatives don't have the authority to implement negotiated agreements.

H.R. 3 also sets out basic U.S. trade negotiating objectives; grants the President tariff proclamation authority; requires a midterm check on progress in the MTN; and includes the Senate-originated concept of a "reverse fast-track" process to guarantee active consultation with Congress on trade negotiations and agreements. In short, the bill offers much-needed authority and guidance for the executive branch to engage in trade-liberalizing negotiations, and it ensures that Congress retains its rightful role in trade policy formulation and implementation.

Another provision in the negotiating authority section of the bill that also provides for congressional oversight is designed to prevent a potential crisis in the international trading system. This measure, initially introduced by Senator BENTSEN and myself, provides that before any major country accedes to the GATT, the President must determine the impact of that country's State trading enterprises on U.S. trade or the economy. The GATT would not apply between the United States and that country unless the latter agrees up front to meet certain conditions or unless Congress enacts appropriate legislation on a fast-track basis. This provision may seem obscure but is in fact aimed at coping with a potentially grave problem: It is meant as a deterrent to prevent this or any future administration from allowing the Soviet Union, perhaps as a gesture of goodwill, to join the GATT without first consulting Congress. Membership of the world's largest nonmarket economy in a consensus-based arrangement for market-oriented economies would surely have devastating consequences for the GATT. The GATT accession provision ensures that Congress will be consulted on issues of this magnitude.

H.R. 3 also makes key improvements in one of our most important trade policy tools, section 301 of the Trade Act of 1974. Specifically, these provisions are designed to encourage an aggressive, systematic—yet flexible—use of this statute: They ensure that foreign barriers to competitive U.S. exports face time-certain retaliation if negotiations aimed at eliminating the barriers or market-distorting practices are unsuccessful. Retaliation is mandatory in those unresolved cases involving violations of trade agreements or other "unjustifiable" practices—except under exceptional circumstances. While action remains discretionary in cases involving "unreasonable" or "discriminatory" practices, the statement of managers language makes it clear that Congress intends this statute to be vigorously applied in any case where there is a likelihood of eliminating the foreign barrier. Mandatory retaliation against trade agreements violations represents a fundamental change from current law, where section 301 has been used. These new provisions put our trading partners on notice that we expect them to play by the rules of the game; that violations of our rights in the trade arena will no longer be tolerated.

The single most important reciprocity initiative in the bill is, in turn, built on this newly revitalized section 301 process. The "Super 301" provision—which I coauthored with Senators BYRD, DOLE, and RIEGLE—establishes U.S. trade priorities and sets up a mechanism for a no-nonsense, nonrhetorical approach to major foreign barriers. The measure requires the administration to quantify the value of these barriers—in terms of expected U.S. exports in the absence of these barriers—and to pursue a dual track of negotiations and section 301 cases aimed at combatting them. Super 301 is unique because it is a barrier-based, results-oriented measure that uses a powerful tool to tackle the practices of those countries that persist in exporting freely without opening their markets to our competitive products. The clear-cut, bipartisan preference for Super 301 over the protectionist and self-defeating Gephardt amendment was an important theme throughout our deliberations on trade legislation. In my opinion, adoption of Super 301 was by far the greatest measure of the conferees' success in striving to reorient and invigorate this Nation's trade policy.

H.R. 3 also establishes reciprocity in telecommunications trade as a major objective of U.S. policy. Based on a legislative initiative that I initially introduced in 1984, this section of the bill calls on the administration to use access to the deregulated U.S. market as leverage in prying open foreign markets. Again, it combines negotiations and the threat of retaliation in a concerted policy to achieve clearly defined objectives. This measure has been a long time in coming, and represents yet another protrade, procompetitive victory for reciprocity.

The bill makes significant changes to improve the enforcement of our antidumping laws, especially against such persistent problems as circumvention—of both the President's Steel Program and other outstanding orders—and repeat dumping offenders. It also tightens our anti-subsidy laws in several important ways, covering such practices as subsidization by international consortia and leasing arrangements that are equivalent to sales. The conferees adopted provisions that should strengthen these essential statutes, while managing to deflect the most controversial—and, in some cases, potentially damaging—proposals.

The omnibus trade bill also overhauls section 201 of the Trade Act of 1974 to emphasize positive adjustment and to increase the likelihood that the President will provide temporary relief to those industries and workers truly in need. The escape clause was critically undercut by the President's decisions not to grant relief to the footwear industry in 1985, and H.R. 3 goes a long way toward restoring section 201 as an adjustment-oriented statute. Domestic industries seeking relief from imports would be required to show serious injury and demonstrate that they could become competitive if relief were granted. If the International Trade Commission agreed with the industry's case, the President would be required to take all appropriate and feasible action—in the form of trade or adjustment measures—that would facilitate this adjustment, unless he determined that the costs would outweight the economic and social benefits of relief. The compromise struck on section 201 carefully balances a stronger requirement for relief with greater Presidential discretion to determine the form of relief. Similarly, with respect to the Trade Adjustment Assistance [TAA] Program, the bill strikes a balance between expanding the eligibility pool to include secondary workers and oil and gas workers on the one hand, and conditioning receipt of TAA benefits on enrollment in a retraining program on the other. The emphasis on adjustment and retraining in the section 201 and TAA provisions clearly represents a significant improvement over current law.

Other important provisions in subconference 1 of the bill would: Strengthen our laws on intellectual property rights protection; implement the harmonized system of tariff classifications; repeal the windfall profit tax; permit duty-free entry of certain products used by domestic manufacturers; and require the presentation of trade statistics in a more useful form.

The good things in this bill are not limited to the work of subconference 1. H.R. 3 has useful provisions across a broad range of American interests. Export promotion provisions take many forms in the bill. For example, they include implementation of a triggered marketing loan program for major farm commodities in the 1990 crop year if there is no substantial progress in the GATT negotiations to eliminate export subsidies. The marketing loan provisions, backed by the use of the Export Enhancement Program, should provide substantial leverage in U.S. efforts in the MTN to tackle a major obstacle to our farm exports.

The bill also clarifies the scope of the Foreign Corrupt Practices Act so that U.S. sales opportunities abroad are no longer undercut because of uncertainties about this statute. Similarly, it modifies our export control laws in an effort to minimize unnecessary disincentives to U.S. exports.

In addition, H.R. 3 provides for a 1-year extension of the tied aid credit fund, or war chest, which provides American exporters with the necessary tools to combat predatory financing by other trading nations. It also liberalizes the regulations governing export trading companies in an effort to promote these types of arrangements.

In the area of investment, the Exon-Florio provisions would give the administration authority to prevent mergers, acquisitions, or takeovers of American companies by foreign interests if he determines that such control would threaten national security. This measure—representing a carefully crafted compromise between congressional and executive branch viewpoints—is a responsible means of dealing with the increasingly prominent issue of foreign direct investment in the United States.

On the domestic side, there is a $980 million Worker Readjustment Program, favored by both the administration and the labor unions. In addition, there are measures aimed at improving this country's competitiveness by helping American businesses commercialize existing research and by encouraging small machine shop operators to learn more about automated manufacturing.

I believe the conferees did an admirable job of stripping away most of the controversial, protectionist measures that had swelled the bill. Gone are the Gephardt amendment, the Bryant amendment on foreign investment disclosure, mandatory use of quota auctioning, lamb quotas, sugar duty drawbacks, and a number of controversial proposals to modify U.S. antidumping and countervailing duty law. Gone, too, are other key provisions contained in the original House-passed bill that could have posed a serious threat to financial markets and U.S. competitiveness.

Supporters of the bill in its current form include: the U.S. Conference of Mayors; American Soybean Association; National Association of Wheat Growers; Rice Millers' Association; American Farm Bureau Federation; Transportation-Communications Inter-national Union; Domestic Petroleum Council, Inc.; Amoco Corp.; Ross-Martin Co.; Sun Co., Inc.; Unocal Corp.; Maritime Trades Department of the AFL-CIO; Seafarers International Union; St. Louis Labor Council; Phillips Petroleum Co.; International Longshoremen's Association; United Brotherhood of Carpenters & Joiners of America; International Brotherhood of Teamsters; United Association of Plumbers & Pipefitters; Arco; Amalgamated Clothing & Textile Workers Union; Association of Flight Attendants; International Union of Electronic, Electrical, Salaried, Machine & Furniture Workers; International Association of Bridge, Structural & Ornamental Iron Workers; the Committee on Pipe and Tube Imports—31 companies; Grinnell Corp.; Cyclops Industries; Glass, Pottery, Plastics & Allied Workers; Interfaith Action for Economic Justice; United Rubber, Cork, Linoleum & Plastic Workers of America; and Exxon Corp.

In addition to the unqualified support expressed by these groups, others have strongly endorsed the trade portions of H.R. 3. While these organizations oppose the bill as long as it contains the plant closing measure, their work and support for the trade provisions is still worth noting. These groups include: the Business Roundtable; Emergency Committee for American Trade; Chamber of Commerce of the United States; National Association of Manufacturers; National Federation of Independent Business; Small Business Legislative Council; Aerospace Industries Association; American Business Conference; and a broad range of individual companies across the nation.

Mr. President, this bill is the product of years of legislative activity. It represents untold man-hours of work by Members and staff, the administration, the business community, and others. Of particular note has been the work of key trade staffers on both sides of the aisle and on both sides of the Capitol. These staffers deserve our special praise for laboring to make this bill a reality. In particular, I would like to thank Jeff Lang, Marcia Miller, and Mike Mabile of the Senate Finance trade staff; Josh Bolten, Karen Philips, and others on the Finance minority staff; and Rufus Yerxa at the House Ways and Means Committee.

Mr. President, after years of work we appear to be one issue short of a historical consensus on the future direction of U.S. trade policy. I share the administration's wish that this remaining matter were not at issue in the debate over this bill. I cannot, however, share the willingness of the administration and key players in the business community to jeopardize the rest of this important bill over the issue of plant closing notification.

Mr. President, I would like to continue briefly on the question of the trade bill, and spell out why I think this is a major piece of legislation that deserves to be passed.

Mr. President, the first thing to be said about the trade bill is that it is indeed major legislation. Since 1974 only two other trade bills of any size have been enacted into law. There have been some other trade bills, but only two that were of any major substance. Those were the Trade Agreements Act of 1979 and the Trade and Tariff Act of 1984. This bill is much more far-reaching, much more comprehensive than either of those two efforts. Therefore, I think it is fair to say that this is a milestone in trade legislation.

Many people have commented on how long it has taken to enact and how many people have been involved in the process. This bill was passed by the Senate on July 21 of last year. The conference convened last summer. The conference involved nearly half of the Members of the Congress. The first meeting, sort of a plenary meeting of the conference, filled the large caucus room over in the Cannon Building, which is comparable to our caucus room here in the Senate. And we have been at this conference on and off ever since. It has consumed thousands of manhours of time. I say this only to point out that this is not legislation that has just been thrown together. This is something that has involved a colossal effort by both the House and the Senate, and by the administration as well.

When the bill was passed in the Senate, a lot of people expressed concern about the course of the legislation. A lot of people pointed out that there were some real problems with the House bill and that there were some real problems with the Senate bill. They said, "Well, we can't have legislation that looks like the House or the Senate bill. We are going to have to get rid of some of these provisions." People pointed out that it was possible to come together in the conference and pass good, sound legislation, but they expressed fear that we would not do so.

Mr. President, we set out in that conference to pass reasonable legislation. We worked with the administration to try to address some of its objections. I think it is fair to say, in fact, that we went overboard in the conference to try to deal with the administration's concerns. I was at a meeting in Senator BENTSEN's office, which was attended by the Secretary of the Treasury and the U.S. Trade Representative. They said, "Well, we have to get some more in this bill," and Senator BENTSEN produced a four-page single-spaced memorandum of concessions that we made to the administration in the bill. So the whole effort was to be responsible. The whole effort was to be accommodating, and that is what happened.

Some high officials in the administration tell us quite candidly that while the President does not necessarily agree with every detail of the trade legislation, the Ways and Means and Finance Committee provisions of this bill are acceptable to the administration.

Mr. President, we pulled off the hat trick. We pulled off a miracle. We were able to come together in that conference and work out something so the administration now says that while the bill is not perfect, it is something that the President would be willing to sign without the plant-closing provision.

Nothing is perfect. In a 1,000-page bill, nobody is going to give it 100 percent. But the fact is that it is acceptable. It is acceptable, and it is acceptable to the administration without being legislation that is empty, devoid of content.

This is tough legislation. It is legislation that is aimed at achieving market access with our trading partners. That is the theory of the bill, market access. And it accomplishes that objective. It provides tools for our trade negotiators to open up the markets of other countries. It provides a much more systematic approach—in the super 301 provision—to cataloging, quantifying, and eliminating the unfair trade practices of those countries that have egregious patterns of unfair trade practices.

I think it is fair to say that right now, while we do have trade laws on the books, we really do not have a trade policy. The reason we do not have a trade policy is that there is nothing systematic about what we do. There is no systematic way of setting priorities for attacking unfair trade practices. There is so much discretion that there is a very real possibility that absolutely no action will be taken.

In the first 5 years of the Reagan administration, in fact, nothing was done. Under section 301 of the Trade Act, which is the basic provision dealing with unfair trade practices, not a single case was self-initiated during the first 5 years of the Reagan administration. I do not say this to criticize this administration, but only to point out that while legal tools do exist, at least in theory, under current law, it is also perfectly possible for those legal rights to grow rusty, to not be used at all.

Mr. President, when that happens, when there is never any enforcement, when there is never any effort to utilize our rights and to take advantage of what has been negotiated in international agreements, then international agreements are little more than unilateral concessions; they become opportunities for the United States to make agreements, to concede access to other countries without getting anything in return, because we are not ever going to insist on the rights under those agreements.

This bill says that we are not going to go the protectionist route at all. We are not going to go the route of the Gephardt amendment. We are not going to try to close the markets of the United States. We are, instead, going to make an effort to do business with other countries. We are saying in this legislation that the United States of America is open for business. We are saying in this legislation that we are a can-do country, that we can compete, that we are able to sell in the markets of other countries if we have access, but that we are going to insist on the rights that we have achieved in international negotiations, and we are going to insist on fair trade.

We have heard so much about the so-called level playing field of international trade that it has become a cliche. Everybody says it all the time: "Give us a level playing field." That is, in effect, what this bill does. It is aimed at leveling the playing field, and it accomplishes that in the provisions on section 301, super 301, and telecommunications trade.

Let me address the telecommunications trade provisions of this bill very briefly.

Prior to the divestiture of AT&T, the Bell operating companies were captive markets for Western Electric. With divestiture in 1984, the Bell operating companies were no longer captive of Western Electric. They could make whatever deals were in the best interests of the operating companies, and they did so. As a result, our market was instantly open to telecommunications equipment made in other countries. Meanwhile, the telephone companies of our trading partners were owned and controlled by the governments of those countries. Their policy was to buy their own products domestically. As a result of the AT&T divestiture, therefore, the American market was open and foreign markets were closed. That is not right.

So, what have we done about it in this bill? We have provided a time limit for negotiations. The administration will have up to 3½ years to negotiate with our trading partners to gain access to their markets; and if, at the end of that period of time, we have not gained access, then we are going to shut down access to our markets.

That is not protectionism, Mr. President. That is reciprocity. That is not an effort to erect trade barriers. It is an effort to knock down trade barriers.

People say, "Well, why enforce anything? Why retaliate? Does that do anything?" No, it does not. But without a credible threat, there is absolutely no incentive for another country to open its market. Why should it, if it has nothing to lose by protectionism? So there has to be some threat, there has to be some downside in the minds of our trading partners to their own protectionist policies.

Mr. President, if there is no enforcement, if there is no credible effort by the Government of the United States to try to open the markets of other countries, then the result is that our own people give up on the principle of free trade, throw in the towel, and say, "We don't want to compete." Then there really is pressure for protectionist legislation down the road. So the Telecommunications Trade Act, which is incorporated in this bill, is an example of the principle of reciprocity.

The bill also provides for a triggered marketing loan program for major farm commodities in the 1990 crop year if our efforts to eliminate foreign export subsidies fall short. There is nothing in this bill that compels the use of marketing loans. We do not force the President's hand. We give the President the ability to waive implementation of the marketing loan; he can, at the end of this process, say, "I don't want to do it." But, in the meantime, we have a 2-year period of time during which marketing loans are a real threat on the horizon. During that time, we give the President of the United States a mandate to negotiate with our trading partners to get rid of these totally ridiculous agricultural subsidies that have come to dominate world agricultural policy.

Mr. President, it seems to me that in agriculture, there are basically two directions in which we can go. We can go in the direction of more controlled production; bigger government; bigger costs; and higher subsidies. Along with that, we would necessarily close our market, because if we control production in the United States and we cannot control it in other countries, we have to be protectionist.

In the alternative, we could go in a more market-oriented direction by trying to open markets and to take advantage of our productive abilities in the United States. The concept that is built in this bill is to say that we want to be able to produce; that we have to be able to compete; and that we are going to provide real incentives to get into the markets of other countries. To me this legislation opens up the prospect of adopting the latter, market-oriented approach to agriculture.

So that is what we have done in this bill. It is not a minor piece of legislation. It is not a zero. It is significant. It is landmark legislation. There is absolutely no doubt about that. But it is also responsible. It is not protectionist. It is a good bill.

Mr. President, a lot of people—at least on my side of the aisle—say, well, we agree with everything you have said. We agree that it is good legislation. We think that the Senate Finance and House Ways and Means Committee did a responsible job. We think that most of the really objectionable things in this, such as the Bryant amendment, sugar duty drawback, and lamb quotas, were taken out. People say we are glad that was done. But there is still this matter of plant closing.

So, they say, what we hope is that the President will veto the bill, the veto will be sustained and the bill will come back as is, but without plant closing.

Mr. President, I would respond to anyone who said or thought that: How do you know? How do you know what is going to happen next? How do you know what is going to happen if a veto is sustained? How do you know what kind of bill the President would send to us? And if you do know what the President is going to send, how do you know what is going to be enacted by Congress?

People say, well, that is easy. Why, we Republican Senators can stand on the floor of the Senate and offer amendments to every bill that comes along, and the amendment would be the trade bill without plant closing. So we offer an amendment. So what? If the amendment is voted on, who is to prevent somebody else standing up and offering an amendment to that same bill on plant closing or on the Bryant amendment or anything else? Who knows what the work of the Senate would be? Who knows what would happen in conference?

I would further submit to the Senate that there are not that many bills coming out of the Ways and Means Committee to which a trade bill could be attached. Who knows that Congressman ROSTENKOWSKI would do? Who really believes that Congressman ROSTENKOWSKI is going to allow us to repeal the windfall profit tax again? Who is gullible enough to believe that?

We cannot predict the result if this bill is defeated. We cannot predict what will happen next to the trade bill, to the repeal of the windfall profit tax, or to anything else in this legislation. We are dealing with a hand of wild cards, and we do not know what will happen.

On the other hand, we do know what is in this bill, Mr. President. We know exactly what is in it. We have had the opportunity to study it. We know what is in it, and we know that it is a darn good work product, a darn responsible job. We can be proud of it. Some day we are going to pass a trade bill. But who knows what is going to be in it? Who knows what mischief can be wrought in some further legislation? But we know the mischief that has been taken out of this bill.

So, Mr. President, let us pass it. Let us pass it by a large margin, and then let us wait for the veto message which I suppose is inevitable. Then, let us vote to override the veto—with a kind of heavy heart, because nobody, especially on my side of the aisle, likes to vote against the President on a veto.

But, Mr. President, let us get on with it Let's take our victory, take our gain, take this good legislation, pass it and put it behind us, so that we don't need to guess any longer about what is or is not going to happen next.

Mr. BENTSEN. Mr. President, I thank the distinguished Senator from Missouri for his very fine talk as to the status of this piece of legislation, what it means to America, what it means to American jobs, what it means to American farmers.

I heard him make the comment that this piece of legislation will help get rid in the long run of some of these ridiculous subsidies that we see that distort the marketplace. I think he is absolutely right in that regard.

I recall meeting with one of the leading officials of the European Common Agricultural Policy, and he was talking about how this piece of legislation was bad because it had a farm marketing loan program in it. I said:

> Not at all, because maybe it will finally bring you to the table. For years and years we have tried to get you to put on the agenda for GATT the question of subsidies and the question of agriculture and you resisted it and resisted it.
>
> Now we put this in and we are going to take you head-on. Now, if we can make some serious progress in GATT over the next couple of years, this will not be a problem. We will have it taken care of under the GATT agreement. But if not, then we will see how it comes out if both of us play at that game as we try to restore America's market share in the international world community.

But I am sure that that provision and that piece of legislation is being used very effectively right now by our trade negotiators. That is some of the muscle that is in this bill. That is getting the attention. It is one thing to put agriculture on the agenda. It is quite another thing to make some progress on it.

Without this kind of pressure I do not think the progress will be made. This trade bill helps bring that about.

I am delighted to hear the comments of the distinguished Senator. He has been a major part of this piece of legislation and it is not by any accident it is named the Bentsen-Danforth trade bill that came out of that Finance Committee because the two of us worked shoulder to shoulder in a bipartisan way to try to be bridge builders to develop a consensus for a good trade policy for our country. I think the bill brings about just that.

Mr. President, I yield the floor.

Mr. CONRAD. Mr. President, I rise in support of the trade conference report, the culmination of a 3-year effort to revise our Nation's trade laws. The distinguished chairman of the Finance Committee, Mr. BENTSEN, and the conferees deserve our praise for their leadership and hard work on the final version of this important measure.

The bill considerably strengthens our ability to deal with unfair trade practices by other countries. The President is required to retaliate when foreign countries violate trade agreements, and the authority to determine whether a foreign practice is unfair is shifted from the President to the U.S. Trade Representative. The definition of unfair trade practices is broadened to include export targeting, foreign cartels, and refusal to grant worker rights. The administration is directed to set priorities for action and take greater initiative investigating unfair trade practices, with the intent of obtaining the removal of these practices over a 3-year period.

The legislation also provides negotiating authority for the next round of multilateral trade talks under the GATT. Our country has a tremendous stake in the outcome of these negotiations; the next President will negotiate on such vital issues as agricultural subsidies, trade in financial services, and intellectual property rights. The negotiating objectives for agriculture, as amended by me on the floor of the Senate, would prevent the administration from eliminating agricultural stabilization programs while pursuing limitations on export subsidies and surplus-inducing domestic subsidies. This approach should significantly improve the chances of reaching reasonable agricultural agreements in Geneva.

Other major provisions seek to promote competitiveness in industries injured by imports. To obtain import relief under this section of the trade law, industries would need to prove economic injury and demonstrate that temporary relief will facilitate their recovery.

Competitiveness is also fostered by provisions to revamp the Trade Adjustment Assistance Program by placing more emphasis on worker retraining. The conference report also authorizes comprehensive services for displaced workers who lose permanent jobs for reasons besides trade—because of plant closings and mass layoffs, for example. This assistance, authorized at $980 million in fiscal 1989, should reach greater numbers of displaced workers than existing programs under the Job Training Partnership Act have been able to serve.

Provisions requiring advance notification of workers affected by plant closings have sparked considerable controversy—including veto threats from the White House. I believe that this opposition is unfortunate: working men and women deserve some warning that their jobs are about to be eliminated. Companies with fewer than 100 employees do not have to comply with the advance notice provisions if they shut down a plant. Exemptions are also made for firms faced with an unpredictable natural or business disaster and for firms taking steps to keep a failing plant in operation by seeking new business. Nothing in the trade bill affects a company's decision to close a plant or institute layoffs.

The requirement for 60 days' notice is intended to reduce the jolt to workers and their communities when this happens—to give workers a little time to make a smoother transition to new employment. I hope that the President will reconsider his position on this issue when the omnibus trade bill reaches his desk.

Among the best features of the measure are the provisions giving the President the tools to negotiate new agricultural agreements at the next round of GATT talks in Geneva. The President will be able to initiate an expanded export enhancement program or marketing loan programs for wheat, feed grains, and oilseeds if the world's agricultural producers are unwilling to end their subsidies of exports.

These bargaining tools are critical to the American farmer for several reasons. Over the past few years, the U.S farmer has had to compete with heavily subsidized exports from other producing nations. In order to retain its traditional markets, the U.S. implemented the Export Enhancement Program [EEP] to match foreign subsidies. While we have succeeded in regaining markets for our exports, the cost has been a war of subsidies with other nations. This war has helped reduce farm prices to the lowest levels in decades, benefiting neither our farmers or theirs. But despite these costs, the EEP has helped keep our farmers competitive in world markets, and having the option to expand the program is valuable.

The damage from the price war is visible everywhere. Farmers' cash receipts from the market for food, feed grains, and oilseeds reached a 25-year low in 1987. Wheat and rice—food grains—farmers received only $4.2 billion from the market—less than half of the average for the years 1960 through 1987.

The American farmer needs a fair chance to compete in world markets. To gain that opportunity, farmers need a GATT agreement which will limit subsidies in many countries. While it is naive to believe that Europe and Japan will eliminate all subsidies to agriculture, it is possible to structure the subsidies in such a way that they do not encourage surplus production.

In addition, it is important that the producing nations and developed nations share the cost of a world food reserve. The United States has often carried the major share of such reserves—a critical and costly necessity which should be the responsibility of all developed nations. Currently, only U.S. farmers cut back during periods of surplus. We have taken nearly 80 million acres out of production this year to reduce the world's surpluses. Again, the U.S. farmer and his suppliers are asked to bear the burden of reducing global commodity surpluses, while other producers enjoy the price benefits of our production cutbacks. The U.S. farmer and taxpayer should not be required to bear this double burden of providing a food reserve and managing the world's grain stocks alone.

Mr. President, I strongly support the trade bill and have cited many of its constructive features. However, we should harbor no illusions that this legislation can solve the problem of our massive trade imbalances. In a world in which the dollar is allowed to float freely, the major force determining the value of that dollar is how real rates of interest in the United States compared with the rest of the world. In the early 1980's, the real rate of interest in the United States was pushed to historic highs by the combination of massive budget deficits and restrictive monetary policy. As a consequence, the dollar appreciated by nearly 70 percent between 1979 and 1985, stifling exports of agricultural commodities, manufactured goods, and other U.S. products. The overall trade balance, which had been in surplus in the late 1970's, swung to record deficits in the 1980's—reaching $156 billion in 1986 and $171 billion in 1987. And agricultural trade, which has consistently showed large surpluses, slid into deficit during the summer of 1985 because of the overvalued dollar.

These policy mistakes have driven farmers off the land and small businesses into bankruptcy at the highest rates since the Great Depression. Tens of thousands of hard-working Americans have lost their jobs as their factories closed. We cannot let this happen again.

The omnibus trade bill should help to make our trading system fairer—and that's very important. Some countries have unquestionably engaged in unfair trading practices; some of our competitors have not respected the rules. But the United States has been running trade deficits with virtually all of its major trading partners. What changed dramatically in the 1980's was macroeconomic policy—not the trading practices of other countries. We won't succeed in turning the trade deficit around unless we attack the roots of the problem.

To begin with, we need a much more ambitious plan for reducing the budget deficit. The savings achieved through last years' budget summit agreement were simply inadequate. We need to reverse the mix of overall economic policies—to combine fiscal restraint with an easier monetary policy. But that won't happen, in my view, until we demonstrate that budget deficits are steadily declining—on a year-to-year basis.

Exchange rates are more favorable now than they were in 1985, thanks to coordinated actions on monetary policy by the developed countries. But there's room for future improvement: The dollar has not declined much relative to the currencies of most of the newly-industrialized countries—or some of our leading agricultural competitors. Although the trade deficit should decline in response to the depreciation in the dollar that's already occurred, it will not be possible to achieve a balance at present exchange rates. Continued easing of monetary policy is what we need—but we won't get it without convincing action to reduce the budget deficit. Instead, under current policy, we're running the risk of higher interest rates and repeat of the misguided effort to prop up the dollar that preceded the stock market crash last fall.

Mr. President, flawed economic policies, high real interest rates, and unfavorable exchange rates have clobbered our Nation's farms and many of its industries. While this trade bill addresses parts of the problem, the larger task of reducing the deficit and reshaping overall economic policy lies ahead. We must turn to these problems with the same energy and persistence that has brought this landmark trade legislation to the point of final passage.

UNITED STATES POLICY IN PANAMA

Mr. SIMON. Mr. President, I want to address the problem of Panama. I think we have to recognize that our policy toward Panama is a flawed policy, and the sooner we recognize that the better. Panama was created by the United States of America. There is no other country about which we can say that. Panama uses the American dollar. They do not have their own currency. Panama really is a creature of the United States, and so we have some special responsibilities there.

The leader of Panama, General Noriega, is a dictator whose suppression of human rights was ignored for much too long a time and whose drug dealings we tolerated because he was helping the Contras. Then he was indicted, and we said there has to be a change.

Frankly, we were too heavyhanded about it. What is happening now is that we are hurting the people of Panama and we are not doing anything that is causing the removal of that military dictator.

It is probable, or at least possible, that had we kept our hands out after he was indicted, the people of Panama would have taken care of it themselves. But that has not happened, and it is time to recognize that our policy has to change because we are hurting ourselves mightily, we are hurting the people of Panama in the short range, and we are doing some devastating long-term damage to the economy of Panama.

The other day I called Archbishop Marcus McGrath, the Roman Catholic Archbishop of Panama. I have had the opportunity of getting acquainted with Archbishop McGrath and have learned to have great respect for his judgment. I asked him about policy. He said as a matter of fact that afternoon the 11 Roman Catholic bishops of Panama were issuing a statement on the situation in Panama. In that statement they talk about the military dictatorship, and they use that phrase, not an easy thing to do when you are living under a dictatorship.

In the statement, however, they also have this to say:

> The crisis struck the economy again when the Government of the United States of America increased considerably the economic sanctions already in effect against the

country. These have affected the functioning of the government structure and have dealt a strong blow to all the people especially the most poor and needy.

As church and as Panamanians we reject these measures which violate national sovereignty. We consider that, given the dependent structure of our economy, these exceed any strategy of political pressure and become a threat to the life of our people. They are, therefore, morally unjust. For that reason, we demand that they be suspended immediately. In the same way reject all forms of military intervention.

I ask unanimous consent, Mr. President, to insert in the RECORD the full statement of the Panamanian Episcopal Conference, a statement of 11 Roman Catholic bishops criticizing the military dictatorship of Panama but also criticizing United States policy toward Panama.

There being no objection, the message was ordered to be printed in the RECORD, as follows:

PASTORAL MESSAGE OF THE PANAMANIAN EPISCOPAL CONFERENCE

To our brothers and sisters in the faith, to all Panamanians, to men and women of good will who reside in our country, peace and benediction.

Deeply concerned, but full of hope in the Lord of life, we address ourselves to all of you in view of the critical situation the country is going through:

I. LET US OBSERVE THE PANORAMA:

1. The universities are making an effort to open, while the schools remain closed. Health centers are running out of medicines and medical supplies. The banks have opened only to receive deposits, but not for withdrawals or financing for the people. A high percentage of industry and commerce has declared itself bankrupt. The number of unemployed in the private and public sectors mounts to tens of thousands, while the work stoppage continues to increase. Agricultural production is beginning to diminish and there is not sufficient planting being done for the future. The lack of currency is bringing thousands of Panamanians to misery and desperation and the number of Panamanians leaving to other countries is beginning to take on disquieting dimensions. Meanwhile delinquency in our cities is increasing at an alarming rate.

All this has motivated a series of diverse reactions, above all in political sectors, both of patriotic ideals and of excessive ambitions; of generous desires of struggle for liberation and of sectarian party passions; of doubts and mutual misgivings, even of hatreds and reprisals, which would make of our country a sinister battlefield.

2. We cannot continue like this. We are brothers, living together and sharing, by the Grace of God, a sky and land that configures one same country for all. For that reason we direct our urgent call to the government and to the opposition, to civilians and military, to all honest men and women, to share a same common patriotic concern in searching for a rapid solution to the grave crisis that has prostrated the nation in a state of agony.

The most serious part of the situation is that there is no glimmer of a solution, nor is there a properly integrated dialogue that can offer real hope. And there begins to be dramatic talk of an authentic catastrophe, of the slow death of the nation . . .

3. As pastors and spiritual guides, individually and in consultation with the clergy, Religious and lay people, and also collegially through the Panamanian Episcopal Conference (CEP), we have frequently addressed ourselves to "all men and women of good will who live in Panama with us, to bring a message of faith and reflection in view of the diverse problems that we have shared together" (Pastoral Letter of the CEP, Feb. 5, 1988).

Some public moments have demanded special attention of the Conference. Such it was as in the case of the signing of the Canal Treaties—when the Bishops achieved wide moral support in favor of Panama's rights—that the CEP issued a long letter about the necessary return to a real democracy (Pastoral Letter: "The Situation of the Country," June 29, 1978). In the same line, and in a more detailed manner, on the eve of the first direct presidential elections since the military coup of 1968, the CEP published a Pastoral Letter, "About the Present Moment" (Feb. 5, 1984). Likewise, within the framework of these and other similar orientations, the study on poverty in Panama, "Toward a More Human Economy," promoted and realized by the Church, takes on great significance (May 1, 1985).

All these documents reflect the great desire of this Panamanian Church to offer the light of the social doctrine of the Church, to illumine with the depth of faith and the Word of God the particularly conflictive situations of our people (see *Puebla*, No. 470).

4. Despite all this, our voice has not always been heard. For that reason, today we once more raise our prophetic cry before the relentless persecution suffered by all the people, victims of external pressures and internal intrigues, to say to all Panamanians: For the love of God and neighbor, the supreme law of the Lord, let us put a stop to the fights and animosities that are destroying the heart of the nation! Enough of ambitions and political protagonisms that are destroying the country! The nation is in danger! Let us save Panama!

Before a situation of such urgency no Panamanian can idly shrug his shoulders nor exempt himself of responsibility.

5. The first reaction of the Church as a people has been to go to the help of the most needy, particularly through CARITAS in the various Dioceses. This gesture has proven once more that a shared need is sign of the most genuine solidarity.

The action of the Church, united to the efforts of civic groups, entities and persons, has helped to humanize the crisis and to not lose hope in a just solution.

The simple faith of the people, on the other hand, has reacted to the crisis with prolonged manifestations of prayer and penance, crying to heaven with full conviction that the Lord is present in the midst of a suffering people.

This devout spirit, expressed strongly during Lent and Holy Week, continues full of fervor in the midst of paschal joys and offers us the keynote of brotherly and national reconciliation as the only effective way out of the crisis that we are suffering.

II. CAUSES OF THE NATIONAL CRISIS

6. The principal causes of the national crisis are:

a. A capitalist economy, alien to the basic needs of the immense majority of the people.

b. The intervention of foreign powers and their economic domination, with the resultant dependency that impairs national sovereignty and identity.

c. Official repression and military and paramilitary action in repeated violation of human rights.

d. Widespread corruption in public and private sectors.

7. All these causes have converged with force around the political problem that the nation has been experiencing since the elections of 1984. The very serious accusations of Retired Col. Roberto Diaz Herrera made this problem worse in June 1987 and motivated frequent popular protests of a peaceful nature which were severely repressed.

From the very beginning, the political problem had serious repercussions in the economic life of the nation, above all on the stability of the banking system. The banks were able to partially recover, and the year ended with relative normality.

8. In the first months of this year, the political problem worsened considerably because of the crisis of constitutionality brought about by the forced separation of President Eric Arturo Delvalle from his position, after his having attempted to separate from his position the Commander of the Defense Forces. The most serious aspect of the political crisis became evident then: the predominance of the military in almost all aspects of national life, including the social communication media, and many political and popular organizations of the nation, as well as the lack of subordination of the Defense Forces to civil authority. All this, under the protection of Law 20 of 1983, is a clear manifestation of a de facto military dictatorship.

It is necessary to emphasize the importance that the Defense Forces have and the respect that they merit as a highly trained professional body for the defense and security of citizens. The military are as much "of the Panamanian people" as are the rest of the citizenry. As pastors of them also we remind them that they owe their loyalty to God, to the nation, and to the Armed Forces in that order.

9. The crisis struck the economy again when the government of the United States of America increased considerably the economic sanctions already in effect against the country. These have affected the functioning of the government structure and have dealt a strong blow to all the people especially the most poor and needy.

As Church and as Panamanians we reject these measures which violate national sovereignty. We consider that, given the dependent structure of our economy, these exceed any strategy of political pressure and become a threat to the life of our people. They are, therefore, morally unjust. For that reason, we demand that they be suspended immediately. In the same way we reject all forms of military intervention.

This crisis confirms the need to examine the Panamanian economic model, as we Bishops have expressed on various occasions, giving priority to an economy which is more favorable to the majorities of the needy. But at the same time it has produced a general restlessness expressed in attempts at peaceful protests that have always been strongly repressed; besides having limited the freedom of expression and legal protection against arbitrary detentions.

10. We repudiate the fact that those in power manipulate the concept of national sovereignty and the defense of our rights over the Canal, as if they were the only ones responsible for the country or who identify with it, excluding other citizens

whom they classify as traitors and as bad Panamanians. The country is not only the government; the country is all of us!

We denounce the apathy and incompetence of many government organisms, national as well as local, in face of the prolonged agony of the people and the rapid deterioration of all our institutions.

We are troubled by the attitude of certain functionaries and consultors of the government, radicalized in their positions, whose statements and activities seem to seriously go against the democratic institutions of the nation. In this context we are concerned about the increased militarization of civil groups and the creation of the "national system of information."

11. In regard to the groups of opposition, we recognize the merit of their struggles in defense of human rights and the restoration of democracy; however we note that at times they have aggravated the crisis by certain intransigence for dialogue, for party or personal interests, or by their lack of programs of clear social content.

III. CONCLUSION:

12. The basic issues of the crisis demand, for their careful and adequate evaluation and solution, a true National Dialogue, which we have proposed many times. This should be done with time, and with the free and effective participation of all, especially of the popular sectors.

13. On the other hand, the concrete response to the present crisis requires effective consultations and decisions on a much shorter term. It cannot wait. For this reason, the principal political forces of the government and of the opposition should sit as soon as possible at the table of dialogue. No one should postpone, for personal or party interests, the true welfare of the Panamanian people.

14. To facilitate this so needed dialogue, a group of prominent statesmen of Latin America and Spain proposed a mediator in the person of the Archbishop of Panama, of whom they asked this service. After consulting the Episcopal Conference and counting with its support, the Archbishop expressed his willingness, conditioned to the acceptance of this mediation by both sides. In effect, both sides have written to request his mediation.

Nonetheless, it has still not been possible to initiate formal conversations, for reasons that have been made known to the public. An important part of the problem arises from the frequent and offensive attacks on the Church and on the Archbishop, particularly on the part of the social communication media inclined toward the government and obviously opposed to this dialogue becoming really effective.

The Archbishop of Panama remains willing to promote this dialogue, in the capacity of mediator, as has been requested; yet happily accepts that this task be done by whomever can do it best. The important thing is that both sides really come together, with genuine interest and commitment, that they do it soon, and that appropriate conditions for the dialogue be created.

15. In effect, true and civic dialogue requires an atmosphere of freedom. For that reason it is essential that Panamanians' citizens' rights be respected, especially the right of free expression (Article 37 of the National Constitution), of free meeting or protest (Article 38), and a personal freedom against all arbitrary detention (Article 21).

16. Can we continue insisting on dialogue, prompt and effective, as an initial solution to the crisis that we are experiencing? We believe so, and that working for dialogue is the Christian duty of those who work for peace (cf. Mt. 5:9).

How can we help? By insisting through prayer and penance before God—in homes, parishes and movements—as well as among ourselves and with others, through meetings and pastoral assemblies of reflection about the Church and the national reality. This Pastoral Message, as well as the principal recent documents of the Church, can be helpful reading. We have to fully inform ourselves, not only about the actual situation, but also about the social and moral doctrine of the Gospel and of the Church that must guide us toward a renewed Panama, that can be just and fraternal, in true solidarity.

17. As pastors of the Church and in reference to our public actions we have received criticisms and recommendations, many times made with honest and positive criteria. We sincerely recognize our weaknesses and deficiencies and we ask the favor of your prayers for a witnessing and active commitment in order to correct our wrongs, and inspire more and more solidarity, freedom and justice for all, especially the poor and marginated.

18. We request the solidarity of the people of Latin America and of the whole world, with our people who today suffer a double oppression, external and internal, in the search for a more just, democratic and free society. In this spirit we make our own the prayer of Pope John Paul II in his recent encyclical: "The Social Concern of the Church": "Oh God, who gave origin to all peoples and wished to form them in one family in your love, fill our hearts with the fire of your love and awake in all men and women the desire for a just and brotherly/sisterly progress so that each may be realized as a human person and equality and peace may reign in the world. Amen."

PANAMA, *April 20, 1988.*

Mr. SIMON. Then, Mr. President, I also ask unanimous consent to enter into the RECORD an article from Newsweek of April 18. I will read two sentences from that article and then I would like to insert the full article in the RECORD. It says:

> Any attempt to drive Noriega from power through force might inflame anti-American sentiment throughout Latin America. But a continuing squeeze on the country's once thriving economy runs the risk, as one senior administration official mordantly noted last week, of destroying the country in order to save it.

There being no objection, the article ordered to be printed in the RECORD, as follows:

BACKWARDS STRATEGY—THE CAMPAIGN AGAINST NORIEGA MISFIRES

A key leader of the Panamanian opposition summed the situation up last week. After one month of American economic pressure and a general strike, said Eduardo Vallarino of the National Civic Crusade, "we're faced with the worst scenario: the destruction of the financial center and Noriega still here." The United States "has not contributed anything except to attack our banking system," he said. "We wanted that, but we didn't want just that."

The Reagan administration's campaign against Panamanian strongman Gen. Manuel Antonio Noriega seems to be at an impasse. Any attempt to drive Noriega from power through force might inflame anti-American sentiment throughout Latin America. But a continuing squeeze on the country's once thriving economy runs the risk, as one senior administration official mordantly noted last week, of "destroying the country in order to save it." And if Noriega survives, U.S. prestige and influence in the region will take a severe beating. How did the United States get into such a fix? Last week administration officials engaged in a bitter round of recriminations as they sought, through leaks and background briefings, to explain. The story that emerges is a case study in how not to conduct foreign policy.

The first miscalculation came even before a federal grand jury in Miami indicted Noriega on drug-trafficking charges last Feb. 4, sparking the U.S. demand for his ouster. The indictment actually gave the general an incentive to stay put in Panama; there, at least, he was safe from extradition. But at interagency meetings on the issue before the indictments, no one from the White House made this obvious argument. Why? Fear of leaks, explained one participant: no one wanted to look soft on drug dealers in the newspapers the next day.

At the same time, there was no strategy for toppling the dictator. "We announced a result—that Noriega must go—and then started thinking about how to make it happen," says a senior White House official. "That's completely backwards." After legal maneuvers by Panamanians in Washington dried up the country's cash supply, Assistant Secretary of State Elliott Abrams blithely began predicting the Noriega would fall within days. He was counting on a coup attempt by the Panamanian Defense Forces (PDF), and he got one—but it quickly turned into a scene out of an opéra bouffee. On the morning of March 16, Col. Leonidas Macías arrived to seize the Panamanian Defense Force's main garrison in Panama City. According to administration sources, the coup plotters accidently locked the door behind then, trapping themselves in the building. They were promptly arrested and handied over to Noriega.

In his years as head of the National Security Council, Henry Kissinger used to tell his staff always to ask "What next?" If plan A fails, there must be a plan B. But in the case of Panama, the administration was sharply divided over the next move. At State, Abrams suggested using force—either a covert operation to abduct Noriega or the use of U.S. troops to overthrow him. The PDF, he argued, would fall "like a house of cards." The Pentagon, however, feared bloodshed, civilian as well as military, and a wave of Yankee-go-home rioting throughout the region. "State always talks about 'surgical' military operation," said one senior Army officer. "There is no such thing." The Joint Chiefs of Staff also fretted about a successful overthrow: if other foreign leaders saw Uncle Sam disposing so quickly of an erstwhile ally, they might be less willing to accommodate U.S. military bases on their own soil. The Pentagon promptly leaked Abram's plan in order to kill it.

While State and Defense bickered, Noriega dug in, purging the PDF and forcing some businesses to reopen. Once considered a useful asset by the CIA, the corrupt soldier U.S. officials dubbed "rent-a-colonel" turned to Cuba for help. He imported three planeloads—48 tons—of weapons from Fidel Castro and surrounded himself with Cuban advisers and Israeli-trained bodyguards. State Department officials fear that the longer the United States waits to move against Noriega, the harder it will be to dislodge him. They privately hope for an incident—such as an attack on U.S. citizens in Panama—to provoke President Reagan into military action.

FACE SAVING

More in desperation than in anger last week, President Reagan invoked the International Emergency Economic Powers Act and blocked U.S. companies and citizens from making further payments to Noriega. But the opposition within Panama shows signs of splintering. President Eric Arturo Delvalle is demoralized and in hiding; Noriega is threatening to arrest him and seize his family's rich assets, including the largest sugar mill in Panama.

The administration may still be able to work out a face-saving deal with Noriega. But even if the dictator accepted exile with a grant of immunity from extradition, the corrupt PDF may still hold power—with no guarantee that Colombian drug lords would not continue to use Panama to launder money. Indeed, some administration officials speculate that Noriega is afraid to leave Panama because he fears assassination by the Medellin cartel, to which he is said to owe substantial sums. That Noriega should fear drug dealers more than the United States is a measure of American influence in the region.—DOUGLAS WALLER *and* JOHN BARRY *in Washington with* CHARLES LANE *In Panama*

Mr. SIMON. After talking to Archbishop McGrath, I also called President Carter. President Carter knows more about Panama than probably any President of the United States has known since Theodore Roosevelt, and perhaps he knows more about it than Theodore Roosevelt knew. I do not know. But there is no question that Jimmy Carter is very knowledgeable. He had an article in the Washington Post, an op-ed piece. He said it is the second op-ed piece he has written since he retired as President. It is called "Let's Use a Little Diplomacy in Panama."

Let me read just three paragraphs from that article:

During the debate on the canal treaties, several senators felt that we should insert an amendment that permitted the United States to intervene in Panama's internal affairs. This effort met with vigorous opposition from all Panamanians and was rejected by me and the U.S. Congress. Panama does not belong to the United States. It is a sovereign country, and our relationship should be built on that premise.

Our pledge not to intervene in its internal affairs does not mean that we should be unconcerned about human rights and democracy in Panama. Quite to the contrary, we are legitimately concerned that the human rights of the Panamanian people have been systematically violated under the present government.

Then the final paragraph and conclusion in President Carter's article:

Ultimately, Noriega is more likely to give up his authority as a result of unpublicized pressures and enticements than through public challenge and sustained punishment of the citizens of his country. The United States will be better served if we work with our Latin American friends rather than unilaterally confront the small country.

I ask unanimous consent to enter the full President Carter article in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LET'S USE A LITTLE DIPLOMACY IN PANAMA

(By Jimmy Carter)

Ten years ago, the Senate ratified the Panama Canal treaties, which guaranteed that the canal would stay open and that Americans and Panamanians would operate the waterway together until the end of the century. After the year 2000, the United States reserved the right to defend the canal against external threats and to have priority in using the waterway during times of emergency. Latin America was united in its support of Panama's legitimate request for a new relationship with the United States, and I realized that the best way to secure the canal was by new treaties that would protect our nation's interests and transform a resentful neighbor into a cooperative partner. Sixty-eight senators agreed.

Today, despite the turmoil in Panama, the canal continues to operate smoothly. Problems that have emerged in the normal operation of the canal continue to be resolved by Panamanians and Americans. There have been attempts to politicize the canal by both governments; these have been shortsighted and, "we can be thankful, have been raised effectively by the canal's professional managers. It is a serious mistake to withhold the collected fees or allocate them in any way that violates the treaties.

During the debate on the canal treaties, several senators felt that we whould insert an amendment that permitted the United States to intervene in Panama's internal affairs. This effort met with vigorous opposition from all Panamanians and was rejected by me and the U.S. Congress. Panama does not belong to the United States. It is a sovereign country, and our relationship should be built on that premise.

Our pledge not to intervene in its internal affairs does not mean that we should be unconcerned about human rights and democracy in Panama. Quite to the contrary, we are legitimately concerned that the human rights of the Panamanian people have been systematically violated under the present government.

I told Omar Torrijos, who was then head of Panama's government, of my hope for democracy for his country and that the partnership between our nations could be strengthened only if Panama were to become a democracy. He pledged his commitment to that goal and began to take steps toward reaching it. However, after his death, Panama's progress toward democracy was slowed and eventually halted.

It is clear that most of the people of Panama would like to replace the military dictatorship of Gen. Manuel Antonio Noriega with a democracy. His connection with international drug traffickers is a special embarrassment to his proud countrymen. The question for the United States is what is the best and most appropriate way to assist democratic Panamanians in this objective.

We should pause and consider three points. First, the United States should cease taking actions that focus suffering on the Panamanian people. If the U.S. government is correct about Noriega's character, he is unlikely to be moved by the damage we are inflicting on his fellow countrymen; moreover, he uses his control of the news media to lay maximum blame for their woes on the United States. Second, our highly publicized efforts to ratchet up the pressure only appear to be driving Noriega into a corner, when what is needed is a more diplomatic guide to an exit. Third, our attempts to damage the economy of Panama have alienated our Latin American friends. Recently, 22 Latin American governments concluded a meeting on Panama by condemning U.S. policy, not Noriega. Despite this, recent efforts by several leaders offer an alternative to Washington's heavy-handed tactics.

During the canal treaty negotiations, I relied on the advice of three incumbent presidents of democratic nations: Carlos Andes Perez of Venezuela, Daniel Oduber of Costa Rica and Alfonso Lopez Michelsen of Colombia. The treaties could not have been concluded without their help. Today these same three men are trying to help meditate the crisis in Panama. Instead of ignoring or undermining their efforts, we ought to be lending them our full support.

The movement of additional troops to Panama and the report of a firefight have raised tensions to a dangerous level. There is still time to defuse a potentially explosive confrontation. On behalf of the nation, the president should, first, reaffirm our intention to fully honor our obligations under the canal treaties. Second, we should stop punishing the people of Panama. Third, the president should appoint a competent and trusted representative to work with the Latin American and Panamanian leaders, including Gen. Noriega, to explore various ways to permit the general to save face and restore the nation's hope for democracy.

Ultimately, Noreiga is more likely to give up his authority as a result of unpublicized pressures and enticements than through public challenge and sustained punishment of the citizens of his country. The United States will be better served if we work with our Latin American friends rather than unilaterally confront the small country.

Mr. SIMON. What we are doing in Panama is, as I said, hurting particularly the very poorest of the people there. It is doing long-term harm to our own long-range political goal, and that long-range goal is stability in that area of the world. It is doing something that is extremely significant. It is reinforcing the image that we have in Latin America of Uncle Sam being a bully and an exploiter.

It is significant I think that not a single Latin American nation to my knowledge is supporting what we are doing in Panama. With so many people in Latin America privately saying Noriega should go, why is not a single country standing up and saying Uncle Sam is doing the right thing?

I think there are two reasons. One is they have to be saying if the United States is going do something like this to Noriega, with whom they have been dealing on Contras and everything else, they may try to do this with us.

The second thing is the United States, frankly, has not tried to work in concert with other nations on this whole problem. So I think we are making a great mistake in our policy there.

Now, the question comes then, what should we do? No. 1, we ought to ask someone like President Arias of Costa Rica to intervene in the situation to see what can be worked out. We already know that one country has publicly stated they are willing to take Noriega and to give him asylum. Another country, I have been told by responsible officials, is willing to do that. I do not know what the answer is, but let us let someone like President Arias do that.

I called President Carter after his article appeared, and he suggested three leaders of Latin America who might negotiate a way out of this thing. Let us try to do that.

Second, at the same time while we make clear our disapproval of the Government and their insensitivity to human rights, and particularly the drug problem, we cannot be dealing with drug dealers. That was a great mistake we made in our policy. We ought to at least partially rescind our economic sanctions toward Panama. Let us make clear we are not going to let the Panamanian Government get money from international agencies as far as the United States is concerned with our cooperation. But I think we ought to let the banking operation proceed normally. We ought to let other trade functions proceed normally if we are not just going to have devastation in that area.

Third, we ought to stand up consistently for human rights. There is a group called Americas Watch, which was reported in yesterday's New York Times in which they criticized this administration for not paying attention to human rights abuses when they occurred before.

I ask unanimous consent that the article from the New York Times entitled "Report Alleges Human Rights Abuses In Panama" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, April 24, 1988]

REPORT ALLEGES HUMAN RIGHTS ABUSES IN PANAMA

WASHINGTON, April 23.—Panama's military-dominated Government has engaged in a widespread pattern of human rights abuses, including the beating and jailing of protestors and the mistreatment of prisoners, according to a report by a human rights group. The report was released today.

The report, prepared by Americas Watch, a private New York-based group, said Panamanian authorities have jailed political prisoners among violent criminals in substandard conditions and that the Government has engaged in vandalism and silenced opposition news organizations.

Discussing anti-Government demonstrations, the report said "hundreds of people appear to have been arrested solely for the nonviolent expression of their political beliefs."

The report said the abuses have been more severe since Panama entered a political crisis last June. It described the Reagan Administration's policy toward the reported repression as "uneven and often contradictory."

RECENT ABUSES CITED

The report was written by Jose Zalaquett, a consultant to Americas Watch, after a visit to Panama in September. Some of the abuses described in the report took place in recent weeks.

Last Wednesday, the Panamanian Government lifted a "state of urgency" imposed after a failed coup attempt a month ago.

Under the crackdown, the Government suspended civil liberties, including freedom of speech and assembly and some rights to private property.

NORIEGA DEPARTURE SOUGHT

The report said some of the more flagrant abuses could be eliminated by the departure of Panama's military chief, Gen. Manuel Antonio Noriega, but that others would continue unless a new Government ended them.

Such a Government should guarantee that elections are fair and insure that the military does not interfere in politics, the report said. The report said United States policy in Panama "seems to have been dictated by constantly changing calculations about what best ensures stability in Panama."

U.S. STANCE IS CRITICIZED

For years, the report said, "the Reagan Administration chose not to criticize the regimes controlled by Noriega, even as the general consolidated his power and corruption reached new depths." General Noriega, who has headed Panama's Defense Forces since 1983, was indicted earlier this year by two Federal grand juries in Florida on drug smuggling charges.

The report said that even though the State Department knew that the 1984 presidential elections in Panama were rigged by the military, Secretary of State George P. Shultz gave his blessing to the process by attending the inauguration of the new president.

SHULTZ'S VISIT

Mr. Shultz said no such information was available at the time of the election. The report said the Administration, in Panama and elsewhere, was inconsistent on human rights.

"Concern for human rights violations and for a lack of democratic practices is too often voiced at the 11th hour, when the Administration faces a volatile situation with potential national security implications," the report said.

Mr. SIMON. Fourth, we should support and work with the people of Panama and not try to dictate to them. It is kind of fundamental. But it is the posture that we have not taken too much to a great extent.

Finally, we should work with the other countries of Latin America on an equal basis as brothers and sisters interested in human rights, interested in a healthy Latin America, interested in a healthy Panama. Our present policy is not hurting Noriega. He is living in style. He is eating whatever he wants and drinking whatever he wants. He is in part maintaining his power because he is saying that the big bully, the United States, is trying to push me out and I am going to stand up for Panama. What we are doing is hurting a lot of poor people in that country and for no purpose.

I think we have to reexamine our policy. The sooner we do it the better for the United States and for the people of Panama.

I yield the floor.

THE FRENCH ARRESTS

Mr. HELMS. Mr. President, in October 1987, the Norwegian state prosecutors accused firms from Japan, France, Germany, and Italy of conspiring with Kongsberg to ship, illegally, high-tech equipment to the Soviet Union. The French Government responded to these allegations immediately.

Since October, in fact, French officials have met with our investigator from the Foreign Relations Committee on a number of occasions, both in Washington and in Paris. It has been made clear all along that the French Government was taking the Norwegian accusations very seriously.

This past Thursday, Mr. President, the French struck and they struck hard. The chairman of the largest machine tool company in France was arrested. The president of its biggest subsidiary, the Forest-Line firm, a retired French Air Force general, was arrested. Two other high officials of the French firm were arrested. All four are now in jail.

According to the French Embassy, the French machine tool company is accused of sending multi-axis machine tools to the Soviet Union to produce the turbine blades for jet aircraft. As the investigation unfolds, it will be interesting to see if this includes the Blackjack and Backfire bombers.

The French could have charged the tool company officials merely with customs fraud. Instead, the officials have been charged under article 80 of the French Penal Code—espionage. In France, espionage caries a maximum penalty of 20 years in prison. In essence, the French Government has treated them precisely the same as the United States treated the Walker family spy ring.

Mr. President, the French Government and its counter-espionage agency, the DST, deserve our heartiest congratulations and gratitude. They were persistent and they refused to be intimidated by the high economic or social positions of the accused. A clear message has gone out to potential diverters in France that there are severe penalties in store for those who betray France and the free world.

One of the free world's main lines of defense is the system of export controls known as Cocom. It is composed of sixteen countries—NATO minus Iceland and plus Japan. Like a chain, this system is only as strong as its weakest link. The French have proved that their link is strong. Other links may have to be reforged. Faced with the same kind of problem the French have, the Japanese court, in the Toshiba case, decided to mete out very weak punishment—two suspended sentences and a $15,000 fine, a wholly unsatisfactory response.

Mr. President, I ask unanimous consent that an April 21, 1988, article by Agency French Press reporting on the French Government actions be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FOUR FRENCH EXECUTIVES ARRESTED FOR SHIPMENTS TO MOSCOW

PARIS, April 21 (RFP).—The heads of two major French machine-tool firms, one of them a general, have been jailed on charges of delivering sensitive advanced-technology equipment to the Soviet Union, reliable sources said here Thursday.

Louis Tardy, 63, chairman of Machines Francaises Lourdes (MFL), and General Jean-Paul Chanouton, 60, head of Forest-Line, were charged and jailed on Wednesday, the sources said.

Two other senior executives of the firms, identified only as Borgniet and Loboukhine, here also jailed for allegedly passing "intelligence to agents of a foreign power", the Soviet Union in this case.

The charges follow a long investigation by the French counter-espionage agency, the DST, the sources said.

Forest-Line, which became an MFL subsidiary in 1982, reportedly began delivering sensitive equipment to the Soviet Union as early as 1970.

The sales were said to have continued until at least 1986, and perhaps 1987, in violation of the rules of the Coordinating committee for Multilateral Export Controls (COCOM), which monitors Western Exports to Communist countries.

The Paris-based committee, established in 1950, seeks to prevent exports to Communist countries of high-technology civilian products that might be used for military purposes.

Following a scandal involving shipment to the Soviet Union of machine tools by Japan's Toshiba Machine Company, the Japanese firm accused Forest-Line in September of having supplied Moscow with technology used in making silent propellers for nuclear-powered submarines.

MFL filed for bankruptcy last November.

In January, five Frenchmen were charged with illegal deliveries to the Soviet Union of strategic equipment made by a West German firm.

PASSING OF MRS. ARMISTEAD I. SELDEN

Mr. HEFLIN. Mr. President, it is with much sadness that I rise, today, to inform my colleagues of the passing of Mary Jane Selden on April 19, 1988. Mrs. Selden was the wife of my good friend, the late Armistead Selden, Jr., who served for many years in the United States House of Representatives and who served as the United States Ambassador to New Zealand.

Mary Jane Selden was a delightful, lovely, and gracious lady, who was active in church and civic affairs wherever she and Armistead lived. She freely contributed her time and efforts to so many worthy endeavors, while also raising a fine family, the members of which continue to serve Alabama and America in the same outstanding tradition of their mother and father.

I wish to take this opportunity to express my condolences to the Selden family, and ask that a newspaper article announcing Mrs. Selden's passing be printed in the CONGRESSIONAL RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Birmingham (AL) News, Apr. 22, 1988]

WIDOW OF FORMER REP. SELDEN DIES

Mary Jane Selden. 61, the widow of former U.S. Rep. Armistead Selden of Alabama, died in Birmingham Tuesday.

Mrs. Selden, a Talladega native and University of Alabama graduate, had lived in Birmingham since shortly after her husband's death in November 1985.

She married Selden after World War II and went with him to Washington, D.C. when he won a seat in the U.S. House of Representatives in 1952. Mrs. Selden was active in church and civic affairs in Washington.

She later moved with her husband to New Zealand, where he served as the U.S. ambassador to that country and to Tonga, Fiji and Western Samoa from 1974 to 1979.

The funeral will be at 3 p.m. Saturday at St. Paul's Episcopal Church, Greensboro, with burial in Greensboro Cemetery, Johns Ridout's—Southside directing.

Survivors include two daughters, Mrs. James Hewitt, Birmingham, Mrs. Lawrence Ezell, Hawaii; three sons, Jack Selden, A. Inge Selden III, and Thomas L. Selden, all of Birmingham; a sister, Sue Nicholls, Talladega; and a brother, Jack L. Wright, Talladega.

The family suggests memorials be made to either the American Cancer Society, the Armistead Selden Jr. Scholarship Fund at the University of the South in Sewanee, Tenn., or the Corpus of the Cathedral Church of the Advent.

TRIBUTE TO CLOPPER ALMON

Mr. HEFLIN. Mr. President, it is with deep sorrow that I rise, today, in tribute to my good and longtime friend, Clopper Almon, of Tuscumbia, AL, who passed away on April 10, 1988. Clopper Almon was a true gentleman. His gracious and caring manner touched all he knew. He was also a man who throughout his life was absolutely dedicated to public service through the efforts of his profession, or through other important endeavors. I know that all who were privileged to know him share in my sorrow and join me in paying this tribute to his memory.

Clopper Almon's forebearers were among the first settlers of Alabama. His father ably served for many years in the Congress. The Almon family's reputation ranks among the finest in our State, and Clopper enhanced what was already an outstanding reputation.

"Mr. Clopper," as he was affectionately called by young lawyers, demonstrated early in life the level of accomplishment and deep convictions of public service that marked his efforts throughout his lifetime. He graduated from Vanderbilt University, answered our Nation's call of duty in the First World War, and earned a law degree from Georgetown University before joining a law firm and beginning the practice of law in 1921.

Clopper Almon was well qualified to practice law by knowledge, intellect, demeanor, and personal drive. Thus, in his practice of the law, Clopper set an example of excellence and professionalism which remains today as the standard to which lawyers in the State continue to aspire. His name and the memory of his accomplishments have been highly regarded by all for many, many years. Perhaps a good indication of his accomplishments in his career is the esteem and respect with which he was regarded by his colleagues. Mr. Almon was recognized throughout the State of Alabama for his outstanding knowledge and ability in the practice of law, and served as president of the Alabama State Bar in 1960. It was my high honor to make the nomination speech for his election. The lawyers of the Shoals Area always considered him to be "the lawyer's lawyer."

Clopper Almon never stopped working to serve his community, my State, and our Nation. After his service on behalf of our country in World War I, it seems he was more determined than ever to do all he could to benefit the people of my State and our Nation. I suspect that he believed that he could never do enough to fulfill the debt which, in his mind, is owed by all citizens to our society. In addition to the contributions Clopper made to the law, he served as chairman of the Sheffield Board of Education from 1939 to 1953, and was on the Board of the Muscle Shoals Regional Library System. During World War II he volunteered on behalf of our country in a different way, serving as chairman of the Colbert County American Red Cross, and working with the county draft board.

Nathaniel Hawthorne once wrote of Herman Melville:

> A very high and noble nature, and better worth immortality than most of us.

Such a noble nature was one of Clopper Almon's many possessions. Among his other possessions were an easy manner, a quiet way, an unrivaled graciousness, a kind and loving heart, an undying loyalty to his family and friends, a strong character, and impeccable integrity.

Mr. President, people often lament the passing of an era. They often comment about how the people of the "good old days" were more noble, more dedicated to the public good, or more willing to serve others. I cannot help but feel that, with the passing of Clopper Almon—A man who, through his manner, attitude, integrity, and service on behalf of others, was the embodiment of this era of nobility—there was the passing of an era.

It is my sincere hope that all will survey the contributions, the efforts, and the attitudes—that they will examine this nobility—which Clopper Almon exhibited, demonstrated, and embraced during his life, and that they will carry forth the outstanding pursuits and attitudes to which he devoted himself through the efforts of his life. In this way, the memory of and appreciation for Clopper Almon's service and accomplishments will live on and will be passed from one generation to the next. More importantly, in this way, the lives and conditions of the people of our communities, our States and our Nation will be enhanced and improved.

Finally, Mr. President, I ask unanimous consent that an article from the Times Daily regarding the passing of Clopper Almon be printed in the Congressional Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

SERVICE TODAY FOR SHEFFIELD ATTORNEY CLOPPER ALMON

SHEFFIELD.—The graveside service for Clopper Almon, 92, 820 River Bluff Drive, will be at 2 p.m. today at Sheffield Oakwood Cemetery, with the Rev. Jack Hennings officiating. Morrison Funeral Home, Tuscumbia, will direct.

He died Sunday, April 10, 1988, at Shoals Nursing Home, Tuscumbia.

Almon was a native of Tuscumbia and a veteran of World War I. He was a lawyer and a member of the Alabama Bar Association, of which he was president, 1960-61. He graduated from Brannam and Hughes School, Vanderbilt University and Georgetown University Law School. In 1921, he joined the law firm of Andrews and Peach, which later became Andrews and Almon and is now Almon, McAlister, Ashe, Baccus and Tanner in Tuscumbia. He represented Reynolds Metals Co. from the time it first looked for a site in the Shoals until his retirement at 85 and served as city attorney for Sheffield.

He served as chairman of the Sheffield Board of Education, 1939-53 and on the board of the Muscle Shoals Regional Library System. During World War II, he was chairman of the Colbert County American Red Cross and worked with the county draft board. He was a member of the Kiwanis Club and Grace Episcopal Church.

He married the late Louise Howell of Nashville, Tenn., in 1925 and, after her death, married the late Martha Nathan Drisdale of Sheffield in 1953. He was the father of Edward Almon, who died when an infant.

Survivors include his wife, Mrs. Katharine G. Almon, Sheffield; son, Clopper Almon Jr., College Park, Md.

The family requests no flowers. Memorials may be made to the Sheffield Public Library.

FARMERS ARE SMILING AGAIN

Mr. COCHRAN. Mr. President, there is encouraging news for America's farmers this year at planting time. The outlook is bright for increased exports, higher prices, and more profits for producers.

Staying the course with the 1985 Food Security Act is paying off. A recent article in the Memphis Commercial Appeal describes the favorable conditions for improved performance in the agriculture sector of the economy.

I ask unanimous consent that a copy of this April 19, 1988, article by Laura Coleman be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Memphis Commercial Appeal, Apr. 19, 1988]

IT'S YEAR TO SMILE, FARMERS ARE TOLD

(By Laura Coleman)

After a seven-year winter, spring has finally arrived on farms in the Mid-South and across America.

And the newly broken soil of Jackie Hunt's Chester County, Tenn., cornfields has seldom smelled sweeter.

For the first time since 1980, farmers like Hunt are beginning their seasons with all the right conditions, according to agriculture specialists with the government and private industry.

"As long as no major catastrophe happens this year, it appears that American agriculture will heal itself this year," said Jim Ryan, agricultural economist with the U.S. Department of Agriculture in Washington.

Among the combination of favorable conditions:

Predictions that exports of all major crops will rise significantly this year.

Projections that production of most of those crops is expected to increase this year.

The lower relative value of the U.S. dollar that is making American-grown agricultural products a bargain on international markets.

The rising value of American farmland, which gives farmers added financial strength.

And decisions by lawmakers in Washington that have made it easier for farmers to get credit and stay in business.

"Farmers in the United States have their own fate in their hands," declared Richard Bell, president of the farmer-owned Riceland Foods Inc. of Stuttgart, AR. "They've got money in their pockets for a change."

With the encouraging numbers is coming the biggest lift to the farmers' spirits since the boom times of the 1970s, according to specialists on and off the farm.

"You have to know farmers to understand it," said Hunt, who grows 1,100 acres of corn, soybeans and cotton in Chester and Madison counties in West Tennessee. "It don't seem like they have the blues hardly as bad."

An expanded world market for U.S. agricultural goods is cited by those interviewed as the primary reason for the improved situation.

The value and volume of U.S. agricultural exports is up 20 percent over last year, said Stephen MacDonald, an economist in the USDA's Economic Research Service in Washington.

Reasons for that range from the weather in India to the eating habits in China, MacDonald said. In India, Thailand, southeast Asia and South Africa, dry conditions have caused those countries to demand more from the United States.

In Zhoujiadian, China, and neighboring towns in the beef-raising section of rural China, incomes have risen enough that the Chinese people can afford to eat the beef, MacDonald said. For the first time in five years, those farmers are demanding American grain to feed their beef cattle.

Corn farmers have particularly benefited from the Chinese business. MacDonald said that from 1982 to 1987 the Chinese bought no corn; last year they bought $82 million worth of corn, and that level is expected to remain this year.

And that is part of the reason Hunt, 40, is planting his corn with renewed, yet cautious, optimism.

"I'm not going to jump the gun or anything," he said. "I've been through too many bad years to do that."

The USDA predicts these increases in exports from last year:

Wheat: from $3.1 billion to $4.4 billion.

Corn: $3 billion to $3.7 billion.

Soybeans and soybean products: $6.5 billion to $7.4 billion.

Cotton: $1.4 billion to $2.2 billion.

Rice: $.6 billion to $.9 billion.

With the increased exports comes increased production in some crops.

Officials say decreases in acreage in crops like soybeans and grain sorghum are made up in the increases in cotton and corn planting.

For Jimmy Morrison, owner of Fayette Equipment Co. in Somerville, Tenn., the production and export figure translate into a demand for new tractors he has not seen since before 1980.

"There's no comparison to last year," said Morrison.

"You could say I'm a little bit enthused. This year has done wonders for us."

The demand for new equipment has created a five-week wait, said Morrision.

Less-obvious signs of improvements in U.S. agriculture are in land values and the level of debt faced by farmers.

USDA's Ryan said land values are creeping up, although more slowly in the Southeast than in the upper Midwest.

"There are no phenomenal increases," Ryan said. "They're up about 10 percent in the upper Midwest, and that's very encouraging."

Ryan ties the land values in with the effort to keep more farmers in business. Late last year, Congress passed the Farm Credit Reform Act, which requires restructuring of delinquent loans and a variety of other measures aimed at keeping farmers on their land.

"With the new legislation, it doesn't look like we'll see a mass exodus of farmers because they're driven away by lenders," Ryan said.

The recent economic crisis in agriculture has taught farmers and lenders alike a lesson they did not understand during the successful years prior to 1980, Ryan said. And that, he said, is the lesson about expanding too quickly.

"There's not going to be a lot of charging off and expanding," Ryan said. "All in all, the farmers and lenders will start conducting themselves more rationally. They're just relieved that the worst is over."

WHAT THE CONSTITUTION MEANS TO ME

Mr. PRESSLER. Mr. President, one of my constituents, Irene Vick of Brookings, SD, has written an excellent essay on "What the Constitution Means to Me." During our celebration of the Bicentennial of the U.S. Constitution it is good to know that citizens like Irene are taking the time to reflect on this important document. I was very touched by Irene's essay and would like to share it with our colleagues.

The essay is as follows:

WHAT THE CONSTITUTION MEANS TO ME

(By Irene Vick)

The Constitution of the United States is the oldest federal constitution on earth still in use by a nation.

I am a senior citizen. I live in the United States. I am governed by this time-honored document. It is appropriate for me to think about and share what the Constitution means to me.

The Constitution means freedom to me, freedom from fear, want, domination, injustice. I am free to think, act, carry out good to my neighbor, fellow worker and those in authority over me. I am free to comment—good or bad—on public officials. I am free to worship at the church of my choice. I am free to seek legal counsel and, if necessary, to expect a fair trial.

The Constitution means that I also have responsibility. The Constitution sets forth for me laws that I must obey. Within the right of free speech, free press and individual religious choice afforded each and every U.S. citizen, I must obey the laws that give me, and everyone these rights.

The Constitution affords me freedom to enjoy the music, drama, books, newspapers, programs of my choice.

The Constitution means to me that numberless people struggled through countless hours of drafts, word changes, inclusions, deletions, rejections, reading, debates, attacks, compromises, proposals, criticisms, deliveries, walk-outs, arguments and votings to arrive at the right word, the right word to make this historic document "for the people, by the people." Nowhere in the world has a document stood the test of time and trial like the Constitution. Yet, because of the Constitution, freedom is a reality for me and will be for my grandchildren, Michael and Sarah, too.

I, we, live in a better world because of the Constitution's flexibility, adaptability, and foresight to the past, present, and future.

EXTENSION OF NATIONAL EMERGENCY WITH RESPECT TO NICARAGUA—MESSAGE FROM THE PRESIDENT—PM 134

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. In accordance with this provision, I have sent the enclosed notice, stating that the Nicaraguan emergency is to continue in effect beyond May 1, 1988, to the *Federal Register* for publication. A similar notice was sent to the Congress and the *Federal Register* on April 21, 1987, extending the emergency beyond May 1, 1987.

The actions and policies of the Government of Nicaragua continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States. If the Nicaraguan emergency were allowed to lapse, the present Nicaraguan trade controls would also lapse, impairing our government's ability to apply economic pressure on the Sandinista government and reducing the effectiveness of our support for the forces of the democratic opposition in Nicaragua. In these circumstances, I have determined that it is necessary to maintain in force the broad authorities that may be needed in the process of dealing with the situation in Nicaragua.

RONALD REAGAN.

THE WHITE HOUSE, *April 25, 1988.*

MESSAGES FROM THE HOUSE

At 4:38 p.m., a message from the House of Representatives, delivered by Mr. Hayes one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 3971) to establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

The message also announced that the House has agreed to the following resolution:

H. Res. 434. A resolution relative to the death of the Honorable MELVIN PRICE, a Representative from the State of Illinois.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3098. A communication from the Comptroller General, transmitting, pursuant to law, a report concerning the federal milk marketing order program and its impact on dairy surpluses, as well as regional issues; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3099. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on Allied Contributions to the Common Defense; to the Committee on Armed Services.

EC-3100. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, notification of a proposed foreign military sale to Korea; to the Committee on Armed Services.

EC-3101. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on Standardization of Equipment Within NATO; to the Committee on Armed Services.

EC-3102. A communication from the Principal Deputy Assistant Secretary (Manpower and Reserve Affairs), Department of the Army, transmitting, a draft of proposed legislation "to amend titles 5, 10, 37, and 38, United States Code, to provide members of the Senior Reserve Officers' Training Corps coverage for adequate medical care and compensation for disabilities incurred during training;" to the Committee on Armed Services.

EC-3103. A communication from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting, pursuant to law, a report on performance by contract concerning the Public Work functions at Naval Air Station, Jacksonville, Florida; to the Committee on Armed Services.

EC-3104. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation "to establish an adviator continuation pay system for members of the military departments;" to the Committee on Armed Services.

EC-3105. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation "To authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel strengths for such Department for fiscal year 1989, to amend the National Defense Authorization Act for Fiscal Years 1988 and 1989 and for other purposes;" to the Committee on Armed Services.

EC-3106. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation "To authorize the acquisition, upgrade and disposal of stockpile materials;" to the Committee on Armed Services.

EC-3107. A communication from the President of the Export-Import Bank, transmitting, pursuant to law, a report on measures adopted to enhance the competitiveness of the medium-term financing program; to the Committee on Banking, Housing, and Urban Affairs.

EC-3108. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report on the activities of the United States Travel and Tourism Administration; to the Committee on Commerce.

EC-3109. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation, "To authorize appropriations for the fiscal years 1989 and 1990 for the Office of Commercial Space Transportation of the Department of Transportation, and for other purposes;" to the Committee on Commerce, Science, and Transportation.

EC-3110. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, the third annual summary on coal imports; to the Committee on Energy and Natural Resources.

EC-3111. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management

Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayments of certain oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3112. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of overpayments of certain oil and gas leases; to the Committee on Energy and Natural Resources.

EC-3113 A communication from the Acting General Counsel of the Department of Energy, transmitting, pursuant to law, notice of meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-3114. A communication from the Secretary of the Interior, transmitting, pursuant to law, the 1987 report on National Historic and Natural Landmarks that have been damaged or to which damage to their integrity is anticipated; to the Committee on Energy and Natural Resources.

EC-3115. A communication from the Secretary of the Interior, transmitting, pursuant to law, the financial exhibits of the Colorado River Storage Project and Participating Projects for fiscal year 1986; to the Committee on Energy and Natural Resources.

EC-3116. A communication from the Deputy Administrator of the Federal Highway Administration, Department of Transportation, transmitting, pursuant to law, a report entitled "Kansas City, Missouri, to Shreveport, Louisiana, Multi-State Highway Feasibility Study;" to the Committee on Environment and Public Works.

EC-3117. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the annual report of the Department of Health and Human Services on Medicare for fiscal year 1985; to the Committee on Finance.

EC-3118. A communication from the Inspector General, Department of Health and Human Services, transmitting, pursuant to law, a report entitled "Social Security Client Satisfaction: Fiscal Year 1988"; to the Committee on Finance.

EC-3119. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, a report on a request regarding foreign military sales funds; to the Committee on Foreign Relations.

EC-3120. A communication from the Acting General Counsel, Department of the Treasury, transmitting, a draft of proposed legislation "To provide for participation of the United States in a capital increase of the International Bank for Reconstruction and Development and a replenishment of the African Development Fund, and for other purposes;" to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 1476. A bill to designate the Federal Record Center at 9700 Page Boulevard, Overland, MI, as the "SSG Charles F. Prevedel Building."

S. 1736. A bill to designate the Federal Building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center."

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. 2156. A bill to amend the national School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Managmeent and Budget.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. EXON (for himself and Mr. Lautenberg):

S. 2320. A bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ (for himself and Mr. Adams):

S. 2321. A bill to amend the Export-Import Bank of the United States; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. EVANS (for himself and Mr. Adams):

S. 2322. A bill to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LUGAR (for himself, Mr. Bond, Mr. Boschwitz, Mr. Bradley, Mr. Burdick, Mr. Chafee, Mr. Chiles, Mr. Cochran, Mr. Conrad, Mr. Danforth, Mr. Dixon, Mr. Dole, Mr. Durenberger, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Heflin, Mr. Johnston, Mr. Kasten, Mr. Levin, Mr. Matsunaga Mr. McCain, Mr. Metzenbaum, Mr. Moynihan, Mr. Nunn, Mr. Pell, Mr. Pressler, Mr. Pryor, Mr. Quayle, Mr. Sanford, Mr. Shelby, Mr. Simpson, Mr. Stevens, Mr. Thurmond, Mr. Warner, Mr. Weicker, and Mr. Wilson):

S.J. Res. 302. A joint resolution to designate October 1988 as "National Down Syndrome Month"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for Mr. Dixon (for himself and Mr. Simon)):

S. Res. 419. A resolution relative to the death of the Honorable Melvin Price of Illinois; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PACKWOOD:

S. 2319. A bill to establish a series of 10 Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of President of the United States; to the Committee on Rules and Administration.

REGIONAL PRESIDENTIAL PRIMARIES ACT

Mr. PACKWOOD. Mr. President, I am today introducing legislation which would establish 10 regional Presidential preference primaries. This legislation is designed to replace the present mismash of Presidential extravaganzas which leave the candidates tired and broke and leave the public bored, bewildered and—far too often—disgusted. Voters understandably ask, "When is this nonsense coming to an end?" In the process, the candidates lose their credibility and the office loses its dignity.

Credibility must be restored to the candidates because, without it, dignity cannot be restored to the most important office in the world. A plan must be devised that somewhat dramatically improves the traveling sideshow of our current system.

Congress must meet its responsibility of providing a vehicle for the American people to select the nominee of their party from a wide range of candidates.

The legislation which I am introducing will, I believe, restore credibility to the candidates and dignity to the office they seek. It would establish a system of 10 regional primaries throughout the Nation. Every State is included in one of the following 10 regions:

First. Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.

Second. Connecticut, New Jersey, and New York.

Third. Delaware, District of Columbia, Kentucky, Maryland, Pennsylvania, Virginia, and West Virginia.

Fourth. Florida, Georgia, the Commonwealth of Puerto Rico, North Carolina, South Carolina, Tennessee, and the Virgin Islands.

Fifth. Alabama, Arkansas, Louisiana, Mississippi, and Missouri.

Sixth. Indiana, Iowa, Illinois, Michigan, Minnesota, Ohio, and Wisconsin.

Seventh. Colorado, Kansas, Nebraska, North Dakota, and South Dakota.

Eighth. Arizona, New Mexico, Oklahoma, and Texas.

Ninth. California, Guam, Nevada, Utah, and the Canal Zone.

Tenth. Alaska, Hawaii, Idaho, Montana, Oregon, Washington, and Wyoming.

Each year, the Federal Election Commission would decide by lot the actual order of the regional primaries. Under my proposal, candidates would not know where the first regional primary would be held until 70 days prior to it. This procedure would be repeated for each of the remaining regions. In this way, the order of the primaries would not be known in advance. Under the current system, some candidates begin their campaigns for nomination almost 2 years prior to the Presidential election. They are able to do this because certain States have a set primary date and the result is that all of the candidate's money, energy, and talent are focused on those particular States.

Under my proposal, the first regional primary would be held on the first Tuesday in March and the remaining primaries would take place on alternate Tuesdays thereafter. Practical politics would dictate that candidates spend most of their available time in the region holding the next primary. In conducting primaries in this organized manner, we will avoid the whirlwind approach of our current system which fatigues the candidates, sours the voters, and badly erodes confidence in Government.

My bill does not attempt to regulate the national convention and delegate selection procedures. These procedures should rightfully be left to the States and political parties. Neither does my bill dictate what form a State's primary should take, that is, whether it should be open or closed. If a State provides for an open primary whereby those persons not registered in a particular political party may vote in a party's primary, the State would be able to continue to do so. Furthermore, only those States which have a primary will be required to participate in the regional primary plan.

A regional primary would allow candidates to spend a relatively small amount of time and money in order to determine whether they had widespread support. If candidates did well in the first primary, they would be off and running. If they did poorly, they could avoid the embarrassment and expense of hopelessly campaigning nationwide. It would also give supporters and contributors a chance to become involved with a more viable candidate. Candidates could enter their first primary and if they did well could marshall the organizational and financial backing necessary to garner additional support. Their candidacies would have the chance to catch fire and gather momentum. In short, regional primaries would allow candidates to gracefully withdraw if their campaigns failed to catch fire. By the same token, regional primaries would also allow a smoldering ember to be built into a blazing bonfire.

Under my measure, moreover, the voters would have a better chance to judge a candidate's true qualifications. "Madison Avenue" would be shelved. A more personal and direct approach would result. Rather than the trademarks of image and style characteristic of our present system, the trademarks of a regional primary would be issues and answers.

If we are to return Government to the people and restore confidence in that Government, we have that opportunity through the regional primary concept. The regional Presidential primary offers the best hope of returning credibility to the candidates and dignity to the Presidency.

By Mr. EXON (for himself and Mr. LAUTENBERG):

S. 2320. A bill to amend the Rail Passenger Service Act to authorize appropriations for the National Railroad Passenger Corporation, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AMTRAK AUTHORIZATION ACT

● Mr. EXON. Mr. President, as chairman of the Surface Transportation Subcommittee, I take pleasure in introducing legislation to reauthorize our National Rail Passenger Corporation [Amtrak] for fiscal years 1989, 1990, and 1991. The authorization levels in this bill take into account projected inflation during this time. This bill would also modify the Rail Passenger Service Act insofar as it subjects Amtrak to Freedom of Information Act requirements when records are requested for commercial use or in connection with litigation or legal proceedings.

I regret that the President's budget—for the fourth time in the last 4 years, recommends a zero appropriation for Amtrak. Each year Congress has had the wisdom and foresight to reject the administration's proposal to totally eliminate Federal funding for Amtrak.

Though I consider the need to balance the Federal budget a most important one, I also believe this country needs a national rail passenger system. For this reason, I support Federal funding for Amtrak at a level which will allow it to continue operating the present system as well as increase its emphasis on capital investment. A close examination of Amtrak's annual appropriation will show that it accounts for only 2 percent of the U.S. Transportation budget. Furthermore, Amtrak has steadily increased its revenue-to-cost ratio. The proportion of Amtrak's total operating costs covered by its own revenue in 1981 was 48 percent. Amtrak has raised this level to 65 percent in 1987, and maintains a 70-percent goal by 1990.

Amtrak is a system which has served over 21 million passengers annually and increased ridership to over 30 million last year with the addition of several commuter service operations. The corporation also employs 22,400 Amtrak and 600 other railroad workers in 44 States. I commend both labor and management for working cooperatively to help ensure Amtrak's efficient operation and to reduce its dependence on Federal financial support.

I look forward to continued improvement in the Amtrak system, and pledge my commitment to working toward this end. I am especially pleased that Senator LAUTENBERG has joined me as a primary cosponsor of this legislation.●

● Mr. LAUTENBERG. Mr. President, I am pleased to join my distinguished colleague, Senator EXON, in introducing a bill to reauthorize the National Railroad Passenger Corporation; better known as Amtrak.

For years now, Amtrak has been the subject of debate between the Congress and the administration. Year after year, this administration has sought to abandon Amtrak. This is a shortsighted ill-advised policy that ignores the importance of Amtrak, and the role it plays in a balanced national transportation network. But Congress has refused to go along; and has maintained its commitment to Amtrak.

Mr. President, on many occasions I have risen in support of Amtrak. That record of support is clear. Today, Amtrak is stronger than ever. It's serving more people, and doing it with less dependence on the Federal Government. Under the leadership of Amtrak president Graham Claytor—and with pressure from the Congress—that trend is sure to continue.

But, as every other industrialized western nation has found, Government support of nationwide passenger rail service is a necessity. This bill recognizes that, and reaffirms the Congress' commitment to a balanced national transportation network, of which Amtrak is a vital part.

Let's look at the importance of Amtrak. It provides service to 21 million passengers in 44 States over a 24,000-mile system. A record 5.2-billion-passenger miles were generated last year. Additionally, approximately 175,000 commuters in a number of States depend on Amtrak's rails each and every day.

In my region, Amtrak is of particular value. Half of its passengers travel in the Northeast corridor. In 1987, Amtrak carried more passengers among the points between Washington and New York than all the airlines combined. Providing service to 3,800 passengers each day, Amtrak has become the single largest provider of point-to-point service between Washington and New York.

In New Jersey, thousands of commuters rely on Amtrak service and facilities each day. Without Amtrak, New Jersey commuters would face major disruption of service; or fare increases that would put rail travel beyond the reach of those who need it most.

Amtrak service is an indispensible asset. Our roads and airways simply could not absorb the passenger load if Amtrak were eliminated, as proposed by the administration. For example, it would require an additional 54 flights each day between Washington and New York to handle those now using

Amtrak. It's clear that capacity just doesn't exist.

But, Mr. President, Amtrak isn't just important to the Northeast. In many areas of the country; it's the principal public transportation link with the rest of the country. And to paraphrase a former colleague, a Republican from the Great Plains, "When the snow's blowing sideways, the trains are the only things that run."

In recent years, Amtrak has improved its financial condition considerably. Its growth and success has come in the face of major budgetary constraints. Between fiscal years 1981 and 1988, Federal support for Amtrak fell from $896.3 to $580.8 million, a 50-percent reduction in constant dollars.

This bill sets authorization levels of $630 million, $656 million, and $681 million over the next 3 fiscal years. As chairman of the Transportation Appropriations Subcommittee, I'll work to meet those goals. However, Mr. President, in the face of administration opposition, that won't be easy.

It's essential that we keep Amtrak on course. This bill would lay the track to keep it running, and I urge my colleagues to support it.●

By Mr. HEINZ (for himself and Mr. ADAMS):

S. 2321. A bill to amend the Export-Import Bank of the United States; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT FINANCE EXPANSION ACT

Mr. HEINZ. Mr. President, the United States has chalked up another record trade deficit in 1987. We bought $170 billion more goods than we sold, further mortgaging America's future prosperity. We are courting economic disaster unless we find a way to sell more goods overseas and put our economy on a pay-as-you-go basis.

Prospects for bringing U.S. trade back into balance in the near-term are bleak. We continue to set deficit records despite 3 years of decline in the value of the dollar. Major trading partners in Europe, Japan, and Latin America show no signs of absorbing the large volume of imports needed to restore U.S. balance.

Most troubling of all, in LDC markets where competition is keenest, our exporters are losing sales for lack of export financing or because of mixed credit offers. While their competitors enjoy ready access to official and commercial export financing on competitive terms, U.S. banks are reducing exposure in key U.S. export markets, and our export-lender of last resort, the Export-Import Bank, is underfunded and "on the ropes."

Unless we take action, our much-needed export drive will fail for lack of trade finance. Therefore, today I, along with the Senator from Washington [Mr. ADAMS], am introducing legislation to keep the trade lines open. This bill would put the Eximbank on a sound financial footing, provide a sensible basis for future funding, make the bank's guarantee a "reserve currency" that will keep commercial banks in export financing, and extend the life of the mixed credit warchest.

The first element of the bill is intended to preserve the bank's capital base by permitting the bank to refinance old debts with the Federal Financing Bank without paying out its capital in prepayment penalties. In the late 1970's and early 1980's, the Bank made loans at relatively low-interest rates necessary to meet foreign competition while borrowing at record rates from the Treasury. The Bank is now being rapidly decapitalized as it repays old loans. Meanwhile, the FFB records a "paper" profit as Exim pays interest far in excess of the FFB's borrowing costs.

Our bill would eliminate this nonsense by permitting the Bank to refinance its debt, while protecting its capital from refinancing penalties charged by FFB. The Secretary of the Treasury would be required to buy additional Bank stock to compensate for any losses in capital arising from the penalties. The net transfer of Bank capital to the FFB would stop. Similar language was reported by the Banking Committee and adopted by the Senate in the 1986 budget reconciliation legislation.

The second element of the bill would put the Bank on a pay-as-you-go basis through annual appropriation of the subsidy cost of its programs. This goal would be more appropriately achieved through comprehensive credit reform that funds all programs based on subsidies. I proposed such an approach in my bill S. 218; the Senate adopted a similar proposal in 1987; the President's 1989 budget adoptes the concept; and I am hopeful of its early adoption.

In the meantime, this bill would authorize annual subsidy appropriations and require that the portion of funds provided in annual appropriations equal to the subsidy be added to Bank capital. This will make clear just how good a value the Bank is, with benefits far in excess of its modest subsidies. In addition, the Bank will be able to pursue its export mission without worrying about its capital base.

Our bill would also ensure that Bank guarantees are a cost-effective instrument of export financing in all U.S. markets. The bill would require coverage of 100-percent of interest and principal where necessary to keep commercial financing available in all markets where the Bank is open for business. It would also encourage the marketing of pooled, guaranteed loans so that a secondary market in export paper is developed as soon as possible. This provision will ensure that Eximbank can step in and expand credit in cases where commercial banks have become excessively cautious in lending to key U.S. markets.

Finally, our bill would extend the life of the mixed credit warchest for 2 years to permit utilization of more than $200 million of authorized funds that have not yet been used. The warchest was intended to force a reduction in use of mixed credits by other countries, and an agreement was reached in the OECD last year. However, the deal is less than we hoped for and only becomes effective in July. We have to keep a "cop on the beat" to enforce the new rules.

Adequate export financing should be no less a national priority than affordable housing credit or a viable farm credit system. The Export-Import Bank must have the tools to put the full faith and credit of the U.S. Government behind our export drive. I ask your support in restoring the health of the Bank and returning the U.S. economy to a self-financing basis.

By Mr. EVANS (for himself and Mr. ADAMS):

S. 2322. A bill to authorize certain elements of the Yakima River Basin Water Enhancement Project, and for other purposes; to the Committee on Energy and Natural Resources.

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT AUTHORIZATION

Mr. EVANS. Mr. President, I rise today to introduce legislation, along with my colleague from Washington, Senator ADAMS, to authorize a comprehensive solution to the severe water crisis in the Yakima River Basin in Washington State. Congressman SID MORRISON, in whose district this project lies, will be introducing an identical version of this bill today in the House of Representatives as well.

The introduction of this bill today is significant in many respects. Ten years ago, our predecessors in this body sought the support of their colleagues to begin the process to provide some remedy for the critical water shortages they were experiencing in the Yakima River Basin. Ten years later, the cycle of drought has brought us back to nearly the same place we were then. Senators Magnuson and Jackson initiated the Yakima River Basin Water Enhancement Project. Today, we seek to bring a final resolution to that process.

Since the initiation of the Yakima Enhancement Project, a tremendous effort has evolved in the Yakima Valley. It has involved numerous State agencies, the Yakima Indian Nation; individual farmers, irrigation districts, environmental organizations, and the Federal Government. The combination of this tremendous effort as well as the crisis faced in common by all residents of the Yakima Valley, has forged a stronger desire for resolution of this issue than has ever existed.

This is not to say that all of the interested parties will embrace this bill in its every word. The introduction of this bill is a solid beginning of what I know will continue to be an intense debate. This legislation is intended to initiate serious discussion and negotiations for a workable compromise package. There are many who have been involved with this issue for a long time who are still reviewing this bill.

Importantly, this package contains the elements that those most closely involved in the process have agreed are needed for a comprehensive solution. These elements evolved out of the policy recommendations resulting from the working groups that were formed to analyze specific aspects of the water problem in the basin. I recognize the need for and welcome the continuing dialog that I know will ensure upon introduction of this bill.

This bill forges together a unique package of ideas to resolve the water shortages in the Yakima Basin. Specifically, this bill would authorize projects to increase the efficiency of the Yakima enhancement project, additional storage capacity at the existing Bumping Lake project, a comprehensive water conservation plan, temporary subordination of the Naches hydroelectric facility. The bill also includes provisions through which the United States can fulfill the off-reservation treaty rights reserved by the Yakima Indian Nation in its treaty of 1855. In total, this project could make available more than an additional 500,000 acre-feet of water in the Yakima Basin.

This bill makes an important advance in the effort to refocus water supply solutions on conservation and the efficient use of the scarce water that is available. The bill authorizes a comprehensive conservation and water use efficiency study. The study will analyze operational and physical means by which the irrigation districts can use water more efficiently. It also requires the Secretary to examine institutional and economic incentives that may be used to promote the conservation of water, particularly in drought years such as this. The Secretary is authorized to implement measures that are recommended in the study. It is anticipated that over 100,000 acre-feet of water can be made available through conservation and water use efficiency measures.

The improvements to the existing Yakima project include the modification of existing radial gates at Cle Elum Dam, the construction of a reregulating reservoir within the Roza irrigation system, facilities to automate and improve canal operations of the Sunnyside Division to reduce irrigation diversions, and system improvements to save water on the Wapato irrigation project. These facilities will reduce the average annual diversions by 72,000 acre-feet of water.

The bill authorizes the subordination of hydroelectric power generation at the Federal Roza and Chandler powerplants on a permanent basis and the subordination of the Naches hydroelectric facility as an interim measure until additional storage can be constructed on the Naches River. Subordination would result in the suspension of power generation during periods of low river flows to increase instream flows for anadromous fish resources. The bill authorizes electrification of the hydraulic powerpumps at the Sunnyside Division and at Chandler powerplants, which will result in a decrease in the use of water for those plants.

The bill authorizes additional storage capacity at the existing Bumping Lake project. This would increase the present reservior to 458,000 acre-feet. The primary use of this additional water will be to insure adequate instream flows for the anadromous fish resource. Through the efforts of the Pacific Northwest Power Council, the Yakima Indian Nation, and State and Federal fisheries agencies, the fisheries resource is slowly coming back. In the Yakima River Basin, by far the limiting factor to the enhanced recovery of the anadromous fish resource is the unavailability of water.

More importantly, the additional water from the Bumping Lake enlargement would provide a substantial portion of the package to fulfill the treaty rights of the Yakima Indian Nation under its treaty of 1855 with the United States. The Yakima Indian Nation claims water for instream flows to protect Yakima River fishery resources as well as water needed for irrigation purposes on the Yakima Indian Reservation.

In 1855, the Yakima Indian Nation signed a treaty with the United States under which the tribe reserved for its exclusive use approximately 1.3 million acres of land to which it held aboriginal title. The tribe surrendered title to the remainder of its aboriginal homeland, but reserved for its members the right to continue fishing at all usual and accustomed places within the ceded area. It seems clear from the relevant case law that the Yakima Indian Nation also reserved water to accomplish the purposes for which it reserved land and off-reservation fishing and hunting rights.

The full extent of the water rights reserved by the Yakima Indian Nation has not yet been determined. The Federal courts have ruled that a purpose for the Yakima Indian Reservation was the establishment of an agrarian economy for Yakima tribal members. Consequently the courts have established that the Yakima Indian Nation has a reserved right to water for agricultural purposes. More recently, the court recognized that the Yakima Indian Nation has a water right for protection of treaty fishing activities. The courts have not yet decided, however, how much water was reserved by the Yakima Indian Nation, nor have they decided precisely which water resources within the Yakima River system are subject to tribal claims.

The Yakima enhancement project authorization bill purports to satisfy Indian treaty rights by ensuring adequate water from the Yakima project for the protection and enhancement of fish and wildlife resources in the Yakima Basin and by providing sufficient irrigation water from off-reservation water resources to meet the needs for on-reservation agricultural development.

Unquestionably, the additional capacity provided by this bill is long overdue. There are many in the Yakima Valley who have been anticipating additional storage in the system since the 1940's. The Yakima enhancement project is an equitable sharing of costs between the Federal Government and the non-Federal beneficiaries of the project. The development of this project will assure the delivery of irrigation water for one of the Nation's most productive agricultural areas. It assures the continued restoration of a tremendous natural resource of the Pacific Northwest—its anadromous fishery resource. Finally, it will at long last provide for the fulfillment of treaty obligations of the United States to the Yakima Indian Nation.

Mr. President, I urge my colleagues in this body to recognize the urgency of finally resolving the water crisis in the Yakima River Basin and join in support of this bill. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2322

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR EARLY IMPLEMENTATION PROJECTS.

(a) That for purposes of protection and enhancement of fish and wildlife, satisfaction in significant part of the instream flow and irrigation rights of the Yakima Indian Nation reserved under the Treaty of 1855 with the Yakimas, providing supplemental irrigation to presently irrigated lands, and water conservation, the Secretary of the Interior (hereafter, the Secretary) acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplementary thereto) and consistent with the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) is authorized to design, construct, operate and maintain the following facilities:

(1) modification of existing radial gates at Cle Elum Dam; a reregulating reservoir to increase water-use efficiency of the Roza Division; facilities to automate and otherwise improve canal operations of the Sunnyside Division; facilities to automate the headgate, wasteways and trashrack of the Chandler, Power Canal to maintain operating controls for the Kennewick Irrigation District; and

(2) facilities to automate and otherwise improve canal operations of the Wapato Indian Irrigation Project; and

(3) electric pumping facilities to replace existing hydraulic pumps at the Chandler Diversion and at facilities within the Sunnyside Division.

(b) The Secretary is authorized to accept funds from any entity, public or private, to design, construct, operate, and maintain facilities authorized by this Act.

SECTION 2. AUTHORIZATION FOR ADDITIONAL STORAGE AT THE BUMPING LAKE PROJECT.

(a)(1) That for purposes of protection and enhancement of fish and wildlife, satisfaction in significant part of the instream flow and irrigation rights of the Yakima Indian Nation reserved under the Treaty of 1855 with the Yakimas, providing supplemental irrigation to presently irrigated lands, water conservation, and to the extent compatible with the foregoing purposes, flood control and recreation, the Secretary, acting pursuant to Federal reclamation law (Act of June 17, 1902, 32 Stat. 388 and Acts amendatory thereof and supplementary thereto) and consistent with the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) is authorized to construct, operate and maintain the Bumping Lake Enlargement storage facility not to exceed 458,000 acre-feet and substantially in accordance with the recommended plan presented in the Bumping Lake Enlargement Yakima Project, Washington, joint feasibility report dated August 23, 1979, as updated and revised pursuant to section 2(a)(3).

(2) The principle works of the Bumping Lake Enlargement shall consist of:

(A) a replacement dam downstream from the presently existing dam structure;

(B) other facilities as may be required for the operation of the replacement dam.

(3) The Secretary is directed to update and complete all project reports including the joint feasibility report and environmental impact statement in accordance with the purposes of this Act and shall submit such reports to Congress within three years of the date of enactment of this Act.

(4) This Act constitutes an affirmative authorization by Congress for construction in a navigable water course of the United States.

(b) The Secretary shall not undertake the construction of the Bumping Lake Enlargement until completion of a plan to mitigate and enhance resources including, but not limited to:

(1) fisheries resources;

(2) wildlife resources;

(3) old growth forest resources; and

(4) recreational resources

that will be impacted by the construction and operation of such facility. Such mitigation and enhancement measures shall be implemented concurrently with construction of the enlarged storage facility. Such plan shall be undertaken in consultation with the U.S. Forest Service, Washington Departments of Ecology, Wildlife and Fisheries, the Fish and Wildlife Service, the Pacific Northwest Power Planning Council, and the Yakima Indian Nation. Upon completion of said mitigation and enhancement plan notice shall be given to the public with opportunity for review and comment.

(c) The Secretary shall not undertake construction of the Bumping Lake Enlargement or initiate delivery of water for the purposes of irrigation from the Bumping Lake project until:

(1) completion of the Yakima Water Study authorized by Section 3 of this Act; and

(2) the Secretary enters into appropriate agreements for the implementation of the recommendations made by the Yakima Water Study.

SECTION 3. YAKIMA RIVER BASIN CONSERVATION AND WATER USE EFFICIENCY STUDY.

(a) For the purposes of improving the availability and reliability of water supplies for irrigation and the protection and enhancement of the fish and wildlife resources of the Yakima River Basin and in cooperation with appropriate Federal, State, and local entities including, but not limited to, local irrigation districts, the Washington Departments of Ecology and Agriculture, the Yakima Indian Nation, and other interested parties, the Secretary shall undertake the Yakima River Basin Conservation and Water Use Efficiency Study (hereinafter, the Yakima Water Conservation Study) to investigate the feasibility of reducing or otherwise altering the diversion of irrigation water supplies provided by the existing Yakima project and the Yakima Enhancement Project and delivered pursuant to contracts with the Secretary.

(b) The Yakima Water Conservation Study shall include—

(1) an analysis of physical, structural and operational methods to improve water use efficiency including, but not limited to, the lining or piping of canals and laterals, vegetation management, rotation of water use, conjunctive management of surface and groundwater resources, underground storage, improved on-farm irrigation facilities and water management, the location of points of diversion and times of diversions, and the reintroduction of return flows; and

(2) an analysis of the institutional and economic incentives that may be utilized to increase conservation and the efficient use of water or otherwise alter the diversion of water in the Yakima River Basin including, but not limited to, water banking, payment for the temporary diversion of water, and the ability to implement such methods under Washington State law. Such analysis shall incorporate to the greatest extent possible the results and recommendations of the Washington State Water Use Efficiency Study.

(3) The analysis of each method shall include an estimate of:

(A) the cost-effectiveness of implementing the proposal including a comparison of the costs associated with each method and the incremental costs associated with the water supplied through the Bumping Lake Enlargement;

(B) the extent to which the method contributes to the availability and reliability of the Yakima River Basin water supply, including enhanced irrigation water supplies and improved water supplies for anadromous and resident fisheries;

(C) the timeliness of implementation;

(D) the acceptability of the method from social, environmental, and institutional perspectives; and

(E) the impact on the operation of the Yakima River Basin Project.

(4) The study shall also contain the recommendations of the Secretary as to measures necessary to replace incidental fish and wildlife values foregone as a result of the implementation of water use efficiency measures.

(c) The Secretary shall transmit the study along with recommendations for implementation of conservation and water use efficiency measures to the Committee on Energy and Natural Resources of the Senate, and the Committee on Interior and Insular Affairs of the House of Representatives, and the Governor of the State of Washington and the Pacific Northwest Power Planning Council within three years after the date of enactment of this Act. For each recommendation for implementation, the Secretary shall substantiate the technical and financial feasibility of the proposal.

SECTION 4. IMPLEMENTIATON OF THE YAKIMA CONSERVATION AND WATER USE EFFICIENCY PROGRAM.

(a) Subject to the appropriations of funds, and the finding required in section 12(a) of this Act—

(1) one year after the submittal to Congress of the study authorized in section 3 of this Act, the Secretary is authorized to undertake the water use efficiency measures as recommended for implementation in the study where such measures are shown to be financially feasible: *Provided*, That prior to implementation of the recommendations of the study related to water diversion works or distribution systems, or portions thereof, the Secretary shall enter into contracts with the non-Federal entities owning, operating, and maintaining such facilities providing for the long term operation and maintenance of system improvements constructed pursuant to this section: *Provided further*, That prior to implementation of the recommendations of the study related to on-farm irrigation water management including improvement of related laterals, the Secretary shall have pursued completing voluntary cooperative agreement with the respective entities or groups of owners and in consultation with the appropriate irrigation district or the canal company providing for the implementation of said recommendations; and

(2) the Secretary is authorized to acquire on a temporary or a permanent basis, water rights from willing sellers, and to allocated water savings resulting from the acquisition of water rights to supplemental irrigation of off-reservation lands currently receiving deliveries of irrigation water.

SECTION 5. FULFILLMENT OF YAKIMA INDIAN NATIONAL WATER RIGHTS.

(a) Upon completion of the facilities authorized in this Act—

(1) The Wapato Indian Irrigation Project is hereby expanded to include those lands within the boundaries of the Yakima Indian Reservation which are generally depicted on the map entitled "Wapato Indian Irrigation Project, Modified" dated ————, 1988, and numbered ———, and is on file in the offices of the Secretary and the Yakima Indian Nation.

(2) The Secretary shall provide deliveries of water to the Wapato Indian Irrigation Project sufficient to meet the full irrigation needs of the Wapato Indian Irrigation Project as modified in subsection (a)(1). All waters provided for the beneficial use of the Yakima Indian Nation and its members within the boundaries of the Wapato Indian Irrigation Project shall—

(A) be available for irrigation purposes or for other purposes for which the Reservation was established;

(B) be delivered on a nonprorateable basis; and

(C) shall have a priority date consistent with the date on which the Yakima Indian Reservation was established.

(3) The Secretary is authorized to design, construct, operate and maintain conveyance facilities sufficient to provide deliveries of water pursuant to subsection (a)(2).

(4) Operation and maintenance charges attributable to lands within the boundaries of the Wapato Indian Irrigation Project title to which is vested in the Yakima Indian Nation or its members or held in trust by the Secretary for the benefit of the Yakima Indian Nation and its members shall be nonreimbursable and nonreturnable.

(5) The Yakima Indian Nation is authorized to—

(A) contract with any other entity, on a voluntary basis, to limit or forego diversions to the Wapato Indian Irrigation Project, or

(B) to limit or forego diversion of water to the Wapato Indian Irrigation Project that benefit lands held by the Yakima Indian Nation or its members to allow for increased instream flows.

(b) Notwithstanding the provisions of subsection (c) of the Act of August 31, 1964 (P.L. 88-540; 25 U.S.C. 608(c)), and of section 203 of the Act of January 12, 1983, (P.L. 97-459; 96 Stat. 2517; 25 U.S.C. 2202), the Secretary is authorized to acquire and hold in trust pursuant to Section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) for the Yakima Indian Nation land and interests in lands within the Yakima Indian Reservation presently held by the grantor in fee simple.

SECTION 6. OPERATION OF YAKIMA BASIN PROJECTS.

(a)(1) Except as provided in subsection (b), the facilities authorized by this Act and fish passage facilities authorized by the Acts of August 17, 1984 (98 Stat. 1933) and August 22, 1984 (98 Stat. 1369) shall be considered features of the Yakima River Basin Water Enhancement Project (hereafter, Yakima Enhancement Project), and their operation and maintenance shall be integrated and coordinated with other features of the existing Yakima Project. As appropriate, the Secretary shall enter into agreements to provide for the operation and maintenance of such facilities. The Secretary shall insure that such facilities are operated in a manner consistent with the treaty rights of the Yakima Indian Nation, Federal reclamation law, and water rights recognized pursuant to State law, including the valid contract rights of irrigation users.

(2) The Roza reregulating reservoir shall become a feature of the Roza Division. Water savings resulting from contruction and operation of the Roza reregulating reservoir shall be available for use as supplemental irrigation water for currently developed lands within the boundaries of the Roza Division.

(3) The facilities to automate and otherwise improve canal operations of the Sunnyside Division shall become features of the Sunnyside Division. Water savings resulting from construction and operation of such facilities shall be allocated to the protection and enhancement of fish and wildlife.

(4) The modified radial gates at Cle Elum Dam shall become a feature of the existing Yakima Project. Additional water resulting from the modification of the radial gates shall be available in accordance with the Early Implementation Report dated February 1987. The Secretary shall operate and maintain such facilities in accordance with the existing Yakima Project.

(5) The Bumping Lake Enlargement shall become a feature of the Yakima Enhancement Project. The Secretary shall operate and maintain such facility in accordance with the purposes of this Act and shall allocate water stored in the Bumping Lake Enlargement according to the recommendations contained in the joint feasibility report referred to in section 2(a)(1) and 2(a)(3) of this Act.

(b) The facilities to expand deliveries of water, and to automate and otherwise improve canal operations of the Wapato Indian Irrigation Project shall become features of the Wapato Indian Irrigation Project. Water savings resulting from construction and operation of such facilities shall be available to the Yakima Indian Nation for irrigation purposes, for the protection and enhancement of fish and wildlife, and for other purposes for which the reservation was established. Except as provided for under section 5 of this Act, design, construction, operation and maintenance costs related to such facilities shall be reimbursable and returnable according to the provisions of the Leavitt Act (Act of July 1, 1932 (47 Stat. 564).

(c) The Secretary shall operate and maintain the existing Federal Chandler and Roza powerplants to help meet established instream flows and in a manner that provides priority for protection and enhancment of fish and wildlife. The Administrator of the Bonneville Power Administration shall make available power and energy from the Federal Columbia River Power System to the Secretary to meet contractual obligations entered into by the Secretary for the delivery of power and energy from the Chandler and Roza powerplants. Except as otherwise provided by this section, the Secretary shall offer to amend, without imposing any other requirement as a condition to such amendment, all existing contracts for the sale of power and energy from the Chandler and Roza powerplants to relieve any outstanding obligations for the repayment of construction costs for such powerplants allocated to irrigation.

(d) The Secretary shall allocate water savings resulting from installation of electric pumping facilities at the Chandler Diversion and at facilities within the Sunnyside Division to instream flows. The Administrator of the Bonneville Power Administration shall provide the additional power and energy that is required from the installation of the electric pumping facilities to the Secretary for operation of electric pumps at the Chandler Diversion and at facilities within the Sunnyside Division.

(e) The Secretary shall, in consultation with the state of Washington, the Pacific Northwest Electric Power Planning Council, and the Yakima Indian Nation, establish instream flows adequate to protect and enhance fish and wildlife for all reaches of the regulated portion of the Yakima River. Upon completion of the facilities authorized pursuant to this Act, the Secretary shall operate the Yakima Enhancement Project in a manner which maintains established instream flows. Upon enactment of this Act and until completion of the facilities authorized by this Act, the Secretary shall operate the Yakima Enhancement Project to maintain a minimum instream flow of 200 cubic feet per second at the Sunnyside Diversion gaging station.

SECTION 7. INTERIM SUBORDINATION OF NACHES HYDROELECTRIC PROJECT.

(a)(1) Not less than 90 days following enactment of this Act, The Administrator of the Bonneville Power Administration (hereinafter, the Administrator), and the Secretary shall enter into a Memorandum of Agreement (hereinafter, MOA) with the Pacific Power & Light Company, the Yakima Indian Nation, the City of Yakima, the Wapatox Ditch Company and other entities or persons with whom Pacific Power & Light Company has an existing contract to provide water for irrigation purposes, for the operation and maintenance of the Naches and Naches Drop Hydroelectric Projects (hereinafter, Projects) in a manner that provides priority for protection and enhancement of fish and wildlife until such time as the construction of the Bumping Lake Enlargement Project is completed.

(2) The Pacific Power & Light Company shall operate and maintain the Projects in accordance with the MOA: *Provided*, That nothing herein shall limit or affect the delivery of—

(A) flows up to 200 cubic feet per second through the Wapatox power canal needed by the City of Yakima to maintain the present quality and quantity of water for domestic uses; or

(B) flows needed by the Pacific Power & Light Company to maintain its present contractual deliveries of water to the Wapatox Ditch Company or any other person or entity for irrigation purposes.

(b)(1) To the extent operation and maintenance of the Naches and Naches Drop powerplants in accordance with the provisions of the MOA provided for in subsection (a) results in a reduction of power and energy generation at said Projects, the Administrator shall make available as compensation to Pacific Power & Light Company equivalent power and energy from the federal Columbia River Power System for such time as power generation is subordinated for the purposes of fish and wildlife in the manner provided for in the MOA: *Provided*, That the delivery of power and energy to Pacific Power & Light Company shall be in a manner approximating the power and energy generation reduction at the Projects.

(2) To the extent that the MOA requires the construction of capital improvements at the Projects to accomplish the temporary subordination of the powerplants for a fish and wildlife priority or operation of the powerplants to fulfill the requirements of the MOA results in increased operating costs of the powerplants, the Administrator shall also fully compensate Pacific Power & Light in either money or electric power and energy equivalent thereto calculated at the PF-87 Preference Rate or its successor.

(c) In the event of the MOA is not agreed to within 120 days after the enactment of the Act, the Secretary is authorized to acquire and to operate and maintain the Naches and the Naches Drop Hydroelectric generating facilities. The Secretary shall operate the projects to help meet established instream flows and in a manner that provides priority for protection and enhancement of fish and wildlife. The Administrator shall make available power and energy from the Federal Columbia River Power System to the Secretary to meet contractual obligations entered into by the Secretary as consideration for acquisition of the projects.

SECTION 8. AUTHORIZATION OF APPROPRIATIONS

There is hereby authorized to be appropriated to the Secretary, at July 1987 prices, plus or minus such amounts as may be justified by reason of ordinary fluctuations of construction costs indexes applicable to the type of construction involved herein—

(a) $23,400,000 for the planning, design, and construction of early implementation elements of the Yakima Enhancement Project authorized in section 1(a)(1);

(b) $20,000,000 for the planning, design, and construction of Wapato Improvement facilities authorized in section 1(a)(2);

(c) $158,000,000 for the planning, design, and construction of the Bumping Lake Enlargement facilities authorized in section 2;

(d) $2,000,000 for the Yakima Water Conservation Study authorized in section 3;

(e) $120,000,000 for the implementation of the water use efficiency measures authorized in section 4;

(f) $ for the planning, design, and construction of the Wapato Indian Irrigation Project facilities authorized in section 5; and

(g) $3,450,000 for the installation and operation of electric pumping facilities authorized in Section 1(a)(3).

(h) such sums as may be required—

(1) for the operation and maintenance of the three vertical feet enlargement of Cle Elum Lake;

(2) for the operation and maintenance of facilities authorized by Section 1(a)(2) and section 5;

(3) for that portion of operation and maintenance of other facilities authorized by this Act determined by the Secretary to be a federal responsibility pursuant to the agreements specified in section 6; and

(4) for the completion of the feasibility studies authorized by section 11.

(5) for the acquisition of the Naches and the Naches Drop hydrolectric facilities authorized in section 7.

SECTION 9. COST-SHARE AGREEMENT.

(a) The construction of facilities authorized by this Act shall be initiated only after non-Federal interests have entered into binding agreements with the Secretary to find 35 per centum of the total construction cost of such facilities during such period of construction. The construction of facilities or other expenses incurred to enhance and improve the fish and wildlife resource in the Yakima River Basin by the Bonneville Power Administration shall be considered as part of the local contribution for purposes of the cost sharing agreement.

(b) If the State of Washington, the Yakima Indian Nation, or any other entity, public or private, prior to the providing of an appropriation of funds to the Secretary to construct the Yakima Enhancement Project, shares in the costs of or constructs any physical element of that project, the costs incurred by the State, the Yakima Indian Nation, or any other entity in the construction of such elements shall be credited to the total amount of any costs to be borne by the State, the Yakima Indian Nation, or any other entity as contributions toward payment of the cost of the Yakima Enhancement Project; except that no such credit shall be given for any element constructed by the State, the Yakima Indian Nation, or any other entity unless the element has been approved by the Secretary prior to its construction. The Secretary shall grant such approval, when requested by the State or other entity, if the Secretary determines that the element proposed for construction would be an integral part of the Yakima Enhancement Project.

SECTION 10. REIMBURSABLE AND NON-REIMBURSABLE COSTS.

(a) Design, construction, operation and maintenance costs of facilities that are features of the Yakima Project allocated to fish and wildlife shall be reimbursable and returnable according to the provisions of the Federal Water Project Recreation Act (79 Stat. 213), as amended: *Provided*, That design, construction, operation and maintenance costs of Yakima Project facilities related to anadromous fish shall be nonreimbursable and nonreturnable.

(b) Except as provided in section 5 and section 6(b), design, construction, operation and maintenance costs of facilities authorized by this Act allocated to irrigation and which are determined by the Secretary to be an irrigation obligation shall be reimbursable and returnable according to the provisions of section 9(d) of the Reclamation Project Act of 1939 (53 Stat. 1187). The Secretary shall offer to amend existing irrigation repayment contracts, without imposing any other requirement as a condition to such amendment, to provide for repayment of the irrigation construction costs of facilities authorized by this Act over a period of not more than forty years exclusive of any development period authorized by law.

SECTION 11. STUDIES AUTHORIZED.

(a) The Secretary, as part of the study authorized by the Act of December 28, 1979 (93 Stat. 1241), is directed to conduct a feasibility study of the following potential elements:

(1) Kittitas Valley irrigation system improvements;

(2) consolidation of the Selah-Moxee Irrigation District, Union Gap Irrigation District, Moxee Ditch Company, and Hubbard Ditch Company diversions from the Yakima River for delivery from the Roza Canal; and

(3) development of groundwater resources within the Roza Division for a supplemental irrigation water supply; and

(4) construction within the boundaries of the Yakima Indian Reservation of storage facilities and groundwater pumping facilities for the use and benefit of the Yakima Indian Nation: *Provided*, That the functions of the Bureau of Reclamation under this paragraph shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (P.L. 93-638, 88 Stat. 2203; 25 U.S.C. 450) to the same extent as if performed by the Bureau of Indian Affairs.

(b) The Secretary shall complete the feasibility study and report the conclusions of the study to the Congress within three years following enactment of this Act.

SECTION 12. CONDITIONS ON AUTHORIZATION PERTAINING TO WASHINGTON STATE LAW AND THE YAKIMA INDIAN NATION.

The Secretary shall not undertake construction of the facilities authorized in this Act until—

(a) the Secretary finds that construction of the facilities and allocations of water authorized in this Act are consistent with the laws of the state of Washington; and

(b)(1) a determination has been made by the Yakima Indian Nation that the delivery of water to the Yakima Indian Reservation and the maintenance of instream flows pursuant to this Act will satisfy the needs of the Yakima Indian Nation for deliveries of water from off-reservation water supplies and the maintenance of instream flows from Yakima Project water supplies; and

(2) a stipulation has been filed by the Yakima Indian Nation, in the appropriate court, that, upon completion of the facilities authorized by this Act, including the construction of the Bumping Lake Enlargement storage facility, the maintenance of established instream flows, and the delivery of water pursuant to this Act, it will not assert additional claims—

(A) to off-reservation water supplies for delivery of water to the Yakima Indian Reservation; and

(B) to water stored in facilities that are features of the Yakima River Basin Water Enhancement Project for instream flows necessary for the protection and enhancement of fish and wildlife.

SECTION 13. SAVINGS PROVISIONS.

Except as specifically provided in Section 12(b), nothing in this Act shall be construed to—

(a) affect or modify any treaty or other right of the Yakima Indian Nation;

(b) authorize the appropriation or use of water by any Federal, State, or local agency, the Yakima Indian Nation, or any other entity or individual;

(c) affect the rights or jurisdictions of the United States, the States, the Yakima Indian Nation, or other entities over waters of any river or stream or over any groundwater resource;

(d) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States;

(e) alter, establish, or affect the respective rights of States, the United States, the Yakima Indian Nation, or any person with respect to any water or water-related right; or

(f) alter, diminish, or abridge the rights and obligations of any Federal, State, or local agency, the Yakima Indian Nation, or other entity, public or private.

● Mr. ADAMS. Mr. President, I rise as a cosponsor of the Yakima Enhancement legislation offered today by my senior colleague from Washington State, Senator EVANS.

This bill is an attempt to design a comprehensive solution for the water problems in the Yakima River Basin. These problems are extremely complex, and, quite frankly, we have a long way to go before we develop an approach that everyone can live with. I believe that in order for this process to continue the people in my State—growers, Indians, environmentalists—need to know that their representatives in Congress are committed to developing a comprehensive solution to the water problems in this basin. I am deeply committed to finding a solution to these problems, as are Governor Gardner, Senator EVANS, and Congressman MORRISON; and that is why I am cosponsoring this bill today.

Last summer, Senator EVANS and I introduced a bill on the Yakima Enhancement Project. That bill authorized a package of generally noncontroversial projects, including improvement of irrigation systems, subordination of power generation on the Yakima River in favor of in-stream flows, and authorization of a small storage facility at Cabin Creek. The bill was intended as an interim measure, a way to get moving on some agreed-upon projects while negotiations continued on the shape of an overall solution.

Since then, significant progress has been made. Working groups representing all interested parties, including State officials under the leadership of Governor Gardner, the Yakima Indian Nation, the agricultural community, and the environmental community, have gathered information and made recommendations on such issues as water conservation, instream flows, storage site location, and relevant legal issues. Conflicts between water user groups have become less intense, as the people who live in the Yakima Basin have worked together to develop common goals. In the long run, solutions to these problems must come from the people of the Yakima Basin themselves, and I commend all those who participated in the work group process on their hard work and dedication to this effort.

In addition, a dry year last year, an even drier winter, and the prospects of a major drought this year have increased everyone's urgency to develop a solution to the water issues in the Yakima Basin.

As a result of the heightened concern about the need to develop a comprehensive solution, we have all worked together to develop this bill. I realize that some of its elements are controversial. I myself am not comfortable with everything that is in the package. But nothing is etched in stone. I view this bill as a vehicle for continued discussion; and it is for that reason that I am cosponsoring it today.

I support continued efforts to develop a comprehensive package because something needs to be done about the water supply in the Yakima Basin. The possible drought makes the problem immediate, but the real problem is that the Federal Government—through treaties with the Yakima Indian Nation and water supply contracts with irrigation districts—have made commitments to people in the Yakima Basin that water will be available for their needs. Right now there is not enough water in the Yakima Basin to fulfill these commitments. The result has been conflict and bitterness between water user groups, and general confusion about the nature and extent of water rights in the basin.

The information we have available to us indicates that increased storage needs to be part of a comprehensive solution, and the best way to get that storage appears to be by enlarging the existing reservoir at Bumping Lake. This proposal has been around for a long time, and is vigorously opposed by many of my friends within the environmental community. I share their concerns about the environmental impact of this enlargement.

Because I share some of those concerns, I have given a good deal of thought to this element of the bill. I am able to consider accepting the inclusion of the Bumping Lake enlargement only as part of an overall package that includes the following elements.

First, it must include a strong conservation program that ensures that conservation measures are a meaningful part of the overall project, and not just an appendage to storage. I believe the conservation study required by this bill takes significant steps toward that goal. I note, for instance, that this bill makes construction of the new dam at Bumping Lake contingent on completion and implementation of this study. It also provides for an ongoing analysis of the value of the Bumping Lake Dam compared with various conservation measures. This will help ensure that this dam is not built unless it is truly needed.

Secondly, this package must include a significant program for mitigating the effects of the Bumping Lake enlargement. The bill requires that such a program be developed prior to any construction, and that it be implemented concurrently with such construction. I would encourage my friends in the environmental community to be creative in proposing suggestions for possible mitigation measures. For instance, enlargement of Bumping Lake would innundate approximately 1600 acres of old growth timber. This timber is part of an overall stand of approximately 4000 acres, none of which is currently protected. Placing the remainder of this timber in wilderness designation might be a good starting place for discussions about mitigation measures.

Finally, this package must, to the greatest extent possible, contain mechanisms for fulfilling the existing treaty rights of the Yakima Indian Nation, and put some limits on the uncertainties concerning the nature of water rights in the basin. Further, all of the language in this bill should be carefully examined to ensure that there are no unintended impacts on the water rights of all water users in the Basin.

Water rights are an extraordinarily sensitive subject, but resolution as much as possible of the existing uncertainty is an irreplaceable aspect of the overall package. I believe the proposed language in this bill provides a framework for future discussion. In this context, I would like to commend the Yakima Indian Nation for their decision to support the introduction of legislation that proposes a mechanism for dealing in part with the water rights question.

In conclusion, Mr. President, this bill is yet another step on the long road toward development of a comprehensive solution to the water problem in the Yakima River Basin. I know that all interested parties have reservations about certain elements of this bill. I certainly do. But, on balance, I believe that this package will keep everybody with an interest in this project at the negotiating table. It is in the spirit of continued dialog and discussion about this issue that I join Senator EVANS as a cosponsor of this legislation.●

ADDITIONAL COSPONSORS

S. 684

At the request of Mr. HEINZ, the names of the Senator from Utah [Mr. GARN] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 684, a bill to amend the Internal Revenue Code of 1986 to make permanent the targeted jobs credit.

S. 1522

At the request of Mr. BREAUX, his name was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 2032

At the request of Mr. BREAUX, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from Virginia [Mr. TRIBLE], the Senator from Washington [Mr. ADAMS], and the Senator from Mississippi [Mr. STENNIS] were added as cosponsors of S. 2032, a bill to authorize expenditures for boating safety programs, and for other purposes.

S. 2123

At the request of Mr. KENNEDY, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2129

At the request of Mr. BAUCUS, the name of the Senator from Colorado [Mr. ARMSTRONG] was added as a cosponsor of S. 2129, a bill to amend the Internal Revenue Code of 1986 to repeal the application of the uniform capitalization rules with respect to animals produced in a farming business.

S. 2206

At the request of Mr. D'AMATO, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsors of S. 2206, a bill to amend the Controlled Substances Act to provide for the imposition of the death penalty for the intentional killing of a law enforcement officer and for certain continuing criminal enterprise drug offenses.

S. 2215

At the request of Mr. CHILES, the names of the Senator from Maine [Mr. COHEN] and the Senator from Delaware [Mr. ROTH] were added as cosponsors of S. 2215, a bill to amend the Office of Federal Procurement Policy Act to authorize appropriations for an additional 4 years, and for other purposes.

S. 2309

At the request of Mr. BREAUX, the name of the Senator from Idaho [Mr. MCCLURE] was added as a cosponsor of S. 2309, a bill to protect the right to carry out a lawful hunt.

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DECONCINI, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corp. and Eastern Air Lines.

AMENDMENT NO. 1908

At the request of Mr. BENSTEN, the names of the Senator from Maryland [Ms. MIKULSKI], the Senator from Washington [Mr. ADAMS], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of amendment No. 1908 intended to be proposed to S. 2223, an original bill to promote and protect taxpayer rights, and for other purposes.

SENATE RESOLUTION 419—RELATIVE TO THE DEATH OF THE HONORABLE MELVIN PRICE, OF ILLINOIS

Mr. BYRD (for Mr. DIXON, for himself and Mr. SIMON) submitted the following resolution; which was considered and agreed to:

S. RES. 419

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable MELVIN PRICE, late a Representative from the State of Illinois.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

AMENDMENTS SUBMITTED

COMPENSATION FOR CERTAIN VETERANS EXPOSED TO LOW-LEVEL IONIZING RADIATION

CRANSTON AMENDMENT NO. 1977

Mr. CRANSTON proposed an amendment to the bill (H.R. 1811) to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation-Exposed Veterans Compensation Act of 1988".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED VETERANS.

(a) PRESUMPTION.—Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veteran's service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) The diseases referred to in paragraph (1) of this subsection are the following:

"(A) Leukemia (other than chronic lymphocytic leukemia).

"(B) Cancer of the thyroid.

"(C) Cancer of the breast.

"(D) Cancer of the pharynx.

"(E) Cancer of the esophagus.

"(F) Cancer of the stomach.

"(G) Cancer of the small intestine.

"(H) Cancer of the pancreas.

"(I) Multiple Myeloma.

"(J) Lymphomas (except Hodgkin's disease).

"(K) Cancer of the bile ducts.

"(L) Cancer of the gall bladder.

"(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

"(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia).

"(4) For the purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, participated in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means any of the following:

"(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

"(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.".

(b) EFFECTIVE DATE.—Subsection (c) of section 312 of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.

(c) REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE SCIENTIFIC COUNCIL REPORTS.—Section 6(d)(3) of the veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House Representatives".

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Committee will hold a full committee markup on S. 1993, the Minority Business Development Program Reform Act of 1987 and on a 1-year authorization bill for the Small Business Administration which will be an original committee bill. The markup will be held on Wednesday, May 11, 1988, in room 428A of the Russell Senate Office Building and will commence at 2 p.m. For further information, please call Patty Barker, counsel for the committee at 224-5175 concerning the authorization bill, or William B. Montalto, procurement policy counsel for additional information on S. 1993.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on April 25, 1988, at 10 a.m. to hold a hearing on the nomination of Elaine L. Chao, of California, to be a Federal Maritime Commissioner.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Monday, April 25, 1988, in executive session to mark up the following bills:

Fiscal year 1988 supplemental authorization bill;

Department of Defense Amended Budget Authorization Act, 1989;

Amended Military Construction Authorization Act, 1989;

Authorization for civil defense programs for fiscal years 1989 and 1990;

Fiscal year 1989 authorization for defense activities of the Department of Energy;

S. 1826, Defense Supplies Security and Control Reform Act of 1987;

S. 1892, Defense Industrial Base Preservation Act of 1987;

S. 2152, to increase the Department of Defense transfer authority; and

S. 2254, Defense Industry and Technology Act of 1988.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

SUBCOMMITTEE ON PROJECTION FORCES AND REGIONAL DEFENSE

Mr. **ROCKEFELLER.** Mr. President, I ask unanimous consent that the Subcommittee on Projection Forces and Regional Defense of the Committee on Armed Services be authorized to meet during the session of the Senate on Monday, April 25, 1988, at 12:30 p.m. in closed session to mark up projection forces and regional defense programs for fiscal year 1989.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. **HEFLIN.** Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee has received a request for a determination under rule 35, for Ms. Beth Norcross, a member of the staff of the Committee on Energy and Natural Resources, to participate in a study tour in Europe, sponsored by the American Trails Network, from April 29–May 11.

The committee has determined that participation by Ms. Norcross in the program in Europe, at the expense of the German Marshall Fund, is in the interest of the Senate and the United States.●

THE 100TH ANNIVERSARY OF THE PITTSBURGH LIFE UNDERWRITERS ASSOCIATION

● Mr. **HEINZ.** Mr. President, I rise today to congratulate the Pittsburgh Life Underwriters Association on their 100th anniversary. The Pittsburgh Life Underwriters Association, the second oldest such association in the United States, is a voluntary organization of men and women within the greater Pittsburgh area engaged in the sale of legal reserve life insurance.

When the association was first formed, it numbered a mere 27. Today, it numbers over 1,400 and is affiliated with the National Association of Life Underwriters whose membership is over 130,000.

The Pittsburgh Life Underwriters Association has been a constructive influence and a voice for progress in southwestern Pennsylvania throughout its 100-year existence. And it has been a good neighbor to thousands of life insurance customers and beneficiaries, helping others to plan for the future and to weather life's storms. Much of its success has been a result of the officers and directors who served the organization unselfishly over the years, people like past presidents, Virdyn Caldwell and Russell Reitz, and the current president, Bob Decoursey, who have given their valuable time and talents to their professional organization.●

THE 100TH YEAR OF THE ABINGTON SCHOOL DISTRICT

● Mr. **HEINZ.** Mr. President, I rise today to pay tribute to the Abington School District for 100 years of excellence in education.

For a century, the Abington School District has not only served the town of Abington, but has provided quality education for the surrounding towns of Roslyn, Ardsley, North Hills, Rydal, and Glenside. The district is responsible for the education of thousands of citizens from grade 1 through grade 12, and last year's outstanding graduating class is just another example in a long line of academic excellence.

Over the years, Abington has consistently ranked in the top of Pennsylvania's school districts in academic achievement. Last year, 77.5 percent of the graduates of Abington High School went on to further education, 62 percent went to a 4-year college program. Students' SAT verbal scores were 16 points higher than the national average, and the math scores were 11 points higher.

Through the years, the school district has also enriched the Abington community with superb athletic teams, with top notch theater and with marching bands that would make John Philip Sousa proud to call Abington his home.

I want to commend the students, the parents and the faculty of the Abington School District for 100 years of dedicated service to the community, and the Commonwealth of Pennsylvania.●

THE 100TH ANNIVERSARY OF GLENSIDE, PA

● Mr. **HEINZ.** Mr. President, I rise today to join the citizens of Glenside in the celebration of the first 100 years.

It is a happy time for the people of Glenside. It's a time to reflect on the things that make Glenside a special place. From the Weldon Hotel to the Casa Conti. From the soda fountains at Kohuts to the Keswick Theater. From the Battle of Edge Hill to the Glenside Gorillas at War Memorial. From the Brody Brothers to the Glenside Pub. From Sara at Arties to Rizzo's, known half way around the world. From the azaleas blooming in the spring to the high tops on the wires in the summer. From the Sisters of St. Joseph to the professors of Beaver College.

All of these things have great meaning to the residents of Glenside, and to the generations of Glensiders who have raised families, worked and done business in the community. Mr. President, towns like Glenside and the people who build them and keep them, are the backbone of real America, and it is indeed a pleasure to join in congratulations and best wishes on the occasion of Glenside's 100th birthday.●

RECOGNIZING THE RECORD-BREAKING MEMBERSHIP TOTAL OF THE KENTUCKY CONGRESS OF PARENTS AND TEACHERS

● Mr. **McCONNELL.** Mr. President, this is the third time that I have risen in recognition of the tireless efforts of the Kentucky Congress of Parents and Teachers—the PTA—to promote education in Kentucky. On April 11, I related to the Senate the great progress the PTA had made in recruiting new members. Now that the recruitment drive has been completed, it gives me great pleasure to boast that the Kentucky PTA has recruited a total of 169,268 members. This is a whopping 13-percent increase over last year's fiture and is the highest total in Kentucky history.

Achieving this record performance was not easy. PTA members across the State joined together and dedicated their time and effort to bring more people into the educational process with the goal of providing the best education possible for our youth.

I want to take this opportunity to congratulate the following people who, since my August 11 statement, have achieved 100 percent or more of their assigned membership goal:

District 1 Membership Director Oleta Hamlet of Symsonia.

District 1 President Linda Wright of Paducah.

District 2 Membership Director June Mitchell of Earlington.

District 2 President Mary Louise Johnson of Earlington.

District 4 Membership Director Barbara Loyall of Shepherdsville.

District 4 President Jackie Allgeier of Shepherdsville.

District 9 Membership Director Tommie Hans of Ashland.

District 9 President Anna Jean Brown of Ashland.

District 10 Membership Director Karen Jones of Hazard.

District 10 President Dana MaGee of Quicksand.

District 12 President Frieda Sammons of South Shore.

District 13 Membership Director Cheryl Boswell of La Grange.

District 13 President Vicki Ensor of La Grange.

District 15 Membership Director Joyce Day of Louisville.

District 15 President Sharon Solomon of Louisville.

I also want to recognize District 8 Membership Director Mary Bishop of Lexington and President Karen Hall of Somerset.

One person that deserves special recognition for organizing and spearheading this year's membership drive is Mrs. Karen Jones of Hazard. Her unselfish dedication to promoting the ideals of elevating the quality of education in Kentucky is something we should all try to emulate.

Mr. President, I stated once before that the strength of any nation lies in its ability to educate its youth. The people that I have recognized, as well as hundreds of other unsung volunteers, have taken it upon themselves to improve our educational system for the betterment of our youth—on behalf of the people of Kentucky, I say thank you.●

SOUTHFIELD AT 30

● Mr. LEVIN. Mr. President, on April 28, 1958, 15,000 residents hailed the birth of the city of Southfield, MI. On that day, then Gov. G. Mennen Williams officially approved the city charter. Since that time, Southfield changed from a mostly rural area to a thriving city. Today one sees many high rises, a major shopping center, sprawling office complexes, hotels, major corporate headquarters, a vast hospital complex, recreation areas, theaters and much more. Although it is home to 80,000 citizens, 250,000 people spend their working hours there.

Southfield's civic leaders over the years have guided its development with care and creativity. There is a fine balance of private homes in quiet neighborhoods, townhouse complexes, condominiums and high rise apartments. There are also a significant number of senior citizen dwellings which offer a special quality of living for retirees and the elderly.

Throughout the years, cultural events and festivals have attracted visitors from many other communities in the area. Southfield is a good place to visit, to shop, to enjoy good restaurants, to play, and to work. And, it is a good place to live.

Today, April 25, 1988, the people of Southfield will celebrate the 30th anniversary of their city at a special municipal open house. I congratulate the mayor, Donald F. Fracassi, the city council, the entire official family and all the people of Southfield. There is much to be proud of. We join the citizens of Southfield in looking forward to a continuation of growth and success for their city. I send my greetings and best wishes to all.●

ARMENIAN MARTYRS DAY

● Mr. SIMON. Mr. President, yesterday, April 24, Armenians throughout the world honored Armenian Martyrs Day. This day marks the 73d anniversary of the beginning of the Turkish Government's genocide of Armenians in the Ottoman Empire.

The years between 1915 and 1923 were truly tragic ones for Armenians living in the Ottoman Empire. During this time it has been estimated that 1.5 million Armenians perished. We owe it to their memory to take a moment to honor the victims and salute the brave survivors.

Mr. President, we cannot change the past, but we can try to prevent genocide from occurring again in the future. As Hitler was preparing to invade Poland he said to his commanders, "Who still nowadays talks about the extermination of the Armenians?" We must take care to never let that happen again.

Genocide is a horrible tragedy, whether it is against Armenians or Jews or any other group. We must never forget. I ask that we all work to ensure that Armenian Martyrs Day is always remembered.●

SUPPORTING H.R. 3971—THE INTERNATIONAL CHILD ABDUCTION REMEDIES ACT

● Mr. DIXON. Mr. President, earlier today the House of Representatives passed H.R. 3971, the International Child Abduction Remedies Act as amended by the Senate.

This is a significant milestone in our effort to curb international parental child abduction. The 1980 Hague Convention on the Civil Aspects of International Child Abduction establishes a system of administrative and legal procedures designed to ensure the prompt return of children who are wrongfully removed to, or retained in, a ratifying country.

I would like to thank all of my colleagues in the Senate who helped move this legislation so quickly through Congress this year.

I also want to thank some of our colleagues in the House of Representatives. Deserving special mention are Congressman FRANK, chairman of the Judiciary Subcommittee on Administrative Law and Government Relations, and Congressman RODINO, committee chairman. Their diligent work has allowed this legislation to be expeditiously passed. Their efforts have improved this legislation in significant ways.

I also want to thank Congressman CARDIN for his contributions to this legislation. He has contributed to a productive dialog about how the United States should meet its obligations under the Hague Convention. I appreciate his thoughtful commitment to this legislation. I ask that a copy of the speech he made today in the House be printed in the RECORD at the conclusion of my remarks. I concur with his remarks and I believe they help to clarify the issue of jurisdiction.

Finally, I want to urge the President to act to see that the U.S. instrument of ratification is submitted before the end of April. The convention would then come into force on July 1, 1988. However, if the instrument is not deposited until May, it would not come into force until August 1, 1988. I hope that everything possible will be done to see that American children are not deprived of an entire month of protection under the Hague Convention.

The Hague Convention is an important first step in controlling the tragic problem of international parental child abduction.

The speech follows:

HON. BENJAMIN L. CARDIN STATEMENT IN SUPPORT OF H.R. 3971—THE INTERNATIONAL CHILD ABDUCTION REMEDIES ACT

H.R. 3971, the International Child Abduction Remedies Act, provides for implementation of the Hague Convention on the Civil Aspects of the International Child Abduction. As this bill passed the House on March 28, 1988, it provided that State courts would have jurisdiction over actions for the return of a child abducted across international borders, and that jurisdiction would be available in the Federal court for these actions under the general standards for Federal jurisdiction.

The Senate has now passed H.R. 3971 with a single amendment. This amendment provides that the State courts and the United States district courts will have concurrent jurisdiction over actions which arise under the convention.

From a practical standpoint, the approaches taken by the two versions have the same result. Litigation in these cases will always arise under this Federal law and under the convention, and thus will be subject to Federal court jurisdiction because they will involve Federal questions. They will also typically involve individuals who are citizens or subjects of Foreign states, and will therefore be able to be brought in Federal courts because of diversity jurisdiction.

Although the two approaches have the same practical effect, the Senate approach could avoid any delay in obtaining an expeditious hearing in these cases by preventing the possibility of any litigation over whether Federal or State court jurisdiction is most appropriate in a particular case. Therefore, I urge this House to agree to the Senate amendment.

In doing so, however, I believe it is important to emphasize the view of Congress that we have no intention of expanding Federal court jurisdiction into the realm of family law. In fact, Congress reaffirms its view that States have traditionally had, and continue to have, jurisdiction and expertise in the area of family law. Here we are not intruding into this jurisdiction. Rather, we are simply providing through simple and unambiguous language that in the special circumstance where international child abduction is alleged, both the Federal and State courts should be available to resolve the claims. As a matter of fact, the State courts will often provide the best fora for these cases because their backlogs are often substantially less than those of the Federal courts in many parts of the country.

Passage of this legislation is essential to the ratification of the Hague Convention on International Child Abduction, and I urge that the House concur in the Senate amendment.●

DEATH OF MELVIN PRICE, A MEMBER OF CONGRESS FROM THE STATE OF ILLINOIS

Mr. BYRD. I send to the desk a resolution on behalf of Senators Dixon and Simon, and I ask unanimous consent that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will read the resolution.

The legislative clerk read as follows:

S. Res. 419

Relative to the death of the Honorable Melvin Price, of Illinois.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Melvin Price, a late a Representative from the State of Illinois.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 419) was agreed to.

The PRESIDING OFFICER. Pursuant to the resolution, the Chair appoints Senators, Dixon and Simon, to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 100-18

Mr. BYRD. Mr. President, as in executive session, I ask unanimous consent that the injuction of secrecy be removed from the treaty with Thailand on Mutual Assistance in Criminal Matters—Treaty Document No. 100-18, transmitted to the Senate on April 22, 1988, by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty between the Government of the United States of America and the Government of the Kingdom of Thailand on Mutual Assistance in Criminal Matters, signed at Bangkok on March 19, 1988. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty is one of a series of modern mutual legal assistance treaties being negotiated by the United States in order to counter more effectively criminal activities. The Treaty should be an effective tool to prosecute a wide variety of modern criminals including members of drug cartels, "white-collar criminals," and terrorists. The Treaty is self-executing and utilizes existing statutory authority.

The Treaty provides for a broad range of cooperation in criminal matters. Mutual assistance available under the Treaty includes: (1) taking testimony or statements of witnesses; (2) providing documents, records, and evidence; (3) serving documents; (4) executing requests for searches and seizures; (5) transferring persons in custody for testimonial purposes; (6) locating persons; (7) initiating proceedings upon request; and (8) assisting in forfeiture proceedings.

I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

Ronald Reagan.

The White House, *April 22, 1988.*

CONVENING OF A SILVER-HAIRED CONGRESS

Mr. BYRD. Mr. President, I inquire of the distinguished assistant Republican leader as to whether or not Calendar Order No. 620 on the Calendar of Business has been cleared on his side?

Mr. SIMPSON. Mr. President, that has been cleared for our side, I advise the majority leader.

Mr. BYRD. Mr. President, I thank the acting minority leader.

I ask unanimous consent, Mr. President, that the Senate proceed to the consideration of Calendar Order No. 620.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 88) to facilitate the convening of a Silver-Haired Congress.

The Senate proceeded to consider the concurrent resolution which had been reported from the Committee on Rules and Administration with amendments.

Mr. MELCHER. Mr. President, I am here today on behalf of passage of Senate Concurrent Resolution 88, which I submitted on November 13, 1987. This concurrent resolution will facilitate the convening of a National Silver Haired Congress here in Washington next year.

Since its submittal, my concurrent resolution has attracted 11 consponsors. They are: Senators Inouye, Burdick, Shelby, Johnston, Pressler, Bentsen, Matsunaga, Conrad, Weicker, Heflin, and Bond.

This concurrent resolution was approved unanimously by the Committee on Rules and Administration on April 19, after it had adopted two amendments which I requested. The amendments would strike the only funding in the bill which was $300,000 to assist as startup money. The National Steering Committee of the Silver Haired Congress prefers not to have Federal funding. The other amendment requires that the Senate and House Aging Committees facilitate and coordinate the convening of the Silver Haired Congress rather than the Speaker of the House of Representatives and the President pro tem of the Senate. Basically, then, what we are doing is providing cooperation and recognition for the Silver Haired Congress and directing the Aging Committees in the two bodies to help in the coordination.

The Senate previously agreed to this concurrent resolution as an amendment to the continuing resolution last year, but the House conferees asked that it go back through the normal process as an authorization. This we have now done.

I believe a national senior citizens congress can provide direction and guidance by their recommendations to

Congress. Highly successful silver haired or senior citizen legislatures have been held in many States. In Montana, it is called the "legacy legislature" and its recommendations have benefited Montanans of all ages.

Many of the issues facing the older population of tomorrow are complex and national in scope. With that in mind, members of a number of State senior citizen legislative bodies formed a national steering committee in 1984 to work toward a national nonpartisan grassroots forum, a Silver Haired Congress, patterned after the U.S. Congress.

Representatives and Senators to this Congress would be elected in each State and the National Silver Haired Congress would then meet for a week in 1989 and every 2 years thereafter. It is intended to complement—not compete with— other national and State groups representing senior citizens. And it would be unique in its grassroots origins and administration. Their proposals would be hammered out in their Congress and would provide for us the recommendations of representative input approved by the majority votes of their Congress.

As chairman of the Senate Special Committee on Aging, I have visited with senior citizens in many parts of this country. I believe very strongly that their wisdom and experience will bring to a national senior congress a broad emphasis on issues that are important to all of us. It will provide to older Americans a legislative focus and national visibility for their concerns. And their different perspectives will provide seeds for solutions to a number of issues facing the elderly.

As we in Congress deal with the needs of an aging America, the recommendations of a truly representative, grassroots national forum such as this will be pertinent and valuable. I hope the Senate will agree to this concurrent resolution quickly today so the organizers and participants of this senior citizen effort can be confident of congressional support as they move ahead in elections this year to make their National Silver Haired Congress a reality.

The PRESIDING OFFICER. The amendments will be considered en bloc and agreed to.

The committee amendments were agreed to.

The PRESIDING OFFICER. Are there further amendments? If there are no further amendments to the resolution, the question is on agreeing to the concurrent resolution, as amended.

The concurrent resolution (S. Con. Res. 88), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, with its preamble is as follows:

S. CON. RES. 88

Whereas States have adopted senior citizen advocacy and legislative bodies;

Whereas older Americans are therefore provided opportunity within their States to express their concerns, promote appropriate interests, and advance the common good by influencing legislation and actions of State government; and

Whereas a National Silver Haired Congress with representatives from each State would serve as a national grassroots forum to determine on a nonpartisan basis the recommendations for solutions to older American concerns without regard to race, creed, national origin or social status: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress encourages and authorizes the convening of a National Silver Haired Congress in Washington, District of Columbia in 1989.

SEC. 2. The Select Committee on Aging of the House of Representatives and the Special Committee on Aging of the Senate shall facilitate and coordinate the convening of such a Congress.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. SIMPSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 11 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized on tomorrow, in accordance with the standing order, there be a period for morning business not to extend beyond 11:30 a.m. and that Senators may speak during that period for morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF OMNIBUS TRADE AND COMPETITIVENESS ACT CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that upon the conclusion of morning business tomorrow the Senate resume consideration of the conference report on the trade and competitiveness bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS FROM 12:45 P.M. UNTIL 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess between the hour of 12:45 p.m. and 2 p.m. for the purpose of the regular party caucuses.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene tomorrow at 11 a.m. Following the two leaders under the standing order, there will be a period for morning business during which Senators may speak for not to exceed 5 minutes each and the period will extend to 11:30 a.m.

Upon the conclusion of the morning business tomorrow the Senate will resume consideration of the conference report on H.R. 3, an act to enhance competitiveness of American industry. The two parties will have their conferences on tomorrow while the Senate stands in recess between the hour of 12:45 and 2 p.m.

Rollcall votes may occur during tomorrow. It is not established yet as to when the Senate will vote on the conference report. Additionally, I would say that Senators are working with their staffs in an effort to reach an agreement on the AIDS bill and presumably within the next 2 or 3 days the Senate will be able to act on that bill.

That bill is S. 1220.

Mr. President, does the distinguished assistant Republican leader have anything further he would like to say or any business he would like to transact?

Mr. SIMPSON. Mr. President, I thank the majority leader for inquiring and for his courtesy. I believe I have nothing further to add this evening to the majority leader, and I thank him for inquiring.

Mr. BYRD. I thank the Senator.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business, I move in accordance with the order and also in accordance with the provisions of Senate Resolution 419 that the Senate, as a further mark of respect to our late departed colleague, Mr. PRICE, a Member of the other body, stand in recess until the hour of 11 o'clock tomorrow morning.

The motion was agreed to; and, at 5:31 p.m., the Senate recessed until Tuesday, April 26, 1988, at 11 a.m.

EXTENSIONS OF REMARKS

CARNEGIE CORP. TO CONDUCT STUDY OF SCIENCE, TECHNOLOGY, AND GOVERNMENT

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. ROE. Mr. Speaker, Last week an announcement was made by the Carnegie Corp. of New York that a major, 3-year study of "Science, Technology, and Government" is being initiated. The co-chairs of this important study are Dr. Joshua Lederberg, president of Rockefeller University and the 1958 Nobel Prize winner in Medicine and Mr. William T. Golden, president of New York Academy of Sciences. A committee of 21 distinguished leaders from many fields of public life has been appointed to carry out the study.

The relationship between science and technology on the one hand and Federal and State governments on the other has evolved significantly over the last several decades. It will continue to evolve as dramatic developments occur at an accelerating pace within science and technology, and as the impact on Government becomes ever more pervasive and profound. A thoughtful and in-depth examination of the many issues that will arise as a result can make a valuable contribution to our society in the years to come.

The Carnegie Corp., which was founded in 1911, is known for the many consequential studies it has sponsored in earlier years. For example, in the late thirties it sponsored Gunnar Myrdal's pathbreaking study of American society which was published in 1944 under the title "An American Dilemma: The Negro Problem and Modern Democracy." In the post-war years it sponsored, among other studies, the review of radio and television which led to the establishment of the Corporation for Public Broadcasting. In the early seventies the Carnegie Commission on Higher Education, chaired by Clerk Kerr, made a highly valuable contribution to the development of the Nation's policies for higher education.

We in the Congress welcome the initiative to have a broad-gauged study done of science, technology, and government. We wish the members of the Commission good luck as they embark on the difficult and challenging task, and we look forward to seeing and benefiting from the results of their work.

For the information of my colleagues I insert the press release, the list of members, and the statement by Carnegie Corp. President David A. Hamburg in the RECORD; following these remarks:

CARNEGIE CORPORATION OF NEW YORK ESTABLISHES NEW COMMISSION ON SCIENCE, TECHNOLOGY, AND GOVERNMENT

NEW YORK, APRIL 14.—Carnegie Corporation of New York has established a new nonpartisan commission to assess the mechanisms by which the federal government and the states incorporate scientific and technological knowledge into policy and administrative decision making. The new Commission on Science, Technology, and Government is co-chaired by Joshua Lederberg, president of The Rockefeller University, and William T. Golden, president of the New York Academy of Sciences.

In addition to eminent scientists, the Commission includes former government officials, who have served at high levels in all branches of government, as well as leaders from nongovernmental sectors.

In making the announcement, David A. Hamburg, the Corporation's president, said, "We live in a world being transformed by science and technology. The pace of advance in basic scientific knowledge of the structure of matter and of life, of the nature of the universe, of the human environment—even of self-knowledge—has accelerated dramatically. These scientific advances have provided an unprecedented basis for technological innovation, especially in the context of political and economic freedom. The immense potential of these developments poses a challenge to government beyond prior experience."

"The main purpose of the Commission," said Dr. Hamburg, "is to seek ways in which the branches of government can encourage and use the contributions of the national scientific community. The nation needs more effective mechanisms, both governmental and nongovernmental, for analyzing thoroughly and objectively what science can do for society and how society can make sure that scientific and technological capabilities are humanely used. Although the main focus will be on the federal government, its interactions with state governments and the private sector will also be considered."

Mr. Golden and Dr. Lederberg said, "We are looking forward to working with the distinguished members of the Commission as we try to assess how the executive, legislative, and judicial branches of government can be organized to improve their operations with respect to science and technology. The Commission will examine how the government can better interact with the scientific community." The following are some of the questions that will be addressed:

What are our national needs for scientific expertise in government?

What is the quality and distribution of scientific expertise in and related to the branches of government?

How can the organization of government improve the connections of expertise to the political process?

What institutional mechanisms and analytical methods are needed for ongoing assessment of major technologies to insure their humane and constructive use?

How can we secure wider participation of all elements of the scientific community including youth, women, and minorities in the policy process?

What are the most salient issues in science and technology policy, and how can they best be addressed?

How can the nation achieve a technically literate citizenry able to participate both in a modern democratic society and in technological economy?

The Commission, based in New York City, will organize studies, issue interim reports, and make its final recommendations in about three years, with a two-year followup period. The Commission's executive director is David Z. Robinson, a research physicist and former staff member of the U.S. Office of Science and Technology, Executive Office of the President. Most recently he has been executive vice president and treasurer of Carnegie Corporation.

MEMBERS: CARNEGIE COMMISSION ON SCIENCE, TECHNOLOGY, AND GOVERNMENT

William T. Golden, Co-Chair; Corporate Director and Trustee, New York, NY; President, New York Academy of Sciences; Treasurer, American Association for the Advancement of Science.

Joshua Lederberg, Co-Chair; President, The Rockefeller University, New York, NY.

David Z. Robinson, Executive Director; Vice President, Carnegie Corporation of New York, 1970-88; Staff Member, U.S. Office of Science and Technology, Executive Office of the President, 1961-67.

Richard C. Atkinson; Chancellor, University of California, San Diego, CA; Director, National Science Foundation, 1977-80.

Norman R. Augustine; Vice Chairman and Chief Executive Officer, Martin Marietta Corporation, Bethesda, MD; Undersecretary of the Army, 1975-79.

John Brademas; President, New York University, New York, NY; Member, U.S. House of Representatives, 1959-81; Majority Whip, 1977-81.

Lewis M. Branscomb; Director, Science, Technology and Public Policy Program, John F. Kennedy School of Government, Harvard University, Cambridge, MA: Chief Scientist, IBM, 1972-86; Director, National Bureau of Standards, 1969-72.

The Honorable Jimmy Carter; Former President of the United States; Chairman, The Carter Center, Atlanta, GA; Distinguished Professor, Emory University.

William T. Coleman, Jr.; Attorney, O'Melveny & Myers, Washington, DC; U.S. Secretary of Transportation, 1975-77.

Sidney D. Drell; Professor and Deputy Director, Stanford Linear Accelerator Center, Palo Alto, CA; Co-Director, Center for International Security and Arms Control, Stanford University.

Daniel J. Evans; U.S. Senator; Governor, State of Washington, 1964-77.

General Andrew J. Goodpaster; Chairman, The Atlantic Council of the U.S., Washington, DC; Staff Secretary to President Eisenhower, 1954-61.

Shirley M. Hufstedler; Attorney, Hufstedler, Miller, Carlson and Beardsley, Los Angeles, CA; U.S. Secretary of Education, 1979-81; Judge, U.S. Court of Appeals, 9th Circuit, 1968-79.

Admiral Bobby R. Inman; Chairman and Chief Executive Officer, Westmark Systems, Inc., Austin, TX; Deputy Director,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Central Intelligence Agency, 1981-82; Director, National Security Agency, 1977-81.

Helene L. Kaplan; Attorney, Webster & Sheffield, New York, NY; Chairman of the Board of Barnard College and of Carnegie Corporation of New York.

Donald Kennedy; President, Stanford University, Palo Alto, CA; Commission, Food and Drug Administration, 1977-79.

William J. Perry; Chairman, H & Q Technology Partners, Inc., Palo Alto, CA; Undersecretary of Defense for Research and Engineering, 1977-81.

James B. Reston; Senior Columnist, New York Times, Washington, DC.

Robert M. Solow; Professor of Economics, Massachusetts Institute of Technology, Cambridge, MA.

H. Guyford Stever; Foreign Secretary, National Academy of Engineering, Washington, DC; Science Advisor to President Ford, 1976-77; Director, National Science Foundation, 1972-76.

Sheila E. Widnall; Professor of Aeronautics and Astronautics, Massachusetts Institute of Technology, Cambridge, MA; Chair, American Association for the Advancement of Science.

Jerome B. Wiesner; President, Massachusetts Institute of Technology, Cambridge, MA, 1971-80; Science Advisor to Presidents Kennedy and Johnson, 1961-64.

CARNEGIE COMMISSION ON SCIENCE, TECHNOLOGY, AND GOVERNMENT

(Statement by David A. Hamburg, President, Carnegie Corp. of New York)

ISSUES UNDERLYING FORMATION OF THE COMMISSION

Since 1940 the pace of advance in basic scientific knowledge of the structure of matter and life, of the nature of the universe, of the human environment—even self-knowledge—has accelerated dramatically. These scienfific advances have provided an unprecedented basis for technological innovation, especially in the context of political and economic freedom. The immense potential of these developments poses a challenge to government beyond prior experience.

Science and technology bear upon war and peace, health and disease, the economy and society, resources and the environment—indeed the entire human future. The international economy, for example, is increasingly driven by developments in science and technology: witness telecommunications, biotechnology, computers, and the technical upgrading of established industries. No reminder is needed of the impact of societies of weapons development and distribution. The issue involved not only the existence of the new hardware but the uses of hardware.

These trends are intrinsically worldwide in scope. Many problems historically considered as internal might better be viewed as domestic aspects of international problems. Moreover, the opportunities and problems arising out of modern science and technology cut across traditional disciplines and sectors of society. Thus, institutional innovations are needed that can transcend traditional barriers—disciplinary, sectoral, and geopolitical.

Clearly, wise policy and decision making in each sphere of life depend on access to the best available knowledge and advice in the various fields of science and technology. Sound advice requires analysis, and analysis requires a broad base of research and development on which informed decisions can be made. Decision makers, moreover, need an understanding of major facets of the scientific enterprise itself.

The rapid and pervasive transformations resulting from science and technology call for strengthening the institutional capability for objective analysis of critical issues based on a broad foundation of knowledge and experience. The government of the United States is in an extraordinary position to stimulate and support such inquiries at a level far beyond what it has done up to now. In addition, the states, the "laboratories of democracy," need better means for dealing with the ongoing and potential applications of research and development.

The federal government and the states have an obligation to see that the country exploits the opportunities and avoids the dangers inherent in modern science and technology. This involves, among other desiderata, an understanding of the impact of science and technology on both governmental and nongovernmental tasks. It requires the establishment of a continuing, dependable capability for analyzing policy questions in ways that take adequate account of their scientific and technological aspects.

Science and technology policy itself should strive to meet the following goals: (1) maintaining excellence, technical competence, and efficiency in the conduct of research and development; (2) broadening participation in scientific activity as well as in the benefits of applied science; (3) shaping the uses of science toward widely shared ends—for example, the relief of human suffering, economic well-being, equitable distribution of resources, and the peaceful resolution of disputes; and (4) encouraging scientists to participate analytically in the uses of science—at the interfaces of fact and value—neither avoiding nor dominating the processes by which the social uses of science are decided.

The nation needs several mechanisms, both governmental and nongovernmental, for analyzing thoroughly and objectively the various options relating to two broad questions: What can science do for society, and how can society keep the scientific enterprise healthy? The capacity for providing the best possible analysis and advice on long-term issues of great national importance must not only be built into government operations themselves; the nation must institute ways of capitalizing on the capability of its diverse nongovernmental institutions to gain such analysis and advice. This orientation emphasizes ways in which science and technology can help to identify the early warning signals of emerging problems and to spot neglected or new opportunities for improving national and international well-being.

THE CHALLENGE

Thoughtful policymakers and decisionmakers have increasingly felt the need for intelligible and credible syntheses of research related to important public policy questions. What is the factual basis drawn from many sources that can provide the underpinning for constructive options in the future? Pertinent information is widely scattered among government agencies and quasi-governmental or nongovernmental institutions. Moreover, it is very difficult for the nonexpert and sometimes even for the expert to assess the credibility of assertions on emotionally charged issues. In the current process of world transformation, studies are needed to tackle vital and complex issues analytically rather than polemically. This means having access to a wide range of high-quality information, analyses, and options. Jumping to conclusions, or using a heavy ideological filter, can easily lead to major mistakes, missed opportunities, or even disasters.

The central question for thoughtful consideration is how the various branches of government can take careful account of science and technology in policy formulation, decision making, and implementation affecting all aspects of modern society. What are the mechanisms government now has that are useful for analysis in each major area of responsibility? What technical competencies are needed in each unit of government? Which mechanisms should be strengthened or created? How can the various branches of government be organized to improve their operations through the use of modern scientific advances?

Further, how can the government stimulate and utilize the full range of science and technology in the scholarly community both in and out of government, taking into account ethical considerations pertinent to each problem area? Questions about government's role in specific facets of the scientific enterprise include:

(1) Science policy: What are the conditions under which science flourishes in the United States?

(2) Technology policy: What are the conditions under which the science base can fruitfully be drawn upon for useful technological innovation?

(3) Technology assessment policy: What institutional mechanisms and analytical methods are needed for ongoing assessment of major technologies with respect to the humane, constructive uses of technology?

(4) Science education policy: How can the nation achieve a technically literate citizenry and a skilled work force at all levels of human endeavor as well as prepare first-rate scientists and science-based professionals?

CARNEGIE COMMISSION ON SCIENCE, TECHNOLOGY, AND GOVERNMENT

In November 1987, Carnegie Corporation convened a consultative group of experienced scientists and administrators to examine the issues concerning the central role of government in using and stimulating scientific and technological advances. There was general consensus that problems in this regard exist in the executive, legislative, judicial, and regulatory branches and that in-depth analysis of these problems is needed if enduring improvements are to be made. There was additional agreement that an effective approach to the problem would be a commission that would work for about three years with a small high-quality staff. The commission would be intersectoral in nature and include distinguished former government officials, eminent scientists, and private sector leaders.

It was further recommended that the commission consider the entire range of the sciences—physical, biological, behavioral, and social—as well as the technologies based on them. The main emphasis should be on mechanisms by which the government can systematically assess the ways in which science can contribute to the general well-being of the nation, with special emphasis on the most serious social problems. Mechanisms for sustaining the health of the scientific enterprise should also be considered.

The recommendations of the consultative group were adopted at the February 17 meeting of the board of trustees of the Corporation, and the new Carnegie Commission on Science, Technology, and Government was duly created with an initial $500,000 grant for the first six months of operation.

In addition to eminent scientists, the new Commission includes former government officials who have served at high levels in all branches of the government. Leaders from nongovernmental sectors of American society are also included.

Co-chairs of the Commission are Joshua Lederberg, president of The Rockefeller University, and William T. Golden, president of the New York Academy of Sciences and editor of Science and Technology Advice to the President, Congress, and Judiciary (Pergamon Press, 1988).

Executive director and member of the new Carnegie Commission is David Z. Robinson, most recently executive vice president and treasurer of the Corporation. Dr. Robinson is a former research physicist and was a staff member of the U.S. Office of Science and Technology in the Executive Office of the President from 1961 to 1967. He will continue to serve Carnegie Corporation as senior counselor to the president.

The Commission will organize studies, issue interim reports, and make its final recommendations in about three years, with a two-year followup period. It will be assisted by an advisory council. The first meeting of the Commission will be in May, 1988.

(Carnegie Corporation of New York is a philanthropic foundation that was created by Andrew Carnegie in 1911 to "promote the advancement and diffusion of knowledge and understanding among the people of the United States." Subsequently, its charter was amended to include the use of funds for the same purposes in certain countries that are or have been members of the British overseas Commonwealth. The Corporation's initial endowment was $135 million; the market value of its assets was approximately $762.5 million as of December 31, 1987.)

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. SPENCE. Mr. Speaker, I am today introducing a House joint resolution to authorize and request the President to designate the week of September 25, 1988, through October 1, 1988, as "National Historically Black Colleges Week".

It is my distinct privilege, Mr. Speaker, to offer this legislation to commemorate the important role which our historically black colleges have played in providing a high standard of education for a large portion of our Nation's black population. Collectively, hundreds of thousands of black Americans have received their postsecondary educations at the 107 historically black colleges and universities in the United States. I am proud to say that six of these institutions are located in the State of South Carolina. Furthermore, five of these six great schools; namely, Allen University, Benedict College, Claflin College, South Carolina State College, and Voorhees College, are located in the congressional district which I have the honor to represent. The other institution, Morris College, is located in the district represented by my friend and colleague, JOHN SPRATT. These six schools have proven themselves to be a vital component of the higher education system of South Carolina, in that they have a long and distinguished history of providing the training which is required for productive participation in our rapidly changing society.

Mr. Speaker, recent statistics have indicated that our Nation's historically black colleges and universities have graduated 60 percent of the black pharmacists in the United States, 40 percent of the black attorneys, 50 percent of the black engineers, 75 percent of the black military officers and 80 percent of the black judiciary. This is a most impressive contribution to the educational needs of our Nation.

Through the passage of this resolution, Mr. Speaker, Congress can reaffirm its support for historically black institutions of higher learning, and appropriately recognize their important role in American society. I look forward to working with my colleagues on this legislation, and I ask unanimous consent that a copy of the joint resolution appear as an extension of my remarks.

REAFFIRMING THE U.S. COMMITMENT TO THE CARIBBEAN BASIN

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RANGEL. Mr. Speaker, I would like to submit testimony before the Trade Subcommittee of the Commitee on Ways and Means by David Rockefeller, chairman of Caribbean/Central American Action, an organization dedicated to furthering economic growth and enterprise in the Caribbean basin. The testimony shows the need for U.S. commitment in the region, and outlines several ways by which we can establish a productive, symbiotic relationship between the countries of the Caribbean basin and the United States. I think you will find his testimony straightforward in its organization and pragmatic in its approach to the problems in the region.

The testimony follows:

REAFFIRMING THE U.S. COMMITMENT TO THE CARIBBEAN BASIN

Mr. Chairman, Distinguished Members of the Subcommittee:—My name is David Rockfeller. I am here today as Chairman of Caribbean/Central American Action, an organization dedicated to private enterprise and economic growth in the Caribbean Basin.

Mr. Chairman, all of us concerned with the future of the Caribbean Basin are grateful for your leadership in proceeding with these hearings without waiting for the resolution of the Omnibus Trade Bill. All of us are delighted that your colleagues in both houses in the Omnibus Trade Bill conference have gone on record to reaffirm the vital importance of the Caribbean Basin to the U.S. Particularly significant is their declaration of the intent of Congress that new trade legislation be used to strengthen the Caribbean Basin Initiative, not to weaken it.

Nonetheless, recent outbreaks of violence and disorder in the region signal a situation far too serious for routine remedies. Congress and the Administration must recognize the need for renewed commitment and new departures. It is most heartening that this Committee has recognized an historic opportunity to take the lead in launching a new era of Caribbean policy—in trade, investment, and development aid.

In recent decades, a deadly hypocrisy has arisen at the heart of U.S. policy toward this vital region.

On the one hand, we are supporting fragile democracies and troubled economies against the steady pressure of communist subversion.

On the other hand, we ourselves are steadily undercutting these Caribbean and Latin American countries with protectionist measures that disrupt and demoralize their economies. The U.S. strongly protects precisely the product in which the region specializes: sugar, apparel, textiles, footwear, and leather goods. We have even excluded tourism from the coverage of the CBI.

After promises of commitment and consistency we are slowly—and at times even abruptly—choking off its economic lifeblood. In an ever shifting policy of rhetorical support and practical betrayal of Caribbean interests, we have cut back on foreign aid, drastically retrenched sugar quotas, and entangled enterprise in webs of protectionism.

By tempting the region's producers with growing access to U.S. markets and then dashing their hopes, we leech away the confidence that is essential to the spirit of enterprise. Shortening the horizons of opportunity, we balk investment, productivity, and employment, and foster capital flight and political demagoguery. We turn the region from an economics of growth and hope for the future toward an economics of envy and protest. We isolate our friends and discourage government-backed, private sector strategies of development. Then we threaten to drastically reduce the flow of development aid.

Don't get me wrong. In itself, the CBI has been an impressive success, promoting nontraditional agricultural exports from Central America, fostering free-trade platforms for manufacturing, building new institutions to foster investment and trade, and helping all these embattled nations survive the more destructive facets of our policy. But all these gains increasingly seem a cosmetic mask for a muddled and conflicted U.S. approach to the region. Behind the smiling face of our diplomacy are seen the teeth of quotas, exceptions, exclusions and tariffs that bar many of the most promising products from entry into U.S. markets.

The new bill is a welcome move toward a more sensible posture. We endorse with enthusiasm the proposed 12 year extension of the initiative. We applaud the tentative moves toward freer entry of now restricted products. We welcome especially the exemption of CBI countries from tests of injury to U.S. industries based on the cumulative effects of imports from other parts of the world as well.

The treatment of tourism, sugar, and ethanol, however, is still inadequate, despite good intentions. The provisions increasing the duty free limit on items permitted into the U.S. only begins to address the potential for increased tourism for serving both U.S. and Caribbean interests. The proposed rollback of sugar quotas—now only one fourth the level at the launching of CBI—fails to respond to the enormous damage done to the region by this policy. The more favorable treatment of ethanol imports is critical to encouraging rather than discouraging the region's infant ethanal industry as a potential long-term solution to sugar dependency.

For all its virtues, therefore, the new bill fails to measure up to the present crisis. Other congressional committees with other jurisdictions must accept the seriousness of what is happening in the Caribbean Basin and what they are not doing about it. It is a time for understanding, commitment and courage. Until the U.S. government stops allowing a tiny minority in U.S. industry to dictate policy in this region, I fear for the future. To say we are for democracy in the Caribbean while subverting growth is simply perverse. When growth stops, even the most prosperous nations risk unrest. In poor nations with soaring birthrates, slow growth risks revolution.

U.S. textile mills are thriving. The sewing of U.S. fabric in the Caribbean Basin enables our mills to succeed in an increasingly competitive world market. Thwarting this natural combination hurts the mills and workers, the American consumer and undermines Caribbean Basin democracy.

As for the sugar industry, we must develop programs to aid a transition from unnecessary and uneconomic production in the U.S. Sugar quotas now penalize U.S. consumers by making them pay near double the world price and punish vital U.S. allies in the Caribbean—and incidentally in the Philippines as well.

Finally we must understand that protectionism damages the prospects of the U.S. economy. At a time of serious trade deficits, the Caribbean Basin provides the United States with a trade surplus. The region is already a significant market for our agricultural, industrial and consumer goods, annually buying $6.67 billion worth of U.S. exports. Potentially it is a major market.

The collapse of imports to Latin America as a whole, however, was an important contributor to the U.S. trade gap. This region cannot increase its imports of our goods unless it can export the goods in which it possesses a comparative advantage. U.S. protectionism encourages protectionists everywhere in a spiral of shrinking markets that jeopardizes prosperity throughout the hemisphere.

Let us hope that passage of a new and extended Caribbean Basin Initiative can create a positive spiral of economic growth and cooperation. By expanding trade and investment on all sides, we can open up the horizons of political and economic freedom throughout the West.

In economics, good fences do not make good neighbors. Low fences or no fences are the secret of expanding commerce. By passing this bill and also enacting the United States-Canadian free trade zone, we can make a crucial start toward a true good neighbor policy.

We must stop regarding Third World exports to the United States as a threat to American business. Third World growth is indispensable to the future of American prosperity. The key issue is not whether trade balances with any particular region but whether trade volume grows in all regions.

The United States has long benefitted from the world's largest free trade zone, from sea to shining sea. Let us extend this realm of open commerce to the sparkling waters of the Caribbean as well. Let us act now before the pressures of politics and schedules engulf our efforts. Let us send a signal to all the peoples of the Caribbean that this initiative is a permanent commitment of the American people—reaching out, not as one Administration, or one Congress, but in a bipartisan pledge of good neighbors and friends.

DAVID WILLIAM PALMER, 88, WINS 1987 PEERLESS ADVOCATE AWARD

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. PEPPER. Mr. Speaker, I rise to call to the attention of my colleagues the remarkable fact that Attorney David William Palmer of Crestview, FL, has won the 1987 Peerless Advocate Award.

TRIBUTE TO DAVID WILLIAM PALMER

Crestview lawyer David William Palmer, who at age 88 has practiced law for more than 60 years, was selected by the Cotton Wesley & Poche Foundation to receive the 1987 Peerless Advocate Award.

The award is given to a lawyer who demonstrates "unswerving dedication to the defenseless or oppressed common man in the face of adversity and at the cost of personal sacrifice to his own liberty, reputation and financial security."

Palmer has a long history of service to the poor in Florida's panhandle, according to Michael Gates, president of the Okaloosa-Walton Bar Association.

Most recently, Gates said, Palmer showed his commitment to justice by challenging a rule in the Northern District of Florida requiring members of that court's bar to attend continuing education courses and pass an examination. He continued to file cases on behalf of Social Security claimants while challenging the rule, Gates said.

"He's the type who puts his clients before personal gain," Gates said. "By federal statute you can only make $10 an hour on those Social Security cases, but he keeps taking them."

Palmer's reputation among members of the Bar was evidenced by a resolution unanimously adopted by the Okaloosa-Walton Bar last year supporting the senior advocate in his challenge to the Northern District Rule. The requirement should be waived for lawyers who have reached their 85th birthday, the resolution said.

"We felt he was very competent," Gates commented.

Palmer's oldest son, attorney David Palmer II, said his father is accustomed to hard work under adverse conditions, because "he's been doing it for a long time."

"He was born down here in 1899, when this was still a pretty rough area. He was one of eight children. Four of them died in childhood. He grew up working hard and has kept on working hard," the junior Palmer said. "He works hard and enjoys living, just keeps plugging along."

The Cotton, Wesley & Poche Foundation will set up a $1,000 scholarship in Palmer's name at a Florida law school. The foundation was created by the Shalimar firm of the same name.—*Judson Orrick*

THE HONEY LOAN AND PRICE SUPPORT PROGRAMS

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. CONTE. Mr. Speaker, for many years I have been working to bring attention to some of the most wasteful Federal spending programs on our books, the honey-loan and price-support programs. I have offered many amendments to terminate, phase out, and place maximum limitations on individual payments in these programs. And, up until last December, through a combination of effective statutory payment and loan caps and a prohibition on the use of generic certificates for loan redemptions, individual program beneficiaries were finally limited to a strict maximum of $250,000 in subsidies for honey production.

But the Omnibus Budget Reconciliation Act of 1987—legislation, I might add, intended to reduce the Federal deficit—lifted the lid for the benefit of a handful of large honey producers. The U.S. Department of Agriculture estimates that the costs of the honey program will increase by $6.1 million and that 13 million additional pounds of honey will be forfeited to the Commodity Credit Corporation.

Mr. Speaker, I am by no means the only Member of Congress, the only taxpayer, or the only objective auditor to find this Federal subsidy program, and the excessively large payments and forfeitures we permit, to be outrageous. We have been paying for dead bees, for corn syrup disguised as honey or to bail out a handful of the beekeeping industry's largest, most inefficient, and most uncompetitive producers.

Over the course of the next few weeks, I will be inserting in the RECORD letters that I have received from Americans all across the country who agree that reform is needed. The following letter from a concerned taxpayer in Omaha, NE is just one example:

MARY BETH MORAN,
3705 LYNNWOOD,
Omaha, NE

Rep. SILVIO CONTE,
Washington, DC

REPRESENTATIVE CONTE: The February 15 edition of the Omaha World-Herald printed a story concerning your efforts to reduce the government subsidy to honey producers. BRAVO!

I applaud you for your efforts, and hope you keep working at it. In the same vein, there are lots of other commodities which the government subsidizes, which should receive your same attention.

It is hard enough to make ends meet without having to pay for the same item several times over, at the supermarket, in taxes, and subsidies for every interest group which has a strong enough lobby in Washington.

Keep up the fight.

Sincerely,

MARY BETH MORAN.

SALUTE TO PASSAIC SEMI-PRO BASEBALL STARS WHO MADE IT TO THE MAJOR LEAGUES

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. ROE. Mr. Speaker, there is nothing so truly American as the game of baseball. Like the spring itself, it returns every April and blossoms in a renewal of its affirmation as the true national pastime.

In my Eighth Congressional District of New Jersey we have been, indeed, fortunate to have a rich baseball tradition down through the decades, a tradition that has been carried forth by the high level of competition in the Passaic County Semi-Pro League. On Friday, April 29, that tradition will be celebrated with the Third Annual Salute to Passaic Semi-Pro Baseball at the Athenia Veterans Hall in Clifton, NJ.

Mr. Speaker, this year's event is truly special because it will honor those seven players and one umpire who not only played in the Passaic semi-pro league, but who also made names for themselves in the major leagues. The honored group this year includes the late Dick Lajeskie (New York Giants), the late Frank Zak (Pittsburgh Pirates), Jim Castiglia (Philadelphia Athletics), Edward Sanicki (Philadelphia Phillies), the late Wilfred Edward Knothe (Boston Braves and Philadelphia Phillies), the late George Knothe (Philadelphia Phillies) and Ed Sudol, a top national league umpire for 20 years.

For the benefit of my colleagues, I would like to note some of the great accomplishments of these outstanding individuals:

Dick Lajeskie, who was born in Passaic, NJ, in 1926, was signed by the New York Giants in 1943 for a bonus of $10,000, which, at the time, was one of the largest bonuses ever given. He played with the New York Giants at the old Polo Grounds during the 1946 season.

Frank Zak was also born in Passaic, in 1922, and played major league and minor league baseball as a shortstop from 1941 through 1948. As a shortstop for the Pittsburgh Pirates in 1944 he batted .300 and was named to the National League All-Star team.

Jim Castiglia, who was born in Passaic in 1918, played both professional baseball and football. He spent part of the 1942 season with the Philadelphia Athletics, when he batted .389. He also played fullback for the Philadelphia Eagles football team.

Edward Robert (Butch) Sanicki, a native of New Jersey who graduated Clifton High School in 1941, played center field for the Philadelphia Phillies during the 1949 and 1951 seasons. He joined the Phillies after hitting 33 home runs and driving in 104 runs for the AAA Toronto Maple Leafs baseball team. He is the last Phillies player to hit a home run in his first major league at-bat.

Wilfred Edward (Fritz) Knothe, who was born in 1903 in Passaic, played with the Boston Braves in 1932-33, and also with the Philadelphia Phillies in 1933 as a third baseman. He also was one of the greatest athletes in Passaic High School history, having captained the Passaic High baseball "Wonder Team."

George Bertram Knothe, brother of Fritz Knothe, was born in 1900 in Bayonne. He was an outstanding fielder as a shortstop, a position he played for the Philadelphia Phillies during the 1932 season.

Willie Prall, who was born in Hackensack, NJ, grew up in Clifton and attended Pope Pius High School in Passaic where he was All-State in basketball and baseball. The only Pope Pius graduate ever to make the major leagues, Willie attended Upsala College and received a $25,000 bonus to sign with the San Francisco Giants in 1971. He had played semi-pro baseball with the Clifton Phillies in 1969-70 and later pitched for the Chicago Cubs in 1975.

Ed Sudol, who was also an outstanding player, became nationally famous for being one of the national league's outstanding umpires for 20 years, from 1957-77. Ed, who was born in Passaic in 1920, was named "Umpire of the Year" in 1976. Ed worked in three World Series, three major league all-star games and seven divisional playoffs. He also umpired the three longest games in baseball history, and was the plate umpire when our colleague, Congressman Jim Bunning of Kentucky, then pitching for the Phillies, threw a perfect game against the New York Mets in 1964.

Mr. Speaker, all of these people have not only enriched the heritage of baseball in Passaic County, NJ, but the heritage of baseball where ever it is played throughout the world. I ask that you and our colleagues join me in saluting these outstanding individuals.

SUPPORT FOR PUBLIC LIBRARIES

HON. FLOYD SPENCE

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. SPENCE. Mr. Speaker, South Carolina's public libraries are serving a varied constituency. Our population is graying; public libraries are developing programs to reach the elderly. Our illiteracy rate is outrageous; public libraries are cooperating with other agencies in addressing this concern. Our educational system is making new demands on our students; school library-media centers are responding to this challenge. Business and industry are requiring new skills for their entry level positions; academic libraries are supporting the curriculum for traditional coursework, as well as new technologies.

It is with pride and pleasure that I salute our Nation's libraries, especially those in South Carolina, on the occasion of National Library Week. I would urge my fellow citizens to use their libraries year round.

The abilities of our libraries to meet the needs of their patrons can be, in part, attributed to Federal funding. The Library Services and Construction Act has helped the South Carolina State Library and our public libraries develop their collections and programs. The Higher Education Act has assisted our academic libraries. School library-media centers are receiving assistance from the Education Consolidation and Improvement Act.

The image of libraries is changing. Today they are vital, energetic agencies trying to anticipate the needs of their patrons. They need the support of all of us. Show your support by registering for a library card—and use it.

TESTIMONY OF THE HONORABLE CHARLES B. RANGEL FOR THE HEARING ON S. 1776 BEFORE THE SENATE COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, APRIL 22, 1988

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RANGEL. Mr. Speaker, for the benefit of the Members, I include my testimony before the Senate Committee on Banking:

TESTIMONY OF HON. CHARLES B. RANGEL

Mr. Chairman, I would like to thank you for the opportunity to testify in support of S. 1776, a bill to modernize United States circulating coin designs, of which one reverse will have a theme of the Bi-centennial of the Constitution.

I take great pride in the fact that on September 21, 1987, I along with Congresswoman Boggs, Congressman Campbell and Congressman Petri, introduced H.R. 3314 in the House of Representatives. The bill before you today, S. 1776, is identical to our bill in the House.

Over the years, like many other Americans I have been interested in our circulating coins. In fact, I have saved a few of the different designs I have encountered in circulation over the years. In many respects that pattern is typical of many Americans. I have noticed our coins, but have thought relatively little about them until recently.

In the past year, I have become very interested in our coins for a number of reasons. Like many of you, I have been concerned about our national deficit and about the programs that are being cut or are inadequately financed in an attempt to reduce the flood of "red ink" which has plagued us in recent years.

Each day, like you, I am faced with a series of difficult and often frustrating decisions. We may be the richest country on earth, yet our shelters and streets currently serve as home for many Americans. Those same streets are the marketplace for an assortment of drugs and drug dealers who seem intent on robbing our young and our country of its future unless drastic action is taken quickly. Such action costs money as do many other worthwhile programs.

Naturally, when a delegation approached me to discuss our coins and the potential revenues to be gained by changing designs, I was both interested and skeptical. Since that meeting, I have learned a good deal about coins and the revenues they can represent.

Before addressing the matter of revenues, let me explain briefly what this legislation will do. The bill you have before you would mandate new reverse designs for our circulating coins. In addition, there would be a special two-year Bicentennial of the Constitution reverse on the first coin to be changed. The legislation also suggests that the portraits on the obverses of the coins be modernized while retaining the same presidents.

Understanding that time is required for the production of new designs, the bill carries a six-year phase-in period which would begin a year after the legislation is enacted.

I feel strongly that the special Bicentennial of the Constitution commemorative reverse be included in the legislation. We had special reverses for the Bicentennial of the Revolution and that law was a success from every indication. The importance of the Constitution seems apparent. Yet I have the feeling that it is somehow being overlooked in terms of our coins. We have seen a commemorative program for the Bicentennial of the Constitution. However, I think the case can be made that in this period of celebration, we should do more to make every American aware of this significant anniversary. Many Americans were not able to afford the Bicentennial of the Constitution commemorative coins. By placing the Bicentennial theme on one of our circulating coins, we will be placing this reminder in the hands of all Americans as well as those around the world. This is the best way I know to let everyone share, celebrate and remember this occasion. After all, coins are one of the few things that all Americans share in common.

What makes the proposal to change our circulating coin designs so interesting is the revenue potential of the measure. It is a rare proposal indeed which comes to us suggesting ways for the government to make money without increasing taxes. Yet this is such a proposal.

The largest source of revenue for the Mint is seigniorage on circulating coins. Seigniorage is the difference between the production cost of a coin and its face value. Consequently, the more coins we make, the greater the profits.

In the March 9, 1988, testimony of the Mint Director to the House Appropriations Subcommittee for Treasury, Postal Service and General Government, Mint Director Pope announced a seigniorage profit for fiscal year 1987 of $458 million.

To increase seigniorage profits we need to increase demand for coins. One way to do it is with new designs as mandated in this legislation.

We have already seen indications of the interest of the American public in new coins. We saw that in the American Eagle bullion coin program. We see it regularly in commemorative coin programs. Moreover, in the past, we have seen it repeatedly when new coins were introduced.

Many of us can remember the public demand for the new Kennedy half dollars in 1964. So great was the demand that shortages were created. While the Kennedy half dollar may have been something of a special case, there is ample evidence that people save new coins.

While we cannot accurately predict just how many of the new coins will be saved, it does not take an expert to see the potential. The projections of Numismatic News, one of the leading publications in its field, were based on a production of 4 billion of the new coins. In this instance, Numismatic News used the quarter as the first denomination to have new designs. With a normal yearly production of between one and two billion quarters, the demand for a new quarter would only have to average about 10 coins per person for us to realize their projection of $2.3 billion in additional revenue.

While I would be the first to admit that not every American will put aside 10 of the new quarters, I would have to observe that a substantial quantity are likely to be put away as keepsakes for children or grandchildren. Moreover, the new coins will initially be saved avidly by coin collectors and dealers. While the nation's coin collectors and coin dealers may be fairly small in number, they pack a very big economic punch.

Consider for a moment a few other additional figures from the Mint Director's recent testimony. She stated that the Bicentennial of the Constitution commemoratives had generated more than $48 million in surcharges for deposit to the Treasury's general fund. She said the Mint is projecting an additional $22 million in operating profits. Where did that money come from? The answer is that the vast majority of it came from the nation's coin collectors and coin dealers. The same can be said for the $74 million in profits the Director reported from sales of proof bullion coins and the additional $25 million in profits reported from the sale of uncirculated and proof sets.

Let me remind you, that those are simply the profits, not the total expenditures on the part of coin collectors and dealers. All of the experts from this hobby suggest that there would be substantial interest in new coin designs. Such interest would take the form of both saving the newly circulating coins while also ordering additional proof and uncirculated sets of the new coins. In both instances, the new designs will make money for the United States, money which was not the result of taxation.

In virtually every respect, this legislation represents the best of all worlds. Changing coin designs is not something new or revolutionary. In fact, in 1793, the founding fathers issued three different cents. The design which then remained the following year was changed again in 1796, thus beginning a long history of changing designs. Having different designs in circulation in 1793 and 1796 caused no problems. Neither has it done so in more recent history. Many of us remember when the dime was changed in 1946 and when the reverse of the penny was changed in 1959. In 1964 when the Kennedy half dollar was introduced, two other half dollars designs were in general circulation; the Franklin and the Walking Liberty. As recently as 1975-1976 we saw new Bicentennial reverses on the quarter, half dollar and dollar coins. We have nothing to fear in 1989.

Additionally, by changing the designs American artists will be given a chance to design coins which hopefully will represent the best we can produce as we embark on our third century as a nation.

The changes are strongly supported by those involved in coins and coin collecting, the very people who made a good portion of Mint's fiscal year 1987 profits possible. While they may not be a majority of the American people, they are the people who care about this issue and they are asking us to give them the opportunity to spend even more money on the coins from which we profit.

When you consider the potential revenue from this proposal you must be impressed by the idea. Technically it can be done. It would be welcomed as one of the government's few sources of revenue outside of taxation. We can benefit through reduction of the national debt or by producing more revenue to combat the ills which plague us today. I cannot imagine a better outcome or a better way to embark on our third century as a nation.

The constitution was a revolutionary idea in 1778, but the liberties and freedoms we enjoy rest on its inspired framework. New coin designs and the profits they will bring will better reflect the same American creativity and ingenuity that made and hopefully will keep this country great.

In closing I urge you to support the passage of S. 1776 in as speedy a process as possible.

A TRIBUTE TO MARGARET CARNEGIE: BROOKLYN'S NO. 1 GRANDMOTHER

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. SOLARZ. Mr. Speaker, Margaret Carnegie speaks softly, walks lightly, and smiles constantly. She radiates beauty, determination, and youth.

Greenpoint residents, who live in the northern corner of Brooklyn, know this energetic woman who comes to community meetings on almost every issue. Ms. Carnegie's unique voice is always heard.

Ms. Carnegie asks the probing questions and offers practical, humane solutions.

"Why," Ms. Carnegie asked, "should a street be called Kingsland Avenue?" Native Brooklynites, after all, pride themselves on being independent; and Brooklyn played a leading role in the Revolutionary War that ended the King's reign. Why can't the city name the street in honor of some special group active in the community today? Why can't the city recognize a minority of caring people all too often ignored by the mass media?

Ms. Carnegie suggested that the Greenpoint community rename Kingsland Avenue to "Grandparent Avenue." The crowd applauded her new idea. New York City's government, after lobbying by local citizens, took her advice; and "Grandparent Avenue" came into being.

That is just one of the many new ideas Margaret brought to our community.

The Grandparents Club, established in Brooklyn, is another of Ms. Carnegie's ideas. The club members share stories and exchange pictures of loved ones.

Ms. Carnegie, by the way, is almost 80 years old. She is also a very proud mother and grandmother.

The National Congress of Neighborhood Women recently honored Brooklyn's most famous grandmother. The neighborhood organization celebrated Ms. Carnegie's leadership and praised "her many achievements in our community." Carnegie, the civil rights organization voted, "has played a vital role in numerous social causes ranging from voter registration and fair housing to crime prevention and intergenerational education."

I would like to add that, while many concerned citizens crusade for social change, Ms. Carnegie leads by example and inspires by small, gentle gestures. She appeals to our most human side. Words fail to convey her warmth or wisdom.

Yet, I must use words to describe her to people untouched by her gentle magic. So I must point out all the roles she plays in our community. Margaret Carnegie is our neighborhood sage, a committed civil rights leader, and a longtime community activist.

Margaret Carnegie is all of this and so much more.

Margaret is a friend and Brooklyn's No. 1 grandmother.

RETIRED AMERICANS ARE MAKING A CONTRIBUTION

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. COUGHLIN. Mr. Speaker, I would like to draw the attention of my colleagues to the invaluable community services that members of the Retired Senior Volunteer Program [RSVP] of Montgomery County, PA, are providing in my 13th Congressional District.

Last week, members of this organization celebrated RSVP Day in conjunction with National Volunteer Week, April 18-25. RSVP of Montgomery County is making a major impact in our region.

The organization fields 1,000 volunteers who contributed more than 175,000 hours of community service in 1986, meeting some of the needs of 225 nonprofit agencies, hospitals, shelters, and other organizations.

In fact, I have worked with RSVP members to better serve my constituents at taxpaying time every year. As part of an annual program, 16 volunteer older Americans travelled the 13th district in my mobile congressional office to assist other senior citizens prepare their tax returns. With the support of the Internal Revenue Service's Taxpayer Education Unit and the Pennsylvania Department of Revenue, this group of selfless Americans assisted nearly 600 of their fellow senior citizens while visiting 23 senior centers and community sites in a 9-week period. They helped prepare 366 Federal and 414 State and local income tax forms.

This is only one example of the many fine things RSVP and its corps of volunteers are doing for their neighbors and the communities in which they live.

The volunteer services do not impose a burdensome cost on anyone, and allow able, articulate and active older Americans the opportunity to continue to use their skills in helping others. It is a program that ought to be replicated in every community in America. The people who are involved in this kind of program deserve our highest praise and respect.

SOUTH AFRICA AND TERRORISM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RANGEL. Mr. Speaker, I would like to share with you an article by Anthony Lewis which poignantly reflects my concern over the inability of the Reagan administration to take an active role in opposing and preventing South Africa from terrorizing its neighbors.

As a superpower, and a leader in the fight against worldwide terrorism, the United States has a moral responsibility to combat South African terrorism as vigorously as we combat terrorist activities in the Middle East. There must be no double standard in our policies in this battle.

With this in mind, I would like to submit the following for the RECORD:

[From the New York Times, Apr. 10, 1988]

A TERRORIST STATE

(By Anthony Lewis)

BOSTON.—Last Thursday morning Albie Sachs, a South African lawyer living in exile in Mozambique, walked to his car and turned the key in the door lock. As he did a powerful bomb went off. It shattered windows down the block. Mr. Sachs lost his arm. Miraculously, he survived.

Albie Sachs has a good many American friends, including me. He has lectured at a number of law schools here, including Columbia, Harvard and Minnesota. So the attempt on his life brought home in a special way the meaning of one of the contemporary world's worst evils, state terrorism.

No one familiar with the region had any real doubt about who planted that bomb: agents of the Government of South Africa. Mr. Sachs is a longtime member of the African National Congress, the anti-apartheid movement outlawed in South Africa. A.N.C. members have been the targets of numerous murder attempts carried out by South Africa openly or covertly.

On March 29 the A.N.C. representative in Paris, Dulcie September, was shot to death at the door of her office. So far this year six A.N.C. members have been murdered in countries outside South Africa.

On March 28 a South African army unit went into neighboring Botswana and killed a man and three women as they slept in a house outside the capital, Garborone. Pretoria said the victims were terrorists. Botswana's usually cautious Government called that a "deliberate fabrication."

The South African Minister of Defense, Magnus Malan, described the raid as "a surgeon's incision against the A.N.C." Botswana's Foreign Minister, Gaositwe Chiepe, noted that the raiders had made it hard to identify the victims. They doused the bodies with gasoline and set the house on fire.

The idea that South Africa had anything to do with the attempted murder of Albie Sachs was denied by the South African Foreign Minister, R. F. Botha. That is the same Mr. Botha who protested mightily a few years ago at the charge that South Africa was aiding the Renamo terrorists in Mozambique. Then, at a captured Renamo camp, Mozambique found detailed logs of regular South African supply drops and radio communications.

South Africa has carried out armed attacks on all its neighbors, not just Botswana and Mozambique. It has kidnapped and killed civilians in Swaziland, Lesotho, Zambia and Zimbabwe.

The targets are usually identified as A.N.C. members, but they often turn out to be local citizens who have nothing to do with South Africa. The raids in any case serve a domestic political purpose for the white Government in Pretoria: looking tough. They tend to increase in frequency when the Government is in trouble on the right, as it is now.

The black-ruled neighbors of South Africa are essentially helpless against its overwhelming military power. They are as the blinded Gloucester said in Shakespeare's "King Lear":

As flies to wanton boys are we to the gods,
They kill us for their sport.

But the United States is not a weak country, helpless in the face of state terrorism. It is a superpower with claims to a moral position in the world. It may not be able to do much about racial oppression inside South Africa. But it can and should be leading an international effort to prevent South Africa from terrorizing its neighbors.

The Reagan Administration has a particular reason for concern. In 1984 it brokered the Nkomati Accord, in which Mozambique and South Africa agreed to stop making or assisting attacks on each other. Pretoria has brazenly violated it.

The first thing Washington can do is to speak out loud and clear. The United States has a longstanding policy of opposition to governments that support or engage in terrorism. South Africa is now very likely the prime example of state terrorism in the world. Yet when there is a raid or a bombing, all one gets from Washington is a namby-pamby statement that really says nothing.

President Mitterrand of France had no hesitation when Dulcie September was killed. He did not make pious statements about an inability to identify the killers. He called the South African ambassador to his office and demanded an explanation. He said the murder made the question of sanctions "still more burning."

Beyond words, there are many actions the U.S. can begin to take: expelling diplomats, applying a specific economic sanction, sending urgent military help to the country that has been victimized. Every time South African terrorists strike, there should be a clear and immediate U.S. response. The aim, as Franklin Roosevelt put it is to guarantine the aggressor.

IN RECOGNITION OF MR. GEORGE A. PARKER

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. BRENNAN. Mr. Speaker, I rise before the U.S. House of Representatives today to honor the dedicated career of Mr. George A. Parker as a veteran fireman for the Rockport Fire Department in Rockport, ME. Mr. Parker has served as a volunteer fireman since January 4, 1918. He has just recently celebrated 70 years as an active member of the fire service. At the age of 86, Mr. Parker still plays an active role in the daily duties of the Rockport fire station. His duties include maintaining the station, as well as making sure that all of the fire equipment is ready for emergency use.

He enjoys serving his community while sharing his expertise and knowledge with his fellow colleagues.

Mr. Parker embodies the true spirit of voluntarism which is so important to the benefit of America. I join with other First Congressional District residents in extending sincere thanks to Mr. Parker for his 70 years of service and dedication to his community. He has been a leader for his colleagues, an inspiration to his community and a dedicated servant to the fire service.

THANK YOU AMERICA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. DORNAN of California. Mr. Speaker, as the Representative of California's 38th Congressional District, I have the great privilege of representing a constituency with diverse ethnic and cultural backgrounds. One group, which I am extremely proud to represent, are the men, women and children who fled Communist oppression in Vietnam, and came to the United States with the hope and dream of becoming dedicated and productive citizens of our great country. And indeed they have.

As the representative of a Vietnamese community, I know how grateful they are to the American people for opening our arms and allowing them to share the riches and freedom of our Nation. But for my fellow Americans who have not had the opportunity to know the Vietnamese, I would like to submit into the RECORD a thank you letter to the American people from Yem Pham, a 99-year-old Vietnamese man who has been able to live his golden years in peace and freedom as a result of America's generosity.

Mr. Speaker, like Yem Pham, I salute the people of our great Nation.

APRIL 5, 1988.

Hon. ROBERT DORNAN,
U.S. Congressional District, Garden Grove, CA.

DEAR CONGRESSMAN DORNAN: Pardon me for my rudeness and primitive behavior in addressing you, but it is just that I can not resist to write about my appreciation to you and your government.

My name is Yem Pham. I was born in May 15, 1888. Certainly you know that I am reaching my centennial birthday very soon. Before I can celebrate this very special occasion, I would like to express my deepest appreciation to you. You have made this possible for me. You have rewarded me with many essential provisions and services. They are the resettlement programs, health care services and the love of American people.

You and your government have given me an opportunity to prolong my life and a chance to live in this beautiful country. My life is enhanced each day and every new day to come. I have realized that at my age there is no ability to pay but to benefit and to receive. Because of my inability to pay, I have to write you and your government the most sincere thankfulness for your health services, assistances and love through many years.

Please accept my genuine thankfulness. May God grant you peace, wisdom and longevity. Your acceptance and response of my appreciation will be rewarding for me, my children, grandchildren, great-grandchildren, great-great-grandchildren, great-great-great-grandchildren and friends. I am looking forward to hearing from you.

Sincerely yours,

YEM PHAM.

VA PHYSICIAN HONORED WITH ANNUAL MIDDLETON AWARD

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. MONTGOMERY. Mr. Speaker, it is a pleasure to again share with my colleagues the achievements of a Veterans' Administration health care professional—a singular shining example of the overall commitment to excellence within the Nation's No. 1 health care delivery system.

The Veterans' Administration has awarded its highest scientific honor—the William S. Middleton Award—to Gerald Reaven, M.D., director of the Palo Alto, CA, VA Medical Center's Geriatric Research, Education and Clinical Center (GRECC).

The Middleton Award is the highest honor given by the VA in recognition of outstanding achievement in biomedical research. The award is named for William S. Middleton, M.D., who served as VA's Chief Medical Director from 1955 to 1963.

Dr. Reaven is being recognized for his leadership in the development of research, education, and new clinical care programs for the elderly, and for his achievements in the field of diabetes research.

In addition to his accomplishments as director of the Palo Alto GRECC, Dr. Reaven is internationally recognized for his work in diabetes research. Early in his VA career, he defined the relationship between hyperglycemia and insulin response to oral glucose in normal subjects and patients with noninsulin-dependent diabetes mellitus. Dr. Reaven demonstrated that improvement in insulin response to oral glucose followed weight loss. This finding led to a new understanding of the role of diet in the treatment of diabetes.

More recently, his studies of triglyceride—fat—metabolism in diabetes have uncovered a defect in the transport of blood plasma cholesterol. This defect leads to hyperlipidemia—high plasma fat—and atherosclerosis in noninsulin-dependent diabetes.

Dr. Reaven received his medical degree from the University of Chicago in 1953. He interned at the University of Chicago Hospital and was a research fellow in medicine at Stanford University before joining the U.S. Army Medical Corps in 1955. He was appointed instructor of medicine at Stanford in 1960 and currently is head of the Division of Gerontology. He also holds the Nora Eccles Harrison Professorship in Diabetes Research.

Dr. Reaven began his VA career in 1968 as a staff physician at the Palo Alto VA Medical Center. He was a medical investigator from 1971 to 1977, when he assumed his current position of director of the GRECC, 1 of 12 such VA centers established to improve the care of older veterans. The Palo Alto GRECC focuses on metabolic and endocrine disorders of aging, health services delivery research, and psychosocial aspects of aging.

The award will be presented to Dr. Reaven on April 30, here in Washington, at the joint annual meetings of the American Federation for Clinical Research, the Association of American Physicians, and the American Society for Clinical Investigation.

Mr. Speaker, I know my colleagues will want to join with me in congratulating Dr. Reaven for his contributions to the advancement of medicine and to an improved quality of life not only for veterans, but for all mankind.

PERSONAL EXPLANATION

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. JONES of North Carolina. Mr. Speaker, on rollcall No. 66, final passage of H.R. 3, the Omnibus Trade and Competitiveness Reform Act, I was present on the House floor, but the CONGRESSIONAL RECORD fails to show my vote in favor of final passage. I was recorded as voting "no" on the motion to recommit just a few moments earlier. I would appreciate the RECORD showing that had my vote been properly recorded, it would have been a "yes" vote.

A HARLEM RESIDENT: JAMES E. BOOKER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to share with my fellow Members of Congress the achievements and contributions of James E. Booker. As a journalist and adviser to Presidents, he has served both his community and his country with the utmost professionalism and devotion.

Mr. Booker grew up in Riverhead, Long Island. He picked potatoes in order to finance his college education. After graduating from Howard University, Mr. Booker got a job as a reporter for the Amsterdam News. He became a featured columnist and a regular panelist on the WNBC show "Searchlight." During his 18 years as a journalist, Mr. Booker also received more than 20 writing awards for investigative reporting.

In the sixties, this great man became very active in the formation of several Presidents' civil rights policies. In 1966, Mr. Booker was a consultant and director of information for the White House Conference on Civil Rights. In 1968, he was the chief information consultant to the National Advisory Commission on Civil Disorders. This commission was responsible for the Kerner Commission Report. Moreover, he became the first black adviser to a national Presidential candidate and he was an original organizer of the Congressional Black Caucus in 1970. Through his work, Mr. Booker has clearly helped form modern civil rights policies and legislation.

There are several stories which circulate among Booker's admirers which show his ability to solve crises, formulate ideas, and circulate good will. One such story was printed in the Carib News. In short, James E. Booker has worked hard for his community and country. He is certainly an asset to the Harlem neighborhood where he resides. I am, therefore, confident that each of my colleagues will find the following published letter of great value.

[From the New York Carib News, Apr. 5, 1988]

JAMES BOOKER: HIS OUTSTANDING CONTRIBUTION

DEAR EDITOR: The article by Mr. Ernie Johnston Jr. on Mr. James E. Booker (Carib News, Week Ending March 15, 1988) illustrated the contributions of an outstanding Black American to American Black, and world history.

Mr. Booker is not only a pioneer journalist active in the growth of Harlem, but also in the growth of Blacks in America, the Caribbean (islands, countries of Central and South America), and Africa, including South Africa. Not by armchair observations, but by going to the countries for first hand observations, and by whatever personal action and help he could take to turn things around.

The following is an American vignette about Mr. Booker: In his excellent article, Mr. Johnston spoke about Mr. Booker's participation in the famous 1966 White House "To Fulfill These Rights Conference" which Mr. Booker had a hand in shaping as Special Assistant to the President of the United States, Lyndon Johnson.

As Special Assistant to the Mayor of Boston, Massachusetts, John F. Collins, I represented the City of Boston at this significant three day conference. All the Black leaders of America were there, including Dr. and Mrs. Martin Luther King Jr., and Mr. Percy Sutton who brought Malcolm X.

The morning of the third day, the conference was almost in a shambles because of the opposing viewpoints about what the conference's public proposals should be at the dinner that night, as well as clashing egos regarding who should and should not speak at the dinner.

Amidst all of this, President Johnson told the Black leaders that he was not going to attend and speak at the dinner. More confusion.

Mr. Johnson sent for Mr. Booker to inform him that he would not speak at the dinner. Mr. Booker said, "Mr. President, give me half an hour, and I will be back to discuss this with you. After all, I am still your Special Assistant by appointment, though I have not signed the papers." President Johnson said yes to Mr. Booker's request.

Mr. Booker rounded up all the Black leaders and their egos and told them the President was not bluffing and that if he did not speak at the dinner, the news media would blast it around the world and it would make them look bad in their own community newspapers, radio and television stations.

Realizing that this could damage their reputation at home, and an assault on their egos, the Black leaders caved in and agreed on an agenda and who would speak.

With a White House car at his disposal, Mr. Booker made his report to the President, and President Johnson agreed to speak. Mr. Booker saved the day.

This vignette was not relayed to me by Mr. Booker, but by a White House assistant who I had to keep constantly in touch with because of my duties at the Mayor's office in Boston.

Though Mr. Booker is from New York, and I from Savannah, Georgia, we do have one aspect of our lives in common, that of being fellow graduates of Howard University in Washington, D.C. He is a true great Black American.

Sincerely,

LEMUEL M. WELLS,
Manhattan, NY.

COMMISSION'S REPORT EXPANDS WORLD KNOWLEDGE OF UKRAINIAN FAMINE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. BROOMFIELD. Mr. Speaker, for the past 2 years, I have been privileged to serve on the Commission of the Ukraine Famine, as it sought to meet its congressional mandate to expand the world's knowledge of events that collectively are known as the Ukrainian famine, and to provide the American public with a better understanding of the Soviet Union by revealing the Soviet role in the famine.

Extensive testimony was taken and indepth interviews were conducted from eyewitnesses to the famine. The conclusions as detailed in the Commission's report, are inescapable. The famine which occurred in the Ukraine during 1932-33, and which took millions of lives there, was the result of a deliberate policy of genocide by the Government of the Soviet Union.

These were difficult hearings for those on the Commission and for those who testified before us. All involved deserved to be congratulated. Special recognition should be given to Dr. James Mace, the staff director, and his staff, the Commissioners from the Ukrainian community who gave so freely of their time, and the Ukrainian community, itself, for its strong support. We in Michigan were extremely fortunate to have 4 of the 15 Commissioners from our State. The other three Michigan Commissioners were Congressman DENNIS HERTEL, Mr. Bohdan Fedorak, and Ms. Anastasia Volker.

I understand there is still unfinished work for the Commission in finalizing its research, and in disseminating more widely the results of its efforts. I would hope that the House would give serious consideration to extending the life of this Commission in order to complete its important work.

Mr. Speaker, I have included my concluding statement to the Commission on the Ukraine Famine to further share my views on this important matter with our colleagues in the House.

REMARKS OF CONGRESSMAN WILLIAM S. BROOMFIELD BEFORE THE COMMISSION ON THE UKRAINE FAMINE

Members of the Commission, honored guests, this Commission was established two years ago for the purpose of expanding the world's knowledge of events collectively known as the Ukrainian famine and, as a result, to provide the American public with a better understanding of the Soviet Union by revealing the Soviet role in the famine.

The Commission has held several public hearings around the country in an effort to hear firsthand the chilling recollections of those who actually experienced and survived the 1932-33 famine in the Ukraine. Testimony was taken by the Commission from 57 eyewitnesses to the famine, and indepth interviews were conducted with over 200 other survivors of this tragedy.

During the hearings, we heard of the millions who died of starvation in the Ukraine during this terrible period. Famine survivors told the Commission of seeing bodies left where they died; or watching their loved ones progressively weaken from hunger, and slowly give way to prolonged and painful death. The Commission learned of Ukrainians staying alive by eating anything from grasses, weeds, and tree limbs, to wild animals and birds that they caught and ate uncooked.

We also learned from eyewitnesses that crop harvests in the Ukraine during this period were as bountiful as those in previous years when there was no famine. Rather than being the result of natural causes, the famine of 1932-33, was caused by the organized confiscation of grains and other foods from the people of the Ukraine. Witnesses before the Commission told of train loads of food and grains leaving the Ukraine, and of systematic house-to-house searches where every ounce of food was seized by government officials. We also heard of Soviet-imposed travel restrictions preventing Ukrainians from going to other areas where food was available.

The conclusion, which is detailed in the Commission's report to the Congress, is inescapable. The famine which occurred in the Ukraine, and which took millions of lives there, was the result of deliberate policies of the Government of the Soviet Union. Thus, it is important that we call this man-made famine what it truly is, an act of genocide by the Soviet Government against the people of the Ukraine.

This is a difficult story. It was heartrending for those of us on the Commission who heard the details of this genocide for the first time. It was painful for those who survived this tragedy to call up memories that many had buried with friends and loved ones so many years ago.

The Ukrainian famine and the events surrounding it are, however, an important part of history that should be known to American people and the rest of the world. In one sense, it clarifies the events that took place in the Ukraine during 1932-33. In a larger sense, it speaks to the degree of suffering that man will inflict upon his fellow man when the world—including the United States—is willing to look the other way. Above all, the lessons of the famine also tell us of the moral depravity of the Soviet system of government, a system that would initiate a policy of genocide, and a system that is essentially the same today. Through the lessons of the Ukrainian genocide, we are all reminded of the importance of vigilance, and of holding the Soviet Government accountable for its human rights practices.

Mr. Chairman, the members of the Commission and the staff, led by Dr. James Mace, are to be congratulated for their diligent and dedicated work in pursuing and revealing the truth about the man-made famine in the Ukraine. I understand there is still unfinished work for the Commission in finalizing its research and in disseminating more widely the results of its efforts. I urge the Congress to consider extending the life of this Commission so that this important work can be accomplished in the memory of those who died, and in honor of those who survived the Soviet genocide in the Ukraine in 1932-33.

CALIFORNIA EMPLOYMENT DEVELOPMENT DEPARTMENT HONORED

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. PACKARD. Mr. Speaker, please join with me today in congratulating the State of California Employment Development Department in Oceanside. The program has been awarded the "Outstanding Veteran Service Award." This award is given by the International Association of Personnel in Employment Security in recognition of excellent service to veterans.

The center, which is in my congressional district, has consistently done a superb job assisting veterans in job placement. Their teamwork and support have made them a highly successful center.

The projects they have sponsored are numerous. They were the first in northern San Diego County to hold a job fair for veterans. It was attended by 30 prospective employers and 1,500 veterans and they were able to place 200 individuals in gainful employment. "Hire-A-Vet Week." is another successful project the center has initiated. They have a superb outreach program at Camp Pendleton and are always looking for new and improved ways to serve the veteran community.

Therefore, Mr. Speaker, it is with great pleasure that today I recognize the State of California Employment Development Department Office in Oceanside for a job well done. I am proud to be associated with such a devoted team. I know that they will continue to work hard to serve our veterans.

MOST LONG-TERM-CARE INSURANCE CRITICIZED

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. FLORIO. Mr. Speaker, I would like to call my colleagues' attention to a Washington Post article on a recent Consumers Union survey of long-term-care insurance policies. The private long-term-care insurance market is growing rapidly and we must monitor its development carefully. Private long-term-care insurance can play an important role in financing our Nation's huge long-term-care bill, but we must ensure that consumers are protected when they purchase this kind of insurance. Many concerns have been raised about limitations and exclusions in the policies currently being marketed. Consumers Union did a survey of 53 of the estimated 90 policies currently in the market and published the results in the May 1988 issue of Consumer Reports. The following article briefly outlines some of the survey's findings.

MOST LONG-TERM-CARE INSURANCE CRITICIZED—CONSUMERS UNION CITES DEFICIENCIES, COSTS

(By Molly Sinclair)

Most of the private insurance policies providing long-term-care, which the Reagan administration often cities as a way for Americans to cover nursing-home costs, have critical deficiencies and are priced beyond the means of the people who need them most, a consumer group said yesterday.

Consumers Union, a national non-profit group that publishes Consumer Reports magazine, reached its conclusions after examining 53 of the estimated 90 long-term-care policies now sold.

"What we found was very disappointing," said Rhoda H. Karpatkin, executive director of Consumers Union, at a news conference previewing the results of the study, which will be featured in the May issue of the magazine.

"Even if people could afford the premiums," Karpatkin said, "these policies don't usually cover existing health problems until six months have passed, and they're often unclear about Alzheimer's disease."

People who buy long-term-care policies at age 65 may have to pay as much as $100 a month for adequate coverage, Consumers Union concluded. Those aged 75 may have to pay as much as $260 a month for long-term-care insurance.

People who try to shop for long-term-care insurance will encounter "a crazy quilt of charges, waivers and limitations that confuses even the insurance agents who sell the policies," the magazine said.

Among the problems cited:

It's easier to get insurance if you're healthy. People in great need of protection—those with an existing health problem—may not be able to buy a policy because some insurers reject as many as 30 percent of the applicants.

Slightly more than 60 percent of patients enter a nursing home without being hospitalized beforehand. But 72 percent of the policies examined in this study required prior hospitalization before any benefit could be provided.

Although about half of all nursing home patients suffer from Alzheimer's disease and related diseases, more than 50 percent of the policies evaluated did not specifically state that the condition was covered. Consumers Union expressed concern that a company suddenly flooded with claims might use the policy's vague language as a basis to deny benefits.

Some policies cover only skilled and intermediate care, not custodial care, which is potentially the longest lasting. Many other policies restrict the benefits for custodial care.

Most policy benefits are not designed to keep pace with inflation.

"We don't recommended long-term-care policies for people with modest incomes. They would quickly qualify for Medicaid benefits," Karpatkin said.

People under 60 shouldn't buy them either, Karpatkin said, unless there's a way to be sure that policy benefits will keep pace with inflation. "While one of the better policies we found may be a reasonable choice for more affluent people who can qualify, millions of Americans will still be left without adequate coverage," she said.

The average cost for one year in a nursing home is $42,000 in metropolitan areas such as Washington.

Concluding that the private insurance system cannot spread the costs over a large enough number of people to make coverage affordable for the millions who need it, Karpatkin called for the federal government to design a long-term-care system that meets the needs of the entire population.

But many members of Congress, now wrestling with the long-term-care issue, believe that the answer lies in a combination of public and private programs.

"Long-term-care insurance is still in the infancy stage, and it remains to be seen what the next generation of policies looks like," said a staff member of the Select Committee on Aging of the U.S. House of Representatives. "Our view is that private insurance is not the ultimate solution, but it is a piece of the puzzle," he said.

Robert Waldron, a representative of the Health Insurance Association of America, said the Consumers Union report is "overly pessimistic." He said the results would have been more positive if policies had been examined "in terms of their evolution rather than lumping them all together."

The first long-term-care policies, which emerged in 1982, "were very tentative and very restrictive," Waldron said. But the ones that have emerged since 1986, he said, "are more liberal, their per diem benefits either match or exceed nursing home costs and some contain inflation riders" to help offset inflation. Waldron estimated that 500,000 long-term-care policies are in effect.

TRIBUTE TO AGNES HOFSTADTER

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a very special constituent from my district, Mrs. Agnes Hofstadter. For her work with the Shaarey Zedek Sisterhood of North Hollywood and her service to the community, Agnes is being honored at the group's annual fundraising luncheon on May 1, 1988.

Agnes and her family moved to the North Hollywood area in 1976. She and her husband, Gene, became active members of the Shaarey Zedek Congregation. Gene served as president of the congregation for 2 years and Agnes contributed her expertise in organizing fundraisers and other social activities while working closely with her husband. Both Agnes and her husband have been active in the real estate business, selling and developing properties. Since 1975, she has been office manager of the Sherman Square Roller Rink, their family owned business.

Agnes lived through the war years in Budapest, where she and her family survived by hiding under false names. They were spirited across the border by various members of their family and were finally able to enter the United States in 1948. Agnes and her family settled in Ohio, where she graduated as salutatorian of her class. Later she moved to New York and worked for the American Zionist Council. After marrying in 1955, Gene and Agnes settled in California. Agnes has three children, David, Sherri, and Joni. Last year was especially happy and rewarding for her because her two older children were both married. Joni is 18 and will graduate from high school this year.

It is my distinct honor and pleasure to ask my colleagues to join me and the Shaarey Zedek Sisterhood in saluting Agnes Hofstadter. I am proud that she is a member of my community.

HOLOCAUST REMEMBRANCE DAY AND THE RATIFICATION OF THE GENOCIDE TREATY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RANGEL. Mr. Speaker, the following remarks were written in commemoration of Holocaust Remembrance Day.

Today is Yom Hashoah, the day of remembrance to the victims of the Holocaust. Appropriately, and symbolically, April 14 is also the day in which the Genocide Treaty could be enacted into the Federal Penal Code.

Genocide is a term which came about quite recently. The word combines the Greek word for "species" with the Latin word for "kill." I find it remarkable that such a word could come into existence. The very thought that someone could conceivably attempt to eradicate a population sounds ludicrous, yet such an attempt was made only 40 years ago.

The Holocaust was Hitler's and Nazi Germany's attempt to eradicate the Jewish population of Europe. While in prison, he wrote in Mein Kampf that the Aryan race was the superior race and it was necessary to do away with all "subhuman races." To accomplish his goals, Hitler's staff found new and efficient ways to kill large masses of people. Concentration camps were built to house Jews and Slavs as they arrived by the trainloads. Like cattle, they were herded into the camps and, as at Auchswitz, music played as they marched into the showers and were poisoned by prussic acid or zyklon B. The hair was then cut off and shipped to the mattress factories, the gold teeth were removed, the bodies cremated, and the ashes used for fertilizer. Like any efficient machine, the Nazi death camps functioned for several years without rest.

In 1933, the Jewish population of Europe numbered 9,500,000. After the surrender of Nazi Germany, only 3,500,000 Jews remained. Only 10 years ago did the population of Europe return to its prewar levels. Such a frightening statistic says something for the German degree of effectiveness in carrying out Hitler's final solution for the Jewish population.

On this day, I believe we must remember the Holocaust. We must remember its dead, pay tribute to its survivors, and, most importantly, do everything in our power to prevent its repetition. The Genocide Treaty is one way in which we, as a nation, can make it understood that the United States will not tolerate genocide. It has been 37 years since the Genocide Treaty was first introduced. In the words of Kansas Senator BOB DOLE, "we have waited long enough." Ratification of this treaty is long overdue.

The United States has long been considered a protector of human rights throughout the world. It should not take 37 years for such a leader to federally outlaw genocide. Each day we postpone ratification of the convention, we taint the United States image as a country devoted to the protection of human rights. It is time we enacted this important piece of human rights legislation.

Though considered largely symbolic, the Genocide Treaty can play some role in stopping genocidal acts. By including genocide in the Federal criminal code, the United States is making a statement that it will not tolerate another Holocaust. On this day of remembrance of the victims of the Holocaust, we must consider the events of the past, and legislate against such events in the future. The Genocide Treaty is both a fitting tribute to those who lived and died during the Holocaust and a means by which we can prevent such a loss of lives from ever occurring again. I sincerely hope that we will take this historic step and turn the Genocide Treaty into law.

REMEMBERING THE ARMENIAN GENOCIDE

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. MAVROULES. Mr. Speaker, I'd like to share in remembering the sorrow of the Armenian genocide 73 years ago. Having very close ties to the same part of the world has made the Armenian issue very important to me. The deportation and massacre of an entire nationality is a serious crime against humanity that should never be forgotten.

Every April 24, around the world, people gather to pay their respects to those who perished at the hands at the Ottoman Turks. April 24 serves as a reminder to those who deny that the genocide ever happened and that there are many who have not forgotten and who will continue to strive for recognition of this dark page in history.

This year, the commemoration is especially significant; we are commemorating not only the martyrs of 1915, but also the martyrs of 1988. Armenians are again facing persecution and martyrdom in their own homelands. I am speaking, of course, about the situation in Azerbaijan. This tiny region, populated by Armenians for thousands of years, has attracted world-wide attention in the last few months. As you know, Karabagh was separated from Armenia in 1921 by a political decision of Stalin's that the Soviets now admit was a mistake.

The cultural, religious, and historic bonds between the region of Karabagh and the Republic of Armenia, not 10 miles away, have remained very strong, however. Earlier this year the Armenians in Karabagh requested that their region be reunited with Armenia. There can be no doubt that Karabagh is Armenian and should be part of the Republic of Armenia. Whether or not the Azerbaijanis and the Soviets are willing to redraw borders is not as certain. This situation has grabbed from page news coverage not only because it is an intriguing political story, but also because it is a disturbing human rights story.

The political interest is twofold: First, the world noticed that the Armenians expressed their grievances in a peaceful and law-abiding manner. They chose to work within the system, trying to address and resolve a complex nationality problem through the limited avenues available in a Communist society. From the actions of the regional Karabagh government, to the appeal to Moscow, to the peaceful demonstrations of hundreds of thousands of people in Yerevan, the Armenians took directed, deliberate and determined steps toward their goal. Throughout the protests, the Armenians showed a respect for due process and put a great deal of faith in Gorbachev's promises for a new nationality policy and "perestroika."

This brings us to the second political observation: the Soviet Government's reaction. The response to the Armenian's legitimate grievance came in the form of condemnation and show of force. The Soviets did not see the injustice to the Armenians in Karabagh, but saw a threat to their iron-fisted control and could only respond by sending in the Red Guard. Instead of encouraging the Armenian's use of legal and peaceful means to address a grievance, they condemned the law-abiding Armenian leaders and publically denounced the legitimacy of the Armenian's request. Gorbachev's promises of a new nationality policy, perestroika and glasnost can now be seen for what they really are: new catch phrases for the old repressive ways.

The most disturbing outcome of this entire situation, however, is the violent reaction of the Azerbaijanis. Their senseless murder and brutal torture of innocent Armenians in Sumgait is too reminiscent of the events of 1915 to escape notice. Reports from the area put the number of killed and injured Armenians in the hundreds. In 1988, when we consider the denial of an exit visa a violation of human rights, the behavior of the Azerbaijanis, toward Armenians is completely unacceptable. Unfortunately, it is further evidence that the world has not learned, or maybe even refuses to learn, the lessons of the Armenian genocide.

My colleagues in Congress and I have watched these events with what began as hope, then turned to despair. We have expressed our support for the Armenians' legitimate grievance and have waited hopefully for an actual change in Soviet ways. We have listeted in shock to bloodcurdling accounts of the terror in Sumgait. And we shared your disappointment and frustration at the Soviet Government's inadequate reaction to the entire situation.

It is significant today that we can gather here in such a large number and say that we want without fear of reprisal and with the hope that our message may be heeded, while on the other side of the globe, your brothers and sisters in Armenia have no such freedom. We often need to be reminded that freedom of speech and demonstration is a privilege. It is unfortunate that what serves as a reminder to us is painful reality for others.

The opportunities that America has to offer have lured many Armenians (and others, like my ancestors the Greeks) to our shores. And the Armenians have taken those opportunities and made them realities. Much of our success today can be attributed to the hard work and dedication of Armenians.

I'd like to take a moment to recognize those amongst us who are survivors of the Armenian massacres. You have carried the memories, the frustration, the anger, the loneliness with you for over 70 years. Your strength and courage are respected and admired by all who have heard of the tragedy that you lived through.

Thank you again for allowing me this opportunity to share in this remembrance.

NATIONAL SECURITY AND DEFENSE ISSUES

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. HYDE. Mr. Speaker, for the benefit of my colleagues I am inserting into the RECORD the text of four important resolutions enacted recently by the National Association of Pro-America.

The resolutions are worthy of study by my colleagues as Congress embarks on its annual debate of national security and defense issues.

I. SPACE SHIELD TECHNOLOGY AND EARLY DEPLOYMENT VITAL

Whereas, The United States, at this time, has *no* defenses against ballistic missiles, leaving us totally vulnerable to Soviet attack, nuclear blackmail by any country or terrorist who obtains nuclear weapons, or the accidental launching of such weapons; and

Whereas, The Soviets have the only operational anti-ballistic missile system in the world, an operational anti-satellite system, the only operational nuclear reactor in space to power their satellites, plus mobile radars (including the illegal one at Krasnoyarsk), and they continue to build and deploy new generations of ICBMs; and

Whereas, General Abrahamson, who is in charge of the Strategic Defense Initiative program, has announced that the United States has jumped ten years ahead of the projected schedule in just three years, making it possible to have a fully operational anti-ballistic missile system by the early 1990s; and

Whereas, While SDI opponents claim that deployment would run counter to the narrow interpretation of the ABM Treaty, the fact is that any treaty guaranteeing to keep the United States defenseless is unconstitutional (the ABM Treaty promises that the United States will not defend against incoming missiles); and

Whereas, President Reagan has asked, "Isn't it better to use our talents and technology to build systems that destroy missiles, not people?" and most would surely answer that a missile defense system is morally superior to mutual assured destruction (MAD); and

Whereas, Some SDI advocates estimate that a reliable defense system would cost from $25 to $100 billion, others say that costs spread out over seven years would mean spending $2 billion to $15 billion per year which is between one and five percent of the total military budget, however, SDI also is cost effective when compared with the approximately $40 billion we now spend to continue maintenance and modernization of our present nuclear arsenal; now, therefore, be it

Resolved, That the National Association of Pro America is committed to work for the development of Strategic Defense technology (SDI) and the early deployment of strategic defense weapons.

IX. SUPPORT SECURITY RULES AND BRIEFINGS ON ESPIONAGE AND SECURITY TECHNIQUES FOR MEMBERS OF CONGRESS AND STAFF MEMBERS

Whereas, 4.3 million Americans have some level of security clearance, and that fact combined with the massive volume of classified information, creates an inviting potential for espionage, leaks, and carelessness; and

Whereas, Intelligence specialist, Angelo Codevilla, has said that Soviet spies use diplomatic cover to "spot, assess and recruit" United States government officials and opinion leaders; and

Whereas, United States intelligence agencies have received information proving Soviet attempts to recruit Members of Congress and their staffs and showing that lax security practices offer great opportunity to succeed in compromising members, staff and files; and

Whereas, Several recommendations have been made to the Congress dealing with security including briefings for Members and staffs on the espionage threat and the handling of classified materials; Now, therefore, be it

Resolved, That the National Association of Pro America support a formalized procedure to brief Members of Congress their aides and staff on Soviet espionage practices, active measures and information gathering techniques; and be it further

Resolved,. That the National Association of Pro America support the establishment of rules and procedures to provide uniform security for classified material.

V. AID TO NICARAGUAN FREEDOM FIGHTERS

Whereas, The Sandinistas in Nicaragua have established another Communist government in the Western Hemisphere, 1900 miles from Washington, D.C.; and

Whereas, The Nicaraguan Freedom Fighters are struggling to overthrow the rule of tyranny and to establish freedom in their country; and

Whereas, The Soviet military bloc has supplied $1.22 billion in aid to the Sandinistas from 1980 to 1986; and

Whereas, Sandinista airfields and runways are capable of accommodating Soviet tactical fighter bombers and long-range bombers, many of which can reach United States cities and return to base; and

Whereas, Sandinista port facilities will accommodate Kiev class aircraft carriers, and missile and attack submarines which can essentially place a stranglehold on vital United States shipping through the Panama Canal; and

Whereas, Communist priorities were stated by Gus Hall in December of 1986 as being: an end to all nuclear testing, an end to aid to the Contras, an end to Star Wars and the ratification of Salt II; and

Whereas, Pro America believes that a loss by the Freedom Fighters will leave the United States a choice of either living with the constant threat of Communism in the Western Hemisphere or sending American troops to fight the battle the Contras are now waging; and

Whereas, The bitter experience in Vietnam taught us that there is no substitute for victory, and that without victory the expenditure of lives and money is wasted; Now, therefore, be it

Resolved, That the National Association of Pro America urges Congress to continue military as well as humanitarian aid to the Nicaraguan Freedom Fighters—enough aid to support a realistic goal of quick and decisive victory.

XI. OPPOSE EDUCATIONAL COMPUTER AND SOFTWARE EXCHANGE WITH THE SOVIET UNION

Whereas, The President of the United States agreed with the leader of the Soviet Union during the "Summit Meeting" in Geneva, Switzerland, that the United States would supply computers to the Soviet Union for use in their schools and would in return accept "computer software" from the Soviet Union for use in our public schools; and

Whereas, It is unthinkable that any sovereign state would freely open its schools to instructional materials supplied by a foreign power; and

Whereas, The Soviet Union, by word and deed, makes clear its aggressive hatred of the United States and the principles it represents and exerts repressive censorship to exclude from its citizen all information from the Free World; and

Whereas, It must therefore be assumed that any "computer software" supplied by the Soviet Union is intended to subvert the allegiance of American students to their Country, and that those Americans who prepared this agreement to expose American students to Soviet indoctrination are guilty of giving aid and comfort to the enemy; and

Whereas, Jurisdiction over the public schools, inlcluding the content of the curriculum and all teaching materials, is a right guaranteed to the several states by the Tenth Amendment to the United States Constitution; and

Whereas, the President's heavy responsibilities make it impossible for him to judge the necessity or propriety of individual educational procedures and improper for him to make agreements on such matters, and make him susceptible to bad advice on this subject; and

Whereas, Such advisors were able to induce the President to endanger very gravely the integrity of the Nation's schools and thereby necessitate that the citizens of the United States petition (according to their First Amendment rights) for a redress of this grievance; now, therefore, be it

Resolved, That the National Association of Pro America respectfully request the President to rescind the agreement for an educational and software exchange with the Soviet Union.

THOMAS C. MURRAY, 1988 RESIDENTIAL/BUSINESS CITIZEN OF THE YEAR

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. TORRES. Mr. Speaker, I rise today to recognize the recipient of the 1988 Residential/Business Citizen of Year, Mr. Thomas C. Murray. This distinction is awarded each year by the Santa Fe Springs, CA, Chamber of Commerce.

An active member of the Sante Fe Springs community, Thomas has participated in many activities. Thomas is a member of the Santa Fe Springs Lions Club, Friends of the Library, Rancho Santa Gertrudes Historical Society, Santa Fe Springs Community Playhouse, Majestics Car Club member, Taco Bowl Committee. He has been a member of the Miss Santa Fe Springs Beauty Pageant Committee and of the Santa Fe Springs Chamber/League. In addition, he is a sponsor of little league teams in Whittier, Norwalk, and Santa Fe Springs.

In addition to his many community activities, Thomas is an avid car enthusiast. He likes to restore cars, he attends car shows and belongs to several car clubs, such as the Buick Club, Cadillac Club, and the Majestics Car Club.

Thomas is the President of Murray's Landscape, Inc. He has been the owner and manager of his own company for 18 years. He is active in the California Landscape Contractor's Association, Long Beach-Orange County Chapter.

A native of Los Angeles, Thomas and his wife, Jan, reside in Santa Fe Springs. They have three children, Tammy 18, Tommy 5, and Cody 1.

Mr. Speaker, on Wednesday, April 27, 1988, the community will convene a luncheon to honor Thomas C. Murray for his unselfish contributions to the business and residential community of Santa Fe Springs. I ask my colleagues to join me in congratulating Thomas C. Murray for his outstanding record of service to the community of Santa Fe Springs.

WORLD POPULATION AWARENESS WEEK, APRIL 17-23, 1988

HON. WILLIAM H. GRAY III

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. GRAY of Pennsylvania. Mr. Speaker, I rise today to share with my colleagues a proclamation by Gov. Robert P. Casey, of Pennsylvania, designating April 17-23, 1988 as "World Population Awareness Week."

Mr. Speaker, at this time I wish to insert in the RECORD Governor Casey's remarks on World Population Awareness Week.

Continuing at its present growth rate, the world's population of more than 5 billion will double in the next 40 years. Statistics show that more than 90 percent of this growth will take place in Third World nations which are least able to accommodate such rapid expansion.

This population growth exceeds the capacity of societies worldwide to provide food, housing, education, employment, and basic health services. In addition, our environment's natural resources are significantly strained. It is estimated that within the next decade, 10,000 species of plant and animal life will disappear annually.

Also, numerous infant and maternal deaths occur each year in the developing world and could be prevented if maternal health programs were expanded.

Therefore, I, Robert P. Casey, Governor of the Commonwealth of Pennsylvania, do hereby proclaim April 17-23, 1988, as World Population Awareness Week in Pennsylvania.

MOTHER HALE AND THE VISION OF A HARLEM POET

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RANGEL. Mr. Speaker, I would like to take this opportunity to share a poem with my fellow Members of Congress. The poet is one of my constituents. Clyde Cook's works have been printed in several publications including the Amsterdam News. His poems deal with very real subjects, and the one printed below is no exception. "Jane Doe" depicts the plight of a pregnant teenage drug abuser who contracts AIDS. She has nowhere to turn except the Hale House. This Harlem haven is run by Mother Hale who, through her love and devotion, has tried to make a difference in her community. In the end, the fate of the mother and child is unknown, but at least the two of them have been given a fighting chance.

I believe that this poem says something very important about community spirit as exhibited by Mother Hale and people like her. This poem also shows with unfortunate realism the problems of drugs and street life. It is voices such as Clyde Cook's which help us better realize the importance of our work here in Congress and our obligations to combat the problems of today.

The poem reads as follows:

"JANE DOE"

(Dedication to Mother Hale)

She bare the scars of an Addict
her hands are swollen and raw. . .
Her clothing is soiled and tattered,
her titles are, "Junkie" and "Whore".

No older she looks, than a minor;
Yet, soliciting "tricks" is her play. . .
Her work-shop is side-streets in Harlem,"
her habit is two bills a day . . .

She follies in "Crack", and "Free-basing",
though, "Main-lining" is really her bag . . .
She smokes on occasion with "Pot-heads",
but booze . . . absolutely a drag!

A child, yet child she is bearing,
destined for a Foster-Care fate—
Conceived out of wedlock, like mother;
born much too soon, Yet too late!

Sixteen would be her next birthday,
If God would hasten the days . . .
For her Blood-test sealed life's final chapter,
She's another victim of AIDS!!

At this point her life is ashambled;
her strength, is ebbing away . . .
She squandered her youth, and she gambled;
She lost! So now she must pay.

This story would have been a disaster,
but her grief, was calm, for a spell . . .
God sent her, and others just like her,
an Angel, we call, "Mother Hale";

Hale's House, a beacon of hope,
For the Drug-Addict Mother with child . . .
Has given their lives a new meaning,
and replaced their tears with a smile.

She now face a peaceful tomorrow,
though one day she know AIDS will win . . .
For her unborn, there's still no assurance,
that its life will ever begin!

This story is common in Harlem,
but not restricted in scope . . .
There's AIDS destruction all over,
and the epidemic of dope!

I wish each city a Hale House,
with caring and love unexcelled . . .
But I thank God for "Hale House" in Harlem,
and especially, for our "Mother Hale".

"God Bless You"
Mother Hale!

—By Clyde Cook.

ILLUSION ON THE LEFT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. CRANE. Mr. Speaker, as a country which promotes the freedom of the press, we must tolerate the massive influx of lies and propaganda into the mainstream of our society. We must recognize these elements and not fall prey to their slander. As such, I am compelled to bring to the attention of my colleagues the bulletin released on March 22 by Witness for Peace. It is a prime example of the lies and bitterness which is the foundation of the international pro-Sandinista movement.

The bulletin is a reaction to the deployment of United States troops in Honduras. Basically, it contends that Nicaragua never crossed into Honduras and that the President's response was just a political move to gain support for the Contras. It continues by claiming that the Contras are nothing more than terrorists and boldly asserts that a "large majority of U.S. citizens continue to oppose all aid to the Contras." Overall, the bulletin is extremely redundant, constantly charging that the President is simply motivated by reasons of self-interest. An image is created that is not only disturbing, but ludicrous as well.

How one can truly believe that the Nicaraguan army never entered Honduran territory is a total mystery to me. The Sandinistas themselves have not denied the incident, in essence, admitting their own guilt. Moreover, our own media has news footage which clearly documents the presence of Nicaraguan troops within the Honduran border. However, nothing provides more convincing evidence than an examination of the Sandinistas' motives for the offensive. Following the cutoff of American aid on February 29, all air supply operations to the Contras were terminated. Thus, the Contras had to rely on vulnerable supply camps located on and within the Honduran border. Only 9 days later, the Sandinistas moved to capitalize on this opportunity and launched an attack which led them across the border into Honduras. Yet, the American left continues to dispute the incident. They choose to systematically ignore the facts and, instead, accept the progaganda that is constantly fed to them by the Sandinistas.

The claims of Contra terrorism are taken completely out of context. What an isolated incident of so-called terrorism against a WFP member has to do with the clear violation of Honduran sovereignty is quite perplexing. Nevertheless, I have always relished the opportunity to put Nicaragua's human rights issue into proper perspective.

One cannot argue that the Contras have never committed acts of questionable nature, but we must remember that these activities are a product of war and not deliberate attempts to commit terrorist acts against the Nicaraguan people. On the other hand, the Sandinista's human rights record is marred by senseless violence and a total disdain for the welfare of its people. For instance, they have systematically uprooted whole tribes and villages in an attempt to debase the Contras' support in the Nicaraguan countryside. The Miskito Indians have suffered the brunt of this atrocity. Even though the Miskitos had initially supported the revolution, the Sandinistas betrayed their support and launched a massive effort to displace the Miskito communities in order to establish a stronger control of the area adjacent to the Honduran border. As a result, many Miskitos fled into Honduras to escape the Sandinista terror, leaving their ancient homeland now infested by the Sandinista horde. Recently, the Sandinistas have launched a similiar offensive in the south to eliminate the existing rebel stronghold. The inhibitants have been forcibly evacuated to government camps, which have been described by the Washington Post as "* * * miserable, muddy fields of broken people living in palm-thatched lean-tos built of stakes and sheets of plastic."

Yet, the most disturbing example of Sandinista abuse is in the form of the Turbas. The Turbas are a government-sponsored group of vigilantes, who have been used since 1981 to quell civil demonstrations and unrest without the appearance of direct Sandinista involvement. In the past 2 years their use has increased dramatically along with government moves toward compliance with the Arias Peace Plan. As civilians have practiced their so-called right to freedom of speech, the Turbas are transported by the government, to demonstration sights, where they are released to violently disrupt the unarmed demonstrators. Recently on March 6, 100 women and girls protesting the draft were stopped by 150 club swinging Turbas. The Washington Post reported, "It was the most aggressive use of Sandinista mob violence against the opposition in years and appeared to indicate a new government policy of using civilians to confront it's political opponents."

Lastly, there has never been a large majority of Americans who oppose Contra-aid. A recent poll conducted by Penn and Schoen Associates—past clientele includes Mondale, KENNEDY, Koch, MOYNIHAN, and LAUTENBERG—in the fall of 1987 found that 43 percent of Americans favor aiding the Contras and only 41 percent do not support Contra-aid. I am curious as to where Witness for Peace obtained their figures. America has always been and today continues to be divided on the issue of Contra-aid.

However honorable their intentions may be, Witness for Peace has confused the Sandinista regime with the establishment of freedom and democracy in Nicaragua. They have embraced the Sandinista cause as their own, while espousing its virtue as the only hope for the people of Nicaragua. Yet, in the process, they have lost touch with reality. Perhaps, a need to rebel against the establishment has blinded them. Or maybe, their own naivete has somehow motivated them to accept Sandinista lies and propaganda without hesitation. Whatever the case, I still believe these individuals do have a genuine concern for the welfare of the Nicaraguan people. I urge the members of Witness for Peace to redirect their efforts to causes which promote freedom and democracy, rather than those which will forever condemn the people of Central America to a future of servitude and poverty in the name of communism.

For your personal perusal, I have submitted a copy of the bulletin in question released by Witness for Peace. I hope you will see for yourself the obvious propaganda that this group disseminates in the name of freedom for the Nicaraguan people.

WITNESS FOR PEACE,
Washington, DC, March 22, 1988.

DEAR MEMBER OF CONGRESS: Witness for Peace believes that once again the Reagan Administration is purposely trying to deceive the American public with its unsubstantiated claims of a Nicaraguan invasion of Honduras. We believe that this is a contrived crisis in an attempt to regain support for the Contras.

We have witnessed events like this in the past, the most similar occuring in March 1986. That time President Reagan greatly exaggerated an incursion by the Nicaraguan government into Honduras as they pursued contras. The Administration pressured Honduras to request emergency military assistance and subsequently sent $20 million to the Honduran military. In the crisis-like atmosphere that was created a majority in Congress approved more contra aid.

Last week we saw the Administration claim that Nicaragua had invaded Honduras. Again it was a false charge designed for media attention. And now the President is again asking for contra aid. The significant difference this time, however, is that President Reagan used the U.S. military for his partisan political purpose of winning aid for the contras. This is completely unacceptable and irresponsible. We encourage you as a member of Congress not to allow this misuse of power to go unchallenged. There is no room in the United States for political questions to be influenced by a President's overzealous, politically motivated use of U.S. troops.

Throughout the U.S. there has been widespread public opposition to this latest sending of troops to Honduras. There have been vigils and ongoing demonstrations in more than 100 cities and towns throughout the United States. Hundreds of citizens have participated in nonviolent civil disobedience.

On Saturday, March 26, demonstrations and vigils will again be held throughout this nation. The message at each demonstration will be the same: Get the U.S. troops out of Honduras and end all contra aid permanently.

The contras, for their part, continue in their terrorist activities. As recently as March 1 they kidnapped Richard Boren, a WFP volunteer, and 11 Nicaraguans, including two 12-year-old boys. Before kidnapping Richard from the home where he was sleeping they shot a 13-year-old girl in the leg. Richard was held for 8 days before being released.

There are some members of Congress who feel that this latest border "crisis" has demonstrated that the contras must be supported. But the American people have not been fooled by this latest Administration maneuver to regain support for the contras. The large majority of U.S. citizens continue to oppose all aid to the contras.

We are sure that many members of Congress share our concerns. We ask that you do everything possible to bring the troops home as well as directly challenge President Reagan on what actually happened along the Nicaraguan/Honduran border. The Reagan Administration has lied to all of us before. We cannot afford to let it continue, especially with the political manipulation of U.S. troops.

Finally, we urge you to vote no on all forms of contra aid. Funding terrorism is something which we must not resume.

Thank you.

Sincerely,

JEAN WALSH.
J. DENNIS MARKER.

BIRTHDAY WISHES FOR JUSTICE WILLIAM J. BRENNAN

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. RODINO. Mr. Speaker, I rise today to wish my good friend and fellow native of Newark, Justice William J. Brennan, a very happy 82d birthday. I am sure that everyone here is well aware of the great contributions Justice Brennan has made to this country in his 32-year tenure on our Nation's highest court. His penetrating intellect, coupled with an intense devotion to the rule of law and the concepts of justice and fairness, have made him one of the most influential and important Justices in the history of the Supreme Court. This is the public side of Justice Brennan with which everyone is so familiar.

However, one has to know Justice Brennan on a personal level to appreciate how special a person he truly is. He is a man of great warmth, conviviality, and integrity that sets him apart from the rest. Everyone who comes into contact with him cannot help but be won over by his wit and his humility. Even those who have strong philosophical disagreements with Justice Brennan's vision of the Constitution and the role of the Supreme Court find him to be an affable and sincere man who respects the opinions of others and can count friends in all philosophical and political categories. I consider myself fortunate to know Justice Brennan as a friend and I wish him many happy birthdays to come.

THE CHALLENGE IN NICARAGUA

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. HOPKINS. Mr. Speaker, we have all been watching with great anticipation the events unfolding in Nicaragua since the signing of the Sapoa agreement.

Regardless of where one stands on the issue of United States policy in Central America, I believe it is universally understood that the next few months will determine the future of the region and its impact on our hemisphere's security.

As we wait and see if peace is taking hold or this is just another evolution in Sandinista strategy, I commend to my colleagues a recent article by Trevor Armbrister which appeared in the April edition of Reader's Digest:

[From Reader's Digest, April 1988]

NICARAGUA'S SECRET PLAN

(By Trevor Armbrister)

Inside the heavily guarded safe house in the Washington suburbs, U.S. intelligence officials listened spellbound last fall as the high-ranking defector from Nicaragua's government revealed its most sensitive state secrets. Among them: the Sandinistas had smuggled Soviet-made AK-47 assault rifles to communist guerrillas of Costa Rica's Popular Vanguard Party; they had trained Guatemalan rebels with Nicaraguan infantry battalions; they had taught leftist rebels from El Salvador how to use the portable heat-seeking missiles called Arrows that the Soviet Union had agreed to supply to knock down low-flying aircraft. Most important of all, the Sandinista government had gained Soviet approval for a major military buildup, in violation of the Central American peace plan they had just signed.

The debriefing of the calm, 34-year-old Nicaraguan took weeks. But the effort was worthwhile, for Maj. Roger Miranda Bengoechea, chief of the Secretariat of the Nicaraguan Ministry of Defense, provided hard data that confirmed what U.S. officials had suspected—Nicaragua's Sandinista regime is preparing for a wider war of subversion against its Central American neighbors.

No one could question Miranda's credentials. He had been a member of the National Assembly, Nicaragua's Sandinista-picked legislature, and he'd been chief aid to Gen. Humberto Ortega Saavedra, head of the Ministry of Defense and brother of Nicaraguan president Daniel Ortega Saavedra.

Miranda's disclosures, editorialized the New York *Times*, were "startling" because they showed "that Managua is already violating" the Central American peace plan. But there is an even more ominous significance to Miranda's revelations. While Soviet leader Mikhail Gorbachev was meeting President Reagan in Washington, swearing commitment to arms control and reducing tensions worldwide, the Soviets were escalating the arms race in Central America.

MAKING OF A MARXIST

In 1956, when Roger Miranda was not yet three, a gunman assassinated Nicaragua's president, Anastasio Somoza García. (He was succeeded in office by his elder son Luis, and later by his younger son Anastasio.) National Guard officers arrested Roger's grandfather—who had not been involved in the assassination—and summarily executed him. That tragedy burned a hatred of Somoza family rule into the boy's consciousness.

By 1969 he had become a teenage revolutionary, engaging in street violence and sabotage. Married a year later, he fathered a daughter. Then he fled the country when he learned the National Guard was looking for him.

In February 1973 Miranda arrived at the University of Chile. He renounced Catholicism and declared himself a Marxist. That September a military coup overthrew Chile's Marxist President Salvador Allende Gossens. Soldiers fanned out across the capital of Santiago to hunt leftist students. Bursting into a house where Miranda was meeting with friends, one soldier opened fire. A slug tore into Miranda's hip, and he was hospitalized for three months. (Today, after six operations, he has an artificial hip.)

Miranda next went to Mexico, where he sought a degree in economics at the Autonomous University of Puebla. Then, in January 1978, assassins gunned down Pedro Joaquín Chamorro, crusading editor of La Prensa, in Managua. The murder sparked an insurrection that grew stronger daily. "Come home," urged rebel leader Tomás Borge Martínez, now Nicaragua's Minister of the Interior. "We need you."

Miranda did and soon became deputy chief of rebel forces in the Masaya region. In pitched battles against the National Guard he distinguished himself. Then, in July 1979, Anastasio Somoza fled, and the Sandinistas took charge.

CONVICTIONS MEET REALITY

Two months after seizing control, Sandinista leaders gathered in secret to draft what has been called the 72-Hour Document. This report set guidelines for constructing a communist state in Nicaragua. They would publicly claim to have a "nonaligned" foreign policy, a "mixed" economy and "pluralism" in their politics. Under this smoke screen of lies they could "build socialism with the dollars of capitalism," explained Bayardo Arce, one of the nine comandantes of the Sandinistas' inner council. It worked. President Jimmy Carter and Congress sent the Sandinistas $118 million in aid.

Meanwhile, Miranda's authority grew. He began traveling on military business to Cuba, North Korea, East Germany and the Soviet Union. That's when his Marxist convictions started "bumping up against reality."

In Castro's Cuba, Miranda expected to find "paradise on earth." But he couldn't stop wondering about a political system under which you were questioned every time you used a hotel elevator. In East Germany, officers explained that the Berlin Wall had been built to bar "infiltrators" from the West. Miranda was dubious. In Moscow, the Soviets promised to send mountains of military supplies. But he found long lines and store shelves that were largely empty.

Now a major, Miranda earned the equivalent of $90 per month. But he belonged to the privileged Marxist elite. He lived in a walled-in villa, along with Graciela, his second wife, his parents and his son. There were two new Toyotas in the garage, and a driver when he wanted one. Servants attended to his needs, and the Sandinista regime picked up all the costs for food, drink, rent, gas and clothes.

The comandantes lived on an even grander scale. And Miranda was upset by their involvement with drug smuggling. "This is Borge's operation," Humberto Ortego told Miranda one day, referring to the Ministry of the Interior. "It's a way of waging war on the United States. It also provides a profit."

Then there was the secret bank account. As Humberto Ortega's right-hand man, Miranda managed Ortega's personal affairs. So Miranda knew about the money that his boss took from the army's budget every month and deposited in Panama. In 1985, sensing that Panama was becoming politically unstable, Ortega had Miranda transfer his $1.5 million acount—No. 58946—to the National Bank of Paris office in Switzerland.

This is a crime, Miranda thought. *My country is being looted.* Yet there were the comandantes going on television and demanding more sacrifices from the Nicaraguan people.

GANG OF MURDERERS

Ever since the Contra resistance began, Miranda had reported to the Ministry of Defense before seven each morning, and he toiled until ten at night. Now he decided to get out of his office and go into the countryside to find the U.S.-backed "mercenaries" that the Ortegas kept talking about.

After more than a month in the field, Miranda concluded that they didn't exist. *This is not a war of aggression—this is a civil war,* he thought. *Whole families are rising up in arms against the government.*

In a small village in northern Nicaragua, Miranda questioned *campesino* prisoners. They looked at him with loathing, and Miranda suddenly felt "like a foreigner in my own country." He asked them why they joined the Contras. The answer was always the same: the regime didn't represent them, and they had no other way to resist.

Back in Managua, Miranda told his boss everything he'd seen. "You're wrong," Humberto Ortega screamed. "Those were mercenaries. There is no civil war."

Miranda tried another tack. The government's policy of forcibly resettling peasants away from areas with strong Contra support had angered everyone, he said.

Ortega exploded again, "That's the cost of a revolution," he snapped. "We have to make them feel our power. We've been soft. The repression has to increase."

Miranda didn't reply. But he thought, *They're killing peasants. How can I be an accomplice to that?*

In Guatemala last August the presidents of five Central American nations signed an agreement to bring peace to the region. No sooner had he returned to Managua than Daniel Ortega convened a closed meeting of the National Assembly.

"The peace plan is a weapon to eliminate the Contras," Ortega told the members. First, it should be used to influence the U.S. Congress to cut off funds for the Contras. Once that happened, the Contras would cease to exist. Then the Sandinistas would build active and reserve forces of 600,000 soldiers. By 1995 they would have received flame throwers, 122-mm. self-propelled howitzers and a squadron of MiG-21Bs from the Soviets. This military might would help them establish a Soviet Central America.

El Salvador would be the first to fall. Then, with the aid of local guerrillas, the Sandinistas would subvert the governments of Guatemala, Costa Rica and Honduras. The Soviets had already agreed to this plan's guidelines. Now they needed detailed proposals.

Throughout September and October, Miranda dutifully worked on the 68-page summary of military needs to be submitted to the Cubans and Soviets on November 17. But as he reviewed the document and grasped the extent of Sandinista-Soviet duplicity, he decided to defect. Finally, he understood what his comrades-in-arms had become—"a gang of dictators, thieves and murderers."

SPELLING IT OUT

Secrecy was imperative. Miranda couldn't alert anyone. Because of his artificial hip and his wife's problem with low blood sugar that required visits to specialists abroad, they could leave the country without causing alarm. The same was not true of his parents or his 14-year-old son, Roger. (They are still in Nicaragua.) So, on Sunday, October 25, after telling family and friends that they would return in three days, Roger and Graciela Miranda stepped aboard a jet to Mexico City. He carried with him a cache of secret documents.

That afternoon, he took Graciela for a walk in a park. "I have decided to break with the Sandinista Directorate," he began. "I won't be going back."

Graciela asked him to explain. Miranda spelled out what he's learned about the corrupt, repressive Sandinista regime.

"I love you," she said when he was through. "We won't be going back."

Two days later Miranda got in touch with an official at the U.S. embassy. Soon he and his wife were on American soil.

In Nicaragua, according to published reports there, news of Miranda's defection "exploded like a bomb in government circles, causing shock and surprise." Humberto Ortega lashed out in fury at "the little worm." But in a speech in Managua on December 12, he admitted that many of Miranda's charges about the planned military buildup were true.

Some U.S. politicians, however, appear unwilling to recognize Miranda's revelations. Offered a chance to hear the major's charges firsthand, House Speaker Jim Wright (D., Texas), Majority Leader Tom Foley (D., Wash.) and Majority Whip Tony Coelho (D., Calif.) all passed up the opportunity before announcing their opposition to President Reagan's request for additional Contra aid.

The desire of so many on Capitol Hill to believe Sandinista promises left Miranda confused. But he vowed to keep speaking out against Soviet-Sandinista treachery. "The Sandinistas have established a totalitarian, anti-democratic regime of terror," he says. "They have betrayed the revolution, destroyed the economy and militarized all levels of society. The Nicaraguan people do not want a communist regime."

TRIBUTE TO RABBI ARTHUR SCHNEIER

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. GREEN. Mr. Speaker, New Yorkers yesterday celebrated the 25th anniversary of the assumption of Rabbi Arthur Schneier of the spiritual leadership of Park East Synagogue in New York City. In his 25 years at the historic Orthodox congregation, Rabbi Schneier has made it a vibrant, important part of the New York City community.

But Rabbi Schneier's accomplishments extend well beyond the boundaries of New York City. Rabbi Schneier is the founder and head of the Appeal of Conscience Foundation. Through the foundation, Rabbi Schneier has brought together religious and lay leaders of all faiths to fight for freedom of conscience around the world.

I know all of colleagues will join me in saluting Rabbi Schneier's quarter-century of leadership and in wishing him many more years of success.

STRATEGIC SYSTEMS REPORT CARD

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Monday, April 25, 1988

Mr. ASPIN. Mr. Speaker, today I conclude a series of speeches on strategic weapon systems with a status report on these vital programs and the lessons learned about how they should be managed. I have reviewed them in four critical categories—management, schedule, cost and performance—and fashioned a strategic system report card out of the results.

To reach my assessments, I have drawn on an extensive review of these programs by the House Armed Service Committee over the last year. But the judgments about the programs are mine. They come at a time of unprecedented activity as tens of billions of dollars are poured into ballistic missiles, bombers and cruise missiles. Are we getting what we are paying for? The results are mixed, but overall it is clear that we must manage these programs better.

I've developed a strategic systems report card. Each system was graded in each of the critical categories. This table contains the grades.

STRATEGIC SYSTEMS REPORT CARD

	Management	Schedule	Cost	Performance
Trident D-5	A	A	A	[1]
Small ICBM	B+	A	A	[1]
MX	C−	A	A	D
Rail Garrison	C	B	A	[1]
B-1B	F	A	A	F
B-2	C+	B	C+	[1]
ACLM	B	A	A	A
ACM	F	D	D	[1]

[1] System has not reached initial operational capability and performance cannot be assessed.

Let me briefly sketch in where we stand today. The B-1B has become operational but with problems, the gravest of which concern its electronic countermeasures ability. This ECM problem won't be fixed until the 1990s—if then. Even as the B-1B struggles to meet its advance notices, the B-2 formerly the advanced technology or Stealth bombers, moves toward its debut.

The MX, too, is operational, but in fewer numbers than would otherwise be the case because manufacturing difficulties have delayed delivery of an intricate, complex guidance component called the intertial measurement unit [IMU]. The controversy of more than a decade over how to base the MX still rages. The Air Force favors putting them in special trains to dash from Strategic Air Command [SAC] bases onto commercial rail lines in times of deepening international crisis. This plan troubles many. The small ICBM program is developing well, but because of the budgetary crunch many are advocating that we cancel this program.

The air-launched cruise missile [ALCM] is an excellent program that has extended the life and strategic usefulness of our aging fleet of B-52 bombers, but the following system, the highly classified advanced cruise missile [ACM], is the worst system I reviewed. It is beset by problems.

The D-5 was the only straight A system on the strategic report card, but those grades come with an important qualifier. Since it has not reached initial operating capability [IOC], which means it has not been deployed to sea aboard a submarine, I could not evaluate its performance.

The same was true of four of the other systems reviewed, the small ICBM, the B-2, ACM, and the rail garrison mode for basing MX. The absence of a grade on performance for such a large percentage of the programs reviewed is one reason the temptation to assign an overall grade to each of the programs should be resisted. Another reason is that all categories are not equal. Performance should probably be weighed as much or more than the others combined. Finally, there is a degree of difficulty involved. It's much tougher to build a Stealth bomber than a B-1B and that should be taken into account.

With the three systems that are operational, the report card is not encouraging. Only one has a decent mark, the ALCM with an A. The MX received a D for performance because of the IMU problem. The B-1B received an F. Because of the ECM problem, it does not work as advertised. The MX did not receive a failing grade because it can be fixed. When and if Northrop and the second source, Rockwell Autonetics, produce enough reliable IMU's, the MX will work as advertised. B-1B will never be as good as advertised because Soviet air defenses will be improving while the Air Force spends years solving the ECM problem.

Interestingly, all systems but the ACM did well on cost and schedule, including systems with severe problems elsewhere. That is a reversal of the usual trend. Looking over the history of the acquisition of major weapons systems we find that in the past, cost and schedule were the first and second items to slip while managers tried to hold performance. The Reagan administration, perhaps to avoid political difficulty with controversial systems, has apparently kept to cost and schedule at the expense of performance, which is always evaluated last.

That there are well-managed programs will be surprising to some given the flood of bad news we get about the Pentagon.

But the real surprise is the persistence of poorly run programs when the services clearly know how to do better. Time and again we see the same mistakes committed. It is as if many program managers were operating from an almost standard list of seven principles for poor management in procurement. It is these seven principles that jumped out as I rated the strategic programs—bad and good—listed above.

Here are the seven principles of poor management. Do these and you are sure to have a lousy program.

1. INSIST ON GOOD NEWS, WHATEVER THE FACTS

A case in point is the B-1B. Problems were identified early by midlevel program officials, but it is not clear when senior Air Force officials were briefed. What is clear is that Congress and even then Defense Secretary Caspar W. Weinberger were not told until the situation reached crisis proportions. Mr. Weinberger was given feel good briefings about the B-1B while problems and SNAFU's mounted.

For contrast, there is D-5 missile program of the Navy's Strategic Systems Program Office [SSPO] which builds submarine-launched ballistic missiles. This office has developed a "no cover-up culture." Early identification of problems or potential problems is encouraged so resources can be applied to finding a solution. Unlike wine, problems do not get better with age. The SSPO attitude also seems to extend to dealing more openly with Congress about programs.

2. KEEP TOP MANAGEMENT TURBULENT

Again, a good example is the B-1 program. Stability of management is especially important for the B-1B program because the Air Force acted in the key role of program integrator in the absence of a general contractor. During the last 10 years, there have been four program managers. A closer look reveals an even worse picture, however. During the last 4 years, there have been three managers. Arguably, this period of fielding the system and evaluating it has been the most critical in the B-1's life. Just when stability of management was most important we had constant turnover.

And again by contrast, there is the D-5. In the 30-odd years of developing, producing and deploying SLBM's, the Navy Strategic Systems Program Office has had a total of six top managers. Four of those have spent the bulk of their careers with the SSPO.

The Air Force, too, has demonstrated the value of continuity. It's small ICBM program, although still relatively young, has benefited from stability at the top.

Complex programs require continuity of management, not a revolving door. Service in a top program management position should not become merely another ticket to punch on the way to promotion.

3. WORSHIP THE SCHEDULE

An acquisition schedule is not God given, yet we found it was frequently treated as such. The IMU problem for the MX resulted in large part from a schedule-driven need to ship the complex component despite the difficulties encountered in its manufacture.

Cost combined with schedule became a major force in the B-1B's problems. It was necessary to maintain a production schedule of four aircraft per month to hit the cost cap of $20.5 billion. With this requirement driving the program, aircraft were produced before the terrain-following radar, flight controls and electronic countermeasures were tested and qualified. When problems arose, it was necessary to initiate major retrofit programs on these subsystems. The ECM likely would have been a problem on any schedule. But the flight controls and terrain-following radar might have been brought along swiftly enough to avoid the retrofit with a less demanding production pace.

4. IGNORE COMPETITION

Too often there is a preference for dealing with a single contractor. Without the spur of competition, costs creep up, efficiency can drop and, if something goes wrong, there's nowhere to turn.

In the Trident II D-5 missile program, competition has been used effectively in acquiring guidance components for the new missile. Two contractors manufacture the key element. There is a check and balance for almost any problem. If one contractor has a problem, there is a backup. And each contractor knows there's somebody out there that they are being compared with.

No such system was in place for the electronic countermeasures in the B-1B, nor until recently for the key element of the MX guidance system. Problems with this unit are still delaying bringing additional MX missiles onto alert status.

5. PASS THE BUCK ON LOGISTICS

There is perhaps no greater structural flaw in our acquisition system than the separation of development and deployment. It allows the great logistics hand off, sometimes known as "It's your problem now pal." Problems in research and development can be solved at the expense of maintaining the system once it goes to the field.

When the Air Force Logistics Command ran into difficulty with a component of the navigation system of the air-launched cruise missile that has not been tested properly in manufacture, it sought help from Air Force Systems Command, which was responsible for developing the item. The initial answer from systems command bureaucracy: we have no further responsibility.

By contrast, the Navy office that builds the Trident II missile also has responsibility for maintaining it. There can be no shortcuts or improper tradeoffs in the "lust-to-dust" regime that gives a single office responsibility for developing and deploying a weapon.

6. BUILD IN EXCESSIVE CONCURRENCY

Concurrency is not an evil. In all complex acquisitions, there is going to be some concurrency. That means some decisions on procurement are going to have to be made before all testing is done. But too much of a necessary thing can bring very poor results.

Recall the earlier example of the terrain-following radar and the flight controls in the B-1B. If those systems had been adequately tested sooner in the acquisition process, patch ups after installation might have been avoided. The programs to put MX on special railway cars and to build the B-2 Stealth bomber have also shown signs of excessive concurrency. Congress has put the B-2 on a schedule that requires the plane to achieve certain milestones rather than a schedule tied to the clock. That is, the program moves onto to part B only because part A has been completed successfully, not because it's April 25.

7. INVENT WHEN EVOLUTION WOULD SERVE BETTER

Because it takes so long for our system to produce a new weapon, weapons designers and their customers are tempted to push the state of art as a hedge against developments in the forces they are facing. They want every bell and whistle they can get because it may be 20 years before they get another crack at it. Then, the system doesn't work and the time before fielding is further lengthened as attempts are made to fix it. It is truly a vicious cycle.

Two programs in which the management has consciously opted for an evolutionary approach are the Navy's Trident D-5 missile and the Air Force's small ICBM. With the D-5, improved accuracy was one of the chief reasons for its existence, yet care was taken to build on the guidance apparatus of its predecessor missile. Senior engineers with the program have gone so far as to declare that the program was not in the invention business.

The need for new technology was carefully examined and isolated. As a result, the Trident D-5 will embody a new star sensor to give the missile an update on its location once it is in flight. Thus, technological risk was reduced and effort focused.

The small missile uses a similar deliberate plan to build on the successful elements of the MX missile. As a consequence, its development plan was proceeding smoothly until the administration announced it's desire to terminate the program.

However, far too often military programs do not follow an evolutionary approach. The advanced cruise missile, a highly classified follow-on system to the excellent air-launched cruise missile, is a good example of a system taken too far, too fast.

These, then, are the seven principles of poor management in procurement. Going through the programs in the strategic buildup, the Armed Services Committee found many program managers performing as if there really were such things as poor management principles which had to be followed.

Many but by no means all. It is important here that we strike the proper balance. Some programs are well managed. Some systems actually do work well. Media accounts of problems with such programs as the B-1B and the MX are absolutely correct. But a continued stream of bad news stories leaves the public with the general impression that none of it works. And this is wrong.

That is why the Armed Services Committee decided to survey all strategic systems. And that's why I chose to include all systems in my review for this series of speeches. I didn't want to pick the raisins out of the pudding. I wanted to present the whole dish.

The moral of this examination of the major strategic programs is that there is no big mystery to doing it right. It isn't a matter of chance. It's not a roll of the dice. Defense programs aren't black holes into which we throw money in hopes of getting a system some of the time. What I tried to do in this series of speeches is to show that weapon development programs can be made to work because some of them are being made to work, and there are good reasons why.

Problems when they arise are systemic problems. The people running the programs—mainly in this case Navy and Air Force personnel—are dedicated, capable people honestly trying to field the most effective weapons possible.

And since these problems are systemic, they can be fixed. The chief lesson I draw from my examination of these strategic programs is that making good weapon systems—weapon systems that meet the goals of cost, schedule, and performance—is apparently difficult, but obviously not impossible.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, April 26, 1988, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

APRIL 27

9:00 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-192

Armed Services
Closed business meeting, to mark up proposed legislation authorizing funds for the Department of Defense, and other pending calendar business.
SR-222

9:30 a.m.

Agriculture, Nutrition, and Forestry
To resume hearings to review the current state of U.S. financial markets, focusing on the problems surrounding the October 1987 market break.
SD-562

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

Commerce, Science, and Transportation
Communications Subcommittee
To hold hearings on S. 1935, to provide for the assessment and collection of a fee on the transfer of spectrum licenses and the establishment of a trust fund for public broadcasting.
SR-253

10:00 a.m.

Appropriations
Military Construction Subcommittee
To hold open and closed hearings on proposed budget estimates for fiscal year 1989 for Navy and defense agencies military construction and family housing programs.
SD-124

Banking, Housing, and Urban Affairs
To hold hearings on S. 2073, to provide for the enhancement of the value of thrift institution charters by creating incentives to investors to place additional private capital in the nation's thrift industry.
SD-538

Environment and Public Works
Environmental Protection Subcommittee
To hold hearings on S. 2272, to authorize funds for fiscal years 1989 and 1990 for programs of the Fish and Wildlife Conservation Act of 1980.
SD-406

Foreign Relations
International Economic Policy, Trade, Oceans and Environment Subcommittee
To resume hearings to review the advancement of environmentally sustainable development worldwide in Central America through United States foreign assistance policy.
SD-419

Governmental Affairs
To hold hearings on restructuring the Nuclear Regulatory Commission.
SD-342

2:00 p.m.

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To continue hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Urban Mass Transportation Administration, and the Washington Metropolitan Transit Authority.
SD-192

Armed Services
Closed business meeting, to mark up proposed legislation authorizing funds for the Department of Defense, and other pending calendar business.
SR-222

Labor and Human Resources
Employment and Productivity Subcommittee
To resume hearings on S. 1731, to establish a demonstration program to provide educational and job-training services for severely disadvantaged youths.
SD-430

APRIL 28

9:00 a.m.

Appropriations
Labor, Health and Human Services, Education, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the National Institutes of Health.
SD-116

Veterans' Affairs
To hold hearings on S. 11, to establish procedures for the adjudication of claims for benefits under laws administered by the Veterans Administration, to provide for judicial review of certain final decisions of the Administrator of Veterans Affairs, and to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the VA, and S. 2292, to provide for judicial review of rulemaking by the Veterans Administration, to allow attorneys' fees in cases involving veterans' claims for benefits, and to make other improvements in the provision of veterans' benefits.
SR-418

9:30 a.m.

Agriculture, Nutrition, and Forestry
To hold hearings on the Review of the Dairy Policy Commission Study.
SR-332

Appropriations
Agriculture, Rural Development and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.
SD-138

Judiciary
To hold hearings on pending nominations.
SD-226

10:00 a.m.

Appropriations
Foreign Operations Subcommittee
To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.
S-126, Capitol

Appropriations
Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for diplomatic security programs.
S-146, Capitol

Appropriations
Transportation and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1989 for the U.S. Coast Guard.
SD-124

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1927, to provide for the approval of a desert land entry in the vicinity of the Dinosaur National Monument, S. 2057, to provide for the establishment of the Coastal Heritage Trail in the State of New Jersey, H.R. 1100, to authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park in the State of Illinois, and H.R. 3869, to amend the Act providing for the establishment of the Tuskegee University National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University.
SD-366

Foreign Relations
To hold hearings on the nomination of Robert S. Gelbard, of Washington, to be Ambassador to Bolivia.
SD-419

Select on Intelligence
To resume closed hearings on matters relating to the Treaty Between the United States and the USSR on the Elimination of Intermediate-Range and Shorter-Range Missiles (Treaty Doc. 100-11), pending on Senate Executive Calendar.
SH-219

10:30 a.m.

Environment and Public Works

Environmental Protection Subcommittee

To hold hearings on S. 2068, to protect marine and near shore-coastal waters through establishment of regional marine research centers.

SD-406

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on fossil energy research and development and the clean coal technology programs.

SD-366

2:00 p.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, and General Legislation Subcommittee

Conservation and Forestry Subcommittee

To resume joint hearings on alternative agricultural systems and related agronomic and economic research and extension efforts.

SR-332

Appropriations

Agriculture, Rural Development and Related Agencies Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1989 for the Department of Agriculture, rural development, and related agencies.

SD-138

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Bureau of Land Management.

SD-116

Select on Intelligence

Closed business meeting, to mark up proposed legislation authorizing funds for fiscal year 1989 for the intelligence community.

SH-219

2:30 p.m.

Labor and Human Resources

To hold hearings on S. 2229, authorizing funds for fiscal years 1989, 1990, and 1991 for health research and related teaching facilities, and training of professional health personnel as contained in title VII of the Public Health Service Act.

SD-430

Select on Indian Affairs

Business meeting, to mark up S. 1735, to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, and to transfer title to trust lands, S. 1415, to facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, S. 1236, to authorize funds for housing relocation under the Navajo-Hopi Relocation, S. 1987, to establish a separate program to provide housing assistance for Indians and Alaska Natives, S. 2162, to provide for the establishment of the Zuni-Cibola National Historical Park in New Mexico, and other pending calendar business.

SR-485

APRIL 29

9:30 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Research, and General Legislation Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1989 for the Federal Grain Inspection Service, Department of Agriculture.

SR-332

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of the Secretary of Health and Human Services, focusing on departmental management, Office for Civil Rights, policy research, Inspector General, Family Support Administration, Human Development Services.

SD-138

Appropriations

Treasury, Postal Service, and General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Office of Personnel Management.

SD-192

Governmental Affairs

Permanent Subcommittee on Investigations

To resume hearings on the status of organized crime and the effectiveness of law enforcement, focusing on labor racketeering, narcotics trafficking and other organized crime groups.

SH-216

10:00 a.m.

Judiciary

Courts and Administrative Practice Subcommittee

To hold hearings on the provisions of S. 2274, to authorize and encourage Federal agencies to use mediation, conciliation, arbitration, and other techniques for the prompt and informal resolution of disputes.

SD-226

MAY 9

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 10

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Education.

SD-116

10:00 a.m.

Appropriations

HUD-Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for the Department of Housing and Urban Development and related agencies.

SD-124

MAY 11

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Compensatory Education for the Disadvantaged, School Improvement Programs, Impact Aid, Bilingual, Immigrant and Refugee Education, Education for the Handicapped, Rehabilitation Services and Handicapped Research, and Vocational and Adult Education.

SD-192

10:00 a.m.

Appropriations

Military Construction Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Air Force military construction and family housing programs.

SD-124

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To resume hearings on S. 1480, to promote the integration of universities and private industry in the National Laboratory system of the Department of Energy in order to improve the development of technology in areas of economic potential, and Amendment No. 1627 proposed thereto.

SD-366

Governmental Affairs

To hold hearings on regulatory reform.

SD-342

Small Business

Business meeting, to mark up S. 1993, to improve the growth and development of small business concerns owned and controlled by socially and economically disadvantaged individuals, especially through participation in the Federal procurement process, and proposed legislation to authorize funds for fiscal year 1989 for the Small Business Administration.

SR-428A

MAY 12

8:00 a.m.

Veterans' Affairs

To hold hearings on proposed legislation relating to agent orange and related issues.

SR-418

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for Student Financial Assistance, Guaranteed Student Loans, Higher Education, Higher Education Facilities Loans and Insurance, College Housing Loans, Howard University, Special Institutions (includes American Printing House for the Blind, National Technical Institute for the Deaf, and Gallaudet), Education Research and Statistics, and Libraries.

SD-192

Governmental Affairs

To resume hearings on restructuring the Nuclear Regulatory Commission.

SD-342

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

Appropriations

Commerce, Justice, State, the Judiciary, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for trade activities of the Department of Commerce and the U.S. Trade Representative.

S-146, Capitol

2:00 p.m.

Energy and Natural Resources

To hold hearings on S. 2203, to extend the expiration date of title II of the Energy Policy and Conservation Act.

SD-366

MAY 16

9:30 a.m.

Governmental Affairs

To resume hearings on regulatory reform.

SD-342

MAY 17

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on nuclear reactor research and development.

SD-366

MAY 18

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

10:00 a.m.

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To resume hearings on S. 1992, to promote intergovernmental and interagency cooperation in the development of ground water policy.

SD-608

2:00 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold oversight hearings on the President's proposed budget request for fiscal year 1989 for the Department of Energy, focusing on renewable energy and energy conservation programs.

SD-366

MAY 19

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on tourism as an export.

SR-253

Energy and Natural Resources

To hold hearings on the Economic Regulatory Administration's prosecution of individuals in oil overcharge cases under the "central figure" theory of recovery in restitution, as adopted in Citronelle-Mobile Gathering, Inc., et al. v. Herrington, 826 F. 2d 16 (TECA 1987).

SD-366

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To resume hearings on proposed budget estimates for fiscal year 1989 for bilateral economic assistance programs.

S-126, Capitol

MAY 23

8:30 a.m.

Appropriations

Interior and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain activities of the Departments of the Interior and Energy.

S-128, Capitol

MAY 24

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Department of Labor, Health and Human Services, and Education, and related agencies.

SD-192

10:00 a.m.

Finance

To resume hearings on childrens health care issues.

SD-215

MAY 25

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

Commerce, Science, and Transportation

To hold hearings on a certain insurance antitrust suit.

SD-253

MAY 26

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittees

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-138

10:00 a.m.

Finance

To resume hearings on childrens health care issues.

SD-215

JUNE 7

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.

S-126, Capitol

JUNE 8

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 9

9:30 a.m.

Appropriations

Labor, Health and Human Services, Education, and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for certain programs of the Departments of Labor, Health and Human Services, and Education, and related agencies.

SD-192

JUNE 10

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for defense security assistance programs.

S-126, Capitol

JUNE 14

10:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

S-126, Capitol

JUNE 16

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1989 for foreign assistance programs.

SD-192

JUNE 24

9:30 a.m.

Commerce, Science, and Transportation

Foreign Commerce and Tourism Subcommittee

To hold hearings on Japanese patent policy.

SR-253

POSTPONEMENTS

APRIL 26

2:00 p.m.

Rules and Administration

To hold hearings on S. 1786, to establish a series of six Presidential primaries at which the public may express its preference for the nomination of an individual for election to the office of the President of the United States.

SR-301

APRIL 28

9:30 a.m.

Veterans' Affairs

Business meeting, to mark up S. 11, Veterans' Administration Adjudication Procedure and Judicial Review Act, and other pending committee business.

SR-418

SENATE—*Tuesday, April 26, 1988*

(*Legislative day of Monday, April 25, 1988*)

The Senate met at 11 a.m. on the expiration of the recess, and was called to order by the Honorable Harry Reid, a Senator from the State of Nevada.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Lord God of Mercy, the Torah records the tragedy of Noah's time as a day when "the wickedness of man was great in the earth, and that every imagination of the thoughts of his heart was only evil continually."—Genesis 6: 5.

What do You see, Lord, as You look upon our world? Are we moving more rapidly than we realize in that direction? Help us to see ourselves as You see us. Save us from shallow optimism that wears blinders. Grant the gift of repentance commensurate to the extent of our moral anarchy and social decay. Save us from blind self-justification and turn our hearts to righteousness, justice, and truth; lest destruction come upon us when we least expect it. Forbid, Holy God, that we should be hanging pictures and rearranging furniture when the house is burning down. Send an awakening and renewal to the people of God and heal our land in these critical, dangerous days; we pray, Mighty Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The legislative clerk read the following letter:

> U.S. Senate,
> President pro tempore,
> *Washington, DC, April 26, 1988.*
>
> *To the Senate:*
>
> Under the provision of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Harry Reid, a Senator from the State of Nevada, to perform the duties of the Chair.
>
> John C. Stennis,
> *President pro tempore.*

Mr. REID thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is now recognized.

Mr. BYRD. Mr. President, I thank the Chair.

RETIREMENT OF G. RUSSELL WALKER

Mr. BYRD. Mr. President, I have cleared this request with the Republican leadership. I have a resolution commending G. Russell Walker on the occasion of his retirement. I am about to submit that resolution.

I ask unanimous consent that the names of Senators Dole and Simpson be added as cosponsors.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I send to the desk this resolution and I ask unanimous consent that the Senate proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. The resolution will be stated by title.

Mr. BYRD. This request is cleared with the leadership on the other side.

The legislative clerk read as follows:

> A resolution (S. Res. 420) commending G. Russell Walker on the occasion of his retirement.

The ACTING PRESIDENT pro tempore. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BYRD. Mr. President, has consent been given to go to the resolution?

The ACTING PRESIDENT pro tempore. It has.

Mr. BYRD. Mr. President, this afternoon Senators and staff will gather to extend their good wishes to G. Russell Walker upon his retirement.

Russ, as most of us know him, is officially retiring on April 30 after 23 years of service to this institution. He came to the Senate in 1965 and served as official reporter until 1974, when he assumed the position of Editor in Chief of the Congressional Record. He has been a tough taskmaster, but he had a tough job and he has done it well.

All of us who serve in the Senate are aware of the continuing contributions that are made by the reporters of debate. This awareness was eloquently described by our late colleague, Everett Dirksen, and I understand that this is a favorite quotation of Russ Walker. Here it is.

> It baffles me when I think of the readability of the Congressional Record, because, when all is said and done, I think it will be agreed that Congress is really the home of the split infinitive, where it finds its finest fruition; this is the place where the dangling participle is certainly nourished; this is the home of the broken sentence; and if there were no dashes, I do not know what our distinguished official reporters would do. This is the home where, with impunity, we can ignore the comma and the semicolon, we can ignore the exclamation mark and the question mark; and yet, somehow, out of this great funnel it all comes out right, and it is all readable.

Russ Walker is one of those public servants whose work has not been recognized in the daily headlines but who has contributed to making the Senate a finer institution than it otherwise would have been. The Senate depends upon the professional excellence of such men and women. This institution owes Russ an immense debt of gratitude which we acknowledge here today.

Russ' future plans include taking his wife of 42 years, Frances Walker, on a cruise to Alaska. He will now be able to spend more time enjoying his beautiful new home on St. Leonard's Creek in Calvert County, MD, and sailing on his beloved boat, the *Tippin*. We wish Russ the very best in his well-earned retirement years and hope that he comes back to see us from time to time.

May I add my own personal good wishes for his retirement.

My wife and I wish for you and your wife these things:

Work for your hands.
A straight path for your feet.
A coin for your purse.
Sunshine on your window pane at morning.
A song in your treetop at evening.
The hand of a friend on your latchstring.
Soft rains for your garden.
Love at your fireside.
Happiness in your hearts.
And God's wonderful blessing always.

PRAISE OF G. RUSSELL WALKER, EDITOR IN CHIEF

Mr. PROXMIRE. Mr. President, I am delighted to join the distinguished majority leader, Senator Byrd, in praise of Russell Walker, the editor of the Senate portion of the Congressional Record.

Mr. Walker, and his colleagues, do a superb job in the Congressional Record. I read it every day, particularly the first part of the Congressional Record, and I rarely find a mistake. When you consider how many words are mumbled, jumbled, and not stated clearly, it is remarkable what a fine job these reporters do. And it is certainly one of the most excellent achievements in the Senate.

Mr. SARBANES. Mr. President, with the retirement at the end of this month of G. Russell Walker, editor in chief of the CONGRESSIONAL RECORD, this body will lose a truly dedicated public servant. Mr. Walker first came to the U.S. Senate as Official Reporter of Debates in 1965, following nearly a decade as Official Reporter in the Municipal Court for the District of Columbia and subsequently the U.S. District Court for the District of Columbia. He was appointed Chief Reporter in 1974 and Editor in Chief of the CONGRESSIONAL RECORD in 1981.

All those who have seen him at work can attest that Mr. Walker has been a wise and steady presence in the Reporters' Office. His calm demeanor and ready good humor have helped to assure an atmosphere of tranquility even in the busiest of times. Despite long hours and unrelenting deadlines, the Reporters' Office, under Mr. Walker's guidance, has assured the careful attention to detail upon which accurate reporting depends. This body, and the Nation, have been the beneficiaries of the high standards that the Reporters' Office has maintained.

We view Russ Walker's retirement with understanding, of course, but also with regret. We wish him the uninterrupted time with his wife Frances, their two children and six grandchildren, that has too often been preempted by official duties. And we will think of Russ Walker often, always with affection and respect.

RUSSELL WALKER: TRIBUTE TO A FRIEND AND COLLEAGUE

Mr. HOLLINGS. Mr. President, at the end of the week, a distinguished Senate career will come to a close with the retirement of our friend and colleague, Russ Walker. As Editor in Chief of the CONGRESSIONAL RECORD since 1981, and as a Senate Reporter of Debates going back to 1965, Russ has been a kind of institution within an institution here—one of those special, stand-out people who give character and warmth to the Senate community.

Of course, I have accumulated a special debt of thanks to Russ down through the years. On more than one occasion, he has pulled my chestnuts out of the fire—once going to the heroic length of stopping the GPO presses so I could include remarks delivered earlier in the day.

Most importantly, though, I am indebted to Russ for his talents as a linguist. It has been said that Charlestonians have three things in common with the Chinese: We both eat a lot of rice; we both revere our ancestors; and we both speak an unintelligible language. On that score, surely Russ's most irreplaceable skills are not as a transcriber but as a translator. He has an uncanny ability to distill my expansive Charlestonese into plain, readable English. Truth be told, when I debate other Senators on the floor, they have to read Russ's CONGRESSIONAL RECORD the next morning in order to find out what I was saying.

Mr. President, the Senate is also indebted to Russ for the superb team of reporters he has recruited and developed during his tenure. They perform their duties with discipline, patience, and exactitude. And they endure the occupational hazard of daily, up-close exposure to hot air and blue smoke on the floor of the world's greatest deliberative body. Individually and as a team, the Senate's reporters are the best in the business—thanks in large measure to Russ Walker's leadership.

Perhaps most of all, Mr. President, we and our staffs will miss Russ's intelligence, wit, and good cheer. It is refreshing to find a man who has spent so many years in this institution, yet remained unjaded and ebullient and young at heart. We wish Russ and his wife Frances many happy years of retirement on the Chesapeake Bay. The Senate will miss him.

RETIREMENT OF RUSSELL WALKER

Mr. DOLE. Mr. President, today is the last day of work for one of the unsung heroes of the U.S. Senate—Russell Walker. Russ is one of those people who live by the rule all our parents taught us when we were young—that you do a job well because that is the way it should be done, not because you are looking for praise and recognition from others.

Mr. President, Russ Walker has dedicated many years to a job well done as Editor-In-Chief of the Senate portion of the CONGRESSIONAL RECORD. Few of us spend much time considering the effort it takes for our remarks to be recorded, transcribed, edited, and printed. Yet this monumental task is performed on a daily basis; and Russ Walker is one of the dedicated people who make it happen—working hard behind the scenes, day after day.

In his years with the Senate, Russ has earned the respect and admiration of all who know him, and I know that my colleagues join me in offering him best wishes for the future, and congratulations for a job well done.

The ACTING PRESIDENT pro tempore. There being no further debate, the question is on agreeing to the resolution.

The resolution (S. Res. 420) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. Res. 420

Whereas, on April 30, 1988, G. Russell Walker will retire from service as the Editor in Chief, Congressional Record of the United States Senate, after almost twenty-three years of service in the Office of Official Reporters of Debates;

Whereas, "Russ" has served the United States Senate with honor and distinction since joining the staff of the Official Reporters of Debates on July 20, 1965;

Whereas, his hard work and outstanding abilities as an official reporter resulted in his appointment to the position of Chief Reporter on September 1, 1974;

Whereas, G. Russell Walker, as Editor in Chief of the *Congressional Record*, has at all times executed the important duties and responsibilities of his office with great efficiency and diligence;

Whereas, G. Russell Walker has demonstrated dedication and loyalty to the United States Senate as an institution and leaves a legacy of superior and professional service: Now, therefore, be it

Resolved, That the United States Senate expresses its deep appreciation and gratitude to G. Russell Walker for his years of faithful and exemplary service to his country and to the United States Senate.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to G. Russell Walker.

Mr. BYRD. Mr. President, how much time do I have left?

The ACTING PRESIDENT pro tempore. Four minutes.

OUR CREATIVE, TALENTED COLLEAGUE IS RECOGNIZED

Mr. BYRD. Mr. President, it is often said that there are two kinds of successful people. There are the "thinkers." And there are the "doers." How rare, but how wonderful it is when a person combines both of these attributes. We have such a person in this Chamber: Our creative, talented colleague, the senior Senator from New York, DANIEL PATRICK MOYNIHAN.

Senator MOYNIHAN has served four Presidential administrations and two terms in the U.S. Senate. He is now seeking a third Senate term.

Additionally, he has written a number of thought-provoking books and articles. The latest product of Senator MOYNIHAN's fertile, dynamic mind, "Came the Revolution: Argument in the Reagan Era," is recognized in yesterday's column by George Will. This book, writes Mr. Will, is "authentic—always deeply felt and strenuously argued."

Mr. President, I congratulate our colleague for having written the book, and I commend Mr. Will for recognizing it in his column. I ask unanimous consent that the column which appeared in the Washington Post on April 24 entitled "MOYNIHAN's authentic antidote" appear in the RECORD at this point. I urge my colleagues to read both.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 24, 1988]

MOYNIHAN'S AUTHENTIC ANTIDOTE

(By George F. Will)

Washington's attention span—longer than a television "sound bite," shorter than a senator's introduction at a Rotary luncheon—was momentarily filled by Larry Speakes' "Speaking Out," a book that is fresh evidence of the high ratio of dignitaries (Speakes once counted as one) to dignity in public life today. Fortunately, another book, Sen. Pat Moynihan's "Came the Revolution: Argument in the Reagan Era," is the antidote for the illness of which Speakes is a symptom.

The illness is emptiness. Speakes' book is badly motivated and execrably "written"—assembled, really—but neither defect is its most detestable aspect. What makes it reek like something to be picked up with long tongs is that it exemplifies as well as documents the plague of counterfeit rhetoric that flourishes when passions are synthetic. Moynihan's book records a mind at play—serious, yet exuberant—in the arena of large public purposes.

More offensive than Speakes' violation of the confidentiality owed to colleagues in governance, and more offensive than the fabrication of presidential quotations, is his utter lack of a public purpose. His inability to write his own book reflects an absence of anything to say about anything other than the intramural intrigues among White House image-tinkerers.

Moynihan always has much to say and has now published some of what he has said (in speeches, articles, newsletters to New Yorkers and other outpourings) from 1981 through 1986. His book is evidence for the existence of something that, like Atlantis, is rumored to have once existed but has not recently been seen: a Democratic mind.

Regarding Reaganites, Moynihan is amusing, but not amused. The 1980s have seen, he says, a hemorrhaging of reality from government, an inability to understand the consequences of things done or left undone. Moynihan's (the model is David Stockman, described by someone as "flower child turned social Darwinist") who are—were?—radicals.

They are, says Moynihan, related to real conservatives the way anarchists are to liberals. Their defining sin, as Moynihan sees it, was the purposeful creation of deficits as a way of throwing gravel into the gears of government. Contempt for government led, he says, directly to the Iran debacle.

In a Washington where, Moynihan says, toughness and ignorance are often confused, there is an "amnesiac innocence" among conservative ideologues who, being impervious to experience, have matched the earlier intellectual hubris of liberals. Moynihan participated in the heady confidence of the mid-1960s, when the refinement of models of social change, combined with increasingly sophisticated statistical measurements, was supported to make possible ample social solutions.

He recalls writing (in 1965—on the rim of the volcano) that the professional administration of social change was becoming a vocation. This was supposedly so because economics was attaining the precision of an applied science and the enlarged predictive powers of the social sciences would expand government's powers to control change.

Two decades later it is, Moynihan says (with indignation tinged with relish), conservatives who displaced liberals as expounders of professors' theories of economics, while Democrats grumble about the gap between theory and practice in the real world. The GOP's immune system has failed to repel the virus of ideology. That is what capitalism, understood as market worship, has become. Hence the conservative belief that problems arise from attempts to solve them and that all problems will be dissolved by an expanding GNP.

That last is refuted by (among other things) the growing underclass. Its condition is unresponsive to economic growth. This class, defined by extraordinary self-destructive behavior, is the principal cause of the "combination of misery and madness in the modern city."

Moynihan, now seeking his third Senate term, served in the executive branch under four presidents. In Gerald Ford's Cabinet, he was one of your former professors (with Kissinger, Schlesinger and Butz). He has an intellectual's zest for argument. He also is a tad too certain that he is right when declaring that Reagan's economic theorists cannot distinguish certitude from certainty.

However, much can be forgiven to someone so wonderfully terse ("The framers of the Constitution had more thoughts about power than merely its limitation") and epigrammatic, as concerning the (he says) deliberate deficits: "There is a tendency for any government to live beyond its income. The Reagan administration transformed this temptation from a vice into an opportunity."

Savor Moynihan's book not because it is always right but because it is always authentic—always deeply felt and strenuously argued. It is a rarity in a town too well supplied with the memoirs of people who never had a memorable thought.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

The ACTING PRESIDENT pro tempore. Under the standing order the Republican leader was to be recognized.

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of morning business, not to extend beyond the hour of 11:30 a.m. with Senators permitted to speak therein for not to exceed 5 minutes each.

Recognition is extended to the Senator from Wisconsin.

WIDESPREAD BRIBERY A HUGE COST TO TAXPAYERS

Mr. PROXMIRE. Mr. President, a couple of years ago, an FBI agent acting as a salesman of steel products offered bribes in 40 New York municipalities to public officials on 106 occasions over nearly 2 years. How many of these municipal officals turned down the bribe offer? The answer is a sad commentary on ethics in America. Just listen. On exactly 105 of the 106 occasions the municipal official accepted the bribe. Roll that one around for a couple of minutes. One hundred and six times the FBI agent offered the municipal official bribes. In 105 occasions the official accepted the bribe. Does that mean that almost every one of the New York State officials were dishonest? Did that one exception turn out to be the answer? Did Diogenes search with his lantern in broad daylight to try to find one honest man? No. Its worse. In the one and only case in which the official turned the bribe down, the FBI agent said the official refused the bribe, not because it was a bribe. He refused the bribe and get this—because "it wasn't big enough." Usually in this kind of story there is the small silver lining that at least one honest man was discovered. Not so in this case. Moral corruption won every time, no exceptions.

What does this sad story tell us? Does it tell us that New York State is more wicked than the rest of the country? Of course, not. Does it tell us that municipal officials are—under virtually all circumstances and because they work for cities more crooked than the rest of the country. No, indeed. The U.S. district attorney who conducted this sting operation was Rudolph Giuliani. Giuliani concluded that what this bribery record provides is simply that New York State does not have the kind of strict laws that other States have to punish those municipal officials who accept bribes. Giuliani may be wrong.

New York does have some strong laws already on the books. In enforcing those laws and in view of this investigation, Giuliani has charged 44 municipal officials in New York and 10 municipal officials in New Jersey plus an additional 14 people connected with supplies of steel and highway materials. The charges carry maximum sentences of 5 to 20 years in prison.

The revelations of this FBI sting, the prosecution of 68 bribe takers and the jail terms some of these felons may receive, will help the ethical conduct of public and private officials in New York and elsewhere. But that is just the beginning of the story. It is far from enough. What is too rarely said in this country is that bribery is not just a matter of corruption—not just a moral weakness we should both punish and correct. What we miss is that every bribe that is paid to a public official means the public is getting ripped off.

Why did the public officials in these cases take the bribes? They took the bribes because they had the authority to decide what firm got their municipality's business. They took the bribe as compensation for giving the contracts to firms that sold to the municipalities for a higher price than competing firms or for a product of lower quality. If the local procurement had been based strictly on price and quality no bribe would have been necessary. Obviously this and this alone is what makes bribes of this kind the basis for doing business. So the taxpayer is being ripped off. Public services cost more, taxes are higher. Quality is less. And the public services the taxpayer pays for are poorer.

This New York State story with 106 rotten apples out of 106 in the public service barrel is one that could be replicated more or less throughout the country in all 50 States. It is a major reason why public service costs so much. It is why the American public must be brought to recognize that laws against bribery and especially vigorous prosecution of those laws is so essential.

Yesterday I announced on the floor that I will vote against the trade bill because it guts the Foreign Corrupt Practices Act that has stopped cold bribery by American corporations abroad for the past 11 years.

The results of the New York sting operation shows how the only effective way to stop bribery is to stop the briber. Public officials in America or anywhere else in the world will take bribes if they are offered.

This is why I will vote against the bring back bribery trade bill. It makes offering bribes a piece of cake—safe and insulated from prosecution. It means that once again this country's foreign policy will be shamed by widespread bribery in coming years.

Mr. President, I ask unanimous consent that an article reporting the FBI sting to which I referred from the New York Times be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

"STING" CATCHES BRIBERY SUSPECTS IN 40 N.Y. TOWNS

A "sting" operation in 40 New York municipalities last week spread a cloud of suspicion over the way public business is done in much of the state.

United States Attorney Rudolph W. Guiliani said that an undercover F.B.I. agent posing as a salesman of steel products had offered bribes to public officials on 106 occasions over nearly two years. "On 105 of those occasions," Mr. Giuliani said, "the public official involved accepted the bribe. And on the other occasion he turned it down because he didn't think the amount was enough." Mr. Guiliani called it the largest single municipal bribery and kickback case in his recollection.

Named in the charges were 44 municipal officials in New York, mainly highway superintendents and purchasing directors, representing towns in 15 of New York's 62 counties. Also charged were 10 municipal officials in New Jersey and 14 people connected with suppliers of steel and highway materials, including two from a New Jersey company. The charges carry maximum sentences of 5 to 20 years in prison.

New York "is a much friendlier place to corrupt politicians, crooked businessmen and organized criminals," Mr. Giuliani said, calling for stricter laws comparable to those in other states. Some legislators said they would propose stricter laws, but others echoed Senator Emanual R. Gold, a Queens Democrat, who humphed: "Bribery has been a crime in New York for 200 years."

Mr. PROXMIRE. I yield the floor.

Mr. COCHRAN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Mississippi.

THE NEED FOR COOPERATION ON WELFARE REFORM

Mr. COCHRAN. Mr. President, I believe that most Americans agree that the time has come to reform the welfare system. What welfare is not doing to meet the basic needs of the poor may be a debated question. What it is doing to perpetuate economic and social dependency among welfare families, however, is undeniable. While the existing system has done a reasonably good job of preventing destitution, improving nutrition, and providing access to health care, it has done less well in building a ladder out of poverty for welfare families.

As we examine proposals for reform, however, we should be as cautious in designing changes as we are firm in our commitment to make them. Millions of people depend upon welfare. Our changes must be real improvements. They must encourage the formation and maintenance of self-reliant families.

The long list of cosponsors proves that there is strong consensus that S. 1511 would accomplish such improvements. The act is based upon agreement that more effort must be directed at those poor families who stay on welfare for long periods, that we need greater work requirements for welfare recipients, and that absent parents must be made to support their children.

Some say the legislation goes too far, and others will claim that it does not go far enough. In my opinion, it is sufficient to answer that it takes an incremental step in the right direction.

In taking this step, there must be cooperation between the White House and Congress. This will be a challenge; during the past 20 years, all administration proposals for genuine welfare overhaul have been unsuccessful, even when a single party controlled both the legislative and executive branches.

It was President Reagan who gave the welfare reform issue its visibility in his 1986 State of the Union Message, and S. 1511 in many respects reflects the goals and values he has long supported: strong families and work as a way out of welfare. It is my hope that a well-crafted, bipartisan bill from Congress will gain the approval of the White House.

The Family Security Act of 1987 may not be the perfect welfare bill, but its fundamental principles are sound. Their enactment into law would strengthen the integrity of the family welfare system.

The objective of moving welfare mothers into gainful employment reflects a growing national consensus that able-bodied welfare recipients have a responsibility to seek work to help support themselves and their children. This legislation would be a significant step forward in helping more poor families move from welfare dependency to economic self-reliance.

STABLE FAMILIES

The act would do several things to stabilize poor families. It would reverse the emphasis of the current Aid to Families with Dependent Children [AFDC] Program—in which Government payments are primary and efforts of parents supplementary—and would reestablish the principle that the family has primary responsibility for the care of its children.

The legislation would establish the Family Support Program [FSP] to provide cash assistance from the Government as a last resort, making up the gap between a family's own resources and what it takes to live in a specific area.

The bill would cure an historic welfare problem by guaranteeing benefits to households where both parents are unemployed, thus permitting fathers to remain with their families. Under existing law, States can choose whether to cover two-parent families; half the States do, the rationale being to prevent families from splitting up in order to receive benefits. S. 1511 would mandate the coverage of two-parent families. Such mandatory coverage is pro-family, since it is better to provide assistance to help two-parent families survive economic hardship than to render assistance only to families that have already disintegrated.

CHILD SUPPORT

Placing heavy emphasis upon parental support as the first line of defense against public dependency, S. 1511 would ensure the payment of child support as the first means of supporting children in the welfare system, a position strongly by both the American Public Welfare Association and the National Governors' Association. The bill would allow court-ordered child support payments to be withheld automatically from an absent parent's paycheck and require States to develop uniform child support guidelines for judges.

The legislation would amend the Social Security Act to replace the AFDC program with the Child Support Supplement [CSS] Program. The use of "supplement" reflects the principle that the primary support for children must come from parents; only when that support is inadequate should public assistance come into play.

Aggressive child support enforcement accomplishes more than simply getting financial support from absent parents. It makes a statement about what our society believes the role of parents to be. Parents should provide for their children and public policy should obligate parents to provide that support.

TRANSITIONAL BENEFITS

To encourage welfare recipients to seek jobs, the bill calls for continuing child care and Medicaid benefits for up to 9 months after such recipients leave the welfare program because of employment. Such benefits are logical and necessary if welfare recipients are to make a smooth transition from welfare to work.

EDUCATION AND WORK

The act would establish mandatory training and work requirements for most welfare recipients. Able-bodied welfare clients with children aged 3 or older would be required either to find jobs or to enroll in education or job training courses, with Government-provided support services to help them gain the skills necessary to move from welfare into self-sufficiency. States would be required to establish mandatory Job Opportunities and Basic Skills [JOBS] training programs, the type of welfare-to-work initiative supported by the American Public Welfare Association and the National Governors' Association.

The JOBS programs would build upon the considerable success some 26 States have had in the work incentive [WIN] demonstration programs in recent years in assisting welfare recipients to find nonsubsidized jobs. Ten States would have broad authority to experiment with various Federal programs in an effort to find more effective ways to help poor families.

In summation, S. 1511 would provide three income sources to replace the present AFDC Program and to assist families in moving from welfare dependency to self-sufficiency:

Source 1 would be work income: all able-bodied welfare recipients with children over 3 would have to work, or take job training in preparation for work. The requirements would be applied most intensively to long-term welfare recipients.

Source 2 would be child support payments from absent fathers, with a much more systematic effort to identify paternity and to enforce collection.

Source 3 would be subsidies from a new child support supplement, to the extent that the first two sources failed to provide an adequate minimal income.

There is a key difference between the approach of S. 1511 and traditional family welfare under AFDC. Under AFDC, the Government pays those who do not work. Under S. 1511, the Government would supplement the earnings of those who do work, and would go to greater lengths to insist that all parents support their children. If the welfare mother worked, and the income from work and from child support payments was inadequate, then Government could add the necessary support. The present AFDC program starts with the benefit. Under S. 1511, the benefit would come into play only as a supplement to family income sources.

In my opinion, this is a plausible strategy for strengthening family cohesion and responsibility and for breaking the cycle of welfare dependency.

I hope the administration will reconsider its opposition to welfare reform and join in the effort to get a good bill enacted.

Mr. President, I understand, also, that the Committee on Finance last week met to mark up the legislation introduced by the distinguished Senator from New York, Senator MOYNIHAN, which is cosponsored by 54 or 55 other Senators on this subject of welfare reform.

This is very important legislation. It is an important initiative. It comes at a time when more and more Senators are realizing that the current system is creating perpetual dependency on the Government by millions of Americans. It is high time that we tried to change the system and restructure the programs so that we move people off the welfare roles and into the economic mainstream of our society.

I think the legislation that the Finance Committee considered and marked up last Tuesday is a very important step in this direction. It is not a perfect bill. But it is a very real effort, genuine effort, toward true reform of the current system.

I was very disappointed when the administration submitted to the committee members a letter signed by four members of the President's Cabinet suggesting that if the bill is passed by the Senate they will recommend the President veto it. I am disappointed by that decision.

The letter was signed by Secretaries Bowen, Lyng, McLaughlin, and OMB Director Miller.

I am calling on the administration to reexamine that decision, and for these officials of the administration to take another look at what is being recommended in S. 1511. It is not the bill that has been passed by the House, which would require spending $6 or $7 billion over just a few years mainly in increased benefits to welfare recipients. I do not think that is the answer. And those who are cosponsoring the Senate bill do not think that is the answer. But to read the administration's letter describing the legislation you get the impression that is what they think. I think they are wrong. I hope they will take another look.

I tried to describe in this speech on the floor of the Senate ways in which the administration ought to work with the Senate and with the Congress to devise a better system. I do not think it is too late for us to cooperate and get a good bill on welfare reform this year. But we cannot do it with the attitude that is reflected in the letter that was signed by the administration last week.

Mr. President, I ask unanimous consent that a copy of the administration's letter addressed to Senator PACKWOOD be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, April 19, 1988.

Hon. BOB PACKWOOD,
Ranking Minority Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR SENATOR PACKWOOD: As the Committee on Finance considers welfare reform legislation, we want to take this opportunity to reiterate the Administration's opposition to S. 1511.

On behalf of the nation's poor families, President Reagan in his 1986 State of the Union Address called for ". . . real and lasting emancipation, because the success of welfare should be judged by how many of its recipients become independent of welfare." The Administration has judged the efficacy of all welfare reform proposals by this statement.

Accordingly, the President has endorsed S. 1655 because the reforms embodied in this legislation will succeed in increasing self-sufficiency.

Unfortunately, S. 1511 falls short of the standard. Indeed it would dramatically increase dependency among our nation's people.

By failing to include minimum participation levels for welfare recipients in training and jobs programs, S. 1511 does not ensure that meaningful numbers of recipients will escape from dependency. This failure is particularly significant for the families most likely to be on welfare a long time.

The President has stated that the current Federal welfare system has created a "poverty trap." He has repeatedly urged the Congress to provide the States with increased waiver authority to demonstrate innovative reform concepts at the State and local levels. S. 1511 does not do this. This failure is most unfortunate, as the results of such demonstrations would be invaluable in shaping Federal policy in the future.

Most tragically, S. 1511 not only fails to increase self-sufficiency but it increases dependency on welfare. Over three-fourths of the new spending in this bill is devoted to eligibility and benefit expansions. Some of the expansions are based upon "reform" concepts that have been tested and discredited. Others would consume scarce Federal and State resources on "solutions" to perceived problems which are untested and for which more responsible alternatives have been advanced. The net effect of S. 1511 is to spend literally billions of dollars on new entitlements and substantially increase the numbers of families on public support.

When S. 1511 is judged by the President's criterion of the number of people who escape welfare dependency, this measure fails to meet the test of meaningful reform. We believe that American taxpayers want to see recipients become self-sufficient and are willing to assist them in doing so. They are unwilling, however, to increase dependency on welfare in the name of "reform." We agree.

If S. 1511 were to reach the President's desk we would recommend that he veto this bill.

Sincerely,

OTIS R. BOWEN, M.D.,
Secretary, Department of Health and Human Services.
ANN MCLAUGHLIN,
Secretary, Department of Labor.
RICHARD E. LYNG,
Secretary, Department of Agriculture.
JAMES C. MILLER III,
Director, Office of Management and Budget.

A copy of this letter has been sent to each member of the Committee on Finance.

Mr. COCHRAN. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. SIMPSON. Mr. President, I thank you. I thank the Senator from Mississippi.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 10 minutes, under the same restriction; that the Senator from Wyoming [Mr. SIMPSON] may have as much time as he needs for morning business from the leader's time.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Morning business will be extended until 11:40 a.m.

Mr. SIMPSON. Mr. President, that is more than gracious on behalf of the majority leader, and I deeply appreciate it.

He has followed the immigration issue, especially the illegal immigration issue, to protect American workers, people in his State, and he knows how important it is. This is another one of those searing and important points.

I thank the majority leader.

IMMIGRATION REFORM BILL

Mr. SIMPSON. Mr. President, let me just briefly review an issue which is the burning one of the moment. As a principal author of the immigration reform bill, I want to be firmly on record in opposition to, legislation which would extend the law's application period for legislation.

The number of applicants that have come forward for the legilization program is very close to the number Congress estimated would apply. It is the most extraordinary act of grace that any country has ever given, and it has lasted or will last for 1 year, from May 4, 1987, to May 4, 1988. More people will have come forward, regardless of the figures, than have ever come forward in any amnesty ever given in any country. In fact, more will have come forward for this extraordinary act of grace than in all the amnesty procedures in all of the other countries that have ever extended it. It has also been the longest period for people to apply of any country that has ever extended such an extraordinary act.

It is not a popular process. That may sound strange. It passsed the U.S. House of Representatives the first time by seven votes, and it passed the U.S. House of Representatives last week by 12 votes. That shows it to be the toughest part of reform of illegal immigration.

It is saying that we are going to give a special status to someone who came here illegally—not a refugee, mind you, not extended voluntary departure, not a special entrant, not an immigrant; simply a person illegally here, usually for the purpose of seeking a job.

There is nothing wrong with that. But the purpose of the original legislation was to reduce the magnet from the flow of illegal, undocumented people, and this act of extension would do exactly the opposite. It would say to people: "They said they were going to do a year. They extended it 6 months. That 6 months will expire somewhere around election time, and they will do it again." That is not what we were about. What we were about was stability and finality and legalizing people who were here by placing them in a legal status, and that is a very generous procedure.

The number of applicants for the legalization program is very close to the number Congress estimated would apply, and we could well exceed that number during the final 10 days of the application period. The numbers are very high now.

Congress assured everyone that this would be a "one-shot" deal. The Select Committee in Immigration Policy, chaired by Father Ted Hesburgh, said: "This is it. One time only." Despite that promise, some Members have introduced the legislation to extend the application period for general amnesty, and others to extend the application for agricultural amnesty. Still others are proposing a broadening of the legalization itself, which was never even part of the original debate.

All this is creating great confusion out in the land for those who could be applying and could be receiving the remarkable benefits of the amnesty.

If there is one thing I hope will be taken from these brief remarks, it is this: To anyone considering application, do so and do it now. Do not wait and be lured into the fantasy that there is going to be an extension. Do not be lured either into the belief that you will be rejected. The approval rate is 95 percent. Do not be lured into the impression that the INS is your enemy. People coming into these INS offices are getting beautiful treatment, and the program works. There is no discrimination in employment, and things are going well.

Reports from the legalization offices around the country indicate that the number of applicants is increasing dramatically in every part of the country. That is what will happen.

I believe this demonstrates our human propensity to wait until the last minute, whether it is license plates at the courthouse or filing income tax returns. That is the way we do it.

Perhaps the one thing that is limiting people is that they have a lack of documentation. We can understand that, too. But from these days on, until May 4, a person is going to be able to go in, get a ticket or some other indication that they have been there. They can then later furnish their documentation and their other requirements. That may take 2 or more months, to take care of these people. That too is a generous act—and nobody will be closed out of the line on the final night.

One thing that has been said to cause concern to people is the fee. The fee is the same as that charged to legal immigrants. That then is a fictitious argument. Those who are here and working can certainly afford the fee, which is the same as for those who are here legally, and all to receive an extraordinary act of grace, as I define it. Perhaps the reason people are waiting is that they are not quite sure that they can produce evidence that they were here before January 1, 1982. The INS is accepting almost any indication of that, extraordinary things—sales receipts, when they do not have other things; dry cleaner's slips from the past. Those things are all evidence, and they are all being accepted.

So I just say that it is not fair to create false hopes. Somewhere, we have to have finality.

We will be in a recess period when the final date arrives. Our job is—as citizens and permanent residents and people who have a legal status in this country—is to tell people to come forward. May 4 is the date.

Those persons who have been here before January 1, 1982, should come forward and go to the nearest INS office and apply. We should tell them to apply, and not worry about the documentation when they go to the immigration authorities. The immigration authorities are there to help them. That is not a hollow bureaucratic statement. Many will be surprised at the assistance they receive. We are not deporting people or splitting up families. Ninety percent of the people legalized have been processed by the INS.

To hold out the false hope of an amnesty extension only creates a greater magnet for illegal migration as people see one extension and hope for others, as well as hoping for a reduction in the qualifications for receiving the benefits of amnesty.

The ballgame has nine innings, and I think everyone should be aware of it. There has to be some finality.

The extraordinary personnel of INS who have come out of retirement to work in the legalization offices will be leaving. The leases on legalization offices are expiring. The cost of the extension would have to be cleared through here, as a waiver of the Budget Act, and it would have an unacceptable effect on the INS budget and its future of service and enforcement.

Some would justify an extension because it seems it would make the general amnesty period correspond with the agriculture amnesty period.

They have nothing to do with each other.

There was a very good reason for the length of the agricultural amnesty application period. It was intended that the application period extend through two growing seasons. That was the purpose of that. It was a provision that the growers requested and which they said would be necessary to meet their labor needs, and we did it.

So, it is time to clearly and distinctly tell all of those who would qualify for legalization:

Come forward. You have until May 4. If you are in that final line they will process until you are taken care of. There will be no extension. There will be no second amnesty. Everyone had 1 year to do it. It was a one-time shot. And so we urge all to take advantage of this generous program and file your applications now—details later. You have 10 days to do it plus another 60 days and more to get your documentation together.

And as I say, the line will not close on the last day until everybody is in.

The final irony of all this is that those who seek the extension with some heavy intensity are the very people who told us during the entire course of the act that we did not even need to do anything because there could not have been over 500,000 or a million illegals in the United States.

What an irony that these are the ones now who are saying, hold it open because there may be hundreds of thousands more to come in.

You cannot have it both ways. This is the reality of legislating.

The purity of the argument dissipates as the facts destroy the argument.

So, I certainly, as one of the authors of the measure, urge people to know that the final time for applying is here and it is time for all to believe that to listen to those who know, and the network of communication is prevalent and extraordinary. Come forward. You have until May 4, and after that there will never be another extension since any belief in that would only serve to increase illegal immigration down through the decades. That was not and is not our purpose.

Mr. President, I particularly thank the majority leader for his extraordinary courtesy in assuring that I had additional time to make my remarks.

PERSIAN GULF

Mr. ADAMS. Mr. President, I want to take a few moments in morning business to state that I am still deeply concerned that we have not debated what our policy will be in the Persian Gulf. I will be addressing that later in the week, but an announcement yesterday by the Joint Chief of Staff sharpened my concern. The administration is saying that we might well, as part of our policy, include using ships of the Coast Guard as part of the fleet that is protecting the oil flow in the Persian Gulf.

Mr. President, as a former Secretary of Transportation, I am particulary aware of the fact that the Coast Guard is our only civilian arm and is used for the interdiction of drugs, for the protection of our fishing fleet, for the protection and safety of our boaters, and for other law enforcement purposes for which our military cannot be used.

I am dismayed that we would continue to make an ad hoc policy and might drain resources from the Coast Guard which is already underfunded. They cannot move some of their ships off the beach now to use them. We are not handling the war on drugs well, and the Coast Guard is a main arm for it.

In fact, I think our policy should be moving the other way where outside of our borders more and more of our military units should be interdicting drugs thus helping our Coast Guard Reserves. Certainly our Coast Guard vessels should not be drawn down in order to patrol in an area where we have hopefully the remnants of our 600 fleet ship available.

I have called Secretary Burnley on this. I hope to discuss it with him and I hope, Mr. President, that we can establish a policy where we are asking those who produce the oil, those who use the oil, and those other ships that are plying the gulf to assist us in maintaining peace in that area.

I thank you, Mr. President, for the time, and when morning business is over, I would like to seek recognition on the trade bill. It is my understanding from the unanimous-consent request that there is still time available. I will remain on my feet but that will be only for purpose of the trade bill.

CONGRESSIONAL COALITION ON ADOPTION

Mr. SYMMS. Mr. Chairman, I was pleased to be able to attend this important hearing on barriers to adoption, and I want to thank Senator HUMPHREY for his leadership in our efforts to promote adoption through the bipartisan, bicameral Congressional Coalition on Adoption. This coalition, on which I am privileged to serve, will perform a public service matched by few, if any other, congressional committees if it is successful removing barriers to adoption and bringing new hope and happiness to the lives of thousands of children who need a home and a family. Personally, I have three adopted first cousins who have brought great joy and happiness to themselves as well as our family's lives.

We all know the cost of adoption is one of the significant barriers that many families must struggle to overcome before they can open their hearts and homes to a new child. S. 1733, the Fairness for Adopting Families Act, would provide an income tax deduction of up to $5,000 per child for all reasonable and necessary adoption expenses. The bill also provides a business expense deduction for an employer who contributes to an adoption assistance program for his or her employees. I have joined Senators HUMPHREY, HATCH, and others as a cosponsor of this important legislation, and I wanted to take this opportunity to promote it in this public forum. I hope the coalition's activities will draw greater congressional attention to S. 1733 and other proadoption legislation.

Mr. President, I ask unanimous consent that statements by Senator HUMPHREY, Representative PATRICIA SCHROEDER, and Mary Cunningham Agee be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

Statement of Senator Gordon Humphrey—Congressional Coalition on Adoption

Though more than 140,000 children are adopted each year, thousands of childless families wait for children to adopt. And, thousands of children are waiting for families to adopt them. The purpose of today's hearing is to examine ways in which we can help these two groups find each other.

This morning, we will discuss foster care and special needs adoption, infant adoption, and international adoption. We will hear from experts in the field, adoptees, and adoptive parents about efforts to encourage adoption. Today, the coalition will continue its efforts to identify barriers to adoption and hear suggestions on what the Federal Government can do to assist States and public and private agencies in facilitating adoption.

Adoption is affected by a variety of Federal programs. Barriers to adoption may unintentionally be created by the way in which we administer those programs. In addition, the Federal Government can create incentives for the States which are ultimately involved in the formulation of adoption procedures and policies. The President recognized this when he created the White House Interagency Task Force on Adoption last August. The task force has completed its examination of current Federal adoption policies and State laws and we will hear its conclusions from the chairman, Mary Gall.

Under legislation enacted in 1986, Congress established a clearinghouse to collect data and information on both infant and special needs adoption, and maintain up-to-date directories of information concerning emergency pregnancy services, shelters and residences for pregnant women, educational programs on adoption, statistics on adoption, State laws relating to adoption, and any other services relating to adoption and pregnant women. This was an important first step, and we will receive an update today on the clearinghouse and the report from the advisory committee on foster care.

The adoption of healthy infants still accounts for a high percentage of the children adopted each year. However, there is increasing interest in the value of providing a permanent adoptive home for children in foster care.

According to the Department of Health and Human Services, there are more than 280,000 children supported by Federal and State foster care funding. At least 36,000 are legally free and waiting for adoption. A large percentage of these children are minorities or are children with "special needs."

We will hear testimony from Constance Hood and Richard Van Deelen about how their States have addressed this growing problem.

In addition to State involvement, we are continuing to see a growing number of private individuals and organizations who have taken it upon themselves to address this problem and try to find homes for our waiting kids. Richard Ransom will discuss how he, the founder and former chairman of the board of Hickory Farms, responded to this need in his State.

Mr. Ernesto Lopereno heads an organization in New York which seeks to provide homes for these waiting kids. We will hear what the North American Council on Adoptable Children is doing to move children out of foster care and in to permanent homes.

In a 1982 survey, mothers who received pregnancy counseling were much more likely to place a child for adoption (13.9 percent) than mothers who did not receive counseling (1.5 percent). Yet, over 1.6 million mothers continue to choose abortion over life and/or adoption. While close to half of these abortions are attributed to older women, few programs exist which focus on the older/professional woman. Mary Cunningham Agee responded to the need and started one of the most exciting and innovative approaches to crisis pregnancies. We will hear from her about the "Nurturing Network."

Teenage pregnancy presents another host of problems. Unfortunately, counseling for teenagers on the positive aspects of adoption is often lacking. The Smithlawn Maternity Home provides a haven where teenagers can go to receive the care, support and counseling they need and deserve. Mr. Howard Hulett, executive director of the Smithlawn Maternity Home will discuss the need for increased maternity home services in the United States.

Too often in discussing adoption issues, we fail to hear from the most important person, the adopted child. We are pleased to have with us today an outspoken adoption advocate and media personality Faith Daniels. Faith was adopted when she was seven years old, and brings to these hearings a personal look into the life of an adopted child.

An estimated two million couples of childbearing age are seeking to adopt, plus an estimated one million single persons. This means that for every child which is adopted, there are at least 60 homes. Many couples and singles unwilling or unable to persevere the 5-7 year waiting period for the adoption of an infant, are adopting children from abroad. The result is that foreign adoptions have doubled in the last decade.

While the adoption of a child from another country often takes less time than adopting a child here, there are numerous additional hurdles that a couple or single must go through before that adoption can become final. For this reason, support groups assume a particularly significant role. These groups provide many valuable services to new parents of foreign-born children. Ours, Incorporated and the Adoption Services Information Agency are both leaders in this area.

Federal involvement in adoption is a relatively new phenomenon, but I think we have seen from the legislation proposed and enacted by Congress in the last few years, that there is an appropriate and important role for the Federal Government to play in this area. I look forward to learning from all of today's witnesses their perspectives on the issues in adoption. I am certain that out of today's hearing we will all gain new insights into how we can—at the National, State, and local levels, and in the public and private sectors can work together to encourage adoption as a way to build a family.

Representative Patricia Schroeder—Congressional Coalition on Adoption

Although there is little data on adoption in the United States, we do know that there are thousands of individuals and couples eager to adopt a child. We also know that there is a huge number of children in this country, and throughout the world, who are in desperate need of a permanent home. Yet, bringing these children and adults together through adoption can be exceedingly complicated and costly.

Adoption in this country is, for the most part, a matter of state jurisdiction. Nonetheless, we as national policymakers can do much to ease the obstacles to adoption. To do so, we must first face up to the reality of the '80s. As the result of some dramatic changes in society, two very real barriers to adoption must be overcome.

The typical American couple no longer has the woman at home and the man working the job. Women make up 44% of the workforce, and women are there from economic need. Working couples and singles seeking to adopt are often squeezed between an adoption agency that requires time at home with the child and a job that has no provisions for such leave. This can prove an unsurmountable hurdle.

The Family and Medical Leave Act (H.R. 925, S. 249) tackles this problem by ensuring an unpaid but job protected leave of absence following the adoption of a child. Childrearing experts agree that the early months with an adopted child are especially important for the family to cement. If we want to encourage adoption, we can no longer force prospective parents to choose between a job they need and having a child they want.

A second fundamental problem in adoption today is cost. Adoptions now run between $5,000 and $10,000 and can go much higher. These expenses are not tax deductible, and they are not covered by insurance. Many couples are automatically precluded from adopting because of these high costs, and many others who do adopt start out very much in debt. This all comes before even assuming the staggering costs of actually raising the child.

Congressman Bill Lehman, Senator Orrin Hatch and Senator Symms have introduced legislation (H.R. 3374, S. 1733) to allow tax deductions for the reasonable and necessary expenses incurred in a legal adoption. If we can give tax relief for breeding horses, why not for raising children.

This Administration has taken a very high profile in urging private companies to provide adoption benefits for their employees. Former Health and Human Services Assistant Secretary Dorcas Hardy emphasized that "every employer should offer adoption benefits." Almost fifty private employers offer an adoption benefits plan that financially assists employees with expenses related to the adoption of a child or provides leave for the adoptive parent. But the federal government, the largest U.S. employer, offers no such benefits for its own workforce.

Senator Gordon Humphrey and I are seeking to remedy this disparity with legislation (H.R. 2221, S. 268) to reimburse federal government employees and members of the military for their adoption expenses. Congress has included this proposal as a two-year test program in the Department of Defense Authoriztion Act for members of the Armed Services.

While I strongly support direct reimbursement of employee's adoption expenses, I think there is a very logical alternative method of coverage. Health insurance covers pregnancy, delivery, and neonatal costs but covers no expenses related to adoption. As a matter of fairness, if insurance covers one way of building a family, it should cover others as well. The Federal Employees Family Building Act (H.R. 2852) would require health insurance plans available under the Federal Employee Health Benefit Program (FEHBP) to cover all family building activities, including medical procedures necessary to overcome infertility, typical pregnancy costs, or the reasonable and necessary expenses related to the adoption of a child.

Cost, leave and insurance coverage are by no means the only issues complicating adoption, but they are key. The Administration and Congress could do much to promote adoption as a wonderful way to build a family.

STATEMENT OF MARY CUNNINGHAM AGEE, EXECUTIVE DIRECTOR OF THE NURTURING NETWORK

Senator Humphrey, Representative Bliley, Senator Benson, Representative Oberstar and members of the coalition: Thank you for inviting me to appear today to present, on behalf of the Nurturing Network, what we believe to be one not only logical, but necessary anecedent to adoption. I refer to a unique support network which enables women who have made the conscious choice to bear the fruit of what may well be an unexpected, even unwanted pregnancy; and with professional guidance leavened with love to give their children the opportunity to grow and mature in the best possible environment.

That life may be nurtured by the natural mother herself—hopefully with the father's support, our network provides counsel and the practical assistance she may need to prepare for the challenges of raising a child. For those women who feel that their financial, emotional or social circumstances would make parenting untenable, we offer the guiudance to establish a thoughtful and informed adoption plan. And here is where we come together in our respective efforts to develop the safest and surest means to the protection of the shared rights and responsibilities of those who have opted to give life and those who wish to nourish it.

Let me briefly define the perimeters of the Nurturing Network and describe how it came into being. We begin by asking, "How many of last year's 1.5 million abortions, and God knows how many more in the shadows, were truly the result of the exercise of 'free choice' "? As a result of a survey we conducted, over one hundred women who had either experienced a crisis pregnancy in their past, or who were actually in the midst of this challenge, chose to respond to this inquiry. We learned that in over 90% of these cases—those who had "chosen" abortion would have—and I quote—"preferred to find a positive alternative"—if only it had been made available.

Granted, these results were gleaned from a small scale, qualitative study and it was undertakern on a somewhat informal basis at that. But the fact is there exist very little hard data about the motivations and concerns of women facing crisis pregnancies. And so, we must turn to research like ours to perhaps hear a message that otherwise may not be available. The ambivalence, and in some cases, outright regret expressed toward the abortion alternative by so many women in our sample suggests a fundamental need. A need for more than one option. A need for "choice" to really mean something. Quite simply, these women defined the need for a positive alternative to abortion.

If the limited scope and informality of our research left me still unconvinced, the outpouring of response to the existence of our program has removed any question about the message these women were sending. Since we opened the doors of the Nurturing Network last Mother's Day, we have had no less than 500 requests for assistance and our membership now surpasses 2,000.

In order to better meet the needs of our clients, we have tried to learn more about both the scope of this problem and who is most likely to encounter it. We learned from the Center for Disease Control that over 70% of all abortions in 1983 (the last year that formal surveillance was conducted nationwide), were performed for women age 20 or older. To put this in perspective, we are talking about at least 1,120,000 women in that year alone. The CDC also reported that the single largest age category was women over the age of twenty-five.

In order to verify if this pattern still held true, we recently contacted a broad sample of crisis pregnancy centers and abortion clinics across the country. They reported with noteworthy consistency a similar profile of the woman most apt to seek their services. Contrary to the widespread stereotype of an impoverished, uneducated teen, we were repeatedly told that the most likely candidate for an abortion last year was 20-24 years of age, white, middle-class and she had earned at least a high-school degree.

These facts are not shared to in any way try to diminish the severity of the teenage pregnancy problem. They are offered to focus your attention as mine has been to a large group of women who until now have been largely overlooked. There is, after all, an unspoken assumption that the college-educated or career-oriented middle-class woman knows how to avoid an unwanted pregnancy, that she is rarely, if ever, faced with one and if so, can take care of herself.

Our research reveals just the opposite. This is the woman who, without support, often feels she has "too much to lose" by continuing an unwanted pregnancy. She is the one whose college peers are most apt to say, "you should have been smarter than that. This isn't supposed to happen to someone like you." She is the one whose boss is still apt to find a good excuse for terminating her employment and whose family is still apt to respond with shame and rejection. This is the woman whose boyfriend is only too happy to drive her to the abortion clinic whether this is her choice or not.

This is why the Nurturing Network was created—to give these women a real alternative, one which recognizes their unique values, needs and circumstances. Our purpose is not to remove an option—but to create one. It is not even to spend time debating the merits of one alternative over another—but to make sure that no woman feels compelled to choose abortion due to external pressures or because she feels she has no other choice.

The special irony of our network's efforts for this coalition is that we are already starting to find a higher incidence of the adoption choice among the clients we serve than is often reported by programs addressing primarily the teen population. It is perhaps precisely because of our clients' promising futures that they may be more willing to consider the adoption alternative. After all, the cause of their crisis pregnancy is more likely to be rooted in a failed relationship or birth control device than in weak self-esteem. And so, their assessment of what would be best for their child's upbringing is sometimes more pragmatic.

At a time when last year alone we learned of two million couples who were unable to adopt, it seems downright tragic, to say the least, that we persist in failing these mothers, both biological and adoptive. Our clients have shown us time and time again that an unwanted pregnancy does not have to mean an unwanted baby.

I believe there is a profound correlation between how much support we are willing to give women with crisis pregnancies and how many healthy infants will be available for the thousands of potential parents wishing to adopt. Unless we are willing to offer the emotional, social and financial support needed by women facing this kind of pregnancy, we cannot legitimately express either comdemnation or surprise when we discover that they have chosen a more radical solution.

And here is how we operate. We assist in every facet of a pregnant woman's needs, from initial pregnancy testing to delivery of her baby and provision of information on parenting and adoption.

We specifically offer the following:

Nurturing homes in all fifty States where a client is given more than just another place to stay. Each nurturing family has been carefully selected through a detailed questionnaire and interviewing process. All nurturing families understand the challenges our clients face and are committed to providing the nurturing that is needed at this sensitive time.

Medical assistance, wherein each client is offered competent medical care to protect her health and that of her unborn child. Among the members of our network are literally hundreds of dedicated doctors and nurses throughout the country. Each is prepared to assist—often at a reduced rate—in planning a balanced program of nutrition, exercise and good health.

Counseling through which licensed nurses, social workers, and other counselors with special training are able to promote healing and self-esteem. Each counselor is prepared to provide valuable information on the resources available through our network based on a detailed evaluation of each mother's needs.

Financial assistance, wherein each client is offered a coordinated plan for handling the many expenses associated with her pregnancy. We are able to accomplish this through privately donated funds, public assistance, employment opportunities and loan programs.

And bearing in mind our primary focus on college and working women, we also offer:

Educational programs, because there is no need for a healthy pregnancy to limit a woman's educational opportunities. If a client wishes to protect the confidentiality of her pregnancy or is receiving undue pressure at her current institution, we can arrange for a temporary transfer to a college of comparable academic standing through our extensive network of participating schools and universities.

Career programs that enable each client to preserve her own future and that of her unborn child. Through an innovative program of mentorships at participating companies throughout the United States, a working woman can take a temporary leave of absence and work for an employer who respects her accomplishments and supports her decision at this vulnerable time. If a woman chooses to relocate, our network is also able to offer a nurturing home, medical care, counseling and any other supportive services she may need in that area.

As a coalition focused on the problems associated with adoption, it is only natural to prefer to discuss the rights and requirements of the children born into this situation. And while we can probably all agree that their rights deserve to remain paramount in the adoptive process, we cannot afford to overlook the rights and needs of those women who make this process even possible.

I am sharing our action program with you today on behalf of my colleagues at the network in the hope that you will find further clues to help you translate your commendable concerns into similarly practical, constructive action. It costs about $65.00 to abort a life—and $6,500.00 to bring it into the world. We think the difference is worth it.

Let us continue to work together for the sake of our generation—and the next.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is now concluded.

OMNIBUS TRADE AND COMPETITIVENESS ACT—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the conference report on H.R. 3.

The Senate resumed consideration of the conference report.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

The Senator from Michigan.

Mr. RIEGLE. Mr. President, I rise to just make a brief comment on the plant-closing provision in the trade bill, and I do so because I think that provision has been greatly exaggerated with respect to its real impact in any way that would hurt American business.

I think it is actually a very reasonable position, and people should understand that any company that has to layoff a large number of workers or close a plant, that does not foresee having to do that is not under any obligation under this amendment to give advanced notice. It is only in the case where businesses of a large size can foresee the layoff or the plant closing. They have an obligation then to give notice so that the workers and the communities are aware of it and have an opportunity to adjust, to plan, and to try to find some way to cope with that terrific economic shock.

I ask unanimous consent, Mr. President, that an article that appeared on the front page of the Wall Street Journal in the Outlook section, entitled "Plant-Closings Quarrel Distorts a Modest Idea" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PLANT-CLOSINGS QUARREL DISTORTS A MODEST IDEA

(By Walter S. Mossberg)

WASHINGTON.— This capital's latest cause celebre is something called "plant closings," a provision in the pending trade bill that would require many employers to give their workers and local governments 60 days' notice of plans to close a plant or conduct a widespread layoff.

As is common here, the provision is being blown out of all proportion. Discussions of it are laden with ideological and pseudoeconomic rhetoric characteristic of political debate in an election year.

President Reagan and the business lobbies assert that the entire trade bill should be vetoed if the plant-closings language stays. They call the provision a European-style government intrusion on business that would impair U.S. firms' competitiveness in world markets.

Meanwhile, the Democrats and their union allies contend that the plant-closings measure is a major step toward helping U.S. economic adjustment. They say it's a social reform of such profound importance that preserving it is worth losing a trade bill they have sought for years.

In fact, the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide plans to close a plant until the last minute, leaving workers and communities in the lurch. It is squarely in the tradition of such social reforms as the child labor and minimum wage laws. These act to soften the social consequences of free market decisions and thus permit the market continued public acceptance without the sort of deep government involvement often practiced abroad.

As social reforms go, the plant-closings provision appears fairly minor. According to business and labor, many big companies already offer some form of advance layoff notice. The U.S. Chamber of Commerce opposes the provision, but the group nevertheless says it "encourages" busineses to give advance layoff notices when possible.

The Reagan Administration's own Task Force on Economic Adjustment and Worker Dislocation, which included representatives from General Electric, USX and other major corporations, declared in 1986 that "advance notification to employees and the community of plant closings and large-scale permanent layoffs is good industrial practice." The panel didn't call for writing the idea into law, but it cited evidence that advance notice doesn't hurt productivity.

Furthermore, the idea isn't exactly novel. Most major U.S. trading partners, including Canada, Japan and West Germany, have such regulations already, and they seem to be competing just fine.

In the smoke of ideological charge and countercharge, it's important to note what the plant-closings provision wouldn't accomplish. It wouldn't bar a single closing or layoff. It wouldn't require companies to get worker or government approval to close plants or conduct layoffs. It wouldn't affect companies with under 100 workers, or any company laying off less than a third of its work force, unless 500 workers are involved.

It merely requires stable companies that know well beforehand of plants to close plants or order mass layoffs to share this information 60 days in advance with the affected workers and local governments. That's all.

The provision includes a formidable list of exceptions. Companies that are "faltering", and trying to raise capital—those for whom advance notice might pose financial problems—are exempt. So are those closing plants due to "unforseeable" business developments, or strikes or lockouts. So are plant closings due to the sale of a business, or consolidations within local areas, if workers are offered new positions.

Business groups have thrown up a barrage of objections to the provision. They contend that the exemptions aren't broad enough and that the need to give advance notice of closing would somehow thwart expansion at many businesses and drive weak firms into bankruptcy.

But these arguments hide a deeper reason employers and the White House are fighting what amounts to a simple industrial practice that business concedes has merits. They fear that the plant-closings measure will somehow set a precedent for further "labor engineering" by the government. They are worried, too, about litigation and bureaucratic restraints.

There are many items in the trade bll that will indeed affect America's ability to compete in world markets, but the plant-closings measure isn't one of them. And it is strange indeed that the fate of the massive bill is turning on language that has nothing directly to do with trade. The idelogical debate over the provision doesn't bode well for the ability of the nation's leaders to grapple with the really important economic issues that America surely will face in the years just ahead.

The ACTING PRESIDENT pro tempore. The junior Senator from Washington.

Mr. ADAMS. Mr. President, I rise today in support of the conference report on the trade bill.

Last July, when I voted in favor of the Senate version of the omnibus trade bill, some in my home State feared, and appropriately so, that there was a danger that protectionist provisions like the Gephardt amendment, the scofflaw and private right of action provisions, undesirable changes in the way we calculate nonmarket economy dumping for countries like China; and removal of Presidential discretion to determine the final form of trade actions under our trade laws would hurt a State like ours which relies on two-way trade more than any other State in the country.

I shared their concerns throughout this process. And I have worked to see that these provisions were deleted from the final bill—and they have been. Make no mistake about it. The concerns of businesses and workers in Washington State are reflected in this final trade bill. At the same time, if we are to preserve two-way trade, we must address our trade and competitiveness crisis. While this bill is not a panacea, much has changed over the past decade and we must insure that our law and policy change with it.

Over the past 4 years, the United States has gone from being the world's largest creditor to being the world's largest debtor nation. Over the last 8 years, our trade deficit has quadrupled. Where we were once the preeminent economic leader in the world, today we are having trouble competing with many newly industrializing countries that are producing better quality products. At the same time, many of these trading nations are using nontariff barriers to create comparative advantage because they realize that they either trade successfully or they suffer.

We cannot have a regime, Mr. President, in the world where simply tariffs are lowered and nontariff barriers are substituted for them.

In light of these problems, if we are to preserve a free trade system, the United States must find ways to bring down our trade imbalance by promoting trade, not contracting it. To achieve this, we must do four things:

First, we must get our own economic house in order by reducing our budget deficit, boosting U.S. savings and investment, and convincing our trading partners to join us in a coordinated economic strategy to stimulate worldwide economic growth, not to stunt it.

Second, we must compete effectively with the new industrialized nations by improving productivity performance. This has been painful. Mr. President, but we must continue to improve. And we are, and this bill will help.

Third, we must break down the trade barriers where they exist abroad so we can export our products while we continue to import. Industries know that if they are able to do this, they can adjust and be successful in a global economy.

Fourth, Mr. President, we must enforce the rules of fair trade so that our workers and industries know that they do not have anything to fear from an open trading system. This is not just to be done by a bill, Mr. President. It is a continual, day-to-day job by the administration. The purpose of this bill is to give the administration the tools to create and maintain this open trading system.

I have made it clear when I voted for the Senate version in July that my vote was by no means an assurance that I would vote for the final conference report. Rather, the "yea" vote represented a vote of faith in both the ability of the House and the Senate to put together a trade bill aimed at addressing those four elements and preserving an open trading system in the future.

I have served as one of the members of conference committee and I have observed the commitment and diligence from both Democrats and Republicans which has gone into this conference bill. It has been truly impressive and, I believe, uprecedented.

I will vote for this conference report because I believe it moves us closer to achieving our objective of building a stronger international trading system for our future. While it is limited in what it achieves in terms of our macroeconomic objectives, this bill will make us more competitive. It will help us break down foreign trade barriers. It will help us enforce fair trade.

Before I talk about specific provisions which will benefit Washington State, I want to say a few things about the President's position on this bill on plant closings.

Mr. President, I am a member of the Senate Labor and Human Resources Committee from which that provisions was designed. I am dismayed by the President's threat to veto this bill over a plant closing provision. Putting in place in this country a system of advanced notice of plant closings is an integral part of the trade adjustment process that has to go on as we are moving into the global economy and trying to preserve free trade.

It is just a matter of fundamental fairness, Mr. President, to American workers and to American communities to tell them 60 days in advance that they are going to lose their jobs or that the community may be decimated because there will be no tax base. These are the working heartland people of America, Mr. President. They live, many of them, in small- and medium-sized towns that are completely dependent, and have been, on the major plant in that area. They have given much to it. They have not asked much. They have built their schools around it. They have mortgaged their homes to be there. These are the middle-class working people of America. They look only to their paychecks and they have no alternatives.

I am rather outraged, Mr. President, at employers and management and others at the very high end of the income scale who oppose this provision. I want to say that, in the private sector before coming to the Senate in 1986, I saw the proliferation from 1979 to 1986 of the golden parachutes, the golden handcuffs, the stock options, and the benefits that were made by stock trading and merging firms which have caused a lot of these plant closings.

I think it is appalling that we would have a veto of a trade bill that simply attempts in a small way to give notice to the people who are working, on the shop floor; whereas, the people who are working there on the management side know it is going to be closed and have made arrangements for themselves by selling their stock options at the appropriate time.

I do not resent the fact that people who are running a business try to adjust for their coming life. I have not opposed the fact that America has had to change a great deal in the manner in which it does business. Some plants have closed, mergers have taken place, spinoffs have taken place.

But this is simple justice, Mr. President, to give notice to the people who will be impacted by a plant closing. This does not harm anyone other than those who may hope to take advantage by having others not know it is going to close and thus rapidly move through some form of reorganization or spinoff or sale of that plant.

Yes, people in an area will ask that they have a little time and that they try to know where their children are going to go to school or if there are not going to be the same number of teachers needed next year. We have gone through this in my State. My State, like many in the United States, has areas of great prosperity.

But we also have a great portion of our State that is close to being company towns. We have major-sized cities that are dominated by such things as the aluminum plant that is there, the timber plant that is there, the agricultural processing plant that is there. And those areas are generally more isolated than our corridor around Seattle-Tacoma, and through the old Puget Sound area. Workers do not easily move from losing a job there to another. We can do it, perhaps, in the Seattle area, and we have had to in our history. But you move to the smaller cities of Vancouver, Tri cities, Spokane, Wenatchee, Grays Harbor, as you move through these towns, they are tied to specific industries in many cases.

Yes, they adjust. Yes, we try to have other more fortunate high-technology industries in other parts of the State move in. The Governor works on this. The elected officials work on it. We have the business community now understanding this.

But these communities, when these closures take place, need to have retraining of the workers, need to have the alternative of places to move.

This plant closing provision is carefully crafted to insure that it is not too onerous and unreasonable to small business and that the requirement will pertain to significant economic disruption and not other circumstances. The bill contains special provisions to address situations of faltering companies struggling to avoid bankruptcy. It also contains special provisions to address unforeseeable business circumstances which might cause significant economic disruption such as unexpected termination of a major Government contract.

You see, the sad truth about plant closing is that the very forces that are causing the President to threaten veto are the same forces which are threatening the future competitiveness of American industry in the world economy. This traditional adversarial relationship between business, labor, and government, has been damaging our productivity performance for decades.

We have to change our ways. We must begin to cooperate so we can manage change, not let it manage us. Let us give notice to people and manage that change; not have the change take place and have everyone react to it. It deserves our support and our commitment to work to make a positive adjustment, not a negative change.

We will all lose, Mr. President, if this bill fails of enactment because of the failure to garner a few votes in the Senate for a veto override if the President as he persists in saying he will, does veto this bill. If we deny this bill now, Mr. President, there will be no trade bill this year. When the Congress comes back next year with a new administration in the White House, we will not hit the ground running. We will be returning to the drawing board for yet another 4-year process. We had better think long and hard before we throw away this 4 years of incredibly hard work. The price of doing so, over the long run, will be high indeed.

Mr. President, that is why I believe this is a good trade bill; not perfect, but a good trade bill. And let me focus for a moment, on some specific provisions that I believe will help my State in particular.

First, I am pleased that my amendment to ensure fair trade in the ongoing dispute between the U.S. aircraft manufacturers and Airbus is included in this final bill. The amendment permits cumulation of unfair subsidies received by Airbus from different governments when calculating subsidies under our countervailing duty law. While I hope that our European counterparts will soon stop stalling and agree to stop subsidizing Airbus, if this bill is enacted into law, the tools will be there in any event to enforce fair trade.

Second, I am also pleased that this bill contains an amendment I joined Senator HECHT in sponsoring to mandate a study of the economic reforms being undertaken in China with the ultimate purpose of identifying potential changes in our trade laws. In addition, the compromise included in the bill setting forth a new way of calculating nonmarket economy dumping based on factors of production is an improvement over the present law and also over the artificial and ultimately destructive provision originally included in the Senate bill. Both of these provisions will help promote an expansion of United States-China trade in the future.

Third, the export control reforms, contained in this bill, which I have worked on with Senator CRANSTON and others, will help facilitate U.S. exports. Many high technology firms in my State are constantly plagued by needless and counterproductive bureaucracy when it comes to export controls. This bill will help streamline that system and make it more workable. While I wish we could have gone further yet in this area of the bill, particularly in regard to the role of the Defense Department in reviewing license applications, the reforms in this bill are substantive and will improve our export performance around the world.

I know the sanctions—and I support them—in this bill related to Toshiba and Kongsberg remain controversial. But, Mr. President, the answer there is not to expand the controls because in classification, as you expand the number of items, the ability to detect the problems become less and less because your whole attention is attenuated.

Our classification and list of export controls should be narrow, well focused toward things of great importance. We should use a rifle approach, not a shotgun approach.

If you have gone to the Soviet Union as my colleagues and I have done and, in particular, my colleague also from the State of Washington, you note that there are very few things in the Soviet Union, that they do not know about. And yet we classify many of these and prevent our picking up hard currency from the Soviet Union.

I might say, that is important to our farmers, particularly in our State, for the ability in the future, we hope, to sell agriculture products to the Soviet Union.

Fourth, there are many provisions of this bill which will help develop and promote exports for specific sectors in Washington State. This bill makes Washington State wood products eligible for long term export financing. In addition, the bill will help boost agricultural exports by extending the export enhancement program and providing moneys to improving agricultural marketing and to counter foreign agricultural subsidies.

Finally, Washington State industries will benefit, as will others around the country, from a more deliberative fair trading statute. Whether we are attempting to secure action under section 301 pertaining to the removal of Brazilian trade barriers to computer software for companies like Microsoft, or whether we are attempting to secure action under section 301 to force Airbus to change its ways, having a deliberative procedure as law is important. To date, section 301 cases have all too often remained unresolved far past the time when serious damage from unfair trading practices has been experienced by U.S. industries. The section 301 reforms in this bill will help us act within certain timetables when unjustifiable international trade practices are damaging U.S. industries and workers as they try to compete in the world marketplace.

I would be remiss if I failed to comment on how what was deleted from this bill will also benefit Washington State. Virtually all of the protectionist provisions that we feared at the outset are gone from the bill. In addition, the textile bill was separated from this bill. The conferees who worked on this bill made an important decision—that protectionism is not the answer. What they are telling us instead is that competitiveness, fairness, and adjustment are the answers. If we reject their message now by either defeating this conference report or failing to override a veto, then we will in effect be casting a vote for protectionism down the road. Over the long term, the alternative to competitiveness, fairness, and adjustment is protectionism.

Right now, we are going to be faced with voting on this conference report and then proceeding to have it become law. I hope we will not face a veto vote. Mr. President, I urge my colleagues to join with me in supporting this bill and in supporting any override, if it is necessary. I yield the floor.

The ACTING PRESIDENT pro tempore. The senior Senator from Washington.

Mr. EVANS. Thank you, Mr. President.

Mr. President, as my colleague from Washington State has said, Washington is deeply interested in trade. We are not only the largest per capita foreign trading State in the United States, but very much ahead of the State that is second. We have had a century-long involvement across the Pacific, particularly in trade, which is now expanded to a worldwide interest, particularly with the extraordinary success of the Boeing Aerospace Co. in terms of its civilian aircraft sales and with a number of growing Washington State industries that are selling on a worldwide basis.

So, the question becomes: Is this trade bill, on balance, beneficial or detrimental to both the country and, most importantly, to a heavily trade-dependent State such as mine?

No bill that is 1,000 pages long can be all bad or all good. I would agree with many of those who have spoken yesterday and today that a good many of those onerous provisions have been removed from the bill. But I think we ought to start with just what it is we are trying to achieve in this bill. What are the goals and purposes of this bill?

First, is it to reduce our merchandise trade deficit with other nations? And, if so, how? By increasing exports or by reducing imports?

Second, is it to reduce unfair and trade-restricting foreign practices and build an international "level playing field," a famous term we all like to use? But "level" is in the eye of the beholder. And I think there are many in this country who would like to have a level playing field that tilts markedly toward the United States, rather than the other way.

Third, is the goal and purpose of this bill to increase our gross national product and our real income?

Unfortunately, Mr. President, I fear it is none of the above. This, more accurately, is the trade policy's answer to the continuing resolution for the appropriations bills.

You add more and more nonrelated or unrelated provisions, elements that are necessary, vital for a continuation of the President's responsibility in trade, such as the authority to move ahead on GATT negotiations, put them all into one bill and make it virtually impossible for the President to veto it.

This bill is like the famous astronomical black hole. It seems to suck everything into it until it is in danger of exploding through the nature of its own contents.

Mr. President, this, as in so many other instances, may well be a case where Congress acts after natural market forces and the private sector of our economy has acted to correct many of the ills and evils this bill intends to correct.

GNP growth, perhaps one of the goals of this bill, has been very strong. The economy continues to grow. It defies traditional theories of business cycles. Our economy continues to be one of the enormous driving engines of world economic growth.

Meanwhile, Japan has also taken up some of the slack by increasing its domestic demand, fueling an increase in its imports causing its net exports to fall in 1987.

Coordination of our world's major economies has improved. Real income is up in the United States, and new jobs continue to be created. Many continue to state repeatedly that most of the new jobs created in this country are minimum wage jobs, the hamburger slingers at McDonald's and the rest.

It simply is inaccurate, false, untrue. The jobs created in this country, for the most part, have been good jobs, solid jobs, permanent jobs and particularly in the last year. We have seen an extraordinary growth in basic manufacturing jobs; 350,000 new manufacturing jobs created in 1987 alone.

The administration has not been standing idly by during this great debate on trade. The President has instructed his Cabinet officers, led by the U.S. Trade Representative, to aggressively seek to curtail unfair trading practices. Of the 11 section 301 class actions initiated, nine have been resolved, resolved in a way that is beneficial to those American industries who were pursuing relief. One has led to sanctions in the case of Japanese semiconductors. I don't think this is a bad record.

In addition, there have been general reductions in GSP benefits for many lesser developed countries and there has been a withdrawal of those benefits for the so-called four Asian tigers: Hong Kong, Singapore, Taiwan, and South Korea.

Section 201 relief has been granted for red cedar shake and shingle imports from Canada, an important element to our own Northwest economy. We have negotiated with Canada a 15-percent export charge instead of a countervailing duty for softwood lumber from Canada which has affected favorably many of the States of this Nation involved in the lumber and forest products industry.

We have asked the GATT to rule on several controversial practices, and GATT has come back and ruled in favor of the United States. Let me cite a few. Eleven agricultural quotas of Japan, resolved basically in our favor. British Columbia restrictions on processing of fish, ruled in our favor. Not fully resolved yet, but ruled in our favor. Canadian provincial restrictions on wine and liquor, ruled in our favor. We are now going back to the GATT on Japan's beef and citrus quotas.

These are just examples, Mr. President. There are many others. Experts estimate that about 40 percent of imports now are subject to some form of restriction, quotas, countervailing duties, antidumping provisions and charges related thereto.

I do not think that we can pose necessarily as paragons of virtue in the world trading system. We have our own subsidies. We have our own tariffs. We have our own restrictions. And that is part of the world trading system. All nations, through GATT and through the growing international network of trading partners, are attempting to bring down and eliminate those trade barriers which reduce the potential for expansion of trade.

So after an objective review of evidence, I do not think this administration can be accused of being lax in enforcing our rights in international trade. In fact, some may say they have gone too far already in trying to redress grievances through retaliation and sanctions.

Another element that we tend to use and reuse, as in the case of the types of new jobs created, is the continuing charge that our trade deficit is worsening. But we are today in the middle of an export boom. We do not need a trade bill to create that export boom. It began in late 1986, it has continued through 1987, and it is continuing through the first 2 months of 1988.

Some of this is masked, of course, by the fact that there have been substantial and continuing changes in currency valuations between the United States and its major trading partner. But if you look at trading statistics in real terms, taking out the currency variations and inflation, we get a real picture of what is happening. In real terms, with the twice quarter of 1986 as a base, the real merchandise trade deficit dropped the third quarter of 1986 from $149 billion to, during the fourth quarter of 1987, $119 billion. Over this 18-month period, merchandise exports were up 22.5 percent; imports are up 5 percent; a net positive change of 17 percent.

Mr. President, I will read just a couple of highlights from a recent report of the Office of the U.S. Trade Representative dated April 22, 1988, and ask unanimous consent that it be printed in the RECORD in its entirety.

(See exhibit 1.)

I quote:

> Anecdotal evidence of export boom abound. According to a recent issue of Forbes, Boeing reports that 72 percent of recent orders are from foreign companies. At Digital Equipment recent foreign revenues are up to 47 percent of total revenue. Cincinnati Milacron, the machine tool maker, has seen sales in the Pacific Rim, Far East, and United Kingdom jump by 11 percent and reports taking sales away from German and Japanese competitors who are unable to undercut Milacron's prices.
>
> Hewlett-Packard reports that it is now producing the world's lowest cost computer terminals in Roseville, California, with a sharp increase in product reliability.

This USTR report goes on in section after section pointing out that not only are we increasing our exports, but currently the export boom in manufacturing has brought several industries in the United States to capacity restraint.

Manufacturing overall operated at 82.2 percent of capacity in January of 1987, up from 79 percent a year earlier. Utilization somewhat exceeds 85 percent now at the top of a U.S. business expansion. For some industries, however, capacity utilization is exceptionally high already: Paper products, 96.5 percent; textile mill products, 94.1 percent; iron and steel, 95 percent.

We are getting very close to the point, Mr. President, where these levels of manufacturing production, already virtually at capacity, will lead to the next period in American growth. We ought not, through a trade bill, to reduce the chance for that to happen.

(Mr. BREAUX assumed the chair.)

Mr. EVANS. And the next step is added investment in the manufacturing sector; which is necessary for these industries that are pushing the limits of their current capacity.

That increase in investment, together with expanding net foreign demand for U.S. output, will be an important, perhaps the most important, single factor in continued economic growth for the United States over the next few years.

American exports reached an all-time high in both nominal and real terms in the last quarter of 1987. I expect in 1988 we will see a continuation of that growth. We will likely see a reduction not only in real terms but in nominal terms as well in our trade deficit.

With all of that, imports continue to grow also, not as quickly as exports on a real basis but still there is growth. Since nominal import prices have increased substantially as the value of foreign currencies increases, increases in nominal imports are still substantial. Why do we have such continued strong growth, and how does that affect what we think about this particular trade bill? There is no one answer, but I suggest some of the following are responsible. First, U.S. domestic demand continues to grow, especially consumer spending. Second, our savings rate is still low by international comparison, and consumption is still outstripping savings. Third, our consumers continue to prefer foreign goods in many product lines indicating that nonprice factors, quality, service, general reputation, are quite important. In many of these goods we have already come to a point where American competitors can produce at equal or lower prices but it is apparent that at least to a certain degree American consumers are preferring certain of these foreign goods.

Finally, Mr. President, quite aside from any trade bill, but in response to their own decisionmaking, American industries, particularly the automobile firms of the United States, unfortunately have pursued immediate profitability rather then regaining market share. And over the last 2 years they have had a splendid opportunity to get Americans once again to buy American automobiles. Yet instead of keeping prices where they were while foreign car prices increased, they chose the easy and the immediate way to gain new profits. And that was to raise prices on their automobiles as well.

Mr. President, I will not attempt to predict the trade figures for March 1988, that will be announced next month. We already pay too much attention on a month-to-month basis to these trade figures. In the first 2 months of 1988, exports are up nearly $10 billion, however, over the total for those 2 months in 1987. I predict that in the first two quarters of 1988, we will continue to break records in export commodities.

What should we be doing then? Most of us recognize that the so-called unfair trading practices account for just a small part of our trade deficit. Even Representative GEPHARDT and others, the most enthusiastic proponents of measures to restrict foreign trade, say that it is in the 10- to 20-percent range. If we recognize the fact that we are experiencing an export boom, if we recognize the fact that the administration has been aggressively pursuing unfair trade investigations for the past several years, if we decide that growing imports are still a problem, then, Mr. President, I am afraid this omnibus bill does little to address our real problems. In fact, it may worsen things by, in fact, beginning to reduce, not expand, our export opportunities.

Instead we ought to focus on further reducing our own budget deficit. I can think of nothing that would be more important to ultimately helping reduce our trade deficit than to reduce our budget deficit which is so integrally related to it.

It is important to increase our savings rate. We just concluded a major tax reform in this Chamber and in the other House but we did not do a very good job of encouraging savings. Increased domestic savings would be important as an element of both bringing down our budget and trade deficits while making America a little more financially solid.

I think the Congress will have to revisit that question to create the incentives that will encourage savings rather than overconsumption.

Mr. President, let me now deal with several of the elements in this bill. Subconference number one, the Finance and Ways and Means Committee provisions, are the most important, the heart of the bill. When one speaks of a trade bill, that is really what one usually means, not the 16 other subconferences that were sucked together in this CR of trade. Many things were done in conference that have made this bill better than either the Senate or the House bill that went into conference. Some of the special interest provisions were removed. The so-called sugar duty drawback, the lamb quotas, the private right of action for customs fraud, the scofflaw provision, and also the strength of the Gephardt provision were all dropped or modified radically. That is on the good side.

There are many other things that at least modestly came out on the positive side. But there are still many problems with this bill. On negotiating authority, the President received what he needed, a 5-year authority for nontariff barrier agreements, subject of reverse fast track procedures in the Senate bill. This gives the current and next President the authority for new bilateral negotiations and agreements as well as for the GATT negotiations. That is good. We implement the harmonized system of tariff schedules, which has been painstakingly negotiated over the last decade. This is very important to our trading community. Unfortunately, this bill could have been created in an instant and passed through the Chambers separately but it was held hostage to the trade bill. It got sucked into that black hole along with many other disparate elements.

Other nations have implemented this new system as of January 1, 1988. Because we delayed, we alone among the major trading countries of the world must wait until January 1989.

In the section 301 provisions, for unjustifiable trade practices such as the violation of a trade agreement, it requires the USTR to take mandatory action in the amount equivalent to the foreign burden or restriction. I support this provision, but I do have a couple of questions that at this time or later I will ask of the managers of the bill because there needs to be some clarification in the coverage and implementation of this position. I hope we will have the legislative record show through colloquies just what that means.

I support the specific time limits for action. I believe it is important to take action and take action promptly when it is necessary to do so. But, Mr. President, in section 301 the bill transfers the authority to determine, act, and implement from the President to the U.S. Trade Representative. This purpose apparently is to elevate and highlight the role of the U.S. Trade Representative in trade policymaking, but this is a foolish and a silly provision. After all, who appoints the U.S. Trade Representative? Who has ultimate responsibility for the entire array of executive branch agencies? It is the President of course, not the U.S. Trade Representative.

If one wishes to have a President who thinks a certain way on trade and acts a certain way on trade, then it is time to go out and work to elect a President who fulfills that requirement. One should not attempt in some phony fashion to make people believe that you are going to transfer that responsibility to a U.S. Trade Representative instead of a President.

This formulation of the balance between the President and the U.S. Trade Representative does not preclude the President from acting at any time during a section 301 investigation. Do the conferees intend to have any discussion at the Cabinet level or with the President on section 301 investigations? Or is it to be entirely and solely run by the USTR without any specific direction by the President?

I do not think there is a person in this body who would suggest that it is wise policy to let a U.S. Trade Representative appointed by the President go off and run an independent operation, without notification, without consultation, and without participation by the President.

We already have had an example this year of a special operation going on in the White House without the knowledge of the President and his senior officers. We do not need another one.

Mr. President, much has been made out of the worker rights provision in this bill that makes foreign labor practices potentially subject to a 301 investigation. I think we are running into potentially big problems in adding and expanding the worker rights provision. I appreciate the provisions that were added during consideration of the Senate bill: One, that the USTR make a determination that a country is making significant and tangible overall advancement in this definition of worker rights and the USTR determines that such acts or practices are not inconsistent with the level of economic development.

Mr. President, I think these are fundamentally misguided. It may be appropriate to put this in as a provision in the GSP statute, but not in section 301. In the first place, it is duplicative of the review under GSP. In the second place, it broadens extraordinarily the utilization of threats or the reality of reaction to different concepts of labor-management arrangements in other countries. What about those countries that have a different concept of labor-management relationships, such as China? Are we always going to say in our trade relationships with every other nation on Earth that they should match and mirror the labor practices of the United States? Not that labor practices in this country are not necessarily the best in the world.

Mr. President, I think we can run our trade relationships with other nations without attempting to believe that we can make every other nation act exactly in our own image.

Does this provision mean, for instance, that under the National Trade Estimates Study, the USTR will be required to analyze worker rights in every country we do business with and publish all practices in each country which it determines to be "unreasonable"? I think that would legitimately flow out of the provision in the trade bill.

Mr. President, under the provision in the bill called trade liberalization priorities, I understand what is attempted to be done. It is an alternative to the Gephardt amendment and the super 301 in the Senate. But it is still an ill-advised and perhaps mischievous provision. Mandatory self-initiation of a large number of 301 investigations is not a very good idea. The langauge in the statute, although it does talk about priority and priority nations, does not identify what the term "priority" really means.

The language goes further to say that the USTR "shall initiate * * * with respect to all of those priority practices * * * for each of the priority foreign countries."

Mr. President, this could mean a large number, a potentially huge number, of self-initiated 301 investigations.

The 1987 National Trade Estimates Report on Foreign Trade Barriers is a very large volume. It details hundreds of trade barriers. It details many different nations and industries where we think a potentially unfair trade practice exists. This provision, however, could put the USTR on automatic pilot, requiring a huge staff, and disregard all other country-to-country factors.

The provisions dealing with section 201, I think, came out relatively well. I say so because it leaves the President the discretion to deal broadly in the national interest, rather than the specific and narrow interests of a particular company or industry under fire.

There are other elements in the trade bill which I support enthusiastically. One gives us more honest and straightforward trade statistics, hopefully volume oriented rather than just dollar oriented. But at least if it is dollar oriented, it is dollar oriented in real terms, to show more accurately what is happening in terms of the real flows of exports and imports.

I like that provision, because I suggested it on the Senate floor where it was adopted there. Of course, every one of us likes our own provisions which were adopted in conference.

Mr. President, there is an ethanol plant grandfathering provision in the bill which egregiously contradicts the intent of the Caribbean basin initiative. It opens the door wide to the potential dumping of European Community wine through the Caribbean nations and into the United States. It would have an extraordinary potential adverse impact on American corn farmers, as well as on the Caribbean basin initiative.

With respect to other subconferences, I certainly think the streamlining of export controls in subconference No. 3 is a good idea. Senator CRANSTON and I introduced the bill earlier this year, and many of its provisions were adopted in streamlining these export controls and opening further opportunities for American industry. But along with it, in the same subconference, came the extraordinary discriminatory provision that would not allow Alaska to proceed in exporting refined oil products. Alaska, one of our largest oil producers, must ship its raw products to other States, let them refine it, and then ship it overseas.

I probably should be in favor of this provision, because it enables Washington refineries to refine Alaskan products and then ship them overseas. But I think it is discriminatory, unnecessary, and certainly does not belong in this bill.

Mr. President, in subconference 5, there is an international debt facility created, requiring the Secretary of the Treasury to initiate discussions with both advanced countries and lesser developed countries on creation of an international debt management authority.

It can, first, create false expectations on the part of LDC's. Such negotiations are sensitive and complex and are not really subject to a particular legislative outcome.

Secretary Baker has already undertaken a debt initiative that is making progress, and this could undermine his efforts. It may discourage efforts in the lesser developed countries to reform their domestic economies.

If we go forward, we should have a pretty good idea of who is going to pay and where the money is coming from. Specific mention of only two ideas does not resolve this problem.

In the same subconference there was a proposal to deny primary securities dealer status to several foreign primary security dealers, particularly three Japanese firms. I think there is some extraordinary, potential danger in attempting to do this. Yes, the Japanese Government could respond precisely the way we wish them to by modifying their system within 12 months. But they could also dig in their heels, which is the general reaction of independent nations, including our own, when we are demanded by another to act in a certain way.

The bill language is mandatory after 12 months, but I think we should remember who it is that is purchasing a substantial portion of the debt that the U.S. Federal Government incurs these days—about $150 billion a year. If, by enacting this provision, we discourage and reduce the interest of Japanese investors in purchasing a portion of that debt, we will send shudders like we have never seen—at least since October 19—through the financial markets of this Nation.

Mr. President, I will not even deal with plant closing and mass layoff provisions. Others have dealt with that in detail and well.

Mr. President, in subconference 10, provisions are meant to establish reciprocity in government procurement, to require the President to report to Congress on countries that practice discrimination in governmental procurement. Here, again, a separate study on governmental procurement practices is unnecessary. They are already included in the National Trade Estimates Report.

Again, as in section 301 investigations, mandatory retaliation will not necessarily reduce the governmental procurement barriers in those countries, especially in the area of governmental procurement.

A country can quite easily and will probably dig in its heels and simply put up their own barriers. This increases the prospect of mirror legislation enacted by foreign countries whom we allege to maintain unfair and discriminatory practices.

We certainly have our share of Buy American provisions for various industries. Just look at the last couple of conference reports. They are tucked into different sections of each of those conference reports.

Reciprocity is a two-way street, Mr. President. If we continue to enact such provisions they will certainly be subject to formal dispute settlement and eventual retaliation.

Mr. President, subconference 13 creates what used to be called a council on competitiveness, now it is called the Competitiveness Policy Council.

I offered amendments on the Senate floor to reduce the scope of the council and its budget. They were successful. I do not think we went far enough because the council establishment is simply unnecessary. We already have a host of advisory committees to provide useful advice to the executive branch.

Its scope and mandate are too broad—the council could easily become a forum for tripartite discussions among business, labor, and the Government. Could become a backdoor mechanism for industrial policy formulation.

Mr. President, we do not need a competitive policy council. We need to get at what we know very well are the elements in this Nation to create better competitiveness in a world market.

Finally, Mr. President, budgetary impacts on this bill are large: budget authority of $7 billion over the next 6 years and estimated outlays of $5.5 billion. These are the most recent CBO estimates; OMB estimates will likely be higher.

Most of those are in agricultural subsidies. Proposals in the education and labor area, which are only remotely connected even with trade and trade practices at all, also involve substantial budgetary impacts.

Mr. President, what should we do? I will vote against the bill. I will vote to sustain the President's veto. But I do not think that it helps us or the Nation for people on the floor of this Senate to say that this is the last train out of the station; that if the veto is upheld, there will be no chance to come back with another trade bill.

It almost sounds as if no one is willing to try. Sure, it may be difficult. But if the 3-year effort put into this trade bill up to now is valid, if those who have worked so hard to pass a trade bill continue to believe it is so important, then I am confident, in fact certain, that they will turn to the task just as I will and every other Member of this body to attempt to redraft in as short a period of time as possible a new bill that will receive Presidential approval.

It is hard to believe that Members of good will and extraordinary skill cannot and will not succeed in that effort.

Mr. President, I have a number of editorials and op-ed pieces from various newspapers that I ask unanimous consent at this point to be printed in the RECORD subsequent to my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. EVANS. Mr. President, I am ready to yield the floor. I am also certainly ready at some time in the near future to vote for a trade bill which can and should receive the President's approval. Unfortunately, Mr. President, this bill is not such a bill.

EXHIBIT 1

IMPROVING (REAL) TRADE PICTURE SUPPORTS CONTINUED U.S. ECONOMIC EXPANSION

In 1987, the U.S. merchandise trade deficit was $171.2 billion. The rise in the dollar value of the trade deficit from 1986's $156.2 billion tally has been the source of legitimate and widespread concern. Many had hoped that the dollar's depreciation from its February 1985 peak would have reduced the dollar value of the trade deficit by now.

The trade deficit's recent further deterioration, however, has been on a price rather than a volume basis. Rapidly rising import prices have caused the normal trade deficit to deteriorate even as the volume of exports swelled and imports moderated.

From the third quarter of 1986 to 1987's fourth quarter U.S. import prices in dollars rose by 13.3 percent while the dollar price of U.S. exports rose by only 4.0 percent.

Factoring out this price inflation, the data show that America in fact is experiencing an export boom, with the real trade deficit shrinking rapidly.

From third quarter 1986 to fourth quarter 1987:

Real (inflation-adjusted) merchandise exports rose by 22.5 percent.

Real imports grew only 5.5 percent.

The real trade deficit, as measured in constant third quarter 1986 dollars, has fallen by 20.2 percent.

Anecdotal evidence of the export boom abounds. For example, according to a recent issue of Forbes, Boeing reports that 72 percent of recent orders are from foreign companies ($11.4 billion), up from just 40 percent two years ago. At Digital Equipment foreign revenues are up to 47 percent of total revenues in the year recently ended. Cincinnati Milacron, the machine tool maker, has seen sales in the Pacific Rim, Far East and United Kingdom jump by 11 percent and reports taking sales away from German and Japanese competitors who were unable to undercut Milacron's prices. Hewlett-Packard reports that it is now producing the world's lowest cost computer terminals in Roseville, California, with a sharp increase in product reliability. Even Honda is reportedly considering exporting U.S.-made Honda autos because of the price advantage of producing in America. And, one now hears regularly from U.S. producers remarks to the effect that the value of the dollar has made exporting akin to "shooting fish in a barrel."

The improving real trade picture has made a strong contribution to the expansion of U.S. jobs and output, particularly in the manufacturing sector.

The shrinking real trade deficit was responsible for over 20 percent of the U.S. economy's annual growth rate from 1986/III to 1987/IV.

In contrast to earlier in the economic expansion, the goods sector (manufacturing, materials and agriculture) now leads U.S. economic growth. From 1986/III to 1987/IV, U.S. goods production grew at an annual rate of 4.8 percent while services output grew at an annual rate of only 2.8 percent. Over this period, over one-third of the expansion in U.S. goods production was directly attributable to the shrinking U.S. merchandise trade deficit.

Led by rapidly expanding exports, U.S. manufactured goods production is booming. Production of manufactures has risen by 5.8 percent over the past year (1986/IV to 1987/IV). Within manufacturing, iron and steel production is up 32.8 percent, nonelectrical machinery output has grown 9.1 percent, rubber and plastics production is up 8.5 percent, and chemicals output has risen by 7.8 percent in the last year.

The current export-led boom in manufacturing has brought several industries to capacity constraint. Manufacturing overall operated at 82.2 percent of capacity in January 1987, up from 79.2 percent a year earlier. (Utilization somewhat exceeds 85 percent at the top of a U.S. business expansion.) For some industries, however, capacity utilization is exceptionally high already (paper, 96.5 percent (Dec. 87); textile mill products, 94.1 percent (Dec. 87); and iron and steel 95.2 percent (Jan. 88)).

High rates of capacity utilization, growing demand for U.S. exports abroad, and improved price competitiveness for U.S. producers at home will result in added investment in the manufacturing sector. This increase in investment together with expanding net foreign demand for U.S. output will be important sources of economic growth for several years.

The improving real trade balance has created jobs in manufacturing. Over 350,000 new manufacturing jobs were created in the last year, reflecting expanded exports and output.

American exports reached an all time high—in both nominal and real terms—in the last quarter of 1987. Exports will continue to expand as imports moderate this year. In 1988, we should see not only continued progress in reducing the real trade deficit but also a turnaround and decline in the nominal value of the trade deficit as well. This process of adjustment in our international trade account will last over several years, tending to favor the expansion of production in manufacturing and other traded-goods sectors (agriculture, and semi-processed and raw materials).

Of course, there are many concerns that a domestic or global recession could occur over this period. These concerns are focused on slackening U.S. consumer demand, shrinking fiscal stimulus, the international financial environment and the age of what has now become America's longest peacetime business expansion.

For a healthy expansion of the U.S. economy to continue in this environment, growth increasingly will have to rely on continued reduction of the U.S. real trade deficit. The shrinking real trade deficit both increases net foreign demand for U.S. output as well as stimulates U.S. investment to expand capacity in the U.S. traded-goods sectors. To achieve this multi-year course of sustained growth and declining trade deficits will require both the maintenance of open trade policies at home and abroad and international macroeconomic policy coordination to stimulate demand overseas while reducing Federal budget deficits at home.

EXHIBIT 2

[From the Washington Post, Apr. 20, 1988]

A TRADE BILL WE COULD LIVE WITHOUT

(By Hobart Rowen)

In a few days, we will know the fate of the omnibus trade bill. After weeks of hard bargaining, its most obvious protectionist features have been softened, or booted out altogether. With the withdrawal at the last minute of a provision that would have interfered with foreign investments here, only one major element opposed by President Reagan remains: the plant-closings issue.

A provision in the Senate version would require large employers to give 60 days' advance, public notice if they intend to close down plants and let their workers go.

It's not the world's worst idea—or the most productive one. But it's a sop to labor that businessmen adamantly oppose, fearing the precedent-setting potential "of letting government get its nose in under the tent." Organized labor, defeated on many trade issues, needed one symbolic victory, and the Democratic leadership (through this writing) has yielded to union pressure.

Some version of the plant-closing notification idea is supported by all three remaining Democratic presidential candidates.

If Reagan signs the bill, he will have put the trade issue (but not trade problems) to rest for the moment. It will give him authority to enter new multilateral negotiations, and facilitate passage of the bilateral U.S.-Canada free trade deal.

Reagan and his principal trade negotiator, Treasury Secretary James A. Baker III, have said flatly that the plant-closing language will bring a veto. If Reagan carries through his threat, he faces some risks the bill might be passed over his veto, allowing Democrats to claim campaign credit for having seized an important initiative. The most Machiavellian among the Democrats privately hope that Congress will sustain a Reagan veto.

That way, if no substitute legislation develops, the Democrats will claim that Reagan jettisoned three years' labor on Capitol Hill that would have helped workers thrown out of jobs because of unfair import competition.

Such a claim would be false: America's huge trade deficits have much deeper roots that would be untouched by the trade legislation. Large deficits will persist until the budget deficit is cut, America ends its spending spree and other basic policy changes are made in Tokyo and Bonn.

And such changes must be accompanied by more intelligent moves by industry here: America's auto moguls, for example, went for higher prices and fat profits when the higher yen drove up Japanese car prices, instead of looking for a bigger market share at lower prices. In effect, Lee Iacocca and his American competitors had that "level playing field" they've been yakking about—but never put their cars on it.

The other element that might have provoked a veto was a proposal by Rep. John Bryant (D-Texas) to require public disclosure of foreign ownership of U.S. assets, and even more detailed accounting at a 20 percent ownership threshold. That proposal has now been knocked out of the bill—putting the up or down decision for the president squarely on the plant-closings problem.

That is a good result, and makes the trade bill, if it survives a veto, that much more tolerable. Nominally the disclosure provision was aimed at "foreign ownership," but of course the real target was Japan, whose wealthy nationals and companies have been increasing their acquisitions of all kinds here.

This fanned a xenophobic reaction among some legislators and journalists, who are not bothered by Canadian, British, Dutch, French or other foreign acquisitions. But that anti-Japanese sentiment is not likely to die down, and curbs on Japanese ownership here will still be sought one way or another.

It's instructive to note that when Irving Bank Corp. of New York this week decided to sell 51 percent of its stock to a foreign company, Banca Commerciale Italiana of Rome, it caused hardly a ripple, even though if the deal goes through, Irving would be the largest U.S. bank under foreign control. But imagine the ideological brouhaha if control of the Nation's 24th largest bank were to pass into the hands, say, of the Fuji Bank of Tokyo.

Having successfully opposed the Bryant Amendment, the Reagan administration must be on guard against overzealous ideologues within its own family. Last year, it should be recalled, some influential Reagan aides slipped into a transparently Japan-bashing mode, frustrating Fujitsu's acquisition of Fairchild, an American semiconductor company—even though Fairchild was owned by Schlumberger, French conglomerate.

The bottom line is that it will be no great tragedy if the entire trade bill now runs aground on the plant-closings issue, though there will be a torrent of bitter complaints from Democrats about "lost opportunities." True, if a veto is sustained, it could hold up the U.S.-Canada pact, and that would be regrettable. But authority to continue multilateral trade negotiations doubtless will be found. America can survive very nicely without a trade bill, especially a bad bill. Other business is more urgent.

[From the Wall Street Journal, Apr. 20, 1988]

GOVERNMENT BY OMNIBUS

Now we know what the U.S. government was like under the Articles of Confederation in the 1780s. Before the Constitution introduced a strong executive, government power rested with the states and a federal legislature beholden to state and special interests. That legislature would have loved the Omnibus Trade and Competitiveness Act of 1988.

Otherwise known as the "trade bill," this 1,000-page blob has now reached a political impasse. The White House has vowed to veto the bill if the measure requires mandatory notice of plant closings. Nonetheless, truckling to Big Labor, the Democratic leadership decided to retain the plant closing provision. Since President Reagan will be cast as the Villian in any veto fight, let's recall how the 535 legislative deliberators got us here.

It started three years ago when various congresspersons decided they had to "do something" about the trade deficit. So what did they do? They turned matters over to 20 or more separate committees, held hearings and consulted with their PAC contributors. Their product—"legislation" somehow isn't an adequate description—ran on endlessly, much of it having nothing at all to do with trade. The bill was then lovingly massaged by 17 subconferences and 200 conferees, probably the largest conference in U.S. history. Under a veto threat, conferees removed some of the worst provisions, but in the end they just couldn't say no to the clamoring interests.

They also couldn't resist once again sandbagging executive power. We've described how the bill transfers authority for trade decisions from the President to the U.S. trade rep, who is subject to Senate confirmation. But the prize for brazenness goes to Texas Senator Lloyd Bentsen, who slipped a mickey into the bill that limits President Reagan's choices for the next chairman of the U.S. International Trade Commission. The ITC is the body that decides if an industry deserves trade protection, and Mr. Bentsen wants to make sure Mr. Reagan can't appoint someone who has, say, sympathy for consumers.

The exercise can be summed up in the word "omnibus." Think of it as a cousin to the annual budget "continuing resolution." An omnibus bill is a vehicle to carry anything and everything—political favors, pet ideas, the kitchen sink—while at the same time making it more difficult for a President to sustain a veto. Since every member gets something, fewer are willing to take on the special interests by voting to sustain a veto. The President, and the national interest he was elected to speak for, gets hung out to dry.

We hear this is what's happening now among Senate Republicans. Several are said to be wavering in support of a veto, lest they offend anyone close to their heart who gets a handout in the bill. If Republicans can't understand how a veto override might damage the economy and markets, then they may deserve whatever routs they suffer in November.

But the American people deserve better. They deserve a President who will use the veto the founders gave him because they understood from painful experience how legislatures, in James Madison's phrase, "seem sometimes to fancy that they are the people themselves."

[From the Wall Street Journal, Mar. 4, 1988]

TRADE AND GOVERNANCE

Missouri Democrat Richard Gephardt has made trade the focal point of his campaign, sounding the protectionist cant of the Gephardt Amendment to the congressional trade bill at every whistle stop. Campaigning in South Carolina, Bob Dole in one breath slammed the Gephardt Amendment then announced he would "lead the fight" to pass a textile bill and said "we will use the power of the presidency to reduce access to our market by the offending countries." Pat Robertson has joined Senator Dole in competing for the trade-jingoist vote in South Carolina, calling for textile tariff barriers.

It is striking to compare this "tough," grandiose rhetoric with the actions and thoughts of another group of politicians—U.S. governors.

Last fall, when Congressman Gephardt was making a name for himself by promising sanctions against U.S. trading partners, Japanese officials were meeting in Tokyo with the governors of Southern states—Gerald Baliles of Virginia, Guy Hunt of Alabama, James Martin of North Carolina, Carroll Campbell of South Carolina and Ned McWherter of Tennessee. Each was touting the investment opportunities of his state. Democratic Governor Baliles was blunt: "We want you to do what so many who have come before you have done—make lots of money."

At the annual meeting last fall of the Midwest U.S.-Japan Association, there was little talk of trade sanctions. "Americans are going to have to get on their selling suits, get overseas and sell," said Indiana Republican Governor Robert Orr. "We're extremely dependent on trade," Washington state's Democratic Governor Booth Gardner said recently in the National Journal. "Foreign countries become our customers." Taiwan, for instance, is Washington's biggest customer for Delicious apples. Ohio, with one of the most activist supporters of trade initiatives in Democratic Governor Richard

Celeste, has annual exports amounting to $1.8 billion a year. Nearly 80 Japanese firms do business in Ohio.

We suspect that more than a few Southern voters are aware that nearly 375 Japanese businesses have offices in the South, and nearly a third of these are in manufacturing. These Southern-based foreign firms have invested more than $3 billion in the region, and provided more than 30,000 jobs.

In Congressional testimony last fall Governor Gardner, who chairs the National Governors Association's committee on international trade, said, "The states should be recognized as full partners with the federal government in the drive to promote and expand exports." We realize that the government in Washington, D.C., still carries a big stick in U.S. trade policy. But Governor Gardner and his colleagues seem to be doing a responsible job of representing their constituents' interests in the trading system. Possibly the governors should think less of going into partnership with the federal government, continue doing what they've been doing, and let the electorate render its judgment on what the presidential protectionists are trying to do with the world economy.

[From the Washington Post, Mar. 29, 1988]

VOTING ON TRADE

One big surprise in the month's primaries has been the absence of votes for trade protection. There has been a lot of concern about the economy in general, but protectionist legislation has not been winning elections for its authors and promoters. Because the Democrats' trade bill is now in conference, the primaries have been having an unusually direct influence on current legislation—and it's an influence very much for the good.

In South Carolina, Robert Dole and Pat Robertson both endorsed a grossly protectionist textile bill that is now moving slowly through Congress. But in the Republican primary on March 5, it was George Bush who won, and by a wide margin.

On Super Tuesday, three days later, it was much the same. Of the Republicans, the vice president cleaned up once again. Among the Democrats, one winner was Jesse Jackson, who has kept his distance from protectionist causes. Another was Michael Dukakis, who has talked in general about the need for occasional restraints on imports but has not embraced either the textile bill or the Gephardt amendment. The third winner was Albert Gore, who had indeed pledged allegiance to the textile bill. But the clear loser was Richard Gephardt, whose campaign from the beginning had been based on a resentment of imports and his amendment to force other countries to reduce their trade surpluses.

Michigan had seemed favorable ground for protectionism—because of the automobile industry and a powerful labor movement. In deference to that apparent reality, Mr. Dukakis shifted, in emphasis if not in substance, by repeating his support for retaliation against foreign countries' trade barriers. That's the Senate's compromise substitute for the Gephardt amendment, and Sen. Donald Riegle of Michigan is one of its authors. Mr. Dukakis endorsed Sen. Riegle's amendment, and Sen. Riegle endorsed Mr. Dukakis' candidacy.

Not that it did him much good. When the votes were counted last weekend, Mr. Dukakis was far behind Mr. Jackson. Mr. Gephardt was a poor third.

Back here in Washington, the conferees on the trade bill had warily put off the hardest decisions until after Super Tuesday. On the hardest of the hard they procrastinated until this week, after Michigan. There's still a lot of uphill work to be done on the bill, but it won't be quite so difficult as it had seemed at the beginning of the month. It's no longer plausible to claim that the election is going to turn on the trade issue.

[From the Washington Post, Mar. 10, 1988]

FAIRNESS AND THE TRADE BILL

Fair rules in world trade are highly desirable, but they aren't always as easy to legislate as they look. In writing its version of the trade bill now in conference, the House voted for a rule of reciprocity in one apparently minor financial provision involving primary dealers. Those are the brokerage firms with which the Federal Reserve system does business as it buys and sells, in massive volumes, U.S. government securities. Of the 42 primary dealers, 10 are foreign owned and four of these are Japanese. The House bill would give foreign firms the privilege of being primary dealers only if their home countries give reciprocal treatment to American firms—that is, if they treat the American firms as the United States treats foreigners. Japan is the main target of that language.

It has generated alarm in the administration, which believes that the consequences would be far from minor—for reasons that remind you of the United States' changing position in the world. The Japanese financial system differs significantly from the American, and reciprocal treatment isn't really possible. It's more than a quarrel over technicalities, because the Japanese dealers in New York are a major conduit of Japanese funds coming into this country to buy Treasury securities.

To hold the dollar and the American economy stable—including inflation and unemployment rates—will require an inflow this year of about $150 billion from abroad. The largest single source will continue to be Japan. Anything that threatens or harasses the dealers who are the middlemen between Japanese investors and American markets promises to diminish that flow and raise its cost to Americans.

This provision is certainly related to trade, for that $150 billion is necessary to finance the American trade deficit. At present it is very uncertain that the rest of the world will in fact provide that much money under the best of circumstances. The authors of the trade bill want to see the deficit come down, but it needs to come down a long way before Congress can afford to tinker with the mechanisms that affect its financing. The Senate bill has a similar provision that, instead of reciprocity, calls for what's known as national treatment; in return for privileges here, other countries would treat American firms as they treat their own. That may not fully meet the House's idea of fairness. But it is workable in practice, and less of a menace to the stream of foreign investment on which this country is now unfortunately, desperately dependent.

[From the Washington Post, Mar. 26, 1988]

WHY THE TRADE DEFICIT?

While the trade bill contains dozens of ideas for reducing the United States, enormous trade deficit, it has little to say about the mistakes that caused it. But there is fortunately one important exception, and if the bill finally becomes law it will have an impact on the way the country makes its foreign economic policy. It originated with Rep. Donald J. Pease, who wants both the administration and Congress to acknowledge the implications of the federal budget for foreign trade.

The American trade deficit was homemade. It wasn't imposed by Japanese protectionism or European dumping on foreign exchange manipulation. All of those things are deplorable, but they have been around for a long time, and American trade was in balance as recently as 1981. What's happened over the past six years has been the result of mismanagement of this country's internal finances. Big federal budget deficits and tight monetary policy generated high interest rates and high exchange rates. The overpriced dollar made it hard for American companies to compete with foreigners.

That put great stress on thousands of American manufacturing companies, not all of which have survived, and on the people working for them—or, in many cases, no longer working for them. The trade bill now moving through conference is the political reaction to their misfortunes.

The Pease provision begins with a simple proposition. If you know the budget deficit, you can calculate a rough but useful forecast of the amount of foreign money that the United States will need to borrow to get through the year without disrupting its economic growth. Foreign borrowing equals the trade deficit. Mr. Pease would require both the President in his annual budget and Congress in its budget resolution to make those calculations. It's a requirement that the people who draw up the budget take the responsibility for the trade consequences.

When the Reagan administration embarked on its big budget deficits, very few people in this country understood these connections. Six years later, things have become a little clearer. Mr. Pease wants to make them explicit. His provision, incidentally, has now been accepted by both House and Senate conferees and is one of the few parts of the trade bill that is fixed and finished. Over the coming week, the conference is going to try to complete the monumental job of putting this sprawling bill into final form. With this brief addition to it, Congress looks back to the fundamental causes of the present damaging trade deficit and takes out some insurance against a repetition.

[From the Washington Post, Mar. 23, 1988]

FOREIGNERS' MONEY

Foreign investors have put half a trillion dollars into the United States in the past three years. Congress thinks that it ought to exercise closer control of this surge in foreign ownership. But it's pursuing the wrong remedies. Two provisions on foreign investment are wrapped into the trade bill, and both are undesirable.

Taken together, they tell foreign investors that they are not welcome—a message to which people with money are usually sensitive. The United States can't afford to send foreigners away as long as its requirements for capital outrun its own savings by more than $150 billion a year. Foreign money is now filling that gap. If the foreigners took their money elsewhere, the first effect would be a sudden capital shortage here, with a drastic rise in interest rates. The second would be a recession.

One of these investment provisions would require increased disclosure by foreigners who buy companies, large amounts of stock or real estate. The trouble with this proposal is that it's discriminatory. It would require foreign owners to lay out on the public record much information of value to their competitors—but it wouldn't require similar disclosure by American investors. It would also be retroactive, applying to past investments as well as those in the future.

There's nothing wrong with reporting requirements, as long as they bear equally on everyone. Foreigners sometimes grumble about the things that they have to tell the Securities and Exchange Commission, which is much more demanding than its counterparts in most other countries. But the SEC rules apply to foreign and domestic companies alike.

Another provision in the same bill is aimed at takeovers of American companies by outsiders and would have the Commerce Department make a judgment of the impact of the investment on "national security, essential commerce, and economic welfare." The President could then veto the deal. The administration argues that this kind of language is not needed, since the President already has plenty of authority to protect national security. As for essential commerce and economic welfare, those terms are a bit vague and sound like an invitation to harassment of buyers from abroad. Not all takeovers are desirable. But again, the same rules ought to apply to everybody.

The conference committee on the trade bill has done a lot of fine work over the past month—but there are still provisions in the bill that would be deeply harmful. These two, in their present form, would justify a veto.

THE IRRELEVANT TRADE BILL

(By Rowland Evans and Robert Novak)

On his second day back from Easter vacation, President Reagan interrupted a briefing on the 1,000-page trade bill to note that chances for sustaining a veto were less because one little-publicized provision—irrelevant to the bill but not to politics—repeals Jimmy Carter's windfall profits tax on oil.

Although oil windfalls are a bygone memory, the repeal guarantees a veto override vote by lawmakers from the economically ravaged Oil Patch. Such political anomalies abound in the bill, which is supposedly intended to close America's trade deficit. Final negotiations on the bill between Congress and the White House focus on labor-backed intervention in corporate decisions and using national security to justify Japan-bashing.

This legislative centerpiece in the Reagan administration's lame-duck year exposes congressional irrelevancy to the real world. U.S. "competitiveness" was not even mentioned as Treasury Secretary James A. Baker III and U.S. Trade Representative Clayton Yeutter traveled to Capitol Hill this week to haggle with congressional leaders over the bill's non-trade provisions.

Such a climax scarcely fits the bravado of November 1986, when an ebullient Sen. Robert Byrd celebrated his elevation from minority leader to majority leader by promising prompt action on landmark trade legislation. In fact, from the notorious Gephardt Amendment on down, protectionist provisions aimed at Presidential powers have been deleted or diluted. Transferring authority from the President to his appointed trade representative is a relatively harmless surviving remnant of protectionism.

Although White House aides credit Reagan's occasional veto threats, the administration for years has slowly retreated from free trade culminating in last year's self-damaging retaliation against Japan over microchips. The real cause for the protectionists' defeat was the same as their inspiration: electoral politics. As usual, protectionism proved less popular with voters than with special-interest groups. Rep. Richard Gephardt's demolition on Super Tuesday, preceded by the South Carolina Republican primary's rejection of textile protection, ended Democratic desires to use the trade bill as a 1988 campaign manifesto.

It then became a battleground for issues only indirectly connected with the latest chapter in the historic struggle between mercantilism and free trade. The AFL-CIO's long-desired requirement to force companies to give advance notice of plant closings has become the bill's focus. Baker and Yeutter have made clear that it mandates a veto.

In view of wide Democratic support, plant-closing notification cannot be removed but could still be amended. Even that compromise, however, would not guarantee a presidential signature.

Another non-trade provision, a proposal by Rep. John Bryant of Texas to divulge details of private foreign investment in the United States, is not now in the bill. But considering support from two of the most powerful figures on Capitol Hill, Speaker Jim Wright and House Commerce Chairman John Dingell, it could be resurrected before the bill goes to the president. If it is, Baker has made clear a veto is certain.

What is in the bill and is certain to stay there is the ban on Toshiba products from the American market for three years because one of the company's subsidiaries sold the Soviet Union strategic equipment used to silence submarines. While the official administration line labels it unacceptable, the Toshiba ban ironically could make the bill veto-proof.

As a dose of cost-free Japan-bashing that does not deprive constituents of autos and television sets, the Toshiba ban is so popular in Congress that only a handful of members would vote against overriding a veto because of it.

Apart from Secretary of State George Shultz, nobody in the administration wants to fight on the barricades against the Toshiba ban. In truth, there is little taste at the White House for a veto on any grounds. Senior Reagan aides do not relish a bruising fight against the same congressional leaders with whom they must collaborate in winning approval of the truly important U.S.-Canadian free trade agreement.

Nor do they relish another override of a lame-duck president's veto. So, if a face-saving compromise on plant closing is reached and the Bryant Amendment stays dead, the inclination by the president's men is to accept the whole mess, including special-interest provisions for individual companies and subsidies for workers supposedly put out of work by foreign competition years ago. That this irrelevant bill is no "son of Smoot-Hawley" is thanks more to the way politicians read public opinion than to their wisdom.

[From the Washington Post, Mar. 22, 1988]

A TRADE BILL LOADED WITH EXCESS BAGGAGE

(By John A. Young)

The decline of the dollar presents American industry with a rare window of opportunity for increasing exports. But in order to capitalize on that opportunity, the United States must promote a more open, nonprotectionist and fair environment for international trade. The core provisions of the trade bill now under consideration by House-Senate conferees could have that effect.

Three years ago, the President's Commission on Industrial Competitiveness urged that competitiveness issues be elevated to the top of the national agenda through government action in four key areas.

Thanks to enlightened leadership on the part of the Senate Finance and House Ways and Means committees, most of the commission's calls to action have been heeded in the current trade bill. Key provisions call for:

Making the administration a key player in current GATT negotiations to expand international ground rules with respect to services, investments and intellectual property.

Creating clearer export control guidelines.

Encouraging future presidents to deal aggressively with unfair trade practices.

Improving competitiveness through better education and employee training.

Why, given all this, is the business community split over whether to support or oppose this legislation? Why are Wall Street and the financial markets generally fearful of its passage? And why is the Reagan administration approaching it with such circumspection?

The answer lies in the unnecessary and counterproductive provisions heaped upon the vital proposals that make up the core of the bill. In effect, we have built a high-performance race car and then loaded down the vehicle with extraneous features that rob it of its original power.

In evaluating the trade bill provisions, I suggest that we subject them to a simple test: Will this proposal help American industry forge ahead in international markets? It appears that the conferees are indeed using this test. However, there still remains some excess baggage, which falls into three categories:

Stringent limits on executive branch discretion in implementing the trade laws.

Special protection for certain products and industries.

Disincentives to foreign investment.

Attempts to limit the administration's discretion in trade law enforcement are rooted in Congress' recent frustration with executive inaction in this area. However, since 1985 the Reagan administration has shown a greater readiness to take action against unfair trade practices than any previous administration. Future administrations will be more inclined to follow this example. Therefore, instead of looking for ways to tie the hands of the president and the U.S. trade representative, we should seek to give them greater authority.

Trade laws should be more responsive to changing economic conditions. We particularly need better ways to facilitate industry adjustment, address unfair trade practices, negotiate bilaterally and respond to foreign government programs that give some of their industries an unfair competitive advantage over American industries. Such an approach would improve our competitive position.

The second category of excess baggage—special protection for certain products and industries—also fails the competitiveness test. The price of preferential treatment must be borne by other industries—and, ultimately, the American consumer. Further, by granting special treatment to U.S. industries, we will invite retaliation by our trade partners just as our exporters are coming into position to take advantage of the lower dollar. The losers under this scenario would be the American worker and U.S. industry—the supposed beneficiaries of preferential policies.

The third anticompetitive feature of the proposed trade legislation—disincentives to foreign investment—runs counter to our traditions as well as common sense. These restrictions are self-defeating. Indeed, many countries that formerly imposed curbs on capital and technology flows have come to recognize the limitations they place on economic growth. And some, such as Japan, have taken steps toward dismantling controls of this nature.

By requiring registration and screening of capital inflows into the United States, we would be endorsing investment controls—something never before tolerated in our market credibility with newly industrialized and less developed countries, this would sow the seeds of conflict within our own borders. States interested in economic development undoubtedly would resist any attempt by federal authorities to dictate where they could turn for sources of investment capital. On the other hand, a recast measure could be useful in opening up foreign markets for U.S. investments.

The above kinds of provisions have no place in a bill designed to improve our nation's competitiveness in world markets. They should be rejected by the House-Senate conferees. However, it's extremely important that we do not allow these imperfections to diminish our support for the procompetitive features of the trade bill.

The core provisions of the trade bill are in fact excellent and deserve our wholehearted support. Pared down to its essentials, the trade bill can:

Provide a solid foundation for sustained improvement in our balance of trade.

Ensure that trade issues are no longer subordinated to other U.S. interests.

And perhaps most important for the immediate future, enable U.S. exporters to better capitalize on the opportunities afforded by a lower priced dollar.

No single piece of legislation will solve all of our trade problems. We still must deal with a number of other significant issues, and the budget deficit is foremost among them. But through judicious pruning, members of Congress have an opportunity to enact trade legislation that will bear fruit for American business and consumers for many years to come.

[From the Washington Post, Feb. 28, 1988]

THE TRADE BILLS' BAD IDEAS

(By Hobart Rowen)

Within two weeks after Super Tuesday, the House-Senate conference committee on the trade bill will conclude its work on competing versions of restrictive legislation and decide on a final package to send to President Reagan.

There is a tendency to believe that if the most highly publicized proposals in the legislation—such is the Gephardt amendment to punish trade-surplus nations—are taken out or watered down, President Reagan would have a hard time justifying a veto.

The bipartisan House Export Task Force, headed by Rep. Don Bonker (D-Wash.), notes in its annual report for 1987 "a true sense of frustration on the Hill" because the administration and the media portray the trade legislation "in less than positive light." Bonker cites positive features of the bill, including the protection of patent rights and other "intellectual property," money for job training, improvements in the education system and funds for a consortium to stimulate research in semiconductors.

In addition, the legislation provides the necessary authority for a new multilateral round of trade negotiations.

But the Gephardt amendment aside, there is so much else that is bad and counterproductive in both the House and Senate bills that it is difficult to see how they can be cleansed sufficiently to warrant the signature of a president who claims to believe in free and open trade—or the support of Democrats who claim they don't deserve a "protectionist" label.

The omnibus bills are comprehensive, establishing new laws and procedures that would depart from our normal practices not only on trade, but on investment, finance, exchange rates, export controls and shipping. A committee report comparing House and Senate proposals runs 504 pages and weighs more than eight pounds.

The changes move in a single direction—toward increased barriers to trade and greater limitations on the president's authority. They not only do not deal with the real problem, but are certain to invite retaliation if and when the United States ever moves into a trade surplus.

Specific examples are the best way to illustrate the depth and scope of the proposed "trade and competitiveness" legislation:

Fair trade. Under the current law, the president must take the national economic interest into account in determining whether to grant relief from alleged injury resulting from imports. But under both Senate and House bills, the national economic interest would not be considered, and costly settlements—such as one Reagan avoided in 1985 that would have amounted to $2.8 billion to save a handful of jobs in the shoe industry—are sure to go forward.

Unfair trade practices. Under the current law, responses to charges of unfair trade practices are carefully reviewed by the Cabinet, then sent to the president for a decision. The legislation transfers almost all of the decision-making process to the U.S. trade representative, shortens the deadline and adds new ways to retaliate. (The Gephardt amendment is an extra element that would mandate a reduction in the "excessive" surpluses of some countries, as unilaterally defined by the United States, whether the trade is fair or unfair.)

Antidumping. The current law targets only the importation of a specific product after an investigation proves injury caused by a foreign shipper charging less here than at home. But the legislation redefines "dumping" to include pricing practices that until now were considered completely normal or justified, and then allows retaliation to be extended to other products, not just the one "dumped."

Foreign investment. The legislation would put new controls on financial flows into the United States, completely reversing a traditional open investment policy. The House bill would require detailed public disclosure of investors, by name and nationality, including portfolio investment over $50 million. This could have a chilling effect on foreign investors, who rode to the rescue of the U.S. budget deficit in the past few years. Both bills shift from the Treasury to Commerce the chairmanship of an interagency committee that reviews foreign acquisitions, and gives more power to the president to block such acquisitions to protect not only national security but "essential commerce."

Exchange rates and the dollar. The bills direct the president to achieve "a competitive exchange rate"—which is tough to define, let alone negotiate.

World Bank lending. Indirectly, the Senate bill would result in a rigid, protectionist stance on loans by all multilateral banks, rather than considerations based on the economic need in the developing world. A new rule would require the United States to oppose bank loans unless the bank affirms that the money will not finance production of commodities "in surplus on world markets." As in the Gephardt amendment, the United States alone would define what is excessive. But if the bank went ahead with such loans, the United States could not participate in a capital increase in the bank, thus reducing U.S. voting power in such institutions.

Global investment guarantees. The Senate bill would in effect scuttle the soon-to-be started Multilateral Investment Guarantee Agency of the World Bank by setting conditions for U.S. participation that other countries won't accept. For example, the bill would bar U.S. participation in MIGA if the insured investments produce goods that might compete with U.S. products, or where worker "rights" are less than in the United States.

Steel and coal. More products would be included in existing steel quotas imposed by the United States, quotas that already have caused a shortage of steel and higher prices. In addition, both bills would force foreigners to pay for their quota privileges by buying specific amounts of U.S. coal.

Surplus capacity. In a device conjured up to help the U.S. copper industry, the Senate bill would require the trade representative to generate an unfair-trade practice charge against subsidies for new production in nonagricultural surplus industries. State Department officials say this would hold foreigners to a standard we do not accept at home.

Export enhancement. Both bills, despite budget stringencies, provide an extra $1 billion for subsidies to commodities currently competitive on world markets. This is a gift to buyers—including Japan and the Soviet Union—that now pay full price for agricultural imports.

Maritime practices. Both bills set up their own standard of "unfair" foreign shipping practices that would generate U.S. penalties. This is bound to invite retaliation and raise shipping costs for American exporters, thus exacerbating lack of U.S. competitiveness in some areas. The House bill mandates sanctions against foreign carriers whenever their market share exceeds that of U.S.-flag carriers by 15 percent in 600 to 700 categories of cargo.

Candy. The hypocrisy award goes to the Senate bill, which would direct the president to pressure Europe to reduce tariffs on liquor-filled chocolates made in the United States, even though Food and Drug Administration regulations bar the importation of such candies here.

This is not an exhaustive list. There are other controversial issues, including the pros and cons of liberalized export controls; the Senate's plant-closing provision, which requires large companies to give advance notice of a shutdown or mass layoffs; and Japan-specific provisions designed to pressure action on current issues under negotiation, including U.S. participation in construction of the Kansai Airport and more purchases by Japan of U.S. fighter aircraft.

There also is an innovative proposal for debt relief that the administration doesn't like, but a variation of which may ultimately form the basis for future resolution of the debt crisis, even if it's misplaced in this legislation.

The true and total cost of "procedural protectionism" and special favors conferred by these bills likely won't be known until the legislative fine print dries, and then yields its secrets over the years. The answer to the trade deficit will be found not in punitive legislation aimed at marginal problems, but in changing faulty economic policies and in enhancing the skills, productivity and commitment of our own economy. The trade problem mostly isn't "them" but "us."

[From the New York Times, Apr. 15, 1988]

Punishing Toshiba Is a Secondary Boycott

To the Editor: House and Senate conferees on the omnibus trade bill have voted to punish Japan's Toshiba Machine Company for selling restricted equipment to the Soviet Union by forbidding it to make sales in the United States for three years. The conferees also voted substantial trade penalties against Toshiba Machine's parent, Toshiba Corporation. These are ill-advised measures that, if not removed by the "superconference," should weigh heavily in favor of Presidential veto.

As you point out ("Still a Bad Trade Bill," editorial, April 2), it is highly inappropriate for the United States to punish Japanese companies for actions in Japan that violate Japanese, but not American law. It is especially inappropriate if those companies have been penalized by their own government. Many would consider such punishment unlawful, an unwarranted extension of national jurisdiction and a violation of the General Agreement on Tariffs and Trade. The proposed penalties also fly in the face of longstanding American policies.

For 40 years, the United States has restricted exports of goods and technology to the Soviet Union and other perceived adversaries on national security grounds. During all those years, it has tried to persuade other governments to maintain equally vigorous restrictions. Almost without exception, though, even at the height of the cold war, the United States has refrained from penalizing foreign companies for trading with controlled countries when no American goods or technology were involved.

Such penalties, like those proposed for Toshiba, are in essence secondary boycotts, refusals to deal with third parties who deal with the primary targets of our embargoes. Secondary boycotts are accorded only limited protection in the United States, and we strongly oppose them in international contexts. Congress has enacted a statute to block foreign secondary boycotts, aimed primarily at the boycott by Arab countries of American companies doing business in Israel. We regard the Arab secondary boycott as an unjustifiable disruption of international commerce and an illegitimate intrusion into our internal affairs. The Japanese undoubtedly see the proposed Toshiba sanctions in much the same way.

The United States should urge more vigorous enforcement of Japanese export control laws. Measures like the proposed Toshiba penalties, however, are counterproductive. Any benefit from those sanctions would surely be outweighed by Japanese resentment, the weakening of the American position on the Arab boycott, the likelihood of legal action and the adverse reactions of other countries that see the United States assuming the role of global trade policeman.

Kenneth W. Abbott,
Professor of Law, Northwestern U., Chicago, April 4, 1988.

Again, Overproduction

To the Editor: In "A New Depression? Entirely Possible" (Op-Ed, March 31), Sam Nakagama repeats the old argument that the Smoot-Hawley Tariff Act, signed in June 1930, caused the Great Depression. His warning that new protectionist legislation may cause another crash is the usual mixture of good economics and bad history.

Six weeks before Smoot-Hawley was signed, the financier Bernard M. Baruch called for a "worldwide supreme court of business" to solve the overproduction crisis. Early in 1931, the National Industrial Conference Board called overproduction the major problem. While economists disagreed, excessive competition (too many producers chasing the same customers) was widely blamed in the early 30's; Presidents Herbert Hoover and Franklin D. Roosevelt labeled it the cause of the disaster.

Tariffs and other forms of "protectionism" occur only after overcapacity and overproduction (glut) take hold. It is as silly now as it was in 1930 to argue that the United States, Europe, Japan and other countries can produce and sell an infinite quantity of exports while buying an infinite quantity of imports from one another.

Tariffs are indeed clumsy responses to the chaos of global surplus, just as colonialism (selling at gunpoint) was at the turn of the century. Baruch, Hoover, Roosevelt and others correctly implied that long-term multinational quotas might be needed. One day, the fallacies of economic theory must give way to some respect for common sense and history.

Frederick C. Thayer,
Professor, Graduate School of Public and International Affairs, University of Pittsburgh, Pittsburgh, March 31, 1988.

[From the New York Times, Apr. 19, 1988]

Yes, Veto the Trade Bill: But Then?—There Are Good Reasons To Oppose It

Congress' Democratic leaders have decided on a blunt showdown after three years of wrangling over the foreign trade bill. They plan to send the President a final version with one controversial amendment that he flatly rejects. The truculence on both sides is regrettable. The result may be no trade bill at all, and a deplorable policy vacuum.

The final dispute concerns an issue only partly relevant to trade policy. It would require businesses to give 60 days' notice when they anticipate large layoffs or when they plan to shut a plant. Organized labor insists on this and the three Democratic Presidential candidates have jumped in with last-minute support.

Business organizations insist, however, that it be deleted, and the President threatens to veto the whole bill if it is not. What a pity that would be; there are much better reasons to reject the bill as it stands now. Representative Dan Rostenkowski and Senator Lloyd Bentsen, the two men principally responsible for trade legislation, have made valiant efforts to meet Administration objections. Under their guidance, Congressional conferees have dropped many of the most protectionist parts of the original House and Senate bills, but many remain.

The worst is a formula to crack down on imports from countries whose import curbs or export subsidies are perceived to be "unfair," even while America continues to pursue unfair practices of its own. Another bad feature would apply U.S. penalties against any foreign company that violates its own government's strategic export controls. Imagine the outrage in Congress if foreign governments tried to punish the many American companies that violate these controls.

Another offensive provision would limit the freedom of foreign concerns to operate in the U.S. Government bond market, just when America needs all the foreign capital it can get. Other provisions would unwisely limit the President's authority to decide whether it is in the national interest to curb imports of specific foreign products. These are not the only offenses in the bill, but they suffice to make the point that Congress should try again.

PLANT CLOSINGS IS NOT ONE OF THEM

The Times has been on both sides of the debate over the so-called "plant closings" amendment. Last summer we argued that the Senate's final version was reasonable, but recently we called it an encumbrance. There is more symbolism than reality to this issue now, but we were wrong to include it among provisions that warrant a veto.

On reflection, we're persuaded that businesses too often lay off employees with little or no warning. Additional Federal regulation won't make America more competitive but the proposal in the foreign trade bill could, without undue burden, help employers become more humane.

[From the New York Times, Mar. 21, 1988]

More Cause to Pause on Trade

When Congress started work on the foreign trade bill three years ago, the trade deficit was bad and rapidly getting worse. The Senate and House are still negotiating a final bill, even as the deficit threat is finally easing. The gap between imports and exports remains serious, but the narrowing should instruct, and give pause to members who would build new walls of protection around America's factories and farms.

Granted, it's not easy to tell how the deficit is moving. Despite its menacing growth, the Reagan Administration never acknowledged that all were being guided by inadequate statistical information. Better methods are in the works, at last, and will start appearing shortly. Meanwhile it takes digging to get the facts, and understand them.

The Commerce Department recently reported that the January deficit was $12.4 billion, a $200 million increase from December. That's improvement? On its face, no. But it's well known that the monthly trade report can be misleading. Take the reports for last October, November and December; they add up to a $43.1 billion fourth-quarter deficit. But another recent Commerce Department quarterly report, barely noticed, said that the fourth-quarter deficit was $40.2 billion.

The monthly reports make no allowances for normal seasonal ups and downs, and can zig and zag from one month to the next because Boeing delivered, or didn't deliver, several airplanes to a foreign airline. In the quarterly reports seasonal factors are taken into account and zigzags tend to wash out. Also, in the monthly reports insurance and freight costs for imports inflate valuation; the quarterlies don't count them.

With the quarterly fixes, the fourth-quarter deficit dropped from the third quarter by $200 million. That's not much, and it may not last, but other evidence suggests more improvement than that. Imports continue to rise but exports have risen considerably faster. And when adjustments are made for price changes—import prices up substantially, export prices up much less—it appears that the gap actually began to narrow more than a year ago. In particular, the volume of imports has not risen nearly as much as their higher prices make it appear. On this basis, the deficit began shrinking in spring 1986.

Much more slowly than the experts expected, cheaper dollars have lifted exports by lowering the cost of exports to foreigners and slowed imports by making them more expensive. The deficit remains huge nonetheless, and further shrinkage may still be slow. But before Congress builds more protectionism into America's foreign trade policy, let it observe that the tide seems to have turned.

[From the Washington Post, Mar. 21, 1988]

AN EYE ON THE TRADE FIGURES

It's a good sign that American business and finance now hang breathlessly on each month's trade figures. Balancing imports with exports isn't always the most important goal for a country's economy, but for this country at this moment, it's crucial to make rapid and steady progress. Within the past year or so, the monthly trade report has become a kind of scoreboard of national performance. There's beginning to be a slightly Olympic tone to the competition: Come on, America. After all those years in which people shrugged off the increasingly ominous numbers, that's a promising change.

The trade figures for January, just published, are modestly reassuring. They show no significant difference from the previous month, but there's a real improvement over last fall. Things are moving slowly, but in the right direction.

These statistics have a growing audience because in 1987 the country had a couple of unpleasant experiences of an educational nature, demonstrating the relationship between the trade balance and interest rates. As long as the trade deficit remained nothing more than an abstraction surrounded by a lot of learned quarrelling among economists, most of the country tuned it all out. But last year the trade deficit turned into a hard-edged reality and a matter of general concern. Last winter, because of the deficit, foreign investors began to back away from the dollar, and interest rates rose in the spring. That caught the attention of people whose interest in international trade had previously been minimal. Governments here and abroad managed to stabilize the dollar through the early summer, but the bad trade figures continued, and eventually other consequences appeared. No one in the financial world has forgotten that the big August deficit, announced last Oct. 14, became the trigger for the stock market crash.

To get the trade deficit down rapidly without a recession is going to require a strong rise in exports. The question is whether American industry can lift production fast enough to supply both its old customers here and new customers abroad. For the past several months, manufacturing output has been higher in relation to plant capacity than at any point since the years of soaring inflation in the late 1970s. Exporters are already beginning to press the limits of their present factories.

The fall of the dollar alone isn't going to put the American trade accounts back into balance. It's going to take hard work and massive investment—a gigantic industrial effort that has not yet begun.

[From the New York Times, Apr. 2, 1988]

STILL A BAD TRADE BILL

Negotiations on the foreign trade bill have stripped away page after page of crippling protectionism from the original House and Senate legislation, but there's still too much. President Reagan has at least a half-dozen good reasons for a veto.

The House-Senate conferees have resolved most of their disagreements. Some issues remain open, though, and there is still time to clean out the worst features. But don't bet on it.

Representative Dan Rostenkowski and Senator Lloyd Bentsen, chairmen of the two committees in charge of trade legislation, have made an honest effort to shape a bill acceptable to Mr. Reagan. They know that trade barriers do more harm than good. But posturing colleagues still want to "get tough" with foreigners, especially Japan, and the bill is smeared with protectionist fingerprints.

That's the main reason for a veto. Despite some features that would substantially enhance U.S. policy, the bill would lay a thicket of new procedure to obstruct trade expansion. Some examples:

Conferees killed Representative Richard Gephardt's infamous proposal to slash imports from Japan and a few other countries that are supposedly "unfair." However, they adopted the Senate's variation—a less rigid formula, but one more likely to stir wide conflict. America is in no position to lecture others on "unfair" tactics, much less to hammer their imports if they won't behave. Such unilateral mischief would only invite retaliation.

Senator Jake Garn's amendment to punish Japan's Toshiba Corporation for selling high-tech machinery to the Soviet Union imposes U.S. penalties on a foreign company that broke no U.S. law. New penalties would apply to all foreign companies that make unauthorized sales to Communist countries, even after penalties by their own governments. America as Big Brother: it's a bad sign.

Another amendment would ban foreign concerns from operating as primary dealers in U.S. Government bonds unless their countries grant equal treatment to American businesses. It's another slap at Japan, which still keeps foreigners out of this inner circle. But to expel Japanese companies already doing this business would be foolhardly. Japan provides billions of the dollars Washington needs for budget deficits.

The bill is also encumbered by organized labor's demand for advance notice when businesses plan layoffs or plant closings. Businesses too often don't give as much notice as they can, but Federal regulation would limit their flexibility and make them less competitive. And then there's Senator Lautenberg's special provision for Warner-Lambert Company, extending its patent on a drug that reduces heart attacks. It has nothing to do with foreign trade, and doesn't belong in a trade bill.

Still unsettled is Representative John Bryant's amendment to make foreigners register all substantial investments in American businesses and real estate. The current wave of foreign investment is a healthy infusion, not a threat. Forcing foreigners to disclose data that Americans don't have to disclose would discriminate blatantly, and would cut off funds that America needs.

Congress has time, but no apparent inclination, to make this bill better before sending it to the White House. Without revision, it deserves a veto. The current global negotiations to reduce trade barriers could continue, even without new law to empower America's negotiators. That would be an awkward alternative, but the bill in its current form is worse.

[From the Washington Times, Apr. 25, 1988]

THE TRADE DESTRUCTION BILL

The popular wisdom, embraced by the Reagan administration and self-styled "pragmatists" in the corporate community, is that the trade bill that may come before the Senate today is a decent bill except for its plant-closing provision. That's totally wrong. While the measure has been improved somewhat over an earlier form (dropped was the notorious Gephardt amendment, targeting nations running a trade surplus with the United States; added was a provision repealing the windfall profit tax) the bill is still a mishmash of watered-down protectionism and corporate welfare. It ought to be defeated even if plant-closing were removed.

The fundamental premise behind the trade bill is that the Reagan administration, by following free trade economics, has sat around passively while our foreign competitors have taken us to the cleaners. The administration, declares trade bill fan Rep. Edward Markey, Democrat of Massachusetts, has been "A Scrooge to our workers, and a Santa Claus for foreign corporations." That sounds swell, but it bears no relation to the real record, which shows that the Reagan administration has been no slouch when it comes to being protectionist.

As our Karen Riley reported earlier this month, President Reagan "adopted an increasingly tough trade strategy during his seven years in office as the trade deficit soared and Congress clamored for action." According to the office of the U.S. Trade Representative, these steps included import quotas on sugar and so-called "voluntary" quotas on Japanese auto imports in 1982, motorcycle import duties, textile import quotas and stainless and specialty steel quotas in 1983, and protection for U.S. clothing producers in 1984.

1985 saw five-year quotas on machine tool imports, tariffs on pasta from EEC nations and restraints on wood chip imports from Canada. In 1986, Hong Kong, South Korea, Taiwan and Japan limited textile exports to the United States; import restrictions were ordered on Canadian shingles, and Japan and Taiwan "voluntarily" restrained machine tool exports here. Last year restrictions were slapped on Japanese semiconductors and Chinese textile exports. The problem is that the administration hasn't been protectionist enough for Congress.

While billed as an initiative that would open up foreign markets for U.S. firms, the 1,000-page bill, delivered to House members just a few hours before they voted on it Thursday, would actually make it easier to rig protectionist tripwires here. Among other things, the bill would facilitate greater use of Section 301 of the 1974 Trade Act, which allows for retaliation against foreign markets deemed to be "closed" to our goods, a provision that should be a boon to protectionist forces abroad. In response to the trade bill, the European nations are showing that they are quite willing to play the trade war game themselves, and they have begun compiling a list of unfair U.S. practices, in order to justify retaliation against our exports.

Fans of the trade bill say it makes dumping and import subsidies by our trading partners more difficult. But Columbia University economics professor Jagdish Baghwati noted in The Wall Street Journal last week that such complaints, frequently invoked in the case of the most miniscule subsidies both here and in Europe, have degenerated into a means of harassing more efficient foreign competition.

To make it easier to invoke protection, the legislation transfers from the president to the U.S. trade representative the authority to retaliate against other nations. The effect could be to more than double the number of occasions on which retaliation occurs: Since 1974, the president has invoked protection 46 percent of the time in cases in which he has discretion. And this figure, notes the Council of Economic Advisers, could be higher "if curtailing the president's role also created an incentive for industry to file more cases."

The legislation would also expand the Job Training Partnership Act by almost $1 billion a year for retraining workers displaced by foreign competition, a provision far more likely to add to Washington's ignominious record in the job training area than to help workers. It would set the stage for as much as a five-fold increase in Trade Adjustment Assistance by the mid-1990s and continue export-enhancement programs—corporate welfare measures that subsidize sales of U.S. goods abroad.

The trade bill in short is nothing more than palliative "feel-good" legislation, cobbled together hastily in order to enable lawmakers such as Ways and Means Chairman Dan Rostenkowski and Finance Committee Chairman Lloyd Bentsen to claim they are being tough and "hardheaded," but not protectionist, with our trading partners. That's baloney: If the Congress passes the trade bill, it will join business and labor in stating that Mr. Reagan, regardless of all he's done to keep out and the raise the prices of foreign goods, has been insufficiently protectionist and that politicians and special interests that profit from protectionism are going to change that. The nation would be far better off with no trade bill at all.

[From the Washington Times, Apr. 12, 1988]

TALL TALK ON TRADE

(By Edwin Feulner)

While President Reagan figures out whether to veto the largest trade bill in U.S. history, keep in mind that freedom includes the freedom to fail. Plenty of people call themselves free traders while pushing to protect special interests from free competition by slapping quotas or tariffs on imported goods. Economists don't agree on much, but almost all agree that trade protectionism is a bad idea.

As Jack Grayson and Carla O'Dell, co-authors of the newly published book "American Business: A Two-Minute Warning" (The Free Press, New York, 1988), put it, "Trade protectionism . . . is the nuclear winter of economic policy—everyone is hurt regardless of who fires the first missile."

In Washington, though, bad ideas never die. At most, they hibernate, and soon enough congressional servants of special interests reintroduce them, perhaps under different guises.

The President has vowed to veto the present bill if it's "anti-trade, anti-consumer, anti-job and anti-growth." Protectionism is all these things. The bill will have its flaws, but not as many as it looked like a couple of months ago.

At least one bad idea looks dead: Missouri Democratic Rep. Richard A. Gephardt's proposal to impose automatic tariff increases on countries running trade surpluses with the United States. This wrong-headed scheme lost support almost as fast as its sponsor fell in the race for the Democratic presidential nomination.

Still, the bill doesn't go nearly far enough in the direction of free trade. The truth is: While U.S. politicians have been bashing Asian trading partners over the last five years—recall Walter F. Mondale's fulminations against Japan in 1984—the United States has been imposing more new tariff barriers than any other major country in the world. We must press even harder toward free trade, using the recently negotiated Free Trade Area agreement with Canada as the model.

Our trading partners aren't without sin. But their unfair trade practices—which are often no worse than our own—can be addressed through existing legislation, which gives the president negotiating flexibility. To slap tariffs automatically on imports from countries running so-called "unfair" trade surpluses would backfire.

Remember, unfair trade practices account for no more than 10 percent of our trade deficit—and even the deficit figures are exaggerated. Besides, what's fair about preventing U.S. consumers from buying foreign goods they consider better values? What's fair about forcing U.S. consumers to prop up U.S. firms that can't cut it in free competition?

The free trade-protectionist debate is a clasic illustration of the baneful effects of special-interest politics. Even the special interests that profit from protectionism in the short term—such as the steel industry in the '70s—grow flabby and enfeebled as a result.

Why should industries improve the value of products and the efficiency of operations when government protects them against competition? As the products continue losing their share in the global marketplace, the industries may begin demanding export subsidies.

This is a risky proposition. Allow one industry a place at the protectionist trough, and others will seek the same. Worst of all, those nations we slap tariffs on aren't likely to take it lying down. They are more likely to return the favor. Just such a trade war contributed mightily to the Great Depression of the 1930s.

But you won't hear any mention of that in the bellowings of the Japan- and Korea-bashers. Protectionism is their way to "stand tall for America."

Should one laugh or cry?

[From the Los Angeles Times, Mar. 30, 1988]

PLAYING POLITICS IS BAD POLICY ON TRADE

(By Paula Stern)

The Reagan Administration, while trying to be for free trade, has often ignored U.S. trade laws and its international obligations. By disdaining laws and remedies developed by successive Administrations and Congresses, it has undermined the domestic and international systems for managing trade protection.

The Administration's approach to trade has been neither predictable nor consistent. It has relied on so-called voluntary restraint agreements "negotiated" with our trading partners outside the traditional system of checks and safeguards on abuses by protected industries.

The omnibus trade bill that is pending on Capitol Hill reflects years of congressional frustration on both sides of the aisle with the Reagan Administration's ad hoc application of the trade laws. Excessive media fixation with the amendment sponsored by Rep. Richard A. Gephardt (D-Mo.) notwithstanding, some of the most important provisions in the measure are prompted by bipartisan congressional displeasure with how—not how much—protection has been imposed by the Reagan Administration against fair—not unfair—imports.

The lawmakers have a number of examples to point to:

In 1981 the International Trade Commission recommended that the President not protect the U.S. auto industry, following the procedures and guidelines laid out in Section 201 of the trade law. But, keeping a campaign promise, the Reagan Administration ignored the commission, went outside the law and the procedures of the General Agreement on Tariffs and Trade and negotiated voluntary restraint agreements with Japan that remain in place.

In October, 1984, the President's trade representative announced to the press that the President had decided not to grant steel-import relief under Section 201. At the same time, however, the President was telling steel executives that he had authorized negotiations on bilateral "voluntary" restrictions with nations supplying "unfair" steel. The United States is now in the fourth year of voluntary restraint agreements with at least 27 countries.

The Administration's refusal to use trade-adjustment assistance for laid-off footwear workers left the International Trade Commission with import restrictions as the only remedy recommendation available for the footwear industry in 1985. Had the Administration shown any willingness to fund the existing program for workers, the commission probably would have recommended adjustment assistance instead of quotas. The President then rejected quotas, leaving the situation to fester.

If a President refuses to use the laws and then grants protection through voluntary restraint agreements when politically expedient, the country is confused about policy; industries come to rely on political muscle rather than on making necessary adjustments to merit public investment in protection, and the consumer pays the bill.

The underlying policy of the trade laws is to bolster America's ability to compete in the world marketplace. But the Reagan Administration's trade activity is better understood not so much as policy but as politics. Trade policy is an arena in which Congress has given the President significant power—much more than in the areas of budget and monetary policy—that is relatively unconstrained by Congress. The debate between Congress and the White House is ironic in 1988 because Reagan has said so often that he is opposed to using the discretion that he possesses under existing law, even as he has increased the range of goods that are subject to import relief.

Present U.S. law—adhering to the principles of GATT—provides for very specific,

> limited protection for import-sensitive industries to adjust to foreign competition. The trade bill pending in Congress would legislate changes in this "safeguard" or "escape clause" provision in Section 201. The Administration's trade activity has already reaped the wind; now it is sowing the whirlwind. The Administration correctly fears that some in Congress want to legislate constraints on the discretion that the President has used with such disregard of established practice.
>
> No President should limit his options to either no action or protectionist action. But, by going outside the law to protect, the Administration has undermined congressional support for a steady trade policy and risked losing traditional presidential discretion in trade. It has also missed the opportunity to insist that protected firms and workers help reduce record-breaking trade deficits by reducing costs, improving marketing and/or going for market share rather than profits.
>
> Ad hoc protectionism forgoes the affirmative role that government must play if protection is to boost performance, not prices. It abdicates the government's responsibility to enhance American competitiveness and to equip workers and firms for new international competition. Changes pending in the trade bill would reinforce the adjustment requirements in the law. Some may call this reemphasis on adjustment "back-door industrial policy." Others may call it "getting a return on the public's investment." In any case, if it's the law of the land it should not be thwarted.

The PRESIDING OFFICER. The Senator from North Dakota, Mr. BURDICK.

Mr. BURDICK. Mr. President, we have an opportunity in this measure to turn the tide on our trade deficit. This is an aggressive but responsible bill, recognizing our need to fight for a fair share of world trade through education, training, and tough negotiations.

I congratulate the conferees for arriving at a bill which will move us toward a level playing field for America.

This legislation has earned widespread support from industry and labor, from agriculture and manufacturing and from all points on the political spectrum.

In this bill, our farmers are winners. We are providing an additional $1 billion for the Export Enhancement Program, and an extra $105 million for the Targeted Export Assistance Program.

We have already seen the tremendous success of these initiatives for many commodities, including remarkable increases in wheat and sunflower exports.

At the same time, we are also preparing for the future. We are creating new funding for rural education assistance centers, an example of the new Federal commitment to the needs of rural schools.

We do not sound the call here for protection from our trading partners. Instead, we want to see the United States Trade Representative sit down with his counterparts from Japan, from Western Europe, from Korea, to work out a fair deal.

America can no longer stand still and see our trading partners shut their borders to our grain, our produce, and our beef.

I am proud of the way this measure promotes competition and fairness for our labor force.

Just as we retool our factories, we must continue to retrain the men and women who have worked in them. We are providing almost $1 billion a year to teach displaced workers the skills they will need in a more sophisticated workplace. And, when factories must close, we are giving workers fair notice. No longer will people be tossed out on the street without time to adjust to the shock of plant closure.

We are avoiding the short-term satisfaction of a trade war. Instead, we are putting the American economy back to work competing in the international arena. And we have no doubt—if we support the best labor force in the world, if we encourage our farmers and businesses, and if we negotiate fair rules of trade—America will win.

The PRESIDING OFFICER. The Senator from North Dakota yields the floor.

Mr. BURDICK. I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from New York, Senator MOYNIHAN, is recognized.

Mr. MOYNIHAN. Mr. President, when the Senate began consideration of the Omnibus Trade bill last June, I opened my remarks by quoting the French theologian, Georges Bernanos, who in the late 1930's, observed: "The worst, the most corrupting lies are problems poorly stated."

At that time, I was troubled that the Congress might misperceive the primary causes of our current trade predicament and economic distress. And that the solutions that we might propose in the trade bill would suffer as a result.

I also said last June that we must insist that the pattern of trade deficits and budget deficits of the 1980's, and the reversal in our international accounts from that of world's largest creditor to most monumental debtor in little more than half a decade, not lead to wrong conclusions.

Our current problems are more than anything the simple direct consequence of this administration's fundamental mismanagement of the domestic economy. We have not really lost our way in trade matters. American industry did not simply collapse in the early part of this decade.

Indeed. What happened was that an administration came to power with a radical agenda—to create a fiscal crisis in order to force a reduction of the Federal Government's domestic activities. This, in turn, led to an economic crisis for the Nation.

The administration's fiscal policies led to an 80-percent increase in the value of the dollar between the end of 1980 and early 1985—50 months.

Unprecedented deficit financing for the Government and the Nation generally also began. The foreigners provided the money and the goods, and away we went.

The administration failed to recognize or even understand the significance of the economic trends that it had set in motion. U.S. producers were priced out of world markets, encouraged to invest abroad and to import from cheaper currency countries. A strong dollar, in this administration's view, simply meant a strong America.

As I said in my statement on this bill last June, this administration mistook a technical term of economics for a descriptive term. The early Reaganites confused a strong dollar with a strong Nation. Less than a year ago, one of the President's original Cabinet members wrote: "By promoting a strong dollar and a strong America, Reagan made his mark." There is no protecting an administration against such elemental ignorance.

The price of such ignorance was havoc in the manufacturing sector of the American economy. According to Colby Chandler, the chairman and chief executive officer of Eastman Kodak Co., U.S. industry remains, overall, essentially competitive on issues of quality. The principal cause of the problems in this decade was our failure to react to the failed experiment of the early 1980's—fiscal and monetary policies that brought an overvalued dollar and the budget and trade deficits. Chandler puts it this way:

> We knowingly watched this happen. All of us had a chance to scream, but business didn't begin to complain until 1984. Academia didn't complain. The assumption was that strong is good.

Indeed, in its editorial on the trade bill today, the New York Times also recognizes the Reagan administration's flawed celebration of the dollar's appreciation.

> Mr. Reagan celebrated the "strong" dollar as a sign of America's vitality. Actually, it meant trouble. It made imports cheaper while boosting the price of American exports to foreigners.

It was all so fundamental. And so misunderstood.

We in the Congress were placed under severe pressure to respond to the economic crisis. With the leadership of Senator BENTSEN, the chairman of the Finance Committee, this trade legislation has emerged as a strong reaffirmation of our commitment to an open trading system. At the same time it makes some valuable improvements in the trade policymaking process in our Government and in the implementation of our trade laws.

For those of us unreservedly committed to pressing forward with the multilateral effort to reduce barriers to trade, this bill is essential.

It reauthorizes the President to negotiate trade agreements in the Uruguay Round of GATT negotiations. For those that adhere to the bicycle theory of international trade—either we keep moving forward or we are likely to topple—the bill keeps the United States pedaling very hard.

The record is clear: an increase in world trade brings an increase in world economic growth. The United States must increase its economic growth in order to return to a position of fiscal stability and current account surplus. Increased trade is essential to the future prosperity of our country.

We cannot afford future crises by administrations that do not understand basic economics. This bill establishes mechanisms to force future administrations to think about and respond to the relationships between fiscal balances, exchange rates, trade barriers, and trade flows.

I offered two provisions that have been accepted into this bill that do precisely this. The first recognizes the relationship between trade flows and exchange rates, and requires the Secretary of the Treasury to pursue currency negotiations with trade partners that maintain their currencies at a level intended to achieve a trade advantage with the United States. Clearly, the four tigers, Twiwan, Korea, Hong Kong, and Singapore, pursued such policies during the 1980's. The four tigers account for almost one-quarter of the U.S. trade deficit. The dollar has depreciated against the Japanese yen, but this can hardly suffice if it fails to depreciate against these other currencies. As a result of this amendment, future administrations will be required to pay much greater and systematic attention to the exchange rate issue.

A second amendment that I offered suggested that once each year the administration be required to prepare a 2-year projection, for the United States and our major trade partners, of trade balances, fiscal balances, and the impact of trade barriers. If the trends are not satisfactory, the administration is required to tell the Congress what policy steps will be taken to improve the U.S. position.

Similar budget projections produced by the Congressional Budget Office and the Office of Management and Budget are now critical elements in national policymaking.

The OECD also routinely makes these types of projections.

We should also bear in mind that the monthly trade figure has replaced the monthly monetary aggregates and the prime rate, as the touchstone of the stock market. Since the market is already reacting to projections of trade flows, I think it is time that the administration shared projections with the Congress, and I put such a requirement into this bill.

This reporting requirement will require administrations to think. This trade bill raises the standards for our trade policymakers. I hope they will live up to our expectations.

A third important aspect of this trade bill is that it reaffirms the Government's commitment to American labor. We first made the commitment to American labor during the Kennedy Round of GATT negotiations that trade liberalization would not proceed at the expense of U.S. workers.

This bill contains provisions that begin to implement those promises. Foremost is an expansion of the trade adjustment assistance program. The primary features of a bill I introduced with Senator ROTH in 1985 are contained in this legislation. For the first time, trade adjustment assistance, up to a certain level, will be made an entitlement. The level will be increased as soon as the GATT negotiates an adjustment code that permits the imposition of an adjustment fee. Workers will be guaranteed income support payments and a cash voucher to purchase training of their choice. Trade adjustment assistance will also be expanded to so-called secondary workers, those employed in a company that produces an essential part or component for merchandise affected by import competition. We are not all the way home yet on these efforts, but we are much closer and we shall keep after it.

Further, the bill makes a profound advance in U.S. trade law. For the first time, under section 301 of the Trade Act of 1974, the violation of workers rights by a foreign nation will become a cause of action as an unfair trade practice.

This is a most noble legislative development. And one completely consistent with the international law governing workers rights. And as the lead sponsor of the section 301 amendments title of the trade bill, I take particular satisfaction in our success on this issue.

The International Labor Organization conventions developed very much in response to concerns that countries would permit the abuse of workers to gain a trade advantage. Thus, agreement on minimum standards for organized labor activities and health and safety treatment were developed.

Some say that we cannot enforce our concepts of workers rights on other countries. To do so is imperialistic or even racist, or just a backdoor form of protectionism. Nothing could be further from the truth. The standards we impose will be those agreed to by the ILO. They will not be unilateral. We need not and should not excuse or ignore those countries that permit unnecessary and illegal conduct against their workers.

Finally, the plant-closing provision in the trade bill has occasioned much controversy. I support it, and the full Senate voted to maintain the plant-closing provision during floor consideration of the trade bill last year.

Passage of this trade bill is an important step on the road to recovery in our trade position. But we should not make the mistake of assuming that once we have passed this bill that we have fixed it. If we do, we will have ignored Bernanos' warning and worse. Although the trade bill in most respects avoids misstating the trade problem, we cannot assume that it fully states the solution.

Such a conclusion would be equally dangerous.

We spent a great deal of the time debating how to get tough with foreign countries that block U.S. exports. But ultimately, we recognized that many of the provisions which claimed to redress the balance, actually were self-defeating. We dropped those and revised others.

For example, we made some changes that are designed to bring trade disputes to earlier resolution under section 301 than has been our experience. A new emphasis was also placed on the importance of our intellectual property industries under section 301.

We also adopted a provision that mandates the administration to focus on trade liberalization priority countries. The theory behind this focus is that we should concentrate our efforts to seek liberalization from those countries that are in a global surplus situation and are most able to undertake further liberalization efforts. I am pleased to have offered the compromise formulation for this provision—it now more clearly states our intention. It is also not protectionist, nor does it risk market instability in achieving this trade liberalization.

We also increased our commitment to provide temporary adjustment relief for firms and workers if they meet the escape clause criteria established by article XIX of the GATT. An effective temporary relief mechanism is far more preferable than permanent statutory forms of relief.

We also made some adjustments to U.S. antidumping and countervailing duty laws. Some of the proposals in this area were worrisome. But, in the end, we produced changes that primarily provide greater transparency to the implementation of these laws, rather than greater certainty of penalty tariffs.

In short, the bill is not protectionist. It strengthens our commitment to the multilateral trade system, it forces the administration to think about what is vital in the determination of trade flows, and to share that knowledge with us, and it fulfills commitments to U.S. workers that those who lose their jobs to open trade will be respected—if their plant must close—retrained and relocated in a new position.

Great challenges remain. The 1980's won't go away that easily. The budget deficit has an impact on trade flows. We are on the road to progress. The National Economic Commission may help.

However, even as we address the fiscal problem, we must also pay more attention to what type of Federal spending we need. We must also pay more attention to the need to reinvest in America.

Our civilian research and development effort has been squeezed to frightening levels. Increasing infrastructure investment needs of our country—falling bridges and airway congestion—remind us daily of the problem. We have also failed to invest adequately in the human resources of our country, be it education or welfare reform.

We will not have a strong economy without a strong Government. This administration claimed it was possible to have a strong America with only a strong defense and a puny government in other respects. It clearly is not possible.

Robert Reich recently stated in an article called "The Economics of Illusion" in Foreign Affairs, we cannot invest only in our defense establishment:

> Government spending on commercial research and development has declined 95 percent from its level two decades ago. (Even when added to private-sector research and development, the total is still less than two percent of GNP, lower than comparable research and development expenditures in any other advanced industrial nation.) Government spending to upgrade and expand the nation's infrastructure dropped from 2.3 percent of GNP two decades ago to 0.4 percent in the 1980s. Per pupil expenditures on public elementary and secondary education have shown no gain in real terms; as a percent of GNP they have declined.

This is a poor record. And we must do better if we are to take advantage of the opportunities that will be preserved and expanded by this trade bill. We have made a concerted effort to elevate trade policy to the highest priority of this administration. To open foreign markets.

Now we must improve our ability to produce what we and the rest of the world will want to buy. We should not accept the decline theory of America. The question of America's economic position in the world will be settled by policies made by our Government now and in the future. We should not conclude that there is any inevitable decline. There is nothing inevitable about it. But the next administration would be well advised to act quickly. "If they don't," as Hobart Rowen recently wrote, "the legacy of voodoo economics could accelerate the process of declining American power in world affairs."

As I said before, the 1980's will be known as the decade in which we borrowed $1 trillion from the Japanese and gave a party. We now have to pay for that party. This trade bill provides the opportunity for us to make a down-payment on that debt. We must also make the additional wise choices necessary to take advantage of the opportunities presented by this legislation.

Mr. President, if there is one thing to be learned from this experience it is that public service requires more than goodwill. And when persons in high positions in your Government see a situation developing which is going to be calamitous to the economy and do not recognize it, completely misread it, you have consequences. So, please, may we hope that in the future mere competence not be derided, it is a quality that must be associated with governance.

Mr. President, I ask unanimous consent that the period when we go into recess be extended until 10 minutes of 1, if that is agreeable to the Chair, as the distinguished Republican leader would like to speak.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered. The time will be extended for 5 additional minutes.

The Senator from New York yields the floor and the Chair recognizes the distinguished Senator from Kansas, Senator DOLE.

Mr. **DOLE.** Mr. President, thank you. I believe my time was reserved this morning by the majority leader under leader's time.

The **PRESIDING OFFICER.** The Senator is correct.

PRESIDENTIAL CAMPAIGN COVERAGE 1988: TRIVIAL PURSUITS

Mr. **DOLE.** Mr. President, it was about 1 year ago this month—April 21, 1987, to be exact—that a letter from the New York Times arrived on my desk. It was a note informing me that the Times had assembled a "team of reporters" who would be preparing a series of "in-depth profiles" on Presidential candidates.

I was told in somber terms that "the Presidency is a unique office and Presidential candidates are inevitably, and we believe rightly, asked to provide the public with extensive information about themselves."

ISSUELESS AND NEGATIVE

In fact, it was a letter that heralded the kind of coverage Presidential candidates could expect in the coming months on the campaign trail: issueless and negative.

The Times letter made no reference to issues, nor did it request any such information. Instead, I was asked to provide:

My driver's license.

My marriage license.

My high school and college transcripts.

My military records.

My medical records.

A list of my friends.

And a waiver of my privacy rights.

Now, Mr. President, I understand full well that running for the Nation's highest office puts a candidate in a 24-hour-per-day fishbowl. No doubt about it, it's the candidate's choice. As I have said before, once you declare for the Presidency, "all bets are off."

But at the same, time I don't believe the media should reply, "that's right, and all fairness and all issues are off, too."

Mr. President, the resulting New York Times article—its so-called in-depth profile—was better suited for one of those supermarket tabloids than it was for such a distinguished newspaper. Unfortunately, it was a preview of things to come.

STUDY SHOWS ISSUES DON'T COUNT

A new study now confirms the obvious: As reported in USA Today this past Friday, network television coverage of the 1988 Presidential campaign has focused 80 percent of its time on everything but issues. There was coverage on all kinds of gossip, and horserace stories; and judging from my own experience, who is on or off the Dole campaign plane; which reporter will find the one person in a friendly audience who can serve up a juicy negative quote; and on and on and on.

In other words, very little interest in the Federal deficit, child care, United States-Soviet relations, welfare reform, problems in the farm belt, trade, or what to do about America's homeless.

Think about it: 80 percent of valuable national newstime devoted to avoiding the issues; to putting political gossip above information; and titilation above education.

Mr. President, I ask unanimous consent that the USA Today study be printed in the RECORD at this point.

There being no objection, the study was ordered to be printed in the RECORD, as follows:

[From USA Today, Apr. 22, 1988]

GOP SCRUTINIZED MORE ON NETWORK NEWSCASTS

(By Gregory Katz)

Democratic candidates get better treatment from TV news shows than Republicans, according to a new analysis of campaign coverage so far this year.

The study also shows that NBC gives candidates the most critical treatment, while ABC is the least judgmental.

John Merriam, who analyzed TV election coverage from Jan. 4 through April 15 for USA Today, says that CBS, for example, aired 49.5 minutes of negative news about

Republican candidates, but only 21.5 negative minutes about Democrats.

Similar results were found on NBC, ABC and CNN. But network executives deny this is "liberal bias," a charge often lobbed at TV news.

"What you're finding is that we reported that the Republicans had a more negative campaign," says Tom Bettag, executive producer of *CBS Evening News With Dan Rather.*

Bob Furnad, CNN senior executive producer, says the critical coverage of Republicans results from Vice President George Bush's candidacy.

"Bush is part of an administration that's run up a big deficit, and there are lingering questions about Iran-contra," says Furnad. "We're dealing with Democrats who have been representatives or governors or who never held office, so it's tougher to nail them."

Furnad says that Missouri Rep. Richard Gephardt is the only Democrat who received truly negative coverage. Gephardt's campaign floundered not long after news shows started focusing on his many "flip-flops" on key issues.

David Doak, Gephardt's media adviser, noticed NBC's coverage: "NBC was tougher, and we never could figure out why. From every indication, Gephardt had a pretty good relationship with (Tom) Brokaw, so we didn't know why or where it was coming from or what to do about it."

Doak said the trend started in Iowa, when NBC suggested Gephardt had violated election laws by spending too much in Iowa.

"Those were unfounded allegations, but the viewer assumed he was violating the law," says Doak.

Bill Wheatley, executive producer of *NBC Nightly News With Tom Brokaw,* says tough stories are needed: "We don't want here-they-come, there-they-go coverage. Our air-time is limited and very valuable, and we feel every piece has to count."

Issues Distant Second to "Horse-Race" Stories

(By Gregory Katz)

So far, TV viewers haven't found out much about the key issues dividing the candidates in campaign '88.

Although figures vary by network, only about 20 percent of the air time devoted to the campaign deals with national issues.

The rest goes to "horse race" stories: who's ahead in the polls, who's raising the most money, who's got TV ads and who's getting endorsed.

NBC devotes more time to issues than the others—27 percent. But Bill Wheatley, executive producer of NBC Nightly News With Tom Brokaw, says that's not enough.

"We have two problems with getting issues on," he says. "First, the horse race has been extradordinary, so we've delayed issue coverage to a degree. Second, and this is not an excuse, the candidates are not particularly issue-oriented, and polls show there is no issue cutting across the board."

Each network claims it will devote more time to issues now that the field is smaller. In a 90-second piece, it's much easier to explain three candidates' views than to explain 13.

But Bob Lichter of the Center for Media and Public Affairs says this will be an issueless campaign: "TV loves the horse race, the excitement of the crowds, the conflicts and personalities," he says. "TV hates policy discussions."

The issue given the most attention has been the Iran-contra scandal, followed by "fairness" issues, such as social problems and trade. CBS has hit Iran-contra especially hard, even before the live confrontation between Vice President George Bush and anchor Dan Rather.

That interview generated nationwide headlines and some criticism of Rather. It reflected Rather's belief that Bush's involvement in the Iran-contra affair is a key campaign question.

"You can think what you want about the interview, but we think that was and is a major story. I think the air time was absolutely justified and we'd do it again," says CBS executive producer Tom Bettlag.

THE PEOPLE WANT TO KNOW

Mr. DOLE. I have been involved in three national campaigns. As a candidate, I have criss-crossed the country enough times to cash in my frequent flier tickets for an entire airline. I have been out there—in the real world. And I can tell you that most Americans are hungry for information. They want to know—even if some national news reporters do not—where we stand on the issues.

They want to know what we would do if we were sitting in the Oval Office; how our stands on the issues might affect their futures, and their childrens' futures; and they want to know if we can make a difference.

Unfortunately, the American people are not getting what they want. At least not from the news media, particularly the national media. I spent many, many hours during the past 2 years standing in front of town meetings in communities all across this country. And I did not get but a handful of questions about my campaign chairman or chief fundraiser.

I did not get one question about how conservative my political consultants were, or the value of my House in Kansas. But I did get a thorough, and welcome, grilling on the issues.

CAMPAIGN COVERAGE AS TRIVIAL PURSUITS

It is a shame the media cannot keep up with the people. What I witnessed generally on my own campaign plane was an aircraft filled with reporters who became each other's best audience. It was an ultra-insider's game of gossip and nit-picking that turned Presidential campaign coverage into trivial pursuits.

It was a daily spin from the experts on the state of the campaign, whether it came from a reporter who had been on board for 1 month, or one stop. It did not matter. Preconceived notions, prewritten stories and premeditated cliches were all confirmed regardless of the facts. And if there was a nice soap opera campaign story out there, it would be kept on the spin cycle for a good week or so.

All the while, reporters' necks were craned in the rear of the plane scanning the campaign staff up front for smiles or frowns, or seating arrangements that would somehow reveal the inside story. Meanwhile, the issues disappeared somewhere over Iowa airspace.

I JUST WISH * * *

Now, did Bob Dole run a perfect Presidential campaign? We make mistakes. Maybe too many who knows?

But in my mind, I was never wrong or mistaken on the issues. Nor was I ever short of the time and energy to talk about them—on and off the plane.

I just wish I was hounded on the Federal deficit as I was on my staff. I just wish I was interrogated about American agriculture as I was about fundraising. I just wish my voting record were as thoroughly scrutinized as were my wife's personal finances.

It was my loss, but more so the American voter's.

REPUBLICANS TAKE THE HEAT

Just as alarming, the USA Today network news analysis reveals that Republican candidates received far more negative treatment than the Democratic candidates.

This trend, however, was not limited to the TV screen. In my view, it was prevalent in the major newspapers, and the weekly news magazines, particularly Time and Newsweek.

In fact, the magazines outdid themselves with their endless psychological term papers on the candidates.

Mr. President, there has long been a double standard when it comes to political coverage. And the USA Today study is the latest evidence to back up that fact. So far this year, we Republican candidates have had to bear twice as many negative minutes during network newscasts as our Democratic counterparts.

Republicans are used to it, but we don't like it.

LIBERAL NEWSROOMS

Mr. President, I realize the media have a tough job. And I have great respect for most of the reporters I have dealt with during my 28 years on Capitol Hill. But something is out of whack—and something is disturbingly unfair—when news coverage becomes so slanted; and the issues get lost in the daily hype.

So why the double standard? Well, look at the newsrooms. Let's face it, they tend to be liberal. In all honesty, how many Republicans are out there covering the candidates? or Congress? I don't think I could guess more than a carload—a Chevy Sprint would probably do it.

But do liberal reporters consciously have it in for Republicans? I don't think so. Do they dislike Republican candidates? I doubt it.

In my judgment, reporters try to be objective. But try as they do, they just cannot help but see the world through liberal colored glasses. Maybe it is all the result of the Vietnam years, or Watergate fallout, or some kind of generational distrust of Republicans.

Actually, I am less interested in reasons than I am in some changes.

THE PEOPLE LAP THE FIELD

I suppose the real news is that the American people continue to lap the field, leaving politicians and reporters in the dust.

Of course, they have a better perspective than we do, they were not on the campaign plane.

I yield the floor.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now be in recess until the hour of 2 p.m.

Thereupon, at 12:52 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MELCHER).

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, we are on the trade bill at this point?

The PRESIDING OFFICER. We are on the conference report on the trade bill.

Mr. GRASSLEY. Thank you.

Mr. President, I am caught between the good and the bad provisions in this legislation and there has been considerable debate in the last several days on what is good and what is bad. We have heard some outstanding speeches, both for and against this legislation. So many of these concerns have already been addressed. Most of the people who have spoken in opposition to the legislation have mentioned the plant closing provision as being a major obstacle for them. This Senator also has problems with that section of the bill and would have preferred that the plant closing provisions not be included. I suppose, Mr. President, I object most because that is a non-trade-related item in the bill. That does not belong in a trade bill which has many good provisions.

This plant closing provision of the trade bill addresses an issue that should be addressed by the private sector without Government intervention. Such intervention would, in my mind, constitute the first step toward additional rules similar to those that have plagued European economies and stifled economic growth and job creation in Western Europe.

My decision, however, on how I am going to vote on this bill, is not going to be determined by this issue alone. I think in many respects, whether or not this provision is incorporated, several other provisions will have a beneficial impact upon labor, and three of these come to mind.

The first provision is the allocation of $980 million for dislocated worker assistance; the second, the authority that the bill gives to take action against foreign violations of workers' rights; and, third, the inclusion of a trade adjustment assistance program. This will assist workers who lose their jobs as a result of the foreign imports. It places a very small tariff on foreign imports to pay for the program, resulting in little or no cost to the taxpayers, as those taxpayers now send almost $1 trillion into our Federal Treasury.

Along with three other minor items that I think should not be in this bill, the most important issue to me, because it relates to the economy of my State, is that section labeled as "section 1910, ethyl alcohol and mixture for fuel."

That section is going to cost our Nation $800 million in economic activity. It will cost Iowa and Illinois alone $568 million in economic activity.

Furthermore, this section—and this should be important to all those people paying taxes into the Federal Treasury—is also going to take out of the Federal Treasury $120 million in lost tariff import duties.

You might say how can that happen? Well, section 1910 of the trade bill allows five companies, and only five companies, to import up to $200 million gallons of ethyl alcohol into the United States completely duty free. The import duty is 60 cents per gallon. That is under existing law. Therefore, if the trade bill is passed, if you vote for this trade bill, my colleagues, you will be voting to give five companies a tax break to the tune of $24 million each.

If the U.S. Congress is so bent upon giving up $120 million in tax revenues, I can think of a lot better use for that money than giving it to those five corporations. For instance, I have introduced S. 628, a bill to restore the deductions for interest paid on student loans. Would our tax dollars not be better spent on education than for five companies, cloaking themselves with the Caribbean Basin Initiative?

The Caribbean Basin Initiative is suppose to encourage economic development in the Caribbean Basin, to encourage the economies of those countries so that economic stability there will evolve, and with economic stability, we would hope to have greater political stability. That is suppose to be done by our Caribbean Basin Initiative by giving some trade benefits to those smaller countries which is suppose to develop their economies.

Now we see this Caribbean Basin Initiative being turned into a farce. I would like to have my colleagues face that fact. It is a farce because we are grandfathering five corporations so that they can benefit from the Caribbean Basin Initiative, but which will not benefit the economies of those countries.

These clauses do nothing to encourage economic growth in the ethanol industry in the Caribbean. In fact, they actually undermine such a goal.

Mr. President, I ask unanimous consent to submit for the RECORD at the conclusion of my remarks a letter from the Renewable Fuels Associations, as well as an article from a publication called "Alcohol Week," which reveals what Congress is really doing.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. What really is being allowed is foreign-subsidized alcohol into the United States, including that from the European Community. How does that encourage Caribbean economic activity? How does that specifically encourage Caribbean ethanol development? A true entrepreneurial enterprise down there, would create jobs and strengthen the economy of those countries; in fact, this is not doing that.

What we are really doing is taking some surplus European wine—surplus, probably, because it is being subsidized by the economies of the countries that have the surplus—and finding an outlet for it through the Caribbean Basin Initiative. This is a detriment to the ethanol industry of the United States which is very much tied to agriculture in our Midwest, because much of our ethanol is produced from corn grown basically in the Midwest.

Congress is often criticized for loading massive pieces of legislation with special interest tidbits. Often these special interest pieces of legislation are buried so deep in the legislation that most of us are unaware that they even exist until we read about it several weeks later in the newspaper when some enterprising newspaper reporter makes light of it. Then we are embarrassed when asked about those news reports by our constituents when we are holding town meetings in our State.

"What are you men and women who are Senators and Congressmen passing legislation like that for?

You know, material buried deep in a massive piece of legislation.

Well, today we have the opportunity to do something about it because we have all been put on alert to this provision that is detrimental to the agriculture ethanol industries. This is one item that we should not have to swallow.

Farmers of the United States should not be asked to forfeit a 90 million bushel market for their corn. They should not be asked to forfeit a 200 million gallon share of our domestic ethanol market.

U.S. taxpayers should not be asked to give up $120 million of revenue that would otherwise come into the Federal Treasury simply to satisfy a handful of profiteers who have for years been trying to circumvent our lawful tariff duties for imported ethanol. When I say trying to circumvent, as one Senator from a corn-producing State who has tried to put his finger in the dike of a lot of attempts to get around our ethanol restrictions, you never really can move fast enough to keep ahead of the lawyers who are trying to find these loopholes.

My colleagues might remember that a little more than 2 years ago, we voted in this body unanimously in favor of an amendment that I sponsored to close a loophole that threatened at that time to allow, and ironically the same figure is in this bill, 200 million gallons of ethanol to enter the United States duty free.

These same interests have found a new loophole, and that is by hiding behind the Caribbean Basin Initiative.

The Senate voted unanimously against it during the 99th Congress, and I plead with my colleagues, before I go on to another provision of this conference report that I do not like, to ask one final time to consider the detriment done to the Federal Treasury of losing $120 million of revenue and also the detriment done to the tune of about $800 million to the economy of the United States by this provision being in this legislation.

Another concern that I have about the trade bill, Mr. President, is its inclusion of the Council on Competitiveness. This section establishes this needless new Council for 2 years at a cost to the Federal Treasury of $10 million. I am not sure that we need another bureaucracy whose sole mission is either, first, to duplicate what other agencies or private sector advisory committees are already doing, or establish the industrial policy of so-called Government experts picking winners and losers in the private sector.

In conjunction with this, I am concerned that we have created 30 new Federal and State agencies, offices, and advisory panels and commissions.

The bill also requires between 165 new reports, studies, and reviews, depending upon how you define "reports, studies, and reviews." Would we not be better off letting our trade negotiators spend their time negotiating, rather than being cubbyholed, writing reports that no one in Congress really spends much time reviewing?

It is also my understanding that the legislation creates hundreds of new Government jobs and the authorization for additional staff in various small trade-related programs which will require a $60 million expenditure.

In addition, I have been advised that we have some redundancy in the education section of this legislation. The authorization increases for education total about $450 million. Of this amount, $370 million, or more than 80 percent, are also included in H.R. 5, the elementary and secondary authorization conference report, which has already passed the Congress and has gone to the President for his signature.

Last, I am concerned about the fact this bill would create $1.4 billion in new budget authority if money is to be appropriated for these programs in fiscal year 1989. Then other programs will have to be cut. Under our budget compromises of November 1987, and where we are in a zero sum gain, which programs do we cut first to make room for this $1.4 billion of new authorization?

Maybe the benefits of the legislation far outweigh the costs involved, but I am not sure, though, given these serious considerations.

There are other issues of concern that I could raise regarding my troubles with this legislation. I must honestly tell you this bill weights heavy on my mind. I fully realize that there are many very fine provisions in this legislation that will have beneficial effects on our Nation's trade posture and our trade deficit.

I have been listening diligently to the debate on this issue and, obviously, will have to make up my mind shortly.

But let me say that we should not take the opportunity, just because we need a trade bill, to pass a lot of unnecessary or bad legislation in the process. We should have learned that as a result of the publicity that President Reagan gave to omnibus bills in his State of the Union Message in the other body in the joint session last January when he held up two different 40-plus pounds of legislation, thousands of pages that we passed in which he made the point very clear to the people of this country that those massive pieces of legislation are not a good way to make public policy. We should not repeat that mistake.

Mr. President, I yield the floor.

EXHIBIT 1

RENEWABLE FUELS ASSOCIATION,
Washington, DC, March 30, 1988.

Hon. CHARLES GRASSLEY,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRASSLEY: Knowing your concern for the continued economic growth in the Caribbean, I thought you might be interested in the enclosed article which was published Monday in Alcohol Week.

The article substantiates our position that the CBI ethanol "grandfather" amendments added to the trade bill and supported by the CBI II legislation will not encourage an indigenous ethanol industry in the Caribbean, but will discourage real economic growth in the region by providing a tremendous competitive advantage for a few privileged trading companies. In fact, Alcohol Week reports that one of these "grandfathered" trading companies has already begun negotiations to purchase an undisclosed amount of the EEC's huge wine alcohol surplus. The deal has apparently been delayed, however, because the EEC, hoping to make up some of the money it has spent in subsidizing the European wine industry, is asking a higher price for its product than Tropicana can already get from several other EEC member states. Some of the more revealing points made in the article are:

Tropicana is seeking product to feed its 20-million gallons/year upgrading facility for export to the U.S. fuel market;

Tropicana has been purchasing wet alcohol regularly from Italy and others for far less than the EEC asking price. In 1985, the firm had an exclusive contract with Spain to buy wet alcohol for as little as 17 cents per gallon;

Between January and August of 1987, the average price for 190 proof Italian alcohol exported to Jamaica was 23 cents per gallon;

Tropicana has been buying an average of 3 million gallons of wet alcohol per month from Italy;

The EEC wine subsidy program has produced a huge "alcohol like" of approximately 200 million gallons that the EEC has been unable to drain.

As you know, the domestic ethanol industry fully supports the development of full-production, grass-roots ethanol facilities under the CBERA. Such an industry in the Caribbean would employ thousands of workers, establish new markets for surplus agricultural commodities and enable Caribbean nations to reduce their crippling dependence on imported energy.

The Alcohol Week article demonstrates, however, that the nature of the ethanol industry as it is developing in the Caribbean fulfills none of these policy goals. The economic incentive to establish a sugar-based ethanol industry in the Caribbean Basin has been eliminated by the introduction of ethanol dehydration towers that merely remove water content from heavily subsidized wine alcohol produced in other countries for the sole purpose of exploiting the CBI.

The Renewable Fuels Association hopes to have the opportunity to explain our position during hearings on the Caribbean Basin Economic Recovery Expansion Act (CBI II). Your support and assistance in these efforts will be most appreciated.

With warm regards, I am
Sincerely,
BOB DINNEEN,
Legislative Director.

TROPICANA INTERNATIONAL MEETS WITH EEC IN AN EFFORT TO PURCHASE WINE ALCOHOL

Representatives of Tropicana International (Jamaica) Ltd., a Kingston, Jamaica-based ethanol upgrader, met with European Economic Community "authorities" recently to discuss purchasing an undisclosed amount of the EEC's huge wine alcohol surplus, according to informed sources. Tropicana and the EEC were unable to strike a deal. The official line from the EEC is that no sale can take place because there are currently no regulations to authorize the sale of any or all the EEC's 7-million hectoliter wet alcohol surplus. This authority expired in December, 1985, these sources say. Other sources, however, say that the deal fell through because the EEC is asking "too much" for the alcohol. Tropicana reportedly is seeking product to feed its 20-million gallons/year upgrading facility, which exports product to the U.S. fuel market. Tropicana could not be reached for comment.

Reportedly, Tropicana has been purchasing wet alcohol regularly from Italy, an EEC member state, for far less than the EEC asking price, the source said. Tropicana has also bought alcohol from other

EEC member states, such as France. In 1985 the firm had an exclusive contract with Spain to buy wet alcohol for as little as 17¢/gallon, according to sources.

Tropicana is currently the only facility in the Caribbean Basin able to use the European alcohol as a feedstock for making fuel grade ethanol, and still qualify for duty-free access to the U.S. market. Tropicana has a waiver from a U.S.-imposed rule that 60% of upgraded product be manufactured locally in the Caribbean in order for it to be exempted from the U.S. 60¢/gallon (plus 3% ad valorem) fuel ethanol import duty.

Despite the lack of authority to sell product, the EEC has tried a number of times since 1985 to sell off the alcohol, sources say. But the EEC continues to be unable to move the alcohol because it is asking much more than buyers are willing to pay, especially when they can get product directly from EEC member states at far less than the EEC price. The EEC is hoping to make up some of the money it has spent in subsidizing the European wine industry, the reason cited for the high asking price, sources say. In late 1986, the EEC tried to sell 200,000 hectoliters of wine alcohol to the "fuel industry" at S18.30/hectoliter (69¢/gallon), according to sources. The sale failed because the buyer—whose name was not disclosed refused to pay such a price for the alcohol because member states were offering product at much lower prices. For example, between January and August of 1987, more than 2-million gallons of 190 proof Italian ethanol was exported to Jamaica for an average price of S6.08/hectoliter (23¢/gallon), according to official Italian government documents. Similarly, hydrous ethanol from France was sold into Jamaica for just under S10.56/hectoliter (40¢/gallon)—about half the price being charged on product bound for the U.S. (Alcohol. Week, Jan. 4, p1).

The high cost of the EEC wine alcohol is essentially due to the EEC's own regulations for wine production, sources say. There are two types of wine alcohol production within the EEC, mandatory and non-mandatory, and both are designed to make alcohol out of excess wine stocks. The alcohol can then be sold into different markets. Under both systems the EEC provides member states with generous subsidies (see box).

When the EEC imposes mandatory distillation, the excess alcohol manufactured is taken from the member states and put in the EEC's alcohol stocks and this system has created the EEC 7-million hectoliter surplus. In addition to the subsidies, it costs the EEC a reported $12.20 per hectoliter per year to store the alcohol. When the EEC tries to sell its alcohol surpluses, it tries to make-up what it has spent on subsidies and storage costs and this results in a high price buyers are not willing to pay. Individual EEC members states, their wine and alcohol production already heavily subsidized by the EEC, can sell their alcohol at prices well below the EEC's.

Reportedly, Tropicana has been buying an average of 10,000/tonnes (roughly 3-million gallons) of wet ethanol/month from Italy, sources say. Most recently, Tropicana purchased 2,500/tonnes (746,000/gallons) of wet ethanol at Livrono, Italy for shipment to Kingston in early April, the sources noted. Another 5,000/tonnes (1.4-million gallons) of wet product was purchased in Marsala, Italy to be delivered to Jamaica in April as well. It was not clear if the buyer of the Marsala parcel was Tropicana, the source noted. Tropicana has also been getting product from Yugoslavia, which is directly across the Adiratic Sea from Italy, these sources said.

In 1987, Tropicana brought 53,000/tonnes of ethanol into Kingston, Jamaica, according to the Jamaican Port Authority. Of this amount, Tropicana shipped 52,118/tonnes (15.5-million gallons) out of Jamaica, according to the Port Authority. Although the actual final destination of the product could not be determined, 20.81-million gallons of ethanol entered the U.S. from Jamaica duty-free and sources say it ended up in the gasoline market.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I rise in enthusiastic support of this trade bill. It is a reasonable bill. It is not a protectionist bill, but it is a bill that says for once that when the United States and its products are discriminated against by other countries, we are not going to take it lying down; we are going to do something about it.

I would like to discuss three brief points about this bill which I think are vital to the consideration. The first is the so-called plant closing provision. Never has so much been made about so little. How in the world this administration can take a very mild provision that says a company that knows it is going to shut down its plant or a major portion of its plant cannot give 60 days notice to its employees and say that that is a basis for vetoing a bill absolutely makes my mind swim.

There are exemptions here for small businesses. There are exemptions for failing businesses. But where a company knows it is going to shut down, not to let the employees know is heartless, it is unnecessary, and it is mean.

In my hometown of Shreveport, LA, there was just such a case where a great employer—and we love AT&T. They are a great company and I cannot say enough good about them. But they were going to shut down part of their plant and ship it to Singapore because the wage rates are less in Singapore, and they knew that for weeks and for months, but they kept on with their bright smiles and their stony silence. Not one word was put out to the employees until virtually the eve of the firing date.

These are human beings by the hundreds. Some had other opportunities, could have taken other jobs, or some could have just gotten their lives in order. They could have saved some money for the cold, rainy day when they did not have that income coming in. But, no, they had to wait until the very last minute.

Was that necessary, Mr. President? No; it was not necessary. If they had told these people they were going to be fired in 60 days, they would have stayed on and worked because that is what they do because that is who they are. They are responsible.

They are responsible. But, Mr. President, for whatever little crumbs of profit that could arguably have been involved in not telling these people, the human misery, the unnecessary human misery, which that inflicted is simply unacceptable.

Mr. President, if I were a major company, if I were this administration, I would honestly be embarrassed to defend an attack on that provision. I would be embarrassed. It is just not right, Mr. President. It is only 60 days. Surely, where there are human beings by the hundreds, when you know you are going to fire them, you can tell them so. You can let them in on the plans.

Point No. 2, Mr. President: There is a repeal of the windfall profits tax in this bill. It ought to be repealed. Most taxes are a win-lose situation. They are a win because you get some money with which you can accomplish a worthy purpose. They are a lose because they extract it from somebody and do harm. This is lose tax. It is not a win-lose situation. It is a lose-lose situation. It is a lose-lose situation because there is no tax being collected. Not a single penny is flowing into the Federal Treasury now from the so-called windfall profits tax.

But in recompense for the no revenue, we get another bad feature which is it diminishes the amount of incentive for oil and gas drilling. It diminishes that because a driller knows if he finds a big strike, his income stream is going to come in for some years, and he knows if the price ever goes up, then the windfall profits tax is waiting in the wings to take away his profits, and in turn his incentive.

So he is not drilling the wells. It is no wonder, Mr. President, that the number of operating rigs in the United States is at an all-time low—if not an all-time low, then a low, a virtual low at any point since the early 1960's. It is no wonder that domestic production is dropping off at an alarming rate. This trade bill properly repeals the windfall profits tax, and will get this out of the way so as to set the scene for further drilling in the future.

Mr. President, if this bill is vetoed, you can kiss goodbye to the windfall profits tax because even if a bill comes back here on the floor and even if it could be considered, and even if it could go to conference, I think the answer is it would not do any of those things because the hour is too late, and you can be sure that it will not contain a repeal of the windfall profits tax.

So I say to my colleagues when the roll is called up yonder of those who are for or against the windfall profits tax, and when this whole session is over with and it is either repealed or not repealed, then you can have a gold star put by your name if you voted for this bill and overrode the veto. If you vote against the bill, and to sustain the veto, do not come on this floor of the Senate with crocodile tears saying I was for the windfall profits tax and it is somebody else's fault. The bell tolls for you, Mr. President, if you are one of those Senators voting against this bill, and to sustain the President's veto. This is your one chance, your one bite at the apple. This is your one chance to hit a home run. I hope we will hit that home run.

The third point, Mr. President: This bill contains, with respect to those States that are devastated by the drop in oil revenues and oil prices, trade adjustment assistance legislation making unemployed oil and gas workers eligible for unemployment insurance and for the other benefits contained in trade adjustment assistance. It provides for 26 weeks of additional benefits.

I do not have to tell—and I see my colleague from Texas here—him what misery has been wreaked upon the States of Texas, Louisiana, and Oklahoma by this drop in oil prices. It is nothing less than economic devastation, Mr. President. This trade adjustment provision we have been trying to pass now for a couple of years. Finally it has been passed, and it is contained in this trade bill. I hope for that reason alone we will pass the bill, and if the President vetoes that we will override the veto.

It is a good bill. It ought to be passed. And if vetoed, if the President should do that, I hope we will override and override with a big margin.

I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Texas.

Mr. GRAMM. Mr. President, the subject we are debating is obviously one that virtually every Member of the Senate has made up his mind on. I think that is obvious by the fact that people are off somewhere doing something else rather than engaging in this debate. But I thought it was important today not just to talk about these issues that are the focal point of the debate today, namely the repeal of the windfall profits tax, the plant-closing provision and trade adjustment assistance, but to discuss the fundamental questions that lie at the root of this trade debate.

Mr. President, this afternoon I want to do more than just focus on those problems that are nominally addressed in this bill, that represent for trade, in some kind of biological sense, a disease of the skin. I want to address more fundamentally the disease of the heart that this bill possesses. First I will address very briefly the windfall profit tax, and plant closing, and trade adjustment assistance provisions, because those are the cutting edge issues that are going to determine whether this bill is signed by the President, whether it becomes law as it is now written or whether it is going to be rewritten.

I do not expect it to sway a single vote, but so often we have heard endless assertions about what is happening in world trade. We have heard what I believe to be complete information and distortion of the truth so often that I am sure people must wonder, "If that is not so, how come nobody ever takes the opposite side of the issue?"

So my purpose here today is to take the opposite side of the issue, not that it is going to sway a single vote, but because it needs to be done. I intend to do it here this afternoon.

With regard to repeal of the windfall profit tax, I came to Congress in 1979, and I vigorously opposed the windfall profit tax. I voted against it. I have worked every day since then to see it repealed.

In fact, I offered the amendment which was adopted on this bill which repeals the windfall profit tax. I think it is fair to say that I thought the tax was a bad idea when it was adopted. I thought it was confiscatory policy. I thought it was an impediment to the production of oil. I thought it basically represented unenlightened policy, and I think history has borne out the truth of that belief.

The fact that it does not collect any revenues today, that it imposes a deadweight burden of paperwork on both the Government and those who have to comply with it is further reason that it ought to be repealed.

But, Mr. President, I know we are in a difficult position here. As I see it, and I am sure I have colleagues here who see it the other way, we have known from the beginning, over a year ago, that the President said that if a plant-closing provision is included in this bill, he would veto the legislation. And unless God palsies his hand he is certain to veto this bill.

So we get into this sort of finger-pointing debate where those who want the plant-closing provision and the repeal of the windfall profit tax say to somebody like me, "Well, if you are so hot for repealing the windfall profit tax, after all you offered the amendment, why do you not vote to override the President's veto?" And of course, I get back into the finger-pointing business of saying, "Well, if you are so hot for repealing the windfall profits tax, how come you did not fight harder to keep out the plant-closing provision which we all knew would get the bill vetoed?"

I do not know how productive that argument is. Obviously it is going on. I, for one, am going to vote against this bill, and I am going to vote to sustain the President's veto. And I believe this veto will be sustained. Then it will be up to those of us who want certain parts of this bill, like repeal of the windfall profits tax repeal, to come back in and try to find a way to put it back together with that provision in it.

While at this moment, obviously, we will say that if we do not get what we want, it is not going to happen, I am hopeful that it will, and I intend to work to see that it does; and to the degree that anybody can be confident in this business, I am confident that we will get legislation.

Mr. President, I am against the plant-closing provision. I wish we lived in a world where we could always, in every circumstance, give somebody a 60-day notice before they lose a job. I wish we lived in a world where everybody made $10 or $20 or more an hour. But the plant-closing provision really boils down to two things, as I see it.

No. 1, when a business person makes an investment, one of the prerogatives he has always had is the right to hire and the right to fire. Sometimes those rights are negotiated away as part of a labor contract. But the sanctity of the capacity of management to manage, to make hard decisions, often to make unpopular decisions, has always been fundamental to the American free enterprise system.

I was somewhat amazed when someone at luncheon today handed out a list of all the countries that have these elaborate plant closing provisions. Virtually all of them are in Europe and virtually all of them are part of an economic system in Europe that has not created a new job in a decade, a period of time in which we have created 14 million new jobs. One of the reasons they have not created a job is that government and labor and management all hold back innovation, all manage the economy. Competition and individual entrepreneurship do not flourish, and jobs are not created.

The second problem with the plant closing provision has nothing to do with philosophy; it has to do with practicality. Sometimes the ability to lay people off saves many more jobs than it costs. When things happen that represent the kind of dynamic change that is part of the American free enterprise system, people have to make decisions; and often their ability to make those decisions quickly, to make an adjustment, is the difference between 30 people losing their jobs and all 300 people who work in a plant losing their jobs. We must remember that everyone, including the people who own the plant, lose their jobs as the plant goes broke.

The problem is complicated by the fact that there is a part of this plant closing provision which is seldom discussed, and that is the part that has to do with new acquisitions. I am sure some of my colleagues have heard from the Federal Home Loan Bank Board and the FDIC with regard to their concern over the acquisition provisions in the plant closing bill. They are concerned with its effect to the solvency, or lack thereof, of banks and savings and loans in the southwestern part of the United States. The Southwest plan, which is a plan to revitalize the savings and loan industry in the Southwest, would shut down about one out of every three savings and loan offices in the southwestern part of the United States.

What kind of plan would we have if, in terms of cost, we had to come in and, in trying to attract private capital, say: "We want you to invest and absorb a lot of these bad loans, and we are going to work out an agreement, and you will have to shut down one out of every three offices, and, oh, by the way, you have to give everybody a 60-day notice"?

The imposition of those costs would clearly strain our ability to get new capital. Would it save jobs? Obviously, we all want somebody to know if he is going to lose his job. But there is something more important than knowing if you are going to lose your job. It is not losing it in the first place.

I submit that a lot of harm has been done in this country by people who write provisions that are based on the best intentions in the world but end up giving lots of people lots of notice that they are going to lose their job, ensuring in fact that they do. That is clearly a problem that would be created by this plant closing provision.

We should be concerned about the many cases where you have a new acquisition of a company that is on the verge of bankruptcy, where clearly you have known for a long time that the company was going bankrupt, but you have new management come in. This management brings with it new capital and a dramatic reorganization plan to save the company but that entails laying off people. If you know that you have to give 60 days' notice, as laudable as that may be, you are going to see fewer plants that are revitalized and fewer jobs that are preserved and a less dynamic economy, less growth, less jobs, less opportunity.

I am not claiming that this is a great issue. If you want to run out to Main Street in Mexia, TX, and debate it, if you want to say, "I want a provision that says in each and every instance nobody will lose their job unless they get a 60-day notice," you are going to get lots of applause. But the practicality of that problem, in mergers and acquisitions, in the midst of bankruptcies, is that more people lose jobs. They may get plenty of notice, but they are often unemployed for a long time.

Trade adjustment assistance: Mr. President, for all practical purposes, we moved to terminate this program in 1981, and we moved to terminate it in 1981 because it was not a good program. It was not a good program for two reasons.

No. 1, why should somebody who loses his job to foreign competition be treated better than somebody who loses his job to domestic competition? Is, somehow, the pain of unemployment if a foreigner puts you out of work greater than if a domestic competitor put you out of work? I think not. I think this is an unfair provision. Either the provision should apply to everybody or should not apply to anybody.

Second, what has the record shown, over and over again, when you get into the second year of unemployment compensation, when you have extended those benefits that long? You start impeding the ability and the willingness of people to relocate, to retrain, to get on with another life, when the job they had was lost.

I know that the debate here boils down to a small number of issues and that if those issues are taken out, the President is going to sign the bill. If they are not taken out, he is going to veto it. Clearly, the first time through they are not going to be taken out, and we will have to vote as to whether to sustain that veto. I believe the vote will be close but that the veto will be sustained.

I urge my colleagues who want to repeal the windfall profit tax to do that, and on the second time through take out the plant closing provision, so that we can get the bill signed. If they do that, it will become law. If they do not, it will not become law. Who will have made the decision? They will.

Mr. President, I want to talk about the heart of this bill, which has not been debated except by its proponents. The heart of the bill is this: We are here today debating an issue which is a myth, which is a farce, which is a fraud. The myth and farce and fraud are all based on a lot of assertions that have no factual foundation whatsoever. I want to read three of the most often quoted statements in this whole trade debate.

No. 1: We—and that means America—export not goods but jobs. We hear that every $1 billion of deficit in U.S. trade represents 25,000 jobs the United States has lost.

We are told that current trade deficits represent the export of 3.5 million jobs per year. I could go on and on. We have no free trade in goods, but free trade in jobs so they say. You can take our jobs away free, and it goes on and on and on.

But you know what is amazing, Mr. President? Never, ever has anybody presented any data whatsoever to substantiate any of the claims which are the currency of the entire trade debate.

You would think with all these jobs we are losing, that there must be some country somewhere in the world that is just in great prosperity and which is gaining millions of jobs. If we are losing 3.5 million jobs a year, where are they going?

Mr. President, one searches in vain to discover where they are going. The truth is, we are creating more jobs than any nation in the world. Since 1982, the trade deficit has almost quadrupled, and while politicians have been jumping up and down about us exporting jobs, we have created 14 million new jobs. We have created more jobs than all of Europe and Japan have created in the last 10 years.

With all this talk about us losing jobs, since 1982 when our deficit in the trade balance started to skyrocket, our unemployment rate has gone down by 28 percent, Japan's unemployment rate has gone up by 17 percent, and the European Economic Community's unemployment rate has gone up by 20 percent.

While the trade deficit has increased, we have created over 500,000 jobs in manufacturing.

Now, our biggest trade deficit is with Japan, and they have lost manufacturing jobs since 1982. Our second biggest trade deficit is with Germany, and they have lost manufacturing jobs since 1982. We have created over 500,000 manufacturing jobs.

Before somebody jumps up and says, "Aha, those are jobs making tacos, those are jobs flipping hamburgers." Baloney.

From 1977 to 1981 real wages in manufacturing in the United States fell. Prior to the trade deficit going up real wages were declining in terms of what our workers could buy. Real wages from 1977 to 1981 declined by 7 percent. Since 1982, real wages have risen by 6 percent.

I know some people are going to say, "But we are losing these high-paying manufacturing jobs, and we are gaining all these low-paid service jobs." Baloney. Despite all the rhetoric, repeated 1,000 times to document a phony issue, it is not so.

Let me give you some facts. In 1982, 65.2 percent of the jobs in America were in what were called the higher paying categories, that is, management, professions, technicians, precision craftsmen; 65.2 percent. Thirty-four point eight percent of the jobs were operators, service industry, low-skilled jobs.

By 1986, which is the last hard data we have on this, the number of people in the higher paid classifications had risen from 65.2 percent to 67.2 percent, and the number of people in the lower paid classifications of jobs had declined from 34.8 percent to 32.8 percent. Or of all the jobs created between 1982 and 1986, 85.7 percent were in the higher paid category, and 14 percent were in the lower paid category, which means substantial improvement in quality of jobs over what existed in 1982.

So to sum up that point since 1982, we have created more jobs than Europe and Japan combined, and we have created higher paying jobs one-third faster than we were creating them in 1982, and we are creating low-paying jobs half as fast as we were creating them in 1982, if you look at the net addition.

Then there is that final heartthrob that we all hear, that we are "deindustrializing" America, our manufacturing capacity is being destroyed, our future is being mortgaged. It is all baloney.

Manufacturing as a percent of GNP has not changed in 50 years. For 50 years, manufacturing has been about one-fifth of GNP. Moreover, productivity in manufacturing since 1982 has grown four times as fast as productivity nonmanufacturing sectors.

In truth we are creating jobs today three times as fast as Japan and 20 times as fast as Germany, and yet every day, everywhere we hear about how things are so bad because we are patsies in world trade. We are losing in world trade. We are being cheated in world trade. And the people who are cheating us are creating jobs either one-third as fast as we are or one-twentieth as fast as we are. I submit something is wrong in that reasoning.

I want to just make up two headlines and you tell me if you cannot envision them being written by your Sunday paper wherever you are from.

The first headline is "Honda Motor Company Invests in Blank City, Creating 200 Jobs. Protest Heard That America Being Bought by Foreigners."

We read that headline every day. Foreigners invest in the United States creating jobs. We are concerned about foreigners taking over America.

Let me give you another headline. "Apple Computer Invests in Singapore. Concerns Expressed American Jobs Being Exported."

We see those headlines every day. But, wait a minute, those headlines are the mirror images of each other. In one case foreign capital is coming into the United States. In the other case American capital is going abroad.

How can both of the things, which are simply mirror images of each other, be bad for America? If one is bad, the other ought to be good. Can both be bad?

Well, they are both bad only because we define them as being bad. In fact, if you listen to all this trade rhetoric, and you thought the people espousing it understood it and believed it, you would think their ideal model in the world would be Communist China prior to its opening. You would think that their perfect world would be a world where there never was any foreign investment, where there never was any American investment abroad, where you just had a complete wall built around your country. I guess that would be the ideal they seek.

Interestingly enough, China found that that system did not produce growth. And what a great paradox, Mr. President, when at the very moment in history that China is coming out from behind its great wall to trade with the world to try to develop, that the greatest trading nation in history is talking about building a wall around itself to keep out foreign goods.

The tragedy of it all, Mr. President, is you cannot keep out foreign goods without keeping in your own goods. You cannot have less trade and more jobs. Whether the President's veto is sustained or not sustained, whether we take out plant closing or we do not, this bill ultimately means less jobs, less growth, less opportunity to America.

At the risk of sounding like the old schoolteacher I am, I want to try to explain at least in my view what is happening. How can you have these big trade deficits and be creating more jobs than almost all your trading partners combined?

Let me go back to the beginning and talk about why we have a trade deficit. First of all, you need to understand that we have what is called a floating exchange rate, which means the value of the dollar is determined every day on a free market where people buy and sell dollars.

In fact, on average, in a given day, $200 billion is traded in international currency exchanges—$200 billion a day exchanged.

Let me just take the dollar and the yen. Every day this market equates the demand for yen in terms of dollars and the demand for dollars in terms of yen. And since these markets exist all around the world, then every second the exchange rate changes until they are in perfect balance.

Why do people demand yen for dollars? Why do people want Japanese currency? They want Japanese currency to buy Japanese goods or to engage in a capital transaction in Japan—that is, to pay off debt, to repatriate earning, or to invest. Basically, if you simplify it, those are the only two reasons.

And why do people with yen want to buy dollars? Exactly the same reasons—to buy American goods and to engage in capital transactions. Since the demand for yen in terms of dollars and the demand for dollars in terms of yen add up to those two things, the exchange rate changes to equate the two.

So to say that the United States has a trade deficit with Japan—meaning we are buying more goods and services from Japan than they are buying from us—says that they are investing more in the United States than we are investing in Japan. In fact, the trade balance and the capital balance have to equal to zero at all times between any two nations when you net everything out.

Now what does all that mean? That means that for every dollar we are spending on Japanese goods that is not coming back and buying American goods, that dollar is not lost. That dollar is coming back in investment to create new plant equipment or to buy American debt. So to say that we have a $150 billion trade deficit with the rest of the world is to say we have $150 billion of net capital inflow.

Why is it that people want to invest all this money in America? I submit that we are starting to get hot on the trail of why we have a trade deficit.

No. 1, we have the highest real interest rates in the world. For the last 10 years, on average, the Federal Government, because of the real deficit—the deficit in our budget—has borrowed about 40 cents out of every dollar raised in the American capital market.

About 40 cent of every dollar saved in America goes into Government rather than building new homes, new farms, new factories. That has created very high interest rates and has attracted investors from Germany, from Japan, from South America, from everywhere else who want to come into the American economy and to buy bonds, both private bonds and public bonds. But to buy bonds, you have got to buy dollars. That increased the demand for dollars and raised the value of the dollar out of all proportion to the dollar's purchasing power. And the net result was a very high-valued dollar which made imports more attractive and American exports less attractive. And that is the primary cause of our trade deficit.

The second cause is something that we are happy about. Since 1982 we have had the strongest economic recovery in the world, and the net result has been that we have had the highest equity yields in the world. Investment in American business has been yielding a higher return today than investment in any other country in the world, on average. As a result, America's economy has been literally greenlined as foreigners have tried to invest in America. In doing so, they have created literally millions of American jobs.

Interestingly enough, however, the biggest reason that we have this net capital inflow is that we are investing less abroad. In fact, between 1982 and 1985 American investment abroad declined by 74 percent.

Why did American investment decline by 74 percent? It declined by 74 percent because, with the tax cut, with the revitalized economy, investment in America became more attractive. As a result, Americans quit investing abroad. And when they quit investing abroad, they quit buying foreign currencies, and that helped send the value of the dollar up. Foreign investment in the United States rose by 35 percent. The net result has been a big capital inflow and a big trade deficit.

There is no evidence whatsoever to substantiate that our trading partners are more protectionist today than they were 10 years ago when we had no trade deficit. Let me repeat that. There is no evidence whatsoever to suggest that our trading partners are more protectionist today than they were 10 years ago. In fact, in many respects they are less protectionist today than they were 10 years ago.

The reasons we have a trade deficit has to do with those high interest rates and with those high rates of economic growth, not with any kind of protectionism.

Finally, while I am on this subject, let me say that there is sort of a fraud that is perpetuated. That fraud is that the United States is a great free-trading nation and the rest of the world is protectionist. The plain truth is we are a lot more protectionist than we let on.

Let me give you an example. I have spent the last few months pounding on the Japanese Ambassador and the Japanese Trade Minister to open up their markets to more American beef. Because beef is produced in my State, we want to make the sales. The Japanese Government is cheating its people through protectionism.

It is interesting to note that Japan already imports from the United States 33 percent of the beef they consume. Do you realize that if U.S. imports of beef go above 10 percent, we are in a position to implement a quota to stop the imports from coming in?

Now think about that. At the time we are pointing the finger at Japan, saying, "You guys are protectionists, and you are costing us markets," their degree of penetration, in terms of American beef going into Japan, is already over three times the level that we allow under existing quotas which can be imposed if our imports go up by 10 percent.

My point is that this conception that we are the great, pure free traders and the rest of the world are protectionists is bunk. The truth is, we are too protectionist. Our consumers pay twice for their clothing what they would pay in a free market, and they do it because we allow special interests in the textile business to steal from every working man, woman, and child in this country, just as the Japanese allow their special interests to steal from their working people. And, interestingly enough, the special interests who want the right to rob the working people of America use the fact that the Japanese cheat their people as the excuse to make us cheat our people. It makes absolutely no sense.

Now, why does this information not get through? Well, I have spent a lot of time thinking about it, Mr. President, and I think there are several reasons. Number 1, foreign trade is a complicated subject. Disraeli once said not one person in 50,000 understands the currency question—which is equivalent to our trade issue—and yet we meet him every day. My guess is today that not one person in a million understands the trade question.

The second problem is that only part of the story is told. When a steel mill shuts down because Americans are buying foreign steel, because it is cheaper—interestingly enough, that is not true today because of the change in the exchange rate—but when it was true, we all hear about it. The steel unions sent resolutions to Washington. The steel industry demanded protection.

When a textile plant shuts down because Americans buy foreign textiles, we hear about it. We hear from the unions, we hear from the companies, we hear from the State, we hear from the local officials, we hear from the Chamber of Commerce.

In fact, it is sort of like we are engaged in single-entry bookkeeping. We see the cost of foreign trade, but rarely do we hear about the gains. When foreign capital comes into the country and modernizes a major American industry, they do not run ads in the paper. They do not send letters to Washington. So, as a result, we never hear about it.

Would it be better if foreigners were not investing in America? Well, I think the answer could be yes, if we could eliminate the reason they are doing it. And that gets me to my next point.

Congress is eager to jump on the protectionist issue, because it gives us the ability to blame foreigners for all of our problems. It gives us the ability to blame foreigners who cannot vote in our elections for all the problems we face in this country.

The reason we have big trade deficits, the reason that a lot of foreign capital is coming into the country, is because we are squandering our capital, buying programs through Government with Government deficit spending and, as a result, having to go out and borrow.

If Congress really wanted to deal with the trade problem we would deal with it by lowering the budget deficit and lowering interest rates. But allow me to let you in on a secret. Protectionism will not lower the trade deficit.

If we imposed a 20-percent tariff on every imported goods, there is no reason to believe the trade deficit would go down. That sounds like an extraordinary statement. Let me try to explain it.

If we imposed a 20-percent tariff on all imported goods, then we could expect Americans to buy fewer imports. But if Americans buy fewer imports, what happens to the value of the dollar in terms of foreign currencies?

Well, Americans are trying to buy less in foreign currencies because they are buying fewer goods, and as a result the value of the dollar goes up. In fact, unless foreigners decide to invest less in America because of protectionism or because our interest rates change, there is no reason to believe that a 20-percent tariff would lower our trade deficit at all. Just the value of the dollar would go up.

For goods that we were competitive in, we would lose our degree of competitiveness. We would protect old jobs. We would lose new jobs. But the deficit would not necessarily change.

Could we protect jobs with protectionism? Forget the fact that protectionism changes the value of the dollar and does not save jobs. Assume that it worked. What would we pay?

The Federal Trade Commission estimates that the voluntary restraint agreement on automobiles costs the American consumer about $1.1 billion. That translates into a policy that costs the American consumer $241,000 for every job in the automobile industry that we save through voluntary restraint.

I submit that there may be some big shot manager at one of our great corporate automobile producers that makes $241,000, but I do not think that is the kind of jobs we were planning to save.

I do not know how much the average worker in the automobile industry makes, but he does not make $241,000, and that is what the American consumer paid in higher prices, for each job saved, as a result of our protectionist program on automobiles.

In the steel industry, our degree of protectionism was so expensive that we paid, in terms of higher prices for steel, $113,000 per job that we saved in the steel industry. I submit again, that the president of United States Steel may make $113,000 a year. But the guy whose job we are all talking about does not make that kind of money. But that is the price the consumer paid.

Our tariff on tuna imports costs the American consumer $240,000 in higher prices as people in this country put tuna fish on the table, and my guess is that not a lot of rich people eat a lot of tuna. Those are basically working-class families. Those working-class families paid $240,000 in higher tuna prices for every job we saved in the tuna industry.

I submit, Mr. President, that that is not very smart policy. I could go on and talk about a lot of other industries, but I think I have made my point. Protectionism, whether it is a little, gradual thing as we have in this bill or whether it is something like Smoot-Hawley—and how close this is to Smoot-Hawley I think we could debate—the bottom line is that when this bill becomes law, as I am convinced it will, when the President vetoes it, we sustain the veto, we take out plant closing or whatever the other things are, and it becomes law, there are some things you can be certain about.

No. 1, America is going to be poorer. No. 2, there are going to be fewer jobs than there would have been. Wages are going to be lower than they would have been. And opportunity is going to be less in America than it would have been without this bill.

This bill is going to benefit only the special interests who get some degree of protection. I do not want to belabor the debate on the specifics of the bill, because it has been debated, in some detail, but let me just pick one area, the 201 provisions.

Under the 201 provisions, a company can come to the International Trade Commission and say: We are not competitive. We are losing jobs to foreign countries. And if the International Trade Commission concludes that that is a fact, the International Trade Commission can give that company up to 8 years of protection from foreign competition.

During those 8 years all the Americans who consume the products of that company or that industry are going to pay a higher price because of the protection. The argument is that in 8 years this company will become successful again and competitive again and everything will be wonderful.

But I would ask, Mr. President, how many football coaches playing in the NCAA could go to the college president and say: Well, Mr. President, you know we were 2 and 9 last year and we are not doing too well in the football program, so what I want you to do is I want you to suspend the football season for 8 years. If you will take us out of football for 8 years, I will rebuild the program, we will come back in and we will have a championship team.

Any coach who said that would be laughed out of his college. You do not become competitive by refusing to play the game. What we are looking at here is nothing more than a special interest grab at the expense of the working men and women of America.

The plain truth is that in the last 6 years, America has become more competitive, but not because of what this Congress has done. This Congress has fought it every step of the way. In fact we have before us now six labor bills, some out of committee, some in committee, but a package that would raise labor costs by 35 percent. How is that going to make America more competitive? It is not.

What makes America competitive is having to compete. We can compete and we can compete successfully. But we can only do it by doing it. This bill takes that pressure off in many key areas and makes America a loser.

Finally, I want to sum up with one point that has nothing to do with the fact that this bill is going to make us poorer; that it is going to make wages lower; that it is going to mean fewer jobs. This bill is going to do more than that.

I simply would like my colleagues to think about it as we, in years to come, return to repeal these provisions. America, in my opinion, is beginning to win the cold war because we have created, through world trade, an explosion of economic productivity. Japan, because of trade-based capitalism, now has a GNP that rivals our own. Korea, which had a per capita income of $50 in 1953 has a per capita income of over $3,000 a year. In fact, Korea has become a world power.

Taiwan today, based on trade-based capitalism, has a per capita income 13 times that of the mainland.

Who would have thought, in 1950, that Communist China would be experimenting with capitalism because Taiwan was so successful? In 1950 we would have bet that if anybody would be experimenting with a new economic system it would be communism in Taiwan, but it has not happened. In fact, nowhere in the world today is communism attractive to anybody as an economic system for development. And it is not attractive to anybody because we have rebuilt the world's economy through trade.

So successful have we been with trade in Europe that the Communists have to build walls to keep their people in, because they see what trade and capitalism and freedom have produced.

I submit that the real danger of protectionism is not that it lowers our living standard—that is bad enough—but that it is a dagger literally aimed at the heart of our success in the postwar period.

Mr. President, I do not think we are going to convince anybody in this debate, but I wanted to get up today and talk about the heart of the issue, and the heart of the issue is simply this: We are not losing jobs and, we are not a loser from trade. We are the world's greatest gainer from trade. We have gained more jobs, more growth, more opportunity than all of our trading partners in the last 6 years. We have a trade deficit today because it was created right here on the floor of the U.S. Senate. It was created right here as we have run $200 billion deficits and driven up interest rates and literally denuded Europe and Japan of capital that has come here to fund our economic recovery and to fund our trade deficit. If we want to deal with that problem, we are going to have to deal with it by dealing with our budget deficit and bring down interest rates. We are not going to deal with that problem through this bill.

This bill is a step in the wrong direction, but I do not believe this represents a new trend. I believe that the wave of the future is going to be more trade, not less. I am hopeful that we will approve the free trade area with Canada. I hope we will follow that with a free trade area with Mexico.

And then, what do we do about countries that do not engage in fair trade? According to this bill, what we do is we go out and find our poorest consumers, and we slap them in the face by raising the price of the things they have to buy to clothe their family, to transport their family, to feed their family.

I say, let us not do it that way. If the Japanese will not engage in fair trade, let us go to the Koreans and say, "Look, the Japanese are cheating us in trade, and we want to cut a deal. We will give you concessions in things that are produced by the Japanese, and we will let you sell those in our market, and you give us concessions on things we produce, and we will enter into a trade agreement, and we will cut Japan out."

Do you know what would happen if we did that? The Japanese would go absolutely berserk. They would run to Washington. They would junk their system of protectionism, because they would want to get in on the trade. What is happening here is that all the special interest groups in Japan that are cheating their people, that are robbing their workers, are all saying, "Gosh, if the United States engages in some protectionism, then there will not be pressure on us to open up our markets so that the price of beef falls by two-thirds and puts us out of the cattle business."

This bill helps the wrong people, and it hurts the wrong people. We ought to be trying to expand trade. We ought to be doing it because it will make us richer. We ought to be doing it because it will keep Ivan back from the gate and, finally, we ought to be doing it because it is right.

We are not going to do it on this bill, but the day will come when we will. I hope this bill will just be an aberration, a retreat from the position that both political parties have taken in the postwar period.

In fact, I think it is a terrible indictment of our friends who are Democrats, that they are the biggest pushers of this bill, when it has been many of their Presidents who have been the strongest advocates for expansion in trade. John Kennedy would not have supported this bill. John Kennedy would have seen this bill as a retreat from everything that America stands for in the free world, a movement backward, a movement back to special interests and away from the public interest.

I have no doubt the day will come when we will set this right, when we will reverse this bill, and when we will get on with the business of America and with the business of the world.

Millions of people, Mr. President, go to bed wanting to come to America. They cannot all come here because we do not have room, but if we can get away from this nonsense protectionism and promote trade, we can take America to them by sharing with them the system we have. That is what I am for, and that is why I am against this bill.

I yield the floor.

Mr. SASSER addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, the conference report on H.R. 3, the omnibus trade bill, is much needed legislation in my view. This bill provides critical assistance in efforts to boost the competitive position in markets of the world. I think this bill addresses a very real threat posed by our continuing, very large trade deficit. And this is a threat we ignore at the peril of our future economic well-being.

Our colleagues in the House of Representatives responded to this threat with an overwhelming vote of 312 to 107 in support of the trade bill, almost of 3-to-1 margin. I urge that we do likewise and send a clear and convincing signal of support for this measure, not only to the White House, but to the working men and women of the United States and to our trading partners and trading adversaries around the world.

I wish to commend those who played an instrumental role in bringing this conference report to the floor. I salute the chairmen and ranking members of the nine Senate committees which participated in the subconferences on this trade measure. Pulling the different issues involved in these subconferences together has been a very difficult task, but one which the times, I think, demand.

Yet, all the hard work which has gone into this measure is now threatened by a Presidential veto. A veto of this trade bill would be a tragic mistake. As we were recently reminded, our trade deficit remains a constant threat to our economy.

We have seen the trade deficit of the United States in world markets increase by over 500 percent in the last 7 years. Our trade deficit remains a constant dagger poised at the heart of the economy of our country.

On April 14, the Commerce Department announced that the trade deficit for February totaled $13.8 billion. This was the highest level since October of 1987. Moreover, this dramatic upturn came at a time when many economic forecasters saw the trade deficit heading in the opposite direction.

The message in February's troubling trade figure is clear—much as some may wish the trade deficit will not simply go away. It is going to take hard work. It is going to take constructive action on the part of Government and on the part of business to get rid of the red ink in our balance of trade accounts.

Equally clear from this news is the continuing havoc the trade deficit is causing on markets not just in the United States but worldwide. With the announced upsurge in our trade deficit the Dow Jones average plunged over 100 points, and markets in London and Tokyo registered significant drops on the news that the U.S. trade deficit had worsened.

The continuing gyrations in stock markets worldwide reflects concern here and abroad about our dual deficits—the deficit of trade and the deficit of the budget. We can take some solace in congressional action this year on the budget deficit. We have stayed within the guidelines established at last year's economic summit. We are standing firmly behind our commitment to reduce our budget deficit. But, this is only one side of the story. Economic leaders and business leaders are still waiting to see what we will do about the trade deficit from the Government standpoint.

Unfortunately, the administration's answer to the question of what action is to take place on the trade deficit is to resort to threats of a veto. Threats of a veto on the first major piece of legislation attacking the trade deficit raise grave doubts about the administration's willingness to come to grips with this very, very serious problem. Indeed, anyone who looks at our trade posture, obviously, knows that this situation cries out for remedial action. It is simply not enough to talk about making this country competitive. We need action, and we need action now.

The 1987 trade deficit totaled $177 billion. The trade deficit last year alone was greater than the total of all of the trade surpluses that the United States has accumulated since World War II.

To get rid of that red ink, we have to attack this problem head on. I think that failure to do so will only accelerate the very troubling trends that we see in our economy.

In my native State of Tennessee, there is a vivid example of what is happening nationwide. In 1980 in Tennessee, more than 56,000 of the manufacturing jobs were export related. These jobs represented some 11.4 percent of the total manufacturing jobs in Tennessee. The value of Tennessee's manufacturing exports stood at $5.3 billion, but by 1984, the latest year for which we have figures, the situation has taken a very dramatic turn for the worse. The value of export related manufacturing sales dropped to $5 billion, a loss of over $300 million in exports in 4 years. The number of manufacturing jobs related to exporting fell to 41,000, a net loss of 15,000 jobs just in the exporting sector of one State which is not noted for exports. This does not take into consideration the tens of thousands of jobs lost in industries that are involved in domestic markets only, jobs lost to imports coming in from abroad.

It is not just manufacturers and those who work for manufacturers who have been hit by our trade difficulties. The Tennessee farm community has seen decreased export activity in recent years, as have our farmers nationwide. In 1984 Tennessee farmers exported 316 million dollars worth of commodities. But by 1986, the value of Tennessee farm exports had dropped to $265 million, a loss of $51 million in the space of 2 years. Soybean exports fell from $145 million to $120 million. Cotton exports dropped from $46 million to $21 million.

So, clearly, this is a situation that cries out for action. We need to strengthen our laws against unfair trade practices. We need to promote exports. We need to improve educational programs in order to enable our workers to compete in a more sophisticated world marketplace. This trade bill does precisely that. It offers constructive solutions to a number of lingering, malignant trade problems.

The bill takes steps to beef up the enforcement of America's rights under trade agreements that we have already signed and negotiated. The authority to make determinations of whether foreign practices meet section 301 criteria is now with the U.S. trade representatives under this bill. The bill requires that in cases involving foreign violations of trade agreements and in some other cases our trade representatives takes retaliatory action of equal value. That is equal measures to counteract discriminatory trade measures against the United States. And equally important, the bill imposes time limitations on such actions by our trade representatives, in this case justice delayed is indeed justice denied. If American industry and American workers cannot get a prompt hearing and get prompt relief, then the day is lost.

We also make reforms in section 201 of the Trade Act to encourage American industries to take actions to adjust in order to compete with imports. It gives them time and some breathing room to make the necessary adjustments to be competitive. This will give many American industries a chance to regain their footing faced with a flood of foreign goods eroding their markets here in the United States.

This conference report tightens up the laws regarding dumping, and countervailing duties. Among the most significant changes are provisions which ensure that third-country dumping will be addressed. We see a number of provisions in this section of the bill which are designed to make sure that we cut through efforts to hide dumping activities; that is, to sell foreign goods at below the cost of actual manufacturer here in the U.S. consumer market.

I want to take just a moment, Mr. President, to discuss the provisions of this conference report which pertain to something near and dear to my heart, and that is the small business sector of our economy. The language in the small business title of this measure closely parallels S. 1344, a small business trade bill which I introduced in the first session of this Congress. My bill served as the basis for the small business title in the Senate's trade bill. This title reflects the importance of the export side of the trade equation with regard to small business. In restoring balance to our trade accounts will require increased export activity on the part of all American industries, and that includes small business.

Small business and the small entrepreneurs have often served as the catalyst that is driving our economy. Small business can play a central role in efforts to expand our export base. We need to do more to encourage small firms to compete in today's world markets.

This bill takes several important steps, I submit, toward that end.

I think it would be truly tragic, I say to my colleagues, to waste an opportunity to enact these important provisions. Several years of very hard work have gone into this comprehensive trade measure. But all of these positive elements are now threatened because of the administration's misgivings about a few relatively insignificant provisions in the bill.

The veto of this trade bill would send the wrong signal to the working men and working women of this country. Americans know that something must be done now to combat the trade deficit. Indeed, in the town meetings that I routinely hold across the State of Tennessee I am continually asked "What is the President doing about the problem of foreign goods depriving us of our jobs? What is the Congress doing to make our goods more competitive on the international markets?"

I say, Mr. President, that those asking these questions, the working men and working women of this country, those in the business sector, are not satisfied with speechmaking or posturing on this critical issue of jobs, of trade, and of business and of our livelihood. They are looking for some sign that help is on the way for those Americans who have been hard hit by the trade deficit over the past 7 years.

I submit that we can send that signal with the passage of this legislation. We can also send a signal to our trading partners that while we believe in free trade here in the United States, traditionally we have been free traders and certainly those from the southern part of the United States, and while we believe in free trade, we also believe in fair trade. We can send a signal to markets around the world that we can and we will address our trade deficit. And we can assure the working men and women of this country that we are concerned about their interests, concerned about their livelihood, concerned about their jobs, and that we are doing what we can to look out for them.

A vote in support of this trade bill will send that type of positive message. I urge my colleagues to support this conference report. I hope that the President will put away his veto pen and back these constructive steps to make America competitive once again.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska [Mr. STEVENS] is recognized.

Mr. STEVENS. Mr. President, I come from a State that has a very small population and a very large area. I have a map of the State back here, and I will move back to the map to make a few observations.

Mr. President, my State is one-fifth the size of the entire United States. We are now the largest oil-producing State in the country. We are producing and sending 2 million barrels a day of oil down the trans-Alaska pipeline from Prudhoe Bay to Valdez.

Most people look at maps depicting the trans-Alaska pipeline and think that since it crosses only one State it must be a short distance. It is 800 miles. It is the same distance as if Prudhoe Bay were Duluth and Valdez were New Orleans.

People do not understand our State, and they quite often treat our State differently in Federal legislation.

This legislation discriminates against my State. I have had my staff prepare this small map of Alaska to try to explain our problem with this bill.

Our oil comes down from Prudhoe Bay and goes to Valdez. We now have a proposed refinery there to refine a portion of that oil. Part of the oil is actually taken out of the pipeline for the MAPCO and Petrostar Refineries near Fairbanks, and the residue of their operations is put back into the pipeline and delivered to the southern terminus at Valdez. We are not exporting, in effect, the incidental refined byproducts of those refineries because they go down with the rest of the crude oil. We have another refinery, Tesoro, at Kenai.

Here is a State one-fifth the size of the United States, with the largest production of oil in the country, the greatest potential for future production of oil on the North American Continent, and there is a provision in this bill that says that of this 2 million-plus barrels of oil a day that comes down this pipeline, not more than 70,000 barrels a day could be exported as refined products from any new refinery. The catch in that provision is that that means 70,000 barrels from all new refineries that are built in Alaska from now on, if this bill becomes law.

Second, there is a provision that says that if the free trade agreement with Canada becomes effective, the 50,000 barrels a day that it was agreed we would export to Canada from Alaska under the proposed Free Trade Agreement will have to clear through a port in the contiguous 48 States, what we call the South 48. Mr. President, that is the reason for my presentation to the Senate today.

I would like the Senate to think about my home State of Alaska. If a person were standing at Tok, on the Canadian border, and flew to Attu, it would be the same as flying from Baltimore to San Francisco; or, going from Anchorage to Fairbanks is like going from here to Chicago.

People do not understand Alaska, and they come up with these amendments that sort of treat us as though we are a county of the State of Washington.

The whole western and northern coastal areas of Alaska have great potential for oil and gas. This provision would put into permanent Federal law a prohibition that no more than 70,000 barrels a day of refined products could be exported from production in these areas of Alaska. It is a concept which I am unable to accept, and I want to explain why.

Mr. President, I think that any Senator, when he wants to protect his State, should first turn to the Constitution. So let me read to the Senate article I, section 9, clause 6 of the Constitution. It provides:

> No preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State be obliged to enter, clear, or pay Duties in another.

I take the position that the provisions in this bill that are known as section 2424 are unconstitutional as applied to the State of Alaska. Those are the provisions that would amend the Mondale provision of the Alaska pipeline amendments to the Right-of-Way Act we passed in the Senate to authorize the construction of the Alaska oil pipeline.

During the long debate on the Alaska oil pipeline we had to accept some restrictions. One of them we did unfortunately have to accept was the restriction that provided a prohibition against the export of any crude oil that was transported by the pipeline to be built across Federal lands from Prudhoe Bay to Valdez.

That unfortunately was constitutional because it was a condition in the grant of the right-of-way across Federal lands.

Now this provision would extend the prohibition against export to refined products, but only those from Alaska.

I have in my hand a report here that was prepared by the Energy Information Administration. It is the petroleum supply monthly report for August 1987. It sets forth the situation with regard to the issues in exporting crude oil.

I ask unanimous consent that the full portion of this report be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. TERRITORIES

Of the 154,000 barrels per day of crude oil which was shipped from the 50 States and the District of Columbia in 1986, some 137,000 barrels per day were received at refineries in U.S. territories—U.S. Virgin Islands, Puerto Rico, and the Hawaiian Foreign Trade Zone. Nearly all of these shipments originated in Petroleum Administration for Defense District V (PAD District V),[26] particularly in Alaska. This pattern of shipments and receipts developed after crude oil production on the Alaskan North Slope began in 1977. In 1986, refineries in the U.S. Virgin Islands, Puerto Rico, and Hawaiian Foregin Trade Zone reported about 8 percent of all Alaskan oil receipts (Table FE5). Products refined from U.S.-origin crude oil may be exported to any foreign country or shipped to the United States. However, for the most part, the refined oil is shipped to U.S. markets. Almost all of the crude oil sent to the Virgin Islands is returned to the 50 States and District of Columbia as refined product. The total amount of refined products imported from the Virgin Islands exceeds the volume of U.S. crude oil shipped there. Likewise, Puerto Rico refineries also provide larger volumes of refined products to U.S. markets than they receive as crude oil.

The refinery in the U.S. Virgin Islands has received the largest volume of U.S.-origin crude oil in each year of these shipments. In recent years, the second largest volume was received by the refinery in the Hawaiian Foreign Trade Zone, although Puerto Rican refineries together had received more until 1984. In 1987, because the treatment of the Hawaiian Foreign Trade Zone was changed, Puerto Rico is expected to be the second-ranking export destination.

The Alaskan North Slope oil comes to terminals in Valdez, Alaska, at the end of the Trans-Alaska Pipeline for loading into tankers. Except for the oil being shipped to the U.S. Virgin Islands, all of the oil is transported in U.S. flag vessels. If the destination is beyond PAD District V or the Hawaiian Foreign Trade Zone, the oil in U.S. tankers travels to Panama for shipment across the Isthmus in the Trans-Panama Pipeline or through the Panama Canal. Before the pipeline opened in 1983, all oil was transferred to vessels small enough to travel the Panama Canal. On the Caribbean side of the Isthmus, the oil is transferred to other U.S. flag vessels to travel on to Puerto Rico or ports in the mainland.

The oil being shipped to the Virgin Islands is allowed to move in larger foreign flag tankers. These tankers travel from Valdez, Alaska around the tip of South America (over twice the distance by way of Panama) but are able to make the longer trip at competitive costs.

COOK INLET OIL

In November 1985, the Secretary of Commerce made the finding that crude oil produced from the State submerged waters of Alaska's Cook Inlet could be exported to any country. Since this determination, several export licenses have been awarded. In February 1987, the first export under these licenses occurred— a shipment to Korea.

Cook Inlet fields are South Alaska fields located to the west of Valdez. They do not use the Trans-Alaska Pipeline to transport crude oil. Some of the fields are submerged and have gathering lines that come ashore at different points on the way to terminals where loading to tankers will occur. Only part of Cook Inlet production is eligible for export because some of it uses Federal right-of-ways to reach a loading terminal. The fields which were eligible for licenses produced about 30,000-33,000 barrels per day during 1986. The State of Alaska receives 12.5 percent of this production in royalties. The State has contracted to sell this royalty oil—about 3,000-4,000 barrels per day.

The significance of this export finding depends upon the decisions of the Cook Inlet owners and the quantity produced by the fields in the future. The production of Cook Inlet (not just the fields eligible for export) is projected to decline about 30 percent from 1985 levels by 1992 under assumptions of world oil prices reaching or exceeding $20 per barrel between 1986 and 1992. If crude oil prices remained below $15 per barrel, the production could fall to 70 percent by 1992.

ISSUES IN EXPORTING CRUDE OIL

The restrictions on crude oil exports have the greatest current and future effects on PAD District V because of the volume and location of Alaskan and California production. Together, these States produce more crude oil, especially heavy crude oil, than PAD District V can consume. The district is expected to have this surplus until the mid-1990's. As a result, groups in both States have pushed for changes in crude oil export policy. Other responses have included developing ways to transport the crude oil to refineries outside the district exporting refined products instead of the raw material.

A major investment has been made to transport crude oil from PAD District V to markets elsewhere in U.S. territory. As discussed earlier, through 1986 the one method of transporting Alaskan and Californian crude oils to other markets was water shipment. Most Alaskan oil was transported in U.S. flag vessels by way of Panama (except the crude oil going to the Virgin Islands). About 60 percent of U.S. flag shipping tonnage has been used in this transfer. The Trans-Panama pipeline, with average maximum capacity of 800,000 barrels per day, was built for this purpose. However, a new pipeline of 300,000 barrels per day capacity, from Santa Barbara, California to Midland, Texas, is scheduled to begin operations in late 1987. The Celeron line will be 80 percent heated, which makes it able to handle heavy oils from California.

These transfers have given PAD District V oils a place in the domestic crude oil demand of most districts. An indication of this role is provided by data the EIA has collected since 1981 about receipts of Alaskan crude at refineries. The EIA began publishing these data in 1986. Table FES shows the wide distribution of Alakan oil in the last 6 years. The greatest volume, as expected, was received by PAD Distirct V refineries. Between one-half and two-thirds of total receipts in each year was reported there. The Gulf Coast and island refineries received the next largest volumes. Over the 6 years, Alaskan crude oil accounted for about 44 percent of all crude oil receipts on the West Coast, and about 25 percent in the territories but less than 9 percent in other districts.

Because between 52 and 67 percent of Alaskan oil has been received for processing at West Coast refineries, these refineries have increased their product exports. They now export a higher percentage of their output than the refineries in other districts. West Coast refineries exported over 10 percent of their output in 1986. The export growth has been greatest in the heavy products because demand for these is limited in PAD District V and the crude oil available yields relatively high percentages of heavy products. The highest proportion of exports for any other district, the Gulf Coast, was 4 percent.

Another effect in PAD District V, in the opinion of California producers, has been a lower price for the area's crude oil than the quality of the oil warrants. California producers argue that they are caught between an export ban and difficult and costly domestic shipping requirements. When Alaskan oil was added to the supply, the result was a "glut" and lower prices. These prices discourage prospects of further local development or enhanced recovery.

The idea of allowing greater volumes of crude oil exports has been studied and debated often bacause of the affect on various parties. The States of Alaska and California now receive royalty oil or taxes which they would hope to see increase in value if the oil could be exported. Other parties that would benefit from higher values include the owners and operators of the producing leases in Alaska and California. Parties who would be adversely affected include the operators of the Trans-Panama and Celeron pipeline, owners and employees of Jones Act U.S. flag vessels, and West Coast refineries because they have made investments on the assumption that exports would not be allowed. The U.S. Department of Defense benefits because the tanker fleet, which would be needed during war or other supply crisis, is maintained without Defense Department support. Some of the parties are involved in more than one way and their interests are correspondingly complicated.

All U.S. consumers are affected to some extent because of the effect on U.S. oil import dependency. At a time when U.S. import dependency is climbing and is projected to pass previous levels, the prospect of trading away U.S. oil concerns some people. Others are concerned that the export ban and the difficulties and costs of U.S. interdistrict transport restricts the market for these crude oils and depresses their prices. With a lower price, the return to producers discourages them from investing in further crude oil production and exploration. This would also contribute to greater U.S. oil import dependency.

The effects of the decision to export crude oil would reach beyond U.S. borders. Potential customers include Japan and other Pacific countries. Potential competitors (Mexico, Indonesia, the Persian Gulf States) who now supply the crude oil demand of these countries would also be interested. Because the Government of Panama is a part owner of the Trans-Panama pipeline, Panama's national budget would be affected by a change in Trans-Panama pipeline revenues.

The ban on export of Alaskan oil preceded the production of that oil. As a result, the supply system for that oil was built with this constraint in mind. It incorporates unique costs but still is profitable enough to warrant operation. This no doubt reflects the size and productibility of the North Slope fields. As the development of new fields in Alaska and the Outer Continental Shelf is considered, similar adjustments of their transport system will also have to be made with the export prohibition in mind.

The future of the debate about crude oil exports could be affected by factors which changed PAD District V's production or local consumption of crude oil, the cost of transport, or the yields on refinery processing. The EIA's forecasts for 1990, 1995, and 2000 indicate that the existing PAD District V fields will be producing smaller outputs of crude oil at those times, although the extent of the decline depends on the world oil price. The development of new fields is uncertain. The new crude oil line from California to Texas will provide competition for shippers which should affect transport costs. Probably the greatest effect would come from the imposition of an oil import tariff or quota. Tariffs or quotas would raise the costs of foreign oil relative to U.S. oil and strengthen demand for U.S. oil.

Mr. STEVENS. Let me just call the attention of the Senate to this fact: Between 52 and 67 percent of Alaskan oil has been received for processing at west coast refineries. Because between 52 and 67 percent of Alaska oil has been received for west coast refineries these refineries have increased their product exports. They now export a higher percentage of their output than refineries in other districts.

West coast refineries exported over 10 percent of that output in 1986. The export growth has been greatest in the heavy products because the demand for these is limited in the petroleum administration district 5 and Alaska North Slope crude oil yields relatively high percentages of heavy products. The highest proportion of exports for any other district, the Gulf of Coast, was 4 percent.

Mr. President, the point is that Alaskan oil is currently being refined and exported from the refineries on the west coast. We, the State of origin of this oil, and, as a matter of fact, the oil is produced on State lands, under lease from the State of Alaska—now we now seek to increase our refinery capacity.

That is only natural really. It is the concept of primary manufacture of raw materials. It is done all over the world. And we have the audacity to suggest that we desire a second refinery that would be involved in refining products for export.

I have in my hand a chart that shows the exports of oil in thousand barrels a day from the United States. We are exporting currently 199,000 barrels a day in crude oil and some 476,000 barrels a day in refined products.

The bulk of that is on the west coast and as the report indicates it is Alaskan oil that is being taken to the Southern Pacific Coast States and then exported.

This year, crude oil exports for the month of January from the west coast were 6,365,000 barrels. For refined products, which are at issue in this amendment, west coast refineries in January exported 9,013,000 barrels a day.

But this amendment says that Alaska could only export 70,000 barrels a day from all refineries that are constructed after the date of this act. I believe that is an unconscionable interference with our right to participate in foreign commerce. It is discriminatory in that it gives an unconstitutional preference to one port over another. It certainly denies what I consider to be the concept of our Nation—that is that we are all supposed to be equal States.

Interestingly enough, there is no precedent that this has ever been done before. In our 200th year, we find no Congress has ever done this to any State. That ought to teach us something.

The basic understanding of our forefathers was we were equal once we became States.

I ask unanimous consent that the whole section at issue here, section 2424(a) which would amend the original Mondale amendment be printed in the RECORD, Mr. President, so there is no misunderstanding where I got this provision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 2424. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL

(a) RESTRICTIONS ON EXPORT REFINERIES.—Section 7(d) of the Act (50 U.S.C. App. 2406(d)) is amended by striking paragraph (4) and inserting the following:

"(4)(A) Subject to subparagraph (B), the provisions of paragraphs (1) through (3) of this subsection shall apply to the export of refined petroleum products, and partially refined petroleum products (from Alaska or from the rest of the United States in an untransformed or uncommingled state), which are produced, from crude oil subject to the prohibition contained in paragraph (1), by an oil refinery which is located in the State of Alaska and which commences commercial operations on or after the date of the enactment of the Export Enhancement Act of 1988, to the same extent as the provisions of paragraphs (1) through (3) of this subsection apply to the export of domestically produced crude oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act.

"(B)(i) Without regard to the provisions of paragraphs (1) through (3) of this subsection, but subject to clause (ii), up to 50 percent of all refined petroleum products, and partially refined petroleum products, which are produced, from crude oil subject to the prohibition contained in paragraph (1), by an oil refinery described in subparagraph (A) during the 1-year period beginning on the date on which the refinery commences commercial operations, and during each 1-year period occurring successively thereafter, may be exported. For purposes of determining, under this clause, the percentage of refined petroleum products and partially refined petroleum products of a refinery that are exported, there shall be excluded sales of refined petroleum products or partially refined petroleum products to any military department of the United States or to any air carrier as defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301), and such sales shall not be subject to subparagraph (A) except to the extent provided in clause (ii).

"(ii) Notwithstanding clause (i), exports in excess of an average of 70,000 barrels per day, in the 1-year period beginning on the date of the enactment of the Export Enhancement Act of 1988, and in each 1-year period occurring successively thereafter, of all refined petroleum products, and partially refined petroleum products, which are produced, from crude oil subject to the prohibition contained in paragraph (1), by all oil refineries described in subparagraph (A), shall be subject to paragraphs (1) through (3) of this subsection.

"(C) For purposes of this paragraph—

"(i) the term 'refined petroleum product' means gasoline kerosene, distillates, ethane, propane, butane, diesel fuel, and residual fuel oil; and

"(ii) the term 'partially refined petroleum product' means a mixture of hydrocarbons which existed in liquid phase in underground reservoirs and remains liquid at atmospheric pressure after passing through surface separating facilities, and which has been processed through a crude oil distillation tower, including topped crude oil and other unfinished oils, but not including any refined petroleum product.

"(D) Within 180 days after the date of the enactment of this paragraph, the Secretary shall issue such regulations as may be necessary to carry out this paragraph and paragraph (5).

"(5) The provisions of paragraphs (1) through (4) of this subsection shall not apply to the export of ethane, propane, or butane separated from crude oil that is subject to the prohibition contained in paragraph (1) and that has passed through a separation facility, except that the crude oil remaining after such separation shall not be considered to be a refined petroleum product or partially refined petroleum product and shall continue to be subject to the provisions of paragraph (1) through (3) of this subsection.

"(6) Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185(u)), during any period when the United States-Canada Free-Trade Agreement, signed on January 2, 1988, is in force and effect, up to a maximum volume of 50,000 barrels per day, on an annual average basis, of crude oil subject to the prohibition contained in paragraph (1) may be exported to Canada, subject to the condition that such crude oil be transported to Canada from a suitable location within the lower 48 States.".

Exports of Domestically Produced Oil (sec. 331 of House bill; section 1020 of Senate amendment; section 2424 of Conference agreement)

Present law

Exports of crude oil from Alaskan North Slope are prohibited in the absence of a Presidential finding and joint Congressional resolution.

House bill

Exports of all domestically produced crude oil are prohibited subject to Presidential finding. Refined petroleum products produced by export refinery are also subject to same restrictions.

Senate amendment

No provision on crude oil. No restrictions may be imposed on refined products of refineries on or before date of enactment except by Presidential determination.

Conference agreement

The conference agreement requires the Secretary of Commerce, in consultation with the Secretary of Energy, to study whether existing restrictions on crude oil exports from the lower contiguous 48 states are adequate to protect U.S. national security and energy interests.

The conferees further agreed to permit, subject to entry into force of the U.S.-Canada Free Trade Agreement, the export of up to 50,000 barrels per day of Alaskan North Slope crude oil to Canada pursuant to such agreement.

The conferees also agreed to restrictions on refined petroleum exports. A refinery commencing operations in Alaska after the date of enactment will be prohibited from exporting more than 50% of its annual output of refined and partially refined petroleum products made from Alaskan North Slope crude oil, excluding sales to the U.S. military and to U.S. flag airlines. In any case, without exclusion of U.S. military and flag airline sales, exports of refined and partially refined products made from Alaskan North Slope crude oil by all Alaskan refineries commencing operations after the date of enactment shall not exceed in aggregate an annual average of 70,000 barrels per day, allocated on a first-come, first-served basis.

The restriction on exports of refined and partially refined products does not apply to ethane, propane and butane that has been passed through a separation facility. This exception was added to ensure that this restriction would not preclude the construction in Alaska of a separation facility as part of a project to recover additional natural gas liquids from the Prudhoe Bay gas produced with the crude oil. This exception was not intended and should not be construed to provide authority for any refinery described in paragraph (4)(A) to export any quantity of ethane, propane or butane in excess of the limitations imposed under paragraph (4).

The amendments made by this Act do not affect current policy regarding the export of refined or partially refined petroleum products produced by refineries located in the rest of the nation. At the same time, the conferees wish to prevent sham "transshipment" transactions which are used to circumvent the restrictions on exports from Alaska established in paragraph (4).

Mr. STEVENS. But subsection (D)(6) I will read, as amended by this bill:

> Notwithstanding any other provision of this section or any other provision of law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920 30 U.S.C. 185(u)—

That is the right-of-way law that we amended with the Pipeline Act—

> . . . during any period when the United States-Canada Free Trade Agreement, signed on January 2, 1988, is in force and effect up to a maximum volume of 50,000 barrels per day, on an annual average basis, of crude oil subject to the prohibition contained in paragraph (1)—that is the 70,000 limitation "may be exported to Canada, . . .

And this is the new and very offensive provision—

> . . . subject to the condition that such crude oil be transported to Canada from a suitable location within the lower 48 States.

My State is north of Canada. We have 600 miles of Canadian coastline below us between our State and the State of Washington. Yet we share a very long Eastern border with Canada.

This provision says that if we live up to the Free Trade Agreement and make available 50,000 barrels a day to Canada, it cannot be sent by pipeline in the first place. It has to be sent from a suitable location within the lower 48 States.

I wonder how many other Senators would like the job of standing here and talking about similar restriction on their home State products. How about cotton? Let us suppose the Congress came up with an amendment and said all cotton has to go out of Mississippi, it cannot go out of Alabama or Georgia, only out of Mississippi. Or how about coal? Pennsylvania was the first coal State, had all the big offloading facilities. What about a provision that says no coal can leave the United States except through Pennsylvania? Or how about soybeans from Kansas? What about a provision that soybeans can only be exported from Kansas.

Mr. President, this is not a light issue for us. This is an issue of whether we are a State. I have toyed, and I say that advisedly, with the concept of trying to raise a point of order to this bill. There is a point of order that is available to a Senator when a provision is unconstitutional. And this provision is unconstitutional.

But, Mr. President, the chair would submit that point of order to the Senate and the strange thing is if the Senate upheld my point of order that this little provision in this conference report of more than 1,000 pages, and we take only a couple of pages, this little provision in this bill, if it is unconstitutional, would cause the entire conference report to collapse.

A constitutional point of order was raised in the Senate 3 years ago when we had the provision the distinguished predecessor of the current occupant of the chair presented to the Senate on the line item veto and there was a point of order raised as to its constitutionality and the measure fell.

Now, one thing I have learned standing out here on the floor 20 years is how to count votes, and I can tell you that the people on the other side of the aisle who want this bill passed are not going to vote that this is unconstitutional if it kills their trade bill.

OK. So I decided, well, let us try to create a new precedent. Let us create a new precedent. Suppose I would make a point of order that this provision was unconstitutional, and the chair would be limited to ruling only upon that provision in terms of constitutionality. However, I am told and I believe I am informed correctly, that the precedents would not allow me to make such a point of order.

Then I would have to appeal the ruling of the chair and overturn the ruling of the chair in order to get a precedent that would allow us to take one little provision out of a 1,000-page conference report.

Mr. President, how did we get into this position? That is what my Alaskan friends are going to ask me when I get home. It is an interesting thing when you come from a place like ours, because we are on a first-name basis with almost everybody. I remember distinctly talking with one young woman in her eighties. I was in Homer, AK, one time and she was asking me about a bill that pertained to the elderly. I told her my frustrations over the subject. And she said, "Don't tell me that." She said, "You were there. We sent you there."

They sent me here for this purpose—to stand up for the State of Alaska. And I have to tell you, Mr. President, there is very little one State can do to restrain a majority in the House of Representatives. The only thing we can do is to take it to court.

I believe this provision is unconstitutional. There is no question that the State of Alaska could file a suit and should file a suit if this bill becomes law to challenge that provision.

I cannot tell the Senate how sad I am to reach the point where it is not possible, under the rules of the Senate, to delete trash like this. It is trash, Mr. President, and it has got to be viewed as trash.

But we have tried a long time. My colleague and I have notified the members of the conference committee of our opposition to this provision. I must say, in credit to my friends who served us in the Senate who went to the conference committee, the Senate deleted this provision from the House bill when it originally came over. When it went back to conference, our colleague in the House, Congressman YOUNG, was able to get this amended in a way that does permit the one refinery that is planned to go ahead. At first, the amendment would not have even allowed that.

Some say it is livable in view of the repeal that is in this bill for the windfall profits tax and that we should recognize the greater good for the State in the long run in terms of money and forget about the principal of protecting our State.

Mr. President, unfortunately, I am not built that way. I have had a series of conferences today. I respect my friends who have talked with me and tried to see if there was some way to work this out. But I know of no way to work this out.

One of the reasons there is no way to work this out—incidentally, Mr. President, I think I would surprise the Senate by telling the Senate that in a thousand-page conference report there is no general severability clause. If any provision is unconstitutional, the whole bill would fall anyway. That will play heavy on a court that looks at this provision that affects a single State with such a small population and the prospect of one or two new refineries, I am sure. But any court challenge on any provision in this legislation threatens the whole bill. I have to say I cannot remember a major bill coming across the floor of the Senate that did not have a general severability clause in it, but this one does not contain one, Mr. President.

Now, I believe we have gone too far down the road of becoming a State to permit the Senators from Alaska to vote for a bill that contains such a provision. I told our conference at noon, Mr. President—we each have conferences on Tuesday. I am sure the Members of the majority party heard my good friend from West Virginia explain the fact that I was going to try to raise a point of order. He has been very cooperative. If I have a friend on the floor of the Senate, it is, in fact, the majority leader. He has been most understanding about the problems of our State in regard to this problem.

I do not think there is anyone else in the Senate that can say that they stood in the gallery—up there in the press gallery, I stood 30 years ago when Alaska became a State. The Senate passed the bill. We had fought long and hard, from 1913 to 1958, for statehood. The Senate actually—just a trivia in history—passed the bill that the House had passed word for word, no amendment, because we knew if we amended that bill in any way it would go to conference and that would have been the end of statehood for Alaska.

I helped create that State of ours for the purpose of giving us representatives here in the Senate. I never dreamed that I would be able to be a Senator someday, I will tell you that.

But the concept of a State that far away, Mr. President, my home is closer to Tokyo than I am today standing here in Washington, DC. We do not ask for special consideration because we are Alaskans. We ask for special consideration because no one else is that far away, no one else has the problems that we have or the potential that we have and no one else deals with the Federal Government day in and day out the way we do. I think it is time that we say no, say no to this provision.

Let me read to you from the conference report. It is a very interesting provision. It says:

> The conferees also agreed to restrictions on refined petroleum exports. A refinery commencing operations in Alaska after the date of enactment will be prohibited from exporting more than 50% of its annual output of refined and partially refined petroleum products made from Alaskan North Slope crude oil, excluding sales to the U.S. military and to U.S. flag airlines. In any case, without exclusion of U.S. military and flag airline sales, exports of refined and partially refined products made from Alaskan North Slope crude oil by all Alaskan refineries commencing operations after the date of enactment shall not exceed in aggregate an annual average of 70,000 barrels per day, allocated on a first-come, first-served basis.

I hope everyone heard that. In addition, without excluding U.S. military and sales to U.S. flag airlines, we cannot export more than 70,000 barrels a day of oil in any day. It goes on to say:

> The restriction on exports of refined and partially refined products does not apply to ethane, propane and butane that has been passed through a separation facility. This exception was added to ensure that this restriction would not preclude the construction in Alaska of a separation facility as part of a project to recover additional natural gas liquids from the Prudhoe Bay gas produced with the crude oil. This exception was not intended and should not be construed to provide authority for any refinery described in paragraph (4)(A) to export any quantity of ethane, propane or butane in excess of the limitations imposed under paragraph (4).
>
> The amendments made by this Act do not affect current policy regarding the export of refined or partially refined petroleum products produced by refineries located in the rest of the nation. At the same time, the conferees wish to prevent sham "transshipment" transactions which are used to circumvent the restrictions on exports from Alaska established in paragraph (4).

In other words, you can take Alaskan oil down anywhere in the south 48 and refine it and ship it out but if Alaskans work on crude oil to refine it, it cannot be exported.

If I ever heard a discriminatory provision against Alaska's laboring people, this is it. That is how we get employment in our State, by processing our raw materials, whether it is fish or timber or gravel or oil or gas. We try to be involved in the production process and, like any other place, we want to maximize the job opportunities in our State. This provision says they all go to Seattle.

Mr. President, I cannot understand that. I say, respectfully to all of the people who worked on this bill, I cannot understand that. I have fought in conference committees, I think, for almost every Member of this Senate to affect something in the Member's State which he took umbrage to, which really offended him. And I want the Senate to know that I am going to leave the floor today saddened by the fact that the Members of the Senate would not listen to us, the two Senators from Alaska, about this provision. I can tell the Senate that the process by which the Finance Committee passes legislation, so long as I am in the Senate, will be changed. I will object to any process by which a bill will pass here that will not be subject to some objection when it comes out of a conference committee. This conference report actually goes beyond the provision that was in the House bill in some ways.

And we have no way to attack it. The House passes a bill. They send it here. We bring a Senate bill out, we work on the Senate bill and in the last minute we strike everything out but the enacting clause on the House bill and we substitute the House provision. It is one complete substitute, one amendment; when it comes back it is not subject to amendment. It is a very neat procedure; very neat.

But for small States there is a lesson here. And I am going to do my best to protect my rights in the future on that approach so that we can see to it that subjects like this that come before the Senate will be identified in separate amendments, and if they survive a conference, we can find some way to attack them.

Mr. President, I mean no offense to any Member of the Senate. I share the great respect of the Senate for the work of Senator BENTSEN and his colleagues who have led the fight on this bill.

In a conversation I had last night, the question was asked: What State is the farthest north, the farthest west, and the farthest east? You have to come to the conclusion that it can only be one—Alaska.

We are unique in this union and we need friends in the Senate. We have had great friends in the Senate. I can only say that I deeply regret that the conditions of this bill make it such that I cannot support it. I not only cannot support it, I will actively urge the President to veto it and I will assure the President if he does veto it, that mine will be the first name on the list to sustain that veto.

In my judgment, this type of unconstitutional amendment should not survive. If it does, by chance, survive, then the Alaskans will have to trust to the courts.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Texas, Mr. BENTSEN.

Mr. BENTSEN. Mr. President, I must say I understand the deep frustrations of my colleague from Alaska, and I really do think it is quite an inequitable limitation on him, as the Senator has said. I and others have tried very much to find some way to alleviate the problem. We have not quit trying. We will still work at it and see if there is any way we can do it.

Mr. BYRD. Mr. President, will the Senator yield?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. STEVENS. I am happy to have a discussion with my good friend.

Mr. BYRD. Mr. President, I wish to express my very empathetic and sympathetic position, as being in agreement with the Senator from Alaska as he complains about this provision in the conference report and feels that it is a very discriminatory provision with respect to his State and also that it is highly questionable, constitutionally.

Mr. President, as I understand what the Senator is saying, he is saying that Alaska is singled out from among the 50 States that an aggregate figure is placed upon refined petroleum products by all refineries in his State—not just by any one; but the total aggregate, by all, is limited to 70,000 barrels per day.

Mr. STEVENS. All new refineries, including the 50,000 barrels a day to Canada.

Mr. BYRD. Yes. And moreover I believe he looks at the language which provides that for the export of crude oil from Alaska—insofar as the export of crude oil from Alaska is concerned—it may be exported to Canada only by first having been exported to one of the lower 48 States, which State would then in turn further export the oil to Canada. I believe that is what I hear the Senator say.

Mr. STEVENS. Mr. President, that is the Senator's position.

Mr. BYRD. That is the interpretation of this language.

It seems to me that the Senator certainly is on very solid ground, as I look at paragraph 6 of section 9, article I of the Constitution. Did the Senator read this language into the RECORD?

Mr. STEVENS. Mr. President, the Senator is correct, I did read that in at the beginning of my statement.

Mr. BYRD. Very well. There is no point in my reading it in again. But it seems to me if anyone would simply read clause 6, section 9, article I of the Constitution of the United States, he will find that the Senator from Alaska is on very solid ground. That would be for either the Senate to say, if he were to make a constitutional point of order which the Senate would rule on; or for a court to say subsequently. And I would hope and believe that such a case would be brought before a court.

For the purpose of my own record, I shall read the provision into the CONGRESSIONAL RECORD also.

> No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another.

And obviously, the limitation to 70,000 barrels of newly refined oil per day, that limitation placed on 1 State out of the 50 is obviously discriminatory and it also is giving preference to the ports of other States over the ports of Alaska.

In addition thereto, the language in the conference report with respect to crude oil, "Crude oil would be subject to the conditions that such crude oil be transported to Canada from a suitable location within the lower 48 States" seems to me flies in the face of the second clause to paragraph—may we have order in the Senate, Madam President?

The PRESIDING OFFICER (Ms. MIKULSKI). The majority leader is correct. May we have order for the majority leader?

Mr. BYRD. To me it flies in the face of the second clause of the sixth paragraph:

> Nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay duties in another.

Obviously, what the provision in the conference report requires is that products bound to Canada from Alaska would first be obliged to enter another State.

I just wanted to express my sympathy for the position of the Senator from Alaska that they are being put into, and I am sure there are others on my side of the aisle who share that concern. I know that the chairman, Mr. BENTSEN, does. He has already indicated that. But we are in a dilemma here with respect to the parliamentary problem that this creates.

Mr. STEVENS. Will the Senator yield?

Mr. BYRD. I would hope that a concurrent resolution could be submitted in making these changes in the enrollment of the bill, once it is passed here, and that the bill that goes to the White House would carry those corrective changes.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. BYRD. That might be something we could explore. Yes, I will be happy to yield.

Mr. STEVENS. It is through the courtesy of our good friend from West Virginia that we have delayed the bill so we might get some views from our State. We are now getting those in terms of the opinions of Alaskans concerning this provision.

I am grateful to the distinguished majority leader for his kindness in delaying the vote on the conference report so that we might be able to analyze it and get the viewpoints of our constitutents on an issue of so great concern at home.

But I also want to state again how grateful I am to my friend from West Virginia for his kindness, and without mentioning any names, I would say to the Senator from West Virginia that it is a great tradition in the Senate that majority leaders do, in fact, protect Senators.

I remember one time when I was a new Senator and an appointed Senator, only here for 2 years, and I had to run again after 2 years. I had asked one of the Senators to give me notice of the completion of his speech so that I might offer an amendment. When I got out here, I found that the bill was in third reading and the rollcall was actually just about ready to start.

The predecessor of the distinguished Senator from West Virginia, the Senator from Montana, who is our dear and close friend and Ambassador to Japan now, asked me what I was disturbed about, and I told him that I had asked for the privilege of offering an amendment, and I found when I got here that we were already in third reading.

The distinguished majority leader asked the other Senator if it was true, and he said, yes, it was, but he had the votes to beat it anyway so he did not think it was necessary to wait.

The majority leader asked that we return to second reading. He cosponsored my amendment, and it passed that day.

It taught me a great lesson about the role of the majority leader in the Senate. The distinguished Senator from West Virginia does, in fact, fulfill that role by helping those of us who come from small States, and I am grateful for the time he spent today to help me try to work it out.

Mr. BYRD. Mr. President, I doubt that there is a Senator in this body who has not, upon one occasion or another, been helped by the Senator from Alaska who, in many instances, has acted on behalf of fairness, the rule of fairness. It is an unwritten rule and, in many instances, it has required considerable courage on his part.

And further than that, there have been times when partisan considerations have been disregarded by the Senator from Alaska [Mr. STEVENS] as he has tried to see that what is right in a given situation has prevailed.

I would find it hard to believe that Senators would object to a concurrent resolution that would correct this matter and object to its being called up. Of course, if there is an objection, a motion could be made which could be debatable, but I would find it hard to believe that Senators in this body would want to filibuster a resolution that would be in the interest of fairness for any Senator.

I am sure the Senator will be considering this approach. Whether or not there are other considerations that might rule it out as an appropriate or at least as a wise approach in this instance, I am not prepared to say. But I do know the chairman, Mr. BENTSEN, is still here on the floor, and I want to do everything we can to see that fairness is done, and perhaps some approach will become evident. It may or may not. But we will continue to talk with the distinguished Senator from Alaska.

This is a good bill. I hate to see it be destroyed on the rocks of a problem such as this or any other problem. This is not the only problem before us.

Mr. BENTSEN. I would say to the majority leader, I am quite prepared to explore the possibility of a concurrent clarifying resolution and see if we could arrive at something that would take care of the obvious inequity the distinguished Senator from Alaska has discussed here.

I could understand my own feelings in my own State if we had those kinds of limitations put on us. So I am quite prepared to explore it.

Mr. BYRD. Mr. President, I thank the Senator from Texas, and I thank the Senators from Alaska.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Arkansas.

Mr. PRYOR. Madam President, I thank the Chair for recognizing me.

I have listened intently for the last almost 1 hour not only to the distinguished Senator from Alaska, but also the distinguished chairman of the Finance Committee, Senator BENTSEN, and the distinguished majority leader, Senator BYRD.

I rise this afternoon not only to say that I support the trade bill, but I also rise to state that I strongly support both the Senators from Alaska and the State of Alaska in this onslaught of a constitutional prerogative which I think has been violated by this particular legislation.

I would like to say, not only do I think that Senator STEVENS is 99-percent correct, I think he is 100-percent correct. And I think that every Senator in the U.S. Senate, representing both the small and the medium and the large States of this Union, should be very aware of the historic significance of this particular provision in this specific piece of legislation.

It has already been cited, Madam President, that section of the Constitution that allegedly this section, relating only to Alaska, is violating. Of course, that is article I, section 9, paragraph 6. I will not reread that section into the record at this time.

But I would state, Madam President, that I strongly feel that if either or both of the Senators from Alaska attempt to litigate this matter and attempt to take this matter to the courts I think every Senator, all of the other 98 Senators as a Member of this body, should join in with our colleagues and friends, if this matter is litigated, as plaintiffs in this cause of action. I can certainly pledge that I would do so, and I could also think of many other Senators who would want to be plaintiffs in such a cause of action.

Second, we have heard explored the possibility of a concurrent resolution which might tend to direct itself to this specific problem of the moment on the Senate floor. Madam President, once again let me reiterate my support for the two Senators from Alaska in this cause, and offer my help in any way that I can.

Finally, Madam President, I do not know exactly what degree of control we have over the Public Printer. But I do know that there is something now out on the market called invisible ink. Maybe it might be conceivable for us to explore one additional alternative, and that is directing the Public Printer in the enrolling process of this bill to print this particular section in invisible ink. Maybe by the time it got to the President's desk, or as it started to let us say mellow a little bit, may it would just go away and we would not have to fool with it. But I want both of the Senators from Alaska to know that I truly sympathize with their plight. And I stand in their corner on this issue. I think that the great majority of this body support—and I support—them in this effort to have eradicated and extricated, I should say, from the trade bill this section which is so detrimental to the States, the State prerogatives and certainly an invasion of the article I, section 9, paragraph 6, of the U.S. Constitution.

Madam President, I yield the floor.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. I thank the Chair.

Madam President, first of all, let me acknowledge the statement by my friend, the Senator from Arkansas, who has responded so eloquently, and has evidenced so much understanding of the difficulty facing my State of Alaska. I come to this body of course as a junior Senator from our largest State, and having been exposed to the realities of great distance between Washington, DC, and Alaska; the lack of knowledge and understanding that a frontier State is subjected to, I have been particularly gratified by the understanding of my colleagues to the principle involved. That principle is one of fairness and one of equity. I was particularly moved by the comments of our leader, Senator BYRD of West Virginia, in the dialog between him and the senior Senator from Alaska, my good friend, Senator STEVENS, examining the ability to accommodate our concern based on the principles of fairness and equity. I think it is in one of the more lasting and great traditions of this Senate body.

The inequity of the issue involved has been evidenced by the expressed understanding of virtually all in this body. The chairman of the Finance Committee, Senator BENTSEN of Texas, has been most accommodating in trying to determine how some type of relief might be granted. Unfortunately, we seem to be in a parliamentary jam, and the alternatives open to us at this rather late date are few.

But, Madam President, despite the statements in support of Alaska's concern, the discrimination remains. In the trade bill, section 2424, there is a limitation on refined exports from "new refineries" only in the State of Alaska. To further elaborate, Madam President, this basically means that the output or production from a refinery that is not yet built, but one that we would hope to be built at some point in time, would be limited to 50 percent of the annual output or in any event no more than 70,000 barrels per day—only in Alaska. Only in Alaska would there be a restriction on exporting refined products.

One can go back in the conference report and the dialog that took place and recognize that there was a misinterpretation of sorts as far as what the conferees agreed to and what was put in the conference report. It was the interpretation of my staff, several of whom followed the discussion in the conference with regard to the true intent of this portion. While I was not a conferee, it was the feeling of some conferees that the 70,000 barrels per day limit for new refineries would be per refinery. The implication was that we could have several refineries and each refinery of the plural would be limited to exporting up to 50 percent of its annual output or in any event, no more than 70,000 barrels per day per refinery.

That is not how it came out in the print. When the Senator from Arkansas indicated that he would like to see a little invisible ink around here applicable to the entire section, I could not agree with him more because what we have is a statement in the record of that conference that limits exports for all new refineries only in Alaska to 50 percent of annual output or an aggregate of 70,000 barrels per day on a first-come-first-served basis. One can quickly conclude that in effect that would be giving a monopoly to one refinery.

Madam President, I have observed over the last 25 years the efforts to develop Alaska's resources. I have been personally involved in arranging the financing. I can tell you it is very, very difficult in a frontier area where there is a shortage of capital. Funds must be brought in from money centers throughout the United States. And then the market must be made not in my State of Alaska, Madam President, a State with 520,000 people, a State one-fifth the size of the United States. No. Our markets are in the markets of the world. Our energy resources from the State of Alaska must compete with sources such as Australia, South Africa, for markets in Japan, Korea, Taiwan, and other Pacific rim countries.

So here we have an effort to try to develop a refinery and before the refinery can even get built, there are restrictions put on it, hurting its economic feasibility.

Fairness truly has no application whatsoever. No other State has restrictions on the right to export refined products or any manufactured products. This provision would single out the State of Alaska for this distinction.

As my senior colleague has already made reference, this injustice simply cannot be ignored any longer. The precedent, as I am sure my colleagues will agree, should it be allowed to take place, would make it easier to single out Alaska—or other States—in the future.

Someone once told me that charity begins at home. Alaska is my home, and this type of legislation is absolutely uncalled for in a constitutional body.

The senior Senator from Alaska and the majority leader, the Senator from West Virginia, have discussed the merits of a constitutional challenge. I do not think there is any question about it. If we have to pursue that avenue, I am quite confident our State, our Government, and our Attorney General will see fit to do so.

However, the senior Senator from Alaska, and I, as Members of this body, should be able to look to our roots, so to speak, in the Senate of the United States, for some degree of relief. Again, we are faced with the reality that the conferees met and the conferees took this action, in spite of the fact that on April 11 letters were sent by the senior Senator from Alaska [Mr. Stevens] and myself to the ranking members of the appropriate staff, indicating that we hoped a careful review of our concerns in the upcoming conference would result in the removal of section 331 from the conference report.

Madam President, I ask unanimous consent to have these letters printed in the Record, as appropriate, to substantiate our position that indeed our position was made quite clear and the inequity was pointed out in adequate time, but for reasons unbeknownst to me, our interest was not addressed.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, April 11, 1988.

Hon. Lloyd Bentsen,
U.S. Senate,
Washington, DC.

Dear Lloyd: We understand that the Senate conferees to the trade bill will be meeting soon to review the overall conference report. Therefore, we are contacting you to alert you to our strong opposition to Section 331 as approved by the subconferees, and to request the Senate conferees recommend the provision be removed from the conference report.

Section 331 would restrict the export of refined petroleum products from new refineries only in Alaska if they exceed 50% annual average output or 70,000 bbls per day. The sponsors of the provision claim it is intended to close a "loophole" in Section 7(d) of the Export Administration Act, which prohibits the export of crude oil transported through the Trans-Alaska Pipeline. This is clearly not the case. The statutory provision applies only to crude oil transported through the Trans-Alaska pipeline. In fact, more than 800,000 bbls of ANS crude are refined each day on the West Coast, and much of this is exported. Therefore, if there is a "loophole" in Section 7(d), this provision does not close that loophole—it simply discriminates against Alaska.

Commerce officials have indicated that regulations to implement Section 331 would place a substantial burden on all exporters of refined petroleum products from the West Coast. To insure that shipments of refined products from Alaska to the West Coast are not subsequently exported, Commerce would have to track the Alaskan products through each change of ownership to the ultimate consumer, placing an enormous burden on an industry in which products are resold many times.

It is clear that this provision is not aimed at protecting our national security, but rather at preventing Alaskans from benefitting from the creation of value added exports in the same manner in which other states which refine and export ANS oil benefit.

In a piece of legislation aimed at developing a cohesive national trade policy and reaffirming our commitment to exporting, we find it outrageous that the subconferees would agree to include a provision which is blatantly protectionist and which discriminates against one state.

We hope that you will carefully review our concerns in the upcoming conference and move to recommend the removal of Section 331 from the conference report.

Sincerely,

Frank H. Murkowski,
U.S. Senator.
Ted Stevens,
U.S. Senator.

U.S. Senate,
Washington, DC, April 11, 1988.

Hon. Bob Packwood,
U.S. Senate,
Washington, DC.

Dear Bob: We understand that the Senate conferees to the trade bill will be meeting soon to review the overall conference report. Therefore, we are contacting you to alert you to our strong opposition to Section 331 as approved by the subconferees, and to request the Senate conferees recommend the provision be removed from the conference report.

Section 331 would restrict the export of refined petroleum products from new refineries only in Alaska if they exceed 50% annual average output or 70,000 bbls per day. The sponsors of the provision claim it is intended to close a "loophole" in Section 7(d) of the Export Administration Act, which prohibits the export of crude oil, transported through the Trans-Alaska Pipeline. This is clearly not the case. The statutory provision applies only to crude oil transported through the Trans-Alaska pipeline. In fact, more than 800,000 bbls of ANS crude are refined each day on the West Coast, and much of this is exported. Therefore, if there is a "loophole" in Section 7(d), this provision does not close that loophole—it simply discriminates against Alaska.

Commerce officials have indicated that regulations to implement Section 331 would place a substantial burden on all exporters of refined petroleum products from the West Coast. To insure that shipments of refined products from Alaska to the West Coast are not subsequently exported, Commerce would have to track the Alaskan products through each change of ownership to the ultimate consumer, placing an enormous burden on an industry in which products are resold many times.

It is clear that this provision is not aimed at protecting our national security, but rather at preventing Alaskans from benefiting from the creation of value added exports in the same manner in which other states which refine and export ANS oil benefit.

In a piece of legislation aimed at developing a cohesive national trade policy and reaffirming our commitment to exporting, we find it outrageous that the subconferees would agree to include a provision which is blatantly protectionist and which discriminates against one state.

We hope that you will carefully review our concerns in the upcoming conference and move to recommend the removal of Section 331 from the conference report.

Sincerely,

Frank H. Murkowski,
U.S. Senator.
Ted Stevens,
U.S. Senator.

The White House,
Washington, DC, April 26, 1988.

Hon. Bob Dole,
Republican Leader,
U.S. Senate, Washington, DC.

Dear Bob: I am writing to reinforce two important points. First, I will veto the Omnibus Trade Bill (H.R. 3) as it stands. Second, I am and will remain personally committed to enacting a responsible trade bill.

As you are well aware, the Administration has had numerous recent discussions with Senators about our opposition to the Omnibus Trade Bill as it stands. During these discussions, some have sought reassurance that we will do our best to achieve a trade bill this year. Given the importance of enacting a trade bill that will help open markets abroad and improve America's competitiveness, I know it is important to eliminate any doubt on this point.

I want a trade bill. I will work vigorously to secure one. And I will urge the Leadership to schedule prompt action on a bill immediately after the Congress sustains my forthcoming veto of H.R. 3.

But to finish the trade bill process in a way that serves America's interests—not the special interests—I need your help. Together we have resisted legislation that benefits the well-organized few at the expense of the general public—and we have been rewarded with high employment and low inflation.

Now I need your vote against the Conference Report and your support for my forthcoming veto. Then together we can act on a trade bill that will advance, not impede, our dynamic economy.

Sincerely,

RON.

Mr. MURKOWSKI. Madam President, as we examine the issue before us, I think we have to recognize that there are those who have some concerns that by allowing Alaska to have a refinery that exports its product, somehow this would be a loophole, that somehow foreign ownership might succeed in the development of the refinery or at some time it might be sold.

It is interesting to reflect on that, because we are seeing today an extraordinary application of the principle of free enterprise, inasmuch as our OPEC friends are very busily acquiring interests throughout our Nation in refineries. They own half of a refinery in Louisiana. They are negotiating with some of our major oil companies to acquire more refining capacity in the United States. We are seeing Kuwait acquire a series of distributors throughout Europe, under the rather interesting advertising slogan "Q-8" gas stations.

The point is that, in our free society, foreign countries can come in and purchase our refining capacity. They can market it. We have seen this time and time again. But, somehow, when Alaska wants to put in a little refinery, and export some of its product, somebody says it is a loophole.

The reality is—and this is the interesting part—that if this provision passes—the crude oil which we produce on the North Slope, which is roughly 2 million barrels a day, could be refined and exported out of any other State, except Alaska. What kind of justice, what kind of equity is that? There is no legitimate rationale. It is wrong. It is unfair. It does not belong in this trade bill.

Madam President, let me indicate the destination of Alaskan North Slope crude oil. Where does it go? How much is it? I said it was 2 million barrels a day. What does that represent? That represents about 24 percent of the domestic crude oil produced in the United States each day.

It is rather interesting, in the history of this body, to go back and recognize that this body, by a margin of one vote—the Vice President breaking the tie—authorized the construction of the trans-Alaska pipeline by expediting the permit process. In other words, we came within one vote of not having currently 24 percent of our total crude oil supply.

Of course, the concerns were legitimate. They were environmental concerns about what happens when you build an 800-mile pipeline. It is going to be a hot pipeline. It is going to go through permafrost. Is it going to sink? Is it going to break? What will happen to the caribou and the moose? Will they cross it?

Madam President, that pipeline was built. It came on line in the 1970's. The moose and the caribou have either walked over it, walked under it, or walked on top of it. It is very interesting in the spring to observe the number of animals that browse on top of the pipeline because there is a little heat that comes out of the pipeline, and the grass grows there a little sooner and a litter greener.

In any event, this body had a significant role in authorizing the amounts—24 percent of the crude oil produced in the United States today. So I guess it is fair to say that that was a good thing, that was a responsible action by this body.

Madam President, I started out to describe the destination of Alaskan North Slope crude. Sixty-seven percent of Alaska crude from the North Slope ends upon the west coast, where is was initially designed to end up. It ends up in Anacortes, in the Puget Sound area. It ends up in refineries in California, in the bay area. It ends up in refineries in Long Beach.

However, there was too much oil found to utilize solely on the west coast so there were efforts made to build a pipeline from the Long Beach area to the gulf coast and into the area of Galveston where there was substantial refining capacity, but the State of California objected. It was Governor Brown and a huge group of environmentalists who suggested that the concentration of tanker traffic unloading in Long Beach harbor would be detrimental to the quality of life, the air quality, and so forth. As a consequence, this pipeline which was proposed at that time by SOHIO was rejected. It was impossible to get the permit.

So what happened the other alternative of taking the oil down to the Panama Canal and transitting the canal was the viable alternative. But Madam President, that involved a rather costly operation because the large ships that picked up the oil in Valdez AK, and went down to the coast of Alaska, past the coasts of Washington, Oregon, California, clear down to Central America, were too big to go through the Panama Canal, so they had to unload.

What they did is anchored. A very large tanker would unload into the tanker that was anchored and then little tankers would load on the Pacific isthmus and go through the canal in a shuttle. And there were lots of tankers that moved in that route.

Then when they got on the Atlantic side of the isthmus, they moved into the gulf coast in a relatively short routing into the refineries where the oil went.

That went on for a while, and it soon became evident that there had to be a better way to move that oil across the isthmus. So the next venture was the construction of a pipeline across the Panama Canal Zone, and this is an extraordinary story of intrigue, if you will, but in any event that pipeline was not built by the oil companies that owned the oil, it was not built by the oil companies that transit the oil; it was built as a joint venture between a private sector group in New York and the Panamanian Government. And today that pipeline moves somewhere between 600,000 and 700,000 barrels a day. Rather interesting, with the activities in Panama one might think that that oil was safe as the Panama Canal. That pipeline is about 40 to 60 miles outside the area of the Panama Canal itself and the security area.

Interestingly enough that pipeline is protected by Noriega's National Guard.

So that is a little history, Madam President, on the general development of Alaska oil and what happened.

Well, it is interesting to note that today the revenue-generated to the Noriega government—we do not think Noriega is currently getting it any more, we are quite certain of that—is higher than the revenues that the country of Panama receives from the transit of the Panama Canal.

So it is a significant contributor to the Panamanian economy, makes no mistake about it, and of course who is paying for that? Why Americans, obviously, are paying for that because it is part of the shipping costs.

But it would have been much cheaper had the permits been issued in California and the pipeline had been built, but I did not finish that story, Madam President, and I think it deserves a quick reflection because the argument used then was, well, we do not want that concentration of traffic in Long Beach.

Those vessels that carry that oil from Valdez to Panama have to fuel. They have to fuel what they call bunker C. That is the fuel that the ships burn to generate the propulsion in their boilers or in their internal combustion diesel engines.

There are no facilities to pick up bunker C in Valdez. There are no facilities to pick it up in Panama because the vessels are carrying a crude oil that you cannot burn without refining it.

So where do those vessels go today and have gone since for their bunker C? They go into the port of Long Beach.

So here we have the complete circle, Madam President. We have a restriction and a prohibition on permitting—it was based on the belief that that concentration of vessels unloading the fuel from Alaska for the pipeline across a portion of the Western United States to the Gulf States would result in a very unfavorable air quality. So they were not granted, and yet since the pipeline was built those same vessels are in there fueling up bunker C, and as a consequence, the oil moves that much farther down to Panama and across that Panama Canal pipeline before it gets into the gulf coast.

So as I said earlier, Madam President, 67 percent of the Alaska North Slope crude is consumed on the west coast, 21 percent of the gulf coast. There is some consumed on the east coast, about 3 percent; some consumed in the Midwest, a very small amount, 1 percent; Rockies, virtually none.

If my arithmetic is correct; that leaves about 8 percent left.

Now, the point I want to make about that 8 percent is it is another exception because, as I have indicated earlier, we have a prohibition which says that no crude oil flowing through the North Slope 600-mile pipeline can be exported outside the United States, period, except U.S. Virgin Islands, which uses about 98,000 barrels of crude oil a day, which is allowed to be shipped in foreign-flagged vessels.

Now, I am sure my colleagues are aware of a law that is known as the Jones Act. The Jones Act mandates that the carriage of any personnel or a carriage of any freight between two American ports move in a U.S.-flagged vessel.

That means that any crude oil from Alaska, since the law says that the United States cannot export North Slope crude oil, must move in U.S.-flag vessels.

Obviously, that is a significant boon to the American merchant marine. A lot of investment and a lot of jobs depend on it.

However, Madam President, there is an exception and that exception was allowed at the time that body authorized the expediting permit so that the pipeline could be built and the oil from Alaska could flow into the market. Congress allowed approximately 98,000 barrels of North Slope crude oil to be shipped on foreign vessels, refined in the Virgin Islands and reexported into the United States.

That is one exception and I want to make a point of these exceptions because that is just what the trade bill does with Alaska. It makes an exception and it says except for Alaska all other States can refine their product; all they need is the Department of Commerce export permit.

The other exception, rather interestingly enough is our good friends from Hawaii who are well aware of the existence of the Hawaiian foreign trade zone.

Now, the Hawaiian foreign trade zone takes about 28,000 barrels of ANS per day. There is in Hawaii a refinery just like we want to build in Alaska. Only their refinery is in a foreign trade zone. They take 28,000 barrels per day of our North Slope crude. They refine it and then it is exported to the Pacific rim countries with no restrictions whatsoever.

Another exception. But these are exceptions to free trade, free markets.

Puerto Rico—11,000 barrels-per-day refined in Puerto Rico are exported into the United States.

Madam President, I make note of this because, obviously, there are exceptions. Those exceptions acknowledge the economics of moving a product to market for the benefit of the consumers as opposed to the restrictions. As I have indicated, action was taken to eliminate a pipeline across our country which would have given us control, from the standpoint of our energy security, as opposed to depending on our oil moving through a pipeline in Panama for which Noriega's national guard provides the security.

The Department of Energy has already advanced a very, very complete alternative proposal if that pipeline across the isthmus were damaged, terrorized. As a matter of fact, Madam President, electricity was shut off for nearly 2 days initially at the time when we were attempting to cut off the cash flow of the Noriega government.

Another point that I think deserves mentioning, Madam President, is the significance of just how big an effort construction of the Trans-Alaska pipeline was. It turned out to be the largest construction project in the history of the free world; the largest in the history of North America. It was estimated at approximately $1 billion. Ultimately, when that was completed, it came in, in the area of $7 billion. The reasons for that substantial increase are many, but it is safe to say that it was adequately engineered and there was every effort to address the environmental concerns. But the fact remains, America today is receiving 24 percent of her crude oil because of actions taken by this body.

I would like to go back to sometime previous when I voted in favor of final passage of the Senate version of the trade bill. At that time, I indicated that my support was conditioned on the removal of certain provisions in the conference report which I felt really ran counter to the stated purpose of the bill; that is the enhancement of America's competitiveness, reaffirming our commitment to export. This is what a free trade bill is all about—enhancing America's competitiveness; reaffirming a commitment to export.

Just look at the situation with regard to our Nation today. We need to export more. We need to encourage our neighbors to buy more. The change in the dollar-yen ratio has made it more attractive. And this is generally the case, again, "except for Alaska."

When I talk to my neighbors in Japan—and I might add, if you look at the Pacific rim countries, one can easily ascertain that Alaska sits at the top of the Pacific rim. And when one looks at the geography that I experience, every time I go home, I am confronted with a 10- to 12-hour and sometimes 13-hour plane ride to get to Fairbanks, AK, from Washington, DC. But from Fairbanks or Anchorage, I can go to London in 8 hours or Tokyo in 7½ hours. So it is relative, the geography, Madam President.

But, as I began to state, when I talk to my Japanese friends and we talk about the trade imbalance, they say, "Senator, we would like to buy your oil." I have to say, "I am sorry. We are prohibited by law. We cannot sell our oil to you."

It is a lot less distance to move some oil from Alaska to Japan, Korea, or Taiwan than it is to move it clear down to Panama and move it through the Panama Canal pipeline and then bring it around in ships to the gulf coast refineries when we have Mexican oil available much closer.

Who would benefit? Obviously, the consumer. We are reducing transportation costs by doing so. We are making benefits available from the standpoint of the local governments because there is a higher base to tax on as you reduce the transportation costs. But the fact is, Madam President, we cannot do it.

I am not here arguing that case. That case was argued some time ago and we are living with the results. We are not living with them happily, and one of these days it is going to change.

If we practice what we preach in this country and we are a free-enterprise society, we should let the marketplace dictate the economics of where the resource moves. But that is not the way it is today, because it says "except Alaska."

As I reflect on the merits of removing the ban on Alaskan exports, one could very easily come to the conclusion that a positive trade balance could be recognized. It is estimated that almost $4 billion—that is 1985 dollars—over the period from 1987 to the year at the end of this decade 2,000 could be realized. This conclusion is based on the projection that crude oil imports will not be offset on a barrel-for-barrel basis by imports.

Under unconstrained conditions, exports of Alaskan crude and the resultant changes in west coast refinery products flow would result in smaller crude oil import levels. The analysis concludes that in 1995 the United States would export approximately 520,000 barrels, or 25 percent, of ANS crude and import only 310,000 barrels to offset the exports. The 210,000 barrels a day of crude is offset by, No. 1, a reduced economic incentive to export the residual fuel.

So, a case can be made on the economics, Madam President. And that case will be made and that case will prevail, but that must take place at a later time and in another debate.

Now, as we reflect back on the merits of the matter before us, we are faced with a reality that the administration has been responsive to our concerns.

This body has been responsive to our concerns. However, I cannot say the same for the other House.

Of course I am disappointed that we have fallen short of achieving our goal at a time when it is critical for our Government, our business, and our labor leaders to work together to address our trade problems. And that is what we are doing in this legislation.

I guess I could ask the question, Madam President, Is this the best bill we could get?

I do not think there is anyone in this body who does not place a high priority on the need of developing an effective national trade policy. But where we disagree is whether or not this is the best bill that we can get to do that. I think it is quite clear. Madam President, it is my contention that this is not the best bill. Despite some of its good points, its flaws are too significant to overlook.

Some of our colleagues have asserted that if we fail to pass this bill we will have wasted over 3 years of work. They say that if we do not accept this bill we will not see trade legislation this year.

Well, I have heard that voice and those threats on this floor previously. Sometimes it is true. And sometimes it is not.

I wonder if we really believe that we cannot attack our trade problems in a manner that is fair and equitable. I think the history of this legislation will demonstrate the potential flaw of what has been aptly described, in a Wall Street Journal editorial, as, "Government by Omnibus."

In our efforts to address the trade problems facing our country, 3 years ago over 20 committees of the House and Senate began hearings on trade legislation. Can you imagine, 20 committees.

The product of this effort is 958 pages. I would wonder, Madam President, how many of us have finished those 958 pages. This was debated on the Senate floor for, I think, a period of nearly 2 weeks. There were over 100 amendments and 1,033 pages. We had a product of 17 subconferences and 200-plus conferees. It was the largest conference in our history; spent 9 months on removing many of the provisions that really had no business being in the trade bill in the first place.

According to the Wall Street Journal:

> The exercise can best be summed up in the word "omnibus," Think of it as the cousin to the annual budget, continuing resolution. An omnibus bill is a vehicle to carry anything and everything while at the same time making it more difficult for the President to sustain a veto.
>
> As to the President and the national interests he was elected to speak for, it gets hung out to dry. The American people deserve better.

Madam President, I ask unanimous consent that the full text of the editorial, "Government by Omnibus," Wall Street Journal, April 18, be entered into the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

GOVERNMENT BY OMNIBUS

Now we know what the U.S. government was like under the Articles of Confederation in the 1780s. Before the Constitution introduced a strong executive, government power rested with the states and a federal legislature beholden to state and special interests. That legislature would have loved the Omnibus Trade and Competitiveness Act of 1988.

Otherwise known as the "trade bill," this 1,000-page blob has now reached a political impasse. The White House has vowed to veto the bill if the measure requires mandatory notice of plant closings. Nonetheless, truckling to Big Labor, the Democratic leadership decided to retain the plant closing provision. Since President Reagan will be cast as the villain in any veto fight, let's recall how the 535 legislative deliberators got us here.

It started three years ago when various congresspersons decided they had to "do something" about the trade deficit. So what did they do? They turned matters over to 20 or more separate committees, held hearings and consulted with their PAC contributors. Their product—"legislation" somehow isn't an adequate description—ran on endlessly, much of it having nothing at all to do with trade. The bill was then lovingly massaged by 17 subconferences and 200 conferees, probably the largest conference in U.S. history. Under a veto threat, conferees removed some of the worst provisions, but in the end they just couldn't say no to the clamoring interests.

They also couldn't resist once again sandbagging executive power. We've described how the bill transfers authority for trade decisions from the President to the U.S. trade rep, who is subject to Senate confirmation. But the prize for brazenness goes to Texas Senator Lloyd Bentsen, who slipped a mickey into the bill that limits President Reagan's choices for the next chairman of the U.S. International Trade Commission. The ITC is the body that decides if an industry deserves trade protection, and Mr. Bentsen wants to make sure Mr. Reagan can't appoint someone who has, say, sympathy for consumers.

The exercise can be sumed up in the word "omnibus." Think of it as a cousin to the annual budget continuing resolution." An omnibus bill is a vehicle to carry anything and everything—political favors, pet ideas, the kitchen sink—while at the same time making it more difficult for a President to suatain a veto. Since every member gets something, fewer are willing to take on the special interests by voting to sustain a veto. The President, and the national interest he was elected to speak for, gets hung out to dry.

We hear this is what's happening now among Senate Republicans. Several are said to be wavering in support of a veto, lest they offend anyone close to their heart who gets a handout in the bill. If Republicans can't understand how a veto override might damage the economy and markets, then they may deserve whatever routs they suffer in November.

But the American people deserve better. They deserve a President who will use the veto the founders gave him because they understood from painful experience how legislatures, in James Madison's phrase, "seem sometimes to fancy that they are the people themselves."

Mr. MURKOWSKI. Madam President, let me reflect on section 2424, the Alaska refinery product dilemma, on more time.

As I have indicated, tucked into what is ironically entitled "the export promotion and export enhancement" title of the bill—that make me suspicious immediately—is a provision which I have attempted to draw some attention to here today. As I think has been made clear to the Chair, the discrination is against only one State in the export of the primary product.

Section 2424 prohibits the export of refined product from new refineries only in Alaska to 50 percent average annual output or a maximum of 70,000 barrels a day. The proponents of this position, which was in the House-passed version of the bill but not, I am pleased to say, the Senate version, argued that it was intended to prevent a proposed refinery in Valdez, AK.

Madam President, Valdez is a community of approximately 3,500 people. It is the terminus of the Trans-Alaska pipeline. That pipeline terminates 800 miles from its beginning at Prudhoe Bay. And they are saying in a trade bill, debated extensively, as a consequence of action in the House, that section 2424 prohibits a proposed refinery in Alaska from becoming a reality.

(Mr. WIRTH assumed the chair.)

Mr. MURKOWSKI. Well, the merits of that, Mr. President, speak for themselves. It is appropriate to point out the distinction between the export of crude oil, which as I have already said is restricted, and the export of refined product, which has been unrestricted since 1981. In other words, Mr. President, there is no restriction on refined product. There has not been since 1981, except, Mr. President, as proposed for Alaska.

There is no statute on the books which prevents any refiner from refining and exporting Alaskan North Slope oil. In fact, in Petroleum Administration for Defense District No. 5, which includes as I have indicated Alaska, Washington, Oregon, California, Nevada, Arizona, and Hawaii over 800,000 barrels a day of Alaska North Slope crude is refined each day.

So, anybody can refine Alaska crude. As I have indicated, because of the glut of North Slope crude on the west coast, these refineries have increased their product exports and now export a higher percentage of their output than refineries in other districts. According to the Energy Information Administration the PADD 5 refineries, which I have recently referred to, exported 10 percent of their output in 1986: 200,000 barrels a day of which was ANS oil shipped through the Trans-Alaska pipeline.

So, it is clear, Mr. President, that section 2424 does not close any loopholes. There is nothing to stop, as I have indicated, any refinery on the west coast that is operating or is to operate in the future from refining and exporting Alaskan North Slope oil, reaping the economic benefits of the creation of those values-added exports. But yet when an American-owned company proposes to do the same thing, another "except in Alaskan," Mr. President. Do the same thing in Alaska, to let the people in my State receive the same economic benefits from primary manufacturing, from exporting? No. Hey. You cannot do that. That is a loophole, they say.

Well, I would say that there is a hole in that logic big enough to fly a 747 through.

The provision is blatant discrimination against Alaska and, as we indicated earlier in this debate and as has been discussed by the senior Senator from Alaska and a point most eloquently made, it is absolutely unconstitutional.

One might ask: Why did we deregulate refined products when we still have regulation against the crude oil exports? I think that reflects on a reality associated with the status of the proposed refinery, which may be built in Valdez. When I say "may," the economics concerning that refinery are very questionable if there are no restrictions on it.

You might ask, why? Mr. President, I will tell you why. Because the market for refined products, that little refinery that might be built in Valdez to serve, would be in the Pacific Rim, Japan, Korea, Taiwan, an area that has substantial refining capacity, substantial unused refining capacity, a market that would much rather have crude oil come in, refine that crude oil in those countries as opposed to buying a refined product from a small refinery that might be built in Valdez.

It is a matter of economics. So the point I want to make again is the economics, if left alone with no restrictions, are very marginal. But what we have proposed in this language, this inequity, is to limit a refinery in Alaska to 50 percent of its annual output or any of no more than 70,000 barrels per day.

Mr. President, when we deregulated refined products, there was an economic reason. When an amendment to limit the export of refined products was voted on by this body in 1983, it was soundly defeated by a vote of 94 to 2. Some of those who argued in favor of the importance of allowing for a flexible policy on the export of refined product are some of the very Members who agreed to this anti-Alaska provision that occurred in the conference. I would ask them: Why, if it is refined in Alaska and then exported, does it suddenly become a matter of the gravest national security?

Obviously, that has not been explained, and it will not be explained.

The reason that refined exports were deregulated and the reason this body saw fit to oppose any restrictions on those exports in 1983 still apply today. While exports make up only a small portion of U.S. foreign trade and petroleum, they are an important outlet for excess product or products which do not meet domestic needs.

U.S. refined products are exported when these factors make it advantageous to sell, and when there is a foreign purchaser who cannot produce the product domestically or at the price and quantity desired. The price a foreign purchaser is willing to pay must be as much or more than any U.S. purchaser offer.

Mr. President, let us look for a moment at U.S. refined consumption and export. In recent years, our Nation has consumed approximately 25 percent of the world's petroleum production. However, demand is not uniform for all petroleum products.

In the United States, our greatest demand for refined products is in transportation fuel. Other products, such as heating oil and residual fuels, are fuels for which we have cheaper substitutes and is well known that refineries can always generate the precise mix of products and demand by the local market. Thus, there is a market imbalance created requiring imports in one area and exports in another. That is the free market working its will.

We have a demand on the west coast, and the reality is that the Alaska North Slope oil that is used by refiners on the west coast produces, by the very nature of the viscosity of the oil, less transportation fuels and more heating oil. The only problem is we have those heating oils on the west coast of California, and that is not an area where there is as much demand because they have natural gas, and those heating oils are needed in other parts of the United States. So, demand on the west coast is higher for transportation fuels than for heating oil.

So, we have on the west coast a surplus of heating oil. This surplus, obviously, has to find its market. The demand for that market for heating oils is on the east coast, which implies we are going to have to ship it to get it there.

The balance on the east coast is somewhat different, in part because refiners use a higher quality imported crude which produces less heating oil and more transportation fuels. While the west coast exports disstillate and residual fuels, the east coast had to import them from foreign sources.

We know that oil markets are very competitive, it is safe to assume that export is the most profitable marketing option for west coast refiners, and the same holds true for producers who import on the east coast rather than purchasing the surplus from the west coast.

What if we ban refined exports? Well, let us see. Following that logic of those who would ban the export of refined products from Alaska, if we impose this ban on all refiners, west coast export refiners would have to choose from among several less profitable courses of action. They could invest heavily in capital equipment to alter their product mixes which defies the economic justification of their objective. They could sell the surplus products at much lower prices on the west coast, or they could ship the surplus products eastward by tankard through the Panama Canal.

That, of course, is of concern to those of us who observe the situation in Panama and recognize that this transportation route is under the jurisdiction of another country. It would cost us a good amount to ship refined products eastward, but we do not necessarily assume that any one on the east coast would be willing to pay what one might call a patriotic premium for U.S. refined products simply because transportation costs are expensive for the refiner.

The American people, American consumers, are not fools. They know U.S. heating oil does not warm a house any better than Dutch heating oil or Saudi Arabian oil after it has been refined into heating oil. U.S. consumers are willing to pay the world market price and absolutely no more.

That is why these west coast refiners have seen fit to export the surplus in its oil.

Let me get back to the issue of a particular refinery in Alaska, Valdez, which this section, 2424 in the trade bill is intended to stop.

Alaska Pacific Refinery, Inc., is a California company. They are the ones who are proposing to construct and operate this state-of-the-art, 116,000-barrel-a-day refinery in Valdez. Their proposal is to produce high-quality refined products, gasoline, diesel fuel at a cost of about $900 million to $1.2 billion, creating 7 million man-hours of work to be done by domestic U.S. construction laborers. An estimated 17 construction crafts will be involved. And it is rather interesting: It would be the first new refinery to be built in the United States in the last 10 years. Obviously, it reduces U.S. dependence on foreign refining capacity.

This project will provide employment not only in Alaska, but throughout the continental United States with over 1,500 jobs during construction and 250 permanent jobs in Valdez, AK in my State, where the current unemployment is double the national average. Only you cannot do this in Alaska because the trade bill discriminates against Alaska. It is going to limit exports to 50 percent of the annual output if this refinery is ever built and in no event no more than 70,000 barrels a day. It is going to apply, Mr. President, only to Alaska, and no other State, to no other existing refinery. No other State would have restrictions on the right to export refined products or any manufactured product, only Alaska. It attacks one State's effort to develop a primary processing capacity. The inequity is crass. It has no legitimacy; it is wrong. And nevertheless, Mr. President, it is in the bill in spite of the assurances of the Senator from Arkansas that this is an unjust action, in spite of the feeling from the majority leader and that of my senior colleague, the senior Senator from Alaska, that it is unconstitutional. It still remains in the trade bill that is before this body.

Let me refer, Mr. President, to another matter that is relative. We have U.S. bases overseas in the Pacific. They use foreign refined products. The utilization of this refinery that will be proposed to be built could possibly entail as much as $300 million in contracts with major U.S. equipment manufacturers, and material suppliers. Domestic equipment procured for refining, of course, would be shipped to Valdez, AK on U.S.-flagged vessels, no foreign vessels, as well as refined products shipments from the refinery to the U.S. ports. If any refined product went down the Pacific Northwest to Puget Sound in U.S.-flag vessels, the refinery would intend to compete with the foreign suppliers to sell jet fuel and diesel fuel to the defense fuel supply center for U.S. military use throughout the Pacific.

So, we have substantial overriding benefits. And as I have indicated in my first reference to U.S. bases in the Pacific using foreign refined product, 100 percent of the refined products consumed by the U.S. military in the Pacific rim are supplied by foreign refineries. It is conceivable that the proposed Alaska refinery could reduce that percentage substantially.

In addition, they have had inquiries from U.S.-flag airlines which operate overseas. These airlines as well currently buy their fuel from foreign sources. There is no end to the potential market. However, section 2424 would prohibit the refinery. Obviously, it would be difficult to finance a refinery with proposed limitations on the economics that might affect the marketability of the product. The provision in the trade bill could certainly create a regulatory regime which would discourage the purchase of the products domestically and overseas by the regulation. Obviously, to finance effectively a project of this magnitude, the project must be able to commit a portion of its initial output to product users.

Mr. President, as I indicated earlier over 650,000 barrels a day of refined petroleum products are exported from our Nation each day. At the same time, we import 1,900,000 barrels of refined product a day. We are a substantial net importer. Of the refined exports more than 200,000 barrels a day are produced in Alaska's North Slope pipeline. This section in the trade bill would deny this proposed refinery the right to export refined products from that North Slope crude oil at the same time, as I have indicated, allowing other refiners to export ANS product to market with no restrictions.

This is the type of discrimination that is absolutely outrageous in a bill that is intended to enhance our free market, our competitiveness, and free us from Government bureaucracy. I touched on this in my opening remarks, but I think it is appropriate that I go into it in a little more detail.

There has been criticism of the Valdez refinery because some suggest there will be financing from overseas. Those of us who follow the accumulated deficit of our Nation, those of us who are very much aware of our current budget deficit, know that money flows like water. It goes for the highest yield and the least risk. And a great deal of the foreign money is coming into the United States. And that money in fact is financing our accumulated debt. It is financing our budget deficit. But here is a sensitivity; that somehow there might be some foreign money coming into a little Valdez refinery. Good heavens; some of it might even come in from Japan, of all places.

Well, obviously we are all concerned about sensitivities. But it is difficult to understand action taken by this body to scuttle what would be U.S.-owned refinery, while at the same time closing our eyes to the reality that OPEC producers are making strong efforts to move downstream into our own domestic refining industry. Mr. President, we used to have a situation when OPEC was over there, a long way away. And we were safeguarded by the distance and by the fact that we had a domestic industry that was independent. Well, that has changed, Mr. President. According to the Wall Street Journal "Chances are pretty good that the gasoline you pump into your car today came from OPEC oil. It might not be too long before an OPEC nation owns your filling station." There is nothing wrong with that. It is just a reality, as it is a reality that you cannot have a refinery in Alaska unless you limit its exportability.

Venezuela owns 50 percent of two refineries in Louisiana and Texas and wants to buy more.

As I mentioned earlier, the Kuwaitis have built a service station network in Europe. As I have indicated, the brand name is "Q-8," and it is setting its sights on Asia and the United States. In fact, as the Journal states, "Most of the nations in OPEC are quietly working to reach from their oil fields to your gas pump. Saudi Arabia is negotiating with Chevron, Exxon, Mobil, and Texaco, to purchase a portion of their refining assets, as reported in industry sources."

Mr. President, I ask unanimous consent to have printed in the RECORD an article which appeared in the Wall Street Journal on April 19.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Apr. 18, 1988]

OPEC NATIONS MOVE TO MARKET GASOLINE DIRECTLY TO CONSUMERS

(By James Tanner)

Chances are good that the gasoline you pump into your car is made from OPEC oil. Before long, an OPEC nation may own the filling station, too.

Venezuela already owns half a refinery in Lake Charles, La., that supplies 7-Eleven stores with gasoline, half of another refinery in Corpus Christi, Texas—and wants to buy more. Kuwait has built up a service-station network in Europe under the aptly named Q8 brand and is setting its sights on Asia—and the U.S.

In fact, most of the 13 nations in the Organization of Petroleum Exporting Countries are quietly working to extend their reach from their oil fields to gas pumps in the U.S. and elsewhere. Saudi Arabia is negotiating with Chevron, Exxon, Mobil and Texaco to buy a piece of their refining assets, industry sources say. Abu Dhabi, Ecuador, Libya and the warring nations of Iraq and Iran are on the prowl for refinery stakes in oil-consuming nations. Even cash-strapped Nigeria is close to linking up with one or more U.S. refiners.

BROAD IMPLICATIONS

OPEC's reach toward rank-and-file consumers—through the "downstream," or the refining and marketing, segment of the business—holds the broadest implications for global oil markets since the Arab oil embargo 15 years ago. If the pace picks up as quickly as expected, it could raise new political issues in the U.S. and other nations dependent on oil imports. However, consumers will probably benefit as the oil exporters expand their war for global market share to the street corner.

The exporters' strategy would resurrect the oil industry of the 1960s—but this time with OPEC, rather than the Seven Sisters, in control. When the seven giant multinationals controlled most of the world's petroleum from wellhead to gasoline pump, the "upstream" segment, the production of crude oil, was integrated with the downstream sector. But as OPEC members nationalized the oil grants' crude reserves in the 1970s, this vast, integrated industry controlled by a handful of companies became a thing of the past.

But not forever. In the parlance of oil economists, the OPEC nations are seeking to "reintegrate" the industry—this time by linking their oil production operations to the refineries and marketing outlets, which the companies still dominate.

SALES GAINS PREDICTED

The pumping of gasoline, home heating oil and other petroleum products by OPEC members has hardly reached groundswell proportions yet. But some experts predict that this year alone, OPEC members will double their sales of refined products to 27% of all the oil they export.

The degree of their success may determine the future of thousands of traders and speculators. The volatility of oil prices caused by the breakup of the old system gave birth to the New York Mercantile Exchange and an entire industry of spot-market and futures trading. But in the future, OPEC control of both crude-oil and refined-product prices could eventually create a relatively stable price environment, some observers suggest. "If you liked the oil business of the 1960s, you'll love the 1990s," says Antonio M. Szabo, the manager of petroleum planning for Bonner & Moore Marketing Consultants.

Although no one predicts a return to the dirt-cheap fuel prices of 20 years ago, the change "cannot be negative for consumers—only positive or neutral," says John H. Lichtblau, the president of the Petroleum Industry Research Foundation. He and others suggest that fuel prices should be held down because the OPEC nations will bring new competition to the downstream markets and also will run as much crude as possible through any refineries they purchase.

FUTURE DANGER

That's if another politically inspired oil crisis doesn't erupt. But Franco Reviglio, the chairman of Ente Nazionale Idrocarburi, sees a possible strategic threat from OPEC's rising clout. Even though the Italian energy company itself is among the refiners discussing joint ventures with "reliable" producing countries, he warns: "The producers already control the upstream. If they control the downstream, too, the next oil shock will be a horrible one."

So far, neither Kuwait nor Venezuela, the pacesetters of the movement, has resorted to gasoline-price wars or other forms of deep discounting. But some refiners nevertheless worry that crude-oil exporters could begin subsidizing their fuel outlets. The front line of any future OPEC battles for market share, such as the price war that triggered the 1986 oil crash, "would be product prices rather than crude prices," predicts the London brokerage firm of Phillips & Drew.

Although OPEC's moves could hurt oil companies and even OPEC itself, the incentives for both sides to link up, may be overpowering. Oil is afflicted with a double glut: OPEC has surplus crude production, and refiners have excess capacity. "There's a lot of interest from both sides," says Duke R. Ligon, who helped establish Venezuela's two joint ventures in the U.S. as the head of energy mergers and acquisitions at Bankers Trust.

In a world awash with oil, prices of OPEC crude oils have eroded from $40 a barrel in 1981 to the current $14 to $18 range. More important, OPEC's oil output has fallen from 30 million barrels a day in 1979 to fewer than 18 million barrels a day. By grabbing captive outlets in consuming countries, OPEC members win guaranteed customers. And OPEC enjoys a buyers market for refineries, which are selling at less than replacement value.

"Direct market access has become an overriding necessity for the producers," says Juan Chacin, the president of Petroleos de Venezuela.

On the other side of these transactions, many refiners welcome OPEC partners. Establishing such a partnership is a way to ensure crude supplies at the best possible price. And by selling an interest in excess refining capacity, companies can put assets to fuller use and raise cash as well.

Scores of oil companies in Europe and in the U.S. are proposing to sell equity positions in their refineries, some valued at more than $1 billion, to OPEC countries. Many companies, such as Houston-based Coastal Corp., are negotiating with the national oil companies of OPEC countries. Sun and Crown Central Petroleum confirm holding talks with Nigerian National Petroleum Corp., and industry sources say Arco's Lyondell unit is discussing selling an interest in a Houston refinery.

One U.S. oil company is proposing to buy another refinery to add to its refining facilities and then spin them off to a new unit. The new company, in turn, would be jointly owned with Nigeria, which would swap crude rather than pay cash for its equity share. John P. Venners, a Washington-based negotiator of OPEC oil-supply contracts for U.S. petroleum refiners, is taking a similar approach—as a personal investor. He has established a new company, Prime Oil, to purchase refineries and is seeking a co-owner among the crude producers of Africa and South America.

LONG-SOUGHT GOAL

Some crude-oil exporters have long harbored ambitions in refining and marketing. In 1972, Sheik Ahmed Zaki Yamani, then the Saudi oil minister, proposed that the kingdom become a "partner" with the U.S. by supplying it with crude and investing in its refineries and service stations. In the 1970s, before the fall of the shah of Iran, National Iranian Oil Co. negotiated to acquire 50% of certain refining and marketing properties of Ashland Oil, but the transaction wasn't completed.

When crude-oil prices were escalating, OPEC had little incentive to move downstream. But now, with both oil prices and OPEC's crude output at low levels, the exporters see a chance to expand markets for their petroleum by going downstream. OPEC's initial inroads into refining have come only in the past five years—largely because of the Venezuelan and Kuwaiti efforts. Their strategies differ. Venezuela wants 50-50 joint ventures; Kuwait prefers full ownership.

Venezuela's national oil company has so far obtained direct outlets for 500,000 barrels a day of its crude exports—equivalent to 21 million gallons—through Ruhr Oel and Nynas Petroleum in Europe and Citgo Petroleum and Champlin Refining in the U.S. "Our target," Mr. Chacin says, "is to increase this participation to some 700,000 barrels a day in the near future." Some of that increase could come from Citgo, co-owned by Southland Corp., which also owns the 7-eleven chain. Ronald Hall, Citgo's president, says the joint venture would "like to buy another refinery."

The biggest players in Europe—the Kuwaitis—trace their downstream involvement there to a fateful 1981 OPEC meeting when a Gulf Oil official cornered their oil minister to inquire, over a cup of coffee, whether he would like to buy Gulf's European assets for $1.

"That got our attention," recalls Nader H. Sultan, the president of Kuwait Petroleum International.

LENGTHY NEGOTIATIONS

The bargain offer was only for certain assets. But it led to two years of negotiations and Kuwait's eventual acquisition of Gulf's two refineries and more than 3,000 service stations in Europe. That made the cash-rich exporter one of Europe's major purveyors of gasoline and whetted its appetite to move into retailing elsewhere.

So far, Kuwait's downstream operations in Europe account for the marketing of one-fourth of its OPEC crude-production quota of nearly one million barrels a day. Mr. Sultan notes "aggressive expansion plans" to spread the processing and marketing of fuels beyond Europe to the Far East and the U.S. But, he says, "It's getting more difficult to do a deal" because of the rising competition from other producing countries also seeking refineries.

Much of other OPEC member's new enthusiasm for downstream assets overseas has been sparked by the apparent successes of Venezuela and Kuwait. A few months ago, Hisham Nazer, Saudi Arabia's current oil minister, approached Chevron, Exxon, Mobil and Texaco for advice on how the kingdom, which has huge export refineries at home, might go downstream abroad. A follow-up team from Saudi-owned Arabian American Oil Co. is collecting the proposals for Mr. Nazer.

Among them, according to industry sources, Mobil offers to sell the Saudis a share of its Naples, Italy, refinery, Exxon proposes an interest in its European refining and marketing operations; and Texaco, trying to sell $5 billion of assets to help it emerge from bankruptcy proceedings, puts a West German and three U.S. refineries on the table. Some 40 other companies also have sent proposals to Mr. Nazer.

OTHERS IN MARKET

In addition, officials of several other crude exporters—including Rilwanu Lukman, Nigeria's oil minister and OPEC's president—say they intend to acquire shares of overseas refineries. Several non-OPEC producers—including Cameroon, Colombia and Mexico, which has a refining stake in Spain—are in the market, too.

Oil experts suggest that the downstream push not only will affect global oil markets but could change the composition of OPEC as well. "Those with refining and marketing assets will find their interests and priorities diverging from the rest of OPEC," says Petroleum Finance Co. in a recent report. And outside OPEC, it could cause political repercussions, including a U.S. debate over national security.

"The prospect of giant integrated companies which could, in a further crisis, be responsive to governments injects an unprecedented political dimension into oil supplies," says Melvin A. Conant, a Washington consultant on the Mideast. "What are the foreign interests of the government? Are they compatible with those of the consumer?"

But many say OPEC's downstream investing should discourage political cutoffs of supplies. "It tends to enhance the energy security of the consumers," says Philip K. Verleger Jr., a visiting fellow at the Institute for International Economics. And industry officials say refining links with OPEC countries should serve national-security interests better than rising imports of petroleum products from foreign-owned refineries. It's a "win-win" situation, says James W. Kinnear, Texaco's president, who expects to sell refining interests to Saudi Arabia within a year.

Mr. President, OPEC's move downstream in the refining and marketing segment of the business holds the most significant implication for global oil markets since the oil embargo some 15 years ago. Since that time, OPEC nations are seeking to reintegrate the industry, if you will, but this time they are linking their oil production operations to the refiners and the marketing outlets which the companies still dominate. While the prospect of OPEC financing is attractive to cash-strapped U.S. producers, it is very evident that increasing OPEC ownership of U.S. refineries will greatly diminish the incentives for those refineries to produce crude oil from non-OPEC sources.

While some argue that increased integration would benefit U.S. consumers, I wonder if they would be as unconcerned by this trend if another oil crisis erupted.

One can clearly see the significance of the power and influence of OPEC if they come over here and buy our refineries. They will control the ability to market their oil in our country.

Let us look at this matter under a little more intensity. According to the Department of Commerce, foreign direct investments in America's energy industry account for 14 percent of all foreign direct investment in the United States. In recent years, the biggest growth for foreign direct investment in the U.S. energy industry has been in the area of refining.

A little more specifically, Venezuela owns 50 percent of Citgo, the 16th largest oil company in the United States. Kuwait owns 100 percent of Santa Fe International, a $2.5-billion company. It is the 62d largest foreign direct investment in the United States. The Algerian National Oil & Gas Co. has an equity interest of 11.4 percent in Panhandle Eastern Corp.

According to industry sources, OPEC investments in U.S. petroleum rose substantially in 1986 and 1987.

It is interesting, Mr. President, as we look at the position of our Nation today in the Mideast and the presence of U.S. Navy in the Persian Gulf. I think there are in the neighborhood of 30 ships there, 15,000 American service personnel. Those American naval personnel are ready to lay down their lives, if necessary, to keep the flow of oil to the free world from that part of the world. Unfortunately, as we have noted, some have had to lay down their lives and make the ultimate sacrifice.

It is interesting to note just who the recipients of Mideast crude oil are. Nearly 60 percent of the Mideast crude oil ends up in Japan. Some 32 percent or 33 percent ends up in Western Europe. The balance, some 6 percent to 9 percent, is marketed at this time in the United States. But the significance is, again, the presence of our Navy, ensuring that the oil will flow freely to the markets of the world.

We have seen fit to reflag a number of Kuwaiti ships; my last count indicates approximately 11 ships. What we have done is put the American flag on those ships, put on an American captain, put on an American radio operator. One might assume there is an American crew. No, there is not an American crew. That is another part of the subterfuge, and I will take the liberty of departing from my thoughts for a few moments by indicating that as we have accepted the responsibility of keeping the Persian Gulf open and we have accommodated our friends in Kuwait by reflagging 11 of their vessels.

In meeting the requirements for reflagging, there is a provision that states that on the first occasion when those ships might touch a U.S. port, they would be mandated by law to put on a U.S. crew. Until such time as they touch a U.S. port, they may sail, under an exception waiver, with only a U.S. captain and a U.S. radio operator. We all know that is a subterfuge, because there is never going to be an occasion for any of those 11 Kuwaiti ships to come into a U.S. port.

Yet, if we look at the presence of the British and the Soviets, their merchant tankers, utilizing their merchant seamen, are actively engaged in the Mideast. But we have not seen fit to provide any U.S. jobs associated with the presence of 11 U.S. flag vessels of the Kuwaitis that were reflagged.

We have not seen fit to suggest to our neighbors that this is an opportunity for our maritime unions to get on some of our ships that were built with U.S. construction subsidies and are available through MIRAD into the traffic, so we can provide some jobs.

The excuse is always, well, American sailors and American merchant marine, that is too high; we can get cheaper foreign ships.

But when one recognizes that we have our Navy over there protecting everybody else and yet we did not take advantage of the opportunity to leverage a position for our merchant ships and our merchant marine and our unions, we did not have to haul it all but we could have hauled some. As a consequence we are hauling none.

It is true that the Kuwaitis have the best of both worlds. They have their ships under our flag hauling their oil to market so that they can continue to enhance their accumulation of capital and reinvest in our country and in our refining capacity in our country.

I am not saying that there is anything wrong with this. It is a reality of our free trade posture, our open society, except when it comes to Alaska and in Alaska, and then we propose restrictions that say "you cannot do this."

Well, I wonder what kind of citizens those who propose this kind of restriction think Alaskans are.

As I have implied earlier, I think that the OPEC investment bears a consideration from the standpoint of our national energy security interests.

I am not suggesting that there is a doomsday for energy security by any means. But if OPEC producers continue to move downstream, at some point in time we are problably going to have to take a look at our energy policy and ask ourselves are we willing to go all the way downstream and allow the refining control to rest in the hands of overseas crude producers, especially if we examine the links to which the state-controlled companies have to their own governments.

If OPEC's presence increases will our national interests be prejudiced? Although it appears to be a good deal and an attractive one, is it in our national interest? I do not know, but I am asking the questions anyhow.

This is not going to happen overnight. We might look at some of the questions our friends in Great Britain, the Thatcher administration, are beginning to ask themselves, and I think it has some significance.

When the British Government sold its share of nationally owned British Petroleum, the third largest oil company in the world, the Government anticipated that the shares would be bought by British citizens. However the events in the market at that time were such that that did not occur. We had a stock market crash. Much to the

British Government's surprise, the Kuwait investment company, controlled by the Goverment of Kuwait, became the owner of 21 percent of the common shares of BP.

Well, the question of what that means, what the significance is, is hard to ascertain.

There is some thought being given to what course of action would be taken if Kuwait moved to increase its holdings in BP. What does that all mean to us here?

BP is 100 percent owner, Mr. President, of BP America. BP America is a major producer in the North Slope of Alaska. So it begins to come home.

BP owns approximately 50 percent of Alaska North Slope crude. As a consequence of that ownership, the idea that the Kuwaitis might through their ownership in BP influence the rate of production of our domestic crude oil supply is certainly conceivable because, as we all know, in corporate America, 18, 19, 20 percent, those are controlling interests if indeed they want to be voted as such.

So, instead of focusing on these questions with a view toward a comprehensive energy policy, the conferees attempted to focus their energy on discriminating against one State's effort to create value-added products for consumption both in the United States and abroad.

Well, I am pleased to say the administration opposes the provision of section 2424. In the letter from the Cabinet which was sent to the leadership last fall, they indicated that this provision was among those that could result in a veto.

According to the Department of Commerce, they indicated that they would not be able to effectively enforce compliance with the terms of this section. It is very interesting, Mr. President, because it reflects the pressures that must have come to bear in the conference because section 2424 clearly was not thought with regard to the mechanical process needed if an Alaskan refinery was to comply with section 2424. Nonetheless, if it became law and as a consequence should it be applicable, Commerce would be obligated to issue regulations that would cause a burden on all exporters of refined products from the West Coast.

Let me explain this a little further. Direct exports from Alaska to the Pacific rim can easily be controlled through existing mechanisms such as validated licenses. In other words, you can identify the crude oil. The problem arises from shipments of refined products from Alaska to other locations in the United States. In other words, you can send all the North Slope refined product to the rest of the United States we want. But on the west coast to ensure against ineligible exports the mechanism would have to track the Alaska product through each exchange of ownership to the ultimate consumer. This would place an enormous, almost an impossible burden on an industry to follow the glow of products from many, many sources. In other words, you could export as refined product California crude, but as you bring in the Alaska refined product and dispense it in the same process, you would somehow have to pull out and identify it.

Obviously it would not work. It would be a detriment. It would amount to effectively curtailing the inability to export the product coming from Alaska because the mechanics would just be too cumbersome.

The product might be shipped to the west coast where ownership may be transferred one or more times. An owner might decide to export without knowing the source of the product or the status of eligible Alaskan exports.

Alaskan refined products might be shipped to the west coast and stored in tanks with a non-Alaskan product, as an example. Later, parts of the contents of the tank might be exported. Because the products are fungible, commodities that lose their identity when they are commingled, elaborate monitoring and bookkeeping would be required to assure the compliance with section 2424.

Obviously that is impracticable, Mr. President.

Another issue is how one determines the 50 percent production limit that has been proposed in section 2424. The volumes of exports from the entire State would then have to be reconciled with exports of Alaska products from the west coast and this would require a painstaking accounting both on export volumes and on the date of the export.

The language would absolve the refinery and exporters from responsibility for violating the section if they acted without knowledge of its violation. The implementing regulations, however, would have to be stringent and burdensome to all petroleum product exporters to administer the intent of Congress.

What it would do, Mr. President, it would create a disincentive to buy U.S.-made products. So, it is evident, the way the bill is drafted, it creates a disincentive for U.S. producers to purchase refined products from new refineries in Alaska. As I have indicated, that does not make sense to me, that in a trade bill we are including a provision that would limit the export of a value-added product and discourage the purchase of them by domestic users.

Furthermore, Mr. President, it would set a very, very dangerous precedent, aside from the technical problem. I believe that this precedent is one of such significant nature that, to identify a primary product from one State with no reference to equity or fairness, it demands the attention that it is getting from the two Senators from Alaska and from those of my colleagues who have expressed a concern for this inequity for which we are most grateful.

Again, I want to reiterate that there are many of the modifications to the existing trade laws which are included in this bill which I support, such as changes in sections 301 and 201.

I have consistently expressed my frustration at our inability to give equal weight to trade policy in our diplomatic relations with our trading partners, and the lack of surety for U.S. firms which attempt to use our trade laws to remove unfair barriers they face in markets overseas. I also support language in the bill to repeal the windfall profits tax which places an economic burden on our domestic oil industry. The negotiating authority for the new GATT round would provide the President with the tools necessary to address U.S. concerns in the areas of services trade, investment, and intellectual property rights.

From time to time, I have had an occasion to meet with representatives from my State who are in the oil business. And when one considers that some of our domestic industry groups today are contemplating joint ventures with the Soviets simply because they are under the impression that there is a likelihood that through the expertise that they have developed that they can find opportunities overseas that are more attractive than opportunities for exploration in the United States, it causes one to reflect on the merits of whether these corporations, which have become multinational corporations today, simply are not finding the incentives in our Nation adequate to attract their capabilities. And one asks if this is in the best interests of our Nation and in our own energy security interests.

So, in conclusion, Mr. President, I do not think that we can overlook the significance of this section. As a consequence, despite the positive qualities in the legislation, it is a dangerous precedent. It has no place in a bill that is intended to enhance the competitiveness of U.S. goods and services and strengthen opportunities for U.S. exports.

So, it is the conviction of the junior Senator from Alaska to oppose the trade bill in its current form.

(Mr. ROCKEFELLER assumed the chair.)

Mr. WIRTH. Will the Senator from Alaska yield?

Mr. MURKOWSKI. I yield for a question.

Mr. WIRTH. Mr. President, I only wanted to compliment the Senator from Alaska on his constitutional and policy and economic analysis on this issue. I think he is exactly right. The question that I have relates to the procedure and how we get to the Senator's issue. On the constitutional issue, which I think you have outlined in the earlier part of your comments, I think you are exactly right. I think the Constitution is very clear on this, that we cannot set up any kind of a program that is going to discriminate against any of the States. I think it is very clear that Alaska is discriminated against.

I think, on the specifics of this, to try to figure out the 50 percent you have referred to, reminds me of the entitlements program which we all remember. We remember all of that incredible regulatory morass that we got into and I think that the specifics of this bill get into that, as well. I think the economics are very clear that the cost to the consumer in all of this is going to go up. In fact, I always thought we ought to allow Alaska to sell its oil anyplace it wants to. I think that would be good for the American consumer and good for our economy overall. Maybe we eventually get to that.

Finally, it has been my impression that this provision was truly insulting to our growing relationship with the Canadians to preclude us from setting other kinds of arrangements for getting energy out of Alaska.

So I appreciate the position that has been taken and has been articulated so well by the junior Senator from Alaska.

My question is: How do we get at the issue that you and Senator STEVENS have raised? If we have an amendment to this, does that then get acted upon by the Senate and then sent back to the House? That is the question I wanted to ask the junior Senator from Alaska. Maybe he could give us the procedural sense as to where we go from here.

Mr. MURKOWSKI. I thank my friend from Colorado for his observations. I would like to, before I answer his question directly, expand a little more on one portion of the inequities that are imposed.

As my friend, who shares the responsibility on the Energy and Natural Resources Committee, is aware, we have had briefings on the Canadian free trade by the U.S. Trade Representative, Ambassador Yeutter. There is a provision for up to 50,000 barrels of crude oil from Alaska, north slope crude oil, to be shipped to Canada. My friend from Colorado knows and is familiar with the geography of Alaska and Canada. We share a common border.

However, in this trade legislation, there is a provision that, while the Canadian Free Trade Act, once it is adopted and the agreement is finally approved, indeed, the provision for 50,000 barrels will be allowed, but only that the oil from Alaska be exported to one of the lower 48 States before it can be sent to Canada, which I find just an extraordinary extension of inequities that the Senator from Colorado has stated. The Senator from Alaska has not enunciated that particular inequity, but, obviously, you are going right by the coast of Canada with the crude oil and you could drop it off there.

But that is not what the provision says in the trade bill. It says to a lower 48 State, and then it can go to Canada. So, obviously, the question of justice begs the point.

The Senator from Colorado has indicated his concern over what kind of a vehicle we might propose. This does present a parliamentary dilemma. There appears to be little precedent for action under a concurrent resolution without holding in abeyance for the House to respond the trade bill. And the question of the possibility of that occurring might mandate that it be by unanimous consent and that may be difficult to get within this body.

The Senator from Colorado is quite correct in the alternative of pursuing a constitutional case by the State of Alaska. That is a position that the senior Senator, Senator STEVENS, and I have both encouraged. But that still does not give us a relief.

It would be my hope and that of the senior Senator—and I think it is fair to say that it has been expressed by the Senator from Texas, the chairman of the Finance Committee, who is with us on the floor, and certainly the majority leader—that we have a willingness to look toward a precedent that can be found now within the time constraints on the trade bill to address this inequity.

We are searching for that and we are working with the Parliamentarian. I must say in all candidness that we have not come up with any sure-fire alternatives. But we are still pursuing it.

Mr. WIRTH. If the Senator would again yield, I thank the Senator for his answer to this question. I hope we can figure out a way. The Senator is exactly correct. These provisions should not be in the trade bill. I thank the Senator for yielding and I thank him for his kindness.

Mr. MURKOWSKI. I thank my friend from Colorado. I want to thank the Chair for forebearance in my rather lengthy reference to the issue of the current trade bill as it applies to Alaska and the specific reference to that portion which unfairly sets Alaska up for discrimination in the manner which is applicable to no other State in the Union.

It would be my intention to pursue this matter again tomorrow upon appropriate recognition from the Chair, for an extended period of time, as I have a number of points that I think bear reference on this inequity. I will look forward to the Senate schedule tomorrow providing me with that opportunity.

I thank the Chair and I thank my colleagues and I thank, particularly, the chairman of the Finance Committee, the Senator from Texas, who has been so responsive to our concerns with regard to the trade bill as it affects Alaska.

Mr. BENTSEN. If the Senator will yield, I want to thank the distinguished Senator from Alaska. I understand his concerns. I have not yet given up the fight. I am trying to see if there is not some way it can be reconciled. We have worked so hard on this bill, it has so many good things in it, good things for Alaska and I think for the country.

I am still willing to explore any options that might possibly be available.

Mr. MURKOWSKI. I very much appreciate that reference of my friend from Texas and I certainly look forward working with he and his colleagues to resolve this.

I thank the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I rise today to voice my disappointment with the trade bill before us. The bill contains hundreds of provisions that not only have nothing to do with trade, but are unnecessary and costly.

I plan, therefore, to vote against the passage of the conference report.

Also, I have expressed to the White House that I believe this is an ideal piece of legislation for the line-item veto.

The Wall Street Journal on Friday, December 4, 1987, had an article "Reagan Already Has Line-Item Veto." This particular piece of legislation would be an ideal candidate to test it on because it is written in such a form that it could constitutionally be line-item vetoed.

The Wall Street Journal wrote on that date in an article by Stephen Glazier:

> Contrary to popular misconception, the Constitution already grants the line-item veto to the president. President Reagan should immediately use it to reduce federal spending and the budget deficit without raising taxes.

The article goes on—and in the interests of time, I shall not read all of it, but I do ask unanimous consent to have this article printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Friday, Dec. 4, 1987]

REAGAN ALREADY HAS LINE-ITEM VETO

(By Stephen Glazier)

Contrary to popular misconception, the Constitution already grants the line-item veto to the president, President Reagan should immediately use it to reduce federal spending and the budget deficit without raising taxes.

The line-item veto lies in the language of the Constitution. Article I, Section 7, Clause 2 gives the president veto power over all bills passed by Congress. Any veto may be overridden by a two-thirds vote of each house.

At the Constitutional Convention in Philadelphia, on Aug. 15, 1787, according to James Madison's published notes of the debate, Madison commented on Clause 2: "Mr. Madison, observing that if the negative of the President was confined to bills, it would be evaded by acts under the form and name of Resolutions, votes, etc.—proposed that 'or resolve' should be added after 'bill.' "

In other words, Madison was concerned that Congress would subvert the presidential veto by merely labeling its actions "Resolutions, votes, etc." instead of "bills." ("Etc." apparently refers to whatever an imaginative future Congress might invent.) The "or resolve" language was Madison's first shot at all-inclusive language. But the convention did not find it adequate. "After a short and rather confused conversation on the subject," it rejected Madison's wording and adjourned for the evening.

That night, Madison apparently talked with Edmund Jennings Randolph. The next morning, the convention came to order to hear an improved and expanded proposal, "Mr. Randolph, having thrown into a new form the motion putting votes, Resolutions, etc. on a footing with Bills, renewed it with the language that was accepted that day by the convention and was inscribed as Clause 3 of Section 7 of Article 1.

"Every Order, Resolution or Vote to which the Concurrence of the Senate and House of Representatives may be necessary" would also be subject to the presidential veto in the same manner as described for bills in Clause 2. Randolph had found the broadest possible formula in the language of his day to describe the inventions that Madison feared. It remained only for future Congresses to invent them and name them, in order for the president to be able to veto them.

Madison records only one note on the debate that preceded the convention's adoption of Randolph's proposal. "Mr. Sherman thought it unnecessary, except as to votes taking money out of the Treasury." Although Roger Sherman appeared to be no great fan of the veto, he did comprehend that Congress' main motivation to subvert the veto, and the main reason the Constitution needed to defend it, would be the temptation for Congress to spend irresponsibly.

Why does the Constitution not speak specifically about the "line-item veto"? At the time of the convention, the phrase did not exist. It was not until the chaos preceding the Civil War that Congress, in order to subvert the presidential veto and experiment with large deficits, first began the abusive practice of attaching appropriations riders to bills. It was only after this practice was invented that the term "rider" was developed along with the term for the corrective response—"line-item veto." Only in the Civil War environment of national fratricide and a weak, minority president could Congress have initiated this subversion of the executive.

When the Confederacy wrote its own constitution during the war, on many procedural points it merely restated the U.S. Constitution in light of the practice and language of the day. President Jefferson Davis was provided with a line-item veto described as such.

After the Civil War, Congress returned to fiscal responsibility, although the use of riders continued. Much later, however, when the welfare state ideology created by the Depression ran headlong into the demands of World War II and the Cold War, Congress responded with a "tax a lot and spend more" formula for fiscal fairy tales. The Republican Renaissance has stemmed from the tax side of this formula, but the Democratic Congress remains unchecked on the spending side, with a metastasized deficit as a result. The recent world-wide collapse of the equity markets is merely the first serious symptom of this potentially fatal disease.

Since no president has ever vetoed a line item, the courts have never had an opportunity to bless the action. In fact, judges have had almost no chance to say anything about Clause 3, although what little they have said has been correct. Hence, if the Supreme Court ever gets a chance to pronounce on the line-item veto, it will be directly interpreting, on first impression, fairly clear and unobstructed constitutional language. The prognosis for any such decision would be favorable.

There is one 1889 Supreme Court case, U.S. v. Stockslager, that states that a joint resolution of both houses approved by the president has the same effect of law as if it were called a bill. Presumably, such a joint resolution could also be vetoed by the president. By extension, a president could determine that a "bill" contained implicit "joint resolutions" by Congress for each line item or appropriations rider, and then veto selected "resolutions" within a bill at his discretion. If Congress plays the game of "form and name" to subvert the president, then the president must likewise defend himself. This is the point of Clause 3.

The only other Clause 3 case of interest, a 1982 case from the U.S. Court of Appeals for the District of Columbia, Consumer Energy v. FERC, comes no closer to explicit comment on the line-item veto. However, citing Madison's notes, the court states: "Clause 3 was inserted to prevent Congress from evading the requirements of Clause 2 by merely calling its actions something other than a 'bill.'" Or, if a line item has the force of law, then a line item may suffer a veto.

A possible Democratic response might state that budgets may be vetoed, but not line items or riders. At first glance this appears to have some merit. But this argument would allow Congress to destroy the veto by bunching bills together. Taken to its extreme, each Congress, which sits for two years, could determine that all its actions for that period would, on the last day, be bunched together into one huge bill All the individual bills that would have passed over the course of the two years would be merely "preliminary" procedural steps to the leviathan bill. The president then would have the choice of forgoing the veto or vetoing two complete years of legislation and perhaps destroying our government in the process.

This is the very game of "form and name" that inspired Clause 3. If the clause means anything, it means that the president can unbunch such bills by vetoing line items and riders.

Congress is already using this bunching gambit for the budget. Under the budget rules, Congress passes only one "omnibus" budget bill per year. Obviously, today's line item is yesterday's bill, and the president can veto either.

Whatever result the courts ultimately may reach, the president's use of the line-item veto offers everything to gain and nothing to lose. The courts can deliver no worse than the status quo. Any other legal result would be an improvement over current practice.

Indeed, with the collapse of the world equity markets on October 19, and the subsequent drift toward the fiscal abyss by a Congress that has no seniority system, no party discipline, too many subcommittee chairmen, and, under its current rules, no leader with the institutional means to cut a deal and make it stick, President Reagan has no choice but to use his constitutional power to act unilaterally. The question is not one of narrow partisan contest, but whether we shall have effective government and a productive economy, or increasing chaos and proverty.

ARTICLE I, SECTION 7, CLAUSE 2

Every bill which shall have passed the House of Representatives and the Senate, shall, before it becomes a Law, be presented to the President of the United States; If he approves he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law.* * *

ARTICLE I, SECTION 7, CLAUSE 3

Every order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be repassed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

Mr. PRESSLER. The article tells about James Madison at the Constitutional Convention. He was concerned that Congress would subvert the Presidential veto by merely labeling its actions "Resolution, votes, etc." instead of "bills." ("Etc." apparently refers to whatever an imaginative future Congress might invent.) The "or resolve" language was Madison's first shot at all-inclusive language. But the convention did not find it adequate. "After a short and rather confused conversation on the subject," it rejected Madisons wording and adjourned for the evening.

It goes on to discuss at the Constitutional Convention the provision under article I, section 7, clause 3, was that "Every Order, Resolution, or Vote to which the Concurrence of the Senate and the House of Representatives may be necessary * * *"

For example, this bill is structured in such a manner that some of the items that have been objected could be vetoed by the President individually. The article goes on:

> Why does the Constitution not speak specifically about the "line-item veto"? At the time of the convention, the phrase did not exist. It was not until the chaos preceding the Civil War that Congress, in order to subvert the Presidential veto and experiment with large deficits, first began the abusive practice of attaching appropriation riders to bills.

Indeed, this bill has had many riders attached to it.

> It was only after this practice was invented that the term "rider" was developed, along with the term for the corrective response—"line item veto." Only in the Civil War environment of national fratricide and a weak, minority President could Congress have initiated this subversion of the Executive.

Mr. President, this particular piece of legislation would be an ideal place for the President to try to use the line-item veto. I shall discuss some areas of concern that I have and would like to see dropped from this bill.

Like the Tax Reform Act of 1986, many sections of this bill are loosely written and unexplained. In my opinion the provisions unrelated to trade should be removed from the bill.

This 4,000-page report contains too much excess baggage. It is actually a $6.1 billion Christmas tree loaded with ornaments for every imaginable group. As today's Des Moines Register editorial puts it, "The label on the package is trade, but the contents look suspiciously like pork."

Mr. President, I ask unanimous consent that the Des Moines Register editorial be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. Mr. President, this is not the way to legislate. We have a responsibility to review the bill and vote on its substance rather than rely on newspaper reports and election year politics.

Here are just a few of the provisions which I find particularly disturbing:

UNNECESSARY FEDERAL SPENDING

The bill includes $6.1 billion in new Federal spending. This does not even include the cost of several new entitlement programs. One example of unnecessary spending is a payment of $500,000 to a Washington law firm.

EUROPEAN ETHANOL

Rather than help our domestic ethanol industry, the bill includes a provision which would allow subsidized European ethanol to be imported through the Caribbean. This provision would result in the loss of an estimated 1,000 U.S. jobs, displace an estimated 80 million bushels of U.S. corn, and result in a loss of $240 million in tariff and highway tax receipts.

EXCESSIVE GOVERNMENT STUDIES AND COMMISSIONS

The Senate bill required over 150 studies and reports and established dozens of new duplicative commissions. For example, one study examines the possible protection of the domestic rose industry. Another commission established in the bill costs $10 million and specifically stipulates that its 12 members shall be paid at a rate comparable to a GS-18, which is $86,682 each.

FOREIGN RETALIATION

Several protectionist provisions remain in the bill. For example, restrictions are placed on imported food products treated with pesticides. The U.S. is the largest user of pesticides. This provision invites retaliation against U.S. agricultural exports. The section 301 provisions, if not used properly, could also result in retaliation against U.S. farm products. This would be similar to China's 1983 retaliation against a $50 million United States textile restriction by cancelling its purchase of $500 million in United States grain.

Mr. President, next we come to what I consider our toothless agricultural provisions.

The marketing loan and export enhancement agricultural provisions are totally discretionary and probably will all be changed in the 1990 farm bill.

Mr. President, I call attention to Russian furskins. The bill lifts the current ban on importation of Soviet furskins. This will allow subsidized Soviet competition against South Dakota fur farmers and trappers, who produce several million dollars worth of furs annually.

Next, Third World debt. This bill requires a feasibility study of an international institution to discount and renegotiate Third World loans. This appears to be leading to a U.S. taxpayer bailout of international banks and Third World nations that would cost billions.

I believe we should pass a trade bill. I have urged the President to line-item veto the bill to take out the hundreds of wasteful and unrelated provisions. If this bill is defeated, we should have the chance to vote on a "clean" trade bill that everyone understands. That is how the legislative process should work.

Coming from an agricultural State, I believe this bill could harm U.S. exports, especially agricultural exports, more than it would benefit them. Estimates are that a total elimination of all unfair trade barriers would reduce our trade deficit by only 10 percent. What we really need is to take a tough stand in negotiations and make the hard choices needed to reduce our Federal budget deficit. This bill, loaded down with so many unnecessary provisions, not at all related to trade, should not pass in its present form.

Mr. President, for these reasons I will oppose passage of the trade bill conference report.

Also, I believe that the White House should give an explanation to Congress if it cannot use the line-item veto on this particular piece of legislation. It falls clearly within a category of legislation that Mr. Glazier argues could be line-item vetoed.

I also feel strongly that the White House has placed too much emphasis on one or two provisions in this bill. I think that all of the items I listed and other issues need to be considered and changes made.

Mr. President, with that, I conclude my remarks. I shall vote against the conference report. I reserve my judgment regarding a veto in case the President attempts to line-item veto the bill.

EXHIBIT 1

REALLY A CHRISTMAS TREE

Congress all along has had the ability to cope with the trade deficit. Mainly, coping would require getting the nation's fiscal affairs in order, halting the massive federal borrowing.

But that's too tough. Congress can't bring itself to perform its most basic duties adequately, so instead it postures and pretends it can do something about the trade deficit by passing a trade bill.

At least it's called a trade bill, but it's really a Christmas tree. It's one of those massive bills that everyone tries to attach his pet project to. The focus of disagreement between the president and Congress—a requirement that workers be given notice of plant closings—is one example. It would be a lobbying goal of labor with or without a trade bill to attach it to.

Hardly anyone knows everything that is in the 1,000-page bill, but there are scores of provisions tailored for individual industries and companies. The label on the package is trade, but the contents look suspiciously like pork.

That's why it's bound to pass. Even if President Reagan vetoes the current version over the plant-closing provision, the bill will eventually pass in some form. Congress has too much invested—nearly three years and the work of two dozen committees—to let it go for naught. Besides, the bill gives members a chance to assert that they addressed the trade problem, even if they didn't.

Will the bill make a difference on trade? Not much. It would expand the president's power to retaliate for "unfair" foreign trade practices, but the president already has wide latitude on trade, and that wouldn't change much. It would transfer some authority from the president to the U.S. trade representative, but the trade representative is an appointee who serves at the will of the president anyway.

There are some needed provisions, such as the relaxation of export controls that have hampered U.S. firms' ability to sell abroad. There is more assistance for workers displaced by foreign competition. It is perceived as a "tough" trade bill, which may be of some help in trade negotiations.

But the bill is hardly the epic turnaround in U.S. trade policy that its backers claim it to be. It is neither awfully bad nor especially praiseworthy. It is merely something Congress, in its inimitable fashion, has done. If the U.S. trade picture improves, it won't be because of this bill.

Mr. DOLE. Mr. President, I will ask unanimous consent to have printed in the RECORD a letter I received this afternoon from the President of the United States with reference to the Omnibus Trade Bill now under consideration in the Senate.

I will just summarize the letter by saying that the President makes it very clear that he will veto the bill. He says, "First, I will veto the Omnibus Trade Bill * * * Second, I am and will remain personally committed to enacting a responsible trade bill."

He says later in the letter that he wants a trade bill and he will work vigorously to secure one.

Mr. President, I know the letter will be of interest to many of my colleagues because it does express the views of the President on this very important piece of legislation. I ask unanimous consent to have the letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, April 26, 1988.

Hon. BOB DOLE,
Republican Leader,
U.S. Senate, Washington, DC.

DEAR BOB: I am writing to reinforce two important points. First, I will veto the Omnibus Trade Bill (H.R. 3) as it stands. Second, I am and will remain personally committed to enacting a responsible trade bill.

As you are well aware, the Administration has had numerous recent discussions with Senators about our opposition to the Omnibus Trade Bill as it stands. During these discussions, some have sought reassurance that we will do our best to achieve a trade bill this year. Given the importance of enacting a trade bill that will help open markets abroad and improve America's competitiveness, I know it is important to eliminate any doubt on this point.

I want a trade bill. I will work vigorously to secure one. And I will urge the Leadership to schedule prompt action on a bill immediately after the Congress sustains my forthcoming veto of H.R. 3.

But to finish the trade bill process in a way that serves America's interests—not the special interests—I need your help. Together we have resisted legislation that benefits the well-organized few at the expense of the general public—and we have been rewarded with high employment and low inflation.

Now I need your vote against the Conference Report and your support for my forthcoming veto. Then together we can act on a trade bill that will advance, not impede, our dynamic economy.

Sincerely,

RON.

Mr. PELL. Mr. President, I rise to urge approval of the conference report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1987.

As I have noted on other occasions, this bill marks a true watershed in our economic history. Its effect is to readjust policies which have characterized United States trade activities for nearly half a century, and to redress economic legacies which date back to World War II.

Behind us lies nearly a half century of virtually unilateral free trade on the part of the United States of America. Our policies over this period were often magnanimous in spirit and motivation, and they proved to be enormously rewarding in substance for much of the world, including ourselves until recently.

But during this same period, gradual but powerful changes took place in the world balance of economic power. Our trading partners, often in reaction to American dominance, erected new tariff barriers, subsidized domestic production and intervened aggressively in the free play of the international market place.

The alarming bottom-line to this 40-year period of increasing non-reciprocity is now too well known to us—a merchandise trade deficit which stands at about $150 billion. And in less than a decade the United States has sunk to the position of being the largest debtor in the world. While economists have argued that trade deficit can be a sign of economic strength, I think everyone agrees that a deficit of the present magnitude is injurious and cannot be sustained.

From that perspective, the Omnibus Trade Act does represent a watershed of change. While many of the remedies we have provided are not perfect, I believe we have, for the most part, been pragmatic about our own national interests, and avoided extreme solutions.

The task which faced us was to take corrective action without letting the pendulum swing too much further in the direction of protection. I think we have struck that balance. The omnibus trade bill will continue the tradition of internationalism that has characterized U.S. policy since World War II, while asserting a new expression of U.S. interests appropriate to the times.

I believe the bill deals realistically with the problem of foreign import barriers without resorting to draconican extremes. The important policy objective which has prevailed is that retaliatory practices, if they ever must be invoked, are not for the purposes of premanently sheltering U.S. industries, but for and securing a level playing field for American business throughout the world.

But most of all, it seems to me that, overall, H.R. 3 is positive legislation, whose overall effect should be to expand U.S. market abroad and enhance the capacity of the U.S. economy to compete in the world market place.

Looking back over the panorama of world trade since World War II, we see that our present dilemma results from a combination of several interrelated problems; foreign barriers to our products, aggressive marketing by our trading partners, diminished competitiveness at home and finally our own fiscal disorder and resulting monetary imbalance. H.R. 3 comprises a broad range of remedies that addresses the whole combination of problems. It is my hope that the end result will be in no way a reversion to protectionism but rather a restoration of reciprocity. We should keep in mind Benjamin Franklin's wise prescription that "No nation was ever ruined by trade," and always remember that our interests in the long run are best served by lowering barriers and opening doors.

Mr. President, I was privileged to be a participant in two of the several subconferences which participated in the process of reconciling differences between the House and Senate on this landmark legislation.

THE EDUCATION COMPONENT

Education plays a central role in a long-term strategy to regain our competitive edge in the world economy. A strengthened economy demands a more educated work force. Education unleashes the productive ability of our citizens. Education develops the basic skills that will enable workers to master quickly the seemingly ever-changing demands of the workplace. And education promotes the ingenuity and creativity of those who will carry our industries into new ventures and new markets.

The education components of the trade bill comprise a comprehensive legislative strategy. That strategy seeks to develop widespread educational competence among our citizenry. And in doing so it strengthens the ability of our future workforce to meet the challenges of the international marketplace.

It is important to realize in this context that the fundamental tools to accomplish this task already exist in law.

They need only the teeth of better funding in order to be effective. The education components of the trade bill stake out those areas of education where increases in current programs or new authorizations will strengthen our competitive capabilities. Those key areas include mathematics, science and technology education, basic skills instruction and literacy, and vocational education.

First, we provide for reauthorization of the Education for Economic Security Act. This is the program we enacted almost 5 years ago to upgrade math and science instruction in our elementary and secondary schools. It is a law whose only handicap has been inadequate funding.

Second, we have authorized the Star Schools Program Assistance Act, which will improve a student's access to basic and advanced courses in mathematics, science and foreign languages through use of telecommunications.

Third, we authorize $21 million for model programs in foreign language instruction at the elementary and secondary level. Foreign language facility is an important component of our ability to do business with other nations, and it is clear that such ability must be developed in the very early grades.

Fourth, we have provided a $200 million increase in the chapter 1 program specifically targeted to basic skills for secondary students. Efforts to strengthen the competence of our work force must ensure that students are provided with the basic skills necessary to enable them to perform their vocational duties competently and to adapt to changes in their work responsibilities resulting from changes in industries.

Fifth, we provide a new $10 million authorization for educational partnerships between the public schools and the private sector and community organizations. This Demonstration Grant Program will encourage organizations in the community to contribute their resources—their time, talent, and equipment—to enhance the quality of instruction in public schools. In this vein, it will promote community support and responsibility for elementary and secondary schools.

Sixth, I am particularly pleased that we have incorporated the Training Technology Transfer Act as an important part of the education provisions of the trade bill. This is legislation that I introduced earlier in this session, and it would facilitate the sharing of computer software training programs developed by Federal agencies or by contract with Federal agencies. For example, information regarding basic skills training programs developed at the Department of Defense could be converted at very reasonable cost for use in educational institutions, thereby defraying the high cost of development of this software.

Seventh, we have authorized a new program in international education to provide grants to universities which emphasize the importance of international study in a business program. This Demonstration Program is designed to encourage higher education institutions to make foreign language instruction and international studies an integral requirement of a business program. Programs funded under this title should also serve as resources for businesses in the community in which the center is located.

Eighth, we enable the Secretary of Education to provide up to $5 million for Ronald E. McNair Scholarships. This important program provides scholarships for graduate minority students. By enabling these students to pursue a course of study at the graduate level, these scholarships serve to increase the talent pool of minority professionals in science, mathematics and technological fields.

Ninth, we provide important changes in the Carl D. Perkins Vocational Education Act for training and retraining programs. On the one hand, we increase by $10 million the authorization for industry-education partnership for training in high technology occupations. We also create a new $25 million authorization for adult retraining of the current work force. Vocational programs under this title would ensure that services that dislocated workers received under the Economic Dislocation and Worker Adjustment Assistance Act would be of the highest quality and would stress training in high technology occupations.

Tenth, we have a critically important new program to address the school dropout problem. In providing measures to improve our competitiveness we cannot ignore the fact that well over 25 percent of our students drop out of school. Without adequate skills, these young adults cannot be part of a competitive work force, nor will they have the ability to adapt to the changing needs of the workplace.

The School Dropout Demonstration Assistance Act established under this title authorizes a $50 million demonstration grant program to local educational agencies and educational partnerships. Grants under this title shall be awarded to successful projects which seek either to prevent students from dropping out or to encourage students who have left to reenter school and graduate.

Eleventh, the education components of the trade bill also include three literacy demonstration programs. The Literacy Corps Assistance Act is designed to provide grants to higher education institutions to encourage college students to volunteer as tutoring aides in the fight against illiteracy. The Workplace Literacy Assistance Program encourages educational institutions and businesses to provide workers with basic skills instruction. And the Technology Education Act provides literacy instruction in the area of technology and instruction in the application of this technology to vocational demands.

And twelfth, we provide an authorization of $85 million at the National Science Foundation for an extremely important program to upgrade research facilities at our Nation's colleges and universities.

Mr. President, as I said when we originally passed the Senate version of the trade bill, we no longer operate in an isolated economic setting. The emergence of the international marketplace challenges us to improve the productivity and competitiveness of American industries. Our ability to face this challenge is critically dependent on the sum total of the ability and talent of our work force. And in that regard, our long-term strategy must include a strong agenda to develop and promote the productive capabilities and energies of our people. The education components of the trade bill provide the strong agenda upon which we must act. It is with that in mind that I urge my colleagues to support the conference report.

THE FOREIGN RELATIONS COMPONENT

The Committee on Foreign Relations did its part by crafting title II, subtitle B—Export Enhancement of the Conference Report. While modest in scope, nonetheless, in my view, we have made several important contributions toward the overall goal of improving U.S. competitiveness in world markets.

Two provisions in particular which were included in title II, should make an important contribution toward enhancing our exporting capabilities. The first of these is designed to improve and streamline the dissemination of information about contracting opportunities with multilateral development banks. Each year the United States contributes millions of dollars to these banks, and the banks in turn loan billions of dollars to developing nations. It seems only reasonable that we should do all that we can to make sure that United States businesses have an equal opportunity to bid on projects in this lucrative market.

The second provision of significance seeks to strengthen an ongoing program—the Trade and Development Program (TDP) , which is authorized under the Foreign Assistance Act. This program funds feasibility studies in developing countries for projects which seem to have significant potential for using U.S. goods and services. The positive trade benefits produced by the TDP program to date have been most impressive, particularly in light of the very modest amount of aid funds involved. On obligations of roughly $85 million in aid moneys from 1980 through 1986, the Trade and Development program has generated over $800 million in exports. Estimates suggests that this program could generate up to $7 billion in exports over the next decade.

I believe that the amendments to the current TDP authorization proposed in this bill should improve the trade benefits of this program even further. Specifically, the conference report includes provisions codifying TDP's independent status from AID; reemphasizing and broadening its trade mandate; and authorizing additional funding. These changes in the current program should better enable TDP to carry out its mandate, and thereby afford U.S. firms the opportunity to get in on "the ground floor" of project planning and procurement. By strengthening this program, we are building on a record of success, not only for U.S. exporters, but for developing countries as well, which receive the benefit of United States know-how and technology through this program.

Mr. President, these are but two of the provisions contained in title II, subtitle B. I would ask unanimous consent to include in the RECORD a detailed summary of title II, subtitle B—Export Enhancement (subconference 4 of the omnibus trade conference).

I might mention to my colleagues that there is one part of this subtitle which is not specifically a matter of trade—Part II of subtitle B provides for assistance to Poland. However, I would argue that over the long term it may serve to benefit U.S. trade interests if it contributes to the strengthening of Polish links to the West.

Specifically, part II of subtitle B authorizes funding to implement the U.S./Polish science and technology agreement which was entered into in 1987. Second, it authorizes the provision of medical supplies and hospital equipment to Poland, through private and voluntary organizations; and the donation of surplus agricultural commodities for use by the church and private sector. These agricultural commodities are to be sold and the proceeds used by the church and private sector in Poland for eligible projects such as assistance for handicapped and orphaned children, under the auspices of the Polish Catholic Episcopate; for the reconstruction and renovation of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland; and for any other project deemed to strengthen and support the private and independent sectors of the Polish economy.

In my view, the Committee on Foreign Relations has made a useful contribution to coping with the trade crisis confronting us today. This contribution is illustrative of the approach to the trade deficit taken throughout the bill. It is a positive approach. It is not a protectionist approach. I urge my colleagues and the President to support this important legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUMMARY OF CONFERENCE AGREEMENT ON SUBCONFERENCE 4 (EXPORT ENHANCEMENT) OF H.R. 3—OMNIBUS TRADE BILL.

1. COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN

Directs the American Institute of Taiwan to employ a number of personnel commensurate with the number of U.S. Commercial Service personnel at the U.S. mission in Seoul, South Korea.

2. COUNTRY REPORTS ON ECONOMIC POLICIES AND TRADE PRACTICES

Requires the Secretary of State to prepare and submit to Congress an annual report, comparable to the annual human rights report, on the economic policies and trade practices of U.S. trading partners, including their macroeconomic policies, debt status, export subsidies, intellectual property protection, and their laws and practices relating to worker rights.

3. OVERSEAS PRIVATE INVESTMENT CORPORATION.

Raises overall ceiling on OPIC's loan guarantee program from $750 million to $1 billion.

Raises annual minimum loan guarantee program from $150 million to $200 million.

Raises annual minimum direct investment fund from $15 million to $25 million.

Requires detailed justification for worker rights determinations on OPIC projects in the PRC.

4. TRADE AND DEVELOPMENT PROGRAM

Codifies TDP's status as independent agency within International Development Cooperation Agency.

Requires an annual report to Congress on TDP's activities.

Creates an advisory board, including representatives from international engineering and construction industry associations.

Earmarks for TDP at least an additional $5 million but not more than $10 million in each of Fiscal Years 1988 and 1989, to be taken in equal amounts from AID's Private Enterprise Revolving Fund and ESF.

Authorizes an additional $10 million in FY 1988 and 1989 for education and training programs with particular emphasis on training nationals from the PRC and Taiwan; of this $10 million, 50% shall be made available only for programs administered by U.S. small businesses.

Transfers to TDP responsibility for the foreign assistance portion of the tied aid credits program under the Trade and Development Enhancement Act.

Authorizes the TDP Director, with concurrence of the Secretary of State, to use ESF funds for the tied aid credits program.

5. COUNTERTRADE

Establishes an interagency group on countertrade and offsets, chaired by the Commerce Secretary, to review U.S. policy on countertrade, and to monitor foreign countertrade activities.

Creates within the Commerce Department an Office of Barter to monitor information on international barter and provide assistance to enterprises seeking barter opportunities.

6. PROTECTION OF U.S. INTELLECTUAL PROPERTY

Encourages Secretary of State to seek to strengthen intellectual property protection overseas.

Authorizes AID to provide technical assistance in intellectual property protection.

7. WORKER RIGHTS REPORT

Requires Secretary of State to report to Congress within 6 months of enactment on ways to improve and provide more detailed reporting on the status of worker rights.

8. JAPANESE IMPORTS FROM DEVELOPING NATIONS

Urges Japan to purchase more manufactured goods from developing countries.

9. JAPAN AND ARAB BOYCOTT OF ISRAEL

Urges Japan to expand trade with Israel and urges Japanese firms to end compliance with Arab boycott of Israel.

10. FACILITATION OF JEWELRY EXPORTS

Urges U.S. to join Convention of Control and Marking of Precious Metals in order to open foreign markets to American jewelry products.

11. LOAN GUARANTEES

Authorizes use of AID's Private Sector Revolving Fund to guarantee loans up to 50% of project of $3 million, whichever is less.

12. POLAND

Authorizes $1 million for implementation of 1987 U.S.-Polish science and technology agreement.

Directs Agriculture Secretary to donate surplus feed grains for sale in Poland; proceeds to be used by nongovernment agencies for specified projects in Poland.

Authorizes up to $2 million to provide medical supplies and hospital equipment to Poland through PVO's

Creates joint U.S.-Polish Commission to oversee provision of U.S. aid to Poland.

Creates joint U.S.-Polish Commission to oversee provision of U.S. aid to Poland.

Mr. DIXON. Mr. President, this conference report is nothing more and nothing less than an attempt to give trade the attention it deserves. For far too long now, we have not had a trade policy. Trade was always something that both Democratic and Republican administrations placed second, behind whatever their top foreign policy or national security concern was at the moment.

Other countries, however, were not as shortsighted. They recognized that a sound, effective trade policy is essential to the maintenance of their long term national security and foreign policy objectives. They understood the part that trade plays in the overall world economy, and they know that their economies depend in no small part on their trade performance.

The same thing is true in the United States. Our economy is more trade dependent than it ever was in the past, yet we have had no trade policy, only free trade rhetoric. Now free trade is a sound objective, one that fits the American character. Americans don't want managed trade. All they want is the right to compete in international markets on a fair and reasonable basis.

In all too many areas, however, our companies, our products, and our services do not get that basic right. They are handicapped by the unfair trade practices of our trading partners, and unfortunately, up until now, the U.S.

response all too often has been to do nothing.

This bill changes that. It is not protectionist, but it ensures that we now will respond to the very real restrictions placed on American products and services that make it more difficult for them to compete successfully in international markets.

When I first entered public life 38 years ago, the U.S. economy dominated the free world. We could afford to ignore unfair trade practices abroad. Our domestic economy was huge, and we had an overall trade surplus. However, that is no longer true. The GNP of the Common Market countries is now larger than U.S. GNP, we ran a $171 billion trade deficit last year, and we are now the world's largest debtor nation. We can no longer afford to ignore trade issues.

The Omnibus Trade and Competitiveness Act of 1988 recognizes that fact. It establishes a comprehensive trade policy, one that will enable us to compete much more effectively with foreign countries.

The bill is a huge one, and I will not attempt to take the time of the Senate to discuss all of its many provisions. I would like to highlight a few of the bill's provisions, though, and I would like to comment briefly on some of the issues where I was a conferee.

First, the bill provides the President with authority to negotiate multilateral agreements to reduce and eliminate nontariff barriers to trade in the United States and abroad. These agreements would be considered in the Congress under expedited procedures, but only if Congress is consulted with while the agreements are being negotiated.

Second, it gives the President authority to reduce tariffs by up to 50% as part of a trade agreement, and it implements the harmonized tariff agreement, so that American businesses will know how their products will be categorized for tariff purposes around the world.

Third, the bill strengthens protections against foreign unfair trade practices in section 301 of our trade laws. It makes retaliatory action mandatory for violations of trade agreements or other unjustifiable actions. It imposes tight time limits for action by our country, so that relief for the affected U.S. products or services occurs quickly enough to be of real use. Importantly, the bill establishes a so-called super 301 process, to focus our attention on countries where we have substantial trade deficits due, in part, to their unfair trade practices.

Fourth, it reforms section 201 of existing trade law, the section designed to provide relief to firms injured by import competition. Unfortunately, this section has not worked in the past. The reforms will provide real assistance to firms adversely affected by import competition, while encouraging them to undertake positive adjustments to restore their competitiveness.

Fifth, it provides meaningful trade adjustment assistance to workers who lose their jobs for trade-related reasons. This is transitional assistance, designed to give workers time to adjust or to move into a different field if necessary; it requires retraining for workers receiving assistance.

Like any major bill, it is not perfect. In fact, this measure has a number of provisions that I believe are undesirable. For example, it contains a provision expanding and extending grandfather rights for five ethanol producers under the Caribbean Basin Initiative. This provision hurts Illinois farmers, and will not even help the people in the Caribbean countries it is designed to help because, instead of using local sugar cane, these producers will likely use heavily subsidized European wine alcohol to produce ethanol. Illinois farmers are, therefore, in real danger of losing market share, not to poor Caribbean producers, but to wealthy, government-supported European producers. That is not fair, and that is not right. I wish the provision had not been included in the final conference bill; however, the overall bill is still on balance a very good one.

Among the many other good features of the bill are those designed to encourage U.S. exporters. For example, it expands the ability of export trading companies to facilitate the export of U.S. goods and services. The heart of the export-related provisions, though, are the sections devoted to streamlining U.S. export controls.

The United States currently maintains controls on the export of a wide variety of goods and technologies for national security and foreign policy reasons. We control items for national security purposes, for example, to ensure that United States high technology does not end up aiding the Soviet military.

That makes perfect sense. What does not make sense, however, is to control the sale of U.S. products and technologies to Western countries were similar or identical items are already freely available. Unfortunately, that is all too often what we have done, and the result is that we have hurt the competitiveness of our businesses abroad without providing any additional protection for our national security.

In fact, these excessively broad controls hurt our national security. They make it more difficult to maintain our technological edge over the Soviets, because our high-technology firms don't have the sales they need to support their research and development at levels that will keep us ahead. Increasingly, things made here are also made abroad, and even, sometimes, are only made abroad. VCR's, for example, are U.S. technology, but they are only manufactured overseas.

The export control provisions in the conference report are based, in no small part, on legislation that my distinguished colleague from Pennsylvania, Senator HEINZ, and I originally introduced. They will reduce the number of licenses needed in the free world trade area by approximately 25 percent.

They focus our export controls on those items where controls are needed and where controls can be effective. They are designed to eliminate unilateral U.S. controls on items already freely available abroad in favor of multilateral controls that will actually ensure that the Eastern Bloc is denied access to the controlled items.

I could go on at some length on the export control provisions, Mr. President. Instead, however, I would like to comment on only three export issues—the role of the Defense Department, the Toshiba/Kongsberg sanctions and the Alaskan oil issue—and two other issues—the Foreign Corrupt Practices Act amendments and the plant closing provisions—before I close.

As a member of the Armed Services Committee, I want to make it clear that the Defense Department has an essential role to play in the export control area. That does not mean, however, that the Defense Department is there to duplicate the work of the Commerce Department. In the area of license review to free world destinations, the Defense Department is limited by the conference report to reviewing licenses for national security, not foreign policy, reasons. What this means, in effect, is that the Defense Department review must focus on the risk that the Soviets will gain access to the item being shipped to the free world destination in question. Such a risk assessment will inevitably balance the diversion risk with the amount of harm diversion would cause, but the focus is clearly diversion risk. The Defense Department use its review to second guess decisions made by the Commerce and State Departments as to the desirability of making a sale to a specific free world destination.

The conference report also contains strong provisions sanctioning the Toshiba and Kongsberg Corps. for selling very sophisticated machine tools to the Soviet Union in violation of multilateral export controls prohibiting such sales and establishing a mechanism to deal with potential future violations.

I support the conference report provisions, and I am pleased that the sanctions cover foreign trading companies, which is an issue I raised last year. I think it is both fair and reasonable to say to foreign companies, in effect, that for certain very limited categories of goods and technologies, you can either do business with the Soviets or with the United States, but not both. It makes no sense for us to do business with those that violate multilateral export controls and undermine U.S. national security.

Having said that, however, we may need to take another look at the sanctions as they apply to future violations. It makes sense to treat foreign companies like U.S. companies for purposes of violations of multilateral export controls. It is harder to defend treating them more harshly than we would treat a U.S. company violating the controls. Further, these controls depend on the cooperation of our allies. If our allies establish export control systems and penalties as strong as we have, then we need to consider again whether it makes sense for us to duplicate their penalties.

On the Alaskan oil issue, I want to report to the Senate that the provision in the conference bill is a compromise. It is based on the restrictions already in law that prevent the export of North Slope crude oil. The compromise therefore also prohibits exports of refined North Slope oil with a number of exceptions and clarifications, the most important of which is that it permits the construction of a new export refinery in Alaska that could export up to 50 percent of its capacity. Exports to U.S. military bases abroad and sales to U.S. airlines overseas would not be included in the 50 percent, but in no event could exports exceed 70,000 barrels per day. These restrictions would not apply to so-called Cook Inlet oil, only to oil passing through the trans-Alaska pipeline.

I know this is not a perfect compromise, but given the many competing interests involved, I think it is a fair compromise, one that protects the essential interests of our Nation, while protecting the essential interests of all the parties involved.

I also want to say a brief word, Mr. President, on the package of amendments to the Foreign Corrupt Practices Act contained in the conference report. The amendments are designed to clarify the act's provisions, and I want to take this opportunity to congratulate the House conferees, particularly Congressman RODINO, chairman of the House Judiciary Committee, Congressman DINGELL, chairman of the House Energy and Commerce Committee, Congressman FASCELL, chairman of the House Foreign Affairs Committee, and Congressman BERMAN, for their many helpful contributions and suggestions. They significantly improved the Senate bill. In particular, they ensured that we achieved a liability standard for third party situations—where agents are used to pay a bribe—that improves on the Senate standard in that it is simpler, more understandable, and has a much more extensive legal history behind it. The Senate standard is, I believe, indistinguishable in practice from the standard in the conference bill, but the conference standard is much preferable for the reasons I cited.

The package of amendments included in the conference report makes the bill easier for business, particularly small business, to comply with, while maintaining our commitment to maintenance of a vigorous antibribery policy. I would like to note, for example, that even with the changes in this bill, the foreign antibribery prohibitions that apply to U.S. companies operating abroad will continue to be more stringent than the prohibitions that apply to their operations in the United States.

Finally, Mr. President, I would like to speak for just a moment on the plant closing provisions. The President has made it clear that he intends to veto the bill if these provisions are included. Finally, I simply do not understand his position. I think the plant closing provisions are fair, reasonable, and modest. They provide the kind of protection that American workers are entitled to, and which many of them already receive as part of their collective bargaining agreements. The Senate doesn't have to take my word for this fact, however. An article in Monday's Wall Street Journal entitled "Plant-Closings Quarrel Distorts a Modest Idea" makes it clear that the "provision is being blown out of all proportion * * * the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide plans to close a plant until the last moment. Leaving workers and communities in the lurch." This is not a union publication we are talking about here, Mr. President, this is the Wall Street Journal. I ask unanimous consent that the entire article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

[See exhibit 1.]

Mr. DIXON. Mr. President, if they view the plant closing provision as modest, then it is very difficult to understand why the President could even consider vetoing the bill because the plant closing is part of it.

I hope the President will reconsider his position, and sign the bill. A strong, bipartisan majority in both the House and the Senate worked together for 3 years to develop it. It is a good bill, and it is worthy of the President's signature. I urge the Senate to pass this bill by the kind of overwhelming majority that it deserves, and, if necessary, to override any Presidential veto.

EXHIBIT 1

[From the Wall Street Journal, Apr. 25, 1988]

PLANT-CLOSINGS QUARREL DISTORTS A MODEST IDEA

(By Walter S. Mossberg)

WASHINGTON.—This capital's latest cause to celebre is something called "plant closings," a provision in the pending trade bill that would require many employers to give their workers and local governments 60 days' notice of plans to close a plant or conduct a widespread layoff.

As is common here, the provision is being blown out of all proportion. Discussions of it are laden with ideological and pseudo-economic rhetoric characteristic of political debate in an election year.

President Reagan and the business lobbies assert that the entire trade bill should be vetoed if the plant-closings language stays. They call the provision a European-style government intrusion on business that would impair U.S. firms' competitiveness in world markets.

Meanwhile, the Democrats and their union allies contend that the plant-closings measure is a major step toward helping U.S. economic adjustment. They say it's a social reform of such profound importance that preserving it is worth losing a trade bill they have sought for years.

In fact, the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide plans to close a plant until the last minute, leaving workers and communities in the lurch. It is squarely in the tradition of such social reforms as the child labor and minimum wage laws. These act to soften the social consequences of free market decisions and thus permit the market continued public acceptance without the sort of deep government involvement often practices abroad.

As social reforms go, the plant-closings provision appears fairly minor. According to business and labor, many big companies already offer some form of advance layoff notice. The U.S. Chamber of Commerce opposes the provision, but the group nevertheless says it "encourages" businesses to give advance layoff notice when possible.

The Reagan Administration's own Task Force on Economic Adjustment and Worker Dislocation, which included representatives from General Electric, USX and other major corporations, declared in 1986 that "advance notification to employees and the community of plant closings and large-scale permanent layoffs is good industrial practice." The panel didn't call for writing the idea into law, but it cited evidence that advance notice doesn't hurt productivity.

Furthermore, the idea isn't exactly novel. Most major U.S. trading partners, including Canada, Japan and West Germany, have such regulations already, and they seem to be competing just fine.

In the smoke of ideological charge and countercharge, it's important to note what the plant-closings provision wouldn't accomplish. It wouldn't bar a single closing or layoff. It wouldn't require companies to get worker or government approval to close plants or conduct layoffs. It wouldn't affect companies with under 100 workers, or any company laying off less than a third of its work force, unless 500 workers are involved.

It merely requires stable companies that know well beforehand of plans to close plants or order mass layoffs to share this information 60 days in advance with the affected workers and local governments. That's all.

The provision includes a formidable list of exceptions. Companies that are "faltering" and trying to raise capital—those for whom advance notice might pose financial problems—are exempt. So are those closing plants due to "unforeseeable" business developments, or strikes or lockouts. So are plant closings due to the sale of a business, or consolidations within local areas, if workers are offered new positions.

Business groups have thrown up a barrage of objections to the provision. They contend that the exemptions aren't broad enough and that the need to give advance notice of a closing would somehow thwart expansion at many businesses and drive weak firms into bankruptcy.

But these arguments hide a deeper reason employers and the White House are fighting what amounts to a simple industrial practice that business concedes has merits. They fear that the plant-closings measure will somehow set a precedent for further "labor engineering" by the government. They are worried, too, about litigation and bureaucratic restraints.

There are many items in the trade bill that will indeed affect America's ability to compete in world markets, but the plant-closings measure isn't one of them. And it is strange indeed that the fate of the massive bill is turning on language that has nothing directly to do with trade. The ideological debate over the provision doesn't bode well for the ability of the nation's leaders to grapple with the really important economic issues that America surely will face in the years just ahead.

Ms. MIKULSKI. Mr. President, the trade bill before us today represents basic fairness and good sense.

With this legislation we are simply giving the administration new tools to deal with our enormous, persistent trade deficit, and in some cases, forcing the administration to use them.

Mr. President, I approached this bill guided by a few basic principles:

What can we do to increase and enhance U.S. jobs?

How do we best prepare for the future?

How can we force other nations to deal with us fairly?

How can we increase export opportunities for U.S. firms?

U.S. JOBS—NOW AND IN THE FUTURE

The folks who have suffered most during our record-shattering trade deficits are the men and women who produce the goods and services we're trying to sell.

So my principal frame of reference in this bill is—"What's in it for the workers?"

The bill has:

First, advance notification of workers if a plant closes;

Second, retraining of any worker who has lost his job to imports;

Third, $1 billion for new education and training programs; and

Fourth, authority to retaliate against foreign governments if conditions for their workers don't meet certain standards.

These retraining and education provisions represent an investment in the future of this country. We can't remain the world's greatest economic power without adjusting to new realities, and this bill recognizes the role which the Federal Government must play in shaping our future work force.

The worker rights provision addresses issues of basic fairness: The right of workers to organize, the exploitation of children, basic safety in the workplace.

Even the much discussed plant closing notification provision is not a radical notion. Two-thirds of the firms that would be covered by the provision already have the decency to notify their employees well in advance when layoffs are necessary.

Most important of all, by enforcing fair trade of our goods and services, this bill will allow U.S. workers and firms to compete on equal footing with other nations.

FAIR PLAY

The centerpiece of this bill is the required—not discretionary—retaliation against countries which violate their international trade agreements. How in the world can anyone object to that?

Certainly not our tobacco producers, who have been negotiating access agreements in the Far East. Or poultry producers, who were left hanging in the GATT dispute resolution process for several years. Or U.S. steel producers who have watched steel products channeled through nonquota countries in violation of our steel import agreements.

If the Japanese can build and sell a better mousetrap than we can—fine. But if the Japanese, or anyone else after signing the GATT and other international trade agreements, keep out United States products through zero quotas, set phoney standards, tie up our products in laboratory tests, impose 90 percent tariffs, ban United States construction firms from contracts, prohibit United States telecommunications firms from competing for Japanese contracts, and dump their products on our markets, then United States retaliation is not only reasonable—it's long overdue.

Even worse is the practice—throughout the world—of stealing U.S. ideas, duplicating U.S. trademarks and then selling these BAM products back to us. This bill provides expedited procedures for handling intellectual property rights violations. This is not protectionism; it is basic fairness.

INCREASING EXPORT OPPORTUNITIES

While U.S. firms are fighting with our overseas competitors, they should not simultaneously have to do battle with the U.S. licensing bureaucracy. This bill reduces licensing requirements for our producers and provides new export assistance for small business.

Our exports, especially in agriculture, will not increase until we begin to solve the Latin American debt problem. This legislation takes a small step in that direction.

I would have preferred a requirement for fuller disclosure of foreign investment in this country because I believe we have a right to know who is buying up America, but I recognize that we can't have everything we want in this bill.

This legislation represents 2½ years of hard work by the Finance Committee and seven other Senate committees. I congratulate Chairman LLOYD BENTSEN and his staff and am happy to support this conference report.

Mr. CHILES. Mr. President, I rise in support of the Omnibus Trade and Competitiveness Act of 1988.

When historians look back on this decade, I believe they will find much that was good. But I am afraid they will find a dark side to our apparent prosperity—for the 1980's has been the decade of debt. In 1980, the gross Federal debt was less than $1 trillion. By 1990 it will have increased to nearly $3.2 trillion. That is an increase of over $2.2 trillion in 10 years.

The other pillar of debt is our growing indebtedness to foreigners. In 1980 we were a creditor nation. The world owed us over $100 billion. By 1990, we will owe the rest of the world $1 trillion.

Throughout its history, America has always risen to a challenge. When our backs were against the wall, with a clear and present danger threatening us—we have always mustered the courage and will to triumph.

The crisis we face today is more difficult to confront—but just as threatening. Our economic and national security are at risk—not because of overt acts of aggression—but because our economic strength is being eroded.

Rather than paying our way in the world economy, we have borrowed from abroad. Rather than erecting an economic base on the firm foundation of productivity growth, we have borrowed to finance consumption rather than investment. Rather than getting tough and demanding fair play from aggressive and dedicated competitors, we have let ourselves be victimized.

To reverse the tide, America must act in two major ways. First, we need to put our fiscal house in order. The economic summit was really just a holding action and much more must be done next year. Second, we must be able and ready to compete in the new global economy. And that's what this trade bill will help us do.

This bill has been in the making for over 3 years. I remember in 1985 and 1986 when Senators BENTSEN and DANFORTH began this effort. Now, in the 100th Congress, they have worked closely with Members in both Houses to bring the bill to this point. I particularly want to single out my good friend from Texas, the chairman of the Finance Committee. Throughout these years of deliberations and negotiations, he has taken the high road. He made it clear from the start that trade was too important to become a pawn of partisan politics. The bill he has produced is a bill that is good for both parties because it is good for America. It moves us forward in a number of ways.

It will allow the United States to open foreign markets. We must demand free and fair trade on all sides. The new "Super 301" provision embodies an approach I have promoted for several years.

We must look at trade barriers on a country-by-country basis and demand bottom-line results. Industry negotiations are fine, but they need to be complemented by actions that demand tangible results.

This trade bill will allow us to expand the international rules of the game. Right now, only a small portion of international trade falls under the GATT rules. The trade bill gives the President authority to negotiate reductions in trade barriers and instructs him to negotiate on vital areas such as agriculture, services, high technology, and investments.

This bill will help get America ready to compete and win in the world economy. Numerous provisions will increase the abilities of our workers, assist our students in learning the ways of the international economy, and enhance our scientific and technical capabilities.

I have played a small part in this bill. But like other Senators, I feel that our combined efforts have produced a worthy product.

Our committee held hearings on the increasingly important area of trade in financial services. We learned that foreign financial concerns are accorded many opportunities in our markets that are simply not available abroad. I hope my provision instructing the President to address this crucial issue of access will open opportunities on world financial markets.

Another area where I hope I made a contribution is that of symmetrical access to foreign technologies. Technology can no longer flow in just one direction. My provision allows us to negotiate tough to ensure the kind of access to foreign technologies that foreigners enjoy in our country.

In closing, I want to commend the managers of the bill for a job well done. This legislation will build America's prosperity as it helps us win in the world economy. It deserves our support.

Mr. MITCHELL. Mr. President, I am pleased to give my strong support to the Omnibus Trade and Competitiveness Act of 1988. With the passage of this legislation, Congress will be completing a process begun almost 4 years ago to establish a modern and effective trade policy for the United States.

As an original sponsor of this legislation and a member of the Senate Finance Committee which had the primary responsibility to develop a new trade bill, I have worked closely on this bill. In my judgment, this comprehensive legislation which is the product of several committees, is an example of Congress at its best. After considerable effort by scores of individuals working in close consultation with the executive branch, Congress has written comprehensive legislation which will serve as a basis for this Nation's trade policy for years to come.

I would particularly like to commend the chairman of the Senate Finance Committee, Senator BENTSEN, for his tremendous efforts throughout this long and arduous process. I recall just over a year ago as the Senate Finance Committee began hearings on this legislation, the difficult work that lay ahead and the determination of the chairmen to make this a bipartisan issue with close consultation with the executive branch to develop a bill that would best serve our national interests.

That certainly has not been an easy effort because there is considerable disagreement over the proper role and objectives of the Federal Government in dealing with our very serious trade problems today. Earlier in this administration, as our international trade position deteriorated at a rapid pace, the President was notably inattentive to trade concerns. It was the position of this administration that the Federal Government had little or no role in ensuring that our workers and their industries are treated fairly in international trade. It was not a question of what kind of trade policy this Nation should have but whether there should be any policy at all.

This, of course, created substantial frustration in Congress and after considerable confrontation on these issues, the administration did decide in late 1985 to devote greater effort to challenging the unfair trade policies of other nations. Nevertheless, there remains a tendency by this President to sacrifice the interests of American workers to other considerations. Much of the debate on this bill involved these types of concerns—how aggressive should our trade policies be and what is the appropriate role of the President in pursuing these policies.

I am pleased that this legislation has resolved most of these issues in favor of a more activist and agressive trade policy in defense of American workers and industries. While Presidential prerogatives are mostly preserved, this legislation will give future administrations the tools to pursue a more vigorous and agressive trade policy on behalf of this Nation. It should mark the start of a new chapter in our Nation's trade policy.

For more than three decades after the Second World War, two principal goals guided U.S. international relations: The goal of preserving a credible defense of the West and the goal of developing a free global economic trading market.

We pursued those goals for more than three decades, with both success and failure.

Our alliances today are strong and sound. The western alliance continues to enjoy a broad consensus of support.

Our other major international goal—the development of a free global economic trading environment—has been more difficult to achieve.

Beginning with the Kennedy Round of trade talks in the early 1960's, through the most recent GATT negotiations in the Tokyo Round, we have pursued the goal of expanded international trade. Those agreements have generally been successful in reducing tariff barriers to international trade. Now, we must turn our attention to nontariff barriers.

The need for an overhaul of international trade rules is clear. An increasing volume of international trade today is not covered under the GATT, in such sectors as service trade, investment, intellectual property, and agriculture. In many of those sectors, the United States enjoys a competitive advantage which is being denied us by trade barriers erected by other nations.

A central element of the GATT system is the rules it establishes for nations to enact laws to assist its workers and industries against surges in imports, to counter unfair trade practices, and to protect its national security.

Our Nation, like others, has enacted laws designed to retrain displaced workers, to preserve industries vital to our national security, and to prevent unfair trade practices from victimizing American workers and businesses.

But our domestic trade remedy laws have lately proven inadequate in responding to new predatory trade practices by other nations—practices which are designed to circumvent our laws. In other cases, those laws have not worked because the administration has simply not enforced them.

This legislation would change our trade remedy laws to reduce Presidential discretion; to make more predictable the response our Nation will take to unfair trade practices; and to establish more clearly the principle that industries hurt by unfair practices need not look in vain to their government for redress.

The bill rests on several central premises. First, the recognition that in our system, Presidential consultation with Congress is essential. Our constituents must know that trade negotiations undertaken in their name—and which will affect their economic well-being—are undertaken within the framework of consultation with the Congress.

So the bill requires closer, more detailed, and continuing consultation with Congress as agreements are negotiated. This is vital.

Trade negotiations must place the interests of our citizens at the forefront. Too often, that has not been the case in the past.

Trade policy must have continuity, purpose, and accountability. The only way the interests of American workers, consumers and businesses can be served is to ensure that those concerns are factored into the negotiations through consultations with Congress.

Another basis premise of this bill is predictability. Not only should American businesses and workers feel confident that American law will protect American interests; our trading partners and competitors also need to know, with some clarity, what actions will produce responses.

I recognize that no matter how much executive branch discretion is reduced, the effectiveness of the law depends on the President's willingness to respond aggressively to unfair trade practices. Under our system, the value of most laws depends on the vigor with which a President enforces them.

One ironic outcome is that the commitment to the ideology of free trade—not a free trade policy, but a free trade ideology—has gone hand in hand with an increase in protectionism around the world. Too many of our trading partners still believe that they can have totally unrestricted access to the American market and bar American imports with impunity.

Expanded international trade cannot develop in an environment where most trading nations are pursuing their own interests exclusively. But when foreign producers see there is no penalty in doing what the Brazilians, the Japanese, the South Koreans do to protect their markets, there is no incentive for restraint.

This legislation, by directing a more aggressive executive branch pursuit of reciprocal access to foreign markets, as well as mandating penalties for unfair trade practices in our market, seeks to recreate such an incentive.

I am particularly pleased with the amendments to section 301 which are generally designed to strengthen the ability of our government to respond to unfair trade practices in other nations. As the author of legislation dealing with export targeting; and as the sponsor of a committee amendment requiring a more focused effort to deal with foreign market access and protection against piracy of intellectual property, which is included in this section; I believe these changes will be of great assistance to American companies.

The bill does not set in concrete the current manufacturing makeup of U.S. industry. It recognizes that as technology changes, as our Nation's demographics alter and as economic choices shift, new products, new processes and new services will displace old ones. But it seeks to make the transition from older to new industries less burdensome to the workers in those industries by providing for better retraining and retooling in industries affected by import competition.

This is not only a key element to maintaining American competitiveness in world trade, it is a key element in ensuring a sound domestic economy as well. We cannot and should not enter the 21st century with whole regions of people whose skills are outmoded and workers whose energies are wasted.

This legislation includes important modifications to the Trade Adjustment Assistance Program to expand the group of workers who are eligible for adjustment assistance and to place greater priority on retraining of workers. I am pleased that this section also includes changes which I have sponsored to improve program administration and which I have authored to deal with the "first separation" problem which has caused some displaced workers to be denied benefits in Maine and other States.

Congressional pressure—and the trade bill debate—have recently encouraged the administration to begin using the laws on the books to open foreign markets to American products. But it is too little, too late.

American workers should not have to wait until our trade deficit approaches disaster levels before their government acts. American businessmen should not have to hope for a dangerous trade deficit before they can be assured that our laws will be enforced.

No one in this body suggests that this trade bill alone is the answer to our trade problems. Our trade deficit did not increase by $140 billion over the last 6 years solely because of the deficiencies in our trade laws or the unfair trade practices in other nations. Our industries did not suddenly become so uncompetitive that our trade deficit grew almost 600 percent.

Instead, the extraordinary turn around in our trade position also relates to the Nation's fiscal policies which are drowning us in a sea of red ink.

As recently as 1982, the United States was the world's largest creditor nation, with a surplus of $141 billion in outstanding loans to the rest of the world. But beginning in 1981 we set upon a fiscal policy of record budget deficits which required the United States to go abroad to borrow money. The result was that by 1985, the United States became a net debtor nation for the first time since 1914.

By the end of last year, debt to the rest of the world had soared more than $400 billion. At the current rate, the United States will face an external debt of almost $700 billion by the end of the decade requiring that we spend as much as 1 percent of our gross national product just to pay interest costs abroad. That represents a transfer of our domestic income abroad resulting in a long-term lower American standard of living.

The more immediate harm is to our workers and industries which have been hurt as our trade position has suffered. Over the last 6 years, as the Federal Government has pursued a policy of record budget deficits, exports from the United States have actually declined.

Why? Because foreign interests, busy lending us money to finance our budget deficits, have little left to buy our goods with. The solution, of course, is to bring down our Federal budget deficits to reduce our reliance on foreign borrowing.

We are making progress on the budget deficit. It will be difficult to regain the advantages that have been squandered in the past several years. But we are turning things around.

The return to responsible Federal budgets, together with this comprehensive trade bill, will enable the United States to restore its competitive advantages and bring international trade into balance.

I congratulate the chairman of the Senate Finance Committee and the other committee chairman who have worked so hard to produce this historic legislation.

Mr. **PROXMIRE**. Mr. President, I rise to discuss some provisions of the Omnibus Trade and Competitiveness Act of 1988 which were conferenced by the Banking Committee which I chair. Although I cannot support the enactment of this bill because it includes amendments that will gut the Foreign Corrupt Practices Act, I do want to explain certain provisions in case the bill does become law. Our committee represented the Senate in subconference 3 on export controls and the results of our work there has become subtitle D of title II of the trade bill. Likewise our committee represented the Senate on subconference 5 dealing with international financial policy, whose work has become title III of the trade bill. Five members of the Banking Committee, along with two members of the Commerce Committee, represented the Senate on some provisions of subconference 7 and the results of our work there are now part of subtitle A of title V of the omnibus bill.

Yesterday when I spoke I thanked various of our conferees for taking the lead on certain provisions that were conferenced and thus helping ensure that we came up with a good final product on the matters cited above. I want to take this opportunity to explain a couple of the most important provisions that were agreed to in each subconference.

Subtitle D of title II of the omnibus bill makes certain amendments to the Export Administration Act [EAA]. That is the law which gives the President the authority to control exports for reason of national security, foreign policy, and short supplies. Most of the changes made to the EAA are in the national security area. They are designed to achieve a better balance between the need for U.S. exporters to be able to compete effectively in international markets, and the need to prevent the Soviet Union and its Eastern bloc allies from acquiring militarily critical Western technologies.

There is no doubt that the Soviet Union does attempt to acquire Western technologies. The Soviets need them because their own inefficient, tightly controlled, planned economy is unable to keep up with the pace of technological innovation in the free world. Our Government rightly attempts to prevent the acquisition by the Soviets of items that will strengthen them militarily. Conferees concluded, however, that our Government was trying to control too many items that were not militarily critical and that this was hurting the technological strength of important U.S. industries with no benefit to our national security. The omnibus bill, therefore, attempts to streamline our national security export control system by eliminating controls on many lower technology items so control efforts can focus on those items that really would benefit Soviet military efforts.

One way the bill attempts to remove unnecessary controls is by removing license requirements for shipments to Cocom countries of goods which can currently be exported to the People's Republic of China under license. This is the so-called PRC green line. This provision will remove the need for 20,000 of the 40,000 licenses which last year were used by exporters shipping to Cocom destinations. Cocom countries are those allied countries, including Japan, which cooperate in controlling the export of militarily critical technologies to the Soviet bloc. Because of that cooperation controls on exports to such countries need not be as stringent as those to noncooperating countries. In fact section 2415 of the omnibus bill provides that the Secretary may delicense shipments to certain Cocom countries altogether—but only if he first certifies that any such country has an effective export control system that should include, among other things, reexport controls on items shipped to it by U.S. manufacturers. Section 2415 provides that the Secretary should annually review which Cocom countries have such effective systems and that the first review should be conducted within 3 months of the enactment of the provision. There is no requirement that the Secretary ever certify any Cocom country under this provision if no country has the needed effective export control system to qualify. This is a decision within the discretion of the Secretary, and should be made only after the fullest interagency discussion.

To ensure that the Secretary's decision's under this provision are coordinated with other agencies conferees have stated in the conference report on section 2415 that they intend that the list of countries determined by the Secretary to have effective systems be the same list of countries that are subject to only limited sanctions for future export control violations as provided for in section 2444 of this act. Section 2444 of the omnibus bill gives the President the authority to certify that certain Cocom countries have effective export control systems. Again this is discretionary authority and does not mandate the President to certify any countries. It is the President's judgment that should be determinative in the certifications made under both sections 2415 and 2444 of the omnibus bill. In their report on section 2444 conferees stated "it is the expectation of conferees that the list of countries found to qualify for narrower application of sanctions by the President under this section will correspond to the list of countries eligible for delicensing under section 2415.

Any certifications made under sections 2415 and 2444 have important implications for our country's security. Certainly no Member of Congress intends in enacting these provisions that the shipment of super computers would be delicensed to any Cocom or 5(k) countries unless the President and Secretary were certain that such countries could ensure that they would not be reshipped to the Soviet Union or some other controlled country. It was not our intention in giving the certification authority in sections 2415 and 2444 to just turn goods free within Cocom as not every Cocom country now effectively controls exports. Therefore, a finding of effective reexport controls is essential to certifying any Cocom country under these sections.

The omnibus bill also attempts to shrink the list of controlled items by delicensing altogether shipments to non-Communist countries of goods that can currently be shipped to the Soviet bloc with only notification to Cocom. The Commerce Department estimated that this provision should reduce by 24,000, or by about 20 percent, the total number of export licenses issued in 1986. This provision coupled with the PRC green line provision described above will eliminate 40 percent of the export licenses now required. Greater focus on truly critical technologies will thus be achieved.

Another way the omnibus bill strengthens our export control system is by authorizing the Secretary of Commerce to bar persons convicted of export control violations from receiving export licenses and extending the effective period for temporary denial orders to 180 days. The bill will also enhance multilateral efforts to achieve controls on militarily critical items. Part 2 of subtitle D of title II does this through provisions entitled multilateral export control enhancement. Some of the provisions of this part ensure that foreign companies, which might be tempted in the future to sell military technologies to the Soviets that their own government has agreed within Cocom to control, would be compelled to weigh the profits made by illicit sales against the loss of their American market. Hopefully, these provisions will have a deterrent effect on such activities.

In regard to the retroactive sanctions portion of this part we have heard much about how it is unfair and unjust to punish the Toshiba and Kongsberg parent companies for the actions of their subsidiaries about which they allegedly knew nothing. It should be noted that the only penalties imposed against the parent companies are a prohibition on contracting and procurement with the U.S. Government. No company has a right under international law to contract with our Government. Despite this the argument is made that neither parent is guilty of a knowing violation and, therefore, should not be penalized in any way. It should be noted that the president of the Toshiba Corp. in Japan resigned because of the diversion by its machine tool company subsidiary. Certainly his action in doing so was an admission on his part of some failure to properly administer his corporation to prevent such diversion. After the diversion the parent company made great efforts to strengthen its export control system and that of its subsidiaries. While I applaud those efforts it does signal some negligence in regard to the lax controls the company previously had. Under our own laws penalties can often be imposed not just for knowing violations but for reckless or even negligent violations of the law. So banning the parent companies from contracting with our Government does not violate international law nor any legal norms governing the responsibility of parents for the actions of their subsidiaries. The cost to the Toshiba and Kongsberg parents of this minimal penalty certainly pales in relation to the costs that American taxpayers will have to pay to counter the increased threat to our national security made possible by the Toshiba/Kongsberg diversion.

Another way the omnibus bill strengthens the credibility of our export control system is by establishing clear procedures with specific time frames for resolving interagency disputes about whether a given export control license should be issued or whether a given item should even be on the control list. Too often the concerned agencies have debated such issues endlessly and export sales may have been lost needlessly. Exporters are entitled to decisions on these matters in a timely fashion and the omnibus bill sets forth procedures to ensure that this is done.

I also want to comment on subtitle A of title III of the omnibus bill which deals with the need for international economic policy coordination to achieve exchange rates that do not make it impossible for our corporations to compete in foreign and even domestic markets as happened in the period of 1982-85. The high value of the dollar in that period made it most difficult for foreigners to buy our goods, and made it easy for Americans to buy foreign goods. This led to many business failures and caused American workers to lose jobs through no fault of their own. Our Government must never again ignore, as it did in that period, the importance of exchange rates to our ability to compete in international and even domestic markets. The provisions of this subtitle are designed to ensure greater executive branch accountability on this issue through strengthened congressional oversight.

There are many other important provisions in the portion of the trade bill conferenced by the Banking Committee. The conference report gives a good statement of the intentions of the conferees in agreeing to these provisions. In particular I would note that in the FCPA conference report conferees agreed that they intended to impose both an objective and subjective standard of liability on management for the actions of its agents. The fact that I am voting against the overall bill because the objective reckless standard was not put in the statute itself should not take away from the conferees who said in their report that they wanted the courts to apply a mix of subjective and objective standards in considering the liability of corporate managers for the actions of their agents.

I thank the Banking Committee members and conferees who helped craft provisions of law that will help our Nation be more competitive in international trade. I much regret not being able to support its enactment.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from West Virginia, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BICENTENNIAL MINUTE

APRIL 26, 1882: PRESIDENTIAL MESSAGE DENOUNCES COWBOYS

Mr. DOLE. Mr. President, 106 years ago today, on April 26, 1882, the President of the United States warned the Senate that an "alarming state of disorder" existed in the territory of Arizona, where "robbery, murder, and resistance to law have become so common as to cease causing surprise."

President Chester A. Arthur blamed these disorders on "armed bands of desperados known as cowboys," and called on Congress to enact legislation permitting Federal military forces in Arizona to be employed as a posse comitatus to bring law and order to the frontier. To buttress his arguments, Arthur sent the Senate letters from the territorial governor of Arizona, testifying to the "insurrection, anarchy, and violence" that existed. The Governor identified Tombstone as the "centre of these outrages upon public peace." Because Tombstone was "partaking of the general reckless spirit of rapid accumulation of money and property," it seemed to "wink at crime," particularly by "the thoroughly abandoned class of highway robbers and cattle thieves called 'cowboys'." "Hotels, saloons, restaurants, et cetera, where the rough 'cowboy' element spend their money freely, are both weak and wicked in their sympathy for and protection of this lawless class."

The Governor appealed to Washington to send "a man of well-known courage and character, of cool, sound judgment, who, with a suitable posse of men, can go forward with a firm and steady hand, bringing as fast as possible the leading spirits of this lawless class to a severe and speedy punishment."

Now, if all this sounds familiar, it's because the same plot was repeated every Saturday at the movies of our youth. The Federal Marshal sent to clean up Tombstone would be Randolph Scott, Gary Cooper, Jimmy Stewart or perhaps Ronald Reagan. However, in 1882 the taming of the "cowboys" was no movie, but a real issue on the agenda of the U.S. Senate.

TRICENTENNIAL OF GERMAN PROTEST AGAINST SLAVERY

Mr. SPECTER. Mr. President, this week in Philadelphia, PA, there will be events to commemorate the "Tricentennial of German Protest Against Slavery."

On April 28, 1688, four members of the Society of Friends [Quakers] gathered in Germantown, PA, to address a situation they recognized as hypocritical and unjust—the existence of slavery in the newly settled colonies of North America. Slavery was virtually unknown during the 17th century in Northern Europe, and Francis Daniel Pastorius, Garret Hendricks, Derick up den Graeff, and Abraham up den Graeff found the unfamiliar practice shocking and unacceptable. Pastorius, who founded Germantown in 1683, wrote for the group: "There is a saying that we shall do to all men like as we will be done ourselves; making no difference in what generation, descent or colour they are." This statement, the basis for the Germantown antislavery protest, drew attention to the fact that the oppression of slavery had no place in a colony created as a haven for those seeking freedom from oppression.

Pastorius presented the group's statement, the Germantown antislavery protest, to the Dublin monthly meeting, a body composed of representatives from several local Quaker meetings. The antislavery statement was circulated throughout the Quaker hierarchy, ultimately reaching the Burlington yearly meeting, which represented all Quaker meetings in Pennsylvania and southern New Jersey. The yearly meeting declared that it was not proper to judge the issue because slavery was prevalent throughout the British colonies.

Although the Germantown antislavery protest did not achieve the abolition of slavery in Pennsylvania, as its creators had hoped, the protest represents one of the earliest recorded protests against slavery in North America. Soon after the Germantown incident, as early as 1693, other antislavery publications began to appear. By 1770, Quakers were requested not to elect slaveholders as meeting elders, and in 1776 they passed disciplinary rules against slaveholders within the Society of Friends. In 1780, Pennsylvania became the first State in the new nation to pass a law leading to a gradual abolition of slavery within its borders.

The text of the Germantown antislavery protest disappeared for over 150 years, but was rediscovered in 1844. At that time, sentiments regarding slavery were intensified by regional politics. Abolitionists fighting to end slavery publicized the document as a reasoned and humane expression of their belief that slavery was intolerable. The slavery debate eventually erupted into a bloody Civil War, and in its aftermath the issue was laid to rest by the 13th, 14th, and 15th amendments to the U.S. Constitution.

Mr. President, on this 300th anniversary, it is appropriate that we recognize the courage and compassion which promoted the creators of the Germantown antislavery protest to go beyond mere personal disapproval and act on behalf of a community's conscience. This early statement on defense of human rights helped lay the foundation for further achievements. I commend the Society of Friends for its historic commitment to the achievement and preservation of human freedom. Clearly, this commitment benefited the Colonies in 1688; just as clearly, our Nation continues to benefit from that commitment today.

OTA: THE MISFORTUNE TELLER

Mr. HELMS. Mr. President, Sunday's Washington Post carried a carefully leaked account of a forthcoming report from the Office of Technology Assessment. "SDI Faulted In 2-Year Study," says the headline, followed by "Catastrophic Failure Likely if Ever Used, Scientific Group Says."

What this headline really means is that there has been one more catastrophic failure from the Office of Technology Assessment. OTA has been obsessed with proving that President Reagan's strategic defense initiative is both wrongheaded and dangerous almost since the very moment Mr. Reagan announced it in 1983. OTA has long ago lost its pretense that it is an objective scientific analysis group. By and large its reports are useless or irrelevant, but it has demonstrated over and over again that its work on SDI is both pernicious and distorted.

Mr. President, the Office of Technology Assessment is remindful of declaration by similar self-proclaimed experts of the past. History has all but forgotten these experts who were forever saying that something couldn't be done because somebody with more vision, and perhaps less prejudice, always came along and did it.

For example, there was the English clergyman, Dr. Dionysius Lardner, who frequently pontificated beyond his ability to reason. Dr. Lardner, in the middle of the 19th century, declared: "Rail travel at high speed is not possible because passengers, unable to breathe, would die of asphyxia."

In the CONGRESSIONAL RECORD in 1875, a Senator quoted an unnamed "authority" as saying:

> The dangers of gasoline powered vehicles are obvious. * * * Stores of gasoline in the hands of people interested primarily in profit would constitute a fire and explosive hazard of the first rank. Horseless carriages propelled by gasoline engines might attain speeds of 14 or even 20 miles per hour. * * * The development of this new power may displace the use of horses, which would wreck our agriculture. The discovery with which we are dealing involves forces of a nature too dangerous to fit into any of our usual concepts.

Or, Mr. President, how about the declaration, made in 1902, by one Simon Newcomb, described as "an astronomer and mathematician." Mr. Newcomb sounded a warning for all to hear: "Flight by machines heavier than air is impractical and insignificant, if not utterly impossible."

In 1934, an Under Secretary of State—perhaps a founding father of the Office of Technology Management—shared this bit of wisdom: "Scientific investigation," he said, "into the possibilities of jet propulsion has given no indication that this method can be a serious competitor to the propeller. We do not consider we should be justified in spending any time or money on it."

Or, Mr. President, consider the author of a book on the future—a book written in 1936. The author, J.P. Lockhart-Mummery, no doubt leaked his wisdom to a Washington newspaper in the style of today's Office of Technology Management. In any event, Mr. Lockhart-Mummery sounded this warning in 1936: "The acceleration which must result from the use of rockets * * * inevitably would damage the brain beyond repair."

How splendid of the gentleman to give us fair warning. Just like the Office of Technology Management of 1988.

But my favorite declaration was made 32 years ago, in 1956, by Dr. Richard Woolley, Britian's Astronomer Royal. Dr. Woolley was a man of few words—and limited vision. His contribution to history was his pronouncement that "space travel is utter bilge."

So, Mr. President, as is the case with today's Office of Technology Management, there has always been an abundance of experts and authorities who were eager to say: It won't work."

These misfortune tellers have always had dark clouds in their crystal balls. They've always been around to try to discourage innovation and creativity. But so have there been innovators around, with vision and perseverance, who ignored the misfortune tellers.

So, Mr. President, let us consider the record of the Office of Technology Assessment with regard to the strategic defense initiative. Four years ago, in 1984, OTA released a report on SDI that turned out to be the work of two individuals who were politically involved in trying to discredit and kill SDI. The report also included classified information that was never declassified. Not surprisingly, the report already concluded that defending the American people against Soviet missiles could not and would not work. Although the 1984 report had never been approved by OTA, it was nevertheless used as the basis for testimony by OTA officials at hearings as though it were an official position by OTA.

Mr. President, the 1984 report was carefully analyzed by the Heritage Foundation, in a detailed backgrounder, and I ask unanimous consent that the backgrounder be printed in the RECORD at the conclusion of my remarks.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HELMS. Stung by the obvious revelation of its bias against SDI, OTA then set up a full-scale study based on a 17-person panel. Once again, the determination to bash SDI showed its hand. Over half of the panel members were known to be politically active against SDI, masking their political and philosophical bias under a smokescreen of pseudoscientific analysis. Only three on the panel were on public record as favoring SDI, at least one of whom resigned—Maj. Gen. Daniel O. Graham, the former Director of the Defense Intelligence Agency.

Both the procedural and philosophical contexts of the 1985 study were severely flawed. The whole question was debated in the framework that the Nation had to choose between maintaining the ABM Treaty and defending the American people against Soviet attack. But the real depth of the panel's bias was revealed in the fact that not one of the goals of SDI, as stated by the panel for discussion, included the goals set forth by the President or the Secretary of Defense. Indeed, OTA stated that one of the goals was to permit the President to launch a first strike against the Soviet Union, a goal that was elsewhere stated only by officials of the Soviet Union. To make such a statement is either to be totally divorced from reality or to be a conscious apologist for the Soviet Union.

Mr. President, we are now in 1988, and here comes another OTA "study," which has reportedly been under review for 7 months. Not having had access to this study, I know only the account which has been leaked to the Washington Post. With the study not yet declassified, someone with an interest in furthering one side of the debate has chosen to release the study by the back door without even presenting the data upon which the study is based.

Not surprisingly, we once again find the conviction that SDI won't work and is dangerous. This is not a scientific conclusion; it is merely a philosophical conclusion. One suspects that they do not want America defended, so they are at pains to think up reasons why it won't work. For example, the Post reported on Sunday "that the detailed computer instructions needed to destroy thousands of warheads streaking toward the United States probably cannot 'be produced in the foreseeable future.'"

Of course, Mr. President, you cannot foresee anything if you have no foresight.

The Post quotes the study as saying that the view that SDI could stop the missiles requires "an act of faith." Obviously, OTA does not have that faith. They have plenty of faith, however, in the view that America cannot be defended. Dare we ask whether that faith is that America should not be defended? Why else are they so certain that "there is no scientific evidence to date" to support the idea that defense will work.

If the OTA had any philosophers on its staff, it would know that there is scant scientific evidence for anything in the future. Science is the past tense, or the present tense. For the future tense, we have only prediction or speculation, neither of which is included in scientific statement. The great discoveries in science have come from intuitive leaps of thought, as much art and inspiration as scientific method. Indeed, some analysts of science have asserted that great discoveries are not made by the dull plodders and naysayers—the misfortune tellers—who are convinced nothing can be done.

It is ironic, Mr. President, that the Washington Post, perhaps not appreciating the connection, ran another story on the very same page—indeed, immediately adjacent to the OTA story—which related the astonishing leaps that have been made in the development of supercomputers. "These computers have moved from handling thousands of calculations per second to millions, to billions, and now are closing on the 10 billion mark," said the Post. All of this has happened in only 12 years, since the introduction of the first Cray supercomputer. And work is already underway on computers 100 times more powerful.

Of course, it is not just the hardware that counts; the software has to be written and proven, but I have confidence that American genius is up to the task.

EXHIBIT 1

REASSESSING THE OFFICE OF TECHNOLOGY ASSESSMENT

INTRODUCTION

It is time to assess the Office of Technology Assessment. The controversy triggered by OTA reviews of several key Reagan defense proposals indicates that OTA not only may be influenced by political considerations but, more serious, may have compromised U.S. national security. Concern about OTA's balance and fairness has mounted so high that Senator Orrin Hatch, the Utah Republican, has asked the Senate Ethics Committee to review OTA operations.

OTA was established in 1972, as a congressional agency to provide legislators with timely analyses of scientific and technological developments. While it has earned a measure of respect and acceptance on Capitol Hill, a residual suspicion about OTA's reliability was fueled by the events surrounding an April 1984 Background Paper by OTA consultant Dr. Ashton Carter, entitled "Directed Energy Missile Defense in Space." This study is extremely critical of the Reagan Administration's Strategic Defense Initiative (the so-called Star Wars program [SDI]). The Department of Defense formally asked OTA to withdraw the document, citing its "numerous errors" and "false conclusions." Military experts in the media, on Capitol Hill, and in the executive branch similarly have criticized sharply the OTA paper.

In the study, for example, at least one OTA program division placed the political goal of discrediting SDI ahead of balanced and objective analysis. In so doing, OTA staffers, in the name of Congress, compromised national security by releasing highly classified information. At the same time, security procedures in the executive branch were too lax.

A responsible OTA serves legitimate congressional needs by providing timely, valuable, and reasonably objective analyses of complex and pressing issues. Changes in operating procedures, however, are necessary to ensure adequate safeguards and oversight as well as balanced and objective analysis of questions under review. This would help OTA avoid embroilment in future controversies.

The individual advisory panels for each study must be granted consultative and review powers and must be allowed to review and comment on all analyses marked for publication. These panels, moreover, must be permitted to consult with the agency providing OTA with its information. In light of such access to information, the panels should be granted a line-veto on any part of the OTA analysis considered biased or inaccurate. The panels also must be allowed to supplement the study with an appendix containing the agency's comments. Tighter security procedures should be initiated to prevent further disclosures. Finally, continued scrutiny by Congress is necessary to assure that OTA does not exceed its mandate.

WHAT OTA DOES

History

The Office of Technology Assessment is a nonpartisan "analytical support agency" of Congress. Founded in October 1972 by Public Law 92-484, its purpose is "to provide early indications of the probable beneficial and adverse impacts of the applications of technology and to develop other coordinate information which may assist the Congress." [1]

OTA is a child of the space race and the consumer and environmental movements of the 1960s. The shock of Sputnik and the exposés of environmental and consumer activists made Congress fear that technology was "out of control" and potentially as dangerous as it was beneficial. In the early 1960s, neither the House nor the Senate possessed the resources to evaluate independently the technical claims of industry, consumer groups, and government agencies. Thus, Congressmen "typically uneasily accepted agency presentations 'on faith.'" [2]

The House of Representatives in 1963 established its Subcommittee on Science, Research, and Development. This subcommittee in 1966 recommended the formation of a congressional assessment arm, the Technology Assessment Board, which would stand guard against undesirable side effects of technological change. The proposed Board evolved into H.R. 10243, introduced in February 1972, which called for creation of an Office of Technology Assessment. Ten months later, OTA was born.

OTA satisfied virtually no one in its early years. Representative Marjorie Holt (R-MD) resigned from its Technology Assessment Board in 1977, complaining that Senator Edward Kennedy (D-MA) dominated the Office.[3] Leftists called the Office a rubber stamp for the White House, saying it lacked the courage to investigate controversial matters.[4] During the term of its first Director, Emilio Q. Daddario, legislators complained that OTA cranked out too many short analyses. Under its second Director, Russell W. Peterson, other Congressmen accused it of concentrating on longrange studies and neglecting committee needs. In the late 1970s, however, reforms and staff shake-ups revitalized OTA; under Director John H. Gibbons, the Office slowly won acceptance on Capitol Hill.

Congress controls the Office through the Technology Assessment Board (TAB), which sets OTA's operating procedures. Composed of twelve legislators evenly divided by chamber and party, TAB is led by a Chairman and Vice-Chairman elected to the Board at the beginning of each Congress (the two positions are alternately held by Senators and Representatives).[5]

Every six years Congress appoints an administrator of OTA, the Director, who sits on the TAB but does not vote. Director John H. Gibbons took office in 1979. He supervises three Assistant Directors; one for each of OTA's three program divisions—Energy, Materials, and International Security; Health and Life Sciences; and Science Information and Natural Resources. Each Assistant Director, in turn, administers three programs, making a total of nine program areas. These program areas provide staffing for program teams assigned to conduct OTA analyses.

OTA has a permanent staff of about 145, including around 100 scientists, engineers, physicians, and attorneys. An additional 50 to 60 temporary staff, both professional and clerical, work on specific OTA projects. OTA's budget has increased from $12.14 million in FY 1982 to $14.84 in FY 1984, a 20 percent increase in two years.[6] OTA was allocated $15.55 million for FY 1985.

The twelve-member Technology Assessment Advisory Council (TAAC) assists the Director and the TAB, and is comprised of ten public members, the Comptroller General, and the Director of the Congressional Research Service. Members of the TAAC serve staggered four-year terms and may be reelected once. In recent years, the Council has met twice annually, but has agreed to meet three times a year in the future.

OTA activities and procedures

The OTA completes 15 to 20 reports (also called assessments) per year. These "are the principal documentation of formal assessment projects" and must be approved by the TAB prior to release to the public and Congress. They take from one to two years to complete, are 200 to 300 pages long, and cost an average of $500,000. Accompanying each report is a Report Summary.

In addition, there are Background Papers, which supplement the formal assessments of discuss questions not of immediate policy interest; they need not be approved by the TAB or the Advisory Council before publication. (The recent OTA study of ballistic missile defense was a Background Paper, and as such, was not approved by the TAB.) Unofficial study documents, usually those by outside consultants on contract to OTA, are sometimes published at the request of Congressmen as OTA Working Papers or Technical Memoranda.[7] OTA staffers also testify before congressional committees on various topics and brief Congressmen and their aides.

OTA reports may be requested by (1) the TAB, (2) the Director (in consultation with the TAB), or (3) a congressional committee.[8] The TAB decides whether OTA may proceed with the requested assessment. Although the words "assessment activities" in the OTA Act (Sec. 3(d)) would seem to include all OTA analyses, in practice "assessment activities" are interpreted by the Director and the Board to mean only full-scale reports. Therefore, in practice, any member of Congress may request an OTA Background Paper, workshop, briefing, or any analysis or presentation—anything, that is, but a formal report. OTA's Director may spend up to $30,000, without Board approval, to evaluate an issue or a prospective analysis.[9]

OTA staffers maintain close ties with congressional and committee staffs, seek to determine the needs of Congress, and suggest ideas for assessments. If a congressional or committee office decides it needs a study suggested by OTA, it "requests" that OTA undertake the analysis.[10] According to a Senate aide, OTA does not "just sit around and wait for the phone to ring;" it is continually "lobbying" legislators to persuade them to request analyses.

OTA assessments proceed through 15 stages: consultation with committee staffs, proposal preparation, TAB approval, staffing, planning, convening an advisory panel, ensuring public participation, data collection, contracting, report writing, revision, Director and TAB approval of the report, publishing, follow-up, and closeout.

Proposals are reviewed by an OTA project screening committee, which considers congressional interest in the proposed study area, anticipated use of the completed assessment, staffing and contracting requirements, parties with significant interests in the questions to be analyzed (stakeholders), and the possible composition of the project's advisory panel.

The TAB set criteria for approval of OTA project proposals including: whether the proposed assessment will study a current or likely national issue with significant policy options; whether the technology under question will have a marked, imminent, and possibly irreversible impact, whether the proposed study is within OTA's budgetary and methodological means; and whether OTA can make a unique and relevant contribution to knowledge of the topic.[11] The TAB rarely questions OTA proposals at length; Board meetings average less than an hour, and the Board usually approves by acclamation the Director's requests for assessments. The difficult task of securing a consensus on the proposed report is usually handled before Board meetings in conferences between OTA staffers and aides of the Senators and Representatives serving on the TAB.[12]

Each assessment, after approval, is assigned to a project team from OTA's permanent staff. Teams typically include a full-time project director, a senior analyst, and a research assistant. The project's advisory panel is supposed to ensure the report's objectivity and authoritativeness. All major assessments employ advisory panels, which typically consist of 12 to 20 scientists, engineers, and experts including representatives from labor, industry, and consumer groups and are supposed to represent a wide and balanced range of backgrounds, perspectives, and interests. Advisory panels usually meet three times to critique the work in progress and the final report. OTA analyses also may employ workshops, which generally meet only once, to address specific problems or questions posed by the larger study. Workshops need not be adjuncts to larger studies, however. In January 1984, at the request of Senator Larry Pressler (R-SD), OTA conducted a workshop on "Arms Control in Space," and in May published the proceedings under that title.[13]

Large portions of OTA assessments are routinely contracted out to experts in industry and academia. Contractors may be selected through formal competitions, informal solicitation, and sometimes through sole source procurement.

The project team writes and revises the reports. External reviewers of OTA reports include the advisory panel and representatives of concerned government agencies, private stakeholders, and independent experts; as many as 75 to 100 outside reviewers may critique a report. Internal reviewers generally include program and division managers. Criticisms are considered and included at the discretion of the project team.

The final draft of the report is sent to the Director for approval, along with a memo explaining the study's history, panelists, contractors, major criticisms offered by reviewers, and OTA's responses to those criticisms. If approved, it is then sent with the explanatory memo to the TAB for final approval. TAB review normally takes about two weeks. Finished reports, summaries, and supplementary materials are then made available to Congress, the press, and the public.

DIRECTED ENERGY MISSILE DEFENSE IN SPACE

Origins of this background paper

Under Dr. Peter Sharfman, its Program Director, OTA's International Security and Commerce Program has become increasingly interested in the controversies surrounding nuclear weapons and strategy. In 1979 his office completed a report, "The Effects of Nuclear War," which provided much of the technical information for *Freeze*, written by Senators Edward Kennedy and Mark Hatfield.[14] In publishing Sharfman's report "MX Missile Basing" in June 1981, OTA for the first time investigated a question of defense policy. Assessments on strategic command, communication, control, and intelligence (C^3I), and on ballistic missile defense are now underway.[15]

As congressional interest in strategic defense waxed in spring 1983, OTA anticipated a formal request to assess the issues relating to ballistic missile defense. It commissioned former employee Dr. Ashton Carter to study the plausibility of a space-based strategic defense. Now a researcher at Massachusetts Institute of Technology, Carter has been associated with the Union of Concerned Scientists (he co-chaired a forum on space defense for UCS last April), an organization energetically opposed to the strategic defense program and to many, if not most, national defense measures.

In November 1983, when Carter's work was about half completed, Senators Paul Tsongas (D-MA) and Larry Pressler (R-SD) of the Senate Foreign Relations Committee requested that his findings be published as an OTA Background Paper prior to their committee's hearings on this topic in April 1984. At roughly this time, Carter also coedited a book for the Brookings Institution published as *Ballistic Missile Defense* in January 1984. Carter's introduction and lengthy chapter in this work drew heavily upon his research for OTA and on previous OTA assessments.[16] On March 22, 1984, the TAB formally directed OTA to prepare an assessment on ballistic missile defense, to be published in the summer of 1985.

Research procedures

Sharfman and Carter had access to very sensitive information in the Departments of Energy and Defense. Both had high security clearances (Q-Sigma, which allowed them to attend briefings on the designs of specific nuclear weapons)—higher than those of any Congressman's personal aides and higher than all but a handful of the clearances granted to committee staff members. Carter visited Lawrence Livermore National Laboratories for three days in October 1983, and there was briefed on the progress of the "Excalibur" X-ray laser system.

Yet Carter's paper underwent only an informal security clearance procedure before publication. Congressional staffs and committees customarily acknowledge the receipt of classified materals in a letter to the appropriate executive branch agency. Before publishing a document based on sensitive information, the committee staff usually submits a draft copy to the executive agency and asks that all classified material be marked so it can be removed before publication.

The case of this OTA report was different. In March 1984, Carter arranged a meeting between himself, Sharfman, and a high-ranking official of the U.S. Army's Ballistic Missile Defense Program Office in Crystal City, Virginia. At their meeting, Sharfman gave the official a copy of Carter's study and asked his opinion of the paper's accuracy and of the sensitivity of the material it contained. The Army official, in turn, submitted this copy to a subordinate (his security manager), who, several days later, returned it with comments to Sharfman and Carter's Army contact.

At a second meeting, on April 10, that contact returned the draft to Sharfman and Carter, advising them that it contained sensitive material under the jurisdiction of the Department of Energy and the Department of Defense's Strategic Defense Initiative office. The second meeting was informal. Sharfman did not ask the Ballistic Missile Defense Program Office to "clear" Carter's paper, and the paper was not granted a security clearance prior to publication by anyone in the Department of Defense or in the Department of Energy. Sharfman and Carter never asked the Strategic Defense Initiative office for a clearnace and apparently never consulted the Department of Energy.

Carter's paper emerged from its "declassification process" on the weekend of April 22. Senators Pressler and Tsongas scheduled a hearing of the Foreign Relations Committee for the following Wednesday, April 25. On Monday, April 23, OTA sent the Background Paper to the members of the TAB (the Board customarily sees such documents at least three days before release). The next day, Pressler released the paper.[17] The TAB never formally reviewed or approved this document, and because it cost $29,700 ($300 less than the maximum discretionary spending authority granted to the Director), the

TAB did not have to approve funding for it.[18] Background Papers are rarely cited by OTA in testimony before Congress, but at the following day's hearing Director Gibbons read large sections of Carter's paper. Gibbons appeared to concur with its verdict that a successful ballistic missile defense based on directed energy weapons was "so remote that it should not serve as the basis of public expectation or national policy." [19]

Predictably, Carter's Background Paper was immediately misinterpreted to be OTA's official judgment on the feasibility of ballistic missile defense. In his April 24 press conference, Senator Pressler cited it as proof that "there is little or no hope that exotic beam weaponry will, in the future, eliminate the threat of nuclear weapons." [20] Astronomer Carl Sagan later suggested that those wishing to know more about "Star Wars" could "dig into the guts of the issue" by reading either a Union of Concerned Scientists' study "or the recent report by the U.S. Congress Office of Technology Assessment." [21]

A number of other commentators also mistakenly believed that the Carter analysis was an authoritative "official" conclusion. For example, an Aspen Institute Conference in West Berlin, held discussions which "centered around a recently published OTA Report that rejects any real possibility of a defense which could prevent mortal damage to the U.S."[22] Similarly ex-Congressman John Anderson, in a *New York Times* op-ed cited the OTA Carter paper in justifying the conclusion that no type of strategic defense could work.[23] It is clear, in other words, that Carter's paper was taken by many observers, and was used by others, as opposition to the Reagan Strategic Defense Initiative.

Research issues

Criticisms of "Directed Energy Missile Defense in Space" focus on three areas: possible breaches of security; "sloppy management" of the study; and errors or omissions by Carter that vitiate the study's conclusions.

(1) Security:

There are reasonable grounds to conclude that the OTA back-ground paper compromised national security by revealing information relating to the national defense. For example, a scientist at the Livermore Laboratories, which is involved in SDI advanced technology research, wrote to Senator Ted Stevens that Carter's paper, "in several instances revealed concepts or analayses which have never been published in open literature and which have been protected or classified by the persons whom Carter interviewed." He added that "the right of Congress to receive full background information is not identifical to the propriety of OTA's publishing possibly classified material without full administrative review." Regarding the paper's author, he concluded that, "I consider this report to represent at best unethical behavior by Dr. Carter."

A Defense Investigative Service inquiry, requested by Under-secretary of Defense Fred C. Ikle, found that the Army's Ballistic Missile Defense Program Office had given Sharfman and Carter advice, but that no one at the Pentagon was "deliberately culpable" in this matter. The Department of Energy, concerned about the disclosure of information about the "Excalibur" X-ray laser system, also reportedly has inquired about the Pentagon's handling of the matter.

Carter's paper angered several key Senators, led by Senator James McClure (R-ID), who sent a letter to FBI Director William Webster requesting an investigation of OTA. No such investigation was undertaken, and the FBI informed Senator Hatch that it cannot undertake one without a request from either the TAB or one of the executive branch agencies involved.[24] The Defense Department is reportedly reluctant to make such a request, for in the inevitable debate that would follow such a challenge to OTA, the Pentagon would be compelled to establish its case by specifying publicly which sections of Carter's paper contained sensitive material, and would also have to admit that the security procedures of its own offices were less coordinated than they should have. OTA and the Pentagon are now drafting a standardized security clearance procedure that all future OTA documents using sensitive Pentagon material will have to undergo before publication.

(2) Sloppy management:

Critics of "Directed Energy Missile Defense in Space" claim that Carter never should have been hired to write the study because his views are unsympathetic to strategic defense. One member of OTA's Technology Assessment Advisory Council claimed that the Office should have understood the controversial nature of the topic and taken precautions against slanting the paper's conclusions. After publication of the Background Paper, the Council expressed its dissatisfaction with the study to Director Gibbons and admonished him to ensure that OTA published no similarly flawed studies in the future.

(3) Errors and omissions:

Carter's paper has been criticized severely on technical grounds. At least three groups of experts—the Defense Technologies Study Team of the SDI Office, Dr. Robert Jastrow (in a letter coauthored with William A. Nierenberg and Frederick Seitz), and Los Alamos Laboratories—have detailed exhaustively its shortcomings.[25]

On the basis of these criticisms, Deputy Secretary of Defense William H. Taft, IV, wrote OTA on June 4, requesting that Gibbons withdraw the study. In response, Gibbons asked three "independent experts" to review Carter's paper and the Defense Department critiques of it. These "independent" reviewers all are unsympathetic to strategic defense. Reviewer Charles Townes of the University of California at Berkeley, for instance, publicly opposes the Strategic Defense Initiative.[26] The remaining two are Lieutenant General Glenn Kent (USAF-Retired) and former Undersecretary of Defense William J. Perry. Predictably, these reviewers commended Carter's study and told Gibbons in telephone interviews that he should not withdraw the Background Paper.[27]

OTA claims to have learned a lesson from the storm that followed publication of Carter's study. Its Director of Congressional and Public Affairs asserted that the Office intends to be doubly careful in assessing controversial issues in a fair manner.[28] Gibbons has promised the TAB a "careful retrospective view" of the recent controversy, and has expressed his hope that OTA and the Defense Department will continue to work together amicably.[29]

Yet a similar tempest is brewing over OTA's formal assessment of ballistic missile defense (now underway and due to be completed in mid-1985). The study's advisory panel not only includes Ashton Carter but is loaded with critics of strategic defense. The project's manager, Thomas Karas, recently authored a book that concluded "Space laser weapons will not protect us from the threat of nuclear war." [30] Senator Ted Stevens (R-AK) has expressed concern that by delving into such highly-charged partisan issues Gibbons might be "setting the stage for the destruction" of OTA.[31]

This was followed by Senator Hatch's request that the Senate Ethics Committee review the Background Paper matter. As a TAB0 member, Hatch wrote that he was "concerned that an OTA staff member, Peter Sharfman, and an OTA consultant, Ashton Carter, may have divulged classified materials. . . ." Hatch requested that the Committee begin an investigation to determine whether any violations of law, the Senate Code of Official Conduct, or congressional rules and regulations had occurred. The Committee is considering the Hatch request.

IMPROVING OTA

OTA performs an important function for Congress. In an increasingly complex age, Congress needs the means to conduct analyses independent of those produced by industry, lobbies, and the executive branch.

The quality control procedures of OTA, as a whole, seem as careful and complete as those of its sister congressional research agenices, the General Accounting Office and the Congressional Budget Office.[32] Problems remain, however, particularly in ensuring the balance and objectivity of Background Papers and other analyses not requested or reviewed by the TAB. Enough questions have been raised about OTA's procedures and possible biases, therefore, to warrant a thorough congressional review of OTA. The Ethics Committee should respond to Hatch's letter by agreeing to review whether classified data was wrongly made public. In addition, the Senate Subcommittees and Committees that have jurisdiction over OTA should hold oversight hearings on its procedures. Finally, the OTA congressional supervisory body (the TAB) should tighten its own review procedures and keep a much closer watch on OTA's activities.

Revisions of OTA procedures should:

(1) Require that OTA not release any publication without formal TAB approval. This would revise the interpretation of the words "assessment activities" in the OTA Act to mean all analyses intended for publication, instead of its present designation of formal reports only.

(2) Reduce the Director's "discretionary fund" from $30,000 to $20,000; this would give the TAB more power to ensure that OTA analyses meet specific congressional needs.

(3) Give the Technology Assessment Advisory Council substantive consultative and review powers. The TAAC should review and comment upon all assessments (formal reports) prior to publication.

(4) Give the individual advisory panels for each report the power to veto reports in part or whole if the analysis contained therein is deemed biased or inaccurate. Provide specifically for additional or dissenting comments by panel members.

(5) Require OTA to solicit comments from the agency in question and include these as appendices to the final published analyses, in cases of assessments or Background Papers which rely on information provided by an executive agency (such as "Directed Energy Missile Defense in Space"). The GAO uses such a procedure.

(6) Set tigher procedures for the use of classified information in OTA assessments. Only one OTA program division-Interna-

tional Security—uses such material, and OTA is currently working with the Department of Defense to draft such procedures. This agreement could serve as a model for similar arrangements with the other executive branch agencies from which the International Security Program Division receives sensitive information. Executive branch agencies should review their procedures independently to ensure against inadvertent leakage, or approval of leakage, of classified information.

(7) Increase the role of the congressional members of the OTA in the process of deciding on topics to be investigated and approving the release of reports. All members, or at least a designated executive committee of congressional members, should have to approve issuance of any OTA publication. Such a committee also should have to review formally the appointments of advisory panels as well as report reviewers. The congressional members should nominate a number of members to all such review and advisory panels.

(8) Formalize OTA contracting procedures. The congressional members should have the right to demand that, that, in cases of clear and obvious controversy, the subcontracting itself include more than one viewpoint.

(9) Increase the size of the Advisory Board for the Strategic Defense Initiative assessment paper to assure a balanced membership.

(10) Issue a statement clarifying the nonofficial status of the Carter SDI background paper so that it no longer can be cited as an official OTA analysis.

CONCLUSION

It is doubtful that the founders of the Office of Technology Assessment intended it to spend its resources and political capital completing studies as controversial as Ashton Carter's "Directed Energy Missile Defense in Space." It is also difficult to believe that the flaws in Carter's study and its disclosure of highly sensitive information are the result of naiveté and misunderstanding on the part of the OTA. The evidence that some OTA staffers oppose the Administration's Strategic Defense Initiative seems clear and compelling.

Congressional opinion is an important check on OTA. The Office is well aware that it exists by the good graces of Congress and can be abolished if Congress perceives that OTA no longer serves legislators' needs. A thorough review of the Strategic Defense Initiative background papers is needed, as well as revision of OTA procedures to assure that OTA staff cannot use the imprimatur of the Congress and the dollars of the public to advance a personal political agenda. Continued scrutiny of the Office by Congressmen and by concerned citizens' groups is necessary, and along with judicious reform of OTA procedures, it may be sufficient to prevent future controversy.—Prepared for The Heritage Foundation by Michael S. Warner.

FOOTNOTES

[1] Public Law 92-484, 92nd Congress, H.R. 10243, Section 3(c).

[2] Lewis Gray, "On 'Complete' OTA Reports," *Technology Forecasting and Social Change*, December 1982, p. 303.

[3] *Congressional Quarterly Weekly Report*, June 18, 1977, p. 1202.

[4] *Bulletin of the Atomic Scientists*, February 1978, p. 20.

[5] The current Chairman is Representative Morris Udall (D-AZ), and the Vice-Chairman, Senator Ted Stevens (R-AK). Their positions will reverse in the 99th Congress. The Board's other members are Senators Edward M. Kennedy (D-MA), Ernest F. Hollings (D-SC), Claiborne Pell (D-RI), Orrin Hatch (R-UT) and Charles McC. Mathias (R-MD); and Congressmen George E. Brown (D-CA), John D. Dingell (D-MI), Larry Winn (R-KS), Clarence E. Miller (R-OH) and Cooper Evans (R-IA). Senators are appointed to the Board by the President Pro Tempore of the Senate; Representatives by the Speaker of the House. The TAB meets an average of four times a year.

[6] *Fiscal Year 1985 Justification of Estimates*, Office of Technology Assessment, December 15, 1983, pp. 13, 17.

[7] Fred Wood, "The Status of Technology Assessment: A View from the Congressional Office of Technology Assessment," *Technological Forecasting and Social Change*, December 1982, pp. 211-219.

[8] Public Law 92-484, Section 3(d).

[9] "Policy on the Director's Responsibility," Resolution of the Technology Assessment Board, September 12, 1979.

[10] Interview with Mary Proctor, Director of Congressional and Public Affairs of the Office of Technology Assessment, August 9, 1984.

[11] Wood, *op. cit.*

[12] *Ibid.*

[13] The list of participants for the OTA Workshop indicates little effort by OTA to draw together a truly balanced group of perspectives on space-related issues. The Chairman, McGeorge Bundy, has stated that "The Star Wars speech is one of the most irresponsible and destructive utterances that a President has made in the nuclear age"—hardly the model for an objective Chairman; the other 24 participants were heavily weighted toward critics or skeptics of strategic defense. At least nine of the non-OTA staff participants have been publicly critical of the SDI, and the three OTA staff can hardly be called sympathetic. In fact, only one clear sympathizer with strategic defense was among the participants. While the topic of the session was on arms control and space, in fact, SDI is integrally related to this issue; see, for example, Robert Foelber and Brian Green, "Space Weapons, The Key to Assured Survival," Heritage *Backgrounder* No. 327, February 2, 1984.

[14] Edward M. Kennedy and Mark Hatfield, *Freeze! How You Can Help Prevent Nuclear War* (New York: Bantam Books, 1982).

[15] *Transcript of Proceedings*, Technology Assessment Board (Washington, D.C.: Miller Reporting Co., March 22, 1984), p. 29.

[16] Ashton B. Carter and David N. Schwartz, *Ballistic Missile Defense* (Washington, D.C.: Brookings Institution, 1984).

[17] *Transcript of Proceedings*, Technology Assessment Board (Washington, D.C.: Miller Reporting Co., June 21, 1984), p. 35.

[18] Interview with Lionel Johns (OTA Assistant Director), August 9, 1984.

[19] Statement of Dr. John H. Gibbons to the Senate Committee on Foreign Relations, April 25, 1984, p. 11.

[20] "Reagan's Proposal is Faulted in an Analysis for Congress," *The Washington Post*, April 25, 1984, p. A12.

[21] Interview with Carl Sagan in *Common Cause Magazine*, May/June 1984, p. 25.

[22] Daniel Hamilton, "Western Security Policy and Arms Control," report on a meeting at the Aspen Institute, Berlin, 1984.

[23] "Debate Space Weapons," *The New York Times*, August 28, 1984, p. A19.

[24] The FBI's letter to Senator Hatch did state that "the willful disclosure of classified or classifiable information by someone knowing that it is or could be classified, to parties without the necessary security clearance to receive it, could be a violation which falls within the investigative jurisdiction of the FBI." However, the FBI contended that the fact that the material had been released at the request of U.S. Senators rendered the question of a security violation moot.

[25] "Directed Energy Missile Defense in Space, with Comments," Defense Technology Study Team, Strategic Defense Initiative Office, July 1984, with rebuttal by Los Alamos Laboratories; letter by Jastrow, Nierenberg, Seitz to Senator John Warner, June 11, 1984.

[26] *The New York Times*, April 11, 1983, p. 14.

[27] Letter from John H. Gibbons to the members of the Technology Assessment Board, July 13, 1984.

[28] Interview with Mary Proctor, *op. cit.*

[29] *Transcript of Proceedings*, *op. cit.*, June 21, 1984, pp. 39, 42, 45.

[30] Thomas Karas, *The New High Ground: Strategies and Weapons of Space-Age War* (New York: Simon and Schuster, 1983), p. 200.

[31] *Transcript of Proceedings*, *op. cit.*, March 22, 1984, p. 25.

[32] OTA may be moving toward a more balanced approach to SDI in the appointment of the advisory panel for its long-term examination of strategic defense. While there continue to be a number of prominent critics of SDI, there are also several individuals who are sympathetic to the concept. Unfortunately, opponents of SDI outweigh sympathizers by about a four to one ratio—hardly balanced.

SOUTH CAROLINA: THE LEADER IN EDUCATION REFORM

Mr. HOLLINGS. Mr. President, 5 years ago this week, the National Commission on Education issued its scathing report on the status of American public education. It was titled "A Nation at Risk," and among its observations was that "If an unfriendly foreign power had attempted to impose on America the mediocre educational performance that exists today, we might have viewed it as an act of war."

Of course, our poor performance on the educational front has directly impacted out Nation's ability to compete effectively in international markets. This week, as we have debated the omnibus trade bill, we have heard the word "competitiveness" again and again and again. It has got to be the most abused word in Congress. We have cited "competitiveness" to justify everything from raising the speed limit to 65 miles per hour to subsidizing tobacco farmers. But, when all the hype and pretense are stripped away, the key to competitiveness, the key to maintaining our preeminence as a world economic power comes down to one word: education.

Last year, I traveled to South Korea—a nation where education is the top national priority, where the literacy rate is nearly 99 percent. We are challenged today by Korea, Taiwan, Singapore, and other nations we used to refer to condescendingly as the Third World. Today those nations are flat out whipping us; and the main weapon in their arsenal is education. Well, if education is the weapon, then too many school systems in America have been practicing unilateral disarmament.

Mr. President, I am pleased to note that the warnings of the National Commission on Education did not go unheard. In State after State across our great Nation, communities are pumping new money and new ideas into their schools. We are seeing results. And I am enormously proud that South Carolina is recognized nationwide is the leader, the most ambitious innovator in this educational reform movement.

Just the latest recognition of Such Carolina's leadership, Mr. President, comes in a lengthy article on the front page of this morning's Washington Post titled "Reforming South Carolina

Schools: Policy Changes Turn Teaching Into a Science," and in the cover story of the May 2, 1988, Newsweek magazine titled, "Saving One High School: Once Hobbled by Poor Discipline and Failing Academics, Orangeburg-Wilkenson Is a Neat and Orderly Place Where Students Master the Three R's." Together, these two articles present an inspiring portrait of efforts underway to boost educational performance in South Carolina. The articles discuss the package of educational reforms enacted by Governor Dick Riley in 1983, and spotlight the remarkable renaissance of Orangeburg-Wilkenson High School in Orangeburg, SC, under the leadership of principal Melvin Smoak.

Mr. President, I ask that these articles be printed in the RECORD in full. I commend them to my colleagues and to all Americans. I am proud that South Carolina is able to contribute so prominently in this area of urgent national need.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 25, 1988]

REFORMING SOUTH CAROLINA SCHOOLS—POLICY CHANGES TURN TEACHING INTO A SCIENCE

(By Barbara Vobejda)

ORANGEBURG, SC.—The apocalyptic language was meant to inspire fear and reform. And, to everyone's surprise, it did.

"Our nation is at risk," the National Commission on Excellence in Education said five years ago Tuesday in a landmark report that helped launch a national movement to upgrade American schools. "* * * the educational foundations of our society are presently being eroded by a rising tide of mediocrity that threatens our very future as a nation and a people."

Today, fifth graders at Brookdale Middle School in the heart of South Carolina are the movement's children. They learn vocabulary at color-screened computer terminals; they study in smaller classes; their performance is meticulously tracked and remedial lessons are individually prescribed; their teachers are paid higher salaries; their high school counterparts must take more courses and pass an "exit" examination to graduate and many of their 4-year-old siblings are enrolled in early childhood education classes.

Like public school children across the country, the students in Orangeburg County District 5 are attending schools vastly changed as a result of the education reform effort set in motion largely by the celebrated commission report, "A Nation at Risk."

On the fifth anniversary of the report, there divided assessments of how effective this movement has been. An extraordinary amount of energy has been invested: As many as 20 states have adopted major legislative packages, spending on schools has risen dramatically and education has been elevated to the top of the political agenda. But whether all that activity has led to significant gains in student achievement is open to question. And there is virtual unanimity among educators that the problems confronting the nation's schools, particularly those in the inner cities, are far from resolved.

"This is the most serious and sustained [education reform] movement we have had in this country, certainly this century and maybe longer," said Ernest L. Boyer, former U.S. education commissioner and president of the Carnegie Foundation for the Advancement of Teaching. "Our gains have been in the right direction, but far from adequate."

In a report scheduled for official release at the White House Tuesday, Education Secretary William J. Bennett states that while "American education has made some undeniable progress * * * we are still at risk."

Bennett points to a 40 percent increase in per capita state spending for elementary and secondary education between 1981 and 1986 and enhanced state commitment to schools. But he said that despite the additional funding, the pace and level of improvement remain unacceptably low.

Too many students drop out, the quality of curricula varies and American education "remains insufficiently accountable for the result that matters most: student learning," Bennett said.

Despite disappointment with the results, there is general appreciation for the fervor kicked off five years ago by "A Nation at Risk," particularly given the fears of commissioners and staff that their work would go unnoticed.

Former education secretary T.H. Bell, who appointed the commission, attributed the response to the sometimes startling deficiencies revealed in the report—the fact that the average school provided only 22 hours of instruction a week, for example. He also feels it struck a chord among Americans who had begun to link education to the nation's declining economic prowess. And the timing was right: Governors and state legislators had already begun turning their attention to education.

Five years later, there is ample evidence of the course of education reform, its strides and shortfalls, at Brookdale Middle School.

In one classroom, teacher Karen Montgomery sits around a table with eight students, mostly fifth graders, who read haltingly and stumble over difficult words in the play they are reading, "Paddington Turns Detective."

A few feet away, a half-dozen students work at computer terminals under the eye of Jo Ellis, a teacher's aide. She is keeping an exact chart on which students have mastered the lessons, "prefixes and suffixes" and "following written directions."

These students, who have scored poorly on an annual reading test, are enrolled in this class as a direct result of an ambitious package of education legislation enacted four years ago by the state legislature, arguably the broadest range of revisions in the country.

They included tightening graduation requirements, shoring up teacher training, requiring programs for gifted children, tightening attendance policies, lengthening the school day and rewarding schools and teachers with cash bonuses for gains in student achievement. South Carolina is also one of a few states where a failing local district can be taken over by state education officials.

The legislature also mandated that schools keep precise records on standardized tests, then place those students who score below average in small groups for remedial work, individualized to their weaknesses.

Now these students are studying reading twice a day, with access to computer lessons unheard of a decade ago in this district, where 80 percent of the students are black and 75 percent come from low-income families.

As a result of the new regulations governing education in the state, teaching here has largely been transformed from an art into a science. Teachers no longer operate autonomously in their classrooms, but follow timetables on what should be taught when. They set out specific objectives for their students—learning two-digit multiplication, for example—and keep track of who learns the skill, and when. All of this information is recorded. The teachers know they must complete a set of objectives by the end of a given period and the students know exactly what skills they have mastered and what they must score to be promoted to the next grade.

This precision, said one administrator here, has created a much sharper sense of urgency in the classroom.

"Now we're accountable for what we do," said Rosa Twiggs, a sixth-grade math and science teacher. "I feel if they do not pass, it's my fault."

There have been gains: Eighth-grade reading scores have climbed dramatically; among fifth graders, 28 percent scored above the 50th percentile on a national reading test last year, compared to 25 percent in 1985.

But there are still problems. Statewide, 50 percent of the fifth graders scored above this mark. Also, the problems children in Montgomery's classroom have in reading—some of them years behind their grade levels—are painful testimony to the work that remains.

"We were at the bottom," Montgomery said of South Carolina schools before the new legislation. "We have a long way to go."

Educational reform has been most intense in the southern states, which have historically ranked behind the rest of the nation on the barometers of education quality. But in the years since "A Nation at Risk" was released, virtually every state across the country has taken steps to improve education.

Nevertheless, the lack of progress on improving student achievement significantly, as measured by standardized tests, and the failure to address the problems of disadvantaged and minority students are noted by educators as serious failings of the movement.

"I think we've made some significant progress in improving the educational opportunities for the top 60 or 70 percent," Bell said. "But the others, those that are dropping out of schools, our minorities, black and Hispanic youth, we're serving them dreadfully."

Some educators perceive a second wave of reform in motion, with activity shifting away from legislated standards. Instead, educators are concentrating more on instructional content and "restructuring" to give teachers more decision-making authority on curriculum and school management.

Most agree that the first wave of standard-setting was necessary. And in South Carolina, the wave is still cresting.

No state is more identified with education reform than South Carolina. Led by former governor Richard W. Riley (D), who had been pushing education improvement even before the national report was released, the state legislature passed its Education Improvement Act in 1984, mandating a penny sales tax increase for education programs. In 1986-87, the tax provided $240 million.

Orangeburg District 5 Superintendent Jim Wilsford calls the state "the epicenter of education reform." And the new laws, said Wilsford, have helped him register substantial student acievement gains in his district. "My schools are in as good a shape as I ever hoped they could be," he said.

Teachers at Brookdale Middle School agree that their school is better than it's ever been. Attendance has improved as a result of a strict state policy that allows no more than 10 unexcused absences. There are new textbooks and programs for gifted students. Also, the number of students retained at grade level because they did not fulfill tighter requirements has doubled over the past two years.

The law, said Brookdale Principal Charlie G. Spell, "is very specific. You just can't get around doing what you have to do."

But Spell is worried about the slow rate of improvement among his fifth and seventh graders. And the teachers complain that while starting pay is now comparable to that of surrounding states, veteran teachers are still poorly paid. Teacher salaries in the state, which ranked 44th in the nation in 1981, have climbed to 35th, with average pay last school year at $23,190.

Given history, the scope of change in schools here is extraordinary. Fifteen years ago, when integration orders prompted thousands of white families to withdraw to private "segregation academies," many considered it to be the end of public education in the South.

But as clearly as South Carolina exemplifies reform, it also illustrates the daunting challenge of remaking a massive, decentralized system etched in tradition. Despite the enormous energy invested in education, the state still ranked 41st in the nation in per-pupil expenditures and only 65 percent of its ninth graders graduate four years later, according to the most recent federal figures.

The average score on the Scholastic Aptitude Test climbed from 790 to 832 between 1982 and 1987, a significant accomplishment. But the ranking remains last among the 22 states where the SAT is the major college entrance test.

At Brookdale Middle School, Montgomery waits for her next group of students to file in to a class designed to help them catch up with their peers, a class they could not have taken a few years ago.

"I work harder than I did at the beginning," she said, expressing her pride in the state's commitment to upgrade education. "People know how hard we're trying."

[From Newsweek, May 2, 1988]

SAVING ONE HIGH SCHOOL

(By Timothy Noah)

In the large central atrium of Orangeburg-Wilkinson High School, a low-lying red brick building that resembles a postmodern fortress, stands a glass case cluttered with the usual athletic trophies. But just above hangs a symbol of more noteworthy accomplishment: a white flag lettered in red, blue and yellow that reads, "School Incentive Reward Program Winner 1987-88." Twenty-five percent of South Carolina's public schools win this award annually for academic improvement. In the last four years, Orangeburg-Wilkinson has won it twice.

Orangeburg-Wilkinson High School, known locally as O-W, is a success story of the education-reform movement. The 2,000 students who attend this semirural high school are not wealthy. Seventy-five percent qualify for federal reduced-price or free lunch. Eighty percent are black. The school's past performance is not distinguished. But in the five years since "A Nation at Risk," basic-skills test scores in reading, math and writing have zoomed upward—in one exam, from the 25th percentile to the 71st in a single year. The dropout rate fell from an annual 8.3 percent to 2.5 percent, and all but seven of last year's senior class graduated. A new principal who prowls the hallways with walkie-talkie in hand has tightened discipline. And this year IBM profiled O-W in an educational film on top-performing high schools serving disadvantaged students. The title: "I Can Change the World."

Orangeburg-Wilkinson High School also shows how far education reform has yet to go. O-W's SAT scores bob up and down below the state average, which in turn is below the national average. Latin teacher Debbie Hendricks says that she recently stumped her class during a Roman-numerals exercise by asking someone to write on the blackboard when Columbus discovered America. No one could answer—because they didn't know the date. If "we are not doing well enough fast enough," as U.S. Education Secretary William Bennett contends, the story of Orangeburg-Wilkinson helps explain why.

The troubles at O-W are not new; for two decades the school was hobbled by poor academic performance and discipline. The problem was rooted in Orangeburg's history of racial tension: in 1968 policemen opened fire on black demonstrators protesting a segregated bowling alley, killing three college students. Two years after the "Orangeburg Massacre," local public schools were desegregated—and white parents pulled their children out. Between 1969 and 1972, 1,200 students left the district school system, most enrolling in two new private segregated academies.

White flight meant that the wealthy families of Orangeburg, who lived in large Victorian houses with wide verandas in a part of town called Country Club Estates, no longer had a stake in the local schools. As a result, O-W became demoralized. Scores on standardized reading and math tests fell. Students smoked marijuana openly on campus. English classes were often devoted to such student-council activities as building a homecoming float.

White indifference helped defeat a 1979 referendum to move the high school out of a group of Quonset-hut-like buildings surrounded by dozens of "portable classrooms." The new campus, which opened in 1984, was built only after the school superintendent, James Wilsford, found a loophole in state law that allowed the district to assume nearly three times the level of bond debt normally allowed without a vote.

South Carolina itself had never been a beacon of quality education, spending less per pupil on education than any other state. Ranked near the bottom on nationwide surveys of reading, writing and math skills, the state suffered one of the highest dropout rates in the country. When the influential "A Nation at Risk" report set off an education-reform movement in 1983, then-Gov. Dick Riley and state school Superintendent Charlie Williams decided to fight for improved schools. The state's General Assembly firmly opposed their Education Improvement Act (EIA) because it would require a tax increase. So Riley by-passed the state legislature and launched a political campaign for EIA, complete with television ads, direct mail and phone banks. The aim was to get people "stirred up about improving themselves," and it worked: with pressure from the voters, the EIA passed in 1984.

The Education Improvement Act embraces most of the significant reforms proposed in "A Nation at Risk" and later education-reform manifestoes. Teacher salaries have been raised from an average of $17,000 in 1984 to $25,000 in 1988, and outstanding teachers are also eligible for merit bonuses. Schools that improve academic performance receive not only a banner of recognition but incentive grants to improve academic programs. (This year Orangeburg-Wilkinson was awarded $24,000.) School districts that do not perform well are declared "impaired" and risk having their superintendent fired by the governor. Talented but uncertified experts in areas of "critical need" such as science and math are permitted to teach before acquiring a teaching certificate. Starting in 1990, all South Carolina high-school students will be required to pass an exit exam testing basic skills in reading, writing and math.

These reforms have not come cheaply. Overall education spending in South Carolina has increased by $250 million a year, paid for through a 1 percent "penny" sales tax. But EIA has produced results. While SAT scores have flattened nationwide, during the last three years South Carolina's SAT scores have risen 29 points. Although they remain below the national average, no other state has seen comparable SAT gains. Most state-administered test scores have risen to the national average, and the poorest students, who traditionally score the worst, are gaining on the richest, who score the best. More high-school students passed college-level advanced-placement exams last year than took them in 1984. Average daily attendance is now the fourth highest in the nation, and state education officials still aren't satisfied. "I think Connecticut must have lied," Ellen Still, an analyst for the state education department, grumbles half seriously.

South Carolina obviously has a considerable distance to go before it becomes an educational mecca, but state surveys show a vast majority of South Carolinians believe that their schools are improving. One measure of success state education officials particularly relish is a slight decline in private-school enrollment. In Orangeburg, the two segregated academies, which are now required by law to maintain at least a nominally open-door policy, appear to be dying: they consolidated into one school in 1986, and enrollment is still falling. Boasts Riley: "Since 1984, our little state has made more improvement in quality education than any state in the nation." And among South Carolina schools, Orangeburg-Wilkinson High School has seen more improvement than most.

Joe Clark, the highly publicized principal of Eastside High School in Paterson, N.J., and Education Secretary William Bennett's favorite disciplinarian, keeps his students in line by wielding a baseball bat and bullhorn. Melvin Smoak, a stocky, soft-spoken 37-year-old black man who has been principal since 1986, accomplishes the same feat with a walkie-talkie and a computer.

Education reformers stress that good principals, like good CEO's spend a minimal amount of time in their offices. Smoak spends half the school day cheerfully patrolling the hallways, walkie-talkie in hand so he may radio school administrators at any sign of disruption. Periodically Smoak interrupts his rounds to peer into classrooms through narrow rectangular windows. "The teachers wanted to cover their windows," says Smoak. "I said no." Every student he encounters in the hallway during class must halt and produce a pink slip. When the bell rings, teachers are posted like sentries outside their classrooms, ever watchful for hallway disruptions.

O-W was never the sort of school where bullets whizzed through the hallways, but before Smoak took over, discipline was a problem for both administrators and students. One principal resigned after he was caught misappropriating school funds. Another was known as an ineffective disciplinarian who rarely got out of his office. "You've got to take charge with 2,000 kids," says Superintendent James Wilsford, "and that wasn't happening the way it ought to."

To restore order two years ago, Wilsford turned to Smoak, a former math teacher and basketball coach, who for six years had been an assistant principal at O-W. As principal, Smoak routinely works 14-hour days. (His wife stitched a needlepoint for his office showing a head in a vise. The caption: "Oy! The Pressure.") Smoak's passion for order borders on the fastidious. He is constantly scanning the school floors for litter and will radio a janitor if he sees an unmopped spot. But parents and even a few students praise Smoak for his no-nonsense approach. Spying a teenage boy walking down a school hallway in a purple sweat shirt with the hood up, Smoak raises his hand to yank it off. The student beats him to it; no hats allowed indoors.

About 20 times a year, Smoak will take a paddle to a student. This is always done privately, in the presence of a witness and with parental permission. And the student is always given the alternative option of suspension. (He won't paddle "young ladies," for fear that he will damage their "body makeup," especially if they're among the 4 percent of O-W girls who became pregnant this year.) Smoak says the aim is not to hurt students but to "bother their pride a little bit."

Smoak seems most proud of improvements in the school's attendance policy. In 1986 Orangeburg County was placed under a court order because it was slow to notify parents and the courts when students were truant. (One teacher at O-W says she didn't find out that her own son had 27 absences until she got his report card.) To rectify this, the school computerized its records. Now teachers turn in computer-attendance sheets to student monitors at the beginning of every class. Students who are late for class are immediately sent to detention in the cafeteria, next door to the principal's office. If a student fails to show up for one or more classes, parents receive a slightly spooky computer-generated phone call.

Steven Moultrie is a lanky Pentecostal minister's son with a passion for basketball. Two years ago he played power forward on the varsity team at Lawrence Junior High School in Long Island, N.Y., averaging about 10 points per game. Last year his family moved to Orangeburg so his father could preach at the New Jerusalem Church of God and Christ in nearby Barnwell. At 6-foot-4, Steven is the third tallest student at O-W, but he is not playing basketball this year. Instead, he is working to improve his math skills.

Steven passed the reading and writing portions of the state Basic Skills Assessment Program test (BSAP) last year but flunked the math portion. That's not unusual: only 58 percent of all South Carolina 10th graders passed the test last year, and at O-W the passing rate was even lower—46 percent. Under EIA, Steven was not barred from sports. A state no-pass, no-play rule only affects students who flunk a class, not those who flunk the basic-skills test. Even so, his coach believed that passing next year's math test came before basketball.

In two years, students will have to pass the BSAP to graduate. In preparation, O-W has instituted a remedial program for students who fail the test. Scores are rising: last year's 46 percent passing rate was an 11-point improvement. On another basic-skills test, reading scores for 11th graders rose from the 22nd statewide percentile to the 39th. Compared with other South Carolina students with similar socioeconomic backgrounds, the gain was even greater: from the 25th percentile to the 71st.

Orangeburg-Wilkinson struggles to get parents involved in the school. To encourage contacts, Smoak requires his teachers to meet or talk with at least four parents a month. And he's not above telling parents what he thinks they need to hear. One parent phoned Smoak to tell him that his 17-year-old son had gotten a job as a stock boy and wanted to drop out to attend night school. Under South Carolina law, the boy was old enough to leave school, but Smoak bluffed. "I'm not going to let him," Smoak said. "If he wants to drop out, let him drop out next year." The boy stayed in school.

Steven prepares for this year's test by spending an hour each day in the largest of the school's many computer labs, where rows of remedial students peer intently at IBM personal computers. Like many schools today, O-W is computer mad; there are close to 200 computers in the building, or one for every 10 students. A typical recent computer exercise for Steven displayed a drawing of a scale with "1" on one side and "1/4 X" on the opposite side. Lettered above the scale was the question, "What number will make the pans balance?" Steven could tap a key on the computer to receive help; letters would appear saying, "Think: 1 = 1/4 X?" If he tapped it again, he would be given the answer (and lose points on his score). If Steven answered incorrectly, the computer would tell him whether his guess was more or less than the true answer, and again ask him to "think."

Educators can be baffling when they gush about the computer. When you cut through the techno-babble it boils down to this: with the possible exception of movable type, the computer is the greatest labor-saving device the schoolroom has ever seen. "It's just as good as the teacher sometimes," says Steven. "Most of the time." In some ways a computer is better: "A teacher might just overlook you and not even know that you got the answer wrong." It can also be less embarrassing to talk to. "Say you're in a class, and you yell out the wrong answer," says Steven. "You have 30 people that laugh at you." Steven says there's a drawback: a computer may have a "help" key to provide hints on how to get the correct answer, but it really "can't talk back to you." He says when he's in the remedial lab, he has to consult a real teacher about three times in an hour-long period for help on a question.

Computers are not very useful for teaching students how to write, however. They are usually mere word processors, unable to correct faulty logic or even poor grammar. And at O-W, as in many U.S. high schools, the writing skills of most students are so poor that no pretense is made of demanding perfection. The basic-skills test in South Carolina uses a common technique known as "holistic grading" which does not take points off for every error of grammar or diction but rather requires only that a student essay be understandable. (One essay that received a passing grade included this passage: "I built a mansion in almost every large city and had businesses in them to. All of my relatives lived comfortable . . .") Smoak says holistic grading frees the school from fussing over "every 'i,' every 't'," but it represents a sad retreat in a difficult struggle to improve writing standards.

Carla King was bored. A former chemistry major at South Carolina State with a world-weary demeanor before she was out of her 20s, King went to work as a lab technician at a local chemical company because it paid well and sounded glamorous. But the job turned out to be much drearier than she'd imagined. "You're in this lab all day, just looking at these two or three other people," King recalls. "I wasn't dedicated to it."

Two years ago, she began considering teaching as a more lively and varied career. But there was a significant obstacle: getting her credentials. "That meant going back to school," says King. "That would mean no income."

Like most states, South Carolina requires a year's worth of university courses in education before "certifying" teachers to teach in public schools. The result is a paradox: teaching attracts a disproportionate number of poor academic achievers who often major in "education" rather than the academic subject they'll be teaching. Yet at the same time, the drudgery of education courses presents a barrier to capable would-be teachers eager to change careers. The purpose of these courses—other than limiting the number of people entering the teaching profession—has never been made clear; private-school teachers, after all, manage to teach competently at many of America's best schools without taking such courses. To solve this problem, some states have devised ways to get talented but uncredentialed people into the classroom quickly. In South Carolina, EIA has streamlined certification for teachers in areas of "critical need": science, math, library sciences and foreign languages.

Last year, after taking a crash summer course in education procedures, King became a "critical need" teacher in math at O-W. In class, walking her students through measurements exercises—feet into inches, quarts into pints-King is alert to every student, calling on those who don't raise their hands and stopping frequently to ask how many are getting the correct answers to each exercise. "If I'm teaching something, at the end of the class, you can tell by their expressions that they understand," says King. "That's immediate feedback." King is required to take—and pay for—some night classes in subjects like "Human Growth and Development," but she says she doesn't mind them; being a working teacher, she says, makes the education theory more relevant.

Principal Smoak says he is pleased with King's performance; after an initial probationary period, he recently signed King on as a permanent teacher. The only discouraging thing about King's transformation is that it is unique: because money is tight and teacher turnover low, King is O-W's only critical-needs teacher.

At least 30 times each year, Smoak stops patrolling the halls of his school and instead monitors the work of his facility. His judgments are framed by a state-mandated checklist of skills that all competent teachers are expected to possess. Do teachers announce their objectives at the start of a class? Do they maintain "patience and poise"? Do they make substantive mistakes? And do they show a sense of humor? (The form humorlessly warns: "A pleasant demeanor is not adequate evidence of a sense of humor.") Smoak watches his teachers perform, inspects their lesson plans for the day and then decides whether they have passed their evaluation. Teacher evaluation has always been gentle at O-W, and the new state evaluation procedure hasn't changed that: last year not one of the school's 95 teachers flunked the competency evaluation.

With half the student body still failing basic-skills tests, the faculty hardly deserves a perfect record, but student performance plays no role in a teacher's evaluation. One teacher says privately that the school's poor instructors "are not being weeded out." In fact, she says, another teacher once had someone else prepare her lesson plan and Smoak never caught on. For his part, Smoak concedes the procedure tests for "minimal competence."

A somewhat more complex evaluation procedure accompanies the state's new merit-pay program, which awards top-performing teachers annual bonuses of $2,000 to $3,000. Sharon Anderson, one of six teachers at O-W to win a merit bonus this year, complains that it entailed "a good bit of paper work." Anderson filled out one form saying she would apply; then five more (one for each class) predicting average increases in state test scores; then another listing the grades her 145 students had received on previous state tests (which meant tracking down by hand records that had occasionally been misfiled); then another, requesting a date for her evaluations (one by an administrator inside the district and one by a teacher outside the district); then another, stating lesson-plan objectives for the observed classes; then another, listing grades the students received on a related excercise; then another, listing the new test scores.

These evaluations are a major issue for the South Carolina Education Association (SCEA), the state affiliate of the National Education Association. The state reform effort has helped increase their average salary to $25,000, but many teachers resent the public scrutiny that has accompanied the raises. A slight majority still opposes even the concept of merit pay. Teachers showed their frustration last March at the annual SCEA convention when they were treated to a spirited harangue by Oklahoma Observer editor Frosty Troy. "I'll tell you who's badmouthing education," Troy told the gathering, which included 30 O-W teachers. "It's usually people who know nothing about it." Applause. "One of my dreams is giving Ronald Reagan a SAT test." More applause. "Quit judging every child by his test score." Wild applause. "Silly-Billy Bennett." Loud, derisive laughter. The theme was simple: Teachers Can't Get No Respect.

But for all the acrimony at the convention, the teachers at O-W demonstrate a quiet pride in their school's recent achievements. "I can take my students and I'll stand them up against anybody," says Phyllis Tant, an 18-year teacher who runs especially lively history classes. At the SCEA convention, even Frosty Troy conceded the progress brought by South Carolina's reform which had recently been noted by the education secretary Troy appeared to despise: "I'm proud Billy Bennett could find somebody to brag on."

In the library for a study period, senior Catrele Cobbs can't stop talking about a magazine article she saw about the winners of the Westinghouse Science Talent Search. "Do you know when they started on their project?" she asks a classmate. "Tenth grade! This one guy did the outcome of Star Wars and whether it would work or not." Catrele, ranked fourth in her graduating class, is a top-performing student from a poor background. The daughter of a brick mason who dropped out of high school, Catrele this year won a national award from the Horatio Alger Society that will help pay her way through Clemson University. She is the sort of student any first-rate school should strive most to challenge. But lacking anything better to do at school, she often leaves after lunch period for a part-time job at a camera store.

O-W is well on its way toward helping underachievers like Steven Moultrie master basic skills. Its next task will be to help students like Catrele Cobbs realize their potential. She is taking several challenging courses: French, advanced-placement calculus and biology. But she ought to be taking more. Sadly, with its emphasis on remedial education, O-W lacks the resources to give the most to its brightest students. Catrele's biology class has been able to perform only three labs this year. To reduce costs, two classes must do their labs jointly, and at night. Catrele also complains that some of her work "didn't come out right because we had to substitute so many different things" to save money. Overall, only 40 percent of advanced-placement students in all subjects last year passed the final exam.

Orangeburg-Wilkinson is moving in the right direction. Order has been restored, students are improving reading and math skills, and the community is taking pride again in its public school. But like many other schools around the country, O-W doesn't yet resemble William Bennett's idealized "James Madison High," where students of all socioeconomic backgrounds study everything from Dante to vector-valued functions. Still, O-W should inspire hope among those who fret about the state of public education in America. While national reform efforts can set a high tone, real improvements can only come state by state, school by school. Five years after "A Nation at Risk," students at Orangeburg-Wilkinson High School are learning the basics. Five years from today, perhaps they will be learning to compete with the best students in America—and around the world.

TRIBUTE TO C. PRATT RATHER

Mr. HEFLIN. Mr. President, it is with sadness that I rise, today, in tribute to my friend, C. Pratt Rather, of Birmingham, AL, who recently passed away. Pratt Rather was a great Alabamian who endeavored throughout his life to enrich the lives of the people of my State and our Nation with his efforts. His life stands as an example of the manner in which citizens of our country should work on behalf of their communities, their States, and our Nation. Indeed, his life stands as an example of the way in which the efforts of individuals have greatly benefited and improved the circumstances of all others.

Pratt Rather was raised in Tuscumbia, AL, in the home in which my family and I now live. The Rather family were among the first settlers of Alabama. Gen. John D. Rather served the Confederacy with great distinction in the War Between the States. As an early president of the Memphis & Charleston Railroad Co., which later merged with other railroads to form the Southern Railway System and today bears the name of Norfolk-Southern Railroad, he contributed much to the industrial and economic development of my State and our region of the country. John D. Rather, Jr., was one of the foremost lawyers of Alabama and built the home where Pratt grew up.

Pratt Rather attended the University of Alabama and then received a bachelor's degree in civil engineering from Georgia Tech. Immediately after receiving his engineering degree, Pratt began his business career.

One thing for which I always admired Pratt is the way in which his business efforts enhanced the lives of those in his community, our State, and our Nation. By the time he was 35, Pratt was president of the company which is known today as Sonat—then Southern Natural Gas. Through his efforts in developing and presiding over this company, Pratt contributed immeasurably to the capabilities and development of my State and those in our region of the country. His work through the years as president of Southern Natural Gas Co., and as chairman of the board and chief executive officer of Sonat ensured that business would be attracted to the area, thus making more jobs available for the people of my State, and enhancing both the economic strength and vitality of my State and the quality of life enjoyed by all.

Pratt contributed to his community, my State, and our Nation in other important ways, as well. During the Korean war, he spent a year in Washington as Assistant Deputy Administrator of the Petroleum Administration for Defense. Furthermore, throughout his life, he devoted his time and his efforts to various organizations, serving as a trustee of the Gorgas Foundation and Southern Research Institute, and as president of the Jefferson County Community Chest.

Mr. President, the passing of Pratt Rather signals in many ways the passing of an era. It signals the passing of a time when the business community was equally concerned with helping the community and promoting the growth and economic strength of an area as it was with making a profit. It signals the passing of an era in which a man's word was as good as a signed contract. It signals the passing of an age in which men contributed willingly of their time and efforts to help others less fortunate than themselves.

While the leaders of Sonat have all possessed and demonstrated these qualities, nevertheless, they and Pratt are a vanishing breed.

I hope that the young people of today who are now just entering the business world will embrace the example which Pratt Rather set with his life's efforts and will extend this outstanding tradition of public service through all efforts to yet another generation. If the young people of today contribute even a fraction of what Pratt contributed in his lifetime, then we will see a continued care and guidance in all areas of our society.

Finally, Mr. President, I ask unanimous consent that a newspaper article be printed in the Congressional Record which announces the passing of Pratt Rather, and discusses the contributions he made in life.

There being no objection, the article was ordered to be printed in the Record, as follows:

Former Chairman of Sonat, Inc., Dies

C. Pratt Rather, a former chairman and chief executive officer of Sonat Inc., died yesterday.

Mr. Rather, of 3820 Forest Glen Drive, was 85.

He served as chairman of the company, which has its headquarters in Birmingham, from 1965 until 1967, when he retired. He had been with the company since 1936.

Mr. Rather attended the University of Alabama and received a bachelor's degree in civil engineering from Georgia Institute of Technology.

He began his business career immediately thereafter and was president of what is today Sonat by the time he was 35.

Mr. Rather served on a variety of boards, including those of Alabama Gas Co. and AmSouth Bank.

He also served as a trustee of the Gorgas Foundation and Southern Research Institute, and as president of the Jefferson County Community Chest.

Mr. Rather was a member of Mountain Brook Club, the Redstone Club and the Rotary Club, and was elected to the Alabama Academy of Honor in 1979. He was a member of Independent Presbyterian Church.

During the Korean War, he spent a year in Washington as assistant deputy administrator of the Petroleum Administration for Defense.

Graveside services will be at 2 p.m. tomorrow at Elmwood, with Valley Chapel directing.

Survivors include his wife, Mrs. Kathleen B. Rather; two sons, Daniel Brown Rather, Atlanta, and Charles Pratt Rather Jr., Birmingham; and a brother, John D. Rather, Little Rock, Ark.

The family suggests memorials be to Kirkwood By the River Gardens, the Birmingham Museum of Art Gardens or a favorite charity.

DEDICATION OF THE TOM BEVILL LOCK AND DAM

Mr. HEFLIN. Mr. President, it was recently my great privilege to travel to Aliceville, AL, for the dedication of the Tom Bevill Lock and Dam and the Tom Bevill Resource Management and Visitor Center. As my colleagues in the U.S. Senate are already aware, Tom Bevill has represented the people of his district, the 4th Congressional District of Alabama, in an outstanding capacity. Indeed, he has endeavored to serve all the people of Alabama and America since he was first elected to the U.S. House of Representatives in 1966.

Congressman Bevill is a true statesman who has worked as a senior member of the House Appropriations Committee on various issues which are critical to our Nation. He was instrumental in the construction of the Tenn-Tom Waterway, and other important waterways. He has worked to ensure that appropriations for military structures and for our national security are adequate to protect our freedom and liberty, while also endeavoring to guarantee that none of the hard-earned dollars of the American taxpayer are wasted through negligence or abuse. Additionaly, he has worked on issues involving our Nation's energy resources and capabilities, agriculture, education, and many other areas of national concern. In fact, I would be hard-pressed to think of an area in which Congressman Tom Bevill had not made an outstanding contribution.

I was delighted that Congressman Bevill was so honored at this dedication ceremony by friends, admirers, local government officials, and officials of the U.S. Army Corps of Engineers. I ask unanimous consent that the text of remarks delivered at the ceremony by Lt. Gen. E.R. Heiberg, of the U.S. Army Corps of Engineers, by Assistant Secretary of the Army Robert W. Page, and the remarks I delivered be printed in the Congressional Record. I further ask that a copy of the program which was prepared for the dedication ceremony be printed in the Record.

Thank you, Mr. President.

There being no objection, the material was ordered to be printed in the Record, as follows:

Remarks of Tom Bevill, Lock and Dam and Visitors Center Dedication

(By Lt. Gen. E.R. HEIBERG III, CHIEF OF ENGINEERS, U.S. ARMY)

I am delighted to be included at this ceremony honoring Congressman Tom Bevill, or as I know him in Washington, "Mr. Chairman."

Since 1975, I have been closely associated with the Tennessee-Tombigbee Waterway, and privileged to work with Mr. Bevill in finishing this important project. Perhaps the most fun for an engineer was in directing the northern end of the program that we call the "Divide Cut."

First, I add my congratulations to Mrs. Helen Hill for her leadership in coordinating the superb efforts of our 69 volunteers who take care of this Tom Bevill Visitors Center. It is important that we show and interpret for the U.S. citizens this waterway and this region. Having 68 Alabamians donate their time and effort and demonstrate this area's hospitality is a great way to maximize the Visitors Center. Thanks to all of you.

Every two years, the Corps of Engineers assembles from the private sector the best professionals in the U.S. in engineering, architecture, and related skills. We ask those experts to judge that two years' effort of the Corps in both construction and design. The nominees are from all over the world from our $14 billion worth of projects of that period . . . a broad, tough composition! 135 nominations in various categories make it to the "finals", and these judges made 34 awards. The Tom Bevill Visitors Center won two of these prestigious prizes, one in architecture and one in interior design. Our Mobile District should be proud of this contribution we note today honoring Congressman Bevill.

The Tenn-Tom Waterway is, in modern times, one of the largest engineering efforts in the world. It was begun at a time when a new U.S. environmental awareness, and a host of significant new laws, swept over the Corps of Engineers. We "went to school" on the Tenn Tom, and took major steps to adjust this water project to fit the environment and sensibly minimize the impact on the region environmentally. We made nearly $200 million of adjustments in doing this. No modern "macro-project" has been so well fitted to the environment. All who were associated with the Tenn Tom, indeed the entire United States, should be proud of what was done here.

It is not sensible for me to select any one person as "Father of the Tenn Tom," because many were vital to that successful effort. I am delighted to see Glover Wilkins here, for example. But without Mr. Bevill, I don't think the waterway would have been completed.

But I can say with certainty that there is no one in the House or Senate that knows more than Mr. Bevill about our waterways. And I am delighted to see the traffic significantly climbing as the infrastructure continues to develop that allows increased use. And I am also happy to see the growth of recreation traffic, well beyond our expectations.

Mr. Bevill, I am proud to join in this salute to you as we acknowledge your immense contributions to our Nation.

Remarks of the Honorable Robert W. Page, Assistant Secretary of Army (Civil Works)—Dedication Ceremony

Ladies and gentlemen: It is a pleasure for me to be here today, to come back to Alabama, a State which I feel has adopted me as a son.

Since I was confirmed in the middle of December, and have not been in my position very long, I have had only a few occasions to do things, to be places, or to share in events I have thoroughly enjoyed. To date, there have been only two such events.

Both of them have been for a true American and a person I admire very much, and that person is Congressman Tom Bevill who is sitting behind me on this platform.

This recreation facility which we are dedicating today and the lock and dam which will be renamed for the favorite son of Alabama, stand as a monument to many people's efforts, but particularly to a champion who stood for this cause and saw this fine work through to its completion.

I know that I leave some family here in Alabama. I know that they along with other people of this State and Nation will be able to come to this beautiful place and enjoy this visitors center which will cause us to remember the efforts of Tom Bevill and those who made this possible. This facility will be enjoyed not only now by this generation, but to many generations to come. I certainly am proud that I was asked to come and join these in these festivities which certainly will become a part of history.

The next speaker will be Lieutenant General Vald Heiberg who is the Chief of Engineers. I would like to say briefly that General Heiberg, who is a great chief, will be retiring next month. I know he shares with me the pride and honor in being here at this dedication which he made a special effort to attend as it will be one of his last. Not only one of his last, but I know he will say one of his finest.

With that, may I introduce to you General Vald Heiberg.

DEDICATION OF THE TOM BEVILL LOCK AND DAM

(Speech of Senator Howell Heflin)

I am delighted to be here for the dedication of the Tom Bevill Lock and Dam, and the Tom Bevill Resource Management and Visitor Center.

Today we have the rare opportunity to honor and pay a well-deserved tribute to my long-time and dear friend, Congressman Tom Bevill, and his wife Lou—one of Washington's most gracious ladies. We have a chance to offer our thanks, and express our admiration of Tom for the extended public service, the tremendous accomplishments, and dedicated work and efforts in Congress he has made on behalf of the people of his district, my State, and our Nation.

Since 1966, Congressman Bevill has represented the citizens of the 4th Congressional District in an outstanding capacity. Throughout our history as a State, I believe that the people of Alabama have been blessed with better representation in Congress than any other State in the Nation. The names Morgan, Pettus, Underwood, Black, Bankhead, Hill, Sparkman, Elliott, Manasco, Jones, Rains, Allen, and many others—all sons of Alabama—are revered within the Halls of Congress as giants among giants. These individuals were recognized by their colleagues and will forever be remembered for their statesmanship, their devotion to the public good, and their selfless service to the people of Alabama and America. In my mind—and I know all the people of Alabama wholeheartedly agree—Tom Bevill stands tall in this company. In fact, no one is taller. He continues in and advances Alabama's outstanding tradition of the finest representation in Congress.

As a senior member of the House Appropriations Committee, Congressman Bevill is known by colleagues and constituents, alike, for his work in all areas. As a member of the House Military Construction Appropriations Subcommittee, he has always worked to ensure that resources for military facilities are adequate to provide for our national security. Foremost in his mind have been facilities in Alabama and Mississippi. He has always been an advocate of a strong national defense.

As a member of the Interior Appropriations Subcommittee, Congressman Bevill has been instrumental in the preservation of our National parks and resources and has worked to provide for facilities that enable the citizens of this country to enjoy these resources.

As chairman of the House Appropriations Subcommittee on Energy and Water Development, Congressman Bevill has played a key role in the development of our Nation's energy and water resources.

Other important programs over which Congressman Bevill's subcommittee has jurisdiction include the Appalachian Regional Commission, the Tennessee Valley Authority, the Nuclear Regulatory Authority, and the Department of Interior's Bureau of Reclamation, which each provide outstanding services to people from all walks of life throughout America.

In his district, every county, city, and town has a lasting and living monument—a water tank, a sewage treatment center, a recreation park, a school, an agribusiness center and many other projects—that could be named for Tom Bevill because they were built with his help or were made possible because of his efforts in Congress.

Indeed, the impact Congressman Bevill has made is not limited to his district. All of Alabama and the people of each congressional district are fortunate to benefit from his efforts. While not in law or constitution, but in actuality, the citizens of every congressional district in Alabama are represented by two Congressmen—their duly elected Representative and Tom Bevill. Since Tom Bevill has done so much for the entire State, we can say that Alabama has 3 Senators.

Furthermore, the benefits made possible by ports and waterways in every State continue largely because the efforts Tom Bevill has made as chairman of this Subcommittee on Energy and Water Development. Congressman Bevill has played a tremendous role with his work on the Warrior-Tombigbee, the Alabama-Coosa, and especially the Tennessee-Tombigbee. In fact, Tom Bevill is appropriately known as the father of the Tenn-Tom. While one person should be designated as the father of the Tenn-Tom, there were many other caring fathers of this project—I should probably call them "godfathers"—not of the Mafia type, but I mean the godfathers who stand with parents at a christening and help with the raising of a child.

All those who pass through the "Tom Bevill Lock and Dam." and all those who benefit from or take advantage of the "Tom Bevill Resource Management and Visitor Center" will be immediately reminded of the instrumental role Congressman Bevill played in the completion of the Tenn-Tom Waterway. Without his work, I do not believe the waterway would have been built. Without his efforts, the economic and recreational benefits the Tenn-Tom now offers to my State and the entire country would not be available.

During his tenure in Congress, Tom Bevill has worked on legislation and issues that have touched and improved almost every aspect of the lives of the citizens of America. I am proud to have the opportunity to serve with Congressman Bevill as a member of the Alabama congressional delegation, and look forward to many years of joint efforts and service on behalf of the people of Alabama and America.

I am delighted that the Tom Bevill Lock and Dam and the Tom Bevill Resource Mangement and Visitors Center will help to recognize the tremendous work and accomplishments my good friend has made on behalf of our State and Nation. He is, indeed, a great statesman, and a fine man who has served our country well for many, many years. There is no way that we could ever adequately repay him for all his work, or express our gratitude, but this is a small step in the right direction.

Offa Nichols, president of the Warrior-Tombigbee Development Association, once introduced Tom Bevill at a national waterway conference in Houston, Texas. In closing, I would like to paraphrase his words. He remarked that, in Alabama, we have many legends. Tom Bevill is one of these legends. Another of these great Alabama legends was Paul "Bear" Bryant, who all remember with respect, admiration, and gratitude for all he did for our State. The Bryant legend was that he could walk on water. There were those who suggested that this was not entirely true, but that he knew where the stumps were located. As for myself, I am not sure—but one thing I do believe is if "the Bear" was using stumps, then Tom Bevill was telling him where they were located.

DEDICATION OF TOM BEVILL RESOURCE MANAGEMENT AND VISITOR CENTER AND TOM BEVILL LOCK AND DAM, TENNESSEE-TOMBIGBEE WATERWAY

The Tom Bevill Resource Management and Visitor Center for the Tennessee-Tombigbee Waterway is open for viewing year-round. Moored beside the Center is the US Snagboat MONTGOMERY, One of the last steam-powered stern-wheelers to ply the rivers of the South. The Center and the snagboat are adjacent to the Tom Bevill Lock and Dam, where visitors are invited to watch the lockage of vessels traveling between the Gulf of Mexico and the riverports of mid-America.

The US Snagboat Mongtomery is a permanent part of the complex and is open for inspection—from the pilot house to the engine room. This 180-foot vessel served the Mobile District from 1927 to 1982, removing submerged stumps and fallen trees from the navigation channel of the seven major rivers.

The facility contains the Resource Management Offices for the Corps of Engineers as well as a variety of displays, models, artifacts, and audio-visual programs. These exhibits interpret the rich past of the river valley and use of the Tombigbee River from prehistory to the turn of the 20th century. There are also exhibits on the planning, construction and use of the Tenn-Tom Waterway which extends from Demopolis, Alabama, through northeast Mississippi to Yellow Creek on the Tennessee River.

The second floor displays and exhibits describe life and development along the Tombigbee River valley. Central to the exhibits is a 22-foot relief map that traces the course of the waterway through all 10 locks and dams. There are collections of fossils from earlier animal life, artifacts from the pioneer days, information on boom towns and ghost towns along the river and displays on fish and wildlife found along the waterway.

The architecture and furnishings of the Visitor Center recreate the Greek Revival style common to the area in 1830-1860. This was the period of time when the Tombigbee River was in its heyday, serving as a main artery of commerce for the region. The Center features massive columns, detailed trimwork, a sweeping central stairway and a magnificent view from the cupola walkway.

PROGRAM

Welcoming Remarks, Colonel Larry S. Bonine.

Invocation, Reverend Vic Vickers.

Introduction of Special Guests, Judge Bill Lang.

Presentation of "1987 Volunteer of the Year Award," Major General C. Ernest Edgar III.

Presentation of Tennessee-Tombigbee Waterway Development Authority Resolution, Judge Clatus Junkin.

Remarks, Mr. Robert W. Page, Lieutenant General E.R. Heiberg III.

Introduction of Keynote Speaker, Colonel Bonine.

Keynote Address, Senator Howell T. Heflin.

Unveiling of Plaque.

Remarks, Congressman Tom Bevill.

Concluding Remarks, Colonel Bonine.

Visitor Center Open to the Public.

MOZAMBIQUE

Mrs. KASSEBAUM. Mr. President, last week the State Department Bureau of Refugees Programs released a very disturbing report on the mounting flow of refugees in southern Africa from Mozambique. The report stated that hundreds of thousands of civilians had fled from Mozambique in the last 2 years after being subject to violence and brutality by the RENAMO forces fighting the Mozambique Government.

The State Department decided to undertake an assessment of the Mozambican refugees after witnessing an increase of 300 percent in their numbers in southern Africa over the past year. The State Department currently estimates that the total number of Mozambican refugees is about 870,000, half of whom are in Malawi. The increased flow of refugees suggests that there could be over 1 million Mozambican refugees by the end of the year.

The report is based on interviews with approximately 200 randomly selected refugees over a 3-month period in 25 separate refugee camps. The report concluded that the level of violence reported to be conducted by RENAMO against the civilian population in rural Mozambique is extraordinarily high. Perhaps most disturbingly the report concludes from the refugee accounts that the violence is systematic and coordinated and not a series of spontaneous, isolated incidents by undisciplined combatants.

Furthermore, the interviews with the refugees indicated that the relationship between RENAMO and the civilian population is almost exclusively a harsh extraction of food and labor in return for the possibility of remaining alive.

The report estimates that during the 1987-88 period 100,000 unarmed civilians have been murdered by RENAMO, a number which may be underestimated since many refugees could not count accurately above the number 10.

The refugees interviewed also recounted many hundreds of cases of systematic forced portering, beatings, rape, looting, burning of villages, abductions, and mutilations. Given the number of people interviewed, the report suggests that there could be extremely high levels of systematic abuse taking place inside Mozambique.

Mr. President, the atrocities described in the State Department report are too serious to be ignored by us or the international community. It would truly be a tragedy if our reaction here to the findings of this report is a political squabble over our Mozambique policy instead of a swift response of humanitarian assistance for the refugees and their host countries. It is urgent that AID dedicate to this crisis whatever remaining funds there are in the centrally funded account for refugees.

Malawi and several other of the surrounding countries have to be commended for their humanitarian response to the growing refugee crisis over the past 2 years. It is critical, given the atrocities that appear to be taking place inside Mozambique, that the surrounding countries keep their borders open for the refugees.

I would urge that other international organizations, including the International Red Cross, the U.N. High Commission on Refugees, and the U.N. Human Rights Commission, conduct their own independent investigations of this explosion of Mozambican refugees in southern Africa. These efforts will help mobilize the international community not only to assist the refugees but also to help put an end to the gross human rights abuses apparently taking place inside Mozambique.

HELP FOR ATOMIC VETERANS

Mr. PRYOR. Mr. President, this is a great week for American veterans exposed to radiation in the line of duty. The Senate has finally voted on and passed the House-Senate conference agreement on legislation which will grant benefits to these veterans who have contracted cancer due to the exposure.

Last June, I held a meeting with 60 of the more than 200 Arkansas vets who were exposed to dangerous levels of radiation in atomic tests and during the U.S. occupation of Nagasaki and Hiroshima after World War II.

At that meeting I heard horror stories about so-called atomic veterans who suffered severe medical problems due to their radiation exposure. In some cases, radiation-related illness was passed down to their children.

I was shocked and angered to hear that the Veterans' Administration had turned down 99 percent of all claims for VA benefits by atomic veterans since 1978.

No wonder many of these men and women had lost hope for help from the Nation they had given so much to. In fact, Mr. President, these loyal Americans have given the ultimate gift to their country. They have given their health and in many cases their lives to their country and up until now, their special contribution has not been recognized.

The bill we have now passed in the Senate is not a perfect solution. Not everyone who should be helped will be helped. But it is the best that Congress can do at this time and it is a far cry better than the current poor treatment given to atomic veterans.

I compliment my colleagues on the Veterans' Affairs Committee for their hard work on this bill and urge the President to sign the legislation into law as soon as it is passed by the House.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4243. An act to implement the International Convention on the Prevention and Punishment of Genocide.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

H.R. 4243. An act implement to the International Convention on the Prevention and Punishment of Genocide.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3121. A communication from the Assistant Attorney General (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3122. A communication from the Director of Administration, National Labor Relations Board, transmitting, pursuant to law, a report on proposed revisions to certain Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-3123. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-173 adopted by the Council on March 29, 1988; to the Committee on Governmental Affairs.

EC-3124. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-174 adopted by the Council on March 29, 1988; to the Committee on Governmental Affairs.

EC-3125. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Contract Between Metropolitan Health Associates, Inc. and the Department of Human Services"; to the Committee on Governmental Affairs.

EC-3126. A communication from the Assistant Attorney General (Administration), transmitting, pursuant to law, a report on two new Privacy Act systems of records; to the Committee on Governmental Affairs.

EC-3127. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Disbursements and Accountability of Certain Grant Funds Related to Homeless Programs in the District of Columbia"; to the Committee on Governmental Affairs.

EC-3128. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Unvouchered Expenditures: Presidential and Vice Presidential Fiscal Year 1986 Expenditures Were Proper"; to the Committee on Governmental Affairs.

EC-3129. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Unvouchered Expenditures: Presidential and Vice Presidential Fiscal Year 1986 Expenditures Were Proper"; to the Committee on Governmental Affairs.

EC-3130. A communication from the head of the personnel benefits section, Naval Military Personnel Command, transmitting, pursuant to law, the annual report for the Navy nonappropriated fund retirement plan of employees of civilian morale, welfare, and recreation; to the Committee on Governmental Affairs.

EC-3131. A communication from the Director of the Office of Personnel Management and the Director of the Federal Bureau of Investigation, transmitting jointly, pursuant to law, a report entitled "Report on Recruitment, Retention and Operational Problems Facing the New York Office of the Federal Bureau of Investigation Caused by the High Cost of Living, and a Plan for Remedies"; to the Committee on Governmental Affairs.

EC-3132. A communication from the Deputy Director of the Central Intelligence Agency (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3133. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the annual report of the Commission under the Freedom of Information Act for calendar year 1987; to the Committee on the Judiciary.

EC-3134. A communication from the Acting Assistant Attorney General (Legislative Affairs), transmitting, pursuant to law, a report entitled "Report on Drug Control"; to the Committee on the Judiciary.

EC-3135. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, a report of amendments to the sentencing guidelines together with reasons for these amendments; to the Committee on the Judiciary.

EC-3136. A communication from the Secretary of Education, transmitting a draft of proposed legislation to improve the contribution of libraries to the education of economically disadvantaged or handicapped persons, to increase access to library materials through resource sharing, to support research and assessment necessary to improve library services, and for other purposes; to the Committee on Labor and Human Resources.

EC-3137. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, section 5004(a)(4), United States Code, to raise the Veterans' Administraiton's minor construction cost limitation from $2 million to $3 million, and for other purposes; to the Committee on Veterans' Affairs.

EC-3138. A communication from the Deputy Assistant Secretary (Logistics), Department of the Air Force, transmitting, pursuant to law, a report with respect to converting the vehicle and maintenance function at Peterson Air Force Base, CO, to performance by contract; to the Committee on Armed Services.

EC-3139. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report with respect to the DSGS III A&B program exceeding its baseline unit cost; to the Committee on Armed Services.

EC-3140. A communication from the Secretary of the Air Force, transmitting, pursuant to law, a report with respect to the Titan IV PAUC exceeding its baseline unit cost; to the Committee on Armed Services.

EC-3141. A communication from the Comptroller General, transmitting, pursuant to law a report on the Federal Deposit Insurance Corporation's financial statements for the years ended December 31, 1987 and 1986; to the Committee on Banking, Housing, and Urban Affairs.

EC-3142. A communication from the Deputy Secretary, Department of Agriculture, transmitting, a proposed draft of legislation to amend title V of the Housing Act of 1949 to eliminate an overly restrictive and unneeded limitation on certain equitable rent increase procedures of the Farmer's Home Administration; to the Committee on Banking, Housing, and Urban Affairs.

EC-3143. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the 10th annual report to Congress on the Fair Debt Collection Practices Act; to the Committee on Banking, Housing, and Urban Affairs.

EC-3144. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report of the Maritime Administration for fiscal year 1987; to the Committee on Commerce, Science, and Transportation.

EC-3145. A communication from the Director of the Tennessee Valley Authority, transmitting, pursuant to law, the Authority's 54th annual report; to the Committee on Environment and Public Works.

EC-3146. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Receipts and Disbursements of the Office of the People's Counsel Agency Fund;" to the Committee on Governmental Affairs.

EC-3147. A communication from the Secretary of the U.S. Postal Rate Commission, transmitting, pursuant to law, a report on the order adopting final rule entitled "Amendment to Domestic Mail Classification Schedule: Postal Rate and Fee Changes, 1987;" to the Committee on Governmental Affairs.

EC-3148. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report regarding the competition advocacy activities undertaken in the Department of Transportation; to the Committee on Governmental Affairs.

EC-3149. A communication from the Director of the Office of Management and Budget, transmitting, pursuant to law, a draft of proposed legislation to amend title 39, United States Code, to provide a method not requiring appropriations to continue favored rates for postage for certain mail which affords public benefits, to curb the misuse of favored rates to mail advertising material, and for other purposes; to the Committee on Governmental Affairs.

EC-3150. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Space Leased at 450 5th Street, NW for the Public Service Commission;" to the Committee on Governmental Affairs.

EC-3151. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on the implementation of the Health Care Quality Improvement Act of 1986; to the Committee on Labor and Human Resources.

EC-3152. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on the Department of Defense procurement from small and other business firms for October 1987 through February 1988; to the Committee on Small Business.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-464. A joint resolution adopted by the Legislature of the Commonwealth of Virginia; to the Committee on Commerce, Science, and Transportation.

SENATE JOINT RESOLUTION NO. 49

"Whereas, from 1935 to 1966, the Interstate Commerce Commission regulated both the economic and safety behavior of the interstate trucking industry and exempted drivers and trucks used wholly within defined geographical areas around cities and towns known as commercial zones from compliance with safety regulations; and

"Whereas, in 1966, the Federal Motor Carrier Safety Regulations were transferred to the U.S. Department of Transportation, and, unfortunately, the safety exemption for commercial zone operations was transferred also; and

"Whereas, when federal regulation of trucking was implemented in 1935, the commercial zone exemption had a minimal impact on safety due to the local nature of truck operations; the small size of cities, towns, and villages; lower speed limits; and smaller, less complex trucks with lower speed capabilities; and

"Whereas, urban road conditions have changed drastically over the years and now feature high-speed arterial streets, expressways, and highways; and

"Whereas, trucks comprise a high percentage of vehicles using urban arterial streets, highways and expressways and are a high percentage of the vehicles involved in accidents on these roads; and

"Whereas, truck fleets operating under the commercial zone exemption are under no pressure to improve their safety performance and there is no incentive or authority for enforcement of higher overall standards for safe operation of these drivers and vehicles; and

"Whereas, there is no safety justification for continuing to sanction the virtually uncontrolled operation of these vehicles and drivers because they are kept within the limited confines of a commercial zone and it is unacceptable to allow substandard drivers and/or vehicles to share streets and highways with the public; and

"Whereas, continuation of this exemption results in the nation's as well as Virginia's towns and cities serving as a potential dumping ground for unqualified and unfit truck drivers and unsafe trucks; now, therefore, be it

"Resolved by the Senate, the House of Delegates concurring, That the Congress of the United States is hereby memorialized to eliminate the exemption of commercial zone motor carrier operations from the applicability of the Federal Motor Carrier Safety Regulations and from enforcement activity designed to assure compliance with the regulations; and, be it

"Resolved further, That the Clerk of the Senate transmit copies of this resolution to the Speaker of the United States House of Representatives, the President of the Senate of the United States, and the members of the Virginia delegation to the United States Congress that they may be apprised of the sense of the General Assembly in this manner."

POM-465. A resolution adopted by the House of Representatives of the State of Oklahoma; to the Committee on Environment and Public Works:

"Enrolled House Resolution No. 1064

"Whereas, six water supply wells in the South Canadian River floodplain located approximately four miles south, southwest of the City of Konawa, Seminole County, Oklahoma, are endangered by rapid erosion and encroachment of the river toward the site of the water wells; and

"Whereas, the wells serve as the only source of water to the City of Konawa which has a population of approximately 1,750 people; and

"Whereas, recently, approximately 200 acres of tillable grazing land valued at approximately $500.00 per acre were eroded and the river is now within about 900 feet of the nearest water well; and

"Whereas, the City of Konawa would be without water if the bank erosion and encroachment of the river toward the site of the water wells continues; and

"Whereas, the United States Corps of Engineers is authorized under the provisions of Section 14, Public Law No. 526, 79th Congress, July 1946, as amended, to construct bank protection works.

"Now, therefore, be it resolved by the House of Representatives of the 2nd Session of the 41st Oklahoma Legislature:

"That the Oklahoma House of Representatives memorializes Congress to request the United States Corps of Engineers to construct emergency bank protection along the South Canadian River under the provisions of Section 14, Public Law No. 526, 79th Congress, July 1946, as amended, for the protection of the water supply for the City of Konawa, Seminole County, Oklahoma."

POM-466. A resolution adopted by the Senate of the Commonwealth of Pennsylvania; to the Committee on Finance:

"RESOLUTION

"Whereas, Prior to the enactment of the Budget Reconciliation Act of 1987 (Public Law 100-203), farmers were exempt from payment of the Federal excise tax of 15 cents per gallon on diesel fuel; and

"Whereas, The aforesaid act changed the point of collection of the Federal excise tax on diesel fuel from the retail to the wholesale level; and

"Whereas, The result of this change is that farmers, while still ultimately exempt, are required to pay the tax at the time of purchase and then file for refunds, which takes six months to receive; and

"Whereas, This process not only imposes a financial hardship on farmers, but requires them to endure a useless process of red tape; and

"Whereas, Several bills have been introduced in Congress, S. 2003, H.R. 3844, H.R. 3850 and H.R. 3665, which would return the point of collection of the tax on diesel fuel to the retail level, thereby restoring the basic exemption farmers previously enjoyed, therefore be it

"Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize the Congress of the United States to enact legislation which would change the point of collection of the Federal excise tax on diesel fuel to the retail level, and thereby exempt farmers from payment of the tax; and be it further

"Resolved, That copies of this resolution be transmitted to the presiding officer of each house of Congress and to each member of Congress from Pennsylvania."

POM-467. A joint resolution adopted by the Legislature of the State of West Virginia; to the Committee on the Judiciary:

"House Joint Resolution No. 6

"Whereas, The First Congress of the United States of America passed a Bill of Rights containing twelve constitutional amendments and sent these amendments to the states for ratification; and

"Whereas, Ten of these amendments have become part of the United States Constitution but one that has not yet been ratified and for which no deadline for ratification was imposed, reads as follows:

"'Article the second . . . No law, varying the compensation for the services of the Senators and Representatives, shall take effect, until an election of Representatives shall have intervened.'

"Therefore, be it

"Resolved by the Legislature of West Virginia:

"That the Legislature of the State of West Virginia hereby ratifies this proposed amendment to the Constitution of the United States; and be it

"Further resolved, That the Secretary of State of the State of West Virginia notify the Archivist of the United States, Washington, D.C., the President of the Senate of the United States and the Speaker of the House of Representatives of the United States of this action by forwarding to each of them a certified copy of this Joint Resolution adopted by the West Virginia Legislature."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Frederick M. Bernthal, of Tennessee, to be Assistant Secretary of State for Oceans and International Environment and Scientific Affairs;

George F. Murphy, Jr., of Maryland, to be Deputy Director of the United States Arms Control and Disarmament Agency;

George Arthur Trail III, of Pennsylvania, a Career Member of the Senior Foreign Services, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: George Arthur Trail, III.

Post: U.S. Ambassador to Malawi.

Contributions amount, date donee.

1. Self, none.

2. Spouse, none.

3. Children and Spouse: Regina Trail Madsen Will Madsen-None, Angela Trail Hall/Russell Hall-None, George A. Trail, IV/None, Amy Trail/None.

4. Parents Mother: Elizabeth A. Trail (deceased 2/78), Father: George A. Trail, Jr. (deceased 6/77).

5. Grandparents Grandfather: George A. Trail (deceased 1942), Grandmother: Florence Trail (deceased - date unknown).

6. Brother and Spouses: 1 Dr. David S. Frank, Jr., $25 in 1984/John Brademus, Wife: Maria-None. 2 E. Shannon Trail, $40 in 1986-REP Par, Wife: Julie-None. 3 Charles H. Trail-None. 4 John M. Trail-None.

7. Sisters and Spouses, Wife: Kay-None, Sister: Dierdre E. Pearson-None. Henry E. Pearson-None.

George Edward Moose, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Senegal.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: George Edward Moose.

Post: Dakar, Senegal.

Contributions Amount date, donee.

1. Self, none.

2. Spouse, none.

3. Children and Spouses names, N/A.

4. Parents: Names Ellen A. Moose, Small contributions totaling less than $200 over the past 4 years, to various candidates for local and national office, including Reps. Tim Wirth and Pat Schroeder, DNC, Denver Democratic Party.

5. Grandparents, names, deceased.

6. Brothers and spouses names, N/A.

7. Sisters and Spouses, names Adonica and Lowrence Walker-None

---

Rush Walker Taylor, Jr., of Texas, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the

United States of America to the Republic of Togo.

Contributions are to be reported for the period beginning on the first year of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Rush Walker Taylor, Jr.

Post: Ambassador, Togo. Nominated Nov. 9, 1987.

Contributions, amount, date, donee.

1. Self, Rush Taylor, Jr., none.
2. Spouse, Joanna B. Taylor, none.
3. Children names, Ann, Charlotte, Emily, none.
4. Parents, Rush Taylor, Sr., names (deceased), Hallie Taylor, none.
5. Grandparents (deceased), names Charles M. Taylor (dec), none, Jessie W. Taylor (deceased), none, John Nuckols (deceased), none. Gertrude Nuckols (deceased), none.
6. Brothers and Spouses: names Charles M. Taylor II, Norma Taylor, none.
7. Sisters and Spouses, name n/a.

M. Alan Woods, of the District of Columbia, to be a Member of the Board of Directos of the Inter-American Foundation for a term expiring September 20, 1992.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a list of nominations in the Foreign Service which was printed in the Congressional Record of April 12, 1988, and, to save the expense of reprinting on the Executive Calendar, I ask unanimous consent that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Randolph J. Agley, of Michigan, to be a Member of the Advisory Board of the Saint Lawrence Seaway Development Corporation;

Elaine L. Chao, of California, to be a Federal Maritime Commissioner for the remainder of the term expiring June 30, 1991; and

Donna F. Tuttle, of California, to be Deputy Secretary of Commerce.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL (for himself and Mr. Packwood):

S. 2323. A bill to amend the Federal Election Campaign Act of 1971 to prohibit direct contributions to candidates by multicandidate political committees, require full disclosure of attempts to influence Federal Elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of campaigns; to the Committee on Rules and Administration.

By Mr. BENTSEN:

S. 2324. A bill for the relief of Calvin L. Graham; to the Committee on the Judiciary.

By Mr. WALLOP:

S. 2325. A bill to amend the Mineral Lands Act of 1920 to improve the administration of the Federal Coal Management Program, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCAIN:

S. 2326. A bill to enhance the Federal Trade Commission's ability to prevent consumer fraud; to the Committee on Commerce, Science, and Transportation.

By Mr. SHELBY:

S.J. Res. 303. Joint resolution to designate the month of October 1988 as "National Lupus Awareness Month"; to the Committee on the Judiciary.

By Mr. LAUTENBERG:

S.J. Res. 304. Joint resolution designating July 2, 1988, as "National Literacy Day"; to the Committee on the Judiciary.

By Mr. ADAMS:

S.J. Res. 305. Joint resolution providing specific authorization under the War Powers Resolution for the continued use of U.S. Armed Forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States; to the Committee on Foreign Relations pursuant to Public Law 93-148.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BYRD (for himself, Mr. Dole, Mr. Cranston, and Mr. Simpson):

S. Res. 420. Resolution commending G. Russell Walker on the occasion of his retirement; considered and agreed to.

By Mr. CRANSTON (for himself, Mr. Simon, Mr. Kerry, Mr. Adams, Mr. Weicker, Mr. Harkin, Mr. Lautenberg, Mr. Bradley, Mr. Matsunaga, and Mr. Bingaman):

S. Res. 421. Resolution expressing the sense of the Senate that W. Clark Durant, III, Chairman of the Board of Directors of the Legal Services Corporation, be reprimanded and should resign; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL (for himself and Mr. Packwood):

S. 2323. A bill to amend the Federal Election Campaign Act of 1971 to prohibit direct contributions to candidates by multicandidate political committees, require full disclosure of attempts to influence Federal elections through "soft money" and independent expenditures, and correct inequities resulting from personal financing of campaigns; referred to the Committee on Rules.

FEDERAL CAMPAIGN REFORM ACT

● Mr. PACKWOOD. Mr. President, today, Senator McConnell and I are introducing legislation to reform our campaign finance laws. We have had extended debate on this issue in this Congress, and it is apparent our desire for reform is sincere. The question is how best to go about it. In my view, the goal of any campaign finance reform legislation should be first, to discourage the disproportionate influence of special interests over the financing of elections; and second; to encourage as many people as possible to contribute small amounts of money directly to campaigns.

How do we wish to achieve these goals? I submit that these goals can be achieved without the public financing and spending limits contained in other reform legislation before this body. Public financing and spending limits only serve to discourage voter participation. Instead, we can lower the allowable amount on PAC contributions, or eliminate them outright as we've done in this measure being introduced today. This will address the problem of special interest influence. Although not contained in this legislation, my own personal preference, in addition to eliminating PAC's, would be to lower the individual contribution limit to $100. Unfortunately, this approach has not met with much support in Congress. If one were to lower the individual contribution limit, the effect would be to encourage money being raised on a broad base from many, many donors. In my own race for the Senate, 82 percent of my contributions were small contributions from individuals.

If we eliminate PAC contributions and lower the individual contribution limits, the overall effect will be to bring down spending without resorting to public financing of campaigns and without discouraging voter participation.

Other necessary components of campaign finance reform legislation should be full reporting and disclosure of soft money contributions and independent expenditures, a prohibition on bundling, and closing the millionaire's loophole. These are all a part of the measure being introduced today. It is my hope that we can begin in earnest to undertake these very needed reforms in our campaign finance laws.

Mr. President, I ask unanimous consent that a summary of our bill, as well as the text of the bill itself, be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 2323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Federal Campaign Reform Act of 1988".

LIMITATIONS ON CONTRIBUTIONS BY MULTICANDIDATE POLITICAL COMMITTEES

SEC. 2. (a) Section 315(a)(2)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a (a)(2)(A)) is amended to read as follows:

"(A) to any candidate and his authorized political committees with respect to any election for Federal office;".

(b) Section 315(a)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)) is amended by—

(1) striking out "in any calendar year which, in the aggregate, exceed $15,000" in subparagraph (B) and inserting in lieu thereof "with respect to any election for Federal office"; and

(2) striking out "in any calendar year which, in the aggregate, exceed $5,000" in subparagraph (C), and inserting in lieu thereof ", with respect to any election for Federal office".

RANDOM AUDITS OF SEPARATE SEGREGATED FUNDS AND NONPARTY MULTICANDIDATE POLITICAL COMMITTEES

SEC. 3. Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438), is amended—

(1) in the first sentence by striking out "(b) The Commission" and inserting in lieu thereof "(b)(1) The Commission"; and

(2) by adding at the end the following:

"(2)(A) In addition to the audits authorized under paragraph (1), the Commission shall conduct random audits of separate segregated funds and nonparty multicandidate political committees.

"(B) As used in this paragraph—

"(i) the term 'separate segregated fund' means a fund referred to in section 316(b)(2)(C); and

"(ii) the term 'nonparty multicandidate political committee' means a multicandidate political committee as defined in section 315(a)(4), except that such term does not include a multicandidate political committee of a political party.".

REQUIREMENT FOR REPORTING CERTAIN EXEMPT CONTRIBUTIONS AND EXPENDITURES

SEC. 4. (a) Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d)(1) When used in this subsection—

"(A) the term 'election' means—

"(i) in the case of a corporation or labor organization, an election (as defined in section 301(1)) with respect to which such corporation or labor organization is prohibited from making a contribution or expenditure under section 316; and

"(ii) in the case of a national committee of a political party, an election (as defined in section 301(1)) for any Federal office;

"(B) the term 'otherwise exempt activity' means any act of furnishing, arranging to be furnished, or otherwise making available any services, payment, or other benefit described in paragraph (A) or (B) of section 316(b)(2) (2 U.S.C. 441b(b)(2));

"(C) the terms 'corporation' and 'labor organization' have the same meanings as in section 316 (2 U.S.C. 441b).

"(2)(A) At the times prescribed in paragraph (4), a corporation shall file a report with the Commission under this subsection if, during the period for which the report is filed, such corporation has engaged in any otherwise exempt activity in connection with an election.

"(B) At the times prescribed in paragraph (4), a labor organization shall file a report with the Commission under this subsection if, during the period for which the report is filed, such labor organization has engaged in any otherwise exempt activity in connection with an election.

"(C) At the times prescribed in paragraph (4), each national committee of a political party shall file a report with the Commission under this subsection containing a declaration of whether, during the period for which the report is filed, such committee has engaged in any otherwise exempt activity in connection with an election. For purposes of this subparagraph, the term 'otherwise exempt activity' refers to an activity described in paragraph (8)(B) or (9)(B) of section 301 (2 U.S.C. 431 (8)(B) or (9)(B)).

"(3) Each person required to file a report under this subsection shall include in such report—

"(A) a description of each exempt activity engaged in, in connection with an election, by such person during the period covered by the report; and

"(B) the amount of each payment and the cost and fair market value of each of the services and other benefits described in the report in accordance with clause (A).

"(4) The reports under this subsection shall be filed at each of the times prescribed in subsection (a)(4)(A) for reports of political committees other than authorized committees of a candidate.

"(5)(A) Any nonprofit corporation, receiving reduced postal rates because of its status as a nonprofit corporation, which uses the mails to engage in any activity described in paragraph (1)(B) during the period 90 days immediately prior to a general or special election shall be subject to a fine as provided in subparagraph (B).

"(B) The Commission, upon receiving a complaint under subparagraph (A), or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, by an affirmative vote of 4 of its members, may institute a civil action, including an order for a civil penalty which is an amount equal to the postage rate for first class mail for all of the mail relating to activities described in paragraph (1)(B), which is mailed during such 90-day period.

"(e)(1) Any independent expenditures (including those described in subsection (b)(6)(B)(iii)), by any person with regard to an election which may directly result in the election of a person to the office of United States Senator, which in the aggregate total more than $10,000 shall be reported by such person to the Commission within 24 hours after such independent expenditures are made. Thereafter, any independent expenditures by such person in the same election aggregating more than $5,000 shall be reported by such person to the Commission within 24 hours after such independent expenditures are made.

"(2) Such statements shall be filed with the Commission, Secretary of State for the State of the election involved and with the principal campaign committee of each candidate in the general election, and shall contain the information required by subsection (b)(6)(B)(iii) of this section and a statement filed under penalty of perjury by the person making the independent expenditures indicating whom the independent expenditures are actually intended to help elect or defeat. The Commission shall notify any candidate in the election involved about each such report within 24 hours after such report is made.

"(3) Notwithstanding the reporting requirements established in this paragraph, the Commission may make its own determination that a person has made independent expenditures with regard to an election which may directly result in the election of a person to the office of United States Senator that in the aggregate total more than $10,000, and thereafter that in the aggregate total more than $5,000.

"(4) The Commission shall notify each candidate in the election involved about each such determination within 24 hours after such determination is made.".

(b) Section 316 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c) Any activity exempt under paragraph (A) or (B) of subsection (b)(2) shall be subject to the reporting requirements of section 304(d).".

DISCLOSURE OF INDEPENDENT EXPENDITURES

SEC. 5. (a) Section 318(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended by deleting the period at the end thereof and inserting in lieu thereof the following: ", except that whenever any person makes an independent expenditure through (A) a broadcast communication on any radio or television station, the broadcast communication shall include a statement—

"(i) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(ii) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and in the case of a political committee, the name of any connected or affiliated organization, or (B) a newspaper, magazine, outdoor advertising facility, direct mailing or other type of general public political advertising, the communication shall include, in addition to the other information required by this subsection, the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.', and a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization and the name of the president or treasurer of such organization.

"(4) The person making an independent expenditure described in paragraph (3) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission (e.g. first aired, mailed, published, or displayed):

"(A) effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate;

"(B) an exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication;

"(C) all approximate dates and times when such communication will be publicly transmitted; and

"(D) each specific location, media channel, and publication through which the communication will be publicly transmitted.".

INDEPENDENT EXPENDITURES

SEC. 6. (a) Section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) is amended by adding the following: "An expenditure shall constitute an expenditure in coordination, consultation, or concert with a candidate and shall not constitute an 'independent expenditure' where—

"(A) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person (including any officer, director, employee or agent of such person) making the expenditure;

"(B) in the same election cycle, the person making the expenditure (including any officer, director, employee or agent of such person) is or has been—

"(i) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees,

"(ii) serving as an officer of the candidate's authorized committees, or

"(iii) receiving any form of compensation or reimbursement from the candidate, the candidate's authorized committees, or the candidate's agent;

"(C) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated with, advised, or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(D) the person making the expenditure retains the professional services of any individual or other person also providing those services to the candidate in connection with the candidate's pursuit of nomination for election, or election to Federal office, in the same election cycle, including any services relating to the candidate's decision to seek Federal office;

"(E) the person making the expenditure (including any officer, director, employee or agent of such person) has communicated or consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's pursuit of election to Federal office, with: (i) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; or (ii) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsection (a), (d), or (h) of section 315 in connection with the candidate's campaign; and

"(F) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.".

LIMITATION ON CANDIDATE EXPENDITURES FROM PERSONAL FUNDS

SEC. 7. (a) Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end thereof the following:

"(i)(1)(A) Within 15 days after a candidate qualifies for the primary election ballot, under applicable State law, such candidate shall file with the Commission and each other candidate who has qualified for such ballot, a declaration stating whether or not such candidate intends to expend funds and incur personal loans for the primary and general election a total amount, in the aggregate of $250,000 or more from the following sources: (i) his personal funds, (ii) the funds of his immediate family, and (iii) personal loans incurred in connection with his campaign for such office.

"(B) For purposes of this subsection, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, sister, half-brother, or half-sister of the candidate, and the spouse of any such person and any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate's spouse, and the spouse of any such person.

"(C) The statement required by this subsection shall be in such form, and contain such information, as the Commission may, by regulation, require.

"(2) Notwithstanding any other provision of law, in any election in which a candidate declares that he intends to expend or incur, in the aggregate, $250,000 or more by expending from personal funds and funds of his immediate family and incurring personal loans for his campaign, or does expend funds and incur loans in a total in excess of such amount, or fails to file the declarations required by this subsection, the limitations on contributions in subsection (a) of this section, as they apply to all other individuals running for such office, shall be increased for such election as follows:

"(A) The limitations provided in subsection (a)(1)(A) shall be increased to $10,000, and

"(B) The limitations provided in subsection (a)(3) shall be increased to an amount equal to 150 percent of such limitation, but only to the extent that contributions above such limitation are made to candidates affected by the increased level provided in subparagraph (A).

"(3) If the limitations in this section are increased pursuant to paragraph (2) for a convention or a primary election as they relate to an individual candidate, and if such individual candidate is not a candidate in any subsequent election in such campaign, including the general election, the provisions of subparagraph (A) of paragraph (2) shall cease to apply.

"(4) Any candidate who—

"(A) declares, pursuant to paragraph (1) that he does not intend to expend and incur, by expending from his personal funds and the funds of his immediate family and incurring personal loans in connection with his campaign an amount which in the aggregate totals $250,000 or more; and

"(B) subsequently does spend funds or incur loans in excess of such amount, or intends to spend funds or incur loans in excess of such amount,

shall notify and file an amended declaration with the Commission and shall notify all other candidates for such office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending such notice by certified mail, return receipt requested.

"(5) Any candidate who makes expenditures from his personal funds or the personal funds of his immediate family, or incurs personal loans in connection with his campaign for election to office may repay such loan for such expenditures, to himself or to his immediate family, from contributions made to such candidate or any authorized committee of such candidate, except that such loan shall be repaid only to the extent of the actual amount of the loan. Notwithstanding any other provision of law, repayment of any such loan shall not include any interest on the principle amount of such loan.

"(6) Notwithstanding any other provision of law, no candidate may make expenditures from his personal funds or the personal funds of his immediate family, or incur personal loans in connection with his campaign for election to such office at any time after 60 days before the date of such election. The provisions of this paragraph shall apply to all candidates regardless of whether such candidate has reached the limits provided in this subsection.

"(7) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to assure compliance with the provisions of this subsection.

"(j) Notwithstanding any other provision of this Act, no candidate who, in connection with his campaign for election to Federal office, makes expenditures from his personal funds or the personal funds of his immediate family to his campaign committee, or makes a loan from such funds to such committee, shall use any other contributions which are made by any other person, after the election, to such candidate or the principle campaign committee of such candidate to repay any such expenditure or loan.

"(k) For purposes of this section, 'immediate family' means a candidate's spouse, and any child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate, and the spouse of any such person and any child, step-child, parent, grandparent, brother, half-brother, sister or half-sister of the candidate's spouse, and any spouse of any such person.".

(b) Section 313 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439a) is amended by inserting before the period the following: ", and except that no candidate for the office of President or Vice President may use any contributions in a manner prohibited by section 315(j)".

INTERMEDIARY OR CONDUIT

SEC. 8. (a) Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For purposes of this subsection—

"(A) contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate; and

"(B) contributions made by a person either directly or indirectly, to or on behalf of a particular candidate, through an intermediary or conduit, including all contributions delivered or arranged to be delivered by such intermediary or conduit, shall also be treated as contributions from the intermediary or conduit, if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or "(ii) the conduit or intermediary is (I) a political committee, other than an authorized committee of a candidate, within the meaning of section 301(4), or an officer, employee or other agent of such a political committee or candidate, or (II) an officer, employee or other agent of a connected organization, within the meaning of section 301(7), acting in its behalf.

In all cases where contributions are made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.".

(b) Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following:

"(9) When any person, political committee, or national committee of a political party—

"(A) solicits or accepts contributions in the form of check or money order from any source, and

"(B) combines the amount of any such contributions and contributes such combined amount (or any portion of any such amount or contribution) to a candidate for Federal office, or to the authorized agent or authorized political committee of such candidate,

then all such solicited or accepted contributions made through a check or money order shall be made payable to a specific payee by the original drawer of the check or money order.".

SEMIANNUAL REPORTS BY PARTY POLITICAL COMMITTEES OF PAYMENTS UNDER SECTION 301(8)(B)(XV) AND COSTS UNDER SECTION 301(9)(B)(XI)

SEC. 9. Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end thereof the following:

"(11) if the committee is a political committee of a political party, with respect to payments under section 301(8)(B)(xv) and costs under section 301(9)(B)(xi) the treasurer shall file—

"(A) a report covering the period beginning January 1 and ending June 30, which shall be filed no later than July 31; and

"(B) a report covering the period beginning July 1 and ending December 31, which shall be filed no later than January 31 of the following calendar year.".

SOFT MONEY REPORTING REQUIREMENTS FOR NATIONAL COMMITTEES OF POLITICAL PARTIES

SEC. 10. (a) Section 304(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)) is amended—

(1) in subparagraph (J), by striking out "and" after the semicolon;

(2) in subparagraph (K), by inserting "and" after the semicolon; and

(3) by adding at the end the following:

"(L) for a national committee of a political party, all funds received, from any source, for purposes other than to influence a Federal election;".

(b) Section 304(b)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)) is amended—

(1) in subparagraph (F), by inserting "and" after the semicolon;

(2) in subparagraph (G), by inserting "and" after the semicolon; and

(3) by adding at the end the following:

"(H) for a national committee of a political party, person, or organization providing funds to the committee for purposes other than to influence a Federal election;".

(c) Section 304(b)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(4)) is amended—

(1) in subparagraph (H), by striking out "and" after the semicolon at the end thereof;

(2) in subparagraph (I), by inserting "and" after the semicolon; and

(3) by adding at the end the following new subparagraph:

"(J) for a national committee of a political party, all disbursements from funds received for a purpose other than to influence a Federal election;".

AUDIT PROCEDURES

SEC. 11. Section 311(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(b)) is amended by adding at the end of paragraph (1), as amended by section 3 of this Act, the following: "Audits under this subsection shall be conducted in accordance with procedures published by the Commission. Before any vote relating to any audit findings, the Commission shall give the political committee involved an opportunity to respond in writing to any information relating to the prospective audit furnished to the Commission by the general counsel or any other member of the staff of the Commission.".

COMMISSION ON CAMPAIGN FINANCING

SEC. 12. (a) It is the sense of the Congress that there should be established a bipartisan commission on campaign financing to develop a means of campaign financing which—

(1) promotes the availability of qualified candidates for congressional office,

(2) permits candidates, irrespective of their personal financial resources, the opportunity to communicate effectively with the electorate,

(3) protects the integrity of the legislative process, and

(4) promotes participation of political parties, including State and local political parties, in the electoral process, and

(5) promotes, to the greatest extent possible, public confidence in both the electoral and legislative processes.

(b) Such Commission should consider and study the Federal laws and regulations and public commentary relating to the financing of the elections of Members of Congress, the financial disclosure requirements made of candidates in such elections, and the effects of such laws and regulations and the practices which they permit or require. Such study and consideration should give particular attention to the extent, if any, to which current and proposed campaign financing practices and financial disclosure requirements affect the availability of candidates for congressional elections, and to the extent, if any, to which such practices and requirements affect the integrity of the legislative process or undermine public confidence in our representative form of Government.

SEVERABILITY

SEC. 13. If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

EFFECTIVE DATE

SEC. 14. This Act and the amendments made by this Act shall become effective on the date of enactment and shall apply to all contributions and expenditures made after such date.

SUMMARY

PROHIBITION AGAINST PAC CONTRIBUTIONS

Drops the limit on PAC contributions to candidates and political parties to zero, leaving the individual contribution limit unchanged at $1,000.

Requires random audits of PACs by the FEC.

FULL DISCLOSURE OF "SOFT MONEY" CONTRIBUTIONS

Requires corporations, PACs, labor organizations, and nonprofit groups to report any attempt to influence a Federal election through "soft money" activities, including expenditures, services and overhead costs related to in-house communications, informational mailings and voter drives.

Nonprofit groups using mailings to influence an election, in the last 90 days before an election, would have to pay a fine equivalent to the first class rate, not the subsidized rate.

CONTROLLING INDEPENDENT EXPENDITURES

Requires:

that any independently financed political advertisement disclose the person or organization financing the ad, and that such disclosure be complete, conspicuous, and continuous

notice to all candidates of the content and placement of any independent financed public communication.

reports to candidates and FEC of independent expenditures totaling more than $10,000, and for each additional $5,000, and

stricter definition of "independent expenditure", stopping consultation or coordination with a candidate or his agents.

STRENGTHENING DISCLOSURE OF PARTY FINANCES

Requires disclosure by national political party committees and candidate "draft" committees, of all receipts, independent expenditures, and soft money activities.

CONSTRICTING THE "MILLIONAIRE'S LOOPHOLE"

Raises the individual contribution limit to $10,000 from $1,000 for opponents of a candidate who declares an intention to spend or loan over $250,000 in personal funds on his campaign.

Prohibits candidates from recovering personal funds or loans put into the campaign from contributions made after the election.

ANTI-BUNDLING PROVISION

Counts bundled contributions against both the bundler and original donor (tightens bundling measure contained in S. 2).●

By Mr. BENTSEN:

S. 2324. A bill for the relief of Calvin L. Graham; to the Committee on the Judiciary.

RELIEF OF CALVIN L. GRAHAM

● Mr. BENTSEN. Mr. President, today I am introducing legislation on behalf of Calvin L. Graham of Fort Worth, who served in the U.S. Navy during World War II. Mr. Graham, however, enlisted in the Navy at the age of 12. Apparently, the young Mr. Graham was very eager to serve in the war, and the Navy did not realize his tender age.

While defending his country in the Battle of Guadalcanal, the young Calvin Graham incurred dental injuries requiring medical treatment. But due to his young age at that time, he was not and is not to this day considered eligible for service-connected veterans benefits. Thus, Mr. Graham has had to struggle with the hardships of his war injuries without the assistance that is normally granted to other veterans of World War II.

According to Navy records, Mr. Graham enlisted on August 16, 1942, and went through recruit training in San Diego. He then went to sea and soon fought in the Battle of Santa Cruz and the Battle of Guadalcanal aboard the USS *South Dakota*. However, upon reporting to the Naval Air Station in Corpus Christi, TX, the Navy discovered that he was under age and canceled his enlistment on April 5, 1943.

For the next 33 years, Mr. Graham was not even granted an honorable discharge for the valiant service for which he had been decorated. Finally, in September 1976, after I introduced private legislation on his behalf, the Department of the Navy granted Mr. Graham an honorable discharge.

However, Mr. Graham still has not seen any of the medical benefits that he clearly deserves for his service in the U.S. military. I was moved by the plight of this brave American because I feel that Mr. Graham has a right to benefits equal to those enjoyed by all American seamen who served in the war. I also served in that war, and I believe that Mr. Graham's courage and sacrifices while defending our country cannot be discounted or ignored simply because of his youth.

Now, Mr. President, under the bill I am introducing today, Mr. Graham would be considered to have served on active duty in the Navy during World War II. He would then be eligible for service-connected disability benefits related to the dental injuries he sustained at that time, and he would be reimbursed by the Veterans' Administration for the costs he incurred for medical treatment of these injuries.

I believe it is high time that this man fully join the distinguished ranks of World War II veterans, both in recognition and in benefits. I urge my colleagues to support the passage of this bill.●

By Mr. WALLOP:

S. 2325. A bill to amend the Mineral Lands Leasing Act of 1920 to improve the administration of the Federal Coal Management Program, and for other purposes; to the Committee on Energy and Natural Resources.

FEDERAL COAL AMENDMENTS ACT

● Mr. WALLOP. Mr. President, today I am introducing a bill, the Federal Coal Amendments Act of 1988, to correct some ambiguities and some longstanding problems with the laws relating to the Federal Government's Coal Leasing Program.

Mr. President, coal is a critical energy resource of my State. Wyoming coal was first used by the Army to heat winter quarters and in stageline forges in the mid-1800's. The Union Pacific Railroad began looking for coal along its line in Wyoming in 1867, and the first coal mined by the railroad was a meager 650 tons in 1868. Forty years later, after the first production, coal mining was the leading industry in Wyoming with a production of over 6 million tons. In 1986, coal accounted for about 18.6 percent of the $5.67 billion total assessed valuation of Wyoming, and about 31 percent of the total $3.58 billion assessed valuation of minerals in Wyoming.

We are this Nation's second largest coal producer with 6 of the top 10 coal-producing mines located in the Powder River Basin. Eighty-five percent of the 136 million tons of coal mined in Wyoming in 1986 was used in 25 States, and the overwhelming majority of that coal comes from Federal leases in the Powder River Basin.

While figures for 1987 are not yet complete, it does look as though Wyoming coal production could show substantial gains over 1986 by amounting to between 140 and 144 million tons. Mr. President, I remain very interested in ensuring that Wyoming remains a reliable coal supplier. And, while Wyoming may be blessed with an abundance of natural resources, many of our resources are under the jurisdiction of the Federal Government because they are on public lands. I have pursued a resolution to both the so-called section 3 and section 7 problems dealing with the Federal Coal Leasing Program and did introduce legislation in both the 98th and the 99th Congresses.

I have worked very closely with the administration on the bill I am introducing today which deals with problems pertaining to section 7, or what is known as the diligence provision, as well as other portions of the Mineral Lands Leasing Act, as amended and supplemented, and the Federal Coal Leasing Amendments Act of 1976, as amended.

While this legislation does not repeal section 3 of the Federal Coal Leasing Act Amendments of 1976, as have the other coal leasing bills I have introduced, I am still extremely concerned about this provision. This section prohibits the Secretary of the Interior from issuing future Federal leases authorized under the Mineral Leasing Act of 1920 to a company which holds or has held a Federal coal lease for a period of 10 years and is not "producing coal * * * in commercial quantities."

There are still some 35 or more companies and corporate affiliates that will be stung by section 3 in the next several years, some within the next 2 years. This is an overly punitive provision, especially for those companies who have made substantial investments in the leases, but because of low oil prices, or other uncontrollable factors have not been able to secure contracts for their coal. I have believed, and still do, that section 3 should be eliminated altogether, and will continue working on this problem to do what I can to correct it.

Mr. President, the bill I am introducing today would make several changes in the Federal Coal Leasing Program. It provides that a coal lease be for 20 years, and then so long thereafter as the diligent development and the continued operations requirements of section 7(b) of the Mineral Leasing Act, as amended, are met. It deletes the requirement in section 7 of the present law that a lease not producing in commercial qauntities at the end of 10 years in terminated, and it replaces the diligence provisions with a system of optional payments in lieu of lessee disqualification and lease termination. This is similar to the existing provision for payment in lieu of continued operation, and it is consistent with a recommendation of the Linowes Commission on Fair Market Value Policy for Federal Coal Leasing.

Along with these changes, the bill sets out the advance royalty that would be required in lieu of the conditions of diligent development and continued operation in existing law. This advance royalty would always be paid after the 15th year, regardless of production, except for mined-out leases which are being reclaimed. It also defines the recoupability of advance royalties paid against royalties on production.

Mr. President, this bill also contains no limit on the number of years that a lessee could make minimum advance royalty payments in lieu of production, but it does limit recoupment from the production royalty to the 10-year period following any payment of advance royalty. This, Mr. President, is intended to prevent the sort of artificial time constraint and subsequent problems that the current provisions of section 7 have caused. In all probability, with the royalty based on 0.3 percent of recoverable reserves as this bill does, the Department of the Interior expects that it would be highly unlikely that a lessee would make payments for as long as 10 years because the lessee would no longer be in an acceptable profit position. Some producers have expressed concerns relating to the 10-year cap, so the verdict may still be out on this one.

There is no reason why a lessee should submit any plan prior to the time it is prepared to mine coal—requiring premature submission is not diligence; it is wasteful and redundant. As a result this legislation removes the requirement for submitting an operations and reclamation plan within 3 years.

This legislation also eliminates the requirement that all lands in a logical mining unit should be contiguous. The contiguity requirement ignores the geological, geographical, and engineering realities of coal deposits and is inconsistent with the purpose of logical mining unit planning—that the lands will be mined as a single unit by a single operator.

Another change the measure makes is to delete the requirement that all reserves in the entire logical mining unit be mined out within 40 years. The incentive to form a logical mining unit is seriously compromised by the present requirement. A lessee contemplating forming a logical mining unit faces the problem that a 40-year mine out may limit the size of the unit or require an unreasonable production rate which would be inconsistent with the most efficient mining practice. The current provision not only negatively affects public revenues, but it creates an artificiality in the definition of a logical mining unit which is inconsistent with the notion that a logical mining unit should be an administrative determination, for diligence purposes, of a reasonable mining plan.

The bill adds a new clarifying section which would exclude leases issued since August 4, 1976, from the lessee qualification provision of section 2(a)(2)(A). The purpose of this new provision is to avoid the inconsistent result of a lessee who is in compliance with the 15-year production period of section 7(b)(1) being prohibited from obtaining new mineral leases by virtue of the 10-year production obligation in section 2(a)(2)(A). Although the language in section 2(a)(2)(A) "except as provided in section 7(b)" clearly exempts lessees paying advance royalty under section 7(b)(1), the new section clarifies this as well.

Mr. President, the current law provides that no logical mining unit can be approved by the Secretary of the Interior if the total acreage, both Federal and non-Federal, of the unit would exceed 25,000 acres. Here again, when a lessee is contemplating the formation of a logical mining unit, he may have no alternative but to limit the size of the unit because of the acreage limitation. This legislation amends section 2 of the Mineral Leasing Act to make the acreage limitation contained in section 2(d)(7) apply to Federal lands only which would have a positive impact on the formation of logical mining units.

Also, this bill amends section 3 of the Mineral Leasing Act to allow a lease modification or to increase the limitation on acreage added under this section from 160 acres to 320 acres and to make the terms and conditions of the modified lease the same as the terms and conditions of the original lease. Mr. President, this is necessary to eliminate the bypass of unleased Federal coal adjacent to ongoing mining operations. Many lessees are not applying for modifications because it changes the terms and conditions of their leases. In some instances that tract size exceeds 160 acres. The amendment also restates the modification as an action of the Secretary and gives him the authority to direct a modification. Section 201 of the bill would resolve the problem of bypassing unleased Federal coal adjacent to ongoing mining operations.

Finally, this measure requires the Secretary of the Interior to approve changes in terms and conditions of any leases issued or readjusted after August 4, 1976, to make them consistent with this bill. The 15-year diligent development period would commence on the date the lease was issued, readjusted, or otherwise made subject to the Federal Coal Leasing Amendments Act of 1976, not on the date the changes are approved. Also, the Secretary would be required to approve changes in the terms and conditions of logical mining units existing on the date of enactment of this bill to make them consistent with the legislation.

While time remaining in the session is quickly passing, I would hope that the Energy Committee would still consider resolving these longstanding problems before we adjourn in October.

Mr. President, while I realize the bill may not be the perfect remedy to the section 7 issue, and may not address all the concerns expressed by coal producers, it is a good beginning. The legislation does contain some other provisions which I will not detail, but would ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

SEC. 101. (a) Section 7(a) of the Mineral Leasing Act (30 U.S.C. 207(a)) is amended by deleting the second sentence thereof and amending the first sentence to read:

"A coal lease shall be for a term of 20 years and for so long thereafter as the conditions of subsection (b) of this section are met.

(b) Sec. 7(b) of the Mineral Leasing Act (30 U.S.C. 207(b)) is amended to read as follows:

"(b)(1) At the end of 15 years, a lease shall automatically terminate by operation of law unless the lessee makes an annual payment of an advance royalty equivalent to the royalty which would be assessed on assumed annual production of 0.3 per centum of total recoverable reserves as defined by the Secretary. Such payment must be made each year after the 15th year, regardless of whether coal is produced, until the Secretary determines that all recoverable reserves in such lease have been mined out: *Provided, however,* That if less than 0.3 per centum of total recoverable reserves remain in the lease, then no more advance royalty payments are required. The requirement to pay an advance royalty may not be offset by any other payment.

"(2) The amount of any production royalty paid for any year shall be reduced (but not below zero) by the amount of any advance royalty paid under such lease during the previous 10 years to the extent that such advance royalties have not been used to reduce royalties paid on production for a prior year.

(c) Section 7(c) of the Mineral Leasing Act (30 U.S.C. 207(c)) is amended to read as follows:

"(c) Prior to taking any action on a leasehold which might cause a significant disturbance of the environment, the lessee shall submit for the Secretary's approval a mining operations plan. The Secretary may approve or disapprove the plan or require that it be modified. Where the land involved is under the surface jurisdiction of another Federal agency, that other agency must consent to the terms of such approval.

(d) Section 7 of the Mineral Leasing Act (30 U.S.C. 207) is amended by adding the following subsection (d):

"(d) The provision of section 2(a)(2)(A) of this Act shall not apply to:

(i) any lease for which advance royalty payments are made under subsection (b)(1) of this section; and

(ii) leases which are issued after the date of enactment of the Federal Coal Leasing Amendments Act of 1976."

SEC. 102. (a) section 2(d)(1) of the Mineral Leasing Act (30 U.S.C. 202a(1)) is amended by deleting at the end thereof the phrase: "and be contiguous".

(b) Section 2(d)(2) of the Mineral Leasing Act (30 U.S.C. 202a(2)) is amended by inserting the word "operations" after the word "mining" and before the word "plan" where the term "mining plan" appears and by deleting at the end thereof the phrase: "which shall not be more than forty years".

(c) Section 2(d)(7) of the Mineral Leasing Act (30 U.S.C. 202a(7)) is amended by deleting the phrase: "the total acreage (both Federal and non-Federal)" and inserting in lieu thereof the phrase: "the total Federal acreage."

TITLE II

SEC. 201. Section 3 of the Mineral Leasing Act (30 U.S.C. 203) is amended to read as follows:

"SEC. 3. The Secretary of the Interior, upon his finding that it would be in the interest of the United States, may approve or direct all record title holders of a coal lease to modify a coal lease issued under this Act by including additional coal lands or coal deposits contiguous or cornering to those embraced in the original lease. In no event shall the total area added by such modifications to an original coal lease exceed three hundred and twenty acres, or add acreage larger than that in the original lease. The terms and conditions of the modified lease shall be the same as the terms and conditions or the original lease. The modified lease shall be subject to readjustment at the time set out in the original lease. The Secretary shall ensure the United States shall receive the fair market value of the coal contained in the lease for the added lands.".

TITLE III

SEC. 301. (a) Upon receipt of an application therefor in the form specified by the Secretary of the Interior and signed by all record title holders, the Secretary shall approve in writing changes in the terms and conditions of any coal lease issued or readjusted after August 4, 1976, or otherwise made subject to Section 6 of the Federal Coal Leasing Amendments Act subject to Section 6 of the Federal Coal Leasing Amendments Act of 1976 to make them consistent with this Act. When the terms and conditions of a lease are changed under this subsection, the 15-year period prior to the beginning of advance royalty payments shall commence on the date the lease was issued, readjusted or otherwise made subject to the Federal Coal Leasing Amendments Act of 1976.

(b) Upon receipt of an application therefor in a form specified by the Secretary of the Interior and signed by all unit participants, the Secretary shall approve in writing changes in the terms and conditions of any logical mining unit existing on the date of enactment of this Act to make them consistent with this Act.

(c) Applications under this section for conformity with this Act shall be filed within two years of the date of enactment of this Act.●

By Mr. SHELBY:

S.J. Res. 303. Joint resolution to designate the month of October 1988 as "National Lupus Awareness Month"; to the Committee on the Judiciary.

NATIONAL LUPUS AWARENESS MONTH

● Mr. SHELBY. Mr. President, I rise today to introduce a joint resolution marking October 1988 as "National Lupus Awareness Month." Over 500,000 Americans suffer from lupus erythematosus. This disease is more prevalent than leukemia, muscular dystrophy, cerebral palsy, multiple sclerosis, and cystic fibrosis. However, few people are aware of the debilitating effect lupus tolls on its victims.

Lupus is a mysterious disease of unknown cause. It is often difficult to diagnose, and has even been labeled the "great impersonator" because it can mimic so many other diseases. Lupus does not discriminate—this disorder may occur in all segments of the population. However, the disease strikes women, usually in their childbearing years, 5 to 10 times more frequently than men.

Lupus is a disorder of the body's immune system, and may affect the joints, skin, and almost any other vital organ such as the lungs, heart, kidneys, and brain. Normally, an individual's immune system produces antibodies which react with foreign substances, thereby providing protection from infection. However, in autoimmune diseases such as Lupus, the immune system produces antibodies which act against the individual's own normal tissue. While lupus is normally controllable, it can prove fatal in some instances.

Although lupus strikes many Americans, the cause of the disease is unknown, and there is no cure. Fortunately, however, reseachers are making great strides in developing a greater understanding of this disease. Thirty years ago, patients with lupus had little hope of living more than a few years. Today, thanks to biomedical research, earlier diagnoses and more effective treatments are improving the prognosis for victims stricken with this terrible disease. Consequently, lupus victims are living longer and more productive lives.

Mr. President, I am introducing this joint resolution to ensure that the commitment being made to uncover the cause and cure for lupus is continued. Heightened awareness of this disease is essential to this effort.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 303

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Whereas Lupus Erythematosus is a disease which affects over five hundred thousand Americans, mostly women in their child-bearing years;

Whereas Lupus is an immune system disorder of unknown cause which affects the joints, skin, and almost any vital organ;

Whereas although Lupus can be controlled reasonably well in most people, it can be fatel in some instances; and

Whereas the commitment to research and educational efforts to develop a greater understanding about Lupus should be continued: Now, therefore be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October, 1988 is designated as "National Lupus Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.●

By Mr. LAUTENBERG:

S.J. Res. 304. Joint resolution designating July 2, 1988, as "National Literacy Day" to the Committee on the Judiciary.

NATIONAL LITERACY DAY

● Mr. LAUTENBERG. Mr. President, I am pleased to introduce a joint resolution to designate July 2, 1988, as National Literacy Day. This is the third year in a row that I am joining my colleague in the House of Representatives, JAMES FLORIO, in introducing this joint resolution. It is vital to call attention to the problem of illiteracy, to help others understand the severity of this problem and its detrimental effects on our society, and to reach those who are unaware of the service and help available for illiterate people.

In the book "Illiterate America" by Jonathan Kozol, the author describes an invisible minority, the growing crisis of illiteracy in America. In this country it is often said that we live in the information age. Yet for many Americans, information is inaccessible. Over 27 million American adults cannot read. An additional 35 million read below the level needed to function successfully. The cost of these wasted human resources is estimated at $225 billion, although, in truth, no value can be put on the devastation of illiteracy.

The cost includes the lifetime earnings that will not be realized by men and women who cannot get and hold jobs requiring any reading skills. The cost includes child welfare expenditures for the children of adults who lack the skills to get jobs. The cost includes prison maintenance for the inmates whose imprisonment can be linked to their illiteracy. The cost includes on the job accidents and damage to equipment caused by the inability of workers to read and understand instructions for the operation of machines.

And the human cost is even higher. The daily activities that we take for granted—reading the newspaper, reading a menu, reading a street or subway map, reading a note from a child's teacher—become a nightmare for illiterate people. They devise remarkable strategies of evasion and coping. The creativity that goes to hiding the inability to read is a terrible waste and a tragic commentary on the losses illiterate people suffer.

It is vital to call attention to the problem of illiteracy. Our society must begin to understand the severity of this problem and its detrimental effects. Perhaps even more essential is the need to reach the people who need help in overcoming their illiteracy and to make them aware of the services that are available.

Mr. President, for these reasons, I am introducing a joint resolution to designate July 2, 1988, as National Literacy Day. I urge my colleagues to support this joint resolution.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 304

Whereas literacy is a necessary tool for survival in our society;

Whereas 35,000,000 Americans today read at a level which is less then necessary for full survival needs;

Whereas there are 27,000,000 adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;

Whereas illiteracy is growing rapidly, as 2,300,000 persons, including 1,200,000 legal and illegal immigrants, 1,000,000 high school dropouts, and 100,000 refugees, are added to the pool of illiterates annually;

Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;

Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;

Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;

Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;

Whereas the prison population represents the single highest concentration of adult illiteracy;

Whereas 1,000,000 children in the United States between the ages of 12 and 17 cannot read above a 3rd grade level, 13 percent of all 17-year-olds are functionally illiterate, and 15 percent of graduates of urban high schools read at less than a 6th grade level;

Whereas 85 percent of the juveniles who appear in criminal court are functionally illiterate;

Whereas the 47 percent illiteracy rate among black youths is expected to increase to 50 percent by 1990;

Whereas one-half of all heads of households cannot read past the 8th grade level and one-third of all mothers on welfare are functionally illiterate;

Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;

Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 percent of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1988 is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

By Mr. ADAMS:

S.J. Res. 305. Joint resolution providing specific authorization under the war powers resolution for the continued use of U.S. Armed Forces in the Persian Gulf, consistent with the foreign policy objectives and national security interests of the United States; pursuant to Public Law 93-148, referred to the Committee on Foreign Relations.

PERSIAN GULF POLICY

● Mr. ADAMS. Mr. President, today I am introducing a joint resolution which terminates the United States convoying and escorting of Kuwaiti reflagged vessels by no later than September 1988, while at the same time providing specific authorization under the war powers resolution for United States forces to remain in the Persian Gulf. This resolution is entitled to expedited procedures under the provisions of the war powers resolution. It has one simply, but critically important purpose. It is designed to insure that the Congress assumes its constitutional responsibility to address events in the Persian Gulf.

There is no doubt that a hostile situation exists today in the Persian Gulf. U.S. forces have actually been engaged in hostilities. As we all know, on April 14, the U.S.S. frigate *Samuel B. Roberts* was nearly sunk by a mine laid by Iran. Several days later United States warships attacked Iranian oil platforms in the southern gulf, and Iran responded with a series of naval and aerial attacks on the United States fleet. Hostilities continued when the United States responded by attacking two Iranian patrol boats and two Iranian frigates.

The goals and objectives of U.S. deployment in the gulf today are unclear. While we profess to seek to remain neutral in the bloody, destructive war between Iran and Iraq, we continue to escort and convoy 11 reflagged tankers of Kuwait, a key ally of Iraq. At the same time, we have engaged in actual hostilities with Iraq's adversary, Iran, which has stated publicly that they regard our actions in the gulf as siding with Iraq.

We also profess to be interested in keeping the sealanes open to international commerce, especially the free flow of oil through the gulf. Yet, the only action we have taken in this regard is to protect these 11 Kuwaiti tankers, while United States ships and those of other nations continue to be attacked by both sides in the gulf. The most recent hostilities with Iran actually resulted in a decrease in the amount of oil flowing from the gulf.

Finally, we claim to be working on a coordinated strategy with our allies both to accomplish our goals in the gulf and to work diplomatically to bring an end to the destructive Iran-Iraq war. Yet, there is no coordinated strategy. Instead, what we have is a series of individual initiatives in the gulf by various nations and no clear understanding of how these actions connect to our efforts through the United Nations.

I strongly believe that this confusing policy must be clarified. This must be done for the good of our fighting forces whose lives have been put to risk in the gulf and for the American people who are being asked to trust their government's actions in this precarious area of the world. The resolution I am introducing today is aimed at one simply objective—uniting the Nation behind clearly articulated goals and the actions to achieve those goals.

The actions which we have taken to date in the Persian Gulf require congressional authorization under the terms of the war powers resolution which is, whether one likes it or not, the law of the land. The President knows full well that our forces have been engaged in hostilities and that the law says he must seek congressional approval for what he is doing. Yet he has failed to do so. Given this disturbing set of facts, it is up to us in the Congress, where the constitutional war-making authority resides, to check the abuse of power being exercised in this instance by the Executive. We must either vote to authorize the President's actions; amend them to more clearly state our goals and objectives and make sure our actions match them; or reject the President's policy and actions and clearly articulate for the country what we believe should be done.

More than anything else, this resolution is a mechanism for insuring a timely debate on our policy in the Persian Gulf. It can be amended in any way that the congressional consensus deems appropriate. I am interested in the thoughts of all my colleagues on what our policy ought to be and look forward to debating your amendments to this resolution. I myself expect to have proposed amendments when it reaches the floor, for I am not convinced that the policy contained in the resolution is as carefully articulated as it needs to be. But the debate must take place and I hope you will join me in seeing that it does in the days ahead.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 305

Whereas keeping the Persian Gulf sealanes open to international commerce and preserving the free flow of oil is critical to the national security of the United States;

Whereas beginning in July 1987 the United States Armed Forces began the convoying and escorting in the Persian Gulf of vessels formerly owned by Kuwait or Kuwaiti nationals which had been reregistered under the flag of the United States;

Whereas on April 14, 1988, the U.S.S. frigate Samuel B. Roberts was severely damaged while in international waters of the Persian Gulf by a mine laid by Iran;

Whereas on April 18, 1988, United States warships in the Persian Gulf attacked Iranian platforms in the southern Gulf in retaliation for the April 14, 1988, mine explosion;

Whereas on April 18, 1988, Iran responded to the destruction of their oil platforms by the United States with a series of naval and aerial attacks on the United States naval fleet, on commercial shipping in the Gulf, and on an oil platform operated by a United States company in the territorial waters of the United Arab Emirates;

Whereas on April 18, United States forces responded to attacks on the United States naval fleet and commercial shipping and operations with attacks on two Iranian patrol boats and two Iranian frigates;

Whereas the attacks by Iran and the United States on each other between April 14 and April 18 clearly indicates a situation of hostilities or imminent involvement in hostilities by the United States forces, as contemplated by section 4(a)(1) of the War Powers Resolution (50 U.S.C. 1543(a)(1)); and

Whereas section 4(a)(1) of the War Powers Resolution (50 U.S.C. 1543(a)(1)) requires that United States Armed Forces may not be introduced into hostilities or into situations in which imminent involvement in hostilities is clearly indicated by the circumstances for longer than the sixty-day period described in section 5(b) of such Resolution (50 U.S.C. 1544(b)) without the specific authorization of the Congress, a declaration of war, or other extenuating circumstances; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the "Persian Gulf Policy Act of 1988".

SEC. 2. CONGRESSIONAL DETERMINATION AND INTENT.

(a) The Congress determines that the requirements of section 4(a)(1) of the War Powers Resolution became operative on April 14, 1988.

(b) The Congress intends this joint resolution to constitute the necessary specific statutory authorization under the War Powers Resolution for continued use of the United States Armed Forces as provided for in section 3.

SEC. 3. SPECIFIC AUTHORIZATION.

The President is specifically authorized, for purposes of section 5(b) of the War Powers Resolution, to continue to deploy United States Armed Forces in the Persian Gulf, except that the use of United States Armed Forces to convoy or escort vessels owned by any government or national of a country bordering the Persian Gulf as of June 1, 1987, may continue only until the date which is three months after the expiration of the sixty-day period specified in section 5(b) of the War Powers Resolution, as calculated with respect to the Congressional determination made by section 2(a).

ADDITIONAL COSPONSORS

S. 1522

At the request of Mr. Riegle, the names of the Senator from Georgia [Mr. Nunn] and the Senator from Washington [Mr. Evans] were added as cosponsors of S. 1522, a bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued.

S. 1736

At the request of Mr. Chiles, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 1736, a bill to designate the Federal building located at 1801 Gulf Breeze Parkway, Gulf Breeze, FL, as the "Bob Sikes Visitor Center".

S. 1776

At the request of Mr. Armstrong, the names of the Senator from Connecticut [Mr. Weicker] and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of S. 1776, a bill to modernize U.S. circulating coin designs, of which one reverse will have a theme of the Bicentennial of the Constitution.

S. 1992

At the request of Mr. Heinz, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of S. 1992, a bill to promote intergovernmental and interagency cooperation in the development of ground water policy.

S. 2013

At the request of Mr. Shelby, the name of the Senator from Alaska [Mr. Stevens] was added as a cosponsor of S. 2013, a bill to prevent distortions in the reapportionment of the House of Representatives caused by the use of census population figures which include illegal aliens.

S. 2021

At the request of Mr. Grassley, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of S. 2021, a bill to protect children from sexual exploitation.

S. 2034

At the request of Mr. Chiles, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 2034, a bill to provide financial assistance for programs for prekindergarten students designed to prevent students from dropping out of school, and for other purposes.

S. 2083

At the request of Mr. Heinz, the name of the Senator from Maryland [Ms. Mikulski] was added as a cosponsor of S. 2083, a bill to ensure that certain Railroad Retirement benefits paid out of the Dual Benefits Payments Account are not reduced, and for other purposes.

S. 2123

At the request of Mr. Kennedy, the names of the Senator from Arkansas [Mr. Pryor], and the Senator from Connecticut [Mr. Weicker] were added as cosponsors of S. 2123, a bill to provide hunger relief, and for other purposes.

S. 2156

At the request of Mr. Lugar, the names of the Senator from New Mexico [Mr. Domenici], and the Senator from Nevada [Mr. Hecht] were added as cosponsors of S. 2156, a bill to amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

S. 2167

At the request of Mr. Metzenbaum, the names of the Senator from California [Mr. Cranston], the Senator from New Jersey [Mr. Lautenberg], the Senator from Vermont [Mr. Stafford], the Senator from Florida [Mr. Graham], the Senator from New York [Mr. Moynihan], the Senator from Maryland [Mr. Sarbanes], and the Senator from North Carolina [Mr. Sanford] were added as cosponsors of S. 2167, a bill to amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

S. 2255

At the request of Mr. Durenberger, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 2255, a bill to establish a program of demonstration projects, funded from the Federal Hospital Insurance Trust Fund under part A of title XVIII of the Social Security Act, to provide long-term care to elderly medicare beneficiaries residing in rural areas.

S. 2286

At the request of Mr. Riegle, the names of the Senator from Hawaii [Mr. Inouye], and the Senator from Colorado [Mr. Wirth] were added as cosponsors of S. 2286, a bill to amend the Internal Revenue Code of 1986 to increase the standard deduction for child dependents.

S. 2312

At the request of Mr. Baucus, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 2312, a bill to amend the Internal Revenue Code of 1986 to make the research credit available to certain startup ventures.

SENATE JOINT RESOLUTION 37

At the request of Mr. HATCH, the name of the Senator from Alabama [Mr. Heflin] was added as a cosponsor of Senate Joint Resolution 37, a joint resolution proposing an amendment to the Constitution of the United States relating to voluntary silent prayer or reflection.

SENATE JOINT RESOLUTION 264

At the request of Mr. RIEGLE, the names of the Senator from Kansas [Mr. Dole], the Senator from Georgia [Mr. Nunn], the Senator from Oklahoma [Mr. Boren], the Senator from Minnesota [Mr. Boschwitz], the Senator from Arkansas [Mr. Pryor], the Senator from Illinois [Mr. Dixon], and the Senator from Wyoming [Mr. Wallop] were added as cosposnsors of Senate Joint Resolution 264, a bill to designate the period commencing May 8, 1988, and ending May 14, 1988, as "National Correctional Officers Week".

SENATE JOINT RESOLUTION 272

At the request of Mr. DURENBERGER, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Joint Resolution 272, a bill to designate November, 1988, as "National Diabetes Month".

SENATE CONCURRENT RESOLUTION 103

At the request of Mr. DeCONCINI, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 103, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof, citizens of the United States who were killed in Afghanistan.

SENATE CONCURRENT RESOLUTION 107

At the request of Mr. LAUTENBERG, the name of the Senator from Montana [Mr. MELCHER] was added as a cosponsor of Senate Concurrent Resolution 107, a concurrent resolution calling for a consolidated investigation into the operation of Texas Air Corporation and Eastern Air Lines.

SENATE RESOLUTION 412

At the request of Mr. PRESSLER, the names of the Senator from Kansas [Mr. DOLE], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of Senate Resolution 412, a resolution expressing the sense of the Senate with regard to the use of degradable products.

SENATE RESOLUTION 420—COMMENDING G. RUSSELL WALKER ON THE OCCASION OF HIS RETIREMENT

Mr. BYRD (for himself, Mr. DOLE, Mr. CRANSTON, and Mr. SIMPSON) submitted the following resolution; which was considered and agreed to:

S. RES. 420

Whereas, on April 30, 1988, G. Russell Walker will retire from service as the Editor in Chief, Congressional Record of the United States Senate, after almost twenty-three years of service in the Office of Official Reporters of Debates;

Whereas, "Russ" has served the United States Senate with honor and distinction since joining the staff of the Official Reporters of Debates on July 20, 1965;

Whereas, his hard work and outstanding abilities as an official reporter resulted in his appointment to the position of Chief Reporter on September 1, 1974;

Whereas, G. Russell Walker, as Editor in Chief of the Congressional Record, has at all times executed the important duties and responsibilities of his office with great efficiency and diligence;

Whereas, G. Russell Walker has demonstrated dedication and loyalty to the United States Senate as an institution and leaves a legacy of superior and professional sevice: Now, therefore, be it

Resolved, That the United States Senate expresses its deep appreciation and gratitude to G. Russell Walker for his years of faithful and exemplary service to his country and to the United States Senate.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to G. Russell Walker.

SENATE RESOLUTION 421—EXPRESSING THE SENSE OF THE SENATE THAT THE CHAIRMAN OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION SHOULD RESIGN

Mr. CRANSTON (for himself, Mr. SIMON, Mr. KERRY, Mr. ADAMS, Mr. WEICKER, Mr. HARKIN, Mr. LAUTENBERG, Mr. BRADLEY, Mr. MATSUNAGA, and Mr. BINGAMAN) submitted the following resolution; which was referred to the Committee on Labor and Human Resources:

S. RES. 421

Whereas Congress established the Legal Services Corporation for the purpose of providing high quality, vital legal assistance to individuals who would otherwise be unable to afford adequate legal counsel;

Whereas members of the Board of Directors of the Legal Services Corporation have a fiduciary duty to the Corporation to act in its best interests and to support the programs and activities authorized by and carried out under the Legal Services Corporation Act;

Whereas W. Clark Durant, III, Chairman of the Board of Directors of the Legal Services Corporation, has repeatedly taken actions hostile to the continuation of the legal services program, including but not limited to, calling for the elimination of the Legal Services Corporation and seeking to hire private attorneys to lobby Congress to reduce funding for the Legal Services Corporation; and

Whereas the use of Legal Services Corporation funds, appropriated by Congress for the purpose of providing legal assistance to low-income individuals, to hire private attorneys to lobby Congress to reduce funding for such legal services is totally inappropriate and runs counter to section 1006(c)(2) of the Legal Services Corporation Act which provides that the Corporation shall not undertake to influence the passage or defeat of any legislation except that personnel of the Corporation itself may testify or make other appropriate communication in connection with legislation or appropriations directly affecting the activities of the Corporation: Now, therefore be it

Resolved, That it is the sense of the Senate that:

(1) The use by the Legal Services Corporation of appropriated funds to hire private attorneys to lobby the Congress of the United States to reduce funding for legal assistance for low-income individuals is a gross malfeasance and misuse of authority to manage appropriations to the Legal Services Corporation.

(2) W. Clark Durant, III, as Chairman of the Board of Directors of the Legal Services Corporation, should be and hereby is reprimanded for gross and repeated malfeasance of his fiduciary and statutory duties in connection with management of the funds and interests of the Legal Services Corporation.

(3) W. Clark Durant, III, should tender his resignation from the Legal Services Corporation Board of Directors.

Mr. CRANSTON. Mr. President, I am today submitting a sense-of-the-Senate resolution formally reprimanding the Chairman of the Legal Services Corporation, W. Clark Durant III, for his persistent and repeated actions aimed at undermining and weakening the Legal Services Program—a program that he pledged to support when he was confirmed to serve on the Board of Directors of the Corporation in 1985. I am pleased to be joined in introducing this resolution by a number of my colleagues, including the Senator from Illinois [Mr. SIMON], the Senator from Massachusetts [Mr. KERRY], the Senator from Washington [Mr. ADAMS], the Senator from Connecticut [Mr. WEICKER], the Senator from Iowa [Mr. HARKIN], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from New Jersey [Mr. BRADLEY], the Senator from Hawaii [Mr. MATSUNAGA], and the Senator from New Mexico [Mr. BINGAMAN].

Mr. President, last week's revelation that the Legal Services Corporation had hired two Washington law firms—and was considering hiring a third—to assist in lobbying Congress to carry out the budget-cutting plan which Mr. Durant had pushed through the Board of Directors is just one in a series of assaults upon the Legal Services Corporation which Mr. Durant has spearheaded.

Last year, Mr. Durant delivered a rather extraordinary speech to the American Bar Association Board of Governors' meeting. In his ABA speech, he called for the elimination of the Legal Services Corporation and suggested that we replace the current system of providing low-income Americans with legal representation by creating instead a system of lay advocates.

Mr. Durant has rationalized his effort to slash the Corporation's budget from its current $305 million to $250 million on the grounds that cutting funding for the Legal Services Program would improve the delivery of legal services to low-income individuals because it would stimulate private attorneys to provide pro bono services to the clients turned away from legal aid offices. That's a novel—and totally preposterous—justification for cutting back on a highly effective, successful program which has made access to the legal system a meaningful reality for millions of low-income individuals.

In addition to the frontal attacks upon the continued existence of the Legal Services Corporation, during Mr. Durant's tenure as Chairman of the Board of Directors, the bureaucrats at the Corporation headquarters have carried out a program of harassment of local legal services programs which has had the effect of demoralizing and distracting the staff of these fine programs from carrying out their responsibilities to provide high quality legal assistance to those individuals who would not otherwise be able to pay for the services of legal counsel.

HARASSMENT OF LOCAL PROGRAMS

In California, our legal services programs up and down the State have been subjected to tedious and disruptive monitoring visits. Programs have been relegated to a month-to-month funding status while the Corporation headquarters sits on final monitoring reports. In one instance, a California program monitored in June of 1986, did not receive a draft report until April of 1987 and its funding status was not resolved until August of 1988—more than 2 years after the visit. The uncertain funding status for more than 2 years had a devastating effect upon this program's ability to undertake long-term commitments or recruit qualified staff attorneys for vacancies which arose during this period.

The Senate Appropriations Committee has, for 2 years in a row, in its committee reports accompanying the annual appropriation, directed the Corporation's staff to revise its monitoring procedures to halt the harassment and undue delays that have permeated the conduct of these visits to local programs. The committee has specifically noted the continuing failure of the Corporation to produce final monitoring reports in a timely fashion.

Other California programs have been subjected to petty harassment. In one instance, my office had to intervene to get the Corporation headquarters to approve a telephone contract necessitated by a program's move from one office to another. For several months, this program was forced to operate with a single in-coming phone line because the Corporation staff in Washington did not deem it important enough to approve the program's new telephone contract.

I am sure that the pattern in California is duplicated in countless instances in other States. For several years, the Board of Directors of the Corporation has been under the control of individuals, led by Mr. Durant, who are hostile to the purposes and very existence of this program. Fortunately, strong bipartisan support in the Congress for the Legal Services Program has been effective in preventing the wholesale destruction of this program.

Only a few months ago, the Senate overwhelmingly rejected, by a vote of 70 to 28, an amendment offered by the Senator from Texas [Mr. GRAMM] which would have implemented another plan proposed by Mr. Durant to reduce funding for the Legal Services Corporation by eliminating legal services' support programs. Similar efforts in previous Congresses to reduce or eliminate funding for the Legal Services Corporation—responding to this administration's dedication to eliminating the Corporation—have repeatedly been rejected by wide margins.

Mr. President, the existence of this deep and consistent congressional support for continued funding for the Legal Services Corporation at or above its current level makes the effort by the Board of Directors to lobby Congress to reduce its funding even more ludicrous and wasteful.

It is absolutely unconscionable for funds which Congress appropriated for legal assistance to low-income individuals to go to Washington law firms to lobby to reduce those funds. The fact that these contracts were canceled Friday night in response to an outcry from Members of Congress regarding this outrageous use of Federal funds does not diminish the gravity of the conduct and malevolent intentions of Mr. Durant and his supporters on the Board of Directors.

FIDUCIARY RESPONSIBILITIES OF THE BOARD OF DIRECTORS OF THE LEGAL SERVICES CORPORATION

Mr. President, it is important to stress that members of the Board of Directors of the Legal Services Corporation are not like ordinary executive branch appointees. They do not serve as part of the administration nor are they charged, as is the case with most Presidential appointees, with the responsibility of carrying out the President's policies with respect to this program.

The Legal Services Corporation is an independent entity, and each member of the Board of Directors of this unique program is charged with a fiduciary responsibility to support the Corporation.

Mr. Durant understood that responsibility when he came before the Senate Labor and Human Resources Committee in 1984 for his confirmation hearing.

In response to detailed questions which I submitted in writing to each individual nominated to serve on the Legal Services Corporation Board of Directors, Mr. Durant stated that he had "no reservations about supporting the provisions of the act." He further stated that as a Board member, "I have a fiduciary duty to the Corporation under the act," and that he was "committed to supporting the delivery of legal services to the poor through the Corporation and its grantees."

It is evident that he no longer holds those views—if he ever did—and lacks the requisite commitment to the Legal Services Corporation Act required of each and every Board member. He should do the honorable thing and resign if he can no longer fulfill the obligation that he purported to recognize when the Senate confirmed his nomination.

CONCLUSION

Mr. President, the Legal Services Program is truly one of the most successful efforts that the Federal Government has ever supported to help low-income Americans. As one of the authors of the Legal Services Corporation Act of 1974, I know first hand that this program has helped to make access to justice a living reality for millions of low-income Americans. It is tragic that this fine program, and the hundreds of legal services attorneys toiling to serve the needs of low-income individuals, must face the kind of hostility which the majority of the current Board of Directors and its Chairman hold toward the program.

To date, Mr. Durant and his allies on the Board have appeared to be impervious to criticism from Congress as to their behavior. It is my hope that the introduction of this formal reprimand will send a strong and definitive message of disapproval to Mr. Durant and the other members of the Board who adhere to his philosophy of hostility toward this program.

I ask unanimous consent that two articles which appeared in the Washington Post on April 22 and 23, 1988, describing this matter, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 22, 1988]

LEGAL SERVICES CORPORATION HIRES FIRMS TO PUSH FOR BUDGET CUTS

(By Ruth Marcus)

The Legal Services Corporation (LSC), which distributes federal funds to provide legal aid to the poor, has hired two well-connected Washington law firms to help persuade Congress to give it less money.

Officials of the program, which has been under attack by the administration since President Reagan took office, are proposing that its budget be slashed from $305 million to $250 million next year.

LSC President John H. Bayly, Jr. said the organization made "something of an innovation in government relations" by hiring the law firms—one at $90 an hour and another at more than $100 an hour—because of the departures of top LSC officials who normally would have handled the matter.

The firms of Heron, Burchette, Ruckert & Rothwell and Verner, Liipfert, Bernhard, McPherson and Hand agreed to charge less than their normal hourly rates because "they understand we're not in a position to throw public money around," Bayly said. A third firm has agreed to work for LSC, if necessary, also at a "discounted" hourly rate of more than $100, he said.

Legal services programs that receive federal funds have been barred since 1984 from lobbying Congress on LSC matters.

Rep. Robert W. Kastenmeier (D-Wis.), chairmen of a House Judiciary subcommittee with jurisdiction over LSC, said it is "incomprehensible to think that the organization responsible for providing the poor with legal representation would spend its money to lobby Congress for reduced funding."

He compared the move to "a basketball team paying an outsider to convince the referees to change the rules of the game so that the team could play with only four players against its opponent's five."

In a letter to Bayly, Sen. Ernest F. Hollings (D-S.C.) and Rep. Neal Smith (D-

Iowa), chairman of the House and Senate appropriations subcommittees responsible for LSC, and Sen. Warren B. Rudman (N.H.), ranking Republican on the Senate subcommittee, said the Legal Services Corporation Act "prohibits the retention of private counsel for the purpose of influencing legislation." They urged Bayly to "take immediate steps to remedy this unlawful action."

Hollings said it is "outrageous to hire former staffers over here . . . to lobby us. One, it's illegal. And No. 2, it's unmitigated gall."

He said, "Congress has been concerned that they get legal services for the poor. That's what it's for. And not legal services to lobby us."

Richard L. Spees Jr., the Heron Burchette lawyer representing LSC, is a former member of the Senate subcommittee's staff, and Riley K. Temple, the Verner Liipfert lawyer, worked for the Senate Commerce Committee.

LSC Board Chairman W. Clark Durant III, who urged last year that the agency be abolished and replaced by one that would "encourage grants to non-lawyer providers," said cutting the budget would actually help the poor because "historically, a reduction in legal services has brought forth substantial financial support from other sources for legal services."

Bayly said a "careful analysis of the budget we've submitted and of all the circumstances surrounding it will indicate there isn't going to be a diminution in direct services to the poor if there is a reduced amount of money."

He said it was important to hire the outside lawyers to present that view because "it's the corporation's responsibility to present what the corporation feels is the best way and the most efficient and effective way to provide legal services to poor people."

However, he said, "with such a strong expression of interest" from Congress, "I will very carefully review what we have undertaken."

The LSC originally asked Congress for $305 million in funding again next year. But, after Reagan asked Congress for $250 million—the first time he has sought any money for legal services—the board voted, 6 to 5, for the lower amount.

Board member Thomas F. Smegal Jr., who called the $250 million request "pathetically insignificant," said he is "outraged" that the law firms were hired. "I've never heard of anybody hiring a lobbyist to go and ask for less," he said. "It's absurd."

[From the Washington Post, Apr. 23, 1988]

LEGAL SERVICES CORPORATION DROPS ADVISERS

(By Ruth Marcus)

The Legal Services Corp., which distributes federal funds to provide legal aid to the poor, yesterday terminated agreements with the two well-connected Washington law firms it hired to advise it in its attempt to persuade Congress to cut its budget.

Legal Services President John H. Bayly Jr. said the organization acted after disclosures that it had hired the firms provoked an outcry in Congress. "We concluded that the issue of the representation threatened to consume the underlying issues that we had hoped to present to the Congress," he said. "For that reason, we thought it best to terminate the relationship at this point."

Legal Services Corp., which is asking Congress to slash its budget from $305 million to $250 million, hired the firms at hourly rates of $90 and up because of the departures of top staff members during the critical period while the budget is making its way through Congress.

Rep. Robert W. Kastenmeier (D-Wis.), head of a House Judiciary subcommittee, said hiring the outside firms—Heron, Burchette, Ruckert & Rothwell, and Verner, Liipfert, Bernhard, McPherson & Hand—was "incomprehensible" and illegal.

The chairman of the House and Senate appropriations subcommittees responsible for the Legal Services Corp. said the Legal Services Corporation Act "prohibits the retention of private counsel for the purpose of influencing legislation."

Bayly said he does not know how much the bill for the firms, which had been working for the corporation less than two weeks, would total. He said the lawyers from Heron Burchette, who registered as lobbyists for Legal Services earlier this month, "made a couple of trips to the Hill and met with our staff and me for a couple of hours."

He said "we will pay them for their time" and, despite the letters from Kastenmeier and others, was "not persuaded that this was unlawful."

John Merrigan, a partner at Verner Liipfert, said the firm had a "25-year-old record of supporting legal services" and that it was simply advising Bayly, who disagreed with the Legal Services board's 6-to-5 vote to ask for the funding cuts, on how to best deal with the situation. "The advice we gave him was send up the guys who voted [for the cuts] and make them carry the burden that we're not going to kill the program," Merrigan said.

Bayly said that the services of Verner Liipfert lawyer Riley Temple "were going to be primarily in helping us brief board members, giving us a bit of guidance about the legislative process, how to present a case to a congressman or to a senator. His work was primarily directed in-house."

Legal Services Board Chairman W. Clark Durant III and others argue that cutting $55 million from the corporation's budget will improve delivery of legal services to the poor by prompting voluntary aid by private lawyers and others and that most of the budget cuts would involve support services and not directly affect legal aid programs.

Asked whether he thinks it had been a mistake to hire the firms, Bayly said it is "a little soon to form an opinion other than the opinion that we probably ought to cut it out."

AMENDMENTS SUBMITTED

WATER RESOURCES DEVELOPMENT ACT

BURDICK (AND STAFFORD) AMENDMENT NO. 1978

Mr. BYRD (for Mr. BURDICK, for himself and Mr. STAFFORD) proposed an amendment to the bill (S. 2100) to authorize the U.S. Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes; as follows:

On page 13, line 14, strike the following: ", who shall cocertify,".

On page 20, at the end of line 9, insert the following new sections:

"Sec. 219. Section 501(a) of the Water Resources Development Act of 1986 (P.L. 99-662; Stat. 4082) is amended by striking the following: 'The project for shoreline protection, Indiana Shoreline Erosion, Indiana; Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000.', and inserting in lieu thereof the following: 'The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with the Federal share of the cost of this project to be determined in accordance with title I of this Act.'.

"Sec. 220, Section 123 of the River and Harbor Act of 1970, as amended, (33, U.S.C. 1293a) is further amended by adding at the end thereof the following new subsection:

'(j) The Secretary of the Army is authorized to continue to deposite dredged materials into a facility constructed under the provisions of this section until the Secretary of the Army determines that such facility is no longer needed for such purpose or that such facility is completely full.'."

"Sec. 221. Section 1135(b) of the Water Resources Development Act of 1986 is amended by striking 'two-year period beginning on the date of enactment of this Act', and inserting in lieu thereof 'five-year period beginning on the date of enactment of this Act'."

"Sec. 222. The portions of Coney Island Creek and Gravesend Bay, New York that are particularly described in the metes and bounds description below are hereby declared to be nonnavigable waters of the United States for purposes of the navigation servitude.

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost U.S. Pierhead Line of Coney Island Creek.

Running thence S 12 41' 03" E and along the Westerly Line Cropsey Avenue, 98.72 feet to the Northerly Channel Line as shown on Corps of Engineers Map No. F.150 and on Survey by Rogers and Giollorenzo No. 13959 dated October 31, 1986.

Running thence in a Westerly direction and along the said Northerly Channel Line the following bearings and distances:

S 48 59' 27" W	118.77 feet
S 37 07' 01" W	232.00 feet
S 23 17' 10" W	430.03 feet
S 31 25' 46" W	210.95 feet
S 79 22' 49" W	244.18 feet
N 55 00' 29" W	183.10 feet
N 41 47' 04" W	315.16 feet
N 41 17' 43" W	492.47 feet

to the said Pierhead Line; thence N 73 58' 40" W and along said pierheadline, 2665.25 feet to the intersection of the U.S. Bulkhead Line; thence N 0 19' 35" W and along the U.S. Bulkhead line 1138.50 feet to the intersection of the Westerly prolongation of the center line of 26th Avenue, thence N 58 25' 06" E and along the center line of said 26th Avenue, 2320.85 feet to the Westerly Line of Cropsey Avenue, then Southeasterly and along the Southerly Line of Cropsey Avenue the following bearings and distances:

S 31 34' 54" E	4124.59 feet
S 12 41' 03" E	710.74 feet

to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn.

On page 22, at the end of line 16, insert the following new section: "Sec. 306. The Secretary of the Army is directed to establish a Water Resources management and planning service for the Hudson River Basin, in New York and New Jersey. There is authorized an appropriation of $400,000 annually for the purpose of providing the two states a full range of services for the development and implementation of state and local water resource initiatives.".

PRESIDENTIAL TRANSITION ACT AMENDMENTS

STEVENS AMENDMENT NO. 1979

Mr. DOLE (for Mr. STEVENS) proposed an amendment to the bill (S. 2037) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President; as follows:

On page 15, line 16 insert after "by" the following "by striking out '$1,000,000' and inserting in lieu thereof '$1,750,000' and".

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a hearing on Advances in Aging Research.

The hearing will take place on Wednesday, May 11, 1988, at 9:30 a.m. in the auditorium, G-50 Dirksen Senate Office Building in Washington, DC.

For further information, please contact Max Richtman at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. SASSER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, April 26, 1988 to conduct a hearing on the "L'Ambiance Plaza Building Collapse."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. SASSER. Mr. President, I ask unanimous consent that the Senate Committee on Armed Services be authorized to meet during the session of the Senate on Tuesday, April 26, 1988 in executive session to mark up the following bills:

Fiscal year 1988 supplemental authorization bill.

Department of Defense amended Budget Authorization Act, 1989.

Amended Military Construction Authorization Act, 1989.

Authorization for civil defense programs for fiscal years 1989 and 1990.

Fiscal year 1989 authorization for defense activities of the Department of Energy.

S. 1826, Defense Supplies Security and Control Reform Act of 1987.

S. 1892, Defense Industrial Base Preservation Act of 1987.

S. 2152, to increase the Department of Defense transfer authority.

S. 2254, Defense Industry and Technology Act of 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. SASSER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Tuesday, April 26, 1988 to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

WORLD POPULATION AWARENESS WEEK

● Mr. INOUYE. Mr. President, Gov. John Waihee of Hawaii has declared the week of April 17 to April 23, 1988, as "World Population Awareness Week in Hawaii," in harmony with the concurrent national observance of "World Population Awareness Week."

The people of Hawaii are in an excellent position to appreciate the importance of population awareness. The survival and prosperity of our islands depends on a recognition of the delicate relationship between scarce land and resources, and a rapidly growing population. We would pay heavily for forgetting that there is a limit to the growth that our State can sustain and to the lives that our islands can support. Consequently, we emphasize the need for balance in the use and enjoyment of our State.

As a member of the community of the Pacific, we also have a special concern for our neighbors in the Pacific that are struggling to overcome the strains of rapid growth, urban crowding, and uneven development.

The Hawaiian traditions of respect for the land and gratitude for its beauty contribute directly to our population awareness. I am pleased that we are renewing this week our strong commitment to the health and welfare of our people and the beauty of our islands by observing "World Population Awareness Week."

I ask that a copy of the resolution be printed in the RECORD.

The resolution follows:

PROCLAMATION

Whereas, the world's population has reached five billion and is growing at the unprecedented rate of 87 million a year; and

Whereas, rapid population growth causes or intensifies a wide range of grave problems in the developing world including environmental degradation, urban deterioration, unemployment, malnutrition, hunger, resource depletion and economic stagnation; and

Whereas, 50 percent of the ten million infant deaths and 25 percent of the 500,000 maternal deaths that occur each year in the developing world could be prevented if voluntary child spacing and maternal health programs could be substantially expanded; and

Whereas, some 500 million people in the developing world want and need family planning but do not have access or means to such services; and

Whereas, the United States has been the leading advocate of the universally recognized basic human right of couples to determine the size and spacing of their families;

Now, therefore, I, John Waihee, Governor of Hawaii, do hereby proclaim April 17 through 23, 1988 to be "World Population Awareness Week in Hawaii" and call upon all the people of the State to reflect upon the consequences of overpopulation.●

RECOGNIZING THE CONTRIBUTIONS OF THE RETIRED SENIOR VOLUNTEER PROGRAM

● Mr. DANFORTH. Mr. President, on April 20, 1988, residents of Barton, Jasper, Newton, and McDonald Counties participated in a nationwide balloon launch sponsored by the national RSVP Association honoring the significant contributions of our Nation's senior volunteers.

The Retired Senior Volunteer Program seeks opportunities for people aged 60 and over to better their communities through creative use of their energy and expertise. Beginning locally in 1981 with 31 volunteers, there are currently over 300 senior volunteers throughout the four counties. The volunteers are involved in projects ranging from carpentry work to helping others with tax forms to friendly visitation and ombudsman services. In addition to serving in over 50 public and nonprofit settings, RSVP volunteers increase community knowledge about senior citizens through their skit troupe, "The Street Players." They are also the key to the success of such annual events as the Over 60 Olympics and the Missouri Silver Haired Legislature.

Last year volunteers contributed approximately 40,000 hours of community service. Their efforts represent a significant contribution to their communities' quality of life and should be a model of community involvement for all Americans.●

FORTIETH ANNIVERSARY OF THE STATE OF ISRAEL

● Mr. DODD. Mr. President, I rise to congratulate the State of Israel on the occasion of her 40th anniversary. Israel and the United States, both nations dedicated to freedom and democracy, enjoy a unique and strong alliance. Because of Israel, we know that America's interests in the Middle East will always have support. Likewise, our support for Israel effectively discourages aggression against Israel's rightful presence in the region.

It is not mutual economic and security interests that make the bond between our nations a lasting one. Rather, it is the struggle for humanity and democracy which the people of both countries genuinely share that brought about this enduring relationship. Over the last 40 years, Israel has grown in size from 600,000 to 3.5 million as well as in productivity. Israel boasts leaders in numerous areas, including medicine, agriculture, and defense technology. The United States and the rest of the free world benefit greatly from this prosperity.

The problems at Judea and Samiria are quite serious and of grave concern. However, rather than step backward, we ought to move forward and reaffirm our commitment to Israel and to the principles that make Israel and the United States great democracies and great nations.

As Israel continues its quest for peace and prosperity, I send my congratulations for its accomplishments and my hope for its future. The United States' friendship with Israel is everlasting and will only become stronger during the next 40 years.●

PRAISING G.D. SEARLE & CO.'S PATIENTS IN NEED PROGRAM

● Mr. DANFORTH. Mr. President, I am submitting an article for the Record that appeared in the St. Louis Post Dispatch on April 7, 1988, concerning G.D. Searle & Co.'s recently expanded Patients in Need Program. Mr. President, this is an extremely important program that may save hundreds, even thousands of lives. G.D. Searle & Co. is offering free hypertension drugs to those who earn too much to qualify for public programs, but cannot afford private insurance. These are honest, hard working people who often are forced to choose between necessities, such as heat and food, and medicine that could save lives. Mr. President, I am very proud to represent the State of Missouri where companies like G.D. Searle are doing much important humanitarian work.

The article follows:

[From the St. Louis Post Dispatch, Apr. 7, 1988]

Drug Giveaway Praised

(By Robert Steyer)

The expansion of a drug company's program of free medicine for the working poor will help curb a significant problem in treating high blood pressure victims, a St. Louis blood pressure specialist said Wednesday.

"Money, or the lack of it, is a major issue in patients not taking life-saving medicine," said Dr. H. Mitchell Perry Jr., director of the hypertension division and hypertension clinic at the Washington University School of Medicine.

Perry was commenting on the announcement in St. Louis and nine other cities that G.D. Searle & Co. was expanding its Patients in Need program, which offers free drugs to persons who cannot qualify for Medicare or Medicaid but cannot afford private insurance.

Searle, the drug subsidiary of Monsanto Co., says it will provide seven heart disease and blood pressure drugs to patients who have an annual household income of $8,000 or less for one or two people, or $11,000 or less for three or more people.

"The poor have the most severe kinds of hypertension," said Perry, a past president of the St. Louis and Missouri heart associations. "Some patients have to choose between hunger and hypertension. A significant number of patients slip through the net." He was referring to patients who earn too much to qualify for government aid but not enough to buy private insurance.

According to state statistics, more than 580,000 Missouri residents have incomes below the poverty level and nearly 700,000 under age 65 lack health insurance. Searle officials estimate that 1.5 million state residents suffer from high blood pressure, including 425,000 in St. Louis and St. Louis County. Heart disease killed more than 18,000 Missourians in 1986:

At a press conference at Washington University School of Medicine, a Searle official presented certificates worth $25,000 each in free medicine to representatives of four area clinics—Metro Community Health Center, Family Care Center of Carondelet, People's Clinic and the Washington University Clinics. The company distributed $100,000 in certificates in each of nine other cities.

Physicians give the certificates and prescriptions to patients, who take them to a pharmacist. Searle pays the pharmacist to fill the prescription.

Searle launched its free drug program in February 1987 by making two drugs available to the working poor for the treatment of high blood pressure and angina, which is chest pain associated with heart disease. The company said 33,000 certificates for 20,000 patients have been redeemed.

The new Patients in Need Program includes five other medications which treat irregular heartbeats, angina, high blood pressure and congestive heart failure. The company said it will place no time limit or dollar restriction on the program.●

THE SUPERCOMPUTER REVOLUTION IN MINNESOTA

● Mr. BOSCHWITZ. Mr. President, today, as we deliberate the serious issue of trade legislation, I would like to take a few nanoseconds—the rate an electron travels through a semiconductor—to share with my colleagues a story about the quiet scientific revolution taking place in Minnesota. As you know, the Washington Post has been running a series of articles on the new frontier in supercomputers and I urge my colleagues to review them.

Of five major companies working on supercomputer development, two are American and both are based in Minnesota—Cray Research, Inc., of Minneapolis, and ETA Systems, Inc., in St. Paul. Cray, headed by Seymour Cray, and ETA, whose president is Dr. Carl Ledbetter, evolved from Control Data Corp. which became the Nation's leader in high-powered computing back in 1957. A third company, Supercomputer Systems, Inc., just across the boarder in Eau Claire, WI, was founded by Steven Chen, a former Cray engineer. Combined, they represent America's most advanced supercomputer technology. In addition, the Minnesota Supercomputer Center, a research center affiliated with the University of Minnesota—the largest of its kind—is an example of valuable cooperation between government and private industry.

I recently had an opportunity to tour the Cray and ETA facilities in Minnesota and see first hand the most recent developments in supercomputer research. And I must say I was impressed. In 1976, Cray introduced the Cray-1, its first supercomputer. The newest Cray computer, the Y-MP, is far more compact and four times more powerful. In fact, the newest supercomputers produced by Cray and ETA are among the most powerful in the world. Both companies have models with 8 processors—16 are planned for the next generation. Supercomputer Systems expects to develop a 64-processor machine early in the 1990's. These supercomputers can do an array of complex calculations in a fraction of the time it would have taken just a few years ago.

Certainly I cannot begin to explain how these machines work—there is disagreement within the industry itself about the best approach. Constant research, trial and error—sometimes a lot of error—and the ability to see success in seeming failure are crucial to remaining on top in the supercomputer field. The costs are high—Cray spent about a sixth of total revenue last year on research and development—but such commitment is essential to remaining on top. As Dr. Carl Ledbetter says of the process of developing suitable software—"We are going to struggle with it. And we're going to make progress against it every day for the next 20 years."

Mr. President, the quiet technological revolution taking place in Minnesota is transforming our country and the world and will continue to do so in the years to come. I ask that the Washington Post article "Minnesota Emerges as a Supercomputer Hotbed" be printed in the Record.

The article follows:

[From the Washington Post, Apr. 26, 1988]

Minnesota Emerges as a Supercomputer Hotbed

Supercomputers sometimes seem as Minnesotan as lakes and Prairie Home Companion.

Based in downtown Minneapolis is Cray Research Inc., the enviably successful innovator that sets the tone for the industry worldwide. A few miles east in St. Paul is ETA Systems Inc., the nation's No. 2 maker of the machines, an underdog scrambling to snatch business from Cray. Between them is the Minnesota Supercomputer Center, one of the nation's largest university-affiliated facilities.

Like many a small town in the state, the industry is a cozy community where people often know each better than they would like. Engineers attend the same conferences. They may live near each other. In many cases, they have worked alongside their competitors in previous jobs.

There is a common blood line in this computer family—flowing from Control Data Corp. Established in Minneapolis in 1957, Control Data emerged as a national leader in high-powered computing. Then, in 1972, one of its key figures, a creative genius named Seymour Cray, quit to start his own company. A local boy, he stayed in Minneapolis and concentrated his efforts on building the fastest, most powerful computers in the world—before long surpassing his old employer in the supercomputer field.

Last year came a third generation of spinoffs, when one of Cray's closest collaborators, Steven Chen, resigned to found Supercomputer Systems Inc. He set up shop just across the Wisconsin border in the town of Eau Claire.

Cray continues to be a commanding presence in the industry. Not many of its members have ever met him, but "Seymour stories" abound. There are the sailboats that he would design and build by hand, then burn after a summer's use to make way for the next. Or the tunnel below his home, to which he would retire with shovel in hand when he reached dead ends in his design work.

Now listed as a consultant to the company, Cray rarely talks to outsiders and is known to stand up those he does agree to see. People who know him call him a benevolent, folksy man of practiced eccentricity who feels uneasy with the adulation his work has spawned. Living in Chippewa Falls, Wis., he is so reclusive that some in the industry jest that he died five years ago. The company has managed to keep it secret, it is said, lest the magic the legendary founder wreaks with the public and investors evaporate.

That joke calls to mind the key challenge facing the company he founded. How to be both maverick entrepreneur and world leader? How to preserve the innovative camaraderie of a garage laboratory when you have 4,500 employees and sales of $687 million a year? How to be a stable, publicly traded enterprise when one man means so much to your reputation?

These are questions not unfamiliar to the much larger Control Data, which set up its supercomputer subsidiary, ETA, in 1983 to replicate the small-team working style credited with helping Cray. In ETA offices, people talk confidently of Cray as beatable, to be overwhelmed one day by superior products and team spirit at ETA. (Cray people strike back by insinuating that ETA doesn't exist.)

Yet both companies have their eyes on Chen, who was once touted as a successor to Seymour Cray at Cray Research. He too is pursuing the small-team approach, in spartan offices at a refurbished electronics factory in Eau Claire. He rarely grants interviews. Even lower-level people in his company say they have no time to talk. They say they are too busy building the computer of the future.—By John Burgess.●

A TRIBUTE TO IRMA ACUNA, NATIONAL BLIND WORKER OF THE YEAR

● Mr. SANFORD. Mr. President, I rise today to call to the attention of my colleagues the accomplishments of Ms. Irma Acuna, a North Carolinian and an employee of the Raleigh Lions Clinic for the Blind. Ms. Acuna was recently selected by the National Industries for the Blind to be the 1988 Peter J. Salmon National Blind Worker of the Year.

National Industries for the Blind chooses one outstanding blind individual each year from among 6,300 blind and multihandicapped blind people who can work in their affiliated agencies for the blind participating in the Javits-Wagner-O'Day [JWOD] Act program. In the 50 years since the signing of the JWOD Act by President Franklin D. Roosevelt, the act has provided employment opportunities for thousands of this Nation's blind and multihandicapped blind citizens.

Today, I salute Ms. Acuna for her efforts to succeed in employment and to meet the challenges of life. Since losing her sight in 1983 at the age of 41, she has singlehandedly raised five children, learned the mobility and daily life skills needed to adjust to blindness, and has been active in church and charitable work. At the time she lost her sight, Ms. Acuna also lost her sense of taste and smell. Since her blindness, Ms. Acuna has overcome the emotional trauma of a divorce, the death of both parents, and an addiction to drugs and alcohol.

After a year long evaluation and participation in a work adjustment training program at the Raleigh Lions Clinic, Ms. Acuna became a clinic employee engaging in work involving hand assembly, hole punching, riveting, snap fastening, and sewing.

To further assist her in adjusting to being blind, Ms. Acuna is currently learning to read braille. To help others overcome difficulties similar to her own, Ms. Acuna participates in alcoholics anonymous and makes presentations at luncheons sponsored by the Raleigh Lions Clinic.

Mr. President, Ms. Acuna embodies the best spirit of America: That spirit which never says quit, that spirit which is brave in spite of great personal adversity, and that spirit which has hope for tomorrow. I salute this fine lady.

Mr. President, I ask that a copy of the National Industries for the Blind press release announcing her selection be printed in the RECORD.

The press release follows:

IRMA ACUNA NAMED 1988 NATIONAL BLIND WORKER OF THE YEAR

The Executive Committee of the NIB Board of Directors has named Ms. Irma Acuna of Raleigh Lions Clinic for the Blind in North Carolina the Peter J. Salmon National Blind Worker of the Year. Irma was selected from 53 nominees from NIB-associated workshops.

The Award is named after the late Dr. Peter J. Salmon, who was one of the outstanding workers for blind people. Blind himself, he was a driving force in the passage of the Wagner-O'Day Act in 1938 and served on the Board of Directors of NIB in its formative years.

Irma exhibits that same vitality. After completing a full Work Adjustment Program at the Clinic, she has continued to make steady progress. As her performance and productivity increased, she moved forward to more challenging work. Irma is attempting to improve one day at a time and is optimistic she will continue to achieve.

But Irma's progress was not always so smooth. Earlier she had become despondent over the many requirements that her perfectionist attitude dictated in raising five children and working full time. Irma developed an alcohol dependency and on February 8, 1983, alone and intoxicated, she shot herself in the head in a suicide attempt. The injuries Irma sustained left her blind with a loss of sense of taste and smell.

Gradually Irma began to walk the long road back overcoming a chemical dependence from drug therapy, a divorce, and the death of first her father and then her mother. Irma became an active member of Alcoholics Anonymous and began many hours of counseling to reconcile her hostilities and adjust to her blindness.

Now Irma, 46, is learning to read braille, continues to participate in AA and church activities and has made presentations at luncheons sponsored by the Clinic.

She is an excellent employee who is punctual and meets new assignments with enthusiasm and a desire to excel. Currently she is a machine operator and has performed such direct labor work as hand assembler, packer, sewing machine operator and rivet and hole punch operator.●

EXPORT FINANCE EXPANSION ACT

● Mr. HEINZ. Mr. President, yesterday Senator ADAMS and I introduced S. 2321, the Export Finance Expansion Act of 1988 to strengthen the Export-Import Bank and ensure that lines of credit necessary to support our export drive remain open in key U.S. markets. Unfortunately, the text of the bill was not printed in the RECORD with my introductory statement. I, therefore, ask that the text of the bill be printed in the RECORD at this time.

The text of the bill follows:

S. 2321

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Export Finance Expansion Act of 1988".

FINDINGS

SEC. 2. The Congress finds that—

(1) commercial banks are attempting to reduce their international exposure because of concerns about the creditworthiness of many developing countries that have been experiencing protracted debt servicing difficulties;

(2) many of these countries are traditional United States export markets crucial to the

export expansion necessary if the United States is to correct its external payments imbalance.

(3) while export credit has been relatively less affected than other forms of international lending, there is growing evidence that lack of available financing is becoming a binding constraint on United States export expansion in these markets;

(4) the Export-Import Bank of the United States is in a weak position to offset this decline in export credit because—

(A) its capital base is being drained away by losses accumulated in the high interest rate environment of the late 1970s and early 1980s;

(B) its direct credit authority has suffered repeated budget reductions to the point that it is nearly 90 percent below the levels of the early 1980s; and

(C) Export-Import Balance guarantee and insurance programs are not sufficiently attractive to bring commercial banks back into the market;

(5) these conditions are primarily the result of economic conditions beyond the control of the Bank and of budget scoring rules that misstate the true subsidy cost of the Bank's programs;

(6) at a critical juncture for United States trade, the Bank cannot be put out of business by counterproductive financial and budgetary rules; and

(7) therefore, present budget scoring and credit rules applied to Bank loan and guarantee programs must be changed to ensure that the Bank has sufficient credit authority that can be effectively used to meet the export challenge of the 1990s.

PRESERVATION OF BANK CAPITAL

SEC. 3. The text of section 14 of the Export-Import Bank Act of 1945 is amended to read as follows: "(a) The Bank may prepay or refinance obligations held by the United States Treasury or the Federal Financing Bank that were outstanding on the date of enactment of the Export Financing Expansion Act of 1988 and shall suffer no reduction in the capital and reserves of the Bank arising from any fee or charge required to be paid in connection with such prepayment or refinancing.

"(b) If any fee or charge is required to be paid in connection with a prepayment or refinancing under subsection (a)—

"(1) the Bank is authorized to issue capital stock in an amount sufficient to offset any resulting reduction in Bank capital and reserves, and

"(2) the Secretary of the Treasury is authorized and directed to purchase such stock, and for such purpose he may use the proceeds from obligations issued under chapter 31 of title 31, United States Code.".

APPROPRIATION OF ANNUAL SUBSIDIES

SEC. 4. Section 7(a)(3) of the Export-Import Bank Act of 1945 is amended to read as follows:

"(3) For the purposes of chapter 11 of title 31, United States Code, and of titles III and IV of the Congressional Budget Act of 1974, there are authorized to be appropriated such sums as may be necessary to cover subsidies associated with any direct loan or any loan guarantee commitment made by the Bank on or after October 1, 1988. Of amounts made available for Bank operations in annual appropriation acts, the portion representing the subsidies referred to in the preceding sentence shall be a permanent addition to the capital and reserves of the Bank. For purposes of this paragraph, the term 'subsidies' has the same meaning as in section 2(c)(4)(B).".

EXPANDED UTILIZATION OF BANK GUARANTEES

SEC. 5. Section 2(c)(3) of the Export-Import Bank Act of 1945 is amended by inserting "(A)" before "With" and by adding at the end thereof the following new paragraphs:

"(B) For the guarantee and insurance programs covered by this subsection, the Bank shall provide one hundred percent coverage of the interest and principal where necessary to ensure acceptance of Bank guarantees by United States financial institutions for transactions in all markets in which the Bank is open for business.

"(C) To encourage the free transfer of such Bank obligations, the Bank may guarantee the timely payment of principal and interest on pool certificates representing ownership of part or all of any loan or loans guaranteed by the Bank under this title. Such certificates shall be based on a pool approved by the Bank and shall be managed by an agent approved by the Bank.".

SEC. 6. Section 2(c) of the Export-Import Bank Act of 1945 is amended by adding at the end thereof the following:

"(4)(A) For purposes of chapter 11 of title 31, United States Code, and of titles III and IV of the Congressional Budget Act of 1974, amounts included in budget function 150 for Bank guarantee, insurance, coinsurance and reinsurance programs for a fiscal year beginning on or after October 1, 1988, shall not exceed the amount of the subsidy associated with new obligations incurred under those programs during such fiscal year.

"(B) As used in subparagraph (A), the term 'subsidy' means the estimated long-term cost to the Bank of a loan or loan guarantee, calculated on a net present value basis. Subsidy estimates shall take into account direct outlays and delay in, or loss of, repayments of principal or interest, less any fee or premiums received.".

EXTENSION OF TIED AID CREDIT AUTHORITY

SEC. 7. (a) Section 15(c)(2) of the Export-Import Bank Act of 1945 is amended by striking "and 1988" and inserting "1988, 1989, and 1990".

(b) Section 15(e)(1) of the Export-Import Bank Act of 1945 is amended by striking "and 1988" and inserting ", 1988, 1989, and 1990".●

CONGRATULATING ACCOMPLISHMENTS OF ISRAELI PEOPLE OVER LAST 40 YEARS

● Mr. COHEN. Mr. President, I would like to extend my congratulations to the Israeli people for their accomplishments over the last 40 years.

When we celebrate a birthday, we commemorate life's beginning and its continued existence. In that regard, no country has greater cause for celebration than the State of Israel, since no people have overcome more adversity—in this case persevering for thousands of years—to establish a nation and maintain its existence.

For those who initially returned from the diaspora, the struggle in Palestine involved protracted conflict, over a period of decades, with Turkish, British, and Arab authorities. And no sooner had the Jews in Palestine declared their independence than they were invaded by the armies of Iraq, Jordan, Egypt, Syria, and Lebanon.

Today, the struggle continues. When Israel is not fighting a conventional war with its neighbors, as it did in 1948, 1956, 1967, and 1973, it is defending itself from attacks by terrorists and guerrillas. For many in Israel, the question is not whether they will be attacked again, or where, but only when.

In addition to the threats from its neighbors, Israel today faces a perplexing internal security dilemma. On the one hand, the violence associated with efforts to maintain law and order in the occupied territories is provoking intense international criticism of Israel, as well as much concern within Israel and among would-be immigrants. On the other hand, the Israeli Government has no clearly available means of resolving this problem since the leadership of the PLO seems intent not on seeking accommodation, but on seeking the destruction of the State of Israel. Hence, the challenges facing Israel today include the threat of invasion from its neighbors as well as an internal security problem that is divisive and cannot easily be remedied. I believe that Israel needs the continued strong support of the United States—perhaps now more than ever.

Despite the daunting challenges it faces, the State of Israel is a vibrant democracy that has made outstanding contributions to the world in fields such as science, medicine, agriculture, music, and literature. Israel has restored the parched lands that the early Jewish settlers inhabited, and has provided a safe haven for the survivors of the Holocaust and millions of Jewish refugees from such diverse places as Ethiopia and the Soviet Union.

We are all proud of the enormous advances Israel has made over the last four decades in creating a strong, free society, despite the numerous challenges it has faced. Israel shares with us our ideals of democracy, human freedom, and individual liberty. Its marvelous accomplishments are a credit to its people, who serve as an inspiration because of their dedication and determination to survive against overwhelming odds and intimidations. They remain proud, unafraid and free. Despite their present difficulties, the people of Israel indeed have a great deal to celebrate.

POLISH CONSTITUTION DAY

● Mr. SARBANES. Mr. President, on May 3 we will mark the 197th anniversary of the adoption of the Polish constitution, one of the great achievements in Poland's history and one of the world's most significant historic documents of political freedom and religious tolerance. The Polish people's indomitable spirit and their dedication to freedom allowed them to create, just 2 years after the adoption of the U.S. Constitution, a document which guaranteed basic human rights and religious freedoms and which declared the equality of all citizens under the law. This document was not forced upon the people nor did it precipitate internal strife or bloodshed; it was welcomed by a nation of courageous men and women committed to justice and the pursuit of liberty. It is with deepest respect and admiration that I join with citizens across our Nation in paying tribute to the gallant Polish people and their heroic dedication to freedom.

On Polish Constitution Day, we not only commemorate the proud triumph of 1791 when Poland immortalized her people's love of freedom in a democratic constitution, we also gratefully acknowledge the numerous contributions of the Polish people to America, since the earliest days of our Nation's struggle to create a free society. In 1608, almost 12 years before the Pilgrims landed at Plymouth Rock, Polish artisans arrived in Virginia's Jamestown and by the fall of that year had built the first glass factory in America. In 1619, they established themselves as early champions of freedom and human dignity by closing their factory doors until they had won the same voting privileges enjoyed by the English settlers.

During the American Revolution, Thaddeus Kosciuszko and Count Casimir Pulaski rallied to the banner of our newborn country as it struggled for its independence. Kosciuszko's commitment to the struggle for liberty led him from Poland to America in 1776, where he was commissioned by Congress as colonel of engineers. By selecting and fortifying the Saratoga battlefield he helped turn back Burgoyne's offensive, bringing about the turning point of the Revolutionary War. In 1784, after planning and building the defenses of West Point, Kosciuszko returned to his native land to fight a courageous but futile campaign against the Russian invaders. For the rest of his life, he fought for Poland's independence as he had for America's. His close friend Thomas Jefferson wrote of Kosciuszko, "He is as pure a son of liberty as I have ever known."

Count Pulaski arrived in America in 1777 and less than a year later, commissioned as a brigadier general by the Continental Congress, came to Baltimore to recruit and organize an independent corps of cavalry and infantry. Pulaski's legion from Baltimore and neighboring areas served with distinction, arriving in time to repel a British attack on Charleston, SC. Pulaski himself gave his life for the cause of American freedom when he was shot and mortally wounded during the seige of Savannah, GA.

The contributions of Polish Americans to the early development and growth of our country have been repeated in every succeeding generation and have immeasurably enriched our national, political, cultural and social life. As Americans throughout the land celebrate Polish Constitution Day we can take pride in these accomplishments, yet we must also reflect on the tragic aspects of Polish history, marred so often by invasion and oppression, and the continuing injustices still manifest in Poland today. From Genghis Khan's invasion in the 13th century, to Turkish aggression over several hundred years, to the Russian partitioning of Poland in 1792 and 1795 which completely dissolved the independent state, to the Soviet occupation following World War II, Poland has suffered relentless challenges to its freedom and sovereignty. But the spirit of this great people has never died, either in Poland or in the lands where Poland's sons and daughters began life anew. Their dedication to their ideals, their chivalry and their compassion are all reflected in their national banner, which carries the motto, "For Our Liberty and Yours."

In recent years, we have witnessed in Poland official repression on a broad scale and a blatant disregard for even the most fundamental human rights and freedoms. The movement for liberty and justice, both symbolized by and led by Solidarity, is kept alive by the unshakeable will and determination of the people in Poland as well as those forced to flee their homeland. It is only fitting, therefore, that the United States last December enacted legislation to grant temporary residency to Poles who had come to or remained in the United States following the imposition of martial law in 1981. As a result of this measure, Polish nationals may now fully particpate as productive members in the American community without fear of sudden deportation to Poland where they would face harassment and possible imprisonment. They join a distinguished community of Polish Americans who have made profound contributions in every walk of life and have served our democratic institutions in countless positions in Federal, State, and local governments. Above all, they have always championed our Nation's freedom and honor.

In joining with Polish Americans throughout our land in commemorating Polish Constitution Day, we pay tribute to the critical role that Americans of Polish descent have played in the defense not only of our Nation's independence, but of our most fundamental values and principles. As we recall that our national heritage is rich with the gifts of the Polish people, let us hope that we will once again see a free Poland, ready to fulfill the highest ideals and aspirations of its people.●

THE AUTOMATED PEOPLE MOVER FOR THE CITY OF TAIPEI

● Mr. D'AMATO. Mr. President, I wish to add my voice in concern on the apparent selection of a non-American firm as the supplier of an automated people mover for the city of Taipei, Taiwan. I joined several of my Senate colleagues recently in encouraging the Taiwanese Government to consider an American supplier, and to put into practice recent indications that the Government of Taiwan would utilize American goods and services whenever competitive in recognition of our Government's concerns regarding our balance of trade deficit with Taiwan.

It is my understanding that the Westinghouse Electric Corp. has submitted a highly competitive proposal for the 10 station, 5.5-mile first phase of the Taipei medium capacity transit system [MCTS]. The American Institute in Taiwan, in a letter to Premier Yu Kuo-hwa, has indicated that the Westinghouse proposal is the lowest in cost submitted to Taipei, and represents a state-of-the-art, proven technology which already operates satisfactorily in conditions similar to those anticipated in Taipei. The technology proposed by the apparently successful non-American firm has not been proven in actual operations which the Westinghouse technology represents the latest refinements to equipment and services supplied to 11 systems worldwide.

I am concerned not only about the apparent lack of deeds to back up the Taiwanese pledge to assist us in our trade deficit, but also by the fact that the non-American firm selected by Taipei is directly and substantially supported by the Federal Government in the country in which it is incorporated. We therefore have a situation in which the sense of fair play is sullied by a lack of followthrough to a commitment to use American services and products whenever possible, by the apparent deviation from the bid process designed to select the transit system supplier, and by the fact that the apparent successful non-American supplier is directly and substantially financed by its Federal Government.

Mr. President, it seems to me that we are again witnessing an unfair process for selecting a project contractor for a major overseas project in which the process of fair play is ignored at the expense of American technology, American jobs and America's economic vitality. I join my colleagues in voicing my hope that Government officials in Taipei and Taiwan will review the outcome of the selection process for the Taipei system, and will honor precious commitments to assist us in addressing our trade balance problems. Absent such actions by foreign governments we can only anticipate that pressure will continue to grow to directly address the trade practices of those countries which continue to make entry by American firms an insurmountable task while incurring tremendous trade balances at our expenses.●

AIRLINE SMOKING BAN STARTS

● Mr. LAUTENBERG. Mr. President, last Saturday was an important day for all air travelers. Starting Saturday cigarette smoking is cleared from the air of most flights.

We are all frequent flyers. We are all aware of the irritation to our eyes, noses, and throats soon after the no smoking sign goes off. The National Academy of Sciences and the Surgeon General tell us this smoke is a health hazard as well as an irritant.

We in the Congress have decided that now is the time to act. We have reviewed the evidence and decided that protection of public health requires a ban of smoking. You joined me in saying that smoking in the air should go.

And on Saturday, the ban went into effect. For the next 2 years passengers on 80 percent of this Nation's airline flights will be able to travel in smokeless airline cabins. I predict that when the 2-year ban is up, there will be very few people who want to return to the days when cigarette smoke was an unwelcome airline passenger.

I pushed for this ban in the interests of providing a safe working environment for the airline cabin crew. Flight attendants should not have to work in a "blue haze" of smoke. I pushed for this ban in the interests of health of all passengers. When the smokers light up, there is no place for the nonsmokers to go. The only way to protect them is to stop the smoking.

The reaction from the public has been very positive. People from all over the country have written to me supporting the ban. Even many smokers have said that they don't like to sit in a smokey airplane cabin. Support for the smoking ban has been so strong and so widespread, that I predict that it will only be extended by Congress in 1990 but will be widened to cover all domestic flights.

Mr. President, the smoking ban is not antismoking or antitobacco; it is prohealth. An airliner cabin is a special environment. You cannot open the windows at 30,000 feet to clear out the smoke. The flight attendants and passengers are entitled to work and travel in a safe environment. Prohibiting smoking is as much a safety and health requirement as fastening seat belts. And will become just as natural.●

STUDY OUTLINES FUTURE POLICIES TO INCREASE U.S. SAVING RATE

● Mr. KASTEN. Mr. President, there is a broad consensus that the U.S. saving rate must be raised in order to strengthen the current economic recovery, raise the standard of living and enhance U.S. international competitiveness.

I call to the attention of my colleagues an economic study prepared by Dr. Timothy P. Roth of the University of Texas at El Paso for the Senate Republican Conference Task Force on Economic Growth and Opportunity entitled "Saving, Investment Incentives and Economic Growth." The study is part of the task force's ongoing effort to put forth new ideas and possible policy initiatives to increase the rate of economic growth.

Mr. President, we must continue to reduce the Federal budget deficit in order to raise the rate of private saving. I believe that the most economically constructive way to reduce the deficit is to reduce the growth rate of government spending—not to increase taxes. In addition, I believe that Congress must look to reduce the tax penalty on saving and investment. Dr. Roth's study concludes that the tax system should provide incentives to encourage investment by reducing the tax rate on capital gains and moving toward expensing of plant and equipment. Finally, because marginal tax rates reduce the rate of saving, marginal tax rates should not be raised.

Mr. President, I ask that the full text of Dr. Roth's study be printed in the Record:

The study follows:

Saving, Investment Incentives and Economic Growth

(By Timothy P. Roth)

FORWARD

The 1981 Economic Recovery Tax Act (ERTA) has laid a solid foundation for economic growth. ERTA contained many changes in both individual and business taxation designed to increased economic incentives to work, save and invest. ERTA cut marginal tax rates, including further cuts in the capital gains tax rate, and it enhanced capital cost recovery allowances.

Despite dilution of ERTA by subsequent tax increase bills, the U.S. economy has responded surprisingly well. The economy is now into its sixth year of economic expansion, the longest peacetime expansion in postwar history. Over 15 million new jobs have been created. Real median family income has risen 10.7 percent. Investment has been strong with real gross private investment having risen 53 percent from 1982 to 1987.

There remains considerable debate over the effect of the 1981 tax cuts on the U.S. saving rate. The U.S. saving rate as measured by the national income accounts is both historically low and low relative to other developed countries. However, the measurement of saving is subject to many definitional issues that affect the U.S. saving rate. Saving is often defined simply as the difference between income and consumption, but increases in net wealth can properly be viewed as saving. A broader definition of saving that includes capital gains improves the situation considerably.

Definitional issues aside, there is a broad consensus that the U.S. saving rate must be raised in order to strengthen the current economic expansion, raise the standard of living and increase U.S. international competitiveness. Timothy P. Roth, Ph.D, of the University of Texas at El Paso has prepared an economic study for the Senate Republican Task Force on Economic Growth and Opportunity entitled "Saving, Investment Incentives and Economic Growth" which examines the impact of tax policy on the rate of saving.

Analyzing the data covering the 1954–1984 period, the study concludes that reductions in marginal tax rates increase labor's income share and thereby, increase the saving rate. In addition, the study finds that other policies can more efficiently increase the saving rate. Increasing the amount of physical capital per worker will increase labor's income share and increase the U.S. saving rate and productivity. This, in turn, will accelerate economic growth and enhance U.S. international competitiveness. In addition, increasing the stock of capital will compensate for the dampening effect on economic growth associated with slower labor force growth.

The results of the study provide an insight as to why the saving rate in the 1981–1987 period has not responded as some had expected to the 1981 tax cuts. Since 1981, Congress has enacted several tax reforms and tax increases that have directly or indirectly affected the rate of saving. These tax bills include the 1982 Tax Equity and Fiscal Responsibility Act (TEFRA), 1983 social security payroll tax reforms, the 1984 Deficit Reduction Act (DEFRA) and the 1986 Tax Reform Act (TRA). ERTA and TRA dramatically reduced tax rates on labor income which, in turn, has a salutary effect on saving. On the other hand, TEFRA, DEFRA, and TRA increased tax rates on capital income which reduces savings. The social security payroll tax increases also reduces savings—particularly saving by lower and middle income taxpayers.

If the saving rate is to be raised, the capital/labor ratio must be raised. The policy approaches are well known. The tax system should provide incentives to encourage investment by reducing the tax rate on capital gains and moving toward expensing of plant and equipment. Finally, because increases in marginal tax rates reduce the saving rate, marginal tax rates should not be raised—Senator Robert W. Kasten, Jr.

Executive Summary

The U.S. saving rate is historically low and, depending upon the definition employed, is low relative to other developed countries. In contrast, between 1982 and 1987 real gross private domestic investment rose 53 percent. The catalysts were the reduction in capital taxation embodied in the Economic Recovery Tax Act [ERTA], declining inflation rates and a continuing economic expansion. The result has been that domestic saving is insufficient to finance both surging investment spending and ongoing, expenditure-driven Federal deficits.

Fortunately, ours is an increasingly integrated, global economy in which international capital flows are responsive to differential rates of return. Predictably, the interaction of high real after-tax rates of return and a record-setting economic expansion attracted foreign capital. The capital inflow, in turn, compensates for the saving shortage. Yet if other countries continue to emulate U.S. tax policy by reducing their tax rates, the relative attractiveness of investment in the U.S. will decline. This will be especially true if economic growth accelerates in Japan and Western Europe and/or concern about the exchange value of the dollar discourages investment in dollar-denominated assets.

These considerations have led to a broad consensus that the U.S. saving rate must be raised. Data covering the 1954-1984 period indicate that

A one percent decrease in marginal tax rates increases labor's share of real disposable personal income 0/16 percent. This is important because

A one percent increase in labor's income share increases the saving rate 1.7 percent. On the other hand:

A one percent increase in capital's income share reduces the saving rate 1.2 percent.

Marginal tax rates cuts increase labor's income share and this, in turn, increases the saving rate. However, because labor's income share is relatively unresponsive to tax rate changes, other policies can more efficiently increase labor's income share and, thereby, increase the saving rate. A large body of evidence suggests that, for the U.S. economy, the elasticity of substitution of capital for labor is less than one. Increases in the capital/labor ratio therefore increase labor's income share. If the objective is to increase the saving rate plant and equipment investment should be encouraged.

The Tax Reform Act of 1986 [TRA] reduced tax rates on labor income and raised tax rates on capital income [5, p. 91]. While it lowered the corporate tax rate, TRA repealed the investment tax credit and allows less rapid depreciation. The net effect is both a higher tax rate on capital and a higher cost of capital [5, pp. 87 and 91]. TRA will therefore reduce the capital/labor ratio [5, p. 92].

If the saving rate is to be raised, the capital/labor ratio must be raised, not lowered. Policy makers should therefore focus on the provision of incentives to invest in plant and equipment. Efforts to increase the capital/labor ratio will be both aided by, and made more important because of, slower labor force growth. On the one hand, increases in the capital/labor ratio will be easier to achieve as labor force growth slows. On the other hand, because real GNP growth is the sum of labor force growth plus growth of capital plus productivity growth, increases in capital and productivity growth are all the more important. If slower labor force growth is not compensated by faster capital and productivity growth the longest peacetime expansion in postwar history will be jeopardized.

Plant and equipment investment incentives are essential because

Increases in the capital/labor ratio increase both the saving rate and productivity;

This, coupled with increases in the stock of physical capital will compensate for the negative effect on economic growth of slower labor force growth.

Congress should therefore

Move toward expensing of plant and equipment

Reduce the capital gains tax rate.

Finally, because increases in marginal tax rates reduce labor's income share and, thereby, reduce the saving rate

Marginal tax rates should not be raised.

INTRODUCTION

The effect of tax policy changes on saving has received considerable and increasing attention. The catalysts have been many. The U.S. saving rate is both historically low and, depending upon the definition employed, is low relative to other developed countries [13, p. 1576; 6, p. 101]. And, finally, the saving rate has not responded as some expected to the 1981 tax cuts. One of the linchpins of the Reagan Program for Economic Recovery was the presumption that marginal tax rate cuts would increase personal saving [21, esp. p. 14]. The subsequent decline in the saving rate was viewed by tax cut proponents as anomalous. Opponents saw the decline as a vindication of their view that the saving rate is either unresponsive to tax rate cuts, or that cuts in marginal tax rates reduce the saving rate.

The ambiguity as to the relationship between tax rate changes and the saving rate is a corollary of the fact that uncompensated changes in marginal tax rates generate both substitution and income effects. Beyond this, it is clear that "no consensus on the appropriate model of saving behavior has been reached . . ." [13, p. 1576].

With these caveats in mind, I derive empirical results predicated on the notion that the consumer is simultaneously an asset portfolio manager, a consumer, and a labor supplier. On this logic, the income and/or wealth variables which appear as arguments of the saving function are not exogenously determined. They are discretionary variables whose optimal values emerge as a result of a constrained utility maximizing procedure. The consumer's income (wealth) constraint is therefore endogenously determined. On the presumption that he seeks to maximize utility subject to this constraint the consumer's optimal consumption-saving pattern is then determinable.

Based on this understanding of the consumer's decision environment, my empirical results indicate that, while changes in marginal and average tax rates are not important determinants of changes in the saving rate, changes in the composition of the income flow do affect the saving rate. However, because they affect the flows of real human or labor income, and of real nonhuman or capital income, tax rate changes indirectly affect the saving rate.

THE MODEL

On the assumption that he seeks to maximize interntemporal utility subject to a wealth constraint, the consumer's saving function emerges as [1]

$$(1)\quad SR^D_t=(S^D/RDPY)_t=f[MTR_t;\ ATR_t;\ INT(RHY/RDPY)_t;\ (RNHY/RDPY)_t;\ (RM1/RDPY)_t]$$

where SR^D_t is the saving rate at t, with consumer durables counted as saving. Because an increase (decrease) in $(RNHY/RDPY)_t$ implies a decrease (increase) in $(RHY/RDPY)_t$ estimation of equation (1) involves a deterministic relationship. Therefore equation (1) is properly estimated employing either $(RHY/RDPY)_t$ or $(RNHY/RDPY)_t$.

The logic for treating consumer durables as a component of saving rests, in part, on the idea that consumer durables yield service flows over finite planning horizons. In effect, the purchase of a durable contemplates foregoing some current consumption in exchange for future consumption. Moreover, consumer durables contribute directly to household production [18, Chapter V; 6, p. 101]. Durables therefore constitute net additions to private wealth [13, p. 1580].

The logic behind inclusion of MTR_t is straightforward [13, pp. 1589-90]:

". . . marginal tax schedules affect household budgets in three ways. First, they change after-tax prices . . . Second, they change the present value of households' resource endowments . . . Third, they change incentives to accumulate human capital]. . . ." [2]

Yet the structure of the progressive income tax system is such that both MTR_t and ATR_t must be included as arguments of the saving function.[3] Compensated changes in MTR_t change the relative prices of consumption and saving. This pure substitution effect is distinguished from the income effect associated with a change in ATR_t.[4]

Because of the covariance of rates of return among financial and physical assets, one interest rate is employed as a measure of the *ex ante* real long-term interest rate, INT_t.[5]

The nontransferability of human capital implies that the discount rate associated with the human income stream must exceed the discount rate on nonhuman income [16, esp. Chapter 10; 14]. For a given total income stream, a redistribution of income away from human and toward nonhuman therefore makes the individual wealthier [16, p. 292]. Equally important, because the source of the human income stream is not separable from its owner, an increase (decrease) in nonhuman relative to human income implies, for a given total income stream, an increase (decrease) in asset portfolio liquidity. Changes in the composition of the income flow will therefore likely have asymmetric effects on the saving rate. Finally, inclusion of the real stock of money follows from the definition of wealth.

THE EXPECTED SIGNS

The logic outlined above suggests that the direction of effect on SR^D_t of changes in MTR_t and ATR_t cannot be settled on a priori grounds.

An increase (decrease) in the real interest rate is generally expected to result in an increase (decrease) in SR^D_t [16, Chapter 15]. However, we know that the relationship between changes in INT_t and SR^D_t is complicated by the fiscal environment within which the changes occur [13, p. 1595]. Moreover, the life cycle hypothesis implies that the relationship between "the" interest rate and the saving rate is not invariant with respect either to the growth rate of the economy, the vehicle by which saving is accomplished, or the motive(s) for which saving occurs [15, pp. 303-04]. The introduction of a bequest motive and, or, explicit recognition that length of life is stochastic adds to the ambiguity [8, p. 404]. Even in the absence of a bequest motive, the perceived risk of outliving savings may outweigh that of dying with some wealth unconsumed.[6] In this event, "induced bequests can be quite large and the interest elasticity of aggregate saving is frequently NEGATIVE. . . ." [8, p. 405].[7] On balance, little can be said a priori about the sign of the coefficient linking changes in INT_t to changes in SR^D_t.

With durables counted as saving, increases (decreases) in income are generally expected to increase (decrease) SR^D_t [12, pp. 495-96]. Yet, as has been emphasized, changes in the composition of income matter. Increases (decreases) in $(RHY/RDPY)_t$ and in

---

Footnotes at end of article.

$(RNHY/RDPY)_t$ are expected to have asymmetric effects on SR^D_t.

Finally, an increase (decrease) in real cash balances increases (decreases) both current and desired terminal assets [16, p. 388]. If consumption in any period is not inferior to terminal assets, increases (decreases) in RM^l_t will decrease (increase) SR^D_t. While the noninferiority of consumption at any t is plausible, other possibilities exist. The sign on the $(RMl/RDPY)_t$ coefficient is therefore an empirical question.

THE EMPIRICAL RESULTS

Linear estimates of equation (1) employing either $(RHY/RDPY)_t$ or $(RNHY/RDPY)_t$ reveal that ATR_t, INT_t and $(RM1/RDPY)_t$ are not statistically significant, and that MTR_t is not robust with respect to model specification. Only the income variables are increasingly significant as other variables are deleted. I therefore estimated equations for SR^D_t employing either $(RHY/RDPY)_t$ or $(RNHY/RDPY)_t$ as the sole independent variable.

Using these equations the estimated elasticity coefficients are, respectively, +1.7 and −1.2. The t-values on the associated regression coefficients are +5.65 and −5.93.

More, however, can be said about the relationship between marginal tax rates and SR^D_t. The logic follows from the fact that the two income variables are themselves discretionary variables. With the individual regarded simultaneously as a consumer, an asset portfolio manager, and a labor supplier, the decision environment contemplates a two-stage optimization process. At stage one the individual effects a labor-leisure choice. Given the stage one result, he then determines his optimal consumption-saving pattern.[8] At both stages, the individual seeks to maximize utility subject to an appropriately defined constraint. Because the argument is symmetrical with respect to $(RNHY/RDPY)_t$, the essentials of the stage one process are captured by attention to the determinants of $(RHY/RDPY)_t$. The latter is dependent upon the interaction of the individual's preference structure and a quasi-concave budget constraint. The properties of the constraint, in turn, are determined by the prevailing real wage, marginal and average tax rates and, by assumption, the level of $(RHY/RDPY)_t$ at time t-1.[9] The equation for $(RHY/RDPY)_t$ is therefore

$$(2)\ (RHY/RDPY)_t = g[MTR_t;\ ART_t;\ (RHY/RDPY)_{t-1}].^{10}$$

By a similar line of reasoning, the equation for $(RNHY/RDPY)_t$ is

$$(3)\ (RNHY/RDPY)_t = h[MTR_t;\ ATR_t;\ (RNHY/RDPY)_{t-1}].$$

Empirical estimates of equations (2) and (3) reveal that changes in MTR_t are statistically significant determinants of changes in $(RHY/RDPY)_t$, while changes in ATR_t are statistically significant determinants of changes in $(RHY/RDPY)_t$. While the elasticity coefficient defined for ATR_t is quite small [−0.03], $(RHY/RDPY)_t$ is more responsive to changes in MTR_t. The estimated elasticity coefficient is −0.16. Because they affect the composition of the income flow tax rates are therefore important indirect determinants of changes in SR^D_t.

In summary, the evidence is unambiguous that increases (decreases) in $(RHY/RDPY)_t$ increase (decrease) the saving rate. This result is consistent with the notion that increases (decreases) in real human income induce increases (decreases) in real saving [16, p. 387]. It is also consistent with both the life cycle and the permanent income hypotheses; in particular, with the view that, with durables counted as saving, the saving rate rises as income rises [12, p. 496]. On the other hand, the inverse relationship between changes in $(RNHY/RDPY)_t$ and SR^D_t is consistent with Pesek and Saving's view that increases (decreases) in real nonhuman income may cause real saving to decrease (increase) [16, p. 387].[11] Moreover, it is consistent with the life cycle view that an increase in the value of nonhuman capital "makes it possible to consume more and save less over one's lifetime" [12, p. 499].

Finally, while I have argued for inclusion of durable goods as a component of saving, there is an alternative view; namely, that the saving rate, properly defined, excludes durable goods. With this in mind I estimated two equations whose dependent variable SR^C_t, treats durable goods as consumption. The associated elasticity coefficients are +1.5 [for $(RHY/RDPY)_t$] and −0.9 [for $(RNHY/RDPY_t]$. Both are statistically significant, and remarkably close to the corresponding elasticity coefficients defined for SR^D_t. It is clear therefore that, however defined, the saving rate increases (decreases) accordingly as human income increases (decreases) relative to nonhuman income.

CONCLUSIONS AND POLICY IMPLICATIONS

Increases in real human or labor income increase the saving rate, while increases in real nonhuman or capital income reduce the saving rate. While marginal tax rate reductions increase labor income, the effect is relatively small. Increases in the saving rate can therefore be more efficiently achieved by appeal to other policies.

One such policy invokes estimates of the elasticity of substitution of capital for labor in the U.S. economy. The latter measures the percent change in the capital/labor ratio given some percent change in the marginal rate of technical substitution of capital for labor. Much of the available empirical evidence suggests that, for the U.S. economy, the elasticity of substitution is less than one.[12] At equilibrium, the marginal rate of technical substitution equals the factor-price ratio; the ratio of the wage rate to the rental rate on physical capital. With the elasticity of substitution less than one, increases in the capital/labor ratio increase the flow of labor relative to capital income [3, p. S17]. But increases in labor relative to capital income increase the saving rate, however defined. Therefore, increases in the capital/labor ratio increase the saving rate.

If policy makers seek to increase the saving rate attention ought to center on policies designed to increase the capital/labor ratio. In particular, faster writeoffs on plant and equipment investment should be permitted, and the capital gains tax rate should be reduced. The incentive effects of faster depreciation are well known. But the interfaces between plant and equipment (and R&D) investment and lower capital gains tax rates are no less important. Lower capital gains tax rates enhance both the marketability and the liquidity of the financial instruments used to finance plant and equipment and R&D investment. Moreover, because dividend income is taxed as ordinary income a lower capital gains tax rate encourages business firms to substitute future capital gains for current stockholder income. Stated differently, a lower capital gains tax rate encourages the substitution of internally financed plant and equipment and R&D investment for current dividend payout.

Policy makers should recognize that more rapid accumulation of physical capital is essential if the saving rate is to be raised. But it is important for other reasons. With the labor force growing at a slower rate [6, p. 52], the longest peacetime expansion in postwar history may be jeopardized. Real GNP growth is the sum of labor force growth plus growth of physical capital, plus productivity growth. An acceleration of physical capital accumulation is therefore important for its own sake. Yet because it contributes directly to an acceleration of productivity growth more rapid plant and equipment investment is doubly important. Plant and equipment investment should be encouraged.

Finally, because increases in marginal tax rates reduce labor's income share and, thereby, reduce the saving rate, marginal tax rates should not be raised.

FOOTNOTES

[1] See Appendix for variable definitions.

[2] See also [12, pp. 498-99] and [7, p. 111].

[3] The essential point is that a progressive income tax structure gives rise to a discontinuous, quasi-concave budget constraint. It follows that the logic outlined in [4] and [11] has basic relevance. In the presence of quasi-concave (convex) budget constraints, explicit account must be taken of the asymmetric effects of changes in marginal and average or intramarginal prices. Changes in MTR_t and ATR_t change the marginal and average prices of current and future consumption. For an application of this approach to a declining block rate structure, see [17].

[4] Uncompensated changes in MTR_t generate both a substitution and an income effect. For more on the asymmetric effects of changes in marginal and average tax rates, see [20, esp. Appendix III].

[5] The expected inflation rate is taken to be equal to the average annual change in the CPI over the preceding two years. See [5, pp. 36-40; 7, pp. 111-12].

[6] A gift motive may also be operative. A consumer may make intergenerational transfers ["gifts"] to his parents [1].

[7] Owen Evans "analyze(s) in a theoretical simulation context, the impact on saving and wealth of an increase in the after-tax rate of return to saving . . . ." [8, p. 398]. He concludes that the life cycle model of household savings is consistent with negative, zero, and positive interest elasticities of saving [8, p. 408].

[8] See [20, Appendix I] for a discussion of the decision process outlined here. For more on multi-staged decision processes, see [9] and [10].

[9] For a discussion that captures the essentials of the argument, see [20, esp. Appendix III].

[10] On the logic that interest rate changes generate substitution, income and wealth effects relevant to the labor supply decision, INT_t might be included as an argument equation (2). See, for example [16, p. 395]. However, inclusion of INT_t does not appreciably affect the "explanatory" power of the equation for $(RHY/RDPY)_t$. Finally because it is estimated in ratio form, the real wage, RW_t—which is necessarily expressed in dollar terms—cannot properly be entered as an argument in equation (2).

[11] This result is also consistent with my finding that, whereas increases (decreases) in real human income increase (decrease) the demand for real cash balances, increases (decreases) in real nonhuman income decrease (increase) money demand. See [19, esp. equations (3), (4) and (6), pp. 77-78].

[12] See, for example [3, esp. section 4]. See also [2] and [5, p. 92].

APPENDIX

Variable Definitions[1]

SR^D_t, the saving rate with durables purchases counted as saving Real Disposable Personal Income—[Real Personal Consumption = Expenditures—Durable Goods Spending]/Real Disposable Personal Income.

SR^C_t, the saving rate with durables purchases counted as consumption = Real Disposable Personal Income—Real Personal Consumption Expenditures/Real Disposable Personal Income.

MTR_t and ATR_t, the marginal and average or intramarginal tax rate variables, are calculated as follows: Aggregate taxable income of those taxpayers filing taxable returns is divided by the number of taxable returns.[2] This yields, for each year over the period 1954-1984, the average taxpayer's taxable income. On the assumption that he filed a joint return, the marginal tax rate confronting the taxpayer during any year was determined by appeal to that year's tax rate schedule. The marginal tax rate was taken to be the tax rate associated with the tax bracket into which the average taxpayer's taxable income fell. The average tax rate in any year is understood to be the base tax for the bracket into which the average taxpayer's taxable income falls, divided by the lower bound of the income bracket.

INT_t, a measure of the ex ante real long-term interest rate, is the AAA corporate bond rate minus the average annual change in the Consumer Price Index [CPI] over the preceding two years.

$RNHY_t$, or real nonhuman income is the sum of proprietors' income, rental income, personal dividend income and personal interest income divided by the CPI.

RHY_t, or real human income is the sum of wage and salary disbursements, other labor income and transfer payments divided by the CPI.

$RDPY_t$ is real disposable personal income.

$(RNHY/RDPY)_t$ is $RNHY_t$ divided by $RDPY_t$.

$(RHY/RDPY)_t$ is RHY_t divided by $RDPY_t$.

$RM1_t$ is M1, the narrowly defined measure of money, divided by the CPI.

$(RM1/RDPY)_t$ is $RM1_t$ divided by $RDPY_t$.

RW_t, the real wage rate, is average gross hourly earnings in the private non-agricultural sector, divided by the CPI.

REFERENCES

1. Andrew B. Abel, "Operative Gift and Bequest Motives," American Economic Review, Vol. 77 (December 1987), pp. 1037-47.

2. E. R. Berndt, "Reconciling Alternative Estimates of the Elasticity of Substitution," Review of Economics and Statistics, Vol. 58 (February 1976), pp. 59-68.

3. Michael J. Boskin, "Taxation, Saving and the Rate of Interest," Journal of Political Economy, Vol. 86 (April 1978), pp. S3-S27.

4. James M. Buchanan, "The Theory of Monopolistic Quantity Discounts," Review of Economic Studies, Vol. 20 (1952-53), pp. 199-208.

5. Council of Economic Advisers, "Economic Report of the President" (Washington, D.C.: United States Government Printing Office, 1987).

6. ———, "Economic Report of the President" (Washington, D.C.: United States Government Printing Office, 1988).

7. Michael K. Evans, "The Truth About Supply-Side Economics" (New York: Basic Books, 1983).

8. Owen J. Evans, "Tax Policy, the Interest Elasticity of Saving, and Capital Accumulation: Numerical Analysis of Theoretical Models," American Economic Review, Vol. 73 (June 1983), pp. 398-410.

9. Eirik G. Furubotn, "Observed Consumption Patterns and the Utility Function," Metroeconomica, Vol. 19 (January-April 1967), pp. 42-61.

10. ———, "The Quasi-Concave Utility Function and the Number of Goods Chosen at Equilibrium," Weltwirtschaftliches Archiv, Vol. 110 (1974), pp. 288-307.

11. A Gabor, "A Note on Block Tariffs," Review of Economic Studies, Vol. 23 (1955-56), pp. 32-41.

12. Robert J. Gordon, "Macroeconomics" (Boston: Little, Brown and Company, 1987).

13. Laurence J. Kotlikoff, "Taxation and Savings: A Neoclassical Perspective," Journal of Economic Literature, Vol. 22 (December 1984), pp. 1576-1629.

14. G. S. Laumas, "Discount Rate and Wealth," Journal of Political Economy, Vol. 89 (February 1981), pp. 196-98.

15. Franco Modigliani, "Life Cycle, Individual Thrift, and the Wealth of Nations," American Economic Review, Vol. 76 (June 1986), pp. 297-313.

16. Boris P. Pesek and Thomas R. Saving, "Money, Wealth and Economic Theory" (New York: Macmillan, 1967).

17. Timothy P. Roth, "Average and Marginal Price Changes and the Demand for Electricity: An Econometric Study," Applied Economics, Vol. 13 (September 1981), pp. 377-88.

18. ———, "The Present State of Consumer Theory" (Lanham, MD and London: University Press of America, 1987).

19. ———, "Tax Rates, Income Flows and Money Demand," Quarterly Review of Economics and Business, Vol. 25 (Spring 1985), pp. 74-84.

20. U.S. Congress, Joint Economic Committee, Subcommittee on Monetary and Fiscal Policy, "Marginal Tax Rates, Saving and Federal Government Deficits" by Timothy P. Roth and Mark R. Policinski, Joint Committee Print (Washington, D.C.: U.S. Government Printing Office, 1981).

21. The White House, "A Program for Economic Recovery" (Washington, D.C.: Office of Management and Budget, February 18, 1981).●

FINANCIAL DISCLOSURE OF SENATOR PAUL SIMON

● Mr. SIMON. Mr. President, it has been my practice in each the 33 years I have spent in public life to volunteer a detailed accounting of my finances.

I ask that my financial report for 1987 be printed in the Record.

The financial report follows:

Income:	
Salary, U.S. Senate	$87,483
State of Illinois, General Assembly System	17,604
Book Royalties	478
Honoraria and travel (Jeanne):	
American Association of Retired People	1,200
Peace Links	348
John Logan College	300
American Library Association	2,000
Total	3,848
U.S. Senate, expense reimbursement	7,514.05
Official expense reimbursement [office]	132.10
Paul Simon for Senate committee, expense reimbursement	293
Paul Simon for President committee, expense reimbursement	3,019
Diner's Club, refund	168.92
Northwest Orient Airlines, reimbursement, lost luggage	1,250
Chicago Bears, refund	60
Total	121,850.07
Honoraria and travel reimbursement (Paul):	
Coalition of higher education, talk	500
Sino-American Cultural Society, talk	1,000
National Association Casualty and surety agents, talk	1,000
United Jewish Appeal, talk	1,500
Columbia University	196
National PAC, talk	614
National Association of Trade and Technical Schools, talk	1,000
National Association of Independent Insurers, talk	2,000
Pharmaceutical Manufacturers Association, talk	2,000
Democratic National Committee	158
University of Notre Dame, talk	1,000
Chicago and Central States Joint Board Amalgamated Clothing and Textile Workers Union, talk	1,000
Soviet Jewery, talk	400
National Retail Manufacturers Association, talk	2,000
Education Committee for Foreign Medical Graduates, talk	1,000
The Proprietary Association, talk	500
American Hardware Manufacturers Association, talk	2,000
University of South Carolina, talk	1,000
Motion Picture Association, talk	2,000
County of Fairfax, talk	208.40
Capitol Associates, talk	1,000
Iowa Association of Electric Cooperative, talk	750
Total	22,826.40
Interest income:	
General American Life	136
U.S. Senate Federal Credit Union	474
NCNB National Bank	3
Polish National Alliance, insurance policy	11
U.S. Government	267
Total	891
Dividends:	
Adams Express	466
Borman's	2

---

[1] Unless otherwise indicated, the date source is various issues of the "Economic Report of the President."

[2] The data source was the Office of the Secretary of the Treasury, Office of Tax Analysis.

Chock Full O'Nuts	3
Dreyfus Convertible Securities Fund	270
Dreyfus Bond Fund	1,204
Franklin Fund	91
General American	213
Gulf & Western	1
Harper & Row	2
Pacific Gas & Electric	384
Pax World Fund	201
Polish National Alliance	66
Ralston Purina	15
Scott Paper	5
Total	2,923

Assets:

First Bank of Carbondale, checking account	11
U.S. Senate Federal Credit Union	2,548
Loan to Senator Paul Simon office account	2,000
U.S. Savings Bonds	3,000
Christian Church of Salem, bond	250
General American Life Insurance, cash value	3,768
Polish National Alliance Insurance, cash value	2,315
Congressional retirement system, cash value	48,250
Congressional retirement system, receivable	17,424
B&T Enterprises	332
11.8 acres and home, Makanda, IL, Appraised in March 1987	204,000
Furniture and Presidential autograph collection	18,000
1983 Ford Mustang	4,000
1980 Chevrolet	1,750
IRA, Paul	17,143
IRA, Jeanne	8,754
Total	333,545

Stock and Bond Holdings with Number of Shares:

Adams Express, 136	2,023
Bethlehem Steel, 5	84
Borman's, 8	70
Chock Full O'Nuts, 10	59
Dreyfus Fund	14,894
Dreyfus convertible securities fund	2,257
Franklin Money Fund	2,114
Gulf & Western, 1	72
Intergroup, Inc., 24	322
Pacific Gas & Electric Co., 200	3,250
Pax World Fund	1,857
Ralston-Purina, 12	767
Rohr Industries, 6	48
Scott Paper, 4	282
United M & M, 8	34
Jet-Lite, 120 (approximate value)	300
Total	28,433

Liabilities:

First National Bank of Collinsville, note	39,762
Polish National Insurance, loan	1,392
General American Insurance, loan	3,021
Landmark Bank, Lebanon, Illinois, mortgage	160,279
Community Trust, Irvington, Illinois, note	14,789
Total	219,243

Total assets	361,978
Total liabilities	219,243
Net worth	142,735

A loan of $50,000 for the campaign was owed to the First National Bank in Chicago as of December 31, 1987, which was repaid in March of 1988.

Gifts received of more than $25.00 value outside of immediate family:

2 tickets to Les Miserables from M/M Sidney Harmon, value unknown.

Painting from Formosan Association for Public Affairs of Chicago, value unknown.

Porcelain vase from Fredrick & Julie Chien, value unknown.

Pewter Box from Waste Management; value unknown.

G.E. Telephone from Robert W. Barrie, value unknown.

Sale of assets—Sold 8 shares of Lear Seigler for $1,840, 2/20/87. Cost of shares, 1968, $140.60. Net gain on sale, $1699.40.

Sold 15 shares of Harper & Row for $975.00, 5/19/87.

Cost of shares, 1985, $99.98. Net gain on sale, $875.02.

Sold 15 rights, Harper & Row, $0.75.●

"ACADEMIC LIBRARIES MUST OPPOSE FEDERAL SURVEILLANCE OF THEIR USERS"

● **Mr. SIMON.** Mr. President, today I am inserting in the RECORD an excellent editorial article by Gerald R. Shields, that recently appeared in the Chronicle of Higher Education. This article calls upon academics to "take a long, hard look" at the FBI's Library Awareness Program, which asks librarians to "be on the lookout for library users who might be hostile to the United States." As part of this program, FBI agents have approached librarians and sought access to various individual's library records and searches.

This article calls upon academics to support librarians and to protect the right of all persons to use libraries without having to worry about who may question their use of these resources. I am inserting this article in the RECORD, because I too am shocked at what appears to be an infringement upon individual liberties, and at the fact that the FBI is expending what are supposedly scarce resources for a program that has little potential for payoff.

Mr. President, in addition to highlighting this article, I am also at work on a bill to limit the FBI's access to library records. This bill would prohibit access to the private records kept by libraries, with limited and specified exceptions to this prohibition. This exemption would include legitimate law enforcement activities.

Mr. President, I ask that this statement and the attached article be inserted in the RECORD.

The material follows:

ACADEMIC LIBRARIES MUST OPPOSE FEDERAL SURVEILLANCE OF THEIR USERS

On June 7, 1987, agents from the Federal Bureau of Investigation appeared in the math-and-science library at Columbia University, and began to quiz the clerk on duty about "foreigners" using the library. However, when the agents were told that only Paula Kaufman, the director of academic information, could respond to such inquiries, they left without a fuss.

The next day an agent, Valerie Vella, called the information office to make an appointment with the director. At their meeting, she told Ms. Kaufman that as part of the F.B.I.'s "Library Awareness Program," librarians were being asked to be on the lookout for library users who might be from countries "hostile to the United States," and to notify the bureau about anyone using the library who fit that description.

Ms. Kaufman responded that Columbia's policy guaranteeing academic freedom covered use of the library, and she made it clear that the university was not prepared to cooperate with the F.B.I. on such a project. Nonplused, Ms. Vella asked about the library's policy on the use of its collection and services by foreign scholars. Ms. Kaufman provided her with a copy of the policy statement, pointing out that it did not permit the surveillance suggested by the F.B.I. Ms. Vella made no attempt to change Ms. Kaufman's stand on the matter and, as far as I know, no one from the F.B.I. has been back since.

The Columbia affair was the catalyst for a move on the part of the New York Library Association to find out what the government was up to, but it wasn't the first such incident. Earlier, in December 1986, an F.B.I. agent visited the research library at the State University of New York at Buffalo, seeking access to records of electronic-data-base searches by individuals. When his request was denied without the subpoena required by New York law for access to such information, the agent obtained one. It named a graduate student from Iraq as the target of the investigation. Since the library did have such records (which it keeps mainly for the convenience of the searcher), the university surrendered the desired information to the F.B.I.

That set off considerable soul-searching among academic librarians. Until then, records of data-base searches had routinely been stored so that a search could be repeated or expanded later at the originator's request, or be used to assist others seeking similar information. Since then, however, new programs have been devised, which keep records of searchers without identifying the searcher.

Because the F.B.I. agents had represented their visits to Columbia as part of an official program, the president of the New York Library Association wrote the bureau's regional office in early August asking for both an explanation and more information about the program. The only answer she received was one of those don't-call-us-we'll-call-you letters.

According to an article in the New York Times later that month, the library program might have had its origins in a 1984 directive from President Reagan, in which he likened intelligence to a mosaic, saying that bits of unclassified data, innocuous in isolation, "can reveal highly classified and other sensitive information when taken in the aggregate." Therefore, the government should "advise and assist the private sector" to protect "sensitive non-Government information, the loss of which could affect national security." It also turned out that Mead Data Central, an electronic publisher of unclassified information, had been visited by representatives not only of the F.B.I. but also of the Air Force and the Central Intelligence Agency, making discreet inquiries as to whether the company would keep track of the names of people accessing its data-base systems. Mead declined to do so and informed the Information Industry Association about the visits.

In mid-September Robert D. McFadden reported in a front-page story in the Times that the "awareness program" had been prompted by the sensational case of Gennadi F. Zakharov, the Soviet employee at the United Nations who had recruited a Queens College student during meetings with him in the college library. According to the story, the F.B.I. claimed that fewer than 20 libraries had been approached about participating in the program. The deputy assistant director of its New York office had refused to name the libraries, saying that to do so would play into the hands of the K.G.B. which, he said, had long favored academic libraries and campuses as likely places to recruit agents. The story quoted him as saying: "All we are interested in is the fact that a hostile diplomat is there. We don't want librarians to become amateur sleuths."

Officials in F.B.I. headquarters in Washington were also close-mouthed about the program, admitting only that it existed. They refused to confirm that academic libraries other than the one at Columbia had been approached, although they allowed that since all regional offices could use the option in their counterespionage efforts, the prospect was likely.

The next day, Joseph S. Murphy, chancellor of the City University of New York, condemned the F.B.I.'s actions in a press release. "covert surveillance activities have no place in college libraries or any other library," he said. "I share the outrage of the city's librarians who regard it as inconceivable that they should be asked to serve as informants for the F.B.I. as part of their professional duties." He proposed that the Senate and House intelligence committees conduct investigations of the F.B.I.'s library program.

Requests for clarification from the American Library Association were met by the F.B.I. with vague answers, indicating that the bureau considered the entire incident a minor irritant. However, after it was revealed that George Mason and New York Universities and the Universities of Cincinnati and Maryland had also been approached, as well as the Broward County (Fla.) and New York Public Libraries, the A.L.A. filed a formal request under the Freedom of Information Act on December 31 "for all records pertaining to F.B.I. investigations [that] have thoroughly documented the many ways that specialized scientific and technical libraries have been used by the Soviet intelligence services, and all other documents pertaining to the Bureau's Library Awareness Program." (It turned out later that while all this was going on, the F.B.I. sent agents to warn the Brooklyn (N.Y.) Public Library that "persons acting against the security of the United States" might use the library, and to request notification should any such person come in.)

That is where the matter stands today. Except for Chancellor Murphy's statement, there has been little reaction from the academic community as these events have been revealed.

Libraries are dedicated to the principle of free access to information, without question or moral judgment on the part of staff members regarding library users or their motives. The A.L.A. recently formulated a "Policy on Confidentiality of Library Records," which reads, in part: "The efforts of the federal government to convert library circulation records into 'suspect lists' constitute an unconscionable and unconstitutional invasion of the right of privacy of library patrons and, if permitted to continue, will do irreparable damage to the educational and social value of libraries of this country."

The majority of academic libraries don't have formal policies protecting library users from surveillance, and there are indications that some have been cowed into cooperating with the program. Agents flashing F.B.I. credentials and holding interviews behind closed doors can be intimidating. Some of those agents have even gone so far as to claim that the F.B.I. is not subject to state statutes protecting library records. The fact that among top academic officials only Chancellor Murphy has seen fit to go on record as objecting to the F.B.I.'s program could easily be read by college librarians to mean that administrators and faculty members at their institution support it.

Academics must take a long, hard look at the implications of the F.B.I.'s Library Awareness Program. In fact, researchers and scholarly publishers, as well as academics, would do well to join librarians in their efforts to protect the right of everyone to use libraries without threat of restriction or surveillance. If we allow libraries to be intimidated into becoming tools of suppression, access to information will soon become not a right but a privilege granted only to people certified as "safe" by the state.●

WATER RESOURCES DEVELOPMENT ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2100.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2100) to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes, which had been reported from the Committee on Environment and Public Works, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1988".

SECTION 1. Table of Contents:

Title I—Project Authorizations
Title II—General Provisions
Title III—Programs and Studies

SEC. 2. For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—PROJECT AUTHORIZATIONS

SEC. 101. The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection.

LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA

The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

FT. PIERCE HARBOR, FLORIDA

The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

NASSAU COUNTY, FLORIDA

The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

PORT SUTTON CHANNEL, FLORIDA

The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000.

CHICAGOLAND UNDERFLOW PLAN, ILLINOIS

The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal costof $314,250,000, and an estimated first non-Federal cost of $104,750,000.

LOWER OHIO RIVER, ILLINOIS AND KENTUCKY

The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one half from amounts appropriated from the general fund of the Treasury and one half from amounts appropriated from the Inland Waterways Trust Fund.

HAZARD, KENTUCKY

The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, which an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA

The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000, with an estimated first Federal cost of $59,300,000.

WOLF AND JORDAN RIVERS, MISSISSIPPI

The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated

June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

TRUCKEE MEADOWS, NEVADA

The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first nonFederal cost of $39,200,000.

WEST COLUMBUS, OHIO

The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

DELAWARE RIVER, PENNSYLVANIA AND DELAWARE

The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

CYPRESS CREEK, TEXAS

The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first nonFederal cost of $29,300,000.

FALFURRIAS, TEXAS

The project for flood control, Falfurrias, Texas; Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

GUADALUPE RIVER, TEXAS

The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

MC GRATH CREEK, WICHITA FALLS, TEXAS

The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000 with an estimated first Federal cost of $6,800,000, and an estimated first non-Federal cost of $2,300,000.

SEC. 102. The provisions of section 902 of Public Law 99-662 shall apply to the total costs of projects set forth in this Act, and to the total costs of projects authorized subsequent to this Act.

SEC. 103. (a) The provisions of section 1001(a) and section 1001(c) of Public Law 99-662 shall apply to the projects authorized for construction by this Act, except that the five-year period during which funds must be obligated to prevent deauthorization shall begin on the date of enactment of this Act.

(b) The provisions of section 1001(a) and section 1001(c) of Public Law 99-662 shall also apply to projects authorized subsequent to this Act, except that the five-year period during which funds must be obligated to prevent deauthorization shall begin on the date of authorization of such projects.

[SEC. 104. The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated Federal first cost of $5,000,000 and an estimated non-Federal first cost of $1,900,000.**]**

TITLE II—GENERAL PROVISIONS

SEC. 201. (a) Section 101(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended by deleting all of subsection (2) and inserting in lieu thereof the following:

"(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.".

(b) The amendment made by this section is effective as of November 17, 1986.

SEC. 202. Section 1125 of the Water Resources Development Act of 1986 is amended as follows:

(1) by deleting from line 4 of subparagraph (a) the words "United States" and inserting in lieu thereof the words "Bureau of Indian Affairs of the Department of the Interior".

(2) By deleting from subparagraph (b) line 11 the words "north of the half northwest quarter" and inserting in lieu thereof the words "north half of the northwest quarter".

(3) By deleting from subparagraph (b)(2) the description of lands beginning on line 6 and ending on line 13 and inserting in lieu thereof the following:

"Commencing at the quarter corner common to sections 15 and 16; thence easterly along the quarter line of said section 15 a distance of 1,320.00 feet; thence south 42 degrees 37 minutes 58 seconds west a distance of 903.34 feet to the point of beginning; thence north 42 degrees 37 minutes 58 seconds east a distance of 903.34 feet; thence south 00 degrees 03 minutes 00 seconds east a distance of 1,518.00 feet; thence north 83 degrees 00 minutes 00 seconds west a distance of 668.00 feet; thence north 03 degrees 28 minutes 26 seconds east a distance of 773.78 feet to the point of beginning.".

(4) By deleting subparagraph (c) and inserting in lieu thereof the following:

"(c) The legal description contained in subsections (b) (1) and (2) herein will be subject to correction by survey in order to accomplish the purpose and intent of this Act".

(5) By deleting subparagraph (d) and inserting in lieu thereof the following:

"(d) These lands described in subsection (b) are hereby deemed excess to the needs of the United States for the maintenance and operation of the Garrison Dam and Reservoir Project and are hereby gratuitously declared to be held in trust by the Secretary of the Interior for the use and benefit of the Three Affiliated Tribes of the Fort Berthold Reservation. The United States shall not be responsible for damages to property or injuries to persons which may arise from, or be incident to, the use of said lands".

(6) By inserting a new subparagraph (e), as follows:

"(e) The United States hereby retains a flowage and sloughing easement for the purpose of flood control and related Garrison Dam and Reservoir project purposes over that portion of the lands described in subsection (b) that lie below the elevation of 1,854 feet (mean sea level), to exclude an reserve any residual interest necessary for project operations outside said 1,854 feet msl contour caused by the movement of such contour because of erosion, or the effect of flood impoundments, including, but not limited to, seepage, wave action or sloughing".

SEC. 203. Section 916(a) of the Water Resource Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended as follows: Delete all after "and shall" and insert therein "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b)".

SEC. 204. Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is modified by inserting the words "or shoreline protection" after the words "local flood protection".

SEC. 205. (a) The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under his jurisdiction. To further this goal, the Congress encourages the Secretary to—

(1) use procurement and contracting procedures that encourage innovative project design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) Within two years after the date of enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide the Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has considered and rejected for use in water resources projects under this jurisdiction.

(c) For the purpose of this section, the term "innovative technology" means designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

SEC. 206. Upon receipt of a request from a non-Federal sponsor of a water resources development project under construction by the Secretary, the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures; the purpose for expenditures; and a schedule of anticipated expenditures during the remaining period of construction. Statements shall be provided to the sponsor at intervals of no greater than six months.

[SEC. 207. To the extent that the Secretary determines that a project for harbor development, constructed by the Corps of Engineers provides direct, quantifiable benefits to an installation, facility, or vessel of the armed forces of the United States or the Coast Guard, the proportionate share of cost of such project shall be borne by the Federal Government.

[SEC. 208. The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to the Congress, together with any recommendations which the Comptroller General may make, no later than one year after the date of enactment of this Act.]

SEC. 207. (a) The Secretary is authorized to undertake a demonstration program for a two-year period, which shall begin within six months after the date of enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must—

(1) certify to the Secretary, who shall co-certify, that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may—

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) Within six months after the end of the demonstration program authorized by this section, the Secretary shall submit to the Congress a report on the results of this demonstration program.

(e)(1) For purposes of this section, "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States; and

(2) For purposes of this subsection (a), "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

SEC. 208. (a) The Secretary is authorized to provide services, including the provision of such services by contract, to the non-Federal project sponsor in the design and construction of upstream and downstream non-Federal extensions to the Federal project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4118), if the non-Federal sponsor provides, in advance of fiscal obligation by the United States, funds to cover all costs of such services.

(b) Prior to construction of such extensions, the non-Federal sponsor must obtain all necessary Federal and State permits.

(c) The non-Federal sponsor must agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

(d) Such extensions remain a non-Federal responsibility and shall not be considered part of the Federal project for any purpose.

SEC. 209. The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,000,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is hereby authorized to acquire for that purpose.

SEC. 210. The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

SEC. 211. Subsection (d) of section 3036 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by deleting "United States" and all that follows in such subsection and inserting in lieu thereof the following:

"United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

"(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis.".

SEC. 212. Section 809 of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4168) is amended by deleting the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

SEC. 213. Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j), as amended, is amended further to add the following sentence at the end thereof: "In implementing activities pursuant to this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for such activities and shall, to the maximum extent practicable, accommodate that schedule so as to assure placement of beach quality sand on such beaches.".

SEC. 214. Section 211 of the Water Resources Development Act of 1986. (Public Law 99-662; 100 Stat. 4082, 4106) is amended as follows: Reletter subsections (d)-(g) as subsections (e)-(f) and insert the following new subsection:

"(d) DESIGNATION PLAN.—Not later than one hundred and twenty days after the date of enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works in the Senate and the Committee on Public Works and Transportation in the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

SEC. 215. The Libby Dam project for flood control and allied purposes for the Kootenai River, Montana, authorized by the River and Harbor Act approved May 17, 1950, is modified to include fish and wildlife enhancement and recreation as project purposes; provided that the Secretary is directed to reallocate joint use costs, if operational changes necessary for fish and wildlife enhancement or recreation would otherwise result in a reduction of hydroelectric power generation. As used in this section, the term "recreation" includes downstream fish and wildlife and recreational uses which are dependent on project operations as well as fish and wildlife and recreation at the project.

SEC. 216. Public Law 534, Seventy-eight Congress, second session, section 9 is hereby amended by adding the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, that the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point fifty-eight miles downstream of Gavins Point Dam, South Dakota, and Nebraska. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project proposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as he deems appropriate, from willing sellers.".

SEC. 217. The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with *an estimated Federal first cost of $5,000,000 and an estimated non-Federal first cost of $1,900,000.*

SEC. 218. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

TITLE III—PROGRAMS AND STUDIES

SEC. 301. Section 91 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12, 39) is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 302. The Secretary of the Army is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized an appropriation of $500,000 annually for the purpose of providing to the two such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960, as amended, and section 22 of the Water Resources Development Act of 1974.

SEC. 303. (a) The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within two years of the enactment of this section and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to these findings.

(b) Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

SEC. 304. The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to the Congress, together with any recommendations which the Comptroller General may make, no later than one year after the date of enactment of this Act.

SEC. 305. The Secretary is authorized, as part of the existing wetland research program, to conduct wetland research and restoration activities, including necessary construction, for a period not to exceed five years from the date of enactment of this Act. There is authorized to be appropriated $5,000,000 beginning in fiscal year 1989 for purposes of carrying out such activities. The non-Federal share of activities undertaken pursuant to this section shall be in accordance with section 906(e) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4187). Upon completion of each activity undertaken pursuant to this section, the Secretary shall report to Congress on his findings.

The Senate proceeded to the immediate consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The amendments were agreed to.

AMENDMENT NO. 1978

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Mr. BURDICK and Mr. STAFFORD, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. BURDICK, (for himself and Mr. STAFFORD), proposes an amendment numbered 1978.

On page 13, line 14, strike the following: ", who shall cocertify,".

On page 20, at the end of line 9, insert the following new sections:

"Sec. 219. Section 501(a) of the Water Resources Development Act of 1986 (P.L. 99-662; 100 Stat. 4082) is amended by striking the following: 'The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000.', and inserting in lieu thereof the following: 'The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with the Federal share of the cost of this project to be determined in accordance with Title I of this Act.'.

"Sec. 220. Section 123 of the River and Harbor Act of 1970, as amended, (33 U.S.C. 1293a) is further amended by adding at the end thereof the following new subsection:

'(j) The Secretary of the Army is authorized to continue to deposit dredged materials into a facility constructed under the provisions of this section until the Secretary of the Army determines that such facility is no longer needed for such purpose or that such facility is completely full.'."

"Sec. 221. Section 1135(b) of the Water Resources Development Act of 1986 is amended by striking 'two-year period beginning on the date of enactment of this Act', and inserting in lieu thereof 'five-year period beginning on the date of enactment of this Act'."

"Sec. 222. The portions of Coney Island Creek and Gravesend Bay, New York that are particularly described in the metes and bounds description below are hereby declared to be nonnavigable waters of the United States for purposes of the navigation servitude.

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost U.S. Pierhead Line of Coney Island Creek.

Running thence S 12 41′ 03″ E and along the Westerly Line Cropsey Avenue, 98.72 feet to the Northerly Channel Line as shown on Corps of Engineers Map No. F.150 and on Survey by Rogers and Giollorenzo No. 13959 dated October 31, 1986.

Running thence in a Westerly direction and along the said Northerly Channel Line the following bearings and distances:

S 48 59′ 27″ W 118.77 feet.
S 37 07′ 01″ W 232.00 feet.
S 23 17′ 10″ W 430.03 feet.
S 31 25′ 46″ W 210.95 feet.
S 79 22′ 49″ W 244.18 feet.
N 55 00′ 29″ W 183.10 feet.
N 41 47′ 04″ W 315.16 feet.
N 41 17′ 43″ W 492.47 feet to the said Pierhead Line; thence N 73 58′ 40″ W and along said pierhead line, 2665.25 feet to the intersection of the U.S. Bulkhead Line; thence N 0 19′ 35″ W and along the U.S. Bulkhead line 1138.50 feet to the intersection of the Westerly prolongation of the center line of 26th Avenue, thence N 58 25′ 06″ E and along the center line of said 26th Avenue, 2320.85 feet to the Westerly Line of Cropsey Avenue, then Southeasterly and along the Southerly Line of Cropsey Avenue the following bearings and distances.

S 31 34′ 54″ E 4124.59 feet.
S 12 41′ 03″ E 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn.

On page 22, at the end of line 16, insert the following new section:

"SEC. 306. The Secretary of the Army is directed to establish a Water Resources management and planning service for the Hudson River Basin, in New York and New Jersey. There is authorized an appropriation of $400,000 annually for the purpose of providing the two states a full range of services for the development and implementation of state and local water resource initiatives.".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from North Dakota [Mr. BURDICK].

The amendment (No. 1978) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BURDICK. Mr. President, passage of this legislation represents the first orderly and timely consideration of an omnibus water resources authorization bill since passage of the landmark Water Resources Development Act of 1986—Public Law 99-662. That law, containing major changes in project cost sharing, user fees, and environmental policies, broke a 17-year stalemate in water resources legislation. It paved the way for the return to a routine, biennial authorization bill for Corps of Engineers projects. S. 2100 is the first such bill.

Title I authorizes 16 Corps of Engineers projects, all of which have received favorable reports from the Chief of Engineers. The estimated total Federal cost of these projects is approximately $1.3 billion.

Title II contains general and technical correction provisions pertaining to existing authorities and management of the civil works program of the Corps of Engineers.

Title III contains program and study authorizations related to the civil works program.

S. 2100 contains no projects which are premature or controversial. It does not tamper with the cost sharing policy established by Public Law 99-662.

I now wish to discuss the committee amendment which is being offered to S. 2100.

First, the amendment makes a technical correction to section 207 of the legislation. As written, the provision requires that the Secretary of the Army cocertify that assistance being given by the Corps of Engineers to firms competing for international construction contracts could not be obtained elsewhere. In many cases, such a cocertification requirement is likely to result in significant delays in the Corps of Engineers' ability to provide timely assistance to domestic firms operating in the highly competitive foreign engineering and construction market. This amendment therefore removes this requirement for cocertification by the Secretary.

Second, four new general provisions are added to the legislation, as follows:

A new section 219 which clarifies that the cost sharing for the Indiana shoreline project is to be determined in accordance with the cost-sharing provisions of the 1986 Water Resources Development Act.

A new section 220 which will allow the Secretary to continue to use confined disposal sites for depositing dredge material until such facilities are no longer needed or are filled to capacity.

A new section 221 amends section 1135 of Public Law 99-662 to extend for an additional 3 years the period of time during which the Secretary is authorized to make modifications to existing corps projects for the improvement of the environment.

A new section 222 which declares a portion of the Gravesend Bay of Brooklyn, NY, to be nonnavigable for the purpose of navigational servitude. This declaration in no way changes the need for any necessary Federal or State permits in the area declared nonnavigable. At this point, Mr. President, I would like to insert a description of the area to be declared nonnavigable.

Lastly, one new program authority is included. A new section 306 directs the Secretary of the Army to establish a water resource management and planning service for the Hudson River basin in New York and New Jersey. This service is intended to facilitate multistate cooperation and planning of water resource initiatives in the Hudson River basin.

Mr. President, I urge the passage by the Senate of S. 2100, the Water Resources Development Act of 1988.

Mr. MOYNIHAN. Mr. President, I am pleased to bring to the Senate floor tonight the first noncontroversial water resources development act in a quarter century. As many of my colleagues are aware there was a 17-year hiatus between Omnibus Water Acts in the years 1970-86. During this period of time the Federal Water Resource Development Program practically came to a halt. In many years the Corps of Engineers expended more on public works activities in Saudi Arabia than in this country.

Thankfully, Mr. President, these days are now in the past. The major water policy issues were resolved by the 1986 Water Resources Development Act, and it is now time to return to a regular timetable authorizing new corps projects every other year.

The bill we bring to the Senate tonight, S. 2100, authorizes 16 corps projects for construction. All of these projects have been carefully and thoroughly planned by the Corps of Engineers and approved by the Chief of Engineers as being economically viable, environmentally sound, and engineeringly feasible. The total price tag of these projects would be approximately $1.6 billion of which $230 million would be contributed by local project sponsors and $388 million would be financed from the inland waterway trust fund. I must also point out that because the Corps of Engineers remains under an obligation ceiling imposed by the 1986 Water Act, the authorization of these projects will not generate unanticipated spending.

Mr. President, this legislation was reported by the Committee on Environment and Public Works unanimously, and I believe we can take great pride in passing and sending to our colleagues in the House of Representatives a bill which is noncontroversial and which does not retreat one step from the historic reforms of the 1986 Water Resources Act.

Mr. LAUTENBERG. Mr. President, I rise in strong support of S. 2100, the Water Resources Development Act of 1988. I would first like to commend the distinguished chairman of the Environment and Public Works Committee, Senator BURDICK, and the distinguished ranking minority member, Senator STAFFORD, for their efforts to move this bill. Along with water resources subcommittee chairman Senator MOYNIHAN, they have done what few though possible and they have put together an uncluttered water resources bill. It's a bill that would help reestablish a sound national policy on water resources, and set the stage for regular reauthorizations.

The bill before us authorizes 11 projects; and makes six technical corrections or minor changes to the comprehensive authorization bill we passed in 1986. It's important to note that each of the projects in S. 2100 have passed through the Army Corps of Engineers' planning process, and have the local financial support to ensure their timely implementation.

I would like to note several projects of particular interest to New Jersey.

First, S. 2100 authorizes funds for the deepening of the commercial shipping channels in the Delaware River at the Beckett Street Terminal in Camden, NJ; and at the lower Schuylkill River near Philadelphia, PA. At a cost of $17.2 million, this project is essential to promoting the well-being of the region's ports. By deepening the channels to 40 feet, the project will allow larger, heavier ships to come to our ports, meaning more business for the area.

Many of us in the South Jersey-Philadelphia region are looking at ways of improving the state of our ports. This deepening will help those efforts; and I'm pleased to see it included in this bill.

Another provision included in this bill is of great importance to the northern half of New Jersey. In 1974, the Congress authorized the New York Harbor Drift Removal Program, to provide for the removal of materials posing a threat to navigation in the harbor. At that time, the project authorization was capped at $30.5 million, a cap which is expected to be reached this year.

Mr. President, this project has been of tremendous importance to New Jersey, New York, and all users of the harbor. It has facilitated navigation in the harbor, and has allowed much needed development to take place along the Hudson River front. Importantly, it is also removing drift wood that can work its way loose, washing up on our beaches, and posing a threat to swimmers.

S. 2100 would replace the cap on spending now in place with an annual authorization of $6 million. This is in line with current needs, and is a sound approach to the continuation of this very important project.

A third provision of great importance to New Jersey is the direction provided to the Environmental Protection Agency regarding the mud dump site, now located in New Jersey coastal waters.

Section 211 of the Water Resources Development Act of 1986 required the EPA to designate, within 3 years, one or more alternative dredged materials disposal sites. The new site, or sites, would be located no less than 20 miles offshore and would be used for the disposal of unacceptable materials now being dumped at the site 5 miles off Sandy Hook.

Unfortunately, the EPA is not adhering to this mandate. Several weeks ago, EPA Administrator Lee Thomas, in response to my questions, testified before the Environment and Public Works Committee that the deadline would be missed by at least 18 months.

Mr. President, this noncompliance with the law results not from a lack of ability, but from a lack of commitment. This provision is aimed at getting the EPA back on track. It would require the EPA to submit, within 120 days, a report detailing how it will comply with the 1986 law. That report would include funding needs, and means of expediting the designation process.

Mr. President, S. 2100 is a good bill, and I urge my colleagues to support it.

Mr. STAFFORD. Mr. President, I would like to say just a few words about S. 2100, the Water Resources Development Act of 1988.

When S. 2100 was introduced earlier this year, it was made clear that the leadership of the Committee on Environment and Public Works had no intent to be involved in legislation that authorized unjustified or unstudied water resources projects.

It was also made clear that we would not be involved in legislation which made unwise or unwarranted changes to the hard-fought and hard-won water resources policy reforms of the 99th Congress.

That conviction has not changed.

The bill that is now before the Senate authorizes no projects which have not completed the Corps of Engineers planning process, nor does it make any changes to the policy reforms implemented by the Water Resources Development Act of 1986.

Our intent has been to keep this bill reasonsible. If we can keep it this way, then it may very well be that, at least in the Senate, a new day has arrived with respect to the Water Resources Development Program of the Corps of Engineers.

The new day that will have arrived is a day when the Corps of Engineers program has ceased to be a magnet for pork barrel water projects—a day when every 2 years or so there is a relatively routine authorization of well-studied and economically and environmentally sound water resources projects.

Mr. President, S. 2100 is a large step forward in that direction and I urge the Senate to give it favorable consideration.

Mr. CHAFEE. Mr. President, I would like to inquire of the distinguished chairman of the Committee on Environment and Public Works as to whether or not it is his understanding that the declaration of nonnavigability for the Gravesend Bay of Brooklyn, NY which is contained in the committee amendment, in any way waives requirements for either section 10 or section 404 permits.

Mr. BURDICK. Mr. President, I appreciate the inquiry of my good friend from Rhode Island. It is indeed my understanding that the declaration of nonnavigability for the Gravesend Bay will in no way waive any requirements for section 10 or section 404 permits—the committee language declares this parcel to be nonnavigable solely for the purpose of navigational servitude.

Mr. CHAFEE. I thank the Senator.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for the third reading, was read the third time, and passed, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Water Resources Development Act of 1988".

SECTION 1. Table of Contents:

Title I—Project Authorizations
Title II—General Provisions
Title III—Programs and Studies

SEC. 2. For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—PROJECT AUTHORIZATIONS

SEC. 101. The following projects are authorized to be prosecuted by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection.

LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA

The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

FT. PIERCE HARBOR, FLORIDA

The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

NASSAU COUNTY, FLORIDA

The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

PORT SUTTON CHANNEL, FLORIDA

The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000.

CHICAGOLAND UNDERFLOW PLAN, ILLINOIS

The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal costof $314,250,000, and an estimated first non-Federal cost of $104,750,000.

LOWER OHIO RIVER, ILLINOIS AND KENTUCKY

The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one half from amounts appropriated from the general fund of the Treasury and one half from amounts appropriated from the Inland Waterways Trust Fund.

HAZARD, KENTUCKY

The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, which an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA

The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000, with an estimated first Federal cost of $59,300,000.

WOLF AND JORDAN RIVERS, MISSISSIPPI

The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

TRUCKEE MEADOWS, NEVADA

The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000.

WEST COLUMBUS, OHIO

The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

DELAWARE RIVER, PENNSYLVANIA AND DELAWARE

The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

CYPRESS CREEK, TEXAS

The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

FALFURRIAS, TEXAS

The project for flood control, Falfurrias, Texas; Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

GUADALUPE RIVER, TEXAS

The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

MCGRATH CREEK, WICHITA FALLS, TEXAS

The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000 with an estimated first Federal cost of $6,800,000, and an estimated first non-Federal cost of $2,300,000.

SEC. 102. The provisions of section 902 of Public Law 99-662 shall apply to the total costs of projects set forth in this Act, and to the total costs of projects authorized subsequent to this Act.

SEC. 103. (a) The provisions of section 1001(a) and section 1001(c) of Public Law 99-662 shall apply to the projects authorized for construction by this Act, except that the five-year period during which funds must be obligated to prevent deauthorization shall begin on the date of enactment of this Act.

(b) The provisions of section 1001(a) and section 1001(c) of Public Law 99-662 shall also apply to projects authorized subsequent to this Act, except that the five-year period during which funds must be obligated to prevent deauthorization shall begin on the date of authorization of such projects.

TITLE II—GENERAL PROVISIONS

SEC. 201. (a) Section 101(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended by deleting all of subsection (2) and inserting in lieu thereof the following:

"(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.".

(b) The amendment made by this section is effective as of November 17, 1986.

SEC. 202. Section 1125 of the Water Resources Development Act of 1986 is amended as follows:

(1) by deleting from line 4 of subparagraph (a) the words "United States" and inserting in lieu thereof the words "Bureau of Indian Affairs of the Department of the Interior".

(2) By deleting from subparagraph (b) line 11 the words "north of the half northwest quarter" and inserting in lieu thereof the words "north half of the northwest quarter".

(3) By deleting from subparagraph (b)(2) the description of lands beginning on line 6 and ending on line 13 and inserting in lieu thereof the following:

"Commencing at the quarter corner common to sections 15 and 16; thence easterly along the quarter line of said section 15 a distance of 1,320.00 feet; thence south 42 degrees 37 minutes 58 seconds west a distance of 903.34 feet to the point of beginning; thence north 42 degrees 37 minutes 58 seconds east a distance of 903.34 feet; thence south 00 degrees 03 minutes 00 seconds east a distance of 1,518.00 feet; thence north 83 degrees 00 minutes 00 seconds west a distance of 668.00 feet; thence north 03 degrees 28 minutes 26 seconds east a distance of 773.78 feet to the point of beginning.".

(4) By deleting subparagraph (c) and inserting in lieu thereof the following:

"(c) The legal description contained in subsections (b) (1) and (2) herein will be subject to correction by survey in order to accomplish the purpose and intent of this Act".

(5) By deleting subparagraph (d) and inserting in lieu thereof the following:

"(d) These lands described in subsection (b) are hereby deemed excess to the needs of the United States for the maintenance and operation of the Garrison Dam and Reservoir Project and are hereby gratuitously declared to be held in trust by the Secretary of the Interior for the use and benefit of the Three Affiliated Tribes of the Fort Berthold Reservation. The United States shall not be responsible for damages to property or injuries to persons which may arise from, or be incident to, the use of said lands".

(6) By inserting a new subparagraph (e), as follows:

"(e) The United States hereby retains a flowage and sloughing easement for the purpose of flood control and related Garrison Dam and Reservoir project purposes over that portion of the lands described in subsection (b) that lie below the elevation of 1,854 feet (mean sea level), to exclude and reserve any residual interest necessary for project operations outside said 1,854 feet msl contour caused by the movement of such contour because of erosion, or the effect of flood impoundments, including, but not limited to, seepage, wave action or sloughing".

SEC. 203. Section 916(a) of the Water Resource Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended as follows: Delete all after "and shall" and insert therein "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b)".

SEC. 204. Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is modified by inserting the words "or shoreline protection" after the words "local flood protection".

SEC. 205. (a) The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under his jurisdiction. To further this goal, the Congress encourages the Secretary to—

(1) use procurement and contracting procedures that encourage innovative project design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) Within two years after the date of enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide the Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has considered and rejected for use in water resources projects under this jurisdiction.

(c) For the purpose of this section, the term "innovative technology" means designs, materials, or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

SEC. 206. Upon receipt of a request from a non-Federal sponsor of a water resources development project under construction by the Secretary, the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures; the purpose for expenditures; and a schedule of anticipated expenditures during the remaining period of construction. Statements shall be provided to the sponsor at intervals of no greater than six months.

SEC. 207. (a) The Secretary is authorized to undertake a demonstration program for a two-year period, which shall begin within six months after the date of enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must—

(1) certify to the Secretary that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may—

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) Within six months after the end of the demonstration program authorized by this section, the Secretary shall submit to the

Congress a report on the results of this demonstration program.

(e)(1) For purposes of this section, "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States.

(2) For purposes of this subsection (a), "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

SEC. 208. (a) The Secretary is authorized to provide services, including the provision of such services by contract, to the non-Federal project sponsor in the design and construction of upstream and downstream non-Federal extensions to the Federal project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4118), if the non-Federal sponsor provides, in advance of fiscal obligation by the United States, funds to cover all costs of such services.

(b) Prior to construction of such extensions, the non-Federal sponsor must obtain all necessary Federal and State permits.

(c) The non-Federal sponsor must agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

(d) Such extensions remain a non-Federal responsibility and shall not be considered part of the Federal project for any purpose.

SEC. 209. The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,000,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is hereby authorized to acquire for that purpose.

SEC. 210. The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

SEC. 211. Subsection (d) of section 3036 of title 10, United States Code, is amended—

(1) by designating the first sentence as paragraph (1);

(2) by designating the second sentence as paragraph (2); and

(3) by deleting "United States" and all that follows in such subsection and inserting in lieu thereof the following:

"United States or to a State or political subdivision of a State. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State, or to a political subdivision of a State, only if—

"(A) the work to be undertaken on behalf of non-Federal interests involves Federal assistance and the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers; and

"(B) the services are provided on a reimbursable basis.".

SEC. 212. Section 809 of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4168) is amended by deleting the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

SEC. 213. Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j), as amended, is amended further to add the following sentence at the end thereof: "In implementing activities pursuant to this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for such activities and shall, to the maximum extent practicable, accommodate that schedule so as to assure placement of beach quality sand on such beaches.".

SEC. 214. Section 211 of the Water Resources Development Act of 1986. (Public Law 99-662; 100 Stat. 4082, 4106) is amended as follows: Reletter subsections (d)-(g) as subsections (e)-(f) and insert the following new subsection:

"(d) DESIGNATION PLAN.—Not later than one hundred and twenty days after the date of enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works in the Senate and the Committee on Public Works and Transportation in the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

SEC. 215. The Libby Dam project for flood control and allied purposes for the Kootenai River, Montana, authorized by the River and Harbor Act approved May 17, 1950, is modified to include fish and wildlife enhancement and recreation as project purposes: *Provided*, That the Secretary is directed to reallocate joint use costs, if operational changes necessary for fish and wildlife enhancement or recreation would otherwise result in a reduction of hydroelectric power generation. As used in this section, the term "recreation" includes downstream fish and wildlife and recreational uses which are dependent on project operations as well as fish and wildlife and recreation at the project.

SEC. 216. Public Law 534, Seventy-eight Congress, second session, section 9 is hereby amended by adding the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, that the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point fifty-eight miles downstream of Gavins Point Dam, South Dakota, and Nebraska. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project proposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as he deems appropriate, from willing sellers.".

SEC. 217. The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated Federal first cost of $5,000,000 and an estimated non-Federal first cost of $1,900,000.

SEC. 218. If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 219. Section 501(a) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082) is amended by striking the following: 'The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000.', and inserting in lieu thereof the following: "The project for shoreline protection, Indiana Shoreline Erosion, Indiana: Report of the Chief of Engineers, dated November 18, 1983, at a total cost of $20,000,000, with the Federal share of the cost of this project to be determined in accordance with Title I of this Act.".

SEC. 220. Section 123 of the River and Harbor Act of 1970, as amended, (33 U.S.C. 1293a) is further amended by adding at the end thereof the following new subsection:

"(j) The Secretary of the Army is authorized to continue to deposit dredged materials into a facility constructed under the provisions of this section until the Secretary of the Army determines that such facility is no longer needed for such purpose or that such facility is completly full.".

SEC. 221. Section 1135(b) of the Water Resources Development Act of 1986 is amended by striking "two-year period beginning on the date of enactment of this Act," and inserting in lieu thereof "five-year period beginning on the date of enactment of this Act."

SEC. 222. The portions of Coney Island Creek and Gravesend Bay, New York that are particularly described in the metes and bounds description below are hereby declared to be nonnavigable waters of the United States for purposes of the navigation servitude.

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost U.S. Pierhead Line of Coney Island Creek.

Running thence S 12 41′ 03″ E and along the Westerly Line of Cropsey Avenue, 98.72 feet to the Northerly Channel Line as shown on Corps of Engineers Map No. F.150 and on Survey by Rogers and Giollorenzo No. 13959 dated October 31, 1986.

Running thence in a Westerly direction and along the said Northerly Channel Line the following bearings and distances:

S 48 59′ 27″ W, 118.77 feet.
S 37 07′ 01″ W, 232.00 feet.
S 23 17′ 10″ W, 430.03 feet.
S 31 25′ 46″ W, 210.95 feet.
S 79 22′ 49″ W, 244.18 feet.
N 55 00′ 29″ W, 183.10 feet.
N 41 47′ 04″ W, 315.16 feet.
N 41 17′ 43″ W, 492.47 feet to the said.

Pierhead Line; thence N 73 58′ 40″ W and along said pierhead line, 2665.25 feet to the intersection of the U.S. Bulkhead Line; thence N 0 19′ 35″ W and along the U.S. Bulkhead line 1138.50 feet to the intersection of the Westerly prolongation of the center line of 26th Avenue, thence N 58 25′

06" E and along the center line of said 26th Avenue, 2320.85 feet to the Westerly Line of Cropsey Avenue, then Southeasterly and along the Southerly Line of Cropsey Avenue the following bearings and distances:

S 31 34' 54" E, 4124.59 feet.

S 12 41' 03" E, 710.74 feet to the point.

or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn.

TITLE III—PROGRAMS AND STUDIES

SEC. 301. Section 91 of the Water Resources Development Act of 1974 (Public Law 93-251, 88 Stat. 12, 39) is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 302. The Secretary of the Army is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized an appropriation of $500,000 annually for the purpose of providing to the two such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960, as amended, and section 22 of the Water Resources Development Act of 1974.

SEC. 303. (a) The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within two years of the enactment of this section and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to these findings.

(b) Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

SEC. 304. The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to the Congress, together with any recommendations which the Comptroller General may make, no later than one year after the date of enactment of this Act.

SEC. 305. The Secretary is authorized, as part of the existing wetland research program, to conduct wetland research and restoration activities, including necessary construction, for a period not to exceed five years from the date of enactment of this Act. There is authorized to be appropriated $5,000,000 beginning in fiscal year 1989 for purposes of carrying out such activities. The non-Federal share of activities undertaken pursuant to this section shall be in accordance with section 906(e) of the Water Resources Development Act of 1986 (Public Law 99-662; 100 Stat. 4082, 4187). Upon completion of each activity undertaken pursuant to this section, the Secretary shall report to Congress on his findings.

SEC. 306. The Secretary of the Army is directed to establish a Water Resources management and planning service for the Hudson River Basin, in New York and New Jersey. There is authorized an appropriation of $400,000 annually for the purpose of providing the two states a full range of services for the development and implementation of state and local water resource initiatives.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRESIDENTIAL TRANSITIONS EFFECTIVENESS ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar Order No. 616, S. 2037.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2037) to amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Presidential Transitions Effectiveness Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) inflation has eroded the value of the public funding available to Presidents-elect under the Presidential Transition Act of 1963;

(2) pre-election transition planning by the national parties would promote the orderly transfer of executive power across presidential administrations;

(3) the use of private money contributions for the costs of presidential transitions without public disclosure of such contributions creates the potential for hidden conflicts of interest; and

(4) the lack of publicly available information regarding presidential transition team members creates the potential for hidden conflicts of interest.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) promote the orderly transfer of executive power by providing for—

(A) sufficient public funding to offset the effects of inflation since the Presidential Transition Act of 1963 was last amended in 1976; and

(B) limited reimbursement of the expenses of transition planning by the major national parties during the general election campaign; and

(2) provide for public disclosure of—

(A) all private money contributions and expenditures thereof provided for purposes of—

(i) transition planning by the national parties; and

(ii) the preparation of the President-elect or Vice President-elect for the assumption of official duties as President or Vice President; and

(B) a list of the names, most recent employment, and sources of funding which support the transition activities of all transition personnel.

PRESIDENTIAL TRANSITION PLANNING AUTHORIZATIONS

SEC. 4. Section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended by redesignating such section as section 9 and—

(1) by inserting "(a)" after the section designation;

(2) in paragraph (1)—

(A) by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000"; and

(B) by striking out the comma and "and" at the end thereof and inserting in lieu thereof a semicolon;

(3) in paragraph (2) by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and";

(4) by striking out the sentence following paragraph (2) and adding after such paragraph the following new paragraph:

"(3) not more than $200,000 may be appropriated for the purpose of providing reimbursement to a national party committee as defined in section 5(c)(2) or the designee of such a committee as provided under section 6(d) for transition planning expenses under sections 5 and 6."; and

(5) by adding at the end thereof the following new subsections:

"(b) The President shall include a proposed appropriation for carrying out the provisions of this Act in the budget transmitted to the Congress under the provisions of section 1105 of title 31, United States Code, for each fiscal year preceding the fiscal year in which the term of office of such President shall expire.

"(c) The amounts authorized to be appropriated under subsection (a) shall be increased by an inflation adjusted amount, based on an estimate by the Administrator of actual increases in the cost of transition services and expenses which have occurred in the years following the most recent Presidential transition, which shall be included in the budget transmitted to the Congress under the provisions of section 1105 of title 31, United States Code, by the President for each fiscal year preceding the fiscal year in which the term of office of such President shall expire.".

PRESIDENTIAL TRANSITION PLANNING AND EXPENSES

SEC. 5. The Presidential Transition Act of 1963 (3 U.S.C. 102 note) is further amended by inserting after section 4 the following new sections:

"REIMBURSEMENT OF EXPENSES FOR TRANSITION PLANNING

"SEC. 5. (a) Subject to the provisions of subsection (b), the Administrator is authorized to provide reimbursement of pre-election transition planning expenses from funds appropriated under section 9 to each national party committee of a major party candidate for President.

"(b)(1) Funds provided under subsection (a) may not be expended for any purpose, except for transition planning as defined pursuant to subsection (c)(3) and transition expenses described pursuant to section 6.

"(2) The Administrator may not provide funds under subsection (a) to a national

party committee in any year in which the Presidential candidate of such party is the incumbent President.

"(c) As used in this section the term—

"(1) 'major party candidate' means a Presidential candidate of a political party that has received 25 percent or more of the total number of popular votes received by all candidates for such office in the preceding election, who appears as a candidate for President on the general election ballot;

"(2) 'national party committee' means the committee organization of a political party of a major party candidate; and

"(3) 'transition planning' means—

"(A) the development of a personnel process for use in the transition for the recruitment, selection, clearance, and orientation of Presidential appointees to executive level positions as defined under section 5311(b)(2) of title 5, United States Code;

"(B) the establishment of a transition organization and operating plan;

"(C) the identification of potential transition personnel; and

"(D) liaison with the General Services Administration, the Office of Personnel Management, the National Archives and Records Administration, and other Federal departments and agencies regarding preparation of the President-elect or the Vice President-elect for the assumption of official duties as President and Vice President.

"REIMBURSEMENT OF TRANSITION EXPENSES TO BE PROVIDED TO NATIONAL PARTY COMMITTEE

"SEC. 6. (a) Subject to the provisions of section 5(b), the Administrator is authorized to provide, funds to each national party committee of a major party candidate as defined in section 5(c)(1), for reimbursement of transition planning as defined in section 5(c)(3) and transition expenses as described in subsection (b). The Administrator shall determine the amount of reimbursement necessary to carry out such planning upon the request of, and after consultation with, a national party committee.

"(b) Transition expenses under this section shall include expenses for—

"(1) suitable office space appropriately equipped with furniture, furnishings, office machines and equipment, and office supplies at such place or places within the United States as the national party committee shall designate after consultation with the Administrator;

"(2) the compensation of members of office staffs designated by a national party committee at rates determined by such committee not to exceed the rate provided for the grades of GS-18 under section 5332 of title 5, United States Code, except that no employee of any agency of any branch of the Government may be detailed to such staffs on a reimbursable or nonreimbursable basis; and

"(3) the procurement of services of experts or consultants or organizations thereof for a national party committee.

"(c) Funds provided under subsection (a) shall apply to transition expenses that occur—

"(1) no earlier than 14 days following the termination of the nominating convention of the applicable political party; and

"(2) no later than one day following the date of the general elections held to determine the electors of the President and the Vice President.

"(d) A national party committee may designate the major party candidate as the agent of the committee authorized to make such determinations and perform such functions as may be provided in connection with transition expenses and reimbursement under this section. In the case of such designation by the national party committee, the candidate may delegate any authority exercised under this section to an assistant.

"DISCLOSURE OF PRIVATE TRANSITION PLANNING FUNDS

"SEC. 7. (a)(1) The national party committees or designees of such committees (as a condition for receiving funds pursuant to sections 5 and 6) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all private money (including currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand) received for the purposes of transition planning.

"(2) Disclosures made under paragraph (1) shall be—

"(A) in the form of a report to the Administrator within 90 days after the date of the general election held to determine the electors of the President and the Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"(b)(1) The President-elect and Vice President-elect (as a condition for receiving services under section 3 and for funds provided under section 9(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all private money (including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand) received either before or after the date of the general election for use in the preparation of the President-elect or Vice President-elect for the assumption of official duties as President or Vice President.

"(2) Disclosures made under paragraph (1) shall be—

"(A) in the form of a report to the Administrator within 90 days after the inauguration of the President-elect as President and the Vice President-elect as Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"DISCLOSURE OF REPRESENTATIVES OF THE PRESIDENT-ELECT AND VICE PRESIDENT-ELECT DURING TRANSITION

"SEC. 8. (a) The President-elect and Vice President-elect (as a condition for receiving services provided under section 3 and funds provided under section 9(a)(1)) shall disclose to the public a list of the names of all transition personnel (full-time or part-time) and the most recent employment and source of funding which support the transition activities of such personnel.

"(b) Disclosures made under subsection (a) shall be—

"(1) in the form of 3 reports to the Administrator;

"(2) submitted within 30, 60, and 90 days after the date of the general election held to determine the electors of the President and the Vice President; and

"(3) made available to the public by the Administrator upon receipt by the Administrator.".

LIMITATION ON EXPENDITURES OF CERTAIN FUNDS

SEC. 6. (a) Section 3(a)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by inserting "(A)" after "(4)";

(2) by adding at the end thereof the following new subparagraph:

"(B) When requested by the President-elect or Vice President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, the Vice President-elect, or the designee of the President-elect or Vice President-elect, aircraft may be chartered for transition purposes, any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under section 9 of this Act;".

(b) Section 3(b) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended to read as follows:

"(b) The Administrator may not expend funds for the provision of services and facilities under section 3 of this Act in connection with any obligations incurred by the President-elect or Vice President-elect—

"(1) before the day following the date of the general elections held to determine the electors of President and Vice President under sections 1 or 2 of title 3, United States Code; or

"(2) after 30 days after the date of the inauguration of the President-elect as President and the inauguration of the Vice President-elect as Vice President.".

(c) Section 4 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(A) by inserting "(a)" after the section designation, and

(B) by adding at the end thereof the following new subsection:

"(b) The Administrator may obligate funds for the purposes of this section for a President and Vice President during a period to begin not more than 30 days before the expiration of their terms of office as President and Vice President.".

DISCLOSURE REQUIREMENTS RELATING TO THE 1988 GENERAL ELECTION OF PRESIDENT AND VICE PRESIDENT

SEC. 7. (a)(1) The national party committees or designees of such committees, as a condition for receiving funds pursuant to sections 5 and 6 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) as amended by section 5 of this Act, shall provide an estimate to the Administrator of the General Services Administration of the aggregate value of in-kind contributions made during the period beginning on the day following the date of enactment of this Act through November 8, 1988, received for transition planning purposes for—

(A) transportation;

(B) hotel and other accommodations;

(C) suitable office space; and

(D) furniture, furnishings, office machines and equipment, and office supplies.

(2) For purposes of paragraph (1) the term—

(A) "national party committee" has the same meaning as such term is defined under section 5(c)(2) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), as amended by section 5 of this Act; and

(B) "transition planning" has the same meaning as such term is defined under section 5(c)(3) of such Act (as amended by section 5 of this Act), including transition expenses as described under section 6 of such Act (as amended by section 5 of this Act).

(3) The estimates made under paragraph (1) shall be—

(A) in the form of a report to the Administrator of the General Services Administration within 90 days after November 8, 1988; and

(B) made available to the public by the Administrator upon receipt by the Administrator.

(b)(1) The President-elect and Vice President-elect (as a condition for receiving services under section 3 and for funds provided under section 9(a)(1) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) as amended by sections 6 and 4 of this Act, respectively) shall provide an estimate to the Administrator of the General Services Administration of the aggregate value of in-kind contributions made during the period beginning on November 9, 1988, through January 20, 1989, received for transition activities for—

(A) transportation;

(B) hotel and other accommodations;

(C) suitable office space; and

(D) furniture, furnishings, office machines and equipment, and office supplies.

(2) The estimates made under paragraph (1) shall be—

(A) in the form of a report to the Administrator of the General Services Administration within 90 days after January 20, 1989; and

(B) made available to the public by the Administrator upon receipt by the Administrator.

APPROPRIATION INFLATION PROVISION NOT APPLICABLE TO 1989 FISCAL YEAR

SEC. 8. Notwithstanding the provisions of section 9(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) as added by section 4 of this Act, no such provision of such subsection shall apply to the budget for the fiscal year beginning after September 31, 1988.

TRANSPORTATION EXPENSES

SEC. 9. Section 5723 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "Service; or (B)" in paragraph (1) and insert in lieu thereof "Service; or (C)"; and

(B) by adding at the end thereof:

"In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee."; and

(2) in subsection (c) by adding at the end thereof "In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.".

EXECUTIVE AGENCY VACANCIES

SEC. 10. (a)(1) Section 3345 of title 5, United States Code, is amended by striking out "Executive department" and inserting in lieu thereof "Executive agency".

(2) The heading for section 3345 of title 5, United States Code, is amended to read as follows:

"§ 3345. Details; to office of head of Executive agency or military department".

(3) The table of section headings for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3345 to read as follows:

"3345. Details; to office of head of Executive agency or military department."

(b) Section 3348 of title 5, United States Code, is amended to read as follows:

"§ 3348. Details; limited in time

"A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 120 days, unless a nomination to fill such vacancy has been submitted to the Senate in which case the person so designated may serve—

"(1) until the Senate confirms the nomination;

"(2) for no more than 30 days after the date that the Senate rejects the nomination; or

"(3) if designated during an adjournment of the Congress sine die, for no more than 120 days after the Congress next convenes.".

The Senate proceeded to immediate consideration of the bill.

The PRESIDING OFFICER. The question is on agreeing to the Committee amendment.

The amendment was agreed to.

AMENDMENT NO. 1979

Mr. DOLE. Mr. President, I send an amendment to the desk in behalf of Mr. STEVENS, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Kansas (Mr. DOLE), for Mr. STEVENS, proposes an amendment numbered 1979. On page 15, line 16 insert after "by" striking out '$1,000,000' and inserting in lieu thereof '$1,750,000' and".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Alaska [Mr. STEVENS].

The amendment (No. 1979) was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. STEVENS. Mr. President, I am pleased to rise today in support of S. 2037, the Presidential Effectiveness Act and urge my colleagues to adopt this bipartisan effort. This bill, which was introduced by Senator GLENN on February 4, 1988, with the cosponsorship of Senator CHILES and myself, has been the product of several days of hearings during the first and second sessions of the 100th Congress as well as the concerted effort of the staff of the Committee on Governmental Affairs and its chairman, my good friend, the Senator from Ohio.

This bill is long overdue, Mr. President. In testimony before our committee, many individuals with direct, personal experience in the transition efforts of Presidents Carter and Reagan urged that we review the 1963 Presidential Transition Act and increase the funding authorized in that act to account for the effects of inflation since the last congressional amendments in 1976. The bill before us today does just that and no more. It raises the funding level from $2 million to $3.5 million for the incoming transition effort and balances that increase in funding with new disclosure requirements for the transition staff as well as requiring added disclosure by the transition committees with respect to their sources of private funding. In addition, a limited amount of money is authorized for use by the national political parties during the pre-election transition planning period. Such pre-election planning money is available to both major parties, will be strictly limited in amount, and will be fully disclosed with respect to its expenditure. These planning funds were included in this proposal at the suggestion of a bipartisan array of expert witnesses who appeared before our committee. I strongly support the inclusion of these funds and believe that they will dramatically assist the transition effort of whichever candidate becomes President in 1989. These funds will allow the transition effort to begin before the November general election, in time to provide some much needed guidance to the incoming administration.

Mr. President, this bill addresses all of the many changes and updates to the 1963 act which were suggested by the witnesses who appeared before us, with one major exception: an increase in existing funding levels for the outgoing President's transition. As my colleagues may know, current law authorizes an appropriation of $1 million for the outgoing President's transition. This funding level was established by Congress in 1976 and has not been raised to offset the effects of inflation during the intervening 12 years. This disparity needs to be addressed. If we find it appropriate to raise the level of funding for the transition of the incoming President, to account for inflation, equity would seem to dictate that the same argument should be followed for the outgoing President's transition. In that spirit and with that background, I send to the desk an amendment which would raise the current $1 million authorization for the outgoing transition to an inflation adjusted $1.75 million, and ask for its immediate consideration.

Mr. President, this amendment is self-explanatory. It merely accounts for inflation since 1976 and I urge its adoption by my colleagues.

Mr. GLENN. Mr. President, I am pleased to rise today to speak on behalf of the Presidential Transition Effectiveness Act. This legislation reflects a bipartisan effort by members of the Governmental Affairs Committee to ensure that future transitions, including the 1988 transition, are properly funded and supported.

It has been 12 years since Congress last adjusted the funding ceilings in the Presidential Transition Act of 1963. The act was passed to provide for the smooth transfer of power between administrations, and provided $450,000 to the incoming Presidential administration to cover the costs of preparing for office. The act was amended once in 1976 to increase the amount of support for the outgoing President from $450,000 to $1 million.

S. 2037 deals with two basic concerns raised in hearings held before the committee on September 17 and October 14, 1987, and February 17, 1988.

The first concern is the proper level of support needed to cover the legitimate public costs of Presidential transitions. Accounting for the effects of inflation, the $2 million provided to President-elect Carter in 1976 is worth roughly $1,200,000 today. Clearly, it is time to adjust the public contribution to cover the bulk of the impact of inflation since 1976.

Using a standard price deflator covering 1976 to the present, the committee estimated that it would take approximately $4 million today to cover the purchasing power of $2 million in 1976. Given the pressing need to reduce the Federal budget deficit, however, the committee concluded that a full inflation adjustment in Presidential transition funding was not possible. Presidents-elect must share in the budgetary sacrifice, too. Thus, under S. 2037, the public allotment under the Presidential Transition Act would rise from $2 million to $3,500,000 for 1988.

In addition under this bill, future transitions are covered by an automatic inflator designed to cover future cost increases in Presidential transition expenses. The inflator will not apply until the first transition following the 1988-89 transition, and is to be based on the actual cost increases in Presidential transition expenses such as office space, transportation, salaries, and per diem.

In reporting this bill to the full Senate, the committee also recognized the near-unanimous agreement among past transition officials that a President-elect must undertake at least some advance planning during the general election campaign. a President-elect cannot wait until the morning after the election to start planning for the transition. Someone must lay the administrative groundwork before the campaign is over.

The committee concluded that such preelection transition planning is a legitimate cost of a Presidential transition, and that such planning ought to be covered at least in part by public funds. However, under current Federal election regulations, candidates are prohibited from using any of their public campaign funds for transition planning. The committee concluded that a relatively small amount of preelection public funding would be adequate and proper, and, if carefully reported and audited, would relieve the candidates from having to raise private cash for transition planning.

Under S. 2037, therefore, the major national party committees, or their designees, may request reimbursement of up to $200,000 in qualified transition planning expenses occurring in a period between the respective nominating convention and the general election. It is the committee's intent that such reimbursement only be given to those parties whose candidates have a reasonable chance of benefiting from the planning activity.

Only those national parties whose Presidential candidate received 25 percent of the popular vote in the previous Presidential election can qualify for transition planning reimbursement. For 1988, that means the Democratic and Republican national committees or their designees. If another party were to garner the minimum 25 percent in the 1988 election, it would qualify for funds in 1992.

It is important to note that S. 2037 does not create a cash grant to the national parties or their designees. Rather, it provides only for reimbursement, subject to the approval of the Administrator of General Services, and audit by GAO. Such a reimbursement mechanism will guard against the use of any preelection transition funds for electioneering.

The second issue this legislation addresses is the regulation of private money contributions for preelection and postelection transition activities, and the need for public disclosure of basic information on the President-elect's transition team.

Private money has grown increasingly important to Presidential transitions over the past two decades. Presidents Nixon, Carter, and Reagan all raised private funds for their transitions, but none of the sources, amounts, or expenditures were ever disclosed to the public, creating the potential for hidden conflicts of interest.

The committee concluded that this loophole in the Federal campaign financing regulations should be closed. Thus, in return for the preelection planning reimbursement or postelection transition allotment, the national party committees or their designees, and the President-elect would be required to disclose the sources, dates, amounts, and expenditures of private cash within 90 days of the election or the inauguration, respectively.

It is particularly important to note that, while the committee supports preelection transition planning for its value to an effective postelection transition, it also constitutes the only available mechanism for requiring disclosure of private cash during the preelection period. Further, most of these records are already kept, and should be relatively easy to assemble for meeting this reporting requirement. Disclosure does not, therefore, constitute an unacceptable burden on either the national party committees or the President-elect.

The need for public disclosure also applies to the President-elect's transition teams. As the number of people who participate in the transition has increased, so has the confusion within Federal agencies. Such confusion is easy to remedy without imposing an undue burden on the President-elect. Under S. 2037, the President-elect, again in return for the public transition allotment, will be required to provide a monthly list of all transition personnel, whether full time or part time, to the public. The purpose of the list is to make clear who is working on the transition, where they came from, and who is providing the source of support.

The committee also debated the need for disclosure of in-kind contributions of time, administrative services, transportation, and so forth to the Presidential transition. Though there are extensive election regulations for in-kind contributions to a Presidential campaign, the committee had no evidence that in-kind contributions have or will become a problem in Presidential transitions. Further, the committee took note of Senator STEVEN's concern that the transition not be unduly burdened with regulation.

Nevertheless, the committee was concerned lest in-kind contributions become the preferred channel for making undisclosed contributions. Therefore, as part of the committee's amendment in the nature of a substitute to S. 2037 adopted at a markup on April 14, 1988, by a voice vote, the committee adopted a provision requiring the national party committees and the President-elect to provide a one-time only estimate in 1988-89 of the aggregate value of in-kind contributions in four areas: First, transportation, second, hotel and other accommodations, third, suitable office space, and fourth, furniture, furnishings, office machines and equipment, and office supplies. These estimates will allow the committee to evaluate the possible need for future revisions of the act.

In closing, I want to note the contribution of Senator STEVENS to this effort. He demonstrated an early and sustained interest in improving transitions, and set a tone of bipartisanship in the committee's deliberations which was critical to moving this bill forward.

The result of this bipartisan effort is a bill which we can all support—a bill which will clearly help the next President get started, and a bill which will ensure that the President-elect will have the resources needed to hit the ground running, next fall. And, given the national agenda, the more we can do to help the President-elect prepare for office, the more we all benefit. I urge passage of the bill.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2037

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Presidential Transitions Effectiveness Act".

FINDINGS

SEC. 2. The Congress finds that—

(1) inflation has eroded the value of the public funding available to Presidents-elect under the Presidential Transition Act of 1963;

(2) pre-election transition planning by the national parties would promote the orderly transfer of executive power across presidential administrations;

(3) the use of private money contributions for the costs of presidential transitions without public disclosure of such contributions creates the potential for hidden conflicts of interest; and

(4) the lack of publicly available information regarding presidential transition team members creates the potential for hidden conflicts of interest.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) promote the orderly transfer of executive power by providing for—

(A) sufficient public funding to offset the effects of inflation since the Presidential Transition Act of 1963 was last amended in 1976; and

(B) limited reimbursement of the expenses of transition planning by the major national parties during the general election campaign; and

(2) provide for public disclosure of—

(A) all private money contributions and expenditures thereof provided for purposes of—

(i) transition planning by the national parties; and

(ii) the preparation of the President-elect or Vice President-elect for the assumption of official duties as President or Vice President; and

(B) a list of the names, most recent employment, and sources of funding which support the transition activities of all transition personnel.

PRESIDENTIAL TRANSITION PLANNING AUTHORIZATIONS

SEC. 4. Section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended by redesignating such section as section 9 and—

(1) by inserting "(a)" after the section designation;

(2) in paragraph (1)—

(A) by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000"; and

(B) by striking out the comma and "and" at the end thereof and inserting in lieu thereof a semicolon;

(3) in paragraph (2) by striking out "$1,000,000" and inserting in lieu thereof "1,750,000" and by striking out the period at the end thereof and inserting in lieu thereof a semicolon and "and";

(4) by striking out the sentence following paragraph (2) and adding after such paragraph the following new paragraph:

"(3) not more than $200,000 may be appropriated for the purpose of providing reimbursement to a national party committee as defined in section 5(c)(2) or the designee of such a committee as provided under section 6(d) for transition planning expenses under sections 5 and 6."; and

(5) by adding at the end thereof the following new subsection:

(b) The President shall include a proposed appropriation for carrying out the provisions of this Act in the budget transmitted to the Congress under the provisions of section 1105 of title 31, United States Code, for each fiscal year preceding the fiscal year in which the term of office of such President shall expire.

"(c) The amounts authorized to be appropriated under subsection (a) shall be increased by an inflation adjusted amount, based on an estimate by the Administrator of actual increases in the cost of transition services and expenses which have occurred in the years following the most recent Presidential transition, which shall be included in the budget transmitted to the Congress under the provisions of section 1105 of title 31, United States Code, by the President for each fiscal year preceding the fiscal year in which the term of office of such President shall expire.".

PRESIDENTIAL TRANSITION PLANNING AND EXPENSES

SEC. 5. The Presidential Transition Act of 1963 (3 U.S.C. 102 note) is further amended by inserting after section 4 the following new sections:

"REIMBURSEMENT OF EXPENSES FOR TRANSITION PLANNING

"SEC. 5. (a) Subject to the provisions of subsection (b), the Administrator is authorized to provide reimbursement of pre-election transition planning expenses from funds appropriated under section 9 to each national party committee of a major party candidate for President.

"(b)(1) Funds provided under subsection (a) may not be expended for any purpose, except for transition planning as defined pursuant to subsection (c)(3) and transition expenses described pursuant to section 6.

"(2) The Administrator may not provide funds under subsection (a) to a national party committee in any year in which the Presidential candidate of such party is the incumbent President.

"(c) As used in this section the term—

"(1) 'major party candidate' means a Presidential candidate of a political party that has received 25 percent or more of the total number of popular votes received by all candidates for such office in the preceding election, who appears as a candidate for President on the general election ballot;

"(2) 'national party committee' means the committee organization of a political party of a major party candidate; and

"(3) 'transition planning' means—

"(A) the development of a personnel process for use in the transition for the recruitment, selection, clearance, and orientation of Presidential appointees to executive level positions as defined under section 5311(b)(2) of title 5, United States Code;

"(B) the establishment of a transition organization and operating plan;

"(C) the identification of potential transition personnel; and

"(D) liaison with the General Services Administration, the Office of Personnel Management, the National Archives and Records Administration, and other Federal departments and agencies regarding preparation of the President-elect or the Vice President-elect for the assumption of official duties as President and Vice President.

"REIMBURSEMENT OF TRANSITION EXPENSES TO BE PROVIDED TO NATIONAL PARTY COMMITTEE

"SEC. 6. (a) Subject to the provisions of section 5(b), the Administrator is authorized to provide, funds to each national party committee of a major party candidate as defined in section 5(c)(1), for reimbursement of transition planning as defined in section 5(c)(3) and transition expenses as described in subsection (b). The Administrator shall determine the amount of reimbursement necessary to carry out such planning upon the request of, and after consultation with, a national party committee.

"(b) Transition expenses under this section shall include expenses for—

"(1) suitable office space appropriately equipped with furniture, furnishings, office machines and equipment, and office supplies at such place or places within the United States as the national party committee shall designate after consultation with the Administrator;

"(2) the compensation of members of office staffs designated by a national party committee at rates determined by such committee not to exceed the rate provided for the grades of GS-18 under section 5332 of title 5, United States Code, except that no employee of any agency of any branch of the Government may be detailed to such staffs on a reimbursable or nonreimbursable basis; and

"(3) the procurement of services of experts or consultants or organizations thereof for a national party committee.

"(c) Funds provided under subsection (a) shall apply to transition expenses that occur—

"(1) no earlier than 14 days following the termination of the nominating convention of the applicable political party; and

"(2) no later than one day following the date of the general elections held to determine the electors of the President and the Vice President.

"(d) A national party committee may designate the major party candidate as the agent of the committee authorized to make such determinations and perform such functions as may be provided in connection with transition expenses and reimbursement under this section. In the case of such designation by the national party committee, the candidate may delegate any authority exercised under this section to an assistant.

"DISCLOSURE OF PRIVATE TRANSITION PLANNING FUNDS

"SEC. 7. (a)(1) The national party committees or designees of such committees (as a condition for receiving funds pursuant to sections 5 and 6) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all private money (including currency of the United States or of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand) received for the purposes of transition planning.

"(2) Disclosures made under paragraph (1) shall be—

"(A) in the form of a report to the Administrator within 90 days after the date of the general election held to determine the electors of the President and the Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"(b)(1) The President-elect and Vice President-elect (as a condition for receiving services under section 3 and for funds provided under section 9(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all private money (including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand) received either before or after the date of the general election for use in the preparation of the President-elect or Vice President-elect for the assumption of official duties as President or Vice President.

"(2) Disclosures made under paragraph (1) shall be—

"(A) in the form of a report to the Administrator within 90 days after the inauguration of the President-elect as President and the Vice President-elect as Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"DISCLOSURE OF REPRESENTATIVES OF THE PRESIDENT-ELECT AND VICE PRESIDENT-ELECT DURING TRANSITION

"SEC. 8. (a) The President-elect and Vice President-elect (as a condition for receiving services provided under section 3 and funds provided under section 9(a)(1)) shall disclose to the public a list of the names of all transition personnel (full-time or part-time) and the most recent employment and source of funding which support the transition activities of such personnel.

"(b) Disclosures made under subsection (a) shall be—

"(1) in the form of 3 reports to the Administrator;

"(2) submitted within 30, 60, and 90 days after the date of the general election held to determine the electors of the President and the Vice President; and

"(3) made available to the public by the Administrator upon receipt by the Administrator.".

LIMITATION ON EXPENDITURES OF CERTAIN FUNDS

SEC. 6. (a) Section 3(a)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by inserting "(A)" after "(4)";

(2) by adding at the end thereof the following new subparagraph:

"(B) When requested by the President-elect or Vice President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, the Vice President-elect, or the designee of the President-elect or Vice President-elect, aircraft may be chartered for transition purposes, any collections from the Secret Service, press, or others occupying space on chartered aircraft shall be deposited to the credit of the appropriations made under section 9 of this Act;".

(b) Section 3(b) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended to read as follows:

"(b) The Administrator may not expend funds for the provision of services and facilities under section 3 of this Act in connection with any obligations incurred by the President-elect or Vice President-elect—

"(1) before the day following the date of the general elections held to determine the electors of President and Vice President under sections 1 or 2 of title 3, United States Code; or

"(2) after 30 days after the date of the inauguration of the President-elect as President and the inauguration of the Vice President-elect as Vice President.".

(c) Section 4 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(A) by inserting "(a)" after the section designation, and

(B) by adding at the end thereof the following new subsection:

"(b) The Administrator may obligate funds for the purposes of this section for a President and Vice President during a period to begin not more than 30 days before the expiration of their terms of office as President and Vice President.".

DISCLOSURE REQUIREMENTS RELATING TO THE 1988 GENERAL ELECTION OF PRESIDENT AND VICE PRESIDENT

SEC. 7. (a)(1) The national party committees or designees of such committees, as a condition for receiving funds pursuant to sections 5 and 6 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) as amended by section 5 of this Act, shall provide an estimate to the Administrator of the General Services Administration of the aggregate value of in-kind contributions made during the period beginning on the day following the date of enactment of this Act through November 8, 1988, received for transition planning purposes for—

(A) transportation;

(B) hotel and other accommodations;

(C) suitable office space; and

(D) furniture, furnishings, office machines and equipment, and office supplies.

(2) For purposes of paragraph (1) the term—

(A) "national party committee" has the same meaning as such term is defined under section 5(c)(2) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), as amended by section 5 of this Act; and

(B) "transition planning" has the same meaning as such term is defined under section 5(c)(3) of such Act (as amended by section 5 of this Act), including transition expenses as described under section 6 of such Act (as amended by section 5 of this Act).

(3) The estimates made under paragraph (1) shall be—

(A) in the form of a report to the Administrator of the General Services Administration within 90 days after November 8, 1988; and

(B) made available to the public by the Administrator upon receipt by the Administrator.

(b)(1) The President-elect and Vice President-elect (as a condition for receiving services under section 3 and for funds provided under section 9(a)(1) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) as amended by sections 6 and 4 of this Act, respectively) shall provide an estimate to the Administrator of the General Services Administration of the aggregate value of in-kind contributions made during the period beginning on November 9, 1988, through January 20, 1989, received for transition activities for—

(A) transportation;

(B) hotel and other accommodations;

(C) suitable office space; and

(D) furniture, furnishings, office machines and equipment, and office supplies.

(2) The estimates made under paragraph (1) shall be—

(A) in the form of a report to the Administrator of the General Services Administration within 90 days after January 20, 1989; and

(B) made available to the public by the Administrator upon receipt by the Administrator.

APPROPRIATION INFLATION PROVISION NOT APPLICABLE TO 1989 FISCAL YEAR

SEC. 8. Notwithstanding the provisions of section 9(c) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) as added by section 4 of this Act, no such provision of such subsection shall apply to the budget for the fiscal year beginning after September 31, 1988.

TRANSPORTATION EXPENSES

SEC. 9. Section 5723 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "Service; or (B)" in paragraph (1) and insert in lieu thereof "Service; or (C)"; and

(B) by adding at the end thereof:

"In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee."; and

(2) in subsection (c) by adding at the end thereof "In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.".

EXECUTIVE AGENCY VACANCIES

SEC. 10. (a)(1) Section 3345 of title 5, United States Code, is amended by striking out "Executive department" and inserting in lieu thereof "Executive agency".

(2) The heading for section 3345 of title 5, United States Code, is amended to read as follows:

"§ 3345. Details; to office of head of Executive agency or military department".

(3) The table of section headings for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3345 to read as follows:

"3345. Details; to office of head of Executive agency or military department."

(b) Section 3348 of title 5, United States Code, is amended to read as follows:

"§ 3348. Details; limited in time

"A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 120 days, unless a nomination to fill such vacancy has been submitted to the

Senate in which case the person so designated may serve—

"(1) until the Senate confirms the nomination;

"(2) for no more than 30 days after the date that the Senate rejects the nomination; or

"(3) if designated during an adjournment of the Congress sine die, for no more than 120 days after the Congress next convenes.".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTERNATIONAL CONVENTION ON THE PREVENTION AND PUNISHMENT OF GENOCIDE

Mr. BYRD. Mr. President, I understand that there is a bill at the desk from the House, H.R. 4243.

The PRESIDING OFFICER. The majority leader is correct.

Mr. BYRD. I thank the Chair.

On behalf of Mr. BIDEN, I ask that the bill be read the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> A bill (H.R. 4243) to implement the International Convention on the Prevention and Punishment of Genocide.

Mr. BYRD. Mr. President, I ask for the second reading of the bill.

Mr. DOLE. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have been discussing the vote on the trade bill conference report with the distinguished Republican leader.

We cannot announce a time for the vote today. We have some queries out, but we will not know the responses until in the morning. Senators have left the Hill whom we wanted to contact.

We are hoping that we will be able to agree tomorrow morning on a vote at, say, 3 o'clock p.m., but we will not know that until tomorrow morning.

Mr. DOLE. On this side there are a couple of Senators who have some reservations, but I will be able to reach them in the morning and hope we can vote at 3 o'clock because, as the majority leader indicated, at 4 o'clock we have another obligation.

Would it be the intention of the majority leader if that did happen that we would come back after Mulroney's address to the joint session and start another legislation?

Mr. BYRD. I would hope to be able to come back and begin on the AIDS legislation, which under the order is supposed to follow the action on the trade bill conference report. I doubt that we would be able to get started earlier than 5 o'clock. Mr. Mulroney will address the joint meeting at 4 o'clock, but if the Senate could come back a little before 5 and then at least get started by 5 on the AIDS legislation, perhaps we could get an amendment laid down, get some opening statements made on the AIDS legislation, and go out and finish that legislation Thursday.

There is the veterans supplemental appropriation bill. There is a conference report on the veterans' compensation bill.

I do not have a reading right at the moment on the budget resolution, as to whether or not that will be ready.

Mr. DOLE. I was advised by Senator DOMENICI earlier today, unless something has happened, it will probably not be ready until we are back.

Mr. BYRD. Until we come back.

Very well, then, I have a list of a half-dozen Senators on this side who still want to speak on the trade bill conference report.

Perhaps if we brought the Senate in, say, at 11 and got started on the trade bill conference report at 11:30? That would give us time in the morning, before 11, to see if we can have an order, a unanimous-consent order, to vote on the conference report at 3. It takes a little time, I guess, to contact our colleagues.

Unless the distinguished Republican leader would like to come in earlier than 11? I think most of our Senators have spoken on the trade bill conference report.

Mr. DOLE. I do not know of many speakers on this side. I can come in any time. We have some other meetings in the morning. But as far as I know, there have been no requests.

I will have a short statement, maybe 5 or 10 minutes.

Mr. BYRD. Then I suggest we come in at 10 and resume consideration of the conference report at 10:30. And if there are Senators who want to talk beyond those that we have on the list, in the meantime we can be trying to contact our respective colleagues to see if we can agree on a voting time of 3 o'clock.

Mr. DOLE. Good.

Mr. BYRD. Very well. That seems to meet with the approval of my friend, the leader on the other side.

ORDERS FOR WEDNESDAY

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that in the hour after the two leaders have been recognized on tomorrow, in accordance with the standing order, there be a period for the transaction of morning business not to extend beyond 10:30 a.m., and that Senators may speak during that period for morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESUME CONSIDERATION OF OMNIBUS TRADE AND COMPETITIVENESS ACT CONFERENCE REPORT

Mr. BYRD. Mr. President, I ask unanimous consent that at 10:30 a.m. on tomorrow, the Senate resume consideration of the conference report on the trade and competitiveness bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agree to; and, at 6:48 p.m., the Senate recessed until Wednesday, April 27, 1988, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate April 26, 1988:

DEPARTMENT OF STATE

MARY A. RYAN, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SWAZILAND.

THE JUDICIARY

PAMELA ANN RYMER, OF CALIFORNIA, TO BE U.S. CIRCUIT JUDGE FOR THE NINTH CIRCUIT VICE ANTHONY M. KENNEDY, ELEVATED.

NORWOOD CARLTON TILLEY, JR., OF NORTH CAROLINA, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF NORTH CAROLINA VICE HIRAM H. WARD, RETIRED.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

CHARLES RAY RITCHESON, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE HUMANITIES FOR THE REMAINDER OF THE TERM EXPIRING JANUARY 26, 1990, VICE WILLIAM BARCLAY ALLEN, RESIGNED.

NATIONAL SCIENCE FOUNDATION

WARREN J. BAKER, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1994. (REAPPOINTMENT)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST PURSUANT TO THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

LT. GEN. ROBERT D. SPRINGER, [redacted]FR, U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601(A), IN CONJUNCTION WITH ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY DESIGNATED BY THE PRESIDENT UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be general

LT. GEN. CROSBIE E. SAINT, [redacted], U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER

THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. GERALD T. BARTLETT, [redacted] U.S. ARMY.

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNTIED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES W. DYKE, [redacted], U.S. ARMY.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE—EFFECTIVE DATE FOLLOWS SERIAL NUMBER:

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. DONALD L. BOATRIGHT, [redacted] 12/12/87.
MAJ. STEPHEN R. BUSS, [redacted] 12/5/87.
MAJ. JIMMY A. CARRIGAN, [redacted] 12/5/87.
MAJ. RICHARD E. CLAUER, [redacted] 10/3/87.
MAJ. JAMES B. CRAWFORD III, [redacted] 11/16/87.
MAJ. ROBERT G. DECKER, [redacted] 9/4/87.
MAJ. RICHARD T. EATON JR., [redacted] 11/7/87.
MAJ. JOHN E. FLEMING, [redacted] 12/13/87.
MAJ. MAILON A. GILLIS JR., [redacted] 11/30/87.
MAJ. GEORGE J. GRUBIS, [redacted] 11/20/87.
MAJ. LAWRENCE G. HARRINGTON, [redacted] 11/25/87.
MAJ. STUART C. HELLER, [redacted] 12/5/87.
MAJ. JOHN R. LATHAM, [redacted] 12/8/87.
MAJ. DAVID O. LYNCH, [redacted] 12/13/87.
MAJ. JOHN D. MAJERES, [redacted] 12/6/87.
MAJ. SIGURD E. MATHISON, [redacted] 12/5/87.
MAJ. ANDREW L. MILLER, [redacted] 11/19/87.
MAJ. JIMMY L. PADEN, [redacted] 12/12/87.
MAJ. DANIEL W. PAGEL, [redacted] 12/5/87.
MAJ. ALLAN R. PEATE, [redacted] 11/9/87.
MAJ. CURTIS N. PINTLER, [redacted] 12/16/87.
MAJ. MADISON J. POCHE JR., [redacted] 12/5/87.
MAJ. JOHN L. POWERS, [redacted] 12/16/87.
MAJ. ROBERT F. REINHARDT JR., [redacted] 12/5/87.
MAJ. HERBERT T. RIPPA JR., [redacted] 12/5/87.
MAJ. JERRY P. SCHOMBURG, [redacted] 12/12/87.
MAJ. MICHAEL J. SHIRA, [redacted] 11/7/87.
MAJ. GERALD L. SMITH, [redacted] 12/5/87.
MAJ. JOSE M. TORTORELLI, [redacted] 12/16/87.

MEDICAL CORPS

MAJ. PAUL V. EDELEN, [redacted] 12/5/87.
MAJ. ROBERT A. PENDLEY, [redacted] 12/5/87.
MAJ. RICHARD A. STEMM, [redacted] 11/15/87.

NURSE CORPS

MAJ. PATRICIA L. BAXTER, [redacted] 12/12/87.

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 593 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND COMFIRMED BY THE SENATE UNDER SECTION 593 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE—EFFECTIVE DATE FOLLOWS SERIAL NUMBER.

LINE OF THE AIR FORCE

To be lieutenant colonel

MAJ. RICHARD L. AYRES, [redacted] 12/15/87.
MAJ. ROBERT D. BEASLEY, [redacted] 2/1/87.
MAJ. GEORGE N. CLOSSON, [redacted] 12/28/87.
MAJ. CHARLES D. DUNBAR, [redacted] 1/6/88.
MAJ. GEORGE O. EDWARDS, [redacted] 12/28/87.
MAJ. DAVID P. EGELSTON, [redacted] 1/9/88.
MAJ. DAVID A. EVANS, [redacted] 12/30/87.
MAJ. ROY E. HARRELL, [redacted] 1/5/88.
MAJ. DENNIS P. HARRINGTON, [redacted] 12/15/87.
MAJ. CLYDE B. HUSKEY, [redacted] 1/15/88.
MAJ. AUBREY A. LANDRY, JR., [redacted] 1/9/88.
MAJ. GEORGE R. NIEMANN, [redacted] 1/9/88.
MAJ. FRANK PONTELANDOLFO, JR., [redacted] 1/5/88.
MAJ. EDWARD J. WAITTE, [redacted] 12/22/87.

CHAPLAIN CORPS

MAJ. WILLIAM R. CHARBONNEAU, [redacted] 1/1/88.

LEGAL CORPS

MAJ. JANET S. BELL, [redacted] 12/27/87.

MEDICAL CORPS

MAJ. UDOM KUNYOSYING, [redacted] 1/9/88.

NURSE CORPS

MAJ. HATTIE A. HARMON, [redacted] 1/10/88.

BIO-MEDICAL SCIENCE CORPS

MAJ. FRANK G. NITSCH, [redacted] 1/23/88.

IN THE AIR FORCE

THE FOLLOWING MIDSHIPMEN, U.S. NAVAL ACADEMY, FOR APPOINTMENT AS SECOND LIEUTENANTS IN THE REGULAR AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 541 AND 531, TITLE 10, UNITED STATES CODE, WITH DATES OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE:

JOHN R. GARCIA, [redacted].
KEITH A. GOETZ, [redacted].
DAVID J. HOFF [redacted].
KEVIN R. UMBAUGH, [redacted].
GREGORY S. WILLIAMS, [redacted].

IN THE ARMY

THE FOLLOWING-NAMED INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 593 AND 3353:

MEDICAL CORPS

To be colonel

LESLIE M. HOVEY, [redacted]

To be lieutenant colonel

NELSON A. BORELLI, [redacted].
PARIS BRANSFORD, [redacted].
WALTER A. FORRED, JR., [redacted].
SERGIO F. GROSSLING, [redacted]
EDWARD J. HARDER, [redacted].
CHARLES A. KLINE, [redacted].
SEVERIN H. KOOP, JR., [redacted].
JOHN B. LEARY, [redacted].
JOHN P. LENIHAN, JR., [redacted].
BENJAMIN M. MARAAN, [redacted].
FELINO C. OBALLO, [redacted].
ALBERT C. REES, [redacted].
GILBERT WESTREICH, [redacted].

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER INDICATED WITH AN ASTERISK IS ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be lieutenant colonel

ROBERT E. FREEMAN, [redacted].

To be major

*MICHAEL W. PRITCHARD, 504-62-1003.

DENTAL CORPS

To be lieutenant colonel

GREGORY NOSAL, JR., [redacted].

To be major

*CHRISTOPHER T. FINLAYSON, [redacted].

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTIONS 624 AND 628, TITLE 10, UNITED STATES CODE. THE OFFICER INDICATED WITH AN ASTERISK IS ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be lieutenant colonel

LELAND E. HYSLOP, [redacted].

DENTAL CORPS

To be major

*REBECCA L. ROSIER, [redacted].

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANT COMMANDERS IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

AABY, MICHAEL CLIFFORD
ACREE, RUSSELL GARNETT, JR.
ADAMS, ROBERT ALLISON
ALEXANDER, JOHN VINSON
ALLEN, PAUL STEWART
ALSBROOKS, RONALD LEE
ALVAREZ, SANDRA ROSEMARIE
ANDERSON, JOSEPHINE GLENDA
ANDERSON, JULIE SURGI
ANDERSON, MICHAEL THOMAS
ANDERSON, THOMAS JAY
ANTANITUS, DAVID JOSEPH
ASHCRAFT, RAYMOND JOSEPH
ASHTON, STUART ARTHUR
AUSTIN, DAVID PAUL
AVVEDUTI, JOSEPH PETER, JR.
AYER, CLIFFORD B., III
BABIN, MICHAEL KELLY, JR.
BACCEI, PATRICK KENT
BAKER, DEWITT BERNARD, JR.
BAMFORD, MICHAEL GEORGE
BANUS, MARKHAM DOUGLAS
BARNETT, WILLIAM EUGENE
BARTEK, STEPHEN ANTON
BARTHOLD, STEPHEN FREDERICK
BEAUDOIN, WILLIAM GEORGE
BECKMAN, MARY JO NEAL
BELCHER, CHARLES G.
BELINSKI, JOSEPH EUGENE
BENDER, MICHAEL ROBERT
BENNETT, RONALD FINN
BENSON, STEPHEN ERIC
BERGAMINI, JOHN PAUL
BIENHOFF, PAUL ARTHUR
BILLS, MARTHA RIGBY
BLACKBURN, WILLIAM RICHARD
BLOCK, NEWELL FREDERICK
BOOTH, LARRY GENE
BOOTHE, DONALD THURMAN
BORCHARDT, JOHN ANDREW
BOSSART, DELLA JANE
BOSTICH, DENNIS NICK
BOULAY, WILLIAM JOSEPH
BRAECKEL, JOSEPH MARCUS
BRANDHUBER, ROBERT LEE
BRANNON, ROBERT BURL
BRASFIELD, RONALD BENN
BRICKEY, ALBERT BODY, JR.
BROOKS, RICHARD EARL
BROWER, MICHAEL RANDOLPH
BROWN, ANNETTE ELISE
BROWN, CHALKER WHITNER, III
BROWN, ROBERT STEWART
BROWN, THOMAS JOSEPH, JR.
BROWNLEE, KENNETH LEWIS
BRUNSON, BRUCE HOOD
BRYANT, DAVID ROSS
BUCK, CARYL ELIZABETH
BUCKNER, JANSEN WOOLDRIDGE
BURICH, STEPHEN JOHN III
BURNETTE, DAVID PARKER
BUSCH, STEVEN JOHN
BUTLER, WILLARD CLINTON, JR.
CABLE, LARRIE GENE
CALHOUN, MICHAEL A.
CAMBELL, JAMES BYRON
CANNON, JAMES RANDAL
CARLILE, GARY LOFTIN
CARLSON, CRAIG DEAN
CARPENTER, JACK ROYAL, JR.
CARPENTER, JOHN HOWARD
CARR, PETER FRANCIS
CARRICO, WILLIAM FREDERICK, J.
CARROLL, JAMES THOMAS, III
CARROLL, KEVIN JAMES
CARSON, THEODORE MONTAGUE, JR.
CARTER, GARY THOMAS
CASSARA, RICHARD JOHN
CATHER, PHILIP EDWARD
CATRON, WALTER PRESTON
CAUGHEY, GRANT JOSEPH
CAVEY, BRUCE WESLEY
CERNEY, GARY MICHAEL
CHAMBERLIAN, KATHRYN BROWNIN
CHAPMAN, RONALD LEE
CHECCHIO, MARK
CHELIRAS, RICHARD MARK
CHILDRESS, LOUIS DEAK
CHRISTENSIN, STEPHEN RANDOLP
CLEMENS, RAYMOND MICHAEL
CLEMENTS, KENNETH ELBERT
CLEMENTS, STUART SHELTON, JR.
CLOUSE, ALEXANDER PAUL
COCHRAN, ROBERT HOLLIS
COLE, THOMAS KEITH
CONNELL, GUY LOUIS
COOMBS, BARRY LELAND
COOME, BARRY ALLAN
COOPER, JAMES STEWART
CORLEY, FARRELL WAYNE
CORPIN, OWEN DARRELL
COSTELLO, BARRY MICHAEL
COX, BRIAN LYNNWOOD
COX, RICHARD LOREN
COX, TRACEE DEBORAH
COYNE, JOHN JOSEPH
CRAWFORD, MICHAEL WAYNE
CREMER, GORDON DOUGLAS, II
CROUTER, MARK HANNA, II
CROWDER, WILLIAM DOUGLAS
CUMMINGS, KATHLEEN MARIE
DAHINDEN, ERIC M.
DANKS, PAUL DOUGLAS
DAVIDSON, LYAL BARCLAY
DAVID, DONALD PERRY
DAVIS, RICHARD ROSS, JR.
DAVIS, STEVEN EARL
DAVIS, SUSAN MIRYAM
DAWSON, HUGH CUNNINGHAM
DEASARO, LOUIS PAUL
DEBIEN, PAUL THOMAS
DEDDON, JOHN EDWARD
DENKLER, JOHN MICHAEL

DEYE, THOMAS MELVIN
DIETRICH, ROLF ADAM
DIFFERDING, GREGORY ALLEN
DIGAN, THOMAS EDWARD
DILLEY, JAMES RALPH
DION, THOMAS CLIFFORD
DIXON, MICHAEL STEWART
DOLFIE, DENNIS DODD
DOLLAHON, WINSTON EUGENE
DONAHUE, RAYMUND PATRICK, JR.
DONALD, KIRKLAND HUGUE
DONOGHUE, DANIEL RICHARD
DONOVAN, WALTER JOSEPH, JR.
DORPINGHAUS, TERESA MARY
DOWNING, MARK STEPHEN
DOYLE, STEPHEN DOUGLAS
DUNN, ROBERT PATRICK
DUPOUY, DOUGLAS KENT
EBERWEIN, JOHN ROBERT
ECKERT, WILLIAM FULLERTON, JR.
EFRAIMSON, ALLEN ARVO
ELD, DALE WAYNE
ELLIOTT, WILLIAM EDWARD, JR.
ENDICOTT, STEVEN MARK
ENWRIGHT, LEO FRANCIS, JR.
ESPITIA, MARCUS LOUIS
ETTER, JOHN ALAN
EVANS, CHARLES LAMAR
EVERAGE, HENRY BUD
FALKENSTEIN, RUDOLPH FREDERICK
FENZL, DAVID PAUL
FERGUSON, MICHAEL ALLEN
FIEBIG, VICTOR RAYMOND
FINK, JOHN EUGENE
FINLEY, ANDREW VINCENT
FIRKS, STEVEN FRANKLIN
FOLEY, LEE MICHAEL
FOLEY, PATRICIA GLYNN
FORD, THOMAS RICHARD
FOSTER, RICHARD PRESTON
FRAILE, ROBERT EDWARD
FRANK, JOHN BERNARD, JR.
FRENCHI, PAUL JAMES
FREY, WAYNE KENNETH
FRY, JAMES THOMAS
FULHAM, MARCIA LIMPER
GALLAGHER, RICHARD KEITH
GALLO, ARTHUR WAYNE
GAUDIO, JAN CODY
GAZE, JUDY HEIMAN
GEHRI, RICHARD STEVEN
GEORGE, JOSEPH JAMES, JR.
GERNES, DEBORAH SUE
GIBSON, JAMES HAROLD
GIBSON, JOHN BENJAMIN
GILCRIEST, TIMOTHY BOUTON
GILLESPIE, MICHAEL ROY
GILMORE, STEPHEN DOUGLAS
GLOVER, THOMAS FRANKLIN
GODWIN, JAMES BASIL, III
GRABER, DALE BRUCE
GRAF, GARY LYNN
GRAHAM, JAMES FRANK
GRANT, MICHAEL CHARLES
GRAUPMANN, GARY JAMES
GRIFFIN, DANA NORTON
GROSS, CHARLOTTE RUTH
GRUNDIES, DAVID HERBERT
GRUNZKE, CRAIG REED
HAAS, ROBERT CLETUS
HABERMEYER, ALAN DAVID
HACKETT, WILLIAM SELDON
HADDOCK, RONALD WAYNE
HAGEN, THOMAS LEE
HAMILTON, CHARLES SAMUEL, II
HAMMOND, ANDREW TRAVIS
HAMON, DALE ROBERT
HANCE, CARL EDWARD
HANDLAN, MARK JEROME
HARDEMAN, EDWARD LEE
HARMS, ALAN MELVIN
HARRIS, WARD LEE, JR.
HARRISON, JOHN EDWARD
HART, ROBERT SHEPPARD
HARTMAN, ROBERT LEE
HARVEY, LAWRENCE MICHAEL
HASSINGER, JACK PHELPS, JR.
HAUSE, HERBERT RALPH
HAUSER, PAUL THOMAS
HAYCOCK, MELVIN SCOTT
HAYNER, LAWRENCE WILLIAM
HAYS, CLARENCE DONALD, JR.
HAZLETT, JAMES ARLING
HEELY, TIMOTHY LOUIS
HELM, ROGER DALE
HELMS, CHESTER ETHANE
HENDERSON, HARRIET DENISE
HICKS, RODNEY LEE
HIGBEE, JOHN JOSEPH
HILLIER, DAVID GORDON
HILTON, CHARLES ROLAND
HIMES, STEPHEN JONATHAN
HINSON, STEVEN ROY
HODGE, SHARON LEE
HOIPKEMEIER, STEVEN FREDRICK
HOLDEN, JUDITH ANN
HOLDSTEIN, WALLACE WOODRUFF
HOLLOWAY, STANLEY JAMES
HOLMES, MICHAEL LYNN
HOPPOCK, RONALD EUGENE
HOWELL, JOHN AUGUSTUS, III
HUBER, VERNON CHARLES
HUELLE, DENIS EMIL
HUNTER, JAMES EARL
HURLEY, ELLEN JEAN
HURLEY, RICHARD LEONARD
HURT, NATHAN DALE
IMHOF, MICHAEL HERBERT
JACKSON, PAUL JOSEPH
JAMES, BRENT SNYDER
JAN, KOLIN MARC
JASPER, STEPHEN CHARLES
JEDLICKA, CHARLES ALFRED
JENKINS, ROBERT DONALD, III
JENSEN, RICHARD JOHN
JOHANSEN, KENNETH ALTON, JR.
JOHNSON, JAMES LESLIE
JOHNSON, STEVEN KENNETH
JOHNSTON, ROBERT EDUARD
JONES, CHARLIE ANTHONY, JR.
JONES, HOUSTON KEITH
JONES, JAMES JOHN, JR.
JONES, MACK ALLISON
JONES, ROBERT BINGHAM
JOWERS, RUSSELL LEE
KANE, STEPHAN PATRICK
KAPLAN, BRADLEY JAY
KELLEY, WILLIAM DOUGLAS
KENNEDY, JOHN WARREN
KERNAN, ROBERT FUREY
KEYS, JAMES E.
KEYS, RONALD EDWARD
KIKTA, MARK DOUGLAS
KILGORE, GEORGE KEVIN
KING, MARY ANN
KING, MICHAEL ROGERS
KISSLING, PHILLIP ALAN
KOHLER, GARY ANTHONY
KOPHAMER, MAURICE SCOTT
KOVACS, GARY ERNEST
KRANZ, JEFFREY MARTIN
KRENZEL, JOSEPH
KRUG, ANDREW CLARENCE
KUKRAL, STEVEN CHARLES
KUPFER, MICHAEL MOSEPH, JR.
LABUDA, JOEL LEE
LAHNEMAN, WILLIAM JAMES
LANCASTER, JOHN ANGUS, JR.
LANDERS, MICHAEL JOHN
LANDFORD, WILLIAM ROBERT
LANE, THOMAS PATRICK
LANGER, JOHN JEFFREY
LANGERMAN, MARK MERLIN
LANGLEY, CONRAD AARON, JR.
LANNOU GORDON CALVERT, JR.
LATURNO, THOMAS WARREN
LAWTON, MARTHA MARY
LEAHY, KEVIN BERNARD
LEDBETTER, JAMES VANN
LEENHOUTS, JOHN RICHARD
LENIO, EDWARD ALLAN
LEOFFLER, WALTER FRANK, JR.
LEONARD, JOHN EDWARD, JR.
LEWIS, CHARLES SAMUEL
LEWIS, RICHARD CROAKE, III
LEWIS, STEVEN GLEN
LIGON, THOMAS MICHAEL
LINTHICUM, THOMAS WAYNE
LITTLEFIELD, ROBERT DOUGLAS
LOBS, WARREN MERCER
LOKKINS, CRAIG JEROME
LONG, JAMES DONALD
LOREBERG, MARTIN GUSTAV, III
LOUK, DAVID JOSEPH
LOWDER, GAVIN DOUGLAS
LUHRMAN, STEPHEN ALBERT
LUKASZEWICZ, MARY ALICE
LUKETICH, THOMAS MATTHWE
LYONS, JAMES EDWARD
MAAS, GERHART KARL
MACKIN, MARILYN LORAINE
MACMURRAY, CHRISTOPHER
MADDIX, CHRIS LEWIS
MAHER, JOHN JOSEPH, III
MAHON, JOHN FREDERICK
MALLORY, JAMES ANTHONY
MARINER, GEORGE THOMAS, JR.
MARINO, ANTHONY RALPH
MARTIN, CHRISTOPHER BRUCE
MARTINEZ, JENNY LOU
MARUSA, DANIEL FRED
MASCIANGELO, PETER ANTHONY
MASON, WILLIAM ROBERT
MASSEY, ROBERT CLYDE
MATLOCK, JOHN HARVEY
MAURER, MICHAEL LEE
MAXWELL, PERRY DAVID
MAYNE, RICHARD KAY
MCCABE, ROBERT EMMETT, III
MCCARTHY, WILLIAM JOHN
MCDANIEL, HOWARD OWENS
MCFADDEN, PATRICIA ANN
MCHENRY, JOHN DILLARD
MCKEAN, JOHN FRANCIS, JR.
MCKEE, WILLIAM LEE
MCKEEVER, WILLIAM JOHN
MCKNIGHT, GEORGE FRANKLIN
MCLELLAN, ALAN MICHAEL
MCMILLAN, GEORGE MCKAMIE, JR.
MCNEES, CHARLTON J.
MENTH, MICHAEL JOHN
MERRILL, JOHN CHRISTIAN
MESSERSMITH, ROGER JOSHUA
MEYER, JOHN CARL
MEYERS, TIMOTHY ALBERT
MIDDAUGH, RICHARD CARNEY
MIHALICK, JOACHIM THOMAS
MIKO, RALPH CHARLES
MILETICH, CHARLES ANTHONY
MILLER, CHRISTINE E.
MILLER, JAMES JOHN
MILLER, JEANNE MARLENE
MILLER, MICHAEL HAROLD
MILLER, RICHARD LEE
MILLER, RONALD IRWIN
MILLER, THOMAS R.
MIXON, TED RANDALL
MOE, CHRISTOPHER MICHAEL
MOFFIT, MATTHEW GORDON
MOLLOY, WILLIAM DENNIS, JR.
MONAHAN, DENNIS GERARD
MOORE, CHARLES DAVID, JR.
MOORE, TED ALLEN
MOORE, THOMAS VINCENT
MORAN, JAMES KEVIN
MORGAN, DARRELL GENE
MORGAN, KEVIN PAUL
MORRIS, LOUIS FIELD
MORRISON, ROGER HAROLD
MOSES, WARREN PRESTON
MOSIER, MARY PIERCE
MOSSER, DONALD DANIEL
MOY, GERALD MICHAEL
MOYE, WILLIAM CANNON
MULVEHILL, PAMELA MICHELE
MUNNS, LARRY JOHN
MUNSEE, WILLIAM EUGENE
MURASHIGE, GLENN SATORU
MURPHY, ALLEN MATTHEW
MURPHY, WILLIAM FRANCIS, III
MYERS, STEPHEN ELLIOT
NANCE, JAMES KEITH
NASH, CHARLES THEODORE
NAUMANN, KEITH CARLTON
NEEDLES, IVAN EDWARD, JR.
NESBY, CHARLES WILLIAM
NICKERL, JEFFREY ALAN
NILAND, JOHN FRANCIS, JR.
NORMAND, PAUL EMILE
NORWOOD, JAMES DOUGLAS
OBRIEN, JEFFREY MICHAEL
OBRIEN, THOMAS EUGENE
ODEGAARD, JOHN EDWARD
OGDEN, DAVID RICHARD
ORRISON, JOHN WILMOT
PARKINGTON, RICHARD JAMES
PATTEN, CRAIG WENDAL
PAYNE, DEBORAH NEILL
PEECOOK, SCOTT THOMAS
PEREZ, ANTHONY HERMAN
PERSONS, TIMOTHY BILL
PETERSON, GARY ALGOT
PETERSON, MARK MERRITT
PETITMERMET, DONALD HENRI
PETRICCIONE, CARMINE LINCOLN
PHELAN, JOHN JOSEPH
PHILLIPS, CHARLES WASHINGTON
PIC, JOHN EDWARD, JR
PICO, ANDRES GIRARD
PIERSON, CARL ROBERT
PITTMAN, GLENN JAMES
PLAPPERT, RUSSELL FREDERICK
POLEFRONE, PHILLIP MARK
POPLAR, JAMES ROSWELL, III
POWE, HOWARD RICHARD
PUNCHES, JACK DUANE, JR.
RABE, BRIAN JOHN
RAHAN, RONALD ROBERT
RAMIREZ, GARY WAYNE
REES, DOUGLAS WILLIAM
REPP, ROBERT CECIL
RINDLER, MARK SOL
ROGERS, CECILE RUTH
ROGERSON, WILLIAM TUNSTALL J.
ROLLINS, PAUL ALLEN
RONDEAU ANN ELISABETH
RONDORF, NEIL EUGENE
ROSS, SCOTT ANDREW
ROY, TOMMY MARCEL
RUDOLPH EARLE LEIGHTON, JR.
RUSSELL, BRUCE FREDERICK
RUTKOWSKI, EDWARD JOSEPH, JR.
RUTTER, RONALD DAVID
SAMS, RODNEY LOUIS
SANDEL, CLYDE DARWIN
SANDVIG, RICHARD GATLING
SANFORD, HENRY JAMES
SANTI, GARY STEPHEN
SANTOS, ROBERT MARTIN
SASSER, JACK S.
SAWREY, WILLIAM MICHAEL
SCARPELLI, THOMAS JAMES
SCHAFFNER, LESLIE JACOBS, JR.
SCHINDLER, RALPH LEE
SCHLABAUGH, TERRY EDWARD
SCHMIDT, LARRY HERMAN
SCHRECK, DAVID WALTER
SCHULLER, JEFFREY GORDON
SCHWAB, RICHARD FREDERICK
SEARLS, JANET CAROLINE
SESTAK, JOSEPH AMBROSE, JR.
SHAFFER, GEORGE WAYNE
SHALLIES, KENNETH HOWARD
SHINNERS, THOMAS EDWARD
SHIVE, JOHN CHARLES
SHUFORD, JACOB LAWRENCE

SHUMWAY, BRUCE HUNT
SIMMONS, LARRY WAYNE
SIMMONS, NATHANIEL PRESTON, J.
SIMONDS, DANIEL CHARLES
SIMONS, GARY JOSEPH
SLUYS, RICHARD WESLEY
SMEIGH, CARL MELVIN, JR.
SMITH, DANIEL LEON, JR.
SMITH, HERSCHEL ATTICUS, III
SMITH, KENNETH LEON
SMITH, MAURICE EDWARD, JR.
SMITH, RODNEY JOSEP
SMITH, SHAWN MATTHEW
SMITH, STEPHEN CHARLES
SMITH, VINSON ELMER
SNOWBERGER, ARNOLD III
SONDERGAARD, JOHN MICHAEL
SOULES, STEPHEN MICHAEL
SPICKETT, DAVID LEE, JR.
SPIRES, WAYNE ALLEN
STANLEY, MARC THOMAS
STARK, TIMOTHY BENTON
STARLING, HAROLD DENBY, II
STEARNS, GREGORY ALAN
STEPHENSON, ROBERT BRUCE
STETTINIUS, WILLIAM CARRINGT
STEWART, DEANNA D.
STING, JOHN THOMAS
STONE, DAVID MALCOLM
STORY, HUGH GOODMAN, JR.
STRIFFLER, PAUL CHRISTIAN
STUFFLEBEEM, JOHN DICKSON
STUMPF, ROBERT ELMER
SUDOL, EUGENE GEORGE, JR.
SUPKO, TIMOTHY JAMES
SWAIM, CLAUDE DEAN
SWEET, WILLIAM JEFFREY
SWEIGART, FRANK
TALLEY, BRENT ROBIN
TAYLOR, ROBERT JOSEPH
TERPSTRA, RICHARD PAUL
TESKE, JULIAN EDWARD
TETREV, RICHARD HENRY
THIESSE, THOMAS WILLIAM
THOMAS, MICHAEL DEAN
THOMPSON, FRED WOLFORD, JR.
THORNTON, WAYNE ALLEN
TIBBET, ERIC PAUL
TIPPIN, TERRY LEE
TOMASOSKI, DONALD JAMES
TRAUGH, DIANE RICHARDSON
TROMBA, JOHN MICHAEL
TROSCLAIR, CECIL ANTHONY, JR.
TROTTER, HARTWELL THOMAS, JR.
TROTTER, JAMES SHELDON
TURNER, MICHAEL IRVING
TWOMEY, PATRIC JOSEPH
TYLER, DAVID MALCOLM
UNDERRITER, STEVEN JOSEPH
UNDESSER, DOUGLAS ALLEN
VALENCIA, RAYMOND JAMES
VALKO, PETER GEORGE
VANCE, CRAIG EUGENE
VANCE, SCOTT WALLACE
VAUGHN, THOMAS NEAL
VIGGIANO, GLENN R.
VINT, ROBERT DALE
VITTITOE, BARBARA JO
WAGNER, JAY ALAN
WAICHWICZ, JOHN JAMES
WALKER, LARRY OSBORNE
WALLER, EDWARD CARSON
WALSH, WILLIAM ALOYSIUS
WALTERS, DOUGLAS PATRICK
WARD, DONA MARIE
WARD, GLENN HOWARD
WARD, PHILIP DORAN
WARREN, JAMES MARION
WELSTEAD, WILLIAM GREGG
WEST, WILLIAM EDWARD
WHITE, CURTIS LEE, JR.
WHITE, DONALD DANE
WHITMIRE, ROBERT DONALD
WHITWORTH, LAUREL WOODROW, JR.
WIEAND, TIMOTHY HOWARD
WILLIS, GIBSON ROBERT
WINSLOW, MICHAEL JOHN
WINTER, JAMES DANA
WISEMAN, MICHAEL DAVID
WLEKLINSKI, GARY ROBERT
WONG, LIN HAROLD
WOODWARD, GEORGE ROBERT
WOOTEN, JAMES SINGLETERRY
WORLEY, ALLEN BLAINE
WOZNIAK, JOSEPH
WRIGHT, WILLIAM EUGENE
WYATT, CHARLES ALBERT
YACUS, GEORGE MICHAEL
YAEGER, JOHN WILLIAM
YAKELEY, ROBERT CRAIG
YARBOROUGH, JOSEPH EARL JR.
YEATS, RAYMOND RITCH
YEISER, HARRY EMANUEL III
YERIGAN, RAND GORDON
YOUNG, ROBERT ERNEST
ZAZWORSKY, DANIEL STANLEY
ZELIBOR, THOMAS E.
ZIEBELL, GRANT GORDON
ZUSI, DAVID ALEXANDER

ENGINEERING DUTY OFFICERS

To be commander

BARNES, CLIFFORD GERALD, JR.
BEBERDICK, LARRY EDWARD
BEWLEY, JOHN MILTON
BOURGEOIS, NEIL CHARLES
BRUCKER, BLAINE ROBERT
CELOTTO, RICHARD CHARLES
CHESTERMAN, CHARLES WESLEY, J.
CHRISTIAN ANTHONY JAMES
DENAP, FRANK ANTHONY
DEUCHER, JAMES FORDHAM
ELGER, WALLACE MICHAEL
GROH, GARY EDWARD
GROTE, THOMAS ALAN
HARRIS, KURT JAMES
HOGAN, ROBERT JAMES, II
HOLDEN, KENNETH MERRILL, II
KIKUTA, MILES YASUO
LEPERE, VICTOR JOSEPH, JR.
LERCHBACKER, ALAN BERNARD
MADSEN, LEROY EDWARD
MARR, KENNETH WILLIAM
MILLIKEN, LOGAN GEORGE
MUESING, WILLIAM EDWIN
NEWTON, WAYNE JOSEPH
O'BRIEN, KEVIN GEORGE
OLSON, THOMAS FRANCIS
POLKOWSKY, RONALD LEON
PUTNAM, GREER REED
RAU, DOUGLAS HARRIS
REDMON, DANNY RAY
ROWLAND, DANA WELLS
RUSSELL, WILLIAM DAVID
SAWYER, LLOYD MERRILL, JR.
SCHONBERGER, JAMES ROBERT
SULLIVAN, PAUL EDWARD
THEIS, GARY ANTHONY
VIA, KENNETH DAVID
VOGEL, DAVID JOE
WILLIAMS, VERNON THOMAS

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

To be commander

ANDERSON, LANCE ORVILLE
BRAMER, JOHN ROBERT
BROOKS, JAMES NORMAN
CAGLE, CLIFFORD MONROE
CINA, FRANK SALVATORE
DOUGHERTY, MICHAEL JOHN
HAMEL, STEVEN ROBERT
JEWETT, CHARLES EDWARD
JUDGE, LARRY VERNON
LEEDY, DAVID HUMBERT
LOUNSBERY, HENRY KAZUMI
MECHLING, ANDREW D.
PARNELL, JESS PAUL, JR.
WITTE, MICHAEL JAMES

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

To be commander

BREMUS, MARTIN FRANK, JR.
DERRICK, JERRY FLOYD
GENOVESE, DENNIS HARRY
RANCIK, RODNEY
STACHELCZYK, GREGORY JOSEPH
THOMAS, EUGENE LEHMAN
WAGNER, RONALD EARL
WEAKLEY, RANDY GLENN

AVIATION DUTY OFFICERS

To be commander

DRAKE, PATRICK ROBERT
HASTINGS, DAVID CANFIELD, JR.
NELSON, RICHARD J.
PEGLER, RANDALL E.
RIES, JEROME ROLAND

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be commander

BERNAS, BARRY LEE
DAVIS, JOHN SIGFRID III
DEMPSEY, JOHN MAINS II
MARSH, ROBERT WILSON
NEWMAN, JAMES STILSON
NOTHOM, CHARLES THEODORE
PEYRONEL, SHARON ANNE

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be commander

AVCALADE, MARYANN GERALDINE
BANFORD, ROBERT LEO
BRAND, DONNA JEAN
COOK, CHARLES C., III
DUBOIS, DENNIS NED
FITZSIMONDS, JAMES RUSSELL
HARRIS, GAIL
JOHNSON, DAVID ALAN
JONES, ARTHUR III
LEONIDOFF, LEON JON
MARSH, GREGORY ALAN
MIZE, LARRY, ANDREW
MOBLEY, RICHARD ALAN
MONSON, STEVEN DONALD
POOLE, ALFRED HAYWOOD
SAMPSON, THOMAS NEWTON, II
SCHUSTER, CARL OTIS
SINDLINGER, WILLIAM JAY
SPATAFORE, GENE ALAN
STINE, HAROLD EDWIN J.

SPECIAL DUTY OFFICER (PUBLIC AFFAIRS)

To be commander

AHLWARDT, ELMER LOUIS, JR.
BURNETTE, DEBORAH ANN
CONNOR, CHARLES DEAN, JR.
FALCONA, SAMUEL FRANK, JR.
SCHAMP, DOUGLAS ARTHUR
SUNDIN, MELVIN LEROY
TAYLOR, TIMOTHY BARLOW
WOODHOUSE, JOHN HARTLAND, JR.

SPECIAL DUTY OFFICER (OCEANOGRAPHY)

To be commander

BURGESS, LESLIE ANN
CUMMINGS, TIMOTHY KEAN
DILLON, CYNTHIA PAUL
HARPER, KRISTINE CECILE
HERVEY, REX VERNON
HOWELL, TERRY ALAN
PERDUE, WILLIAM FRED
SHOWALTER, ROBERT COX
WILLIAMS, DOCK DAVID, JR.

LIMITED DUTY OFFICER (LINE)

To be commander

COX, TRAVIS B.
GOINS, DONALD ROSS
GREENE, RONALD M.
JOYCE, RICHARD CALEB
MCELHINNEY, WILLIAM J.
SIDNER, WILLIAM HOWARD, JR.
VANCLEAVE, JERRY MADDUX
WALTER, MERVYN D.

HOUSE OF REPRESENTATIVES—*Tuesday, April 26, 1988*

The House met at 4:30 p.m. and was called to order by the Speaker pro tempore [Mr. COELHO].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
April 21, 1988.

I hereby designate the Honorable TONY COELHO to act as Speaker pro tempore on Tuesday, April 26, 1988.

JIM WRIGHT
Speaker of the House of Representatives.

PRAYER

The Reverend Charles Mallon, permanent deacon, Holy Family Church, Mitchellville, MD, offered the following prayer:

Give ear to my words, O Lord; give heed to my groaning. Hearken to the sound of my cry, my King and Lord, for to Thee do I pray.—Psalm 5:1-2.

Father protect us from our own destructive inclinations; the drug dependency that enslaves us and denies us the freedom to approach You in spirit and truth; the pornography that strikes at the heart of decency and undermines our union with You; the self-serving spirituality that confuses the people of God and places a strange God before them; the materialism that worships the creation rather than the Creator and makes us selfish rather than selfless.

Father we ask You to save us from this present evil age and allow our efforts to bring this Nation into a greater union with You.

We ask this through Christ our Lord. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BALLENGER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER pro tempore. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BALLENGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to clause 5, rule I, further proceedings on this vote will be postponed and the vote will be taken later today.

The point of no quorum is considered withdrawn.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agreed to the following resolution:

S. RES. 419

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Melvin Price, late a Representative from the State of Illinois.

Resolved, That a committee of two Senators be appointed by the Presiding Officer to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 442. An act to implement recommendations of the Commission on Wartime Relocation and Internment of Civilians; and

H.R. 1811. An act to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation.

The message also announced that the Senate had passed a bill and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 721. An act to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies; and

S. Con. Res. 88. Concurrent resolution to facilitate the convening of a Silver Haired Congress.

LEGISLATION TO PREVENT DEPLOYMENT OF COAST GUARD TO PERSIAN GULF

(Mr. LOWRY of Washington asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWRY of Washington. Mr. Speaker, today I am introducing legislation to prevent the deployment of the Coast Guard to any operation in the Persian Gulf. I introduce this legislation and ask for bipartisan support because of a bipartisan effort by this Congress and by this House to fight the terrible drug problem that we are facing in our country.

I introduce this legislation, of course, Mr. Speaker, because we have read in the newspapers that it is being considered to divert the efforts of the Coast Guard for drug interdiction and other international law enforcement away from that critical need here at home and send those Coast Guard capabilities to the Persian Gulf.

Mr. Speaker, the war we have to win first is here at home, and it is a terrible misappropriation of the underfunded capabilities of the Coast Guard to take our Coast Guard vessels and personnel and send those to the Persian Gulf when they should be here interdicting drugs and enforcing international law here at home.

I hope all of my colleagues will join me in this legislation. Let us pass it and keep this on the right track.

SUPPORTING AIR QUALITY

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, the 100th Congress cannot afford to ignore the difficult problems of acid rain and environmental air quality. On December 3, 1987, the proponents of clean air legislation succeeded in their effort to ensure that violations of the Clean Air Act would be penalized before the end of the current legislative session. The impending threat of sanctions is forcing my colleagues on the Energy and Commerce Committee, the committee of jurisdiction, to reconcile their opposing viewpoints and break the deadlock which has prevented action on this important matter.

Mr. Speaker, I commend my colleagues on the Energy and Commerce Committee who have attempted to craft a compromise on the Clean Air Act reauthorization. I am further en-

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

couraged that the Subcommittee on Health and the Environment has voted to approve the acid rain control provisions without accepting most weakening amendments to the legislation. As an original cosponsor of these provisions, I applaud the efforts to advance the debate on the Clean Air Act and achieve an economically affordable solution while adequately addressing the need for environmental air quality.

As we prepare to receive the Canadian Prime Minister, the Honorable Brian Mulroney, it is appropriate to note that concern for the problems of our environment extends far beyond our domestic borders. I remind my colleagues that the people of Canada, the citizens of the Northeast, and the residents of our majestic Hudson Valley all join in a united cry for congressional action to deal with the problems of air quality. Furthermore, my own 22d Congressional District is one of the more than 100 areas throughout the country which is out of compliance with the Clean Air Act attainment standards and would be directly affected by the committee's failure to take action in this area. We may be certain that the Members representing these areas will not stand for further congressional delay on the life-and-death issue of the quality of the air we breathe.

LEAVE PLANT CLOSING PROVISION IN TRADE BILL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the plant closing provision of the trade bill must now pass the Senate.

The free traders in America say it will not, and it will, in fact, hurt American industry. I disagree.

There are exemptions in that bill for faltering enterprises, and when new capital is needed to avoid a shutdown. In other words, if a plant is trying in good faith to stay open, it does not even have to give a 1-minute notice. How much more could we have watered down this legislation?

My district lost 55,000 jobs, and about the only notice our workers got was in the newspaper. How cruel. I do not think it could be any worse.

We are the only industrialized nation in the world that does not even give our workers the courtesy of a notice of closing. Think about that. It is time for Congress to win one for the whole team—the American workers. We spend more time on illegal aliens and foreign aid than we spend on our own working men and women, and it is starting to show. Shame on us.

The Senate must pass the trade bill and leave that plant closing provision in.

UPON THE INTRODUCTION OF A BILL ON TRANSVERSE MYELITIS

(Mr. HORTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HORTON. Mr. Speaker, today I rise to introduce legislation which seeks to rectify an inequity in veterans benefits. The purpose of the bill is to treat more fairly those veterans afflicted with transverse myelitis.

Transverse myelitis is a clinical syndrome in which there is evidence of complete or partial loss of neurological functions, generally resulting from inflammation of the spinal cord. The cause of the syndrome is unknown, but it has been linked with multiple sclerosis.

Multiple sclerosis has a presumptive period of 7 years. Sufferers of transverse myelitis, however, may only receive disability benefits if the syndrome manifests itself within 1 year of departure from the service. The bill I introduce today would treat sufferers of these two similar diseases more equally. It would increase the presumptive period for transverse myelitis, allowing veterans to receive disability benefits if the syndrome manifests itself within 7 years of separation from the service.

I ask that my colleagues in the House join me in support of this legislation. America's veterans sacrifice much to defend the rights and liberties that we all cherish so dearly. It is imperative that these same veterans are provided for when they need our assistance.

ACID RAIN

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, every day over the North American Continent, 176,000 tons of acids are shot into our skies. That is the equivalent of 4,144 fully loaded boxcars in every 24 hours, and what goes up comes down in the form of rain, sleet, snow, dry deposition. It is called acid rain.

It has killed hundreds and hundreds of America's lakes, thousands and thousands of American's streams, and it endangers millions and millions of acres of our farmlands and forests.

□ 1640

It threatens hunting and fishing, human health, and America's historical monuments.

In a new study the New York Times this morning talks about acid rain killing marine life off the Atlantic coast. Tomorrow Canadian Prime Minister Brian Mulroney will ask President Reagan what he intends to do about it. The likely answer: Nothing. No action, maybe more study.

It reminds me of the Wicked Witch in the "Wizard of Oz" wringing her hands and saying: "These things must be done carefully, very carefully."

America asks how many more buckets of acidified water must be poured on this administration before its propolluter politics are melted away.

RECYCLING: AN ALTERNATIVE TO THE SOLID WASTE PROBLEM

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, this country is wallowing in its waste. As the garbage mounts on our sidewalks, the space in our landfills rapidly disappears. The EPA estimates that by the year 1990, half the Nation's cities will reach landfill capacity.

What can we do about this crisis? One answer to the problem is recycling. Having set up the first comprehensive recycling program in Pennsylvania, I know recycling works at the local level. In my county the local government offered municipalities financial incentives to recycle. The results have been impressive: Last year we recycled 22,000 tons of newspaper and 802 tons of glass. The glass recycling alone saved our local landfill 2,000 cubic yards of space.

Today I am introducing the Recycling Clearinghouse Act of 1988. This legislation would centralize information on the various recycling programs around the country at a clearinghouse in the EPA. The $250,000 authorization in the bill would be matched by funding from private industry. I already have the support of the Glass Packaging Association and the National Association for Plastic Container Recovery for the bill.

Although the clearinghouse will not eliminate the problem, it is a good first step. Recycling can be a clean and profitable answer to a dirty problem. I urge my colleagues to cosponsor the Recycling Clearinghouse Act of 1988.

EXEMPTION OF MARINE AND OTHER USERS FROM INEQUITABLE APPLICATION OF FUEL TAXES

(Mr. BRENNAN asked and was given permission to address the House for 1 minute.)

Mr. BRENNAN. Mr. Speaker, today I am introducing legislation to help fishermen, farmers, and other off-highway consumers of motor fuel who have been forced to pay highway taxes since April 1. This inequity resulted from one of the many changes buried deep in the budget reconciliation bill which I opposed in late December.

As everyone knows, Federal fuel taxes were adopted so that consumers who use our Nation's highways help pay for their upkeep. Fair enough. But some consumers have no obligation to contribute to highway construction and maintenance.

Take the fishing, industry, for example. In Maine, fishermen don't fish on the highways, they fish in the sea. And you won't find any Maine farmers trying to plant potatoes on the pavement. Still, these individuals are being forced to pay taxes they can ill afford in order to bolster the highway trust fund for which they have no responsibility.

Under current law, their only recourse is to fill out an avalanche of paperwork and try to claim a refund from the IRS. In the meantime, the Government uses their money and collects the interest. In effect, that means that some of the lowest-paid, hardest-working individuals in this country are floating the Government an interest-free loan. This makes no sense.

My bill would exempt fishermen as well as farmers and other off-highway fuel consumers from paying the highway tax in the first place. Specifically, it would exempt all off-highway consumers who purchase fuel from a wholesaler. It also would exempt off-highway consumers who purchase from a retailer if that retailer sells only to marine users.

In order to reduce the damage already done, my bill also would speed up the refund process and provide interest on any taxes paid as of April 1.

In my mind, the changes made to the fuel tax by the reconciliation bill represent Government at its worst. They are unfair, they are illogical and they ought to be corrected. I strongly urge my colleagues to support this legislation and restore some common sense to the collection of fuel taxes.

HONORING LADY BIRD JOHNSON FOR HER YEARS OF DEDICATED SERVICE TO THE PEOPLE OF THE UNITED STATES AND CONGRATULATING HER IN HER DIAMOND JUBILEE YEAR

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the resolution (H. Res. 431) honoring Lady Bird Johnson for her years of dedicated service to the people of the United States and her efforts in the beautification of the Nation and congratulating her in her diamond jubilee year, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. SIKORSKI). Is there objection to the request of the gentleman from California?

Mr. GILMAN. Mr. Speaker, reserving the right to object, I do not object, but would like to inform the House the minority has no objection to the legislation being considered.

Mr. Speaker, I would like to commend the gentleman from Texas [Mr. BROOKS], the sponsor of the resolution, and the gentleman from Texas [Mr. PICKLE] for bringing this measure to the floor at this time to honor Lady Bird Johnson for her years of dedicated service to our Nation and to honor her in her diamond jubilee year.

Lady Bird Johnson, the wife of former President Lyndon Johnson, served our Nation well in many endeavors, and particularly served to establish a program for beautifying our Nation's Capital and organizing support for the beautification of the Capital that has worked so well for our Nation.

Lady Bird Johnson also has served with distinction as a part of the National Head Start Program and also served as cochairperson of the National Wildflower Research Center, the National Committee for the Bicentennial Era, the National Park Service Advisory Board, the President's Commission on White House Fellowships, as well as serving on the University of Texas System Board of Regents and the board of trustees of the National Geographic Society.

Indeed, our Nation is indebted to Lady Bird for all of her community endeavors benefiting our Nation, and I am pleased to rise in support of this measure.

Mr. BROOKS. Mr. Speaker, House Resolution 431, sponsored by myself and Mr. PICKLE of Texas, honors Lady Bird Johnson for her many years of service to the people of the United States, and particularly her efforts to beautify our Nation. The resolution also congratulates her in her diamond jubilee year.

Lady Bird Johnson has contributed immeasurably to the beauty and welfare of our country and deserves the recognition and honor that this House will give her on Thursday. I appreciate the prompt action of the gentleman from California [Mr. DYMALLY] in bringing this resolution to the floor.

Mr. GILMAN. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 431

Whereas Lady Bird Johnson, the wife of Lyndon B. Johnson, the 36th President of the United States, has selflessly contributed her time, efforts, and talents to the people of the United States and in the beautification of the Nation;

Whereas Lady Bird Johnson was and is an integral force in the beautification of the highways and parks and the conservation of the environment of the Nation, and helped to organize the Committee for a More Beautiful Capital in 1965 and served as chairperson for the committee;

Whereas Lady Bird Johnson helped to establish the Society for a More Beautiful Capital, which continues to raise funds and organize support for the beautification of the National Capital;

Whereas Lady Bird Johnson has served the people of the United States and her community through her participation in the National Head Start Program, her creation of and service as co-chairperson of the National Wildflower Research Center, her service on the National Committee for the Bicentennial Era, the National Park Service Advisory Board, the President's Commission on White House Fellowships, the University of Texas System Board of Regents, and the Board of Trustees of the National Geographic Society;

Whereas the grace and dignity of Lady Bird Johnson have endeared her to many other organizations, projects, and institutions that have in common the purpose of bettering the Nation and its people;

Whereas Lady Bird Johnson has also been an active and enthusiastic worker in and supporter of many endeavors for beautification and conservation in her home State of Texas;

Whereas Lady Bird Johnson has received the Presidential Medal of Freedom and many other awards and honors for her service to the Nation and her community; and

Whereas the House of Representatives is honoring Lady Bird Johnson for her service to the Nation and congratulating her in her diamond jubilee year with a celebration on April 28, 1988; Now, therefore, be it

Resolved, That the House of Representatives—

(1) honors Lady Bird Johnson for her years of dedicated service to the people of the United States and recognizes her leadership on behalf of all the people of America in the beautification of our Nation; and

(2) congratulates her in her diamond jubilee year.

The resolution was agreed to.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 25, 1988.

Hon. JIM WRIGHT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 3:48 p.m. on Monday, April 25, 1988 and said to contain a message from the President whereby he transmits the Notice extending the national emergency with respect to Nicaragua beyond May 1, 1988.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

EXTENSION OF NATIONAL EMERGENCY WITH RESPECT TO NICARAGUA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 100-184)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

(For message, see proceedings of the Senate of Monday, April 25, 1988, at page 8639.)

PROVIDING FOR CONSIDERATION OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 435 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 435

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4264) to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for Fiscal Years 1988 and 1989, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Armed Services now printed in the reported bill, as modified by the amendments contained in section 4 of this resolution, as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read and all points of order against said substitute for failure to comply with the provisions of section 303(a)(4) of the Congressional Budget Act of 1974, as amended (Public Law 93-344, as amended by Public Law 99-177), clause 7 of rule XVI and clause 5(a) of rule XXI are hereby waived. An amendment striking out section 902 of said substitute, as modified, shall be considered as having been agreed to in the House and in the Committee of the Whole. No amendment to said substitute, as modified and as amended, shall be in order except the amendments designated in the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered only in the order and in the manner specified, and shall be considered as having been read when offered. Each amendment may only be offered by the Member designated for such amendment in the report of the Committee on Rules, or this resolution, or his designee. Debate on each of said amendments shall not exceed the time designated in said report, to be equally divided and controlled between the proponent and an opponent. All points of order are waived against the amendments contained in sections one and two of the report of the Committee on Rules. No amendment, except for amendments printed in section three of the report of the Committee on Rules, shall be subject to amendment except as specified in this resolution or in the report of the Committee on Rules or to a demand for a division of the question in the House or in the Committee of the Whole. Debate on any amendment offered to an amendment printed in section three of the report of the Committee on Rules shall be limited to ten minutes, equally divided and controlled by the proponent of the amendment and a member opposed thereto. Any particular amendment under consideration when the Committee of the Whole rises on a legislative day shall be completed when the Committee of the Whole next resumes its sitting on H.R. 4264. During the consideration of the bill, pro forma amendments for the purpose of debate shall be in order only if offered by the chairman or ranking minority member of the Committee on Armed Services. Any period of general debate specified in this resolution shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services.

Sec. 2. It shall be in order to begin consideration of the amendments contained in the report of the Committee on Rules accompanying this resolution as follows:

(1) When the Committee of the Whole begins consideration of amendments to H.R. 4264 on Wednesday, April 27, 1988, it shall be in order to consider the amendment relating to naming a submarine for the late Honorable Melvin Price printed in section one of the report of the Committee on Rules offered by Representative Aspin of Wisconsin. Following disposition of said amendment, it shall be in order to debate the subject matter of the ABM treaty for a period not to exceed thirty minutes. It shall then be in order to consider the amendment relating to the ABM treaty printed in section one of the report of the Committee on Rules in the following order: (A) by Representative Broomfield of Michigan; and (B) by Representative Aspin of Wisconsin. Each of said amendments shall be in order even if amending portions of the amendment in the nature of a substitute made in order as original text, as modified and as amended, by this resolution already changed by amendment. If more than one of said amendments is adopted, only the last such amendment which is adopted shall be considered as finally adopted and reported back to the House. Following disposition of said amendments, it shall be in order to debate the subject of the Strategic Arms Limitation Treaty for a period not to exceed thirty minutes. It shall then be in order to consider the amendments relating to such treaty printed in section one of the report of the Committee on Rules in the following order: (A) by Representative Broomfield of Michigan; and (B) by Representative Dicks of Washington. Each of said amendments shall be in order even if amending portions of the amendment in the nature of a substitute made in order as original text, as modified and as amended, by this resolution already changed by amendment. If more than one of said amendments is adopted, only the last such amendment which is adopted shall be considered as finally adopted and reported back to the House. Following disposition of the said amendments, it shall be in order to begin consideration of the amendments printed in section three of the report of the Committee on Rules accompanying this resolution in the order and in the manner provided for in said section and subject to the provisions of paragraph (6) of this section.

(2) After the Committee of the Whole rises on the legislative day of Wednesday, April 27, 1988, and resumes its sitting on H.R. 4264 on Thursday, April 28, 1988, further consideration of the amendments printed in section three of the report of the Committee on Rules accompanying this resolution shall be suspended. It shall then be in order to debate the subject of antisatellite weapons for a period not to exceed thirty minutes. It shall then be in order to consider the amendments relating to antisatellite weapons printed in section one of the report of the Committee on Rules in the following order: (A) by Representative Dickinson of Alabama; and (B) by Representative Brown of California. Each of said amendments shall be in order even if amending portions of the amendment in the nature of a substitute made in order as original text, as modified and as amended, by this resolution already changed by amendment. If more than one of said amendments is adopted, only the last such amendment which is adopted shall be considered as finally adopted and reported back to the House. Following disposition of said amendments, it shall then be in order to debate the subject of testing of nuclear weapons for a period not to exceed thirty minutes. It shall then be in order to consider the amendments relating to testing of nuclear weapons printed in section one of the report of the Committee on Rules in the following order: (A) by Representative Broomfield of Michigan; and (B) by Representative Gephardt of Missouri. Each of said amendments shall be in order even if amending portions of the amendment in the nature of a substitute made in order as original text, as modified and as amended, by this resolution already changed by amendment. If more than one of said amendments is adopted, only the last such amendment which is adopted shall be considered as finally adopted and reported back to the House. Following disposition of said amendments, it shall be in order to debate the subject of a comprehensive test ban for a period not to exceed forty minutes. It shall then be in order to consider the amendments relating to the comprehensive test ban printed in section one of report of the Committee on Rules in the following order: (A) by Representative Markey of Massachusetts; and (B) by Representative Dickinson of Alabama. Each of said amendments shall be in order even if amending portions of the amendment in the nature of a substitute made in order as original text, as modified and as amended, by this resolution already changed by amendment. If more than one of said amendments is adopted, only the last such amendment which is adopted shall be considered as finally adopted and reported back to the House. Following disposition of said amendments, it shall be in order to resume consideration of the amendments printed in section three of the report of the Committee on Rules accompanying this resolution.

(3) After the Committee of the Whole rises on the legislative day of Thursday, April 28, 1988, and resumes its sitting on H.R. 4264 on Friday, April 29, 1988, further consideration of the amendments printed in section three of the report of the Committee on Rules accompanying this resolution shall be suspended. It shall then be in order to debate the subject matter of contracting out for a period not to exceed ten minutes. It shall then be in order to consider the amendments relating to contracting out printed in section one of the report of the Committee on Rules in the following order: (A) by Representative Crane of Illinois; (B) by Representative Schroeder of Colorado; (C) by Representative Skelton of Missouri; and (D) by Representative Traficant of Ohio. Following disposition of said amendments, it shall be in order to debate the subject of defense burdensharing for a period not to exceed ten minutes. It shall then be in order to consider the amendments relating to defense burdensharing printed in section one of the report of the Committee on Rules in the following order: (A) by Representative Bryant of Texas; (B) by Representative Robinson of Arkansas; (C) by Representative McMillan of North Carolina; and (D) by Representative Richardson of New Mexico. Following disposition of said amendments, it shall be in order to debate the subject matter of Buy America for a period not to exceed 10 minutes. It shall then be in order to consider the amendments relating to Buy America printed in section one of the report of the Committee on Rules accompanying this resolution in the following order: (A) by Representative Hertel of Michigan; (B) by Representative Leath of Texas; (C) by Representative Davis of Illinois; and (D) by Representative Bentley of Maryland. Following disposition of said amendments, it shall be in order to resume consideration of the amendments printed in section three of the report of the Committee on Rules accompanying this resolution.

(4) After the Committee of the Whole rises on the legislative day of Friday, April 29, 1988, no further amendments to H.R. 4264 shall be in order except as subsequently ordered by the House.

(5) Notwithstanding any provision of this resolution and subject to the second sentence of this paragraph, it shall be in order for the chairman of the Committee on Armed Services, or his designee, after giving at least one hour notice and after consultation with the ranking minority member of that committee, to offer at any time any of the amendments printed in section two of the report of the Committee on Rules. Said amendments shall be in order even if amending portions of the amendment in nature of a substitute, as modified, already amended. Said amendments shall not be subject to amendment.

(6) Notwithstanding any provision of this resolution, it shall be in order for the chairman of the Committee on Armed Services, or his designee, at any time to offer en bloc amendments, including modifications in the text of any amendment which are germane thereto, printed in section three of the report of the Committee on Rules. Such amendments en bloc shall be considered as having been read and shall not be subject to amendment or to a demand for a division of the question in the House or in the Committee of the Whole. Such amendments en bloc shall be debatable for not to exceed sixty minutes, equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. The original proponents of the amendments offered en bloc shall have permission to insert statements in the Congressional Record immediately before disposition of the amendments en bloc.

(7) If the Committee of the Whole does not complete consideration of any amendments specifically made in order by section 2 of this resolution for consideration on any particular legislative day, it shall be in order on any subsequent legislative day for the chairman of the Committee on Armed Services, after giving at least one hour notice, and after consultation with the ranking minority member of that committee, to request the Chair to recognize the proponent of such amendments following disposition of specified amendments contained in the report of the Committee on Rules accompanying this resolution and the Chair may recognize the proponents of such amendments in accordance with that notice notwithstanding the order of amendments otherwise specified in such report. If the chairman of the Committee on Armed Services does not give such notice or make such request, the amendments may be offered by their proponents following the disposition of all other amendments contained in section three of the report of the Committee on Rules accompanying this resolution.

Sec. 3. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

Sec. 4. On page 2, line 21, strike out "$2,924,988,000" and insert in lieu thereof "$2,958,988,000".

On page 3, line 1, strike out "$4,245,352,000" and insert in lieu thereof "$4,242,818,000".

On page 3, line 5, strike out "$2,507,033,000" and insert in lieu thereof "$2,504,499,000".

On page 7, line 8, strike out "$8,077,081,000" and insert in lieu thereof "$8,062,081,000".

On page 7, line 9, strike out "$8,075,224,000" and insert in lieu thereof "$8,064,424,000".

On page 7, line 17, strike out "$5,430,582,000" and insert in lieu thereof "$5,419,782,000".

On page 7, line 22, strike out "$1,138,500,000" and insert in lieu thereof "$1,150,500,000".

On page 16, line 22, strike out "$5,223,244,000" and insert in lieu thereof "$5,221,948,000".

On page 16, line 25, strike out "$15,008,514,000" and insert in lieu thereof "$15,003,014,000".

On page 17, line 1, strike out "$8,604,304,000" and insert in lieu thereof "$8,593,190,000".

On page 33, line 12, strike out "$22,010,300,000" and insert in lieu thereof "$22,003,279,000".

On page 33, line 15, strike out "$21,850,900,000" and insert in lieu thereof "$21,850,400,000".

On page 33, line 16, strike out "$7,724,800,000" and insert in lieu thereof "$7,721,100,000".

Page 8, line 17, strike out "$113,512,000" and insert in lieu thereof "$109,512,000".

Page 226, line 12, strike out "$3,610,629,000" and insert in lieu thereof "$3,567,629,000".

Page 227, line 14, strike out "$646,624,000" and insert in lieu thereof "$689,624,000".

Page 153, line 18, strike out "$10,618,000,000" and insert in lieu thereof "$10,624,600,000".

Page 129, lines 20 and 21, strike out "Neither the Secretary of Defense nor the Secretary of a military department may" and insert in lieu thereof "Funds appropriated or otherwise made available to the Department of Defense may not be used to".

Page 130, beginning on line 3, strike out "determines—" and all that follows through line 10 and insert in lieu thereof "determines that an adequate supply of valves covered by paragraph (1) of satisfactory quality is not available in the United States to meet Department of Defense requirements on a timely basis.".

Page 130, lines 12 and 14, strike out "outside" each place it appears and insert in lieu thereof "in".

Page 130, line 14, strike out "more than 50 percent" and insert in lieu thereof "at least 80 percent".

☐ 1655

The **SPEAKER** pro tempore (Mr. Sikorski). The gentleman from Florida [Mr. Pepper] is recognized for 1 hour.

Mr. **PEPPER**. Mr. Speaker, I yield the customary 30 minutes for debate only to the gentleman from Mississippi [Mr. Lott] pending which I yield myself such time as I may consume.

Mr. Speaker, let me begin by saying that this rule provides for the consideration of the Defense authorization bill through Friday of this week. The Rules Committee will be meeting again to report a subsequent rule that will cover the rest of the bill. It is entirely possible that a Member's amendment not included in the rule currently before the House may be included in the follow-on rule. The absence of any particular amendment should not be misconstrued as a sign that the amendment will not be later made in order.

Mr. Speaker, House Resolution 435 is a modified open rule providing for the consideration of H.R. 4264. The 2 hours of general debate are equally divided and controlled by the chairman and ranking minority member of the Committee on Armed Services. The rule makes it in order to consider the amendment in the nature of a substitute now printed in the bill, as modified by the amendments contained in section 4 of this resolution, as an original bill for the purpose of amendment. The substitute, as modified, is considered as having been read. Section 303(a)(4) of the Congressional Budget Act is waived against the substitute. The rule also waives clause 7 of rule XVI and clause 5(a) of rule XXI against the substitute. An amendment striking out section 902 of the substitute is considered as having been agreed to in the House and in the Committee of the Whole.

Mr. Speaker, House Resolution 435 provides that no amendment to the substitute is in order except the amendments designated in the report accompanying this resolution. The amendments are to be considered in the order and in the manner specified. Each amendment may be offered by the Member designated for the amendment, or his designee. Debate on each of the amendments is also designated in the report. All points of order are waived against the amendments contained in sections 1 and 2 of the report. None of the amendments are subject to amendment except those amendments in section 3 of the report. Debate on any amendment contained in section 3 of the report is limited to 10 minutes. The rule also states that pro forma amendments for the purpose of debate are in order only if offered by the chairman or ranking minority member of the Armed Services Committee. Also, any general debate specified in the rule is to be equally divided and controlled by the chairman and ranking minority member of the Armed Services Committee. The chairman of the Armed Services Committee, or his designee, may offer en bloc amendments, including modifications in the text of any amendment printed in section 3 of the report. The en bloc amendments are debatable for 1 hour.

As far as the amendment process this week, the rule provides for the following. General debate will occur on Tuesday. On Wednesday, April 27, the rule provides for the consideration of an amendment relating to Chairman Price, debatable for 30 minutes. The subject of the ABM Treaty is debatable for 30 minutes. The rule provides for an amendment by Representative BROOMFIELD, debatable for 10 minutes. Even if the Broomfield substitute is adopted, the rule provides for an amendment in the nature of a substitute if offered by Representative ASPIN, debatable for 10 minutes. The last adopted substitute is considered as reported back to the House. After disposition of the ABM amendments, the rule provides for 30 minutes of general debate on the topic of SALT. After general debate, the rule makes in order an amendment by Representative BROOMFIELD, debatable for 10 minutes. Even if the Broomfield substitute is adopted, the rule provides for an amendment in the nature of a substitute, if offered by Representative DICKS, debatable for 10 minutes. The last adopted substitute is considered as reported back to the House. That will conclude the amendment process on Wednesday.

On Thursday, April 28, the rule provides for 30 minutes of general debate on the topic of Asat. After general debate, the rule provides for an amendment by Representative DICKINSON, debatable for 30 minutes. Even if the Dickinson amendment is adopted, the rule provides for the consideration of an amendment in the nature of a substitute if offered by Representative BROWN of California, debatable for 10 minutes. The last adopted substitute is considered as reported back to the House. The rule then provides 30 minutes of general debate on the subject of nuclear testing. After general debate, the rule provides for an amendment by Representative BROOMFIELD, debatable for 10 minutes. Even if the Broomfield amendment is adopted, the rule provides for the consideration of an amendment in the nature of a substitute if offered by Representative GEPHARDT, debatable for 10 minutes. The last adopted substitute is considered as reported back to the House. The rule then provides 40 minutes of general debate on the subject of a comprehensive test ban. After general debate, the rule provides for the consideration of an amendment, if offered by Representative MARKEY, debatable for 10 minutes. Even if the Markey amendment is adopted, the rule provides for consideration of an amendment in the nature of a substitute if offered by Representative DICKINSON, debatable for 10 minutes. The last adopted substitute is considered as reported back to the House. After consideration of these amendments, the rule provides for the consideration of other amendments made in order by the rule.

On Friday, April 29, the rule provides for 10 minutes of general debate on the subject of contracting out. After debate, the rule provides for the consideration of four amendments by the following Members: Representative CRANE; Representative SCHROEDER; Representative SKELTON; and Representative TRAFICANT. The rule then provides 10 minutes of general debate on the subject of burdensharing. After general debate, the rule provides for the consideration of four amendments by the following Members: Representative BRYANT; Representative ROBINSON; Representative MCMILLAN of North Carolina; and Representative RICHARDSON. The rule than provides 10 minutes of general debate on the topic of Buy American. After general debate the rule provides for the consideration of four amendments by the following Members: Representative HERTEL of Michigan; Representative LEATH of Texas; Representative DAVIS of Illinois; and Representative BENTLEY. After dispositon of the preceding amendments, the rule provides for the consideration of other amendments made in order by the rule.

This will complete consideration of H.R. 4264 through Friday. As I said earlier, it is the Rules Committee's intention to meet and report out a subsequent rule providing for the consideration of the remaining amendments.

□ 1710

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution does provide the consideration of H.R. 4264, the Defense authorization bill. The rule provides for 2 hours of general debate equally divided between the chairman and the ranking minority member of the Armed Services Committee.

This is certainly not the most beautiful way to bring legislation to the floor, doing it in a two-step rule. We have this rule, and then the Rules Committee will be back with another one later on this week which will allow for consideration of the remaining amendments next week and perhaps even the week after that. But considering the fact that the membership in recent years has seemed to be intent on trying to write the Defense authorization bill on the floor with a multitude of amendments, I do not see that there is any alternative.

In this case the chairman of the committee, the ranking member of the committee, Mr. DICKINSON, the Rules Committee members have met and talked about it, and I think that at this time this is the best we can come up with. I think it is a fair process. We have all been consulted on both sides of the aisle, and both the Armed Services Committee and the Rules Committee. So, I do support it even though it is obviously a very complex, complicated process that we are going through.

I would like to urge consideration of the Rules Committee and the Membership that in the future that in order to try to try to get some control on this astronomical number of amendments that are offered to this Defense authorization legislation, that we try to find some way to at least require that amendments that Members want to have considered on this issue be considered by the Armed Services Committee and due process. As it is, they have to go through it at the subcommittee levels, at the full committee levels, and we have to go through everything all over again here on the floor of the House, and I think that is an unfortunate process. But the rule does provide for consideration of the committee amendment in the nature of a substitute as futher modified by the amendments in section 4 of this resolution, as an original bill for the purpose of an amendment.

The rule waives three points of order against the committee substitute. First, it waives section 303(A)(4) of the Budget Act, and that section prohibits the consideration of new entitlement authority until the budget resolution for that year has been agreed to. Since the substitute provides for a 4-percent pay raise for the uniformed services, effective January 1, 1989, it is in violation of this particular section.

The chairman of the Budget Committee, in a letter dated April 20, informed the Rules Committee that, while he has no objection, the majority of his committee does object to it.

The rule also waives clause 5(a) of rule XXI. This rule prohibits appropriations in an authorization bill or amendment, and since the substitute permits the expenditure of funds already in the pipeline, then it is in technical violation of the rule, but certainly no major point of contention.

The third point of order that is waived is clause 7 of rule XVI, and this clause permits nongermane amendments, and since the substitute includes new titles on military construction, DOE national security, the pay raise and other matters, it is beyond the scope of the bill introduced. But I do not think there is major objection to this.

The rule also strikes out section 902 of the bill relating to the limitation on the obligation of unauthorized appropriations. This is a result worked out between the Armed Services Committee and the Appropriation Committee, and certainly I am pleased that they were able to work out an agreement. I would hope that the Appropriations Committee would do as little of this type of appropriating as possible; maybe none is what we are really trying to seek.

Mr. Speaker, the rule provides for an amendment process that will take us through Friday of this week. We will take up the vote on the rule, if any, and then general debate tonight. Then, beginning on Wednesday, we will first consider an amendment naming a submarine for the late revered former chairman of the Armed Services Committee, the gentleman from Illinois [Mr. PRICE], subject to 30 minutes of debate. We will then consider substitutes under the King of the Hill procedure on the ABM Treaty and on SALT. Each section will be debated for 30 minutes followed by 10 minutes on each substitute. Then we will proceed with amendments printed in section 3 of the report in the regular order. The time for each of these amendments is specified in the report, and any amendments to those amendments are limited to 10 minutes of debate each.

On Thursday we will consider competing substitutes on three different matters: Asat, nuclear testing and the comprehensive test ban. We will then resume consideration of amendments from section 3 of the report on the rule.

On Friday of this week, we will consider three subject areas with four competing substitutes each, again subject to the King of the Hill procedure. The three subject areas are contracting out, burden sharing and "Buy America." Each area is subject to 10 minutes of general debate followed by 10 minutes of debate on each of the substitutes. We will then proceed under the regular order as outlined before.

Mr. Speaker, this is the first of what will be the two rules, as I already emphasized. We had some 244 amendments that were submitted to the Rules Committee. This rule takes care of about a hundred of them. Tomorrow we will report another rule which will dispose of the remaining 140. And it will not be easy. There has got to be some opportunity for the chairman and the ranking member working with the Rules Committee to lump these by category, to make some determinations as to amendments that will be in order and would not be in order. Mr. Speaker, we are working very diligently to do the best we can to make as many in order as is possible or is responsible.

Mr. Speaker, I support the rule even though I ordinarily oppose this type of restricted rule. In this case I think that it is necessary at least for time management, if nothing else.

Last year we considered around 180 amendments, and it took over 2½ weeks.

Mr. Speaker, not only did I support this rule, but the bill as well. I encourage my colleagues to do so. Hopefully, it will be a bill that would move us toward maintaining our country's strong defense, and since we are talking about a strong and secure Nation, we must have this rule, and we need a well-financed Defense Department.

Mr. Speaker, I yield 5 minutes to the gentleman from Alabama [Mr. DICKINSON].

Mr. DICKINSON. Mr. Speaker, I thank the gentleman for yielding this time to me, and I wanted to very briefly discuss the rule and how we arrived at this point.

I would like to say first that we could not be at this point where we are asking for a rule, and I support the rule without the cooperation of not only my chairman of the Armed Services Committee, Mr. ASPIN, but also the Rules Committee itself and several other people involved. That is an unusual rule, but we have an unusual situation.

As has been pointed out, each year we see a multiplicity of amendments. We see a growing number of amendments each year as we come to the House authorization bill for defense. We see more and more things added to the bill by way of amendment that really belong on some other committee's jurisdiction or some other piece of legislation, but because this is used as a vehicle and its germaneness is a question to many things that are attached to this bill. As has been pointed out, there were filed with the Rules Committee, as required, some 244 amendments.

As the gentleman form Mississippi pointed out, last year we dealt with 180 amendments. The year before that, it was just a little over 100, but each year it progresses in monumental proportions to the point where we cannot put our arms around it and we cannot deal with the multiplicity of amendments without some unusual rule and procedure.

Mr. Speaker, it is for this reason that we met in caucus and informal session with the chairman of the Rules Committee and members of the committee to urge on them that the Rules Committee require something different of the House and the Members than has been done in the past. It is for this reason that I would anticipate that the Rules Committee next year would require any Members who wish to have amendments considered, let them file them first with the Armed Services Committee, and let us deal with them in the regular order of business, as has normally been the process, rather than dumping them on the floor of the House to be dealt with here rather than through the committee of the House of original jurisdiction. If we do that, then we can shorten the time for debate, but last year it took us, as has been pointed out, about 2½ weeks. If we do not deal with these in some fashion different from what we have normally dealing with them, it will take 3 years to finish this one bill.

☐ 1720

It is not the desire or the wishes of our committee that we consume this much time. As a matter of fact, I would rather not have most of the amendments that were filed, because they really properly belong in the jurisdiction of another committee.

I thank the members of the Rules Committee for their consideration, however. If there is further discussion as to the uniqueness of the bill, I assume it will be brought up in the second section of this bill which deals with the second week. As I understand it, the rule that is being authorized and offered today deals with the bill out of our committee for the balance of this week and then there will be a second rule on this that will deal with the balance of the bill for next week for however long it might run. For that reason, I am supporting the bill. It is not my intent to ask for a vote on it, as a matter of fact, so that we can go on and get into the general debate as rapidly as possible, but I did want to make a public statement of appreciation to both the chairman and the ranking member and the members of the Rules Committee for the consideration shown our committee due to the uniqueness of this situation.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the able gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I plan to vote for the rule, and I want to commend the chairman of the Rules Committee, one of America's great citizens, our Senator PEPPER. I thank him for making available so many amendments, even though there are some complaints because many Members who are not satisfied with the Defense authorization bill have an opportunity to vote, have a say with the people they represent, and I believe that is the hallmark of leadership and the real legacy of our fine Rules Committee chairman, so I thank the gentleman for that.

You know, as we talk about this Defense bill, we all know about the $600 toilet seats and the $2,000 coffee pots; but you know, we spend $150 billion a year to protect NATO countries. I am glad that the Rules Committee has allowed amendments that will call for some cost-sharing by these benefactors of American good will to the detriment of the American taxpayer.

I think it is foolish as well that we spend $150 million a month in the Persian Gulf to protect Japanese oil. While our taxpayers are shipping our money over to do this, Japan is using their money to ship toasters, automobiles and computers to America.

I also want to commend the Rules Committee for allowing "buy America" provisions. I think it is time that we in fact do that, specifically with Defense. I think it makes a lot of sense.

Looking at the trade bill with Toshiba and Konigsburg and some of the problems we have had with our own Defense industry, that would make an awful lot of sense. I commend the Rules Committee as well for that.

But you know, we are not any safer today, in my opinion, with a $300 billion military budget. In my opinion, the city police of Youngstown, OH, could have successfully invaded Granada. Let us tell it like it is.

We lost 235 Marines in Beirut, Lebanon, and here is the tragedy. They were not issued ammunition. They were defenseless. With a $300 billion Defense budget, they were defenseless, and now we have taken sides in a war with Iran and Iraq. We have taken sides with Iraq. Let us face it.

When it first started with the mining of one of the ships, the Pentagon said they were surprised because Iran had never placed mines in that section of the gulf before.

I appeal to the Members of this body, $300 billion, what is the defense of this Nation?

But what really bothers me is an incident that occurred in my district in the last several months. One of our contractors, a very able and honorable contractor, Kirila Contracting, bid on a Government job. They were $32,000 lower. They were the best bidder, but they were disqualified because one letter, one letter in the numbers of the bid print was mistyped, an error, a $32,000 mistake for one letter.

I will tell you the truth, I cannot get any help down here with it. I have not been able to get any help, and many Members have not, in problems of their own areas, because I firmly believe, and I say on the House floor today, that the Pentagon plays politics. They take care of their own, and I am literally sick and tired of that.

I am going to vote for this rule. I am going to watch very carefully the success of some of these amendments, but I will say this, with only a 3-percent modest increase, Chairman ASPIN and his committee deserve commendation, because we have doubled the military budget under Ronald Reagan, and I will tell you what, we are no safer than we ever were. The only difference was that Jimmy Carter looked a little bit like Woody Allen, and John Wayne was reincarnated in Ronald Reagan; but the truth of the matter is, I do not think we are much safer.

I am going to ask the committee to help me with the problem with the contracting out situation in the amendment I have offered. I believe that we are going to drive up costs in the long run. I have an amendment on contracting out that deals with Air Force Reserve bases. I would hope that would be taken into consideration.

Finally, I hope there will not be deaf ears at the Pentagon and in the committee in the matter with Kirila Contracting—$32,000 because of a misprint of one letter in a bid. Evidently Uncle Sam has so much money in the Pentagon that it does not care about a $32,000 mistake in one letter.

Think about it. I am going to vote for the rule. I urge Members to look very carefully at the Robinson-Bryant amendment on NATO. I am going to support them, and look at my contracting out provision that will protect some of our jobs in Reserve bases around America.

Mr. PEPPER. Mr. Speaker, may I just add a word of comment to what has been said already by the able gentleman from Mississippi and the able gentleman from Alabama.

Had it not been for the cooperation between the chairman and the ranking minority member, it would have been impossible for this rule to have been put together as it has been. Had it not been for the cooperation that the Rules Committee has had with those two gentlemen, we could not have put together a satisfactory rule for the handling of this bill, with 244 amendments offered to the bill.

I add also, had it not been for the magnificent cooperation between the staff of the Rules Committee and the staff of the Armed Services Committee, we could never have put together a satisfactory rule on this matter; so this is a fine example of how Members can work together for the common good, and I want to express my appreciation to all those who have been a participant in this cooperative effort.

Mr. LOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. FRENZEL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 343, nays 56, not voting 31, as follows:

[Roll No. 67]

YEAS—343

Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior
Bonker
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Buechner
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clement
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crockett
Darden
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallo
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)

Hefner
Henry
Hertel
Hiler
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Marlenee
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Porter
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Shays
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stratton
Studds
Stump
Sweeney
Swift
Synar
Tallon
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)

NAYS—56

Archer
Ballenger
Brown (CO)
Bunning
Burton
Cheney
Clay
Coble
Crane
Dannemeyer
Dreier
Fawell
Fields
Gallegly
Gekas
Gingrich
Grandy
Gregg
Gunderson
Hastert
Hefley
Herger
Holloway
Hunter
Hyde
Inhofe
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lukens, Donald
Lungren
Madigan
Martin (IL)
McCollum
Packard
Penny
Petri
Roberts
Roth
Schaefer
Sensenbrenner
Shaw
Shumway
Smith, Denny (OR)
Smith, Robert (NH)
Spence
Stangeland
Sundquist
Swindall
Tauke
Thomas (CA)
Upton
Vucanovich
Walker
Weber

NOT VOTING—31

Ackerman
Biaggi
Borski
Boulter
Chandler
Daub
Dornan (CA)
Duncan
Emerson
Garcia
Huckaby
Kemp
Kostmayer
Latta
Leath (TX)
Mack
Markey
Mica
Moody
Moorhead
Murphy
Ray
Richardson
Sharp
Shuster
Stokes
Tauzin
Towns
Walgren
Wortley
Young (FL)

□ 1747

Mr. DANNEMEYER changed his vote from "yea" to "nay."

Mr. COYNE changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
April 25, 1988.

Hon. JIM WRIGHT,
The Speaker,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I have the honor to transmit herewith a copy of the certificate of election received from the Honorable Buddy Roemer, Governor of the State of Louisiana, certifying that, according to the official returns of the Special Election held on April 16, 1988, the Honorable Jim McCrery was elected to the office of United States Representative in Congress from the Fourth District of Louisiana.

With great respect, I am,
Sincerely yours,
DONNALD K. ANDERSON,
Clerk,
House of Representatives.

STATE OF LOUISIANA—PROCLAMATION

Be it remembered, That on this day, we the undersigned, Buddy Roemer, Governor of Louisiana, and W. Fox McKeithen, Secretary of State of Louisiana, by virtue of and in obedience to Sections 513 and 1277 of Title 18 of the Louisiana Revised Statutes of 1950, as amended, did proceed to ascertain the number of votes cast for each candidate for Member of the United States House of Representatives from the Fourth Congressional District of the State of Louisiana, One Hundredth Congress of the United States of America, at the election held April 16, 1988, agreeably to the Constitution and laws of this State, which returns are on file and of record in the office of the Secretary of State of Louisiana and which we do hereby officially announce and declare to be as follows, to-wit:

CONGRESSIONAL VOTE, APRIL 16, 1988, FOURTH CONGRESSIONAL DISTRICT

Foster L. Campbell, Jr. (Democrat)	62,214
Jim McCrery (Republican)	63,590

And having made the foregoing compilation from said returns, we do hereby officially announce and declare Jim McCrery to have been duly and legally elected Member of the United States House of Representatives from the Fourth Congressional District of the State of Louisiana, One Hundredth Congress of the United States of America, for the unexpired term.

SWEARING IN OF HON. JIM McCRERY OF LOUISIANA AS A MEMBER OF THE HOUSE

The SPEAKER. Will the gentleman from Louisiana [Mr. MCCRERY] along with the dean and the Louisiana delegation come to the well of the House.

Will the Member-elect kindly step forward and take the oath of office.

Mr. MCCRERY appeared at the bar of the House and took the oath of office.

The SPEAKER. Congratulations, the gentleman from Louisiana is a Member of the U.S. House of Representatives.

HON. JIM McCRERY, MEMBER OF CONGRESS

(Mr. LIVINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LIVINGSTON. Mr. Speaker, as the ranking Republican in the Louisiana congressional delegation, a name which is beginning to mean something for a change, it gives me great pleasure to issue a warm and hearty welcome to our brandnew Republican colleague, JIM MCCRERY, who has just been sworn in to the House of Representatives today.

JIM is not a newcomer to Capitol Hill. As a staffer to both former colleagues Buddy Leach and Buddy Roemer, he has already amassed a wealth of experience which will serve him and his constituents well as he undertakes his new responsibilities.

The Louisiana delegation has always been noted for their ability to work together for the good of our State regardless of political differences. JIM's election will not detract from but rather will enhance and strengthen that facet particularly in view of his relationship with former Member, now Governor, Buddy Roemer.

I cannot help but add my own personal congratulations and thanks for bringing for the first time in the political history of our great State of Louisiana a real sense of balance to our delegation and that with JIM's election we are now four Democrats and four Republicans in our great delegation in this House.

Congratulations, JIM MCCRERY.

WELCOMING JIM McCRERY

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, I want to congratulate the new Congressman, Congressman MCCRERY from Louisiana. I was No. 435 from Tennessee. I referred to myself in the district as the least most powerful Member of Congress and now being No. 434 rather than No. 435, I want my colleagues to know that seniority ain't so bad.

THE JOURNAL

The **SPEAKER**. Pursuant to clause 5 of rule I, the pending business is the question of the Speaker's approval of the Journal of the last day's proceedings.

Pursuant to clause 1, rule I, the Journal stands approved.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING THE 5-MINUTE RULE ON WEDNESDAY, APRIL 27, 1988

Mr. **EDWARDS** of California. Mr. Speaker, I ask that the Committee on the Judiciary be permitted to sit during the 5-minute rule on Wednesday, April 27, 1988.

The **SPEAKER**. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1750

PERMISSION FOR SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT WEDNESDAY, APRIL 27, 1988, AND THURSDAY APRIL 28, 1988, DURING THE 5-MINUTE RULE

Mr. **STUDDS**. Mr. Speaker, I ask unanimous consent that the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries be permitted to sit while the House is under the 5-minute rule on Wednesday, April 27, 1988, and Thursday, April 28, 1988, for the purpose of marking up a bill.

The **SPEAKER**. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1989

The **SPEAKER**. Pursuant to House Resolution 435 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4264.

□ 1759

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4264) to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for fiscal years 1988 and 1989, and for other purposes, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin [Mr. ASPIN] will be recognized for 1 hour and the gentleman from Alabama [Mr. DICKINSON] will be recognized for 1 hour.

The Chair recognizes the gentleman from Wisconsin [Mr. ASPIN].

Mr. **ASPIN**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to bring to the floor of the House the bill, H.R. 4264, the National Defense Authorization Act for fiscal year 1989.

The bill would authorize appropriations for all procurement, research, development, test, and evaluation [RDT&E], and operation and maintenance [O&M] for the Department of Defense and for civil defense for the fiscal year beginning October 1. In addition, the bill would authorize the strength levels, for both active and reserve military personnel, and the appropriations for the civilian employees of the Department of Defense for fiscal year 1989.

Authorization of appropriations for military construction and family housing and for the Department of Energy national security programs is also included.

DOLLAR AUTHORIZATIONS

H.R. 4264, as reported, contains authorizations totaling $212.7 billion for the Department of Defense for fiscal year 1989. By major categories, the authorization totals are as follows:

Procurement, $79.7 billion;

Research, development, test and evaluation, $38.2 billion;

Operation and maintenance, $86.2 billion;

Civil defense, $160.4 million; and

Military construction and family housing, $8.7 billion.

An authorization of $8.1 billion for military nuclear activities carried out by the Department of Energy is also contained in this legislation.

In total, the bill, as reported by the committee, would provide authorizations for appropriations of $221 billion.

Although the bill sets the numerical ceilings on military personnel, it does not actually provide authorizations in the personnel accounts as it does for procurement, RDT&E, and O&M.

Including the recommendations regarding military personnel, the bill would provide an overall level of $299.5 billion in budget authority.

DIFFERENT FROM REQUEST

The amount recommended is approximately equal to the amount requested by the President; however, during its deliberations, the committee reallocated $5.8 billion or 1.9 percent of the request into programs of higher priority. By major categories, the committee recommends:

A reduction of $226 million in the request of the President for procurement of weapon systems;

An increase of $26 million in the request for research, development, test, and evaluation [RDT&E];

A reduction of $234 million in the request for operation and maintenance;

A reduction of $20 million in the request for working capital funds;

A reduction of $60 million in the request for military construction and family housing; and

No change in the request for civil defense or for the Department of Energy national security programs.

Separate recommendations included in the bill by the committee related to military personnel and compensation would result in no change from the President's request.

The budget request assumed savings of $549 million from the enactment of legislative proposals involving reform of the Davis Bacon and Service Contracts Acts and repeal of a provision relating to procurement of trucks. The committee recommendation does not contain these legislative proposals. Adjustments in the overall authorization have been made to offset the assumed savings.

Compared with fiscal year 1988, the bill would provide an increase in budget authority of $8.1 billion or 2.7 percent—a decrease, after accounting for inflation, of 0.6 percent. In terms of outlays, at $294 billion, the bill would provide an increase of $8.6 billion or 3 percent—a decrease, after accounting for inflation, of 0.3 percent.

MAJOR ISSUES

In the areas that have received the most attention, the committee bill contains the following:

MX AND MIDGETMAN

The budget contained $200 million for the small ICBM [Midgetman] and $793 million for rail garrison MX R&D plus another $44 million to begin construction of facilities for a rail garrison MX system. The committee recommends no authorization for rail garrison construction request and recommends authorization of $500 million each for the small ICBM and for the rail garrison MX program.

STRATEGIC DEFENSE INITIATIVE

The committee recommends a reduction in the administration request for the strategic defense initiative of $854 million or 19 percent. Of the total reduction, $846 million would come from the $4,546 million R&D request and $8 million would come from the $91 million military construction request. The committee recommends no change in the Department of Energy request for $285 million for the strategic defense initiative.

ANTI-SATELLITE MISSILE [ASAT]

The fiscal year 1989 budget request contained no authorization for the F-15 launched ASAT program. The committee also recommends that $16 million previously appropriated for this program not be used.

NUCLEAR TESTING

The committee recommends an additional $15 million above the budget request to expand research efforts on nuclear testing verification.

CONVENTIONAL WEAPON PROGRAMS

As part of a major initiative, the committee recommends a substantial increase to support U.S. ground forces in Europe and the sustainability of forces in combat. The specific programs to accomplish this goal arose during discussions with the Secretary of the Army and the Army Chief of Staff and with the commanders in chief of the unified commands. In addition, the committee continued a second initiative—one it has pursued for many years—to add resources for the National Guard and Reserve Forces.

Specifically, the committee recommends adding $3 billion for:

First, Improvements for ground forces in Europe and sustainability in combat, an increase of $1.6 billion;

Second, Additional equipment earmarked for National Guard and Reserve units, an increase of $729 million, raising the $2.3 billion requested for guard and reserve equipment by almost one-third; and

Third, Assorted other additions, including chemical demilitarization safety, that totaled $707 million.

Reductions to offset these increases arose from four areas:

First, Selected proposed increases in production rates were held at current levels;

Second, Delays in the testing or development of a weapon or in carrying out contract plans reduced the amount needed for a program in fiscal year 1989;

Third, Contracts issued since the budget was submitted or other new information permitted the system to be procured for less than assumed in the budget request; and

Fourth, The start of a new production line could be delayed.

CHEMICAL WEAPONS

The committee recommends that the entire request for $186 million for procurement of chemical weapons be denied—except for $1.2 million for the 155-millimeter round. The committee did not take this action, however, with a view toward ending chemical weapons production. Rather the action reflects problems in moving the program forward and realignments to reflect budget execution.

TRIDENT AND AEGIS

The committee supports the administration's request for the Trident submarine and three Aegis destroyers.

PAY RAISE

The administration requested a 4.3-percent increase in military pay effective January 1, 1989. The committee recommends a 4-percent increase effective the same date. The resulting savings of $141 million would be used to increase reimbursements under two other personnel programs: The household goods weight allowances and the basic allowance for quarters.

HOMEPORTING

The committee recommends only modest changes to the request in support of the homeporting program. The request of $227 million would be reduced to $209 million. Of the 10 sites affected, the request addressed 9, and the committee recommends approval of the requests for 8.

COMMITTEE ACTION

The Committee on Armed Services approved H.R. 4264, as amended, by a vote of 48 to 4.

SUMMARY

We have extended debate on a number of amendments before us. I urge support for the bill and hope we can take action expeditiously.

Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. STRATTON].

Mr. STRATTON. Mr. Chairman, as chairman of the Procurement Subcommittee, I want to explain to my colleagues our actions taken on major defense procurement issues that are included in H.R. 4264. My remarks do not include any discussion of seapower-related items that my committee colleague, the gentleman from Florida has covered.

Before I discuss our recommendations, I want to take this opportunity to express my deep appreciation to Representative BOB BADHAM, the ranking Republican on the subcommittee. As many of you know, Representative BADHAM is retiring from Congress this year. BOB has been a stalwart partner in the subcommittee. His wise counsel and deep commitment to a strong national defense have provided inspired leadership. He will be missed by me and all of the members of the subcommittee.

Briefly, I want to turn to the major actions that we took:

First, the committee marked up on a zero-sum basis; that is, we stayed within the $299.5 billion allocation for national defense in fiscal year 1989. This means that the procurement subcommittee's allocation was $74.5 billion including Department of Energy programs.

Second, any procurement add-ons that are included in H.R. 4264 have been offset by specific reductions. It has been the policy of the full committee that undistributed reductions would not be used. Otherwise, we would be abdicating our responsibility and relinquishing our role in shaping natioal defense priorities.

Third, the $3.3 billion in adjustments to the President's request for fiscal year 1989 have been made on the basis of specific guidelines.

Specifically, our adjustments have been prioritized to address concerns that have been brought to the committee's attention during its review of the fiscal year 1989 request. As a result, the add-ons reflect increased funding for conventional force enhancements.

In specific terms, additional funds are directed toward increased support for our ground forces, particularly in Europe; improved sustainability rates, and continued force modernization, particularly the Reserve Forces. Also, efforts have been made to stabilize the defense production base, again for conventional systems.

To support the conventional force package, it was determined that offsets would be made based on: First, maintaining level production rates; second, fact of life changes, such as testing, development and contract execution delays; third, repricing; and fourth, deferral of new starts.

In summary, the committee's recommendations result in the following objectives being met: $1.6 billion or 53 percent of the total adds go for top priority defense and service programs; $729 million or 24 percent of the adjustments meet Reserve Force requirements; and $707 million or 23 percent of the adds are an assortment of other initiatives including chemical demilitarization safety and budgetary reconciliation.

Mr. Chairman, this is a balanced package. I strongly urge my colleagues to support the work of the committee.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am happy to yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

First of all, I would like to thank the chairman of the Subcommittee on Procurement and Military Nuclear Systems of the Committee on Armed Services not ony for his kind remarks but for all the help he has been not only to me but to the subcommittee and to the process over this past year.

In keeping with that, I would like also to thank the ranking Republican member of the full committee as well as the chairman of the full committee for the work that they have done in this exceedingly difficult year.

Mr. Chairman, I recognize the pressures for defense to contribute its share in solving the overall Federal budget deficit problem facing this Nation. I should like to take this opportunity, and it is my last speaking to a defense authorization bill to this body, to again express my reservations about sacrificing the recent hard-earned gains that we have made in defense in order to solve the budget problem.

The statement I am presenting today will focus on several points that I would like to make regarding the committee-passed bill, H.R. 4264.

First, there is a committee of jurisdiction and general oversight, and this is for pursuing and perfecting the common defense as required in the Constitution and the Department of Defense generally.

□ 1805

We have a responsibility to recommend to the House of Representatives what is required for defense. Last year we did just that; we recommended what we felt was required, after lengthy hearing, for the defense of this Nation.

H.R. 4264, the committee-passed bill, is our recommendation this year. It passed the committee after much debate about what the common defense should look like, considering that we may be entering an era with Intemediate Nuclear Arms Treaty and a Strategic Arms Reduction Treaty in place.

Mr. BENNETT. Mr. Chairman, I ask unanimous consent that when my statement is printed in the RECORD it be printed along with the statement of the gentleman from South Carolina [Mr. SPENCE], immediately preceding that of the gentleman from New York [Mr. STRATTON], because the remarks of the gentleman from New York [Mr. STRATTON] will make reference to the remarks I am going to make as if they had already occurred.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BENNETT. Mr. Chairman, I rise in support of the committee report on the bill H.R. 4264, the Department of Defense authorization bill for fiscal year 1989, and will address primarily those portions of the bill under the jurisdiction of the Seapower Subcommittee.

The committee's work on the authorization bill this year was guided principally by a desire to obtain the maximum defense effort within the fiscal constraints established in last year's budget summit agreement. The committee treated the $299.5 billion summit figure for defense as both a floor and a ceiling. But within that figure the committee made about $6 billion in changes to reflect items considered to be of higher priority than was accorded them in the DOD request.

In the shipbuilding area the request for fiscal year 1989 of about $9.1 billion included 17 new construction ships and 2 conversions. Among these ships are the 16th Trident submarine, 2 *Los Angeles*-class attack submarines, the first *Seawolf*-class nuclear attack submarine, 3 *Arleigh Burke*-class guided missile destroyers, 1 amphibious assault ship, 3 ocean surveillance ships, 2 coastal mine hunters, 2 fleet oilers, 1 fast combat support ship, and 1 oceanographic research ship.

The committee-reported bill would reduce this request by $74 million by deleting the oceanographic research ship. Navy witnesses testified that the design for this ship has not matured sufficiently to warrant construction at this time.

The committee bill also provides for the orderly continuation of some very important weapons programs, including the MK-48 advanced capability torpedo, the MK-50 advanced lightweight torpedo, and the vertical launched antisubmarine rocket. Because of their importance to the sustainability of naval forces at sea, many of us would prefer to see these weapons produced at a higher rate than the budget will allow this year.

The shipbuilding and weapons programs in the committee bill are vitally important in moving us toward the worthy goal of a 600-ship Navy. In this sense, the new *Aegis*-equipped destroyers, combat support ships, attack submarines, and other ships in the bill represent tangible progress toward the necessary combatant capability of the 600-ship Navy, a capability so eloquently described and defended by recent Secretaries of the Navy John Lehman, James Webb, and William Ball.

But make no mistake. In supporting the reduction of 16 frigates from the Navy's current fleet and the construction of only 17 new ships, the committee bill portends a delay in the achievement of a Navy of 600 ships until some undetermined time in the future. If we are to have a Navy of less or only about 600 ships—a number repeatedly found necessary over the years—then those ships must be the most capable ships this country can produce.

Turning to the legislative provisions in the seapower area, the committee bill contains the following legislative items:

A provision to convert the progress payment rates on certain ship repair contracts, currently set in statute, from specific amounts to minimum amounts;

A provision to prohibit the overhaul or repair of naval vessels owned or operated by the Department of the Navy and homeported in the United States in shipyards located overseas, except in emergencies;

A provision to require that, to the extent feasible, at least 50 percent of depot-level maintenance scheduled for United States Navy ships homeported in Japan over the next three years be performed in United States shipyards;

A provision to repeal the requirement contained in the fiscal year 1988 appropriations act relating to competition in the DDG-51 guided missile destroyer program; and

A provision to prohibit the secretary of a military department from buying anchor or mooring chain from non-U.S. sources except in certain circumstances.

The committee bill also contains a separate title dealing with the National Defense Stockpile. The budget contained a proposal to sell a greater dollar amount of materials from the stockpile during the upcoming fiscal year than would be purchased, effectively using the stockpile to save money in the defense budget. This is contrary to the intent of existing statutes and committee policy. Accordingly, the committee bill includes a provision that would permit a balanced $180 million sale and acquisition/upgrade program to take place over the next 2 years.

In summary, Mr. Chairman, the committee bill contains a number of ship and weapons programs that are vitally needed as we continue to modernize the fleet and increase our stocks of munitions. But the bill also portends a smaller fleet then hoped for, a fleet that may be hard pressed to carry out all of the tasks assigned to it. In supporting the committee bill, I find this disturbing fact offset only by the modernization effort now under way, and urge my colleagues to consider these facts as we deal with this legislation over the next several days.

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Chairman, I rise in support of H.R. 4264, the fiscal year 1989 Department of Defense authorization bill. I would like to take a moment to address a few items in the Seapower Subcommittee's area of interest.

During the past 7 years the administration and Congress have worked together for the revitalization of our Navy. From a fleet of just 479 ships in 1980 our Navy has grown by almost 100 ships in recent years. Along with the growth in the number of ships has come significant improvement in our stocks of spare parts and ammunition.

Of even greater importance have been the things we have been able to do for our Navy people—better pay, recognition of those with special skills, and trying to get more time at home for our sailors and marines assigned to sea duty. These efforts have paid great dividends. Navy men and women have been reenlisting in greater numbers; the quality of Navy recruits is superb; and the sailors and marines manning our ships and squadrons are of top caliber.

For the most part, this bill would continue the naval recovery program started years ago. But the bill also contains some disconcerting signs of a return to the "bad old days" of the late seventies, which we must guard against if we are to avoid some of the unpleasant experiences of that time.

Although it should be common knowledge, some of us forget from time to time just how important our Navy is in preventing conflicts from getting out of hand. Since World War II every President has used the Navy to show U.S. resolve in most of the crisis situations we have faced. Taken together with the treaty and training commitments the Navy must meet every day, it all adds up to a pretty tough order to fill. I need only mention the heroic actions of our Navy in the Persian Gulf last week to make my point.

Back when the Navy had fewer ships, we had to run them and the people that manned them harder just to keep up. So both the ships and the people tended to wear out fast. Taken together with inadequate compensation and maintenance budgets, recruiting and retention went down, as did the readiness of the fleet. It is from these kinds of problems that the Navy has been recovering for the past few years.

The good news is that the bill before us contains many provisions that should keep us from falling into this trap again. A 4-percent pay raise and other compensation items should help in attracting and retaining the top-notch people the Navy needs. The bill would also authorize enough money to keep our ships and aircraft in good working order and to continue filling the ammunition and spare parts bins.

In the shipbuilding area the bill supports the continued modernization of our surface and submarine forces. Three guided missile destroyers and a variety of support and amphibious ships in the bill are sorely needed to modernize the fleet and increase the numbers of ships. The bill also contains the 16th Trident submarine, two more Los Angeles-class attack submarines, and the first ship of the new Seawolf-class of nuclear attack submarines. This new submarine class is absolutely essential if we are to maintain the technological edge that contributes to the overall undersea superiority we currently have over our potential adversaries.

But the bill also contains some not-so-good news, as well. To save money and offset needed personnel growth the Navy will have to retire 16 of its 1960's-vintage frigates during this year and next. This will delay the achievement of a Navy of 600 ships until sometime in the future, if at all.

Will the loss of these ships return us to the "bad old days" of the late seventies? Probably not. But with their departure some other ships and other sailors will be called upon to pick up the slack in the overseas deployment schedule and drug-enforcement operations currently handled by these frigates. We'll run our existing ships a little harder, provide less time for maintenance, and less time at home for their crews.

In summary, Mr. Chairman, it is important that we not only maintain a sense of balance in dealing with the people and equipment programs in our Navy, but that we also recognize how the two interact with one another. For the most part, the bill before us recognizes this interaction. I urge my colleagues to join me in supporting it.

The CHAIRMAN pro tempore (Mr. RUSSO). The time of the gentleman from New York [Mr. STRATTON] has expired.

Mr. DICKINSON. Mr. Chairman, I yield 7 minutes to the gentleman from California [Mr. BADHAM].

Mr. BADHAM. I thank the gentleman for yielding this additional time.

Second, there continues to be a ground swell of popular opinion that we should rely more on conventional forces and less on strategic forces to meet our national security needs. As our subcommittee chairman pointed out in his statement, one of the guidelines this year was that changes to the President's amended budget request would reflect increased funding for conventional force enhancements.

Increasing our conventional force capability is a good idea, but I am compelled to point out that conventional forces, my colleagues, are more costly than strategic forces for a given level of deterrence.

For more than 40 years, less than 17 percent of our entire defense budget has been spent on strategic weapons. To replace that with conventional deterrents might cost two, three, four or five times that. But greater reliance and emphasis on conventional forces is a fact of life in post-INF and post-START era. It will be all but impossible to do without a concomitant increase in funding for defense.

Finally, I would like to refer to an item that has been kicking around in this bill and in the trade bill. On page 38 of this bill there is a prohibition of purchase of Toshiba products for resale in military exchange stores. I have an amendment on that subject which I will not offer but I do want to point out to the membership of this body, in the effort to bash Japan and in the effort to bash Toshiba this is one excellent example of what we are doing that really does not accomplish anything at all.

Now Toshiba America, not Toshiba, Inc. or Toshiba Machine, but Toshiba, America, an American corporation, is domiciled in my district and that is how I came to the possibility of finding out what indeed is the situation.

The trade bill that is up for grabs as to whether or not it will be vetoed at this point has no such requirement in it that I am about to read from the defense bill. In the part of the defense bill that refers to military exchange stores which are operated out of nonappropriated funds, the following language appears: "No product manufactured or assembled by Toshiba, America, Inc., or Toshiba Corp. (or any of its affiliates or subsidiaries) may be purchased by Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, or recreation or resale activity."

Now, Mr. Chairman, what this means is that Toshiba, America products may be sold in the United States but for an unlimited, indeed limitless time, they cannot be sold in military exchanges.

Now what does that do? That means that any American, in uniform or not, can go buy a Toshiba America product made by Americans in America anywhere he wants except he cannot have the privilege of having a discount on a Toshiba, America product built by Americans in America at the exchange store where he gets his discounts.

I think that is ludicrous but it does point out what is going on in our effort to bash Japan.

Finally, I feel I should end this speech by offering my personal thoughts.

In recent years the Congress has cut the defense budget again and again. We have not just slowed the rate of defense increases, we have dealt real decreases.

For procurement we are projecting a fourth consecutive year of negative growth. If this trend continues we will not only repeat the mistakes of the late seventies when our defenses atrophied, and our respect declined throughout the world, but we may be making them in the uncharted waters of the post-INF and START eras.

I have to admit that I am uneasy about the trends and the uncertainties. What is certain, however, is that we cannot have it both ways; we cannot have strenghtened conventional capabilities and declining defense budgets.

Having expressed these which are among my personal concerns, I acknowledge that we live in a world of fiscal constraints and competing priorities and interests, including an unprecedented fiscal year 1989 budget agreement that provides the bounds for this year's budget; but I would like to say over the past 4 years while the defense budget in real dollar terms has declined, while revenues have increased, while the deficit has stayed about the same, it is a wonder where all the money has gone. And it has gone into nondefense, nongovernment programs to the expansion of the social programs of this country which, if we do not have a defense, we will certainly not be able to defend. But given these constraints, H.R. 4264 represents as equitable and as balanced a package as we could put together under the circumstances.

Mr. Chairman, I ask the House to support the committee recommendations and to resist proposals that would further alter the fiscal year 1989 defense program and cut it again. We need what we have for the defense of our country.

Mr. ASPIN. Mr. Chairman, could the Chair apprise us of how much remains on either side?

The CHAIRMAN pro tempore. The gentleman from Wisconsin [Mr.

ASPIN] has 55 minutes remaining and the gentleman from Alabama [Mr. DICKINSON] has 53 minutes remaining.

Mr. ASPIN. Mr. Chairman, I yield 5 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. I thank the chairman for yielding.

Mr. Chairman, I rise in support of the committee bill. Let me say of the 40-odd years that I have been involved in the military, traveling around the country, going to Honduras, and watching our naval forces in the Persina Gulf, I think we have one of the finest militaries that we have ever had in the time that I have been involved.

The soldiers are well-trained, they know their weapons, they wear their uniforms well and certainly what happened in the Persian Gulf proves that these sailors know how to use the weapons and the weapons do work.

Now what we have done here in the last several years, the last 10 years, we have turned over more missions to the National Guard and Reserve, which is the subject I would like to briefly touch upon here.

About 55 percent of all the combat missions of the Army are now in the Army National Guard. They have more tank battalions, more infantry battalions, more artillery battalions in the National Guard than you have in the regular Army itself.

So we are turning over more missions in this Congress. On the other side of the Capitol, the Committee on Armed Services worked so hard to see that we turn over more missions to the Reserve.

In the navy, about 25 percent of the Navy is now made up of Naval Reserve; in the Air Force, all of the protection, the continental protection of this country is done by the Air Guard and Air Reserve. Twenty-five percent of the Marine Corps is now made up of Marine reservists.

So we have really put a lot of responsibility in the Reserve Forces.

Starting about 8 or 9 years ago, in the House Committee on Armed Services, plus the House of Representatives, we started giving incentives and we started giving line-item equipment to the National Guard and Reserve. It has paid off.

We have F-16's now being flown by the reservists and guard, M-1 tanks have gone to our National Guard. We have incentives such as the peacetime GI education bill that is bringing in all types of quality young people into the Guard and Reserve.

□ 1815

Now we have enlistment and reenlistment bonus for the Reserve Forces in this procurement bill that is now before us. Our committee added almost $1 billion that was not requested by the Defense Department to give better equipment to the National Guard and Reserve, and so our committee is doing our part. Last year there was 6 percent of the construction budget, and the construction budget is included in this bill before us today. Six percent of that money, which was about $6 billion to $10 billion, went to the Reserve Force. We have raised that up to 8 percent.

Now there is still a lot of problems in the Reserve Forces. We have a shortage of health care professionals. About 70 percent of health care is now in the Reserve Forces of our military. We have a shortage of doctors and nurses. We have got to do something about it.

But, Mr. Chairman, I am pleased to say this is a good bill. Sure, there is not everything we like in it individually, but it certainly does a lot of good for the National Guard and Reserve, and I rise in support of this legislation.

Mr. DICKINSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we consider this year's Defense authorization bill, I believe that it is most important to reflect on our national defense and the part that it plays in each of our lives.

One clear mandate towers above all other in the preamble to our Constitution, a five-word phrase upon which all lives, liberties and pursuit really depend, and that is to provide for the common defense.

Few argue against having a common defense. All reasonable Americans want it. Indeed we expect it; we slumber in the secure knowledge that no adversary can infringe on our borders or defeat our forces in any corner of the world. We believe it because we want to believe it.

And largely it is true, but our security does not come without vigilance and without price. Decades of precious peace have spawned a new generation of voters and opinion leaders who too easily forget the price of that peace. Too many have succumbed to the complacence, ignoring history's cruel lesson that weakness inevitably invites attack and, perhaps, defeat. Headlines gloat over the purported waste and fraud. Defense spending is identified as the cause of budget deficits. Defense strategies are being forced to shift into the political winds, and the President is forced to conduct arms control negotiations not only with the Soviet Union, but also with our own Congress. It has become fashionable to consider defense unfashionable and to freely denigrate that which keeps us free for all too many both within and without this Congress.

Mr. Chairman, this state of affairs is not only unfortunate, it is eminently dangerous. For the truth is that America's defense is the finest in the world, but that is today, perhaps not tomorrow.

Some have said that the increases in the defense budget have caused the Federal deficit to double during the Reagan administration. This is not true. The truth is that social spending far outweighs defense spending as a contributor to our national deficit. Defense spending has actually dropped from 9 percent in the past 10 years. As a percentage of the current national gross product, gross national product, defense accounts for only 5.9 percent of the GNP as compared to 8 percent in the early 1960's.

While defense budgets continue to decline, funding for social programs has increased 300 percent in real terms since 1960. Social programs are important, but they have meaning only so long as our country remains free and able to secure themselves and their benefits to the American people.

Mr. Chairman, this is not a time to seek large defense funding increases like those that were needed at the start of the Reagan administration. We recognize this. Neither is it a time to return to the hollow forces of the late 1970's, Mr. Chairman: this is the time to consolidate the vast improvements in our national security posture that has occurred in the past several years.

The gains are not as secure as they were achieved in the early Reagan years and have carried us on through sheer momentum of negative growth or real decline in defense spending. Defense outlays carrying over from previous years have allowed our defense posture to survive relatively intact through these last 4 years, but the momentum of these few years of increased spending is about spent. It is clear that without another turnaround in congressional attitudes on defense, we are about to return to a weakened defense posture that threatens all of us again. The boom is again about to revert to a bust.

The Soviet Union, despite glasnost, remains just as serious a threat as it was several years ago. The bear is just as dangerous when it appears to be smiling. The achievements in arms control with the Soviet Union have not occurred because of the unilateral concessions on our part. They are the results of our dealing from a position of strength.

Mr. Chairman, as we start debate on this year's Defense authorization bill, I would ask you to take to heart the most important responsibility that each of us carries in our words and votes when we are charged with the responsibility to provide for the common defense. It is a solemn duty that we should discharge with the same dedication as the brave men and women who serve daily in uniform.

In closing, let me say that we on the Defense Authorization Committee have labored many days, hundreds of hours, to bring you this final product. We have done what we thought was prudent. We have taken the budget figure that was given to us. We took it as an absolute ceiling, the $299.5 billion that was arrived at by the so-called summit budget of last year. We have lived within it. We have not exceeded it. We took this as our mandate, and for every dollar that was added over that, we took a dollar out, and we have tried to fashion the best defense for our country that the Congress has told us we can afford. We have done this. We are asking for not $1 more than we were told was the budgeted amount, and we certainly expect not $1 less.

This is the fourth year of negative spending, as has been pointed out. As I said earlier, we are really traveling on momentum. The inertia of early efforts have carried us to this point, but we are getting to the point where the pipeline is running dry, when we must replenish our supplies, and we cannot afford deeper cuts.

Mr. Chairman, I would like to thank the chairman for being cooperative and working with the minority and with the Rules Committee to bring us to this point, for without cooperation of all concerned we would not be to this point.

As has been pointed out several times, there are many, many amendments that have been offered to this bill. Many, I think, should not probably be a part of this bill. Many should properly be the jurisdiction and are the jurisdiction of other committees. Some should have been offered in committee and were not offered in committee. And I was very pleased to hear the chairman of the Rules Committee and the ranking minority member indicate that next year they would expect and would serve notice on the Members of the full House that their amendments, if they are to be considered on the floor, should be offered first to the committee of appropriate jurisdiction, which is the House Armed Services Committee.

We have dealt seriously and we have dealt adequately with the subject at hand. There are still many things to be ironed out. We will have a second rule later for the second week of the consideration of this bill. There are many subjects which have not been yet covered. They will be dealt with later, but, as for the bill itself, I would ask the support of the House as we consider it, and I would ask consideration of the amendments as they come up, and some we will support, and some we will oppose. But, by and large, I think it is a very good bill.

Mr. ASPIN. Mr. Chairman, I yield myself such time as I may consume in order to enter into a little colloquy with the gentleman from Alabama [Mr. DICKINSON].

Let me say at the outset, Mr. Chairman, that I would like to echo the comments made by the gentleman from Alabama about the cooperation. He was thanking us for our cooperation. Let me return the compliment to the gentleman from Alabama and the people on the staff who work with the gentleman from Alabama, because it has been a great pleasure working with them, and I think at times we have had very tough negotiations, but I think we have come up with an agreement and a rule here that I think is going to be able to manage what is really an unmanageable number of amendments in at least a reasonable amount of time.

Let me also extend my thanks, although I do not see anybody here from the Rules Committee at the moment, but let me extend my thanks to the members of the Rules Committee who have been working with our staff.

So, I think it is the minority on the House Armed Services Committee, the majority on the House Armed Services Committee, the members of the Rules Committee, the staff of all three of those, the staff on the minority, the people who have been working the problem on the staff of our committee and the Rules Committee that got us to the point where we have a process for considering these amendments in the best possible fashion. And we will let the votes work as they will, and let the Congress work its will, and we will see how we come out on these amendments.

But I would like to talk with the gentleman from Alabama a little bit about a subject I know that he is interested in, as I am, and that is the issue of unauthorized appropriations.

The gentleman from Alabama will note that one provision that we had in the bill; namely, section 902 of the bill as reported out of the House Armed Services Committee, has been dropped from the bill as we bring it to the floor. It has been dropped in the designation of the rule, but it has been dropped because we have an agreement and what I think is a pretty good agreement with the Speaker and with the people on the Appropriations Committee on how to handle the unauthorized appropriations.

As the gentleman from Alabama knows, we have had enormous problems with the issue of unauthorized appropriations, and we have gone through cycles. Some years are worse than others. But last year happened to be particularly bad because all of it was jammed into a CR [continuing resolution]. We have an unprecedented number of dollar and line items that were unauthorized appropriations. We had an awful lot of legislating on an appropriations bill, and in general I thought, and I know the gentleman from Alabama thought, that we were very badly treated by the process last year, and so for that reason, as well as for a whole host of others, the continuing resolution process really was something that we thought was very damaging to the orderly process of the consideration of the bill.

Mr. Chairman, at this point I yield to the gentleman from Alabama [Mr. DICKINSON] because I know that, if there was anybody on the committee who felt as strongly about it as I did, it was the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, I very much appreciate the gentleman bringing up this matter at this time.

As a matter of fact, perhaps we should have discussed this during the rule, but we have had a rather hectic day due to the unfortunate circumstances that led us to attend the funeral of a former chairman of this committee, Chairman Price, which got us off to a late start, and so perhaps we did not start in quite an orderly fashion. So, while this would properly be part of the discussion on the rule, I am pleased to be able to discuss it with the chairman now.

Historically looking back, and it is written into the rules of the House, we have an Appropriations Committee, and we have an authorization committee, and what has traditionally been the role of the two committees is that we authorize the expenditure of funds, and then the Appropriations Committee comes along and appropriates up to, but not exceeding, the amount that is authorized.

□ 1830

Through the years the fine line for these two functions has sort of blurred and overlapped to the point where for the past 5 or 6 years we have had some serious problems so far as encroaching on our territory. Going back to Chairman Addabbo, when he was chairman of the Defense Authorization Subcommittee of the Committee on Appropriations, and Congressman Jack Edwards, we got a letter from them saying that if they had done anything of that nature, they were sorry and would not do it again and they would work with us to see that they did not overstep their authority. This worked along very well. Then Chairman Addabbo died. He was later succeeded by Congressman BILL CHAPPELL, of Florida, with whom we have had very cordial relations, he and Congressman McDADE of Pennsylvania.

We have worked together. Sometimes they have not lived up to what we thought they should have, but we got together later and worked it out by authorizing after the fact.

But last year, as the gentleman has pointed out, we had a very gross situation growing out of the continuing resolution to the point where there was appropriated $10.8 billion more than we authorized.

This was not an accident. This was not just an accident or an overshot. This was grossly exceeding what we had done, to the point where they even changed language specifically that we had put in the bill, which we felt was very inappropriate.

So as a result of this, the chairman and I decided to insist on section 902. The chairman has since met with the Speaker of the House and met with the chairman of the Appropriations Subcommittee and come up with an agreement. As I understand it, the chairman has submitted the agreement in writing, submitted it to the chairman and interested parties, which says three things are agreed upon that had not been the case before. If there should be an overappropriation, it would be subject to subsequent authorization by this committee.

Second, if they do not live up to this agreement, the Speaker has indicated that he would not favor granting waivers for this, as has been the case in the past.

Third, the chairman and I, as chairman and ranking member, would be nonvoting conferees in the Defense appropriations conference with the Senate, which is again a first, even though the Senate has been doing it for some time now and successfully.

I think this leads to a very successful conclusion of our problem, hopefully. Certainly we have agreed to this and have withdrawn section 902.

I would hope that we would again fall back into our respective historical roles of us authorizing and they appropriating and that there will not be any difference of opinion or usurpation of jurisdiction, if that is the correct terminology, and that we will both do our jobs and work harmoniously in the future. I hope I have stated it correctly.

The chairman, I believe, has written a letter to the Speaker transmitting my statement of understanding. I wonder if the chairman has that letter and would like to put it in the Record.

Mr. ASPIN. Mr. Chairman, I thank the gentleman from Alabama for this explanation.

I would like to say that his understanding of the agreement is precisely correct. What he said of the three points, that we have an agreement, that is absolutely correct.

I was just checking with the staff. I would like to submit our agreement into the Record, but as I remember it, and I checked with the staff, that is correct, we cannot do that in the Committee of the Whole. We have to wait until we get back into the full House. Is that correct?

Mr. DICKINSON. I might point out, if the gentleman wanted to, he could read it all.

Mr. ASPIN. I could read it all. Let us read it. It is important that we get it in at this point.

The CHAIRMAN pro tempore (Mr. Russo). Will the gentleman restate his point?

Mr. ASPIN. The question I have for the Chair, is my understanding of the rules correct, that we cannot insert something in the Record in the Committee of the Whole. We can only do that when we are in the full House.

The CHAIRMAN pro tempore. The gentleman can extend his own remarks in the Committee of the Whole. The gentleman cannot insert a colloquy in the Committee of the Whole.

Mr. ASPIN. No. We were going to insert this document which we had typed up and sent to the Speaker, and the Speaker has agreed to this as the agreement pertaining to the unauthorized appropriations. Is that appropriate to put into the Record?

The CHAIRMAN pro tempore. It can go in at this particular point, if the request is made when the Committee rises.

Mr. ASPIN. We will make the request when the Committee rises, but I would like when we request it in the Whole House for it to go into the Record at this point.

The agreement is in outline what the gentleman from Alabama said about the three points. What I would just like to do is insert this one-page verbal text, the actual text of the agreement, so that it will be on record.

Mr. Chairman, the memorandum of agreement is as follows:

Memorandum for the Record—Agreement With Respect to Unauthorized Appropriations, April 20, 1988

As a result of today's meeting with the Speaker, the Majority Leader, the Chairman of the Appropriations Committee, the Defense Subcommittee, and the Chairman of the Armed Services Committee, the following agreement was reached with respect to section 902 in the reported Defense Authorization bill.

The Armed Services Committee will agree to drop section 902 from the bill. The Appropriations Committee will agree not to appropriate more than is authorized unless the amount so appropriated is explicitly made subject to authorization. If appropriations are provided in excess of authorization and they are not made subject to authorization or if legislation is included in the appropriation bill, the Speaker will not support waiving points of order on such matters.

In conference, the Chairman and Ranking Member of the Armed Services Committee and the Defense Subcommittee shall be non-voting participants in the others conference. They will be treated as conferees except that they will not be formally appointed as conferees and have the right to vote, but will be entitled to speak in the conference meetings. These members so designated as non-voting informal conferees shall be entitled to designate one staff representative to attend all conference activities related to defense matters with that Member.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Dellums].

Mr. DELLUMS. Mr. Chairman, I chair the Subcommittee on Military Installations and Facilities, charged with the responsibility of family housing, military construction and the civil defense portion of the military authorization bill for 1989.

Mr. Chairman, I ask unanimous consent to insert the report on those portions of the bill pertaining to military construction, family housing and civil defense in the Record.

The CHAIRMAN pro tempore. Without objection, it is so ordered, but that permission must be renewed again in the full House.

PARLIAMENTARY INQUIRY

Mr. DELLUMS. Mr. Chairman, may I propound a parliamentary inquiry on that question.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DELLUMS. Mr. Chairman, can this not be handled under general leave requested by the chairman?

The CHAIRMAN pro tempore. Yes, it can.

Mr. DELLUMS. I thank the Chair, and I include the statement, as follows:

Mr. Chairman, today the Committee on Armed Services brings to the floor H.R. 4264, the National Defense Authorization Act for fiscal year 1989. Division B would provide $8.7 billion for military construction, family housing, reserve components, and the NATO infrastructure for fiscal year 1989.

For the benefit of my colleagues I would like to briefly review the development of this legislation. As you know, the Congress and the administration reached agreement last fall on a budget request of $299.5 billion for the Defense Department for fiscal year 1989. Of this amount, the administration requested $8.719 billion for military construction and family housing. However, the budget assumptions by the administration showed savings of $60 million from military construction in anticipation of the adoption of an amendment to the Davis/Bacon Act. Although we were unable to justify the amount of savings, we had no alternative but to reduce the budget request by $60 million which resulted in an authorization level of $8.659 billion—exactly $60 million below the requested level.

To achieve the necessary reductions, the committee agreed to defer all projects where there was not a clear requirement in fiscal year 1989 because of low design, canceled or modified mission requirements, deferred procurement of equipment or weapon systems, reduced cost estimates, and the availability of prior year authorizations.

These actions are summarized in the table below.

AUTHORIZATION OF APPROPRIATIONS FISCAL YEAR 1989

[In thousands of dollars]

	Fiscal year 1989 amended request	Committee recommendation	Change from request
TITLE I—ARMY			
Inside the United States	436,452	442,532	6,080
Outside the United States	343,020	317,620	(25,400)
Unspecified minor construction	16,200	16,200	0
Planning and design	98,328	98,328	0
Defense access roads	1,000	1,000	0
Family housing construction	188,178	197,278	9,100
Family housing support	1,340,093	1,340,093	0
Homeowners assistance program	2,000	2,000	0
Subtotal	2,425,271	2,415,051	(10,220)
TITLE I—NAVY			
Inside the United States	1,275,895	1,258,435	(17,460)
Outside the United States	141,940	110,092	(31,848)
Unspecified minor construction	16,300	16,300	0
Planning and dsign	148,276	138,276	(10,00)
Defense access roads	11,819	11,819	0
Family housing construction	240,440	240,440	0
Family housing support	554,988	554,988	0
Subtotal	2,389,656	2,330,350	(59,308)
TITLE I—AIR FORCE			
Inside the United States	882,397	867,707	(14,690)
Outside the United States	249,953	245,153	(4,800)
Unspecified minor construction	16,500	16,500	0
Planning and design	124,800	111,600	(13,200)
Family housing construction	181,200	180,685	(515)
Family housing support	741,766	741,766	0
Subtotal	2,196,616	2,163,411	(33,205)
TITLE I—DEFENSE AGENCIES			
Inside the United States	335,861	342,761	6,900
Outside the United States	290,610	289,010	0
Unspecified minor construction	6,000	6,000	0
Contingency construction	8,000	8,000	0
Conforming storage facilities	9,300	9,300	0
Planning and design	62,229	62,229	0
Defense access roads	0	10,000	10,000
Family housing construction	513	513	0
Family housing support	20,187	20,187	0
Subtotal	732,700	748,000	15,300
Title V—NATO infrastructure	502,100	502,100	0
TITLE I—GUARD AND RESERVE FORCES			
Army National Guard	138,300	161,838	23,538
Army Reserve	79,900	80,155	255
Naval and Marine Corps Reserve	48,400	48,400	0
Air National Guard	147,500	151,140	3,640
Air Force Reserve	58,800	58,800	27,433
Subtotal	472,900	500,333	27,433
Total authorization of appropriation	8,719,245	8,659,245	(60,000)

Included in the committee adjustments are the following major reductions: $31.2 million for construction of the Rail Garrison Program pending a firm decision; $17.5 million for OTH-B Operations building because of deferred procurement; $4.5 million for a binary munition production facility because of deferred procurement; $14.5 million for strategic homeporting at Everett, WA, because of a court injunction stopping all construction; $19.5 million for a command, control, communications and intelligence complex in Naples, Italy, because of the availability of prior year authorization; $11.3 million for support facilities for the Naval Regional Hospital at San Diego because of the availability of prior year authorization; and $7.1 million for a special warfare unit in Panama because of questions relating to the future force structure in that country.

And finally, included in the general provisions approved by the committee are the following provisions:

A provision to authorize the transfer of land from the GSA to the Navy in Suitland, MD, to be used as the site for a new naval intelligence facility;

A provision to authorize the use of $500,000 in design funds for community planning assistance at Everett, WA, and Fort Drum, NY;

A provision to prohibit funding for military construction contracts on Guam if the work is carried out by certain aliens;

A provision to authorize the use of the remaining proceeds from the sale of property at Kapalama Military Reservation in Hawaii for the purpose of relocating Reserve centers from Fort DeRussy to Fort Shafter as the first step in implementing the Army's decision to designate Fort DeRussy as the Armed Forces Recreation Center of the Pacific;

A provision to authorize the transfer of building 197 at the Southeast Federal Center from GSA to the Navy for use as an office building;

A provision to amend current law to authorize construction of a 450-bed replacement for Brooke Army Medical Center, Fort Sam Houston, TX, at a cost of $275 million, and;

A provision to authorize a land transfer at Camp Parks Reserve Forces training area in California.

CIVIL DEFENSE

Mr. Chairman, I would also like to report on another provision in this bill that falls under the jurisdiction of the Subcommittee on Military Installations and Facilities.

Title III of division C would authorize $160.393 million to carry out provisions of the Federal Civil Defense Act of 1950. This is the same amount requested by the administration.

The committee did not reduce the amount requested because it believes that this level of funding is necessary to provide adequate resources to State and local governments to prepare for natural disasters as well as attack-related preparedness.

Mr. Chairman, this concludes my statement.

Mr. BROOKS. Mr. Chairman, two sections of part B of title VII of the committee amendment concern properties under the control of the General Services Administration. I wish to provide some background and comment on these two provisions, since they involve the jurisdiction of the Committee on Government Operations over the Federal Government's acquisition, use, and disposal of real property.

Section 2811 would transfer property at the Southeast Federal Center near the Washington Navy Yard, specifically building 197, back to the Secretary of the Navy. The Secretary had originally determinded the property to be excess to his Department's needs. GSA then assumed control, and developed plans to use the property. The Department of the Navy later found it had other needs for that property, so it sought the property's return.

In the case of building 197, the statutory criteria that an agency in control of property is to use in determining if the property is excess could not be met by GSA, since GSA regarded the property as needed for planned requirements. The Armed Services Committee believed that the original controlling agency, namely the Navy, should be able to reclaim its former property for a substantial project. This goal could only be met through legislation.

In addition, even if GSA had found the property excess, existing OMB restrictive policy about GSA's transfer of excess real property to other agencies could pose an obstacle. With limited exceptions, such transfers are to be made only on the basis of fair-market value reimbursement by the acquiring agency. One of these is where Congress has specifically authorized the transfer without reimbursement. Accordingly, I understand the problem of the Armed Services Committee and in this case am willing to support this solution.

Section 2812 would authorize the Administrator of General Services to transfer to the Navy enough land at the Suitland Federal Center, for construction of a new Naval Intelligence Center Command Building. The precise acreage and location would be established by joint determination of the Administrator and the Secretary of the Navy.

This case differs from the building 197 case. Last month, just before he resigned, the then-Administrator of General Services, Terry Golden, made a commitment that the Suitland Center would be able to accommodate the Navy's need. He could not, however, commit to the nonreimbursability of such a transfer of excess property.

This land had not previously been controlled by the Navy Department or any other agency of the Department of Defense, so in that respect also, it differs from building 197 case. In all probability, the OMB would not have waived its reimbursement requirement in order to enable GSA to declare this property excess and transfer it to the Navy, which did not have funds budgeted to cover reimbursement for this real property.

Therefore, specific authorization for a nonreimbursable transfer was required in order to effect the transfer as the Federal property management regulations provide. The committee amendment has been fashioned to accomplish this in a manner designed to fit the letter and spirit of the Federal Property Act.

I appreciate very much the notice of these matters furnished to our committee by the gentleman from California, Mr. DELLUMS, the distinguished chairman of the Subcommittee on Military Installations and Facilities. This gave us a chance to make certain suggestions, which the committee amendment reflects.

Too often, I find that our opportunity to work with other standing committees that have included provisions in their pending legislation to transfer or dispose of property under GSA control is severely restricted by time factors. Such provisions are, in effect, ad hoc amendments to the Federal Property Act. As implemented by the Federal property management regulations, that statute has a wide range of options and procedures for accomplishing excess property transfers and surplus property disposals.

The act is a versatile statute that has proved its efficacy and durability over a period of nearly 40 years. It has been our committee's longstanding policy that the system established under the Federal Property Act should be allowed to work. The Congress has delegated to the Administrator of General Services discretion and decisionmaking power that should not be imposed on in ad hoc cases except in the most exceptional and urgent cases.

Chairman DELLUMS has always shown a very sensitive awareness of the provisions of the Federal Property Act and the need to maintain its principles. He has very graciously conferred with the appropriate committees and agencies and acted in accord with our concerns. Again, I thank the gentleman from California for his interest and cooperation and am glad to join in supporting the two provisions of the committee amendment that I have spoken about.

Mr. ASPIN. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. MAVROULES].

Mr. MAVROULES. Mr. Chairman, I ask unanimous consent at this point in the RECORD to submit the remarks on behalf of the Readiness Subcommittee, and I make the same request that the gentleman from California [Mr. DELLUMS] made in behalf of the chairman.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. MAVROULES. Mr. Chairman, I would like to take a few moments to comment on this year's Defense authorization bill and especially title III, the operation and maintenance section.

As you know I assumed the chairmanship of the Readiness Subcommittee after the unfortunate loss of Dan Daniel last year. His expertise and leadership are sorely missed by all of us.

Anyone who knew Dan understood that he had a vision; he knew what readiness was about and how difficult it is to attain a high state of readiness and then maintain it. What I tried to do this year was to follow Dan's vision, as expressed to me by the other members of the subcommittee. I believe the subcommittee's work, as reflected in title III, contains his priorities and is close to what he would have reported.

I want to express my compliments to Secretary Carlucci for starting to set priorities within the overall spending levels for the Defense Department. It has taken a budget summit and a change of leadership for the Pentagon to finally begin to comprehend this committee's message that it does not make any sense to continue a massive weapons buildup if you do not have trained personnel or the funds to operate and maintain these systems.

This year's request is a vast improvement over prior years. It is more realistic and recognizes the need to protect the readiness of our forces. It also begins to address the imbalances contained in previous budgets. For example, the request increased the O&M accounts at the expense of procurement and research and development. This committee has taken this action for the past few years and it is good to see that the message has finally gotten across the river to the Pentagon.

I believe the problems we are seeing in 1988 are, to a large degree, the direct result of the priorities established last year by the administration. Make no mistake about it, the problems in 1988 are very real and we are not out of the woods yet. Training is being decreased, civilian workers are being furloughed or allowed to retire early and the backlogs for spares and repair parts are increasing. We are going to have to closely monitor these problems and be able to react to them as the year progresses.

The problems of 1988 will, in turn, lead to detrimental impacts in 1989. I believe we will see the same problems in 1989 that we are trying to cope with this year. For example, during our hearings we identified a number of areas that were already underfunded in the 1989 request, like Army supply operations and Navy aircraft maintenance. We reprioritized funds in the request to reduce the shortfalls in these critical readiness areas.

While the Department's witnesses continually stressed during our hearings that 1989 looks like a reasonably good year for readiness, I am not convinced this will be the case. The 1989 funding level for operation and maintenance is a modest increase over 1988 which was severely underfunded. Yet the requirements for operation and maintenance funds keep increasing: large numbers of new weapons purchased during the last few years are becoming operational and must be maintained; medical costs are skyrocketing; foreign currency exchange rates are deteriorating; the numbers of military installations are increasing because of projects like homeporting, while our commitments around the world, like the Persian Gulf, keep expanding. Where are the funds to come from to cope with all these additional requirements?

This is not just an operation and maintenance problem or even an allocation problem between the investment accounts and the readiness accounts, but is indicative of a host of issues that the Congress must begin addressing. In the coming years we must decide what is affordable for the United States in terms of defense and whether all our international commitments are necessary. We are also going to have to evaluate how we presently spend our resources and find ways to get a more effective defense within budget constraints. The committee's initiative concerning base closures is a good example of the type of evaluation that needs to be done.

The Readiness Subcommittee is continuing to look for ways to stretch our defense resources and, at the same time, increase the readiness of our military forces. For example, we reprioritized the budget request in a number of areas to protect readiness, at the expense of administrative and housekeeping activities.

We are also recommending improvements in the stewardship of our tax dollars. One of our provisions will remedy several problems with auditing activities in the Defense Department and should lead to improved DOD operations. Another provision will improve inventory accounting systems and correct a host of problems in DOD's supply systems.

We plan to continue this aggressive oversight in the future. I urge your support for title III and the committee's bill.

Mr. ASPIN. Mr. Chairman, I yield 5 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. DICKINSON. Mr. Chairman, I yield 5 minutes to the gentleman from Arizona [Mr. KYL].

Mr. KYL. Mr. Chairman, first of all. I would like to associate myself with the remarks earlier made by the gentleman from Alabama [Mr. DICKINSON] at the beginning of this discussion.

We all recognize that this year we cannot modify the general floor and ceiling of $299.5 billion for our Defense authorization, but we have also recognized for some time that it does not make sense for this Congress to fund Defense at boom and bust levels; that is to say for 2 or 3 years to fund it at very high levels and then when the mood of the Congress changes, for several years to fund it at very low levels.

We have recognized for some time that this does not make sense, and rather, we ought to have some kind of sustained, but modest growth, in defense spending which is not only much more economical in terms of the value of the dollars that we get, but enhances our defense planning, and therefore provides for a stronger defense; so at the time that we begin the general debate on the Defense authorization bill for the next fiscal year, I think it is also important for us to look beyond into the future and to determine what kind of a policy the Congress is going to have with respect to funding. In that regard, we will have an opportunity to discuss at greater length an amendment which I have proposed and which has been adopted by the full committee which calls for the Congress to express its sense that from here on out, beginning with the fiscal year 1990, the President and the Congress should provide for modest but sustained growth in defense spending.

The sense-of-Congress resolution which I offered before the full committee received a voice vote by the committee in support and will be voted on by the full body a little bit later on.

We have all seen, Mr. Chairman, the figures. We have all seen the very colorful charts which show the boom and bust cycle in defense spending where it goes up 13 percent in 1 year and over the last 4 years has gone down a total of about 12 percent, defense having been the only major part of the budget that has received actual real dollar cuts not for the fourth straight year.

Recognizing that this kind of spending is not efficient, our chairman, the gentleman from Wisconsin [Mr. ASPIN] stated both last year and this year that this particular planning does not make sense for defense, and I would like to quote some of his words, because I think they are very apropos:

> Chairman Aspin said last year: "What we are seeing is a roller coaster. Excessive increases in the early 80s have produced real cuts in the late 80s. One can anticipate a change in public attitudes in the 90s. I would hope, however, that we will not repeat the excesses of the early 80s. What we needed in defense then—and what we need now—are real, modest, and repeated increases year-in and year-out.
>
> "The boom or bust cycle exhibited in the table does no good for the economy or national defense. I constantly hear the demand for the Defense Department to operate more efficiently. But it is unreasonable to expect efficiency when we fund the department so erratically. You can't run a huge operation like the Pentagon efficiently when you toss a 13 percent increase on the services one year and then cut back 4 percent five years later. The demand for efficiency requires some participation on the part of the Congress and the public—by providing some constancy to the budget.

□ 1845

He concluded by calling for steady, modest increases in defense authorizations.

The gentleman from Alabama [Mr. DICKINSON] made the same point when he said:

> Unless there is some remarkable decrease in the Soviet threat in the foreseeable future, we will need modest but sustained real growth in defense budgets to be able to provide the national security our citizens need and deserve.

As a result of those two very astute observations, we prepared the sense-of-Congress resolution which notes that the fluctuating boom-or-bust defense budgets are inconsistent with rational defense planning and have prevented the United States from obtaining the most efficient national defense for the dollars expended and that the defense budget should not undergo sharp increases or sharp decreases in any year unless there is a corresponding significant increase or decrease to threats to our national security.

As a result of that, the resolution would express the sense of Congress that for each fiscal year following 1990, beginning in that year, that the Congress and the President should provide for modest and sustained growth in defense spending.

Mr. Chairman, I think that this resolution is one which will merit the support of the full House as it was supported by the full Committee on Armed Services. It has the support of the Secretary of Defense. It was one of the recommendations of the Commission on Integrated Long-Term Strategy and I think it would go a long way toward assuring the people of this country that we are going to have an assured modest but sustained defense growth in this country in the years to come. It will be an important statement of policy of this Congress.

Mr. ASPIN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland [Mrs. BYRON].

Mrs. BYRON. Mr. Chairman, as chairman of the Subcommittee on Military Personnel and Compensation, I rise in support of titles IV, V, and VI of H.R. 4264, the National Defense Authorization Act for fiscal year 1989. During the 100th Congress, the subcommittee has held 30 hearings, including 7 field hearings in the United States and in the Far East. Of the 30, 12 dealt with medical concerns; 6 were on overall manpower issues; 5 were on the Marine Security Guard Program; 3 were on women in the military; 2 were on overseas quality of life concerns; 1 was on imminent danger pay for the troops in the Persian Gulf; and 1 was on conventional defense in Europe. This record speaks for itself and shows that members of the subcommittee have been interested, concerned, and attentive to the needs of military personnel.

Our task this year was somewhat easier than in past years since the budget summit agreement had already determined the bottom line for defense. Nonetheless, we had some difficult decisions to make on pay and benefit trade-offs. In deciding how to achieve the reductions needed to meet the lower spending levels incorporated in the budget summit agreement, Pentagon officials opted to cut force structure in order to protect pay and other personnel benefits. With very minor modification, the House Armed Services Committee endorsed that same priority.

Specifically, in the area of end strengths, the President's request for fiscal year 1989 represents a 34,000 cut from the fiscal year 1988 authorized level. Almost all of these reductions are being achieved during fiscal year 1988 for budgetary reasons, with the bulk of the end strength cuts—some 23,000—coming from the Air Force; the cut for the Army is 8,600; for the Marine Corps, 2,400. The committee's active duty end strength recommendations are identical to those of the President.

With regard to reserve end strengths, the fiscal year 1989 request represents a freeze in most cases at the fiscal year 1988 levels. The most notable exception to this is in the Air Reserve components where the President proposed drawing down a wing equivalent. The committee looked at this proposal closely and decided that it was exactly the wrong way to go. At a time when the active Air Force is losing force structure, it is all the more important to retain qualified and trained reserve pilots, maintenance personnel and so on. With this rationale in mind, the committee approved the President's reserve end strength requests with the exception of a small add-back to the Air Guard and Air Force Reserve, thus restoring the first installment of the wing equivalent drawdown. In addition, the committee prohibited the elimination of the wing equivalent.

In the area of pay and other compensation, the President requested a 4.3-percent pay raise for military personnel. The committee agreed that the full 4.3-percent raise was justified but decided to reallocate a very small portion to other serious compensation problems that need to be addressed as well, specifically, the rising cost of providing off-base housing and high out-of-pocket expenditures associated with making a permanent change of station move. As a result, the committee approved a 4-percent pay raise, a 7-percent increase in basic allowance for quarters and higher household goods weight allowances—particularly for military families.

I recognize that there is concern among some Members of the House that the committee is recommending more than the 3-percent pay raise envisioned in the House-passed version of the budget resolution. A 4-percent pay raise is, however, consistent with both the budget authority and outlay numbers for Defense in the budget resolution.

As I mentioned earlier, DOD and the services assigned top priority to pay, opting to down-size force structure in order to protect the pay raise. If Congress instead cuts the pay raise request, we are left with two alternatives for use of the dollars saved: Either to plus back up the force structure cuts already made during fiscal year 1988 or to shift military personnel dollars to other accounts like procurement and research and development. The second choice is particularly illogical and, additionally, would be very difficult to do without violating either the budget authority or outlay numbers in the budget resolution.

The overriding factor, of course, is the importance of pay to recruiting and retaining the high quality personnel we have in the armed services today. That quality was more than amply demonstrated by the ability and determination of the crew of the USS *Samuel B. Roberts* in saving that vessel after it hit an Iranian mine in the Persian Gulf last week. As Americans, we can all take pride in their personal courage. But, saving that ship took more than just individual valor; it required the high caliber, well-trained young men and women we have in our Armed Forces today. And, in military personnel, like everything else, you get what you pay for.

As chairman of the Subcommittee on Military Personnel and Compensation, I am not willing to tell the Sailors and Marines protecting neutral shipping in the Persian Gulf or the thousands of other service members stationed in the far-flung regions of the globe that Congress decided to cut their pay. Frankly, I cannot believe any of my colleagues would do so either.

With regard to bonuses, the committee approved the proposed new aviation continuation bonus for the Navy and the Air Force with some modifications. Basically, the committee agreed that pilot retention will become a serious problem based on projections of an airline hiring spree. We did not agree, however, that every pilot with a certain length of service should receive the bonus regardless of whether a shortage exists in this area and instead targeted the pilot bonus to skill shortages.

Another area of interest to many members is officer cuts. You will recall that a 2-percent reduction in the strength of the active duty officer corps has already occurred in fiscal years 1987 and 1988 and an additional 4 percent is scheduled to occur in fiscal years 1989 and 1990. However, the Secretary of Defense conducted a comprehensive review of officer growth since 1980 validating that the majority of that growth was associated with direct combat and combat support positions. In addition, the Secretary directed additional cuts by the Army and Air Force for positions not validated by the study. Because the committee believed that further cuts on top of those directed by Secretary Carlucci would adversely impact readiness and because the Secretary of Defense finally appears to be on top of the officer growth issue, we repealed the remaining 4-percent cut.

Finally, medical care continues to be of great concern, both from the wartime and peacetime perspectives. The committee approved a number of provisions—both statutory and report language—designed to improve the staffing of military hospitals and monitor the various reforms under way in the system. Improved access to medical care will continue as a top priority on the subcommittee's agenda in the months ahead.

In conclusion, let me say that people are our most precious asset and, as I stated earlier, you get what you pay for. We on the committee view titles IV, V, and VI as the bottom line minimum required to keep the high quality force we currently have, and I strongly urge my colleagues' support.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the very distinguished gentleman from Connecticut [Mr. Rowland].

Mr. ROWLAND of Connecticut. Mr. Chairman, I rise to offer a few observations regarding H.R. 4264, the "National Defense Authorization Act for Fiscal Year 1989." Before I do so, I would like to thank the distinguished chairman, Mr. Aspin, and our ranking Republican member, Mr. Dickinson, for the leadership they have exhibited in bringing this important measure to the floor.

This is my second year as a member of the Armed Services Committee. And, although the debate on this DOD bill is not likely to be as contentious as it was last year—since the budget summit settled the funding issue in advance—there are many issues which are sure to divide the House.

In the final analysis, though, I believe that a full and heated debate over these issues is good for the process. I understand that we will be debating the Department of Defense authorization bill for at least 2 weeks on the floor, and possibly 3. Some Members may think this is excessive. I do not.

I don't believe this Congress has any higher responsibility than to fulfill our obligation to provide for our Nation's defense. As a member of the committee, I should say that it is our responsibility to bring to the floor a measure which will meet the various threats which we face around the globe.

The bill as proposed by the Reagan administration meets this responsibility. Although I believe it is unfortunate that the budget for national defense is reduced in real terms for the fourth year in a row, we know that the political realities make any real growth impossible. I would note that although this bill provides for a reduction of about 1 percent in real terms, the situation could be a lot worse than it is.

Let's give credit where credit is due. Because inflation is way down—due to the President's economic program—we are able to come close to providing real growth for defense. This would be absolutely impossible to do were inflation to be running in the double digit range as it did during the Carter-Mondale years.

There are several very good aspects to this bill, and quite frankly, some that aren't so good. But taken together, I believe H.R. 4264 provides what is needed to give this Nation a credible deterrence against our adversaries.

The bill provides for a 4-percent pay raise for military personnel; it boosts conventional weapons spending by $2.9 billion; and in general, provides much needed catch-up funding for the long-ignored operations and maintenance accounts. All are sound initiatives.

On the other hand, it is unfortunate the SDI has been cut by $800 million and that the committee has passed the buck on the issue of ICBM systems. These are two of the most important issues relating to our national defense and I would like to take a moment to address both.

In a way it's unfortunate that a simple goal—and an important goal—of trying to develop a system to intercept incoming Soviet ballistic missiles has become mired in so much controversy.

Later in the debate, we will have the star wars sweepstakes here on the floor. A series of funding amendments will be offered. First, an amendment for real growth in SDI will be offered. Then, Mr. Dellums will propose to terminate SDI altogether. Third, there will be a vote on funding at about the committee level—$4 billion—followed by Mr. Bennett's amendment to cut SDI significantly.

If history is any guide, the House will vote narrowly for the Bennett amendment thus cutting SDI to $3.5 billion. Given the Senate's traditional position on this issue—and after all of the rhetoric and hoopla is finished—the conference committee will eventually end up funding SDI at about the level which was originally proposed by the Armed Services Committee.

Even though the Soviets have finally buckled and are showing signs of resignation toward our SDI research, it is an unfortunate fact of life that we must go through this charade and refight this same battle year after year here in Congress.

We will also see a number of amendments dealing with the MX rail-garrison basing mode as well as the Midgetman system. I find it interesting that the individuals who said we shouldn't put MX missiles in silos—because they would be vulnerable or sitting ducks—are largely the same people who now oppose efforts to make the MX Peacekeeper system mobile.

I would suggest we cannot have it both ways. If silo based MX missiles are truly vulnerable to a Soviet first strike, then we should move to a mobile basing mode. We have that proposal in the form of rail-garrison.

I don't have the time now to go one-by-one through the misinformation and inaccuracies which have been spread about this program. We will have plenty of time to do that later on. I will suggest that Congress needs to make a choice. We need to fish or cut bait in regard to our ICBM programs.

Reality tells me that we can't have both the MX rail-garrison and the $42 billion Midgetman program. I don't believe we can afford—or need—both systems. Personally, I am willing to go with the Peacekeeper rail-garrison.

We hear the argument from the other side of the aisle that we should keep the Midgetman option open for the next administration to decide. How interesting. I wonder if the Democratic leadership has checked with Mr. Dukakis and Mr. Jackson about this. The last I heard is that they have proposed to scrap the Midgetman—as well as two carrier battle groups, the B-1 Bomber, MX missile, D-5 missile, SDI program, and a whole host of strategic and conventional programs.

When we come to the ICBM part of the debate, it is my imtention to offer an amendment which will scrap the Midgetman program outright. In my opinion, that system accomplishes little other than to give political cover to those Members who do not want to move forward with a mobile basing mode for the MX Peacekeeper.

Mr. Dicks will once again offer his proposal to bind the United States to all of the terms and provisions of the unratified and expired SALT II Treaty. I do not believe this is sound policy; instead the issue would best be left to our negotiators at Geneva. Likewise, Chairman Aspin will seek to write into statute a very narrow interpretation of the Anti-Ballistic Missile Treaty of 1972.

Much evidence exists that the Soviet Union has routinely violated both accords. As a matter of fact, the House unanimously indicated in this same legislation last year that the Soviet phased array radar at Krasnoyarsk was indeed a violation of ABM. Their deployment of SS-25 missiles is clearly a violation of SALT.

In conclusion we have several critically important issues to resolve over the next few weeks.

Mr. Chairman, it is unfortunate that each and every year the DOD authorization bill turns into a foreign policy debate and I hope my colleagues will vote their conscience rather than their politics.

Mr. ASPIN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Chairman, I want to commend the gentleman from Wisconsin [Mr. Aspin], the chairman of the Committee on Armed Services, and the members of the committee, and certainly the gentlewoman from Maryland [Mrs. Byron], the chairman of the Subcommittee on Military Personnel and Compensation, the subcommittee that deals with personnel and the quality of life for members of the armed services. Let me say that we still need to do more because we have the finest men and women serving our great country and risking their lives around the world, but yet every time that they move, their property gets lost or stolen. There is still inadequate housing. There are horror stories about where the families of personnel live and the conditions under which they live. There are yet many areas where there is gross discourtesy by civilian employees at military bases, at the commissaries, at the exchanges, and at the gate. I myself have been subjected to some discourtesies in trying to enter a military base, so I think that the Pentagon needs to look more into this as a general matter, and not ask for a name or an individual so that they might go and ask that individual if such and such a thing happened. Military personnel are not going to do that.

The Subcommittee on Military Personnel and Compensation has done, I think, excellent work but we need to do more to see that the families, that the children of the military personnel when the military person is away, that the family is taken care of to the extent that they can be. I think that the Pentagon and the administration have set the priorities wrong here. We are going to be arguing here about SDI and MX and Cruise missile and B-1 bombers, but very little is going to be said about what we do with the ABM, very little is going to be said about what we are doing for the individual that is risking his life for the wife that is left behind and for the children.

I know that the Committee on Armed Services has worked very hard. I know that I have been told that they are looking into these matters. It is not enough, however, and it has not been enough. We still have to continue to see that there not be one case that falls through the cracks where somebody is treated discourteously getting back into his home base.

Mr. DICKINSON. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. de la Garza].

Mr. de la GARZA. Mr. Chairman, I thank the gentleman from Alabama for yielding me this time.

Mr. DICKINSON. Mr. Chairman, will the gentleman from Texas [Mr. de la Garza] yield?

Mr. de la GARZA. Mr. Chairman, I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I appreciate the gentleman from Texas yielding, and I yielded him time so that the gentleman from Texas might expand a little bit on his remarks. The gentleman from Texas has never discussed this issue with me, and this is a matter of first impression with me. I did not know there was a problem in this area. I have no personal experience in this, I have not personally experienced it nor have I had anyone on the three bases within my district comment on this.

I wonder if the gentleman from Texas [Mr. de la Garza] could be a little more specific? I would agree with him in what he said regarding looking into this matter.

Mr. de la GARZA. Mr. Chairman, I have visited with the gentleman from Alabama, and the last time I mentioned it on the floor the gentleman from Alabama got up and told me everything was all right, but now what I am saying is that the gentleman from Alabama has proven my point. He is suggesting to give him a name, and give him a base. I am telling the gentleman from Alabama that goods are being stolen when they are being transported. The Pentagon knows what companies are contracting for transportation of goods, and that can be looked into. People are being abused at bases when they come in or when they go out. The civilian personnel dealing with the military, in my estimation, where I have had experience the civilian personnel are grossly incompetent, and the Navy is now starting in the shipyards where the work is not up to what we are paying for. This has come from the Pentagon, from the Navy, and they are starting to look at some of the shoddy work that is being done on materiel and equipment. I am speaking in generalities because it has to be treated as a problem in total. I am not going to give the gentleman from Alabama [Mr. Dickinson] the name of a soldier or a sailor or marine so that he might ask, "Did you say that?" That is not going to work.

□ 1900

We have to address the issue, but the gentleman has to realize there is yet inadequacy of housing. There are yet problems with transportation. There are yet problems with the way they are treated here and around the world. That is what I am trying to get the Pentagon to do, and the committee has done, I think, good work.

The gentlewoman from Maryland has looked into it, but people are getting promoted, and they do not get the pay until a year later. They frock them or whatever it is they do because the money is not there.

There are diminishing services in hospitals. There are diminishing services in bases. Everything for the sake of "we have to save a few more dollars."

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. Martin].

Mr. MARTIN of New York. Mr. Chairman, I am confident that the Members on this side of the aisle would join with me and agree that we are extremely fortunate to have the gentleman from California chair the subcommittee that is responsible for the living and working conditions required for our military personnel and I would personally like to extend to the chairman of the Military Construction Subcommittee, this Members' most sincere appreciation for the truly outstanding leadership, fairness, and personal dedication that he has shown in guiding the subcommittee through some difficult times.

This year, in the military construction arena—as in all the other areas—we have been limited to a number decided upon last year. The Congress as an institution arrived at that number and it is something that we have to live with. However, the numbers that we are here to authorize today do not address all of the critically needed quality of life construction projects that are long overdue, or for the replacement of facilities that have exceeded the limits of safety and efficiency, or for all the facilities needed for new missions and equipment. Some of these replacement facilities, for example, are for getting our troops out of World War II wood facilities where they live and work. The modernization of our military forces have been moving quickly forward recently with the Defense Department establishing new missions and purchasing a considerable amount of new equipment which is now being delivered. Regardless of any Member's position on defense strategy or new weapons systems, once we the Congress have decided to improve our defense capabilities and add new and improved weapons, we can not forget about the people who must then be trained in and operate that mission and equipment.

Over the past several years, the committee has had to make some very deep cuts in the yearly military construction authorization to meet the numbers. Again this year, if I may, let me recap some previous years' numbers for you that will show an indication of direction we are taking in military construction. In 1985, the military construction authorization was cut by 14 percent—in 1986 it was cut by 11 percent—in 1987, 16 percent, and last year, 1988, the military construction budget was cut by 18-percent. Although this years' budget is nearly at the administrations request, the level of funding is still at last years 18 percent reduction level.

The cuts that have been made over the past 5 years were made to get to a number, a budget number. We have made some progress over the years within the numbers; however, there is much left undone, basic projects such as troop barracks, safe and efficient working spaces, and military family housing. These facilities are essential if we are to maintain the quality of personnel we have in the services today.

Mr. Chairman, I believe the committee has produced a bill that, considering the budget limitations, has met the needs of the services as well as possible. I urge my colleagues to consider the military construction section of the Defense authorization bill carefully and give it their full support.

Mrs. LLOYD. Mr. Chairman, I rise today to express my support for this Defense authorization bill, although not without reservations. Overall the bill is the best we can hope for in these tight budgetary times. The White House and Congress reached an agreement last fall on spending for this year and Congress is committed to living up to that agreement within those constraints. This bill reflects today's economic and budgetary realities.

I believe in a strong defense for the United States and have supported defense spending levels that sufficiently maintain our forces to meet the wide range of challenges that face us in this dangerous world. Our commitments in the Persian Gulf and elsewhere around the globe dictate the need for a well-supported and flexible conventional force.

The House Armed Services Committee redirected only 2 percent or $6 billion of the administration's request. This is a minor alteration, but it improves the conventional readiness of our forces. I am particularly encouraged by the nearly $800 million added for the National Guard and Reserve. The National Guard and Reserve are extremely cost-effective components of our overall force structure. To maintain the essential readiness of the Guard and Reserve Congress must provide the required equipment, manpower and facilities. In 1978 Congress mandated a modernization program for the Air Guard and Reserve. Because of that program there are only two States remaining that do not have new C–130H tactical airlift aircraft. One of these States is Tennessee. This bill may help to replace the old C–130A models in Tennessee, which are 30 years old and risky to fly.

I also support the increase of $100 million in research and development funds for advanced submarine technology. As has been reported in the media, the Soviets are rapidly closing the gap in submarine technology. Because of the Walker and Toshiba/Kongsberg incidents, the Soviets can now build a submarine that is quieter and more maneuverable than any they have built in the past. The SSN–21 *Seawolf* will be the world's quietest submarine, but it may be only 5 years ahead of Soviet submarines. Advanced R&D is necessary to allow the follow-on to the SSN–21 "leapfrog" current and planned Soviet technological advances. The Congress began this advanced R&D program in fiscal year 1988 and the House Armed Services Committee has reaffirmed healthy funding for fiscal year 1989. The Congress still intends that DARPA control the funds while utilizing industry resources, Federal labs, and university expertise. We also hope this program will go forward with broad guidance and deliberate speed.

The bill also adequately provides for the continued development of strategic forces, such as the SRAM II missile. When carried by the B–1 and B–2 bombers, this system will at modest cost enhance deterrence through the ability to more easily penetrate enemy territory.

In the Department of Energy defense programs section of the bill, I was encouraged to see that the committee recognized the great need for inherent safety design features in choosing technology for the nuclear materials production reactor. Because of the critical need for nuclear weapons materials, the Congress must see to it that no false starts are made and that we can proceed in this program with certainty.

As we consider this bill, I urge my colleagues not to attach cumbersome arms control language. Consideration of these amendments, such as SALT II Treaty limits and nuclear testing moratoriums, comes at a time when the executive branch needs considerable flexibility in negotiations with the Soviet Union.

After accounting for inflation the bill represents a reduction of 0.6 percent from current appropriations. This year is the fourth year that the defense budget has experienced negative growth following 6 years of dramatic increases. This is no way to do the vital business of national security. My hope was to see a bottoming out in last year's budget, followed by a period of stable growth. After this period of adjustment, Congress should pursue steady, moderate increases to provide the security and protection Americans deserve.

Mr. SHUMWAY. Mr. Chairman, I intend to support the Department of Defense authorization because I believe that the defense and security of this Nation is one of the primary roles of the Federal Government. However, I have serious concerns about the way we are approaching this important issue.

Under the budget summit agreement of November 1987, the Defense Department budget was set at $299.5 billion. I have often said that with a national debt exceeding $2 trillion, every Federal expenditure must be subject to strict scrutiny. This includes defense spending as well as spending for domestic programs. My concern is that the funding level for the Department of Defense was predetermined by budget considerations before the House or Senate held hearings on the merits of funding various defense programs or the need to address the military and strategic interests of the United States.

We are approaching one of the fundamental constitutional responsibilities of the Congress, to raise and support armies, as a budget issue rather than providing for the national defense. For the fourth consecutive year, there will be a negative increase in growth for the Defense Department. Under the bill we have before us today, the spending cuts will fall primarily on strategic weapons programs rather than conventional forces and weapons. While I agree that conventional forces are an important element of our defense posture, it is unclear that the reductions in strategic defense programs are based on an evaluation of the merits of the programs and not the looming Federal deficit.

Despite glasnost and economic reforms, there is no reason to believe that the Soviet Union is decreasing its military expenditures or redirecting the substantial proportion of its GNP which is devoted to defense spending. At a time when the United States is engaged in a wide range of arms reduction talks with the Soviet Union, the Congress is unilaterally reducing many strategic defense programs, including the strategic defense initiative.

While we must address runaway Federal spending and a growing national debt, we must not ignore our fundamental constitutional obligation to provide for the security and defense of this great Nation.

Mrs. VUCANOVICH. Mr. Chairman, I rise today to express several reservations about this bill. As you know I have always been a supporter of a strong national defense. I feel that one of the most critical and basic roles of any government is the defense of its citizens. Being anything less than fully prepared invites adventurism on the part of our adversaries and disaster for ourselves. Only by showing all potential enemies that we cannot be easily defeated can we induce them to work out their differences with us in a peaceful manner.

One of my strongest reservations about this bill is that it authorizes the deactivation of the 474th Tactical Fighter Wing at Nellis Air Force Base in my home State of Nevada. This proposal will have a devastating effect on the State of Nevada and on the defense training activities at Nellis. Nellis is the single largest employer in southern Nevada and has been a dynamic partner in the community acting as a stabilizing attraction for other commerce and industry to move into the region. This deactivation will eliminate approximately 1,500 military and civilian jobs at Nellis resulting in a very negative impact to the economy of southern Nevada.

The 474th has had a long and valuable record in southern Nevada, beginning in the 1960's, when it was deployed at Nellis. Its readiness record was so outstanding, the Air Force selected the 474th as the first tactical wing to fly the new F-16 in 1980. This unit has an excellent readiness record and has enhanced our overseas relationship through its military mobility commitment to NATO. I believe that this commitment plays much more of an important role in light of the recent announcement of the withdrawal of the 401st Tactical Fighter Wing stationed in Spain and the progress being made in negotiations to reduce nuclear weapons and reduce the risk of nuclear war.

Nevada has certainly contributed a great deal to the defense of this Nation. Nevada has supported Nellis and the 474th in its mission to safeguard our citizens. Its operation depicts a mutually beneficial relationship between the community, the State and the military base, greatly strengthening the Nevada economy and furthering the military preparedness of our country. With this in mind, I am very concerned that the 474th is being deactivated.

I am also concerned with a few other provisions of this bill, especially the cut from the President's request for the strategic defense initiative of 19 percent, which leaves $4 billion of the $4.8 billion requested for this important program. Also, there is only a 4-percent raise for military personnel instead of the 4.3 percent requested by the President, which is needed to preserve recruitment and retention gains.

In addition, I believe that we should eliminate those provisions that place restrictions on the planned testing of the contracting out of military commissary operations and impose "buy America" requirements on the military. I agree with the administration's effort to increase the thresholds for defense contracts under the Davis-Bacon and the Service Contract Acts from $2,000 and $2,500 respectively, to $1 million.

Finally, I commend the committee for placing greater emphasis on conventional weapons by increasing support for the U.S. ground forces, particularly in Europe where the intermediate-range nuclear force [INF] Treaty will place a greater emphasis on conventional forces; enhancing sustainability; continuing equipment modernization efforts; and stablilizing the defense production base. I am also pleased with the committee's views with regard to the National Guard and Reserve equipment.

Mr. DICKINSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. ASPIN. Mr. Chairman, I have no further requests for time, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. de la Garza] having assumed the Chair, Mr. Gray of Illinois, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4264) to authorize appropriations for the fiscal year 1989 amended budget request for military functions of the Department of Defense and to prescribe military personnel levels for such Department for fiscal year 1989, to amend the National Defense Authorization Act for fiscal years 1988 and 1989, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 4264, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PERMISSION TO INCLUDE IN RECORD MEMORANDUM OF AGREEMENT REGARDING SECTION 902 OF H.R. 4264, NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL 1989

Mr. ASPIN. Mr. Speaker, I ask unanimous consent that the memorandum that was discussed in the colloquy with the gentleman from Alabama [Mr. Dickinson] be included in the Record at the appropriate point in the debate, and referring to the debate that occurred earlier in the Committee of the Whole House.

Mr. Speaker, I have this statement here before us. It does outline in three paragraphs what the gentleman from Alabama [Mr. Dickinson] did in a broad brush kind of outline, the agreement worked out between the Speaker, the Committee on Appropriations and the Committee on Armed Services having to do with unauthorized appropriations.

I would like to point out at one point on this piece of paper, the last sentence refers to the ability of the nonvoting Members, meaning the gentleman from Alabama [Mr. Dickinson] and I, or our designees and our ability to have staff people present during the meetings of the conference, and the last sentence refers to the fact that both of us are authorized to have one staff person there.

I would like to point out that it is the understanding, and the Speaker's understanding, that that staff person can be there even in the absence of the Member, so if the gentleman from Alabama [Mr. Dickinson] or I are absent because of other business or whatever, it does not mean that our staff members are not allowed to be present during our absence, but they are, in fact, allowed to be there. So it is either the gentleman from Alabama [Mr. Dickinson] or me or we may designate another Member and then, second, there is also the ability to make sure that a staff person is there during all of the deliberations.

I just wanted to make that clear, because that was a verbal understanding, and the statement here is not quite clear on that point, but it was very clear in discussion with the Speaker that that is the intention of this last sentence, and with that, I would just like to ask unanimous consent that this appear at the appropriate point in the colloquy with the gentleman from Alabama [Mr. Dickinson] during general debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

A TRIBUTE TO DON McGUE: A LEADING CITIZEN OF SAN LEANDRO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Stark] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, it is with great pleasure that I pay tribute to a truly outstanding public servant, Don McGue. Don has been a dedicated member of the San Leandro community for more than 30 years. On May 1, the mayor and city council will meet to honor Don for his 14 years of public service.

Throughout his life, Don McGue has contributed to the community with an unyielding public spirit. He began by serving our country in World War II and the Korean conflict. He has served as an educator, civic leader, and active community member.

As an educator, he instilled in his students the importance of hard work and dedication. He taught vocational education in the Hay-ward Unified School District, and supervised adult trade and industrial programs. He was active in the California Teacher's Association, as well as in the Association of California School Administrators.

For 10 years, Don provided outstanding leadership and direction in his role as San Leandro city councilman. He has ably represented San Leandro as the chairman of the city's Civil Service Board, the Alameda County Training and Employment Board, and the Livermore-San Leandro Home Finance Authority.

Without a doubt, Don has improved the quality of life for many individuals. A man of boundless energy, he has given countless hours to his work as a member of numerous committees. He has been a member of the Joint Task Force on Revenue Sharing Allocations, Committee for San Leandro's Future, Charter Revision Committee, and Economic Development Committee, only to name a few.

In his selfless service of others, he has nurtured a sense of community spirit by his work with the Buon Tempo Club, San Leandro Elks, San Leandro Chamber of Commerce, San Leandro Golf Club, and numerous other service and professional organizations. He and his wife have lived in their current home for 35 years. He is the father of two, and the proud grandfather of one.

It is with pride and gratitude that I join the mayor and city council in honoring and thanking Don McGue for his dedicated efforts. I wish him good fortune in his future endeavors.

SUPERCONDUCTING SUPER COLLIDER PROJECT SUPPORTED BY COLLEGE AND UNIVERSITY PHYSICS DEPARTMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona [Mr. Udall] is recognized for 5 minutes.

Mr. UDALL. Mr. Speaker, there have been some remarks made on this floor which assert that the scientific community does not support the superconducting super collider project proposed by the Department of Energy. Recently, a statement signed by the chairs of 218 college and university physics departments, labeled the super collider an "essential" investment in the Nation's economy and security.

Citing the need to maintain a predominant U.S. presence in high energy physics, the statement labeled the SSC as the "next step in the continuing effort by humankind to understand the fundamental nature of the physical universe."

Continued "world leadership in high energy physics" would preserve and augment the "competitive position in education and technology based industry" which the United States has achieved, the statement asserts.

In providing their stamp of approval to the SSC project, the scientists indicated that by building the SSC the United States would send a "clear signal to all" that we intend to continue in our role as "an international leader in pure and applied sciences."

Mr. Speaker, the fact that the authors of this endorsement represent colleges and universities located in 44 States, Puerto Rico and Canada is reflective of the widespread support that the SSC project has received. This surely is not a regional issue.

Soon, the Department of Energy will select the site on which the SSC will be built. The State that holds that site will need the support of the Congress to fund the program. Realizing the great importance of the SSC to the future scientific role of the United States, I hope that we would fully encourage this project.

Mr. Speaker, I ask that the supportive statement of these respected men and women be inserted into the Congressional Record.

Statement in Support of the Superconducting Super Collider

As chairs of our respective college and university physics departments, we affirm our strong support for the construction of the Superconducting Super Collider (SSC) by the United States government.

1. The SSC is the essential next step in the continuing effort by humankind to understand the fundmental nature of the physical universe. Without it, progress in one of the most basic and exciting directions of science will be seriously inhibited.

2. The technology required for the construction and operation of the SSC, including the reduction of data, represents frontier developments in the areas of materials science, cryogenics, microelectronics, accelerator physics, computer systems and many others. High energy physics has always driven technology and will, through the SSC, continue to do so, with unmeasured benefits to everyone's quality of life and economic well-being.

3. The SSC has already stimulated enormous interest among the young people of this nation. It can help to revive enthusiasm for the study and pursuit of science, increasing the number of scientists serving the needs of our nation.

4. Maintaining world leadership in high energy physics will help to ensure and improve the United States' competitive position in education and technology based industry. Proceeding to build the SSC will be a clear signal to all that the United States is not about to relegate to others its position as an international leader in pure and applied science. Furthermore, we support and encourage efforts to obtain substantial contributions toward funding for the SSC from participating foreign governments.

It is vital that support for the SSC not reduce the nation's commitment to all other responsible areas of scientific investigation. We support fully a program to increase significantly the real budget of the national Science Foundation over the next few years and call for similar increases to the research budgets of other federal agencies. We urge Congress and all other policy makers at federal and state levels to consider adequate support of basic scientific research, including the SSC, to be essential investments in the economy and security of the nation.

TRIBUTE TO THE HONORABLE JAMES J. HOWARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. Rodino] is recognized for 60 minutes.

Mr. RODINO. Mr. Speaker, I rise today to pay tribute to our departed good friend and long time colleague the Honorable James J. Howard. Jim's death on March 25, which shocked and saddened us all, was a great loss for the State of New Jersey and for the entire Nation.

Jim Howard during his 23 years as a Member of Congress upheld the highest traditions of public service. He was a man of total dedication in serving his constituency.

After he was first elected to represent the Third Congressional District of New Jersey in 1964, one of Jim's initial legislative efforts was to win approval for the building of Interstate I-195 and provide a much needed link between New Jersey's State capitol in Trenton and his district along the New Jersey shore. Jim was not interested in just building another road—he wanted to do something to improve the quality of life for the people—his people.

Jim clearly expressed these concerns in one of his first speeches in the House. As he stated,

> Our population is booming and each day more and more vehicles are being used on our roads. In New Jersey many persons commute to work each day and good roads are a necessity rather than a luxury to them. In Monmouth and Ocean Counties, for instance, there are more than 500,000 residents and yet there is but one highway which links them with the State capital in Trenton. * * * It is totally inadequate to handle the number of persons who must travel on this road each day. Because it is inadequate, it is also dangerous.

This was the theme that would continue to guide Jim for more than two decades: doing something good that would help people and promote the general welfare. Using his considerable talents, he was able to overcome many obstacles and I-195 was built. I know that Jim would be very pleased that this highway now bears his name—and that it will stand as a permanent memorial to him.

Jim Howard loved New Jersey's seashore and did everything he could to preserve the beauty of the Jersey shoreline as an unrelenting foe of ocean dumping. He worked diligently on behalf of his district and his State and was responsible for many programs of invaluable benefit to New Jersey: the expansion of Federal aid for transportation, the maintenance of safety on our roads, and a cleaner environment.

But Jim's horizons were not confined by geographic boundaries. He never lost sight of the national implications of the issues and programs he fought for and the benefits they brought to the entire Nation. As a member and then as chairman for the past 7 years of the House Public Works and Transportation Committee, Jim was a leader in the enactment of all the major legislation concerning highways, mass transit, water projects and environmental programs. He was a farsighted leader who helped to ensure that America's infrastructure and transportation systems would be adequate;

that our highways are not only convenient, but that they are safe; that our air and water is clean. Across our land, thanks to his leadership, there are public buildings, dams, bridges, waterways, antipollution projects, airports, roads and railroad stations benefiting millions of people. They stand in testimony of Jim's contributions to America.

All of this is reflected in Jim's most notable legislative initiatives: the building of Interstate I-195; his successful effort in 1982 to designate a gasoline tax increase for the expansion of federally aided highway and mass transit programs: the enactment of the 55-mile-per-hour speed limit as an effective method of lifesaving and energy conservation; Jim's unwavering efforts to make drunken driving a Federal offense; his key sponsorship of the Clean Water Act and the Superfund cleanup bills.

Jim Howard did not think only in terms of programs—he thought in terms of people. Not just the people of New Jersey, but all Americans. And that is why he fought to ensure the safety and public health of every citizen.

Jim Howard was an educator before his election to Congress and—even after coming to Washington—he remained a consummate teacher. Like any good teacher, Jim was always well prepared and well informed because only in this way could he accomplish the goals that were important to him. He was firm—and fair; a skilled negotiator and consensus builder; warm and generous in the most difficult of situations; and he sought to inspire others to reach for the impossible. What he shared with us was a prophetic vision that America must be physically prepared to meet the challenges of the future. What he taught us was that a clean and safe environment is an indispensable bequest in the legacy we leave our children.

Jim Howard commanded the respect, admiration and affection of his colleagues. For me personnally, he was a valuable and dear friend. While his death is a great personal loss to his family, Jim will be sorely missed by his friends and colleagues and by the people he loved and served—his constituents.

To his wife Marlene and his daughters Kathy, Lenore, and Marie goes my heartfelt sympathy. They are in my thoughts and my prayers.

Mr. Speaker, I conclude my remarks with the following articles: the Star Ledger editorial "The Howard Legacy," the Washington Post article by Joan Claybrook and Chuck Hurley "James Howard and His Fights for Public Safety." Also, the program and my speech from the dedication of the James J. Howard Interstate Highway and your own eloquent eulogy to Jim.

[From the Newark Star-Ledger, Mar. 29, 1988]

THE HOWARD LEGACY

Longevity in congressional service has not been that uncommon in that federal legislative branch. But New Jersey has been singularly fortunate in having two members of the House with long, unbroken incumbencies—Peter Rodino (D-10th Dist.), a veteran of 40 years, and James Howard (D-3d Dist.), who had been in the House 24 years.

But within a matter of only a couple of weeks, the Garden State's influential representation in House seniority on key committees has been drastically diminished, first by the Rodino announcement of his impending retirement after this term, and last week, unexpectedly, by a tragic occurrence—a heart attack that took the life of Rep. Howard.

Both congressmen served with distinction, Rep. Howard as head of the Public Works and Transportation Committee, one of the most powerful posts in the House, and Rep. Rodino as chairman of the Judiciary Committee, another extremely powerful body. The Garden State will be losing two potent legislative surrogates with their passing from the political scene.

In his role as a committee chairman, Rep. Howard was a prime force in drafting major legislation covering such important sectors as highways, mass transit, water projects and environmental programs. These are areas of particular importance to a densely populated urban state like New Jersey.

While he was fully cognizant of and responsive to the broader national ramifications of his diverse legislative responsibilities, Rep. Howard was particularly attuned to the needs of his home state. In a full sense, Jim Howard has left a lasting physical imprint on the Garden State—a legislative legacy of an integrated highway network and a significantly improved mass transit system.

These are areas of prime economic importance for a state like New Jersey that has been in the process of a vibrant expansion. And as a means of maintaining a sustained healthy future growth, the state will be greatly dependent on these essential public service facilities.

For the Howard family, there is, of course, the sense of a deep personal loss. For New Jersey, there is the loss of a committed, energetic representative who served his home state long and well.

[From the Washington Post, Apr. 12, 1988]

JAMES HOWARD AND HIS FIGHTS FOR PUBLIC SAFETY

(By Joan Claybrook and Chuck Hurley)

The Post, in its March 26 obituary for Rep. James Howard, did not do justice to a man who fought some of the toughest battles on Capitol Hill and modestly sought little public recognition for his achievements.

A former schoolteacher who was first elected to Congress in 1964, Jim Howard became the chairman of the powerful House Public Works and Transportation Committee the year Ronald Reagan became president. He led the battles to expand Superfund enforcement of toxic-waste cleanup, to strengthen clean water laws and to empower citizens with the right to know about dangerous chemicals in their communities.

Although he was from a Republican district in New Jersey, Democrat Howard didn't shrink from confronting powerful industries when their activities threatened public health and safety. And although he was a loyal Democrat, he took on Democratic colleagues when necessary—such as the pugnacious commerce committee chairman, Rep. John Dignell—because he was unafraid to serve as the voice of the average citizen in America.

Howard was the leader in the fight for the 55 mph speed limit, the single most effective highway safety law in our nation's history. Since 1974 it has saved 50,000 lives and prevented many more disabling injuries.

When Congress last year voted to allow 65 mph speeds on rural interstates, Howard expressed disdain for colleagues who justified their votes by calculating the lives saved with new safety-belt and drunk-driving laws and then balancing them against those that would be lost because of higher speeds. "As long as we're 300 lives to the good, we're okay" is what some told Howard. He was contemptuous of these mathematics of convenience, which are totally irrelevant to the family of a child crippled or a father killed in a high-speed crash.

And when the first figure showing sharp increases in fatal high-speed crashes were described by federal officials and proponents of 65 mph as "too preliminary" and "inconclusive," Howard put that in perspetive too, "If I was waiting for the returns on election night and I was 20 percent behind my opponent, you might say the numbers are inconclusive . . . but they sure are indicative."

Howard was inspired by President John F. Kennedy to switch from public service in the school system to serving the public in elective office. He practiced a person-to-person style of politics, always accessible and willing to listen and, as a teacher, able to translate legislative gobbledygook into the everyday language of his constituents.

Howard was also a hard-nosed horse-trader on Capitol Hill, using the spending power of his public works committee to encourage bipartisan support for his legislative programs. He successfully led the fights for the law on a national, uniform drinking age of 21, for increased federal aid for truck safety, for assistance to states in a nationwide crackdown on drunk drivers and for greater funding of state child-passenger safety programs.

The Post's obituary emphasized that Howard was given significant campaign contributions from business and was entertained on others' expense accounts. This, unfortunately, is permissible under our existing laws, and committee chairs are the biggest recipients of these business funds. But what The Post did not point out is that Howard usually voted for legislation against the parochial interests of many of his contributors.

For example, during the Reagan years he voted for stronger pesticide, clean-air and clean-water laws; for stronger mine safety and health regulations; to retain and enlarge the power of the Consumer Product Safety Commission to regulate consumer products; for the elimination of billions of dollars of corporate tax loopholes; against the elimination of the Legal Services Corp.; for the Federal Trade Commission used-car defect disclosure bill; for oversight of doctors, lawyers and other professionals; for canceling the synthetic fuels demonstration project; for reducing the dairy subsidy; and for deleting funds for the Clinch River Breeder Reactor.

But of all his achievements, Howard was probably proudest of having earned the appellation "Mr. Highway Safety." He recently told the Lifesavers Conference in Boston that though "some might think I'm corny, when I drive through my district at night and see the houses lit up and families inside, I wonder how many of them might not be here without 55 mph." We mourn that the light in the window has gone out on a politician who didn't forget to use his exalted position to nurture the public interest.

JAMES J. HOWARD INTERSTATE HIGHWAY SIGN UNVEILING CEREMONY, APRIL 25, 1988

THE JAMES J. HOWARD INTERSTATE HIGHWAY

The United States Congress authorized the designation of Interstate 195 as the James J. Howard Interstate Highway in March to honor the memory of their colleague and his work.

The late Congressman represented New Jersey's Third Congressional District in the House of Representatives for 23 years and at the time of his death was Chairman of the House Public Works and Transportation Committee, the first New Jerseyan to hold this prestigious post.

The commemorative sign unveiled today carries a brief, but precise, message: "In memory of the New Jersey Congressman who was an untiring advocate for transportation."

Among his major accomplishments was the 55-mile-per-hour speed limit which continues to save lives on the nation's highways.

In 1978, Howard received the "Mass Transit Man of the Year" Award of the American Public Transit Association. He was the author of the "Howard Plan" which provides for a coordinated surface transportation policy and program and seeks to increase the federal-aid highway system, rebuild the nation's 100,000 unsafe bridges and improve highway safety programs.

Howard received the first National Highway Safety Award in 1984 for his sponsorship of the nation's first anti-drunk driving and the 21-year-old national minimum drinking age laws.

Congressman Howard participated at the opening ceremonies which marked the completion of Interstate 195 in 1981. The program stated:

"Without the strong efforts of U.S. Congressional Representative James J. Howard, I-195 would only be a dream today. Congressman Howard drafted and steered the federal legislation which transformed state routes 37 and 38 into I-195."

The James J. Howard Interstate Highway traverses Mercer, Monmouth and Ocean Counties and provides an east-west highway for Central New Jersey. A remaining portion to be completed is part of the Trenton Complex. The completed interstate will connect New Jersey's central and seashore communities with the State Capitol Complex on the Delaware River.

PROGRAM

Sign Unveiling Ceremony, County Route 527 Bridge Over I-195, Jackson Township, 11 a.m., Monday, April 25, 1988.

Invocation: Monsignor John E. Grimes, Pastor, St. Catharine's R. C. Church, Spring Lake.

Welcome: Hazel Frank Gluck, Commissioner of Transportation.

Guest Speakers:

Peter W. Rodino Jr., U.S. Representative, 10th District, Dean of the New Jersey, Congressional Delegation;

Bud Shuster, Pennsylvania, Member, House Public Works and Transportation Committee;

John F. Russo, President, New Jersey Senate.

The Unveiling Ceremony.

Family message: Marie Howard.

REMARKS OF HON. PETER W. RODINO, JR., AT THE DEDICATION OF THE JAMES J. HOWARD INTERSTATE HIGHWAY, APRIL 25, 1988

Thank you Commissioner Gluck. Marlene, Kathy, Lenore and Marie and other members of the Howard family, my colleagues, Senator Russo, distinguished guests and clergy, friends of Jim Howard.

On behalf of a grateful nation and speaking for my colleagues, we are here today to designate Interstate I-195 as the James J. Howard Interstate Highway. This is a highly deserved tribute to a dedicated public servant and an outstanding American whose death is a great loss for the people of New Jersey and the entire Nation.

In many respects, the effort to build I-195—which was one of Jim's first legislative initiatives more than two decades ago—reflects the qualities which highlighted his long and distinguished career in the Congress.

When Jim first campaigned for the Third Congressional District seat in 1964, he pledged to work for the construction of an East-West Highway in Central New Jersey, one that would provide a necessary link for the people of the Jersey Shore—Jim's people—with the western part of New Jersey.

The realization of that goal would prove to be a long, hard fought, and difficult task—requiring patience and perseverance; preparation and commitment; leadership and vision—qualities which Jim Howard demonstrated in abundance during the many debates concerning this legislation on the floor of the House of Representatives.

His determination to overcome the many obstacles which stood in the path of building I-195 was not based on a simple desire to build just another highway. Jim's motivation was to do something good that would help people promote the general welfare—one of the great principles expressed in the preamble of our Constitution.

On January 27, 1965, in one of his first speeches in the House of Representatives, Jim offered a prophetic vision of the need to prepare for the future and, in that speech, he outlined the concerns and philosophy that would continue to guide him for the next 23 years. Let me share with you Jim's own words:

"Our population is booming and each day more and more vehicles are being used on our roads. In New Jersey many persons commute to work each day and good roads are a necessity rather than a luxury to them. Before an industry locates in a State it first takes a hard look at the highway facilities because the difference between good and bad facilities can mean the difference between suceess and failure. In Monmouth and Ocean Counties, for instance, there are more than 500,000 residents and yet there is but one highway which links them with the State capital in Trenton. That artery is Route 33. It is totally inadequate to handle the number of persons who must travel on this road each day. Because it is inadequate, it is also dangerous."

There clearly stated was the essence of Jim Howard: An abiding concern for the needs of people. Not just for the people of New Jersey, But for all Americans across the Nation. This was manifested in the thousands of jobs he helped create through the many public works programs he sponsored; the improvement in the quality of life he sought for people through an adequate transportation system; his overriding commitment to ensuring the safety and public health of every citizen; his fight for clean air and clean water.

Beginning with that speech, Jim began the fight for I-195 and under his leadership, Congress passed three separate amendments to the Highway Act.

Finally, thanks to Jim's determined and untiring efforts and his careful guardianship of this project—ground was broken in 1968 for Interstate I-195 which now stretches 34 miles from Route 38 in Wall Township to Interstate 295 outside of Trenton.

So it is only fitting and appropriate that we stand here today to dedicate this road as the James J. Howard Interstate Highway—only the second part of the Interstate Highway System to be named for an individual by Congress—the other part having been named for President Dwight Eisenhower.

But this designation does not simply honor Jim's success in making I-195 a reality. It recognizes a farsighted leader who sought as chairman of the House Public Works and Transportation Committee to ensure that America's infrastructure—its highways, its bridges, its ports, its waterways—are adequate to meet the challenges of the future. That our roadways are not only convenient for travel—but that they are safe. That our air and water is clean. That our environment is a healthy one.

This designation is also an eloquent testimonial of the respect, the admiration and affection with which Jim Howard was regarded by his colleagues.

But in a larger and a more underlying sense it is our Nation's expression of eternal gratitude for a quarter of a century of dedicated and outstanding public service.

EULOGY FOR CONGRESSMAN JIM HOWARD, MARCH 29, 1988

(By Speaker Jim Wright)

Life is a gift that the Celts believe we are meant to enjoy not merely endure. Jim Howard lived life with the robust and passionate zest of one who exalts in his Creator's gift. On Jim were bestowed the divine dowry of a mind keen and sharp, a heart warm and full, a sense of humor that sprang from a lilting spirit often to puncture the balloons of self-importance that infest the scenes of political power. To be the beneficiary of gifts is bountiful and not to enjoy them nor share them with others would have been a sin.

Jim Howard was not that kind of a sinner. He worked hard and he played hard, and he loved and he laughed, and he lived full tilt. He filled each unforgiving year with 365 full days. And if in the end he burned himself out, well, his candle burned brightly for 60 years and others lighted their torches from his.

Jim Howard was a romantic who believed in the American dream, in the American government as an instrument of its fulfillment, and in the capacity of such imperfect creatures as we to make that dream come true, not just for a favored few but for the humblest and least advantaged in our land.

It is quite natural, then that he chose a public career, that he strove to light the lamps of learning for the young, to purify the waters of God's universe, and to pave and make safer the ways of our travel. Wherever we go in this country we see, but seldom identify, the fruits of Jim Howard's labor. Broad ribbons of highway and capacious harbors, waste water treatment plants that protect the public health in towns big and small where most of the people never heard of Jim, job opportunities from Appalachia to the Mexican border * * * all owe impetus to this man who cared so much about people. And if anyone felt it beneath the lofty purpose of statecraft to be concerned with potholes, Jim Howard knew with unerring truth that service to humankind is of the earth, earthy, and that God sometimes chooses things that are simple to confound the wise.

When America finally gets around to renewing our neglected public infrastructure—as someday we will—how fitting if that program could bear Jim Howard's name.

And how appropriate in the cosmic scheme of things, Marlene, that his last earthy view should be of a long patch of nature's green on a warm Spring day while breathing the fine fresh air of the golf course. After his family and his country and his work, the things Jim Howard loved best were New Jersey, and Ireland, and golf.

And so on fine Spring days for a hundred years and more, as the mist rises gently from the heather and from soft Atlantic waves lapping on the Jersey shore, rising in the vapor with them will be an essence of the spirit of Jim Howard;

And he who in life gave so fully of himself will hear those words of holy promise: "Come, ye blessed of my father and enter into the Kingdom prepared for you from the foundations of the world. * * *"

□ 1910

Mr. Speaker, I yield to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Speaker, I thank the gentleman for yielding

Mr. Speaker, it is with tremendous sorrow that I rise to say a few words about our wonderful colleague, our dear, dear friend, and my Chairman; JIM HOWARD.

It has now been over 4 weeks since JIM's passing but in all candor it does not feel like so many days have gone by. JIM had an energy, an aura, that preceded him into any room, and remained present even after he left. And I think that aura is still with us.

JIM HOWARD accomplished so much for this Nation with that tremendous energy. The backbone of this Nation is its public infrastructure. And I would defy anyone, friend or foe, to name one individual who has done more for our infrastructure than has JIM HOWARD.

Who has done more to preserve and improve our highways and public transit systems than JIM HOWARD? Who has done more for our rivers and harbors? Who has done more to protect the Nation's supply of drinking water? Who, more than JIM HOWARD, has worked effectively to protect and enhance our aviation network and stock of public buildings and grounds?

I have sat with JIM HOWARD through over 19 years of hearings. And JIM knew that when we build a bridge, we're improving this Nation's economy and we're putting Americans to work to do it.

JIM was a leader of our Nation's public works efforts since long before the fancy term "infrastructure" came along. JIM was a plain-spoken man, and didn't need fancy words to know that something was good and was right. And once he became convinced that a cause was just, there was no stopping him. Whether every Member in this Chamber agreed with JIM HOWARD on the 55 mile-per-hour speed limit issue, certainly every one of us respected him deeply for his efforts.

You know, JIM HOWARD had nothing to gain by his determined work on the speed limit. I doubt if it gained him many votes. There was never a powerful special interest backing him on this. JIM HOWARD worked so hard on the issue simply because he felt he was right and because his efforts would not only make life better for many Americans, but would, moreover, preserve their lives as well.

After having worked with him for so many years, I came to believe, sometime before JIM's death, that his approach to his job that we have; this honor that is bestowed upon us by the communities which we represent, was really a very simple one: Figure out what's right, and then get it done.

That's a two-step process, and JIM was a master of both. He could dig through all of the data and information that comes to use, reach his hand through that sometimes murky pile, and pluck out a pure gemstone; the little nugget of truth and wisdom that is essential to good public policy. And once he had that insight, once he had his goal, I've seen few who were better at making their vision become our vision.

So often, the vision of good public policy in committee and on this floor, was first seen through his eyes. And the course that was steered in reaching that policy and having it enacted was often over a rough terrain, but with him at the reins there was little doubt but that the destination would be reached.

JIM, of course, has now reached his destination as must we all. The legacy he leaves behind is evident in public works throughout this Nation. And the tremendous legacy that this may be, it is not his greatest one.

JIM's greatest legacy is our memory of him, his energy, and his aura, which still remain. Because they are his assurance that we must rededicate ourselves to the efforts and goals to which he was so committed.

Without JIM HOWARD, our struggle to achieve his goals, our goals, will be much more difficult. But because they are no less worthy, they are goals and they are efforts that we must continue to pursue.

In that pursuit, the memory of JIM HOWARD will be forever-honored, and his work will live on.

Mr. RODINO. Mr. Speaker, I yield to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, New Jersey and the Nation continue to mourn the untimely death of our esteemed colleague, JIM HOWARD, the veteran chairman of the House Public Works and Transportation Committee. From the personal standpoint, we will all miss his energy, sincerity, and great sense of humor. On the issues, we will not forget the valiant battles JIM fought in the name of transportation safety, environmental integrity, and economic development. He has left a legacy and a challenge for the New Jersey Congressional Delegation, to continue his good works.

First, on the issue of transportation safety, I must again express my admiration for the leadership of our friend JIM HOWARD. As one of his last acts in his committee, JIM pledged to repeal the new 65 mph speed limit on certain noninterstate roads, a little known provision of last December's final continuing resolution.

We all remember how hard JIM fought last year during consideration of the highway reauthorization bill to counter a proposal to increase the speed limit on rural interstates. I supported Jim all the way in this effort, and I know that he found recent statistics on highway fatalities relating to the speed limit increase very distressing. I am referring to the recent National Highway Safety Administration study that documented a 52 percent increase in highway deaths on interstates where the speed limit had been raised to 65 mph. My colleagues, unfortunately, I am sure the death tolls will continue to mount and affirm the chairman's wisdom.

As we all know, debate on the highway bill itself was lively and often times acrimonious, but JIM always conducted himself with grace under pressure.

It is said that knowledge is power. JIM HOWARD had knowledge and complete command of his facts, and that's where his power was exercised in legislative battles which he usually won! That is how he earned the reputation as the chairman of the Public Works and Transportation Committee.

On the issue of environmental protection, JIM ranked at the top. Only 1 week before his death, the House voted to expand the Nation's disaster relief assistance programs. Included in the public works bill was a provision extending the authorization for the New York Harbor debris cleanup project. While advocating programs that benefited the Nation at large, JIM never forgot the pressing matters at home. And, in a tribute to our great chairman, on an amendment to delete Jim's provision, the House voted "no" by a margin of 299 votes. Jim's last floor fight was hardly a fight. It was a tribute to the man and to his integrity.

One of Jim's sterling achievements was the Clean Water Act reauthorization which Congress passed last year. Jim, in concert with another esteemed member of the New Jersey Delegation, Bob Roe, helped craft a superior legislative package which addressed a most serious national problem but one which allowed States and municipalities to do most of the planning. The revolving loan concept, a major innovation of the reauthorization legislation, will allow States to provide low-interest loans to communities in need of sewage treatment systems. Again, a tribute to Jim Howard's legislative genius.

Whether the issue was transportation funding, airline service, coastal pollution, or groundwater protection, Jim was the quintessential advocate. An undeniably national leader with tremendous clout. The State itself has lost an esteemed advocate. In a State as densely populated as New Jersey, a comprehensive transportation strategy is key. In this regard, Jim was always there to go to bat for our over 7 million citizens and lend his support. It was only fitting, therefore, that only days after his death, Congress passed legislation, which the President signed into law, designating New Jersey's I-195, which was officially dedicated yesterday as the "James J. Howard Interstate Highway."

The Nation has lost a consensus-builder and effective national legislator whose drive and ambition reflected an enduring commitment to public service. I guess that best sums up Jim Howard—the public servant par excellence.

On March 29 in Spring Lake, we joined Jim Howard's wife, Marlene, and his children and paid our last respects to our chairman. Once again, we extend our heartfelt sympathy to his family. They should rest comfortably in the knowledge that Jim Howard may be gone, but his legacy lives on and indeed surrounds us—in the clean water we drink and the safe roads we enjoy.

Mr. Speaker, the gentleman from Pennsylvania [Mr. Shuster] was one of Jim Howard's closest friends, and while he must be back in Pennsylvania today for the Pennsylvania primary, he asked that we include his tribute to Jim Howard in this special order.

Mr. SHUSTER. Mr. Speaker, for 16 years, Jim Howard and I worked side by side on the Public Works and Transportation Committee. For most of those years, he was the chairman of the Surface Transportation Subcommittee and I was its ranking member. In all those years, day in and day out, Jim Howard, never once, put politics ahead of his country. He not only was a good and decent man * * * he was a builder of a better America. His legacy lies not simply in the words we use to honor him, but much more importantly, in the clean streams and safe highways and modern airports and public transit systems which, thanks to him, serve millions of Americans every day of their lives.

In a season when showhorses are prancing their stuff, it is revitalizing to reflect that Jim Howard was a workhorse. He was one who used his energy to create real enduring American assets, rather than fluff his way through public life, enjoying the prestige and attention that accompanies service in this great institution without fighting the hard, tedious, gut-wrenching battles so essential to substantive accomplishment.

Often, when Jim and I left the committee to walk over together to the floor for a vote, we kidded each other that we were going over to cancel out each other's vote. And we did disagree on several issues. But when it came to the transportation interests of America, we stood together.

Some words from Vachel Lindsay's wonderful poem, "The Eagle That Is Forgotten" seem especially fitting for Jim Howard:

Sleep softly . . . eagle forgotten . . . under the stone.
Time has its way with you there, and the clay has its own . . .
Sleep on, O brave hearted, O wise man that kindled the flame—
To live in mankind is far more than to live in a name,
To live in mankind, far far more than to live in a name.

Not only does Jim's name live on, but his deeds will continue to touch the lives of millions of Americans every day of their lives as they travel through a cleaner, safer America.

To Marlene and the family, we can only emphasize what they already know: We loved Jim not only for what he did, but for what he was, and we shall carry in our hearts his memory until the day we die.

□ 1925

Mr. RODINO. Mr. Speaker, I yield to the gentleman from Massachusetts [Mr. Moakley].

Mr. MOAKLEY. Mr. Speaker, I would like to thank the gentleman from New Jersey [Mr. Rodino] for reserving this special order and to offer my condolences on the passing of our colleague, the distinguished chairman of the Public Works Committee, and Member of Congress from the Third District of New Jersey, Representative Jim Howard.

Mr. Speaker, when Jim was elected to Congress in 1964 his top priority was to be appointed to the Public Works and Transportation Committee. Jim knew that was the committee on which he could serve his district's best interest. Almost immediately Jim made his presence known, he was the main force behind an authorization for a limited access highway that connected his Jersey Shore district to Trenton. It is appropriate that the highway will now be known as the James J. Howard Interstate Highway.

During Jim's career in the House he was responsible for many of the improvements on our Nation's highways, waterways, and airports. His position as chairman of the Public Works Committee enabled him to not only serve the people of the Third Congressional District of New Jersey, but also the people of the Nation. He was instrumental in the establishment of the 55-mile-per-hour speed limit, the 21-year-old minimum drinking age, and the revitalization of the mass transportation system in our country.

Mr. Speaker, over the past few years I have had the opportunity to work with Jim in seeking Federal aid for a third harbor tunnel in Boston. Members who have traveled to Boston are well aware of the need for an additional tunnel, and the improvement of the Central Artery Roadway. This project was a top priority of mine and the Boston delegation. Through Jim's cooperation and leadership within the Public Works Committee we were able to obtain the necessary funding for the project. I think that it's safe to say that without Jim's assistance these two projects would never have been started. Though Jim may not have been as well known outside of Congress, he was a very effective leader of this body and, because of his effectiveness and leadership, his legislative achievements stretch from Maine to California.

Mr. Speaker, Jim Howard will be remembered as a man who cared for his country, and as one who took pride in the improvements of the Nation's public works system. We have not only lost a valued Member of this House, but we have all lost a good and dear friend that will be sorely missed. May condolences go out to his wife, Marlene, and his three daughters, Kathy, Lenore, and Marie.

Mr. RODINO. Mr. Speaker, I yield to the gentleman from Arkansas [Mr. Hammerschmidt].

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman from New Jersey for requesting this special order so that the many friends of Congressman Jim Howard in this body can reflect for a few moments on the enormous impact of his life and long and distinguished career of public service.

I was profoundly shocked and saddened when I learned of his passing and even now find it difficult to imagine that he is not still with us. Certainly I have lost a dear friend and colleague. It had been my good fortune to serve with Jim Howard on the Public Works and Transportation Committee throughout my entire congressional career, and, in this Congress, we worked very closely together in our positions of leadership on the full committee.

I considered myself fortunate, not only to have had the benefit of a personal and professional association with him, but also to have had a front row seat to watch his legislative mastery at work.

He was, first and foremost, totally committed to the causes he championed. He had a deep feeling for people and burning desire to make life better for all Americans.

His commitment to goals always came early. He was a man of great vision. For instance, he saw the danger signals of a weakening national infrastructure long before they became apparent to Congress and the Nation at large.

Once he saw a problem, he threw all of his passion and his energies into developing an effective and lasting solution. And once Jim Howard threw himself into a battle, the legislative barriers began to fall.

He was not only committed, he was skilled, tough and persistent, and in the long run—to no one's real surprise—he was successful.

When he saw the deficiencies in our Nation's transportation infrastructure, he took the lead in drafting the Surface Transportation Assistance of 1982, which raised the Federal gas tax by 5 cents to help expand the Federal-Aid Highway Program and provide a predictable funding source for mass transit.

It seemed at times that Jim wanted to do it all, and he just about did. Consider the fact that in addition to the 1982 Highway Act, he sponsored such landmark bills as the Clean Water Act Amendments of 1987, the Water Resources Development Act of 1986, and the Motor Carrier Act of 1980—all of which were enacted into law.

And that does not include his successes in the area of highway safety.

Since, as Jim Howard, once said, "He went to bed worrying about the Nation's infrastructure," he surely must have lost sleep worrying about the thousands of Americans killed on our Nation's highways.

It certainly was no secret that he felt an awesome responsibility, as chairman of the committee with jurisdiction over highway safety, for the lives of those who travel the highways and byways of this Nation.

Once again, combining a deep sense of commitment with his typical drive and perseverance, he sponsored and saw enacted the 55-mile-per-hour speed limit law, the 21-year-old minimum drinking age, the Howard-Barnes drunk driving bill, the Commercial Motor Vehicle Safety Act of 1984, and the Uniform Commercial Driver's License Act of 1986.

He took the broad view of those problems he tackled. They were not urban problems or rural problems; they were not the problems of a large State or a small State; and they were not Democrat or Republican problems; they were national problems.

Even though he was a strong leader, Jim Howard was not a one-man show. He actively promoted bipartisanship on our committee, and those of us on the minority side played a strong role in all of the committee's legislative undertakings. His fairness, dedication, and concern earned for him the respect, admiration, and loyalty of both members and staff alike.

It was easy to work with Jim Howard, and, I suspect, easy to work for him. Not that the work load was light, but there was something inspirational about a man who had been at his job more than 23 years and still was consumed with such enthusiasm, energy, and commitment to excellence. In those two decades and more, he was an extremely productive Member of this body, and monuments to his good works are everywhere.

Jim's remarkable wit, his Irish pride, and his easily approachable and accessible nature stood him in good stead both here in Washington and back in his beloved New Jersey.

He was on the job day and night representing the interests of what he proudly described as the best constituents in the Nation. He worked tirelessly to improve the quality of life for all of his district, and he was especially vigilant in protecting the Jersey shore from the dangers of pollution.

As in just about everything he attempted, when it came to the needs and concerns of the Third District, Jim Howard got the job done.

I saw something of the magnitude of his constituents' love and concern during the sad occasion of his funeral in Spring Lake. They knew that they had lost a loyal friend and an irreplaceable asset. So did we.

Above all else, Jim Howard was devoted to his family and he was immensely proud of them. So it is to his lovely wife, Marlene, and daughters, Kathy, Lenore, and Marie, that Ginny and I offer our deepest sympathy.

Mr. RODINO. Mr. Speaker, I yield to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Speaker, I join with my colleagues in expressing deep regret at the recent passing of our highly respected colleage, the gentleman from New Jersey, James J. Howard.

Jim Howard was a true gentleman, always willing and eager to lend a helping hand to any colleague who sought him out, regardless of party affiliation or seniority. Following his first election to the House back in 1964, he became a master of procedure and protocol. Newer Members often sought out Jim's counsel and without exception always found him a font of information.

Jim Howard will be best remembered as the outstanding chairman of our House Public Works Committee, often commenting that the Public Works Committee "has probably done more economic good for more people than any other committee in the Congress."

Jim Howard will be remembered not only as a builder of bridges, highways, airports and railroads, but also a staunch friend of the environment. The Clean Waters Act which was overwhelmingly approved last year over a Presidential veto will be remembered as a fitting monument to this caring legislator.

Throughout the 1960's and 1970's, Jim Howard was a consistent spokesman for the continued expansion and improvements in our transportation infrastructure. There can be no doubt that the Federal Interstate Highway System, so vital to our Nation's economy, would not have progressed and expanded throughout the past 20 years were it not for Jim Howard's persistence and diligence. The recent closing of the Williamsburg Bridge in New York City due to structural weakness is the embodiment of the dire warnings of the erosion of our transportation structures that Jim Howard had issued many times over the past two decades.

Jim Howard came to this Congress with a broad background in education—as a teacher and as an administrator. During his 24 years in the Congress, he taught us by his sterling example of the manner he responded to the demands and responsibilities of his congressional office.

To Jim's widow, Marlene; to their three daughters, Cathy, Lenore, and Marie; and to the many other loved ones that Jim has left behind, we extend our sincere condolences. We know that no words spoken here today can fully assuage their grief, but perhaps they will find some comfort in the knowledge that many share their loss and that Jim's shoes will not be readily filled.

Mr. RODINO. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. Hughes].

Mr. HUGHES. Mr. Speaker, I thank the gentleman from New Jersey [Mr. Rodino] the dean of our delegation for yielding to me.

Mr. Speaker, I rise today to join in paying tribute to our good friend and colleague Jim Howard. It's been nearly a month now since he passed away and I still find it difficult to believe he is no longer with us.

Some 240 years ago, the Earl of Duke wrote a letter to his son, advising him to "be wiser than other people if you can, but do not tell them so." I came across that quote recently and it struck me as perhaps a fitting way to describe Jim Howard's legacy in Congress. He was indeed a man of great wisdom and vision, enormous energy, and talent. But people often didn't realize it because he wasn't a headline grabber. He chose to work on issues that often times were less than glamorous—though they were significant.

People are now beginning to appreciate the enormous contributions which JIM HOWARD made to New Jersey and the Nation during his long and successful career in public service. He was a great leader and our country has suffered a major setback with his loss.

There is no question but that JIM HOWARD was one of the workhorses of the Congress. He had a unique ability to work extremely hard for his congressional district and his State. It's difficult to travel anywhere in New Jersey where you don't find JIM HOWARD's fingerprints on a transportation or economic development project that created jobs, protected the environment or helped improve the quality of life in our State.

As a national leader, JIM HOWARD was deeply committed to creating jobs and putting people to work through public works projects. He had the vision to realize long before most public officials that America's future depended on a modern network of highways and bridges, water and sewage treatment facilities, airports and other mass transit projects—in other words, a complete rebuilding of our Nation's infrastructure.

As chairman of the House Public Works and Transportation Committee, he carried out that goal by helping to direct billions of dollars into public works projects across the country. It was indeed fitting when Congress voted several weeks ago to name Interstate I-95 in New Jersey after JIM HOWARD. I know his family and friends are very proud of this tribute.

Personally, I lost a good friend and reliable ally. I looked to him for guidance when I first came to the Congress as a freshman in 1975, and he was always there to help. Over the years we had many opportunities to work together on projects of mutual concern, such as our efforts to end the dumping of sewage sludge off the coast of New Jersey. I can assure you that it was always better to have JIM HOWARD on your side in these battles than against you. He was tough and tenacious and he knew how to get things done. JIM HOWARD loved this country, this institution and in particular his family.

JIM was a warm and generous man. We shared many laughs and good times together, and now I share the sorrow of his passing. My wife Nancy and I extend our deepest sympathy to JIM's wife Marlene and their three beautiful children: Marie, Kathy and Lenore. We were proud to be JIM HOWARD's friends and we miss him very much.

Mr. RODINO. Mr. Speaker, I yield to the gentleman from Kentucky [Mr. HUBBARD].

Mr. HUBBARD. Mr. Speaker, it is with great sadness and a personal sense of loss that I rise today in memory of the late distinguished chairman of the Public Works Committee, Honorable JAMES J. HOWARD of New Jersey. I served in the Congress for nearly 14 years with JIM, and I know how deeply he will be missed. This body will certainly miss his leadership and assistance, and my sincerest sympathies are extended to his wife, Marlene, and their three children.

JIM's tireless efforts as the chairman of the Public Works and Transportation Committee will never be forgotten. We can largely attribute the vast improvement in this Nation's highways and transportation systems to his determination. He rallied endlessly for legislation to fund and improve our highway and transportation systems, and he has left his mark on this Nation's roads that were in such desperate condition just 7 years ago.

JIM was also the type of person who took the time to address those issues that faced the American people. This past February I was privileged to have Chairman JIM HOWARD accompany me to western Kentucky, meeting with my constituents on matters of vital importance to my First Congressional District. He spoke words of encouragement to the Hickman community about their eligibility for Federal aid for the city from the Economic Development Administration. He emphasized how the proposed $700 million Olmsted Lock and Dam project near Paducah would benefit the towing industry. He met with officials at the Murray State University to show his interest in the campus where many New Jersey constituents have become students.

JIM was a special friend whom I will never forget. I speak for everyone when I say he will be sorely missed by his colleagues in the House of Representatives.

JIM HOWARD and I were neighbors in the Rayburn House Office Building—of the same hallway of the first floor.

It is ironic that it is on my wife Carol's birthday that I pay tribute to a Congressman for whom Carol had so much admiration.

May God richly bless the family of JIM HOWARD.

□ 1940

Mr. RODINO. Mr. Speaker, I yield to the gentleman from New Jersey [Mr. ROE].

Mr. ROE. Mr. Speaker, I certainly want to pay my high regard to the dean of our delegation, DEAN RODINO, for not only taking this special order, but speaking so eloquently on behalf of Chairman HOWARD.

Mr. Speaker, it is with the deepest admiration for a life too full of accomplishments to count that I take part in this special order today for my good friend and colleague, Congressman JAMES J. HOWARD, with whom I worked so closely for all of my 19 years here in the House of Representatives until he was tragically taken from us last month. I have known him for well over 35 years because, when he first came to Congress, I served as the commissioner of the Department of Conservation and Economic Development in the State of New Jersey in the cabinet of Gov. Richard Hughes, and many times JIM used to come to Trenton, and we did a lot of radio broadcasts and television programs together extolling the virtues of New Jersey and the things we should be doing in the Congress and throughout this country, not only for our State, but for the other States throughout the Nation.

So we built up a long friendship, and a long relationship together and a very close friendship, and I certainly know that JIM's loss was a devastating blow for his devoted and wonderful wife, Marlene, and their children, and I am especially proud of the strength and courage they have shown during this most difficult period.

At the same time, Mr. Speaker, JIM HOWARD's loss to this country, which he so loved and served for more than two decades, is also great. It is clear that from all he did in public service that JAMES J. HOWARD most assuredly was a great American.

Now I think that when we were making recognitions of remembrances and the way we feel that there are bright sides that should be recognized and some of the nice things that happen to people that make them close friends, and I think the first and foremost, working with JIM for so long here in Congress, that I would declare him to be the master builder of America. There is nobody in this House, 435 Members strong, whether it had to do with a dam, or reservoir, or flood control, whether it had to do with highways, bridges, or ports or anything that makes America great, the very foundation of the economic strength of America, which was under the jurisdiction of the Public Works Committee under JIM's jurisdiction, that he did not know about. I think that many Members did not give him quite the credit, that he understood precisely what was happening in the State of Washington, or Oregon or down south in Kentucky, or some of the many other States throughout the Nation. So, when he came to the floor, he was not just parroting about some project someplace. He intimately knew what the issues and problems were and what the situation was behind the issues, so I think that is one of the great reasons that he was as effective as he was as chairman of this committee in heading up the most important committee, in my judgment, in the House of Representatives.

So, master builder he was. The press used to come out at times, and they would talk about Public Works as being the pork barrel committee. They would say that is the committee that spends the money. But my colleagues know, and it always amazed me, when anybody had a problem in America in any State, or any city, or hamlet or villege, that affected their sewers or just the water they drink, their sewerage programs, their roads, their transportation and public buildings, and no matter what the situation was, they always had to come back and say to JIM HOWARD in the Public Works Committee and the chairman of the Public Works Committee, "We have a problem; can you help," and JIM HOWARD was always the first one there to help get it done.

So, if we look at America as it is, we have to talk about the quality of life in this country certainly in safety and every other way, has been enhanced by the leadership of JIM HOWARD. My colleagues know, although he accomplished so much in his 23 years in Congress representing the Third District of New Jersey, I believe that the headline on an article in last Tuesday's Washington Post about JIM HOWARD really put into perspective what this man was about. The headline said: "James Howard and His Fight for Public Safety." JIM HOWARD really cared about the people of this Nation, and he dedicated himself to making a safer world for all of them and all of us. JIM HOWARD fought against great opposition to make the 55-mile per hour speed limit a reality, a law that had been estimated to have saved at least 50,000 lives in the past 14 years, and he carried that battle out to the very end. He fought for a 21-year-old minimum drinking age and for legislation to help States combat the mennace of drunk driving. In doing so, he saved countless numbers of very precious lives.

JIM fought for a safer America on other fronts, too. He worked for increased Federal aid for truck safety and for State programs to promote child passenger safety. He sponsored the Motor Carrier Safety Act of 1984, the Motor Carrier Act of 1980, the first regulatory reform of the trucking industry in 50 years. He fought for stronger enforcement of Superfund statutes providing for cleanup of toxic waste dumps around the Nation and for a strong Clean Water Act. He and BILL HUGHES, who preceded me, as my colleagues know, in making his comments tonight, have fought extremely hard for cleaning up the waters of this country, particularly the oceans, and I know that one of the bills that he, both he and JIM, were working on, and BILL continues to work on, has to do with the dumping of plastic materials into the oceans of our country and the waters of our country that is killing and maiming so much of our natural wildlife.

□ 1950

He fought for stronger enforcement again of Superfund. He sponsored legislation to require the closing of the New York Bight 12-mile sewage sludge dump site and required the relocation of the 6-mile mud dump site by 1989.

You know, who wants to talk about sludge sites and bight sites in New York and New Jersey? Well, it happens to be that he was fighting to stop the States from dumping millions and millions of gallons of polluted sludge waters into the waters off the coast of New Jersey and New York.

He was also the author of the Howard plan, which combined mass transit and highway legislation into a coordinated surface transportation policy for the first time.

So the litany goes. There is no beginning and no end. Mr. Speaker, the list of achievements is endless and JIM HOWARD was committed toward making America a better and safer place for all of us in which to live.

As Congressman BILL HUGHES pointed out, beyond the accomplishments was JIM HOWARD, the man. The Washington Post article also described him as hard-nosed. I think it is safe to say that when it came to the issues he really cared about, like the safety of the American people, he could be as tough as any man, and many times tougher than most; but at the same time he was kind, compassionate, and devoted to working for what was right. This was JIM HOWARD, our friend. We are going to miss him very much.

Mr. ANNUNZIO. Mr. Speaker, it is with great sorrow that I rise today to join my colleagues in paying tribute to Congressman JAMES J. HOWARD. I mourn his loss not only because this Nation has lost a dedicated public servant, but also because I have lost a dear friend. We were elected to the House of Representatives in the same year—1964—and ever since, JIM has given outstanding service to our Nation and to his constituents from the Third District of New Jersey.

Before coming to Congress, JIM served with the U.S. Navy during World War II, and afterward, studied education and received his master's degree in that field. He taught school in New Jersey for a number of years before running for Congress.

His distinguished career in Congress lasted almost 24 years. By 1973, he was chairman of the Subcommittee on Energy of the Public Works Committee. He also served as chairman of the Subcommittee on Surface Transportation of the Public Works and Transportation Committee. In 1980 he became chairman of the full Committee on Public Works and Transportation, and continued to serve in that capacity until his untimely death.

In each of these positions, and in all of his legislative work, JIM left his mark. He had a mind of his own. He was not afraid to fight for the causes in which he believed. As chairman of the Subcommittee on Energy, JIM led the crusade to establish a nationwide speed limit of 55 mile per hour. This reduced speed limit not only saved energy at a time when our Nation was petroleum-short, but most importantly, it saved lives. Since 1974, approximately 50,000 lives have been saved, thanks to this law, and that means 50,000 people who are alive today owe their lives to JIM HOWARD.

If his career had ended then, this Nation would still have been in debt to JIM. But JIM continued to fight for the public safety. He campaigned for stricter drunk driving penalties and for child-passenger safety laws. He also advocated more effective clean air and clean water laws, and stricter pesticide rules, always keeping the public interest uppermost in mind. In 1982, he successfully led the fight to override the President's veto of the Surface Transportation and Uniform Relocation Assistance Act, which authorizes the funding necessary to complete America's 42,000 mile interstate highway system.

On behalf of Mrs. Annunzio and myself, I extend our deepest sympathy to his devoted wife, Marlene, to his three daughters, and to the other members of his family. He has left a priceless legacy which will not soon be forgotten.

Mr. BROOKS. Mr. Speaker, I rise today to join my colleagues in expressing our sense of deep sadness at the passing of our beloved friend, JAMES J. HOWARD of New Jersey's Third Congressional District. His death on March 25 marked the passing of an outstanding leader and a dear friend of mine.

Congressman HOWARD served this body with both distinction and dedication. As chairman of the House Public Works and Transportation Committee, JIM HOWARD earned the respect of all with whom he came in contact. On the floor of the House of Representatives, Congressman HOWARD brought compassion and understanding to the deliberations in our Chamber.

The people of New Jersey's Third Congressional District were indeed fortunate to have Congressman HOWARD represent their interests here in Washington with such energy and devotion. They could not have had a stronger advocate and he left an enduring mark in this House.

All of us in the 100th Congress will miss his many contributions to our joint legislative efforts. He set a high standard of excellence for others to follow. I valued his leadership and I will miss his warm friendship. His work in Congress will continue to be of great benefit to people across this Nation and they, too, will miss him. His wife, Marlene, and his three daughters Kathy, Lenore, and Marie have my deepest sympathy.

Mr. FLORIO. Mr. Speaker, when we lost JAMES J. HOWARD a few weeks ago, those of us in this body lost a friend. The people of New Jersey lost an advocate. And the people of our Nation lost a tireless champion for the cause of safety.

As they drive along our interstate highways, most Americans probably give little thought to who is responsible for the ease with which they get from place to place. JIM HOWARD deserves much of the credit. But it didn't bother him if his name wasn't a household word or he didn't see himself on the evening news.

JIM HOWARD worked hard. He worked very hard. He did it because it was important to him that he served. This was not a man who entered public service with cold calculations as to what he intended to get out of it.

JIM HOWARD fought for what he believed in. He didn't win every battle, but he won respect and admiration from his colleagues—and his untimely passing cannot diminish that.

Mr. MILLER of Ohio. Mr. Speaker, I want to join my House colleagues in paying my respects and expressing my deepest sympathy upon the passing away of our good friend, JIM HOWARD. It is with profound sorrow and shock that we learned of his death.

There are so many ways we can express our appreciation for the outstanding contributions JIM HOWARD made to this House and to the improvement of this great Nation. The vast public works projects which benefited our economic development, provided jobs, and opened vital transportation systems and routes, all stand in tribute to a man who made his priorities the business of Congress and the betterment of our society.

His career in the U.S. Congress was marked by distinguished service and astute legislative action. I know that I personally relied upon his good counsel and advice on a number of occasions. He worked tirelessly for those programs which went far beyond the immediate concerns of his district and the State of New Jersey. If there was ever a Member whose efforts were felt from one end of this Nation to the other, it was JIM HOWARD. His work was marked with a gracious manner and consistent persistence that impressed us all.

JIM HOWARD will be greatly missed in this Chamber, in this House, and in every proper effort that made this Nation prosperous and successful. I want to extend my sympathy to his family and remind us all that we have a certain responsibility to remember all he represented, what he championed and how he epitomized the responsibilities of an able and dedicated legislator.

Mr. CONTE. Mr. Speaker, we all suffered a huge loss on March 25. The Nation, the State of New Jersey, the House of Representatives, and me personally, when our colleague JAMES J. HOWARD passed away.

I have served in this body for 30 years. I have had the pleasure of serving with many hundreds of Members of Congress over those three decades. But few have meant more to me, and few have done more for this country, than JIM HOWARD.

JIM died following a heart attack suffered on a golf course outside of Washington. With his death, he leaves behind a legacy almost unparalleled in this House. For 23 years he represented New Jersey's Third Congressional District with honor, with integrity, and with distinction.

From 1981 until his untimely death, JIM ably headed the powerful Committee on Public Works and Transportation with a sense of fairness and equity that was admired by all who dealt with him.

I think it would be fair to say that JIM HOWARD did more to protect American lives than virtually anyone. This great servant of the public led the charge for a 55-mile-per-hour speed limit that has been credited with saving more than 50,000 lives and preventing many, many more crippling injuries. He was recently named "Mr. Highway Safety" in honor of his devotion to safe roads across our country.

But to emphasize only his record on highway safety without mentioning his yeoman efforts in other areas would be unfair. The great warrior JIM fought the battles in the trenches to enact tough consumer protection laws ranging from the strengthening of the Consumer Product Safety Commission to stronger pesticide, clean water, and clean air standards. The battlefields changed, but JIM's dedication to public safety remained steady.

For 23 years JIM was a revered Member of this House. But the caring for his fellow man extended well beyond that. Prior to coming to Congress, JIM was both a public school teacher and a principal. He received a great deal of recognition during those years for the same type of abilities that he showed all of us in Congress.

Mr. Speaker, JIM's accomplishments throughout his life would fill the pages of an entire CONGRESSIONAL RECORD and more. But words could never describe the personal loss that I and so many others have felt with JIM's passing.

My wife, Corinne, and I will cherish the many treasured memories we have shared with JIM and his lovely wife, Marlene. His leadership—and more importantly, his friendship—have meant more to me personally than I could ever explain.

Whether on the golf course or on the floor of the House, JIM's love for life and his fellow man were truly inspirational. Corinne's and my thoughts, our love, and our prayers go out to Marlene and the rest of the Howard family. Your loss is felt and shared by many.

Mr. FASCELL. Mr. Speaker, I would like to join our colleagues in paying tribute to one of our most esteemed colleagues. JAMES HOWARD was a powerful factor in Congress since he entered in 1965. As chairman of the Public Works and Transportation Committee, he worked diligently toward providing the Nation's people with an effective and safe transportation system.

JIM had the courage to pursue his beliefs. He was a competent and warm person who strongly defended the interests of his constituents. He was an individual intensely devoted to them and made decisions to benefit them as well as the Nation.

JIM HOWARD touched each of our lives. Whether it was for his colleagues in Congress or the people of the Nation, he was always trying to improve our transit system. Over the years, his style and determination left their mark on our Nation's legislative process. He made his impact felt in the House in many ways, but one of the most important was his ability to make things happen.

With the able leadership of our colleague, JIM HOWARD, our highways have become better and safer. In so many ways, quietly and effectively, with great determination, he also worked hard to make the world safer and better. I am proud to have served with JIM HOWARD. His commitment and service will continue to provide an example to us all, and his presence here will be sorely missed. My sincere condolences go to his wife, Marlene, and to his children.

Mr. MONTGOMERY. Mr. Speaker, I want to join my colleagues in this special order today in honor of our friend, the gentleman from New Jersey, JIM HOWARD. I want to thank PETER RODINO for taking this time so we can pay tribute to the 25 years of service JIM HOWARD gave to his State of New Jersey and to the country.

JIM's office and mine were on the same hall. I saw him a lot over these past few months and got to know members of his staff.

We will always remember JIM HOWARD as one of the strongest committee chairmen in this Chamber. He was always out there pushing and working hard when his bills were on the floor for consideration. He understood public works and what they meant to the country's development. He was also one of the most knowledgeable men in Washington on our transportation problems.

JIM's was never afraid to take a strong stand. I especially remember his tough fight to keep the speed limit at 55 miles per hour.

He was a good friend. We will all miss him.

Mr. CHAPPELL, Mr. Speaker, I join my colleagues in expressing deep sorrow at the passing of our distinguished colleague, JIM HOWARD, and in extending heartfelt condolences to his wife, Marlene, his three daughters, other members of the family and his staff.

JIM HOWARD cared deeply about this country. His keen leadership abilities were most apparent in his chairing of the very important Public Works Committee. In this capacity he brightened the face of our country with so many vital public projects which enhanced the strength and competitive abilities of our Nation. Indeed, he has left his indelible imprint on our roads, public utilities, and in general on our opportunities to breathe clean air, drink clean water, and tend our lands free of so many hazards prevalent in today's world.

Our Nation has lost a great patriot. We have lost a dear friend and colleague. We shall all miss him deeply.

Mr. TRAFICANT. Mr. Speaker, today I rise to my tribute to my chairman, my colleague, and my friend, JIM HOWARD.

I would like to extend my sincere condolences to JIM's wife and family. Altough JIM is no longer with us, his goals and accomplishments will live on. As a fellow member of the House Public Works and Transportation Committee, I valued his opinion and trusted his judgment. JIM's family and friends can be comforted by the fact that he was a respected Member of the House of Representatives and an individual dedicated to improving the economic and social well-being of every American.

During his more than 23 years in the House, JIM worked hard to improve and maintain our Nation's infrastructure. He recognized the importance of an integrated interstate highway system and was the chief sponsor of the 55-mile-an-hour speed limit and 21-year-old drinking age laws.

As the chairman of the House Public Works and Transportation Committee, JIM led the fight to sustain the funds necessary for an expanded highway program and coordination of a national surface transportation policy.

For me JIM was a valuable ally and major influence on projects and programs of particular importance to my district. I could always count on his support and I will miss the opportunity to seek his advice on issues related to the Public Works and Transportation Committee.

Mr. Speaker, JIM HOWARD was truly a valuable Member of this body and although his presence will be missed, his ideas and convictions will move ahead.

Mr. SMITH of New Jersey. Mr. Speaker, I think it is only fitting that we take the time this evening to honor and highlight the extensive and successful career of our former colleague, JAMES J. HOWARD.

Mr. Speaker, prior to my election in 1980, and certainly throughout my tenure in the Congress, JIM HOWARD has been recognized as one of the more notable and respected members of the New Jersey congressional delegation. He served the people of New Jersey's Third Congressional District with dedication and compassion and accumulated a distinguished record as an active member—and later as the chairman—of the House Committee on Public Works and Transportation.

Among the more noteworthy achievements in JIM HOWARD'S record are his work on a number of highway bills signed into law throughout the 1960's, 1970's, and 1980's. In fact, in recognition of JIM HOWARD'S leadership role in the expansion and upkeep of America's infrastructure, the Congress and President Reagan named a major New Jersey artery—Interstate 195—after JIM. The newly named James J. Howard Highway became a reality in part because of JIM HOWARD'S hard-fought battles in the Congress in the late 1960's. Since the bulk of this roadway runs within my district, I am particularly aware of its importance in facilitating safe and easy east-west travel for business and tourist activities in the State of New Jersey.

Mr. Speaker, I must say that any review of JIM HOWARD'S work in the Congress would be remiss if it did not highlight his commitment to highway safety and the 55-mph speed limit. A leader in the fight for the 55-mph limit in the 1970's, JIM was rightfully proud in having helped establish a law estimated to have saved over 50,000 lives since 1974. While the 55-mph limit has since been modified, I think time will tell and more people will agree with JIM'S contention that the 55-mph speed limit is a lifesaving tool that should not be disregarded.

Mr. Speaker, shortly after his death, the Washington Post carried a column by Joan Claybrook and Chuck Hurley which outlined JIM HOWARD'S contributions as a public servant. At this point, I would like to insert it in the RECORD so that others will have a chance to read this brief but favorable profile of a dedicated Member of Congress.

[From the Washington Post, Apr. 12, 1988]

JAMES HOWARD AND HIS FIGHTS FOR PUBLIC SAFETY

(By Joan Claybrook and Chuck Hurley)

The Post, in its March 26 obituary for Rep. James Howard, did not do justice to a man who fought some of the toughest battles on Capitol Hill and modestly sought little public recognition for his achievements.

A former schoolteacher who was first elected to Congress in 1964, Jim Howard became the chairman of the powerful House Public Works and Transportation Committee the year Ronald Reagan became president. He led the battles to expand Superfund enforcement of toxic-waste cleanup, to strengthen clean-water laws and to empower citizens with the right to know about dangerous chemicals in their communities.

Although he was from a Republican district in New Jersey, Democrat Howard didn't shrink from confronting powerful industries when their activities threatened public health and safety. And although he was a loyal Democrat, he took on Democratic colleagues when necessary—such as the pugnacious commerce committee chairman, Rep. John Dingell—because he was unafraid to serve as the voice of the average citizen in America.

Howard was the leader in the fight for the 55 mph speed limit, the single most effective highway safety law in our nation's history. Since 1974 it has saved 50,000 lives and prevented many more disabling injuries.

When Congress last year voted to allow 65 mph speeds on rural interstates, Howard expressed disdain for colleagues who justified their votes by calculating the lives saved with new safety-belt and drunk-driving laws and then balancing them against those that would be lost because of higher speeds. "As long as we're 300 lives to the good, we're okay" is what some told Howard. He was contemptuous of these mathematics of convenience, which are totally irrelevant to the family of a child crippled or a father killed in a high-speed crash.

And when the first figures showing sharp increases in fatal high-speed crashes were described by federal officials and proponents of 65 mph as "too preliminary" and "inconclusive," Howard put that in perspective too. "If I was waiting for the return on election night and I was 20 percent behind my opponent, you might say the numbers are inconclusive . . . but they sure are indicative."

Howard was inspired by President John F. Kennedy to switch from public service in the school system to serving the public in elective office. He practiced a person-to-person style of politics, always accessible and willing to listen and, as a teacher, able to translate legislative gobbledygook into the everyday language of his constituents.

Howard was also a hard-nosed horse-trader on Capitol Hill, using the spending power of his public works committee to encourage bipartisan support for his legislative programs. He successfully led the fights for the law on a national, uniform drinking age of 21, for increased federal aid for truck safety, for assistance to states in a nationwide crackdown on drunk drivers and for greater funding of state child-passenger safety programs.

The Post's obituary emphasized that Howard was given significant campaign contributions from business and was entertained on others' expense accounts. This unfortunately, as permissible under our existing laws, and committee chairs are the biggest recipients of these business funds. But what The Post did not point out is that Howard usually voted for legislation against the parochial interests of many of his contributors.

For example, during the Reagan years he voted for stronger pesticide, clean-air and clean-water laws; for stronger mine safety and health regulations; to retain and enlarge the power of the Consumer Protection Safety Commission to regulate consumer products; for the elimination of billions of dollars of corporate tax loopholes; against the elimination of the Legal Services Corp.; for the Federal Trade Commission used-car defect disclosure bill; for oversight of doctors, lawyers and other professionals; for canceling the synthetic fuels, demonstration project; for reducing the dairy subsidy; and for deleting funds for the Clinch River Breeder Reactor.

But of all his achievements, Howard was probably proudest of having earned the appellation "Mr. Highway Safety." He recently told the Lifesavers Conference in Boston that though "some might think I'm corny, when I drive through my district at night and see the houses lit up and families inside, I wonder how many of them might not be here without 55 mph." We mourn that the light in the window has gone out on a politician who didn't forget to use his exalted position to nurture the public interest.

Mr. CLINGER. Mr. Speaker, I am very pleased to join with so many of my colleagues in paying tribute to our departed friend and a great leader in this House—JIM HOWARD.

I must confess that I got off on the very worst foot with JIM shortly after I came to Congress and was appointed to the Public Works and Transportation Committee in 1979. The National Republican Congressional Committee asked me to go to a small town on the coast of New Jersey to speak at a big party function. When I got there you can imagine my shock and dismay when I discovered that I was the principal speaker at a fundraising dinner for JIM'S Republican opponent that year.

Well, I gave about 25 percent of the speech I was prepared to give, avoided the local press, and slunk out of town praying that there would be no mention of me in any news reports. A week or so went by and I thought I was in the clear. And then one day I passed JIM in the hall and without breaking stride he said, "Did you have a good time in my district, Mr. CLINGER?"

I feared the worst. Even then JIM was one of the most influential members of the committee and in line for the chairmanship. He could have made my life miserable to say the least. But he never did. And that fact says volumes about the man. It also made me one of his biggest fans.

JIM HOWARD was never small-minded or vindicative. In fact, just the reverse. The committee has been a model of bipartisan cooperation under JIM'S leadership. We in the minority were always consulted about committee business and whenever possible, our ideas have been adopted. We never felt shutout of the process. In fact, JIM went out of his way to emphasize the bipartisan nature of the committee—often attending fundraising events for Republican members. And he fought just as hard for meritorious projects in Republican districts as he did for those in Democratic districts.

Under JIM HOWARD'S dynamic leadership, the Public Works and Transportation Committee enjoyed a unique reputation for effective legislation. We rarely came to the floor with a bill which the entire committee could not support. The reason was that JIM was a masterful diplomat and negotiator. He could find ways to satisfy the concerns of members without compromising on essential elements of a bill.

JIM HOWARD was a strong leader, a tireless worker to improve public facilities and the Nation's transportation network and a good friend to all of us. The poet W.H. Auden once wrote, "Everyday there die among us those who were doing us some good and knew it was never enough but hoped to improve a little by living." JIM HOWARD was one of those. He improved us all and his Nation by living. He will be sorely missed.

Mr. UDALL. Mr. Speaker, earlier this month I was greatly honored by the family of the late JIM HOWARD to be one of the speakers at the rites and ceremonies in honor of our fallen colleague. I spoke from notes and have tried to recapture for the RECORD the thrust of my comments at that solemn occasion:

We gather today in love and affection for our late friend and colleague, Jim Howard, and for his magnificent partner, Marlene, and daughters Marie, Kathy and Lenore.

From my observation point, I can bear witness to the family and to the folks who sent him to Congress for some 23 years, that Jim was one of the best, most gifted, productive and beloved Members of this institution we call the House of Representatives.

We mourn Jim's death, for something special has been taken from all of us, and yet we can also celebrate his life and the special qualities that affected each of us. . . his loyalty, his honesty and his endless capacity for friendship.

I can never forget the first time I met Jim Howard—it was one of those rare times when you sense an instant rapport with another human being—and a couple of days later I was talking to a newcomer who said, "You know this Jim Howard?" I said yes, and he said, "I feel like I've known him all my life." I replied, "He affects everyone that way."

What was the secret by which this educator and school teacher became a leading member of this House and chairman of the House Public Works Committee, a bastion of resources and development? He certainly followed a great line of chairmen, giants in the field like Blatnik, Jones, Bizz Johnson and one of our senior members who preceded me at the podium, Speaker Jim Wright.

Thomas Jefferson once said that the art of government, the sole art, is the art of being honest. Honest with your family—honest with your constituents—honest with your church—honest with your friends—and even honest with your enemies. And honest with yourself. This was the heart of Jim Howard. He was possessed of a personal integrity that will not die.

Jim took a Republican district that had been Republican since the Civil War and still votes Republican today in the national elections and made it his own, and led his constituency to see things as he did. Speaker Sam Rayburn once said that any congressman worth his salt could lead his district, and Jim did just that.

Jim would not take the easy course, when the path of compromise was wrong. He was extremely good at "working the doors" when a vote was going on, and 200 or 300 of us come charging through and want to know what a bill is all about before the machine closes in 20 seconds. When Jim was at the door with his thumbs up or down, that was enough for most of us. He had this very precious gift—the confidence of his colleagues.

Jim epitomized the Mark Twain axiom that Harry Truman kept on his desk—"do what is right; you'll please some people and astonish all the rest."

Jim didn't win every fight, but it was not for want of energy or enthusiasm. In fact, he was always the most enthusiastic when things looked bleak. Someone once said that Jim Howard was the kind of man who would charge the fires of Hell with a bucket of water.

Jim once put together a program that sailed through the House in about two weeks after we had a bad winter and potholes invaded highways in all our major cities. I used to kid him about being the Prince of Potholes. To Jim, of course, it was nothing to laugh about because it had to do with damage to people and property, and he persevered. Later, he locked onto the 55 mile per hour speed limit when it became clear it could save lives. It would have been easier to have bypassed that fight altogether, but Jim wouldn't hear of it. He came down on the side of safety and people, and he knew it was the right thing to do.

At times of grief and hurt, we all tend to come forward and ask if we can do something, or ask if we can be of help. I would say to my friends and friends of Jim, yes, you can do something—maybe a couple of things. Say a prayer today to comfort the family, to help with the immediate sorrow. And down the road, just be there.

I think each of us wants to reaffirm our love and affection for Jim today, and to tell the family that we love you and we're going to be there through whatever lies ahead.

Next fall, when the leaves are changing, or next Christmas, let us all remember to say once again that we love you and we're thinking of you, and when you're lonely and our friend Jim can't be there, your other friends will be. None of us will forget you.

I'm told that the righteous can be rewarded. I suspect that if that's true, Jim is already lining up a foursome and maneuvering to get elected chairman of the Celestial Committee on Potholes.

What we do here today is good and right, but it should not be the end of our tribute to a friend. A month, six months or six years from now, we'll be here to make a call at Christmas or any other time, to ask how Marlene and the girls are doing, and to say, simply, we love you.

Mr. QUILLEN. Mr. Speaker, I want to commend the distinguished dean of the New Jersey delegation, Mr. RODINO, for holding this special order and I wish to join my colleagues in remembering and paying tribute to my longtime colleague and good friend, Congressman JAMES J. HOWARD of New Jersey, who passed away following a heart attack on March 25.

JIM HOWARD's passing is a personal loss to me. He was my friend and over the past 23 years that we have served together in the House, time and time again we worked closely together on national transportation issues that were the primary focus of his congressional career. And what an outstanding career it was. JIM served with distinction on the House Committee on Public Works and Transportation for many years and served as its chairman since 1981. In my judgment, no person in America has had such a decisive influence on our country's transportation policies as JIM HOWARD. Especially in regard to our National Highway System, Chairman HOWARD was the man who fought long and hard and successfully time and time again to expand and upgrade our roads and bridges. All Americans owe him a tremendous debt for his tireless efforts to improve our highway system and to upgrade highway safety.

But JIM HOWARD's work went beyond our highway system. As chairman of the Public Works and Transportation Committee he played a formidable and leading role in all aspects of our national public works programs and transportation infrastructures across the board. Whether it was highways, bridges, railroads, airlines, airports, you name it, Chairman HOWARD's imprint was on the many fine bills that were written in his committee. Despite some tiresome critics of transportation and public works projects, Chairman HOWARD pressed ahead to deal intelligently and forcefully with rebuilding and renewing our national infrastructure to serve a growing population and a growing economy. I have no doubt that without his presence, we would have fallen far behind where we are today in these areas of our national life.

And in his work here in the House, one aspect should be especially pointed out. JIM HOWARD was without equal in his ability as a committee chairman to work successfully on a truly bipartisan basis. He was a good Democrat but he was also and always a fair chairman to Republican Members. He welcomed the views of the Republican members of his committee and other Republican Members of the House. Because of this approach to his work, Chairman JIM HOWARD brought fine bills to the House floor and many of them sailed through the House with large, bipartisan votes of support. It was a pleasure to work with him on many occasions over the years and I can't count the number of times he listened to me and helped me with transportation problems back home in my district. Because of this help and because he was a fine and honorable man who was my good friend, I was pleased to help him time and again over the years when I was in a position to do so.

I will miss JIM HOWARD. His passing is a great personal loss and the country has lost a great Congressman. JIM HOWARD just cannot be replaced and we who had the privilege to serve with him over these many years know this in our hearts.

In this time of sorrow, I wish to extend my sincere condolences to his wife, Marlene Vetrano Howard, his three daughters, Kathy Tjunin, Lenore Buchanan, and Marie Howard, and his relatives and friends.

Mr. CLAY. Mr. Speaker, just a few short weeks ago we were shocked and saddened by the sudden death of Representative JAMES HOWARD. I thank the distinguished gentleman from New Jersey [Mr. RODINO] for providing this opportunity to mourn the loss and celebrate the life of JIM HOWARD, our friend and colleague. The people of New Jersey have lost an outstanding statesman and we have lost a faithful Member of this body. Today I wish to express my deepest respect for Representative HOWARD'S outstanding contributions to Congress.

Congressman HOWARD's distinguished career in the U.S. House of Representatives was a tribute to our democratic system of government and the operations of this House of

Congress. Elected to the U.S. House of Representatives in 12 hard fought contests, JIM HOWARD exemplified the traits of a masterful candidate and an accomplished politician. Within Congress, JIM HOWARD was a deeply dedicated and profoundly determined legislator who embodied the highest principles of statesmanship.

Through his role on the House Public Works Committee, Chairman HOWARD demonstrated his profound commitment to strengthening our Nation and his great ability to craft compromise. He faced the most challenging policy decisions, often beset with endless controversy, with a predictable courage and equanimity. JAMES HOWARD worked untiringly with a fair-minded, even-handed efficiency that established his reputation as a preeminent legislative strategist.

Congressman HOWARD was a most distinguished Member of this body. As we mourn his passing, we are comforted by the knowledge that his life was about great achievements. JIM HOWARD improved our Nation through his support of vital public works projects and his devotion to the legislative process. He was a man of enormous wisdom and abundant strength. Those of us in this body who had the pleasure of working with JIM HOWARD will never forget him. May his memory serve to inspire us and guide us in the years ahead.

Mr. GALLO. Mr. Speaker, it was with a sense of deep personal sadness that I received the news on March 25 of the death of my friend and colleague, Representative JAMES J. HOWARD, of the Third District of New Jersey.

When you stand outside this fine Capitol Building on a beautiful spring day and see the flags at half staff, and you know that this significant honor pays tribute to a distinguished Member of this body, there is a special sadness associated with that sight.

When that individual is taken suddenly from us, in the midst of a long and productive career of public service, there is a feeling of great emptiness, like a rural road in the middle of the night when there are no signs of life within sight.

When that Member of Congress has also played an important role in your life, then the news of his passing triggers a great many memories of a personal nature as well.

Each of us remembers with a special fondness those first days as a freshman Member of Congress when many important decisions must be made and lasting friendships begin to take shape.

For me, the memories of those days include JIM HOWARD'S kind words to me as a new member of the committee he chaired so effectively for 7 years.

When I was appointed to the Public Works and Transportation Committee, JIM HOWARD welcomed me to the committee in the genuine spirit of friendship.

His true talent for leadership was his ability to bring committee members together in a bipartisan fashion in support of the consensus position on an issue.

Under his able direction and with his encouragement, Congress has enacted sweeping legislative reforms that have set high standards for design and construction of Federal public works projects well into the 21st century.

The constant drum-beat from columnist Jack Anderson and others not withstanding, the levels of so-called pork barrel public works projects actually declined during JIM HOWARD'S tenure as committee chairman.

Today, because of JIM HOWARD'S leadership, virtually all Federal public works projects are judged on their merits—not on their location.

JIM HOWARD has left to us, his colleagues, a rich legacy of responsible Federal policy and a continuing challenge to meet the high standards that he set for us as our chairman.

When we build better roads, improve our mass transit systems, protect our citizens against the floods that threaten us or fight to preserve our shoreline from dumpers and polluters of all kinds, then we are doing JIM HOWARD'S work.

JAMES J. HOWARD will be long remembered and greatly missed in the U.S. House of Representatives.

JIM HOWARD was a powerful advocate for New Jersey who was highly respected by his colleagues in this body.

He was a true gentleman, and his advice and counsel were always of great importance to me.

Today, I am proud to join with my colleagues to remember JAMES J. HOWARD—a great public servant and a true friend.

Mr. LAFALCE. Mr. Speaker, I want to take this opportunity to pay tribute to our late friend and colleague JIM HOWARD. With his recent death the Congress lost one of its ablest public servants, the State of New Jersey lost perhaps its greatest advocate, and the Nation lost a true patriot.

From the time he interrupted his high school education to serve in the Navy from 1944 to 1947, JIM HOWARD had no interest other than serving his country to the best of his ability. After graduating from St. Bonaventure's in 1952 he served first as a public school teacher and later as a principal. Like so many others of his generation and of my own his patriotism and sense of civic duty reached a new level of commitment and fervor during the campaign and Presidency of John Kennedy. By 1964, JIM was running for Congress—an uphill battle in his predominantly Republican district. Many thought his election a fluke, a result of the 1964 Johnson landslide which would be corrected in 1966. They were wrong. His constituents reelected the hard-working Congressman again and again. And work hard he did. We can all testify to that.

When in 1981 he assumed the chairmanship of the Committee on Public Works and Transportation, he did not neglect the human aspects of public policy. He built highways, airports, sewage treatment plants, and sponsored public works of every sort—but he never lost sight of the human dimension. He was a vigorous supporter of the environment, not only with respect to his beloved Jersey shore but throughout the Nation.

His concern for human life, as well as his concern for the environment and energy conservation, led him to sponsor the 55-mile-per-hour speed limit both as a temporary and permanent measure and to oppose its recent relaxation. He sponsored raising the minimum drinking age to 21 as well as other anti-drunk-driving legislation. He increased Federal aid for truck safety and child-passenger safety programs. He accomplished so many things they would be hard to list.

We shall miss JIM HOWARD. As long as there are public servants such as he we need have no fear for the future of our Nation or its people.

Mr. GARCIA. Mr. Speaker, I join my colleagues today to pay tribute to our late friend, JIM HOWARD, of New Jersey. We were all shocked by JIM'S unexpected death last month on March 25 and still today feel a deep sense of loss. As a Member of Congress since 1964, JIM became a truly dedicated legislator for nearly a quarter century, and since 1981 proved himself effective as chairman of the House Public Works and Transportation Committee where he pushed for an improved national transportation network and tough safety standards for the Nation's highways.

As chairman he labored long and hard to raise the drinking age to 21 because of his concern for the number of teenagers lost each year on the highways due to drunk driving. He also fought to maintain the 55-mile-per-hour speed limit to further reduce highway fatalities. JIM was also a true conservationist and environmentalist, and never lost sight of the social conscience of the Democratic Party.

JIM HOWARD represented the finest traditions of public service. He left high school before his senior year in 1944 to serve with the Navy during World War II. After receiving a master's degree in education at Rutgers University, he went on to become a teacher and high school principal in Wall Township, NJ. He taught his first class of sixth graders at age 25 and quickly earned the reputation of a quality teacher. He stayed in education for 12 years and was active in the local education association before being elected to Congress. JIM HOWARD'S lifetime of conscientious work and public service should be an inspiration for us all. He will be sorely missed by all.

Mr. SUNDQUIST. Mr. Speaker, I have had the privilege of working closely with Chairman JIM HOWARD over the last 5 years as a member of the Committee on Public Works and Transportation.

Chairman HOWARD was a great leader, a good friend, and a warm and caring gentleman. I learned a great deal from him through his leadership.

This Congress and our Nation has suffered an enormous loss on his passing. He has, however, left a great legacy in our Nation's public works and infrastructure. Every time an American citizen does something as simple as drinking a glass of water, driving on a public road, or boarding an airplane, he or she is the beneficiary of the world's most efficient public works system. A system created through Chairman HOWARD'S leadership and vision.

One of the greatest honors I have had in Congress is the privilege of serving with JIM HOWARD. I will always have the fondest of memories of him.

Mr. LEHMAN of Florida. Mr. Speaker, on March 24, as I often did, I saw JIM HOWARD at breakfast in the Rayburn Cafeteria. He was dressed for a golf game and seemed healthy and full of energy—and that was the last time I ever saw him.

JAMES J. HOWARD served with distinction in this body for 23 years. He loved this House and the House held him in a special sort of affection.

JIM HOWARD had the knowledge, the instincts, and the temperament to legislate for the good of the people. He was intense because he acted on conviction—he would battle for what he truly believed in. While he and I were adversaries from time to time, win or lose we were never enemies.

The issues JIM worked on were among the most important facing the Nation—investing in the infrastructure that is the basis for our economic well-being and protecting our people's health and safety. His leadership on highway safety issues is well known. I had hoped to include with this statement examples of JIM HOWARD's own words on his safety priorities—especially his speech to the Lifesavers Conference last month, which I was told was stirring and exciting—but, as he often did outside this Chamber, JIM spoke from his heart, not from a prepared text.

Others have written about JIM, however, and I would draw your attention to recent letters to two newspapers in which colleagues in the highway safety community outlined JIM's career and his accomplishments as well as our need for someone to take on his leading role in our battles for highway safety.

Mr. Speaker, I urge you and our colleagues to read these letters—from Joan Claybrook and Chuck Hurley to the Washington Post and from Florence Nass to the New York Times.

I will miss interrupting JIM HOWARD's morning crosswork in the cafeteria; on a larger scale, I, and the House of Representatives, and the Nation will miss his dedicated service to us all.

[From the Washington Post, Apr. 12, 1988]

JAMES HOWARD AND HIS FIGHTS FOR PUBLIC SAFETY

(By Joan Claybrook and Chuck Hurley)

The Post, in its March 26 obituary for Rep. James Howard, did not do justice to a man who fought some of the toughest battles on Capitol Hill and modestly sought little public recognition for his achievements.

A former schoolteacher who was first elected to Congress in 1964, Jim Howard became the chairman of the powerful House Public Works and Transportation Committee the year Ronald Reagan became president. He led the battles to expand Superfund enforcement of toxic-waste cleanup, to strengthen clean-water laws and to empower citizens with the right to know about dangerous chemicals in their communities.

Although he was from a Republican district in New Jersey, Democrat Howard didn't shrink from confronting powerful industries when their activities threatened public health and safety. And although he was a loyal Democrat, he took on Democratic colleagues when necessary—such as the pugnacious commerce committee chairman, Rep. John Dingell—because he was unafraid to serve as the voice of the average citizen in America.

Howard was the leader in the fight for the 55 mph speed limit, the single most effective highway safety law in our nation's history. Since 1974 it has saved 50,000 lives and prevented many more disabling injuries.

When Congress last year voted to allow 65 mph speeds on rural interstates, Howard expressed disdain for colleagues who justified their votes by calculating the lives saved with new safety-belt and drunk-driving laws and then balancing them against those that would be lost because of higher speeds. "As long as we're 300 lives to the good, we're okay" is what some told Howard. He was contemptuous of these mathematics of convenience, which are totally irrelevant to the family of a child crippled or a father killed in a high-speed crash.

And when the first figures showing sharp increases in fatal high-speed crashes were described by federal officials and proponents of 65 mph as "too preliminary" and "inconclusive," Howard put that in perspective too. "If I was waiting for the returns on election night and I was 20 percent behind my opponent, you might say the numbers are inconclusive . . . but they sure are indicative."

Howard was inspired by President John F. Kennedy to switch from public service in the school system to serving the public in elective office. He practiced a person-to-person style of politics, always accessible and willing to listen and, as a teacher, able to translate legislative gobbledygook into the everyday language of his constituents.

Howard was also a hard-nosed horse-trader on Capitol Hill, using the spending power of his public works committee to encourage bipartisan support for his legislative programs. He successfully led the fights for the law on a national, uniform drinking age of 21, for increased federal aid for truck safety, for assistance to states in a nationwide crackdown on drunk drivers and for greater funding of state child-passenger safety programs.

The Post's obituary emphasized that Howard was given significant campaign contributions from business and was entertained on other's expense accounts. This, unfortunately, is permissible under our existing laws, and committee chairs are the biggest recipients of these business funds. But what The Post did not point out is that Howard usually voted for legislation against the parochial interests of many of his contributors.

For example, during the Reagan years he voted for stronger pesticide, clean-air and clean-water laws; for stronger mine safety and health regulations; to retain and enlarge the power of the Consumer Product Safety Commission to regulate consumer products; for the elimination of billions of dollars of corporate tax loopholes; against the elimination of the Legal Services Corp.; for the Federal Trade Commission used-car defect disclosure bill; for oversight of doctors, lawyers and other professionals; for canceling the synthetic fuels demonstration project; for reducing the dairy subsidy; and for deleting funds for the Clinch River Breeder Reactor.

But of all his achievements, Howard was probably proudest of having earned the appellation "Mr. Highway Safety." He recently told the Lifesavers Conference in Boston that though "some might think I'm corny, when I drive through my district at night and see the houses lit up and families inside, I wonder how many of them might not be here without 55 mph." We mourn that the light in the window has gone out on a politician who didn't forget to use his exalted position to nurture the public interest.

[From the New York Times, Apr. 5, 1988]

CHAMPION OF HIGHWAY SAFETY WILL BE MISSED

To the EDITOR:

Last week in Boston I had the privlege of hearing Representative James J. Howard of New Jersey galvanize audience with his dedication and humor. He spoke at a national conference on highway safety.

His untimely death (obituary, March 26) leaves those of us who work for highway safety—and the nation—bereft of an invaluable advocate. He spoke in Boston of the need to resume the national 55 miles an hour speed limit, of which he had been the architect.

Recently, some states have tried higher speed limits, and within months highway deaths have soared. High speeds—like drunken driving—cause the intractable head and spinal cord injuries that leave too many of our young people in wheelchairs or comas and send them to early graves.

My fond hope is that Representative Howard's life will inspire someone else to take up his mantle and resist efforts to undermine the 55-mile limit.

FLORENCE NASS,
Founder and Chapter Administrator,
Mothers Against Drunk Driving.
Teapeck, N.J., March 26, 1988.

Mr. DONNELLY. Mr. Speaker, it is with great pride that I speak today about my dear friend, the late JIM HOWARD., Chairman HOWARD represented the Third District of New Jersey with his constituents utmost faith, respect, and admiration.

His colleagues on the House Public Works and Transportation Committee recognized his unique qualities and worked with him on the tireless task of improving our Nation's transportation and infrastructure system. I speak from my own personal experience, as I served on that important committee from 1979 to 1984.

During my tenure on the Public Works and Transportation Committee, I witnessed firsthand the outstanding leadership qualities and legislative abilities of Chairman HOWARD. He listened intently to the concerns of each committee member, and worked diligently to fulfill each member's district agenda, while maintaining a longstanding position of fairness and integrity when conducting the committee's business.

The transportation policy formulated, debated, and enacted into law under Chairman HOWARD'S tenure has provided solutions to the many difficult issues facing congressional districts across our Nation today. For example, the enormus transportation problems facing New England, and it's central hub, Boston, MA, seemed insurmountable and unsolvable without a long-term commitment of Federal dollars.

Chairman HOWARD worked with the members of the New England delegation, and the leadership of the House and Members of the other body, to ensure that a solid, workable Federal commitment to solving the transportation problems of our region was put in place. He did that amidst criticism at times and pressures from those who failed to see the importance of long-range, realistic transporation policy.

Chairman HOWARD's dedication to public service spans many years. His efforts have been recognized by many as progressive and farsighted. His sudden death left an unfinished agenda and void in ongoing efforts to modernize our transportation and infrastructure system. We must continue these worthwhile transportation policy initiatives.

I wish to extend my sympathies to his wonderful wife, Marlene, and his three lovely daughters, and to the people of the Third District of New Jersey. I will miss JIM HOWARD and I know that I may speak for every Member of Congress who served with him.

Mr. RANGEL. Mr. Speaker, today we are here to pay tribute to one of our dear departed colleagues. As we all know, JIM HOWARD, after serving 23 years as a Member of Congress and 8 years as chairman of the Committee on Public Works and Transportation, passed away on March 25 from a sudden heart attack.

With his death, we in Congress and the Nation have lost a truely dedicated and inspirational public servant. JIM HOWARD devoted his life to serve his community and our country. Before his election to Congress, JIM worked as a schoolteacher of the West Belmar School in New Jersey, where based upon his performance he quickly rose at age 30 to principal.

In Congress, he added some color to the corridors of this institution with his assertive and dynamic presence. In the committee he chaired, he maintained bipartisan consensus which, under his leadership, produced legislation which made our roadways, and mass transit systems, safer and more efficient and our shorelines and environment safer and cleaner.

JIM worked tirelessly and relentlessly to pass these laws knowing full well that legislation of this nature would not result in the vast media attention received by Members who deal with some of the more "glamorous" issues. Rather, the motivating factor which drove JIM HOWARD was his commitment to good public policy, which is public policy which is aimed to benefit the citizens of this Nation.

Among the many legislative initiatives which JIM HOWARD fought for were: the enlargement of the Superfund to clean up toxic waste, stronger clean air, and clean water laws, the uniform national drinking age of 21 and assistance to States that crackdown on drunk drivers, and the 1982 Surface Transportation Assistance Act, which funded mass transit through a gasoline excise tax.

But, his crowning achievement was the 55-mile-per-hour speed limit, which since 1974 has saved over 26,000 lives and saved numerous others from injuries. Last year he opposed efforts to raise the speed limit to 65 miles per hour, for he feared the higher speed limit would result in an increased number of highway deaths.

Yes, JIM HOWARD deservedly earned the title of "Mr. Highway Safety." Simply put, he was a caring family man whose instinct of protecting his family from danger spurred him to make our infrastructure safer for our families and his.

Mr. DWYER of New Jersey. Mr. Speaker, I rise today to join with my colleagues from New Jersey and from throughout the entire Congress to pay tribute to our colleague and our friend, JIM HOWARD, who was tragically taken from us long before his time should have come.

JIM HOWARD was a man who functioned on many different levels and handled them all well. He was, first and foremost, a family man and his wife, Marlene, and three daughters were, of course, the pride of his life. He always found the time to share with them.

JIM was also a great, great Congressman from the State of New Jersey. Whether the issue was cleaning the ocean, highways, mass transit, or the environment, you could always count on JIM HOWARD using all of his influence—all of his talent—for the benefit of the people of the Third District and of New Jersey.

Of course, most of us in this House knew JIM as the outstanding committee chairman, which he was. He knew the rules of the House as well as anyone and he ran his committee aggressively, but fairly. He was able to reach consensus with his colleagues on both sides of the aisle in the way of a true politician, in the finest sense of the word.

The point I would like to make about JIM HOWARD—to add to the many fine statements made about him here today—is that with all of his national influence, with all of the power he had accumulated by virtue of his position and his able handling of it, JIM never forgot his roots; never forgot how he got to Washington and how he stayed here.

What better tribute was there to the memory of our colleague and friend than those hundreds of people standing outside the church on the morning of his funeral? People who knew JIM, people who loved and admired and respected him. People who felt that they had to be there to say goodbye to a powerful U.S. Congressman who never lost touch with his district.

JIM HOWARD was an extraordinary man, a true servant of the people. As a Congressman, and as an educator before that, JIM HOWARD made a contribution to his society and he made a difference. And we are all the better for having known him; having worked with him; and having been his friend.

Mr. VISCLOSKY. Mr. Speaker, I appreciate this opportunity to offer a tribute to the late Chairman JIM HOWARD of the House Public Works Committee. As a member of the committee, I had the privilege to work closely with Mr. HOWARD. Several vital public works projects in northwest Indiana would not have come to fruition without his invaluable assistance.

Both within and outside the committee, JIM HOWARD was known as a man dedicated to the important task of building a safe and efficient infrastructure. JIM recognized that Federal investment in public works represents an investment in our children's future. Job creation and economic stabilization are spurred by flood control, highway improvements, transit investment, and airport development. Mr. HOWARD laid the groundwork upon which the future of America will be built.

I believe JIM's integrity and dedication were demonstrated by his fight in 1987 to maintain the highway speed limit at 55 miles per hour. JIM took a firm position on this issue because he was a man of firm convictions. He strongly believed that the lower speed limit saved lives. Whether we agree with his position or not, we can all agree that JIM's efforts were an inspiration to those who admire tenacity in the face of adversity and a willingness to stand up for one's beliefs.

The highways, airports, and dams which JIM HOWARD guided into reality are his legacy. I am grateful to have had the opportunity to work with such a fine public servant.

Mr. LATTA. Mr. Speaker, I join my colleagues today in paying tribute to JIM HOWARD. JIM was not only a friend and a colleague but most of all a Congressman who had the courage of his convictions, and as chairman of the House Public Works and Transportation Committee, he was a leader and a guiding light. The untimely passing of JIM will be felt by countless people throughout the Nation.

On a personal note, it has been an honor to have served with JIM these last 24 years. I can attest that JIM was always most cooperative and understanding of the minority side when it came to the importance of a safe and meritorious highway system. His accomplishments measure high on the yardstick of success for his qualities were numerous and his dedication to the responsibility of his office unswerving. I came to know JIM as a man of his word.

JIM HOWARD was also most receptive to the needs of the House. He was a person of integrity, experience, knowledge and modesty. When JIM passed away on March 25, he left many monuments to the wonderful and dedicated service he rendered to this country and to his constituency. He loved this institution and he will be missed and fondly remembered by all who knew him.

Mr. APPLEGATE. Mr. Speaker, we are here today to pay special tribute to a man who dedicated his life to the service of others. JIM HOWARD came to Washington as a former teacher and school administrator and I believe never stopped teaching all of us. He taught many opponents that a Federal role in building and maintaining our infrastructure was vital, and he proved to many of his opponents that without Federal support economic development was impossible. He was not only an outstanding legislator, but he always adhered to the profession of educator in his ability to teach the opposition the benefits of his legislative agenda. In 1982 we were able to pass a 5 cents a gallon fuel tax increase. This would not have been achieved without the support of many groups who traditionally oppose any increase in regressive taxes. JIM taught them that these funds would be used to build and maintain our decaying infrastructure and would produce and create jobs for all of America.

Under his keen leadership, the Public Works Committee produced legislative accomplishments that some thought were impossible. In the last 2 years alone, the Public Works Committee produced a major environmental bill to protect our environment from further devastation. We passed the Clean Water Act and the highway bill against objection from an administration that did not have the same foresight and commitment as JIM HOWARD. There is no doubt that JIM's accomplishments are visible and his mark on this country will be seen for many years. But perhaps the great achievement of JIM HOWARD was his ability to increase congressional awareness to our infrastructure needs. Without JIM'S commitment, leadership and support, legislative solutions to our infrastructure crisis might not have ever become a reality. As a Member who represents an area of the country where an aging infrastructure poses serious threat to economic growth, I have seen what JIM'S commitment has accomplished. The 18th District in Ohio has lost a good friend, and I can only hope that the committee will continue on the path of progress paved by JIM HOWARD.

Mr. Speaker, I thank you for the opportunity to pay tribute to Chairman HOWARD, and I join with the rest of my colleagues in expressing my sincere sympathy to his family.

Mr. GEJDENSON. Mr. Speaker, I rise today to pay tribute to JIM HOWARD who served his constituents and the American people well in this body for 23 years and as chairman of the Public Works and Transportation Committee since 1981.

When he first came to Congress in 1965, JIM HOWARD saw that the Nation's infrastructure was in a desperate condition. He realized that our Nation's road and highway system was saturated beyond its capacity and was becoming more and more unsafe. So JIM HOWARD dedicated himself to fixing this problem becoming the leading advocate for improving our Nation's roads and highways. Over the next 23 years JIM HOWARD was successful in developing legislative initiatives worth hundreds of billions of dollars with bipartisan support and support from Members of Congress who represent all geographic and demographic areas.

Another example of his dedication to making the roads and highways of the United States safer can be seen by his commitment to maintaining the 55-miles-per-hour speed limit, which he led the fight for in 1974, and again last year when Congress raised it to 65 miles per hour. The 55-miles-per-hour speed limit is considered to be the single most effective highway safety law in the history of the United States. Experts attribute the 55-miles-per-hour speed limit with saving the lives of more than 50,000 people and preventing the disabling injuries of countless more. In addition, JIM HOWARD also successfully led the fight for establishing a national uniform drinking age of 21, for increased assistance to States to crack down on drunk driving, for increased funding for trucking safety and for highway safety awareness programs.

In addition to his efforts to improve the quality of our roads, JIM HOWARD has also been a leader in breaking down the transportation barriers for individuals with disabilities. I worked with JIM for the past 2 years to establish a uniform national parking system which would require that all States honor the handicapped license plates of other States. I will always remember JIM'S sympathy for the problems faced by the handicapped travelers and his commitment to finding a solution to this difficult situation.

We in Congress, along with the residents of the Third District of New Jersey and the whole of the American people will mourn the loss of JIM HOWARD. His dedication to his ideals, to improving the quality of the our Nation's infrastructure and his expertise will be sorely missed. There is no one in Congress nor anyone in the United States who has not been helped by the work that he has done.

Mr. THOMAS of Georgia. Mr. Speaker, the official record of the accomplishments of the Honorable JAMES J. HOWARD are well known to this body and to the people of his great district and State. I will leave it to others more eloquent than me to elaborate on those accomplishments.

My comments are strictly personal, and my feelings of loss with JIM HOWARD'S death are deeply personal.

When I came to the Congress 6 years ago, JIM HOWARD was the first committee chairman I had the occasion to personally visit with. I went to talk to him about a problem involving the Port of Savannah within my district.

I do not recall the details of our conversation today. What I do remember is that Chairman HOWARD took the time to hear me out, treat me with the greatest respect, and promise that he would educate himself about my problem, and then he kept his word.

JIM HOWARD was above all else a man who you could trust. He would look you in the eye and tell you what he thought. If he said he was with you, he would be with you all the way. If he was against you, he would tell you why.

Chairman HOWARD was that rare kind of man who could see this Nation as a whole. He knew the programs of his committee as almost no one else knew them. He was the absolute master of the legislative process. He was a builder of consensus. He could wade into a sea of confusion, and make it into order.

It is on the shoulders of men like JIM HOWARD and his friend and able successor, GLENN ANDERSON, that the work of this Congress is carried. They are the planners, the craftsmen, and the salesmen of their programs. Often, their accomplishments go little noticed outside these chambers. But the results of their work make this Nation strong.

We mourn the loss of JIM HOWARD as our friend, and we grieve with his beautiful wife and his family.

But I hope that we can temper sadness with the knowledge that Chairman HOWARD leaves behind him a legacy of greatness. He was a standard setter. He was a worker, not a watcher. He was a man driven by his convictions and his determination to succeed.

He has left the Congress a better place for his having been here. He has challenged the best in us all.

The thoughts and prayers of my wife Melinda and I go out to the HOWARD family. We ask God's blessings on them at this time of need, and we thank God for having given us men like JIM HOWARD who served this Nation with ceaseless energy and integrity.

Mr. PACKARD. Mr. Speaker, I rise to pay tribute to my chairman and colleague on the Public Works Committee, JIM HOWARD. Along with each of you, I am deeply saddened at the death of Chairman HOWARD. His leadership and presence in the Congress will be sorely missed.

I have known JIM since I was first elected to the Congress in 1982. As a member of the Public Works and Transportation Committee, I have worked closely with him on a number of important issues. I will always remember his fairness in dealing with me as a freshman Member of the minority party. JIM was committed to improving the infrastructure of America and it didn't matter if he was improving it in a Republican or Democratic district. What mattered to him was that he was improving our country.

I consider JIM a personal friend and an excellent golfing partner. It was a privilege for me to work with JIM in the Congress and he will be missed by all of us. His is a legacy worth emulating.

Mr. DE LA GARZA. Mr. Speaker, I rise today to honor the memory of a dear and respected colleague, JAMES J. HOWARD, a friend with whom I came to Congress in 1965. For over 23 years I had the privilege of serving with this distinguished individual—a man who served the people of the Third Congressional District of New Jersey the only way he knew how—with honesty and with great dedication.

Together we rose up the ladder—JAMES HOWARD eventually becoming chairman of the House Committee on Public Works and Transportation. Many significant pieces of legislation bear his imprint and there is no question that as a major influence in this body JAMES HOWARD'S shoes will be impossible to fill. Certainly his contributions will be long remembered as will his ability and dedication to high performance serve as examples for all us who remain behind to follow.

JAMES HOWARD has left a splendid trail to follow. For those who would emulate his magnificent career—that trail will be a hard one to navigate. Not all those who begin the journey will finish with the brilliance that marked Representative HOWARD'S life and times in the U.S. House. And that is good—because the tasks of life are nobler when the level to which we aspire is set as high as the plateau achieved by JAMES HOWARD.

With JAMES HOWARD'S passing his district, his State, and his country have lost a man of rare caliber. I know I have lost a good friend. It is inadequate to just say he will be missed—but it is nonetheless true.

A man admired and respected by all, JAMES HOWARD fulfilled the term "great" in all its aspects. It is not often that one is privileged to have known such a tremendous man—a giant among his peers. I am fortunate.

Mr. COUGHLIN. Mr. Speaker, I want to associate myself with the remarks made in praise of our late colleague, JAMES J. HOWARD, of New Jersey. Throughout his distinguished 24-year career, JIM HOWARD worked tirelessly for the people of the Third District of New Jersey and for the entire country as well.

As chairman of the Public Works and Transportation Committee, his handiwork can be seen in probably every congressional district. Public Works is a powerful and influential committee, and JIM HOWARD enhanced this position through the strong leadership for which he was known. My assignment as ranking minority member of the Transportation Appropriations Subcommittee put me in a close working relationship with JIM. Although we did not always agree, you could not help admire

JIM for his knowledge and ability in the transportation field.

JIM HOWARD was interested in safety and actively participated in efforts to get people to use seatbelts and to remove drunk drivers from the road. Perhaps the initiative for which he was best known was preserving the 55-mile-per-hour speed limit. The fact that all speed limits stayed at 55 miles per hour as long as they did, was because of JIM HOWARD'S concern for saving lives and preventing injuries.

JIM HOWARD'S passing marks the end of an era—but he will long be remembered as "Mr. Transportation."

Mr. JONES of North Carolina. Mr. Speaker, I join with other Members of Congress in expressing my sadness in the loss of our former colleague, JIM HOWARD. At one point in time in the Cannon Building, our offices were across the hall from each other and during that time, we developed a strong rapport. His staff and my staff intermingled and developed some strong friendships; and this was also true of JIM and myself. We maintained our friendship later on when our offices were separated. As chairman of the Merchant Marine and Fisheries Committee, when I had a few controversial bills such as the Oregon Inlet jetties, on every occasion, he came to my rescue and assisted me in getting the legislation enacted. I recall with pleasure our conversation on the House floor on the Thursday before he passed away on Friday, when he thanked me for sending him some sample peanuts. This was indicative of his general character in that he never forgot the little things.

To his family, my deepest sympathy and along with the rest of the Congress, I shall continue to miss him.

Mr. GAYDOS. Mr. Speaker, it is very appropriate for us to pay tribute to our friend and colleague, JIM HOWARD, here on the floor of the House of Representatives.

From the first day that the people of eastern New Jersey elected that former teacher and principal to represent them in Congress, JIM labored for them for over two decades in this Chamber. His tireless work habits were legendary on Capitol Hill, and the people of New Jersey and the United States benefited a great deal from his devotion to this job.

JIM used his chairmanship of the Committee on Public Works and Transportation to improve the Nation's highway network, water resources, and mass transportation systems. He worked for tougher highway safety standards and he was largely responsible for ensuring passage of the Clean Water Act.

As an educator, JIM HOWARD knew how to instruct and listen to all of the members of his committee. His bipartisan spirit will be missed, and I encourage his successors to use his leadership as a model as they assume the responsibilities which he left them.

JIM HOWARD will be remembered as a hard working, dedicated, and effective public servant and one of the best politicians which New Jersey has ever produced. He leaves behind a legacy of his dedication to highways, and I am pleased to say I supported the bill the House passed to rename I-195 in New Jersey as the "James J. Howard Interstate Highway." JIM fought long and hard for construction of that highway and this is a fitting tribute to his efforts.

But, JIM'S legacy extends far beyond I-195 and includes every mile of America Federal highway and waterway system. His careful stewardship of the Public Works and Transportation Committee was responsible for expanding and improving the Nation's infrastructure and during his 8 years as chairman he left his indelible mark on the roads and waterways of our Nation.

JIM considered highway safety his greatest achievement. I've heard that he sometines drove through his neighborhood in New Jersey, looking at the lights in the homes of his friends and wondering how many of them were alive because of the 55 mile-per-hour speed limit which he fought to pass. We'll never know the answer to that question, but we know without a doubt that his efforts saved the lives of thousands of American motorists.

When JIM HOWARD died, both New Jersey and the United States lost one of its best legislators. I join my colleagues in saluting him, and I offer my warmest condolences to his wife and family. JIM HOWARD was a man for them to be proud of, and, although he is gone, he will certainly never be forgotten.

Mr. DE LUGO. Mr. Speaker, the death of JIM HOWARD is a painful loss for all of us. He was a personal friend, a talented chairman of the Public Works Committee, and a model of a skillful legislator.

It was an honor to work with him, to serve on the Public Works Committee with him, and just to see him in action when a major public works bill was nearing completion.

The wonderful thing about JIM HOWARD, is that he was really in the right place. He didn't just happen into the Public Works Committee. He took a passionate interest in roads, bridges, ports, and airports. There was no question of his concern for every section of this country, from east coast to west coast to distant territories. When he was putting together a public works bill, his energy was unlimited and his sheer pleasure at the job was unmatched. His vision of building a better America for everyone has left its mark on this entire country.

In addition, his career shows us all how to grow as legislators. His basic interest in building better roads, ports, and airports was matched by his growing concerns for preserving our environment and providing better safety. At the same time that he pushed to build roads, he pushed to protect our water supply, clean up our toxic dumps, and raise the drinking age to 21 so that we would all be safer on the roads. He was always learning, always talking to various constituencies, and always trying to balance all the interests in any piece of legislation.

For my district, the U.S. Virgin Islands, his death is a major blow. To be honest, he was not well known in my district. No more than a handful of Virgin Islanders ever met him. And he certainly did not win votes by paying attention to our problems. But this legislator from northern New Jersey improved life for all Virgin Islanders by directly supporting our efforts to build up our infrastructure. He realized we are very dependent on our airports and ports, and he did all he could to improve them.

Chairman HOWARD managed to visit the Virgin Islands only once, and then only for 2 days, but his schedule was nonstop. He must have inspected every road, looked over every port, calculated the potential flood problems in every ravine, and evaluated numerous airport designs.

You had to pity the drivers, schedulers, staffers and committee members who were expected to keep up with him. But, more important, you had to admire this chairman who worked so hard to learn every detail about his subject, and who took such pleasure in his work.

I will certainly remember him with such admiration, respect and affection.

I also want to extend my condolences to his entire family; especially to his lovely wife, Marlene, whom I have had the pleasure of meeting several times, and to his daughter, Marie, who is a valuable member of the professional staff of the Interior and Insular Affairs Committee.

Mr. MRAZEK. Mr. Speaker, I join my colleagues today as we honor the memory of our late friend JIM HOWARD, who honorably served the people of New Jersey's Third Congressional District for more than 23 years.

While I have had the pleasure of serving in this body for only a fraction of that period, I can attest that JIM HOWARD stood as one of the true legislative giants of Congress. His record on matters concerning highway safety in an age when the automobile has become an indispensable tool of American life speaks for itself. We can only imagine the number of lives saved in this country by JIM HOWARD'S commitment to safe highways and, particularly, the 55-mile-per-hour speed limit, and his no-nonsense stand against drunk drivers.

As chairman of the Public Works Committee, JIM HOWARD fought and won many legislative battles for highway construction, for clean water and for major water projects for the common good. These victories did not come easily, much as he sometimes came perilously close to being defeated for reelection because of the nature of his district. But JIM HOWARD was nothing if not a battler, willing to go the distance with all challengers in support of his goals. More often than not, JIM HOWARD was the one standing at the final bell.

JIM'S marshaling of power in the public's interest serves as a lesson for all of us who serve in these Halls. He knew that a changing world demanded new and innovative solutions, and he acted on that knowledge in carrying out his chairmanship. But he also knew that surrender to the impulses of an accelerating society could be dangerous, and he put that knowledge to work in first championing the 55-mile-per-hour speed limit, and then in fighting to protect it.

Mr. Speaker, this body and the American people owe JIM HOWARD a debt of gratitude for his vision and for the strength of his convictions. It is my pleasure today to join in this salute to JIM'S legacy in Congress, and I offer my condolences and sympathy to his family, his friends and his constituents on his untimely passing.

Mr. SAXTON. Mr. Speaker. I rise today to join my colleagues in the House as we pay tribute to a true public servant, a man who has left his mark on this great land of ours.

JAMES J. HOWARD dedicated much of his 60 years of life to serve the people of his home State of New Jersey and his country, both of which we know he loved so much.

JIM HOWARD began serving his country as a young man. In the 1940's when we were pulled into the Second World War, Americans were called forth to protect their fellow countrymen from foreign aggression. JIM answered this call of duty as he served courageously with the Navy in the South Pacific.

He was a well educated man, earning his bachelor's degree from St. Bonaventure University and a masters in education from Rutgers University. As was his style, he wanted to share his knowledge and love for learning. He spent 12 years educating children in the Wall Township public school system. His abilities as a leader were quickly recognized and he was called upon to act as principal of the school.

Mr. Speaker, JIM HOWARD was a fighter. His seat in the House was often highy contested, but he never backed down from seeking it because he desired so much to continue to serve the people of the State that he held so dearly in his heart.

In 1984 I also was elected to serve the citizens of the great State of New Jersey as a Member of this House of Representatives. As a newcomer to the New Jersey delegation, I admired JIM HOWARD as he set an example to us all through his hard work and dedication to the job at hand. He constantly desired to improve the conditions in which the public lives every day.

Each of my colleagues here today has his or her own special memories of JIM HOWARD. The occasion that I remember best was when he and I worked closely to coordinate the replacement of a worn and dangerous jetty located at the Barnegat Inlet within my district. With the help of this man, I was able to achieve results. And because of his efforts we were able to provide a safer inlet for public recreation and local business. My district is better off today because of JIM HOWARD.

Mr. Speaker, although JIM and I found ourselves seated on different sides of the aisle that so often divides this House, I have always had a great deal of respect for the drive and dedication that this great, dedicated political figure and public servant possessed. He will be sorely missed by the Members of this House as well as the constituents of the Third District of New Jersey. I know my colleagues join with me in expressing our deepest sympathy to his wife Madeline, their daughters Kathy, Lenore, and Marie and the entire Howard family.

Mr. COLEMAN of Texas. Mr. Speaker, the House of Representatives has lost a leader, and the people of west Texas have lost a good friend who understood our special needs and circumstances, even though his own district was thousands of miles away from the United States-Mexico border.

Chairman HOWARD will be remembered for many things and accomplishments, but in my community he will be known as one of the first congressional leaders to understand the need to act swiftly to help resolve the crisis of the colonias.

It was Chairman HOWARD who responded last year to the call of the residents of the colonias, which are communities along the United States-Mexico border that exist without water or sewage treatment. Tens of thousands of human beings live in these conditions, which are concentrated in Texas but are found in every State along the United States-Mexico border.

Late last year, when the Speaker and I brought evidence of these living conditions to Mr. HOWARD, he agreed immediately to hold hearings under the jurisdiction of his Committee on Public Works and Transportation to help determine the extent to which the Federal Government could assist the colonias.

These hearings were held in March by U.S. Representative NOWAK's Subcommittee on Water Resources, which documented both the extent of the crisis and listened to recommendations for its solution.

Eventually, Mr. Speaker, legislation will be passed to provide both short- and long-term assistance for the underdeveloped region along the United States-Mexico border, and we will have Chairman HOWARD to thank for its genesis.

The hope that was brought to the residents of the colonias by the actions of Chairman HOWARD will not be dimmed by his untimely passing. Legislation to assist this impoverished area will bear his legacy, and he will be remembered along the United States-Mexico border for generations to come as one of the first who tried to help. Not because it was politically expedient to do so, not because his district had anything to gain, but solely because human beings needed help and it was the right thing to do.

That was the kind of man JIM HOWARD was, and I am proud to have known and worked with him during our years together in the House of Representatives.

Mr. KOSTMAYER. Mr. Speaker, I wish to take a moment to pay tribute to our colleague, Congressman JAMES HOWARD of New Jersey, who passed away last month. He was a friend of mine as he was to the people of the north Jersey coast.

JIM served the Third Congressional District of New Jersey for over two decades. He was a strong supporter of public safety and a staunch ally of all those who have fought for a cleaner environment, particularly along the Jersey beaches he loved so much. Because of this, New Jersey not only lost a Congressman, they lost an important and powerful friend.

JIM served since 1981 as chairman of the House Public Works and Transportation Committee. As chairman of that committee he became known for his unyielding efforts to rebuild our Nation's infrastructure. He was considered the authority on public transporation and the Nation's highway system.

In 1973 and 1974, JIM used his power as chairman of the Subcommittee on Energy of the House Public Works Committee to introduce and push through the 55-mile-per-hour speed limit. He believed that it would not only save oil, but could save thousands of lives each year in reduced auto fatalities.

In still another effort to increase public safety and save lives, JIM championed the cause of the national uniform drinking age of 21. He refused to stand by and watch the lives of so many of our Nation's teenagers go to waste.

JIM was famous for his knowledge of the legislative process and his ability to wield his influence for New Jersey. He also used this knowledge and influence to protect the environment. In 1985, for example, he successfully stopped plans to dump sludge at an ocean site off the coast of New Jersey. He also fought for legislation to prohibit all ocean dumping off the shores of New Jersey and New York.

We mourn now the lost of our colleague and friend, Mr. JAMES HOWARD. But, I know that I am better for having known him and having served with him.

Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, the gentleman from New Jersey [Mr. RODINO] for reserving this time to pay tribute to our former colleague, JAMES J. HOWARD, who passed away on March 25. With his passing, this House has lost a concerned and committed individual and the Third District of New Jersey has lost an outstanding Representative.

Mr. Speaker, upon learning of JIM's death, I thought about JIM HOWARD—the man—and his career in public service. He was a man of unyielding and intense diligence when addressing matters of public health and safety. During his tenure of nearly 24 years in the House, JIM developed a keen sense of what his constituents wanted and what he thought was best for the American people. He is best known for his work on the powerful House Public Works and Transportation Committee, which he chaired. Before chairing that committee, JIM chaired the Subcommittee on Energy of the Public Works Committee. His work on the subcommittee earned him the appellation, "Mr. Highway Safety" as a result of leading efforts to pass one of the most effective highway safety laws in history, the 55-miles-per-hour speed limit law. It is said that this highway safety law alone, has saved approximately 50,000 lives.

I personally admired JIM because he was a man of the people. He fought for the people and did not hesitate to go up against big and powerful industries on behalf of the average citizen. His voting record proves that he was in office to serve the people. During this administration, he voted for tougher mine safety and health regulations; he voted for the elimination of billions of dollars of corporate tax loopholes; and he voted for the FTC used-car defect disclosure bill, to protect the American consumer. Environmental issues were also important to JIM. He was an ardent supporter of clean air and water legislation.

At the time of his death, JIM was diligently leading efforts to focus attention on his Howard plan. The powerful plan addresses problems concerning the Nation's infrastructure. I appreciated his support and assistance on legislation affecting Ohio and my congressional district of Cleveland over the years.

Mr. Speaker, JIM HOWARD made an indelible mark on this body and the country. The many accomplishments he made, which span two decades, will serve as a lasting monument to this great leader. I know that members on both sides of the aisle will agree that JIM HOWARD was a great statesman, who will be missed.

Mr. GOODLING. Mr. Speaker, I thank my colleague from New Jersey, Mr. RODINO, for taking this special order today to pay tribute to the late JIM HOWARD. I take this opportunity to express my regret at this loss to this institution and to this Nation.

I will remember JIM HOWARD as a man of warmth and sincerity. His leadership of the Committee on Public Works and Transportation was built upon an uncommon congeniality and desire to help other Members. His unique qualities will be missed by those of us who knew him and by those yet to join us in the House. For they will not have the benefit of his leadership, experience, or friendship.

I remember the day I walked with JIM back to our offices at the end of the day's session. It was a great shock to learn just a few hours later of his death. Yet, I am proud to have shared that last moment of his cordial friendship. That is how I will remember him.

JIM HOWARD will long be remembered in this House and in our hearts. I am glad I knew JIM and I am sorry for those who did not.

Mr. YATRON. Mr. Speaker, I rise today in great sadness to pay tribute to our late colleague, former Congressman JAMES J. HOWARD. His sudden passing is greatly mourned, though the many accomplishments during his more than 23 years as Representative of the Third Congressional District of New Jersey will always be remembered and revered.

JIM HOWARD was an outstanding individual, a leader among men and certainly the epitome of a dedicated public servant. I was privileged to serve with JIM for much of his time in the House and witnessed his many legislative accomplishments, particularly those achieved through his role as chairman of the Public Works and Transportation Committee. His work in this area was especially important for he helped to keep our Nation's infrastructure and transportation system intact—the passage of the landmark 1982 Surface Transportation Assistance Act stands as testimony to his successful efforts. He was also instrumental in helping pass legislation ensuring for greater highway safety. JIM was well known, too, for his active role in environmental issues, helping to preserve and protect coastal lands and waters. In all of his endeavors, JIM'S ability to build bipartisan coalitions was readily apparent, his skill admired and respected by all. His hard work and commitment well earned JIM the support and admiration of his constituents as well, and he represented the citizens of his district with the utmost dedication and sense of responsibility.

We will greatly miss JIM HOWARD. He was a caring and compassionate man and truly a great American. His memory will live on though, as will the ideals for which he stood. Mr. Speaker, I join with my colleagues in extending deepest sympathy to JIM'S wife, Marlene, his three children and all the other members of his family.

Mr. FAZIO. Mr. Speaker, I join my colleagues today in lamenting the loss of Representative JAMES J. HOWARD whose sudden death on March 25 came as a great shock to myself and this Nation.

JIM HOWARD was known as a premier legislative strategist for his outstanding work as chairman of the powerful Public Works and Transportation Committee. For the past 8 years, JIM wielded his influence on legislation of great national importance and significance. In November of 1986, JIM managed to obtain the first major authorization since 1970 for new dams, port dredging and other water projects (H.R. 6) vital to the United States. As chairman, JIM negotiated two veto overrides early last year in order to enact two much needed authorization bills, a $20 billion clean water measure (H.R. 1), and a $89 billion highway-mass transit bill (H.R. 2) both top legislative priorities for him and the majority of this body. JIM'S concern about protecting our fragile environment led him to work diligently to ensure passage of a stong bill reauthorizing the chemical-waste Superfund clean-up program.

In recent years, the word infrastructure has become a buzzword for public works—transportation, water development, and the like. JIM HOWARD started working years ago to improve our infrastructure. He knew the importance of public investment as a tool for economic development, public safety, and international competitiveness.

His commitment to improving our Nation's infrastructure has been unflagging for nearly 25 years. JIM'S many accomplishments were achieved through his tough but fair negotiating style. The conviction and determination he showed during difficult times earned him the respect of his colleagues regardless of their ideological or political persuasions. His leadership will be sorely missed.

JIM HOWARD was a humorous, dedicated, and compassionate man. His efforts and achievements will not be forgotten. I join my colleagues in sending our deepest sympathy to his wife, Marlene and their children.

Mr. WEISS. Mr. Speaker, there are few Members of Congress, past or present, who have done as much to enhance the safety and welfare of the American people as our late friend and colleague, JIM HOWARD. I rise today to pay tribute to JIM and to join my colleagues in once more expressing our deep sorrow at his untimely passing.

During his more than 23 years in Congress, JIM did an exemplary job representing the people of New Jersey's Third Congressional District, who I am sure will miss him sorely. However, JIM'S constituent's are not the only ones to reap the fruits of his hard work and influence. People all over America owe JIM a huge debt of gratitude for his leadership on highway safety and environmental issues.

JIM was a leader in the fight for the 55 miles per hour speed limit, the single most effective highway safety law in our Nation's history. Since 1974 it has saved more than 50,000 lives and prevented many more disabling injuries. That is a magnificent accomplishment of which JIM was truly and deservedly proud. In light of the irrefutable statistics on speed limits and highway safety, I shared JIM'S strong dismay when Congress succumbed to pressure last year and voted to allow 65 miles per hour speeds on rural interstates.

JIM'S fight for highway safety exceeded the 55 miles per hour speed limit. He led successful fights for increased Federal assistance to States in a nationwide crackdown on drunk drivers, for greater funding of state child-passenger safety programs, and for increased Federal aid for truck safety. In addition, JIM fought hard to pass the law on a national, uniform drinking age of 21 which, I am sure we all agree, has spared countless young Americans from serious injury or even death.

Though JIM may be best remembered as "Mr. Highway Safety," none of us will forget his dedication and efforts to protect our environment. He led the battles to expand Superfund enforcement of toxic waste cleanup and to strengthen clean water laws. In addition, JIM fought to empower citizens with the right to know about dangerous chemicals in their communities.

One can not do justice to 23 years of service and accomplishment in a short statement. Therefore, I would like simply to express my deepest sympathy to JIM'S family and, on behalf of my own constituents, thank him for his devotion to public service. He has left an indelible mark on our Nation and shall be remembered fondly.

Mr. DYSON. Mr. Speaker, I rise to express my deep sorrow on the death of Representative JAMES HOWARD of New Jersey. JIM HOWARD loved his work in the Congress and he loved our Nation. He strove to fulfill with skill and devotion what he believed were his obligations to his country. His accomplishments were extraordinary, from improving the quality of the air we breathe and the water we drink to making the daily commute to work a safer journey.

JIM HOWARD was an extraordinary man who loved the pulling and hauling of politics. He was a tireless chairman who added a measure of grace to this august institution. A former principal in the Wall Township school system in New Jersey, JIM HOWARD proved an outstanding legislator while serving for more than two decades in the House. During his distinguished career in the public service, he touched the lives of literally millions of Americans and he is responsible for some of the most far-reaching legislation affecting our cities and States.

In the State of Maryland we owe a tremendous debt of gratitude to JIM HOWARD for his leadership on environmental matters. His strong support for the cleanup of the Chesapeake Bay and his opposition to ocean dumping, a menacing solution to our garbage problem that had already begun to spoil the New Jersey beaches, are examples of the kind world he wanted to leave behind. JIM HOWARD is already sorely missed in the House but his handiwork will be long remembered.

Mr. RINALDO. Mr. Speaker, New Jersey has lost one of its most effective and influential Members of Congress in the passing of Congressman JIM HOWARD. He was a tireless advocate and leader for highway safety, mass transportation, environmental protection, and the rebuilding of America's infrastructure.

Virtually every American family benefited from JIM HOWARD'S leadership of the Public Works and Transportation Committee. Under his chairmanship, we saw vast improvements in our Nation's highway system, from the 55-mile-per-hour speed limit to the modernization of our mass transportation network.

The list of JIM HOWARD's accomplishments spans the 23 years he served in Congress. Dams, sewage treatment plants, ocean cleanup, funding for community colleges, motor carrier safety, uniform commercial drivers' licenses, and the most massive highway building in history have left an indelible mark on the nation.

Without JIM HOWARD's tenacious efforts and strong will, our Nation could not have managed to expand our economy through our highway and mass transit system. He believed that America's future prosperity depended on linking every region of our country together, and his efforts have spread the opportunities for growth to every district of the Nation.

As a Representative of the Third Congressional District in New Jersey, JIM HOWARD had a sensitivity to the need to clean up our oceans. With single-minded determination, he led the battle in Congress to close the 12-mile Dead Sea off the New York-New Jersey harbor that was polluting our oceanfront.

He came to Congress in the early sixties, committed to an activist role for the Federal Government. He was a true believer in John Kennedy's challenge to "ask not what your country can do for you, but what you can do for your country."

JIM HOWARD served his Nation well, and the people of New Jersey are proud of the reputation he earned in Congress. You cannot travel anywhere in New Jersey without seeing the results of JIM HOWARD's work.

The title of "Mr. Highway Safety" was one that he was proud of and he expressed it at the Lifesavers Conference in Boston some time before his death. "Some might think I'm corny when I drive through my district at night and see the houses lit up and families inside," JIM HOWARD said. "I wonder how many of them might not be there without the 55-mile-per-hour law."

He fought some of the toughest battles on Capitol Hill and took on the most powerful industries in his battle to clean up toxic waste.

JIM HOWARD was a Congressman who got things done for America; a builder in the same sense as the early pioneers who opened the West and linked our people together by blazing new trails and building railroads. It was JIM HOWARD's job to bring those new frontiers into the modern age, and he did it with remarkable success.

I extend my deepest sympathy to JIM's wife, Marlene, their children, and the other members of his family on their great loss. We will all miss JIM very much.

Mr. RAHALL. Mr. Speaker, I would like to join my colleagues tonight in expressing my heartfelt sorrow over the passing of our dear friend and colleague, JIM HOWARD. I came to know and respect Chairman HOWARD through my membership on the Committee on Public Works and Transportation. Many others have lauded JIM's accomplishments as chairman of that great committee and I will not detail all of them this evening. All of us here can attest to the importance to our home States of the highway and water resources bills that Chairman HOWARD guided through both the House and various conference committees. We also remember that JIM was willing to help his friends on an individual basis. I will always gratefully remember the trip he made with me to Huntington, WV, to inspect the East End Bridge, then under construction. It was with his support that this important span between West Virginia and Ohio was completed.

JIM will be sorely missed by his colleagues and many friends not only here in Washington but throughout the Nation. His legacy—this Nation's infrastructure—will long be a testament to JIM and his efforts on behalf of all Americans.

Mr. GUARINI. Mr. Speaker, I rise to join my colleagues in tribute to the late Congressman JIM HOWARD. His death is a great loss for New Jersey, for America, and for the Nation.

When the Founding Fathers created the Congress, they saw this House as "The People's House". JIM HOWARD was a national Congressman, a powerful Congressman, but more than anything—he was a people's Congressman.

JIM fought long, hard battles to build our highways, and to keep them safe.

He fought long, hard battles to create jobs, and to deal with toxic waste.

He promoted mass transit, he protected the environment, he was a leader among his peers.

JIM HOWARD was a fighter. He was a tireless worker, who backed up his words with action. He was a true Democrat, who rose above partisan politics. He was extremely influential, yet he always put the people first.

JIM loved the New Jersey shore—a lifelong interest—and passed important bills to clean and preserve it.

He strongly supported the 55-mile-an-hour speed limit, and fought valiently to keep it. When it first became law, he noted the instant plunge in the highway death rate. He said that he couldn't help thinking that a lot of his friends were alive because of that law.

Long ago, JIM had a vision for a new era of growth. He wanted highways to link the great arteries of this country. He wanted jobs, for people to rebuild the roads, bridges and cities. He had a vision, the "Howard plan," which had a lasting impact on the transportation policies of America.

JIM'S hand touched every corner of this Nation. The roads we drive, the water we drink, and often the public building just around the corner—he touched them all.

He stood for what America stands for. He believed in what America could be. He was a hard-nosed politician, who never lost the capacity to dream.

Many years ago, a poet said:

"Words are easy, like the wind; faithful friends are hard to find."

JIM HOWARD was a faithful friend: to me, the New Jersey to the Nation, and to what he believed in.

Above all, JIM was faithful to what the Founding Fathers had in mind, when they built the People's House.

His voice and his vision will be missed, but his work will live on, for a long, long time to come.

Mr. MINETA. Mr. Speaker, I rise, with immense respect and great sorrow in my heart, to honor a good friend and an outstanding and honorable colleague, JAMES J. HOWARD.

As a colleague, I mourn for the vision and energy which this Nation has lost in his passing. As a friend, I mourn that such a vibrant and worthy companion has been taken from us, so unexpectedly.

I will always consider the opportunity I had to work with JIM HOWARD a great honor and a highlight of my service in the House of Representatives.

He was held in the highest esteem by his colleagues, and deservedly so. We were all touched by his dedication, determination, and vision. We all progressed through his leadership in forging agreements and in bringing vital legislation to life and to ultimate success.

We were all inspired by his strong beliefs and integrity. He represented both his district and the Nation well.

His mark is not only on the James J. Howard Interstate Highway, which is a most fitting tribute, but on every major transportation and water network on which this Nation's economy rests. His dedication to a healthy infrastructure has served our Nation well, and will serve us for years to come. His legacy will be long remembered.

We will never know how many people are alive today because of his bulldog determination to maintain the 55-mile-per-hour speed limit and his fortitude in requiring the higher, more responsible drinking age. But whether or not they know it, they and their loved ones owe a great debt to JAMES J. HOWARD.

His legacy includes a sensible approach in coordinating our highway and mass transit plans into a surface transportation policy through the "Howard plan," an important weapon in our battles against gridlock and other demons of traffic. Indeed, his work will long live on.

The number of his accomplishments which made travel safer for Americans, or which made our water cleaner, or which simply made life better through any of his numerous other successes, are indeed legion. I cannot begin to list them all. But I would like to mention one little corner of public policy where I had the honor to work with him.

I worked with JIM HOWARD of many issues, but especially the field of aviation. In this Congress, I am proud to say that we worked side by side to shape our Nation's aviation system for the next few years. With his leadership and perseverance, the Congress approved a far-reaching, sound airport and airways bill. We will all benefit from his role in this legislation for years to come.

He was an outstanding national influence on public works policy, a persistent fighter for the ideas in which he believed, and an unmatched negotiator. Those of us who worked with him know personally of his uncanny ability to gauge the sense of Congress and read the political tea leaves. He instinctively knew which motions would succeed and which would fail before they were even read and well in advance of when the votes were tallied.

I feel fortunate to have had JIM HOWARD on my side far more often than not. He was an awesome opponent and an avidly sought-out compatriot. I learned much from him—from his uncanny political sense, his boundless energy and his willingness to take on the tough fights.

JIM HOWARD was a great asset to this body. The fuel which energized him was not glory, power, or gain, but a sincere desire to serve his constituents and this Nation to the best of his ability. And his best is truly the epitome of public service.

He will be greatly missed as a colleague, as a dedicated teacher, and as a good, good friend.

I extend my sympathy to his wife, Marlene, and to his family.

Mr. HASTERT. Mr. Speaker, I appreciate having this opportunity to join in paying tribute to a distinguished Member of Congress, JIM HOWARD.

I consider it an honor to have served on the House Public Works and Transportation Committee under the leadership of such a committed, hard-working legislator. His ability to effectively build bipartisan coalitions leaves him with a great legacy of accomplishments.

Chairman HOWARD will long be remembered as a champion of the cause to improve the infrastructure, who brought to the forefront the need for investment to maintain our Nation's crumbling infrastructure at a time when there were so many other pressing needs.

Perhaps JIM HOWARD will be best remembered for his efforts in the area of highway safety legislation. Many of the benefits that we all enjoy and appreciate can be traced to his legislative prowess. Legislation that included the national maximum speed limit, the 21-year-old drinking age law and the uniform commercial driver license are all measures that he sponsored and we can credit him with.

We will certainly all miss this man who's outstanding record leaves a model of public service.

Mr. GRANT. Mr. Speaker, on March 25, the Congress lost one of its great leaders and true gentlemen, the Hon. JAMES J. HOWARD of New Jersey.

As chairman of the Public Works and Transportation Committee, JIM HOWARD was a tireless public servant, lending his considerable talent and drive toward alerting Americans to the importance of maintaining our Nation's irreplaceable infrastructure.

Those of us who enjoy the convenience and comfort of America's airline industry owe a debt of gratitude to JIM HOWARD for insisting that with deregulation, competition, and lower fares, we did not lose sight of our first priority, safety.

And when we take to the highways, we should never forget that because of JIM HOWARD's leadership, our interstates are well maintained, constantly being improved, and get safer year after year.

But JIM HOWARD's influence went beyond the more well known aspects of his committee's jurisdiction. The Public Works Committee also has the responsibility of authorizing money for the Botanic Garden, the Library of Congress, and the Smithsonian Institution, Washington landmarks enjoyed by millions of visitors to our Nation's Capitol each year. In addition, a myriad of programs affecting bridges, dams, navigable rivers, and pollution control all were guided in purposeful ways by the strong leadership of Chairman HOWARD.

Like any great leader, JIM HOWARD was shaped by his past. Born in Irvington, NJ, JIM graduated from St. Bonaventure University and continued on to receive his master's degree in education from Rutgers University. After graduation, JIM enjoyed a highly successful and honored career in education, becoming the principal of Wall Township High School in 1952. He also served as the president of the Monmouth County Education Association.

In 1964, the wise voters of the Fourth District of New Jersey recognized the enormous talent and energy of JIM HOWARD and sent him to Washington as their representative.

There are many Members of the House and Senate who are more familiar with JIM HOWARD than I. They can relate stories about his famous sense of humor, his insight, his courtesy, and his kindness.

As a first term member of the Public Works Committee, I did not have the pleasure of working with JIM HOWARD very long. But even in the short time I knew him, I was profoundly affected by his good nature, fairness, and genuine interest in the problems facing my district, even though he was undoubtedly one of the busiest men in Congress.

I cannot think of a better person to emulate than JIM HOWARD. He was dedicated to highway safety and fought hard for the issues he believed in, yet he fought fairly. He was one of the most powerful chairmen in Congress, yet he was accessible and patient with every one of his committee members. The Congress will be a lesser place because of his passing.

Mr. LIGHTFOOT. Mr. Speaker, I want to thank the gentleman from New Jersey [Mr. RODINO] for requesting this time and for allowing me this opportunity to honor the memory of our late colleague from New Jersey, Representative JIM HOWARD.

JIM was a dear friend who always listened to my concerns and did everything he could to help address them. He was a fine gentleman who truly cared about people. As one who appreciates a good joke, I could always count on JIM'S good sense of humor.

I have served with JIM on the Committee on Public Works and Transportation since I took office in 1985. In the few years I knew him, I came to respect JIM as an effective legislator who deeply believed in the causes for which he was such an able advocate here in Congress. Whether it was legislation to protect the environment or to rebuild our Nation's infrastructure, JIM HOWARD would totally devote himself and work hard to see it through.

JIM always went overboard in his efforts to be fair and bipartisan. Under JIM'S leadership, contentious issues became widely-supported compromises without his overriding principles having been sacrificed.

I extend my deepest sympathy to JIM'S wife and family, and I want them to know I share in their loss. JIM will be sorely missed here in Congress, but his good deeds will not be forgotten.

Mr. PACKARD. Mr. Speaker, I rise to pay tribute to my chairman and colleague on the Public Works Committee, JIM HOWARD. Along with each of you, I am deeply saddened at the death of Chairman HOWARD. His leadership and presence in the Congress will be sorely missed.

I have known JIM since I was first elected to the Congress in 1982. As a member of the Public Works and Transportation Committee, I have worked closely with him on a number of important issues. I will always remember his fairness in dealing with me as a freshman Member of the minority party. JIM was committed to improving the infrastructure of America and it didn't matter if he was improving it in a Republican or Democratic district. What mattered to him was that he was improving our country.

It was a privilege for me to work with JIM in the Congress and he will be missed by all of us. His is a legacy worth emulating.

Mr. SUNIA. Mr. Speaker, today we have come to honor Chairman JAMES HOWARD, a man whose life and work so greatly affected his colleagues, constituents and every American. Yet it is a sad sort of honor that we have here today, for we wish there were no cause for such a gathering.

JIM HOWARD was a special friend to me. His leadership, guidance and mentorship I have greatly felt and will greatly miss.

I began serving in Congress and on the Public Works Committee the same year that JIM HOWARD became the committee's chairman, and he was always ready to help me with whatever challenges I tackled and with whatever questions I had.

In the 100th Congress until his death, I had the opportunity to serve as a subcommittee chairman on public works—a job I knew I would learn easily because of JIM HOWARD'S willingness to help his fellow colleagues.

I say that Chairman HOWARD touched the life of every American because of the work he did to update this nation's infrastructure. To look at this Nation's roads and public transportation, even its sewage plants and its water systems, is to see JIM HOWARD'S work.

No, his was not always glamorous work. It was not work which gave him great publicity. Yet it was tireless work. It was a labor of love for his country. And his was work by which we will all remember this champion, this friend and colleague.

Most importantly, JIM HOWARD was willing to work with and help people in all parts of this Nation. When I told him of the needs we had in my territory, which is 8,000 miles away, he was willing to listen and help.

On the day of his death, I sent a message of sympathy to his widow, Marlene, from my wife and me. In the months that lie ahead, as his family feels the loss of their husband and father, I hope they are consoled that JIM was the fine person that he was and that their husband and father really made a difference in this world. And I hope they find peace of mind in knowing that he continues to be held in high regard.

Mr. COURTER. Mr. Speaker, I would like the RECORD to include the statement I issued on learning of the sudden death of my friend and colleague, Representative JIM HOWARD:

JIM HOWARD was a model Congressman. He served his district with more energy, diligence and expertise than his constituents will ever know. Our State lost a fine public servant, and I feel that I have lost a friend who was always a source of experienced judgment.

I extend my deepest condolences to JIM's family and to his staff and friends in New Jersey and Washington who had the privilege of helping him serve the public.

Mr. BIAGGI. Mr. Speaker, I am very proud to join my colleagues here tonight in paying a richly deserved tribute to one of the finest gentlemen to have served in this august body, my good friend and colleague, JIM HOWARD. JIM's untimely death last month was a great loss to all of us who served with him and to all of those who were served by him. But, we can all be very thankful for the 24 years of solid congressional service JIM HOWARD gave to his country.

JIM did not seek the national spotlight. After all, his background as a schoolteacher and principal was one of quiet effectiveness. Yet, it is difficult to think of any other single Member of Congress who had more of an impact on more American lives than JIM HOWARD. He was the leader of the fight for the 55 mph national speed limit, which is credited with having saved some 50,000 lives since 1974. He led the successful campaign for a national uniform drinking age of 21, as well as for other effective and much needed measures in the crackdown against drunk driving. He increased Federal aid for truck safety and obtained greater funding of State child-passenger safety programs.

He was also a staunch protector of our environment. He led the effort to clean up toxic waste, to strengthen clean water laws and to inform citizens about environmental dangers in their own communities.

Many of these achievements came during JIM's tenure as chairman of the House Public Works and Transportation Committee, which began in 1980. JIM wielded the considerable power of that position with just the right amount of toughness and fairness. He would back down from no one and he was respected by everyone.

But, as much as his work had national implications, involving billions of dollars and public works projects in communities throughout the country, he never once lost sight of the project that gave him the most satisfaction of all—taking care of the needs and concerns of his constituents in New Jersey's Third Congressional District. His constituents always came first with JIM HOWARD. He served them as well as any Member can and that's the highest tribute any of us can receive.

Mr. Speaker, JIM HOWARD credits President John F. Kennedy with inspiring him to seek elective office. And so it is only fitting that we recall a quote from President Kennedy as we pay this very special tribute to JIM HOWARD. He said: "Our success or failure, in whatever office we hold, will be measured by the answers to four questions: First, were we truly men of courage; second, were we truly men of judgment; third, were we truly men of integrity; finally, were we truly men of dedication?" JIM HOWARD, then, was truly a great success.

I wish to extend my condolences to his wife, Marlene, and his three children, who are no doubt being comforted during this difficult time by the knowledge that is shared by all of us who knew JIM—his was a job well done and a life well lived.

Mr. ROWLAND of Georgia. Mr. Speaker, in reflecting on a person's life, we usually look for the overall patterns, both to put the individual's accomplishments in perspective and to provide ourselves a measuring rod for our own progression in this world.

JIM HOWARD's patterns are noteworthy comments on his philosophy of life. His adult road to the Congress began at two very fine institutions, St. Bonaventure and Rutgers University. It is fitting and in keeping with their traditions that the motto of each stresses the tandem nature of moral nobility and learning. The chairman obviously took these words to heart in his choice of professions.

The teaching of our young people is one of the most important obligations any of us could undertake. As has often been said, almost without thinking, they are the future of our country. However, JIM did not tackle anything without thinking. He seized every task with gusto, but also with care and attention to detail. I have no doubt that some of the finest of our future colleagues in Government and business will bear the leadership stamp of JIM HOWARD's teaching.

The transition from education to the Congress and, specifically, to the chairmanship of the House Public Works and Transportation Committee may seem blurred to some. However, upon closer examination, I find it to be very direct and an obvious conclusion for JIM's purposes.

He was concerned with the future of our country as represented by our children, the "infrastructure" of our society if you will. Therefore, the brick and concrete infrastructure of our Nation was a natural follow-on to his goals. The transportation systems and public works we will hand on to and, indeed, are now handing on to those very same children JIM taught will be critical in their efforts to continue fueling America's growth and predominance in the next century. That generation will not be able to compete in the international marketplace without a way of getting our goods to the market. Equally important, they will not be able to provide their children with the standard of living we now enjoy if we do not protect our water supply and environment.

JIM saw the big picture and no man worked harder to focus it and make it understandable to the public. Yet, he made his mark with zest, kindness and humor.

One last note, it is perhaps not unusual for us as colleagues to remark on one another's working comradeship. But staff may not always find "the Members" so easy to work for. In JIM HOWARD's case, I have yet to come across any staff personnel who would question his genuine working partnership with them. To me, that is an even more telling comment on the man and one more piece of the pattern which was Chairman JAMES J. HOWARD.

I will sincerely miss him.

Mr. TOWNS. Mr. Speaker, I want to join my colleagues in honoring my chairman and my friend, JIM HOWARD.

It was an honor to serve with JIM both as a member of the House Public Works and Transportation Committee as well as a neighbor from the New Jersey Delegation. I will always cherish his openness and willingness to support the efforts of his committee members. It was through his personal intervention that I was able to authorize relocation expenses for a utility in my congressional district. Moreover, JIM could always be counted on to support the initiatives of Congressional Black Caucus members to ensure that minority businesses participated in the infrastructure projects authorized by the Public Works Committee.

Certainly, America had no greater champion for the protection of our infrastructure than JIM HOWARD. His commitment for full funding for our highways and transit systems preserved support for public works programs in the face of drastic budget reductions. As a northeasterner, JIM understood the interrelationship between a sound infrastructure and the Nation's economy. He was also not afraid to fight for a cause that he believed was just. While the 55 mph speed limit was not popular with many of his colleagues, JIM fought for its maintenance, as a national standard, because he truly believed that it was a safety issue first and foremost.

The compassion and commitment to help others, which first led JIM to the teaching profession, never left him as a Member of Congress. He was a true "gentle man" who will be sorely missed in this House.

Mr. MICHEL. Mr. Speaker, I join with you and our colleagues in paying tribute to our late friend and colleague, JIM HOWARD of New Jersey.

In recent weeks we have seen the death of JIM and of Mel Price, my Illinois colleague. It is a great loss to this institution and to the country when Congressmen with such long experience and dedication pass away.

JIM will be remembered for his service as chairman of the Public Works and Transportation Committee. He was with us since the election of 1964 and played an important role in determining transportation policy for many years.

When I attended his funeral service, with so many of our colleagues, I was touched by the beauty and serenity of the ceremony. It reminded me that too often around here we take each other for granted. It is only on such a somber occasion as a funeral that we are brought face to face with the fact that we are often so busy we can't get to know each other better or to allow friendships to grow.

I join all of our colleagues in remembering JIM HOWARD and in extending condolences to his family.

Mr. GINGRICH. Mr. Speaker, Congressman JIM HOWARD was a liberal, a partisan, a supporter of big labor, and a man who believed in much bigger government than I do. But JIM was also a hard worker, a colleague, and a good friend. As chairman of the Public Works Committee, he backed the Atlanta Airport; he helped Marta; he supported building highways across Georgia; and he was concerned about our water supply. JIM put the country and the country's interests above partisanship and ideology.

Sadly, this past month, I went to the funeral of JAMES J. HOWARD, Democrat from New Jersey and 24-year veteran of the U.S. Congress. Only 60 years old, JIM HOWARD died of a heart attack doing one of the things he liked most, playing golf. Although he had had several heart attacks, he still lived life to the fullest. He worked hard for his family, his district, and his country.

Flying up to the funeral with me were Secretary of Transportation Jim Burnley and Republican House Leader BOB MICHEL. We talked about the enthusiasm and the commitment JIM had brought to his job and to the Congress. Seeing hundreds of people gathered at the church to say good-bye to their Congressman and their friend, brought to mind how the years of hard work and community service create a political family—a network of friends and 5associates who care. It was a tremendous delegation that came from Washington from the House, the Senate, and the executive branch. Seeing the warm emotional support from the community, I know the Howard family found themselves both sad at their loss and proud in their memory.

The ceremony itself was touching. Speaker JIM WRIGHT and Congressman MO UDALL paid tribute to our respected colleague, and an extraordinarily fine singer brought tears to every eye with a rendition of "Danny Boy" that would have touched JIM's Irish soul and pleased him immensely. As MO UDALL said, JIM was a man who loved his community, his Congress, and Ireland. He loved politics and lived for public service. When I started on the Public Works Committee, Chairman HOWARD helped me learn the ropes; he showed me that we could work together in a bi-partisan way to produce the best highway bill, the best aviation bill, and the best water bill. He believed in projects, in infrastructure, and in developing a healthier, stronger America.

I will miss him. All of us in Congress will miss him. Although he is gone, his memory, his spirit, and his commitment live on.

Mr. CLINGER. Mr. Speaker, I am very pleased to join with so many of my colleagues in paying tribute to our departed friend and a great leader in this House—JIM HOWARD.

I must confess that I got off on the very worst foot with JIM shortly after I came to Congress and was appointed to the Public Works and Transportation Committee in 1979. The National Republican Congressional Committee asked me to go to a small town on the coast of New Jersey to speak at a big party function. When I got there you can imagine my shock and dismay when I discovered that I was the principal speaker at a fundraising dinner for JIM'S Republican opponent that year.

Well, I gave about 25 percent of the speech I was prepared to give, avoided the local press and slunk out of town praying that there would be no mention of me in any news reports. A week or so went by and I thought I was in the clear. And then one day I passed JIM in the Hall and without breaking stride he said, "Did you have a good time in my district, Mr. CLINGER?"

I feared the worst. Even then JIM one of the most influential members of the committee and in line for the chairmanship. He could have made my life miserable to say the least. But he never did. And that fact says volumes about the man. It also made me one of his biggest fans.

JIM HOWARD was never small minded or vindictive. In fact, just the reverse. The committee has been a model of bipartisan cooperation under JIM's leadership. We in the minority were always consulted about committee business and whenever possible, our ideas have been adopted. We never felt shut out of the process. In fact, JIM went out of his way to emphasize the bipartisan nature of the committee—often attending fundraising events for Republican members. And he fought just as hard for meritorious projects in Republican districts as he did for those in Democratic districts.

Under JIM HOWARD'S dynamic leadership, the Public Works and Transportation Committee enjoyed a unique reputation for effective legislation. We rarely came to the floor with a bill which the entire committee could not support. The reason was that JIM was a masterful diplomat and negotiator. He could find ways to satisfy the concerns of Members without compromising on essential elements of a bill.

JIM HOWARD was a strong leader, a tireless worker to improve public facilities and the Nation's transportation network, and a good friend to all of us. The poet W.H. Auden once wrote, "Everyay there die among us those who were doing us some good and knew it was never enough but hoped to improve a little by living." JIM HOWARD was one of those. He improved us all and his Nation by living. He will be sorely missed.

Mr. HORTON. Mr. Speaker, I rise today to offer a few words in the memory of my good friend and colleague, the Honorable JAMES J. HOWARD.

First, let me offer my condolences to JIM's family. To JIM's lovely wife Marlene, I wish to express my deepest sympathy. Similarly, my wife Nancy wishes me to convey her heartfelt remorse. The pain we all feel at JIM's passing gives us but a glimmer of the grief that you must be experiencing.

The world lost a great public servant and a great man with the passing of JIM HOWARD. JIM began his service to the public as a school teacher before moving on to the Congress in 1964. Rising to become chairman on the House Public Works and Transportation Committee, JIM combined effective leadership with a fantastic sense of humor.

It is impossible to calculate the amount of good that JIM accomplished during his tenure in Congress. His efforts in reducing highway speed limits have saved countless lives and earned him the title "Mr. Highway Safety."

Beyond his efforts to make our highways safer for millions of Americans, JIM sought to protect citizens by supporting legislation to clean up toxic waste sites, to clean our waters and our air, and to protect consumers. His list of accomplishments in these and other areas is extensive.

Though I did not serve on a committee with JIM, I walked over to the Capitol with him many times and we became good friends. I will always be appreciative of the advice which JIM offered.

His colleagues in Congress lost a good friend with JIM HOWARD's passing, and the American people lost a determined protector of their safety. Perhaps the greatest tribute we could pay to JIM is to carry on his work and place the health and safety of all American citizens as a top priority.

Mr. SENSENBRENNER. Mr. Speaker, I rise to pay tribute to one of New Jersey's and the House of Representatives' finest statesmen, JAMES J. HOWARD.

In 1964, JIM was elected to the U.S. House of Representatives. By 1973, he had worked his way up to chair the House Public Works and Transportation Subcommittee on Energy where he introduced the 55-mile-per-hour speed limit legislation which subsequently became law. By 1980, he was elected to the powerful chairmanship of Committee on Public Works and Transportation.

Having jurisdiction over the policy and funding of Federal highways, rapid transit, water projects, as well as the airline and trucking industries, Chairman HOWARD left his mark on much of that landscape across America.

JIM was also a staunch supporter of the environment. He was the driving force behind protecting New Jersey's environment, especially their beaches and oceans. He also was a key player in getting the omnibus clean water bill signed into law.

His concern for young Americans was demonstrated by his successful work to raise the legal drinking age to 21 years old.

He worked tirelessly for his constituents and America. We will miss his leadership.

Mr. SMITH of Iowa. Mr. Speaker, with the untimely death of Congressman JAMES J. HOWARD, of New Jersey, the Nation lost a truly distinguished public servant. For those of us who were privileged to know JIM and his family intimately through the years, the sense of personal loss is deep and indelible. My wife, Bea, and I counted JIM and Marlene and their daughters among our dearest friends, and this relationship spanned the entire 23 years that JIM served in Congress.

At the lovely memorial service for JIM in Spring Lake on March 29, appropriate tribute was paid to a loving and beloved husband and father and also to the public servant who had left this mark as a national leader. It is said that great men are memorialized by their achievements that live on after they are gone. Throughout this land, there are highways, public buildings, dams, bridges, waterways, harbors, railroad structures that bear the stamp of JIM HOWARD's leadership. He had a vision of the future and saw the deterioration of the Nation's infrastructure and was an early prophet to call for its rebuilding. Even more important than the physical projects he helped to build were the concepts in the national interest he fought for: safety on the Nation's highways, clean waters and the cleanup of toxic wastes, to name only a few. He was a kind and compassionate man and these qualities were reflected in his public service; his mission in life was basically to help people.

Before entering Congress, JIM was a schoolteacher and this experience served him well as a Congressman, chairman of a major House committee and leader in the enactment of important and complex legislation. For one thing, he always did his homework and was impeccably well informed about the details of legislation in his committee's jurisdiction. Also he was an able communicator who could translate technical and bureaucratic jargon into plain language that his colleagues and the general public could readily understand.

As a Member of Congress, Jim worked with a sensitive understanding of his responsibility to act in the interest of his own constituents but keeping always in perspective the larger vision of the needs of the Nation. In committee or on the House floor, he was a strong, intense, energetic leader, a fair and firm committee chairman and a builder of coalitions in support of important legislation.

Jim was a robust, hard-working individual in whom the love of life ran high, whether in work or play. He was also a modest man who appreciated his position of leadership in Congress and never coveted the fame and power of others. He had what is called in public life, the common touch and a magnificent sense of humor. In the midst of the hardest fought congressional battles, Jim never lost that sense of humor, his poise, and his civility.

We extend our deepest sympathy to Marlene and to the daughters, Kathy, Lenore, and Maria and the other family members. As for Jim, his name will live on for the good works he did and the full life that he lived.

Mr. Bevill. Mr. Speaker, I rise today to pay tribute to my good friend Him Howard who passed away in late March. Jim was an outstanding leader in the Congress. He served his constituents with unfailing dedication and he served our Nation with a deep sense of commitment.

Those of us who worked with Jim will remember his accomplishments as chairman of the House Public Works and Transportation Committee. He worked long and hard to improve our Nation's highways and public works projects. he knew the value of these projects to citizens across our country.

Since I initiated the House energy and water development appropriations bill, Jim and I worked closely together on many of these projects. I was impressed by his wisdom and foresight. Jim was so knowledgeable and so able when it came to make the best decisions for our Nation's infrastructure.

I enjoyed working with Jim and I will mis him. The Congress has lost one of its true leaders and our Nation has lost a great statesman. But, Jim Howard's good works will not be forgotten.

GENERAL LEAVE

Mr. RODINO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of this special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PENDING RESOLUTION OF DECERTIFYING MEXICO UNDER THE DRUG ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. de la Garza] is recognized for 60 minutes.

Mr. de la GARZA. Mr. Speaker, I take this time to visit with the Members and discuss to some extent the pending resolution of decertifying Mexico under the Drug Act for their so-called lack of cooperation with the United States in that effort.

Mr. Speaker, first let me say that I wish to commend all the effort that has been done in this country on the war on drugs, but yet listening to a newscast last night I saw where mayors from throughout the United States were concerned that, for example, the FBI is expending less than 4 percent of its budget on drugs or on combating the producing, trafficking, and use of drugs.

Also, I saw one of the mayors, I think he was from Allentown, PA, faulting the U.S. Government, or the Federal Government, by saying that when you declare war, you mobilize all your resources, and in this case it has not been done.

So let me say to my colleagues in the House and to my friends on the Foreign Affairs Committee how vitally important this action can be not only to us, but to our relations with Mexico, because I am concerned that we are relying only on drugs or the production and traffic thereof to have our policy as it relates to Mexico be controlled solely by that activity and neglecting all the other things that encompass our relations with a friendly neighbor.

Let me say that the United States has vital security, economic, border, and population interests in Mexico.

Also, we must realize that Mexico possesses the fourth largest oil reserve in the world and provided 14 percent, 640 million barrels per day, of our crude oil imports in 1987.

On the trade issue, Mexico has been the third largest market for United States exports, following only Canada and Japan.

Also, our United States companies have over $10 billion invested in direct investment in Mexico.

So let me say that to decertify Mexico, in spite of the considerable Mexican efforts, however, would be both unjustified and seriously counterproductive. It would only benefit the traffickers in drugs.

Let me say further, Mr. Speaker, that President Reagan has already sent the message both at the Mexican summit in February and in the statement accompanying his full cooperation of certification.

It is clear from Mexico's President de la Madrid's very positive response and his government's subsequent actions that the message was received and understood.

Let me give you some figures, Mr. Speaker, that I think would be helpful in assessing our position and in judging whether we should decertify or not. These are figures as of the end of March of this year.

Poppy fields destroyed: 527,636.

Poppy acres destroyed: 110,154 acres.

Marijuana fields destroyed: 383,979.

Marijuana acres destroyed: 131,810.

Cocaine seizures: 49,747 pounds.

Street value as judged by the DEA: $6.5 billion.

Marijuana seizures in tons: 2,200 tons.

Street value in U.S. dollars: $5.3 billion.

Vehicles seized: 8,325.

Now, this is very important, the next figure, for those who might say that there is a lack of cooperation on the Mexican side.

Personnel killed in action in the drug effort: 155.

Personnel permanently disabled: 333.

Personnel devoted to the drug war from the military: 26,365 full-time members of the armed services in Mexico.

The Attorney General's office in Mexico: 1,550 full-time members of the Attorney General's office in Mexico. As a percentage of their budget, the Attorney General's office in Mexico has more than 60 percent of its budget destined or working in the antidrug effort.

Most importantly, my colleagues and my friends, is the fact that there seems to be in Mexico great concern that we yet do not understand them, that we do not care.

I think from the President of Mexico down to the lowest level of the Mexican Government, in the states, in the local provinces, in the small towns and villages, they feel that the effort perhaps can be enhanced. Perhaps they could do more, but yet we who have maybe a thousand times more the resources than Mexico has have not been able to stop the inflow of drugs on our coasts or on our borders with Mexico, but yet we demand of them a higher performance than we have been able to achieve on our side.

□ 2000

Recently I visited in Mexico. I visited the Governor of the state of Nuevo Leon and we discussed the drug problem, and by the way, they were initiating that day a program with the youth of the state of Nuevo Leon, sort of like our "Say no to drugs" program that Mrs. Reagan and people of good will are working on in this country.

My concern is, and I say this as one who shares the ancestry from both sides because where we live in Texas, and New Mexico, and Arizona, and

California, and Colorado, and parts of Utah and most of the land west of the Mississippi, after Mexico's independence from Spain we became a part of Mexico. Later, after an invasion of Mexico by the United States military forces, that land was ceded to the United States by the Treaty of Guadalupe Hidalgo.

I know it is an accident of history, and it cannot be erased, but that made me a Member of the Congress of the United States. I could conceivably have been a member of the Mexican congress had that not happened, had that accident of history not happened, but my concern is now that, that is our border, we are two separate nations, we are two different people but we have to understand the sensitivity, the concern of the people who now live in Mexico when they say that either we do not understand them or if we understand them we do not care and that we are going in a very irresponsible way by using one area of our relationship to condemn Mexico and the people of Mexico in a very embarrassing way in front of the world by saying, "We will decertify you. You will get no foreign aid."

Mr. Speaker, Mexico does not get foreign aid from us. In the war on drugs we allow $14 million of which $10 million goes to work with the air fleet. That is about all we do. But then we would say to our representatives at the World Bank and at the Inter-American Development Bank to vote against Mexico's request for loans. This I do not think is proper.

Mr. Speaker, I would hope that my colleagues would look at the figure that I am providing and listen to my concern as a result of visiting with the people in Mexico that this is very serious because they feel that we are as a nation being insensitive when in fact they have lost 155 dead, 300-plus disabled, and they are making a major effort militarily and in the civilian forces in Mexico to combat the drug problem.

My major concern is the issue of our sensitivity and our caring and our understanding of them because people on the street with whom I have visited say to me, "You already took half of our land. You already took half of our country. Now you are telling us that we are not helping you protect that area."

Mr. Speaker, they have told me, "You have come and invaded our country. Your marines have come to the very walls of Chapultepec Castle."

We tend to forget that. We forget that kind of thing and those of us who share a similar background, it is very awkward at times because if one listens to the marine hymn, it says "From the halls of Montezuma." Marines were there killing Mexicans over the issue of where the boundary was to be between the then-United States and then-Mexico. They feel that somehow that accident of history should be rectified at least by being sensitive to their feelings, sensitive to their Government by being cognizant of what they are trying to do as a nation under the most difficult economic times that they are passing through.

When I was in Mexico recently a friend of mine that is running for the senate in Mexico in his presentation at a feast honoring him at which I had the honor to be one of the guests of honor, recited the history of Mexico. We who live here in this the greatest most powerful nation in the world should see and feel the pain that they feel because as we severed our relations from Great Britain, the most powerful nation in the world at that time, we shed our blood and then we had a division which killed more people than have been killed in any other war that we have been involved in. That was when the States fought the Civil War to preserve the Union, Mr. Lincoln's desire and concern that the Union be preserved. But Mexico has had invasions from Spain, from France, and from the United States. They have had their revolutions. They have come up as a nation in the world through very sad and difficult circumstances from the first Indians that died under the spears of the Spanish conquistadors to those Mexicans that are dying today under the spear of the drug traffickers and the war lords of the drug world.

It is sad that they would have to rely to some degree on a kind of resentment to then ask me, a Member of the Congress of the United States, "Don't your colleagues understand? Don't you read history? Don't you have the feeling of a neighbor to a neighbor who is trying under very difficult circumstances to do the best we can?"

They do not have the use or abuse of drugs to the level that we have it, but they think they might, and they are very concerned.

Mr. Speaker, more than that I hear it every day in my area from people that I represent concerned about Central America and every other letter that I get says, "What if they come north? What if they would travel to Mexico from Central America? What could happen to Mexico?"

Mr. Speaker, this action could have the propensity to destabilize the Government of Mexico because they are now involved in a political campaign for the Presidency, and whichever candidate wins, it could sour our relations for the next 6 years with that incoming Government of Mexico. So I very respectfully present this argument to my colleagues, and hopefully to the members of the Committee on Foreign Affairs, that this is a very serious matter.

Before we act, if we do act, we must do so with full knowledge of the potential impact that it can have on Mexico, on the people of Mexico, on their relations with the United States, on our relations people to people between our countries, and the only ones that could benefit would be the ones we have declared war on. The only ones that could benefit would be the traffickers and the producers of marijuana, of heroin, and traffickers of the cocaine that comes through Mexico. I am personally satisfied that they are doing the best that they can.

We can always say that they could do more and I would join with anyone who would say that because they would admit that perhaps they could do more, but they have limited resources. They are using those limited resources above and beyond what we are using in our own country. It is very difficult not to measure someone by the same yardstick by which one measures oneself.

Again very respectfully I urge my colleagues to listen to my plea if for no other reason that those of us who live on the border are the closest to whatever happens in the relationship between our countries and between our peoples. We cross back and forth every day. The river in my area, the Rio Grande River, separates our two nations, two juridical entities, but it does not separate the people. The people come and go. We have daily relationships in commerce, in education, and in culture. We work together all the time on the border. Informally they are working on the drug effort.

Our sheriffs and their local commandantes work on an informal basis. There have been mistakes made, I do not think anyone will deny that. More can be done. I do not think anyone could deny that. But the basic matter is the integrity of the government of Mexico, the integrity of our Government, and our ability to deal with our neighbors, not only Mexico but around the world, that we be able to deal with them in a manner which is straightforward, which is direct, which if needed to be harsh will be harsh but in a respectful manner and not to say that we would do so in a threatening way.

They could just tell us where to go and say, "Don't send your $14 million. We will go our own way as far as combating drugs is concerned."

They are not going to stop their war effort against the drug traffickers. They are not going to stop it, but we would lose any sense of cooperative spirit.

Mr. Speaker, I would hope that we can bilaterally at the highest level work together. We have had a bilateral commission headed by the Vice President. We have had lower level working commission. Our Attorney General has been to those meetings. We have been working together. We know in the Congress that there has been a joint commission proposed but which never has been implemented. We still have a ways to go within this administration and the Congress where together we can work with members of the Mexican Government.

Our Select Committee on Narcotics Abuse and Control works on an informal basis with these various groups. The gentleman from New York [Mr. Rangel], the gentleman from New York [Mr. Gilman], the ranking minority member, they are in contact and they work together with these groups, they discuss these things. They do not agree always but they work and discuss together. So I feel that we should have at the highest level the continuation of bilateral cooperative arrangements and have it at every level. We in the Congress must do likewise. I serve through the courtesy of the Speaker and my colleagues who honor me as chairman of the House part of the United States-Mexico Interparliamentary Union. I have also been able to discuss one on one with our colleagues from Mexico, with their senators and their representatives, and always there is that concern sometimes unspoken but understood by us who understand them that we lack the sensitivity, that we lack the caring part of where Mexico is going, of what Mexico can do for itself.

The population in Mexico will almost double by the end of this century.

□ 2015

That can be very dangerous also because of poverty, because of the lack of employment, because of the needs of people, schools, housing, water, power, which are all of those things Mexico is working at slowly, but they do not have the resources. They do not have the resources.

To be able to maintain that effort with the growing population and the effort on the drug trafficking and/or production has been a very difficult problem for them, and I can attest from my personal perspective that Mexico has, is, and will continue to do the utmost in cooperating with us, because they care, they care if a young child dies of an overdose in Chicago or New York or Washington, DC. They care if someone is killed because of the very, very serious situation we have in our country in relation to drugs.

Sometimes they ask, "If you would stop the use, then you would not complain about our sending it." Maybe we have not done as much in curtailing the use on this side, but we should continue our work and our effort in that respect also.

We have lost DEA agents here and in Mexico; we have lost law enforcement officials here and in Mexico.

We complain that there is corruption in Mexico. There is corruption here. There are more drug dollars than in the treasury of most of the Latin American and Central American countries. A warlord can buy a country, because he would have more billions than there are in the treasury of some country.

So the impact can be worldwide, and most important to us, in Central America and South America, more needs to be done. But I can attest to the fact from my perspective, my personal observation, Mexico is doing, and will continue doing, what is the responsible thing. I would hope that my colleagues, beginning in the Committee on Foreign Affairs, would not decertify Mexico, but rather, would do something positive in connection with how we can continue working together, how we can enhance our effort to hopefully someday rid both Mexico and the United States of this very, very sad and difficult situation which is the use, abuse, and trafficking of drugs.

I thank my colleagues for their patience with me in listening to my plea.

I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to: Mr. Ray of Georgia (at the request of Mr. Foley), for today and the balance of the week on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Rowland of Connecticut) to revise and extend their remarks and include extraneous material:)

Mr. Pashayan, for 60 minutes, on April 28.

Mr. Parris, for 60 minutes, on April 29.

Mr. Parris, for 60 minutes, on May 2.

Mr. Parris, for 60 minutes, on May 3.

Mr. Parris, for 60 minutes, on May 4.

Mr. Parris, for 60 minutes, on May 5.

Mr. Jeffords, for 60 minutes, on April 28.

(The following Members (at the request of Mr. Gray of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Stark, for 5 minutes, today.

Mr. Udall, for 5 minutes, today.

Mr. de la Garza, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bennett, in the Committee of the Whole, today, immediately preceding Mr. Stratton.

(The following Members (at the request of Mr. Rowland of Connecticut) and to include extraneous matter:)

Mr. Broomfield.
Mr. Wortley.
Mr. Crane in seven instances.
Mr. Shumway.
Mr. Molinari.
Mr. Daub.
Mr. Lujan.
Mr. Dornan of California.
Mr. Mack.
Mr. Gilman in two instances.
Mr. Grandy.
Mr. Badham.
Mr. Bliley.
Mr. Solomon in four instances.
Mr. Oxley.
Mr. Robert F. Smith.

(The following Members (at the request of Mr. Gray of Illinois) and to include extraneous matter:)

Mr. McMillen of Maryland.
Mr. Traficant.
Mr. Kildee.
Mr. Ackerman.
Mr. Cardin.
Mr. Lehman of Florida.
Mr. Lipinski.
Mr. Garcia in three instances.
Mr. Clarke.
Mr. Wolpe.
Mr. Stark in two instances.
Mr. Guarini.
Mr. Fuster.
Mr. Applegate.
Mr. Matsui.
Mr. Smith of Florida.
Mr. Clay.
Mr. Ray.
Mr. Towns.
Mr. Erdreich.
Mr. Rangel.
Mr. Dingell.
Mr. Owens of Utah.

SENATE BILL AND CONCURRENT RESOLUTION REFERRED

A bill and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 721. An act to provide for and promote the economic development of Indian tribes by furnishing the necessary capital, financial services, and technical assistance to Indian owned business enterprises and to stimulate the development of the private sector of Indian tribal economies; to the Committee on Interior and Insular Affairs.

S. Con. Res. 88, concurrent resolution to facilitate the convening of a Silver Haired Congress; to the Committee on Education and Labor.

ENROLLED BILL SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill of the House of the following title, which were thereupon signed by the Speaker:

H.R. 5. An act to improve elementary and secondary education, and for other purposes.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S.J. Res. 190. Joint resolution to authorize and request the President to issue a proclamation designating June 6-12, 1988, as "National Fishing Week."

BILL PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did on April 25, 1988 present to the President, for his approval a bill of the House of the following title:

H.R. 3439. An act for the relief of Marisela, Felix, and William Marrero.

ADJOURNMENT

Mr. de la GARZA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 18 minutes p.m.) under its previous order the House adjourned until tomorrow, Wednesday, April 27, 1988, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3486. A letter from the Secretary of the Air Force, transmitting notification of the determination that the Navstar GPS Program has exceeded its baseline unit cost by more than 15 percent, pursuant to 10 U.S.C. 2431(b)(3)(A); to the Committee on Armed Services.

3487. A letter from the Chairman, Tennessee Valley Authority, transmitting a copy of the annual report of the Authority's compliance with the Government in the Sunshine Act for calendar year 1987, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2737. A bill to direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program; with amendments (Rept. 100-580, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3977. A bill to authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993; with an amendment (Rept. 100-581). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4267. A bill to authorize additional appropriations for the WEB Rural Water Development project; with amendments (Rept. 100-582, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2558. A bill to authorize the Secretary of the Interior to take corrective action to protect certain portions of the Fanklin County, Washington, road system within the Federal Columbia Basin reclamation project; with amendments (Rept. 100-583). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3679. A bill to clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes; with an amendment (Rept. 100-584). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 3819. A bill to prohibit additional appropriations for the analysis and study for the Shaws Bend site of the Colorado Coastal Plains project. (Rept. 100-585). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 4213. A bill to amend title 38, United States Code, with respect to the Montgomery GI bill; with amendments (Rept. 100-586, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. COURTER (for himself, Mr. Smith of New Jersey, Mr. Gallo, and Mr. Saxton):

H.R. 4454. A bill to establish programs to promote recycling, and for other purposes; jointly, to the Committees on Science, Space, and Technology, Education and Labor, Energy and Commerce, and Merchant Marine and Fisheries.

By Mr. ROSE:

H.R. 4455. A bill to amend the Social Security Act to establish a new program to provide for the health care needs of the elderly, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. CRANE:

H.R. 4456. A bill to provide that any individual who is the spouse of a Member of Congress shall be ineligible for any civilian office or position as to which appointment is required to be made by the President with the advice and consent of the Senate; to the Committee on the Judiciary.

By Mr. DOWDY of Mississippi:

H.R. 4457. A bill to create a national park at Natchez, MS; to the Committee on Interior and Insular Affairs.

By Mr. HOPKINS (for himself, Mr. Staggers, and Mr. Mazzoli):

H.R. 4458. A bill to simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for identification and criminal history records relating to the applicant for such licensing; to the Committee on the Judiciary.

By Mr. HORTON:

H.R. 4459. A bill to amend title 38, United States Code, to provide that the disease of transverse myelitis occurring in a veteran within 7 years from the date of the veteran's discharge or release from active duty shall be considered to be service-connected; to the Committee on Veterans' Affairs.

By Mr. JONES of North Carolina (for himself, Mr. Davis of Michigan, and Mr. Lent):

H.R. 4460. A bill to remove unnecessary restrictions on the documentation of certain vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. LOWRY of Washington:

H.R. 4461. A bill to prohibit operations by the Coast Guard in the Persian Gulf region; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. MACK:

H.R. 4462. A bill to require the use, in Federal formula grant programs, of adjusted census data, and for other purposes; to the Committee on Post Office and Civil Service.

By Mrs. MARTIN of Illinois (for herself, Mr. Gunderson, Mr. Lujan, Mr. Sunia, Mr. Hiler, Mr. Miller of Washington, Mr. Gregg, Mr. Nielson of Utah, Mr. de la Garza, Mr. Lagomarsino, Mr. Gray of Illinois, Mrs. Johnson of Connecticut, Mr. Biaggi, Mrs. Boxer, Mr. Konnyu, Mr. Skelton, Mr. McCloskey, Mr. Bereuter, Mr. Davis of Illinois, Mrs. Collins, and Mrs. Saiki):

H.R. 4463. A bill to provide grants and tax incentives for small businesses to establish child care centers for children of employees, and for other purposes; jointly, to the Committees on Small Business, Ways and Means, and Education and Labor.

By Mr. OLIN:

H.R. 4464. A bill to amend the Federal Rules of Civil Procedure with respect to sanctions for the violation of rule 11; to the Committee on the Judiciary.

By Mr. OWENS of Utah (for himself, Mr. Jeffords, Mr. Berman, Mr. Lujan, Miss Schneider, Ms. Oakar, Mrs. Boxer, Mr. Fauntroy, Mr. Dixon, Mr. Evans, Mr. Chapman, Mr. Garcia, Mr. Conte, Mr. Foglietta, Mr. Hochbrueckner, Mrs. Meyers of Kansas, and Mr. Sharp):

H.R. 4465. A bill to provide adequate funding levels for solar energy research and development, to encourage Federal procurement of solar energy systems, to encourage Federal loans for solar energy equipment, to enhance the international competitiveness of the solar industry, and for other purposes; jointly, to the Committees on Science, Space and Technology, Energy and Commerce, Ways and Means, Armed Services, Banking, Finance and Urban Affairs, Small Business, Foreign Affairs, and Post Office and Civil Service.

By Mr. STANGELAND:

H.R. 4466. A bill to repeal increases made by the Revenue Act of 1987 in the occupational taxes on dealers in beer, and for other purposes; to the Committee on Ways and Means.

By Mr. WALKER:

H.R. 4467. A bill to make ineligible for Federal financial assistance and Government contracts any entity that does not maintain a drug free workplace; jointly, to the Committees on Energy and Commerce and Government Operations.

By Mr. WELDON (for himself, Mrs. Bentley, Mr. Houghton, Mr. Upton, Mr. Konnyu, Mr. Hastert, Mr. Donald E. Lukens, Mr. Herger, Mr. Buechner, Mr. Carper, Mr. Lagomarsino, Mr. Saxton, Ms. Kaptur, Mr. Frank, Mr. Horton, Mr. Smith of Florida, Mr. Harris, Mr. Gallo, Mrs. Meyers of Kansas, Mr. Hughes, Mr. Brennan, and Mr. Ballenger):

H.R. 4468. A bill to improve the collection, analysis, and dissemination of information that will promote the recycling of municipal solid waste; to the Committee on Energy and Commerce.

By Mr. BOSCO (for himself, Mr. Coelho, and Mr. Miller of California):

H.R. 4469. A bill to partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds and for other purposes; jointly, to the Committees on Interior and Insular Affairs, the Judiciary, Energy and Commerce, and Merchant Marine and Fisheries.

By Mr. WHITTEN:

H.J. Res. 552. Joint resolution making emergency mandatory veterans supplemental appropriations for the fiscal year ending September 30, 1988; to the Committee on Appropriations.

By Mr. MINETA (for himself, Mr. Anderson, Mr. Atkins, Mr. Lehman of Florida, Mr. Lungren, Mrs. Bentley, Mr. Lowry of Washington, Mr. Hughes, Mr. Levine of California, Mr. Horton, Mr. Rodino, Mr. Roe, Ms. Oakar, Mr. Ortiz, Mr. Owens of New York, Mr. Berman, Mr. Gilman, and Mr. Fazio):

H.J. Res. 553. Joint resolution to designate November 7, 1988, as a day to commemorate the 25th anniversary of the motion picture, "It's a Mad, Mad, Mad, Mad World," to the Committee on Post Office and Civil Service.

By Mr. DYSON (for himself, Mr. Anderson, Mr. Barnard, Mr. Bateman, Mrs. Bentley, Mr. Bevill, Mr. Berman, Mr. Biaggi, Mr. Blaz, Mr. Borski, Mr. Bustamante, Mr. Carper, Mr. Chandler, Mr. Conyers, Mr. de la Garza, Mr. de Lugo, Mr. Dickinson, Mr. DioGuardi, Mr. Donnelly, Mr. Dornan of California, Mr. Dowdy of Mississippi, Mr. Espy, Mr. Fauntroy, Mr. Fazio, Mr. Fields, Mr. Flake, Mr. Foglietta, Mr. Frenzel, Mr. Fuster, Mr. Garcia, Mr. Grant, Mr. Gray of Illinois, Mr. Green, Mr. Gunderson, Mr. Hansen, Mr. Hatcher, Mr. Hayes of Illinois, Mr. Hayes of Louisiana, Mr. Hefner, Mr. Hertel, Mr. Hochbrueckner, Mr. Hoyer, Mr. Hubbard, Mr. Hughes, Mr. Hutto, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Kildee, Mr. Kolter, Mr. Kostmayer, Mr. Lagomarsino, Mr. Lancaster, Mr. Lantos, Mr. Leath of Texas, Mr. Levin of Michigan, Mr. Lewis of California, Mrs. Lloyd, Mr. Lott, Mr. McDade, Mr. Manton, Mr. Mavroules, Mr. Murphy, Mr. Murtha, Mr. Natcher, Mr. Neal, Mr. Nichols, Ms. Oakar, Mr. Ortiz, Ms. Pelosi, Mr. Pickett, Mr. Ravenel, Mr. Richardson, Mr. Robinson, Mr. Roe, Mr. Rodino, Mr. Schuette, Mr. Sisisky, Mr. Skelton, Mr. Spence, Mr. Denny Smith, Mr. Smith of Florida, Mr. Stokes, Mr. Sunia, Mr. Tallon, Mr. Thomas of Georgia, Mr. Upton, Mr. Waxman, Mr. Weldon, Mr. Wolpe, Mr. Wortley, Mr. Yatron, and Mr. Bonior of Michigan):

H.J. Res. 554. Joint resolution designating the week beginning November 6, 1988, as "National Watermen's Recognition Week"; to the Committee on Post Office and Civil Service.

By Mr. WORTLEY (for himself, Mr. Lipinski, Mr. Flippo, Mr. Annunzio, Mr. Solomon, Mr. Lungren, Mr. Konnyu, Mr. DioGuardi, Mr. Lagomarsino, Mr. Frenzel, Mr. Buechner, Mr. Smith of New Hampshire, Mr. Dannemeyer, Mr. Biaggi, Mr. Weber, Mr. Dornan of California, Mr. Gilman, Mr. Courter, Mr. Burton of Indiana, Mr. Inhofe, Mr. Donald E. Lukens, Mr. McEwen, Mr. DeWine, Mrs. Meyers of Kansas, and Mr. Manton):

H.J. Res. 555. Joint resolution designating November 7, 1988, as "The Memorial Day for Victims of Communism"; to the Committee on Post Office and Civil Service.

By Mr. KASICH:

H. Con. Res. 287. Concurrent resolution expressing the sense of the Congress that the United States should urge the U.N. Security Council to promptly adopt an arms embargo against Iran and Iraq; to the Committee on Foreign Affairs.

By Mr. PORTER (for himself, Mr. Wilson, Mr. Dreier of California, Mr. Levin of Michigan, Mr. Frank, and Mr. Scheuer):

H. Con. Res. 288. Concurrent resolution concerning peace and reconstruction in Afghanistan; jointly, to the Committees on Foreign Affairs and Banking, Finance and Urban Affairs.

By Mr. YATRON (for himself and Mr. Solomon):

H. Con. Res. 289. Concurrent resolution protesting Soviet human rights violations, especially restrictive emigration regulations, and calling on the President to stress, at the Moscow summit meeting, the inherent link between respect for human rights and the achievement of lasting peace; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 601: Mr. Studds.

H.R. 637: Mr. Packard.

H.R. 722: Mr. Bonior of Michigan.

H.R. 757: Mr. Foglietta and Mr. Rowland of Connecticut.

H.R. 958: Mr. Espy, Mr. Weldon, and Mr. Garcia.

H.R. 1078: Mr. Young of Florida.

H.R. 1365: Mr. Miller of California, Mr. Evans, Mr. Owens of New York, Mr. DeFazio, Mr. Frost, Mr. Matsui, Mr. Garcia, Mr. Fauntroy, Mr. Biaggi, Mrs. Boxer, Mrs. Collins, Mr. Smith of Florida, Mr. Sunia, Mr. Jontz, Mr. Williams, Mr. Pepper, Mr. Tallon, Mr. Berman, Mrs. Johnson of Connecticut, Mr. Morrison of Connecticut, Mrs. Morella, Mr. Weiss, Mrs. Meyers of Kansas, and Mr. Rangel.

H.R. 1721: Mr. Nelson of Florida.

H.R. 1766: Mr. Gordon.

H.R. 2028: Mr. Ravenel.

H.R. 2039: Mr. Wolf, Mr. Rhodes, Mrs. Saiki, Mr. Inhofe, and Mr. Denny Smith.

H.R. 2522: Mr. Waxman.

H.R. 2532: Mr. Clay.

H.R. 2537: Mr. Chapman and Mr. Downey of New York.

H.R. 2667: Mr. Moorhead and Ms. Oakar.

H.R. 2750: Mr. Matsui, Mr. Sabo, Mr. Dwyer of New Jersey, Mr. Mavroules, and Mr. McCollum.

H.R. 2762: Mr. Dixon, Mr. Blaz, and Mr. Valentine.

H.R. 2793: Mr. Bevill.

H.R. 2854: Mr. Studds and Mr. Sunia.

H.R. 2925: Mr. Olin.

H.R. 2926: Mr. Lagomarsino.

H.R. 3215: Mr. Hunter and Mr. Dannemeyer.

H.R. 3312: Mr. Packard and Mr. Williams.

H.R. 3382: Mr. Boucher, Mrs. Johnson of Connecticut, Mr. Robinson, Mr. St Germain, Mr. Boland, Mr. Henry, Mr. Spence, Mr. Oberstar, Mr. Tallon, Mr. Frost, Mr. Kildee, Mr. Denny Smith, Mr. Shaw, Mr. Gray of Pennsylvania, Mr. Kolter, Mr. Wolpe, Mr. Neal, and Mr. Owens of Utah.

H.R. 3397: Mr. Owens of New York, Mr. Downey of New York, Mr. Rowland of Connecticut, Mr. Bonker, and Mr. Horton.

H.R. 3403: Mr. Akaka, Mrs. Byron, Mr. Foglietta, Mr. Bonker, Mr. Chandler, and Mr. Brown of Colorado.

H.R. 3455: Mr. Studds, Mr. Dixon, and Mr. Mrazek.

H.R. 3470: Mr. Herger, Mr. de Lugo, Mr. Fish, Mr. Fazio, Mr. Rinaldo, Mr. Nielson of Utah, Mr. Carr, Mr. Barton of Texas, Mr. McCandless, Mr. Frank, Mr. Baker, Mr. Coble, Mr. Lungren, and Mr. Yates.

H.R. 3552: Mr. Shaw.

H.R. 3553: Mr. Weiss, Mr. Kolter, Mr. Chapman, and Mr. Mineta.

H.R. 3627: Mr. Hyde.

H.R. 3703: Mr. Lehman of California and Mr. Kildee.

H.R. 3742: Mr. Stenholm, Mr. Rowland of Georgia, Mr. Lehman of California, and Mr. Burton of Indiana.

H.R. 3784: Mr. Foglietta.

H.R. 3785: Mr. Fauntroy, Mr. Lehman of California, Mr. Hughes, Mr. Vento, Ms. Kaptur, Mr. Owens of Utah, Mr. Mrazek, Mr. Boucher, Mr. Barnard, and Mr. Gingrich.

H.R. 3791: Mr. Lujan, Mr. Dymally, Mr. Gilman, Mr. McEwen, Mr. Synar, and Mr. Bustamante.

H.R. 3836: Mr. Lowry of Washington, Mr. Gray of Illinois, Mr. Bilbray, Mrs. Collins, Mr. Robert F. Smith, Mr. Garcia, Mr. Stark, Mr. Atkins, and Mr. Jontz.

H.R. 3847: Mr. Buechner.

H.R. 3866: Mr. Brooks.

H.R. 3879: Mr. Crockett, Mr. Fish, Mr. Matsui, and Mr. McEwen.

H.R. 3883: Mrs. Boxer, Mrs. Morella, Mr. Donnelly, Mr. Wise, and Mr. Fazio.

H.R. 3889: Mr. Herger, Mr. Nichols, Mr. Rowland of Georgia, Mr. Coughlin, and Mr. Baker.

H.R. 3891: Mr. Torres, Mr. Gonzalez, Mr. Traficant, Mr. Owens of New York, Mr. Coelho, Mr. Matsui, Ms. Pelosi, Mr. Lewis of Georgia, Mr. Durbin, Mr. Evans, Mr. Hayes of Illinois, Mr. McCloskey, Mr. Markey, Mr. Espy, Mr. Dowdy of Mississippi, Mr. Manton, Mr. Coyne, Mr. Kleczka, Mr. Johnson of South Dakota, Mr. Foley, Mr. Dellums, Mr. Mineta, Mr. Panetta, Mr. Donnelly, Mr. Bonior, Mr. Downey of New York, Mr. Mrazek, Ms. Slaughter of New York, Mr. Gray of Pennsylvania, Mr. Kanjorski, Mr. Bustamante, Mr. Hayes of Louisiana, Mr. Studds, Mr. Bates, Mr. de Lugo, and Mr. Lowry of Washington.

H.R. 3893: Mr. English, Mr. Kemp, Mr. Nichols, and Mr. Bevill.

H.R. 3907: Mr. Burton of Indiana, Mr. Coleman of Missouri, and Mr. Hiler.

H.R. 3915: Mr. Lewis of Georgia, Mr. Espy, and Mr. Foglietta.

H.R. 3944: Mr. Combest, Mr. Swindall, Mr. Nielson of Utah, Mr. Bereuter, Mr. Hastert, and Mr. Schuette.

H.R. 3983: Mr. Dymally, Mr. Fazio, Mr. Dellums, Mr. Gejdenson, Mr. Fauntroy, Mr. Hayes of Illinois, Mr. Boland, Mr. Markey, Mr. Studds, Mr. Kennedy, Mr. Atkins, and Mr. Ford of Michigan.

H.R. 4049: Mr. Spratt, Mr. Gray of Illinois, Mr. AuCoin, Mr. Pease, Mr. Lewis of Georgia, Mr. Roe, Mr. Gunderson, Mr. Mavroules, Mr. Carr, Mr. Durbin, Mr. Fish, Mr. Sabo, Mr. de la Garza, Mr. Neal, Mr. Smith of Florida, Mr. Madigan, Mr. Horton, Mr. Lehman of Florida, Mr. Markey, Mr. Williams, Mr. Downey of New York, Mr. Waxman, Mr. Rodino, Mr. Owens of Utah, Mr. Hoyer, Mr. Richardson, Mr. Roybal, Mr. Scheuer, and Mr. Espy.

H.R. 4074: Mr. Horton.

H.R. 4091: Mr. de Lugo and Mr. Gingrich.

H.R. 4131: Mr. Hawkins, Mr. Jontz, Mrs. Schroeder, and Mr. Oberstar.

H.R. 4212: Mr. Fish, Mr. Wortley, Mr. Nowak, Mr. Boehlert, Mr. Manton, and Mr. Solarz.

H.R. 4221: Mr. Downey of New York, Mr. Rowland of Connecticut, Mr. Henry, Mr. Towns, Mr. Williams, and Mr. Marlenee.

H.R. 4239: Mr. Pashayan.

H.R. 4254: Mr. Lewis of Georgia, Mr. Derrick, and Mr. Swindall.

H.R. 4277: Mr. Bosco, Mr. Hatcher, Mr. Mazzoli, Mr. Dicks, Mr. Moorhead, Mr. Brown of California, Mr. Lujan, Mr. Bustamante, Miss Schneider, Mr. Lewis of California, Mr. Coelho, Mr. Foglietta, Mr. St Germain, Mr. Slattery, Mr. Scheuer, and Mr. Clay.

H.R. 4285: Mrs. Bentley, Mr. Wortley, Mr. Davis of Illinois, Mr. Ravenel, Mr. Fawell, Mr. Weber, Mr. Holloway, Mr. Shumway, and Mr. Quillen.

H.R. 4338: Mrs. Boxer, Mr. Dyson, Mrs. Martin of Illinois, and Mr. Gingrich.

H.R. 4358: Mr. Parris.

H.R. 4383: Mr. McCollum and Mr. Owens of New York.

H.R. 4403: Mr. DeFazio, Mr. Owens of New York, Mr. Gonzalez, Ms. Pelosi, Mr. Miller of California, Mr. Ackerman, and Mr. Garcia.

H.R. 4448: Mr. Solarz, Mr. Fauntroy, Mr. Spence, Mr. Horton, Mr. Yates, Mr. Clay, Mr. Fazio, Mr. Gray of Pennsylvania, Mr. Ford of Tennessee, Mr. Espy, Mr. Frost, Mr. Hayes of Illinois, Mr. Roe, Mr. Rangel, Mrs. Collins, Mr. de Lugo, Mrs. Bentley, Mr. Atkins, Mr. Bevill, Mr. Johnson of South Dakota, Mr. Akaka, Mr. Dellums, Mr. Dixon, Mr. Jones of North Carolina, Mr. Jontz, Ms. Kaptur, Mr. Kleczka, Mr. Latta, Mr. Lowry of Washington, Mr. Martinez, Mr. Lipinski, Mr. Levin of Michigan, Mr. Owens of New York, Mr. Mfume, Mr. Hawkins, Mr. Dymally, Mr. Crockett, Mr. Edwards of California, Mr. Flake, Ms. Pelosi, Mr. Garcia, Mr. Matsui, and Mr. Panetta.

H.J. Res. 289: Mr. Lantos, Mr. McEwen, Mr. Rowland of Georgia, Mr. Dixon, and Mr. Regula.

H.J. Res. 367: Mr. Gregg, Mr. Kasich, Mr. Richardson, Mr. Staggers, Mr. Synar, Mr. Hamilton, Mr. Lagomarsino, Mr. Inhofe, Mr. Mollohan, Mr. Craig, Mr. Stallings, Mr. Brennan, Mr. Skeen, Mr. Rahall, Mr. Pickett, Mr. Latta, Mr. Clay, Mr. Sharp, Mrs. Saiki, Mr. Lent, Mr. Coats, and Mr. Akaka.

H.J. Res. 398: Mr. Burton of Indiana, Mr. Dickinson, Mr. Crane, Mr. Lightfoot, Mr. Molinari, Mr. Ford of Michigan, Mr. Skaggs, Mr. Dyson, Mr. Pickett, Mr. Craig, Mr. Denny Smith, Mrs. Morella, Mr. Pickle, Mrs. Meyers of Kansas, Mr. Staggers, Mr. Boulter, Mr. Moakley, Mr. Rodino, and Mr. Rose.

H.J. Res. 422: Mr. Akaka, Mr. Annunzio, Mr. Bennett, Mr. Bonior of Michigan, Mr. Bonker, Mr. Bosco, Mr. Boulter, Mr. Bustamante, Mr. Campbell, Mr. Cardin, Mr. Clay, Mr. Clement, Mr. Coleman of Missouri, Mr. Cooper, Mr. Daub, Mr. Davis of Michigan, Mr. Dickinson, Mr. Dixon, Mr. Fazio, Mr. Feighan, Mr. Frost, Mr. Gephardt, Mr. Gilman, Mr. Goodling, Mr. Green, Mr. Guarini, Mr. Hall of Ohio, Mr. Henry, Mr. Hochbrueckner, Mr. Inhofe, Mr. Kastenmeier, Mr. Konnyu, Mr. Lancaster, Mr. Lantos, Mr. Lewis of Georgia, Mr. Lowry of Washington, Mr. Thomas A. Luken, Mr. McMillen of Maryland, Mr. Madigan, Mr. Mavroules, Mr. Mfume, Mr. Miller of Ohio, Mr. Mineta, Mrs. Morella, Mr. Murtha, Mr. Nelson of Florida, Mr. Nichols, Mr. Ortiz, Ms. Pelosi, Mr. Perkins, Mr. Porter, Mr. Ray, Mr. Rhodes, Mr. Richardson, Mr. Russo, Mr. St Germain, Mr. Scheuer, Mr. Shaw, Mr. Solomon, Mr. Spratt, Mr. Stallings, Mr. Stenholm, Mr. Sunia, Mr. Synar, Mr. Tallon, Mr. Torres, Mr. Whittaker, Mr. Wilson, Mr. Wise, Mr. Wyden, Mr. Wylie, Mr. Young of Florida, Mr. Young of Alaska, Mr. Ford of Tennessee, Mr. Gonzalez, Mr. DeWine, Mr. McHugh, Mr. Coble, Mr. Markey, and Mr. Pickle.

H.J. Res. 438: Mr. Yatron and Mr. Hayes of Louisiana.

H.J. Res. 442: Mr. Bateman.

H.J. Res. 446: Mr. Owens of New York, Mr. Horton, Mr. Berman, Mr. Lagomarsino, Mr. Clay, Mr. Morrison of Connecticut, Mr. Gray of Illinois, Mrs. Bentley, Mr. Fish, Mr. de Lugo, Mr. Hughes, Mr. Derrick, Mr. Moakley, Mr. Kleczka, and Mr. Fascell.

H.J. Res. 475: Mr. Andrews, Mr. Bates, Mr. Bosco, Mr. Bruce, Mr. Bryant, Mr. Chapman, Mrs. Collins, Mr. Donnelly, Mr. Durbin, Mr. Evans, Mr. Frank, Mr. Goodling, Mr. Hammerschmidt, Mr. Jacobs, Mr. Jontz, Mr. Kennedy, Mr. Kildee, Mr. Kolter, Mr. Donald E. Lukens, Mr. McEwen, Mr. Madigan, Mr. Olin, Mr. Schuette, Mr. Synar, Mr. Visclosky, and Mr. Wolpe.

H.J. Res. 477: Mr. Dornan of California, Mr. McMillen of Maryland, and Mrs. Meyers of Kansas.

H.J. Res. 491: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 492: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 493: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 494: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 495: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 496: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 497: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 498: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 499: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 500: Mr. Davis of Illinois and Mr. Dwyer of New Jersey.

H.J. Res. 507: Mr. Fauntroy, Mr. Neal, and Mr. Buechner.

H.J. Res. 530: Mr. Chandler, Mr. Konnyu, Mr. Lujan, Mr. Ravenel, Mr. Kasich, Ms. Kaptur, Mr. Hayes of Illinois, Mr. Gregg, Mr. Parris, Mr. Stallings, Mr. Daub, Mr. Archer, Mr. Lent, Mr. Bunning, Mr. Livingston, Mr. Schaefer, Mr. McCloskey, Mr. Campbell, Mr. Solomon, Mr. Darden, Mr. Coats, Mr. Gilman, Mr. McEwen, Mr. Badham, Mr. Dingell, Mr. Hammerschmidt, Mr. McCollum, Mr. Mack, Mr. Coble, Mr. Hyde, Mr. Roth, Mr. Bartlett, Mr. Weber, Mr. Packard, Mr. Dymally, Mr. Bateman, Mrs. Martin of Illinois, Mr. Shays, Mr. Morrison of Washington, Mr. Thomas of California, Mr. Dicks, Mr. Donald E. Lukens, and Mr. Barton of Texas.

H.J. Res. 538: Mr. Wilson.

H.J. Res. 540: Mr. Lancaster, Mr. Hughes, Mr. Schuette, Mr. Rangel, Mr. Garcia, Mr. Mrazek, Mr. DeFazio, and Mr. Denny Smith.

H. Con. Res. 223: Mr. Bosco, Mr. Brown of Colorado, Mr. Bruce, Mr. Campbell, Mr. Chapman, Mr. Cheney, Mr. Clay, Mr. Cooper, Mr. Craig, Mr. Davis of Illinois, Mr. Donnelly, Mr. Dreier of California, Mr. Gekas, Mr. Goodling, Mr. Hall of Texas, Mr. Hammerschmidt, Mr. Harris, Mr. Hastert, Mrs. Johnson of Connecticut, Mr. Lewis of California, Mr. Matsui, Mr. Mollohan, Mr. Moody, Mr. Olin, Mr. Ortiz, Mr. Panetta, Mr. Petri, Mr. Price of North Carolina, Mr. Rhodes, Mr. Rowland of Georgia, Mr. Sabo, Mr. Schaefer, Mr. Shuster, Mr. Denny Smith, Mr. Thomas of California, Mr. Valentine, and Mr. Waxman.

H. Con. Res. 232: Mr. Nelson of Florida, Mr. Chandler, Mr. McCollum, and Mr. Borski.

H. Con. Res. 239: Mr. Bilirakis.

H. Con. Res. 256: Mr. Torricelli.

H. Con. Res. 261: Mr. Davis of Illinois.

H. Con. Res. 262: Mr. Yatron, Mr. Cooper, Mr. Robinson, Mr. McDade, Mr. Martinez, Ms. Snowe, Mr. Hayes of Louisiana, Mr. Aspin, Mr. Quillen, Mrs. Byron, Mr. Rose, Mr. Price of North Carolina, and Mr. Kastenmeier.

H. Con. Res. 277: Mr. Leach of Iowa, and Mr. Miller of California.

H. Res. 225: Mr. Gekas and Mr. Livingston.

H. Res. 396: Mr. Fawell, Mr. Kasich, Mr. Bilirakis, and Mr. Madigan.

H. Res. 400: Mr. Bates, Mr. Biaggi, Mr. Cardin, Mr. DeFazio, Mr. Dorgan of North Dakota, Mr. Evans, Mr. Frank, Mr. McDade, Mr. Martinez, Mr. Matsui, Mr. Moakley, Mr. Nowak, Ms. Pelosi, Mr. Quillen, Mr. Robinson, Mr. Russo, Mr. Skaggs, Mr. Solarz, and Mr. Smith of Florida.

EXTENSIONS OF REMARKS

PRIVATIZATION OF PUBLIC SERVICES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, I am a strong proponent of privatizing public services. Indeed, facts have proven that the free market system is most efficient. The transfer of public services from Government monopoly to free market competition will stimulate economic growth, by both reducing costs and improving efficiency. Furthermore, competition will lead to the creation of more productive jobs. Private firms are generally more flexible and innovative than public firms, thus public services under private management would not inherit the stagnation that characterizes the present system. Therefore, I commend the following article by Carolyn Lochhead, which points out the advantage of privatization, for the careful consideration of my colleagues:

[From Insight, Feb. 22, 1988]

CITIES FINDING PUBLIC SERVICES BETTER-RUN BY PRIVATE FIRMS

Summary: Whether transit or trash collection, school lunches or sewage treatment, almost any service provided by local government can be done by private companies. And, the record shows, for less. Competition and the quest for profits help keep costs down and service up. As tax revenues are squeezed tighter and demands rise, privatization will be a major factor in government servcies.

A bridge is rising over the Red River at Fargo, N.D., on the promise of a 25-cent toll. Built, owned and operated by the Bridge Co. and the Municipal Development Corp., it will be the first privately built major U.S. bridge in more than 40 years.

A private fire company fights fires in Elk Grove, Ill. A private organization mediates civil disputes in San Francisco. A $1 billion privately built highway may soon encircle Denver. Private schools teach dropouts under state contract in Tacoma, Wash. And real estate developer Donald J. Trump became something of a folk hero among New Yorkers in 1986 when he renovated the Wollman Memorial Skating Rink in Central Park ahead of schedule and $750,000 under his $3 million budget. This after the city had spent $12 million and six years trying to get the rink operating, to no avail.

Private firms are now delivering city services from school lunches and garbage collection to wastewater treatment and mass transit. Virtually all the country's large engineering firms have expanded into municipal work. New firms, such as Graffiti Removal Inc. in Los Angeles, are springing up. By some estimates, spending on privately provided government services is running as high as $100 billion a year.

"I don't think we've reached a quarter of the potential" market, says Irwin T. David, national director of public sector services for Touche Ross and Co., an accounting firm. Almost 80 percent of the cities responding to a recent Touche Ross survey say privatization will be a primary tool used to provide local government services and facilities over the next decade.

The reason is clear: Private firms can deliver public services from 20 to 75 percent more cheaply than cities, studies show. Caught in a fiscal full nelson, cities see privatization as one of the few ways out.

The squeeze is coming from all sides. The federal government no longer doles out billions in revenue sharing. The estimated gap between actual and needed spending on infrastructure—highways, sewage plants, mass transit—will reach $450 billion by 2000. Bumping up against their own borrowing capacity and loath to raise local taxes, even as constituents demand more services, cities are running out of places to turn.

"That's how we get into the picture," says John Turner of Rural/Metro Corp. in Scottsdale, Ariz., the nation's largest fire protection company, with revenues expected to top $50 million this year. Operating with higher productivity and economies of scale, private companies are offering huge savings in fire protection, custodial work, vehicle towing, park maintenance, garbage collection—almost any service a city provides.

Research in economics has uncovered something called the "bureaucratic rule of two," according to Steve H. Hanke, professor of applied economics at Johns Hopkins University.

"If you want to find the public cost of doing something, you just find the private cost and then multiply by two, and that'll get you pretty close," he says.

Labor costs are often why, Gary Jensen, president of American Emergency Services Corp. in Elk Grove, Ill., says in city fire department fire fighters work 40 to 53 hours a week, which includes time spent sleeping on 24-hour shifts, while private fire companies run on 60 or 72 hours a week. "The cities just give away the store," Jensen says. As a result, private costs are 20 to 50 percent lower.

Rural/Metro's equipment costs are generally lower, too. "To quote the founder of the company," says Turner, "'Chrome doesn't put out a fire.' You see these great chrome-decked chariots going down the street—they're very pretty —but you don't need all the excess cost that's built onto those things."

City monopolies on garbage collection or street paving, for example, pose the same problems private monopolies do, economists say. Service declines and prices rise. A monopoly provider does not have to be pleasant to customers. Departments become politicized and patronage-prone. Among private companies, the profit motive tends to drive costs down and to enforce discipline. The more competitive the industry, the more this applies.

Phoenix has been dubbed the "petric dish of privatization" for its long-running experimentation with contracting out services. Since 1978, the city's own sanitation department has competed against private contractors for half of Phoenix's residential garbage collection, submitting its own bids for contracts. It lost the bids at first, but in the past two years it has won. "We went through quite a learning process in doing that," says Ron Jensen, Phoenix's public works director. "Each time, we analyzed the operations or the private contractor and determined ways to improve methods, technology, operations, whatever it might be, to where we gradually improved our operations. Then we started winning the bids."

City worker morale has improved. "We have broken the stereotype" of the patronage-ridden sanitation departrment, says Jensen. "Our employees are not treated as second-class citizens by the community, because it is recognized that we have high productivity and are very competitive."

City department managers often face perverse incentives: the bigger their budget and the larger their staff, the higher their salary and status. Phoenix, in contrast, bases salaries on productivity. So when contractors lowball bids, quoting rockbottom prices to get into the market, "instead of us saying that's unfair, we say the taxayers win," says Jensen. "That's our ultimate goal."

Three years ago, when paying a crushing $600,000 annual subsidy to its bus line forced South Lake Tahoe out of the business, the California city donated the line to its employees. Mike Dooley, a former employee and now partner in Area Transit Management, says the bus line has operated at a profit ever since, because it has to.

"We couldn't operate the system at a profit if we had taken it over exactly as the city was operating it," he says. "They had service that we, I'm sure, for the convenience of the public, but there were routes that were losers."

The city had discounted its $1 fare. "Hardly anyone actually paid $1," says Dooley. "Seniors paid 25 cents, juniors paid 50 cents. Now they pay $1. We feel everybody pays their fair share."

All employees took cuts in paid vacation and wages, although Dooley says wages remain competitive in the local market. The city is now saving itself the $600,000 and it gets bus service.

"The city, being a government body, has certain handicaps in running the business, even at break-even," Dooley says. It could not make quick purchase decisions, for example. "Nobody would say that private enterprise can't do it more efficiently than the city did, and even the city will agree with that."

Volunteer groups, such as Community Board Program, have privatized even justice. Based in San Francisco and funded by corporate and foundation grants, the organization operates in some 40 cities around the country. Citizens volunteer to be trained in mediation, after which they donate time each month to hear disputes. Users pay nothing. Individuals and groups—say, homeowners vs. teenagers using a local park—go before the board to talk through their conflict, says founder Raymond Shonholtz. "Tensions are reduced dramatically. People get to disgorge their hostile emotions in a

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

neutral and safe setting, rather than on the street, where it may escalate."

Shonholtz says the program has proved successful. "It's very clear that it's quite possible to set up a whole other justice system at a fraction of the cost" of city courts. Early resolution of disputes reduces police intervention and cuts the number of court cases filed. If it does not work, disputants are free to turn to the formal legal system.

In exchange for limited ownership rights and either user or service fees, private companies are also financing, building and operating dozens of wastewater treatment plants, cogeneration plants and even major highways, without government funds.

By offering a share of profits, cities draw private capital into public projects and spread risks to the private firms. A firm can own the facility under a franchise arrangement. For example, a city will put a wastewater treatment plant up for bid. Private companies then bid on the fee they will accept in return for providing wastewater treatment. On the basis of that fee, the company can then finance the facility. The city can also sign a long-term contract for the service without giving up ownership.

"We'll take the risk of construction, we'll take the risk on operation, we'll find the technology, we'll guarantee that we'll treat all of your city's sludge for that amount of time," says Ralph Stanley, vice chairman of Municipal Development Corp. "The city doesn't have to raise a bond issue to do it, and the city keeps policy control."

Parsons Municipal Services Inc. is helping to design and construct a major beltway around Denver, using no state or federal money, says Robert M. Davidson, executive vice president. Tolls will contribute more than 70 percent of the cost of the highway; seed money will come from landowners, developers and residents who stand to benefit from the road. A similar project is proposed near Washington Dulles International Airport outside the nation's capital.

User fees such as tolls make those who use government services pay for them. Funding projects with general tax revenues, by contrast, forces everyone to pay the same amount regardless of how much a service is used. The further removed the source of money is from the user, the greater the potential for waste. "Instead of [Washington] saying City A or City B should receive this or that kind of plant," says Davidson, "the cities themselves determine what their needs are, and only the real needy ones are going to spend their own money."

Cities can avoid granting private monopolies even on large projects by setting fees and performance standards. If the firm fails to perform or otherwise violates the contract, the city can pull its franchise.

Likewise in city services. Phoenix contracts out for no more than half of its trash collection and other essential services and so maintains the option to step in if a contractor fails to perform. Many Rural/Metro clients maintain full or part ownership of their fire stations and equipment. "There is no need to disband the department," says Turner. But in 40 years of operation, he says, Rural/Metro has never been fired from a contract and has lost contracts only to other private firms.

Unions, particularly the American Federation of State, County and Municipal Employees and the International Association of Fire Fighters, hotly oppose privatization, arguing that cities lose control over and accountability for their services. They say it also breeds corruption. AFSCME runs national ads that Phoenix calls "erroneous."

Proponents agree that abuses will arise if a city trades its own monopoly for a private monopoly. Safeguards, such as open bidding and sealed bids, are essential, particularly in cities where corruption has been the rule. Contracts must be carefully monitored. They say that union concerns over layoffs can be addressed and that privatization hardly relieves politicians of accountability. In fact, economists maintain that most problems with privatization can be overcome either through the contract procedure or by introducing competition at various stages in the provision of a service.

Competition tends to spread. "Some cities are going to have to privatize whether they like it or not," says Hanke at Johns Hopkins, because as more cities cut costs and improve service through privatization, they begin attracting people and businesses away from other cities. The business potential, everyone seems to agree, is huge.—Carolyn Lochhead

---

CHITA RIVERA OVERCOMES ADVERSITY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GARCIA. Mr. Speaker, as a Member of this body and as a member of the Congressional Hispanic Caucus, I rise today in tribute to one of the great shining stars of Broadway, Chita Rivera. Ms. Rivera has proven herself as an exceptional actress, singer, and dancer with appearances on the screen, on television, and most notably on the stage. Beginning with her Broadway debut in "Guys and Dolls" in 1953, she has starred in some of Broadway's greatest musicals including "West Side Story," "Bye Bye Birdie," "Sweet Charity," "Bajour," and her 1984 Tony Award-winning performance in "The Rink." I have known Ms. Rivera for many years, and like her many fans and theater critics, I continue to be in awe of her talents, her energy and her showmanship.

But most of all, I admire her courage. And it is in response to a tragic event in the life of Ms. Rivera that I am moved to bring the story of her personal triumph to your attention. Two years ago almost to the day, the worst thing that could happen to a dancer happened to Ms. Rivera. In a serious car accident her left leg was shattered and many believed she would never dance again. Yet after 2 years of hospitalization and rehabilitation, and hours upon hours of hard work and willpower, she is scheduled to star in a recently revived musical, "Can-Can."

For those of us from New York who have had the opportunity to see her perform in so many of these wonderful Broadway plays, and for myself, not only as a New Yorker, but also as a New Yorker of Puerto Rican ancestry, I take this opportunity to share with my colleagues this magnificent article on Chita Rivera.

THE SPIRIT OF CHITA RIVERA

(By Michael Ryan)

Chita Rivera is one of these people who can radiate excitement just by asking a waiter where the pay phone is. Back on April 6, 1986, she had lots to be excited about. A star on Broadway for three decades, since *West Side Story*, she was back again in the musical *Jerry's Girls*. She felt festive, so she went out to dinner in New York's theater district with some friends, then offered one of them a ride home. It was while making a U-turn on a Manhattan street that night that Chita Rivera encountered what would be the greatest test—and the greatest triumph—of her life.

"I'm a very careful driver," Rivera says in the sharp, rapid-fire word rush of an unselfconscious actress. "I turned on my blinkers, I looked in the mirror, I saw another car a block and a half behind, and I started to turn." Rivera had not spotted a taxicab coming up fast on her left side. "It must have been in a blind spot," she says. The cars collided. Within seconds, Rivera—actress, singer, but most of all dancer—was in clinical shock. Her lower left leg had been ripped open and shattered. She was 53. She would not return to her Broadway show, and most people assumed that she would never return to dancing. Most people were wrong.

"It never entered my mind that I wouldn't dance again," she says, the quizzical smile on her wide-open face suggesting that I was slightly crazy for even asking. "I guess it's connected to a whole way of thinking—my training, my faith. The only thing that I saw as a possibility was recovery."

Pehaps only God knows where Chita Rivera got the idea that she could recover. Although her foot-long surgical scar has healed well, the damage is evident when she invites you to feel her leg; the 12 metal screws that hold it together are evident to the touch. moments after Rivera was brought to New York's Lenox Hill Hospital, a nurse looked at her injuries and said balefully, "You really did a job on yourself." Surgery was complex and difficult, and her leg remained swollen and discolored. "I didn't realize how bad it was until I saw people's faces when they looked at it," she says with a laugh. "Later, my doctor told me that I could have lost my leg—but he didn't tell me that until it was time to tell me. I appreciated that."

Rivera is generous in her praise for all the people who helped her over the next hard year: her doctor, John Carmody; her therapists, Armando Zettina and Debbie Baker; her two brothers, and two sisters; and her daughter, Lisa. All were constantly at her side, urging her on. But the biggest factor in her recovery was Rivera herself. "There were just too many songs to sing, too many dances to dance," she says. "I didn't want to die until I die."

She was determined, during the recovery process, to put the best face on her problems. "I don't like to let people see me looking down or angry," she says. When she asked Dr. Carmody how far back she could come, he said, "It's up to you." That was all Chita Rivera needed to get her through.

The road back was long and painful. As feeling returned to the injured leg, the daily physical therapy became excruciating. "I would feel like I was going to hit the ceiling," she remembers. "I would almost scream, 'Get me down from here!' " As her recovery progressed, Rivera had to fight a battle with herself. "My exercise bicycle is four feet away from my bed. My Nautilus and rowing machine are eight feet away. So many days, I didn't want to get on them. I knew if I got on them for even five minutes, I'd feel better, but there was a side of me that said, 'I'm tired. I don't feel like it.' "

It was the positive side of her character that won out—but Rivera never doubted it would. "There are some people whose spirits are so high, their determination so great, that you practically have to shoot them to get them down," she says. "I guess I'm one of those people. The spirit is the strongest thing there is."

Rivera makes it sound matter-of-fact when she reports, "I spent the other morning practicing my splits. They're just fine." If she had only come along as far as practicing, it would be impressive enough. But by early last year she was already doing a few short engagements, getting back into form. "Of course, there's a difference," she says. "I have 12 screws in my leg. I wake up, and there are adjustments I have to make. So I make them. I'm not a Pollyanna; it hurts to dance. Sometimes it *damn* hurts. But you don't keep telling yourself that."

Now she has decided to push herself all the way. The day we met, she had just come from meeting with the director of a new revival of *Can-Can*—which she has called the "dancingest" musical there is. Chita Rivera has signed up to headline the show in a 10-month national tour, playing the female lead. Of course, she is 55 now and barely over her injuries. No one would be surprised if she wanted the part modified a little bit to fit her abilities, and the producers have been sympathetic to her special needs.

"I told them I wanted the part to have more dancing," she says. "So we added some."

HOW TO SOLVE THE FINANCIAL PROBLEMS OF THE NATION'S HIGHER EDUCATION INSTITUTIONS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. STARK. Mr. Speaker, I would like to thank Princeton Prof. Uwe Reinhardt for showing us how we can solve the financial problems of the Nation's institutions of higher education. His modest proposal would clearly attract more people into the field of teaching and ensure that colleges would be available every few miles—regardless of whether their classrooms were needed.

As the professor shows, the answer is simple: pay for higher education the same irrational way we pay for medical care.

The article follows:

THAT'LL BE $135 FOR YOUR FIRST LECTURE

(By Uwe E. Reinhardt)

(Uwe E. Reinhardt is James Madison professor of political economy at Princeton and a member of the Physician's Payment Review Commission.)

PRINCETON, NJ.—What would higher education be like if it were organized on the model of American medicine? My mind wandered to this intriguing question at a late-night meeting recently of the Physician Payment Review Commission, which advises Congress on the payment of physicians by Medicare. It would certainly change things at this university.

On a medical model, Princeton professors would rent office space from Princeton University and then charge students for each and every pedagogic service rendered. Each professor would be free to set his or her fees as the traffic would bear, although there might be upper limits for students on public assistance—say, on a federal EdiCare program.

Just as many American physicians now operate for-profit managing or diagnostic centers as joint ventures with hospitals, Princeton's entire faculty might own jointly with Barnes & Noble for for-profit Princeton Library, Inc. Students would pay the library a fee for each book they are assigned to read. Each academic department might own additional enterprises offering its students more-specialized services. Professors in the English Department, for example, would jointly own the for-profit Princeton Rehab Inc., to which they would refer students for remedial grammar. The economics faculty would own the for-profit Princeton Computronics, analyzing data for a fee.

Many professors at this hypothetical Princeton would also profitably invest in their own office equipment. The typical economics professor, for example, would own a personal computer for graphic illustations of quantitative material during office visits with students. A fee would be charged for each such use. Professors in Romance languages would maintain a collection of video and audio tapes that would be assigned and then rented to students. Finally, professors in charge of large courses might profitably sell textbooks they assign, paralleling a growing trend among physicians to sell drugs they prescribe directly to patients.

Imagine now the fistful of bills covering your child's education during the month of, say, November. Among the hundreds of separate charges, there might be one of $100 for a "Comprehensive Initial Consultation on the Senior Thesis," followed by two separate fees at $85 each for "Intermediate Consultation on the Senior Thesis." There might follow five charges of $65 each for reviewing the first tentative outline for the thesis, as well as the first, second, third and fourth revision of that outline. Chapter 1 might have been reviewed four times, at a fee of $135 each time. (Alas, Chapters 2 to 11 would be yet to come.)

There might be a rental charge of $350 for a data tape, eight charges at $95 each for "Statistical Analysis, Princeton Computronics (Technical Component)," each followed by a fee of $125 or more for "Statistical Analysis (Professional Component)," the latter presumably covering the professor's assistance in interpreting the statistical results. There would be an extra fee when logarithms are involved.

Upon receipt of these bills, you might wonder whether your child could possibly be truly in need of so many distinct pedagogic services—and inquire about it in telephone calls to the various professors.

These professors would probably be deeply offended by your inquiry, just as doctors are when you question their treatment decisions. They would perceive you as questioning their professional ethics, and your nervous child might scold you for offending them thus, just as they are being asked to write letters of recommendation on your child's behalf.

Professors might be particularly thin-skinned, because they would be regularly tortured with similar inquiries by EdiCare bureaucrats. The professors would resent the mistrust that implied and the red tape imposed on them by these bureaucrats. They would also resent EdiCare's limits on their fees.

Like most of their colleagues in medicine, most professors would probably defend this piece-rate system on the theory that only a very close link between effort and reward can move the typical professional to give his or her best. That theory does have a certain intuitive appeal, a bit cynical though it may be.

But piece-rate compensation also creates a serious conflict of interest for professionals, especially when they invest heavily in the capital equipment they use or when they are compensated by distant third-party payers. Consequently, that payment system virtually guarantees suspicion and rancor all around.

Perhaps that is why all of our great private universities prefer to function like health maintenance organizations do in health care. They charge for their services a prepaid capitation fee called "tuition," leaving it to students and professors to seek within these predetermined budgets the best attainable education. My question in this: Would our students and their parents prefer to have us switch to fee-for-service pedagogy?

EAST-WEST ECONOMIC RELATIONS

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. WORTLEY. Mr. Speaker, as we approach the upcoming summit, Mikhail Gorbachev is fighting hard for our help to revitalize his economy. The economic problems of the Soviet Union mean that this area will continue to be a topic of discussion between the East and the West.

One area that must be discussed is the untied cash lending by Western banks to the Soviet Union. The Soviets often seek to make up the shortfall in their hard currency earnings by obtaining low-interest loans. In 1986, 80 percent of the money loaned to the Soviet Union by the West was in pure cash loans. Unfortunately, these can be easily be used for purposes which are damaging to our best interests. While most would agree that it is important to build economic bridges to the Eastern bloc, we can all agree that we should not supply the capital which makes it possible for the Soviet Union to impose its power in Angola, Cuba, Nicaragua, and Eastern Europe.

It would be much better to ensure that loans to the Soviets were tied to specific uses—including trade with the United States. I know our farmers would be grateful to know that American money was being used to buy United States grain rather than to send military hardware to Nicaragua. For this reason, we must act to end untied loans to the Soviet Union.

H.R. 3095, sponsored by Representative KEMP, would make it U.S. policy to control the export of capital or credit in order to promote the national security of the United States. We should support this legislation to ensure that the economic help we are giving to Mikhail Gorbachev is not being used to foment trouble around the globe.

Roger W. Robinson has written a powerful piece in the March 1988, issue of National Security Report which describes the current situation and the change it demands. I am inserting it into the RECORD and I commend it to the attention of my colleagues.

A security-oriented cash flow analysis of the Soviet Union clearly shows Moscow's serious annual hard currency shortfalls, which have to be offset through extensive borrowings from Western banks and governments. Total Soviet hard currency income in 1986 was only about $29 billion, or the equivalent of roughly one quarter of the total sales of General Motors that same year. The vast majority, if not all annual Soviet hard currency earnings, could be absorbed solely by Western imports and debt service requirements. Assuming that Moscow's hard currency income was earmarked for these two purposes in 1986, then virtually 100 percent of Soviet hard currency requirements to fund a global empire stretching from Managua to Hanoi were funded on Western financial markets.

It has become very apparent that the ease with which the Soviet Union is able to maintain and expand costly global commitments is largely due to the Western banks offering untied, general purpose loans to the U.S.S.R. and other Warsaw Pack countries. By untied loans, I mean pure cash loans with no underlying trade transactions or projects—funds which can be flexibly diverted by the Soviets for purposes inimical to vital Western security interests. For example, of the $24 billion loaned by the West to the Soviet bloc in 1986 (averaging about $2 billion a month), approximately 80 percent of those credits, or roughly $19 billion, took the form of untied, cash loans. The interest rates of these untied loans to certain Warsaw Pact countries have also been extremely generous—usually one-eighth of 1 percent over the cost of funds (about 7½ percent) on loans ranging from 8-12 years to Bulgaria, the U.S.S.R. and Czechoslovakia.

In addition to offsetting its hard currency earnings shortfalls with large scale borrowing in the West, the U.S.S.R. has launched a kind of global "economic offensive" to secure as many commercial benefits from Western partners as possible. Other components of the current economic offensive include: (1) Soviet entry for the first time into the international securities markets (e.g. the issuing of bonds); (2) strenuous efforts to join the GATT, the IMF, the World Bank, the Asian Development Bank, the Multi-Fiber Arrangements, and other Western economic and financial institutions; (3) a more aggressive approach to the illegal acquisition of military-relevant Western technology; (4) actively recruiting Western joint venture partners who they expect will provide the necessary technology, equipment, capital, management, and marketing skills required to expand Moscow's hard currency export earnings; (5) an effort to overturn the alliance agreement of May 1983 limiting Soviet natural gas deliveries to Western Europe; and (6) securing a one year waiver of the Jackson-Vanik and Stevenson Amendments to the Trade Act of 1974 currently inhibiting equal tariff treatment and access to U.S. ExImbank credits.

The Administration could make a major contribution to our national security by leading a multilateral approach to immediately phasing out untied, general purpose lending to potential adversaries and scrutinizing the extent to which the Soviets rely on Western bank deposits in Soviet and East European-owned banks. Precisely, each loan to a potential adversary should have a specific and verifiable purpose—be it an equipment export, a project (with loan drawdowns calibrated to project expenditures), or a short-term commodity transaction such as a grain sale. Each loan should have a maturity structure that is strictly matched against the duration of the underlying transaction. For example, grain transactions should be financed with maximum loan maturities of 180 days rather than, say, three years which *de facto* provides the Soviets with 2½ years of cash for their discretionary use.

Finally, U.S. banks should aggregate their interbank deposit structure in all Soviet-owned banks including those located in the West, and periodically report these aggregate exposures to U.S. bank regulators. The same practices should be applied to Eastern Europe. In this connection, I am not arguing for the discontinuation of interbank deposit activity with the U.S.S.R.—only that specific information be developed on the amounts and the proper use and maturity of such deposits.

Currently, the Reagan Administration opposes any multilateral initiative to phase out Western untied loans to Soviet bloc countries, even on a voluntary basis. However, numerous Senators and Congressmen in a bipartisan effort support such a U.S. policy initiative with our allies for solid commercial, national security, and human rights reasons. Legislations is pending in the Senate (Garn/Proxmire S.786) and in the House (Kemp/Roth H.R. 3095) on this crucial international financial security issue. Action by the Executive Branch is preferable to that of the Congress, but we can no longer afford to ignore this issue given the multi-billion dollar annual defense-related savings that could be achieved by a coordinated alliance policy on ending the undisciplined cash underwriting of Soviet global operations by Western banks.

In conclusion, there do not have to be any "losers" in the West as a result of these policy recommendations. Unsubsidized, nonstrategic trade can go forward unimpeded; the U.S. can continue to streamline and expedite its export licensing procedures; Western loans can continue to be provided in support of specific trade transactions and projects; and incentives for greater Soviet geopolitical cooperation can hopefully be created through continued East-West economic and commercial relations. Nevertheless, we simply cannot continue to avert our eyes from those economic and financial practices which are seriously damaging to our long term security interests; nor can we sidestep the urgent need to develop a more comprehensive picture of how the Soviet Union funds itself and its global activities.

Prior to sitting down with Moscow on short range nuclear weapons reductions talks, it is imperative that we secure comprehensive NATO (including Japan) agreements on economic and financial security policies toward Warsaw Pact countries and client states. This strategic agenda item and precondition talks with the Soviet Union is, in many ways, as important as securing East-West parity in conventional forces and mutual reductions in chemical weapons. U.S. taxpayers cannot be expected to shoulder the burden of some $300 billion in annual defense expenditures while Soviet global adventurism and aggression continues to be unwittingly funded, for the most part, by the commercial banks of allied countries.

SWAPO TERRORISM KILLS INNOCENT NAMIBIANS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SOLOMON. Mr. Speaker, several weeks ago 20 innocent Namibians were killed when a terrorist bomb exploded in a bank in the town of Oshakati, in northern Namibia. Among the dead were 12 women and 2 children. These fatalities represent the highest death toll occurring from a single terrorist incident in the 22-year history of Namibia's struggle for independence.

Where is the moral outrage that accompanies similar incidences elsewhere in the world? Why is it that when innocent civilians are violently killed in Europe or the Middle East we demand that the perpetrators be brought to trial, but when there is an occurrence such as this in Namibia we simply conclude that this must be a necessary part of the independence process in that country?

Mr. President, the killing of innocent Namibians is not a necessary prelude to independence in Namibia. Incidences such as this bombing do nothing to promote or hasten the process of independence in that country. The loss of innocent human life is even more tragic when there are no positive consequences resulting from such a loss.

Cowardly acts such as this bombing accurately define their perpetrators. In January, SWAPO President Sam Nujomo stated that in the coming year SWAPO would "hit hard" against "every installation, facility, and service that is identified with or used by the enemy." This recent bombing, which occurred in a South African-owned bank, seems to be a fulfillment of that promise. Destroying the building itself, however, was not the main object of this terrorist act. Not ironically, the bomb was detonated around lunchtime, when it was known the highest number of customers would be using the facility.

After the bombing, Andreas Shipanga, Minister of Commerce, Mining, Nature Conservation and Tourism in Namibia's transitional government, stated:

> The time has come for all Namibians to rise up and say to those who are perpetrating these deeds of savagery, that their claim that such actions contribute to the liberation of this country is false and hollow . . . bombs which kill innocent men and women in banks and supermarkets are not planted by liberators, but by terrorists.

Shipanga continued:

> The so-called armed struggle is leading nowhere; only foreigners benefit from its continuation; and it is Namibians who suffer as a consequence.

It is a tragic fact that in today's atmosphere of indignation over South Africa's apartheid policies, it has become unpopular for Americans to criticize any action taken by groups who are perceived as "antiapartheid," even if the actions taken by these groups are not related, or are counterproductive, to the promotion of political reform.

Speaking out against terrorism in Namibia doesn't place us on the side of the South Africans; it places us on the side of the thousands of Namibians who fall victim to such acts. The sooner the world community realizes this fact, the sooner SWAPO's failed "armed struggle" will cease, allowing for meaningful negotiations leading to independence in that country.

EQUITY POPULATION ADJUSTMENT ACT OF 1988

HON. CONNIE MACK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. MACK. Mr. Speaker, today I am introducing legislation to ensure that Federal funds are distributed to States fairly and reflect a State's current needs. The Equitable Population Adjustment Act of 1988 would ensure that Federal funds to States are allocated in accordance with population counts based on the most recent available data.

This is one of the easiest adjustments that Congress can make to ensure fairness in Federal distributions. All we need to do is require the various agencies of the Federal Government to use data which is already published by the Bureau of the Census when calculating State allocations.

I would like to emphasize that this does not require any additional work by the agencies or by the Bureau of the Census. Annual updates are already generated by Census and the agencies, of course, routinely calculate State allocations of Federal funds. It's just a matter of requiring the agencies to plug in the most recent data into their formulas.

Right now, agencies pursue a random and somewhat haphazard way of allocating Federal funds. Some agencies use annual updated census figures; some use only old decennial census data; some generate their own data; and some use various figures for various programs.

Examples of programs using old population figures include several in the Department of Transportation for highway planning and construction and airport improvement; the Head Start Program; weatherization; and vocational education.

The General Accounting Office has published a study showing 51 Federal grants programs that use decennial census data in allocating funds to States. As more and more Americans give in to the urge to relocate, it is inappropriate to use outdated figures. States with growing populations, such as those in the Sun Belt, are unfairly penalized.

My home State of Florida provides an ideal example of why this legislation is necessary. In 1980, the State of Florida had a population of 9,746,324. By 1987, Florida's population had grown to 12,023,000—an increase of over 23 percent. In 1987, Florida had become the fourth largest State in the Nation. It is simply unfair to ignore Florida's dramatic population growth in the last 8 years. To do so costs Florida millions of dollars each year in Federal funds. Dollars which are not only much needed by the State, but funds to which Florida is rightfully entitled by virtue of its population.

It is no more appropriate to use population figures which are 8 years old than it is to use population data 20 or 80 years old. We have annual population updates produced by the Bureau of the Census every July that are automatically distributed to every agency in the Government. No one questions the reliability of these updates. It just makes good sense to use them. Many Federal program administrators already use these updates. All programs should use them. Congress intended population data to be used so that funds are distributed equitably.

A March 1988 report by the Bureau of the Census is quite revealing. The reports shows, to use Florida again as an example, that Florida ranks 19th among all States in Federal funds received per capita. But this overall figure includes all Federal dollars, everything from Social Security benefits to defense procurement. This masks the effect of Federal grants to States. In the specific category of Federal grants to States, Florida ranks last in the amount of money it receives per resident.

There are two major reasons that Florida ranks so low in the grants category. First, many of the welfare programs, such as AFDC and Medicaid, which count in the grants to States category, simply don't have a dramatic impact on States with a large elderly population. These welfare programs are geared more toward children and those below the poverty level.

But the other reason is that so many Federal programs are allocating grants funds based on old data. And this is a problem. I am concerned that this violates the intent of Congress in creating these programs. Congress mandates that population data should be used in distributing Federal funds for the express purpose of dividing those funds among States fairly, that is, in proportion to the relative number of people living in those States. Using old population data subverts congressional intent.

Mr. Speaker, I would like to cite the findings of a report released by the Sun Belt Institute last July. The research, conducted by Dr. Bernard Weinstein, is extremely illuminating. Dr. Weinstein's analysis reaches three important conclusions:

First, since 1950, the Sun Belt's share of Federal grants has fallen dramatically while the position of other regions has improved.

Second, this shift has exacerbated, not improved, economic dislocations affecting much of the Sun Belt.

Third, the reason for the regional imbalance is clear: biased and misdirected Federal formula grants, and a steady flow of Federal procurement dollars to States outside of the Sun Belt.

The legislation I am introducing today will not solve all of the problems linked to Federal funding and population shifts. But it will address the part of the problem easiest to solve. We can and should eliminate the gross distortions in Federal allocations to States resulting from the use of outdated population figures.

The Equity Population Adjustment Act of 1988 which I am introducing today also includes an important safety feature. The Office of Management and Budget would be required to compile a list of all Federal grant programs that use decennial census data. When the law's requirement for the use of annual updates kicks in, OMB could grant a waiver for a program where use of such an update would be inappropriate.

I would like to urge my colleagues to support the Equity Population Adjustment Act of 1988. It is a straightforward and reasonable way to ensure fairness in distributing Federal funds to States.

PHILIPPINE WORLD WAR II VETERANS DESERVE RECOGNITION

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GILMAN. Mr. Speaker, in this period of renewed friendship with the Philippines, the United States should take advantage of the opportunity to acknowledge those forgotten heroes of World War II, the Philippine scouts and Philippine veterans. Last month I testified before the House Subcommittee on Libraries and Memorials on behalf on House Joint Resolution 243, authorizing a memorial to honor the Philippine veterans. Although further initiatives need to be taken to provide these elite veterans with veteran retirement benefits equivalent to their American counterparts, as well as granting expedited naturalization to those veterans and their families requesting U.S. citizenship, this small but significant effort would serve as a proud reminder of the common allegiance of our two nations, providing a vivid picture of our soldiers standing united in their fight against tyranny and fascism.

Mr. Speaker, I call upon the House Administration Committee to take immediate action on this notable and noncontroversial resolution and I include the full text of my statement before the Subcommittee on Libraries and Memorials at this point in the RECORD:

TESTIMONY OF HON. BENJAMIN A. GILMAN

Mr. Chairman and members of the Committee, I welcome this opportunity to appear here today and testify on behalf of H.J. Res. 243, a joint resolution authorizing the Philippine Scouts and United States Veterans' Association of America to establish a memorial in the District of Columbia. This memorial will honor the Philippine Scouts and Filipino veterans who served in the United States Army during World War II.

Many Americans remain oblivious to the contributions of the Filipino people to the Pacific war effort during the Second World War. Hundreds of thousands of Filipinos fought alongside the Allies as we battled to reclaim the Philippine Islands which contributed to the eventual downfall of Japan.

Most history books mention May 6, 1942, as the day the American forces surrendered the Philippine Islands to the Japanese. What is often missing is that it should have taken the powerful Japanese less than two months to conquer the outnumbered and less-skilled American forces. Within a week of the invasion on December 8, 1941, the Japanese had total air control and had precipitated the withdrawal of almost all our Navy ships. The defense of the Philippines was left to approximately 120,000 ill-equipped and inexperienced Filipino reserves, 12,000 U.S. Army Filipino Scouts, and 10,000 U.S. Army regular troops.

Most of the credit for the hard-fought victory over the Japanese goes to the Philippine Scouts and the men of the Philippine army. Survivors of the Philippine campaign claim that the scout units performed their duties in an exemplary manner despite several material handicaps. The uniform of the Philippine soldier consisted of shorts, short-sleeved shirt, and cheap canvas shoes with a rubber sole that wore out in about two weeks. They owned only a single pair of socks and wore no steel helmets. Many of the soldiers had never fired a rifle before entering combat.

Yet for five months they made up the bulk of the defense in the battles of Bataan. Always in the middle of any fray, the Philippine Scouts proved to be a truly elite force, fighting desperately to the very last man. For instance, during a five day period on Bataan, 500 U.S. soldiers fought a fierce battle against some 300 Japanese, without being able to dislodge the enemy. Finally, the Philippine Scouts came to the rescue of the U.S. counterparts, and, within a day, the enemy has been pushed over the cliffs, and the fighting ceased. With a loss of only 11 casualties, the Scouts finished the work the Americans had started, inflicting severe casualties upon the enemy.

Following the official surrender of American forces at the island fortress of Corregidor on May 6, 1942, many of the Filipino soldiers fled to the hills and formed guerrilla bands. During the two and a half year Japanese occupation, the bands helped aid civilians, maintained peace and order, and kept the Japanese from abusing the people. By the middle of 1944, guerrilla forces controlled more than 60% of the actual territory of the Philippines who have assisted the United States, including statues of Lafayette, Kosciuszko, Jose San Martin, Winston Churchill and Taras Shevchenko.

When United States troops returned to the Philippines in the autumn of 1944, guerrilla troops had helped clear the way. They had seized airfields, captured key bridges and road junctions, blown up supply dumps and planes, and destroyed enemy wire communications. Many areas were captured from the Japanese even before the U.S. troops had reached them. Over 300,000 Filipinos were recruited into the U.S. forces, many of whom were seasoned soldiers and veterans of three years of jungle combat.

The guerrillas saved many thousands of American lives. In February of 1945, a group of 280 Filipino guerrillas knifed through enemy lines and freed nearly 500 Americans from a prisoner-of-war camp, while simultaneously holding off nearly 800 Japanese troops.

The Filipino's contributions have not gone unnoticed by the U.S. government. The Philippines is the sole foreign country in which the Veterans Administration operates benefit programs. Congress has adopted laws providing Philippine veterans with most of the monetary and medical benefits available to American veterans.

Congress should take advantage of this period of renewed friendship with the Philippines to honor the Filipino veterans. A memorial honoring the Philippine Scouts and Filipino veterans will serve as a proud reminder of the common allegiance of our two Nations, providing a vivid picture of our soldiers standing united in the fight against tyranny and fascism. Throughout our Capitol City, there are constant reminders of foreign patriots.

Finally, it is important to note that the authorization of a Filipino Veterans memorial in the District of Columbia would be of no cost to the Federal government. In this time of fiscal restraint, I applaud such initiatives which achieve important public purposes without contributing to our government's deficit burden. Beyond the budgetary implications, however, the establishment of a memorial to honor the Philippine Scouts and Filipino veterans would shed light on many forgotten heroes of World War II. I urge my colleagues to support this small but significant effort, and I thank the Committee for allowing me the opportunity to present my views on this initiative.

PERFORMANCE RATING OF THE B-1B

HON. CHARLES WILSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. WILSON. Mr. Speaker, the chairman of the House Armed Services Committee has recently reported to this body and to the public that several of our strategic weapons systems have questionable capability. While it is certainly within the jurisdiction of the chairman to make such pronouncements, it must be noted that there is room for disagreement with his analysis.

Of particular interest, are recent comments on the worth of the B-1B bomber. The public has been advised that the bomber's performance rates an F because the B-1B does not "perform as advertised" and may need additional work before it can do so.

This is a rather simplistic grading scale for evaluating a complex strategic weapons system. The failing grade is assigned because it is concluded that the B-1B cannot fulfill its mission of penetrating the Soviet Union. Certainly this would be a serious situation if true, however, this conclusion is at odds with every official Air Force statement to date. The Air Force has consistently stated in both open and closed hearings that the B-1B can penetrate today to fulfill its mission. The commander and chief of the Strategic Air Command, Gen. John Chain, has called the B-1B the best bomber in the world today.

General Chain's analysis is supported by his SAC crews who have expressed high confidence in the plane's ability to do the job it is called on to do. It is also supported by the B-1B's 36 world speed, payload and endurance records. To the men who must fly the B-1B and risk their lives for their country the B-1B does not receive an F for performance.

Like most sophisticated systems, the B-1B has experienced problems, which the Armed Services Committee has highlighted and which are being addressed by the Department of Defense. For the most part, the fixes have already been effected, however, the electronic countermeasures [ECM] function remains a challenge. Despite this, however, the B-1B is capable as a result of its speed, altitude and low radar cross section.

In short, the B-1B represents a national investment in deterrence. Like any other such system it will need to be upgraded as the threat changes. Fortunately we will be able to build on the considerable inherent capabilities the B-1B already possesses.

Given the absolute need in a democracy to have a defense consensus, it is imperative that the Congress work to educate the public on the need for national security assets.

Subjective and simplistic grading systems for complex weapons systems belittle the true value of such systems and undermine the public's confidence in their Armed Forces. While such rhetoric may make good politics, it does not make for good policy.

For that matter, if "not performing as advertised," resulted in a grade of F, many functions of this House, including the budget process would get a failing grade.

OUR COUNTRY'S DEFENSE: NOT JUST FOR CONSERVATIVES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, defense issues have long been regarded as partisan topics. We should stop this foolish thinking because it doesn't take a bomb to fall on an individual for him to realize that the freedom he is enjoying is based on a strong defense for this country. Many Democrats as well as Republicans feel that their life as an American is based on the one continuing trend, a defense that is stronger than our enemies. While we have the choice of being a liberal or a conservative or even a moderate, we also have the right to be an American. We must hold ourselves up high and let the world know that while we may not be perfect, we are the best thing going in this world. I submit the following editorial from the February 16, 1988, Wall Street Journal that further elaborates on the issue of a bipartisan defense policy:

A DONKEY WITHOUT TEETH AGAIN IN 1988?

(By Jay Winik)

At a time when the Republican Party has demonstrated more than its share of disarray in its conduct of foreign policy, it's by no means clear the Democrats can prove to be more suitable custodians of the nation's security.

Democrats have a real shot at the presidency this time around. But beneath what has been mostly moderate campaign rhetoric on foreign policy lie the neo-isolationism and weakness that have characterized the nominees since 1972. Testimony to this is the very inability of the candidates to come to grips as to when, if ever, they would be prepared to use force.

It was not always this way. In the wake of World War II, it was the Democrats who committed the U.S. to the role of a world superpower, containing Soviet communism. To this day, more conservative Democrats recall that John F. Kennedy, in language that was to be echoed by Ronald Reagan, wrote that "we are the watchmen on the walls of world freedom."

Those very same Democrats, whose views are now articulated by such an organization as the broadly based Democratic Leadership Council, continue to look for signs that the party will reclaim its heritage of strength and internationalism. After being drubbed four out of the last five elections, they say, the party should field a candidate more in touch with the conservative Democrats in the South and the West, who since 1972 have crossed over to elect Republican presidents.

A PROFOUND WEAKNESS

Though Democratic voters on specific issues may support a nuclear freeze or oppose Contra aid, overall they want leaders who will ensure America's prominence in world affairs and face up to the reality of the struggle between liberal democracy and Soviet totalitarianism. Polls continue to demonstrate that more than half the party's electorate fears aggression by Moscow around the world.

It's no accident, then, that Sen. Albert Gore has acknowledged this profound weakness on the part of the Democrats, prompting him to accuse his party of embracing a foreign policy of "retreat, complacency and doubt." Sen. Gore himself is going to great pains to demonstrate that he is no dove on national security. In turn, barring only Jesse Jackson (who has decidedly staked out the ground of the radical left), the rest of the candidates claim only shades of difference between theirs and Sen. Gore's security policies. In short, all but one of the candidates are at least rhetorically trying to show that they are not soft on defense.

A closer examination, however, demonstrates that this campaign rhetoric of firmness is belied by reality. Consider two examples. All the candidates are depicting themselves as can-do leaders able to negotiate "real arms control" with Mikhail Gorbachev. Yet they all reactively cling to the so-called "narrow interpretation" of the ABM treaty and the unratified limits of the SALT II treaty; not one of the lot envisages any role for SDI, either in strengthening deterrence or in playing a role in U.S.-Soviet negotiations. Once again, they are showing their tendency to give away unilaterally what properly should be bargained with the Soviets, a habit that is further compounded by the Democratic Congress's attempts to legislate arms control through backdoor appropriations. This is precisely the wrong lesson to be derived from President Reagan's success in negotiating the INF treaty, the only nuclear-arms-reduction pact to be completed since the atomic era dawned.

Consider a second example. All the candidates have decried what they refer to as this administration's obsession with the Sandinistas. However, their alternative policies would have the U.S. subordinate its national-security interest to an erroneous interpretation of international law and relinquish its leadership role to the bromide of multilateral diplomacy. Acknowledging the Sandinistas to be Marxists, they continue to treat them as misguided nationalists. They ignore the refusal ever to give up real power. They also cast a blind eye to the overwhelming evidence of the Sandinista commitment to spread Marxism-Leninism throughout the hemisphere. They have retreated to saying, "Give peace a chance" via the Arias plan.

The Democratic contenders are not pledging to protect the surrounding democracies with indigenous or U.S. forces that could attack the Sandinistas, even though this would be fully justified under international law in the unlikely event of outright Nicaraguan aggression or the more likely case of subversion. Their policy amounts at best to a form of containment calling to mind the ill-fated Paris peace accords.

Perhaps Sen. Fritz Hollings characterized his party's views best when on the day of his House's Contra vote he said of fellow Democrats: "They are not committed to fighting for anything. They are only willing to posture and talk."

In a sense, as Mr. Hollings's unsuccessful 1984 bid for the presidency reminds us, the route to the White House for Democrats has been mine-strewn for a more hawkish contender. To a degree that this year's "Super Tuesday" in the South will only partially attentuate, the primary schedule and limits on campaign donations and spending enhance the sway of left-oriented activists over the nomination.

Another part of the problem is that the Democrats suffer from a sheer lack of experience in the White House. They've had responsibility for executing foreign policy only four of the past 20 years. Theirs has been the admittedly easier task of reacting to White House policy from the less accountable position of the legislative branch. And in Congress, it is no secret that the House Democratic leadership remains wedded to the shibboleths of the left. The "defense Democrats" who have favored such policies as aid to the Contras or support for the MX missile are reminded in subtle and not so subtle ways by the leadership that their views carry the risk of party exile or irrelevancy.

This had led to an effective transformation of the party, with the views of the left slowly but inexorably institutionalized.

Finally, there is the spectre of the Carter presidency. Perhaps more than any thing else, it symbolizes the weakness that has come to characterize Democrats on foreign policy. In four short years, the Democrats presided over a slew of foreign-policy disasters, from the fall of Nicaragua and Iran, to the destabilizing Soviet invasion of Afghanistan, to the failed SALT II treaty. To this very day, these events have left us with a geopolitical legacy that threatens U.S. interests in our own hemisphere and international stability in the Gulf and beyond.

The Carter administration vacillated between the conflicting world views of the dominant dovish set led by Secretary of State Cyrus Vance and the tougher-minded clique of National Security Adviser Zbigniew Brzezinski. Only when global events showed the folly of Mr. Vance and his crowd did the president take his hawkish advisers more seriously, by which time it was too little, too late. A future Democratic administration stands to lurch similarly between its different wings, and in all likelihood gravitate even further to the left, than did Mr. Carter.

It's little wonder, then, that more conservative Democrats, deeply loyal to their party on domestic and cultural issues, harbor such despair about what a Democratic administration might look like. And no one, including Republicans, should rejoice at this seemingly irreversible slide to the left. If this trend continues in the post-Reagan era, the two parties will be as divided as ever about America's role in the world. At a time when the consensus for increased military budgets has reached an end, the effect will be greater paralysis and timidity in the execution of our security policy, and a corresponding diminution of U.S. influence internationally.

CANDIDATES' TASK IS CLEAR

At a minimum, the task for the Democratic candidates is clear. First, they at least need to signal to the American people that they will not return to the Carter ways or yield to those of the House leadership. Second, they should provide a leading role for thoughtful moderates such as Charles Robb in the development of the party's platform. Third, they have to be willing to repudiate the radical views of Jesse Jackson. And fourth, they should explain how on issues such as regional conflicts and the future of deterrence they and the Republicans can agree as a sign of their seriousness in rebuilding a bipartisan foreign policy. Taken together, these actions could go a long way toward reassuring disaffected voters and elites alike.

But if the candidates cannot decidedly address these issues, or feel that they need not, the time has finally come for conservative Democrats to do more than go through their quadrennial ritual of regret over a squandered opportunity to regain the White House. They must insist on radical reforms of a primary election system, campaign-finance rules and House Caucus power that place presidential aspirants and emerging leaders at the mercy of the entrenched left rather than at home with a true grass-roots constituency.

(Mr. Winik, until recently a House Armed Services Committee aide to Rep. Les Aspin, wrote the Democratic Party's 1986 mid-term plank on foreign policy. He is a visiting fellow at the Center for Strategic and International Studies.)

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GARCIA. Mr. Speaker, I was unavoidably detained Tuesday, April 19, and therefore missed the vote on House Resolution 422, a resolution to support the INF Treaty and to provide for the continued security of NATO. The measure expresses the sense of the House that the administation should continue to provide a credible nuclear deterrence for the security of the United States and our NATO allies. Had I been here, I would have voted in favor of House Resolution 422.

I was also unable to record my support of the bill H.R. 4401, the proposal to amend the Federal Communications Act and prohibit all dial-a-porn telephone operations. Had I been available, I would have voted for H.R. 4401. I am particularly concerned about the influence dial-a-porn has on children and adolescents. It is important to insure that minors are protected from this corrupt commercial enterprise and not made victims of unscrupulous profiteers. There is no reason to stand idly by while the great potential of these youthful minds are wasted away by such corruption.

I also fully support the language of H.R. 5, the School Improvement Act. The education conference agreement reauthorizes through fiscal year 1993 the major Federal programs that assist elementary and secondary education, including chapter 1 compensatory education, chapter 2 education block grants, bilingual education, adult education, Indian education, and impact aid. Had I been here, I would have voted in favor of the conference agreement.

I voted for this measure when it originally passed the House on May 21, 1987. I continue to support reauthorization of these programs and fully support the amendments produced by the conference agreement to authorize additional funds to school districts with high concentrations of poor children, to expand the teaching of basic skills in high schools, and to integrate adult education of parents with early childhood education for preschool children. I also support the funding for improved math and science instruction, and the new programs for gifted and talented children, and foreign language instruction.

THE STUPIDITY OF NOT PROVIDING PRENATAL CARE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. STARK. Mr. Speaker, I would like to include in the RECORD a most moving article on the incredible costs to society of not providing better health insurance to all of our citizens. The column, by noted health affairs commentator Peter Aleshire, appeared in the April 9, 1988, Oakland Tribune.

A COSTLY GAMBLE WITH BABIES' LIVES

(By Peter Aleshire)

She's been over it a thousand times, as she sits beside her baby in the intensive care nursery, trying to figure out what she could have done.

It was like a horror movie, in which the victim finally reaches safety and locks the last door, only to turn to find the creature leering at her. But there was no escape, and Sharon Robertson and her baby became another statistic in the ongoing breakdown in the system for providing prenatal care. So now, the system that couldn't find $1,000 to provide prenatal care will spend $150,000 trying, desperately, to keep her three-months-premature baby alive.

And it was so predictable. All the studies show that $1 spent on prenatal care saves society $3 to $20 in medical and social service costs by reducing by threefold the odds that a woman will have a premature baby.

But because a third of the population lacks adequate medical insurance and because Medi-Cal payments will barely pay for an obstetrician's medical insurance, 40,000 babies a year are born without adequate prenatal care in California and the infant death rate is rising. And now, many women can't get care even if they try.

Just ask Sharon Robertson. She and her husband, Art, moved into the area last year, along with their 9-year-old son Travis. Art had just resigned his sergeant's commission in the U.S. Army after an 11-year hitch.

He got a job with a temporary employment agency, on the promise that it would work into something regular. She got a job with a department store. Neither one had medical insurance. Then, last August, she got pregnant.

That both terrified and delighted her. It terrified her because she had already lost one baby, born three months prematurely. She'd had prenatal care, but the family was on vacation 800 miles from home when the labor started. It was only later that the doctors realized her cervix was easily dilated and she was prone to premature labor. Even so, careful monitoring can often avert problems.

For all of that, she rejoiced. They so wanted children. She lives for her children. They are breath and food and light to her. But when she went to two different obstetricians, they each wanted $2,000 to $3,000 up front—in part because they said she would probably need a Caesarean section operation. She didn't have it.

So she swallowed her pride and went to the county and applied for welfare. She couldn't get it, because her husband's $5.65-an-hour job was bringing in too much money. So she went home, and hoped for the best.

But in December she began bleeding and having contractions. She went back down to the county clinic. It took hours, but they finally sent her on to the county hospital. There, doctors gave her drugs that stopped the contractions. Then they sent her home, advising her to reapply for state assistance.

In January, Sharon went into labor again. She returned to the clinic. They sent her to the hospital. This time, the drugs didn't work. Her baby was born three months early, weighing a pound and a half.

Such a small baby is shocking. You can cover her entire hand with the tip of your little finger. Without baby fat, they are like little, wizened old men, on the edge of starvation. They cannot move their heads. They cannot even pick up their arms. They lay, utterly helpless, in the incubator, with tubes everywhere, and look up at you with baffled, ancient eyes.

I talked to Sharon and Art and Travis in the hospital, as they stood around the baby's incubator. They love that baby so much that it makes you want to cry.

Mercifully, little Mary Ann will be all right. After two months, she's grown to 3.5 pounds. She has three soft spots, not one, atop her head where the bones have not yet fused together. You hold her head in your hand and you can't even breathe. But the doctors say she'll be fine and will go home in another month.

And the taxpayers will foot the $1,500 daily bill. It's a system both crazy and cruel.

We're not just talking about compassion here. It would actually save money to provide universal, prenatal care. But the state is trying to scrape together money to build new prisons, the county health systems are on the brink of collapse, and private obstetricians are mad at Medi-Cal and malpractice attorneys.

So the blame is shuffled from one bureaucracy to another and thousands of women take their chances, praying they'll have no complications every time they feel their babies kick inside.

REMEMBER THE VICTIMS

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. WORTLEY. Mr. Speaker, last year a bipartisan group of 53 Members of Congress cosponsored legislation which would have proclaimed November 7, 1987, "the Memorial Day for Victims of Communism." This legislation drew national and international attention to those who have suffered under Communist governments.

But, while we succeeded in sending our message last year, we still have much work to do. This was demonstrated by an editorial in Pravda which read:

As to the "victims of communism," it was precisely the October Socialist Revolution and the worldwide liberation of mankind initiated by it that has saved millions of people and whole nations.

This attitude on the part of the Soviets shows the importance of continuing to remember the millions who have died under communism or have been deprived of their human rights. This suffering continues today, and it needs to be opposed. For these reasons, I am introducing legislation to declare November 7, 1988, as "the Memorial Day for Victims of Communism."

Communism has inflicted suffering and death wherever it has been implemented. This is seen in Ethiopia today, as well as in regimes from the Soviet Union to Nicaragua. It has been estimated that 60 million people died under the Soviet tyranny alone. Millions more have died around the globe.

Communism is a totalitarian system of government which deprives its people of their freedoms and civil rights. Inherent to all Communist regimes is the subjugation of the human spirit and the denial of basic human dignity. Our legislation will show the people oppressed by Communist regimes that their plight is not being ignored by the United States.

I would encourage my colleagues to become cosponsors of this year's legislation, which is supported by the Congress of Russian-Americans. Help make November 7, 1988, a memorial to the suffering endured by those under Communist governments.

SUPPORT DEMOCRACY IN NICARAGUA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SOLOMON. Mr. Speaker, today I am submitting a list of cosponsors to H.R. 4285 and I urge the Foreign Affairs Committee to take up this important legislation.

H.R. 4285 requires monthly reports by the President on the extent to which the Government of Nicaragua has undertaken the reforms necessary to bring about lasting peace, pluralism, and democracy in Nicaragua.

The legislation is noncontroversial, bipartisan, and anyone who truly supports democracy for the people in Nicaragua should join in cosponsoring the bill.

The first step in ensuring that democracy has a chance in Nicaragua is to carefully monitor the action of the Nicaraguan Sandinista government. H.R. 4285 offers a straightforward method to assist Congress and the American public in determining, in an accurate and precise manner, whether the Sandinista government is making progress toward genuine democracy. The guidelines established in the bill are those already agreed to by the Sandinistas and are the fundamental principles on which democracies such as ours are founded:

Free and open Presidential, legislative, and municipal elections;

Due process and fair trials;

Freedom of the press;
Freedom of assembly and movement; and
Freedom of religion.

I respectfully request all of my colleagues in the House to reaffirm their support for democracy in Nicaragua by joining in sponsoring H.R. 4285.

MILLENNIUM OF CHRISTIANITY IN UKRAINE 988-1988

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GUARINI. Mr. Speaker, this weekend in my district and indeed throughout the world, a most significant celebration is being held by Ukrainian Christians throughout the universe marking the 1,000th anniversary of the introduction of Christianity to the land called the Ukraine.

This remarkable period of time in world history doubles the 500 years we will be celebrating in 1992 of Columbus' discovery of America.

In my district I am fortunate to have three outstanding places of worship which tend to the spiritual, economic, educational, and cultural needs of more than 10,000 Ukrainian Americans reported to be living in Hudson County. They are part of the more than 60,000 who live in New Jersey's Garden State and part of the over 1 million who live in each and every State of our Union.

In 1986 I visited SS. Peter and Paul Ukrainian Catholic Church, Jersey City, when the terrible disaster of Chernobyl took place, causing much fear and consternation among Ukrainians and others who were concerned about the health of the world. Rev. Roman Mirchuk is pastor of this church.

In Bayonne, NJ, part of my district, we are fortunate to have two Ukrainian houses of worship. They are:

Dormition of the Mother of God Ukrainian Catholic Church under the leadership of Father Ivan Dawydowych;

St. Sophia Ukrainian Orthodox Church, where Father Wasyl Iwashchuk is pastor.

This upcoming weekend will be that of celebration in a twofold program. On Saturday, April 29 and Sunday, May 1 there will be an open house conducted at the Ukrainian Center, Fleet Street, Jersey City. These 2 days will feature programs of brotherhood and cultural activities with music and dance scheduled for 2 to 4 and 6 p.m. on both days.

On Sunday, an Ecumenical Mass will be conducted at 3 p.m. at the Dormition of the Mother of God Ukrainian Catholic Church, Bayonne.

The Bayonne and Jersey City members of the Ukrainian American Millennium Committee are sponsoring these programs, and have been working with the national committee to commemorate the millennium of Christianity in Ukraine 988-1988.

The history of this great period began in 988 when the Ukrainian people accepted Christianity from Byzantium during the reign of Prince Volodymyr (Vladimir) the Great, the ruler of Kievan Rus', the first Ukrainian state.

The commemoration of the millennium of Volodymyr's adoption of the Christian faith provides a unique opportunity for Ukrainian Christians everywhere to reflect on the meaning of their spiritual inheritance. This is the time for them to renew their commitments to the past and to reaffirm their obligation to protect their faith from atheism.

The plight of the faithful in Ukraine due to religious persecution imparts to all Ukrainians in the diaspora a sense of urgency and a sacred responsibility to show the world that Ukrainians, as a nation, have suffered and died for their religious beliefs.

The beginnings of Christianity in Rus' Ukraine can be traced to the missionary activities of St. Andrew. According to ancient writings, this apostle preached circa 50 A.D. in the area located north of the Black Sea. In his "Primary Chronicle," Nestor the Chronicler, claims that St. Andrew visited the location of the future capital of Ukraine where he raised a cross and predicted that some day the site would receive many of God's blessings. This prediction did indeed come true in the year 988.

Prior to 988, the process of conversion to Christianity had been slow and sporadic. Only in the ninth century was there a real upsurge in the Christianization of Rus' Ukraine which gained even more momentum 100 years later. It is known, for instance, that the majority of Prince Ihor's delegation to Byzantium in 944, was Christian since it pledged "by the church of Elias" to fulfill its signed agreements. We also know that Princess Olha (945-960) was the first ruler of Rus' to become a Christian.

Finally, Christianity attained the status of a state religion during the reign of Volodymyr the Great, the grandson of Princess Olha. As a statesman of great foresight, Volodymyr adopted Christianity throughout his entire realm, and thereby established close spiritual and political ties with many important European states. As the prestige of Rus' Ukraine began to grow, the acceptance of Christian culture stimulated a unique form of church architecture, education and the adoption of just laws. The famous legal document, "Rus'ka Pravda," protecting the basic human rights of every citizen, appeared in 1054, predating the renowned Magna Charta by 58 years.

The tremendous cultural transformation of Kievan Rus' was made possible by the initial action and example set by Volodymyr the Great. As a pagan, he was a ruthless warrior who lived only by the sword, however, after his conversion to Christianity, Volodymyr dedicated himself to noble and peaceful deeds. He then consolidated his power by building towns, constructing schools, and erecting numerous churches. And in order to consummate the Christianization of Ukraine, he ordered all pagan idols to be destroyed, and superseded by a beautiful new church in Kiev for which he donated one-tenth of his wealth.

Upon his death in 1015, Volodymyr was laid to rest in this Desiatynna Church.

In recognition of his wisdom and courage, many Ukrainian churches have chosen St. Volodymyr as their patron saint. For Ukrainian people he symbolizes the fact that the Christian faith and the Ukrainian nation are inseparable.

Of deep interest to me and members of my staff as we conducted research for this congressional salute, with the assistance of the religious leadership herein mentioned, is the period when Volodymyr (Vladimir) searched for a religion.

The series of event which led to the conversion of Ukraine, or Kievan-Rus' as it was known in the 10th century, are recorded in the 11th century chronicle of the Kievan Monk Nestor, "Tale of Bygone Years."

The chronicle tells a legend that in 987, Vladimir initiated a search for a state religion which would unify his people and strengthen his kingdom. The Emperor Prince is to have sent a delegation of 10 men to observe the religions of the Muslim/Bulgarians, Germans, Jewish Khacars and Greeks (Greeks being the inhabitants of Byzantium whose primary city was Constantinople), and then recommend an appropriate religion for Kievan-Rus'. The chronicle referenced that the delegation was not enamored on the first two religions, but that they said the following upon returning from the Byzantine rite service of the Greeks: "The Greeks led us to the edifices where they worship their God and we knew not whether we were in heaven or on Earth. For on Earth, there is no such splendor or such beauty and we are at a loss how to describe it. We only know that God dwells there among men and their service is fairer than the ceremonies of other nations. For we cannot forget the beauty."

Vladimir's acceptance of Christianity was to follow his invasion of Kherson, a city not far from Constantinople. After his victory, Vladimir asked the Greek Emporors Basil and Constantine for the hand of their unwed sister, Princess Anna. The Emperors accepted on the condition that Vladimir be baptized a Christian. Legend has it that before his baptism Vladimir fell ill and that he was healed on his baptism day. Princess Anna and Prince Vladimir were married in Kherson and soon returned to Kiev.

It was upon their return to Kiev in early August 988 that Vladimir urged his people to be baptized in the Dnieper River and proclaimed Christianity as the official religion of Kievan-Rus'.

It was my pleasure to join with the House of Representatives on April 19, 1988, in the unanimous approval of a resolution deploring the Soviet Government's persecution of religious believers in Ukraine and discouraging the official participation of the United States in any official millennium celebrations in the Soviet Union. An identical resolution, Senate Joint Resolution 235 was passed by the Senate on Friday, March 4.

The millennium of Christianity is an event of great international pride not only for Ukrainians but for all freedom loving people everywhere. Ukrainian-Americans in my area have made rich and indelible contributions in the professions, in the areas of education, art and music and the most important area of all in raising their families to lead responsible and God-fearing lives.

I am sure Ukrainian Christianity will celebrate many, many millenniums to come.

AN OPEN LETTER TO THE PRESIDENT AND PRIME MINISTER MULRONEY

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. BOEHLERT. Mr. Speaker, as you embark on another summit meeting, all of us north and south of our border should be reminded that the people of Canada and the United States, under your leadership, are pledged to develop an historic new era in relations between our two nations.

The two of you have taken long strides toward that goal, symbolized most dramatically by the pending United States-Canada Free Trade Agreement. There is widespread appreciation that our relationship is an asset unrivaled among nations, worthy of even higher, mutually benefical achievements.

This is one reason why so many of us in Congress, Republicans and Democrats alike, hope our administration will seize the opportunity to conclude a substantive agreement with Canada on the issue of "acid rain" during the Prime Minister's visit to Washington this week.

Mr. President, you have expressed your concern in three previous meetings with the Prime Minister, especially in 1986 when both of you endorsed the findings of the United States-Canadian Special Envoys that:

> "Acidic emissions transported through the atmosphere undoubtedly are contributing to the acidification of sensitive areas in both countries. The potential for long-term socioeconomic costs is high. . . . [We need] constructive action that will help us relieve the stress that this issue has created, and reduce the flow of airborne pollutants across our common border.

A bilateral acid rain accord with Canada was proposed by you, Mr. President, in 1987 in Ottawa. Unfortunately, there has been a discernible lack of progress on that accord at the staff level. Concern also exists over whether the clean coal technology program has been implemented with your intentions in mind.

In the last year of your administration, more is needed, and more is possible, than a public relations agreement. Much more can be accomplished during your personal consultations this week.

Those of us in the battle against acid rain ask you to consider a joint pledge with the following elements, which could immediately be submitted to the legislation of both countries for ratification:

First. Emissions of the pollutants of concern will continue to decline in both countries through the end of this century, until emissions reach a level to be determined in further bilateral negotiations and legislation.

Second. The President's initiative to fund innovative "clean coal" technology demonstrations should be reaffirmed and targeted on facilities which contribute most to the transboundary flow of air pollution.

Third. There must be even closer United States-Canadian cooperation in scientific, regulatory and economic matters of relevance to air pollution abatement.

Unfortunately, while an atmosphere of discord on this issue continues, a great deal of agreement already exists. For example, the clear intent of both countries to keep emissions on a downward path would underlie the first element of this joint pledge.

Most Members of Congress are convinced that acid rain abatement must be included in amendments to the U.S. Clean Air Act. Such legislation is scheduled to be before the House of Representatives this summer. Legislation has advanced in the Senate as well.

The Canadians have already ordered a progam of deep reductions at specific facilities to be achieved by 1994, to the great relief of people in the Northeastern United States and Canada.

The second proposed element is necessary in the light of nonpartisan studies which show that billions of taxpayer dollars may be spent on long-range energy research and development, rather than on targeted demonstration of technologies intended to reduce the transboundary flow of pollutants, as envisioned by the Joint Envoys, and the two of you, in 1986. This should be corrected.

On the third point, serious disputes continue to occur over the presentation of United States scientfic research, the lack of weight given to Canadian research findings, doubts about the sincerity or motivations of the Canadian abatement program, and fears about the economic consequences of proposed abatement progams.

These disputes have overshadowed a tremendous growth in our understanding of the pollutants and processes involved; a growing realization of the new jobs and economic opportunities which could be created in both countries by an abatement program; and efforts to coordinate existing regulatory authority with our environmental goals.

Simply put, each country can and must do more to maximize the opportunities for mutual cooperation and enrichment as we face this transboundary problem together.

An acid rain agreement during this fourth Reagan-Mulroney summit would be yet another historic, lasting tribute to the close United States-Canada relationship you have nurtured. It would ensure a stronger, healthier environment for future generations of North Americans. Voters in both countries would be reminded that environmental protection is not the sole province of the liberals.

As strong allies and partners, a resolution of our acid rain dispute should not be beyond your reach. As the great Progressive Conservative Theodore Roosevelt once said, "The Nation behaves well if it treats the natural resources as assets which it must turn over to the next generation increased, and not impaired, in value."

THE INTRODUCTION OF H.J. RES. 553 DESIGNATING NOVEMBER 7, 1988, IN HONOR OF THE MOTION PICTURE IT'S A MAD, MAD, MAD, MAD WORLD

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. MINETA. Mr. Speaker, I rise today to introduce a resolution which recognizes the vast artistic, cultural, and social contributions our Nation has enjoyed from a unique motion picture.

On November 7, 1963, a remarkable American film premiered in Los Angeles at a theater which was specially constructed for the form of presentation pioneered by this film. The producer and director of this film was Stanley Kramer, an individual who 2 years earlier had been the recipient of the Irving Thalberg Award from the Academy of Motion Picture Arts and Sciences in recognition of his meticulous dedication to quality, thought-provoking films. In the previous 4 years, Stanley Kramer had produced and directed the acclaimed films "The Defiant Ones" (1958), "On the Beach" (1959), "Inherit the Wind" (1960), and "Judgment at Nuremberg" (1961).

During the production of "Inherit the Wind," Academy Award-winning scenarist William Rose prepared a 10-page outline for a complex and, indeed, unprecedented comedy which he had drafted with Mr. Kramer in mind. The apropos working title of this film was "Something a Little Less Serious." Two years later filming began on what was then and is still regarded by many as one of the finest American comedies in the sound era: "It's a Mad, Mad, Mad, Mad World."

The film's hyperkinetic title is indicative of the energies which were to inspire such respected voices as that of the New York Times to include the film on its best 10 list for 1963. But accolades alone did not and do not begin to explain the intrinsic worth and wonder of "Mad World."

Incorporating many individual talents whose careers spanned more than a half century of comedic expertise, "Mad World" was a landmark comedy and an extraordinary theatrical presentation. Forty-six years earlier, D.W. Griffith's "Intolerance" (1917) had pioneered the multipathed storyline for a motion picture. "Mad World" was one of the less than a handful of films which not only emulated but successfully built upon the framework constructed by the silent classic.

Set in southwestern California, the storyline of "Mad World" focused upon a chance encounter among—eventually—more than a dozen individuals who are suddenly and unexpectedly offered relief from their fears and responsibilities. The resulting competiton between and among these individuals for the lion's share of the riches is a tale presented with such depth, detail and deft humor as to vicariously envelop the audience within the scope of the story.

Many factors in addition to those I've cited already contributed to this achievement. In terms of technical innovations, "Mad World" was the first film to be presented in 70mm Cinerama, a projection system which required a parabolic screen spanning the entire 146 degrees of human peripheral vision. Accompanying the visual element was an equally unique sound system, featuring six discretely directional magnetic tracks to provide a sound field comparable to a lavishly produced stageshow.

"Mad World" also boasted an on-screen cast which can never again be equaled. Talents included silent screen stars, vaudeville veterans and individuals which embodied every facet of American comedy during the previous half century. Included were: Spencer Tracy, Milton Berle, Sid Caesar, Buddy Hackett, Mickey Rooney, Terry-Thomas, Jonathan Winters, Edie Adams, Ethel Merman, Dick Shawn, Andy Devine, Jimmy Durante, Jack Benny, Jerry Lewis, Arnold Stang, Stan Freberg, William Demarest, Peter Falk, Eddie "Rochester" Anderson, Carl Reiner, ZaSu Pitts, The Three Stooges and at least 45 other stars.

During the more than 15 months of its original release, "Mad World" enjoyed a success which was then without peer for a motion picture comedy. And indeed, the film was nominated for six Academy Awards, winning one. But there is much more to "Mad World's" lasting legacy.

Barely 2 weeks after the film's Los Angeles premiere, President Kennedy was assassinated in Dallas. As anyone can attest who is old enough to remember that tragedy, those were very dark, sobering months which followed. This was particularly true for those who were just old enough to understand the significance of the tragedy. "Mad World" became an especially welcome diversion for our youth and, "indeed, for all Americans during this period.

As is true of all great films, the years since have been kind to "Mad World." The comedy is timeless, as are the talents which were responsible for the perfection of the presentation. However, "Mad World's" original, award-winning 193-minute presentation was only available in 14 cities in North America, and several overseas, before being edited to its present length of 154 minutes.

An independent effort is now in its sixth year of trying to restore the film. The current owners of the film, MGM/UA Communications Corp., is also attempting to restore "Mad World" to its premiere form. However, the very best hope may be left to a chance rediscovery of the missing footage: a rediscovery yet to occur.

Mr. Speaker, the U.S. Congress has been on record for many years as an avid supporter of our artistic and cultural heritage as embodied in motion pictures. It would be impossible, of course, to offer individual resolutions for each and every great film which is, for whatever reason, unavailable as audiences knew it. However, we would be remiss if we did not act upon our concern on behalf of the American people.

Mr. Speaker, November 7, 1988, will mark the 25th anniversary of the premiere of "It's a Mad, Mad, Mad, Mad, World." The joint resolution I offer today designated that day in honor of the film.

Mr. Speaker, I ask that my colleagues join me in this action in the hope that the symbol of hope we will create will be powerful enough to draw out many of our motion picture treasures which have remained obscured or abandoned for all too many years.

NEW STUDY WARNS OF SOVIET DOMINATION

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, the American Security Council Foundation has recently published a compelling and most interesting study of the Soviet Union's continuing drive for world domination. This book entitled, "Soviet Global Strategy" by Dr. William Kintner, provides the complete detailed account on how the spread of communism is being structured now and through the rest of the century. Dr. Kintner who served as Ambassador to Thailand, provides an in depth look at the rise of the Soviet power. I wholeheartedly recommend this book to my colleagues and ask them not to be fooled by the new Soviet policy of glasnost and recognize the true motives of the "evil empire." A review of this book follows:

SOVIET GLOBAL STRATEGY

"Having read the proofs from cover to cover, I strongly recommend "Soviet Global Strategy," It is comprehensive, concise, and powerfully persuasive. With the rave notices Gorbachev has received since his Washington summit meeting with President Reagan, this book should be a must for anyone who wants to keep things in perspective. It is scholarly yet understandable—a rare combination."—Richard Nixon.

The most recent publication of the ASC Foundation is described as "learned, balanced, and well written" by former U.N. Ambassador Jeanne Kirkpatrick, and as "most compeling" by former Secretary of State Henry Kissinger. "Soviet Global Strategy," by Dr. William Kintner, trace the growth of military and non-military components of Kremlin policy from the time of the Tsars to the era of Gorbachev and "Glasnost."

The book presents a factual, country by country account of the USSR's continuing plan for world domination, and explains how the Soviets gained the military strength to support the imposition of totalitarian regimes far from the USSR. The enormous and carefully orchestrated Soviet activity in every region of the world leads to the inevitable conclusion that the Soviets are seeking global hegemony.

Dr. William Kintner is a well known author in national security circles, served as the U.S. Ambassador to Thailand, and is a professor emeritus of political science at the University of Pennsylvania. Ambassador Kintner also serves on the ASCF Board of Directors, and is a Co-Chairman of ASCF's National Strategy Board. "Soviet Global Strategy" was published under the auspices of the ASC Foundation, and during the summer of 1984, Dr. Kintner was a Resident Fellow at ASCF's Freedom Studies Center in Boston, Virginia. Dr. Kintner has said the book "benefited greatly from numerous meetings with co-authors, visting scholars, and experts conversant with Soviet policy and practices" that he conducted at the Freedom Studies Center while coordinating the editorial content of ASCF's "A Strategy for Peace Through Strength."

"Soviet Global Strategy" outlines and addresses the tremendous threat which Soviet communism presents to democracy and political freedom around the globe. The first three chapters trace the development of Soviet strategy. Chapter Four summarizes the Soviet history of intrusion and expansion into every region of the world, with special emphasis placed on the last decade. From this record, the general parameters of Soviet strategy are then deduced in Chapter Five. The final chapter of this 273 page book forecasts Soviet strategic options for the rest of the 20th century.

During the writing of this work, Dr. Kintner traveled worldwide to discuss Soviet strategic intentions and possible free-world counteractions with officials and scholars of many nations. In addition to numerous trips to Europe and the Soviet Union as well as excursions to Southeast and Northeast Asia, Latin America, and the Caribbean, he also visited the People's Republic of China, Southern Africa, the Middle East, and India.

The author feels the most disturbing conclusion of his study is that as long as Soviet leaders such as General Secretary Gorbachev and his successors are guided by the pernicious concepts of Marxism-Leninism, the Soviet thrust for world hegemony will continue, and an armed truce will characterize relations between the Soviet Union and the United States and its free world allies.

According to the book, soviet psychological warfare and disinformation campaigns are key tools used to aid the USSR's covert warfare against scores of pluralistic democracies worldwide. Not even the shores of our own continent are safe from the Soviet goals of seizing, maintaining, and extending power, says Kintner, as the present Central American turmoil clearly illustrates. Dr. Kintner hopes "this book will enhance Western understanding of the Soviet system and the total threat it presents to freedom everywhere."

In "Soviet Global Strategy," the author suggests it is time for the West to undertake a systematic campaign of exposing the philosophical, political, and operational vulnerabilities of Soviet communism. The crisis of communism in Poland is but the most recent demonstration of the failure of Marxism-Leninism to create a humane existence for people living under its oppressive tenets. Dr. Kintner believes Soviet vulnerabilities are legion, but that we must develop the means to exploit them. Helping the Soviet people transform their system is the only alternative to a costly and unending struggle to maintain military equilibrium and to check Soviet forays into every part of the globe.

"Soviet Global Strategy" shows how the Kremlin leadership pursues military superiority while simultaneously waging a campaign of subversion against free societies everywhere. Dr. Kintner believes that if we are to reverse this struggle, we must change our strategy and battle for the ideas of freedom as vigorously as the Soviet Union conducts its campaign for fictitious peace. The Soviet definition of peaceful co-existence permits them to employ unlimited subversion against all free societies. Free people have the right and the obligation to fight by the same rules against the Soviet nomenklatura.

Dr. Kintner concludes "Soviet Global Strategy" with a quote from ASCF's "A

Strategy for Peace Through Strength": "The world is going to have peace through strength. What is being decided now is whose strength and whose peace. The leaders of the Soviet Union want a peace in which they dominate all other nations. Americans and most of the people of the world want peace with freedom."

IN PRAISE OF IMMIGRANTS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GARCIA. Mr. Speaker, I would like to take this opportunity to present to my colleagues a speech given by Dr. Joy Cherian at the naturalization ceromonies held on April 8, 1988, in Montgomery County, MD. Dr. Cherian, himself a naturalized American citizen, was recently appointed as the first foreign-born Commissioner of the U.S. Equal Employment Opportunity Commission. Since coming to this country from his native India over 21 years ago, Dr. Cherian has worked to further the interests of the more than 700,000 Americans of Asian-Indian origin. As former chairman of the Asian American Voters Coalition, Dr. Cherian worked to promote political awareness and civic consciousness within the entire Asian American community.

Dr. Cherian's speech depicts the unique perspective that our Nation's naturalized citizens share. Dr. Cherian's accomplishments and words speak not only for Asian-Americans, but for all of the immigrants, past and present, who have come to this country in search of freedom and hope.

REMARKS BY COMMISSIONER JOY CHERIAN ON THE OCCASION OF THE NATURALIZATION CEREMONIES HELD ON APRIL 8, 1988, AT THE COUNTY CIRCUIT COURTHOUSE, MONTGOMERY COUNTY, STATE OF MARYLAND

It is a great honor and privilege for me to be here on this auspicious occasion of your naturalization and to congratulate you for becoming Americans by choice.

By becoming Americans by choice today, with a promise to become good and productive citizens of this great nation, you have written a new chapter in your lives, a new chapter which will bring hope and pride not only to you and members of all your families, but also to all the people of America.

Your experience and knowledge will enrich America every day, and your lives will be enriched by the love and affection of all your fellow Americans.

I stand before you today, as a beneficiary of America's goodness. Twenty-one years ago, I came to this great land from India as a student. I struggled hard to survive, and I made this Montgomery County, Maryland, my home.

A year ago, the President of the Unitd States of America introduced me at a White House ceremony as his appointee to the United States Equal Employment Opportunity Commission (EEOC). Within a few months I was unanimously confirmed by the Senate of the United States to be the first foreign-born U.S. citizen to serve as a Commissioner of the Equal Employment Opportunity Commission.

This was not only a great honor for me but also a great act of recognition for all naturalized citizens of the United States of America. A few years from now, you may become Presidential appointees or leaders of your local, state, or national government.

I am very thrilled and excited to be here at this courthouse, where I myself stood several years ago and solemnly pledged my allegiance, my loyalty, and above all my life to this great nation. Please join me as I salute once again the United States of America, one of the greatest of national powers of the earth.

May God bless the United States of America, which has adopted you and me as its children. Thank you all.

THE SOVIETS HELPING HAND

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SOLOMON. Mr. Speaker, as a long-time supporter of the Afghan freedom fighters I found it most disturbing that former Ambassador White and a group of self-styled pseudo-diplomats from the International Center for Development Policy were in Kabul over the weekend attempting to provide credibility to the pro-Soviet Kabul puppet regime. Moscow and Kabul must truly be desperate.

The group was urged by the State Department not to visit Afghanistan because the Kabul regime might interprect their presence as a move toward United States recognition. Actually, United States recognition of Kabul—a city state—is the last item on our agenda. Yet, former Ambassador White dismissed our State Department's concerns and proceeded, once again, to embarass the United States.

While meeting with the Soviet-installed puppet regime in Kabul, White said:

> * * * the ruling People's Democratic Party of Afghanistan was only one part of the Afghan political equation and that real power sharing with the Afghan resistance was necessary before there could be better U.S.-Afghan relations.

Someone should point out to the free-wheeling former Ambassador that the Byrd resolution, approved overwhelmingly by the Senate, earlier this year states:

> * * * the only acceptable formula for settlement of the Afghan situation is one which provides for the self-determination of the Afghan people and results in a government genuinely representative of the Afghan people.

I, for one, have some doubts that a government representative of the Afghan people, which will include the 5.5 million Afghan refugees driven from their homeland by Soviet occupation forces, will be overly supportive of sharing power with the Soviet sympathizes in Kabul.

Yet, even more absurd than White's comments were those of Najibullahs, the Kabul Communist dictator, installed by the Soviets who said, "The nature and essence of our revolution is national and democratic not Communist or socialist." This guy is Stalin doing an Isuzu commercial. But he did remember the line the left loves best, "the Reagan administration's supply of these weapons, stingers, pushed me firmly toward the side of the Soviet Union." Is Daniel Ortega missing his cue cards?

This is all very amusing. But the real question is how amused are the Mujahidin? The Mujahidin, the Afghan freedom fighters, who have fought and defeated 120,000 Soviet troops. The Mujahidin, who control the vast majority of Afghan territory and who have vowed to force the Kabul regime from office. And the Mujahidin, who have witnessed the murder of 1,400,000 of their fellow countrymen, including tens of thousands of women and children.

The Afghan resistance includes almost the entire population inside and outside of the country. They have fought and won a brutal war against Soviet occupational forces. The reality is that the Kabul regime could not be sustained for much longer even with the support of Soviet troops. How long will they last when these troops retreat to the Soviet border?

Clearly, it is the Mujahidin, not the remaining Kabul thugs, who are in the driver's seat. My advise to Robert White and his friends is that they plan their next trip to Kabul soon, very soon, or they may find few familiar or welcome faces.

L.A. AREA CHAMBER OF COMMERCE CELEBRATES ITS 100TH YEAR

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. DORNAN of California. Mr. Speaker, I rise today to pay tribute to the Los Angeles Area Chamber of Commerce on the occasion of its 100th year as the region's premier business voice and advocate.

The chamber's motto is, "We've got the climate for business." And it has certainly done a good job in enhancing that climate through the years. The L.A. area chamber sees its mission as focusing and initiating private-sector action on major issues affecting the economic well-being and quality of life in the greater Los Angeles area. It is a mission at which the chamber has succeeded in dramatic fashion.

The L.A. area chamber has been an integral part of the business growth in the Los Angeles region, an area that encompasses five counties. The chamber played a major role in some of the most important projects in the area, projects that have contributed to the economic boom experienced by the area. The Los Angeles harbor, the Owens Valley and Colorado River aqueducts, the first commercial airline service into Los Angeles, a comprehensive freeway plan for southern California, the 1932 and 1984 Olympic games, the Los Angeles Convention Center, World Trade Week, and two youth job programs, First Break and Genesis, are all examples of projects the chamber was instrumental in planning establishing.

Mr. Speaker, business is the lifeblood of our great country. It is what makes us strong and gives us the freedom-of-choice that allows us to lead such full lives. The L.A. area chamber will continue to help shape the future course of growth and the quality of life in southern

California. And its centennial celebration will be a good opportunity for the entire Los Angeles area to say "Thank you" for the chamber's good works.

In closing, Mr. Speaker, I would just like to extend my heartfelt congratulations to the Los Angeles Area Chamber of Commerce on a job well done. Here is to another 100 years of success.

DOES THE PRESIDENT CARE ABOUT WORKERS?

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CLAY. Mr. Speaker, I commend the following article to the attention of my colleagues:

A VETO THAT WOULD KEEP WORKERS IN THE DARK

(By Richard Cohen)

Years ago, a woman of my acquaintance told me two rules of life that, along with some good ones, I have failed to follow. She said to treat children and household help the same. Never tell them your plans lest they worry, fret and make things difficult for you. That woman could be president of the United States.

When it comes to children, we know something about President Reagan as father, but not enough to say whether he was good at telling his kids his plans. With workers, though, the story is different. Reagan has threatened to veto a mammoth trade bill (three years in the making) because, among other things, it contains a provision compelling large firms to give workers 60 days' notice before plant closings.

This innocuous provision, already incorporated in some union-management contracts (rubber and auto workers, for instance), has economic conservatives in a dither. They say it will cost money. It will, but so does the eight-hour day, child labor laws, the minimum wage, health plans and even washrooms. In the ringing words of the U.S. Chamber of Commerce, the provision would "have the effect of tying management's hands behind its back." It might—and that's the whole idea. In fact, in this case, it's time that that was done.

Both the president and the Republican Party would be wise to wake up and smell the coffee. In this case, the cup of java is called the Jackson campaign. One element in its surprising, although relative, success is Jesse Jackson's appeal to white workers and farmers. He talks of American jobs going overseas, of American firms closing one day here and opening the next somewhere else: in a Third World country where labor is cheaper. The story Jackson tells is a horrible one. It's of the worker who is told that his lifetime job will end tomorrow.

Nothing in the proposed law forbids a plant from closing, and the unemployed will remain with us. But a 60-day warning period might cushion the blow, give workers time to come to terms with their plight, enable them to seek counseling and look for other jobs.

Humaneness, decency, has its cost—a cost that might be recovered, incidentally, if the worker is trained and finds another job. What is the value of a person's life, of his self-image—and what can that be worth if, after 20 years or so, his job, his career and his idea of who he is suddenly take wing and go to Taiwan? The machinery has value. The plant can be sold. But the worker? One day he has a job, the next day he doesn't.

In the propaganda of management, a plant closing is an economic act of God, like an earthquake. It is portrayed as if, suddenly, the accountants come in one day to discover there's no cash in the till. But it hardly ever happens that way—and when it does (the loss of a defense contract or a sudden economic depression), the plant is excluded from the bill. Trends—market shares—are apparent. The truth is known to management. It's workers who are kept in the dark—like children, kept ignorant "for their own good."

But it is management's "own good" we're really talking about. Its failure to announce that a closing is inevitable is a lie by another name. The interests of the stockholder, always paramount, are asserted to the point where workers have none. (The bill even exempts plants fighting to stay open, but which may be forced to close.) But who, really, has a greater stake in the company—someone who has invested money or someone who has invested his life? Does management owe everything to its investors and nothing to its workers—not even common courtesy?

The president's answer to that question is apparent in his vow to veto the trade bill. But the plantclosing provision contains so many exceptions that it amounts to nothing more than good intentions wrapped in legislative jargon.

Still, the president objects. What we have here is Reagan at his most ideologically rigid. His perspective, like that of the woman who thought household help and children should be kept in the dark, is totally from management's point of view. The GOP (and George Bush) will have to pay for Reagan's obstinacy. This time, the kids have the vote.

DENMARK'S DECISION AND UNITED STATES ALLIANCES

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. BROOMFIELD. Mr. Speaker, on April 14, against the wishes of the governing party, the Danish Parliament voted for a resolution which calls upon the Government of that country to remind the commanders of visiting naval vessels that Denmark prohibits the presence of nuclear weapons on its territory during peacetime. In reaction, Prime Minister Schleuter has called an election for May 10, asking the voters "to take a stand" on Denmark's full participation in NATO.

If applied literally, the policy adopted by the Danish Parliament could severely impede the ability of United States naval vessels to operate in Danish waters or enter Danish ports. This is because the United States maintains a neither-confirm-nor-deny policy with respect to whether U.S. naval vessels and other military assets are carrying nuclear weapons. Maintenance of this policy by the United States is necessary for operational as well as security reasons.

It is essential that countries which are in military alliances with the United States not prevent the normal operation of U.S. forces. Our alliances require the closest possible military cooperation with no impediments placed in the way of military operations which are undertaken to implement alliance objectives.

Mr. Speaker, I am very concerned about this new indication that some U.S. allies feel that they can continue to be partners of the United States in military alliance but not accept the risks and burden that accompany them. Already, the United States has experienced similar difficulties with New Zealand, a member of the ANZUS alliance among Australia, New Zealand, and the United States.

In the New Zealand case, the Parliament last year affirmed and enacted the policy earlier adopted by the Government which requires the prime minister to determine that visiting vessels and aircraft are not nuclear-powered or armed. This has effectively prevented United States ship visits and resulted in the suspension of ANZUS responsibilities toward New Zealand by the United States and Australia.

The House last year passed a bill, H.R. 85, which attempts to deal with the consequences of New Zealand's decision not to fulfill its alliance responsibilities. The bill suspends the preferences that are available to New Zealand, as a United States ally, under the Arms Export Control Act and the Foreign Assistance Act until the President determines that it has resumed its responsibilities under ANZUS. H.R. 85 represents a measured and principled response to the New Zealand action.

There is a broader concern in all of this, however. The security of the free world depends on the maintenance of sound and effective alliance relationships. Countries such as New Zealand and Denmark should not be lulled by their perception of diminished threats to their security by permitting military cooperation with the United States to erode. Military alliance with the United States have secured the peace since World War II and will continue to do so.

Let us not be fooled. The security of the free world continues to depend on fully functioning military alliances among the Western countries. This point is particularly relevant now in Europe, where there is a paradoxical tendency to take defense for granted in the aftermath of the successful conclusion of the Intermediate Nuclear Forces [INF] Treaty between the United States and the Soviet Union.

I wish to draw the attention of my colleagues to the excellent editorial concerning the Danish action and its significance for NATO which appeared in the Wall Street Journal on April 21:

NATO'S ROT

Denmark's prime minister, Poul Schlueter, will call a snap election in response to a Danish parliamentary vote requiring that visiting warships of allied nations be informed of Denmark's longstanding ban on nuclear weapons. Mr. Schlueter correctly reckons that it's now necessary to give voters the chance to "take a stand on Denmark's continued full membership in NATO."

The parliament's vote need not have been a big surprise to the NATO allies. The Danes, at least in theory, have been barring nuclear weapons from their territory for 30 years. More to the point, this overt declaration of a nuclear-free zone within NATO has a certain logic at this moment of history. How could Denmark's politicians resist after the U.S.-Soviet Intermediate Nuclear Forces (INF) agreement? Didn't the U.S. sales talk say the two sides had eliminated "a whole class of nuclear weapons"? Isn't the Danish ship ban in the same spirit?

Are the Danes supposed to listen seriously to Secretary Shultz when he tells them that the proposed Danish policy toward ships "undercuts the nuclear deterrence" of NATO? Wasn't Mr. Shultz just in Moscow working on yet another nuclear treaty? Haven't American diplomats at NATO been telling everyone that compared with the political effects of not ratifying the treaty, the political effects of ratification would be minimal?

The Associated Press quotes one NATO official as saying the alliance would prefer to wait for the outcome of the Danish elections before judging whether the policy could disrupt military cooperation. How are the Danes supposed to take this? They know that dining on NATO a la carte—as Lord Carrington and others have put it—is the cheapest way to go.

Spain was allowed to enter NATO on an a la carte basis—reaping most of the benefits but shouldering few of the responsibilities. Once in, the Spanish socialists expelled American warplanes. American and Spanish envoys have since been trying to make it look like a good thing. After last month's disastrous NATO summit—when the allies endorsed the INF treaty and flinched on modernizing short-range nuclear weapons—U.S. envoys acclaimed the alliance's tolerance of dissension.

It's anyone's guess how the Danes will vote. As next-door neighbors to the Soviets, they at least may be more aware than Mr. Shultz that the Russians are neither reliable signatories to agreements nor widely known as compulsive disarmers. It's possible the Danes will give the ruling coalition that mandate it needs to continue to fudge the issue of nuclear-armed warships. Then Western diplomats will call the episode a famous victory. But we also may have come to a point where years of tolerating Eurodrift will result in Denmark publicly repudiating its responsibilities.

In either case it would be short-sighted of the allies to fail to heed the warning of Denmark. For the rot that's really worrisome is the dangerous myth that the INF treaty has made Europe a safer place. The Danes may or may not happily embrace the INF illusion, but the temptation is a powerful one not just for the Danes but for all of Western Europe. The Russians knew that when they first offered the INF treaty. The Danes have themselves chosen to provide the first test of whether the Kremlin's tacticians were right.

AG'S DIESEL FUEL TAX MUST BE REPEALED NOW

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SHUMWAY. Mr. Speaker, at this time I would like to share with my colleagues an excellent, incisive editorial which appeared in the San Joaquin Farm Bureau News.

As a sponsor of legislation to reverse the new diesel tax treatment imposed on farmers and other off-road diesel users, I applaud the bureau's president, Clifford Van Till, for pointing out that the ball is in our court. Those who don't owe tax shouldn't have to pay tax. The underhanded "pay not, refund later" burden imposed on off-road diesel users is simply inexcusable; it should be repealed.

The editorial follows:

AG'S DIESEL FUEL TAX MUST BE REPEALED NOW

(By Clifford Van Till)

Most people realize by now that the federal Diesel Fuel Tax, which was passed in the 1988 budget, was not repealed and went into effect April 1, 1988. All farmers are required to pay 15 cent per gallon tax on diesel purchases. In addition, all inventories of diesel fuel on hand as of that date also are subject to that charge.

Farmers are by statute exempt from road use tax on fuel used for "off road" purposes. This legislation, in effect, amounts to an interest-free loan to our government to the tune of approximately 400 million dollars annually at the expense of agriculture. In addition, they are counting on the fact that a certain percentage of farmers will never apply for their refund. Those farmers unlikely to apply for refunds might feel they are too busy or the amount is too small to justify the paperwork. These "small" oversights will only grow and become an annual "gift."

Our legislators tell us this new provision was slipped in last fall, without their knowledge, amidst a flurry of year-end legislative activity.

I believe this is a great injustice to all Americans. Naturally farmers affected financially. However, this issue goes far beyond money. There was an expression of blatant insensitivity on the part of our legislators when upon recognition of the problem, steps were not taken to amend the law even though supposedly there is support to do so. This is irresponsible government and I think every legislator should be called to task for their actions.

What bothers me the most is that our government at every level seems determined to get away with everything they can from whomever is not paying attention. Then, when the government is caught, blame is laid in every direction while it continues doing exactly what it wants, showing total disregard for that which is right or legal.

I see this same mentality coming out again and again in such issues as the so-called Human Rights Restoration Act which recently was passed by Congress. A vast majority of those who took the time to express an opinion were against the provisions in the Act. Yet, our legislators, with their cavalier attitude, think they know what is best for us passed it anyway.

Agriculture is facing more than its share of attacks of this nature. There are animal rights issues, tax issues, toxics issues and energy issues, as well as, moral and national security issues to which we must pay as individuals. We cannot leave it up to the Farm Bureau and regulatory agencies to do it all.

PRIVATIZATION OF FEDERAL PRIVATE HOUSING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, a colleague of ours has written a most important article on an issue that is becoming more and more an answer to the economic problems that this country faces. Privatization, as we know, provides two valuable outcomes. The first is an increase in revenues from the initial sale and the second is the reduction of future expenditures on the program. It also allows, as in the case of privatizing Federal housing, an end to a serfdom mentality. Mr. ARMEY provides good insight into this issue. The February 1988 Hillsdale College Imprimis follows with Mr. ARMEY's article:

THE ROAD AWAY FROM SERFDOM

(By Dick Armey)

(Editor's Preview: According to a U.S. Department of Housing and Urban Development study, the current condition of the nation's 1.3 billion units of federal public housing is so bad that it will take at least $21.5 billion to repair and modernize them. What is the study's recommendation? Tear the units down and build new ones. But why should we repeat the old mistakes and demand that the taxpayer bear the burden? There is another alternative—let the tenants repair and even buy their own units; in fact, many tenant groups have already petitioned the government to let them do just that.

(The growing privatization movement calls for the return of public services and facilities to the private sector. Privatization has made tremendous popular advances worldwide and may indeed prove to be one of the most significant economic and political success stories of the 20th century.

(In this essay, Congressman Dick Armey explains why privatization is essential to preserving our heritage as a free and responsible nation. "The Road Away From Serfdom" was originally presented during the April 1987 Ludwig von Mises Lectures and appears in "The Privatization Revolution," Volume XIV of the Hillsdale College Press Champions of Freedom series.)

Although I currently serve in Congress, I regard myself as a freemarket economist—a price theorist and a microeconomist, to be precise. Yet I was not introduced to the work of great free-market theorists like Ludwig von Mises or Friedrich von Hayek as an undergraduate or even as a doctoral student. Indeed, it is safe to say that Human Action and The Road to Serfdom are rarely read in American universities while books like John Kenneth Galbraith's The Affluent Society is widely read and discussed as if the Great Society programs it rationalized were not in total disarray today.

Why do some economic theories remain popular even when the policies and results they have wrought are under serious question? I have been acutely aware of the answer to this inquiry ever since I discovered as an academic professor that macroeconomics is typically more popular than microeconomics: Easy ideas are always more quickly accepted than hard ideas. Galbraith's ideas, which were always more like scenarios than science, made their way into our government, our schools and our entire way of thinking because they were so easy to grasp and to explain to others. As much as any other reason, this is why I ran for political office: to help in some small way to undo the damage Galbraith has done.

RECOGNIZING CONSTRAINTS

Galbraith set forth the notion that the American economy required a "social balance" which would mean the transference of the control of our resources from the private to the public sector. He, as much as Lyndon Johnson, was the architect of the Great Society. He ignored the reality that things only happen when someone makes the decision to do something, that the world revolves around choices. Every choice is between what Samuelson called the "minima" and the "maxima," but even extreme positions must be chosen within a limiting set of constraints.

The trouble with Galbraith's theory and, ultimately, the greatest evil of The Affluent Society, is his refusal, replicated by President Johnson in his ill-famed guns-and-butter speech of 1965, to acknowledge this basic truth. There are no limits, no constraints, they claimed instead, so we don't have to be careful about husbanding and allocating our resources among competing ends. Today you can witness many government policy-makers in action who don't recognize even the most ordinary constraints in the way you or I would. We are all intimately involved, for example, with the principle of budget constraints, sometimes called "fiscal responsibility." If we spend more money than we earn, the check at the grocery store bounces and then our car may be repossessed or our house. We face direct and unpleasant consequences for our profligacy. Does anyone really suggest that the government fears the same?

Each and every day of our lives tells us that there are constraints on time. This is, perhaps, the most fundamental and universal fact known to man: life is temporary, limited. Yet our government's lifespan is hardly measured in the same terms.

Another vital and undeniable constraint is scarcity. What makes gold precious is that there is so little of it to be had, and the same goes for any other resource, whether it is water, energy, concert pianists, or life itself. We are limited in all that we do and all that we seek. Yet Galbraith and many of our government representatives would have us believe otherwise. They play upon our resentment of those richer or more successful than ourselves, a resentment articulated many years ago by Thorstein Veblen in his highly influential book, The Theory of the Leisure Class, which painted the upper strata of our society as indolent, self-indulgent and hoarding.

The modern redistributionists don't carry their dog-eared copies of Veblen or Galbraith in their back pockets, but they don't need to; they've already been given the intellectual framework from which they can operate. Their first task is to convince us that we're not running our economy of our lives well enough on our own. We need their help, they argue. "Look at the terrible shape America's in. The problems are too big for individuals to solve. Let us help." And they offer us, simply more government—more government along Keynesian lines with many instruments of what I refer to as "government by deception," not the least of which is deficit spending, in which the true costs are hidden from the people who, of course, pay the bills, or through another instrument, corporate taxation, which is sold to the voters as if it had nothing to do with their own incomes.

PRIVATIZATION

Privatization has become the great safety valve, especially for conservative politicians, Republican, Democrat or otherwise. Transferring a very small number of services back to private hands one at a time is far less traumatic and far more feasible than trying to reduce the size of government in a frontal assault on whole agencies or departments. In Congress, a privatization task force of which I am a member has been gaining influence, and public concern about the deficit has been a key advantage. The task force outlines three basic methods of privatization. One is contracting out certain services. Private companies, for example, may bid on running commissaries on our defense bases or computer work or printing jobs that may be handled more inexpensively and efficiently by outside firms.

The second alternative is asset sales. This along with the third method, selling loan portfolios, can be much harder to follow because of the high visibility each entails. When it comes to privatizing railroads, public utilities, federally owned buildings and the like, critics are ready to call it a "fire sale." With unbelievable audacity, some say, "You want to sell the government's property to the people of this country?" (And that is the talk which sells in Washington.) Transferring the ownership of property or services to private control on the basis of rational market decisions and clearly defined objectives is often misrepresented as robbing the government or even "the taxpayers" (an entity some refer to as equally unconnected to actual individuals), but nothing could be further from the truth.

Armey's Axiom Number One: The market is rational. The government is dumb. That is not merely a cliche. I used to teach an entire graduate course in order to reinforce such a premise. Individuals face sobering constraints every day—money, time, resources—and they do not, on the whole, make heedless decisions.

We taxpayers (and I do mean we individuals) pay $650 to $700 million dollars a year to subsidize passengers riding Amtrak. Is this rational? Of course not, and when the case is this extreme, as with the deficit, people do understand and respond.

The Great Society changed the nature of government spending and taxation—in short, the whole landscape of our economy. But we have lost more than money in the process. We are no longer able to distinguish between the legitimate roles of the private and the public sectors, and, more often than not, it is the former which is wrongly characterized as irrational and inefficient.

HOW TO THINK ABOUT THE DEFICIT

Right now we have a lightning rod in "deficit mania." So, since people rarely understand the real problem, we might as well educate them about the symptoms. The deficit, let me stress, falls into the symptom category; but it may be the best "two-by-four" with which to hit people over the head when it comes to making them understand our larger dilemma. Even Democrats who have never been, even by their own admission, fervent budget-cutters, are making fiscal responsibility a headline issue today.

But our true task does not lie in eliminating the deficit. (Considering how Congress usually spends money, the interest paid on the deficit may be its alltime best investment.) We have to cut the size of government. Bring it back to its proper size. Put it in its place. There isn't an economy measure—it is absolutely necessary if we are to continue to thrive as a constitutional democracy. But in a highly practical way, the deficit can be the tool we use to convince others who don't understand.

Restoring limitations on federal power is not easy. When Congress or the administration tries to cut spending, critics call them heartless and claim that the critically needy will suffer. The wise allocation of resources will lose out every time when the choice is presented as between government services and no services at all (as if the private sector didn't exist). The Keynesian presumption is that if government doesn't do it, it won't get done, and if the government doesn't spend money on worthwhile programs, the money won't be spent and the programs will collapse. This is how far we have come in two hundred years.

Armey's Axiom Number Two: You don't have to be a conservative to want to get the government off your back. Two black leaders with whom I met recently, both women who have been lifelong Democrats and public housing tenants, agree. If we privatize public housing, will people be homeless? No, they say; give the poor vouchers and they will find their own cheaper residences. One of these women has remarked time and time again, "I don't want the government rebuilding the plantations." She understands that she does not want the federal bureaucracy as the slum landlord of the '90s and she does not want to be its victim. The lesson is obvious. What this woman desires is the protection of her right to make her own decisions; hers is not an ideological passion.

In the last few years, the Congressional Task Force on Privatization created several bellweather proposals, of which loan portfolio sales were our flagship. We felt we could build a constituency behind them very quickly and with minimal political resistance. Of all of the proposals, "urban homesteading" is, perhaps, the most appealing. People who now live in what we call "the projects," government housing that's been mismanaged and which is falling down around their ears, have been reduced to wards of the state. We must give these people the opportunity first to organize and manage their own buildings and then to buy their own homes. Home ownership carries with it a strong sense of responsibility and there is no doubt that it helps families stay together. When fathers own their own homes where are they? Out carousing? No—they're home with their heads under the kitchen sink, or painting the walls, or fixing the shingles, or doing the yardwork. Teen pregnancy rates drop dramatically too, and often homowners band together to drive out drug dealers in neighborhoods where urban homesteading initiatives have been implemented.

A recent article in the Washington Post comments on these privatization initiatives by noting that fathers who return to participate exhibit a surprising number of skills the welfare and housing experts never knew they had. Plumbers, carpenters and electricians abound. As tenants of public housing, these men were forbidden to make improvements by statutes requiring all repairs to be made by union workers at prevailing wages. Naturally, few tenants were willing to pay for repairs or take an interest in the condition of housing which did not belong to them.

As a freshman congressman, I experienced far less success with the idea of postal privatization. Persuaded that I could have an influence on my peers in Washington, I hired a private postal carrier to send a "Dear Colleague" letter to all the members of the House. It began, "This letter is being sent to you illegally. But I could deliver it to you for five cents a copy . . ." The United Postal Workers Union was outraged, and I couldn't convince Congress to go along with postal privatization then; however, every year privatization of all sorts of "sacred cows" like the postal service, Amtrak, health care and so on, is becoming more attractive to an increasing number of Americans. The biggest roadblock is the Democratic Party, even though its individual members are often in favor of privatization. Why? Because in 1965 federal spending, previously only for capital goods, was expanded to include consumption goods with the intent to redistribute wealth along the lines drawn by Galbraith, Johnson, and the Great Society. This kind of spending has bought whole constituencies and has created, ultimately, the Dependent Society.

LESS GOVERNMENT IS MORE

We must not simply attempt to cut federal aid. Democrats and Republicans alike will fight for their constituents who crave and demand aid. What we must do is to offer these constituents something better than a "free lunch"; we have to convince them that privatization will bring direct benefits and mean more opportunities to share the American dream.

Politically, what ought to arise out of the privatization movement is not a realignment of power but a return to an older way of thinking, that less government is more; more economic prosperity to go around, more creative energies unleashed, and a more responsible, self-reliant and independent people. This democratic republic was founded in order to guarantee equality of opportunity and the freedom and dignity which comes from being one's own person. For a government to try to do more is to jeopardize the very rights it aims to protect. I want to reiterate that privatization is not just a passing economic fancy or a way to trim the deficit; it calls for a restoration of ideals badly needed if we are to prosper as individuals and as a nation.

PERSONAL EXPLANATION

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GARCIA. Mr. Speaker, due to an unavoidable commitment in the 18th Congressional District in New York, I was unable to record my votes during the debate of S. 858, the Abandoned Shipwreck Act of 1987. Had I been there, I would have voted for the measure. The Abandoned Shipwreck Act will preserve historic shipwreck sites for future generations by discouraging underwater salvaging for private profit and encouraging States to establish underwater parks for recreation and research. Because new technologies now make abandoned shipwrecks accessible to exploration, it is important for Congress to provide a means of protection while at the same time not unnecessarily impeding access. For this reason I support the measure passed by the House.

FREE AFGHANISTAN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SOLOMON. Mr. Speaker, today I am requesting all Members of the House to join in cosponsoring House Resolution 396, regarding United States policy toward Afghanistan. This resolution states that the only acceptable formula for settlement of the Afghan situation is one which provides for the self-determination of the Afghan people and result in a government genuinely representative of the Afghan people.

Over 35 Members of the House, including several members of the Foreign Affairs Committee, have already joined as cosponsors of this resolution, which is virtually identical to legislation overwhelmingly approved earlier this year by the Senate.

House Resolution 396 expresses the support of the House of Representatives to "positive symmetry," the policy which allows the United States to provide assistance to the Mujahidin in response to continued Soviet military assistance to the Kabul regime. Simply stated, the bill reaffirms congressional support for current United States foreign policy regarding Afghanistan.

The resolution states, "that the United States should not cease, suspend, or diminish assistance to the Afghan resistance until the President has determined that the Soviets have terminated their military occupation, and that the Mujahidin is well enough equipped to maintain its integrity during the period in which a transitional government is formed."

Again, I urge my colleagues to support the freedom fighters in Afghanistan by cosponsoring House Resolution 396.

DESECRATION OF SYNAGOGUE

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. McMILLEN of Maryland. Mr. Speaker, I would like to bring to the attention of my colleagues a recent incident that distresses and disturbs me. Between Friday evening and early Saturday morning of March 11 and 12, vandals descrated a Rockville synagogue in Montgomery County. Three-foot-tall swastikas, covered with hate slogans, were painted in black ink on the synagogue and on the wooden fence of the congregation's parking lot. In past years our Nation has put forth great efforts to promote equality, world peace, and understanding. These reprehensible actions serve only to undermine the progress we have achieved. While the graffiti can be physically removed from the walls of the Magen David Bet Eliahu Sebhardic Synagogue, the scars will long remain. It is my sincere hope that we can one day soon put aside all prejudices and at long last become a nation of neighbors.

IN HONOR OF MAJOR GENERAL CORNELIUS NUGTEREN

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. RAY. Mr. Speaker, I rise today to honor Maj. Gen. Cornelius Nugteren, who will retire at the end of this month as the commander of the Warner Robins Air Logistics Center, Robins Air Force Base, GA.

As commander of that facility, General Nugteren has been responsible for one of the U.S. Air Force's five air logistics centers. Robins Air Force base is the State of Georgia's largest industrial complex employing over 16,000 people. In addition, Robins is charged with worldwide support of most transport aircraft, F-15 air superiority fighters, helicopters, air-to-air missiles, surface motor vehicles and high-technology airborne electronics.

General Nugteren began his service in the Air Force in 1952 and received his commission as a second lieutenant in 1953 through the Aviation Cadet Program. The General was awarded his pilot wings after completing advanced flying training at Williams Air Force Base in Arizona.

In September 1953, he was assigned to the 36th Tactical Fighter Wing, Bitburg Air Base, West Germany. General Nugteren returned to the United States in 1956 and served with the 4th Tactical Fighter Wing at Seymour Johnson Air Force Base, North Carolina, as wing quality control officer.

In 1960, the General was assigned to the 49th Tactical Fighter Wing at Spangdahlem Air Base, West Germany. He returned to the United States and was assigned to headquarters 12th Air Force at Waco, TX, as a special project officer with the F-105 program. In 1966, he transferred to McChord Air Force Base, Washington, as a C-141 pilot and flight test officer with the 62nd Military Airlift Wing.

His service as a member of the U.S. Air Force advisory group in the Republic of Vietnam won him the Republic of Vietnam air service medal honor class and the Republic of Vietnam armed forces honor medal 1st Class.

In 1979, General Nugteren took command of the Aerospace Rescue and Recovery Service. In this capacity, he was responsible for worldwide search and rescue missions, the national rescue coordination center, worldwide weather reconnaissance and strategic air command missiles site support.

He assumed his present position as Commander of Robins Air Force Base in September of 1982. His 5½ years of service have won him the appreciation and loyalty of the workers and servicemen of Robins.

His dedication educating the public on the mission of the Air Force was honored recently when he was invested as a Jimmy Doolittle fellow, by the Carl Vinson Memorial Chapter 296. The association named the General an IRA Eaker fellow last year, making him the first person in that chapter's history to receive two Air Force association fellowships. Receiving both fellowships is a rare honor, and the General is one of a few individuals in the Nation to have received such recognition.

From his service at Robins, General Nugteren has proven to be a commander with a clear vision of the future. He has worked toward a recognition of the importance of a highly skilled and trained personnel. He will be greatly missed by all of those who are associated with Robins Air Force Base.

Mr. Speaker, I recognize the need for the military's mandatory retirement policy and I am in agreement with that policy. However, it is occasionally hard to see a dedicated soldier like General Nugteren leave the Air Force.

President William McKinley once said, "Blessed is the country whose defenders are patriots . . . we cannot exalt patriotism too high; we cannot too much encourage love of country; for my fellow citizens, as long as patriotism exists in the heart of the American people, so long will our matchless institutions be secure and permanent."

General Nugteren's career is an excellent example of the sort of patriotism of which President McKinley spoke. I know that General Nugteren's dedication and service have blessed our Nation. In the end, the highest tribute that this Nation can bestow to any of its citizens is the recognition that through their service the passage of our liberties and freedoms have been secured for another generation. General Nugteren's 35 years of service as a defender-patriot of our democracy makes him worthy of such honors.

Mr. Speaker, the Air Force and the Nation stand in gratitude to General Nugteren's years of hard work and service. I simply would like to thank him and wish him the best in all of his future endeavors.

AMERICA'S LIBERTY—OUR HERITAGE

HON. ROBERT C. SMITH

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SMITH of New Hampshire. Mr. Speaker, for over four decades, the Voice of Democracy Scholarship Program has encouraged high school students across America to write broadcast scripts which evolve out of their pride in being an American.

This year, in association with the New Hampshire Veterans of Foreign Wars and its auxiliary, a student from my congressional district received top marks in the Granite State contest. Edward Gerety, a senior at Merrimack High School, exhibited the patriotism and commitment to liberty that is truly an example for all Americans to follow.

The writing talents and dedication to freedom of Edward and his fellow voice of democracy winners from this year's contest, "America's Liberty—Our Heritage", deserves high praise and recognition. For this reason, I respectfully submit Edward's broadcast essay to Congress.

AMERICA'S LIBERTY—OUR HERITAGE

In the Preamble of our Constitution the creators of this country gave us a challenge, a challenge which said "To secure the blessings of liberty for ourselves and our posterity."

Unfortunately, due to the nature of society today and the busy lives that we lead, we are forgetting that challenge. Our generation is beginning to take for granted many of the blessings and the freedoms we have as Americans.

We are forgetting the men and women who through the sacrifice of their lives have given us the opportunity to dream and the ability to turn these dreams into realities.

In order for our generation to preserve the desire for freedom and independence and pass on to our children the proud heritage that is filled with tradition and honor, we must realize how America came to be, where America is today, and where America must continue to go in order to preserve our liberty.

As we look back at the unfolding saga of events that shaped this great nation, it is evident that our forefathers pledged their lives, their fortunes, and their sacred honor in the quest for liberty. They fulfilled that quest and freedom was won.

The duty and responsibility to defend the shores of this country was passed on to the next generation and the ones to follow. Our liberty was threatened in two world wars, two Southeast Asian wars and presently peace keeping in Lebanon and in the Persian Gulf. Each time, Americans have joined together and valiantly defended what their heritage created. Time and time again living the courageous words of Patrick Henry, "Give me liberty or give me death."

Many Americans today forget that half the world goes to bed hungry and half the world lies under communist rule, where freedom as we Americans know it, simply does not exist.

We forget that the advancements this country has made in technology and in the frontiers of space and science would not have been posssible unless the American people were given the opportunity to express their own ideas. It is this system of free enterprise and the opportunity to create what we dream of that has helped advance our liberty today.

We are constantly reminded of the threat of nuclear war and the freedom opposing ideas of socialism and communism that are trying to wage war against our liberty. Along with these we are faced with ills in our own society as well, such as poverty and drug abuse. In order for us to cure these ills and continue to keep America the home of the free we must take responsibility for our actions, not just for ourselves but for the next generation. For as John F. Kennedy said, "Liberty is our responsibility not our property".

As our generation heads toward the future of this great country we must remember our heritage and our duty to preserve and advance our "Sweet Land of Liberty." We must continue America's generosity, a generosity that has allowed millions of immigrants and refugees into our land of opportunity. We must continue the pride that we have in our country and the pride that we have in ourselves. For it is this pride that makes it impossible to keep our country's spirit down.

We must always keep a strong national defense and be willing to accept and defend any challenges to our liberty.

In addition to continuing the greatness of America's freedoms, we must never lose sight of the importance of family. It is families that pass on to each succeeding generation the values that are the foundation for our freedoms. Americans should remember that as we look toward the future the more fully we believe in and achieve freedom and equal opportunity for all Americans, the greater our accomplishments as a nation will be.

In understanding how America came to be, where America is today, and where America must continue to go in order to preserve our liberty, my generation, our generation will be able to pass on to the next generation the values we share and cherish.

We will be able to continue the two hundred years of blessing that has been showered upon America, such as American democracy, our Constitution, the Declaration of Independence and along with these the great freedoms they ensure. We enjoy freedoms that other countries look at in awe. For many of them, liberty is only a dream. Here in America that dream is a reality.

THE CONGRESS' FOLLY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, the current efforts of this Congress to steal power from the executive branch is quite disturbing. Ever since the media outrage over the Iran-Contra affair, many of my colleagues have sought to capitalize on this opportunity and introduced various measures which would give the Congress unconstitutional authority over the President. A gross example of this quest for power is Senator WILLIAM COHEN'S bill that recently passed the Senate by a surprising 81-17 margin. COHEN'S measure would require the President to notify the Congress of any covert activity within 48 hours of its initial execution. This is insanity. How do we expect to provide positive input into the formulation of foreign policy when we cannot even pass a budget without putting this country on the verge of bankruptcy? I urge my colleagues in the House to consider the effects of such a restriction on the President's ability to execute a dynamic foreign policy. We have been elected with the responsibility to protect and serve the American people, not to concentrate our efforts in vendettas against the President and his administration.

Public perception of covert action has been wrongfully manipulated by the media and self-serving politicians. After 6 years of strong leadership from President Reagan, his opponents were in desperate need of a crisis to attack his dominance in the public opinion polls. Unfortunately, Mr. North and Mr. Poindexter provided them with the weapon to lead this attack. As a result, covert actions have been portrayed as being the instrument by which zealous ideologues may conduct their own foreign policy. Liberals have endlessly denounced covert activity as being morally wrond and a threat to the sanctity of freedom and democracy in America. Yet most amusing, is that the Congress has been presented as the only governing body with enough sense of responsibility to take control of the President and his outlaw administration. They demand changes in the system. Changes that give them more power, but will ultimately damage America's ability to protect democracy and freedom in the world today.

In his 2,500-year-old classic "The Art of War," Sun Tzu wrote:

> If you know the enemy and yourself you need not fear the result of a hundred battles. If you know yourself but not your enemy, for every victory gained you will also suffer a defeat.

Today, the field of battle has changed, but this truth still retains its merit. Covert operations allow us to monitor the activity of our enemies so that we can obtain vital knowledge of their activities. In the past we have been able to deter terrorist activities through infiltration into the upper echelons of the most powerful terrorist organizations. Moreover, we have used covert operations to keep abreast of new developments in the Soviet strategic and conventional weapons arsenals. Most recently, through clandestine operations we have been able to supply various democratic insurgencies with vital military and humanitarian aid. In all of the above uses of covert activity, secrecy was the key to their success. A success which has for the first time in history put communism on the defensive and brought the Soviets to the negotiating table.

As Sun Tzu advised, we have come to know our enemies. However, we must do everything possible to impede our enemies in their efforts to know us. A society which practices freedom of the press is already open to manipulation by totalitarian states. They use the press to spread propaganda and obtain strategic information that is vital to our national security. Thus, we cannot afford to provide them with another advantage by passing the Cohen bill. Congress could not handle the responsibility that accompanies the knowledge of covert activities. It would be too tempting for an opponent of the specific action to accidently leak information to the press, in effect sabotaging the operation as well as endangering the lives of those who have dedicated themselves to its success.

As Americans we all cherish the principles of a republic, the foremost of which is our system of checks and balances. We are taught that this system protects the people from the centralization of political power into the hands of a privileged few. Thus, it is difficult for Americans to support the operation of activities that are shrouded in secrecy. Many Americans feel that it is almost contradictory for a Republican government to run such operations. But, to simply associate covert action with oppressive governments is ludicrous. We must realize that the concept of covert activity itself is not immoral or undemocratic. Covert operations only become undesirable when they are executed in any other name than freedom and self-government.

I urge my colleagues and the American people to forsake this quest to curtail the operation of covert activities. The key to the preservation of a free society lies in the ability to combat those elements which struggle to overthrow it, without being restricted by misplaced questions of morality. We cannot forget what this nation stands for and the principles that our foreign policy is designed to preserve. In the brutal and disillusioning world of international politics, America can shine bright as a beacon of hope for the people of the world. Yet, congressional intrusion into covert operations will forever dim this fire which for so many years has kept the dream of freedom alive for those living under the heel of totalitarianism.

For an excellent article on the importance of covert action I highly recommend an editorial in the March 21 edition of the Washington Times titled "Crippling Covert Action." My colleagues who are truly concerned with the future of American foreign policy should take this article into serious consideration.

Crippling Covert Action

Last week's indictments of some of the principals in the Iran-Contra controversy brought comparisons with the Watergate era, but they were not the only reminder of that unpleasant time. The Senate by a vote of 71-19 passed Maine Republican William Cohen's bill requiring the president to give 48 hours notice to Congress of any covert action he authorizes. Just as congressional scrutinies of the intelligence community in the 1970s helped to incapacitate American intelligence later in the decade, last week's vote, if upheld by the House, may cripple the CIA and U.S. foreign policy in years to come.

The bill is intended to prevent the president from postponing notifying Congress of new covert action, as President Reagan did in initiating the secret arms sales to Iran. Under present law, the president must inform the congressional intelligence committees in a "timely fashion," but what that means is left to his discretion. Under Mr. Cohen's bill and its House companion, the chief executive must give notice within 48 hours except in the most extraordinary circumstances.

The Senate, in its rush to intrude into executive branch prerogatives in foreign policy, rejected efforts to extend the time limits to 10 days. It also chose to ignore a small army of former and present intelligence officials—among them, Defense Secretary Frank Carlucci, deputy director of the CIA under President Carter—who warned of the disasters the legislation could cause. Earlier this month, Mr. Carlucci pointed out that Congress' own Iran-Contra report concluded that "Experience has shown that these [current] laws and procedures, if respected, are adequate to the task."

Mr. Carlucci recalled that during the Tehran hostage crisis in 1980, Canada offered to help smuggle six U.S. diplomats out of Iran, but only with the stipulation that Congress not be told. The Canadians feared a leak from Capitol Hill would bring about a siege of their own embassy in Tehran. Mr. Carter "did not tell the Congress until after the fact" so the Americans could escape the clutches of the Ayatollah Khomeini. Such presidential discretion would be illegal under the new law.

The legislation, says Mr. Carlucci, would "impose a new and inflexible statutory framework on our Presidents and our intelligence community." "No step by the Congress," he testified, "would do more harm" to legislative-executive relations than the current bill.

Covert action is an old and legitimate dimension of foreign policy, differing from conventional foreign policy only in its secrecy. Requiring virtually immediate notification to Congress of such silent missions jeopardizes the lives of the Americans and cooperative foreigners involved as well as the missions themselves and the trust between Congress and president that is essential for any successful statecraft. The House ought to reject this unwise legislation, but if it passes, Mr. Reagan should be wise enough to veto it.

WALL STREET JOURNAL ON PLANT CLOSINGS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. MILLER of California. Mr. Speaker, the following article from the Wall Street Journal accurately analyzes the debate surrounding the plant closing notification provision in the trade conference agreement.

Its most important point is that plant closing notification is not a radical idea as characterized by opponents, but rather a reasonable reform which will guard American workers against the adverse consequences of sudden changes in labor conditions.

Plant closings are of particular concern to my district of Contra Costa County, where almost 30 businesses closed down from 1980 to 1984, creating a loss of an estimated 6,000 jobs. Like all American workers, my constituents and their families have suddenly found themselves without jobs, forced to accept another which does not provide the pay or benefits to maintain a decent standard of living. This has a detrimental effect on the community as well as the displaced worker's family.

The enactment of the plant closing provision as part of the trade conference agreement is essential, and I urge the President to sign it into law.

[From the Wall Street Journal, Apr. 25, 1988]

Plant-Closings Quarrel Distorts a Modest Idea

Washington.—This capital's latest cause celebre is something called "plant closing," a provision in the pending trade bill that would require many employers to give their workers and local governments 60 days' notice of plans to close a plant or conduct a widespread layoff.

As is common here, the provision is being blown out of all proportion. Discussions of it are laden with ideological and pseudoeconomic rhetoric characteristic of political debate in an election year.

President Reagan and the business lobbies assert that the entire trade bill should be vetoed if the plant-closings language stays. They call the provision a European-style government intrusion on business that would impair U.S. firms' competitiveness in world markets.

Meanwhile, the Democrats and their union allies contend that the plant-closings measure is a major step toward helping U.S. economic adjustment. They say it's a social reform of such profound importance that preserving it is worth losing a trade bill they have sought for years.

In fact, the plant-closings language is nothing more than a modest effort to make sure that the few companies inclined to do so don't hide plans to close a plant until the last minute, leaving workers and communities in the lurch. It is squarely in the tradition of such social reforms as the child labor and minimum wage laws. These act to soften the social consequences of free market decisions and thus permit the market continued public acceptance without the sort of deep government involvement often practiced abroad.

As social reforms go, the plant-closings provision appears fairly minor. According to business and labor, many big companies already offer some form of advance layoff notice. The U.S. Chamber of Commerce opposes the provision, but the group nevertheless says it "encourages" businesses to give advance layoff notices when possible.

The Reagan Administration's own Task Force on Economic Adjustment and Worker Dislocation, which included representatives from General Electric, USX and other major corporations, declared in 1986 that "advance notification to employees and the community of plant closings and large-scale permanent layoffs is good industrial practice." The panel didn't call for writing the idea into law, but it cited evidence that advance notice doesn't hurt productivity.

Furthermore, the idea isn't exactly novel. Most major U.S. trading partners, including Canada, Japan and West Germany, have such regulations already, and they seem to be competing just fine.

In the smoke of ideological charge and countercharge, it's important to note what the plant-closing provision wouldn't accomplish. It wouldn't bar a single closing or layoff. It wouldn't require companies to get worker or government approval to close plants or conduct layoffs. It wouldn't affect companies with under 100 workers, or any company laying off less than a third of its work force, unless 500 workers are involved.

It merely requires stable companies that know well beforehand of plans to close plants or order mass layoffs to share this information 60 days in advance with the affected workers and local governments. That's all.

The provision includes a formidable list of exceptions. Companies that are "faltering", and trying to raise capital—those for whom advance notice might pose financial problems—are exempt. So are those closing plants due to "unforeseeable" business developments, or strikes or lockouts. So are plant closings due to the sale of a business, or consolidations within local areas, if workers are offered new positions.

Business groups have thrown up a barrage of objections to the provision. They contend that the exemptions aren't broad enough and that the need to give advance notice of a closing would somehow thwart expansion at many businesses and drive weak firms into bankruptcy.

But these arguments hide a deeper reason employers and the White House are fighting what amounts to a simple industrial practice that business concedes has merits. They fear that the plant-closing measure will somehow set a precedent for further "labor engineering" by the government. They are worried, too, about litigation and bureaucratic restraints.

There are many items in the trade bill that will indeed affect America's ability to compete in world markets, but the plant-closings measure isn't one of them. And it is strange indeed that the fate of the massive bill is turning on language that has nothing directly to do with trade. The ideological debate over the provision doesn't bode well for the ability of the nation's leaders to grapple with the really important economic issues that America surely will face in the years just ahead.

PAULA HORTON: A REMARKABLE REUNION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. LEHMAN of Florida. Mr. Speaker, one can know someone for many years and yet not really be aware of some of the events that are truly important in that person's life.

Paula Horton is a longtime friend, an energetic person who is also deeply committed to her synagogue at Aventura and to her community in North Dade County.

Recently another very human, very touching part of Paula was revealed in the story, after a separation of 58 years, of her reconciliation with her mother. The event is related in two articles from the Miami Herald, which I would like to share with my colleagues.

The articles follow:

[From the Miami Herald, Mar. 29, 1988]

THEY SPENT LIFE APART AS MOTHER, DAUGHTER

(By Felicia R. Lee)

Paula Horton picked up the ringing telephone last Monday in her Aventura home. The call was from Baltimore. A friend of her mother's was on the line: Her mother was dying of leukemia, she wanted to see her, could Horton come?

The question came 58 years after mother and daughter last saw each other. Horton said yes. Thank you. Thank God. Tonight, she flies to Baltimore.

The mother-daughter relationship ended in an Emporium, Pa., courtroom when Horton was 5. A judge gave her father custody of Horton during a bitter divorce proceeding. After that, half of her history disappeared. There were no snapshots of her mother, no calls, no visits, no letters and no contact with her mother's side of the family.

It hurt. It hurt every day of her life, Horton said. She thought she had done something to send her mother away. Her father remarried and started a second family. He told Horton that her mother was not a good person. She heard from others about her mother's beauty.

"You just sort of fantasize," Horton said. "You say maybe one day she'll forgive me, maybe one day she'll come see me."

Tonight, with her flight to Baltimore, fantasies end and reality starts. Horton said she is excited. And nervous. And happy. She and her mother have yet to speak directly to each other.

"We can say goodbye and hello and make amends, if not as mother and daughter then as friends," Horton said. "From what everyone is telling me, she's fighting for her life. God must have been sitting on her right shoulder and mine. We can't look back at what we missed. . . . She missed a lot and I missed a lot, but we'll make it up. I know we will."

The friend who called from Baltimore told Horton that her mother, Carrie, does not know she is dying. She is leaving the nursing home where she was living, the friend said, because she didn't want her daughter to see her for the first time in a nursing home after all these years.

"I guess she's vain, I guess she's excited to see me," Horton said. "I was told she went and had her hair done."

Horton said she is playing the visit by ear. She could stay one day, she could stay five. She has been through a lot since she last saw her mother, more than many people—she's a recovering alcoholic and she has lupus. She was divorced 30 years ago and has a son and two grandchildren who don't know their grandmother or greatgrandmother. Horton is not even sure of her mother's age.

"People should always seek out their parents, no matter what," Horton said. "There are always three sides to a story—his, hers and the truth. I thought many times about finding her but I wanted to wait until the time was right."

Horton's friends thought the time was right, and they are sending her off to Baltimore with their blessings.

"My feeling is it's a wonderful opportunity," said Rabbi David Saltzman, of the Adventura/Turnberry Jewish Center, where Horton sits on the board of directors.

"This reuniting at this particular time in life can be very beautiful and resolve so many questions," Saltzman said. "As a friend of Paula's said, her mother must have thought of her every day of her life. Paula said it seems like the right time in her life for this to happen."

Judi Waxman, a close friend of Horton's, said the best part is that Horton is heading north with an open mind and a positive attitude. She knows she really doesn't know her mother and her mother doesn't know her. They're just reaching out to see what they will find.

"I think it's wonderful," Waxman said. "Paula is the most special lady I've ever known in my life. I think her mother is going to find she has a special daughter."

[From the Miama Herald, Apr. 11, 1988]

A DAUGHTER'S LOVE OVERCOMES THE LEGACY OF 58 YEARS APART

(By Felicia Lee)

Paula Horton, the 63-year-old Aventura woman who was reunited with her mother last month after not seeing her for 58 years, said recently that the visit was one of the best things that has happened to her.

"The only regret I have is that I didn't do it 40 years ago," Horton said. "But I can't ever look back."

Horton's reunion with her mother was set in motion when she got a call came from a Baltimore nursing home saying her mother was dying of leukemia and wanted to see her. They had been separated because of a bitter child-custody fight, and Horton never heard from her again. She immediately flew to Baltimore when she heard her mother wanted her.

"My Mom was lying on the couch," Horton said of the first visit to her mother's house. "She looked up and said, 'Who are you?' I said, 'I'm your daughter.' She said, 'I don't have a daughter' and started crying. I started crying. The nurse started crying. My cousin started crying. I said, 'Look I've been gone over 50 years. I'm not going again.' I went and got my suitcase and moved in."

Horton stayed five days. She and her mother avoided talking about the past. Instead, they watched television, chatted about current events and ate meals that Horton cooked. Horton called her "Queenie," because she said the frail, 82-year-old woman looks like a queen. She learned her mother had remarried and lost her husband 10 years ago. She never had any other children.

Horton said she probably will visit again in six weeks, and recently telephoned her mother to say hello. Her advice to others in a similar situation is to seek out their loved one with an open mind and forgiveness, and be ready to handle rejection if things don't work.

THE OPPORTUNITIES INDUSTRIALIZATION CENTERS OF AMERICA, INC.

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. RANGEL. Mr. Speaker, our Nation is plagued by a crisis of untold proportions where many of our fellow citizens are concerned. The evils of poverty, crime, homelessness, and death from drugs and AIDS have left them in a prison of hopelessness and helplessness. It is a critical time for each of us to come to the aid of these Americans and show them where the path to success lies.

While a quality education is key to eradicating these evils from their lives, our public schools are failing to educate almost a third of all students enrolled. The resulting high incidence of high school dropouts and low academic achievement encourages higher unemployment and poverty, higher crime rates, lessened economic growth and productivity, and perpetuation of social inequality. Poor and minority citizens are the biggest casualties of this situation because they are most likely to be "at risk" academic failure. For instance, the high school dropout rates for minority students in New York State were estimated as high as 62 percent for 1986.

Successful methods of combating the problems of educating at risk Americans are intertwined with combating other social, political, and economic problems that typically influence their school participation. The recent education reform movement, however, has focused on improving public education through higher standards, tougher course requirements, and better teachers, without giving necessary priority to early and sustained intervention in the lives of these at risk students. Moreover, Federal support for combating the problems of at risk persons has been severely limited with the vast cuts in social programs during the Reagan administration.

Fortunately, organizations like the Opportunities Industrialization Centers of America, Inc. [OIC/A] have come to the aid of many of the Americans that would otherwise be destined to a life of despair. OIC/A recognizes that education is a key component in the ongoing effort to increase the standard of living of each new generation. Reverend Leon H. Sullivan, therefore, founded the organization on a philosophy of self-help and development of the whole person to create self-sufficient, productive workers. Since 1964, it has trained and placed 900,000 people.

OIC/A is a network of employment and training agencies bound together by a goal of serving the poor and the unemployed. It emphasizes development of skills that enable these groups to compete for scarce jobs. Each agency represents its specific community and offers a variety of services based on unique community and labor market needs. OIC/A programs primarily target inner-city youth, the illiterate, the unemployed and dislocated workers. Some agencies also provide services for the disabled, the mentally ill, and adjudicated juveniles. Today, OIC/A has 87 agencies in the United States and programs in 9 other countries.

OIC/A works with industry, school systems, and State and local governments, forming programs in about 30 States and Washington, DC. Its programs offer more than 200 skills including data processing, brickmansonry, bookkeeping, retail sales, radio and television repair, tailoring, commercial and residential maintenance, and auto body repair. They also offer elementary to college level educational services. Other services include preparation for high school equivalency exams, illiteracy campaigns, child care, food distribution, and transportation.

A particularly shining example of OIC/A's success is its High Tech Training Center in Harlem that is totally funded through private sources. More than two dozen New York City corporations and foundations have contributed money for staff, rent, equipment, and supplies to the center. Moreover, the center places 90 percent of those who graduate from the 13-week course of study in jobs.

I am confident that each of my colleagues will join me in applauding the efforts of the Opportunities Industrialization Centers of America in assisting the most vulnerable persons in this country. It is truly a model for comprehensive training and employment programs across the Nation.

BISHOP FREDERICK DOUGLAS WASHINGTON: PREACHER, PHILANTHROPIST, PHILOSOPHER

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. TOWNS. Mr. Speaker, on Friday, April 29, 1988, I will host my Annual Ecumenical Breakfast at the Bridge Street AME Church. This annual event provides an opportunity for the religious leaders of my district to come together and discuss the pressing social, political, legislative, and economic issues of our time.

At this year's breakfast, I will have the distinct privilege of posthumously honoring the late Bishop Frederick Douglas Washington, who for 36 years was the pastor of the Washington Temple Church of God in Christ, located in Brooklyn, NY.

Bishop Frederick Douglas Washington was born January 1, 1913, in Dermott, AR, to Bishop Walter and Mrs. Jessie B. Washington. An ambassador to the Christian ministry for 65 years, young Frederick Douglas began preaching at the age of 4, entering the public ministry at the age of 10.

Bishop Washington was a graduate of Saint's Junior College, Moody Bible Institute, and Trinity Hall College and Seminary, from which he received his doctor of law and divinity degrees. He also received an honorary doctor of divinity degree from the United Christian College.

In June 1934, young Elder Washington married Ernestine B. Thomas. This great team began a worldwide Gospel ministry that reached the four corners of the world. After 49 years of joint ministry and marriage, Madame Ernestine B. Washington, the "Song Bird" of the East, passed from this life on July 1, 1983.

In February 1935, Elder and Sister Washington arrived in Caldwell, NJ to await his first official appointment as pastor of First Church of God in Christ, Holy Tabernacle of Caldwell. This congregation grew by leaps and bounds, and later moved to Montclair, with a new name, Trinity Temple.

This gifted, young pastor was soon to answer the call to "Go to Brooklyn," where, innovative in his ability to meet the demands of the day, he founded the Washington Temple Church of God in Christ—the Church with the Universal Outreach—in 1951. He resided as shepherd of this flock for the past 36 years.

He was consecrated to the Bishopric in 1955 by the founder of the Churches of God in Chirst, the late Bishop Charles Harrison Mason.

Bishop Washington served as assistant bishop, eastern New York jurisdiction for a number of years. In January 1983, he succeeded the late Bishop O.M. Kelly as jurisdictional prelate. This aggregation is comprised of over 200 churches, extending from upstate Schnectady to the far tip of Long Island, Montauk Point. A major part of Bishop Washington's administration as jurisdictional prelate was the conclusive construction of the new O.M. Kelly Executive Office Building. Preeminently he was elevated to the office of second assistant to the presiding bishop of the Church of God in Christ in November 1984.

On February 2, 1985, Bishop Washington and Dr. Gwendolyn Redd-Connelly were joined together in holy matrimony.

Bishop Washington also engaged in many other activities. He served as president of the United African American Churches of New York, representing nine denominations; chairman of the Committee for World-Wide Broadcast of the Churches of God in Christ, International; and founder and president of the Ernestine and Arenia Institute and F.D. Washington Community Center. He was also an accomplished radio minster, conducting 13 broadcasts throughout the United States and the world. In addition, Bishop Washington received numerous accolades and awards.

Bishop Washington has been one of the most celebrated evangelists in this century and his ministry has been a definite reality in our times, a prince of preachers, counselor extraordinaire, preacher's preacher, master teacher, and a pastor's pastor.

MOSCOW: FRIEND OR MORE-LIKELY A WOLF IN SHEEP'S CLOTHING

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, things are tough all over. Even the Soviet Union is imperilled by economic mismanagement. In fact, Moscow is trying to reorganize itself fiscally and is making plans to do so. This includes a $77 billion bond issue and seeking entry into the International Monetary Fund, the General Agreement on Tariffs and Trade [GATT] and the World Bank. In a New York Times Editorial dated February 25, 1988, Mr. William Safire asks a most interesting and important question of the Soviets. Should United States policy finance our adversary or should we stress the Soviets as they would do to us? The editorial follows:

[From the New York Times Feb. 25, 1988]

BAILING OUT MOSCOW

(William Safire)

We have just been told by a well-placed informant inside the Kremlin that the Soviet Union is not the economic power our intelligence analysts have long thought it was.

Throughout the Reagan years, our experts have assumed that Soviet growth averaged slightly over 3 percent yearly. That is a vital statistic: we then put a price each year on what we knew the Soviet military machine cost, and get what we hope is a clear idea of what percentage of its economy Moscow is devoting to armament.

That's just about the most important intelligence number of all. In the 70's, a "Team B" of outsiders was brought in by the C.I.A. to challenge the conventional wisdom, and doubled the previous estimate to 13 percent in the Soviet Union. That laid the basis for our own increased defense spending, which now amounts to 6 percent of our gross national product.

In a little-noted passage of his long speech last week to his Central Committee, Mikhail Gorbachev made a stunning revelation that kicks our estimates into a cocked hat.

He pointed out that during the Brezhnev years, economic growth had been artificially hiked by the sale of oil at high prices (the U.S.S.R. is the world's largest producer) and the accelerated sale of vodka (Soviet spending on alcohol may have reached 10 percent of total output, compared with less than 2 percent of ours).

"If we purge economic growth indicators of the influence of these factors," said Mr. Gorbachev, "it turns out that, basically, for four five-year periods there was no increase in the absolute growth of the national income and; at the beginning of the 80's, it had even begun to fall. That is the real picture, comrades!"

No doubt the current Kremlin leader is trying to make the present bad economic picture look better by saying the old days under his predecessor were really much worse. But we should allow for the possibility that, concerning the 80's at least, Mr. Gorbachev may be telling the truth.

If that is the real picture, comrades, we have to do some fast reassessing of our own. During the 80's, as the price of oil has been cut in half, and the Soviet gulping of booze has been restricted, the total Soviet output is not likely to have risen much, if at all, from what Mr. Gorbachev says was its falling state in 1980.

Here is what that new assessment leads us to deduce: the Soviet economy has been stagnant (or possibly declining) for seven years—most definitely not growing steadily at the over-3-percent rate per year our analysts had been assuming. That means our assessment of total growth of about one-fourth in this decade has been egregiously mistaken. That supposedly seven-foot giant turns out to be closer to five feet tall, same as he was in the Brezhnev years.

Apply that new assessment to arms control. The way we estimate Soviet arms expenditures is by simple beancounting, mainly from satellites, and that total is not affected. What does change is the percentage of the output devoted to arms; if it was 14 percent by the old assessment, it must be an unbearable 20 percent in the new reality Mr. Gorbachev reveals.

Thus, under pressure to reduce arms spending, he seeks treaties; forced to cut losses, he announces withdrawal from Afghanistan and may offer to reduce subsidies in Central America; faced with the prospect of having to match serious Star Wars spending, he rails at the idea of strategic defense.

Apply that no-growth, one-fourth-smaller fact to economic diplomacy. It explains why the Russians finally settled the old Czarist debt for a dime on the dollar, paving the way for a recent $77 million Soviet bond issue. That's also why the Kremlin will be seeking entry into the International Monetary Fund, GATT and the World Bank at the next meetings (in West Berlin) this fall. Soviet Communism is starving for capital.

Our European allies are rushing to lend Moscow money and to subsidize pipelines, while accommodationists here want to offer the Russians most-favored-nation status on trade. Commerce and State Department détenteniks await only vague "economic reforms" to end our opposition to Soviet entry into Western credit markets.

Here is a genuine issue to toss at the candidates in our election. In light of what the Soviet leader admits is "a very serious financial problem," should U.S. policy seek to finance our adversary? Or should we "stress" Moscow now, as it surely would do to us if the roles were reversed?

Or should we use this moment of admitted Soviet economic weakness to put an irrevocable, verifiable, behavior-modifying price on every concession we confer?

BIRMINGHAM YOUTH OUTSTANDING IN EVERY WAY

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. ERDREICH. Mr. Speaker, I have often spoken about how proud I am to represent the many outstanding young people who reside in Jefferson County, AL, and I would like to take a few moments to tell my colleagues in the House about one young man in particular who is exceptional in every way.

Jeffrey Christopher Laubenthal is a senior at Erwin High School in Birmingham who is indeed a young man with a bright and promising future. A review of his achievements over the past several years would cause anyone to pause for a few moments to ponder how one young man could excel in so many areas in so brief a time.

Let me enumerate just a few of his accomplishments. Jeff Laubenthal is valedictorian of his class, with a mind-boggling grade point average of 4.331. He is president of the Student Government Association, president of the National Honor Society, member of the Key Club, sports editor of the school newspaper, member of the Math, German, and Art Clubs, member of the Scholars Bowl Team, voted class favorite 4 years in a row, and named to Who's Who Among American High School Students. Mind you, this is only a partial list.

The scholarship awards he has received would make any parent exceedingly proud. This list includes the Presidential Scholarship and the National Alumni Association Scholarship from the University of Alabama, the Jefferson County Alumni Scholarship and the Dudley Achievement Scholarship Award from Auburn University, the Presidential Scholarship and a football scholarship from Stanford University, an Air Force ROTC Scholarship, and an Honors Scholarship from the University of Alabama at Birmingham. He was one of only four students nationally to be named an all-American by the Amateur Athletic Union, named a Bryant-Jordan Scholar Athlete for region 6A, and was named 1988 Student-Athlete of the Year by the Birmingham Touchdown Club.

Did I mention that in addition to being an outstanding student scholar, Jeff Laubenthal is also a first-rate athlete?

This 6-foot, 175-pound young man is an inside linebacker on the Erwin High School football team, and was leading tackler the past two seasons at Erwin. He was the first student at Erwin to be valedictorian and captain of the high school football team, and somehow also has found the time to serve as an outfielder on the school's baseball team, with a batting average of over .500.

Did I mention that Alabama Governor Guy Hunt proclaimed April 6, 1988, "Jeff Laubenthal Day" in Alabama?

I would be remiss if I did not commend Jeff's parents, Vic and Sandra Laubenthal, of Birmingham, who must receive at least some of the credit for the accomplishments of this super young man. One would expect a young person who has achieved so much to be at least a little bit big-headed on occasion, but all who know him describe Jeff as a well-grounded, unassuming person who has taken all the accolades he has received in stride.

All of us in Jefferson County, AL, share in the overwhelming pride Mr. and Mrs. Laubenthal feel, for we know that the accomplishments that are sure to come from Jeff Laubenthal in the future can only be for the greater good of our State and Nation. I commend Jeff Laubenthal on being one of Alabama's and America's finest, and am certain that whatever field of endeavor he pursues in the future will be made better from his participation in it.

A MORE SECURE ENERGY FUTURE

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. OWENS of Utah. Mr. Speaker, with the continuing concern of an oil shortage it is essential that we take a closer look at a more diverse approach to development of renewable alternative energy sources. This will not eliminate the possibility of an oil shortage entirely, but it is the best way to mitigate its impact.

It is evident that we cannot continue to depend entirely upon fossil, nuclear, and other nonrenewable sources of energy. Acid rain, the greenhouse effect, mounting containers of radioactive waste, and the relentless destruction of our remaining open spaces to energy exploration, with the increasing disappearance of animal and plant species and indigenous human cultures are ample proof of this. That is why I have introduced a bill to provide funding for the research and development of solar energy.

The Solar Energy Development Act [SEDA] is a comprehensive bill that consists of three parts. First, it maintains the funding level for existing solar research and development programs. Second, SEDA reiterates and enhances the statutory obligations undertaken by the Federal Government in the 1970's to develop solar power. Third, this legislation creates a new solar and renewable energy research program to develop near-term commercial request of solar power.

I hope my colleagues will join in my effort to inspire an energy-independent America which will lead us toward a more secure energy future.

A TRIBUTE TO U.S. AMBASSADOR MAXWELL M. RABB

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. DINGELL. Mr. Speaker, today I rise, as several of my congressional colleagues have previously done, to pay tribute to a friend and longstanding American diplomat, Ambassador Maxwell M. Rabb. This public servant has served this Nation with distinction in Italy since June 1981 and henceforth became the longest serving United States Ambassador to the Republic of Italy on April 17, 1988, and for this, we honor him.

Well noted by my colleagues in Congress, Ambassador Rabb's résumé of accomplishments before and during his current tenure as Ambassador to Italy is significant. His bold achievements and unselfish devotion to our great United States are all worth mentioning.

Ambassador Rabb has served his country in a wide variety of positions. Prior to the Second World War, he worked as an administrative assistant under two distinguished Senators from Massachusetts. He also served in the amphibious corps of the U.S. Navy from 1944 to 1946, where he earned a Navy Commendation Medal. Ambassador Rabb later served as President Dwight D. Eisenhower's Presidential assistant and secretary to the Cabinet, where he was honored by the Republic of Italy with the title of "Commendatore of the Order of the Italian Repubilc." In 1958, he was appointed by President Eisenhower to Chair the U.S. delegation to the 10th UNESCO Conference in Paris and continued his service with UNESCO on their executive board of the U.S. National Committee through 1960.

In the sixties and seventies, Mr. Rabb was appointed by U.S. Presidents Johnson, Nixon, and Ford to serve on national and international bodies representing the United States. He also served on many boards, committees, and charitable organizations in a variety of leadership responsibilities. His loyal and unyielding dedication to his country and community and the respect he earned from all political stripes merited Ambassador Rabb these commendable positions including his appointment by President Reagan to serve as United States Ambassador to the Republic of Italy.

While Ambassador to Italy, Mr. Rabb has been instrumental in solving many economic, military, and social issues of national and international significance and has moved to reaffirm our friendship with the Republic of Italy. For this, he was recognized early in his tenure by the Italian people and was named Cavaliere di Gran Croce by Italian President Sandro Pertini, which is an award given to foreigners for distinguished contributions to the Republic of Italy.

On a recent congressional delegation trip to various European countries, I had the opportunity to meet with Ambassador Rabb prior to our meeting with Pope John Paul II. It is comforting to know the United States is represented by an individual with the talent, reputation, and skill as Ambassador Rabb. Indeed, he is a man of unrelenting courage and ability. May he continue to serve America's interest abroad.

EAST ROBERTSON HIGH STILL KING OF STATE'S CLASS A

HON. BOB CLEMENT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CLEMENT. Mr. Speaker, Robertson County's East High is still king of Tennessee's class A basketball.

In a game last month, East Robertson captured for the second year in a row the State's class A title by beating Boyd-Buchanan 96–80. In fact, the Indians set a State record for most points scored in the three-game tournament—288 total points. The old record has stood since 1980.

I would like to add my voice to the chorus of congratulations. East Robertson players, coaches, students and fans can be very proud of their achievement.

The members of the Indians are Marcus Bell, Anthony Cook, Neil Murphy, Jimbo Vaughn, Jeff Kirby, Carlus Groves, Tyrone Dotson, Chris Wall, Phil Goostree, David Lucas, Chris Bell, Steve Armstrong, Kevin Evans, and Mark Long.

Much of the credit must also go to head basketball coach David Collie. Under his nurturing hand, the Indians compiled an impressive 37–2 record for the season. And they won this year's State tournament with three equally impressive wins.

I would also like to express my congratulations to the team's supporters, who include assistant coach Melvin Scharklet, manager Clay Burchett, driver Jim Scharklett, principal Mark Stubblefield, assistant principal Rick Ballard, video operator Chris Collie, statistician Teri Murphy, and bookkeeper Connie Eubanks.

In addition, I would like to express my congratulations to the team's cheerleaders, whose high spirits helped maintain players and fans through the long season. The cheerleaders are Julie Henry, Page Ellis, Shawn Rainwater, Tracy Saffold, Aimee Tate, Barbara Collie, Phonna Henry, Celeste Rogers, Laurie Villines, and their sponsor, Vivian White.

Congratulations Indians! Congratulations Indian supporters!

SPOUSES AND IMPARTIALITY WITHIN THE FEDERAL GOVERNMENT

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CRANE. Mr. Speaker, today I have introduced a bill that will bring back fairness and impartiality to the Federal Government. In recent years we have seen an abuse of the Constitution that has become a standard for the future. I refer to the continuing use of Presidential appointments for spouses of Members of Congress.

The Constitution of the United States and more specifically, article 1, section 6, subparagraph 96 states that:

> No Senator or Representative shall, during the time for which he was elected, be appointed to any Civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time.

While this statement was directed at the Members of Congress in its prohibition of a dual interest, our forefathers had no conception of the rise of two-income families. The abuse of this power is the spouse of a Member accepting an appointed office. In the time honored tradition of marriage, the union of a man and a woman is sacred for one reason. That reason is the emergence from two individuals, a single entity. It is this entity that the Founding Fathers settled upon when the Constitution was written.

President James Madison in his earlier days at the Federal Convention, was a strong proponent of the separation of the administrative and legislative branches. He stated:

> If you have no exclusive clause, there may be no danger of creating offices or augmenting the stipends of those already created, in order to gratify some members if they were

> not excluded. Such an instance has fallen within my own observation. I am therefore of opinion, that no office ought to be open to a member, which may be created or augmented while he is in the legislature.

It is without a doubt, that the attendees of the Federal Convention were trying to avoid a segment of the British governmental system that proved to be corrupt. Mr. Pierce Butler representing South Carolina at the convention further elaborated on the corruption that our newly born country was trying to avoid. In his remarks, he stated:

> We have no way of judging mankind but by experience. Look at the history of the government of Great Britain, where there is a very flimsy exclusion—Does it not ruin their government? A man takes a seat in parliament to get an office for himself or friends, or both; and this is the great source from which flows its great venality and corruption.

It is clear that our forefathers were trying to avoid corruption and undue influence. If a Member has a spouse working in the administration, then isn't he or she a likely candidate to be held hostage by a corrupt administration. A series of checks and balances were incorporated into the Constitution to protect the citizens of this country from a corrupt government. We must remember that we are the Representatives of the local constituents who voted us into office. We owe it to them to remain free from undue pressure.

H.R. 5: THE ESTABLISHMENT OF COMPREHENSIVE CHILD DEVELOPMENT CENTERS

HON. ROBERT E. WISE, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. WISE. Mr. Speaker, during the floor debate on H.R. 5 I talked about the importance of the inclusion of comprehensive child care development centers in the conference agreement. As part of the legislative history I would like to clarify the intent of the centers created under this program. First let me make it clear that this program is in no way intended to take away from existing programs such as Head Start. The funding trigger that was included in the legislation will insure this.

Second, I would like to state that these centers are intended to provide early continuous and comprehensive services. In order to be effective, it is essential that services be provided over an extended period of time beginning prenatally. Projects funded for 1 year or so will not begin to reach those in need. Therefore, I would like to stress that no project should be undertaken for less than 5 years.

AMERICA'S LIBERTY—OUR HERITAGE

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. DAUB. Mr. Speaker, each year the Veterans of Foreign Wars of the United States and its ladies auxiliary conduct the voice of democracy broadcast scriptwriting contest. Over 300,000 secondary school students participated in the contest this year competing for the 9 national scholarships totaling $42,500, which was distributed among the top 9 winners. The contest theme this year was "America's Liberty—Our Heritage."

The winning contestant from each State came to Washington DC, for the final judging as a guest of the Veterans of Foreign Wars.

I am pleased to submit into the RECORD the winning essay from Nebraska's Second Congressional District authored by Dalt Snodgrass of Ralston, NE:

AMERICA'S LIBERTY—OUR HERITAGE

Picture, if you will, a small child on his birthday, surrounded by many gifts, given to him in hopes that each one would bring happiness and joy into the life of that child for many years.

As the child unwraps the gifts, he begins playing with them.

Each time that the child plays with them, he realizes that if they are abused, they will eventually break, and he will have cheated himself out of the things that he enjoys. So the child chooses to take good care of his gifts, putting them away when he isn't playing with them to protect them from being stepped on and broken.

As the child begins playing with other children, he realizes that some don't take good care of their things, and when other children use his gifts, they abuse them.

This is where the boy must take a stand against the others to protect what is his.

When the small boy reaches manhood, he can clearly see how all of the care and protection of his gifts amounted to something, as he gives them to his own child, in hopes that each will bring happiness and joy into the life of that child for years to come.

If this story is magnified many times, it becomes the story of America's Liberty—Our Heritage.

America's Liberty is the gifts that enrich a child's life, the gift that we know as freedom, the gift that must never be abused.

Freedom is what we, as Americans, must protect from anyone who may want to abuse it.

This protection of our freedom started after the signing of the Declaration of Independence, and our stand for liberty has been challenged many times since that day. Every war that the United States has engaged in has been for the same reason that the little boy took a stand against his playmates—to stand up for what we belive in,—life, liberty, and the pursuit of happiness.

Let us pause for just a moment, to look at the one difference between the story of the child, and the story of America. This difference stands out in the last word of this year's theme, heritage.

Defined, heritage is "property that descended from an heir." In the child's case, heritage is exemplified when he becomes an adult, and hands his gifts to his own child. But on our country's scale, liberty and freedom are not always gifts that are given freely. For some people, such as myself, freedom has been a wonderful gift, a free gift. But for many others before me, liberty had to be earned, starting in revolutionary times, and upheld and protected in every conflict since the Revolution.

Many gave their lives while protecting our freedom, in hopes that it would bring happiness and joy into the lives of each and every one of us sitting here today. This thought is certainly with all of the people who fought bravely, and were fortunate enough to escape death in the course of protecting *our* freedom.

So where does this leave all of the citizens such as myself, who have not paid a price for freedom?

It leaves us in the same position that the new child is in. Someone older, wiser, and definitely more experienced with the meaning of liberty is handing us —"Our Heritage"—the freedom of being a United States citizen—the gifts that have been protected and cared for, for many years.

It is now our duty to take the best care we can of our heritage, to keep it protected from the abuse of others.

Freedom is our gift, it is America's Liberty—Our Heritage.

As the child must care for his gifts, we, as American citizens must take extreme care of our heritage, our most precious gift, freedom.

EXPORT ENHANCEMENT PROGRAM

HON. FRED GRANDY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. GRANDY. Mr. Speaker, yesterday the U.S. Department of Agriculture announced the 100th initiative under the Export Enhancement Program [EEP]. The 100th initiative marks an important milestone in U.S. agriculture trade policy. The EEP was initiated 3 years ago, in response to congressional pressure during the fiscal year 1986 budget resolution. The program was a key provision of the widely acclaimed export sections of the Food Security Act of 1985.

The main goal of the Export Enhancement Program Act is to expand and/or regain U.S. market share of world agriculture trade. This program enables U.S. farmers to meet prevailing world prices for targeted commodities and destinations. The program was designed to meet head on the competition resulting from other country's agriculture subsidies. Additional objectives of EEP were to challenge unfair trade practices while encouraging our trading partners to begin serious agriculture trade negotiations. The EEP has been widely acclaimed for bringing the European Community to the negotiating table on agricultural reform in the Uruguay round of the multilateral trade negotiations.

The first EEP initiative was announced by USDA on June 4, 1985, and consisted of 1 million tons of wheat to Algeria. Due to the success of this program, on July 30, 1987, the Department of Agriculture announced that EEP would continue under the provisions of the Commodity Credit Corporation [CCC] act once the funding authorized under the 1985 farm bill was exhausted. The EEP has operated under CCC authorization since December 1987.

To date, 63 countries have been targeted to receive commodities under the EEP. The countries are selected if they comprise markets in which U.S. exporters are facing subsidized competition from other suppliers, principally the European communities.

All U.S. commodities are currently eligible for inclusion in the EEP as long as they meet the program criteria: First, additionality; second, targeting; third, cost effectiveness; and fourth, budget neutrality. Commodities targeted for the program to date include wheat, wheat flour, sorghum, rice, frozen poultry, barley malt, semolina, eggs, dairy cattle, poultry feed, barley, and vegetable oil.

Because of the success of this program, I would like to congratulate the Department of Agriculture for doing such a fine job. U.S. farmers have been able to expand their exports and reach markets that at one time were out of their grasp. I think the U.S. Department of Agriculture deserves credit for a job well done and should be encouraged to continue efforts with this program.

AMERICAN PUBLIC SUPPORTS ACTION AGAINST DRUG PRODUCING COUNTRIES

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. SMITH of Florida. Mr. Speaker, on April 10, the New York Times published the results of a poll which indicates that almost 50 percent of the American people believe that the most important world problem is international drug trafficking.

According to the poll, drug trafficking is more important than arms control by more than 3.5 to 1, and more important than other events in Central America by more than 2 to 1.

The poll also demonstrates that by a 3-to-1 margin the public believes that it is more important to stop Central American leaders from dealing in drugs than to support those leaders in fighting communism.

Mr. Speaker, as chairman of the Task Force on International Narcotics Control which has been investigating international narcotics trafficking for several years, I am pleased to see that the American public understands that drugs are a tremendous national security threat. I and other Members of this body have been saying the same for years.

Now is the time for the legislative and executive branches to take the threat of international drug trafficking as seriously as does the general public. We must do more than "just say no." One effective way to show that we can catch up to the American people is to pass the resolutions I introduced to decertify drug producing and trafficking countries.

CONGRATULATIONS ON THE 500TH WIN

HON. WAYNE DOWDY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. DOWDY of Mississippi. Mr. Speaker, I rise to pay tribute to Jackson State University baseball coach Robert Braddy on winning his 500th game. He is one of the most widely respected baseball coaches in the country.

Coach Braddy, now in his 16th year at JSU, has won six Southwest Athletic Conference [SWAC] championships and has been SWAC Coach of the Year five times. Braddy's first conference title came in 1973, his first season as head coach. His team won back-to-back titles in 1977 and 1978. The other three league championships came in 1980, 1982, and 1986. He has taken his team to the NCAA playoffs twice, 1982 and 1986.

Three of Braddy's teams also reached the NAIA regionals, twice to Huntsville, TX, 1975 and 1977 and to Phoenix, AZ, 1976. Since his first season, 40 of his players have reached the professional ranks. Two of these players were first-round draft picks.

Braddy has been named SWAC Coach of the Year four times and NAIA district 30 Coach of the Year twice. The two-time all SWAC pitcher is a member of the JSU Sports Hall of Fame. He is a 1964 graduate of Jackson State.

Before joining the Jackson State athletic staff, Braddy coached at McLaurin High in Florence, MS. His team compiled a 64-14 record and won the Highland conference championship 4 of the 6 years he was coach. He was named conference Coach of the Year in 1966, 1967, 1969, and 1970. He spent 1 year as Florence High's coach, compiling an 11-9 record.

He is married to the former Diane Amita West and they have two children, Robert, Jr., and Artimesa Anita.

Mr. Speaker, I now invite all my colleagues in the U.S. House of Representatives to join me in congratulating coach Robert Braddy on reaching the coveted 500-career-win plateau.

A CONGRESSIONAL SALUTE TO CAPT. ROBERT A McVEY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. ANDERSON. Mr. Speaker, I rise today to honor a distinguished law enforcement officer and civic leader in my district, Capt. Robert A. McVey of the Los Angeles Police Department's Harbor Division. On April 30, 1988, the Boy Scouts of America will honor Captain McVey as the harbor district's 1988 "Citizen of the Year." This auspicious occasion gives me an opportunity to express my appreciation for his work on behalf of San Pedro and the entire harbor district.

Bob is a learned and accomplished man. He obtained a bachelor of science degree from California State University, Los Angeles, a masters degree in public administration from the University of Southern California, and a juris doctorate from the South Bay College of Law. Capt. Bob McVey has put his legal and administrative knowledge to work through a long and prestigious career in law enforcement. He has served 30 of his 33 years of law enforcement experience with the Los Angeles Police Department. He was first assigned to the harbor division station in 1962. He returned in 1971 as a detective lieutenant and again in 1979 as commander. He is currently serving as commander of the harbor division of the LAPD and is responsible for a 26-square-mile district with a population of over 200,000 people.

Despite this demanding career, Bob has found the time to contribute many hours to his community. Captain McVey is directly involved with some 23 community groups throughout the harbor area. He is past president of the San Pedro Boy's Club and a member of the board of directors of the Wilmington Boy's Club. He also is on the board of directors of the Glenn and Lee Anderson Foundation, St. Vincent de Paul Society, Catholic Maritime Club, Harbor Area Police-Youth Foundation and the Yugoslav-American Club of San Pedro. In addition to these civic-minded pursuits, Bob has been very involved with the Boy Scouts of America. He has been a coordinator for the Explorer Scout program since 1975 and his division has a Law Enforcement Scout program. Clearly, Capt. Bob McVey's numerous accomplishments highlight the truly remarkable contribution he has made toward the betterment of our community.

My wife, Lee, joins me in extending our congratulations to Capt. Robert A. "Bob" McVey on this special occasion. Bob is truly a remarkable individual. His many years of community service and civic duty are an inspiration to us all. We wish Bob, his wife Elizabeth, and their children Maureen, Marilyn, Michelle, Marlene, and Robert Jr. all the best in the years to come. And of course, we salute the joys of Bob's life, his 15 grandchildren, Shannon, Timothy, Erin, Cyrus, Talus, Robert III, Yvonne, Jaime, Julie, Jaret, Steve, Mandy, Mark, Marshall, and Meghan.

PERSONAL EXPLANATION

HON. JAMES McCLURE CLARKE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CLARKE. Mr. Speaker, on Thursday, March 17, 1988, I was necessarily absent. I would like to make clear my position on two of the measures considered by the House that day.

On the Walker amendment to H.R. 2707, the Disaster Relief Act, rollcall vote No. 35, I would have voted "nay."

On final passage of H.R. 2707, the Disaster Relief Act, rollcall vote No. 36, I would have voted "yea."

EAGLE SCOUTS JEFFREY DOUGLAS BAGDON, TIMOTHY CHRISTOPHER COOPER, AND ANDREW JOHN ONDRACEK

HON. WILLIAM O. LIPINSKI,

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues three exemplary young citizens, Jeffrey Douglas Bagdon, Timothy Christopher Cooper, and Andrew John Ondracek. They will be recognized together on May 29 for achieving the highest rank in Scouting, Eagle Scout, in Boy Scout Troop 1439 of the Chicago Area Council.

Jeffrey, Timothy, and Andrew are joining the ranks of a very select group. The individual tasks which they had to complete are impressive alone. These tasks challenged every facet of their personality—mental, physical, psychological, and more. Their accomplishment becomes even more notable when it is viewed cumulatively. The high caliber of these individuals is illustrated by the entire sum of achievements and the perseverance of character they demanded.

In today's society, our youth are truly bombarded with a variety of lifepaths from which to choose. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though credit is certainly due to the family of these young men and to the Scout leaders who provided support, Jeffrey, Timothy, and Andrew know today that they can participate independently in society in a manner that will benefit themselves as well as their community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing these three young men the best of luck in their future endeavors.

PUERTO RICO CITIZENSHIP

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. FUSTER. Mr. Speaker, all too often my office has to explain to some of our fellow American citizens that Puerto Ricans enjoy the rights of U.S. citizenship just the same as do residents of the 50 States. Unfortunately, some well-intentioned Americans do not understand that Puerto Ricans do not, for example, need work visas for jobs in the United States.

I had to explain just that to the editor of the Daily Iberian in New Iberia, LA, and this is what Mr. Will Chapman wrote as an editorial in the April 17, 1988, edition of his newspaper. I think my colleagues will find this editorial interesting and enlightening.

CHASING THE TRUTH LEADS TO CONGRESS

Sometimes it's not easy to get at the truth. Just ask local Dr. Luis Alvarez who took exception with a statement in the Saturday Profile feature in the Daily Iberian a few weeks ago.

The Saturday Profile featured a local woman who had gone to New York to do mission work with some of the poor people in that area. In the story the woman told how many of the people served by the mission work were Puerto Ricans, who had come to the United States seeking work, but had found no jobs.

She commented that many of those persons did not have work visas.

Dr. Alvarez, who was born in Puerto Rico, called after the story was published to point out that the people of Puerto Rico are citizens of the United States and don't need work visas any more than someone from Louisiana who might go to New York seeking work.

But a call to the Department of Immigration and Naturalization confused things. A person in that office said that Puerto Ricans do need work visas if they have not established residence.

Dr. Alvarez challenged that, too. He said whomever made that statement didn't know what they were talking about. He said they probably didn't even know New Mexico is a state.

This week I got a letter from Jaime B. Fuster, Member of Congress from Puerto Rico. Dr. Alvarez had contacted him about the article and asked for his help in clearing up the confusion.

Congressman Fuster said in his letter, "I am certain you realize that Puerto Ricans are United States citizens and obviously would not require work visas anywhere in this country. Such visas are required of foreign nationals or aliens, and Puerto Ricans in New York have the same rights of U.S. citizenship as would a resident of New Iberia who went to work in New York."

When Dr. Alvarez first called to bring this error to our attention he said he didn't want people to think Puerto Ricans were second class citizens.

He aggressively pursued the truth in this matter and proved his point.

Dr. Alvarez, you were right.

Thanks for straightening this out for all of us.

WHIRLPOOL'S FIGHT AGAINST DRUGS

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. OXLEY. Mr. Speaker, as a member of the Select Committee on Narcotics Abuse and Control, I often hear discouraging testimony concerning the effectiveness of our efforts on illegal drug abuse. While our efforts in drug interdiction and eradication are improving, we know that more drugs are on our streets, in our schools, and around the workplace than ever before. Fortunately, people are coming to the stark realization that we need to work together to effectively fight the drug problem in America. I would like to relay a story of such cooperation to my colleagues.

The Whirlpool Corp. Findlay Division, which is in my district, has recently concluded an outstanding working relationship with the Hancock County Sheriff's Department. This cooperation resulted in over 20 people being indicted for illegal drug trafficking, many of whom were employees of the Whirlpool Corp. In addition, undercover agents seized over $20,000 worth of illegal drugs during the course of the investigation, including cocaine, methamphetamines, and marijuana, as well as a number of vehicles used in the trafficking.

This investigation began in October 1986 when Whirlpool officials apparently contacted local authorities expressing concern about drug use and trafficking. At this point, the Hancock County Sheriff placed undercover deputies inside the Whirlpool plant to begin their efforts. As Whirlpool officials continued their cooperation, the investigation focused on cocaine trafficking among employees, but eventually expanded to include nonemployees as well.

Everyone who works in industry must realize that the trafficking and use of illegal drugs threatens the safety of their coworkers. Companies need to take whatever action is necessary to stop the use of illicit drugs, not only to protect other employees and ensure quality work, but also to help the individuals who are abusing drugs stop their destructive habit.

My colleagues, the Whirlpool Corp., demonstrated the kind of cooperation we need to win the war on drugs. They should be highly commended for their concern and efforts in this case. I certainly hope that other companies will follow Whirlpool's lead and do all they can to help eliminate illegal drugs from our society.

TRIBUTE TO ANNE HOLTZ

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. APPLEGATE. Mr. Speaker, it is with great pleasure that I pay tribute to an outstanding member of the Ohio Valley community, Mrs. Anne Holtz. On May 3, 1988, Mrs. Holtz will be presented with the Ohio Valley Area Chamber of Commerce Mother of the Year Award. Each year, the Ohio Valley Chamber awards Mother of the Year to a mother who has best promoted pride in the Ohio Valley region through the way she has lived and through the way she has raised her children.

While working full time as a licensed practical nurse at East Liverpool Hospital, Mrs. Holtz worked tirelessly to raise a family of three. This may appear commonplace today, but Mrs. Holtz accomplished this over 40 years ago. Her dedication to nursing was passed along to her daughter, Vicki, who is presently a nurse at Nentwick Nursing Home, where Mrs. Holtz lives.

Mrs. Holtz's pride and courage is also exemplified in her son, Lou Holtz. During high school and college, Lou Holtz was never the star on the football team, but through hardwork and discipline Lou stayed with football and learned the intricacies of the game. This certainly paid off, as Lou is now head coach for the University of Notre Dame's football team. Anne Holtz gave her son the courage to commit himself to football and learn it.

Mr. Speaker, I ask my colleagues to join me in congratulating and honoring Mrs. Holtz on becoming the Ohio Valley's Mother of the year. Through her unwavering commitment to her family and outstanding service to the community, Anne Holtz has made the Ohio Valley a better place to live.

COMMENDING WALTER SONDHEIM, JR., BALTIMORE'S 1988 HOUSING MAN OF THE YEAR

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. CARDIN. Mr. Speaker, I am proud to announce to my colleagues that the National Housing Conference has selected Walter Sondheim, Jr., as its 1988 Baltimore Housing Man of the Year for his continuous leadership and commitment to affordable housing and to the redevelopment of the city.

Mr. Sondheim chaired the Baltimore Urban Renewal and Housing Commission, and Housing Authority of Baltimore City from 1957 to 1963. From 1984 to 1986 he served as executive assistant to the mayor, and has chaired the Charles Center Inner Harbor Management and Market Center Development Corp. He was also the president of the Charles Street Management Corp. Today he is the senior advisor to the Greater Baltimore Committee.

In 1949 our Nation declared its goal of "a decent home and a suitable living environment for every American family." Baltimore is deservedly proud to have citizens like Walter Sondheim working toward that goal. I commend the National Housing Conference for choosing Mr. Sondheim as its 1988 Baltimore Housing Man of the Year. I invite my colleagues in the House of Representatives to join me in applauding Mr. Sondheim's good work.

A TRIBUTE TO THE 68TH MILITARY POLICE COMPANY

HON. GUY V. MOLINARI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. MOLINARI. Mr. Speaker, I rise to congratulate and recognize the 68th Military Police Company, that served in the occupation army after World War II, on their 35th reunion, April 30, 1988.

The army of occupation was sent to Italy after World War II to expedite its recovery from the war. After World War II, Italy was in dire need of economic and social assistance. The United States made sure that individuals of only the highest caliber would be chosen. The 68th Military Police Company was the company that met those qualifications.

The army of occupation was stationed in Northern Italy, which at that time was vulnerable to the Communist Party. Fortunately, the Marshall plan was in effect and played a role in preventing the threat of communism. We have our allies and American diplomacy to thank for this accomplishment.

The members of the 68th Military Police Company should be recognized for the role they played in rebuilding Italy. Their efforts will be remembered by all. I wish them all the best on their reunion, April 30.

WISHING CONGRATULATIONS TO PHILIP CHRISTOPHER OF THE PANCYPRIAN ASSOCIATION OF AMERICA

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. ACKERMAN. Mr. Speaker, I rise today to congratulate Mr. Philip Christopher, founder and president of the Pancyprian Association of America. I am proud to be co-chairman of the May 14 testimonial dinner in New York City at which the association will honor him.

Mr. Christopher has been a leader all of his life. After immigrating to the United States from Cyprus in 1959 he became class president of his high school and an all-State soccer player. Later he graduated with honors from New York University and was selected to the all-American soccer team.

After graduation from college he joined Audiovox Corp., where he proceeded to climb the ladder of success. Currently he is the executive vice president and major stockholder of this extremely successful corporation.

In 1975 he founded the Pancyprian Association of America, which he continues to serve as its president. Through his leadership, the Pancyprians have become the heart and soul of the Greek-Cypriot community. The Pancyprian Association is now the largest Greek-Cypriot organization in the United States.

Under his inspired leadership, the Pancyprian Association has offered scholarships to more than 100 Cypriot students, who have now graduated from American colleges and universities and returned to Cyprus.

During the past 14 years, Philip Christopher has served as president of the Cyprus Federation, chairman of the Justice for Cyprus Committee, and president of CY-PAC. He is presently the president of the "International Coordinating Committee—Justice for Cyprus."

His work as founder and president of the Pancyprian Association of America has had a lasting impact on the effectiveness and direction of the Cypriot-American community.

Mr. Speaker, the life of Philip Christopher is a shining example of the American success story, and yet another example of why the United States stands as a beacon of hope for people all over the world. I know that all my colleagues join me in wishing him the best of luck in the future.

A CONCERNED COMMUNITY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. BADHAM. Mr. Speaker, it is often said that a society may be judged by how it treats its elderly. With that in mind, I would like to pay special tribute today to the city of Fountain Valley and the people of southern California who have put together a project to help many of our older citizens.

On May 4, 1988, groundbreaking will take place for Guadalupe Manor, a facility that will include more than 70 rental units for low-income seniors. While my staff and I worked for 2 years to obtain Federal funding for this project, the real credit belongs to Fr. Leon Pachis and the people at Guadalupe Homes, who worked tirelessly through all the details that must be taken care of to successfully complete such a project.

While I must be in Washington and cannot attend the ceremony, I want to wish all of those taking part the very best. I also want to bring their hard work and their commitment to their community to the attention of my colleagues here.

Mr. Speaker, I am proud to have been a part of the establishment of Guadalupe Manor, but, most of all, I am proud to have the honor to represent people who see the need for this sort of project and are concerned enough to do something about it. I'm sure my colleagues join me in sending their best wishes and deep respect as construction gets underway on Guadalupe Manor.

MEDICARE

HON. CHARLES ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. ROSE. Mr. Speaker, the 100th Congress has taken important steps to improve the Medicare program by implementing effective cost-control measures and addressing the need for adequate safeguards against the bankrupting costs of catastrophic illness. It is imperative that we continue to plan for the future of our growing elderly population by ensuring the long-term solvency of Medicare. The present pay-as-you-go system threatens to shoulder future generations of Americans with an unreasonable burden of program costs, undermining quality health care for Medicare beneficiaries.

Today I am introducing legislation, H.R. 4455, drafted by the American Medical Association, which I hope will kindle the debate on the future of Medicare. The proposal includes financing reform measures and a voucher system which would allow senior citizens to purchase health insurance with a comprehensive package of benefits. My colleagues who carefully examine this legislation will discover a number of controversial provisions, all of which I am fully aware. I only ask that the proposal be given thoughtful consideration, and firmly believe that it is an important part of our ongoing efforts to establish a system of health care which provides for the immediate and long-term needs of older Americans.

TRIBUTE TO CHARLES SYLVA

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. MATSUI. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to one of Sacramento's most outstanding citizens, Mr. Charles Sylva, on his acceptance as the 1987 Sacramento Citizen of the Year. It is truly an honor to salute this most distinguished gentleman.

The Sacramento Citizen of the Year Award is an honor bestowed on that one outstanding volunteer from our community who has contributed selflessly over a period of years to the betterment of Sacramento. A more apt description of Charles Sylva cannot be found. Late in 1986, Charles decided to make a difference in the lives of those less fortunate than himself. He stepped down from his position of managing partner of his successsful commercial real estate brokerage firm, and devoted himself full-time to working for the Immaculate Conception Church's Community Services Program. These programs included working in five food lockers and two soup kitchens and also assisting with the only elementary school in Oak Park where 95 percent of the 265 students are minorities. Charles was the prime mover behind all these programs and also used his extensive fundraising experience and public relations know-how to make possible the recent acquisition and establishment of the Sacramento Food Bank on Third Avenue.

Furthermore, Charles serves on the board at St. Francis Manor and is also actively involved in the Mercy Foundation and Christian Brothers High School. In addition, he works on a special minority education program for the Black Sacramento Christian Club and several other programs for the disadvantaged of our community.

Mr. Speaker, on behalf of the people of Sacramento and the State of California, I want to thank Charles for his outstanding contributions to our community. His dedication and selflessness are examples to us all and I offer my sincere best wishes for his continued success in each of his future endeavors.

TRIBUTE TO FRANK SINKWICH

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to Mr. Frank Sinkwich, an outstanding citizen of my 17th Congressional District of Ohio and for whom the new athletic field at Chaney High School in Youngstown has been named and dedicated.

Mr. Sinkwich is a native of the Youngstown area who began his all-star football career at Chaney High School where he earned honors as an all-city halfback. In 1942, Frank Sinkwich received college football's highest honor as a sophomore at the University of Georgia by being named winner of the Heisman Trophy. Mr. Sinkwich went on to fame in the National Football League with the Detroit Lions and was once named the NFL's Most Valuable Player.

The people of Chaney High School and Youngstown will never forget the leadership and courage of Frank Sinkwich. For this reason, the new athletic field at Chaney High School will be known as the Frank Sinkwich Athletic Field. Mr. Speaker, I am privileged to represent such a fine person.

TRIBUTE TO STARR COMMONWEALTH SCHOOL

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. WOLPE. Mr. Speaker, I rise to pay tribute to Starr Commonwealth School on the occasion of its 75th anniversary. Founded in 1913 in Albion, MI, by Mr. Floyd Starr, on the belief that "there is no such thing as a bad boy," the institution began as a residential child care facility. Today, it provides a multitude of services to troubled youth and their families.

Referred from the juvenile courts, social services and mental health agencies, over 2,000 young people and their families receive guidance and direction from Starr Commonwealth each year. Thanks to Starr's highly experienced and committed professional staff, numerous delinquent and troubled children have become productive citizens, able to meet the challenges and responsibilities of the world they face.

But that is not all: Starr Commonwealth has also provided national leadership in upgrading services directed to children with special needs. Starr provides students attending Ohio State University and Western Michigan University with unique internship programs to compliment their coursework leading to a master's degree in special education. Books coauthored by Starr's staff are used internationally to train social workers and child care professionals. The school sponsors a wide variety of programs and seminars on issues affecting young people.

Mr. Speaker, this anniversary celebration commemorates the founding of Starr Commonwealth School and reflects the school's sense of its history and its confidence in its future. I feel privileged to represent this outstanding institution and to work with constituents who use the celebration of their history as a means of recommitting themselves to their profession and to the young people and the families they serve.

TRIBUTE TO DR. ROBERT MOYERS OF ANN ARBOR

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. KILDEE. Mr. Speaker, I rise today to commend Dr. Robert Moyers of Ann Arbor, MI, for his tremendous accomplishment in winning the highest award in orthodontics—the Ketchum Award. Dr. Moyers will receive this prestigious award next month from the American Association of Orthodontists.

Dr. Moyers has been, and continues to be, a pioneer in his field. At the age of 28, he was the youngest person ever to have been named to an orthodontic chairmanship in North America. His textbook, "Handbook of Orthodontics," has sold more copies than any other orthodontic book in history. He has founded three centers for research in growth and development, and four universities, including the University of Michigan, have honored Dr. Moyers with their highest awards or honorary degrees.

Dr. Moyers' contributions to the University of Michigan and to the field of orthodontics as a whole have vastly broadened the scope of this branch of medicine and have made a tremendous difference in the lives of Americans. Dr. Moyers' original research has added new avenues of understanding and procedures to the field of orthodontics that have enabled many of Americans to live healthier, happier lives.

In Michigan, we are very proud of Dr. Moyers' outstanding work. His dedication to his field and to his patients has had a significant impact on our Nation's medical community, and I would like to take this opportunity to ask my colleagues in the U.S. House of Representatives to join with me now in commending Dr. Robert Moyers of Ann Arbor, MI.

THE DEMILITARIZATION OF CYPRUS: A FOUNDATION FOR PEACE

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. TORRICELLI. Mr. Speaker, it is with great hope that I view the recent events regarding the Republic of Cyprus. The January meeting between Greek Prime Minister Papandreou and Turkish Prime Minister Ozal in Davos, Switzerland, suggests that the two nations most concerned with Cyprus are conducting constructive talks in an atmosphere of compromise. As important as the apparent warming of relations between Turkey and Greece is the election of George Vasiliou to the Presidency of the Republic of Cyprus. With his inauguration, President Vasiliou brought a bold, new demilitarization plan for Cyprus. Although many of the details of President Vasiliou's plan still need to be resolved, it is a constructive proposal that could be the foundation for peace negotiations in Cyprus.

President Vasiliou's demilitarization plan is a multifaceted plan that calls for the withdrawal of Turkish forces as well as any Greek troops in Cyprus while providing for the removal of all Turkish and Greek forces granted under the 1960 Treaty of Alliance. President Vasiliou's plan also calls for the creation of an international U.N. peacekeeping force, and the creation of a small Greek-Turkish police force under U.N. auspices.

This plan is constructive for a number of reasons. It sets the groundwork for continued peace talks in Cyprus while allowing Turkey to divert the significant amounts of money and resources it has allocated for its Cyprus forces to NATO commitments. This reallocation of troops and equipment would not only strengthen NATO's Mediterranean arm, but would also make remote the possibility of accidental violence in Cyprus. In short, President Vasiliou's plan would start Cyprus down the pathway toward peace while guaranteeing the security of all Cypriots and ensuring more cooperative relations between Turkey and Greece.

In view of the promising atmosphere with regard to Cyprus, Representative OLYMPIA SNOWE and I recently wrote a letter to Secretary of State Shultz, urging him to place Cyprus at the top of the list of priorities. I encourage my colleagues to join with us and support an active role for the United States in promoting the demilitarization of the Republic of Cyprus.

ADDITIONAL REMARKS ON THE DIAL-A-PORN PROVISION IN H.R. 5

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, April 26, 1988

Mr. BLILEY. Mr. Speaker, I would like to provide my colleagues with additional remarks concerning the constitutionality of the dial-a-porn prohibition contained in H.R. 5. These remarks are intended to supplement, not replace, my comments and the memorandum of law contained in the CONGRESSIONAL RECORD.

The Attorney General's Commission on Pornography [AGCP], in its final report—July 1986—found that:

> The provision of the federal statute permitting Dial-a-Porn messages to be provided in accordance with FCC regulations has proven unworkable in addition to providing a "safe harbor" provision for Dial-a-Porn merchants.

This conclusion was based on testimony heard from individuals and experts around the country. It is well to note that the commissioners on the AGCP were aware of the regulatory attempts made by the FCC following the amendment of section 223 of the Communications Act in 1983, the challenges to those regulations in the U.S. Court of Appeals for the Second Circuit, and the application, before the publication of the report, of those regulations to all areas of the country except the New York telephone region. Even with the reasonable hope of subsequent application nationwide, the AGCP found that the regulations were unworkable in preventing access by children to dial-a-porn messages.

This finding has recently been reinforced by last week's action of the House in adopting the language of the Telephone Decency Act banning dial-a-porn. The House specifically rejected a so-called technological solution—presubscription to dial-a-porn—to the problem. This technological solution was promoted by its supporters as "a mechanism significantly curbing and dealing with the problem of dial-a-porn in a fully constitutional and effective way," which would "assure that only persons desiring this kind of service can get it." The House rejected this solution. Its reason for doing so was based on the conviction that an undetermined number of children would still gain access to pornographic telephone services. This belief was reinforced by an analysis done by the FCC regarding the effectiveness of the technological language. In a letter to me dated April 18, 1988, Diane Killory, General Counsel for the FCC, stated:

> Congress should be aware that, in light of the current state of technology, [the "to the extent technically feasible" language] might turn out to be quite a substantial loophole to the statute's effectiveness. We would expect that issues regarding: (a) what is technically feasible or infeasible for each carrier; (b) who should determine feasibility; (c) how much of an investment carriers are expected to make to develop the blocking schemes envisioned by the statute; and (d) whether the general body of ratepayers are expected to pay for this investment, are likely to generate considerable dispute and controversy.

Based on the findings of the AGCP and the actions of the House and Senate, I believe it is reasonable to conclude that, since there is no effective way to channel that speech away from children, the Federal Government has a duty to proscribe obscene and indecent communications by means of telephone for commercial purposes.

I would like to make a few other observations. First, the dial-a-porn prohibition contained in H.R. 5 would not affect the availability to adults of indecent material from other sources. It does not even proscribe all indecent communications by telephone. Section 223 of the Communications Act, as interpreted by the FCC, only addresses those obscene and indecent communications which are made for the purpose of harassment or in furtherance of a commercial or business interest.

As further evidence that Butler decision does not apply to a dial-a-porn prohibition, I would like to bring my colleagues' attention to a note in the Supreme Court's Pacifica decision.

> The Commission's action does not by any means reduce adults to hearing only what is fit for children. Cf. *Butler* v. *Michigan*, 352 U.S. 380, 383. Adults who feel the need may purchase tapes and records or go to theaters and nightclubs to hear these words. In fact, the Commission has not unequivocally closed even broadcasting to speech of this sort; whether broadcast audiences in the late evening contain so few children that playing this monologue would be permissible is an issue neither the Commission nor this Court has decided.

Second, even Members generally critical of a dial-a-porn prohibition freely criticized this type of telephone sex service as injurious to children. One Member, in a floor statement on February 17, 1988, said that "[d]ial-a-porn is one of the most obnoxious and contemptible forms of constitutional abuse which we find today. It is a perversion of free speech. It is the sale of some of the vilest and ugliest kinds of human behavior and human emotions for money. * * * I believe that this obnoxious practice should be limited to the full extent permitted by the Constitution."

Third, I would like to quote a portion of one of the Supreme Court's most recent decisions addressing the issue of an indecency proscription. In *Bethel School District NO. 403* v. *Fraser,* (106 S. Ct. 3159 (1986), Justice Burger, in delivering the opinion of the Court, stated:

> This Court's First Amendment jurisprudence has acknowledged limitations on the otherwise absolute interest of the speaker in reaching an unlimited audience where the speech is sexually explicit and the audience may include children. In *Ginsberg* v. *New York*, 390 U.S. 629, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968), this Court upheld a New York Statute banning the sale of sexually oriented material to minors, even though the material in question was entitled to First Amendment protection with respect to adults. * * * [This case recognizes] the obvious concern on the part of parents * * * to protect children—especially in a captive audience—from exposure to sexually explicit, indecent, or lewd speech.
>
> We have also recognized an interest in protecting minors from exposure to vulgar and offensive spoken language.

Citing the Pacifica decision, Justice Burger continued:

> The plurality opinion went on to reject the radio station's assertion of a First Amendment right to broadcast vulgarity:
>
> "These words offend for the same reasons that obscenity offends. Their place in the hierarchy of First Amendment values was aptly sketched by Mr. Justice Murphy when he said: '[S]uch utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.' *Chaplinsky* v. *New Hampshire*" [Citation omitted.]

Fourth, it is worth noting, to see the relevance of the Pacifica case, that recently the Ninth Circuit Court of Appeals in *Carlin Communications* v. *Mountain State Tel. & Tel.,* 827 F.2d. 1291 (9th Cir. 1987) ruled that a telephone company does not act in its capacity as a traditional common carrier in its dial-a-porn function.

> [W]e question whether state public utility law in its traditional form makes sense as applied to Mountain Bell's 976 network. The technology of that network differs fundamentally from that of basic phone service. As pointed out above, individuals do not speak to each other on the 976 lines. Instead, "over 7,900 callers can be connected simultaneously to the same recorded message." *Carlin Communications, Inc.* v. *F.C.C.*, 787, 846, 850 (2nd Cir. 1986). Under these circumstances the telephone is serving as a medium by which Carlin broadcasts its messages. The phone company resembles less a common carrier than it does a small radio station.

Once the telephone company becomes a medium for public rather than private communications, the fit of traditional common carrier law becomes much less snug.—*Id.*, at 1294.

Fifth, I would like to point out an error in my statement that should not go uncorrected. In explanation of the negotiating process over a technological response to the dial-a-porn problem, I stated that we first looked at an across-the-board subscription requirement for all "dial-a-porn services." There was a typographical error in my statement and I should have said "dial-it services."

As a final point, the revision to section 223(b) of the Communications Act is intended to address directly the uniquely troubling telephone pornography problem without unlawfully or unreasonably affecting the right and ability of the public to obtain constitutionally protected information from diverse and antagonistic sources. Congress recognizes the importance of the information service industry as an important building block of a productive, well-educated society that is competitive in the international marketplace. Thus, this legislation is not intended to serve as a precedent of any kind for dealing with issues concerning the broader delivery of constitutionally protected information services.

I hope that these comments will be useful to other Members in understanding the full justification for prohibiting dial-a-porn.